

**State of New York**  
**Court of Appeals**

September 1, 2020

**Decisions**  
**CASES**

1                    No. 82 SSM 12  
Mamidou Barry, &c.,  
    Respondent,  
    v.  
Christopher C. Lee, &c., et al.,  
    Appellants.

On review of submissions pursuant to section 500.11 of the Rules, order affirmed, with costs, and certified question answered in the affirmative. Plaintiff's submissions rebutted defendants' prima facie showing of entitlement to summary judgment and raised triable issues of fact. On this record, triable questions of fact preclude summary judgment in favor of defendants.

Judges Rivera, Stein, Fahey, Wilson and Feinman concur.

Chief Judge DiFiore and Judge Garcia dissent for reasons stated in the dissenting opinion of Justice Anil C. Singh at the Appellate Division (*see Barry v Lee*, 180 AD3d 103, 108-114 [2019] [Singh, J., dissenting]).

4                    No. 46  
The People &c.,  
    Respondent,  
    v.  
Robert Hinshaw,  
    Appellant.

Order reversed, defendant's motion to suppress granted in its entirety and indictment dismissed. Opinion by Judge Wilson.

Chief Judge DiFiore and Judges Rivera, Fahey and Feinman concur.

Judge Stein concurs in result in an opinion.

Judge Garcia dissents and votes to affirm in an opinion.

**MOTIONS**

1                    Mo. No. 2020-281  
S.A.,  
                        Respondent,  
                        v.  
R.H.,  
                        Appellant.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed the June 2018 Supreme Court order, denied; 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.  
Motion for poor person relief dismissed as academic.

2                    Mo. No. 2020-268  
In the Matter of Christopher A.

Motion for leave to appeal denied.

Kagan & Gertel, &c.,  
                        Nonparty-Appellant;  
Paul G. Mederos,  
                        Nonparty-Respondent.

1                    Mo. No. 2020-296  
Hicham Aboutaam,  
                        Appellant,  
                        v.  
Dow Jones & Co.,  
                        Respondent.

Motion for leave to appeal denied.

1                    Mo. No. 2020-258  
ACE Securities Corp., &c.,  
                        Appellant,  
                        v.  
DB Structured Products, Inc.,  
                        Respondent.

Motion for leave to appeal granted.  
Judge Garcia took no part.

1                    Mo. No. 2020-336  
ACE Securities Corp., &c.,  
    Appellant,  
    v.  
DB Structured Products, Inc.,  
    Respondent.

Motion by National Credit Union Administration Board et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.  
Judge Garcia took no part.

4                    Mo. No. 2020-305  
In the Matter of Hope B.

Motion for leave to appeal denied.

Onondaga County Department of Children  
and Family Services,  
    Respondent;  
Rochelle B.,  
    Appellant.  
(And Another Proceeding.)

2                    Mo. No. 2020-190  
In the Matter of State of New York,  
    Respondent,  
    v.  
Anthony B.,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2020-196  
Steven Blake,  
    Appellant,  
    v.  
Brookfield Properties One WFC Co., LLC, et  
al.,  
    Respondents,  
Creative Office Pavilion,  
    Defendant.

Motion, insofar as it seeks leave to appeal as against defendant Holt Construction Corp., denied; motion for leave to appeal otherwise dismissed upon the ground that as to the remaining defendants the order sought to be appealed from does not finally determine the action within the meaning of the Constitution.

2 Mo. No. 2020-225  
Luciano Bonanni et al.,  
Respondents,  
v.  
Horizons Investors Corp., et al.,  
Appellants,  
Allan Hausknecht, &c.,  
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.

4 Mo. No. 2020-294  
Nancy J. Brady et al.,  
Appellants,  
v.  
Timothy J. Contangelo,  
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 (*see Cuadrado v New York City Tr. Auth., lv dismissed* 14 NY3d 748 [2010]).

2 Mo. No. 2020-280  
Anna Brennan,  
Respondent,  
v.  
Samuel Gormley et al.,  
Appellants.

Motion for leave to appeal denied.

1 Mo. No. 2020-267  
The People &c.,  
Respondent,  
v.  
Arthur Brown,  
Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2020-176  
In the Matter of Robinson Callen, &c.,  
                        Respondent,  
                        v.  
New York City Loft Board,  
                        Appellant,  
Richard Fiscina, et al.,  
                        Respondents.  
(And Another Proceeding.)

Motion for leave to appeal granted.

4                    Mo. No. 2020-314  
The People &c.,  
                        Respondent,  
                        v.  
Joseph Centofanti,  
                        Appellant.

Motion for leave to appeal denied.

3                    Mo. No. 2020-315  
Susan M. Cobaugh, et al.,  
                        Appellants,  
                        v.  
State of New York, et al.,  
                        Respondents.

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

2                    Mo. No. 2020-266  
The People &c.,  
                        Respondent,  
                        v.  
Craig Degale,  
                        Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2020-290  
Errant Gene Therapeutics, LLC,  
                        Appellant,  
                        v.  
Sloan-Kettering Institute for Cancer Research,  
et al.,  
                        Respondents.

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.

3 Mo. No. 2020-284  
In the Matter of Chris Forte,  
Appellant,  
v.  
Ernest Muccini, et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2020-313  
The People &c.,  
Respondent,  
v.  
Raheem Hanes,  
Appellant.

Motion for leave to appeal denied.

1 Mo. No. 2020-297  
Tiffani Johnson,  
Appellant,  
v.  
IAC/InterActiveCorp et al.,  
Respondents.

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

3 Mo. No. 2020-70  
In the Matter of the Claim of Frederick W.  
Keller,  
Appellant,  
v.  
Cumberland Farms et al.,  
Respondents.  
Workers' Compensation Board,  
Respondent.

Motion for leave to appeal denied.

4 Mo. No. 2020-287  
The People &c.,  
Respondent,  
v.  
Storm U. Lang,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2020-496  
Nella Manko,  
Appellant,  
v.  
Lenox Hill Hospital,  
Respondent.

Motion for leave to appeal dismissed upon the ground that the May 2020 and June 2020 letters sought to be appealed from are not judgments or orders from which an appeal to this Court may be taken (*see* CPLR 5512 [a]).

Motion for ancillary relief dismissed upon the ground that the Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

Motion for poor person relief dismissed as academic. Chief Judge DiFiore took no part.

Mo. No. 2020-295  
Jim J. Mash,  
Respondent,  
v.  
Heyangjing Shi,  
Appellant,  
et al.,  
Respondent.

Motion for reargument of motion for leave to appeal denied.

4 Mo. No. 2020-310  
The People &c. ex rel. Andre T. McCants,  
Appellant,  
v.  
Todd Baxter, &c.,  
Respondent.

Motion for leave to appeal dismissed upon the ground that no appeal lies from an order of an individual Justice of the Appellate Division (*see* NY Const, art VI, § 3 [b]; CPLR 5602).

2 Mo. No. 2020-456  
In the Matter of Tony McClam,  
Appellant,  
v.  
Teresa K. Corrigan, &c.,  
Respondent.

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

2 Mo. No. 2020-311

The People &c.,  
Respondent,  
v.  
Darnell McGhee,  
Appellant.

Motion for leave to appeal denied.

3 Mo. No. 2020-69  
In the Matter of Mental Hygiene Legal  
Service, &c.,  
Appellant,

v.  
Kerry Delaney, &c. et al.,  
Respondents,  
et al.,  
Respondent.

Motion for leave to appeal granted.

3 Mo. No. 2020-122  
In the Matter of Mental Hygiene Legal  
Service, &c.,  
Appellant,

v.  
Kerry Delaney, &c. et al.,  
Respondents,  
et al.,  
Respondent.

Motion by New York Chapter of the National  
Academy of Elder Law Attorneys for leave to appear  
amicus curiae on the motion for leave to appeal  
herein granted and the brief is accepted as filed.

1 Mo. No. 2020-259  
Grace Miller, &c.,  
Appellant,

v.  
Michael E. Ford, &c., et al.,  
Respondents,  
et al.,  
Defendants.

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



1                    Mo. No. 2020-256  
Natixis Funding Corp., et al.,  
    Appellants,  
    v.  
GenOn Mid-Atlantic, LLC,  
    Defendant,  
Morgantown OL1 LLC, et al.,  
    Respondents.  
(And Four Other Actions.)

Motion for leave to appeal denied.

3                    Mo. No. 2020-293  
In the Matter of New York State Board of  
Regents et al.,  
    Respondents,  
    v.  
State University of New York, et al.,  
    Appellants,  
et al.,  
    Respondent.  
(And Another Proceeding.)

Motion for leave to appeal denied.

3                    Mo. No. 2020-298  
In the Matter of New York State Board of  
Regents et al.,  
    Respondents,  
    v.  
State University of New York, et al.,  
    Respondents,  
Success Academy Charter Schools - NYC,  
    Appellant.  
(And Another Proceeding.)

Motion for leave to appeal denied.

3                    Mo. No. 2020-323  
In the Matter of New York State Board of  
Regents et al.,  
    Respondents,  
    v.  
State University of New York, et al.,  
    Respondents,  
et al.,  
    Respondent.

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In the Matter of New York State United  
Teachers, et al.,  
    Appellants,  
    v.  
State of New York,  
    Respondent,  
State University of New York, et al.,  
    Respondents.

1                    Mo. No. 2020-312  
The People &c.,  
    Respondent,  
    v.  
Russell Ochocki,  
    Appellant.

4                    Mo. No. 2020-182  
In the Matter of Eugene L. Pierce, &c., et al.,  
    Appellants,  
    v.  
Timothy B. Howard, &c.,  
    Respondent.

Motion for leave to appeal denied.

Motion for leave to appeal denied.

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

1                    Mo. No. 2020-308  
In the Matter of Qwil PBC et al.,  
    Respondents,  
    v.  
Jonathan Landow, et al.,  
    Appellants.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order as affirmed so much of the July 15, 2019 Supreme Court order as granted pre-arbitration attachment, 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 from the remaining portion of the Appellate Division order affirming the July 15, 2019 Supreme Court order otherwise denied.

4                    Mo. No. 2020-291  
Lois Reid,  
    Appellant,  
    v.  
Univera Healthcare, 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 action within the meaning of the Constitution.  
Judge Fahey took no part.

3                    Mo. No. 2020-292  
In the Matter of Rolling Meadows Water  
Corporation,  
    Appellant,  
    v.  
Public Service Commission of the State of  
New York,  
    Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2020-286  
In the Matter of Sci-Hi Prep Corporation, &c.,  
    Appellant,  
    v.  
New York State Education Department et al.,  
    Respondents.

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

2                    Mo. No. 2020-301  
Pearl Shifer,  
    Respondent,  
    v.  
David Shifer,  
    Defendant,  
Sara Stern, &c.,  
    Appellant,  
et al.,  
    Defendants.

Motion for reargument denied.

1                    Mo. No. 2020-246  
In the Matter of Christopher Sigmon,  
    Respondent,  
    v.  
James P. O'Neill, &c., et al.,  
    Appellants.

Motion for leave to appeal denied.

1                    Mo. No. 2020-289  
In the Matter of Stone Column Trading House  
Limited,  
    Respondent,  
    v.  
Beogradska Banka A.D., &c.,  
    Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2020-300  
In the Matter of Boris Teichmann,  
    Appellant,  
    v.  
New York City Employees' Retirement  
System,  
    Respondent.

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

4                    Mo. No. 2020-306  
In the Matter of Victor K. Thomas,  
    Appellant,  
    v.  
Tina M. Stanford, &c. et al.,  
    Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2020-165  
Delmys De Jesus Turcios,  
                          Appellant,  
                          v.  
City of New York,  
                          Respondent.

Motion for leave to appeal denied.

3                    SSD 38  
U.S. Bank National Association, &c.,  
                          Appellant,  
                          v.  
Creative Encounters LLC et al.,  
                          Respondents,  
et al.,  
                          Defendant.

Appeal dismissed without costs, by the Court *sua sponte*, upon the ground that the order appealed from does not finally determine the action within the meaning of the Constitution.

1                    Mo. No. 2020-249  
US Bank National Association, &c.,  
                          Appellant,  
                          v.  
UBS Real Estate Securities, Inc.,  
                          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 (*see McDermott v Manhattan Eye, Ear & Throat Hosp.*, 15 NY2d 20, 23 n 2 [1964]).  
Judge Garcia took no part.

1                    Mo. No. 2020-335  
US Bank National Association, &c.,  
                          Appellant,  
                          v.  
UBS Real Estate Securities, Inc.,  
                          Respondent.

Motion by National Credit Union Administration Board et al. for leave to appear amici curiae on the motion for leave to appeal herein granted and the brief is accepted as filed.  
Judge Garcia took no part.