

COURT OF APPEALS NEW FILINGS

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

April 26, 2013 through May 2, 2013

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.

GYABAAH v RIVLAB TRANSPORTATION CORP., et al.:

1ST Dept. App. Div. order of 1/10/13; affirmance; leave to appeal granted by App. Div., 4/18/13; Rule 500.11 review pending; ATTORNEY AND CLIENT - COMPENSATION - ATTORNEY'S LIEN - WHETHER SETTLEMENT OF PERSONAL INJURY ACTION OCCURRED, TRIGGERING PAYMENT OF LAW FIRM'S CONTINGENCY FEE PER RETAINER AGREEMENT; Supreme Court, Bronx County granted nonparty law firm's motion to the extent of granting the firm leave to place a lien against the action, and denied the motion insofar as it sought an order enforcing a purported settlement and setting the firm's fee accordingly; App. Div. affirmed.

STATE OF NEW YORK, MATTER OF v DANIEL OO.:

3RD Dept. App. Div. order of 8/11/11; reversal; sua sponte examination whether the order appealed from finally determines the proceeding within the meaning of the Constitution;

MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CONFINEMENT OF PERSONS WHO HAVE NOT BEEN CONVICTED OF A SEX OFFENSE AND LACK CAPACITY TO STAND TRIAL WITH RESPECT TO WHETHER THEY COMMITTED A SEX OFFENSE; CLAIMED DENIAL OF DUE PROCESS AND EQUAL PROTECTION;

Supreme Court, Franklin County, in a proceeding pursuant to Mental Health Law article 10, granted respondent's motion to dismiss the petition; App. Div. reversed, denied respondent's motion to dismiss the petition seeking sex offender civil management, and remitted the matter to Supreme Court to permit respondent to serve an answer within 20 days; Supreme Court "so ordered" the parties' stipulation to withdraw the petition without prejudice to renewal should respondent be released from custody.