

February 2012

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;

ADMIRAL INSURANCE COMPANY v JOY CONTRACTORS, INC., et al.:

(Cal. Date - 4/25/12)

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;

ALBANY LAW SCHOOL et al., MATTER OF v NEW YORK STATE OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES et al.:

(Cal. Date - 3/19/12)

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: (Cal. Date - 3/22/12)  
 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 MOLINEUX 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;

AMAZON.COM, LLC, et al. v NEW YORK STATE DEPARTMENT OF TAXATION  
 AND FINANCE, et al.:  
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW §  
 1101(b)(8)(vi);

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;

ASSET PROTECTION & SECURITY SERVICES, LP, MATTER OF v SERVICE  
 EMPLOYEES INTERNATIONAL UNION, LOCAL 200 UNITED:  
 ARBITRATION - PROCEEDING PURSUANT TO CPLR ARTICLE 75 - WHETHER  
 ARBITRATOR EXCEEDED HIS AUTHORITY BY DIRECTING THAT THE EMPLOYEE  
 BE REINSTATED AND AWARDING HER BACK PAY AND BENEFITS; JUST CAUSE  
 FOR TERMINATION;

AUQUI &c., et al. v SEVEN THIRTY ONE LIMITED PARTNERSHIP, et al.:  
 JUDGMENTS - COLLATERAL ESTOPPEL - PRECLUSIVE EFFECT TO BE GIVEN  
 TO DETERMINATION BY WORKERS' COMPENSATION LAW JUDGE CONCERNING  
 TERMINATION DATE OF PLAINTIFF'S DISABILITY - WHETHER APPOINTMENT  
 OF GUARDIAN FOR PLAINTIFF RAISED TRIABLE ISSUE OF FACT AS TO THE  
 ONGOING NATURE OF PLAINTIFF'S DISABILITY;

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;

BAKER (TREVIS D.), PEOPLE v (APPEAL NOs. 1 and 2):  
CRIMES - DISORDERLY CONDUCT (PENAL LAW § 240.20[3]) - PROBABLE CAUSE FOR ARREST - USE OF FOUL LANGUAGE IN PUBLIC IN CRITICIZING CONDUCT OF POLICE OFFICER - CONSTITUTIONALLY PROTECTED SPEECH; GUILTY PLEA;

BAYGOLD ASSOCIATES, INC. v CONGREGATION YETEV LEV OF MONSEY, INC. (AND ANOTHER ACTION): (Cal. Date - 3/21/12)  
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;

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;

BELL v NEW YORK STATE HIGHER EDUCATION SERVICES CORPORATION:  
APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DISMISSED ONE OF THE PLAINTIFF'S APPEALS AS UNTIMELY TAKEN AND ANOTHER OF HIS APPEALS AS BEING TAKEN FROM A NON-

APPEALABLE ORDER DENYING REARGUMENT;

BEST (EMIL), PEOPLE v:

TRIAL - PHYSICALLY RESTRAINED DEFENDANT - HANDCUFFS AND LEG SHACKLES DURING NONJURY TRIAL - TRIAL COURT DID NOT CONDUCT INQUIRY REGARDING NEED FOR RESTRAINTS OR PUT ON RECORD ANY REASONS FOR VISIBLE RESTRAINTS - CLAIMED VIOLATION OF DUE PROCESS RIGHTS; CLAIMED INSUFFICIENCY OF ACCUSATORY INSTRUMENT;

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]);

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);

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;

BREADY et al. v CSX TRANSPORTATION, INC., et al.:

NEGLIGENCE - WHAT CONSTITUTES - FOUR VEHICLE CHAIN REACTION COLLISION - LIABILITY OF FIRST CAR LAWFULLY STOPPED AT INTERSECTION FOR A RED LIGHT - FEDERAL EMPLOYERS' LIABILITY ACT (FELA) (45 USC § 51 ET SEQ.) - STANDARD OF PROOF FOR NEGLIGENCE AND PROXIMATE CAUSE UNDER FELA;

BRIDGET Y., MATTER OF et al.(AND OTHER PROCEEDINGS):

PARENT AND CHILD - CHILD CUSTODY - UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT - TEMPORARY EMERGENCY JURISDICTION; DENIAL OF MOTION TO VACATE ORDER OF FACT-FINDING AND DISPOSITION;

BRONX COMMITTEE FOR TOXIC FREE SCHOOLS, MATTER OF, et al. v NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY, et al.:

ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL IMPACT STATEMENT (EIS) - SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (SEIS) - WHETHER SCHOOL CONSTRUCTION AUTHORITY (SCA) FAILED TO TAKE THE REQUISITE "HARD LOOK" AT LONG-TERM MAINTENANCE AND MONITORING OF MEASURES FOR THE REMEDIATION OF CONTAMINATED SOIL AND GROUNDWATER AT THE MOTT HAVEN SCHOOL CAMPUS SITE BEFORE ISSUING ITS EIS AND IS REQUIRED TO PREPARE A SEIS - EFFECT, IF ANY, OF SITE MANAGEMENT PLAN SCA DEVELOPED UNDER THE BROWNFIELD CLEANUP PROGRAM;

BUKOWSKI v CLARKSON UNIVERSITY et al.: (Cal. Date - 5/2/12)

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: (Cal. Date - 3/21/12)

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;

CALDWELL v CABLEVISION SYSTEMS CORPORATION, et al.:

WITNESSES - FEES - FACT WITNESS - PAYMENTS IN EXCESS OF STATUTORY RATE OF \$15 PER DAY - PAYMENT OF \$10,000 FEE TO ORTHOPEDIC SURGEON WHO TESTIFIED AS A FACT WITNESS FOR DEFENDANT - WHETHER SUCH PAYMENT REQUIRED THE WITNESS'S TESTIMONY TO BE STRICKEN - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE TRIAL COURT'S ERROR IN FAILING TO GIVE JURY SPECIFIC INSTRUCTION REGARDING FACT-WITNESS COMPENSATION WAS HARMLESS;

CANGRO v MARANGOS:

PLEADING - SUFFICIENCY OF PLEADING - DISMISSAL OF COMPLAINT FOR FAILURE TO STATE A CAUSE OF ACTION;

CERVERA v BRESSLER:

PARENT AND CHILD - CUSTODY - MODIFICATION OF CUSTODY - CLAIMED DUE PROCESS VIOLATIONS;

CHAZON, LLC v MAUGENEST: (Cal. Date - 5/1/12)

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: (Cal. Date - 5/3/12)

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;

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;

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;

CONSUMER DIRECTED CHOICES, INC., MATTER OF v NEW YORK STATE OFFICE OF THE MEDICAID INSPECTOR GENERAL:

HEALTH - CHALLENGE TO STATE AGENCY'S WITHHOLDING OF MEDICAID PAYMENTS TO PROVIDER BASED UPON A REQUEST FROM ANOTHER STATE

AGENCY, WHICH INDICATED THAT IT WAS CONDUCTING A FRAUD INVESTIGATION OF THE PROVIDER AND HAD DETERMINED THAT THE PROVIDER WAS CONSISTENTLY UPCODING ITS MEDICAID BILLINGS - WHETHER WITHHOLDING AGENCY WAS REQUIRED TO INDEPENDENTLY INVESTIGATE THE ALLEGATIONS OF FRAUD;

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;

CUNNINGHAM, MATTER OF v NEW YORK STATE DEPARTMENT OF LABOR:

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - CONSTITUTIONALITY OF SEARCH CONDUCTED BY PUBLIC EMPLOYER BY PLACING GLOBAL POSITIONING SYSTEM DEVICES ON EMPLOYEE'S CAR WITHOUT A WARRANT;

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 OF PRIMARY ASSUMPTION OF RISK IS INAPPLICABLE;

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: (Cal. Date - 5/3/12)

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;

DAMIAN G. and MADISON G., MATTER OF:

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER RECORD CONTAINS SUFFICIENT EVIDENCE OF NEGLECT TO SUPPORT THE ADJUDICATION;

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;

DE LUNA (ALBERTO), PEOPLE v:

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

DIAZ (RANDOLFO), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - IMPROPER BOLSTERING - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE'S EXPERT TO DESCRIBE HOW A SEX OFFENDER "GROOMS" A CHILD VICTIM; EVIDENCE - PRIOR FALSE ALLEGATIONS OF RAPE OR SEXUAL ABUSE - WHETHER THE TRIAL COURT PROPERLY PRECLUDED DEFENSE WITNESS FROM TESTIFYING THAT THE COMPLAINANT HAD MADE A FALSE ALLEGATION OF SEXUAL ABUSE AGAINST HIM APPROXIMATELY SIX YEARS EARLIER;

DOMBROWSKI v BULSON: (Cal. Date - 3/22/12)

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;

DZIELSKI v ESSEX INSURANCE COMPANY:

INSURANCE - EXCLUSIONS - "STAGE HAND" EXCLUSION IN "RESTAURANT, BAR, TAVERN, NIGHT CLUBS, FRATERNAL AND SOCIAL CLUBS ENDORSEMENT" - APPLICABILITY OF EXCLUSION TO PERSON INJURED BY FALL FROM ALLEGEDLY DEFECTIVE LOADING DOCK WHILE REMOVING EQUIPMENT HE PROVIDED FOR BAND THAT PERFORMED AT INSURED'S NIGHTCLUB;

EAST MIDTOWN PLAZA HOUSING COMPANY, INC. v CUOMO &c., et al.:  
CONDOMINIUMS AND COOPERATIVES - COOPERATIVE APARTMENTS -



PROCEEDING TO COMPEL APPROVAL AND ACCEPTANCE OF AMENDMENT TO COOPERATIVE OFFERING PLAN - WHETHER ARTICLE 23-A OF THE GENERAL BUSINESS LAW APPLIES TO PETITIONER'S PLAN TO WITHDRAW FROM THE MITCHELL-LAMA PROGRAM AND RECONSTITUTE AS A PRIVATE COOPERATIVE - UNTRUE OR MISLEADING STATEMENT IN AMENDMENT TO OFFERING PLAN AS BASIS FOR ATTORNEY GENERAL'S REJECTION OF AMENDMENT; RATIONALITY OF METHOD FOR COUNTING DISSOLUTION VOTES - ONE VOTE PER APARTMENT RATHER THAN ONE VOTE PER SHARE - AGENCY RULE REQUIRING "APPROVAL OF TWO-THIRDS OF OUTSTANDING SHARES" - BUSINESS CORPORATION LAW § 1001;

ECHOSTAR SATELLITE CORP., MATTER OF v TAX APPEALS TRIBUNIAL:

(Cal. Date - 4/24/12)

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;

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;

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: (Cal. Date - 4/26/12)

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;

GAMMON (BRIAN), PEOPLE v: (Cal. Date - 5/2/12)

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;

GARCIA (MIGUEL), PEOPLE v:

CRIMES-UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE HAVE THE RIGHT TO ASK THE OCCUPANTS OF A CAR WHETHER THEY HAVE ANY WEAPONS ONCE THE POLICE LAWFULLY STOP THE CAR FOR ANY REASON; INEVITABLE DISCOVERY DOCTRINE;

GAUSE (DERRICK), PEOPLE v: (Cal. Date - 4/24/12)

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;

GAVAZZI (JOHN), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - SEARCH WARRANT FAILED TO IDENTIFY ISSUING COURT AND MAGISTRATE - WHETHER WARRANT "SUBSTANTIALLY COMPLIES" WITH STATUTORY REQUIREMENTS (CRIMINAL PROCEDURE LAW § 690.45); SUPPRESSION HEARING;

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;

GILLIAM (TYRAY), PEOPLE v:

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

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;

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;

GURYEV v TOMCHINSKY, et al.:

LABOR - SAFE PLACE TO WORK - SUPERVISION OR CONTROL OF WORK - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING AS A MATTER OF LAW THAT CERTAIN DEFENDANTS WERE NOT OWNERS OR THE AGENTS OF OWNER ON THE PROJECT AND DID NOT CONTROL OR SUPERVISE THE WORK; INDUSTRIAL CODE VIOLATION - FURNISHING OF EYE PROTECTION EQUIPMENT - PLAINTIFF'S ENTITLEMENT TO SUMMARY JUDGMENT ON LIABILITY;

H. H. WARNER, LLC, MATTER OF v ROCHESTER GENESEE REGIONAL TRANSPORTATION AUTHORITY:

EMINENT DOMAIN - JUDICIAL REVIEW; ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL QUALITY REVIEW - CONDEMNATION OF PROPERTY FOR USE AS REGIONAL BUS TRANSIT CENTER;

HAFFIZ (FEOID), PEOPLE v: (Cal. Date - 4/25/12)

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): (Cal. Date - 5/1/12)

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;

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.: (Cal. Date - 4/25/12)

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;

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;

HARRIS et al. v CSX TRANSPORTATION, INC., et al.:

NEGLIGENCE - WHAT CONSTITUTES - FOUR VEHICLE CHAIN REACTION COLLISION - LIABILITY OF FIRST CAR LAWFULLY STOPPED AT INTERSECTION FOR A RED LIGHT - FEDERAL EMPLOYERS' LIABILITY ACT (FELA) (45 USC § 51 ET SEQ.) - STANDARD OF PROOF FOR NEGLIGENCE AND PROXIMATE CAUSE UNDER FELA;

HEIDGEN (MARTIN), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED DEFENDANT TRAVELING WRONG WAY ON PARKWAY - SUFFICIENCY OF THE EVIDENCE TO SUPPORT DEPRAVED INDIFFERENCE; UNLAWFUL SEARCH AND SEIZURE - CLAIM THAT DEFENDANT'S BLOOD SAMPLE WAS ILLEGALLY OBTAINED AND IMPROPERLY ADMITTED INTO EVIDENCE; PRECLUSION OF EXPERT TESTIMONY FOR THE DEFENSE BY A POLICE ACCIDENT RECONSTRUCTIONIST; ALLEGED JUROR MISCONDUCT;

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;

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;

HUSSEIN, &c., et al., MATTER OF v STATE OF NEW YORK:  
 (Cal. Date - 4/26/12)  
 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.:  
 (Cal. Date - 4/24/12)  
 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;

ILLINOIS UNION INSURANCE COMPANY v ASSURANCE COMPANY OF AMERICA:

INSURANCE - CONSTRUCTION OF POLICY - DUTY TO DEFEND - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE RECORD ESTABLISHED AS A MATTER OF LAW THAT THE PLAINTIFF IN AN UNDERLYING ACTION WAS NOT AN "EMPLOYEE" WITHIN THE MEANING OF THE INSURANCE POLICY;

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;

IRB-BRAZIL RESSEGUROS v INEPAR INVESTMENTS, S.A., et al.:

CONFLICT OF LAWS - LAW GOVERNING CONTRACT ACTIONS - WHETHER A COURT MUST UNDERTAKE A TRADITIONAL CONFLICT OF LAW ANALYSIS WHEN THERE IS AN EXPRESS CHOICE-OF-LAW PROVISION IN AN AGREEMENT - GENERAL OBLIGATIONS LAW § 5-1401;

ITHACA CITY SCHOOL DISTRICT, MATTER OF v NEW YORK STATE DIVISION OF HUMAN RIGHTS: (Cal. Date - 5/2/12)

CIVIL RIGHTS - STATE DIVISION OF HUMAN RIGHTS - JURISDICTION OVER PUBLIC SCHOOL DISTRICT - WHETHER PUBLIC SCHOOL DISTRICT IS AN "EDUCATION CORPORATION OR ASSOCIATION" WITHIN THE MEANING OF EXECUTIVE LAW § 296(4); THE STANDARD GOVERNING THE IMPOSITION OF LIABILITY UNDER SECTION 296(4); WHETHER A LEGAL BASIS EXISTS FOR A SEPARATE DAMAGES AWARD TO THE PARENT OF A STUDENT WHO HAS BEEN RACIALLY HARASSED BY FELLOW STUDENTS;

J. D'ADDARIO & COMPANY, INC. v EMBASSY INDUSTRIES, INC.:

INTEREST - PREJUDGMENT INTEREST - CPLR 5001(a) - WHETHER THE PREJUDGMENT INTEREST AMOUNT WAS GOVERNED BY THE STATUTORY RATE PURSUANT TO CPLR 5001(a) OR BY THE DEFAULT PROVISION OF THE PARTIES' CONTRACT FOR THE SALE OF REAL PROPERTY;

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;

JOE (QUINTRELL), PEOPLE v.:

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

JORDAN (OSWALD), MATTER OF:

EXECUTORS AND ADMINISTRATORS - LETTERS OF ADMINISTRATION - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING DECREE THAT, AMONG OTHER THINGS, GRANTED CROSS PETITION FOR ISSUANCE OF PERMANENT LETTERS OF ADMINISTRATION TO A PERSON, AS THE DECEDENT'S SURVIVING SPOUSE;

KAUR, &c., et al. v AMERICAN TRANSIT INSURANCE COMPANY, et al.:  
ATTORNEY AND CLIENT - MALPRACTICE; SUCCESSOR LIABILITY - WHETHER DEFENDANT LAW FIRM MAY BE LIABLE FOR ALLEGED MALPRACTICE AS SUCCESSOR TO NORMAN VOLK & ASSOCIATES, P.C.; SUMMARY JUDGMENT;

KEATING (PADRAIC), PEOPLE v:

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

KELLEY (RICHARD), PEOPLE v: (Cal. Date - 5/1/12)

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: (Cal. Date - 3/20/12)

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;

KOSOWSKI, MATTER OF, et al. v DONOVAN, et al.:

(Cal. Date - 3/19/11)

ELECTIONS - POLITICAL PARTIES - SPECIAL PROCEEDING PURSUANT TO ELECTION LAW ARTICLE 16 SEEKING DECLARATION THAT THE COUNTY COMMITTEE OF THE NASSAU CONSERVATIVE PARTY WAS ILLEGALLY CONSTITUTED AND SEEKING TO ANNUL ACTIONS UNDERTAKEN BY THAT COMMITTEE; TIMELY COMMENCEMENT OF PROCEEDING UNDER ELECTION LAW § 16-102 - NUMBER OF COMMITTEE MEMBERS REQUIRED BY ELECTION LAW § 2-104;

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;

LAZZARI, MATTER OF v TOWN OF EASTCHESTER, et al.:

CIVIL SERVICE - JUDICIAL REVIEW - WHETHER CIVIL SERVICE LAW § 71 ENTITLES THE TOWN TO RECEIVE MEDICAL CERTIFICATION OF AN EMPLOYEE'S FITNESS BEFORE IT MUST REINSTATE AN EMPLOYEE PREVIOUSLY DISCHARGED DUE TO WORK-RELATED INJURIES - WHETHER BACK PAY UNDER CIVIL SERVICE LAW § 77 IS APPROPRIATE FOR A MUNICIPAL EMPLOYEE UNLAWFULLY DENIED REINSTATEMENT, BUT WHOSE ORIGINAL TERMINATION WAS NOT UNLAWFUL;

LEONARD (LEO), PEOPLE v: (Cal. Date - 4/25/12)

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: (Cal. Date 3/19/12)

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;

LINEBERGER, MATTER OF v BEZIO:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH RESPECT TO CHARGES ARISING FROM PETITIONER'S PHYSICAL ALTERCATION WITH ANOTHER INMATE;

LUYSTER CREEK LLC, MATTER OF v NEW YORK STATE PUBLIC SERVICE COMMISSION et al.: (Cal. Date - 3/19/12)

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;

MACK (JASON), PEOPLE v:

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

MAC NAUGHTON et al. v WARREN COUNTY et al.:

TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - NOTICE TO OWNER OF DELINQUENT PROPERTY - DUE PROCESS - WHETHER COUNTY SATISFIED DUE PROCESS REQUIREMENTS IN ITS EFFORT TO NOTIFY PROPERTY OWNERS THAT AN IN REM TAX FORECLOSURE PROCEEDING HAD BEEN INITIATED AGAINST THEIR PROPERTY AFTER DOCUMENTS SENT TO HOMEOWNERS' ADDRESS LISTED ON TAX ROLL WERE RETURNED BY THE POSTAL SERVICE AS UNDELIVERABLE;

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 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;

MARINACCIO v TOWN OF CLARENCE, et al.:

DAMAGES - PUNITIVE DAMAGES - ACTION FOR TRESPASS AND PRIVATE NUISANCE SEEKING DAMAGES FOR FLOODING ON PLAINTIFF'S PROPERTY CAUSED BY ALLEGEDLY INTENTIONAL FLOW OF WATER FROM A SUBDIVISION DEVELOPED BY DEFENDANT BUILDER - WHETHER PUNITIVE DAMAGES AWARD IS SUPPORTED BY SUFFICIENT EVIDENCE; EASEMENT; PRECLUSION OF DEFENDANT'S DAMAGES EXPERT; JURY INSTRUCTIONS;

MARTIN (DANNY), PEOPLE v:

CRIMES - EVIDENCE - SUPPRESSION HEARING - WHETHER THE EVIDENCE CONCERNING THE POLICE OFFICERS' INTERACTION WITH DEFENDANT ON THE STREET SUPPORTED A REASONABLE SUSPICION OF CRIMINALITY AND THE SUBSEQUENT DRUG SEIZURE AND ARREST;

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;

MATOS (ZAHIRA), PEOPLE v: (Cal. Date - 4/24/12)

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;

McFADDEN (BRANDON), PEOPLE v:

CRIMES - DOUBLE JEOPARDY - AT FIRST TRIAL, DEFENDANT CONVICTED OF THE MISDEMEANOR OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE, AND JURY DEADLOCKED ON TWO FELONY CHARGES - AFTER MISTRIAL GRANTED AS TO THE TWO FELONIES, DEFENDANT WAS RETRIED AND CONVICTED OF FELONY CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE - WHETHER RETRIAL AND SUBSEQUENT FELONY CONVICTION VIOLATED DOUBLE JEOPARDY PRINCIPLES; CLAIMED WAIVER OF DOUBLE JEOPARDY PROTECTIONS;

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;

MECKWOOD (LONNIE), PEOPLE v:

CRIMES - SENTENCE - SECOND VIOLENT FELONY OFFENDER - PREVIOUS CONVICTION IN ANOTHER STATE - USE OF OUT-OF-STATE CONVICTION AS A PREDICATE FELONY WHERE DEFENDANT WOULD HAVE BEEN ELIGIBLE FOR YOUTHFUL OFFENDER STATUS HAD HE COMMITTED THE CRIME IN NEW YORK; CLAIM THAT PENAL LAW § 70.04 IS UNCONSTITUTIONAL BECAUSE IT IS

VAGUE, AMBIGUOUS AND FAILS TO CONSIDER MITIGATING FACTORS;  
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;

MIRANDA (CARLOS), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION TO BELIEVE THAT KNIFE CLIPPED TO DEFENDANT'S POCKET WAS A GRAVITY KNIFE; SUPPRESSION HEARING;

MORALES (EDGAR), PEOPLE v:

CRIMES - TERRORISM - INTIMIDATION OF "CIVILIAN POPULATION" - PENAL LAW § 490.25 - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT A FINDING THAT DEFENDANT COMMITTED HIS CRIMES WITH THE INTENT TO INTIMIDATE OR COERCE A "CIVILIAN POPULATION" GENERALLY RATHER THAN THE MORE LIMITED CATEGORY OF MEMBERS OF RIVAL GANGS; SUFFICIENCY OF THE EVIDENCE SUPPORTING THE CONVICTIONS AS MODIFIED; ALLEGED "SPILLOVER PREJUDICE" FROM TERRORISM CHARGES, INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, CONFRONTATION CLAUSE VIOLATION, PREJUDICIAL REMARKS BY TRIAL COURT TO PROSPECTIVE JURORS REGARDING THE SEPTEMBER 11 TERRORIST ATTACKS, AND PAYTON AND MIRANDA VIOLATIONS;

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;

NESBITT (AKIEME), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO PRESENT DEFENSE TO ASSAULT CHARGES OR REQUEST SUBMISSION OF LESSER INCLUDED OFFENSES - SERIOUS INJURY;

NEW YORK CITY HEALTH & HOSPITALS CORPORATION, MATTER OF v NEW YORK STATE COMMISSION ON CORRECTION: (Cal. Date - 3/19/12)

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.: (Cal. Date - 4/25/12)

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;

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: (Cal. Date - 5/2/12)

CIVIL RIGHTS - DISCRIMINATION BASED ON RACE AND DISABILITY - CPLR ARTICLE 78 PROCEEDING TO PROHIBIT THE NEW YORK STATE DIVISION OF HUMAN RIGHTS (NYSDDR) 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);

NORTON (DARNELL), PEOPLE v:

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

OVADIA, et al., MATTER OF v OFFICE OF THE INDUSTRIAL BOARD OF APPEALS, et al.: (Cal. Date - 3/20/12)

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;

OVERSTOCK.COM, INC. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW § 1101(b)(8)(vi); DECLARATORY JUDGMENT;

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;

TOWN OF OYSTER BAY v KIRKLAND:

CIVIL RIGHTS - STATE DIVISION OF HUMAN RIGHTS - ADMINISTRATIVE

COMPLAINT ALLEGING THAT TOWN'S ZONING RESOLUTIONS THAT CREATED CERTAIN HOUSING PROGRAMS UNLAWFULLY DISCRIMINATED AGAINST POTENTIAL RESIDENTS ON THE BASIS OF RACE, COLOR AND NATIONAL ORIGIN - WHETHER COMPLAINT CONSTITUTED REVERSE DISCRIMINATION AND VIOLATED THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FEDERAL AND STATE CONSTITUTIONS; ADMINISTRATIVE LAW - EXHAUSTION OF ADMINISTRATIVE REMEDIES;

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: (Cal. Date - 4/26/12)

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;

PALMER (MICHAEL), PEOPLE v:

CRIMES - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - WHETHER DEFENDANT'S USE OF ALCOHOL AT THE TIME OF THE OFFENSE, WITHOUT MORE, CAN CONSTITUTE CLEAR AND CONVINCING EVIDENCE OF DRUG OR ALCOHOL ABUSE UNDER SORA RISK FACTOR 11;

PAPPAS v TZOLIS:

LIMITED LIABILITY COMPANIES (LLC) - MEMBERS AND MANAGERS - CLAIMS BY TWO MEMBERS FOR BREACH OF FIDUCIARY DUTY, CONVERSION, FRAUD AND UNJUST ENRICHMENT AGAINST THIRD MEMBER WHO BOUGHT OUT THEIR INTERESTS IN COMPANY FOR \$1.5 MILLION WITHOUT DISCLOSING HIS ONGOING NEGOTIATIONS WITH PARTY WHO LATER PURCHASED COMPANY'S SOLE ASSET FOR \$17.5 MILLION - EFFECT OF CERTIFICATE STATING THAT IN ASSIGNING THEIR INTERESTS IN THE COMPANY TO THE THIRD MEMBER, THE TWO MEMBERS PERFORMED THEIR OWN DUE DILIGENCE, WERE NOT RELYING ON ANY REPRESENTATIONS BY THIRD MEMBER NOT CONTAINED IN CERTAIN DESIGNATED DOCUMENTS, AND THAT THIRD MEMBER OWED THEM NO FIDUCIARY DUTIES - EFFECT OF PROVISION IN OPERATING AGREEMENT PERMITTING MEMBERS TO ENGAGE IN BUSINESS VENTURES OF ANY NATURE WITHOUT OBLIGATION OF ANY KIND TO THE COMPANY OR OTHER MEMBERS;

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;

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;

PLUNKETT (DAVID), PEOPLE v: (Cal. Date - 4/26/12)

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;

RAMOS (GILBERTO), PEOPLE v: (Cal. Date - 3/21/12)

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: (Cal. Date - 5/3/12)

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

REID (LAMARR), PEOPLE v: (Cal. Date - 5/1/12)

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;

REITANO, MATTER OF (CANGRO v ROSADO):

GUARDIAN AND WARD - CONFIRMATION OF SPECIAL REFEREE'S REPORT AND APPROVAL AND JUDICIAL SETTLEMENT OF GUARDIAN'S AMENDED FINAL ACCOUNTING - CLAIMED ERRORS AND ABUSES IN GUARDIANSHIP PROCEEDINGS;

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;

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: (Cal. Date - 3/20/12)

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;

RODRIGUEZ (VINCENT), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION - EFFECT OF COURT'S FAILURE TO RESENTENCE DEFENDANT TO INCLUDE POSTRELEASE SUPERVISION WITHIN 40-DAY TIME LIMIT CONTAINED IN CORRECTION LAW § 601-d(4)(c) AND (d);

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";  
SCHEFFEY-HOHLE, MATTER OF v DURFEE:

PARENT AND CHILD - CUSTODY - RELOCATION OF ONE PARENT - CHALLENGE TO APPELLATE DIVISION ORDER THAT REVERSED A FAMILY COURT ORDER GRANTING PETITIONER-MOTHER'S APPLICATION TO MODIFY A PRIOR CUSTODY ORDER AND PERMITTING HER TO RELOCATE WITH THE CHILD;

SCHMIDT, MATTER OF v FALLS DODGE, INC. et al. [WORKERS' COMPENSATION BOARD]: (Cal. Date - 3/21/12)

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);

SHENENDEHOWA CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION v CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. &c. et al.:

ARBITRATION - JUDICIAL REVIEW - ARBITRATION AWARD REINSTATING A BUS DRIVER WHO TESTED POSITIVE FOR MARIJUANA AFTER DRIVING CHILDREN TO SCHOOL - STANDARD OF REVIEW FOR VACATUR OF ARBITRATION AWARD;

SIEGMUND STRAUSS, INC. v EAST 149<sup>TH</sup> REALTY CORP., et al.:

APPEAL - WHETHER APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANTS' APPEAL FROM THE FINAL SUPREME COURT JUDGMENT DID NOT BRING UP FOR REVIEW PRIOR NONFINAL SUPREME COURT ORDERS; DISMISSAL OF COUNTERCLAIMS AND THIRD-PARTY CLAIMS; DENIAL OF MOTION FOR LEAVE TO AMEND THE ANSWER; POSSESSION OF REAL PROPERTY PURSUANT TO CONTRACT;

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;

SPENCER (ANDREW), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - PROOF OF COMPLAINANT'S MOTIVE TO FABRICATE; FAIR TRIAL - TRIAL JUDGE'S ALLEGED DISPLAY OF ANTAGONISM AGAINST DEFENSE COUNSEL;

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, MATTER OF v TORMEY: (Cal. Date - 4/26/12)

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;

STANLEY (DONALD), PEOPLE v: (Cal. Date - 5/3/12)

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.: (Cal. Date - 3/20/12)

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;

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.);

STRUNK v PATERSON:

MOTIONS AND ORDERS - DENIAL OF MOTION TO INTERVENE;

SUBER (FRANK), PEOPLE v: (Cal. Date - 3/22/12)

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

SULLIVAN v HARNISCH, et al.: (Cal. Date - 3/22/12)

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

SUNRISE CHECK CASHING AND PAYROLL SERVICES, INC., et al. v TOWN OF HEMPSTEAD:

MUNICIPAL CORPORATIONS - ZONING - REGULATION PROHIBITING CHECK-CASHING ESTABLISHMENTS WITHIN TOWN UNLESS THEY ARE LOCATED IN INDUSTRIAL AND LIGHT MANUFACTURING DISTRICTS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, UNDER THE DOCTRINE OF CONFLICT PREEMPTION, THE REGULATION IS PREEMPTED BY BANKING LAW § 369 - SEPARATION OF POWERS - HOME RULE REQUIREMENTS;

SWEZEY v MERRILL LYNCH, et al.: (Cal. Date 4/24/12)

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;

TOWNSLEY (TAYDEN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - AT TRIAL

PROSECUTOR ACCUSED DEFENDANT AND HIS TWO ASSIGNED TRIAL ATTORNEYS OF CONSPIRING WITH A THIRD PARTY TO CONCOCT A DEFENSE THAT WOULD FALSELY SHIFT RESPONSIBILITY FOR THE CRIME TO THE THIRD PARTY; POTENTIAL CONFLICT BETWEEN DEFENDANT AND HIS COUNSEL NOT RAISED AT TRIAL OR BY APPELLATE COUNSEL;

TRUMP ON THE OCEAN, LLC, MATTER OF v CORTES-VASQUEZ et al.:  
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";

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;

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 (SAMUEL), PEOPLE v:  
CRIMES - SUPPRESSION HEARING - VEHICLE STOPPED FOR TRAFFIC INFRACTION THEN IMPOUNDED DUE TO SUSPENSION OF DRIVER'S LICENSE, DESPITE ANOTHER LICENSED DRIVER IN CAR - INVENTORY SEARCH AFTER IMPOUNDMENT OF VEHICLE REVEALED LOADED HANDGUN - WHETHER IMPOUNDMENT POLICY PROHIBITING ANY LICENSED DRIVER OTHER THAN REGISTERED OWNER FROM TAKING POSSESSION OF STOPPED VEHICLE VIOLATES DRIVER'S RIGHTS;

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;

WATSON (CARL), PEOPLE v:

CRIMES - JUSTIFICATION - ADMISSIBILITY OF EVIDENCE OF HOMICIDE VICTIM'S PRIOR SPECIFIC CRIMINAL ACTS OF VIOLENCE AS RELEVANT TO THE ISSUE OF WHO WAS THE INITIAL AGGRESSOR WHERE DEFENDANT DID NOT KNOW ABOUT SUCH ACTS IN COMMITTING THE HOMICIDE;

WEINER v CITY OF NEW YORK, et al: (Cal. Date - 4/26/12)

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;

WHITEBOX CONCENTRATED CONVERTIBLE ARBITRAGE PARTNERS, L.P.,et al. v SUPERIOR WELL SERVICES, INC.:

CORPORATIONS - TRANSFER OF STOCK - "FUNDAMENTAL CHANGE" UNDER CERTIFICATE OF DESIGNATIONS - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING THE COMPLAINT BASED ON DOCUMENTARY EVIDENCE;

WILD et al. &c. v CATHOLIC HEALTH SYSTEM, et al.:

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE - WHETHER THE TRIAL COURT FAILED TO PROPERLY INSTRUCT THE JURY WITH RESPECT TO THE ELEMENT OF PROXIMATE CAUSE - "SUBSTANTIAL CHANCE DOCTRINE";

WILLIAM (TONY), PEOPLE v: (Cal. Date - 5/2/12)

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:

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: (Cal. Date - 3/22/12)

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: (Cal. Date - 3/21/12)  
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: (Cal. Date - 5/1/12)  
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;

YUSON (MORRIS B.), PEOPLE v:  
CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER PENAL LAW § 70.45(2)(e), PROVIDING FOR A MINIMUM POST-RELEASE SUPERVISION PERIOD OF ONE AND ONE-HALF YEARS, APPLIES TO A DEFENDANT WHO PLEADED GUILTY TO A CLASS D VIOLENT FELONY;

YUSUF (MALIK), a/k/a ASHFORD (YUSUF M.), PEOPLE v:  
(Cal. Date - 5/3/12)  
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.:  
(Cal. Date - 3/20/12)  
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;