

COURT OF APPEALS NEW FILINGS

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

**January 10, 2020 through January 16, 2020**

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.**

MOORE, PEOPLE ex rel. v SUPERINTENDENT OF COLLINS CORRECTIONAL FACILITY, et al.:

4<sup>TH</sup> Dept. App. Div. order of 12/18/19; denied writ of habeas corpus; sua sponte examination of whether any basis exists for an appeal as of right;

**Habeas Corpus--When Remedy Available;**

App. Div., inter alia , denied petitioner's application for a writ of habeas corpus and dismissed the petition.

NYCTL, 1998-2 TRUST AND THE BANK OF NEW YORK MELLON &c. v  
GOUDEN; POSAR:

Supreme Court, Queens County, orders of 10/18/19 and 11/19/19; sua sponte examination of whether, with regard to each appellant: the appellant is a party aggrieved with the meaning of CPLR 5511; the appeal is timely taken; and a direct appeal lies of right;

**Appeals--appealable paper;**

Supreme Court, Queens County, among other things (1)(a) granted judgment pursuant to CPLR 3215 in favor of plaintiffs; (b) appointed a referee pursuant to RPAPL 1321(1) to ascertain and compute the amount due plaintiffs; (c) amended the caption; and (d) severed and strike defendant Serio and the remaining defendants sued as John Does; (2) denied the motion of non-party Posar for various reliefs, including for leave to intervene and for various declaratory reliefs unrelated to this action; (3) denied the motions of non-party Posar because Posar has no standing and the reliefs sought are incomprehensible; (4) among other things, referred the action to a referee, and (5) denied the motion of defendant Gouden because Gouden defaulted and did not first move to vacate the default and the relief sought is incomprehensible.

MATTER OF BABY BOY W., &c.:

1<sup>ST</sup> Dept. App. Div. order of 3/19/19; affirmance; sua sponte examination of whether the order appealed from finally determines the proceeding and whether a substantial constitutional question is directly involved to support an appeal as of right;

**Parent, Child and Family--Abused or Neglected Child;**

Family Court, New York County, based upon a fact-finding determination that mother neglected the child, placed the child with the Commissioner of the Administration of Children's Services until the next permanency hearing and directed the mother to engage in services; App. Div. affirmed the order of fact-finding of Family court, and dismissed the appeal from the order of disposition of the same court as moot.