

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
February 1, 2002 through February 7, 2002

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 February 1, 2002 through February 7, 2002 the following jurisdictional statements for appeals were filed:

CHURCH, AN INFANT, et al., v CALLANAN INDUSTRIES, INC. AND SAN JUAN CONSTRUCTION AND SALES COMPANY, et al. (two additional titles):

Supreme Court, Albany County, judgment of 1/18/02 bringing up for review pursuant to CPLR 5601(d) a prior 3rd Dept. App. Div. order of 7/5/01; modification with dissents;

TORT-NEGLIGENCE; DUTY; SUMMARY JUDGMENT - THIRD PARTY TORT LIABILITY; SUBCONTRACTOR'S ALLEGED NEGLIGENCE OF INSTALLATION OF ROADSIDE GUARDRAILS;

Supreme Court, Albany County, denied San Juan's motion for summary judgment; App. Div. modified, granted summary judgment and dismissed the complaint as against that defendant; dissenters would affirm, Supreme Court subsequently entered final judgment.

LEAKE, MATTER OF, v GOORD, COMMISSIONER, et al.:

3RD Dept. App. order of 12/13/01; administrative determination confirmed; appeal taken pursuant to CPLR 5601(b); sua sponte examination whether a substantial constitutional question is directly involved;

ADMINISTRATIVE PROCEEDINGS - PRISONS AND PRISONERS; DUE PROCESS VIOLATION DURING DISCIPLINARY HEARINGS ALLEGED;

App. Div. upon transfer by Supreme Court, Albany County, confirmed the determination which found petitioner guilty of violating certain prison disciplinary rules.

LOPEZ (LUIS), PEOPLE v:

1ST Dept. App. Div. order of 11/20/01; modification; leave to appeal granted by Rosenblatt, J., 1/28/02;

CRIMES AND CRIMINAL PROCEDURE; CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE THIRD DEGREE ASSERTED AS LESSER INCLUDED OFFENSE OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN OR NEAR SCHOOL GROUNDS; EVIDENCE - ADMISSION OF EXPERT TESTIMONY CONCERNING STREET-LEVEL DRUG SALES;

Supreme Court, Bronx County, convictions of criminal sale of a controlled substance in or near school grounds, criminal sale of a controlled substance in the third degree and two counts of criminal possession of a controlled substance in the third degree; App. Div. modified and vacated the conviction of one count of criminal possession of a controlled substance in the third degree and dismissed that count.