

June 28, 2018

**CASES**

3                    No. 77  
In the Matter of Anonymous, an Intermediate  
Care Facility,  
    Respondent,  
    v.  
David Molik, et al.,  
    Appellants.

Order reversed, with costs, and matter remitted to the Appellate Division, Third Department, for consideration of issues raised but not determined on appeal to that court.  
Opinion by Judge Garcia.  
Chief Judge DiFiore and Judges Stein, Fahey, Wilson and Feinman concur.  
Judge Rivera dissents in an opinion.

1                    No. 64  
Magdalena Garcia, &c., et al.,  
    Respondents,  
    v.  
New York City Department of Health and  
Mental Hygiene, et al.,  
    Appellants.

Order reversed, with costs, petition insofar as it sought to enjoin enforcement of the amendments to the New York City Code denied, and judgment granted declaring in respondents' favor in accordance with the opinion herein.  
Opinion by Judge Stein.  
Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson and Feinman concur.

4                    No. 37  
The People &c.,  
    Appellant,  
    v.  
William Morrison,  
    Respondent.

Order affirmed, in a memorandum.  
Judges Rivera, Stein, Fahey and Wilson concur.  
Chief Judge DiFiore dissents in an opinion, in which Judges Garcia and Feinman concur in a separate dissenting opinion by Judge Garcia.

1                    No. 36  
The People &c.,  
    Respondent,  
    v.  
Mark Nonni,  
    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Rivera.  
Judges Stein, Fahey and Wilson concur.  
Chief Judge DiFiore dissents in an opinion, in which  
Judges Garcia and Feinman concur in a separate  
dissenting opinion by Judge Garcia.

1                    No. 35  
The People &c.,  
    Respondent,  
    v.  
Lawrence Parker,  
    Appellant.

Order reversed and a new trial ordered.  
Opinion by Judge Rivera.  
Judges Stein, Fahey and Wilson concur.  
Chief Judge DiFiore dissents in an opinion, in which  
Judges Garcia and Feinman concur in a separate  
dissenting opinion by Judge Garcia.

4                    No. 114 SSM 14  
In the Matter of Michelle Widrick,  
    Appellant;  
Michael Carpinelli, &c., et al.,  
    Respondents.

On review of submissions pursuant to section 500.11  
of the Rules, order affirmed, with costs. "Our  
reading of the collective bargaining agreement as a  
whole establishes the parties' plain and unambiguous  
intent to limit the right to demand ... arbitration to  
[petitioner's union]" (County of Westchester v  
Mahoney, 56 NY2d 756, 758 [1982]).  
Chief Judge DiFiore and Judges Stein, Garcia and  
Feinman concur.  
Judge Wilson dissents in an opinion in which Judges  
Rivera and Fahey concur.

## MOTIONS

1                    Mo. No. 2018-505  
Oliver Douce Al-Dey,  
    Appellant,  
    v.  
City of New York,  
    Respondent.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2018-608  
Richard Altman,  
    Respondent,  
    v.  
285 West Fourth LLC,  
    Appellant.

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

2                    Mo. No. 2018-535  
In the Matter of Alex Anderson, Jr.,  
    Appellant,  
    v.  
Mariah Angel Carey,  
    Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.  
Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the proceeding within the meaning of the Constitution.  
Motion for ancillary relief dismissed as academic.

2                    Mo. No. 2018-495  
In the Matter of Milton J.B.,  
    Appellant,  
    v.  
Denise A. P.-P.,  
    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.

2                    Mo. No. 2018-515  
Beverly Bader, &c.,  
    Appellant,  
    v.  
River Edge at Hastings Owners Corp. et al.,  
    Respondents.

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

1                    Mo. No. 2018-536  
Colebrooke Theatrical LLP,  
    Respondent,  
    v.  
Stephane Bibeau,  
    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. 2018-493  
In the Matter of Jonathan Corbett,  
    Appellant,  
    v.  
City of New York et al.,  
    Respondents.

Motion for leave to appeal denied.

4                    Mo. No. 2018-517  
The People &c.,  
    Respondent,  
    v.  
Chad R. Crowley,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2018-540  
The People &c.,  
    Respondent,  
    v.  
Jason S. Cullen,  
    Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-571  
In the Matter of FMC Corporation,  
Respondent,  
v.  
New York State Department of  
Environmental Conservation,  
Appellant.

Motion for reargument denied.

1 Mo. No. 2018-523  
Barbara J. Fried, et al.,  
Appellants,  
v.  
Lehman Brothers Real Estate Associates III,  
L.P., et al.,  
Respondents,  
et al.,  
Defendants.

Motion, insofar as it seeks leave to appeal as against  
Ian Lowitt, denied; motion for leave to appeal  
otherwise dismissed as untimely (see CPLR  
5513[b]).

3 Mo. No. 2018-529  
In the Matter of the Arbitration between  
Moshe Friedman,  
Respondent,  
v.  
Salmen Loksen, &c.,  
Appellant.

Motion for leave to appeal dismissed upon the  
ground that no appeal lies from an Appellate  
Division order dismissing an appeal from a  
determination entered upon a default (CPLR 5511).

4 Mo. No. 2018-502  
Paula L. Gibbs,  
Appellant,  
v.  
State Farm Fire and Casualty Company,  
Respondent.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not finally determine the action  
within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

4 Mo. No. 2018-516  
The People &c.,  
Respondent,  
v.  
Gary Graham,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-518  
The People &c.,  
Respondent,  
v.  
Marquis J. Griffin,  
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-496  
Darwin Hale, Jr., &c.,  
Appellant,  
v.  
Holley Central School District,  
Respondent.

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

4 Mo. No. 2018-513  
The People &c. ex rel. John A.J. Hinspeter, II,  
Appellant,  
v.  
Dale A. Artus, &c.,  
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.  
Motion for miscellaneous relief dismissed upon the ground that this Court does not have jurisdiction to grant the affirmative relief sought (see NY Const, art VI, § 3).

1 Mo. No. 2018-499  
IDT Corp. et al.,  
Appellants,  
v.  
Tyco Group, S.A.R.L., et al.,  
Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2018-531  
James River Multi-Strategy Fund, L.P. et al.,  
Appellants,  
v.  
MotherRock, L.P., et al.,  
Respondents.

Motion for leave to appeal denied.

1                    Mo. No. 2018-492  
Johnathan Johnson,  
Appellant,  
v.  
Donald David, &c.,  
Respondent.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not finally determine the action  
within the meaning of the Constitution.  
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.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2018-501  
The People &c.,  
Respondent,  
v.  
Tyshawn Kennedy,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2018-629  
Srikumar Kesavan,  
Appellant,  
v.  
Margaret Ebert Kesavan,  
Respondent.

Motion for leave to appeal denied.  
Motion for a stay dismissed as academic.

4 Mo. No. 2018-542  
The People &c.,  
Respondent,  
v.  
Ernest Lott,  
Appellant.

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

1 Mo. No. 2018-498  
Nella Manko,  
Appellant,  
v.  
Dana Mannor, et al.,  
Respondents.

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

2 Mo. No. 2018-539  
Jennifer Merin,  
Appellant,  
v.  
City of New York, et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2018-522  
In the Matter of Angelo Todd Merolla,  
Appellant,  
v.  
Jerry Garguilo, &c., et al.,  
Respondents;  
Michael J. Meyer, &c.,  
Intervenor-Respondent.

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

1 Mo. No. 2018-514  
In the Matter of New York City Transit  
Authority et al.,  
Respondents,  
v.  
Earl Phillips, &c.,  
Appellant.

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.  
Judge Feinman took no part.



1 Mo. No. 2018-509  
The People &c.,  
Respondent,  
v.  
Yosttin Ortiz,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-486  
Jeffrey Price,  
Appellant,  
v.  
Tunecore, Inc.,  
Respondent.

Motion, insofar as it seeks leave to appeal from the Appellate Division order, dismissed upon the ground that the order does not finally determine the action within the meaning of the Constitution; motion, insofar as it seeks leave to appeal, pursuant to CPLR 5602(a)(1)(ii), from the subsequently entered Supreme Court order, dismissed upon the ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (see Parker v Rogerson, 35 NY2d 751, 753 [1974]).

3 Mo. No. 2018-526  
Richard Ronkese,  
Appellant,  
v.  
Tilcon New York, Inc.,  
Respondent,  
et al.,  
Defendants.

Motion for reargument of motion for leave to appeal dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).

3 Mo. No. 2018-543  
Richard Ronkese,  
Respondent,  
v.  
Tilcon New York, Inc.,  
Appellant,  
et al.,  
Defendants.

Motion for reargument of motion for leave to appeal dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).

1                    Mo. No. 2018-497  
In the Matter of Victor Salvia,  
                         Respondent,  
                         v.  
William Bratton, &c., et al.,  
                         Appellants.

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

1                    Mo. No. 2018-559  
Skanska USA Building Inc.,  
                         Appellant,  
                         v.  
Atlantic Yards B2 Owner, LLC, et al.,  
                         Respondents,  
et al.,  
                         Defendants.

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

2                    Mo. No. 2018-433  
William Sullivan, et al.,  
                         Appellants,  
et al.,  
                         Plaintiffs,  
                         v.  
Keyspan Corp., et al.,  
                         Respondents,  
et al.,  
                         Defendants.

Motion for leave to appeal, insofar as made by Alexander Hazelton; Amy Hazelton; Barbara De Angelis; Casilda Del Valle; Diane J. Arbore; Eileen Heckel; Ellen Molin; Gary A. Patterson; Genevieve Spelman; John Price; Kim Price; John Schmutz; Georgina Payne; Joseph Simone; Maureen Simone; Joseph Robinson; Sharon Robinson; Joseph Massaro; Joyce Malakoff; Justin Kalinowski; Jennifer Kalinowski; Kimberly Shannon; Lawrence Hanson; Margie Hanson; Michael Smith; Susan Smith; Nicholas Dennis Divaris; Otoniel Giron; Elizabeth Giron; Pat Pesola Trust; Patrick Adams; Angela Adams; Richard Varone; Barbara Varone; Richard Carroll; Judy Carroll; Steven Kennedy; Theresa Kennedy; Stuart Staples; Lourice Staples; Thomas Vesey; Shirley Vesey; Thomas Honor; and Yolanda Arzt, dismissed upon the ground that these appellants are not parties aggrieved (CPLR 5511); motion for leave to appeal otherwise denied.

4                    Mo. No. 2018-490  
Alice Elaine Sweetman,  
Respondent,  
v.  
Sonja G. Suhr,  
Appellant.

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

1                    Mo. No. 2018-503  
The People &c.,  
Appellant,  
v.  
Darryl T.,  
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.

3                    Mo. No. 2018-534  
In the Matter of Troy Sand & Gravel Co., Inc.  
et al.,  
Appellants,  
v.  
David F. Fleming Jr., &c., et al.,  
Respondents.

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

3                    Mo. No. 2018-627  
In the Matter of Troy Sand & Gravel Co., Inc.  
et al.,  
Appellants,  
v.  
David F. Fleming Jr., &c., et al.,  
Respondents.

Motion by The Business Council of New York State, Inc. for leave to appear amicus curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.  
Judge Stein took no part.

3                    Mo. No. 2018-628  
In the Matter of Troy Sand & Gravel Co., Inc.  
et al.,  
Appellants,  
v.  
David F. Fleming Jr., &c., et al.,  
Respondents.

Motion by New York State Builders Association for leave to appear amicus curiae on the motion for leave to appeal herein granted and the affidavit is accepted as filed.  
Judge Stein took no part.

3                    Mo. No. 2018-630  
In the Matter of Troy Sand & Gravel Co., Inc.  
et al.,  
                  Appellants,  
          v.  
David F. Fleming Jr., &c., et al.,  
                  Respondents.

Motion by New York Construction Materials Association, Inc. et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the affirmation is accepted as filed. Judge Stein took no part.

3                    Mo. No. 2018-562  
In the Matter of Renezmae X., &c.  
  
Broome County Department of Social Services,  
                  Respondent;  
Kimberly X.,  
                  Appellant,  
et al.,  
                  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.