

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

**Decisions**

November 25, 2024

**CASES**

1                    No. 72  
Jeffrey Colt et al.,  
    Respondents,  
    v.  
New Jersey Transit Corporation, et al.,  
    Appellants.

Order affirmed, with costs, and certified question answered in the affirmative.  
Opinion by Judge Singas.  
Judges Garcia, Cannataro, Troutman and Halligan concur, Judge Halligan in a concurring opinion.  
Chief Judge Wilson concurs in result in an opinion.  
Judge Rivera dissents in an opinion.

1                    No. 82  
In the Matter of Shani Jeter,  
    Appellant,  
    v.  
Sheila Poole, &c. et al.,  
    Respondents.

Order affirmed, without costs.  
Opinion by Judge Troutman.  
Judges Garcia, Singas and Cannataro concur.  
Chief Judge Wilson dissents in an opinion, in which Judges Rivera and Halligan concur.

1                    No. 92  
James Knight, &c.,  
    Appellant,  
    v.  
The New York and Presbyterian Hospital et al.,  
    Defendants,  
Dewitt Rehabilitation and Nursing Center,  
&c.,  
    Respondent.

Order reversed, with costs, order of Supreme Court, New York County, reinstated and certified question answered in the negative.  
Opinion by Judge Garcia.  
Chief Judge Wilson and Judges Rivera, Singas, Cannataro, Troutman and Halligan concur.

2                    No. 94  
The People &c.,  
    Respondent,  
    v.  
Tyrone Peters,  
    Appellant.

Order affirmed. A Judge of this Court granted defendant leave to appeal from the Appellate Division's denial of his coram nobis petition (39 NY3d 1112 [2023]). Counsel does not present any claim raised below and thus raises no reviewable issues on appeal. Defendant is not precluded from filing another coram nobis application at the Appellate Division raising the ineffectiveness of his appellate counsel on his direct appeal of the judgment of conviction and sentence (*see People v D'Alessandro*, 13 NY3d 216, 220-221 [2009]), nor is he precluded from filing a coram nobis application on any new grounds not previously raised before the Appellate Division.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

1                    No. 104  
Felipe A. Ruisech et al.,  
    Appellants,  
    v.  
Structure Tone Inc., &c., et al.,  
    Respondents.  
(And Third-Party Actions.)

Order insofar as appealed from modified, without costs, in accordance with the memorandum herein and, as so modified, affirmed.  
Chief Judge Wilson and Judges Rivera, Garcia, Singas, Cannataro, Troutman and Halligan concur.

1                    No. 90  
Emily Wu,  
    Appellant,  
    v.  
Uber Technologies, Inc.,  
    Respondent,  
et al.,  
    Defendants.

Order affirmed, with costs, and certified question answered in the affirmative.  
Opinion by Judge Cannataro.  
Judges Garcia, Singas, Troutman and Halligan concur.  
Judge Rivera dissents in an opinion, in which Chief Judge Wilson concurs.

## MOTIONS

1                    Mo. No. 2024-404  
1995 CAM LLC,  
    Respondent,  
    v.  
West Side Advisors, LLC et al.,  
    Appellants.

Motion for leave to appeal granted.

1                    Mo. No. 2024-429  
Alhassan Abdulfattaah,  
    Appellant,  
    v.  
Riverbay Corporation, et al.,  
    Respondents,  
et al.,  
    Defendant.

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.

4                    Mo. No. 2024-437  
Rosario Barone, III,  
    Appellant,  
    v.  
Liberty Cab Company, et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2024-500  
In the Matter of Jose Enrique Camacho,  
    Respondent,  
    v.  
Tina Marie Leggio,  
    Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.

1 Mo. No. 2024-414  
Certain Underwriters at Lloyds London, &c.,  
Respondent,  
v.  
Denny Martin, &c., et al.,  
Appellants.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the June 2023 Supreme Court order, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.

3 Mo. No. 2024-401  
Ritchie DeGraff,  
Respondent,  
v.  
William Colantonio, &c.,  
Appellant.

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

1 Mo. No. 2024-416  
DIG SSOE Evanston Lender, LLC,  
Appellant,  
v.  
Su-Mei Yen et al.,  
Respondents.

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

2 Mo. No. 2024-526  
In the Matter of Angelica M. E.,  
Appellant,  
v.  
Delmy S. A.-H.,  
Respondent.

Motion for leave to appeal granted.

2 Mo. No. 2024-457  
In the Matter of Diana Figueroa,  
Respondent,  
v.  
Luis R. Figueroa,  
Appellant.

Motion for reargument of motion for leave to appeal dismissed as untimely (*see* Rules of Ct of Appeals [22 NYCRR] § 500.24 [b]).  
Motion for poor person relief dismissed as academic.

1 Mo. No. 2024-455  
Goldberg Weprin Finkel Goldstein LLP,  
Appellant,  
v.  
Joel Wertzberger, et al.,  
Respondents.

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

1 Mo. No. 2024-434  
JDS Construction Group LLC et al.,  
Plaintiffs,  
111 West 57th Holdings LLC,  
Appellant,  
v.  
US Crane & Rigging LLC et al.,  
Respondents.  
(And a Third-Party Action.)

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

3 Mo. No. 2024-427  
In the Matter of The Lake George Association  
et al.,  
Appellants,  
v.  
NYS Adirondack Park Agency et al.,  
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2024-443  
In the Matter of New York City Asbestos  
Litigation.  
James McWilliams,  
Respondent,  
v.  
A.O. Smith Water Products Co. et al.,  
Defendants,  
Jenkins Bros.,  
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 (*see Cuadrado v New York City Tr. Auth., lv dismissed* 14 NY3d 748 [2010]).

1                    Mo. No. 2024-451  
In the Matter of Noe M. Morales Mejia,  
                         Respondent,  
                         v.  
New York City Transit Authority et al.,  
                         Appellants,  
City of New York et al.,  
                         Respondents.

Motion, insofar as it seeks leave to appeal from the Appellate Division order denying reargument or leave to appeal to this Court, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.

2                    Mo. No. 2024-469  
In the Matter of Allan O. Pelcak, Jr.,  
                         Appellant,  
                         v.  
Laura J. Matousek,  
                         Respondent.

Motion for leave to appeal denied.  
Motion for ancillary relief dismissed upon the ground that the Court lacks jurisdiction to entertain it (*see* NY Const, art VI, § 3).

3                    Mo. No. 2024-454  
In the Matter of Smith Percinthe,  
                         Appellant,  
                         v.  
Department of Corrections and Community  
Supervision,  
                         Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2024-428  
RAG Herkimer, LLC,  
                         Appellant,  
                         v.  
The Glider Oil Company, Inc.,  
                         Respondent.

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

4                    Mo. No. 2024-441  
In the Matter of Rochester Genesee Regional  
Transportation Authority,  
                         Respondent,  
                         v.  
John R. Stensrud et al.,  
                         Appellants.

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

1                    Mo. No. 2024-243  
Felipe A. Ruisech et al.,  
    Appellants,  
    v.  
Structure Tone Inc., &c., et al.,  
    Respondents.  
(And Third-Party Actions.)

Motion by Structure Tone Inc., &c. and cross-motion  
by Tishman Speyer Properties, L.P. and 200 Park,  
L.P. insofar as sought to dismiss the appeal as  
against Structure Tone Inc., &c. as untimely granted;  
motion and cross-motion otherwise denied.

4                    Mo. No. 2024-445  
Amarjit S. Virk, &c.,  
    Appellant,  
    v.  
Kaleida Health,  
    Respondent.

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

3                    Mo. No. 2024-413  
In the Matter of Upper Delaware Hospitality  
Corp.,  
    Respondent,  
    v.  
Town of Tusten Zoning Board of Appeals et  
al.,  
    Respondents,  
Brendan P. Weiden et al.,  
    Appellants.

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