

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
January 3, 2003 through January 9, 2003

A list of appeals with short title, jurisdictional predicate, subject matter and key issues is prepared each week.

Some of these filed appeals may never reach decision on the merits because of dismissal on motion, sua sponte, or for time deficiencies or because of stipulated withdrawals by the parties. Also, some counsel fail to file timely jurisdictional statements and thus the list should not be treated as comprehensive for any particular week.

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 Court Rule 500.11 and direct any questions to the Clerk's Office.

For January 3, 2003 through January 9, 2003 the following jurisdictional statements for appeals were filed:

RICHARDSON (WILLIAM HENRY), PEOPLE v:

1ST Dept. App. Div. order of 9/26/02; affirmance; leave to appeal granted by Graffeo, J., 12/30/02;
CRIMES AND CRIMINAL PROCEDURE - SENTENCING; CONCURRENT VERSUS CONSECUTIVE SENTENCE - COURT'S POWER TO CORRECT JUDGMENT WHICH DID NOT SPECIFY WHETHER SENTENCE WAS CONCURRENT WITH OR CONSECUTIVE TO PRIOR UNDISCHARGED SENTENCE (CRIMINAL PROCEDURE LAW SECTION 430.10); JURORS - SELECTION OF JURY;
Supreme Court, New York County, granted motion to reconsider sentence and corrected prior judgment convicting defendant, after a jury trial, of four counts of murder in the second degree, and sentencing defendant to an aggregate term of 50 years to life(unspecified as to concurrent with or consecutive to existing sentence) by specifying consecutive running; App. Div. affirmed.

SCHERER v THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES

1ST Dept. App. Div. order of 11/26/02; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved;

APPEAL - PRESERVATION OF ISSUE FOR REVIEW; EVIDENCE - EFFECT OF PARTY'S FAILURE TO OBJECT TO TRIAL JUDGE'S RULINGS REGARDING EXCLUSION OF ANY REFERENCE TO A PRIOR SOCIAL SECURITY ADMINISTRATION DETERMINATION OF DISABILITY AND PRECLUSION OF EXPERT WITNESS TESTIMONY;

Supreme Court, New York County, rendered judgment in favor of defendant upon a jury verdict; App. Div. affirmed.

ZELINSKY v TAX APPEALS TRIBUNAL OF THE STATE OF NEW YORK:

3RD Dept. App. Div. order of 12/5/02; confirmed determination of Tax Appeals Tribunal and dismissed petition; sua sponte examination of whether a substantial constitutional question is directly involved;

TAXATION - PERSONAL INCOME TAX; CONSTITUTIONAL LAW - COMMERCE CLAUSE - DUE PROCESS OF LAW; "CONVENIENCE OF EMPLOYER" DOCTRINE (20 NYCRR 132.18[a]); APPORTIONMENT OF INCOME FOR PURPOSES OF TAXATION IN MULTIPLE STATES;

Tax Appeals Tribunal of the State of New York, inter alia, affirmed the determination of the Division of Tax Appeals, denied the petition and sustained notices of deficiency; App. Div. confirmed.

