

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
April 18, 2003 through April 24, 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 April 18, 2003 through April 24, 2003 the following jurisdictional statements for appeals were filed:

GONZALEZ (WALTER), PEOPLE v:

4th Dept. App. Div. order of 2/7/03; modification; leave to appeal granted by Hayes, J., 4/8/03;

CRIMES AND CRIMINAL PROCEDURE - DEPRAVED INDIFFERENCE MURDER - MENTAL CULPABILITY - LEGAL SUFFICIENCY OF EVIDENCE OF RECKLESSNESS;

Monroe County Court entered judgment convicting defendant of, inter alia, defendant of murder in the second degree; App. Div. modified by reversing that part of the judgment convicting defendant of murder in the second degree, vacating the sentence imposed thereon and dismissing count two of the indictment and, as modified, affirmed.

PAPPAS v HIS EMINENCE ARCHBISHOP DEMETRIOS:

1st Dept. App. Div. order of 4/30/02; affirmance; leave to appeal granted by Court of Appeals, 4/3/03;
RELIGIOUS CORPORATIONS AND ASSOCIATIONS - NOT-FOR-PROFIT CORPORATION LAW § 720 - RELIGIOUS CORPORATION TRUSTEE'S STANDING TO SUE; RELIGIOUS CORPORATION LAW §§ 5 AND 295(2) AS A BAR TO THE INITIATION OF THIS ACTION; RELIGIOUS CORPORATION'S EXECUTIVE COMMITTEE'S POWER TO WITHDRAW A RESOLUTION VESTING A FORMER ARCHBISHOP IN AN ARCHDIOCESAN PENSION PLAN;
Supreme Court, New York County granted plaintiff's motion to renew and adhered to a prior order granting defendant's motion to dismiss the complaint; App. Div. affirmed.

RODRIGUEZ v THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, et al.:

1st Dept. App. Div. order of 2/6/03; motion to dismiss appeal pending;
CIVIL PROCEDURE - PROPRIETY OF GRANT OF MOTION TO DISMISS VARIOUS CLAIMS FOR FAILURE TO STATE A CAUSE OF ACTION OR AS TIME BARRED; LEAVE TO REPLEAD;
Supreme Court, New York County granted and denied in part defendants' motion to dismiss the complaint and denied plaintiff's cross motion for a default judgment; App. Div. denied plaintiff's motion for an enlargement of time to perfect the appeal and granted defendants' cross motion to dismiss the appeal.

SMITH (PATRICE), PEOPLE v:

4th Dept. App. Div. order of 11/15/02; affirmance; leave to appeal granted by Graffeo, J., 4/11/03;
CRIMES AND CRIMINAL PROCEDURE - DEFENDANT'S ENTITLEMENT TO JURY CHARGE ON EXTREME EMOTIONAL DISTURBANCE; REQUIREMENT FOR CPL 250.10(2) NOTICE OF INTENT TO OFFER PSYCHIATRIC EVIDENCE WHERE DEFENDANT INTENDS TO ASSERT AN EXTREME EMOTIONAL DISTURBANCE DEFENSE THROUGH LAYPERSON TESTIMONY; SUFFICIENCY OF THE EVIDENCE SUPPORTING FIRST DEGREE ROBBERY AND FELONY-MURDER CONVICTIONS;
Erie County Court entered judgment convicting defendant of, inter alia, murder in the second degree (two counts); App. Div. affirmed.