

June 11, 2015

**CASES**

1                    No. 85  
ACE Securities Corp., &c.,  
    Appellant,  
    v.  
DB Structured Products, Inc.,  
    Respondent.

Order affirmed, with costs.  
Opinion by Judge Read.  
Chief Judge Lippman and Judges Pigott, Rivera,  
Stein and Fahey concur.  
Judge Abdus-Salaam took no part.

2                    No. 83  
Aurora Loan Services, LLC,  
    Respondent,  
    v.  
Monique Taylor, &c., et al.,  
    Appellants,  
et al.,  
    Defendants.

Order, insofar as appealed from, affirmed, with costs,  
and certified question answered in the affirmative.  
Opinion by Chief Judge Lippman.  
Judges Read, Pigott, Rivera, Abdus-Salaam, Stein  
and Fahey concur.

4                    No. 92  
Brown & Brown, Inc., et al.,  
    Appellants,  
    v.  
Theresa A. Johnson, et al.,  
    Respondents.  
(AD No. CA 13-00340)

Order, insofar as appealed from, reversed, with costs,  
defendants' motion for summary judgment, insofar as  
it sought to dismiss that portion of the first cause of  
action in the complaint for breach of the non-  
solicitation provision in the parties' employment  
agreement, denied and certified question answered in  
the negative.  
Opinion by Judge Stein.  
Chief Judge Lippman and Judges Read, Pigott and  
Abdus-Salaam concur.  
Judges Rivera and Fahey took no part.

3                    No. 94  
The People &c.,  
    Respondent,  
    v.  
Steven Lashway,  
    Appellant.

Order affirmed, without costs.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Read, Rivera,  
Abdus-Salaam and Fahey concur.  
Judge Stein took no part.

4                    No. 89  
The People &c.,  
    Respondent,  
    v.  
Fabrice Lowe,  
    Appellant.

Order reversed and case remitted to County Court,  
Onondaga County, for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Fahey.  
Chief Judge Lippman and Judges Rivera and Abdus-  
Salaam concur.  
Judge Stein concurs in result in a separate concurring  
opinion in which Judges Read and Pigott concur.

4                    No. 88  
The People &c.,  
    Respondent,  
    v.  
William Middlebrooks,  
    Appellant.

Order reversed and case remitted to County Court,  
Erie County, for further proceedings in accordance  
with the opinion herein.  
Opinion by Judge Fahey.  
Chief Judge Lippman and Judges Rivera and Abdus-  
Salaam concur.  
Judge Stein dissents in an opinion in which Judges  
Read and Pigott concur.

2                    No. 87  
The People &c.,  
    Respondent,  
    v.  
Hakim B. Scott,  
    Appellant.

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

## MOTIONS

3                    Mo. No. 2015-571  
The People &c.,  
    Respondent,  
    v.  
Michael Adam,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2015-472  
Aurora Loan Services, LLC,  
    Respondent,  
    v.  
Ria Enaw et al.,  
    Appellants,  
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. 2015-488  
James H. Brady, et al.,  
    Appellants,  
    v.  
Mark S. Friedlander, &c.,  
    Respondent.

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

3                    Mo. No. 2015-511  
In the Matter of Andre Clemmons,  
    Appellant,  
    v.  
Stephen W. Herrick, &c.,  
    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.

2                    Mo. No. 2015-487  
The People &c.,  
    Respondent,  
    v.  
Burley S. Collick,  
    Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2015-514  
In the Matter of Edward Connolly,  
                          Appellant,  
                          v.  
Covanta Energy Corporation,  
                          Respondent,  
et al.,  
                          Respondent.  
Workers' Compensation Board,  
                          Respondent.

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

4                    Mo. No. 2015-486  
Noel Davidson,  
                          Appellant,  
                          v.  
State of New York,  
                          Respondent.  
Claim No. 118778

Motion for reargument denied.

4                    Mo. No. 2015-519  
Noel Davidson,  
                          Appellant,  
                          v.  
State of New York,  
                          Respondent.  
Claim No. 121749

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that the order  
appealed from does not finally determine the action  
within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

1                    Mo. No. 2015-479  
The People &c.,  
                          Respondent,  
                          v.  
Jeffrey Fernandez,  
                          Appellant.

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

4                    Mo. No. 2015-493  
Michael F. Fiore et al.,  
    Appellants,  
    v.  
Town of Whitestown, et al.,  
    Respondents.

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

2                    Mo. No. 2015-474  
Forest Mall, LLC, et al.,  
    Appellants,  
    v.  
FKF3, LLC, et al.,  
    Defendants,  
John F. Magee, et al.,  
    Respondents.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as dismissed plaintiffs' appeal from the judgment against defendant Mitchell Klein, denied; motion for leave to appeal otherwise dismissed upon the ground that the remainder of the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2                    Mo. No. 2015-599  
In the Matter of Kai G. (Anonymous).  
  
New Alternatives for Children, Inc.,  
    Respondent;  
Janice K. (Anonymous),  
    Respondent;  
Peter M. G. (Anonymous),  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2015-526  
Hamilton Heights Funding LLC, &c.,  
    Respondent,  
    v.  
147 W. 129 St. Apt. Inc.,  
    Respondent,  
State of New York Department of Taxation  
and Finance, et al.,  
    Defendants.  
Kourosh Gouyghadosh,  
    Nonparty-Appellant.

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

3                    Mo. No. 2015-337  
In the Matter of Highbridge Broadway, LLC,  
                          Appellant,  
                          v.  
Assessor of the City of Schenectady,  
                          Respondent,  
Schenectady City School District,  
                          Respondent.

Motion, insofar as it seeks leave to appeal from that part of the Appellate Division order that affirmed the denial of appellant's motion to hold the Schenectady City School District in contempt, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as vacated that part of Supreme Court's order that directed the Schenectady City School District to issue refunds based on the 2009 to 2011 assessment rolls, granted.

4                    Mo. No. 2015-538  
In the Matter of Michael Hill,  
                          Respondent,  
                          v.  
Farah Flynn,  
                          Appellant.

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

4                    Mo. No. 2015-489  
Carol L. Jones, as Executor of the Estate of  
Donald J. Jones, et al.,  
                          Appellants,  
                          v.  
Town of Carroll et al.,  
                          Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Judges Pigott and Fahey took no part.

2 Mo. No. 2015-504  
In the Matter of Jaelin L. (Anonymous).

Administration for Children's Services, et al.,  
Respondents;  
Kimrenee C. (Anonymous),  
Appellant.  
(And Two Other Proceedings.)

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

4 Mo. No. 2015-483  
John A. McIntosh,  
Appellant,  
v.  
Genesee Valley Laser Centre  
et al.,  
Respondents.

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

1 Mo. No. 2015-552  
MEG Holdings, LLC,  
Respondent,  
v.  
Sapphire Power Finance LLC,  
Appellant,  
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.

3 Mo. No. 2015-516  
In the Matter of Manuel Nunez,  
Appellant,  
v.  
Central Office Review Committee et al.,  
Respondents.

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

4 Mo. No. 2015-527  
In the Matter of State of New York,  
Respondent,  
v.  
James P.,  
Appellant.

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

1 Mo. No. 2015-473  
In the Matter of Veronica P.,  
Respondent,  
v.  
Radcliff A.,  
Appellant.

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

3 Mo. No. 2015-499  
In the Matter of Daniel Phelan,  
Appellant,  
v.  
Bethpage State Park, et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2015-578  
In the Matter of the Torok Trust,  
Respondent,  
v.  
Town Board of Town of Alexandria, et al.,  
Respondents.  
Alexandria Central School District,  
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.

2                    Mo. No. 2015-482  
In the Matter of Ashley D.W. (Anonymous).

Westchester County Department of Social  
Services,  
    Respondent;  
Marcus W. (Anonymous),  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2015-450  
In the Matter of Westchester Joint Water  
Works,  
    Appellant,  
    v.  
Assessor of City of Rye,  
    Respondent;  
Rye Neck Union Free School District,  
    Intervenor-Respondent.  
(And Other Proceedings.)

Motion, insofar as it seeks leave to appeal as against  
the Rye Neck Union Free School District, granted;  
motion for leave to appeal otherwise dismissed upon  
the ground that the remainder of the order sought to  
be appealed from does not finally determine the  
proceedings within the meaning of the Constitution.