

December 15, 2015

CASES

2 No. 212 SSM 23

The People &c.,
Respondent,

v.

Karl Chu-Joi, &c.,
Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, in a memorandum. Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

No. 131

The Ministers and Missionaries Benefit
Board,

Interpleader Plaintiff,

v.

Leon Snow et al.,
Appellants,

v.

The Estate of Clark Flesher, et al.,
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 this Court's Rules of Practice, first certified question answered in the negative and second certified question not answered as academic. Opinion by Judge Stein. Chief Judge Lippman and Judges Pigott and Fahey concur. Judge Abdus-Salaam dissents and votes to answer the certified questions in the affirmative in an opinion in which Judge Rivera concurs.

No. 214

Doctor Fred L. Pasternack,
Appellant,

v.

Laboratory Corporation of America Holdings,
&c., et al.,
Respondents.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument. Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

1 No. 153
Pegasus Aviation I, Inc., et al.,
 Appellants,
 v.
Varig Logistica S.A.,
 Defendant,
MatlinPatterson Global Advisers, LLC, et al.,
 Respondents.

Order reversed, with costs, case remitted to Supreme Court, New York County, for further proceedings in accordance with the opinion herein and certified question answered in the negative.
Opinion by Judge Pigott.
Chief Judge Lippman and Judges Abdus-Salaam and Fahey concur.
Judge Stein dissents in an opinion in which Judge Rivera concurs.

1 No. 202
In the Matter of RAM I LLC,
 Appellant,
 v.
New York State Division of Housing and
Community Renewal,
 Respondent,
et al.,
 Respondent.

Appeal dismissed, without costs, as moot, in a memorandum.
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

4 No. 213 SSM 28
Steven C. Ridge,
 Appellant,
 v.
Alice Gold, et al.,
 Defendants,
Jay Braymiller,
 Respondent.

On review of submissions pursuant to section 500.11 of the Rules, judgment insofar as appealed from and order of the Appellate Division brought up for review reversed, with costs, and motion of defendant Jay Braymiller for summary judgment dismissing the complaint denied. The record is inadequate to determine, as a matter of law, whether the issue of the occurrence of an accident was addressed and decided in the workers' compensation proceeding. Therefore, defendant Braymiller failed to meet his burden of establishing that the doctrine of collateral estoppel bars plaintiff's action against him.
Chief Judge Lippman and Judges Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

1 No. 197
The People &c.,
 Respondent,
 v.
Dennis P. Smalls,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge Lippman and Judges Pigott, Rivera,
Abdus-Salaam, Stein and Fahey concur.

MOTIONS

1 Mo. No. 2015-694
55 Gans Judgment LLC &c.,
 Respondent,
 v.
Gerald Romanoff, et al.,
 Respondents,
The Sheryl Romanoff Irrevocable Grantor
Trust, et al.,
 Appellants,
et al.,
 Defendants.

Robert Romanoff,
Proposed Intervenor-Appellant;
Frank D. Platt, Esq., &c.,
 Respondent.

1 Mo. No. 2015-1199
In the Matter of Charity Akosua A.,
 Respondent,
 v.
Nana A.,
 Appellant.

1 Mo. No. 2015-1327
Aetna Health Plans, &c.,
 Appellant,
 v.
Hanover Insurance Company,
 Respondent.

Motion to substitute the Estate of Gerald Romanoff as defendant-respondent herein for defendant-respondent Gerald Romanoff granted.
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 leave to appeal denied.
Motion for poor person relief dismissed as academic.
Motion for a stay dismissed as academic.

Motion by American Insurance Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

Mo. No. 2015-1305
Beck Chevrolet Co., Inc.,
Appellant,
v.
General Motors LLC,
Respondent.

Motion by Evans Chevrolet for leave to file a brief amicus curiae on consideration of the certified questions herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

2 SSD 62
The People &c. ex rel. David Bellon, on
Behalf of Elza Yadgarova and Lyudmila
Yakubova,
Appellants,
v.
Yaacov Chai Yonatonov, &c.,
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the paper appealed from is not an order or judgment from which an appeal to the Court of Appeals may be taken (see CPLR 5512[a]).

2 Mo. No. 2015-1277
The People &c.,
Respondent,
v.
Jeryed Burgess,
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

2 Mo. No. 2015-1073
In the Matter of Jennifer L. Burke,
Respondent,
v.
Stephen Erle,
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.

4 Mo. No. 2015-1202
In the Matter of James R. Diegelman et al.,
Appellants,
v.
City of Buffalo et al.,
Respondents.

Motion for leave to appeal granted.

2 Mo. No. 2015-1095
Annette Ferrarella,
 Appellant,
 v.
Kenneth H. Godt, et al.,
 Defendants,
John DiMario, et al.,
 Respondents.

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

1 Mo. No. 2015-1317
Raymond Finerty, et al.,
 Respondents,
 v.
Abex Corporation, formerly known as
American Brake Shoe Company, et al.,
 Defendants,
Ford Motor Company, Ltd.,
 Appellant.

Motion by Chamber of Commerce of the United States of America for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.
Judge Rivera took no part.

2 Mo. No. 2015-1267
The People &c,
 Respondent,
 v.
Cliffon Fletcher,
 Appellant.

Motion for assignment of counsel granted and Lynn W. L. Fahey, Esq., Appellate Advocates, 111 John Street, 9th Floor, New York, NY 10038 assigned as counsel to the appellant on the appeal herein.

4 Mo. No. 2015-1285
The People &c.,
 Respondent,
 v.
James A. Ghent, III,
 Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

3 Mo. No. 2015-1304
In the Matter of Highbridge Broadway, LLC,
 Appellant,
 v.
Assessor of the City of Schenectady,
 Respondent,
Schenectady City School District,
 Respondent.

Motion by New York State School Boards Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2015-1103
Marilyn Hopeman,
 Appellant,
 v.
Albert A. Hopeman III,
 Respondent.

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

2 SSD 61
Executor of New York Estate of Celia Kates,
et al.,
 Appellants,
 v.
James G. Pressly, &c., et al.,
 Respondents.

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.

1 Mo. No. 2015-1326
Douglas L. Leight, et al.,
 Plaintiffs,
John H. Masten,
 Appellant,
 v.
W7879 LLC, et al.,
 Respondents.

Motion by Metropolitan Council on Housing for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. One copy of the brief must be served and an original and two copies filed within seven days.

1 Mo. No. 2015-1269
In the Matter of Monarch Consulting, Inc., et
al.,
 Respondents,
 v.
National Union Fire Insurance Company of
Pittsburgh, PA,
 Appellant.
(And Other Proceedings.)

2 Mo. No. 2015-1135
In the Matter of Ganiyu Adebola Odunbaku,
 Respondent,
 v.
Diana Odunbaku,
 Appellant.
(And Another Proceeding.)

 Mo. No. 2015-1240
The People &c.,
 Respondent,
 v.
Norman E. Ramsey,
 Appellant.

2 Mo. No. 2015-1300
Rodney Sherman,
 Appellant,
 v.
New York State Thruway Authority,
 Respondent.

Motion by Dave Jones, California Insurance
Commissioner, for leave to appear amicus curiae on
the appeal herein granted only to the extent that the
proposed brief is accepted as filed. Three copies of
the brief must be served and an original and nine
copies filed within seven days.
Chief Judge Lippman took no part.

Motion for leave to appeal granted.

Motion for assignment of counsel granted and Robert
N. Gregor, Esq., 3 Lake Avenue, Lake George, NY
12845 assigned as counsel to the appellant on the
appeal herein.

Motion by New York City Transit Authority for
leave to file a brief amicus curiae on the appeal
herein granted and the proposed brief is accepted as
filed. Three copies of the brief must be served and
an original and nine copies filed within seven days.

2 SSD 60
In the Matter of Kerryann Thompson,
 Respondent,
 v.
Kevin Fawcett,
 Appellant.

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

2 Mo. No. 2015-1332
Maria De Lourdes Torres,
 Appellant,
 v.
Police Officer Jones, et al.,
 Defendants,
City of New York,
 Respondent.
(And Another Action.)

Motion by New York State Trial Lawyers Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

1 Mo. No. 2015-1253
The People &c.,
 Appellant,
 v.
Carlos Valentin,
 Respondent.

Motion to enlarge the record denied.

 Mo. No. 2015-1318
In the Matter of Viking Pump, Inc. and
Warren Pumps, LLC,
Insurance Appeals.

Viking Pump, Inc. and Warren Pumps, LLC,
 Appellants,
TIG Insurance Company, et al.,
 Respondents.

Motion by Complex Insurance Claims Litigation Association et al. for leave to appear amici curiae on consideration of the certified questions herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.
Chief Judge Lippman took no part.

1 Mo. No. 2015-1220
Robert E. Wilson, III,
 Respondent,
 v.
Daniel Valente Dantas, et al.
 Appellants,
et al.,
 Defendants.

Motion to dismiss appeal denied.