

December 17, 2013

CASES

2 No. 217
Village of Babylon,
 Appellant,
 v.
Hendrickson Bros., Inc.,
 Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-Salaam concur.
Judge Smith concurs in result in an opinion in which Chief Judge Lippman concurs.

 No. 227
Marcia L. Caronia, Linda McAuley and
Arlene Feldman,
 Appellants,
 v.
Philip Morris USA, Inc.,
 Respondent.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and the record submitted, first certified question answered in the negative and second certified question not answered as academic.
Opinion by Judge Pigott.
Judges Graffeo, Read and Abdus-Salaam concur.
Chief Judge Lippman dissents in an opinion in which Judge Rivera concurs.
Judge Smith took no part.

1 No. 257 SSM 32
Adwoa Gyabaah,
 Respondent,
 v.
Rivlab Transportation Corp.,
 Appellant,
et al.,
 Defendant,
Jeffrey A. Aronsky, P.C.
 Nonparty-Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative, in a memorandum.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Rivera concur.
Judge Abdus-Salaam took no part.

2 No. 218
Village of Lindenhurst,
Appellant,
v.
Hendrickson Bros., Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 223
Village of Lindenhurst,
Appellant,
v.
J.D. Posillico, Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 219
Village of Lindenhurst,
Appellant,
v.
Lizza Industries, Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 216
Town of Oyster Bay,
Appellant,
v.
Hendrickson Bros., Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 220
Town of Oyster Bay,
Appellant,
v.
J.D. Posillico, Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 214
Town of Oyster Bay,
Appellant,
v.
Lizza Industries, Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 222
Town of Oyster Bay,
Appellant,
v.
Marvec Allstate, Inc.,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 215
Town of Oyster Bay,
Appellant,
v.
J.D. Posillico, Inc., et al.,
Respondents.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 221
Town of Oyster Bay,
Appellant,
v.
S. Zara and Sons Contracting Corporation,
Respondent.

Order affirmed, with costs, in a memorandum.
Judges Graffeo, Read, Pigott, Rivera and Abdus-
Salaam concur.
Judge Smith concurs in result in an opinion in which
Chief Judge Lippman concurs.

2 No. 234
Herzl Ragins, &c.,
 Appellant,
 v.
Hospitals Insurance Company, Inc., et al.,
 Respondents.

Order reversed, with costs, and case remitted to the Appellate Division, Second Department, for consideration of issues raised but not determined on the appeal to that court, in a memorandum. Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

2 No. 226
The People &c.,
 Respondent,
 v.
Torrel Smith,
 Appellant.

Order affirmed.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Graffeo, Read, Pigott and Abdus-Salaam concur.
Judge Rivera dissents in an opinion.

2 No. 229
William J. Jenack Estate Appraisers and Auctioneers, Inc.,
 Appellant,
 v.
Albert Rabizadeh,
 Respondent.

Order reversed, with costs, and judgment of Supreme Court, Orange County, reinstated.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott and Abdus-Salaam concur.

MOTIONS

1 Mo. No. 2013-1089
Aramid Entertainment Fund Ltd., et al.,
 Appellants,
 v.
Wimbledon Financing Master Fund, Ltd., et
al.,
 Respondents,
et al.,
 Defendants.

Motion for leave to appeal denied.

1 Mo. No. 2013-1106
Arrowgrass Master Fund Ltd.,
et al.,
 Appellants,
 v.
The Bank of New York Mellon,
 Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2013-1107
In the Matter of Clarence R. Brown,
 Appellant,
 v.
Shannon Terwilliger et al.,
 Respondents.
(And Another Proceeding.)

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2013-1086
In the Matter of Rickey Clark,
 Appellant,
 v.
Philip Heath, &c.,
 Respondent.

Motion for reargument of motion for leave to appeal
denied.

4 Mo. No. 2013-1098
Eva E. Dunlop,
 Appellant,
 v.
Saint Leo the Great R.C. Church,
 Respondent,
et al.,
 Defendant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2013-1128
In the Matter of Khadijah Destiny H., &c.

Carmella Maria R.,
 Appellant,
New Alternatives for Children,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-1082
The People &c.,
 Respondent,
 v.
Gary Heller,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2013-1132
Sallie Jackson,
 Appellant,
 v.
Montefiore Medical Center,
et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2013-1144
In the Matter of Zeena Jenkins-Moore,
 Respondent,
 v.
James Smith,
 Appellant.

Motion for reargument of motion for leave to appeal denied.

2 Mo. No. 2013-1110
In the Matter of Nora Lucas,
et al.,
 Appellants,
 v.
Board of Appeals of Village of Mamaroneck,
et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Chief Judge Lippman took no part.

2 Mo. No. 2013-1083
Nella Manko,
 Appellant,
 v.
Aetna Health, Inc., et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from the portion of the April 2013 Appellate Division order affirming so much of Supreme Court's order as granted the motions to dismiss the complaint, denied; motion for leave to appeal otherwise dismissed upon the ground that the remainder of the April 2013 Appellate Division order and the September 2013 Appellate Division order do not finally determine the action within the meaning of the Constitution.
Motion for poor person relief dismissed as academic.
Judge Abdus-Salaam took no part.

2 Mo. No. 2013-1095
George V. Mattas, Jr.,
 Appellant,
 v.
Town of Hempstead, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3 Mo. No. 2013-1111
In the Matter of Suarna Mehulic,
 Appellant,
 v.
State Board for Professional Medical
Conduct,
 Respondent.

Motion for reconsideration of this Court's October 15, 2013 dismissal order denied.

2 Mo. No. 2013-1085
In the Matter of Metropolitan Transportation
Authority,
 Respondent;
Washed Aggregate Resources, Inc.,
 Appellant.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.

2 Mo. No. 2013-1080
Midorimatsu, Inc.,
 Appellant,
 v.
Hui Fat Company,
 Respondent,
et al.,
 Defendants.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]).

2 Mo. No. 2013-1094
MRI Enterprises, Inc.,
 Appellant,
 v.
Comprehensive Medical Care of New York,
P.C.,
 Respondent.

Motion for leave to appeal dismissed upon the
ground that the order sought to be appealed from
does not finally determine the action within the
meaning of the Constitution.

2 Mo. No. 2013-1073
Kathryn Muldowney-Walsh,
 Respondent,
 v.
Donald Desroches,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2013-1123
Anthony Nastasi et al.,
 Respondents,
 v.
County of Suffolk et al.,
 Defendants,
Chicago Title Insurance Company,
 Appellant.

Motion for leave to appeal dismissed upon the
ground that the order sought to be appealed from
does not finally determine the action within the
meaning of the Constitution.

2 Mo. No. 2013-1084
Jayde Okunubi,
 Appellant,
 v.
City of New York,
 Respondent,
et al.,
 Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

1 Mo. No. 2013-1104
In the Matter of Anthony Pellicane,
 Appellant,
 v
Raymond Kelly, &c., et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.

3 Mo. No. 2013-1075
Phelps Corporation,
 Respondent,
 v.
Robert D. Jones, &c.,
 Appellant,
et al.,
 Defendants.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2013-1102
In the Matter of Starr L. Roshia,
 Respondent,
 v.
Christopher J. Thiel,
 Appellant.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed Family Court's order denying father's objections to the Support Magistrate's denial of father's motion to vacate, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

4 Mo. No. 2013-1091
In the Matter of Randolph Stewart,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-1112
In the Matter of Walter H. Taurins,
Appellant,
v.
Ellen S. Taurins,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2013-1122
Jose Vargas,
Appellant,
v.
City of New York, et al.,
Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2013-1138
In the Matter of Mark S. Wallach, as Chapter
7 Trustee for Norse Energy Corp. USA,
Appellant,
v.
Town of Dryden et al.,
Respondents.

Motion to substitute Mark S. Wallach, as Chapter 7
Trustee for Norse Energy Corp. USA, as party
appellant herein for Norse Energy Corp. USA
granted.

4 Mo. No. 2013-1090
The People &c.,
Respondent,
v.
Russell Young,
Appellant.

Motion for reargument of motion for leave to appeal
denied.
Motion for poor person relief dismissed as academic.