

COURT OF APPEALS NEW FILINGS

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

**February 4 through February 10, 2011**

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 60 days after the appeal was taken; respondent's brief to be filed 45 days after the filing of appellant's brief; and a reply brief, if any, to be filed 15 days after 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.**

SANTIAGO (NYDIA), PEOPLE v:

1<sup>ST</sup> Dept. App. Div. order of 10/5/10; affirmance; leave to appeal granted by Pigott, J., 2/3/11;

CRIMES - SENTENCE - WHETHER DEFENDANT WHO FILED AN APPLICATION FOR RESENTENCING UNDER THE DRUG LAW REFORM ACT WHILE IN PRISON BUT IS NOW RELEASED ON PAROLE IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

Supreme Court, Bronx County denied defendant's CPL 440.46 motion for resentencing; App. Div. affirmed.

WILLIAMS, MATTER OF v FISCHER:

3<sup>RD</sup> Dept. App. Div. judgment of 7/1/10; leave to appeal granted by Court of Appeals, 10/26/10;

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THE MISBEHAVIOR REPORT CHARGING PETITIONER WITH ASSAULTING AN INMATE AND VIOLENT CONDUCT, THE HEARING TESTIMONY AND THE CONFIDENTIAL TESTIMONY AND DOCUMENTS REVIEWED BY THE HEARING OFFICER IN CAMERA PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT THE DETERMINATION OF GUILT; App. Div. confirmed respondent's determination that found petitioner guilty of assaulting an inmate and violent conduct, in violation of certain prisoner disciplinary rules.

ZAMORA, MATTER OF v NEW YORK NEUROLOGIC ASSOCIATES, et al.:

3<sup>RD</sup> Dept. App. Div. order of 12/23/10; reversal with dissents; motions to dismiss appeals pending;

WORKERS' COMPENSATION - COVERAGE - PERMANENT PARTIAL DISABILITY - WHETHER NONRETIRED CLAIMANT HAS OBLIGATION TO DEMONSTRATE ATTACHMENT TO LABOR MARKET WITH EVIDENCE OF SEARCH FOR EMPLOYMENT WITHIN MEDICAL RESTRICTIONS; BURDEN OF PROOF;

App. Div. reversed decision of the Workers' Compensation Board which, among other things, denied claimant's claim for benefits, and remitted the matter to the Workers' Compensation Board for further proceedings not inconsistent with the decision.