



*State of New York*  
*Court of Appeals*

Vol. 45 - No. 20  
5/28/25

*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

**May 16, 2025 through May 22, 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.**

ARTICLE 13 LLC v LASALLE NATIONAL BANK:

CTQ-2025-00001

United States Court of Appeals for the Second Circuit order of 3/25/25; certification of questions;

**Mortgages—Foreclosure—Whether, or to what extent does, Section 7 of the Foreclosure Abuse Prevention Act, codified at N.Y. C.P.L.R. § 213 (4) (b), apply to foreclosure actions commenced before the statute's enactment and whether FAPA's retroactive application violates the right to substantive and procedural due process under the New York Constitution, N.Y. Const., art. I, § 6;**

District Court, Eastern District of New York, granted summary judgment in favor of the

plaintiff; United States Court of Appeals reserved decision and certified questions to the Court of Appeals.

BECK v MANHATTAN COLLEGE:

CTQ-2025-00003

United States Court of Appeals for the Second Circuit order of 4/29/25; certification of question;

**Colleges and Universities—Whether New York law requires a specific promise to provide exclusively in-person learning as a prerequisite to the formation of an implied contract between a university and its students with respect to tuition payments;**

District Court, Southern District of New York, dismissed plaintiff's claims that the Manhattan College breached its implied contract, or in the alternative was unjustly enriched when it refused to refund a portion of her tuition and fees after it transitioned to remote learning in response to the COVID-19 pandemic; United States Court of Appeals reserved decision and certified a question to the Court of Appeals.

PEOPLE v BURGESS (WARREN):

APL-2025-00083

1st Dept. App. Term order of 4/9/24; modification; leave to appeal granted by Troutman, J., 4/25/25;

**Crimes—Accusatory Instrument—Whether the intermediate appellate court should have dismissed the accusatory instrument in its entirety when defendant successfully challenged the facial sufficiency of the charge to which he pleaded guilty and the element of the jurisdictionally defective count applied to each other count;**

Criminal Court, City of New York, Bronx County, convicted defendant, upon his plea of guilty, of criminal possession of a weapon in the fourth degree, and imposed sentence.

PEOPLE v CRADDOCK (BRANDON):

APL-2025-00068

3rd Dept. App. Div. order of 2/20/25; modification; leave to appeal granted by Mackey, J., 4/3/25; sua sponte examination of whether the Appellate Division order of modification "was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to ... modification" (CPL 450.90[2][a]);

**Crimes—Unlawful Search and Seizure—Whether physical evidence should have been suppressed on the ground that the inventory search of a vehicle departed from police procedures and was invalid;**

County Court, Ulster County, granted defendant's motion to suppress evidence; App. Div., with two Justices dissenting, modified by reversing so much of the order as granted defendant's motion to suppress physical evidence, denied the motion to that extent, and, as so modified, affirmed.

CRUZ v BANKS:

CTQ-2025-00002

United States Court of Appeals for the Second Circuit order of 4/15/25; certification of question;

**Schools—When a student is covered by more than one class size regulation under [8 NYCRR] § 200.6(h)(4), do the varying restrictions serve as distinct requirements that must be independently fulfilled or as a list of class size options from which the**

**DOE may pick;**

District Court, Southern District of New York, granting summary judgment in favor of the defendants; United States Court of Appeals reserved decision and certified question to the Court of Appeals.

GRANATH v MONROE COUNTY:

APL-2025-00098

4th Dept App. Div. order of 4/25/25; affirmance;

**Motor Vehicles—Whether there are triable issue of facts whether defendant sheriff deputy operated their vehicle with reckless disregard for the safety of others in violation of New York Vehicle and Traffic Law § 1104 when entering an intersection without the right-of-way and collided with plaintiff’s vehicle;**

Supreme Court, Monroe County, granted the motion of defendants for summary judgment and dismissed the complaint; App. Div., with two Justices dissenting, affirmed.

MATTER OF INGA-INGA v MCDONALD:

APL-2025-00082

2nd Dept. App. Div. judgment of 4/9/25; denial of petition; sua sponte examination of whether the issues presented have become moot and whether a substantial constitutional question is directly involved in the order appealed from;

**Proceeding Against Body or Officer—Whether the Appellate Division properly denied the CPLR article 78 petition to prohibit respondents from retrying petitioner on a count of an indictment in an underlying criminal action on the ground that to do so would subject him to double jeopardy;**

App. Div., in a proceeding pursuant to CPLR article 78 in the nature of prohibition to prohibit respondents from retrying petitioner on count 1 of the indictment in a criminal action entitled *People v Inga-Inga*, pending in Supreme Court, Nassau County, under Indictment No. 72423/23, on the ground that to do so would subject him to double jeopardy, denied petition and dismissed proceeding.

PEOPLE v JONES (JOSEPH C.):

APL-2025-00086

4th Dept. App. Div. order of 3/14/25; modification; leave to appeal granted by Nowak, J., 4/29/25;

**Crimes—Unlawful Search and Seizure—Whether physical evidence should have been suppressed because parole officers lacked a reasonable belief that defendant was the person for whom they had an arrest warrant; whether the reasonable belief test under *People v Tejada* (270 AD2d 655 [3d Dept 2000]) is the same as the reasonable suspicion test under *People v De Bour* (40 NY2d 210 [1976]);**

Supreme Court, Monroe County, convicted defendant upon his plea of guilty of attempted criminal possession of a weapon in the second degree; App. Div., with two Justices dissenting, modified by vacating the sentence, as so modified affirmed, and remitted for resentencing.

MATTER OF KANE v HANIF:

APL-2025-00095

1st Dept. App. Div. order of 5/14/25; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the Appellate Division order appealed from;

**Elections—Designating Petitions;**

Supreme Court, New York County, dismissed the proceeding; App. Div. affirmed.

MATTER OF KANE v KORNBERG:

APL-2025-00096

1st Dept. App. Div. order of 5/14/25; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the Appellate Division order appealed from;

**Elections—Designating Petitions;**

Supreme Court, New York County, dismissed the proceeding; App. Div. affirmed.

LANGTON v SUSSMAN & WATKINS:

APL-2025-00093

2nd Dept. App. Div. order of 5/7/25; affirmance; 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;

**Dismissal and Nonsuit—Dismissal of Complaint—Whether the complaint, alleging, among other things, violation of Judiciary Law § 487, was properly dismissed;**

Supreme Court, Orange County, in an action, among other things, to recover damages for violation of Judiciary Law § 487, (1) granted the separate motions of the defendants Fabricant, Lipman & Frishberg, PLLC, and Neal D. Frishberg and the defendants McCabe & Mack, LLP, and David L. Posner pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against each of them, (2) granted that branch of the motion of the defendants Greenwald Doherty, LLP, and Kevin M. Doherty which was pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against them, (3) granted that branch of the motion of the defendants Greenwald Doherty, LLP, and Kevin M. Doherty which was for certain injunctive relief to the extent of enjoining the plaintiff from commencing any new action pertaining to her removal as voluntary library trustee of the Town of Chester Library Board of Trustees without prior written permission of the Supreme Court, and (4), sua sponte, in effect, directed dismissal of the complaint insofar as asserted against the defendants Sussman & Watkins, Michael H. Sussman, Goldberg Segalla, and Jonathan M. Bernstein; App. Div., (1) on the Court's own motion, ordered that the notice of appeal from so much of the order as, sua sponte, in effect, directed dismissal of the complaint insofar as asserted against defendants Sussman & Watkins, Michael H. Sussman, Goldberg Segalla, and Jonathan M. Bernstein, is deemed to be an application for leave to appeal from that portion of the order, and granted leave to appeal; (2) affirmed the order insofar as appealed from; and (3) awarded one bill of costs to respondents.

MATTER OF ESTATE OF ALAN PRINCE:

APL-2025-00091

1st Dept. App. Div. order of 9/26/24; denial of motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

**Motions and Orders;**

App. Div. denied motion under 22 NYCRR 1250.10 (c) to vacate the dismissal of the appeal from an order of Surrogate's Court, New York County, entered February 2, 2022, and, upon vacatur, for an extension of time to perfect same, and for leave to prosecute the appeal as a poor person.

U.S. BANK PACIFICO; JAVINO:

APL-2025-000094

2nd Dept. App. Div. order of 4/25/25; granted 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;

**Motions and Orders;**

App. Div., on appeals from orders of Supreme Court, Suffolk County, both dated August 5, 2022, granted that branch of respondent's motion to dismiss the appeals on the ground that the right of direct appeal terminated upon entry of a judgment dated January 19, 2023, dismissed the appeals, and otherwise denied respondent's motion as academic.