State of New York
Court of Appeals

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COURT OF APPEALS NEW FILINGS

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

November 8, 2024 through November 14, 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.

ANGELINO v NYC DEPT. OF HEALTH:
APL-2024-00151
Supreme Court, New York County, order of 10/10/24; denied petition; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;
Proceeding Against Body or Officer—When Remedy Appropriate;
Supreme Court, New York County, denied the CPLR article 78 petition.

PEOPLE v CALLARA (DINO J.):
APL-2024-00152
4th Dept. App. Div. order of 7/26/24; reversal;
District and Prosecuting Attorneys—Special Prosecutor—Whether the indictment was properly dismissed on the ground that the special district attorney lacked jurisdiction because the court exceeded its authority under County Law § 701 by

appointing an attorney who did not live or maintain a law office in Orleans County or an adjacent county; whether the separation of powers is implicated when the district attorney did not challenge the appointment; whether, under the circumstances of this case, the Court should conclude that the residency requirement is not jurisdictional in nature under Haggerty v Himelein (89 NY2d 431 [1997]); whether, under the circumstances of this case, the Court should carve out an exception under Matter of Working Families Party v Fisher (23 NY3d 539) when a third party seeks disqualification as opposed to the district attorney;
County Court, Orleans County, convicted defendant upon a jury verdict of grand larceny in the fourth degree and petit larceny (two counts); App. Div. reversed, dismissed indictment, and remitted to Orleans County Court for further proceedings under CPL 470.45.

MATTER OF DAVENPORT v NYSDFS:
APL-2024-00153
1st Dept. App. Div. order of 9/26/24; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support the appeal taken as of right;
Records—Freedom of Information Law—Whether petitioner's request under the Freedom of Information Law was properly denied; whether the Appellate Division erred by construing "correspondence" under Banking Law § 36(10) with deference to the Department of Financial Services' interpretation; alleged constitutional violations;
Supreme Court, New York County, denied the petition to annul a July 12, 2021 determination of respondent New York State Department of Financial Services, which denied petitioner's Freedom of Information Law request seeking all documents and information received from third parties related to a July 6, 2020 consent order entered into between DFS and Deutsche Bank AG, Deutsche Bank AG New York Branch, and Deutsche Bank Trust Company of the Americas, and dismissing the proceeding brought under CPLR article 78; App. Div. affirmed.

MANKO v SHOREFRONT APARTMENTS:
APL-2024-00154
2nd Dept. App. Div. order of 9/23/24; denied motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;
Motions and Orders;
App. Div. denied motion to vacate dismissal of appeal and to enlarge the time to perfect.

SIBLEY v STAVISKY:
APL-2024-00155
3rd Dept. App. Div. order of 10/24/24; affirmance; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional

question is directly involved to support an appeal taken as of right;
Elections—Whether plaintiff's complaint was properly dismissed;
Supreme Court, Schuyler County, among other things, dismissed the complaint for lack of jurisdiction; Supreme Court, Schuyler County, denied plaintiff's motion to vacate the prior order; App. Div. affirmed.