

**Dunbar S. McLaurin, Appellant, v. Hager Realty Corp. et al., Respondents**

[NO NUMBER IN ORIGINAL]

**Court of Appeals of New York**

*27 N.Y.2d 599; 261 N.E.2d 408; 313 N.Y.S.2d 410; 1970 N.Y. LEXIS 1246*

**May 25, 1970, Submitted**

**June 3, 1970, Decided**

**PRIOR HISTORY:** [\*1] Reported below, *33 A D 2d 550*.

Motion for leave to appeal from an order of the Appellate Division of the Supreme Court in the First Judicial Department, entered October 23, 1969, which modified, on the law, and, as modified, affirmed an order and judgment of the Supreme Court at Special Term (Jacob Markowitz, J.), entered in New York County, dismissing the complaint as to all defendants and canceling the *lis pendens* filed by plaintiff. The modification consisted of vacating the dismissal of the first cause of action of the complaint with respect to defendants Hager Realty Corp. and 200 East 34th Street Management Corp. and reinstating and severing same. On January 27, 1970 the Appellate Division denied a motion by plaintiff for leave to appeal to the Court of Appeals from said order and on the following day plaintiff received a copy of its order denying such leave, with notice of entry. On April 9, 1970 the Court of Appeals granted a motion to dismiss an appeal taken by him as of right (see *26 N Y 2d 960*). The present notice of motion was served on May 9, 1970 and filed on May 13, 1970.

**DISPOSITION:** Motion dismissed, with \$10 costs and necessary printing disbursement, upon the ground [\*2] that it was not made within the time limited by statute (*CPLR 5513, subd. [c]*). 600

**HEADNOTES**

**Appeal -- Court of Appeals -- timeliness of motion for leave to appeal -- in January, 1970 Appellate Division denied motion for leave to appeal to Court of Appeals and on April 9, 1970 Court of Appeals dismissed appeal taken as of right -- notice of subsequent motion for leave to appeal was served May 9, 1970 and filed May 13, 1970 -- motion dismissed upon ground it was not timely taken.**

**COUNSEL:** *Dunbar S. McLaurin, pro se*, for motion.

*Samuel Kirschenbaum* opposed.

**OPINION**

Motion dismissed, with \$ 10 costs and necessary printing disbursement, upon the ground that it was not made within the time limited by statute (*CPLR 5513, subd. [c]*).