

COURT OF APPEALS NEW FILINGS

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

**November 16, 2012 through November 22, 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.**

ALTSHULER SHAHAM PROVIDENT FUNDS, LTD. v GML TOWER LLC, et al:  
Supreme Court, Onondaga County order of 7/13/12, bringing up for review a 4<sup>TH</sup> Dept. App. Div. order of 4/29/11; affirmance; leave to appeal granted by Court of Appeals, 10/23/12;  
MORTGAGES - FORECLOSURE - LIEN PRIORITY - WHETHER LOAN AGREEMENT CONSTITUTED "BUILDING LOAN CONTRACT" WITHIN MEANING OF THE LIEN LAW AND SHOULD HAVE BEEN FILED TO PRESERVE PRIORITY OVER SUBSEQUENTLY FILED MECHANICS LIENS; SUMMARY JUDGMENT;  
Supreme Court, Onondaga County granted various defendants' motions for summary judgment; App. Div. affirmed; thereafter, Supreme Court confirmed a referee's report of a foreclosure sale.

STATE OF NEW YORK, MATTER OF v NELSON D.:

1<sup>ST</sup> Dept. App. Div. order of 11/8/12; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;

MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CLAIMED COMMITMENT TO INPATIENT FACILITY UNDER PROVISION INTENDED FOR OUTPATIENT SUPERVISION; CLAIMED DENIAL OF DUE PROCESS;

Supreme Court, Bronx County directed that respondent, as a sex offender requiring strict and intensive supervision and treatment, reside at the Valley Ridge Center for Intensive Treatment; App. Div. affirmed.