

COURT OF APPEALS NEW FILINGS

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

**August 26, 2016 through September 1, 2016**

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.**

LAVENDER, MATTER OF v ZONING BOARD OF APPEALS OF THE TOWN OF BOLTON:

3<sup>RD</sup> Dept. App. Div. order of 7/21/16; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right and whether so much of the 7/21/16 App. Div. order as affirmed the 9/21/15 Supreme Court order denying petitioner's motion for reconsideration finally determines the proceeding within the meaning of the Constitution;

MUNICIPAL CORPORATIONS - ZONING - WHETHER THE DETERMINATION OF THE ZONING BOARD OF APPEALS, THAT PETITIONER'S RENTAL OF HIS PROPERTY AS AN EVENT VENUE VIOLATED THE TOWN OF BOLTON'S ZONING CODE, IS SUPPORTED BY THE RECORD; ALLEGED DUE PROCESS AND EQUAL TREATMENT ISSUES;

Supreme Court, Warren County, in a proceeding pursuant to CPLR article 78, dismissed petitioner's application to review respondent's determination interpreting the Town's zoning code as excluding petitioner's use of his property as an event venue; Supreme Court thereafter, among other things, denied petitioner's motion for reconsideration; App. Div. affirmed.

O'KANE (DENNIS), PEOPLE v:

County Court, Albany County order of 9/14/15; reversal; leave to appeal granted by Abdus-Salaam, J., 8/1/16;

CRIMES - VERDICT - CONTENT OF VERDICT SHEET - DEFENSE COUNSEL'S CONSENT TO ANNOTATIONS ON VERDICT SHEET SUMMARIZING SPECIFIC ALLEGATIONS AGAINST DEFENDANT - WHETHER COUNTY COURT ERRED IN HOLDING THAT DEFENSE COUNSEL WAS INEFFECTIVE FOR CONSENTING TO THE VERDICT SHEET ANNOTATIONS AND THAT SUCH ANNOTATIONS CONSTITUTED REVERSIBLE ERROR - ISSUE NOT ADDRESSED BY THE PARTIES BUT RAISED BY COUNTY COURT SUA SPONTE IN ITS OPINION;

Albany City Court, after a jury trial, convicted defendant of four counts of aggravated harassment in the second degree, two counts of stalking in the fourth degree, and six counts of criminal contempt in the second degree, and sentenced defendant to one year of imprisonment on each count, with the sentences to run consecutively; County Court reversed and remitted the matter to Albany City Court for a new trial.