

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed  
by the Court of Appeals Clerk's Office  
**March 6 through March 12, 2009**

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.**

ANONYMOUS, AN APPLICANT FOR ADMISSION TO THE BAR, MATTER OF:  
3<sup>RD</sup> Dept. App. Div. order of 2/26/09; denial of motion for admission to bar; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;

ATTORNEY AND CLIENT - ADMISSION TO PRACTICE;  
App. Div. denied applicants's motion for an order granting, among other things, his application for admission notwithstanding the Committee on Character and Fitness's decision disapproving his application.

HESLIN &c. v COUNTY OF GREENE et al.:  
3<sup>RD</sup> Dept. App. Div. order of 7/31/08; reversal; leave to appeal granted by Court of Appeals, 2/17/09;  
MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - APPLICABILITY OF INFANCY TOLL PROVISION OF CPLR 208 TO SUSPEND RUNNING OF STATUTE OF LIMITATIONS FOR PERSONAL INJURY CLAIM AGAINST MUNICIPALITY WHERE INTESTATE DECEDENT AND DECEDENT'S SOLE DISTRIBUTEES ARE INFANTS;  
Supreme Court, Greene County granted plaintiff's motion pursuant to General Municipal Law § 50-e(5) for leave to file a late notice of claim; App. Div. reversed, denied the motion and dismissed the personal injury causes of action for conscious pain and suffering.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY v LANGAN &c.:

2<sup>ND</sup> Dept. App. Div. order of 9/16/08; modification and affirmance with dissents;

INSURANCE - AUTOMOBILE INSURANCE - INSURED INTENTIONALLY STRUCK BY CAR - COVERAGE UNDER POLICY'S MANDATORY PERSONAL INJURY PROTECTION ENDORSEMENT AND DEATH, DISMEMBERMENT AND LOSS OF SIGHT PROVISIONS - INTERPRETATION OF TERM "ACCIDENT"; LAW OF THE CASE; Supreme Court, Nassau County, upon renewal, granted that branch of the plaintiff's motion which was for summary judgment declaring that plaintiff was not obligated to provide insurance coverage for the injuries sustained by Neil Conrad Spicehandler as a result of a hit-and-run incident on February 12, 2002, and denied that branch of defendant's cross motion which was for summary judgment declaring that the plaintiff was obligated to provide insurance coverage for the injuries sustained by Neil Conrad Spicehandler; App. Div. modified the order by (1) deleting the provision thereof, upon renewal, granting that branch of the motion which was for summary judgment declaring that plaintiff is not obligated to provide coverage pursuant to the mandatory personal injury protection endorsement and death, dismemberment and loss of sight provisions of its insurance contract for the injuries sustained by Neil Conrad Spicehandler as a result of a hit-and-run incident on February 12, 2002, and substituting therefor of provision, upon renewal, denying that branch of the motion, and (2) deleting the provision thereof, upon renewal, denying that branch of the cross motion which was for summary judgment declaring that plaintiff is obligated to provide coverage pursuant to the mandatory personal injury protection endorsement and death, dismemberment and loss of sight provisions of its insurance contract for the injuries sustained by Neil Conrad Spicehandler and substituting therefor a provision, upon renewal, granting that branch of the cross motion; and affirmed the order as so modified.

TAYLOR (DAIVERY) et al. v PEOPLE:

2<sup>ND</sup> Dept. App. Div. order of 10/7/08; reversal; leave to appeal granted by Pigott, Jr., J., 2/26/09;

CRIMES AND CRIMINAL PROCEDURE - OFFERING FALSE INSTRUMENT FOR FILING - SUFFICIENCY OF EVIDENCE - PENAL LAW § 175.35 - FILING OF RETAINER STATEMENTS WITH OFFICE OF COURT ADMINISTRATION - INTENT TO DEFRAUD THE STATE OR ANY OF ITS SUBDIVISIONS - NECESSITY OF PROOF THAT STATE AGENCY "CHECK[ED], VERIF[IED], OR REL[IED] UPON" INFORMATION CONTAINED IN RETAINER STATEMENTS;

County Court, Nassau County convicted defendants of scheme to defraud in the first degree and offering a false instrument for filing in the first degree (four counts), after a nonjury trial, and imposed sentence; App. Div. reversed, dismissed the indictment insofar as asserted against defendants Daivery Taylor and Law Offices of Silverman & Taylor, and remitted to County Court, Nassau County for the purpose of entering an order in its discretion pursuant to CPL 160.50.