



*State of New York
Court of Appeals*

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*Lisa Le Cours
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

COURT OF APPEALS NEW FILINGS

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

September 22, 2023 through September 28, 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.

PRIMOSCH v PEROXYCHEM:

4th Dept. App. Div. order of 8/11/23; dismissal; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution; **Labor—Safe Place to Work—Whether plaintiff established entitlement to summary judgment for claims based on violations of Labor Law §§ 200, 240(1) and 241(6); plaintiff sustained injuries when he received an electric shock while performing work on a vacuum circuit breaker at defendant's substation;**

Supreme Court, Erie County, granted the motion of plaintiffs for summary judgment on liability pursuant to Labor Law § 200 and denied the cross motion of defendant for summary judgment dismissing the complaint; Supreme Court, Erie County, upon reargument, adhered to a prior determination denying those parts of the cross-motion of defendant for summary judgment dismissing the Labor Law §§ 240 (1) and 241 (6) claims and granted plaintiffs summary judgment on their Labor Law § 240 (1) claim; App. Div.

(1) dismissed the appeal from the 1/7/22 order insofar as it denied those parts of defendant's cross-motion seeking summary judgment dismissing plaintiffs' Labor Law §§ 240 (1) and 241 (6) claims and otherwise modified the order by denying plaintiffs' motion; and (2) reversed the 6/3/22 order, granted defendant's cross motion in part, and dismissed plaintiffs' Labor Law §§ 240 (1) and 241 (6) claims.

REGAN v W ASSOCIATES:

1st Dept. App. Div. order of 12/22/22; affirmance; leave to appeal granted by the Court of Appeals, 9/19/23; Rule 500.11 review pending;

Negligence—Foreseeability—Whether the courts below properly concluded that defendants were entitled to summary judgment because plaintiff's accident was unforeseeable as a matter of law or because her own conduct was the sole proximate cause of her injuries;

Supreme Court, New York County, granted defendants' motion for summary judgment dismissing the complaint; App. Div. affirmed.