

State of New York Court of Appeals

This memorandum is uncorrected and subject to revision before publication in the New York Reports.

No. 47 SSM 4
In the Matter of Delkap Management, Inc.
et al.,
 Respondents,
 v.
New York State Division of Human Rights,
 Appellant,
et al.,
 Respondent.

Submitted by Toni Ann Hollifield, for appellant.
Submitted by Jacqueline Handel-Harbour, for respondents.

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On review of submissions pursuant to section 500.11 of the Rules, judgment, insofar as appealed from, reversed, with costs, petition dismissed in its entirety, and cross petition granted to the extent that the determination of the New York State Division of Human Rights is confirmed. The Appellate Division erroneously set aside a portion of the agency's determination. Chief Judge DiFiore and Judges Rivera, Stein, Fahey and Wilson concur. Judges Garcia and Feinman dissent and vote to affirm, insofar as appealed from, for reasons stated by the Appellate Division (see Matter of Delkap Mgt., Inc. v New York State Div. of Human Rights, 144 AD3d 1148 [2016]).

Decided March 26, 2019