

COURT OF APPEALS NEW FILINGS

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

November 15, through November 21, 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.

PETTUS v YEE:

App.Term, 1ST Dept. order of 10/25/19; affirmance; sua sponte examination of whether any basis exists for an appeal as of right;

Appeal--Appealable Paper;

Civil Court of the City of New York, Bronx County, granted defendant's motion to dismiss the action; App. Term affirmed.

SCHULZ v TOWN BOARD OF THE TOWN OF QUEENSBURY et al.:

3RD Dept. App. Div. order of 10/24/19; modification; 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;

Declaratory Judgments--When Remedy Appropriate--Whether petitioner's claims relative to the State Environmental Quality Review Act should have been brought in the context of a CPLR article 78 proceeding; Constitutional Law--Freedom of Speech--Whether the failure of respondent Town Board to respond in writing to comments concerning a proposed land use project violated petitioner's free speech rights;

Supreme Court, Warren County, among other things, upon reargument, adhered to its prior decision granting defendants' cross motion to dismiss; among other things, granted defendants' cross motion to dismiss the amended complaint; App. Div. modified the judgment and order by declaring that defendants were not obligated to respond to plaintiff's petitions for redress of grievances dated 10/17/16 and 6/4/18, and as so modified, affirmed.

WORD, PEOPLE ex rel. &c. v STATE OF NEW YORK, et al.:

1ST Dept. App. Div. order of 10/24/19; denial of motion; 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;

Motions and Orders--Reargument or Renewal;

App. Div. denied a motion for renewal and reargument of original writ of habeas corpus, denied by App. Div. order 6/4/19.