

COURT OF APPEALS NEW FILINGS DIGEST

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
January 9 through January 15, 2009

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.

IDT CORP., et al. v TYCO GROUP, S.A.R.L., et al.:

1ST Dept. App. Div. order of 8/19/08; reversal; leave to appeal granted by App. Div., 12/30/08;

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - ALLEGED BREACH OF SETTLEMENT AGREEMENT - HYBRID CATEGORY OF PRELIMINARY AGREEMENT OR "CONTINGENT TYPE I AGREEMENT" - SUMMARY JUDGMENT GRANTED TO DEFENDANTS;

Supreme Court, New York County granted plaintiffs' motion for partial summary judgment on the issue of liability and denied that portion of defendants' cross motion seeking summary judgment dismissing the complaint; App. Div. reversed, denied plaintiffs' motion for partial summary judgment, granted that portion of defendants' cross motion seeking summary judgment dismissing the complaint, severed defendants' counterclaims, remanded to Supreme Court for further proceedings and directed the Clerk to enter judgment dismissing the complaint.

LEE v ASTORIA, et al.:

1ST Dept. App. Div. order of 8/12/08; reversal; leave to appeal granted by App. Div., 12/31/08;

LABOR - SAFE PLACE TO WORK - FALL ON PERMANENTLY ANCHORED BARGE - PREEMPTION OF LABOR LAW CLAIMS (LABOR LAW §§ 240[1] AND 241[6]) BY FEDERAL MARITIME LAW (LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, 33 USC § 901) - CAMMON v CITY OF NEW YORK (95 NY2d 583 [2000]) - SUMMARY JUDGMENT ON LIABILITY; Supreme Court, New York County granted motion by defendants and third-party defendants for summary judgment dismissing the complaint; App. Div. reversed, denied the motions by defendants and third-party defendants for summary judgment dismissing the complaint, reinstated plaintiff's claims pursuant to Labor Law §§ 240(1) and 241(6) and granted plaintiff partial summary judgment as to liability on his section 240(1) claim.

