COURT OF APPEALS NEW FILINGS

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

February 19, 2016 through February 25, 2016

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.

CONNAUGHTON v CHIPOTLE MEXICAN GRILL, INC.:
1ST Dept. App. Div. order of 1/19/16; affirmance with a two-Justice dissent;
FRAUD - FRAUD IN INDUCEMENT - WHETHER PLAINTIFF, A CHEF WHO ENTERED INTO AN AT-WILL EMPLOYMENT RELATIONSHIP WITH DEFENDANTS, ADEQUATELY ALLEGED A CAUSE OF ACTION FOR FRAUDULENT INDUCEMENT BASED UPON DEFENDANTS' "SUPERIOR KNOWLEDGE" OF PREVIOUS BUSINESS DEALINGS THAT THEY WITHHELD FROM PLAINTIFF TO INDUCE HIM TO ACCEPT THEIR OFFER OF EMPLOYMENT, AND WHETHER HE SUFFICIENTLY ALLEGED DAMAGES;

Supreme Court, New York County, granted defendants' motion to dismiss the complaint pursuant to CPLR 3211; App. Div. affirmed.

NASH v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY:
1ST Dept. App. Div. of 7/14/15; reversal; sua sponte examination whether the order appealed from violates the terms of this Court's 11/26/13 remittitur;
JUDGMENTS - VACATUR OF JUDGMENT - WHETHER SUPREME COURT ACTED IMPROVIDENTLY IN VACATING PLAINTIFF'S FINAL JUDGMENT IN THE EXERCISE OF ITS DISCRETION;
Supreme Court, New York County, upon remittitur from the Court of Appeals, granted defendant's motion to vacate the judgment entered in plaintiff's favor on 1/15/10; App. Div. reversed and denied the motion to vacate the judgment.

XIU JIAN SUN v WUHUA JING et al.:
2ND Dept. App. Div. order of 2/3/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
LIMITATION OF ACTIONS - MEDICAL MALPRACTICE - WHETHER THE COMPLAINT WAS PROPERLY DISMISSED AS TIME-BARRED TO THE EXTENT IT ALLEGED CLAIMS FOR MEDICAL MALPRACTICE AND OTHERWISE FOR FAILING TO STATE A CAUSE OF ACTION;
Supreme Court, Queens County, granted defendants' respective motions for summary judgment dismissing the complaint against them on various grounds, including as time-barred and for failing to state a cause of action, dismissed the action as against defendant Wuhua Jing, and dismissed the action as against defendant Dustin T. Nguyen; App. Div. affirmed.