

COURT OF APPEALS NEW FILINGS

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

December 27, through January 2, 2020

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.

COLE v COLE:

2ND Dept. App. Div. order of 5/1/19; modification; leave to appeal granted by Court of Appeals, 12/17/19; Rule 500.11 review pending;

Parent, Child and Family--Custody--Whether determination awarding physical custody to plaintiff has a sound and substantial basis in the record; allegations of domestic violence;

Supreme Court, Orange County, among other things, awarded plaintiff physical custody of the parties' children with visitation to defendant; App. Div. modified the judgment by adding thereto a provision directing the parties to pay their respective pro rata share of the children's future unreimbursed health care expenses; and as so modified, affirmed the judgment insofar as appealed from, and remitted the matter to Supreme Court for a determination of each party's pro rata share of the children's future unreimbursed health care expenses.

LIVIDINI v GOLDSTEIN:

1ST Dept. App. Div. order of 8/20/19; reversal with two-Justice dissents; leave to appeal granted by App. Div., 11/26/19; Rule 500.11 review pending;

Courts--Transfer or Removal to Other Courts--Residency--Whether, for purposes of a motion to change venue, venue was properly placed in Bronx County under CPLR 503 (a) or (d) when an individual defendant listed a Bronx County address with a licensing agency but it was undisputed that the address was not his principal place of business;

Supreme Court, Bronx County, granted the motions of defendants Harold L. Goldstein, D.P.M., Rye Ambulatory Surgery Center, LLC and Westmend Medical Group, P.C., and the cross motion of defendant Vinai Prakash, D.P.M., to change venue from Bronx County to Westchester County; App. Div. reversed and denied motions and cross motions.