

COURT OF APPEALS NEW FILINGS

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

July 21, 2017 through July 27, 2017

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.

GARCIA v GOVERNMENT EMPLOYEES INSURANCE COMPANY:

2ND Dept. App. Div. order of 6/28/17; reversal; Rule 500.11 review pending;

Insurance--Cancellation--Failure to Pay Premium--whether questions of fact exist regarding divisibility of umbrella insurance policy, thereby precluding summary judgment; whether insurance policy is ambiguous;

Supreme Court, Nassau County, denied defendant's motion for summary judgment dismissing the complaint; App. Div. reversed and granted defendant's motion for summary judgment dismissing the complaint.

ROCKTASCHEL (KEVIN), PEOPLE v:

4TH Dept. App. Div. order of 6/9/17; affirmance; sua sponte examination whether the order appealed from finally determines an action or proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

Crimes--Sex Offenders--Sex Offender Registration Act--whether sex offender failed to properly notify the New York State Attorney General of his constitutional challenge to the Sex Offender Registration Act, as required under Executive Law § 71; whether retroactive application of a 2006 amendment to the Sex Offender Registration Act, which extended from 10 to 20 years the period of registration required for level one sex offenders (see Correction Law § 168-h), violates due process;

County Court, Erie County, denied defendant's motion seeking to terminate his registration requirement under the Sex Offender Registration Act; App. Div. affirmed.