

SEPTEMBER 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";

ACE SECURITIES CORPORATION v DB STRUCTURED PRODUCTS, INC.:

LIMITATION OF ACTIONS - WHEN CAUSE OF ACTION ACCRUES - CONTRACT CAUSE OF ACTION STEMMING FROM BREACH OF REPRESENTATIONS AND WARRANTIES CONTAINED IN AGREEMENTS RELATED TO THE SECURITIZATION OF RESIDENTIAL MORTGAGES - TIMELINESS OF CONTRACT CAUSE OF ACTION UNDER SIX-YEAR STATUTE OF LIMITATIONS;

ALAMIN v UDDIN, et al.:

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING MOTION TO AMEND AN APPELLATE DIVISION ORDER OR TO EXTEND THE TIME TO MOVE FOR LEAVE TO APPEAL TO THE COURT OF APPEALS FROM THAT ORDER;

ALLEN (TERRELL), PEOPLE v: (Cal. Date - 10/23/14)

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;

ALEXANDER v ALEXANDER:

HUSBAND AND WIFE AND OTHER DOMESTIC RELATIONSHIPS - SUPPORT - MAINTENANCE - EQUITABLE DISTRIBUTION - ATTORNEYS' FEES - MEDICAL EXPENSES AND INSURANCE;

AMBERS (NUGENE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO RAISE A STATUTE OF LIMITATIONS DEFENSE AS TO CERTAIN COUNTS, OBJECT TO CERTAIN STATEMENTS BY THE PROSECUTOR, MOVE FOR A MISTRIAL OR REQUEST CURATIVE INSTRUCTIONS;

APT, et al. v MORGAN STANLEY DW, INC., et al.:

LIMITATION OF ACTIONS - FRAUD - TOLLING - WHETHER FILING OF ARBITRATION CLAIM TOLLED THE RELEVANT STATUTE OF LIMITATIONS PURSUANT TO CPLR 205(a) - FRAUDULENT CONCEALMENT - SUFFICIENCY OF PLEADING AS TO THE EXISTENCE OF FIDUCIARY RELATIONSHIP BETWEEN BROKER AND CLIENT - WHETHER TRADE CONFIRMATION SLIPS AND MONTHLY STATEMENTS PUT CLIENT ON NOTICE IN 2004 OR 2005 OF ALLEGED FRAUD;

ARGYRIS (COSTANDINO), PEOPLE v: (Cal. Date - 10/21/14)

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;

ASHMORE v ASHMORE:

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING REARGUMENT;

AURORA LOAN SERVICES, LLC v TAYLOR, &c., et al.:

MORTGAGES - FORECLOSURE - STANDING TO COMMENCE ACTION - WHETHER PLAINTIFF DEMONSTRATED PHYSICAL POSSESSION OF THE MORTGAGE NOTE AT THE TIME OF COMMENCEMENT OF THE ACTION - ASSIGNMENT OF MORTGAGE BY MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS); SUMMARY JUDGMENT;

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);

BARKSDALE (ANTHONY), PEOPLE v:

CRIMES - ARREST - PROBABLE CAUSE - WHETHER THE POLICE HAD AN OBJECTIVE CREDIBLE REASON UNDER STEP ONE OF THE DEBOUR INQUIRY TO APPROACH DEFENDANT AND ASK HIM TO EXPLAIN HIS PRESENCE IN THE LOBBY OF AN APARTMENT BASED UPON THE REPUTATION OF THE AREA AND THE FACT THAT THE BUILDING WAS SO PRONE TO TRESPASSING THAT THE LANDLORD HAD EXECUTED A "TRESPASS AFFIDAVIT" REQUESTING POLICE ASSISTANCE IN REMOVING INTRUDERS FROM THE BUILDING;

BARNES (THOMAS), PEOPLE v:

CRIMES - TRESPASSING - WHETHER AN INDIVIDUAL MAY BE PROSECUTED FOR SECOND-DEGREE CRIMINAL TRESPASS IN A PUBLIC HOUSING APARTMENT BUILDING, OR IF SUCH CONDUCT CAN ONLY BE PROSECUTED AS THIRD-DEGREE CRIMINAL TRESPASS; PENAL LAW §§ 140.10(e) AND (f), 140.15(1);

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:

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 55<sup>TH</sup> STREET ASSOCIATES, L.P.:

(Cal. Date - 10/14/14)

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;

BOTTOM, MATTER OF v ANNUCCI, &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER A PRISON DISCIPLINARY DETERMINATION CAN BE BASED UPON A LOCAL FACILITY RULE THAT WAS NOT FILED WITH THE SECRETARY OF STATE;

PEOPLE ex rel. BOURLAYE T. v CONNOLLY &c.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - DENIAL OF WRIT OF HABEAS CORPUS - WHETHER PETITIONER IS A "DETAINED SEX OFFENDER" AS DEFINED IN MENTAL HYGIENE LAW § 10.03(g)(5) AND THUS THE PROPER SUBJECT OF A PETITION FOR CIVIL MANAGEMENT WHERE PETITIONER WAS ON "IMMIGRATION PAROLE" AWAITING DEPORTATION BY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT AND SERVING A PERIOD OF PAROLE SUPERVISED BY THE NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION WHEN, WITHOUT COMMITTING A PAROLE VIOLATION, HE WAS ARRESTED AND TRANSPORTED BACK TO A STATE CORRECTIONAL FACILITY, AND THE MENTAL HYGIENE LAW ARTICLE 10 PROCEEDING WAS NOT COMMENCED UNTIL AFTER PETITIONER'S REINCARCERATION;

BRANCH, &c. v COUNTY OF SULLIVAN:

COLLEGES AND UNIVERSITIES - COMMUNITY COLLEGE - WRONGFUL DEATH ACTION BY ADMINISTRATOR OF ESTATE OF A STUDENT WHO HAD A FATAL HEART ATTACK IN A COLLEGE DORMITORY BASED ON, AMONG OTHER THINGS, THE FAILURE TO PROVIDE AN AUTOMATED EXTERNAL DEFIBRILLATOR ON CAMPUS - WHETHER THE COUNTY OWED A DUTY OF CARE TO DECEDENT STUDENT BASED ON ITS STATUS AS A LOCAL SPONSOR OF THE COMMUNITY COLLEGE PURSUANT TO EDUCATION LAW, ARTICLE 63;

BRANIC INTERNATIONAL REALTY CORP. v PITT: (Cal. Date - 10/22/14)  
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 (STANLEY A.), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - PROPER STANDARD OF PROOF TO BE APPLIED TO DEFENDANT SEEKING TO PROVE THE EXISTENCE OF A MITIGATING FACTOR WARRANTING A DOWNWARD DEPARTURE UNDER SORA; DEGREE OF CONSIDERATION A HEARING COURT SHOULD GIVE TO A CERTIFICATE OF RELIEF FROM CIVIL DISABILITIES WHEN ASSESSING A DEFENDANT POINTS UNDER RISK FACTOR 9 FOR A PRIOR DWI CONVICTION;

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 XVI, § 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;

MATTER OF C., AN APPLICANT FOR ADMISSION TO THE BAR:

ATTORNEY AND CLIENT - ADMISSION TO PRACTICE - WHETHER PETITIONER WAS DENIED DUE PROCESS OF LAW BY THE APPELLATE DIVISION'S SUMMARY DENIAL, WITHOUT A HEARING, OF HIS SECOND RENEWED APPLICATION FOR ADMISSION TO PRACTICE LAW;

CALDAVADO a/k/a CALDERARO(ALMA), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS ENTITLED TO AN EVIDENTIARY HEARING ON HER CPL 440.10 MOTION ASSERTING INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN LIGHT OF GROWING BODY OF MEDICAL EVIDENCE, NOT INTRODUCED AT TRIAL, SUGGESTING THAT "SHAKEN BABY SYNDROME" CAN BE EXPLAINED BY A MEDICAL CONDITION UNRELATED TO PHYSICAL TREATMENT OF THE CHILD;

CAPRIO v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:  
 STATUTES - RETROACTIVE APPLICATION OF STATUTE - PERSONAL INCOME  
 TAX - WHETHER RETROACTIVE APPLICATION OF 2010 AMENDMENT TO TAX  
 LAW §632(a)(2) VIOLATES PLAINTIFFS' DUE PROCESS RIGHTS;

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;

CARVER, MATTER OF v STATE OF NEW YORK, et al.:

SOCIAL SERVICES - PUBLIC ASSISTANCE - STATE'S ENTITLEMENT TO  
 REIMBURSEMENT FROM FORMER PUBLIC ASSISTANCE RECIPIENT'S LOTTERY  
 WINNINGS - WORK EXPERIENCE PROGRAM (WEP) PARTICIPANT - WHETHER A  
 PUBLIC ASSISTANCE BENEFICIARY WHO WAS STATUTORILY REQUIRED TO  
 PARTICIPATE IN NEW YORK CITY'S WEP AS A CONDITION OF CONTINUED  
 RECEIPT OF BENEFITS (SOCIAL SERVICES LAW § 336[1][d]), WAS AN  
 "EMPLOYEE" ENTITLED TO THE MINIMUM WAGE PROTECTIONS OF THE  
 FEDERAL FAIR LABOR STANDARDS ACT (29 USC § 201, et seq);

CATES, SR. (WALTER), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER THE 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;

CAZA (KAREN M.), PEOPLE v:

CRIMES - PLEA BARGAINING - ENFORCEMENT OF AGREEMENT - CONDITIONAL  
 SENTENCING COMMITMENT - FAILURE TO COMPLY WITH PREPARATION OF  
 PRESENTENCE INVESTIGATION REPORT;

CEDENO (ASSAD), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER THE APPELLATE DIVISION  
 ERRED IN CONCLUDING THAT THE ADMISSION INTO EVIDENCE OF A  
 CODEFENDANT'S REDACTED STATEMENT TO POLICE DID NOT VIOLATE THE  
BRUTON RULE "BECAUSE THE SUBJECT REDACTION WOULD NOT HAVE CAUSED  
 THE JURORS TO REALIZE THAT THE CONFESSION REFERS SPECIFICALLY TO  
 THE DEFENDANT" - PROOF OF OTHER CRIMES - WHETHER THE TRIAL COURT  
 IMPROPERLY ADMITTED PRIOR UNCHARGED CRIME EVIDENCE AGAINST  
 DEFENDANT WITHOUT FIRST EVALUATING ITS RELIABILITY;

COLE, MATTER OF v DeROSA:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CHALLENGE TO  
 APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DETERMINED  
 THAT PETITIONER FAILED TO DEMONSTRATE A CLEAR LEGAL RIGHT TO THE  
 RELIEF SOUGHT;

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

(Cal. Date - 10/16/14)

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

COLEMAN (EARL), PEOPLE v:

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

COLIN REALTY CO., LLC, MATTER OF v TOWN OF NORTH HEMPSTEAD, et al.:

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

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

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

CONCEICAO (JOSEPH), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT WAS NOT INFORMED OF THE RIGHTS HE WAS WAIVING PRIOR TO MAKING HIS GUILTY PLEA - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA;

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;

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; REVIEWABILITY OF CATU ERROR (PEOPLE v LOUREE, 8 NY3d 541 [2007]); CLAIMED DUE PROCESS VIOLATION IN SENTENCE ENHANCEMENT;

CULLEN (WILLIAM), PEOPLE v:

CRIMES - WITNESSES - PRIOR CONSISTENT STATEMENT - WHETHER WITNESSES' STATEMENTS CONCERNING THE VICTIM'S PRIOR CONSISTENT STATEMENTS CONSTITUTED IMPROPER BOLSTERING; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; PROOF OF OTHER CRIMES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE CHALLENGED EVIDENCE WAS PROPERLY ADMITTED BECAUSE IT PLACED THE CHARGED CONDUCT IN CONTEXT AND PROVIDED NECESSARY BACKGROUND INFORMATION ON THE NATURE OF THE RELATIONSHIP BETWEEN DEFENDANT AND THE VICTIM;

TYRONE D., MATTER OF v STATE OF NEW YORK:

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

DAVIS, et al. v BOEHEIM, et al.:

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

DAVIS (TYRONE), PEOPLE v:

CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WHETHER DEFENDANT'S GUILTY PLEA, WHICH HE NEVER MOVED TO WITHDRAW, WAS KNOWINGLY AND VOLUNTARILY MADE WHERE THE COLLOQUY MAY HAVE NEGATED AN ELEMENT OF THE CHARGED OFFENSE;

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: (Cal. Date - 10/15/14)  
 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;

DELEON v NEW YORK CITY SANITATION DEPARTMENT, et al.:  
 MOTOR VEHICLES - COLLISION - STREET-SWEEPING VEHICLE NOT HAZARD VEHICLE FOR PURPOSES OF RECKLESS DISREGARD STANDARD - PROXIMATE CAUSE;

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;

DENSON (RAYMOND), PEOPLE v:  
 CRIMES - KIDNAPPING - ATTEMPT - RESTRAINT OF CHILD LESS THAN 16 YEARS OLD - WHETHER THE EVIDENCE WAS LEGALLY SUFFICIENT TO ESTABLISH THAT DEFENDANT COMMITTED ATTEMPTED KIDNAPPING IN THE SECOND DEGREE; PROOF OF PRIOR CONVICTIONS - WHETHER THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION IN PERMITTING TESTIMONY REGARDING DEFENDANT'S PRIOR CONVICTION OF SEX CRIME COMMITTED AGAINST A CHILD OVER TWENTY YEARS AGO, AND THE FACTS UNDERLYING THAT CONVICTION, ON THE ISSUE OF DEFENDANT'S INTENT; WHETHER THE ATTEMPTED KIDNAPPING CHARGE SHOULD HAVE BEEN DISMISSED UNDER THE MERGER DOCTRINE; CONFESSION - WHETHER DEFENDANT'S STATEMENTS TO POLICE WERE ADMISSIBLE AS NONCUSTODIAL STATEMENTS AND POST-MIRANDA STATEMENTS; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN ALLOWING THE DEFENSE EXPERT TO TESTIFY UNDER THE PREMISE THAT DEFENDANT WAS A PEDOPHILE AND IN FAILING TO OBJECT WHEN THE PROSECUTION'S EXPERT BASED HER CONCLUSIONS ON THAT PREMISE;

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: (Cal. Date - 10/21/14)

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:

(Cal. Date - 10/14/14)

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;

DRYDEN MUTUAL INSURANCE COMPANY v GOESSL:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - BUSINESS GENERAL LIABILITY POLICY - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT, FOR LIABILITY INSURANCE PURPOSES, DEFENDANT

PLUMBER WAS AN INDEPENDENT CONTRACTOR, NOT AN EMPLOYEE, FOR DEFENDANT PLUMBING COMPANY WHEN THE ALLEGED NEGLIGENT ACTS OCCURRED;

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;

MATTER OF DUNN, AN ATTORNEY:

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

DUNBAR (JERMAINE), PEOPLE v:

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

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;

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;

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

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

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

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

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

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;

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;

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: (Cal. Date - 11/19/14)

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;

FREZZELL v CITY OF NEW YORK et al.: (Cal. Date - 10/15/14)

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;

GAMMONS v CITY OF NEW YORK, et al.: (Cal. Date - 11/17/14)

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 v CITY OF NEW YORK, et al.:

TORTS - FALSE IMPRISONMENT - FALSE ARREST - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT PLAINTIFF FAILED TO REBUT THE PRESUMPTION OF PROBABLE CAUSE RAISED BY A GRAND JURY INDICTMENT - ALLEGED POLICE COERCION AND PERJURED TESTIMONY; CIVIL RIGHTS - FEDERAL CIVIL RIGHTS CLAIM - WHETHER PLAINTIFF ESTABLISHED THE EXISTENCE OF A TRIABLE ISSUE OF FACT TO SUPPORT A CLAIM OF MUNICIPAL LIABILITY UNDER 42 USC § 1983;

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;

GARY (ALFRED), PEOPLE v:

CRIMES - CONSPIRACY - DEFENDANT CLAIMS HEARSAY EVIDENCE MISTAKENLY STIPULATED INTO EVIDENCE WITH LARGE NUMBER OF DOCUMENTS SHOULD NOT HAVE BEEN ADMITTED INTO EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT CONSPIRACY CHARGE; CLAIMED REPUGNANCY OF VERDICT DUE TO ACQUITTALS ON OTHER CHARGES BASED ON THE SAME FACTS UNDERLYING SCHEME TO DEFRAUD;

GIBSON (JOHN), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER EXIGENT CIRCUMSTANCES EXISTED TO JUSTIFY THE WARRANTLESS ENTRY INTO DEFENDANT'S APARTMENT - REASONABLE BELIEF THAT ARMED PERPETRATOR COULD BE IN BUILDING - SEIZURE OF GUN THAT WAS PURPORTEDLY IN PLAIN VIEW; ARREST - PROBABLE CAUSE - HEARSAY STATEMENTS - BASIS FOR KNOWLEDGE TRANSMITTED THROUGH CHAIN OF INFORMANTS; SUPPRESSION HEARING - DENIAL OF MOTION TO REOPEN HEARING; SENTENCE - ALLEGEDLY EXCESSIVE AND HARSH SENTENCE; INDICTMENT - SUFFICIENCY OF FACTUAL ALLEGATIONS - POSSESSION OF WEAPON;

GILES (DWIGHT), PEOPLE v: (Cal. Date - 11/19/14)

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;

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;

GOLO (ALLY), PEOPLE v:

CRIMES - SENTENCE - DRUG LAW REFORM ACT OF 2009 - RESENTENCING DENIED BASED ON SUBSTANTIAL JUSTICE - WHETHER TRIAL COURT HAS AUTHORITY TO DENY A MOTION FOR RESENTENCING WITHOUT HOLDING A HEARING;

GONZALEZ (RICHARD), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - WHETHER THE TRIAL COURT ERRED IN INSTRUCTING THE JURY THAT TO BE GUILTY OF POSSESSING A "GRAVITY KNIFE" (PENAL LAW § 265.01[1]), DEFENDANT HAD TO KNOW ONLY THAT HE HAD A KNIFE IN HIS POSSESSION, AND NOT THAT THE KNIFE HAD THE CHARACTERISTICS OF A "GRAVITY KNIFE" (PENAL LAW § 265.00[5]) - SCIENTER ELEMENT OF CRIME; SEARCH - WHETHER POLICE STOP AND SEARCH OF DEFENDANT WAS JUSTIFIED;

GORMAN, MATTER OF v RICE, et al: (Cal. Date - 10/16/14)

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

GRACE v LAW, et al.:

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

GRAHAM (CLIFFORD), PEOPLE v:

CRIMES - CONFESSION - WHETHER STATEMENTS DEFENDANT MADE TO POLICE SHOULD HAVE BEEN SUPPRESSED BECAUSE THEY WERE GIVEN DURING A CUSTODIAL INTERROGATION AND WITHOUT THE PRIOR ADMINISTRATION OF MIRANDA WARNINGS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD

THAT THOSE STATEMENTS WERE NOT SUBJECT TO SUPPRESSION BECAUSE THE POLICE COULD INFER FROM DEFENDANT'S CONDUCT AND HIS ATTORNEY'S ASSURANCES THAT DEFENDANT WAIVED HIS MIRANDA RIGHTS AND THAT SUCH WAIVER WAS MADE ON THE ADVICE OF COUNSEL;

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;

GREATER JAMAICA DEVELOPMENT CORP., et al. MATTER OF v NEW YORK CITY TAX COMMISSION, et al.:

TAXATION - EXEMPTIONS - PARKING FACILITIES OWNED AND OPERATED BY A CHARITABLE NOT-FOR-PROFIT CORPORATION WITH A MISSION TO PROMOTE BUSINESS DEVELOPMENT IN A SPECIFIC AREA - WHETHER THE APPELLATE DIVISION CORRECTLY RULED THAT THE PUBLIC PARKING FACILITIES WERE ENTITLED TO A TAX EXEMPTION UNDER RPTL 420-a;

GRUBSTEIN (HOWARD), PEOPLE v: (Cal. Date - 10/16/14)

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(2)(c) APPLIED TO BAR DEFENDANT'S CLAIM BECAUSE OF HIS FAILURE TO CHALLENGE THE PLEA ON DIRECT APPEAL;

GUDZ v JEMROCK REALTY COMPANY, LLC:

(Cal. Date - 10/14/14)

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;

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;

HARDY (PETTIS), PEOPLE v:

CRIMES - INSTRUCTIONS - WHETHER THE TRIAL COURT PROPERLY DECLINED TO GIVE THE JURY A CIRCUMSTANTIAL EVIDENCE CHARGE ON THE BASIS THAT THERE WAS BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE OF DEFENDANT'S GUILT; TRIAL - MISTRIAL - DENIAL OF MISTRIAL MOTIONS - WHETHER THE TRIAL COURT ERRED IN GIVING SUPPLEMENTAL CHARGES TO ENCOURAGE THE JURY TO REACH A VERDICT IN RESPONSE TO TWO NOTES FROM THE JURY INDICATING DEADLOCK, WHERE THE TRIAL WAS RELATIVELY UNCOMPLICATED AND THE JURY DELIBERATIONS WERE LENGTHY; EVIDENCE - WHETHER THE TRIAL COURT IMPROPERLY ADMITTED TESTIMONY OF TWO PROSECUTION WITNESSES NARRATING SURVEILLANCE VIDEOTAPES;

HARRIS (DAVON), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL WHEN HIS TRIAL ATTORNEY FAILED TO RAISE A STATUTE OF LIMITATIONS DEFENSE THAT WOULD HAVE BARRED PROSECUTION ON ONE OF THE TWO INDICTED CRIMES; SUFFICIENCY OF EVIDENCE OF DEFENDANT'S INTENT TO STEAL PROPERTY WHEN HE ENTERED THE DWELLING; FAILURE OF TRIAL COURT TO GRANT DEFENDANT'S FOR-CAUSE CHALLENGE TO A JUROR; CLAIMED DUE PROCESS VIOLATIONS;

HARRIS (DUPREE), PEOPLE v:

CRIMES - PROOF OF OTHER CRIMES - IN CASE WHERE DEFENDANT WAS CHARGED WITH BRIBING AND TAMPERING WITH THREE WITNESSES TO A HOMICIDE, WHETHER THE TRIAL COURT ERRED IN ADMITTING EVIDENCE THAT A DIFFERENT WITNESS TO THE HOMICIDE WAS MURDERED SHORTLY BEFORE THE HOMICIDE TRIAL AND THAT DEFENDANT HAD SOUGHT TO CONTACT HIM;

HATTON (FRANKIE), PEOPLE v:

CRIMES - PLEA OF GUILTY - FORFEITURE OF RIGHT TO RAISE ISSUES ON APPEAL - JURISDICTIONAL SUFFICIENCY OF ACCUSATORY INSTRUMENT - WHETHER DEFENDANT WAIVED HIS RIGHT TO PROSECUTION BY INFORMATION BY A BLANKET WAIVER OF THE READING OF THAT RIGHT MADE BY HIS ATTORNEY IN THE CONTEXT OF AN UNRELATED CASE OUTSIDE OF DEFENDANT'S PRESENCE OR BY SUBSEQUENTLY PLEADING GUILTY; CRIMES - INFORMATION - INSUFFICIENT INFORMATION CHARGING FORCIBLE TOUCHING - WHETHER THE ACCUSATORY INSTRUMENT CONTAINED SUFFICIENT FACTUAL - ALLEGATIONS RELATED TO THE "PURPOSE" ELEMENT OF FORCIBLE TOUCHING;

HAWKINS, MATTER OF v BERLIN &c., et al.: (Cal. Date - 11/19/14)

SOCIAL SERVICES - PUBLIC ASSISTANCE - WHETHER PETITIONER IS ENTITLED TO DISTRIBUTION OF CHILD SUPPORT ARREARS COLLECTED BY RESPONDENTS TO REIMBURSE PUBLIC ASSISTANCE PROVIDED BY PETITIONER'S HOUSEHOLD DURING A PERIOD WHEN THE CHILD SUPPORT BENEFICIARY WAS NOT PART OF THE HOUSEHOLD; SOCIAL SERVICES LAW § 158(5); WHETHER RESPONDENTS' DETERMINATIONS WERE ARBITRARY AND CAPRICIOUS;

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;

HEATLEY (TODD R.), PEOPLE v:

CRIMES - MURDER - INTENT TO KILL - WEIGHT OF EVIDENCE - ANALYSIS OF SUFFICIENCY OF EVIDENCE WITHIN CONTEXT OF WEIGHT OF THE EVIDENCE REVIEW - APPROPRIATE REMEDY - WHETHER APPELLATE DIVISION ERRED IN REDUCING CONVICTION OF MURDER IN THE FIRST DEGREE TO THE LESSER INCLUDED OFFENSE OF MANSLAUGHTER IN THE FIRST DEGREE; EVIDENCE - DEMONSTRATIVE EVIDENCE - PROSECUTORIAL MISCONDUCT; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

HELTZ v BARRATT et al.:

MOTOR VEHICLES - COLLISION - WHETHER TRIABLE ISSUE OF FACT EXISTED AS TO WHETHER DEFENDANT BARRATT EXERCISED THE REQUISITE CARE IN ATTEMPTING TO AVOID THE COLLISION - SUMMARY JUDGMENT; NEGLIGENCE;

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;

HOLLANDER, MATTER OF v THE CITY OF NEW YORK COMMISSION ON HUMAN RIGHTS:

CIVIL RIGHTS - DISCRIMINATION BASED ON AGE - WHETHER THE DOCTRINE OF ELECTION OF REMEDIES BARS PETITIONER FROM FILING A CLAIM OF AGE DISCRIMINATION AGAINST A NIGHTCLUB WITH THE CITY OF NEW YORK COMMISSION ON HUMAN RIGHTS, WHERE THE NEW YORK STATE DIVISION OF HUMAN RIGHTS PREVIOUSLY DISMISSED PETITIONER'S COMPLAINT ALLEGING GENDER DISCRIMINATION AGAINST THE NIGHTCLUB WITH RESPECT TO THE SAME UNDERLYING INCIDENT;

HOLLEY (TODD), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - PHOTOGRAPHIC ARRAY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE PROCEDURE BY WHICH A WITNESS IDENTIFIED DEFENDANT FROM A SERIES OF PHOTO ARRAYS GENERATED BY THE POLICE PHOTO MANAGER COMPUTER SYSTEM WAS NOT UNDULY SUGGESTIVE AND THAT A DIFFERENT CONCLUSION WAS NOT WARRANTED BECAUSE THE POLICE FAILED TO PRESERVE THE PHOTO ARRAYS VIEWED BY THE WITNESS; LINEUP - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE RECORD SUPPORTED THE HEARING COURT'S FINDING THAT THE LINEUP WAS NOT UNDULY SUGGESTIVE;

HORTON (THOMAS), PEOPLE v:

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

HUTCHINSON v SHERIDAN HILL HOUSE CORP.:

NEGLIGENCE - SIDEWALKS - TRIP AND FALL ON METAL SCREW OR OTHER OBJECT PROTRUDING FROM THE SIDEWALK - SUMMARY JUDGMENT GRANTED TO DEFENDANT BASED UPON TRIVIAL NATURE OF DEFECT, LACK OF NOTICE, AND SPECULATIVE AND CONCLUSORY NATURE OF PLAINTIFF'S EXPERT REPORT;

INGRAM (ROBERT L.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - STOP OF DEFENDANT ON STREET - WHETHER THE POLICE HAD REASONABLE SUSPICION JUSTIFYING A STOP OF DEFENDANT AFTER DEFENDANT WAS ATTEMPTING TO PULL AN OBJECT FROM HIS POCKET IN A MANNER THAT THE POLICE TESTIFIED WAS SUGGESTIVE OF A WEAPON;

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;

ISRAEL (DANIEL), PEOPLE v:

CRIMES - EVIDENCE - OTHER UNCHARGED CRIMES - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE TO INTRODUCE REBUTTAL EVIDENCE OF TWO UNCHARGED CRIMES WHERE THE WITNESSES LACKED DIRECT KNOWLEDGE OF PROVOCATION (PEOPLE v SANTERELLI, 49 NY2d 241); WHETHER IN THE CONTEXT OF AN EXTREME EMOTIONAL DISTURBANCE DEFENSE, INCIDENTS OF UNCHARGED VIOLENCE MAY BE ADMISSIBLE EVEN IF THE DEGREE OF VIOLENCE IS NOT COMMENSURATE WITH THE CONDUCT UNDERLYING THE CHARGES;

IZZO (VINCENT), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT - LEVEL II SEX OFFENDER - CHALLENGE TO ASSESSMENT OF 30 POINTS UNDER RISK FACTOR 3 (NUMBER OF VICTIMS) DUE TO THREE OR MORE VICTIMS - CHALLENGE TO ASSESSMENT OF 20 POINTS UNDER RISK FACTOR 7 (RELATIONSHIP BETWEEN OFFENDER AND VICTIM) FOR ENGAGING IN "GROOMING" BEHAVIOR WITH HIS VICTIMS FOR THE PRIMARY PURPOSE OF VICTIMIZATION - DEFENDANT'S ENTITLEMENT TO A DOWNWARD DEPARTURE FROM THE PRESUMPTIVE RISK LEVEL CLASSIFICATION - EFFECT OF COUNTY COURT'S FAILURE TO EXPRESSLY REFERENCE IN ITS OPINION DEFENDANT'S REQUEST FOR A DOWNWARD DEPARTURE;

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

(Cal. Date - 11/17/14)

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;

JAY, MATTER OF v FISCHER &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - RULINGS BY HEARING OFFICER - WHETHER HEARING OFFICER IN DISCIPLINARY HEARING DEMONSTRATED BIAS OR IMPROPERLY PRECLUDED INMATE FROM OFFERING EVIDENCE;

JENKINS (BENJAMIN), PEOPLE v:

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

JF CAPITAL ADVISORS, LLC v THE LIGHTSTONE GROUP, LLC, et al.:

CONTRACTS - QUANTUM MERUIT - STATUTE OF FRAUDS - GENERAL OBLIGATIONS LAW § 5-701(a)(10) - "NEGOTIATING THE PURCHASE ... OF ANY REAL ESTATE ... OR ... BUSINESS OPPORTUNITIES" - ACTION SEEKING COMPENSATION FROM DEFENDANTS FOR FINANCIAL ADVISORY SERVICES PLAINTIFF PROVIDED UNDER AN ALLEGED ORAL CONTRACT IN CONNECTION WITH DEFENDANTS' ACQUISITION OF CERTAIN HOTELS AND OTHER INVESTMENT OPPORTUNITIES - WHETHER PLAINTIFF'S CLAIMS FOR QUANTUM MERUIT AND UNJUST ENRICHMENT WERE PROPERLY DISMISSED AS BARRED BY THE STATUTE OF FRAUDS;

JOHNSON (ERIC), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE HAD REASONABLE SUSPICION TO STOP THE CAR IN WHICH DEFENDANT WAS TRAVELING BASED UPON INFORMATION PROVIDED BY AN ANONYMOUS TELEPHONE CALLER AND THE DRIVER'S COMMISSION OF A TRAFFIC INFRACTION WHILE BEING FOLLOWED BY THE POLICE;

JOHNSON (RAUL), PEOPLE v: (Cal. Date - 11/17/14)

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;

JONES (ANTHONY), PEOPLE v:

CRIMES - SENTENCE - MANDATORY SURCHARGE - WHETHER THE SENTENCING JUDGE HAS DISCRETION TO GRANT DEFENDANT RELIEF FROM THE MANDATORY SURCHARGE AT THE TIME OF SENTENCING, OR WHETHER DEFENDANT WAS REQUIRED TO SEEK SUCH RELIEF BY MOTION FOR RESENTENCING PURSUANT TO CPL 420.10(5);

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: (Cal. Date - 11/17/14)

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;

JORGENSEN (JENNIFER), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - DEFENDANT, WHILE PREGNANT, CRASHED INTO ANOTHER CAR - DEFENDANT'S CHILD, BORN IN EMERGENCY C-SECTION, DIED DAYS AFTER THE ACCIDENT - WHETHER EVIDENCE WAS LEGALLY SUFFICIENT TO CONVICT DEFENDANT OF MANSLAUGHTER IN THE SECOND DEGREE CONCERNING THE CHILD; ADMISSION OF EVIDENCE - WHETHER THE TRIAL COURT ERRED IN PERMITTING ADMISSION OF EVIDENCE OF DRUGS TAKEN BY DEFENDANT DURING HER PREGNANCY; CLAIMED INFLAMMATORY COMMENTS BY PROSECUTOR DURING SUMMATION; CLAIMED DUE PROCESS VIOLATIONS;

JURGINS (MARK), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - EQUIVALENCY OF FOREIGN FELONY CONVICTION - WHETHER A DEFENDANT CAN RAISE A CHALLENGE TO THE EQUIVALENCY OF A FOREIGN FELONY CONVICTION FOR THE FIRST TIME IN A CPL 440.20 MOTION - EQUIVALENCY OF PRIOR WASHINGTON, D.C. CONVICTION FOR ROBBERY UNDER A STATUTE THAT DEFINES ROBBERY TO INCLUDE "STEALTHY SEIZURE OR SNATCHING";

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;

KENT, MATTER OF v LEFKOWITZ &c., et al.:

CIVIL SERVICE - PUBLIC EMPLOYMENT RELATIONS BOARD (PERB) - IMPROPER PRACTICE CHARGE - WHETHER THE DUTY OF THE STATE RACING AND WAGERING BOARD TO NEGOTIATE WAGES FOR SEASONAL TRACK EMPLOYEES WAS SATISFIED BY THE EXECUTION OF A SIDE LETTER AGREEMENT BETWEEN THE UNION AND THE STATE;

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;

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:

(Cal. Date - 10/14/14)

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:

(Cal. Date - 10/16/14)

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:

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: (Cal. Date - 10/21/14)

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;

KING (URSELINA), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - WHETHER THE TRIAL COURT DISCHARGED POTENTIAL JURORS BASED UPON HARDSHIP WITHOUT CONDUCTING A SUFFICIENT INQUIRY - ALLEGED MODE OF PROCEEDINGS ERROR; EVIDENCE - THIRD-PARTY CULPABILITY - WHETHER THE TRIAL COURT PROPERLY PRECLUDED EVIDENCE OF THIRD-PARTY CULPABILITY AS SPECULATIVE, LACKING IN PROBATIVE VALUE, AND CONSTITUTING INADMISSIBLE HEARSAY; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO OBJECT TO ALLEGED PROSECUTORIAL MISCONDUCT DURING SUMMATION;

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;

LARABEE, et al. v GOVERNOR OF STATE OF NEW YORK, et al.:

JUDGES - JUDICIAL SALARIES - SEPARATION OF POWERS - WHETHER PLAINTIFFS DEMONSTRATED THAT THE LEGISLATURE FAILED TO ABIDE BY THIS COURT'S RULING IN MATTER OF MARON v SILVER (14 NY3d 230 [2010]) BY ESTABLISHING A COMMISSION ON JUDICIAL COMPENSATION TO



MAKE RECOMMENDATIONS FOR PROSPECTIVE-ONLY SALARY ADJUSTMENTS;  
WHETHER PLAINTIFF'S ARE ENTITLED TO DAMAGES FOR PAST  
CONSTITUTIONAL VIOLATIONS;

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.):

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;

ESTATE OF LEWIS, DECEASED, MATTER OF:

WILLS - OBJECTIONS - REVOCATION - PRESUMPTION OF REVOCATION BY  
DESTRUCTION BASED UPON PETITIONER'S FAILURE TO PRODUCE ALL COPIES  
OF FIRST WILL - ALLEGED FAILURE OF COURTS BELOW TO EXERCISE  
EQUITY POWER - EFFECT OF TESTIMONY REGARDING LOST SECOND WILL AND  
DECEDENT'S INTENT TO REVOKE THE FIRST WILL;

LIN (JIN CHENG), PEOPLE v:

CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN PRECLUDING  
ADMISSION INTO EVIDENCE OF DEFENDANT'S COMPLAINT OF MISTREATMENT  
BY POLICE AND A VIDEOTAPE OF DEFENDANT'S INTERVIEW BY AN  
ASSISTANT DISTRICT ATTORNEY; CONFESSION - VOLUNTARINESS OF  
CONFESSION - PRE-ARRAIGNMENT DELAY AND CIRCUMSTANCES SURROUNDING  
INTERROGATION DURING THAT TIME; DIRECTION TO JURY TO CONTINUE  
DELIBERATIONS AFTER TRIAL COURT REFUSED TO ACCEPT VERDICT ON  
GROUNDS OF REPUGNANCY - WHETHER TRIAL COURT ERRED IN REFUSING TO  
DIRECT THE JURY TO RECONSIDER VERDICT IN ITS ENTIRETY;

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:

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;

LOVETT (CLEVELAND), PEOPLE v:

CRIMES - SENTENCE - DENIAL OF MOTION FOR RESENTENCING UNDER DRUG LAW REFORM ACT OF 2004; ILLEGAL SENTENCE - AUTHORITY OF APPELLATE DIVISION TO REMIT TO SUPREME COURT FOR RESENTENCING ON RECKLESS ENDANGERMENT IN THE FIRST DEGREE; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO OBJECT TO JURY INSTRUCTIONS;

LOWE (FABRICE), PEOPLE v:

INFANTS - YOUTHFUL OFFENDERS - WHERE A YOUTH WHO IS INELIGIBLE FOR YOUTHFUL OFFENDER STATUS BECAUSE OF THE NATURE OF THE CRIME REQUESTS SUCH STATUS, WHETHER SENTENCING COURT IS REQUIRED TO MAKE PARTICULARIZED FINDING OF NO MITIGATING CIRCUMSTANCES UNDER PENAL LAW § 720.10(3) BEFORE REJECTING THE REQUEST - PEOPLE v RUDOLPH (21 NY3d 497 [2013]);

PEOPLE &c. ex rel. LOYD v DEMARS:

HABEAS CORPUS - WHEN REMEDY AVAILABLE - DISMISSAL OF HABEAS CORPUS PETITION CHALLENGING THE SUFFICIENCY OF THE EVIDENCE AT A FINAL PAROLE REVOCATION HEARING - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES BY TAKING AN ADMINISTRATIVE APPEAL TO THE BOARD OF PAROLE;

LOZINAK, MATTER OF v BOARD OF EDUCATION OF WILLIAMSVILLE CENTRAL SCHOOL DISTRICT:

EMPLOYMENT RELATIONSHIPS - WRONGFUL DISCHARGE - CPLR ARTICLE 78 PROCEEDING TO VACATE RESPONDENT'S DECISION TERMINATING EMPLOYMENT OF ACCOUNT CLERK TYPIST FOR SCHOOL DISTRICT - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT THE EMPLOYEE'S ACTIONS DID NOT INVOLVE GRAVE MORAL TURPITUDE - WHETHER THE EMPLOYEE'S TERMINATION SHOCKED THE CONSCIENCE;

LUDWIG (DANIEL A.), PEOPLE v:

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

LYNCH (RICKY A.), PEOPLE v:

CRIMES - DOUBLE JEOPARDY - WHETHER DEFENDANT'S PROSECUTION IN SUFFOLK COUNTY FOR FORGERY AND OTHER CRIMES ARISING FROM HIS FILING OF A FRAUDULENT APPLICATION FOR A NON-DRIVER IDENTIFICATION CARD ISSUED IN SUFFOLK COUNTY IS BARRED BY STATUTORY DOUBLE JEOPARDY WHERE DEFENDANT WAS CAUGHT WITH THE FAKE CARD IN WESTCHESTER AND PLEADED GUILTY IN THAT COUNTY TO CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE THIRD DEGREE - WHETHER THE CRIMES WERE "SO CLOSELY RELATED IN CRIMINAL PURPOSE OR OBJECTIVE AS TO CONSTITUTE ELEMENTS OR INTEGRAL PARTS OF A SINGLE CRIMINAL VENTURE" (CPL 40.10[2]) - APPLICATION OF CPL 40.30(2)(a);

MACK (TERRANCE L.), PEOPLE v:

CRIMES - JURORS - WHETHER COUNTY COURT COMMITTED REVERSIBLE ERROR BY ACCEPTING THE JURY VERDICT WITHOUT FIRST RESPONDING TO THREE NOTES FROM THE JURY;

MAETREUM OF CYBELE, MAGNA MATER, INC., MATTER OF v

McCoy &c., et al.: (Cal. Date - 10/21/14)

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;

MANKO v LENOX HILL HOSPITAL:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDERS - AFFIRMANCE OF SUPREME COURT ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO AMEND THE COMPLAINT TO ADD DEFENDANTS - DISMISSAL OF APPEALS AS OF RIGHT; DENIAL OF MOTIONS FOR LEAVE TO APPEAL TO THE APPELLATE

DIVISION;

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);

MARSHALL (KAITY), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - TRIAL COURT HELD LIMITED HEARING TO DETERMINE WHETHER THE SINGLE PHOTO IDENTIFICATION PROCEDURE THAT THE PEOPLE CONDUCTED WITH THE COMPLAINING WITNESS OVER A YEAR AFTER THE INCIDENT WAS PERMISSIBLE AS "TRIAL PREPARATION" - PRE-WADE HEARING PURSUANT TO PEOPLE v HERNER (85 NY2d 877 [1995]); DUE PROCESS;

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;

McLEAN (SAMUEL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - INCULPATORY STATEMENT TAKEN BY POLICE WHILE DEFENDANT IMPRISONED ON UNRELATED CHARGE - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE POLICE FULFILLED THEIR OBLIGATION TO RESOLVE AN AMBIGUITY AS TO WHETHER DEFENDANT WAS REPRESENTED BY COUNSEL IN A HOMICIDE INVESTIGATION BY DETERMINING THAT COUNSEL'S REPRESENTATION OF DEFENDANT HAD TERMINATED PRIOR TO QUESTIONING HIM;

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;

MERRY-GO-ROUND PLAYHOUSE, INC., MATTER OF v ASSESSOR OF THE CITY OF AUBURN, et al.: (Cal. Date - 10/21/14)

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);

MIDDLEBROOKS (WILLIAM), PEOPLE v:

INFANTS - YOUTHFUL OFFENDERS - WHETHER SENTENCING COURT IS REQUIRED TO DETERMINE IF DEFENDANT CONVICTED OF "ARMED FELONIES" IS ELIGIBLE FOR YOUTHFUL OFFENDER STATUS PURSUANT TO PENAL LAW § 720.10(3) - PEOPLE v RUDOLPH (21 NY3d 497[2013]);

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);

MOORE (KENNETH), PEOPLE v:

CRIMES - PLEA OF GUILTY - NO MOTION TO WITHDRAW PLEA - WHETHER GUILTY PLEA WAS INVALID UNDER PEOPLE v TYRELL (22 NY3d 359 [2013]);

PEOPLE ex rel. MOORE v SUPERINTENDENT OF COXSACKIE CORRECTIONAL FACILITY:

HABEAS CORPUS - AVAILABILITY OF RELIEF - CPLR 7002(b);

MOTELSON v FORD MOTOR COMPANY: (Cal. Date - 10/22/14)

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";

NATURAL 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;

NEALON (KENNETH), PEOPLE v:

CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - MEANINGFUL NOTICE OF JURY NOTES - FAILURE TO OBJECT - WHETHER THE TRIAL COURT COMMITTED A MODE OF PROCEEDINGS ERROR WHEN, ACCORDING TO THE ORIGINAL TRIAL RECORD, IT READ THE CONTENTS OF THREE JURY NOTES REQUESTING CHARGE CLARIFICATIONS FOR THE FIRST TIME IN FRONT OF THE JURY AND IMMEDIATELY RESPONDED; IF SO, WHETHER THE APPELLATE DIVISION PROPERLY REFUSED TO CONSIDER THE RESETTLED TRIAL RECORD;

NEGRON (JULIO), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN HIS TRIAL COUNSEL FAILED TO OBJECT TO THE TRIAL COURT'S IMPROPER USE OF THE "CLEAR LINK" STANDARD FOR THE INTRODUCTION OF THIRD-PARTY CULPABILITY EVIDENCE, AMONG OTHER FAILURES; CRIMES - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - WHETHER THE PEOPLE COMMITTED PREJUDICIAL BRADY VIOLATIONS BY FAILING TO DISCLOSE THAT DEFENDANT'S NEIGHBOR FLED WITH A CACHE OF WEAPONS THE NIGHT OF THE SHOOTING, WHICH INCLUDED THE SAME CALIBER OF AMMUNITION USED IN THE SHOOTING;

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

(Cal. Date - 10/15/14)

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.): (Cal. Date - 10/15/14)

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 CITY ASBESTOS LITIGATION, MATTER OF (DUMMIT, &c. v A.W. CHESTERTON, et al.):

NEGLIGENCE - PROXIMATE CAUSE - WHETHER DEFENDANT WAS ENTITLED TO

JUDGMENT AS A MATTER OF LAW DUE TO PLAINTIFF'S FAILURE TO PRODUCE EVIDENCE THAT DEFENDANT MANUFACTURED OR PLACED INTO THE STREAM OF COMMERCE ANY OF THE ASBESTOS-CONTAINING MATERIALS TO WHICH THE DECEDENT WAS EXPOSED - LIABILITY FOR FAILURE TO WARN OF ASBESTOS DANGER FOR PRODUCTS DEFENDANT DID NOT MANUFACTURE, SELL OR DISTRIBUTE; JOINT AND SEVERAL LIABILITY AND ALLOCATION OF FAULT; JURY INSTRUCTIONS;

NICHOLSON (CHRISTOPHER A.), PEOPLE v:

CRIMES - WITNESSES - REBUTTAL WITNESS IN CHILD SEX PROSECUTION - WHETHER SUPREME COURT ERRED IN ALLOWING THE PEOPLE TO CALL DEFENDANT'S EX-WIFE AS A REBUTTAL WITNESS TO REBUT CERTAIN TESTIMONY OFFERED BY DEFENDANT'S ONLY WITNESS, HIS FORMER GIRLFRIEND; WITNESSES - EXPERT WITNESS - WHETHER SUPREME COURT ERRED IN ADMITTING THE TESTIMONY OF AN EXPERT WITH RESPECT TO CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME; RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE;

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;

NOMURA ASSET CAPITAL CORPORATION, et al. v CADWALADER, WICKERSHAM & TAFT, LLP:

ATTORNEY AND CLIENT - MALPRACTICE - ACTION AGAINST LAW FIRM ALLEGING FAILURE TO PROVIDE APPROPRIATE LEGAL ADVICE AND THE RENDERING OF LEGAL OPINION WITHOUT PERFORMING THE NECESSARY DUE DILIGENCE, IN CONNECTION WITH THE SECURITIZATION OF A POOL OF COMMERCIAL MORTGAGE LOANS; SUMMARY JUDGMENT;

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;

O'BRIEN, MATTER OF v DiNAPOLI, &c.:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - DISABILITY RETIREMENT - WHETHER AN APPLICATION FOR DISABILITY RETIREMENT BENEFITS IS TIMELY FILED IF IT IS RECEIVED BY THE RETIREMENT SYSTEM VIA FAX ON THE DATE OF, BUT MINUTES AFTER, THE RETIREMENT SYSTEM MEMBER'S DEATH - RETIREMENT AND SOCIAL SECURITY LAW §363-b--2 NYCRR 366.2;

O'DANIEL (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - REPLACEMENT COUNSEL - COUNSEL, INITIALLY CHOSEN BY DEFENDANT'S RETAINED COUNSEL AS A SECOND CHAIR, ULTIMATELY REPRESENTED DEFENDANT AT TRIAL DUE TO RETAINED COUNSEL'S HEALTH PROBLEMS - WHETHER DEFENDANT WAS DENIED THE RIGHT TO COUNSEL, INCLUDING THE RIGHT TO COUNSEL OF HIS CHOICE - WHETHER REPLACEMENT COUNSEL PROVIDED EFFECTIVE ASSISTANCE OF COUNSEL; WITNESSES - EXPERT WITNESS - WHETHER THE TRIAL COURT ERRED IN ALLOWING A NURSE PRACTITIONER TO TESTIFY THAT HER EXAMINATION OF A CHILD SHOWED EVIDENCE OF SEXUAL ABUSE;

155 WEST 21<sup>ST</sup> 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.: (Cal. Date - 11/19/14)

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;

ON SIGHT MOBILE OPTICIANS, PEOPLE v: (Cal. Date - 11/18/14)

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;

OLMOSPerez, MATTER OF v EVANS &c.:

PAROLE - DENIAL - CPLR ARTICLE 78 PROCEEDING TO REVIEW



DETERMINATION OF BOARD OF PAROLE DENYING PETITIONER PAROLE RELEASE - FAILURE OF PAROLE BOARD TO ISSUE AND PROMULGATE WRITTEN GUIDELINES PURSUANT TO EXECUTIVE LAW § 259-c(4) TO ASSESS RISKS AND NEEDS FOR PAROLE DECISIONS BEFORE DETERMINATION MADE IN THIS CASE;

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;

PACQUETTE (DEAN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE IDENTIFICATION OF DEFENDANT BY A "GHOST OFFICER" IN A "BUY AND BUST" CASE WAS CONFIRMATORY AND, THUS, DID NOT REQUIRE CPL 710.30(1)(b) NOTICE;

PATERNO v LASER SPINE INSTITUTE, et al.: (Cal. Date - 10/15/14)  
COURTS - JURISDICTION - LONG-ARM JURISDICTION - WHETHER PERSONAL JURISDICTION OVER FLORIDA DEFENDANTS EXISTS UNDER CPLR 302(a)(1);

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

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

PELLETIER v LAHM:

NEGLIGENCE - EMERGENCY DOCTRINE - WHETHER THE TRIAL COURT ERRED IN GIVING AN EMERGENCY DOCTRINE CHARGE TO THE JURY AND DENYING PLAINTIFF'S CPLR 4404(a) MOTION;

PEOPLE, et al. v SPRINT NEXTEL CORP., et al.:

TAXATION - SALES AND USE TAXES - COMPLAINT ALLEGING VIOLATION OF NEW YORK FALSE CLAIMS ACT (STATE FINANCE LAW § 189[1][g]), EXECUTIVE LAW § 63(12) AND TAX LAW, ARTICLE 12, BY KNOWINGLY MAKING FALSE STATEMENTS MATERIAL TO AN OBLIGATION TO PAY SALES TAX PURSUANT TO TAX LAW § 1105(b)(2) - SALES TAX ON INTERSTATE VOICE SERVICE SOLD BY A MOBILE PROVIDER; PREEMPTION BY FEDERAL

MOBILE TELECOMMUNICATIONS SOURCING ACT (4 USC 116, et seq.) - WHETHER EX POST FACTO CLAUSE OF THE U.S. CONSTITUTION (ART. 1, § 10) BARS RETROACTIVE EFFECT OF CIVIL PENALTIES SOUGHT UNDER NEW YORK FALSE CLAIMS ACT;

PIN (MATTHEW) a/k/a PINE (PHILLIP), PEOPLE v:

CRIMES - INFORMATION - CHALLENGE TO SUFFICIENCY - LARCENY - SUFFICIENCY OF ALLEGATIONS THAT DEFENDANT IMPROPERLY USED A KEY THAT DID NOT BELONG TO HIM TO LET TWO UNDERCOVER POLICE OFFICERS (AND HIMSELF) INTO THE SUBWAY THROUGH AN EMERGENCY EXIT GATE IN EXCHANGE FOR MONEY - PEOPLE v HIGHTOWER (18 NY3d 249 [2011]); THEFT OF SERVICES - SUFFICIENCY OF ALLEGATIONS BASED ON THE SWORN STATEMENT OF A TRANSIT POLICE OFFICER THAT HE OBSERVED DEFENDANT ENTER THE SUBWAY "BEYOND THE TURNSTILES" AND WITHOUT "PAYING THE REQUIRED FARE" BY "WALKING THROUGH AN EXIT GATE";

PLATEK v ALLSTATE INDEMNITY COMPANY:

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

POLHILL (EUGENE), PEOPLE v:

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

POWERS v 31 E 31 LLC, et al:

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

SEAN R., &c. v BMW OF NORTH AMERICA, LLC, et al.:

EVIDENCE - SCIENTIFIC EVIDENCE - FAILURE OF SCIENTIFIC LITERATURE TO SUPPORT EXPERT'S PROFFERED THEORY - WHETHER THE TESTIMONY OF PLAINTIFF'S EXPERTS, WHO THEORIZED THAT EXPOSURE TO GASOLINE FUMES CAUSED PLAINTIFF'S BIRTH DEFECTS, WAS PROPERLY PRECLUDED WHERE THE MEDICAL LITERATURE SHOWED THAT SOME CONSTITUENT CHEMICALS CONTAINED IN GASOLINE CAN LEAD TO BIRTH DEFECTS, NOT THAT EXPOSURE TO GASOLINE VAPORS CAN CAUSE SUCH DEFECTS;

REID (GRAHAM), PEOPLE v: (Cal. Date - 11/18/14)

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;

REMET CORPORATION v ESTATE OF JAMES R. PYNE (DECEASED), et al.:

INDEMNITY - CONTRACTUAL INDEMNIFICATION - ENVIRONMENTAL REMEDIATION COSTS - NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) LETTER IDENTIFYING PLAINTIFF AS A POTENTIALLY RESPONSIBLE PARTY, REQUESTING PLAINTIFF TO DEVELOP, IMPLEMENT AND FINANCE A REMEDIAL PROGRAM FOR HAZARDOUS WASTE SITE, AND STATING THAT, IF PLAINTIFF DID NOT ACT, DEC WOULD PERFORM THE REMEDIATION AND SEEK RECOVERY FROM PLAINTIFF - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEC'S LETTER DID NOT REQUIRE PLAINTIFF TO TAKE ACTION, AND THUS, THAT PLAINTIFF WAS NOT ENTITLED TO INDEMNIFICATION PURSUANT TO AN AGREEMENT RESULTING FROM ACTIONS THAT PLAINTIFF "IS REQUIRED TO TAKE UNDER OR IN CONNECTION WITH ANY ENVIRONMENTAL LAW OR ENVIRONMENTAL PERMIT";

RIGANO &c., MATTER OF v VIBAR CONSTRUCTION, INC. (AND ANOTHER PROCEEDING): (Cal. Date - 11/18/14)

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;

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;

ROBERITES (JESSE), PEOPLE v:

CRIMES - JURORS - NOTE FROM JURY - TRIAL COURT'S FAILURE TO NOTIFY PRO SE DEFENDANT OF JURY NOTE REQUESTING EXHIBITS - WHETHER TRIAL COURT'S FAILURE CONSTITUTES A MODE OF PROCEEDINGS ERROR REQUIRING REVERSAL OF THE JUDGMENT, EVEN IF THE ISSUE WAS NOT PRESERVED AT TRIAL;

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;

RODRIGUEZ, MATTER OF v ZAMBELLI, &c.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - WHETHER MANDAMUS LIES TO COMPEL RESPONDENT COUNTY COURT JUDGE TO ISSUE A CERTIFICATE OF CONVICTION SPECIFYING THAT THE COMMENCEMENT DATE OF A RESENTENCE IMPOSED ON PETITIONER IN 2007 IS MARCH 23, 1999;

ROSARIO (LUCIANO), PEOPLE v:

CRIMES - APPEAL - DENIAL OF APPLICATION FOR A WRIT OF ERROR CORAM NOBIS - ALLEGED INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL FOR FAILING TO INFORM DEFENDANT ABOUT THE APPELLATE PROCESS AND FAILING TO FILE A NOTICE OF APPEAL FROM DEFENDANT'S GUILTY PLEA;

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;

DELROY S., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - WHETHER, IN LIGHT OF THE APPELLATE DIVISION HOLDING THAT 11-YEAR OLD GAVE INCULPATORY STATEMENT WHILE SUBJECTED TO CUSTODIAL INTERROGATION WITHOUT THE BENEFIT OF MIRANDA WARNINGS, THE APPELLATE DIVISION PROPERLY DETERMINED THAT FAMILY COURT'S ERROR IN FAILING TO SUPPRESS THE STATEMENT WAS HARMLESS BEYOND A REASONABLE DOUBT; JUSTIFICATION DEFENSE;

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;

SAINT v SYRACUSE SUPPLY COMPANY:

LABOR - SAFE PLACE TO WORK--WHETHER PLAINTIFF WAS "ALTERING" A STRUCTURE WITHIN THE MEANING OF LABOR LAW § 240(1) AND WAS ENGAGED IN "CONSTRUCTION WORK" WITHIN THE MEANING OF LABOR LAW § 241(6) WHEN HE WAS APPLYING A NEW ADVERTISEMENT TO THE FACE OF A BILLBOARD; WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING PLAINTIFF'S LABOR LAW § 240(2) CLAIM REGARDING SCAFFOLDING MORE THAN 20 FEET FROM THE GROUND.

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;

SANS (MICHAEL), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - SUFFICIENCY OF ACCUSATORY INSTRUMENT - MISDEMEANOR COMPLAINT CHARGING CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE BASED UPON DEFENDANT'S POSSESSION OF A GRAVITY KNIFE - PEOPLE v DREYDEN (15 NY3d 100 [2010]);

SCOTT (HAKIM B.), PEOPLE v:

CRIMES - MANSLAUGHTER - WHETHER THE EVIDENCE WAS SUFFICIENT TO SUPPORT THE CONVICTION OF DEFENDANT FOR MANSLAUGHTER IN THE FIRST DEGREE - WHETHER THERE WAS EVIDENCE OF "A COMMUNITY OF PURPOSE" WITH THE CODEFENDANT WHO RETRIEVED AND USED THE BASEBALL BAT TO BEAT THE VICTIM WHILE DEFENDANT CHASED ANOTHER VICTIM; JURY INSTRUCTIONS - WHETHER DEFENDANT WAS DEPRIVED OF HIS RIGHT TO BE PRESENT FOR ALL MATERIAL STAGES OF HIS TRIAL - JURY INSTRUCTION CORRECTING DATES OF CRIMES GIVEN WITHOUT COUNSEL OR DEFENDANT IN COURTROOM;

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;

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: (Cal. Date - 10/23/14)

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;

SILVERMAN, &c. v SILVER, &c., et al.:

JUDGES - JUDICIAL SALARIES - SEPARATION OF POWERS DOCTRINE - REMEDY FOR VIOLATION OF SEPARATION OF POWERS DOCTRINE - WHETHER LEGISLATION THAT CREATED A COMMISSION ON JUDICIAL COMPENSATION TO RECOMMEND PROSPECTIVE-ONLY ADJUSTMENTS TO JUDICIAL PAY, VIOLATES MATTER OF MARON v SILVER AND OTHER CASES DECIDED THEREWITH (14 NY3d 230 [2010]), BECAUSE IT DOES NOT PROVIDE FOR CONSIDERATION OF RETROACTIVE COMPENSATION - ENTITLEMENT TO DAMAGES FOR BACK PAY BASED UPON RETROACTIVE PAY INCREASES;

SMALL (SAMUEL), PEOPLE v a/k/a SMALLS (SAMUEL):

GRAND JURY - RIGHT TO APPEAR BEFORE GRAND JURY - DEFENDANT IN CUSTODY FOR ONE BURGLARY WHEN FELONY COMPLAINT ISSUED CHARGING HIM WITH ANOTHER BURGLARY WAS NOT ARRESTED OR ARRAIGNED ON THE SECOND CHARGE - WHETHER DEFENDANT WAS ENTITLED TO NOTICE THAT THE SECOND CHARGE WOULD BE PRESENTED TO THE GRAND JURY; SECOND VIOLENT FELONY OFFENDER STATUS - TOLLING OF TIME TO EXTEND 10-YEAR LIMITATION ON PRIOR FELONIES (PENAL LAW § 70.04[1]) WHERE DEFENDANT WAS GRANTED HABEAS CORPUS RELIEF FROM INCARCERATION FOR PRIOR PAROLE VIOLATION;

SMALLS (DENNIS P.), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - SUFFICIENCY - CRIMINAL POSSESSION OF CONTROLLED SUBSTANCE - WHETHER CONFIRMATORY SCIENTIFIC TESTING IS REQUIRED FOR AN INFORMATION TO ADEQUATELY ALLEGE THAT THE RESIDUE ON A CRACK PIPE CONTAINS COCAINE (PEOPLE v KALIN, 12 NY3d 225 [2009]);

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;

SOARES, &c., MATTER OF v CARTER, et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHETHER WRIT OF PROHIBITION LIES WHERE A DISTRICT ATTORNEY SEEKS AN ORDER PROHIBITING A JUDGE FROM EXERCISING HIS CONTEMPT POWER OVER THE DISTRICT ATTORNEY WHO HAS ELECTED NOT TO CONTINUE A CRIMINAL PROSECUTION;

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: (Cal. Date - 10/23/14)

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.:

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.:

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.: (Cal. Date - 11/18/14)

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.:

(Cal. Date - 10/22/14)

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.: (Cal. Date - 10/22/14)

NATIVE AMERICANS - SOVEREIGN IMMUNITY OF TRIBE - WHETHER THE



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

SWEAT (TYRONE), PEOPLE v.:

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

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;

TEXEIRA, MATTER OF v FISCHER &c.:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - VIOLATION OF A PRISONER'S RIGHT TO CALL A WITNESS AT A DISCIPLINARY HEARING - WHETHER THE PROPER REMEDY FOR SUCH A VIOLATION IS EXPUNGEMENT OR REMITTAL FOR A NEW HEARING;

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;

TIPALDO v LYNN:

LABOR - WHISTLEBLOWER LAW (CIVIL SERVICE LAW § 75-b) - RETALIATORY PERSONNEL ACTION AGAINST CITY DEPARTMENT OF TRANSPORTATION (DOT) EMPLOYEE WHO REPORTED TO THE DEPARTMENT OF INVESTIGATION (DOI) THAT TWO OF HIS SUPERVISORS VIOLATED BIDDING RULES - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT IT WAS FUTILE FOR PLAINTIFF TO FIRST REPORT THE ALLEGED VIOLATION TO THE INTERNAL DOT "APPOINTING AUTHORITY," AS REQUIRED BY THE STATUTE, BECAUSE THE SAME PEOPLE WHO COMMITTED THE ALLEGED VIOLATION WERE THE "APPOINTING AUTHORITY," AND THAT PLAINTIFF'S INFORMAL REPORT TO HIS IMMEDIATE SUPERVISORS AND HIS FORMAL REPORT TO THE DOI "SATISFACTORILY MET" THE STATUTORY REQUIREMENT; INTEREST - INTEREST ON AWARD - PRE-DETERMINATION INTEREST - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PRE-DETERMINATION INTEREST IS AVAILABLE TO A PREVAILING PLAINTIFF IN

AN ACTION BROUGHT UNDER CIVIL SERVICE LAW § 75-b;  
TRUMP VILLAGE SECTION 3, INC. v CITY OF NEW YORK, et al.:

(Cal. Date - 11/18/14)

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

TURNER (GENNA A.), PEOPLE v:

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

UNIVERSAL AMERICAN CORP. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA.:

INSURANCE - CONSTRUCTION OF POLICY - COMPUTER FRAUD POLICY - WHETHER THE COURTS BELOW PROPERLY DETERMINED THAT THE POLICY AT ISSUE IS NOT AMBIGUOUS AND THAT THE INSURED'S LOSSES WERE NOT COVERED BY THE POLICY - CONSTRUCTION OF THE TERM "FRAUDULENT ... ENTRY OF ELECTRONIC DATA";

VARENGA (NATANAEL SAGASTUMEAL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT A HEARING ON HIS MOTION TO VACATE HIS CONVICTION ON THE GROUND THAT HE WAS DEPRIVED OF HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL BY HIS ATTORNEY'S ALLEGED FAILURE TO ADVISE HIM OF THE IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA - FINALITY OF DEFENDANT'S CONVICTION IN RELATION TO TIMING OF U.S. SUPREME COURT DECISION IN PADILLA v KENTUCY (559 US 356); RETROACTIVE EFFECT OF PADILLA DECISION;

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;

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;

WALKER (CHRISTOPHER E.), PEOPLE v:

CRIMES - JUSTIFICATION - PROPER JURY CHARGE - WHETHER THE PATTERN JURY INSTRUCTION ON THE "INITIAL AGGRESSOR EXCEPTION" TO THE JUSTIFICATION DEFENSE MISSTATES THE APPLICABLE LAW WHERE THE DEFENDANT CLAIMS HE USED FORCE TO SHIELD ANOTHER PERSON FROM ATTACK IN AN ONGOING ALTERCATION;

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;

WASHINGTON, MATTER OF, A SUSPENDED ATTORNEY:

ATTORNEY AND CLIENT - REINSTATEMENT - SUSPENDED ATTORNEY DENIED REINSTATEMENT CLAIMS DUE PROCESS AND EQUAL PROTECTION VIOLATIONS;

WASHINGTON (KAREEM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE EFFECTIVE ASSISTANCE OF CONFLICT-FREE COUNSEL, WHERE, AFTER THE JURY RENDERED A VERDICT, THE TRIAL COURT DENIED DEFENDANT'S PRO SE MOTION FOR PRETRIAL ASSIGNMENT OF NEW COUNSEL IN RELIANCE ON DEFENSE COUNSEL'S REPRESENTATIONS THAT DEFENDANT'S ALLEGATIONS OF INEFFECTIVE ASSISTANCE WERE INCORRECT;

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;

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;

WRAGG (WILLIE L.), PEOPLE v:

CRIMES - SENTENCE - SECOND CHILD SEXUAL ASSAULT FELONY OFFENDER - WHETHER THE PEOPLE ARE PERMITTED TO SEEK A SENTENCING ENHANCEMENT PURSUANT TO PENAL LAW § 70.07 BY FILING A CPL 400.19 SECOND CHILD SEXUAL ASSAULT FELONY OFFENDER STATEMENT AFTER THE COMMENCEMENT OF TRIAL; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL WHEN, AMONG OTHER THINGS, HIS ATTORNEY FAILED TO OBJECT TO THE TESTIMONY OF A POLICE OFFICER WHO REFERRED TO THE VICTIM'S PRE-ARREST IDENTIFICATION OF DEFENDANT;

WRIGHT (HOWARD S.), PEOPLE v:

CRIMES - MURDER - SUFFICIENCY OF EVIDENCE - WHETHER EVIDENCE IS SUFFICIENT TO ESTABLISH INTENTIONAL MURDER - CIRCUMSTANTIAL EVIDENCE; CLAIMED PROSECUTORIAL MISCONDUCT - STATEMENTS MADE BY PROSECUTOR DURING OPENING STATEMENT AND SUMMATION CONCERNING DNA EVIDENCE; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL - DEFENSE COUNSEL'S FAILURE TO OBJECT TO PROSECUTOR'S STATEMENTS

ZELICHENKO v 301 ORIENTAL BOULEVARD, LLC:

NEGLIGENCE - MAINTENANCE OF PREMISES - TRIP AND FALL ON STAIRS  
DUE TO CHIP ON EDGE OF STEP - WHETHER SUMMARY JUDGMENT WAS  
PROPERLY GRANTED TO DEFENDANT UPON THE GROUND THAT, AS A MATTER  
OF LAW, THE CHIP WAS A TRIVIAL DEFECT AND DID NOT CONSTITUTE A  
TRAP OR NUISANCE;