

October 19, 2017

CASES

1 No. 97
The People &c.,
 Respondent,
 v.
Peter Austin,
 Appellant.

Order reversed and a new trial ordered.
Opinion by Chief Judge DiFiore.
Judges Rivera, Stein, Fahey, Wilson and Feinman
concur.
Judge Garcia concurs in result in a separate
concurring opinion.

1 No. 101
The People &c.,
 Respondent,
 v.
Vilma Bautista,
 Appellant.

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

4 No. 95
The People &c.,
 Respondent,
 v.
James L. Carr,
 Appellant.

Order affirmed, in a memorandum.
Chief Judge DiFiore and Judges Rivera, Stein,
Garcia, Wilson and Feinman concur.
Judge Fahey took no part.

2 No. 98
Excess Line Association of New York
(ELANY),
 Appellant,
 v.
Waldorf & Associates, et al.,
 Respondents,
et al.,
 Defendants.

Order, insofar as appealed from, affirmed, with costs.
Opinion by Judge Stein.
Chief Judge DiFiore and Judges Fahey, Garcia,
Wilson and Feinman concur.
Judge Rivera took no part.

1 No. 92
Princes Point LLC, &c.,
 Appellant,
 v.
Muss Development L.L.C., et al.,
 Respondents,
et al.,
 Defendant.

Order reversed, with costs, motion by defendants
Allied Princes Bay Co., Allied Princes Bay Co. #2,
L.P., Muss Development L.L.C. and Joshua L. Muss
for partial summary judgment on the third
counterclaim denied, and certified question answered
in the negative.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Rivera, Stein, Garcia
and Wilson concur.
Judge Feinman took no part.

MOTIONS

2 Mo. No. 2017-811
The People &c.,
 Respondent,
 v.
Darrin Allen,
 Appellant.

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

3 Mo. No. 2017-840
In the Matter of Talib Alsaifullah,
 Appellant,
 v.
New York State Legislature, &c.,
 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.

2 Mo. No. 2017-836
In the Matter of Hamilcar Barca,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 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 poor person relief dismissed as academic.

1 Mo. No. 2017-802
The People &c.,
 Respondent,
 v.
Anthony Beaker,
 Appellant.

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

3 Mo. No. 2017-830
In the Matter of Nilda Casiano,
 Appellant.
Commissioner of Labor,
 Respondent.
(App. Div. No. 514617)

In the Matter of Nilda E. Casiano,
 Appellant.
Commissioner of Labor,
 Respondent.
(App. Div. No. 519520)

3 Mo. No. 2017-826
Kevin Checksfield,
 Appellant,
 v.
Stefan D. Berg,
 Respondent.

3 Mo. No. 2017-783
In the Matter of Guy Cozzi,
 Appellant,
 v.
American Stock Exchange et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

4 Mo. No. 2017-808
Patricia J. Curto,
 Appellant,
 v.
New York Law Journal et al.,
 Respondents.

Motion for reargument of motion for leave to appeal
denied.
Judges Stein and Feinman took no part.

Motion for reargument denied.
Judge Feinman took no part.

Motion, insofar as it seeks leave to appeal from the
June 2017 Appellate Division order denying
reconsideration, dismissed upon the ground that such
order does not finally determine the proceeding
within the meaning of the Constitution; motion,
insofar as it seeks leave to appeal from the March
2017 Appellate Division order, dismissed as
untimely (see CPLR 5513[b]).

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

3 Mo. No. 2017-810
In the Matter of Evelyn EE.,
 Appellant,
 v.
Lorraine B.,
 Respondent.

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

3 Mo. No. 2017-772
In the Matter of Bernabe Encarnacion,
 Appellant,
 v.
Anthony J. Annucci, &c.,
 Respondent.

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

1 Mo. No. 2017-1028
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

Motion by American Academy of Pediatrics, et al.
for leave to file a brief amici curiae on the appeal
herein granted and the proposed brief is accepted as
filed.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

1 Mo. No. 2017-1030
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

1 Mo. No. 2017-1031
In the Matter of The Friends of P.S. 163, Inc.,
et al.,
 Appellants,
 v.
Jewish Home Lifecare, Manhattan,
 Respondent,
New York State Department of Health, et al.,
 Respondents.

In the Matter of Daisy Wright, et al.,
 Appellants,
 v.
New York State Department of Health, et al.,
 Respondents,
Jewish Home Lifecare, Manhattan,
 Respondent.

Motion by Gale Brewer, Manhattan Borough
President, 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 within seven days.

Motion by Cardozo Bet Tzedek Legal Services et al.
for leave to file a brief amici curiae on the appeal
herein granted and the proposed brief is accepted as
filed.

1 Mo. No. 2017-771
Gary K. Gaines,
Appellant,
v.
1840 7th Avenue Housing Development Fund
Corporation,
Respondent.

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

Mo. No. 2017-1026
Global Reinsurance Corporation of America,
successor in interest to Constitution
Reinsurance Corporation,
Respondent,
v.
Century Indemnity Company, successor in
interest to CCI Insurance Company, successor
in interest to Insurance Company of North
America,
Appellant.

Motion by Continental Casualty Company, et al. for
leave to file a brief amici curiae on consideration of
the certified question herein granted and the
proposed brief is accepted as filed. Two copies of
the brief must be served and an original and nine
copies filed within seven days.

Mo. No. 2017-1032
Global Reinsurance Corporation of America,
successor in interest to Constitution
Reinsurance Corporation,
Respondent,
v.
Century Indemnity Company, successor in
interest to CCI Insurance Company, successor
in interest to Insurance Company of North
America,
Appellant.

Motion by Aon Benfield U.S., et al. for leave to
appear amici curiae on consideration of the certified
question herein granted only to the extent that the
proposed brief and addendum are accepted as filed.

1 Mo. No. 2017-774
The People &c.,
Respondent,
v.
William Green,
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2017-785
IDT Corporation,
Appellant,
v.
Morgan Stanley Dean Witter & Co. et al.,
Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Chief Judge DiFiore and Judge Wilson took no part.

3 Mo. No. 2017-767
Jeda Capital-Lenox, LLC,
Appellant,
v.
State of New York,
Respondent.

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

1 Mo. No. 2017-1029
In the Matter of the People &c.,
Appellant,
v.
Conrado Juarez,
Defendant.
Frances Robles,
Nonparty Respondent.

Motion by Reporters Committee for Freedom of the Press, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed.

2 Mo. No. 2017-754
Susan Newman Loehr,
Respondent,
v.
New York State Unified Court System, et al.,
Appellants.

Motion for leave to appeal denied.
Chief Judge DiFiore took no part.

2 Mo. No. 2017-1004
The People &c.,
Respondent,
v.
Rohan Manragh, Jr.,
Appellant.

Motion for assignment of counsel granted and Thomas E. Scott, Esq., 115 Broadhollow Road, Suite 250, Melville, NY 11747 assigned as counsel to the appellant on the appeal herein.

2 Mo. No. 2017-791
Medical Arts-Huntington Realty, LLC,
 Respondent,
 v.
Meltzer Rosenberg Development, LLC, et al.,
 Appellants,
et al.,
 Defendants.

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

1 Mo. No. 2017-790
In the Matter of Frances Meyers,
 Appellant,
 v.
Department of Education of the City of New
York, et al.,
 Respondents.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.
Judge Feinman took no part.

2 Mo. No. 2017-784
In the Matter of William Mitchell,
 Appellant,
 v.
Richard M. Ambro, &c., et al.,
 Respondents.

Motion to vacate this Court's July 5, 2017 dismissal order denied.

3 Mo. No. 2017-851
In the Matter of Jose Pagan,
 Appellant,
 v.
Donald Venettozzi, &c.,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2017-1027
In the Matter of Prometheus Realty Corp., et
al.,
Respondents,
v.
New York City Water Board, et al.,
Appellants.

Motion by Natural Resources Defense Council 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.

1 Mo. No. 2017-795
Daniel Santos,
Appellant,
v.
Daniello Carting Co., LLC et al.,
Respondents.

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

4 Mo. No. 2017-796
In the Matter of Theresa A. Schillaci, et al.,
Appellants,
v.
Village of Sackets Harbor Zoning Board of
Appeals, et al.,
Respondents.

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

2 Mo. No. 2017-794
Bonnie Swanson et al.,
Appellants,
v.
Allstate Insurance Company,
Respondent.

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

4 Mo. No. 2017-807
Timothy Taggart,
Appellant,
v.
Margaret Fandel et al.,
Respondents.

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

1 Mo. No. 2017-828
The People &c.,
Respondent,
v.
Brian Tuitt,
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2017-819
The People &c.,
Respondent,
v.
Douglas Warren,
Appellant.

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

4 Mo. No. 2017-1007
Eric White et al.,
Appellants,
v.
Eric T. Schneiderman, &c. et al.,
Respondents.

Motion by Seneca Nation of Indians, et al. for leave to file a brief amici curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and an original and nine copies filed within seven days.

4 Mo. No. 2017-1012
Eric White et al.,
Appellants,
v.
Eric T. Schneiderman, &c. et al.,
Respondents.

Motion by Cayuga Nation for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served and an original and nine copies filed within seven days.

1 Mo. No. 2017-1010
The People &c.,
Respondent,
v.
Reginald Wiggins,
Appellant.

Motion by New York State Association of Criminal Defense Lawyers 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.