

COURT OF APPEALS NEW FILINGS

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

November 4, 2016 through November 10, 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.

CANGRO v ROSADO:

1ST Dept. App. Div. order of 10/13/16; denial of motion; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

APPEALS - APPELLATE DIVISION - DENIAL OF MOTION FOR LEAVE TO FILE APPELLATE BRIEF AND APPENDIX;

Supreme Court, New York County, denied plaintiff's motion for various types of relief; App. Div. denied plaintiff's motion for leave to file an appellate brief and appendix, and directed the Clerk not to accept any further motions and/or filings in this matter without plaintiff first obtaining prior leave of court.

DORMITORY AUTHORITY OF THE STATE OF NEW YORK, et al. v SAMSON
CONSTRUCTION CO., &c., et al.:

1ST Dept. App. Div. order of 3/3/16; modification; leave to
appeal granted by App. Div., 10/18/16;

NEGLIGENCE - ARCHITECT'S MALPRACTICE - WHETHER DORMITORY
AUTHORITY MAY PURSUE A NEGLIGENCE CLAIM AGAINST THE ARCHITECT IN
ADDITION TO ITS BREACH OF CONTRACT CLAIM ARISING OUT OF DAMAGES
INCURRED DURING SITE EXCAVATION FOR THE CONSTRUCTION PROJECT'S
FOUNDATION; PARTIES - WHETHER CITY OF NEW YORK, A NONPARTY TO THE
UNDERLYING CONSTRUCTION CONTRACT, CAN ASSERT A CLAIM AS A THIRD-
PARTY BENEFICIARY AS ULTIMATE END-USER OF THE BUILDING TO BE
CONSTRUCTED;

Supreme Court, New York County, among other things, granted in
part of defendant Perkins Eastman Architects, P.C.'s motion for
summary judgment seeking dismissal of the fifth cause of action,
for breach of contract, and denied the part of the motion seeking
dismissal of the sixth cause of action, for negligence; App. Div.
modified to deny the motion as to the fifth cause of action, and
otherwise affirmed.