

October 21, 2010

NEW FILINGS DIGEST - QUARTERLY UPDATE

This report lists, by title and subject matter, pending appeals previously published as "Court of Appeals New Filings".

Contact the Clerk's Office for additional information.

JAZMIN A., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - WHETHER FAMILY COURT HAD AUTHORITY TO REMAND A JUVENILE TO DETENTION AFTER THE COURT ISSUED AN ORDER OF DISPOSITION PLACING THE JUVENILE ON PROBATION AND IN THE ABSENCE OF A VIOLATION OF PROBATION PETITION; FAMILY COURT ACT § 360.1(1);

ABRAMS (EMAR), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHERE THE DISTRICT ATTORNEY WAS DISQUALIFIED DUE TO HIS PRIOR REPRESENTATION OF DEFENDANT, WHETHER SPECIAL PROSECUTOR'S CONSULTATION WITH DISTRICT ATTORNEY REGARDING THE GRANTING OF IMMUNITY TO OBTAIN VICTIM'S TESTIMONY WAS IMPROPER AND DEPRIVED DEFENDANT OF HIS RIGHT TO COUNSEL; WITNESSES - IMPEACHMENT - PROSECUTION'S USE OF VICTIM'S GRAND JURY TESTIMONY IDENTIFYING DEFENDANT AS THE PERPETRATOR TO IMPEACH WITNESS AT TRIAL - HARMLESS ERROR; ALLEGED SANDOVAL VIOLATION; SUMMARY DENIAL OF DEFENDANT'S CPL 330.30 MOTION;

ACEVEDO (BENITO), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY (DUE TO TRIAL COURT'S FAILURE TO PRONOUNCE THE MANDATORY TERM OF POST-RELEASE SUPERVISION) - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, ALTHOUGH DEFENDANT'S 2001 ATTEMPTED ROBBERY CONVICTION NO LONGER QUALIFIES AS A PREDICATE FELONY, THE APPROPRIATE REMEDY IS TO REMAND FOR RESENTENCING TO AFFORD THE PEOPLE THE OPPORTUNITY TO ESTABLISH WHETHER HIS 1993 MASSACHUSETTS CONVICTION STILL QUALIFIES AS A PREDICATE FELONY WHEN THE TIME HE HAS SPENT INCARCERATED IS EXCLUDED FROM THE 10-YEAR LIMITATION PURSUANT TO PENAL LAW § 70.06(1)(b)(iv) AND (v)";

ACOSTA v CITY OF NEW YORK, et al.:

TRIAL - VERDICT - SETTING VERDICT ASIDE - SUFFICIENCY OF THE EVIDENCE SUPPORTING JURY VERDICT FINDING DEFENDANTS LIABLE FOR BATTERY AND FALSE ARREST - APPELLATE DIVISION DETERMINATION THAT "THE RECORD IS REplete WITH INSTANCES WHERE THE TESTIMONY AND OTHER EVIDENCE ADDUCED BY THE PLAINTIFF WAS MANIFESTLY UNTRUE AND TAILORED TO AVOID THE CONSEQUENCES OF PREVIOUS STATEMENTS MADE BY HIM TO DISINTERESTED NONPARTY WITNESSES";

ACOSTA, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:  
 ADMINISTRATIVE LAW - ADMINISTRATIVE REVIEW - NEW YORK CITY  
 DEPARTMENT OF EDUCATION DETERMINATION DENYING PETITIONER'S  
 APPLICATION FOR EMPLOYMENT AS AN ADMINISTRATIVE ASSISTANT WITH A  
 NONPROFIT ORGANIZATION PROVIDING SPECIAL EDUCATION SERVICES TO  
 PRESCHOOLERS DUE TO THE SERIOUS NATURE OF PETITIONER'S  
 CONVICTIONS IN 1993 OF FOUR COUNTS OF ROBBERY IN THE FIRST  
 DEGREE AND ON THE GROUND THAT GRANTING EMPLOYMENT WOULD POSE AN  
 UNREASONABLE RISK TO THE SAFETY AND WELFARE OF THE SCHOOL  
 COMMUNITY - WHETHER APPELLATE DIVISION ERRED IN CONCLUDING THAT  
 THE DETERMINATION WAS ARBITRARY AND CAPRICIOUS - CORRECTION LAW  
 § 752 - ALLEGED MISAPPLICATION OF MATTER OF ARROCHA v BOARD OF  
 EDUCATION OF CITY OF NEW YORK (93 NY2d [1999]) - CHALLENGE TO  
 REMEDY ORDERED BY APPELLATE DIVISION;

AGINA (ALAA), PEOPLE v:  
 CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE APPELLATE  
 DIVISION ERRED IN HOLDING THAT PRIOR BAD ACTS WERE NOT  
 ADMISSIBLE TO PROVE THE PERPETRATOR'S IDENTITY THROUGH A UNIQUE  
 MODUS OPERANDI WHERE THE VICTIM WAS DEFENDANT'S WIFE BUT  
 DEFENDANT DENIED INFLICTING THE INJURIES;

ALBERGOTTI (ALLEN), PEOPLE v:  
 CRIMES - SENTENCE - PLEA AGREEMENT - WHETHER SENTENCING COURT  
 CONDUCTED A "SUFFICIENT INQUIRY" INTO WHETHER THE PLEA AGREEMENT  
 HAD BEEN BREACHED (PEOPLE v OUTLEY, 80 NY2d 703, 713); DUE  
 PROCESS; PRESERVATION;

ALBUNIO et al. v CITY OF NEW YORK (AND ANOTHER ACTION):  
 CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - RETALIATION CLAIM  
 - WHETHER PLAINTIFFS ENGAGED IN PROTECTED "OPPOSITION" ACTIVITY  
 WITHIN THE MEANING OF ADMINISTRATIVE CODE OF THE CITY OF NEW  
 YORK § 8-102(7);

ALONSO (ROBERT and EMILIA), PEOPLE v:  
 CRIMES - APPEAL - WHETHER THE APPELLATE DIVISION HAD  
 JURISDICTION OVER THE PEOPLE'S APPEAL FROM A SUPREME COURT ORDER  
 DISMISSING INDICTMENTS FOR THE ALLEGED VIOLATION OF BRADY v  
 MARYLAND (373 US 83);

ALONZO (JOSE), PEOPLE v:  
 CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT COUNTS AS  
 MULTIPLICITOUS - CPL 210.20 - WHETHER GROPING OF TWO BODY PARTS  
 CONSTITUTED A SINGLE CONTINUOUS ACT;

AMERICAN HOME ASSURANCE CO., et al. v NAUSCH, HOGAN &  
 MURRAY, Inc. et al.:  
 INSURANCE - AGENTS AND BROKERS - BROKERS ON CONTRACTS OF  
 REINSURANCE - CAUSES OF ACTION FOR INDEMNITY, CONTRIBUTION,

BREACH OF FIDUCIARY DUTY, NEGLIGENCE AND UNJUST ENRICHMENT - ACCRUAL OF CAUSES OF ACTION - STATUTE OF LIMITATIONS - ALLEGED ATTEMPT TO CIRCUMVENT STATUTE OF LIMITATIONS BY PLEADING INDEMNITY AND CONTRIBUTION CAUSES OF ACTION - WHETHER THE COMPLAINT FAILS TO STATE A CAUSE ACTION FOR CONTRIBUTION;

ANAND, et al. v KAPOOR:

NEGLIGENCE - ASSUMPTION OF RISK - FORESEEABLE AMBIT OF DANGER - GOLFER INJURED BY BALL HIT BY FELLOW GOLFER WHO FAILED TO GIVE WARNING BEFORE SWING OF CLUB; SUMMARY JUDGMENT;

APONTE (HERBERT), PEOPLE v:

CRIMES - STALKING - ATTEMPTED STALKING - WHETHER THE CRIME OF ATTEMPTED STALKING IN THE THIRD DEGREE IS A LEGALLY COGNIZABLE OFFENSE; INTENT;

AQUINO v HIGGINS, et al.:

NEGLIGENCE - DUTY - WHETHER DEFENDANT PARENTS HAD A DUTY OF CARE TO ENSURE THAT PLAINTIFF MINOR, A GUEST AT A PARTY ON DEFENDANTS' PREMISES, HAD A SAFE MEANS OF TRANSPORTATION HOME IN LIGHT OF THEIR KNOWLEDGE THAT ALCOHOL HAD BEEN CONSUMED BY GUESTS AT THE PARTY;

ASHE (DWIGHT), PEOPLE v:

CRIMES - INFORMATION - JURISDICTIONAL VALIDITY OF INFORMATION CONTAINING OFFENSE GREATER THAN THAT CHARGED IN ORIGINAL FELONY COMPLAINT - PEOPLE V ZANGHI (79 NY2d 815 [1991]);

ASHLEY (PATRICK R.), PEOPLE v:

CRIMES - CHALLENGE TO WAIVER OF APPEAL AND GUILTY PLEA; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; SENTENCE - WHETHER DEFENDANT'S SENTENCE AS A SECOND FELONY OFFENDER WAS ILLEGALLY PREDICATED ON HIS 1999 ROBBERY CONVICTIONS IN WHICH THE COURT FAILED TO IMPOSE A MANDATORY PERIOD OF POST-RELEASE SUPERVISION - PRESERVATION OF ARGUMENT FOR APPELLATE REVIEW;

AVILA v PLAZA CONSTRUCTION CORPORATION:

LABOR - SAFE PLACE TO WORK - LABOR LAW § 240(1) - PLAINTIFF STANDING ON A SUSPENDED REBAR GRID FRACTURED LEG THAT FELL THROUGH AN OPENING IN THE GRID MEASURING APPROXIMATELY ONE SQUARE FOOT - DEFENDANTS' ENTITLEMENT TO SUMMARY JUDGMENT - WHETHER THE OPENINGS IN THE GRID CREATED AN ELEVATION-RELATED HAZARD SUBJECT TO THE PROTECTIONS OF LABOR LAW § 240(1);

AYALA (ANDRES), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - CLAIMED DUE PROCESS VIOLATIONS IN ASSESSMENT OF RISK LEVEL;

BALZARINI, MATTER OF v SUFFOLK COUNTY DEPARTMENT OF SOCIAL SERVICES:

SOCIAL SERVICES - MEDICAL ASSISTANCE - COMMUNITY SPOUSE INCOME ALLOWANCE - MEANING OF "EXCEPTIONAL CIRCUMSTANCES RESULTING IN SIGNIFICANT FINANCIAL DISTRESS" - 42 USC § 1396r-5(e)(2)(B) - SOCIAL SERVICES LAW § 366-c(8)(b);

BANC OF AMERICA SECURITIES LLC v SOLOW BUILDING CO. II, LLC:

LANDLORD AND TENANT - ALTERATION OF LEASED PREMISES - LEASE PROVISION PROVIDING THAT TENANT'S SOLE REMEDY FOR CLAIM THAT LANDLORD UNREASONABLY WITHHELD OR DELAYED CONSENT TO ALTERATION PROPOSALS IS AN ACTION FOR SPECIFIC ENFORCEMENT, INJUNCTION OR DECLARATORY JUDGMENT, OR AN ARBITRATION PROCEEDING - ASSERTION THAT SUCH PROVISION IS UNENFORCEABLE BECAUSE LANDLORD'S REFUSAL TO TIMELY REVIEW AND APPROVE PROPOSED ALTERATIONS CONSTITUTES BAD FAITH - SUFFICIENCY OF ALLEGATIONS OF LANDLORD'S BAD FAITH NONPERFORMANCE OF LEASE PROVISION IN CAUSE OF ACTION FOR CONSEQUENTIAL DAMAGES;

BATTLES (CALVIN), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE ILLEGAL UNDER PENAL LAW § 70.25(2) - WHETHER DEFENDANT'S POURING OF GASOLINE ON FOUR INDIVIDUALS WAS A "SINGLE ACT"; LESSER INCLUDED OFFENSES; PERSISTENT FELONY OFFENDER;

BAYARD (TASHIEM), PEOPLE v:

CRIMES - DISCLOSURE - ALLEGED FAILURE TO DISCLOSE BRADY/ROSARIO MATERIAL - IN AN EYEWITNESS IDENTIFICATION CASE WHERE ONLY ONE OF MULTIPLE EYEWITNESSES TESTIFIES AT TRIAL, WHETHER A POLICE REPORT CONTAINING "A SLIGHTLY DIFFERENT NARRATIVE OF THE CRIME ... AND A MORE DETAILED DESCRIPTION OF THE ROBBERS ... THAN THOSE FOUND IN THE VICTIM'S TRIAL TESTIMONY" CAN BE DEEMED TO HAVE NO EXCULPATORY OR IMPEACHMENT VALUE AS A MATTER OF LAW - PROSECUTION'S FAILURE TO MEMORIALIZE SOURCE OF INFORMATION IN POLICE REPORT - CORRECTIVE ACTION;

BECOATS (COREY), PEOPLE v:

CRIMES - TRIAL - ADJOURNMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN REFUSING TO GRANT DEFENDANT AN ADJOURNMENT TO SECURE THE ATTENDANCE OF A WITNESS WHO WAS IN FEDERAL CUSTODY; CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - PRESERVATION;

BEASLEY (LAMONT), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - CPL 30.30 - WHETHER POSTREADINESS DELAY WAS CHARGEABLE TO PEOPLE IN ABSENCE OF DEFENSE COUNSEL'S EXPRESS CONSENT TO DELAY;

BELL (JAMEL), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - CHALLENGE TO THE CONSTITUTIONALITY OF DEFENDANT'S ADJUDICATION AS A PERSISTENT VIOLENT FELONY OFFENDER -- APPENDI v NEW JERSEY (530 US 466 [2000]);

BENSTON (MAURICE), PEOPLE v:

CRIMES - EVIDENCE - MEDICAL RECORDS - WHETHER THE TRIAL COURT ERRED, AFTER REDACTING PORTIONS OF COMPLAINANT'S HOSPITAL RECORDS, IN ALLOWING LIMITED REFERENCES CONCERNING "DOMESTIC VIOLENCE INVOLVING A FORMER BOYFRIEND" TO REMAIN IN THOSE RECORDS AS PART OF THE "DIAGNOSIS"; MEDICAL RECORDS EXCEPTION TO HEARSAY RULE; TRIAL COURT'S LIMITATION OF IMPEACHMENT OF COMPLAINANT'S TESTIMONY; DUE PROCESS;

BERNSTEIN (JOSHUA), MATTER OF:

ATTORNEYS AND CLIENTS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING RENEWED MOTION TO VACATE ORDER DISBARRING RESPONDENT FROM THE PRACTICE OF LAW IN NEW YORK;

BLACK (JAMEL), PEOPLE v:

CRIMES - JURORS - CHALLENGE TO JURY - CLAIMED RACIAL DISCRIMINATION IN JUROR CHALLENGES - WHETHER TRIAL JUDGE ERRED IN DENYING DEFENDANT'S APPLICATION PURSUANT TO BATSON v KENTUCKY (476 US 79) CHALLENGING THE PEOPLE'S USE OF PEREMPTORY CHALLENGES TO REMOVE PROSPECTIVE AFRICAN-AMERICAN PANEL MEMBERS ON THE BASIS OF THEIR PLACE OF RESIDENCE, LACK OF EMPLOYMENT AND LACK OF HIGH SCHOOL DIPLOMA;

BIRNBAUM, MATTER OF v NEW YORK STATE DEPARTMENT OF LABOR et al.:

CIVIL SERVICE - COMPENSATION AND BENEFITS - LEAVE FOR ORDINARY DISABILITY - WHETHER CIVIL SERVICE LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

BLEECKER STREET TENANTS CORP. v BLEECKER JONES LLC, et al.:

LANDLORD AND TENANT - CHALLENGE TO RENEWAL OPTION CLAUSE IN LEASE AGREEMENT - WHETHER THE EXCEPTION TO THE PROHIBITION AGAINST REMOTE VESTING OF OPTIONS APPURTENANT TO A LEASE IS APPLICABLE TO THE SUBJECT RENEWAL OPTION CLAUSE; SUMMARY JUDGMENT;

BOOTHE (JAMES O.), PEOPLE v:

CRIMES - INSURANCE FRAUD - INSURANCE FRAUD IN THE FIRST DEGREE (PENAL LAW § 176.30) - WHETHER PENAL LAW § 176.30 APPLIES TO FRAUDULENT HEALTH CARE INSURANCE ACTS DEFINED IN PENAL LAW § 176.05(2);

BORDELEAU et al. v STATE OF NEW YORK et al.:

STATE - APPROPRIATIONS - DECLARATORY JUDGMENT ACTION BY TAXPAYERS SEEKING TO ENJOIN DEFENDANTS FROM DISTRIBUTING OR RECEIVING STATE FUNDS APPROPRIATED IN PURPORTED VIOLATION OF THE NEW YORK STATE CONSTITUTIONAL PROHIBITION AGAINST GIFTS OR LOANS OF STATE MONEY TO PRIVATE ENTITIES (ARTICLE VII, § 8[1]) AND REQUIREMENT THAT APPROPRIATIONS DISTINCTLY SPECIFY THE OBJECT OR PURPOSE OF THE FUNDS APPROPRIATED (ARTICLE VII, § 7) - APPROPRIATIONS OF STATE FUNDS TO PUBLIC BENEFIT CORPORATIONS THAT PROVIDE GRANTS TO PRIVATE ENTITIES FOR ECONOMIC DEVELOPMENT - WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF THE COMPLAINT PURSUANT TO CPLR 3211(a)(1) AND (7);

BOSCIC (DRAGAN), PEOPLE v:

CRIMES - MOTOR VEHICLES - OPERATING VEHICLE WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS - DRIVING WHILE ABILITY IMPAIRED (VEHICLE AND TRAFFIC LAW § 1192[1]) - WHETHER THE PEOPLE MUST PRODUCE EVIDENCE THAT BREATHALYZER WAS CALIBRATED WITHIN SIX MONTHS PRIOR TO ITS USE BEFORE THE RESULTS OF A BREATHALYZER TEST CAN BE ADMITTED INTO EVIDENCE; WHETHER COUNTY COURT PROPERLY CONSIDERED ON APPEAL A BREATH TEST OPERATOR GUIDE THAT WAS NOT INTRODUCED AS EVIDENCE AT TRIAL;

BRABHAM (JESSE), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - PENAL LAW § 70.25(2-c) - WHETHER THE APPELLATE DIVISION WAS REQUIRED TO SPECIFY "THE FACTS AND CIRCUMSTANCES" SUPPORTING ITS DETERMINATION THAT "MITIGATING CIRCUMSTANCES" WARRANTED CONCURRENT SENTENCES FOR BAIL JUMPING IN THE SECOND DEGREE AND ANOTHER CRIME;

BRANNON (ERNEST), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION TO BELIEVE THAT OBSERVED OUTLINE OF KNIFE IN DEFENDANT'S PANTS POCKET WAS A GRAVITY KNIFE; SUPPRESSION MOTION;

BROWN (JAZZMONE), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP IDENTIFICATION OVER FOUR YEARS AFTER CRIME AND AFTER PHOTO ARRAY; EFFECTIVE ASSISTANCE OF COUNSEL - ALLEGED FAILURE OF DEFENSE COUNSEL TO OBJECT TO PROSECUTORIAL MISCONDUCT IN SUMMATION;

BROWN (NADIRAH), PEOPLE v:

CRIMES - ASSAULT - SUFFICIENCY OF EVIDENCE TO ESTABLISH THAT DEFENDANT ACTED RECKLESSLY - HOT WATER THROWN ON DEFENDANT'S NEPHEW; ALLEGED PROSECUTORIAL MISCONDUCT;

BRUN (RAYMOND), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - DEFENDANT'S RIGHT TO COUNSEL ON PEOPLE'S APPEAL TO APPELLATE DIVISION FROM ORDER SETTING ASIDE VERDICT; RULE OF APPELLATE DIVISION, SECOND DEPARTMENT (22 NYCRR 671.3[f]);

BRUNNER (MICHAEL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO MOVE TO DISMISS INDICTMENT ON SPEEDY TRIAL GROUNDS PURSUANT TO CPL 30.30; ALLEGED SANDOVAL VIOLATION; WITNESSES - FAILURE TO CALL WITNESS - DENIAL OF DEFENDANT'S REQUEST FOR MISSING WITNESS CHARGE AS TO CERTAIN POLICE OFFICERS;

BUENO (CHRISTIAN), PEOPLE V:

CRIMES - ASSAULT - ASSAULT OF UNIFORMED EMERGENCY MEDICAL TECHNICIAN GETTING INTO AMBULANCE - REQUISITE INTENT - PENAL LAW § 120.05(3) - SUFFICIENCY OF EVIDENCE THAT DEFENDANT INTENDED TO INTERFERE WITH THE TECHNICIAN'S PERFORMANCE OF A LAWFUL DUTY;

BUTLER v STAGECOACH GROUP, PLC, et al.:COWAN, et al. v STAGECOACH GROUP, PLC, et al.:GODWIN, et al. v STAGECOACH GROUP, PLC, et al.:

CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

AFTON C., MATTER OF:

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING NEGLECT PROCEEDINGS AS A MATTER OF LAW WHERE THE FATHER "WAS AN 'UNTREATED' LEVEL THREE SEX OFFENDER WHO, AFTER HIS RELEASE, HAD RETURNED TO THE FAMILY HOME WHERE THE SUBJECT CHILDREN RESIDED" AND THE MOTHER ALLOWED THE FATHER TO RETURN TO THE HOME;

DYLAN C., MATTER OF:

CRIMES - ESCAPE - JUVENILE DELINQUENTS - ESCAPE FROM NONSECURE FACILITY - WHETHER A JUVENILE DELINQUENT WHO ABSCONDS FROM A NONSECURE DETENTION FACILITY, AS DEFINED IN FAMILY COURT ACT § 301.2(5), MAY BE CHARGED WITH ESCAPE IN THE SECOND DEGREE UNDER PENAL LAW § 205.10;

CAMPBELL (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED TWO MEMBERS OF DEFENDANT'S FAMILY FROM THE COURTROOM DURING THE TESTIMONY OF AN UNDERCOVER POLICE OFFICER - FAMILY MEMBERS LIVED IN THE "ROUGH VICINITY" WHERE THE UNDERCOVER OFFICER WORKED; SUFFICIENCY OF EVIDENCE;

CECUNJANIN (ZUFER), PEOPLE v:

CRIMES - INTOXICATION - SUFFICIENCY OF EVIDENCE - SEXUAL ABUSE IN THE FIRST DEGREE (PENAL LAW § 130.65[2]) - WHETHER VICTIM WAS "INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELPLESS"; ALLEGED JUROR MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

CENTRO EMPRESARIAL CEMPRESA S.A. et al. v AMERICA MOVIL S.A.B. de C.V., et al.:

RELEASE - SCOPE OF RELEASE - BINDING NATURE - RELEASE ALLEGEDLY INDUCED BY FRAUD - CHALLENGE TO APPELLATE DIVISION RULING THAT GENERAL RELEASE BARS PLAINTIFFS' VARIOUS CAUSES OF ACTION FOR FRAUD AND BREACH OF CONTRACT;

CHOW, et al. v RECKITT & COLMAN, INC., et al.:

PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT PLAINTIFFS FAILED TO RAISE A TRIABLE ISSUE OF FACT AS TO WHETHER A LYE-BASED DRAIN CLEANER WAS DEFECTIVELY DESIGNED;

THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK v McGRAHAM:

ARBITRATION - CONFIRMING OR VACATING AWARD - AWARD FINDING TEACHER GUILTY OF SERIOUS MISCONDUCT UNBECOMING A PERSON IN THE POSITION OF TEACHER AND IMPOSING A PENALTY OF 90 DAYS SUSPENSION WITHOUT PAY AND REASSIGNMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT NO BASIS EXISTED "UPON WHICH [SUPREME] COURT SHOULD HAVE DISTURBED THE HEARING OFFICER'S DETERMINATION" REGARDING THE PENALTY IMPOSED;

CLYDE (RAYMOND), PEOPLE v:

CRIMES - ATTEMPTED RAPE IN THE FIRST DEGREE - SUFFICIENCY OF THE EVIDENCE; TRIAL - PHYSICALLY RESTRAINED DEFENDANT - LEG SHACKLES - APPLICABILITY OF HARMLESS ERROR ANALYSIS; WITNESS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT ABUSED ITS DISCRETION IN REFUSING TO PRECLUDE THE PROSECUTOR FROM QUESTIONING MEDICAL EXPERTS ON THE ISSUE WHETHER THE VICTIM'S INJURIES MET THE LEGAL DEFINITIONS OF PHYSICAL INJURY AND SERIOUS PHYSICAL INJURY SET FORTH IN THE PENAL LAW;

COLLADO (DIONIS), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY - WHETHER THE APPELLATE



DIVISION ERRED IN CONCLUDING THAT, "WHERE A DEFENDANT RECEIVES AN ENHANCED SENTENCE BASED UPON A PREDICATE FELONY OFFENSE AND THE SENTENCE IMPOSED FOR THE PREDICATE OFFENSE IS VACATED DUE TO THE FAILURE TO PRONOUNCE A TERM OF (POST-RELEASE SUPERVISION), THE RESENTENCING DATE CONTROLS WHETHER THE EARLIER CRIME QUALIFIES AS A PREDICATE OFFENSE UNDER PENAL LAW § 70.06(1)(b)(ii)";

CONCEPCION (REYNALDO), PEOPLE v:

CRIMES - EVIDENCE - SUPPRESSION HEARING - CONSENT TO SEARCH OF VAN; APPEAL - SCOPE OF REVIEW OF INTERMEDIATE APPELLATE COURT - WHETHER, ON DEFENDANT'S APPEAL TO THE APPELLATE DIVISION, CPL 470.15(1) PERMITTED THE COURT TO DECIDE THE ISSUE OF CONSENT WHERE THE CONSENT ISSUE WAS NOT DECIDED ADVERSELY TO DEFENDANT IN THE TRIAL COURT;

CONGREGATION RABBINICAL COLLEGE OF TARTIKOV v THE TOWN OF RAMAPO:

TAXATION - EXEMPTIONS - WHETHER THE APPELLATE DIVISION ERRED IN DECLARING THAT PLAINTIFF RELIGIOUS CORPORATION'S REAL PROPERTY IS EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO RPTL 420-a(1) FOR CERTAIN TAX YEARS - OPERATION ON THE SUBJECT PROPERTY OF A FOR-PROFIT SUMMER CAMP FOR ORTHODOX JEWISH BOYS;

CORNELL (BARAK), PEOPLE v:

CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT THAT SENTENCE INCLUDED A PERIOD OF POST-RELEASE SUPERVISION;

CPS OPERATING COMPANY LLC v PATHMARK STORES, INC.:

LANDLORD AND TENANT - LEASE - RIGHT TO SUBLEASE OR ASSIGN - LEASEHOLD ASSIGNMENT CONTRACT BETWEEN COMMERCIAL TENANT AND COMPANY FORMED BY REAL ESTATE DEVELOPER TO ACQUIRE TENANT'S RIGHTS UNDER THE LEASE - COMPANY'S RIGHT TO TERMINATE THE CONTRACT BASED UPON TENANT'S ALLEGED BREACH - WHETHER TENANT WAS REQUIRED TO OBTAIN CITY'S CONSENT TO ASSIGNMENT PURSUANT TO A LAND DISPOSITION AGREEMENT BETWEEN THE CITY AND LANDLORD WHERE SUCH AGREEMENT WAS INCLUDED AS A "PERMITTED EXCEPTION" IN THE LEASEHOLD ASSIGNMENT CONTRACT - EFFECT OF ESTOPPEL CERTIFICATE REQUIREMENT;

CRAGG v ALLSTATE INDEMNITY CORP.:

INSURANCE - HOMEOWNER'S INSURANCE - DUTY TO DEFEND OR INDEMNIFY - EXCLUSION FOR CLAIMS BASED ON DEATH OF INSURED - POLICY PROVISION EXCLUDING COVERAGE FOR "BODILY INJURY TO AN INSURED PERSON ... WHENEVER ANY BENEFIT OF THIS COVERAGE WOULD ACCRUE DIRECTLY OR INDIRECTLY TO AN INSURED PERSON" - APPLICABILITY OF EXCLUSION TO INSURED DEFENDANTS IN WRONGFUL DEATH ACTION BROUGHT BY NON-INSURED FATHER OF AN INSURED DECEDENT AS ADMINISTRATOR OF DECEDENT'S ESTATE;

CRAMPE (ALEXANDER), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - RIGHT TO COUNSEL - STANDBY COUNSEL - WHETHER THE TRIAL COURT ERRED IN ALLOWING DEFENDANT TO REPRESENT HIMSELF - WHETHER DEFENDANT'S ACCESS TO STANDBY COUNSEL WAS SO LIMITED AS TO BE AN INFRINGEMENT ON HIS RIGHT TO COUNSEL OR DUE PROCESS;

CREDLE (DONDI), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW A FULLY PRESENTED CASE TO A FIRST GRAND JURY WHICH VOTED "NO AFFIRMATIVE ACTION" (i.e., NOT ENOUGH VOTES TO INDICT OR DISMISS);

CUMMINGS (ELIJAH), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO MOVE FOR DISMISSAL OF THE SECOND DEGREE BURGLARY COUNT BASED ON THE ARGUMENT THAT A POLICE STATION DOES NOT CONSTITUTE A "DWELLING" UNDER PENAL LAW § 140.25(2) - POLICE STATION CONTAINING DORM ROOM; WHETHER TRIAL COURT ERRED IN PERMITTING CROSS-EXAMINATION OF DEFENDANT ABOUT A PRIOR ROBBERY AND ATTEMPTED ROBBERY CONVICTION; ALLEGED PROSECUTORIAL MISCONDUCT;

PEOPLE &c., BY ANDREW M. CUOMO v WELLS FARGO INSURANCE SERVICES, INC. et al.:

INSURANCE - AGENTS AND BROKERS - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY BY INSURANCE BROKER; ATTORNEY GENERAL - ENJOINING FRAUDULENT OR ILLEGAL ACTS - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR FRAUD UNDER EXECUTIVE LAW § 63(12) WITH SUFFICIENT PARTICULARITY;

CUSUMANO et al. v CITY OF NEW YORK:

NEGLIGENCE - INJURIES TO FIREFIGHTERS - ACTION PURSUANT TO GENERAL MUNICIPAL LAW § 205-a TO RECOVER DAMAGES FOR PERSONAL INJURIES TO A FIREFIGHTER WHO FELL DOWN A FLIGHT OF STAIRS WHILE ATTENDING TRAINING IN A BUILDING OWNED BY DEFENDANT CITY - ALLEGED VIOLATION OF CERTAIN ADMINISTRATIVE CODE SECTIONS REQUIRING A BUILDING OWNER TO MAINTAIN THE BUILDING, INCLUDING THE STAIRWELL AND HANDRAILS, IN SAFE CONDITION; SUFFICIENCY OF EVIDENCE TO SUPPORT JURY VERDICT;

JIMMY D., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - DENIAL OF MOTION TO SUPPRESS CONFESSION - VOLUNTARINESS OF 13-YEAR OLD'S CONFESSION WHERE POLICE QUESTIONING TOOK PLACE LATE AT NIGHT AFTER POLICE ASKED CHILD'S MOTHER TO LEAVE THE ROOM AND PROMISED "HELP" FOR CHILD IF HE CONFESSED;

DaCRUZ et al v TOWMASTERS OF NEW JERSEY, INC., et al.:

LIMITATIONS OF ACTIONS - WHETHER ONE PARTY'S SATISFACTION OF UNCONSOLIDATED LAWS § 7107'S CONDITION PRECEDENT TO SUIT (REQUIRING ACTIONS AGAINST THE PORT AUTHORITY TO BE COMMENCED WITHIN ONE YEAR OF ACCRUAL) SATISFIES THE CONDITION WITH RESPECT TO ALL PARTIES; AMENDED COMPLAINT - RELATION BACK TO THIRD-PARTY COMPLAINT; DISMISSAL AND NONSUIT;

DANIEL H., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - DENIAL OF MOTION TO SUPPRESS STATEMENT MADE AT POLICE PRECINCT AFTER 15-YEAR-OLD FIRST QUESTIONED BY POLICE AT SCHOOL WITHOUT MIRANDA WARNINGS - VOLUNTARINESS OF SECOND CONFESSION;

DARRISAW, &c. v STRONG MEMORIAL HOSPITAL, &c., et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN AFFIRMING A SUPREME COURT ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANTS - NEGLIGENT SUPERVISION;

DAVIDSON v COACH USA, INC., et al.:

CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

DAVIS (MAKEDA), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT RESUBMISSION OF DEFENDANT'S CASE TO A SECOND GRAND JURY WITHOUT LEAVE OF COURT VIOLATED CPL 190.75 AND REQUIRED DISMISSAL OF THE INDICTMENT;

DePONCEAU, MATTER OF v STATE OF NEW YORK:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL;

DICKINSON, MATTER OF v DAINES &c., et al.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 78 PROCEEDING SEEKING A JUDGMENT VACATING AN AMENDED DECISION AFTER FAIR HEARING AND REINSTATING A PRIOR DECISION AFTER FAIR HEARING REVERSING THE DEPARTMENT OF SOCIAL SERVICES' DENIAL OF MEDICAID

BENEFITS TO PETITIONER - 90-DAY PERIOD FOR DEPARTMENT OF HEALTH TO TAKE "FINAL ADMINISTRATIVE ACTION" (18 NYCRR 358-6.4);

DOHERTY et al. &c. v MERCHANTS MUTUAL INSURANCE COMPANY:

INSURANCE - ACTION AGAINST INSURER - ACTION ALLEGING THAT INSURER ACTED IN BAD FAITH BY FAILING TO SETTLE AN UNDERLYING PERSONAL INJURY ACTION WITHIN THE POLICY LIMITS, THEREBY EXPOSING THE DEFENDANT IN THE UNDERLYING ACTION TO PERSONAL LIABILITY FOR THE DIFFERENCE BETWEEN THE VERDICT AMOUNT AND THE POLICY LIMIT; SUMMARY JUDGMENT;

DOOMES v BEST TRANSIT, et al. (AND TWO RELATED ACTIONS):

STATUTES - FEDERAL PREEMPTION - WHETHER THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 AND FEDERAL MOTOR VEHICLE SAFETY STANDARD 208 PREEMPT STATE LAW TORT CLAIMS AGAINST BUS MANUFACTURER FOR FAILURE TO EQUIP BUS WITH PASSENGER SEATBELTS - WHETHER SUFFICIENT EVIDENCE IN THE RECORD SUPPORTED JURY'S FINDING THAT BUS MANUFACTURER WAS LIABLE FOR ACCIDENT BASED UPON ITS LENGTHENING OF BUS CHASSIS, THEREBY CREATING AN IMPROPER DISTRIBUTION OF WEIGHT;

DUHS (MICHAEL), PEOPLE v:

CRIMES - EVIDENCE - HEARSAY EVIDENCE - CHALLENGE TO APPELLATE DIVISION RULING THAT STATEMENT CHILD MADE TO EMERGENCY ROOM PHYSICIAN FELL WITHIN A HEARSAY EXCEPTION BECAUSE IT WAS RELEVANT TO THE CHILD'S DIAGNOSIS AND TREATMENT; RIGHT OF CONFRONTATION - WHETHER STATEMENT CHILD MADE TO EMERGENCY ROOM PHYSICIAN WAS TESTIMONIAL IN NATURE SO THAT ITS ADMISSION INTO EVIDENCE VIOLATED DEFENDANT'S CONSTITUTIONAL RIGHT TO CONFRONT THE WITNESSES AGAINST HIM;

EAST HAMPTON UNION FREE SCHOOL DISTRICT v SANDPEBBLE BUILDERS, INC, et al.:

CORPORATIONS - DISREGARDING CORPORATE ENTITY - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING "THAT BRANCH OF THE DEFENDANTS' MOTION WHICH WAS PURSUANT TO CPLR 3211(a)(7) TO DISMISS THE COMPLAINT INSOFAR AS ASSERTED AGAINST THE DEFENDANT VICTOR CANSECO INDIVIDUALLY" - WHETHER COMPLAINT SUFFICIENTLY ALLEGES A CAUSE OF ACTION FOR LIABILITY AGAINST A CORPORATION'S PRESIDENT AND PRINCIPAL OWNER BASED ON THE DOCTRINE OF PIERCING THE CORPORATE VEIL;

EDWARDS, et al. v ERIE COACH LINES CO., et al.:

CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES;

EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

EMPIRE STATE TOWING AND RECOVERY ASSOCIATION, INC., MATTER OF v COMMISSIONER OF LABOR:

UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS UNEMPLOYMENT INSURANCE APPEAL BOARD'S DECISION THAT PERSON WHO PROVIDED LEGAL, LOBBYING AND ADMINISTRATIVE MANAGEMENT SERVICES FOR VARIOUS CLIENTS, INCLUDING APPELLANT TOW TRUCK OPERATORS' ASSOCIATION, WAS ASSOCIATION'S EMPLOYEE RATHER THAN AN INDEPENDENT CONTRACTOR;

EUJOY REALTY CORP. v VAN WAGNER COMMUNICATIONS, LLC.:

LANDLORD AND TENANT - RENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PLAINTIFF LANDLORD WAS ENTITLED TO SUMMARY JUDGMENT IN AN ACTION FOR RENT AND COUNSEL FEES ARISING OUT OF A TERMINATED LEASE AGREEMENT - LANDLORD'S ENTITLEMENT TO FULL YEAR'S RENT FOR 2007 WHERE LESSEE OF ADVERTISING BILLBOARD TERMINATED LEASE AS OF JANUARY 8, 2007 - DENIAL OF MOTION TO AMEND ANSWER;

ETERNAL FLAME OF HOPE MINISTRIES, INC., MATTER OF v KING et al.:

TAXATION - EXEMPTIONS - WHETHER PETITIONER WAS ENTITLED TO SUMMARY JUDGMENT DECLARING THAT CERTAIN OF ITS PROPERTY IS SUBJECT TO THE REAL PROPERTY TAX EXEMPTION PURSUANT TO RPTL 420-a(1)(a), WHICH PROVIDES THAT REAL PROPERTY OWNED AND PRIMARILY USED "BY A CORPORATION OR ASSOCIATION ORGANIZED OR CONDUCTED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, HOSPITAL, EDUCATIONAL [PURPOSES], OR [FOR THE] MORAL OR MENTAL IMPROVEMENT OF MEN, WOMEN OR CHILDREN ... SHALL BE EXEMPT FROM TAXATION";

EVANS (SHAREEF), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - TRIAL COUNSEL'S FAILURE TO RAISE THE STATUTE OF LIMITATIONS AS A DEFENSE TO THE FIRST-DEGREE MANSLAUGHTER COUNT AND TO SEEK TO REOPEN THE SUPPRESSION HEARING;

ALBERT F., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - WHETHER EVIDENCE WAS SUFFICIENT TO PROVE BEYOND A REASONABLE DOUBT THAT THE JUVENILE KNOWINGLY POSSESSED TWO PAIRS OF JEANS THAT WERE IN HIS BACKPACK WHEN HE ATTEMPTED TO LEAVE A STORE - SHOPLIFTING;

FAIR, ex rel., PEOPLE v ROCK:

HABEAS CORPUS - AVAILABILITY OF RELIEF; SENTENCES - CONCURRENT OR CONSECUTIVE;

FARKAS (ISIDORE), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - THEFT-RELATED CHARGES CONTAINED IN INDICTMENT FILED OVER ONE YEAR AFTER ISSUANCE TO DEFENDANT OF DESK APPEARANCE TICKET AND LATER FILING OF MISDEMEANOR COMPLAINT THAT CHARGED ONLY ASSAULT-RELATED CHARGES - WHETHER THEFT-RELATED CHARGES ARE BARRED BY CPL 30.30 BECAUSE OF THE LAPSE OF TIME BETWEEN THE ISSUANCE OF THE DESK APPEARANCE TICKET AND THE INDICTMENT;

FELICIANO (LUIS), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED FAILURE OF APPELLATE COUNSEL TO ARGUE ON DIRECT APPEAL THAT COUNSEL AT THE PROBATION VIOLATION HEARING WAS INEFFECTIVE;

FERNANDEZ (JOSE), PEOPLE:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION, BASED ON OBSERVING A CLIP ATTACHED TO THE OUTSIDE OF DEFENDANT'S POCKET AND THE PROTRUDING TOP OF A KNIFE, THAT DEFENDANT POSSESSED A GRAVITY KNIFE; SUPPRESSION MOTION; WHETHER THE LACK OF MENS REA REQUIREMENT IN PENAL LAW § 265.01 VIOLATES DUE PROCESS;

FERNANDEZ (MARCOS A.), PEOPLE v:

CRIMES - WITNESSES - REPUTATION FOR TRUTH AND VERACITY - WHETHER THE TRIAL COURT IMPROPERLY PRECLUDED DEFENDANT FROM PRESENTING TESTIMONY OF TWO FAMILY MEMBERS REGARDING THE COMPLAINANT'S REPUTATION IN THEIR FAMILY FOR UNTRUTHFULNESS;

FIELDSTON PROPERTY OWNERS ASSOCIATION, INC. v HERMITAGE INSURANCE COMPANY, INC., et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - ALLOCATION OF DEFENSE COSTS - EFFECT OF "OTHER INSURANCE" CLAUSE - RESPONSIBILITY FOR COSTS OF DEFENDING MUTUAL INSURED OF ONE INSURER THAT ISSUED A COMMERCIAL GENERAL LIABILITY POLICY AND ANOTHER INSURER THAT ISSUED AN ASSOCIATION DIRECTORS AND OFFICERS LIABILITY POLICY CONTAINING AN "OTHER INSURANCE" CLAUSE;

FOOTE et al. v ALBANY MEDICAL CENTER HOSPITAL, et al.:

DAMAGES - "WRONGFUL BIRTH" MEDICAL MALPRACTICE ACTION - WHETHER TRIABLE ISSUES OF MATERIAL FACT PRECLUDED THE GRANT OF SUMMARY JUDGMENT TO DEFENDANTS WHERE DEFENDANTS ARGUED THAT PLAINTIFFS FAILED TO ESTABLISH A LEGALLY COGNIZABLE INJURY BECAUSE ALL MEDICAL AND EDUCATIONAL SERVICES NEEDED BY THEIR SON ARE BEING PROVIDED TO THEM UNDER GOVERNMENT PROGRAMS;

FRANOV (ROBERT), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - WHETHER THE TERM "OTHERWISE USES A VEHICLE" IN PENAL LAW § 165.05(1) REQUIRES "DOMINION AND CONTROL" OVER THE VEHICLE;

FRAZIER (CHARLES), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER DEFENDANT MAY BE SENTENCED CONSECUTIVELY FOR THE CRIMES OF BURGLARY AND GRAND LARCENY WHERE THE EVIDENCE ESTABLISHES THAT DEFENDANT MADE HIS UNLAWFUL ENTRY WITH THE INTENT TO COMMIT GRAND LARCENY; COMPETENCY OF DEFENDANT TO STAND TRIAL; PROOF OF PRIOR CONVICTION; SENTENCE - PERSISTENT FELONY OFFENDER;

FREEMAN (JOHN), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW § 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

GARCIA (RODRIGUECE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CONFLICT OF INTEREST - WHETHER THE SENTENCING COURT CONDUCTED AN ADEQUATE INQUIRY INTO DEFENSE COUNSEL'S ALLEGED CONFLICT OF INTEREST;

GIBSON (JEFFREY D.), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - POLICE OFFERED DEFENDANT CIGARETTE FOR PURPOSE OF OBTAINING DNA EVIDENCE - DEFENDANT KNOWN BY POLICE TO BE REPRESENTED BY COUNSEL ON ANOTHER CHARGE; SUFFICIENCY OF EVIDENCE; ALLEGED DENIAL OF RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT ON SUMMATION; FAILURE OF TRIAL COURT TO SHOW JURY NOTES TO DEFENSE COUNSEL BEFORE RESPONDING TO THEM;

GILFORD (TERRELL), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - SHOWUP - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THERE WAS "NO BASIS FOR SUPPRESSION OF THE SHOWUP OR IN-COURT IDENTIFICATIONS, BECAUSE THE SHOWUP WAS WITHIN PERMISSIBLY CLOSE TEMPORAL AND GEOGRAPHIC PROXIMITY TO THE CRIME . . . , TOOK PLACE SHORTLY AFTER THE WITNESS HAD ALREADY MADE A RELIABLE IDENTIFICATION . . . , AND WAS CONDUCTED IN A MANNER THAT WAS NOT UNDULY SUGGESTIVE";

GOLDENBERG v WESTCHESTER COUNTY HEALTH CARE CORP., &c., et al.:

ACTIONS - COMMENCEMENT - WHETHER COMPLAINT WAS PROPERLY DISMISSED AS TIME-BARRED ON THE GROUND THAT ACTION WAS NEVER VALIDLY COMMENCED BECAUSE PLAINTIFF SERVED A SUMMONS AND COMPLAINT UPON DEFENDANTS WITHOUT FILING THEM OR OBTAINING AN INDEX NUMBER AND PAYING THE FILING FEE - APPLICABILITY OF CPLR 2001 TO EXCUSE FILING DEFECT WHERE PLAINTIFF PREVIOUSLY FILED A PROPOSED COMPLAINT AS AN EXHIBIT TO A PROCEEDING TO FILE A LATE NOTICE OF CLAIM - DEFENDANTS' ALLEGED WAIVER OF OBJECTION TO FILING DEFECTS BY ASSERTING THE GENERAL AFFIRMATIVE DEFENSE OF LACK OF PERSONAL JURISDICTION RATHER THAN SPECIFYING THE FILING DEFECT;

GRANT (JOHN), PEOPLE v:

CRIMES - INDICTMENT - SUFFICIENCY OF EVIDENCE BEFORE GRAND JURY - ROBBERY IN THE FIRST DEGREE - USE OR THREATENED IMMEDIATE USE OF A DANGEROUS INSTRUMENT - NOTE USED BY DEFENDANT DURING ROBBERY STATING THAT HE HAD A GUN AND WOULD SHOOT IF BANK TELLER SAID ANYTHING;

GREENBERG, TRAGER & HERBST, LLP v HSBC BANK USA et al.:

BANKS AND BANKING - COUNTERFEITED BANK CHECK DEPOSITED BY PLAINTIFF LAW FIRM - COLLECTING BANK INVOKED RIGHT TO CHARGE BACK SUM TO PAYOR BANK AFTER ALLEGEDLY ADVISING LAW FIRM THAT CHECK HAD "CLEARED"; UNIFORM COMMERCIAL CODE; DISMISSAL OF LAW FIRM'S ACTION AGAINST BANKS;

GRIFFITH OIL COMPANY, INC., et al. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - EXCLUSION OF GENERAL LIABILITY COVERAGE FOR PROPERTY DAMAGE CAUSED BY A POLLUTANT - SPUR PIPELINE OIL LEAK - WHETHER EXCEPTION TO POLLUTION EXCLUSION APPLIES; SUMMARY JUDGMENT;

GRIMM (RAYMOND B.), PEOPLE v:

CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT AT PLEA ALLOCUTION ABOUT THE LENGTH OF THE PERIOD OF MANDATORY POSTRELEASE SUPERVISION - VALIDITY OF GUILTY PLEA WHERE COURT STATED TERMS OF POSTRELEASE SUPERVISION AT SENTENCING - APPLICABILITY OF PENAL LAW § 70.85;

GROBMAN v CHERNOFF, et al.:

ARBITRATION - INTEREST - PRE-ARBITRATION AWARD INTEREST - WHETHER COURT MAY ADD PRE-ARBITRATION AWARD INTEREST WHEN CONFIRMING THE AWARD IF THE ARBITRATION DECISION DOES NOT ADDRESS PLAINTIFF'S ENTITLEMENT TO INTEREST - DAMAGE AWARD UNDER CPLR 5002;

GRONINGER v VILLAGE OF MAMARONECK:

MUNICIPAL CORPORATIONS - SNOW AND ICE - APPLICABILITY OF PRIOR WRITTEN NOTICE PROVISIONS OF VILLAGE LAW § 6-628 AND CPLR 9804 TO VILLAGE PARKING LOT - WALKER v TOWN OF HEMPSTEAD (84 NY2d 360);

GRONSKI, et al. v COUNTY OF MONROE:

NEGLIGENCE - EMPLOYEE OF COMPANY OPERATING RECYCLING FACILITY OWNED BY DEFENDANT COUNTY INJURED AT THE FACILITY - WHETHER COUNTY RETAINED SUFFICIENT CONTROL OVER RECYCLING FACILITY TO INCUR LIABILITY; SUMMARY JUDGMENT - WHETHER PLAINTIFFS RAISED TRIABLE ISSUE OF FACT CONCERNING COUNTY'S CONTROL OVER FACILITY; EFFECT OF DEC PERMIT;



GUARDINO (ANTHONY), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - DENIAL OF DEFENDANT'S APPLICATION PURSUANT TO BATSON v KENTUCKY (476 US 79) - WHETHER DEFENDANT MADE A PRIMA FACIE SHOWING OF DISCRIMINATION BASED UPON THE PEOPLE'S PEREMPTORY CHALLENGE OF FOUR OF SIX BLACK FEMALE PROSPECTIVE JURORS;

GUAY (DEAN), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - BATSON CHALLENGE - WHETHER THE TRIAL COURT ERRED IN GRANTING THE PEOPLE'S CHALLENGE FOR CAUSE WITH RESPECT TO PROSPECTIVE JUROR WITH A SLIGHT HEARING IMPAIRMENT - DEFENDANT'S STANDING TO INVOKE THE AMERICANS WITH DISABILITIES ACT ON PROSPECTIVE JUROR'S BEHALF; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

GUNTLOW v BARBERA, et al.:

FALSE ARREST - MALICIOUS PROSECUTION - CLAIMS UNDER 42 USC § 1983 - CAUSE OF ACTION FOR ASSAULT AND BATTERY - PROBABLE CAUSE - SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF FACT;

BRAD H. v THE CITY OF NEW YORK, et al.:

STIPULATION - STIPULATION OF SETTLEMENT - MEANING OF STIPULATION THAT THE "PROVISIONS OF THIS AGREEMENT SHALL TERMINATE AT THE END OF FIVE YEARS AFTER MONITORING BY THE COMPLIANCE MONITORS BEGINS" - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE PROVISIONS OF THE SETTLEMENT AGREEMENT HAD "TERMINATED" AT THE TIME PLAINTIFFS SOUGHT INJUNCTIVE RELIEF TO COMPEL DEFENDANTS' COMPLIANCE WITH THE AGREEMENT; ESTOPPEL - AVAILABILITY AGAINST GOVERNMENTAL AGENCY;

HALL (MICHAEL), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

HARNETT (DAVID M.), PEOPLE v:

CRIMES - SEX OFFENDERS - PLEA OF GUILTY - WHETHER DEFENDANT'S GUILTY PLEA TO SEXUAL ABUSE IN THE FIRST DEGREE WAS KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTERED WHERE THE TRIAL COURT FAILED TO INFORM HIM PRIOR TO ENTRY OF THAT PLEA THAT HIS CONVICTION WOULD SUBJECT HIM TO THE PROVISIONS OF THE SEX OFFENDER MANAGEMENT AND TREATMENT ACT (MENTAL HYGIENE LAW ARTICLE 10), WHICH COULD RESULT IN CONFINEMENT OR INTENSIVE SUPERVISION BEYOND THE EXPIRATION OF HIS PRISON SENTENCE;

HAYES (KENNETH), PEOPLE v:

CRIMES - EVIDENCE - JUSTIFICATION DEFENSE - POLICE OFFICER AT CRIME SCENE OVERHEARD TWO WITNESSES SAY THAT THE WOUNDED MAN FIRST ATTACKED WITH A KNIFE, BUT DID NOT QUESTION THEM FURTHER

OR RECORD NAMES OR CONTACT INFORMATION FOR FURTHER INVESTIGATION - CLAIMED BRADY VIOLATION; CROSS-EXAMINATION - WHETHER TRIAL COURT ERRED IN LIMITING CROSS-EXAMINATION OF POLICE OFFICER REGARDING THE ADEQUACY OF POLICE INVESTIGATION INTO CENTRAL DISPUTED FACTUAL ISSUE OF ORIGINAL KNIFE POSSESSION;

TOWN OF HEMPSTEAD v EAST COAST RESOURCE GROUP, LLC:

CONTRACTS - BREACH OR PERFORMANCE - BREACH OF INSURANCE PROCUREMENT PROVISION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TOWN WAS ENTITLED TO SUMMARY JUDGMENT ON ITS CAUSE OF ACTION ALLEGING THAT DEFENDANT BREACHED AN AGREEMENT TO OBTAIN INSURANCE IN THE TOWN'S OWN NAME, AS AN ADDITIONAL INSURED UNDER DEFENDANT'S INSURANCE POLICY;

HILL (GREGORY), PEOPLE v:

CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE SECOND DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING HIM NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE IS REPUGNANT; JURORS - ALLEGED DENIAL OF FAIR TRIAL AND DUE PROCESS BECAUSE TRIAL COURT DID NOT READ JURY NOTE VERBATIM TO DEFENSE COUNSEL BEFORE SUMMONING THE JURY TO THE COURTROOM;

HOLLIS (ERIC), PEOPLE v:

CRIMES - JURORS - CHALLENGE TO JURY - CLAIMED RACIAL DISCRIMINATION IN JUROR CHALLENGES - WHETHER TRIAL JUDGE ERRED IN DENYING DEFENDANT'S APPLICATION PURSUANT TO BATSON v KENTUCKY (476 US 79) TO REVIEW THE PEOPLE'S USE OF PEREMPTORY CHALLENGES TO REMOVE THE ONLY TWO AFRICAN-AMERICAN PANEL MEMBERS;

HOUSTON, MATTER OF DiMANGO:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CHALLENGE TO APPELLATE DIVISION JUDGMENT DISMISSING A CPLR ARTICLE 78 PROCEEDING SEEKING TO PROHIBIT RESPONDENT SUPREME COURT JUSTICE FROM CONTINUING WITH FURTHER PROCEEDINGS IN AN UNDERLYING CRIMINAL ACTION;

HUNTER (SHAWN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - STANDING TO CHALLENGE SEARCH OF APARTMENT IN WHICH DEFENDANT WAS ARRESTED; PRESERVATION - WHETHER THE PEOPLE MAY ARGUE FOR THE FIRST TIME ON APPEAL THAT DEFENDANT LACKED STANDING TO CHALLENGE THE SEARCH;

JACOBS v MOSTOW, et al.:

SCHOOLS - TEACHERS - ACTION ALLEGING WRONGFUL TERMINATION, BREACH OF CONTRACT, FRAUD, PSYCHIATRIC MALPRACTICE AND IMPROPRIETIES AT EDUCATION LAW § 3020-a HEARING RESULTING IN ALLEGED DUE PROCESS VIOLATIONS AND DEFAMATION - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, AFFIRMED A SUPREME COURT JUDGMENT DISMISSING COMPLAINT AGAINST VARIOUS

DEFENDANTS FOR VARIOUS REASONS, INCLUDING ARBITRATOR IMMUNITY, RES JUDICATA, PRIOR ACTION PENDING (CPLR 3211[a][4]), STATUTE OF LIMITATIONS, FAILURE TO STATE A CAUSE OF ACTION AND FAILURE TO COMPLY WITH PROCEDURAL REQUIREMENTS GOVERNING CLAIMS AGAINST THE STATE;

JOHNSON, et al. v CITY OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - POLICE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT NO TRIABLE ISSUE OF FACT EXISTED REGARDING THE VIOLATIONS OF ESTABLISHED POLICE GUIDELINES GOVERNING THE DISCHARGE OF WEAPONS - INNOCENT BYSTANDERS INJURED DURING POLICE SHOOTOUT WITH ROBBERY SUSPECT;

JOHNSON (STEVE), PEOPLE v:

CRIMES - INSANITY - DEFENDANT'S BELIEF THAT HIS ACTS WERE IN OBEDIENCE TO DIVINE INSTRUCTIONS - CHALLENGE TO TRIAL COURT'S STANDARD INSTRUCTIONS ON INSANITY DEFENSE AND SUPPLEMENTAL INSTRUCTIONS IN RESPONSE TO JUROR NOTES; JURY - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE TO A PROSPECTIVE JUROR WHO PROFESSED HAVING "STRONG OPINIONS" ON THE INSANITY DEFENSE BASED ON RESEARCH SHE CONDUCTED ON THE DEFENSE WHILE IN COLLEGE;

JORDAN (TERENCE G.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY SERVED - EXPIRATION OF FIVE-YEAR PRS TERM BEFORE APPEAL HEARD BY APPELLATE DIVISION; MOOTNESS; AVAILABILITY OF CPL 440 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU 4 NY3d 242); ALLEGED VIOLATION OF DEFENDANT'S DUE PROCESS RIGHTS;

KABIR v COUNTY OF MONROE, et al.:

NEGLIGENCE - EMERGENCY DOCTRINE - PLAINTIFF INJURED WHEN HER VEHICLE WAS STRUCK FROM BEHIND BY DEPUTY SHERIFF'S VEHICLE - DEPUTY SHERIFF LOOKING DOWN AT MOBILE DATA TERMINAL TO ASCERTAIN LOCATION OF BURGLARIZED PREMISES ANNOUNCED IN RADIO DISPATCH - WHETHER DEPUTY SHERIFF ENTITLED TO QUALIFIED IMMUNITY UNDER VEHICLE AND TRAFFIC LAW § 1104(3) - "RECKLESS DISREGARD" STANDARD OF LIABILITY; SUMMARY JUDGMENT;

KATHLEEN K., MATTER OF (ANONYMOUS):

PARENT AND CHILD - TERMINATION OF PARENTAL RIGHTS - WHETHER FAMILY COURT ERRED IN DENYING FATHER THE RIGHT TO REPRESENT HIMSELF AT HEARING ON TERMINATION OF PARENTAL RIGHTS;

KELLY (ROBERT), PEOPLE v:

JURY - DELIBERATIONS - AT TRIAL, COURT OFFICERS TEMPORARILY REMOVED ONE JUROR FROM JURY ROOM WITHOUT DIRECTING THE REMAINING

JURORS TO REFRAIN FROM DELIBERATING UNTIL ALL JURORS WERE TOGETHER AGAIN; ALLEGED MODE OF PROCEEDINGS ERROR;

KESE INDUSTRIES, et al., MATTER OF v ROSLYN TORAH FOUNDATION et al.:

TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - WHETHER NASSAU COUNTY ADMINISTRATIVE CODE § 5-51.0 REQUIRED SERVICE OF A COPY OF A NOTICE TO REDEEM UPON THE ATTORNEYS FOR MORTGAGEE AND THE REFEREE APPOINTED IN A SEPARATE FORECLOSURE PROCEEDING TO SELL THE SUBJECT PROPERTY;

LEHMAN v NORTH GREENWICH LANDSCAPING, LLC et al.:

NEGLIGENCE - MAINTENANCE OF PREMISES - DUTY TO SAFELY MAINTAIN PARKING LOT - WHETHER SNOW REMOVAL CONTRACT WAS COMPREHENSIVE AGREEMENT THAT DISPLACED DUTY OF DEFENDANT HORTON SCHOOL ASSOCIATES TO MAINTAIN PARKING LOT; SUMMARY JUDGMENT - WHETHER TRIABLE ISSUE OF FACT EXISTS; SNOW AND ICE - SLIP AND FALL ON ICE;

LEROY M., MATTER OF [PRESENTMENT AGENCY]:

INFANTS - JUVENILE DELINQUENTS - SEARCH OF JUVENILE SUSPECT'S HOME AFTER THEFT OF LAPTOP COMPUTER FROM A MIDDLE SCHOOL - EFFECT OF SUSPECTS'S SISTER'S CONSENT TO THE POLICE OFFICER'S SEARCH OF THEIR HOME; EVIDENCE - SUPPRESSION HEARING;

LEVY (MORDEKHAY), PEOPLE:

CRIMES - TRADEMARK COUNTERFEITING - PENAL LAW § 165.72 - WHETHER A TRADEMARK MUST BE REGISTERED FOR THE GOODS ON WHICH THEY APPEAR - WHETHER THE TRIAL COURT ERRED IN REFUSING TO INSTRUCT THE JURY THAT A DEFENDANT MUST KNOW THAT A TRADEMARK IS COUNTERFEIT; SEARCH WARRANT - PROBABLE CAUSE SUPPORTING SEARCH WARRANT;

LEWIE (ALICIA), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - SECOND DEGREE MANSLAUGHTER AND RECKLESS ENDANGERMENT OF A CHILD - INFANT BATTERED BY DEFENDANT'S BOYFRIEND; ALLEGED VIOLATIONS OF DEFENDANT'S DUE PROCESS RIGHTS - CONTINUED QUESTIONING AFTER POLICE BECAME AWARE DEFENDANT WAS REPRESENTED BY COUNSEL IN A RELATED FAMILY COURT PROCEEDING - QUESTIONABLE CONDUCT BY JUROR;

LIFSON v CITY OF SYRACUSE et al.:

NEGLIGENCE - ACTION ALLEGING THAT DECEDENT WAS KILLED WHEN VEHICLE STRUCK HER WHILE SHE WAS CROSSING THE STREET - EMERGENCY DOCTRINE - WHETHER THE TRIAL COURT ERRED IN GIVING THE JURY AN EMERGENCY DOCTRINE INSTRUCTION WHERE DRIVER ASSERTED THAT HE FAILED TO OBSERVE DECEDENT BECAUSE HE WAS SUDDENLY BLINDED BY SUN GLARE; DISMISSAL OF COMPLAINT AGAINST DRIVER; DECEDENT'S NEGLIGENCE;

LIGGINS (JASON D.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - EMERGENCY EXCEPTION TO WARRANT REQUIREMENT;

LINGLE (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

LOPEZ (OLLMAN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENDANT EFFECTIVELY WAIVED HIS RIGHT TO COUNSEL IN THE ABSENCE OF COUNSEL - DEFENDANT REPRESENTED BY COUNSEL ON PENDING UNRELATED CUSTODIAL CHARGE AT TIME OF POLICE INTERROGATION;

LOMBARDO v MASTEC NORTH AMERICA, INC., et al.:

MOTIONS AND ORDERS - REARGUMENT OR RENEWAL - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PLAINTIFFS' MOTION TO REARGUE AN APPEAL DECIDED BY THE APPELLATE DIVISION IN AN ORDER GRANTING SUMMARY JUDGMENT DISMISSING THE COMPLAINT AS AGAINST ONE DEFENDANT;

MANDARIN TRADING, LTD. v WILDENSTEIN et al.:

APPRAISALS - DAMAGES FOR LOSSES ALLEGEDLY SUSTAINED BY ART PURCHASER AS A RESULT OF RELIANCE ON APPRAISAL LETTER VALUING A GAUGUIN PAINTING - CLAIMS FOR FRAUDULENT OR NEGLIGENT MISREPRESENTATION, BREACH OF CONTRACT, BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING, AND UNJUST ENRICHMENT - DISMISSAL OF COMPLAINT PURSUANT TO CPLR 3211;

MARRACCINI v RYAN, et al.:

LICENSES - HOME IMPROVEMENT CONTRACTORS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT PLAINTIFF WAS UNLICENSED AS A HOME IMPROVEMENT CONTRACTOR WITHIN THE MEANING OF THE WESTCHESTER COUNTY ADMINISTRATIVE CODE WHERE HE PERFORMED THE WORK AT ISSUE UNDER HIS REAL NAME BUT HAD A HOME IMPROVEMENT LICENSE ISSUED UNDER A TRADE NAME;

MARTE et al., MATTER OF v BERKMAN:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING IN THE NATURE OF PROHIBITION SEEKING TO PREVENT RETRIAL OF PETITIONERS ON UNDERLYING CRIMINAL MATTER ON THE GROUND OF DOUBLE JEOPARDY - MANIFEST NECESSITY FOR MISTRIAL - PETITIONERS' CONSENT TO MISTRIAL;

MARTIN (ROY), PEOPLE v, a/k/a MARTIN (REALITY):

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S FATHER FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SPACE; TRIAL COURT'S RESPONSE TO JUROR QUESTION;

MARTINO v STOLZMAN, et al. (AND ANOTHER ACTION):

MOTOR VEHICLES - COLLISION - DUTY OF SOCIAL HOSTS TO CONTROL AND SUPERVISE INTOXICATED GUESTS LEAVING THEIR PREMISES; NEGLIGENCE; DISMISSAL OF CLAIMS;

MASON (STEVEN), PEOPLE v:

CRIMES - EAVESDROPPING WARRANTS - MOTION TO SUPPRESS ELECTRONICALLY GATHERED EVIDENCE - WHETHER THE PEOPLE SATISFIED THE "EXHAUSTION" REQUIREMENT IN CPL 700.15(4) AND SHOWED "THAT NORMAL INVESTIGATIVE PROCEDURES HAVE BEEN TRIED AND HAVE FAILED, OR REASONABLY APPEAR TO BE UNLIKELY TO SUCCEED IF TRIED, OR TO BE TOO DANGEROUS TO EMPLOY";

McALPIN (CHRIS), PEOPLE v:

CRIMES - PLEA OF GUILTY - VACATUR - POST-RELEASE SUPERVISION (PRS) - WHETHER COURT WAS REQUIRED TO ADVISE DEFENDANT OF PRS DURING PLEA ALLOCUTION WHERE DEFENDANT WAS TOLD THAT HE WOULD RECEIVE A "DEFERRED SENTENCE" WITH A POSSIBILITY OF PROBATION AND YOUTHFUL OFFENDER TREATMENT IF HE ENROLLED IN AND SUCCESSFULLY COMPLETED A CERTAIN PROGRAM OR, IF HE FAILED TO DO SO OR WAS ARRESTED FOR ANOTHER CRIME IN THE INTERIM, THAT HE WOULD BE SENTENCED TO A MINIMUM OF THREE YEARS AND A MAXIMUM OF 15 YEARS IN PRISON - COLLATERAL OR DIRECT CONSEQUENCES OF PLEA; PRESERVATION - WAIVER - SUFFICIENCY OF RECORD FOR APPELLATE REVIEW;

McCARTHY v TURNER CONSTRUCTION, INC., et al.:

INDEMNITY - WHEN CLAIM FOR COMMON-LAW INDEMNIFICATION IS AVAILABLE - PROPERTY OWNERS AND GENERAL CONTRACTOR LIABLE UNDER LABOR LAW § 240(1) TO INJURED PLAINTIFF WORKING DIRECTLY FOR A SUBCONTRACTOR - WHETHER NON-NEGLIGENT PROPERTY OWNERS MAY SEEK COMMON-LAW INDEMNIFICATION FROM A NON-NEGLIGENT GENERAL CONTRACTOR WHO DID NOT ACTUALLY SUPERVISE OR CONTROL THE INJURED PLAINTIFF'S WORK BUT WHOSE CONTRACT WITH A NON-PARTY STATED THAT IT "SHALL SUPERVISE AND DIRECT" THE CONTRACT WORK AND "SHALL BE SOLELY RESPONSIBLE FOR AND HAVE CONTROL OVER CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES FOR COORDINATING ALL PORTIONS" OF SUCH WORK;

McINTOSH (FAYOLA), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW THE CASE PRESENTED TO A FIRST GRAND JURY DUE TO WITNESS UNAVAILABILITY;

McKNIGHT (ULYSESS), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE ILLEGAL UNDER PENAL LAW § 70.25(1) WHERE DEFENDANT WAS CONVICTED OF THE ATTEMPTED MURDER OF ONE VICTIM AND THE MURDER OF A FIRST VICTIM - BYSTANDER KILLED BY STRAY BULLETS - "SEPARATE AND DISTINCT ACT";

MEDINA (JUAN), PEOPLE v:

CRIMES - INSTRUCTIONS - CHALLENGE TO INSTRUCTION NOT CONTAINING THE STATUTORY DEFINITIONS OF "DEPRIVE" AND "APPROPRIATE" SET FORTH IN SUBDIVISIONS (3) AND (4) OF PENAL LAW § 155.00; TRIAL - MISTRIAL - CHALLENGE TO APPELLATE DIVISION HOLDINGS THAT TRIAL COURT PROPERLY EXERCISED ITS DISCRETION (1) "WHEN IT DENIED DEFENDANT'S MISTRIAL MOTIONS MADE AFTER NOTES FROM DELIBERATING JURY INDICATED IT WAS DEADLOCKED ... AND INSTEAD DELIVERED SEVERAL ALLEN CHARGES" AND (2) "BY NOT ASKING THE JURY ABOUT THE LIKELIHOOD OF A VERDICT OR CONDUCTING A SEPARATE COLLOQUY WITH A POSSIBLE HOLDOUT JUROR";

MEEGAN, JR., MATTER OF v BROWN (AND ANOTHER PROCEEDING AND ACTION):

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER, UNDER PUBLIC AUTHORITIES LAW § 3858(2)(c)(i) AND (iii), PROMOTIONAL SALARY STEP INCREASES WERE SUSPENDED AND DID NOT ACCRUE DURING A WAGE FREEZE PERIOD SO THAT, UPON THE LIFTING OF THE WAGE FREEZE, UNION EMPLOYEES WERE ENTITLED ONLY TO ONE SALARY STEP INCREASE RATHER THAN FOUR SALARY STEP INCREASES;

MELLENDEZ (PEDRO), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN ITS INSTRUCTION TO THE JURY CONCERNING THE BURDEN OF PROOF ON AN ALIBI DEFENSE; PROSECUTOR'S "BURDEN-SHIFTING" REMARKS IN SUMMATION; PRESERVATION;

MATTER OF LIQUIDATION OF MIDLAND INSURANCE COMPANY

[AMERICAN STANDARD, INC., et al. v SWISS REINSURANCE AMERICA CORPORATION, et al.]:

INSURANCE - LIQUIDATION OF INSURER - CHOICE OF LAW - WHETHER NEW YORK SUBSTANTIVE LAW GOVERNS THE INTERPRETATION AND APPLICATION OF INSOLVENT INSURER'S INSURANCE POLICIES;

MIGUEL M., MATTER OF (ANONYMOUS):

MENTAL HEALTH - ASSISTED OUTPATIENT TREATMENT - PROCEEDING PURSUANT TO MENTAL HYGIENE LAW § 9.60 (KENDRA'S LAW) - WHETHER EXCEPTIONS TO PRIVACY PROVISIONS OF HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) PERMIT A PHYSICIAN, IN A KENDRA'S LAW PROCEEDING, TO OBTAIN, AND INTRODUCE INTO EVIDENCE, AN INDIVIDUAL'S MEDICAL RECORDS WITHOUT AUTHORIZATION OR A COURT ORDER; WHETHER FEDERAL HIPAA PRIVACY RULE PREEMPTS MENTAL HYGIENE LAW § 33.13;

MONTES (OMAR), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - CROSS EXAMINATION AND IMPEACHMENT - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION FOR A MISTRIAL OR TO STRIKE THE TESTIMONY OF A WITNESS DEFENDANT PREVIOUSLY CROSS EXAMINED WHERE THE WITNESS WAS UNAVAILABLE TO BE RECALLED AFTER IT WAS ESTABLISHED THAT SHE "WAS NOT HONEST WHEN SHE ... FAILED TO STATE THAT [ANOTHER INDIVIDUAL AT THE SCENE OF A SHOOTING DEATH] GAVE HER THE GUN OR GUNS WHEN HE RAN PAST HER AFTER THE SHOOTING OCCURRED";

MORAY v KOVEN & KRAUSS, ESOS.:

DISMISSAL AND NONSUIT - FAILURE TO SERVE COMPLAINT AFTER A DEMAND (CPLR 3012[b]) - WHETHER SUPREME COURT ERRED IN GRANTING A MOTION TO DISMISS A COMPLAINT WHERE DEFENDANT'S DEMAND AND MOTION TO DISMISS WERE SERVED ON PLAINTIFF'S FORMER, SUSPENDED ATTORNEY - EXISTENCE OF AUTOMATIC STAY OF PROCEEDINGS PURSUANT TO CPLR 321(c) - ISSUES RAISED FOR FIRST TIME ON APPEAL;

MUHAMMAD (MUJAHID), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT'S CHARGE TO THE JURY WAS SUFFICIENT TO APPRISE THE JURY THAT THE PEOPLE WERE REQUIRED TO PROVE DEFENDANT KNEW HE POSSESSED THE SUBJECT CREDIT CARDS - ADEQUACY OF PATTERN JURY INSTRUCTION FOR CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE (PENAL LAW § 170.25);

MUHAMMAD (SHAHID), PEOPLE v:

CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE FIRST DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING DEFENDANT NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IS REPUGNANT; EXPERT WITNESS - DENIAL OF DEFENDANT'S REQUEST TO PRESENT EXPERT TESTIMONY ON THE RELIABILITY OF EYEWITNESS IDENTIFICATION;

MURRELL (DOMINIQUE), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT HAD SERVED ALL BUT 8 WEEKS OF HIS 10-YEAR PRISON SENTENCE AND AFTER HIS SENTENCE HAD BEEN CONSIDERED PREVIOUSLY BY THE TRIAL COURT AND APPELLATE DIVISION WITH NO MENTION OF PRS - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

NATIONAL FUEL GAS DISTRIBUTION CORP., MATTER OF v NEW YORK STATE PUBLIC SERVICE COMMISSION:

PUBLIC UTILITIES - PUBLIC SERVICE COMMISSION - RATE SETTING - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT RESPONDENT AGENCY IMPROPERLY REDUCED THE AMOUNT OF SITE INVESTIGATION AND REMEDIATION COSTS THAT PETITIONER GAS CORPORATION WAS PERMITTED TO PASS ON TO ITS CUSTOMERS BY DETERMINING THAT ITS PARENT COMPANY SHOULD HAVE ALLOCATED TO



PETITIONER A GREATER SHARE OF CERTAIN INSURANCE SETTLEMENT  
PROCEEDS - ALLEGED USE OF INAPPROPRIATE STANDARD OF REVIEW;

NEW YORK COALITION FOR QUALITY ASSISTED LIVING, INC. v MFY LEGAL  
SERVICES, INC., et al.:

HEALTH - ADULT CARE FACILITIES - ACTION BY ASSOCIATION OF MEMBERS  
WHO OPERATE ASSISTED LIVING FACILITIES AND ADULT HOMES FOR A  
DECLARATION THAT ITS PROPOSED GUIDELINES FOR VISITOR ACCESS ARE  
ENFORCEABLE IN ADULT CARE FACILITIES;

NEW YORK STATE UNITED TEACHERS, MATTER OF v BRIGHTER CHOICE  
CHARTER SCHOOL, et al.:

DISCLOSURE - FREEDOM OF INFORMATION LAW (FOIL) - CPLR ARTICLE 78  
PROCEEDING AND DECLARATORY JUDGMENT ACTION TO REVIEW SIX  
DETERMINATIONS DENYING PETITIONER'S FOIL REQUESTS - SCHOOLS'  
REFUSAL TO RELEASE CERTAIN IDENTIFYING INFORMATION PERTAINING TO  
TEACHERS - WHETHER FOIL'S PERSONAL PRIVACY EXCEPTION APPLIES TO  
THE UNION'S REQUEST FOR INFORMATION - PUBLIC OFFICERS LAW  
§ 89(2)(b)(iii);

NOSTROM &c. v A.W. CHESTERTON COMPANY, et al.:

LABOR - SAFE PLACE TO WORK - EXPOSURE TO TOXIC SUBSTANCES -  
ACTION ARISING OUT OF PLAINTIFF'S DECEDENT'S ALLEGED EXPOSURE TO  
ASBESTOS IN THE WORKPLACE - WHETHER OWNER OR GENERAL CONTRACTOR  
MAY BE HELD VICARIOUSLY LIABLE UNDER LABOR LAW § 241(6) BASED ON  
ALLEGED VIOLATIONS OF STATE INDUSTRIAL CODE PROVISIONS GOVERNING  
CONTROL OF AIR CONTAMINANTS;

QOSHJA (ERMAL), PEOPLE v:

CRIMES - APPEAL - APPEAL WAIVER DOCUMENTS EXECUTED IN CONNECTION  
WITH GUILTY PLEA - APPELLATE DIVISION DID NOT SPECIFY WHETHER ITS  
AFFIRMANCE OF DEFENDANT'S JUDGMENT OF CONVICTION AND SENTENCE WAS  
BASED ON THE VALIDITY OF THE APPEAL WAIVER OR ITS REVIEW AND  
REJECTION OF DEFENDANT'S SUBSTANTIVE CLAIM REGARDING HIS  
SENTENCE;

ORPHAN v PILNIK, et al.:

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE - INFORMED CONSENT;  
SUMMARY JUDGMENT;

ORTEGA (OLDALYS), PEOPLE v:

CRIMES - EVIDENCE - MEDICAL RECORDS - WHETHER THE TRIAL COURT  
ERRED IN REFUSING, OVER DEFENSE OBJECTION, TO REDACT A KEY  
STATEMENT IN VICTIM'S MEDICAL RECORDS WHICH DID NOT MEET THE  
"NECESSARY FOR TREATMENT AND DIAGNOSIS" REQUIREMENT - HARMLESS  
ERROR;

ORTIZ v VARSITY HOLDINGS, LLC, et al.:

LABOR - SAFE PLACE TO WORK - RENOVATION LABORER INJURED IN FALL  
FROM DUMPSTER LEDGE - WHETHER WORKER WAS ENGAGED IN A PROTECTED  
ACTIVITY UNDER LABOR LAW § 240(1); SUMMARY JUDGMENT;

PACQUETTE (DEAN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER DEFENDANT'S STATEMENTS TAKEN BY BROOKLYN HOMICIDE DETECTIVES IN THE ABSENCE OF AN ATTORNEY MUST BE SUPPRESSED WHERE AN ATTORNEY TOLD THE BROOKLYN DETECTIVES THAT HE REPRESENTED DEFENDANT ON A MANHATTAN DRUG MATTER AND INSTRUCTED THEM NOT TO QUESTION DEFENDANT ON THE HOMICIDE; DEFENDANT TOLD BROOKLYN DETECTIVES THAT HE DID NOT HAVE AN ATTORNEY IN THE MANHATTAN MATTER;

PARADA (LUIS), PEOPLE v:

CRIMES - SEXUAL CONDUCT AGAINST A CHILD - ADMISSIBILITY OF STATEMENTS OF CHILD TO NURSE EXAMINER DURING EXAMINATION REQUESTED BY PROSECUTOR MORE THAN ONE YEAR AFTER ALLEGED ABUSE - WHETHER STATEMENTS MADE BY CHILD TO AUNT AND COUSIN WERE ADMISSIBLE UNDER THE "PROMPT OUTCRY" HEARSAY EXCEPTION - WHETHER DEFENSE COUNSEL'S CROSS-EXAMINATION OF POLICE DETECTIVE OPENED THE DOOR TO THE ENTIRETY OF THE CHILD'S STATEMENT TO THE DETECTIVE; EXPERT TESTIMONY REGARDING CONSISTENCY OF VICTIM'S BEHAVIOR WITH THAT OF ABUSE VICTIMS; HARMLESS ERROR;

PARISI (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

PAULIN (DAVID LANCE), PEOPLE v:

CRIMES - SENTENCE - WHETHER DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PERL, et al. v MEHER, et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE AFFIDAVIT OF PLAINTIFF'S TREATING PHYSICIAN RAISED A QUESTION OF FACT TO DEFEAT SUMMARY JUDGMENT IN PERSONAL INJURY ACTION ARISING OUT OF MOTOR VEHICLE ACCIDENT - "SERIOUS INJURY" WITHIN THE MEANING OF INSURANCE LAW § 5102(d); SUMMARY JUDGMENT; DISMISSAL AND NONSUIT;

PHILLIPS (JAMES), PEOPLE v:

CRIMES - FITNESS TO PROCEED TO TRIAL - DEFENDANT WITH BRAIN INJURY RESULTING FROM STROKES - APPLICABILITY OF PROTOCOLS ESTABLISHED IN PEOPLE v FRANCOBANDERA (33 NY2d 429 [1974]);

PORCO (CHRISTOPHER), PEOPLE v:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING TESTIMONY CONCERNING VICTIM'S HEAD NOD IN RESPONSE TO POLICE INQUIRY AT CRIME SCENE AND TESTIMONY CONCERNING AN ALLEGED PRIOR "STAGED BURGLARY" BY DEFENDANT - WHETHER TRIAL COURT ERRED IN

FAILING TO CONDUCT A HEARING REGARDING EVIDENCE CHALLENGED AS DERIVED FROM DEFENDANT'S SUPPRESSED STATEMENT TO THE POLICE; CLAIMED PROSECUTORIAL MISCONDUCT;

PORTO (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CHALLENGE TO APPELLATE DIVISION ORDER CONCLUDING THAT THE TRIAL "COURT PROPERLY DENIED DEFENDANT'S DAY-OF-TRIAL MOTION FOR ASSIGNMENT OF NEW COUNSEL SINCE HIS PAPERS LACKED SPECIFIC FACTUAL ALLEGATIONS AND DID NOT CONTAIN ANY SERIOUS COMPLAINT REQUIRING INQUIRY BY THE COURT" AND BECAUSE "THE COURT ENGAGED IN A COLLOQUY WITH DEFENSE COUNSEL THAT DID NOT REVEAL ANY REASON FOR SUBSTITUTION OR FURTHER INQUIRY";

PRATTS (JESUS), PEOPLE v:

CRIMES - SENTENCE - DRUG LAW REFORM ACT (DLRA) - ELIGIBILITY OF REINCARCERATED PAROLE VIOLATOR - WHETHER A DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PRENDERGAST (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED UPON RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT "THE RESENTENCING COURT WAS NOT REQUIRED TO EXERCISE ITS DISCRETION TO CONSIDER WHETHER THE SENTENCE AS A WHOLE WAS APPROPRIATE IN VIEW OF THE FACT THAT THE SENTENCE WOULD NOT INCLUDE A PERIOD OF PRS";

PRINDLE (MICHAEL EDWARD), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE OF DEPRAVITY TO SUPPORT CONVICTION AND TO SUPPORT CHARGE IN THE INDICTMENT; EVIDENCE - WHETHER SUPREME COURT ERRED IN REFUSING TO ALLOW A DEFENSE WITNESS TO TESTIFY THAT A THIRD PERSON, RATHER THAN DEFENDANT, WAS CULPABLE;

RABB (REGINALD), PEOPLE v:

CRIMES - EAVESROPPING WARRANTS - MOTION TO SUPPRESS ELECTRONICALLY GATHERED EVIDENCE - WHETHER THE PEOPLE SATISFIED THE "EXHAUSTION" REQUIREMENT IN CPL 700.15(4) AND SHOWED "THAT NORMAL INVESTIGATIVE PROCEDURES HAVE BEEN TRIED AND HAVE FAILED, OR REASONABLY APPEAR TO BE UNLIKELY TO SUCCEED IF TRIED, OR TO BE TOO DANGEROUS TO EMPLOY";

RATAJCZAK v YOONESSI, et al.:

ACTIONS - MOTION MADE IN SUPREME COURT SEEKING RELIEF REGARDING APPEAL IN WHICH APPELLANT'S MOTION TO VACATE ORDER DISMISSING APPEAL DENIED AND APPELLATE DIVISION PROHIBITED APPELLANT FROM FILING ANY FURTHER MOTIONS IN THE APPEAL;

RAYNOR, MATTER OF v LANDMARK CHRYSLER, et al.:

WORKERS' COMPENSATION - AGGREGATE TRUST FUND - MANDATORY LUMP-SUM PAYMENT OF PRESENT VALUE OF NONSCHEDULE PERMANENT PARTIAL DISABILITY (PPD) AWARDS MADE ON OR AFTER JULY 1, 2007 - CHALLENGE TO 2007 AMENDMENT TO WORKERS' COMPENSATION LAW § 27(2) (L 2007, Ch 6, § 46) - APPLICABILITY TO AWARD MADE AFTER JULY 1, 2007 WHERE INJURIES ARE SUSTAINED BEFORE THE MARCH 31, 2007 EFFECTIVE DATE OF AMENDMENT CAPPING THE NUMBER OF WEEKS FOR WHICH A CLAIMANT CAN RECEIVE PPD BENEFITS - CONSTITUTIONAL CHALLENGES TO THE 2007 AMENDMENT BASED UPON THE TAKING, CONTRACTS, DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FEDERAL CONSTITUTION - CLAIM THAT COMPUTATION OF THE PRESENT VALUE OF A LUMP-SUM PAYMENT OF UNCAPPED PPD AWARD IS SPECULATIVE AND THEREFORE IMPROPER;

REYNOLDS et al. v KNIBBS et al.:

NEGLIGENCE - MAINTENANCE OF PREMISES - ACTUAL OR CONSTRUCTIVE NOTICE OF DEFECTIVE CONDITION - SUMMARY JUDGMENT - ACTION FOR DAMAGES TO PLAINTIFF FROM FALLING WHILE DESCENDING STAIRS IN RESIDENCE RENTED FROM DEFENDANTS WHERE STAIRS ALLEGEDLY DETACHED FROM THE WALL AND COLLAPSED;

THE RGH LIQUIDATING TRUST, &c. v DELOITTE & TOUCHE LLP et al.:

ACCOUNTS AND ACCOUNTING - ACTION AGAINST ACCOUNTANTS - WHETHER THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998 (SLUSA) REQUIRES THE DISMISSAL OF FRAUD CLAIMS AGAINST AN ACCOUNTING FIRM ASSERTED BY PLAINTIFF LIQUIDATING TRUST ON BEHALF OF HOLDERS OF BONDS ISSUED BY BANKRUPT COMPANY;

RICHARDSON, MATTER OF v BOUCAUD:

HABEAS CORPUS - WHEN REMEDY AVAILABLE - CHALLENGE TO SPECIAL CONDITION OF PAROLE PROHIBITING PETITIONER FROM CONTACTING HIS WIFE - APPELLATE DIVISION ORDER HOLDING THAT HABEAS CORPUS RELIEF WAS UNAVAILABLE BECAUSE PETITIONER WAS NOT ENTITLED TO IMMEDIATE RELEASE INASMUCH AS HE WAS INCARCERATED, AT LEAST IN PART, DUE TO HIS VIOLATION OF A PAROLE CONDITION REQUIRING HIM TO PROCEED DIRECTLY TO THE AREA TO WHICH HE WAS RELEASED;

RIDGE ROAD FIRE DEPARTMENT, MATTER OF v SCHIANO, et al.:

PROCEEDING AGAINST BODY OR OFFICER - ACCIDENTAL DISABILITY RETIREMENT BENEFITS - WHETHER SUBSTANTIAL RECORD EVIDENCE SUPPORTS THE HEARING OFFICER'S DETERMINATION GRANTING FIREFIGHTER ACCIDENTAL DISABILITY BENEFITS PURSUANT TO GENERAL MUNICIPAL LAW § 207-a - INJURY TO DRIVER OF FIRE TRUCK; STANDARD OF REVIEW;

RIVERA &c., et al. v KLEINMAN, et al.:

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE - FAILURE TO FOLLOW DOCTOR'S ADVICE AS SUPERSEDING CAUSE OF INJURY; SUMMARY JUDGMENT;

RIVERA (PETER), PEOPLE v:

CRIMES - AGGRAVATED UNLICENSED OPERATION OF MOTOR VEHICLE - WHETHER DEFENDANT, WHOSE DRIVER'S LICENSE WAS REVOKED FOR SIX

MONTHS FOLLOWING A DWI CONVICTION, BUT WHO WAS ISSUED A CONDITIONAL LICENSE, CAN BE CHARGED WITH AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR CAN ONLY BE CHARGED WITH A TRAFFIC INFRACTION UNDER VEHICLE AND TRAFFIC LAW § 1196(7)(f), THE STATUTE AUTHORIZING ISSUANCE OF CONDITIONAL LICENSES;

RIVERS (SHERMAN), PEOPLE v:

CRIMES - HARMLESS AND PREJUDICIAL ERROR - MOLINEAUX ERROR - FIRE MARSHAL'S TESTIMONY REGARDING THE ORIGIN OF A FIRE;

ROACH, et al. v COACH USA, INC., et al.:

CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

ROBINSON (TERRANCE D.), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - AUTOMOBILE DRIVER CHARGED WITH POSSESSION OF GUN FOUND UNDER DRIVER'S SEAT - TRIAL COURT'S LIMITATION OF DEFENDANT'S DIRECT EXAMINATION - CLAIMED DUE PROCESS VIOLATION; HARMLESS ERROR; SUPPRESSION OF WEAPON - INVENTORY SEARCH;

RODDY v NEDERLANDER PRODUCING COMPANY OF AMERICA, INC., et al.:

JUDGMENTS - COLLATERAL ESTOPPEL - LAW OF THE CASE - WHETHER PLAINTIFF DANCER HAD A FULL AND FAIR OPPORTUNITY TO LITIGATE THE ISSUE OF THE NEGLIGENCE OF DEFENDANTS NEDERLANDER PRODUCING COMPANY OF AMERICA, INC. AND THE GERSHWIN THEATRE IN A NEGLIGENCE ACTION TO RECOVER FROM A FALL ON STAGE DURING THE BROADWAY SHOW RIVERDANCE; PRIOR LITIGATION OF THE GERSHWIN THEATRE'S INDEMNIFICATION CLAIM AGAINST THE DANCER'S EMPLOYER;

RODRIGUEZ (FREDDY), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JUSTIFICATION DEFENSE PURSUANT TO PENAL LAW § 35.05(2);

RODRIGUEZ (ISIDRO), PEOPLE v:

CRIMES - POSSESSION OF FORGED INSTRUMENT IN THE SECOND DEGREE - FORGED IDENTITY DOCUMENTS, SOME BEARING DEFENDANT'S PHOTOGRAPH - SUFFICIENCY OF THE EVIDENCE OF INTENT "TO DEFRAUD, DECEIVE OR INJURE ANOTHER" (PENAL LAW § 170.25);

RODRIGUEZ (MANUEL), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - FAILURE OF COURT TO PRONOUNCE A TERM OF POST-RELEASE SUPERVISION - REMITTAL FOR PRESENTENCING PURSUANT TO PEOPLE v SPARBER (10 NY3d 457) - WHETHER A RESENTENCING COURT HAS DISCRETION TO RECONSIDER THE LENGTH OF A PREVIOUSLY IMPOSED TERM OF IMPRISONMENT - IF THE SENTENCING COURT LACKS SUCH DISCRETION, WHETHER THE APPELLATE DIVISION MAY MODIFY THE LENGTH OF A PREVIOUSLY IMPOSED TERM OF IMPRISONMENT PURSUANT TO ITS INTEREST OF JUSTICE JURISDICTION;

RONI LLC, et al. v ARFA, et al.:

PLEADING - SUFFICIENCY OF PLEADING - BREACH OF FIDUCIARY DUTY - FRAUD - INVESTORS' ACTION AGAINST DEFENDANTS WHO PROMOTED THE INVESTORS' MEMBERSHIP INTERESTS IN LIMITED LIABILITY COMPANIES (LLCs) THAT PURCHASED AND MANAGED MULTI-FAMILY RESIDENTIAL BUILDINGS IN HARLEM AND THE BRONX;

ROSARIO (ANGEL), PEOPLE v:

CRIMES - SEXUAL ABUSE - SEXUAL CONDUCT AGAINST A CHILD - WHETHER NOTE MINOR COMPLAINANT WROTE APPROXIMATELY 3 MONTHS AFTER DEFENDANT'S ALLEGED ABUSE ENDED WAS ADMISSIBLE UNDER THE "PROMPT OUTCRY" EXCEPTION TO THE HEARSAY RULE - ADMISSIBILITY OF COMPLAINANT'S PRIOR CONSISTENT STATEMENT;

ROSYLN UNION FREE SCHOOL DISTRICT v BARKAN, et al.:

LIMITATION OF ACTIONS - APPLICABILITY OF SIX-YEAR STATUTE OF LIMITATIONS EITHER UNDER CPLR 213(7) OR CPLR 213(5) TO SCHOOL DISTRICT'S CAUSES OF ACTION FOR NEGLIGENT BREACH OF FIDUCIARY DUTY AGAINST FORMER SCHOOL BOARD MEMBER; PLEADING - SUFFICIENCY OF PLEADING - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR AN ACCOUNTING AGAINST FORMER BOARD MEMBER ENTRUSTED WITH OVERSIGHT OVER THE SCHOOL DISTRICT'S MONEY;

RUEDA, &c., MATTER OF v CHARMAINE D.:

INCAPACITATED AND MENTALLY DISABLED PERSONS - INVOLUNTARY ADMISSION - WHETHER EMERGENCY ROOM PSYCHIATRIST WHO TREATED RESPONDENT PROPERLY APPLIED FOR HER INVOLUNTARY ADMISSION TO A HOSPITAL PURSUANT TO MENTAL HYGIENE LAW § 9.27 WHERE HE COULD HAVE APPLIED FOR SUCH ADMISSION PURSUANT TO MENTAL HYGIENE LAW § 9.39; MOOTNESS - APPLICABILITY OF MOOTNESS EXCEPTION;

RUFFIN v LION CORP., &c., et al.:

DISMISSAL AND NONSUIT - FAILURE TO SERVE COMPLAINT - FAILURE TO COMPLY WITH OUT-OF-STATE SERVICE OF PROCESS REQUIREMENTS OF CPLR 313 - JURISDICTIONAL DEFECT VERSUS MERE IRREGULARITY WHICH CAN BE CORRECTED OR DISREGARDED UNDER CPLR 2001; PERSONAL JURISDICTION;

SALAZAR v NOVALEX CONTRACTING CORP., et al.:

LABOR - SAFE PLACE TO WORK - PLAINTIFF CONSTRUCTION WORKER FELL INTO OPEN TRENCH WHILE WALKING BACKWARDS AND SPREADING CONCRETE ON BASEMENT FLOOR - AVAILABILITY OF CLAIMS UNDER LABOR LAW §§ 200, 240(1) AND 241(6); SUMMARY JUDGMENT;

SANTIAGO (EDWIN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - WHETHER MULTIPLE EYEWITNESS IDENTIFICATIONS CAN CORROBORATE EACH OTHER; REQUESTED SUPPRESSION OF LINE-UP IDENTIFICATION DUE TO DISPARITY IN LOOKS OF THE STAND-INS;

SCHENECTADY COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC., et al., MATTER OF v MILLS:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL)- CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENT'S DETERMINATION DENYING PETITIONERS' FOIL REQUEST FOR NAMES AND STREET ADDRESSES OF ALL LICENSED VETERINARIANS AND VETERINARY TECHNICIANS LOCATED IN SCHENECTADY COUNTY - WHETHER FOIL'S PERSONAL PRIVACY EXCEPTION APPLIES TO THE REQUEST FOR INFORMATION - NEW YORK PUBLIC OFFICERS LAW § 89(2)(b) - AGENCY'S INABILITY TO DETERMINE WHETHER ADDRESS SUBMITTED BY LICENSEE IS BUSINESS OR RESIDENTIAL;

SCOTT (STEVEN), PEOPLE v:

CRIMES - JURORS - DISCHARGE OF JUROR - WHETHER TRIAL COURT ERRED IN DISCHARGING A SWORN JUROR FOR CAUSE WHERE THE PROSECUTOR POSED QUESTION TO PROSPECTIVE JURORS ABOUT ABSENCE OF DNA EVIDENCE IN THE CASE AND THE SUBJECT JUROR, ONLY AFTER BEING SWORN, ADVISED THE COURT THAT THE PROSECUTION SHOULD OFFER DNA EVIDENCE TO SUPPORT THE RAPE CHARGE; SELECTION OF JURY - DENIAL OF DEFENDANT'S CHALLENGE TO JUROR WHO REPORTED THAT ONE OF THE PROSECUTORS HAD REPRESENTED HER INFANT SON 13 OR 14 YEAR EARLIER; EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - TRIAL COURT'S REFUSAL TO APPLY THE INTEREST OF JUSTICE EXCEPTION TO THE RAPE SHIELD LAW (CPL 60.42[5]) - ALLEGED VIOLATION OF DEFENDANT'S RIGHTS TO CONFRONT WITNESSES AGAINST HIM AND PRESENT A DEFENSE;

SEIFERHELD, MATTER OF v KELLY:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT POLICE PENSION FUND LACKED STATUTORY AUTHORITY TO REVOKE OR SUSPEND PETITIONER'S DISABILITY BENEFITS BECAUSE THE BOARD OF TRUSTEES DID NOT DIRECT SUCH ACTION;

SHEERAN, MATTER OF v NEW YORK STATE DEPARTMENT OF TRANSPORTATION et al.:

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER CIVIL SERVICE LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

SHIAMILI, &c. v THE REAL ESTATE GROUP OF NEW YORK, INC., et al.:  
 TELECOMMUNICATIONS - INTERNET SERVICES - ACTION FOR DEFAMATION  
 AND UNFAIR COMPETITION BY DISPARAGEMENT BASED ON COMMENTS POSTED  
 ON AN INTERNET WEBSITE - WHETHER THE APPELLATE DIVISION ERRED IN  
 GRANTING DEFENDANTS' MOTION TO DISMISS THE COMPLAINT UPON THE  
 GROUND THAT PLAINTIFF'S CLAIMS WERE BARRED BY THE FEDERAL  
 COMMUNICATIONS DECENCY ACT (CDA) (47 USC § 230) BECAUSE  
 DEFENDANTS WERE NOT "INFORMATION CONTENT PROVIDERS" WITHIN THE  
 MEANING OF THE CDA;

SIMON et al. v USHER, et al.:  
 TRIAL - PLACE OF TRIAL - CHANGE OF VENUE - TIMELINESS OF MOTION  
 TO CHANGE VENUE - APPLICABILITY OF FIVE-DAY EXTENSION UNDER CPLR  
 2103(b)(2) TO TIME PERIOD BY WHICH DEFENDANT MUST MOVE FOR CHANGE  
 OF VENUE UNDER CPLR 511(b);

SMITH &c. v SHERWOOD, et al.:  
 NEGLIGENCE - DUTY - PRIVATE SCHOOL STUDENT STRUCK BY CAR AFTER  
 EXITING PRIVATE BUS TRANSPORTING STUDENTS UNDER CONTRACT WITH  
 REGIONAL TRANSPORTATION AUTHORITY AND SCHOOL DISTRICT - WHETHER  
 REGIONAL TRANSPORTATION AUTHORITY AND DRIVER HAD DUTY TO PROTECT  
 CHILD WHO HAD TO CROSS STREET; SUMMARY JUDGMENT;

SMITH (REMY), PEOPLE v:  
 CRIMES - JURORS - JURY INSTRUCTION - WHETHER THE TRIAL COURT  
 ERRED IN INFORMING THE JURY "IF YOU FIND [THE VICTIM] WAS  
 TRUTHFUL AND ACCURATE IN HER TESTIMONY TO YOU, HER TESTIMONY  
 WITHOUT ANY OTHER EYEWITNESS TO WHAT HAPPENED INSIDE THE CAR,  
 UNDER THE LAW SATISFIES THE PROOF BEYOND A REASONABLE DOUBT";  
 PRECLUSION OF CERTAIN ARGUMENT BY DEFENDANT'S COUNSEL IN  
 SUMMATION;

SMITH (SEAN), PEOPLE v:  
 CRIMES - SENTENCE - DIRECTION BY SUPREME COURT THAT DEFENDANT  
 REGISTER WITH THE NEW YORK CITY POLICE DEPARTMENT PURSUANT TO GUN  
 OFFENDER REGISTRATION ACT (GORA) (ADMINISTRATIVE CODE OF THE CITY  
 OF NEW YORK § 10-601, ET SEQ.) - WHETHER GORA CHALLENGE CAN BE  
 RAISED ON DIRECT APPEAL - WHETHER GORA IS PREEMPTED BY EXECUTIVE  
 LAW § 259-a(2) GIVING THE NEW YORK STATE DIVISION OF PAROLE  
 RESPONSIBILITY FOR SUPERVISING EX-OFFENDERS;

SOWELL (VICTOR), PEOPLE v:  
 APPEAL - APPEAL AS OF RIGHT IN CRIMINAL MATTER - VACATUR OF  
 JUDGMENT OF CONVICTION;

SPICOLA (MICHAEL), PEOPLE v:  
 CRIMES - WITNESSES - EXPERT WITNESS - CLINICAL SOCIAL WORKER  
 PERMITTED TO TESTIFY CONCERNING CHILD SEXUAL ABUSE ACCOMMODATION  
 SYNDROME AND REASON FOR DELAY IN REPORTING INCIDENT TO  
 AUTHORITIES - TESTIMONY FROM NURSE PRACTITIONER REGARDING



STATEMENTS MADE BY VICTIM DURING EXAMINATION; PRECLUSION OF CHARACTER WITNESSES FOR DEFENDANT; INDICTMENT ISSUED MORE THAN SIX YEARS AFTER ALLEGED OFFENSES; JURY INSTRUCTIONS;

STATE FARM MUTUAL AUTOMOBILE COMPANY v LANGAN &c.:

INSURANCE - AUTOMOBILE INSURANCE - INSURED INTENTIONALLY STRUCK BY CAR - COVERAGE UNDER POLICY'S MANDATORY PERSONAL INJURY PROTECTION ENDORSEMENT AND DEATH, DISMEMBERMENT AND LOSS OF SIGHT PROVISIONS - INTERPRETATION OF TERM "ACCIDENT"; LAW OF THE CASE;

STATE OF NEW YORK, MATTER OF v ANDREW O.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - CROSS-EXAMINATION OF RESPONDENT'S EXPERT REGARDING HIS RELIGIOUS BELIEFS - COMMENTS IN SUMMATION REGARDING EXPERT'S RELIGIOUS BELIEFS - ALLEGED DENIAL OF FAIR TRIAL;

STATE OF NEW YORK, et al. v PHILIP MORRIS INCORPORATED, et al.:

STATE - MASTER SETTLEMENT AGREEMENT BETWEEN VARIOUS STATES AND TOBACCO MANUFACTURERS - ANNUAL PAYMENTS BY TOBACCO MANUFACTURERS TOWARD COSTS OF TREATING SMOKING-RELATED ILLNESSES - "QUALIFYING STATUTES" - PUBLIC HEALTH LAW, ARTICLE 13-G; IMPACT OF NEW YORK'S POLICY REGARDING CIGARETTES SOLD ON TRIBAL LANDS; ACTION BY NEW YORK STATE SEEKING DECLARATION THAT "UNITS SOLD," AS DEFINED IN PUBLIC HEALTH LAW, ARTICLE 13-G, EXCLUDES CIGARETTE SALES ON WHICH EXCISE TAXES HAVE NOT BEEN COLLECTED AS A MATTER OF PUBLIC POLICY; MOTION BY TOBACCO MANUFACTURERS TO COMPEL ARBITRATION; DISMISSAL OF CERTAIN MANUFACTURERS' APPEAL TO APPELLATE DIVISION FOR LACK OF AGGRIEVEMENT ON THE BASIS THAT SUCH MANUFACTURERS ARE NOT PARTIES TO THE MASTER SETTLEMENT AGREEMENT AND THEREFORE NOT PARTIES TO THE ARBITRATION;

STATE OF NEW YORK, MATTER OF v RASHID:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER RESPONDENT WAS A "DETAINED SEX OFFENDER" SUBJECT TO CIVIL MANAGEMENT UNDER MENTAL HYGIENE LAW ARTICLE 10 WHERE, AT THE TIME THE CIVIL MANAGEMENT PROCEEDING WAS INITIATED, HE WAS SERVING A SENTENCE FOR A NONSEXUAL, UNRELATED OFFENSE THAT RAN CONSECUTIVELY TO A PRIOR COMPLETED SENTENCE FOR A SEXUAL OFFENSE - APPLICABILITY OF MERGER RULES OF PENAL LAW § 70.30;

STEPTER (KENNETH), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - WHETHER DEFENDANT'S NORTH CAROLINA CONVICTION SATISFIES THE REQUIREMENTS OF PENAL LAW § 70.06 - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE ARGUMENT FOR APPELLATE REVIEW; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL AT SENTENCING; CLAIM THAT SENTENCE VIOLATED APPRENDI v NEW JERSEY (530 US 466);

STEWART (OWEN), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN GIVING DEFENSE COUNSEL FIVE-MINUTE LIMIT FOR VOIR DIRE

QUESTIONING OF EACH JURY PANEL; WHETHER TRIAL COURT ERRED IN ALLOWING WITNESSES TO IDENTIFY DEFENDANT ON A VIDEOTAPE; ADMISSIBILITY OF EVIDENCE OF DEFENDANT'S PRIOR CRIMINAL CONVICTION; ROBBERY;

STEWART (ANDRE), PEOPLE v:

POST-RELEASE SUPERVISION (PRS) - WHETHER DEFENDANT'S FAILURE TO RAISE HIS PLEA VACATUR ISSUE ON DIRECT APPEAL WAS "NOT UNJUSTIFIABLE" - DEFENDANT ADVISED BY TRIAL COURT THAT HE WOULD RECEIVE "MAXIMUM POST-RELEASE SUPERVISION" BUT WAS NOT ADVISED AS TO THE SPECIFIC DURATION - AVAILABILITY OF CPL 440 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU, 4 NY3d 242);

STRANGIO v SEVENSON ENVIRONMENTAL SERVICES, INC. et al. (AND A THIRD-PARTY ACTION):

TORTS - LABOR LAW § 240(1) - WHETHER PLAINTIFF'S INJURIES WERE DIRECTLY CAUSED BY APPLICATION OF THE FORCE OF GRAVITY TO AN OBJECT AS A MATTER OF LAW WHEN PLAINTIFF WAS STRUCK IN THE FACE BY THE HANDLE OF A HAND-OPERATED HOISTING MECHANISM WHILE RAISING A SCAFFOLD THAT DESCENDED UNEXPECTEDLY; SUMMARY JUDGMENT;

ST. LOUIS v TOWN OF NORTH ELBA, et al.:

LABOR - SAFE PLACE TO WORK - CAUSE OF ACTION PURSUANT TO LABOR LAW § 241(6) - WHETHER 12 NYCRR 23-9.4, WHICH REFERS TO POWER SHOVELS AND BACKHOES, APPLIES TO A FRONT-END LOADER - HEAVY EQUIPMENT USED FOR MATERIAL HOISTING RATHER THAN MATERIAL HANDLING;

SWEEPER (BRUCE), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - BATSON CHALLENGE TO PEOPLE'S USE OF PEREMPTORY CHALLENGES TO REMOVE THE ONLY TWO AFRICAN-AMERICAN WOMEN PROSPECTIVE JURORS; ALLEGED VIOLATION OF CPL 710.30; CLAIM THAT COURT'S SENTENCING OF DEFENDANT AS A PERSISTENT VIOLENT FELONY OFFENDER VIOLATED DEFENDANT'S RIGHTS TO A JURY TRIAL;

TAYLOR (GREGORY), PEOPLE v:

CRIMES - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE;

THOMAS (DANIEL), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - BOLSTERING OF SINGLE EYEWITNESS BY PERMITTING TESTIMONY CONCERNING THE WITNESS'S OUT-OF-COURT IDENTIFICATION OF A CO-DEFENDANT; HARMLESS ERROR;

VALDEZ &c., et al. v CITY OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - SPECIAL RELATIONSHIP - POLICE - WHETHER WOMAN WITH ORDER OF PROTECTION, WHO ADVISED POLICE ABOUT VIOLATION OF ORDER AND WAS TOLD TO GO HOME INSTEAD OF TO HER MOTHER'S HOUSE, BECAUSE OFFENDER WOULD BE ARRESTED IMMEDIATELY, HAS A SPECIAL RELATIONSHIP WITH THE CITY SUFFICIENT TO SUPPORT AWARD FOR DAMAGES AFTER OFFENDER SHOT HER;

VENTURA (CARLOS), PEOPLE v:

CRIMES - APPEAL - ABSENCE OF DEFENDANT - INVOLUNTARY DEPORTATION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING DEFENDANT'S APPEAL ON THE GROUND THAT HE HAD BEEN DEPORTED AND WAS NO LONGER AVAILABLE TO OBEY THE MANDATE OF THE COURT WHERE DEFENDANT SERVED HIS SENTENCE, HAD BEEN PAROLED TO THE CUSTODY OF IMMIGRATION AND CUSTOMS ENFORCEMENT AND ARGUED ON APPEAL SOLELY THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT HIS CONVICTION;

WALSH, MATTER OF v KATZ, et al.:

ELECTIONS - DESIGNATING PETITIONS - RESIDENCY REQUIREMENT - PROCEEDING PURSUANT TO ELECTION LAW § 16-102 TO INVALIDATE A PETITION DESIGNATING DANIEL C. ROSS AS A CANDIDATE IN A PRIMARY ELECTION HELD 9/15/09 FOR THE NOMINATION OF THE DEMOCRATIC PARTY AS ITS CANDIDATE FOR TOWN JUSTICE, FISHERS ISLAND, TOWN OF SOUTHDOLD - LAWS OF 1977, CHAPTER 276 § 2, PROVIDING FOR A FIFTH TOWN JUSTICE OF THE TOWN OF SOUTHDOLD, WHO ALSO WAS TO SERVE AS A MEMBER OF THE TOWN BOARD OF THE TOWN OF SOUTHDOLD AND WAS REQUIRED TO RESIDE ON FISHERS ISLAND - EFFECTIVE DATE OF RESIDENCY REQUIREMENT - CHALLENGE TO CONSTITUTIONALITY OF THE RESIDENCY REQUIREMENT;

WARNEY v STATE OF NEW YORK:

STATE - UNJUST CONVICTION AND IMPRISONMENT ACT - COURT OF CLAIMS ACT § 8-b - WHETHER THE COURT OF CLAIMS ERRED IN DISMISSING CLAIM TO RECOVER FOR UNJUST CONVICTION AND IMPRISONMENT OF A PERSON EXONERATED BY DNA EVIDENCE AFTER SERVING NINE YEARS IN PRISON FOR A MURDER CONVICTION - WHETHER FALSE CONFESSION CONSTITUTED CONDUCT BRINGING ABOUT CONVICTION;

TOWN OF WATERFORD, MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - EXEMPTIONS - WHETHER FOIL'S DEFINITION OF "AGENCY" LIMITS THE APPLICATION OF THE INTER-AGENCY/INTRA-AGENCY EXEMPTION TO COMMUNICATIONS WITHIN AND BETWEEN STATE AND MUNICIPAL GOVERNMENTAL AGENCIES AND PRECLUDES ITS APPLICATION TO COMMUNICATIONS BETWEEN STATE AND FEDERAL GOVERNMENTAL AGENCIES;

WEAVER (TONY), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - DISORDERLY CONDUCT - WHETHER CIRCUMSTANCES OF INCIDENT PRESENTED A PUBLIC ANNOYANCE CONSISTENT WITH PEOPLE v MUNAFO (50 NY2d 326); RESISTING ARREST; JURY INSTRUCTIONS;

WEEMS, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION JUDGMENT DISMISSING AS MOOT THE PORTION OF A CPLR ARTICLE 78 PETITION CHALLENGING A TIER II DETERMINATION, AND CONFIRMING TWO TIER III DETERMINATIONS AND DISMISSING THE PETITION TO THAT EXTENT;

WELLS (PETER), PEOPLE v:

CRIMES - JURORS - DISCHARGE OF JUROR - WHETHER TRIAL COURT ERRED IN DISCHARGING A SWORN JUROR BEFORE COMPLETION OF JURY SELECTION WHERE THE JUROR "EXPRESSED CONCERNS ABOUT HIS ABILITY TO CONCENTRATE ON THE TRIAL DUE TO JOB-RELATED COMMITMENTS" - CPL 270.15(3) - CPL 270.35(1); JURY INSTRUCTIONS - WHETHER TRIAL COURT PROPERLY DETERMINED THAT DEFENDANT WAS NOT ENTITLED TO A CHARGE ON THE AFFIRMATIVE DEFENSE TO ROBBERY IN THE FIRST DEGREE AND BURGLARY IN THE FIRST DEGREE;

WILINSKI et al. v 334 EAST 92<sup>ND</sup> HOUSING DEVELOPMENT FUND CORP., et al.:

LABOR - SAFE PLACE TO WORK - LABOR LAW § 240(1) - PLAINTIFF ALLEGEDLY HIT IN THE HEAD BY TWO VERTICAL PIPES THAT FELL OVER WHEN HIT BY DEBRIS FROM A WALL UNDERGOING DEMOLITION - CHALLENGE TO APPELLATE DIVISION HOLDING THAT, "SINCE BOTH PIPES AND PLAINTIFF 'WERE AT THE SAME LEVEL AT THE TIME OF THE COLLAPSE [OF THE PIPES,] THE INCIDENT WAS NOT SUFFICIENTLY ATTRIBUTABLE TO ELEVATION DIFFERENTIALS TO WARRANT IMPOSITION OF LIABILITY PURSUANT TO LABOR LAW § 240(1)'" - APPLICABILITY AND CONTINUING VIABILITY OF MISSEMITTI v MARK IV CONSTR. CO. (86 NY2d 487 [1995]) - RUNNER v NEW YORK STOCK EXCHANGE (13 NY3d 599 [2009]); LABOR LAW § 241(6) - APPLICABILITY OF INDUSTRIAL CODE PROVISIONS, 12 NYCRR 23-3.3(b)(3) AND (c), WHETHER SECTION 23-3.3(b)(3) REQUIRES PLAINTIFF TO SHOW THAT WIND PRESSURE OR VIBRATION CAUSED THE PIPES TO FALL - WHETHER PLAINTIFF'S INJURIES WERE CAUSED BY "WEAKENED OR DETERIORATED FLOORS OR WALLS OR FROM LOOSENED MATERIAL" WITHIN THE MEANING OF SECTION 23-3.3(c) - WHETHER CERTAIN DEFENDANTS ESTABLISHED THEIR ENTITLEMENT TO SUMMARY JUDGMENT UPON THE GROUND THAT THEY WERE NOT OWNERS OR CONTRACTORS WITHIN THE MEANING OF THE LABOR LAW;

WILLIAMS, MATTER OF v CONNELL et al.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE COMMISSIONER'S DETERMINATION THAT PETITIONER HAD VIOLATED VARIOUS INMATE RULES; CLAIMED DUE PROCESS VIOLATIONS;

WILLIAMS (JAIR), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN FAILING TO AFFORD THE DEFENSE NOTICE AND AN OPPORTUNITY TO BE HEARD BEFORE IT REJECTED AS REPUGNANT THE INITIALLY ANNOUNCED JURY VERDICT, AND IN THEREAFTER GIVING EXTENSIVE SUPPLEMENTAL JURY INSTRUCTIONS AND RESUBMITTING THE CASE FOR FURTHER DELIBERATIONS - VERDICT SHEET COMPLETED BY JURY IN THE COURTROOM WITH OPEN COURT DISCUSSIONS AMONG THE JURORS; DUE PROCESS; EFFECTIVE ASSISTANCE OF COUNSEL;

WINGATE (BLAKE), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - SUFFICIENCY OF "SEARCHING INQUIRY" - WHETHER JUDGMENT OF CONVICTION MUST BE REVERSED WHERE NISI PRIUS COURT ALLOWED DEFENDANT TO REPRESENT

HIMSELF AT SUPPRESSION HEARING WITHOUT GIVING HIM ADEQUATE WARNINGS ABOUT THE DANGERS AND DISADVANTAGES OF PROCEEDING WITHOUT COUNSEL BUT GAVE DEFENDANT ADEQUATE WARNINGS BEFORE ALLOWING HIM TO REPRESENT HIMSELF AT TRIAL; ALLEGED ERROR IN LIMITING ACCESS TO STANDBY COUNSEL BY PREVENTING DEFENDANT FROM COMMUNICATING WITH COUNSEL DURING CROSS-EXAMINATION OF PROSECUTION WITNESS AND WITH AN INVESTIGATOR BEFORE DECIDING WHETHER TO PUT ON A DEFENSE CASE;

WOODS, MATTER OF v NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING TO REVIEW A DETERMINATION OF RESPONDENT NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES NOT TO PLACE PETITIONER ON A "SPECIAL ELIGIBLE LIST" PURSUANT TO MILITARY LAW §§ 243(7) AND 243(7-b) - PETITIONER SEEKING APPOINTMENT AS FIREFIGHTER; CIVIL SERVICE;

WORLD TRADE CENTER BOMBING LITIGATION, MATTER OF (STEERING COMMITTEE v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY):

NEGLIGENCE - WHETHER PORT AUTHORITY IS ENTITLED TO GOVERNMENTAL IMMUNITY FROM NEGLIGENCE CLAIMS ARISING OUT OF THE TERRORIST TRUCK BOMBING OF THE WORLD TRADE CENTER; MAINTENANCE OF PREMISES - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE JURY COULD HAVE FAIRLY CONCLUDED THAT THE PORT AUTHORITY WAS NEGLIGENT IN FAILING TO MAINTAIN ITS PARKING GARAGE IN A REASONABLY SAFE CONDITION AND THAT THIS NEGLIGENCE WAS A SUBSTANTIAL CAUSE OF THE BOMBING; APPORTIONMENT OF LIABILITY AMONG JOINT TORTFEASORS - JURY DETERMINATION THAT PORT AUTHORITY WAS 68% LIABLE AND TERRORISTS WERE 32% LIABLE FOR PERSONAL AND ECONOMIC INJURIES RESULTING FROM THE BOMBING;

WRIGHT (JASON L.), PEOPLE v:

CRIMES - CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - ALLEGED INEFFECTIVENESS OF TRIAL COUNSEL - THEORY UPON WHICH JURY FOUND DEFENDANT GUILTY - SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF ROBBERY IN THE FIRST DEGREE;

WYCKOFF HEIGHTS MEDICAL CENTER &c. [NEW YORK and PRESBYTERIAN HOSPITAL, &c.] v COUNTRY-WIDE INSURANCE COMPANY:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - WHETHER A NO-FAULT CARRIER MAY DENY A HEALTH CARE PROVIDER'S CLAIM FOR HEALTH SERVICE EXPENSES BASED UPON THE FACT THAT A NOTICE OF ACCIDENT WAS NOT TIMELY FILED, WHERE THE HEALTH CARE PROVIDER TIMELY SUBMITTED A WRITTEN PROOF OF CLAIM FOR HEALTH SERVICE EXPENSES;