



State of New York
Court of Appeals
Clerk's Office
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COURT OF APPEALS NEW FILINGS

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

September 13, 2024 through September 19, 2024

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.

GALANTE v KARLIS:

APL-2024-00117

4th Dept. App. Div. order of 7/26/24; dismissal;

Negligence—Assumption of Risk—Whether the Appellate Division misapplied *Custodi v Town of Amherst*, 20 NY3d 83 (2012), and erred by concluding that being hit by a car is an inherent risk of playing golf;

Supreme Court, Erie County, granted the motion to dismiss two of County defendants' affirmative defenses, and granted the cross motion for summary judgment by defendants Elma Meadows Golf Course, County of Erie, and County of Erie Parks, Recreation and Forestry (CPRF), in part and dismissed the complaint against the golf course and CPRF, and otherwise denied the cross-motion; App. Div., with two Justices dissenting, dismissed appeal insofar as taken by defendants Elma Meadows Golf Course and County

of Erie Parks, Recreation and Forestry, reversed, denied the motion in part, reinstated the 11th affirmative defense, granted the cross-motion in its entirety, and dismissed the complaint against defendant County of Erie.

PEOPLE v ARTHUR H. MORGAN, JR.:

APL-2024-00124

3rd Dept. App. Div. order of 8/8/24; affirmance; leave to appeal granted by Powers, J., 9/11/24; **Crimes—Verdict—Sufficiency of the Evidence—Whether the evidence was legally sufficient to support the conviction of manslaughter in the first degree; Crimes—Witnesses—Expert Witness—Whether grand jury proceedings were impaired by forensic pathologist’s testimony as to the victim’s manner of death; Crimes—Suppression—Whether County Court erred in finding reconsideration of defendant’s suppression motion to be barred by law of the case; Crimes—Witnesses—Whether County Court erred in allowing witness to testify about domestic violence between the defendant; Crimes—Confrontation—Whether County Court’s admission of testimony from prior trial into evidence violated defendant’s right of confrontation; Crimes—Jurors—Challenge to Juror—Whether County Court erred in rejecting defendant’s Batson challenges; Crimes—Lesser Included Offense—Whether County Court erred in instructing the jury on the lesser included offense of manslaughter in the first degree;** County Court, Columbia County, convicted defendant of the crime of manslaughter in the first degree; App. Div. affirmed.