

COURT OF APPEALS NEW FILINGS

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

October 25, through October 31, 2019

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 ANONYMOUS, &c.:

1ST Dept. App. Div. order of 9/6/19; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;

Attorney and Client--Disciplinary Proceedings--Order directing attorney to submit to medical and psychiatric examination; alleged constitutional violations;

App. Div., inter alia, granted the motion of Attorney Grievance Committee for the First Department for an order pursuant to 22 NYCRR 1240.14(b) directing respondent attorney to submit to a medical examination by a qualified expert selected by the Committee to determine whether she is incapacitated from continuing to practice law by reason of physical or mental infirmity.

DOE v BLOOMBERG, L.P., et al.:

1ST Dept. App. Div. order of 9/24/19; reversal with two Justice dissent;

Civil Rights--New York City Human Rights Law--Whether an individual owner or officer of corporate employer may be held strictly liable under the New York City Human Rights Law (Administrative Code of City of NY § 8-107[13][b]) where plaintiff fails to allege that individual owner or officer encouraged, condoned or approved of alleged discriminatory conduct;

Supreme Court, Bronx County, granted defendant Bloomberg's motion to dismiss the complaint against him; thereafter, upon reargument, denied defendant Bloomberg's motion to dismiss the first, second and third causes of action as against him; App. Div. reversed, granted the motion, and directed the Clerk to enter judgment dismissing the complaint as against defendant.

HEMPHILL (DARRYL), PEOPLE v:

1ST Dept. App. Div. order of 6/11/19; affirmed; leave to appeal granted by Manzanet-Daniels, J., 10/1/19; Rule 500.11 review pending;

Crimes--Evidence--Whether the verdict convicting defendant of two counts of second-degree murder is supported by legally sufficient evidence; Crimes--Right of Confrontation--Whether defendant was denied right to confront witness against him; Crimes--Appeal--Preservation of Issue for Review--Whether defendant failed to preserve his claim that trial court erred in denying his request to call grand jury court reporter in order to impeach another witness; Crimes--Right to be Present at Trial--Whether the trial court violated defendant's right to be present at trial when it removed him from the courtroom prior to the jury being polled; Crimes--Evidence--Whether trial court properly declined to hold a hearing pursuant to Franks v Delaware (438 US 154 [1978]) to address validity of statements made in affidavit filed in support of search warrant; Crimes--Speedy trial--Whether the trial court properly denied defendant's constitutional speedy trial motion; Crimes--Jurors--Whether the trail court erred in denying defendant's request to adjourn sentencing to allow the defense to investigate alleged juror misconduct;

Supreme Court, Bronx County, convicted defendant of murder in the second degree and imposed sentence; App. Div. affirmed.