

July 01, 2014

CASES

No. 137

In re: Coudert Brothers LLP,
Debtor.

Development Specialists, Inc.,
Respondent-Appellant,

K&L Gates LLP et al.,
Appellants-Respondents,

Akin Gump Strauss Hauer & Feld LLP, et al.,
Appellants-Respondents.

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 question answered in the negative and second question not answered as unnecessary.

Opinion by Judge Read.

Chief Judge Lippman and Judges Graffeo, Smith, Pigott, Rivera and Abdus-Salaam concur.

No. 136

In re: Thelen LLP.

Yann Geron, as Chapter 7 Trustee of the
Estate of Thelen LLP,
Appellant,

v.

Seyfarth Shaw LLP,
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 question answered in the negative and second question not answered as unnecessary.

Opinion by Judge Read.

Chief Judge Lippman and Judges Graffeo, Smith, Pigott, Rivera and Abdus-Salaam concur.

No. 139
The People &c.,
Respondent,
v.
Marquan M.,
Appellant.

County of Albany,
Intervenor-Respondent.

2 No. 135
The People &c.,
Respondent,
v.
Jose Maldonado,
Appellant.

1 No. 138
Manuel Reis, &c.,
Respondent,
v.
Volvo Cars of North America, et al.,
Appellants.
(And a Third-Party Action.)

Order reversed and accusatory instrument dismissed.
Opinion by Judge Graffeo.
Chief Judge Lippman and Judges Read, Rivera and
Abdus-Salaam concur.
Judge Smith dissents in an opinion in which Judge
Pigott concurs.

Order modified by reducing defendant's conviction of
murder in the second degree to manslaughter in the
second degree and remitting to Supreme Court, Kings
County, for resentencing and, as so modified,
affirmed.
Opinion by Judge Rivera.
Chief Judge Lippman and Judges Read, Smith and
Abdus-Salaam concur.
Judge Pigott dissents in an opinion in which Judge
Graffeo concurs.

Order reversed, with costs, and a new trial ordered.
Opinion by Judge Smith.
Chief Judge Lippman and Judges Read, Pigott and
Rivera concur.
Judge Graffeo dissents and votes to affirm in an
opinion.
Judge Abdus-Salaam took no part.

1 No. 179 SSM 15
Ana Vega,
 Respondent,
 v.
103 Thayer Street, LLC,
 Defendant,
City of New York,
 Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, order of Supreme Court, New York County, reinstated, and certified question answered in the negative. The City was entitled to judgment as a matter of law. The markings on the Big Apple Map failed to raise an issue of fact as to whether the City had prior written notice of the alleged defect.
Chief Judge Lippman and Judges Graffeo, Read, Smith, Pigott, Rivera and Abdus-Salaam concur.

MOTIONS

2 Mo. No. 2014-544
In the Matter of AGBH Bel Air Rental, LLC,
 Respondent,
 v.
Hilary Best,
 Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion from the orders of the Appellate Term (see CPLR 5602[a]).
Motion for poor person relief dismissed as academic.

3 Mo. No. 2014-531
In the Matter of Albany Basketball & Sports Corporation, &c.,
 Respondent,
 v.
City of Albany, et al.,
 Appellants.

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

2 Mo. No. 2014-545
Debra Betz, &c.,
 Appellant,
 v.
Arnold W. Blatt, et al.,
 Respondents.

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.

1 Mo. No. 2014-536
In the Matter of Kelly Brennan,
 Appellant,
 v.
Raymond Kelly, &c., et al.,
 Respondents.

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

4 Mo. No. 2014-498
The People &c.,
Respondent,
v.
Stanley A. Brown,
Appellant.

Motion for leave to appeal granted.
Motion for poor person relief granted.

3 Mo. No. 2014-575
In the Matter of Civil Service Employees
Association, Inc., &c., et al.,
Respondents,
v.
New York State Bridge Authority,
Appellant.
(And Another Related Proceeding.)

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

4 Mo. No. 2014-551
Patricia J. Curto,
Appellant,
v.
National Fuel Corporation,
Respondent.

Motion for reargument of motion for leave to appeal
denied.

2 Mo. No. 2014-527
Debra Dalder,
Appellant,
v.
Incorporated Village of Rockville Centre, et
al.,
Defendants,
El Mariachi Restaurant, Inc.,
Respondent.

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

1 Mo. No. 2014-538
Davis & Partners, LLC, et al.,
 Appellants,
 v.
QBE Insurance Corporation,
 Respondent.

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

2 Mo. No. 2014-526
Deutsche Bank Trust Company Americas,
&c.,
 Respondent,
 v.
Kevin Michael Shields,
 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.

1 Mo. No. 2014-542
Empire Insurance Company, &c.,
 Respondent,
 v.
Robert San Miguel,
 Defendant,
Thomas McHenry,
 Appellant.

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

1 Mo. No. 2014-562
Dovid Feld, &c.,
 Appellant,
 v.
Apple Bank for Savings,
 Respondent.

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

1 Mo. No. 2014-601
In the Matter of New York City Asbestos
Litigation.

Robert Germain, Sr.,
Respondent,

v.

A.O. Smith Water Products Co., et al.,
Defendants,
Liberty Mutual Insurance Company,
Appellant.
(And Other Actions.)

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. 2014-474
In the Matter of Greater Jamaica
Development Corporation, et al.,
Respondents,

v.

New York City Tax Commission,
et al.,
Appellants.

Motion for leave to appeal granted.

1 Mo. No. 2014-533
Kelley D.F. Hardwick,
Appellant,

v.

Geno Auriemma, &c., et al.,
Respondents,
et al.,
Defendants.

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

4 Mo. No. 2014-555
In the Matter of Anthony J. Hensel,
Appellant,

v.

City of Utica, et al.,
Respondents.

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

4 Mo. No. 2014-586
Hillcrest Homes, LLC,
 Appellant,
 v.
Albion Mobile Homes, Inc., &c., et al.,
 Respondents.

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. 2014-543
Yu Ling Hu, et al.,
 Respondents,
 v.
John Zapas,
 Appellant,
et al.,
 Defendant.

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

2 Mo. No. 2014-535
In the Matter of Susan Konig, &c., et al.,
 Appellants,
 v.
CSC Holdings, LLC,
 Respondent,
Watch Croton,
 Respondent.

Motion for leave to appeal dismissed upon the ground that it does not lie (see CPLR 5602).

3 Mo. No. 2014-524
In the Matter of Daniel Lampert,
 Appellant,
 v.
State University of New York at Albany,
 Respondent.

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

2 Mo. No. 2014-534
The People &c.,
Respondent,
v.
James R. McNeil,
Appellant.

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

2 Mo. No. 2014-546
Nanomedicon, LLC,
Appellant,
v.
Research Foundation of State University of
New York,
Respondent,
et al.,
Defendant.
(And A Third-Party Action.)

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. 2014-549
In the Matter of State of New York,
Respondent,
v.
Jody J.T.,
Appellant.

Motion for leave to appeal dismissed upon the
ground that this Court does not have jurisdiction to
entertain it.

2 Mo. No. 2014-529
In the Matter of Peter Norfleet,
Respondent,
v.
Luz Williams,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2014-475
In the Matter of Stephanie Cannon O'Brien,
Appellant,
v.
Thomas P. DiNapoli, &c., et al.,
Respondents.

Motion for leave to appeal granted.

3 Mo. No. 2014-539
In the Matter of Stephanie Cannon O'Brien,
Appellant,
v.
Thomas P. DiNapoli, &c., et al.,
Respondents.

Motion by the New York State Police Investigators Association for leave to appear amicus curiae on the motion for leave to appeal herein granted and the affidavits are accepted as filed.

4 Mo. No. 2014-550
Eugene Palladino,
Appellant,
v.
CNY Centro, Inc., et al.,
Respondents.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2014-525
Hugh Reyes,
Appellant,
v.
Brinks Global Services USA, Inc.,
et al.,
Respondents.

Motion for reargument of motion for leave to appeal denied.

1 Mo. No. 2014-488
In the Matter of Delroy S., &c.,
Appellant.

Motion for leave to appeal granted.
Motion for poor person relief granted.

3 Mo. No. 2014-503
In the Matter of George Texeira,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2014-541
The People &c.,
Respondent,
v.
Andrew Tisman,
Appellant.

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

4 Mo. No. 2014-530
The People &c. ex rel. David F. Tuszynski,
Appellant,
v.
Superintendent David Stallone, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2014-563
Utica Mutual Insurance Company, &c.,
Respondent,
v.
James McCorvey, Jr.,
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. 2014-528
In the Matter of Nigel Williamson,
Appellant,
v.
New York State Office of Children and
Family Services,
et al.,
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2014-552
In the Matter of Corey N. Yamamura,
Appellant.
Commissioner of Labor,
Respondent.

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