

February 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.: (Cal. Date - 5/3/11)
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.:
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: (Cal. Date - 5/2/11)
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;

ACEVEDO (BENITO), PEOPLE v:
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)";

ACOSTA, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:
(Cal. Date - 2/9/11)

ADMINISTRATIVE LAW - ADMINISTRATIVE REVIEW - NEW YORK CITY DEPARTMENT OF EDUCATION DETERMINATION DENYING PETITIONER'S APPLICATION FOR EMPLOYMENT AS AN ADMINISTRATIVE ASSISTANT WITH A NONPROFIT ORGANIZATION PROVIDING SPECIAL EDUCATION SERVICES TO PRESCHOOLERS DUE TO THE SERIOUS NATURE OF PETITIONER'S CONVICTIONS IN 1993 OF FOUR COUNTS OF ROBBERY IN THE FIRST DEGREE AND ON THE GROUND THAT GRANTING EMPLOYMENT WOULD POSE AN UNREASONABLE RISK TO THE SAFETY AND WELFARE OF THE SCHOOL COMMUNITY - WHETHER APPELLATE DIVISION ERRED IN CONCLUDING THAT THE DETERMINATION WAS ARBITRARY AND CAPRICIOUS - CORRECTION LAW § 752 - ALLEGED MISAPPLICATION OF MATTER OF ARROCHA v BOARD OF EDUCATION OF CITY OF NEW YORK (93 NY2d [1999]) - CHALLENGE TO REMEDY ORDERED BY APPELLATE DIVISION;

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 INFLICTING THE INJURIES;

ALBERGOTTI (ALLEN), PEOPLE v: (Cal. Date - 4/26/11)

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;

ALBUNIO et al. v CITY OF NEW YORK (AND ANOTHER ACTION):

(Cal. Date - 2/10/11)

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - RETALIATION CLAIM - WHETHER PLAINTIFFS ENGAGED IN PROTECTED "OPPOSITION" ACTIVITY WITHIN THE MEANING OF ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 8-102(7);

ALMONTE, MATTER OF v COMMISSIONER OF LABOR:

UNEMPLOYMENT INSURANCE - BENEFITS - TIMELINESS OF REQUEST FOR HEARING - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DECISION OF THE UNEMPLOYMENT INSURANCE APPEAL BOARD FINDING THAT CLAIMANT'S REQUEST FOR A HEARING WAS UNTIMELY;

ALONSO (ROBERT and EMILIA), PEOPLE v: (Cal. Date - 3/22/11)

CRIMES - APPEAL - WHETHER THE APPELLATE DIVISION HAD JURISDICTION OVER THE PEOPLE'S APPEAL FROM A SUPREME COURT ORDER DISMISSING INDICTMENTS FOR THE ALLEGED VIOLATION OF BRADY v MARYLAND (373 US 83);

AMERICAN HOME ASSURANCE CO., et al. v NAUSCH, HOGAN &

MURRAY, Inc. et al.: (Cal. Date - 3/26/11)

INSURANCE - AGENTS AND BROKERS - BROKERS ON CONTRACTS OF REINSURANCE - CAUSES OF ACTION FOR INDEMNITY, CONTRIBUTION, BREACH OF FIDUCIARY DUTY, NEGLIGENCE AND UNJUST ENRICHMENT - ACCRUAL OF CAUSES OF ACTION - STATUTE OF LIMITATIONS - ALLEGED ATTEMPT TO CIRCUMVENT STATUTE OF LIMITATIONS BY PLEADING INDEMNITY AND CONTRIBUTION CAUSES OF ACTION - WHETHER THE COMPLAINT FAILS TO STATE A CAUSE ACTION FOR CONTRIBUTION;

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.: (Cal. Date - 4/27/11)

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;

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;

BAZIL, PEOPLE ex rel. v MARSHALL:

HABEAS CORPUS - AVAILABILITY OF RELIEF - CHALLENGE TO JURY INSTRUCTION;

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;

BEASLEY (LAMONT), PEOPLE v: (Cal. Date - 2/16/11)
 CRIMES - RIGHT TO SPEEDY TRIAL - CPL 30.30 - WHETHER
 POSTREADINESS DELAY WAS CHARGEABLE TO PEOPLE IN ABSENCE OF
 DEFENSE COUNSEL'S EXPRESS CONSENT TO DELAY;

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;

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 COMMISSIONERS OF GREAT NECK PARK DISTRICT OF TOWN OF
 NORTH HEMPSTEAD, MATTER OF v KINGS POINT HEIGHTS, LLC:
 EMINENT DOMAIN - CONSEQUENTIAL DAMAGES - SEVERANCE DAMAGES TO
 REMAINDER PARCEL AFTER PARTIAL TAKING - OFFSET OF ONE CATEGORY
 OF INDIRECT DAMAGES AGAINST ANOTHER CATEGORY OF INDIRECT
 DAMAGES; UNDERWATER PROPERTY - VALUE OF RIPARIAN RIGHTS;

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;

BRANNON (ERNEST), PEOPLE v: (Cal. Date - 3/23/11)

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION TO BELIEVE THAT OBSERVED OUTLINE OF KNIFE IN DEFENDANT'S PANTS POCKET WAS A GRAVITY KNIFE; SUPPRESSION MOTION;

BRONSON v HANSEL:

RELEASE - SCOPE OF RELEASE - MISTAKE - CHALLENGE TO APPELLATE DIVISION ORDER UPHOLDING DISMISSAL OF A COMPLAINT SEEKING DAMAGES FOR PERSONAL INJURIES ARISING OUT OF A CAR ACCIDENT AS BARRED BY PLAINTIFF'S RELEASE ALTHOUGH PLAINTIFF CLAIMED SHE BELIEVED THE RELEASE PERTAINED ONLY TO PROPERTY DAMAGES AND THE EXTENT OF HER INJURIES WERE UNKNOWN WHEN SHE SIGNED IT;

BROWN (JAZZMONE), PEOPLE v: (Cal. Date - 3/26/11)

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;

BRUNNER (MICHAEL), PEOPLE v: (Cal. Date - 2/16/11)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO MOVE TO DISMISS INDICTMENT ON SPEEDY TRIAL GROUNDS PURSUANT TO CPL 30.30; ALLEGED SANDOVAL VIOLATION; WITNESSES - FAILURE TO CALL WITNESS - DENIAL OF DEFENDANT'S REQUEST FOR MISSING WITNESS CHARGE AS TO CERTAIN POLICE OFFICERS;

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.:

COWAN, et al. v STAGECOACH GROUP, PLC, et al.:

GODWIN, et al. v STAGECOACH GROUP, PLC, et al.:

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);

AFTON C., MATTER OF: (Cal. Date - 3/22/11)

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER THE
APPELLATE DIVISION ERRED IN DISMISSING NEGLECT PROCEEDINGS AS A
MATTER OF LAW WHERE THE FATHER "WAS AN 'UNTREATED' LEVEL THREE
SEX OFFENDER WHO, AFTER HIS RELEASE, HAD RETURNED TO THE FAMILY
HOME WHERE THE SUBJECT CHILDREN RESIDED" AND THE MOTHER ALLOWED
THE FATHER TO RETURN TO THE HOME;

DYLAN C., MATTER OF: (Cal. Date - 2/17/11)

CRIMES - ESCAPE - JUVENILE DELINQUENTS - ESCAPE FROM NONSECURE
FACILITY - WHETHER A JUVENILE DELINQUENT WHO ABSCONDS FROM A
NONSECURE DETENTION FACILITY, AS DEFINED IN FAMILY COURT ACT §
301.2(5), MAY BE CHARGED WITH ESCAPE IN THE SECOND DEGREE UNDER
PENAL LAW § 205.10;

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;

CASADO, et al., MATTER OF v MARKUS &c., et al.:

(Cal. Date - 2/8/11)

LANDLORD AND TENANT - RENT REGULATION - POWERS OF NEW YORK CITY RENT GUIDELINES BOARD (RGB) - WHETHER THE RGB HAS AUTHORITY TO CREATE A NEW CLASSIFICATION OF HOUSING ACCOMMODATIONS SUBJECT TO MINIMUM DOLLAR AMOUNT RENT INCREASE FOR APARTMENTS THAT HAD NOT BEEN SUBJECT TO VACANCY INCREASES FOR THE PREVIOUS SIX YEARS;

CECUNJANIN (ZUFER), PEOPLE v: (Cal. Date - 2/17/11)

CRIMES - INTOXICATION - SUFFICIENCY OF EVIDENCE - SEXUAL ABUSE IN THE FIRST DEGREE (PENAL LAW § 130.65[2]) - WHETHER VICTIM WAS "INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELPLESS"; ALLEGED JUROR MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

CENTRO EMPRESARIAL CEMPRESA S.A. et al. v AMERICA MOVIL S.A.B. de C.V., et al.: (Cal. Date - 4/27/11)

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.:

(Cal. Date - 3/24/11)

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;

CLARKE v RODRIGUEZ:

EVIDENCE - BEST EVIDENCE RULE - ADMISSION INTO EVIDENCE OF COPY OF RESIDENTIAL REAL ESTATE CONTRACT CONTAINING ORIGINAL OF PLAINTIFF'S SIGNATURE, PHOTOCOPY OF DEFENDANT'S SIGNATURE AND CERTAIN DISPUTED CONTENTS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF'S EXPLANATION OF THE ORIGINAL CONTRACT'S UNAVAILABILITY PERMITTED ADMISSION OF SECONDARY EVIDENCE OF CONTRACT'S CONTENTS; SPECIFIC PERFORMANCE - CONTRACT FOR SALE OF REAL PROPERTY - SUFFICIENCY OF PROOF THAT PLAINTIFF WAS READY, WILLING AND ABLE TO PERFORM HIS OBLIGATIONS UNDER THE CONTRACT;

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: (Cal. Date - 4/28/11)

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:

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;

COMMISSIONER OF SOCIAL SERVICES &c., MATTER OF v PAUL C.:

ESTOPPEL - JUDICIAL ESTOPPEL - WHETHER DISTRICT ATTORNEY'S DECISION NOT TO PROSECUTE MOTHER FOR WELFARE FRAUD BARS PROCEEDING FOR CHILD SUPPORT; PARENT AND CHILD - SUPPORT - REMOVAL OF PROCEEDING FROM FAMILY COURT TO SUPREME COURT - DENIAL OF OBJECTION TO SUPPORT MAGISTRATE'S QUASHING OF FATHER'S SO-ORDERED SUBPOENA FOR COMMISSIONER OF SOCIAL SERVICES' PUBLIC ASSISTANCE RECORDS - FATHER'S ENTITLEMENT TO DEVIATION FROM CHILD SUPPORT STANDARDS ACT GUIDELINES - FATHER'S RIGHT TO CROSS EXAMINE MOTHER;

CONCEPCION, MATTER OF v JOHNSON: (Cal. Date - 4/28/11)

APPEAL - MOTION FOR POOR PERSON RELIEF; DISCLOSURE - FREEDOM OF INFORMATION LAW - CPLR ARTICLE 78 PROCEEDING TO COMPEL THE BRONX COUNTY DISTRICT ATTORNEY TO PRODUCE CERTAIN DOCUMENTS;

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: (Cal. Date - 5/2/11)

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;

CORNELL (BARAK), PEOPLE v:

CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT THAT SENTENCE INCLUDED A PERIOD OF POST-RELEASE SUPERVISION;

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.: (Cal. Date - 5/4/11)

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.:

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;

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:

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:

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;

DUHS (MICHAEL), PEOPLE v: (Cal. Date - 2/17/11)
 CRIMES - EVIDENCE - HEARSAY EVIDENCE - CHALLENGE TO APPELLATE DIVISION RULING THAT STATEMENT CHILD MADE TO EMERGENCY ROOM PHYSICIAN FELL WITHIN A HEARSAY EXCEPTION BECAUSE IT WAS RELEVANT TO THE CHILD'S DIAGNOSIS AND TREATMENT; RIGHT OF CONFRONTATION - WHETHER STATEMENT CHILD MADE TO EMERGENCY ROOM PHYSICIAN WAS TESTIMONIAL IN NATURE SO THAT ITS ADMISSION INTO EVIDENCE VIOLATED DEFENDANT'S CONSTITUTIONAL RIGHT TO CONFRONT THE WITNESSES AGAINST HIM;

EANES v STATE OF NEW YORK:
 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;

EATON et al. v WAYNE TEACHERS ASSOCIATION, et al.:
 DISMISSAL AND NONSUIT - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER DISMISSING THE COMPLAINT - DISMISSAL OF CLAIMS ALLEGING BREACH OF THE DUTY OF FAIR REPRESENTATION AS BARRED BY THE STATUTE OF LIMITATIONS CONTAINED IN CPLR 217(2) (a) - DISMISSAL OF INTENTIONAL TORT CLAIMS AS BARRED BY THE ONE-YEAR STATUTE OF LIMITATIONS; SUFFICIENCY OF PLAINTIFFS' ALLEGATIONS/PROOF; DENIAL OF MOTION FOR CONSOLIDATION AS MOOT;

EDWARDS, et al. v ERIE COACH LINES CO., et al.:

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;

EVANS (SHAREEF), PEOPLE v: (Cal. Date - 2/16/11)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - TRIAL COUNSEL'S FAILURE TO RAISE THE STATUTE OF LIMITATIONS AS A DEFENSE TO THE FIRST-DEGREE MANSLAUGHTER COUNT AND TO SEEK TO REOPEN THE SUPPRESSION HEARING;

FELICIANO (LUIS), PEOPLE v: (Cal. Date - 3/24/11)

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED FAILURE OF APPELLATE COUNSEL TO ARGUE ON DIRECT APPEAL THAT COUNSEL AT THE PROBATION VIOLATION HEARING WAS INEFFECTIVE;

FERNANDEZ (JOSE), PEOPLE: (Cal. Date - 3/23/11)

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: (Cal. Date - 4/27/11)

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;

FRANOV (ROBERT), PEOPLE v: (Cal. Date - 3/24/11)
 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: (Cal. Date - 5/3/11)
 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;

GILFORD (TERRELL), PEOPLE v: (Cal. Date - 3/23/11)
 CRIMES - IDENTIFICATION OF DEFENDANT - SHOWUP - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THERE WAS "NO BASIS FOR

SUPPRESSION OF THE SHOWUP OR IN-COURT IDENTIFICATIONS, BECAUSE THE SHOWUP WAS WITHIN PERMISSIBLY CLOSE TEMPORAL AND GEOGRAPHIC PROXIMITY TO THE CRIME ..., TOOK PLACE SHORTLY AFTER THE WITNESS HAD ALREADY MADE A RELIABLE IDENTIFICATION ..., AND WAS CONDUCTED IN A MANNER THAT WAS NOT UNDULY SUGGESTIVE";

GOLDENBERG v WESTCHESTER COUNTY HEALTH CARE CORP., &c., et al.:
(Cal. Date - 2/15/11)

ACTIONS - COMMENCEMENT - WHETHER COMPLAINT WAS PROPERLY DISMISSED AS TIME-BARRED ON THE GROUND THAT ACTION WAS NEVER VALIDLY COMMENCED BECAUSE PLAINTIFF SERVED A SUMMONS AND COMPLAINT UPON DEFENDANTS WITHOUT FILING THEM OR OBTAINING AN INDEX NUMBER AND PAYING THE FILING FEE - APPLICABILITY OF CPLR 2001 TO EXCUSE FILING DEFECT WHERE PLAINTIFF PREVIOUSLY FILED A PROPOSED COMPLAINT AS AN EXHIBIT TO A PROCEEDING TO FILE A LATE NOTICE OF CLAIM - DEFENDANTS' ALLEGED WAIVER OF OBJECTION TO FILING DEFECTS BY ASSERTING THE GENERAL AFFIRMATIVE DEFENSE OF LACK OF PERSONAL JURISDICTION RATHER THAN SPECIFYING THE FILING DEFECT;

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;

GRIFFITH OIL COMPANY, INC., et al. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, et al.:
(Cal. Date - 2/15/11)

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - EXCLUSION OF GENERAL LIABILITY COVERAGE FOR PROPERTY DAMAGE CAUSED BY A POLLUTANT - SPUR PIPELINE OIL LEAK - WHETHER EXCEPTION TO POLLUTION EXCLUSION APPLIES; SUMMARY JUDGMENT;

GRIMM (RAYMOND B.), PEOPLE v: (Cal. Date - 2/15/11)
CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT AT PLEA ALLOCUTION ABOUT THE LENGTH OF THE PERIOD OF MANDATORY POSTRELEASE SUPERVISION - VALIDITY OF GUILTY PLEA WHERE COURT STATED TERMS OF POSTRELEASE SUPERVISION AT SENTENCING - APPLICABILITY OF PENAL LAW § 70.85;

GRONINGER v VILLAGE OF MAMARONECK: (Cal. Date - 4/28/11)
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.:

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;

HARNETT (DAVID M.), PEOPLE v: (Cal. Date - 1/6/11)

CRIMES - SEX OFFENDERS - PLEA OF GUILTY - WHETHER DEFENDANT'S GUILTY PLEA TO SEXUAL ABUSE IN THE FIRST DEGREE WAS KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTERED WHERE THE TRIAL COURT FAILED TO INFORM HIM PRIOR TO ENTRY OF THAT PLEA THAT HIS CONVICTION WOULD SUBJECT HIM TO THE PROVISIONS OF THE SEX OFFENDER MANAGEMENT AND TREATMENT ACT (MENTAL HYGIENE LAW ARTICLE 10), WHICH COULD RESULT IN CONFINEMENT OR INTENSIVE SUPERVISION BEYOND THE EXPIRATION OF HIS PRISON SENTENCE;

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]);

HAQUE, MATTER OF v BEZIO:

PROCEEDING AGAINST BODY OR OFFICER - PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER THE TIME LIMIT FOR COMMENCEMENT OF A PRISONER DISCIPLINARY HEARING CONTAINED IN 7 NYCRR 251-5.1(a) IS MANDATORY OR DIRECTORY - IF SUCH TIME LIMIT IS DIRECTORY, WHETHER PETITIONER ESTABLISHED PREJUDICE ENTITLING HIM TO RELIEF - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT - VIDEOTAPE OF INCIDENT ALLEGEDLY CONTRADICTING DETERMINATION OF GUILT;

HAYES (KENNETH), PEOPLE v: (Cal. Date - 3/23/11)

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";

HERRERA (ROLANDO), PEOPLE v:

CRIMES - SUPPRESSION HEARING - POLICE OFFICER PULLED OBJECT OUT OF DEFENDANT'S POCKET WITHOUT QUESTIONING OR FRISK - WHETHER POLICE OFFICER HAD A REASONABLE SUSPICION THAT DEFENDANT MIGHT BE CONCEALING A WEAPON; GRAVITY KNIFE;

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

(Cal. Date - 4/28/11)

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;

HILL (GREGORY), PEOPLE v: (Cal. Date - 2/10/11)
CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE SECOND DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING HIM NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE IS REPUGNANT; JURORS - ALLEGED DENIAL OF FAIR TRIAL AND DUE PROCESS BECAUSE TRIAL COURT DID NOT READ JURY NOTE VERBATIM TO DEFENSE COUNSEL BEFORE SUMMONING THE JURY TO THE COURTROOM;

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;

HUFF v RODRIGUEZ:
TRIAL - ARGUMENT AND CONDUCT OF COUNSEL - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT REVERSAL WAS REQUIRED BECAUSE OF COMMENTS MADE BY DEFENDANTS' ATTORNEY IN SUMMATION THAT PLAINTIFF DID NOT CALL HER EXPERT WITNESS BECAUSE HIS TESTIMONY WOULD NOT SUPPORT PLAINTIFF'S CLAIM THAT DEFENDANT DRIVER CAUSED THE AUTOMOBILE ACCIDENT;

HUNTER (SHAWN), PEOPLE v: (Cal. Date - 4/28/11)
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 & NASH LLP v E. TIMOTHY McAULIFFE PLLC, et al.:
EXECUTORS AND ADMINISTRATORS - COMPENSATION - WHETHER DEFENDANT FORMER LAW PARTNER WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING THAT PORTION OF THE COMPLAINT SEEKING AN ACCOUNTING AND RECOVERY OF COMMISSIONS HE RECEIVED AS CO-EXECUTOR OF AN ESTATE - TIME WHEN COMMISSION BECAME "PAYABLE" WITHIN THE MEANING OF THE PARTNERSHIP AGREEMENT - APPLICABILITY OF SCPA 2307(5)(b);

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: (Cal. Date - 5/2/11)
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;

JORDAN (TERENCE G.), PEOPLE v: (Cal. Date - 2/15/11)
CRIMES AND CRIMINAL PROCEDURE - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY SERVED - EXPIRATION OF FIVE-YEAR PRS TERM BEFORE APPEAL HEARD BY APPELLATE DIVISION; MOOTNESS; AVAILABILITY OF CPL 440 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU 4 NY3d 242); ALLEGED VIOLATION OF DEFENDANT'S DUE PROCESS RIGHTS;

KATHLEEN K., MATTER OF (ANONYMOUS): (Cal. Date - 3/23/11)
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;

KELLY (ROBERT), PEOPLE v: (Cal. Date - 2/17/11)
JURY - DELIBERATIONS - AT TRIAL, COURT OFFICERS TEMPORARILY REMOVED ONE JUROR FROM JURY ROOM WITHOUT DIRECTING THE REMAINING JURORS TO REFRAIN FROM DELIBERATING UNTIL ALL JURORS WERE TOGETHER AGAIN; ALLEGED MODE OF PROCEEDINGS ERROR;

KEMPER MUTUAL INSURANCE COMPANY et al., MATTER OF v RUSSELL:
INSURANCE - AUTOMOBILE INSURANCE - UNDERINSURED MOTORIST ENDORSEMENT - WHETHER THE CONDITION PRECEDENT TO THE OBLIGATION OF AN INSURER TO PAY UNDER THE SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORIST (SUM) INSURANCE COVERAGE, REQUIRING EXHAUSTION OF THE LIMITS OF LIABILITY OF ALL BODILY INJURY LIABILITY BONDS OR INSURANCE POLICIES APPLICABLE AT THE TIME OF THE ACCIDENT, MAY BE SATISFIED THROUGH SETTLEMENT WITH A THIRD PARTY INSTEAD OF THE PRIMARY INSURER; ARBITRATION;

L&M BUS CORP., et al., MATTER OF v THE NEW YORK CITY DEPARTMENT OF EDUCATION, et al.: (Cal. Date - 5/3/11)
MUNICIPAL CORPORATIONS - BIDS AND BIDDERS - REQUEST FOR BIDS - WHETHER EMPLOYEE PROTECTION PROVISIONS VIOLATE THE PUBLIC BIDDING LAWS;

LEHMAN v NORTH GREENWICH LANDSCAPING, LLC et al.:
(Cal. Date - 1/5/11)

NEGLIGENCE - MAINTENANCE OF PREMISES - DUTY TO SAFELY MAINTAIN PARKING LOT - WHETHER SNOW REMOVAL CONTRACT WAS COMPREHENSIVE AGREEMENT THAT DISPLACED DUTY OF DEFENDANT HORTON SCHOOL ASSOCIATES TO MAINTAIN PARKING LOT; SUMMARY JUDGMENT - WHETHER TRIABLE ISSUE OF FACT EXISTS; SNOW AND ICE - SLIP AND FALL ON ICE;

LEWIE (ALICIA), PEOPLE v: (Cal. Date - 5/3/11)

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;

LINGLE (JOHN), PEOPLE v: (Cal. Date - 3/21/11)

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

MIGUEL M., MATTER OF (ANONYMOUS): (Cal. Date - 3/23/11)

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.: (Cal. Date - 5/4/11)

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;

MARTE et al., MATTER OF v BERKMAN: (Cal. Date - 3/22/11)

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING
IN THE NATURE OF PROHIBITION SEEKING TO PREVENT RETRIAL OF
PETITIONERS ON UNDERLYING CRIMINAL MATTER ON THE GROUND OF
DOUBLE JEOPARDY - MANIFEST NECESSITY FOR MISTRIAL -
PETITIONERS' CONSENT TO MISTRIAL;

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

(Cal. Date - 3/24/11)

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 - 5/4/11)

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;

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;

McKANIC v AMIGOS DEL MUSEO DEL BARRIO:

DISMISSAL AND NONSUIT - FAILURE TO COMPLY WITH ORDER DIRECTING DISCLOSURE - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, AFFIRMED A SUPREME COURT ORDER DISMISSING THE COMPLAINT UPON PLAINTIFF'S FAILURE TO EXECUTE AUTHORIZATIONS FOR RELEASE OF FEDERAL TAX RETURNS;

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";

MEEGAN, JR., MATTER OF v BROWN (AND ANOTHER PROCEEDING AND ACTION): (Cal. Date 2/9/11)

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER, UNDER PUBLIC AUTHORITIES LAW § 3858(2)(c)(i) AND (iii), PROMOTIONAL SALARY STEP INCREASES WERE SUSPENDED AND DID NOT ACCRUE DURING A WAGE FREEZE PERIOD SO THAT, UPON THE LIFTING OF THE WAGE FREEZE, UNION EMPLOYEES WERE ENTITLED ONLY TO ONE SALARY STEP INCREASE RATHER THAN FOUR SALARY STEP INCREASES;

MELLENDEZ (PEDRO), PEOPLE v: (Cal. Date - 3/22/11)

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN ITS INSTRUCTION TO THE JURY CONCERNING THE BURDEN OF PROOF ON AN ALIBI DEFENSE; PROSECUTOR'S "BURDEN-SHIFTING" REMARKS IN SUMMATION; PRESERVATION;

MATTER OF LIQUIDATION OF MIDLAND INSURANCE COMPANY
[AMERICAN STANDARD, INC., et al. v SWISS REINSURANCE AMERICA
CORPORATION, et al.]: (Cal. Date - 2/9/11)
 INSURANCE - LIQUIDATION OF INSURER - CHOICE OF LAW - WHETHER NEW
 YORK SUBSTANTIVE LAW GOVERNS THE INTERPRETATION AND APPLICATION
 OF INSOLVENT INSURER'S INSURANCE POLICIES;

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;

MURRELL (DOMINIQUE), PEOPLE v: (Cal. Date - 3/21/11)
 CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED
 IN JUDGMENT OF RESENTENCE AFTER DEFENDANT HAD SERVED ALL BUT 8
 WEEKS OF HIS 10-YEAR PRISON SENTENCE AND AFTER HIS SENTENCE HAD
 BEEN CONSIDERED PREVIOUSLY BY THE TRIAL COURT AND APPELLATE
 DIVISION WITH NO MENTION OF PRS - ALLEGED VIOLATION OF DOUBLE
 JEOPARDY AND DUE PROCESS RIGHTS;

NATIONAL FUEL GAS DISTRIBUTION CORP., MATTER OF v NEW YORK STATE
PUBLIC SERVICE COMMISSION: (Cal. Date 2/8/11)
 PUBLIC UTILITIES - PUBLIC SERVICE COMMISSION - RATE SETTING -
 WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT
 RESPONDENT AGENCY IMPROPERLY REDUCED THE AMOUNT OF SITE
 INVESTIGATION AND REMEDIATION COSTS THAT PETITIONER GAS
 CORPORATION WAS PERMITTED TO PASS ON TO ITS CUSTOMERS BY
 DETERMINING THAT ITS PARENT COMPANY SHOULD HAVE ALLOCATED TO
 PETITIONER A GREATER SHARE OF CERTAIN INSURANCE SETTLEMENT
 PROCEEDS - ALLEGED USE OF INAPPROPRIATE STANDARD OF REVIEW;

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;

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;

ORANGE COUNTY DEPARTMENT OF SOCIAL SERVICES &c., MATTER OF v MARVIN:

CONTEMPT - CIVIL CONTEMPT - WILLFUL VIOLATION OF SUPPORT ORDER UNDER FAMILY COURT ACT ARTICLE 4 - FAMILY COURT ACT § 454(3) (a);

ORELLANES v STATE OF NEW YORK:

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:

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: (Cal. Date - 5/3/11)

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 (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;

PAIGE (TIRAY M.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - DEFENDANT REFUSED ENTRY TO STATE TROOPERS SEEKING TO EXECUTE AN ARREST WARRANT FOR ANOTHER RESIDENT WHOM DEFENDANT SAID WAS NOT HOME - TROOPERS KICKED DOOR OPEN AND ARRESTED DEFENDANT - REASONABLENESS OF TROOPER'S BELIEF THAT PERSON SUBJECT TO WARRANT WAS INSIDE THE RESIDENCE;

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);

PARISI (JOHN), PEOPLE v: (Cal. Date 3/21/11)

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED

VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

PAULIN (DAVID LANCE), PEOPLE v:

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

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;

PHILLIPS (JAMES), PEOPLE v: (Cal. Date 2/10/11)

CRIMES - FITNESS TO PROCEED TO TRIAL - DEFENDANT WITH BRAIN INJURY RESULTING FROM STROKES - APPLICABILITY OF PROTOCOLS ESTABLISHED IN PEOPLE v FRANCOBANDERA (33 NY2d 429 [1974]);

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:

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;

PRENDERGAST (JOHN), PEOPLE v: (Cal. Date 3/21/11)

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED UPON RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT "THE RESENTENCING COURT WAS NOT REQUIRED TO EXERCISE ITS DISCRETION TO CONSIDER WHETHER THE SENTENCE AS A WHOLE WAS APPROPRIATE IN VIEW OF THE FACT THAT THE SENTENCE WOULD NOT INCLUDE A PERIOD OF PRS";

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);

RAVILLE v ELNOMANY:

HUSBAND AND WIFE - DIVORCE - CONSTRUCTIVE ABANDONMENT (DOMESTIC RELATIONS LAW § 170[2]); EQUITABLE DISTRIBUTION; CLAIMED INEFFECTIVENESS OF COUNSEL;

THE RGH LIQUIDATING TRUST, &c. v DELOITTE & TOUCHE LLP et al.:

(Cal. Date - 4/27/11)

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;

RICH v EAST 10TH STREET ASSOCIATES LLC &c., et al.:

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);

RICHARDS, MATTER OF v CUOMO:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CHALLENGE TO SUPREME COURT JUDGMENT THAT, AMONG OTHER THINGS, DISMISSED A CPLR

ARTICLE 78 PETITION IN THE NATURE OF PROHIBITION;

RIDGE ROAD FIRE DEPARTMENT, MATTER OF v SCHIANO, et al.:

(Cal. Date - 2/16/11)

PROCEEDING AGAINST BODY OR OFFICER - ACCIDENTAL DISABILITY RETIREMENT BENEFITS - WHETHER SUBSTANTIAL RECORD EVIDENCE SUPPORTS THE HEARING OFFICER'S DETERMINATION GRANTING FIREFIGHTER ACCIDENTAL DISABILITY BENEFITS PURSUANT TO GENERAL MUNICIPAL LAW § 207-a - INJURY TO DRIVER OF FIRE TRUCK; STANDARD OF REVIEW;

RIGLE, MATTER OF v DAINES, et al.:

PHYSICIANS AND SURGEONS - DISCIPLINARY PROCEEDINGS - REVOCATION OF LICENSE TO PRACTICE MEDICINE - CLAIMED VIOLATION OF DUE PROCESS;

RIVERA (PETER), PEOPLE v: (Cal. Date - 3/22/11)

CRIMES - AGGRAVATED UNLICENSED OPERATION OF MOTOR VEHICLE - WHETHER DEFENDANT, WHOSE DRIVER'S LICENSE WAS REVOKED FOR SIX MONTHS FOLLOWING A DWI CONVICTION, BUT WHO WAS ISSUED A CONDITIONAL LICENSE, CAN BE CHARGED WITH AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR CAN ONLY BE CHARGED WITH A TRAFFIC INFRACTION UNDER VEHICLE AND TRAFFIC LAW § 1196(7)(f), THE STATUTE AUTHORIZING ISSUANCE OF CONDITIONAL LICENSES;

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.:

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 (FREDDY), PEOPLE v: (Cal. Date - 2/10/11)
CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT
ERRED IN REFUSING TO CHARGE THE JUSTIFICATION DEFENSE PURSUANT TO
PENAL LAW § 35.05(2);

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 (MANUEL), PEOPLE v: (Cal. Date - 3/21/11)
CRIMES - SENTENCE - POST-RELEASE SUPERVISION - FAILURE OF COURT
TO PRONOUNCE A TERM OF POST-RELEASE SUPERVISION - REMITTAL FOR
PRESENTENCING PURSUANT TO PEOPLE v SPARBER (10 NY3d 457) -
WHETHER A RESENTENCING COURT HAS DISCRETION TO RECONSIDER THE
LENGTH OF A PREVIOUSLY IMPOSED TERM OF IMPRISONMENT - IF THE
SENTENCING COURT LACKS SUCH DISCRETION, WHETHER THE APPELLATE
DIVISION MAY MODIFY THE LENGTH OF A PREVIOUSLY IMPOSED TERM OF
IMPRISONMENT PURSUANT TO ITS INTEREST OF JUSTICE JURISDICTION;

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;

ROSYLN UNION FREE SCHOOL DISTRICT v BARKAN, et al.:

(Cal. Date - 3/21/11)

LIMITATION OF ACTIONS - APPLICABILITY OF SIX-YEAR STATUTE OF LIMITATIONS EITHER UNDER CPLR 213(7) OR CPLR 213(5) TO SCHOOL DISTRICT'S CAUSES OF ACTION FOR NEGLIGENT BREACH OF FIDUCIARY DUTY AGAINST FORMER SCHOOL BOARD MEMBER; PLEADING - SUFFICIENCY OF PLEADING - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR AN ACCOUNTING AGAINST FORMER BOARD MEMBER ENTRUSTED WITH OVERSIGHT OVER THE SCHOOL DISTRICT'S MONEY;

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:

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);

SCOTT (STEVEN), PEOPLE v: (Cal. Date - 3/22/11)

CRIMES - JURORS - DISCHARGE OF JUROR - WHETHER TRIAL COURT ERRED IN DISCHARGING A SWORN JUROR FOR CAUSE WHERE THE PROSECUTOR POSED QUESTION TO PROSPECTIVE JURORS ABOUT ABSENCE OF DNA EVIDENCE IN THE CASE AND THE SUBJECT JUROR, ONLY AFTER BEING SWORN, ADVISED THE COURT THAT THE PROSECUTION SHOULD OFFER DNA EVIDENCE TO SUPPORT THE RAPE CHARGE; SELECTION OF JURY - DENIAL OF DEFENDANT'S CHALLENGE TO JUROR WHO REPORTED THAT ONE OF THE PROSECUTORS HAD REPRESENTED HER INFANT SON 13 OR 14 YEAR EARLIER; EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - TRIAL COURT'S REFUSAL TO APPLY THE INTEREST OF JUSTICE EXCEPTION TO THE RAPE SHIELD LAW (CPL 60.42[5]) - ALLEGED VIOLATION OF DEFENDANT'S RIGHTS TO CONFRONT WITNESSES AGAINST HIM AND PRESENT A DEFENSE;

SEIFERHELD, MATTER OF v KELLY: (Cal. Date - 3/24/11)

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT POLICE PENSION FUND LACKED STATUTORY AUTHORITY TO REVOKE OR SUSPEND PETITIONER'S DISABILITY BENEFITS BECAUSE THE BOARD OF TRUSTEES DID NOT DIRECT SUCH ACTION;

SHARLOW (DARRYL), PEOPLE v: (Cal. Date - 3/21/11)

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN RESENTENCE AFTER DEFENDANT'S CONDITIONAL RELEASE FROM PRISON BUT BEFORE THE MAXIMUM EXPIRATION DATE OF THE ORIGINAL SENTENCE

TERM; ALLEGED VIOLATION OF DOUBLE JEOPARDY PRINCIPLES;
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;

SHELLFISH, INC. v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL
 CONSERVATION, et al.:

ENVIRONMENTAL CONSERVATION - HUNTING AND FISHING LICENSES - SURF
 CLAM PERMIT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING,
 AMONG OTHER THINGS, THAT OWNER OF A PERMIT-HOLDING VESSEL'S
 FAILURE TIMELY TO NOTIFY NEW YORK STATE DEPARTMENT OF
 ENVIRONMENTAL CONSERVATION OF THE VESSEL'S SALE, TRANSFER OR
 REPLACEMENT PRECLUDED OWNER "FROM SEEKING TO REVIVE THE OTHERWISE
 ACADEMIC QUESTION OF WHETHER IT WAS PROPERLY DENIED THE 2008
 PERMIT FOR A SECOND VESSEL";

SHIAMILI, &c. v THE REAL ESTATE GROUP OF NEW YORK, INC., et al.:
 (Cal. Date - 5/2/11)

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);

61 WEST 62 OWNERS CORPORATION v CGM EMP LLC, et al.:

INJUNCTIONS - PRELIMINARY INJUNCTION - ACTION FOR PRIVATE
 NUISANCE BY OWNER OF RESIDENTIAL COOPERATIVE APARTMENT BUILDING
 AGAINST OPERATORS OF ROOFTOP BAR AT ADJOINING BUILDING BASED UPON
 "INCREDIBLY LOUD AND UNBEARABLE NOISE" EMANATING FROM THE BAR -
 PLAINTIFF'S ENTITLEMENT TO A PRELIMINARY INJUNCTION;

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;

SPICOLA (MICHAEL), PEOPLE v: (Cal. Date - 2/17/11)

CRIMES - WITNESSES - EXPERT WITNESS - CLINICAL SOCIAL WORKER PERMITTED TO TESTIFY CONCERNING CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME AND REASON FOR DELAY IN REPORTING INCIDENT TO AUTHORITIES - TESTIMONY FROM NURSE PRACTITIONER REGARDING STATEMENTS MADE BY VICTIM DURING EXAMINATION; PRECLUSION OF CHARACTER WITNESSES FOR DEFENDANT; INDICTMENT ISSUED MORE THAN SIX YEARS AFTER ALLEGED OFFENSES; JURY INSTRUCTIONS;

STATE FARM MUTUAL AUTOMOBILE COMPANY v LANGAN &c.:

(Cal. Date - 2/8/11)

INSURANCE - AUTOMOBILE INSURANCE - INSURED INTENTIONALLY STRUCK BY CAR - COVERAGE UNDER POLICY'S MANDATORY PERSONAL INJURY PROTECTION ENDORSEMENT AND DEATH, DISMEMBERMENT AND LOSS OF SIGHT PROVISIONS - INTERPRETATION OF TERM "ACCIDENT"; LAW OF THE CASE;

STATE OF NEW YORK, MATTER OF v ANDREW O.: (Cal. Date - 2/8/11)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - CROSS-EXAMINATION OF RESPONDENT'S EXPERT REGARDING HIS RELIGIOUS BELIEFS - COMMENTS IN SUMMATION REGARDING EXPERT'S RELIGIOUS BELIEFS - ALLEGED DENIAL OF FAIR TRIAL;

STEWART (OWEN), PEOPLE v: (Cal. Date - 5/2/11)

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 (ANDRE), PEOPLE v: (Cal. Date - 2/15/11)

POST-RELEASE SUPERVISION (PRS) - WHETHER DEFENDANT'S FAILURE TO RAISE HIS PLEA VACATUR ISSUE ON DIRECT APPEAL WAS "NOT UNJUSTIFIABLE" - DEFENDANT ADVISED BY TRIAL COURT THAT HE WOULD RECEIVE "MAXIMUM POST-RELEASE SUPERVISION" BUT WAS NOT ADVISED AS TO THE SPECIFIC DURATION - AVAILABILITY OF CPL 440 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU, 4 NY3d 242);

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;

ST. LOUIS v TOWN OF NORTH ELBA, et al.: (Cal. Date - 2/10/11)
LABOR - SAFE PLACE TO WORK - CAUSE OF ACTION PURSUANT TO LABOR
LAW § 241(6) - WHETHER 12 NYCRR 23-9.4, WHICH REFERS TO POWER
SHOVELS AND BACKHOES, APPLIES TO A FRONT-END LOADER - HEAVY
EQUIPMENT USED FOR MATERIAL HOISTING RATHER THAN MATERIAL
HANDLING;

STRACHMAN &c., et al. v THE PALESTINIAN AUTHORITY &c., et al.:
JURY - RIGHT TO JURY TRIAL - DECLARATORY JUDGMENT ACTION - ACTION
BY JUDGMENT CREDITORS SEEKING TO ESTABLISH DEFENDANT PALESTINIAN
AUTHORITY'S OWNERSHIP OF FROZEN SECURITIES AND DEBT INSTRUMENTS;

SUPPIAH v KALISH:

ATTORNEY AND CLIENT - MALPRACTICE - ATTORNEY'S ALLEGED
MALPRACTICE FOR FAILING TO SEEK EXTENSION RATHER THAN RENEWAL OF
WORK VISA - ATTORNEY'S ENTITLEMENT TO SUMMARY JUDGMENT - WHETHER
ATTORNEY SATISFIED HIS PRIMA FACIE SHOWING OF ENTITLEMENT TO
JUDGMENT AS A MATTER OF LAW;

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-
OF-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 CRISTO:

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;

WARNEY v STATE OF NEW YORK: (Cal. Date - 2/8/11)

STATE - UNJUST CONVICTION AND IMPRISONMENT ACT - COURT OF CLAIMS ACT § 8-b - WHETHER THE COURT OF CLAIMS ERRED IN DISMISSING CLAIM TO RECOVER FOR UNJUST CONVICTION AND IMPRISONMENT OF A PERSON EXONERATED BY DNA EVIDENCE AFTER SERVING NINE YEARS IN PRISON FOR A MURDER CONVICTION - WHETHER FALSE CONFESSION CONSTITUTED CONDUCT BRINGING ABOUT CONVICTION;

WILINSKI et al. v 334 EAST 92ND 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 MISSERITTI 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;

WILLIAMS (JAIR), PEOPLE v: (Cal. Date - 2/9/11)

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN FAILING TO AFFORD THE DEFENSE NOTICE AND AN OPPORTUNITY TO BE HEARD BEFORE IT REJECTED AS REPUGNANT THE INITIALLY ANNOUNCED JURY VERDICT, AND IN THEREAFTER GIVING EXTENSIVE SUPPLEMENTAL JURY INSTRUCTIONS AND RESUBMITTING THE CASE FOR FURTHER DELIBERATIONS - VERDICT SHEET COMPLETED BY JURY IN THE COURTROOM WITH OPEN COURT DISCUSSIONS AMONG THE JURORS; DUE PROCESS; EFFECTIVE ASSISTANCE OF COUNSEL;

WILLIAMS v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, et al.:
 DAMAGES - INADEQUATE AND EXCESSIVE DAMAGES - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER THAT, AS RELEVANT HERE, GRANTED DEFENDANTS' POST-TRIAL MOTION INSOFAR AS IT SOUGHT TO SET ASIDE AS EXCESSIVE A JURY'S AWARD OF DAMAGES IN THE AMOUNT OF \$6.5 MILLION AND DIRECTED A NEW TRIAL AS TO DAMAGES UNLESS PLAINTIFF STIPULATED TO A REDUCED AWARD OF \$1 MILLION;

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;

WOODS, MATTER OF v NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES: (Cal. Date - 2/16/11)
 PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING TO REVIEW A DETERMINATION OF RESPONDENT NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES NOT TO PLACE PETITIONER ON A "SPECIAL ELIGIBLE LIST" PURSUANT TO MILITARY LAW §§ 243(7) AND 243(7-b) - PETITIONER SEEKING APPOINTMENT AS FIREFIGHTER; CIVIL SERVICE;

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

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;