

COURT OF APPEALS NEW FILINGS

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

**March 19 through March 25, 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.**

LEGON v PETAKS:

1<sup>ST</sup> Dept. App. Div. order of 2/11/10; reversal with dissents; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution; NEGLIGENCE - MAINTENANCE OF PREMISES - PLAINTIFF INJURED WHEN SHE TRIPPED OVER A RACK HOLDING SHOPPING BASKETS IN GROCERY STORE - WHETHER CONDITION OF RACK WAS OPEN AND OBVIOUS OR INHERENTLY DANGEROUS AS CONCEALED BY SHOPPING BASKETS; SUMMARY JUDGMENT; Supreme Court, New York County granted defendant's motion for summary judgment dismissing the complaint; App. Div. reversed, denied defendant's motion, and reinstated the complaint.

SPICOLA (MICHAEL), PEOPLE v:

4<sup>TH</sup> Dept. App. Div. order of 4/24/09; affirmance; leave to appeal granted by Jones, J., 3/12/10;

CRIMES - WITNESSES - EXPERT WITNESS - CLINICAL SOCIAL WORKER PERMITTED TO TESTIFY CONCERNING CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME AND REASON FOR DELAY IN REPORTING INCIDENT TO AUTHORITIES - TESTIMONY FROM NURSE PRACTITIONER REGARDING STATEMENTS MADE BY VICTIM DURING EXAMINATION; PRECLUSION OF CHARACTER WITNESSES FOR DEFENDANT; INDICTMENT ISSUED MORE THAN SIX YEARS AFTER ALLEGED OFFENSES; JURY INSTRUCTIONS; Erie County Court convicted defendant, upon a jury verdict, of six counts of sodomy in the first degree, three counts of sexual abuse in the first degree, and endangering the welfare of a child; App. Div. affirmed.

WILLIAMS (IVIN), PEOPLE v:

1<sup>ST</sup> Dept. App. Div order of 10/8/09; affirmance; leave to appeal granted by Lippman, Ch.J., 3/9/10; Rule 500.11 review pending;

CRIMES - SENTENCE - RESENTENCE - ADDITION OF POST-RELEASE SUPERVISION TO SENTENCE AFTER DEFENDANT'S RELEASE FROM PRISON; Supreme Court, New York County resentenced defendant, as a second violent felony offender, to a term of 7 years with 5 years' post-release supervision; App. Div. affirmed.

