



State of New York
Court of Appeals
Clerk's Office
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COURT OF APPEALS NEW FILINGS

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

November 1, 2024 through November 7, 2024

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.

MATTER OF CENTER FOR JUDICIAL ACCOUNTABILITY:

APL-2024-00149

Supreme Court, Albany County, judgment and order of 8/14/24; dismissal; sua sponte examination of whether (1) the appeal was timely taken; (2) an appeal to another court is simultaneously pending; (3) the orders appealed from finally determine the proceeding within the meaning of the Constitution; (4) a direct appeal lies pursuant to CPLR 5601 (b)(2);

Constitutional Law—Constitutionality of Chapter 60, Part E, of the Laws of 2015; Supreme Court, Albany County, inter alia, granted respondents' motion to dismiss pursuant to CPLR 3211(a)(8) (Motion Sequence 4); Supreme Court, Albany County, inter alia, denied the motion seeking disqualification of the Attorney General and to transfer the proceeding to federal court (Motion Sequence 3); Supreme Court, Albany County,

inter alia, granted respondents' cross motion to dismiss the complaint (Motion Sequence 1 & 2).

MATTER OF CENTER FOR JUDICIAL ACCOUNTABILITY:

APL-2024-00150

3rd Dept. App. Div. order of 6/20/24; affirmance; sua sponte examination of whether (1) the order appealed from finally determines the proceeding within the meaning of the Constitution and (2) whether a substantial constitutional question is directly involved to support an appeal as of right;

Constitutional Law—Whether the Ethics Commission Reform Act of 2022, the 2022-2023 state budget, and that year's Legislative/Judiciary Budget Bill are unconstitutional;

Supreme Court, Albany County, in a combined proceeding pursuant to CPLR article 78 and action for declaratory judgment, inter alia, granted respondents' cross-motion to dismiss the petition/complaint; Supreme Court, Albany County, denied petitioner's motion for reargument; App. Div. affirmed the judgment dismissed the appeal from the order.

MATTER OF FIRST UNITED v TOWN OF CALLICON:

APL-2024-00146

3rd Dept. App. Div. order of 8/8/24; affirmance; leave to appeal granted by the Court of Appeals, 10/24/24;

Taxation—Exemptions—Whether petitioner's applications to declare certain real property owned by petitioner tax exempt should have been dismissed; whether the Appellate Division overlooked precedent that a property's use in violation of the town zoning code is a complete defense for the denial of an exemption under RPTL 420-a; whether the Appellate Division misapplied the burden of proof and impermissibly shifted the burden of proof to the town;

Supreme Court, Sullivan County, granted petitioner's applications, in two proceedings pursuant to RPTL article 7, to declare certain real property owned by petitioner tax exempt; App. Div. with one Justice concurring in part and dissenting in part, affirmed.

PEOPLE v GALINDO (CARLOS):

APL-2024-00144

App. Term. 2nd, 11th and 13th Jud. Dists., order of 4/21/23; affirmance; leave to appeal granted by Wilson, Ch. J., 10/21/24;

Motor Vehicles—Operating Vehicle While Under Influence of Alcohol or Drugs—Whether the People failed to present legally sufficient evidence to establish that defendant operated motor vehicle; whether jury instruction on operation of a motor vehicle was misleading;

Criminal Court, City of New York, Queens County, convicted defendant, upon a jury verdict, of driving while intoxicated (per se), driving while intoxicated (common law), consumption or possession of alcoholic beverages in certain motor vehicles and unlicensed operation of a motor vehicle; App. Term., upon remittitur from the Court of

Appeals, affirmed so much of the judgment as convicted defendant of consumption or possession of alcoholic beverages in certain motor vehicles and unlicensed operation of a motor vehicle.

MANN v MEZUYON LLC:

APL-2024-00145

1st Dept. App. Div. order of 3/28/24; affirmance; leave to appeal granted by the Court of Appeals, 10/24/24;

Labor—Safe Place to Work—Whether Industrial Code § 23-4.2 (k) is sufficiently specific to support a Labor Law § 241(6) claim;

Supreme Court, New York County, granted third-party defendant Mayrich Construction Corp's motion for summary judgment dismissing plaintiff's claim pursuant to Labor Law 241(6) predicated on Industrial Code (12 NYCRR) § 23-4.2(k); App. Div. affirmed.

MATTER OF NYCLU v OCA:

APL-2024-00143

1st Dept. App. Div. order of 2/8/24; dismissal; leave to appeal granted by the Court of Appeals, 10/22/24;

Records—Freedom of Information Law—Whether the Appellate Division erred in concluding that petitioner failed to reasonably describe the records sought and that the records sought were exempt under the attorney-client or attorney work product privilege;

Supreme Court, New York County, granted the petition to compel respondent OCA to disclose records requested by petitioner under the Freedom of Information Law, directed respondent to disclose to petitioner within 180 days all documents directed to judges or their chambers staff from January 1, 2011 to present in which federal or state court decisions, statutes, regulations, or ordinances are summarized, analyzed, interpreted, construed, explained, clarified, or applied; App. Div. reversed and dismissed the proceeding.