



*State of New York
Court of Appeals*

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4/4/22

Clerk's Office

20 Eagle Street

Albany, New York 12207-1095

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Chief Clerk and
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COURT OF APPEALS NEW FILINGS

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

March 25, 2022 through March 31, 2022

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.

JAMES B. NUTTER & CO v COUNTY OF SARATOGA:

3rd Dept. App. Div. order of 6/24/21; affirmance; leave to appeal granted by the Court of Appeals 3/17/22;

Taxation--Tax Liens, Tax Sales and Tax Titles--Whether the County defendants provided adequate statutory notice under RPTL 1125 of the underlying in rem tax lien foreclosure action; Whether RPTL 1125 which provides that notice "shall be deemed received unless both the certified mailing and the ordinary first class mailing are returned by the United States postal service within forty-five days after being mailed," creates a rebuttable presumption; whether Supreme Court had the authority to grant equitable relief;

Supreme Court, Saratoga County, among other things, granted a cross motion by defendants County of Saratoga and Stephen M. Dorsey for summary judgment dismissing

the complaint against them; App. Div. affirmed.

MANKO v GABAY:

2nd Dept. App. Div. order of 2/4/22; denial of motion; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether any jurisdictional basis exists for the appeal;

Motions and Orders;

App. Div. denied motion to recall and vacate prior orders and to reinstate appeals.

SUZANNE P. v JOINT BD. OF DIRECTORS:

4th Dept. App. Div. order of 5/7/21; reversal; leave to appeal granted by the Court of Appeals 3/17/22;

Negligence--Duty--Whether defendant Joint Board of Directors of Erie-Wyoming County Soil Conservation District was owner of dam at which decedent sustained injuries; whether remaining defendants were entitled to summary judgment;

Supreme Court, Erie County, inter alia, granted plaintiff's motion for a directed verdict; App. Div. reversed, denied plaintiff's motion for a directed verdict granted defendant's motion for a directed verdict, and dismissed the complaint.