

AUGUST 2014

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.

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

FRAUD - FRAUD IN INDUCEMENT - ALLEGATION THAT PLAINTIFF WAS FRAUDULENTLY INDUCED 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 SUCH FUND ACTUALLY WAS A SHORT SELLER - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE AMENDED COMPLAINT FAILED TO ESTABLISH JUSTIFIABLE RELIANCE AS A MATTER OF LAW BECAUSE PLAINTIFF DID NOT PLEAD THAT "IT EXERCISED DUE DILIGENCE BY INQUIRING ABOUT THE NONPUBLIC INFORMATION REGARDING THE HEDGE FUND WITH WHICH IT WAS IN CONTACT PRIOR TO ISSUING THE FINANCIAL GUARANTY, OR THAT IT INSERTED THE APPROPRIATE PROPHYLACTIC PROVISION TO ENSURE AGAINST THE POSSIBILITY OF MISREPRESENTATION";

ALLEN (TERRELL), PEOPLE v: (Cal. Date - 10/23/14)

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;

ALEXANDER v ALEXANDER:

HUSBAND AND WIFE AND OTHER DOMESTIC RELATIONSHIPS - SUPPORT - MAINTENANCE - EQUITABLE DISTRIBUTION - ATTORNEYS' FEES - MEDICAL EXPENSES AND INSURANCE;

AMALGAMATED BANK v HELMSLEY-SPEAR, et al.:

JUDGMENTS - DEFAULT JUDGMENT - VACATUR - WHETHER DEFENDANTS SUED AS RECIPIENTS OF A FRAUDULENT TRANSFER MAY MOVE TO VACATE A DEFAULT JUDGMENT ENTERED IN A SEPARATE ACTION AGAINST THE ALLEGEDLY FRAUDULENT TRANSFEROR, WITHOUT SHOWING THAT THE DEFAULT JUDGMENT WAS OBTAINED THROUGH FRAUD OR OTHER WRONGDOING;

APT, et al. v MORGAN STANLEY DW, INC., et al.:

LIMITATION OF ACTIONS - FRAUD - TOLLING - WHETHER FILING OF ARBITRATION CLAIM TOLLED THE RELEVANT STATUTE OF LIMITATIONS PURSUANT TO CPLR 205(a) - FRAUDULENT CONCEALMENT - SUFFICIENCY OF PLEADING AS TO THE EXISTENCE OF FIDUCIARY RELATIONSHIP BETWEEN BROKER AND CLIENT - WHETHER TRADE CONFIRMATION SLIPS AND MONTHLY STATEMENTS PUT CLIENT ON NOTICE IN 2004 OR 2005 OF ALLEGED FRAUD;  
ARGYRIS (COSTANDINO), PEOPLE v: (Cal. Date - 10/21/14)  
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;

AURORA LOAN SERVICES, LLC v TAYLOR, &c., et al.:

MORTGAGES - FORECLOSURE - STANDING TO COMMENCE ACTION - WHETHER PLAINTIFF DEMONSTRATED PHYSICAL POSSESSION OF THE MORTGAGE NOTE AT THE TIME OF COMMENCEMENT OF THE ACTION - ASSIGNMENT OF MORTGAGE BY MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS); SUMMARY JUDGMENT;

BANOS, MATTER OF v RHEA, et al.:

LIMITATION OF ACTIONS - FOUR-MONTH STATUTE OF LIMITATIONS - CHALLENGE TO TERMINATION OF SECTION 8 SUBSIDY - WHETHER THE STATUTE OF LIMITATIONS BEGINS TO RUN UPON A SECTION 8 BENEFICIARY'S RECEIPT OF A NOTICE OF DEFAULT LETTER ONLY WHERE THE NEW YORK CITY HOUSING AUTHORITY STRICTLY COMPLIES WITH THE THREE-STEP NOTICE PROCEDURE SET FORTH IN THE FIRST PARTIAL CONSENT JUDGMENT IN WILLIAMS v NEW YORK CITY HOUSING AUTH. (SDNY 1984);

BARRETO v METROPOLITAN TRANSPORTATION AUTHORITY:

LABOR - SAFE PLACE TO WORK - FALL INTO UNCOVERED MANHOLE - WHETHER DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT ON PLAINTIFF'S LABOR LAW § 240(1) CLAIM UPON THE GROUND THAT HIS FAILURE TO COVER THE MANHOLE AS DIRECTED WAS THE SOLE PROXIMATE CAUSE OF HIS INJURIES; PROPRIETY OF SUMMARY JUDGMENT DISMISSING CLAIMS FOR COMMON-LAW NEGLIGENCE AND FOR VIOLATIONS OF LABOR LAW §§ 200 AND 241(6);

BASILE (CURTIS), PEOPLE v:

CRIMES - CRUELTY TO ANIMALS - MENS REA - WHETHER THE PEOPLE ARE REQUIRED TO PROVE THAT A DEFENDANT HAS A CULPABLE MENTAL STATE TO SUPPORT A CONVICTION FOR FAILING TO PROVIDE AN ANIMAL WITH NECESSARY SUSTENANCE IN VIOLATION OF AGRICULTURE AND MARKETS LAW § 353 - DEFENDANT FINANCIALLY UNABLE TO PROVIDE FOR HIS DOG;

BDC FINANCE LLC v BARCLAYS BANK PLC:

CONTRACTS - CONSTRUCTION - TOTAL RETURN SWAP AGREEMENT - FAILURE TO TIMELY REMIT PAYMENT OF EXCESS COLLATERAL PURSUANT TO COLLATERAL CALL - WHETHER CONTRACT PERMITTED BANK TO DISPUTE AMOUNT OF HEDGE FUND'S COLLATERAL CALL BEFORE REMITTING PAYMENT OF DISPUTED RETURN AMOUNT - EFFECT OF "DELIVERY OF COLLATERAL" CLAUSE;

BLAKE (ANDREW), PEOPLE v: (Cal. Date - 9/11/14)

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;

BORDEN &c., et al. v 400 EAST 55<sup>TH</sup> STREET ASSOCIATES, L.P.:  
(Cal. Date - 10/14/14)

ACTIONS - CLASS ACTIONS - WHETHER PLAINTIFF HAS DEMONSTRATED THAT SHE IS A PROPER CLASS REPRESENTATIVE IN A RENT STABILIZATION LAW MATTER - CPLR 901(b) - WAIVER BY PLAINTIFF OF HER RIGHT TO TREBLE DAMAGES UNDER RENT STABILIZATION LAW - LANDLORD'S CLAIMED UNLAWFUL DEREGULATION OF APARTMENTS WHILE RECEIVING J-51 BENEFITS;

BOTTOM, MATTER OF v ANNUCCI, &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER A PRISON DISCIPLINARY DETERMINATION CAN BE BASED UPON A LOCAL FACILITY RULE THAT WAS NOT FILED WITH THE SECRETARY OF STATE;

BRANCH, &c. v COUNTY OF SULLIVAN:

COLLEGES AND UNIVERSITIES - COMMUNITY COLLEGE - WRONGFUL DEATH ACTION BY ADMINISTRATOR OF ESTATE OF A STUDENT WHO HAD A FATAL HEART ATTACK IN A COLLEGE DORMITORY BASED ON, AMONG OTHER THINGS, THE FAILURE TO PROVIDE AN AUTOMATED EXTERNAL DEFIBRILLATOR ON CAMPUS - WHETHER THE COUNTY OWED A DUTY OF CARE TO DECEDENT STUDENT BASED ON ITS STATUS AS A LOCAL SPONSOR OF THE COMMUNITY COLLEGE PURSUANT TO EDUCATION LAW, ARTICLE 63;

BRANIC INTERNATIONAL REALTY CORP. v PITT: (Cal. Date - 10/22/14)  
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]);

BROWN & BROWN, INC. et al. v JOHNSON et al.:

EMPLOYMENT RELATIONSHIPS - RESTRICTIVE COVENANT IN EMPLOYMENT CONTRACT - CLAIMED BREACHES OF NONSOLICITATION AND NONINDUCEMENT CLAUSES OF EMPLOYMENT CONTRACT - WHETHER THE FLORIDA CHOICE-OF-LAW CLAUSE IN THE EMPLOYMENT AGREEMENT IS "TRULY OBNOXIOUS" TO NEW YORK PUBLIC POLICY AND UNENFORCEABLE - WHETHER NONSOLICITATION CLAUSE COULD BE PARTIALLY ENFORCED;

BROWN (JARROD), PEOPLE v:

CRIMES - SENTENCE - RESENTENCING UNDER DRUG LAW REFORM ACT, AS AMENDED IN 2011 - ELIGIBILITY - WHETHER A PAROLEE IS IN THE "CUSTODY" OF THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION WITHIN THE MEANING OF CPL 440.46(1) AND, THUS, ELIGIBLE FOR RESENTENCING UNDER THAT PROVISION;

BROWN (WILLIAM), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE POLICE DID NOT HAVE REASONABLE SUSPICION THAT DEFENDANT WAS INVOLVED IN A CRIME;

BRUMFIELD (MICHAEL S.), PEOPLE v:

GRAND JURY - RIGHT TO APPEAR BEFORE GRAND JURY - REFUSAL TO SIGN WAIVER OF IMMUNITY FORM WITHOUT DELETIONS - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT WAS ENTITLED TO TESTIFY BEFORE THE GRAND JURY AFTER HE MADE DELETIONS TO, AND SIGNED, A WAIVER OF IMMUNITY FORM BECAUSE, AS DELETED, THE FORM COMPLIED WITH THE REQUIREMENTS OF CPL 190.45(1);

BURTON v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:

TAXATION - NONRESIDENT SHAREHOLDERS - PLAINTIFFS' ELECTION UNDER INTERNAL REVENUE CODE § 338(h)(10) TO TREAT STOCK SALE AS AN ASSET SALE - WHETHER TAX LAW § 632(a)(2), AS AMENDED IN 2010, VIOLATES ARTICLE XVI, § 3 OF THE NEW YORK STATE CONSTITUTION BY TREATING THE GAIN FROM THE SALE OF STOCK SUBJECT TO SUCH AN ELECTION AS NEW YORK SOURCE INCOME TAXABLE IN NEW YORK, RATHER THAN AS NON-TAXABLE INCOME FROM THE SALE OF INTANGIBLE PERSONAL PROPERTY;

JAVIER C., MATTER OF (ANONYMOUS):

INFANTS - JUVENILE DELINQUENTS - RELIABILITY OF EYEWITNESS IDENTIFICATION - CHALLENGE TO SHOW-UP IDENTIFICATION - SUFFICIENCY OF THE EVIDENCE OF ACCESSORIAL LIABILITY;

CANDINO, MATTER OF v STARPOINT CENTRAL SCHOOL DISTRICT, et al.:

4<sup>TH</sup> Dept. App. Div. order of 3/21/14; reversal with dissents; Rule 500.11 review pending; SCHOOLS - NOTICE OF CLAIM - LATE NOTICE - VIRUS ALLEGEDLY CONTRACTED AT SCHOOL WRESTLING TOURNAMENT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT CLAIMANT FAILED TO ESTABLISH THAT SCHOOL RESPONDENTS HAD "ACTUAL KNOWLEDGE" OF THE ESSENTIAL FACTS CONSTITUTING HIS CLAIM;

CARR (LEE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER TRIAL COURT VIOLATED DEFENDANT'S RIGHT TO COUNSEL BY CONDUCTING AN EX PARTE, UNTRANSCRIBED DISCUSSION WITH THE PEOPLE'S MAIN WITNESS WHO CLAIMED HE WAS TOO ILL TO TESTIFY ON THE DAY HE WAS SCHEDULED; TRIAL COURT'S REFUSAL TO CHARGE THE LESSER INCLUDED OFFENSE OF ASSAULT IN THE THIRD DEGREE;

CAZA (KAREN M.), PEOPLE v:

CRIMES - PLEA BARGAINING - ENFORCEMENT OF AGREEMENT - CONDITIONAL SENTENCING COMMITMENT - FAILURE TO COMPLY WITH PREPARATION OF PRESENTENCE INVESTIGATION REPORT;

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

(Cal. Date - 10/16/14)

MUNICIPAL CORPORATIONS - TORT LIABILITY - SPECIAL RELATIONSHIP - WHETHER THERE IS ANY EVIDENCE THAT CITY POLICE OR OTHER CITY EMPLOYEES ASSUMED AN AFFIRMATIVE DUTY TO PROTECT PLAINTIFF FROM ATTACKS BY HER HUSBAND - DUTY OF CARE; SUMMARY JUDGMENT;

COLEMAN (EARL), PEOPLE v: (Cal. Date - 9/10/14)

CRIMES - SENTENCE - WHETHER DEFENDANT IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46 - DRUG LAW REFORM ACT OF 2009 - EXCLUSION FOR "PERSON WHO IS SERVING A SENTENCE ON A CONVICTION FOR OR HAS A PREDICATE FELONY CONVICTION FOR AN EXCLUSION OFFENSE" (CPL 440.46[5]) - DEFINITION OF "EXCLUSION OFFENSE";

COLIN REALTY CO., LLC, MATTER OF v TOWN OF NORTH

HEMPSTEAD, et al.: (Cal. Date - 9/10/14)

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - HYBRID PROCEEDING BY ADJACENT LANDOWNER CHALLENGING VARIANCES GRANTED TO PROPOSED RESTAURANT - WHETHER APPELLATE DIVISION ERRED IN DETERMINING THAT THE TOWN OF NORTH HEMPSTEAD BOARD OF ZONING AND APPEALS PROPERLY TREATED THE RESTAURANT'S APPLICATION FOR VARIANCES FOR OFF-STREET PARKING AND LOADING-ZONE REQUIREMENTS AS APPLICATIONS FOR AREA VARIANCES RATHER THAN APPLICATIONS FOR USE VARIANCES;

CONASON et al. v MEGAN HOLDING, LLC et al.:

LIMITATION OF ACTIONS - FOUR-YEAR STATUTE OF LIMITATIONS (CPLR 213-a) - RENT OVERCHARGE - WHETHER APPELLATE DIVISION ERRED IN RULING THAT THE STATUTE OF LIMITATIONS IS NOT A BAR WHERE SIGNIFICANT EVIDENCE OF FRAUD EXISTS ON THE RECORD; ESTOPPEL - COLLATERAL ESTOPPEL - WHETHER SUPREME COURT CORRECTLY DETERMINED THAT DEFENDANTS WERE COLLATERALLY ESTOPPED FROM ARGUING THAT FRAUD DID NOT EXIST; CORPORATIONS - DISREGARDING CORPORATE ENTITY - WHETHER SUPREME COURT ERRED IN PIERCING THE CORPORATE VEIL;

CONCEICAO (JOSEPH), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT WAS NOT INFORMED OF THE RIGHTS HE WAS WAIVING PRIOR TO MAKING HIS GUILTY PLEA - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA;

COOPERATIEVE CENTRALE RAIFFEISEN-BOERENLEENBANK, B.A. v NAVARRO:

CONTRACTS - GUARANTEE TO PAY OBLIGATIONS OF COMPANY ARISING UNDER

A PURCHASE AGREEMENT - WHETHER DEFAULT JUDGMENT OBTAINED AGAINST COMPANY CAN BE A VALID "OBLIGATION" SUBJECT TO THE GUARANTEE IF THE JUDGMENT WAS OBTAINED BY COLLUSION - WHETHER WAIVER OF DEFENSES IN GUARANTEE PRECLUDES GUARANTOR FROM ARGUING THAT NO VALID OBLIGATION EXISTED BECAUSE OF COLLUSION - SUMMARY JUDGMENT IN LIEU OF COMPLAINT;

CROWDER (ADAM), PEOPLE v:

CRIMES - SENTENCE - POSTRELEASE SUPERVISION (PRS) - DEFENDANT INFORMED ABOUT PRS WHEN HE WAS CONSIDERING PLEA AGREEMENT, BUT COURT DID NOT DISCUSS THE PRS TERM AT THE PLEA PROCEEDING - WHETHER DEFENDANT'S CLAIM THAT HIS CONVICTION SHOULD BE VACATED ON THE BASIS THAT COUNTY COURT FAILED TO APPRISE HIM OF HIS PRS TERM AT THE TIME OF HIS PLEA IS REVIEWABLE; PRESERVATION; REVIEWABILITY OF CATU ERROR (PEOPLE v LOUREE, 8 NY3d 541 [2007]); CLAIMED DUE PROCESS VIOLATION IN SENTENCE ENHANCEMENT;

CULLEN (WILLIAM), PEOPLE v: (Cal. Date - 9/17/14)

CRIMES - WITNESSES - PRIOR CONSISTENT STATEMENT - WHETHER WITNESSES' STATEMENTS CONCERNING THE VICTIM'S PRIOR CONSISTENT STATEMENTS CONSTITUTED IMPROPER BOLSTERING; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; PROOF OF OTHER CRIMES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE CHALLENGED EVIDENCE WAS PROPERLY ADMITTED BECAUSE IT PLACED THE CHARGED CONDUCT IN CONTEXT AND PROVIDED NECESSARY BACKGROUND INFORMATION ON THE NATURE OF THE RELATIONSHIP BETWEEN DEFENDANT AND THE VICTIM;

TYRONE D., MATTER OF v STATE OF NEW YORK:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - DENIAL OF MOTION FOR CHANGE OF VENUE - WHETHER MENTAL HYGIENE LAW ARTICLE 10 ALLOWS FOR A CHANGE OF VENUE NOT ONLY FOR TRIALS UNDER THAT ARTICLE, BUT ALSO FOR ANNUAL REVIEW HEARINGS; WHETHER PETITIONER WAIVED HIS RIGHT TO AN ANNUAL REVIEW HEARING; RELIANCE ON EXPERT REPORT WITHOUT TESTIMONY; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; SUFFICIENCY OF THE EVIDENCE THAT PETITIONER IS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT;

DAVIS, et al. v BOEHEIM, et al.: (Cal. Date - 9/9/14)

LIBEL AND SLANDER - OPINIONS - WHETHER STATEMENTS ALLEGED TO HAVE BEEN MADE BY COLLEGE BASKETBALL COACH CONSTITUTE ACTIONABLE STATEMENTS OF FACT OR NONACTIONABLE STATEMENTS OF OPINION; PREANSWER MOTION TO DISMISS COMPLAINT;

DeJESUS (JOSHUE), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER POLICE TESTIMONY THAT DEFENDANT WAS ALREADY A SUSPECT BEFORE THE POLICE SPOKE TO THE SOLE WITNESS WHO IDENTIFIED HIM WAS PROPERLY ADMITTED INTO EVIDENCE "FOR THE LEGITIMATE NONHEARSAY PURPOSES OF COMPLETING THE NARRATIVE, EXPLAINING POLICE ACTIONS, PROVIDING THE CONTEXT

OF THE INTERVIEW, CORRECTING A MISIMPRESSION CREATED BY DEFENDANT ON CROSS-EXAMINATION AND PREVENTING JURY SPECULATION";

DELEE (DWIGHT R.), PEOPLE v: (Cal. Date - 10/15/14)  
 CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF MANSLAUGHTER IN THE FIRST DEGREE AS A HATE CRIME WAS INCONSISTENT WITH THE JURY'S FINDING OF NOT GUILTY ON THE CHARGE OF MANSLAUGHTER IN THE FIRST DEGREE - LESSER INCLUDED OFFENSE; POST-VERDICT STATEMENT OF JURY FOREPERSON;

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

CIVIL RIGHTS - WHETHER DETERMINATION DENYING APPLICATION FOR CERTIFICATION AS A SCHOOL BUS DRIVER WAS ARBITRARY AND CAPRICIOUS, AN ABUSE OF DISCRETION OR CONTRARY TO LAW;

DIACK (MICHAEL), PEOPLE v:

CRIMES - SEX OFFENDER - WHETHER NASSAU COUNTY LOCAL LAW 4-2006, WHICH, AMONG OTHER THINGS, PROHIBITS A REGISTERED SEX OFFENDER FROM RESIDING WITHIN ONE THOUSAND FEET OF A SCHOOL, IS PREEMPTED BY NEW YORK STATE SEX OFFENDER MANAGEMENT LAWS;

DIAL, MATTER OF v RHEA, et al.:

LIMITATION OF ACTIONS - FOUR-MONTH STATUTE OF LIMITATIONS - CHALLENGE TO TERMINATION OF SECTION 8 SUBSIDY - WHETHER THE STATUTE OF LIMITATIONS BEGINS TO RUN UPON A SECTION 8 BENEFICIARY'S RECEIPT OF A NOTICE OF DEFAULT LETTER ONLY WHERE THE NEW YORK CITY HOUSING AUTHORITY STRICTLY COMPLIES WITH THE THREE-STEP NOTICE PROCEDURE SET FORTH IN THE FIRST PARTIAL CONSENT JUDGMENT IN WILLIAMS v NEW YORK CITY HOUSING AUTH. (SDNY 1984);

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: (Cal. Date - 10/21/14)

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;

DIMERY v ULSTER SAVINGS BANK:

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER THAT AFFIRMED A SUPREME COURT ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO RENEW HER PRIOR MOTION TO VACATE A JUDGMENT ENTERED IN 2000;

DOERR v GOLDSMITH:

ANIMALS - LIABILITY FOR INJURIES - DOG COLLIDING WITH BICYCLIST - NEGLIGENCE CAUSE OF ACTION AGAINST DOG'S OWNER;

DOWNING v FIRST LENOX TERRACE ASSOCIATES:

(Cal. Date - 10/14/14)

ACTIONS - CLASS ACTIONS - MOTION TO DISMISS PUTATIVE CLASS ACTION - WHETHER PURPORTED CLASS ACTION SEEKING RECOVERY OF ALLEGED UNLAWFUL RENT OVERCHARGES UNDER THE RENT STABILIZATION LAW (RSL) SHOULD BE DISMISSED PURSUANT TO CPLR 901(b), WHICH, WITH AN EXCEPTION NOT APPLICABLE IN THIS CASE, PROHIBITS CLASS ACTIONS TO RECOVER STATUTORY PENALTIES, WHERE RSL § 26-516(a) MANDATES A PENALTY OF TREBLE DAMAGES IN CERTAIN CIRCUMSTANCES - A PUTATIVE CLASS REPRESENTATIVE HAS WAIVED THE RIGHT OF THE CLASS TO SEEK TREBLE DAMAGES AND CLASS MEMBERS MAY OPT OUT TO PURSUE TREBLE DAMAGES IN INDIVIDUAL ACTIONS;

DUBARRY (DARIUS), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - JUSTIFICATION DEFENSE - SUBMISSION OF INTENTIONAL MURDER AND DEPRAVED INDIFFERENCE MURDER COUNTS TO THE JURY IN THE CONJUNCTIVE, RATHER THAN IN THE ALTERNATIVE; WITNESSES - UNAVAILABILITY OF WITNESS - WHETHER THE PEOPLE ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT DEFENDANT'S MISCONDUCT PROCURED WITNESS'S UNAVAILABILITY;

MATTER OF DUNN, AN ATTORNEY:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - CENSURE; COLLATERAL ESTOPPEL - WHETHER THE APPELLATE DIVISION PROPERLY GAVE COLLATERAL ESTOPPEL EFFECT TO A SANCTIONS DECISION BY A UNITED STATES MAGISTRATE JUDGE WHICH IS NOT SUBJECT TO REVIEW IN THE FEDERAL COURT SYSTEM UNTIL THE UNDERLYING FEDERAL ACTION IS CONCLUDED;

DUNBAR (JERMAINE), PEOPLE v: (Cal. Date - 9/18/14)

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;



DURANT (EVERETT M.), PEOPLE v.:

CRIMES - ROBBERY - JURY INSTRUCTIONS - WHETHER COUNTY COURT PROPERLY DENIED DEFENDANT'S REQUEST FOR AN ADVERSE INFERENCE CHARGE REQUESTED BECAUSE THE POLICE, ALTHOUGH CAPABLE OF DOING SO, FAILED TO VIDEOTAPE DEFENDANT'S CONFESSION;

EL-DEHDAN v EL-DEHDAN A/K/A REED:

CONTEMPT - CIVIL CONTEMPT - IN A MATRIMONIAL ACTION, WHETHER PLAINTIFF MET HER BURDEN OF PROOF REGARDING DEFENDANT'S VIOLATION OF AN ORDER DIRECTING HIM TO DEPOSIT WITH PLAINTIFF'S ATTORNEY THE PROCEEDS OF A CERTAIN REAL ESTATE TRANSACTION - WHETHER SUPREME COURT IMPROPERLY DREW AN ADVERSE INFERENCE AGAINST DEFENDANT FOR INVOKING HIS CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION - WHETHER WILLFULNESS IS AN ELEMENT OF CIVIL CONTEMPT;

ELG UTICA ALLOYS, INC., &c., MATTER OF v DEPARTMENT OF ENVIRONMENTAL CONSERVATION et al.:

ENVIRONMENTAL CONSERVATION - HAZARDOUS WASTE - APPLICATION TO HAVE CERTAIN PROPERTY ON THE REGISTRY OF INACTIVE HAZARDOUS WASTE DISPOSAL SITES RECLASSIFIED FROM A CLASS 2 SITE TO A CLASS 3 SITE - CHALLENGE TO DETERMINATION DENYING PETITIONER'S APPLICATION UPON THE GROUND THAT PETITIONER FAILED TO ESTABLISH BY A PREPONDERANCE OF THE EVIDENCE THAT THE SITE DID NOT PRESENT A SIGNIFICANT THREAT TO THE ENVIRONMENT;

ELLINGTON v EMI MUSIC, INC., et al.: (Cal. Date - 9/11/14)

CONTRACTS - AMBIGUOUS CONTRACTS - SONGWRITER ROYALTY AGREEMENT UNDER WHICH "SECOND PARTY" WAS REQUIRED TO PAY TO "FIRST PARTIES" AN AMOUNT "EQUAL TO FIFTY (50%) PERCENT OF THE NET REVENUE ACTUALLY RECEIVED BY THE SECOND PARTY FROM ... FOREIGN PUBLICATION" OF DUKE ELLINGTON'S COMPOSITIONS - DEFINITION OF "SECOND PARTY" TO INCLUDE A DOMESTIC PUBLISHER "AND ANY OTHER AFFILIATES" OF THAT DOMESTIC PUBLISHER - WHETHER "SECOND PARTY," IN CALCULATING THE NET REVENUE FROM WHICH IT MUST PAY ROYALTIES, MAY DEDUCT FEES THE DOMESTIC PUBLISHER PAYS TO FOREIGN SUBPUBLISHERS, WHERE THE FOREIGN SUBPUBLISHERS WERE INDEPENDENT ENTITIES WHEN THE CONTRACT WAS EXECUTED BUT ARE NOW OWNED BY THE DOMESTIC PUBLISHER - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT CONTRACT WAS UNAMBIGUOUS AND REFERRED ONLY TO THE AFFILIATES OF THE DOMESTIC PUBLISHER THAT WERE IN EXISTENCE AT THE TIME THE CONTRACT WAS EXECUTED;

ELMALIACH, &c., et al. v BANK OF CHINA LIMITED, &c.:

CONFLICT OF LAWS - WHAT LAW GOVERNS - ACTION AGAINST CHINESE BANK BY ISRAELI NATIONALS - NEGLIGENCE CLAIM ARISING OUT OF ALLEGED ACTS THAT ENABLED TWO TERRORIST ORGANIZATIONS TO PLAN, PREPARE AND UNDERTAKE ACTS OF TERRORISM IN ISRAEL - INTEREST ANALYSIS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE

SUBSTANTIVE LAW OF ISRAEL APPLIED; BANKS AND BANKING - NEGLIGENCE  
- ISRAELI LAW - PROHIBITION AGAINST AIDING TERRORIST  
ORGANIZATIONS;

FAISON, &c. v LEWIS, &c., et al.:

LIMITATION OF ACTIONS - ACTION TO VOID A DEED AND MORTGAGE BASED  
ON ALLEGATIONS OF FORGERY - WAIVER OF STATUTE OF LIMITATIONS  
DEFENSE;

FLANDERS (PERNELL A.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - CLAIM THAT TRIAL COURT'S  
INSTRUCTION TO THE JURY CONSTRUCTIVELY AMENDED THE INDICTMENT,  
RENDERING IT DUPLICITOUS; MULTIPLE SHOTS FIRED FROM TWO FIREARMS;  
CONTINUING OFFENSE; WHETHER SHELL CASINGS WERE PROPERLY ADMITTED  
INTO EVIDENCE; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL; CLAIMED  
EXCESSIVE SENTENCE;

FLUSHING SAVINGS BANK, FSB v BITAR &c., et al.:

MORTGAGES - FORECLOSURE - DEFICIENCY JUDGMENT - WHETHER AFFIDAVIT  
OF PLAINTIFF'S APPRAISER WAS TOO CONCLUSORY TO ESTABLISH A PRIMA  
FACIE SHOWING OF THE FAIR MARKET VALUE OF THE PROPERTY AS OF THE  
FORECLOSURE SALE DATE - DENIAL OF PLAINTIFF'S UNOPPOSED  
APPLICATION FOR A DEFICIENCY JUDGMENT WITHOUT EXPRESSED FINDING  
AS TO PROPERTY VALUE, HEARING ON VALUATION OR OPPORTUNITY FOR  
PLAINTIFF TO CURE ALLEGED INSUFFICIENCY IN PROOF;

FORD (DENNIS), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) -  
WHETHER HEARING COURT'S DETERMINATION DESIGNATING DEFENDANT A  
LEVEL THREE OFFENDER IS SUPPORTED BY CLEAR AND CONVINCING  
EVIDENCE - WHETHER DEFENDANT WAS PROPERLY ASSESSED POINTS UNDER  
RISK FACTOR 12 WHERE HE DID NOT PARTICIPATE IN A SEX OFFENDER  
PROGRAM WHILE INCARCERATED BECAUSE HIS LENGTHY DISCIPLINARY  
RECORD PREVENTED HIS PARTICIPATION;

FORD, et al., MATTER OF v NEW YORK STATE RACING AND WAGERING  
BOARD:

HORSE RACING - HARNESS RACES - STATE'S AUTHORITY TO ADOPT  
REGULATION PERMITTING OUT-OF-COMPETITION DRUG TESTING OF HARNESS  
RACEHORSES - 180-DAY WINDOW PRIOR TO COMPETITION IN WHICH HORSES  
ANTICIPATED TO RACE MAY BE DRUG TESTED - REQUIREMENT THAT  
LICENSED OWNERS AND TRAINERS PRODUCE, UPON DEMAND, HORSE STABLED  
WITHIN 100-MILE RADIUS OF NEW YORK TRACK - LEGAL RIGHTS OF  
PRIVATE HORSE FARM OWNERS - WHETHER PROVISIONS OF REGULATION ARE  
UNCONSTITUTIONAL AND/OR ARBITRARY AND CAPRICIOUS;

FREZZELL v CITY OF NEW YORK et al.: (Cal. Date - 10/15/14)

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;

FRONT, INC. v KHALIL:

LIBEL AND SLANDER - PRIVILEGE - ALLEGEDLY DEFAMATORY STATEMENTS MADE BY COUNSEL IN CONTEXT OF PROSPECTIVE LITIGATION - WHETHER, AND UNDER WHAT CIRCUMSTANCES, SUCH STATEMENTS ARE ENTITLED TO AN ABSOLUTE PRIVILEGE; TORTS - INTERFERENCE WITH BUSINESS RELATIONS - SUFFICIENCY OF PLEADING;

GAMMONS v CITY OF NEW YORK, et al.:

NEGLIGENCE - INJURIES TO POLICE OFFICERS - WHETHER LABOR LAW § 27-a(3)(a)(1) CONSTITUTES A SUFFICIENT STATUTORY PREDICATE FOR A POLICE OFFICER'S CAUSE OF ACTION TO RECOVER DAMAGES PURSUANT TO GENERAL MUNICIPAL LAW § 205-e EVEN THOUGH LABOR LAW § 27-a DOES NOT PROVIDE FOR A PRIVATE RIGHT OF ACTION;

GARAY (BENNY), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER TRIAL COURT VIOLATED DEFENDANT'S RIGHT TO COUNSEL BY DISCHARGING A JUROR WHO CALLED IN SICK PRIOR TO THE ARRIVAL OF DEFENDANT'S COUNSEL; WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A SUPPRESSION HEARING; COURTROOM CLOSURE DURING TESTIMONY OF UNDERCOVER POLICE OFFICERS;

GARCIA (RICHARD), PEOPLE v:

CRIMES - EVIDENCE - OUT-OF-COURT STATEMENT - WHETHER THE TRIAL COURT PROPERLY PERMITTED THE PEOPLE TO INTRODUCE EVIDENCE THAT THE VICTIM'S NONTESTIFYING SISTER TOLD A DETECTIVE THAT THE VICTIM HAD BEEN HAVING AN UNSPECIFIED "PROBLEM" WITH DEFENDANT, BECAUSE SUCH TESTIMONY WAS PRESENTED NOT FOR THE TRUTH OF THE MATTER ASSERTED, BUT TO EXPLAIN WHY THE POLICE FOCUSED ON DEFENDANT AND SPENT YEARS TRYING TO LOCATE HIM - ABSENCE OF A LIMITING INSTRUCTION - HARMLESS ERROR;

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;

GOLDMAN (ARON), PEOPLE v:

CRIMES - ENTERPRISE CORRUPTION - MEDICAL CLINIC USED TO FACILITATE INSURANCE FRAUD - LEGAL SUFFICIENCY OF THE EVIDENCE - WHETHER THE "CRIMINAL ENTERPRISE" DEFINED IN PENAL LAW § 460.10(3) MUST BE STRUCTURED SO AS TO PERMIT THE ENTERPRISE TO CONTINUE IN EXISTENCE WITHOUT THE INVOLVEMENT OF ONE OR MORE KEY PARTICIPANTS; INSTRUCTIONS - ACCESSORIAL LIABILITY - WHETHER THE TRIAL COURT'S JURY INSTRUCTIONS ON ACCESSORIAL LIABILITY CONVEYED

THE APPROPRIATE LEGAL STANDARD; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO PRESERVE CERTAIN ISSUES FOR APPELLATE REVIEW;

GONZALEZ (RICHARD), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - WHETHER THE TRIAL COURT ERRED IN INSTRUCTING THE JURY THAT TO BE GUILTY OF POSSESSING A "GRAVITY KNIFE" (PENAL LAW § 265.01[1]), DEFENDANT HAD TO KNOW ONLY THAT HE HAD A KNIFE IN HIS POSSESSION, AND NOT THAT THE KNIFE HAD THE CHARACTERISTICS OF A "GRAVITY KNIFE" (PENAL LAW § 265.00[5]) - SCIENTER ELEMENT OF CRIME; SEARCH - WHETHER POLICE STOP AND SEARCH OF DEFENDANT WAS JUSTIFIED;

GORMAN, MATTER OF v RICE, et al: (Cal. Date - 10/16/14)

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;

GRACE v LAW, et al.: (Cal. Date - 9/17/14)

ATTORNEY AND CLIENT - MALPRACTICE - WHETHER PLAINTIFF WAIVED HIS LEGAL MALPRACTICE CLAIM BY VOLUNTARILY DISCONTINUING THE UNDERLYING MEDICAL MALPRACTICE CASE AFTER MOST CLAIMS HAD BEEN DISMISSED, INCLUDING THOSE AGAINST THE TREATING PHYSICIAN, AND NO APPEAL WAS TAKEN; SUMMARY JUDGMENT - EVIDENTIARY STANDARD;

GRAHAM (CLIFFORD), PEOPLE v:

CRIMES - CONFESSION - WHETHER STATEMENTS DEFENDANT MADE TO POLICE SHOULD HAVE BEEN SUPPRESSED BECAUSE THEY WERE GIVEN DURING A CUSTODIAL INTERROGATION AND WITHOUT THE PRIOR ADMINISTRATION OF MIRANDA WARNINGS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THOSE STATEMENTS WERE NOT SUBJECT TO SUPPRESSION BECAUSE THE POLICE COULD INFER FROM DEFENDANT'S CONDUCT AND HIS ATTORNEY'S ASSURANCES THAT DEFENDANT WAIVED HIS MIRANDA RIGHTS AND THAT SUCH WAIVER WAS MADE ON THE ADVICE OF COUNSEL;

GRAHAM COURT OWNER'S CORP. v TAYLOR:

LANDLORD AND TENANT - LEASE - ATTORNEYS' FEE PROVISION - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT A PROVISION IN A LEASE GIVING LANDLORD THE RIGHT TO CANCEL THE LEASE IF TENANT DID NOT TIMELY CURE A DEFAULT, REGAIN POSSESSION OF THE PREMISES THROUGH A SUMMARY HOLDOVER PROCEEDING, RE-RENT THE APARTMENT AND USE ANY RENT THEREFROM TO PAY LANDLORD'S EXPENSES, INCLUDING ITS LEGAL FEES, TRIGGERS THE TENANT'S RECIPROCAL RIGHT TO LEGAL FEES UNDER THE IMPLIED COVENANT PROVIDED BY REAL PROPERTY LAW § 234;

GRUBSTEIN (HOWARD), PEOPLE v: (Cal. Date - 10/16/14)

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(2)(c) APPLIED TO BAR DEFENDANT'S CLAIM BECAUSE OF HIS FAILURE TO CHALLENGE THE PLEA ON DIRECT APPEAL;

GUDZ v JEMROCK REALTY COMPANY, LLC:

(Cal. Date - 10/14/14)

ACTIONS - CLASS ACTIONS - MOTION TO DISMISS PUTATIVE CLASS ACTION - WHETHER PURPORTED CLASS ACTION SEEKING RECOVERY OF ALLEGED UNLAWFUL RENT OVERCHARGES UNDER THE RENT STABILIZATION LAW (RSL), SHOULD BE DISMISSED PURSUANT TO CPLR 901(b), WHICH, WITH AN EXCEPTION NOT APPLICABLE IN THIS CASE, PROHIBITS CLASS ACTIONS TO RECOVER STATUTORY PENALTIES, WHERE RSL § 26-516(a) MANDATES A PENALTY OF TREBLE DAMAGES IN CERTAIN CIRCUMSTANCES - A PUTATIVE CLASS REPRESENTATIVE HAS WAIVED THE RIGHT OF THE CLASS TO SEEK TREBLE DAMAGES - WHETHER SUCH WAIVER DISQUALIFIES PLAINTIFF AS AN ADEQUATE CLASS REPRESENTATIVE - WHETHER THE RENT OVERCHARGE CLAIMS CAN BE DETERMINED ON A CLASS-WIDE BASIS - ALLEGED PROCEDURAL ERRORS IN MOTION FOR CLASS CERTIFICATION;

GUTHRIE (REBECCA), PEOPLE v:

CRIMES - FAILURE TO STOP AT A STOP SIGN - WHETHER A POLICE OFFICER'S REASONABLE BELIEF THAT DEFENDANT HAD RUN A STOP SIGN PROVIDED PROBABLE CAUSE FOR A TRAFFIC STOP, EVEN THOUGH THE STOP SIGN WAS NOT AUTHORIZED; DRIVING WHILE INTOXICATED - WHETHER THE "FRUIT OF THE POISONOUS TREE" DOCTRINE REQUIRES SUPPRESSION OF BLOOD-ALCOHOL EVIDENCE OBTAINED AS A RESULT OF A TRAFFIC STOP BASED UPON DEFENDANT'S FAILURE TO STOP AT AN UNAUTHORIZED STOP SIGN;

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 310.30 - 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;

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;

HEATLEY (TODD R.), PEOPLE v.:

CRIMES - MURDER - INTENT TO KILL - WEIGHT OF EVIDENCE - ANALYSIS OF SUFFICIENCY OF EVIDENCE WITHIN CONTEXT OF WEIGHT OF THE EVIDENCE REVIEW - APPROPRIATE REMEDY - WHETHER APPELLATE DIVISION ERRED IN REDUCING CONVICTION OF MURDER IN THE FIRST DEGREE TO THE LESSER INCLUDED OFFENSE OF MANSLAUGHTER IN THE FIRST DEGREE; EVIDENCE - DEMONSTRATIVE EVIDENCE - PROSECUTORIAL MISCONDUCT; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

HENDERSON (WILLIAM), PEOPLE v.:

CRIMES - MURDER - FELONY MURDER - SUFFICIENCY OF THE EVIDENCE WHERE PREDICATE FELONY OF BURGLARY IS BASED UPON INTENT TO COMMIT ASSAULT OR MURDER AT TIME OF ENTRY; INSTRUCTIONS - DENIAL OF REQUEST TO CHARGE LESSER INCLUDED OFFENSE OF MANSLAUGHTER IN SECOND DEGREE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE ONLY REASONABLE VIEW OF THE EVIDENCE WAS THAT DEFENDANT'S STABBING OF VICTIM WAS INTENTIONAL AND NOT RECKLESS;

HILL (DERRICK), PEOPLE v.: (Cal. Date - 1/16/14)

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;

HORTON (THOMAS), PEOPLE v.: (Cal. Date - 9/16/14)

CRIMES - TAMPERING WITH WITNESS - DEFENDANT POSTED ON HIS FACEBOOK ACCOUNT A PICTURE OF A WOMAN WHO ACTED AS AN INFORMANT IN A CASE INVOLVING DEFENDANT'S BEST FRIEND AND LABELED HER A "SNITCH" - NO EVIDENCE OF THREATS OR INTIMIDATION - WHETHER THE EVIDENCE WAS LEGALLY SUFFICIENT TO SUPPORT DEFENDANT'S CONVICTION FOR TAMPERING WITH A WITNESS IN THE FOURTH DEGREE (PENAL LAW § 215.10);

HUTCHINSON v SHERIDAN HILL HOUSE CORP.:

NEGLIGENCE - SIDEWALKS - TRIP AND FALL ON METAL SCREW OR OTHER OBJECT PROTRUDING FROM THE SIDEWALK - SUMMARY JUDGMENT GRANTED TO DEFENDANT BASED UPON TRIVIAL NATURE OF DEFECT, LACK OF NOTICE, AND SPECULATIVE AND CONCLUSORY NATURE OF PLAINTIFF'S EXPERT REPORT;

INOA (JOSE), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER TRIAL COURT ERRED IN PERMITTING A POLICE DETECTIVE TO TESTIFY AS AN EXPERT WITH REGARD TO CODED OR UNEXPLAINED LANGUAGE IN RECORDED TELEPHONE CONVERSATIONS BETWEEN DEFENDANT AND HIS CODEFENDANT;

ISRAEL (DANIEL), PEOPLE v:

CRIMES - EVIDENCE - OTHER UNCHARGED CRIMES - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE TO INTRODUCE REBUTTAL EVIDENCE OF TWO UNCHARGED CRIMES WHERE THE WITNESSES LACKED DIRECT KNOWLEDGE OF PROVOCATION (PEOPLE v SANTERELLI, 49 NY2d 241); WHETHER IN THE CONTEXT OF AN EXTREME EMOTIONAL DISTURBANCE DEFENSE, INCIDENTS OF UNCHARGED VIOLENCE MAY BE ADMISSIBLE EVEN IF THE DEGREE OF VIOLENCE IS NOT COMMENSURATE WITH THE CONDUCT UNDERLYING THE CHARGES;

MATTER OF TRENASIA J. (AND THREE OTHER PROCEEDINGS):

PARENT, CHILD AND FAMILY - ABUSED OR NEGLECTED CHILD - SEXUAL ABUSE - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT APPELLANT WAS A PERSON LEGALLY RESPONSIBLE FOR HIS NIECE WITHIN THE MEANING OF THE FAMILY COURT ACT - SUFFICIENCY OF THE EVIDENCE OF ABUSE AND DERIVATIVE NEGLECT - BURDEN OF PROOF - ADMISSIBILITY OF CHILDREN'S STATEMENTS UNDER FAMILY COURT ACT § 1046(a)(vi);

JARVIS (KHARYE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - DEFENSE COUNSEL'S FAILURE TO OBJECT TO TESTIMONY THAT HE SUCCESSFULLY SOUGHT TO PRECLUDE - DEFENSE COUNSEL'S PRESENTATION OF ALIBI EVIDENCE WITH ERRONEOUS DATE/TIMING;

JENKINS (BENJAMIN), PEOPLE v: (Cal. Date - 9/9/14)

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;

JOHNSON (RAUL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - DEFENDANT, REPRESENTED BY COUNSEL ON A SERIES OF BURGLARY CHARGES, AGREED TO ASSIST PROSECUTORS IN THE 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;

JONES (CLEMON), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - WHETHER THE PERSISTENT FELONY OFFENDER STATUTE (PENAL LAW § 70.10) SHOULD BE INTERPRETED TO HAVE A REQUIREMENT THAT NON-NEW YORK PREDICATE FELONIES HAVE A NEW YORK EQUIVALENT, AS DOES THE SECOND FELONY OFFENDER STATUTE (PENAL LAW § 70.06);

JONES (CLIFFORD), PEOPLE v:

CRIMES - VACATUR OF JUDGMENT OF CONVICTION - PRESENCE OF HAIRS OTHER THAN DEFENDANT'S ON HAT WORN BY PERPETRATOR - WHETHER RESULTS OF DNA TESTING ON THREE OUT OF 18 HAIRS FOUND ON HAT WORN BY PERPETRATOR AND ON FINGERNAIL SCRAPINGS FROM MURDER VICTIM WARRANTED VACATUR OF THE JUDGMENT OF CONVICTION - WHETHER DEFENDANT WAS ENTITLED TO A HEARING ON HIS CPL 440.10 MOTION;

JORDAN, MATTER OF v LEVINE, et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHEN REMEDY AVAILABLE - TRIAL ERRORS - MANDAMUS - CLEAR LEGAL RIGHT TO RELIEF SOUGHT;

KASCKAROW, MATTER OF v BOARD OF EXAMINERS OF SEX OFFENDERS OF STATE OF NEW YORK:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO REVIEW DETERMINATION OF BOARD OF EXAMINERS OF SEX OFFENDERS OF THE STATE OF NEW YORK THAT PETITIONER IS REQUIRED TO REGISTER AS A SEX OFFENDER PURSUANT TO THE SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - WHETHER A PLEA IN FLORIDA OF NOLO CONTENDERE TO A FELONY SEX CRIME CONSTITUTES A "CONVICTION" UNDER SORA SUCH THAT REGISTRY AS A SEX OFFENDER IS REQUIRED IN NEW YORK;

KESCHNER (MATTHEW), PEOPLE v:

CRIMES - ENTERPRISE CORRUPTION - MEDICAL CLINIC USED TO FACILITATE INSURANCE FRAUD - LEGAL SUFFICIENCY OF THE EVIDENCE - WHETHER THE "CRIMINAL ENTERPRISE" DEFINED IN PENAL LAW § 460.10(3) MUST BE STRUCTURED SO AS TO PERMIT THE ENTERPRISE TO CONTINUE IN EXISTENCE WITHOUT THE INVOLVEMENT OF ONE OR MORE KEY PARTICIPANTS; INSTRUCTIONS - ACCESSORIAL LIABILITY - WHETHER THE TRIAL COURT'S JURY INSTRUCTIONS ON ACCESSORIAL LIABILITY CONVEYED THE APPROPRIATE LEGAL STANDARD; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO PRESERVE CERTAIN ISSUES FOR APPELLATE REVIEW;

KICKERTZ, MATTER OF v NEW YORK UNIVERSITY:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING SEEKING TO ANNUL RESPONDENT UNIVERSITY'S DETERMINATION EXPELLING PETITIONER FROM ITS DENTAL COLLEGE; WHETHER RESPONDENT COMPLIED WITH ITS OWN POLICIES AND WHETHER ITS DETERMINATION WAS ARBITRARY AND CAPRICIOUS; CHALLENGE TO RESULT FOLLOWING PRE-ANSWER DISMISSAL OF PROCEEDING;

KIGIN, MATTER OF v STATE OF NEW YORK WORKERS' COMPENSATION BOARD:  
(Cal. Date - 10/14/14)



WORKERS' COMPENSATION - TREATMENT AND CARE OF INJURED EMPLOYEES - WORKERS' COMPENSATION BOARD'S AUTHORITY TO PROMULGATE MEDICAL TREATMENT GUIDELINES (GUIDELINES) - WHETHER THE GUIDELINES IMPROPERLY SHIFT THE BURDEN OF PROOF TO MEDICAL TREATMENT PROVIDERS TO DEMONSTRATE MEDICAL NECESSITY FOR THE CARE THEY SEEK TO PROVIDE TO WORKERS' COMPENSATION CLAIMANTS - ALLEGED DUE PROCESS VIOLATION;

KILDUFF, MATTER OF v ROCHESTER CITY SCHOOL DISTRICT, et al:

(Cal. Date - 10/16/14)

SCHOOLS - TEACHERS - COLLECTIVE BARGAINING AGREEMENT - WHETHER APPELLATE DIVISION ERRED IN DETERMINING THAT, BASED ON EDUCATION LAW § 3020(1) AND THE EFFECTIVE DATE OF THE RELEVANT COLLECTIVE BARGAINING AGREEMENT, PETITIONER SHOULD HAVE BEEN GIVEN A CHOICE AS TO WHETHER SHE WANTED A SECTION 3020-a HEARING OR TO USE THE DISCIPLINARY PROCEDURES IN THE COLLECTIVE BARGAINING AGREEMENT;

KIMMEL v STATE OF NEW YORK et al.:

STATE - EQUAL ACCESS TO JUSTICE ACT (EAJA) (CPLR ARTICLE 86) - WHETHER PREVAILING PARTY IN A SEX DISCRIMINATION ACTION FOR MONEY DAMAGES AGAINST THE STATE IS ELIGIBLE TO RECOVER ATTORNEYS' FEES AND EXPENSES UNDER THE EAJA;

KIMS (STANLEY R., II), PEOPLE v: (Cal. Date - 9/11/14)

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;

KIMSO APARTMENTS, LLC v GANDHI: (Cal. Date - 10/21/14)

PLEADING - AMENDMENT - COUNTERCLAIM - DEFENDANT'S APPLICATION AT THE CONCLUSION OF TRIAL TO CONFORM THE PLEADINGS TO THE PROOF TO INCLUDE A COUNTERCLAIM ALLEGING THAT PLAINTIFFS BREACHED A SETTLEMENT AGREEMENT BY FAILING TO MAKE PAYMENTS ALLEGEDLY OWED TO HIM PURSUANT TO THAT AGREEMENT AND FOR JUDGMENT IN HIS FAVOR ON THAT COUNTERCLAIM - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT SUPREME COURT SHOULD HAVE DENIED DEFENDANT'S APPLICATION AS BARRED BY THE DOCTRINE OF LACHES;

LAMONT (JAFARI), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - ATTEMPTED ROBBERY IN THE SECOND DEGREE - WHETHER THE EVIDENCE IS SUFFICIENT TO ESTABLISH BEYOND A REASONABLE DOUBT DEFENDANT'S INTENT TO COMMIT ROBBERY;

LASHWAY (STEVEN), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - DEFENDANT'S RIGHT TO DISCOVERY UNDER SORA - ACCESS TO DOCUMENTS UPON WHICH THE BOARD OF EXAMINERS OF SEX OFFENDERS BASED ITS REPORT RECOMMENDING THAT DEFENDANT REMAIN A RISK LEVEL THREE SEX OFFENDER; COUNTY COURT'S DENIAL OF ADJOURNMENT OF PROCEEDING SO THAT REQUESTED DOCUMENTS COULD BE OBTAINED; ALLEGED DUE PROCESS VIOLATION;

LAWRENCE, DECEASED, MATTER OF (LAWRENCE, et al. v GRAUBARD MILLER, et al.): (Cal. Date - 9/9/14)

ATTORNEY AND CLIENT - COMPENSATION - AMENDED RETAINER AGREEMENT FOR REPRESENTATION OF FAMILY IN LITIGATION CONCERNING THE ADMINISTRATION OF AN ESTATE - WHETHER CONTINGENCY FEE AGREEMENT WAS UNCONSCIONABLE - GIFTS TO ATTORNEYS;

ESTATE OF LEWIS, DECEASED, MATTER OF:

WILLS - OBJECTIONS - REVOCATION - PRESUMPTION OF REVOCATION BY DESTRUCTION BASED UPON PETITIONER'S FAILURE TO PRODUCE ALL COPIES OF FIRST WILL - ALLEGED FAILURE OF COURTS BELOW TO EXERCISE EQUITY POWER - EFFECT OF TESTIMONY REGARDING LOST SECOND WILL AND DECEDENT'S INTENT TO REVOKE THE FIRST WILL;

LIN (JIN CHENG), PEOPLE v:

CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN PRECLUDING ADMISSION INTO EVIDENCE OF DEFENDANT'S COMPLAINT OF MISTREATMENT BY POLICE AND A VIDEOTAPE OF DEFENDANT'S INTERVIEW BY AN ASSISTANT DISTRICT ATTORNEY; CONFESSION - VOLUNTARINESS OF CONFESSION - PRE-ARRAIGNMENT DELAY AND CIRCUMSTANCES SURROUNDING INTERROGATION DURING THAT TIME; DIRECTION TO JURY TO CONTINUE DELIBERATIONS AFTER TRIAL COURT REFUSED TO ACCEPT VERDICT ON GROUNDS OF REPUGNANCY - WHETHER TRIAL COURT ERRED IN REFUSING TO DIRECT THE JURY TO RECONSIDER VERDICT IN ITS ENTIRETY;

LINARES, MATTER OF v EVANS:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING CHALLENGING AN 11/8/11 DETERMINATION OF THE BOARD OF PAROLE DENYING PETITIONER'S REQUEST FOR PAROLE RELEASE - WHETHER THE PAROLE BOARD'S FAILURE TO PROMULGATE REGULATIONS PURSUANT TO EXECUTIVE LAW § 259-c(4) PRIOR TO PETITIONER'S PAROLE HEARING MAKES THE BOARD'S DETERMINATION IMPROPER; AGGRIEVEMENT; WHETHER THE BOARD'S DETERMINATION IS SUPPORTED BY THE RECORD; PROPRIETY OF THE BOARD'S SUBMISSION OF DOCUMENTS TO SUPREME COURT FOR IN CAMERA REVIEW;

LLOYD-DOUGLAS (COLLIN F.), PEOPLE v: (Cal. Date - 9/18/14)

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;

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;

LUDWIG (DANIEL A.), PEOPLE v: (Cal. Date - 9/17/14)

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;

MAETREUM OF CYBELE, MAGNA MATER, INC., MATTER OF v McCOY &c., et al.: (Cal. Date - 10/21/14)

TAXATION - REAL PROPERTY TAX - EXEMPTIONS - USE OF PROPERTY FOR RELIGIOUS PURPOSES - WHETHER PROPERTY AT ISSUE WAS USED EXCLUSIVELY FOR RELIGIOUS OR CHARITABLE PURPOSES WITHIN THE MEANING OF REAL PROPERTY TAX LAW (RPTL) § 420-a DURING THE YEARS AT ISSUE; BURDEN OF PROOF;

MALAY v CITY OF SYRACUSE, et al.:

LIMITATION OF ACTIONS - COMMENCEMENT OF ACTION WITHIN SIX MONTHS AFTER TERMINATION OF PRIOR ACTION (CPLR 205[a]) - WHETHER PRIOR FEDERAL ACTION WAS TERMINATED WITHIN THE MEANING OF CPLR 205(a) WHEN FEDERAL DISTRICT COURT DISMISSED PLAINTIFF'S FEDERAL AND STATE CLAIMS, WHERE PLAINTIFF TOOK AN APPEAL TO THE FEDERAL CIRCUIT COURT AND FILED THE SECOND ACTION IN STATE COURT WHILE THE APPEAL WAS PENDING, ALTHOUGH THE APPEAL WAS LATER DISMISSED FOR FAILURE TO PROSECUTE;

MANOUEL, MATTER OF, et al. v BOARD OF ASSESSORS, et al.:

TAXATION - ASSESSMENT - SMALL CLAIMS ASSESSMENT REVIEW (SCAR) (RPTL ARTICLE 7) - REQUIREMENT THAT PROPERTY BE "OWNER-OCCUPIED" - WHETHER NON-OCCUPYING OWNERS OF A SINGLE-FAMILY HOUSE MAY CHALLENGE A TAX ASSESSMENT IN A SCAR PROCEEDING WHERE THE HOUSE IS OCCUPIED ON A RENT-FREE BASIS BY ONE OF THEIR MOTHERS;

MARGERUM, et al. v CITY OF BUFFALO, et al.:

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - CLAIM THAT CITY DEFENDANTS DISCRIMINATED AGAINST CERTAIN FIREFIGHTERS BY ALLOWING PROMOTIONAL ELIGIBILITY LISTS CREATED PURSUANT TO THE CIVIL SERVICE LAW TO EXPIRE SOLELY ON THE GROUND THAT PLAINTIFFS, WHO WERE NEXT IN LINE FOR PROMOTION, ARE CAUCASIAN - REDUCTION OF

RECOVERY FOR ECONOMIC DAMAGES; NOTICE OF CLAIM (GENERAL MUNICIPAL LAW § 50-i); LIABILITY OF CITY UNDER HUMAN RIGHTS LAW UNDER STANDARD SET IN RICCI v DeSTEFANO (557 US 557);

MARTINEZ (ANTONIO), PEOPLE v:

CRIMES - SENTENCE - IMPOSITION AFTER TRIAL OF MAXIMUM SENTENCE OF IMPRISONMENT WHERE PEOPLE PREVIOUSLY OFFERED A PLEA WITH A PROBATIONARY SENTENCE - CHALLENGE TO SENTENCE FOR UNCONSTITUTIONALLY PENALIZING DEFENDANT FOR EXERCISING HIS RIGHT TO TRIAL;

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;

McGINLEY et al. v MYSTIC WEST REALTY CORP., &c.:

NEGLIGENCE - SIDEWALKS - TRIP AND FALL - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT CERTAIN DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT AND CROSS CLAIMS AS AGAINST THEM;

McGOVERN, MATTER OF v MOUNT PLEASANT CENTRAL SCHOOL DISTRICT:  
SCHOOLS - TEACHERS - NOTICE OF CLAIM (EDUCATION LAW § 3813[1]) - CPLR ARTICLE 78 PROCEEDING TO REVIEW BOARD OF EDUCATION DETERMINATION DENYING PETITIONER TENURE AND TERMINATING HER EMPLOYMENT AS A PROBATIONARY TEACHER - WHETHER PETITIONER WAS EXEMPT FROM THE EDUCATION LAW NOTICE OF CLAIM REQUIREMENT;

McLEAN (SAMUEL), PEOPLE v: (Cal. Date - 9/10/14)

CRIMES - RIGHT TO COUNSEL - INCULPATORY STATEMENT TAKEN BY POLICE WHILE DEFENDANT IMPRISONED ON UNRELATED CHARGE - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE POLICE FULFILLED THEIR OBLIGATION TO RESOLVE AN AMBIGUITY AS TO WHETHER DEFENDANT WAS REPRESENTED BY COUNSEL IN A HOMICIDE INVESTIGATION BY DETERMINING THAT COUNSEL'S REPRESENTATION OF DEFENDANT HAD TERMINATED PRIOR TO QUESTIONING HIM;

MERRY-GO-ROUND PLAYHOUSE, INC., MATTER OF v ASSESSOR OF THE CITY OF AUBURN, et al.: (Cal. Date - 10/21/14)

TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW (RPTL) ARTICLE 7 PROCEEDING TO REVIEW AN ASSESSMENT ON REAL PROPERTY MADE BY THE CITY RESPONDENTS - WHETHER THE SUBJECT PROPERTIES, TWO APARTMENT BUILDINGS HOUSING A THEATER'S SEASONAL ACTORS AND STAFF, WERE USED EXCLUSIVELY FOR A TAX EXEMPT PURPOSE AS DEFINED BY RPTL 420-a(1)(a);

MITCHELL v CANTOR FITZGERALD, L.P., et al.:

APPEAL - APPELLATE DIVISION - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING APPEAL FOR FAILURE TO TIMELY PERFECT - DISMISSAL OF APPEAL FROM SUPREME COURT ORDER GRANTING DEFENDANTS' MOTION TO DISMISS COMPLAINT AND DIRECTING THE PARTIES TO PROCEED TO ARBITRATION, PURSUANT TO ARBITRATION AGREEMENT IN A SECURITIES REGISTRATION FORM AND EMPLOYER-EMPLOYEE ARBITRATION AGREEMENT;

MITCHELL v NEW YORK UNIVERSITY, et al.:

APPEAL - APPELLATE DIVISION - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PLAINTIFF'S MOTION FOR "SUMMARY JUDGMENT" AND FOR OTHER RELIEF WITH RESPECT TO HIS APPEAL FROM A SUPREME COURT ORDER THAT, AMONG OTHER THINGS, GRANTED DEFENDANTS' MOTION TO DISMISS THE COMPLAINT;

ESTATE OF MONACO, MATTER OF:

DISCLOSURE - FINANCIAL DISCLOSURE - WHETHER THE APPELLATE DIVISION ERRED IN AFFIRMING A SURROGATE'S COURT ORDER DENYING RESPONDENT ESTATE'S MOTION TO COMPEL PETITIONER TO PRODUCE CERTAIN INCOME RECORDS OR FOR AUTHORIZATION TO OBTAIN SUCH RECORDS FROM THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE;

MONTANE, MATTER OF v EVANS:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO ANNUL A BOARD OF PAROLE DETERMINATION DENYING PAROLE RELEASE - WHETHER THE PAROLE BOARD WAS REQUIRED TO PROMULGATE REGULATIONS PURSUANT TO EXECUTIVE LAW § 259-c(4) - WHETHER THE INTERNAL MEMORANDUM CIRCULATED BY THE BOARD SATISFIED THE REQUIREMENTS OF EXECUTIVE LAW § 259-c(4);

MOTELSON v FORD MOTOR COMPANY: (Cal. Date - 10/22/14)

DAMAGES - MENTAL ANGUISH - RECOVERY BY PERSONS WITHIN ZONE OF DANGER - RECOVERY OF DAMAGES BY SON AND GRANDSON OF PERSON WHO WAS KILLED IN A CAR ACCIDENT THAT OCCURRED WHEN THE SON AND GRANDSON WERE OCCUPANTS - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE ISSUE OF WHETHER DECEDENT'S SON AND GRANDSON SUFFERED EMOTIONAL DISTRESS BECAUSE THEY WERE PLACED IN THE DECEDENT'S ZONE OF DANGER "WAS NOT SUBMITTED TO THE JURY";

NATURAL RESOURCES DEFENSE COUNCIL, et al., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

ENVIRONMENTAL CONSERVATION - STATE POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT - STATEWIDE GENERAL PERMIT FOR STORM WATER DISCHARGES FROM MUNICIPAL SEPARATE STORM SEWER SYSTEMS - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE GENERAL PERMIT AT ISSUE DOES NOT VIOLATE 33 USC § 1342(a)(1), 33 USC § 1342 (p)(3)(B)(iii), ECL 17-0805(1)(a)(ix), ECL 17-

0808(3)(c), ECL 17-0811(5), ECL 17-0813, OR 6 NYCRR 750-1.14;

NESMITH &c., et al. v ALLSTATE INSURANCE COMPANY:

(Cal. Date - 10/15/14)

INSURANCE - CONSTRUCTION OF POLICY - PROPERTY INSURANCE - WHETHER A NONCUMULATION CLAUSE IN THE POLICY BARS A PLAINTIFF FROM RECOVERING THE FULL LIABILITY AMOUNT WHERE SEPARATE PLAINTIFFS ARE INJURED DURING SUCCESSIVE RENEWAL PERIODS OF THE POLICY - WHETHER EXPOSURE OF UNRELATED CHILDREN TO LEAD-BASED PAINT IN THE SAME APARTMENT DURING SUCCESSIVE TENANCIES CONSTITUTES ONE OCCURRENCE UNDER THE TERMS OF THE POLICY, THEREBY LIMITING DEFENDANT'S AGGREGATE LIABILITY TO A SINGLE FULL COVERAGE AMOUNT; DECLARATORY JUDGMENT;

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (ANDRUCKI v ALUMINUM COMPANY OF AMERICA, et al.): (Cal. Date - 10/15/14)

PUBLIC AUTHORITIES - CLAIMS AGAINST PUBLIC AUTHORITIES - COMPLIANCE WITH NOTICE OF CLAIM REQUIREMENTS - WHETHER A NOTICE OF CLAIM THAT STATED PERSONAL INJURY CLAIMS ARISING OUT OF A WORKER'S EXPOSURE TO ASBESTOS AND DEVELOPMENT OF MALIGNANT MESOTHELIOMA, PROVIDED THE REQUIRED 60-DAY NOTICE WITH RESPECT TO SURVIVORSHIP AND WRONGFUL DEATH CAUSES OF ACTION CONTAINED IN AMENDED COMPLAINT FILED AFTER WORKER DIED - APPLICABILITY OF "SUBSTANTIAL COMPLIANCE" DOCTRINE;

NICOMETI v VINEYARDS OF FREDONIA, LLC et al. (AND A THIRD-PARTY ACTION):

NEGLIGENCE - PROXIMATE CAUSE - PLAINTIFF INJURED WHEN HIS STILTS SLIPPED ON ICE WHILE HE WAS INSTALLING CEILING INSULATION AT A CONSTRUCTION SITE - WHETHER THERE IS A TRIABLE ISSUE OF FACT WHETHER PLAINTIFF'S ACTIONS WERE THE SOLE PROXIMATE CAUSE OF HIS INJURIES; LABOR LAW § 240; SUMMARY JUDGMENT;

TOWN OF NORTH HEMPSTEAD, MATTER OF v COUNTY OF NASSAU:

(Cal. Date - 9/10/14)

COLLEGES AND UNIVERSITIES - COMMUNITY COLLEGE - COST OF EDUCATING TOWN RESIDENTS AT COMMUNITY COLLEGE OUTSIDE COUNTY - WHETHER THE EDUCATION LAW PERMITS A COUNTY TO CHARGE BACK A TOWN WITHIN THE COUNTY FOR PAYMENTS THE COUNTY EXPENDS FOR TOWN RESIDENTS TO ATTEND THE FASHION INSTITUTE OF TECHNOLOGY (FIT) AND, IF SO, WHETHER SUCH CHARGE-BACKS ARE RESTRICTED TO TWO-YEAR EDUCATION AND ASSOCIATE DEGREE PROGRAMS - WHETHER THE COUNTY MUST FORMALLY ADOPT A RESOLUTION AUTHORIZING THE COUNTY TREASURER TO COLLECT THE CHARGE-BACKS IN CONNECTION WITH FIT PRIOR TO IMPOSING SUCH COSTS UPON THE TOWN; SETOFF AND COUNTERCLAIM - RIGHT TO SETOFF - WHETHER THE COUNTY MAY OFFSET THE CHARGE-BACKS AGAINST THE TOWN'S SHARE OF SALES TAX REVENUE THE COUNTY IS OBLIGATED TO PAY TO THE TOWN;

NUMRICH GUN PARTS CORPORATION, MATTER OF v RIVERA &c., et al.:

UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - PROCEEDING TO, AMONG OTHER THINGS, PROHIBIT RESPONDENTS FROM

CHARACTERIZING PETITIONER'S CALL CENTER REPRESENTATIVES AS EMPLOYEES FOR PURPOSES OF UNEMPLOYMENT INSURANCE AND FROM CONDUCTING FURTHER ADMINISTRATIVE PROCEEDINGS ON THE ISSUE; SUBJECT MATTER JURISDICTION - LABOR LAW § 626;

O'DANIEL (WILLIAM), PEOPLE v: (Cal. Date - 9/16/14)  
 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;

155 WEST 21<sup>ST</sup> STREET, LLC, MATTER OF v McMULLAN:  
 ATTORNEY AND CLIENT - FRIVOLOUS CONDUCT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT PETITIONERS AND THEIR ATTORNEY ENGAGED IN FRIVOLOUS CONDUCT WARRANTING THE IMPOSITION OF SANCTIONS BY INITIATING A SPECIAL PROCEEDING AT SUPREME COURT PURSUANT TO RPAPL 881 FOR AN ORDER GRANTING THEM A LICENSE TO PASS THROUGH CERTAIN PROPERTY ON THE SAME DAY THAT THE APPELLATE DIVISION DENIED THEIR MOTION TO VACATE A PRELIMINARY INJUNCTION PENDING RESOLUTION OF THEIR APPEAL OF THE SUPREME COURT ORDER PRELIMINARILY ENJOINING THEM FROM ENTERING THAT PROPERTY;

172 VAN DUZER REALTY CORPORATION v GLOBE ALUMNI STUDENT ASSISTANCE ASSOCIATION, INC., et al.:  
 LANDLORD AND TENANT - LEASE - ACCELERATION PROVISION - WHETHER AN ACCELERATION CLAUSE IN A COMMERCIAL LEASE, WHICH ALLOWS THE LANDLORD TO COLLECT THE FULL RENT DUE UNDER THE LEASE, IS ENFORCEABLE WHERE THE LANDLORD TERMINATES THE LEASE AFTER THE TENANT FAILS TO COMPLY WITH A NOTICE TO CURE AND VACATES THE PROPERTY AND THE LANDLORD DOES NOT MITIGATE DAMAGES;

ON SIGHT MOBILE OPTICIANS, PEOPLE v:  
 CRIMES - VIOLATION OF MUNICIPAL CODE - SIGN ORDINANCE - DEFENDANT CHARGED WITH PLACING PROHIBITED SIGN ADVERTISING ITS BUSINESS ON PUBLIC PROPERTY AT FIVE LOCATIONS - WHETHER LOCAL LAW PROHIBITING THE SIGNAGE VIOLATES CONSTITUTIONAL FREE SPEECH PROVISIONS;

VERONICA P., MATTER OF v RADCLIFF A.:  
 PARENT, CHILD AND FAMILY - ORDER OF PROTECTION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING APPEAL IN A FAMILY OFFENSE PROCEEDING AS MOOT UPON THE GROUND THAT THE ORDER OF PROTECTION AT ISSUE HAD EXPIRED, WHERE FAMILY COURT DETERMINED THAT RESPONDENT COMMITTED ACTS THAT CONSTITUTED HARASSMENT IN THE SECOND DEGREE (PENAL LAW § 240.26) - STIGMA;

PACHERILLE (ANTHONY), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL SENTENCING COURT'S DENIAL OF YOUTHFUL OFFENDER STATUS - SENTENCING COURT BELIEVED THAT THE PLEA AGREEMENT PRECLUDED YOUTHFUL OFFENDER TREATMENT FOR THE 16-YEAR-OLD DEFENDANT;

PACQUETTE (DEAN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE IDENTIFICATION OF DEFENDANT BY A "GHOST OFFICER" IN A "BUY AND BUST" CASE WAS CONFIRMATORY AND, THUS, DID NOT REQUIRE CPL 710.30(1)(b) NOTICE;

PATERNO v LASER SPINE INSTITUTE, et al.: (Cal. Date - 10/15/14)  
COURTS - JURISDICTION - LONG-ARM JURISDICTION - WHETHER PERSONAL JURISDICTION OVER FLORIDA DEFENDANTS EXISTS UNDER CPLR 302(a)(1);

PEOPLE, et al. v SPRINT NEXTEL CORP., et al.:

TAXATION - SALES AND USE TAXES - COMPLAINT ALLEGING VIOLATION OF NEW YORK FALSE CLAIMS ACT (STATE FINANCE LAW § 189[1][g]), EXECUTIVE LAW § 63(12) AND TAX LAW, ARTICLE 12, BY KNOWINGLY MAKING FALSE STATEMENTS MATERIAL TO AN OBLIGATION TO PAY SALES TAX PURSUANT TO TAX LAW § 1105(b)(2) - SALES TAX ON INTERSTATE VOICE SERVICE SOLD BY A MOBILE PROVIDER; PREEMPTION BY FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT (4 USC 116, et seq.) - WHETHER EX POST FACTO CLAUSE OF THE U.S. CONSTITUTION (ART. 1, § 10) BARS RETROACTIVE EFFECT OF CIVIL PENALTIES SOUGHT UNDER NEW YORK FALSE CLAIMS ACT;

PERALES (RICHARD), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO FILE NOTICE OF APPEAL OR REQUEST LEAVE TO FILE A LATE NOTICE OF APPEAL - WHETHER THE APPELLATE DIVISION ERRED IN DENYING DEFENDANT'S APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING LEAVE TO FILE A LATE NOTICE OF APPEAL - PEOPLE v SYVILLE (15 NY3d 391 [2010]);

PLATEK v ALLSTATE INDEMNITY COMPANY:

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

POLHILL (EUGENE), PEOPLE v: (Cal. Date - 9/18/14)

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;

POWERS v 31 E 31 LLC, et al: (Cal. Date - 9/10/14)

NEGLIGENCE - DUTY - FALL FROM SETBACK ROOF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, GIVEN THE NATURE AND LOCATION OF THE SETBACK ROOF, IT WAS UNFORESEEABLE AS A MATTER OF



LAW THAT INDIVIDUALS WOULD CHOOSE TO ACCESS IT AND, THUS, THAT DEFENDANTS HAD NO DUTY TO GUARD AGAINST SUCH AN OCCURRENCE - VIOLATIONS OF STATUTORY DUTY - APPLICABILITY OF 1968 BUILDING CODE - 1979 CERTIFICATE OF OCCUPANCY AS PROOF THAT MULTIPLE DWELLING LAW WAS NOT VIOLATED;

THE PRESERVE HOMEOWNERS' ASSOCIATION, INC., &c. v ZHAN et al.:  
ASSOCIATIONS - ACTION BY ASSOCIATION - HOMEOWNERS' ASSOCIATION - RESTRICTIVE COVENANTS - PERMANENT INJUNCTION - WHETHER ASSOCIATION'S BOARD OF DIRECTORS ACTED WITHIN ITS AUTHORITY WHEN IT DIRECTED DEFENDANTS TO REMOVE TWO CHICKENS FROM THEIR PROPERTY - WHETHER THE CHICKENS ARE "NORMAL HOUSEHOLD PETS" PERMITTED BY THE COVENANT;

REID (GRAHAM), PEOPLE v: (Cal. Date - 10/23/14)  
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;

RIGANO &c., MATTER OF v VIBAR CONSTRUCTION, INC. (AND ANOTHER PROCEEDING):  
LIENS - MECHANIC'S LIEN - PROCEEDINGS TO DISCHARGE A MECHANIC'S LIEN AND TO AMEND THE NOTICE OF LIEN TO CORRECT THE NAME OF THE OWNER OF THE REAL PROPERTY - WHETHER MISIDENTIFICATION OF THE TRUE OWNER OF THE PROPERTY IN THE NOTICE OF LIEN IS A JURISDICTIONAL DEFECT WHICH CANNOT BE CURED BY AMENDMENT NUNC PRO TUNC;

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 CHILDREN'S SERVICES;

RODRIGUEZ (SERGIO), PEOPLE v:  
CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - CHANGE, ON RESENTENCING, FROM CONCURRENT TO CONSECUTIVE SENTENCES - WHETHER THE IMPOSITION OF CONSECUTIVE SENTENCES FOR ASSAULT AND FIRST DEGREE ROBBERY VIOLATED PENAL LAW § 70.25(2) WHERE THE ASSAULT, A SHOOTING, OCCURRED IN THE COURSE OF THE ROBBERY; REMARKS MADE BY RESENTENCING COURT; CLAIMED VIOLATION OF DUE PROCESS;

ROSSI (JOHN), PEOPLE v: (Cal. Date - 9/9/14)  
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;

PEOPLE &c., ex rel. DeLIA, ON BEHALF OF SS. (ANONYMOUS) v MUNSEY:  
HABEAS CORPUS - INVOLUNTARY COMMITMENT - PATIENT'S RIGHT TO IMMEDIATE RELEASE WHERE HOSPITAL FILES AN INVOLUNTARY RETENTION APPLICATION AFTER EXPIRATION OF THE INITIAL RETENTION PERIOD - WHETHER MENTAL HYGIENE LAW § 33.15(b) REQUIRES SUPREME COURT TO CONDUCT AN EXAMINATION INTO PATIENT'S ALLEGED MENTAL DISABILITY AND RETENTION BEFORE GRANTING WRIT OF HABEAS CORPUS IN A PROCEEDING BROUGHT PURSUANT TO CPLR ARTICLE 70;

SANDERS (RASAUN), PEOPLE v:  
CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF HIS RIGHT TO APPEAL WAS KNOWING AND VOLUNTARY - COUNTY COURT DID NOT INDICATE THAT APPEAL SUBJECT TO WAIVER WAS TO A HIGHER COURT - PROSECUTOR ASKED DEFENDANT IF HE UNDERSTOOD HE WAS WAIVING HIS RIGHT TO APPEAL TO THE APPELLATE DIVISION, SECOND DEPARTMENT - SIGNIFICANCE OF DEFENDANT'S BACKGROUND AND FAMILIARITY WITH CRIMINAL JUSTICE SYSTEM; SUPPRESSION HEARING - WHETHER COUNTY COURT PROPERLY DENIED SUPPRESSION OF CERTAIN STATEMENTS MADE AFTER AN FBI AGENT ADVISED DEFENDANT HE MIGHT BE A CANDIDATE FOR THE FEDERAL DEATH PENALTY; CLAIMED INSUFFICIENCY OF PLEA ALLOCUTION FOR INTENTIONAL ACT;

SCOTT (HAKIM B.), PEOPLE v:  
CRIMES - MANSLAUGHTER - WHETHER THE EVIDENCE WAS SUFFICIENT TO SUPPORT THE CONVICTION OF DEFENDANT FOR MANSLAUGHTER IN THE FIRST DEGREE - WHETHER THERE WAS EVIDENCE OF "A COMMUNITY OF PURPOSE" WITH THE CODEFENDANT WHO RETRIEVED AND USED THE BASEBALL BAT TO BEAT THE VICTIM WHILE DEFENDANT CHASED ANOTHER VICTIM; JURY INSTRUCTIONS - WHETHER DEFENDANT WAS DEPRIVED OF HIS RIGHT TO BE PRESENT FOR ALL MATERIAL STAGES OF HIS TRIAL - JURY INSTRUCTION CORRECTING DATES OF CRIMES GIVEN WITHOUT COUNSEL OR DEFENDANT IN COURTROOM;

SHAULOV (BORIS), PEOPLE v:  
CRIMES - RAPE - EVIDENCE CONCERNING BOTH PROMPT OUTCRY AND DELAYED OUTCRY AT TRIAL - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION FOR A MISTRIAL ON THE GROUND OF UNFAIR SURPRISE WHERE THE PEOPLE INTENDED TO PROCEED WITH THE CASE AS ONE INVOLVING A DELAYED OUTCRY BUT THE COMPLAINANT TESTIFIED AT TRIAL THAT SHE HAD MADE A PROMPT OUTCRY; ALLEGED VIOLATION OF DEFENDANT'S RIGHT TO CONFRONTATION AND DEPRIVATION OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

SHIPLEY et al. v CITY OF NEW YORK et al.:  
DEAD BODIES - RIGHT OF SEPULCHER - RELEASE OF DECEDENT'S BODY BY MEDICAL EXAMINER'S OFFICE WITHOUT NOTIFICATION TO NEXT OF KIN THAT DECEDENT'S BRAIN HAD BEEN REMOVED AND RETAINED FOR FURTHER EXAMINATION;

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;

SIDNEY W., MATTER OF v CHANTA J.:

CHILDREN BORN OUT OF WEDLOCK - ACKNOWLEDGMENT OF PATERNITY -  
MATERIAL MISTAKE OF FACT - WHETHER THE APPELLATE DIVISION ERRED  
IN HOLDING THAT A PARTY SEEKING TO VACATE AN ACKNOWLEDGMENT OF  
PATERNITY NEED ONLY ARTICULATE "SOME BASIS" FOR THE ALLEGATIONS  
OF NONPATERNITY;

SIERRA v 4401 SUNSET PARK, LLC:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - NOTICE OF DISCLAIMER -  
WHETHER INSURER SATISFIED THE REQUIREMENTS OF INSURANCE LAW  
§ 3420(d) BY SENDING NOTICE OF DISCLAIMER TO PRIMARY INSURER BUT  
NOT TO ADDITIONAL INSUREDS;

SILVA (JULIAN), PEOPLE v: (Cal. Date - 10/23/14)

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;

SMITH, MATTER OF v BROWN: (Cal. Date - 9/17/14)

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;

SOARES, &c., MATTER OF v CARTER, et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER WRIT  
OF PROHIBITION LIES WHERE A DISTRICT ATTORNEY SEEKS AN ORDER  
PROHIBITING A JUDGE FROM EXERCISING HIS CONTEMPT POWER OVER THE  
DISTRICT ATTORNEY WHO HAS ELECTED NOT TO CONTINUE A CRIMINAL  
PROSECUTION;

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;

SOWELL, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DECISION OF THE HEARING OFFICER TO REMOVE PETITIONER FROM HIS TIER III PRISON DISCIPLINARY HEARING; DUE PROCESS; CLAIMED BIAS OF HEARING OFFICER;

SPEARS (KELVIN), PEOPLE v: (Cal. Date - 10/22/14)

CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF RIGHT TO APPEAL - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING DEFENDANT'S REQUEST AT SENTENCING FOR AN ADJOURNMENT SO HE COULD CONSULT WITH COUNSEL ABOUT A MOTION TO VACATE HIS GUILTY PLEA;

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, MATTER OF v FITZGERALD:

INSURANCE - AUTOMOBILE INSURANCE - SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORIST (SUM) ENDORSEMENT - WHETHER A POLICE VEHICLE IS A "MOTOR VEHICLE" WITHIN THE MEANING OF THE SUM ENDORSEMENT CONTAINED IN THE INSURANCE POLICY AT ISSUE;

STATE OF NEW YORK, MATTER OF v DONALD DD.: (Cal. Date - 9/18/14)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - DIAGNOSIS OF ANTISOCIAL PERSONALITY DISORDER (ASPD) - WHETHER ASPD CAN CONSTITUTE A MENTAL ABNORMALITY REQUIRING CIVIL COMMITMENT;

STATE OF NEW YORK, MATTER OF v ENRIQUE T.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - VALIDITY OF STATUTE - PRETRIAL DETENTION - WHETHER MENTAL HYGIENE LAW §10.06(k) VIOLATES THE DUE PROCESS CLAUSES OF THE NEW YORK AND FEDERAL CONSTITUTIONS ON ITS FACE AND AS APPLIED - WHETHER THE APPELLATE DIVISION ERRED BY APPLYING THE FUGITIVE DISENTITLEMENT DOCTRINE - ADMISSION INTO EVIDENCE OF SEX OFFENDER TREATMENT RECORDS ALLEGEDLY DISCLOSED IN VIOLATION OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA);

STATE OF NEW YORK, MATTER OF v KENNETH T.: (Cal. Date - 9/18/14)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - SUFFICIENCY OF THE EVIDENCE TO SUPPORT A FINDING OF MENTAL ABNORMALITY AS DEFINED IN MENTAL HYGIENE LAW § 10.03(i) - DIAGNOSIS OF "PARAPHILIA NOT OTHERWISE SPECIFIED, NON-CONSENT" BASED SOLELY UPON KENNETH T.'S PAST SEX CRIMES - WHETHER DIAGNOSIS OF "ANTISOCIAL PERSONALITY DISORDER" CAN SERVE AS THE BASIS FOR SEX OFFENDER CIVIL MANAGEMENT;

STATE OF NEW YORK, MATTER OF v MICHAEL M.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER THE IMPLEMENTATION AND REVOCATION OF STRICT AND INTENSIVE SUPERVISION AND TREATMENT (SIST) VIOLATED APPELLANT'S DUE PROCESS RIGHTS - LEAST RESTRICTIVE PLACEMENT;

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

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER SUPREME COURT ERRED BY PERMITTING THE STATE'S EXPERT TO PROVIDE REBUTTAL TESTIMONY AT A DISPOSITIONAL HEARING VIA TWO-WAY VIDEO CONFERENCE - WHETHER THE HEARING COURT IS REQUIRED TO MAKE A FINDING OF "GOOD CAUSE" OR "EXCEPTIONAL CIRCUMSTANCES" BEFORE PERMITTING A REBUTTAL WITNESS TO TESTIFY VIA TWO-WAY VIDEO CONFERENCE INSTEAD OF IN PERSON;

STRAUSS PAINTING, INC. v MT. HAWLEY INSURANCE CO., et al.:

(Cal. Date - 10/22/14)

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - INSURED'S FAILURE TO PROVIDE TIMELY NOTICE OF OCCURRENCE - WHETHER PLAINTIFF-INSURED'S RELIANCE UPON ITS BROKER'S ERRONEOUS ADVICE CONSTITUTES A REASONABLE EXCUSE FOR INSURED'S FAILURE TO PROVIDE ITS INSURER WITH TIMELY NOTICE OF THE ACCIDENT - WHETHER THE COURTS BELOW CORRECTLY DETERMINED THAT INSURER IS OBLIGATED TO DEFEND AND INDEMNIFY A PARTY UNDER AN ADDITIONAL INSURED ENDORSEMENT CONTAINED IN THE COMMERCIAL GENERAL LIABILITY POLICY IT ISSUED TO PLAINTIFF, THAT INSURER DID NOT TIMELY DISCLAIM COVERAGE TO THE ADDITIONAL INSURED ON THE BASIS OF LATE NOTICE OF THE ACCIDENT, AND THAT THE "ACTS AND OMISSIONS" LANGUAGE IN THE ADDITIONAL INSURED ENDORSEMENT PROVIDED COVERAGE EVEN ABSENT A FINDING OF NEGLIGENCE BY PLAINTIFF-INSURED IN THE UNDERLYING PERSONAL INJURY ACTION;

SUE/PERIOR CONCRETE & PLUMBING, INC. v LEWISTON GOLF COURSE

CORP., et al.: (Cal. Date - 10/22/14)

NATIVE AMERICANS - SOVEREIGN IMMUNITY OF TRIBE - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT DEFENDANT LEWISTON GOLF COURSE CORPORATION WAS NOT ENTITLED TO SOVEREIGN IMMUNITY UPON THE GROUND THAT IT WAS NOT AN "ARM OF THE TRIBE," EVEN THOUGH IT WAS A CORPORATE ENTITY FORMED UNDER THE LAWS OF THE SENECA NATION OF INDIANS; FRAUD - WHETHER PLAINTIFF'S FRAUD CAUSE OF ACTION SHOULD HAVE BEEN DISMISSED AS DUPLICATIVE OF ITS BREACH OF CONTRACT CAUSE OF ACTION;

SWEAT (TYRONE), PEOPLE v: (Cal. Date - 9/16/14)

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;

THOMAS (PATRICK), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE POLICE DID NOT HAVE A REASONABLE SUSPICION THAT DEFENDANT WAS INVOLVED IN A CRIME;

TIPALDO v LYNN:

LABOR - WHISTLEBLOWER LAW (CIVIL SERVICE LAW § 75-b) - RETALIATORY PERSONNEL ACTION AGAINST CITY DEPARTMENT OF TRANSPORTATION (DOT) EMPLOYEE WHO REPORTED TO THE DEPARTMENT OF INVESTIGATION (DOI) THAT TWO OF HIS SUPERVISORS VIOLATED BIDDING RULES - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT IT WAS FUTILE FOR PLAINTIFF TO FIRST REPORT THE ALLEGED VIOLATION TO THE INTERNAL DOT "APPOINTING AUTHORITY," AS REQUIRED BY THE STATUTE, BECAUSE THE SAME PEOPLE WHO COMMITTED THE ALLEGED VIOLATION WERE THE "APPOINTING AUTHORITY," AND THAT PLAINTIFF'S INFORMAL REPORT TO HIS IMMEDIATE SUPERVISORS AND HIS FORMAL REPORT TO THE DOI "SATISFACTORILY MET" THE STATUTORY REQUIREMENT; INTEREST - INTEREST ON AWARD - PRE-DETERMINATION INTEREST - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PRE-DETERMINATION INTEREST IS AVAILABLE TO A PREVAILING PLAINTIFF IN AN ACTION BROUGHT UNDER CIVIL SERVICE LAW § 75-b;

TOUTPUISSANT, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH RESPECT TO THE ONE REMAINING CHARGE OF POSSESSION OF CONTRABAND; CLAIMED BIAS OF HEARING OFFICER;

TRUMP VILLAGE SECTION 3, INC. v CITY OF NEW YORK, et al.:

TAXATION - REAL PROPERTY TRANSFER GAINS TAX - APPLICABILITY OF TAX TO RESIDENTIAL COOPERATIVE CORPORATION UPON THE BASIS THAT A TAXABLE TRANSFER OR CONVEYANCE OF REAL PROPERTY OCCURRED WHEN THE CORPORATION VOLUNTARILY DISSOLVED ITSELF, TERMINATED ITS PARTICIPATION IN THE MITCHELL-LAMA HOUSING PROGRAM AND RECONSTITUTED ITSELF AS A FOR-PROFIT COOPERATIVE BY AMENDING ITS CERTIFICATE OF INCORPORATION, BYLAWS AND STANDARD OCCUPANCY AGREEMENT; STATUTE OF LIMITATIONS - WHETHER THE DECLARATORY JUDGMENT ACTION IS TIME-BARRED;

TURNER (GENNA A.), PEOPLE v: (Cal. Date - 9/17/14)

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;

UNIVERSAL AMERICAN CORP. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.:

INSURANCE - CONSTRUCTION OF POLICY - COMPUTER FRAUD POLICY - WHETHER THE COURTS BELOW PROPERLY DETERMINED THAT THE POLICY AT ISSUE IS NOT AMBIGUOUS AND THAT THE INSURED'S LOSSES WERE NOT COVERED BY THE POLICY - CONSTRUCTION OF THE TERM "FRAUDULENT ... ENTRY OF ELECTRONIC DATA";

VARGAS v CITY OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - DISMISSAL OF COMPLAINT FOR FAILURE TO FILE PROPER NOTICE OF CLAIM; NEGLIGENCE - CIVIL RIGHTS CLAIM BY DIABETIC ARRESTEE DEPRIVED OF INSULIN WHILE HE WAS IN POLICE CUSTODY;

VIVIANE ETIENNE MEDICAL CARE, P.C. &c. v COUNTRY-WIDE INSURANCE CO.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - PLAINTIFF'S BURDEN OF PROOF ON A MOTION FOR SUMMARY JUDGMENT - EVIDENCE SUFFICIENT FOR PRIMA FACIE CASE - EFFECT OF INSURANCE CARRIER'S FAILURE TO TIMELY DENY THE CLAIM; SUMMARY JUDGMENT;

WALTON v STRONG MEMORIAL HOSPITAL, et al.:

LIMITATION OF ACTIONS - MEDICAL MALPRACTICE - "FOREIGN OBJECT" EXCEPTION (CPLR 214-a) - FAILURE TO REMOVE POLYVINYL CATHETER FROM HEART AFTER SURGERY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT PORTION OF POLYVINYL CATHETER THAT BROKE OFF AND REMAINED IN PATIENT AFTER ALL OTHER CATHETERS WERE REMOVED WAS A FIXATION DEVICE AND NOT A FOREIGN OBJECT BECAUSE THE CATHETERS WERE INTENTIONALLY PLACED INSIDE PLAINTIFF'S BODY TO MONITOR ATRIAL PRESSURE FOR A FEW DAYS AFTER HEART SURGERY;

WELLS (DIANE), PEOPLE v: (Cal. Date - 9/11/14)

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;

WILLIAMS, &c., et al. v CARRION:

SOCIAL SERVICES - PUBLIC ASSISTANCE - AID TO DEPENDANT CHILDREN - CLASS ACTION SEEKING DECLARATORY AND INJUNCTIVE RELIEF ON BEHALF OF LOW-INCOME FAMILIES WHO ARE REQUIRED TO PAY MORE THAN 10% OF THEIR RESPECTIVE GROSS INCOMES FOR SUCH CARE - WHETHER 18 NYCRR 415.3(e)(3), WHICH AUTHORIZES SOCIAL SERVICES DISTRICTS ACROSS THE STATE TO SELECT A MULTIPLIER BETWEEN 10% AND 35% TO USE IN THE FORMULA FOR CALCULATING THE SHARE OF CHILD CARE COSTS

ALLOCATED TO ELIGIBLE FAMILIES, VIOLATES SOCIAL SERVICES LAW § 410-x(1) AND (6), AND PLAINTIFFS' CONSTITUTIONAL RIGHTS TO EQUAL PROTECTION AND TO TRAVEL;

WILLIAMS (PAUL), PEOPLE v:

CRIMES - INSTRUCTIONS - SEX CRIMES - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE JURY COULD NOT HAVE CONVICTED DEFENDANT OF SEXUAL ABUSE IN THE FIRST DEGREE BASED ON A THEORY NOT CHARGED IN THE SUPERSEDING INDICTMENT BECAUSE NO EVIDENCE SUPPORTING THE UNCHARGED THEORY WAS PRESENTED AT TRIAL; ARGUMENT AND CONDUCT OF COUNSEL - PROSECUTOR'S IMPROPER COMMENTS REGARDING DEFENDANT'S SILENCE - HARMLESS ERROR; SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER SENTENCES IMPOSED ON CONVICTIONS OF SEXUAL ABUSE IN THE FIRST DEGREE AND RAPE IN THE THIRD DEGREE MUST RUN CONCURRENTLY BECAUSE THEY AROSE FROM ONE CONTINUOUS ACT;

WILLIAMS (TERRANCE), PEOPLE v:

CRIMES - RECKLESS ENDANGERMENT - DEPRAVED INDIFFERENCE - ENGAGING IN UNPROTECTED SEX WITHOUT DISCLOSING HIV POSITIVE STATUS - SUFFICIENCY OF THE EVIDENCE BEFORE THE GRAND JURY AS TO WHETHER DEFENDANT'S CONDUCT CONSTITUTED DEPRAVED INDIFFERENCE AND POSED A GRAVE OR "VERY SUBSTANTIAL" RISK OF DEATH TO THE VICTIM;

WISSELMAN, HAROUNIAN AND ASSOCIATES, P.C. v DOWLAH:

PROCESS - SERVICE OF PROCESS - DENIAL OF MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION BASED UPON DEFENDANT'S FAILURE TO REBUT PRESUMPTION OF PROPER SERVICE CREATED BY THE PROCESS SERVER'S AFFIDAVIT;

WOODSIDE MANOR NURSING HOME, MATTER OF v SHAH:

HEALTH - MEDICAID REIMBURSEMENT RATES - WHETHER (1) PUBLIC HEALTH LAW § 2808(17)(b), WHICH ESTABLISHED A MORATORIUM AND CAP ON THE DEPARTMENT OF HEALTH'S REVISION OF MEDICAID RATE APPEALS BY RESIDENTIAL HEALTH CARE FACILITIES, APPLIES RETROACTIVELY TO RATE APPEALS FILED PRIOR TO ITS ENACTMENT; (2) RETROACTIVE APPLICATION UNCONSTITUTIONALLY DEPRIVES PETITIONERS OF VESTED PROPERTY RIGHTS; AND (3) PETITIONERS ARE ENTITLED UNDER STATE AND FEDERAL LAWS AND REGULATIONS TO A WRIT OF MANDAMUS COMPELLING DETERMINATION OF THEIR RATE APPEALS;