

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed  
by the Court of Appeals Clerk's Office  
**August 3 through August 9, 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.**

CORSINO, et al. v NEW YORK CITY TRANSIT AUTHORITY, et al.:  
1<sup>ST</sup> Dept. App. Div. order of 7/5/07; reversal with dissents; Rule 500.11 review pending;  
NEGLIGENCE - MAINTENANCE OF PREMISES - PLAINTIFF INJURED IN TRIP OVER CONTRACTOR'S DRAG LINE LYING ON SUBWAY PLATFORM IN STATION UNDER RENOVATION - LIABILITY OF VARIOUS DEFENDANTS FOR CONDITION;  
SUMMARY JUDGMENT - DISMISSAL OF COMPLAINT; TORTS - ACTUAL OR CONSTRUCTIVE NOTICE OF DANGEROUS CONDITION - DUTY OF CARE - PROXIMATE CAUSE;  
Supreme Court, New York County denied defendants' motions for summary judgment dismissing the complaint; App. Div. reversed, granted defendants' motions and dismissed the complaint.

FARKAS v FARKAS:

1<sup>ST</sup> Dept. App. Div. order of 5/1/07; reversal with dissents; sua sponte examination whether the dual dissent at the Appellate Division is on a question of law;  
DISMISSAL AND NONSUIT - ABANDONED CASES - DELAY IN SETTLEMENT OF JUDGMENT IN FAVOR OF PLAINTIFF - DEFENDANT'S OPPOSITION TO ENTRY OF PROPOSED JUDGMENT BASED ON UNTIMELINESS (22 NYCRR 202.48[a], [b])  
- WHETHER THERE WAS GOOD CAUSE FOR DELAY - LAW OFFICE FAILURE;  
JUDGMENT - VACATUR;  
Supreme Court, New York County awarded plaintiff the principal sum of \$750,000 against defendant; App. Div. reversed, vacated the judgment and dismissed the claim underlying the judgment as abandoned pursuant to 22 NYCRR 202.48(b).

LANDAU, P.C. &c. et al. v LAROSSA, MITCHELL & ROSS, et al.:

1<sup>ST</sup> Dept. App. Div. order of 6/28/07; affirmance with dissents;  
LIMITATION OF ACTIONS - RES JUDICATA - DISMISSAL OF ONE PLAINTIFF'S CLAIMS FOR LACK OF STANDING - TIME TO COMMENCE NEW ACTION (CPLR 205[a]); LEGAL MALPRACTICE;  
Supreme Court, New York County, on reargument, adhered to its order entered 4/21/03 dismissing the action as barred by res judicata; App. Div. affirmed.

ST. JOSEPH HOSPITAL OF CHEEKTOWAGA, et al. v NOVELLO, et al.:

4<sup>TH</sup> Dept. App. Div. order of 7/18/07; modification; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;  
CONSTITUTIONAL LAW - VALIDITY OF STATUTE - SECTION 31 OF PART E OF CHAPTER 63 OF THE LAWS OF 2005 CREATING NEW YORK STATE COMMISSION ON HEALTHCARE FACILITIES IN THE 21<sup>ST</sup> CENTURY - WHETHER LEGISLATION IS CONSTITUTIONAL; HOSPITALS - RECOMMENDED CLOSURE;  
SUMMARY JUDGMENT; DECLARATORY JUDGMENT;  
Supreme Court, Erie County denied plaintiffs' motion for summary judgment, granted defendants' cross motion for summary judgment declaring that section 31 of part E of chapter 63 of the Laws of 2005 is constitutional, and dismissed the amended complaint; App. Div. modified by vacating the provision dismissing those causes of action seeking a declaratory judgment, and affirmed the judgment as so modified.