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COURT OF APPEALS NEW FILINGS

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

June 29, 2018 through July 5, 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.

BATTISTELLA v JOYCE:
1ST Dept. App. Div. order of 3/31/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Husband and Wife--Divorce--Due process claims involving denial of a court-appointed attorney, insufficient opportunity to present evidence, cross-examine witnesses and examine a forensic psychologist report; missing portion of trial transcript;
Supreme Court, New York County, among other things, awarded primary residential custody of the parties' children to defendant wife, with liberal visitation to plaintiff husband, awarded defendant child support, and directed plaintiff to pay a portion of the rent arrears on the former marital apartment; App. Div. affirmed.

MANUEL, MATTER OF v GRIFFIN, &c.:
2ND Dept. App. Div. order of 5/9/18; confirmation of determination; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether any other jurisdictional basis exists for an appeal as of right;
Prisons and Prisoners--Discipline of Inmates--Whether substantial evidence supports the hearing officer's determination that petitioner violated certain prison disciplinary rules; claimed due process violations;
App. Div. confirmed respondent's determination affirming a determination of a hearing officer, made after a Tier II disciplinary hearing, finding petitioner guilty of violating certain Institutional Rules of Conduct and imposing penalties.

ROBERTS, PEOPLE ex rel. v BAXTER:
5/21/18 order of single 4TH Dept. App. Div. Justice; denial of writ; sua sponte examination of whether an appeal as of right lies from an order of a single Justice of the App. Div.;
Appeal--Appealable Paper--Order of a single Justice of the Appellate Division; habeas corpus;
Hon. Nancy J. Smith, among other things, denied petitioner's application for a writ of habeas corpus, and dismissed the petition.