

OCTOBER 21, 2008

CASES

2 No. 147
Stephen J. Brooks, et al.,
 Plaintiffs,
 v.
Judlau Contracting, Inc.,
 Third-Party Appellant,
Thunderbird Constructors, Inc.,
 Third-Party Respondent.

Order, insofar as appealed from, reversed,
with costs, third-party complaint
reinstated, case remitted to Supreme
Court, Kings County, for further
proceedings in accordance with the opinion
herein and certified question answered in
the negative.
Opinion by Judge Ciparick.
Chief Judge Kaye and Judges Graffeo, Read,
Smith, Pigott and Jones concur.

4 No. 146
Paul Brothers,
 Appellant,
 v.
New York State Electric and Gas
Corporation,
 Respondent,
et al.,
 Defendants.

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

1 No. 139
Linda R. Graev,
 Respondent,
 v.
Lawrence Graev,
 Appellant.

Order reversed, without costs, and case
remitted to Supreme Court, New York
County, for further proceedings in
accordance with the opinion herein.
Opinion by Judge Read.
Chief Judge Kaye and Judges Ciparick and
Jones concur.
Judge Graffeo dissents in an opinion in
which Judges Smith and Pigott concur.

Lawrence Graev,
 Appellant,
 v.
Linda R. Graev,
 Respondent.

MOTIONS

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4-10 Mo. No. 877
In the Matter of Jenny A.,
Appellant,
v.
Cayuga County Department of
Health and Human Services,
Respondent.

Motion for leave to appeal dismissed upon
the ground that appellant has failed to
demonstrate timeliness as required by
Rules of the Court of Appeals (22 NYCRR)
500.22[b][2].

1-10 Mo. No. 979
The Association for Community
Reform Now ("ACORN"), et al.,
Appellants,
v.
Mayor Michael Bloomberg, et al.,
Respondents.

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

1-10 Mo. No. 944
Maria Teresa Bacani, &c. et al.,
Appellants,
v.
Lisa Rosenberg, M.D., 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.

2 Mo. No. 896
Victor Batshever,
Appellant,
v.
Avery E. Okin,
Respondent.

Motion for leave to appeal dismissed upon
the ground that it does not lie (see NY
Const, art VI, 3[b][7]; CPLR 5602[a]).
Motion for poor person relief dismissed as
academic.

1-10 Mo. No. 989
Boslow Family Limited
Partnership et al.,
Appellants,
v.
Kaplan & Kaplan, PLLC et al.,
Respondents.

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

1-10 Mo. No. 930
In the Matter of Barnett J.
Brimberg,
Appellant,
v.
The Commissioner of Finance of
the City of New York, et al.,
Respondents.

Motion for leave to appeal denied.

4-10 Mo. No. 893
Stephen F. Brummer,
Plaintiff,
v.
Town of Tonawanda, et al.,
Defendants.

Motion for leave to appeal dismissed as
untimely (see CPLR 5513[b]; Eaton v.
State of New York, 76 NY2d 824 [1990]).

Christopher A. Spence, P.C.,
Appellant;
The Barnes Firm, P.C., &c.,
Respondent.

2-10 Mo. No. 735
In the Matter of Cinelli Family
Limited Partnership,
Respondent,
v.
Richard I. Scheyer, &c., et al.,
Appellants.

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

3-10 Mo. No. 917
In the Matter of Nancy A. Clarke,
Appellant,
v.
Town of Sand Lake Zoning Board of
Appeals, et al.,
Respondents.

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

2-10 Mo. No. 966
Robert DelBene, et al.,
Respondents,
v.
Nate Estes, 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.

1-10 Mo. No. 933
In the Matter of Michelle F.F.,
Respondent,
v.
Edward J.F., Jr.,
Appellant.

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

1-13 Mo. No. 984
In the Matter of Barry Felder et
al.,
Appellants,
v.
The City of New York,
Respondent.

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

1-14 Mo. No. 883
Andrew Gering,
Respondent,
v.
Charisse Tavano,
Appellant.

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

3-11 Mo. No. 1014
In the Matter of Hasaun Grigger,
Appellant,
v.
Leo Bisceglia, &c.,
Respondent.

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

1-13 Mo. No. 957
In the Matter of Judith L.
Hancock,
Respondent,
v.
Arts4All, Ltd., &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.

1-10 Mo. No. 1004
Angelo Iannone,
Appellant,
v.
ING Financial Services, LLC, 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. The doctrine of implied severance is not applicable (see *Burke v. Crosson*, 85 NY2d 10, 16-17 [1995]). Chief Judge Kaye took no part.

4-10 Mo. No. 906
In the Matter of Marcus Johnson,
Appellant,
v.
William Connolly, &c. et al.,
Respondents.

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

2-13 Mo. No. 991
Theodore Kilakos,
Appellant,
v.
Christopher Mascera,
Respondent.

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

3-10 Mo. No. 978
In the Matter of Edward Koehl,
Appellant,
v.
Brian Fischer, &c.,
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved.
Motion for leave to appeal denied.

4-13 Mo. No. 981
In the Matter of Lackawanna
Community Development
Corporation,
Appellant,
v.
Frank E. Krakowski, &c., et al.,
Respondents.

Motion for leave to appeal granted.

3-11 Mo. No. 908
In the Matter of Samuel LaSalle,
Appellant,
v.
New York State Division of
Parole,
Respondent.

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

3-10 Mo. No. 767
In the Matter of Dencil Lopez,
Appellant,
v.
Glenn S. Goord, as Commissioner
of Correctional Services,
Respondent.

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

2-10 Mo. No. 904
Diane Madey, &c., et al.,
Appellants,
v.
Gregory W. Carman, Jr.,
Respondent,
et al.,
Defendant.

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

1 Mo. No. 931
Joann Negron,
Plaintiff,
v.
Daniel Grinberg Topelson et al.,
Defendants.

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

Chrysler Financial Company, LLP,
Third-Party Appellant,
v.
Richard Radna, M.D.,
Third-Party Respondent.

3-10 Mo. No. 1017
The People &c. ex rel. David NN.,
Appellant,
v.
Michael Hogan, as Commissioner of
Mental Health, et al.,
Respondents.

Motion for leave to appeal denied.

4-10 Mo. No. 987
In the Matter of Alyshia M.R.,
et al.

Motions for leave to appeal denied.

Monroe County Department of Human
Services,
Respondent;
Tracey L.R., &c. and Martin
F.M., II,
Appellants.

4-10 Mo. No. 937
The People &c.,
Respondent,
v.
Theotis Ratcliff,
Appellant.

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

2-10 Mo. No. 862
In the Matter of Jazmone S.
(Anonymous).
Administration for Children's
Services,
Respondent;
Philip J. (Anonymous),
Appellant.
(And Three Other Proceedings.)

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

2 Mo. No. 913
Carl A. Scheuering,
Respondent,
v.
Nancy Scheuering,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 880
In the Matter of Walter Self,
 Appellant,
 v.
New York State Division of
Human Rights, et al.,
 Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that no appeal lies to this Court from the order of an individual Justice of the Appellate Division (see NY Const, art VI, 3[b]; CPLR 5601).
Motion for leave to appeal dismissed upon the ground that it does not lie from the order of an individual Justice of the Appellate Division (see NY Const, art VI, 3[b]; CPLR 5602).

1-13 Mo. No. 888
Dante Smith, et al.,
 Appellants,
 v.
2328 University Avenue Corp., et
al.,
 Defendants,
NL Industries, Inc.,
 Respondent.

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

1-13 Mo. No. 942
Dante Smith, et al.,
 Appellants,
 v.
2328 University Avenue Corp., et
al.,
 Defendants,
NL Industries, Inc.,
 Respondent.

Motion by the New York City Coalition to End Lead Poisoning, et al. for leave to file affirmations amici curiae on the motion for leave to appeal herein granted and the affirmations are accepted as filed.
Judge Smith took no part.

2-10 Mo. No. 985
Town of Southampton,
 Appellant,
 v.
Barbara Portman, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3-10 Mo. No. 1053
In the Matter of Uma Sundaram,
Appellant,
v.
Antonia C. Novello, &c.,
Respondent.

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

1-13 Mo. No. 963
Maria T.,
Appellant,
v.
New York Holding Company
Associates et al.,
Respondents.

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

2-13 Mo. No. 970
Edward Terranova,
Respondent,
Deborah Terranova,
Plaintiff,
v.
New York City Transit Authority,
Appellant.

Motion for leave to appeal denied.

1-10 Mo. No. 961
Beverly Williams-Gardner,
Appellant,
v.
Elizabeth A. Almeyda,
Respondent,
St. Luke's Roosevelt Hospital
Center,
Defendant.

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

3-10 Mo. No. 986
In the Matter of Carolyn Z. et
al. &c.
St. Lawrence County Department of
Social Services,
Respondent;
Tage Z.,
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.

