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COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office

**February 3, 2017 through February 9, 2017**

Each week the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11. For those appeals that proceed to briefing in the normal course, the briefing schedule generally will be: appellant's brief to be filed within 60 days after the appeal was taken; respondent's brief to be filed within 45 days after the due date for the filing of appellant's brief; and a reply brief, if any, to be filed within 15 days after the due date for the filing of respondent's brief.

**The Court welcomes motions for amicus curiae participation from those qualified and interested in the subject matter of these newly filed appeals. Please refer to Rule 500.23 and direct any questions to the Clerk's Office.**

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (HACKSHAW, &c. v ABB, INC., &c., et al.):
1ST Dept. App. Div. order of 10/6/16; modification; sua sponte examination whether an appeal as of right lies under CPLR 5601(c) pursuant to the plaintiff's stipulation for judgment absolute; Damages--Conscious Pain and Suffering--Injury caused by asbestos exposure--mesothelioma; judgment pursuant to stipulation--whether Appellate Division abused its discretion in ordering a new trial unless plaintiff stipulated to further reduced award for past pain and suffering; claimed constitutional violations; appeal to Court of Appeals pursuant to CPLR 5601(c);

Supreme Court, New York County, after a jury trial, awarded plaintiff damages against Crane Co., upon plaintiff's stipulation to reduce the award for past pain and suffering from $10 million to $6 million; App. Div. modified to vacate the award for past pain and suffering, and ordered a new trial as to such damages unless plaintiff stipulated to a reduced award for past pain and suffering of $3 million and to entry of an amended judgment in accordance therewith, and otherwise affirmed; plaintiff stipulated to judgment absolute in the event of Court of Appeals affirmance.

MANKO v LENOX HILL HOSPITAL:
2ND Dept. App. Div. orders of 8/26/16 and 11/29/16; dismissal of appeal and denial of motion; sua sponte examination whether the orders appealed from finally determine the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
Appeal--Appellate Division--Dismissal of appeal and denial of motion for leave to appeal to Court of Appeals;
App. Div. denied that branch of appellant's motion which was to enlarge the time to perfect the appeal from the 5/7/15 Supreme Court, Kings County order; and dismissed the appeal for failure to timely perfect it; and thereafter, among other things, denied appellant's motion for leave to appeal to the Court of Appeals from 8/26/16 order.