

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**June 28, 2002 through July 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 June 28, 2002 through July 4, 2002 the following jurisdictional statements for appeals were filed:

CRUMP v UNIGARD INSURANCE COMPANY, et al.:

3<sup>rd</sup> Dept. App. Div. order of 2/21/02; reversal; leave to appeal granted by Court of Appeals, 6/13/02;

INSURANCE - OBLIGATION TO DEFEND/INDEMNIFY; CANCELLATION OF POLICY FOR NONPAYMENT OF PREMIUM; EFFECT OF BANKING LAW SECTION 5.76 ON COMMON LAW RULE THAT CANCELLATION IS NOT EFFECTIVE UNTIL RECEIPT BY COMPANY OR ITS AGENT;

Supreme Court, St. Lawrence County, inter alia, granted defendant summary judgment dismissing the complaint; App. Div. reversed, denied defendant's motion, granted the cross-motions and declared that defendant has duty to defend and indemnify.

CIBC MELLON TRUST COMPANY, et al. v MORA HOTEL CORPORATION,  
et al.:

1<sup>st</sup> Dept. App. Div. order of 5/28/02; affirmance; sua sponte examination of finality and whether a substantial constitutional question is directly involved;

FOREIGN JUDGMENTS - ENFORCEMENT; SERVICE AND JURISDICTION; JUDGMENT ALLEGED AS OBTAINED EX PARTE AND VIOLATIVE OF DUE PROCESS; RES JUDICATA EFFECT TO FOREIGN COURT DETERMINATION FOLLOWING ADVERSE RULING ON LIMITED APPEARANCE SOLELY TO CONTEST PERSONAL JURISDICTION;

Supreme Court, New York County, inter alia, granted plaintiffs' motion for summary judgment recognizing and docketing certain English judgments in their favor; App. Div. affirmed.

SMITH (WILLIAM), PEOPLE v:

App. Term, 1<sup>st</sup> Dept. order of 1/30/02; reversal; leave to appeal granted by Ciparick, J., 6/17/02;

CRIMES - FACILITATING ENTRY INTO A SUBWAY STATION IN EXCHANGE FOR MONEY; VALIDITY OF NEW YORK CITY TRANSIT AUTHORITY RULE 21 NYCRR (1050.4[c]) - ALLEGED VAGUENESS;

Criminal Court, New York County; granted a motion by defendant to dismiss the accusatory instrument; App. Term reversed, denied defendant's motion to dismiss and reinstated the accusatory instrument.

WATSON (RAYMOND), PEOPLE v:

App. Term, 1<sup>st</sup> Dept. order of 1/30/02; reversal; leave to appeal granted by Ciparick, J., 6/17/02;

CRIMES - FACILITATING ENTRY INTO A SUBWAY STATION IN EXCHANGE FOR MONEY; VALIDITY OF NEW YORK CITY TRANSIT AUTHORITY RULE 21 NYCRR (1050.4[c]) - ALLEGED VAGUENESS;

Criminal Court, New York County; granted a motion by defendant to dismiss the accusatory instrument; App. Term reversed, reinstated the accusatory instrument and remanded the matter for further proceedings.

NASH (VINCENT), PEOPLE v:

App. Term, 1<sup>st</sup> Dept. order of 1/30/02; reversal; leave to appeal granted by Ciparick, J., 6/17/02;

CRIMES - FACILITATING ENTRY INTO A SUBWAY STATION IN EXCHANGE FOR MONEY; VALIDITY OF NEW YORK CITY TRANSIT AUTHORITY RULE 21 NYCRR (1050.4[c]) - ALLEGED VAGUENESS;

Criminal Court, New York County; granted a motion by defendant to dismiss the accusatory instrument; App. Term reversed, denied defendant's motion to dismiss and reinstated the accusatory instrument.

JOHNSON (ROBERT), PEOPLE v:

App. Term, 1<sup>st</sup> Dept. order of 1/30/02; reversal; leave to appeal granted by Ciparick, J., 6/17/02;  
CRIMES - FACILITATING ENTRY INTO A SUBWAY STATION IN EXCHANGE FOR MONEY; VALIDITY OF NEW YORK CITY TRANSIT AUTHORITY RULE 21 NYCRR (1050.4[c]) - ALLEGED VAGUENESS;  
Criminal Court, New York County; granted a motion by defendant to dismiss the accusatory instrument; App. Term reversed, denied defendant's motion to dismiss and reinstated the accusatory instrument.

MENDON PONDS NEIGHBORHOOD ASSOCIATION, et al., MATTER OF, v DEHM &c.:

4<sup>th</sup> Dept. App. Div. order of 3/15/02; affirmance; leave to appeal granted by Court of Appeals, 6/11/02;  
CIVIL PROCEDURE; ARTICLE 78 DISMISSAL FOR DEFECTIVE FILING WHERE PETITIONERS PURCHASED INDEX NUMBER AND FILED PAPERS WITH THE SUPREME COURT CLERK RATHER THAN THE COUNTY CLERK;  
Supreme Court, Monroe County, granted respondent's motion to dismiss the petition; App. Div. affirmed.

THOMAS, MATTER OF, v GOORD, COMMISSIONER:

3<sup>RD</sup> Dept. App. Div. order of 4/4/02; administrative determination confirmed; sua sponte examination whether a substantial constitutional question is directly involved;  
PRISONS AND PRISONERS; DISCIPLINARY HEARING - ALLEGED PROCEDURAL IRREGULARITIES;  
App. Div. (after transfer by Supreme Court, Albany) confirmed the determination which found petitioner guilty of violating prison disciplinary rules.

THREE O REALTY v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c., et al.:

1<sup>ST</sup> Dept. App. Div. order of 6/20/02; administrative determination confirmed; sua sponte examination of whether a substantial constitutional question is directly involved;  
EMINENT DOMAIN - URBAN RENEWAL; ALLEGED INVALID USE OF CONDEMNATION POWER; ALLEGED DUE PROCESS VIOLATIONS; PROPOSED TAKING ALLEGED NOT TO BE FOR PUBLIC USE;  
New York State Urban Development Corporation determined that the power of condemnation be exercised to acquire certain real property; App. Div. confirmed the determination and dismissed the petition.

632 EIGHTH AVENUE ASSOCIATES, LLC v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c., et al.:

1<sup>ST</sup> Dept. App. Div. order of 6/20/02; administrative determination confirmed; sua sponte examination of whether a substantial constitutional question is directly involved; EMINENT DOMAIN - URBAN RENEWAL; ALLEGED INVALID USE OF CONDEMNATION POWER; ALLEGED DUE PROCESS VIOLATIONS; PROPOSED TAKING ALLEGED NOT TO BE FOR PUBLIC USE; New York State Urban Development Corporation determined that the power of condemnation be exercised to acquire certain real property; App. Div. confirmed the determination and dismissed the petition.

ROMACK REALTY CORPORATION v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c., et al.:

1<sup>ST</sup> Dept. App. Div. order of 6/20/02; administrative determination confirmed; sua sponte examination of whether a substantial constitutional question is directly involved; EMINENT DOMAIN - URBAN RENEWAL; ALLEGED INVALID USE OF CONDEMNATION POWER; ALLEGED DUE PROCESS - VIOLATIONS; PROPOSED TAKING ALLEGED NOT TO BE FOR PUBLIC USE; New York State Urban Development Corporation determined that the power of condemnation be exercised to acquire certain real property; App. Div. confirmed the determination and dismissed the petition.

WEST 41<sup>ST</sup> STREET REALTY, LLC, et al. v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c., et al.:

1<sup>ST</sup> Dept. App. Div. order of 6/20/02; administrative determination confirmed; sua sponte examination of whether a substantial constitutional question is directly involved; EMINENT DOMAIN - URBAN RENEWAL; ALLEGED INVALID USE OF CONDEMNATION POWER; ALLEGED DUE PROCESS VIOLATION - OWNERS' PREVENTED FROM DEVELOPING PRIVATE PROPERTY FOR AN INDEFINITE TIME PERIOD; New York State Urban Development Corporation determined that the power of condemnation be exercised to acquire certain real property; App. Div. confirmed the determination and dismissed the petition.

