

September 6, 2018

CASES

1                    No. 131 SSM 20  
Paul Viselli et al.,  
    Appellants,  
    v.  
The Riverbay Corporation,  
    Respondent.

On review of submissions pursuant to section 500.11 of the Rules, order modified, without costs, by denying defendant's motion for summary judgment as to the General Municipal Law § 205-a cause of action and, as so modified, affirmed. With respect to the General Municipal Law § 205-a cause of action, defendant's submissions of a certificate of occupancy and an expert affidavit that did not sufficiently respond to plaintiffs' General Municipal Law § 205-a claim were insufficient, without more, to meet its prima facie burden as the party moving for summary judgment (see Powers v 31 E 31 LLC, 24 NY3d 84, 93 [2014]). We have considered plaintiffs' remaining arguments and find them to be without merit. Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

3                    No. 130 SSM 18  
In the Matter of the Claim of Melody  
Wohlfeil,  
    Respondent,  
    v.  
Sharel Ventures, LLC,  
    Respondent,  
Workers' Compensation Board,  
    Appellant.

On review of submissions pursuant to section 500.11 of the Rules, order reversed, with costs, and decision of the Workers' Compensation Board reinstated. On this record, substantial evidence supports the Board's determination that claimant has a permanent partial disability with a 75% loss of wage-earning capacity (see generally Matter of Zamora v New York Neurologic Assoc., 19 NY3d 186, 192-193 [2012]; see also Matter of Burgos v Citywide Cent. Ins. Program, 30 NY3d 990, 990-991 [2017]). Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

**MOTIONS**

2                    Mo. No. 2018-551  
In the Matter of AAA Carting and Rubbish  
Removal, Inc.,  
                  Appellant,  
          v.  
Town of Stony Point, New York, et al.,  
                  Respondents.

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

2                    Mo. No. 2018-620  
In the Matter of Brysen A.

Motion for leave to appeal denied.

Administration for Children's Services,  
                  Respondent;  
Bryan A.,  
                  Appellant,  
et al.,  
                  Respondent.  
(And Another Proceeding)

1                    Mo. No. 2018-561  
Jahangir Ahmed, &c.,  
                  Appellant,  
          v.  
Morgan's Hotel Group Management, LLC, et  
al.,  
                  Respondents.

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

3                    Mo. No. 2018-565  
In the Matter of Alla Capital Development  
Corporation,  
                  Appellant,  
          v.  
New York State Liquor Authority, et al.,  
                  Respondents.

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

4                    Mo. No. 2018-689  
In the Matter of Jason B., et al.

Yates County Department of Social Services,  
    Respondent;  
Gerald B.,  
    Respondent,  
Phyllis B.,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2018-612  
In the Matter of Khiry A.N.B., Jr., &c.

Khiry A.N.B.,  
    Appellant;  
Cardinal McCloskey Community Services,  
    Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2018-711  
In the Matter of Delores Bea,

    Respondent,  
v.  
Jamal Winslow,  
    Appellant.

Motion for leave to appeal denied.

2                    Mo. No. 2018-710  
The People &c. ex rel. Elizabeth Bender, on  
behalf of Arthur Tripp,

    Appellant,  
v.  
Cynthia Brann, &c.,  
    Respondent.

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

1                    Mo. No. 2018-405  
Deidre Holmes Clark,  
    Appellant,  
    v.  
Allen & Overy, LLP,  
    Respondent.

Motion, insofar as it seeks leave to appeal from the portion of the Appellate Division order that affirmed the parts of the August 2016 Supreme Court order dismissing the complaint and awarding sanctions for frivolous conduct, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portions of the Appellate Division order do not finally determine the action within the meaning of the Constitution.

4                    Mo. No. 2018-491  
Lonnie Dotson,  
    Plaintiff,  
Sonia Dotson,  
    Appellant,  
    v.  
J.C. Penney Company, Inc., et al.,  
    Defendants,  
Gary Miguel, et al.,  
    Respondents.

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

3                    Mo. No. 2018-520  
In the Matter of the Claim of Shaniqua  
Enman,  
    Appellant.  
New York City Department of Education,  
    Respondent.  
Commissioner of Labor,  
    Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2018-525  
In the Matter of Paul John Ferraro,  
    Appellant,  
    v.  
Carmen Farina et al.,  
    Respondents.

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

4 Mo. No. 2018-622  
In the Matter of Takoda G., et al.

Ontario County Department of Social  
Services Child Protective Unit,  
Respondent;  
Juan T.,  
Appellant.

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

4 Mo. No. 2018-686  
In the Matter of Yeshua G.

Erie County Department of Social Services,  
Respondent;  
Anthony G.,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2018-564  
The People &c.,  
Respondent,  
v.  
Joel Grubert,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2018-587  
Carol Henry,  
Appellant,  
v.  
Hamilton Equities, Inc., et al.,  
Respondents.

Motion for leave to appeal granted.

4 Mo. No. 2018-585  
Randall M. Hinton,  
Appellant,  
v.  
Village of Pulaski,  
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2018-557  
HSBC Bank USA, National Association, &c.,  
Respondent,  
v.  
Guardian Preservation LLC,  
Appellant.

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

2 SSD 46  
In the Matter of Daryll Boyd Jones, a  
Suspended Attorney.  
  
Daryll Boyd Jones,  
Appellant;  
Attorney Grievance Committee for the  
Second and Eleventh Judicial Districts,  
Respondent.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

3 Mo. No. 2018-617  
In the Matter of Matheson KK.  
  
Ulster County District Attorney,  
Appellant;  
Matheson KK.,  
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.

3 SSD 48  
In the Matter of Melvin M. Marin, a  
Suspended Attorney.  
  
Attorney Grievance Committee for the Third  
Judicial Department,  
Respondent;  
Melvin M. Marin,  
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that the February 2018 Appellate Division order appealed from does not finally determine the proceeding within the meaning of the Constitution.

4                    Mo. No. 2018-560  
In the Matter of Deborah J. McCulloch, &c.,  
    Respondent,  
    v.  
Melvin H., &c.,  
    Appellant.

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

1                    Mo. No. 2018-568  
In the Matter of Kevin McK.,  
    Appellant,  
    v.  
Elizabeth A.E.,  
    Respondent.

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the dismissal of so much of the petition that sought enforcement of a visitation order, 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.

2                    Mo. No. 2018-719  
The People &c. ex rel. Victor McKeever,  
    Appellant,  
    v.  
Warden, Nassau County Jail,  
    Respondent.

Motion, insofar as it seeks leave to appeal from the April 2018 Appellate Division order, 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.  
Motion for poor person relief dismissed as academic.  
Motion for a stay dismissed as academic.

2                    Mo. No. 2018-598  
In the Matter of Elci Mejia,  
    Respondent,  
    v.  
Cornelius Stubbs,  
    Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-582  
In the Matter of Carla A. Miller,  
Appellant,  
v.  
Lawrence C. Miller,  
Respondent.

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

1 SSD 47  
In the Matter of New York City Asbestos  
Litigation. (All NYCAL Cases.)  
  
Cleaver-Brooks, Inc., et al.,  
Appellants.

Appeal dismissed without costs, by the Court sua  
sponte, upon the ground that the order appealed from  
does not finally determine an action or proceeding  
within the meaning of the Constitution.

2 SSD 44  
Kevin Phillip,  
Appellant,  
v.  
State of New York,  
Respondent.

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.

4 Mo. No. 2018-566  
Kenneth Preaster et al.,  
Appellants,  
v.  
City of Syracuse,  
Respondent.

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

3 Mo. No. 2018-594  
In the Matter of Zyrrius Q., &c.  
  
Tompkins County Department of Social  
Services,  
Respondent;  
Nicole S.,  
Appellant.

Motion for leave to appeal denied.



1 Mo. No. 2018-654  
In the Matter of Bryce Raymond R., &c.

Ann M.,  
Appellant;  
New York Foundling Hospital,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-545  
Chittemma Reddy,  
Appellant,  
v.  
Evangelos Mihos,  
Respondent,  
et al.,  
Defendant.

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

4 Mo. No. 2018-668  
Jose Rivera,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2018-696  
In the Matter of Jonathan S., an attorney and  
counselor-at-law.

Attorney Grievance Committee for the First  
Judicial Department,  
Respondent,

Jonathan S.,  
Appellant.

Motion for reargument and/or clarification of this Court's January 16, 2018 dismissal order dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]).  
Motion for renewal of this Court's January 16, 2018 dismissal order denied.  
Motion for a stay dismissed as academic.  
Motion for other relief denied.

4                    Mo. No. 2018-556  
Robert Schaefer et al.,  
    Appellants,  
    v.  
Chautauqua Escapes Association, Inc., et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2018-553  
Madeleine E. Schwartz,  
    Appellant,  
et al.,  
    Plaintiff,  
    v.  
Leaf, Salzman, Manganelli, Pfiel & Tendler,  
LLP, et al.,  
    Respondents.

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

2                    Mo. No. 2018-624  
In the Matter of Robert V. Sofia,  
    Appellant,  
    v.  
Kellie M. Hendry,  
    Respondent.

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

4                    Mo. No. 2018-592  
In the Matter of Glenn T., &c.,  
    Appellant,  
    v.  
State of New York, et al.,  
    Respondents.

Motion for leave to appeal denied.

2 Mo. No. 2018-613  
In the Matter of Yasmine T.

Aeisha G.,  
Appellant;  
Keisha G.,  
Respondent.  
(And Another Proceeding)

1 Mo. No. 2018-640  
Tribeca Lending Corporation,  
Respondent,  
v.  
Gregory M. Bartlett, &c.,  
Appellant,  
NYS Department of Taxation et al.,  
Defendants.

2 Mo. No. 2018-580  
In the Matter of Underhill-Washington  
Equities, LLC,  
Appellant,  
v.  
Division of Housing and Community  
Renewal,  
Respondent,  
et al.,  
Respondent.

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

On the Court's own motion, defendant's appeal from the December 2017 Appellate Division order 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 reargument granted. Upon reargument, motion for leave to appeal from the December 2017 and February 2018 Appellate Division orders dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

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

4 Mo. No. 2018-552  
In the Matter of Laura Vieira-Suarez,  
Appellant,  
v.  
Syracuse City School District,  
Respondent.

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

2 Mo. No. 2018-651  
In the Matter of Isabella R.W.

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

Orange County Department of Social  
Services,  
Respondent;  
Jessica W.,  
Appellant.

4 Mo. No. 2018-573  
In the Matter of Jennifer Windspirit,  
Appellant,  
v.  
Carmen A. Cornell,  
Respondent.

Motion for leave to appeal denied.

1 SSD 45  
In the Matter of Anthony Jacob Zappin, an  
Attorney.

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

Attorney Grievance Committee for the First  
Judicial Department,  
Respondent;  
Anthony Jacob Zappin,  
Appellant.

1 Mo. No. 2018-532  
Andrew Zlotnick,  
Appellant,  
v.  
New York Yankees Partnership et al.,  
Respondents.

Motion for leave to appeal denied.