



*State of New York
Court of Appeals*

Vol. 43 - No. 4
3/17/23

*Lisa Le Cours
Chief Clerk and
Legal Counsel to the Court*

*Clerk's Office
20 Eagle Street
Albany, New York 12207-1095*

COURT OF APPEALS NEW FILINGS

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

January 27, 2023 through February 2, 2023

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.

JULE v KIAMESHA SHORES:

3rd Dept. App. Div. order of 11/23/22; modification; 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 the appeal;

Dismissal and Nonsuit—Whether the Appellate Division properly affirmed the dismissal of certain of plaintiff's causes of action;

Supreme Court, Sullivan County, granted defendants' motion for summary judgment dismissing the complaint; App. Div. modified judgment by reversing so much thereof as dismissed the second, fifth, and sixth causes of action, denied the motion to that extent, and, as so modified, affirmed.

RAMIREZ (FERNANDO), PEOPLE v:

2nd Dept. App. Div. order of 8/31/22; affirmance; leave to appeal granted by Cannataro,

ACJ., 1/26/23;

Crimes—Jurors—Whether defendant was deprived of his constitutional right to meaningfully participate in jury selection by the County Court’s COVID-19 safety procedures; whether there was legally sufficient evidence that defendant committed aggravated vehicular homicide and manslaughter in the second degree; whether the trial court should have granted a mistrial;

County Court, Suffolk County, convicted defendant of aggravated vehicular homicide (three counts), manslaughter in the second degree, aggravated unlicensed operation of a motor vehicle in the first degree, aggravated driving while intoxicated, driving while intoxicated (two counts), driving while ability impaired by the combined influence of drugs or of alcohol and any drugs or drugs, reckless driving, and consumption or possession of an alcoholic beverage in a motor vehicle, upon a jury verdict, and imposed sentence; App. Div. affirmed.

SKANEATELES COUNTRY CLUB v CAMBS:

4th Dept. App. Div. order of 12/23/22; reversal; Rule 500.11 review pending;

Contracts—Whether the Appellate Division erred in concluding that the subject agreement was a license that was not revocable at plaintiff’s will;

Supreme Court, Onondaga County, granted the motion of plaintiff for summary judgment, declared that the subject agreement is a license terminable at plaintiff’s will, and denied the cross motion of defendant for summary judgment; App. Div., with two Justices dissenting, reversed, denied the motion, vacated the declaration, reinstated the counterclaims, granted the cross motion, dismissed the complaint, and granted judgment in favor of defendant declaring that the agreement is a license not terminable at plaintiff’s will.