

COURT OF APPEALS NEW FILINGS

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

September 29, 2017 through October 5, 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.

CAPITAL ONE TAXI MEDALLION FINANCE v CORRIGAN, et al.:

1ST Dept. App. Div. order of 2/28/17; reversal; leave to appeal granted by Court of Appeals, 9/14/17;

Suretyship and Guarantee--Action to recover on two guaranties--line of credit secured by loans to Chicago taxi owners and drivers for the purchase of taxi medallions--whether defendants' claim for negligent impairment of collateral, which remains pending in parallel litigation, barred summary judgment in plaintiff's favor; lender's alleged refusal to release liens to permit sale of taxi medallions while they had higher value, and alleged withdrawal from medallion lending market to pursue competing venture with a ride-sharing service;

Supreme Court, New York County, denied plaintiff's motion for summary judgment in lieu of complaint; App. Div. reversed and granted plaintiff's motion for summary judgment in lieu of complaint; judgment thereafter entered in Supreme Court, New York County awarding plaintiff the aggregate sum of \$63,910,127.37 against defendants.

SILVAGNOLI (ROQUE), PEOPLE v:

1ST Dept. App. Div. order of 6/6/17; reversal; leave to appeal granted by Mazzairelli, J., 8/29/17;
Crimes--Right to Counsel--Representation on Unrelated Matter--Whether defendant's right to counsel was violated when detective, while questioning defendant on a homicide investigation, mentioned pending drug charge on which defendant was represented by counsel; whether questioning on drug charge was discrete and fairly separable from questioning on homicide charge;
Supreme Court, New York County, convicted defendant of manslaughter in the first degree and imposed sentence; App. Div. reversed, granted the motion to suppress defendant's statements, vacated the plea, and remanded the matter for further proceedings.

STEFANIAK v ZULKHARNAIN:

4TH Dept. App. Div. order of 7/11/14; modification; sua sponte examination whether a party may appeal as of right to the Court of Appeals and cross appeal to the App. Div. simultaneously from the same Supreme Court judgment and whether the two-Justice dissent at the App. Div., in the earlier order brought up for review, is on a question of law;
Attorney and Client--Compensation--Attorneys' fees for attorney for the children in a matrimonial action--whether there was good cause to appoint attorney Reedy as attorney for the children nunc pro tunc pursuant to 22 NYCRR part 36 and to direct payment of attorneys' fees by defendant; Husband, Wife and Other Domestic Relationships--Divorce--Custody of Children--Counsel Fees;
Supreme Court, Erie County, among other things, denied attorney Reedy's motion for an award of attorney's fees from defendant; App. Div. modified by granting attorney Reedy's motion in part, appointing him attorney for the children pursuant to 22 NYCRR part 36 nunc pro tunc, directing defendant to pay the attorney's fees, and remitting the matter to Supreme Court to determine the amount of the fees; judgment thereafter entered in Supreme Court, Erie County, awarding Reedy's estate \$70,890 against defendant Zulkharnain and denying Reedy's estate's request for prejudgment interest pursuant to CPLR 5001(a).