



*State of New York
Court of Appeals*

*John P. Asiello
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

*Exhibit (A)
(2)*

Decided November 16, 2017


Mo. No. 2017-870

Theresa S. Romain,
Appellant,

v.

Kimberly O'Connor, et al.,
Respondents.

On the Court's own motion, appeal dismissed, without costs,
upon the ground that the orders appealed from do not finally
determine the action within the meaning of the Constitution.
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.

Exhibit 
(15)

State of New York

Court of Appeals

*Decided and Entered on the
sixteenth day of November, 2017*

Present, Hon. Janet DiFiore, *Chief Judge, presiding.*


Mo. No. 2017-870
Theresa S. Romain,
Appellant,
v.
Kimberly O'Connor, et al.,
Respondents.

Appellant having appealed and moved for leave to appeal to
the Court of Appeals in the above cause;

Upon the papers filed and due deliberation, it is

ORDERED, on the Court's own motion, that the appeal
is dismissed, without costs, upon the ground that the orders
appealed from do not finally determine the action within the
meaning of the Constitution; and it is further

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


Heather Davis
Deputy Clerk of the Court

APPELLATE COURT REPLY:

Destruction of the document sent for settlement "CLASP" program.....1 page

Exhibit - B

Exhibit B



State of New York
Supreme Court, Appellate Division
Third Judicial Department
Motion Department
P.O. Box 7288, Capitol Station
Albany, NY 12224-0288

Robert D. Mayberger
Clerk of the Court

(518) 471-4779
fax (518) 471-4747
<http://www.nycourts.gov/ad3>

Edward J. Carey
Chief Motion Attorney

October 17, 2016

Theresa S. Romain
28 Woodcrest Lane – PO Box 415
Milton, NY 12547

Re: #522145/523363/523010/523270/523159/523364 – Romain v O'Connor et al.

Dear Madam:

This will acknowledge receipt of your papers in support of a motion to toll, to consolidate and for further relief as well as an application to transfer and for further relief along with a letter with the caption "in regards to memorandum dated September 6, 2016" in the above-referenced matters.

Initially, please be advised that, in light of the Columbus day holiday, October 10, 2016 was not a proper return date in this Court. Please be advised that your motion and your application have been marked returnable before the Court on October 31, 2016 and you will be informed of the determination thereon in due course.

~~✱~~ In regard to your letter, you state that, while this office returned documents that were meant for the Civil Appeals Settlement Program, "several vital pieces of documentary were not returned." However, you do not state which items should have also been returned. If you do seek the return of certain additional items, please be specific in your request.

Very truly yours,

Linda Gallo
Principal Attorney

/jlc

cc: Attorney General Eric T. Schneiderman
Robert D. Cook, Esq.
Travis Davis
Joshua Koplovitz, Esq.
Catherine Charuk, Esq.
Goldberg Segall LLP

APPELLATE COURT REPLY:

Destruction of the document sent for settlement "CLASP" program.....1 page

Exhibit - B

Exhibit C
(1)

SUPREME COURT - STATE OF NEW YORK
ULSTER COUNTY

Present:

Hon. MARIA G. ROSA

Justice.

THERESA S. ROMAIN,

Plaintiff,

DECISION AND ORDER

-against-

Index No: 71/15

HONORABLE KIMBERLY O'CONNOR, (Individually
and in office capacity), MICHAEL IAPOCE, CAROL
PRESSMAN, RACHEL L. COVELL, TRAVIS DAVIS,
PATRICIA JELACIC, CATHERINE CHARUK,
DEBORAH GREENFIELD, RICHARD PICH, I,
SUZANNE BOTTIGLIERO, WINNIE MC NELIS,
MELINDA ROBINSON, ROBYN RANDZIN,
PATRICIA SANGI, DANIEL MARTUSCELLO,
Defendants.

X The following papers were read and considered on defendants' O'Connor and Pressman's
motion to dismiss. This action has previously been dismissed against defendants Iapoce, Covell,
Jelacic, Charuk, Greenfield, Pichi, Bottiglieri, McNelis, Robinson, Randzin and Sangi. The caption
is hereby amended accordingly and now shall be amended consistent with the decision and order to
also remove defendants' O'Connor and Pressman, and therefore shall read as follows:

THERESA S. ROMAIN,

Plaintiff

-against-

TRAVIS DAVIS, DANIEL MARTUSCELLO,

Defendants.

NOTICE OF MOTION
AFFIRMATION IN SUPPORT
EXHIBITS 1-5

MEMORANDUM OF LAW IN OPPOSITION
UNVERIFIED "ANSWER" WITH EXHIBITS ANNEXED THERETO

* Defendants Kimberly O'Connor, Acting Supreme Court Justice, and Carol Pressman, Esq. ("the moving defendants") move to dismiss this action pursuant to CPLR §3211(a) claiming judicial immunity and that the pleadings fail to state a cause of action. Justice O'Connor presided over an Article 81 petition for the appointment of a guardian for Sarah Forde filed in January 2009. In that proceeding, defendant Carol Pressman, in her capacity as an attorney for Mental Hygiene Legal Services, was appointed as a court evaluator. In this *pro se* action, plaintiff, a registered nurse who provided home health care services to Ms. Forde, seeks damages based on Sarah Forde's removal from her care and transfer to another provider. She asserts that this resulted in the loss of her home, business and career based on a breach of contract and revocation of her license. The doctrine of judicial immunity protects judges in the performance of their judicial functions. See Mosher-Simons v. County of Allegany, 99 NY2d 214 (2002). Such immunity extends to neutrally positioned government officials, regardless of title, who are delegated judicial or quasi-judicial functions. Id. Plaintiff's claims against the moving defendants stem entirely from their participation in the judicial process in the performance of their specific judicially delegated functions. Accordingly, the defendants are entitled to judicial immunity. In addition, plaintiff's complaint fails to make any factual allegations pertaining to defendant Carol Pressman.

Based on the foregoing, it is hereby

ORDERED that the moving defendants' motion to dismiss pursuant to CPLR §3211(a) for failure to state a claim and for reasons of judicial immunity is granted. All claims against the moving defendants are hereby dismissed.

This constitutes the decision and order of this court.

Dated: April 14, 2016
Poughkeepsie, New York

ENTER:



MARIA G. ROSA, J.S.C.

Theresa Romain
28 Woodcrest Lane
PO Box 415
Milton NY 12547

Attorney General of the State of New York
Jeane L. Strickland, Asst. Attorney General
One Civic Center Plaza, Suite 401
Poughkeepsie NY 12601