State of New York
Court of Appeals

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8/21/23

Lisa LeCours
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
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Albany, New York 12207-1095

COURT OF APPEALS NEW FILINGS

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

July 21, 2023 through July 27, 2023

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.

CRUZ v CITY OF NEW YORK:
2nd Dept. App. Div. order of 8/11/21; affirmance; leave to appeal granted by the Appellate Division, 6/23/23;
Negligence—Assumption of Risk—Whether doctrine of primary assumption of risk was applicable in personal injury action; plaintiff injured after falling in crack or hole on basketball court;
Supreme Court, Queens County, granted defendant's motion for summary judgment dismissing the complaint; App. Div. affirmed.

MAHARAJ v CITY OF NEW YORK:
2nd Dept. App. Div. order of 12/8/21; affirmance; leave to appeal granted by the Appellate Division, 6/23/23;
Negligence—Assumption of Risk—Whether doctrine of primary assumption of risk

was applicable in personal injury action; plaintiff injured after tripping over hole while playing cricket;
Supreme Court, Kings County, granted defendants' motion for summary judgment dismissing the complaint; App. Div. affirmed.

MATTER OF ROWE v WHELAN:
2nd Dept. App. Div. order of 6/23/23; denial of motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any jurisdictional basis exists for the appeal;
Proceeding Against Body or Officer;
App. Div. denied motion to reargue or for leave to appeal to the Court of Appeals.

PEOPLE v WILLIAMS (RAYMOND):
1st Dept. App. Div. order of 5/9/23; affirmance; leave to appeal granted by Mendez, J., 7/6/23; Rule 500.11 review pending;
Crimes—Burglary—Whether the evidence was legally sufficient to establish that defendant committed third-degree burglary;
Supreme Court, New York County, convicted defendant, after a jury trial, of burglary in the third degree, and sentenced him, as a second felony offender, to a term of 3 ½ to 7 years; App. Div., with two Justices dissenting, affirmed.