

COURT OF APPEALS NEW FILINGS

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

August 4, 2017 through August 10, 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.

CAFFERTY &c. v COUNTY OF BROOME, et al.:

3RD Dept. App. Div. order of 6/29/17; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right; Dismissal and Nonsuit--Dismissal of Complaint--Tax Foreclosure--action to challenge judgment of foreclosure--statute of limitations--res judicata; Supreme Court, Broome County, granted defendants' motion to dismiss the complaint; thereafter, upon reargument, adhered to its prior decision; App. Div. affirmed.

MENTAL HYGIENE LEGAL SERVICE et al., MATTER OF v SULLIVAN &c., et al.:

3RD Dept. App. Div. order of 7/13/17; affirmance with dissents; Rule 500.11 review pending;

Mental Health--Patient in Custody of Commissioner of Mental Health--Treatment planning meetings--whether person confined after having been adjudicated a dangerous sex offender is statutorily entitled to have his Mental Hygiene Legal Service counsel present at his treatment planning meetings--construction of Mental Hygiene Law § 29.13 (b)--"person otherwise concerned with the welfare of the patient";

Supreme Court, St. Lawrence County, dismissed the petition in a proceeding pursuant to CPLR article 78, to review a determination of the St. Lawrence Psychiatric Center finding that petitioner Mental Hygiene Legal Service was not statutorily entitled to be present at petitioner D.J.'s treatment planning meetings; App. Div. affirmed.

ROMAIN v O'CONNOR, et al.:

3RD Dept. App. Div. orders 4/28/17 and 6/15/17; denial of motions; sua sponte examination of whether the orders finally determine the action within the meaning of the Constitution and whether any other basis exists for an appeal as of right or any other jurisdictional basis exists to support an appeal taken as of right;

Appeals--Appellate Division--Denial of relief sought concerning dismissal of action concerning plaintiff's nursing duties and nursing license; claimed due process violations;

Supreme Court, Ulster County, granted motions of defendants Greenfield, Pichi, Iapoce, Jelacic, Bottigliero, McNelis, Robinson, Randzin and Sangi to dismiss the complaint as against them (11/2/15 order); thereafter, dismissed action as against defendants Greefield, Pichi, Iapoce, Jelacic, Bottigliero, McNelis, Robinson, Randzin and Sangi (2/1/16 order); thereafter, dismissed action as against defendant Cavell (3/29/16 order); thereafter, dismissed action as against defendant Charuk (4/5/16 order); thereafter, dismissed action as against defendants O'Connor and Pressman (4/14/16 order); and, thereafter, dismissed action as against defendant Travis Davis (5/27/16 order); App. Div., in six consolidated appeals, denied appellant's motion for judgment and other relief (4/28/17 order); and, thereafater, denied appellant's motion for reconsideration and other relief (6/15/17 order).