



*State of New York  
Court of Appeals*

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*Lisa Le Cours  
Chief Clerk and  
Legal Counsel to the Court*

*Clerk's Office  
20 Eagle Street  
Albany, New York 12207-1095*

COURT OF APPEALS NEW FILINGS

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

**June 23, 2023 through June 29, 2023**

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.**

ECCLES v SHAMROCK CAPITAL:

1st Dept. App. Div. order of 10/13/22; reversal; leave to appeal granted by the Court of Appeals, 6/15/23;

**Conflict of Laws—What Law Governs—Whether the Appellate Division erred by holding that Scots law rather than New York law applied to plaintiffs' claims of breach of fiduciary duty; whether the Appellate Division erred by taking judicial notice of the content of Scots law and dismissing the complaint for failure to state a cause of action;**

Supreme Court, New York County, denied defendants' motions to dismiss certain claims; App. Div. reversed, granted motions, and directed the entry of judgment dismissing the complaint.

PEOPLE v JOSHUA MESSANO:

4th Dept. App. Div. order of 2/10/23; affirmance; leave to appeal granted by Whalen, J., 6/5/23;

**Crimes—Unlawful Search and Seizure—Whether police officers had reasonable suspicion to detain defendant; whether there was probable cause to arrest defendant for drug possession;**

County Court, Onondaga County, convicted defendant, upon a plea of guilty, of criminal possession of a weapon in the second degree; App. Div. affirmed.

MULACEK v EXXONMOBIL CORPORATION:

1st Dept. App. Div. order of 5/25/23; affirmance;

**Contracts—Whether a contractual no-action clause bars plaintiffs' action; whether plaintiffs' claim may be asserted outside of a contractual dispute resolution process; whether plaintiffs stated a claim;**

Supreme Court, New York County, granted defendants' motion to dismiss the complaint; App. Div., with two Justices dissenting, affirmed.

MATTER OF NYC ORGANIZATION v CAMPION:

1st Dept. App. Div. order of 11/22/22; affirmance; leave to appeal granted by the Court of Appeals, 6/13/23;

**Civil Service—Retirement and Pension Benefits—Whether Administrative Code of the City of New York § 12-126 (b) (1) requires respondents to pay the entire cost, up to the statutory cap, of any health insurance plan a retiree selects;**

Supreme Court, New York County, granted the CPLR article 78 petition to the extent of allowing New York City retirees to have the option of opting out of the Medicare Advantage Plan, enjoining respondents from passing along any costs of the retirees' current plan to the retirees or their dependents except where such plan rises above the H.I.P.-H.M.O threshold provided by Administrative Code of City of NY § 12-126, and requiring respondents to ensure that all retirees and their dependents pay the deductible for only one plan for the calendar year 2022; and denied respondents' motion to dismiss the proceeding; App. Div. affirmed.