

COURT OF APPEALS NEW FILINGS

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

**October 31, 2014 through November 6, 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.**

C.(ANTHONY), PEOPLE v:

1<sup>st</sup> Dept. App. Div. order of 7/17/14; affirmance; leave to appeal granted by Freedman, J., 10/9/14; Rule 500.11 review pending; CRIMES - SENTENCE - YOUTHFUL OFFENDER - WHETHER SUPREME COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING DEFENDANT YOUTHFUL OFFENDER TREATMENT; Supreme Court, New York County, convicted defendant, upon his guilty plea, of robbery in the first degree, and sentenced him, as a juvenile offender, to a term of three to nine years; App. Div. affirmed.

MATTER OF FIZZINOGLIA, DECEASED:

2<sup>ND</sup> Dept. App. Div. order of 6/25/14; affirmance; leave to appeal granted by Court of Appeals, 10/23/14;

WILLS - ELECTIVE SHARE OF SURVIVING SPOUSE - WHETHER A PRENUPTIAL AGREEMENT DISQUALIFIED SURVIVING SPOUSE AS A DISTRIBUTEE OF DECEDENT'S ESTATE - WHETHER THE PRENUPTIAL AGREEMENT WAS INVALID AND UNENFORCEABLE ON THE GROUNDS THAT AN ESSENTIAL TERM WAS OMITTED FROM THE AGREEMENT AND THE AGREEMENT WAS UNCONSCIONABLE OR PROCURED THROUGH FRAUD, DURESS, OVERREACHING OR OTHER INEQUITABLE CONDUCT;

Surrogate's Court, Putnam County, among other things, in effect, determined that the prenuptial agreement between petitioner and the decedent was valid, dismissed the petition, and revoked temporary letters of administration that had been issued to her; App. Div. affirmed.

SUTTNER, &c. v A.W. CHESTERTON COMPANY et al.:

4TH Dept. App. Div. order of 3/21/14; affirmance; leave to appeal granted by Court of Appeals, 10/21/14;

PRODUCTS LIABILITY - FAILURE TO WARN OF DANGER - WHETHER THE COURTS BELOW ERRED IN HOLDING THAT VALVE MANUFACTURER HAD A DUTY TO WARN OF THE DANGERS INHERENT IN THE USE OF ASBESTOS-CONTAINING GASKETS THAT WERE COMPONENTS OF THE VALVES, BUT WHICH DEFENDANT DID NOT MANUFACTURE OR SELL;

Supreme Court, Erie County, order denied Crane's CPLR 4404(a) motion to set aside the verdict and for judgment as a matter of law; thereafter, Supreme Court, Erie County, awarded plaintiff money damages against defendant Crane Co. upon the jury verdict; App. Div. affirmed.