

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
May 23, 2003 through May 29, 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 23, 2003 through May 29, 2003 the following jurisdictional statements for appeals were filed:

ALLSTATE INSURANCE COMPANY v STEIN:

4th Dept. App. Div. order of 5/2/03; modification with dissents; INSURANCE - AUTOMOBILE INSURANCE; LIMITATION OF ACTIONS - THREE YEAR STATUTE OF LIMITATIONS - WHEN CAUSE OF ACTION ACCRUES - SUBROGATION - INSURER'S CAUSE OF ACTION BASED UPON PAYMENTS OF ADDITIONAL PERSONAL INJURY PROTECTION BENEFITS; Supreme Court, Niagara County, inter alia, denied defendant Daniel J. Stein's motion to dismiss the action; App. Div. modified by granting the motion and dismissing the action as time-barred and affirmed the order as so modified.

MC ANDREWS v THE CITY OF NEW YORK, et al.:

2nd Dept. App. Div. order of 11/18/02; modification; leave to appeal granted by Court of Appeals, 5/8/03; Rule 500.4 review pending;

NEGLIGENCE - WRONGFUL DEATH; MUNICIPALITIES - QUALIFIED EXEMPTION FROM CERTAIN TRAFFIC LAWS FOR DRIVERS OF EMERGENCY VEHICLES (VEHICLE AND TRAFFIC LAW §§ 1104 AND 1144) - TRAFFIC ACCIDENT INVOLVING FIRE TRUCK ON EMERGENCY RESPONSE; JURY INSTRUCTIONS - DEFINITION OF "RECKLESSNESS";

Supreme Court, Richmond County, inter alia, entered judgment for \$10,811,945 in plaintiffs' favor; App. Div. modified by, inter alia, granting a new trial as to damages for individual pecuniary loss and conscious pain and suffering unless plaintiff stipulated to reduce the verdict as to those damages and to entry of an amended judgment; thereafter, on remittal, plaintiff stipulated to the reduction of damages and Supreme Court entered an amended judgment accordingly.