COURT OF APPEALS NEW FILINGS

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

February 2, 2018 through February 8, 2018

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.

BAKER v LISCONISH et al.:
4TH Dept. App. Div. order of 12/22/17; modification with dissents; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution;
Motor Vehicles--Owners's Consent to Use of Vehicle--Whether triable issue of fact exists as to defendant Lisconish's permissive use of defendant Santo Heating and Air Conditioning, Inc. (Santo)'s vehicle--Vehicle and Traffic Law § 388; respondeat superior liability; summary judgment;
Supreme Court, Oswego County, granted Santo's summary judgment motion, dismissed the complaint as to Santo, and denied the cross motions of plaintiff and Lisconish for summary judgment on the issue of permissive use; App. Div. modified by denying Santo's summary judgment motion, reinstated the complaint against Santo, and affirmed as modified.

MANKO v LENOX HILL HOSPITAL:

2ND Dept. App. Div. orders of 2/28/12, 6/14/12, 9/14/12 and 5/1/13; denial of various motions except motion to enlarge time to perfect appeal; 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--Denial of motions seeking various relief;

App. Div. (2/28/12 order), among other things, denied as unnecessary a motion for leave to appeal from a 10/7/11 order of Supreme Court, Kings County; (6/14/12 order) denied appellant's motion, among other things, to direct respondent to retain and preserve appellant's medical records, bills and x-rays for the years 2002-2003, pending hearing and determination of appeals from three Supreme Court orders; (9/14/12 order) granted appellant's motion to enlarge the time to perfect an appeal from the 10/7/11 Supreme Court order; and (5/1/13 order) denied appellant's motion, among other things, to reinstate an appeal from the 10/7/11 Supreme Court order.