

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
February 2 through February 8, 2007

Each week, the Clerk's Office prepares a list of recently-filed appeals, indicating short title, jurisdictional predicate, subject matter and key issues. Some of these appeals may not reach decision on the merits because of dismissal, on motion or sua sponte, or because the parties stipulate to withdrawal. Some appeals may be selected for review pursuant to the alternative procedure of Rule 500.11.

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 Rule 500.23 and direct any questions to the Clerk's Office.

CASTRICONE, MATTER OF, v. WELCH:

4TH Dept. App. Div. order of 1/11/07; denial of motion for reargument and for poor person relief; sua sponte examination whether the January 11, 2007 Appellate Division order finally determines the proceeding within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support the appeal taken as of right;
APPEALS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTION TO REARGUE HIS MOTIONS TO PROCEED AS A POOR PERSON AND FOR PERMISSION TO APPEAL TO THE APPELLATE DIVISION;
App. Div. denied petitioner's motion for reargument of his motion to proceed as a poor person and for permission to appeal to the App. Div. from a Supreme Court order.

HAYWOOD v. DROWN/HAYWOOD v. SMITH, et al.(TWO ACTIONS):

4TH Dept. App. Div. orders of 12/22/06; affirmances;
PRISONS AND PRISONERS - CLAIMS AGAINST EMPLOYEES OF DEPARTMENT OF
CORRECTIONAL SERVICES (DOCS) - DISMISSAL OF COMPLAINTS PURSUANT
TO CPLR 3211 AND CORRECTION LAW § 24 - PLAINTIFF CONTENDS
CORRECTION LAW § 24 IS PREEMPTED BY FEDERAL LAW AND THAT LOWER
COURT THEREFORE ERRED IN DISMISSING HIS FEDERAL CIVIL RIGHTS
CLAIMS;

Supreme Court, Wyoming County granted defendant's motions to
dismiss the complaints; App. Div. affirmed.

SNUSZKI &c. v. WRIGHT:

4TH Dept. App. Div. order of 11/17/06; affirmance; sua sponte
examination whether the appeal was properly taken pursuant to
CPLR 5515(a), whether the appeal was timely taken, and whether a
substantial constitutional question is directly involved to
support an appeal as of right;

DAMAGES - MEASURE OF DAMAGES - WRONGFUL DEATH - DAMAGES SOUGHT BY
ADMINISTRATOR OF ESTATE FROM PERSON WHO KILLED DECEDENT -
EXECUTIVE LAW ARTICLE 22 - SON OF SAM LAW - DAMAGES AWARDED FOR
PAST AND FUTURE LOSS OF PARENTAL GUIDANCE BY DECEDENT'S CHILDREN;
ASSIGNMENT OF COUNSEL;

Supreme Court, Niagara County awarded plaintiff damages against
defendant in the sum of \$1 million for past and future loss of
parental guidance for two children; App. Div. affirmed.