

FEBRUARY 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.

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;

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;

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;

ANDREWS (CHURCHILL), PEOPLE v:

CRIMES - APPEAL - DENIAL OF APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING TO FILE A LATE NOTICE OF APPEAL FROM A JUDGMENT OF CONVICTION - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

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;

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;

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;

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]);

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);

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;

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:

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 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;

BORDEN &c., et al. v 400 EAST 55<sup>TH</sup> STREET ASSOCIATES, L.P.:

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;

BOYLE, et al. v STARWOOD HOTELS & RESORTS WORLDWIDE, INC.:

COURTS - FORUM NON CONVENIENS - WHETHER THE APPELLATE DIVISION ERRED AS A MATTER OF LAW IN AFFIRMING, WITH CONDITIONS, A SUPREME COURT ORDER GRANTING DEFENDANT'S MOTION TO DISMISS THIS PERSONAL INJURY ACTION ON THE GROUND OF FORUM NON CONVENIENS (CPLR 327[a]);

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]);

BUSTOS v LENOX HILL HOSPITAL:

WITNESS - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TESTIMONY OF PLAINTIFF'S EXPERT IN THIS MEDICAL MALPRACTICE ACTION WAS SPECULATIVE, CONCLUSORY AND WITHOUT PROBATIVE FORCE BECAUSE HE DID NOT EXPLAIN OR OTHERWISE SUPPORT HIS OPINION THAT THE BIRTHING MANEUVERS PERFORMED BY DEFENDANTS WERE EXCESSIVE, DEVIATED FROM THE APPROPRIATE STANDARD OF CARE AND CAUSED PLAINTIFF'S INJURIES - CPLR 4515;

CALAFF (IVAN), PEOPLE v:

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

CAPPON, MATTER OF v CARBALLADA &c.:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING TO ANNUL RESPONDENT'S DETERMINATION THAT HE VIOLATED ROCHESTER CITY CODE § 90-16(a)(2)(d) WHICH REQUIRES OWNERS OF RENTAL PROPERTIES TO OBTAIN A VALID CERTIFICATE OF OCCUPANCY (CO) WITHIN A PERIOD OF 90 DAYS PRIOR TO THE EXPIRATION OR TERMINATION OF AN EXISTING CO;

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;

CATALANO, et al. v TANNER, &c.:

NEGLIGENCE - MAINTENANCE OF PREMISES - DEFECTIVE RESTAURANT CHAIR - NOTICE OF DEFECTIVE CONDITION - CONSTRUCTIVE NOTICE - REASONABLENESS OF DEFENDANT'S INSPECTION PRACTICES; RES IPSA LOQUITUR - LACK OF EXCLUSIVE CONTROL OF CHAIR; SUMMARY JUDGMENT;

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:

(Cal. Date 3/26/14)

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;

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

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:

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.:

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;

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;

COOPERSTOWN HOLSTEIN CORPORATION v TOWN OF MIDDLEFIELD:  
 GAS AND OIL - LOCAL REGULATION - HYDROFRACKING - ZONING LAW CATEGORIZING ALL OIL, GAS AND SOLUTION MINING AND DRILLING AS PROHIBITED LAND USES WITHIN THE TOWN - WHETHER THE TOWN'S ZONING LAW IS PREEMPTED BY THE OIL, GAS AND SOLUTION MINING LAW;

COSTELLO, MATTER OF v NEW YORK STATE BOARD OF PAROLE et al.:  
 PAROLE - REVOCATION - CPLR ARTICLE 78 PROCEEDING TO REVIEW BOARD OF PAROLE'S DETERMINATION TO RESCIND PETITIONER'S PAROLE - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT VICTIM IMPACT STATEMENTS, SUBMITTED AFTER THE BOARD'S DECISION TO GRANT PAROLE, CONSTITUTED NEW INFORMATION SUFFICIENT TO JUSTIFY THE BOARD'S DECISION TO ORDER A RESCISSION HEARING AND THEREAFTER RESCIND ITS PAROLE DETERMINATION AND DENY PAROLE;

CULLEN (WILLIAM), PEOPLE v:  
 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.:

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;

DELEE (DWIGHT R.), PEOPLE v:

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;

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;

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;

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:

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;

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;

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:

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;



ELLINGTON v EMI MUSIC, INC., et al.:

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;

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);

FAZIO (GEORGE), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - NUMBER OF VICTIMS RISK FACTOR - WHETHER CHILDREN DEPICTED IN PORNOGRAPHIC IMAGES MAY BE FOUND TO CONSTITUTE SEPARATE VICTIMS IN DETERMINING A SORA RISK LEVEL;

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;

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;

FLOYD, MATTER OF v CITY OF NEW YORK, et al. (AND 10 OTHER PROCEEDINGS):

CIVIL SERVICE - CLASSIFICATION - MAYORAL ORDERS THAT DIRECTED RECLASSIFICATION OF CIVIL SERVICE EMPLOYEES IN UNGRADED SKILLED TRADE TITLES - WHETHER THE COURTS BELOW ERRED IN HOLDING THAT THE CITY WAS REQUIRED TO COMPLY WITH THE PROVISIONS OF CIVIL SERVICE LAW § 20(2) PRIOR TO MODIFYING THE PERSONNEL RULES AND REGULATIONS OF THE CITY OF NEW YORK; LABOR UNIONS; LABOR LAW § 220;

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;

433 SUTTON CORP. v BRODER:

ATTORNEY AND CLIENT - COMPENSATION - IN DISPUTE BETWEEN SHAREHOLDER AND COOPERATIVE ASSOCIATION, WHETHER OUTCOME OF ACTION WARRANTS AN AWARD OF ATTORNEYS' FEES IN FAVOR OF SHAREHOLDER - PREVAILING PARTY; CONDOMINIUMS AND COOPERATIVES;

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;

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;

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;

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;

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;

GM COMPONENTS HOLDINGS, LLC v TOWN OF LOCKPORT INDUSTRIAL DEVELOPMENT AGENCY:

EMINENT DOMAIN - PUBLIC USE - EXPANSION OF INDUSTRIAL PARK - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT RESPONDENT'S DETERMINATION TO EXERCISE EMINENT DOMAIN POWER WAS RATIONALLY RELATED TO A CONCEIVABLE PUBLIC PURPOSE; ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL QUALITY REVIEW - WHETHER RESPONDENT TOOK THE REQUISITE "HARD LOOK" AND IMPROPERLY SEGMENTED THE REVIEW PROCESS;

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;

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;

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;

GRACE v LAW, et al.:

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;

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;

GUDZ v JEMROCK REALTY COMPANY, LLC:

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;

MATTER OF GUPTA, AN ATTORNEY:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - WHETHER THE APPELLATE DIVISION ERRED IN SUSPENDING ATTORNEY FROM PRACTICE OF LAW ON ITS OWN MOTION WITHOUT PROVIDING HIM WITH NOTICE THAT IT WAS CONSIDERING SUSPENSION, THE EVIDENTIARY BASIS FOR SUCH SUSPENSION, AND AN OPPORTUNITY TO RESPOND;

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;

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 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;

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;

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;

HORTON (THOMAS), PEOPLE v:

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);

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;

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);

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;

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;

JOHNSON (JEFFREY), PEOPLE v:

CRIMES - SUPPRESSION HEARING - DEFENDANT COMING DOWN STAIRS IN PUBLIC HOUSING BUILDING ASKED FOR IDENTIFICATION BY POLICE - WHETHER CIRCUMSTANCES IN POLICE ENCOUNTER PROVIDED AN OBJECTIVE CREDIBLE REASON FOR A LEVEL ONE REQUEST FOR INFORMATION;

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;

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 (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;

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;

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";

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;

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;

KASSE (HAROUNA), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - CLAIMED FACIAL INSUFFICIENCY OF MISDEMEANOR COMPLAINT - WHETHER ALLEGATIONS PROVIDED REASONABLE CAUSE TO BELIEVE THAT DEFENDANT SOLD OR OFFERED TO SELL GOODS IN A PUBLIC PLACE;

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;

KEYSPAN GAS EAST CORPORATION v MUNICH REINSURANCE AMERICA, INC., et al.):

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;

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:  
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:  
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;

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;

KIMSO APARTMENTS, LLC v GANDHI:  
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;

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;

LAWRENCE, DECEASED, MATTER OF (LAWRENCE, et al. v GRAUBARD MILLER, et al.):

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;

LEE, MATTER OF v FISCHER, &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION JUDGMENT CONFIRMING DETERMINATION FINDING INMATE GUILTY OF VIOLATING CERTAIN DISCIPLINARY RULES;

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;

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;

LUCIA, 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 HER 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 HER 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;

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;

LYNCH, et al. v CITY OF NEW YORK, et al.:

EMPLOYMENT RELATIONSHIPS - RETIREMENT AND PENSION BENEFITS - CHALLENGE TO CITY'S ACTION IN DECLINING TO MAKE AN INCREASED-TAKE-HOME-PAY CONTRIBUTION TO POLICE OFFICERS AND FIREFIGHTERS HIRED AFTER JULY 1, 2009 (TIER 3 MEMBERS);

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;

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;

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;

McCRAy (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;

McLEAN (SAMUEL), PEOPLE v:

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;

MELCHER v GREENBERG TRAUIG, LLP, et al.:

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

MERRY-GO-ROUND PLAYHOUSE, INC., MATTER OF v ASSESSOR OF THE CITY OF AUBURN, et al.:

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 NEW YORK UNIVERSITY, et al.:

MOTIONS AND ORDERS - CHALLENGE TO ORDER GRANTING DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S COMPLAINT AS TIME-BARRED TO THE EXTENT IT CHALLENGED DEFENDANT UNIVERSITY'S DECISION TO BAR PLAINTIFF FROM THE UNIVERSITY AND FOR FAILING TO STATE A CAUSE OF ACTION FOR DEFAMATION, ASSAULT, BATTERY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, FALSE IMPRISONMENT, NEGLIGENCE, VIOLATION OF FIRST AMENDMENT RIGHTS, UNJUST ENRICHMENT AND FRONT PAY;

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;

MOTELSON v FORD MOTOR COMPANY:

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";

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

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.):

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;

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;

NEW YORK STATEWIDE COALITION OF HISPANIC CHAMBERS OF COMMERCE, et al. MATTER OF v NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, et al.:

ADMINISTRATIVE LAW - VALIDITY OF REGULATION - SEPARATION OF POWERS - REGULATION EXCEEDING DELEGATED AUTHORITY - WHETHER RESPONDENT NEW YORK CITY BOARD OF HEALTH EXCEEDED ITS DELEGATED AUTHORITY, AND THUS VIOLATED THE SEPARATION OF POWERS DOCTRINE, BY PROMULGATING THE SUGARY DRINKS PORTION CAP RULE, WHICH PROHIBITS CERTAIN FOOD SERVICE ESTABLISHMENTS FROM SERVING SUGARY DRINKS IN SIZES LARGER THAN 16 OUNCES (NY CITY HEALTH CODE [24 RCNY] § 81.53) - WHETHER A RATIONAL BASIS IN THE RECORD SUPPORTS THE REGULATION;

NICHOLSON v INCORPORATED VILLAGE OF GARDEN CITY:

LOCAL LAWS - VALIDITY - CONSTITUTIONALITY OF REGULATION REZONING CORNER LOTS ON FOUR AVENUES IN VILLAGE;

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;

NIEVES (PHILLIP), PEOPLE v:

CRIMES - SENTENCE - MOTION TO VACATE SENTENCE (CPL 440.20);

NOREX PETROLEUM LIMITED v BLAVATNIK, et al.:

LIMITATION OF ACTIONS - TOLLING - DISMISSAL OF COMPLAINT AS TIME-BARRED AFTER APPLYING NEW YORK'S BORROWING STATUTE AND THE PROVINCE OF ALBERTA'S STATUTE OF LIMITATIONS - WHETHER APPELLATE DIVISION ERRED IN DETERMINING THAT THE TOLLING PROVISION OF 28 USC § 1367(d) DOES NOT APPLY IN THIS CASE BECAUSE CPLR 205(a) PROVIDES FOR A LONGER TOLLING PERIOD - WHETHER CPLR 205(a) APPLIES WHERE CPLR 202 REQUIRES THE APPLICATION OF FOREIGN LAW WHICH HAS NO TOLLING PROVISION;

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

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;

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;

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;

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;

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;

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]);

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]);

PATERNO v LASER SPINE INSTITUTE, et al.:

COURTS - JURISDICTION - LONG-ARM JURISDICTION - WHETHER PERSONAL JURISDICTION OVER FLORIDA DEFENDANTS EXISTS UNDER CPLR 302(a)(1);

PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, INC., &c., et al., MATTER OF v CITY OF NEW YORK, et al.:

INJUNCTIONS - PRELIMINARY INJUNCTION - WHETHER PETITIONERS ESTABLISHED A LIKELIHOOD OF SUCCESS ON THE MERITS OF THE CLAIM TO BE ARBITRATED - WHETHER ARBITRATION AWARD IN PETITIONERS' FAVOR WOULD BE RENDERED INEFFECTUAL WITHOUT PROVISIONAL RELIEF;

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]);

PEREZ (REYNALDO), PEOPLE v.:

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

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.:

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;

POLLACK v COOPERMAN, et al.:

MOTIONS AND ORDERS - MOTION TO DISMISS - COMPLAINT FILED AGAINST SPECIAL REFEREE AND ASSISTANT COUNSEL TO GRIEVANCE COMMITTEE IN A GRIEVANCE PROCEEDING AGAINST PLAINTIFF, ALLEGING VIOLATIONS OF PLAINTIFF'S CONSTITUTIONAL RIGHTS TO DUE PROCESS AND EQUAL PROTECTION, CIVIL HARASSMENT AND MAIL FRAUD - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE COMPLAINT FAILED TO STATE A CAUSE OF ACTION;

POLLACK, MATTER OF v KIERNAN, &c., et al.:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDING - CHALLENGE TO AN APPELLATE DIVISION ORDER DENYING A CPLR ARTICLE 78 PETITION SEEKING DISCLOSURE OF CERTAIN DOCUMENTS IN PETITIONER'S DISCIPLINARY FILE, AND TO FIVE OTHER APPELLATE DIVISION ORDERS;

POWERS v 31 E 31 LLC, et al.:

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;

PREFERRED MUTUAL INSURANCE COMPANY v DONNELLY, et al.:

INSURANCE - COVERAGE - DEFENSE AND INDEMNIFICATION IN UNDERLYING PERSONAL INJURY ACTION - LANDLORD'S INSURANCE POLICY - WHETHER PLAINTIFF INSURER MET ITS INITIAL BURDEN OF ESTABLISHING THAT THE LEAD POISONING EXCLUSION WAS PROPERLY ADDED TO THE SUBJECT POLICY AND THAT NOTICE OF THE AMENDMENT WAS PROVIDED TO THE INSURED;  
SUMMARY JUDGMENT;

RANFTLE (DECEASED), MATTER OF:

WILLS - PROBATE - JURISDICTION OF SURROGATE BASED ON DECEDENT'S DOMICILE;

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 ROBINING 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 ROBINING 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;

ROBERTS (STEPHEN), PEOPLE v:

MOTIONS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING APPELLANT'S MOTION FOR AN INJUNCTION AND TO IMPOSE SANCTIONS UPON THE DISTRICT ATTORNEY FOR FAILURE TO COMPLY WITH A PRIOR ORDER OF THAT COURT;

ROBLES v NEW YORK CITY HOUSING AUTHORITY:

MUNICIPAL CORPORATIONS - TRIP AND FALL - NOTICE OF CLAIM - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT BECAUSE THE NOTICE OF CLAIM DID NOT DESCRIBE THE LOCATION OF THE ALLEGED DEFECT WITH SUFFICIENT PARTICULARITY, PLAINTIFF GAVE CONTRADICTORY VERSIONS OF THE ACCIDENT LOCATION AND DID NOT ADVISE DEFENDANT OF THE REVISED LOCATION UNTIL MORE THAN THREE YEARS AFTER THE ALLEGED ACCIDENT, AND THE AFFIDAVITS PLAINTIFF SUBMITTED IN OPPOSITION TO THE MOTION DID NOT RAISE AN ISSUE OF FACT;

RODRIGUEZ, MATTER OF v LaVALLEY:

PROCEEDING AGAINST BODY OR OFFICER - WHEN REMEDY AVAILABLE - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING JUDGMENT DISMISSING CPLR ARTICLE 78 PETITION CHALLENGING PETITIONER'S UNDERLYING CONVICTION;

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;

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;

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 (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;

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;

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;

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;

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 INSURED;

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;

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;

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;

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

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

SPEARS (KELVIN), PEOPLE v:

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 OF NEW YORK, MATTER OF v DONALD DD.:

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 CHARADA T.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER SUPREME COURT ERRED IN ADMITTING TESTIMONY REGARDING AN UNCHARGED SEXUAL ASSAULT - EXPERT WITNESS TESTIMONY ABOUT AND RELIANCE UPON HEARSAY EVIDENCE;

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 KENNETH T.:

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;

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

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;

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;

SUE/PERIOR CONCRETE & PLUMBING, INC. v LEWISTON GOLF COURSE CORP., et al.:

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:

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;

ANTWAIN T., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT THE JUVENILE DELINQUENCY PETITION WAS FACIALLY INSUFFICIENT TO SUPPORT THE CHARGE THAT RESPONDENT POSSESSED A "DANGEROUS KNIFE" WITHIN THE MEANING OF PENAL LAW § 265.05, WHERE THE PETITION DESCRIBED THE KNIFE AS A MACHETE WITH A 14-INCH BLADE;

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;

TKACHYSHYN, MATTER OF v COMMISSIONER OF LABOR (A.D. NO. 516210):

UNEMPLOYMENT INSURANCE - BENEFITS - ELIGIBILITY - INSUFFICIENT COVERED EARNINGS - CHALLENGE TO DETERMINATION THAT CLAIMANT'S EARNINGS AS A TUTOR WITH TESTQUEST, INC. COULD NOT BE USED AS COVERED EMPLOYMENT BECAUSE SUCH TUTORS ARE INDEPENDENT CONTRACTORS - ALLEGED RETALIATION;

TKACHYSHYN, MATTER OF v COMMISSIONER OF LABOR (A.D. NO. 516398):

UNEMPLOYMENT INSURANCE - BENEFITS - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING ADMINISTRATIVE DECISION UPON THE GROUNDS THAT SUBSTANTIAL EVIDENCE SUPPORTED THE FINDINGS THAT CLAIMANT DID NOT HAVE SUFFICIENT REMUNERATION IN HIS BASE PERIODS OR ALTERNATE BASE PERIODS TO ESTABLISH VALID ORIGINAL CLAIMS AND FAILED TO ESTABLISH ECONOMIC HARDSHIP MILITATING IN FAVOR OF A WAIVER OF HIS OBLIGATION TO REPAY FEDERALLY FUNDED EMERGENCY UNEMPLOYMENT COMPENSATION BENEFITS;

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:

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;

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;

VEGA v 103 THAYER STREET, LLC, et al.:

MUNICIPAL CORPORATIONS - SIDEWALKS - PRIOR NOTICE OF DEFECTIVE CONDITION - TRIP AND FALL RESULTING FROM A HOLE IN A PEDESTRIAN RAMP - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE MARKINGS ON THE MAP BY THE BIG APPLE POTHOLE AND SIDEWALK PROTECTION CORPORATION, WHICH THE CITY SUBMITTED IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, RAISED AN ISSUE OF FACT AS TO WHETHER THE CITY HAD PRIOR WRITTEN NOTICE OF THE DEFECT AT ISSUE;

WALLACH, &c., MATTER OF v TOWN OF DRYDEN et al.:

MUNICIPAL CORPORATIONS - ZONING - WHETHER THE OIL, GAS AND SOLUTION MINING LAW, CONTAINED IN ARTICLE 23 OF THE ENVIRONMENTAL CONSERVATION LAW, PREEMPTS RESPONDENT TOWN FROM PASSING ZONING ORDINANCES WHICH BAN ACTIVITIES RELATED TO THE EXPLORATION FOR, AND THE PRODUCTION OR STORAGE OF, NATURAL GAS AND PETROLEUM - HYDRAULIC FRACTURING (HYDROFRACKING);

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 (JAMES F.), PEOPLE v:

CONTEMPT - CRIMINAL CONTEMPT - VIOLATION OF ORDER OF PROTECTION DIRECTING DEFENDANT TO REFRAIN FROM COMMUNICATING BY TELEPHONE WITH HIS FORMER GIRLFRIEND, THE MOTHER OF DEFENDANT'S CHILD - LEGAL SUFFICIENCY OF THE EVIDENCE TO SUPPORT CONVICTION OF CRIMINAL CONTEMPT IN THE FIRST DEGREE (PENAL LAW § 215.51[b][iv]) - DEFENDANT'S TELEPHONE CALLS CONCERNING CHILD SUPPORT AND VISITATION - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO ESTABLISH THAT DEFENDANT MADE TELEPHONE CALLS WITH INTENT TO HARASS, ANNOY, THREATEN OR ALARM HIS FORMER GIRLFRIEND, WITH NO PURPOSE OF LEGITIMATE COMMUNICATION;

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 (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;

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]);

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;

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;

WORKING FAMILIES PARTY, MATTER OF v FISHER, et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER THE APPELLATE DIVISION PROPERLY HELD THAT PROHIBITION DID NOT LIE AND WHETHER RESPONDENT FISHER, DEPUTY CHIEF ADMINISTRATIVE JUDGE FOR NEW YORK CITY COURTS, ACTED IN EXCESS OF HER JURISDICTION BY GRANTING THE APPLICATION OF RESPONDENT DISTRICT ATTORNEY OF RICHMOND COUNTY FOR DISQUALIFICATION, AND APPOINTING RESPONDENT ADLER AS SPECIAL DISTRICT ATTORNEY;

YOHANAN, MATTER OF v KING:

PHYSICIANS AND SURGEONS - DENTISTS - DISCIPLINARY PROCEEDINGS - ALLEGED VIOLATION OF PETITIONER'S DUE PROCESS RIGHTS AS A RESULT OF (1) THE REGENTS REVIEW COMMITTEE'S NOT PROVIDING A COPY OF ITS REPORT AND RECOMMENDATIONS TO THE PETITIONER BEFORE THE BOARD OF REGENTS OF THE UNIVERSITY OF THE STATE OF NEW YORK CONSIDERED THE MATTER AND (2) THE BOARD OF REGENTS' FAILURE TO PROVIDE PETITIONER WITH REPORTS AND INFORMATION CONCERNING PENALTIES IMPOSED IN OTHER DISCIPLINARY PROCEEDINGS - CHALLENGE TO PENALTY OF REVOCATION AS SO DISPROPORTIONATE TO THE OFFENSE AS TO SHOCK ONE'S SENSE OF FAIRNESS;

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;