

COURT OF APPEALS NEW FILINGS

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

June 21 through June 27, 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.

ATES, MATTER OF v CRECCA, &c., et al.:

2ND Dept. App. Div. order of 5/1/19; denial of petition; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;

Proceeding against Body or Officer--Prohibition;

App. Div. denied the petition and dismissed the proceeding.

DiLORENZO v WINDERMERE OWNERS LLC, et al.:

1ST Dept. App. Div. order of 6/13/19; reversal;

Landlord and Tenant--Rent Regulation--Whether defendants, original and successor owner of residential building, substantiated defendants' claims that they made sufficient expenditures for individual apartment improvements, thereby rendering subject apartment exempt from rent stabilization; whether plaintiff waived claim regarding useful life of improvements;

Supreme Court, New York County, directed entry of judgment in favor of plaintiff; App. Div. reversed, vacated the judgment and dismissed the complaint.

PETTUS v BOARD OF DIRECTORS et al. (INDEX NO. 260012/2018):

Supreme Court, Bronx County order of 6/5/19; dismissal; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Appeal--Appealable Paper;

Supreme Court dismissed the complaint and issued a litigation injunction.

PETTUS v DOUGLAS, et al.:

Supreme Court, Bronx County order of 6/5/19; dismissal; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Appeal--Appealable Paper;

Supreme Court dismissed the complaint and issued a litigation injunction.

WALL, MATTER OF v ANNUCCI &c.:

Supreme Court, Erie County order of 6/5/19; dismissal; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Prisons and Prisoners--Challenge to require sex offender treatment program;

Supreme Court dismissed the CPLR article 78 petition.

WHITE, MATTER OF v ANNUCCI &c. (APP. DIV. NO. 527619):

3RD Dept. App. Div. order of 5/31/19; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

Appeal--Appealable Paper--Appellate Division order denying motion to reargue and renew or, in the alternative, for leave to appeal;

App. Div. denied appellant's motion to reargue and renew or, in the alternative, for permission to appeal to the Court of Appeals.