



*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

March 8, 2024 through March 14, 2024

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.

EZRASONS INC. v RUDD:

1st Dept. App. Div. order of 6/1/23; affirmance; leave to appeal granted by the Court of Appeals, 2/22/24;

Conflict of Laws—What Law Governs—Whether the courts below erred by dismissing the complaint based on plaintiff's lack of standing to bring this shareholder derivative action; whether this Court's decision in *Davis v Scottish Re Group Ltd.*, 30 NY3d 247 (2017), requires that Business Corporation Law § 626 be applied to this action involving an English corporation doing business in New York because section 260 of England's Companies Act of 2006 is procedural and applies only to derivative actions brought in English courts; whether Business Corporations Law § 626 must be applied to this action under the text of Business Corporations Law § 1319, a statutory choice-of-law rule that plaintiffs purport displaces the common-law internal-affairs doctrine;

Supreme Court, New York County, granted defendants' motion to dismiss the complaint for lack of standing; App. Div. affirmed.

HAUSSMANN v BAUMANN:

1st Dept. App. Div. order of 6/22/23; affirmance; leave to appeal granted by the Court of Appeals, 2/22/24;

Conflict of Laws—What Law Governs—Whether the courts below erred by dismissing the complaint on the ground that the internal affairs doctrine mandated dismissal for lack of standing; whether this Court's decision in *Davis v Scottish Re Group Ltd.*, 30 NY3d 247 (2017), requires that Business Corporation Law § 626 be applied to this action involving a German corporation doing business in New York because section 148 of the German Stock Corporation Law is procedural and applies only to derivative actions brought in German courts; whether Business Corporations Law § 626 must be applied to this action under the text of Business Corporations Law § 1319, a statutory choice-of-law rule that plaintiffs purport displaces the common-law internal-affairs doctrine;

Supreme Court, New York County, granted defendants' motion to dismiss the complaint; App. Div. affirmed.

PEOPLE v HOWARD (CHARLES):

2nd Dept. App. Div. order of 6/28/23; affirmance; leave to appeal granted by Halligan, J., 2/22/24;

Crimes—Robbery—Whether the evidence was legally insufficient to prove defendant's guilt of robbery beyond a reasonable doubt when the sole evidence that defendant committed robbery, rather than larceny, was the trial testimony of the complainant, which was contradicted by the statement the complainant gave to the police of the day of the crime; whether the People proved beyond a reasonable doubt that defendant intentionally threatened the use of force to compel to complainant to deliver up his property;

Supreme Court, Kings County, convicted defendant of robbery in the first degree, criminal mischief in the fourth degree, and criminal possession of a weapon in the fourth degree, upon a jury verdict, and imposed sentence; App. Div. affirmed.

MATTERS OF JOSHUA J. and CHRISTOPHER J.:

2nd Dept. App. Div. orders of 10/11/23; dismissal; leave to appeal granted by the Court of Appeals, 2/15/24;

Appeal—Academic and Moot Questions—Whether the Appellate Division erred in dismissing as academic mother's appeals from permanency hearing orders; Family Court, Westchester County, continued the subject children's placement until completion of the next permanency hearing or pending further order of the court; Family Court, Westchester County, thereafter continued the subject children's placement until completion of the next permanency hearing or pending further order of the court; App. Div. dismissed as academic the appeals.

PEOPLE ex rel. MAAZEL v GARCIA:

Single Justice, 4th Dept. App. Div. order of 1/12/24; sua sponte examination of whether an order of a single Justice of the Appellate Division is appealable to this Court;

Habeas Corpus—Whether a defendant may be remanded without bail without violating his due process rights when his conviction is vacated and a new trial is ordered based on the violation of his constitutional rights;

App. Div. Justice dismissed the application and petition for a writ of habeas corpus.

PEOPLE v SANTOS (JUAN M. SILVA):

1st Dept. App. Div. order of 10/19/23; affirmance; leave to appeal granted by Wilson, Ch J., 2/21/24;

Crimes—Plea of Guilty—Whether litigants are permitted to bargain away the Department of Corrections and Community Supervision’s Shock program; whether doing so contravenes statutory authority (Corrections Law § 867), the separation of powers doctrine, and public policy;

Supreme Court, New York County, convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the third degree, and sentenced him to a term of nine years and two years’ postrelease supervision; App. Div. affirmed.

MATTER OF RICHARD TT.:

3rd Dept. App. Div. order of 1/18/24; modification; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution;

Parent, Child and Family—Abused or Neglected Child—Whether respondent mother defaulted in neglect proceeding;

Family Court, Schenectady County, granted petitioner’s applications, in two proceedings pursuant to Family Court Act article 10, to adjudicate the subject children to be neglected; App. Div. modified by reversing so much of the Family Court order that granted petitioner’s application against respondent Kara VV, and remitted the matter to Family Court, Schenectady County, for further proceedings not inconsistent with the court’s decision; and, as so modified, affirmed.