

COURT OF APPEALS NEW FILINGS

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

March 2, 2018 through March 8, 2018

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.

MADISON COUNTY INDUSTRIAL DEVELOPMENT AGENCY et al., MATTER OF
v STATE OF NEW YORK AUTHORITIES BUDGET OFFICE et al.:

3RD Dept. App. Div. order of 6/29/17; affirmance; leave to appeal granted by Court of Appeals, 2/20/18;

Counties--Industrial Development Agency--Whether petitioner industrial development agency had authority to form a local development corporation (see N-PCL 1411; Public Authorities Law § 2) as a subsidiary under General Municipal Law § 858; interpretation of “necessary or convenient” clause of General Municipal Law § 858 (17);

Supreme Court, Albany County, dismissed petitioners' application, in a proceeding pursuant to CPLR article 78, to review a determination of respondents refusing to recognize petitioner Madison Grant Facilitation Corporation as a subsidiary of petitioner Madison County Industrial Development Agency and requiring petitioner Madison Grant Facilitation Corporation to file separate budget, annual and audit reports; App. Div. affirmed.

QUEENS BRANCH OF THE BHUVANESHWAR MANDIR, INC., et al. v
SHERMAN, et al.:

2ND Dept. App. Div. order of 12/6/17; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether the order appealed from finally determines the action within the meaning of the Constitution;

Religious Corporations--Elections--Membership requirement to vote for Board of Trustee candidates for Queens Branch of Bhuvaneshwar Mandir (Mandir)—whether membership in the Mandir is based on religious criteria or resolvable on neutral principles of law and reference to the secular provisions of the Mandir's internal documents; claimed violation of First Amendment of the U. S. Constitution;

Supreme Court, Queens County, among other things, granted that branch of plaintiffs' motion which was to confirm the results of a 5/31/15 election in which their slate of candidates was elected as members of the Board of Trustees of plaintiff Queens Branch of the Bhuvaneshwar Mandir, Inc., and denied that branch of defendants' cross motion seeking a judgment pursuant to CPLR 3001 declaring that its slate of candidates won the election; App. Div. affirmed.

RKEIN (HASSAN), PEOPLE v:

1ST Dept. App. Div. order of 7/13/17; affirmance; leave to appeal granted by Rivera, J., 2/22/18;

Crimes--Justification--Whether trial court properly denied defendant's request for a justification charge regarding second-degree assault count; defendant struck unarmed initial aggressor in head with pint glass;

Supreme Court, New York County, convicted defendant of assault in the second and third degrees, and sentenced him, as a second felony offender, to an aggregate term of five years; App. Div. affirmed.