Vol. 38 - No. 29
7/20/18

COURT OF APPEALS NEW FILINGS

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

July 13, 2018 through July 19, 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.

AUSTIN, et al. MATTER OF v MILIN &c., et al.:
1ST Dept. App. Div. order 5/29/18; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Proceeding Against Body or Officer--Prohibition--Whether writ of prohibition lied to prevent enforcement of housing court order authorizing re-execution of eviction warrant; alleged constitutional violations;
Supreme Court, New York County, denied the petition seeking, inter alia (1) a writ of prohibition against the enforcement of an order of Civil Court, New York County (Housing Part), entered on or about February 18, 2016, which granted defendant landlords' motion to re-execute a warrant of eviction and (2) an order restraining landlords from executing the warrant of eviction; and dismissed the CPLR article 78 proceeding; App. Div. affirmed.

CANGRO v MARANGOS:
1ST Dept. App. Div. order of 4/26/18; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Dismissal and Nonsuit--Dismissal of Complaint--Whether the complaint was properly dismissed--action against attorney arising out of divorce proceeding;
Supreme Court, New York County, denied plaintiff's motion for damages and sanctions against defendant, and dismissed the complaint; App. Div. affirmed.

TOMHANNOCK, LLC v ROUSTABOUT RESOURCES, LLC:
3RD Dept, App. Div. order of 4/6/17; affirmance; sua sponte examination whether the June 27, 2018 Supreme Court order appealed from finally determines the action within the meaning of the Constitution and whether the Supreme Court order is necessarily affected the April 6, 2017 order of the App. Div.;
Specific Performance--When Remedy Appropriate--Whether plaintiff, which entered into an option agreement whereby buyers of a parcel of real property agreed to reconvey a portion of the parcel to plaintiff upon plaintiff's request, was entitled to specific performance of the option agreement despite that plaintiff was unable to record the necessary deed due to a failure to obtain subdivision approval;
Supreme Court, Rensselaer County, denied defendant's motion for summary judgment and granted plaintiff's cross motion for partial summary judgment seeking specific performance; and thereafter, granted plaintiff's cross motion for summary judgment seeking specific performance of the Option Agreement to the extent of directing defendant to sign the reconveyance deed within 30 days of service of a copy of the order with notice of entry; App. Div. affirmed; and thereafter, Supreme Court, Rensselaer County resettled the August 14, 2016 Supreme Court order to reflect that the court granted all the relief sought by plaintiff, with no further proceedings necessary on the first cause of action.