

COURT OF APPEALS NEW FILINGS

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

March 31, 2017 through April 6, 2017

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.

ALTMAN v 285 WEST FOURTH LLC:

1ST Dept. App. Div. order of 10/4/16; affirmance; leave to appeal granted by Court of Appeals, 3/30/17;

Landlord and Tenant--Rent Regulation--Whether the Appellate Division erred in concluding that defendant's entitlement to a vacancy increase following the departure of the prior tenant of record did not effectuate a deregulation of the apartment under Rent Stabilization Law § 26-504.2;

Supreme Court, New York County, among other things, awarded plaintiff damages for rent overcharges, including treble damages and prejudgment interest, and set the legal rent at \$1,829.49 until the apartment is properly registered with the New York State Division of Housing and Community Renewal; App. Div. affirmed.

ANONYMOUS &c., MATTER OF v MOLIK, et al.:

3RD Dept. App. Div. order of 6/2/16; annulled determination; leave to appeal granted by Court of Appeals, 3/23/17; Proceeding Against Body or Officer--Certiorari--CPLR article 78 proceeding to review respondent's determination denying petitioner intermediate health care facility to amend and seal the New York State Justice Center for the Protection of People with Special Needs' substantiated allegation of neglect against petitioner made pursuant to Social Services Law § 493--whether Social Services Law § 493 authorizes the Justice Center to substantiate a finding of neglect against a facility where the Justice Center determines that systemic conditions at the facility gave rise to an incident of neglect but the employees identified as the subjects of the initial report alleging neglect bear no individual responsibility for the incident; whether the Appellate Division erred in granting petitioner anonymity and so amending the caption of the proceeding; Supreme Court, Schenectady County, transferred the proceeding to the App. Div.; App. Div. annulled respondent's determination denying petitioner's request to amend and seal a report of neglect, granted the petition and remitted the matter to respondent Justice Center for further proceedings not inconsistent with the court's decision.

DIAZ, MATTER OF v VANCE, &c. et al.:

1ST App. Div. judgment of 2/2/17; dismissal of petition; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether any other basis exists to support an appeal as of right; Proceeding against Body or Officer--Prohibition--Claimed equal protection, due process and double jeopardy violations; App. Div. denied the application pursuant to CPLR article 78 and dismissed the petition.

MARINO, MATTER OF v ANNUCCI, &c.:

3RD Dept. App. Div. order of 1/16/17; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; Proceeding Against Body or Officer--Dismissal of petition--Proceeding challenging multiple determinations denying various grievances filed by petitioner and requests for information filed under the Freedom of Information Law--delay in service on respondent resulting in lack of personal jurisdiction--claimed due process violations; Supreme Court, Albany County, in a proceeding pursuant to CPLR article 78, granted respondent's motion to dismiss the petition; App. Div. affirmed.

