

CORRECTED COPY

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
September 27, 2002 through October 3, 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 September 27, 2002 through October 3, 2002 the following jurisdictional statements for appeals were filed:

ALLEN (MAXINE), MATTER OF, v COMMISSIONER OF LABOR:

3RD Dept. App. Div. order of 5/9/02; affirmance; leave to appeal granted by Court of Appeals, 9/10/02;

LABOR LAW - UNEMPLOYMENT COMPENSATION - PLACE OF EMPLOYMENT - APPLICATION OF LABOR LAW § 511 TO EMPLOYMENT OF FLORIDA RESIDENT WHO TELECOMMUTES TO NEW YORK; LABOR LAW § 597; LABOR LAW § 527; RECONSIDERATION OF ADMINISTRATIVE APPEAL;

Unemployment Insurance Appeals Board, inter alia, sustained determination that appellant was ineligible to receive employment insurance benefits because she could not file valid original claim against New York; App Div. affirmed.

LATHAM, MATTER OF, v DEPARTMENT OF CORRECTIONAL SERVICES, et al.:
3rd Dept. App. Div. order of 7/11/02; affirmance; sua sponte
examination of whether a substantial constitutional question is
directly involved to support an appeal as of right;
SENTENCE - CREDIT FOR TIME SERVED; CONSTITUTIONALITY OF PENAL LAW
§ 70.30 AS APPLIED; DOUBLE JEOPARDY - "DELAYED DEATH EXCEPTION";
EQUAL PROTECTION; ACCESS TO COURTS; VIOLATION OF EX-POST FACTO
CLAUSE;
Supreme Court, Albany County, dismissed petitioner's application
pursuant to CPLR article 78; App. Div. affirmed.

MCNULTY v CITY OF NEW YORK, et al.:
1st Dept. App. Div. order of 5/21/02; modification; leave to
appeal granted by Appellate Division, 9/17/02;
TORTS - MALPRACTICE - PHYSICIANS' DUTY OF CARE TO A NON-PATIENT;
Supreme Court, Bronx County, inter alia, granted one
institutional defendant's motion and certain individual
defendants' cross-motion for summary judgment dismissing the
complaint as against them and granted another institutional
defendant's and other individual defendants' motion for summary
judgment only to the extent of dismissing the second cause of
action as against them; App. Div. modified to the extent of
granting summary judgment dismissing the complaint as against the
other institutional defendant and otherwise affirmed.

PAYNTER &c. v STATE OF NEW YORK:
4th Dept. App. Div. order of 12/21/01; modification; leave to
appeal granted by Court of Appeals, 9/17/02;
EDUCATION - CAUSE OF ACTION UNDER NEW YORK STATE CONSTITUTION
EDUCATION ARTICLE -- OPPORTUNITY FOR SOUND BASIC EDUCATION;
VALIDITY OF RESIDENT-BASED SYSTEM OF PUBLIC EDUCATION; FAILED
ACADEMIC RESULTS ATTRIBUTABLE TO CONCENTRATION OF POVERTY AND
RACIAL ISOLATION IN SCHOOL DISTRICT; CIVIL RIGHTS -- FEDERAL
CIVIL RIGHTS CLAIM UNDER 34 CFR 100.3(b)(2) - POLICIES AND
PRACTICES HAVING RACIALLY DISPARATE IMPACT ON EDUCATION;
Supreme Court, Monroe County, granted certain defendants' motion
to dismiss the complaint as against them and granted in part and
denied in part the State defendants' motion to dismiss the
complaint against them; App. Div. modified by granting the State
defendants' motion to dismiss the complaint against them in its
entirety and affirmed as so modified.

CAPITAL APPEALS

The Court has set the following dates by which motions to appear amicus curiae in a capital appeal must be noticed to be heard:

People v. Stephen LaValle - February 18, 2003

People v. Angel Mateo - March 31, 2003

People v. Robert Shulman - August 25, 2003

Appellant's preliminary, non-binding statements of issues to be raised in these appeals are available on the Court's Internet web site:

<http://www.courts.state.ny.us/ctapps/newfile.htm>