

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
March 28, 2003 through April 3, 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 March 28, 2003 through April 3, 2003 the following jurisdictional statements for appeals were filed:

GUIDO, MATTER OF, v GOORD:

3RD Dept. App. Div. order of 12/5/02; affirmance; leave to appeal granted by Court of Appeals, 3/27/03;
PRISONS AND PRISONERS - JAIL TIME CREDIT - PRISONER'S ENTITLEMENT TO JAIL TIME CREDIT AGAINST HIS NEW YORK STATE SENTENCE FOR THE TIME HE SPENT IN CUSTODY OF ANOTHER STATE PENDING THAT STATE'S RESOLUTION OF THE CHARGES AGAINST HIM AND HIS SUBSEQUENT EXTRADITION TO NEW YORK (PENAL LAW § 70.30[3]);
Supreme Court, Albany County dismissed petitioner's CPLR article 78 petition to review a determination of respondent Commissioner of Correctional Services denying petitioner's application for credit for jail time served in another state; App. Div. affirmed.

HERTZ CORPORATION, MATTER OF, v COMMISSIONER OF LABOR:

3rd Dept. App. Div. order of 2/13/03 (affirmance) and 7/23/98 (affirmance, with two justices dissenting); sua sponte examination of whether Matter of Eisner and Matter of Hertz Corp. are the same proceeding for purposes of CPLR 5601(d); UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - COMPANY'S DEGREE OF CONTROL OVER SALESPERSON; REFUSAL OF ADMINISTRATIVE LAW JUDGE TO ADMIT INTO EVIDENCE TAX RETURNS OF CLAIMANT SALESPERSON - DETERMINATION REGARDING OTHER "SIMILARLY SITUATED" EMPLOYEES; Unemployment Insurance Appeal Board affirmed decision of Administrative Law Judge and sustained determination assessing employer \$23,403 in additional contributions due for the period at issue based on remuneration paid to salespersons similarly situated to Dorothy Eisner, a salesperson previously determined to be an employee; App. Div. affirmed.

NILES, et al. v COUNTY OF CHAUTAUQUA, et al.:

4th Dept. App. Div. order of 2/7/03; affirmance with dissents; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution; MUNICIPAL CORPORATIONS - TORT LIABILITY - GOVERNMENTAL IMMUNITY FOR DISCRETIONARY ACTS - COUNTY'S ALLEGED NEGLIGENT FAILURE TO POST A DEER CROSSING SIGN; SUMMARY JUDGMENT; Supreme Court, Chautauqua County granted that part of defendant County of Chautauqua's motion for summary judgment dismissing claim that it was negligent in failing to post signs warning of deer crossing area; App. Div. affirmed.

