

COURT OF APPEALS NEW FILINGS

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

**February 10, 2017 through February 16, 2017**

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.**

MANKO v GABAY, et al.:

2<sup>ND</sup> Dept. App. Div. order of 12/12/16; denial of motion; 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--Appellate Division--Denial of motion for leave to appeal;

Supreme Court, Kings County, among other things, denied plaintiff's motion to vacate prior Supreme Court orders; App. Div. denied as unnecessary the branch of appellant's motion which was to waive the motion filing fee, and otherwise denied appellant's motion for leave to appeal to the Court of Appeals from so much of a 9/9/16 Appellate Division order as denied that branch of appellant's motion which was for leave to serve and file a supplemental appellant's appendix and replacement appellant's brief, for poor person relief, and to waive the motion filing fee.

REYES (CASIMIRO), PEOPLE v:

2<sup>ND</sup> Dept. App. Div. order of 3/16/16; modification; leave to appeal granted by Garcia, J., 1/25/17;  
Crimes--Conspiracy--Evidence--sufficiency of evidence--whether the evidence was sufficient to support the conviction of defendant for conspiracy to commit an arson committed by a street gang where defendant gang member was present at meetings where the gang members planned and discussed the arson--Penal Law § 105--element of agreement with others to engage in or cause the performance of criminal conduct;  
Supreme Court, Kings County, convicted defendant, upon a jury verdict, of conspiracy in the second degree, theft of services, and criminal possession of a weapon in the fourth degree, and imposed sentence; App. Div. modified by vacating the conviction of conspiracy in the second degree, vacating the sentence imposed thereon, and dismissing that count of the indictment; and, as so modified, affirmed.