



*State of New York
Court of Appeals*

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COURT OF APPEALS NEW FILINGS

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

May 12, 2023 through May 18, 2023

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 BORELLI v TOWN OF CLARKSTOWN:

2nd Dept. App. Div. order of 5/15/23; reversal; leave to appeal granted by the Court of Appeals, 5/16/23;

Local Laws—Adoption of Local Laws—Whether Local Law No. 1-2023 of the Town of Clarkstown is invalid;

Supreme Court, Rockland County, denied the respondents/defendants' motion, in effect, for summary judgment declaring that Local Law No. 1-2023 is valid, granted the petition, and declared that Local Law No. 1-2023 is invalid; App. Div. reversed, denied as academic the respondents/defendants' motion, in effect, for summary judgment declaring that Local Law No. 1-2023 is valid, and dismissed the proceeding/action as academic.

HOEHMANN v TOWN OF CLARKSTOWN:

2nd Dept. App. Div. order of 5/15/23; reversal; leave to appeal granted by the Court of

Appeals, 5/16/23;

Local Laws—Adoption of Local Laws—Whether Chapter 263 of the Code of the Town of Clarkstown is invalid because it was not subject to a public referendum;

Supreme Court, Rockland County, denied the plaintiff's motion for summary judgment on the complaint, and granted the intervenors' cross-motion, in effect, for summary judgment dismissing the complaint; App. Div. reversed, granted that branch of the plaintiffs' motion which was for summary judgment declaring that Chapter 263 of the Code of the Town of Clarkstown is invalid because it was not subject to a public referendum, denied as academic that branch of the plaintiffs' motion which was for summary judgment declaring that Chapter 263 of the Code of the Town of Clarkstown is invalid for its inconsistency with Town Law § 63 and Municipal Home Rule Law § 20, denied the intervenors' cross-motion, in effect, for summary judgment dismissing the complaint, and then remitted the matter to Supreme Court, Rockland County, for the entry of a judgment, inter alia, declaring that Chapter 263 of the Code of the Town of Clarkstown is invalid.

MATTER OF JACOBSON v HOEHMANN:

2nd Dept. App. Div. order of 5/15/23; reversal; leave to appeal granted by the Court of Appeals, 5/16/23;

Elections—Designating Petitions—Whether Chapter 263 of the Code of the Town of Clarkstown rendered George A. Hoehmann an ineligible candidate for Town Supervisor;

Supreme Court, Rockland County, denied the motion of George A. Hoehmann to dismiss the petition, inter alia, to invalidate the designating petition, granted the petition, inter alia, to invalidate the designating petition, and directed the respondent Rockland County Board of Elections to refrain from printing George A. Hoehmann's name on the ballot for the primary election to be held on June 27, 2023, for the nomination of the Republican Party as its candidate for the public office of Supervisor of the Town of Clarkstown; App. Div. reversed, granted the motion of George A. Hoehmann to dismiss the petition, inter alia, to invalidate the designating petition, and dismissed the proceeding.

MAK TECHNOLOGY HOLDINGS v ANYVISION INTERACTIVE TECHNOLOGIES:

1st Dept. App. Div. order of 12/29/22; affirmance; leave to appeal granted by the Appellate Division, 5/4/23;

Contracts—Ambiguous Contracts—Whether the Appellate Division properly held that the contract, as amended, is ambiguous;

Supreme Court, New York County, denied defendant's motion to dismiss the first cause of action for breach of contract to the extent that it sought a \$1,250,000 referral fee; App. Div. affirmed.