

July 10, 2009

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.

ANONYMOUS, MATTER OF, AN APPLICANT FOR ADMISSION TO THE BAR:  
ATTORNEY AND CLIENT - ADMISSION TO PRACTICE - CHALLENGE TO APPELLATE DIVISION ORDER DENYING APPLICATION FOR ADMISSION TO THE BAR;

ABNEY (QUENTIN), PEOPLE v: (Cal. Date - 9/16/09)  
CRIMES AND CRIMINAL PROCEDURE - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - PEOPLE v LEGRAND (8 NY3d 449); ALLEGED ERROR IN ADMITTING INTO EVIDENCE CERTAIN SCHOOL LOGBOOKS;

ADAMS v GENIE INDUSTRIES, INC.:  
PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - CONTINUING DUTY OF PRODUCT MANUFACTURER TO REMEDY OR PROVIDE WARNING OF DANGEROUS DEFECTS BROUGHT TO ITS ATTENTION AFTER THE SALE OF SUCH PRODUCT - SAFER ALTERNATIVE DESIGN;

AFFRI v BASCH: (Cal. Date - 10/20/09)  
LABOR - SAFE PLACE TO WORK - HOMEOWNER'S EXEMPTION - WHETHER DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT BASED ON APPLICATION OF THE HOMEOWNER EXEMPTION IN LABOR LAW § 240(1) - EXISTENCE OF FACT ISSUES AS TO WHETHER DEFENDANTS EXERCISED SUPERVISORY CONTROL OVER WORK;

ALEMAN (JUAN CARLOS), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - INSTRUCTIONS - WHETHER TRIAL COURT'S SUPPLEMENTAL INSTRUCTION TO JURORS DEPRIVED DEFENDANT OF A FAIR TRIAL;

ALEMANY (MIGUEL), PEOPLE &c.: (Cal. Date - 10/13/09)  
CRIMES AND CRIMINAL PROCEDURE - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - CONSIDERATION OF THE UNCERTAINTY OF DEFENDANT'S LIVING SITUATION;

ALLEN (GREGORY), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - PEOPLE v LEGRAND (8 NY3d 449); CLAIMED UNDULY SUGGESTIVE LINEUP; CLAIMED ERROR IN JURY INSTRUCTIONS; BATSON CHALLENGE TO JURY CHALLENGES BY PROSECUTION;

AMERICAN STANDARD, INC. v OAKFABCO, INC., &c.:

PRODUCTS LIABILITY - LIABILITY OF MANUFACTURER'S SUCCESSOR CORPORATION - WHETHER AN ASSUMPTION OF LIABILITY CLAUSE APPLIED ONLY TO TORT CLAIMS ACTUALLY ASSERTED BEFORE THE DATE OF THE AGREEMENT OR EXTENDED TO ALL TORT CLAIMS BY PLAINTIFFS INJURED BY BOILERS SOLD OR INSTALLED BEFORE 1970 - ALLEGED CONFLICT BETWEEN APPELLATE DIVISION DECISION AND HOWARD ASSOCS. v GENERAL HOUSEWARES CORP. (63 NY2d 291) - DEFENDANT PERMANENTLY ENJOINED FROM RELITIGATING ITS ASSUMPTION OF LIABILITY IN ANY FORUM; DENIAL OF CROSS MOTION FOR A DECLARATORY JUDGMENT UPON THE GROUNDS THAT DEFENDANT DID NOT PLEAD ANY COUNTERCLAIMS FOR DECLARATORY RELIEF AND THAT, IN ANY EVENT, THE CROSS MOTION DID NOT PRESENT A JUSTICIABLE CONTROVERSY;

ANONYMOUS, AN APPLICANT FOR ADMISSION TO THE BAR, MATTER OF: ATTORNEY AND CLIENT - ADMISSION TO PRACTICE;ARAFET (NASIN), PEOPLE v: (Cal. Date - 9/17/09)

CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - PROOF OF OTHER HIJACKINGS OF TRACTOR TRAILERS AND THEFTS OF THEIR CARGO - WHETHER PROOF OF SIMILAR MODUS OPERANDI IN TWO OTHER HIJACKINGS WAS ADMISSIBLE IN THIS CASE; CELL PHONE RECORDS;

ARTS4ALL v HANCOCK:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - STRIKING OF PLEADINGS FOR NONCOMPLIANCE WITH DISCLOSURE ORDERS (CPLR 3126[3]) - REQUEST FOR SIGNED TRANSCRIPTS REFLECTING SUPREME COURT'S ORAL ORDERS;

ASHLAND MANAGEMENT, INC. v ALTAIR INVESTMENTS NA, LLC et al.:

MASTER AND SERVANT - ENFORCEABILITY OF CONFIDENTIALITY AGREEMENT IN EMPLOYMENT CONTRACT - BREACH OF FIDUCIARY DUTY;

ASSI (MAZIN), PEOPLE v:

CRIMES - HATE CRIMES - WHETHER HATE CRIMES ACT OF 2000 APPLIES TO CRIMES DIRECTED AT BUILDINGS - MOLOTOV COCKTAIL THROWN AGAINST DOOR OF SYNAGOGUE - WHETHER CRIME TOOK PLACE BEFORE OR AFTER EFFECTIVE DATE OF THE STATUTE; JURORS - PEOPLE'S ALLEGED INTENTIONAL EXCLUSION OF YOUNG ADULTS FROM THE JURY;

AWARDS.COM et al v KINKO'S, INC., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - MATERIALITY OF DEFAULT - FAILURE TO MAKE ONE PAYMENT OF MONTHLY FEE - LOST PROFITS - PARTIES' CONTEMPLATION OF LOST PROFITS AS A POTENTIAL BASIS FOR DAMAGES IN THE EVENT OF BREACH - SPECULATIVE NATURE OF SUCH DAMAGES;

AYERS v O'BRIEN et al.:

NEGLIGENCE - EXEMPTION FROM LIABILITY FOR PERSON ENGAGED IN EMERGENCY OPERATION OF AN AUTHORIZED VEHICLE - VEHICLE AND TRAFFIC LAW §§ 101, 114-b AND 1104 - MOTION BY PLAINTIFF DEPUTY

SHERIFF TO DISMISS AFFIRMATIVE DEFENSE ASSERTED BY DEFENDANTS ALLEGING THAT PLAINTIFF'S OWN CULPABLE CONDUCT CAUSED OR CONTRIBUTED TO HIS DAMAGES;

BACKUS (DEREK), PEOPLE v.:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CONCURRENT AND CONSECUTIVE ONE-YEAR TERMS - APPROPRIATE CORRECTIVE ACTION WHERE APPELLATE COURT VACATES AN ILLEGAL SENTENCE ENTERED ON A CONVICTION FOLLOWING A GUILTY PLEA WHERE DEFENDANT HAS SERVED ONE YEAR OF HIS SENTENCE - REMITTAL FOR FURTHER PROCEEDINGS INCLUDING RESENTENCING OR MOTION BY PEOPLE TO VACATE THE PLEA AND SET ASIDE THE CONVICTION AS OPPOSED TO MODIFICATION BY APPELLATE COURT TO DIRECT THAT ILLEGAL CONSECUTIVE SENTENCES RUN CONCURRENTLY;

BAKER, JR. (AVERY V.), PEOPLE v.:

CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - PEOPLE'S DISPLAY DURING SUMMATION OF COMPUTER SLIDES WITH VERBATIM STATUTORY DEFINITIONS OF RECKLESSNESS AND DEPRAVED INDIFFERENCE; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO OBJECT TO SUBMISSION OF THREE HOMICIDE COUNTS TO JURY THAT ALLEGEDLY RESULTED IN AN INCONSISTENT VERDICT; RIGHT TO PUBLIC TRIAL - EXCLUSION FROM COURTROOM OF THE MOTHER OF DEFENDANT'S CHILDREN WHERE DEFENDANT LISTED HER AS A POTENTIAL WITNESS BUT ULTIMATELY DECIDED NOT TO CALL HER AS A WITNESS;

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;

BIKMAN, MATTER OF v NEW YORK CITY LOFT BOARD:

LANDLORD AND TENANT - LOFT LAW - WHETHER THE RIGHT TO SELL IMPROVEMENTS UNDER MULTIPLE DWELLING LAW § 286(6) EXTENDS TO THE ESTATE OF A DECEASED TENANT;

BROWN (HOMER), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - DENIAL OF MOTION TO WITHDRAW PLEA IN ABSENCE OF INQUIRY INTO WHETHER DEFENDANT'S DECISION TO ENTER PLEA WAS INFLUENCED BY THE OPPORTUNITY TO GET OUT OF JAIL TO SEE HIS HOSPITALIZED CHILD;

BROWN (MICHAEL), PEOPLE v: (Cal. Date - 10/14/09)

CRIMES AND CRIMINAL PROCEDURE - TIMELINESS OF PROSECUTION - DNA EVIDENCE FROM 1993 CRIME PROCESSED IN 2002 AS PART OF A DNA BACKLOG PROJECT, WHICH WAS MATCHED TO A DNA SAMPLE TAKEN OF DEFENDANT IN 2002, RESULTING IN DEFENDANT'S INDICTMENT IN 2003 - APPLICATION OF FIVE-YEAR EXTENSION OF STATUTE OF LIMITATIONS WHERE DEFENDANT'S WHEREABOUTS "WERE CONTINUOUSLY UNKNOWN AND CONTINUOUSLY UNASCERTAINABLE BY THE EXERCISE OF REASONABLE DILIGENCE" (CPL 30.10[4][a][ii]); RIGHT OF CONFRONTATION - DNA EVIDENCE PREPARED BY PRIVATE LAB - TRIAL TESTIMONY FROM A CRIMINOLOGIST EMPLOYED BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER, WHO WAS FAMILIAR WITH THE PRIVATE LAB'S PRACTICES, PROTOCOLS AND ACCREDITATION - WHETHER THE CONFRONTATION CLAUSE OF THE SIXTH AMENDMENT TO THE U.S. CONSTITUTION REQUIRES THE TESTIMONY OF A PERSON EMPLOYED BY THE PRIVATE LAB THAT PREPARED A DNA PROFILE LINKING DEFENDANT TO A CRIME;

BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION v MASIELLO, et al.:  
(Cal. Date - 9/10/09)

ARBITRATION - CONFIRMING OR VACATING AWARD - COMPULSORY PUBLIC INTEREST ARBITRATION - WHETHER THE APPELLATE DIVISION PROPERLY MODIFIED AN ARBITRATION AWARD - SCOPE OF REVIEW - DEFERENCE TO ARBITRATION PANEL'S DETERMINATION OF THE SCOPE OF THE ISSUES BEFORE IT;

CARNCROSS (JAMES J.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CRIMINALLY NEGLIGENT HOMICIDE - SUFFICIENCY OF EVIDENCE; RIGHT TO COUNSEL - WHETHER TRIAL COURT ERRED IN GRANTING THE PEOPLE'S MOTION TO DISQUALIFY DEFENSE COUNSEL; CLAIMED VIOLATION OF DUE PROCESS RIGHTS;

CARR (ERIC D.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A MISSING WITNESS CHARGE; SUFFICIENCY OF THE EVIDENCE TO ESTABLISH THE ELEMENT OF INTENT WITH RESPECT TO THE ATTEMPTED MURDER CHARGE;

CHASM HYDRO, INC., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

ENVIRONMENTAL CONSERVATION - WATER SUPPLY - WATER POLLUTION CONTROL - WHETHER RESPONDENT AGENCY WAS ACTING WITHOUT JURISDICTION IN COMMENCING AN ADMINISTRATIVE ENFORCEMENT PROCEEDING AGAINST OPERATORS OF AN HYDROELECTRIC DAM LOCATED ON A NAVIGABLE, CLASS C RIVER FOR ALLEGED VIOLATIONS OF STATE WATER QUALITY STANDARDS;

THE CITY OF NEW YORK, et al., MATTER OF v THE PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, et al.:  
LABOR UNIONS - COLLECTIVE BARGAINING - NEW YORK CITY POLICE DEPARTMENT'S CHANGE OF METHOD OF RANDOM DRUG SCREENING FOR EMPLOYEES FROM URINE TESTING TO HAIR TESTING - WHETHER CHOICE OF METHOD OF RANDOM DRUG TESTING FOR POLICE OFFICERS IS EXCLUDED FROM COLLECTIVE BARGAINING;

COLON (DANNY), PEOPLE v: (Cal. Date - 10/20/09)  
CRIMES AND CRIMINAL PROCEDURE - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - ALLEGED BRADY VIOLATIONS - PROSECUTOR'S FAILURE TO DISCLOSE (1) THAT A KEY WITNESS HAD BEEN GIVEN BENEFITS NOT EXPLICITLY BARGAINED FOR IN AN AGREEMENT IN EXCHANGE FOR HIS TESTIMONY AND (2) NOTES FROM INTERVIEWS OF TWO WITNESSES WHO IMPLICATED PEOPLE OTHER THAN DEFENDANT AS BEING THE PERPETRATORS OF THE CRIME - HARMLESS ERROR - PEOPLE'S DUTY TO DISCLOSE BRADY AND ROSARIO MATERIAL IN DEPARTMENT OF PROBATION'S POSSESSION; ALLEGED PROSECUTORIAL MISCONDUCT;

COMMISSIONER OF SOCIAL SERVICES OF THE CITY OF NEW YORK AS ASSIGNEE OF LORRAINE C. v IRVING H.:  
CHILDREN BORN OUT OF WEDLOCK - PATERNITY PROCEEDING - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING FAMILY COURT ORDER THAT AFFIRMED A SUPPORT MAGISTRATE'S ORDER OF FILIATION AND SUPPORT;

D'ALESSANDRO (GUISEPPE), PEOPLE v: (Cal. Date - 9/17/09)  
CRIMES AND CRIMINAL PROCEDURE - TREATMENT OF SUCCESSIVE APPLICATIONS FOR WRIT OF ERROR CORAM NOBIS - RIGHT TO COUNSEL - EFFECTIVE APPELLATE REPRESENTATION;

DALY (JOHN), PEOPLE v:  
CRIMES - TRIAL - ALLEGED PREJUDICIAL "SPILLOVER EFFECT" OF ROSARIO AND BRADY VIOLATIONS FOR WHICH CONVICTIONS ON COUNTS ARISING OUT OF AN INCIDENT AT ONE SITE WERE VACATED WITH RESPECT TO JOINTLY-TRIED COUNTS ARISING OUT OF A SEPARATE INCIDENT AT A DIFFERENT SITE AS TO WHICH CONVICTIONS WERE AFFIRMED;

DAVIS (GEORGE), PEOPLE v: (Cal. Date - 10/22/09)  
CRIMES - CONTROLLED SUBSTANCES - WHETHER TRIAL COURT PROPERLY DECLINED TO CHARGE CRIMINAL POSSESSION IN THE SEVENTH DEGREE (SIMPLE POSSESSION OF A CONTROLLED SUBSTANCE) AS A LESSER INCLUDED COUNT WHERE DEFENDANT CHARGED WITH CRIMINAL SALE OF A CONTROLLED SUBSTANCE AND POSSESSION WITH INTENT TO SELL RELIED ON AN "AGENCY" DEFENSE;

DEVONE (DAMIEN), PEOPLE v:  
CRIMES - SUPPRESSION HEARING - WHETHER REASONABLE SUSPICION OF DRUG-RELATED CRIMINAL CONDUCT IS A PREREQUISITE TO A CANINE SNIFF OF THE EXTERIOR OF A CAR STOPPED FOR A TRAFFIC VIOLATION; SEARCH;

DINARDO v CITY OF NEW YORK et al.: (Cal. Date - 10/15/09)  
SCHOOLS - NEGLIGENCE - SPECIAL DUTY - LIABILITY OF BOARD OF  
EDUCATION - TEACHER INJURED WHILE BREAKING UP A FIGHT BETWEEN  
TWO STUDENTS IN HER CLASS;

MATTER OF ADOPTION OF DOE [L.M.B. v E.R.J.]:  
INTERNATIONAL LAW - ACT OF STATE DOCTRINE - APPLICATION TO  
TRANSNATIONAL ADOPTIONS; CHOICE OF LAW - APPLICATION OF CAMBODIAN  
LAW OR NEW YORK LAW TO DETERMINE VALIDITY OF RELINQUISHMENT OF  
ADOPTIVE RIGHTS TO AN ORPHANED CAMBODIAN CITIZEN; TERMINATION OF  
ADOPTIVE PARENT'S RIGHTS WITHOUT CONSIDERATION OF THE BEST  
INTERESTS OF THE CHILD;

DOKU (CHRISTOPHER A.), PEOPLE v:  
APPEAL - APPEAL AS OF RIGHT IN CRIMINAL MATTER - VACATUR OF  
JUDGMENT OF CONVICTION;

DRAKE, MATTER OF v KLOCH &c., et al.:  
PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DISMISSAL OF  
CPLR ARTICLE 78 PROCEEDING SEEKING AN ORDER PROHIBITING  
PROSECUTION OF A CRIMINAL ACTION AGAINST PETITIONER - ALLEGED  
DOUBLE JEOPARDY AND PROSECUTORIAL MISCONDUCT;

DRAYTON (GREGORY M.), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - SEARCH AND SEIZURE - WHETHER  
SEIZURE OF BLOOD TAKEN FROM DEFENDANT BY A MEDICAL PROFESSIONAL  
AT A HOSPITAL VIOLATES THE PHYSICIAN - PATIENT PRIVILEGE (CPLR  
4505[a]) - SUPPRESSION OR EXCLUSION OF EVIDENCE;

ECHEVARRIA, MATTER OF v MARKS &c.:  
PROCEEDINGS AGAINST BODY OR OFFICER - PROHIBITION - POST-RELEASE  
SUPERVISION (PRS) - WHETHER PROHIBITION LIES TO PREVENT  
RESPONDENT COUNTY COURT JUDGE FROM CORRECTING A PRIOR FAILURE TO  
IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS  
ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY SERVED - ALLEGED  
DOUBLE JEOPARDY AND DUE PROCESS VIOLATIONS IF DEFENDANT IS  
RESENTENCED TO PRS;

ETTARI, MATTER OF v FISCHER &c., et al.:  
CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS -  
CALCULATION OF SENTENCE - APPLICATION OF PEOPLE EX REL. GILL v  
GREEN (12 NY3d 1[2009]);

EDWARDS (MICHAEL), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - MOTION TO SUPPRESS STATEMENTS TO  
INVESTIGATORS FROM ATTORNEY GENERAL'S OFFICE AS BEING MADE IN  
VIOLATION OF DEFENDANT'S RIGHT TO COUNSEL - WHETHER DEFENDANT  
MADE AN UNEQUIVOCAL REQUEST FOR COUNSEL;

EXECUTIVE RISK INDEMNITY, INC. v PEPPER HAMILTON LLP, et al.:  
(Cal. Date - 9/9/09)

INSURANCE - EXCESS COVERAGE - PROFESSIONAL LIABILITY POLICIES - WHETHER THREE EXCESS INSURANCE CARRIERS HAVE AN OBLIGATION TO DEFEND AND INDEMNIFY A LAW FIRM AND ONE OF ITS MEMBERS - COVERAGE EXCLUSIONS FOR "PRIOR KNOWLEDGE" OF MISCONDUCT ON THE PART OF THE LAW FIRM'S CLIENT - RECISSION OF POLICIES - APPLICATION OF CONTINUOUS COVERAGE PROVISION; SUMMARY JUDGMENT;

FIAMMEGTA (VINCENT), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - WHAT PROCESS IS DUE WHEN DEFENDANT TAKES A DEFERRED SENTENCING PLEA AND DISPUTES THE CLAIM THAT HE VIOLATED A CONDITION OF THAT PLEA - CLAIM BY DRUG TREATMENT PROGRAM THAT DEFENDANT BREACHED THE PROGRAM'S RULES;

FIGUEROA (MICHAEL), PEOPLE:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO BE PRESENT AT MATERIAL STAGE OF PROCEEDINGS - JUDGE'S COMMUNICATION WITH JURY FOREPERSON WHO SENT NOTE TO JUDGE INDICATING THAT HE DID NOT FEEL COMFORTABLE ABOUT READING THE VERDICT - CPL 310.30;

FULTON, PEOPLE ex rel. v LAPE:

HABEAS CORPUS - AVAILABILITY OF RELIEF;

GALLAGHER et al. v THE NEW YORK POST et al.:

LABOR - SAFE PLACE TO WORK - EXISTENCE OF ISSUES OF FACT ON THE ISSUE OF LIABILITY ON A LABOR LAW § 240(1) CAUSE OF ACTION;

GEBBIE, MATTER OF v MAMMINA, et al.:

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - CONSIDERATION OF ABSENCE OF COMMUNITY OPPOSITION TO ISSUANCE OF VARIANCE - WHETHER THE APPELLATE DIVISION IMPROPERLY SUBSTITUTED ITS JUDGMENT FOR THAT OF THE BOARD OF ZONING APPEALS OF THE TOWN OF NORTH HEMPSTEAD (ZBA) AND ERRONEOUSLY DETERMINED THAT THE ZBA'S DETERMINATION LACKED A RATIONAL BASIS AND WAS ARBITRARY AND CAPRICIOUS;

GILLEN, MATTER OF v CONKLING: (Cal. Date - 10/14/09)

TAXATION - REAL PROPERTY TAX - APPLICATION OF NASSAU COUNTY ADMINISTRATIVE CODE §§ 5-15.0(a)(3), 5-49.0(a) AND 5-45.0 TO TENDER OF A TAX PAYMENT BY TAX SALE CERTIFICATE HOLDER;

GLACIAL AGGREGATES LLC v TOWN OF YORKSHIRE:

MUNICIPAL CORPORATIONS - ZONING - NONCONFORMING USE - WHETHER PLAINTIFF'S MINING OF SAND AND GRAVEL AGGREGATE ON THE PROPERTY IN QUESTION WAS A LAWFUL NONCONFORMING USE AND WHETHER PLAINTIFF HAD ACQUIRED A VESTED RIGHT TO MINE THE PROPERTY - PLAINTIFF'S ENTITLEMENT TO DAMAGES PURSUANT TO 42 USC § 1983 FOR DEPRIVATION OF A CONSTITUTIONALLY VESTED RIGHT TO MINE THE PROPERTY; DIRECTED VERDICT;

GLASSMAN v PROHEALTH AMBULATORY SURGERY CENTER, INC., et al.:  
 CONTRACTS - EMPLOYMENT CONTRACTS - WHETHER AN AMBULATORY SURGERY CENTER LICENSED UNDER ARTICLE 28 OF THE PUBLIC HEALTH LAW MAY SHARE IN FEES THAT ITS FULL-TIME PHYSICIAN-EMPLOYEE EARNED FROM PROVIDING SERVICES OUTSIDE THE AMBULATORY SURGERY CENTER WHERE THE PROVISION IN THE EMPLOYMENT AGREEMENT PROVIDING FOR THE SHARE OF SUCH FEES WAS ALLEGEDLY ILLEGAL AND UNENFORCEABLE BECAUSE IT VIOLATED THE CENTER'S CERTIFICATE OF OPERATION;

GLATZER v BEAR, STERNS & CO., et al.; Glatzer v Cardozo, et al.:  
 APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING DEFENDANTS' MOTIONS AND CROSS MOTIONS TO DISMISS PLAINTIFF'S APPEALS FROM SUPREME COURT ORDERS AND DENYING PLAINTIFF'S MOTION FOR A STAY;

GILLYARD (COLLIER), PEOPLE v: (Cal. Date - 10/21/09)  
 CRIMES AND CRIMINAL PROCEDURE - EVIDENCE - ADMISSION INTO EVIDENCE OF A "UNIVERSAL" HANDCUFF KEY RECOVERED FROM DEFENDANT DURING HIS PRETRIAL INCARCERATION APPROXIMATELY ONE MONTH AFTER THE LAST CHARGED CRIME - ALLEGED VIOLATION OF PEOPLE v MOLINEAUX (168 NY 264); CHALLENGE TO PROSECUTOR'S SUMMATION - TRIAL COURT'S DENIAL OF DEFENDANT'S SEVERANCE MOTION;

GODFREY v SPANO: (Cal. Date - 10/13/09)  
 MARRIAGE - SAME-SEX MARRIAGE - MUNICIPAL CORPORATIONS - TAXPAYER ACTION - WHETHER WESTCHESTER COUNTY EXECUTIVE ORDER REQUIRING COUNTY AGENCIES TO RECOGNIZE OUT-OF-STATE SAME SEX-MARRIAGES IS ILLEGAL, UNCONSTITUTIONAL AND RESULTS IN THE UNLAWFUL DISBURSEMENT OF PUBLIC FUNDS;

GOLDSTEIN, et al., MATTER OF v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c.:  
 EMINENT DOMAIN - PUBLIC USE - ATLANTIC YARDS REDEVELOPMENT PROJECT - EDPL 207 - VARIOUS CONSTITUTIONAL CHALLENGES TO CONDEMNATION DETERMINATION - ARTICLE I, § 7 AND ARTICLE XVIII, § 6 OF THE NEW YORK STATE CONSTITUTION;

GOMEZ, MATTER OF v STOUT, et al.: (Cal. Date - 9/16/09)  
 ADMINISTRATION LAW - ADMINISTRATIVE REVIEW - WHETHER THE COMMISSIONER OF THE WESTCHESTER COUNTY DEPARTMENT OF PARKS, RECREATION AND CONSERVATION COULD PROPERLY APPOINT COUNTY PUBLIC WORKS COMMISSIONER TO REVIEW A HEARING OFFICER'S RECOMMENDATION REGARDING THE EMPLOYMENT OF AN EMPLOYEE OF THE COUNTY DEPARTMENT OF PARKS, RECREATION AND CONSERVATION; EMPLOYEE'S ENTITLEMENT TO REINSTATEMENT, BACK PAY AND BENEFITS;

GORDON, et al. v TOWN OF ESOPUS et al.:  
 TAXATION - ASSESSMENT - RPTL 480-a - VALUATION;

HARDY, JR. (J.W.), PEOPLE v: (Cal. Date - 9/17/09)  
 CRIMES AND CRIMINAL PROCEDURE - ESCAPE IN THE SECOND DEGREE  
 (PENAL LAW § 205.10[2]) - SUFFICIENCY OF THE EVIDENCE THAT  
 DEFENDANT WAS IN "CUSTODY" WHEN HE FLED FROM THE COURTHOUSE;

HARGETT v TOWN OF TICONDEROGA, et al.: (Cal. Date - 10/22/09)  
 EMINENT DOMAIN - LITIGATION EXPENSES - ACTION PURSUANT TO EDPL  
 702(B) SEEKING REIMBURSEMENT FOR LEGAL COSTS AND EXPENSES  
 INCURRED IN PRIOR CONDEMNATION PROCEEDING PURSUANT TO EDPL 207(A)  
 - ATTORNEY'S FEES;

HAUSMAN, MATTER OF (DECEASED): (Cal. Date - 10/20/09)  
 DEEDS - VALIDITY - DEED TRANSFERRING DECEDENT'S REAL PROPERTY TO  
 EXECUTOR'S LIMITED LIABILITY COMPANY (LLC) PRIOR TO ITS FORMATION  
 - WHETHER THE LLC WAS A DE FACTO ENTITY CAPABLE OF TAKING TITLE  
 ON THE DATE DEED WAS EXECUTED - CORPORATE ESTOPPEL DOCTRINE;

HENDERSON (BRIAN), PEOPLE v: (Cal. Date - 10/21/09)  
 CRIMES - WITNESSES - CLAIM THAT WITNESS TESTIMONY PROCURED BY  
 INTIMIDATION; DISCLOSURE - FAILURE TO PRODUCE ROSARIO MATERIAL -  
 PROSECUTION'S BELATED DISCLOSURE OF CORRECTION OFFICER'S REPORT;  
 SUFFICIENCY OF EVIDENCE; CLAIMED DENIAL OF RIGHT TO FAIR TRIAL;

HERNANDEZ (EFRAIN), 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 CONDITIONAL RELEASE FROM PRISON;

HESLIN &c. v COUNTY OF GREENE et al.:  
 MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE -  
 APPLICABILITY OF INFANCY TOLL PROVISION OF CPLR 208 TO SUSPEND  
 RUNNING OF STATUTE OF LIMITATIONS FOR PERSONAL INJURY CLAIM  
 AGAINST MUNICIPALITY WHERE INTESTATE DECEDENT AND DECEDENT'S SOLE  
 DISTRIBUTEES ARE INFANTS;

HIRSCHFELD, &c. v TELLER:  
 HEALTH - NURSING HOMES - MENTAL HYGIENE LEGAL SERVICE'S RIGHT OF  
 ACCESS TO PATIENTS WITH A PRIMARY DIAGNOSIS OF MENTAL ILLNESS WHO  
 RESIDE IN NEUROBIOLOGICAL UNITS OF DEFENDANT NURSING HOMES -  
 MENTAL HYGIENE LAW § 47.01;

HOTEL 71 MEZZ LENDER, LLC v FALOR et al.:  
 ATTACHMENT - WHEN REMEDY AVAILABLE - ATTACHMENT OF FOREIGN  
 INTANGIBLE ASSETS - NONDOMICILIARY DEFENDANTS'  
 OWNERSHIP/MANAGEMENT INTERESTS IN VARIOUS OUT-OF-STATE LIMITED  
 LIABILITY COMPANIES - SERVICE UPON PROPER GARNISHEE WHILE  
 TEMPORARILY LOCATED IN NEW YORK; RECEIVERS - APPOINTMENT OF  
 RECEIVER OF DEFENDANTS' INTERESTS IN FOREIGN ENTITIES WHERE  
 DEFENDANT-DEBTORS HAD SUBMITTED TO PERSONAL JURISDICTION IN NEW  
 YORK;

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

(Cal. Date - 9/15/09)

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

JAGLOM et al. v INSURANCE COMPANY OF GREATER NEW YORK:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - LATE NOTICE OF OCCURRENCE AND CLAIM - WHETHER ISSUES OF FACT EXIST REGARDING THE EXISTENCE AND REASONABLENESS OF INSUREDS' PROFESSED GOOD-FAITH BELIEF THAT THE PARTY THAT HAS SINCE COMMENCED A DEFAMATION ACTION AGAINST THEM WOULD NOT SEEK TO HOLD THEM LIABLE;

JOHNSON (TERRANCE), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - VALIDITY;

JUDGE (ROBERT E.) v NEW YORK COLLEGE OF PROFESSIONAL HEALTH:

CHALLENGE TO VARIOUS ORDERS - APPELLATE DIVISION ORDER DENYING MOTION TO RECALL AND VACATE AN ORDER OF THAT COURT DISMISSING APPEAL FOR FAILURE TO PERFECT - APPELLATE DIVISION ORDER GRANTING POOR PERSON RELIEF AND ENLARGEMENT OF TIME TO PERFECT APPEAL - SUPREME COURT ORDER GRANTING PLAINTIFF'S MOTION FOR REARGUMENT AND, UPON REARGUMENT, ADHERING TO PRIOR DECISION AND ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THE COMPLAINT;

KADARKO (JAMES), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - JURY DELIBERATIONS - NOTICE TO COUNSEL OF SUBSTANTIVE INQUIRY FROM JURY - WHETHER TRIAL COURT'S FAILURE TO READ SECOND JURY NOTE TO COUNSEL VERBATIM BEFORE DELIVERING A SECOND ALLEN CHARGE CONSTITUTED REVERSIBLE ERROR;

KOLUPA (SHANNON M.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CORROBORATION OF TESTIMONY OF UNSWORN VICTIM - SEVEN-YEAR OLD VICTIM OF SEX OFFENSES; WHETHER POLICE OFFICER'S ALLEGED PROMISE TO CHARGE DEFENDANT WITH A MISDEMEANOR, ISSUE HIM AN APPEARANCE TICKET AND RELEASE HIM IF HE GAVE A STATEMENT THAT HE HAD EXPOSED HIMSELF TO THE VICTIM RENDERED DEFENDANT'S STATEMENTS TO THE POLICE INADMISSIBLE;

KONSTANTINIDES (GEORGE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL BASED UPON A CONFLICT OF INTEREST; DEFENDANT'S ENTITLEMENT TO A HEARING PURSUANT TO CPL 400.21(5);

KOZIOL v KOZIOL (APPEAL NO. 1):

HUSBAND AND WIFE - DIVORCE - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING AS MOOT PLAINTIFF HUSBAND'S APPEAL FROM SUPREME COURT PENDENTE LITE ORDER CONCERNING HIS CUSTODY AND SUPPORT OBLIGATIONS;

KOZIOL v KOZIOL (APPEAL NO. 2):

HUSBAND AND WIFE - DIVORCE - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING APPEAL FROM DIVORCE JUDGMENT UPON THE GROUND THAT PLAINTIFF WAS NOT AN AGGRIEVED PARTY WITHIN THE MEANING OF CPLR 5511;

KOZIOL v KOZIOL (APPEAL NO. 3):

HUSBAND AND WIFE - DIVORCE - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER DENYING PLAINTIFF'S REQUEST TO AMEND THE CAPTION AND SETTLING THE RECORD;

KOZIOL v KOZIOL (APPEAL NO. 4):

HUSBAND AND WIFE - DIVORCE - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER DENYING PLAINTIFF'S CROSS MOTION FOR CUSTODY/PARENTING TIME;

LAWRENCE et al. v ALBANY COUNTY DEPARTMENT FOR CHILDREN, YOUTH AND FAMILIES:

DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT; SUMMARY JUDGMENT;

LEE v ASTORIA, et al.: (Cal. Date - 10/20/09)

LABOR - SAFE PLACE TO WORK - FALL ON PERMANENTLY ANCHORED BARGE - PREEMPTION OF LABOR LAW CLAIMS (LABOR LAW §§ 240[1] AND 241[6]) BY FEDERAL MARITIME LAW (LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT, 33 USC § 901) - CAMMON v CITY OF NEW YORK (95 NY2d 583 [2000]) - SUMMARY JUDGMENT ON LIABILITY;

LEWIS, et al. v NEW YORK STATE DEPARTMENT OF CIVIL SERVICE, et al.: (Cal. Date - 10/13/09)

MARRIAGE - SAME-SEX MARRIAGE - MUNICIPAL CORPORATIONS - TAXPAYER ACTION - WHETHER NEW YORK STATE DEPARTMENT OF CIVIL SERVICE'S RECOGNITION OF OUT-OF-STATE SAME-SEX MARRIAGES IS ILLEGAL, UNCONSTITUTIONAL AND RESULTS IN THE UNLAWFUL DISBURSEMENT OF PUBLIC FUNDS;

LEWIS (CRAIG), 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;

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

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;

M ENTERTAINMENT, INC., et al. v LEYDIER, et al.:

APPEAL - DISMISSAL - DISMISSAL OF APPEAL FOR UNTIMELY SERVICE OF NOTICE OF APPEAL - NOTICE OF APPEAL MAILED FROM OUT OF STATE - CPLR 2103(f)(1);

MALDONADO (RICHARD), PEOPLE v:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL ON THE GROUND THAT THE SUPREME COURT ORDER IS NOT APPEALABLE BY RIGHT AND LEAVE TO APPEAL HAD NOT BEEN GRANTED - DEFENDANT ASSERTS UNDERLYING ISSUE CONCERNING POST-RELEASE SUPERVISION AS A SENTENCE COMPONENT AFTER A GUILTY PLEA;

MALISZEWSKI (PETER J.), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE IMPOSED UPON REMITTAL OF MATTER TO COUNTY COURT BY APPELLATE DIVISION - WHETHER THE RESENTENCE TERMS CONSTITUTE AN ILLEGAL SENTENCING ENHANCEMENT;

MARON, et. al., MATTER OF v SILVER, et al.:

CONSTITUTIONAL LAW - LEGISLATIVE INACTION IN FUNDING JUDICIAL SALARY INCREASES - COMPENSATION CLAUSE (NY CONSTITUTION ARTICLE VI § 25[a]) - EQUAL PROTECTION OF THE LAWS - SEPARATION OF POWERS DOCTRINE - AVAILABILITY OF MANDAMUS TO COMPEL - ALLEGED PROCEDURAL ERRORS;

MAYO (RAHEEM), PEOPLE &c.:

CRIMES - INDICTMENT - SUFFICIENCY OF EVIDENCE BEFORE GRAND JURY - CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE THIRD AND FOURTH DEGREES - CONSTRUCTIVE POSSESSION - STATUTORY ROOM PRESUMPTION;

MCBRIDE (NORMAN), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER SUPPRESSION COURT ERRED IN FAILING TO DETERMINE VALIDITY OF WARRANTLESS ENTRY INTO APARTMENT PURSUANT TO PRIMARY MOTIVATION TEST SET FORTH IN PEOPLE v MITCHELL (39 NY2d 173 [1976]) - VALIDITY OF MITCHELL IN LIGHT OF BRIGHAM CITY v STUART (547 US 398 [2006]) - POLICE-CREATED EXIGENCY; CHALLENGE TO IDENTIFICATION TESTIMONY AS PRODUCT OF UNDULY SUGGESTIVE LINEUP;

MCDANIEL (JERMAR), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - ROBBERY - FIRST DEGREE ROBBERY - WHAT CONSTITUTES "DISPLAY" OF FIREARM - EFFECTIVE ASSISTANCE OF COUNSEL;

MCNAIR (RASHAD), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PRESERVATION OF ISSUE FOR APPELLATE REVIEW - SUFFICIENCY OF PLEA ALLOCUTION - EXCEPTION TO PRESERVATION REQUIREMENT - PEOPLE v LOPEZ (71 NY2d 662 [1988]);

MOTHERSELL (ROBERT), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - SEARCH WARRANT - STRIP SEARCH - CHALLENGE TO STRIP SEARCH CONDUCTED PURSUANT TO WARRANT PERMITTING THE SEARCH OF "ANY AND ALL PERSON(S) PRESENT" AT APARTMENT DESIGNATED IN THE WARRANT; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

MURRAY (KEZINE), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - WHETHER DEFENDANT'S GUILTY PLEA WAS KNOWINGLY AND VOLUNTARILY ENTERED IN LIGHT OF JUDGE'S IMPOSITION OF THREE YEARS' POST-RELEASE SUPERVISION (PRS) RATHER THAN THE TWO YEARS' PRS DISCUSSED AT THE TIME OF HIS CONDITIONAL PLEA; PRESERVATION OF CLAIM FOR APPELLATE REVIEW;

MYNIN (LARRY), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - GANG ASSAULT - WHETHER "TWO OR MORE PERSONS" SPECIFIED IN PENAL LAW § 120.06 MUST SHARE DEFENDANT'S INTENT TO CAUSE "SERIOUS PHYSICAL INJURY" IN ORDER TO HAVE "AIDED" DEFENDANT IN COMMITTING A GANG ASSAULT - EFFECT OF ACQUITTAL OF CO-DEFENDANTS - JURY CHARGE - ACCOMPLICE LIABILITY;

NATION, MATTER OF v CITY OF NEW YORK:

STATUTES - RETROACTIVE APPLICATION OF STATUTE - WHETHER FORMER SECTION 26-124(c) OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, WHICH PERMITTED THE COMMISSIONER OF THE DEPARTMENT OF BUILDINGS TO "REFUSE TO ACCEPT ANY APPLICATION OR OTHER DOCUMENT ... THAT BEARS THE SIGNATURE OF ANY PERSON WHO HAS BEEN FOUND ... TO HAVE ... NEGLIGENTLY MADE A FALSE STATEMENT," WAS PENAL AND THEREFORE COULD NOT BE APPLIED RETROACTIVELY AGAINST PETITIONER FOR ACTS COMMITTED PRIOR TO ITS PROMULGATION;

NEW YORK CITY TRANSIT AUTHORITY v TRANSPORT WORKERS UNION OF GREATER NEW YORK, et al.:

ARBITRATION - DETERMINATION THAT AWARD REDUCING DISCIPLINARY PENALTY WAS IN EXCESS OF ARBITRATOR'S POWERS - SCOPE OF JUDICIAL REVIEW;

NEW YORK STATE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, MATTER OF v ORTIZ, et al.:

ARBITRATION - STAY OF ARBITRATION - CPLR ARTICLE 75 PROCEEDING TO PERMANENTLY STAY ARBITRATION OF DISPUTE OVER TERMINATION OF A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR (CASAC) FOR FAILURE TO MAINTAIN HIS CASAC CERTIFICATION - WHETHER THE COLLECTIVE BARGAINING AGREEMENT CONTEMPLATES ARBITRATION OF THE DISPUTE;

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, et al., MATTER OF v LANTERMAN et al.:

ARBITRATION - MATTERS ARBITRABLE - TEACHER CERTIFICATION - PUBLIC POLICY EXCEPTION - TERMINATION OF PUBLIC SCHOOL TEACHER BASED UPON FAILURE TO MAINTAIN PROFESSIONAL CERTIFICATION;

OCHOA (MARK), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - PRIOR CONSISTENT STATEMENT - CLAIMED IMPROPER BOLSTERING OF WITNESS TESTIMONY; RIGHT TO BE PRESENT AT MATERIAL STAGE OF PROCEEDINGS - JUDGE'S COMMUNICATION WITH JUROR;

ORTIZ (ANTHONY), PEOPLE v: (Cal. Date - 10/20/09)

CRIMES AND CRIMINAL PROCEDURE - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - ALLEGED BRADY VIOLATIONS - PROSECUTOR'S FAILURE TO DISCLOSE (1) THAT A KEY WITNESS HAD BEEN GIVEN BENEFITS NOT EXPLICITLY BARGAINED FOR IN AN AGREEMENT IN EXCHANGE FOR HIS TESTIMONY AND (2) NOTES FROM INTERVIEWS OF TWO WITNESSES WHO IMPLICATED PEOPLE OTHER THAN DEFENDANT AS BEING THE PERPETRATORS OF THE CRIME - HARMLESS ERROR;

PETTIGREW (AVERY), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - CHALLENGE TO DESIGNATION OF DEFENDANT AS A LEVEL THREE SEX OFFENDER - WHETHER CLEAR AND CONVINCING EVIDENCE SUPPORTED COUNTY COURT'S POINT ASSESSMENTS UNDER THE RISK FACTORS OF BEING ARMED WITH A DANGEROUS INSTRUMENT, HISTORY OF DRUG ABUSE AND FAILURE TO ACCEPT RESPONSIBILITY;

PIERCE (MARCELLUS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - INFORMATION - JURISDICTIONAL VALIDITY;

PORTFOLIO RECOVERY ASSOCIATES, LLC v KING:

CONFLICT OF LAWS - WHAT LAW GOVERNS - WHETHER NEW YORK'S "BORROWING STATUTE," CPLR 202, APPLIES AND, IF SO, WHETHER THIS COLLECTION ACTION TO RECOVER A CREDIT CARD BALANCE IS UNTIMELY UNDER THE THREE-YEAR DELAWARE STATUTE OF LIMITATION (WHERE THE BANK THAT ISSUED THE CREDIT CARD WAS INCORPORATED); ASSIGNMENTS - VALIDITY; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF MATERIAL FACT;

RACEPOINT PARTNERS, LLC, et al. v JPMORGAN CHASE BANK, N.A.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT AN INDENTURE AGREEMENT "REQUIRED ENRON TO FILE WITH THE INDENTURE TRUSTEE COPIES OF THE INFORMATION, DOCUMENTS AND OTHER REPORTS IT FILED WITH THE SEC" AND "DID NOT REQUIRE ENRON TO FILE WITH THE INDENTURE TRUSTEE FINANCIAL STATEMENTS THE CONTENTS OF WHICH COMPLY WITH FEDERAL SECURITIES LAW";

RAMOS v CITY OF NEW YORK, et al.:

MOTIONS AND ORDERS - REARGUMENT OR RENEWAL - LEAVE TO RENEW FOLLOWING REVERSAL OF PLAINTIFF'S CRIMINAL CONVICTION - CHALLENGE TO GRANT OF PLAINTIFF'S MOTION FOR RENEWAL AND, UPON RENEWAL, DENIAL OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT DISMISSING COMPLAINT ALLEGING CLAIMS FOR FALSE ARREST, MALICIOUS PROSECUTION, ASSAULT AND BATTERY, AND VIOLATION OF 42 USC § 1983;

RIBACK (PHILLIP), PEOPLE v: (Cal. Date - 10/22/09)  
 CRIMES AND CRIMINAL PROCEDURE - ARGUMENT AND CONDUCT OF COUNSEL -  
 ARGUMENT THAT PROSECUTOR'S SUMMATION DENIED DEFENDANT A FAIR  
 TRIAL;

RIBIS v EAST IRONDEQUOIT CENTRAL SCHOOL DISTRICT, et al.:  
 SCHOOLS - BUS DRIVERS - CAUSES OF ACTION BASED UPON SCHOOL  
 DISTRICT'S DETERMINATION, PURSUANT TO A CONTRACT BETWEEN THE  
 DISTRICT AND A THIRD PARTY PROVIDER OF TRANSPORTATION, THAT  
 PLAINTIFF BUS DRIVER, WHO WAS EMPLOYED BY THE THIRD PARTY, WAS  
 DISQUALIFIED FROM TRANSPORTING DISTRICT STUDENTS BECAUSE HE  
 OPERATED HIS BUS IN AN UNSAFE MANNER - ALLEGED VIOLATION OF  
 PLAINTIFF'S CONSTITUTIONAL RIGHTS; SUMMARY JUDGMENT;

RIVERA (ALEX), PEOPLE v:  
 CRIMES - VERDICT - PROPRIETY OF TRIAL COURT'S REJECTION OF JURY'S  
 PARTIAL VERDICT; ADJUDICATION OF DEFENDANT AS A PERSISTENT  
 VIOLENT FELONY OFFENDER - SPECIFICITY OF PROOF OF VIOLENT FELONY;  
 RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL  
 COUNSEL;

RIVERSIDE SOUTH PLANNING CORP. v CRP/EXTTELL RIVERSIDE, LP, et al.:  
 (Cal. Date - 10/22/09)  
 CONTRACTS - AMBIGUOUS CONTRACTS - SCOPE OF "SUNSET PROVISION" IN  
 1993 AGREEMENT;

ROBERTS, et al. v TISHMAN SPEYER PROPERTIES, L.P., et al.:  
 (Cal. Date - 9/10/09)  
 LANDLORD AND TENANT - RENT REGULATION - LUXURY DECONTROL  
 PROVISIONS OF RENT STABILIZATION LAW - RECEIPT OF TAX BENEFITS  
 PURSUANT TO REAL PROPERTY TAX LAW § 489 ("J-51 BENEFITS") -  
 WHETHER THE EXCEPTION TO LUXURY DECONTROL FOR PROPERTIES  
 RECEIVING J-51 BENEFITS APPLIES ONLY WHEN AN APARTMENT IS SUBJECT  
 TO RENT STABILIZATION "SOLELY BY VIRTUE OF" THE RECEIPT OF J-51  
 BENEFITS;

RONDAK CONSTRUCTION SERVICES v KAATSBAAN INTERNATIONAL DANCE  
 CENTER, et al.: (Cal. Date - 9/16/09)  
 EXECUTION - SHERIFF'S SALE - CHALLENGE TO APPELLATE DIVISION  
 ORDER GRANTING MOTION TO SET ASIDE A JUDICIAL SALE OF REAL  
 PROPERTY AND TO COMPEL SHERIFF TO ACCEPT DEFENDANT'S CERTIFIED  
 CHECK IN FULL SATISFACTION OF A JUDGMENT AGAINST IT - CPLR  
 ARTICLE 52 - TIFFANY v ST. JOHN (65 NY 314);

ROSENZWEIG v GIVENS:  
 MORTGAGES - FORECLOSURE - WHETHER DEFENDANT HAS RAISED ISSUES OF  
 FACT CONCERNING A FIDUCIARY RELATIONSHIP BETWEEN THE PARTIES  
 SUFFICIENT TO PRECLUDE SUMMARY JUDGMENT; FRAUD;

ST. LAWRENCE FACTORY STORES v OGDENSBURG BRIDGE AND PORT AUTHORITY:

VENDOR AND PURCHASER - CONTRACT FOR THE SALE OF REAL PROPERTY - BREACH - DAMAGES - WHETHER, UNDER A RELIANCE DAMAGES THEORY, PLAINTIFF MAY RECOVER COMPENSATION FOR EXPENSES INCURRED IN DEVELOPING COMMERCIAL REAL PROPERTY ON WHICH IT INTENDED TO CONSTRUCT A RETAIL FACTORY OUTLET;

SALM v MOSES:

WITNESSES - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT "THE TRIAL COURT PROPERLY LIMITED THE SCOPE OF CROSS-EXAMINATION OF DEFENDANT'S EXPERT BY PRECLUDING INQUIRY INTO THE FACT THAT HE AND DEFENDANT WERE INSUREDS AND SHAREHOLDERS IN THE SAME DENTAL MALPRACTICE INSURANCE COMPANY";

SAMANDAROV (SIMON), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CPL 440.10 MOTION WITHOUT A HEARING - ALLEGED VIOLATION OF RIGHTS UNDER PEOPLE v ROSARIO (9 NY2d 286) - CONTRADICTORY AFFIDAVITS FROM ONE OF THE PEOPLE'S PRIMARY WITNESSES;

SANCHEZ (MATTHEW), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - GANG ASSAULT - WHETHER "TWO OR MORE PERSONS" SPECIFIED IN PENAL LAW § 120.06 MUST SHARE DEFENDANT'S INTENT TO CAUSE "SERIOUS PHYSICAL INJURY" IN ORDER TO HAVE "AIDED" DEFENDANT IN COMMITTING A GANG ASSAULT - JURY CHARGE - ARGUMENT THAT STATUTE IS VOID FOR VAGUENESS - PROSECUTOR'S USE OF DEFENDANT'S COLLEGE RECORD ON CROSS-EXAMINATION AND COURT'S INSTRUCTION THAT JURY COULD CONSIDER THAT RECORD IN EVALUATING DEFENDANT'S CREDIBILITY - ALLEGED ROSARIO VIOLATIONS - MOTION TO VACATE VERDICT BASED UPON POST-CONVICTION SURVEILLANCE TAPES OF VICTIM AND JUROR MISCONDUCT;

SAVE THE PINE BUSH, INC., MATTER OF v COMMON COUNCIL OF THE CITY OF ALBANY: (Cal. Date - 9/15/09)

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;

SIMMS (EVERTON D.), PEOPLE v: (Cal. Date - 10/15/09)

CRIMES AND CRIMINAL PROCEDURE - VERDICT - WHETHER TRIAL COURT ERRED IN ACCEPTING VERDICT BASED UPON STATEMENTS MADE BY JUROR DURING POLLING AND SUBSEQUENT INQUIRY BY THE COURT;

JOSEPH SINGER, DECEASED, MATTER OF (SINGER v SINGER):

(Cal. Date - 10/15/09)

WILL - PROBATE - WHETHER RESPONDENT'S DEPOSITION OF TESTATOR'S FORMER ATTORNEY, WHICH IS NOT EXPRESSLY PROTECTED BY SAFE HARBOR

PROVISIONS OF EPTL 3 - 3.5(b)(3)(D) AND SCPA 1404(4), VIOLATED IN TERROREM CLAUSES OF WILL EVEN THOUGH RESPONDENT NEVER OBJECTED TO PROBATE THEREOF;

SNYDER v BRONFMAN: (Cal. Date - 10/14/09)  
 STATUTE OF FRAUDS - AGREEMENT TO PAY FINDER'S FEE - DISMISSAL OF CAUSES OF ACTION FOR UNJUST ENRICHMENT AND QUANTUM MERUIT - APPLICATION OF GENERAL OBLIGATIONS LAW § 5-701(a)(10) TO ORAL JOINT VENTURE AGREEMENT;

TAYLOR (DAIVERY) et al. v PEOPLE:  
 CRIMES AND CRIMINAL PROCEDURE - OFFERING FALSE INSTRUMENT FOR FILING - SUFFICIENCY OF EVIDENCE - PENAL LAW § 175.35 - FILING OF RETAINER STATEMENTS WITH OFFICE OF COURT ADMINISTRATION - INTENT TO DEFRAUD THE STATE OR ANY OF ITS SUBDIVISIONS - NECESSITY OF PROOF THAT STATE AGENCY "CHECK[ED], VERIF[IED], OR REL[IED] UPON" INFORMATION CONTAINED IN RETAINER STATEMENTS;

TEODORESCU v RESNICK & BINDER, P.C.:  
 ATTORNEY AND CLIENT - MALPRACTICE - DEFENDANT'S SERVICE OF UNTIMELY NOTICE OF CLAIM AND FAILURE TO SEEK PERMISSION TO FILE A LATE NOTICE OF CLAIM - WHETHER TRIABLE ISSUES OF FACT EXIST CONCERNING WHETHER PLAINTIFF WOULD HAVE PREVAILED IN HER UNDERLYING PERSONAL INJURY ACTION BUT FOR DEFENDANT'S NEGLIGENCE;

TOLENTINO (JOSE), PEOPLE v:  
 CRIMES AND CRIMINAL PROCEDURE - SUPPRESSION HEARING - TRIAL COURT DENIED, WITHOUT A HEARING, DEFENDANT'S MOTION TO SUPPRESS DEPARTMENT OF MOTOR VEHICLES' RECORDS RELATING TO SUSPENSION OF HIS DRIVER'S LICENSE - WHETHER DMV RECORDS SHOULD HAVE BEEN SUPPRESSED AS FRUITS OF AN ALLEGEDLY UNLAWFUL VEHICULAR STOP DURING WHICH THE POLICE OBTAINED DEFENDANT'S PEDIGREE INFORMATION AND THEREBY OBTAINED HIS DMV INFORMATION THROUGH A COMPUTER CHECK;

TRUPIA et al. v LAKE GEORGE CENTRAL SCHOOL DISTRICT, et al.:  
 NEGLIGENCE - ASSUMPTION OF RISK - CHILD INJURED DURING SLIDE DOWN STAIRWAY BANNISTER DURING SUMMER SCHOOL PROGRAM; PLEADINGS - AFFIRMATIVE DEFENSE;

VALENCIA (ALBEIRO), PEOPLE &c.:  
 CRIMES AND CRIMINAL PROCEDURE - ASSAULT - DEPRAVED INDIFFERENCE ASSAULT - MENS REA - WHETHER DEFENDANT'S STATE OF MIND AT THE TIME HE CONSUMED ALCOHOL WAS TOO TEMPORALLY REMOTE FROM HIS LATER OPERATION OF A VEHICLE AND COLLISION WITH COMPLAINANT'S VEHICLES TO SUPPORT A CONVICTION FOR DEPRAVED INDIFFERENCE ASSAULT;

VETTER, MATTER OF v BOARD OF EDUCATION, RAVENA-COEYMANS-SELKIRK CENTRAL SCHOOL DISTRICT, et al.:  
 PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING BY PROBATIONARY TEACHER TERMINATED WITHOUT 30 DAYS NOTICE

PURSUANT TO EDUCATION LAW § 3019-a - RIGHT TO ATTORNEYS' FEES AS A "PREVAILING PARTY" PURSUANT TO 49 USC § 1988 WHERE RESPONDENT VOLUNTARILY PROVIDED THE REQUESTED NAME-CLEARING HEARING AND NO CONSENT DECREE OR COURT JUDGMENT WAS ENTERED; EMPLOYMENT RELATIONSHIPS;

VINTAGE, LLC v LAWS CONSTRUCTION CORP., et al.:

(Cal. Date - 10/14/09)

CONTRACTS - FORMATION OF CONTRACT - WHETHER SUFFICIENT EVIDENCE EXISTED FROM WHICH A JURY COULD DETERMINE THAT A JOINT VENTURE HAD BEEN FORMED AT A PARTICULAR TIME; JURY INSTRUCTIONS;

VOMERO v CITY OF NEW YORK: (Cal. Date - 10/15/09)

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - WHETHER ZONING BOARD'S DETERMINATION WAS ILLEGAL, ARBITRARY AND CAPRICIOUS, OR AN ABUSE OF DISCRETION;

WADLER v CITY OF NEW YORK:

MUNICIPAL CORPORATIONS - TORT LIABILITY - POLICE - WHETHER FIREFIGHTER'S RULE BARS PLAINTIFF'S COMMON-LAW NEGLIGENCE CLAIM;

WALTON v NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES:

(Cal. Date - 10/13/09)

CONSTITUTIONAL LAW - STATE CONSTITUTIONAL LAW - CONSTITUTIONALITY OF SINGLE-PROVIDER COLLECT CALL SYSTEM FOR PRISON INMATES;

WEST HARLEM BUSINESS GROUP, MATTER OF v EMPIRE STATE DEVELOPMENT CORPORATION:

DISCLOSURE - FREEDOM OF INFORMATION LAW - CPLR ARTICLE 78 PROCEEDING CHALLENGING THE DETERMINATION OF RESPONDENT EMPIRE STATE DEVELOPMENT CORPORATION THAT CERTAIN AGENCY DOCUMENTS WERE EXEMPT FROM DISCLOSURE UNDER NEW YORK'S FREEDOM OF INFORMATION LAW (FOIL) (PUBLIC OFFICERS LAW, ARTICLE 6); ATTORNEY-CLIENT PRIVILEGE - WORK PRODUCT PRIVILEGE;

WILLIAMS (DARRELL), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - 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 - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

WILSON (DESIRIE), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION OF ATTEMPTED AGGRAVATED HARASSMENT IN THE SECOND DEGREE; CLAIMED IMPROPRIETY IN TRANSFER OF CASE FROM CRIMINAL COURT TO SUPREME COURT; SUBJECT MATTER JURISDICTION OF TRIAL COURT;

WISE (ANTHONY), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - DENIAL OF APPLICATION FOR WRIT OF ERROR CORAM NOBIS;

WOOLEY, MATTER OF v NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES:

PRISONS AND PRISONERS - MEDICAL AND SURGICAL TREATMENT - DISMISSAL OF CPLR ARTICLE 78 PROCEEDING CHALLENGING RESPONDENT'S ALLEGED FAILURE TO PROVIDE NECESSARY MEDICAL CARE;

WORD, MATTER OF v SUPERINTENDENT OF BEDFORD HILLS CORRECTIONAL FACILITY, et al.:

GRAND JURY - APPLICATION BY PRISONER FOR SUPREME COURT TO IMPANEL GRAND JURY REGARDING ALLEGED MISCONDUCT BY DEPARTMENT OF CORRECTIONAL SERVICES MEDICAL PERSONNEL; APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL - SUPREME COURT ORDER NOT APPEALABLE AS OF RIGHT - CPLR 5701(b);

WROTTEN (JUWANNA), PEOPLE:

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - PRESENTATION OF OUT-OF-STATE COMPLAINANT'S TESTIMONY THROUGH TWO-WAY TELEVISION - DEFENDANT'S RIGHT OF CONFRONTATION;

ZEPHRIN (PATRICK), PEOPLE v:

CRIMES - SENTENCE - PROBATION-REVOCATION - WHETHER A DEFENDANT'S PRE-SENTENCE INCARCERATION SHOULD BE CREDITED AGAINST A PERIOD OF PROBATION THAT IS PART OF DEFENDANT'S SPLIT SENTENCE OF INCARCERATION AND PROBATION UNDER PENAL LAW § 60.01(2)(d);

ZONA (JOSHUA M.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN DECLINING TO INSTRUCT THE JURY ON THE CLAIM OF RIGHT DEFENSE ASSERTED BY DEFENDANT - PENAL LAW § 155.15(1); LARCENY;