

October 2011

NEW FILINGS DIGEST - CUMULATIVE 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.

ABACUS FEDERAL SAVINGS BANK v ADT SECURITY SERVICES, INC., et al.:
NEGLIGENCE - BREACH OF CONTRACT - ACTION BY BANK TO RECOVER DAMAGES AGAINST SECURITY AND ALARM COMPANIES FOR LOSSES RESULTING FROM A BURGLARY - WHETHER PLAINTIFF STATED CAUSES OF ACTION FOR COMMON LAW GROSS NEGLIGENCE AND BREACH OF CONTRACT THAT ARE NOT BARRED BY EXCULPATORY CLAUSES IN THE ALARM CONTRACTS; DISMISSAL AND NONSUIT; WHETHER BANK HAS STANDING TO SUE FOR LOSSES INCURRED BY SAFE DEPOSIT CUSTOMERS AS A RESULT OF BURGLARY;

ADLER et al. v BAYER et al.:
INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUFFICIENT EVIDENCE DID NOT EXIST TO ALLOW A REASONABLE TRIER OF FACT TO FIND THAT PLAINTIFF SUSTAINED A SERIOUS INJURY UNDER THE "PERMANENT CONSEQUENTIAL LIMITATION CATEGORY" OF INSURANCE LAW § 5102(d) BECAUSE PLAINTIFF FAILED TO "SHOW THE DURATION OF THE ALLEGED INJURY AND THE EXTENT OR DEGREE OF THE LIMITATIONS ASSOCIATED THEREWITH" ;

ADMIRAL INSURANCE COMPANY v JOY CONTRACTORS, INC., et al.:
INSURANCE - DUTY TO DEFEND AND INDEMNIFY - ADDITIONAL INSURED ENDORSEMENT - WHETHER LESSOR OF CRANE IS ENTITLED TO COVERAGE "WITH RESPECT TO LIABILITY ... CAUSED BY (CRANE OPERATOR LESSEE'S) ACTS OR OMISSIONS ... IN THE PERFORMANCE OF (ITS) ONGOING OPERATIONS FOR ADDITIONAL INSURED(S)"; WHETHER PRIMARY AND EXCESS INSURANCE POLICIES WERE "ISSUED FOR DELIVERY IN NEW YORK" WITHIN THE MEANING OF INSURANCE LAW § 3420(d); APPLICABILITY OF PROFESSIONAL SERVICES EXCLUSION; WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT A RESIDENTIAL CONSTRUCTION ACTIVITIES EXCLUSION DID NOT APPLY TO CRANE COLLAPSE BECAUSE BUILDING WAS INTENDED TO BE A MIXED-USE STRUCTURE; WHETHER LIABILITY COMPANIES SEEKING COVERAGE AS ADDITIONAL INSUREDS ARE SUBJECT TO AN EXCLUSION FOR LIMITED LIABILITY COMPANIES IN A POLICY PROVISION ADDRESSING "WHO IS AN INSURED"; REPRESENTATIONS BY INSURED - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT ALLEGED MATERIAL MISREPRESENTATIONS BY THE NAMED INSURED DID NOT PRECLUDE ADDITIONAL INSUREDS FROM RECOVERING UNDER THE POLICY;

AGINA (ALAA), PEOPLE v: (Cal. Date - 1/5/12)
 CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PRIOR BAD ACTS WERE NOT ADMISSIBLE TO PROVE THE PERPETRATOR'S IDENTITY THROUGH A UNIQUE MODUS OPERANDI WHERE THE VICTIM WAS DEFENDANT'S WIFE BUT DEFENDANT DENIED INFLICTING THE INJURIES;

ALBANY LAW SCHOOL et al., MATTER OF v NEW YORK STATE OFFICE OF MENTAL RETARDATION and DEVELOPMENTAL DISABILITIES et al.:
 DISCLOSURE - MEDICAL RECORDS AND REPORTS - ACCESS BY PROTECTION AND ADVOCACY AGENCIES TO MENTAL HYGIENE FACILITY CLINICAL RECORDS; MENTAL HYGIENE LAW §§ 33.13(c)(4) and 45.09(b) - COMBINED ARTICLE 78 PROCEEDING AND ACTION PURSUANT TO 42 USC § 1983; PARTIAL DISMISSAL OF PETITION/COMPLAINT;

ALEXANDER (HANS), PEOPLE v:
 CRIMES - PLEA OF GUILTY - VOLUNTARINESS OF A GUILTY PLEA CONDITIONED ON THE WITHDRAWAL OF PENDING SPEEDY TRIAL CLAIM;

ALFARO (JOSE), PEOPLE v:
 CRIMES - EVIDENCE - ADMISSION OF IMITATION PISTOL, HANDCUFFS AND HANDCUFF KEYS AS CIRCUMSTANTIAL EVIDENCE OF INTENT TO COMMIT ROBBERY AND ASSAULT CRIMES - POSSESSION OF ITEMS NOT INTRINSICALLY UNLAWFUL AND NOT USED, DISPLAYED OR THREATENED TO BE USED IN COMMISSION OF CRIMES - ABSENCE OF LIMITING INSTRUCTION - ALLEGED MOLINEAUX VIOLATION; ALLEGED DENIAL OF A FAIR TRIAL DUE TO TRIAL COURT RULINGS AND PROSECUTORIAL MISCONDUCT; SUFFICIENCY OF THE EVIDENCE OF A COMPLETED ROBBERY;

ALVAREZ (LUIS), PEOPLE v:
 CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S FAMILY MEMBERS FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SEATING;

AMERICAN BUILDING SUPPLY CORP. v PETROCELLI GROUP, INC., et al.:
 INSURANCE - COVERAGE - CLAIM BY INSURED THAT INSURANCE BROKER NEGLIGENTLY FAILED TO PROCURE ADEQUATE INSURANCE COVERAGE FOR BODILY INJURY INCURRED BY INSURED'S EMPLOYEES IN THE COURSE OF THEIR EMPLOYMENT - WHETHER INSURED'S FAILURE TO REVIEW THE POLICY BARS A NEGLIGENCE CLAIM AGAINST THE BROKER; SUMMARY JUDGMENT;

ANGAMARCA v NEW YORK CITY PARTNERSHIP HOUSING DEVELOPMENT FUND, INC. et al.:
 DAMAGES - MEASURE OF DAMAGES - IMMIGRATION STATUS OF PLAINTIFF - WHETHER DEFENDANT SHOULD HAVE BEEN ALLOWED TO PRESENT EVIDENCE ABOUT PLAINTIFF'S IMMIGRATION STATUS AND DESIRE TO RETURN TO EQUADOR AND ARGUE THAT PLAINTIFF'S FUTURE MEDICAL COSTS WOULD HAVE BEEN LOWER IF HE HAD RETURNED TO EQUADOR;

ASSURED GUARANTY (UK) LTD. &c. v J.P. MORGAN INVESTMENT MANAGEMENT, INC.: (Cal. Date 11/15/11)

INSURANCE - REINSURANCE - BREACH OF FIDUCIARY DUTY - FRAUD - WHETHER COMMON LAW CAUSES OF ACTION FOR BREACH OF FIDUCIARY DUTY AND GROSS NEGLIGENCE ARE PREEMPTED BY NEW YORK STATE'S MARTIN ACT (GENERAL BUSINESS LAW §§ 352-359) - ACTION AGAINST INVESTMENT MANAGER OF ASSETS OF REINSURANCE COMPANY;

ATTEA (ANTHONY), PEOPLE v:

CRIMES - JURISDICTION OF OFFENSES - WHETHER COUNTY COURT LACKED JURISDICTION TO ACCEPT DEFENDANT'S GUILTY PLEA TO HIGHER CHARGE THAN THAT FOR WHICH HE WAS ORIGINALLY ARRESTED;

BABA-ALI v STATE OF NEW YORK:

STATE - CLAIM AGAINST STATE - ACTION TO RECOVER DAMAGES FOR UNLAWFUL IMPRISONMENT - NONPECUNIARY DAMAGES - PAST AND FUTURE LOST EARNINGS; WHETHER PROSECUTOR'S FAILURE TO TURN OVER A POTENTIALLY EXCULPATORY DOCUMENT TO DEFENSE COUNSEL UNTIL DAY BEFORE TRIAL CAN CONSTITUTE "FRAUD OR MISREPRESENTATION" FOR PURPOSES OF COURT OF CLAIMS ACT SECTION 8-b;

BAKER, MATTER OF v POUGHKEEPSIE CITY SCHOOL DISTRICT, et al.:

ADMINISTRATIVE LAW - HEARING - CPLR ARTICLE 78 PROCEEDING TO REVIEW A DETERMINATION OF THE BOARD OF EDUCATION OF THE POUGHKEEPSIE CITY SCHOOL DISTRICT - WHETHER TWO BOARD MEMBERS WHO TESTIFIED AT THE DISCIPLINARY HEARING OF THE SCHOOL DISTRICT'S BUSINESS MANAGER SHOULD HAVE DISQUALIFIED THEMSELVES FROM REVIEWING THE HEARING OFFICER'S DETERMINATION FINDING PETITIONER GUILTY OF MISCONDUCT AND/OR INCOMPETENCE; CIVIL SERVICE LAW § 75; BACK PAY AND BENEFITS;

BAYGOLD ASSOCIATES, INC. v CONGREGATION YETEV LEV OF MONSEY, INC. (AND ANOTHER ACTION):

LANDLORD AND TENANT - WHETHER A TENANT IS ENTITLED TO EQUITABLE RELIEF WHERE IT HAS FAILED TO COMPLY STRICTLY WITH THE RENEWAL PROVISIONS IN ITS LEASE;

BEAZER v NEW YORK CITY HEALTH AND HOSPITALS CORP., et al.:

(Cal. Date - 11/15/11)

NEGLIGENCE - DUTY - DUTY OF BAILOR TO BAILEE - PERSONAL INJURY ACTION ARISING FROM INJURIES PLAINTIFF SUSTAINED WHILE USING ALLEGEDLY DEFECTIVE, UNGUARDED POWER GRINDER OWNED BY DEFENDANT CONTRACTOR ON A PROJECT FOR WHICH PLAINTIFF'S EMPLOYER SERVED AS CONSTRUCTION MANAGER - EXISTENCE OF MATERIAL ISSUES OF FACT AS TO WHETHER THERE WAS A BAILMENT OF THE GRINDER AND, IF SO, WHETHER THE BAILMENT WAS GRATUITOUS OR FOR MUTUAL BENEFIT - DEFENDANT'S ENTITLEMENT TO SUMMARY JUDGMENT;

BECKER, et al., ESTATE OF v MURTAGH, et al.:

ADVERSE POSSESSION - HOSTILE POSSESSION; EASEMENT BY PRESCRIPTION;
DISPUTE CONCERNING BOARDWALK AND DOCK ON BEACHFRONT LOT; DOCTRINE
OF PRACTICAL LOCATION OF A BOUNDARY LINE;

BEDESSIE (KHEMWATTIE), PEOPLE v:

CRIMES - EVIDENCE - HEARSAY EVIDENCE - ADMISSIBILITY OF STATEMENTS
MADE TO A TREATING PHYSICIAN BY CHILD'S MOTHER AS TO WHAT HER SON
TOLD HER TRANSPIRED WITH A DAY CARE CENTER EMPLOYEE; EXPERT
TESTIMONY - FALSE CONFESSIONS - WHETHER TRIAL COURT'S EXCLUSION OF
EXPERT TESTIMONY ON FALSE CONFESSIONS WAS AN ABUSE OF DISCRETION;
CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL - FAILURE TO OBJECT TO
BOLSTERING HEARSAY FROM COMPLAINANT'S MOTHER AND FAILURE TO
IMPEACH CERTAIN WITNESSES;

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

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

BISSELL, MATTER OF v TOWN OF AMHERST, et al.:

WORKERS' COMPENSATION - THIRD-PARTY ACTION - APPORTIONMENT OF
LITIGATION COSTS - FUTURE MEDICAL PAYMENTS - WHETHER THE APPELLATE
DIVISION ERRED IN DISALLOWING PETITIONER FROM PRESENTLY RECOVERING
FROM THE NEW YORK STATE INSURANCE FUND THOSE LITIGATION COSTS
TRACEABLE TO THE FUTURE MEDICAL EXPENSES THAT PETITIONER RECOVERED
IN A PERSONAL INJURY ACTION - WORKERS' COMPENSATION LAW §§ 13(a),
29(1) - MATTER OF KELLY v STATE INS. FUND (60 NY2d 131 [1983]);

BITON v MEER:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING APPEAL
FOR FAILURE TO TIMELY PERFECT;

BLAUDZIUNAS, et al. v EGAN, et al.: (Cal. Date - 11/15/11)

RELIGIOUS CORPORATIONS AND ASSOCIATIONS - DETERMINATION OF CLAIM
TO REAL PROPERTY - RELIGIOUS CORPORATION LAW § 5 - DECISION OF
ROMAN CATHOLIC ARCHBISHOP AND TRUSTEES OF SUPPRESSED INCORPORATED
PARISH TO DEMOLISH CHURCH BUILDING; STANDING OF PARISHIONERS;

BOARD OF EDUCATION OF THE GARRISON UNION FREE SCHOOL DISTRICT v
GREEK ARCHDIOCESE OF INSTITUTE OF ST. BASIL:

(Cal. Date - 11/15/11)

SCHOOLS - TUITION FOR NONRESIDENTS - RESPONSIBILITY OF SCHOOL
DISTRICT FOR COSTS OF EDUCATING CHILDREN WHO ARE NOT RESIDENTS OF
THE SCHOOL DISTRICT BUT ARE PLACED AT A PRIVATE RESIDENTIAL CHILD
CARE FACILITY LOCATED IN THE SCHOOL DISTRICT - SCOPE OF EDUCATION
LAW § 4002(1);

BOARD OF MANAGERS OF COPLEY COURT CONDOMINIUM, MATTER OF v TOWN OF OSSINING:

TAXATION - ASSESSMENT - JUDICIAL REVIEW - FAILURE TO SERVE SCHOOL SUPERINTENDENT - WHETHER PETITIONER'S "GEOGRAPHICAL MISTAKE" IN SERVING PETITIONS ON THE SUPERINTENDENT OF SCHOOLS OF A NEIGHBORING SCHOOL DISTRICT, RATHER THAN ON THE SUPERINTENDENT OF SCHOOLS OF THE SCHOOL DISTRICT IN WHICH IT OWNS CERTAIN REAL PROPERTY, CONSTITUTED "GOOD CAUSE" TO EXCUSE ITS FAILURE TO SERVE THE CORRECT SCHOOL DISTRICT AND TO ALLOW IT TO EFFECT SUCH SERVICE NUNC PRO TUNC - RPTL 708(3);

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

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

BOWDEN (LATISHA), PEOPLE v:

CRIMES - SUPPRESSION HEARING - DEFENDANT'S BAG SEARCHED BY POLICE SENT UP TO BUILDING ROOFTOP AFTER OTHER OFFICERS KNOCKED AT APARTMENT DOOR AND HEARD WINDOW BEING OPENED - WHETHER CIRCUMSTANCES GAVE POLICE A REASONABLE SUSPICION THAT DEFENDANT MIGHT BE CONCEALING A WEAPON;

BRADSHAW (JAY JOMAR), PEOPLE v: (Cal. Date - 11/16/11)

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF HIS RIGHT TO APPEAL WAS KNOWING AND VOLUNTARY;

BUENO (CHRISTIAN), PEOPLE v:

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

BUKOWSKI v CLARKSON UNIVERSITY et al.:

NEGLIGENCE - ASSUMPTION OF RISK - ACTION BY COLLEGE PITCHER TO RECOVER DAMAGES FOR INJURIES SUSTAINED WHILE PARTICIPATING IN BASEBALL PRACTICE IN AN INDOOR TRAINING FACILITY - WHETHER THERE WAS EVIDENCE FROM WHICH A JURY COULD CONCLUDE THAT THE RISK OF INJURY WAS UNREASONABLY ENHANCED BY THE CONDITIONS EXISTING IN THE TRAINING FACILITY - INHERENT COMPULSION TO PRACTICE WITHOUT L-SCREEN SAFETY DEVICE; DISMISSAL AND NONSUIT;

BUSSEY (MONROE B.), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - WHETHER THE TRIAL COURT ERRED IN SUBMITTING COUNTS OF BOTH INTENTIONAL MURDER AND DEPRAVED INDIFFERENCE MURDER TO THE JURY; MERGER DOCTRINE - WHETHER MERGER DOCTRINE APPLIES TO CHARGE OF KIDNAPPING IN THE FIRST DEGREE;

CAJIGAS (NORMAN), PEOPLE v:

CRIMES - BURGLARY - ATTEMPT - SUFFICIENCY OF THE EVIDENCE OF CRIMINAL INTENT - WHETHER AN INTENT TO COMMIT AN ACT THAT WOULD BE INNOCUOUS IF AN ORDER OF PROTECTION DID NOT PROHIBIT IT CAN SATISFY THE "INTENT TO COMMIT A CRIME THEREIN" ELEMENT OF BURGLARY;

CAPPELLINO, MATTER OF v BAUMANN & SONS BUS COMPANY et al.:

(Cal. Date - 1/5/12)

WORKERS' COMPENSATION - CAUSAL RELATION - WHETHER AN EMPLOYER THAT DOES NOT TIMELY FILE A NOTICE OF CONTROVERSY PURSUANT TO WORKERS' COMPENSATION LAW § 25(2)(b) MAY CONTEST BEFORE THE WORKERS' COMPENSATION BOARD (WCB) THE CAUSAL RELATIONSHIP BETWEEN THE DEATH OF CLAIMANT'S DECEDENT AND HIS EMPLOYMENT; CHALLENGE TO WCB'S DECISION THAT CLAIMANT'S APPLICATION FOR REVIEW OF AN ADMINISTRATIVE LAW JUDGE'S PRECLUSION OF TESTIMONY FROM CLAIMANT'S MEDICAL EXPERT WAS UNTIMELY; LEGAL STANDARD APPLICABLE TO WORKERS' COMPENSATION CLAIMS ARISING FROM HEART ATTACK FATALITIES; EXISTENCE OF SUBSTANTIAL EVIDENCE SUPPORTING WCB'S DECISION;

CARUSO et al. v NORTHEAST EMERGENCY MEDICAL ASSOCIATES, P.C.:

RELEASE - SCOPE OF RELEASE - WHETHER GENERAL RELEASE BARRED ACTION FOR CONTRACTUAL INDEMNIFICATION; ASSIGNMENT OF CONTRACTUAL INDEMNIFICATION RIGHTS - WHETHER THE ACTION AND ASSIGNMENT ARE BARRED BY LANGUAGE THAT LIMITED THE ASSIGNMENT "TO THE EXTENT OF ANY INSURANCE COVERAGE PROVIDING BENEFITS OR COVERAGE TO [HOSPITAL DEFENDANT IN PRIOR MALPRACTICE ACTION]" - WHETHER ASSIGNMENT IS BARRED BY PUBLIC POLICY;

CASS (MICKEY), PEOPLE v: (Cal. Date - 1/5/12)

CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE DEFENDANT'S STATEMENT REGARDING HIS ROLE IN A PRIOR HOMICIDE WHERE ANOTHER MALE VICTIM WAS STRANGLERED, FOR THE PURPOSE OF DISPROVING DEFENDANT'S CLAIM THAT HE WAS ACTING UNDER THE INFLUENCE OF EXTREME EMOTIONAL DISTURBANCE WHEN HE STRANGLERED THE VICTIM IN THIS CASE; CLAIMED VIOLATION OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL;

CHAZON, LLC v MAUGENEST:

LANDLORD AND TENANT - LOFT LAW - EJECTMENT - WHETHER LANDLORD CAN MAINTAIN AN EJECTMENT ACTION AGAINST TENANT PROTECTED BY MULTIPLE DWELLING LAW ARTICLE 7-C (THE LOFT LAW), EVEN THOUGH LANDLORD HAS NOT COMPLIED WITH MULTIPLE DWELLING LAW § 285(1) REGARDING MINIMUM HOUSING MAINTENANCE STANDARDS;

CHESTNUT (KEVIN), PEOPLE v:

CRIMES - CONSOLIDATION AND SEVERANCE - CPL 200.40(1) - WHETHER SUPREME COURT'S ALLEGED ERROR IN DENYING DEFENDANT'S MOTION TO SEVER UNRELATED COUNTS APPLICABLE ONLY TO CODEFENDANT IS SUBJECT TO HARMLESS ERROR ANALYSIS AND, IF SO, WHETHER THE ERROR IS HARMLESS;

CHINESE STAFF AND WORKERS' ASSOCIATION, et al., MATTER OF v BURDEN &c, et al.:

ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL QUALITY REVIEW - WHETHER THE DEPARTMENT OF CITY PLANNING CONDUCTED AN ADEQUATE ENVIRONMENTAL REVIEW OF A PROPOSED REZONING - ISSUANCE OF A NEGATIVE DECLARATION - STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) - "HARD LOOK" REQUIREMENT;

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

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

CLINTON COUNTY, et al., MATTER OF v ADIRONDACK PARK AGENCY, et al.:

MUNICIPAL CORPORATIONS - HOME RULE POWERS - PROCEEDING TO REVIEW CERTAIN 2008 AMENDMENTS TO THE REGULATIONS RELATED TO THE ADIRONDACK PARK AGENCY ACT (EXECUTIVE LAW § 804[9]) AFFECTING EXPANSION OF SHORELINE STRUCTURES, SUBDIVISIONS INVOLVING WETLANDS, PARCELS DIVIDED BY ROADS AND HUNTING AND FISHING CABINS; CAPACITY OF MUNICIPAL PETITIONERS TO SUE; ALLEGED VIOLATIONS BY ADIRONDACK PARK AGENCY OF HOME RULE PROTECTIONS, SEPARATION OF POWERS DOCTRINE AND AUTHORITY GRANTED TO IT BY THE NEW YORK LEGISLATURE;

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;

COLEMAN v DAINES &c, et al.:

SOCIAL SERVICES - PROCEEDING AGAINST BODY OR OFFICER - PETITION SEEKING RELIEF AS A RESULT OF RESPONDENTS' HANDLING OF PETITIONER'S APPLICATION FOR MEDICAID HOME CARE SERVICES; SOCIAL SERVICES LAW § 133; MOOTNESS - EXCEPTION TO MOOTNESS DOCTRINE; ADMINISTRATIVE LAW - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;

COLLINS, MATTER OF v DUKES PLUMBING & SEWER, INC.:

WORKERS' COMPENSATION - AGGREGATE TRUST FUND - WHETHER THE 2007 AMENDMENTS TO WORKERS' COMPENSATION LAW § 27(2) REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF UNCAPPED PERMANENT PARTIAL DISABILITY (PPD) AWARDS INTO THE AGGREGATE TRUST FUND - APPLICATION TO CLAIMS WITH A DATE OF DISABILITY/INJURY PRIOR TO JULY 1, 2007 BUT WITH A PPD CLASSIFICATION AFTER THAT DATE;

COLVILLE (DELROY), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - COUNSEL'S WITHDRAWAL, IN DEFERENCE TO CLIENT'S WISHES, OF REQUEST TO CHARGE MANSLAUGHTER IN THE FIRST AND SECOND DEGREES AS LESSER INCLUDED OFFENSES TO MURDER IN THE SECOND DEGREE - WHETHER THE DECISION TO SUBMIT LESSER INCLUDED OFFENSES TO THE JURY IS A STRATEGIC DECISION TO BE MADE BY COUNSEL OR A FUNDAMENTAL DECISION TO BE MADE BY THE CLIENT - EFFECTIVE ASSISTANCE OF COUNSEL; JUSTIFICATION DEFENSE - DUTY TO RETREAT;

COOPER (KEVIN O.), PEOPLE v:

CRIMES - APPEAL - WHETHER AN ORAL RULING ON A PRE-TRIAL MOTION, WHICH WAS NOT REDUCED TO WRITING, IS APPEALABLE; WAIVER OF RIGHT TO APPEAL; SUPPRESSION HEARING;

CORSELLO et al. v VERIZON NEW YORK, INC., &c., et al.:

EMINENT DOMAIN - INVERSE CONDEMNATION - MULTI-PROPERTY TELEPHONE SERVICE TERMINALS AFFIXED TO INDIVIDUAL BUILDINGS - WHETHER INDIVIDUAL PROPERTY OWNERS HAVE A CAUSE OF ACTION FOR DAMAGES FOR INVERSE CONDEMNATION OR FOR A VIOLATION OF GENERAL BUSINESS LAW § 349; STATUTE OF LIMITATIONS; PARTIES - CLASS CERTIFICATION;

CPS OPERATING COMPANY LLC v PATHMARK STORES, INC.:

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

CRUZ (GERALDO), PEOPLE v.:

TRIAL - PHYSICALLY RESTRAINED DEFENDANT - LEG SHACKLES - WHETHER TRIAL COURT CONDUCTED SUFFICIENT INQUIRY ON FACTS WARRANTING RESTRAINT; JURY NOTE - WHETHER TRIAL COURT GAVE MEANINGFUL RESPONSES TO JURY'S WRITTEN REQUESTS DURING DELIBERATIONS;

CUOMO, PEOPLE &c, By v FIRST AMERICAN CORPORATION, et al.:

STATUTES - FEDERAL PREEMPTION - RESIDENTIAL REAL ESTATE APPRAISALS - WHETHER (1) THE HOME OWNER'S LENDING ACT OF 1933 (12 USC § 1461 ET SEQ.), (2) THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 (Pub. L 101-73, 103 Stat 183), AND (3) THE REGULATIONS AND GUIDELINES IMPLEMENTED PURSUANT THERETO PREEMPT STATE REGULATIONS IN THE FIELD OF REAL ESTATE APPRAISALS; ATTORNEY GENERAL - ENJOINING FRAUDULENT OR ILLEGAL ACTS - WHETHER THE COMPLAINT STATES A CAUSE OF ACTION UNDER GENERAL BUSINESS LAW § 349 WITH RESPECT TO ALLEGEDLY FRAUDULENT RESIDENTIAL REAL ESTATE APPRAISALS;

CUSTODI et al. v MUFFOLETTO et al.:

NEGLIGENCE - ASSUMPTION OF RISK - ACTION SEEKING DAMAGES FOR INJURIES SUSTAINED BY PLAINTIFF WHILE ROLLERBLADING WHEN SHE ALLEGEDLY TRIPPED OVER A TWO-INCH HEIGHT DIFFERENTIAL BETWEEN APRON AT END OF INDIVIDUAL DEFENDANTS' DRIVEWAY AND CULVERT THAT SEPARATED DRIVEWAY FROM PUBLIC ROADWAY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, UNDER THE CIRCUMSTANCES OF THIS CASE, THE DOCTRINE

DAHAR v HOLLAND LADDER & MANUFACTURING CO., et al.:

(Cal. Date - 1/10/12)

LABOR - SAFE PLACE TO WORK - PERSONAL INJURY ACTION SEEKING DAMAGES FOR INJURIES ALLEGEDLY SUSTAINED WHEN A PLAINTIFF FELL FROM A LADDER AT HIS EMPLOYER'S SHOP WHILE HE WAS READYING A FABRICATED COMPONENT PART FOR SHIPMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF WAS NOT PERFORMING AN ACTIVITY PROTECTED BY LABOR LAW § 240(1) BECAUSE HE WAS ENGAGED IN THE NORMAL MANUFACTURING PROCESS AT A FACTORY AND WAS NOT PERFORMING WORK ON THE BUILDING ITSELF - WHETHER PLAINTIFF'S WORK ON A FABRICATED COMPONENT PART CONSTITUTED THE PROTECTED ACTIVITY OF "CLEANING" A "STRUCTURE" - PLAINTIFF'S ENTITLEMENT TO PARTIAL SUMMARY JUDGMENT ON LIABILITY UNDER LABOR LAW § 240(1) AGAINST OWNER OF PROPERTY AND OWNER OF FABRICATED COMPONENT PART;

D'ANGELO, MATTER OF v SCOPPETTA, &c., et al.:

CIVIL SERVICE - DISCIPLINARY PUNISHMENT - ARTICLE 78 PROCEEDING CHALLENGING A DETERMINATION OF RESPONDENT FIRE COMMISSIONER RESULTING IN PLACEMENT OF A LETTER AND ADVISORY MEMORANDUM IN PETITIONER FIREFIGHTER'S EQUAL EMPLOYMENT OPPORTUNITY OFFICE FILE - WHETHER INCORPORATION OF LETTER INTO EMPLOYEE'S FILE TRIGGERED THE STATUTORY PROTECTIONS OF CIVIL SERVICE LAW § 75;

DAIS (QUINTON), PEOPLE v:

CRIMES - SENTENCE - WHETHER COURT RESENTENCING DEFENDANT UNDER THE DRUG LAW REFORM ACT HAS AUTHORITY TO ADJUDICATE DEFENDANT A SECOND FELONY DRUG OFFENDER PREVIOUSLY CONVICTED OF A VIOLENT FELONY WHERE DEFENDANT WAS ONLY ADJUDICATED AS A SECOND FELONY OFFENDER AT HIS ORIGINAL SENTENCING PROCEEDING;

DEAN, et al. v TOWER INSURANCE COMPANY OF NEW YORK:

INSURANCE - DISCLAIMER OF COVERAGE - AMBIGUITY IN POLICY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A "RESIDENCE PREMISES" INSURANCE POLICY WAS AMBIGUOUS BECAUSE IT FAILED TO DEFINE THE WORD "RESIDES" FOR COVERAGE PURPOSES AND THE PLAINTIFFS PURCHASED THE POLICY IN ADVANCE OF CLOSING BUT WERE UNABLE TO FULFILL THEIR INTENTION OF ESTABLISHING RESIDENCY AT THE SUBJECT PREMISES DUE TO THEIR DISCOVERY AND REMEDIATION OF TERMITE DAMAGE - WHETHER AN ISSUE OF FACT EXISTED REGARDING PLAINTIFFS' MISREPRESENTATION OF THEIR INTENTION TO RESIDE IN THE SUBJECT PREMISES;

DELAMOTA (SEBASTIAN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - EYEWITNESS IDENTIFICATION; SUPPRESSION HEARING;

DICKINSON (ROBERT GUY), PEOPLE v: (Cal. Date 11/16/11)

CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A CERTAIN TIME PERIOD WAS "NOT CHARGEABLE TO THE PROSECUTION [FOR SPEEDY TRIAL PURPOSES] BECAUSE THE PARTIES WERE INVOLVED IN ONGOING PLEA DISCUSSIONS AND DEFENDANT [DID] NOT DENY THAT HE AND HIS COUNSEL ACTIVELY PURSUED AND PARTICIPATED IN THESE NEGOTIATIONS";

DOMBROWSKI v BULSON:

ATTORNEY AND CLIENT - MALPRACTICE - WRONGFUL CRIMINAL CONVICTION - AVAILABILITY OF NONPECUNIARY DAMAGES FOR PLAINTIFF'S LOSS OF LIBERTY;

DOUGLAS ELLIMAN LLC, &c. v TRETTER:

BROKERS - REAL ESTATE BROKERS - COMMISSION - BREACH OF FIDUCIARY DUTY - BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING - EXISTENCE OF UNDISCLOSED DUAL AGENCY - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING SUMMARY JUDGMENT TO PLAINTIFF BROKER;

EASTSIDE EXHIBITION CORP. v 210 EAST 86TH STREET CORP.:

(Cal. Date - 1/10/12)

LANDLORD AND TENANT - EVICTION - UNAUTHORIZED TAKING OF DEMISED PREMISES - RENT ABATEMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A COMMERCIAL TENANT WHO IS SUBJECTED TO A

PARTIAL, ACTUAL EVICTION IS NOT ENTITLED TO A TOTAL RENT ABATEMENT BUT RATHER TO A PARTIAL RENT ABATEMENT IN THE AMOUNT OF ITS ACTUAL DAMAGES;

ECHOSTAR SATELLITE CORP., MATTER OF v TAX APPEALS TRIBUNIAL:
TAXATION - SALES AND USE TAXES - WHETHER SATELLITE TELEVISION PROGRAMMING PROVIDER'S PURCHASES OF EQUIPMENT IT THEN SUPPLIES TO CUSTOMERS TO ALLOW THEM ACCESS TO SATELLITE PROGRAMMING CONSTITUTE PURCHASES FOR RESALE WITHIN THE MEANING OF TAX LAW § 1101(b)(4)(i), WHICH EXEMPTS SUCH PURCHASES FOR RESALE FROM SALES AND USE TAXES;

ELMER (CAROL), PEOPLE v:
CRIMES - APPEAL - WHETHER AN ORAL RULING ON A PRE-TRIAL MOTION, WHICH WAS NOT REDUCED TO WRITING, IS APPEALABLE;

ELRAC, MATTER OF v EXUM: (Cal. Date - 11/15/11)
INSURANCE - AUTOMOBILE INSURANCE - UNINSURED MOTORIST ENDORSEMENT - EMPLOYEE DRIVING MOTOR VEHICLE OWNED BY SELF-INSURED EMPLOYER IN ACCIDENT WITH UNINSURED MOTORIST - UNINSURED MOTORIST CLAIM ASSERTED BY EMPLOYEE AGAINST EMPLOYER - WHETHER EXCLUSIVITY PROVISIONS OF WORKERS' COMPENSATION LAW PRECLUDE EMPLOYEE FROM ARBITRATING CLAIM AGAINST EMPLOYER;

EXTALE (JAMES), PEOPLE v:
CRIMES - ASSAULT - WHETHER COUNTY COURT ERRED IN ALLOWING THE PROSECUTION TO WITHDRAW THE INDICTMENT COUNT CHARGING DEFENDANT WITH VEHICULAR ASSAULT IN THE FIRST DEGREE;

FEDERAL INSURANCE COMPANY v INTERNATIONAL BUSINESS MACHINES CORP., et al.: (Cal. Date - 1/10/12)
INSURANCE - DUTY TO DEFEND AND INDEMNIFY - EXCESS COVERAGE - WHETHER A BREACH OF FIDUCIARY DUTY IS REQUIRED FOR THE COMMISSION OF A "WRONGFUL ACT" COVERED BY AN EXCESS INSURANCE POLICY WHERE "WRONGFUL ACT" IS DEFINED IN PERTINENT PART AS "ANY BREACH OF THE RESPONSIBILITIES, OBLIGATIONS OR DUTIES BY AN INSURED WHICH ARE IMPOSED UPON A FIDUCIARY OF A BENEFIT PROGRAM BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 [ERISA], OR BY THE COMMON OR STATUTORY LAW OF THE UNITED STATES" - ENTITLEMENT TO COVERAGE BY INSURED WHO IS FIDUCIARY OF A BENEFIT PROGRAM BUT WHO WAS NOT ACTING AS FIDUCIARY WITH RESPECT TO ITS ALLEGED BREACH OF ERISA - AMBIGUOUS CONTRACTS;

FERNANDEZ (SANDY), PEOPLE v:
CRIMES - ACCUSATORY INSTRUMENT - WHETHER THE APPELLATE TERM ERRED IN HOLDING THAT AN ACCUSATORY INSTRUMENT CHARGING DEFENDANT WITH AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE IN THE THIRD DEGREE (VEHICLE AND TRAFFIC LAW

§ 511[1][a]) WAS A SIMPLIFIED TRAFFIC INFORMATION EVEN THOUGH IT WAS TITLED "COMPLAINT/INFORMATION" AND INCLUDED FACTUAL ALLEGATIONS IN SUPPORT OF THE CHARGE;

FISHER (AARON RICHARD), PEOPLE v:

CRIMES - FAIR TRIAL - COURSE OF SEXUAL CONDUCT AGAINST A CHILD - ALLEGED PROSECUTORIAL MISCONDUCT - PRESERVATION; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

FLORES (RAMON), PEOPLE v:

CRIMES - DISCLOSURE - WHETHER DEFENDANT IS ENTITLED TO PRODUCTION OF CHILD VICTIM'S VIDEOTAPED GRAND JURY TESTIMONY - CPL 240.45 - ROSARIO MATERIAL; CLAIMED MULTIPLICITOUS COUNTS IN INDICTMENT AND INEFFECTIVE ASSISTANCE OF COUNSEL;

FREDRICKSON, MATTER OF v NEW YORK CITY HOUSING AUTHORITY:

MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - PETITIONER'S BURDEN OF ESTABLISHING THAT RESPONDENT ACQUIRED ACTUAL KNOWLEDGE OF THE ESSENTIAL FACTS OF THE CLAIM WITHIN A REASONABLE TIME AFTER THE CLAIM AROSE - GENERAL MUNICIPAL LAW § 50-e;

FREEMAN (JOHN), PEOPLE v:

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

FUREY (SCOTT C.), PEOPLE v: (Cal. Date - 11/16/11)

JURY - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF A PROSPECTIVE JUROR MARRIED TO THE CAPTAIN OF THE POLICE DEPARTMENT AND SOCIALLY ACQUAINTED WITH EIGHT POLICE OFFICERS ON THE PROSECUTION'S WITNESS LIST - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF A PROSPECTIVE JUROR WHO WAS UNABLE TO STATE UNEQUIVOCALLY THAT SHE COULD RENDER AN IMPARTIAL VERDICT;

GAMBLE (COREY), PEOPLE v: (Cal. Date 1/4/12)

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED IN PRECLUDING CERTAIN EVIDENCE ABOUT ONE OF THE MURDER VICTIMS; RIGHT TO COUNSEL - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO COUNSEL WHEN COURT OFFICERS, FOR SECURITY REASONS, WERE SEATED BEHIND DEFENDANT'S CHAIR, WHERE THEY MIGHT HEAR DEFENSE COUNSEL'S CONVERSATION WITH DEFENDANT; ALLEGED MISCONDUCT OF PROSECUTOR DURING TRIAL;

GAMMON (BRIAN), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE OF ADDITIONAL TIME IN JAIL TO REMEDY ERROR BY JAIL PERSONNEL RESULTING IN DEFENDANT'S RELEASE; SEARCH OF THE RECORD BY APPELLATE TERM TO DETERMINE WHAT SENTENCE ORIGINALLY INTENDED BY DISTRICT COURT - CPL 430.10; INCREASE IN SENTENCE BY TRIAL COURT AFTER SENTENCE PRONOUNCED AND AFTER DEFENDANT REMANDED TO CORRECTIONAL FACILITY; DOUBLE JEOPARDY;

GAUSE (DERRICK), PEOPLE v:

CRIMES - DOUBLE JEOPARDY - WHETHER DOUBLE JEOPARDY CLAUSES OF STATE AND FEDERAL CONSTITUTIONS BAR APPELLANT'S FURTHER PROSECUTION FOR INTENTIONAL MURDER (NOT CONSIDERED BY THE FIRST JURY) AFTER APPELLATE DIVISION DISMISSED THE DEPRAVED INDIFFERENCE MURDER COUNT UPON WHICH HE WAS CONVICTED; COLLATERAL ESTOPPEL - ACCOMPLICE LIABILITY; EFFECTIVE ASSISTANCE OF COUNSEL;

GEORGE (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED SPECTATORS, INCLUDING DEFENDANT'S MOTHER, FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SPACE AND PROXIMITY TO PROSPECTIVE JURORS; PRESERVATION;

GEORGIA MALONE & COMPANY v ROSEWOOD REALTY GROUP, INC.:

EQUITY - UNJUST ENRICHMENT - SUFFICIENCY OF PLEADING - NECESSITY TO PLEAD DIRECT CONTACT OR RELATIONSHIP BETWEEN PLAINTIFF AND DEFENDANT CAUSING PLAINTIFF'S RELIANCE OR INDUCEMENT;

GLOBAL REINSURANCE CORPORATION - U.S. BRANCH &c. v
EQUITAS, LTD., et al.:

INSURANCE - REINSURANCE - ACTION BY REINSURANCE COMPANY SEEKING RELIEF FOR, AMONG OTHER THINGS, CONSPIRACY TO VIOLATE NEW YORK'S ANTITRUST LAW (GENERAL BUSINESS LAW § 340 et seq. [THE DONNELLY ACT]), AND INJUNCTIVE RELIEF; RETROCESSIONAL REINSURANCE - CLAIMS HANDLING AND PREMIUMS CHARGED;

GRONSKI, et al. v COUNTY OF MONROE:

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

GRUCCI v GRUCCI:

TORTS - MALICIOUS PROSECUTION - ELEMENTS REQUISITE TO CAUSE OF ACTION - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED

THAT PLAINTIFF WAS NOT PREJUDICED BY ANY ERROR SUPREME COURT MAY HAVE COMMITTED IN EXCLUDING CERTAIN EVIDENCE - AUDIOTAPE NOT ADMITTED ON THE GROUND THAT IT COULD NOT PROPERLY BE AUTHENTICATED;

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;

H. (ANONYMOUS) v B. (ANONYMOUS), et al.: (Cal. Date 1/9/12)

LIBEL AND SLANDER - ACTIONABLE WORDS - OPINIONS - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANTS MADE A PRIMA FACIE SHOWING OF ENTITLEMENT TO JUDGMENT AS A MATTER OF LAW BY ESTABLISHING THAT THEIR ALLEGED STATEMENTS CONSTITUTED STATEMENTS OF OPINION RATHER THAN OF FACT - WHETHER THE APPELLATE DIVISION HOLDING IS INCONSISTENT WITH MANN v ABEL (10 NY3d 217 [2008]) AND STEINHILBER v ALPHONSE (68 NY2d 283 [1986]);

HAFFIZ (FEOID), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL BASED ON ATTORNEY'S STATEMENT CONCERNING THE DEPORTATION CONSEQUENCES OF DEFENDANT'S GUILTY PLEA - VOLUNTARINESS OF GUILTY PLEA;

HAHN AUTOMOTIVE WAREHOUSE, INC. v AMERICAN ZURICH INSURANCE COMPANY et al.:

CONTRACTS - BREACH OF CONTRACT - ACTION BY INSURED SEEKING DETERMINATION THAT ANY CLAIMS BY INSURERS FOR PAYMENTS PURSUANT TO SEVERAL INSURANCE CONTRACTS WERE TIME-BARRED - COUNTERCLAIM BY INSURERS SEEKING DETERMINATION THAT INSURERS WERE ENTITLED TO SATISFY ANY PART OF INSURED'S OUTSTANDING DEBT FROM PREVIOUSLY ISSUED LETTER OF CREDIT - CONSTRUCTION OF CONTRACT TERMS; SUMMARY JUDGMENT; STATUTE OF LIMITATIONS;

HAILEY ZZ, MATTER OF v TOMPKINS COUNTY DEPARTMENT OF SOCIAL SERVICES (RICKY ZZ):

PARENT AND CHILD - TERMINATION OF PARENTAL RIGHTS - PERMANENT NEGLECT - WHETHER SUPREME COURT ERRED IN DETERMINING THAT PETITIONER MADE DILIGENT EFFORTS TO STRENGTHEN THE PARENT-CHILD RELATIONSHIP AND THAT FATHER FAILED TO PLAN FOR THE FUTURE OF THE CHILD - WHETHER SUPREME COURT PROPERLY DENIED FATHER'S REQUEST FOR A SUSPENDED JUDGMENT OR POST-TERMINATION VISITATION;

HALL (MICHAEL), PEOPLE v:

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

HALTER (ROBERT), PEOPLE v:

CRIMES - EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - APPLICATION OF RAPE SHIELD LAW (CPL 60.42) - ALLEGED DENIAL OF DEFENDANT'S RIGHTS TO CONFRONT ACCUSER AND PRESENT A DEFENSE;

HARBATKIN, MATTER OF v NEW YORK CITY DEPARTMENT OF RECORDS AND INFORMATION SERVICES, et al.:

DISCLOSURE - FREEDOM OF INFORMATION LAW (FOIL) - PROCEEDING PURSUANT TO CPLR ARTICLE 78 AND PUBLIC OFFICERS LAW §§ 84-90 FOR UNRESTRICTED ACCESS TO HISTORICAL RECORDS CONCERNING AN INVESTIGATION OF COMMUNIST ACTIVITY IN NEW YORK CITY SCHOOLS FROM 1930'S TO 1960'S; ALLEGED FIRST AMENDMENT VIOLATIONS IN REDACTING RECORDS FOR PERSONAL PRIVACY CONCERNS OF INTERVIEWED PUBLIC SCHOOL TEACHERS;

HARDY, MATTER OF v TRICO, et al.:

WORKERS' COMPENSATION - WHETHER THE 2007 AMENDMENTS TO THE WORKERS' COMPENSATION LAW REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF THE UNCAPPED PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND FOR CLAIMS WITH DATES OF INJURY PRIOR TO MARCH 14, 2007 - WORKERS' COMPENSATION LAW § 27(2);

HARRIS (CALVIN L.), PEOPLE v:

CRIMES - MURDER IN THE SECOND DEGREE - SUFFICIENCY OF THE EVIDENCE - CONVICTION BASED ON CIRCUMSTANTIAL EVIDENCE; JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF PROSPECTIVE JUROR WHO ACKNOWLEDGED SHE HAD EXPRESSED A PREEXISTING OPINION REGARDING DEFENDANT'S GUILT OR INNOCENCE; EVIDENCE - PRECLUSION OF EXCULPATORY STATEMENTS BY UNAVAILABLE WITNESS - ADMISSION OF VICTIM'S HEARSAY STATEMENTS WITHOUT INSTRUCTING THE JURY THAT STATEMENTS WERE NOT ADMITTED FOR THEIR TRUTH; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGED DENIAL OF FAIR TRIAL DUE TO PRETRIAL PUBLICITY;

HERRING (CARLOS), PEOPLE v:

CRIMES - JURORS - DISCHARGE OF JUROR - DENIAL OF DEFENDANT'S MOTION FOR MISTRIAL DUE TO JUROR WHO ALLEGEDLY SLEPT DURING TRIAL AND DELIBERATIONS; DISCLOSURE - FAILURE TO PRODUCE ROSARIO MATERIAL - WHETHER A SANCTION HAD TO BE IMPOSED FOR THE LOSS OF NOTES OF A FLORIDA LAW ENFORCEMENT OFFICER AS TO, AMONG OTHER THINGS, THAT OFFICER'S EFFORTS TO LOCATE DEFENDANT;
SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER SENTENCE

ON CONVICTION OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE WAS PROPERLY IMPOSED TO RUN CONSECUTIVELY TO SENTENCE ON CONVICTION OF MURDER IN THE SECOND DEGREE;

HIGHTOWER (JOSEPH), PEOPLE v: (Cal. Date - 11/14/11)
 CRIMES - LARCENY - SUFFICIENCY OF FACTUAL ALLEGATIONS IN ACCUSATORY INSTRUMENT CHARGING DEFENDANT WITH PETIT LARCENY (PENAL LAW § 155.05[1]) FOR SELLING A SWIPE ON AN UNLIMITED-FARE METROCARD, THUS ALLOWING THE PURCHASER TO ENTER THE SUBWAY STATION BEYOND THE TURNSTILES WITHOUT PERMISSION OR AUTHORITY TO DO SO;

HOLLAND (DAVID), PEOPLE v: (Cal. Date - 11/16/11)
 CRIMES - SUPPRESSION HEARING - EVIDENCE SEIZED AFTER POLICE STOP - WHETHER ANY ALLEGEDLY UNLAWFUL POLICE CONDUCT IN STOPPING AND QUESTIONING DEFENDANT WAS ATTENUATED BY DEFENDANT'S ACTION IN STRIKING ONE OFFICER;

HOLSTEIN v COMMUNITY GENERAL HOSPITAL OF GREATER SYRACUSE:
 JURY - POLLING OF JURY - WHETHER A NEW TRIAL IS WARRANTED BASED ON THE TRIAL COURT'S FAILURE TO POLL THE JURY AFTER REQUEST BY DEFENDANT - WHETHER TRIAL COURT'S RESPONSE TO JURY POLL REQUEST WAS EQUIVOCAL - WAIVER; PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE ACTION;

HUDSON VALLEY FEDERAL CREDIT UNION v NEW YORK STATE DEPARTMENT OF TAXATION and FINANCE, et al.:
 TAXATION - MORTGAGE RECORDING TAX - TAX LAW § 253 - WHETHER FEDERAL CREDIT UNIONS ARE EXEMPT FROM MORTGAGE RECORDING TAX UNDER EITHER THE FEDERAL CREDIT UNION ACT OF 1934 (12 USC Ch. 14) OR THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION; ACTION FOR DECLARATORY JUDGMENT;

HUFF v RODRIGUEZ:
 TRIAL - ARGUMENT AND CONDUCT OF COUNSEL - COMMENTS MADE BY DEFENDANTS' ATTORNEY IN SUMMATION THAT PLAINTIFF DID NOT CALL HER EXPERT WITNESS BECAUSE HIS TESTIMONY WOULD NOT SUPPORT PLAINTIFF'S CLAIM THAT DEFENDANT DRIVER CAUSED THE AUTOMOBILE ACCIDENT;

HUSSEIN, &c., et al., MATTER OF v STATE OF NEW YORK:
 COURTS - RIPENESS DOCTRINE - APPEAL - ACADEMIC AND MOOT QUESTIONS - ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF BASED UPON CLAIMS THAT PLAINTIFFS' CHILDREN ARE BEING DEPRIVED OF THE RIGHT TO A SOUND BASIC EDUCATION IN VIOLATION OF NY CONSTITUTION, ARTICLE XI, § 1, BECAUSE THE SCHOOL DISTRICTS WHERE THEY ATTEND SCHOOL, ALL OF WHICH ARE LOCATED OUTSIDE NEW

YORK CITY, ARE SUBSTANTIALLY UNDERFUNDED - WHETHER PLAINTIFFS' CLAIMS ARE NOT RIPE FOR REVIEW BECAUSE THEY ARE BASED UPON DATA OBTAINED BEFORE THE ENACTMENT OF EDUCATION AID REFORM LEGISLATION IN 2007 (L 2007, ch 57, as amended) OR ARE MOOT BECAUSE OF THE ENACTMENT OF SUCH LEGISLATION;

IDX CAPITAL, LLC, et al. v PHOENIX PARTNERS GROUP LLC, et al.:
TORTS - COMPLAINT ALLEGING, AMONG OTHER THINGS, CAUSES OF ACTION FOR TORTIOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONSHIP, LIBEL, INJURIOUS FALSEHOOD, AND AIDING AND ABETTING BREACH OF FIDUCIARY DUTIES - WHETHER THE APPELLATE DIVISION CORRECTLY GRANTED SUMMARY JUDGMENT DISMISSING THE COMPLAINT AS TO CERTAIN DEFENDANTS AND DISMISSING CLAIM FOR EARN-OUT DAMAGES AS SPECULATIVE;

IMPERATO v THE MOUNT SINAI MEDICAL CENTER, et al.:
DISCLOSURE - PRECLUSION ORDER - WHETHER A PARTY PRECLUDED FROM OFFERING EXPERT TESTIMONY AT TRIAL IS REQUIRED TO FILE AN EXPERT AFFIDAVIT OF MERIT TO SUPPORT THE GRANT OF A MOTION TO VACATE THE PRECLUSION ORDER;

INGRAM (TECOY), PEOPLE v:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - TRAFFIC STOP - WHETHER DRUGS RECOVERED FROM DEFENDANT AND STATEMENTS HE MADE TO POLICE AFTER HIS ARREST FOR FALSE PERSONATION (PENAL LAW § 190.23) SHOULD HAVE BEEN SUPPRESSED UPON THE GROUND THAT HE WAS UNLAWFULLY DETAINED;

JACKSON (SAMUEL), PEOPLE v:
CRIMES - COMPLAINT - CRIMINAL POSSESSION OF MARIHUANA IN THE FIFTH DEGREE (PENAL LAW § 221.10[1]) - WHETHER ACCUSATORY INSTRUMENT WAS JURISDICTIONALLY DEFECTIVE BECAUSE IT DID NOT ALLEGE THAT THE MARIHUANA WAS "OPEN TO PUBLIC VIEW" OR THAT IT WAS "BURNING" PRIOR TO THE STOP; SEARCH AND SEIZURE;

JOHNSON CITY PROFESSIONAL FIREFIGHTERS LOCAL 921 et al. and VILLAGE OF JOHNSON CITY, MATTER OF (PROCEEDING NO. 1); VILLAGE OF JOHNSON CITY and JOHNSON CITY FIREFIGHTERS ASSOCIATION LOCAL 921 IAFF, MATTER OF (PROCEEDING NO. 2):
ARBITRATION - MATTERS ARBITRABLE - ARBITRABILITY OF VILLAGE'S ALLEGED VIOLATION OF COLLECTIVE BARGAINING AGREEMENT WITH FIREFIGHTERS UNION PROVIDING THAT THE "VILLAGE SHALL NOT LAY-OFF ANY MEMBER OF THE BARGAINING UNIT DURING THE TERM OF THE CONTRACT" - ALLEGED APPLICATION OF LEGAL STANDARD THAT DOES NOT COMPORT WITH THE STANDARD ANNOUNCED IN YONKERS SCHOOL CROSSING GUARD UNION OF WESTCHESTER CO., CSEA v CITY OF YONKERS (39 NY2d 964 [1976]);

KAHN v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:

(Cal. Date - 1/11/12)

SCHOOLS - TEACHERS - TERMINATION OF PROBATIONARY EMPLOYMENT - TIMELINESS OF CHALLENGE - WHETHER A CPLR ARTICLE 78 PETITION CHALLENGING THE TERMINATION OF PROBATIONARY EMPLOYMENT ON SUBSTANTIVE GROUNDS IS TIME-BARRED WHERE IT IS NOT COMMENCED WITHIN FOUR MONTHS AFTER THE EFFECTIVE DATE OF TERMINATION BUT IS COMMENCED WITHIN FOUR MONTHS AFTER THE PETITIONER EXHAUSTS AVAILABLE ADMINISTRATIVE REMEDIES;

KEATING (PADRAIC), PEOPLE v:

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

KELLEY (RICHARD), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - WHETHER TRIAL COURT ERRED IN (1) ALLOWING DNA EVIDENCE, NOT OBTAINED UNTIL AFTER THE PEOPLE HAD COMPLETED THEIR DIRECT CASE, TO BE INTRODUCED AGAINST DEFENDANT, AND (2) DENYING DEFENDANT'S REQUEST FOR A MISTRIAL - CPL 240.20; EFFECTIVENESS OF DEFENSE COUNSEL;

KENT (JAMES D.), PEOPLE v:

CRIMES - PROMOTING (INCLUDING PROCURING) A SEXUAL PERFORMANCE BY A CHILD (PENAL LAW § 263.15) - POSSESSING A SEXUAL PERFORMANCE BY A CHILD (PENAL LAW § 263.16) - LEGAL SUFFICIENCY OF EVIDENCE BASED UPON DIGITAL COMPUTER IMAGES OBTAINED FROM DEFENDANT'S WORK COMPUTER; INDICTMENT - AMENDMENT - WHETHER AMENDMENT AT CLOSE OF PEOPLE'S CASE TO CHANGE DATE OF CRIME RELATING TO CHILD PORNOGRAPHY VIDEO MATERIALLY CHANGED THE PROSECUTION'S THEORY THAT DEFENDANT USED HIS OFFICE COMPUTER TO PROCURE THE VIDEO; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL WAS INEFFECTIVE IN FAILING TO MOVE TO SUPPRESS EVIDENCE COLLECTED FROM THE HARD DRIVE OF DEFENDANT'S COMPUTER;

KHAN (SALEEM), PEOPLE v: (Cal. Date - 1/12/12)

CRIMES - LARCENY - HEALTH CARE FRAUD - INTERPRETATION OF TERMS "MATERIAL" AND "PERSON" IN HEALTH CARE FRAUD STATUTE (PENAL LAW § 177.00 et seq.) - PRESCRIPTIONS FILLED BY PHARMACY FOR SPOUSE OF PERSON SUBMITTING PRESCRIPTION - SUFFICIENCY OF EVIDENCE FOR CONVICTION UNDER HEALTH CARE FRAUD STATUTE; RIGHT TO SPEEDY TRIAL;

LASSALLE (JARVIS), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER COUNTY COURT ERRED IN IMPOSING A PERIOD OF PRS AFTER JUDGE'S STATEMENT DURING PLEA COLLOQUY THAT THE SENTENCE WOULD BE "NO

GREATER THAN 15 YEARS" - PEOPLE v CATU (4 NY3d 242); ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL - FAILURE OF DEFENDANT'S APPELLATE COUNSEL TO BRIEF THE CATU ISSUE;

LATTA (DOUGLAS), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - WHETHER THE PEOPLE PRESENTED SUFFICIENT EVIDENCE TO THE GRAND JURY THAT THE DEFENDANTS' COMBINED ACTIVITIES CONSTITUTED AN "ASCERTAINABLE STRUCTURE" AS REQUIRED BY THE ENTERPRISE CORRUPTION PROVISION (PENAL LAW §§ 460.10[3] AND 460.20) OF NEW YORK'S ORGANIZED CRIME CONTROL ACT - ALLEGED INTERNATIONAL CYBERCRIME GROUP FACILITATING THE INTERNET SALE OF STOLEN CREDIT CARD DATA;

LEONARD (LEO), PEOPLE v:

CRIMES - KIDNAPPING - SUFFICIENCY OF EVIDENCE - AFFIRMATIVE DEFENSE IF DEFENDANT WAS A RELATIVE OF THE PERSON ABDUCTED AND HIS "SOLE PURPOSE WAS TO ASSUME CONTROL OF SUCH PERSON" (PENAL LAW § 135.30) - FATHER REFUSING TO HAND OVER HIS DAUGHTER IN STAND-OFF WITH POLICE;

LESHER, MATTER OF v HYNES et al.:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - MATERIALS EXEMPT FROM DISCLOSURE - WHETHER DOCUMENTS EXCHANGED BETWEEN DISTRICT ATTORNEY'S OFFICE AND THE FEDERAL GOVERNMENT, WHICH RELATE TO THE EXTRADITION FROM ISRAEL OF INDIVIDUAL INDICTED IN KINGS COUNTY ON MULTIPLE COUNTS OF SEXUAL ABUSE OF A CHILD, ARE EXEMPT FROM DISCLOSURE UNDER PUBLIC OFFICERS LAW § 87(2)(e), AS DOCUMENTS THAT WOULD INTERFERE WITH LAW ENFORCEMENT INVESTIGATIONS OR AS DOCUMENTS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY STATE STATUTE, NAMELY CIVIL RIGHTS LAW § 50-b, WHICH PROHIBITS DISCLOSURE OF DOCUMENTS THAT WOULD IDENTIFY THE VICTIMS OF A SEX OFFENSE;

LIDEN (SCOTT), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT - DETERMINATION BY BOARD OF EXAMINERS OF SEX OFFENDERS (BOARD) THAT PERSON MUST REGISTER AS A SEX OFFENDER ON THE BASIS OF AN OUT-OF-STATE CONVICTION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE BOARD'S DETERMINATION IS REVIEWABLE ONLY IN A CPLR ARTICLE 78 PROCEEDING AND THAT SUPREME COURT LACKED JURISDICTION TO MAKE A DIFFERENT DETERMINATION WITH RESPECT TO THE REGISTRATION REQUIREMENT - ALLEGED DUE PROCESS AND EQUAL PROTECTION VIOLATIONS; CHALLENGE TO RELIABILITY OF HEARSAY EVIDENCE SUPPORTING A LEVEL THREE DESIGNATION;

LORA (RAFAEL), PEOPLE v:

CRIMES - LESSER INCLUDED OFFENSE - INTENTIONAL MANSLAUGHTER AND RECKLESS MANSLAUGHTER - WHETHER THERE WAS NO REASONABLE VIEW OF

THE EVIDENCE THAT DEFENDANT DID NOT INTEND TO CAUSE SERIOUS PHYSICAL INJURY IN SHOOTING AT THE VICTIM BUT ACTED RECKLESSLY IN DOING SO; WEIGHT OF THE EVIDENCE;

LUYSTER CREEK LLC, MATTER OF v NEW YORK STATE PUBLIC SERVICE COMMISSION et al.:

PUBLIC UTILITIES - PUBLIC SERVICE COMMISSION (PSC) - PROPERTY TRANSFER ORDER - CHALLENGE TO PSC DETERMINATION CONFIRMING THAT THE DEVELOPMENT OF CERTAIN REAL PROPERTY AS AN ENVELOPE MANUFACTURING FACILITY WAS AN ESSENTIAL FACTOR UNDERLYING THE PUBLIC INTEREST FINDING IN PSC'S PRIOR ORDER APPROVING THE TRANSFER OF THE PROPERTY - PSC'S CONSIDERATION OF ECONOMIC DEVELOPMENT BENEFITS - SCOPE OF PSC'S STATUTORY AUTHORITY;

LYNCH, MATTER OF v CONDON &c.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - PROCEEDING AGAINST SUPREME COURT JUSTICE SEEKING TO PROHIBIT HIM FROM PROCEEDING TO TRIAL IN A CRIMINAL ACTION ENTITLED PEOPLE v LYNCH; CLAIMED DOUBLE JEOPARDY VIOLATIONS;

MACK (JASON), PEOPLE v:

CRIMES - INDICTMENT - SUFFICIENCY OF EVIDENCE BEFORE GRAND JURY - SEXUAL ABUSE IN THE FIRST DEGREE - SUFFICIENCY OF EVIDENCE OF FORCIBLE COMPULSION;

MANHATTAN TELECOMMUNICATIONS CORPORATION v

H & A LOCKSMITH, INC., &c, et al.:

JUDGMENTS - DEFAULT JUDGMENT - VACATUR; CONTRACT TO PERFORM TELEPHONE SERVICES - ACTION ALLEGING FAILURE TO PAY;

MANKO v LENOX HILL HOSPITAL:

APPEALS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PLAINTIFF'S MOTION TO RECALL AND VACATE A PRIOR APPELLATE DIVISION ORDER;

MANKO v LENOX HILL ANESTHESIOLOGY PLLC:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DISMISSED PLAINTIFF'S APPEAL ON THE COURT'S OWN MOTION FOR FAILURE TO COMPLY WITH THE COURT'S RULES AND PRIOR ORDER;

MARACLE (AMBER), PEOPLE v (APPEAL NO. 1):

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL WAS KNOWING, INTELLIGENT AND VOLUNTARY WHERE SHE PLEADED GUILTY TO EVERY COUNT IN AN INDICTMENT AND WAIVED HER RIGHT TO APPEAL IN RETURN FOR A PROMISED SENTENCE OF PROBATION BUT RECEIVED THE MAXIMUM SENTENCE ON EACH COUNT AFTER SHE FAILED TO SATISFY CONDITIONS PLACED UPON THE PROMISED SENTENCE OF PROBATION; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

MARACLE (AMBER), PEOPLE v (APPEAL NO. 2):

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL WAS KNOWING, INTELLIGENT AND VOLUNTARY WHERE SHE PLEADED GUILTY TO EVERY COUNT IN AN INDICTMENT AND WAIVED HER RIGHT TO APPEAL IN RETURN FOR A PROMISED SENTENCE OF PROBATION BUT RECEIVED THE MAXIMUM SENTENCE ON EACH COUNT AFTER SHE FAILED TO SATISFY CONDITIONS PLACED UPON THE PROMISED SENTENCE OF PROBATION; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

MARCHAND, MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.:

HIGHWAYS - HIGHWAY BY USE - WHETHER PRIVATE DIRT PATH USED BY PUBLIC HAD BECOME A VILLAGE STREET BY PRESCRIPTION UNDER VILLAGE LAW § 6-626 - NECESSITY FOR VILLAGE TO MAINTAIN AND REPAIR STREET; ABANDONMENT - WHETHER PATH THEREAFTER CEASED TO BE A VILLAGE STREET BY PRESCRIPTION BECAUSE IT WAS ABANDONED BY NONUSE;

MARTINEZ (HECTOR), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF EVIDENCE - SHOOTING INTO GROUP CONSISTING OF INTENDED TARGET AND TWO BYSTANDERS; TIMELINESS OF PROSECUTION; DISCLOSURE - NOTICE OF INTENTION TO OFFER EVIDENCE - WHETHER THE TRIAL COURT ERRED IN GRANTING THE PEOPLE'S REQUEST FOR A BRIEF DELAY IN DISCLOSING THE EXISTENCE OF A NEWLY DISCOVERED WITNESS WHO MADE A PHOTOGRAPHIC IDENTIFICATION OF DEFENDANT SHORTLY BEFORE OPENING STATEMENTS; DENIAL OF DEFENDANT'S MOTION TO SUPPRESS STATEMENTS HE MADE TO POLICE; ALLEGED PROSECUTORIAL MISCONDUCT; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL;

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

(Cal. Date - 1/9/12)

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

MATOS (ZAHIRA), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF EVIDENCE - DEFENDANT'S FAILURE TO SEEK EMERGENCY MEDICAL TREATMENT FOR HER TWO-YEAR-OLD SON AFTER THE CHILD WAS BEATEN BY DEFENDANT'S DOMESTIC PARTNER; WITNESSES - EXPERT WITNESS - TESTIMONY ON ABUSIVE DOMESTIC RELATIONSHIP NOT ADMITTED AS IRRELEVANT AND POTENTIALLY MISLEADING - HARMLESS ERROR; CLAIM THAT INDICTMENT, WHICH ENCOMPASSED A TWO-MONTH TIME PERIOD, DID NOT PROVIDE DEFENDANT WITH PROPER NOTICE OF THE PROSECUTION'S THEORY OF THE CASE; GRAND JURY - WHETHER THE INDICTMENT WAS DEFECTIVE BECAUSE THE GRAND JURY WAS INSTRUCTED UNDER THE REGISTER STANDARD PREVIOUSLY APPLICABLE TO DEPRAVED

INDIFFERENCE MURDER CHARGES; WHETHER DEFENDANT'S STATEMENTS TO POLICE AND PHYSICAL EVIDENCE SEIZED FROM HER APARTMENT SHOULD HAVE BEEN SUPPRESSED;

MAYS (CALVIN), PEOPLE v:

CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - INTERACTION BETWEEN PROSECUTOR AND JURORS DURING DELIBERATIONS WHILE VIDEO RECORDING REPLAYED - ALLEGED MODE OF PROCEEDINGS ERROR;

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;

McCABE et al. v ST. PAUL FIRE AND MARINE INSURANCE COMPANY:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - INSURANCE COMPANY'S OBLIGATION UNDER A CLAIMS-MADE PROFESSIONAL LIABILITY POLICY TO INDEMNIFY ATTORNEY IN UNDERLYING MALPRACTICE ACTION - WHETHER INSURANCE LAW § 3240(a)(4) APPLIES TO THE REPORTING REQUIREMENT CONTAINED IN A CLAIMS-MADE POLICY SO THAT COVERAGE EXISTS EVEN THOUGH THE CLAIM WAS REPORTED TO THE INSURANCE COMPANY ONLY AFTER THE POLICY PERIOD EXPIRED;

McKENZIE (DONYELL J.), PEOPLE v:

CRIMES - MURDER - EXTREME EMOTIONAL DISTURBANCE - WHETHER THE TRIAL COURT PROPERLY REFUSED DEFENDANT'S REQUEST TO CHARGE THE AFFIRMATIVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE;

McMANUS, PEOPLE ex rel. v HORN:

BAIL - RIGHT TO BAIL - RIGHT TO HAVE BAIL SET WITH AT LEAST TWO FORMS OF PAYMENT SPECIFIED - WHETHER CPL 520.10(2) LIMITS THE DISCRETION OF A JUDGE TO DIRECT THAT BAIL BE POSTED IN ONE FORM ONLY - "CASH ONLY" BAIL;

MEDINA (JUAN), PEOPLE v:

CRIMES - INSTRUCTIONS - CHALLENGE TO INSTRUCTION NOT CONTAINING THE STATUTORY DEFINITIONS OF "DEPRIVE" AND "APPROPRIATE" SET

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

MESSINA, MATTER OF v HUDSON NEWS COMPANY, et al.:

WORKERS' COMPENSATION - ADVANCE PAYMENT - DIRECTION THAT EMPLOYER'S CARRIER PAY THE FULL AMOUNT OF CLAIMANT'S LIFETIME PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND - WORKERS' COMPENSATION LAW §§ 27(2) AND 15(3)(w) - NO CAP ON AWARD - CLAIMED DUE PROCESS VIOLATIONS;

METZ, &c., et al. v STATE OF NEW YORK:

STATE - SOVEREIGN IMMUNITY - WHETHER THE STATE IS IMMUNE FROM LIABILITY FOR ALLEGEDLY NEGLIGENT SAFETY INSPECTION OF PUBLIC VESSEL - CHALLENGE TO APPELLATE DIVISION RULING THAT STATE FAILED TO ESTABLISH THAT SAFETY INSPECTORS ACTUALLY EXERCISED DISCRETION IN SETTING NUMBER OF PASSENGERS WHO COULD SAFELY TRAVEL ON PUBLIC VESSEL;

MILLER (JEFFREY H.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER ANNOTATIONS ON THE VERDICT SHEET INSTRUCTING THE JURY THAT, IF IT CONVICTED DEFENDANT OF INTERNATIONAL MURDER, IT WAS TO DETERMINE WHETHER "THE DEFENDANT ESTABLISHED BY A PREPONDERANCE OF THE EVIDENCE THAT HE ACTED UNDER EXTREME EMOTIONAL DISTURBANCE," EXCEEDED THE BOUNDS OF CPL 310.20(2) - IF SO, WHETHER THE CORRECT REMEDY WAS REVERSAL OF THE COUNTS UNRELATED TO THE MURDER CHARGE; HARMLESS ERROR;

MIRVISH v MOTT, &c., et al.: (Cal. Date - 1/3/12)

GIFTS - INTER VIVOS GIFT - DEAD MAN'S STATUTE - TESTIMONY BY PERSON FROM WHOM PETITIONER DERIVES INTEREST AS EVIDENCE OF GIFT DELIVERY - CHALLENGE TO APPELLATE DIVISION RULING THAT SUCH TESTIMONY WAS INADMISSIBLE UNDER CPLR 4519 AND COULD NOT BE USED TO SUPPORT PETITIONER'S MOTION FOR SUMMARY JUDGMENT - EFFECT OF HANDWRITING ON BACK OF PHOTOGRAPH OF SCULPTURE BY WHICH DECEDENT PURPORTEDLY GAVE THE SCULPTURE TO PETITIONER'S ASSIGNOR; LIMITATION OF ACTIONS - WHETHER PETITIONER'S CONVERSION CLAIM IS BARRED BY THE APPLICABLE THREE-YEAR STATUTE OF LIMITATIONS;

MONK (TERRANCE), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER A COURT MUST ADVISE DEFENDANT ABOUT POTENTIAL CONSEQUENCES OF VIOLATING

CONDITIONS OF POST-RELEASE SUPERVISION FOR A GUILTY PLEA TO BE KNOWING, VOLUNTARY AND INTELLIGENT; MOTION TO WITHDRAW PLEA - MEANINGFUL OPPORTUNITY TO BE HEARD;

MOUNT VERNON CITY SCHOOL DISTRICT v NOVA CASUALTY COMPANY:

CONTRACTS - PUBLIC WORKS CONTRACTS - BONDS - PERFORMANCE BOND - ACTION ALLEGING THAT DEFENDANT CASUALTY COMPANY BREACHED PERFORMANCE BOND PROCURED FROM IT BY CONTRACTOR THAT PERFORMED CERTAIN WORK FOR PLAINTIFF SCHOOL DISTRICT BUT FAILED TO COMPLETE ALL CONTRACT WORK - WHETHER CASUALTY COMPANY WAS ENTITLED TO SUMMARY JUDGMENT ON ITS DEFENSE THAT PLAINTIFF'S PAYMENT TO THE DEPARTMENT OF LABOR (DOL) OF \$214,000 EARNED BY CONTRACTOR, MADE TO DOL TO SATISFY UNPAID WAGE CLAIMS ON AN UNRELATED PROJECT INVOLVING ANOTHER SCHOOL DISTRICT, CONSTITUTED A FORBIDDEN DIVERSION OF TRUST FUND ASSETS UNDER LIEN LAW ARTICLE 3-a THAT DISCHARGED CASUALTY COMPANY OF ITS OBLIGATIONS UNDER THE PERFORMANCE BOND; WHETHER PLAINTIFF'S \$214,000 PAYMENT TO DOL CONSTITUTED A REDUCTION OF THE BALANCE OF THE CONTRACT PRICE IN VIOLATION OF THE TERMS OF THE PERFORMANCE BOND; "PYRAMIDING" BY CONTRACTOR; DAMAGES - COUNSEL FEES - WHETHER CONSTRUCTION CONTRACT AND/OR PERFORMANCE BOND ENTITLED PLAINTIFF SCHOOL DISTRICT TO AWARD OF ATTORNEYS' FEES INCURRED IN THIS LITIGATION;

MOX (MICHAEL), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER TRIAL COURT MADE A SUFFICIENT INQUIRY TO ENSURE THAT GUILTY PLEA WAS KNOWINGLY AND VOLUNTARILY ENTERED AND THAT DEFENDANT'S STATEMENTS DURING THE PLEA COLLOQUY ESTABLISHED ALL OF THE ELEMENTS OF THE CRIME - DEFENDANT'S STATEMENTS THAT HE WAS IN PSYCHOTIC STATE AT TIME OF KILLING - PRESERVATION;

NASH, MATTER OF v BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK: (Cal. Date - 1/11/12)

LIMITATION OF ACTIONS - FOUR-MONTH STATUTE OF LIMITATIONS - CHALLENGE TO TERMINATION OF PROBATIONARY EMPLOYMENT - TIMELINESS OF CHALLENGE - WHETHER A CPLR ARTICLE 78 PETITION CHALLENGING THE TERMINATION OF PROBATIONARY EMPLOYMENT ON SUBSTANTIVE GROUNDS IS TIME-BARRED WHERE IT IS NOT COMMENCED WITHIN FOUR MONTHS AFTER THE EFFECTIVE DATE OF TERMINATION BUT IS COMMENCED WITHIN FOUR MONTHS AFTER THE PETITIONER EXHAUSTS AVAILABLE ADMINISTRATIVE REMEDIES;

NEW YORK CITY HEALTH & HOSPITALS CORPORATION, MATTER OF v NEW YORK STATE COMMISSION ON CORRECTION:

PRISONS AND PRISONERS - COMMISSION OF CORRECTION - SUBPOENA SEEKING MEDICAL RECORDS OF DECEASED INMATE - WHETHER THE PHYSICIAN-PATIENT PRIVILEGE IN CPLR 4504 PROTECTS THE MEDICAL

RECORDS OF A DECEASED INMATE FROM DISCLOSURE TO A STATE AGENCY THAT SUBPOENAED SUCH RECORDS PURSUANT TO ITS STATUTORILY-MANDATED INVESTIGATIVE FUNCTIONS INTO THE CAUSE OF AND CIRCUMSTANCES SURROUNDING AN INMATE'S DEATH - CORRECTION LAW § 47;

NEW YORK CITY TRANSIT AUTHORITY, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD et al.:

CIVIL SERVICE - IMPROPER LABOR PRACTICES - CIVIL SERVICE LAW § 209-a(1)(d) - TRANSIT AUTHORITY'S ADOPTION OF STRICTER STANDARDS GOVERNING OFF-DUTY SECONDARY EMPLOYMENT OF TRAIN OPERATORS, CONDUCTORS, AND TOWER OPERATORS WITHOUT COLLECTIVELY BARGAINING WITH EMPLOYEES' UNION - WHETHER TRANSIT AUTHORITY ESTABLISHED RIGHT TO UNILATERALLY ADOPT NEW STANDARDS TO PROMOTE PUBLIC SAFETY;

NEW YORK STATE PSYCHIATRIC ASSOCIATION, et al. v NEW YORK STATE DEPARTMENT OF HEALTH:

HEALTH - MEDICARE REIMBURSEMENT - CONSTITUTIONALITY OF PROVISIONS IN THE 2008 BUDGET BILL (L 2008, Ch 58, part C) PROVIDING THAT LICENSED PSYCHIATRISTS ARE NOT ENTITLED TO BE PAID THE FULL MEDICARE PART B COINSURANCE AMOUNT FOR SERVICES RENDERED BETWEEN APRIL 1, 2007 AND APRIL 11, 2008 TO CERTAIN INDIVIDUALS WHO ARE ELIGIBLE FOR BOTH MEDICAID AND MEDICARE BENEFITS AND/OR FOR CLAIMS PROCESSED BETWEEN APRIL 1, 2007 AND APRIL 11, 2008;

NEW YORK STATE SUPERFUND COALITION, INC., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

(Cal. Date - 11/14/11)

ENVIRONMENTAL CONSERVATION - HAZARDOUS WASTE - VALIDITY OF REGULATION - WHETHER RESPONDENT DEPARTMENT OF ENVIRONMENTAL CONSERVATION EXCEEDED ITS AUTHORITY IN PROMULGATING 6 NYCRR 375-2.8(a) AND 375-1.8(f)(9) - REGULATIONS WITH A STATED GOAL OF RESTORING CONTAMINATED INACTIVE HAZARDOUS WASTE SITES TO "PRE-DISPOSAL CONDITIONS" - WHETHER APPELLATE DIVISION CORRECTLY DEFERRED TO AGENCY INTERPRETATION OF STATUTE;

N.J.R. ASSOCIATES, &c. v TAUSEND, &c.:

ARBITRATION - STAY - WHETHER A PETITIONER WHO INITIATES AN ARBITRATION AND SUCCESSFULLY MOVES TO DISMISS A RESPONDENT'S PETITION TO STAY THE ARBITRATION WAIVES ITS RIGHT TO APPLY TO STAY THE ARBITRATION OF RESPONDENT'S COUNTERCLAIMS ON STATUTE OF LIMITATIONS GROUNDS - CPLR 7503(b);

NORTH SYRACUSE CENTRAL SCHOOL DISTRICT, MATTER OF v NEW YORK STATE DIVISION OF HUMAN RIGHTS:

CIVIL RIGHTS - DISCRIMINATION BASED ON RACE AND DISABILITY -

CPLR ARTICLE 78 PROCEEDING TO PROHIBIT THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (NYS DHR) FROM HOLDING A HEARING ON A DISCRIMINATION COMPLAINT FILED ON BEHALF OF A STUDENT AGAINST THE SCHOOL DISTRICT - WHETHER THE SCHOOL DISTRICT MUST EXHAUST ALL ADMINISTRATIVE REMEDIES PRIOR TO SEEKING JUDICIAL RELIEF - EXECUTIVE LAW § 296(4);

FORECLOSURE OF TAX LIENS BY ORANGE COUNTY COMMISSIONER OF FINANCE, MATTER OF v HELSETH: (Cal. Date 1/4/12)
TAXATION - TAX LIENS - FORECLOSURE OF TAX LIENS - ADEQUACY OF NOTICE TO FORMER PROPERTY OWNERS OF OPPORTUNITY TO PAY DELINQUENT REAL PROPERTY TAXES AND FEES TO RELEASE THE COUNTY'S INTEREST IN THE FORECLOSED PROPERTY;

OMOWALE (AKINLOWO), PEOPLE v:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE HAD PROBABLE CAUSE TO ARREST DEFENDANT FOR FALSE IMPERSONATION; SEARCH OF VEHICLE'S CENTER CONSOLE;

ORTIZ v VARSITY HOLDINGS, LLC, et al.: (Cal. Date 11/14/11)
LABOR - SAFE PLACE TO WORK - RENOVATION LABORER INJURED IN FALL FROM DUMPSTER LEDGE - WHETHER WORKER WAS ENGAGED IN A PROTECTED ACTIVITY UNDER LABOR LAW § 240(1); SUMMARY JUDGMENT;

OVADIA, et al., MATTER OF v OFFICE OF THE INDUSTRIAL BOARD OF APPEALS, et al.:
EMPLOYMENT RELATIONSHIPS - WAGES - CPLR ARTICLE 78 PROCEEDING TO REVIEW DETERMINATION OF THE INDUSTRIAL BOARD OF APPEALS AFFIRMING AN ORDER OF THE COMMISSIONER OF LABOR DIRECTING PETITIONERS TO PAY THE CLAIMANTS' UNPAID WAGES - WHETHER THE GENERAL CONTRACTOR ON A PRIVATE CONSTRUCTION SITE WAS THE "EMPLOYER" OF A SUBCONTRACTOR'S WORKERS AND THEREFORE LIABLE TO THOSE WORKERS FOR UNPAID WAGES WHEN THE SUBCONTRACTOR DISAPPEARED;

OVITZ v BLOOMBERG, L.P., et al.:
CONTRACTS - AUTOMATIC RENEWAL OF SUBSCRIBER CONTRACT - WHETHER A PRIVATE RIGHT OF ACTION EXISTS PURSUANT TO GENERAL OBLIGATIONS LAW §§ 5-901 AND 5-903 REGARDING REQUIRED RENEWAL NOTICE, AND WHETHER PLAINTIFF STATED A CLAIM UNDER GENERAL BUSINESS LAW § 349 WHERE PLAINTIFF WAS NOT DECEIVED IN NEW YORK; CLASS ACTION;

PAGAN (DEBRA), PEOPLE v:
CRIMES - ROBBERY - FORCIBLE TAKING OF CASH - LEGAL SUFFICIENCY OF EVIDENCE OF INTENT WHERE DEFENDANT ASSERTS THAT SHE FOUGHT WITH CAB DRIVER FOR MONEY UNDER THE MISTAKEN BELIEF THAT IT BELONGED TO HER - "NEGATIVE CLAIM OF RIGHT" CHARGE - TRIAL

COURT'S ALLEGED ERROR IN CHARGING THE JURY THAT "THE LAW DOES NOT PERMIT ONE PERSON TO USE FORCE TO TAKE MONEY FROM ANOTHER PERSON, EVEN WHERE THE PERSON DOING THE TAKING HONESTLY BELIEVES HE OR SHE IS ENTITLED TO THE MONEY," AND IN DENYING DEFENDANT'S REQUEST FOR AN INSTRUCTION THAT WOULD ALLOW THE JURY TO FIND THAT DEFENDANT'S MISTAKE OF FACT AS TO THE OWNERSHIP OF THE MONEY NEGATED THE ELEMENT OF INTENT - PENAL LAW § 15.20(1)(a), § 155.15(1);

PAGAN (JORGE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - ORDER ENLARGING CONDITIONS OF PROBATION TO INCLUDE WARRANTLESS SEARCHES OF DEFENDANT'S HOME - CPL 410.20 and 410.50(3) - ISSUANCE OF HOME SEARCH ORDER IN ABSENCE OF REASONABLE CAUSE TO BELIEVE THAT DEFENDANT VIOLATED CONDITIONS OF PROBATION;

PARKHURST, MATTER OF v UNITED RENTALS AERIAL EQUIPMENT, INC. et al.:

WORKERS' COMPENSATION - WHETHER THE 2007 AMENDMENTS TO THE WORKERS' COMPENSATION LAW REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF THE UNCAPPED PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND - WORKERS' COMPENSATION LAW § 27(2);

PC GROUP, LLC, MATTER OF v GRANNIS, &c., et al.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - WHETHER MANDAMUS LIES TO COMPEL RESPONDENTS TO HOLD AN IMMEDIATE ADMINISTRATIVE HEARING TO REVIEW THEIR DENIAL OF PETITIONER'S PERMIT APPLICATION FOR DEVELOPMENT OF A TIDAL WETLANDS AREA; ENVIRONMENTAL CONSERVATION;

PERINO (CHRISTOPHER), PEOPLE v:

CRIMES - PERJURY - MATERIALITY OF PERJURED TESTIMONY BY DEFENDANT FORMER POLICE OFFICER REGARDING HIS QUESTIONING OF A SUSPECT - PENAL LAW § 210.05; INTENT - SUFFICIENCY OF EVIDENCE OF DEFENDANT'S INTENT TO COMMIT PERJURY;

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

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

PERRY (JAMES), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST TO CHARGE CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE AS A LESSER INCLUDED OFFENSE OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE;

PESA, et al. v YOMA DEVELOPMENT GROUP, INC., et al.:

(Cal. Date - 1/3/12)

CONTRACTS - BREACH OF CONTRACT - REAL ESTATE PURCHASE AGREEMENTS
- WHETHER BUYERS ARE REQUIRED TO PROVE THAT THEY WERE READY,
WILLING AND ABLE TO PERFORM UNDER THE CONTRACTS IN ORDER TO
SUCCEED IN AN ACTION SEEKING DAMAGES FOR SELLER'S ANTICIPATORY
BREACH;

PLUNKETT (DAVID), PEOPLE v:

CRIMES - DANGEROUS INSTRUMENT - WHETHER SALIVA OF PERSON INFECTED
WITH HIV CAN BE A DANGEROUS INSTRUMENT WITHIN THE MEANING OF
PENAL LAW § 10.00(13); CLAIM THAT TRIAL COURT IMPROPERLY
CURTAILED DEFENSE COUNSEL'S QUESTIONING OF PROSPECTIVE JURORS
CONCERNING THEIR VIEWS ON MENTAL ILLNESS; GRAND JURY -
PROSECUTOR'S ALLEGED FAILURE TO INTRODUCE EXCULPATORY EVIDENCE;

POSNER v LEWIS et al.: (Cal. Date - 1/4/12)

TORTS - PRIMA FACIE TORT - TORTIOUS INTERFERENCE WITH CONTRACTUAL
RELATIONS - CLAIM FOR DAMAGES AS A RESULT OF DENIAL OF ELEMENTARY
SCHOOL TEACHER'S APPLICATION FOR TENURE;

PUTNAM/NORTHERN WESTCHESTER BOCES, MATTER OF v WESTCHESTER COUNTY
HUMAN RIGHTS COMMISSION et al.:

CIVIL RIGHTS - DISCRIMINATION BASED ON MARITAL STATUS - HEALTH
PLAN PROVIDING BENEFITS ONLY TO SAME-SEX DOMESTIC PARTNERS -
DISCRIMINATION AGAINST OPPOSITE-SEX DOMESTIC PARTNERS - CHALLENGE
TO APPELLATE DIVISION RULING THAT (1) COMPLAINANT FAILED TO MEET
HER BURDEN TO ESTABLISH A PRIMA FACIE CASE OF DISCRIMINATION
BASED UPON MARITAL STATUS BECAUSE ELIGIBILITY FOR DOMESTIC
PARTNER HEALTH CARE BENEFITS DID NOT TURN ON EMPLOYEES' MARITAL
STATUS, AND (2) HEALTH PLAN MET ITS BURDEN TO SET FORTH A
LEGITIMATE, NONDISCRIMINATORY REASON FOR EXTENDING DOMESTIC
PARTNER BENEFITS ONLY TO SAME-SEX COUPLES WHERE THE REASON WAS
THAT, UNLIKE OPPOSITE-SEX DOMESTIC PARTNERS, SAME-SEX DOMESTIC
PARTNERS CANNOT OBTAIN BENEFITS OFFERED TO EMPLOYEES' SPOUSES BY
BECOMING LAWFULLY MARRIED IN THIS STATE;

QOSHJA (ERMAL), PEOPLE v:

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

QUINTO (SANTOS), PEOPLE v:

CRIMES - TIMELINESS OF PROSECUTION - TOLL APPLICABLE TO SEX
CRIMES AGAINST CHILD LESS THAN 18 YEARS OLD (CPL 30.10[3][f]) -

WHETHER COMPLAINANT "REPORTED" THE SEX CRIMES CHARGED IN THE INDICTMENT IN 2002 WHEN SHE FALSELY TOLD POLICE, INITIALLY, THAT ONE OF HER CLASSMATES RAPED HER AND, THEREAFTER, THAT SHE HAD CONSENSUAL SEX WITH THAT CLASSMATE - TOLL DURING PERIOD WHEN WHEREABOUTS OF DEFENDANT CONTINUOUSLY UNKNOWN AND UNASCERTAINABLE BY THE EXERCISE OF REASONABLE DILIGENCE (CPL 30.10[4][a][ii]) - CHALLENGE TO APPELLATE DIVISION HOLDING THAT TOLL PROVIDED BY CPL 30.10[4][a][ii] WAS INAPPLICABLE TO NON-SEX-RELATED MISDEMEANORS AND VIOLATIONS;

RAMIREZ v SHOATS:

NEGLIGENCE - PLAINTIFF INJURED WHEN PIECE OF CORRUGATED METAL COVERING THE UNFINISHED LANDING OF A NEWLY CONSTRUCTED STAIRWAY SLIPPED UNDER HIS FEET, CAUSING HIM TO FALL TO THE BASEMENT LEVEL OF A BUILDING UNDER CONSTRUCTION - WHETHER STAIRWAY WAS PLAINTIFF'S SOLE MEANS OF ACCESS TO AND FROM HIS WORK AREA AND THUS WAS A SAFETY DEVICE WITHIN THE MEANING OF LABOR LAW § 240(1); RECALCITRANT WORKER; SUMMARY JUDGMENT;

RAMOS (GILBERTO), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - WHETHER A FEDERAL CONSPIRACY CONVICTION MAY SERVE AS A PREDICATE FELONY WITHIN THE MEANING OF PENAL LAW § 70.06;

RAMOS (LUIS), PEOPLE v:

CRIMES - MANSLAUGHTER - SUFFICIENCY OF THE EVIDENCE TO ESTABLISH DEFENDANT'S GUILT OF MANSLAUGHTER IN THE FIRST DEGREE (PENAL LAW § 125.20[1]);

REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM, INC. v ENLARGED CITY SCHOOL DISTRICT OF MIDDLETOWN: (Cal. Date 1/4/12)

TAXATION - ASSESSMENT - ACTION TO RECOVER TAXES PAID TO SCHOOL DISTRICT PURSUANT TO ILLEGAL ASSESSMENT - TAXES PAID UNDER LETTER THAT PROTESTED ONLY CITY TAX PAYMENTS, NOT SCHOOL DISTRICT TAX PAYMENTS - EDUCATION LAW § 3813;

REID (LAMARR), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - ALLEGED BRUTON VIOLATION - WHETHER DEFENDANT OPENED THE DOOR TO ADMISSION OF TESTIMONY THAT OTHERWISE WOULD HAVE BEEN BARRED BY THE CONFRONTATION CLAUSE;

RICHARDS, MATTER OF v CUOMO, &c.:

3RD Dept. App. Div. order of 10/6/11; affirmance; sua sponte examination whether a substantial constitutional question is directly involved to support an appeal as of right; PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHEN REMEDY AVAILABLE - PETITIONER CHALLENGES APPLICATION OF PARTICULAR PENAL

LAW PROVISION TO HIM;

RICHARDS, PEOPLE ex rel. v YELICH:

HABEAS CORPUS - WHEN REMEDY APPROPRIATE - ISSUES THAT COULD HAVE BEEN RAISED ON DIRECT APPEAL OR IN A CPL ARTICLE 440 MOTION - CLAIM THAT TRIAL COURT LACKED JURISDICTION TO CONVICT PETITIONER OF FELONY MURDER BECAUSE THE INDICTMENT DID NOT CHARGE HIM WITH THE UNDERLYING FELONY;

RILEY (LOUIS), PEOPLE v:

CRIMES - LARCENY - PROOF OF VALUE - WHETHER THE LABOR COST MAY BE COUNTED TOWARD THE REPLACEMENT COST OF STOLEN COPPER PIPES AND AN INSTALLED PLUMBING SYSTEM; DISPOSAL OF STOLEN PROPERTY (PENAL LAW § 450.10) - WHETHER THE TRIAL COURT PROPERLY DECLINED TO IMPOSE ANY SANCTION ON THE PEOPLE FOR FAILURE TO PROVIDE NOTICE OF THE RETURN OF STOLEN PROPERTY TO THE OWNER;

RIVERS (SHERMAN), PEOPLE v: (Cal. Date - 10/20/11)

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

ROBERTS &c, et al. v PATERSON &c, et al.:

INJUNCTIONS - PRELIMINARY INJUNCTION - LIKELIHOOD OF SUCCESS ON THE MERITS - WHETHER SUPREME COURT PROPERLY DENIED PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION REQUIRING DEFENDANTS TO FUND HEALTH INSURANCE BENEFITS FOR RETIREES OF THE NEW YORK CITY OFF-TRACK BETTING CORPORATION (NYC OTB); EMPLOYMENT RELATIONSHIPS - RETIREMENT AND PENSION BENEFITS;

RODRIGUEZ (RAFAEL), PEOPLE v:

CRIMES - EAVESDROPPING WARRANTS - WRITTEN NOTICE REQUIREMENT (CPL 700.50[3]) - CHALLENGE TO APPELLATE DIVISION ORDER UPHOLDING SUMMARY DENIAL OF DEFENDANT'S MOTION TO SUPPRESS EAVESDROPPING EVIDENCE UPON THE GROUND THAT "SUPPRESSION OF WIRETAP EVIDENCE ... NOTICE REQUIREMENT IS NOT WARRANTED WITHOUT A SHOWING OF PREJUDICE"; WHETHER DEFENDANT WAS ENTITLED TO A MISTRIAL UPON THE GROUND THAT THE TRIAL COURT UNDULY INTERFERED WITH DEFENSE COUNSEL'S CROSS-EXAMINATION OF AN ACCOMPLICE WHO WAS COOPERATING WITH AND TESTIFYING FOR THE PROSECUTION AND THEREBY CONVEYED TO THE JURY ITS BELIEF IN THE WITNESS'S CREDIBILITY; EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE THE ON-LINE BOOKING SHEET CONTAINING DEFENDANT'S ALLEGED PHONE NUMBER;

RODRIGUEZ (SERGIO), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - ILLEGAL CONSECUTIVE SENTENCE VACATED AND MATTER REMANDED TO TRIAL COURT FOR RESENTENCING - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL COURT ON REMAND MAY ARRIVE LAWFULLY AT THE AGGREGATE SENTENCE IT INTENDED TO IMPOSE BY RESTRUCTURING

CONCURRENT SENTENCES TO RUN CONSECUTIVELY - WHETHER RESTRUCTURING OF SENTENCES WOULD VIOLATE CPL 430.10, PENAL LAW §§ 70.25(2) AND 70.30(1)(a), DUE PROCESS AND THE PROHIBITION AGAINST DOUBLE JEOPARDY; PROSECUTOR'S ALLEGED VIOLATION OF UNSWORN WITNESS RULE DURING SUMMATION; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO OBJECT TO PROSECUTOR'S REMARKS IN SUMMATION;

ROSENBLUM, MATTER OF v THE NEW YORK CITY CONFLICTS OF INTEREST BOARD, et al.: (Cal. Date - 1/11/12)

SCHOOLS - TEACHERS - DISCIPLINARY PROCEEDINGS - WHETHER THE COURTS BELOW ERRED IN CONCLUDING THAT EDUCATION LAW § 3020-a PROVIDES THE EXCLUSIVE MEANS TO DISCIPLINE A TENURED PEDAGOGUE AND THAT RESPONDENT NEW YORK CITY CONFLICTS OF INTEREST BOARD THEREFORE MAY NOT PROCEED WITH A TRIAL AGAINST A TENURED PEDAGOGUE BEFORE RESPONDENT NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS FOR THE ALLEGED VIOLATION OF THE CITY'S CONFLICTS OF INTEREST LAW;

RYAN v KELLOGG PARTNERS INSTITUTIONAL SERVICES:

CONTRACTS - EMPLOYMENT CONTRACTS - EMPLOYMENT-AT-WILL - ENFORCEMENT OF ALLEGED AGREEMENT FOR A BONUS - APPLICABILITY AND PURPORTED WAIVER OF STATUTE OF FRAUDS DEFENSE; EVIDENCE - CHALLENGE TO APPELLATE DIVISION RULING THAT THE TRIAL COURT "PROVIDENTLY EXERCISED ITS DISCRETION TO PRECLUDE INQUIRY INTO PLAINTIFF'S FINANCIAL COMMITMENTS AT THE TIME HE ENTERED INTO THE ORAL AGREEMENTS WITH DEFENDANT";

SALAZAR v NOVALEX CONTRACTING CORP., et al.:

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

SALGY, MATTER OF v HALSTED COMMUNICATIONS, et al.:

WORKERS' COMPENSATION - WHETHER THE 2007 AMENDMENTS TO THE WORKERS' COMPENSATION LAW REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF THE UNCAPPED PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND FOR CLAIMS WITH DATES OF INJURY PRIOR TO MARCH 14, 2007 - WORKERS' COMPENSATION LAW § 27(2);

SCHMIDT, MATTER OF v FALLS DODGE, INC. et al. [WORKERS' COMPENSATION BOARD]:

WORKERS' COMPENSATION - AWARD - WHETHER SCHEDULE LOSS OF USE AWARD IS SUBJECT TO NON-SCHEDULE AWARDS IN OTHER WORKERS' COMPENSATION CASES WHERE AWARDS WERE MADE AT THE MAXIMUM STATUTORY RATE AND COVER THE SAME PERIODS - WORKERS' COMPENSATION

LAW § 15(6);

SEDACCA, MATTER OF v MANGANO, et al.: (Cal. Date - 1/9/12)
 PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER,
 ABSENT CAUSE, THE NASSAU COUNTY EXECUTIVE MAY REMOVE
 COMMISSIONERS FROM THE NASSAU COUNTY ASSESSMENT REVIEW COMMISSION
 PRIOR TO THE EXPIRATION OF THEIR TERMS; DECLARATORY JUDGMENT;
 ALLEGED CONFLICT OF INTEREST OF COUNTY ATTORNEY;

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;

SIMKIN v BLANK:

CONTRACTS - MISTAKE - REFORMATION OF 2006 DIVORCE SETTLEMENT
 AGREEMENT DIVIDING MARITAL PROPERTY VALUED AS OF SEPTEMBER 2004
 AND CONTAINING MUTUAL RELEASES AND A MERGER CLAUSE - CAUSE OF
 ACTION FOR REFORMATION BASED UPON ALLEGED MUTUAL MISTAKE
 INVOLVING PLAINTIFF'S PURPORTED INVESTMENT ACCOUNT WITH BERNARD
 L. MADOFF INVESTMENT SECURITIES; CONTRACTS - QUASI CONTRACTS -
 UNJUST ENRICHMENT - AVAILABILITY WHERE NEITHER PARTY TO AGREEMENT
 ENGAGED IN WRONGDOING; WHETHER DOCTRINE OF FINALITY IN DIVORCE
 CASES AND/OR RELEASE AND INTEGRATION CLAUSE IN AGREEMENT BARS
 PLAINTIFF FROM SEEKING REFORMATION OF THE AGREEMENT;

SINHA (LINA), PEOPLE v:

CRIMES - SODOMY - DUPLICITOUS COUNTS - JURY INSTRUCTIONS;
 EVIDENCE - DISCLOSURE - WHETHER CPL 240.20 REQUIRES THE PEOPLE TO
 DISCLOSE TO THE DEFENSE BEFORE TRIAL DOCUMENTS THEIR FORENSIC
 COMPUTER EXPERTS DOWNLOADED FROM DEFENDANT'S COMPUTER HARD-DRIVE;
 WHETHER, CONSISTENT WITH PEOPLE v COLON (13 NY3d 343), THE SODOMY
 AND MISDEMEANOR COUNTS OF THE CONVICTION MUST BE REVERSED BECAUSE
 OF THE PEOPLE'S BRADY VIOLATIONS AND ALLEGED RELIANCE ON FALSE OR
 MISLEADING TESTIMONY AND ARGUMENT; BRIBING A WITNESS -
 CORROBORATION OF ACCOMPLICE TESTIMONY - PEOPLE v MULLENS
 (292 NY 408); HARMLESS AND PREJUDICIAL ERROR - WHETHER TRIAL
 COURT CORRECTLY DENIED DEFENDANT'S MOTION FOR MISTRIAL BASED UPON
 DELIBERATING JURY'S ACCIDENTAL RECEIPT OF UNREDACTED TAPE
 RECORDING CONTAINING EXCLUDED EVIDENCE; CHALLENGE TO PEOPLE'S USE
 ON REBUTTAL AND SUMMATION OF VOLUNTARY STATEMENT DEFENDANT GAVE
 TO THE PROSECUTION WHERE THE PEOPLE DID NOT PREVIOUSLY DISCLOSE
 THE STATEMENT TO DEFENDANT; WHETHER MATTER SHOULD BE REMANDED TO
 A DIFFERENT JUDGE FOR RESENTENCING;

677 NEW LOUDON CORPORATION, MATTER OF, d/b/a NITE MOVES v STATE
 OF NEW YORK TAX APPEALS TRIBUNAL et al.

TAXATION - SALES AND USE TAXES - WHETHER EXOTIC DANCE PERFORMANCES AT PETITIONER'S ESTABLISHMENT CONSTITUTE "DRAMATIC OR MUSICAL ARTS PERFORMANCES," THEREBY EXEMPTING MONIES PAID FOR SUCH PERFORMANCES FROM TAXATION UNDER TAX LAW § 1105(f)(1) - ADMISSIONS CHARGES AND PRIVATE DANCE SALES;

SOLOMON (MICHAEL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CHALLENGE TO APPELLATE DIVISION RULING THAT DEFENDANT FAILED TO ESTABLISH THAT ANY CONFLICT CREATED BY DEFENSE COUNSEL'S SIMULTANEOUS REPRESENTATION OF A KEY PROSECUTION WITNESS AFFECTED THE CONDUCT OF THE DEFENSE - WHETHER DEFENSE COUNSEL PROVIDED MEANINGFUL REPRESENTATION - DEFENSE COUNSEL'S FAILURE TO PRESERVE VARIOUS ARGUMENTS FOR APPELLATE REVIEW; CONFESSION; EVIDENCE - TAPE RECORDED CONVERSATIONS BETWEEN THE VICTIM AND DEFENDANT;

SMITH (HOWARD K.), PEOPLE v: (Cal. Date - 1/11/12)

CRIMES - DRIVING WHILE ABILITY IMPAIRED - WHEN POLICE ASKED DEFENDANT IF HE WOULD CONSENT TO A CHEMICAL SOBRIETY TEST, DEFENDANT REPEATEDLY REPLIED THAT HE WANTED TO SPEAK WITH HIS ATTORNEY - WHETHER REQUEST TO SPEAK WITH ATTORNEY CAN BE CONSIDERED A REFUSAL TO SUBMIT TO TEST - ADMISSIBILITY OF EVIDENCE OF REFUSAL AT TRIAL;

SMITH (KEVIN), PEOPLE v: (Cal. Date - 1/10/12)

CRIMES - PROOF OF OTHER CRIMES - WHETHER TRIAL COURT ABUSED ITS DISCRETION IN SANDOVAL HEARING BY PERMITTING THE PEOPLE TO IDENTIFY DEFENDANT'S PRIOR CONVICTIONS SHOULD DEFENDANT CHOOSE TO TESTIFY IN HIS OWN BEHALF; ATTORNEY AND CLIENT - TRIAL COURT'S REFUSAL TO ALLOW SUBSTITUTION OF NEW COUNSEL AFTER BREAKDOWN IN DEFENDANT'S RELATIONSHIP WITH COUNSEL;

SMITH, MATTER OF v TORMEY:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER CHALLENGED DETERMINATION REGARDING COUNTY COURT'S AWARD OF COUNSEL FEES WAS MADE IN EXCESS OF ADMINISTRATIVE JUDGE'S AUTHORITY PURSUANT TO 22 NYCRR 127.2(b);

SOARES, &c., MATTER OF v HERRICK, &c.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHEN REMEDY AVAILABLE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT A CPLR ARTICLE 78 PROCEEDING IN THE NATURE OF PROHIBITION LIES TO REVIEW THE TRIAL COURT ORDERS DISQUALIFYING THE DISTRICT ATTORNEY AND APPOINTING A SPECIAL DISTRICT ATTORNEY PURSUANT TO COUNTY LAW § 701;

SOSA (GILBERTO), PEOPLE v: (Cal. Date - 1/12/12)

CRIMES - SENTENCE - RESENTENCING UNDER DRUG LAW REFORM ACT OF 2009 - MEANING OF "EXCLUSION OFFENSE" UNDER CPL 440.46(5)(a) -

WHETHER A VIOLENT FELONY OFFENSE "FOR WHICH THE PERSON WAS PREVIOUSLY CONVICTED WITHIN THE PRECEDING TEN YEARS" MEANS CONVICTIONS WITHIN TEN YEARS PRECEDING THE DRUG OFFENSE FOR WHICH RESENTENCING IS SOUGHT OR, AS THE APPELLATE DIVISION CONCLUDED, CONVICTIONS WITHIN TEN YEARS PRECEDING THE RESENTENCING APPLICATION;

STANLEY (DONALD), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE AFTER ENACTMENT OF 2009 DRUG LAW REFORM ACT - WHETHER DEFENDANT MAY RAISE ISSUES REGARDING HIS PREDICATE FELON STATUS AT THE RESENTENCING PROCEEDING WHEN HE DID NOT CHALLENGE HIS SENTENCING AS A SECOND FELONY OFFENDER AT THE ORIGINAL SENTENCING PROCEEDING - CLAIM THAT FLORIDA FELONY CONVICTIONS ARE NOT THE EQUIVALENT OF ANY NEW YORK FELONY AND ARE TOO DISTANT IN TIME TO BE CONSIDERED;

STATE OF NEW YORK, MATTER OF v FLAGG:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - REVOCATION OF STRICT AND INTENSIVE SUPERVISION AND TREATMENT (SIST) WHERE SEX OFFENDER VIOLATES CONDITIONS OF SIST WHERE VIOLATIONS DO NOT CONSTITUTE SEXUAL MISCONDUCT - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DETERMINED THAT STATE ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT SEX OFFENDER WAS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT - ALLEGED DEPRIVATION OF DUE PROCESS;

STATE OF NEW YORK ex rel. GRUPP AND MOLL v DHL EXPRESS (USA), INC., et al.:

STATUTES - FEDERAL PREEMPTION - WHETHER CLAIMS UNDER NEW YORK FALSE CLAIMS ACT (STATE FINANCE LAW § 187 et seq.) ARE PREEMPTED BY THE AIRLINE DEREGULATION ACT OF 1978 AND THE FEDERAL AVIATION ADMINISTRATION AUTHORIZATION ACT - CLAIMS ALLEGING, AMONG OTHER THINGS, THAT DEFENDANTS SUBMITTED TO THE STATE CLAIMS FOR DELIVERY SERVICES THAT FALSELY AND FRAUDULENTLY (1) MISREPRESENTED THAT CERTAIN PACKAGES WERE DELIVERED BY AIR WHEN THEY WERE ACTUALLY DELIVERED BY GROUND TRANSPORTATION, (2) IMPOSED JET FUEL SURCHARGES FOR PACKAGES THAT WERE DELIVERED SOLELY BY GROUND TRANSPORTATION, AND (3) IMPOSED DIESEL FUEL SURCHARGES BUT PASSED ALONG ONLY A SMALL PORTION OF SUCH SURCHARGES TO THE INDEPENDENT CONTRACTORS WHO BOUGHT THE FUEL;

STATE OF NEW YORK, MATTER OF v JOHN P. (ANONYMOUS):

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER PSYCHIATRIC EVALUATION OF SEX OFFENDER WAS CONDUCTED IN VIOLATION OF SEX OFFENDER'S RIGHT TO COUNSEL - DENIAL OF REQUEST TO PRECLUDE TESTIMONY AND EVIDENCE FROM PSYCHOLOGIST WHO CONDUCTED EVALUATION;

STATE OF NEW YORK v MYRON P.:

MENTAL HEALTH - PROCEEDINGS BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CONFINEMENT OF SEX OFFENDER IN SECURE FACILITY AFTER SERVICE OF PRISON TIME - INVOLUNTARY HOSPITALIZATION - RIGHT TO JURY TRIAL;

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

SCHOOLS - STUDENTS - INJURY TO STUDENT - WHETHER SCHOOL DEFENDANTS ARE LIABLE FOR NEGLIGENTLY FAILING TO PREVENT ONE STUDENT FROM ASSAULTING ANOTHER STUDENT OFF SCHOOL GROUNDS TWO DAYS AFTER THE TWO STUDENTS WERE IN A FIGHT AT THE SCHOOL DURING SCHOOL HOURS - LIABILITY FOR FAILING TO NOTIFY INJURED STUDENT'S MOTHER OF FIGHT AT SCHOOL;

STEWART (WAYNE R.), PEOPLE v: (Cal. Date - 11/16/11)

CRIMES - ASSAULT - "SERIOUS PHYSICAL INJURY" PURSUANT TO PENAL LAW §§ 10.00(10) AND 120.10(1) - SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION OF ASSAULT IN THE FIRST DEGREE;

STRAY FROM THE HEART, INC., MATTER OF v DEPARTMENT OF HEALTH and MENTAL HYGIENE OF THE CITY OF NEW YORK, et al.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - STANDING - WHETHER PETITIONER ANIMAL WELFARE ORGANIZATION HAS STANDING TO CHALLENGE THE ALLEGED FAILURE OF CITY RESPONDENTS TO PROVIDE FULL-SERVICE ANIMAL SHELTERS IN ALL FIVE BOROUGHES AS REQUIRED BY THE CITY ANIMAL SHELTERS AND STERILIZATION ACT (ADMINISTRATIVE CODE OF CITY OF NY § 17-801, et seq.);

STUTO v KERBER: (Cal. Date - 1/10/12)

LABOR - HOURS AND WAGES - WHETHER BUSINESS CORPORATION LAW § 630, MAKING THE TEN LARGEST SHAREHOLDERS OF A CLOSELY HELD CORPORATION PERSONALLY LIABLE FOR UNPAID WAGES DUE TO EMPLOYEES, APPLIES TO FOREIGN CORPORATIONS;

SUBER (FRANK), PEOPLE v:

CRIMES - INFORMATION - WHETHER THE CORROBORATION REQUIREMENT SET FORTH IN CPL 60.50 APPLIES TO INFORMATIONS;

SULLIVAN v HARNISCH, et al.:

EMPLOYMENT RELATIONSHIPS - AT-WILL EMPLOYMENT - CLAIMED WRONGFUL DISCHARGE OF EMPLOYEE WHO MADE INTERNAL INQUIRIES INTO HIS SUPERIOR'S SECURITIES TRADING ACTIVITY - RETALIATION;

SUPERIOR OFFICERS COUNCIL HEALTH & WELFARE FUND, et al. v EMPIRE HEALTHCHOICE ASSURANCE, INC., &c.:

CONTRACTS - DISMISSAL OF COMPLAINT PURSUANT TO CPLR 3211(a)(1) AND (7) - BREACH OF CONTRACT - "AGREEMENT FOR ADMINISTRATIVE

PHARMACEUTICAL SERVICES ONLY" BETWEEN EMPLOYEE BENEFITS FUND AND PROVIDER OF PRESCRIPTION BENEFITS MANAGEMENT SERVICES - WHETHER COMPLAINT STATES A CAUSE OF ACTION FOR RECOVERY OF REBATES FOR PRESCRIPTION DRUGS OR FOR BREACH OF A PROVISION REQUIRING PROVIDER TO "ADVISE AND ASSIST THE [FUND] IN A CONSULTING CAPACITY REGARDING BENEFITS DESIGN AND OTHER MATTERS PERTAINING TO ADMINISTRATION OF THE PROGRAM"; BREACH OF FIDUCIARY DUTY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFFS' "BREACH OF FIDUCIARY DUTY CLAIM WAS PROPERLY DISMISSED BECAUSE IT IS NOT BASED UPON THE BREACH OF ANY FIDUCIARY DUTY INDEPENDENT OF THE PARTIES' AGREEMENT ITSELF";

SWEZEY v MERRILL LYNCH, et al.:

PARTIES - NECESSARY PARTIES - FOREIGN GOVERNMENT - SOVEREIGN IMMUNITY - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING A PROCEEDING TO EXECUTE A JUDGMENT AGAINST A FUND LOCATED IN NEW YORK UPON THE GROUND THAT A NONPARTY FOREIGN GOVERNMENT CLAIMED TO BE THE TRUE OWNER OF THE FUND'S ASSETS BUT COULD NOT BE JOINED AS A PARTY BECAUSE IT DECLINED TO WAIVE ITS SOVEREIGN IMMUNITY;

TERRACE COURT, MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL: (Cal. Date - 1/3/12)

LANDLORD AND TENANT - RENT REGULATION - MAJOR CAPITAL IMPROVEMENT (MCI) RENT INCREASE - LANDLORD'S APPLICATION FOR MCI RENT INCREASE FOR PERFORMING, AMONG OTHER THINGS, POINTING, WATERPROOFING AND MASONRY WORK ON OUTSIDE OF APARTMENT BUILDING - CHALLENGE TO DETERMINATION BY NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR) PERMANENTLY EXEMPTING FIVE APARTMENTS FROM AN MCI RENT INCREASE GRANTED AS TO THE REMAINING APARTMENTS BECAUSE A MOISTURE PROBLEM EXISTED IN THE FIVE APARTMENTS AFTER THE WORK WAS COMPLETED - WHETHER DHCR ERRED OR ACTED ARBITRARILY AND CAPRICIOUSLY IN PERMANENTLY EXEMPTING THE FIVE APARTMENTS FROM THE MCI RENT INCREASE RATHER THAN ALLOWING THE LANDLORD TO OBTAIN THE RENT INCREASE PROSPECTIVELY IF IT CORRECTED THE MOISTURE PROBLEM;

THOMAS (DANIEL), PEOPLE v:

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

TKESHELASHVILI et al. v STATE OF NEW YORK:

NEGLIGENCE - PROXIMATE CAUSE - RECKLESS CONDUCT OF PLAINTIFF - DIVING INTO SHALLOW WATER - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF'S CONDUCT IN DIVING OFF THE COLGATE LAKE DAM INTO COLGATE LAKE WAS SO RECKLESS AS TO CONSTITUTE THE SOLE PROXIMATE CAUSE OF HIS INJURY AS A MATTER OF LAW BECAUSE HE

"KNEW OR SHOULD HAVE KNOWN [THAT THE] WATER WAS TOO SHALLOW FOR DIVING";

TOLEDO &c. v IGLESIA NI CHRISTO: (Cal. Date - 11/14/11)
INTEREST - PREVERDICT INTEREST - PROPER METHODOLOGY FOR AWARDED
PREVERDICT INTEREST ON FUTURE WRONGFUL DEATH DAMAGES -
CPLR ARTICLE 50-B;

TRAVIS v BATCHI:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY -
WHETHER THE INJURED PLAINTIFF RAISED A TRIABLE ISSUE OF FACT AS
TO WHETHER SHE SUSTAINED A "SERIOUS INJURY" WITHIN THE MEANING OF
INSURANCE LAW § 5102(d) - SUMMARY JUDGMENT;

TRIAx CAPITAL ADVISORS, LLC v RUTTER, et al.:

CONTRACTS - AMBIGUOUS CONTRACTS - AMBIGUITY OF FINANCIAL AND
RESTRUCTURING ADVISORY SERVICES CONTRACT CONTAINING PROVISION
ENTITLING PLAINTIFF TO FEE IF DEFENDANTS CLOSED "WITH ANY PARTY
WHO [PLAINTIFF] HAS INTRODUCED AS SET FORTH ON EXHIBIT A (AS
AMENDED) DURING THE TERM OF THIS AGREEMENT" - CHALLENGE TO
APPELLATE DIVISION ORDER HOLDING THAT AGREEMENT WAS NOT
AMBIGUOUS;

TRUMP ON THE OCEAN, LLC, MATTER OF v CORTES-VASQUEZ et al.:
(Cal. Date - 1/11/12)

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - DENIAL OF VARIANCE
FOR PUBLIC DINING AND CATERING FACILITY AT JONES BEACH STATE PARK
- VARIANCE SOUGHT FOR OCCUPIED BASEMENT TO BE CONSTRUCTED UNDER
"DESIGN FLOOD ELEVATION";

U.S. ELECTRONICS, INC. v SIRIUS SATELLITE RADIO, INC.:

ARBITRATION - LEGAL STANDARD GOVERNING APPLICATION TO VACATE AN
ARBITRATION AWARD BASED ON FAILURE OF ARBITRATOR AND OPPOSING
PARTY TO DISCLOSE ARBITRATOR'S ALLEGED CONFLICT OF INTEREST -
FEDERAL ARBITRATION ACT - "EVIDENT PARTIALITY";

VANDOVER (JEANNE M.), PEOPLE v:

MOTOR VEHICLES - OPERATING UNDER THE INFLUENCE OF ALCOHOL OR
DRUGS - SUPPRESSION OF RESULTS OF BLOOD ALCOHOL TEST AND
DEFENDANT'S STATEMENTS TO POLICE - LEGAL SUFFICIENCY OF PEOPLE'S
EVIDENCE ESTABLISHING PROBABLE CAUSE FOR DEFENDANT'S ARREST;

VBH LUXURY, INCORPORATED v 940 MADISON ASSOCIATES, LLC:

INSURANCE - EXCLUSIONS - WHETHER A POLICY ISSUED TO INSURED
TENANT EXCLUDES FROM COVERAGE TENANT'S CLAIMS AGAINST ADDITIONAL
INSURED LANDLORD WHERE THE POLICY DOES NOT CONTAIN AN EXPRESS
"INSURED VERSUS INSURED" EXCLUSION;

VEGA v RESTANI CONSTRUCTION CORP., et al.: (Cal. Date - 1/3/12)
NEGLIGENCE - PERSONAL INJURY ACTION OF MAINTENANCE WORKER WHO
ATTEMPTED TO MOVE A GARBAGE CAN ALLEGEDLY CONTAINING IMPROPERLY

DISCARDED CONCRETE BLOCKS; SUMMARY JUDGMENT; CONDITIONS INHERENT IN WORK; RES IPSA LOQUITUR;

VELA v TOWER INSURANCE COMPANY OF NEW YORK:

INSURANCE - HOMEOWNER'S INSURANCE - RESIDENCY REQUIREMENT - WHETHER PLAINTIFF RAISED A TRIABLE ISSUE OF FACT REGARDING OWNER OCCUPANCY OF THE INSURED PREMISES UNDER RENOVATION; SUMMARY JUDGMENT;

VELEZ (JESSIE), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE - ADDITION OF POST-RELEASE SUPERVISION TO SENTENCE AFTER DEFENDANT'S RELEASE FROM PRISON - RESENTENCE PROCESS COMMENCED BEFORE DEFENDANT'S RELEASE FROM PRISON - DEFENDANT DID NOT OBJECT TO COURT ADJOURNMENTS; DOUBLE JEOPARDY - WAIVER;

WALKER (FREDERICK), PEOPLE v:

CRIMES - RIGHT TO BE PRESENT AT TRIAL - BURDEN OF ESTABLISHING DEFENDANT'S ABSENCE FROM SANDOVAL HEARING - CHALLENGE TO APPELLATE DIVISION RULING THAT COURT REPORTER'S FAILURE TO DOCUMENT DEFENDANT'S PRESENCE OR ABSENCE AT SANDOVAL HEARING WAS INSUFFICIENT TO SATISFY DEFENDANT'S BURDEN TO REBUT PRESUMPTION OF REGULARITY THAT ATTACHES TO JUDICIAL PROCEEDINGS;

TOWN OF WALLKILL, MATTER OF v CIVIL SERVICE EMPLOYEES ASSOCIATION, et al.:

CIVIL SERVICE - DISCIPLINARY PROCEEDINGS - WHETHER DISCIPLINE OF TOWN POLICE OFFICERS IS A PERMISSIBLE SUBJECT OF COLLECTIVE BARGAINING UNDER THE TAYLOR LAW OR IS A PROHIBITED SUBJECT OF COLLECTIVE BARGAINING UNDER TOWN LAW § 155 - VALIDITY OF TOWN OF WALLKILL LOCAL LAW NO. 2 OF 2007;

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

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

WEINER v CITY OF NEW YORK, et al:

MUNICIPAL CORPORATIONS - TORT LIABILITY - WHETHER NEW YORK CITY EMERGENCY MEDICAL TECHNICIAN INJURED IN THE LINE OF DUTY ON MUNICIPAL PROPERTY MAY MAINTAIN AN ACTION AGAINST HIS MUNICIPAL EMPLOYER UNDER GENERAL MUNICIPAL LAW § 205-a DESPITE HIS ELIGIBILITY FOR WORKERS' COMPENSATION BENEFITS - WORKERS' COMPENSATION LAW § 11;

WILLIAM (TONY), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER POLICE HAD REASONABLE

SUSPICION TO STOP THE CAB IN WHICH DEFENDANT WAS A PASSENGER WHEN THEY OBSERVED THAT THE PASSENGERS MATCHED GENERAL ASPECTS OF THE RADIOED DESCRIPTION OF TWO MEN WHO HAD COMMITTED A ROBBERY NEARBY; WHETHER SUBSEQUENT SHOW-UP IDENTIFICATION WAS UNDULY SUGGESTIVE;

WILLIAMS, MATTER OF v FISCHER: (Cal. Date - 1/9/12)

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THE MISBEHAVIOR REPORT CHARGING PETITIONER WITH ASSAULTING AN INMATE AND VIOLENT CONDUCT, THE HEARING TESTIMONY AND THE CONFIDENTIAL TESTIMONY AND DOCUMENTS REVIEWED BY THE HEARING OFFICER IN CAMERA PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT THE DETERMINATION OF GUILT;

WILLIAMS (LEROY), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE - WHETHER ADDITION OF PRS EXTENDS EXPIRATION DATE OF ORDER OF PROTECTION ISSUED AS PART OF ORIGINAL SENTENCE - CPL 530.13(4);

WILLIAMS et al. v STATE OF NEW YORK:

NEGLIGENCE - PROXIMATE CAUSE - WHETHER DEFENDANT STATE CAN BE HELD LIABLE FOR AN ASSAULT PERPETRATED TWO YEARS AFTER A VOLUNTARY MENTAL PATIENT WAS PERMITTED TO "ELOPE" FROM STATE PSYCHIATRIC FACILITY;

WRIGHT (LEDARRIUS), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE ILLEGAL UNDER PENAL LAW § 70.25(2) - CONVICTIONS FOR FIRST-DEGREE MURDER AND SECOND-DEGREE CRIMINAL POSSESSION OF A WEAPON - DEFENDANT CLAIMS TRIAL COURT ERRED IN IMPOSING CONSECUTIVE SENTENCES BECAUSE HE ACTED WITH SINGULAR INTENT DURING ONE CRIMINAL TRANSACTION;

WRIGHT (NAFIS), PEOPLE v: (Cal. Date - 1/12/12)

CRIMES - SENTENCE - WHETHER DEFENDANT WITH A PRIOR VIOLENT FELONY CONVICTION, BUT NEVER ADJUDICATED A "SECOND FELONY OFFENDER," IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46 - DRUG LAW REFORM ACT OF 2009;

WRIGHT, MATTER OF VENISZEE:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTION FOR LEAVE TO REARGUE OR RENEW A MOTION TO VACATE THE DISMISSAL OF HIS APPEAL;

YAN v WANG:

HUSBAND AND WIFE - DIVORCE - GROUND OF CRUEL AND INHUMAN TREATMENT (DOMESTIC RELATIONS LAW § 170[1]); CLAIMED VIOLATIONS

OF DUE PROCESS BY TRIAL JUDGE AND APPELLATE DIVISION;

YENEM CORP. v 281 BROADWAY HOLDINGS [AND OTHER ACTIONS]:

(Cal. Date - 1/3/12)

NEGLIGENCE - VIOLATION OF STATUTORY DUTY - LIABILITY FOR DAMAGE CAUSED BY EXCAVATION WORK ON ADJOINING PROPERTY - WHETHER A MUNICIPAL ORDINANCE THAT IMPOSES A DUTY UPON THOSE PERFORMING EXCAVATION WORK 10 FEET BELOW THE CURB LEVEL TO "PRESERVE AND PROTECT" ADJOINING STRUCTURES (ADMINISTRATIVE CODE OF THE CITY OF NY FORMER § 27-1031[b][1] [NOW ADMINISTRATIVE CODE OF THE CITY OF NY § 28-3309.4]) IMPOSES ABSOLUTE LIABILITY SO AS TO WARRANT SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY IN FAVOR OF PLAINTIFFS, THE OWNER AND TENANT OF PREMISES ALLEGEDLY DAMAGED BY DEFENDANTS' EXCAVATION WORK ON THE ADJACENT PROPERTY - CONSIDERATION OF PRIOR CONDITION OF BUILDING AND ADEQUACY OF PRECAUTIONS IN DETERMINING LIABILITY; LEAVE GRANTED TO DEFENDANTS TO ASSERT COUNTERCLAIMS AGAINST PLAINTIFF RANDALL CO. LLC;

YUSUF (MALIK), a/k/a ASHFORD (YUSUF M.), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - WHETHER PENAL LAW § 70.70(1)(c)(4), WHICH PROVIDES FOR ENHANCED PUNISHMENT FOR "SECOND FELONY DRUG OFFENDERS PREVIOUSLY CONVICTED OF A VIOLENT FELONY" PERMITS SUCH ENHANCEMENT WHEN DEFENDANT'S PRIOR VIOLENT FELONY CONVICTION OCCURRED IN ANOTHER STATE - CPL 400.21;

ZAMORA, MATTER OF v NEW YORK NEUROLOGIC ASSOCIATES, et al.:

WORKERS' COMPENSATION - COVERAGE - PERMANENT PARTIAL DISABILITY - WHETHER NONRETIRED CLAIMANT HAS OBLIGATION TO DEMONSTRATE ATTACHMENT TO LABOR MARKET WITH EVIDENCE OF SEARCH FOR EMPLOYMENT WITHIN MEDICAL RESTRICTIONS; BURDEN OF PROOF;