

COURT OF APPEALS NEW FILINGS

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

**July 4, 2014 through July 10, 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.**

CAPRIO v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:  
1<sup>ST</sup> Dept. App. Div. order of 4/8/14; reversal; leave to appeal granted by App. Div., 6/24/14;  
STATUTES - RETROACTIVE APPLICATION OF STATUTE - PERSONAL INCOME TAX - WHETHER RETROACTIVE APPLICATION OF 2010 AMENDMENT TO TAX LAW §632(a)(2) VIOLATES PLAINTIFFS' DUE PROCESS RIGHTS;

Supreme Court, New York County, granted defendants' motion for summary judgment, denied plaintiffs' cross motion for summary judgment declaring unconstitutional the retroactive application of the 2010 amendment to Tax Law §632(a)(2) as to them, and dismissed the complaint; App. Div. reversed, vacated the judgment, declared that the retroactive application as to plaintiffs of the 2010 amendment to Tax Law §632(a)(2) resulted in a due process violation, enjoined defendants from enforcing the notice of deficiency as to plaintiffs' 2007 and 2008 state income tax returns, and directed the Clerk to enter judgment accordingly.