

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 17, 2002 through May 23, 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 17, 2002 through May 23, 2002 the following jurisdictional statements for appeals were filed:

THE CITY OF JOHNSTOWN, MATTER OF, v THE JOHNSTOWN POLICE BENEVOLENT ASSOCIATION:

3RD Dept. App. Div. order of 12/20/01; reversal; leave to appeal granted by Court of Appeals, 5/7/02;
PUBLIC EMPLOYEES - COLLECTIVE BARGAINING; ARBITRATION - ARBITRABILITY OF GRIEVANCES (RETIREMENT AND SOCIAL SECURITY LAW § 443[f]); WHETHER TIER 2 EMPLOYEES MUST RECEIVE THE BENEFIT OPTION OF RETIREMENT AND SOCIAL SECURITY LAW § 302(9)(d); Supreme Court, Fulton County, granted the application to stay arbitration; App. Div. reversed and dismissed the petition.

MOSHER-SIMONS, ADMINISTRATOR OF THE ESTATE OF ECK, et al. v
COUNTY OF ALLEGANY:

4TH Dept. App. Div. order of 11/9/01; modification, leave to appeal granted by Court of Appeals, 5/2/02;
TORT - PERSONAL INJURY AND WRONGFUL DEATH; IMMUNITY - COUNTY'S LIABILITY FOR NEGLIGENT PLACEMENT OF DECEASED INFANT WITH AUNT; Supreme Court, Allegany County, inter alia, denied defendant's motion for summary judgment dismissing the complaint; App. Div. inter alia, modified and granted the motion.

CITY OF SCHENECTADY, MATTER OF, v SCHENECTADY POLICE BENEVOLENT ASSOCIATION:

3RD Dept. App. Div. order of 12/20/01, reversal; leave to appeal granted by Court of Appeals, 5/7/02;
PUBLIC EMPLOYEES - COLLECTIVE BARGAINING; ARBITRATION - ARBITRABILITY OF GRIEVANCES (RETIREMENT AND SOCIAL SECURITY LAW § 443[f]); WHETHER TIER 2 EMPLOYEES MUST RECEIVE THE BENEFIT OPTION OF RETIREMENT AND SOCIAL SECURITY LAW § 302(9)(d); Supreme Court, Schenectady County, inter alia, granted the application to stay arbitration; App. Div. reversed and dismissed the petition.

SILER, MATTER OF, v SILER:

3RD Dept. App. Div. order of 4/11/02; affirmance with dissents; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution and whether the two-justice dissent at the Appellate Division is on a question of law in appellant's favor to support an appeal as of right;
PARENT AND CHILD - CUSTODY; "BEST INTEREST" STANDARD; BASIS FOR CONDITIONING SOLE CUSTODY ON RELOCATION OF CHILDREN; Family Court, Fulton County, granted petitioner's application for custody of the parties' children; App. Div. affirmed; dissenters would modify and reverse so much as of the order as conditioned petitioner's award of sole custody on her relocation and remit the matter on the issue of visitation.

GEORGE T. (ANONYMOUS), MATTER OF:

1ST Dept. App. Div. order of 1/31/02, affirmance; leave to appeal granted by Court of Appeals, 5/7/02;
JUVENILE DELINQUENCY; SPEEDY TRIAL - DELAYS IN PRE-TRIAL AND FACT FINDING HEARINGS (FAMILY COURT ACT § 340.1); Family Court, Bronx County, adjudication of juvenile delinquency; App. Div. affirmed.