

COURT OF APPEALS NEW FILINGS

Preliminary Appeal Statements processed
by the Court of Appeals Clerk's Office
May 1 through May 7, 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.

LIGHTHOUSE POINTE PROPERTY ASSOCIATES, LLC, MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.:

4TH Dept. App. Div. order of 2/6/09; reversal and dismissal; leave to appeal granted by App. Div., 4/24/09;
PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 78
PROCEEDING TO REVIEW DETERMINATION OF THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) DENYING PETITIONER'S APPLICATIONS FOR ACCEPTANCE INTO THE BROWNFIELD CLEANUP PROGRAM (BCP) PURSUANT TO ENVIRONMENTAL CONSERVATION LAW, ARTICLE 27, TITLE 14 - WHETHER THE DEC ACTED IN AN ARBITRARY AND CAPRICIOUS MANNER IN DENYING PETITIONER'S APPLICATIONS FOR ACCEPTANCE INTO THE BCP;
Supreme Court, Monroe County granted petitioner's CPLR article 78 petition and directed respondents to accept petitioner immediately into the Brownfield Cleanup Program; App. Div. reversed and dismissed the petition.

THYROFF et al. v NATIONWIDE MUTUAL INSURANCE COMPANY, et al.:

4TH Dept. App. Div. order of 12/31/08; reversal; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right;

TORTS - MALICIOUS PROSECUTION - CONSPIRACY - SUMMARY JUDGMENT GRANTED TO DEFENDANTS;

Supreme Court, Monroe County denied defendants' motion for summary judgment; App. Div. reversed, granted the motion and dismissed the amended complaint.

