



*State of New York
Court of Appeals*

Vol. 42 - No. 28
8/4/22

*Lisa Le Cours
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

COURT OF APPEALS NEW FILINGS

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

July 15, 2022 through July 21, 2022

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.

BAZDARIC v ALMAH PARTNERS:

1st Dept. App. Div. order of 3/31/22; reversal and dismissal; leave to appeal granted by the App. Div.; Rule 500.11 review pending;

Labor--Safe Place to Work--Whether the Appellate Division properly granted summary judgment dismissing plaintiff's Labor Law § 241 (6) claim because a plastic covering placed on the stairs of an escalator to protect it from dripping paint was integral to the work of painting;

Supreme Court, New York County, among other things, granted plaintiffs' motion for summary judgment as to liability on their Labor Law § 241 (6) cause of action and denied defendants' cross motion for summary judgment dismissing the section 241 (6) cause of action; App. Div. reversed, denied plaintiffs' motion for summary judgment and granted defendants' cross motion for summary judgment dismissing the section 241(6) cause of

action.

GOTTWALD v SEBERT:

1st Dept. App. Div. order of 3/10/22; reversal and denial of motion; leave to appeal granted by the App. Div. on a certified question;

Statutes--Retroactive Application of Statutes--Whether the legislature intended for its 2020 amendments to the anti-strategic lawsuit against public participation (anti-SLAPP) law (see Civil Rights Law §§ 70-a, 76-a) to apply retroactively to claims pending at the time the amendments became effective;

Supreme Court, New York County, granted defendant's motion for a ruling that Civil Rights Law § 76-s applies to plaintiffs' defamation claims against her and for leave to assert a counterclaim against plaintiffs under Civil Rights Law § 70-a; App. Div. reversed and denied motion.

PEOPLE BY JAMES v ALLEN:

Supreme Court, New York County order of 6/3/22; appointment of receiver; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional question is directly involved to support the appeal taken as of right;

Fraud--Martin Act--Whether the Martin Act claims are preempted by federal law; Limitation of Actions--Whether CPLR 213 (9)'s six-year statute of limitations applies to plaintiff's Martin Act claims; alleged due process and contracts clause violations;

Supreme Court, New York County, entered judgment against defendants and relief defendants in plaintiff's favor; App. Div., inter alia, affirmed the judgment; Supreme Court, New York County, inter alia, appointed a receiver.

MATTER OF RAMIREZ v SELECTIVE ADVISORS GROUP:

1st Dept. App. Div. order of 2/22/22; dismissal; sua sponte examination of whether a substantial constitutional question is directly involved to support the appeal taken as of right;

Appeal--Appeal as of Right--Appeal from sua sponte order;

Supreme Court, New York County, sua sponte dismissed the petition; App. Div. dismissed the appeal.

PEOPLE v SAENGER (MICHAEL):

2nd Dept. App. Div. order of 2/16/22; modification; leave to appeal granted by Troutman, J., 7/1/22;

Crimes--Indictment--Whether indictment charging defendant with aggravated family offense (see Penal Law § 240.75) is jurisdictionally defective when it does not state the specified misdemeanor offense the defendant is accused of committing; Supreme Court, Queens County, convicted defendant of criminal contempt in the first degree, aggravated family offense, and criminal contempt in the second degree, and

imposed sentence; App. Div. modified by vacating the conviction of criminal contempt in the second degree and the sentence imposed thereon, and dismissing that count of the indictment; and as so modified, affirmed the judgment.