

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**March 29, 2002 through April 4, 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 March 29, 2002 through April 4, 2002 the following jurisdictional statements for appeals were filed:

ALBANO, MATTER OF, v BOARD OF TRUSTEES OF NEW YORK CITY FIRE DEPARTMENT, ARTICLE II PENSION FUND:

2<sup>ND</sup> Dept. App. Div. order of 9/17/01; affirmance; leave to appeal granted by Court of Appeals, 1/10/02;  
ADMINISTRATIVE LAW - REVIEW OF AGENCY DETERMINATION; CIVIL SERVICE - FIREFIGHTERS; ACCIDENT DISABILITY PENSION - DEGREE OF DEFERENCE TO BE ACCORDED BOARD OF TRUSTEES DETERMINATION WHETHER TESTICULAR CANCER CAN BE CONSIDERED A CANCER AFFECTING THE LYMPHATIC, DIGESTIVE, HEMATOLOGICAL, URINARY OR PROSTATE SYSTEMS; GENERAL MUNICIPALITY LAW § 207-KK ("CANCER BILL");  
Supreme Court, Kings County, denied the petition and dismissed the proceeding; App. Div. affirmed.

BUTLER, AN INFANT, et al. v RAFFERTY, et al.:

3<sup>RD</sup> Dept. App. Div. order of 2/28/02; affirmance with dissents;  
Rule 500.4 review pending;

TORT - PERSONAL INJURY; LIABILITY OF OUT-OF-POSSESSION LANDLORD  
FOR INJURIES ON PREMISES DEMISED TO TENANT; SUMMARY JUDGMENT -  
OWNERSHIP AND CONTROL;

Supreme Court, Albany County, granted defendant Rafferty's motion  
for summary judgment dismissing the complaint against him; App.  
Div. affirmed; dissenters would reverse and deny the motion.

CONTINENTAL INSURANCE COMPANY v THE STATE OF NEW YORK:

1<sup>ST</sup> Dept. App. Div. order of 1/3/02; affirmance; leave to appeal  
granted by Court of Appeals, 3/21/02;

WORKERS' COMPENSATION; CORPORATIONS - EFFECT OF CORPORATE  
OFFICER'S ELECTION TO FORFEIT WORKERS' COMPENSATION LAW § 54(6)  
BENEFITS ON HIS COVERAGE UNDER EMPLOYEE'S LIABILITY PORTION OF  
POLICY;

Court of Claims, inter alia, granted the State's motion and  
dismissed the claim; App. Div. affirmed.

EDELSTEIN (GEORGE), MATTER OF, AN ATTORNEY:

1<sup>ST</sup> Dept. App. Div. order of 2/5/02; disbarment; sua sponte  
examination with respect to whether a substantial constitutional  
question is directly involved;

ATTORNEYS AND COUNSELORS; PROFESSIONAL MISCONDUCT; DOCTRINE OF  
RECIPROCAL DISCIPLINE;

App. Div. disaffirmed the Hearing Panel's two year suspension  
determination and entered an order of disbarment.

LIGHTS v NEW YORK CITY POLICE DEPARTMENT, et al.:

2<sup>ND</sup> Dept. App. Div. order of 11/9/01; dismissal;

CIVIL PROCEDURE; APPEALS - DISMISSAL FOR FAILURE TO TIMELY  
PERFECT THE APPEAL;

App. Div. dismissed the appeal for failure to timely perfect.

PIERRE v PROVIDENCE WASHINGTON INSURANCE COMPANY:

2<sup>ND</sup> Dept. App. Div. order of 10/1/01; affirmance with dissent;  
leave to appeal granted by Appellate Division, 3/19/02;

INSURANCE - MCS-90 ENDORSEMENT FOR REGISTERED INTERSTATE MOTOR  
CARRIERS - DEFINITION OF "INSURED";

Supreme Court, Kings County, inter alia, granted plaintiff's  
cross motion for summary judgment; App. Div. affirmed, dissenter  
would reverse, grant Providence's motion for summary judgment.

SHIMAMOTO &c., et al., v S&F WAREHOUSES, INC., et al.:

1<sup>st</sup> Dept. App. Div. order of 11/29/01; affirmance; leave to  
appeal granted by Court of Appeals, 3/21/02;

UNIFORM COMMERCIAL CODE - WAREHOUSEMAN'S LIEN (§ 7-210) - NOTICE  
OF SALE REQUIREMENTS - WILLFUL VIOLATIONS - CAUSES OF ACTION FOR  
CONVERSION AND NEGLIGENCE;

Supreme Court, New York County, inter alia, granted defendants'  
motions and dismissed the complaint; App. Div. affirmed.