

COURT OF APPEALS NEW FILINGS

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

March 30, 2018 through April 5, 2018

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.

BRADLEY, &c., et al. v HWA 1290 III LLC, et al.:

1ST Dept. App. Div. order of 1/30/18; reversal with dissents; Rule 500.11 review pending;
Negligence--Maintenance of Premises--Mechanic electrocuted while working in elevator machine room of building owned by defendants—whether plaintiffs raised issues of fact as to whether decedent died as a result of the defendants' negligence; summary judgment;

Supreme Court, New York County, insofar as appealed from, denied defendants' motion for summary judgment dismissing the Labor Law § 200 and common law negligence claims; App. Div. reversed and granted defendants' motion.

WIDRICK, MATTER OF (CARPINELLI, &c., et al.):

4TH Dept. App. Div. order of 11/9/17; reversal; leave to appeal granted by Court of Appeals, 2/20/18; Rule 500.11 review pending;

Arbitration--Matters Arbitrable--Whether the Appellate Division properly concluded that only petitioner's union, and not petitioner individually, had the right to demand arbitration of a grievance arising from a dispute involving petitioner's employment;

Supreme Court, Lewis County, denied respondents' motion to dismiss the petition and granted the petition to compel arbitration; App. Div. reversed, granted the motion, and dismissed the petition.

ZAPPIN v COMFORT:

1ST Dept. App. Div. orders of 11/21/17 and 1/17/17; affirmance; sua sponte examination whether the orders appealed from finally determine the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

Parent and Child--Custody--Child Support--Claimed due process violations in divorce proceeding; sanctions;

Supreme Court, New York County, imposed sanctions against plaintiff under 22 NYCRR 130-1.1 (9/21/15 order); App. Div. affirmed (1/17/17 order); Supreme Court thereafter awarded defendant mother sole physical and legal custody of the parties' child, granted plaintiff supervised visitation, and granted a five-year stay-away order of protection in defendant's favor (3/1/16 order); and, among other things, incorporated the 3/1/16 order, and awarded defendant basic child support beginning 7/1/16 and child support arrears for the period 12/13 through 6/16 (8/16/16 judgment); App. Div. affirmed the judgment and dismissed the appeal from the 3/1/16 order as subsumed in the appeal from the judgment.