

February 15, 2018

CASES

1 No. 5
In the Matter of Jonas Aponte,
 Respondent,
 v.
Shola Olatoye, &c., et al.,
 Appellants.

Order reversed, without costs, and order of Supreme Court, New York County, reinstated.
Opinion by Judge Wilson.
Chief Judge DiFiore and Judges Stein, Fahey, Garcia and Feinman concur.
Judge Rivera concurs in result in an opinion.

1 No. 8
Dormitory Authority of the State of New
York, et al.,
 Respondents,
 v.
Samson Construction Co., &c., et al.,
 Defendants,
Perkins Eastman Architects, P.C.,
 Appellant.

Order reversed, with costs, and defendant Perkins Eastman Architects, P.C.'s motion, insofar as it sought summary judgment dismissing the fifth cause of action for breach of contract and dismissing the sixth cause of action for negligence, granted and certified question answered in the negative.
Opinion by Chief Judge DiFiore.
Judges Stein, Fahey, Garcia and Feinman concur.
Judge Wilson dissents in part in an opinion, in which Judge Rivera concurs in part in a separate dissenting opinion.

(And other actions)

4 No. 7
Darlene M. Lohnas,
 Respondent,
 v.
Frank A. Luzi, Jr., M.D. et al.,
 Appellants.

Order, insofar as appealed from, affirmed, with costs, and certified question answered in the affirmative.
Opinion by Judge Garcia.
Judges Rivera, Fahey and Feinman concur.
Judge Wilson dissents in an opinion, in which Chief Judge DiFiore and Judge Stein concur.

2 No. 6
The People &c.,
 Appellant,
 v.
Casimiro Reyes,
 Respondent.

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

1 No. 15
The People &c.,
 Respondent,
 v.
Reginald Wiggins,
 Appellant.

Order reversed and indictment dismissed.
Opinion by Judge Fahey.
Judges Rivera, Stein and Wilson concur.
Chief Judge DiFiore dissents in an opinion, in which Judges Garcia and Feinman concur.

MOTIONS

1 Mo. No. 2018-152
In the Matter of Manuel P.A.,
 Appellant,
 v.
Emilie B.,
 Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution. 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. Chief Judge DiFiore took no part.

1 Mo. No. 2018-211
Richard Altman,
 Respondent,
 v.
285 West Fourth LLC,
 Appellant.

Motion by Urban Justice Center, 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, an original and nine copies filed, and the brief submitted in digital format within seven days.

1 Mo. No. 2018-219
Richard Altman,
 Respondent,
 v.
285 West Fourth LLC,
 Appellant.

Motion by Rent Stabilization Association of New York City, Inc., 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, an original and nine copies filed, and the brief submitted in digital format within seven days.

1 Mo. No. 2018-220
Richard Altman,
 Respondent,
 v.
285 West Fourth LLC,
 Appellant.

Motion by Make the Road New York et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. The brief must be submitted in digital format within seven days.

1 Mo. No. 2018-61
In the Matter of Manuel P. Asensio,
 Appellant,
 v.
Nancy M. Bannon,
 Respondent.
(AD No. O.P. 124/17)

On the Court's own motion, appeals dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for a stay dismissed as academic. Chief Judge DiFiore took no part.

In the Matter of Manuel P. Asensio,
 Appellant,
 v.
Nancy M. Bannon,
 Respondent.
(AD No. O.P. 125/17)

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

1 Mo. No. 2018-136
In the Matter of Manuel P. Asensio,
 Appellant,
 v.
Nancy M. Bannon,
 Respondent.
(AD No. O.P. 125/17)

On the Court's own motion, appeal dismissed, without costs, upon the ground that no substantial constitutional question is directly involved. Motion for leave to appeal denied. Chief Judge DiFiore took no part.

1 Mo. No. 2018-143
In the Matter of Manuel Asensio,
 Appellant,
 v.
Lawrence J. Marks, &c.,
 Respondent.
(AD No. O.P. 130/2017)

1 Mo. No. 2018-150
In the Matter of Manuel P. Asensio,
Appellant,
v.
Nancy M. Bannon,
Respondent.
(AD No. O.P. 124/2017)

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

1 Mo. No. 2018-151
In the Matter of Manuel P. Asensio,
Appellant,
v.
Adetokunbo Fasanya,
Respondent.
(New York County Index No. 155833/17)

On the Court's own motion, appeal dismissed,
without costs, upon the ground that the order
appealed from does not finally determine the
proceeding within the meaning of the Constitution.
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.
Chief Judge DiFiore took no part.

1 Mo. No. 2017-1165
Centre Lane Partners, LLC, et al.,
Appellants,
v.
Skadden, Arps, Slate, Meagher & Flom LLP,
et al.,
Respondents.

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

2 Mo. No. 2018-215
Contact Chiropractic, P.C., as Assignee of
Girtha Butler,
Respondent,
v.
New York City Transit Authority,
Appellant.

Motion by City of New York for leave to file a brief
amicus curiae on the appeal herein granted and the
proposed brief is accepted as filed. The brief must
be submitted in digital format within seven days.

4 SSD 10
In the Matter of the Accounting by Donald K.
Czeizinger, as Administrator of the Estate of
Frederick D. Czeizinger, Deceased,
 Respondent.

Tina Chambliss-Partee,
 Appellant;

Robert F. Baldwin, Jr., Guardian Ad Litem of
Frederick Donald Czeizinger, Deceased,
 Respondent.

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

1 Mo. No. 2017-1088
In the Matter of Maria-Irene D.

Carlos A.,
 Appellant,
Marco D.,
 Appellant,
 v.
Han Ming T.,
 Respondent.

Motion for leave to appeal denied.
Motion for a stay dismissed as academic.

2 Mo. No. 2018-103
The People &c.,
 Respondent,
 v.
Emmanuel Diaz,
 Appellant.

Motion by The Legal Aid Society 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, an original
and nine copies filed, and the brief submitted in
digital format within seven days.

2 Mo. No. 2018-119
The People &c.,
Respondent,
v.
Emmanuel Diaz,
Appellant.

Motion by JustLeadershipUSA, et al. for leave to appear amici curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

2 Mo. No. 2018-127
The People &c.,
Respondent,
v.
Emmanuel Diaz,
Appellant.

Motion by Brooklyn Defender Services, et al. for leave to file a brief amici curiae on the appeals herein granted and the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.

The People &c.,
Respondent,
v.
Ali Cisse,
Appellant.

2 Mo. No. 2017-1104
Galopy Corporation International, N.V.,
Appellant,
v.
Deutsche Bank, A.G.,
Respondent.

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

4 Mo. No. 2018-16
The People &c.,
Respondent,
v.
Jeffrey D. Gibson,
Appellant.

Motion for reargument dismissed as untimely (see Rules of Ct of Appeals [22 NYCRR] § 500.24[b]). Judge Fahey took no part.

3 Mo. No. 2018-167
In the Matter of Mason H., &c.

Broome County Department of Social
Services,
Respondent;
Joseph H.,
Appellant.

Motion for assignment of an attorney for the child
granted and the following is assigned as attorney for
the child on this appeal: John A. Cirando, Esq., c/o
D.J. & J.A. Cirando, Esqs., 101 South Salina Street,
Syracuse, NY 13202-1350.

2 Mo. No. 2018-12

The People &c.,
Respondent,
v.
Lathanial MacCoy,
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-10

Frank Maki,
Appellant,
v.
Bassett Healthcare et al.,
Respondents.

Motion for reconsideration of this Court's November
16, 2017 dismissal order denied.

2 Mo. No. 2018-192
In the Matter of Marine Holdings, LLC, &c.
et al.,

Respondents,
v.
New York City Commission on Human
Rights,
Appellant,
et al.,
Respondent.

Motion by Mobilization for Justice, Inc., et al. for
leave to appear amici curiae on the appeal herein
granted only to the extent that the proposed brief is
accepted as filed. Two copies of the brief must be
served, an original and nine copies filed, and the
brief submitted in digital format within seven days.
Judge Rivera took no part.

2 Mo. No. 2018-195
In the Matter of Marine Holdings, LLC, &c.
et al.,
Respondents,
v.
New York City Commission on Human
Rights,
Appellant,
et al.,
Respondent.

2 Mo. No. 2018-217
In the Matter of Marine Holdings, LLC, &c.
et al.,
Respondents,
v.
New York City Commission on Human
Rights,
Appellant,
et al.,
Respondent.

1 Mo. No. 2018-76
In the Matter of Frank Mestecky,
Appellant,
v.
City of New York, et al.,
Respondents.

Motion by Disability Rights New York for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. Two copies of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.
Judge Rivera took no part.

Motion by Cuti Hecker Wang LLP, 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, an original and nine copies filed, and the brief submitted in digital format within seven days.
Judge Rivera took no part.

Motion for reargument denied with one hundred dollars costs and necessary reproduction disbursements.

4 Mo. No. 2017-1194
In the Matter of Cory Moreno,
 Respondent,
 v.
Jan Elliott,
 Appellant.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order as affirmed that part of the Family Court order adjudging appellant in contempt, dismissed upon the ground that such portion of the order does not finally determine the proceeding within the meaning of the Constitution; motion for leave to appeal otherwise denied.
Motion for poor person relief dismissed as academic.

2 Mo. No. 2018-6
The People &c.,
 Respondent,
 v.
Domingo Munoz,
 Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2017-1134

Yukon Shoulars,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Michael Ancrum,
Appellant,
v.
St. Barnabus Hospital,
Respondent.

Joseph Kennedy,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Jacques Sterlin,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Allison Sparks, Jr.,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Daniel Rice,
Appellant,
v.
St. Barnabas Hospital,
Respondent.

Motion, insofar as made by appellant Allison Sparks, Jr. for leave to appeal, dismissed upon the ground that as to that appellant the order sought to be appealed from does not finally determine that action within the meaning of the Constitution; motion by the remaining appellants for leave to appeal otherwise denied.

2 Mo. No. 2017-1125
In the Matter of Subway Surface Supervisors
Association,
 Appellant,
 v.
New York City Transit Authority et al.,
 Respondents.

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

4 Mo. No. 2017-1108
In the Matter of the Eighth Judicial District
Asbestos Litigation.

Motion for leave to appeal granted.

Donald J. Terwilliger, &c.,
 Appellant,
 v.
Beazer East, Inc., &c., et al.,
 Defendants,
Honeywell International, Inc., &c.,
 Respondent.

1 Mo. No. 2017-1154
Debra Todres,
 Respondent,
 v.
Andrew Freifeld,
 Appellant.
Bruce A. Yerman,
 Nonparty Respondent.

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

3 Mo. No. 2018-154
The People &c.,
 Respondent,
 v.
Steven P. Wolcott,
 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.