

COURT OF APPEALS NEW FILINGS

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

May 7, 2021 through May 13, 2021

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.

D&G CONSTRUCTION DEAN GONZALEZ, LLC, et al. v CAPETOLA, &c., et al.:
2ND Dept. App. Div. order of 1/15/20; denied petition; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;
Proceeding Against Body or Officer--Prohibition--Mandamus--Whether petitioners demonstrated a clear legal right to the relief sought;
App. Div. denied the petition and dismissed the proceeding.

REAMES, &c. v STATE OF NEW YORK et al.:

4TH Dept. App. Div. order of 2/5/21; affirmance; Rule 500.11 review pending;

Negligence--Causation--Whether the trial court properly concluded that defendants did not create a dangerous condition that proximately caused defendant's death; defendants used steel box beam as barrier at entrance to out-of-commission bridge; Court of Claims, dismissed the claim; App. Div. affirmed.

SCOHN ENTERPRISES, INC. v D&G CONSTRUCTION DEAN GONZALEZ, LLC, et al.:

2ND Dept. App. Div. order of 1/15/20; denied motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

Motions and Orders--Denial of motion to vacate order dismissing appeal;

App. Div., inter alia, denied appellants' motion pursuant to 22 NYCRR 1250.10(c) to vacate the dismissal of an appeal from an amended judgment of Supreme Court, Nassau County, dated 1/17/18.