

June 27, 2018

**CASES**

1                    No. 79  
Ambac Assurance Corporation, et al.,  
    Appellants,  
    v.  
Countrywide Home Loans, Inc., et al.,  
    Respondents,  
Bank of America Corp.,  
    Defendant.

Order, insofar as appealed from, affirmed, with costs,  
and certified question answered in the affirmative.  
Opinion by Judge Garcia.  
Judges Stein, Fahey, Wilson and Feinman concur.  
Judge Rivera dissents in part in an opinion.  
Chief Judge DiFiore took no part.

1                    No. 58  
In the Matter of the People &c.,  
    Appellant,  
    v.  
Conrado Juarez,  
    Defendant.  
Frances Robles,  
    Nonparty Respondent.

Order reversed, without costs, and case remitted to  
the Appellate Division, First Department, with  
directions to dismiss the appeal to that court, in a  
memorandum.  
Chief Judge DiFiore and Judges Stein, Garcia and  
Feinman concur.  
Judge Rivera dissents in an opinion in which Judge  
Wilson concurs.  
Judge Fahey dissents in a separate dissenting opinion  
in which Judge Wilson concurs.

4                    No. 78  
The People &c.,  
    Respondent,  
    v.  
Steven Myers,  
    Appellant.

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

1                    No. 80  
Jeanetta Stega, &c.,  
                  Appellant,  
et al.,  
                  Plaintiff,  
          v.  
New York Downtown Hospital, et al.,  
                  Respondents,  
et al.,  
                  Defendants.

Order reversed, with costs, the CPLR 3211 motion of defendants New York Downtown Hospital and Stephen G. Friedman, M.D., insofar as it sought to dismiss the defamation claim as against them, denied, and certified question answered in the negative.  
Opinion by Judge Fahey.  
Judges Stein, Wilson and Feinman concur.  
Judge Rivera dissents in an opinion in which Judge Garcia concurs.  
Chief Judge DiFiore took no part.

4                    No. 82  
In the Matter of Jennifer Waite, et al.,  
                  Appellants,  
          v.  
Town of Champion,  
                  Respondent.

Order affirmed, with costs.  
Opinion by Judge Rivera.  
Chief Judge DiFiore and Judges Stein, Garcia, Wilson and Feinman concur.  
Judge Fahey dissents in an opinion.

## MOTIONS

3                    Mo. No. 2018-423  
The People &c. ex rel. Erick Allen,  
Appellant,  
v.  
Bruce Yelich, &c.,  
Respondent.

Motion for leave to appeal granted.

2                    Mo. No. 2018-469  
Fabiola Aristizabal,  
Appellant,  
v.  
Peter S. Kostakopoulos et al.,  
Respondents.

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

4                    Mo. No. 2018-456  
In the Matter of Refik Avdic,  
Respondent,  
v.  
Zineta Avdic,  
Appellant.

Motion for leave to appeal dismissed upon the ground that the issues presented have become moot.

4                    SSD 43  
In the Matter of Diana Sachs Aylward, et al.,  
Respondents,  
v.  
Assessor, City of Buffalo, et al.,  
Appellants.

Appeal, insofar as taken against respondent John P. Higgins, dismissed, without costs, by the Court sua sponte, upon the ground that appellants are not parties aggrieved (see CPLR 5511); appeal as against the remaining respondents otherwise dismissed, without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine the proceedings within the meaning of the Constitution.  
Judge Fahey took no part.

4 Mo. No. 2018-463  
Christopher Calvert,  
Appellant,  
v.  
Duggan & Duggan General Contractor, Inc.,  
Respondent,  
et al.,  
Defendant.

Motion for leave to appeal denied.

SSD 35  
The People &c.,  
Respondent,  
v.  
Cirito M. Cordero,  
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order of County Court entered in this criminal proceeding (see NY Const, art VI § 3[b]; CPLR 5601; CPL 450.90).  
Judge Fahey took no part.

2 Mo. No. 2018-462  
Ivan C., &c., et al.,  
Appellants,  
v.  
Thierno H. Barry,  
Respondent.

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

1 Mo. No. 2018-538  
In the Matter of Montrell A.D., et al., &c.  
  
Miguel D.,  
Appellant;  
Sheltering Arms Children & Family Services,  
Respondent,  
et al.,  
Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Feinman took no part.

2                    Mo. No. 2018-278  
Fritz David, &c.,  
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. 2018-441  
Bonnie Edan, &c.,  
Appellant,  
v.  
Ruth C. Johnson, M.D., et al.,  
Respondents,  
et al.,  
Defendants.

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

2                    Mo. No. 2018-519  
In the Matter of Dolores Feliciano,  
Appellant,  
v.  
Andrew King,  
Respondent.

Motion, insofar as it seeks leave to appeal from the portion of the Appellate Division order that affirmed the denial of appellant's motion to remove the attorney for the child, 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.

3                    Mo. No. 2018-413  
In the Matter of Ayesha FF.,  
Respondent,  
v.  
Evelyn EE.,  
Appellant.  
(And Other Related Proceedings)

Motion, insofar as it seeks leave to appeal from so much of the Appellate Division order as affirmed the Family Court order resolving the Family Court Act article 8 proceedings, denied; motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the order does not finally determine the remaining proceedings within the meaning of the Constitution.  
Motion for poor person relief dismissed as academic.

3                    Mo. No. 2018-465  
In the Matter of Steven Hobson,  
                          Appellant,  
                          v.  
New York State Department of Corrections  
and Community Supervision,  
                          Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2018-404  
Illinois Union Insurance Co. et al.,  
                          Respondents,  
                          v.  
Grandview Palace Condominiums  
Association,  
                          Appellant.  
(And Other Actions.)

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

1                    Mo. No. 2018-487  
In the Matter of Mariama J., &c.  
  
Jainaba C.,  
                          Appellant;  
Lutheran Social Services of New York,  
                          Respondent.

Motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Judge Feinman took no part.

1                    Mo. No. 2018-429  
Ruth Kassover, &c., et al.,  
                          Appellants,  
                          v.  
Prism Venture Partners, LLC,  
et al.,  
                          Defendants,  
Richard Sabella,  
                          Respondent.

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

2                    Mo. No. 2018-476  
In the Matter of Denis P. Kelleher et al.,  
                  Appellants,  
          v.  
New York State Department of  
Environmental Conservation,  
                  Respondent.

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

1                    Mo. No. 2018-471  
Joseph Korff,  
                  Appellant,  
          v.  
Richard A. Corbett, et al.,  
                  Respondents.

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

1                    Mo. No. 2018-382  
Magen David of Union Square, et al.,  
                  Plaintiffs,  
The Sixteenth Street Synagogue,  
                  Appellant,  
          v.  
3 West 16th Street, LLC,  
                  Respondent.  
(And a Third-Party Action.)

Motion for leave to appeal dismissed upon the ground that simultaneous appeals do not lie to both the Appellate Division and the Court of Appeals (see Parker v Rogerson, 35 NY2d 751, 753 [1974]).

4                    Mo. No. 2018-430  
In the Matter of State of New York,  
                  Respondent,  
          v.  
Steven M., Jr.,  
                  Appellant.

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

4                    Mo. No. 2018-432  
In the Matter of Mark Marentette,  
                  Appellant,  
          v.  
City of Canandaigua et al.,  
                  Respondents.

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

4 Mo. No. 2018-467  
In the Matter of Anthony Medina,  
Appellant,  
v.  
A. Rodriguez, &c.,  
Respondent.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b]).

1 Mo. No. 2017-1075  
In the Matter of Mermaid Marine, Ltd.,  
Appellant,  
v.  
Maritime Capital Management Partners, Ltd.,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2018-71  
In the Matter of Rachel A. Montalbano,  
Respondent,  
v.  
Gregory F. Babcock,  
Appellant.

Motion for leave to appeal denied.

4 SSD 32  
The People &c.,  
Respondent,  
v.  
John Moore,  
Appellant.

Appeal dismissed without costs, by the Court sua sponte, upon the ground that no civil appeal lies from the order of the Appellate Division entered in this criminal proceeding (see NY Const, art VI § 3[b]; CPLR 5601; CPL 450.90).

1 Mo. No. 2018-510  
Nationstar Mortgage LLC,  
Respondent,  
v.  
Agostino Accardo,  
Appellant,  
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.



2 Mo. No. 2018-558  
In the Matter of New Creek Bluebelt, Phase 3.

Baycrest Manor, Inc.,  
Respondent,

v.

City of New York,  
Appellant.

Motion for leave to appeal dismissed as untimely.  
The prior motion for leave to appeal made to the  
Appellate Division was untimely (see Karger,  
Powers of the New York Court of Appeals § 12:3, at  
436-437 [3d ed rev]).

2 Mo. No. 2018-365

Northern Blvd Corona, LLC,  
Respondent,

v.

Northern Blvd Property, LLC, et al.,  
Appellants,

et al.,

Defendants.

North Boulevard Property, LLC, et al.,  
Nonparty-Respondents.  
(App. Div. No. 2015-05018)

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.

2 Mo. No. 2018-366

Northern Blvd Corona, LLC,  
Respondent,

v.

Northern Blvd Property, LLC, et al.,  
Appellants,

et al.,

Defendants.

North Boulevard Property, LLC, et al.,  
Nonparty-Respondents.  
(App. Div. Nos. 2016-01317, 2016-03124)

Motion, insofar as it seeks leave to appeal from that  
portion of the Appellate Division order that affirmed  
the March 2016 Supreme Court order, dismissed  
upon the ground that such portion of the order sought  
to be appealed from does not finally determine the  
action within the meaning of the Constitution;  
motion for leave to appeal otherwise denied.

1                    Mo. No. 2018-394  
In the Matter of George R. Osborne &c.,  
                  Appellant;  
Attorney Grievance Committee for the First  
Judicial Department,  
                  Respondent.

Motion, insofar as it seeks leave to appeal from the October 2017 order resolving appellant's application for reinstatement, denied; motion, insofar as it seeks leave to appeal from the February 2017 and July 2017 orders, dismissed as untimely (CPLR 5513); motion, insofar as it seeks leave to appeal from the February 2018 order denying reargument or leave to appeal, dismissed upon the ground that such order does not finally determine the proceeding within the meaning of the Constitution.  
Motion for miscellaneous relief on appeal dismissed as academic.  
Judge Feinman took no part.

3                    Mo. No. 2018-454  
Paul W. Prasarn et al.,  
                  Appellants,  
                  v.  
State of New York,  
                  Respondent.

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

2                    Mo. No. 2018-421  
James Priant,  
                  Appellant,  
                  v.  
New York City Transit Authority,  
                  Respondent,  
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.

3 Mo. No. 2018-504  
In the Matter of Joseph QQ. et al, &c.

Broome County Department of Social  
Services,  
Respondent;  
Karissa RR.,  
Appellant,  
et al.,  
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-479  
In the Matter of Karl Ragland,  
Appellant,  
v.  
City of New York Department of Finance,  
Respondent.

Motion for leave to appeal denied.  
Motion for ancillary relief dismissed as academic.

2 Mo. No. 2018-473  
In the Matter of Piper S.  
  
Westchester County Department of Social  
Services,  
Respondent,  
v.  
Victoria S.,  
Appellant,  
et al.,  
Respondent.

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

1 Mo. No. 2018-474  
In the Matter of Baldev Singh,  
Appellant,  
v.  
NYC Taxi & Limousine Commission,  
Respondent.

Motion for leave to appeal dismissed as untimely  
(see CPLR 5513[b]).

3                    Mo. No. 2018-459  
In the Matter of Charles R. Soriano,  
                          Appellant,  
                          v.  
Maryellen Elia, &c. et al.,  
                          Respondents.

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

4                    Mo. No. 2018-213  
Geoffrey M. Szymanski et al.,  
                          Respondents,  
                          v.  
Mohamed Albanna,  
                          Appellant.

Motion for leave to appeal denied with one hundred dollars costs and necessary reproduction disbursements.  
Motion for a stay dismissed as academic.

4                    Mo. No. 2018-524  
In the Matter of State of New York,  
                          Respondent,  
                          v.  
Scott W.,  
                          Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2018-481  
In the Matter of Paul Watkins,  
                          Appellant,  
                          v.  
New York State Department of Corrections  
and Community Supervision,  
                          Respondent.

Motion for leave to appeal denied.

2                    Mo. No. 2018-290  
Wilmington Savings Fund Society, FSB, &c.,  
    Respondent,  
    v.  
Michael Zimmerman,  
    Appellant,  
et al.,  
    Defendants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that dismissed the appeal from the judgment of foreclosure and sale, dismissed upon the ground that this Court does not have jurisdiction to entertain a motion from such portion of the Appellate Division order dismissing the appeal to that court from a determination entered on default (see CPLR 5511); motion for leave to appeal otherwise dismissed upon the ground that the remaining portion of the Appellate Division order does not finally determine the action within the meaning of the Constitution.