



*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 27, 2022 through June 2, 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.

BANK OF AMERICA v KESSLER:

2nd Dept. App. Div. order of 12/15/21; affirmance;

Mortgages--Foreclosure--Whether the courts below properly held that the inclusion of certain language in a 90-day notice sent to the borrowers in this foreclosure action, in addition to the language required to be included under RPAPL 1304, violated the "separate envelope" provision in RPAPL 1304;

Supreme Court, Westchester County, among other things, denied those branches of the plaintiff's motion which were for summary judgment on the complaint insofar as asserted against defendants Andrew Kessler and Reiko Kessler, for summary judgment dismissing the second, third, and fourth affirmative defenses to those defendants, and for an order of reference, and granted the cross motion of defendant Andrew Kessler for summary judgment dismissing the complaint insofar as asserted against him; App. Div. affirmed

order insofar as appealed from.

MATTER OF GURVEY v GARRY:

4th Dept. App. Div. order of 5/10/22; denial of motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any basis exists for an appeal as of right;

Motions and Orders;

App. Div. denied a motion to renew.

McCANN v GORDON:

4th Dept. App. Div. order of 4/22/22; dismissal; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any basis exists for an appeal as of right;

Torts--Whether summary judgment was properly granted as to liability on plaintiff's tort cause of action;

Supreme Court, Oneida County, among other things, granted the motion of plaintiff for summary judgment on the issue of liability on her defamation cause of action and denied defendant's cross motion to dismiss the complaint; App. Div. dismissed the appeal.

MATTER OF UZAMERE v IDEHEN:

2nd Dept. App. Div. order of 5/16/22; denial of motion; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether any basis exists for an appeal as of right;

Motions and Orders;

App. Div. denied a motion to direct the commencement of a certain criminal investigation.