

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed
In the New York Court of Appeals from
June 13, 2003 through June 19, 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 June 13, 2003 through June 19, 2003 the following jurisdictional statements for appeals were filed:

DE GRIJZE v SELSKY:

3rd Dept. App. Div. order of 5/8/03; affirmance; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO DETERMINATION FINDING PETITIONER GUILTY OF VIOLATING A PRISONER DISCIPLINARY RULE AND TO THE SANCTION IMPOSED FOR THE VIOLATION; Supreme Court, Albany County judgment dismissing petitioner's CPLR article 78 application to review determination of the Commissioner of Correctional Services finding petitioner guilty of violating a prison disciplinary rule; App. Div. affirmed.

EXCELLUS HEALTH PLAN, INC. v SERIO:

3rd Dept. App. Div. order of 3/13/03; affirmance; leave to appeal granted by Court of Appeals, 6/10/03;

INSURANCE - REGULATION OF INSURERS - HEALTH CARE INSURANCE PREMIUM RATES - SUPERINTENDENT OF INSURANCE'S POWER TO REVIEW AND MODIFY PREMIUM RATES IN PROPERLY CERTIFIED "FILE AND USE" RATE APPLICATIONS BY HEALTH MAINTENANCE ORGANIZATIONS (INSURANCE LAW § 4308 [b], [g]-[j]);

Supreme Court, Albany County judgment granting petitioner's CPLR article 78 petition to annul determinations of Superintendent of Insurance that, among other things, modified some of petitioner's filed insurance rate increases; App. Div. affirmed.

JAMES v COUNTY OF YATES SHERIFF'S DEPARTMENT and COUNTY OF YATES:

4th Dept. App. Div. order of 12/30/02; reversal; leave to appeal granted by Court of Appeals, 6/5/03;

MUNICIPAL CORPORATIONS - SHERIFF'S DEPARTMENT - GENERAL MUNICIPAL LAW § 207-c BENEFITS - PROPRIETY OF APPLYING HEIGHTENED RISK STANDARD IN DETERMINING WHETHER TO AWARD GENERAL MUNICIPAL LAW § 207-c BENEFITS TO DEPUTY SHERIFF;

Supreme Court, Yates County judgment granting CPLR article 78 petition seeking to compel payment of General Municipal Law § 207-c benefits; App. Div. reversed and dismissed the petition.

