

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
November 15, 2002 through November 21, 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 November 15, 2002 through November 21, 2002 the following jurisdictional statements for appeals were filed:

VICTOR (ANONYMOUS), MATTER OF:

4th Dept. App. Div. order of 11/15/02; affirmance; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional question is directly involved to support an appeal as of right;
FAMILY COURT - APPLICATION FOR ORDER OF PROTECTION (FCA, ARTICLE 8); ALLEGED DUE PROCESS VIOLATIONS IN THE PROCESS OF THE PROCEEDING BEFORE THE JUDICIAL HEARING OFFICER;
Monroe County Family Court, granted petitioner's application for an order of protection; App. Div. affirmed.

HOM v HOM [BELTZER]:

2nd Dept. App. Div. order of 10/15/02; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional question is directly involved to support an appeal as of right;
CIVIL PROCEDURE - APPEALS; DENIAL OF MOTION TO ENLARGE RECORD ON APPEAL;

App. Div. order granted motion to enlarge the time to perfect appeals and denied motion to enlarge the record on appeal to include certain papers.

HOM v HOM [WEINTRAUB]:

2ND Dept. App. Div. order of 10/15/02; sua sponte examination of whether the order appealed from finally determines the action and whether a substantial constitutional question is directly involved to support an appeal as of right;
CIVIL PROCEDURE - APPEALS; DENIAL OF MOTION TO VACATE AN ORDER DISMISSING AN APPEAL;

App. Div. order denied motion to vacate an order dismissing appeal from a 7/24/01 Supreme Court order as untimely.

MANGANO (LINDA), PEOPLE v:

App. Term App. Term, 9th and 10th Judicial District, order of 6/6/02; affirmance; leave to appeal granted by Levine, J., 10/28/02;

CRIMINAL LAW - AGGRAVATED HARASSMENT IN THE SECOND DEGREE; CONSTITUTIONALITY OF CPL 240.30(1) AS WRITTEN AND AS APPLIED TO DEFENDANT; ALLEGED DEPRIVATION OF RIGHTS TO A FAIR AND SPEEDY TRIAL;

Justice Court of Briarcliff Manor, Westchester County, convictions of aggravated harassment in the second degree; App. Div. affirmed.

YOUTHKINS &c. v CASCIO and RUBIN:

2nd Dept. App. Div. of 10/7/02; reversal with dissents; Rule 500.4 review pending;

TORT - NEGLIGENCE; SUMMARY JUDGMENT; SUFFICIENCY OF EXPERT'S AFFIDAVIT IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT - FAILURE TO PROVIDE DATA ON WHICH EXPERT'S OPINION AS TO SPEED OF VEHICLE IS BASED;

Supreme Court, Nassau County, denied defendant Rubin's motion for summary judgment dismissing the complaint and all cross claims asserted against her; App. Div. reversed and granted the motion; dissenters would affirm.