

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: WHALEN, P.J., CENTRA, CARNI, LINDLEY, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (114/10) KA 08-02140. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTONIO D. RUTLEDGE, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (1450/12) KA 11-00847. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIAM M. DEAN, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, CARNI, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (1037/15) KA 13-02162. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TERRANCE B. HINES, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NOS. (267-268/17) KA 14-00575. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEVIN V. BYNG, DEFENDANT-APPELLANT. (APPEAL NO. 1.)

KA 14-00574. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEVIN V. BYNG, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for reargument denied. PRESENT: PERADOTTO, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND TROUTMAN, JJ. (Filed June 30, 2017.)

MOTION NO. (325/17) CA 16-00689. -- ANITA A. VITULLO, PLAINTIFF-RESPONDENT, V NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY, DEFENDANT-APPELLANT. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (326/17) CA 16-00146. -- IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE INTERMEDIATE ACCOUNT OF HSBC BANK USA, N.A., AS TRUSTEE OF THE TRUST UNDER AGREEMENT DATED JANUARY 21, 1957, SEYMOUR H. KNOX, GRANTOR, FOR THE BENEFIT OF THE ISSUE OF SEYMOUR H. KNOX, III, FOR THE PERIOD JANUARY 21, 1957 TO NOVEMBER 3, 2005. (PROCEEDING NO. 1.) IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE ACCOUNT OF HSBC BANK USA, N.A., AS TRUSTEE OF THE TRUST UNDER AGREEMENT DATED JANUARY 21, 1957, SEYMOUR H. KNOX, GRANTOR, FOR THE BENEFIT OF THE ISSUE OF SEYMOUR H. KNOX, III, FOR THE PERIOD NOVEMBER 4, 2005 TO JUNE 25, 2012. (PROCEEDING NO. 2.) IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE ACCOUNT OF W.A. READ KNOX, SUCCESSOR TRUSTEE, JEAN R. KNOX, AND HSBC BANK USA, N.A., AS TRUSTEES OF THE TRUST UNDER ARTICLE THIRD OF THE WILL OF SEYMOUR H. KNOX, III,

DECEASED, FOR THE PERIOD JULY 16, 1998 TO NOVEMBER 3, 2005. (PROCEEDING NO. 3.) IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE ACCOUNT OF W.A. READ KNOX, SUCCESSOR TRUSTEE, JEAN R. KNOX, AND HSBC BANK USA, N.A., AS TRUSTEES OF THE TRUST UNDER ARTICLE THIRD OF THE WILL OF SEYMOUR H. KNOX, III, DECEASED, FOR THE PERIOD NOVEMBER 4, 2005 TO SEPTEMBER 4, 2012. (PROCEEDING NO. 4.) IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE INTERMEDIATE ACCOUNT OF W.A. READ KNOX, SUCCESSOR TRUSTEE, JEAN R. KNOX AND HSBC BANK USA, N.A., AS TRUSTEES OF THE TRUST UNDER ARTICLE SEVENTH OF THE WILL OF SEYMOUR H. KNOX, III, DECEASED, FOR THE BENEFIT OF JEAN R. KNOX (MARITAL TRUST) FOR THE PERIOD JUNE 3, 1996 TO NOVEMBER 3, 2005. (PROCEEDING NO. 5.) IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE ACCOUNT OF W.A. READ KNOX, SUCCESSOR TRUSTEE, JEAN R. KNOX AND HSBC BANK USA, N.A., AS TRUSTEES OF THE TRUST UNDER ARTICLE SEVENTH OF THE WILL OF SEYMOUR H. KNOX, III, DECEASED, FOR THE BENEFIT OF JEAN R. KNOX (MARITAL TRUST) FOR THE PERIOD NOVEMBER 4, 2005 TO JANUARY 31, 2013. (PROCEEDING NO. 6.) HSBC BANK USA, N.A., PETITIONER-APPELLANT; W.A. READ KNOX, SEYMOUR H. KNOX, IV, AVERY KNOX, HELEN KNOX KEILHOLTZ AND JEAN READ KNOX, OBJECTANTS-RESPONDENTS. (APPEAL NO. 1.) -- Motion for reargument denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (330/17) CA 16-01568. -- ANITA A. VITULLO, PLAINTIFF-APPELLANT, V NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY, DEFENDANT-RESPONDENT.

(APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (331/17) CA 16-01627. -- IN THE MATTER OF THE JUDICIAL SETTLEMENT OF THE INTERMEDIATE ACCOUNTS OF HSBC BANK USA, N.A., AS TRUSTEE OF THE TRUST UNDER AGREEMENT DATED JANUARY 21, 1957, SEYMOUR H. KNOX, GRANTOR, FOR THE BENEFIT OF THE ISSUE OF SEYMOUR H. KNOX, III, FOR THE PERIOD JANUARY 21, 1957 TO NOVEMBER 3, 2005, AND NOVEMBER 4, 2005 TO JUNE 25, 2012. HSBC BANK USA N.A., PETITIONER-APPELLANT, V SEYMOUR H. KNOX, IV, W.A. READ KNOX, AVERY KNOX, HELEN KNOX KEILHOLTZ, OBJECTANTS-RESPONDENTS, AND AURORA KNOX, RESPONDENT. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., LINDLEY, DEJOSEPH, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (350/17) CA 15-02034. -- IN THE MATTER OF KAMALA D. HARRIS, ATTORNEY GENERAL OF STATE OF CALIFORNIA, PETITIONER-RESPONDENT, V SENECA PROMOTIONS, INC., RESPONDENT. NATIVE WHOLESALE SUPPLY COMPANY, APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CARNI, LINDLEY, AND NEMOYER, JJ. (Filed June 30, 2017.)

MOTION NO. (403/17) KA 16-01415. -- THE PEOPLE OF THE STATE OF NEW YORK,

**RESPONDENT, V JERRY MASSEY, DEFENDANT-APPELLANT.** -- Motion for reargument, and for other relief, granted in part and, upon reargument, the memorandum and order entered April 28, 2017 (140 AD3d 1524) is amended by deleting the second sentence of the second paragraph of the memorandum and substituting the following sentences: "As a preliminary matter, that contention survives defendant's waiver of the right to appeal (*see id.*). Contrary to the People's contention, although defendant initially withdrew his motion to withdraw the guilty plea, defendant's contention is properly before us inasmuch as the record reflects that the court allowed defendant to reinstate his motion, and then the court expressly denied the motion (*cf. People v Harris*, 97 AD3d 1111, 1112, *lv denied* 19 NY3d 1026). Nevertheless, we reject that contention. Defendant's terse answers to the court's questions do not indicate that he failed to understand the nature and consequences of his plea (*see People v Dorrah*, 50 AD3d 1619, 1619, *lv denied* 11 NY3d 736). Moreover, it is well established that the denial of a motion to withdraw a guilty plea is not an abuse of discretion absent 'some evidence of innocence, fraud, or mistake in inducing the plea' (*People v Noce*, 145 AD3d 1456, 1457 [internal quotation marks omitted]; *see People v Ernst*, 144 AD3d 1605, 1606, *lv denied* 28 NY3d 1144), and there is no such evidence here. Although defendant alleges that the prosecutor promised him the opportunity to withdraw his guilty plea if he provided information concerning other crimes, the record establishes that defendant refused to cooperate with the prosecutor in that regard. Furthermore, the minutes of the plea colloquy belie defendant's belated assertions of innocence, and

thus we conclude that the court did not abuse its discretion in denying his motion without a hearing (see *Dale*, 142 AD3d at 1289; *People v Miles*, 138 AD3d 1350, 1351, *lv denied* 28 NY3d 934)." PRESENT: CENTRA, J.P., CARNI, LINDLEY, CURRAN AND TROUTMAN, JJ. (Filed June 30, 2017.)

MOTION NO. (454/17) CA 15-00733. -- NNPL TRUST SERIES 2012-1, PLAINTIFF-RESPONDENT, V DIANNE L. LUNN, DEFENDANT-APPELLANT, ET AL., DEFENDANTS. (APPEAL NO. 2.) -- Motion for reargument denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (457/17) CA 16-01638. -- NICHOLAS DOMINICK AND LORRAINE J. DOMINICK, PLAINTIFFS-RESPONDENTS, V CHARLES MILLAR & SON CO., CHARLES MILLAR SUPPLY, INC., MILLAR SUPPLY, INC., PACEMAKER MILLAR STEEL & INDUSTRIAL SUPPLY COMPANY, INC., INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO CHARLES MILLAR & SON SUPPLY, INC., PACEMAKER MILLAR STEEL & INDUSTRIAL SUPPLY OF BINGHAMTON, INC., PACEMAKER STEEL & ALUMINUM OF BINGHAMTON CORP., PACEMAKER STEEL AND PIPING CO., INC., INDIVIDUALLY AND AS SUCCESSOR TO CHARLES MILLAR, PACEMAKER STEEL WAREHOUSE INC., DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (458/17) CA 16-02017. -- NICHOLAS DOMINICK AND LORRAINE J. DOMINICK, PLAINTIFFS-RESPONDENTS, V CHARLES MILLAR & SON CO., CHARLES MILLAR SUPPLY, INC., MILLAR SUPPLY, INC., PACEMAKER MILLAR STEEL & INDUSTRIAL SUPPLY COMPANY, INC., INDIVIDUALLY AND AS SUCCESSOR-IN-INTEREST TO CHARLES MILLAR & SON SUPPLY, INC., PACEMAKER MILLAR STEEL & INDUSTRIAL SUPPLY OF BINGHAMTON, INC., PACEMAKER STEEL & ALUMINUM OF BINGHAMTON CORP., PACEMAKER STEEL AND PIPING CO., INC., INDIVIDUALLY AND AS SUCCESSOR TO CHARLES MILLAR, PACEMAKER STEEL WAREHOUSE INC., DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, TROUTMAN, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (595/17) CA 16-02026. -- IN THE MATTER OF LAURENCE R. GOODYEAR, DECEASED. DANIEL M. GOODYEAR AND WENDY GRISWOLD, PETITIONERS-RESPONDENTS, V FREDERICK YOUNG, BEVERLY H. YOUNG, JOHN F. YOUNG, JAMES R. YOUNG, JEFFREY K. YOUNG, F.J. YOUNG COMPANY, JKLM ENERGY, LLC, AND SWEPI, LP, RESPONDENTS-APPELLANTS. -- Motion for reargument denied. PRESENT: CENTRA, J.P., LINDLEY, DEJOSEPH, NEMOYER, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (617/17) CA 16-02043. -- IN THE MATTER OF MARGARET WOOSTER, CLAYTON S. "JAY" BURNEY, JR., LYNDIA K. STEPHENS AND JAMES E. CARR, PETITIONERS-APPELLANTS-RESPONDENTS, V QUEEN CITY LANDING, LLC, RESPONDENT-RESPONDENT-APPELLANT, CITY OF BUFFALO PLANNING BOARD AND CITY OF

BUFFALO COMMON COUNCIL, RESPONDENTS-RESPONDENTS. (PROCEEDING NO. 1.) IN THE MATTER OF BUFFALO NIAGARA RIVERKEEPERS, INC., PETITIONER-APPELLANT-RESPONDENT, V CITY OF BUFFALO, RESPONDENT-RESPONDENT, AND QUEEN CITY LANDING, LLC, RESPONDENT-RESPONDENT-APPELLANT. (PROCEEDING NO. 2.) (APPEAL NO. 1.) -- Motion for reargument denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND SCUDDER, JJ. (Filed June 30, 2017.)

MOTION NO. (619/17) CA 16-01958. -- LLOYD PICHE, PLAINTIFF-APPELLANT, V SYNERGY TOOLING SYSTEMS, INC., C.V.M. ELECTRIC, INC., DEFENDANTS-RESPONDENTS, AND N. CHOOPS PAINTING AND DECORATING, INC., DEFENDANT. SYNERGY TOOLING SYSTEMS, INC., THIRD-PARTY PLAINTIFF, V AMHERST ACOUSTICAL, INC., THIRD-PARTY DEFENDANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND SCUDDER, JJ. (Filed June 30, 2017.)

KA 14-01210 AND KA 14-01211. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIAM H. HOWELL, DEFENDANT-APPELLANT. -- Judgments unanimously affirmed. Counsel's motion to be relieved of assignments granted (*see People v Crawford*, 71 AD2d 38). (Appeals from Judgments of the Monroe County Court, Hon. John L. DeMarco, J. - Burglary, 3rd Degree). PRESENT: WHALEN, P.J., CARNI, LINDLEY, CURRAN, AND SCUDDER, JJ. (Filed June 30, 2017.)