

COURT OF APPEALS NEW FILINGS

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

August 13 through August 19, 2010

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 60 days after the appeal was taken; respondent's brief to be filed 45 days after the filing of appellant's brief; and a reply brief, if any, to be filed 15 days after 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.

BRATHWAITE, PEOPLE ex rel. (A/K/A ERIC SMITH) v FISCHER, et al.:
7/8/10 order by Justice Gorski; denial of writ of habeas corpus;
sua sponte examination whether an appeal as of right lies from an
order of a single App. Div. Justice;
HABEAS CORPUS - CHALLENGE TO ORDER OF SINGLE APPELLATE DIVISION
JUSTICE THAT, AMONG OTHER THINGS, DENIED A PETITION FOR A WRIT OF
HABEAS CORPUS;
Justice Gorski, among other things, denied a petition for a writ
of habeas corpus.

MATTER OF E. (ANONYMOUS), AN APPLICANT FOR ADMISSION TO THE BAR:

4TH Dept. App. Div. order of 6/22/10; denial of petitions for admission or for a rehearing; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;

ATTORNEY AND CLIENT - ADMISSION TO PRACTICE - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONS TO GRANT APPLICATION FOR ADMISSION TO THE NEW YORK STATE BAR OR FOR A REHEARING BEFORE THE CHARACTER AND FITNESS COMMITTEE;

App. Div. denied the petitions for an order granting application for admission to the Bar notwithstanding the June 7, 1996 adverse determination of the Character and Fitness Committee, or a hearing before the Committee.

SITTS v SITTS:

Supreme Court, Oneida County order and judgment of 7/22/10; bringing up for review 4th Dept. App. Div. order of 6/11/10; order and judgment of custody and violation; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis otherwise exists for an appeal as of right pursuant to CPLR 5601(d);

PARENT AND CHILD - CUSTODY - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, AWARDED PRIMARY PHYSICAL CUSTODY OF CHILDREN TO DEFENDANT;

Supreme Court, Oneida County order that, among other things, awarded primary physical custody of the parties' children to plaintiff; App. Div. (1) modified the Supreme Court order by awarding primary physical custody of the children to defendant and by vacating the second through sixth ordering paragraphs, (2) affirmed as so modified and (3) remitted for further proceedings; thereafter, Supreme Court issued an order and judgement of custody and visitation.