

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

**Decisions**

September 14, 2021

**CASES**

4                    No. 68 SSM 14

The People &c.,  
Respondent,

v.

Kevin Dogan,  
Appellant.

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

2                    No. 69 SSM 15

Juvenal Reis,  
Appellant,

v.

J.B. Kaufman Realty Co., LLC, et al.,  
Respondents.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs. In response to defendants' prima facie showing of entitlement to summary judgment, plaintiff failed to raise a triable issue of fact (*see Joseph Martin, Jr., Delicatessen, Inc. v Schumacher*, 52 NY2d 105 [1981]). Chief Judge DiFiore and Judges Rivera, Fahey, Garcia, Wilson, Singas and Cannataro concur.

## MOTIONS

1                    Mo. No. 2021-448  
In Rem Tax Foreclosure Action No. 52, &c.  
  
2386 Morris Avenue, HDFC, et al.,  
Appellants.

Motion for leave to appeal dismissed for failure to demonstrate timeliness as required by Rules of the Court of Appeals (22 NYCRR § 500.22 [b] [2]).

4                    Mo. No. 2021-416  
Nelson A., &c.,  
Appellant,  
v.  
Eric J. Krone,  
Respondent.

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

1                    Mo. No. 2021-441  
Advanced Aerofoil Technologies AG,  
Appellant,  
v.  
MissionPoint Capital Partners LLC,  
Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2021-401  
In the Matter of Aron Law, PLLC,  
Appellant,  
v.  
New York City Department of Education,  
Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2021-419  
The Bank of New York, &c.,  
Appellant,  
v.  
Terrapin Industries, LLC, et al.,  
Defendants,  
KBS Sheepshead Bay, LLC,  
Respondent.  
(And Another Action.)

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

1                    Mo. No. 2021-633  
The Bank of New York, &c.,  
    Appellant,  
    v.  
Terrapin Industries, LLC, et al.,  
    Defendants,  
KBS Sheepshead Bay, LLC,  
    Respondent.  
(And Another Action.)

Motion for leave to appeal dismissed upon the ground that the judgment sought to be appealed from does not finally determine the actions within the meaning of the Constitution and thus does not constitute a final judgment within the meaning of CPLR 5602 (a) (1) (ii), and upon the further ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (*see Parker v Rogerson*, 35 NY2d 751, 753 [1974]).

3                    Mo. No. 2021-463  
In the Matter of the Claim of Brian Thomas  
Burke,  
    Appellant,  
    v.  
New York City Transit Authority,  
    Respondent.  
Workers' Compensation Board,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2021-343  
In the Matter of Clean Realty LLC,  
    Appellant,  
    v.  
City of New York, et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2021-329  
Howard A. Domitz,  
    Appellant,  
    v.  
City of Long Beach,  
    Respondent.

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

1                    Mo. No. 2021-382  
In the Matter of Aris J. Dousmanis, &c.,  
                  Appellant,  
Marisa Falero, &c.,  
                  Respondent,  
New York City Human Resources  
Administration, &c.,  
                  Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2021-299  
In the Matter of Christine Duffy et al.,  
                  Appellants,  
                  v.  
Town of Guilderland et al.,  
                  Respondents,  
et al.,  
                  Respondents.

Motion for reargument of motion for leave to appeal  
denied.  
Judges Singas and Cannataro took no part.

2                    Mo. No. 2021-513  
Federal National Mortgage Association, &c.,  
                  Appellant,  
                  v.  
Maxi Jeanty, &c. et al.,  
                  Respondents,  
et al.,  
                  Defendants.

Motion, insofar as it seeks leave to appeal from the  
November 2020 Appellate Division order, granted;  
motion for leave to appeal otherwise dismissed upon  
the ground that the February 2021 Appellate  
Division order does not finally determine the action  
within the meaning of the Constitution.

1                    Mo. No. 2021-468  
In the Matter of FGLS Equity LLC, &c.,  
                  Petitioner.  
  
Sajust, LLC, et al.,  
                  Appellants,  
                  v.  
FGLS Equity LLC,  
                  Respondent.  
The Mendelow Family Foundation, Inc.,  
                  Intervenor-Respondent.

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

4 Mo. No. 2021-431  
In the Matter of Elizabeth Foley,  
Respondent,  
v.  
James L. Dwyer,  
Appellant.

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

1 Mo. No. 2021-379  
In the Matter of Brian Ford,  
Appellant,  
v.  
Board of Education of the City School  
District of the City of New York, &c. et al.,  
Respondents.

On the Court's own motion, appeal dismissed,  
without costs, upon the ground that no substantial  
constitutional question is directly involved.  
Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.

4 Mo. No. 2021-494  
Jessica G.,  
Appellant,  
v.  
Eric J. Krone,  
Respondent,  
et al.,  
Defendant.

Motion for leave to appeal denied.

4 Mo. No. 2021-519  
Vanessa G., &c.,  
Appellant,  
v.  
Nelson A., &c., et al.,  
Defendants,  
Eric J. Krone,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-363  
Harvey Gladstein,  
Respondent,  
v.  
Thomas F. Keane et al.,  
Appellants.

Motion for leave to appeal from so much of the  
Appellate Division order as affirmed the May 2018  
Supreme Court judgment denied; motion for leave to  
appeal otherwise dismissed upon the ground that the  
order does not finally determine the action or  
proceeding.

3                    Mo. No. 2021-383  
In the Matter of the Claim of Kanye Khalid  
Green,  
                  Respondent,  
          v.  
Dutchess County BOCES et al.,  
                  Appellants.  
Workers' Compensation Board,  
                  Appellant.

Motions for leave to appeal granted.

3                    Mo. No. 2021-421  
Anthony Grimaldi,  
                  Appellant,  
          v.  
Joseph Sangi,  
                  Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2021-504  
In the Matter of Matthew Harris,  
                  Respondent,  
          v.  
Woodrina Israel,  
                  Appellant.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain this motion for leave to appeal from the order of the Appellate Division entered in this proceeding commenced in the Civil Court of the City of New York (*see* NY Const, art VI, § 3 [b] [7]; CPLR 5602 [a]).  
Chief Judge DiFiore took no part.

4                    Mo. No. 2021-447  
Robin Hart, &c.,  
                  Appellant,  
          v.  
County of Erie,  
                  Respondent,  
et al.,  
                  Defendant.

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

1 Mo. No. 2021-374  
In the Matter of Viviane T. Holman,  
Appellant,  
v.  
Mark J.F. Schroeder, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2021-348  
Ignis Development, Inc.,  
Appellant,  
v.  
Long Island College Hospital et al.,  
Respondents,  
et al.,  
Defendants.

On the Court's own motion, appeal dismissed, without costs, upon the ground that this Court has jurisdiction to entertain an appeal pursuant to CPLR 5601 (d) from a final order only where a prior nonfinal Appellate Division order necessarily affects that final order, and no such prior nonfinal order exists here.

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Long Island College Hospital,  
Third-Party Respondent,  
v.  
Stanly NY Enterprises, Inc., et al.,  
Third-Party Appellants.

Motion for leave to appeal dismissed upon the ground that this Court has jurisdiction to entertain a motion for leave to appeal pursuant to CPLR 5602 (a) (1) (ii) from a final order only where a prior nonfinal Appellate Division order necessarily affects that final order, and no such prior nonfinal order exists here.

1 Mo. No. 2021-467  
In the Matter of The Jewish Press, Inc.,  
Appellant,  
v.  
New York City Department of Housing  
Preservation and Development,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-450  
Celso Jiraud,  
Appellant,  
v.  
Barnes & Noble, Inc.,  
Respondent.

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

3 Mo. No. 2021-380  
Johnathan Johnson,  
Appellant,  
v.  
Don Haug, et al.,  
Respondents.

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

3 Mo. No. 2021-495  
In the Matter of JPK Imports/Oneonta, Inc.,  
&c.,  
Appellant,  
v.  
New York State Division of Human Rights et  
al.,  
Respondents.  
(And Another Proceeding.)

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

4 Mo. No. 2021-422  
In the Matter of James M. Kernan, et al.,  
Appellants,  
v.  
Shirin Emami, &c., et al.,  
Respondents.

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

2 Mo. No. 2021-385  
In the Matter of Kings Park 148, LLC,  
Appellant,  
v.  
New York State Division of Housing and  
Community Renewal,  
Respondent.

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

1 Mo. No. 2021-397  
Bartley Labiner,  
Appellant,  
v.  
Jerome Florist, Inc. et al.,  
Respondents.

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

3 Mo. No. 2021-496  
In the Matter of Salvatore Letizia,  
Appellant,  
v.  
William M. Fitzpatrick, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2021-327  
Long Island Medical Anesthesiology, P.C., et  
al.,  
Appellants,  
v.  
Rosenberg Fortuna & Laitman, LLP, et al.,  
Respondents.

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

2 Mo. No. 2021-328  
Long Island Medical & Gastroenterology  
Associates, P.C., et al.,  
Respondents,  
v.  
Mocha Realty Associates, LLC, et al.,  
Appellants.  
(And Two Other Actions.)

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

1 Mo. No. 2021-371  
In the Matter of Liz Martinez, et al.,  
Appellants,  
v.  
Janet DiFiore, &c., et al.,  
Respondents.

Motion for leave to appeal from that portion of the  
Appellate Division order that affirmed a Supreme  
Court order denying petitioners' motion for  
discovery, dismissed upon the ground that such  
portion of the order does not finally determine the  
proceeding within the meaning of the Constitution;  
motion for leave to appeal otherwise denied.  
Chief Judge DiFiore took no part.

2 Mo. No. 2021-453  
In the Matter of Maria Martucci,  
Respondent,  
v.  
Biagio Nerone,  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2021-347  
In the Matter of Harold Mayeri,  
Appellant,

v.

Commissioner of the New York State  
Department of Motor Vehicles,  
Respondent.

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

1 Mo. No. 2021-352  
Frank Mazzocchi,  
Appellant,

v.

Vivienne Gilbert, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2021-429  
Heleen Mees,  
Appellant,

v.

Willem H. Buitter,  
Respondent.

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

1 Mo. No. 2021-335  
Jaime Alberto Mejia-Gonzales,  
Appellant,

v.

Oliver S. Storch,  
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2021-481  
In the Matter of Kerri S. Montgomery, et al.,  
Appellants,

v.

New York State Department of Corrections  
and Community Services et al.,  
Respondents.

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

1 Mo. No. 2021-474  
MTGLQ Investors, L.P.,  
Appellant,  
v.  
Elaine Shay, &c., et al.,  
Defendants.  
21647 LLC,  
Nonparty-Respondent.

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

1 Mo. No. 2021-368  
Neiman Nix et al.,  
Appellants,  
v.  
Major League Baseball, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2021-423  
In the Matter of Jessica O. Otitigbe, &c.,  
Appellant,  
v.  
Rensselaer Polytechnic Institute,  
Respondent.

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

2 Mo. No. 2021-445  
Marvin Pannell,  
Appellant,  
v.  
New York City Health and Hospitals  
Corporation, et al.,  
Respondents.

Motion for leave to appeal denied.

1 Mo. No. 2021-390  
In the Matter of Daniel Pantaleo,  
Appellant,  
v.  
James P. O'Neill, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

3                    Mo. No. 2021-339  
Kimberly L. Patterson,  
    Appellant,  
    v.  
Montgomery County, 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.  
Judge Fahey took no part.

2                    Mo. No. 2021-446  
In the Matter of Evelyn Pfeffer, &c.,  
deceased.

Motion, insofar as it seeks leave to appeal from the October 2020 Appellate Division order as against respondent Barbara Billauer, dismissed as untimely (*see* CPLR 5513 [b]; 2103 [b] [2]); motion for leave to appeal otherwise denied.

Mitchell Pfeffer,  
    Appellant,  
Barbara Billauer,  
    Respondent,  
et al.,  
    Respondent.  
(And Another Proceeding.)

3                    Mo. No. 2021-384  
In the Matter of the Claim of Daniel Quigley,  
    Respondent,  
    v.  
Village of East Aurora et al.,  
    Appellants.  
Workers' Compensation Board,  
    Respondent.

Motion for leave to appeal denied.

4                    Mo. No. 2021-396  
Alexandra R., et al.,  
    Appellants,  
    v.  
Eric J. Krone,  
    Respondent,  
et al.,  
    Defendants.

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

4                    Mo. No. 2021-428  
In the Matter of R.W. Burrows Grantor  
Family Trust.

Ji Ting Wang-Burrows et al.,  
    Respondents;  
Michael Lengvarsky et al.,  
    Appellants.

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

3                    Mo. No. 2021-409  
In the Matter of Parvaz Ahmad Saber,  
    Appellant,  
    v.  
Ellen T. Saccone,  
    Respondent.  
(And Another Proceeding.)

Motion for leave to appeal denied.

1                    Mo. No. 2021-378  
Chrismy Sagaille,  
    Appellant,  
    v.  
Christina Carrega,  
    Respondent,  
et al.,  
    Defendants.

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

1                    Mo. No. 2021-418  
Mark Scher, &c.,  
    Appellant,  
    v.  
Turin Housing Development Fund Company,  
Inc., et al.,  
    Respondents.

Motion, insofar as it seeks leave to appeal from that  
portion of the Appellate Division order that affirmed  
the denial of plaintiff's motion for class certification,  
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.

2                    Mo. No. 2021-641  
Seaview at Amagansett, Ltd., et al.,  
                        Respondents,  
et al.,  
                        Plaintiffs,  
                        v.  
Trustees of Freeholders and Commonalty of  
Town of East Hampton,  
                        Respondent,  
Town of East Hampton,  
                        Appellant,  
et al.,  
                        Defendants;  
Jay H. Baker and Pat Good Baker Joint Trust,  
                        Nonparty-Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2021-668  
Seaview at Amagansett, Ltd., et al.,  
                        Respondents,  
et al.,  
                        Plaintiffs,  
                        v.  
Trustees of Freeholders and Commonalty of  
Town of East Hampton,  
                        Appellant,  
Town of East Hampton,  
                        Respondent,  
et al.,  
                        Defendants;  
Jay H. Baker and Pat Good Baker Joint Trust,  
                        Nonparty-Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2021-364  
Slemish Corp. S.A.,  
Appellant,  
v.  
Robert M. Morgenthau, &c.,  
Respondent.

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Tupi Cambios S.A.,  
Appellant,  
v.  
Robert M. Morgenthau, &c.,  
Respondent.  
(And a Third-Party Action.)

1 Mo. No. 2021-360  
Arthur Stevens, &c.,  
Appellant,  
v.  
RX Medical Dynamics, LLC, et al.,  
Respondents.

1 Mo. No. 2021-427  
Tower Insurance Company of New York,  
Respondent,  
v.  
Walter Ginin et al.,  
Defendants,  
Jose Luis Crespo,  
Appellant.

3 Mo. No. 2021-439  
Trustco Bank,  
Appellant,  
v.  
The Preserve Development Group Co., LLC,  
&c., et al.,  
Respondents.

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

Motion for leave to appeal denied.

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

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

3                    Mo. No. 2021-582  
Donna M. Vnuk, et al.,  
    Appellants,  
    v.  
City of Albany,  
    Respondent,  
et al.,  
    Defendant.

Motion for leave to appeal denied.

1                    Mo. No. 2021-349  
VPC Projects, LLC,  
    Appellant,  
    v.  
Golenbock Eiseman Assor Bell & Peskoe,  
LLP,  
    Respondent.  
(And a Third-Party Action.)

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

1                    Mo. No. 2021-403  
Benjamin Wey et al.,  
    Appellants,  
    v.  
NASDAQ, Inc., et al.,  
    Respondents.

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