

COURT OF APPEALS NEW FILINGS

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

**June 9, 2017 through June 15, 2017**

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.**

MEISSNER &c. v YUN, et al.:

1<sup>ST</sup> Dept. App. Div. order of 5/11/17; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;  
Parties--Standing--Whether plaintiff lacked standing to assert derivative claims on behalf of a dissolved Delaware limited liability company; Conflict of Laws--full faith and credit--whether certificate of good standing of Delaware limited liability company was entitled to full faith and credit in New York action brought derivatively on behalf of that company;

Supreme Court, New York County, granted defendants' motion for summary judgment dismissing the first through fifth causes of action insofar as asserted derivatively on behalf of plaintiff Manhattan Review LLC; App. Div. affirmed.

MORRISON (WILLIAM), PEOPLE v:

4<sup>TH</sup> Dept. App. Div. order of 3/24/17; reversal; leave to appeal granted by Peradotto, J., 5/22/17; Rule 500.11 review pending; Crimes--Appeal--Mode of Proceedings Error--Whether a jury note constituted a substantive inquiry, thereby implicating the procedure required under People v O'Rama (78 NY2d 270 [1991]); application of CPL 310.30; whether a reconstruction hearing is appropriate where the record is ambiguous as to whether the court provided counsel with notice of a substantive jury note; County Court, Oneida County, convicted defendant of rape in the first degree, sexual abuse in the first degree and endangering the welfare of a vulnerable elderly person in the second degree; App. Div. reversed and granted a new trial on counts one through three of the indictment.

SIMMONS (JOHN), PEOPLE v:

4<sup>TH</sup> Dept. App. Div. order of 4/28/17; affirmance; leave to appeal granted by Lindley, J., 5/23/17; Crimes--Unlawful Search and Seizure--Whether police had a founded suspicion of criminality justifying a level two inquiry under People v DeBour (40 NY2d 210 [1976]); Supreme Court, Erie County, convicted defendant, upon a plea of guilty, of criminal possession of a weapon in the second degree; App. Div. affirmed.