

COURT OF APPEALS NEW FILINGS

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

May 31 through June 6, 2019

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.

HAIMS, MATTER OF v LEHMANN:

2ND Dept. App. Div. order of 4/24/19; modification; sua sponte examination 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;

Parent, Child and Family--Custody--Whether maternal aunt demonstrated existence of extraordinary circumstances warranting award of physical custody to her rather than to child's father; whether Family Court erred in awarding joint legal custody of the child to maternal aunt and father; whether Family Court's determination discontinuing father's supervised therapeutic parental access lacked a sound and substantial basis in the record; alleged constitutional violations;

Family Court, Westchester County, awarded the parties joint legal custody of the child with physical custody to the maternal aunt, discontinued father's therapeutic supervised parental access with the child, awarded the father unsupervised parental access with the child, and set a schedule for such access; App. Div. modified (1) by deleting the provision of the 12/18/17 Family Court order awarding the parties joint legal custody of the subject child, and substituting therefore a provision awarding the child's maternal aunt sole legal custody of the child, and (2) by deleting the provisions of the 12/18/17 order discontinuing father's therapeutic supervised parental access with the child, and substituting therefor a provision continuing father's therapeutic supervised parental access with the child, and as so modified, affirmed the 12/18/17 order insofar as appealed and cross-appealed from, and remitted the matter to Family Court, Westchester County, to specify a schedule for father's continued therapeutic supervised parental access with the child.

MATTER OF SKLAR, AN ATTORNEY:

3RD Dept. App. Div. order of 12/6/18; suspension; sua sponte examination on whether a substantial constitutional question is directly involved to support an appeal as of right; **Attorney and Client--Disciplinary Proceedings--Whether imposition of reciprocal discipline, based on findings of attorney misconduct in California, was proper; alleged due process violations;** App. Div. suspended appellant from the practice of law for a period of three months.