

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 9, 2003 through May 15, 2003

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 9, 2003 through May 15, 2003 the following jurisdictional statements for appeals were filed:

EVANS, et al. v FAMOUS MUSIC CORPORATION:

1st Dept. App. Div. order of 2/6/03; reversal; leave to appeal granted by Court of Appeals, 5/6/03;

CONTRACTS - ROYALTIES - MUSIC PUBLISHER'S ALLEGED BREACH OF CONTRACTUAL OBLIGATION TO REIMBURSE COMPOSERS, SONGWRITERS AND MUSICIANS, OR THEIR HEIRS, FOR A PROPORTIONAL SHARE OF MONIES RECOUPED FROM CREDITS PUBLISHER RECEIVED AGAINST THE PAYMENT OF FOREIGN TAXES;

Supreme Court, New York County denied defendant's motion for summary judgment dismissing plaintiffs' breach of contract cause of action, otherwise granted defendant's motion for summary judgment dismissing the complaint and granted plaintiffs' cross motion for partial summary judgment as to liability on their breach of contract cause of action; App. Div. reversed the order insofar as appealed from, denied plaintiffs' cross motion for partial summary judgment and granted defendant's motion for summary judgment dismissing the breach of contract cause of

HANONYMOUS (ISAAC) BRENDA, MATTER OF:

4th Dept. App. Div. order of 3/21/03; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved and whether the order appealed from finally determines the proceeding within the meaning of the Constitution; PARENT AND CHILD - NEGLECTED CHILD - HOUSEHOLD CONDITIONS EXISTING AT TIME OF CHILD'S BIRTH - FAILURE TO CORRECT CONDITIONS EXISTING AT TIME OF TERMINATION OF PARENTAL RIGHTS FOR EIGHT OTHER CHILDREN; CLAIMED LACK OF SUBJECT MATTER JURISDICTION OF FAMILY COURT; CLAIMED VIOLATION OF DUE PROCESS AND EQUAL PROTECTION RIGHTS OF PARENTS IN DETERMINATION OF NEGLECT AND PLACEMENT OF CHILD WITH COUNTY DEPARTMENT OF SOCIAL SERVICES; Family Court, Erie County adjudged that the child is a neglected child and placed the child in the custody of petitioner Department of Social Services for 12 months; App. Div. affirmed.

SERIO v ARDRA INSURANCE COMPANY, LTD, et al.:

1st Dept. App. Div. order of 4/8/03; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved and whether the last decretal paragraph of the Supreme Court judgment renders the Appellate Division order affirming the judgment nonfinal; CORPORATIONS - PIERCING THE CORPORATE VEIL; JURY - RIGHT TO JURY TRIAL - WAIVER OF CLAIM THAT VERDICT WAS RENDERED BY LESS THAN FIVE-SIXTHS OF THE JURY; EQUITABLE ESTOPPEL; INSURANCE LAW § 1505(a); JURY INTERROGATORIES; TRIAL COURT EVIDENTIARY RULINGS; COLLATERAL ESTOPPEL; LIQUIDATOR'S ALLEGED MISCONDUCT AT TRIAL; Supreme Court, New York County entered judgment in favor of plaintiff Superintendent of Insurance of the State of New York, in his capacity as Liquidator of Nassau Insurance Company, against both DiLoreto defendants in the amount of \$20,507,456.86 and against defendant Richard DiLoreto alone in the additional amount of \$8,293,008.49; App. Div. affirmed.

WILLIAMS, et al. v CITY OF NEW YORK, et al.:

2ND Dept. App. Div. order of 4/7/03; reversal with dissents; MUNICIPAL CORPORATIONS - TORT LIABILITY - POLICE - CITY'S LIABILITY FOR DEATH OF POLICE OFFICERS SHOT BY PRISONER WHO OBTAINED A GUN FROM ANOTHER OFFICER'S LOCKER; GENERAL MUNICIPAL LAW § 205-e; NEW YORK CITY ADMINISTRATIVE CODE §§ 27-127 AND 27-128; LABOR LAW § 27-a; Supreme Court, Queens County entered judgment upon a jury verdict in plaintiffs' favor; App. Div. reversed and dismissed the complaint.

