

July 9, 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: (Cal. Date - 10/12/10)
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);

ABREU, MATTER OF v BEZIO:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION ORDER CONFIRMING SO MUCH OF A DETERMINATION OF THE COMMISSIONER OF CORRECTIONAL SERVICES AS FOUND PETITIONER GUILTY OF VIOLATING A PRISON DISCIPLINARY RULE PROHIBITING HARASSMENT;

ABREU, MATTER OF v HOGAN:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CPLR ARTICLE 78 PROCEEDING - FOUR-MONTH STATUTE OF LIMITATIONS - SUFFICIENCY OF PLEADINGS (CPLR 3013);

ABREU v HUTCHINGS et al.:
COSTS - POOR PERSONS - DENIAL OF POOR PERSON APPLICATION WHERE PLAINTIFF FAILED TO FILE AN ATTORNEY'S CERTIFICATION OF MERIT AS SUPREME COURT DIRECTED HIM TO DO;

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;

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);

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;

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);

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.: (Cal. Date - 10/12/10)

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;

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: (Cal. Date - 10/21/10)
 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;

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 -- APPRENDI v NEW JERSEY
 (530 US 466 [2000]);

BENSTON (MAURICE), PEOPLE v: (Cal. Date - 10/20/10)
 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;

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;

BLEECKER STREET TENANTS CORP. v BLEEKER 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);

BOSCIC (DRAGAN), PEOPLE v: (Cal. Date - 10/19/10)

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;

BRADFORD (DANA R.), PEOPLE v: (Cal. Date - 9/15/10)

CRIMES - EVIDENCE - STATEMENT MADE BY DEFENDANT CONFESSING TO STATUTORY RAPE FOLLOWING AN ILLEGAL ARREST - WHETHER STATEMENTS WERE PROPERLY ADMITTED AT TRIAL AS SUFFICIENTLY ATTENUATED FROM THE ARREST - WHETHER TRIAL COURT ERRED IN NOT STRIKING TESTIMONY FROM THE VICTIM REGARDING UNCHARGED ACTS OF STATUTORY RAPE; HARMLESS ERROR;

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;

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;

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;

CASHEL v CASHEL (AND TWO OTHER ACTIONS):

DEEDS - ACTION TO SET ASIDE A DEED ON THE BASIS OF FRAUD - RATIFICATION OF DEED BY ACCEPTING THE BENEFITS OF A PRIOR MORTGAGE ON THE PROPERTY; MORTGAGES - FORECLOSURE; HUSBAND AND WIFE - DIVORCE;

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;

CINTRON, MATTER OF v CALOGERO &c.: (Cal. Date - 9/13/10)

LANDLORD AND TENANT - RENT - CPLR ARTICLE 78 PROCEEDING TO ANNUL AN ORDER OF RESPONDENT COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL LIMITING RENT OVERCHARGES RECOVERABLE BY A TENANT;

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;

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;

COUNCIL (TONY), PEOPLE v: (Cal. Date - 9/14/10)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO TIMELY FILE NOTICE OF APPEAL OR MOTION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL;

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: (Cal. Date 9/16/10)
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: (Cal. Date - 9/15/10)
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: (Cal. Date - 9/15/10)
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;

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;

DICKINSON, MATTER OF v DAINES &c., et al.:
(Cal. Date - 10/21/10)
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);

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;

EMPIRE STATE TOWING AND RECOVERY ASSOCIATION, INC., MATTER OF v COMMISSIONER OF LABOR: (Cal. Date - 9/15/10)

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;

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;

FALZONE, MATTER OF v NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY: (Cal. Date - 9/16/10)

ARBITRATION - CONFIRMING OR VACATING AWARD - WHETHER THE ARBITRATOR EXCEEDED HIS POWER OR RENDERED AN IRRATIONAL AWARD BY NOT GIVING PRECLUSIVE EFFECT TO A PRIOR ARBITRATION AWARD BETWEEN THE PARTIES - PUBLIC POLICY FAVORING FINALITY OF AWARD;

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;

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;

FLEMMING v BARNWELL NURSING HOME AND HEALTH FACILITIES, INC.: (Cal. Date - 9/13/10)

ATTORNEY AND CLIENT - COMPENSATION - CLASS ACTION SETTLEMENT - AWARD TO COUNSEL OTHER THAN CLASS COUNSEL - WHETHER COURTS HAVE AUTHORITY TO AWARD COUNSEL FEES AND EXPENSES TO COUNSEL FOR AN OBJECTANT TO A CLASS ACTION SETTLEMENT WHOSE INTERVENTION RESULTS IN BENEFITS TO THE CLASS AS A WHOLE - THE "AMERICAN RULE" - CPLR 909;

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;

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;

GASQUES et al. v THE STATE OF NEW YORK: (Cal. Date - 9/15/10)
 LABOR - SAFE PLACE TO WORK - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT "DEFENDANT MADE A PRIMA FACIE SHOWING OF ENTITLEMENT TO JUDGMENT AS A MATTER OF LAW DISMISSING THE LABOR LAW § 240(1) CLAIM BY DEMONSTRATING THAT THE INJURED CLAIMANT'S INJURY, WHILE TANGENTIALLY RELATED TO THE EFFECTS OF GRAVITY, WAS NOT CAUSED BY THE LIMITED TYPE OF ELEVATION-RELATED HAZARDS ENCOMPASSED BY THE STATUTE" AND THAT CLAIMANTS FAILED TO RAISE A TRIABLE ISSUE OF FACT TO REBUT THAT SHOWING;

GERACI v PROBST: (Cal. Date - 9/13/10)
 LIBEL AND SLANDER - SLANDER PER SE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE TESTIMONY REGARDING REPUBLICATION BY NEWSPAPER OF ALLEGEDLY DEFAMATORY STATEMENTS, ALLOWING TESTIMONY ABOUT THE DISTRICT ATTORNEY'S INVESTIGATION OF PLAINTIFF AND CHARGING THE JURY THAT THE INDIVIDUAL DEFENDANT'S STATEMENT CONCERNING THE PLAINTIFF CONSTITUTED LIBEL PER SE - PRESERVATION;

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;

GRAHAM, PEOPLE ex rel. v WALSH:

HABEAS CORPUS - AVAILABILITY OF RELIEF - CHALLENGE TO AN ORDER OF AN INDIVIDUAL APPELLATE DIVISION JUSTICE DENYING PETITION FOR A WRIT OF HABEAS CORPUS;

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;

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, MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL: (Cal. Date 9/13/10)

LANDLORD AND TENANT - RENT REGULATION - RENT REGULATION REFORM ACT OF 1997 (L. 1997, ch 116) - WHETHER APPELLATE DIVISION ERRED IN HOLDING THAT RESPONDENT DEPARTMENT OF HOUSING AND COMMUNITY RENEWAL (DHCR) "ACTED ARBITRARILY, CAPRICIOUSLY AND IN DISREGARD OF ITS OBLIGATION IN FAILING TO CONSIDER WHETHER THE RENT CHARGED TO PETITIONER WAS UNLAWFUL, AND THUS WHETHER ESTABLISHING A RENTAL RATE BASED ON THE [THORNTON v BARON (5 NY3d 175)] FORMULA WAS APPROPRIATE" IN LIGHT OF THE LANDLORD'S PURPORTED FRAUD AND ATTEMPT TO CIRCUMVENT THE RENT STABILIZATION LAW, EVEN THOUGH MORE THAN FOUR YEARS PASSED BEFORE THE RENT OVERCHARGE COMPLAINT WAS FILED - APPLICABILITY OF FOUR-YEAR STATUTE OF LIMITATIONS IN RENT STABILIZATION LAW § 26-516;

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.: (Cal. Date - 10/21/10)
 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;

GUARDINO (ANTHONY), PEOPLE v: (Cal. Date - 10/14/10)
 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;

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;

HENRY v PEGUERO et al.:
 INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - INSURANCE LAW § 102(d) - RENEWAL - SUMMARY JUDGMENT;

HESS, MATTER OF v WEST SENECA CENTRAL SCHOOL DISTRICT:
 SCHOOLS - NOTICE OF CLAIM - LATE NOTICE OF CLAIM - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION IN GRANTING AN APPLICATION SEEKING LEAVE TO SERVE A LATE NOTICE OF CLAIM ON SCHOOL DISTRICT;

HOLLIS (ERIC), PEOPLE v: (Cal. Date - 10/14/10)
 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;

JOHNSON, et al. v CITY OF NEW YORK, et al.: (Cal. Date 10/20/10)
 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;

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;

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.: (Cal. Date - 10/13/10)
 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;

KOZIOL, MATTER OF v WALSH-HOOD:
 PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - MANDAMUS -
 CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING CPLR ARTICLE 78

PETITION ON THE GROUND THAT PETITIONER "FAILED TO DEMONSTRATE A CLEAR LEGAL RIGHT TO EITHER [PROHIBITION OR MANDAMUS THAT] COULD NOT BE SAFEGUARDED THROUGH ALTERNATIVE REMEDIES";

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: (Cal. Date - 10/19/10)

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;

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;

MACK (RONALD), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED FAILURE OF APPELLATE COUNSEL TO RAISE ON DIRECT APPEAL THE ISSUE THAT DEFENDANT'S TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO A NON-UNANIMOUS VERDICT;

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;

MANKO v LENOX HILL HOSPITAL:

APPEALS - CHALLENGE TO APPELLATE DIVISION ORDERS THAT, AMONG OTHER THINGS, GRANTED APPELLANT'S MOTIONS FOR ENLARGEMENTS OF TIME TO PERFECT APPEALS, DISMISSED CERTAIN APPEALS AND STATED, AFTER GRANTING ENLARGEMENTS OF TIME, THAT NO FURTHER ENLARGEMENTS OF TIME WOULD BE GRANTED;

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;

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;

MCKINNON (DONALD), PEOPLE v: (Cal. Date - 9/16/10)

CRIMES - ASSAULT - EVIDENCE OF "PERMANENT DISFIGUREMENT" PURSUANT TO PENAL LAW § 120.10(2) - SUFFICIENCY OF EVIDENCE TO SUPPORT

CONVICTION OF ASSAULT IN THE FIRST DEGREE WHERE VICTIM DISPLAYED HER ARM TO THE JURY, BUT RECORD GIVES NO INDICATION OF WHAT THE JURY SAW;

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";

MOORE (ISHAM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO REQUEST JUSTIFICATION CHARGE; LESSER INCLUDED OFFENSE - RECKLESS ASSAULT IN THE SECOND DEGREE;

MORAY v KOVEN & KRAUSS, ESQS.: (Cal. Date - 9/16/10)
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;

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 CHARTER SCHOOL ASSOCIATION, et al., MATTER OF v SMITH [AND ANOTHER PROCEEDING]: (Cal. Date - 9/13/10)

LABOR - PREVAILING RATE OF WAGES - WHETHER CHARTER SCHOOLS ARE SUBJECT TO THE PREVAILING WAGE LAWS OF LABOR LAW ARTICLE 8;

NEW YORK STATE UNITED TEACHERS, MATTER OF v BRIGHTER CHOICE CHARTER SCHOOL, et al.: (Cal. Date - 10/13/10)

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.: (Cal. Date - 10/14/10)

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;

ORPHAN v PILNIK, et al.: (Cal. Date - 10/20/10)

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

ORTEGA (OLDALYS), PEOPLE v: (Cal. Date - 10/20/10)

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;

OURSLER &c. v BRENNAN, et. al. (AND A THIRD PARTY ACTION):

(Cal. Date - 10/19/10)

INTOXICATING LIQUORS - DRAM SHOP ACT - GENERAL OBLIGATIONS LAW § 11-101 - GUILTY PARTICIPATION - WHETHER PLAINTIFF'S PURCHASE OF TWO ALCOHOLIC BEVERAGES FOR HIS WIFE (DECEDENT) AT CORPORATE DEFENDANT'S ESTABLISHMENT DURING PARTY AT WHICH SHE BECAME INTOXICATED CONSTITUTED "GUILTY PARTICIPATION" ON HIS PART AS A MATTER OF LAW, THUS REQUIRING DISMISSAL OF HIS DRAM SHOP ACT CAUSE OF ACTION BROUGHT IN HIS INDIVIDUAL CAPACITY; CAUSATION - INTERVENING EVENTS BETWEEN SALE OF ALCOHOL AND DECEDENT'S DEATH; CONTRIBUTION - WHEN CLAIM FOR CONTRIBUTION AVAILABLE - CPLR 1401 - WHETHER DEFENDANT SUBJECT TO LIABILITY UNDER WRONGFUL DEATH STATUTE MAY SEEK CONTRIBUTION FROM DEFENDANT SUBJECT TO LIABILITY PURSUANT TO DRAM SHOP ACT;

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;

PEREZ, PEOPLE ex rel. v HOURIHANE:

HABEAS CORPUS - AVAILABILITY OF RELIEF;

PHILLIPS (JAMES), PEOPLE v:

CRIMES - FITNESS TO PROCEED TO TRIAL - DEFENDANT WITH BRAIN

INJURY RESULTING FROM STROKES - APPLICABILITY OF PROTOCOLS ESTABLISHED IN PEOPLE v FRAN CABANDERA (33 NY2d 429 [1974]);

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";

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";

REYES (CARLOS), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - EXISTENCE OF REASONABLE SUSPICION JUSTIFYING POLICE TO FORCIBLY DETAIN DEFENDANT;

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;

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 (JOSE), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN REFUSING TO SUBMIT FOURTH DEGREE POSSESSION OF A WEAPON AS A LESSER INCLUDED OFFENSE OF SECOND DEGREE POSSESSION OF A WEAPON; JUSTIFICATION DEFENSE REGARDING HOMICIDE CHARGE OF WHICH DEFENDANT WAS ACQUITTED; CLAIMED INEFFECTIVENESS OF TRIAL COUNSEL FOR FAILURE TO REQUEST JUSTIFICATION JURY CHARGE REGARDING WEAPON POSSESSION COUNT OF INDICTMENT;

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;

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);

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

ATTORNEY AND CLIENT - WHETHER THE COMPLAINT STATES A CAUSE OF ACTION AGAINST ATTORNEYS FOR AIDING AND ABETTING PROMOTERS' ALLEGED BREACH OF FIDUCIARY DUTY IN INFLATING PURCHASE PRICE OF PROPERTIES BY RECEIVING SECRET COMMISSIONS;

RUFFIN v LION CORP., &c., et al.: (Cal. Date - 10/21/10)

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;

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;

SHUBBUCK v CONNERS et al:

DAMAGES - FUTURE DAMAGES - WHETHER PERSONAL INJURY PLAINTIFF'S TESTIMONY CONCERNING THE IMPACT OF HIS INJURY ON HIS WAGES WAS LEGALLY SUFFICIENT TO SUPPORT CLAIM FOR FUTURE LOST WAGES;

SIMMONS v SACCHETTI:

NEGLIGENCE - MAINTENANCE OF PREMISES - PROXIMATE CAUSE - SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF MATERIAL FACT - UNATTENDED, 17-MONTH OLD CHILD SCALDED AFTER GETTING OR FALLING INTO BATHTUB AFTER HER BROTHER HAD TURNED ON HOT WATER ONLY AND WHILE MOTHER WAS IN ANOTHER ROOM;

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;

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, MATTER OF v FARNSWORTH, &c.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - CONSTITUTIONALITY OF MENTAL HYGIENE LAW ARTICLE 10 AS APPLIED TO PERSONS CONVICTED OF CERTAIN DESIGNATED FELONIES COMMITTED BEFORE THE EFFECTIVE DATE OF ARTICLE 10 - APPLICATION OF CLEAR AND CONVINCING EVIDENCE STANDARD - CLAIMED VIOLATION OF APPELLANT'S DUE PROCESS AND EQUAL PROTECTION RIGHTS;

STATE OF NEW YORK, et al. v PHILIP MORRIS INCORPORATED, et al.:
(Cal. Date - 10/19/10)

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);

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;

SYKES, et al. v RFD THIRD AVENUE 1 ASSOCIATES, LLC, et al.
(Cal. Date - 9/14/10)

TORTS - NEGLIGENT MISREPRESENTATION - WHETHER ALLEGATIONS AGAINST MECHANICAL ENGINEER FOR BUILDING WHERE PLAINTIFFS PURCHASED AN APARTMENT ARE SUFFICIENT TO STATE A CAUSE OF ACTION FOR NEGLIGENT MISREPRESENTATION;

SYVILLE (NATHANIEL), PEOPLE v: (Cal. Date - 9/14/10)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO TIMELY FILE NOTICE OF APPEAL OR MOTION FOR EXTENSION OF TIME TO FILE NOTICE OF APPEAL;

TAYLOR (GREGORY), PEOPLE v: (Cal. Date - 10/13/10)

CRIMES - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE;

TOWNS, MATTER OF v GRIEVANCE COMMITTEE:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - CHALLENGE TO APPELLATE DIVISION ORDER SUSPENDING ATTORNEY FROM PRACTICE OF LAW;

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;

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;

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;

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;

WINDSOR, MATTER OF v STATE OF NEW YORK, et al.

CONTRACTS - CHALLENGE TO SUPREME COURT ORDER DISMISSING PETITION/COMPLAINT TO SET ASIDE LEASE AGREEMENT FOR OPERATION OF BOAT EXCURSIONS UNDER NIAGARA FALLS AND IN THE NIAGARA RIVER - STATUTE OF LIMITATIONS;

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;