



*State of New York
Court of Appeals*

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COURT OF APPEALS NEW FILINGS

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

December 30, 2022 through January 5, 2023

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.

MATTER OF CLIFTON PARK APTS v DHR:

3rd Dept. App. Div. order of 4/28/22; annulled determination; leave to appeal granted by the Court of Appeals, 12/13/22;

Civil Rights—Discrimination in Housing—Whether the Appellate Division properly concluded that substantial evidence did not support the finding that petitioners took adverse action against respondent CityVision Services, Inc.; whether the Appellate Division should have remitted for further proceedings upon concluding that the Administrative Law Judge did not apply the correct burden-shifting analysis under one prong of the test for retaliation;

App. Div., in a proceeding pursuant to Executive Law § 298 to, among other things, review a determination of the Commissioner of the Division of Human Rights finding petitioners guilty of unlawful discriminatory practice based on retaliation, annulled the determination and granted the petition.

PEOPLE v JEAN DUFRESNE:

1st Dept. App. Div. order of 10/18/22; affirmance; leave to appeal granted by the Court of Appeals, 12/13/22; Rule 500.11 review pending;

Crimes—Sex Offenders—In a Sex Offender Registration Act (SORA) proceeding, whether the SORA hearing court erred as a matter of law or abused its discretion when it denied defendant’s request for an adjournment of the SORA hearing pending the outcome of a civil commitment proceeding against defendant pursuant to Mental Hygiene Law article 10;

Supreme Court, New York County, adjudicated defendant a level three sexually violent predicate offender pursuant to the Sex Offender Registration Act; App. Div. affirmed.

MANKO v STATE OF NEW YORK:

2nd Dept. App. Div. order of 10/26/22; denial of motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

Appeal—Matters Appealable;

App. Div. denied the motion to vacate the dismissal of an appeal and to extend the time to perfect an appeal from an order of the Court of Claims dated August 15, 2019.

UNITED JEWISH COMMUNITY v WASHINGTONVILLE CSD:

3rd Dept. App. Div. order of 6/2/22; reversal; leave to appeal granted by the Court of Appeals, 12/15/22;

Schools—Transportation of Pupils—Whether Education Law § 3635 requires central school districts to transport nonpublic school students to and from school on days when a district's public schools are closed; whether the failure to provide nonpublic school students with transportation on days when public schools are closed denies nonpublic school students' right to equal protection under the State Constitution;

Supreme Court, Albany County, inter alia, granted petitioners' motion for summary judgment; App. Div. reversed, denied petitioners' motion for summary judgment, granted respondent State Education Department's cross motion for summary judgment, and declared (1) that respondent Washingtonville Central School District is not required to transport nonpublic school students on days when its public schools are closed and (2) that the State Education Department's transportation guidance, to the effect that school districts outside New York City are permitted, but not required, to transport nonpublic school students on days when public schools are closed, is valid.