

AUGUST 2013

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.

GABRIELA A., MATTER OF:

INFANTS - PERSON IN NEED OF SUPERVISION (PINS) - FIFTEEN-YEAR OLD ADOLESCENT, PREVIOUSLY ADJUDICATED A PINS AND WHO RESISTED PROBATION OFFICERS' ATTEMPTS TO RETURN HER TO THE NON-SECURE DETENTION FACILITY FROM WHICH SHE ABSCONDED, CHARGED IN A JUVENILE DELINQUENCY PETITION WITH, AMONG OTHER THINGS, RESISTING ARREST AND OBSTRUCTING GOVERNMENTAL ADMINISTRATION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE ADOLESCENT'S CONDUCT WAS CONSISTENT ONLY WITH PINS BEHAVIOR AND NOT WITH JUVENILE DELINQUENCY;

ABNER (JESSE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - SEX OFFENDER REGISTRATION PROCEEDING - FAILURE TO ARGUE THAT SEX OFFENDER REGISTRATION ACT (SORA) WAS INAPPLICABLE TO SEX CRIME AS TO WHICH DEFENDANT'S SENTENCE EXPIRED FIVE YEARS BEFORE THE ENACTMENT OF SORA;

ABRAHAM (AKIVA DANIEL), PEOPLE v: (Cal. Date - 10/15/13)

CRIMES - INSURANCE FRAUD - CONCEALING CAUSE OF FIRE - DEFENDANT IN INSURANCE FRAUD PROSECUTION ACQUITTED OF ARSON - REPUGNANT OR INCONSISTENT VERDICT - SUFFICIENCY OF THE EVIDENCE - ARGUMENT AND CONDUCT OF COUNSEL - ALLEGED PROSECUTORIAL MISCONDUCT;

ACA FINANCIAL GUARANTY CORP. v GOLDMAN, SACHS & CO.:

FRAUD - FRAUD IN INDUCEMENT - ALLEGED FRAUDULENT INDUCEMENT TO ISSUE A FINANCIAL GUARANTY FOR A PORTION OF AN INVESTMENT BY MISREPRESENTATION THAT A NONPARTY HEDGE FUND WAS TAKING A LONG POSITION IN THE INVESTMENT WHEN, IN FACT, SUCH FUND WAS ACTUALLY A SHORT SELLER - JUSTIFIABLE RELIANCE;

ALBUNIO, et al. v THE CITY OF NEW YORK et al.:

ATTORNEY AND CLIENT - COMPENSATION - CONTINGENCY FEE AGREEMENT - SCOPE OF AGREEMENT PROVIDING FOR A FEE OF 33 1/3 PERCENT OF "THE SUM RECOVERED, WHETHER RECOVERED BY SUIT, SETTLEMENT OR OTHERWISE" - WHETHER "SUM RECOVERED" INCLUDES STATUTORY COUNSEL FEES AWARDED FOR TRIAL WORK IN A CIVIL RIGHTS ACTION;

ALCIDE (JAMES), PEOPLE v: (Cal. Date - 9/3/13)  
 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;

ALLEN (TERRELL), PEOPLE v:  
 CRIMES - VERDICT - DUPLICITY - WHETHER THE EVIDENCE AT TRIAL ALLOWED THE JURY TO CONVICT DEFENDANT OF A CRIME DIFFERENT FROM THE ONE FOR WHICH HE WAS INDICTED - WHETHER A DUPLICITY ERROR THAT IS NOT OBVIOUS ON THE FACE OF THE INDICTMENT MUST BE PRESERVED FOR APPELLATE REVIEW;

APPLEGATE v STATE OF NEW YORK:  
 APPEALS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING MOTION TO WAIVE FILING FEE ON AN APPEAL AND FOR LEAVE TO FILE LESS THAN NINE COPIES OF THE RECORD OR APPENDIX ON APPEAL;

ARENA (FRANK), PEOPLE v:  
 CRIMES - WITNESSES - DEFENDANT'S RIGHT TO CALL WITNESS - WHETHER SUPREME COURT ERRED IN REFUSING TO ALLOW DEFENDANT TO CALL A WITNESS WHO WOULD HAVE TESTIFIED THAT DEFENDANT ACCUSED THE PROPOSED WITNESS OF INFORMING ON HIM BUT DID NOT ASSAULT OR THREATEN THE WITNESS, WHERE THE PEOPLE'S THEORY OF MOTIVE WAS THAT DEFENDANT BEAT AND FORCIBLY STOLE PROPERTY FROM COMPLAINANT TO RETALIATE FOR COMPLAINANT TELLING THE POLICE THAT DEFENDANT WAS GROWING MARIHUANA AT HIS HOUSE;

ARGYRIS (COSTANDINO), PEOPLE v:  
 CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER, BASED ON INFORMATION PROVIDED BY AN ANONYMOUS TELEPHONE CALLER, POLICE HAD REASONABLE SUSPICION TO STOP THE CAR IN WHICH DEFENDANT WAS TRAVELING; SUPPRESSION HEARING;

ASARO (PATRICK A.), PEOPLE v: (Cal. Date 9/10/13)  
 CRIMES - MANSLAUGHTER IN THE SECOND DEGREE AND RECKLESS ASSAULT - SUFFICIENCY OF EVIDENCE OF RECKLESSNESS WHERE DEFENDANT, WHO WAS TRAVELING AT A HIGH RATE OF SPEED WHEN HE CRASHED INTO ANOTHER CAR, WAS FOUND NOT GUILTY OF DRIVING WHILE ABILITY IMPAIRED - REPUGNANCY OF VERDICT ACQUITTING DEFENDANT OF DRIVING WHILE ABILITY IMPAIRED BUT CONVICTING HIM OF MANSLAUGHTER IN THE SECOND DEGREE; WITNESSES - EXPERT WITNESS - WHETHER SUPREME COURT ERRED IN ALLOWING PEOPLE'S EXPERT ACCIDENT RECONSTRUCTIONIST TO TESTIFY TO ULTIMATE CONCLUSIONS WHERE HE HAD LOST HIS ORIGINAL NOTES CONTAINING COMPUTATIONS HE USED TO DETERMINE THE SPEED OF THE VEHICLES INVOLVED IN THE ACCIDENT - ALLEGED VIOLATION OF DEFENDANT'S RIGHT OF CONFRONTATION; ALLEGED PROSECUTORIAL MISCONDUCT;

ASSOCIATION FOR A BETTER LONG ISLAND, et al., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

PARTIES - STANDING - CHALLENGE TO ENVIRONMENTAL REGULATIONS REQUIRING AN "INCIDENTAL TAKE" PERMIT FOR ANY ACTIVITIES LIKELY TO RESULT IN THE "TAKING" OF ANY ENDANGERED OR THREATENED SPECIES - CHALLENGE BY OWNERS OF PROPERTY THAT CONTAINS OR IS IN PROXIMITY TO ENDANGERED OR THREATENED SPECIES, BUT WHO HAVE NOT FILED APPLICATIONS FOR AN "INCIDENTAL TAKE" PERMIT - SPECULATIVE HARM - PROCEDURAL CHALLENGES - RIPENESS OF SUBSTANTIVE CHALLENGES;

AVENI (PAUL), PEOPLE v:

CRIMES - CONFESSION - VOLUNTARINESS OF CONFESSION - WHETHER POLICE TACTICS DECEIVING DEFENDANT ABOUT THE VICTIM'S STATUS WERE SO COERCIVE AS TO RENDER DEFENDANT'S CONFESSION INVOLUNTARY; WHETHER DEFENDANT'S CONVICTION OF CERTAIN CRIMES WAS SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE;

ALLEN B., MATTER OF v SPROAT:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - PROVISION IN AMENDED ORDER OF CONDITIONS DIRECTING THAT, SHOULD PETITIONER FAIL TO COMPLY WITH ANY OF THE OTHER CONDITIONS IMPOSED IN THE AMENDED ORDER "AND REFUSE TO APPEAR FOR OR COMPLY WITH A PSYCHIATRIC EXAMINATION," THE COMMISSIONER OF THE NEW YORK STATE OFFICE OF MENTAL HEALTH "SHALL APPLY TO THE COURT FOR A TEMPORARY CONFINEMENT ORDER FOR THE PURPOSE OF CONDUCTING AN EFFECTIVE PSYCHIATRIC EXAMINATION IN A SECURE FACILITY" - WHETHER THAT PROVISION WAS IN EXCESS OF TRIAL JUDGE'S AUTHORITY;

BALDWIN UNION FREE SCHOOL DISTRICT, MATTER OF v COUNTY OF NASSAU (AND TWO OTHER PROCEEDINGS):

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER LOCAL LAW NO. 18 (2010) OF COUNTY OF NASSAU VIOLATES THE NEW YORK CONSTITUTION AND MUNICIPAL HOME RULE LAW;

BARET (ROMAN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO ADVISE DEFENDANT OF IMMIGRATION CONSEQUENCES OF GUILTY PLEA - WHETHER PADILLA v KENTUCKY (559 US 356 [2010]), DECIDED AFTER DEFENDANT'S CONVICTION WAS AFFIRMED ON DIRECT APPEAL, APPLIES RETROACTIVELY IN THIS STATE - CHAIDEZ v UNITED STATES (133 S. Ct. 1103 [2013]);

BARONE (VINCENT), PEOPLE v:

CRIMES - EVIDENCE - WHETHER EVIDENCE ADMITTED REGARDING THE ENTERPRISE CORRUPTION COUNT WHICH SHOULD NOT HAVE BEEN CHARGED UNDULY PREJUDICED DEFENDANT REGARDING REMAINING CHARGES; SUFFICIENCY OF EVIDENCE TO SUPPORT DEFENDANT'S CONVICTION ON

SCHEME TO DEFRAUD AND OFFERING A FALSE INSTRUMENT FOR FILING CHARGES; CLAIMED ERROR REGARDING JURY NOTE; CLAIMED DUE PROCESS VIOLATION IN TRIAL COURT'S DISRUPTING COMMENTS AND BOLSTERING OF PEOPLE'S CASE;

BEATY (DONNY P.), PEOPLE v: (Cal. Date 9/4/13)

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;

BEATY (KATISHA), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - TRIAL COURT'S ALLEGED FAILURE TO ADVISE DEFENDANT REGARDING PRS; ALLEGED INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL FOR NOT RAISING ISSUE OF WHETHER PENAL LAW § 70.85 CAN BE APPLIED TO UPHOLD A GUILTY PLEA THAT IS INVALID FOR FAILURE TO ADVISE DEFENDANT OF PRS REQUIREMENTS (PEOPLE v CATU 4 NY3d 242); ANDERS BRIEF;

BELZBERG, et al., MATTER OF v VERUS INVESTMENTS HOLDINGS, INC.:  
(Cal. Date - 9/4/13)

ARBITRATION - STAY OF ARBITRATION - PROCEEDING PURSUANT TO CPLR ARTICLE 75 TO PERMANENTLY STAY ARBITRATION - WHETHER A NONSIGNATORY TO AN ARBITRATION AGREEMENT SHOULD BE ESTOPPED FROM AVOIDING ARBITRATION BECAUSE HE DIRECTLY BENEFITTED UNDER THE AGREEMENT;

BENNETT, MATTER OF v McKOY, et al.:

APPEAL - APPELLATE DIVISION - DENIAL OF MOTION FOR EXPUNGEMENT AND DAMAGES;

BLAKE (ANDREW), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL'S FAILURE TO REQUEST AN ADVERSE INFERENCE CHARGE REGARDING DESTROYED EVIDENCE CONSTITUTED INEFFECTIVE ASSISTANCE OF COUNSEL;

BIOTRONIK A.G. v CONOR MEDSYSTEMS IRELAND, LTD., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - DAMAGES - LOST RESALE PROFITS - DISTRIBUTION AGREEMENT;

BOARD OF EDUCATION OF THE MINEOLA UNION FREE SCHOOL DISTRICT,  
MATTER OF v MINEOLA TEACHERS ASSOCIATION:

ARBITRATION - COLLECTIVE BARGAINING AGREEMENT - WHETHER SUPREME COURT PROPERLY GRANTED THE SCHOOL DISTRICT'S PETITION TO PERMANENTLY STAY ARBITRATION - RELIGIOUS HOLIDAYS PROVISION OF COLLECTIVE BARGAINING AGREEMENT - ESTABLISHMENT CLAUSE OF FIRST AMENDMENT TO U.S. CONSTITUTION;

BOARD OF MANAGERS OF FRENCH OAKS CONDOMINIUM, MATTER OF v TOWN OF AMHERST, et al.:

TAXATION - ASSESSMENT - CHALLENGE TO APPRAISAL - NONCOMPLIANCE WITH 22 NYCRR 202.59 - VIOLATIONS OF THE UNIFORM STANDARD PRACTICES OF THE APPRAISAL PROFESSION, ETHICS RULE U-7, AND 19 NYCRR 1106.1 - COURT'S ALLEGED ABUSE OF DISCRETION IN ADOPTING ASSESSMENT BASED ON THE APPRAISAL;

BOYER (DANIEL), PEOPLE v: (Cal. Date - 10/17/13)

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - WHETHER A PRIOR CONVICTION CAN BE CONSIDERED A PREDICATE FELONY CONVICTION FOR SENTENCING PURPOSES WHERE THE CONVICTION WAS LATER DETERMINED TO BE SUBJECT TO RESENTENCING UNDER PEOPLE v SPARBER (10 NY3d 457), THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SOUGHT RESENTENCING AND RESENTENCING OCCURRED AFTER THE CRIME DEFENDANT COMMITTED IN THIS CASE; PLEA OF GUILTY - WHETHER THE PLEA WAS KNOWING, VOLUNTARY AND INTELLIGENT;

BRANIC INTERNATIONAL REALTY CORP. v PITT:

LANDLORD AND TENANT - RENT REGULATION - STATUS OF PERSON ELIGIBLE FOR SUBSIDIZED HOUSING BENEFITS ("ELIGIBLE PERSON") AND PLACED IN A HOTEL ROOM PURSUANT TO AGREEMENT BETWEEN HOTEL OWNER AND MUNICIPAL SERVICES AGENCY, WHICH THEREAFTER EXPIRED - WHETHER ELIGIBLE PERSON WAS A "PERMANENT TENANT" OF HOTEL WITHIN THE MEANING OF RENT STABILIZATION CODE (9 NYCRR 2520.6[j]) SOLELY BECAUSE HE CONTINUOUSLY RESIDED IN HOTEL ROOM FOR AT LEAST SIX MONTHS - WHETHER AGREEMENT BETWEEN OWNER AND MUNICIPAL SERVICES AGENCY WAS A LEASE THAT EXEMPTED THE HOTEL ROOM FROM THE RENT STABILIZATION CODE (9 NYCRR 2520.11[b]);

THE BRIGHTONIAN NURSING HOME, et al. v DAINES, &c., et al.:

(Cal. Date - 9/11/13)

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;

BROWN (THOMAS), PEOPLE v: (Cal. Date - 10/16/13)

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;

BRUNO KEARNEY ARCHITECTS, LLP v ROSE:

CONTRACTS - FORMATION OF CONTRACT - QUANTUM MERUIT - ATTORNEYS' FEES - WHETHER THE APPELLATE DIVISION APPLIED AN INCORRECT STANDARD OF APPELLATE REVIEW IN THIS ACTION FOR BREACH OF A CONTRACT UNDER WHICH PLAINTIFF WAS TO PROVIDE DEFENDANT WITH A DESIGN FOR A HOUSE;

BURNS et al., MATTER OF v CARBALLADA &c., et al.:

PROCEEDING AGAINST BODY OR OFFICER - DISMISSAL OF PETITION - CPLR ARTICLE 78 PROCEEDING TO ANNUL TWO DETERMINATIONS OF THE MUNICIPAL CODE VIOLATIONS BUREAU OF RESPONDENT CITY OF ROCHESTER WHICH FOUND PETITIONERS GUILTY OF CITY CODE VIOLATION SET FORTH IN APPEARANCE TICKETS - OWNING PROPERTY OCCUPIED WITHOUT VALID CERTIFICATE OF OCCUPANCY;

BUXBAUM v CASTRO:

LIBEL AND SLANDER - SUFFICIENCY OF ALLEGATIONS OF DEFAMATION; RECORDS - MENTAL HEALTH RECORDS - SUFFICIENCY OF ALLEGATIONS OF A BREACH OF THE PSYCHOLOGIST-PATIENT PRIVILEGE;

CAPRUSO v VILLAGE OF KINGS POINT (AND ANOTHER ACTION):

LIMITATION OF ACTIONS - WHEN CAUSE OF ACTION ACCRUES - CONTINUING WRONG - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THESE ACTIONS WERE NOT BARRED BY THE STATUTE OF LIMITATIONS UPON THE GROUND THAT "A MUNICIPALITY'S CURRENT AND ONGOING USE OF DEDICATED PARKLAND FOR NONPARK PURPOSES WITHOUT THE APPROVAL OF THE STATE LEGISLATURE IN VIOLATION OF THE PUBLIC TRUST DOCTRINE IS A CONTINUING WRONG THAT THE MUNICIPALITY HAS THE ABILITY TO CONTROL AND ABATE"; WHETHER THE INJUNCTIVE RELIEF AWARDED WAS IN EXCESS OF THAT REQUESTED IN THE COMPLAINT OR WAS OTHERWISE UNDULY BROAD;

CARTER (DARNELL), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES UNDER PENAL LAW § 70.25(2) WERE PERMISSIBLE WHERE DEFENDANT WAS CONVICTED OF MURDER IN THE SECOND DEGREE AND POSSESSION OF A WEAPON IN THE SECOND DEGREE, AND THE POSSESSION CHARGE DID NOT REQUIRE INTENT AS AN ELEMENT;

MARCUS CC., MATTER OF v ERICA BB. (and another proceeding):

PARENT, CHILD AND FAMILY - CUSTODY - GRANDMOTHER'S PETITION FOR CUSTODY - WHETHER THE GRANDMOTHER MET HER BURDEN OF ESTABLISHING EXTRAORDINARY CIRCUMSTANCES WHICH WOULD MAKE HER CLAIM OF CUSTODY SUPERIOR TO THAT OF THE CHILD'S BIOLOGICAL FATHER;

CDR CREANCES S.A.S, &c. v COHEN:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - STRIKING ANSWER AS SANCTION FOR COMMITTING FRAUD ON COURT - STANDARD OF PROOF APPLICABLE TO DETERMINE WHETHER TO GRANT A MOTION TO STRIKE AN ANSWER AND ENTER A DEFAULT JUDGMENT BASED UPON DEFENDANTS' ALLEGED FRAUD UPON THE COURT - WHETHER FACTUAL DISPUTE ON THE ISSUE OF FRAUD IS TO BE RESOLVED BY THE COURT OR A JURY; DAMAGES - DEFENDANTS' ENTITLEMENT TO AN EVIDENTIARY HEARING;

CLEMENTE BROS. CONTRACTING CORP. v HAFNER-MILAZZO:

BILLS, NOTES AND CHECKS - FORGED INDORSEMENT - BANK CUSTOMER'S FAILURE TO DISCOVER AND REPORT ALLEGED FORGERIES WITHIN ONE YEAR AFTER BANK SENT CUSTOMER STATEMENTS OF THE ACCOUNT AND CANCELLED CHECKS (UCC 4-406) - APPLICABILITY OF LIMITATIONS PERIOD CONTAINED IN UCC 4-406 - WHETHER A BANK AND ITS CUSTOMER MAY SHORTEN THE ONE-YEAR STATUTORY TIME PERIOD PROVIDED IN UCC 4-406;

CINTRON (ANGEL), PEOPLE v:

CRIMES - SENTENCE - POSTRELEASE SUPERVISION (PRS) - WHETHER REINSTATEMENT OF A RESENTENCING COURT'S IMPOSITION OF PRS IS PRECLUDED WHERE, ALTHOUGH DEFENDANT WAS STILL SERVING HIS ORIGINAL SENTENCE AT THE TIME OF RESENTENCING, HE HAD COMPLETED SERVING THE SENTENCE BY THE TIME THE APPELLATE DIVISION FOUND THAT THE RESENTENCE HAD BEEN VACATED IN ERROR; DISMISSAL OF APPEAL AS ACADEMIC; DOUBLE JEOPARDY;

CLERMONT (JOCELYN), PEOPLE v: (Cal. Date - 9/11/13)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL AT THE SUPPRESSION HEARING;

COLLIER (ANDRE), PEOPLE v: (Cal. Date - 11/13/13)

CRIMES - PLEA OF GUILTY - RESENTENCE TO CONCURRENT TERMS - FIVE YEAR TERM OF ORIGINAL CONSECUTIVE SENTENCE FOUND TO BE ILLEGALLY SHORT - RESENTENCE TO CONCURRENT TERMS RESULTED IN OVERALL SHORTER TERM THAN ORIGINAL SENTENCE - WHETHER DEFENDANT SHOULD NEVERTHELESS BE ALLOWED TO WITHDRAW HIS PLEA BASED ON THE FACT THAT THE FIVE YEAR TERM OF THE SENTENCE WAS REPLACED BY A 10 YEAR TERM, EVEN WHERE OVERALL SENTENCE WAS SHORTER;

CONCERNED HOME CARE PROVIDERS, INC., MATTER OF v STATE OF NEW YORK:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER PUBLIC HEALTH LAW § 3614-c, COMMONLY KNOWN AS THE WAGE PARITY LAW, VIOLATES ARTICLE I, §§ 6 AND 11, ARTICLE III, § 1 AND 16, AND ARTICLE IX OF THE NEW YORK STATE CONSTITUTION; PROCEEDING AGAINST BODY OR OFFICER - WHETHER THE DEPARTMENT OF HEALTH'S INTERPRETATION OF THE TERM "TOTAL COMPENSATION" IN THE WAGE PARITY LAW IS INCONSISTENT WITH THE STATUTORY DEFINITION OF THAT TERM;

CORTEZ (PAUL), PEOPLE v: (Cal. Date - 11/12/13)  
 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;

COUNCIL OF THE CITY OF NEW YORK v DEPARTMENT OF HOMELESS  
 SERVICES et al.: (Cal. Date - 10/8/13)  
 SOCIAL SERVICES - TEMPORARY HOUSING ASSISTANCE - WHETHER THE COURTS  
 BELOW PROPERLY DETERMINED THAT THE SINGLE ADULTS ELIGIBILITY  
 PROCEDURE (PROCEDURE 12-400), WHICH GOVERNS THE INTAKE AND  
 ADMISSION PROCESS OF SINGLE ADULT INDIVIDUALS APPLYING FOR  
 TEMPORARY HOUSING, IS A "RULE" WITHIN THE MEANING OF THE CITY  
 ADMINISTRATIVE PROCEDURE ACT (CHAPTER 45 OF THE NEW YORK CITY  
 CHARTER);

COUNTRY-WIDE INSURANCE COMPANY v PREFERRED TRUCKING SERVICES  
 CORP, et al.:  
 INSURANCE - DISCLAIMER OF COVERAGE - TIMELINESS - WHETHER THE  
 APPELLATE DIVISION ERRED IN HOLDING UNTIMELY AS A MATTER OF LAW  
 INSURER'S DISCLAIMER OF COVERAGE BECAUSE OF THE INSURED'S LACK OF  
 COOPERATION IN THE DEFENSE OF THE UNDERLYING ACTION;

DALTON, MATTER OF v AKRON CENTRAL SCHOOLS:  
 SCHOOLS - NOTICE OF CLAIM - LATE NOTICE - SLIP ON SNOW OR ICE IN  
 SCHOOL PARKING LOT - CLAIMANT'S BURDEN OF ESTABLISHING THAT  
 RESPONDENT ACQUIRED ACTUAL KNOWLEDGE OF THE ESSENTIAL FACTS OF THE  
 CLAIM, INCLUDING KNOWLEDGE OF THE INJURIES, WITHIN A REASONABLE  
 TIME AFTER THE CLAIM AROSE - GENERAL MUNICIPAL LAW  
 § 50-e;

DeVITO v FELICIANO et al.: (Cal. Date - 10/15/13)  
 NEGLIGENCE - PROXIMATE CAUSE - JURY FINDING THAT AUTOMOBILE  
 ACCIDENT WAS NOT A SUBSTANTIAL FACTOR IN BRINGING ABOUT PLAINTIFF'S  
 INJURIES - WHETHER TRIAL COURT ERRED IN REFUSING TO GIVE A MISSING  
 WITNESS CHARGE WHERE DEFENDANT DID NOT CALL AS WITNESSES TWO  
 PHYSICIANS WHO, AT DEFENDANT'S REQUEST, CONDUCTED INDEPENDENT  
 MEDICAL EXAMINATIONS OF PLAINTIFF;

DIAZ (RICHARD), PEOPLE v: (Cal. Date - 9/11/13)  
 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;

DIAZ (SANDRA), PEOPLE v:

CRIMES - CONTROLLED SUBSTANCES - POSSESSION - SUFFICIENCY OF THE EVIDENCE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT EXERCISED DOMINION AND CONTROL OVER THE CONTRABAND - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT THE EVIDENCE ESTABLISHED THE ELEMENTS OF FIRST-DEGREE UNLAWFULLY DEALING WITH A CHILD (PENAL LAW § 260.20[1]) BECAUSE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT A LARGE AMOUNT OF HEROIN AND DRUG PARAPHERNALIA WERE IN HER APARTMENT, WHERE FOUR CHILDREN UNDER THE AGE OF 18 LIVED; WHETHER PENAL LAW § 260.20(1) IS UNCONSTITUTIONALLY VAGUE FOR FAILING TO GIVE CLEAR NOTICE OF THE PROSCRIBED CONDUCT AND CREATING A RISK OF DISCRIMINATORY ENFORCEMENT;

DiSALVO (JOHN A.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER, BASED ON INFORMATION PROVIDED BY AN ANONYMOUS TELEPHONE CALLER, POLICE HAD REASONABLE SUSPICION TO STOP THE CAR IN WHICH DEFENDANT WAS TRAVELING; SUPPRESSION HEARING;

THE PEOPLE ex rel. DIXON v STATE OF NEW YORK (and another proceeding):

HABEAS CORPUS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S APPLICATION FOR, AMONG OTHER THINGS, A WRIT OF HABEAS CORPUS; APPEALS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS;

DLJ MORTGAGE CAPITAL, INC. v KONTOGIANNIS, et al.:

PRINCIPAL AND AGENT - APPARENT AUTHORITY; FRAUD - CLAIMS AGAINST TITLE INSURERS FOR ACTS OF THEIR AGENTS ALLEGED TO BE CO-CONSPIRATORS IN A MORTGAGE FRAUD SCHEME;

DOCKERY (ALEXANDER), a/k/a HARRIS (JOHN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - DISMISSAL OF APPEAL FOR FAILURE TO PROSECUTE - WHETHER DEFENDANT, WHO WAS 16 YEARS OLD AT THE TIME OF CONVICTION, WAS ENTITLED TO THE ASSISTANCE OF COUNSEL IN APPLYING FOR POOR PERSON RELIEF AND ASSIGNMENT OF COUNSEL - TWENTY YEAR DELAY BETWEEN FILING OF THE NOTICE OF APPEAL BY TRIAL COUNSEL AND DEFENDANT'S ATTEMPT TO PURSUE THE APPEAL;

DOLL (SCOTT F.), PEOPLE v: (Cal. Date - 9/3/13)

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;

DUMAY (JOSEPH), PEOPLE v:

CRIMES - COMPLAINT - LEGAL SUFFICIENCY OF MISDEMEANOR COMPLAINT CHARGING OBSTRUCTION OF GOVERNMENTAL ADMINISTRATION - COMPLAINT ALLEGING THAT DEFENDANT STOOD BEHIND A POLICE CAR AND HIT ITS TRUNK, WITHOUT ALLEGING THAT THE POLICE HAD COMMUNICATED TO DEFENDANT OR THAT DEFENDANT OTHERWISE WAS AWARE THAT THE POLICE NEEDED HIM TO MOVE SO THEY COULD LEAVE;

DUNBAR (JERMAINE), PEOPLE v:

CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS;

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;

EMPIRE CENTER FOR NEW YORK STATE POLICY, MATTER OF v NEW YORK STATE TEACHERS' RETIREMENT SYSTEM:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - NAMES OF RETIRED MEMBERS OF STATE TEACHERS' RETIREMENT SYSTEM - WHETHER THE NAMES OF RETIREES RECEIVING PENSION PAYMENTS ARE EXEMPT FROM DISCLOSURE UNDER PUBLIC OFFICERS LAW § 89(7);

EMPIRE CENTER FOR NEW YORK STATE POLICY, MATTER OF v TEACHERS' RETIREMENT SYSTEM OF THE CITY OF NEW YORK:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - NAMES OF RETIRED MEMBERS OF CITY OF NEW YORK TEACHERS' RETIREMENT SYSTEM - WHETHER THE NAMES OF RETIREES RECEIVING PENSION PAYMENTS ARE EXEMPT FROM DISCLOSURE UNDER PUBLIC OFFICERS LAW § 87(2)(b) OR PUBLIC OFFICERS LAW § 89(7);

COUNTY OF ERIE v M/A-COM, INC., et al.:

COUNTIES - COUNTY EXECUTIVE - POWER TO COMMENCE ACTION TO RECOVER DAMAGES FROM FORMER COUNTY EMPLOYEE - ABSENCE OF RESOLUTION BY COUNTY LEGISLATURE AUTHORIZING COMMENCEMENT OF ACTION; FRAUD - SUFFICIENCY OF PLEADING;

EUJOY REALTY CORPORATION v VAN WAGNER COMMUNICATIONS, LLC:

(Cal. Date - 10/8/13)

LANDLORD AND TENANT - LEASE - TERMINATION OF LEASE AGREEMENT - LEASED ADVERTISING BILLBOARD - REVIEW OF SIGN OBSTRUCTED BY CONSTRUCTION ON NEARBY SITE - ACTION FOR RENT DUE AND COUNSEL FEES;

EXPEDIA, INC., et al. v CITY OF NEW YORK DEPARTMENT OF FINANCE, et al.: (Cal. Date - 10/9/13)  
TAXATION - HOTEL AND MOTEL OCCUPANCY TAX - EXTENSION OF TAX TO ENCOMPASS SERVICE FEES CHARGED BY TRAVEL INTERMEDIARIES - CONSTITUTIONALITY;

FABRIZI v 1095 AVENUE OF THE AMERICAS, L.L.C., et al.:  
NEGLIGENCE - ELECTRICIAN INJURED BY PIPE FALLING FROM CEILING WHERE GENERAL CONTRACTOR WAS REMODELING A COMMERCIAL SPACE - CLAIMED FAILURE OF DEFENDANTS TO PROVIDE A REQUESTED COUPLING DEVICE TO PREVENT THE PIPE FROM FALLING - WHETHER LABOR LAW § 240(1) APPLIES IN THIS SITUATION; SUMMARY JUDGMENT;

FELICIANO (WILSON), PEOPLE v:  
CRIMES - PLEA OF GUILTY - WHETHER TRIAL COURT PROPERLY CONCLUDED THAT DEFENDANT FAILED TO MEET THE CONDITIONS OF HIS PLEA AGREEMENT - SECOND PLEA AGREEMENT;

FINCH (NATURE G.), PEOPLE v:  
CRIMES - RESISTING ARREST - WHETHER "AUTHORIZED ARREST" ELEMENT OF CRIMINAL CHARGE OF RESISTING ARREST UNDER PENAL LAW § 205.30 CAN BE ESTABLISHED BY CRIMINAL TRESPASS CHARGE FOUND NOT TO BE SUPPORTED BY SUFFICIENT EVIDENCE AS A MATTER OF LAW;

FLAMENBAUM (DECEASED), MATTER OF: (Cal. Date - 10/15/13)  
EXECUTORS AND ADMINISTRATORS - CLAIMS AGAINST ESTATE - MUSEUM'S CLAIM FOR RETURN OF AN ARTIFACT IN POSSESSION OF THE DECEASED; LACHES; ESTATES - ACCOUNTING;

FLINN (GUNTHER J.), PEOPLE v:  
CRIMES - RIGHT TO BE PRESENT AT TRIAL - WHETHER DEFENDANT'S RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF PROCEEDINGS WAS VIOLATED - DEFENDANT'S ATTORNEY WAIVED HIS RIGHT TO BE PRESENT AT SIDEBAR CONFERENCES IN A SIDEBAR CONFERENCE OUTSIDE OF DEFENDANT'S PRESENCE - ANTOMMARCHI RIGHTS; REFUSAL OF TRIAL COURT TO CHARGE LESSER INCLUDED OFFENSES;

FORECLOSURE OF TAX LIENS [COUNTY OF SULLIVAN; MATEJKOWSKI], MATTER OF:  
TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - FORECLOSURE - MOTION TO VACATE DEFAULT JUDGMENT - TIMELINESS OF MOTION - COUNTY'S COMPLIANCE WITH RPTL 1124 AND 1125 - DUE PROCESS;

409-411 SIXTH STREET, LLC v MOGI:  
LANDLORD AND TENANT - RENT REGULATION - PRIMARY RESIDENCE - CHALLENGE TO APPELLATE DIVISION ORDER FINDING THAT THE PREPONDERANCE OF THE EVIDENCE ESTABLISHES THAT TENANT OCCUPIED THE SUBJECT APARTMENT AS HER PRIMARY RESIDENCE DURING THE RELEVANT TIME PERIOD;

FRATANGELO (PATRICIA), PEOPLE v:

CRIMES - INSTRUCTIONS - DRIVING WHILE INTOXICATED - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JURY THAT "UNDER OUR LAW, EVIDENCE THAT THERE WAS LESS THAN .08 OF 1 PER CENTUM BY WEIGHT OF ALCOHOL IN THE DEFENDANT'S BLOOD, IS PRIMA FACIE EVIDENCE THAT THE DEFENDANT WAS NOT IN AN INTOXICATED CONDITION" - BASED UPON THE NUMBER OF DRINKS DEFENDANT CLAIMED TO HAVE HAD AND THE TIME BETWEEN THE STOP AND BREATH TEST, WHICH RESULTED IN A BLOOD ALCOHOL CONTENT (BAC) OF .09%, DEFENDANT'S EXPERT OPINED AT TRIAL THAT DEFENDANT'S BAC AT THE TIME OF THE STOP WOULD HAVE BEEN ONLY .03 TO .04% - VEHICLE AND TRAFFIC LAW §1195(2);

FREZZELL v CITY OF NEW YORK et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - EMERGENCY VEHICLES - RECKLESS DISREGARD - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THERE WERE NO TRIABLE ISSUES OF MATERIAL FACT AS TO WHETHER DEFENDANT POLICE OFFICER ACTED WITH RECKLESS DISREGARD FOR THE SAFETY OF OTHERS WHEN HIS POLICE CAR CRASHED INTO ANOTHER POLICE CAR DRIVEN BY PLAINTIFF;

GAIED, MATTER OF v NEW YORK STATE TAX APPEALS TRIBUNAL:

TAXATION - PERSONAL INCOME TAX - MAINTENANCE OF PERMANENT PLACE OF ABODE - SUBSTANTIAL EVIDENCE;

GALINDO (OLIVERIO), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - WHETHER STATUTORY PRESUMPTION OF INTENT TO USE WEAPON UNLAWFULLY AGAINST ANOTHER IN PENAL LAW § 265.15(4) APPLIES TO CHARGE OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE (PENAL LAW § 265.03[1][b][3]) WHERE DEFENDANT ACCIDENTALLY SHOT HIS COUSIN IN THE LEG; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL;

GARRETT (MARK), PEOPLE v:

CRIMES - VACATUR OF JUDGMENT OF CONVICTION - CPL 440.10 MOTION TO VACATE JUDGMENT BASED ON NEWLY DISCOVERED EVIDENCE - CLAIM THAT PEOPLE VIOLATED THEIR BRADY OBLIGATION BY FAILING TO DISCLOSE THAT THE INTERROGATING POLICE OFFICER HAD BEEN THE DEFENDANT IN AN UNRELATED FEDERAL CIVIL RIGHTS ACTION BY AN ARRESTEE CLAIMING THAT THE OFFICER HAD EXTRACTED A FALSE CONFESSION FROM HIM THROUGH THE USE OF FORCE; WITNESS - IMPEACHMENT;

GILES (DWIGHT), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL MAY BE RAISED IN A CPL 330.30 MOTION INSTEAD OF A CPL 440.10 MOTION; SENTENCE - DUE PROCESS CHALLENGE TO SENTENCE PURSUANT TO PERSISTENT FELONY OFFENDER STATUTE (CPL 400.20) - WHETHER DEFENDANT'S SENTENCE WAS IMPERMISSIBLY ENHANCED BEYOND THE OTHERWISE APPLICABLE MAXIMUM TERM BASED ON FACTS FOUND BY THE JUDGE RATHER THAN THE JURY BEYOND A REASONABLE DOUBT;

GILES v YI:

DISCLOSURE - MEDICAL RECORDS AND REPORTS - EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN ORDERING PLAINTIFF TO PRODUCE MEDICAL RECORDS LINKING PLAINTIFF'S INJURIES TO HIS EXPOSURE TO LEAD-BASED PAINT;

GILLOTTI (NEIL F.), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - WHETHER DEFENDANT ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT HE WAS ENTITLED TO A DOWNWARD DEPARTURE FROM THE SORA RISK LEVEL;

GLYNN (JOHN G.), PEOPLE v: (Cal. Date - 9/9/13)

CRIMES - JUDGES - RECUSAL - JUDGE'S PREVIOUS REPRESENTATION OF DEFENDANT IN AN UNRELATED MATTER AND PREVIOUS PROSECUTION OF DEFENDANT AS AN ASSISTANT DISTRICT ATTORNEY; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; SUFFICIENCY OF THE EVIDENCE; SENTENCE;

GOLB (RAPHAEL), PEOPLE v:

CRIMES - INSTRUCTIONS - DEFINITION OF "FRAUD," "DEFRAUD," "BENEFIT," AND "INJURE" - WHETHER DEFENDANT'S PROSECUTION, AND THE JURY INSTRUCTIONS GIVEN, FOR THE IDENTIFY THEFT, CRIMINAL IMPERSONATION AND FORGERY COUNTS VIOLATED HIS FIRST AMENDMENT RIGHTS; AGGRAVATED HARASSMENT - WHETHER AGGRAVATED HARASSMENT IS COMMITTED WHEN COMMUNICATIONS OF THE TYPE BARRED BY THE STATUTE ARE NOT SENT TO THE VICTIM CRITICIZED IN THOSE COMMUNICATIONS; UNAUTHORIZED USE OF A COMPUTER - WHETHER VIOLATIONS OF INTERNET TERMS OF SERVICE AGREEMENT CONSTITUTES THE CRIME OF UNAUTHORIZED USE OF A COMPUTER; EVIDENCE - WHETHER THE VERDICT IS SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE;

GOLDEN v CITIBANK, N.A.:

BANKS AND BANKING - CASHIER'S CHECK - WHETHER, IN THE ABSENCE OF FRAUD, A BANK MUST HONOR A CASHIER'S CHECK WHEN PRESENTED TO IT BY THE PAYEE OR CAN REFUSE TO PAY ON THE CHECK BY SHOWING THAT (1) NO CONSIDERATION WAS GIVEN FOR ITS ISSUANCE AND (2) THE PARTY DEMANDING PAYMENT IS NOT A HOLDER IN DUE COURSE;

GONNARD, MATTER OF v GUIDO:

PARENT, CHILD AND FAMILY - CUSTODY - WHETHER FAMILY COURT ERRED IN GRANTING MOTHER'S PETITION FOR A CHANGE OF LEGAL AND RESIDENTIAL CUSTODY OF THE PARTIES' CHILD - ATTORNEYS' FEES;

GONZALEZ (VICTOR), PEOPLE v:

CRIMES - INSTRUCTIONS - WHETHER DEFENDANT'S REQUEST FOR AN EXTREME EMOTIONAL DISTURBANCE CHARGE BASED ENTIRELY ON PROOF OFFERED BY THE

PEOPLE IN THEIR DIRECT CASE, IS PROPERLY DEEMED CPL 250.10(2) NOTICE OF THE DEFENDANT'S INTENT TO PRESENT PSYCHIATRIC EVIDENCE, ENTITLING THE PEOPLE TO REOPEN THEIR CASE AND PRESENT PSYCHIATRIC EVIDENCE; WHETHER TRIAL COURT VIOLATED DEFENDANT'S FIFTH AMENDMENT RIGHTS BY CONDITIONING A JURY INSTRUCTION TO WHICH HE WAS ENTITLED ON A WAIVER OF HIS RIGHT TO REMAIN SILENT;

GORDON (HAZEL E.), PEOPLE v:

CRIMES - ROBBERY - PETIT LARCENY - EFFECT OF FAILURE TO RECOVER STOLEN PROPERTY ON ROBBERY CHARGES - ASSAULT - SUFFICIENCY OF THE EVIDENCE;

GORMAN, MATTER OF v RICE, et al:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DOUBLE JEOPARDY - DURING COURSE OF TRIAL ON CHARGES OF DRIVING WHILE INTOXICATED, UNSAFE LANE CHANGE AND ENDANGERING THE WELFARE OF A CHILD, TRIAL JUDGE SUA SPONTE DECLARED A MISTRIAL BUT, PRIOR TO THE JURY'S DISCHARGE, RESCINDED THE DECLARATION AND DECLARED A MISTRIAL ON THE CONSENT OF PETITIONER - WHETHER RETRIAL IS BARRED ON THE GROUND OF DOUBLE JEOPARDY;

GRUBSTEIN (HOWARD), PEOPLE v:

CRIMES - PLEA OF GUILTY - MOTION TO WITHDRAW GUILTY PLEA TO DRIVING WHILE INTOXICATED (DWI) ON THE GROUND, AMONG OTHERS, THAT THE COURT DID NOT ADVISE THE SELF-REPRESENTED DEFENDANT THAT A SUBSEQUENT DWI OFFENSE COULD BE CHARGED AS A FELONY - MOTION TREATED AS A MOTION TO VACATE THE JUDGMENT OF CONVICTION UNDER CPL 440.10 - WHETHER THE APPELLATE TERM ERRED IN CONCLUDING THAT CPL 440.10(C) APPLIED TO BAR DEFENDANT'S CLAIM BECAUSE OF HIS FAILURE TO CHALLENGE THE PLEA ON DIRECT APPEAL;

GUAMAN (LUIS), PEOPLE v:

CRIMES - INFORMATION - FORCIBLE TOUCHING - PENAL LAW § 130.52 - WHETHER ACCUSATORY INSTRUMENT WAS FACIALLY INSUFFICIENT FOR FAILING TO ALLEGE THE ELEMENT OF "FORCE" WHERE DEFENDANT "RUBBED AGAINST" THE COMPLAINANT SUBWAY RIDER;

GYABAAB v RIVLAB TRANSPORTATION CORP., et al.:

ATTORNEY AND CLIENT - COMPENSATION - ATTORNEY'S LIEN - WHETHER SETTLEMENT OF PERSONAL INJURY ACTION OCCURRED, TRIGGERING PAYMENT OF LAW FIRM'S CONTINGENCY FEE PER RETAINER AGREEMENT;

H. (DARYL), PEOPLE v: (Cal. Date - 9/9/13)

CRIMES - WITNESSES - WHETHER THE TRIAL COURT'S RULINGS CURTAILING CROSS EXAMINATION OF A DOCTOR AND OF THE VICTIM'S FATHER DEPRIVED DEFENDANT OF THE RIGHT TO PRESENT A DEFENSE AND THE RIGHT TO A FAIR TRIAL; DUE PROCESS;

HAGGERTY, JR. (JOHN F.), PEOPLE v:

CRIMES - INDICTMENT - VARIANCE BETWEEN THEORY OF INDICTMENT AND PROOF AT TRIAL - WHETHER THE EVIDENCE AT TRIAL SHOWED ONLY THAT DEFENDANT STOLE FROM THE INDEPENDENCE PARTY RATHER THAN FROM NEW YORK CITY MAYOR BLOOMBERG, AS CHARGED IN THE INDICTMENT; EVIDENCE - WHETHER TESTIMONY ABOUT THE TERMS OF THE BLOOMBERG REVOCABLE TRUST VIOLATED THE BEST EVIDENCE RULE;

HAHN, MATTER OF v WILLIAMS:

LICENSES - FIREARMS - CHALLENGE TO DETERMINATION REVOKING PETITIONER'S PISTOL PERMIT UPON THE GROUND THAT PETITIONER'S DEMEANOR IN THE COURTROOM DEMONSTRATED THAT HE DID NOT POSSESS THE TEMPERAMENT, DEMEANOR AND JUDGMENT NECESSARY TO HAVE SUCH A PERMIT - ALLEGED VIOLATION OF PETITIONER'S RIGHTS UNDER THE SECOND AMENDMENT OF THE FEDERAL CONSTITUTION;

HANDLER, MATTER OF v DI NAPOLI:

STATE - COMPTROLLER - AUTHORITY TO CONDUCT AUDIT OF MEDICAL SERVICES PROVIDER'S BILLING RECORDS;

HAMILTON v MILLER, et al.:

DISCLOSURE - MEDICAL RECORDS AND REPORTS - EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN ORDERING PLAINTIFF TO PRODUCE MEDICAL RECORDS LINKING PLAINTIFF'S INJURIES TO HIS EXPOSURE TO LEAD-BASED PAINT; EVIDENCE - JUDICIAL NOTICE - ACTION FOR DAMAGES RESULTING FROM EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ERRED IN DENYING PLAINTIFF'S REQUEST FOR IT TO TAKE JUDICIAL NOTICE OF CONGRESSIONAL FINDINGS IN THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992 (42 USC 4851);

HANSON (PAMELA), PEOPLE v:

CRIMES - APPEAL - ALLEGED DEPRIVATION OF FAIR TRIAL BY SUPREME COURT'S FAILURE TO DISCLOSE AND RESPOND TO TWO JURY NOTES - CPL 330.13 - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, BECAUSE THE RECORD CONTAINED NO EVIDENCE THAT THE TWO NOTES ACTUALLY WERE RECEIVED BY SUPREME COURT, DEFENDANT'S ARGUMENT REGARDED MATTERS DEHORS THE RECORD AND WAS NOT PROPERLY BEFORE THE APPELLATE DIVISION;

HARRIS (JOSEPH), PEOPLE v: (Cal. Date - 10/16/13)

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER THE TRIAL COURT ERRED IN IMPOSING CONSECUTIVE SENTENCES FOR THE CONVICTIONS OF ATTEMPTED MURDER IN THE SECOND DEGREE AND CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE;

HAWKINS (SEAN), PEOPLE v:

CRIMES - VERDICT - SETTING VERDICT ASIDE - WHETHER MOTION TO SET ASIDE VERDICT, MADE BEFORE SENTENCING BUT NOT MEETING THE

REQUIREMENT THAT SUCH MOTION BE MADE ON A "GROUND APPEARING IN THE RECORD" (CPL 330.30[1]) MAY BE TREATED AS A "DE FACTO" MOTION TO VACATE THE JUDGMENT UNDER CPL 440.10 - DEFENDANT MOVED TO SET ASIDE THE VERDICT ON THE GROUND THAT HIS RIGHT TO PUBLIC TRIAL WAS VIOLATED;

HEIDGEN (MARTIN), PEOPLE v: (Cal. Date - 10/8/13)  
CRIMES - PLEA OF GUILTY - CHALLENGE TO ALFORD PLEA;

HEIDGEN (MARTIN), PEOPLE v: (Cal. Date - 10/8/13)  
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;

HERNANDEZ (FELIX), PEOPLE v:  
CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL WHO PURPORTEDLY FAILED TO DISCUSS THE IMMIGRATION CONSEQUENCES (DEPORTATION) OF GUILTY PLEA;

HILL (DERRICK), PEOPLE v:  
CRIMES - RIGHT TO REMAIN SILENT - WHETHER DEFENDANT OPENED DOOR TO TESTIMONY ABOUT HIS DECLINING TO MAKE STATEMENT TO ARRESTING POLICE OFFICER BY ASKING THE ARRESTING OFFICER ON CROSS EXAMINATION A SERIES OF QUESTIONS ELICITING PROOF THAT DEFENDANT HAD BEEN POLITE AND COOPERATIVE WITH POLICE, HAVING AGREED TO TAKE A BREATHALYZER TEST AND VARIOUS FIELD SOBRIETY TESTS - HARMLESS ERROR;

HOERGER, MATTER OF v SPOTA:  
ELECTIONS - DESIGNATING PETITIONS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE STATE HAS PREEMPTED THE ISSUE OF TERM LIMITS FOR DISTRICT ATTORNEYS AND, THUS, THAT THE COUNTY OF SUFFOLK LACKED THE POWER TO PLACE A TERM LIMIT ON THE OFFICE OF THE DISTRICT ATTORNEY FOR THE COUNTY OF SUFFOLK;

HOOVER, et al. v NEW HOLLAND NORTH AMERICA, INC., &c. et al.:  
PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - TRACTOR-DRIVEN POST HOLE DIGGER - ENTANGLEMENT HAZARD - WHETHER REMOVAL OF DAMAGED SAFETY SHIELD BY OWNER OF POST HOLE DIGGER WAS A SUBSTANTIAL ALTERATION OR MODIFICATION ABSOLVING SELLER AND DISTRIBUTOR OF POST HOLE DIGGER OF LIABILITY - PROXIMATE CAUSE - SUFFICIENCY OF THE EVIDENCE; EVIDENCE - WHETHER VERDICT WAS BASED ON IMPROPERLY ADMITTED EVIDENCE; ALLEGEDLY ERRONEOUS JURY INSTRUCTIONS AND VERDICT SHEET;

HRONCICH, MATTER OF v CON EDISON, et al.: (Cal. Date - 9/9/13)  
 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 CAUSE(S) OF DEATH - WORKERS'  
 COMPENSATION LAW § 15(7);

HUGHES (FRANKLIN), PEOPLE v: (Cal. Date - 10/9/13)  
 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);

IDT CORP., et al. v TYCO GROUP, S.A.R.L., et al.:  
 CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - OBLIGATION TO  
 NEGOTIATE - BREACH OF SETTLEMENT AGREEMENT AND DUTY TO NEGOTIATE IN  
 GOOD FAITH - CONDITIONS PRECEDENT - EFFECT OF PRIOR APPELLATE  
 DIVISION AND COURT OF APPEALS DECISIONS IN THIS CASE WITH RESPECT  
 TO DEFENDANTS' OBLIGATIONS UNDER THE SETTLEMENT AGREEMENT -  
 EXTINGUISHMENT OF CONTRACTUAL OBLIGATIONS - COLLATERAL ESTOPPEL -  
 RES JUDICATA;

VILLAGE OF ILION, et al. v COUNTY OF HERKIMER:  
 DAMAGES - MEASURE OF DAMAGES - WHETHER TRIAL COURT ERRED IN  
 DECLINING TO DISCOUNT THE DAMAGES AWARDED BY THE JURY TO PRESENT  
 VALUE AND IN AWARDING PREJUDGMENT INTEREST ON THE UNDISCOUNTED  
 AWARD;

TOWN OF ISLIP, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT  
 RELATIONS BOARD, et al.:  
 LABOR UNIONS - COLLECTIVE BARGAINING - PAST PRACTICE - ASSIGNMENT  
 OF TOWN VEHICLES TO EMPLOYEES FOR PERMANENT USE - WHETHER THE  
 APPELLATE DIVISION PROPERLY CONFIRMED A DETERMINATION BY THE NEW  
 YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD, WHICH CONCLUDED THAT  
 THE TOWN IMPERMISSIBLY ALTERED A PAST PRACTICE WHEN IT UNILATERALLY  
 DISCONTINUED CERTAIN EMPLOYEES' RIGHTS TO USE TOWN VEHICLES ON A  
 24-HOUR-A-DAY BASIS;

JFK HOLDING COMPANY, LLC, et al. v CITY OF NEW YORK, et al.:  
 (Cal. Date - 10/16/13)  
 LANDLORD AND TENANT - LEASE - BREACH OF LEASE CONDITION -  
 DETERIORATION OF PREMISES - WHETHER TRIABLE ISSUES OF FACT EXIST AS  
 TO WHETHER THE SALVATION ARMY USED COMMERCIALY REASONABLE EFFORTS  
 TO OBTAIN CERTAIN PAYMENTS TO WHICH IT WAS ENTITLED UNDER A  
 SERVICES AGREEMENT WITH OTHER DEFENDANTS - WHETHER DEFENDANT  
 SALVATION ARMY WAS NONETHELESS ENTITLED TO SUMMARY JUDGMENT UNDER A  
 LIMITATION OF DAMAGES PROVISION IN ITS LEASE - RES JUDICATA;

JACOBSEN v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION:  
CIVIL RIGHTS - DISCRIMINATION BASED ON DISABILITY - OCCUPATIONAL LUNG DISEASE - WRONGFUL TERMINATION - EMPLOYEE'S ABILITY TO PERFORM ESSENTIAL JOB DUTIES - REASONABLE ACCOMMODATION; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF FACT;

JEFFERSON v STUBBE:  
COSTS - POOR PERSONS - CHALLENGE TO APPELLATE DIVISION ORDER THAT AFFIRMED A SUPREME COURT ORDER DENYING PLAINTIFF'S MOTION FOR PERMISSION TO PROCEED AS A POOR PERSON, UPON THE GROUND THAT THE ACTION DOES NOT HAVE "ARGUABLE MERIT";

JENKINS (BENJAMIN), PEOPLE v:  
CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH FOR GUN AFTER LAWFUL ARREST OF DEFENDANT IN HIS APARTMENT FOLLOWING OBSERVATION OF DEFENDANT WITH GUN - WHETHER EMERGENCY EXCEPTION TO WARRANT REQUIREMENT APPLIES;

JIMENEZ (JOSEFINA), PEOPLE v:  
CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH OF DEFENDANT'S SHOULDER BAG AFTER IT HAD BEEN REMOVED FROM HER SHOULDER AND AFTER SHE HAD BEEN HANDCUFFED AND FRISKED; WHETHER SEARCH OF BAG WAS LAWFUL AS INCIDENT TO A LAWFUL ARREST; SUPPRESSION MOTION;

JOHNSON (RAUL), PEOPLE v:  
INVESTIGATION OF A STABBING WHICH HE SAID HAD BEEN CONFESSED TO BY SOMEONE ELSE - DURING SUBSEQUENT POLICE QUESTIONING ABOUT THE STABBING, DEFENDANT CONFESSED TO COMMITTING THE ASSAULT HIMSELF - WHETHER DEFENDANT'S SUBSEQUENT WAIVER OF MIRANDA RIGHTS WAS VALID UNDER THE CIRCUMSTANCES; SUPPRESSION HEARING;

JOHNSON (TODD), PEOPLE v:  
CRIMES - ARREST - PROBABLE CAUSE - DISORDERLY CONDUCT COMMITTED IN PRESENCE OF POLICE OFFICER (CPL 140.10[1][a]; PENAL LAW § 240.20[6]) - WHETHER THE APPELLATE DIVISION ERRED AS A MATTER OF LAW IN RULING THAT DEFENDANT'S FAILURE TO OBEY A POLICE OFFICER'S DIRECTION TO MOVE FROM THE STORE FRONT WHERE HE WAS CONGREGATING WITH THREE OTHER MEN PROVIDED PROBABLE CAUSE TO ARREST HIM FOR DISORDERLY CONDUCT, "GIVEN THE INFORMATION THE OFFICER HAD ABOUT ... GANG PROBLEMS THAT HAD OCCURRED AT THAT LOCATION IN THE PAST AND THE GANG BACKGROUND OF SEVERAL OF THE MEN" - INTERPRETATION OF PENAL LAW § 240.20 THAT ALLEGEDLY RENDERS IT UNCONSTITUTIONALLY VAGUE;

JOHNSON (SHARMELLE), PEOPLE v:  
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WHETHER DEFENDANT'S PLEA ALLOCUTION NEGATED AN ESSENTIAL ELEMENT OF THE

CRIME CHARGED; RAPE IN THE SECOND DEGREE - WHETHER VICTIM WAS "MENTALLY INCAPACITATED" DUE TO THE INFLUENCE OF AN INTOXICATING SUBSTANCE ADMINISTERED TO HER (PENAL LAW §§ 130.30[2] AND 130.00[6]);

JONES (HAROLD), PEOPLE v: (Cal. Date 10/9/13)

CRIMES - POSSESSION OF WEAPON - POSSESSION OF LOADED FIREARM IN HOME BY DEFENDANT PREVIOUSLY CONVICTED OF A CRIME (PENAL LAW § 265.03[3]) - APPLICABILITY OF "HOME OR PLACE OF BUSINESS" EXCEPTION (PENAL LAW § 265.02[1]);

KANCHARLA (V. REDDY), PEOPLE v:

CRIMES - EVIDENCE - WHETHER EVIDENCE ADMITTED REGARDING THE ENTERPRISE CORRUPTION COUNT WHICH SHOULD NOT HAVE BEEN CHARGED UNDULY PREJUDICED DEFENDANT REGARDING THE REMAINING CHARGES; SUFFICIENCY OF EVIDENCE TO SUPPORT DEFENDANT'S CONVICTION ON THE SCHEME TO DEFRAUD CHARGE RELATING TO STEEL INSPECTIONS; WHETHER THE TRIAL COURT ERRED IN EXCLUDING EVIDENCE OFFERED IN SUPPORT OF THE DEFENSE TO CHARGES RELATING TO MIX DESIGNS;

KANE v GALTIERI:

APPEALS - APPEALABLE PAPER - CHALLENGE TO APPELLATE DIVISION NOTICE REJECTING APPELLANT'S BRIEFS FOR FILING;

KAPON, MATTER OF v KOCH:

DISCLOSURE - EXAMINATION BEFORE TRIAL - OUT-OF-STATE SUBPOENA - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUPREME COURT PROVIDENTLY EXERCISED ITS DISCRETION IN DENYING A PETITION TO QUASH OUT-OF-STATE SUBPOENAS OR FOR A PROTECTIVE ORDER BECAUSE "PETITIONERS FAILED TO SHOW THAT THE REQUESTED DEPOSITION TESTIMONY IS IRRELEVANT TO THE PROSECUTION OF THE CALIFORNIA ACTION" AND "FAILED TO ARTICULATE A SUFFICIENT, NONSPECULATIVE BASIS FOR POSTPONING THEIR DEPOSITIONS OR IMPOSING RESTRICTIONS ON THE SCOPE AND USE OF THEIR DEPOSITION TESTIMONY";

KASLOW, MATTER OF v CITY OF NEW YORK, et al.:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - SERVICE CREDIT FOR CIVILIAN SERVICE - WHETHER THE COURTS BELOW ERRED IN INTERPRETING RETIREMENT AND SOCIAL SECURITY LAW § 504-a TO ADD TO PETITIONER'S TIER 3 RETIREMENT BENEFIT FOR CORRECTIONAL SERVICES A BENEFIT CALCULATION FOR NON-CORRECTIONAL SERVICES;

KIMS (STANLEY R., II), PEOPLE v:

CRIMES - INSTRUCTIONS - CONTROLLED SUBSTANCE IN OPEN VIEW - DEFENDANT NOT IN CLOSE PROXIMITY TO CONTROLLED SUBSTANCE WHEN IT WAS FOUND - WHETHER STATUTORY "ROOM PRESUMPTION" (PENAL LAW § 220.25[2]) APPLIES TO A DEFENDANT WHO LEAVES THE ROOM SHORTLY BEFORE POLICE FIND CONTROLLED SUBSTANCES - HARMLESS ERROR; UNLAWFUL SEARCH AND SEIZURE - WHETHER EVIDENCE FROM RESIDENCE SHOULD HAVE

BEEN SUPPRESSED AS RESULTING FROM A WARRANTLESS "PROTECTIVE SWEEP" BY POLICE; PROOF OF OTHER CRIMES - PRIOR DRUG SALES - ALLEGED MOLINEUX ERROR; ALLEGED PROSECUTORIAL MISCONDUCT;

KOCH, MATTER OF v SHEEHAN: (Cal. Date - 9/9/13)

SOCIAL SERVICES - DISQUALIFICATION OR TERMINATION AS A MEDICAID PROVIDER - SCOPE OF AUTHORITY OF OFFICE OF MEDICAID INSPECTOR GENERAL - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE DETERMINATION OF THE OFFICE OF THE NEW YORK STATE MEDICAID INSPECTOR GENERAL (OMIG) WAS ARBITRARY AND CAPRICIOUS - WHETHER OMIG HAD THE AUTHORITY TO EXCLUDE PETITIONER FROM THE MEDICAID PROGRAM PURSUANT TO 18 NYCRR 515.7(e) BASED ON A CONSENT ORDER IN WHICH PETITIONER DID NOT CONTEST HAVING COMMITTED MISCONDUCT BY PRACTICING MEDICINE WITH NEGLIGENCE IN THE TREATMENT OF TWO EMERGENCY ROOM PATIENTS WHO WERE NOT ALLEGED TO BE MEDICAID PATIENTS;

KOEHL, MATTER OF v FISCHER:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTION TO RENEW/REARGUE;

KOLBE, et al. v TIBBETTS, et al.: (Cal. Date - 11/14/13)

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - HEALTH INSURANCE - WHETHER THE TERMS OF THE RESPECTIVE COLLECTIVE BARGAINING AGREEMENTS IN EFFECT AT THE TIME EACH SCHOOL DISTRICT EMPLOYEE PLAINTIFF RETIRED, PROVIDING THAT THE RETIREE WAS ENTITLED TO SAME HEALTH INSURANCE COVERAGE AS THE BARGAINING UNIT, PREVENTED THE SCHOOL DISTRICT FROM REDUCING BENEFITS PROVIDED TO PLAINTIFFS WHEN BENEFITS FOR REPRESENTED EMPLOYEES WERE REDUCED;

KORDISH (ROBERT), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - DISMISSAL OF APPEAL TAKEN IN 1992 WHERE FORMER FUGITIVE ATTEMPTED TO PROCEED WITH THE APPEAL APPROXIMATELY 20 YEARS LATER - WHETHER DEFENDANT WAS ENTITLED TO THE ASSISTANCE OF COUNSEL TO OPPOSE THE DISMISSAL OF HIS APPEAL;

KORELIS v CONRIV REALTY CORP.:

STIPULATIONS - STIPULATION IN OPEN COURT - CHALLENGE TO STIPULATION OF SETTLEMENT ENTERED IN OPEN COURT;

MATTER OF KOZIOL, A SUSPENDED ATTORNEY:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - SUSPENSION;

KOZIOL v STATE OF NEW YORK, et al.:

JUDGMENTS - ENFORCEMENT; TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - DEPARTMENT OF TAXATION AND FINANCE DOCKETED WARRANT AGAINST PLAINTIFF FOR CHILD SUPPORT ARREARS - SEIZURE AND SALE OF MOTOR VEHICLES AND OTHER PERSONAL PROPERTY; WHETHER PLAINTIFF'S CLAIMS ARE BARRED BY FAILURE TO ADMINISTRATIVELY CHALLENGE EITHER REFERRAL OF SUPPORT CASE TO THE DEPARTMENT OF TAXATION AND FINANCE OR THE SUBSEQUENT ISSUANCE OF A TAX WARRANT;

KRUGER (KEVIN), PEOPLE v:

CRIMES - APPEAL - EXTENSION OF TIME TO FILE AN APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS - WHETHER THE APPELLATE DIVISION ERRED IN DENYING DEFENDANT'S APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING TO FILE A LATE APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS UPON THE GROUND THAT PEOPLE v SYVILLE (15 NY3d 391) DID NOT PROVIDE FOR SUCH RELIEF;

LANDAUER LIMITED v JOE MONANI FISH CO., INC.:

PROCESS - SERVICE OF PROCESS - SERVICE ON CORPORATION - DISMISSAL OF ACTION TO ENFORCE AN ENGLISH MONEY JUDGMENT ENTERED ON DEFAULT BECAUSE OF PLAINTIFF'S FAILURE TO ESTABLISH THAT IT OBTAINED PERSONAL JURISDICTION OVER DEFENDANT IN THE FOREIGN ACTION PURSUANT TO CPLR 311(a)(1) - PROCESS SERVER'S FAILURE TO ASCERTAIN WHETHER INDIVIDUALS SERVED WERE AUTHORIZED TO ACCEPT SERVICE ON CORPORATION'S BEHALF - EFFECT OF DEFENDANT'S ACTUAL NOTICE OF THE FOREIGN ACTION - JOHN GALLIANO, S.A. v STALLION, INC. (15 NY3d 75[2010]);

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

(Cal. Date - 9/3/13)

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;

LEWIS (ANTHONY), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - INSTALLATION OF GLOBAL POSITIONING SYSTEM DEVICE ON VEHICLE WITHOUT WARRANT - ALLEGED VIOLATION OF STATE AND FEDERAL CONSTITUTIONS - HARMLESS ERROR; INSTRUCTIONS - VERDICT SHEET - WHETHER VERDICT SHEET VIOLATED CPL 310.20(2) BY LISTING STORES WHERE CREDIT CARD FRAUDS OCCURRED, RATHER THAN THE BANK AND CARDHOLDER VICTIMS, WITH RESPECT TO CERTAIN COUNTS; STANDARD OF REVIEW - WHETHER THE APPELLATE DIVISION USED THE WRONG STANDARD IN DETERMINING THAT DEFENDANT'S GRAND LARCENY CONVICTIONS WERE NOT AGAINST THE WEIGHT OF THE EVIDENCE; EXPERT WITNESS - DENIAL OF VOICE IDENTIFICATION EXPERT; SENTENCE - ALLEGED DUE PROCESS VIOLATIONS;

LLOYD-DOUGLAS (COLLIN F.), PEOPLE v:

CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS - HARMLESS ERROR;

LONG ISLAND LIGHTING COMPANY v ALLIANZ:

INSURANCE - DISCLAIMER OF COVERAGE - WHETHER THE DUTY TO DISCLAIM AS SOON AS REASONABLY POSSIBLE SET FORTH IN INSURANCE LAW § 3420(d) APPLIES TO ENVIRONMENTAL PROPERTY DAMAGE CLAIMS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT TRIABLE ISSUES OF FACT EXISTED AS TO WHETHER INSURERS WAIVED THEIR RIGHT TO DISCLAIM COVERAGE BASED UPON THE INSUREDS' LATE NOTICE OF AN OCCURRENCE;

LOPEZ, MATTER OF v EVANS:

PAROLE - REVOCATION - WHETHER THE DUE PROCESS CLAUSE OF THE FEDERAL CONSTITUTION PROHIBITS A PAROLE REVOCATION PROCEEDING FROM GOING FORWARD AGAINST A PAROLEE WHO, ONLY A SHORT TIME EARLIER, WAS FOUND MENTALLY INCOMPETENT TO STAND TRIAL IN A CRIMINAL PROSECUTION BASED ON THE SAME CHARGES THAT ARE AT ISSUE IN THE REVOCATION PROCEEDING;

LOPEZ (TEOFILO), a/k/a LOPEZ (GARCIA) a/k/a GARCIA (ISIDORO), PEOPLE v:

APPEAL - DISMISSAL - TIMELY NOTICE OF APPEAL FILED FOR DEFENDANT WHO BECAME A FUGITIVE, WAS TRIED IN ABSENTIA AND CONVICTED IN 1999 - AFTER DEFENDANT'S CAPTURE, APPELLATE DIVISION DISMISSED THE APPEAL FOR FAILURE TO TIMELY PROSECUTE AT A TIME WHEN DEFENDANT WAS REPRESENTED BY COUNSEL BUT HAD NOT YET SOUGHT POOR PERSON RELIEF AND COUNSEL HAD NOT RECEIVED OR REVIEWED THE RECORD - WHETHER APPELLATE DIVISION ABUSED ITS DISCRETION IN DISMISSING THE APPEAL;

LUDWIG (DANIEL A.), PEOPLE v:

CRIMES - EVIDENCE - PRIOR CONSISTENT STATEMENTS - WHETHER THE TRIAL COURT ERRED IN ALLOWING ADMISSION OF TESTIMONY FROM SEVERAL WITNESSES ABOUT WHEN AND HOW THE VICTIM DISCLOSED THE ABUSE; WHETHER THE TRIAL COURT ERRED IN PRECLUDING TESTIMONY FROM COMPLAINANT'S GRANDMOTHER THAT THE DEFENSE CONTENDED SHOWED THE VICTIM'S MOTIVE TO LIE;

M. (MARQUAN W.), PEOPLE v:

CRIMES - CYBER-BULLYING - ALBANY LOCAL LAW NO. 11 OF 2010 - CONSTITUTIONAL CHALLENGE TO LOCAL LAW THAT CRIMINALIZES "ANY ACT OF COMMUNICATING OR CAUSING A COMMUNICATION TO BE SENT BY MECHANICAL OR ELECTRONIC MEANS, INCLUDING POSTING STATEMENTS ON THE INTERNET OR THROUGH A COMPUTER OR EMAIL NETWORK, DISSEMINATING EMBARRASSING OR SEXUALLY EXPLICIT PHOTOGRAPHS; DISSEMINATING PRIVATE, PERSONAL, FALSE OR SEXUAL INFORMATION, OR SENDING HATE MAIL, WITH NO LEGITIMATE PRIVATE, PERSONAL, OR PUBLIC PURPOSE, WITH THE INTENT TO HARASS, ANNOY, THREATEN, ABUSE, TAUNT, INTIMIDATE, TORMENT, HUMILIATE, OR OTHERWISE INFLICT SIGNIFICANT EMOTIONAL HARM ON ANOTHER PERSON" - ALLEGED VIOLATION OF DEFENDANT'S FIRST AMENDMENT RIGHTS - WHETHER THE LOCAL LAW IS UNCONSTITUTIONALLY OVERBROAD OR VAGUE ON ITS FACE OR AS APPLIED TO DEFENDANT;

MALDONADO (JOSE), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED DEFENDANT'S CONVICTION FOR DEPRAVED INDIFFERENCE MURDER WHERE THERE WAS TESTIMONY THAT DEFENDANT TRIED TO AVOID HURTING ANYONE WHEN ATTEMPTING TO ESCAPE FROM POLICE AND WAS REMORSEFUL AFTERWARD;

MANGANO, et al. v SILVER, et al.:

MUNICIPAL CORPORATIONS - HOME RULE POWERS - METROPOLITAN COMMUTER TRANSPORTATION MOBILITY TAX LAW (MTA EMPLOYER TAX LAW) (CHAPTER 25, PART C, § 1 OF THE LAWS OF 2009) (TAX LAW ARTICLE 23) - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE MTA EMPLOYER TAX LAW IS A SPECIAL LAW SERVING A SUBSTANTIAL STATE CONCERN, SO THAT A HOME RULE MESSAGE WAS NOT REQUIRED BEFORE ITS ENACTMENT;

MARTINEZ (CHRISTOPHER), PEOPLE v:

CRIMES - DISCLOSURE - ROSARIO MATERIAL - DEFENDANT'S ENTITLEMENT TO AN ADVERSE INFERENCE CHARGE WHERE AN OFFICER'S HANDWRITTEN NOTES OF HIS INTERVIEW WITH THE COMPLAINANT WERE LOST; SUFFICIENCY OF THE EVIDENCE;

MARTINEZ (SELBIN), PEOPLE v:

CRIMES - DISCLOSURE - ROSARIO MATERIAL - DEFENDANT'S ENTITLEMENT TO AN ADVERSE INFERENCE CHARGE WHERE A POLICE OFFICER'S HANDWRITTEN NOTES OF HIS INTERVIEW WITH THE COMPLAINANT WERE LOST; INSTRUCTIONS - IDENTIFICATION - WHETHER THE TRIAL COURT IMPERMISSIBLY MARSHALED EVIDENCE AGAINST DEFENDANT THROUGH ITS JURY INSTRUCTION ON IDENTIFICATION;

MASHREQBANK PSC v AHMED HAMAD AL GOSAIBI & BROTHERS COMPANY (AND A THIRD-PARTY ACTION):

COURTS - FORUM NON CONVENIENS - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT SUPREME COURT ABUSED ITS DISCRETION AS A MATTER OF LAW BY DISMISSING THE COMPLAINT ON ITS OWN MOTION IN THE MAIN ACTION ON THE GROUND OF FORUM NON CONVENIENS, WHERE THE ONLY MOTION BEFORE THE COURT WAS A THIRD-PARTY DEFENDANT'S MOTION TO DISMISS THE THIRD-PARTY COMPLAINT;

McCRAVY (LIONEL), PEOPLE v:

CRIMES - BURGLARY - DWELLING - MULTIPLE UNIT BUILDING - WHETHER DEFENDANT WAS PROPERLY CONVICTED OF TWO COUNTS OF SECOND-DEGREE BURGLARY UNDER PENAL LAW § 140.25(2) BASED UPON HIS ENTRIES INTO A HOTEL'S EMPLOYEE LOCKER ROOM AND A MUSEUM LOCATED IN THE SAME BUILDING AS THE HOTEL; SENTENCE - CONSECUTIVE SENTENCES - WHETHER CONSECUTIVE SENTENCES MAY BE IMPOSED BASED UPON CONVICTIONS OF TWO COUNTS OF BURGLARY ARISING OUT OF ENTRIES INTO SEPARATE COMPONENTS OF A SINGLE BUILDING DURING ONE CONTINUOUS COURSE OF CRIMINAL ACTIVITY;

McCray (TERENCE), PEOPLE v:

CRIMES - DISCLOSURE - WHETHER COUNTY COURT ERRED IN NOT TURNING OVER TO DEFENDANT CERTAIN OF THE RAPE VICTIM'S MENTAL HEALTH RECORDS; EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - CROSS-EXAMINATION ABOUT HYPERSEXUALITY - RAPE SHIELD LAW - LIMITATION OF DEFENSE COUNSEL'S CROSS-EXAMINATION DESIGNED TO ELICIT TESTIMONY ABOUT THE VICTIM'S ERRATIC BEHAVIOR - DENIAL OF MOTION TO COMPEL PROSECUTION TO OBTAIN CERTAIN OF THE VICTIM'S HOSPITALIZATION RECORDS; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO OBJECT TO ADMISSION OF CERTAIN EVIDENCE OR REQUEST LIMITING INSTRUCTIONS;

McPHERSON (FRANKLIN), PEOPLE v: (Cal. Date - 10/8/13)

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;

MELCHER v GREENBERG TRAURIG, LLP, et al.:

LIMITATION OF ACTIONS - WHEN CAUSE OF ACTION ACCRUES - WHETHER PLAINTIFF'S JUDICIARY LAW § 487 CAUSE OF ACTION WAS TIMELY COMMENCED;

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., et al. v GLOBAL STRAT, INC., et al.: (Cal. Date - 9/10/13)

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;

MONETTE et al. v TRUMMER, et al.:

MOTOR VEHICLES - OWNER OF VEHICLE - VICARIOUS LIABILITY UNDER VEHICLE AND TRAFFIC LAW § 388 - WHETHER THERE ARE ISSUES OF FACT REGARDING WHETHER DEFENDANT CAR DEALERSHIP HAD SUFFICIENT "USE AND POSSESSION" OF THE VEHICLE TO BE CONSIDERED A CO-OWNER WITH DEFENDANT JESSE BALL; SUMMARY JUDGMENT;

TOWN OF MONTAUK, MATTER OF v CORTEZ-VASQUEZ, &c.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CHALLENGE TO SUPREME COURT JUDGMENT DISMISSING A CPLR ARTICLE 78 PROCEEDING AS UNTIMELY;

MORPHEUS CAPITAL ADVISORS, LLC v UBS AG, et al.:

CONTRACTS - BREACH OF CONTRACT - CLAIMS ARISING OUT OF AGREEMENT GIVING PLAINTIFF THE RIGHT TO BROKER THE SALE OF CERTAIN STUDENT LOAN ASSETS - FRUSTRATION OF PURPOSE DEFENSE; DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT WITH PREJUDICE;

MORRIS (CHADON), PEOPLE v: (Cal. Date - 9/4/13)

CRIMES - EVIDENCE - TAPE RECORDINGS - WHETHER 911 CALL REPORTING THAT A PERSON MATCHING DEFENDANT'S DESCRIPTION COMMITTED AN UNCHARGED GUNPOINT ROBBERY WAS PROPERLY ADMITTED INTO EVIDENCE TO PROVIDE BACKGROUND INFORMATION AS TO WHY THE POLICE STOPPED DEFENDANT;

MORRIS v PAVARINI CONSTRUCTION et al.:

LABOR - SAFE PLACE TO WORK - WHETHER A LABOR LAW § 241(6) CLAIM, PREDICATED ON A 12 NYCRR § 23-2.2(a) VIOLATION, LIES WHERE PLAINTIFF'S INJURY IS CAUSED BY A FALLING COMPONENT OF A "FORM" (MOLD) USED IN THE FABRICATION OF CONCRETE WALLS;

MURPHY, MATTER OF v NEW YORK STATE DIVISION OF HOUSING and COMMUNITY RENEWAL, et al.: (Cal. Date - 9/4/13)

LANDLORD AND TENANT - RENT REGULATION - SUCCESSION RIGHTS OF FAMILY MEMBERS RESIDING IN MITCHELL-LAMA HOUSING - EXCEPTION TO THE ANNUAL INCOME AFFIDAVIT REQUIREMENT - LIMITED-PROFIT HOUSING COMPANIES ACT AND PRIVATE HOUSING FINANCE LAW;

MYERS (ARIEL), PEOPLE v:

CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE TESTIMONY REGARDING PRIOR UNCHARGED CRIME, UNDER THE "IDENTITY" EXCEPTION SET FORTH IN MOLINEUX;

NASH v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY:

JUDGMENTS - VACATUR OF JUDGMENT - REVERSAL IN RELATED BUT SEPARATE ACTION - CPLR 5025(a)(5) - WHETHER SUPREME COURT ERRED IN GRANTING DEFENDANT'S MOTION TO VACATE THE JUDGMENT;

ESTATE OF MURIEL M. NEALON, MATTER OF (DECEASED):

FRAUD - CONSTRUCTIVE FRAUD - EXISTENCE OF CONFIDENTIAL RELATIONSHIP - WHETHER VULNERABLE PARTY MAINTAINED ABILITY TO EXERCISE FREE WILL - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT WHETHER A CONFIDENTIAL RELATIONSHIP EXISTED IN THIS CASE PRESENTED A QUESTION OF FACT THAT SHOULD HAVE BEEN SUBMITTED TO THE JURY;

NEW SURFSIDE NURSING HOME, LLC, et al. MATTER OF v DAINES, et al:

HEALTH - NURSING HOMES - CPLR ARTICLE 78 PROCEEDING TO REVIEW TWO DETERMINATIONS OF THE COMMISSIONER OF THE NEW YORK STATE DEPARTMENT OF HEALTH ENFORCING AUDIT RESULTS OF PATIENT REVIEW INSTRUMENT SUBMISSIONS FOR CERTAIN YEARS - MEDICAID RATE SHEETS; DECLARATORY JUDGMENT;

NEW YORK HOSPITAL MEDICAL CENTER OF QUEENS v MICROTECH CONTRACTING CORP.:

WORKERS' COMPENSATION - EXCLUSIVENESS OF REMEDY; STATUTES - FEDERAL PREEMPTION - EFFECT OF IMMIGRATION REFORM AND CONTROL ACT (IRCA) ON

WORKERS' COMPENSATION LAW - INJURED UNDOCUMENTED WORKERS - WHETHER AN EMPLOYER'S VIOLATION OF IRCA PRECLUDES IT FROM INVOKING THE WORKERS' COMPENSATION LAW'S EXCLUSIVITY PROVISION AS A DEFENSE TO A LANDOWNER'S CLAIMS FOR CONTRIBUTION AND INDEMNIFICATION ARISING FROM THE LANDOWNER'S LIABILITY TO THE EMPLOYER'S INJURED UNDOCUMENTED WORKERS;

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT, MATTER OF v RUBENSTEIN:

DISCLOSURE - APPLICATION FOR RELEASE OF RECORDS IN CRIMINAL ACTION FOR USE IN DISCIPLINARY PROCEEDING AGAINST A JUDGE - EX PARTE ORDER OF SUPREME COURT - DISMISSAL OF APPEAL AS MOOT;

O'DANIEL (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - REPLACEMENT COUNSEL - COUNSEL, INITIALLY CHOSEN BY DEFENDANT'S RETAINED COUNSEL AS A SECOND CHAIR, ULTIMATELY REPRESENTED DEFENDANT AT TRIAL DUE TO RETAINED COUNSEL'S HEALTH PROBLEMS - WHETHER DEFENDANT WAS DENIED THE RIGHT TO COUNSEL, INCLUDING THE RIGHT TO COUNSEL OF HIS CHOICE - WHETHER REPLACEMENT COUNSEL PROVIDED EFFECTIVE ASSISTANCE OF COUNSEL; WITNESSES - EXPERT WITNESS - WHETHER THE TRIAL COURT ERRED IN ALLOWING A NURSE PRACTITIONER TO TESTIFY THAT HER EXAMINATION OF A CHILD SHOWED EVIDENCE OF SEXUAL ABUSE;

ODDONE (ANTHONY), PEOPLE v: (Cal. Date - 11/14/13)

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT COUNTY COURT PROPERLY DENIED, WITHOUT A FRYE HEARING, THE DEFENDANT'S APPLICATION TO STRIKE THE TESTIMONY OF THE PEOPLE'S FORENSIC PATHOLOGIST REGARDING THE CAUSE OF THE VICTIM'S DEATH - DENIAL OF DEFENDANT'S REQUEST TO PRESENT EXPERT TESTIMONY FROM PSYCHOLOGIST ABOUT ACCURACY OF EYEWITNESS ESTIMATIONS OF DURATION OF EVENTS; EVIDENCE - PRIOR STATEMENT NOT ALLOWED TO REFRESH WITNESS'S RECOLLECTION - CONSTITUTIONAL CHALLENGE TO CPL 60.35; SUFFICIENCY OF THE EVIDENCE; ALLEGED JUROR BIAS; PROSECUTORIAL MISCONDUCT IN SUMMATION; INTOXICATION - WHETHER COUNTY COURT ERRED IN REFUSING TO GIVE AN INTOXICATION CHARGE TO THE JURY - PENAL LAW § 15.25;

O'NEILL, et al., MATTER OF v PFAU:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 78 PROCEEDING TO COMPEL PAYMENT TO SUFFOLK COUNTY COURT OFFICERS OF A SALARY INCREMENT REFLECTING A CONTINUOUS SERVICE CREDIT; STATUTE OF LIMITATIONS;

O'TOOLE (DONALD), PEOPLE v: (Cal. Date - 11/14/13)

CRIMES - COLLATERAL ESTOPPEL - WHETHER THE PEOPLE WERE BARRED FROM PRESENTING ON DEFENDANT'S RETRIAL EVIDENCE THAT HIS ACCOMPLICE POINTED WHAT APPEARED TO BE A PISTOL AT THE COMPLAINING WITNESS

DURING THE ALLEGED ROBBERY, WHERE DEFENDANT WAS ACQUITTED OF ROBBERY IN THE FIRST DEGREE AT THE FIRST TRIAL BUT CONVICTED OF ROBBERY IN THE SECOND DEGREE AND THE APPELLATE DIVISION HAD REVERSED THAT CONVICTION;

TOWN OF OYSTER BAY v LIZZA INDUSTRIES, INC. (AND NINE OTHER ACTIONS): (Cal. Date - 11/12/13)

TORTS - NUISANCE - ALLEGED CONTINUING PUBLIC NUISANCE - CLAIMED DEFECTS IN SEWER CONSTRUCTION WORK CAUSING DAMAGE TO, AMONG OTHER THINGS, ROADWAYS; STATUTE OF LIMITATIONS - WHAT STATUTE OF LIMITATIONS APPLIES TO SETTLING DAMAGE FROM SEWER WORK COMPLETED IN THE 1970s AND 1980s - MUNICIPALITIES AS THIRD-PARTY BENEFICIARIES TO CONSTRUCTION CONTRACTS BETWEEN THE COUNTIES AND DEFENDANT CONSTRUCTION COMPANIES - WHETHER ACTIONS ARE TIME-BARRED; STARE DECISIS;

PALATKEVICH v STANACARD, LLC:

DISMISSAL AND NONSUIT - DISCONTINUANCE - DENIAL OF REQUEST TO SEVER COUNTERCLAIM FROM ACTION THAT WAS VOLUNTARILY DISCONTINUED WITHOUT PREJUDICE;

PALLADINO v CNY CENTRO, INC., et al.:

LABOR UNIONS - ACTION AGAINST UNION - IN AN ACTION AGAINST AN UNINCORPORATED LABOR ORGANIZATION FOR BREACH OF THE DUTY OF FAIR REPRESENTATION, WHETHER MARTIN v CURRAN (303 NY 276 [1951]) REQUIRES A PLAINTIFF TO PLEAD AND PROVE THAT ALL MEMBERS OF THE UNINCORPORATED LABOR ORGANIZATION UNANIMOUSLY AUTHORIZED OR RATIFIED THE ALLEGED WRONGFUL CONDUCT - APPLICABILITY OF MADDEN v AIKENS (4 NY2d 283 [1958]);

PASCAZI, MATTER OF v GARDNER:

EMPLOYMENT RELATIONSHIPS - WAGES - CPLR ARTICLE 78 PROCEEDING TO REVIEW DETERMINATIONS OF THE COMMISSIONER OF LABOR - FAILURE TO PAY PREVAILING WAGES AND SUPPLEMENTS; CLAIMED IMPROPER ENFORCEMENT OF STATE PREVAILING WAGE LAW DUE TO PREEMPTION OF LAW BY FEDERAL TELECOMMUNICATIONS ACT AND LABOR MANAGEMENT RELATIONS ACT; CLAIMED DUE PROCESS VIOLATIONS;

PATEL (VINOD), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED FAILURE OF APPELLATE COUNSEL TO COMPLY WITH DEFENDANT'S TIMELY REQUEST TO FILE A NOTICE OF APPEAL - DEFENDANT HAD MOVED PRO SE FOR, AND HAD BEEN DENIED, PERMISSION TO FILE A LATE NOTICE OF APPEAL - APPLICATION OF PEOPLE v SYVILLE (15 NY3d 391 [2010]);

PAYTON (WENDELL), PEOPLE v: (Cal. Date - 11/14/13)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF RIGHT TO CONFLICT-FREE REPRESENTATION WHEN, PRIOR TO THE COMMENCEMENT AND DURING THE COURSE OF HIS TRIAL,

HIS ATTORNEY WAS SUBJECT TO A CRIMINAL INVESTIGATION BY THE SAME PROSECUTOR'S OFFICE PROSECUTING DEFENDANT, A SEARCH WARRANT WAS EXECUTED AT THE OFFICE OF DEFENDANT'S TRIAL COUNSEL DAYS BEFORE THE COMMENCEMENT OF TRIAL, AND THE TRIAL COURT DID NOT LEARN OF THE CRIMINAL INVESTIGATION UNTIL JUST BEFORE SENTENCING, AT WHICH POINT NEW COUNSEL WAS ASSIGNED;

PEQUE (JUAN JOSE), PEOPLE v: (Cal. Date - 9/11/13)

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;

PEREZ (REYNALDO), PEOPLE v:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL FOR FAILURE TO TIMELY PROSECUTE;

PERRINGTON (DONALD), PEOPLE v: (Cal. Date - 9/4/13)

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;

PIGNATARO (ANTHONY S.), PEOPLE v: (Cal. Date - 11/12/13)

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - WHETHER A TRIAL COURT IS AUTHORIZED TO RESENTENCE A DEFENDANT TO A TERM OF IMPRISONMENT WITHOUT POST-RELEASE SUPERVISION WHEN THE PEOPLE CONSENT - PENAL LAW § 70.85; CONSTITUTIONAL CHALLENGE TO PENAL LAW § 70.85 AND CORRECTION LAW § 601-d AS APPLIED TO DEFENDANT; SUFFICIENCY OF PLEA ALLOCUTION; TRIAL COURT'S REFUSAL TO ALLOW WITHDRAWAL OF PLEA;

POLHILL (EUGENE), PEOPLE v:

CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS;

QBE INSURANCE CORP. v JINX-PROOF, INC., &c.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - COMMERCIAL GENERAL LIABILITY POLICY CONTAINING AN ASSAULT AND BATTERY EXCLUSION - WHETHER LETTERS FROM INSURER THAT CONTAINED "RESERVATION OF RIGHTS" LANGUAGE CONSTITUTED VALID NOTICE OF DISCLAIMER OF COVERAGE WITH RESPECT TO THE ASSAULT AND BATTERY EXCLUSION - WHETHER INSURER WAS ESTOPPED FROM DISCLAIMING COVERAGE;

RAGINS v HOSPITALS INSURANCE COMPANY, INC., et al.:

(Cal. Date - 11/14/13)

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - OBLIGATION TO PAY INTEREST - WHETHER EXCESS CARRIER WAS RESPONSIBLE ONLY FOR PREJUDGMENT INTEREST ON THAT PORTION OF THE UNDERLYING JUDGMENT THAT IT WAS OBLIGATED TO PAY UNDER ITS POLICY, RATHER THAN FOR PREJUDGMENT AND POSTJUDGMENT INTEREST ON THE WHOLE AMOUNT OF THE UNDERLYING JUDGMENT;

RAMKUMAR v GRAND STYLE TRANSPORTATION ENTERPRISES, INC.:

(Cal. Date - 9/12/13)

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";

REED (LANCE J.), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - FELONY MURDER AND ROBBERY - IDENTIFICATION OF SUPERMARKET BAG RECOVERED FROM CAR FLEEING SCENE OF CRIME; CIRCUMSTANTIAL EVIDENCE;

REID (GRAHAM), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE LOWER COURTS ERRED IN DENYING A SUPPRESSION MOTION REGARDING A SWITCH BLADE KNIFE FOUND BY A POLICE OFFICER IN A PAT-DOWN AFTER PULLING DEFENDANT OVER FOR ERRATIC DRIVING BUT BEFORE ANY ARREST WAS INTENDED;

REIS, &c. v VOLVO CARS OF NORTH AMERICA, et al.:

PRODUCTS LIABILITY - FAILURE TO WARN - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUPREME COURT PROPERLY SET ASIDE THE JURY VERDICT ON PLAINTIFF'S FAILURE TO WARN CLAIM;

RIVERA (ANNER), PEOPLE v:

CRIMES - RIGHT TO BE PRESENT AT TRIAL - TRIAL JUDGE'S ANSWERING OF JUROR'S SUBSTANTIVE LEGAL QUESTIONS INSIDE ROBIN ROOM WITHOUT THE PRESENCE OF DEFENDANT, DEFENSE COUNSEL, THE PROSECUTOR AND OTHER JURORS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL JUDGE'S ACTS CONSTITUTED A MODE OF PROCEEDINGS ERROR NOT SUBJECT TO HARMLESS ERROR ANALYSIS EVEN THOUGH DEFENSE COUNSEL CONSENTED TO THE PROCEDURE AND THE TRIAL JUDGE TOLD COUNSEL AND DEFENDANT EVERYTHING THAT HAPPENED IN THE ROBIN ROOM AND THAT THEY COULD REQUEST A READ-BACK OF HIS CONVERSATION WITH THE JUROR AT ANY TIME;

RIVERA (DAVID), PEOPLE v:

CRIMES - WITNESSES - PHYSICIAN-PATIENT PRIVILEGE (CPLR 4505) - WHETHER TESTIMONY OF PSYCHIATRIST TO WHOM DEFENDANT ADMITTED SEXUAL ABUSE OF A CHILD WAS PROPERLY ADMITTED AT TRIAL IN LIGHT OF WITNESS'S PRIOR REPORTING OF DEFENDANT'S STATEMENTS TO THE ADMINISTRATION FOR CHILD SERVICES;

RIVERA (ENRIQUE), PEOPLE v:

CRIMES - LESSER INCLUDED OFFENSE - MANSLAUGHTER - WHETHER SUPREME COURT PROPERLY DENIED DEFENDANT'S REQUEST TO CHARGE MANSLAUGHTER IN THE SECOND DEGREE (PENAL LAW § 125.15[1]) AS A LESSER INCLUDED OFFENSE OF MURDER IN THE SECOND DEGREE, UPON THE GROUND THAT THERE WAS NO "REASONABLE VIEW" OF THE EVIDENCE THAT WOULD SUPPORT A FINDING THAT DEFENDANT ACTED RECKLESSLY WHEN HE STABBED THE VICTIM;

ROCKY POINT DRIVE-IN, L.P. v TOWN OF BROOKHAVEN, et al.:

(Cal. Date - 10/16/13)

MUNICIPAL CORPORATIONS - ZONING - NONCONFORMING USE - DELAY IN PROCESSING OF SITE PLAN APPLICATION - WHETHER APPELLATE DIVISION MISAPPLIED THE "SPECIAL FACTS EXCEPTION" BY REQUIRING PLAINTIFF TO PROVE THAT DEFENDANTS ACTED IN BAD FAITH IN DELAYING THE PROCESSING OF THE APPLICATION; DECLARATORY JUDGMENT ACTION;

RODRIGUEZ (REYES), PEOPLE v: (Cal. Date - 9/12/13)

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: (Cal. Date - 9/9/13)

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;

ROSSI (JOHN), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH FOR GUN - EMERGENCY EXCEPTION TO WARRANT REQUIREMENT; SUFFICIENCY OF THE EVIDENCE; ALLEGED PROSECUTORIAL MISCONDUCT; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

RUSSELL (MARK), PEOPLE v:

CRIMES - APPEAL - STANDARD OF REVIEW - WEIGHT OF EVIDENCE - WHETHER THE APPELLATE DIVISION IMPROPERLY RELIED UPON MATTERS NOT IN THE RECORD IN DETERMINING THAT THE VERDICT WAS AGAINST THE WEIGHT OF THE EVIDENCE;

PEOPLE ex rel. RYAN, o/b/o SHAVER v CHEVERKO: (Cal. Date - 10/9/13)

PRISONS AND PRISONERS - CALCULATION OF SENTENCE - GOOD TIME CREDIT - WHERE PENAL LAW § 70.30(2)(b) IMPOSES A TWO-YEAR LIMIT ON THE AGGREGATE TERM OF CONSECUTIVE DEFINITE SENTENCES, WHETHER A PRISONER'S RELEASE DATE SHOULD BE CALCULATED BASED UPON THE PRISONER'S ORIGINAL RELEASE DATE OR THE STATUTORY TWO-YEAR AGGREGATE TERM;

SAGE (MERLIN G.), PEOPLE v:

CRIMES - INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A CHARGE TO THE JURY THAT THE PEOPLE'S KEY WITNESS WAS AN ACCOMPLICE;

SALCEDO (TIRSO), PEOPLE v:

CRIMES - SENTENCE - DENIAL OF MOTION FOR RENEWAL OF APPLICATION FOR RESENTENCING UNDER THE DRUG LAW REFORM ACT OF 2004;

SANDERS (EQUAN), PEOPLE v: (Cal. Date - 10/17/13)

CRIMES - SENTENCE - SECOND FELONY OFFENDER - RESENTENCING FOR PURPOSES OF IMPOSING TERM OF POSTRELEASE SUPERVISION - IF RESENTENCING OCCURS AT THE REQUEST OF THE DIVISION OF PAROLE RATHER THAN THE DEFENDANT, WHETHER THE RESENTENCING OR ORIGINAL SENTENCING DATE CONTROLS FOR THE PURPOSES OF DETERMINING IF THE PRESENT CONVICTION MEETS THE SEQUENTIALITY REQUIREMENT FOR SENTENCING AS A PERSISTENT VIOLENT FELONY OFFENDER;

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

(Cal. Date - 9/10/13)

CIVIL RIGHTS - DISCRIMINATION BASED ON SEXUAL ORIENTATION - RETALIATION - TERMINATION OF SCHOOL AIDE; "PRETEXT" FOR TERMINATION - BURDEN OF PROOF; SUMMARY JUDGMENT; COLLATERAL ESTOPPEL BASED ON UNION GRIEVANCE RESULT;

SANTER, MATTER OF v BOARD OF EDUCATION OF EAST MEADOW UNION FREE SCHOOL DISTRICT:

SCHOOLS - TEACHERS - DISCIPLINARY MEASURES - EXERCISE OF FIRST AMENDMENT RIGHTS - MEMBER OF TEACHERS' UNION WHO LEGALLY PARKED HIS CAR IN FRONT OF SCHOOL WHILE PICKETING BECAUSE OF STALLED NEGOTIATIONS ON A NEW COLLECTIVE BARGAINING AGREEMENT DISCIPLINED FOR CREATING A HEALTH AND SAFETY RISK INsofar AS HIS CAR WAS PARKED IN A LOCATION WHERE PARENTS WOULD DROP OFF THEIR CHILDREN FOR SCHOOL, RESULTING IN SOME STUDENTS BEING DROPPED OFF IN THE STREET AND HAVING TO CROSS TRAFFIC LANES TO ENTER THE SCHOOL;

SANTIAGO, JR. (CARLOS), PEOPLE v: (Cal. Date - 9/10/13)  
 CRIMES - SENTENCE - SECOND FELONY OFFENDER - USE OF OUT-OF-STATE  
 CONVICTION AS A PREDICATE FELONY - DEFENDANT CONVICTED WHEN HE WAS  
 15 YEARS OLD OF MURDER IN THE THIRD DEGREE UNDER PENNSYLVANIA  
 STATUTE;

SANTIAGO (CHERYL), PEOPLE v:  
 CRIMES - MANSLAUGHTER IN THE SECOND DEGREE - SUFFICIENCY OF THE  
 EVIDENCE; CONFESSION - STATEMENTS TO LAW ENFORCEMENT OFFICIALS -  
 LETTERS TO INMATE; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE  
 ASSISTANCE OF TRIAL COUNSEL;

SANTIAGO (HECTOR), PEOPLE v: (Cal. Date - 10/17/13)  
 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;

SATO et al. v IPPUDO NY, et al:  
 NEGLIGENCE - MAINTENANCE OF PREMISES - PROXIMATE CAUSE - ALLEGED  
 DEFECTIVE CONDITION OF STAIRWAY - PLAINTIFF FELL DOWN A FLIGHT OF  
 STAIRS IN DEFENDANT'S RESTAURANT - WHETHER THE APPELLATE DIVISION  
 ERRED IN GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT  
 DISMISSING THE COMPLAINT;

SCHENK v STATEN ISLAND UNIVERSITY HOSPITAL, et al.:  
 JUDGMENTS - DEFAULT JUDGMENT - VACATUR - WHETHER THE APPELLATE  
 DIVISION ERRED IN CONCLUDING THAT SUPREME COURT PROVIDENTLY  
 EXERCISED ITS DISCRETION IN DENYING PLAINTIFF'S MOTION, IN EFFECT,  
 TO VACATE AN ORDER ENTERED ON HER DEFAULT BECAUSE SHE FAILED TO  
 DEMONSTRATE A POTENTIALLY MERITORIOUS OPPOSITION TO THE MOTION BY  
 CERTAIN DEFENDANTS TO DISMISS THE COMPLAINT PURSUANT TO CPLR 3126;

SCHREIER (DAVID W.), PEOPLE v:  
 CRIMES - UNLAWFUL SURVEILLANCE - SUFFICIENCY OF EVIDENCE - VICTIM  
 VIDEOTAPED AT HOME THROUGH WINDOW - WHETHER THE EVIDENCE WAS  
 SUFFICIENT TO ESTABLISH, AMONG OTHER THINGS, THAT THE RECORDING WAS  
 MADE "SURREPTITIOUSLY" AND AT A PLACE AND TIME WHEN THE VICTIM HAD  
 A REASONABLE EXPECTATION OF PRIVACY (PENAL LAW § 250.45[1]);

SCIARA, et al. v SURGICAL ASSOCIATES OF WESTERN NEW YORK,  
 P.C., et al.:  
 WITNESSES - RIGHTS OF COUNSEL FOR NONPARTY WITNESS AT DEPOSITION -  
 CPLR 3113(c) - 22 NYCRR 221.2 AND 221.3;

SHABAZZ (OMAR), PEOPLE v: (Cal. Date - 9/4/13)

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;

SIBBLIES (MARSHA), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - PEOPLE FILED AN OFF-CALENDAR STATEMENT OF READINESS AND SUBSEQUENTLY APPEARED IN COURT TO EXPLAIN THEY WERE NOT READY FOR TRIAL BECAUSE THEY HAD NOT YET RECEIVED MEDICAL RECORDS - WHETHER PEOPLE'S ORIGINAL STATEMENT OF READINESS WAS ILLUSORY AND WHETHER DENIAL OF DEFENDANT'S CPL 30.30 MOTION TO DISMISS VIOLATED HER RIGHT TO A SPEEDY TRIAL;

SILVA (JULIAN), PEOPLE v:

CRIMES - JURORS - NOTE FROM JURY - TRIAL COURT'S FAILURE TO NOTIFY COUNSEL OF JURY NOTE AND TO READ NOTE INTO THE RECORD; CLAIMED IMPROPER REMARKS IN PROSECUTOR'S SUMMATION;

SIMS (QUENTIN A.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - VALIDITY OF PAT-DOWN OF DEFENDANT - PEOPLE v DEBOUR (40 NY2d 210 [1976]);

SMART (FLOYD L.), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER THE TRIAL COURT ERRED IN PERMITTING ADMISSION INTO EVIDENCE OF WITNESS'S GRAND JURY TESTIMONY ON THE BASIS THAT THE WITNESS WAS UNAVAILABLE DUE TO MISCONDUCT OF THE DEFENDANT - WITNESS APPEARED IN COURT AND ASSERTED HER FIFTH AMENDMENT RIGHT AGAINST SELF INCRIMINATION; ALLEGED IMPROPER HANDLING OF JUROR QUESTIONS DURING DELIBERATIONS;

SMITH, MATTER OF v BROWN:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DOUBLE JEOPARDY - DECLARATION OF MISTRIAL OVER DEFENDANT'S OBJECTION - RETRIAL PRECLUDED IN ABSENCE OF MANIFEST NECESSITY FOR MISTRIAL - TRIAL COURT DECLARED A MISTRIAL AFTER FINDING THAT THE ABSOLUTE INTEGRITY OF THE JURY PROCESS HAD BEEN COMPROMISED WHEN ONE JUROR SHARED OUTSIDE LEGAL ADVICE WITH THE REMAINING JURORS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT ABUSED ITS DISCRETION IN DECLARING A MISTRIAL WITHOUT CONSIDERING ALTERNATIVES;

SMITH (TORREL), PEOPLE v: (Cal. Date - 11/13/13)  
 CRIMES - IDENTIFICATION OF DEFENDANT - IMPROPER BOLSTERING OF IDENTIFICATION EVIDENCE - WHETHER TRIAL COURT ERRED BY ALLOWING POLICE OFFICERS TO RECOUNT AT TRIAL DESCRIPTION OF PERPETRATOR THAT COMPLAINANT PROVIDED IMMEDIATELY AFTER ROBBERY - WHETHER TO EXTEND PEOPLE v HUERTAS (75 NY2d 487 [1990]), WHICH ALLOWED SUCH TESTIMONY FROM A VICTIM, TO TESTIMONY ELICITED FROM POLICE OFFICERS;

SOLLA, MATTER OF v BERLIN:

STATE - EQUAL ACCESS TO JUSTICE ACT (EAJA) (CPLR ARTICLE 86) - ATTORNEY'S FEES - WHETHER THE EAJA PERMITS THE AWARD OF ATTORNEY'S FEES BASED ON THE "CATALYST THEORY" THAT THE LITIGATION RESULTED IN THE STATE'S VOLUNTARY GRANTING OF THE RELIEF SOUGHT;

SOTO, JR. (ANSELMO), PEOPLE ex rel. v GONYEA:

HABEAS CORPUS - CHALLENGE TO ORDER OF INDIVIDUAL APPELLATE DIVISION JUSTICE DENYING APPLICATION FOR A WRIT OF HABEAS CORPUS;

SOTO v J. CREW, INC., et al.: (Cal. Date - 9/11/13)

LABOR - SAFE PLACE TO WORK - ROUTINE MAINTENANCE - CLEANING - EMPLOYEE OF COMMERCIAL CLEANING COMPANY INJURED WHEN HE FELL OFF AN A-FRAME LADDER WHILE DUSTING THE TOP OF A SHELF - WHETHER THE ACTIVITY THE INJURED PLAINTIFF WAS ENGAGED IN WAS THE TYPE OF ACTIVITY PROTECTED BY LABOR LAW § 240(1);

SOUTH ISLAND ORTHOPAEDIC GROUP, P.C., MATTER OF v DiNAPOLI:

STATE - COMPTROLLER - AUTHORITY TO CONDUCT AUDIT OF MEDICAL SERVICES PROVIDER'S BILLING RECORDS;

SOWELL, MATTER OF v FISCHER, &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING APPEAL ON THE GROUND THAT, BASED UPON FURTHER PROCEEDINGS FOLLOWING ENTRY OF THE INITIAL JUDGMENT, PETITIONER RECEIVED ALL THE RELIEF TO WHICH HE WAS ENTITLED;

STANLEY (HILBERT), PEOPLE v: (Cal. Date - 10/10/13)

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 ENRIQUE D.: (Cal. Date - 9/12/13)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - EVIDENCE - WHETHER SUPREME COURT PROPERLY EXERCISED ITS DISCRETION IN REJECTING TESTIMONY FROM SEX OFFENDER'S FORMER

GIRLFRIEND REGARDING THEIR SEXUAL RELATIONSHIP ON THE GROUND THAT SUCH TESTIMONY WAS NOT RELEVANT TO WHETHER SEX OFFENDER HAD A MENTAL ABNORMALITY;

STATE OF NEW YORK, MATTER OF v NELSON D.: (Cal. Date - 10/15/13)  
 MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CLAIMED COMMITMENT TO INPATIENT FACILITY UNDER PROVISION INTENDED FOR OUTPATIENT SUPERVISION; CLAIMED DENIAL OF DUE PROCESS;

STATE OF NEW YORK, MATTER OF v JOHN S.:  
 CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - ALLEGED DUE PROCESS VIOLATION BY INTRODUCTION OF EVIDENCE REGARDING SEXUAL OFFENSE ALLEGATIONS FROM THIRTY TO FORTY YEARS AGO AND EXPERT WITNESS TESTIMONY BASED ON SUCH EVIDENCE - RELEASE OF RECORDS PREVIOUSLY SEALED; SUFFICIENCY OF THE EVIDENCE;

STATE OF NEW YORK, MATTER OF v FLOYD Y.: (Cal. Date - 9/12/13)  
 CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - SEX OFFENDER MANAGEMENT AND TREATMENT ACT (SOMTA) - WHETHER THE TRIAL COURT ERRED BY PERMITTING THE STATE'S EXPERT WITNESS TO TESTIFY, WITHOUT LIMITATION, AS TO HEARSAY STATEMENTS THAT FORMED THE BASIS OF HER OPINION THAT RESPONDENT HAS A MENTAL ABNORMALITY, INCLUDING STATEMENTS REGARDING ACTS THAT DID NOT RESULT IN A CRIMINAL CHARGE OR CONVICTION - ALLEGED DUE PROCESS VIOLATION;

STONE (ALIAS), PEOPLE v:  
 CRIMES - RIGHT TO REPRESENTATION PRO SE - DEFENDANT COMPETENT TO STAND TRIAL - WHETHER DEFENDANT HAD A MENTAL INCAPACITY SUCH THAT HE COULD NOT REPRESENT HIMSELF AT THE TIME OF TRIAL - WHETHER THE TRIAL COURT PROPERLY PERMITTED DEFENDANT TO PROCEED PRO SE - INDIANA v EDWARDS (554 US 164 [2008]);

SUBWAY SURFACE SUPERVISORS ASSOCIATION, MATTER OF v NEW YORK CITY TRANSIT AUTHORITY:  
 CIVIL SERVICE - ALLEGED VIOLATION OF CIVIL SERVICE LAW § 115 BY NEW YORK CITY TRANSIT AUTHORITY (NYCTA) - WHETHER § 115 APPLIES TO NYCTA EMPLOYEES - WHETHER THE VIOLATION OF § 115 GIVES RISE TO A CAUSE OF ACTION - EQUAL PROTECTION CLAIM - CLASSIFICATION - EQUAL PAY FOR EQUAL WORK - WHETHER SUPREME COURT ERRED IN IMPLICITLY DEEMING THE PETITION TO HAVE BEEN AMENDED TO ALLEGE A VIOLATION OF SECTION 115;

SWEAT (TYRONE), PEOPLE v:  
 CRIMES - DOUBLE JEOPARDY - WHETHER TRIAL COURT ERRED IN DISMISSING THE INFORMATION CHARGING CRIMINAL CONTEMPT IN THE SECOND DEGREE (REFUSAL TO TESTIFY IN CRIMINAL TRIAL) ON DOUBLE JEOPARDY GROUNDS AFTER DEFENDANT WAS CITED AND CONFINED FOR CIVIL CONTEMPT FOR THE DURATION OF THE TRIAL FOR THE SAME REFUSAL TO TESTIFY;

D. T. v RICH et al.:

JUDGMENTS - SUMMARY JUDGMENT - WHETHER DEFENDANT SAINT CABRINI HOME, INC. WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT AGAINST IT - APPROPRIATE STANDARD OF CARE - WHETHER DEFENDANT SAINT CABRINI HOME, INC. MET ITS DUTY TO PROVIDE THE DEGREE OF CARE TO PLAINTIFF THAT A REASONABLE PARENT WOULD PROVIDE;

ROBERT T., MATTER OF v SPROAT:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - PROVISION IN AMENDED ORDER OF CONDITIONS DIRECTING THAT, SHOULD PETITIONER FAIL TO COMPLY WITH ANY OF THE OTHER CONDITIONS IMPOSED IN THE AMENDED ORDER "AND REFUSE TO APPEAR FOR OR COMPLY WITH A PSYCHIATRIC EXAMINATION," THE COMMISSIONER OF THE NEW YORK STATE OFFICE OF MENTAL HEALTH "SHALL APPLY TO THE COURT FOR A TEMPORARY CONFINEMENT ORDER FOR THE PURPOSE OF CONDUCTING AN EFFECTIVE PSYCHIATRIC EXAMINATION IN A SECURE FACILITY" - WHETHER THAT PROVISION WAS IN EXCESS OF TRIAL JUDGE'S AUTHORITY;

LARRY TT., MATTER OF (AND ANOTHER PROCEEDING):

MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT SEX OFFENDER'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW - NO HEARING BEFORE OR AFTER RESPONDENT'S TRANSFER TO MENTAL HEALTH FACILITY - CLAIMED DENIAL OF DUE PROCESS AND EQUAL PROTECTION;

TAYLOR (TALIYAH), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - MENS REA - SUFFICIENCY OF THE EVIDENCE THAT DEFENDANT WHO OPERATED A MOTOR VEHICLE AFTER TAKING ECSTASY POSSESSED THE REQUISITE MENS REA FOR DEPRAVED INDIFFERENCE MURDER;

TENENBAUM v STATE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL:

APPEAL - DISMISSAL - APPEALABLE PAPER - WHETHER APPEAL LIES TO THE APPELLATE DIVISION FROM AN ORDER OF THE COMMISSIONER OF HOUSING AND COMMUNITY RENEWAL;

THOMAS (ADRIAN P.), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER TRIAL COURT ERRED IN NOT ADMITTING EXPERT TESTIMONY ON THE SUBJECT OF FALSE AND COERCED CONFESSIONS; VOLUNTARINESS OF CONFESSION - POLICE THREATS TO ARREST DEFENDANT'S WIFE; SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION FOR DEPRAVED INDIFFERENCE MURDER; JUROR NOTES ON JURY INSTRUCTIONS;

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

(Cal. Date - 9/11/13)

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;

THOMPSON (EDDIE, JR.), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ISSUES WITH VARIOUS JURORS, INCLUDING JURORS WHO WERE FRIENDS OR ACQUAINTANCES OF THE DISTRICT ATTORNEY - DEFENSE COUNSEL'S FAILURE TO USE PEREMPTORY CHALLENGE WHEN CHALLENGE FOR CAUSE DENIED; WHETHER GRAND JURY TESTIMONY OF PEOPLE'S BALLISTICS EXPERT CONSTITUTED WRITTEN REPORT PURSUANT TO CPL 240.20(1)(c); DUE PROCESS;

TORRES v LOUZOUN ENTERPRISES, INC., &c.:

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - HOSTILE WORK ENVIRONMENT - DISMISSAL OF COMPLAINT FOR FAILURE TO STATE A CAUSE OF ACTION - DENIAL OF MOTION FOR LEAVE TO AMEND THE COMPLAINT;

25 AVENUE C NEW REALTY, LLC v ALEA NORTH AMERICA INSURANCE COMPANY, et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT INSURER COULD NOT BE ESTOPPED FROM DISCLAIMING COVERAGE BECAUSE THE INSURANCE POLICY WAS NOT IN EFFECT AT THE TIME OF THE ACCIDENT; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT DELAY IN PROVIDING INSURER WITH A NOTICE OF CLAIM WAS UNREASONABLE AS A MATTER OF LAW;

TURNER (GENNA A.), PEOPLE v:

CRIMES - SENTENCE - FAILURE TO ADVISE DEFENDANT OF POST-RELEASE SUPERVISION (PRS) BEFORE ENTRY OF GUILTY PLEA - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT DEFENDANT HAD BEEN INFORMED ABOUT PRS SUFFICIENTLY BEFORE SENTENCE WAS IMPOSED SO THAT SHE WAS REQUIRED TO PRESERVE THE CATU ERROR FOR APPELLATE REVIEW AND THAT, IN ANY EVENT, DEFENDANT WAIVED THE RIGHT TO ASSERT THE CATU ERROR;

TYRELL (CAVELL CRAIG), PEOPLE v (APPEAL NO. 1):

(Cal. Date - 11/13/13)

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA - WHETHER PLEA COURT ERRED IN ACCEPTING DEFENDANT'S GUILTY PLEA TO A

MISDEMEANOR CHARGE IN THE ABSENCE OF A FACTUAL ALLOCUTION BY OR OTHER COLLOQUY WITH THE DEFENDANT - WHETHER PLEA WAS KNOWING, INTELLIGENT AND VOLUNTARY ABSENT A FACTUAL ALLOCUTION AND WHERE DEFENDANT WAS NEVER ADVISED OF HIS CONSTITUTIONAL RIGHTS BEFORE HIS COUNSEL INFORMED THE COURT THAT DEFENDANT HAD AUTHORIZED HIM TO ENTER A GUILTY PLEA TO CRIMINAL POSSESSION OF MARIJUANA IN THE FIFTH DEGREE;

TYRELL (CAVELL CRAIG), PEOPLE v (APPEAL NO. 2):

(Cal. Date - 11/13/13)

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT ALLEGEDLY WAS NEVER INFORMED OF HIS CONSTITUTIONAL RIGHTS BEFORE THE COURT ACCEPTED THE GUILTY PLEA;

BETH V., MATTER OF v NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES et al.: (Cal. Date - 10/17/13)

WORKERS' COMPENSATION - CARRIER'S LIEN - PROCEEDS OF SETTLEMENT OF FEDERAL CIVIL RIGHTS ACTION - WHETHER THE WORKERS' COMPENSATION CARRIER IS ENTITLED TO A CREDIT PURSUANT TO WORKERS' COMPENSATION LAW § 29 FROM THE CLAIMANT'S RECOVERY AGAINST HER EMPLOYER IN A FEDERAL CIVIL ACTION;

VELEZ (JULIO), PEOPLE v: (Cal. Date - 10/16/13)

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;

VOSS, et al. v THE NETHERLANDS INSURANCE CO., et al.:

INSURANCE - AGENTS AND BROKERS - ALLEGED FAILURE TO PROCURE ADEQUATE COVERAGE - INSURED CHARGED WITH PRESUMPTIVE KNOWLEDGE OF REDUCED COVERAGE IN RENEWED POLICY - WHETHER SUFFICIENT EVIDENCE EXISTED OF A SPECIAL RELATIONSHIP BETWEEN BROKER AND INSURED - WHETHER ALLEGED FAILURE TO PROCURE ADEQUATE COVERAGE WAS PROXIMATE CAUSE OF LOSS;

W. (KEVIN), PEOPLE v: (Cal. Date - 10/10/13)

CRIMES - SUPPRESSION HEARING - WHETHER PEOPLE v CRANDALL (69 NY2d 459 [1987]) PERMITS A TRIAL COURT TO RE-OPEN A SUPPRESSION HEARING FOR THE PEOPLE TO ADDUCE ADDITIONAL EVIDENCE WHERE THE TRIAL COURT IS REVIEWING A REPORT OF A JUDICIAL HEARING OFFICER; WHETHER REINSTATEMENT OF ORIGINAL SUPPRESSION RULING REQUIRED DISMISSAL OF CHARGE OF RESISTING ARREST;

WALSTON (JAMEL), PEOPLE v:

CRIMES - JURORS - WHETHER TRIAL COURT ERRED IN FAILING TO INFORM COUNSEL OF THE EXACT CONTENTS OF A JURY NOTE - WHETHER CONTENT OF NOTE WAS SUBSTANTIVE; PRESERVATION; CLAIMED DENIAL OF DUE PROCESS AND INEFFECTIVE ASSISTANCE OF COUNSEL;

WASHINGTON (JONAI), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER RESULTS OF CHEMICAL BREATH TEST WERE PROPERLY SUPPRESSED - DEFENDANT HAD CONSENTED TO THE TEST AT POLICE HEADQUARTERS BUT, PRIOR TO COMMENCEMENT OF TEST, POLICE DID NOT INFORM DEFENDANT THAT HER ATTORNEY HAD CALLED A DISPATCHER AT POLICE HEADQUARTERS AND STATED "YOU HAVE TO STOP ALL QUESTIONING AND WE'RE NOT CONSENTING TO ANY FORM OF TESTING WHATSOEVER"; RIGHT TO COUNSEL;

WEBB-WEBER v COMMUNITY ACTION FOR HUMAN SERVICES, INC., et al.:

LABOR - WHISTLEBLOWER LAW - WHETHER A LABOR LAW § 740(2) CLAIM REQUIRES EMPLOYEES TO CITE IN THEIR PLEADINGS THE SPECIFIC LAW, RULE OR REGULATION THAT IS ALLEGEDLY VIOLATED BY THEIR EMPLOYER TO STATE A CAUSE OF ACTION;

WELLS (CARL D.), PEOPLE v: (Cal. Date - 10/10/13)

CRIMES - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH - DEFENDANT PLEADED GUILTY AFTER SUPREME COURT DENIED HIS MOTION TO SUPPRESS PHYSICAL EVIDENCE RECOVERED FROM THE CAR HE WAS DRIVING UPON THE GROUND THAT THE POLICE HAD CONDUCTED A PROPER INVENTORY SEARCH - WHETHER THE APPELLATE DIVISION ERRED WHERE, AFTER CONCLUDING THAT SUPREME COURT IMPROPERLY RELIED UPON THE INVENTORY SEARCH DOCTRINE IN DENYING DEFENDANT'S MOTION TO SUPPRESS PHYSICAL EVIDENCE, IT UPHELD THE CONVICTION ON HARMLESS ERROR GROUNDS WHILE ACKNOWLEDGING THAT THE HARMLESS ERROR RULE REGARDING SUPPRESSION ISSUES DOES NOT NORMALLY APPLY TO CASES WHERE A DEFENDANT PLEADS GUILTY;

WELLS (DIANE), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - EXCLUDABLE TIME PERIODS - TIME RESULTING FROM AN APPEAL (CPL 30.30 [4][a]) - WHETHER THE EXCLUDABLE TIME RESULTING FROM AN APPEAL ENDED WHEN THE COURT OF APPEALS DENIED THE PEOPLE'S APPLICATION FOR LEAVE TO APPEAL, OR WHETHER IT ENDED ON THE LATER DATE TO WHICH THE TRIAL COURT HAD ORDERED A ROUTINE ADJOURNMENT PENDING THE DECISION ON THE PEOPLE'S APPLICATION FOR LEAVE TO APPEAL;

WILLIAM J. JENACK ESTATE APPRAISERS & AUCTIONEERS, INC. v

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

CONTRACTS - FORMATION OF CONTRACT - WHETHER NOTATIONS MADE BY PLAINTIFF AUCTION HOUSE CONTEMPORANEOUSLY WITH BIDDING ON AN ITEM, WHICH REFERRED TO DEFENDANT BIDDER AND THE CONSIGNOR OF AN AUCTIONED ANTIQUE BY NUMBER ONLY, CONSTITUTED A MEMORANDUM OF SALE SATISFYING THE STATUTE OF FRAUDS;

WILLIAMS, &c. v WEATHERSTONE et al.:

SCHOOLS - TRANSPORTATION OF PUPILS - DUTY TO SAFELY TRANSPORT STUDENT TO SCHOOL - STUDENT STRUCK BY VEHICLE IN ATTEMPT TO CATCH

BUS STOPPED ACROSS THE STREET - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE SCHOOL DISTRICT OWED A DUTY TO THE STUDENT EVEN THOUGH THE STUDENT WAS NOT IN ITS PHYSICAL CUSTODY AND CONTROL WHEN THE ACCIDENT OCCURRED, BECAUSE "THE BUS ARRIVED AT THE BUS STOP, PASSED IT, AND THE DRIVER TURNED AROUND TO PICK UP THE [STUDENT]," AT WHICH POINT THE STUDENT RAN ACROSS THE STREET TO CATCH THE BUS AND WAS STRUCK BY A VEHICLE - PRATT v ROBINSON (39 NY2d 554 [1976]);

WISDOM (SIDNEY), PEOPLE v:

GRAND JURY - DEFECTIVE PROCEEDING - FAILURE TO ADMINISTER TESTIMONIAL OATH TO WITNESS BEFORE TESTIFYING TO GRAND JURY - WHETHER A TESTIMONIAL OATH IS EFFECTIVE IF ADMINISTERED AFTER A WITNESS TESTIFIES AND, IF NOT, WHETHER SUCH A DEFECT WARRANTS DISMISSAL OF AN INDICTMENT; MOTIONS AND ORDERS - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION AS A MATTER OF LAW BY PERMITTING DEFENDANT TO FILE A MOTION TO DISMISS THE INDICTMENT AFTER THE TRIAL BEGAN BASED UPON THE TIMING OF THE ADMINISTRATION OF THE OATH TO THE GRAND JURY WITNESS; WHETHER DEFENDANT'S CONVICTION ON LEGALLY SUFFICIENT TRIAL EVIDENCE PRECLUDES REVIEW ON APPEAL OF HIS CHALLENGE TO THE ALLEGEDLY DEFECTIVE GRAND JURY PROCEEDING - CPL 210.30(6);

WITTORF v CITY OF NEW YORK:

MUNICIPAL CORPORATIONS - TORT LIABILITY - WHILE IN THE PROCESS OF CLOSING ROADWAY SO REPAIRS COULD BE MADE, NEW YORK CITY DEPARTMENT OF TRANSPORTATION (DOT) SUPERVISOR TOLD PLAINTIFF SHE COULD PROCEED THROUGH ROAD ON HER BICYCLE AND PLAINTIFF WAS INJURED WHEN SHE RODE INTO A LARGE POTHOLE - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT PLAINTIFF'S INJURIES WERE CAUSED BY THE DOT EMPLOYEE'S ACTS OF TRAFFIC CONTROL, A DISCRETIONARY GOVERNMENTAL FUNCTION, RATHER THAN BY DEFENDANT'S PROPRIETARY FUNCTION OF MAINTAINING THE ROADWAY;

WORD (DIANE), PEOPLE v:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DENYING DEFENDANT'S MOTION SEEKING LEAVE TO REMAND SUPPRESSION HEARING AND FOR RELATED RELIEF;

WORDEN (ROBERT L.), PEOPLE v: (Cal. Date - 10/17/13)

CRIMES - PLEA OF GUILTY - DENIAL OF MOTION SEEKING TO WITHDRAW GUILTY PLEA BASED UPON COMPLAINANT'S RECONTATION - 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;

YORK v YORK:

TRIAL - MISTRIAL - DENIAL OF MOTION FOR A MISTRIAL; JUDGES - RECUSAL - DISCRETION - DENIAL OF MOTION FOR RECUSAL;

ZAYTSEV v STANACARD, LLC:

DISMISSAL AND NONSUIT - DISCONTINUANCE - DENIAL OF REQUEST TO SEVER COUNTERCLAIM FROM ACTION THAT WAS VOLUNTARILY DISCONTINUED WITHOUT PREJUDICE;

ZEH (VINCENT), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION; SUMMARY DENIAL OF CPL 440.10 MOTION - WHETHER DEFENDANT IS ENTITLED TO A HEARING ON CPL 440.10 MOTION RAISING INADEQUACY OF RETAINED TRIAL COUNSEL; MURDER;