

COURT OF APPEALS NEW FILINGS

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

January 15 through January 21, 2010

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 60 days after the appeal was taken; respondent's brief to be filed 45 days after the filing of appellant's brief; and a reply brief, if any, to be filed 15 days after 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.

HALL v JACOBY AND MYERS LAW OFFICES, INC.:

1st Dept. App. Div. order of 9/1/09; denial of motion for leave to prosecute appeal as a poor person and for related relief; sua sponte examination whether the Appellate Division order finally determines the action and whether any jurisdictional basis otherwise exists to support an appeal as of right;

CHALLENGE TO APPELLATE DIVISION ORDER DENYING MOTION FOR POOR PERSON AND RELATED RELIEF;

App. Div. denied plaintiff's motion for leave to prosecute, as a poor person, a purported appeal from an unidentified order of the Supreme Court, New York County, for leave to have the appeal heard upon the original record and upon a reproduced appellant's brief, and for related relief.

STEWART, MATTER OF v CHAUTAUQUA COUNTY BOARD OF ELECTIONS, et al.
(AND TWO OTHER PROCEEDINGS):

4TH Dept. App. Div. order of 1/12/10; modification with dissents;
ELECTIONS - BALLOTS - AFFIDAVIT BALLOT CHALLENGED REGARDING
RESIDENCY - TWO BALLOTS NOT READABLE BY OPTICAL SCAN VOTING
MACHINE - TWO ABSENTEE BALLOTS FROM VOTERS WHO FAILED TO STATE
THE DATES AND REASONS FOR THEIR ABSENCES ON ELECTION DAY PURSUANT
TO ELECTION LAW § 8-400(3)(c);

Supreme Court, Chautauqua County, among other things, directed
that certain ballots be counted; App. Div. dismissed the cross
appeal taken by petitioner Beightol from the order insofar as it
directed the opening of two absentee ballots and modified the
Supreme Court order by vacating the first ordering paragraph and
invalidating the J.K. affidavit ballot and by vacating the fourth
ordering paragraph and validating the two unread optical scan
ballots from the Town of Poland, and directed respondent Board of
Elections not to count the J.K. affidavit ballot and to count the
two unread optical scan ballots from the Town of Poland.