

COURT OF APPEALS NEW FILINGS

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

May 6, 2016 through May 12, 2016

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.

CHOMYN, MATTER OF v BOLLER, et al.:

4TH Dept. App. Div. judgment of 3/25/16; dismissal of petition; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENTS' DETERMINATION REVOKING PETITIONER'S PISTOL PERMIT; CLAIMED DUE PROCESS AND SECOND AMENDMENT VIOLATIONS;
App. Div. confirmed respondents' determination revoking petitioner's pistol permit, and dismissed the CPLR article 78 petition.

MAISONET et al. v ROMAN, et al.:

1ST Dept. App. Div. order of 4/7/16; reversal with a two-Justice dissent; sua sponate examination whether the order appealed from finally determines the action within the meaning of the Constitution;

NEGLIGENCE - EMERGENCY DOCTRINE - MOTOR VEHICLE CASE INVOLVING REAR-END COLLISION - WHETHER PLAINTIFFS' FACTUAL ALLEGATIONS ARE SUFFICIENT TO RAISE TRIABLE ISSUES OF FACT AS TO THE EXISTENCE OF AN EMERGENCY AND THE REASONABLENESS OF DEFENDANT DRIVER'S RESPONSE TO THAT EMERGENCY;

Supreme Court, Bronx County, granted plaintiffs' motions for partial summary judgment on the issue of liability; App. Div. reversed, and denied plaintiffs' motions for partial summary judgment.