

COURT OF APPEALS NEW FILINGS

Jurisdictional Statements of Appeals filed  
In the New York Court of Appeals from  
**November 21, 2003 through November 27, 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 November 21, 2003 through November 27, 2003 the following jurisdictional statements for appeals were filed:

GABRIELLE HH, MATTER OF:

3<sup>RD</sup> Dept. App. Div. order of 6/5/03; affirmance; leave to appeal granted by Court of Appeals, 9/18/03; Rule 500.4 review pending; PARENT AND CHILD - ABANDONED CHILDREN - REQUIREMENT THAT AGENCY MAKE DILIGENT EFFORTS TO FOSTER FATHER'S CONTACT WITH CHILD; EXCUSAL OF FATHER'S FAILURE TO CONTACT AGENCY; Family Court, Columbia County granted petitioner mother's application, in a proceeding pursuant to Social Services Law § 384-b, to adjudicate respondent's child to be abandoned and terminate respondent father's parental rights; App. Div. affirmed.

OSBORNE (GEORGE R.), MATTER OF, AN ATTORNEY:

1<sup>st</sup> Dept. App. Div. order of 10/23/03; sua sponte examination of whether a substantial constitutional question is directly involved to support an appeal as of right;  
ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - SUSPENSION FROM PRACTICE OF LAW - COLLATERAL ESTOPPEL - EFFECT OF JUDICIAL SANCTIONS IMPOSED AGAINST ATTORNEY IN PRIOR UNRELATED COURT PROCEEDINGS - MITIGATION EVIDENCE - CLAIM THAT LIMITATION ON SCOPE OF EVIDENCE CONSTITUTES DENIAL OF DUE PROCESS OF LAW;  
Appellate Div., First Dept. granted motion of Departmental Disciplinary Committee to disaffirm so much of the Determination of the Hearing Panel as, upon confirming the Referee's findings of fact and conclusions of law, recommended a three months suspension; and suspended respondent for a period of six months.

REYNOSO (GUSTAVO), PEOPLE v:

2<sup>ND</sup> Dept. App. Div. order of 10/6/03; affirmance; leave to appeal granted by McGinity, J., 11/19/03; Rule 500.4 review pending;  
CRIMES AND CRIMINAL PROCEDURE - CLAIMED UNLAWFUL SEARCH AND SEIZURE - ISSUE OF PAYTON VIOLATION (PEOPLE V PAYTON, 445 US 573); CLAIM OF DEPRIVATION OF RIGHT TO CONFRONT ACCUSER - ADMISSION AT TRIAL OF NON-TESTIFYING CODEFENDANT'S STATEMENT;  
Supreme Court, Queens County denied defendant's motion to suppress physical evidence and statements and later rendered judgment; App. Div. affirmed.

WALDON v LITTLE FLOWER CHILDREN'S SERVICE, et al.:

1<sup>ST</sup> Dept. App. Div. order of 9/4/03; affirmance; leave to appeal granted by Appellate Div., 11/13/03; Rule 500.4 review pending;  
NEGLIGENCE - DUTY - WHETHER FOSTER CARE AGENCY HAD DUTY TO PROTECT FOSTER MOTHER STABBED BY BIOLOGICAL MOTHER ON A PUBLIC SIDEWALK OUTSIDE AGENCY'S ENTRANCE AFTER BIOLOGICAL MOTHER'S VISIT WITH CHILD AT THE AGENCY; FORESEEABILITY - WAS ATTACK REASONABLY FORESEEABLE, THUS "TRIGGERING THE NEED FOR PROTECTIVE ACTION";  
Supreme Court, Bronx County denied motion of defendants agency and Roman Catholic Diocese for summary judgment dismissing the complaint as against them; App. Div. affirmed.