

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
October 31, 2003 through November 6, 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 October 31, 2003 through November 6, 2003 the following jurisdictional statements for appeals were filed:

AMO v LITTLE RAPIDS CORPORATION, et al.:

3RD Dept. App. Div. order of 1/13/00; reversal with dissents; motion to dismiss appeal pending;
TORTS - PERSONAL INJURY; FALL FROM ELEVATED WORK SITE (LABOR LAW § 240[1]); DIRECTED VERDICT; INDEMNIFICATION;
Supreme Court, St. Lawrence County judgment awarding Little Rapids Corporation attorneys' fees and costs against MRL Constructors of New York, Ltd. in the sum of \$42,500, and awarding Laframboise Group attorneys' fees and costs against MRL in the sum of \$42,500; App. Div. reversed and remitted to Supreme Court for a new trial; thereafter, upon the parties' stipulation, Supreme Court entered judgment awarding Little Rapids \$42,500 in attorneys' fees and costs against MRL and awarding Laframboise \$28,000 in attorneys' fees and costs against MRL.

CELAJ (SHABAN), PEOPLE v:

1ST Dept. App. Div. order of 6/10/03; affirmance; leave to appeal granted by Ellerin, J., 8/14/03; Rule 500.4 review pending; CRIMES AND CRIMINAL PROCEDURE - UNLAWFUL SEARCH AND SEIZURE - SEARCH BY POLICE OFFICER RESPONDING TO 911 CALL REPORTING DISPUTE INVOLVING GUNS - SEARCH OF "CONSPICUOUS BULGE" AT HIP UNDER JACKET;

Supreme Court, Bronx County judgment convicting defendant of criminal possession of a weapon in the third degree; App. Div. affirmed.

HOLTERMAN v HOLTERMAN:

3RD Dept. App. Div. order of 7/3/03; modification; leave to appeal granted by Court of Appeals, 10/21/03; HUSBAND AND WIFE - EQUITABLE DISTRIBUTION - MAINTENANCE - SUPPORT OF CHILDREN - DISTRIBUTION OF MEDICAL LICENSE VALUE AND CALCULATION OF CHILD SUPPORT AWARD;

Supreme Court, Albany County judgment awarding plaintiff wife, among other things, lifetime maintenance, equitable distribution and child support; App. Div. modified by altering defendant husband's life insurance obligations and affirmed the judgment as so modified.

HONZAWA, et al. v HONZAWA, et al.:

1ST Dept. App. Div. order of 10/21/03; modification; sua sponte examination whether a substantial constitutional question is directly involved;

DAMAGES - PUNITIVE DAMAGES - EXCESSIVENESS OF PUNITIVE DAMAGE AWARD; WHETHER RECORD SHOULD HAVE BEEN ENLARGED TO INCLUDE ALLEGEDLY RELATED JAPANESE SUPREME COURT JUDGEMENT; JOINT AND SEVERAL LIABILITY FOR MALICIOUS PROSECUTION; REINSTATEMENT OF CLAIMS FOR EMOTIONAL DISTRESS AND LOSS OF CONSORTIUM;

Supreme Court, New York County judgment awarding plaintiff Mitsuhiro Honzawa recovery against certain defendants in the sum of \$11,140,430; App. Div. modified by reinstating jury's award for emotional distress and loss of consortium and increasing punitive damage award to \$15 million and affirmed the judgment as so modified.

LINARES (PATRICIO), PEOPLE v:

1ST Dept. App. Div. order of 2/18/03; affirmance; leave to appeal granted by Kaye, Ch.J., 10/9/03;

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EXISTENCE OF GOOD CAUSE FOR REQUESTED SUBSTITUTION OF COUNSEL; DEFENDANT'S RIGHT TO BE PRESENT AT MATERIAL STAGES OF TRIAL - ALLEGED DENIAL OF RIGHT TO PRESENT AT HEARING TO DETERMINE SECURITY MEASURES TO PROTECT COUNSEL FROM CLIENT DURING TRIAL;

Supreme Court, New York County judgment convicting defendant of two counts of criminal sale of a controlled substance in the second degree; App. Div. affirmed.