

COURT OF APPEALS NEW FILINGS

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

September 13, through September 19, 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.

DEREK G. &c., MATTER OF v STATE OF NEW YORK, et al.:

4TH Dept. App. Div. order of 7/31/19; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right; **Crimes--Sex Offenders--Civil Commitment or Supervision--Whether basing the determination that petitioner has a mental abnormality on the diagnosis of unspecified paraphilic disorder comports with due process; Whether the evidence was legally sufficient to establish that petitioner suffers from a mental abnormality and whether that determination was against the weight of evidence;** Supreme Court, Oneida County, in a proceeding to Mental Hygiene Law article 10, among other things, directed that petitioner be subject to strict and intensive supervision and treatment; App. Div. affirmed.

WINGATE, MATTER OF v FAHEY &c.:

1ST Dept. App. Div. order of 7/23/19; dismissal; sua sponte examination of whether any appeal lies to the Court of Appeals from the Appellate Division order;

Appeal--Appealable Paper;

App. Div. denied defendant's motion to dismiss the appeal as unnecessary as the appeal had been deemed dismissed pursuant to 22 NYCRR 1250.0(a).