

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 2, 2003 through May 8, 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 May 2, 2003 through May 8, 2003 the following jurisdictional statements for appeals were filed:

ALLY &c. v GRAVER, et al.:

2nd Dept. App. Div. order of 2/18/03; affirmance; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved;
CIVIL PROCEDURE - SANCTIONS - PROPRIETY OF SANCTION IMPOSED UPON PLAINTIFF FOR ENGAGING IN FRIVOLOUS CONDUCT (22 NYCRR 130-1.1[c]);
Supreme Court, Queens County imposed sanction upon plaintiff in the sum of \$10,000 for engaging in frivolous conduct; App. Div. affirmed.

LYONS v GROSSO, et al.:

2nd Dept. App. Div. order of 4/21/03; sua sponte examination of whether a substantial constitutional question is directly involved;

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - WHEN REMEDY AVAILABLE - PROPRIETY OF RULING THAT PETITIONER FAILED TO DEMONSTRATE A CLEAR LEGAL RIGHT TO RELIEF SOUGHT; Appellate Division, Second Department denied CPLR article 78 petition and dismissed the proceeding.

MANNING, et al. v WALTER S. JOHNSON BUILDING CO., INC.:

4th Dept. App. Div. order of 3/21/03; reversal with dissents; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution; LABOR - SAFE PLACE TO WORK - EXISTENCE OF ISSUES OF FACT PRECLUDING PARTIAL SUMMARY JUDGMENT ON LIABILITY ON PLAINTIFFS' LABOR LAW § 240(1) CAUSE OF ACTION;

Supreme Court, Niagara County granted plaintiffs' motion for partial summary judgment on the issue of liability; App. Div. reversed and denied the motion.