

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
June 6, 2003 through June 12, 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 June 6, 2003 through June 12, 2003 the following jurisdictional statements for appeals were filed:

BRUKER v SULLIVAN and LIAPAKIS, P.C. and BRUKER v SAVOCA, et al.:
1ST Dept. App. Div. order of 11/21/02; affirmance of two Supreme Court orders and dismissal of appeals from two separate Supreme Court orders; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right and whether the Appellate Division order appealed from finally determines the action within the meaning of the Constitution;
CIVIL PROCEDURE - CHALLENGE TO GRANTS OF SUMMARY JUDGMENT
DISMISSING COMPLAINT ALLEGING BLACKMAIL OR EXTORTION AND FRAUD
AND DISMISSING COMPLAINT ALLEGING FRAUD/MISREPRESENTATION AND
TORTIOUS INTERFERENCE WITH CUSTODY OF CHILD; CHALLENGE TO DENIAL
OF PLAINTIFF'S MOTIONS FOR LEAVE TO SERVE AN AMENDED COMPLAINT
AND FOR REARGUMENT;

Supreme Court, New York County granted defendants' motions for summary judgment dismissing the complaints in two actions, denied plaintiff's cross motion for leave to serve an amended complaint in one action and denied plaintiff's subsequent motions to reargue in both actions; App. Div. affirmed the orders granting defendants summary judgment and denying the cross motion for leave to serve an amended complaint, dismissed the appeals from the remaining Supreme Court orders and denied plaintiff's motion to enlarge the record.

EVERSON (BRANDI), PEOPLE v.:

4th Dept. App. Div. order of 3/21/03; reversal; leave to appeal granted by Green, J., 5/20/03; Rule 500.4 review pending; APPEAL - PRESERVATION OF ISSUE FOR REVIEW - SUFFICIENCY OF DEFENDANT'S OBJECTIONS AT TRIAL TO PRESERVE FOR APPELLATE REVIEW WHETHER EXPERT WITNESS OPINION WAS IMPERMISSIBLY BASED ON DOUBLE HEARSAY; CHALLENGE TO PEOPLE v. HINES (97 NY2d 56); Supreme Court, Onondaga County granted defendant's CPL 330.30 motion to set aside a jury verdict finding defendant guilty of assault in the first degree and endangering the welfare of a child and ordered a new trial; App. Div. reversed, denied defendant's CPL 330.30 motion, reinstated the verdict and remitted the matter to Supreme Court for sentencing.

LOSURDO, MATTER OF, v ASBESTOS FREE, INC.:

3rd Dept. App. Div. order of 2/13/03; affirmance; leave to appeal granted by Court of Appeals, 6/5/03; WORKERS' COMPENSATION - WORKERS' COMPENSATION LAW § 114-a - MATERIALITY OF FACTS CLAIMANT CONCEALED OR MISREPRESENTED; CHALLENGE TO AMOUNT OF PENALTY, RESCISSION OF BENEFITS AND CLAIMANT'S DISQUALIFICATION FROM RECEIPT OF FUTURE BENEFITS; Workers' Compensation Board ruled that claimant violated Workers' Compensation Law § 114-a, rescinded certain benefit awards and disqualified claimant from receiving additional wage replacement benefits; App. Div. affirmed.