

May 3, 2018

CASES

1 No. 47
The People &c.,
 Respondent,
 v.
Sergey Aleynikov,
 Appellant.

Order affirmed.
Opinion by Judge Fahey.
Chief Judge DiFiore and Judges Rivera, Stein,
Garcia, Wilson and Feinman concur.

 No. 26
E.J. Brooks Company, &c.,
 Appellant-Respondent,
 v.
Cambridge Security Seals,
 Respondent-Appellant.

Following certification of questions by the United States Court of Appeals for the Second Circuit and acceptance of the questions by this Court pursuant to section 500.27 of this Court's Rules of Practice, and after hearing argument by counsel for the parties and consideration of the briefs and record submitted, first certified question answered in the negative and second certified question not answered as unnecessary.
Opinion by Judge Feinman.
Chief Judge DiFiore and Judges Stein and Garcia concur.
Judge Wilson dissents in an opinion in which Judges Rivera and Fahey concur.

In the Matter of the Hon. Terrence C.
O'Connor, a Judge of the Civil Court of the
City of New York, Queens County.

On the Court's own motion, it is determined that Honorable Terrence C. O'Connor is suspended, with pay, effective immediately, from the office of Judge of Civil Court of the City of New York, Queens County, pursuant to New York Constitution, article VI, § 22 and Judiciary Law § 44(8), pending review of a determination of the State Commission on Judicial Conduct.
Chief Judge DiFiore and Judges Rivera, Stein, Fahey, Garcia, Wilson and Feinman concur.

No. 46
The People &c.,
Appellant,
v.
Donald Odum,
Respondent.

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

1 No. 42
The People &c.,
Appellant,
v.
Kerri Roberts,
Respondent.

Order, insofar as appealed from, reversed, and case
remitted to the Appellate Division, First Department,
for consideration of the facts (CPL 470.25[2][d];
470.40[2][b]) and issues raised but not determined on
appeal to that court.
Opinion by Judge Rivera.
Chief Judge DiFiore and Judges Stein, Fahey, Garcia
and Feinman concur.
Judge Wilson dissents and votes to affirm in an
opinion.

4 No. 43
The People &c.,
Respondent,
v.
Terrie J. Rush,
Appellant.

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

MOTIONS

2 Mo. No. 2018-277
In the Matter of Jayden M. A.-M.

Jennifer A.,
Appellant;
Gregory M. et al.,
Respondents.
(And Another Proceeding)

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

1 Mo. No. 2018-289
In the Matter of Manuel P.A.,
Appellant,
v.
Emilie B.,
Respondent.

Motion for reargument denied.
Chief Judge DiFiore took no part.

1 Mo. No. 2018-280
Brenton Adams, &c.,
Appellant,
v.
Kent Security of New York, Inc.,
Respondent.

Motion for leave to appeal dismissed upon the
ground that the order sought to be appealed from
does not finally determine an action or proceeding
within the meaning of the Constitution.

1 Mo. No. 2018-443
Ambac Assurance Corporation, et al.,
Appellants,
v.
Countrywide Home Loans, Inc., et al.,
Respondents,
Bank of America Corp.,
Defendant.

Motion by Securities Industry and Financial Markets
Association 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.
Chief Judge DiFiore took no part.

1 Mo. No. 2018-446
Ambac Assurance Corporation, et al.,
Appellants,
v.
Countrywide Home Loans, Inc., et al.,
Respondents,
Bank of America Corp.,
Defendant.

Motion by Mark J. Browne for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief and compendium are accepted as filed. The brief and compendium must be submitted in digital format within seven days.
Chief Judge DiFiore took no part.

1 Mo. No. 2018-447
Ambac Assurance Corporation, et al.,
Appellants,
v.
Countrywide Home Loans, Inc., et al.,
Respondents,
Bank of America Corp.,
Defendant.

Motion by Association of Financial Guaranty Insurers for leave to appear amicus curiae on the appeal herein granted only to the extent that the proposed brief is accepted as filed. One copy of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.
Chief Judge DiFiore took no part.

1 Mo. No. 2018-448
Ambac Assurance Corporation, et al.,
Appellants,
v.
Countrywide Home Loans, Inc., et al.,
Respondents,
Bank of America Corp.,
Defendant.

Motion by New York Insurance Association, Inc. for leave to file a brief amicus curiae on the appeal herein granted and the proposed brief is accepted as filed. One copy of the brief must be served, an original and nine copies filed, and the brief submitted in digital format within seven days.
Chief Judge DiFiore took no part.

3 Mo. No. 2018-358
Bank of New York Mellon, &c.,
Respondent,
v.
Suzanne Cronin et al.,
Appellants,
et al.,
Defendants.

Motion for leave to appeal dismissed upon the ground that the orders sought to be appealed from do not finally determine the action within the meaning of the Constitution.

4 Mo. No. 2018-221
The People &c. ex rel. Charles B.,
Appellant,
v.
Deborah McCulloch, &c.,
Respondent.

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

2 Mo. No. 2018-431
The People &c.,
Respondent,
v.
Houston P.B.,
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.

3 Mo. No. 2018-302
In the Matter of Gaspar M. Castillo, a
Suspended Attorney.

Motion for leave to appeal denied.
Judges Stein and Rivera took no part.

Attorney Grievance Committee for the Third
Judicial Department,
Respondent;
Gaspar M. Castillo,
Appellant.
(And Another Proceeding)

3 Mo. No. 2018-249
Lora Colucci et al.,
Appellants,
v.
Stuyvesant Plaza, Inc.,
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2018-261
CSI Group, LLP et al.,
 Appellants,
 v.
Martin W. Harper, et al.,
 Respondents,
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.

1 Mo. No. 2018-228
In the Matter of Shanirca D., &c.

Jawnetta D.,
 Appellant;
Administration for Children's Services,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-242
Donato Realty, LLC, et al.,
 Respondents,
 v.
Utica First Insurance Company,
 Appellant.

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

3 Mo. No. 2018-320
In the Matter of Joseph Esposito,
 Appellant,
 v.
Tutor Perini Corporation et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

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

1 Mo. No. 2018-286
The People &c.,
Respondent,
v.
Keith Fair,
Appellant.

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

2 Mo. No. 2018-131
Sofia Fasolas, &c.,
Respondent,
v.
Bobcat of New York, Inc., et al.,
Defendants,
Bobcat of Long Island, Inc., et al.,
Appellants,
Port Jefferson Rental Center, Inc., &c.,
Respondent.

Motion for leave to appeal granted.

1 Mo. No. 2018-248
Guidance Endodontics, LLC,
Appellant,
v.
Olshan Grundman, Frome Rosensweig and
Wolosky, LLP,
Respondent.

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

2 Mo. No. 2018-64
In the Matter of Minerva Hernandez,
Appellant,
v.
New York City Employees' Retirement
System,
Respondent.

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

1 Mo. No. 2018-260
Highland Capital Management, L.P.,
Appellant,
v.
Geoffrey Stern et al.,
Respondents.

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

3 Mo. No. 2018-231
In the Matter of Mary E. Jacobi,
Appellant,
v.
Tax Appeals Tribunal of the State of New
York et al.,
Respondents.

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 with one hundred dollars costs and necessary reproduction disbursements.

2 Mo. No. 2018-279
In the Matter of Johnathan Johnson, &c.,
Appellant,
v.
Carmen R. Velasquez, &c.,
Respondent.

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. Motion for poor person relief dismissed as academic.

1 Mo. No. 2018-237
In the Matter of Brighton M., a Person
Alleged to be a Juvenile Delinquent,
Appellant.

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

3 Mo. No. 2018-236
In the Matter of Keith A. Malinowski,
 Appellant,
 v.
New York State Division of Human Rights, et
al.,
 Respondents.

In the Matter of Michael Powers, &c.,
 Appellant,
 v.
New York State Division of Human Rights, et
al.,
 Respondents.

2 Mo. No. 2018-295
In the Matter of Ava Mazzella,
 Appellant,
 v.
Bedford Central School District,
 Respondent.

2 Mo. No. 2018-262
The People &c.,
 Respondent
 v.
Jerome Michaux,
 Appellant.

1 Mo. No. 2018-272
MIMS Master Fund, L.P.,
 Respondent,
 v.
Joseph A. Cambi,
 Appellant.

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

Motion for leave to appeal denied.

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

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. 2018-275
Ada Oparaji,
Appellant,
v.
Citibank, N.A.,
Respondent.

Motion for leave to appeal dismissed upon the ground that this Court does not have jurisdiction to entertain the motion for leave to appeal from the order of the Appellate Division entered in this action commenced in Civil Court of the City of New York (NY Const, art VI, § 3[b][7]; CPLR 5602[a]).

3 Mo. No. 2018-162
In the Matter of David Ramos,
Appellant,
v.
Donald Venettozzi, &c.,
Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-298
The People &c.,
Respondent,
v.
Roberto Roman,
Appellant.

Motion for leave to appeal denied.

4 Mo. No. 2018-305
In the Matter of Michael Sims,
Respondent,
v.
Carrie Starkey,
Appellant.

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

2 Mo. No. 2018-303
The People &c.,
Respondent,
v.
Frederick Smith,
Appellant.

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

2 Mo. No. 2018-256
The People &c.,
 Respondent,
 v.
John Tromba,
 Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2018-287
In the Matter of Noel O. Wallen,
 Appellant,
 v.
Software Communication Systems Inc., et al.,
 Respondents.
Workers' Compensation Board,
 Respondent.

Motion for leave to appeal denied.

1 Mo. No. 2018-254
XL Insurance America, Inc.,
 Appellant,
 v.
The Howard Hughes Corporation,
 Respondent.

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.