

COURT OF APPEALS NEW FILINGS

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

September 19, 2014 through September 25, 2014

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.

GARY (ALFRED), PEOPLE v:

2ND Dept. App. Div. order of 3/12/14; affirmance; leave to appeal granted by Pigott, J., 9/5/14;

CRIMES - CONSPIRACY - DEFENDANT CLAIMS HEARSAY EVIDENCE MISTAKENLY STIPULATED INTO EVIDENCE WITH LARGE NUMBER OF DOCUMENTS SHOULD NOT HAVE BEEN ADMITTED INTO EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT CONSPIRACY CHARGE; CLAIMED REPUGNANCY OF VERDICT DUE TO ACQUITTALS ON OTHER CHARGES BASED ON THE SAME FACTS UNDERLYING SCHEME TO DEFRAUD;

Supreme Court, Nassau County, after a nonjury trial, convicted defendant of conspiracy in the fourth degree, and imposed sentence; App. Div. affirmed.

ZELICHENKO v 301 ORIENTAL BOULEVARD, LLC:

2ND Dept. App. Div. order of 5/28/14; reversal; leave to appeal granted by Court of Appeals, 9/16/14;

NEGLIGENCE - MAINTENANCE OF PREMISES - TRIP AND FALL ON STAIRS DUE TO CHIP ON EDGE OF STEP - WHETHER SUMMARY JUDGMENT WAS PROPERLY GRANTED TO DEFENDANT UPON THE GROUND THAT, AS A MATTER OF LAW, THE CHIP WAS A TRIVIAL DEFECT AND DID NOT CONSTITUTE A TRAP OR NUISANCE;

Supreme Court, Kings County, denied defendant's motion for summary judgment dismissing the complaint; App. Div. reversed and granted defendant's motion for summary judgment dismissing the complaint.