



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

December 27, 2024 through January 2, 2025

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.

BEN-DOR v ALCHEMY CONSULTANT:

APL-2024-00178

1st Dept. App. Div. order of 7/11/24; affirmance; leave to appeal granted by the Appellate Division with certified question, 12/10/24;

Banks and Banking—Negligence—Whether plaintiff, customer at bank, adequately pleaded that bank assumed duty to abide by its publicized anti-fraud procedures, giving rise to special relationship between customer and bank, thereby stating a claim against bank sounding in negligence;

Supreme Court, New York County, denied defendant JP Morgan Chase Bank, N.A.'s motion to dismiss the complaint; App. Div., with one Justice dissenting, affirmed.

MATTER OF BRANDON D.:

APL-2024-00176

2nd Dept. App. Div. order of 12/11/24; affirmance; sua sponte examination of whether the order appealed from finally determines the proceedings within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right.

Guardian and Ward—Whether Supreme Court properly denied appellant’s motion seeking to dismiss the Mental Hygiene article 81 petition seeking guardianship; Supreme Court, Queens County, denied Robert L.D.’s motion pursuant to CPLR 3211(a) to dismiss the Mental Hygiene Law article 81 petition; App. Div. affirmed.

SANDER v WESTCHESTER REFORM TEMPLE:

APL-2024-00174

2nd Dept. App. Div. order of 6/5/24; affirmance; leave to appeal granted by the Court of Appeals, 12/17/24;

Employment Relationship—Wrongful Discharge—Whether discharge of employee for content of blog post was a protected recreational activity outside work within the scope of Labor Law § 201-d (2) (c);

Supreme Court, Westchester County, granted defendants’ motion to dismiss the complaint; App. Div. affirmed.

MATTER OF SMITH v TOWN OF THOMPSON PLANNING BOARD:

APL-2024-00177

3rd Dept. App. Div. order of 12/5/24; reversal;

Environmental Conservation—Environmental Impact Statement—Whether Planning Board’s negative declaration of environmental significance and issuance of a special use permit and site plan approval were unlawful, arbitrary and capricious; whether the Planning Board was required to refer project to Town’s Zoning Board of Appeals to determine whether project was a permitted or prohibited use under zoning code;

Supreme Court, Sullivan County, dismissed petitioner’s application, in a proceeding pursuant to CPLR article 78, to review, among other things, a determination of respondent Town of Thompson Planning Board adopting a negative declaration of environmental significance; App. Div., with two Justices dissenting, reversed, granted the petition, and remitted to respondent for further proceedings not inconsistent with the court’s decision.