

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
April 13 through April 19, 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.

ALDEN v ONONDAGA COUNTY SHERIFF'S DEPARTMENT:

4TH Dept. App. Div. order of 4/3/07; denial of motion for a stay; sua sponte examination whether the order appealed from finally determines the action within the meaning of the Constitution and whether a substantial constitutional question is directly involved to support an appeal as of right;
APPEAL - STAY - APPELLATE DIVISION DENIAL OF MOTION FOR A STAY;
App. Div. denied motion for a stay of all proceedings on appeals from orders of Supreme Court, Onondaga County entered December 22, 2005.

BISHOP et al. v MAURER, et al.:

1st Dept. App. Div. order of 8/24/06; affirmance; leave to appeal granted by App. Div. 2/1/07;

ATTORNEY AND CLIENT - LEGAL MALPRACTICE - RETAINER LETTER - POTENTIAL CONFLICT OF INTEREST IN LAW FIRM'S REPRESENTATION OF HUSBAND AND WIFE REGARDING HUSBAND'S INDIVIDUAL RETIREMENT ACCOUNT AND EMPLOYEE STOCK OPTION PLAN PROCEEDS; MOTION TO DISMISS CAUSES OF ACTION;

Supreme Court, New York County granted defendant Maurer's motion to dismiss to the extent of dismissing that portion of the first cause of action for constructive fraud, duress, breach of fiduciary duty and breach of trust, and the second, third, fourth and fifth causes of action, granted the motion of defendants Goodkind firm, Farber and Gallant to dismiss, dismissed the fourth, fifth and sixth causes of action, and ordered that the action shall continue based on the first cause of action against defendant Rona Maurer for undue influence; App. Div. affirmed.

RIVERA (MANUEL), PEOPLE v:

1st Dept. App. Div. order of 10/3/06; affirmance; leave to appeal granted by Sweeny, Jr., J., 4/12/07; Rule 500.11 review pending;

CRIMES AND CRIMINAL PROCEDURE - JURORS - SELECTION OF JURY - WHETHER TRIAL COURT PROPERLY DENIED CHALLENGE FOR CAUSE TO A PARTICULAR JUROR - WHETHER JUROR GAVE AN UNEQUIVOCAL ASSURANCE OF IMPARTIALITY; WHETHER TRIAL COURT PROPERLY DENIED A MOTION TO PRECLUDE POLICE TESTIMONY - NOTICE REQUIREMENTS OF CPL 710.30 FOR IDENTIFICATIONS BY POLICE OFFICERS; WHETHER TRIAL COURT ERRED IN DENYING MOTION FOR MISTRIAL BASED ON PROSECUTION WITNESS'S STATEMENT THAT DEFENDANT'S FRIEND TRIED TO RAPE HER;

Supreme Court, New York County judgments convicting defendant, upon his guilty pleas, of unlawful wearing of a body vest and bail jumping in the second degree and sentenced him to concurrent terms of 2 to 4 years and 1 ½ years to 3 years, and convicting defendant, after a jury trial, two counts of criminal possession of a weapon in the third degree and one count of unlawful wearing of a body vest, and sentenced him, as a persistent violent felony offender, to concurrent terms aggregating 20 years to life, to run consecutively to the sentences on the guilty plea convictions; App. Div. affirmed.