

October 17, 2017

CASES

No. 103

In the Matter of the Hon. J. Marshall Ayres, a
Justice of the Conklin Town Court, Broome
County.

Hon. J. Marshall Ayres,
Petitioner,
New York State Commission on Judicial
Conduct,
Respondent.

Determined sanction accepted, without costs, and J.
Marshall Ayres is removed from the office of Justice
of the Conklin Town Court, Broome County.
Opinion Per Curiam.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

3 No. 90

In the Matter of Pamela A. Madeiros,
Appellant,
v.
New York State Education Department et al.,
Respondents.

Order modified, without costs, by remitting to
Supreme Court, Albany County, for further
proceedings in accordance with the opinion herein
and, as so modified, affirmed.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Rivera, Fahey,
Garcia, Wilson and Feinman concur.

No. 104

Kathleen Makinen et al.,
Respondents,
v.
City of New York, et al.,
Appellants.

Following certification of a question by the United
States Court of Appeals for the Second Circuit and
acceptance of the question by this Court pursuant to
section 500.27 of the Rules of Practice of the New
York State Court of Appeals, and after hearing
argument by counsel for the parties and consideration
of the briefs and record submitted, certified question
answered in the affirmative.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Rivera, Wilson and
Feinman concur.
Judge Garcia dissents and votes to answer the
certified question in the negative, in an opinion in
which Judge Stein concurs.

3 No. 93
In the Matter of City of Schenectady,
 Appellant,
 v.
New York State Public Employment
Relations Board et al.,
 Respondents.

Order reversed, with costs, petition granted and
determination of respondent New York State Public
Employment Relations Board annulled.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia and Feinman concur.

4 No. 139 SSM 25
The People &c.,
 Respondent,
 v.
John R. Simmons,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey,
Garcia, Wilson and Feinman concur.

MOTIONS

1 Mo. No. 2017-761
915 2nd Pub, Inc. &c. et al.,
Appellants,
v.
QBE Insurance Corporation,
Respondent.

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

4 Mo. No. 2017-833
In the Matter of Jayla A., et al.

Motion for leave to appeal denied.

Erie County Department of Social Services,
Respondent;
Chelsea K.,
Respondent;
Isaac C.,
Appellant.

4 Mo. No. 2017-722
In the Matter of Anthony Allen,
Appellant,
v.
Tamara Boswell,
Respondent.

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

4 Mo. No. 2017-804
In the Matter of Colton B.

Motion for leave to appeal denied.

Genesee County Department of Social
Services,
Respondent;
Cody A.B.,
Appellant.

2 Mo. No. 2017-837
In the Matter of Eliot F. Bloom, a suspended
attorney.

Eliot F. Bloom,
Appellant.

2 Mo. No. 2017-758
Board of Managers of the 125 North 10th
Condominium,
Appellant,
v.
125North10, LLC, &c., et al.,
Respondents,
et al.,
Defendants.
(And Third-Party Actions.)

1 Mo. No. 2017-764
Stephane Cosman Connery et al.,
Respondents,
v.
Burton S. Sultan,
Appellant.

4 Mo. No. 2017-937
Charles B. Cummings,
Respondent,
v.
Robert W. Manville,
Appellant.

Motion for leave to appeal denied.

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.

Motion for reargument of motion for leave to appeal
denied.
Judge Feinman took no part.

Motion to dismiss appeal granted and appeal
dismissed, with four hundred dollars costs and one
hundred dollars costs of motion, upon the ground
that the order appealed from does not finally
determine the action within the meaning of the
Constitution.

4 Mo. No. 2017-832
In the Matter of Lasondra D.

Wyoming County Department of Social
Services,
Respondent;
Cassandra D.,
Respondent,
Victor S.,
Appellant.

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

2 Mo. No. 2017-780
In the Matter of Michael D.

Suffolk County Department of Social
Services,
Respondent;
Michael D.,
Appellant.
(And Another Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2017-773
In the Matter of Zoey D.

Administration for Children's Services,
Respondent;
Simona D.,
Appellant,
et al.,
Respondent.

Motion for leave to appeal denied.

3 Mo. No. 2017-741
In the Matter of Kenneth J. Deck,

Respondent,
v.
Darin M. Dorr, &c., et al.,
Appellants.
Workers' Compensation Board,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2017-729
Deutsche Bank National Trust Company, &c.,
Appellant,
v.
Unknown Heirs of the Estate of Serge Souto,
et al.,
Defendants,
Royal Blue Realty Holdings, Inc.,
Respondent.
(Index No. 850119/15)

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for ancillary relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-730
Deutsche Bank National Trust Company, &c.,
Appellant,
v.
Unknown Heirs of the Estate of Serge Souto,
et al.,
Defendants,
Royal Blue Realty Holdings, Inc.,
Respondent.
(Index No. 850120/15)

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for ancillary relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-731
Deutsche Bank National Trust Company, &c.,
Appellant,
v.
Royal Blue Realty Holdings, Inc.,
Respondent,
John Souto, &c., et al.,
Defendants.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Motion for ancillary relief dismissed as academic.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-693
The People &c. ex rel. Michelle Fox, on
behalf of Samy Martinez-Jacquez,
Appellant,
v.
Joseph Ponte, &c.,
Respondent.

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

4 Mo. No. 2017-753
In the Matter of Michael A. Gurnett,
Appellant,
v.
James F. Bargnesi, &c.,
Respondent.

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

3 Mo. No. 2017-907
The People &c.,
Appellant,
v.
Brian Hakes,
Respondent.

Motion to vacate this Court's August 14, 2017
dismissal order granted.

4 Mo. No. 2017-799
In the Matter of Lori D. Holmes,
Appellant,
v.
Otis L. Simmons, Jr.,
Respondent.

Motion for leave to appeal, insofar as it relates to
D.S., dismissed upon the ground that the issues
presented have become moot; motion for leave to
appeal otherwise denied.

1 Mo. No. 2017-760
Indigo Secured High Income Note, Ltd.,
Respondent,
v.
HCI Secured Medical Receivables Special
Purpose Corporation, et al.,
Defendants,
Steven Nitsberg,
Appellant.

Motion for reargument of motion for leave to appeal
denied.
Judge Feinman took no part.

2 Mo. No. 2017-654
In the Matter of State of New York,
 Respondent,
 v.
Wayne J. (Anonymous),
 Appellant.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]).
Chief Judge DiFiore took no part.

4 Mo. No. 2017-812
In the Matter of Akayla M.

Motion for leave to appeal denied.

Onondaga County Department of Children
and Family Services,
 Respondent;
Marie M., &c.,
 Appellant.
(And Another Proceeding.)

1 Mo. No. 2017-718
In the Matter of Margot M.,
 Appellant,
 v.
Chante T. et al.,
 Respondents.

Motion for leave to appeal dismissed as untimely
(see CPLR 5513[b]).
Motion for poor person relief dismissed as academic.
Judge Feinman took no part.

3 Mo. No. 2017-793
In the Matter of Dawn N.,
 Appellant,
 v.
Schenectady County Department of Social
Services et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2017-606
Niagara Mohawk Power Corporation, &c.,
 Respondent,
 v.
Allied Healthcare Products, Inc.,
 Appellant,
Albany Engineering Corporation,
 Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2017-813
In the Matter of Kimberly O.,
 Respondent,
 v.
Jahed M.,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2017-798
In the Matter of William O.,
 Appellant,
 v.
John A. et al.,
 Respondents,
et al.,
 Respondent.
(And Another Related Proceeding.)

Motions for leave to appeal denied.
Judge Stein took no part.

In the Matter of William O.,
 Appellant,
 v.
Wanda A. et al.,
 Respondents.
(And Another Related Proceeding.)

1 Mo. No. 2017-768
In the Matter of Catherina Park et al.,
 Appellants,
 v.
New York State Division of Housing and
Community Renewal 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 proceeding within the
meaning of the Constitution.
Judge Feinman took no part.

2 Mo. No. 2017-894
In the Matter of Kendrick Pena,
 Appellant,
 v.
Elizabeth Cordero,
 Respondent.
(And Another Proceeding.)

Motion for leave to appeal denied.

4 Mo. No. 2017-792
In the Matter of Verion Pierce, Sr.,
 Respondent,
 v.
Deborah J. Pierce,
 Appellant.

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

2 Mo. No. 2017-875
In the Matter of J.R.

Rockland County Department of Social
Services,
 Respondent;
Paul B.,
 Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2017-755
In the Matter of Luis Rosales,
 Appellant,
 v.
Anthony J. Annucci, &c., et al.,
 Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2017-748
In the Matter of Michael Rydstrom,
 Appellant,
 v.
Precision Carpentry of Westchester, Inc. et
al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

1 Mo. No. 2017-735
Sung Hwan Co., Ltd.,
 Appellant,
 v.
Rite Aid Corporation,
 Respondent.

Motion for leave to appeal denied.
Judge Rivera took no part.

1 Mo. No. 2017-766
In the Matter of Marcus Sykes,
 Respondent,
 v.
City of New York, et al.,
 Appellants.

Motion for reargument of motion for leave to appeal
denied.
Judge Feinman took no part.

3 Mo. No. 2017-781
Deborah J. Taylor, &c., et al.,
 Respondents,
 v.
Marc C. Casolo,
 Respondent,
Wilderness Capital Group, Ltd., et al.,
 Appellants,
et al.,
 Defendants.

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.
Motion for a stay dismissed as academic.

3 Mo. No. 2017-704
In the Matter of W.M. Schultz Construction,
Inc., et al.,
 Respondents,
 v.
Mario J. Musolino, &c.,
 Appellant.
(And Another Related Proceeding.)

Motion for leave to appeal denied.

2 Mo. No. 2017-711
In the Matter of Eric G. Witherspoon,
 Appellant,
 v.
William J. Condon, &c.,
 Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2017-749
The People &c.,
 Respondent,
 v.
Fred Yearwood,
 Appellant.

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

4 Mo. No. 2017-797
In the Matter of John F. Young,
 Appellant,
 v.
Merry L. Rios,
 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.