

COURT OF APPEALS NEW FILINGS

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

April 27, 2012 through May 3, 2012

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.

CITY OF ROCHESTER, MATTER OF (CERMAK et al. v CITY OF ROCHESTER):
4TH Dept. App. Div. order of 12/23/11; affirmance; sua sponte examination whether the App. Div. order finally determines the proceeding and whether a substantial constitutional question is directly involved to support an appeal as of right;
ADMINISTRATIVE LAW - ADMINISTRATIVE INSPECTIONS - JUDICIAL WARRANT FOR INSPECTION OF RENTAL PROPERTY WITH REGARD TO ISSUANCE OR RENEWAL OF A CERTIFICATE OF OCCUPANCY - ROCHESTER CITY CODE § 90-16(G)(1)(a) AND LOCAL LAW NO. 3; CLAIMED VIOLATIONS OF CONSTITUTIONAL PROTECTIONS AND CRIMINAL LAW ARTICLE 690; Supreme Court, Monroe County, among other things, denied a challenge to Local Law No. 3 of the City of Rochester and ordered a hearing on an application for a judicial warrant for inspection; App. Div. affirmed.

DIAZ, MATTER OF v TAX APPEALS TRIBUNAL OF THE STATE OF NEW YORK, et al.:

3RD Dept. App. Div. order of 3/8/12; denial of motion; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution; APPEAL - APPELLATE DIVISION - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTION TO VACATE ORDER DISMISSING PROCEEDING; DISMISSAL UPON DEFAULT; App. Div. denied petitioner's motion, treated as a motion to vacate the Appellate Division's 12/8/11 order dismissing the proceeding upon default.

CITY OF ROCHESTER, MATTER OF (NELSON v CITY OF ROCHESTER):

4TH Dept. App. Div. order of 12/23/11; affirmance; sua sponte examination whether the App. Div. order finally determines the proceeding and whether a substantial constitutional question is directly involved to support an appeal as of right; ADMINISTRATIVE LAW - ADMINISTRATIVE INSPECTIONS - JUDICIAL WARRANT FOR INSPECTION OF RENTAL PROPERTY WITH REGARD TO ISSUANCE OR RENEWAL OF A CERTIFICATE OF OCCUPANCY - ROCHESTER CITY CODE § 90-16(G)(1)(a) AND LOCAL LAW NO. 3; CLAIMED VIOLATIONS OF CONSTITUTIONAL PROTECTIONS AND CRIMINAL LAW ARTICLE 690; Supreme Court, Monroe County, among other things, denied a challenge to Local Law No. 3 of the City of Rochester and ordered a hearing on an application for a judicial warrant for inspection; App. Div. affirmed.

RODRIGUEZ (ANTONIO), PEOPLE v:

1ST Dept. App. Div. order of 7/7/11; affirmance; leave to appeal granted by Jones, J., 4/24/12; CRIMES - JURORS - SUGGESTION OF PREMATURE DELIBERATIONS - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN, AT THE CLOSE OF EVIDENCE AND PRIOR TO SUMMATIONS, THE COURT RECEIVED A NOTE FROM ONE JUROR REQUESTING CERTAIN INFORMATION, IN RESPONSE TO WHICH THE COURT DID NOT CONDUCT ANY INDIVIDUAL INQUIRY OF THE JURORS, BUT RATHER DIRECTED ITS INQUIRIES TO THE JURY AS A GROUP; EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING AT TRIAL EVIDENCE ILLUSTRATING THE INTERNATIONAL FLOW OF DRUGS; Supreme Court, New York County convicted defendant of criminal possession of a controlled substance in the first degree and conspiracy in the second degree, and sentenced him to concurrent terms of 12 years and 5 to 15 years; App. Div. affirmed.