

September 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.

ABREU (CARLOS), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE IMPROPERLY IMPOSED FOR MURDER OCCURRING DURING ARMED HOME INVASION BURGLARY/ROBBERY; ADMISSION OF HEARSAY STATEMENT BY NON-TESTIFYING CO-CONSPIRATOR; ADMISSION OF ACCOMPLICE'S PRIOR INCONSISTENT STATEMENTS;

ABREU, MATTER OF v FISCHER:

PRISONS AND PRISONERS - CONDITIONS OF CONFINEMENT - LIMITATION ON AMOUNT OF PERSONAL PROPERTY PRISONERS ARE PERMITTED TO POSSESS - DENIAL OF GRIEVANCE BY PRISONER WHO HAD A TOTAL OF SIX TO EIGHT BAGS OF PERSONAL PROPERTY, INCLUDING THREE TO FOUR BAGS OF LEGAL PAPERS RELATED TO 20 PENDING LAWSUITS, BUT WAS ONLY ALLOWED TO HAVE A TOTAL OF FIVE BAGS OF PERSONAL PROPERTY, INCLUDING LEGAL MATERIALS, PURSUANT TO DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION DIRECTIVE;

ABREU, MATTER OF v FISCHER (A.D. NO. TP11-01936):

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO ADMINISTRATIVE DETERMINATIONS FINDING THAT PETITIONER VIOLATED VARIOUS INMATE RULES;

ABREU, MATTER OF v HOGAN, et al.:

PRISONS AND PRISONERS - CONDITIONS OF CONFINEMENT - DENIAL OF INMATE GRIEVANCE THAT HE WAS IMPROPERLY DENIED PARTICIPATION IN THE SEX OFFENDER COUNSELING AND TREATMENT PROGRAM AND WAS NOT RECEIVING PROPER MENTAL HEALTH TREATMENT - CLAIMED VIOLATIONS OF CORRECTION LAW § 622 AND CONSTITUTIONAL RIGHTS;

ABREU, MATTER OF v HOGAN (AD NO. 511236):

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING MOTION FOR PERMISSION TO APPEAL TO THE COURT OF APPEALS;

ADAMS (KEITH A.), PEOPLE v:

DISTRICT AND PROSECUTING ATTORNEYS - WHETHER DISTRICT ATTORNEY SHOULD HAVE RECUSED HIMSELF OR BEEN DISQUALIFIED FROM PROSECUTING CASE WHERE COMPLAINANT WAS CITY COURT JUDGE BEFORE WHOM DISTRICT ATTORNEY REGULARLY APPEARS; DENIAL, WITHOUT HEARING, OF DEFENDANT'S MOTION FOR APPOINTMENT OF A SPECIAL PROSECUTOR;

ADRIAN, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF NIAGARA FALLS, et al.:

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - RESIDENCY REQUIREMENT - CHALLENGE TO ADMINISTRATIVE TERMINATION OF PETITIONER'S EMPLOYMENT FOR FAILURE TO SATISFY SCHOOL DISTRICT'S REQUIREMENT THAT EMPLOYEES HIRED OR PROMOTED AFTER A CERTAIN DATE RESIDE WITHIN THE CITY OF NIAGARA FALLS; PETITIONER'S ENTITLEMENT TO HEARING PURSUANT TO EDUCATION LAW §§ 3020 AND 3020-a;

ALCIDE (JAMES), PEOPLE v:

CRIMES - JURORS - WHETHER TRIAL COURT COMMITTED MODE OF PROCEEDINGS ERROR IN PERSONALLY PARTICIPATING IN THE READBACK OF TESTIMONY OF TWO PROSECUTION WITNESSES; ALLEGED DUE PROCESS VIOLATIONS AND VIOLATION OF CPL 310.30;

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

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;

APPLEWHITE, &c. et al. v ACCUHEALTH, INC. et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - ASSUMPTION OF SPECIAL DUTY TO INFANT PLAINTIFF IN ANAPHYLACTIC SHOCK - EMERGENCY MEDICAL PERSONNEL DID NOT TRANSPORT THE INFANT PLAINTIFF TO THE HOSPITAL IMMEDIATELY IN THEIR BASIC LIFE SUPPORT AMBULANCE, BUT ASSURED THE INFANT'S MOTHER THAT IT WOULD BE BETTER TO WAIT FOR AN ADVANCED LIFE SUPPORT AMBULANCE TO ARRIVE WITH PARAMEDICS AND NECESSARY EQUIPMENT;

AUGUSTINE (TRAVIS), PEOPLE v.:

CRIMES - SUPPRESSION HEARING - WHETHER COUNTY COURT PROPERLY DENIED DEFENDANT'S MOTION TO SUPPRESS HIS STATEMENTS MADE TO POLICE - WHETHER DEFENDANT WAS REPRESENTED BY COUNSEL ON AN UNRELATED VIOLATION OF PROBATION CHARGE SO THAT QUESTIONING COULD NOT TAKE PLACE ON THE MURDER AND OTHER CHARGES UNLESS COUNSEL WAS PRESENT OR DEFENDANT WAIVED HIS RIGHTS IN COUNSEL'S PRESENCE; SUFFICIENCY OF THE EVIDENCE AT TRIAL; RIGHT TO FORMAL COMPLAINT ABOUT EFFECTIVENESS OF COUNSEL;

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;

BAKER (TREVIS D.), PEOPLE v.:

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;

BEATY (DONNY P.), PEOPLE v.:

CRIMES - INSTRUCTIONS - INTOXICATION - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JURY THAT INTOXICATION MAY NEGATE THE INTENT ELEMENT OF RAPE IN THE FIRST DEGREE; CONSOLIDATION AND SEVERANCE - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO SEVER THE FIRST FOUR COUNTS OF THE INDICTMENT, WHICH INVOLVED ONE VICTIM AND CHARGED HIM WITH, AMONG OTHER THINGS, RAPE IN THE FIRST DEGREE, FROM THE FIFTH COUNT OF THE INDICTMENT, WHICH CHARGED HIM WITH BURGLARY IN THE SECOND DEGREE WITH RESPECT TO ANOTHER VICTIM; SUFFICIENCY OF THE EVIDENCE OF BURGLARY IN THE SECOND DEGREE;

BECK-NICHOLS, MATTER OF v BIANCO, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO ANNUL DETERMINATION OF RESPONDENT SCHOOL DISTRICT TERMINATING PETITIONER'S EMPLOYMENT BASED ON FAILURE TO COMPLY WITH THE DISTRICT'S RESIDENCY POLICY; STANDARD OF REVIEW;

BELLAMY, MATTER OF v NEW YORK CITY POLICE DEPARTMENT:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - DENIAL OF FOIL REQUEST SEEKING UNREDACTED VERSIONS OF POLICE REPORTS BASED UPON PUBLIC SAFETY EXEMPTION (PUBLIC OFFICERS LAW § 87 [2][f]) AND PRIVACY EXEMPTION (PUBLIC OFFICERS LAW § 87 [2][b]);

BELLIARD (RAFAEL), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER MANDATORY CONSECUTIVE SENTENCE (PENAL LAW § 70.25[2-a]) IS A DIRECT CONSEQUENCE OF THE GUILTY PLEA SO THAT THE TRIAL COURT'S FAILURE TO INFORM DEFENDANT THAT HIS SENTENCE WOULD RUN CONSECUTIVELY TO AN UNDISCHARGED, PREVIOUSLY-IMPOSED SENTENCE RENDERS DEFENDANT'S GUILTY PLEA NOT KNOWING, INTELLIGENT AND VOLUNTARY;

BEST (EMIL), PEOPLE v: (Cal. Date - 10/11/12)

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;

BEZIO, MATTER OF v DORSEY:

PRISONS AND PRISONERS - MEDICAL AND SURGICAL TREATMENT - COURT-ORDERED FORCE FEEDING - WHETHER PRISON INMATE ON VOLUNTARY HUNGER STRIKE HAD RIGHT TO DECLINE FORCE FEEDING;

BLANKYMSEE (LAWRENCE), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION (PRS) - WHETHER THE ADDITION OF A TERM OF PRS TO DEFENDANT'S SENTENCE AFTER HE FINISHED SERVING THE DETERMINATE SENTENCE FOR WHICH PRS WAS BEING IMPOSED, BUT BEFORE HE FINISHED SERVING HIS TWO CONCURRENT INDETERMINATE SENTENCES, VIOLATED THE PROHIBITION AGAINST DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

BHUGRA v MASSACHUSETTS CASUALTY INSURANCE COMPANY, et al.:

STIPULATIONS - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER GRANTING MOTION TO COMPEL PLAINTIFF TO ACCEPT SERVICE OF ANSWER UPON THE GROUND THAT THE ANSWER WAS TIMELY SERVED IN ACCORDANCE WITH A STIPULATION SIGNED BY COUNSEL FOR DEFENDANTS AND PLAINTIFF'S PRIOR COUNSEL;

BITCHATCHI, MATTER OF v BOARD OF TRUSTEES OF THE NEW YORK CITY POLICE DEPARTMENT PENSION FUND, ARTICLE II: (Cal. Date - 11/13/12)

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT (ADR) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUPREME COURT PROPERLY DETERMINED THAT THE AGENCY FAILED TO REBUT WITH CREDIBLE EVIDENCE THE STATUTORY PRESUMPTION THAT PETITIONER'S DISABILITY WAS RELATED TO HER SERVICE AS A POLICE OFFICER AT THE WORLD TRADE CENTER SITE FOLLOWING SEPTEMBER 11, 2001;

MATTER OF BOBAK (AIG CLAIMS SERVICES, INC., et al.):

INSURANCE - AUTOMOBILE INSURANCE - UNDERINSURED MOTORIST ENDORSEMENT - IN AN APPEAL FROM JUDGMENT CONFIRMING AN ARBITRATION AWARD, WHETHER THE APPELLATE DIVISION ERRED IN REMITTING TO SUPREME COURT FOR A HEARING ON THE ISSUE OF INSURANCE COVERAGE;

THE BRIGHTONIAN NURSING HOME, et al. v DAINES, &c., et al.:
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - DUE PROCESS - STATUTE PROHIBITING PRIVATE NURSING HOMES FROM WITHDRAWING EQUITY OR TRANSFERRING ASSETS THAT IN THE AGGREGATE EXCEEDED 3% OF THEIR TOTAL ANNUAL REVENUE FOR PATIENT CARE SERVICES WITHOUT PRIOR APPROVAL OF COMMISSIONER OF HEALTH (PUBLIC HEALTH LAW § 2808[5][c]) - CHALLENGE TO RULING THAT STATUTE IS UNCONSTITUTIONALLY VAGUE, IMPROPERLY DELEGATES LEGISLATIVE AUTHORITY TO THE COMMISSIONER AND VIOLATES PLAINTIFFS'/PETITIONERS' SUBSTANTIVE DUE PROCESS RIGHTS - SEVERANCE OF STATUTE'S CATCHALL PHRASE;

BRINSON (CHRISTOPHER), PEOPLE v:
 CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION (PRS) - WHETHER THE ADDITION OF A TERM OF PRS TO DEFENDANT'S SENTENCE AFTER HE FINISHED SERVING THE DETERMINATE SENTENCE FOR WHICH PRS WAS BEING IMPOSED, BUT BEFORE HE FINISHED SERVING ALL OF HIS CONSECUTIVE INDETERMINATE SENTENCES, VIOLATED THE PROHIBITION AGAINST DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

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;

BROWN (THOMAS), PEOPLE v:
 CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER DEFENDANT WAS VALIDLY SENTENCED TO CONSECUTIVE TERMS OF IMPRISONMENT FOR CONVICTIONS OF MURDER IN THE SECOND DEGREE AND CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE; WHETHER PROSECUTOR'S SUMMATION IMPERMISSIBLY SHIFTED THE BURDEN OF PROOF;

BYER (MARVIN), PEOPLE v:
 CRIMES - CONFESSION - WHETHER THE TRIAL COURT'S ERRONEOUS ADMISSION OF EVIDENCE, INCLUDING DEFENDANT'S STATEMENT THAT HE HAD KILLED NINE PEOPLE BEFORE THIS INCIDENT, CONSTITUTED HARMLESS ERROR;

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;

CALLISTRO, &c. v BEBBINGTON, et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - ALLEGED HYPOXIC INJURY RESULTING FROM NONPERFORMANCE OF CESAREAN SECTION - SUMMARY JUDGMENT - WHETHER PLAINTIFF'S EXPERT AFFIDAVITS RAISED MATERIAL ISSUES OF FACT;

CANGRO v MARANGOS:

APPEAL - APPELLATE DIVISION - DENIAL OF MOTION FOR REARGUMENT;

CANGRO v PARK SOUTH TOWERS ASSOCIATES, et al.:

APPEALS - CHALLENGE TO ORDER GRANTING MOTIONS TO DISMISS THE APPEAL TO THE EXTENT OF STRIKING THE APPEAL FROM A PARTICULAR TERM, WITH LEAVE TO RE-PERFECT UPON AN APPROPRIATE APPENDIX FOR A LATER TERM;

CHENANGO FORKS CENTRAL SCHOOL DISTRICT, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD et al.:

CIVIL SERVICE - PUBLIC EMPLOYEES FAIR EMPLOYMENT ACT (TAYLOR LAW) REFUSAL TO NEGOTIATE IN GOOD FAITH - WHETHER REIMBURSEMENT OF MEDICARE PART B PREMIUMS IS A TERM AND CONDITION OF EMPLOYMENT SUBJECT TO MANDATORY NEGOTIATION - ESTABLISHMENT OF PAST PRACTICE OF MAKING SUCH REIMBURSEMENTS;

CHISHOLM (DEREK), PEOPLE v:

CRIMES - ARREST - PROBABLE CAUSE - WHETHER SUPREME COURT ERRED BY FAILING (1) TO GRANT DEFENDANT'S REQUEST FOR A DARDEN HEARING OR (2) TO REVIEW TESTIMONY GIVEN BY CONFIDENTIAL INFORMANT BEFORE WARRANT-ISSUING COURT AND DETERMINE IF THERE WAS SUFFICIENT PROBABLE CAUSE TO ISSUE THE WARRANT AND COMPLIANCE WITH CPL 690.40(1);

CIVIDANES v CITY OF NEW YORK et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - APPLICABILITY OF NO-FAULT LAW - WHETHER PLAINTIFF'S INJURY AROSE OUT OF AN AUTOMOBILE ACCIDENT WITHIN THE MEANING OF THE NO-FAULT LAW WHERE SHE TRIPPED AND FELL IN A HOLE IN THE STREET AS SHE EXITED A BUS;

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;

CORTEZ (PAUL), PEOPLE v.:

CRIMES - RIGHT TO COUNSEL - CONFLICT OF INTEREST - OPERATION OF CONFLICT ON DEFENSE - EFFECTIVE REPRESENTATION - WAIVER OF CONFLICT; EVIDENCE - JOURNAL ENTRIES WRITTEN YEARS BEFORE THE CHARGED OFFENSE AND RELATING TO DEFENDANT'S HOSTILITY TO TWO WOMEN OTHER THAN THE VICTIM - APPLICATION OF MOLINEUX; FAIR TRIAL - ARGUMENT AND CONDUCT OF COUNSEL;

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;

CUOMO, PEOPLE, &c. v GREENBERG et al.:

STATUTES - FEDERAL PREEMPTION - SALE OF SECURITIES - SCOPE OF FEDERAL PREEMPTION OF STATE BLUE SKY LAWS - WHETHER ATTORNEY GENERAL'S MARTIN ACT AND EXECUTIVE LAW CLAIMS TO ENJOIN FRAUDULENT PRACTICES ARE PREEMPTED; WHETHER THE ATTORNEY GENERAL HAS THE AUTHORITY TO BRING THESE MARTIN ACT AND EXECUTIVE LAW CLAIMS; SUMMARY JUDGMENT;

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;

DARRYL C., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE OFFICER WAS JUSTIFIED IN CONDUCTING A LIMITED SAFETY FRISK;

W. (DASHAWN), MATTER OF:

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER THE AGENCY'S DUTY TO USE "DILIGENT EFFORTS" TO ENCOURAGE AND STRENGTHEN THE PARENTAL RELATIONSHIP WAS PROPERLY EXCUSED (SOCIAL SERVICES LAW § 384-b[8][a][iv]) - WHETHER THE RECORD CONTAINS SUFFICIENT EVIDENCE OF "DEPRAVED INDIFFERENCE TO HUMAN LIFE" (SOCIAL SERVICES LAW 384-b[8][a][i]) TO SUPPORT THE "SEVERE ABUSE" 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 LA CRUZ v CADDELL DRY DOCK & REPAIR CO., INC.:

LABOR - PREVAILING RATE OF WAGES (LABOR LAW § 220) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT WORK PERFORMED ON VESSELS OWNED BY CITY AGENCIES WAS NOT "PUBLIC WORK" WITHIN THE MEANING OF LABOR LAW § 220(3) BECAUSE "THE PREVAILING WAGE LAW IS LIMITED TO THOSE WORKERS EMPLOYED IN THE CONSTRUCTION, REPAIR AND MAINTENANCE OF FIXED STRUCTURES, AND DOES NOT APPLY TO WORKERS WHO ARE SERVICING A COMMODITY OWNED BY THE CITY";

DELAKAS, MATTER OF v MINTZ, &c.:

LICENSES - DENIAL OF APPLICATION FOR A LICENSE TO OPERATE AN EXISTING NEWSSTAND - PETITIONER HAS PAID LICENSEES A WEEKLY FEE TO OPERATE THE NEWSSTAND SINCE 1987 - WHETHER PETITIONER MEETS CRITERIA FOR ACCEPTANCE OF LICENSE APPLICATION UPON "DEATH OR DISABILITY OF LICENSEE" (6 RCNY 2-64[a][12]);

DELISER (JOSUE), PEOPLE v:

CRIMES - PLEA OF GUILTY - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL WHO PURPORTEDLY TOOK AN ADVERSE POSITION TO DEFENDANT ON DEFENDANT'S UNSUCCESSFUL PRO SE MOTION TO WITHDRAW HIS GUILTY PLEAS;

DE PROSPERO (STEPHEN), PEOPLE v:

CRIMES - SEARCH WARRANT - DELAYED FORENSIC EXAMINATION OF ELECTRONIC MEDIA - WHETHER PORNOGRAPHIC IMAGES AND VIDEOS OF CHILDREN UNCOVERED AS A RESULT OF A JANUARY 2010 SEARCH OF DEFENDANT'S COMPUTER AND DIGITAL CAMERA HAD TO BE SUPPRESSED, WHERE THEY WERE SEIZED PURSUANT TO A MAY 2009 SEARCH WARRANT AND PREVIOUSLY SUBJECTED TO A LIMITED PREVIEW RESULTING IN ANOTHER CHARGE, AND THE 2010 EXAMINATION OF DEFENDANT'S PROPERTY OCCURRED AFTER SENTENCING ON THE OTHER CHARGE AND FOLLOWING DEFENDANT'S REQUEST FOR THE RETURN OF HIS PROPERTY;

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;

DIAZ (RICHARD), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER THE TRIAL COURT FAILED TO SUFFICIENTLY INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA AND, IF SO, WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO THE PLEA;

DOLL (SCOTT F.), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER STATEMENTS MADE BY DEFENDANT, INCLUDING THOSE IN RESPONSE TO QUESTIONS BY LAW ENFORCEMENT OFFICERS, SHOULD HAVE BEEN SUPPRESSED WHERE THE STATEMENTS WERE MADE WITHOUT MIRANDA WARNINGS AND AFTER DEFENDANT INVOKED THE RIGHT TO COUNSEL - CPL 60.45 - APPLICABILITY OF "EMERGENCY" OR "PUBLIC SAFETY" EXCEPTION; UNLAWFUL SEARCH AND SEIZURE - ALLEGED VIOLATIONS OF PEOPLE v DeBOUR (40 NY2d 210) AND DUNAWAY v NEW YORK (442 US 200) - CHALLENGE TO SEIZURE OF VEHICLES AND OTHER PHYSICAL EVIDENCE - VALIDITY OF SEARCH WARRANTS;

DOUGLAS ELLIMAN LLC, &c. v TRETTER: (Cal. Date - 10/9/12)

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;

DUARTE, MATTER OF v CITY OF NEW YORK:

PRISONS AND PRISONERS - CONDITIONS OF CONFINEMENT - WHETHER DECISION AS TO WHETHER NEWBORN CHILD MAY REMAIN WITH MOTHER IN CORRECTIONAL FACILITY MUST BE DECIDED BASED ON WELFARE OF CHILD ALONE, OR WHETHER AUTHORITIES MAY ALSO CONSIDER INTERESTS OF THE INSTITUTION, OTHER INMATES, AND OTHER INMATES' CHILDREN; PARENT AND CHILD;

DUTROW, MATTER OF v NEW YORK STATE RACING and WAGERING BOARD:
HORSE RACING - REVOCATION OR SUSPENSION OF LICENSE - TRAINER -
ADMINISTRATION OF RESTRICTED DRUGS - WHETHER PETITIONER WAS
DEPRIVED OF A FAIR HEARING BECAUSE THE CHAIR OF RESPONDENT NEW YORK
STATE RACING AND WAGING BOARD REFUSED TO RECUSE HIMSELF - WHETHER
THE APPELLATE DIVISION APPLIED THE CORRECT STANDARD OF LAW IN
DETERMINING THAT PETITIONER WAS NOT DEPRIVED OF A FAIR HEARING -
DETERMINATION RESULTING FROM ALLEGED VINDICTIVENESS - BURDEN OF
PROOF TO ESTABLISH A POST-RACE POSITIVE DRUG TEST - PENALTY;

FORECLOSURE OF TAX LIENS BY CITY OF ROCHESTER, MATTER OF (DUVALL;
CITY OF ROCHESTER):
TAXATION - TAX LIENS - FORECLOSURE OF TAX LIENS - ADEQUACY OF
NOTICE TO FORMER PROPERTY OWNER OF FORECLOSURE ACTION;

EAST MIDTOWN PLAZA HOUSING COMPANY, INC. v CUOMO &c., et al.:
(Cal. Date - 10/10/12)
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;

EBC I, INC., &c. v GOLDMAN SACHS & CO.:
TORTS - FRAUD - WHETHER THE APPELLATE DIVISION'S DISMISSAL OF
PLAINTIFF'S BREACH OF FIDUCIARY DUTY AND FRAUD CLAIMS CONFLICTS
WITH THIS COURT'S DECISION IN EBC I, INC. v GOLDMAN SACHS & CO. (5
NY3d 11 [2005]); SUMMARY JUDGMENT;

ECHEVARRIA (ALEX), PEOPLE v:
CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM -
CONSIDERATION OF REASONABLE ALTERNATIVES TO CLOSURE - CLOSURE
LIMITED TO DURATION OF TRIAL TESTIMONY BY UNDERCOVER POLICE
OFFICERS WITH CONSIDERATION TO BE GIVEN TO ANY REQUESTS BY
DEFENDANT'S FAMILY MEMBERS FOR ACCESS TO THE COURTROOM DURING THAT
TIME; JURY CHARGE - CHALLENGE TO COURT'S CHARGE ON THE AGENCY
DEFENSE;

ECHOSTAR SATELLITE CORP., MATTER OF v TAX APPEALS TRIBUNAL:
(Cal. Date - 11/14/12)
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;

COMMISSIONER OF SOCIAL SERVICES, MATTER OF, o/b/o ELIZABETH S. v JULIO J.:

CHILDREN BORN OUT OF WEDLOCK - PATERNITY PROCEEDING - EQUITABLE ESTOPPEL - ABSENCE OF PARENT-CHILD RELATIONSHIP - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT PETITIONER FAILED TO ESTABLISH BY EVIDENCE THAT WAS CLEAR, CONVINCING AND ENTIRELY SATISFACTORY, THAT RESPONDENT ACTED AS THE CHILD'S FATHER TO SUCH AN EXTENT AS TO GIVE RISE TO EQUITABLE ESTOPPEL BARRING HIM FROM DENYING PATERNITY AND RENDERING A BIOLOGICAL PATERNITY TEST INAPPROPRIATE;

EMPIRE STATE CHAPTER OF ASSOCIATED BUILDERS AND CONTRACTORS, INC., et al. v SMITH, &c., et al.:

MUNICIPAL CORPORATIONS - HOME RULE POWERS - CONSTITUTIONAL CHALLENGE TO 2008 AMENDMENTS TO WICKS LAW - AMENDMENTS TO MONETARY THRESHOLD AMOUNTS FOR PUBLIC WORKS PROJECTS - WHETHER THE THREE-TIERED MONETARY THRESHOLD ESTABLISHED BY THE 2008 AMENDMENTS WAS ENACTED IN VIOLATION OF THE HOME RULE PROVISIONS OF THE NEW YORK STATE CONSTITUTION - WHETHER THE APPRENTICESHIP REQUIREMENTS IN LABOR LAW § 222 VIOLATE THE PRIVILEGES AND IMMUNITIES CLAUSE AND "DORMANT" COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION, AND THE EQUAL PROTECTION CLAUSES OF THE FEDERAL AND STATE CONSTITUTIONS;

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;

FLAMENBAUM (DECEASED), MATTER OF:

EXECUTORS AND ADMINISTRATORS - CLAIMS AGAINST ESTATE - MUSEUM'S CLAIM FOR RETURN OF AN ARTIFACT IN POSSESSION OF THE DECEASED; LACHES; ESTATES - ACCOUNTING;

FLOYD (DANIEL), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S MOTHER FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SEATING;

GALASSO, MATTER OF, AN ATTORNEY:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - CHALLENGE TO APPELLATE DIVISION ORDER SUSPENDING ATTORNEY BASED UPON TEN SUSTAINED CHARGES OF MISCONDUCT - STRICT AND VICARIOUS LIABILITY OF ATTORNEY FOR CRIMINAL ACTS OF LAW FIRM EMPLOYEE;

GARCIA (MIGUEL), PEOPLE v: (Cal. Date - 10/18/12)
 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;

GAVAZZI (JOHN), PEOPLE v: (Cal. Date - 10/16/12)
 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;

GELMAN v BUEHLER:
 PARTNERSHIP - DISSOLUTION - UNILATERAL DISSOLUTION OF ORAL PARTNERSHIP - MEANING OF "DEFINITE TERM" AND "PARTICULAR UNDERTAKING" AS USED IN PARTNERSHIP LAW § 62 (1)(b) - APPLICATION OF HAINES v CITY OF NEW YORK (41 NY2d 769) TO SUPPLY MISSING TERMS TO ORAL PARTNERSHIP AGREEMENT;

GLASSMAN v ProHEALTH AMBULATORY SURGERY CENTER, INC., et al.
(APP. DIV. NO. 2011-08252):
 APPEALS - ALLEGED VIOLATION OF COURT OF APPEALS REMITTITUR;

GLASSMAN v ProHEALTH AMBULATORY SURGERY CENTER, INC., et al.
(APP. DIV. NOS. 2011-08261, 2011-08249 and 2011-08255):
 APPEALS - ALLEGED VIOLATION OF COURT OF APPEALS REMITTITUR;

GRIFFIN (ANTHONY), PEOPLE v:
 CRIMES - RIGHT TO COUNSEL - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT THE TRIAL COURT'S DISCHARGE OF DEFENDANT'S COUNSEL WITHOUT CONSULTING DEFENDANT WAS AN ABUSE OF DISCRETION AND INTERFERED WITH DEFENDANT'S RIGHT TO COUNSEL;

GUILFORD (JAMES E.), PEOPLE v:
 CRIMES - SUPPRESSION HEARING - STATEMENTS MADE BY DEFENDANT TO POLICE IN GEORGIA AND NEW YORK, ONE INTERROGATION SESSION LASTING ALMOST 50 HOURS; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT DURING TRIAL; MURDER;

GURYEV v TOMCHINSKY, et al.: (Cal. Date 11/14/12)
 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;

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;

HAMPTON (GRADY), PEOPLE v:

JUDGES - RECUSAL - CASE ASSIGNED TO ANOTHER JUDGE AFTER TRIAL JUDGE
WHO HEARD DEFENDANT'S MOTIONS FOR A TRIAL ORDER OF DISMISSAL
RECUSED HIMSELF - WHETHER JUDICIARY LAW § 21 PROHIBITED THE SECOND
JUDGE FROM DECIDING THE MOTIONS AND REQUIRED A MISTRIAL;
SUFFICIENCY OF EVIDENCE TO SUPPORT MURDER CONVICTION; CRIMES -
MURDER;

HANDY (DAYSHAWN P.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN
REFUSING TO GIVE AN ADVERSE INFERENCE INSTRUCTION TO THE JURY,
BASED ON THE PROSECUTION'S FAILURE TO PRESERVE A VIDEOTAPE
RECORDING THAT CAPTURED PART OF THE INCIDENT AT ISSUE; SUFFICIENCY
OF THE EVIDENCE OF INTENT TO CAUSE INJURY;

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 (JAMES A., JR.), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENDANT'S STATEMENT DURING
CUSTODIAL INTERROGATION, "I THINK I WANT TO TALK TO A LAWYER,"
INVOKED HIS RIGHT TO COUNSEL; WHETHER STATEMENTS THEN GIVEN BY
DEFENDANT IN ABSENCE OF COUNSEL MUST BE SUPPRESSED; HARMLESS ERROR;

HASTINGS, et al. v SAUVE, et al.:

JUDGMENTS - SUMMARY JUDGMENT - CLAIM INVOLVING INJURY INFLICTED BY
DOMESTIC ANIMAL - STRICT LIABILITY VERSUS COMMON LAW NEGLIGENCE;

HECKER v STATE OF NEW YORK:

LABOR - SAFE PLACE TO WORK - SLIPPING HAZARD - SNOW AND ICE -
APPLICABILITY OF 12 NYCRR 23-1.7(d) AS A PREDICATE FOR PLAINTIFF'S

CLAIM UNDER LABOR LAW § 241(6) - CHALLENGE TO APPELLATE DIVISION'S DETERMINATION THAT 12 NYCRR 23-1.7(d) WAS INAPPLICABLE UNDER THE FACTS OF THIS CASE EVEN THOUGH DEFENDANT NEVER RAISED THAT ARGUMENT;

HEIDGEN (MARTIN), PEOPLE v:

CRIMES - PLEA OF GUILTY - CHALLENGE TO ALFORD PLEA;

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:

(Cal. Date - 10/17/12)

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;

HOWARD, MATTER OF v STATURE ELECTRIC, INC. et al.:

WORKERS' COMPENSATION - DISQUALIFICATION FOR FALSE REPRESENTATION - COLLATERAL ESTOPPEL - WHETHER CLAIMANT'S ALFORD PLEA TO A CHARGE OF INSURANCE FRAUD, WHICH AROSE FROM EVIDENCE ALLEGEDLY REVEALING THAT HE WAS EMPLOYED WHILE COLLECTING WORKERS' COMPENSATION BENEFITS, IS ENTITLED TO COLLATERAL ESTOPPEL EFFECT WITH RESPECT TO THE WORKERS' COMPENSATION BOARD'S DETERMINATION WHETHER CLAIMANT VIOLATED WORKERS' COMPENSATION LAW § 114-a;

HRONCICH, MATTER OF v CON EDISON, et al.:

WORKERS' COMPENSATION - DEATH BENEFITS - WHETHER THE APPELLATE DIVISION PROPERLY AFFIRMED THE WORKERS' COMPENSATION BOARD DECISION

GRANTING CLAIMANT DEATH BENEFITS WITHOUT APPORTIONMENT FOR THE PERCENTAGE OF NON-WORK RELATED CAUSES(S) OF DEATH - WORKERS' COMPENSATION LAW § 15(7);

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;

HUGHES (FRANKLIN), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - POSSESSION OF FIREARM IN HOME BY DEFENDANT PREVIOUSLY CONVICTED OF A CRIME - WHETHER DEFENDANT'S CONVICTION IS CONSTITUTIONAL WHERE HE POSSESSED A HANDGUN WITHIN HIS HOME FOR THE PURPOSE OF SELF-DEFENSE - PENAL LAW §§ 265.02(1) and 265.03(3);

IPPOLITO (GERARD), PEOPLE v, a/k/a IPPOLITO (GERALD):

CRIMES - SUFFICIENCY OF EVIDENCE - CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE - CHECKS ON WHICH DEFENDANT SIGNED THE VICTIM'S NAME WHILE HE WAS HER ATTORNEY-IN-FACT PURSUANT TO A POWER OF ATTORNEY - WHETHER VICTIM AUTHORIZED DEFENDANT TO SIGN THE CHECKS; RESTITUTION;

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

(Cal. Date - 10/11/12)

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;

ISLAND PARK, LLC v STATE OF NEW YORK:

EMINENT DOMAIN - DE FACTO APPROPRIATION - CLOSURE OF A PRIVATE AT-GRADE RAILROAD CROSSING - WHETHER CLOSURE OF CROSSING WAS A DE FACTO TAKING OF CLAIMANT'S EASEMENT OVER THE CROSSING;

J-P GROUP, LLC, MATTER OF v NEW YORK STATE DEPARTMENT OF ECONOMIC DEVELOPMENT:

CONSTITUTIONAL LAW - DUE PROCESS OF LAW - RETROACTIVE APPLICATION OF EMPIRE ZONE ACT AMENDMENTS - REVOCATION OF TAX CREDITS;

JAMES v WORMUTH et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - WIRE FRAGMENT KNOWINGLY LEFT IN PATIENT'S BODY FOLLOWING SURGERY - WHETHER PLAINTIFF COULD RELY ON DOCTRINE OF RES IPSA LOQUITUR TO ESTABLISH PRIMA FACIE CASE OF MEDICAL MALPRACTICE OR WAS REQUIRED TO ESTABLISH THE APPLICABLE STANDARD OF CARE AND THE BREACH THEREOF THROUGH EXPERT MEDICAL TESTIMONY;

JAMES, &c, et al. v LORAN REALTY V CORPORATION, et al.:

NEGLIGENCE - INJURY RESULTING FROM EXPOSURE OF INFANT TO LEAD-BASED PAINT - WHETHER CAUSE OF ACTION SEEKING TO PIERCE THE CORPORATE VEIL OF THE BUILDING OWNER WAS PROPERLY DISMISSED;

JAQUAN M., MATTER OF:

CRIMES - SUPPRESSION HEARING - WHETHER POLICE HAD REASONABLE SUSPICION NECESSARY TO STOP 14-YEAR OLD AND FRISK HIS BACKPACK; PROBABLE CAUSE; CONSENT TO SEARCH; JUVENILE DELINQUENT;

JOHNSON (MARCHE), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION - APPROPRIATE CORRECTIVE ACTION - CHALLENGE TO APPELLATE DIVISION DETERMINATION THAT SENTENCING COURT ERRED IN PERMITTING DEFENDANT TO REPRESENT HIMSELF AT RESENTENCING, BUT THAT SUCH ERROR DID NOT REQUIRE A REMAND FOR RESENTENCING BECAUSE THERE WERE NO ISSUES TO BE LITIGATED WITH RESPECT TO THE SENTENCE - WHETHER PEOPLE STIPULATED TO RESENTENCE WITHOUT IMPOSITION OF POSTRELEASE SUPERVISION;

JONES (LESTER), PEOPLE v:

CRIMES - SUPPRESSION HEARING - "INTERVENING PROBABLE CAUSE" WHERE POLICE DID NOT HAVE PROBABLE CAUSE WHEN THEY ARRESTED DEFENDANT, BUT SOON AFTER ARREST THE ARRESTING OFFICER OBTAINED SUFFICIENT EVIDENCE TO CONSTITUTE PROBABLE CAUSE FROM ANOTHER POLICE OFFICER - WHETHER LINEUP, CONDUCTED AFTER DEFENDANT HAD BEEN IN CUSTODY FOR EIGHT HOURS, WAS ATTENUATED FROM THE ILLEGAL ARREST - POSSIBLE LAFONTAINE ISSUE WHERE APPELLATE DIVISION AFFIRMED IN PART BASED ON "FELLOW OFFICER" RULE;

KOEHL, MATTER OF v FISCHER, &c.:

PRISONS AND PRISONERS - CONDITIONAL RELEASE - JAIL TIME CREDIT - APPLICATION OF PENAL LAW § 70.30(3);

KOWALSKI v ST. FRANCIS HOSPITAL and HEALTH CENTERS, et al.:

HOSPITALS - MALPRACTICE - NEGLIGENCE - PLAINTIFF STRUCK BY VEHICLE AFTER LEAVING VOLUNTARY DETOXIFICATION PROGRAM BEFORE BEING DISCHARGED - WHETHER APPELLATE DIVISION ERRED IN HOLDING THAT CERTAIN DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT AS AGAINST THEM BECAUSE THEY LACKED AUTHORITY TO INVOLUNTARILY CONFINE PLAINTIFF;

LANDON &c. v KROLL LABORATORY SPECIALISTS, INC.:

(Cal. Date - 11/13/12)

NEGLIGENCE - DUTY - WHETHER ALLEGATIONS THAT A DRUG TESTING LABORATORY NEGLIGENTLY TESTED THE PLAINTIFF'S BIOLOGICAL SPECIMEN, WHICH RESULTED IN THE EXTENSION OF PLAINTIFF'S PROBATION, AMONG OTHER THINGS, STATE A CAUSE OF ACTION IN TORT WHERE NO FORMAL CONTRACTUAL RELATIONSHIP EXISTED BETWEEN THE PLAINTIFF AND THE LABORATORY;

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;

LASTRA v BARNES AND NOBLE, et al.:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING PLAINTIFF'S APPEAL SUA SPONTE ON THE GROUND THAT NO APPEAL LIES FROM THE ORDER APPEALED FROM, AND OTHERWISE DENYING PLAINTIFF'S MOTION FOR AN ENLARGEMENT OF TIME IN WHICH TO PERFECT THE APPEAL FROM THAT SUPREME COURT ORDER;

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

(Cal. Date - 10/10/12)

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;

LEACH (TAWOND), PEOPLE v:

CRIMES - SUPPRESSION HEARING - RECOVERY BY POLICE OF A GUN IN THE SPARE BEDROOM OF DEFENDANT'S GRANDMOTHER'S APARTMENT WHERE DEFENDANT HAD HIS OWN BEDROOM - REASONABLE EXPECTATION OF PRIVACY IN ROOM TO WHICH DEFENDANT HAD ACCESS; STANDING TO CHALLENGE SEARCH;

LEWIS v CAPUTO:

TORTS - FALSE ARREST - PROBABLE CAUSE - WHETHER THE EVIDENCE, VIEWED IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF, ESTABLISHED AS A MATTER OF LAW THE AFFIRMATIVE DEFENSE OF PROBABLE CAUSE TO ARREST;

LONG (CORNELL), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - ALLEGED DUE PROCESS VIOLATION WHERE SUPREME COURT FAILED, INITIALLY

AND ON REMAND FROM THE APPELLATE DIVISION, TO SET FORTH SUFFICIENT FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND THE APPELLATE DIVISION THEN MADE ITS OWN FINDINGS OF FACT AND CONCLUSIONS OF LAW;

M.G.M. INSULATION, INC., et al., MATTER OF v GARDNER, &c.:
LABOR - PREVAILING RATE OF WAGES - WHETHER CONSTRUCTION OF FIRE STATION FOR VOLUNTEER FIRE DEPARTMENT CONSTITUTES A PUBLIC WORKS PROJECT - DETERMINATION THAT VOLUNTEER FIRE DEPARTMENT WAS FUNCTIONAL EQUIVALENT OF MUNICIPAL CORPORATION - AGENCY'S AUTHORITY TO APPLY FUNCTIONAL EQUIVALENCY TEST - APPLICABLE STANDARD OF REVIEW IN CPLR ARTICLE 78 PROCEEDING CHALLENGING AGENCY'S FUNCTIONAL EQUIVALENCY DETERMINATION - SUBSTANTIAL EVIDENCE;

MAC NAUGHTON et al. v WARREN COUNTY et al.: (Cal. Date - 11/14/12)
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;

MALDONADO, MATTER OF v KELLY: (Cal. Date - 11/13/12)
CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT (ADR) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT CREDIBLE EVIDENCE EXISTED TO SUPPORT THE MEDICAL BOARD'S DETERMINATION AND REBUT THE STATUTORY PRESUMPTION THAT PETITIONER'S DISABILITY WAS RELATED TO HIS SERVICE AS A POLICE OFFICER AT THE WORLD TRADE CENTER SITE FOLLOWING SEPTEMBER 11, 2001;

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;

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;

MARRA (ISIDORO), PEOPLE v:
CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE PHOTOGRAPHS OF RAPE VICTIM TAKEN AT THE HOSPITAL THAT DEPICTED MARKS AND BRUISES; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT DURING SUMMATION;

MARTINEZ (HECTOR), PEOPLE v: (Cal. Date - 10/9/12)

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;

MAYRICH CONSTRUCTION COMPANY, MATTER OF v OLIVER LLC &c.:

LIENS - PRIORITY - WHETHER FUNDS RECEIVED BY RESPONDENT UNDER TWO MORTGAGES WERE RECEIVED IN CONNECTION WITH AN IMPROVEMENT OF REAL PROPERTY SUCH THAT THE FUNDS CONSTITUTE ASSETS OF A TRUST FOR THE BENEFIT OF PETITIONER AND OTHER CONTRACTORS WHO PERFORMED WORK ON RESPONDENT'S HIGH-RISE BUILDING PROJECT IN MANHATTAN - LIEN LAW ARTICLE 3-A;

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: (Cal. Date - 11/13/12)

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;

MC GEE (DEMETRIUS), PEOPLE v:

CRIMES - EVIDENCE - ATTEMPTED MURDER IN THE FIRST DEGREE - RECKLESS ENDANGERMENT IN THE FIRST DEGREE - SUFFICIENCY OF THE EVIDENCE AGAINST DEFENDANT CHARGED AS AN ACCESSORY WHERE DEFENDANT WAS THE DRIVER OF A CAR INVOLVED IN, AMONG OTHER THINGS, THE SHOOTING DEATH OF A PERSON ON A RESIDENTIAL STREET; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO REQUEST A LESSER-INCLUDED OFFENSE AND TO MOVE TO SEVER THE TRIAL BASED UPON THE ADMISSION OF THE NON-TESTIFYING CO-DEFENDANT'S CONFESSION;

McPHERSON (FRANKLIN), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED DEFENDANT TRAVELING WRONG WAY ON PARKWAY - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

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;

MEJIAS (MIGUEL), PEOPLE v:

CRIMES - JURORS - SUGGESTION OF PREMATURE DELIBERATIONS - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN, AT THE CLOSE OF EVIDENCE AND PRIOR TO SUMMATIONS, THE COURT RECEIVED A NOTE FROM ONE JUROR REQUESTING CERTAIN INFORMATION, IN RESPONSE TO WHICH THE COURT DID NOT CONDUCT ANY INDIVIDUAL INQUIRY OF THE JURORS, BUT RATHER DIRECTED ITS INQUIRIES TO THE JURY AS A GROUP;

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., et al. v GLOBAL STRAT, INC., et al.:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN GRANTING A DEFAULT JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST THE INDIVIDUAL DEFENDANTS AS A PENALTY FOR THEIR FAILURE TO COMPLY WITH COURT-ORDERED DISCOVERY; COURTS - JURISDICTION - LONG-ARM JURISDICTION - TRANSACTION OF BUSINESS IN NEW YORK;

METZ, &c., et al. v STATE OF NEW YORK: (Cal. Date - 10/18/12)

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;

MILTON (JACOB), PEOPLE v:

CRIMES - INDICTMENT - WAIVER OF INDICTMENT - GUILTY PLEA TO SUPERIOR COURT INFORMATION THAT LISTED THE VICTIMS AS TWO BANKING INSTITUTIONS "AND OTHERS" ALTHOUGH THE FELONY COMPLAINT HAD NAMED SPECIFIED INDIVIDUALS AS VICTIMS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE INFORMATION WAS JURISDICTIONALLY DEFECTIVE BECAUSE THE VICTIMS NAMED THEREIN DIFFERED FROM THOSE NAMED IN THE FELONY COMPLAINT;

MITCHELL (ROBERT), PEOPLE v:

CRIMES - PLEA OF GUILTY - ALLEGED INEFFECTIVE ASSISTANCE OF PRIOR COUNSEL WHO PURPORTEDLY FAILED TO DISCUSS THE CASE WITH DEFENDANT IN THE FOUR YEARS LEADING UP TO HIS PLEA - WHETHER MOTION BY NEWLY APPOINTED COUNSEL TO WITHDRAW THE PLEA SHOULD HAVE BEEN DECIDED AFTER A HEARING AS OPPOSED TO A SUMMARY DISPOSITION;

MONROE (WILLIAM), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER DEFENDANT IS ENTITLED TO WITHDRAW HIS GUILTY PLEA ON THE GROUND THAT HIS PROMISED SENTENCE RAN CONCURRENTLY WITH OTHER SENTENCES THAT WERE REDUCED BECAUSE THE PROMISE MADE TO INDUCE THE PLEA CANNOT BE KEPT - APPLICATION OF PEOPLE v PICHARDO (1 NY3d 126[2003]) AND PEOPLE v ROWLAND (8 NY3d 342 [2007]) TO CASE INVOLVING RESENTENCING UNDER THE DRUG LAW REFORM ACT (DLRA); ENTITLEMENT TO RESENTENCING ON CONVICTION FOR CONSPIRACY;

MONTAS v JJC CONSTRUCTION CORPORATION, et al.:

NEGLIGENCE - PROXIMATE CAUSE - WHETHER TRIAL COURT ERRED IN GRANTING DEFENDANTS' MOTIONS FOR A DIRECTED VERDICT - SUFFICIENCY OF EVIDENCE FROM WHICH JURY COULD HAVE FOUND DEFENDANTS NEGLIGENT IN PERMITTING CONSTRUCTION DEBRIS TO ACCUMULATE ON A PEDESTRIAN WALKWAY; MUNICIPAL CORPORATIONS - TORT LIABILITY;

MOORE v FEDERATED DEPARTMENT STORES, INC., et al.:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEALS; DISCOVERY ISSUES; SANCTIONS; ALLEGED CIVIL RIGHTS VIOLATIONS;

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;

MORRIS BUILDERS, LP, et al., MATTER OF v NEW YORK STATE EMPIRE ZONE DESIGNATION BOARD:

CONSTITUTIONAL LAW - TAKING OF PROPERTY - ELIGIBILITY TO PARTICIPATE IN EMPIRE ZONE PROGRAM - WHETHER THE APRIL 2009 AMENDMENTS TO GENERAL MUNICIPAL LAW § 959, PROVIDING FOR THE REVOCATION OF ELIGIBILITY TO PARTICIPATE IN THE EMPIRE ZONE PROGRAM FOR COMPANIES THAT FAILED TO MEET CERTAIN CRITERIA AS OF 1/1/08 VIOLATED DUE PROCESS; ECONOMIC DEVELOPMENT;

MOSS (ANDREW), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - WHETHER UNDERCOVER OFFICER'S TESTIMONY AT HINTON HEARING ESTABLISHED AN OVERRIDING INTEREST THAT WARRANTED CLOSURE OF THE COURTROOM -

CONSIDERATION OF REASONABLE ALTERNATIVES TO CLOSURE - COURT REJECTED ALTERNATIVE TO CLOSURE PROPOSED BY DEFENDANT BUT PERMITTED DEFENDANT'S FAMILY MEMBERS TO ATTEND PROCEEDINGS;

MOX (MICHAEL), PEOPLE v: (Cal. Date - 11/13/12)

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;

THE NEW YORK COUNTY LAWYERS' ASSOCIATION, et al., MATTER OF v BLOOMBERG, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 CHALLENGE TO THE CITY OF NEW YORK'S INDIGENT DEFENSE PLAN - PLAN FOR ASSIGNMENT OF COUNSEL IN WHICH THE INITIAL PROVIDER AT ARRAIGNMENT IS UNABLE TO REPRESENT THE INDIGENT CRIMINAL DEFENDANT DUE TO A CONFLICT OF INTEREST; "COMBINATION" PLAN UNDER COUNTY LAW § 722(4) - PARTICIPATION OF COUNTY BAR ASSOCIATIONS;

NORRIS (ELBERT), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER, UPON VACATING DEFENDANT'S ORIGINAL SENTENCE, SUPREME COURT HAD THE AUTHORITY TO RUN HIS NEW DETERMINATE PRISON TERMS CONCURRENTLY, DESPITE THEIR PREVIOUS CONSECUTIVE DESIGNATION - MULTIPLE DRUG OFFENSES BEFORE THE RESENTENCING COURT FOR POSSIBLE MODIFICATION PURSUANT TO THE 2004 DRUG LAW REFORM ACT;

NORRIS (TYRELL), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER, UPON VACATING DEFENDANT'S ORIGINAL SENTENCE, SUPREME COURT HAD THE AUTHORITY TO RUN HIS NEW DETERMINATE PRISON TERMS CONCURRENTLY, DESPITE THEIR PREVIOUS CONSECUTIVE DESIGNATION - MULTIPLE DRUG OFFENSES BEFORE THE RESENTENCING COURT FOR POSSIBLE MODIFICATION PURSUANT TO THE 2004 DRUG LAW REFORM ACT;

OATHOUT (CHRISTOPHER), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - PEOPLE'S MOTION FOR TRIAL COURT TO INQUIRE INTO DEFENSE COUNSEL'S COMPETENCE; CLAIMED IMPROPER ADMISSION OF EVIDENCE OF PRIOR UNCHARGED CRIMES;

OLIVERAS (GEORGE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT HAD EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO OBTAIN HIS MEDICAL RECORDS OR TO CONSULT WITH AN EXPERT PSYCHIATRIST OR PSYCHOLOGIST TO SUPPORT THE DEFENSE CLAIM THAT DEFENDANT LACKED THE MENTAL CAPACITY TO VOLUNTARILY CONFESS TO A CRIME - ONLY EVIDENCE LINKING DEFENDANT TO CRIME WAS HIS STATEMENTS TO POLICE;

CITY OF OSWEGO, MATTER OF v OSWEGO CITY FIREFIGHTERS ASSOCIATION, LOCAL 2707:

ARBITRATION - CONFIRMING OR VACATING AWARD - CONTINUATION OF TERMS OF EXPIRED COLLECTIVE BARGAINING AGREEMENT - CONSISTENCY WITH RETIREMENT AND SOCIAL SECURITY LAW, CIVIL SERVICE LAW AND PUBLIC POLICY - WHETHER AWARD EXCEEDED ARBITRATOR'S POWERS;

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;

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;

PADILLA (KENNETH), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH - WHETHER THE POLICE CONDUCTED A PROPER INVENTORY SEARCH AND PREPARED A MEANINGFUL INVENTORY LIST; SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE; ALLEGED PROSECUTORIAL MISCONDUCT;

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: (Cal. Date - 10/11/12)

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;

PEALER (ROBERT), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER THE TRIAL COURT ERRED IN ADMITTING, UNDER THE BUSINESS RECORDS EXCEPTION TO THE HEARSAY RULE, BREATH TEST CALIBRATION AND SIMULATOR SOLUTION CERTIFICATES USED TO SHOW THAT BREATH TEST MACHINE WAS ACCURATE - TESTIMONIAL NATURE OF STATEMENTS; UNLAWFUL SEARCH AND SEIZURE - VEHICLE STOP - WHETHER EVIDENCE OBTAINED FOLLOWING STOP OF VEHICLE FOR HAVING AN UNAUTHORIZED STICKER ON REAR WINDOW IS SUBJECT TO SUPPRESSION AS RESULTING FROM A PRETEXTUAL STOP; PREPARATION, SERVICE AND FILING OF BRIEF BY ATTORNEY IN SENECA COUNTY DISTRICT ATTORNEY'S OFFICE ON BEHALF OF YATES COUNTY DISTRICT ATTORNEY; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGEDLY IMPROPER REBUTTAL TESTIMONY;

PEQUE (JUAN JOSE), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER TRIAL COURT'S FAILURE TO INFORM DEFENDANT, AN UNDOCUMENTED IMMIGRANT, THAT HE MIGHT BE DEPORTED BASED ON HIS CONVICTION RENDERED DEFENDANT'S GUILTY PLEA NOT KNOWING, VOLUNTARY AND INTELLIGENT; RIGHT TO COUNSEL - WHETHER COUNSEL'S FAILURE TO INFORM DEFENDANT ABOUT THE IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA RENDERED COUNSEL'S REPRESENTATION INEFFECTIVE; SENTENCE; DUE PROCESS CHALLENGE TO CPL 220.50;

PERRINGTON (DONALD), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION (PENAL LAW § 265.15 [3]) - CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION AGAINST PENAL INTEREST;

PHILADELPHIA INSURANCE COMPANY, MATTER OF (UTICA NATIONAL INSURANCE COMPANY):

ARBITRATION - AWARD - CONFIRMING OR VACATING AWARD - WAIVER OF CONTENTION THAT CLAIM FOR REIMBURSEMENT OF FIRST-PARTY INSURANCE BENEFITS IS NOT ARBITRABLE UNDER INSURANCE LAW § 5105; WHETHER ARBITRATION PANEL EXCEEDED ITS POWER IN FINDING THAT THE MOTOR VEHICLE INSURED BY RESPONDENT WAS USED "FOR HIRE"; AUTOMOBILE INSURANCE;

PEOPLE ex rel. PONS v LEE:

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING A MOTION TO REARGUE A MOTION FOR LEAVE TO APPEAL AS A POOR PERSON AND FOR ASSIGNMENT OF COUNSEL;

PLATEK, et al. v TOWN OF HAMBURG, et al.:

INSURANCE - EXCLUSIONS - WATER DAMAGE - EXCEPTION FOR "EXPLOSION" - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE "EXPLOSION" EXCEPTION WAS AMBIGUOUS AND, THUS, HAD TO BE CONSTRUED IN FAVOR OF THE INSURED;

PRESCOTT (TYRONE), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED CONFLICT OF INTEREST OF APPELLATE COUNSEL WHO ALSO REPRESENTED CO-DEFENDANT WHO PLEADED GUILTY AND TESTIFIED AGAINST DEFENDANT; DUE PROCESS;

PRINCIPE, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION:

SCHOOLS - TEACHERS - TERMINATION OF EMPLOYMENT - CPLR ARTICLE 75 PROCEEDING - WHETHER PENALTY OF TERMINATION WAS EXCESSIVE FOR MIDDLE SCHOOL DEAN OF DISCIPLINE INVOLVED IN PHYSICAL INCIDENTS WITH TWO STUDENTS;

RAMKUMAR v GRAND STYLE TRANSPORTATION ENTERPRISES, INC.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - CESSATION OF TREATMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT SUMMARY JUDGMENT DISMISSING THE COMPLAINT WAS APPROPRIATE BECAUSE "A BARE ASSERTION THAT INSURANCE COVERAGE FOR MEDICALLY REQUIRED TREATMENT WAS EXHAUSTED IS UNAVAILING WITHOUT ANY DOCUMENTARY EVIDENCE OF SUCH OR, AT LEAST, AN INDICATION AS TO WHETHER AN INJURED CLAIMANT CAN AFFORD TO PAY FOR THE TREATMENT OUT OF HIS OR HER OWN FUNDS";

RODRIGUEZ (ANTONIO), PEOPLE v:

CRIMES - JURORS - SUGGESTION OF PREMATURE DELIBERATIONS - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN, AT THE CLOSE OF EVIDENCE AND PRIOR TO SUMMATIONS, THE COURT RECEIVED A NOTE FROM ONE JUROR REQUESTING CERTAIN INFORMATION, IN RESPONSE TO WHICH THE COURT DID NOT CONDUCT ANY INDIVIDUAL INQUIRY OF THE JURORS, BUT RATHER DIRECTED ITS INQUIRIES TO THE JURY AS A GROUP; EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING AT TRIAL EVIDENCE ILLUSTRATING THE INTERNATIONAL FLOW OF DRUGS;

RODRIGUEZ (REYES), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER DEFENDANT'S RIGHT OF CONFRONTATION WAS VIOLATED BY POLICE OFFICER'S TESTIMONY REGARDING WHAT HE WAS TOLD BY A NON-TESTIFYING COOPERATOR REGARDING DEFENDANT'S NICKNAME; WHETHER DEFENSE COUNSEL PRESERVED A CONFRONTATION CLAUSE CHALLENGE TO A NONTESTIFYING CO-DEFENDANT'S

STATEMENT TO AN ACCOMPLICE WITNESS AND, IF SO, WHETHER TESTIMONY CONCERNING THE STATEMENT VIOLATED DEFENDANT'S RIGHT OF CONFRONTATION; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUFFICIENT NONACCOMPLICE TESTIMONY EXISTED TO SATISFY THE ACCOMPLICE CORROBORATION REQUIREMENT IN CPL 60.22; ALLEGED DISCOVERY AND ROSARIO VIOLATIONS;

ROMANELLO v INTESA SANPAOLO, S.P.A and STEFAN:

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - DISABILITY - ALLEGED VIOLATIONS OF NEW YORK STATE HUMAN RIGHTS LAW AND NEW YORK CITY HUMAN RIGHTS LAW - FAILURE TO GRANT INDEFINITE MEDICAL LEAVE - EMPLOYER'S DUTY TO ENGAGE IN GOOD FAITH INTERACTIVE PROCESS TO IDENTIFY A REASONABLE ACCOMMODATION - RETALIATION - MOTION TO DISMISS;

ROMAN CATHOLIC DIOCESE OF BROOKLYN v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA &c.:

INSURANCE - LIABILITY INSURANCE - EXHAUSTION OF SELF-INSURED RETENTION (SIR) - ACTS OF ALLEGED SEXUAL ABUSE CONSTITUTING MULTIPLE OCCURRENCES OR A SINGLE OCCURRENCE - FAILURE TO RAISE ISSUE IN INITIAL DISCLAIMER LETTER AS WAIVER OF RIGHT TO DEMAND PAYMENT OF MULTIPLE SIRS - EFFECT OF ALLEGED INEQUITY IN APPLYING PRO-RATA APPLICATION OF SIR - SUMMARY JUDGMENT;

ROULAN v COUNTY OF ONONDAGA et al.:

ATTORNEY AND CLIENT - ASSIGNMENT OF COUNSEL - ACTION SEEKING DECLARATION THAT VARIOUS SECTIONS OF THE ASSIGNED COUNSEL PLAN IN ONONDAGA COUNTY ARE INVALID - PLAN ESTABLISHED PURSUANT TO COUNTY LAW ARTICLE 18-B THROUGH A CONTRACT WITH THE ONONDAGA COUNTY BAR ASSOCIATION; DECLARATORY JUDGMENT; CRIMINAL DEFENDANT'S RIGHT TO COUNSEL;

ROZZ, MATTER OF v NASSAU COUNTY DEPARTMENT OF ASSESSMENT, et al.:

TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW - CPLR ARTICLE 78 PROCEEDING AND ACTION FOR DECLARATORY RELIEF - ALLEGED FAILURE BY RESPONDENT TO COMPLY WITH PROCEDURES IN REAL PROPERTY TAX LAW § 556 REGARDING FILING AND INVESTIGATION OF PETITIONER'S APPLICATION FOR A TAX REFUND; PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS; FREEDOM OF INFORMATION LAW;

SAGAL-COTLER, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF CITY OF NEW YORK, et al.:

SCHOOLS - BOARD OF EDUCATION - LEGAL REPRESENTATION OF BOARD OF EDUCATION EMPLOYEE REGARDING DISCIPLINARY ACTION TAKEN AGAINST STUDENTS - WHETHER EDUCATION LAW § 2560, WHICH INCORPORATES BY REFERENCE GENERAL MUNICIPAL LAW § 50-k, AND EDUCATION LAW § 3028 CONFLICT OR SHOULD BE READ AND APPLIED TOGETHER;

SANCHEZ (NICHOLAS), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - DEFENSE COUNSEL'S REPRESENTATION OF INDIVIDUAL WHO HAD CONNECTIONS TO THIS CASE; IDENTIFICATION OF DEFENDANT - IMPROPER BOLSTERING OF IDENTIFICATION EVIDENCE;

SANTIAGO (HECTOR), PEOPLE v:

CRIMES - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A CIRCUMSTANTIAL EVIDENCE CHARGE TO THE JURY IN A DRUG POSSESSION CASE INVOLVING PRESENCE OF A CONTROLLED SUBSTANCE IN AN AUTOMOBILE - "PRESUMPTIVE EVIDENCE OF KNOWING POSSESSION...BY EACH AND EVERY PERSON IN THE AUTOMOBILE" (PENAL LAW § 220.25[1]) - CONSTRUCTIVE POSSESSION; EXCESSIVE SENTENCE;

SAPERSTON, MATTER OF v HOLDAWAY:

PARENT AND CHILD - CUSTODY - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT FAMILY COURT'S DETERMINATION WITH RESPECT TO PRIMARY PHYSICAL CUSTODY LACKS A SOUND AND SUBSTANTIAL BASIS IN THE RECORD; RELOCATION OF CHILD;

SHABAZZ (OMAR), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION (PENAL LAW § 265.15[3]) - CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION AGAINST PENAL INTEREST - WHETHER PEOPLE v CONCEPCION (17 NY3d 192 [2011]) AND CPL 470.15 PRECLUDED THE APPELLATE DIVISION FROM RULING THAT DEFENDANT ALSO FAILED TO ESTABLISH THE DECLARANT'S UNAVAILABILITY; SUFFICIENCY OF THE EVIDENCE; ALLEGED PROSECUTORIAL MISCONDUCT - DENIAL OF MISTRIAL MOTION;

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 149TH 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;

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;

SOARES, &c., MATTER OF v HERRICK, &c.: (Cal. Date - 10/16/12)
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 (HILBERT), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO PURSUE AFFIRMATIVE DEFENSE TO CHARGE OF ROBBERY IN THE FIRST DEGREE BECAUSE THE "WEAPON" DISPLAYED DURING THE ROBBERY WAS NOT A "LOADED WEAPON FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS PHYSICAL INJURY, COULD BE DISCHARGED" (PENAL LAW § 160.15[4]); CHALLENGE TO SHOW-UP IDENTIFICATION;

STATE OF NEW YORK, MATTER OF v DANIEL F.:

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, MATTER OF v JOHN P. (ANONYMOUS):

(Cal. Date - 10/18/12)

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.: (Cal. Date - 10/18/12)

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.:

(Cal. Date - 11/14/12)

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.);

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

SCHOOLS - BOARD OF EDUCATION - LEGAL REPRESENTATION OF SCHOOL BOARD EMPLOYEES REGARDING DISCIPLINARY ACTION TAKEN AGAINST A STUDENT - WHETHER EDUCATION LAW § 2560, WHICH INCORPORATES BY REFERENCE GENERAL MUNICIPAL LAW § 50-k, AND EDUCATION LAW § 3028 CONFLICT OR SHOULD BE READ AND APPLIED TOGETHER;

THOMAS (MICHAEL), a/k/a ADAMS (NEIL), PEOPLE v, :

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO HIS GUILTY PLEA WHERE THE TRIAL COURT FAILED TO INFORM HIM OF THE POSSIBLE IMMIGRATION CONSEQUENCES OF THE PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE REPRESENTATION OF COUNSEL BASED UPON COUNSEL'S FAILURE TO INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA;

THOMPSON (PAUL), PEOPLE v:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED, IN RESPONSE TO AN ARGUMENT MADE BY DEFENSE COUNSEL IN SUMMATION, IN ALLOWING THE PEOPLE TO REOPEN THEIR CASE TO INTRODUCE A FINGERLESS GLOVE THAT HAD BEEN SUPPRESSED; CLAIMED VIOLATIONS OF DUE PROCESS DURING GRAND JURY PROCEEDINGS AND AT TRIAL; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL;

TORRES v GAMMA TAXI CORP., et al.:

MOTOR VEHICLES - COLLISION - WHETHER PLAINTIFF SUFFERED A SERIOUS INJURY WITHIN THE MEANING OF INSURANCE LAW § 5102(d) - PLAINTIFF INVOLVED IN TWO PRIOR MOTOR VEHICLE ACCIDENTS; DISMISSAL OF CLAIMS FOR DAMAGES FOR PERSONAL INJURY; SUMMARY JUDGMENT;

TORRES (VINCENT), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT CLOSED THE COURTROOM TO DEFENDANT'S WIFE AT THE START OF JURY SELECTION ON THE GROUND THAT THERE "WASN'T ANY ROOM" IN THE COURTROOM FOR HER - PRESERVATION - DURATION OF CLOSURE - WHETHER A TRIVIALITY EXCEPTION TO THE PER SE RULE OF REVERSAL EXISTS AND APPLIES IN THIS CASE;

TOWNSLEY (TAYDEN), PEOPLE v: (Cal. Date - 10/18/12)

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;

UNITED STATES FIDELITY & GUARANTY COMPANY, et al. v AMERICAN RE-INSURANCE COMPANY, et al.:

INSURANCE - REINSURANCE - "FOLLOW THE FORTUNES" CLAUSE - REINSURED'S DECISION TO ALLOCATE ALL SETTLEMENT CLAIMS AND, THUS, ALL REINSURANCE CLAIMS TO A 1959 INSURANCE CONTRACT, WHICH HAD A \$200,000 PER PERSON LIMIT AND, IF NOT SUBJECT TO AN UPWARD AMENDMENT OF THE RETENTION AMOUNT, WAS SUBJECT ONLY TO A \$100,000 RETENTION FOR EACH COVERED LOSS - APPLICATION OF FOLLOW THE FORTUNES CLAUSE WHERE REINSURERS CHALLENGE REINSURED'S ALLEGED BAD FAITH OR ABSENCE OF "UTMOST GOOD FAITH" IN ALLOCATING ITS SETTLEMENT WITH ITS INSURED AND IN TREATING ALL CLAIMS AS ARISING UNDER A SINGLE POLICY YEAR - WHETHER TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE PARTIES AGREED TO RETROACTIVELY INCREASE THE RETENTION AMOUNT FROM \$100,000 TO \$3 MILLION;

CITY OF UTICA, MATTER OF v DAINES, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIFICATION OF AMBULANCE SERVICES - PUBLIC HEALTH LAW § 3000 - CHALLENGE TO APPELLATE DIVISION ORDER CONCLUDING THAT DETERMINATION BY NEW YORK STATE EMERGENCY MEDICAL SERVICES COUNCIL, WHICH DENIED MUNICIPALITY'S APPLICATION FOR CERTIFICATION OF ITS MUNICIPAL AMBULANCE SERVICE, HAD TO BE ANNULLED BECAUSE IT DID NOT APPLY THE "STRONG PRESUMPTION IN FAVOR OF APPROVING THE APPLICATION" REQUIRED BY PUBLIC HEALTH LAW § 3008(7)(b);

VANDOVER (JEANNE M.), PEOPLE v: (Cal. Date - 10/17/12)

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 (JULIO), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - PRE-INDICTMENT DELAY - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE PROSECUTION ESTABLISHED GOOD CAUSE FOR THE DELAY BETWEEN THE CRIME AND DEFENDANT'S INDICTMENT; SUFFICIENCY OF THE EVIDENCE;

VERIZON NEW ENGLAND, INC. v TRANSCOM ENHANCED SERVICES, INC.:

JUDGMENTS - ENFORCEMENT - RESTRAINING NOTICE - PAYMENTS TO JUDGMENT DEBTOR PURSUANT TO PRE-EXISTING CONTRACT AFTER RECEIPT OF RESTRAINING NOTICE - WHETHER PAYMENTS CONSTITUTED A "DEBT" OWING TO THE JUDGMENT DEBTOR OR WHETHER JUDGMENT DEBTOR HAD RIGHTS UNDER THE CONTRACT THAT CONSTITUTED "PROPERTY" WITHIN THE MEANING OF CPLR 5222(b);

WALKER (SAMUEL), PEOPLE v: (Cal. Date - 10/16/12)

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;

WARD, MATTER OF v CITY OF LONG BEACH:

CIVIL SERVICE - FIREFIGHTERS - BENEFITS FOR INJURY INCURRED IN LINE OF DUTY - SUPPLEMENTAL WAGE BENEFITS - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT SUPREME COURT CORRECTLY HELD THAT THE MUNICIPALITY'S DETERMINATION DID NOT HAVE A RATIONAL BASIS IN THE RECORD;

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;

WEEKS WOODLANDS ASSOCIATION, INC., et al., MATTER OF v DORMITORY AUTHORITY OF THE STATE OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - ZONING - NEIGHBORS OF CONSTRUCTION PROJECT TO MODERNIZE A HOSPITAL FOR DISABLED CHILDREN SEEK TO

ENJOIN CONSTRUCTION BASED ON ALLEGED NONCOMPLIANCE WITH ZONING, NOTICE AND SEQRA REQUIREMENTS; DISMISSAL OF APPEALS FOR MOOTNESS DUE TO ADVANCED STATUS OF CONSTRUCTION COMPLETION; INJUNCTIONS;

WEST, et al. v HOGAN, et al. (AND A THIRD-PARTY ACTION):

DAMAGES - PUNITIVE DAMAGES - REAL PROPERTY CLAIMED BY ADVERSE POSSESSION - WHETHER PUNITIVE DAMAGES ARE APPROPRIATE WHERE WRONGDOER DISPUTED OWNERSHIP RIGHTS TO PROPERTY WHERE MALICIOUS ACTS OCCURRED;

WHITE &c. v FARRELL et al.:

DAMAGES - MEASURE OF DAMAGES - BREACH OF REAL ESTATE CONTRACT - WHETHER SUPREME COURT CORRECTLY DETERMINED THAT SELLERS DID NOT SUSTAIN ACTUAL DAMAGES BECAUSE THERE WAS NO DIFFERENCE BETWEEN THE CONTRACT SALES PRICE AND THE ACTUAL MARKET VALUE OF THE PROPERTY AT THE TIME OF BREACH, EVEN THOUGH THE PROPERTY ULTIMATELY WAS SOLD FOR APPROXIMATELY \$373,000 LESS THAN THE CONTRACT PRICE; SELLERS' ENTITLEMENT TO CONSEQUENTIAL DAMAGES;

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";

WORDEN (ROBERT L.), PEOPLE v:

CRIMES - PLEA OF GUILTY - DENIAL OF MOTION SEEKING TO WITHDRAW GUILTY PLEA BASED UPON COMPLAINANT'S RECANTATION - DEFENDANT'S ENTITLEMENT TO A HEARING ON THE MOTION; WHETHER DEFENDANT KNOWINGLY AND VOLUNTARILY ENTERED INTO GUILTY PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

CITY OF YONKERS, MATTER OF v YONKERS FIRE FIGHTERS, LOCAL 628, IAFF, AFL-CIO:

ARBITRATION - MATTERS ARBITRABLE - WHETHER CIVIL SERVICE LAW § 201(4) AND RETIREMENT AND SOCIAL SECURITY LAW § 470 BAR ARBITRATION OF DISPUTE - WHETHER COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF YONKERS AND FIRE FIGHTERS' UNION WAS "IN EFFECT" ON THE EFFECTIVE DATE OF ARTICLE 22 OF THE RETIREMENT AND SOCIAL SECURITY LAW;