

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
February 22, 2002 through February 28, 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 22, 2002 through February 28, 2002 the following jurisdictional statements for appeals were filed:

GREENFIELD, et al., v PHILLES RECORDS, INC., et al. AND AMERICAN EXPRESS CORPORATION, et al.:

1ST Dept. App. Div. order of 11/13/01; affirmance; leave to appeal granted by Court of Appeals, 2/19/02;
CONTRACT; MUSICAL RECORDINGS - ALLEGED AMBIGUITY CONCERNING MASTER RECORDINGS AND ROYALTIES; RELEASE; UNJUST ENRICHMENT (CIVIL RIGHTS LAW §51);
Supreme Court, New York County, judgment in favor of plaintiffs;
App. Div. affirmed.

LABOUNTY, MATTER OF, v BERBARY &c., et al.:

Supreme Court, Erie County, order of 2/6/02; Article 78 petition denied; appeal taken pursuant to CPLR 5601(b)(2); sua sponte examination whether there is a jurisdictional predicate for a direct appeal pursuant to CPLR 5601(b)(2); PRISONS AND PRISONERS; BASIS FOR DETERMINATION DENYING PETITIONER GOOD TIME ALLOWANCES (CORRECTION LAW §803); Supreme Court, Erie County, denied the petition.

MAYER, MATTER OF, v NOVELLO, COMMISSIONER &c., et al.:

3rd Dept. App. Div. order of 11/29/01; administrative determination annulled; leave to appeal granted by Court of Appeals, 2/13/02; ADMINISTRATIVE PROCEEDINGS - PROFESSIONAL DISCIPLINE; CONSTITUTION OF STATE BOARD OF PROFESSIONAL MEDICAL CONDUCT; PHYSICIAN ASSISTANT AS LAY MEMBER (PUBLIC HEALTH LAW §230[6]); App. Div. in a proceeding initiated there annulled determination of the State Board for Professional Medical Conduct which revoked petitioner's license to practice medicine.

OSIPOVA v J&J HOTEL COMPANY, LLC., et al.:

1st Dept. App. Div. order of 1/24/02; affirmance; appeal taken to CPLR 5601(b); sua sponte examination whether a substantial constitutional question is directly involved; ADMINISTRATIVE PROCEEDINGS - EXHAUSTION OF REMEDIES; APPEALS - REVIEW OF ADMINISTRATIVE DETERMINATION SUSTAINING DEPARTMENT OF HEALTH COMPLAINT CONCERNING NUISANCE (ANIMAL ODORS); CONSTITUTIONAL VIOLATION ALLEGED; Supreme Court, New York County, granted summary judgment dismissing the complaint; App. Div. affirmed.

PATAKI v NEW YORK STATE ASSEMBLY, et al.:

Supreme Court, Albany County, judgment of 1/18/02; judgment granted in favor of plaintiff; direct appeal taken pursuant to CPLR 5601(b)(2); sua sponte examination whether there is a jurisdictional predicate for direct appeal pursuant to CPLR 5601(b)(2); STATE GOVERNMENT - BUDGET; DECLARATORY JUDGMENT - VALIDITY OF LEGISLATIVE ENACTMENT OF CERTAIN BUDGET BILLS; Supreme Court, Albany County, awarded judgment in favor of plaintiff Governor declaring that defendants enacting certain budget bills were in violation of Article 7 of the State Constitution.

SCHAUM (GARY), PEOPLE v:

App. Term, Appellate Term 9th and 10th Judicial Districts order of 10/24/01; dismissal; leave to appeal granted by Rosenblatt, J., 2/13/02; Rule 500.4 review pending;

CRIMES AND CRIMINAL PROCEDURE; APPEALS - DISMISSAL OF PEOPLE'S APPEAL BASED ON "VERDICT OF ACQUITTAL;" IMMUNITY FROM PROSECUTION (CIVIL PROCEDURE LAW §170.30);

Suffolk County, District Court, held that the defendant had sustained his burden of proof and entitlement to immunity and dismissed the charge; App. Term, dismissed the appeal on the ground that the People may not appeal a verdict of acquittal.