



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

July 4, 2025 through July 10, 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.

MEGA BEVERAGE v MOUNT VERNON:

APL-2025-00131

2nd Dept. App. Div. order of 6/4/25; reversal; sua sponte examination of whether the order appealed from was on questions of fact or discretion;

Pleading—Amendment—Whether the trial court erred by sua sponte substituting a cause of action alleging a violation of plaintiff's right to procedural due process under 42 USC 1983 in place of the cause of action alleging an unlawful taking;

Supreme Court, Westchester County, among other things, denied that branch of defendant's motion which was under CPLR 4404(a) to set aside a jury verdict on the cause of action to recover damages for a violation of plaintiff's substantive due process

rights under 42 USC 1983 and for judgment as a matter of law dismissing that cause of action; Supreme Court, Westchester County, upon a jury verdict, finding that defendant violated plaintiff's substantive and procedural due process rights and awarding damages, and upon a prior order, issued judgment in favor of plaintiff and against defendant in the principal sum of \$2,400,000; App. Div. dismissed appeal from order, reversed judgment, and remitted to Supreme Court for a new trial.

PEOPLE v MIERISCH (JUSTIN):

APL-2025-00128

2nd Dept. App. Div. order of 6/11/25; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the order appealed from;

Crimes—Sex Offenders—Whether the hearing court properly assessed defendant points under risk factors 3 and 7; whether the assessment of points under risk factors 3 and 7 in child pornography cases violated defendant's right to due process; whether the hearing court properly denied defendant's application for a downward departure;

Supreme Court, Kings County, after a hearing, designated defendant a level two sex offender; App. Div. affirmed.