

October 21, 2010

CASES

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|---|----------------------------------|-----------------------------------------|
| 4 | No. 164 | Order affirmed, with costs. |
| | In the Matter of the Arbitration | Opinion by Judge Jones. |
| | between Carmen I. Falzone, Now | Chief Judge Lippman and Judges |
| | Known as Carmen I. Cordero, | Ciparick, Graffeo, Read and Smith |
| | Appellant, | concur. |
| | and | Judge Pigott dissents and votes to |
| | New York Central Mutual Fire | reverse in an opinion. |
| | Insurance Company, | |
| | Respondent. | |
| 3 | No. 149 | Judgment appealed from and order of the |
| | Jon Flemming, &c., | Appellate Division brought up for |
| | Respondent, | review affirmed, with costs. |
| | v. | Opinion by Judge Pigott. |
| | Barnwell Nursing Home and Health | Judges Ciparick, Graffeo, Read and |
| | Facilities, Inc., | Jones concur. |
| | Defendant. | Judge Smith dissents in an opinion in |
| | Caroline Ahlfors Mouris, | which Chief Judge Lippman concurs. |
| | Appellant; | |
| | Paul Macari, | |
| | Respondent. | |
| 2 | No. 156 | Order, insofar as appealed from, |
| | Wanderlei Gasques, et al. | affirmed, with costs, and certified |
| | Appellants, | question answered in the affirmative, |
| | v. | in a memorandum. |
| | State of New York, | Chief Judge Lippman and Judges |
| | Respondent. | Ciparick, Graffeo, Read, Smith, Pigott |
| | | and Jones concur. |

No. 151

Marc S. Kirschner, as Trustee of
the Refco Litigation Trust,
Appellant,

v.

KPMG LLP, Grant Thornton LLP,
Mayer Brown LLP, Ingram Micro
Inc., CIM Ventures Inc., William
T. Pigott, Mayer Brown
International LLP,
PricewaterhouseCoopers LLP,
Liberty Corner Capital
Strategies, LLC, Banc of America
Securities, LLC, Credit Suisse
Securities (USA) LLC, and
Deutsche Bank Securities, Inc.,

Respondents,

Beckenham Trading Company, Inc.,
Andrew Krieger, Ernst & Young
LLP, Tone N. Grant, Robert C.
Trosten, Refco Group Holdings,
Inc., Phillip R. Bennett, Santo
C. Maggio, EMF Financial
Products, Delta Flyer Fund, LLC,
and Eric M. Flanagan,

Defendants.

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 the Rules of Practice
of the New York State Court of Appeals,
and after hearing argument by counsel
for the parties and consideration of
the briefs and the record submitted,
certified questions answered in
accordance with the opinion herein.
Opinion by Judge Read.

Judges Graffeo, Smith and Jones concur.
Judge Ciparick dissents in an opinion
in which Chief Judge Lippman and Judge
Pigott concur.

4 No. 225 SSM 36

Justin M. Shubbuck,
Respondent,

v.

Sean M. Connors et al.,
Appellants.

On review of submissions pursuant to
section 500.11 of the Rules, order
modified, with costs to defendants, by
remitting to Supreme Court, Erie
County, for further proceedings in
accordance with the memorandum herein
and, as so modified, affirmed.
Chief Judge Lippman and Judges
Ciparick, Graffeo, Read, Smith, Pigott
and Jones concur.

No. 152

Teachers' Retirement System of
Louisiana and City of New Orleans
Employees' Retirement System,
derivatively on behalf of nominal
defendant American International
Group, Inc.,

Appellants,

v.

PricewaterhouseCoopers LLP,
Respondent.

Following certification of a question
by the Supreme Court of Delaware and
acceptance of the question by this
Court pursuant to section 500.27 of the
Rules of Practice of the New York State
Court of Appeals, 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 Read.

Judges Graffeo, Smith and Jones concur.

Judge Ciparick dissents in an opinion
in which Chief Judge Lippman and Judge
Pigott concur.

MOTIONS

2 Mo. No. 2010-984
Accurate Copy Service of America,
Inc., et al.,
 Appellants,
 v.
Fisk Building Associates L.L.C.,
et al.,
 Respondents.

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

2 Mo. No. 2010-888
In the Matter of Atlantic Shores
Builders & Developers, Inc.,
 Appellant,
 v.
Christopher Modelewski, &c.,
et al.,
 Respondents.

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

3 Mo. No. 2010-951
In the Matter of Luis Avincola,
 Appellant,
 v.
Brian Fischer, &c.,
 Respondent.

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

2 Mo. No. 2010-1012
In the Matter of Diante B.
(Anonymous), &c.

Mercyfirst, et al.,
 Respondents,
Kelly B. (Anonymous),
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2010-1007
In the Matter of Robert A. Bush,
Jr.,
 Appellant,
 v.
Melissa Bush,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2010-944
Robert Carollo,
 Appellant,
 v.
State of New York,
 Respondent.

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

2 Mo. No. 2010-964
Young Chen,
 Respondent,
 v.
Ruihua Li,
 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.

1 Mo. No. 2010-946
Cosmos, Queens Ltd.,
 Appellant,
 v.
Matthias Saechang Im Agency,
et al.,
 Respondents.

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

2 Mo. No. 2010-955
The People &c.,
 Respondent,
 v.
Victor Cruz,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2010-922
In the Matter of Kenneth Deering,
 Appellant,
 v.
Nicholas Scopetta, &c., et al.,
 Respondents.

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

2 Mo. No. 2010-943
Gerard DeToia,
 Appellant,
 v.
Yellow Transportation, Inc.,
et al.,
 Respondents.

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

1 Mo. No. 2010-965
Discovision Associates,
 Plaintiff,
 v.
Fuji Photo Film Co., Ltd.,
et al.,
 Defendants.

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

Fujifilm Corporation,
 Third-Party Appellant,
 v.
Prodisc Technology, Inc.,
 Third-Party Defendant,
Ritek Corporation, et al.,
 Third-Party Respondents.

2 Mo. No. 2010-912
James F. Feeney, &c.,
 Appellant,
 v.
Robert Holeman, et al.,
 Defendants,
Town of Brookhaven et al.,
 Respondents.

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

2 Mo. No. 2010-967
In the Matter of Frank Gaeta,
 Appellant,
 v.
Incorporated Village of Garden
City et al.,
 Respondents.

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

2 Mo. No. 2010-989
In the Matter of Ann Godwin,
 Appellant,
 v.
Board of Education Retirement
System of City of New York,
 Respondent.

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

3 Mo. No. 2010-952
Green Harbour Homeowners'
Association, Inc.,
 Appellant,
 v.
Chicago Title Insurance Company,
 Respondent.

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

3 Mo. No. 2010-917
In the Matter of Muhsin Farid
Hizbullah,
 Appellant,
 v.
Norman R. Bezio, &c., et al.,
 Respondents.

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

3 Mo. No. 2010-950
In the Matter of Michael Hoffler,
 Appellant,
 v.
Robert M. Jacon, &c. et al.,
 Respondents.

Motion for reconsideration of this
Court's July 1, 2010 dismissal order
denied.
Motion for leave to appeal denied.

2 Mo. No. 2010-956
In the Matter of Jacqueline
Jumper,
 Respondent,
 v.
Laurie Hemphill,
 Appellant.

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

1 Mo. No. 2010-894
Mahin Dokht Karoon,
 Plaintiff,
 v.
Majid Karoon,
 Defendant.

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.

Cox Padmore Skolnik & Shakarchy,
LLP,
 Nonparty-Respondent;
Kayvan Karoon, et al.,
 Appellants.

2 Mo. No. 2010-1009
The People &c. ex rel. Kelvin
Laurent,
 Appellant,
 v.
Joseph Czerniawski, &c.,
 Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2010-972
Edgar Nazario,
 Appellant,
 v.
State of New York,
 Respondent.

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

2 Mo. No. 2010-932
Robert Nioras,
 Appellant,
 v.
Village of Rye Brook, et al.,
 Respondents.

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

4 Mo. No. 2010-997
In the Matter of Emmanuel D.
Patterson,
 Appellant,
 v.
James L. Berbary, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2010-1131
The People &c.,
 Respondent,
 v.
David Lance Paulin,
 Appellant.

Motion for assignment of counsel
granted and Robert S. Dean, Esq.,
Center for Appellate Litigation, 74
Trinity Place, 11th Floor, New York,
NY 10006 assigned as counsel to the
appellant on the appeal herein.

2 Mo. No. 2010-985
Tsaiyun Ishin Phillips,
 Appellant,
 v.
Robert Martin Haralick,
 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. 2010-1001
Pleasant Hill Developers, Inc.,
 Respondent,
 v.
Foxwood Enterprises, LLC
et al.,
 Appellants.

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.

3 Mo. No. 2010-998
In the Matter of Jose G. Posada,
 Appellant,
 v.
New York State Department of
Health et al.,
 Respondents.

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

1 Mo. No. 2010-1146
The People &c.,
Appellant-Respondent,
v.
Manuel Rodriguez,
Respondent-Appellant.

Motion for assignment of counsel granted and Robert S. Dean, Esq., Center for Appellate Litigation, 74 Trinity Place, 11th Floor, New York, NY 10006 assigned as counsel to the respondent-appellant on the appeal herein.

1 Mo. No. 2010-1140
The People &c.,
Respondent,
v.
Edwin Santiago,
Appellant.

Motion for assignment of counsel granted and Steven Banks, Esq., The Legal Aid Society, 199 Water Street, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

3 Mo. No. 2010-1018
Valerie Sutton,
Respondent,
v.
Scott Burdick, &c., et al.,
Defendants,
Raymond Harvey,
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. 2010-978
In the Matter of Aaron Taylor,
Appellant,
v.
Rita E. Adler, &c.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2010-961
The People &c.,
Respondent,
v.
Russell F. Wagner,
Appellant.

Motion for leave to appeal denied.