

JUNE 2012

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.

ABREU, MATTER OF v HOGAN, et al.:

PRISONS AND PRISONERS - CONDITIONS OF CONFINEMENT - DENIAL OF INMATE GRIEVANCE THAT HE WAS IMPROPERLY DENIED PARTICIPATION IN THE SEX OFFENDER COUNSELING AND TREATMENT PROGRAM AND WAS NOT RECEIVING PROPER MENTAL HEALTH TREATMENT - CLAIMED VIOLATIONS OF CORRECTION LAW § 622 AND CONSTITUTIONAL RIGHTS;

ADAMS (KEITH A.), PEOPLE v:

DISTRICT AND PROSECUTING ATTORNEYS - WHETHER DISTRICT ATTORNEY SHOULD HAVE RECUSED HIMSELF OR BEEN DISQUALIFIED FROM PROSECUTING CASE WHERE COMPLAINANT WAS CITY COURT JUDGE BEFORE WHOM DISTRICT ATTORNEY REGULARLY APPEARS; DENIAL, WITHOUT HEARING, OF DEFENDANT'S MOTION FOR APPOINTMENT OF A SPECIAL PROSECUTOR;

ADELMAN, MATTER OF v GARY, &c.:

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - WHETHER MANDAMUS LIES TO COMPEL RESPONDENT SUPREME COURT JUSTICE TO VACATE A SENTENCE IMPOSED AND TO RESENTENCE PETITIONER, OR TO RECONSIDER PETITIONER'S PRIOR MOTION PURSUANT TO CPL 440.20;

ADRIAN, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF NIAGARA FALLS, et al.:

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - RESIDENCY REQUIREMENT - CHALLENGE TO ADMINISTRATIVE TERMINATION OF PETITIONER'S EMPLOYMENT FOR FAILURE TO SATISFY SCHOOL DISTRICT'S REQUIREMENT THAT EMPLOYEES HIRED OR PROMOTED AFTER A CERTAIN DATE RESIDE WITHIN THE CITY OF NIAGARA FALLS; PETITIONER'S ENTITLEMENT TO HEARING PURSUANT TO EDUCATION LAW §§ 3020 AND 3020-a;

ALFARO (JOSE), PEOPLE v: (Cal. Date - 9/5/12)

CRIMES - EVIDENCE - ADMISSION OF IMITATION PISTOL, HANDCUFFS AND HANDCUFF KEYS AS CIRCUMSTANTIAL EVIDENCE OF INTENT TO COMMIT ROBBERY AND ASSAULT CRIMES - POSSESSION OF ITEMS NOT INTRINSICALLY UNLAWFUL AND NOT USED, DISPLAYED OR THREATENED TO BE USED IN COMMISSION OF CRIMES - ABSENCE OF LIMITING INSTRUCTION - ALLEGED MOLINEUX VIOLATION; ALLEGED DENIAL OF A FAIR TRIAL DUE TO TRIAL COURT RULINGS AND PROSECUTORIAL MISCONDUCT; SUFFICIENCY OF THE EVIDENCE OF A COMPLETED ROBBERY;

ALVAREZ (LUIS), PEOPLE v: (Cal. Date - 9/7/12)  
 CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S FAMILY MEMBERS FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SEATING;

AMAZON.COM, LLC, et al. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.:  
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW § 1101(b) (8) (vi);

AMERICAN BUILDING SUPPLY CORP. v PETROCELLI GROUP, INC., et al.: (Cal. Date - 10/10/12)  
 INSURANCE - COVERAGE - CLAIM BY INSURED THAT INSURANCE BROKER NEGLIGENTLY FAILED TO PROCURE ADEQUATE INSURANCE COVERAGE FOR BODILY INJURY INCURRED BY INSURED'S EMPLOYEES IN THE COURSE OF THEIR EMPLOYMENT - WHETHER INSURED'S FAILURE TO REVIEW THE POLICY BARS A NEGLIGENCE CLAIM AGAINST THE BROKER; SUMMARY JUDGMENT;

APPLEWHITE, &c. et al. v ACCUHEALTH, INC. et al.:  
 MUNICIPAL CORPORATIONS - TORT LIABILITY - ASSUMPTION OF SPECIAL DUTY TO INFANT PLAINTIFF IN ANAPHYLACTIC SHOCK - EMERGENCY MEDICAL PERSONNEL DID NOT TRANSPORT THE INFANT PLAINTIFF TO THE HOSPITAL IMMEDIATELY IN THEIR BASIC LIFE SUPPORT AMBULANCE, BUT ASSURED THE INFANT'S MOTHER THAT IT WOULD BE BETTER TO WAIT FOR AN ADVANCED LIFE SUPPORT AMBULANCE TO ARRIVE WITH PARAMEDICS AND NECESSARY EQUIPMENT;

ASSET PROTECTION & SECURITY SERVICES, LP, MATTER OF v SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 200 UNITED:  
 ARBITRATION - PROCEEDING PURSUANT TO CPLR ARTICLE 75 - WHETHER ARBITRATOR EXCEEDED HIS AUTHORITY BY DIRECTING THAT THE EMPLOYEE BE REINSTATED AND AWARDING HER BACK PAY AND BENEFITS; JUST CAUSE FOR TERMINATION;

AUGUSTINE (TRAVIS), PEOPLE v:  
 CRIMES - SUPPRESSION HEARING - WHETHER COUNTY COURT PROPERLY DENIED DEFENDANT'S MOTION TO SUPPRESS HIS STATEMENTS MADE TO POLICE - WHETHER DEFENDANT WAS REPRESENTED BY COUNSEL ON AN UNRELATED VIOLATION OF PROBATION CHARGE SO THAT QUESTIONING COULD NOT TAKE PLACE ON THE MURDER AND OTHER CHARGES UNLESS COUNSEL WAS PRESENT OR DEFENDANT WAIVED HIS RIGHTS IN COUNSEL'S PRESENCE; SUFFICIENCY OF THE EVIDENCE AT TRIAL; RIGHT TO FORMAL COMPLAINT ABOUT EFFECTIVENESS OF COUNSEL;

AUQUI &c., et al. v SEVEN THIRTY ONE LIMITED PARTNERSHIP, et al.:  
 JUDGMENTS - COLLATERAL ESTOPPEL - PRECLUSIVE EFFECT TO BE GIVEN TO DETERMINATION BY WORKERS' COMPENSATION LAW JUDGE CONCERNING TERMINATION DATE OF PLAINTIFF'S DISABILITY - WHETHER APPOINTMENT OF GUARDIAN FOR PLAINTIFF RAISED TRIABLE ISSUE OF FACT AS TO THE ONGOING NATURE OF PLAINTIFF'S DISABILITY;

BAKER (TREVIS D.), PEOPLE v (APPEAL NOs. 1 and 2):  
 CRIMES - DISORDERLY CONDUCT (PENAL LAW § 240.20[3]) - PROBABLE  
 CAUSE FOR ARREST - USE OF FOUL LANGUAGE IN PUBLIC IN CRITICIZING  
 CONDUCT OF POLICE OFFICER - CONSTITUTIONALLY PROTECTED SPEECH;  
 GUILTY PLEA;

BARNES, MATTER OF v HARLING:  
 PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER  
 SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH  
 RESPECT TO CHARGES THAT PETITIONER HAD VIOLATED VARIOUS JAIL  
 RULES AND REGULATIONS; ALLEGED FAILURE TO COMPLY WITH  
 PETITIONER'S DISCLOSURE REQUEST;

BECK-NICHOLS, MATTER OF v BIANCO, et al.:  
 PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78  
 PROCEEDING TO ANNUL DETERMINATION OF RESPONDENT SCHOOL DISTRICT  
 TERMINATING PETITIONER'S EMPLOYMENT BASED ON FAILURE TO COMPLY  
 WITH THE DISTRICT'S RESIDENCY POLICY; STANDARD OF REVIEW;

BELLIARD (RAFAEL), PEOPLE v:  
 CRIMES - PLEA OF GUILTY - WHETHER MANDATORY CONSECUTIVE SENTENCE  
 (PENAL LAW § 70.25[2-a]) IS A DIRECT CONSEQUENCE OF THE GUILTY  
 PLEA SO THAT THE TRIAL COURT'S FAILURE TO INFORM DEFENDANT THAT  
 HIS SENTENCE WOULD RUN CONSECUTIVELY TO AN UNDISCHARGED,  
 PREVIOUSLY-IMPOSED SENTENCE RENDERS DEFENDANT'S GUILTY PLEA NOT  
 KNOWING, INTELLIGENT AND VOLUNTARY;

BEST (EMIL), PEOPLE v: (Cal. Date - 10/11/12)  
 TRIAL - PHYSICALLY RESTRAINED DEFENDANT - HANDCUFFS AND LEG  
 SHACKLES DURING NONJURY TRIAL - TRIAL COURT DID NOT CONDUCT  
 INQUIRY REGARDING NEED FOR RESTRAINTS OR PUT ON RECORD ANY  
 REASONS FOR VISIBLE RESTRAINTS - CLAIMED VIOLATION OF DUE PROCESS  
 RIGHTS; CLAIMED INSUFFICIENCY OF ACCUSATORY INSTRUMENT;

BEZIO, MATTER OF v DORSEY:  
 PRISONS AND PRISONERS - MEDICAL AND SURGICAL TREATMENT - COURT-  
 ORDERED FORCE FEEDING - WHETHER PRISON INMATE ON VOLUNTARY HUNGER  
 STRIKE HAD RIGHT TO DECLINE FORCE FEEDING;

BLANKYMSEE (LAWRENCE), PEOPLE v:  
 CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION (PRS) -  
 WHETHER THE ADDITION OF A TERM OF PRS TO DEFENDANT'S SENTENCE  
 AFTER HE FINISHED SERVING THE DETERMINATE SENTENCE FOR WHICH PRS  
 WAS BEING IMPOSED, BUT BEFORE HE FINISHED SERVING HIS TWO  
 CONCURRENT INDETERMINATE SENTENCES, VIOLATED THE PROHIBITION  
 AGAINST DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

BHUGRA v MASSACHUSETTS CASUALTY INSURANCE COMPANY, et al.:  
 STIPULATIONS - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER GRANTING MOTION TO COMPEL PLAINTIFF TO ACCEPT SERVICE OF ANSWER UPON THE GROUND THAT THE ANSWER WAS TIMELY SERVED IN ACCORDANCE WITH A STIPULATION SIGNED BY COUNSEL FOR DEFENDANTS AND PLAINTIFF'S PRIOR COUNSEL;

BITCHATCHI, MATTER OF v BOARD OF TRUSTEES OF THE NEW YORK CITY POLICE DEPARTMENT PENSION FUND, ARTICLE II:  
 CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT (ADR) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUPREME COURT PROPERLY DETERMINED THAT THE AGENCY FAILED TO REBUT WITH CREDIBLE EVIDENCE THE STATUTORY PRESUMPTION THAT PETITIONER'S DISABILITY WAS RELATED TO HER SERVICE AS A POLICE OFFICER AT THE WORLD TRADE CENTER SITE FOLLOWING SEPTEMBER 11, 2001;

BRINSON (CHRISTOPHER), PEOPLE v:  
 CRIMES - SENTENCE - RESENTENCE - POSTRELEASE SUPERVISION (PRS) - WHETHER THE ADDITION OF A TERM OF PRS TO DEFENDANT'S SENTENCE AFTER HE FINISHED SERVING THE DETERMINATE SENTENCE FOR WHICH PRS WAS BEING IMPOSED, BUT BEFORE HE FINISHED SERVING ALL OF HIS CONSECUTIVE INDETERMINATE SENTENCES, VIOLATED THE PROHIBITION AGAINST DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

BRONX COMMITTEE FOR TOXIC FREE SCHOOLS, MATTER OF, et al. v NEW YORK CITY SCHOOL CONSTRUCTION AUTHORITY, et al.:  
 (Cal. Date - 9/11/12)  
 ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL IMPACT STATEMENT (EIS) - SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (SEIS) - WHETHER SCHOOL CONSTRUCTION AUTHORITY (SCA) FAILED TO TAKE THE REQUISITE "HARD LOOK" AT LONG-TERM MAINTENANCE AND MONITORING OF MEASURES FOR THE REMEDIATION OF CONTAMINATED SOIL AND GROUNDWATER AT THE MOTT HAVEN SCHOOL CAMPUS SITE BEFORE ISSUING ITS EIS AND IS REQUIRED TO PREPARE A SEIS - EFFECT, IF ANY, OF SITE MANAGEMENT PLAN SCA DEVELOPED UNDER THE BROWNFIELD CLEANUP PROGRAM;

CANGRO v SOLOMON:  
 APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PLAINTIFF'S MOTION FOR AN ORDER VACATING ONE OF THAT COURT'S PRIOR ORDERS AND RESTORING AN APPEAL TO THE COURT'S CALENDAR UPON AN APPENDIX THAT PLAINTIFF PREVIOUSLY FILED OR ENLARGING THE TIME IN WHICH PLAINTIFF COULD RE-PERFECT THE APPEAL;

CAJIGAS (NORMAN), PEOPLE v: (Cal. Date - 9/7/12)  
 CRIMES - BURGLARY - ATTEMPT - SUFFICIENCY OF THE EVIDENCE OF CRIMINAL INTENT - WHETHER AN INTENT TO COMMIT AN ACT THAT WOULD BE INNOCUOUS IF AN ORDER OF PROTECTION DID NOT PROHIBIT IT CAN SATISFY THE "INTENT TO COMMIT A CRIME THEREIN" ELEMENT OF BURGLARY;

CALDWELL v CABLEVISION SYSTEMS CORPORATION, et al.:

WITNESSES - FEES - FACT WITNESS - PAYMENTS IN EXCESS OF STATUTORY RATE OF \$15 PER DAY - PAYMENT OF \$10,000 FEE TO ORTHOPEDIC SURGEON WHO TESTIFIED AS A FACT WITNESS FOR DEFENDANT - WHETHER SUCH PAYMENT REQUIRED THE WITNESS'S TESTIMONY TO BE STRICKEN - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE TRIAL COURT'S ERROR IN FAILING TO GIVE JURY SPECIFIC INSTRUCTION REGARDING FACT-WITNESS COMPENSATION WAS HARMLESS;

CHENANGO FORKS CENTRAL SCHOOL DISTRICT, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD et al.:

CIVIL SERVICE - PUBLIC EMPLOYEES FAIR EMPLOYMENT ACT (TAYLOR LAW) REFUSAL TO NEGOTIATE IN GOOD FAITH - WHETHER REIMBURSEMENT OF MEDICARE PART B PREMIUMS IS A TERM AND CONDITION OF EMPLOYMENT SUBJECT TO MANDATORY NEGOTIATION - ESTABLISHMENT OF PAST PRACTICE OF MAKING SUCH REIMBURSEMENTS;

CHISHOLM (DEREK), PEOPLE v:

CRIMES - ARREST - PROBABLE CAUSE - WHETHER SUPREME COURT ERRED BY FAILING (1) TO GRANT DEFENDANT'S REQUEST FOR A DARDEN HEARING OR (2) TO REVIEW TESTIMONY GIVEN BY CONFIDENTIAL INFORMANT BEFORE WARRANT-ISSUING COURT AND DETERMINE IF THERE WAS SUFFICIENT PROBABLE CAUSE TO ISSUE THE WARRANT AND COMPLIANCE WITH CPL 690.40(1);

CIVIDANES v CITY OF NEW YORK et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - APPLICABILITY OF NO-FAULT LAW - WHETHER PLAINTIFF'S INJURY AROSE OUT OF AN AUTOMOBILE ACCIDENT WITHIN THE MEANING OF THE NO-FAULT LAW WHERE SHE TRIPPED AND FELL IN A HOLE IN THE STREET AS SHE EXITED A BUS;

COLEMAN v DAINES &c, et al.: (Cal. Date 9/4/12)

SOCIAL SERVICES - PROCEEDING AGAINST BODY OR OFFICER - PETITION SEEKING RELIEF AS A RESULT OF RESPONDENTS' HANDLING OF PETITIONER'S APPLICATION FOR MEDICAID HOME CARE SERVICES; SOCIAL SERVICES LAW § 133; MOOTNESS - EXCEPTION TO MOOTNESS DOCTRINE; ADMINISTRATIVE LAW - FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;

COLVILLE (DELROY), PEOPLE v: (Cal. Date - 9/6/12)

CRIMES - JURORS - JURY INSTRUCTIONS - COUNSEL'S WITHDRAWAL, IN DEFERENCE TO CLIENT'S WISHES, OF REQUEST TO CHARGE MANSLAUGHTER IN THE FIRST AND SECOND DEGREES AS LESSER INCLUDED OFFENSES TO MURDER IN THE SECOND DEGREE - WHETHER THE DECISION TO SUBMIT LESSER INCLUDED OFFENSES TO THE JURY IS A STRATEGIC DECISION TO BE MADE BY COUNSEL OR A FUNDAMENTAL DECISION TO BE MADE BY THE CLIENT - EFFECTIVE ASSISTANCE OF COUNSEL; JUSTIFICATION DEFENSE - DUTY TO RETREAT;

CUNNINGHAM, MATTER OF v NEW YORK STATE DEPARTMENT OF LABOR:  
 CIVIL SERVICE - TERMINATION OF EMPLOYMENT - CONSTITUTIONALITY OF  
 SEARCH CONDUCTED BY PUBLIC EMPLOYER BY PLACING GLOBAL POSITIONING  
 SYSTEM DEVICES ON EMPLOYEE'S CAR WITHOUT A WARRANT;

CUSTODI et al. v MUFFOLETTO et al.: (Cal. Date - 9/6/12)  
 NEGLIGENCE - ASSUMPTION OF RISK - ACTION SEEKING DAMAGES FOR  
 INJURIES SUSTAINED BY PLAINTIFF WHILE ROLLERBLADING WHEN SHE  
 ALLEGEDLY TRIPPED OVER A TWO-INCH HEIGHT DIFFERENTIAL BETWEEN  
 APRON AT END OF INDIVIDUAL DEFENDANTS' DRIVEWAY AND CULVERT THAT  
 SEPARATED DRIVEWAY FROM PUBLIC ROADWAY - WHETHER THE APPELLATE  
 DIVISION ERRED IN CONCLUDING THAT, UNDER THE CIRCUMSTANCES OF  
 THIS CASE, THE DOCTRINE OF PRIMARY ASSUMPTION OF RISK IS  
 INAPPLICABLE;

D'ANGELO, MATTER OF v SCOPPETTA, &c., et al.:  
 (Cal. Date - 9/7/12)  
 CIVIL SERVICE - DISCIPLINARY PUNISHMENT - ARTICLE 78 PROCEEDING  
 CHALLENGING A DETERMINATION OF RESPONDENT FIRE COMMISSIONER  
 RESULTING IN PLACEMENT OF A LETTER AND ADVISORY MEMORANDUM IN  
 PETITIONER FIREFIGHTER'S EQUAL EMPLOYMENT OPPORTUNITY OFFICE FILE  
 - WHETHER INCORPORATION OF LETTER INTO EMPLOYEE'S FILE TRIGGERED  
 THE STATUTORY PROTECTIONS OF CIVIL SERVICE LAW § 75;

W. (DASHAWN), MATTER OF:  
 PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER THE  
 AGENCY'S DUTY TO USE "DILIGENT EFFORTS" TO ENCOURAGE AND  
 STRENGTHEN THE PARENTAL RELATIONSHIP WAS PROPERLY EXCUSED (SOCIAL  
 SERVICES LAW § 384-b[8][a][iv]) - WHETHER THE RECORD CONTAINS  
 SUFFICIENT EVIDENCE OF "DEPRAVED INDIFFERENCE TO HUMAN LIFE"  
 (SOCIAL SERVICES LAW 384-b[8][a][i]) TO SUPPORT THE "SEVERE  
 ABUSE" ADJUDICATION;

DEAN, et al. v TOWER INSURANCE COMPANY OF NEW YORK:  
 (Cal. Date - 9/11/12)  
 INSURANCE - DISCLAIMER OF COVERAGE - AMBIGUITY IN POLICY -  
 WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A "RESIDENCE  
 PREMISES" INSURANCE POLICY WAS AMBIGUOUS BECAUSE IT FAILED TO  
 DEFINE THE WORD "RESIDES" FOR COVERAGE PURPOSES AND THE  
 PLAINTIFFS PURCHASED THE POLICY IN ADVANCE OF CLOSING BUT WERE  
 UNABLE TO FULFILL THEIR INTENTION OF ESTABLISHING RESIDENCY AT  
 THE SUBJECT PREMISES DUE TO THEIR DISCOVERY AND REMEDIATION OF  
 TERMITE DAMAGE - WHETHER AN ISSUE OF FACT EXISTED REGARDING  
 PLAINTIFFS' MISREPRESENTATION OF THEIR INTENTION TO RESIDE IN THE  
 SUBJECT PREMISES;

DELAKAS, MATTER OF v MINTZ, &c.:  
 LICENSES - DENIAL OF APPLICATION FOR A LICENSE TO OPERATE AN

EXISTING NEWSSTAND - PETITIONER HAS PAID LICENSEES A WEEKLY FEE TO OPERATE THE NEWSSTAND SINCE 1987 - WHETHER PETITIONER MEETS CRITERIA FOR ACCEPTANCE OF LICENSE APPLICATION UPON "DEATH OR DISABILITY OF LICENSEE" (6 RCNY 2-64[a][12]);

DELISER (JOSUE), PEOPLE v:

CRIMES - PLEA OF GUILTY - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL WHO PURPORTEDLY TOOK AN ADVERSE POSITION TO DEFENDANT ON DEFENDANT'S UNSUCCESSFUL PRO SE MOTION TO WITHDRAW HIS GUILTY PLEAS;

DE PROSPERO (STEPHEN), PEOPLE v:

CRIMES - SEARCH WARRANT - DELAYED FORENSIC EXAMINATION OF ELECTRONIC MEDIA - WHETHER PORNOGRAPHIC IMAGES AND VIDEOS OF CHILDREN UNCOVERED AS A RESULT OF A JANUARY 2010 SEARCH OF DEFENDANT'S COMPUTER AND DIGITAL CAMERA HAD TO BE SUPPRESSED, WHERE THEY WERE SEIZED PURSUANT TO A MAY 2009 SEARCH WARRANT AND PREVIOUSLY SUBJECTED TO A LIMITED PREVIEW RESULTING IN ANOTHER CHARGE, AND THE 2010 EXAMINATION OF DEFENDANT'S PROPERTY OCCURRED AFTER SENTENCING ON THE OTHER CHARGE AND FOLLOWING DEFENDANT'S REQUEST FOR THE RETURN OF HIS PROPERTY;

DIAZ (RANDOLFO), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - IMPROPER BOLSTERING - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE'S EXPERT TO DESCRIBE HOW A SEX OFFENDER "GROOMS" A CHILD VICTIM; EVIDENCE - PRIOR FALSE ALLEGATIONS OF RAPE OR SEXUAL ABUSE - WHETHER THE TRIAL COURT PROPERLY PRECLUDED DEFENSE WITNESS FROM TESTIFYING THAT THE COMPLAINANT HAD MADE A FALSE ALLEGATION OF SEXUAL ABUSE AGAINST HIM APPROXIMATELY SIX YEARS EARLIER;

DOUGLAS ELLIMAN LLC, &c. v TRETTER: (Cal. Date - 10/9/12)

BROKERS - REAL ESTATE BROKERS - COMMISSION - BREACH OF FIDUCIARY DUTY - BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING - EXISTENCE OF UNDISCLOSED DUAL AGENCY - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING SUMMARY JUDGMENT TO PLAINTIFF BROKER;

DUARTE, MATTER OF v CITY OF NEW YORK:

PRISONS AND PRISONERS - CONDITIONS OF CONFINEMENT - WHETHER DECISION AS TO WHETHER NEWBORN CHILD MAY REMAIN WITH MOTHER IN CORRECTIONAL FACILITY MUST BE DECIDED BASED ON WELFARE OF CHILD ALONE, OR WHETHER AUTHORITIES MAY ALSO CONSIDER INTERESTS OF THE INSTITUTION, OTHER INMATES, AND OTHER INMATES' CHILDREN; PARENT AND CHILD;

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

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

EAST MIDTOWN PLAZA HOUSING COMPANY, INC. v CUOMO &c., et al.:  
(Cal. Date - 10/10/12)

CONDOMINIUMS AND COOPERATIVES - COOPERATIVE APARTMENTS -  
PROCEEDING TO COMPEL APPROVAL AND ACCEPTANCE OF AMENDMENT TO  
COOPERATIVE OFFERING PLAN - WHETHER ARTICLE 23-A OF THE GENERAL  
BUSINESS LAW APPLIES TO PETITIONER'S PLAN TO WITHDRAW FROM THE  
MITCHELL-LAMA PROGRAM AND RECONSTITUTE AS A PRIVATE COOPERATIVE -  
UNTRUE OR MISLEADING STATEMENT IN AMENDMENT TO OFFERING PLAN AS  
BASIS FOR ATTORNEY GENERAL'S REJECTION OF AMENDMENT; RATIONALITY  
OF METHOD FOR COUNTING DISSOLUTION VOTES - ONE VOTE PER APARTMENT  
RATHER THAN ONE VOTE PER SHARE - AGENCY RULE REQUIRING "APPROVAL  
OF TWO-THIRDS OF OUTSTANDING SHARES" - BUSINESS CORPORATION LAW  
§ 1001;

ECHIVARRIA (ALEX), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM -  
CONSIDERATION OF REASONABLE ALTERNATIVES TO CLOSURE - CLOSURE  
LIMITED TO DURATION OF TRIAL TESTIMONY BY UNDERCOVER POLICE  
OFFICERS WITH CONSIDERATION TO BE GIVEN TO ANY REQUESTS BY  
DEFENDANT'S FAMILY MEMBERS FOR ACCESS TO THE COURTROOM DURING  
THAT TIME; JURY CHARGE - CHALLENGE TO COURT'S CHARGE ON THE  
AGENCY DEFENSE;

ECHOSTAR SATELLITE CORP., MATTER OF v TAX APPEALS TRIBUNAL:  
(Cal. Date - 9/4/12)

TAXATION - SALES AND USE TAXES - WHETHER SATELLITE TELEVISION  
PROGRAMMING PROVIDER'S PURCHASES OF EQUIPMENT IT THEN SUPPLIES TO  
CUSTOMERS TO ALLOW THEM ACCESS TO SATELLITE PROGRAMMING  
CONSTITUTE PURCHASES FOR RESALE WITHIN THE MEANING OF TAX LAW  
§ 1101(b)(4)(i), WHICH EXEMPTS SUCH PURCHASES FOR RESALE FROM  
SALES AND USE TAXES;

FERNANDEZ (SANDY), PEOPLE v: (Cal. Date - 9/13/12)

CRIMES - ACCUSATORY INSTRUMENT - WHETHER THE APPELLATE TERM ERRED  
IN HOLDING THAT AN ACCUSATORY INSTRUMENT CHARGING DEFENDANT WITH  
AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE IN THE THIRD  
DEGREE (VEHICLE AND TRAFFIC LAW § 511[1][a]) WAS A SIMPLIFIED  
TRAFFIC INFORMATION EVEN THOUGH IT WAS TITLED  
"COMPLAINT/INFORMATION" AND INCLUDED FACTUAL ALLEGATIONS IN  
SUPPORT OF THE CHARGE;

GALASSO, MATTER OF, AN ATTORNEY: (Cal. Date - 9/11/12)

ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - CHALLENGE TO  
APPELLATE DIVISION ORDER SUSPENDING ATTORNEY BASED UPON TEN  
SUSTAINED CHARGES OF MISCONDUCT - STRICT AND VICARIOUS LIABILITY  
OF ATTORNEY FOR CRIMINAL ACTS OF LAW FIRM EMPLOYEE;



GARCIA (MIGUEL), PEOPLE v: (Cal. Date - 10/18/12)  
 CRIMES-UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE HAVE THE RIGHT TO ASK THE OCCUPANTS OF A CAR WHETHER THEY HAVE ANY WEAPONS ONCE THE POLICE LAWFULLY STOP THE CAR FOR ANY REASON; INEVITABLE DISCOVERY DOCTRINE;

GAVAZZI (JOHN), PEOPLE v: (Cal. Date - 10/16/12)  
 CRIMES - UNLAWFUL SEARCH AND SEIZURE - SEARCH WARRANT FAILED TO IDENTIFY ISSUING COURT AND MAGISTRATE - WHETHER WARRANT "SUBSTANTIALLY COMPLIES" WITH STATUTORY REQUIREMENTS (CRIMINAL PROCEDURE LAW § 690.45); SUPPRESSION HEARING;

GEORGE (WILLIAM), PEOPLE v: (Cal. Date - 9/7/12)  
 CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED SPECTATORS, INCLUDING DEFENDANT'S MOTHER, FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SPACE AND PROXIMITY TO PROSPECTIVE JURORS; PRESERVATION;

GELMAN v BUEHLER:  
 PARTNERSHIP - DISSOLUTION - UNILATERAL DISSOLUTION OF ORAL PARTNERSHIP - MEANING OF "DEFINITE TERM" AND "PARTICULAR UNDERTAKING" AS USED IN PARTNERSHIP LAW § 62 (1)(b) - APPLICATION OF HAINES v CITY OF NEW YORK (41 NY2d 769) TO SUPPLY MISSING TERMS TO ORAL PARTNERSHIP AGREEMENT;

GRIFFIN (ANTHONY), PEOPLE v:  
 CRIMES - RIGHT TO COUNSEL - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT THE TRIAL COURT'S DISCHARGE OF DEFENDANT'S COUNSEL WITHOUT CONSULTING DEFENDANT WAS AN ABUSE OF DISCRETION AND INTERFERED WITH DEFENDANT'S RIGHT TO COUNSEL;

GURYEV v TOMCHINSKY, et al.:  
 LABOR - SAFE PLACE TO WORK - SUPERVISION OR CONTROL OF WORK - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING AS A MATTER OF LAW THAT CERTAIN DEFENDANTS WERE NOT OWNERS OR THE AGENTS OF OWNER ON THE PROJECT AND DID NOT CONTROL OR SUPERVISE THE WORK; INDUSTRIAL CODE VIOLATION - FURNISHING OF EYE PROTECTION EQUIPMENT - PLAINTIFF'S ENTITLEMENT TO SUMMARY JUDGMENT ON LIABILITY;

HALTER (ROBERT), PEOPLE v: (Cal. Date - 9/13/12)  
 CRIMES - EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - APPLICATION OF RAPE SHIELD LAW (CPL 60.42) - ALLEGED DENIAL OF DEFENDANT'S RIGHTS TO CONFRONT ACCUSER AND PRESENT A DEFENSE;

HAMPTON (GRADY), PEOPLE v:  
 JUDGES - RECUSAL - CASE ASSIGNED TO ANOTHER JUDGE AFTER TRIAL JUDGE WHO HEARD DEFENDANT'S MOTIONS FOR A TRIAL ORDER OF

DISMISSAL RECUSED HIMSELF - WHETHER JUDICIARY LAW § 21 PROHIBITED THE SECOND JUDGE FROM DECIDING THE MOTIONS AND REQUIRED A MISTRIAL; SUFFICIENCY OF EVIDENCE TO SUPPORT MURDER CONVICTION; CRIMES - MURDER;

HANDY (DAYSHAWN P.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN REFUSING TO GIVE AN ADVERSE INFERENCE INSTRUCTION TO THE JURY, BASED ON THE PROSECUTION'S FAILURE TO PRESERVE A VIDEOTAPE RECORDING THAT CAPTURED PART OF THE INCIDENT AT ISSUE; SUFFICIENCY OF THE EVIDENCE OF INTENT TO CAUSE INJURY;

HARRIS (CALVIN L.), PEOPLE v: (Cal. Date - 9/11/12)

CRIMES - MURDER IN THE SECOND DEGREE - SUFFICIENCY OF THE EVIDENCE - CONVICTION BASED ON CIRCUMSTANTIAL EVIDENCE; JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE OF PROSPECTIVE JUROR WHO ACKNOWLEDGED SHE HAD EXPRESSED A PREEXISTING OPINION REGARDING DEFENDANT'S GUILT OR INNOCENCE; EVIDENCE - PRECLUSION OF EXCULPATORY STATEMENTS BY UNAVAILABLE WITNESS - ADMISSION OF VICTIM'S HEARSAY STATEMENTS WITHOUT INSTRUCTING THE JURY THAT STATEMENTS WERE NOT ADMITTED FOR THEIR TRUTH; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGED DENIAL OF FAIR TRIAL DUE TO PRETRIAL PUBLICITY;

HARRIS (JAMES A., JR.), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENDANT'S STATEMENT DURING CUSTODIAL INTERROGATION, "I THINK I WANT TO TALK TO A LAWYER," INVOKED HIS RIGHT TO COUNSEL; WHETHER STATEMENTS THEN GIVEN BY DEFENDANT IN ABSENCE OF COUNSEL MUST BE SUPPRESSED; HARMLESS ERROR;

HASTINGS, et al. v SAUVE, et al.:

JUDGMENTS - SUMMARY JUDGMENT - CLAIM INVOLVING INJURY INFLICTED BY DOMESTIC ANIMAL - STRICT LIABILITY VERSUS COMMON LAW NEGLIGENCE;

HECKER v STATE OF NEW YORK:

LABOR - SAFE PLACE TO WORK - SLIPPING HAZARD - SNOW AND ICE - APPLICABILITY OF 12 NYCRR 23-1.7(d) AS A PREDICATE FOR PLAINTIFF'S CLAIM UNDER LABOR LAW § 241(6) - CHALLENGE TO APPELLATE DIVISION'S DETERMINATION THAT 12 NYCRR 23-1.7(d) WAS INAPPLICABLE UNDER THE FACTS OF THIS CASE EVEN THOUGH DEFENDANT NEVER RAISED THAT ARGUMENT;

HEIDGEN (MARTIN), PEOPLE v:

CRIMES - PLEA OF GUILTY - CHALLENGE TO ALFORD PLEA;

HEIDGEN (MARTIN), PEOPLE v.:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED DEFENDANT TRAVELING WRONG WAY ON PARKWAY - SUFFICIENCY OF THE EVIDENCE TO SUPPORT DEPRAVED INDIFFERENCE; UNLAWFUL SEARCH AND SEIZURE - CLAIM THAT DEFENDANT'S BLOOD SAMPLE WAS ILLEGALLY OBTAINED AND IMPROPERLY ADMITTED INTO EVIDENCE; PRECLUSION OF EXPERT TESTIMONY FOR THE DEFENSE BY A POLICE ACCIDENT RECONSTRUCTIONIST; ALLEGED JUROR MISCONDUCT;

HERRING (CARLOS), PEOPLE v.: (Cal. Date - 9/7/12)

CRIMES - JURORS - DISCHARGE OF JUROR - DENIAL OF DEFENDANT'S MOTION FOR MISTRIAL DUE TO JUROR WHO ALLEGEDLY SLEPT DURING TRIAL AND DELIBERATIONS; DISCLOSURE - FAILURE TO PRODUCE ROSARIO MATERIAL - WHETHER A SANCTION HAD TO BE IMPOSED FOR THE LOSS OF NOTES OF A FLORIDA LAW ENFORCEMENT OFFICER AS TO, AMONG OTHER THINGS, THAT OFFICER'S EFFORTS TO LOCATE DEFENDANT; SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER SENTENCE ON CONVICTION OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE WAS PROPERLY IMPOSED TO RUN CONSECUTIVELY TO SENTENCE ON CONVICTION OF MURDER IN THE SECOND DEGREE;

HOLSTEIN v COMMUNITY GENERAL HOSPITAL OF GREATER SYRACUSE:

(Cal. Date - 10/17/12)

JURY - POLLING OF JURY - WHETHER A NEW TRIAL IS WARRANTED BASED ON THE TRIAL COURT'S FAILURE TO POLL THE JURY AFTER REQUEST BY DEFENDANT - WHETHER TRIAL COURT'S RESPONSE TO JURY POLL REQUEST WAS EQUIVOCAL - WAIVER; PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE ACTION;

HOWARD, MATTER OF v STATURE ELECTRIC, INC. et al.:

WORKERS' COMPENSATION - DISQUALIFICATION FOR FALSE REPRESENTATION - COLLATERAL ESTOPPEL - WHETHER CLAIMANT'S ALFORD PLEA TO A CHARGE OF INSURANCE FRAUD, WHICH AROSE FROM EVIDENCE ALLEGEDLY REVEALING THAT HE WAS EMPLOYED WHILE COLLECTING WORKERS' COMPENSATION BENEFITS, IS ENTITLED TO COLLATERAL ESTOPPEL EFFECT WITH RESPECT TO THE WORKERS' COMPENSATION BOARD'S DETERMINATION WHETHER CLAIMANT VIOLATED WORKERS' COMPENSATION LAW § 114-a;

HUDSON VALLEY FEDERAL CREDIT UNION v NEW YORK STATE DEPARTMENT OF TAXATION and FINANCE, et al.: (Cal. Date - 9/4/12)

TAXATION - MORTGAGE RECORDING TAX - TAX LAW § 253 - WHETHER FEDERAL CREDIT UNIONS ARE EXEMPT FROM MORTGAGE RECORDING TAX UNDER EITHER THE FEDERAL CREDIT UNION ACT OF 1934 (12 USC Ch. 14) OR THE SUPREMACY CLAUSE OF THE UNITED STATES CONSTITUTION; ACTION FOR DECLARATORY JUDGMENT;

IPPOLITO (GERARD), PEOPLE v, a/k/a IPPOLITO (GERALD):

CRIMES - SUFFICIENCY OF EVIDENCE - CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE - CHECKS ON WHICH

DEFENDANT SIGNED THE VICTIM'S NAME WHILE HE WAS HER ATTORNEY-IN-FACT PURSUANT TO A POWER OF ATTORNEY - WHETHER VICTIM AUTHORIZED DEFENDANT TO SIGN THE CHECKS; RESTITUTION;

IRB-BRASIL RESSEGUROS v INEPAR INVESTMENTS, S.A., et al.:

(Cal. Date - 10/11/12)

CONFLICT OF LAWS - LAW GOVERNING CONTRACT ACTIONS - WHETHER A COURT MUST UNDERTAKE A TRADITIONAL CONFLICT OF LAW ANALYSIS WHEN THERE IS AN EXPRESS CHOICE-OF-LAW PROVISION IN AN AGREEMENT - GENERAL OBLIGATIONS LAW § 5-1401;

J-P GROUP, LLC, MATTER OF v NEW YORK STATE DEPARTMENT OF ECONOMIC DEVELOPMENT:

CONSTITUTIONAL LAW - DUE PROCESS OF LAW - RETROACTIVE APPLICATION OF EMPIRE ZONE ACT AMENDMENTS - REVOCATION OF TAX CREDITS;

JAMES v WORMUTH et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - WIRE FRAGMENT KNOWINGLY LEFT IN PATIENT'S BODY FOLLOWING SURGERY - WHETHER PLAINTIFF COULD RELY ON DOCTRINE OF RES IPSA LOQUITUR TO ESTABLISH PRIMA FACIE CASE OF MEDICAL MALPRACTICE OR WAS REQUIRED TO ESTABLISH THE APPLICABLE STANDARD OF CARE AND THE BREACH THEREOF THROUGH EXPERT MEDICAL TESTIMONY;

JONES (LESTER), PEOPLE v:

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

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

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

LASSALLE (JARVIS), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER COUNTY COURT ERRED IN IMPOSING A PERIOD OF PRS AFTER JUDGE'S STATEMENT DURING PLEA COLLOQUY THAT THE SENTENCE WOULD BE "NO GREATER THAN 15 YEARS" - PEOPLE v CATU (4 NY3d 242); ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL - FAILURE OF DEFENDANT'S APPELLATE COUNSEL TO BRIEF THE CATU ISSUE;

LATTA (DOUGLAS), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - WHETHER THE PEOPLE PRESENTED SUFFICIENT EVIDENCE TO THE GRAND JURY THAT THE DEFENDANTS' COMBINED ACTIVITIES CONSTITUTED AN "ASCERTAINABLE STRUCTURE" AS REQUIRED BY THE ENTERPRISE CORRUPTION PROVISION (PENAL LAW §§ 460.10[3] AND 460.20) OF NEW YORK'S ORGANIZED CRIME CONTROL ACT - ALLEGED INTERNATIONAL CYBERCRIME GROUP FACILITATING THE INTERNET SALE OF STOLEN CREDIT CARD DATA;

LAZZARI, MATTER OF v TOWN OF EASTCHESTER, et al.:

(Cal. Date - 10/10/12)

CIVIL SERVICE - JUDICIAL REVIEW - WHETHER CIVIL SERVICE LAW § 71 ENTITLES THE TOWN TO RECEIVE MEDICAL CERTIFICATION OF AN EMPLOYEE'S FITNESS BEFORE IT MUST REINSTATE AN EMPLOYEE PREVIOUSLY DISCHARGED DUE TO WORK-RELATED INJURIES - WHETHER BACK PAY UNDER CIVIL SERVICE LAW § 77 IS APPROPRIATE FOR A MUNICIPAL EMPLOYEE UNLAWFULLY DENIED REINSTATEMENT, BUT WHOSE ORIGINAL TERMINATION WAS NOT UNLAWFUL;

LEWIS v CAPUTO:

TORTS - FALSE ARREST - PROBABLE CAUSE - WHETHER THE EVIDENCE, VIEWED IN THE LIGHT MOST FAVORABLE TO THE PLAINTIFF, ESTABLISHED AS A MATTER OF LAW THE AFFIRMATIVE DEFENSE OF PROBABLE CAUSE TO ARREST;

LONG (CORNELL), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - ALLEGED DUE PROCESS VIOLATION WHERE SUPREME COURT FAILED, INITIALLY AND ON REMAND FROM THE APPELLATE DIVISION, TO SET FORTH SUFFICIENT FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND THE APPELLATE DIVISION THEN MADE ITS OWN FINDINGS OF FACT AND CONCLUSIONS OF LAW;

M.G.M. INSULATION, INC., et al., MATTER OF v GARDNER, &c.:

LABOR - PREVAILING RATE OF WAGES - WHETHER CONSTRUCTION OF FIRE STATION FOR VOLUNTEER FIRE DEPARTMENT CONSTITUTES A PUBLIC WORKS PROJECT - DETERMINATION THAT VOLUNTEER FIRE DEPARTMENT WAS FUNCTIONAL EQUIVALENT OF MUNICIPAL CORPORATION - AGENCY'S AUTHORITY TO APPLY FUNCTIONAL EQUIVALENCY TEST - APPLICABLE STANDARD OF REVIEW IN CPLR ARTICLE 78 PROCEEDING CHALLENGING AGENCY'S FUNCTIONAL EQUIVALENCY DETERMINATION - SUBSTANTIAL EVIDENCE;

MAC NAUGHTON et al. v WARREN COUNTY et al.:

TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - NOTICE TO OWNER OF DELINQUENT PROPERTY - DUE PROCESS - WHETHER COUNTY SATISFIED DUE PROCESS REQUIREMENTS IN ITS EFFORT TO NOTIFY PROPERTY OWNERS THAT AN IN REM TAX FORECLOSURE PROCEEDING HAD BEEN INITIATED AGAINST THEIR PROPERTY AFTER DOCUMENTS SENT TO HOMEOWNERS' ADDRESS LISTED ON TAX ROLL WERE RETURNED BY THE POSTAL SERVICE AS UNDELIVERABLE;

MALDONADO, MATTER OF v KELLY:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT (ADR) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT CREDIBLE EVIDENCE EXISTED TO SUPPORT THE MEDICAL BOARD'S DETERMINATION AND REBUT THE STATUTORY PRESUMPTION THAT PETITIONER'S DISABILITY WAS RELATED TO HIS SERVICE AS A POLICE OFFICER AT THE WORLD TRADE CENTER SITE FOLLOWING SEPTEMBER 11, 2001;

MANHATTAN TELECOMMUNICATIONS CORPORATION v H & A LOCKSMITH, INC., &c, et al.:

JUDGMENTS - DEFAULT JUDGMENT - VACATUR; CONTRACT TO PERFORM TELEPHONE SERVICES - ACTION ALLEGING FAILURE TO PAY;

MARINACCIO v TOWN OF CLARENCE, et al.:

DAMAGES - PUNITIVE DAMAGES - ACTION FOR TRESPASS AND PRIVATE NUISANCE SEEKING DAMAGES FOR FLOODING ON PLAINTIFF'S PROPERTY CAUSED BY ALLEGEDLY INTENTIONAL FLOW OF WATER FROM A SUBDIVISION DEVELOPED BY DEFENDANT BUILDER - WHETHER PUNITIVE DAMAGES AWARD IS SUPPORTED BY SUFFICIENT EVIDENCE; EASEMENT; PRECLUSION OF DEFENDANT'S DAMAGES EXPERT; JURY INSTRUCTIONS;

MARTINEZ (HECTOR), PEOPLE v: (Cal. Date - 10/9/12)

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF EVIDENCE - SHOOTING INTO GROUP CONSISTING OF INTENDED TARGET AND TWO BYSTANDERS; TIMELINESS OF PROSECUTION; DISCLOSURE - NOTICE OF INTENTION TO OFFER EVIDENCE - WHETHER THE TRIAL COURT ERRED IN GRANTING THE PEOPLE'S REQUEST FOR A BRIEF DELAY IN DISCLOSING THE EXISTENCE OF A NEWLY DISCOVERED WITNESS WHO MADE A PHOTOGRAPHIC IDENTIFICATION OF DEFENDANT SHORTLY BEFORE OPENING STATEMENTS; DENIAL OF DEFENDANT'S MOTION TO SUPPRESS STATEMENTS HE MADE TO POLICE; ALLEGED PROSECUTORIAL MISCONDUCT; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL;

MAYRICH CONSTRUCTION COMPANY, MATTER OF v OLIVER LLC &c.:

LIENS - PRIORITY - WHETHER FUNDS RECEIVED BY RESPONDENT UNDER TWO MORTGAGES WERE RECEIVED IN CONNECTION WITH AN IMPROVEMENT OF REAL PROPERTY SUCH THAT THE FUNDS CONSTITUTE ASSETS OF A TRUST FOR THE BENEFIT OF PETITIONER AND OTHER CONTRACTORS WHO PERFORMED WORK ON RESPONDENT'S HIGH-RISE BUILDING PROJECT IN MANHATTAN - LIEN LAW ARTICLE 3-A;

MAYS (CALVIN), PEOPLE v:

CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - INTERACTION BETWEEN PROSECUTOR AND JURORS DURING DELIBERATIONS WHILE VIDEO RECORDING REPLAYED - ALLEGED MODE OF PROCEEDINGS ERROR;

McFADDEN (BRANDON), PEOPLE v:

CRIMES - DOUBLE JEOPARDY - AT FIRST TRIAL, DEFENDANT CONVICTED OF THE MISDEMEANOR OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE, AND JURY DEADLOCKED ON TWO FELONY CHARGES - AFTER MISTRIAL GRANTED AS TO THE TWO FELONIES, DEFENDANT WAS RETRIED AND CONVICTED OF FELONY CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE - WHETHER RETRIAL AND SUBSEQUENT FELONY CONVICTION VIOLATED DOUBLE JEOPARDY PRINCIPLES; CLAIMED WAIVER OF DOUBLE JEOPARDY PROTECTIONS;

MC GEE (DEMETRIUS), PEOPLE v:

CRIMES - EVIDENCE - ATTEMPTED MURDER IN THE FIRST DEGREE - RECKLESS ENDANGERMENT IN THE FIRST DEGREE - SUFFICIENCY OF THE EVIDENCE AGAINST DEFENDANT CHARGED AS AN ACCESSORY WHERE DEFENDANT WAS THE DRIVER OF A CAR INVOLVED IN, AMONG OTHER THINGS, THE SHOOTING DEATH OF A PERSON ON A RESIDENTIAL STREET; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO REQUEST A LESSER-INCLUDED OFFENSE AND TO MOVE TO SEVER THE TRIAL BASED UPON THE ADMISSION OF THE NON-TESTIFYING CO-DEFENDANT'S CONFESSION;

McKENZIE (DONYELL J.), PEOPLE v:

CRIMES - MURDER - EXTREME EMOTIONAL DISTURBANCE - WHETHER THE TRIAL COURT PROPERLY REFUSED DEFENDANT'S REQUEST TO CHARGE THE AFFIRMATIVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE;

MECKWOOD (LONNIE), PEOPLE v: (Cal. Date - 9/13/12)

CRIMES - SENTENCE - SECOND VIOLENT FELONY OFFENDER - PREVIOUS CONVICTION IN ANOTHER STATE - USE OF OUT-OF-STATE CONVICTION AS A PREDICATE FELONY WHERE DEFENDANT WOULD HAVE BEEN ELIGIBLE FOR YOUTHFUL OFFENDER STATUS HAD HE COMMITTED THE CRIME IN NEW YORK; CLAIM THAT PENAL LAW § 70.04 IS UNCONSTITUTIONAL BECAUSE IT IS VAGUE, AMBIGUOUS AND FAILS TO CONSIDER MITIGATING FACTORS;

MEJIAS (MIGUEL), PEOPLE v:

CRIMES - JURORS - SUGGESTION OF PREMATURE DELIBERATIONS - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN, AT THE CLOSE OF EVIDENCE AND PRIOR TO SUMMATIONS, THE COURT RECEIVED A NOTE FROM ONE JUROR REQUESTING CERTAIN INFORMATION, IN RESPONSE TO WHICH THE COURT DID NOT CONDUCT ANY INDIVIDUAL INQUIRY OF THE JURORS, BUT RATHER DIRECTED ITS INQUIRIES TO THE JURY AS A GROUP;

METZ, &c., et al. v STATE OF NEW YORK: (Cal. Date - 10/18/12)

STATE - SOVEREIGN IMMUNITY - WHETHER THE STATE IS IMMUNE FROM LIABILITY FOR ALLEGEDLY NEGLIGENT SAFETY INSPECTION OF PUBLIC VESSEL - CHALLENGE TO APPELLATE DIVISION RULING THAT STATE FAILED TO ESTABLISH THAT SAFETY INSPECTORS ACTUALLY EXERCISED DISCRETION IN SETTING NUMBER OF PASSENGERS WHO COULD SAFELY TRAVEL ON PUBLIC VESSEL;

MILTON (JACOB), PEOPLE v:

CRIMES - INDICTMENT - WAIVER OF INDICTMENT - GUILTY PLEA TO SUPERIOR COURT INFORMATION THAT LISTED THE VICTIMS AS TWO BANKING INSTITUTIONS "AND OTHERS" ALTHOUGH THE FELONY COMPLAINT HAD NAMED SPECIFIED INDIVIDUALS AS VICTIMS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE INFORMATION WAS JURISDICTIONALLY DEFECTIVE BECAUSE THE VICTIMS NAMED THEREIN DIFFERED FROM THOSE NAMED IN THE FELONY COMPLAINT;

MITCHELL (ROBERT), PEOPLE v:

CRIMES - PLEA OF GUILTY - ALLEGED INEFFECTIVE ASSISTANCE OF PRIOR COUNSEL WHO PURPORTEDLY FAILED TO DISCUSS THE CASE WITH DEFENDANT IN THE FOUR YEARS LEADING UP TO HIS PLEA - WHETHER MOTION BY NEWLY APPOINTED COUNSEL TO WITHDRAW THE PLEA SHOULD HAVE BEEN DECIDED AFTER A HEARING AS OPPOSED TO A SUMMARY DISPOSITION;

MONROE (WILLIAM), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER DEFENDANT IS ENTITLED TO WITHDRAW HIS GUILTY PLEA ON THE GROUND THAT HIS PROMISED SENTENCE RAN CONCURRENTLY WITH OTHER SENTENCES THAT WERE REDUCED BECAUSE THE PROMISE MADE TO INDUCE THE PLEA CANNOT BE KEPT - APPLICATION OF PEOPLE v PICHARDO (1 NY3d 126[2003]) AND PEOPLE v ROWLAND (8 NY3d 342 [2007]) TO CASE INVOLVING RESENTENCING UNDER THE DRUG LAW REFORM ACT (DLRA); ENTITLEMENT TO RESENTENCING ON CONVICTION FOR CONSPIRACY;

MONTAS v JJC CONSTRUCTION CORPORATION, et al.:

NEGLIGENCE - PROXIMATE CAUSE - WHETHER TRIAL COURT ERRED IN GRANTING DEFENDANTS' MOTIONS FOR A DIRECTED VERDICT - SUFFICIENCY OF EVIDENCE FROM WHICH JURY COULD HAVE FOUND DEFENDANTS NEGLIGENT IN PERMITTING CONSTRUCTION DEBRIS TO ACCUMULATE ON A PEDESTRIAN WALKWAY; MUNICIPAL CORPORATIONS - TORT LIABILITY;

MOORE v FEDERATED DEPARTMENT STORES, INC., et al.:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEALS; DISCOVERY ISSUES; SANCTIONS; ALLEGED CIVIL RIGHTS VIOLATIONS;

MORALES (EDGAR), PEOPLE v:

CRIMES - TERRORISM - INTIMIDATION OF "CIVILIAN POPULATION" - PENAL LAW § 490.25 - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT A FINDING THAT DEFENDANT COMMITTED HIS CRIMES WITH THE INTENT TO INTIMIDATE OR COERCE A "CIVILIAN POPULATION" GENERALLY RATHER THAN THE MORE LIMITED CATEGORY OF MEMBERS OF RIVAL GANGS; SUFFICIENCY OF THE EVIDENCE SUPPORTING THE CONVICTIONS AS MODIFIED; ALLEGED "SPILLOVER PREJUDICE" FROM TERRORISM CHARGES, INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, CONFRONTATION CLAUSE VIOLATION, PREJUDICIAL REMARKS BY TRIAL COURT TO PROSPECTIVE JURORS REGARDING THE SEPTEMBER 11 TERRORIST ATTACKS, AND PAYTON AND MIRANDA VIOLATIONS;



MOSS (ANDREW), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - WHETHER UNDERCOVER OFFICER'S TESTIMONY AT HINTON HEARING ESTABLISHED AN OVERRIDING INTEREST THAT WARRANTED CLOSURE OF THE COURTROOM - CONSIDERATION OF REASONABLE ALTERNATIVES TO CLOSURE - COURT REJECTED ALTERNATIVE TO CLOSURE PROPOSED BY DEFENDANT BUT PERMITTED DEFENDANT'S FAMILY MEMBERS TO ATTEND PROCEEDINGS;

MOX (MICHAEL), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER TRIAL COURT MADE A SUFFICIENT INQUIRY TO ENSURE THAT GUILTY PLEA WAS KNOWINGLY AND VOLUNTARILY ENTERED AND THAT DEFENDANT'S STATEMENTS DURING THE PLEA COLLOQUY ESTABLISHED ALL OF THE ELEMENTS OF THE CRIME - DEFENDANT'S STATEMENTS THAT HE WAS IN PSYCHOTIC STATE AT TIME OF KILLING - PRESERVATION;

MURPHY & O'CONNELL, MATTER OF v TAX APPEALS TRIBUNAL, et al.:

TAXATION - UNINCORPORATED BUSINESS INCOME TAX - CHALLENGE TO ADMINISTRATIVE DETERMINATION THAT CONTRIBUTION LAW FIRM MADE TO DEFINED BENEFIT PLAN FOR A PARTNER WAS NOT DEDUCTIBLE - NEED FOR RESPONDENTS TO PROMULGATE A RULE PURSUANT TO THE CITY ADMINISTRATIVE PROCEDURE ACT - APPLICATION OF MATTER OF ROMAN CATHOLIC DIOCESE OF ALBANY v NEW YORK STATE DEPT. OF HEALTH (66 NY2d 948);

NESBITT (AKIEME), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO PRESENT DEFENSE TO ASSAULT CHARGES OR REQUEST SUBMISSION OF LESSER INCLUDED OFFENSES - SERIOUS INJURY;

THE NEW YORK COUNTY LAWYERS' ASSOCIATION, et al., MATTER OF v BLOOMBERG, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 CHALLENGE TO THE CITY OF NEW YORK'S INDIGENT DEFENSE PLAN - PLAN FOR ASSIGNMENT OF COUNSEL IN WHICH THE INITIAL PROVIDER AT ARRAIGNMENT IS UNABLE TO REPRESENT THE INDIGENT CRIMINAL DEFENDANT DUE TO A CONFLICT OF INTEREST; "COMBINATION" PLAN UNDER COUNTY LAW § 722(4) - PARTICIPATION OF COUNTY BAR ASSOCIATIONS;

NORRIS (ELBERT), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER, UPON VACATING DEFENDANT'S ORIGINAL SENTENCE, SUPREME COURT HAD THE AUTHORITY TO RUN HIS NEW DETERMINATE PRISON TERMS CONCURRENTLY, DESPITE THEIR PREVIOUS CONSECUTIVE DESIGNATION - MULTIPLE DRUG OFFENSES BEFORE THE RESENTENCING COURT FOR POSSIBLE MODIFICATION PURSUANT TO THE 2004 DRUG LAW REFORM ACT;

NORRIS (TYRELL), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER, UPON VACATING DEFENDANT'S ORIGINAL SENTENCE, SUPREME COURT HAD THE AUTHORITY TO RUN HIS NEW DETERMINATE PRISON TERMS CONCURRENTLY, DESPITE THEIR PREVIOUS CONSECUTIVE DESIGNATION - MULTIPLE DRUG OFFENSES BEFORE THE RESENTENCING COURT FOR POSSIBLE MODIFICATION PURSUANT TO THE 2004 DRUG LAW REFORM ACT;

OATHOUT (CHRISTOPHER), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - PEOPLE'S MOTION FOR TRIAL COURT TO INQUIRE INTO DEFENSE COUNSEL'S COMPETENCE; CLAIMED IMPROPER ADMISSION OF EVIDENCE OF PRIOR UNCHARGED CRIMES;

OLIVERAS (GEORGE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT HAD EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO OBTAIN HIS MEDICAL RECORDS OR TO CONSULT WITH AN EXPERT PSYCHIATRIST OR PSYCHOLOGIST TO SUPPORT THE DEFENSE CLAIM THAT DEFENDANT LACKED THE MENTAL CAPACITY TO VOLUNTARILY CONFESS TO A CRIME - ONLY EVIDENCE LINKING DEFENDANT TO CRIME WAS HIS STATEMENTS TO POLICE;

OVERSTOCK.COM, INC. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW § 1101(b)(8)(vi); DECLARATORY JUDGMENT;

TOWN OF OYSTER BAY v KIRKLAND: (Cal. Date - 9/6/12)

CIVIL RIGHTS - STATE DIVISION OF HUMAN RIGHTS - ADMINISTRATIVE COMPLAINT ALLEGING THAT TOWN'S ZONING RESOLUTIONS THAT CREATED CERTAIN HOUSING PROGRAMS UNLAWFULLY DISCRIMINATED AGAINST POTENTIAL RESIDENTS ON THE BASIS OF RACE, COLOR AND NATIONAL ORIGIN - WHETHER COMPLAINT CONSTITUTED REVERSE DISCRIMINATION AND VIOLATED THE DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FEDERAL AND STATE CONSTITUTIONS; ADMINISTRATIVE LAW - EXHAUSTION OF ADMINISTRATIVE REMEDIES;

PALLAGI, (SASHALEE N. and TATIANA S.), PEOPLE v:

CRIMES - LARCENY - PROOF OF VALUE - SHOPLIFTING - SUFFICIENCY OF THE EVIDENCE THAT THE VALUE OF THE STOLEN PROPERTY EXCEEDED \$1,000; DISCLOSURE - NOTICE OF INTENTION TO OFFER EVIDENCE - ADEQUACY OF CPL 710.30 NOTICE CONCERNING THE SUBSTANCE OF A STATEMENT BY ONE OF THE DEFENDANTS TO BE PRESENTED AT TRIAL - TRIAL COURT'S DENIAL OF MOTION TO STRIKE TESTIMONY REGARDING THAT STATEMENT;

PALMER (MICHAEL), PEOPLE v:

CRIMES - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - WHETHER DEFENDANT'S USE OF ALCOHOL AT THE TIME OF THE OFFENSE, WITHOUT MORE, CAN CONSTITUTE CLEAR AND CONVINCING EVIDENCE OF DRUG OR ALCOHOL ABUSE UNDER SORA RISK FACTOR 11;

PAPPAS v TZOLIS: (Cal. Date - 10/11/12)

LIMITED LIABILITY COMPANIES (LLC) - MEMBERS AND MANAGERS - CLAIMS BY TWO MEMBERS FOR BREACH OF FIDUCIARY DUTY, CONVERSION, FRAUD AND UNJUST ENRICHMENT AGAINST THIRD MEMBER WHO BOUGHT OUT THEIR INTERESTS IN COMPANY FOR \$1.5 MILLION WITHOUT DISCLOSING HIS ONGOING NEGOTIATIONS WITH PARTY WHO LATER PURCHASED COMPANY'S SOLE ASSET FOR \$17.5 MILLION - EFFECT OF CERTIFICATE STATING THAT IN ASSIGNING THEIR INTERESTS IN THE COMPANY TO THE THIRD MEMBER, THE TWO MEMBERS PERFORMED THEIR OWN DUE DILIGENCE, WERE NOT RELYING ON ANY REPRESENTATIONS BY THIRD MEMBER NOT CONTAINED IN CERTAIN DESIGNATED DOCUMENTS, AND THAT THIRD MEMBER OWED THEM NO FIDUCIARY DUTIES - EFFECT OF PROVISION IN OPERATING AGREEMENT PERMITTING MEMBERS TO ENGAGE IN BUSINESS VENTURES OF ANY NATURE WITHOUT OBLIGATION OF ANY KIND TO THE COMPANY OR OTHER MEMBERS;

PEALER (ROBERT), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER THE TRIAL COURT ERRED IN ADMITTING, UNDER THE BUSINESS RECORDS EXCEPTION TO THE HEARSAY RULE, BREATH TEST CALIBRATION AND SIMULATOR SOLUTION CERTIFICATES USED TO SHOW THAT BREATH TEST MACHINE WAS ACCURATE - TESTIMONIAL NATURE OF STATEMENTS; UNLAWFUL SEARCH AND SEIZURE - VEHICLE STOP - WHETHER EVIDENCE OBTAINED FOLLOWING STOP OF VEHICLE FOR HAVING AN UNAUTHORIZED STICKER ON REAR WINDOW IS SUBJECT TO SUPPRESSION AS RESULTING FROM A PRETEXTUAL STOP; PREPARATION, SERVICE AND FILING OF BRIEF BY ATTORNEY IN SENECA COUNTY DISTRICT ATTORNEY'S OFFICE ON BEHALF OF YATES COUNTY DISTRICT ATTORNEY; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGEDLY IMPROPER REBUTTAL TESTIMONY;

POVOSKI, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - MISBEHAVIOR REPORT - SUBSTANTIAL EVIDENCE;

PUTNEY et al. v PEOPLE OF THE STATE OF NEW YORK &c.:

LIMITATION OF ACTIONS - EMINENT DOMAIN - DISMISSAL OF DECLARATORY JUDGMENT ACTION BASED ON STATUTE OF LIMITATIONS AND LACHES; DENIAL OF MOTION(S) TO AMEND COMPLAINT AND FOR REARGUMENT;

PRESCOTT (TYRONE), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED CONFLICT OF INTEREST OF APPELLATE COUNSEL WHO ALSO REPRESENTED CO-DEFENDANT WHO PLEADED GUILTY AND TESTIFIED AGAINST DEFENDANT; DUE PROCESS;

RAMKUMAR v GRAND STYLE TRANSPORTATION ENTERPRISES, INC.:

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

ROMAN CATHOLIC DIOCESE OF BROOKLYN v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA &c.:

INSURANCE - LIABILITY INSURANCE - EXHAUSTION OF SELF-INSURED RETENTION (SIR) - ACTS OF ALLEGED SEXUAL ABUSE CONSTITUTING MULTIPLE OCCURRENCES OR A SINGLE OCCURRENCE - FAILURE TO RAISE ISSUE IN INITIAL DISCLAIMER LETTER AS WAIVER OF RIGHT TO DEMAND PAYMENT OF MULTIPLE SIRS - EFFECT OF ALLEGED INEQUITY IN APPLYING PRO-RATA APPLICATION OF SIR - SUMMARY JUDGMENT;

RODRIGUEZ (ANTONIO), PEOPLE v:

CRIMES - JURORS - SUGGESTION OF PREMATURE DELIBERATIONS - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR WHEN, AT THE CLOSE OF EVIDENCE AND PRIOR TO SUMMATIONS, THE COURT RECEIVED A NOTE FROM ONE JUROR REQUESTING CERTAIN INFORMATION, IN RESPONSE TO WHICH THE COURT DID NOT CONDUCT ANY INDIVIDUAL INQUIRY OF THE JURORS, BUT RATHER DIRECTED ITS INQUIRIES TO THE JURY AS A GROUP; EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING AT TRIAL EVIDENCE ILLUSTRATING THE INTERNATIONAL FLOW OF DRUGS;

ROULAN v COUNTY OF ONONDAGA et al.:

ATTORNEY AND CLIENT - ASSIGNMENT OF COUNSEL - ACTION SEEKING DECLARATION THAT VARIOUS SECTIONS OF THE ASSIGNED COUNSEL PLAN IN ONONDAGA COUNTY ARE INVALID - PLAN ESTABLISHED PURSUANT TO COUNTY LAW ARTICLE 18-B THROUGH A CONTRACT WITH THE ONONDAGA COUNTY BAR ASSOCIATION; DECLARATORY JUDGMENT; CRIMINAL DEFENDANT'S RIGHT TO COUNSEL;

SAGAL-COTLER, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF CITY OF NEW YORK, et al.:

SCHOOLS - BOARD OF EDUCATION - LEGAL REPRESENTATION OF BOARD OF EDUCATION EMPLOYEE REGARDING DISCIPLINARY ACTION TAKEN AGAINST STUDENTS - WHETHER EDUCATION LAW § 2560, WHICH INCORPORATES BY REFERENCE GENERAL MUNICIPAL LAW § 50-k, AND EDUCATION LAW § 3028 CONFLICT OR SHOULD BE READ AND APPLIED TOGETHER;

SANCHEZ (NICHOLAS), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - DEFENSE COUNSEL'S REPRESENTATION OF INDIVIDUAL WHO HAD CONNECTIONS TO THIS CASE; IDENTIFICATION OF DEFENDANT - IMPROPER BOLSTERING OF IDENTIFICATION EVIDENCE;

SHENENDEHOWA CENTRAL SCHOOL DISTRICT BOARD OF EDUCATION v CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. &c. et al.:  
 ARBITRATION - JUDICIAL REVIEW - ARBITRATION AWARD REINSTATING A BUS DRIVER WHO TESTED POSITIVE FOR MARIJUANA AFTER DRIVING CHILDREN TO SCHOOL - STANDARD OF REVIEW FOR VACATUR OF ARBITRATION AWARD;

SIEGMUND STRAUSS, INC. v EAST 149<sup>TH</sup> REALTY CORP., et al.:  
 (Cal. Date - 9/6/12)  
 APPEAL - WHETHER APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANTS' APPEAL FROM THE FINAL SUPREME COURT JUDGMENT DID NOT BRING UP FOR REVIEW PRIOR NONFINAL SUPREME COURT ORDERS; DISMISSAL OF COUNTERCLAIMS AND THIRD-PARTY CLAIMS; DENIAL OF MOTION FOR LEAVE TO AMEND THE ANSWER; POSSESSION OF REAL PROPERTY PURSUANT TO CONTRACT;

SPENCER (ANDREW), PEOPLE v:  
 CRIMES - RIGHT OF CONFRONTATION - PROOF OF COMPLAINANT'S MOTIVE TO FABRICATE; FAIR TRIAL - TRIAL JUDGE'S ALLEGED DISPLAY OF ANTAGONISM AGAINST DEFENSE COUNSEL;

677 NEW LOUDON CORPORATION, MATTER OF, d/b/a NITE MOVES v STATE OF NEW YORK TAX APPEALS TRIBUNAL et al. (Cal. Date - 9/5/12)  
 TAXATION - SALES AND USE TAXES - WHETHER EXOTIC DANCE PERFORMANCES AT PETITIONER'S ESTABLISHMENT CONSTITUTE "DRAMATIC OR MUSICAL ARTS PERFORMANCES," THEREBY EXEMPTING MONIES PAID FOR SUCH PERFORMANCES FROM TAXATION UNDER TAX LAW § 1105(f)(1) - ADMISSIONS CHARGES AND PRIVATE DANCE SALES;

SOARES, &c., MATTER OF v HERRICK, &c.: (Cal. Date - 10/16/12)  
 PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - WHEN REMEDY AVAILABLE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT A CPLR ARTICLE 78 PROCEEDING IN THE NATURE OF PROHIBITION LIES TO REVIEW THE TRIAL COURT ORDERS DISQUALIFYING THE DISTRICT ATTORNEY AND APPOINTING A SPECIAL DISTRICT ATTORNEY PURSUANT TO COUNTY LAW § 701;

STANLEY (HILBERT), PEOPLE v:  
 CRIMES - RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO PURSUE AFFIRMATIVE DEFENSE TO CHARGE OF ROBBERY IN THE FIRST DEGREE BECAUSE THE "WEAPON" DISPLAYED DURING THE ROBBERY WAS NOT A "LOADED WEAPON FROM WHICH A SHOT, READILY CAPABLE OF PRODUCING DEATH OR OTHER SERIOUS PHYSICAL INJURY, COULD BE DISCHARGED" (PENAL LAW § 160.15[4]); CHALLENGE TO SHOW-UP IDENTIFICATION;

STATE OF NEW YORK, MATTER OF v DANIEL F.: (Cal. Date - 9/4/12)  
 CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - REVOCATION OF STRICT AND INTENSIVE SUPERVISION AND TREATMENT

(SIST) WHERE SEX OFFENDER VIOLATES CONDITIONS OF SIST WHERE VIOLATIONS DO NOT CONSTITUTE SEXUAL MISCONDUCT - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DETERMINED THAT STATE ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT SEX OFFENDER WAS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT - ALLEGED DEPRIVATION OF DUE PROCESS;

STATE OF NEW YORK, MATTER OF v JOHN P. (ANONYMOUS):

(Cal. Date - 10/18/12)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER PSYCHIATRIC EVALUATION OF SEX OFFENDER WAS CONDUCTED IN VIOLATION OF SEX OFFENDER'S RIGHT TO COUNSEL - DENIAL OF REQUEST TO PRECLUDE TESTIMONY AND EVIDENCE FROM PSYCHOLOGIST WHO CONDUCTED EVALUATION;

STATE OF NEW YORK v MYRON P.: (Cal. Date - 10/18/12)

MENTAL HEALTH - PROCEEDINGS BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CONFINEMENT OF SEX OFFENDER IN SECURE FACILITY AFTER SERVICE OF PRISON TIME - INVOLUNTARY HOSPITALIZATION - RIGHT TO JURY TRIAL;

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

(Cal. Date - 9/12/12)

SCHOOLS - STUDENTS - INJURY TO STUDENT - WHETHER SCHOOL DEFENDANTS ARE LIABLE FOR NEGLIGENTLY FAILING TO PREVENT ONE STUDENT FROM ASSAULTING ANOTHER STUDENT OFF SCHOOL GROUNDS TWO DAYS AFTER THE TWO STUDENTS WERE IN A FIGHT AT THE SCHOOL DURING SCHOOL HOURS - LIABILITY FOR FAILING TO NOTIFY INJURED STUDENT'S MOTHER OF FIGHT AT SCHOOL;

STORMAN, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - "STIGMA PLUS" DUE PROCESS CLAIM - WHETHER "ARBITRARY AND CAPRICIOUS ABUSE OF DISCRETION" STANDARD OF REVIEW APPLIES TO REVIEW OF AN "UNSATISFACTORY" TEACHER RATING; SCHOOLS - TEACHERS; CONTEMPT;

STRAY FROM THE HEART, INC., MATTER OF v DEPARTMENT OF HEALTH and MENTAL HYGIENE OF THE CITY OF NEW YORK, et al.:

(Cal. Date - 9/5/12)

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - STANDING - WHETHER PETITIONER ANIMAL WELFARE ORGANIZATION HAS STANDING TO CHALLENGE THE ALLEGED FAILURE OF CITY RESPONDENTS TO PROVIDE FULL-SERVICE ANIMAL SHELTERS IN ALL FIVE BOROUGH AS REQUIRED BY THE CITY ANIMAL SHELTERS AND STERILIZATION ACT (ADMINISTRATIVE CODE OF CITY OF NY § 17-801, et seq.);

THOMAS, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:  
SCHOOLS - BOARD OF EDUCATION - LEGAL REPRESENTATION OF SCHOOL BOARD EMPLOYEES REGARDING DISCIPLINARY ACTION TAKEN AGAINST A STUDENT - WHETHER EDUCATION LAW § 2560, WHICH INCORPORATES BY REFERENCE GENERAL MUNICIPAL LAW § 50-k, AND EDUCATION LAW § 3028 CONFLICT OR SHOULD BE READ AND APPLIED TOGETHER;

THOMPSON (PAUL), PEOPLE v:

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

TOWNSLEY (TAYDEN), PEOPLE v: (Cal. Date - 10/18/12)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - AT TRIAL PROSECUTOR ACCUSED DEFENDANT AND HIS TWO ASSIGNED TRIAL ATTORNEYS OF CONSPIRING WITH A THIRD PARTY TO CONCOCT A DEFENSE THAT WOULD FALSELY SHIFT RESPONSIBILITY FOR THE CRIME TO THE THIRD PARTY; POTENTIAL CONFLICT BETWEEN DEFENDANT AND HIS COUNSEL NOT RAISED AT TRIAL OR BY APPELLATE COUNSEL;

TRUMP ON THE OCEAN, LLC, MATTER OF v CORTES-VASQUEZ et al.:

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - DENIAL OF VARIANCE FOR PUBLIC DINING AND CATERING FACILITY AT JONES BEACH STATE PARK - VARIANCE SOUGHT FOR OCCUPIED BASEMENT TO BE CONSTRUCTED UNDER "DESIGN FLOOD ELEVATION";

UNITED STATES FIDELITY & GUARANTY COMPANY, et al. v AMERICAN RE-INSURANCE COMPANY, et al.:

INSURANCE - REINSURANCE - "FOLLOW THE FORTUNES" CLAUSE - REINSURED'S DECISION TO ALLOCATE ALL SETTLEMENT CLAIMS AND, THUS, ALL REINSURANCE CLAIMS TO A 1959 INSURANCE CONTRACT, WHICH HAD A \$200,000 PER PERSON LIMIT AND, IF NOT SUBJECT TO AN UPWARD AMENDMENT OF THE RETENTION AMOUNT, WAS SUBJECT ONLY TO A \$100,000 RETENTION FOR EACH COVERED LOSS - APPLICATION OF FOLLOW THE FORTUNES CLAUSE WHERE REINSURERS CHALLENGE REINSURED'S ALLEGED BAD FAITH OR ABSENCE OF "UTMOST GOOD FAITH" IN ALLOCATING ITS SETTLEMENT WITH ITS INSURED AND IN TREATING ALL CLAIMS AS ARISING UNDER A SINGLE POLICY YEAR - WHETHER TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE PARTIES AGREED TO RETROACTIVELY INCREASE THE RETENTION AMOUNT FROM \$100,000 TO \$3 MILLION;

CITY OF UTICA, MATTER OF v DAINES, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIFICATION OF AMBULANCE SERVICES - PUBLIC HEALTH LAW § 3000 - CHALLENGE TO APPELLATE DIVISION ORDER CONCLUDING THAT DETERMINATION BY NEW YORK STATE

EMERGENCY MEDICAL SERVICES COUNCIL, WHICH DENIED MUNICIPALITY'S APPLICATION FOR CERTIFICATION OF ITS MUNICIPAL AMBULANCE SERVICE, HAD TO BE ANNULLED BECAUSE IT DID NOT APPLY THE "STRONG PRESUMPTION IN FAVOR OF APPROVING THE APPLICATION" REQUIRED BY PUBLIC HEALTH LAW § 3008(7) (b);

VANDOVER (JEANNE M.), PEOPLE v: (Cal. Date - 10/17/12)  
MOTOR VEHICLES - OPERATING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS - SUPPRESSION OF RESULTS OF BLOOD ALCOHOL TEST AND DEFENDANT'S STATEMENTS TO POLICE - LEGAL SUFFICIENCY OF PEOPLE'S EVIDENCE ESTABLISHING PROBABLE CAUSE FOR DEFENDANT'S ARREST;

WALKER (SAMUEL), PEOPLE v: (Cal. Date - 10/16/12)  
CRIMES - SUPPRESSION HEARING - VEHICLE STOPPED FOR TRAFFIC INFRACTION THEN IMPOUNDED DUE TO SUSPENSION OF DRIVER'S LICENSE, DESPITE ANOTHER LICENSED DRIVER IN CAR - INVENTORY SEARCH AFTER IMPOUNDMENT OF VEHICLE REVEALED LOADED HANDGUN - WHETHER IMPOUNDMENT POLICY PROHIBITING ANY LICENSED DRIVER OTHER THAN REGISTERED OWNER FROM TAKING POSSESSION OF STOPPED VEHICLE VIOLATES DRIVER'S RIGHTS;

TOWN OF WALLKILL, MATTER OF v CIVIL SERVICE EMPLOYEES ASSOCIATION, et al.: (Cal. Date - 9/13/12)  
CIVIL SERVICE - DISCIPLINARY PROCEEDINGS - WHETHER DISCIPLINE OF TOWN POLICE OFFICERS IS A PERMISSIBLE SUBJECT OF COLLECTIVE BARGAINING UNDER THE TAYLOR LAW OR IS A PROHIBITED SUBJECT OF COLLECTIVE BARGAINING UNDER TOWN LAW § 155 - VALIDITY OF TOWN OF WALLKILL LOCAL LAW NO. 2 OF 2007;

WARD, MATTER OF v CITY OF LONG BEACH:  
CIVIL SERVICE - FIREFIGHTERS - BENEFITS FOR INJURY INCURRED IN LINE OF DUTY - SUPPLEMENTAL WAGE BENEFITS - WHETHER THE APPELLATE DIVISION ERRED IN RULING THAT SUPREME COURT CORRECTLY HELD THAT THE MUNICIPALITY'S DETERMINATION DID NOT HAVE A RATIONAL BASIS IN THE RECORD;

WATSON (CARL), PEOPLE v:  
CRIMES - JUSTIFICATION - ADMISSIBILITY OF EVIDENCE OF HOMICIDE VICTIM'S PRIOR SPECIFIC CRIMINAL ACTS OF VIOLENCE AS RELEVANT TO THE ISSUE OF WHO WAS THE INITIAL AGGRESSOR WHERE DEFENDANT DID NOT KNOW ABOUT SUCH ACTS IN COMMITTING THE HOMICIDE;

WEST, et al. v HOGAN, et al. (AND A THIRD-PARTY ACTION):  
DAMAGES - PUNITIVE DAMAGES - REAL PROPERTY CLAIMED BY ADVERSE POSSESSION - WHETHER PUNITIVE DAMAGES ARE APPROPRIATE WHERE WRONGDOER DISPUTED OWNERSHIP RIGHTS TO PROPERTY WHERE MALICIOUS ACTS OCCURRED;



WHITE &c. v FARRELL et al.:

DAMAGES - MEASURE OF DAMAGES - BREACH OF REAL ESTATE CONTRACT - WHETHER SUPREME COURT CORRECTLY DETERMINED THAT SELLERS DID NOT SUSTAIN ACTUAL DAMAGES BECAUSE THERE WAS NO DIFFERENCE BETWEEN THE CONTRACT SALES PRICE AND THE ACTUAL MARKET VALUE OF THE PROPERTY AT THE TIME OF BREACH, EVEN THOUGH THE PROPERTY ULTIMATELY WAS SOLD FOR APPROXIMATELY \$373,000 LESS THAN THE CONTRACT PRICE; SELLERS' ENTITLEMENT TO CONSEQUENTIAL DAMAGES;

WHITEBOX CONCENTRATED CONVERTIBLE ARBITRAGE PARTNERS, L.P., et al. v SUPERIOR WELL SERVICES, INC.: (Cal. Date - 9/12/12)  
CORPORATIONS - TRANSFER OF STOCK - "FUNDAMENTAL CHANGE" UNDER CERTIFICATE OF DESIGNATIONS - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING THE COMPLAINT BASED ON DOCUMENTARY EVIDENCE;

WILD et al. &c. v CATHOLIC HEALTH SYSTEM, et al.:

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE - WHETHER THE TRIAL COURT FAILED TO PROPERLY INSTRUCT THE JURY WITH RESPECT TO THE ELEMENT OF PROXIMATE CAUSE - "SUBSTANTIAL CHANCE DOCTRINE";

WORDEN (ROBERT L.), PEOPLE v:

CRIMES - PLEA OF GUILTY - DENIAL OF MOTION SEEKING TO WITHDRAW GUILTY PLEA BASED UPON COMPLAINANT'S RECANTATION - DEFENDANT'S ENTITLEMENT TO A HEARING ON THE MOTION; WHETHER DEFENDANT KNOWINGLY AND VOLUNTARILY ENTERED INTO GUILTY PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

CITY OF YONKERS, MATTER OF v YONKERS FIRE FIGHTERS, LOCAL 628, IAFF, AFL-CIO:

ARBITRATION - MATTERS ARBITRABLE - WHETHER CIVIL SERVICE LAW § 201(4) AND RETIREMENT AND SOCIAL SECURITY LAW § 470 BAR ARBITRATION OF DISPUTE - WHETHER COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF YONKERS AND FIRE FIGHTERS' UNION WAS "IN EFFECT" ON THE EFFECTIVE DATE OF ARTICLE 22 OF THE RETIREMENT AND SOCIAL SECURITY LAW;