

June 04, 2015

**CASES**

No. 150  
Beck Chevrolet Co., Inc.,  
Appellant,  
v.  
General Motors LLC,  
Respondent.

Certification of questions by the United States Court of Appeals for the Second Circuit, pursuant to section 500.27 of this Court's Rules of Practice, accepted and the issues presented are to be considered after briefing and argument.  
Chief Judge Lippman and Judges Read, Pigott, Rivera, Abdus-Salaam, Stein and Fahey concur.

2                    No. 84  
Flushing Savings Bank, FSB,  
Appellant,  
v.  
Pierre Bitar, &c.,  
Respondent,  
et al.,  
Defendants.

Order modified, without costs, by remitting to Supreme Court, Kings County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Judge Pigott.  
Chief Judge Lippman and Judges Read, Rivera, Abdus-Salaam, Stein and Fahey concur.

4                    No. 64  
In the Matter of the Estate of Robyn R. Lewis,  
Deceased.  
  
James Robert Simmons,  
Respondent;  
Meredith M. Stewart, et al.,  
Appellants.

Orders modified, without costs, by remitting to Surrogate's Court, Jefferson County, for further proceedings in accordance with the opinion herein and, as so modified, affirmed.  
Opinion by Chief Judge Lippman.  
Judges Read, Rivera, Abdus-Salaam and Stein concur.  
Judge Pigott concurs in result in a separate concurring opinion.  
Judge Fahey took no part.

2                    No. 74  
In the Matter of Elizabeth McGovern,  
    Appellant,  
    v.  
Mount Pleasant Central School District,  
    Respondent.

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

1                    No. 81  
In the Matter of Delroy S., a Person Alleged  
to be a Juvenile Delinquent,  
    Appellant.

Order, insofar as appealed from, reversed, without  
costs, and matter remitted to Family Court, Bronx  
County, for further proceedings in accordance with  
the memorandum herein.  
Chief Judge Lippman and Judges Read, Pigott,  
Rivera, Abdus-Salaam, Stein and Fahey concur.

2                    No. 82  
The People &c. ex rel. Bourlaye T.,  
    Appellant,  
    v.  
William J. Connolly, &c.,  
    Respondent.

Order affirmed, without costs, in a memorandum.  
Chief Judge Lippman and Judges Read, Pigott,  
Rivera, Abdus-Salaam, Stein and Fahey concur.

1                    No. 149 SSM 12  
Calvin E. Thomas,  
    Respondent,  
    v.  
New York City Housing Authority,  
    Appellant.

On review of submissions pursuant to section 500.11  
of the Rules, order reversed, with costs, case remitted  
to the Appellate Division, First Department, for  
consideration of issues raised but not determined on  
the appeal to that court, and certified question  
answered in the negative. The allegations in the  
notice of claim were not sufficient to put defendant  
on notice of the allegations in the bill of particulars  
concerning the handrail.  
Chief Judge Lippman and Judges Read, Pigott,  
Rivera, Abdus-Salaam, Stein and Fahey concur.

**MOTIONS**

4                    SSD 22  
In the Matter of Diana Sachs Aylward, et al.,  
    Respondents,  
    v.  
Assessor, City of Buffalo, et al.,  
    Appellants.

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.  
Judge Fahey took no part.

2                    Mo. No. 2015-512  
The People &c.,  
    Respondent,  
    v.  
Anthony Badalamenti,  
    Appellant.

Motion for assignment of counsel granted and Marianne Karas, Esq., 980 Broadway, Suite 324, Thornwood, NY 10594 assigned as counsel to the appellant on the appeal herein.

                          Mo. No. 2015-601  
The People &c.,  
    Respondent,  
    v.  
Curtis Basile,  
    Appellant.

Motion by Animal Legal Defense Fund et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

3                    SSD 21  
In the Matter of Anthony Bottom, &c.,  
    Appellant,  
    v.  
Anthony J. Annucci, &c., et al.,  
    Respondents.

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

2 Mo. No. 2015-597  
The People &c.,  
Respondent,  
v.  
Alma Caldavado,  
a/k/a Alma Calderaro,  
Appellant.

Motion by Innocence Network for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Three copies of the brief must be served and an original and nine copies filed within seven days.

4 Mo. No. 2015-185  
Tremain Cason,  
Appellant,  
v.  
Kirby Sy Smith et al.,  
Respondents.

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 where the appeal to the Appellate Division was from an order entered on an appeal from another court (see NY Const, art VI, § 3[b] [7]; CPLR 5602[a]).

1 Mo. No. 2015-598  
CRP/Extell Parcel I, L.P.,  
Respondent,  
v.  
Andrew M. Cuomo, &c., et al.,  
Respondents,  
3to4, LLC, et al.,  
Appellants.

Motion for a stay denied.

2 Mo. No. 2015-629  
Edwin Davis et al.,  
Appellants,  
v.  
South Nassau Communities Hospital, et al.,  
Respondents.

Motion by Healthcare Association of New York State, Inc. for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed.

3                    Mo. No. 2015-438  
In the Matter of Entergy Nuclear Operation,  
Inc., et al.,  
      Respondents,  
      v.  
New York State Department of State et al.,  
      Appellants.

Motion for leave to appeal granted.

3                    Mo. No. 2015-523  
In the Matter of Entergy Nuclear Operation,  
Inc., et al.,  
      Respondents,  
      v.  
New York State Department of State et al.,  
      Appellants.

Motion by Riverkeeper, Inc., et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.

3                    Mo. No. 2015-563  
The People &c.,  
      Respondent,  
      v.  
Glenford C. Hull,  
      Appellant.

Motion for assignment of counsel granted and Jonathan I. Edelstein, Esq., c/o Edelstein & Grossman, 501 Fifth Avenue, Suite 514, New York, NY 10017 assigned as counsel to the appellant on the appeal herein.  
Judge Stein took no part.

3                    Mo. No. 2015-565  
The People &c.,  
      Respondent,  
      v.  
Eric A. Jackson,  
      Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.

4                    Mo. No. 2015-443  
The People &c. ex rel. Adam A. Jamison,  
Appellant,  
v.  
Harold D. Graham, &c.,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judges Abdus-Salaam and Fahey took no part.

1                    Mo. No. 2015-562  
The People &c.,  
Respondent,  
v.  
Ronel Joseph,  
Appellant.

Motion for assignment of counsel granted and  
Richard M. Greenberg, Esq., Office of the Appellate  
Defender, 11 Park Place, Suite 1601, New York, NY  
10007 assigned as counsel to the appellant on the  
appeal herein.

2                    SSD 20  
In the Matter of V. Anthony Maggipinto, an  
Attorney and Counselor-at-Law.

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

Grievance Committee for the Tenth Judicial  
District,  
Respondent;  
V. Anthony Maggipinto,  
Appellant.

1                    Mo. No. 2015-617  
The People &c.,  
Respondent,  
v.  
Patrick Morgan,  
Appellant.

Motion for assignment of counsel granted and Robert  
S. Dean, Esq., Center for Appellate Litigation, 120  
Wall Street, 28th Floor, New York, NY 10005  
assigned as counsel to the appellant on the appeal  
herein.

4 Mo. No. 2015-537  
The People &c.,  
Respondent,  
v.  
Timothy Muldrow,  
Appellant.

Motion for an extension of the time within which to apply for permission to appeal pursuant to CPL 460.20 granted and motion papers treated as a timely CPL 460.20 application.  
Judge Fahey took no part.

2 Mo. No. 2015-437  
The People &c. ex rel. Jevon Micheal Myers,  
Appellant,  
v.  
Warden, Anna M. Kross Center, &c.,  
Respondent.

Motion for leave to appeal denied.

3 SSD 19  
In the Matter of Luis Pena,  
Appellant,  
v.  
New York State Gaming Commission,  
Respondent.  
(And Another Proceeding.)

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

1 SSD 23  
In the Matter of Platinum Pleasures of NY,  
Inc.,  
Respondent,  
v.  
New York State Liquor Authority,  
Appellant.

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.

1 Mo. No. 2015-658  
Richard Rivera, et al.,  
Appellants,  
v.  
Fernandez & Ulloa Auto Group,  
et al.,  
Respondents.

Motion by New York State Trial Lawyers Association for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed.

3                   SSD 18  
In the Matter of Tatiana Soubotin,  
Appellant.  
  
Commissioner of Labor,  
Respondent.

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

3                   Mo. No. 2015-591  
In the Matter of County of St. Lawrence,  
Respondent,  
v.  
Nirav R. Shah, &c., et al.,  
Appellants.  
(And Two Other Related Proceedings.)

Motion for a stay denied as unnecessary. The automatic stay provisions of CPLR 5519(a)(1) apply. Judges Stein and Fahey took no part.

3                   Mo. No. 2015-581  
The People &c.,  
Respondent,  
v.  
Steve Williamson,  
Appellant.

Motion for disclosure denied (see Rules of Ct of Appeals [22 NYCRR] § 510.18[a]).