

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**June 7, 2002 through June 13, 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 June 7, 2002 through June 13, 2002 the following jurisdictional statements for appeals were filed:

KATIE B. (ANONYMOUS), MATTER OF:  
JESSICA Q. (ANONYMOUS), MATTER OF:  
LESLIE Z. (ANONYMOUS), MATTER OF:

Westchester County Family Court orders of May 8, 2002; sua sponte examination whether there is a proper jurisdictional predicate for a direct appeal taken pursuant to CPLR 5601(b)(2); SOCIAL SERVICES; TERMINATION OF PARENTAL RIGHTS; VALIDITY OF SOCIAL SERVICES LAW §§ 384-b(i) and 384-b(1); Westchester County Family Court, inter alia, terminated the parental rights and authorized the Commissioner of Westchester County Department of Social Services to consent to adoption.

40 WEST 67<sup>TH</sup> STREET CORPORATION v PULLMAN:

1<sup>ST</sup> Dept. App. Div. order of May 23, 2002; modification with dissents; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution;

CONDOMINIUMS AND COOPERATIVES - TERMINATION OF TENANCY; JUDICIAL REVIEW OF CO-OP BOARD ACTION;

Supreme Court, New York County, inter alia, granted defendant's motion to dismiss the first cause of action; App. Div. modified and inter alia, granted plaintiff summary judgment as the first, third, fourth and fifth causes of action, remanded the matter for a hearing on use and accuracy, legal fees and costs and dismissed plaintiff's search cause of action.

PASSANTE, et al. v AGWAY CONSUMER PRODUCTS, INC., et al. and MULLEN INDUSTRIAL HANDLING CORPORATION:

4<sup>TH</sup> Dept. App. Div. order of May 3, 2002; reversal with dissents; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution;

TORT; PRODUCT LIABILITY; DOCK LEVELING DEVICE; SUMMARY JUDGMENT - DEFECTIVE DESIGN, FAILURE TO WARN;

Supreme Court, Onondaga County, denied the motion of defendant Mullen Industrial Handling Corporation for summary judgment; App. Div. reversed, granted the motion and dismissed the complaint against that defendant.

REVILL, et al. v BOSTON POST ROAD DEVELOPMENT CORPORATION AND BRONX PRO REAL ESTATE:

1<sup>ST</sup> Dept. App. Div. order of May 2, 2002; reversal with dissents; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether two-justice dissent at the Appellate Division is on a question of law in appellant's favor to support an appeal as of right;

TORT - NEGLIGENCE; PREMISES LIABILITY - "REASONABLY SAFE"; CIVIL PROCEDURE - TRIAL COURT'S DISCRETION TO SET ASIDE JURY VERDICT AS AGAINST THE WEIGHT OF EVIDENCE (CPLR 4404);

Supreme Court, Bronx County, set aside the jury verdict in favor of defendants as against the weight of evidence and ordered a new trial; App. Div. reversed, reinstated the verdict and remanded the matter for further proceedings; dissenters would affirm.