State of New York
Court of Appeals

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Chief Clerk and
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COURT OF APPEALS NEW FILINGS

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

August 2, 2024 through August 8, 2024

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.

MATTER OF CLAIM OF ANDERSON:
APL-2024-00096
3rd Dept. App. Div. order of 3/28/24; reversal; leave granted by the Appellate Division with certified question 7/18/24;
Workers' Compensation—Whether a claimant's fear of contracting a virus at her place of employment constitutes an accidental injury that is compensable under section 2, paragraph 7 of the Workers' Compensation Law;
App. Div. on appeal from a decision of the Workers' Compensation Board, filed July 22, 2022, which ruled, among other things, that claimant did not sustain a compensable injury and disallowed her claim for workers' compensation benefits, reversed and remitted to the Board for further proceedings not inconsistent with the court's decision.

MATTER OF CLAIM OF DJANUZAKOV:
APL-2024-00097
3rd Dept. App. Div. order of 3/28/24; reversal; leave granted by the Appellate Division with certified question 7/18/24;
Workers' Compensation—Whether a claimant's fear of contracting a virus at his place of employment constitutes an accidental injury that is compensable under section 2, paragraph 7 of the Workers' Compensation Law;
App. Div. on appeal from a decision of the Workers' Compensation Board, filed April 27, 2022, which ruled, among other things, that claimant did not sustain a compensable injury and disallowed his claim for workers' compensation benefits, reversed and remitted to the Board for further proceedings not inconsistent with the court's decision.

GRAND SOUTH POINT v BASSETT:
APL-2024-00101
3rd Dept. App. Div. order of 6/20/24; modification; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as or right;
Constitutional Law—Whether Public Health Law § 2828, which limits the ways nursing homes in New York can spend their revenues, is unconstitutional;
Supreme Court, Albany County, granted defendants' motion to dismiss the amended complaint; App. Div. modified by declaring that Public Health Law § 2828 is not unconstitutional on its face, and, as so modified, affirmed.

PEOPLE v HEMINGWAY (CARISSA):
APL-2024-00102
3rd Dept. App. Div. order of 2/29/24; affirmance; leave to appeal granted by Halligan, J., 7/31/24;
Crimes—Accusatory Instrument—Whether the trial court's statutory authority to order amendments to an indictment under CPL 200.70 encompasses an amendment to an alleged underlying offense that is an element of a felony charge;
County Court, Clinton County, upon a verdict convicting defendant of the crimes of aggravated driving while intoxicated with a child passenger, driving while ability impaired by drugs and criminal possession of a controlled substance in the seventh degree (two counts), and the traffic infraction of use of mobile telephones, App. Div. affirmed.

INTEGRATENYC v STATE OF NEW YORK:
APL-2024-00099
1st Dept. App. Div. order of 5/2/24; modification; leave to appeal granted by the Appellate Division 7/18/24 on a certified question;
Schools—Whether plaintiffs' complaint presents a justiciable controversy; whether plaintiffs stated a cause of action under the Education Article of the New York Constitution, the Equal Protection Clause, or the New York Human Rights Law; whether the State is a proper defendant with respect to alleged violations of the Education Article;

Supreme Court, New York County, granted City defendants' 3211(a) (2),(7) motion to dismiss; State defendants' 3211(a)(1)(2),(7) motion to dismiss and intervenor-defendant's 3211(a)(7) motion to dismiss the amended complaint on the ground that it did not present a justiciable controversy; App. Div. modified to deny defendants' and intervenor defendant's motions as to the first and second causes of action and that portion of the third cause of action against Bill de Blasio, Mayor of the City of New York, the New York City Department of Education, and its Chancellor, Meisha Porter based on the denial of the use of its facilities, and otherwise affirmed. App. Div. addressed justiciable controversy and failure to state a claim grounds for dismissal.

MATTER OF CLAIM OF MATTHEWS:
APL-2024-00095
3rd Dept. App. Div. order of 3/28/24; reversal; leave granted by the Appellate Division with certified question 7/18/24;
Workers' Compensation—Whether a claimant's fear of contracting a virus at his place of employment constitutes an accidental injury that is compensable under section 2, paragraph 7 of the Workers' Compensation Law;
App. Div. on appeal from a decision of the Workers' Compensation Board, filed November 10, 2021, which ruled, among other things, that claimant did not sustain a compensable injury and disallowed his claim for workers'compensation benefits, reversed and remitted to the Board for further proceedings not inconsistent with the court's decision.

MATTER OF CLAIM OF MCLAURIN:
APL-2024-94
3rd Dept. App. Div. order of 3/28/24; reversal; leave granted by the Appellate Division with certified question 7/18/24;
Workers' Compensation—Whether a claimant's fear of contracting a virus at her place of employment constitutes an accidental injury that is compensable under section 2, paragraph 7 of the Workers' Compensation Law;
App. Div. on appeal from a decision of the Workers' Compensation Board, filed April 16, 2022, which ruled, among other things, that claimant did not sustain a compensable injury and disallowed her claim for workers' compensation benefits, reversed and remitted to the Board for further proceedings not inconsistent with the court's decision.

NOFAL v YOUSEF:
APL-2024-00091
2nd Dept. App. Div. order of 6/12/24; affirmance; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;
Pleading—Sufficiency of Pleading—Whether plaintiff's complaint stated a cause of

action for defamation; alleged constitutional violations;
Supreme Court, Westchester County, granted defendants' motion, in effect, under CPLR 3211(a) to dismiss the amended complaint; App. Div. affirmed insofar as appealed from.

TEMAN v BRAVERMAN:
APL-2024-104
1st Dept. App. Div. order of 1/9/24; denied motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;
Motions and Orders;
App. Div. denied motion for reargument of, or leave to appeal from, November 2, 2023 Appellate Division order.