

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
October 17 through October 23, 2008

Each week, the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11.

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 Rule 500.23 and direct any questions to the Clerk's Office.

HUNTER v ORANGE COUNTY BOARD OF ELECTIONS:

2ND Dept. App. Div. order of 10/17/08; reversal; leave to appeal granted by App. Div., 10/17/08;

ELECTIONS - PRIMARY ELECTIONS - ELECTION LAW § 16-102 - IRREGULAR VOTES - ABSENTEE BALLOTS;

Supreme Court, Orange County, after a hearing, in effect, granted that branch of the motion of Robert A. Onofry that was to dismiss a petition pursuant to CPLR 3211(a)(7), dismissed the petition, and granted that branch of the cross petition of Robert A. Onofry that was to declare Robert A. Onofry the rightfully-nominated candidate of the Independence Party in the primary election held on September 9, 2008; App. Div. reversed, granted that branch of the petition that was to set aside the results of the primary election held on September 9, 2008 and to direct a new primary election to be held for the nomination of the Independence Party as its candidate for the public office of Surrogate, Orange County; denied that branch of the cross petition that was to declare Robert A. Onofry the rightfully-nominated candidate in the primary election held on September 9, 2008; denied that branch of the motion of Robert A. Onofry that was to dismiss the petition pursuant to CPLR 3211(a)(7); and directed the Orange County Board of elections to hold a new primary for that nomination.

PARSON (LEROY), PEOPLE v:

App. Term, 1st Dept. order of 2/22/08; affirmance; leave to appeal granted by Smith, J., 9/25/08; Rule 500.11 review pending; CRIMES AND CRIMINAL PROCEDURE - TRIAL - JUDICIAL HEARING OFFICER - WHETHER DEFENDANT VALIDLY WAIVED HIS RIGHT TO TRIAL BEFORE A CRIMINAL COURT JUDGE WHERE THE MINUTES DO NOT MENTION HIS CONSENT BUT THE COURT FILE CONTAINS A WAIVER FORM SIGNED WITH DEFENDANT'S NAME; VIOLATION OF TAX LAW § 1817(d); Criminal Court of the City of New York, Bronx County convicted defendant after a nonjury trial of violating Tax Law § 1817(d); App. Term. affirmed.