

COURT OF APPEALS NEW FILINGS

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

August 7, 2020 through August 13, 2020

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.

NAHUM, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR
VEHICLES:

2ND Dept. App. Div. order of 7/15/20; affirmation; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;
Proceeding Against Body or Officer--Whether petitioner was deprived of an impartial hearing;

NYS Department of Motor Vehicles Administrative Appeals Board, affirmed a determination of an administrative law judge dated 5/8/10, which, following a hearing, found that petitioner refused to submit to a chemical test in violation of Vehicle and Traffic Law §1194 and revoked his driver license.

SPACE RACE, LLC v ALABAMA SPACE SCIENCE EXHIBIT COMMISSION d/b/a
U.S. SPACE & ROCKET CENTER:

1ST Dept. App. Div. order of 7/2/20; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;
State-Sovereign Immunity--Whether the Appellate Division properly concluded that respondent waived the defense of sovereign immunity;

Supreme Court, New York County, among other things, granted petitioner's petition to confirm an arbitration award and denied respondent's motion to stay these proceedings pending determination of its petition to vacate the award in Alabama state court; thereafter, judgment entered in favor of petitioner against respondent in the amount of \$1,405,528; App. Div. affirmed.

TORRES (ISAIAS), PEOPLE v:

2ND Dept. App. Div. order of 1/29/20; affirmance; leave to appeal granted by Feinman, J., 6/17/20; Rule 500.11 review pending;

Crimes--Appeal--Waiver of right to appeal--Whether defendant validly waived the right to appeal; whether defendant's challenge to the sentencing court's issuance of a final order of protection had to be preserved;

Supreme Court, Queens County, convicted defendant of burglary in the third degree under Superior Court Information No. 173/18, and burglary in the third degree under Superior Court Information No. 174/18, upon his pleas of guilty, and imposed sentence; App. Div. affirmed.