

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 24, 2002 through May 30, 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 24, 2002 through May 30, 2002 the following jurisdictional statements for appeals were filed:

FONTAINE (DERRICK), PEOPLE v:

2ND Dept. App. Div. order of 1/31/02; reargument denied; appeal taken to pursuant to CPLR 5601(b); sua sponte examination of finality and whether a substantial constitutional question is directly involved and an appeal lies pursuant to CPLR 5601 from an order entered in a criminal proceeding;

CRIMINAL PROCEDURE - DISCOVERY; DENIAL OF REQUEST FOR RECORDS RELATING TO ARREST;

App. Div. denied appellant's motion for reargument of a prior motion to direct the release of certain records relating to his arrest.

HANSEN (KRISTIAN), PEOPLE v:

3rd Dept. App. Div. order of 1/17/02; affirmance; leave to appeal granted by Ciparick, J., 5/20/02;

CRIMES AND CRIMINAL PROCEDURE - MURDER FIRST DEGREE; SENTENCING OF NONCAPITAL DEFENDANTS AS VIOLATING EQUAL PROTECTION AND DUE PROCESS; RIGHT TO SENTENCING JURY; REVIEW OF SENTENCE (CRIMINAL PROCEDURE LAW § 400.27);

Albany County Court, conviction of murder in the first degree and robbery in the first degree; App. Div. affirmed.

SARATOGA COUNTY CHAMBER OF COMMERCE, INC., et al. v PATAKI, GOVERNOR, &c., et al:

WRIGHT, et al. v PATAKI, GOVERNOR, &c., et al.:

3RD Dept. App. Div. order of 5/2/02; affirmance; appeal taken pursuant to CPLR 5601(b); sua sponte examination of finality and whether a substantial constitutional question is directly involved;

STATE GOVERNMENT - SEPARATION OF POWERS; GAMBLING; TRIBAL-STATE COMPACT; AUTHORITY OF GOVERNOR TO BIND STATE BY EXECUTING TRIBAL COMPACT WITHOUT LEGISLATIVE ACTION;

Supreme Court, Albany County, granted plaintiffs' motions for summary judgment and declared the 1993 tribal-state gaming compact and its 1999 amendment void and unenforceable absent legislative approval; App. Div. affirmed.

THEATRE ROW II ASSOCIATES v NATIONAL RECORDING STUDIOS, INC.:

1ST Dept. App. Div. order of 3/14/02; modification with dissents; leave to appeal granted by Appellate Division, 5/14/02;

LANDLORD-TENANT; CONTRACT - LEASE AGREEMENT; SUMMARY JUDGMENT - COVENANT AGAINST SUBLEASING; ALLEGED AMBIGUITY IN TERMS;

Supreme Court, New York County, denied defendant's motion for summary judgment dismissing the complaint; App. Div. modified and granted the motion to the extent of dismissing plaintiff's second cause of action; dissenters would reverse and grant defendant's motion for summary judgment dismissing the complaint in toto.

