



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

October 4, 2024 through October 10, 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.

MATTER OF CLAIM OF GARCIA:

APL-2024-00127

3rd Dept. App. Div. order of 12/15/22; affirmance; leave to appeal granted by the Court of Appeals on 9/19/24;

Workers' Compensation—Whether Workers' Compensation Law article 8-A, which provides an exception to the two-year filing requirement for participants in the World Trade Center rescue, recovery, and cleanup operations, applies to a surviving spouse's death benefits claim;

App. Div., with one Justice dissenting, affirmed a decision of the Workers' Compensation Board, filed August 10, 2021, which ruled, among other things, that claimant's death benefits claim was untimely under Workers' Compensation Law § 28.

MATTER OF MONAGHAN v SCHROEDER:

APL-2024-00137

3rd Dept. App. Div order of 1/4/24; confirmed determination;

Witnesses—Subpoena—Whether the revocation of petitioner’s driver’s license following a DMV chemical test refusal hearing violated petitioner’s due process right to confront and cross-examine the relevant police officers when the officers failed to appear after being properly subpoenaed by petitioner; whether *Matter of Gray v Adduci*, 73 NY2d 741 (1988), mandates that a motorist should prevail at a DMV chemical test refusal hearing when the arresting officer repeatedly fails to appear at the hearing after being properly subpoenaed; whether CPLR 2308(b) applies to a chemical test refusal hearing and, if so, whether the Administrative Law Judge was required to advise petitioner’s counsel that DMV changed its interpretation of *Gray* and would apply CPLR 2308(b) in contravention of its regulations;

App. Div., in a proceeding pursuant to CPLR article 78 to review a determination of respondent Department of Motor Vehicles revoking petitioner's license, confirmed the determination, and dismissed the proceeding.