State of New York
Court of Appeals

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Chief Clerk and
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COURT OF APPEALS NEW FILINGS

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

November 4, 2022 through November 10, 2022

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.

PEOPLE v PATRICK LABATE:
2nd Dept. App. Term order of 4/8/22; reversal; leave to appeal granted by Wilson, J., 10/11/22;
Crimes—Right to Speedy Trial—Whether defendant's motion to dismiss, on statutory speedy trial grounds, the count of reckless driving should have been granted; whether the People's statement of readiness was illusory when, following later adjournments, the People were not ready for trial without explanation;
New York City Criminal Court, Queens County, upon reargument and renewal, adhered to March 25, 2019 order denying the branch of defendant's motion seeking to dismiss, on statutory speedy trial grounds, the count of the accusatory instrument charging defendant with reckless driving; Criminal Court, Queens County, convicted defendant, upon a jury verdict, of reckless driving, and imposed sentence; App. Term reversed, vacated so much

of the June 13, 2019 order as, upon reargument, adhered to the March 25, 2019 order denying the branch of defendant's motion seeking to dismiss, on statutory speedy trial grounds, the count in the accusatory instrument charging defendant with reckless driving, granted that branch of defendant's motion, and dismissed that count of the accusatory instrument.

SUTHERLAND v TUTOR PERINI BUILDING CORP.;
1st Dept. App. Div. order of 6/30/22; reversal; leave to appeal granted by the Appellate Division; Rule 500.11 review pending;
Labor—Safe Place to Work--Whether issues of fact exist as to whether plaintiff's injuries were proximately caused by a slippery condition in violation of Industrial Code (12 NYCRR) §23-1.7 (d), or whether the sole proximate cause was plaintiff's decision, as a foreman, to work on a plywood surface exposed to the elements while it was raining;
Supreme Court, Bronx County, granted plaintiff's motion for partial summary judgment on so much of the Labor Law § 241 (6) claim as was based on an alleged violation of Industrial Code (12 NYCRR) § 23-1.7 (d); App. Div. reversed and denied the motion, with dissents.