

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
December 14 through December 20, 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.

DAVENPORT, MATTER OF, v STEIN:

1ST Dept. App. Div. order of 11/8/07; modification; sua sponte examination of whether the order appealed from finally determines the proceeding within the meaning of the Constitution;
DISCLOSURE - EXAMINATION BEFORE TRIAL - MOTION TO COMPEL NON-PARTY WITNESS WHO IS ALSO A DEFENDANT IN A CRIMINAL ACTION TO SUBMIT TO FURTHER DEPOSITION IN CIVIL ACTION (CPLR 3124) - REFUSAL TO ANSWER DEPOSITION QUESTIONS ON GROUND THAT THEY WOULD ELICIT POTENTIALLY SELF-INCRIMINATING RESPONSES;
Supreme Court, New York County granted petitioner's motion to compel respondent to submit to a further deposition; App. Div. modified to disallow proposed questions 11 through 13, the third part of 15, the ninth part of 18, the third and fourth part of 20, the second part of 21, 33, 40, 41, 44, 45, the third part of 54, 55 and 67, to allow question 58 with the restrictions described in the court's opinion, and to allow additional follow-up questions as indicated therein.

LEIGHTON v LEIGHTON:

1ST Dept. App. Div. order of 12/6/07; affirmance with dissents; sua sponte examination of whether the order appealed from finally determines the action within the meaning of the Constitution; HUSBAND AND WIFE - DIVORCE - PRENUPTIAL AGREEMENT AND POSTNUPTIAL AMENDMENT; SUMMARY JUDGMENT; Supreme Court, New York County, among other things, denied plaintiff husband's motion to dismiss all of defendant wife's counterclaims, and granted defendant wife summary judgment setting aside as invalid the parties' 1992 postnuptial amendment to their 1986 prenuptial agreement; App. Div. affirmed.