

June 09, 2011

**CASES**

2                   No. 111  
In the Matter of AAA Carting and  
Rubbish Removal, Inc.,  
                  Appellant,  
                  v.  
Town of Southeast, et al.,  
                  Respondents,  
Sani-Pro Disposal Services Corp.,  
&c.,  
                  Respondent.

Order reversed, with costs, and matter  
remitted to Supreme Court, Putnam  
County, for further proceedings in  
accordance with the opinion herein.  
Opinion by Judge Ciparick.  
Chief Judge Lippman and Judges Graffeo,  
Smith and Jones concur.  
Judge Pigott dissents and votes to  
affirm in an opinion in which Judge  
Read concurs.

1                   No. 98  
The People &c.,  
                  Respondent,  
                  v.  
Allen Albergotti,  
                  Appellant.

Order affirmed, in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

1                   No. 182   SSM 22  
In the Matter of the Estate of  
Rocky H. Aoki, Also Known as  
Hiroaki Aoki,  
                  Deceased.  
Keiko Ono Aoki,  
                  Respondent,  
                  v.  
Kana Aoki Nootenboom et al.,  
                  Appellants,  
et al.,  
                  Respondent.

On review of submissions pursuant to  
section 500.11 of the Rules (22 NYCRR  
500.11), order affirmed, with costs,  
and the certified question answered in  
the affirmative. We agree with the  
Appellate Division that Surrogate's  
Court did not abuse its discretion by  
setting a December 2009 deadline for  
the completion of discovery and  
limiting the identity and number of  
individuals to be deposed.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

4                   No. 118  
Eric Cragg, &c.,  
                  Appellant,  
                  v.  
Allstate Indemnity Corporation,  
                  Respondent,  
et al.,  
                  Defendants.

Order reversed, with costs, and case  
remitted to Supreme Court, Erie County,  
for further proceedings in accordance  
with the opinion herein.  
Opinion by Chief Judge Lippman.  
Judges Ciparick, Graffeo, Read, Smith,  
Pigott and Jones concur.

2                   No. 75  
In the Matter of Kathleen K.  
(Anonymous).  
  
Suffolk County Department of  
Social Services,  
                  Respondent;  
Steven K. (Anonymous),  
                  Appellant.  
(And Two Other Proceedings.)

Order affirmed, without costs.  
Opinion by Judge Jones.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read and Pigott  
concur.  
Judge Smith concurs in result in an  
opinion.

3                   No. 113  
The People &c.,  
                  Respondent,  
                  v.  
Alicia Lewie,  
                  Appellant.

Order, insofar as appealed from,  
modified by vacating defendant's  
conviction for reckless endangerment in  
the first degree, dismissing that count  
of the indictment and remitting to  
County Court, Warren County, for  
resentencing, and, as so modified,  
affirmed.  
Opinion by Judge Smith.  
Judges Ciparick, Graffeo, Read and  
Pigott concur.  
Judge Jones dissents in part and votes  
to modify by dismissing count seven of  
the indictment charging manslaughter in  
the second degree and by dismissing the  
count charging reckless endangerment,  
in an opinion in which Chief Judge  
Lippman concurs.

1                   No. 106  
The People &c.,  
                  Respondent,  
                  v.  
Steve Johnson,  
                  Appellant.

Order reversed and a new trial ordered,  
in a memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

1                   No. 179   SSM 19  
Ben Umeze, M.D.,  
                  Respondent,  
                  v.  
Fidelis Care New York, et al.,  
                  Appellants.

On review of submissions pursuant to  
section 500.11 of the Rules, order  
reversed, with costs, defendants'  
motion to dismiss the complaint granted  
unconditionally, and certified question  
answered in the negative, in a  
memorandum.  
Chief Judge Lippman and Judges  
Ciparick, Graffeo, Read, Smith, Pigott  
and Jones concur.

## MOTIONS

3                   Mo. No. 2011-436  
In the Matter of Maria M.  
Almonte,

                    Appellant,  
Commissioner of Labor,  
                    Respondent.

Motion for reconsideration of this  
Court's March 31, 2011 dismissal order  
denied.

3                   Mo. No. 2011-433  
In the Matter of Anonymous, An  
Applicant for Admission to the  
Bar.

Motion for reconsideration of this  
Court's February 15, 2011 dismissal  
order denied.

2                   Mo. No. 2011-364  
Baygold Associates, Inc.,  
                    Appellant,  
                    v.  
Congregation Yetev Lev of Monsey,  
Inc.,  
                    Respondent.

Motion, insofar as made by Monsey Park  
Home for Adults for leave to appeal,  
dismissed upon the ground that Monsey  
Park Home for Adults is not a party  
aggrieved (see CPLR 5511); motion,  
insofar as made by Baygold Associates,  
Inc. for leave to appeal, granted.  
Judge Jones took no part.

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Monsey Park Home for Adults,  
                    Appellant,  
                    v.  
Israel Orzel,  
                    Respondent,  
et al.,  
                    Defendants.

2                   Mo. No. 2011-350  
David Byrne, &c.,  
                    Appellant,  
                    v.  
James Collins, et al.,  
                    Defendants,  
Budget Truck Trust I Wilmington  
Trust Co., et al.,  
                    Respondents.

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

1                   Mo. No. 2011-455  
In the Matter of Jasmine Courtney  
C. et al. &c.

Sonia J.,  
                  Appellant,  
          v.  
Saint Dominic's Home,  
                  Respondent.

Motion for leave to appeal denied.

1                   Mo. No. 2011-467  
Jose Caride, et al.,  
                  Respondents,  
          v.  
Alejandro Alonso, et al.,  
                  Appellants.  
(And a Third-Party Action.)

Motion for reargument of motion for  
leave to appeal denied.

3                   Mo. No. 2011-501  
In the Matter of Marie L.  
Gentile, &c.,  
                  Appellant,  
          v.  
Sovereign Motor Cars et al.,  
                  Respondents.  
Workers' Compensation Board,  
                  Respondent.

Motion for reargument of motion for  
leave to appeal denied.

3                   Mo. No. 2011-435  
In the Matter of John Lamolli,  
                  Appellant,  
          v.  
Michael Marasa, &c.,  
                  Respondent.

Motion for leave to appeal denied.

2                   Mo. No. 2011-355  
The People &c.,  
                  Respondent,  
          v.  
Ronald J. Ledbetter,  
                  Appellant.

Motion for leave to appeal denied.

1                   Mo. No. 2011-456  
In the Matter of Michael  
Lichtman,  
                  Appellant,  
              v.  
Departmental Disciplinary  
Committee,  
                  Respondent.

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

1                   Mo. No. 2011-429  
Christine Maldonado, &c.,  
                  Appellant,  
et al.,  
                  Plaintiff,  
              v.  
Hunts Point Cooperative Market,  
Inc., et al.,  
                  Respondents,  
et al.,  
                  Defendants.

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

3                   Mo. No. 2011-482  
In the Matter of Wilson Mayo,  
                  Appellant,  
              v.  
Brian Fischer, &c., et al.,  
                  Respondents.

Motion for leave to appeal denied.

2                   Mo. No. 2011-434  
Gregory McCoy,  
                  Appellant,  
              v.  
Transport International Pool,  
Inc., &c.,  
                  Respondent.

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

3                   Mo. No. 2011-323  
In the Matter of Tyler MM.  
et al., &c.

Otsego County Department of  
Social Services,  
                    Respondent;  
Stephanie NN.,  
                    Respondent;  
Patrick OO.,  
                    Appellant.

Motion for leave to appeal denied.

4                   Mo. No. 2011-332  
Mohawk Valley Water Authority,  
                    Respondent,  
                    v.  
State of New York et al.,  
                    Defendants,  
Erie Boulevard Hydropower, L.P.,  
                    Appellant.

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

2                   Mo. No. 2011-488  
Jose Miguel Moran,  
                    Respondent,  
                    v.  
200 Varick Street Associates,  
LLC,  
                    Respondent,  
Wolff Olins, LLC et al.,  
                    Appellants.

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.

4                   Mo. No. 2011-335  
Stephen Murdoch,  
                    Appellant,  
                    v.  
Niagara Falls Bridge Commission,  
                    Respondent.

Motion for leave to appeal denied.

2                   Mo. No. 2011-454  
In the Matter of State of New  
York,  
                    Respondent,  
              v.  
Anonymous,  
                    Appellant.

Motion for leave to appeal denied.

4                   SSD 20  
Otu A. Obot,  
                    Appellant,  
              v.  
National Fuel Gas Distribution  
Coporation,  
                    Respondent.

Appeal, insofar as taken from the  
Appellate Division order that affirmed  
the February 2010 Supreme Court order,  
dismissed, without costs, by the Court  
sua sponte, upon the ground that such  
order does not finally determine the  
action within the meaning of the  
Constitution; appeal, insofar as taken  
from the Appellate Division order that  
affirmed the March 2010 Supreme Court  
order, dismissed, without costs, by  
the Court sua sponte, upon the ground  
that no substantial constitutional  
question is directly involved.

4                   SSD 19  
Otu A. Obot,  
                    Appellant,  
              v.  
Medaille College,  
                    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.

2                   Mo. No. 2011-345  
Raymond A. Powers,  
                    Respondent,  
              v.  
Catherine M. Wilson,  
                    Appellant.

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



3                   Mo. No. 2011-340  
In the Matter of Stephen UU., &c.

Motion for leave to appeal denied.

Broome County Department of  
Social Services,  
                    Respondent;  
Stephen WV.,  
                    Appellant.  
(And Another Proceeding.)

1                   Mo. No. 2011-487  
Alexandre Van Damme,  
                    Respondent,  
                    v.  
Nahum Gelber,  
                    Appellant,  
Arij Gasiunasen Fine Art of Palm  
Beach, Inc., &c.,  
                    Respondent.  
(And a Third-Party Action.)

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

2                   Mo. No. 2011-459  
Irene Zalot,  
                    Appellant,  
                    v.  
Jan Zieba, et al.,  
                    Respondents.  
(And A Third-Party Action.)

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