

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
August 8, 2003 through August 14, 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 August 8, 2003 through August 14, 2003 the following jurisdictional statements for appeals were filed:

JACKSON v STATE OF NEW YORK:

2ND Dept. App. Div. order of 4/30/03; dismissal; sua sponte examination whether a jurisdictional predicate exists to support an appeal as of right;

STATE - CLAIM AGAINST STATE - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING CLAIMANT'S APPEAL FOR FAILURE TO TIMELY PERFECT AND DENYING MOTION FOR POOR PERSON RELIEF AS ACADEMIC; Court of Claims entered judgment dismissing claim against State; App. Div. dismissed appeal for failure to timely perfect and denied motion for poor person relief as academic.

MASSIE (JAMAL), PEOPLE v:

1ST Dept. App. Div. order of 5/1/03; affirmance; leave to appeal granted by Rosenblatt, J., 8/6/03;
CRIMES AND CRIMINAL PROCEDURE - EVIDENCE - CHALLENGE TO TRIAL COURT RULING THAT DEFENDANT'S CROSS EXAMINATION OF PEOPLE'S WITNESS AS TO AN ALLEGEDLY SUGGESTIVE PHOTO ARRAY WOULD OPEN THE DOOR TO A LINEUP IDENTIFICATION SUPPRESSED BECAUSE DEFENDANT HAD BEEN DENIED COUNSEL AT THE LINEUP; PROSECUTORIAL MISCONDUCT; Supreme Court, New York County judgment convicting defendant of robbery in the first degree; App. Div. affirmed.

TOWN OF SOUTHAMPTON, MATTER OF, v NEW YORK STATE PUB. EMPL. RELATIONS BD., et al.:

3RD Dept. App. Div. order of 7/3/03; confirmation with dissents; CIVIL SERVICE - POLICE - COLLECTIVE BARGAINING - CHALLENGE TO PUBLIC EMPLOYMENT RELATIONS BOARD'S (PERB'S) DETERMINATION THAT TOWN COMMITTED AN IMPROPER EMPLOYER PRACTICE BY REFUSING TO COMPLY WITH INTEREST ARBITRATION AWARD CLAUSE CONCERNING DAILY RATE OF HOLIDAY PAY; PERB'S JURISDICTION; TAYLOR LAW § 209-a.1(d); CHALLENGE TO REMEDY REQUIRING RECALCULATION OF HOLIDAY PAY RETROACTIVE TO DECEMBER 1996 WHERE THE IMPROPER PRACTICE CHARGE WAS FILED IN AUGUST 1999;
Appellate Division, Third Department confirmed PERB's determination finding petitioner committed an improper employer practice, dismissed the CPLR article 78 petition and granted respondents' application to enforce the determination.

