

COURT OF APPEALS NEW FILINGS

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

**September 16, 2016 through September 22, 2016**

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.**

EVANS (DAN), PEOPLE v:

1<sup>st</sup> Dept., App. Div. order of 5/19/16; reversal with two-Justice dissents; sua sponte examination whether the May 19, 2016 Appellate Division order of reversal satisfies the requirements of CPL 450.90(2)(a);

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER THE TRIAL COURT PROPERLY DENIED DEFENDANT'S MOTION TO CALL AN EXPERT WITNESS TO TESTIFY ON THE ISSUE OF FALSE CONFESSIONS; INDICTMENTS - WHETHER THE TRIAL COURTS PROPERLY GRANTED THE PEOPLE'S MOTION TO CONSOLIDATE DEFENDANT'S TWO INDICTMENTS; IDENTIFICATION OF DEFENDANT - LINEUP - WHETHER THE LINEUP IDENTIFICATION PROCEDURE WAS UNDULY SUGGESTIVE;

Supreme Court, New York County, convicted defendant, upon a jury verdict, of murder in the second degree, attempted murder in the second degree, assault in the first and second degrees, attempted assault in the first degree, two counts of criminal possession of a weapon in the second degree and criminal possession of a weapon in the third degree, and imposed sentence; App. Div. reversed, on the law, and remanded for a new trial.

TERRANOVA, MATTER OF v LEHR:

3<sup>RD</sup> Dept. App. Div. order of 5/19/16; affirmance; leave to appeal granted by Court of Appeals, 9/13/16;

WORKERS' COMPENSATION - THIRD PARTY ACTION - WHETHER CLAIMANT, WHO SUSTAINED A WORK-RELATED INJURY AND OBTAINED A SCHEDULE LOSS OF USE AWARD, WAS ENTITLED TO ONGOING PAYMENTS FOR LITIGATION EXPENSES INCURRED IN AN ACTION AGAINST A THIRD-PARTY TORTFEASOR; App. Div. affirmed a decision of the Workers' Compensation Board ruling that claimant was not entitled to ongoing payments for litigation expenses incurred in a separate action against a third-party tortfeasor.