

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**May 16, 2003 through May 22, 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 16, 2003 through May 22, 2003 the following jurisdictional statements for appeals were filed:

DOLNE v VILLAGE OF OSSINING:

2<sup>nd</sup> Dept. App. Div. order of 5/20/02; modification; sua sponte examination of whether an appeal lies as of right; TORTS - PERSONAL INJURY; FALL OF ARRESTEE WHILE IN CUSTODY OF POLICE - REASONABLENESS OF ACTIONS OF POLICE OFFICERS UNDER CIRCUMSTANCES - WHETHER ANY NEGLIGENCE ON PART OF VILLAGE WAS PROXIMATE CAUSE OF INJURY; PROPRIETY OF DENIAL OF PARTIAL SUMMARY JUDGMENT IN FAVOR OF PLAINTIFF ON ISSUE OF LIABILITY; Supreme Court, Westchester County awarded defendant \$2,555 in costs upon a jury verdict in favor of defendant, and dismissed plaintiff's claim; App. Div. modified by deleting the provision which awarded the defendant \$380 in costs for the attendance of witnesses at trial.

PELAEZ, et al. v SEIDE, et al. and COUNTY OF PUTNAM, et al.:

2<sup>nd</sup> Dept. App. Div. order of 12/16/02; reversal; leave to appeal granted by Court of Appeals, 5/8/03;

MUNICIPAL CORPORATIONS - TORT LIABILITY - DUTY - ALLEGED EXISTENCE OF SPECIAL RELATIONSHIP BETWEEN COUNTY DEFENDANTS AND CHILDREN EXPOSED TO LEAD-BASED PAINT; PUBLIC HEALTH LAW §§ 1370-1376; COUNTY DEFENDANTS' ALLEGED LIABILITY FOR FAILING TO FULFILL THEIR STATUTORY OBLIGATIONS;

Supreme Court, Putnam County denied motion for summary judgment by County defendants; App. Div. reversed, granted summary judgment to defendants County of Putnam and County of Putnam Department of Health, and dismissed the complaint insofar as asserted against those defendants.

WAGMAN, MATTTER OF, v KAPICA &c., et al.:

2<sup>ND</sup> Dept. App. Div. order of 12/9/02; affirmance; leave to appeal granted by Court of Appeals, 5/8/03;

MUNICIPAL LAW - BENEFITS FOR POLICE OFFICERS INJURED IN THE PERFORMANCE OF THEIR DUTIES (GENERAL MUNICIPAL LAW § 207-c); PROPRIETY OF APPLYING HEIGHTENED RISK STANDARD IN DETERMINING WHETHER TO AWARD § 207-c BENEFITS TO POLICE OFFICERS;

Supreme Court, Westchester County denied CPLR article 78 petition, dismissed the proceeding and confirmed the determination of Chief of Police of the Police Department of the Town of Greenburgh which denied the petitioner benefits pursuant to General Municipal Law § 207-c; App. Div. affirmed.

