

COURT OF APPEALS NEW FILINGS

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

**November 2, 2012 through November 8, 2012**

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.**

PLAZA &c. v NEW YORK HEALTH and HOSPITALS CORPORATION:

1<sup>ST</sup> Dept. App. Div. order of 7/17/12; affirmance; leave to appeal granted by App. Div., 10/16/12; Rule 500.11 review pending;  
MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - GENERAL MUNICIPAL LAW § 50-e - WHETHER DEFENDANT ACQUIRED ACTUAL KNOWLEDGE OF THE ESSENTIAL FACTS CONSTITUTING CLAIM VIA MEDICAL RECORDS; SUMMARY JUDGMENT - ISSUE OF FACT;  
Supreme Court, Bronx County granted defendant's motion for summary judgment dismissing the complaint; App. Div. affirmed.

PIGNATARO (ANTHONY S.), PEOPLE v:

4<sup>TH</sup> Dept. App. Div. order of 3/16/12; affirmance; leave to appeal granted by Read, J., 10/24/12;

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - WHETHER A TRIAL COURT IS AUTHORIZED TO RESENTENCE A DEFENDANT TO A TERM OF IMPRISONMENT WITHOUT POST-RELEASE SUPERVISION WHEN THE PEOPLE CONSENT - PENAL LAW § 70.85; CONSTITUTIONAL CHALLENGE TO PENAL LAW § 70.85 AND CORRECTIONS LAW § 601-d AS APPLIED TO DEFENDANT; SUFFICIENCY OF PLEA ALLOCUTION; TRIAL COURT'S REFUSAL TO ALLOW WITHDRAWAL OF PLEA;

Supreme Court, Erie County resentenced defendant pursuant to Penal Law § 70.85; App. Div. affirmed.

THOMAS (ADRIAN P.), PEOPLE v:

3<sup>RD</sup> Dept. App. Div. order of 3/22/12; affirmance; leave to appeal granted by Smith, J., 10/23/12;

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER TRIAL COURT ERRED IN NOT ADMITTING EXPERT TESTIMONY ON THE SUBJECT OF FALSE AND COERCED CONFESSIONS; VOLUNTARINESS OF CONFESSION - POLICE THREATS TO ARREST DEFENDANT'S WIFE; SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION FOR DEPRAVED INDIFFERENCE MURDER; JUROR NOTES ON JURY INSTRUCTIONS;

Supreme Court, Renssealer County convicted defendant, upon a jury verdict, of murder in the second degree; App. Div. affirmed.