

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
August 22 through August 28, 2008

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.

FRANCE (DONALD), PEOPLE v:

1ST Dept. App. Div. order of 4/1/08; affirmance; leave to appeal granted by Andrias, J., 6/10/08; Rule 500.11 review pending; CRIMES AND CRIMINAL PROCEDURE - SUPPRESSION HEARING - WHETHER THE TRIAL COURT'S SUMMARY DENIAL OF DEFENDANT'S SUPPRESSION MOTION WAS PROPER - PHYSICAL EVIDENCE SEIZED FROM DEFENDANT; SENTENCE - WHETHER SENTENCE WAS EXCESSIVE - REVIEWABILITY OF SENTENCE; Supreme Court, New York County convicted defendant, upon his guilty plea, of robbery in the third degree and sentenced him, as a second felony offender, to a term of 2 1/2 to 5 years; App. Div. affirmed.

MCGILL et al v UNITED PARCEL SERVICE, INC.:

4TH Dept. App. Div. order of 7/3/08; affirmance with dissents;
Rule 500.11 review pending;

NEGLIGENCE - PROXIMATE CAUSE - WHETHER PLAINTIFFS RAISED AN ISSUE
OF FACT REGARDING THE CAUSE OF PLAINTIFF'S INJURY - ALLEGED TRIP
AND FALL OVER PACKAGE PLACED ON PLAINTIFF'S FRONT PORCH BY ONE OF
DEFENDANT'S EMPLOYEES; SUMMARY JUDGMENT;

Supreme Court, Monroe County granted defendant's motion for
summary judgment dismissing the complaint; App. Div. affirmed.