



State of New York
Court of Appeals

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4/4/25

Heather Davis, Esq.
Chief Clerk and
Legal Counsel to the Court

Clerk's Office
20 Eagle Street
Albany, New York 12207-1095
518-455-7700

COURT OF APPEALS NEW FILINGS

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

March 28, 2025 through April 3, 2025

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 CLAIM OF GONZALEZ:

APL-2025-00056

3rd Dept. App. Div. order of 11/14/24; affirmance; leave to appeal granted by the Court of Appeals, 3/20/25;

Workers' Compensation—Counsel Fees—Whether the request by counsel for claimant for fees payable from penalties awarded to claimant were properly denied;

whether Workers' Compensation Law § 24 provides for an award of counsel fees payable from a late payment penalty imposed on a carrier under Workers' Compensation Law § 25;

App. Div. affirmed (1) a decision of the Worker's Compensation Board, filed July 6, 2023, which denied counsel's application for an award of counsel fees, and (2) a decision of said Board, filed September 1, 2023, which denied counsel's application for reconsideration and/or full Board review.

MANKO v CITY OF NEW YORK:

APL-2025-00060

2nd Dept. App. Div. order of 1/8/25; denied motions; 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;

Motions and Orders;

App. Div. denied branch of motion to vacate dismissal of appeal from an order of Supreme Court, Kings County, dated December 28, 2020, and otherwise denied motions as academic.

MRIJAJ v GENTING:

APL-2025-00061

1st Dept. App. Div. order of 2/25/25; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether the order appealed from directly involves a substantial constitutional question;

Constitutional Law—Due Process of Law—Whether the Appellate Division properly held that plaintiff's arguments failed to demonstrate that his due process rights were violated by any deprivation of liberty arising from his first detention as authorized by the Gaming Commission's bulletin;

Supreme Court, Bronx County, among other things, denied plaintiff's motion for class certification and granted in part defendant's cross-motion to dismiss the complaint; App. Div. affirmed.

PEOPLE v PAULINO (RANDY):

APL-2025-00041

1st Dept. App. Div. order of 9/26/24; affirmance; leave to appeal granted by Rodriguez, III., J., 2/4/25; Rule 500.11 review pending;

Crimes—Sentence—Whether, in light of this Court's decision in "*People v Brisman* (—NY3d—, 2025 NY Slip Op 00123 [2025]), the Appellate Division applied an erroneous standard of review to defendant's excessive sentence argument;

Supreme Court, Bronx County, convicted defendant, upon his plea of guilty, of attempted murder in the second degree, and imposed sentence; App. Div., with two Justices dissenting, affirmed.

VEGA v HEMPSTEAD UNION FREE SCHOOL DISTRICT:

APL-2025-00058

2nd Dept. App. Div. order of 2/5/25; affirmance; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right;

Limitation of Actions—Whether plaintiff’s causes of action alleging breach of contract and fraud were time-barred pursuant to Education Law § 3813(2-b);

Supreme Court, Suffolk County, granted defendants' motion under CPLR 3211(a) to dismiss the complaint; App. Div. affirmed.

WILMINGTON TRUST v ARGENTIC REAL ESTATE:

APL-2025-00057

1st Dept. App. Div. order of 4/11/24; leave to appeal granted by the Court of Appeals, 3/20/25;

Appeal—Academic and Moot Questions—Whether defendant’s satisfaction of the judgment of specific performance by repurchasing the subject loan, without seeking a stay of enforcement, rendered the appeal moot;

Supreme Court, New York County, granted plaintiff’s motion and denied defendant’s motion for summary judgment; Supreme Court, New York County, required defendant to repurchase the subject loan from plaintiff at a set purchase price plus prejudgment interest; App. Div. granted motion to dismiss appeal, dismissed appeal from judgment as moot and dismissed appeal from order as subsumed in the appeal from the judgment.