

November 20, 2017

CASES

2 No. 115
The People &c.,
 Respondent,
 v.
Mario Arjune,
 Appellant.

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

4 No. 47
Michael J. Carlson, Sr., &c.,
 Appellant,
 v.
American International Group, Inc., et al.,
 Respondents.

Orders modified, without costs, by denying
defendants' motions to dismiss the first cause of
action and, as so modified, affirmed.
Opinion by Judge Wilson.
Judges Rivera, Feinman and Eng concur.
Judge Garcia dissents in an opinion, in which Chief
Judge DiFiore and Judge Stein concur.
Judge Fahey took no part.

 No. 113
Veronika Chauca,
 Appellant,
 v.
Jamil Abraham, et al.,
 Respondents.

Following certification of a question by the United
States Court of Appeals for the Second Circuit and
acceptance of the question 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,
certified question answered in accordance with the
opinion herein.
Opinion by Judge Garcia.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey
and Feinman concur.
Judge Wilson dissents in an opinion.

1 No. 111
Paul Davis,
 Appellant,
 v.
Scottish Re Group Limited, et al.,
 Respondents,
et al.,
 Defendants.

Order, insofar as appealed from, reversed, with costs, case remitted to the Appellate Division, First Department, for further proceedings in accordance with the opinion herein and certified question answered in the negative.
Opinion by Judge Feinman.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey and Wilson concur.
Judge Garcia took no part.

4 No. 117
The People &c.,
 Appellant,
 v.
Marlo S. Helms,
 Respondent.

Order, insofar as appealed from, reversed and defendant's sentence as a second violent felony offender reinstated.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Stein, Garcia and Wilson concur.
Judge Rivera concurs in result in an opinion, in which Judge Feinman concurs.

4 No. 118
In the Matter of Jamie J.

Wayne County Department of Social
Services,
 Respondent;
Michelle E.C.,
 Appellant.

Order reversed, without costs, and the January 26, 2016 permanency order vacated.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia and Feinman concur.

1 No. 120
In the Matter of Frank Mestecky,
 Appellant,
 v.
City of New York, et al.,
 Respondents.

Judgment affirmed, with costs, and certified question not answered as unnecessary.
Opinion by Chief Judge DiFiore.
Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

MOTIONS

1 Mo. No. 2017-809
In the Matter of 215 W 88th Street Holdings
LLC,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal, et al.,
 Respondents.
(And Another Proceeding.)

Motion for leave to appeal from the order of the New York State Division of Housing and Community Renewal, dated June 13, 2017, dismissed upon the ground that the final order of the Appellate Division, dated October 27, 2016, is the appealable paper (see CPLR 5611).

2 Mo. No. 2017-782
Brooke Biondi,
 Appellant,
 v.
David Behrman, D.M.D., et al.,
 Respondents,
et al.,
 Defendants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that denied plaintiff's cross motion to amend the bill of particulars, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied. Chief Judge DiFiore took no part.

4 Mo. No. 2017-866
Patrick J. Carney,
 Respondent,
 v.
Jun W. Carney,
 Respondent.
Paul B. Watkins, Esq., Attorney for the
Children,
 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.

4 Mo. No. 2017-874
Patrick J. Carney,
 Appellant,
 v.
Jun W. Carney,
 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.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2017-903
The People &c.,
 Respondent,
 v.
Steve Charles,
 Appellant.

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

3 Mo. No. 2017-884
Christine Costopoulos,
 Appellant,
 v.
Eleanor M. DeCoursey et al.,
 Respondents.

Motion for leave to appeal denied.
Judge Stein took no part.

3 Mo. No. 2017-857
In the Matter of Stephen Dick Jr. et al.,
 Appellants,
 v.
State of New York Tax Appeals Tribunal et al.,
 Respondents.

Motion, insofar as it seeks leave to appeal from the June 2017 Appellate Division order denying appellants' motion for reargument or 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 leave to appeal otherwise denied.

1 Mo. No. 2017-936
Robert Duffy et al.,
Appellants,
v.
274 West 19, LLC, et al.,
Respondents.
(And Third-Party Actions.)

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

2 Mo. No. 2017-938
The People &c.,
Respondent,
v.
Germaine Garcia,
Appellant.

Motion for leave to appeal dismissed upon the ground that the Court does not have jurisdiction to entertain it (see NY Const, art VI, § 3; CPLR 5602; CPL 450.90).
Motion for a stay dismissed as academic.

1 Mo. No. 2017-759
Sian Green,
Appellant,
v.
Fasyal Kabir Mohammad Himon, et al.,
Defendants,
A+ Couriers,
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.
Judge Feinman took no part.

3 Mo. No. 2017-880
In the Matter of a Trust Created by Margaret
E. Gurney, Deceased.

Carolyn Renner, &c.,
Respondent;
St. Mary's Roman Catholic Church, et al.,
Appellants,
Hartwick College et al.,
Respondents.

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

4 Mo. No. 2017-881
In the Matter of Philip L. Gurnsey,
Appellant,
v.
J. David Sampson, &c., et al.,
Respondent.

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

2 Mo. No. 2017-926
The People &c.,
Respondent,
v.
Raymond Hernaiz,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-930
Julio Enrique Hernandez,
Appellant,
v.
Silas Nwaishienyi, &c., et al.,
Defendants,
Chung Huei Wu, &c., et al.,
Respondents.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the May 2015 Supreme Court order, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2 Mo. No. 2017-876
In the Matter of Lori A. Janczewski,
Appellant,
v.
Adam A. Janczewski,
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.

4 Mo. No. 2017-963
In the Matter of Jamie J.

Wayne County Department of Social
Services,
Respondent;
Michelle E.C.,
Appellant.

Motion to dismiss appeal denied.
Motion to expand the record, insofar as it seeks to
submit decisions and orders of Family Court, denied
as unnecessary upon the ground that the material
sought to be submitted is subject to judicial notice;
motion to expand the record otherwise denied.
Motion for other relief denied.

2 Mo. No. 2017-1036
In the Matter of Kirchhoff-Consigli
Construction Management, LLC,
Respondent,
v.
Mechtronics Corporation,
Appellant.

Motion for reargument of motion for leave to appeal
denied with one hundred dollars costs and necessary
reproduction disbursements.
Motion for a stay dismissed as academic.

2 Mo. No. 2017-904
The People &c.,
Respondent,
v.
Navatro LeGrand,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-889
Rhonda Lewis, &c., et al.,
Appellants,
v.
Robert Jutkowitz, et al.,
Defendants,
William Gael, et al.,
Respondents.

Motion for leave to appeal dismissed upon the
ground that it does not lie, appellants having
previously moved for leave to appeal to this Court
from the Appellate Division order from which leave
to appeal is currently sought (28 NY3d 1051 [2016]).

3 Mo. No. 2017-902
Cornelius J. Mahoney, et al.,
 Appellants,
 v.
State of New York,
 Respondent.

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

2 SSD 61
Nella Manko,
 Appellant,
 v.
Lenox Hill Hospital,
 Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution. Judge Feinman took no part.

2 Mo. No. 2017-746
Nella Manko,
 Appellant,
 v.
Lenox Hill Hospital,
 Respondent.

Motion, insofar as it seek leave to appeal from the July 2015 and October 2015 Appellate Division orders, dismissed upon the ground that it does not lie, appellant having previously moved in the Court of Appeals for leave to appeal (27 NY3d 1146 [2016]) from the same Appellate Division orders from which she currently seeks leave to appeal (see Selinger v Selinger, 90 NY2d 842 [1997]).
Motion for poor person relief dismissed as academic.
Motion for other relief denied.
Judge Feinman took no part.

2 Mo. No. 2017-847
Nella Manko,
 Appellant,
 v.
Lenox Hill Hospital,
 Respondent.

Motion for reargument denied.
Motion for poor person relief dismissed as academic.
Judge Feinman took no part.

1 Mo. No. 2017-869
In the Matter of Barbara Morris,
Appellant,
v.
New York City Department of Health and
Mental Hygiene,
Respondent.

Motion for leave to appeal denied.
Judge Feinman took no part.

2 Mo. No. 2017-924
The People &c.,
Respondent,
v.
Gerson Munguia,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2017-861
Norex Petroleum Limited,
Appellant,
v.
Leonard Blavatnik, et al.,
Respondents,
et al.,
Defendants.

Motion for leave to appeal denied with one hundred
dollars costs and necessary reproduction
disbursements.
Judges Fahey and Feinman took no part.

2 Mo. No. 2017-927
The People &c.,
Respondent,
v.
Carlos Perez,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-892
Ramapo Realty, LLC,
Respondent,
v.
1236 Rogers Avenue, LLC et al.,
Appellants,
et al.,
Defendants.

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

1 Mo. No. 2017-868
In the Matter of Danny Rossi,
Appellant,
v.
New York City Department of Parks and
Recreation,
Respondent.

Motion for leave to appeal denied.
Judge Feinman took no part.

3 Mo. No. 2017-888
In the Matter of Sherri Sullivan, et al.,
Appellants,
v.
Planning Board of the Town of Mamakating,
et al.,
Respondents.

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

2 Mo. No. 2017-905
In the Matter of T-Mobile Northeast, LLC,
Appellant,
v.
Anthony V. DeBellis, &c., et al.,
Respondents,
et al.,
Respondents/Defendants.

Motion for leave to appeal granted.

1 Mo. No. 2017-803
Rachel Tantaro,
Appellant,
v.
Common Ground Community Housing
Development Fund, Inc. et al.,
Respondents.

Motion, insofar as it seeks leave to appeal as against
defendant Common Ground Community Housing
Development Fund, Inc., dismissed upon the ground
that as to it the order sought to be appealed from
does not finally determine the action within the
meaning of the Constitution; motion for leave to
appeal otherwise denied.

2 Mo. No. 2017-890
The People &c.,
 Respondent,
 v.
Aaron Young,
 Appellant.

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