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COURT OF APPEALS NEW FILINGS

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

October 13, 2017 through October 19, 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.

THOMAS CC., MATTER OF:
3RD Dept. App. Div. order of 8/25/17; dismissal; sua sponte examination whether the order appealed from is final and whether any jurisdictional basis exists for an appeal as of right; Guardian and Ward--Appointment of Guardian--Powers--Powers of Attorney--Revocation of power of attorney; claimed denial of equal protection and due process;
Supreme Court, Chenango County, among other things, revoked a power of attorney dated October 25, 2004, and appointed a guardian of the person and a guardian of the property for a certain incapacitated individual; App. Div. dismissed the appeal and denied as academic the remaining motions for various relief.

MOORE, PEOPLE ex rel. v SUPERINTENDENT OF COXSACKIE CORRECTIONAL FACILITY:
3RD Dept. App. Div. order of 9/28/17; affirmance; sua sponte examination whether any jurisdictional basis exists for an appeal as of right;
Habeas Corpus--When Remedy Available--alleged constitutional violations; entitlement to immediate release from custody; Supreme Court, Greene County, dismissed the application for a writ of habeas corpus; App. Div. affirmed.

SMITH, MATTER OF v LASAK, &c., et al.:
2ND Dept. App. Div. order of 4/12/17; denial of petition; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;
Proceeding Against Body or Officer--Prohibition--Whether petitioner demonstrated a clear legal right to the relief sought; App. Div. denied the petition in CPLR article 78 proceeding in the nature of prohibition, and dismissed the proceeding on the merits.