

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 10, 2002 through May 16, 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 May 10, 2002 through May 16, 2002 the following jurisdictional statements for appeals were filed:

BLAIR (MICHAEL), PEOPLE v:

Jefferson County Court, order of 7/10/01; affirmance; leave to appeal granted by Rosenblatt, J., 4/18/02; Rule 500.4 review pending;

CRIMES AND CRIMINAL PROCEDURE; DWI - DISMISSAL OF ACCUSATORY INSTRUMENT (.08 BAC); VEHICLE AND TRAFFIC LAW § 1195 [2][c]; Watertown City Court, dismissed the accusatory instrument for insufficiency; Jefferson County Court, affirmed.

GEE (CARL), PEOPLE v:

4th Dept. App. Div. order of 9/28/01; affirmance, leave to appeal granted by Graffeo, J., 5/2/02;
CRIMINAL PROCEDURE; IDENTIFICATION - WHETHER WITNESS'S INITIAL VIEWING OF VIDEOTAPE OF CRIME REQUIRED NOTICE TO DEFENDANT (CPL 710.30); SHOWING OF STILL PHOTOS FROM VIDEOTAPE AS UNDULY SUGGESTIVE;
Monroe County Court, conviction of robbery in the first degree (Penal Law § 160.15[4]); App. Div. affirmed.

TALLEY v WINFREY, et al.:

1st Dept. App. Div. order of 2/14/02; dismissal; sua sponte examination of finality and whether there is a substantial constitutional question is directly involved and whether there is any jurisdictional predicate for an appeal as of right;
CIVIL PROCEDURE; FAILURE TO STATE CAUSE OF ACTION; SERVICE AND JURISDICTION; LIMITATION OF APPEAL;
Supreme Court, New York County, granted defendant King World Production's motion to dismiss the complaint; App. Div. dismissed the appeal.

TOMPKINS COUNTY SUPPORT COLLECTION UNIT, ON BEHALF OF, CHAMBERLIN (LINDA) v CHAMBERLIN (BOYD):

3RD Dept. App. Div. order of 12/13/01; modification; leave to appeal granted by Court of Appeals, 4/30/02;
DOMESTIC RELATIONS - CHILD SUPPORT; COST OF LIVING INCREMENT TO CHILD SUPPORT OBLIGATION; RIGHT TO A DE NOVO HEARING (FCA 413-a; 42 USC § 651, ET SEQ);
Family Court, Tompkins County, granted petitioner's application for a modification of a prior order of support; App. Div. reversed and remitted the matter; Family Court entered final judgment.

WALTER CONCRETE CONSTRUCTION CORP. v LEDERLE LABORATORIES &c, et al; FRED L. HOLT, INC. v INTERNATIONAL FIDELITY INSURANCE COMPANY:

2nd Dept. App. Div. order of 11/19/01; affirmance; leave to appeal granted by Court of Appeals, 5/7/02;
CONTRACTS - PERFORMANCE BOND; ALLEDGED IMPLIED DUTY OF OBLIGEE TO NOTIFY SURETY OF PRINCIPAL'S DEFAULT ON SUBCONTRACT; OBLIGATION OF GOOD FAITH AND FAIR DEALING; ARBITRABILITY;
Supreme Court, Rockland County, granted summary judgment in favor of the third party plaintiff; App. Div. affirmed.