

COURT OF APPEALS NEW FILINGS

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

September 4, 2015 through September 10, 2015

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.

ESTRELLITA A., MATTER OF v JENNIFER D.:

2ND Dept. App. Div. order of 12/24/14; affirmance; leave to appeal granted by Court of Appeals, 9/1/15;
PARENT, CHILD AND FAMILY - VISITATION - WHETHER FORMER SAME SEX PARTNER OF BIOLOGICAL MOTHER OF CHILD HAS STANDING TO SEEK VISITATION WITH THE CHILD UPON THE GROUND THAT MOTHER WAS JUDICIALLY ESTOPPED FROM ARGUING THAT HER FORMER PARTNER WAS NOT A PARENT OF THE CHILD WITHIN THE MEANING OF DOMESTIC RELATIONS LAW § 70 WHERE MOTHER SUCCESSFULLY SOUGHT AN AWARD OF CHILD SUPPORT FROM HER FORMER PARTNER ON THE GROUND THAT HER FORMER PARTNER WAS A PARENT OF THE CHILD;

Family Court, Suffolk County, granted Estrellita A.'s petition to the extent of awarding her visitation with the subject child; App. Div. affirmed.

MATTER OF LEO, A DISBARRED ATTORNEY:

2ND Dept. App. Div. order of 12/26/14; denial of motions for reinstatement to the Bar; leave to appeal granted by Court of Appeals, 8/27/15;

ATTORNEY AND CLIENT - REINSTATEMENT - DENIAL - WHETHER DUE PROCESS OF LAW REQUIRES THE APPELLATE DIVISION TO ARTICULATE THE REASONS FOR DENYING MOTIONS FOR REINSTATEMENT TO THE BAR - ALLEGED INCORRECT FINDINGS OF FACT - MOVANT'S RELIANCE ON ADVICE OF COUNSEL WHEN UNDERTAKING CERTAIN ACTIONS;

App. Div. denied motions for reinstatement to the Bar as an attorney and counselor-at-law and, in effect, for reinstatement notwithstanding the recommendation of the Committee on Character and Fitness to deny reinstatement.

THREE AMIGOS SJL REST., INC., v CBS NEWS, INC., et al.:

1ST Dept. App. Div. order of 8/4/15; affirmance with a two-Justice dissent;

LIBEL AND SLANDER - ACTIONABLE WORDS - WHETHER DEFENDANTS' MOTION TO DISMISS LIBEL CLAIMS ASSERTED BY CERTAIN INDIVIDUAL PLAINTIFFS WAS PROPERLY GRANTED UPON THE GROUND THAT THE CHALLENGED STATEMENTS WERE NOT "OF AND CONCERNING" THOSE PLAINTIFFS;

Supreme Court, New York County, among other things, granted defendants' motion to dismiss all claims asserted by plaintiffs Dominica O'Neill, Shawn Callahan, and Philip Stein pursuant to CPLR 3211(a)(1) and (7); App. Div. affirmed.