

COURT OF APPEALS NEW FILINGS

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

November 6, 2015 through November 12, 2015

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.

CITY OF NEW YORK, MATTER OF v NEW YORK STATE NURSES ASSOCIATION, et al.:

1ST Dept. App. Div. order of 5/26/15; reversal; leave to appeal granted by App. Div., 10/20/15;

LABOR UNIONS - DISCIPLINARY PROCEEDINGS - DISCLOSURE OF INFORMATION TO EMPLOYEE - EMPLOYER'S DUTY TO FURNISH DATA NORMALLY MAINTAINED IN REGULAR COURSE OF BUSINESS - WHETHER THE BOARD OF COLLECTIVE BARGAINING OF THE CITY OF NEW YORK (BCB) PROPERLY GRANTED PETITIONER UNION'S IMPROPER PRACTICE CHARGE TO THE EXTENT OF DIRECTING THE CITY TO PROVIDE PRE-HEARING DISCOVERY IN AN EMPLOYEE DISCIPLINARY PROCEEDING - ADMINISTRATIVE CODE OF CITY OF NEW YORK § 12-306(a)(1) AND (4);

Supreme Court, New York County, granted a CPLR article 78 petition and annulled the BCB's determination; App. Div. reversed, reinstated the BCB's determination and dismissed the CPLR article 78 proceeding.

S.L. (ANONYMOUS) v J.R. (ANONYMOUS):

2ND Dept. App. Div. order of 3/4/15; affirmance; leave to appeal granted by Court of Appeals, 10/27/15;

PARENT, CHILD AND FAMILY - CUSTODY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A CUSTODY DETERMINATION CAN BE MADE WITHOUT AN EVIDENTIARY HEARING ON THE BASIS THAT THE RECORD CONTAINS ADEQUATE RELEVANT INFORMATION; CLAIMED DUE PROCESS VIOLATION;

Supreme Court, Westchester County, without a hearing, granted defendant's motion for sole legal and physical custody of the parties' two children; App. Div. affirmed.

SUN v YEUNG, et al.:

2ND Dept. App. Div. order of 10/14/15; dismissal of appeal; sua sponte examination whether a substantial constitutional question is directly involved or whether any other basis exists to support an appeal as of right;

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER THAT DISMISSED PLAINTIFF'S APPEAL FROM A SUPREME COURT ORDER GRANTING DEFENDANTS' UNOPPOSED MOTION TO DISMISS THE COMPLAINT, UPON THE GROUND THAT PLAINTIFF WAS NOT AGGRIEVED BY THE SUPREME COURT ORDER BECAUSE HE DID NOT OPPOSE DEFENDANTS' MOTION - FAILURE TO COMPLY WITH PLEADING REQUIREMENTS - FAILURE TO STATE A CAUSE OF ACTION;

Supreme Court, Queens County, as relevant here, granted so much of defendants' motion as sought dismissal of the complaint pursuant to CPLR 3013, 3014, 3024 and 3211(a)(7) and (8); App. Div. dismissed plaintiff's appeal upon the ground that plaintiff is not aggrieved by the portion of the order appealed from as he did not submit opposition to the defendants' motion to dismiss the complaint.

UNITED STATES FIDELITY AND GUARANTY COMPANY, et al. v AMERICAN RE-INSURANCE COMPANY, et al.:

1ST Dept. App. Div. order of 10/29/15; affirmance; sua sponte examination whether the terms of the Court's remittitur were violated;

APPEALS - ALLEGED VIOLATION OF COURT OF APPEALS REMITTITUR;

Supreme Court, New York County, denied defendants' motion for a ruling that the reasonableness of plaintiff United State Fidelity and Guarantee Company's (USF&G) allocation of all settlement dollars to asbestos-insurance claims is properly the subject of evidence at trial; App. Div. affirmed.