

**State of New York**  
**Court of Appeals**

**Decisions**

December 15, 2022

**CASES**

2                    No. 95  
In the Matter of John Borelli, et al.,  
    Appellants,  
    v.  
City of Yonkers,  
    Respondent.

Order insofar as appealed from modified, without costs, in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Judge Wilson.  
Judges Rivera, Singas and Troutman concur.  
Judge Garcia dissents and votes to affirm in an opinion, in which Acting Chief Judge Cannataro concurs.

2                    No. 94  
The People &c. ex rel. Sara Molinaro, on  
behalf of Wei Li,  
    Respondent,  
    v.  
Warden, Rikers Island, &c.,  
    Appellant.

Order modified, without costs, by converting the proceeding to a declaratory judgment action and granting judgment declaring in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Judge Rivera.  
Acting Chief Judge Cannataro and Judges Garcia, Wilson, Singas and Troutman concur.

4                    No. 100  
The People &c.,  
    Appellant,  
    v.  
Rebecca Ruiz,  
    Respondent.

Order reversed and case remitted to the Appellate Division, Fourth Department, for a determination of the facts and issues raised but not determined on appeal to that Court (CPL 470.25 [2] [d]; 470.40 [2] [b]), in a memorandum.  
Acting Chief Judge Cannataro and Judges Rivera, Garcia, Wilson, Singas and Troutman concur.

2                    No. 96  
In the Matter of City of Yonkers,  
                  Appellant,  
                  v.  
Yonkers Fire Fighters, Local 628, IAFF,  
AFL-CIO,  
                  Respondent.

Order affirmed, with costs.  
Opinion by Judge Wilson.  
Acting Chief Judge Cannataro and Judges Rivera,  
Garcia, Singas and Troutman concur.

## MOTIONS

1                    Mo. No. 2022-683  
138-140 West 32nd Street Associates LLC,  
    Respondent,  
    v.  
138-140 West 32nd Street Associates, &c., 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.

2                    Mo. No. 2022-644  
Adria Infrastructure, LLC,  
    Appellant,  
    v.  
Henick-Lane, Inc.,  
    Respondent,  
et al.,  
    Defendants.

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. 2022-720  
Atlas MF Mezzanine Borrower LLC,  
    Appellant,  
    v.  
Macquarie Texas Loan Holder LLC, et al.,  
    Respondents.

Motion for leave to appeal denied.

3                    Mo. No. 2022-665  
In the Matter of Jason Baxter,  
    Appellant,  
    v.  
Anthony J. Annucci, &c.,  
    Respondent.

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

3                    Mo. No. 2022-718  
The People &c.,  
    Respondent,  
    v.  
Michael Curry,  
    Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-716  
The People &c.,  
Respondent,  
v.  
Chancellor Drayton,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-696  
In the Matter of Carlos Fernandez,  
Appellant,  
v.  
New York City Transit Authority,  
Respondent.

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

3 Mo. No. 2022-576  
In the Matter of Geneva Worldwide, Inc.,  
Appellant.  
Commissioner of Labor,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2022-606  
Greater Bright Light Home Care Services,  
Inc., et al.,  
Plaintiffs,  
v.  
Joseph Jeffries-El et al.,  
Defendants,  
El Equity Corporation,  
Appellant,  
HSBC Bank USA, &c.,  
Respondent.

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

2 Mo. No. 2022-723  
In the Matter of Kevin Griffin,  
Appellant,  
v.  
David M. Hoovler,  
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.

1                    Mo. No. 2022-686  
Tamara M. Harris, &c.,  
    Appellant,  
    v.  
Bernice L. Harris et al.,  
    Respondents.

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

2                    Mo. No. 2022-557  
Donje Jones,  
    Appellant,  
    v.  
City of New York, et al.,  
    Respondents.

Motion, insofar as it seeks leave to appeal from the June 2022 Appellate Division order reversing the January 2020 Supreme Court order, 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 leave to appeal otherwise denied.

3                    Mo. No. 2022-728  
The People &c.,  
    Respondent,  
    v.  
Thomas Kaminski,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2022-638  
In the Matter of the Claim of Thomas  
Lazalee,  
    Respondent,  
    v.  
Wegman's Food Markets, Inc.,  
    Appellant.  
Workers' Compensation Board,  
    Respondent.

Motion for leave to appeal granted.

2                    Mo. No. 2022-722  
The People &c.,  
    Respondent,  
    v.  
James London,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2022-677  
Frank Martin,  
    Appellant,  
    v.  
Dormitory Authority of the State of New  
York, et al.,  
    Respondents.

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

2                    Mo. No. 2022-671  
The People &c.,  
    Respondent,  
    v.  
David Matos,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2022-725  
Louis Mazzarisi et al.,  
    Respondents,  
    v.  
New York Society for the Relief of the  
Ruptured and Crippled, Maintaining the  
Hospital for Special Surgery,  
    Appellant.  
(And a Third-Party Action.)

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. 2022-603  
In the Matter of the Claim of Frederick  
Mitchell,  
    Appellant,  
    v.  
Wastequip, Inc., et al.,  
    Respondents.  
Workers' Compensation Board,  
    Respondent.  
(And Another Related Claim.)

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.

3 Mo. No. 2022-657  
Dean Nasca,  
Appellant,  
v.  
New York State Department of Taxation and  
Finance,  
Respondent.

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

2 Mo. No. 2022-724  
Paul Orlando,  
Respondent,  
v.  
County of Putnam,  
Appellant.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determinate the action within the meaning of the Constitution.

3 Mo. No. 2022-708  
In the Matter of the Claim of Louiza Patsis,  
Respondent.  
Geneva Worldwide Inc.,  
Appellant.  
Commissioner of Labor,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the proceeding within the meaning of the Constitution.

1 Mo. No. 2022-613  
Perlbinder Holdings LLC,  
Respondent,  
v.  
Himansu H. Patel, et al.,  
Appellants.

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

1 Mo. No. 2022-679  
Chapman Roberts,  
Appellant,  
v.  
Rodgers & Hammerstein Holdings LLC, et  
al.,  
Respondents.

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

2                    Mo. No. 2022-710  
The People &c.,  
    Respondent,  
    v.  
Alex Rudd,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2022-750  
SEFCU,  
    Respondent,  
    v.  
Mabatho L. Matima,  
    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.  
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

3                    Mo. No. 2022-731  
Martha Southard et al., &c.,  
    Respondents,  
    v.  
Peter Harris, &c.,  
    Appellant,  
Debra Gross,  
    Respondent.

Motion for reargument of motion for leave to appeal denied.

3                    Mo. No. 2022-680  
In the Matter of the Claim of Mark Tassie,  
    Respondent.  
Koyote Capital Group LLC,  
    Appellant.  
Commissioner of Labor,  
    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.



3 Mo. No. 2022-685  
In the Matter of Jeffrey Terborg,  
Appellant,  
v.  
New York State Department of Corrections  
and Community Supervision,  
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 ancillary relief dismissed upon the  
ground that this Court does not have jurisdiction to  
entertain it (*see* NY Const, art VI, § 3).

2 Mo. No. 2022-732  
In the Matter of Raymond A. Tierney, &c.,  
Appellant,  
v.  
Chris Ann Kelley, &c. et al.,  
Respondents.  
(App. Div. No. 2021-06376)

Motion for leave to appeal denied.

2 Mo. No. 2022-753  
In the Matter of Raymond A. Tierney, &c.,  
Appellant,  
v.  
Chris Ann Kelley, &c. et al.,  
Respondents.  
(App. Div. No. 2021-06373)

Motion for leave to appeal denied.

3 Mo. No. 2022-715  
In the Matter of United Jewish Community of  
Blooming Grove, Inc., et al.,  
Appellants,  
v.  
Washingtonville Central School District et al.,  
Respondents.

Motion for leave to appeal granted.