

COURT OF APPEALS NEW FILINGS

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

January 12, 2018 through January 18, 2018

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.

COLEBROOKE THEATRICAL v BIBEAU, et al.:

1ST Dept. App. Div. order of 11/30/17; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
Judgments--Default Judgment--Denial of motion to vacate default judgment; alleged due process violation;
Supreme Court, New York County, denied the motion of defendants to vacate the default judgment as against Stephane Bibeau and C3 Global Capital HK Limited; App. Div. affirmed.

MENTAL HYGIENE LEGAL SERVICES, MATTER OF v DANIELS &c.:

1ST Dept. App. Div. order of 12/12/17; affirmance with dissents; Parties--Standing--Whether petitioner Mental Hygiene Legal Services has standing to bring article 78 proceeding seeking a writ of mandamus to compel respondent, acting director of Bronx Psychiatric Center, to provide copies of a patient's complete clinical record (see MHL 9.01, MHL 33.16, 14 NYCRR 501.2[a]) in advance of a retention hearing pursuant to MHL 9.31(a); Records--Mental Health Records--whether respondent, in failing to provide petitioner with a copy of a patient's complete clinical record, violated its statutory obligation under MHL 9.31(b); Supreme Court, Bronx County, denied respondent's cross motion to dismiss the proceeding, and granted the petition to the extent of declaring that respondent's failure to provide petitioner with a complete copy of a patient's so-called medical chart in any proceeding pursuant to Mental Hygiene Law (MHL) 9.31(a) violates MHL 9.31(b) when read together with MHL 9.01, MHL 33.16, and 14 NYCRR 501.2(a), and ordered respondent, in any action brought pursuant to MHL 9.31(a), to provide petitioner with a complete copy of such medical chart prior to any MHL 9.31(b) hearing; App. Div. affirmed.