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COURT OF APPEALS NEW FILINGS

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

June 22, 2018 through June 28, 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.

COLLAZO, et al. v NETHERLAND PROPERTY ASSETS LLC, et al.:
1ST Dept. App. Div. order of 11/28/17; affirmance; leave to appeal granted by Court of Appeals, 6/14/18;
Landlord and Tenant--Rent--Tenants' claims of rent overcharge by landlord allegedly taking advantage of luxury decontrol provisions of the Rent Stabilization Law while simultaneously receiving tax incentives under the City of New York's J-51 program—whether Supreme Court abused its discretion in determining that most of plaintiffs' claims were within the specialized expertise of the New York State Division of Housing and Community Renewal and dismissing those claims under the primary jurisdiction doctrine;
Supreme Court, New York County, granted defendants' motion to dismiss plaintiffs' complaint; App. Div. affirmed.

CUBERO (MICHAEL), PEOPLE v:
3RD Dept. App. Div. order of 4/26/18; affirmance with dissents; leave to appeal granted by Lynch, J., 6/20/18;
Crimes--Appeal--Preservation of constitutional challenge to statute creating Justice Center for the Protection of People with Special Needs; whether Appellate Division, pursuant to its interest of justice jurisdiction or by its inherent authority, may remit matter for further factual findings as to whether Special Prosecutor acted with consent of District Attorney; crimes—right to counsel—effective representation—whether defendant's counsel was ineffective for failing to raise constitutional argument challenging authority of Special Prosecutor;
County Court, Sullivan County, convicted defendant of two counts of criminal sexual act in the third degree, endangering the welfare of an incompetent or physically disabled person in the first degree and two counts of sexual abuse in the second degree; App. Div. affirmed.

KRUG, MATTER OF v CITY OF BUFFALO:
4TH Dept. App. Div. order of 6/8/18; affirmance with dissents; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution;
Proceeding Against Body or Officer--CPLR article 78 proceeding to annul to annul respondent's denial of petitioner's request to be defended in a civil action alleging that petitioner police officer assaulted a civilian; whether the denial of petitioner's request for a defense was arbitrary and capricious; whether conduct occurred while petitioner was acting within the scope of his public employment or duties;
Supreme Court, Erie County, granted the CPLR article 78 petition to the extent of ordering respondent to provide for petitioner's defense in a civil action; App. Div. affirmed.

MATTER OF MARIN, A SUSPENDED ATTORNEY:
3RD Dept. App. Div. order of 6/7/18; denial of appellant's motions and grant of respondent's motion; 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;
Appeal--Appealable Paper--Appealability of order denying motions for, among other things, reargument, and granting motion to enjoin attorney from filing any new motions or applications without prior leave of court; alleged due process violation;

App. Div. (1) denied appellant's motions for an order granting, among other things, reargument from an order of that court denying appellant's motion seeking vacatur of the 1998 order suspending him from the practice of law, and (2) granted the motion of the Attorney Grievance Committee for the Third Judicial Department for an order enjoining appellant from filing any new motions or applications in the Appellate Division, Third Department, other than an application for reinstatement, without prior leave of that court.