

State of New York
Court of Appeals

Decisions

June 16, 2022

CASES

1 No. 34
ACE Securities Corp., &c.,
 Appellant,
 v.
DB Structured Products, Inc.,
 Respondent.

Order affirmed, with costs.
Opinion by Chief Judge DiFiore.
Judges Rivera, Garcia, Singas, Cannataro and
Troutman concur.
Judge Wilson dissents in an opinion.

4 No. 66 SSM 8
Daniel J. Beck et al.,
 Appellants,
 v.
City of Niagara Falls, et al.,
 Defendants,
Patriot Field Services, Inc.,
 Respondent.

On review of submissions pursuant to section 500.11
of the Rules, order affirmed, with costs. In response
to the prima facie showing by defendant Patriot Field
Services, Inc. that it was entitled to summary
judgment, plaintiffs failed to raise a triable issue of
material fact.
Chief Judge DiFiore and Judges Rivera, Garcia,
Wilson, Singas, Cannataro and Troutman concur.

2 No. 55
In the Matter of DCH Auto, &c. et al.,
 Appellants,
 v.
Town of Mamaroneck, &c., et al.,
 Respondents.

Judgment appealed from and Appellate Division
order brought up for review reversed, with costs, and
motion to dismiss the consolidated proceeding with
respect to 700 Waverly Avenue, Mamaroneck, New
York denied.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Garcia,
Singas, Cannataro and Troutman concur.

No. 54

The People &c.,
Appellant,
v.
Carlos Galindo,
Respondent.

Order, insofar as appealed from, reversed and case remitted to the Appellate Term, Second Department, Second, Eleventh and Thirteenth Judicial Districts, for consideration of the facts and issues raised but not determined on appeal to that Court.

Opinion by Judge Rivera.
Chief Judge DiFiore and Judges Garcia, Wilson, Singas, Cannataro and Troutman concur.

No. 57

The People &c.,
Respondent,
v.
Ron Hill,
Appellant.

Order reversed and accusatory instrument dismissed.

Opinion by Judge Singas.
Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Cannataro and Troutman concur.

3 No. 68 SSM 14

The People &c.,
Respondent,
v.
Luis Serrano,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Garcia, Wilson, Singas, Cannataro and Troutman concur.

MOTIONS

1 Mo. No. 2022-216
Acquafredda Enterprises LLC,
 Appellant,
 v.
Sterling National Bank et al.,
 Defendants,
Avail 1, LLC, et al.,
 Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2022-238
Cesar Alvarez, et al.,
 Respondents,
 v.
XL Specialty Insurance Company,
 Appellant,
et al.,
 Defendant.

Motion for leave to appeal denied.
Judge Wilson took no part.

1 Mo. No. 2022-215
Ambac Assurance Corporation,
 Appellant,
et al.,
 Plaintiff,
 v.
Countrywide Home Loans, Inc.,
 Respondent.

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

4 Mo. No. 2022-196
Marie Therese Araujo, &c., et al.,
 Respondents,
 v.
CNY Anesthesia Group, P.C.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2022-211
The People &c.,
Respondent,
v.
Freddy J. Arroyo,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-344
In the Matter of Keston Braithwaite,
Appellant,
v.
John B. Collins, &c. et al.,
Respondents.

Motion for leave to appeal dismissed upon the
ground that no appeal lies to this Court from the
decision of an individual Justice of the Appellate
Division.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2022-299
The People &c.,
Respondent,
v.
Richard Carfora,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-210
Mark Castagna, &c., et al.,
Appellants,
v.
John V. Capotorto, et al.,
Respondents.

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

2 Mo. No. 2022-248
The People &c.,
Respondent,
v.
Jayson Coleman,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-373
Carol Commissiong,
Appellant,
v.
Mark Greenberg Real Estate Co. 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.

2 Mo. No. 2022-262
In the Matter of Council of Greenburgh Civic Associations, et al.,
Appellants,
v.
Town Board of the Town of Greenburgh, et al.,
Respondents.

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

3 Mo. No. 2022-183
In the Matter of Jonathan Crone,
Respondent,
v.
Thomas P. DiNapoli, &c.,
Appellant.

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

1 Mo. No. 2022-240
The People &c.,
Respondent,
v.
Kevin Day,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-253
In the Matter of Elizabeth L. de Sanchez, &c.
Pedro Arellano Lamar, &c.,
Appellant,
v.
JPMorgan Chase Bank, N.A.,
Respondent.

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

1 Mo. No. 2022-296
Gerald Douglas,
Appellant,
v.
Justin C. Bonus,
Respondent.

Motion for leave to appeal dismissed upon the ground that the Court does not have jurisdiction to entertain a motion for leave to appeal from the order of the Appellate Division entered in an action commenced in the Civil Court of the City of New York (*see* NY Const, art VI, § 3 [b] [7]; CPLR 5602 [a]).
Motion for poor person relief dismissed as academic.

3 Mo. No. 2022-222
In the Matter of the Claim of Anthony Falso,
Appellant.
Commissioner of Labor,
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2022-182
In the Matter of Daniel W. Gerber, et al.,
Appellants,
v.
Goldberg Segalla, LLP,
Respondent.

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

1 Mo. No. 2022-235
Jekeya Gilliam,
Respondent,
v.
Uni Holdings,
Defendant,
University Holding, LLC,
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. 2022-227
The People &c.,
Respondent,
v.
Giovany Gonsales,
Appellant.

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

1 Mo. No. 2022-214
In the Matter of Anna Gristina,
 Appellant,
 v.
Juan Merchan, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

4 Mo. No. 2022-256
The People &c.,
 Respondent,
 v.
Joseph Hicks,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-230
The People &c.,
 Respondent,
 v.
Charles Johnson,
 Appellant.

Motion for leave to appeal denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2022-234
The People &c.,
 Respondent,
 v.
Raymond Johnson,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-346
In the Matter of the Probate of the Will of
Avonne Eyre Keller, &c.

Gary E. Reska,
 Respondent,
 v.
Mohammad S. Bhuiyan,
 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 Mo. No. 2022-175
Towaki Komatsu,
Appellant,
v.
New York City Human Resources
Administration,
Respondent.

Motion to vacate this Court's January 18, 2022
dismissal order denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2022-225
Marco Makabali,
Appellant,
v.
John Chilelli et al.,
Respondents.

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

1 Mo. No. 2022-345
Nella Manko,
Appellant,
v.
Dr. Dana Mannor, et al.,
Respondents,
Lenox Hill Hospital, &c. et al.,
Defendants.

Motion for reargument of motion for leave to appeal
denied.
Motion for poor person relief dismissed as academic.
Chief Judge DiFiore took no part.

Nella Manko,
Appellant,
v.
Dana Mannor, et al.,
Respondents,
"Anesthesiologist" (a fictitious name), et al.,
Defendants.

2 Mo. No. 2022-266
MJK Building Corp., et al.,
Appellants,
v.
Fayland Realty, Inc., et al.,
Respondents,
et al.,
Defendants.

Motion, treated as a motion for leave to appeal
pursuant to CPLR 5602 (a) (1) (ii) to bring up for
review the prior nonfinal Appellate Division order,
denied with one hundred dollars costs and necessary
reproduction disbursements.

1 Mo. No. 2022-185
The People &c.,
Respondent,
v.
Robert Myles,
Appellant.

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

1 Mo. No. 2022-173
Jerry S. Needleman,
Appellant,
v.
Michael McFadden et al.,
Respondents.

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

1 Mo. No. 2022-232
Nouveau Elevator Industries, Inc.,
Appellant,
National Casualty Company et al.,
Appellants,
v.
New York Marine and General Insurance
Company,
Respondent,
et al.,
Defendant.

Motions for leave to appeal denied.

1 Mo. No. 2022-285
Nouveau Elevator Industries, Inc.,
Appellant,
National Casualty Company et al.,
Appellants,
v.
New York Marine and General Insurance
Company,
Respondent,
et al.,
Defendant.

Motion by Elevator Industries Association, Inc. for
leave to appear amicus curiae on the motions for
leave to appeal herein granted and the proposed brief
is accepted as filed.

1 Mo. No. 2022-197
The People &c.,
 Respondent,
 v.
Derrick Omaro,
 Appellant.

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

3 Mo. No. 2022-166
In the Matter of the Arbitration between
Oneida Health Systems, Inc., &c.,
 Appellant;
Hazem Qalla,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2022-231
The People &c.,
 Respondent,
 v.
Carlos Ramos,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2022-260
The People &c.,
 Respondent,
 v.
Caleb E. Ross,
 Appellant.

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

3 Mo. No. 2022-364
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 a stay dismissed as academic.

1 Mo. No. 2022-189
The People &c.,
Respondent,
v.
Robert Thomas,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2022-249
In the Matter of Trebuchet Capital
Management, LP et al.,
Appellants,
v.
Prelude Opportunity Fund, LP, et al.,
Respondents.

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

3 Mo. No. 2022-406
The People &c.,
Respondent,
v.
John Wakefield,
Appellant.

Motion for reargument denied.

4 Mo. No. 2022-220
In the Matter of Webster Citizens for
Appropriate Land Use, Inc.,
Appellant,
v.
Town of Webster, et al.,
Respondents,
et al.,
Respondents/Defendants.

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

1 Mo. No. 2022-190
In the Matter of John D. Whitfield,
Appellant,
v.
City of New York Administration for
Children's Services,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2022-309
In the Matter of Jasmine W.-S.,
 Respondent,
 v.
Malcolm H.,
 Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-237
Albertha Wray-Davis,
 Appellant,
 v.
New York Methodist Hospital,
 Respondent.

Motion for leave to appeal dismissed as untimely.
Chief Judge DiFiore took no part.