

FEBRUARY 14, 2008

CASES

1 No. 11
In the Matter of The American
Committee for the Weizmann
Institute of Science,
 Appellant,
 v.
Jennifer Dunn, Individually and
as Executor of the Estate of
Doris Weingarten et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Judge Ciparick.
Chief Judge Kaye and Judges Graffeo,
Read, Pigott and Jones concur.
Judge Smith dissents in an opinion.

1 No. 73 SSM 39
Lehman Brothers, Inc.,
 Respondent,
 v.
Rodney T. Cox,
 Appellant.

On review of submissions pursuant to
section 500.11 of the Rules, order
reversed, with costs, petition denied in
its entirety and respondent's cross
motion, insofar as it sought to confirm
the arbitrator's award to him of \$48,000,
granted. Petitioner Lehman Brothers
failed to meet its heavy burden to vacate
the arbitration award on respondent Cox's
counterclaim.
Chief Judge Kaye and Judges Ciparick,
Graffeo, Read, Smith, Pigott and Jones
concur.

1 No. 17
Arnel Samiento, et al.,
 Appellants,
 v.
World Yacht Inc., et al.,
 Respondents.

Order modified, without costs, by
reinstating plaintiffs' first cause of
action and, as so modified, affirmed.
Certified question answered in the
negative.
Opinion by Judge Ciparick.
Judges Graffeo, Read, Smith, Pigott and
Jones concur.
Chief Judge Kaye took no part.

3 No. 10
In the Matter of Susan Spencer,
 Respondent,
 v.
James Spencer,
 Appellant.

Order reversed, with costs, and matter
remitted to Family Court, Albany County,
for further proceedings in accordance with
the opinion herein.
Opinion by Chief Judge Kaye.
Judges Ciparick, Graffeo, Read, Smith,
Pigott and Jones concur.

1 No. 5
Soterios (Steve) Tzolis, et al.,
 Respondents,
 v.
Herbert Wolff, et al.,
 Defendants,
Parkway LLC. et al.,
 Appellants.

Order, insofar as appealed from, affirmed,
with costs, and certified question
answered in the affirmative.
Opinion by Judge Smith.
Chief Judge Kaye and Judges Ciparick and
Pigott concur.
Judge Read dissents in an opinion in which
Judges Graffeo and Jones concur.

4 No. 20
In the Matter of City of Utica,
 Respondent,
 v.
Town of Frankfort et al.,
 Respondents,
County of Herkimer,
 Appellant.
Trustees of Masonic Hall and
Asylum Fund, &c.,
Intervenors-Respondents.

Order modified, without costs, and matter
remitted to the Appellate Division, Fourth
Department, for further proceedings in
accordance with the opinion herein and, as
so modified, affirmed.
Opinion by Judge Jones.
Chief Judge Kaye and Judges Ciparick,
Graffeo, Read and Smith concur.
Judge Pigott took no part.

1-10 Mo. No. 1398
Pasquale D'Onofrio et al.,
Appellants,
v.
The City of New York,
Respondent,
The New York City Transit
Authority,
Defendant.

Motion for leave to appeal granted.

Mo. No. 157
Fair Price Medical Supply Corp.,
as Assignee of Cesar Niveló,
Respondent,
v.
Travelers Indemnity Company,
Appellant.

Motion by New York Central Mutual Fire
Insurance Company et al. for leave to
appear amici curiae on the appeal herein
granted only to the extent that the
proposed brief is accepted as filed.

1-10 Mo. No. 1466
Probate Proceeding, Will of
Victoria Falk, Deceased.

Joseph Fashing et al.,
Appellants,
v.
Pavel Hillel et al.,
Respondents.

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

1-14 Mo. No. 1303
Granite Broadway Development LLC,
Appellant,
v.
1711 LLC,
Respondent.

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

Mo. No. 1475
Joan Haymon, Individually and as
Mother and Natural Guardian of
L.H., an Infant,
Appellant,
v.
Donald J. Pettit, et al.,
Defendants,
and Auburn Community Non-Profit
Baseball Association, Inc.,
Respondent.

Motion for reargument denied.

2-10 Mo. No. 1476
Town of Hempstead,
Appellant,
v.
State of New York, et al.,
Respondents.

Motion for leave to appeal denied.

4-10 Mo. No. 1477
The People &c.,
Respondent,
v.
Barry T. Irving,
Appellant.

Motion for leave to appeal denied.

Mo. No. 149
The People &c.,
Appellant-Respondent,
v.
Jean Yves Jean-Baptiste,
Respondent-Appellant.

Motion for assignment of counsel granted
and Lynn W.L. Fahey, Esq., Appellate
Advocates, 2 Rector Street, 10th Floor,
New York, NY 10006 assigned as counsel to
the respondent-appellant on the appeal
herein.

3-10 Mo. No. 1469
The People &c. ex rel.
Peter King,
Appellant,
v.
Floyd Bennett, &c.,
Respondent.

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

Mo. No. 1457
Landau, P.C., Successor, by
Change of Name, to Morris J.
Eisen, P.C., et al.,
Appellants,
v.
Larossa, Mitchell & Ross, et al.,
Respondents.

Motion to dismiss the appeal herein
denied.

4-10 Mo. No. 1456
The People &c.,
Respondent,
v.
Ronald Lewis,
Appellant.

Motion for leave to appeal denied.

Mo. No. 102
Wendy Litwack,
Appellant,
v.
Plaza Realty Investors, Inc.,
et al.,
Respondents.

Motion by the New York State Trial
Lawyers' Association for leave to file a
letter brief amicus curiae on the appeal
herein granted and the letter brief is
accepted as filed.

3-10 Mo. No. 1442
Irene Lodge-Stewart, &c.,
Appellant,
v.
State of New York,
Respondent.

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

1-10 Mo. No. 1480
The People &c.,
Respondent,
v.
Raymond Lugo,
Appellant.

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

Mo. No. 121
The People &c., Respondent,
v.
John Malaussena, Appellant.

Motion for assignment of counsel granted and Richard M. Greenberg, Esq., Office of the Appellate Defender, 11 Park Place, Suite 1601, New York, NY 10007 assigned as counsel to the appellant on the appeal herein.

2-10 Mo. No. 1407
Kennedy Marro, Appellant,
v.
State of New York, Respondent.

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

Mo. No. 1436
In the Matter of City of New York, &c., regarding Melrose Commons Urban Renewal Area, Phase II.
Kaiser Woodcraft Corp., &c., Respondent,
v.
The City of New York, Appellant.

Motion by the New York State Urban Development Corporation d/b/a Empire State Development Corporation for leave to file a submission amicus curiae on the appeal herein granted and the submission is accepted as filed.

Mo. No. 1440
In the Matter of City of New York, &c., regarding Melrose Commons Urban Renewal Area, Phase II.
Kaiser Woodcraft Corp., &c., Respondent,
v.
The City of New York, Appellant.

Motion by the Port Authority of New York and New Jersey for leave to file a letter brief amicus curiae on the appeal herein granted and the letter brief is accepted as filed.

1-14 Mo. No. 1433
Frank Miraglia,
Respondent,
v.
H&L Holding Corp.,
Defendant.

Motion for leave to appeal denied.

H&L Holding Corp.,
Third-Party Plaintiff,
v.
Lane & Sons Construction Corp.,
Third-Party Appellant.

Mo. No. 128
The People &c.,
Respondent,
v.
Patrick Munroe,
Appellant.

Motion for an extension of the time within
which to apply for permission to appeal
pursuant to CPL 460.20 granted and motion
papers treated as a timely CPL 460.20
application.

3 Mo. No. 1478
In the Matter of New York State
Restaurant Association, Inc.,
Appellant,
v.
Commissioner of Labor et al.,
Respondents.

Motion for leave to appeal denied.

1-10 Mo. No. 1458
In the Matter of Shawndenise P.,
&c.,
Appellant.

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

3-14 Mo. No. 1393
Penn Heights Beach Club, Inc.,
Appellant,
v.
Nancy Myers 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.

Mo. No. 173
Kevin Pludeman, et al.,
Respondents,
v.
Northern Leasing Systems, Inc.,
et al.,
Appellants.

Motion by Chamber of Commerce of the United States of America for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

Mo. No. 156
David S. Pultz, et al.,
Appellants,
v.
Catherine Economakis et al.,
Respondents.

Motion by Community Housing Improvement Program, Inc. et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and 24 copies filed within seven days.

Mo. No. 197
David S. Pultz, et al.,
Appellants,
v.
Catherine Economakis et al.,
Respondents.

Motion by The Rent Stabilization Association of New York City, Inc. for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served and 24 copies filed within seven days.

Mo. No. 203
In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,
Petitioner,
For Review of a Determination of
State Commission on Judicial
Conduct,
Respondent.

Motion by New York State Association of City Court Judges for leave to file a brief amicus curiae on the request for review herein granted. Two copies of the brief must be served and 24 copies filed within seven days.
Judge Pigott took no part.

Mo. No. 177

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by Bar Association of Niagara
County, et al. for leave to appear amici
curiae on the request for review herein
granted only to the extent that the
proposed brief is accepted as filed. Two
copies of the brief must be served and 24
copies filed within seven days.
Judge Pigott took no part.

Mo. No. 178

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by Niagara Falls Boys' and Girls'
Club, Inc., et al. for leave to appear
amici curiae on the request for review
herein granted only to the extent that the
proposed brief is accepted as filed. Two
copies of the brief must be served and 24
copies filed within seven days.
Judge Pigott took no part.

Mo. No. 204

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by Mary Ann Oliver, Esq., et al.
for leave to file a brief amici curiae
on the request for review herein granted.
Two copies of the brief must be served
and 24 copies filed within seven days.
Judge Pigott took no part.

Mo. No. 205

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by Daniel T. Lukasik, Esq., &c.
for leave to appear amicus curiae on the
request for review herein granted only to
the extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies filed
within seven days.
Judge Pigott took no part.

Mo. No. 206

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by City of Niagara Falls Police
Department, et al. for leave to appear
amici curiae on the request for review
herein granted only to the extent that the
proposed brief is accepted as filed. Two
copies of the brief must be served and 24
copies filed within seven days.
Judge Pigott took no part.

Mo. No. 207

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by Phi Alpha Delta Law Fraternity,
International for leave to appear amicus
curiae on the request for review herein
granted only to the extent that the
proposed brief is accepted as filed. Two
copies of the brief must be served and 24
copies filed within seven days.
Judge Pigott took no part.

Mo. No. 209

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by David J. Farrugia, &c., et al.
for leave to appear amici curiae on the
request for review herein granted only to
the extent that the proposed brief is
accepted as filed. Two copies of the
brief must be served and 24 copies filed
within seven days.
Judge Pigott took no part.

Mo. No. 210

In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,

Petitioner,

For Review of a Determination of
State Commission on Judicial
Conduct,

Respondent.

Motion by City of Niagara Falls, New York
for leave to appear amicus curiae on the
request for review herein granted only to
the extent that the proposed brief is
accepted as filed. Three copies of the
brief must be served and an original and
24 copies filed within seven days.
Judge Pigott took no part.

Mo. No. 208
In the Matter of the Honorable
Robert M. Restaino, Judge of
the Niagara Falls City Court,
Niagara County,
Petitioner,
For Review of a Determination of
State Commission on Judicial
Conduct,
Respondent.

Motion for leave to file a brief amici
curiae on the request for review herein
granted to the extent that the brief is
accepted as filed on behalf of Family and
Children's Services of Niagara, Inc.,
Elizabeth Brady and Jennifer Hall; motion
otherwise denied. Two copies of the brief
must be served and 24 copies filed within
seven days.
Judge Pigott took no part.

2-10 Mo. No. 1461
In the Matter of Charles Robert,
Appellant,
v.
Coleen M. Fondulis, &c., et al.,
Respondents.

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

4-13 Mo. No. 1450
In the Matter of Laurence P.
Schweichler, D.D.S.,
Appellant,
v.
Village of Caledonia, et al.,
Respondents.

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

Mo. No. 198
The People &c., Respondent,
v.
Daniel Sparber, Appellant.

The People &c., Respondent,
v.
John Lingle, Appellant.

The People &c., Respondent,
v.
Robert Thomas, Appellant.

The People &c., Respondent,
v.
Manuel Rodriguez, Appellant.

The People &c., Respondent,
v.
Anthony Ware, Appellant.

1-10 Mo. No. 1358
Venturetek, L.P., et al., Appellants,
v.
Rand Publishing Co., Inc., et al.,
Defendants,
Mason P. Slaine et al., Respondents.

Motion by Legal Aid Society of New York City for leave to file a brief amicus curiae on the appeals herein granted. Two copies of the brief must be served and 24 copies filed within seven days.

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