

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

**Decisions**

November 22, 2022

**CASES**

2                    No. 91  
Dora Howell,  
    Appellant,  
    v.  
City of New York, et al.,  
    Respondents,  
et al.,  
    Defendant.

Order affirmed, with costs, in a memorandum.  
Acting Chief Judge Cannataro and Judges Garcia,  
Singas and Troutman concur.  
Judge Wilson dissents in an opinion, in which Judge  
Rivera concurs in part in a separate dissenting  
opinion.

4                    No. 90  
William D. Maldovan, &c.,  
    Appellant,  
    v.  
County of Erie et al.,  
    Respondents.

Orders affirmed, with costs.  
Opinion by Judge Troutman.  
Acting Chief Judge Cannataro and Judges Garcia and  
Singas concur.  
Judge Wilson dissents in part in an opinion.  
Judge Rivera took no part.

                    No. 107  
Petróleos de Venezuela S.A., et al.,  
    Appellants,  
    v.  
MUFG Union Bank, N.A. et al.,  
    Respondents.

Certification of questions by the United States Court  
of Appeals for the Second Circuit, pursuant to section  
500.27 of this Court's Rules of Practice, accepted and  
the issues presented are to be considered after  
briefing and argument.  
Acting Chief Judge Cannataro and Judges Rivera,  
Garcia, Wilson, Singas and Troutman concur.

2                    No. 97  
The People &c.,  
    Respondent,  
    v.  
Lance Rodriguez,  
    Appellant.

Reargument ordered for a future Court session.  
Acting Chief Judge Cannataro and Judges Rivera,  
Garcia, Wilson, Singas and Troutman concur.

1                    No. 86  
Worthy Lending LLC,  
    Appellant,  
    v.  
New Style Contractors, Inc.,  
    Respondent.

Order reversed, with costs, and defendant's motion to  
dismiss the complaint denied.  
Opinion by Judge Wilson.  
Acting Chief Judge Cannataro and Judges Rivera,  
Garcia, Singas and Troutman concur.

## MOTIONS

3 Mo. No. 2022-656

61 Crown Street, LLC, et al.,  
Appellants,

v.

City of Kingston Common Council, et al.,  
Respondents,

et al.,

Defendants.

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

1 Mo. No. 2022-662

Casita, L.P., &c.,  
Respondent,

v.

Robert V. Glaser, et al.,  
Appellants.

Maplewood Equity Partners (Offshore) Ltd.,  
Nominal Defendant.

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

2 Mo. No. 2022-703

Gregory Christopulos,  
Respondent,

v.

Katherine Christopulos, &c., et al.,  
Defendants,

Nicholas Spyreas,  
Appellant.

(App. Div. No. 2019-02835)

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. 2022-704

Gregory Christopulos,  
Respondent,

v.

Katherine Christopulos, &c., et al.,  
Defendants,

Nicholas Spyreas,  
Appellant.

(App. Div. No. 2019-09305)

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. 2022-705  
Gregory Christopulos,  
Respondent,  
v.  
Katherine Christopulos, &c., et al.,  
Defendants,  
Nicholas Spyreas,  
Appellant.  
(App. Div. No. 2020-02288)

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. 2022-706  
Gregory Christopulos,  
Respondent,  
v.  
Katherine Christopulos, &c., et al.,  
Defendants,  
Nicholas Spyreas,  
Appellant.  
(App. Div. No. 2020-09166)

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. 2022-745  
Gregory Christopulos,  
Respondent,  
v.  
Katherine Christopulos, &c., et al.,  
Defendants,  
Nicholas Spyreas,  
Appellant.  
(App. Div. No. 2021-06093)

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. 2022-646  
The People &c.,  
Respondent,  
v.  
Dwaine Anthony Clark,  
Appellant.

Motion for leave to appeal denied.

1                   SSD 46  
Jeffrey Colt et al.,  
    Respondents,  
    v.  
New Jersey Transit Corporation, et al.,  
    Appellants.

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.

2                   Mo. No. 2022-643  
In the Matter of Crown Castle NG East, LLC,  
    Respondent,  
    v.  
City of Rye, et al.,  
    Appellants.

Motion for leave to appeal dismissed upon the ground that the order sought to be appealed from does not finally determine the hybrid action/proceeding within the meaning of the Constitution and is not an order of the type provided for in CPLR 5602 (a) (2).

1                   Mo. No. 2022-660  
Peter Deutch et al.,  
    Appellants,  
    v.  
City of New York et al.,  
    Defendants,  
Hellman Electric Corporation et al.,  
    Respondents.

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

1                   Mo. No. 2022-601  
Charles Fritschler, et al.,  
    Appellants,  
    v.  
Draper Management, LLC et al.,  
    Defendants,  
Mark Deso, et al.,  
    Respondents.

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

3 Mo. No. 2022-636  
In the Matter of the Claim of Vincent  
Gambardella,  
Respondent,  
v.  
New York City Transit Authority,  
Appellant.  
Workers' Compensation Board,  
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.

3 Mo. No. 2022-645  
In the Matter of the Claim of Vincent  
Gambardella,  
Respondent,  
v.  
New York City Transit Authority,  
Respondent.  
Workers' Compensation Board,  
Appellant.

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.

1 Mo. No. 2022-597  
In the Matter of Susan Kathryn Hefti,  
Appellant,  
v.  
New York State Division of Housing and  
Community Renewal, et al.,  
Respondents.

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

2 Mo. No. 2020-739  
Yesim Izmirligil, &c.,  
Appellant-Respondent,  
v.  
Steven J. Baum, P.C., et al.,  
Respondents-Appellants,  
The Bank of New York Mellon, et al.,  
Respondents,  
et al.,  
Defendants.

Motion, insofar as it seeks leave to appeal against  
defendants Steven J. Baum, P.C., Steven J. Baum,  
Esq., Brian B. Kumiega, Esq., and Patricia M.  
Esdinsky, Esq., dismissed upon the ground that as to  
those defendants 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.  
Cross motion for leave to appeal dismissed upon the  
ground that, as to the cross movants, the order sought  
to be appealed from does not finally determine the  
action within the meaning of the Constitution.

1                    Mo. No. 2022-741  
In the Matter of Luis Jaime,  
                        Respondent,  
                        v.  
City of New York,  
                        Appellant.

Motion for leave to appeal granted.

3                    Mo. No. 2022-618  
In the Matter of Andrew Jones,  
                        Appellant,  
                        v.  
Anthony J. Annucci, &c., et al.,  
                        Respondents.

Motion for leave to appeal denied.

2                    Mo. No. 2022-678  
JPMorgan Chase Bank, National Association,  
&c.,  
                        Respondent,  
                        v.  
Alex Amner Borukhov,  
                        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.

3                    Mo. No. 2022-654  
Brian J. Kegelman et al.,  
                        Appellants,  
                        v.  
Town of Otsego,  
                        Respondent.

Motion for reargument of motion for leave to appeal  
dismissed as untimely (*see* Rules of Ct of Appeals  
[22 NYCRR] § 500.24 [b]).

1 Mo. No. 2022-648  
Gregory D. Kilpatrick,  
Appellant,  
v.  
Kathy Hochul, &c., et al.,  
Respondents.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action 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 action within the meaning of the Constitution. Motion for poor person relief dismissed as academic.

1 Mo. No. 2022-668  
Gregory D. Kilpatrick,  
Appellant,  
v.  
Andrew M. Cuomo, &c.,  
Respondent.

On the Court's own motion, appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the action 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 action within the meaning of the Constitution. Motion for poor person relief dismissed as academic.

3 Mo. No. 2022-556  
In the Matter of Deborah Kopald,  
Appellant,  
v.  
New York Public Service Commission et al.,  
Respondents.

Motion for leave to appeal from the June 2022 Appellate Division order 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, insofar as treated as also seeking leave to appeal from that portion of the April 2022 Appellate Division order as resolved the appeal from the January 2019 judgment, otherwise denied.

3 Mo. No. 2022-614  
In the Matter of Deborah Kopald,  
Appellant,  
v.  
New York Public Service Commission et al.,  
Respondents.

Motion by David O. Carpenter for leave to appear amicus curiae on the motion for leave to appeal granted and the brief is accepted as filed.



4 Mo. No. 2022-532  
Julio Licinio, &c.,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

2 Mo. No. 2022-661  
Olga Malicki et al.,  
Appellants,  
v.  
David Gladshyeyn,  
Defendant,  
Kwok Leng Wun,  
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.

2 Mo. No. 2022-734  
Nella Manko,  
Appellant,  
v.  
Lenox Hill Anesthesiology, PLLC, et al.,  
Respondents.

Motion for reconsideration of this Court's September 8, 2022 dismissal order denied.  
Motion for poor person relief dismissed as academic.  
Acting Chief Judge Cannataro took no part.

2 Mo. No. 2022-764  
Nella Manko,  
Appellant,  
v.  
David A. Gabay, &c., et al.,  
Respondents.  
(Action Nos. 1, 2, 3)

Motion for reargument of motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Acting Chief Judge Cannataro took no part.

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Nella Manko,  
Appellant,  
v.  
Law Offices of David A. Gabay, &c., et al.,  
Respondents.  
(Action No. 4)

1                    Mo. No. 2022-765  
Nella Manko,  
    Appellant,  
    v.  
Dr. Dana Mannor, et al.,  
    Respondents,  
Lenox Hill Hospital, &c. et al.,  
    Defendants.

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Nella Manko,  
    Appellant,  
    v.  
Dana Mannor, et al.,  
    Respondents,  
"Anesthesiologist" (a fictitious name), et al.,  
    Defendants.

2                    Mo. No. 2022-771  
Nella Manko,  
    Appellant,  
    v.  
David A. Gabay, et al.,  
    Respondents,  
et al.,  
    Defendants.  
(Index No. 22148/2013)

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Nella Manko,  
    Appellant,  
    v.  
David A. Gabay, &c., et al.,  
    Respondents.  
(Index No. 22148/2013)

1                    Mo. No. 2022-571  
In the Matter of Adan Orozco,  
    Respondent,  
    v.  
City of New York,  
    Appellant.

Motion for reargument of motion for leave to appeal denied.  
Motion for poor person relief dismissed as academic.  
Acting Chief Judge Cannataro 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.  
Motion for poor person relief dismissed as academic.  
Acting Chief Judge Cannataro took no part.

Motion for leave to appeal granted.

2 Mo. No. 2022-650  
The People &c.,  
Respondent,  
v.  
Douglas Powell,  
Appellant.

Motion for leave to appeal denied.

2 Mo. No. 2022-574  
Ilana Rigwan,  
Appellant,  
v.  
Jordan Neus,  
Respondent.

Motion, insofar as it seeks leave to appeal from that portion of the Appellate Division order that affirmed Supreme Court's denial of the motion to vacate, dismissed upon the ground that such portion of the order does not finally determine the action within the meaning of the Constitution; motion for leave to appeal otherwise denied.  
Motion for ancillary relief dismissed upon the ground that this Court does not have jurisdiction to entertain it (*see* NY Const, art VI, § 3).

2 Mo. No. 2022-642  
The People &c.,  
Respondent,  
v.  
Francisco Rivera,  
Appellant.

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

1 Mo. No. 2022-543  
In the Matter of Juan Soto,  
Appellant,  
v.  
Dermot F. Shea, &c., et al.,  
Respondents.

Motion for leave to appeal denied.

3 Mo. No. 2022-627  
Christopher Thomas,  
Appellant,  
v.  
State of New York,  
Respondent.

Motion for leave to appeal denied.

3                    Mo. No. 2022-674  
In the Matter of Vapor Technology  
Association et al.,  
                  Appellants,  
          v.  
Andrew M. Cuomo, &c., 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 proceeding within the  
meaning of the Constitution.

2                    Mo. No. 2022-640  
The People &c.,  
                  Respondent,  
          v.  
Derne Williams,  
                  Appellant.

Motion for leave to appeal denied.

1                    Mo. No. 2022-513  
June Wu,  
                  Respondent,  
          v.  
Sabrina Balsky Interior Designs et al.,  
                  Appellants.

Motion for leave to appeal dismissed upon the  
ground that appellants are not parties aggrieved (*see*  
CPLR 5511).