

COURT OF APPEALS NEW FILINGS DIGEST

Preliminary Appeal Statements processed  
by the Court of Appeals Clerk's Office  
**January 16 through January 22, 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.**

DAMIEN P.C., MATTER OF v JENNIFER H.S.:

1<sup>ST</sup> Dept. App. Div. order of 12/11/08; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;  
PARENT AND CHILD - CUSTODY - CHALLENGE TO HOLIDAY AND NON-HOLIDAY ACCESS SCHEDULES, RELOCATION RESTRICTION AND FINAL DECISION MAKING AUTHORITY REGARDING EXTRACURRICULAR ACTIVITIES - ALLEGED DUE PROCESS VIOLATION REGARDING MOTION TO VACATE FAMILY COURT ORDER;

Family Court, New York County, among other things, granted father final decision-making authority as to the children's extracurricular activities, three out of four consecutive weekends from Thursday evening until Monday morning drop-off at school, either Thanksgiving or Christmas with the children each year and a restriction against the mother relocating with the children more than 35 miles from father's residence; App. Div. affirmed.

SAVE THE PINE BUSH, INC., MATTER OF v COMMON COUNCIL OF THE CITY OF ALBANY:

3<sup>RD</sup> Dept. App. Div. order of 10/9/08; affirmance;

MUNICIPAL CORPORATIONS - ZONING - STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) - PETITIONER'S STANDING TO BRING CPLR ARTICLE 78 PROCEEDING TO CHALLENGE SEQRA DETERMINATION - WHETHER RESPONDENT TOOK THE REQUISITE "HARD LOOK" AT RELEVANT AREAS OF ENVIRONMENTAL CONCERN;

Supreme Court, Albany County judgment, denominated order, that, among other things, granted petitioners' application to annul a determination of respondent Common Council of the City of Albany granting a rezoning application, vacated the determination, annulled the ordinance rezoning the site of the proposed project and remitted the matter to the Common Council; Supreme Court, Albany County amended judgment awarding the same relief; App. Div. affirmed the judgment and amended judgment.

