



*State of New York
Court of Appeals*

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COURT OF APPEALS NEW FILINGS

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

February 18, 2022 through February 24, 2022

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.

MATTER OF MONGIELO v MONGIELO:

Family Court, Niagara County, order of 12/15/21; denial; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any basis exists for an appeal as of right;

Parent, Child and Family--Support;

Family Court, Niagara County, remitted respondent's objection to a Support Magistrate for a determination of whether the figures for arrears are correct, and otherwise denied respondent's objections to the order of support.

MATTER OF RIZZO v DINAPOLI:

App. Div. 3rd Dept. order of 1/6/22; dismissal, with two-Justice dissent; Rule 500.11

review pending;

Civil Service--Retirement and Pension Benefits--Accidental Disability

Retirement--Whether substantial evidence supports respondent's determination that petitioner's disability was not the result of an accident within the meaning of the Retirement and Social Security Law; heavy wind caused door to close on petitioner, resulting to injuries to her hand and shoulder.

Office of the State Comptroller, New York State, denied petitioner's application for accidental disability retirement benefits; App. Div. confirmed the determination and dismissed the CPLR article 78 petition.

SHAW v CITY OF ROCHESTER:

App. Div. 4th Dept. order of 12/23/21; affirmance, with dissents;

Torts--False arrest and Imprisonment--Whether defendants raised a triable issue of fact on the issue of probable cause to arrest plaintiff, thereby warranting denial of plaintiff's motion for partial summary judgment on false imprisonment cause of action; arresting officer, who received report of altercation, approached plaintiff, whom witness identified as being involved in altercation; after which plaintiff made physical contact with arresting officer, plaintiff arrested for obstructing governmental administration;

Supreme Court, Monroe County, inter alia, upon a jury verdict dismissed plaintiff's complaint, App. Div. affirmed.