State of New York
Court of Appeals

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John P. Asiello
Chief Clerk and
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Clerk's Office
20 Eagle Street
Albany, New York 12207-1095

COURT OF APPEALS NEW FILINGS

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

March 18, 2022 through March 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 CURRY-MALCOLM v NYSTRS:
4th Dept. App. Div. orders of 2/4/22; affirmance; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;
Proceeding Against Body or Officer;
Supreme Court, Monroe County, in a proceeding pursuant to CPLR article 78, (1) granted the pre-answer motions to dismiss the petition brought by respondents Honeoye Falls-Lima Central School District, Rush-Henrietta Central School District, Rochester City School District, Association of Supervisors and Administrators of Rochester and Brown Hutchinson LLP; (2) dismissed the petition against respondent New York State Teachers' Retirement System; App. Div affirmed.

PARK AVENUE ASSOCIATES v NICHOLSON:

3rd Dept. App. Div. order of 12/23/21; affirmance; leave to appeal granted by the Appellate Division; Rule 500.11 review pending;
Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policyholder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy; Contracts--Breach or Performance of Contract--Whether allocation of proceeds from demutualization of malpractice insurance company was implied in employment agreement;
Supreme Court, Broome County, among other things, granted defendant Peter Joseph Nicholson's motion for summary judgment on his counterclaim and dismissing the complaint; App. Div. affirmed and declared that defendant Peter Joseph Nicholson is solely entitled to the cash consideration from defendant Medical Liability Mutual Insurance Company's demutualization, plus interest for the time the proceeds were in escrow, and plaintiff's claim thereto is invalid.

PEOPLE v HEMPHILL (DARRELL):
U.S. Supreme Court order of 1/20/22; reversal and remand; Rule 500.11 review pending;
Crimes--Harmless and Prejudicial Error--Whether the admission of evidence violating the Confrontation Clause was harmless beyond a reasonable doubt;
Supreme Court, Bronx County, convicted defendant of murder in the second degree and imposed sentence; App. Div. affirmed; Court of Appeals affirmed; U.S. Supreme Court reversed and remanded for further proceedings not inconsistent with its opinion.