

COURT OF APPEALS NEW FILINGS

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

June 7 through June 13, 2019

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.

BILAL (RASHID), PEOPLE v:

1ST Dept. App. Div. order of 3/7/19; reversal with dissents; leave to appeal granted by Tom, J., 5/14/19; Rule 500.11 review pending;

Crimes--Unlawful Search and Seizure--Whether police had reasonable suspicion to justify a police pursuit; defendant, whose companion matched general description of perpetrator in a shooting, fled when approached by police; whether gun discarded by defendant during police pursuit was voluntarily abandoned by defendant; Supreme Court, New York County, convicted defendant of criminal possession of a weapon in the second degree; App. Div. reversed, granted the motion to suppress and dismissed the indictment.

RESCH, et al. v STATE OF NEW YORK, et al.:

1ST Dept. App. Div. order of 5/7/19; modification; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;

Constitutional Law--Validity of Statute--Whether Vehicle and Traffic Law § 236(2)(d), which provides that hearing examiners of a municipality's parking violations bureau "shall not be considered employees of the city in which the administrative tribunal has been established," is unconstitutional; alleged violations of the due process, equal protection, labor-not-a-commodity, collective bargaining and merit-and-fitness clauses;

Supreme Court, New York County, granted defendants' motion to dismiss; App. Div. modified to declare that the employment exclusion contained in Vehicle and Traffic Law § 236(2)(d) is not unconstitutional under the New York State Constitution.

R.F. SCHIFFMAN ASSOCIATES, INC., et al. v BAKER & DANIELS, LLP:

1ST Dept. App. Div. order of 4/30/19; affirmance;; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

Interest--Computation--Whether plaintiffs were entitled to CPLR 5001 prejudgment interest in addition to a late fee of 18% interest per annum, as awarded by prior Appellate Division order; alleged due process and equal protection violations;

Supreme Court, New York County, granted plaintiffs principal and interest to the date of defendant's CPLR 3219 tender; App. Div. affirmed.