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COURT OF APPEALS NEW FILINGS

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

March 16, 2018 through March 22, 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.

ANDRYEYEVA, &c., et al. v NEW YORK HEALTH CARE, INC. &c., et al.:
2ND Dept. App. Div. order of 9/13/17; affirmance; leave to appeal granted by App. Div., 3/7/18;
Actions--Class Actions--Whether plaintiffs' renewed motion for class certification was properly granted; employment relationships--wages--whether the Appellate Division erred in finding that the premise upon which the employer based its payment practices with respect to nonresidential home health care attendants--that is, the Department of Labor's interpretation of the Wage Order (12 NYCRR 142.2.1)--is neither rational nor reasonable;

Supreme Court, Kings County, granted plaintiffs' renewed motion for class certification pursuant to CPLR article 9; App. Div. affirmed.

MATTER OF MARIN, A SUSPENDED ATTORNEY:
3RD Dept. App. Div. order of 2/1/18; denial of motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
Attorney and Client--Disciplinary Proceedings--Denial of motion to vacate suspension order; alleged constitutional violations;
App. Div., among other things, denied respondent's motion for an order vacating, ab initio, a prior order suspending him from the practice of law.

MORENO, &c. v FUTURE CARE HEALTH SERVICES, INC., et al.:
2ND Dept. App. Div. order of 9/13/17; reversal; leave to appeal granted by App. Div., 3/7/18;
Labor--Hours and Wages--Whether defendant employer violated Labor Law article 19 by paying plaintiff home health care attendants a flat rate for 24-hour shifts, resulting in a wage below minimum wage; application of 12 NYCRR 142-2.1(b); actions--class actions--whether Supreme Court properly denied plaintiffs' motion for class certification;
Supreme Court, Kings County, denied plaintiffs' motion for class certification pursuant to CPLR article 9 (4/24/15 order); and, upon reargument, adhered to the original determination in the 4/24/15 order (10/27/15 order); App. Div. (1) dismissed the appeal from the order dated 4/24/15 as superseded by the order dated 10/17/15, and (2) reversed the 10/27/15 order insofar as appealed from, vacated the 4/24/15 order, and granted plaintiffs' motion for class certification pursuant to CPLR article 9.