

COURT OF APPEALS NEW FILINGS

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

April 2 through April 8, 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.

ALBUNIO et al. v CITY OF NEW YORK (AND ANOTHER ACTION):

1st Dept. App. Div. order of 11/5/09; affirmance; leave to appeal granted by App. Div., 4/6/10;

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - RETALIATION CLAIM - WHETHER PLAINTIFFS ENGAGED IN PROTECTED "OPPOSITION" ACTIVITY WITHIN THE MEANING OF ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 8-102(7);

Supreme Court, New York County awarded plaintiff Robert Sorrenti \$491,706 and attorneys' fees to counsel for Sorrenti; the same court awarded plaintiff Lori Albunio \$759,728.83 and plaintiff Thomas Connors \$588,113.45 against the City of New York and, thereafter, awarded attorneys' fees to counsel for those plaintiffs; App. Div. affirmed.

CHAVIS, PEOPLE ex rel. v NEW YORK STATE DEPARTMENT OF
CORRECTIONAL SERVICES:

4TH Dept. App. Div. order of 3/19/10; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; HABEAS CORPUS - AVAILABILITY OF RELIEF; Supreme Court, Wyoming County dismissed a petition for a writ of habeas corpus; App. Div. affirmed.

LINGLE (JOHN), PEOPLE v:

1ST Dept. App. Div. order of 10/27/09; affirmance; leave to appeal granted by Graffeo, J., 3/29/10; Rule 500.11 review pending; CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS; Supreme Court, New York County resentenced defendant, as a second felony offender, to concurrent terms of 14 years and 3 1/2 to 7 years with 5 years' post-release supervision; App. Div. affirmed.

MACK (ALLEN), PEOPLE v:

1ST Dept. App. Div. order of 2/23/10; reversal; leave to appeal granted by Acosta, J., 3/30/10; COURTS - CLAIMED IMPROPRIETY IN TRANSFER OF CASE FROM CRIMINAL COURT TO SUPREME COURT; SUBJECT MATTER JURISDICTION OF TRIAL COURT; Supreme Court, Bronx County convicted defendant, after a nonjury trial, of attempted assault in the third degree and harassment in the second degree, and sentenced him to an aggregate term of 90 days; App. Div. reversed and dismissed the misdemeanor information.

