



*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

May 6, 2022 through May 12, 2022

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.

MATTER OF OWNER OPERATOR INDEPENDENT DRIVERS v NYSDOT:

3rd Dept. App. Div. order of 3/31/22; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right; **Carriers--Whether inspections authorized by federal rules, enforced by the state and incorporated into state regulations, that require commercial motor vehicles involved in interstate commerce and operated by drivers subject to certain hours of service and record of duty status requirements to install electronic logging devices and for drivers to make information recorded on those devices available to law enforcement during roadside safety inspections upon request constitute unreasonable searches within the meaning of the NY Constitution, article I, § 12; whether the administrative search exception applies to these warrantless searches; whether the rules authorize a search of the driver that falls outside of the administrative search**

exception;

Supreme Court, Albany County, in a combined proceeding pursuant to CPLR article 78 and action for declaratory judgment, granted respondents' motion to dismiss the petition/complaint; App. Div. affirmed.

R.F. SCHIFFMAN ASSOC. v BAKER & DANIELS LLP:

Supreme Court, New York County order of 3/10/22; Supreme Court, New York County judgment of 4/1/22; sua sponte examination of whether any jurisdictional basis exists for an appeal as of right and whether the order appealed from finally determines the action within the meaning of the Constitution;

Interest--Interest on Judgment--Whether pre-judgment interest should have been awarded;

New York County, Supreme Court, directed entry of judgment in favor of plaintiffs R.F. Schiffman Associates, Inc. and Robert Schiffmann and against defendant Baker & Daniels, LLP in the amount of \$118, 744.25 without post-judgment interest only, pursuant to a 4/30/19 Appellate Division order; New York County, Supreme Court judgment for a sum of money.

TAX EQUITY NOW NY v CITY OF NEW YORK:

1st Dept. App. Div. order of 2/27/20; modification and affirmance; leave to appeal granted by the Court of Appeals, 4/28/22;

Taxation--Real Property Tax--Whether the complaint stated a cause of action that the New York City property tax system violates RPTL § 305 (2); whether the complaint adequately pleaded a violation of the federal Fair Housing Act; whether the complaint adequately pleaded violations of article XVI, § 2 of the New York State Constitution and the federal and state Equal Protection and Due Process Clauses;

Supreme Court, New York County, denied the motion of defendants City of New York and New York City Department of Finance to dismiss the complaint as against them, and granted in part and denied in part the motion of defendants State of New York and New York Office of Real Property Tax Services to dismiss the complaint as against them; App. Div. modified to dismiss the remaining causes of action against the State defendants, and to grant the City defendants' motion to dismiss the complaint against them, and otherwise affirmed.