

April 2011

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.

AAA CARTING AND RUBBISH REMOVAL, INC., MATTER OF v TOWN OF SOUTHEAST, et al.:

MUNICIPAL CORPORATIONS - BIDS AND BIDDERS - WHETHER THE TOWN BOARD ACTED ARBITRARILY OR CAPRICIOUSLY IN AWARDING A GARBAGE COLLECTION CONTRACT TO AN ENTITY OTHER THAN THE LOWEST BIDDER - GENERAL MUNICIPAL LAW § 103;

ABN AMRO BANK, N.V. et al. v MBIA INC., et al.:

(Cal. Date - 5/31/11)

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - CLAIMS ARISING OUT OF RESTRUCTURING OF CONGLOMERATE INCLUDING INSTITUTIONS HOLDING INSURANCE POLICIES ISSUED BY MBIA INSURANCE CORPORATION - MOTION TO DISMISS COMPLAINT ON BASIS THAT CLAIMS CONSTITUTE IMPERMISSIBLE COLLATERAL ATTACK ON THE INSURANCE SUPERINTENDENT'S APPROVAL OF THE RESTRUCTURING; DISMISSAL AND NONSUIT;

ABRAMS (EMAR), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHERE THE DISTRICT ATTORNEY WAS DISQUALIFIED DUE TO HIS PRIOR REPRESENTATION OF DEFENDANT, WHETHER SPECIAL PROSECUTOR'S CONSULTATION WITH DISTRICT ATTORNEY REGARDING THE GRANTING OF IMMUNITY TO OBTAIN VICTIM'S TESTIMONY WAS IMPROPER AND DEPRIVED DEFENDANT OF HIS RIGHT TO COUNSEL; WITNESSES - IMPEACHMENT - PROSECUTION'S USE OF VICTIM'S GRAND JURY TESTIMONY IDENTIFYING DEFENDANT AS THE PERPETRATOR TO IMPEACH WITNESS AT TRIAL - HARMLESS ERROR; ALLEGED SANDOVAL VIOLATION; SUMMARY DENIAL OF DEFENDANT'S CPL 330.30 MOTION;

ABREU, MATTER OF v BEZIO:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH RESPECT TO LEWD EXPOSURE AND REFUSING A DIRECT ORDER; CLAIMED VIOLATION OF PRISONER'S DUE PROCESS RIGHTS;

ACEVEDO (BENITO), PEOPLE v: (Cal. Date - 6/1/11)

CRIMES - SENTENCE - PERSISTENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY (DUE TO TRIAL COURT'S FAILURE TO PRONOUNCE THE MANDATORY TERM OF POST-RELEASE SUPERVISION) - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, ALTHOUGH

DEFENDANT'S 2001 ATTEMPTED ROBBERY CONVICTION NO LONGER QUALIFIES AS A PREDICATE FELONY, THE APPROPRIATE REMEDY IS TO REMAND FOR RESENTENCING TO AFFORD THE PEOPLE THE OPPORTUNITY TO ESTABLISH WHETHER HIS 1993 MASSACHUSETTS CONVICTION STILL QUALIFIES AS A PREDICATE FELONY WHEN THE TIME HE HAS SPENT INCARCERATED IS EXCLUDED FROM THE 10-YEAR LIMITATION PURSUANT TO PENAL LAW § 70.06(1)(b)(iv) AND (v)";

ADLER et al. v BAYER et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUFFICIENT EVIDENCE DID NOT EXIST TO ALLOW A REASONABLE TRIER OF FACT TO FIND THAT PLAINTIFF SUSTAINED A SERIOUS INJURY UNDER THE "PERMANENT CONSEQUENTIAL LIMITATION CATEGORY" OF INSURANCE LAW § 5102(d) BECAUSE PLAINTIFF FAILED TO "SHOW THE DURATION OF THE ALLEGED INJURY AND THE EXTENT OR DEGREE OF THE LIMITATIONS ASSOCIATED THEREWITH";

AGINA (ALAA), PEOPLE v:

CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PRIOR BAD ACTS WERE NOT ADMISSIBLE TO PROVE THE PERPETRATOR'S IDENTITY THROUGH A UNIQUE MODUS OPERANDI WHERE THE VICTIM WAS DEFENDANT'S WIFE BUT DEFENDANT DENIED INFLECTING THE INJURIES;

ALBERGOTTI (ALLEN), PEOPLE v:

CRIMES - SENTENCE - PLEA AGREEMENT - WHETHER SENTENCING COURT CONDUCTED A "SUFFICIENT INQUIRY" INTO WHETHER THE PLEA AGREEMENT HAD BEEN BREACHED (PEOPLE v OUTLEY, 80 NY2d 703, 713); DUE PROCESS; PRESERVATION;

ALVAREZ (LUIS), PEOPLE v:

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

AMERICO PELLECHIA v PARTNER AVIATION ENTERPRISES, INC., &c.:

AVIATION - FEDERAL PREEMPTION - ADEQUACY OF DEFENDANT'S DISEMBARKING PROCEDURES AND SERVICES - WHETHER FEDERAL LAW PREEMPTS PLAINTIFF'S COMMON-LAW NEGLIGENCE CLAIMS AGAINST AIRLINE ARISING OUT OF PLAINTIFF'S FALL DOWN STEPS OF A CHARTERED JET - FEDERAL AVIATION ACT OF 1958 - AIRLINE DEREGULATION ACT OF 1978;

AOKI v NOOTENBOOM:

DISCLOSURE - LIMITATION ON TIME FOR, AND SCOPE OF, DISCOVERY BY OBJECTANTS IN PROBATE PROCEEDING; WILLS - PROBATE;

ARFA, et al. v ZAMIR, et al.:

FRAUD - RELIANCE - ALLEGED FRAUD RELATED TO PURCHASE OF REAL ESTATE - WHETHER FRAUD CAUSE OF ACTION FALLS WITHIN SCOPE OF GENERAL RELEASE IN PARTIES' "GOVERNANCE OF ENTITIES" AGREEMENT;

CONTRACTS;

ASSURED GUARANTY (UK) LTD. &c. v J.P. MORGAN INVESTMENT MANAGEMENT, INC.:

INSURANCE - REINSURANCE - BREACH OF FIDUCIARY DUTY - FRAUD - WHETHER COMMON LAW CAUSES OF ACTION FOR BREACH OF FIDUCIARY DUTY AND GROSS NEGLIGENCE ARE PREEMPTED BY NEW YORK STATE'S MARTIN ACT (GENERAL BUSINESS LAW §§ 352-359) - ACTION AGAINST INVESTMENT MANAGER OF ASSETS OF REINSURANCE COMPANY;

AQUAVELLA, &c., et al. v VIOLA:

STATUTE OF FRAUDS - GENERAL OBLIGATIONS LAW § 5-701(a)(1) - SUFFICIENCY OF MEMORANDUM - DISMISSAL OF AMENDED COMPLAINT ALLEGING BREACH OF THE PARTIES' 1998 ORAL AGREEMENT, WHICH PURPORTEDLY INCORPORATED IN ITS ENTIRETY A NONCOMPETE CLAUSE CONTAINED IN A 1996 WRITTEN AGREEMENT BETWEEN DEFENDANT AND A THIRD PARTY - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER GRANTING A CPLR 4404(a) MOTION ON THE GROUNDS THAT DEFENDANT HAD NOT ADMITTED THAT THE TERMS AND CONDITIONS OF THE 1996 WRITTEN AGREEMENT WERE INCORPORATED INTO THE 1998 ORAL AGREEMENT AND THAT THE WRITINGS PROFFERED BY PLAINTIFF AT TRIAL, EITHER ALONE OR IN COMBINATION, WERE INSUFFICIENT TO SATISFY THE STATUTE OF FRAUDS;

CARRIE B., MATTER OF v JOSEPHINE B.:

PARENT AND CHILD - VISITATION - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING DISMISSAL OF PETITION BROUGHT BY BIOLOGICAL MOTHER OF TWO CHILDREN AS TO WHOM HER PARENTAL RIGHTS WERE TERMINATED AND WHO WERE ADOPTED BY PETITIONER'S MOTHER - PETITIONER'S STANDING TO SEEK VISITATION WITH CHILDREN AS THEIR BIOLOGICAL MOTHER AND ADOPTIVE SIBLING;

BABA-ALI v STATE OF NEW YORK:

STATE - CLAIM AGAINST STATE - ACTION TO RECOVER DAMAGES FOR UNLAWFUL IMPRISONMENT - NONPECUNIARY DAMAGES - PAST AND FUTURE LOST EARNINGS; WHETHER PROSECUTOR'S FAILURE TO TURN OVER A POTENTIALLY EXCULPATORY DOCUMENT TO DEFENSE COUNSEL UNTIL DAY BEFORE TRIAL CAN CONSTITUTE "FRAUD OR MISREPRESENTATION" FOR PURPOSES OF COURT OF CLAIMS ACT SECTION 8-b;

BEAZER v NEW YORK CITY HEALTH AND HOSPITALS CORP., et al.:

NEGLIGENCE - DUTY - DUTY OF BAILOR TO BAILEE - PERSONAL INJURY ACTION ARISING FROM INJURIES PLAINTIFF SUSTAINED WHILE USING ALLEGEDLY DEFECTIVE, UNGUARDED POWER GRINDER OWNED BY DEFENDANT CONTRACTOR ON A PROJECT FOR WHICH PLAINTIFF'S EMPLOYER SERVED AS CONSTRUCTION MANAGER - EXISTENCE OF MATERIAL ISSUES OF FACT AS TO WHETHER THERE WAS A BAILMENT OF THE GRINDER AND, IF SO, WHETHER THE BAILMENT WAS GRATUITOUS OR FOR MUTUAL BENEFIT - DEFENDANT'S ENTITLEMENT TO SUMMARY JUDGMENT;

BECOATS (COREY), PEOPLE v:

CRIMES - TRIAL - ADJOURNMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN REFUSING TO GRANT DEFENDANT AN ADJOURNMENT TO SECURE THE ATTENDANCE OF A WITNESS WHO WAS IN FEDERAL CUSTODY; CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - PRESERVATION;

BEDESSIE (KHEMWATTIE), PEOPLE v:

CRIMES - EVIDENCE - HEARSAY EVIDENCE - ADMISSIBILITY OF STATEMENTS MADE TO A TREATING PHYSICIAN BY CHILD'S MOTHER AS TO WHAT HER SON TOLD HER TRANSPIRED WITH A DAY CARE CENTER EMPLOYEE; EXPERT TESTIMONY - FALSE CONFESSIONS - WHETHER TRIAL COURT'S EXCLUSION OF EXPERT TESTIMONY ON FALSE CONFESSIONS WAS AN ABUSE OF DISCRETION; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL - FAILURE TO OBJECT TO BOLSTERING HEARSAY FROM COMPLAINANT'S MOTHER AND FAILURE TO IMPEACH CERTAIN WITNESSES;

BIRNBAUM, MATTER OF v NEW YORK STATE DEPARTMENT OF LABOR et al.:

CIVIL SERVICE - COMPENSATION AND BENEFITS - LEAVE FOR ORDINARY DISABILITY - WHETHER CIVIL SERVICE LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

BLAUDZIUNAS, et al. v EGAN, et al.:

RELIGIOUS CORPORATIONS AND ASSOCIATIONS - DETERMINATION OF CLAIM TO REAL PROPERTY - RELIGIOUS CORPORATION LAW § 5 - DECISION OF ROMAN CATHOLIC ARCHBISHOP AND TRUSTEES OF SUPPRESSED INCORPORATED PARISH TO DEMOLISH CHURCH BUILDING; STANDING OF PARISHIONERS;

BOARD OF EDUCATION OF THE GARRISON UNION FREE SCHOOL DISTRICT v GREEK ARCHDIOCESE OF INSTITUTE OF ST. BASIL:

SCHOOLS - TUITION FOR NONRESIDENTS - RESPONSIBILITY OF SCHOOL DISTRICT FOR COSTS OF EDUCATING CHILDREN WHO ARE NOT RESIDENTS OF THE SCHOOL DISTRICT BUT ARE PLACED AT A PRIVATE RESIDENTIAL CHILD CARE FACILITY LOCATED IN THE SCHOOL DISTRICT - SCOPE OF EDUCATION LAW § 4002(1);

BORDELEAU et al. v STATE OF NEW YORK et al.:

STATE - APPROPRIATIONS - DECLARATORY JUDGMENT ACTION BY TAXPAYERS SEEKING TO ENJOIN DEFENDANTS FROM DISTRIBUTING OR RECEIVING STATE FUNDS APPROPRIATED IN PURPORTED VIOLATION OF THE NEW YORK STATE CONSTITUTIONAL PROHIBITION AGAINST GIFTS OR LOANS OF STATE MONEY TO PRIVATE ENTITIES (ARTICLE VII, § 8[1]) AND REQUIREMENT THAT APPROPRIATIONS DISTINCTLY SPECIFY THE OBJECT OR PURPOSE OF THE FUNDS APPROPRIATED (ARTICLE VII, § 7) - APPROPRIATIONS OF STATE FUNDS TO PUBLIC BENEFIT CORPORATIONS THAT PROVIDE GRANTS TO PRIVATE ENTITIES FOR ECONOMIC DEVELOPMENT - WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF THE COMPLAINT PURSUANT TO CPLR

3211(a)(1) AND (7);

BRADSHAW (JAY JOMAR), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF HIS RIGHT TO APPEAL WAS KNOWING AND VOLUNTARY;

BROWN (JAZZMONE), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP IDENTIFICATION OVER FOUR YEARS AFTER CRIME AND AFTER PHOTO ARRAY; EFFECTIVE ASSISTANCE OF COUNSEL - ALLEGED FAILURE OF DEFENSE COUNSEL TO OBJECT TO PROSECUTORIAL MISCONDUCT IN SUMMATION;

BROWN (NADIRAH), PEOPLE v:

CRIMES - ASSAULT - SUFFICIENCY OF EVIDENCE TO ESTABLISH THAT DEFENDANT ACTED RECKLESSLY - HOT WATER THROWN ON DEFENDANT'S NEPHEW; ALLEGED PROSECUTORIAL MISCONDUCT;

BUENO (CHRISTIAN), PEOPLE V:

CRIMES - ASSAULT - ASSAULT OF UNIFORMED EMERGENCY MEDICAL TECHNICIAN GETTING INTO AMBULANCE - REQUISITE INTENT - PENAL LAW § 120.05(3) - SUFFICIENCY OF EVIDENCE THAT DEFENDANT INTENDED TO INTERFERE WITH THE TECHNICIAN'S PERFORMANCE OF A LAWFUL DUTY;

BUTLER v STAGECOACH GROUP, PLC, et al.: (Cal. Date - 6/2/11)

COWAN, et al. v STAGECOACH GROUP, PLC, et al.: (Cal. Date - 6/2/11)

GODWIN, et al. v STAGECOACH GROUP, PLC, et al.: (Cal. Date - 6/2/11)

CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

CAPPELLINO, MATTER OF v BAUMANN & SONS BUS COMPANY et al.:

WORKERS' COMPENSATION - CAUSAL RELATION - WHETHER AN EMPLOYER THAT DOES NOT TIMELY FILE A NOTICE OF CONTROVERSY PURSUANT TO WORKERS' COMPENSATION LAW § 25(2)(b) MAY CONTEST BEFORE THE WORKERS' COMPENSATION BOARD (WCB) THE CAUSAL RELATIONSHIP BETWEEN THE DEATH OF CLAIMANT'S DECEDENT AND HIS EMPLOYMENT; CHALLENGE TO WCB'S DECISION THAT CLAIMANT'S APPLICATION FOR REVIEW OF AN ADMINISTRATIVE LAW JUDGE'S PRECLUSION OF TESTIMONY FROM CLAIMANT'S MEDICAL EXPERT WAS UNTIMELY; LEGAL STANDARD APPLICABLE TO WORKERS' COMPENSATION CLAIMS ARISING FROM HEART ATTACK FATALITIES; EXISTENCE OF SUBSTANTIAL EVIDENCE SUPPORTING WCB'S DECISION;

CENTRO EMPRESARIAL CEMPRESA S.A. et al. v AMERICA MOVIL S.A.B. de C.V., et al.:

RELEASE - SCOPE OF RELEASE - BINDING NATURE - RELEASE ALLEGEDLY INDUCED BY FRAUD - CHALLENGE TO APPELLATE DIVISION RULING THAT GENERAL RELEASE BARS PLAINTIFFS' VARIOUS CAUSES OF ACTION FOR FRAUD AND BREACH OF CONTRACT;

CHOW, et al. v RECKITT & COLMAN, INC., et al.:

PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT PLAINTIFFS FAILED TO RAISE A TRIABLE ISSUE OF FACT AS TO WHETHER A LYE-BASED DRAIN CLEANER WAS DEFECTIVELY DESIGNED;

THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK v McGRAHAM:

ARBITRATION - CONFIRMING OR VACATING AWARD - AWARD FINDING TEACHER GUILTY OF SERIOUS MISCONDUCT UNBECOMING A PERSON IN THE POSITION OF TEACHER AND IMPOSING A PENALTY OF 90 DAYS SUSPENSION WITHOUT PAY AND REASSIGNMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT NO BASIS EXISTED "UPON WHICH [SUPREME] COURT SHOULD HAVE DISTURBED THE HEARING OFFICER'S DETERMINATION" REGARDING THE PENALTY IMPOSED;

CLYDE (RAYMOND), PEOPLE v:

CRIMES - ATTEMPTED RAPE IN THE FIRST DEGREE - SUFFICIENCY OF THE EVIDENCE; TRIAL - PHYSICALLY RESTRAINED DEFENDANT - LEG SHACKLES - APPLICABILITY OF HARMLESS ERROR ANALYSIS; WITNESS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT ABUSED ITS DISCRETION IN REFUSING TO PRECLUDE THE PROSECUTOR FROM QUESTIONING MEDICAL EXPERTS ON THE ISSUE WHETHER THE VICTIM'S INJURIES MET THE LEGAL DEFINITIONS OF PHYSICAL INJURY AND SERIOUS PHYSICAL INJURY SET FORTH IN THE PENAL LAW;

COHN, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF CITY OF NEW YORK:

SCHOOLS - TEACHERS - LETTER IN PERSONNEL FILE - HEARING PURSUANT TO EDUCATION LAW § 3020-a - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT, UNDER ARTICLE TWENTY ONE OF CURRENT COLLECTIVE BARGAINING AGREEMENT, TEACHER HAD NO RIGHT TO A HEARING WHERE LETTER IN PERSONNEL FILE DOES NOT RESULT IN ADMINISTRATIVE CHARGES OR OTHER DISCIPLINARY SANCTIONS;

COLLADO (DIONIS), PEOPLE v: (Cal. Date - 6/1/11)

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, "WHERE A DEFENDANT RECEIVES AN ENHANCED SENTENCE BASED UPON A PREDICATE FELONY OFFENSE AND THE SENTENCE IMPOSED FOR THE PREDICATE OFFENSE IS VACATED DUE TO THE FAILURE TO PRONOUNCE A TERM OF (POST-RELEASE SUPERVISION), THE RESENTENCING DATE CONTROLS WHETHER THE EARLIER CRIME QUALIFIES AS A PREDICATE OFFENSE UNDER PENAL LAW § 70.06(1)(b)(ii)";

COLLINS, MATTER OF v DUKES PLUMBING & SEWER, INC.:

WORKERS' COMPENSATION - AGGREGATE TRUST FUND - WHETHER THE 2007 AMENDMENTS TO WORKERS' COMPENSATION LAW § 27(2) REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF UNCAPPED PERMANENT PARTIAL DISABILITY (PPD) AWARDS INTO THE AGGREGATE TRUST FUND - APPLICATION TO CLAIMS WITH A DATE OF DISABILITY/INJURY PRIOR TO JULY 1, 2007 BUT WITH A PPD CLASSIFICATION AFTER THAT DATE;

COLEMAN v DAINES &c, et al.:

SOCIAL SERVICES - PROCEEDING AGAINST BODY OR OFFICER - PETITION SEEKING RELIEF AS A RESULT OF RESPONDENTS' HANDLING OF PETITIONER'S APPLICATION FOR MEDICAID HOME CARE SERVICES; SOCIAL SERVICES LAW § 133; MOOTNESS - EXCEPTION TO MOOTNESS DOCTRINE; ADMINISTRATIVE LAW - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;

CONCEPCION (REYNALDO), PEOPLE v:

CRIMES - EVIDENCE - SUPPRESSION HEARING - CONSENT TO SEARCH OF VAN; APPEAL - SCOPE OF REVIEW OF INTERMEDIATE APPELLATE COURT - WHETHER, ON DEFENDANT'S APPEAL TO THE APPELLATE DIVISION, CPL 470.15(1) PERMITTED THE COURT TO DECIDE THE ISSUE OF CONSENT WHERE THE CONSENT ISSUE WAS NOT DECIDED ADVERSELY TO DEFENDANT IN THE TRIAL COURT;

CONGREGATION RABBINICAL COLLEGE OF TARTIKOV v THE TOWN OF RAMAPO:

TAXATION - EXEMPTIONS - WHETHER THE APPELLATE DIVISION ERRED IN DECLARING THAT PLAINTIFF RELIGIOUS CORPORATION'S REAL PROPERTY IS EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO RPTL 420-a(1) FOR CERTAIN TAX YEARS - OPERATION ON THE SUBJECT PROPERTY OF A FOR-PROFIT SUMMER CAMP FOR ORTHODOX JEWISH BOYS;

CORSELLO et al. v VERIZON NEW YORK, INC., &c., et al.:

EMINENT DOMAIN - INVERSE CONDEMNATION - MULTI-PROPERTY TELEPHONE SERVICE TERMINALS AFFIXED TO INDIVIDUAL BUILDINGS - WHETHER INDIVIDUAL PROPERTY OWNERS HAVE A CAUSE OF ACTION FOR DAMAGES FOR INVERSE CONDEMNATION OR FOR A VIOLATION OF GENERAL BUSINESS LAW § 349; STATUTE OF LIMITATIONS; PARTIES - CLASS CERTIFICATION;

CPS OPERATING COMPANY LLC v PATHMARK STORES, INC.:

LANDLORD AND TENANT - LEASE - RIGHT TO SUBLEASE OR ASSIGN - LEASEHOLD ASSIGNMENT CONTRACT BETWEEN COMMERCIAL TENANT AND COMPANY FORMED BY REAL ESTATE DEVELOPER TO ACQUIRE TENANT'S RIGHTS UNDER THE LEASE - COMPANY'S RIGHT TO TERMINATE THE CONTRACT BASED UPON TENANT'S ALLEGED BREACH - WHETHER TENANT WAS REQUIRED TO OBTAIN CITY'S CONSENT TO ASSIGNMENT PURSUANT TO A LAND DISPOSITION AGREEMENT BETWEEN THE CITY AND LANDLORD WHERE SUCH AGREEMENT WAS INCLUDED AS A "PERMITTED EXCEPTION" IN THE LEASEHOLD ASSIGNMENT CONTRACT - EFFECT OF ESTOPPEL

CERTIFICATE REQUIREMENT;

CRAGG v ALLSTATE INDEMNITY CORP.:

INSURANCE - HOMEOWNER'S INSURANCE - DUTY TO DEFEND OR INDEMNIFY - EXCLUSION FOR CLAIMS BASED ON DEATH OF INSURED - POLICY PROVISION EXCLUDING COVERAGE FOR "BODILY INJURY TO AN INSURED PERSON ... WHENEVER ANY BENEFIT OF THIS COVERAGE WOULD ACCRUE DIRECTLY OR INDIRECTLY TO AN INSURED PERSON" - APPLICABILITY OF EXCLUSION TO INSURED DEFENDANTS IN WRONGFUL DEATH ACTION BROUGHT BY NON-INSURED FATHER OF AN INSURED DECEDENT AS ADMINISTRATOR OF DECEDENT'S ESTATE;

CRAMPE (ALEXANDER), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - RIGHT TO COUNSEL - STANDBY COUNSEL - WHETHER THE TRIAL COURT ERRED IN ALLOWING DEFENDANT TO REPRESENT HIMSELF - WHETHER DEFENDANT'S ACCESS TO STANDBY COUNSEL WAS SO LIMITED AS TO BE AN INFRINGEMENT ON HIS RIGHT TO COUNSEL OR DUE PROCESS;

CREDLE (DONDI), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW A FULLY PRESENTED CASE TO A FIRST GRAND JURY WHICH VOTED "NO AFFIRMATIVE ACTION" (i.e., NOT ENOUGH VOTES TO INDICT OR DISMISS);

CUOMO, PEOPLE &c, By v FIRST AMERICAN CORPORATION, et al.:

STATUTES - FEDERAL PREEMPTION - RESIDENTIAL REAL ESTATE APPRAISALS - WHETHER(1) THE HOME OWNER'S LENDING ACT OF 1933 (12 USC § 1461 ET SEQ.), (2) THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 (Pub. L 101-73, 103 Stat 183), AND (3) THE REGULATIONS AND GUIDELINES IMPLEMENTED PURSUANT THERETO PREEMPT STATE REGULATIONS IN THE FIELD OF REAL ESTATE APPRAISALS; ATTORNEY GENERAL - ENJOINING FRAUDULENT OR ILLEGAL ACTS - WHETHER THE COMPLAINT STATES A CAUSE OF ACTION UNDER GENERAL BUSINESS LAW § 349 WITH RESPECT TO ALLEGEDLY FRAUDULENT RESIDENTIAL REAL ESTATE APPRAISALS;

DAHAR v HOLLAND LADDER & MANUFACTURING CO., et al.:

LABOR - SAFE PLACE TO WORK - PERSONAL INJURY ACTION SEEKING DAMAGES FOR INJURIES ALLEGEDLY SUSTAINED WHEN A PLAINTIFF FELL FROM A LADDER AT HIS EMPLOYER'S SHOP WHILE HE WAS READYING A FABRICATED COMPONENT PART FOR SHIPMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF WAS NOT PERFORMING AN ACTIVITY PROTECTED BY LABOR LAW § 240(1) BECAUSE HE WAS ENGAGED IN THE NORMAL MANUFACTURING PROCESS AT A FACTORY AND WAS NOT PERFORMING WORK ON THE BUILDING ITSELF - WHETHER PLAINTIFF'S WORK ON A FABRICATED COMPONENT PART CONSTITUTED THE PROTECTED ACTIVITY OF "CLEANING" A "STRUCTURE" - PLAINTIFF'S ENTITLEMENT TO PARTIAL SUMMARY JUDGMENT ON LIABILITY UNDER LABOR LAW § 240(1) AGAINST OWNER OF PROPERTY AND OWNER OF FABRICATED COMPONENT PART;



DAVIDSON v COACH USA, INC., et al.: (Cal. Date - 6/2/11)  
 CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

DAVIS (MAKEDA), PEOPLE v:  
 GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT RESUBMISSION OF DEFENDANT'S CASE TO A SECOND GRAND JURY WITHOUT LEAVE OF COURT VIOLATED CPL 190.75 AND REQUIRED DISMISSAL OF THE INDICTMENT;

DELAMOTA (SEBASTIAN), PEOPLE v:  
 CRIMES - IDENTIFICATION OF DEFENDANT - EYEWITNESS IDENTIFICATION; SUPPRESSION HEARING;

DIBBLE v NEW YORK CITY TRANSIT AUTHORITY:  
 WITNESSES - EXPERT WITNESS - PERSONAL INJURY ACTION - PLAINTIFF STRUCK BY SUBWAY TRAIN - WHETHER JURY'S VERDICT WAS SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE - WHETHER PLAINTIFF'S EXPERT'S TESTIMONY AS TO STOPPING DISTANCES ESTABLISHED DEFENDANT'S NEGLIGENCE;

DICKINSON (ROBERT GUY), PEOPLE v:  
 CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A CERTAIN TIME PERIOD WAS "NOT CHARGEABLE TO THE PROSECUTION [FOR SPEEDY TRIAL PURPOSES] BECAUSE THE PARTIES WERE INVOLVED IN ONGOING PLEA DISCUSSIONS AND DEFENDANT [DID] NOT DENY THAT HE AND HIS COUNSEL ACTIVELY PURSUED AND PARTICIPATED IN THESE NEGOTIATIONS";

DIEDERICH, JR, &c., MATTER OF v ST. LAWRENCE et al.:  
 PARTIES - STANDING - COMMON-LAW TAXPAYER STANDING - STANDING UNDER FINANCE LAW § 123-b - ALLEGED DENIAL OF PLAINTIFF-PETITIONER'S RIGHT TO PETITION THE GOVERNMENT UNDER THE FEDERAL AND STATE CONSTITUTIONS;

DIGIULIO &c. v GRAN, INC., &c., et al.:  
 NEGLIGENCE - DUTY - WHETHER DEFENDANTS WERE UNDER A COMMON-LAW

OR STATUTORY DUTY TO USE AN AUTOMATED EXTERNAL DEFIBRILLATOR (AED) ON A PATRON WHO HAD A SUDDEN HEART ATTACK AT THEIR HEALTH CLUB - ASSUMPTION OF RISK BY HEALTH CLUB PATRON - APPLICABILITY OF PUBLIC HEALTH LAW § 3000-a(1) - DEFENDANTS' ALLEGED BREACH OF GENERAL BUSINESS LAW § 627-a IN FAILING TO USE AN AED ON PLAINTIFF'S DECEDENT;

DiGUGLIELMO (RICHARD D.), PEOPLE v: (Cal. Date - 5/31/11)  
 CRIMES - VACATUR OF JUDGMENT OF CONVICTION - CPL 440.10 MOTION TO VACATE JUDGMENT BASED ON NEWLY DISCOVERED EVIDENCE - STANDARD OF REVIEW; MURDER - DEPRAVED INDIFFERENCE MURDER; DISCLOSURE - ALLEGED FAILURE OF THE PEOPLE TO DISCLOSE EVIDENCE FAVORABLE AND MATERIAL TO THE DEFENSE; ALLEGED DUE PROCESS VIOLATIONS; APPEALABILITY AND REVIEWABILITY OF DISCRETIONARY ORDER DENYING MOTION TO VACATE JUDGMENT ON THE GROUND OF NEWLY DISCOVERED EVIDENCE;

DOHERTY et al. &c. v MERCHANTS MUTUAL INSURANCE COMPANY:  
 INSURANCE - ACTION AGAINST INSURER - ACTION ALLEGING THAT INSURER ACTED IN BAD FAITH BY FAILING TO SETTLE AN UNDERLYING PERSONAL INJURY ACTION WITHIN THE POLICY LIMITS, THEREBY EXPOSING THE DEFENDANT IN THE UNDERLYING ACTION TO PERSONAL LIABILITY FOR THE DIFFERENCE BETWEEN THE VERDICT AMOUNT AND THE POLICY LIMIT; SUMMARY JUDGMENT;

DONALD v STATE OF NEW YORK: (Cal. Date - 5/31/11)  
 STATE - CLAIM AGAINST STATE - UNLAWFUL INCARCERATION - CLAIM ALLEGING THAT THE STATE UNLAWFULLY IMPRISONED CLAIMANT FOR 676 DAYS FOR VIOLATING THE TERMS OF HIS THREE-YEAR PERIOD OF POSTRELEASE SUPERVISION (PRS) BECAUSE THE DEPARTMENT OF CORRECTIONAL SERVICES (DOCS) IMPERMISSIBLY ADDED PRS TO HIS SENTENCE - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING THE CLAIM UPON THE GROUND THAT DOCS' IMPOSITION OF PRS WAS PRIVILEGED BECAUSE IT "IMPOSED THE [THREE-YEAR] DEFAULT PERIOD OF [PRS] CONSISTENT WITH THE LAW AT THE TIME OF SENTENCING AND THUS ACTED 'BEYOND [ITS] LIMITED JURISDICTION' RATHER THAN IN THE ABSENCE OF JURISDICTION";

DOOMES v BEST TRANSIT, et al. (AND TWO RELATED ACTIONS):  
 STATUTES - FEDERAL PREEMPTION - WHETHER THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966 AND FEDERAL MOTOR VEHICLE SAFETY STANDARD 208 PREEMPT STATE LAW TORT CLAIMS AGAINST BUS MANUFACTURER FOR FAILURE TO EQUIP BUS WITH PASSENGER SEATBELTS - WHETHER SUFFICIENT EVIDENCE IN THE RECORD SUPPORTED JURY'S FINDING THAT BUS MANUFACTURER WAS LIABLE FOR ACCIDENT BASED UPON ITS LENGTHENING OF BUS CHASSIS, THEREBY CREATING AN IMPROPER DISTRIBUTION OF WEIGHT;

EANES v STATE OF NEW YORK: (Cal. Date - 5/31/11)  
 STATE - CLAIM AGAINST STATE - UNLAWFUL INCARCERATION - CLAIM

ALLEGING THAT THE STATE UNLAWFULLY IMPRISONED CLAIMANT DURING THE TERM OF HER POSTRELEASE SUPERVISION (PRS) AND DURING HER SUBSEQUENT INCARCERATION FOR VIOLATING THE TERMS OF HER PRS - WHETHER DEFENDANT STATE OF NEW YORK IS PRIVILEGED FROM CIVIL LIABILITY WHEN THE DEPARTMENT OF CORRECTIONAL SERVICES (DOCS) ADMINISTRATIVELY IMPOSED A STATUTORILY MANDATED PERIOD OF PRS THAT WAS NOT PRONOUNCED BY THE SENTENCING COURT;

EASTSIDE EXHIBITION CORP. v 210 EAST 86<sup>TH</sup> STREET CORP.:  
 LANDLORD AND TENANT - EVICTION - UNAUTHORIZED TAKING OF DEMISED PREMISES - RENT ABATEMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A COMMERCIAL TENANT WHO IS SUBJECTED TO A PARTIAL, ACTUAL EVICTION IS NOT ENTITLED TO A TOTAL RENT ABATEMENT BUT RATHER TO A PARTIAL RENT ABATEMENT IN THE AMOUNT OF ITS ACTUAL DAMAGES;

EDWARDS, et al. v ERIE COACH LINES CO., et al.:  
 (Cal. Date - 6/2/11)  
 CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

ELRAC, MATTER OF v EXUM:  
 INSURANCE - AUTOMOBILE INSURANCE - UNINSURED MOTORIST ENDORSEMENT - EMPLOYEE DRIVING MOTOR VEHICLE OWNED BY SELF-INSURED EMPLOYER IN ACCIDENT WITH UNINSURED MOTORIST - UNINSURED MOTORIST CLAIM ASSERTED BY EMPLOYEE AGAINST EMPLOYER - WHETHER EXCLUSIVITY PROVISIONS OF WORKERS' COMPENSATION LAW PRECLUDE EMPLOYEE FROM ARBITRATING CLAIM AGAINST EMPLOYER;

EXTALE (JAMES), PEOPLE v:  
 CRIMES - ASSAULT - WHETHER COUNTY COURT ERRED IN ALLOWING THE PROSECUTION TO WITHDRAW THE INDICTMENT COUNT CHARGING DEFENDANT WITH VEHICULAR ASSAULT IN THE FIRST DEGREE;

FEDERAL INSURANCE COMPANY v INTERNATIONAL BUSINESS MACHINES CORP., et al.:  
 INSURANCE - DUTY TO DEFEND AND INDEMNIFY - EXCESS COVERAGE - WHETHER A BREACH OF FIDUCIARY DUTY IS REQUIRED FOR THE

COMMISSION OF A "WRONGFUL ACT" COVERED BY AN EXCESS INSURANCE POLICY WHERE "WRONGFUL ACT" IS DEFINED IN PERTINENT PART AS "ANY BREACH OF THE RESPONSIBILITIES, OBLIGATIONS OR DUTIES BY AN INSURED WHICH ARE IMPOSED UPON A FIDUCIARY OF A BENEFIT PROGRAM BY THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 [ERISA], OR BY THE COMMON OR STATUTORY LAW OF THE UNITED STATES" - ENTITLEMENT TO COVERAGE BY INSURED WHO IS FIDUCIARY OF A BENEFIT PROGRAM BUT WHO WAS NOT ACTING AS FIDUCIARY WITH RESPECT TO ITS ALLEGED BREACH OF ERISA - AMBIGUOUS CONTRACTS;

FERNANDEZ (JOSE), PEOPLE:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION, BASED ON OBSERVING A CLIP ATTACHED TO THE OUTSIDE OF DEFENDANT'S POCKET AND THE PROTRUDING TOP OF A KNIFE, THAT DEFENDANT POSSESSED A GRAVITY KNIFE; SUPPRESSION MOTION; WHETHER THE LACK OF MENS REA REQUIREMENT IN PENAL LAW § 265.01 VIOLATES DUE PROCESS;

FERNANDEZ (MARCOS A.), PEOPLE v:

CRIMES - WITNESSES - REPUTATION FOR TRUTH AND VERACITY - WHETHER THE TRIAL COURT IMPROPERLY PRECLUDED DEFENDANT FROM PRESENTING TESTIMONY OF TWO FAMILY MEMBERS REGARDING THE COMPLAINANT'S REPUTATION IN THEIR FAMILY FOR UNTRUTHFULNESS; POLICY CONTAINING AN "OTHER INSURANCE" CLAUSE;

FISHER (AARON RICHARD), PEOPLE v:

CRIMES - FAIR TRIAL - COURSE OF SEXUAL CONDUCT AGAINST A CHILD - ALLEGED PROSECUTORIAL MISCONDUCT - PRESERVATION; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

FRANOV (ROBERT), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - WHETHER THE TERM "OTHERWISE USES A VEHICLE" IN PENAL LAW § 165.05(1) REQUIRES "DOMINION AND CONTROL" OVER THE VEHICLE;

FREEMAN (JOHN), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW § 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

FUREY (SCOTT C.), PEOPLE v:

JURY - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF A PROSPECTIVE JUROR MARRIED TO THE CAPTAIN OF THE POLICE DEPARTMENT AND SOCIALLY ACQUAINTED WITH EIGHT POLICE OFFICERS ON THE PROSECUTION'S WITNESS LIST - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF A PROSPECTIVE JUROR WHO WAS UNABLE TO STATE UNEQUIVOCALLY THAT SHE COULD RENDER AN IMPARTIAL VERDICT;

GAMBLE (COREY), PEOPLE v:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED IN PRECLUDING CERTAIN EVIDENCE ABOUT ONE OF THE MURDER VICTIMS; RIGHT TO COUNSEL - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO COUNSEL WHEN COURT OFFICERS, FOR SECURITY REASONS, WERE SEATED BEHIND DEFENDANT'S CHAIR, WHERE THEY MIGHT HEAR DEFENSE COUNSEL'S CONVERSATION WITH DEFENDANT; ALLEGED MISCONDUCT OF PROSECUTOR DURING TRIAL;

GARDNER (DAMIAN), PEOPLE v:

CRIMES - APPEAL - ABSENCE OF DEFENDANT - INVOLUNTARY DEPORTATION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING DEFENDANT'S APPEAL ON THE GROUND THAT HE HAD BEEN DEPORTED AND WAS NO LONGER AVAILABLE TO OBEY THE MANDATE OF THE COURT WHERE DEFENDANT SERVED HIS SENTENCE, HAD BEEN PAROLED TO THE CUSTODY OF IMMIGRATION AND CUSTOMS ENFORCEMENT, AND ARGUED ON APPEAL THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT HIS CONVICTION;

GIBSON (JEFFREY D.), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - POLICE OFFERED DEFENDANT CIGARETTE FOR PURPOSE OF OBTAINING DNA EVIDENCE - DEFENDANT KNOWN BY POLICE TO BE REPRESENTED BY COUNSEL ON ANOTHER CHARGE; SUFFICIENCY OF EVIDENCE; ALLEGED DENIAL OF RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT ON SUMMATION; FAILURE OF TRIAL COURT TO SHOW JURY NOTES TO DEFENSE COUNSEL BEFORE RESPONDING TO THEM;

GRANDY v MCKAY et al. (AND ANOTHER ACTION):

STIPULATIONS - ENFORCEMENT - INTERPRETATION OF STIPULATION OF SETTLEMENT ENTERED IN OPEN COURT REGARDING RIGHTS OF WAY OVER DEFENDANTS' PROPERTY;

GREENBERG, TRAGER & HERBST, LLP v HSBC BANK USA et al.:

BANKS AND BANKING - COUNTERFEITED BANK CHECK DEPOSITED BY PLAINTIFF LAW FIRM - COLLECTING BANK INVOKED RIGHT TO CHARGE BACK SUM TO PAYOR BANK AFTER ALLEGEDLY ADVISING LAW FIRM THAT CHECK HAD "CLEARED"; UNIFORM COMMERCIAL CODE; DISMISSAL OF LAW FIRM'S ACTION AGAINST BANKS;

GRONINGER v VILLAGE OF MAMARONECK:

MUNICIPAL CORPORATIONS - SNOW AND ICE - APPLICABILITY OF PRIOR WRITTEN NOTICE PROVISIONS OF VILLAGE LAW § 6-628 AND CPLR 9804 TO VILLAGE PARKING LOT - WALKER v TOWN OF HEMPSTEAD (84 NY2d 360);

GRONSKI, et al. v COUNTY OF MONROE:

NEGLIGENCE - EMPLOYEE OF COMPANY OPERATING RECYCLING FACILITY OWNED BY DEFENDANT COUNTY INJURED AT THE FACILITY - WHETHER

COUNTY RETAINED SUFFICIENT CONTROL OVER RECYCLING FACILITY TO INCUR LIABILITY; SUMMARY JUDGMENT - WHETHER PLAINTIFFS RAISED TRIABLE ISSUE OF FACT CONCERNING COUNTY'S CONTROL OVER FACILITY; EFFECT OF DEC PERMIT;

GUAY (DEAN), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - BATSON CHALLENGE - WHETHER THE TRIAL COURT ERRED IN GRANTING THE PEOPLE'S CHALLENGE FOR CAUSE WITH RESPECT TO PROSPECTIVE JUROR WITH A SLIGHT HEARING IMPAIRMENT - DEFENDANT'S STANDING TO INVOKE THE AMERICANS WITH DISABILITIES ACT ON PROSPECTIVE JUROR'S BEHALF; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

BRAD H., et al. v THE CITY OF NEW YORK, et al.:

(Cal Date - 5/31/11)

STIPULATIONS - STIPULATION OF SETTLEMENT - MEANING OF PROVISION IN STIPULATION OF SETTLEMENT STATING THAT THE "PROVISIONS OF THIS AGREEMENT SHALL TERMINATE AT THE END OF FIVE YEARS AFTER MONITORING BY THE COMPLIANCE MONITORS BEGINS"; WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE PROVISIONS OF THE SETTLEMENT AGREEMENT HAD "TERMINATED" AT THE TIME PLAINTIFFS SOUGHT INJUNCTIVE RELIEF TO COMPEL DEFENDANTS' COMPLIANCE WITH THE AGREEMENT; ESTOPPEL - AVAILABILITY AGAINST GOVERNMENTAL AGENCY;

HALL (MICHAEL), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

HALSTEAD v BROKAW, et al.:

LIBEL AND SLANDER - ACTIONABLE WORDS - OPINIONS - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANTS MADE A PRIMA FACIE SHOWING OF ENTITLEMENT TO JUDGMENT AS A MATTER OF LAW BY ESTABLISHING THAT THEIR ALLEGED STATEMENTS CONSTITUTED STATEMENTS OF OPINION RATHER THAN OF FACT - WHETHER THE APPELLATE DIVISION HOLDING IS INCONSISTENT WITH MANN v ABEL (10 NY3d 217 [2008]) AND STEINHILBER v ALPHONSE (68 NY2d 283 [1986]);

HAYES (KENNETH), PEOPLE v:

CRIMES - EVIDENCE - JUSTIFICATION DEFENSE - POLICE OFFICER AT CRIME SCENE OVERHEARD TWO WITNESSES SAY THAT THE WOUNDED MAN FIRST ATTACKED WITH A KNIFE, BUT DID NOT QUESTION THEM FURTHER OR RECORD NAMES OR CONTACT INFORMATION FOR FURTHER INVESTIGATION - CLAIMED BRADY VIOLATION; CROSS-EXAMINATION - WHETHER TRIAL COURT ERRED IN LIMITING CROSS-EXAMINATION OF POLICE OFFICER REGARDING THE ADEQUACY OF POLICE INVESTIGATION INTO CENTRAL DISPUTED FACTUAL ISSUE OF ORIGINAL KNIFE

POSSESSION;

HAZEN, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF CITY OF NEW YORK:

SCHOOLS - TEACHERS - LETTER IN PERSONNEL FILE - HEARING PURSUANT TO EDUCATION LAW § 3020-a - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT, UNDER ARTICLE TWENTY ONE OF CURRENT COLLECTIVE BARGAINING AGREEMENT, TEACHER HAD NO RIGHT TO HEARING WHERE LETTERS IN PERSONNEL FILE "WERE NOT DISCIPLINARY OR PENALTY MEASURES RELATED TO THE FILING OR DISPOSITION OF FORMAL CHARGES";

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

SCHOOLS - TEACHERS - LETTER IN PERSONNEL FILE - HEARING PURSUANT TO EDUCATION LAW § 3020-a - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT, UNDER CURRENT COLLECTIVE BARGAINING AGREEMENT, TEACHER HAS NO RIGHT TO A HEARING WHERE LETTER IN PERSONNEL FILE DOES NOT RESULT IN A DISCIPLINARY CHARGE;

HIGHTOWER (JOSEPH), PEOPLE v:

CRIMES - LARCENY - SUFFICIENCY OF FACTUAL ALLEGATIONS IN ACCUSATORY INSTRUMENT CHARGING DEFENDANT WITH PETIT LARCENY (PENAL LAW § 155.05[1]) FOR SELLING A SWIPE ON AN UNLIMITED-FARE METROCARD, THUS ALLOWING THE PURCHASER TO ENTER THE SUBWAY STATION BEYOND THE TURNSTILES WITHOUT PERMISSION OR AUTHORITY TO DO SO;

HOLLAND (DAVID), PEOPLE v:

CRIMES - SUPPRESSION HEARING - EVIDENCE SEIZED AFTER POLICE STOP - WHETHER ANY ALLEGEDLY UNLAWFUL POLICE CONDUCT IN STOPPING AND QUESTIONING DEFENDANT WAS ATTENUATED BY DEFENDANT'S ACTION IN STRIKING ONE OFFICER;

HUNTER (SHAWN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - STANDING TO CHALLENGE SEARCH OF APARTMENT IN WHICH DEFENDANT WAS ARRESTED; PRESERVATION - WHETHER THE PEOPLE MAY ARGUE FOR THE FIRST TIME ON APPEAL THAT DEFENDANT LACKED STANDING TO CHALLENGE THE SEARCH; EDURAL REQUIREMENTS GOVERNING CLAIMS AGAINST THE STATE;

JACKSON (SAMUEL), PEOPLE v:

CRIMES - COMPLAINT - CRIMINAL POSSESSION OF MARIHUANA IN THE FIFTH DEGREE (PENAL LAW § 221.10[1]) - WHETHER ACCUSATORY INSTRUMENT WAS JURISDICTIONALLY DEFECTIVE BECAUSE IT DID NOT ALLEGE THAT THE MARIHUANA WAS "OPEN TO PUBLIC VIEW" OR THAT IT WAS "BURNING" PRIOR TO THE STOP; SEARCH AND SEIZURE;

JOHNSON CITY PROFESSIONAL FIREFIGHTERS LOCAL 921 et al. and VILLAGE OF JOHNSON CITY, MATTER OF (PROCEEDING NO. 1); VILLAGE OF JOHNSON CITY and JOHNSON CITY FIREFIGHTERS ASSOCIATION LOCAL 921 IAFF, MATTER OF (PROCEEDING NO. 2):

ARBITRATION - MATTERS ARBITRABLE - ARBITRABILITY OF VILLAGE'S ALLEGED VIOLATION OF COLLECTIVE BARGAINING AGREEMENT WITH FIREFIGHTERS UNION PROVIDING THAT THE "VILLAGE SHALL NOT LAY-OFF ANY MEMBER OF THE BARGAINING UNIT DURING THE TERM OF THE CONTRACT" - ALLEGED APPLICATION OF LEGAL STANDARD THAT DOES NOT COMPORT WITH THE STANDARD ANNOUNCED IN YONKERS SCHOOL CROSSING GUARD UNION OF WESTCHESTER CO., CSEA v CITY OF YONKERS (39 NY2d 964 [1976]);

JOHNSON (STEVE), PEOPLE v:

CRIMES - INSANITY - DEFENDANT'S BELIEF THAT HIS ACTS WERE IN OBEDIENCE TO DIVINE INSTRUCTIONS - CHALLENGE TO TRIAL COURT'S STANDARD INSTRUCTIONS ON INSANITY DEFENSE AND SUPPLEMENTAL INSTRUCTIONS IN RESPONSE TO JUROR NOTES; JURY - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE TO A PROSPECTIVE JUROR WHO PROFESSED HAVING "STRONG OPINIONS" ON THE INSANITY DEFENSE BASED ON RESEARCH SHE CONDUCTED ON THE DEFENSE WHILE IN COLLEGE;

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

SCHOOLS - TEACHERS - TERMINATION OF PROBATIONARY EMPLOYMENT - TIMELINESS OF CHALLENGE - WHETHER A CPLR ARTICLE 78 PETITION CHALLENGING THE TERMINATION OF PROBATIONARY EMPLOYMENT ON SUBSTANTIVE GROUNDS IS TIME-BARRED WHERE IT IS NOT COMMENCED WITHIN FOUR MONTHS AFTER THE EFFECTIVE DATE OF TERMINATION BUT IS COMMENCED WITHIN FOUR MONTHS AFTER THE PETITIONER EXHAUSTS AVAILABLE ADMINISTRATIVE REMEDIES;

KATHLEEN K., MATTER OF (ANONYMOUS):

PARENT AND CHILD - TERMINATION OF PARENTAL RIGHTS - WHETHER FAMILY COURT ERRED IN DENYING FATHER THE RIGHT TO REPRESENT HIMSELF AT HEARING ON TERMINATION OF PARENTAL RIGHTS;

KEATING (PADRAIC), PEOPLE v:

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

KHAN (SALEEM), PEOPLE v:

CRIMES - LARCENY - HEALTH CARE FRAUD - INTERPRETATION OF TERMS "MATERIAL" AND "PERSON" IN HEALTH CARE FRAUD STATUTE (PENAL LAW § 177.00 et seq.) - PRESCRIPTIONS FILLED BY PHARMACY FOR SPOUSE OF PERSON SUBMITTING PRESCRIPTION - SUFFICIENCY OF EVIDENCE FOR CONVICTION UNDER HEALTH CARE FRAUD STATUTE; RIGHT TO SPEEDY



TRIAL;

L&M BUS CORP., et al., MATTER OF v THE NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:

MUNICIPAL CORPORATIONS - BIDS AND BIDDERS - REQUEST FOR BIDS - WHETHER EMPLOYEE PROTECTION PROVISIONS VIOLATE THE PUBLIC BIDDING LAWS;

LEWIE (ALICIA), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - SECOND DEGREE MANSLAUGHTER AND RECKLESS ENDANGERMENT OF A CHILD - INFANT BATTERED BY DEFENDANT'S BOYFRIEND; ALLEGED VIOLATIONS OF DEFENDANT'S DUE PROCESS RIGHTS - CONTINUED QUESTIONING AFTER POLICE BECAME AWARE DEFENDANT WAS REPRESENTED BY COUNSEL IN A RELATED FAMILY COURT PROCEEDING - QUESTIONABLE CONDUCT BY JUROR;

LIFSON v CITY OF SYRACUSE et al.:

NEGLIGENCE - ACTION ALLEGING THAT DECEDENT WAS KILLED WHEN VEHICLE STRUCK HER WHILE SHE WAS CROSSING THE STREET - EMERGENCY DOCTRINE - WHETHER THE TRIAL COURT ERRED IN GIVING THE JURY AN EMERGENCY DOCTRINE INSTRUCTION WHERE DRIVER ASSERTED THAT HE FAILED TO OBSERVE DECEDENT BECAUSE HE WAS SUDDENLY BLINDED BY SUN GLARE; DISMISSAL OF COMPLAINT AGAINST DRIVER; DECEDENT'S NEGLIGENCE;

MIGUEL M., MATTER OF (ANONYMOUS):

MENTAL HEALTH - ASSISTED OUTPATIENT TREATMENT - PROCEEDING PURSUANT TO MENTAL HYGIENE LAW § 9.60 (KENDRA'S LAW) - WHETHER EXCEPTIONS TO PRIVACY PROVISIONS OF HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) PERMIT A PHYSICIAN, IN A KENDRA'S LAW PROCEEDING, TO OBTAIN, AND INTRODUCE INTO EVIDENCE, AN INDIVIDUAL'S MEDICAL RECORDS WITHOUT AUTHORIZATION OR A COURT ORDER; WHETHER FEDERAL HIPAA PRIVACY RULE PREEMPTS MENTAL HYGIENE LAW § 33.13;

MACK (JASON), PEOPLE v:

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

MARRACCINI v RYAN, et al.:

LICENSES - HOME IMPROVEMENT CONTRACTORS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT PLAINTIFF WAS UNLICENSED AS A HOME IMPROVEMENT CONTRACTOR WITHIN THE MEANING OF THE WESTCHESTER COUNTY ADMINISTRATIVE CODE WHERE HE PERFORMED THE WORK AT ISSUE UNDER HIS REAL NAME BUT HAD A HOME IMPROVEMENT LICENSE ISSUED UNDER A TRADE NAME;

MARTIN (ROY), PEOPLE v, a/k/a MARTIN (REALITY):

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S FATHER FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SPACE; TRIAL COURT'S RESPONSE TO JUROR QUESTION;

MARTINO v STOLZMAN, et al. (AND ANOTHER ACTION):

MOTOR VEHICLES - COLLISION - DUTY OF SOCIAL HOSTS TO CONTROL AND SUPERVISE INTOXICATED GUESTS LEAVING THEIR PREMISES; NEGLIGENCE; DISMISSAL OF CLAIMS;

McALPIN (CHRIS), PEOPLE v:

CRIMES - PLEA OF GUILTY - VACATUR - POST-RELEASE SUPERVISION (PRS) - WHETHER COURT WAS REQUIRED TO ADVISE DEFENDANT OF PRS DURING PLEA ALLOCUTION WHERE DEFENDANT WAS TOLD THAT HE WOULD RECEIVE A "DEFERRED SENTENCE" WITH A POSSIBILITY OF PROBATION AND YOUTHFUL OFFENDER TREATMENT IF HE ENROLLED IN AND SUCCESSFULLY COMPLETED A CERTAIN PROGRAM OR, IF HE FAILED TO DO SO OR WAS ARRESTED FOR ANOTHER CRIME IN THE INTERIM, THAT HE WOULD BE SENTENCED TO A MINIMUM OF THREE YEARS AND A MAXIMUM OF 15 YEARS IN PRISON - COLLATERAL OR DIRECT CONSEQUENCES OF PLEA; PRESERVATION - WAIVER - SUFFICIENCY OF RECORD FOR APPELLATE REVIEW;

McCARTHY v TURNER CONSTRUCTION, INC., et al.:

(Cal. Date - 6/1/11)

INDEMNITY - WHEN CLAIM FOR COMMON-LAW INDEMNIFICATION IS AVAILABLE - PROPERTY OWNERS AND GENERAL CONTRACTOR LIABLE UNDER LABOR LAW § 240(1) TO INJURED PLAINTIFF WORKING DIRECTLY FOR A SUBCONTRACTOR - WHETHER NON-NEGLIGENT PROPERTY OWNERS MAY SEEK COMMON-LAW INDEMNIFICATION FROM A NON-NEGLIGENT GENERAL CONTRACTOR WHO DID NOT ACTUALLY SUPERVISE OR CONTROL THE INJURED PLAINTIFF'S WORK BUT WHOSE CONTRACT WITH A NON-PARTY STATED THAT IT "SHALL SUPERVISE AND DIRECT" THE CONTRACT WORK AND "SHALL BE SOLELY RESPONSIBLE FOR AND HAVE CONTROL OVER CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES FOR COORDINATING ALL PORTIONS" OF SUCH WORK;

McDOUGALL, MATTER OF v SCOPPETTA:

CIVIL SERVICE - FIREFIGHTERS - DISCIPLINARY PROCEEDINGS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TERMINATION OF PETITIONER'S EMPLOYMENT AS A FIREFIGHTER AND THE ATTENDANT FORFEITURE OF HIS PENSION AFTER TESTING POSITIVE FOR THE PRESENCE OF COCAINE IN HIS SYSTEM WAS SO DISPROPORTIONATE TO THE OFFENSE THAT IT SHOCKS THE JUDICIAL CONSCIENCE - PENALTY FOR VIOLATING FIRE DEPARTMENT'S "ZERO TOLERANCE" POLICY REGARDING THE USE OF PROHIBITED SUBSTANCES;

McINTOSH (FAYOLA), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW THE CASE PRESENTED TO A FIRST GRAND JURY DUE TO WITNESS UNAVAILABILITY;

McMANUS, PEOPLE ex rel. v HORN:

BAIL - RIGHT TO BAIL - RIGHT TO HAVE BAIL SET WITH AT LEAST TWO FORMS OF PAYMENT SPECIFIED - WHETHER CPL 520.10(2) LIMITS THE DISCRETION OF A JUDGE TO DIRECT THAT BAIL BE POSTED IN ONE FORM ONLY - "CASH ONLY" BAIL;

MEDINA (JUAN), PEOPLE v:

CRIMES - INSTRUCTIONS - CHALLENGE TO INSTRUCTION NOT CONTAINING THE STATUTORY DEFINITIONS OF "DEPRIVE" AND "APPROPRIATE" SET FORTH IN SUBDIVISIONS (3) AND (4) OF PENAL LAW § 155.00; TRIAL - MISTRIAL - CHALLENGE TO APPELLATE DIVISION HOLDINGS THAT TRIAL COURT PROPERLY EXERCISED ITS DISCRETION (1) "WHEN IT DENIED DEFENDANT'S MISTRIAL MOTIONS MADE AFTER NOTES FROM DELIBERATING JURY INDICATED IT WAS DEADLOCKED ... AND INSTEAD DELIVERED SEVERAL ALLEN CHARGES" AND (2) "BY NOT ASKING THE JURY ABOUT THE LIKELIHOOD OF A VERDICT OR CONDUCTING A SEPARATE COLLOQUY WITH A POSSIBLE HOLDOUT JUROR";

MIRVISH v MOTT, &c., et al.:

GIFTS - INTER VIVOS GIFT - DEAD MAN'S STATUTE - TESTIMONY BY PERSON FROM WHOM PETITIONER DERIVES INTEREST AS EVIDENCE OF GIFT DELIVERY - CHALLENGE TO APPELLATE DIVISION RULING THAT SUCH TESTIMONY WAS INADMISSIBLE UNDER CPLR 4519 AND COULD NOT BE USED TO SUPPORT PETITIONER'S MOTION FOR SUMMARY JUDGMENT - EFFECT OF HANDWRITING ON BACK OF PHOTOGRAPH OF SCULPTURE BY WHICH DECEDENT PURPORTEDLY GAVE THE SCULPTURE TO PETITIONER'S ASSIGNOR; LIMITATION OF ACTIONS - WHETHER PETITIONER'S CONVERSION CLAIM IS BARRED BY THE APPLICABLE THREE-YEAR STATUTE OF LIMITATIONS;

MOUNT VERNON CITY SCHOOL DISTRICT v NOVA CASUALTY COMPANY:

CONTRACTS - PUBLIC WORKS CONTRACTS - BONDS - PERFORMANCE BOND - ACTION ALLEGING THAT DEFENDANT CASUALTY COMPANY BREACHED PERFORMANCE BOND PROCURED FROM IT BY CONTRACTOR THAT PERFORMED CERTAIN WORK FOR PLAINTIFF SCHOOL DISTRICT BUT FAILED TO COMPLETE ALL CONTRACT WORK - WHETHER CASUALTY COMPANY WAS ENTITLED TO SUMMARY JUDGMENT ON ITS DEFENSE THAT PLAINTIFF'S PAYMENT TO THE DEPARTMENT OF LABOR (DOL) OF \$214,000 EARNED BY CONTRACTOR, MADE TO DOL TO SATISFY UNPAID WAGE CLAIMS ON AN UNRELATED PROJECT INVOLVING ANOTHER SCHOOL DISTRICT, CONSTITUTED A FORBIDDEN DIVERSION OF TRUST FUND ASSETS UNDER LIEN LAW ARTICLE 3-a THAT DISCHARGED CASUALTY COMPANY OF ITS

OBLIGATIONS UNDER THE PERFORMANCE BOND; WHETHER PLAINTIFF'S \$214,000 PAYMENT TO DOL CONSTITUTED A REDUCTION OF THE BALANCE OF THE CONTRACT PRICE IN VIOLATION OF THE TERMS OF THE PERFORMANCE BOND; "PYRAMIDING" BY CONTRACTOR; DAMAGES - COUNSEL FEES - WHETHER CONSTRUCTION CONTRACT AND/OR PERFORMANCE BOND ENTITLED PLAINTIFF SCHOOL DISTRICT TO AWARD OF ATTORNEYS' FEES INCURRED IN THIS LITIGATION;

MUHAMMAD (SHAHID), PEOPLE v:

CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE FIRST DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING DEFENDANT NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IS REPUGNANT; EXPERT WITNESS - DENIAL OF DEFENDANT'S REQUEST TO PRESENT EXPERT TESTIMONY ON THE RELIABILITY OF EYEWITNESS IDENTIFICATION;

MUNGRO (MICHAEL), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - POST-READINESS DELAY ATTRIBUTABLE TO PEOPLE - PERIOD OF TIME DEFENDANT IS DETAINED IN ANOTHER JURISDICTION WITH PEOPLE'S KNOWLEDGE - PEOPLE'S DILIGENCE IN OBTAINING DEFENDANT'S PRESENCE FROM OHIO FOR TRIAL IN NEW YORK - CPL 30.30(4)(e); ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; SUFFICIENCY OF THE EVIDENCE;

NEW YORK CITY HEALTH & HOSPITALS CORPORATION, MATTER OF v NEW YORK STATE COMMISSION ON CORRECTION:

PRISONS AND PRISONERS - COMMISSION OF CORRECTION - SUBPOENA SEEKING MEDICAL RECORDS OF DECEASED INMATE - WHETHER THE PHYSICIAN-PATIENT PRIVILEGE IN CPLR 4504 PROTECTS THE MEDICAL RECORDS OF A DECEASED INMATE FROM DISCLOSURE TO A STATE AGENCY THAT SUBPOENAED SUCH RECORDS PURSUANT TO ITS STATUTORILY-MANDATED INVESTIGATIVE FUNCTIONS INTO THE CAUSE OF AND CIRCUMSTANCES SURROUNDING AN INMATE'S DEATH - CORRECTION LAW § 47;

NEW YORK COALITION FOR QUALITY ASSISTED LIVING, INC. v MFY LEGAL SERVICES, INC., et al.:

HEALTH - ADULT CARE FACILITIES - ACTION BY ASSOCIATION OF MEMBERS WHO OPERATE ASSISTED LIVING FACILITIES AND ADULT HOMES FOR A DECLARATION THAT ITS PROPOSED GUIDELINES FOR VISITOR ACCESS ARE ENFORCEABLE IN ADULT CARE FACILITIES;

NEW YORK STATE PSYCHIATRIC ASSOCIATION, et al. v NEW YORK STATE DEPARTMENT OF HEALTH:

HEALTH - MEDICARE REIMBURSEMENT - CONSTITUTIONALITY OF PROVISIONS IN THE 2008 BUDGET BILL (L 2008, Ch 58, part C) PROVIDING THAT LICENSED PSYCHIATRISTS ARE NOT ENTITLED TO BE

PAID THE FULL MEDICARE PART B COINSURANCE AMOUNT FOR SERVICES RENDERED BETWEEN APRIL 1, 2007 AND APRIL 11, 2008 TO CERTAIN INDIVIDUALS WHO ARE ELIGIBLE FOR BOTH MEDICAID AND MEDICARE BENEFITS AND/OR FOR CLAIMS PROCESSED BETWEEN APRIL 1, 2007 AND APRIL 11, 2008;

NEW YORK STATE SUPERFUND COALITION, INC., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

ENVIRONMENTAL CONSERVATION - HAZARDOUS WASTE - VALIDITY OF REGULATION - WHETHER RESPONDENT DEPARTMENT OF ENVIRONMENTAL CONSERVATION EXCEEDED ITS AUTHORITY IN PROMULGATING 6 NYCRR 375-2.8(a) AND 375-1.8(f)(9) - REGULATIONS WITH A STATED GOAL OF RESTORING CONTAMINATED INACTIVE HAZARDOUS WASTE SITES TO "PRE-DISPOSAL CONDITIONS" - WHETHER APPELLATE DIVISION CORRECTLY DEFERRED TO AGENCY INTERPRETATION OF STATUTE;

OBOT v MEDAILLE COLLEGE:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL - WHETHER APPEAL TO APPELLATE DIVISION LIES FROM SUA SPONTE SUPREME COURT ORDER STRIKING AND VACATING A NOTE OF ISSUE AND CERTIFICATE OF READINESS;

OBOT v NATIONAL FUEL GAS DISTRIBUTION CORPORATION (AND ANOTHER APPEAL):

DISMISSAL AND NONSUIT - ACTION CONCERNING PROVISION OF NATURAL GAS TO PLAINTIFF'S RESIDENTIAL PROPERTY - DISMISSAL OF COMPLAINTS; PUBLIC UTILITIES;

TOWN OF OYSTER BAY v KIRKLAND, &c., et al.:

ADMINISTRATIVE LAW - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PLAINTIFF'S FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES SUPPORTED DISMISSAL OF CAUSES OF ACTION SEEKING A DECLARATION THAT (1) PLAINTIFF TOWN WAS NOT A PROPER RESPONDENT AND WAS NOT SUBJECT TO PROVISIONS OF HUMAN RIGHTS LAW IT WAS CHARGED WITH VIOLATING IN AN ADMINISTRATIVE COMPLAINT FILED BY RESPONDENT NEW YORK STATE DIVISION OF HUMAN RIGHTS (DHR) AND (2) THE ADMINISTRATIVE COMPLAINT WAS VOID BECAUSE IT CONSTITUTED REVERSE DISCRIMINATION AGAINST RESIDENTS OF PLAINTIFF TOWN; CIVIL RIGHTS - STATE DIVISION OF HUMAN RIGHTS - CONSTITUTIONALITY OF INVESTIGATIVE AND ADJUDICATIVE POWERS - SUMMARY JUDGMENT DISMISSING OTHER CAUSES OF ACTION - EXECUTIVE LAW § 295(6)(a) AND (b);

FORECLOSURE OF TAX LIENS BY ORANGE COUNTY COMMISSIONER OF FINANCE, MATTER OF v HELSETH:

TAXATION - TAX LIENS - FORECLOSURE OF TAX LIENS - ADEQUACY OF NOTICE TO FORMER PROPERTY OWNERS OF OPPORTUNITY TO PAY DELINQUENT REAL PROPERTY TAXES AND FEES TO RELEASE THE COUNTY'S INTEREST IN THE FORECLOSED PROPERTY;

ORELLANES v STATE OF NEW YORK: (Cal. Date - 5/31/11)  
 STATE - CLAIM AGAINST STATE - UNLAWFUL INCARCERATION - CLAIM ALLEGING THAT THE STATE UNLAWFULLY IMPRISONED CLAIMANT FOR VIOLATING THE TERMS OF HIS POSTRELEASE SUPERVISION (PRS) - WHETHER DEFENDANT STATE OF NEW YORK IS PRIVILEGED FROM CIVIL LIABILITY WHEN THE DEPARTMENT OF CORRECTIONAL SERVICES (DOCS) ADMINISTRATIVELY IMPOSED A STATUTORILY MANDATED PERIOD OF PRS THAT WAS NOT PRONOUNCED BY THE SENTENCING COURT;

ORTIZ v STATE OF NEW YORK: (Cal. Date - 5/31/11)  
 STATE - CLAIM AGAINST STATE - UNLAWFUL INCARCERATION - CLAIM ALLEGING THAT THE STATE UNLAWFULLY IMPRISONED CLAIMANT FOR VIOLATING THE TERMS OF HIS POSTRELEASE SUPERVISION (PRS) - WHETHER DEFENDANT STATE OF NEW YORK IS PRIVILEGED FROM CIVIL LIABILITY WHEN THE DEPARTMENT OF CORRECTIONAL SERVICES (DOCS) ADMINISTRATIVELY IMPOSED A STATUTORILY MANDATED PERIOD OF PRS THAT WAS NOT PRONOUNCED BY THE SENTENCING COURT;

ORTIZ v VARSITY HOLDINGS, LLC, et al.:  
 LABOR - SAFE PLACE TO WORK - RENOVATION LABORER INJURED IN FALL FROM DUMPSTER LEDGE - WHETHER WORKER WAS ENGAGED IN A PROTECTED ACTIVITY UNDER LABOR LAW § 240(1); SUMMARY JUDGMENT;

OVITZ v BLOOMBERG, L.P., et al.:  
 CONTRACTS - AUTOMATIC RENEWAL OF SUBSCRIBER CONTRACT - WHETHER A PRIVATE RIGHT OF ACTION EXISTS PURSUANT TO GENERAL OBLIGATIONS LAW §§ 5-901 AND 5-903 REGARDING REQUIRED RENEWAL NOTICE, AND WHETHER PLAINTIFF STATED A CLAIM UNDER GENERAL BUSINESS LAW § 349 WHERE PLAINTIFF WAS NOT DECEIVED IN NEW YORK; CLASS ACTION;

PACQUETTE (DEAN), PEOPLE v:  
 CRIMES - SUPPRESSION HEARING - WHETHER DEFENDANT'S STATEMENTS TAKEN BY BROOKLYN HOMICIDE DETECTIVES IN THE ABSENCE OF AN ATTORNEY MUST BE SUPPRESSED WHERE AN ATTORNEY TOLD THE BROOKLYN DETECTIVES THAT HE REPRESENTED DEFENDANT ON A MANHATTAN DRUG MATTER AND INSTRUCTED THEM NOT TO QUESTION DEFENDANT ON THE HOMICIDE; DEFENDANT TOLD BROOKLYN DETECTIVES THAT HE DID NOT HAVE AN ATTORNEY IN THE MANHATTAN MATTER;

PAGAN (DEBRA), PEOPLE v:  
 CRIMES - ROBBERY - FORCIBLE TAKING OF CASH - LEGAL SUFFICIENCY OF EVIDENCE OF INTENT WHERE DEFENDANT ASSERTS THAT SHE FOUGHT WITH CAB DRIVER FOR MONEY UNDER THE MISTAKEN BELIEF THAT IT BELONGED TO HER - "NEGATIVE CLAIM OF RIGHT" CHARGE - TRIAL COURT'S ALLEGED ERROR IN CHARGING THE JURY THAT "THE LAW DOES NOT PERMIT ONE PERSON TO USE FORCE TO TAKE MONEY FROM ANOTHER PERSON, EVEN WHERE THE PERSON DOING THE TAKING HONESTLY

BELIEVES HE OR SHE IS ENTITLED TO THE MONEY," AND IN DENYING DEFENDANT'S REQUEST FOR AN INSTRUCTION THAT WOULD ALLOW THE JURY TO FIND THAT DEFENDANT'S MISTAKE OF FACT AS TO THE OWNERSHIP OF THE MONEY NEGATED THE ELEMENT OF INTENT - PENAL LAW § 15.20(1)(a), § 155.15(1);

PAGAN (JORGE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - ORDER ENLARGING CONDITIONS OF PROBATION TO INCLUDE WARRANTLESS SEARCHES OF DEFENDANT'S HOME - CPL 410.20 and 410.50(3) - ISSUANCE OF HOME SEARCH ORDER IN ABSENCE OF REASONABLE CAUSE TO BELIEVE THAT DEFENDANT VIOLATED CONDITIONS OF PROBATION;

PARADA (LUIS), PEOPLE v:

CRIMES - SEXUAL CONDUCT AGAINST A CHILD - ADMISSIBILITY OF STATEMENTS OF CHILD TO NURSE EXAMINER DURING EXAMINATION REQUESTED BY PROSECUTOR MORE THAN ONE YEAR AFTER ALLEGED ABUSE - WHETHER STATEMENTS MADE BY CHILD TO AUNT AND COUSIN WERE ADMISSIBLE UNDER THE "PROMPT OUTCRY" HEARSAY EXCEPTION - WHETHER DEFENSE COUNSEL'S CROSS-EXAMINATION OF POLICE DETECTIVE OPENED THE DOOR TO THE ENTIRETY OF THE CHILD'S STATEMENT TO THE DETECTIVE; EXPERT TESTIMONY REGARDING CONSISTENCY OF VICTIM'S BEHAVIOR WITH THAT OF ABUSE VICTIMS; HARMLESS ERROR;

PARKHURST, MATTER OF v UNITED RENTALS AERIAL EQUIPMENT, INC. et al.:

WORKERS' COMPENSATION - WHETHER THE 2007 AMENDMENTS TO THE WORKERS' COMPENSATION LAW REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF THE UNCAPPED PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND - WORKERS' COMPENSATION LAW § 27(2);

PAULIN (DAVID LANCE), PEOPLE v: (Cal. Date - 6/2/11)

CRIMES - SENTENCE - WHETHER DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PERINO (CHRISTOPHER), PEOPLE v:

CRIMES - PERJURY - MATERIALITY OF PERJURED TESTIMONY BY DEFENDANT FORMER POLICE OFFICER REGARDING HIS QUESTIONING OF A SUSPECT - PENAL LAW § 210.05; INTENT - SUFFICIENCY OF EVIDENCE OF DEFENDANT'S INTENT TO COMMIT PERJURY;

PERL, et al. v MEHER, et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE AFFIDAVIT OF PLAINTIFF'S TREATING PHYSICIAN RAISED A QUESTION OF FACT TO DEFEAT SUMMARY JUDGMENT IN PERSONAL INJURY ACTION ARISING OUT OF MOTOR VEHICLE ACCIDENT - "SERIOUS INJURY" WITHIN THE MEANING OF INSURANCE LAW § 5102(d); SUMMARY JUDGMENT; DISMISSAL AND NONSUIT;

PESA, et al. v YOMA DEVELOPMENT GROUP, INC., et al.:

CONTRACTS - BREACH OF CONTRACT - REAL ESTATE PURCHASE AGREEMENTS - WHETHER BUYERS ARE REQUIRED TO PROVE THAT THEY WERE READY, WILLING AND ABLE TO PERFORM UNDER THE CONTRACTS IN ORDER TO SUCCEED IN AN ACTION SEEKING DAMAGES FOR SELLER'S ANTICIPATORY BREACH;

PHILLIPS (JAMES F.), PEOPLE v:

CRIMES - SENTENCE - WHETHER A DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE TO APPLY FOR RESENTENCING UNDER CPL 440.46 - DRUG LAW REFORM ACT OF 2009; MOOTNESS;

PORCO (CHRISTOPHER), PEOPLE v:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING TESTIMONY CONCERNING VICTIM'S HEAD NOD IN RESPONSE TO POLICE INQUIRY AT CRIME SCENE AND TESTIMONY CONCERNING AN ALLEGED PRIOR "STAGED BURGLARY" BY DEFENDANT - WHETHER TRIAL COURT ERRED IN FAILING TO CONDUCT A HEARING REGARDING EVIDENCE CHALLENGED AS DERIVED FROM DEFENDANT'S SUPPRESSED STATEMENT TO THE POLICE; CLAIMED PROSECUTORIAL MISCONDUCT;

POSNER v LEWIS et al.:

TORTS - PRIMA FACIE TORT - TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS - CLAIM FOR DAMAGES AS A RESULT OF DENIAL OF ELEMENTARY SCHOOL TEACHER'S APPLICATION FOR TENURE;

PRATTS (JESUS), PEOPLE v: (Cal. Date - 6/2/11)

CRIMES - SENTENCE - DRUG LAW REFORM ACT (DLRA) - ELIGIBILITY OF REINCARCERATED PAROLE VIOLATOR - WHETHER A DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PROGRESSIVE NORTHEASTERN INSURANCE COMPANY v STATE FARM INSURANCE COMPANIES, et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - CONSTRUCTION OF POLICY - OBLIGATION TO DEFEND AND INDEMNIFY AUTO REPAIR SHOP IN UNDERLYING PERSONAL INJURY ACTION ARISING FROM MOTOR VEHICLE ACCIDENT INVOLVING CUSTOMER'S VEHICLE WHICH WAS BEING DRIVEN BY REPAIR SHOP EMPLOYEE AT TIME OF ACCIDENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING, AMONG OTHER THINGS, THAT COMMERCIAL LIABILITY POLICY EXCLUDED COVERAGE FOR INJURIES AND PROPERTY DAMAGE ARISING FROM THE USE OF ANY "AUTO" OWNED, OPERATED OR RENTED OR LOANED TO THE INSURED, AND THAT EXCEPTION TO SUCH EXCLUSION WITH RESPECT TO ANY CUSTOMER'S AUTO WHILE ON OR NEXT TO PREMISES THAT ARE OWNED, RENTED OR CONTROLLED BY THE INSURED AND THAT ARE BEING USED FOR ANY GARAGE OPERATIONS, WAS INAPPLICABLE BECAUSE THE UNDERLYING ACCIDENT OCCURRED IN ANOTHER CITY, 60 MILES AWAY;



QOSHJA (ERMAL), PEOPLE v:

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

QUINTO (SANTOS), PEOPLE v:

CRIMES - TIMELINESS OF PROSECUTION - TOLL APPLICABLE TO SEX CRIMES AGAINST CHILD LESS THAN 18 YEARS OLD (CPL 30.10[3][f]) - WHETHER COMPLAINANT "REPORTED" THE SEX CRIMES CHARGED IN THE INDICTMENT IN 2002 WHEN SHE FALSELY TOLD POLICE, INITIALLY, THAT ONE OF HER CLASSMATES RAPED HER AND, THEREAFTER, THAT SHE HAD CONSENSUAL SEX WITH THAT CLASSMATE - TOLL DURING PERIOD WHEN WHEREABOUTS OF DEFENDANT CONTINUOUSLY UNKNOWN AND UNASCERTAINABLE BY THE EXERCISE OF REASONABLE DILIGENCE (CPL 30.10[4][a][ii]) - CHALLENGE TO APPELLATE DIVISION HOLDING THAT TOLL PROVIDED BY CPL 30.10[4][a][ii] WAS INAPPLICABLE TO NON-SEX-RELATED MISDEMEANORS AND VIOLATIONS;

JOSEPH R. (ANONYMOUS), PEOPLE v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - APPEALABILITY OF YOUTHFUL OFFENDER ADJUDICATION - CPL 450.20(4);

RAMIREZ v SHOATS:

NEGLIGENCE - PLAINTIFF INJURED WHEN PIECE OF CORRUGATED METAL COVERING THE UNFINISHED LANDING OF A NEWLY CONSTRUCTED STAIRWAY SLIPPED UNDER HIS FEET, CAUSING HIM TO FALL TO THE BASEMENT LEVEL OF A BUILDING UNDER CONSTRUCTION - WHETHER STAIRWAY WAS PLAINTIFF'S SOLE MEANS OF ACCESS TO AND FROM HIS WORK AREA AND THUS WAS A SAFETY DEVICE WITHIN THE MEANING OF LABOR LAW § 240(1); RECALCITRANT WORKER; SUMMARY JUDGMENT;

REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM, INC. v ENLARGED CITY SCHOOL DISTRICT OF MIDDLETOWN:

TAXATION - ASSESSMENT - ACTION TO RECOVER TAXES PAID TO SCHOOL DISTRICT PURSUANT TO ILLEGAL ASSESSMENT - TAXES PAID UNDER LETTER THAT PROTESTED ONLY CITY TAX PAYMENTS, NOT SCHOOL DISTRICT TAX PAYMENTS - EDUCATION LAW § 3813;

REZPLEX, MATTER OF v NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT, et al.:

MUNICIPAL CORPORATIONS - UNSAFE BUILDINGS - AGENCY'S DENIAL OF PETITIONER'S PROTEST OF CHARGES AND LIEN IMPOSED FOR EMERGENCY REPAIR OF RETAINING WALL - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT THE AGENCY'S DETERMINATION WAS ARBITRARY AND CAPRICIOUS BECAUSE THE RECORD ESTABLISHED THAT PETITIONER DID NOT

OWN AND WAS NOT RESPONSIBLE FOR REPAIRING A RETAINING WALL, WHICH WAS LOCATED ON ANOTHER'S PROPERTY - SCOPE OF JUDICIAL REVIEW OF AGENCY DETERMINATION - OWNERSHIP ISSUE RAISED FOR THE FIRST TIME AT SUPREME COURT;

THE RGH LIQUIDATING TRUST, &c. v DELOITTE & TOUCHE LLP et al.:  
ACCOUNTS AND ACCOUNTING - ACTION AGAINST ACCOUNTANTS - WHETHER THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998 (SLUSA) REQUIRES THE DISMISSAL OF FRAUD CLAIMS AGAINST AN ACCOUNTING FIRM ASSERTED BY PLAINTIFF LIQUIDATING TRUST ON BEHALF OF HOLDERS OF BONDS ISSUED BY BANKRUPT COMPANY;

RIVERS (SHERMAN), PEOPLE v:  
CRIMES - HARMLESS AND PREJUDICIAL ERROR - MOLINEAUX ERROR - FIRE MARSHAL'S TESTIMONY REGARDING THE ORIGIN OF A FIRE;

ROACH, et al. v COACH USA, INC., et al.: (Cal. Date - 6/2/11)  
CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

ROBINSON (TERRANCE D.), PEOPLE v:  
CRIMES - POSSESSION OF WEAPON - AUTOMOBILE DRIVER CHARGED WITH POSSESSION OF GUN FOUND UNDER DRIVER'S SEAT - TRIAL COURT'S LIMITATION OF DEFENDANT'S DIRECT EXAMINATION - CLAIMED DUE PROCESS VIOLATION; HARMLESS ERROR; SUPPRESSION OF WEAPON - INVENTORY SEARCH;

RODRIGUEZ (ISIDRO), PEOPLE v:  
CRIMES - POSSESSION OF FORGED INSTRUMENT IN THE SECOND DEGREE - FORGED IDENTITY DOCUMENTS, SOME BEARING DEFENDANT'S PHOTOGRAPH - SUFFICIENCY OF THE EVIDENCE OF INTENT "TO DEFRAUD, DECEIVE OR INJURE ANOTHER" (PENAL LAW § 170.25);

RODRIGUEZ (RAFAEL), PEOPLE v:  
CRIMES - EAVESDROPPING WARRANTS - WRITTEN NOTICE REQUIREMENT (CPL 700.50[3]) - CHALLENGE TO APPELLATE DIVISION ORDER UPHOLDING SUMMARY DENIAL OF DEFENDANT'S MOTION TO SUPPRESS EAVESDROPPING EVIDENCE UPON THE GROUND THAT "SUPPRESSION OF WIRETAP EVIDENCE ... NOTICE REQUIREMENT IS NOT WARRANTED WITHOUT A SHOWING OF PREJUDICE"; WHETHER DEFENDANT WAS ENTITLED TO A MISTRIAL UPON THE

GROUND THAT THE TRIAL COURT UNDULY INTERFERED WITH DEFENSE COUNSEL'S CROSS-EXAMINATION OF AN ACCOMPLICE WHO WAS COOPERATING WITH AND TESTIFYING FOR THE PROSECUTION AND THEREBY CONVEYED TO THE JURY ITS BELIEF IN THE WITNESS'S CREDIBILITY; EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE THE ON-LINE BOOKING SHEET CONTAINING DEFENDANT'S ALLEGED PHONE NUMBER;

RODRIGUEZ (SERGIO), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - ILLEGAL CONSECUTIVE SENTENCE VACATED AND MATTER REMANDED TO TRIAL COURT FOR RESENTENCING - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL COURT ON REMAND MAY ARRIVE LAWFULLY AT THE AGGREGATE SENTENCE IT INTENDED TO IMPOSE BY RESTRUCTURING CONCURRENT SENTENCES TO RUN CONSECUTIVELY - WHETHER RESTRUCTURING OF SENTENCES WOULD VIOLATE CPL 430.10, PENAL LAW §§ 70.25(2) AND 70.30(1)(a), DUE PROCESS AND THE PROHIBITION AGAINST DOUBLE JEOPARDY; PROSECUTOR'S ALLEGED VIOLATION OF UNSWORN WITNESS RULE DURING SUMMATION; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO OBJECT TO PROSECUTOR'S REMARKS IN SUMMATION;

ROSARIO (ANGEL), PEOPLE v:

CRIMES - SEXUAL ABUSE - SEXUAL CONDUCT AGAINST A CHILD - WHETHER NOTE MINOR COMPLAINANT WROTE APPROXIMATELY 3 MONTHS AFTER DEFENDANT'S ALLEGED ABUSE ENDED WAS ADMISSIBLE UNDER THE "PROMPT OUTCRY" EXCEPTION TO THE HEARSAY RULE - ADMISSIBILITY OF COMPLAINANT'S PRIOR CONSISTENT STATEMENT;

ROSENBLUM, MATTER OF v THE NEW YORK CITY CONFLICTS OF INTEREST BOARD, et al.:

SCHOOLS - TEACHERS - DISCIPLINARY PROCEEDINGS - WHETHER THE COURTS BELOW ERRED IN CONCLUDING THAT EDUCATION LAW § 3020-a PROVIDES THE EXCLUSIVE MEANS TO DISCIPLINE A TENURED PEDAGOGUE AND THAT RESPONDENT NEW YORK CITY CONFLICTS OF INTEREST BOARD THEREFORE MAY NOT PROCEED WITH A TRIAL AGAINST A TENURED PEDAGOGUE BEFORE RESPONDENT NEW YORK CITY OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS FOR THE ALLEGED VIOLATION OF THE CITY'S CONFLICTS OF INTEREST LAW;

RUEDA, &c., MATTER OF v CHARMAINE D.:

INCAPACITATED AND MENTALLY DISABLED PERSONS - INVOLUNTARY ADMISSION - WHETHER EMERGENCY ROOM PSYCHIATRIST WHO TREATED RESPONDENT PROPERLY APPLIED FOR HER INVOLUNTARY ADMISSION TO A HOSPITAL PURSUANT TO MENTAL HYGIENE LAW § 9.27 WHERE HE COULD HAVE APPLIED FOR SUCH ADMISSION PURSUANT TO MENTAL HYGIENE LAW § 9.39; MOOTNESS - APPLICABILITY OF MOOTNESS EXCEPTION;

RYAN v KELLOGG PARTNERS INSTITUTIONAL SERVICES:

CONTRACTS - EMPLOYMENT CONTRACTS - EMPLOYMENT-AT-WILL - ENFORCEMENT OF ALLEGED AGREEMENT FOR A BONUS - APPLICABILITY AND

PURPORTED WAIVER OF STATUTE OF FRAUDS DEFENSE; EVIDENCE - CHALLENGE TO APPELLATE DIVISION RULING THAT THE TRIAL COURT "PROVIDENTLY EXERCISED ITS DISCRETION TO PRECLUDE INQUIRY INTO PLAINTIFF'S FINANCIAL COMMITMENTS AT THE TIME HE ENTERED INTO THE ORAL AGREEMENTS WITH DEFENDANT";

SALAZAR v NOVALEX CONTRACTING CORP., et al.:

LABOR - SAFE PLACE TO WORK - PLAINTIFF CONSTRUCTION WORKER FELL INTO OPEN TRENCH WHILE WALKING BACKWARDS AND SPREADING CONCRETE ON BASEMENT FLOOR - AVAILABILITY OF CLAIMS UNDER LABOR LAW §§ 200, 240(1) AND 241(6); SUMMARY JUDGMENT;

SANTIAGO (EDWIN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - WHETHER MULTIPLE EYEWITNESS IDENTIFICATIONS CAN CORROBORATE EACH OTHER; REQUESTED SUPPRESSION OF LINE-UP IDENTIFICATION DUE TO DISPARITY IN LOOKS OF THE STAND-INS;

SANTIAGO (NYDIA), PEOPLE v: (Cal. Date - 6/2/11)

CRIMES - SENTENCE - WHETHER DEFENDANT WHO FILED AN APPLICATION FOR RESENTENCING UNDER THE DRUG LAW REFORM ACT WHILE IN PRISON BUT IS NOW RELEASED ON PAROLE IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

SCHENECTADY COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC., et al., MATTER OF v MILLS:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL)- CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENT'S DETERMINATION DENYING PETITIONERS' FOIL REQUEST FOR NAMES AND STREET ADDRESSES OF ALL LICENSED VETERINARIANS AND VETERINARY TECHNICIANS LOCATED IN SCHENECTADY COUNTY - WHETHER FOIL'S PERSONAL PRIVACY EXCEPTION APPLIES TO THE REQUEST FOR INFORMATION - NEW YORK PUBLIC OFFICERS LAW § 89(2)(b) - AGENCY'S INABILITY TO DETERMINE WHETHER ADDRESS SUBMITTED BY LICENSEE IS BUSINESS OR RESIDENTIAL;

SCOTT v ROCKAWAY PRATT, LLC:

LANDLORD AND TENANT - RENT - ACTION TO RECOVER RENT OVERCHARGES PAID UNDER LEASES SUBJECT TO THE RENT STABILIZATION LAW OF 1969 - WHETHER THE PROPER BASE DATE FOR DETERMINING AN OVERCHARGE IS DEEMED TO BE FOUR YEARS BEFORE THE FILING OF THE OVERCHARGE COMPLAINT - CPLR 213-a - RENT STABILIZATION CODE (9 NYCRR) § 2520.6(f);

SEDACCA, MATTER OF v MANGANO, et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER, ABSENT CAUSE, THE NASSAU COUNTY EXECUTIVE MAY REMOVE COMMISSIONERS FROM THE NASSAU COUNTY ASSESSMENT REVIEW COMMISSION PRIOR TO THE EXPIRATION OF THEIR TERMS; DECLARATORY JUDGMENT; ALLEGED CONFLICT OF INTEREST OF COUNTY ATTORNEY;

SHEERAN, MATTER OF v NEW YORK STATE DEPARTMENT OF  
TRANSPORTATION et al.:

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER CIVIL SERVICE  
LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE  
FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON  
INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

SHIAMILI, &c. v THE REAL ESTATE GROUP OF NEW YORK, INC., et al.:

TELECOMMUNICATIONS - INTERNET SERVICES - ACTION FOR DEFAMATION  
AND UNFAIR COMPETITION BY DISPARAGEMENT BASED ON COMMENTS POSTED  
ON AN INTERNET WEBSITE - WHETHER THE APPELLATE DIVISION ERRED IN  
GRANTING DEFENDANTS' MOTION TO DISMISS THE COMPLAINT UPON THE  
GROUND THAT PLAINTIFF'S CLAIMS WERE BARRED BY THE FEDERAL  
COMMUNICATIONS DECENCY ACT (CDA) (47 USC § 230) BECAUSE  
DEFENDANTS WERE NOT "INFORMATION CONTENT PROVIDERS" WITHIN THE  
MEANING OF THE CDA;

SIMON et al. v USHER, et al.:

TRIAL - PLACE OF TRIAL - CHANGE OF VENUE - TIMELINESS OF MOTION  
TO CHANGE VENUE - APPLICABILITY OF FIVE-DAY EXTENSION UNDER CPLR  
2103(b)(2) TO TIME PERIOD BY WHICH DEFENDANT MUST MOVE FOR CHANGE  
OF VENUE UNDER CPLR 511(b);

SMITH (HOWARD K.), PEOPLE v:

CRIMES - DRIVING WHILE ABILITY IMPAIRED - WHEN POLICE ASKED  
DEFENDANT IF HE WOULD CONSENT TO A CHEMICAL SOBRIETY TEST,  
DEFENDANT REPEATEDLY REPLIED THAT HE WANTED TO SPEAK WITH HIS  
ATTORNEY - WHETHER REQUEST TO SPEAK WITH ATTORNEY CAN BE  
CONSIDERED A REFUSAL TO SUBMIT TO TEST - ADMISSIBILITY OF  
EVIDENCE OF REFUSAL AT TRIAL;

SMITH (KEVIN), PEOPLE v:

CRIMES - PROOF OF OTHER CRIMES - WHETHER TRIAL COURT ABUSED ITS  
DISCRETION IN SANDOVAL HEARING BY PERMITTING THE PEOPLE TO  
IDENTIFY DEFENDANT'S PRIOR CONVICTIONS SHOULD DEFENDANT CHOOSE TO  
TESTIFY IN HIS OWN BEHALF; ATTORNEY AND CLIENT - TRIAL COURT'S  
REFUSAL TO ALLOW SUBSTITUTION OF NEW COUNSEL AFTER BREAKDOWN IN  
DEFENDANT'S RELATIONSHIP WITH COUNSEL;

SOSA (GILBERTO), PEOPLE v:

CRIMES - SENTENCE - RESENTENCING UNDER DRUG LAW REFORM ACT OF  
2009 - MEANING OF "EXCLUSION OFFENSE" UNDER CPL 440.46(5)(a) -  
WHETHER A VIOLENT FELONY OFFENSE "FOR WHICH THE PERSON WAS  
PREVIOUSLY CONVICTED WITHIN THE PRECEDING TEN YEARS" MEANS  
CONVICTIONS WITHIN TEN YEARS PRECEDING THE DRUG OFFENSE FOR WHICH  
RESENTENCING IS SOUGHT OR, AS THE APPELLATE DIVISION CONCLUDED,  
CONVICTIONS WITHIN TEN YEARS PRECEDING THE RESENTENCING  
APPLICATION;

STANLEY (DIANE R.), MATTER OF v MATTAR:

CONSTITUTIONAL LAW - FULL FAITH AND CREDIT - WHETHER THE FULL FAITH AND CREDIT CLAUSE OF THE U.S. CONSTITUTION BARRED THE SURROGATE'S COURT FROM REVIEWING A SETTLEMENT AGREEMENT ENTERED INTO IN CONNECTION WITH A WRONGFUL DEATH ACTION IN FLORIDA AND APPROVED BY A FLORIDA STATE COURT, WHERE THE SETTLEMENT AGREEMENT WAS EXPRESSLY CONDITIONED UPON APPROVAL OF BOTH THE FLORIDA COURT AND THE SURROGATE'S COURT;

STEWART (OWEN), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN GIVING DEFENSE COUNSEL FIVE-MINUTE LIMIT FOR VOIR DIRE QUESTIONING OF EACH JURY PANEL; WHETHER TRIAL COURT ERRED IN ALLOWING WITNESSES TO IDENTIFY DEFENDANT ON A VIDEOTAPE; ADMISSIBILITY OF EVIDENCE OF DEFENDANT'S PRIOR CRIMINAL CONVICTION; ROBBERY;

STEWART (ANTHONY), PEOPLE v:

CRIMES - SENTENCE - WHETHER DEFENDANT WITH A PRIOR VIOLENT FELONY CONVICTION, BUT NEVER ADJUDICATED A "SECOND FELONY OFFENDER," IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46 - DRUG LAW REFORM ACT OF 2009;

STEWART (WAYNE R.), PEOPLE v:

CRIMES - ASSAULT - "SERIOUS PHYSICAL INJURY" PURSUANT TO PENAL LAW §§ 10.00(10) AND 120.10(1) - SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION OF ASSAULT IN THE FIRST DEGREE;

STUTO v KERBER:

LABOR - HOURS AND WAGES - WHETHER BUSINESS CORPORATION LAW § 630, MAKING THE TEN LARGEST SHAREHOLDERS OF A CLOSELY HELD CORPORATION PERSONALLY LIABLE FOR UNPAID WAGES DUE TO EMPLOYEES, APPLIES TO FOREIGN CORPORATIONS;

SULLIVAN v HARNISCH, et al.:

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

1091 RIVER AVENUE LLC, et al. v PLATINUM CAPITAL PARTNERS, INC.:

JUDGMENTS - CONFESSION OF JUDGMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT SUPREME COURT WAS REQUIRED TO MAKE A SUMMARY DETERMINATION IN A CPLR ARTICLE 4 SPECIAL PROCEEDING TO VACATE TWO CONFESSIONS OF JUDGMENT BECAUSE PETITIONERS FAILED TO RAISE AN ISSUE OF FACT AS TO "WHETHER THE JUDGMENTS WERE IMPROPERLY ENTERED OR WHETHER THE UNDERLYING LOAN AGREEMENTS WERE ILLEGALLY PROCURED OR WHETHER THEY WERE OTHERWISE DEFECTIVE" - CPLR 409(b) - ALLEGED VIOLATION OF PETITIONER'S DUE PROCESS

RIGHTS;

TERRACE COURT, MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL:

LANDLORD AND TENANT - RENT REGULATION - MAJOR CAPITAL IMPROVEMENT (MCI) RENT INCREASE - LANDLORD'S APPLICATION FOR MCI RENT INCREASE FOR PERFORMING, AMONG OTHER THINGS, POINTING, WATERPROOFING AND MASONRY WORK ON OUTSIDE OF APARTMENT BUILDING - CHALLENGE TO DETERMINATION BY NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR) PERMANENTLY EXEMPTING FIVE APARTMENTS FROM AN MCI RENT INCREASE GRANTED AS TO THE REMAINING APARTMENTS BECAUSE A MOISTURE PROBLEM EXISTED IN THE FIVE APARTMENTS AFTER THE WORK WAS COMPLETED - WHETHER DHCR ERRED OR ACTED ARBITRARILY AND CAPRICIOUSLY IN PERMANENTLY EXEMPTING THE FIVE APARTMENTS FROM THE MCI RENT INCREASE RATHER THAN ALLOWING THE LANDLORD TO OBTAIN THE RENT INCREASE PROSPECTIVELY IF IT CORRECTED THE MOISTURE PROBLEM;

THOMAS (DANIEL), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - BOLSTERING OF SINGLE EYEWITNESS BY PERMITTING TESTIMONY CONCERNING THE WITNESS'S OUT-COURT IDENTIFICATION OF A CO-DEFENDANT; HARMLESS ERROR;

TKESHELASHVILI et al. v STATE OF NEW YORK:

NEGLIGENCE - PROXIMATE CAUSE - RECKLESS CONDUCT OF PLAINTIFF - DIVING INTO SHALLOW WATER - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF'S CONDUCT IN DIVING OFF THE COLGATE LAKE DAM INTO COLGATE LAKE WAS SO RECKLESS AS TO CONSTITUTE THE SOLE PROXIMATE CAUSE OF HIS INJURY AS A MATTER OF LAW BECAUSE HE "KNEW OR SHOULD HAVE KNOWN [THAT THE] WATER WAS TOO SHALLOW FOR DIVING";

TOLEDO &c. v IGLESIA NI CHRISTO:

INTEREST - PREVERDICT INTEREST - PROPER METHODOLOGY FOR AWARDING PREVERDICT INTEREST ON FUTURE WRONGFUL DEATH DAMAGES - CPLR ARTICLE 50-B;

TRAVIS v BATCHI:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE INJURED PLAINTIFF RAISED A TRIABLE ISSUE OF FACT AS TO WHETHER SHE SUSTAINED A "SERIOUS INJURY" WITHIN THE MEANING OF INSURANCE LAW § 5102(d) - SUMMARY JUDGMENT;

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

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - DENIAL OF VARIANCE FOR PUBLIC DINING AND CATERING FACILITY AT JONES BEACH STATE PARK - VARIANCE SOUGHT FOR OCCUPIED BASEMENT TO BE CONSTRUCTED UNDER "DESIGN FLOOD ELEVATION";

U.S. ELECTRONICS, INC. v SIRIUS SATELLITE RADIO, INC.:

ARBITRATION - LEGAL STANDARD GOVERNING APPLICATION TO VACATE AN

ARBITRATION AWARD BASED ON FAILURE OF ARBITRATOR AND OPPOSING PARTY TO DISCLOSE ARBITRATOR'S ALLEGED CONFLICT OF INTEREST - FEDERAL ARBITRATION ACT - "EVIDENT PARTIALITY";

UMEZE v FIDELIS CARE NEW YORK, et al.:

DISMISSAL AND NONSUIT - WANT OF PROSECUTION - CONDITIONAL DISMISSAL OF COMPLAINT PURSUANT TO CPLR 3216 FOR FAILURE TO PROSECUTE - PRO SE PLAINTIFF CONTACTED ATTORNEY IN RESPONSE TO 90-DAY DEMAND TO FILE NOTE OF ISSUE - "JUSTIFIABLE EXCUSE" FOR DELAY IN PROSECUTING;

VEGA v RESTANI CONSTRUCTION CORP., et al.:

NEGLIGENCE - PERSONAL INJURY ACTION OF MAINTENANCE WORKER WHO ATTEMPTED TO MOVE A GARBAGE CAN ALLEGEDLY CONTAINING IMPROPERLY DISCARDED CONCRETE BLOCKS; SUMMARY JUDGMENT; CONDITIONS INHERENT IN WORK; RES IPSA LOQUITUR;

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

MUNICIPAL CORPORATIONS - TORT LIABILITY - SPECIAL RELATIONSHIP - POLICE - WHETHER WOMAN WITH ORDER OF PROTECTION, WHO ADVISED POLICE ABOUT VIOLATION OF ORDER AND WAS TOLD TO GO HOME INSTEAD OF TO HER MOTHER'S HOUSE, BECAUSE OFFENDER WOULD BE ARRESTED IMMEDIATELY, HAS A SPECIAL RELATIONSHIP WITH THE CITY SUFFICIENT TO SUPPORT AWARD FOR DAMAGES AFTER OFFENDER SHOT HER;

VENTURA (CARLOS), PEOPLE v:

CRIMES - APPEAL - ABSENCE OF DEFENDANT - INVOLUNTARY DEPORTATION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING DEFENDANT'S APPEAL ON THE GROUND THAT HE HAD BEEN DEPORTED AND WAS NO LONGER AVAILABLE TO OBEY THE MANDATE OF THE COURT WHERE DEFENDANT SERVED HIS SENTENCE, HAD BEEN PAROLED TO THE CUSTODY OF IMMIGRATION AND CUSTOMS ENFORCEMENT AND ARGUED ON APPEAL SOLELY THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT HIS CONVICTION;

VISTRA TRUST COMPANY (JERSEY) LIMITED &c., et al. v STOFFEL, et al.:

APPEALS - APPELLATE DIVISION - DISMISSAL OF APPEAL; DEFAULT JUDGMENT;

TOWN OF WATERFORD, MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - EXEMPTIONS - WHETHER FOIL'S DEFINITION OF "AGENCY" LIMITS THE APPLICATION OF THE INTER-AGENCY/INTRA-AGENCY EXEMPTION TO COMMUNICATIONS WITHIN AND BETWEEN STATE AND MUNICIPAL GOVERNMENTAL AGENCIES AND PRECLUDES ITS APPLICATION TO COMMUNICATIONS BETWEEN STATE AND FEDERAL GOVERNMENTAL AGENCIES;

WILINSKI et al. v 334 EAST 92<sup>ND</sup> HOUSING DEVELOPMENT FUND CORP., et al.:

LABOR - SAFE PLACE TO WORK - LABOR LAW § 240(1) - PLAINTIFF



ALLEGEDLY HIT IN THE HEAD BY TWO VERTICAL PIPES THAT FELL OVER WHEN HIT BY DEBRIS FROM A WALL UNDERGOING DEMOLITION - CHALLENGE TO APPELLATE DIVISION HOLDING THAT, "SINCE BOTH PIPES AND PLAINTIFF 'WERE AT THE SAME LEVEL AT THE TIME OF THE COLLAPSE [OF THE PIPES,] THE INCIDENT WAS NOT SUFFICIENTLY ATTRIBUTABLE TO ELEVATION DIFFERENTIALS TO WARRANT IMPOSITION OF LIABILITY PURSUANT TO LABOR LAW § 240(1)'" - APPLICABILITY AND CONTINUING VIABILITY OF MISSEIRITTI v MARK IV CONSTR. CO. (86 NY2d 487 [1995]) - RUNNER v NEW YORK STOCK EXCHANGE (13 NY3d 599 [2009]); LABOR LAW § 241(6) - APPLICABILITY OF INDUSTRIAL CODE PROVISIONS, 12 NYCRR 23-3.3(b)(3) AND (c), WHETHER SECTION 23-3.3(b)(3) REQUIRES PLAINTIFF TO SHOW THAT WIND PRESSURE OR VIBRATION CAUSED THE PIPES TO FALL - WHETHER PLAINTIFF'S INJURIES WERE CAUSED BY "WEAKENED OR DETERIORATED FLOORS OR WALLS OR FROM LOOSENED MATERIAL" WITHIN THE MEANING OF SECTION 23-3.3(c) - WHETHER CERTAIN DEFENDANTS ESTABLISHED THEIR ENTITLEMENT TO SUMMARY JUDGMENT UPON THE GROUND THAT THEY WERE NOT OWNERS OR CONTRACTORS WITHIN THE MEANING OF THE LABOR LAW;

WILLIAMS, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THE MISBEHAVIOR REPORT CHARGING PETITIONER WITH ASSAULTING AN INMATE AND VIOLENT CONDUCT, THE HEARING TESTIMONY AND THE CONFIDENTIAL TESTIMONY AND DOCUMENTS REVIEWED BY THE HEARING OFFICER IN CAMERA PROVIDE SUBSTANTIAL EVIDENCE TO SUPPORT THE DETERMINATION OF GUILT;

WINGATE (BLAKE), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - SUFFICIENCY OF "SEARCHING INQUIRY" - WHETHER JUDGMENT OF CONVICTION MUST BE REVERSED WHERE NISI PRIUS COURT ALLOWED DEFENDANT TO REPRESENT HIMSELF AT SUPPRESSION HEARING WITHOUT GIVING HIM ADEQUATE WARNINGS ABOUT THE DANGERS AND DISADVANTAGES OF PROCEEDING WITHOUT COUNSEL BUT GAVE DEFENDANT ADEQUATE WARNINGS BEFORE ALLOWING HIM TO REPRESENT HIMSELF AT TRIAL; ALLEGED ERROR IN LIMITING ACCESS TO STANDBY COUNSEL BY PREVENTING DEFENDANT FROM COMMUNICATING WITH COUNSEL DURING CROSS-EXAMINATION OF PROSECUTION WITNESS AND WITH AN INVESTIGATOR BEFORE DECIDING WHETHER TO PUT ON A DEFENSE CASE;

WORLD TRADE CENTER BOMBING LITIGATION, MATTER OF (STEERING COMMITTEE v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY):

(Cal. Date - 6/1/11)

NEGLIGENCE - WHETHER PORT AUTHORITY IS ENTITLED TO GOVERNMENTAL IMMUNITY FROM NEGLIGENCE CLAIMS ARISING OUT OF THE TERRORIST TRUCK BOMBING OF THE WORLD TRADE CENTER; MAINTENANCE OF PREMISES - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE JURY COULD HAVE FAIRLY CONCLUDED THAT THE PORT AUTHORITY WAS NEGLIGENT IN FAILING TO MAINTAIN ITS PARKING GARAGE IN A

REASONABLY SAFE CONDITION AND THAT THIS NEGLIGENCE WAS A SUBSTANTIAL CAUSE OF THE BOMBING; APPORTIONMENT OF LIABILITY AMONG JOINT TORTFEASORS - JURY DETERMINATION THAT PORT AUTHORITY WAS 68% LIABLE AND TERRORISTS WERE 32% LIABLE FOR PERSONAL AND ECONOMIC INJURIES RESULTING FROM THE BOMBING;

WRIGHT (JASON L.), PEOPLE v:

CRIMES - CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - ALLEGED INEFFECTIVENESS OF TRIAL COUNSEL - THEORY UPON WHICH JURY FOUND DEFENDANT GUILTY - SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF ROBBERY IN THE FIRST DEGREE;

WRIGHT (NAFIS), PEOPLE v:

CRIMES - SENTENCE - WHETHER DEFENDANT WITH A PRIOR VIOLENT FELONY CONVICTION, BUT NEVER ADJUDICATED A "SECOND FELONY OFFENDER," IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46 - DRUG LAW REFORM ACT OF 2009;

WYCKOFF HEIGHTS MEDICAL CENTER &c. [NEW YORK and PRESBYTERIAN HOSPITAL, &c.] v COUNTRY-WIDE INSURANCE COMPANY:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - WHETHER A NO-FAULT CARRIER MAY DENY A HEALTH CARE PROVIDER'S CLAIM FOR HEALTH SERVICE EXPENSES BASED UPON THE FACT THAT A NOTICE OF ACCIDENT WAS NOT TIMELY FILED, WHERE THE HEALTH CARE PROVIDER TIMELY SUBMITTED A WRITTEN PROOF OF CLAIM FOR HEALTH SERVICE EXPENSES;

YENEM CORP. v 281 BROADWAY HOLDINGS [AND OTHER ACTIONS]:

NEGLIGENCE - VIOLATION OF STATUTORY DUTY - LIABILITY FOR DAMAGE CAUSED BY EXCAVATION WORK ON ADJOINING PROPERTY - WHETHER A MUNICIPAL ORDINANCE THAT IMPOSES A DUTY UPON THOSE PERFORMING EXCAVATION WORK 10 FEET BELOW THE CURB LEVEL TO "PRESERVE AND PROTECT" ADJOINING STRUCTURES (ADMINISTRATIVE CODE OF THE CITY OF NY FORMER § 27-1031[b][1] [NOW ADMINISTRATIVE CODE OF THE CITY OF NY § 28-3309.4]) IMPOSES ABSOLUTE LIABILITY SO AS TO WARRANT SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY IN FAVOR OF PLAINTIFFS, THE OWNER AND TENANT OF PREMISES ALLEGEDLY DAMAGED BY DEFENDANTS' EXCAVATION WORK ON THE ADJACENT PROPERTY - CONSIDERATION OF PRIOR CONDITION OF BUILDING AND ADEQUACY OF PRECAUTIONS IN DETERMINING LIABILITY; LEAVE GRANTED TO DEFENDANTS TO ASSERT COUNTERCLAIMS AGAINST PLAINTIFF RANDALL CO. LLC;

ZAMORA, MATTER OF v NEW YORK NEUROLOGIC ASSOCIATES, et al.:

WORKERS' COMPENSATION - COVERAGE - PERMANENT PARTIAL DISABILITY - WHETHER NONRETIRED CLAIMANT HAS OBLIGATION TO DEMONSTRATE ATTACHMENT TO LABOR MARKET WITH EVIDENCE OF SEARCH FOR EMPLOYMENT WITHIN MEDICAL RESTRICTIONS; BURDEN OF PROOF;