



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

January 23, 2026 through January 29, 2026

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.

FOX v STATE OF NY:
APL-2025-00222

Court of Claims orders of 9/10/25; denial of motions; sua sponte examination of whether the orders appealed from finally determine the action within the meaning of the Constitution and whether any jurisdictional basis exists for an appeal as of right;

Motions and Orders;

Court of Claims denied "Emergency Injunction Motion"; Court of Claims denied motion for default judgment.

MATTER OF NICHOLAS v MARTUSCELLO:

APL-2026-00007

3rd Dept. App. Div. order of 1/15/26; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the order appealed from;

Proceeding Against Body or Officer—Whether the courts below erred in dismissing so much of the petition/complaint as sought orders compelling access to disciplinary proceeding hearings of Department of Corrections and Community Supervision employees or to associated disciplinary records; whether the declaratory judgment action was properly dismissed for want of personal jurisdiction based on the failure to serve a summons; alleged constitutional violations;

Supreme Court, Albany County, denied petitioner's application to waive costs, fees and expenses; Supreme Court, Albany County, in a combined proceeding pursuant to CPLR article 78 and action for declaratory judgment, granted respondent's motion to dismiss the petition/complaint; App. Div. affirmed.

U.S. BANK v FAHIM:

APL-2026-00005

2nd Dept. App. Div. order of 12/10/25; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved in the order appealed from;

Mortgages—Foreclosure—Whether the complaint was properly dismissed as time-barred under the Foreclosure Abuse Prevention Act (FAPA); whether the retroactive application of FAPA is unconstitutional;

Supreme Court, Queens County, granted the motion of defendants Zakia Fahim and 17740 105th Corp. for leave to renew (1) those branches of their prior cross-motion which were for summary judgment dismissing the complaint insofar as asserted against defendant 17740 105th Corp. and on that defendant's counterclaim pursuant to RPAPL 1501(4) to cancel and discharge of record the subject mortgage, which had been denied in an order of the same court dated June 5, 2019, and (2) their prior cross-motion for summary judgment dismissing the complaint insofar as asserted against them, which had been denied in an order of the same court dated September 7, 2022, and, upon renewal, in effect, vacated so much of the order dated June 5, 2019, as denied those branches of the first prior cross-motion and so much of the order dated September 7, 2022, as denied the second prior cross-motion, and thereupon granted those branches of the first prior cross-motion and the second prior cross-motion, and denied the plaintiff's cross-motion, among other things, for summary judgment on the complaint insofar as asserted against those defendants and for an order of reference; App. Div. affirmed.