

JULY 1, 2008

CASES

4	No.	186	SSM 20	
The People &c.,		Respondent,		On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.
v.				Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
Luis Estrella,		Appellant.		

City of Rochester,		Respondent.		
2	No.	126		Order affirmed, with costs.
In the Matter of Fiveco, Inc.,		Appellant,		Opinion by Judge Pigott.
d/b/a Mer's, Inc.,				Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith and Jones concur.
v.				
Bruce Haber,		Respondent.		
2	No.	127		Order affirmed, with costs, and certified question answered in the affirmative, in a memorandum.
G.K. Alan Assoc., Inc.		Respondent,		Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.
v.				
Derval Lazzari,		Appellant,		
et al.,		Defendants.		
2	No.	44		Appeal pending, awaiting substitution for deceased party.
Saramilia Gaston, &c., et al.,		Respondents,		
v.				
American Transit Insurance Company,		Appellant.		

1 No. 187 SSM 21
Roger Jazilek,
 Appellant,
 v.
Abart Holdings LLC,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and case remitted to Supreme Court, New York County, for further proceedings in accordance with the memorandum herein.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

3 No. 118
Police Benevolent Association
of New York State Troopers,
Inc., et al.,
 Appellants,
 v.
Division of New York State
Police et al.,
 Respondents.

Order affirmed, with costs.
Opinion by Chief Judge Kaye.
Judges Graffeo, Read, Smith, Pigott and Jones concur.
Judge Ciparick took no part.

USCOA2 No. 112
Carmel Reddington,
 Appellant,
 v.
Staten Island University
Hospital and North Shore Long
Island Jewish Health System,
 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 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 the negative.
Opinion by Judge Read.
Chief Judge Kaye and Judges Graffeo, Pigott and Jones concur.
Judge Smith dissents in part and votes to answer certified question No. 1 in the affirmative in an opinion.
Judge Ciparick took no part.

1 No. 128
The People &c.,
 Respondent,
 v.
Donnie Simmons,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge Kaye and Judges Ciparick, Graffeo, Read, Smith, Pigott and Jones concur.

MOTIONS

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2-10 Mo. No. 624
In the Matter of Tajani B.
(Anonymous).

Motion for leave to appeal denied.

Suffolk County Department of
Social Services,
Respondent;
Fred S. (Anonymous),
Appellant.
(And Two Other Proceedings.)

4-10 Mo. No. 622
In the Matter of Scott J.
Bateman,

Motion for leave to appeal denied.

Respondent,
v.
Mamie M. Bateman,
Appellant.

4-10 Mo. No. 651
The People &c. ex rel. Edwin
DeJesus,

Motion for leave to appeal denied.

Appellant,
v.
Thomas Poole, &c.,
Respondent.

2-14 Mo. No. 613
Linda DiBlasi,
Respondent,

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

v.
Thomas DiBlasi,
Appellant;
Lawrence H. Bloom,
Nonparty-Respondent.

2-13 Mo. No. 610
In the Matter of Exeter Building
Corp.,
Respondent-Appellant,
v.
Town of Newburgh, et al.,
Respondents,
Town of Newburgh Planning Board,
Appellant-Respondent.

Motions for leave to appeal denied.

3-13 Mo. No. 660
In the Matter of Friends of the
Stanford Home, et al.,
Appellants,
v.
Town of Niskayuna, et al.,
Respondents,
Highbridge Development BR, LLC,
et al.,
Respondents.

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

4-10 Mo. No. 616
Graphic Arts Mutual Insurance
Company,
Appellant,
v.
John Russell,
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.

3 Mo. No. 614
In the Matter of Shawn Green,
Appellant,
v.
Donald Selsky, &c., et al.,
Respondents.

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

1-10 Mo. No. 673
In the Matter of Linda Gregg,
Appellant,
v.
The Department of Education of
the City of New York,
Respondent.

Motion for reargument of motion for leave
to appeal denied.

Mo. No. 775 SSD 42
In the Matter of Israel G.
Grossman,
Appellant,
v.
Departmental Disciplinary
Committee For the First Judicial
Department,
Respondent.

Appeal, insofar as taken from the order of interim suspension, dismissed without costs, by the Court sua sponte, as untimely (see CPLR 5513) and, insofar as taken from the order of disbarment, dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

4-10 Mo. No. 649
In the Matter of Carl A. Gutzmer,
Appellant,
v.
Myriam L. Santini,
Respondent.

Motion for leave to appeal denied.

1-10 Mo. No. 644
Cecelia M. Johnson,
Appellant,
v.
Marriott Management Services
Corp. et al.,
Respondents,
McGinley Center at Fordham et
al.,
Defendants.

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

Mo. No. 795 SSD 49
Junk'n Doughnuts Inc., Doing
Business as Schmuck Bros. of
Pennsylvania,
Appellant,
v.
Department of Consumer Affairs
of the City of New York,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no substantial constitutional question is directly involved.

4-10 Mo. No. 634
Kessel Brent Corporation and
Christopher C. Vescera,
Appellants,
v.
Benderson Property Development,
Inc.,
Respondent.

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

Mo. No. 789 SSD 45
In the Matter of Martin O.
Kosich,
Appellant,
v.
New York State Department of
Health et al.,
Respondents.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no substantial constitutional question
is directly involved.

4-10 Mo. No. 631
In the Matter of Eric L., II.

Cattaraugus County Department of
Social Services,
Respondent;
Eric L., Sr.,
Appellant,
et al.,
Respondent.

Motion for leave to appeal denied.

4-10 Mo. No. 615
The People &c.,
Respondent,
v.
James Latimore,
Appellant.

Motion for leave to appeal denied.

3-10 Mo. No. 536
LMK Psychological Services, P.C.
et al.,
Respondents,
v.
State Farm Mutual Automobile
Insurance Company,
Appellant.

Motion for leave to appeal granted.

Mo. No. 593
LMK Psychological Services, P.C.
et al.,
Respondents,
v.
State Farm Mutual Automobile
Insurance Company,
Appellant.

Motion by New York Central Mutual Fire
Insurance Company, et al. for leave to
file a brief amici curiae on the motion
for leave to appeal herein granted and the
brief is accepted as filed.

Mo. No. 778 SSD 44
Mortgage Electronic Registration
Systems, Inc.,
Respondent,
v.
Christopher Schuh et al.,
Appellants,
et al.,
Defendants.

Appeal dismissed without costs, by the
Court sua sponte, upon the ground that
no substantial constitutional question
is directly involved.

2-10 Mo. No. 635
The People &c.,
Respondent,
v.
Christopher Niola,
Appellant.

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

2 Mo. No. 638
In the Matter of Juvondi Pender,
Appellant,
v.
Judy Davidson,
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 poor person relief dismissed as
academic.

3-13 Mo. No. 1088
Police Benevolent Association of
New York State Troopers, Inc., et
al.,

Appellants,

v.

Division of New York State Police
et al.,

Respondents.

On the Court's own motion, appeal taken as
of right dismissed, without costs, upon
the ground that no substantial constitu-
tional question is directly involved.
Motion for leave to appeal granted.
Judge Ciparick took no part.

4-14 Mo. No. 702
Patricia Predmore,

Respondent,

v.

EJ Construction Group, Inc.,
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.

3-10 Mo. No. 646
In the Matter of Raine QQ., &c.

Chenango County Department of
Social Services,

Respondent;

Marika QQ.,

Appellant.

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

2-13 Mo. No. 628
Mark T. Ribauda, Jr., &c., et
al.,

Appellants,

v.

La Salle Institute, et al.,
Respondents.

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

3 Mo. No. 618
In the Matter of Abdullah Y.
Salahuddin,

Appellant,

v.

Glenn S. Goord, &c.,
Respondent.

Motion for leave to appeal denied.

Mo. No. 777 SSD 43
Steven B. Samuel, Esq., et al.,
Respondents-Appellants,
v.
Druckman & Sinel, LLP, et al.,
Appellants-Respondents.

Appeal and cross 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.

4-10 Mo. No. 650
In the Matter of Rakim D.D.S. and
Reniya D.S.

Motion for leave to appeal denied.

Erie County Department of Social
Services,
Respondent,
Richard S.,
Appellant.

1-13 Mo. No. 612
Christopher Spierer et al.,
Appellants,
v.
Bloomingdale's, &c., et al.,
Respondents,
Simmons USA, et al.,
Defendants.

Motion to vacate the award of costs and disbursements denied.
Cross motion for the imposition of sanctions denied.

2-10 Mo. No. 629
In the Matter of Stepping Stones
Associates,
Respondent,
v.
Joseph Seymour,
Appellant.

Motion for leave to appeal dismissed upon the ground that the Court of Appeals does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division where the appeal to the Appellate Division was from an order entered on an appeal from another court (see NY Const, art VI, 3[b][7]; CPLR 5602[a]).

1-10 Mo. No. 709
SMD Capital Group LLC, et al.,
Respondents,
v.
EPR Capital LLC, et al.,
Appellants.

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

