

COURT OF APPEALS NEW FILINGS

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

August 9 through August 15, 2019

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.

ANSLEY, MATTER OF v JAMESVILLE-DeWITT CENTRAL SCHOOL DISTRICT:
4TH Dept. App. Div. order of 7/5/19; modification with dissents; Rule 500.11 review pending;

Schools--Bus Drivers--Whether termination of petitioner school bus driver was so disproportionate to the offense committed as to shock one's sense of fairness; petitioner slapped student in face after student punched her;

Supreme Court, Onondaga County, transferred the CPLR article 78 proceeding to the App. Div.; App. Div. modified by granting the petition in part by vacating the penalty imposed, and as so modified, confirmed the determination finding petitioner guilty of disciplinary charges, and remitted the matter to respondent for further proceedings.

McNERLIN, MATTER OF v ARGENTO &c, et al.:

4TH Dept. App. Div. order of 6/7/19; dismissal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Crimes--Double Jeopardy--Whether the prosecution of petitioner is barred by the Double Jeopardy Clause of the state Constitution under the "same conduct" test or by the state's statutory double jeopardy provisions;
App. Div. dismissed CPLR article 78 petition to prohibit the prosecution of petitioner.