

COURT OF APPEALS NEW FILINGS

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

February 24, 2017 through March 2, 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.

GRAVANO v TAKE-TWO INTERACTIVE SOFTWARE, INC, et al.:

1ST Dept. App. Div. order of 9/1/16; modification; leave to appeal granted by Court of Appeals, 2/16/17;
Civil Rights--Right of Privacy--Whether plaintiff's allegation that defendant video game maker used plaintiff's likeness to advertise video game stated a cause of action under Civil Rights Law §§ 50, 51; whether video game and subject images are protected works under the First Amendment;
Supreme Court, New York County, denied defendants' motion to dismiss the first cause of action in the complaint and for sanctions; App. Div. modified by granting the part of the motion seeking to dismiss, and otherwise affirmed.

LOHAN v TAKE-TWO INTERACTIVE SOFTWARE, INC., et al.:

1ST Dept. App. Div. order 9/1/16; modification; leave to appeal granted by Court of Appeals, 2/16/17;

Civil Rights--Right of Privacy--Whether plaintiff's allegation that defendant video game maker used plaintiff's digital portrait to advertise video game stated a cause of action under Civil Rights Law §§ 50, 51;

Supreme Court, New York County, denied defendants' motion to dismiss the complaint and for sanctions; App. Div. modified by granting the part of the motion seeking to dismiss, and otherwise affirmed.

MARINE HOLDINGS, LLC, &c., et al., MATTER OF v NEW YORK CITY COMMISSION ON HUMAN RIGHTS:

2ND Dept. App. Div. order of 3/30/16; reversal; leave to appeal granted by Court of Appeals, 2/14/17;

Civil Rights--Discrimination Based on Disability--Whether substantial evidence supported the Commission's determination that landlord failed to establish it would suffer an undue hardship if required to accommodate a tenant with disabilities; Supreme Court, Queens County, granted the petition pursuant to the Administrative Code of the City of New York § 8-123 and CPLR article 78 to the extent of reducing the award of damages for mental anguish from the sum of \$75,000 to \$60,000, and otherwise confirmed the determination of the New York City Commission on Human Rights, denied the petition, dismissed the proceeding, and granted the Commission's, in effect, cross petition to enforce the determination to the extent of directing enforcement of the determination as modified; App. Div. reversed, granted the petition in its entirety, denied the, in effect, cross petition in its entirety, and annulled the Commission's determination.