

COURT OF APPEALS NEW FILINGS

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

August 9, 2013 through August 15, 2013

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.

ALLEN (TERRELL), PEOPLE v:

2ND Dept. App. Div. order of 4/3/13; modification; leave to appeal granted by Lippman, Ch.J., 7/25/13;

CRIMES - VERDICT - DUPLICITY - WHETHER THE EVIDENCE AT TRIAL ALLOWED THE JURY TO CONVICT DEFENDANT OF A CRIME DIFFERENT FROM THE ONE FOR WHICH HE WAS INDICTED - WHETHER A DUPLICITY ERROR THAT IS NOT OBVIOUS ON THE FACE OF THE INDICTMENT MUST BE PRESERVED FOR APPELLATE REVIEW;

Supreme Court, Queens County, convicted defendant, upon a jury verdict, of murder in the second degree, attempted murder in the second degree, two counts of criminal possession of a weapon in

sentenced him to an indeterminate term of imprisonment of 25 years to life on the conviction of murder in the second degree, a determinate term of imprisonment of 25 years followed by a period of 5 years of postrelease supervision on the conviction of attempted murder in the second degree, to run consecutively with the sentence imposed upon the conviction of murder in the second degree and concurrently with the sentences imposed upon the convictions on all other counts, determinate terms of imprisonments of 15 years followed by a period of 5 years of postrelease supervision on the convictions of criminal possession of a weapon in the second degree, to run concurrently with the sentences imposed upon the convictions of all other counts, and a definite term of imprisonment of one year on the conviction of menacing in the second degree, to run concurrently with the sentences imposed upon the convictions of all other counts; App. Div. modified by directing that all the terms of imprisonment shall run concurrently with each other.

BRANIC INTERNATIONAL REALTY CORP. v PITT:

1ST Dept. App. Div. order of 4/16/13; reversal; leave to appeal granted by App. Div., 8/6/13;

LANDLORD AND TENANT - RENT REGULATION - STATUS OF PERSON ELIGIBLE FOR SUBSIDIZED HOUSING BENEFITS ("ELIGIBLE PERSON") AND PLACED IN A HOTEL ROOM PURSUANT TO AGREEMENT BETWEEN HOTEL OWNER AND MUNICIPAL SERVICES AGENCY, WHICH THEREAFTER EXPIRED - WHETHER ELIGIBLE PERSON WAS A "PERMANENT TENANT" OF HOTEL WITHIN THE MEANING OF RENT STABILIZATION CODE (9 NYCRR 2520.6[j]) SOLELY BECAUSE HE CONTINUOUSLY RESIDED IN HOTEL ROOM FOR AT LEAST SIX MONTHS - WHETHER AGREEMENT BETWEEN OWNER AND MUNICIPAL SERVICES AGENCY WAS A LEASE THAT EXEMPTED THE HOTEL ROOM FROM THE RENT STABILIZATION CODE (9 NYCRR 2520.11[b]);

Civil Court, New York County, granted respondent's motion for summary judgment dismissing the petition and denied petitioner's motion for summary judgment on its claim for possession; App. Term reversed, denied respondent's motion and granted petitioner's motion; App. Div. reversed, granted respondent's motion and denied petitioner's motion.

KORELIS v CONRIV REALTY CORP.:

Supreme Court, New York County stipulation of 9/4/96; sua sponte examination whether appellant is an aggrieved party within the meaning of CPLR 5511, the 9/4/96 stipulation of settlement is an appealable paper within the meaning of CPLR 5512(a), the appeal was timely taken, and any basis exists for a direct appeal from the stipulation of settlement pursuant to CPLR 5601(b) (2);

STIPULATIONS - STIPULATION IN OPEN COURT - CHALLENGE TO
STIPULATION OF SETTLEMENT ENTERED IN OPEN COURT;