

COURT OF APPEALS NEW FILINGS

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

**October 21, 2016 through October 27, 2016**

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.**

PLAINVIEW-OLD BETHPAGE CONGRESS OF TEACHERS et al., MATTER OF v NEW YORK STATE HEALTH INSURANCE PLAN et al.:

<sup>3RD</sup> Dept. App. Div. order of 6/9/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;  
CIVIL SERVICE - COMPENSATION AND BENEFITS - HEALTH INSURANCE - WHETHER A POLICY MEMORANDUM ISSUED BY THE DEPARTMENT OF CIVIL SERVICE THAT REQUIRES LOCAL UNITS OF GOVERNMENT WHO CHOOSE TO PARTICIPATE IN THE NEW YORK STATE HEALTH INSURANCE PLAN TO LIMIT THE "OPT OUT PROGRAMS" THEY OFFER THEIR EMPLOYEES, CONSTITUTES A "RULE OR REGULATION" SUBJECT TO CONSTITUTIONAL AND STATUTORY FILING REQUIREMENTS; STATUTE OF LIMITATIONS; STANDING;

Supreme Court, Albany County, among other things, granted petitioners' application, in a combined proceeding pursuant to CPLR article 78 and action for declaratory judgment, to annul a certain policy memorandum issued by respondent Department of Civil Service; App. Div. affirmed.

ROSLYN TEACHERS ASSOCIATION et al., MATTER OF v NEW YORK STATE HEALTH INSURANCE PLAN et al.:

3<sup>RD</sup> Dept. App. Div. order of 6/9/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; CIVIL SERVICE - COMPENSATION AND BENEFITS - HEALTH INSURANCE - WHETHER A POLICY MEMORANDUM ISSUED BY THE DEPARTMENT OF CIVIL SERVICE THAT REQUIRES LOCAL UNITS OF GOVERNMENT WHO CHOOSE TO PARTICIPATE IN THE NEW YORK STATE HEALTH INSURANCE PLAN TO LIMIT THE "OPT OUT PROGRAMS" THEY OFFER THEIR EMPLOYEES, CONSTITUTES A "RULE OR REGULATION" SUBJECT TO CONSTITUTIONAL AND STATUTORY FILING REQUIREMENTS; STATUTE OF LIMITATIONS; STANDING; Supreme Court, Albany County, among other things, granted petitioners' application, in a combined proceeding pursuant to CPLR article 78 and action for declaratory judgment, to annul a certain policy memorandum issued by respondent Department of Civil Service; App. Div. affirmed.

SUN, &c. v DICK BAILEY SERVICE, INC., et al.:

2<sup>ND</sup> Dept. App. Div. order of 10/19/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT - FAILURE TO STATE A CAUSE OF ACTION; Supreme Court, Kings County, granted defendants' motion to dismiss the complaint pursuant to CPLR 3211(a)(7) for failure to state a cause of action; App. Div. affirmed.

SUN, &c. v LAM, et al.:

2<sup>ND</sup> Dept. App. Div. order of 10/19/16; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT - FAILURE TO STATE A CAUSE OF ACTION; Supreme Court, Queens County, granted defendants' motion to dismiss the complaint pursuant to CPLR 3211(a)(7) for failure to state a cause of action; App. Div. affirmed.