

JUNE 2013

NEW FILINGS DIGEST - CUMULATIVE UPDATE

This report lists, by title and subject matter, pending appeals previously published as "Court of Appeals New Filings."

Contact the Clerk's Office for additional information.

GABRIELA A., MATTER OF:

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

ABNER (JESSE), PEOPLE v:

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

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

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

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

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

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

CRIMES - JURORS - WHETHER TRIAL COURT COMMITTED ERROR IN PROCEEDINGS ERROR IN PERSONALLY PARTICIPATING IN THE READBACK OF TESTIMONY OF TWO PROSECUTION WITNESSES; ALLEGED DUE PROCESS VIOLATIONS AND VIOLATION OF CPL 310.30;

APPELATE v STATE OF NEW YORK:

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

ASARO (PATRICK A.), PEOPLE v: (Cal. Date 9/10/13)

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

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

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

ALLEN B., MATTER OF v SPROAT:

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

BARET (ROMAN), PEOPLE v:

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

BARONE (VINCENT), PEOPLE v:

CRIMES - EVIDENCE - WHETHER EVIDENCE ADMITTED REGARDING THE ENTERPRISE CORRUPTION COUNT WHICH SHOULD NOT HAVE BEEN CHARGED UNDULY PREJUDICED DEFENDANT REGARDING REMAINING CHARGES; SUFFICIENCY OF EVIDENCE TO SUPPORT DEFENDANT'S CONVICTION ON SCHEME TO DEFRAUD AND OFFERING A FALSE INSTRUMENT FOR FILING CHARGES; CLAIMED ERROR REGARDING JURY NOTE; CLAIMED DUE PROCESS VIOLATION IN TRIAL COURT'S DISRUPTING COMMENTS AND BOLSTERING OF PEOPLE'S CASE;

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

CRIMES - INSTRUCTIONS - INTOXICATION - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JURY THAT INTOXICATION MAY NEGATE THE INTENT ELEMENT OF RAPE IN THE FIRST DEGREE; CONSOLIDATION AND SEVERANCE - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO SEVER THE FIRST FOUR COUNTS OF THE INDICTMENT, WHICH INVOLVED ONE VICTIM AND CHARGED HIM WITH, AMONG OTHER THINGS, RAPE IN THE FIRST DEGREE, FROM THE FIFTH COUNT OF THE INDICTMENT, WHICH CHARGED HIM WITH BURGLARY IN THE SECOND DEGREE WITH RESPECT TO ANOTHER VICTIM; SUFFICIENCY OF THE EVIDENCE OF BURGLARY IN THE SECOND DEGREE;

BEATY (KATISHA), PEOPLE v:

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

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

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

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

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

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

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

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

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

THE BRIGHTONIAN NURSING HOME, et al. v DAINES, &c., et al.:  
(Cal. Date - 9/11/13)

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - DUE PROCESS - STATUTE PROHIBITING PRIVATE NURSING HOMES FROM WITHDRAWING EQUITY OR TRANSFERRING ASSETS THAT IN THE AGGREGATE EXCEEDED 3% OF THEIR TOTAL ANNUAL REVENUE FOR PATIENT CARE SERVICES WITHOUT PRIOR APPROVAL OF COMMISSIONER OF HEALTH (PUBLIC HEALTH LAW § 2808[5][c]) - CHALLENGE TO RULING THAT STATUTE IS UNCONSTITUTIONALLY VAGUE, IMPROPERLY DELEGATES LEGISLATIVE AUTHORITY TO THE COMMISSIONER AND VIOLATES PLAINTIFFS'/PETITIONERS' SUBSTANTIVE DUE PROCESS RIGHTS - SEVERANCE OF STATUTE'S CATCHALL PHRASE;

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

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER DEFENDANT WAS VALIDLY SENTENCED TO CONSECUTIVE TERMS OF IMPRISONMENT FOR CONVICTIONS OF MURDER IN THE SECOND DEGREE AND CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE; WHETHER PROSECUTOR'S SUMMATION IMPERMISSIBLY SHIFTED THE BURDEN OF PROOF;

BRUNO KEARNEY ARCHITECTS, LLP v ROSE:

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

BUXBAUM v CASTRO:

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

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

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

CLEMENTE BROS. CONTRACTING CORP. v HAFNER-MILAZZO:

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

CINTRON (ANGEL), PEOPLE v:

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

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

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

COLLIER (ANDRE), PEOPLE v:

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

CORTEZ (PAUL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CONFLICT OF INTEREST - OPERATION OF CONFLICT ON DEFENSE - EFFECTIVE REPRESENTATION - WAIVER OF CONFLICT; EVIDENCE - JOURNAL ENTRIES WRITTEN YEARS BEFORE THE CHARGED OFFENSE AND RELATING TO DEFENDANT'S HOSTILITY TO TWO WOMEN OTHER THAN THE VICTIM - APPLICATION OF MOLINEUX; FAIR TRIAL - ARGUMENT AND CONDUCT OF COUNSEL;

COUNCIL OF THE CITY OF NEW YORK v DEPARTMENT OF HOMELESS

SERVICES et al.: (Cal. Date - 10/8/13)

SOCIAL SERVICES - TEMPORARY HOUSING ASSISTANCE - WHETHER THE COURTS BELOW PROPERLY DETERMINED THAT THE SINGLE ADULTS ELIGIBILITY PROCEDURE (PROCEDURE 12-400), WHICH GOVERNS THE INTAKE AND ADMISSION PROCESS OF SINGLE ADULT INDIVIDUALS APPLYING FOR TEMPORARY HOUSING, IS A "RULE" WITHIN THE MEANING OF THE CITY ADMINISTRATIVE PROCEDURE ACT (CHAPTER 45 OF THE NEW YORK CITY CHARTER);

COUNTRY-WIDE INSURANCE COMPANY v PREFERRED TRUCKING SERVICES CORP., et al.:

INSURANCE - DISCLAIMER OF COVERAGE - TIMELINESS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING UNTIMELY AS A MATTER OF LAW INSURER'S DISCLAIMER OF COVERAGE BECAUSE OF THE INSURED'S LACK OF COOPERATION IN THE DEFENSE OF THE UNDERLYING ACTION;

DeVITO v FELICIANO et al.: (Cal. Date - 10/15/13)

NEGLIGENCE - PROXIMATE CAUSE - JURY FINDING THAT AUTOMOBILE ACCIDENT WAS NOT A SUBSTANTIAL FACTOR IN BRINGING ABOUT PLAINTIFF'S INJURIES - WHETHER TRIAL COURT ERRED IN REFUSING TO GIVE A MISSING WITNESS CHARGE WHERE DEFENDANT DID NOT CALL AS WITNESSES TWO PHYSICIANS WHO, AT DEFENDANT'S REQUEST, CONDUCTED INDEPENDENT MEDICAL EXAMINATIONS OF PLAINTIFF;

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

CRIMES - PLEA OF GUILTY - WHETHER THE TRIAL COURT FAILED TO SUFFICIENTLY INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA AND, IF SO, WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO THE PLEA;

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

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

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

CRIMES - SUPPRESSION HEARING - WHETHER STATEMENTS MADE BY DEFENDANT, INCLUDING THOSE IN RESPONSE TO QUESTIONS BY LAW ENFORCEMENT OFFICERS, SHOULD HAVE BEEN SUPPRESSED WHERE THE STATEMENTS WERE MADE WITHOUT MIRANDA WARNINGS AND AFTER DEFENDANT INVOKED THE RIGHT TO COUNSEL - CPL 60.45 - APPLICABILITY OF "EMERGENCY" OR "PUBLIC SAFETY" EXCEPTION; UNLAWFUL SEARCH AND SEIZURE - ALLEGED VIOLATIONS OF PEOPLE v DeBOUR (40 NY2d 210) AND DUNAWAY v NEW YORK (442 US 200) - CHALLENGE TO SEIZURE OF VEHICLES AND OTHER PHYSICAL EVIDENCE - VALIDITY OF SEARCH WARRANTS;

DUMAY (JOSEPH), PEOPLE v:

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

FORECLOSURE OF TAX LIENS BY CITY OF ROCHESTER, MATTER OF (DUVALL; CITY OF ROCHESTER):

TAXATION - TAX LIENS - FORECLOSURE OF TAX LIENS - ADEQUACY OF NOTICE TO FORMER PROPERTY OWNER OF FORECLOSURE ACTION;

EBC I, INC., &c. v GOLDMAN SACHS & CO.:

TORTS - FRAUD - WHETHER THE APPELLATE DIVISION'S DISMISSAL OF PLAINTIFF'S BREACH OF FIDUCIARY DUTY AND FRAUD CLAIMS CONFLICTS WITH THIS COURT'S DECISION IN EBC I, INC. v GOLDMAN SACHS & CO. (5 NY3d 11 [2005]); SUMMARY JUDGMENT;

EUJOY REALTY CORPORATION v VAN WAGNER COMMUNICATIONS, LLC:

(Cal. Date - 10/8/13)

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

EXPEDIA, INC., et al. v CITY OF NEW YORK DEPARTMENT OF

FINANCE, et al.: (Cal. Date - 10/9/13)

TAXATION - HOTEL AND MOTEL OCCUPANCY TAX - EXTENSION OF TAX TO ENCOMPASS SERVICE FEES CHARGED BY TRAVEL INTERMEDIARIES - CONSTITUTIONALITY;

FABRIZI v 1095 AVENUE OF THE AMERICAS, L.L.C., et al.:

NEGLIGENCE - ELECTRICIAN INJURED BY PIPE FALLING FROM CEILING WHERE GENERAL CONTRACTOR WAS REMODELING A COMMERCIAL SPACE - CLAIMED FAILURE OF DEFENDANTS TO PROVIDE A REQUESTED COUPLING DEVICE TO PREVENT THE PIPE FROM FALLING - WHETHER LABOR LAW § 240(1) APPLIES IN THIS SITUATION; SUMMARY JUDGMENT;

FINCH (NATURE G.), PEOPLE v:

CRIMES - RESISTING ARREST - WHETHER "AUTHORIZED ARREST" ELEMENT OF CRIMINAL CHARGE OF RESISTING ARREST UNDER PENAL LAW § 205.30 CAN BE ESTABLISHED BY CRIMINAL TRESPASS CHARGE FOUND NOT TO BE SUPPORTED BY SUFFICIENT EVIDENCE AS A MATTER OF LAW;

FLAMENBAUM (DECEASED), MATTER OF: (Cal. Date - 10/15/13)

EXECUTORS AND ADMINISTRATORS - CLAIMS AGAINST ESTATE - MUSEUM'S CLAIM FOR RETURN OF AN ARTIFACT IN POSSESSION OF THE DECEASED; LACHES; ESTATES - ACCOUNTING;

FLINN (GUNTHER J.), PEOPLE v:

CRIMES - RIGHT TO BE PRESENT AT TRIAL - WHETHER DEFENDANT'S RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF PROCEEDINGS WAS VIOLATED - DEFENDANT'S ATTORNEY WAIVED HIS RIGHT TO BE PRESENT AT SIDEBAR CONFERENCES IN A SIDEBAR CONFERENCE OUTSIDE OF DEFENDANT'S PRESENCE - ANTOMMARCHI RIGHTS; REFUSAL OF TRIAL COURT TO CHARGE LESSER INCLUDED OFFENSES;

FORECLOSURE OF TAX LIENS [COUNTY OF SULLIVAN; MATEJKOWSKI], MATTER OF:

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

409-411 SIXTH STREET, LLC v MOGI:

LANDLORD AND TENANT - RENT REGULATION - PRIMARY RESIDENCE - CHALLENGE TO APPELLATE DIVISION ORDER FINDING THAT THE PREPONDERANCE OF THE EVIDENCE ESTABLISHES THAT TENANT OCCUPIED THE SUBJECT APARTMENT AS HER PRIMARY RESIDENCE DURING THE RELEVANT TIME PERIOD;

FREZZELL v CITY OF NEW YORK et al.:

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

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

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

GALINDO (OLIVERIO), PEOPLE v:

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

GILLOTTI (NEIL F.), PEOPLE v:

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

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

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

GONZALEZ (VICTOR), PEOPLE v:

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



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

GORDON (HAZEL E.), PEOPLE v:

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

GUAMAN (LUIS), PEOPLE v:

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

GYABAAH v RIVLAB TRANSPORTATION CORP., et al.:

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

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

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

HANDLER, MATTER OF v DI NAPOLI:

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

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

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

HAWKINS (SEAN), PEOPLE v:

CRIMES - VERDICT - SETTING VERDICT ASIDE - WHETHER MOTION TO SET ASIDE VERDICT, MADE BEFORE SENTENCING BUT NOT MEETING THE REQUIREMENT THAT SUCH MOTION BE MADE ON A "GROUND APPEARING IN THE RECORD" (CPL 330.30[1]) MAY BE TREATED AS A "DE FACTO" MOTION TO VACATE THE JUDGMENT UNDER CPL 440.10 - DEFENDANT MOVED TO SET ASIDE THE VERDICT ON THE GROUND THAT HIS RIGHT TO PUBLIC TRIAL WAS VIOLATED;

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

HEIDGEN (MARTIN), PEOPLE v: (Cal. Date - 10/8/13)  
CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED  
DEFENDANT TRAVELING WRONG WAY ON PARKWAY - SUFFICIENCY OF THE  
EVIDENCE TO SUPPORT DEPRAVED INDIFFERENCE; UNLAWFUL SEARCH AND  
SEIZURE - CLAIM THAT DEFENDANT'S BLOOD SAMPLE WAS ILLEGALLY  
OBTAINED AND IMPROPERLY ADMITTED INTO EVIDENCE; PRECLUSION OF  
EXPERT TESTIMONY FOR THE DEFENSE BY A POLICE ACCIDENT  
RECONSTRUCTIONIST; ALLEGED JUROR MISCONDUCT;

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

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

HRONCICH, MATTER OF v CON EDISON, et al.: (Cal. Date - 9/9/13)  
WORKERS' COMPENSATION - DEATH BENEFITS - WHETHER THE APPELLATE  
DIVISION PROPERLY AFFIRMED THE WORKERS' COMPENSATION BOARD DECISION  
GRANTING CLAIMANT DEATH BENEFITS WITHOUT APPORTIONMENT FOR THE  
PERCENTAGE OF NON-WORK RELATED CAUSE(S) OF DEATH - WORKERS'  
COMPENSATION LAW § 15(7);

HUGHES (FRANKLIN), PEOPLE v: (Cal. Date - 10/9/13)  
CRIMES - POSSESSION OF WEAPON - POSSESSION OF FIREARM IN HOME BY  
DEFENDANT PREVIOUSLY CONVICTED OF A CRIME - WHETHER DEFENDANT'S  
CONVICTION IS CONSTITUTIONAL WHERE HE POSSESSED A HANDGUN WITHIN  
HIS HOME FOR THE PURPOSE OF SELF-DEFENSE - PENAL LAW §§ 265.02(1)  
and 265.03(3);

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

VILLAGE OF ILION, et al. v COUNTY OF HERKIMER:

DAMAGES - MEASURE OF DAMAGES - WHETHER TRIAL COURT ERRED IN DECLINING TO DISCOUNT THE DAMAGES AWARDED BY THE JURY TO PRESENT VALUE AND IN AWARDING PREJUDGMENT INTEREST ON THE UNDISCOUNTED AWARD;

JFK HOLDING COMPANY, LLC, et al. v CITY OF NEW YORK, et al.:

(Cal. Date - 10/16/13)

LANDLORD AND TENANT - LEASE - BREACH OF LEASE CONDITION - DETERIORATION OF PREMISES - WHETHER TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE SALVATION ARMY USED COMMERCIALY REASONABLE EFFORTS TO OBTAIN CERTAIN PAYMENTS TO WHICH IT WAS ENTITLED UNDER A SERVICES AGREEMENT WITH OTHER DEFENDANTS - WHETHER DEFENDANT SALVATION ARMY WAS NONETHELESS ENTITLED TO SUMMARY JUDGMENT UNDER A LIMITATION OF DAMAGES PROVISION IN ITS LEASE - RES JUDICATA;

JACOBSEN v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION:

CIVIL RIGHTS - DISCRIMINATION BASED ON DISABILITY - OCCUPATIONAL LUNG DISEASE - WRONGFUL TERMINATION - EMPLOYEE'S ABILITY TO PERFORM ESSENTIAL JOB DUTIES - REASONABLE ACCOMMODATION; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF FACT;

JIMENEZ (JOSEFINA), PEOPLE v:

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

JOHNSON (TODD), PEOPLE v:

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

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

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

JONES (LESTER O.), PEOPLE v:

CRIMES - SUPPRESSION HEARING - "INTERVENING PROBABLE CAUSE" WHERE POLICE DID NOT HAVE PROBABLE CAUSE WHEN THEY ARRESTED DEFENDANT, BUT SOON AFTER ARREST THE ARRESTING OFFICER OBTAINED SUFFICIENT EVIDENCE TO CONSTITUTE PROBABLE CAUSE FROM ANOTHER POLICE OFFICER - WHETHER LINEUP, CONDUCTED AFTER DEFENDANT HAD BEEN IN CUSTODY FOR EIGHT HOURS, WAS ATTENUATED FROM THE ILLEGAL ARREST - POSSIBLE LAFONTAINE ISSUE WHERE APPELLATE DIVISION AFFIRMED IN PART BASED ON "FELLOW OFFICER" RULE;

KANCHARLA (V. REDDY), PEOPLE v:

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

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

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

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

CRIMES - INSTRUCTIONS - CONTROLLED SUBSTANCE IN OPEN VIEW - DEFENDANT NOT IN CLOSE PROXIMITY TO CONTROLLED SUBSTANCE WHEN IT WAS FOUND - WHETHER STATUTORY "ROOM PRESUMPTION" (PENAL LAW § 220.25[2]) APPLIES TO A DEFENDANT WHO LEAVES THE ROOM SHORTLY BEFORE POLICE FIND CONTROLLED SUBSTANCES - HARMLESS ERROR; UNLAWFUL SEARCH AND SEIZURE - WHETHER EVIDENCE FROM RESIDENCE SHOULD HAVE BEEN SUPPRESSED AS RESULTING FROM A WARRANTLESS "PROTECTIVE SWEEP" BY POLICE; PROOF OF OTHER CRIMES - PRIOR DRUG SALES - ALLEGED MOLINEUX ERROR; ALLEGED PROSECUTORIAL MISCONDUCT;

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

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

KOLBE, et al. v TIBBETTS, et al.:

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

KORDISH (ROBERT), PEOPLE v:

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

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

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

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

(Cal. Date - 9/3/13)

NEGLIGENCE - DUTY - WHETHER ALLEGATIONS THAT A DRUG TESTING LABORATORY NEGLIGENTLY TESTED THE PLAINTIFF'S BIOLOGICAL SPECIMEN, WHICH RESULTED IN THE EXTENSION OF PLAINTIFF'S PROBATION, AMONG OTHER THINGS, STATE A CAUSE OF ACTION IN TORT WHERE NO FORMAL CONTRACTUAL RELATIONSHIP EXISTED BETWEEN THE PLAINTIFF AND THE LABORATORY;

LEACH (TAWOND), PEOPLE v:

CRIMES - SUPPRESSION HEARING - RECOVERY BY POLICE OF A GUN IN THE SPARE BEDROOM OF DEFENDANT'S GRANDMOTHER'S APARTMENT WHERE DEFENDANT HAD HIS OWN BEDROOM - REASONABLE EXPECTATION OF PRIVACY IN ROOM TO WHICH DEFENDANT HAD ACCESS; STANDING TO CHALLENGE SEARCH;

LEWIS (ANTHONY), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - INSTALLATION OF GLOBAL POSITIONING SYSTEM DEVICE ON VEHICLE WITHOUT WARRANT - ALLEGED VIOLATION OF STATE AND FEDERAL CONSTITUTIONS - HARMLESS ERROR; INSTRUCTIONS - VERDICT SHEET - WHETHER VERDICT SHEET VIOLATED CPL 310.20(2) BY LISTING STORES WHERE CREDIT CARD FRAUDS OCCURRED, RATHER THAN THE BANK AND CARDHOLDER VICTIMS, WITH RESPECT TO

CERTAIN COUNTS; STANDARD OF REVIEW - WHETHER THE APPELLATE DIVISION USED THE WRONG STANDARD IN DETERMINING THAT DEFENDANT'S GRAND LARCENY CONVICTIONS WERE NOT AGAINST THE WEIGHT OF THE EVIDENCE; EXPERT WITNESS - DENIAL OF VOICE IDENTIFICATION EXPERT; SENTENCE - ALLEGED DUE PROCESS VIOLATIONS;

LOPEZ, MATTER OF v EVANS:

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

MARTINEZ (CHRISTOPHER), PEOPLE v:

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

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

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

McCRAV (LIONEL), PEOPLE v:

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

McFARLANE (TERRENCE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - SCOPE OF CONSENT FOR SEARCH OF AUTOMOBILE - WHETHER THE RECORD SUPPORTS THE FINDING THAT DEFENDANT DID NOT CONSENT TO A SEARCH OF HIS CAR'S LOCKED GLOVE COMPARTMENT WHEN, IN RESPONSE TO OFFICER'S REQUEST TO "TAKE A LOOK" THROUGH THE CAR, DEFENDANT RESPONDED, "GO AHEAD";

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

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED DEFENDANT TRAVELING WRONG WAY ON PARKWAY - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

MELCHER v GREENBERG TRAUIG, LLP, et al.:

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

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

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN GRANTING A DEFAULT JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST THE INDIVIDUAL DEFENDANTS AS A PENALTY FOR THEIR FAILURE TO COMPLY WITH COURT-ORDERED DISCOVERY; COURTS - JURISDICTION - LONG-ARM JURISDICTION - TRANSACTION OF BUSINESS IN NEW YORK;

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

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

MORRIS v PAVARINI CONSTRUCTION et al.:

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

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

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

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

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

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

WORKERS' COMPENSATION - EXCLUSIVENESS OF REMEDY; STATUTES - FEDERAL PREEMPTION - EFFECT OF IMMIGRATION REFORM AND CONTROL ACT (IRCA) ON WORKERS' COMPENSATION LAW - INJURED UNDOCUMENTED WORKERS - WHETHER AN EMPLOYER'S VIOLATION OF IRCA PRECLUDES IT FROM INVOKING THE WORKERS' COMPENSATION LAW'S EXCLUSIVITY PROVISION AS A DEFENSE TO A LANDOWNER'S CLAIMS FOR CONTRIBUTION AND INDEMNIFICATION ARISING FROM THE LANDOWNER'S LIABILITY TO THE EMPLOYER'S INJURED UNDOCUMENTED WORKERS;

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

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

ODDONE (ANTHONY), PEOPLE v:

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

O'TOOLE (DONALD), PEOPLE v:

CRIMES - COLLATERAL ESTOPPEL - WHETHER THE PEOPLE WERE BARRED FROM PRESENTING ON DEFENDANT'S RETRIAL EVIDENCE THAT HIS ACCOMPLICE POINTED WHAT APPEARED TO BE A PISTOL AT THE COMPLAINING WITNESS DURING THE ALLEGED ROBBERY, WHERE DEFENDANT WAS ACQUITTED OF ROBBERY IN THE FIRST DEGREE AT THE FIRST TRIAL BUT CONVICTED OF ROBBERY IN THE SECOND DEGREE AND THE APPELLATE DIVISION HAD REVERSED THAT CONVICTION;

TOWN OF OYSTER BAY v LIZZA INDUSTRIES, INC. (AND NINE OTHER ACTIONS):

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

PALATKEVICH v STANACARD, LLC:

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

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

LABOR UNIONS - ACTION AGAINST UNION - IN AN ACTION AGAINST AN UNINCORPORATED LABOR ORGANIZATION FOR BREACH OF THE DUTY OF FAIR REPRESENTATION, WHETHER MARTIN v CURRAN (303 NY 276 [1951])



REQUIRES A PLAINTIFF TO PLEAD AND PROVE THAT ALL MEMBERS OF THE UNINCORPORATED LABOR ORGANIZATION UNANIMOUSLY AUTHORIZED OR RATIFIED THE ALLEGED WRONGFUL CONDUCT - APPLICABILITY OF MADDEN v AIKENS (4 NY2d 283 [1958]);

PASCAZI, MATTER OF v GARDNER:

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

PATEL (VINOD), PEOPLE v:

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

PAYTON (WENDELL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF RIGHT TO CONFLICT-FREE REPRESENTATION WHEN, PRIOR TO THE COMMENCEMENT AND DURING THE COURSE OF HIS TRIAL, HIS ATTORNEY WAS SUBJECT TO A CRIMINAL INVESTIGATION BY THE SAME PROSECUTOR'S OFFICE PROSECUTING DEFENDANT, A SEARCH WARRANT WAS EXECUTED AT THE OFFICE OF DEFENDANT'S TRIAL COUNSEL DAYS BEFORE THE COMMENCEMENT OF TRIAL, AND THE TRIAL COURT DID NOT LEARN OF THE CRIMINAL INVESTIGATION UNTIL JUST BEFORE SENTENCING, AT WHICH POINT NEW COUNSEL WAS ASSIGNED;

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

CRIMES - PLEA OF GUILTY - WHETHER TRIAL COURT'S FAILURE TO INFORM DEFENDANT, AN UNDOCUMENTED IMMIGRANT, THAT HE MIGHT BE DEPORTED BASED ON HIS CONVICTION RENDERED DEFENDANT'S GUILTY PLEA NOT KNOWING, VOLUNTARY AND INTELLIGENT; RIGHT TO COUNSEL - WHETHER COUNSEL'S FAILURE TO INFORM DEFENDANT ABOUT THE IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA RENDERED COUNSEL'S REPRESENTATION INEFFECTIVE; SENTENCE; DUE PROCESS CHALLENGE TO CPL 220.50;

PEREZ (REYNALDO), PEOPLE v:

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

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

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION (PENAL LAW § 265.15 [3]) - CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-

DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION AGAINST PENAL INTEREST;

PIGNATARO (ANTHONY S.), PEOPLE v:

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

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

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

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

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

RAMKUMAR v GRAND STYLE TRANSPORTATION ENTERPRISES, INC.:

(Cal. Date - 9/12/13)

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - CESSATION OF TREATMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT SUMMARY JUDGMENT DISMISSING THE COMPLAINT WAS APPROPRIATE BECAUSE "A BARE ASSERTION THAT INSURANCE COVERAGE FOR MEDICALLY REQUIRED TREATMENT WAS EXHAUSTED IS UNAVAILING WITHOUT ANY DOCUMENTARY EVIDENCE OF SUCH OR, AT LEAST, AN INDICATION AS TO WHETHER AN INJURED CLAIMANT CAN AFFORD TO PAY FOR THE TREATMENT OUT OF HIS OR HER OWN FUNDS";

REED (LANCE J.), PEOPLE v:

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

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

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

RIVERA (DAVID), PEOPLE v:

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

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

(Cal. Date - 10/16/13)

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

RODRIGUEZ (JULIO), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER TRIAL COURT'S DENIAL OF DEFENDANT'S REQUEST FOR AN ADJOURNMENT VIOLATED DUE PROCESS OR CORRECTION LAW § 168-n(3);

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

CRIMES - RIGHT OF CONFRONTATION - WHETHER DEFENDANT'S RIGHT OF CONFRONTATION WAS VIOLATED BY POLICE OFFICER'S TESTIMONY REGARDING WHAT HE WAS TOLD BY A NON-TESTIFYING COOPERATOR REGARDING DEFENDANT'S NICKNAME; WHETHER DEFENSE COUNSEL PRESERVED A CONFRONTATION CLAUSE CHALLENGE TO A NONTESTIFYING CO-DEFENDANT'S STATEMENT TO AN ACCOMPLICE WITNESS AND, IF SO, WHETHER TESTIMONY CONCERNING THE STATEMENT VIOLATED DEFENDANT'S RIGHT OF CONFRONTATION; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUFFICIENT NONACCOMPLICE TESTIMONY EXISTED TO SATISFY THE ACCOMPLICE CORROBORATION REQUIREMENT IN CPL 60.22; ALLEGED DISCOVERY AND ROSARIO VIOLATIONS;

ROMANELLO v INTESA SANPAOLO, S.P.A and STEFAN: (Cal. Date - 9/9/13)

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - DISABILITY - ALLEGED VIOLATIONS OF NEW YORK STATE HUMAN RIGHTS LAW AND NEW YORK CITY HUMAN RIGHTS LAW - FAILURE TO GRANT INDEFINITE MEDICAL LEAVE - EMPLOYER'S DUTY TO ENGAGE IN GOOD FAITH INTERACTIVE PROCESS TO IDENTIFY A REASONABLE ACCOMMODATION - RETALIATION - MOTION TO DISMISS;

ROSSI (JOHN), PEOPLE v:

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

RUSSELL (MARK), PEOPLE v:

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

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

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

SAGE (MERLIN G.), PEOPLE v:

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

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

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

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

(Cal. Date - 9/10/13)

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

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

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

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

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

SANTIAGO (HECTOR), PEOPLE v: (Cal. Date - 10/17/13)  
CRIMES - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST  
FOR A CIRCUMSTANTIAL EVIDENCE CHARGE TO THE JURY IN A DRUG  
POSSESSION CASE INVOLVING PRESENCE OF A CONTROLLED SUBSTANCE IN AN  
AUTOMOBILE - "PRESUMPTIVE EVIDENCE OF KNOWING POSSESSION...BY EACH  
AND EVERY PERSON IN THE AUTOMOBILE" (PENAL LAW § 220.25[1]) -  
CONSTRUCTIVE POSSESSION; EXCESSIVE SENTENCE;

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

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

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

SHABAZZ (OMAR), PEOPLE v: (Cal. Date - 9/4/13)  
CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION  
(PENAL LAW § 265.15[3]) - CRIMINAL POSSESSION OF A WEAPON IN THE  
SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-  
DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS  
INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION  
AGAINST PENAL INTEREST - WHETHER PEOPLE v CONCEPCION (17 NY3d 192  
[2011]) AND CPL 470.15 PRECLUDED THE APPELLATE DIVISION FROM RULING  
THAT DEFENDANT ALSO FAILED TO ESTABLISH THE DECLARANT'S  
UNAVAILABILITY; SUFFICIENCY OF THE EVIDENCE; ALLEGED PROSECUTORIAL  
MISCONDUCT - DENIAL OF MISTRIAL MOTION;

SIBBLIES (MARSHA), PEOPLE v:

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

SMART (FLOYD L.), PEOPLE v:

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

SMITH, MATTER OF v BROWN:

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

SMITH (TORREL), PEOPLE v:

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

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

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

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

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

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

CRIMES - RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO PURSUE AFFIRMATIVE DEFENSE TO CHARGE OF ROBBERY IN THE FIRST DEGREE BECAUSE THE "WEAPON" DISPLAYED DURING

THE ROBBERY WAS NOT A "LOADED WEAPON FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS PHYSICAL INJURY, COULD BE DISCHARGED" (PENAL LAW § 160.15[4]); CHALLENGE TO SHOW-UP IDENTIFICATION;

STARKER v TRUMP VILLAGE SECTION 4, INC., et al.:

COURTS - JURISDICTION - COMPLAINT AGAINST STATE AND NON-STATE DEFENDANTS FILED IN SUPREME COURT - DISMISSAL OF COMPLAINT AS AGAINST STATE AGENCIES WITHOUT PREJUDICE TO THE PLAINTIFF COMMENCING A CLAIM IN THE COURT OF CLAIMS;

STATE OF NEW YORK, MATTER OF v ENRIQUE D.: (Cal. Date - 9/12/13)  
CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - EVIDENCE - WHETHER SUPREME COURT PROPERLY EXERCISED ITS DISCRETION IN REJECTING TESTIMONY FROM SEX OFFENDER'S FORMER GIRLFRIEND REGARDING THEIR SEXUAL RELATIONSHIP ON THE GROUND THAT SUCH TESTIMONY WAS NOT RELEVANT TO WHETHER SEX OFFENDER HAD A MENTAL ABNORMALITY;

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

STATE OF NEW YORK, MATTER OF v DANIEL OO.:

MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CONFINEMENT OF PERSONS WHO HAVE NOT BEEN CONVICTED OF A SEX OFFENSE AND LACK CAPACITY TO STAND TRIAL WITH RESPECT TO WHETHER THEY COMMITTED A SEX OFFENSE; CLAIMED DENIAL OF DUE PROCESS AND EQUAL PROTECTION;

STATE OF NEW YORK, MATTER OF v JOHN S.:

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

STATE OF NEW YORK, MATTER OF v FLOYD Y.: (Cal. Date - 9/12/13)

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

SUBWAY SURFACE SUPERVISORS ASSOCIATION, MATTER OF v NEW YORK CITY TRANSIT AUTHORITY:

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

SWEAT (TYRONE), PEOPLE v:

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

ROBERT T., MATTER OF v SPROAT:

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

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

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

TEAGUE (EAMON), MATTER OF, &c.:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - APPELLATE DIVISION ORDER DENYING MOTION TO, AMONG OTHER THINGS, PRECLUDE DEPARTMENTAL DISCIPLINARY COMMITTEE FROM OFFERING ANY EVIDENCE AT HEARING, INCLUDING SUPPRESSION OF TRANSCRIPT OF EXAMINATION UNDER OATH;

THOMAS (ADRIAN P.), PEOPLE v:

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



THOMAS (MICHAEL), a/k/a ADAMS (NEIL), PEOPLE v.:  
(Cal. Date - 9/11/13)

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO HIS GUILTY PLEA WHERE THE TRIAL COURT FAILED TO INFORM HIM OF THE POSSIBLE IMMIGRATION CONSEQUENCES OF THE PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE REPRESENTATION OF COUNSEL BASED UPON COUNSEL'S FAILURE TO INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA;

THOMPSON (PAUL), PEOPLE v.:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED, IN RESPONSE TO AN ARGUMENT MADE BY DEFENSE COUNSEL IN SUMMATION, IN ALLOWING THE PEOPLE TO REOPEN THEIR CASE TO INTRODUCE A FINGERLESS GLOVE THAT HAD BEEN SUPPRESSED; CLAIMED VIOLATIONS OF DUE PROCESS DURING GRAND JURY PROCEEDINGS AND AT TRIAL; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL;

TORRES (DENNISSE) a/k/a TORRES RODRIGUEZ (DEENISSE) &c. v RICH et al.:

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

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

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

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

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

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

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

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

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

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

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

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

CRIMES - RIGHT TO SPEEDY TRIAL - PRE-INDICTMENT DELAY - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE PROSECUTION ESTABLISHED GOOD CAUSE FOR THE DELAY BETWEEN THE CRIME AND DEFENDANT'S INDICTMENT; SUFFICIENCY OF THE EVIDENCE;

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

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

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

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

WALSTON (JAMEL), PEOPLE v:

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

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

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

WELLS (CARL D.), PEOPLE v: (Cal. Date - 10/10/13)  
 CRIMES - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH -  
 DEFENDANT PLEADED GUILTY AFTER SUPREME COURT DENIED HIS MOTION TO  
 SUPPRESS PHYSICAL EVIDENCE RECOVERED FROM THE CAR HE WAS DRIVING  
 UPON THE GROUND THAT THE POLICE HAD CONDUCTED A PROPER INVENTORY  
 SEARCH - WHETHER THE APPELLATE DIVISION ERRED WHERE, AFTER  
 CONCLUDING THAT SUPREME COURT IMPROPERLY RELIED UPON THE  
 INVENTORY SEARCH DOCTRINE IN DENYING DEFENDANT'S MOTION TO  
 SUPPRESS PHYSICAL EVIDENCE, IT UPHELD THE CONVICTION ON HARMLESS  
 ERROR GROUNDS WHILE ACKNOWLEDGING THAT THE HARMLESS ERROR RULE  
 REGARDING SUPPRESSION ISSUES DOES NOT NORMALLY APPLY TO CASES  
 WHERE A DEFENDANT PLEADS GUILTY;

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

WILLIAM J. JENACK ESTATE APPRAISERS & AUCTIONEERS, INC. v  
RABIZADEH:  
 CONTRACTS - FORMATION OF CONTRACT - WHETHER NOTATIONS MADE BY  
 PLAINTIFF AUCTION HOUSE CONTEMPORANEOUSLY WITH BIDDING ON AN ITEM,  
 WHICH REFERRED TO DEFENDANT BIDDER AND THE CONSIGNOR OF AN  
 AUCTIONED ANTIQUE BY NUMBER ONLY, CONSTITUTED A MEMORANDUM OF SALE  
 SATISFYING THE STATUTE OF FRAUDS;

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

WISDOM (SIDNEY), PEOPLE v:  
 GRAND JURY - DEFECTIVE PROCEEDING - FAILURE TO ADMINISTER  
 TESTIMONIAL OATH TO WITNESS BEFORE TESTIFYING TO GRAND JURY -  
 WHETHER A TESTIMONIAL OATH IS EFFECTIVE IF ADMINISTERED AFTER A  
 WITNESS TESTIFIES AND, IF NOT, WHETHER SUCH A DEFECT WARRANTS  
 DISMISSAL OF AN INDICTMENT; MOTIONS AND ORDERS - WHETHER THE TRIAL  
 COURT ABUSED ITS DISCRETION AS A MATTER OF LAW BY PERMITTING

DEFENDANT TO FILE A MOTION TO DISMISS THE INDICTMENT AFTER THE TRIAL BEGAN BASED UPON THE TIMING OF THE ADMINISTRATION OF THE OATH TO THE GRAND JURY WITNESS; WHETHER DEFENDANT'S CONVICTION ON LEGALLY SUFFICIENT TRIAL EVIDENCE PRECLUDES REVIEW ON APPEAL OF HIS CHALLENGE TO THE ALLEGEDLY DEFECTIVE GRAND JURY PROCEEDING - CPL 210.30(6);

WORDEN (ROBERT L.), PEOPLE v: (Cal. Date - 10/17/13)  
CRIMES - PLEA OF GUILTY - DENIAL OF MOTION SEEKING TO WITHDRAW GUILTY PLEA BASED UPON COMPLAINANT'S RECANTATION - DEFENDANT'S ENTITLEMENT TO A HEARING ON THE MOTION; WHETHER DEFENDANT KNOWINGLY AND VOLUNTARILY ENTERED INTO GUILTY PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

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

ZAYTSEV v STANACARD, LLC:  
DISMISSAL AND NONSUIT - DISCONTINUANCE - DENIAL OF REQUEST TO SEVER COUNTERCLAIM FROM ACTION THAT WAS VOLUNTARILY DISCONTINUED WITHOUT PREJUDICE;

ZEH (VINCENT), PEOPLE v:  
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION; SUMMARY DENIAL OF CPL 440.10 MOTION - WHETHER DEFENDANT IS ENTITLED TO A HEARING ON CPL 440.10 MOTION RAISING INADEQUACY OF RETAINED TRIAL COUNSEL; MURDER;

ZHAI v CHEMICAL BANK, et al.:  
COURTS - CHALLENGE TO SUBJECT MATTER JURISDICTION OF CIVIL COURT;