

MOTION NO. (1180/88) KA 15-01007. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SANTO GONZALEZ, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND VALENTINO, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (1393/88) KA 15-00886. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V FREDERICK EARL WALKER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (1742/95) KA 15-00990. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRIAN SCOTT LORENZO, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CENTRA, LINDLEY, VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NOS. (153-154/96) KA 05-01122. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHRISTOPHER YOUNG, DEFENDANT-APPELLANT. (APPEAL NO. 1.) KA 05-01123. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHRISTOPHER YOUNG, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (330/04) KA 01-02565. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHAWN K. WILLIAMS, DEFENDANT-APPELLANT. -- Motion for writ of

error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (164/05) KA 01-01500. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BENJAMIN SWITZER, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (1585/09) KA 07-02429. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V AHMIR COLE, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (162/10) KA 08-02022. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CARLOS PETERSON, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, CARNI, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (1012/11) KA 09-01372. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PAUL A. OSBORNE, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CENTRA, PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (226/12) KA 10-00616. -- THE PEOPLE OF THE STATE OF NEW YORK,**

**RESPONDENT, V STUART J. DIZAK, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (618/13) KA 11-01397. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PERRY GRIGGS, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., PERADOTTO, LINDLEY, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (1098/13) KA 09-01279. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V VERNON L. CARTER, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (1294/13) KA 09-00385. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEON S. ANDERSON, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (459/14) CA 13-01332. -- MARY KALK BIELBY, PLAINTIFF-APPELLANT, V DANIEL MIDDAUGH, INDIVIDUALLY AND AS SHERIFF OF ONEIDA COUNTY, PETER PARAVATI, INDIVIDUALLY AND AS UNDERSHERIFF OF ONEIDA COUNTY SHERIFF'S DEPARTMENT, THE ESTATE OF JAMES ENGLISH, DECEASED, JOSEPH LISI, INDIVIDUALLY AND AS AN EMPLOYEE OF ONEIDA COUNTY SHERIFF'S DEPARTMENT,**

COUNTY OF ONEIDA, AND PATRICIA COPPERWHEAT, INDIVIDUALLY AND AS AN EMPLOYEE OF ONEIDA COUNTY SHERIFF'S DEPARTMENT, DEFENDANTS-RESPONDENTS. -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, AND VALENTINO, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (540/14) KA 12-01248. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL A. ROSS, DEFENDANT-APPELLANT. -- Motion for reconsideration denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (703/14) KA 11-01064. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRIAN BROWN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (1185/14) KA 13-00948. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ALEXANDER J. KESSLER, ALSO KNOWN AS ALEXANDER JACOB KESSLER, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, CARNI, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (14/15) CA 13-00976. -- ADAM VILLAR, PLAINTIFF-APPELLANT, V COUNTY OF ERIE, DEFENDANT-RESPONDENT. (APPEAL NO. 1.) -- Motions for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, AND DEJOSEPH,

JJ. (Filed Oct. 2, 2015.)

MOTION NO. (244/15) CA 14-01125. -- JEFFERY BURNS, PLAINTIFF-RESPONDENT, V  
LECESSE CONSTRUCTION SERVICES LLC, DUKES PROPERTY DEVELOPMENT, LLC, THE  
MILLS HIGH FALLS HOUSING DEVELOPMENT FUND COMPANY, INC., U.S. CEILING  
CORP., URBAN LEAGUE OF ROCHESTER, NY, INC., DEFENDANTS-APPELLANTS, AND PRO  
CARPET, INC., DEFENDANT. PRO CARPET, INC., THIRD-PARTY  
PLAINTIFF-APPELLANT, V JEFFERY W. BURNS, DOING BUSINESS AS BURNS FLOORING,  
THIRD-PARTY DEFENDANT-RESPONDENT. (APPEAL NO. 1.) -- Motion for reargument  
or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER,  
P.J., CENTRA, PERADOTTO, LINDLEY, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (285/15) CA 14-01485. -- SCOTT BOWMAN, PLAINTIFF-APPELLANT, V  
JEANETTE E. ZUMANO, ET AL., DEFENDANTS, KATHI WHEATLEY AND RANDY K.  
WHEATLEY, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to  
appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., LINDLEY,  
VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (307/15) CA 14-01640. -- SHANE VANDERWALL, PLAINTIFF-APPELLANT,  
V 1255 PORTLAND AVENUE LLC AND SPOLETA CONSTRUCTION LLC,  
DEFENDANTS-RESPONDENTS. SPOLETA CONSTRUCTION LLC, THIRD-PARTY PLAINTIFF, V  
HUB-LANGIE PAVING, INC., THIRD-PARTY DEFENDANT. -- Motions for leave to

appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (351/15) CA 14-01385. -- IN THE MATTER OF RITE AID CORPORATION, PETITIONER-RESPONDENT, V STEPHEN HAYWOOD, ASSESSOR, AND BOARD OF ASSESSMENT REVIEW OF TOWN OF WILLIAMSON, WAYNE COUNTY, RESPONDENTS-APPELLANTS.

(PROCEEDING NOS. 1 & 2.) IN THE MATTER OF RITE AID CORPORATION, PETITIONER-RESPONDENT, V TOWN OF WILLIAMSON BOARD OF ASSESSMENT REVIEW, ASSESSOR OF TOWN OF WILLIAMSON AND TOWN OF WILLIAMSON, WAYNE COUNTY, RESPONDENTS-APPELLANTS. (PROCEEDING NO. 3.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (356/15) CA 14-00961. -- IN THE MATTER OF RITE AID CORPORATION, PETITIONER-RESPONDENT, V TERIE HUSEBY, ASSESSOR, AND BOARD OF ASSESSMENT REVIEW OF TOWN OF IRONDEQUOIT, RESPONDENTS-APPELLANTS. (APPEAL NO. 1.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (357/15) CA 14-00962. -- IN THE MATTER OF RITE AID CORPORATION, PETITIONER-RESPONDENT, V TERIE HUSEBY, ASSESSOR, AND BOARD OF ASSESSMENT REVIEW OF TOWN OF IRONDEQUOIT, RESPONDENTS-APPELLANTS. (APPEAL NO. 2.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT:

SCUDDER, P.J., SMITH, CARNI, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (478/15) CA 14-02011. -- SCOTT M. HARVEY, PLAINTIFF-APPELLANT, V  
HANDELMAN, WITKOWICZ AND LEVITSKY, LLP, STEVEN M. WITKOWICZ AND STEVEN B.  
LEVITSKY, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to  
appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI,  
LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (525/15) CA 14-01855. -- KATHLEEN BENEDETTI, INDIVIDUALLY AND AS  
ADMINISTRATOR OF THE ESTATE OF ERIC SMITH, DECEASED, PLAINTIFF-RESPONDENT,  
V ERIE COUNTY MEDICAL CENTER CORPORATION, DEFENDANT-APPELLANT. -- Motion  
for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA,  
J.P., CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (535/15) KA 12-00840. -- THE PEOPLE OF THE STATE OF NEW YORK,  
RESPONDENT, V MARIO CLARK, DEFENDANT-APPELLANT. -- Motion for reargument  
denied. PRESENT: SCUDDER, P.J., SMITH, LINDLEY, WHALEN, AND DEJOSEPH, JJ.  
(Filed Oct. 2, 2015.)

MOTION NO. (550/15) CA 14-02000. -- REBECCA LALKA, PLAINTIFF-APPELLANT, V  
ACA INSURANCE COMPANY, DEFENDANT-RESPONDENT. -- Motion for leave to appeal  
to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, WHALEN,  
AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (576/15) CA 14-01993. -- LYUBOV KLEPANCHUK, NADIA FEFILOV, HOA NGO, KASEY GHARET, WILLIAM HILL, JR., AND THE ESTATE OF LE NGO, DECEASED, PLAINTIFFS-RESPONDENTS, V COUNTY OF MONROE AND MONROE COUNTY AIRPORT AUTHORITY, DEFENDANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (606/15) CA 14-01927. -- P&B CAPITAL GROUP, LLC, AND P&B ACQUISITIONS, LLC, PLAINTIFFS-APPELLANTS, V RAB PERFORMANCE RECOVERIES, LLC, DEFENDANT-RESPONDENT, ET AL., DEFENDANTS. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, AND VALENTINO, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (625/15) CA 14-01788. -- JESSICA MANFORD, PLAINTIFF-RESPONDENT, V FRED M. WILBER, DEFENDANT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (651/15) CA 14-02303. -- IN THE MATTER OF EIGHTH JUDICIAL DISTRICT ASBESTOS LITIGATION. BETH ANN PIENTA, AS SUCCESSOR EXECUTRIX OF THE ESTATE OF LEE HOLDSWORTH, DECEASED, AND AS EXECUTRIX OF THE ESTATE OF CAROL A. HOLDSWORTH, DECEASED, PLAINTIFF-RESPONDENT, V A.W. CHESTERTON COMPANY, ET AL., DEFENDANTS, AND CRANE CO., DEFENDANT-APPELLANT. -- Motion

for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (706/15) CA 14-01040. -- CATHERINE FLINT, ADMINISTRATOR OF THE GOODS, CHATTELS AND CREDITS OF MARIE SMITH, DECEASED, PLAINTIFF-APPELLANT, V ROBERT ZIELINSKI, M.D., DEFENDANT-RESPONDENT, ET AL., DEFENDANT. --**

Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CARNI, VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (707/15) CA 14-01856. -- DAVID G. HARRIS, PLAINTIFF-APPELLANT, V SYRACUSE UNIVERSITY, NANCY CANTOR, ERIC SPINA, MELVIN STITH, RANDAL ELDER AND SUSAN ALBRING, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) --** Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (708/15) CA 14-01857. -- DAVID G. HARRIS, PLAINTIFF-APPELLANT, V SYRACUSE UNIVERSITY, NANCY CANTOR, ERIC SPINA, MELVIN STITH, RANDAL ELDER AND SUSAN ALBRING, DEFENDANTS-RESPONDENTS. (APPEAL NO. 2.) --** Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (711/15) CA 14-01919. -- IN THE MATTER OF JAMES R. DIEGELMAN AND ANDREA M. DIEGELMAN, CLAIMANTS-RESPONDENTS, V CITY OF BUFFALO AND CITY OF BUFFALO BOARD OF EDUCATION, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (727/15) CA 14-00117. -- ACQUEST WEHRLE, LLC, PLAINTIFF-RESPONDENT, V TOWN OF AMHERST, DEFENDANT-APPELLANT. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (728/15) CA 14-01436. -- ACQUEST WEHRLE, LLC, PLAINTIFF-RESPONDENT, V TOWN OF AMHERST, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (750/15) CA 14-01337. -- TOWN OF AMHERST, PLAINTIFF-RESPONDENT, V GRANITE STATE INSURANCE COMPANY, INC., DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, LINDLEY, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (761/15) CA 15-00051. -- IN THE MATTER OF LEONARD FISCHER, PETITIONER-RESPONDENT, V MICHAEL GRAZIANO, SUPERINTENDENT, COLLINS CORRECTIONAL FACILITY, AND TINA M. STANFORD, CHAIRWOMAN, NEW YORK STATE BOARD OF PAROLE, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., CENTRA, PERADOTTO, LINDLEY, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (804/15) CA 14-01566. -- DONNA M. LATTUCA, PLAINTIFF-RESPONDENT, V JOHN M. LATTUCA, DEFENDANT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (812/15) CA 14-02149. -- AFFINITY ELMWOOD GATEWAY PROPERTIES, LLC, PLAINTIFF-RESPONDENT, V AJC PROPERTIES LLC, ET AL., DEFENDANTS, EVELYN BENCINICH, SUSAN M. DAVIS, STEVEN GATHERS, ANGELINE C. GENOVESE, SANDRA GIRAGE, ANDREW B. LANE AND LORENZ M. WUSTNER, DEFENDANTS-APPELLANTS. -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO, CARNI, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

MOTION NO. (835/15) CA 13-01599. -- MICHAEL J. CARLSON, SR., INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF CLAUDIA D'AGOSTINO CARLSON, DECEASED, AND AS ASSIGNEE OF WILLIAM PORTER, PLAINTIFF-RESPONDENT, V AMERICAN INTERNATIONAL GROUP, INC., ET AL., DEFENDANTS, AND AMERICAN ALTERNATIVE

**INSURANCE CO., DEFENDANT-APPELLANT.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (836/15) CA 15-00089.** -- **IN THE MATTER OF DESIREE DAWLEY, JAMES DAWLEY, LYNN BARBUTO, ROBERT BARBUTO, JAMES NEARPASS, ASTRID NEARPASS, TODD WORDEN, LAURA WORDEN, JONATHAN MORELLI AND JANE MORELLI, PETITIONERS-APPELLANTS, V WHITETAIL 414, LLC, WILMORITE, INC., TOWN OF TYRE TOWN BOARD, JAMES LEONARD AND JEANNE LEONARD, RESPONDENTS-RESPONDENTS.** -- Motions for reargument denied. Motions for leave to appeal to the Court of Appeals granted. PRESENT: CENTRA, J.P., CARNI, VALENTINO, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (840/15) CA 14-02027.** -- **MICHAEL J. CARLSON, SR., INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF CLAUDIA D'AGOSTINO CARLSON, AND AS ASSIGNEE OF WILLIAM PORTER, PLAINTIFF-RESPONDENT-APPELLANT, V AMERICAN INTERNATIONAL GROUP, INC., AIG DOMESTIC CLAIMS, INC., AMERICAN ALTERNATIVE INSURANCE CO., NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, DEFENDANTS-APPELLANTS-RESPONDENTS, AND DHL EXPRESS (USA), INC., FORMERLY KNOWN AS DHL WORLDWIDE EXPRESS, INC., DEFENDANT-RESPONDENT.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**MOTION NO. (877.1/15) CA 15-00856. -- IN THE MATTER OF CONCRETE APPLIED TECHNOLOGIES CORPORATION, DOING BUSINESS AS CATCO, PETITIONER-RESPONDENT, V COUNTY OF ERIE, MARIA R. WHYTE, COMMISSIONER, ERIE COUNTY DEPARTMENT OF ENVIRONMENTAL PLANNING, AND KANDEY COMPANY, INC., RESPONDENTS-APPELLANTS.**

-- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., LINDLEY, WHALEN, AND DEJOSEPH, JJ. (Filed Oct. 2, 2015.)

**CAF 14-01739. -- IN THE MATTER OF CINIA E. BILES, PETITIONER-RESPONDENT, V MICHAEL S. BILES, RESPONDENT-APPELLANT.** -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: By order entered August 26, 2014, upon respondent's default, Family Court granted sole custody of the subject children to petitioner. Respondent's assigned appellate counsel has moved to be relieved of the assignment on the ground that there are no nonfrivolous issues for appeal. We conclude that there is a nonfrivolous issue as to whether Family Court abused its discretion in denying the request by respondent's trial counsel for an adjournment (*see Tun v Aw*, 10 AD3d 651, 652). We therefore relieve appellate counsel of his assignment and assign new counsel to brief this issue, as well as any other issues that counsel's review of the record may disclose. (Appeal from an Order of Family Court, Oneida County, Randal B. Caldwell, J. - Custody). PRESENT: SCUDDER, P.J., SMITH, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2, 2015.)

KA 14-00301. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V  
ELIZABETH L. WHITE, DEFENDANT-APPELLANT. -- Judgment unanimously affirmed.  
Counsel's motion to be relieved of assignment granted (*see People v  
Crawford*, 71 AD2d 38 [1979]). (Appeal from a Judgment of Ontario County  
Court, Craig J. Doran, J. - Attempted Burglary, 3rd Degree). PRESENT:  
SCUDDER, P.J., SMITH, LINDLEY, VALENTINO, AND WHALEN, JJ. (Filed Oct. 2,  
2015.)