

MAY 2014

NEW FILINGS DIGEST - CUMULATIVE UPDATE

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

Contact the Clerk's Office for additional information.

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

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

ALLEN, AN ATTORNEY, MATTER OF:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - RECIPROCAL DISCIPLINE - WHETHER THE APPELLATE DIVISION LACKED ANY BASIS TO SUSPEND ATTORNEY FOR TWO YEARS AND TO DENY ATTORNEY LEAVE TO APPLY FOR REINSTATEMENT TO THE PRACTICE OF LAW IN NEW YORK UNTIL SUCH TIME AS HE IS REINSTATED TO THE PRACTICE OF LAW IN A JURISDICTION THAT DISBARRED THE ATTORNEY;

ALLEN (TERRELL), PEOPLE v:

CRIMES - VERDICT - DUPLICITY - WHETHER THE EVIDENCE AT TRIAL ALLOWED THE JURY TO CONVICT DEFENDANT OF A CRIME DIFFERENT FROM THE ONE FOR WHICH HE WAS INDICTED - WHETHER A DUPLICITY ERROR THAT IS NOT OBVIOUS ON THE FACE OF THE INDICTMENT MUST BE PRESERVED FOR APPELLATE REVIEW;

AMALGAMATED BANK v HELMSLEY-SPEAR, et al.:

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

ANDREWS (CHURCHILL), PEOPLE v:

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

ARGYRIS (COSTANDINO), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER, BASED ON INFORMATION PROVIDED BY AN ANONYMOUS TELEPHONE CALLER, POLICE HAD

REASONABLE SUSPICION TO STOP THE CAR IN WHICH DEFENDANT WAS TRAVELING; SUPPRESSION HEARING;

BANOS, MATTER OF v RHEA, et al.:

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

BARET (ROMAN), PEOPLE v:

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

BARRETO v METROPOLITAN TRANSPORTATION AUTHORITY:

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

BASILE (CURTIS), PEOPLE v:

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

BDC FINANCE LLC v BARCLAYS BANK PLC:

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

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

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL'S FAILURE TO REQUEST AN ADVERSE INFERENCE CHARGE REGARDING DESTROYED EVIDENCE CONSTITUTED INEFFECTIVE ASSISTANCE

OF COUNSEL;

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

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

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

LANDLORD AND TENANT - RENT REGULATION - ASCERTAINING BASE DATE RENT WHERE FRAUD ALLEGED - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT PETITIONER MADE A SUFFICIENT SHOWING OF FRAUD TO REQUIRE THE NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR) TO INVESTIGATE THE LEGALITY OF THE BASE DATE RENT; WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT DHCR ACTED WITHIN ITS DISCRETION BY RESOLVING THE PETITION FOR ADMINISTRATIVE REVIEW ON ITS MERITS EVEN THOUGH IT WAS FILED AFTER THE 35-DAY STATUTORY TIME FRAME (9 NYCRR 2529.2) AMENDMENT OF A CAPTION;

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

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

BRANIC INTERNATIONAL REALTY CORP. v PITT:

LANDLORD AND TENANT - RENT REGULATION - STATUS OF PERSON ELIGIBLE FOR SUBSIDIZED HOUSING BENEFITS ("ELIGIBLE PERSON") AND PLACED IN A HOTEL ROOM PURSUANT TO AGREEMENT BETWEEN HOTEL OWNER AND MUNICIPAL SERVICES AGENCY, WHICH THEREAFTER EXPIRED - WHETHER ELIGIBLE PERSON WAS A "PERMANENT TENANT" OF HOTEL WITHIN THE MEANING OF RENT STABILIZATION CODE (9 NYCRR 2520.6[j]) SOLELY BECAUSE HE CONTINUOUSLY RESIDED IN HOTEL ROOM FOR AT LEAST SIX MONTHS - WHETHER AGREEMENT BETWEEN OWNER AND MUNICIPAL SERVICES AGENCY WAS A LEASE THAT EXEMPTED THE HOTEL ROOM FROM THE RENT STABILIZATION CODE (9 NYCRR 2520.11[b]);

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

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

BROWN (JARROD), PEOPLE v:

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

BROWN (WILLIAM), PEOPLE v:

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

BRUMFIELD (MICHAEL S.), PEOPLE v:

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

BURTON v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:

TAXATION - NONRESIDENT SHAREHOLDERS - PLAINTIFFS' ELECTION UNDER INTERNAL REVENUE CODE § 338(h)(10) TO TREAT STOCK SALE AS AN ASSET SALE - WHETHER TAX LAW § 632(a)(2), AS AMENDED IN 2010, VIOLATES ARTICLE 16, § 3 OF THE NEW YORK STATE CONSTITUTION BY TREATING THE GAIN FROM THE SALE OF STOCK SUBJECT TO SUCH AN ELECTION AS NEW YORK SOURCE INCOME TAXABLE IN NEW YORK, RATHER THAN AS NON-TAXABLE INCOME FROM THE SALE OF INTANGIBLE PERSONAL PROPERTY;

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

4TH Dept. App. Div. order of 3/21/14; reversal with dissents; Rule 500.11 review pending;

SCHOOLS - NOTICE OF CLAIM - LATE NOTICE - VIRUS ALLEGEDLY CONTRACTED AT SCHOOL WRESTLING TOURNAMENT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT CLAIMANT FAILED TO ESTABLISH THAT SCHOOL RESPONDENTS HAD "ACTUAL KNOWLEDGE" OF THE ESSENTIAL FACTS CONSTITUTING HIS CLAIM;

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;

CARR (LEE), PEOPLE v:

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTRACTS - GUARANTEE TO PAY OBLIGATIONS OF COMPANY ARISING UNDER A PURCHASE AGREEMENT - WHETHER DEFAULT JUDGMENT OBTAINED AGAINST COMPANY CAN BE A VALID "OBLIGATION" SUBJECT TO THE GUARANTEE IF THE JUDGMENT WAS OBTAINED BY COLLUSION - WHETHER WAIVER OF

DEFENSES IN GUARANTEE PRECLUDES GUARANTOR FROM ARGUING THAT NO VALID OBLIGATION EXISTED BECAUSE OF COLLUSION - SUMMARY JUDGMENT IN LIEU OF COMPLAINT;

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

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

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

CULLEN (WILLIAM), PEOPLE v: (Cal. Date - 9/17/14)
CRIMES - WITNESSES - PRIOR CONSISTENT STATEMENT - WHETHER WITNESSES' STATEMENTS CONCERNING THE VICTIM'S PRIOR CONSISTENT STATEMENTS CONSTITUTED IMPROPER BOLSTERING; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; PROOF OF OTHER CRIMES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE CHALLENGED EVIDENCE WAS PROPERLY ADMITTED BECAUSE IT PLACED THE CHARGED CONDUCT IN CONTEXT AND PROVIDED NECESSARY BACKGROUND INFORMATION ON THE NATURE OF THE RELATIONSHIP BETWEEN DEFENDANT AND THE VICTIM;

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

DABROWSKI, &c. v METROPOLITAN LIFE INSURANCE COMPANY:

INSURANCE - LIFE INSURANCE - CANCELLATION OF POLICY; SUMMARY JUDGMENT;

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

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

DeJESUS (JOSHUE), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER POLICE TESTIMONY THAT DEFENDANT WAS ALREADY A SUSPECT BEFORE THE POLICE SPOKE TO THE SOLE WITNESS WHO IDENTIFIED HIM WAS PROPERLY ADMITTED INTO EVIDENCE "FOR THE LEGITIMATE NONHEARSAY PURPOSES OF COMPLETING THE NARRATIVE, EXPLAINING POLICE ACTIONS, PROVIDING THE CONTEXT OF THE INTERVIEW, CORRECTING A MISIMPRESSION CREATED BY DEFENDANT ON CROSS-EXAMINATION AND PREVENTING JURY SPECULATION";

DELEE (DWIGHT R.), PEOPLE v:

CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF MANSLAUGHTER IN THE FIRST DEGREE AS A HATE CRIME WAS INCONSISTENT WITH THE JURY'S FINDING OF NOT GUILTY ON THE CHARGE OF MANSLAUGHTER IN THE FIRST DEGREE - LESSER INCLUDED OFFENSE; POST-VERDICT STATEMENT OF JURY FOREPERSON;

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

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

DIACK (MICHAEL), PEOPLE v:

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

DIAL, MATTER OF v RHEA, et al.:

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

DIAZ (SANDRA), PEOPLE v:

CRIMES - CONTROLLED SUBSTANCES - POSSESSION - SUFFICIENCY OF THE EVIDENCE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT

DEFENDANT EXERCISED DOMINION AND CONTROL OVER THE CONTRABAND - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT THE EVIDENCE ESTABLISHED THE ELEMENTS OF FIRST-DEGREE UNLAWFULLY DEALING WITH A CHILD (PENAL LAW § 260.20[1]) BECAUSE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT A LARGE AMOUNT OF HEROIN AND DRUG PARAPHERNALIA WERE IN HER APARTMENT, WHERE FOUR CHILDREN UNDER THE AGE OF 18 LIVED; WHETHER PENAL LAW § 260.20(1) IS UNCONSTITUTIONALLY VAGUE FOR FAILING TO GIVE CLEAR NOTICE OF THE PROSCRIBED CONDUCT AND CREATING A RISK OF DISCRIMINATORY ENFORCEMENT;

DISALVO (JOHN A.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER, BASED ON INFORMATION PROVIDED BY AN ANONYMOUS TELEPHONE CALLER, POLICE HAD REASONABLE SUSPICION TO STOP THE CAR IN WHICH DEFENDANT WAS TRAVELING; SUPPRESSION HEARING;

DOERR v GOLDSMITH:

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

DOWNING v FIRST LENOX TERRACE ASSOCIATES:

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

DUBARRY (DARIUS), PEOPLE v:

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

DUMAY (JOSEPH), PEOPLE v:

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

MATTER OF DUNN, AN ATTORNEY:

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

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

CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-
 ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN
 CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES
 TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE
MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS;

DURANT (EVERETT M.), PEOPLE v:

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

E., AN ATTORNEY, MATTER OF:

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - SUSPENSION -
 WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT ATTORNEY
 "ENGAGED IN CONDUCT PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE,
 WITHDREW FROM REPRESENTATION OF A CLIENT WITHOUT PERMISSION OF THE
 COURT AND TO THE DETRIMENT OF THE CLIENT, AND FAILED TO COMPLY
 WITH THE RULE REGARDING THE DISBURSEMENT OF FUNDS FOR MISSING
 CLIENTS";

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

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

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

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

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

CONTRACTS - AMBIGUOUS CONTRACTS - SONGWRITER ROYALTY AGREEMENT
 UNDER WHICH "SECOND PARTY" WAS REQUIRED TO PAY TO "FIRST PARTIES"
 AN AMOUNT "EQUAL TO FIFTY (50%) PERCENT OF THE NET REVENUE
 ACTUALLY RECEIVED BY THE SECOND PARTY FROM ... FOREIGN

PUBLICATION" OF DUKE ELLINGTON'S COMPOSITIONS - DEFINITION OF "SECOND PARTY" TO INCLUDE A DOMESTIC PUBLISHER "AND ANY OTHER AFFILIATES" OF THAT DOMESTIC PUBLISHER - WHETHER "SECOND PARTY," IN CALCULATING THE NET REVENUE FROM WHICH IT MUST PAY ROYALTIES, MAY DEDUCT FEES THE DOMESTIC PUBLISHER PAYS TO FOREIGN SUBPUBLISHERS, WHERE THE FOREIGN SUBPUBLISHERS WERE INDEPENDENT ENTITIES WHEN THE CONTRACT WAS EXECUTED BUT ARE NOW OWNED BY THE DOMESTIC PUBLISHER - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT CONTRACT WAS UNAMBIGUOUS AND REFERRED ONLY TO THE AFFILIATES OF THE DOMESTIC PUBLISHER THAT WERE IN EXISTENCE AT THE TIME THE CONTRACT WAS EXECUTED;

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

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

EMPIRE CENTER FOR NEW YORK STATE POLICY, MATTER OF v NEW YORK STATE TEACHERS' RETIREMENT SYSTEM:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - NAMES OF RETIRED MEMBERS OF STATE TEACHERS' RETIREMENT SYSTEM - WHETHER THE NAMES OF RETIREES RECEIVING PENSION PAYMENTS ARE EXEMPT FROM DISCLOSURE UNDER PUBLIC OFFICERS LAW § 89(7);

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

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

FAZIO (GEORGE), PEOPLE v:

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

FORECLOSURE OF TAX LIENS, MATTER OF (FIRST CHURCH OF GOD IN CHRIST, INC.; CITY OF HUDSON):

TAXATION - REAL PROPERTY TAX - IN REM TAX FORECLOSURE PROCEEDING - NOTICE TO PROPERTY OWNER; ALLEGED DENIAL OF DUE PROCESS WHERE PETITIONER RELIGIOUS CORPORATION DID NOT RECEIVE ACTUAL NOTICE OF TAX FORECLOSURE PROCEEDING ON PARCEL PURPORTEDLY PREVIOUSLY CONVEYED TO ITS MINISTER;

FLANDERS (PERNELL A.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - CLAIM THAT TRIAL COURT'S

INSTRUCTION TO THE JURY CONSTRUCTIVELY AMENDED THE INDICTMENT, RENDERING IT DUPLICITOUS; MULTIPLE SHOTS FIRED FROM TWO FIREARMS; CONTINUING OFFENSE; WHETHER SHELL CASINGS WERE PROPERLY ADMITTED INTO EVIDENCE; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL; CLAIMED EXCESSIVE SENTENCE;

FLOYD, MATTER OF v CITY OF NEW YORK, et al. (AND 10 OTHER PROCEEDINGS): (Cal. Date - 9/11/14)

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

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

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

FORD (DENNIS), PEOPLE v:

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

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

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

FRATANGELO (PATRICIA), PEOPLE v:

CRIMES - INSTRUCTIONS - DRIVING WHILE INTOXICATED - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JURY THAT "UNDER OUR LAW, EVIDENCE THAT THERE WAS LESS THAN .08 OF 1 PER CENTUM BY WEIGHT OF ALCOHOL IN THE DEFENDANT'S BLOOD, IS PRIMA FACIE EVIDENCE THAT THE DEFENDANT WAS NOT IN AN INTOXICATED CONDITION" -

BASED UPON THE NUMBER OF DRINKS DEFENDANT CLAIMED TO HAVE HAD AND THE TIME BETWEEN THE STOP AND BREATH TEST, WHICH RESULTED IN A BLOOD ALCOHOL CONTENT (BAC) OF .09%, DEFENDANT'S EXPERT OPINED AT TRIAL THAT DEFENDANT'S BAC AT THE TIME OF THE STOP WOULD HAVE BEEN ONLY .03 TO .04% - VEHICLE AND TRAFFIC LAW §1195(2);

FREZZELL v CITY OF NEW YORK et al.:

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

FRONT, INC. v KHALIL:

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

GALINDO (OLIVERIO), PEOPLE v:

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

GAMMONS v CITY OF NEW YORK, et al.:

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

GARAY (BENNY), PEOPLE v:

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

GARCIA (RICHARD), PEOPLE v:

CRIMES - EVIDENCE - OUT-OF-COURT STATEMENT - WHETHER THE TRIAL COURT PROPERLY PERMITTED THE PEOPLE TO INTRODUCE EVIDENCE THAT THE

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

GARRETT (MARK), PEOPLE v:

CRIMES - VACATUR OF JUDGMENT OF CONVICTION - CPL 440.10 MOTION TO VACATE JUDGMENT BASED ON NEWLY DISCOVERED EVIDENCE - CLAIM THAT PEOPLE VIOLATED THEIR BRADY OBLIGATION BY FAILING TO DISCLOSE THAT THE INTERROGATING POLICE OFFICER HAD BEEN THE DEFENDANT IN AN UNRELATED FEDERAL CIVIL RIGHTS ACTION BY AN ARRESTEE CLAIMING THAT THE OFFICER HAD EXTRACTED A FALSE CONFESSION FROM HIM THROUGH THE USE OF FORCE; WITNESS - IMPEACHMENT;

GILES (DWIGHT), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER A CLAIM OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL MAY BE RAISED IN A CPL 330.30 MOTION INSTEAD OF A CPL 440.10 MOTION; SENTENCE - DUE PROCESS CHALLENGE TO SENTENCE PURSUANT TO PERSISTENT FELONY OFFENDER STATUTE (CPL 400.20) - WHETHER DEFENDANT'S SENTENCE WAS IMPERMISSIBLY ENHANCED BEYOND THE OTHERWISE APPLICABLE MAXIMUM TERM BASED ON FACTS FOUND BY THE JUDGE RATHER THAN THE JURY BEYOND A REASONABLE DOUBT;

GILES v YI: (Cal. Date - 5/7/14)

DISCLOSURE - MEDICAL RECORDS AND REPORTS - EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN ORDERING PLAINTIFF TO PRODUCE MEDICAL RECORDS LINKING PLAINTIFF'S INJURIES TO HIS EXPOSURE TO LEAD-BASED PAINT;

GILLOTTI (NEIL F.), PEOPLE v:

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

GOLDMAN (ARON), PEOPLE v:

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

GOLDSTEIN, MATTER OF v TAX APPEALS TRIBUNAL OF THE STATE OF NEW YORK et al.:

TAXATION - PERSONAL INCOME TAX - CPLR ARTICLE 78 PROCEEDING TO CHALLENGE TAX APPEALS TRIBUNAL DETERMINATION THAT PETITIONER TRUST BENEFICIARIES, WHO WERE OWED A REFUND FOR TAX YEAR 1994, WERE NOT ENTITLED TO INTEREST ON THE REFUND FROM THE DATE THE ORIGINAL 1994 RETURN WAS FILED, BUT ONLY FROM THE DATE THE AMENDED RETURN WAS FILED; CLAIMED DUE PROCESS AND EQUAL PROTECTION VIOLATIONS RELATED TO INTEREST CALCULATIONS AND TREATMENT OF OVERPAYMENTS AND UNDERPAYMENTS IN VARIOUS TAX YEARS;

GORDON (HAZEL E.), PEOPLE v:

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

GORMAN, MATTER OF v RICE, et al:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DOUBLE JEOPARDY - DURING COURSE OF TRIAL ON CHARGES OF DRIVING WHILE INTOXICATED, UNSAFE LANE CHANGE AND ENDANGERING THE WELFARE OF A CHILD, TRIAL JUDGE SUA SPONTE DECLARED A MISTRIAL BUT, PRIOR TO THE JURY'S DISCHARGE, RESCINDED THE DECLARATION AND DECLARED A MISTRIAL ON THE CONSENT OF PETITIONER - WHETHER RETRIAL IS BARRED ON THE GROUND OF DOUBLE JEOPARDY;

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

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

GRAHAM COURT OWNER'S CORP. v TAYLOR:

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

GRUBSTEIN (HOWARD), PEOPLE v:

CRIMES - PLEA OF GUILTY - MOTION TO WITHDRAW GUILTY PLEA TO DRIVING WHILE INTOXICATED (DWI) ON THE GROUND, AMONG OTHERS, THAT THE COURT DID NOT ADVISE THE SELF-REPRESENTED DEFENDANT THAT A SUBSEQUENT DWI OFFENSE COULD BE CHARGED AS A FELONY - MOTION TREATED AS A MOTION TO VACATE THE JUDGMENT OF CONVICTION UNDER CPL 440.10 - WHETHER THE APPELLATE TERM ERRED IN CONCLUDING THAT CPL 440.10(C) APPLIED TO BAR DEFENDANT'S CLAIM BECAUSE OF HIS FAILURE TO CHALLENGE THE PLEA ON DIRECT APPEAL;

GUDZ v JEMROCK REALTY COMPANY, LLC:

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

GUTHRIE (REBECCA), PEOPLE v:

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

HAGGERTY, JR. (JOHN F.), PEOPLE v:

CRIMES - INDICTMENT - VARIANCE BETWEEN THEORY OF INDICTMENT AND PROOF AT TRIAL - WHETHER THE EVIDENCE AT TRIAL SHOWED ONLY THAT DEFENDANT STOLE FROM THE INDEPENDENCE PARTY RATHER THAN FROM NEW YORK CITY MAYOR BLOOMBERG, AS CHARGED IN THE INDICTMENT; EVIDENCE - WHETHER TESTIMONY ABOUT THE TERMS OF THE BLOOMBERG REVOCABLE TRUST VIOLATED THE BEST EVIDENCE RULE;

HAMILTON v MILLER, et al.:

DISCLOSURE - MEDICAL RECORDS AND REPORTS - EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN ORDERING PLAINTIFF TO PRODUCE MEDICAL RECORDS LINKING PLAINTIFF'S INJURIES TO HIS EXPOSURE TO LEAD-BASED PAINT; EVIDENCE - JUDICIAL NOTICE - ACTION FOR DAMAGES RESULTING FROM EXPOSURE TO LEAD-BASED PAINT - WHETHER THE TRIAL COURT ERRED IN DENYING PLAINTIFF'S REQUEST FOR IT TO TAKE JUDICIAL NOTICE OF CONGRESSIONAL FINDINGS IN THE RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992 (42 USC 4851);

HANSON (PAMELA), PEOPLE v:

CRIMES - APPEAL - ALLEGED DEPRIVATION OF FAIR TRIAL BY SUPREME COURT'S FAILURE TO DISCLOSE AND RESPOND TO TWO JURY NOTES - CPL 310.30 - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, BECAUSE THE RECORD CONTAINED NO EVIDENCE THAT THE TWO NOTES ACTUALLY WERE RECEIVED BY SUPREME COURT, DEFENDANT'S ARGUMENT REGARDED MATTERS DEHORS THE RECORD AND WAS NOT PROPERLY BEFORE THE APPELLATE DIVISION;

HAWKINS (SEAN), PEOPLE v:

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

HENDERSON (WILLIAM), PEOPLE v:

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

HILL (DERRICK), PEOPLE v:

CRIMES - RIGHT TO REMAIN SILENT - WHETHER DEFENDANT OPENED DOOR TO TESTIMONY ABOUT HIS DECLINING TO MAKE STATEMENT TO ARRESTING POLICE OFFICER BY ASKING THE ARRESTING OFFICER ON CROSS EXAMINATION A SERIES OF QUESTIONS ELICITING PROOF THAT DEFENDANT HAD BEEN POLITE AND COOPERATIVE WITH POLICE, HAVING AGREED TO TAKE A BREATHALYZER TEST AND VARIOUS FIELD SOBRIETY TESTS - HARMLESS ERROR;

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

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

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;

INOA (JOSE), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER TRIAL COURT ERRED IN PERMITTING A POLICE DETECTIVE TO TESTIFY AS AN EXPERT WITH REGARD

TO CODED OR UNEXPLAINED LANGUAGE IN RECORDED TELEPHONE CONVERSATIONS BETWEEN DEFENDANT AND HIS CODEFENDANT;

TOWN OF ISLIP, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD, et al.:

LABOR UNIONS - COLLECTIVE BARGAINING - PAST PRACTICE - ASSIGNMENT OF TOWN VEHICLES TO EMPLOYEES FOR PERMANENT USE - WHETHER THE APPELLATE DIVISION PROPERLY CONFIRMED A DETERMINATION BY THE NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD, WHICH CONCLUDED THAT THE TOWN IMPERMISSIBLY ALTERED A PAST PRACTICE WHEN IT UNILATERALLY DISCONTINUED CERTAIN EMPLOYEES' RIGHTS TO USE TOWN VEHICLES ON A 24-HOUR-A-DAY BASIS;

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

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

JARVIS (KHARYE), PEOPLE v:

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

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

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH FOR GUN AFTER LAWFUL ARREST OF DEFENDANT IN HIS APARTMENT FOLLOWING OBSERVATION OF DEFENDANT WITH GUN - WHETHER EMERGENCY EXCEPTION TO WARRANT REQUIREMENT APPLIES;

JOHNSON (JEFFREY), PEOPLE v:

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

JOHNSON (RAUL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - DEFENDANT, REPRESENTED BY COUNSEL ON A SERIES OF BURGLARY CHARGES, AGREED TO ASSIST PROSECUTORS IN THE INVESTIGATION OF A STABBING WHICH HE SAID HAD BEEN CONFESSED TO BY SOMEONE ELSE - DURING SUBSEQUENT POLICE QUESTIONING ABOUT THE STABBING, DEFENDANT CONFESSED TO COMMITTING THE ASSAULT HIMSELF - WHETHER DEFENDANT'S SUBSEQUENT WAIVER OF MIRANDA RIGHTS WAS VALID UNDER THE CIRCUMSTANCES; SUPPRESSION HEARING;

JOHNSON (SHARMELLE), PEOPLE v:

CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WHETHER DEFENDANT'S PLEA ALLOCUTION NEGATED AN ESSENTIAL ELEMENT OF THE CRIME CHARGED; RAPE IN THE SECOND DEGREE - WHETHER VICTIM WAS "MENTALLY INCAPACITATED" DUE TO THE INFLUENCE OF AN INTOXICATING SUBSTANCE ADMINISTERED TO HER (PENAL LAW §§ 130.30[2] AND 130.00[6]);

JONES (CLEMON), PEOPLE v:

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

JONES (CLIFFORD), PEOPLE v:

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

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

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

KESCHNER (MATTHEW), PEOPLE v:

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

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

INSURANCE - DISCLAIMER OF COVERAGE - WHETHER THE DUTY TO DISCLAIM

AS SOON AS REASONABLY POSSIBLE SET FORTH IN INSURANCE LAW § 3420(d) APPLIES TO ENVIRONMENTAL PROPERTY DAMAGE CLAIMS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT TRIABLE ISSUES OF FACT EXISTED AS TO WHETHER INSURERS WAIVED THEIR RIGHT TO DISCLAIM COVERAGE BASED UPON THE INSUREDS' LATE NOTICE OF AN OCCURRENCE;

KICKERTZ, MATTER OF v NEW YORK UNIVERSITY:

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

KIGIN, MATTER OF v STATE OF NEW YORK WORKERS' COMPENSATION BOARD:

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

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

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

KIMMEL v STATE OF NEW YORK et al.:

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

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

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

KIMSO APARTMENTS, LLC v GANDHI:

PLEADING - AMENDMENT - COUNTERCLAIM - DEFENDANT'S APPLICATION AT

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

KRUGER (KEVIN), PEOPLE v:

CRIMES - APPEAL - EXTENSION OF TIME TO FILE AN APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS - WHETHER THE APPELLATE DIVISION ERRED IN DENYING DEFENDANT'S APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING TO FILE A LATE APPLICATION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS UPON THE GROUND THAT PEOPLE v SYVILLE (15 NY3d 391) DID NOT PROVIDE FOR SUCH RELIEF;

LAMONT (JAFARI), PEOPLE v:

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

LASHWAY (STEVEN), PEOPLE v:

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

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

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

LINARES, MATTER OF v EVANS:

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

LLOYD-DOUGLAS (COLLIN F.), PEOPLE v: (Cal. Date - 9/18/14)
 CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS - HARMLESS ERROR;

LOPEZ, MATTER OF v EVANS:

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

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

CRIMES - EVIDENCE - PRIOR CONSISTENT STATEMENTS - WHETHER THE TRIAL COURT ERRED IN ALLOWING ADMISSION OF TESTIMONY FROM SEVERAL WITNESSES ABOUT WHEN AND HOW THE VICTIM DISCLOSED THE ABUSE; WHETHER THE TRIAL COURT ERRED IN PRECLUDING TESTIMONY FROM COMPLAINANT'S GRANDMOTHER THAT THE DEFENSE CONTENDED SHOWED THE VICTIM'S MOTIVE TO LIE;

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

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

M. (MARQUAN W.), PEOPLE v:

CRIMES - CYBER-BULLYING - ALBANY LOCAL LAW NO. 11 OF 2010 - CONSTITUTIONAL CHALLENGE TO LOCAL LAW THAT CRIMINALIZES "ANY ACT OF COMMUNICATING OR CAUSING A COMMUNICATION TO BE SENT BY MECHANICAL OR ELECTRONIC MEANS, INCLUDING POSTING STATEMENTS ON THE INTERNET OR THROUGH A COMPUTER OR EMAIL NETWORK, DISSEMINATING EMBARRASSING OR SEXUALLY EXPLICIT PHOTOGRAPHS; DISSEMINATING PRIVATE, PERSONAL, FALSE OR SEXUAL INFORMATION, OR SENDING HATE MAIL, WITH NO LEGITIMATE PRIVATE, PERSONAL, OR PUBLIC PURPOSE, WITH THE INTENT TO HARASS, ANNOY, THREATEN, ABUSE, TAUNT, INTIMIDATE, TORMENT, HUMILIATE, OR OTHERWISE INFLICT SIGNIFICANT EMOTIONAL HARM ON ANOTHER PERSON" - ALLEGED VIOLATION OF DEFENDANT'S FIRST AMENDMENT RIGHTS - WHETHER THE LOCAL LAW IS UNCONSTITUTIONALLY OVERBROAD OR VAGUE ON ITS FACE OR AS APPLIED TO DEFENDANT;

MAETREUM OF CYBELE, MAGNA MATER, INC., MATTER OF v McCOY &c., et al.:

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

MALAY v CITY OF SYRACUSE, et al.:

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

MALDONADO (JOSE), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED DEFENDANT'S CONVICTION FOR DEPRAVED INDIFFERENCE MURDER WHERE THERE WAS TESTIMONY THAT DEFENDANT TRIED TO AVOID HURTING ANYONE WHEN ATTEMPTING TO ESCAPE FROM POLICE AND WAS REMORSEFUL AFTERWARD;

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

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

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

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - CLAIM THAT CITY DEFENDANTS DISCRIMINATED AGAINST CERTAIN FIREFIGHTERS BY ALLOWING PROMOTIONAL ELIGIBILITY LISTS CREATED PURSUANT TO THE CIVIL SERVICE LAW TO EXPIRE SOLELY ON THE GROUND THAT PLAINTIFFS, WHO WERE NEXT IN LINE FOR PROMOTION, ARE CAUCASIAN - REDUCTION OF RECOVERY FOR ECONOMIC DAMAGES; NOTICE OF CLAIM (GENERAL MUNICIPAL LAW § 50-i); LIABILITY OF CITY UNDER HUMAN RIGHTS LAW UNDER STANDARD SET IN RICCI v DeSTEFANO (557 US 557);

MARTINEZ (ANTONIO), PEOPLE v:

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

McCRAY (TERENCE), PEOPLE v:

CRIMES - DISCLOSURE - WHETHER COUNTY COURT ERRED IN NOT TURNING OVER TO DEFENDANT CERTAIN OF THE RAPE VICTIM'S MENTAL HEALTH RECORDS; EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - CROSS-EXAMINATION ABOUT HYPERSEXUALITY - RAPE SHIELD LAW - LIMITATION OF DEFENSE COUNSEL'S CROSS-EXAMINATION DESIGNED TO ELICIT TESTIMONY ABOUT THE VICTIM'S ERRATIC BEHAVIOR - DENIAL OF MOTION TO COMPEL PROSECUTION TO OBTAIN CERTAIN OF THE VICTIM'S HOSPITALIZATION RECORDS; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO OBJECT TO ADMISSION OF CERTAIN EVIDENCE OR REQUEST LIMITING INSTRUCTIONS;

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

McLEAN (SAMUEL), PEOPLE v: (Cal. Date - 9/10/14)
CRIMES - RIGHT TO COUNSEL - INCULPATORY STATEMENT TAKEN BY POLICE WHILE DEFENDANT IMPRISONED ON UNRELATED CHARGE - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE POLICE FULFILLED THEIR OBLIGATION TO RESOLVE AN AMBIGUITY AS TO WHETHER DEFENDANT WAS REPRESENTED BY COUNSEL IN A HOMICIDE INVESTIGATION BY DETERMINING THAT COUNSEL'S REPRESENTATION OF DEFENDANT HAD TERMINATED PRIOR TO QUESTIONING HIM;

McNULTY, et al., MATTER OF v TAX APPEALS TRIBUNAL OF THE STATE OF NEW YORK et al.:
TAXATION - PERSONAL INCOME TAX - CPLR ARTICLE 78 PROCEEDING TO CHALLENGE TAX APPEALS TRIBUNAL DETERMINATION THAT PETITIONERS, WHO WERE OWED REFUNDS FOR CERTAIN TAX YEARS, WERE NOT ENTITLED TO INTEREST OWED THE REFUNDS FROM THE DATES THE ORIGINAL RETURNS WERE FILED, BUT ONLY FROM THE DATES THE AMENDED RETURNS WERE FILED; CLAIMED DUE PROCESS AND EQUAL PROTECTION VIOLATIONS RELATED TO INTEREST CALCULATIONS AND TREATMENT OF OVERPAYMENTS AND UNDERPAYMENTS IN VARIOUS TAX YEARS;

MERRY-GO-ROUND PLAYHOUSE, INC., MATTER OF v ASSESSOR OF THE CITY OF AUBURN, et al.:
TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW (RPTL) ARTICLE 7 PROCEEDING TO REVIEW AN ASSESSMENT ON REAL PROPERTY MADE BY THE CITY RESPONDENTS - WHETHER THE SUBJECT PROPERTIES, TWO APARTMENT BUILDINGS HOUSING A THEATER'S SEASONAL ACTORS AND STAFF, WERE USED EXCLUSIVELY FOR A TAX EXEMPT PURPOSE AS DEFINED BY RPTL 420-a(1)(a);

MONTANE, MATTER OF v EVANS:

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

MORPHEUS CAPITAL ADVISORS, LLC v UBS AG, et al.:

CONTRACTS - BREACH OF CONTRACT - CLAIMS ARISING OUT OF AGREEMENT
 GIVING PLAINTIFF THE RIGHT TO BROKER THE SALE OF CERTAIN STUDENT
 LOAN ASSETS - FRUSTRATION OF PURPOSE DEFENSE; DISMISSAL AND
 NONSUIT - DISMISSAL OF COMPLAINT WITH PREJUDICE;

MOTELSON v FORD MOTOR COMPANY:

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

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

ENVIRONMENTAL CONSERVATION - STATE POLLUTANT DISCHARGE ELIMINATION
 SYSTEM PERMIT - STATEWIDE GENERAL PERMIT FOR STORM WATER
 DISCHARGES FROM MUNICIPAL SEPARATE STORM SEWER SYSTEMS - WHETHER
 THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE GENERAL
 PERMIT AT ISSUE DOES NOT VIOLATE 33 USC § 1342(a)(1), 33 USC §
 1342 (p)(3)(B)(iii), ECL 17-0805(1)(a)(ix), ECL 17-0808(3)(c), ECL
 17-0811(5), ECL 17-0813, OR 6 NYCRR 750-1.14;

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

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

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (ANDRUCKI v ALUMINUM
 COMPANY OF AMERICA, et al.):

PUBLIC AUTHORITIES - CLAIMS AGAINST PUBLIC AUTHORITIES -
 COMPLIANCE WITH NOTICE OF CLAIM REQUIREMENTS - WHETHER A NOTICE OF
 CLAIM THAT STATED PERSONAL INJURY CLAIMS ARISING OUT OF A WORKER'S
 EXPOSURE TO ASBESTOS AND DEVELOPMENT OF MALIGNANT MESOTHELIOMA,
 PROVIDED THE REQUIRED 60-DAY NOTICE WITH RESPECT TO SURVIVORSHIP

AND WRONGFUL DEATH CAUSES OF ACTION CONTAINED IN AMENDED COMPLAINT FILED AFTER WORKER DIED - APPLICABILITY OF "SUBSTANTIAL COMPLIANCE" DOCTRINE;

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

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

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

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

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

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

NOREX PETROLEUM LIMITED v BLAVATNIK, et al.:

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

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

(Cal. Date - 9/10/14)

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

THE COUNTY MAY OFFSET THE CHARGE-BACKS AGAINST THE TOWN'S SHARE OF SALES TAX REVENUE THE COUNTY IS OBLIGATED TO PAY TO THE TOWN;

NUMRICH GUN PARTS CORPORATION, MATTER OF v RIVERA &c., et al.:
UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - PROCEEDING TO, AMONG OTHER THINGS, PROHIBIT RESPONDENTS FROM CHARACTERIZING PETITIONER'S CALL CENTER REPRESENTATIVES AS EMPLOYEES FOR PURPOSES OF UNEMPLOYMENT INSURANCE AND FROM CONDUCTING FURTHER ADMINISTRATIVE PROCEEDINGS ON THE ISSUE; SUBJECT MATTER JURISDICTION - LABOR LAW § 626;

O'DANIEL (WILLIAM), PEOPLE v: (Cal. Date - 9/16/14)
CRIMES - RIGHT TO COUNSEL - REPLACEMENT COUNSEL - COUNSEL, INITIALLY CHOSEN BY DEFENDANT'S RETAINED COUNSEL AS A SECOND CHAIR, ULTIMATELY REPRESENTED DEFENDANT AT TRIAL DUE TO RETAINED COUNSEL'S HEALTH PROBLEMS - WHETHER DEFENDANT WAS DENIED THE RIGHT TO COUNSEL, INCLUDING THE RIGHT TO COUNSEL OF HIS CHOICE - WHETHER REPLACEMENT COUNSEL PROVIDED EFFECTIVE ASSISTANCE OF COUNSEL; WITNESSES - EXPERT WITNESS - WHETHER THE TRIAL COURT ERRED IN ALLOWING A NURSE PRACTITIONER TO TESTIFY THAT HER EXAMINATION OF A CHILD SHOWED EVIDENCE OF SEXUAL ABUSE;

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

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

O'NEILL, et al., MATTER OF v PFAU:
PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 78 PROCEEDING TO COMPEL PAYMENT TO SUFFOLK COUNTY COURT OFFICERS OF A SALARY INCREMENT REFLECTING A CONTINUOUS SERVICE CREDIT; STATUTE OF LIMITATIONS;

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

VERONICA P., MATTER OF v RADCLIFF A.:

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

PACHERILLE (ANTHONY), PEOPLE v:

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

PATEL (VINOD), PEOPLE v:

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

PATERNO v LASER SPINE INSTITUTE, et al.:

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

PERALES (RICHARD), PEOPLE v:

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

PINES, et al. v STATE OF NEW YORK:

JUDGES - JUDICIAL SALARIES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE COMPENSATION OF JUDGES AND JUSTICES OF THE UNIFIED COURT SYSTEM OF THE STATE OF NEW YORK WAS NOT INCREASED BY THE ENACTMENT OF THE LAWS OF 2009, CHAPTER 51, § 3;

PLATEK v ALLSTATE INDEMNITY COMPANY:

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

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

CRIMES - CONFESSION - STATEMENTS MADE BY DEFENDANT DURING PRE-

ARRAIGNMENT PROGRAM - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT A "PREAMBLE" GIVEN BY LAW ENFORCEMENT AUTHORITIES TO DEFENDANT BEFORE ARRAIGNMENT AND PRIOR TO THE RECITATION OF THE MIRANDA WARNINGS, VIOLATED DEFENDANT'S MIRANDA RIGHTS;

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

NEGLIGENCE - DUTY - FALL FROM SETBACK ROOF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, GIVEN THE NATURE AND LOCATION OF THE SETBACK ROOF, IT WAS UNFORESEEABLE AS A MATTER OF LAW THAT INDIVIDUALS WOULD CHOOSE TO ACCESS IT AND, THUS, THAT DEFENDANTS HAD NO DUTY TO GUARD AGAINST SUCH AN OCCURRENCE - VIOLATIONS OF STATUTORY DUTY - APPLICABILITY OF 1968 BUILDING CODE - 1979 CERTIFICATE OF OCCUPANCY AS PROOF THAT MULTIPLE DWELLING LAW WAS NOT VIOLATED;

REID (GRAHAM), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE LOWER COURTS ERRED IN DENYING A SUPPRESSION MOTION REGARDING A SWITCH BLADE KNIFE FOUND BY A POLICE OFFICER IN A PAT-DOWN AFTER PULLING DEFENDANT OVER FOR ERRATIC DRIVING BUT BEFORE ANY ARREST WAS INTENDED;

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

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

RIGANO &c., MATTER OF v VIBAR CONSTRUCTION, INC. (AND ANOTHER PROCEEDING):

LIENS - MECHANIC'S LIEN - PROCEEDINGS TO DISCHARGE A MECHANIC'S LIEN AND TO AMEND THE NOTICE OF LIEN TO CORRECT THE NAME OF THE OWNER OF THE REAL PROPERTY - WHETHER MISIDENTIFICATION OF THE TRUE OWNER OF THE PROPERTY IN THE NOTICE OF LIEN IS A JURISDICTIONAL DEFECT WHICH CANNOT BE CURED BY AMENDMENT NUNC PRO TUNC;

RIDGE v GOLD, et al.:

ADMINISTRATIVE LAW - COLLATERAL ESTOPPEL - PRECLUSIVE EFFECT OF WORKERS' COMPENSATION BOARD FINDING AS TO CAUSAL RELATIONSHIP - IDENTITY OF ISSUE - WHETHER THE APPELLATE DIVISION ERRED IN AWARDING SUMMARY JUDGMENT TO DEFENDANT CONTRACTOR ON THE GROUND THAT THE WORKERS' COMPENSATION BOARD DETERMINED THAT NO ACCIDENT OCCURRED AND THAT SUCH DETERMINATION WAS ENTITLED TO COLLATERAL ESTOPPEL EFFECT;

RIVERA (ANNER), PEOPLE v:

CRIMES - RIGHT TO BE PRESENT AT TRIAL - TRIAL JUDGE'S ANSWERING OF JUROR'S SUBSTANTIVE LEGAL QUESTIONS INSIDE ROBIN ROOM WITHOUT THE PRESENCE OF DEFENDANT, DEFENSE COUNSEL, THE PROSECUTOR AND OTHER JURORS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL JUDGE'S ACTS CONSTITUTED A MODE OF PROCEEDINGS ERROR NOT SUBJECT TO HARMLESS ERROR ANALYSIS EVEN THOUGH DEFENSE COUNSEL

CONSENTED TO THE PROCEDURE AND THE TRIAL JUDGE TOLD COUNSEL AND DEFENDANT EVERYTHING THAT HAPPENED IN THE ROBIN ROOM AND THAT THEY COULD REQUEST A READ-BACK OF HIS CONVERSATION WITH THE JUROR AT ANY TIME;

RIVERA (DAVID), PEOPLE v:

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

ROBLES v NEW YORK CITY HOUSING AUTHORITY:

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

RODRIGUEZ (SERGIO), PEOPLE v:

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

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

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

PEOPLE &c., ex rel. DeLIA, ON BEHALF OF SS. (ANONYMOUS) v MUNSEY:

HABEAS CORPUS - INVOLUNTARY COMMITMENT - PATIENT'S RIGHT TO IMMEDIATE RELEASE WHERE HOSPITAL FILES AN INVOLUNTARY RETENTION APPLICATION AFTER EXPIRATION OF THE INITIAL RETENTION PERIOD - WHETHER MENTAL HYGIENE LAW § 33.15(b) REQUIRES SUPREME COURT TO CONDUCT AN EXAMINATION INTO PATIENT'S ALLEGED MENTAL DISABILITY AND RETENTION BEFORE GRANTING WRIT OF HABEAS CORPUS IN A PROCEEDING BROUGHT PURSUANT TO CPLR ARTICLE 70;

SANDERS (RASAUN), PEOPLE v:

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

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

SHAULOV (BORIS), PEOPLE v:

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

SHIPLEY et al. v CITY OF NEW YORK et al.:

DEAD BODIES - RIGHT OF SEPULCHER - RELEASE OF DECEDENT'S BODY BY MEDICAL EXAMINER'S OFFICE WITHOUT NOTIFICATION TO NEXT OF KIN THAT DECEDENT'S BRAIN HAD BEEN REMOVED AND RETAINED FOR FURTHER EXAMINATION;

SCHULZ v NEW YORK STATE EXECUTIVE:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER THE NEW YORK SECURE AMMUNITION AND FIREARMS ENFORCEMENT ACT (L. 2013, ch. 1) VIOLATES ARTICLE III, § 14 OF THE NEW YORK CONSTITUTION, ARTICLE XII OF THE NEW YORK CONSTITUTION, THE SECOND AMENDMENT TO THE FEDERAL CONSTITUTION, OR CIVIL RIGHTS LAW § 4;

SCHULZ v STATE OF NEW YORK EXECUTIVE:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER THE START-UP NEW YORK PROGRAM (L. 2013, ch. 68) VIOLATES NEW YORK CONSTITUTION ARTICLE III, §§ 14 AND 17, ARTICLE VII, § 8(1), ARTICLE VIII, § 1, AND ARTICLE IX, § 2; WHETHER THE UPSTATE NEW YORK GAMING ECONOMIC DEVELOPMENT ACT (L. 2013, ch 174) VIOLATES NEW YORK CONSTITUTION ARTICLE III, § 14;

SCHULZ v SILVER:

STATE - STANDING - WHETHER SUPREME COURT ERRED IN HOLDING THAT PLAINTIFF DID NOT HAVE STANDING AS A CITIZEN-TAXPAYER TO BRING CERTAIN CLAIMS REGARDING NONFISCAL ACTIVITIES ARISING FROM DEFENDANT'S HANDLING OF SEXUAL HARASSMENT AND DISCRIMINATION CLAIMS BY TWO STAFF MEMBERS OF A FORMER ASSEMBLY MEMBER; GOVERNMENTAL IMMUNITY - WHETHER SUPREME COURT ERRED IN HOLDING THAT DEFENDANT'S APPROVAL OF THE EXPENDITURE OF STATE FUNDS FOR THE SETTLEMENT OF SEXUAL HARASSMENT AND DISCRIMINATION CLAIMS WAS

DISCRETIONARY IN NATURE;

SCIARA, et al. v SURGICAL ASSOCIATES OF WESTERN NEW YORK,
P.C., et al.:

WITNESSES - RIGHTS OF COUNSEL FOR NONPARTY WITNESS AT DEPOSITION -
CPLR 3113(c) - 22 NYCRR 221.2 AND 221.3;

SIDNEY W., MATTER OF v CHANTA J.:

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

SIERRA v 4401 SUNSET PARK, LLC:

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

SILVA (JULIAN), PEOPLE v:

CRIMES - JURORS - NOTE FROM JURY - TRIAL COURT'S FAILURE TO NOTIFY
COUNSEL OF JURY NOTE AND TO READ NOTE INTO THE RECORD; CLAIMED
IMPROPER REMARKS IN PROSECUTOR'S SUMMATION;

SOWELL, MATTER OF v FISCHER:

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

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

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

SOLLA, MATTER OF v BERLIN:

STATE - EQUAL ACCESS TO JUSTICE ACT (EAJA) (CPLR ARTICLE 86) -
ATTORNEY'S FEES - WHETHER THE EAJA PERMITS THE AWARD OF ATTORNEY'S
FEES BASED ON THE "CATALYST THEORY" THAT THE LITIGATION RESULTED
IN THE STATE'S VOLUNTARY GRANTING OF THE RELIEF SOUGHT;

SPEARS (KELVIN), PEOPLE v:

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

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

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

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

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

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

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

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

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

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

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

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

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER SUPREME COURT ERRED BY PERMITTING THE STATE'S EXPERT TO PROVIDE REBUTTAL TESTIMONY AT A DISPOSITIONAL HEARING VIA TWO-WAY VIDEO CONFERENCE - WHETHER THE HEARING COURT IS REQUIRED TO MAKE A

FINDING OF "GOOD CAUSE" OR "EXCEPTIONAL CIRCUMSTANCES" BEFORE PERMITTING A REBUTTAL WITNESS TO TESTIFY VIA TWO-WAY VIDEO CONFERENCE INSTEAD OF IN PERSON;

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

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

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

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

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

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

ANTWAIN T., MATTER OF:

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

D. T. v RICH et al.:

JUDGMENTS - SUMMARY JUDGMENT - WHETHER DEFENDANT SAINT CABRINI HOME, INC. WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING THE

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

THOMAS (PATRICK), PEOPLE v:

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

TOUTPUISSANT, MATTER OF v FISCHER:

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

TREZZA et al. v METROPOLITAN TRANSPORTATION AUTHORITY, et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY (INSURANCE LAW § 5102[d]) - WHETHER JURY'S AWARD FOR FUTURE PAIN AND SUFFERING WAS SUPPORTED BY THE EVIDENCE PRESENTED AT TRIAL;

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

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

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

CRIMES - SENTENCE - FAILURE TO ADVISE DEFENDANT OF POST-RELEASE SUPERVISION (PRS) BEFORE ENTRY OF GUILTY PLEA - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT DEFENDANT HAD BEEN INFORMED ABOUT PRS SUFFICIENTLY BEFORE SENTENCE WAS IMPOSED SO THAT SHE WAS REQUIRED TO PRESERVE THE CATU ERROR FOR APPELLATE REVIEW AND THAT, IN ANY EVENT, DEFENDANT WAIVED THE RIGHT TO ASSERT THE CATU ERROR;

VARGAS v CITY OF NEW YORK, et al.:

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

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

MUNICIPAL CORPORATIONS - SIDEWALKS - PRIOR NOTICE OF DEFECTIVE CONDITION - TRIP AND FALL RESULTING FROM A HOLE IN A PEDESTRIAN RAMP - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE

MARKINGS ON THE MAP BY THE BIG APPLE POTHOLE AND SIDEWALK PROTECTION CORPORATION, WHICH THE CITY SUBMITTED IN SUPPORT OF ITS MOTION FOR SUMMARY JUDGMENT, RAISED AN ISSUE OF FACT AS TO WHETHER THE CITY HAD PRIOR WRITTEN NOTICE OF THE DEFECT AT ISSUE;
VIVIANE ETIENNE MEDICAL CARE, P.C. &c. v COUNTRY-WIDE INSURANCE CO.:

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

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

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

WALSTON (JAMEL), PEOPLE v:

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

WALTON v STRONG MEMORIAL HOSPITAL, et al.:

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

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

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - LICENSES - PLUMBERS - REVOCATION OF MASTER PLUMBING LICENSE FOR VIOLATION OF BUILDING CODE - WHETHER THE APPELLATE DIVISION ERRED IN ANNULLING PENALTY AS EXCESSIVE AND REMANDING TO AGENCY FOR IMPOSITION OF A LESSER PENALTY;

WELLS (DIANE), PEOPLE v:

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

WILLIAMS (PAUL), PEOPLE v:

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

WILLIAMS (TERRANCE), PEOPLE v:

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

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);

WISOFF v CITY OF SCHENECTADY, NEW YORK:

CONSTITUTIONAL LAW - VALIDITY OF ORDINANCE - WHETHER THE RENTAL CERTIFICATE ORDINANCE IN THE SCHENECTADY CITY CODE VIOLATES AN OWNER OF RENTAL PROPERTY'S RIGHT TO BE FREE FROM UNWARRANTED AND UNREASONABLE SEARCHES UNDER NY CONSTITUTION, ARTICLE 1, § 12;

WITTORF v CITY OF NEW YORK:

MUNICIPAL CORPORATIONS - TORT LIABILITY - WHILE IN THE PROCESS OF CLOSING ROADWAY SO REPAIRS COULD BE MADE, NEW YORK CITY DEPARTMENT OF TRANSPORTATION (DOT) SUPERVISOR TOLD PLAINTIFF SHE COULD PROCEED THROUGH ROAD ON HER BICYCLE AND PLAINTIFF WAS INJURED WHEN SHE RODE INTO A LARGE POTHOLE - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT PLAINTIFF'S INJURIES WERE CAUSED BY THE DOT EMPLOYEE'S ACTS OF TRAFFIC CONTROL, A DISCRETIONARY GOVERNMENTAL FUNCTION, RATHER THAN BY DEFENDANT'S PROPRIETARY FUNCTION OF

MAINTAINING THE ROADWAY;

WOODSIDE MANOR NURSING HOME, MATTER OF v SHAH:

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

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

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