

COURT OF APPEALS NEW FILINGS

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

December 13, 2013 through December 19, 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.

CANGRO v ROSADO:

1ST App. Div. order of 11/7/13; dismissal of appeal; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DISMISSED PLAINTIFF'S APPEAL FROM A SUPREME COURT ORDER DENYING REARGUMENT;
Supreme Court, New York County, denied plaintiff's motion for reargument of the parties' respective motions for summary judgment; App. Div. dismissed the appeal and enjoined plaintiff from commencing any litigation or making any motions against defendant without the prior permission of the appropriate administrative judge.

GOLDMAN (ARON), PEOPLE v:

1ST Dept. App. Div. order of 9/24/13; affirmance; leave to appeal granted by Graffeo, J., 12/9/13;
CRIMES - ENTERPRISE CORRUPTION - MEDICAL CLINIC USED TO FACILITATE INSURANCE FRAUD - LEGAL SUFFICIENCY OF THE EVIDENCE - WHETHER THE "CRIMINAL ENTERPRISE" DEFINED IN PENAL LAW § 460.10(3) MUST BE STRUCTURED SO AS TO PERMIT THE ENTERPRISE TO CONTINUE IN EXISTENCE WITHOUT THE INVOLVEMENT OF ONE OR MORE KEY PARTICIPANTS; INSTRUCTIONS - ACCESSORIAL LIABILITY - WHETHER THE TRIAL COURT'S JURY INSTRUCTIONS ON ACCESSORIAL LIABILITY CONVEYED THE APPROPRIATE LEGAL STANDARD; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO PRESERVE CERTAIN ISSUES FOR APPELLATE REVIEW;
Supreme Court, New York County, after a joint jury trial with defendant Matthew Keschner, convicted defendant Goldman of enterprise corruption, scheme to defraud in the first degree, two counts of grand larceny in the first degree, money laundering in the first and second degrees, five counts of insurance fraud in the third degree, three counts of insurance fraud in the fourth degree, and one count of falsifying business records in the first degree, and imposed sentence; App. Div. affirmed.

KESCHNER (MATTHEW), PEOPLE v:

1ST Dept. App. Div. order of 9/24/13; affirmance; leave to appeal granted by Graffeo, J., 12/9/13;
CRIMES - ENTERPRISE CORRUPTION - MEDICAL CLINIC USED TO FACILITATE INSURANCE FRAUD - LEGAL SUFFICIENCY OF THE EVIDENCE - WHETHER THE "CRIMINAL ENTERPRISE" DEFINED IN PENAL LAW § 460.10(3) MUST BE STRUCTURED SO AS TO PERMIT THE ENTERPRISE TO CONTINUE IN EXISTENCE WITHOUT THE INVOLVEMENT OF ONE OR MORE KEY PARTICIPANTS; INSTRUCTIONS - ACCESSORIAL LIABILITY - WHETHER THE TRIAL COURT'S JURY INSTRUCTIONS ON ACCESSORIAL LIABILITY CONVEYED THE APPROPRIATE LEGAL STANDARD; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO PRESERVE CERTAIN ISSUES FOR APPELLATE REVIEW;
Supreme Court, New York County, after a joint jury trial with defendant Aron Goldman, convicted defendant Keschner of enterprise corruption, scheme to defraud in the first degree, two counts of grand larceny in the first degree, money laundering in the second degree, four counts of insurance fraud in the fourth degree, and two counts of falsifying business records in the first degree, and imposed sentence; App. Div. affirmed.