

JANUARY 2013

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.

ABRAHAM (AKIVA DANIEL), PEOPLE v:

CRIMES - INSURANCE FRAUD - CONCEALING CAUSE OF FIRE - DEFENDANT IN INSURANCE FRAUD PROSECUTION ACQUITTED OF ARSON - REPUGNANT OR INCONSISTENT VERDICT - SUFFICIENCY OF THE EVIDENCE - ARGUMENT AND CONDUCT OF COUNSEL - ALLEGED PROSECUTORIAL MISCONDUCT;

ABREU (CARLOS), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE IMPROPERLY IMPOSED FOR MURDER OCCURRING DURING ARMED HOME INVASION BURGLARY/ROBBERY; ADMISSION OF HEARSAY STATEMENT BY NON-TESTIFYING CO-CONSPIRATOR; ADMISSION OF ACCOMPLICE'S PRIOR INCONSISTENT STATEMENTS;

ADAMS (KEITH A.), PEOPLE v: (Cal. Date - 2/13/13)

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;

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;

ALCIDE (JAMES), PEOPLE v:

CRIMES - JURORS - WHETHER TRIAL COURT COMMITTED ERROR OF PROCEEDINGS ERROR IN PERSONALLY PARTICIPATING IN THE READBACK OF TESTIMONY OF TWO PROSECUTION WITNESSES; ALLEGED DUE PROCESS VIOLATIONS AND VIOLATION OF CPL 310.30;

ALF v BUFFALO NEWS, INC.:

LIBEL AND SLANDER - FAIR COMMENT - NEWSPAPER ARTICLES - ABSOLUTE PRIVILEGE - CLAIMED DEFAMATION BY NEWSPAPER REPORTING ON SETTLEMENT BETWEEN COMPANY OWNED BY PLAINTIFF AND U.S. GOVERNMENT - WHETHER NEWSPAPER ARTICLES PUBLISHED BY DEFENDANT WERE SUBSTANTIALLY TRUE AND THEREFORE PRIVILEGED UNDER CIVIL RIGHTS LAW § 74;

ALTSHULER SHAHAM PROVIDENT FUNDS, LTD. v GML TOWER LLC, et al:  
MORTGAGES - FORECLOSURE - LIEN PRIORITY - WHETHER LOAN AGREEMENT CONSTITUTED "BUILDING LOAN CONTRACT" WITHIN MEANING OF THE LIEN LAW AND SHOULD HAVE BEEN FILED TO PRESERVE PRIORITY OVER SUBSEQUENTLY FILED MECHANICS LIENS; SUMMARY JUDGMENT;

AMAZON.COM, LLC, et al. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.: (Cal. Date - 2/6/13)  
CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW § 1101(b)(8)(vi);

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;

ASARO (PATRICK A.), PEOPLE v:  
CRIMES - MANSLAUGHTER IN THE SECOND DEGREE AND RECKLESS ASSAULT - SUFFICIENCY OF EVIDENCE OF RECKLESSNESS WHERE DEFENDANT, WHO WAS TRAVELING AT A HIGH RATE OF SPEED WHEN HE CRASHED INTO ANOTHER CAR, WAS FOUND NOT GUILTY OF DRIVING WHILE ABILITY IMPAIRED - REPUGNANCY OF VERDICT ACQUITTING DEFENDANT OF DRIVING WHILE ABILITY IMPAIRED BUT CONVICTING HIM OF MANSLAUGHTER IN THE SECOND DEGREE; WITNESSES - EXPERT WITNESS - WHETHER SUPREME COURT ERRED IN ALLOWING PEOPLE'S EXPERT ACCIDENT RECONSTRUCTIONIST TO TESTIFY TO ULTIMATE CONCLUSIONS WHERE HE HAD LOST HIS ORIGINAL NOTES CONTAINING COMPUTATIONS HE USED TO DETERMINE THE SPEED OF THE VEHICLES INVOLVED IN THE ACCIDENT - ALLEGED VIOLATION OF DEFENDANT'S RIGHT OF CONFRONTATION; ALLEGED PROSECUTORIAL MISCONDUCT;

ASSOCIATION FOR A BETTER LONG ISLAND, et al., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:  
PARTIES - STANDING - CHALLENGE TO ENVIRONMENTAL REGULATIONS REQUIRING AN "INCIDENTAL TAKE" PERMIT FOR ANY ACTIVITIES LIKELY TO RESULT IN THE "TAKING" OF ANY ENDANGERED OR THREATENED SPECIES

- CHALLENGE BY OWNERS OF PROPERTY THAT CONTAINS OR IS IN PROXIMITY TO ENDANGERED OR THREATENED SPECIES, BUT WHO HAVE NOT FILED APPLICATIONS FOR AN "INCIDENTAL TAKE" PERMIT - SPECULATIVE HARM - PROCEDURAL CHALLENGES - RIPENESS OF SUBSTANTIVE CHALLENGES;

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:

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;

NEW YORK STATE OFFICE OF VICTIM SERVICES o/b/o BALOGH, et al., MATTER OF v RAUCCI et al.:

EMPLOYMENT RELATIONSHIPS - RETIREMENT AND PENSION BENEFITS - WHETHER RETIREMENT AND SOCIAL SECURITY LAW § 110 AND CPLR 5205 (c) PROTECT STATE PENSIONS FROM SEIZURE FOR CRIME VICTIMS UNDER EXECUTIVE LAW § 632-a ("SON OF SAM LAW"); PRISONS AND PRISONERS; PRELIMINARY INJUNCTION;

BARNES, MATTER OF v FINOCCHIO, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING JUDGMENT DENYING A CPLR ARTICLE 78 PETITION;

BARONE (VINCENT), PEOPLE v:

CRIMES - EVIDENCE - WHETHER EVIDENCE ADMITTED REGARDING THE ENTERPRISE CORRUPTION COUNT WHICH SHOULD NOT HAVE BEEN CHARGED UNDULY PREJUDICED DEFENDANT REGARDING REMAINING CHARGES; SUFFICIENCY OF EVIDENCE TO SUPPORT DEFENDANT'S CONVICTION ON SCHEME TO DEFRAUD AND OFFERING A FALSE INSTRUMENT FOR FILING CHARGES; CLAIMED ERROR REGARDING JURY NOTE; CLAIMED DUE PROCESS VIOLATION IN TRIAL COURT'S DISRUPTING COMMENTS AND BOLSTERING OF PEOPLE'S CASE;

BAY CREST ASSOCIATION, INC. v PAAR, et al.:

JUDGMENTS - RELIEF FROM JUDGMENT - FAILURE TO ESTABLISH STATUTORY GROUNDS FOR VACATUR; SATISFACTION - COLLECTION OF UNPAID ASSESSMENTS OWED TO HOMEOWNERS' ASSOCIATION;

BEATY (DONNY P.), PEOPLE v:

CRIMES - INSTRUCTIONS - INTOXICATION - WHETHER THE TRIAL COURT ERRED IN REFUSING TO CHARGE THE JURY THAT INTOXICATION MAY NEGATE THE INTENT ELEMENT OF RAPE IN THE FIRST DEGREE; CONSOLIDATION AND SEVERANCE - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO SEVER THE FIRST FOUR COUNTS OF THE INDICTMENT, WHICH INVOLVED ONE VICTIM AND CHARGED HIM WITH, AMONG OTHER THINGS, RAPE IN THE FIRST DEGREE, FROM THE FIFTH COUNT OF THE INDICTMENT, WHICH CHARGED HIM WITH BURGLARY IN THE SECOND DEGREE WITH RESPECT TO ANOTHER VICTIM; SUFFICIENCY OF THE EVIDENCE OF BURGLARY IN THE SECOND DEGREE;

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;

BELL (EARL, JR.), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - WHETHER THE TRIAL COURT ERRED IN SUBMITTING TO THE JURY COUNTS OF INTENTIONAL MURDER AND DEPRAVED INDIFFERENCE MURDER - KIDNAPPING - MERGER DOCTRINE;

BELLAMY, MATTER OF v NEW YORK CITY POLICE DEPARTMENT:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - DENIAL OF FOIL REQUEST SEEKING UNREDACTED VERSIONS OF POLICE REPORTS BASED UPON PUBLIC SAFETY EXEMPTION (PUBLIC OFFICERS LAW § 87 [2][f]) AND PRIVACY EXEMPTION (PUBLIC OFFICERS LAW § 87 [2][b]);

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;

BELZBERG, et al., MATTER OF v VERUS INVESTMENTS HOLDINGS, INC.:

ARBITRATION - STAY OF ARBITRATION - PROCEEDING PURSUANT TO CPLR ARTICLE 75 TO PERMANENTLY STAY ARBITRATION - WHETHER A NONSIGNATORY TO AN ARBITRATION AGREEMENT SHOULD BE ESTOPPED FROM AVOIDING ARBITRATION BECAUSE HE DIRECTLY BENEFITTED UNDER THE AGREEMENT;

BEZIO, MATTER OF v DORSEY: (Cal. Date - 3/19/13)

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;

BIOTRONIK A.G. v CONOR MEDSYSTEMS IRELAND, LTD., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - DAMAGES - LOST RESALE PROFITS - DISTRIBUTION AGREEMENT;

BISCONE &c. v JetBLUE AIRWAYS CORPORATION, et al. (APP. DIV. NOS. 2010-11745 & 2011-02683):

TORTS - FALSE IMPRISONMENT - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - CONFINEMENT OF COMMERCIAL AIRLINE PASSENGER IN AIRPLANE ON TARMAC FOR SEVERAL HOURS - PREEMPTION OF CLAIMS BY FEDERAL LAW; CLASS CERTIFICATION; MOTION TO RENEW OR REARGUE MOTION FOR CLASS CERTIFICATION;

BISCONE &c. v JetBLUE AIRWAYS CORPORATION, et al. (APP. DIV. NO. 2012-00604):

DISCLOSURE - PROTECTIVE ORDER - DENIAL OF PROTECTIVE ORDER SOUGHT PURSUANT TO CPLR 3103(a); CLASS ACTION FILED ELECTRONICALLY - CONCERN REGARDING DOCUMENTS CONTAINING CONFIDENTIAL INFORMATION;

MATTER OF BOBAK (AIG CLAIMS SERVICES, INC., et al.):

INSURANCE - AUTOMOBILE INSURANCE - UNDERINSURED MOTORIST ENDORSEMENT - IN AN APPEAL FROM JUDGMENT CONFIRMING AN ARBITRATION AWARD, WHETHER THE APPELLATE DIVISION ERRED IN REMITTING TO SUPREME COURT FOR A HEARING ON THE ISSUE OF INSURANCE COVERAGE;

BOYER (DANIEL), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - WHETHER A PRIOR CONVICTION CAN BE CONSIDERED A PREDICATE FELONY CONVICTION FOR SENTENCING PURPOSES WHERE THE CONVICTION WAS LATER DETERMINED TO BE SUBJECT TO RESENTENCING UNDER PEOPLE v SPARBER (10 NY3d 457), THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION SOUGHT RESENTENCING AND RESENTENCING OCCURRED AFTER THE CRIME DEFENDANT COMMITTED IN THIS CASE; PLEA OF GUILTY - WHETHER THE PLEA WAS KNOWING, VOLUNTARY AND INTELLIGENT;

THE BRIGHTONIAN NURSING HOME, et al. v DAINES, &c., et al.:  
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - DUE PROCESS - STATUTE PROHIBITING PRIVATE NURSING HOMES FROM WITHDRAWING EQUITY OR TRANSFERRING ASSETS THAT IN THE AGGREGATE EXCEEDED 3% OF THEIR TOTAL ANNUAL REVENUE FOR PATIENT CARE SERVICES WITHOUT PRIOR APPROVAL OF COMMISSIONER OF HEALTH (PUBLIC HEALTH LAW § 2808[5][c]) - CHALLENGE TO RULING THAT STATUTE IS UNCONSTITUTIONALLY VAGUE, IMPROPERLY DELEGATES LEGISLATIVE AUTHORITY TO THE COMMISSIONER AND VIOLATES PLAINTIFFS'/PETITIONERS' SUBSTANTIVE DUE PROCESS RIGHTS - SEVERANCE OF STATUTE'S CATCHALL PHRASE;

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;

BROWN (THOMAS), PEOPLE v:  
 CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER DEFENDANT WAS VALIDLY SENTENCED TO CONSECUTIVE TERMS OF IMPRISONMENT FOR CONVICTIONS OF MURDER IN THE SECOND DEGREE AND CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE; WHETHER PROSECUTOR'S SUMMATION IMPERMISSIBLY SHIFTED THE BURDEN OF PROOF;

BYER (MARVIN), PEOPLE v: (Cal. Date - 3/18/13)  
 CRIMES - CONFESSION - WHETHER THE TRIAL COURT'S ERRONEOUS ADMISSION OF EVIDENCE, INCLUDING DEFENDANT'S STATEMENT THAT HE HAD KILLED NINE PEOPLE BEFORE THIS INCIDENT, CONSTITUTED HARMLESS ERROR;

BYRD, A SUSPENDED ATTORNEY, MATTER OF:  
 ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - DISBARMENT - RECIPROCAL PUNISHMENT - CLAIMED VIOLATION OF DUE PROCESS AND OTHER RIGHTS;

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;

CAPRIO et al. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:  
 TAXATION - PERSONAL INCOME TAX - DUE PROCESS CHALLENGE TO ALLEGED RETROACTIVE APPLICATION OF 2010 AMENDMENT TO SECTION 632(a)(2) OF THE NEW YORK TAX LAW AS APPLIED TO PLAINTIFFS WHO WERE ASSESSED ADDITIONAL TAXES FOR THE 2007 AND 2008 TAXABLE YEARS;

CARTER (DARNELL D.), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES UNDER PENAL LAW § 70.25(2) WERE PERMISSIBLE WHERE DEFENDANT WAS CONVICTED OF MURDER IN THE SECOND DEGREE AND POSSESSION OF A WEAPON IN THE SECOND DEGREE, AND THE POSSESSION CHARGE DID NOT REQUIRE INTENT AS AN ELEMENT;

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);

CINTRON (ANGEL), PEOPLE v:

CRIMES - SENTENCE - POSTRELEASE SUPERVISION (PRS) - WHETHER REINSTATEMENT OF A RESENTENCING COURT'S IMPOSITION OF PRS IS PRECLUDED WHERE, ALTHOUGH DEFENDANT WAS STILL SERVING HIS ORIGINAL SENTENCE AT THE TIME OF RESENTENCING, HE HAD COMPLETED SERVING THE SENTENCE BY THE TIME THE APPELLATE DIVISION FOUND THAT THE RESENTENCE HAD BEEN VACATED IN ERROR; DISMISSAL OF APPEAL AS ACADEMIC; DOUBLE JEOPARDY;

CLERMONT (JOCELYN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL AT THE SUPPRESSION HEARING;

COLLIER (ANDRE), PEOPLE v:

CRIMES - PLEA OF GUILTY - RESENTENCE TO CONCURRENT TERMS - FIVE YEAR TERM OF ORIGINAL CONSECUTIVE SENTENCE FOUND TO BE ILLEGALLY SHORT - RESENTENCE TO CONCURRENT TERMS RESULTED IN OVERALL SHORTER TERM THAN ORIGINAL SENTENCE - WHETHER DEFENDANT SHOULD NEVERTHELESS BE ALLOWED TO WITHDRAW HIS PLEA BASED ON THE FACT THAT THE FIVE YEAR TERM OF THE SENTENCE WAS REPLACED BY A 10 YEAR TERM, EVEN WHERE OVERALL SENTENCE WAS SHORTER;

CORTEZ (PAUL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CONFLICT OF INTEREST - OPERATION OF CONFLICT ON DEFENSE - EFFECTIVE REPRESENTATION - WAIVER OF CONFLICT; EVIDENCE - JOURNAL ENTRIES WRITTEN YEARS BEFORE THE CHARGED OFFENSE AND RELATING TO DEFENDANT'S HOSTILITY TO TWO WOMEN OTHER THAN THE VICTIM - APPLICATION OF MOLINEUX; FAIR TRIAL - ARGUMENT AND CONDUCT OF COUNSEL;

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;

CUOMO, PEOPLE, &c. v GREENBERG et al.:

STATUTES - FEDERAL PREEMPTION - SALE OF SECURITIES - SCOPE OF FEDERAL PREEMPTION OF STATE BLUE SKY LAWS - WHETHER ATTORNEY GENERAL'S MARTIN ACT AND EXECUTIVE LAW CLAIMS TO ENJOIN FRAUDULENT PRACTICES ARE PREEMPTED; WHETHER THE ATTORNEY GENERAL HAS THE AUTHORITY TO BRING THESE MARTIN ACT AND EXECUTIVE LAW CLAIMS; SUMMARY JUDGMENT;

DEACON (DERRICK), PEOPLE v:

CRIMES - VACATUR OF JUDGMENT OF CONVICTION - CPL 440.10 MOTION TO VACATE JUDGMENT BASED ON NEWLY DISCOVERED EVIDENCE OR ACTUAL INNOCENCE; PROFFERED EVIDENCE OF CONFESSION TO CRIME BY ANOTHER PERSON - STATEMENT AGAINST PENAL INTEREST; RECANTED TESTIMONY OF AN EYEWITNESS;

DE LA CRUZ v CADDELL DRY DOCK & REPAIR CO., INC.:

LABOR - PREVAILING RATE OF WAGES (LABOR LAW § 220) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT WORK PERFORMED ON VESSELS OWNED BY CITY AGENCIES WAS NOT "PUBLIC WORK" WITHIN THE MEANING OF LABOR LAW § 220(3) BECAUSE "THE PREVAILING WAGE LAW IS LIMITED TO THOSE WORKERS EMPLOYED IN THE CONSTRUCTION, REPAIR AND MAINTENANCE OF FIXED STRUCTURES, AND DOES NOT APPLY TO WORKERS WHO ARE SERVICING A COMMODITY OWNED BY THE CITY";

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: (Cal. Date - 2/12/13)

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;

DeVITO v FELICIANO et al.:

NEGLIGENCE - PROXIMATE CAUSE - JURY FINDING THAT AUTOMOBILE ACCIDENT WAS NOT A SUBSTANTIAL FACTOR IN BRINGING ABOUT PLAINTIFF'S INJURIES - WHETHER TRIAL COURT ERRED IN REFUSING TO GIVE A MISSING WITNESS CHARGE WHERE DEFENDANT DID NOT CALL AS WITNESSES TWO PHYSICIANS WHO, AT DEFENDANT'S REQUEST, CONDUCTED INDEPENDENT MEDICAL EXAMINATIONS OF PLAINTIFF;

DIAZ (RANDOLFO), PEOPLE v: (Cal. Date - 2/14/13)

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;

DIAZ (RICHARD), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER THE TRIAL COURT FAILED TO SUFFICIENTLY INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA AND, IF SO, WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO THE PLEA;

DOLL (SCOTT F.), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER STATEMENTS MADE BY DEFENDANT, INCLUDING THOSE IN RESPONSE TO QUESTIONS BY LAW ENFORCEMENT OFFICERS, SHOULD HAVE BEEN SUPPRESSED WHERE THE STATEMENTS WERE MADE WITHOUT MIRANDA WARNINGS AND AFTER DEFENDANT INVOKED THE RIGHT TO COUNSEL - CPL 60.45 - APPLICABILITY OF "EMERGENCY" OR "PUBLIC SAFETY" EXCEPTION; UNLAWFUL SEARCH AND SEIZURE - ALLEGED VIOLATIONS OF PEOPLE v DeBOUR (40 NY2d 210) AND DUNAWAY v NEW YORK (442 US 200) - CHALLENGE TO SEIZURE OF VEHICLES AND OTHER PHYSICAL EVIDENCE - VALIDITY OF SEARCH WARRANTS;

DUARTE, MATTER OF v CITY OF NEW YORK: (Cal. Date - 2/14/13)

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;

EBC I, INC., &c. v GOLDMAN SACHS & CO.:

TORTS - FRAUD - WHETHER THE APPELLATE DIVISION'S DISMISSAL OF PLAINTIFF'S BREACH OF FIDUCIARY DUTY AND FRAUD CLAIMS CONFLICTS WITH THIS COURT'S DECISION IN EBC I, INC. v GOLDMAN SACHS & CO. (5 NY3d 11 [2005]); SUMMARY JUDGMENT;

ECHEVARRIA (ALEX), PEOPLE v: (Cal. Date - 3/18/13)

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;

EMPIRE STATE CHAPTER OF ASSOCIATED BUILDERS AND CONTRACTORS, INC., et al. v SMITH, &c., et al.:

MUNICIPAL CORPORATIONS - HOME RULE POWERS - CONSTITUTIONAL CHALLENGE TO 2008 AMENDMENTS TO WICKS LAW - AMENDMENTS TO MONETARY THRESHOLD AMOUNTS FOR PUBLIC WORKS PROJECTS - WHETHER THE THREE-TIERED MONETARY THRESHOLD ESTABLISHED BY THE 2008 AMENDMENTS WAS ENACTED IN VIOLATION OF THE HOME RULE PROVISIONS OF THE NEW YORK STATE CONSTITUTION - WHETHER THE APPRENTICESHIP REQUIREMENTS IN LABOR LAW § 222 VIOLATE THE PRIVILEGES AND IMMUNITIES CLAUSE AND "DORMANT" COMMERCE CLAUSE OF THE FEDERAL CONSTITUTION, AND THE EQUAL PROTECTION CLAUSES OF THE FEDERAL AND STATE CONSTITUTIONS;

EUJOY REALTY CORPORATION v VAN WAGNER COMMUNICATIONS, LLC:

LANDLORD AND TENANT - LEASE - TERMINATION OF LEASE AGREEMENT - LEASED ADVERTISING BILLBOARD - REVIEW OF SIGN OBSTRUCTED BY CONSTRUCTION ON NEARBY SITE - ACTION FOR RENT DUE AND COUNSEL FEES;

EXPEDIA, INC., et al. v CITY OF NEW YORK DEPARTMENT OF FINANCE, et al.:

TAXATION - HOTEL AND MOTEL OCCUPANCY TAX - EXTENSION OF TAX TO ENCOMPASS SERVICE FEES CHARGED BY TRAVEL INTERMEDIARIES - CONSTITUTIONALITY;

FINCH (NATURE G.), PEOPLE v:

CRIMES - RESISTING ARREST - WHETHER "AUTHORIZED ARREST" ELEMENT OF CRIMINAL CHARGE OF RESISTING ARREST UNDER PENAL LAW § 205.30 CAN BE ESTABLISHED BY CRIMINAL TRESPASS CHARGE FOUND NOT TO BE SUPPORTED BY SUFFICIENT EVIDENCE AS A MATTER OF LAW;

FLAMENBAUM (DECEASED), MATTER OF:

EXECUTORS AND ADMINISTRATORS - CLAIMS AGAINST ESTATE - MUSEUM'S CLAIM FOR RETURN OF AN ARTIFACT IN POSSESSION OF THE DECEASED; LACHES; ESTATES - ACCOUNTING;

FLINN (GUNTHER J.), PEOPLE v:

CRIMES - RIGHT TO BE PRESENT AT TRIAL - WHETHER DEFENDANT'S RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF PROCEEDINGS WAS VIOLATED - DEFENDANT'S ATTORNEY WAIVED HIS RIGHT TO BE PRESENT AT SIDEBAR CONFERENCES IN A SIDEBAR CONFERENCE OUTSIDE OF DEFENDANT'S PRESENCE - ANTOMMARCHI RIGHTS; REFUSAL OF TRIAL COURT TO CHARGE LESSER INCLUDED OFFENSES;

FLOYD (DANIEL), PEOPLE v:

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S MOTHER FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SEATING;

PEOPLE ex rel. FRANZA v SHEAHAN:

HABEAS CORPUS - WHEN REMEDY AVAILABLE - ARGUMENT THAT COULD HAVE BEEN RAISED UPON DIRECT APPEAL OR IN AN APPROPRIATE POSTJUDGMENT MOTION;

FUNDAMENTAL LONG TERM CARE HOLDINGS, LLC, et al. v CAMMEBY'S FUNDING, LLC:

CONTRACTS - PAROL EVIDENCE RULE - MERGER CLAUSE - OPTION AGREEMENT REGARDING OWNERSHIP INTEREST IN A LIMITED LIABILITY COMPANY - WHETHER OPTION HOLDER'S RIGHTS ARE TO BE DETERMINED UNDER THE OPTION AGREEMENT ALONE OR ARE SUBJECT TO THE MEMBERSHIP REQUIREMENTS IN THE LLC'S OPERATING AGREEMENT;

GALETTA v GALETTA:

MARRIAGE - PRENUPTIAL AGREEMENT - VALIDITY - WHETHER A DEFECTIVE CERTIFICATE OF ACKNOWLEDGMENT MAY BE CURED BY A SUBSEQUENT AFFIDAVIT;

GELMAN v BUEHLER: (Cal. Date - 2/7/13)

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;

GLYNN (JOHN G.), PEOPLE v:

CRIMES - JUDGES - RECUSAL - JUDGE'S PREVIOUS REPRESENTATION OF DEFENDANT IN AN UNRELATED MATTER AND PREVIOUS PROSECUTION OF DEFENDANT AS AN ASSISTANT DISTRICT ATTORNEY; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; SUFFICIENCY OF THE EVIDENCE; SENTENCE;

GRANGER, MATTER OF v MISERCOLA: (Cal. Date - 3/20/13)  
 PARENT AND CHILD - VISITATION - WHETHER THERE IS SUBSTANTIAL EVIDENCE IN THE RECORD TO SUPPORT A GRANT OF VISITATION RIGHTS TO AN INCARCERATED PARENT; STANDARD OF REVIEW; BEST INTEREST OF THE CHILD - FAMILY COURT ACT ARTICLE 6;

GREATER NEW YORK TAXI ASSOCIATION et al. v STATE OF NEW YORK, et al.:  
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER CHAPTER 602 OF THE LAWS OF 2011, AS AMENDED BY CHAPTER 9 OF THE LAWS OF 2012 (THE "STREET HAIL LIVERY LAW"), VIOLATES THE HOME RULE CLAUSE OR OTHER PROVISIONS OF THE NEW YORK STATE CONSTITUTION;

GRIFFIN (ANTHONY), PEOPLE v: (Cal. Date - 2/13/13)  
 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;

GUILFORD (JAMES E.), PEOPLE v:  
 CRIMES - SUPPRESSION HEARING - STATEMENTS MADE BY DEFENDANT TO POLICE IN GEORGIA AND NEW YORK, ONE INTERROGATION SESSION LASTING ALMOST 50 HOURS; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT DURING TRIAL; MURDER;

GUAMAN (LUIS), PEOPLE v:  
 CRIMES - INFORMATION - FORCIBLE TOUCHING - PENAL LAW § 130.52 - WHETHER ACCUSATORY INSTRUMENT WAS FACIALLY INSUFFICIENT FOR FAILING TO ALLEGE THE ELEMENT OF "FORCE" WHERE DEFENDANT "RUBBED AGAINST" THE COMPLAINANT SUBWAY RIDER;

GURVEY (ADMITTED AS WEISSBROD), AN ATTORNEY, MATTER OF:  
 ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - SUSPENSION FROM PRACTICE OF LAW - CLAIMED LACK OF JURISDICTION OF APPELLATE DIVISION, FIRST DEPARTMENT, OVER RESPONDENT; CLAIMED DUE PROCESS AND EQUAL PROTECTION VIOLATIONS;

H. (DARYL), PEOPLE v:  
 CRIMES - WITNESSES - WHETHER THE TRIAL COURT'S RULINGS CURTAILING CROSS EXAMINATION OF A DOCTOR AND OF THE VICTIM'S FATHER DEPRIVED DEFENDANT OF THE RIGHT TO PRESENT A DEFENSE AND THE RIGHT TO A FAIR TRIAL; DUE PROCESS;

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: (Cal. Date - 2/6/13)

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 (JOSEPH), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER THE TRIAL COURT ERRED IN IMPOSING CONSECUTIVE SENTENCES FOR THE CONVICTIONS OF ATTEMPTED MURDER IN THE SECOND DEGREE AND CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE;

HASTINGS, et al. v SAUVE, et al.: (Cal. Date - 3/21/13)

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

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;

HECKER v STATE OF NEW YORK: (Cal. Date - 2/7/13)

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;

HERNANDEZ (FELIX), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL WHO PURPORTEDLY FAILED TO DISCUSS THE IMMIGRATION CONSEQUENCES (DEPORTATION) OF GUILTY PLEA;

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;

HRONCICH, MATTER OF v CON EDISON, et al.:

WORKERS' COMPENSATION - DEATH BENEFITS - WHETHER THE APPELLATE DIVISION PROPERLY AFFIRMED THE WORKERS' COMPENSATION BOARD DECISION GRANTING CLAIMANT DEATH BENEFITS WITHOUT APPORTIONMENT FOR THE PERCENTAGE OF NON-WORK RELATED CAUSE(S) OF DEATH - WORKERS' COMPENSATION LAW § 15(7);

HUGHES (FRANKLIN), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - POSSESSION OF FIREARM IN HOME BY DEFENDANT PREVIOUSLY CONVICTED OF A CRIME - WHETHER DEFENDANT'S CONVICTION IS CONSTITUTIONAL WHERE HE POSSESSED A HANDGUN WITHIN HIS HOME FOR THE PURPOSE OF SELF-DEFENSE - PENAL LAW §§ 265.02(1) and 265.03(3);

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

(Cal. Date - 2/6/13)

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;

ISLAND PARK, LLC v STATE OF NEW YORK:

EMINENT DOMAIN - DE FACTO APPROPRIATION - CLOSURE OF A PRIVATE AT-GRADE RAILROAD CROSSING - WHETHER CLOSURE OF CROSSING WAS A DE FACTO TAKING OF CLAIMANT'S EASEMENT OVER THE CROSSING;

JFK HOLDING COMPANY, LLC, et al. v CITY OF NEW YORK, et al.:

LANDLORD AND TENANT - LEASE - BREACH OF LEASE CONDITION - DETERIORATION OF PREMISES - WHETHER TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE SALVATION ARMY USED COMMERCIALY REASONABLE EFFORTS TO OBTAIN CERTAIN PAYMENTS TO WHICH IT WAS ENTITLED UNDER A SERVICES AGREEMENT WITH OTHER DEFENDANTS - WHETHER DEFENDANT SALVATION ARMY WAS NONETHELESS ENTITLED TO SUMMARY JUDGMENT UNDER A LIMITATION OF DAMAGES PROVISION IN ITS LEASE - RES JUDICATA;

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;

JACOBSEN v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION:

CIVIL RIGHTS - DISCRIMINATION BASED ON DISABILITY - OCCUPATIONAL LUNG DISEASE - WRONGFUL TERMINATION - EMPLOYEE'S ABILITY TO PERFORM ESSENTIAL JOB DUTIES - REASONABLE ACCOMMODATION; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF FACT;

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;

JIMENEZ (JOSEFINA), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS SEARCH OF DEFENDANT'S SHOULDER BAG AFTER IT HAD BEEN REMOVED FROM HER SHOULDER AND AFTER SHE HAD BEEN HANDCUFFED AND FRISKED; WHETHER SEARCH OF BAG WAS LAWFUL AS INCIDENT TO A LAWFUL ARREST; SUPPRESSION MOTION;

JOHNSON (MARTIN), PEOPLE v: (Cal. Date - 3/18/13)

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - WHETHER UNDERCOVER OFFICER'S TESTIMONY ESTABLISHED AN OVERRIDING INTEREST THAT WARRANTED CLOSURE OF THE COURTROOM TO ALL BUT DEFENDANT'S FAMILY; JURY INSTRUCTIONS - COURT'S FAILURE TO DELIVER THE "NO PRIOR SALE CONVICTIONS" ELEMENT OF THE JURY CHARGE;

JONES (LESTER Q.), 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;

KANCHARLA (V. REDDY), PEOPLE v:

CRIMES - EVIDENCE - WHETHER EVIDENCE ADMITTED REGARDING THE

ENTERPRISE CORRUPTION COUNT WHICH SHOULD NOT HAVE BEEN CHARGED  
UNDULY PREJUDICED DEFENDANT REGARDING THE REMAINING CHARGES;  
SUFFICIENCY OF EVIDENCE TO SUPPORT DEFENDANT'S CONVICTION ON THE  
SCHEME TO DEFRAUD CHARGE RELATING TO STEEL INSPECTIONS; WHETHER THE  
TRIAL COURT ERRED IN EXCLUDING EVIDENCE OFFERED IN SUPPORT OF THE  
DEFENSE TO CHARGES RELATING TO MIX DESIGNS;

KASOWITZ, BENSON, TORRES & FRIEDMAN, LLP v DUANE READE et al.:  
ATTORNEY AND CLIENT - COMPENSATION - SCOPE OF CONTINGENCY FEE  
AGREEMENT - WHETHER MATERIAL ISSUES OF FACT EXIST WITH RESPECT TO  
WHETHER "SUCCESS FEE" APPLIED ONLY TO THE MONETARY RECOVERY FROM  
THE SETTLEMENT OF A PARTICULAR LITIGATION REGARDING AN ATM  
PLACEMENT CONTRACT OR ALSO ENCOMPASSED INCREASED REVENUES FROM A  
NEW ATM PLACEMENT CONTRACT; SUMMARY JUDGMENT;

KEIJONTE W., MATTER OF (ADMINISTRATION FOR CHILDREN'S SERVICES;  
TAMARA W.)(AND 4 OTHER PROCEEDINGS):  
PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - CLAIMED DENIAL OF  
DUE PROCESS AND RIGHT TO CONFRONT WITNESSES AGAINST MOTHER -  
EVIDENCE AGAINST MOTHER ADMITTED VIA REPORTS OF CHILD ABUSE  
EVALUATOR, WITHOUT ANY TESTIMONY - HEARSAY - HOSPITALIZED MOTHER  
UNABLE TO TESTIFY ON HER OWN BEHALF; SUFFICIENCY OF THE EVIDENCE TO  
SUPPORT FINDINGS MADE AGAINST MOTHER;

KOCH, MATTER OF v SHEEHAN:  
SOCIAL SERVICES - DISQUALIFICATION OR TERMINATION AS A MEDICAID  
PROVIDER - SCOPE OF AUTHORITY OF OFFICE OF MEDICAID INSPECTOR  
GENERAL - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT  
THE DETERMINATION OF THE OFFICE OF THE NEW YORK STATE MEDICAID  
INSPECTOR GENERAL (OMIG) WAS ARBITRARY AND CAPRICIOUS - WHETHER  
OMIG HAD THE AUTHORITY TO EXCLUDE PETITIONER FROM THE MEDICAID  
PROGRAM PURSUANT TO 18 NYCRR 515.7(e) BASED ON A CONSENT ORDER IN  
WHICH PETITIONER DID NOT CONTEST HAVING COMMITTED MISCONDUCT BY  
PRACTICING MEDICINE WITH NEGLIGENCE IN THE TREATMENT OF TWO  
EMERGENCY ROOM PATIENTS WHO WERE NOT ALLEGED TO BE MEDICAID  
PATIENTS;

KOWALSKI v ST. FRANCIS HOSPITAL and HEALTH CENTERS, et al.:  
HOSPITALS - MALPRACTICE - NEGLIGENCE - PLAINTIFF STRUCK BY VEHICLE  
AFTER LEAVING VOLUNTARY DETOXIFICATION PROGRAM BEFORE BEING  
DISCHARGED - WHETHER APPELLATE DIVISION ERRED IN HOLDING THAT  
CERTAIN DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT DISMISSING THE  
COMPLAINT AS AGAINST THEM BECAUSE THEY LACKED AUTHORITY TO  
INVOLUNTARILY CONFINE PLAINTIFF;

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;

LEACH (TAWOND), PEOPLE v:

CRIMES - SUPPRESSION HEARING - RECOVERY BY POLICE OF A GUN IN THE SPARE BEDROOM OF DEFENDANT'S GRANDMOTHER'S APARTMENT WHERE DEFENDANT HAD HIS OWN BEDROOM - REASONABLE EXPECTATION OF PRIVACY IN ROOM TO WHICH DEFENDANT HAD ACCESS; STANDING TO CHALLENGE SEARCH;

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;

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

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - RESIDENCY REQUIREMENT - CPLR ARTICLE 78 PROCEEDING TO ANNUL DETERMINATION TERMINATING PETITIONER'S TENURED EMPLOYMENT WITH SCHOOL DISTRICT BASED ON PETITIONER'S VIOLATION OF SCHOOL DISTRICT'S RESIDENCY POLICY; STANDARD OF REVIEW;

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;

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.: (Cal. Date - 2/5/13)

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;

MARRA (ISIDORO), PEOPLE v:

CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE PHOTOGRAPHS OF RAPE VICTIM TAKEN AT THE HOSPITAL THAT DEPICTED MARKS AND BRUISES; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT DURING SUMMATION;

MARTINEZ (CHRISTOPHER), PEOPLE v:

CRIMES - DISCLOSURE - ROSARIO MATERIAL - DEFENDANT'S ENTITLEMENT TO AN ADVERSE INFERENCE CHARGE WHERE AN OFFICER'S HANDWRITTEN NOTES OF HIS INTERVIEW WITH THE COMPLAINANT WERE LOST; SUFFICIENCY OF THE EVIDENCE;

MASHREQBANK PSC v AHMED HAMAD AL GOSAIBI & BROTHERS COMPANY (AND A THIRD-PARTY ACTION):

COURTS - FORUM NON CONVENIENS - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT SUPREME COURT ABUSED ITS DISCRETION AS A MATTER OF LAW BY DISMISSING THE COMPLAINT ON ITS OWN MOTION IN THE MAIN ACTION ON THE GROUND OF FORUM NON CONVENIENS, WHERE THE ONLY MOTION BEFORE THE COURT WAS A THIRD-PARTY DEFENDANT'S MOTION TO DISMISS THE THIRD-PARTY COMPLAINT;

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

(Cal. Date - 2/12/13)

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;

MC GEE (DEMETRIUS), PEOPLE v: (Cal. Date - 2/5/13)

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 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;

McPHERSON (FRANKLIN), PEOPLE v:

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - INTOXICATED DEFENDANT TRAVELING WRONG WAY ON PARKWAY - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE

EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

MEJIAS (MIGUEL), PEOPLE v: (Cal. Date - 3/19/13)

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;

MERRILL LYNCH, PIERCE, FENNER & SMITH, INC., et al. v GLOBAL STRAT, INC., et al.:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN GRANTING A DEFAULT JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST THE INDIVIDUAL DEFENDANTS AS A PENALTY FOR THEIR FAILURE TO COMPLY WITH COURT-ORDERED DISCOVERY; COURTS - JURISDICTION - LONG-ARM JURISDICTION - TRANSACTION OF BUSINESS IN NEW YORK;

METROPOLITAN TAXICAB BOARD OF TRADE, et al. v BLOOMBERG, et al.:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER CHAPTER 602 OF THE LAWS OF 2011, AS AMENDED BY CHAPTER 9 OF THE LAWS OF 2012 (THE "STREET HAIL LIVERY LAW"), VIOLATES THE HOME RULE CLAUSE OR OTHER PROVISIONS OF THE NEW YORK STATE CONSTITUTION;

MILTON (JACOB), PEOPLE v: (Cal. Date - 3/20/13)

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: (Cal. Date - 2/7/13)

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;

MORRIS BUILDERS, LP, et al., MATTER OF v NEW YORK STATE EMPIRE ZONE DESIGNATION BOARD:

CONSTITUTIONAL LAW - TAKING OF PROPERTY - ELIGIBILITY TO PARTICIPATE IN EMPIRE ZONE PROGRAM - WHETHER THE APRIL 2009 AMENDMENTS TO GENERAL MUNICIPAL LAW § 959, PROVIDING FOR THE REVOCATION OF ELIGIBILITY TO PARTICIPATE IN THE EMPIRE ZONE PROGRAM FOR COMPANIES THAT FAILED TO MEET CERTAIN CRITERIA AS OF 1/1/08 VIOLATED DUE PROCESS; ECONOMIC DEVELOPMENT;

MOSS (ANDREW), PEOPLE v: (Cal. Date - 3/18/13)

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;

MURPHY, MATTER OF v NEW YORK STATE DIVISION OF HOUSING and COMMUNITY RENEWAL, et al.:

LANDLORD AND TENANT - RENT REGULATION - SUCCESSION RIGHTS OF FAMILY MEMBERS RESIDING IN MITCHELL-LAMA HOUSING - EXCEPTION TO THE ANNUAL INCOME AFFIDAVIT REQUIREMENT - LIMITED-PROFIT HOUSING COMPANIES ACT AND PRIVATE HOUSING FINANCE LAW;

NESBITT (AKIEME), PEOPLE v: (Cal. Date - 2/5/13)

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

NORRIS (ELBERT), PEOPLE v: (Cal. Date - 2/7/13)

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: (Cal. Date - 2/7/13)

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: (Cal. Date - 3/21/13)  
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;

CITY OF OSWEGO, MATTER OF v OSWEGO CITY FIREFIGHTERS ASSOCIATION, LOCAL 2707: (Cal. Date - 2/13/13)  
ARBITRATION - CONFIRMING OR VACATING AWARD - CONTINUATION OF TERMS OF EXPIRED COLLECTIVE BARGAINING AGREEMENT - CONSISTENCY WITH RETIREMENT AND SOCIAL SECURITY LAW, CIVIL SERVICE LAW AND PUBLIC POLICY - WHETHER AWARD EXCEEDED ARBITRATOR'S POWERS;

O'TOOLE (DONALD), PEOPLE v:  
CRIMES - COLLATERAL ESTOPPEL - WHETHER THE PEOPLE WERE BARRED FROM PRESENTING ON DEFENDANT'S RETRIAL EVIDENCE THAT HIS ACCOMPLICE POINTED WHAT APPEARED TO BE A PISTOL AT THE COMPLAINING WITNESS DURING THE ALLEGED ROBBERY, WHERE DEFENDANT WAS ACQUITTED OF ROBBERY IN THE FIRST DEGREE AT THE FIRST TRIAL BUT CONVICTED OF ROBBERY IN THE SECOND DEGREE AND THE APPELLATE DIVISION HAD REVERSED THAT CONVICTION;

OVERSTOCK.COM, INC. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.: (Cal. Date - 2/6/13)  
CONSTITUTIONAL LAW - VALIDITY OF STATUTE - CHALLENGE TO TAX LAW § 1101(b)(8)(vi); DECLARATORY JUDGMENT;

PADILLA (KENNETH), PEOPLE v:  
CRIMES - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH - WHETHER THE POLICE CONDUCTED A PROPER INVENTORY SEARCH AND PREPARED A MEANINGFUL INVENTORY LIST; SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE; ALLEGED PROSECUTORIAL MISCONDUCT;

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;

PATEL (VINOD), PEOPLE v:

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

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;

PEQUE (JUAN JOSE), PEOPLE v:

CRIMES - PLEA OF GUILTY - WHETHER TRIAL COURT'S FAILURE TO INFORM DEFENDANT, AN UNDOCUMENTED IMMIGRANT, THAT HE MIGHT BE DEPORTED BASED ON HIS CONVICTION RENDERED DEFENDANT'S GUILTY PLEA NOT KNOWING, VOLUNTARY AND INTELLIGENT; RIGHT TO COUNSEL - WHETHER COUNSEL'S FAILURE TO INFORM DEFENDANT ABOUT THE IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA RENDERED COUNSEL'S REPRESENTATION INEFFECTIVE; SENTENCE; DUE PROCESS CHALLENGE TO CPL 220.50;

PERRINGTON (DONALD), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION (PENAL LAW § 265.15 [3]) - CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION AGAINST PENAL INTEREST;

PIGNATARO (ANTHONY S.), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - WHETHER A TRIAL COURT IS AUTHORIZED TO RESENTENCE A DEFENDANT TO A TERM OF

IMPRISONMENT WITHOUT POST-RELEASE SUPERVISION WHEN THE PEOPLE CONSENT - PENAL LAW § 70.85; CONSTITUTIONAL CHALLENGE TO PENAL LAW § 70.85 AND CORRECTION LAW § 601-d AS APPLIED TO DEFENDANT; SUFFICIENCY OF PLEA ALLOCUTION; TRIAL COURT'S REFUSAL TO ALLOW WITHDRAWAL OF PLEA;

PLAZA &c. v NEW YORK HEALTH and HOSPITALS CORPORATION:  
MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - GENERAL MUNICIPAL LAW § 50-e - WHETHER DEFENDANT ACQUIRED ACTUAL KNOWLEDGE OF THE ESSENTIAL FACTS CONSTITUTING CLAIM VIA MEDICAL RECORDS; SUMMARY JUDGMENT - ISSUE OF FACT;

POLLACK, MATTER OF v FORMICA (AND ANOTHER PROCEEDING):  
PROCEEDING AGAINST BODY OR OFFICER - CLAIMED VIOLATION OF DUE PROCESS AND OTHER CONSTITUTIONAL RIGHTS;

PRESCOTT (TYRONE), PEOPLE v: (Cal. Date - 3/21/13)  
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;

RAGINS v HOSPITALS INSURANCE COMPANY, INC., et al.:  
INSURANCE - DUTY TO DEFEND AND INDEMNIFY - OBLIGATION TO PAY INTEREST - WHETHER EXCESS CARRIER WAS RESPONSIBLE ONLY FOR PREJUDGMENT INTEREST ON THAT PORTION OF THE UNDERLYING JUDGMENT THAT IT WAS OBLIGATED TO PAY UNDER ITS POLICY, RATHER THAN FOR PREJUDGMENT AND POSTJUDGMENT INTEREST ON THE WHOLE AMOUNT OF THE UNDERLYING JUDGMENT;

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";

REED (LANCE J.), PEOPLE v:  
CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - FELONY MURDER AND ROBBERY - IDENTIFICATION OF SUPERMARKET BAG RECOVERED FROM CAR FLEEING SCENE OF CRIME; CIRCUMSTANTIAL EVIDENCE;

ROCKY POINT DRIVE-IN, L.P. v TOWN OF BROOKHAVEN, et al.:  
MUNICIPAL CORPORATIONS - ZONING - NONCONFORMING USE - DELAY IN

PROCESSING OF SITE PLAN APPLICATION - WHETHER APPELLATE DIVISION MISAPPLIED THE "SPECIAL FACTS EXCEPTION" BY REQUIRING PLAINTIFF TO PROVE THAT DEFENDANTS ACTED IN BAD FAITH IN DELAYING THE PROCESSING OF THE APPLICATION; DECLARATORY JUDGMENT ACTION;

RODRIGUEZ (ANTONIO), PEOPLE v: (Cal. Date - 3/19/13)

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;

RODRIGUEZ (JOSE), 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 THAT ONE OF THE THREE ORIGINAL PRISON TERMS WAS TO RUN CONSECUTIVELY TO THE FIRST TWO;

RODRIGUEZ (REYES), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER DEFENDANT'S RIGHT OF CONFRONTATION WAS VIOLATED BY POLICE OFFICER'S TESTIMONY REGARDING WHAT HE WAS TOLD BY A NON-TESTIFYING COOPERATOR REGARDING DEFENDANT'S NICKNAME; WHETHER DEFENSE COUNSEL PRESERVED A CONFRONTATION CLAUSE CHALLENGE TO A NONTESTIFYING CO-DEFENDANT'S STATEMENT TO AN ACCOMPLICE WITNESS AND, IF SO, WHETHER TESTIMONY CONCERNING THE STATEMENT VIOLATED DEFENDANT'S RIGHT OF CONFRONTATION; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT SUFFICIENT NONACCOMPLICE TESTIMONY EXISTED TO SATISFY THE ACCOMPLICE CORROBORATION REQUIREMENT IN CPL 60.22; ALLEGED DISCOVERY AND ROSARIO VIOLATIONS;

ROMAN CATHOLIC DIOCESE OF BROOKLYN v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA &c.: (Cal. Date - 3/19/13)

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;

ROMANELLO v INTESA SANPAOLO, S.P.A and STEFAN:

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - DISABILITY - ALLEGED VIOLATIONS OF NEW YORK STATE HUMAN RIGHTS LAW AND NEW YORK CITY HUMAN RIGHTS LAW - FAILURE TO GRANT INDEFINITE MEDICAL LEAVE - EMPLOYER'S DUTY TO ENGAGE IN GOOD FAITH INTERACTIVE PROCESS TO IDENTIFY A REASONABLE ACCOMMODATION - RETALIATION - MOTION TO



DISMISS;

ROULAN v COUNTY OF ONONDAGA et al.: (Cal. Date - 3/18/13)  
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;

SAAD-EL-DIN (MOHAMED), MATTER OF v STEINER:  
PROCEEDING AGAINST BODY OR OFFICER - CHALLENGE TO DETERMINATION  
SUSTAINING A DECISION TO SUSPEND PETITIONER STUDENT WITH A  
DISABILITY AFTER PETITIONER STATED TO FELLOW STUDENTS AND A TEACHER  
THAT HE WAS "GOING TO JUST BLOW THIS PLACE UP" AND WARNED THEM NOT  
TO "COME TO SCHOOL ON FRIDAY";

SAGAL-COTLER, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL  
DISTRICT OF CITY OF NEW YORK, et al.: (Cal. Date - 3/20/13)  
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;

SALH, MATTER OF v TAX APPEALS TRIBUNAL OF THE STATE OF NEW  
YORK et al.  
TAXATION - BUSINESS AND FINANCIAL TAX - BULK SALES - LIABILITY OF  
PURCHASER OF BUSINESS FOR TAX DEFICIENCY OF PREVIOUS OWNER -  
EQUITABLE ESTOPPEL;

SANDERS (EQUAN), PEOPLE v:  
CRIMES - SENTENCE - SECOND FELONY OFFENDER - RESENTENCING FOR  
PURPOSES OF IMPOSING TERM OF POSTRELEASE SUPERVISION - IF  
RESENTENCING OCCURS AT THE REQUEST OF THE DIVISION OF PAROLE RATHER  
THAN THE DEFENDANT, WHETHER THE RESENTENCING OR ORIGINAL SENTENCING  
DATE CONTROLS FOR THE PURPOSES OF DETERMINING IF THE PRESENT  
CONVICTION MEETS THE SEQUENTIALITY REQUIREMENT FOR SENTENCING AS A  
PERSISTENT VIOLENT FELONY OFFENDER;

SANDIFORD v CITY OF NEW YORK DEPARTMENT OF EDUCATION, et al.:  
CIVIL RIGHTS - DISCRIMINATION BASED ON SEXUAL ORIENTATION -  
RETALIATION - TERMINATION OF SCHOOL AIDE; "PRETEXT" FOR TERMINATION  
- BURDEN OF PROOF; SUMMARY JUDGMENT; COLLATERAL ESTOPPEL BASED ON  
UNION GRIEVANCE RESULT;

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;SANTIAGO, JR. (CARLOS), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - USE OF OUT-OF-STATE CONVICTION AS A PREDICATE FELONY - DEFENDANT CONVICTED WHEN HE WAS 15 YEARS OLD OF MURDER IN THE THIRD DEGREE UNDER PENNSYLVANIA STATUTE;

SANTIAGO (CHERYL), PEOPLE v:

CRIMES - MANSLAUGHTER IN THE SECOND DEGREE - SUFFICIENCY OF THE EVIDENCE; CONFESSION - STATEMENTS TO LAW ENFORCEMENT OFFICIALS - LETTERS TO INMATE; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

SANTIAGO (HECTOR), PEOPLE v:

CRIMES - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A CIRCUMSTANTIAL EVIDENCE CHARGE TO THE JURY IN A DRUG POSSESSION CASE INVOLVING PRESENCE OF A CONTROLLED SUBSTANCE IN AN AUTOMOBILE - "PRESUMPTIVE EVIDENCE OF KNOWING POSSESSION...BY EACH AND EVERY PERSON IN THE AUTOMOBILE" (PENAL LAW § 220.25[1]) - CONSTRUCTIVE POSSESSION; EXCESSIVE SENTENCE;

SAPERSTON, MATTER OF v HOLDAWAY:

PARENT AND CHILD - CUSTODY - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT FAMILY COURT'S DETERMINATION WITH RESPECT TO PRIMARY PHYSICAL CUSTODY LACKS A SOUND AND SUBSTANTIAL BASIS IN THE RECORD; RELOCATION OF CHILD;

SCHREIER (DAVID W.), PEOPLE v:

CRIMES - UNLAWFUL SURVEILLANCE - SUFFICIENCY OF EVIDENCE - VICTIM VIDEOTAPED AT HOME THROUGH WINDOW - WHETHER THE EVIDENCE WAS SUFFICIENT TO ESTABLISH, AMONG OTHER THINGS, THAT THE RECORDING WAS MADE "SURREPTITIOUSLY" AND AT A PLACE AND TIME WHEN THE VICTIM HAD A REASONABLE EXPECTATION OF PRIVACY (PENAL LAW § 250.45[1]);

SCHRON, et al. v TROUTMAN SAUNDERS LLP, et al. (AND ANOTHER ACTION):

CONTRACTS - PAROL EVIDENCE RULE - WHETHER PAROL EVIDENCE WAS PROPERLY DISALLOWED IN SUPPORT OF A CLAIM THAT AN OPTION CONTRACT ALLOWING DEFENDANT CAMMEBY'S EQUITY HOLDINGS LLC TO PURCHASE PLAINTIFF SVCare FOR A FIXED SUM WAS VOID FOR LACK OF CONSIDERATION;

SHABAZZ (OMAR), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AUTOMOBILE PRESUMPTION (PENAL LAW § 265.15[3]) - CRIMINAL POSSESSION OF A WEAPON IN THE SECOND DEGREE - WHETHER THE TRIAL COURT ERRED IN RULING THAT A CO-DEFENDANT'S STATEMENT ADMITTING OWNERSHIP OF THE GUN WAS INSUFFICIENTLY RELIABLE TO PERMIT ITS INTRODUCTION AS A DECLARATION

AGAINST PENAL INTEREST - WHETHER PEOPLE v CONCEPCION (17 NY3d 192 [2011]) AND CPL 470.15 PRECLUDED THE APPELLATE DIVISION FROM RULING THAT DEFENDANT ALSO FAILED TO ESTABLISH THE DECLARANT'S UNAVAILABILITY; SUFFICIENCY OF THE EVIDENCE; ALLEGED PROSECUTORIAL MISCONDUCT - DENIAL OF MISTRIAL MOTION;

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;

SMITH (TORREL), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - IMPROPER BOLSTERING OF IDENTIFICATION EVIDENCE - WHETHER TRIAL COURT ERRED BY ALLOWING POLICE OFFICERS TO RECOUNT AT TRIAL DESCRIPTION OF PERPETRATOR THAT COMPLAINANT PROVIDED IMMEDIATELY AFTER ROBBERY - WHETHER TO EXTEND PEOPLE v HUERTAS (75 NY2d 487 [1990]), WHICH ALLOWED SUCH TESTIMONY FROM A VICTIM, TO TESTIMONY ELICITED FROM POLICE OFFICERS;

SOTO v J. CREW, INC., et al.:

LABOR - SAFE PLACE TO WORK - ROUTINE MAINTENANCE - CLEANING - EMPLOYEE OF COMMERCIAL CLEANING COMPANY INJURED WHEN HE FELL OFF AN A-FRAME LADDER WHILE DUSTING THE TOP OF A SHELF - WHETHER THE ACTIVITY THE INJURED PLAINTIFF WAS ENGAGED IN WAS THE TYPE OF ACTIVITY PROTECTED BY LABOR LAW § 240(1);

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 FLOYD Y.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - SEX OFFENDER MANAGEMENT AND TREATMENT ACT (SOMTA) - WHETHER THE TRIAL COURT ERRED BY PERMITTING THE STATE'S EXPERT WITNESS TO TESTIFY, WITHOUT LIMITATION, AS TO HEARSAY STATEMENTS THAT FORMED THE BASIS OF HER OPINION THAT RESPONDENT HAS A MENTAL ABNORMALITY, INCLUDING STATEMENTS REGARDING ACTS THAT DID NOT RESULT IN A CRIMINAL CHARGE OR CONVICTION - ALLEGED DUE PROCESS VIOLATION;

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

MENTAL HEALTH - PROCEEDING BY STATE OF NEW YORK SEEKING AN ORDER AUTHORIZING RESPONDENT'S CIVIL MANAGEMENT PURSUANT TO MENTAL HYGIENE LAW ARTICLE 10 - CLAIMED COMMITMENT TO INPATIENT FACILITY UNDER PROVISION INTENDED FOR OUTPATIENT SUPERVISION; CLAIMED DENIAL

OF DUE PROCESS;  
DEPARTMENTAL DISCIPLINARY COMMITTEE FOR THE FIRST JUDICIAL DEPARTMENT, MATTER OF; SUSAN (ANONYMOUS):  
 ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - MOTION TO QUASH SUBPOENA DUCES TECUM;

TAXICAB SERVICE ASSOCIATION, et al. v STATE OF NEW YORK, et al.:  
 CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER CHAPTER 602 OF THE LAWS OF 2011, AS AMENDED BY CHAPTER 9 OF THE LAWS OF 2012 (THE "STREET HAIL LIVERY LAW"), VIOLATES THE HOME RULE CLAUSE OR OTHER PROVISIONS OF THE NEW YORK STATE CONSTITUTION;

THOMAS (ADRIAN P.), PEOPLE v:  
 CRIMES - WITNESSES - EXPERT WITNESS - WHETHER TRIAL COURT ERRED IN NOT ADMITTING EXPERT TESTIMONY ON THE SUBJECT OF FALSE AND COERCED CONFESSIONS; VOLUNTARINESS OF CONFESSION - POLICE THREATS TO ARREST DEFENDANT'S WIFE; SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION FOR DEPRAVED INDIFFERENCE MURDER; JUROR NOTES ON JURY INSTRUCTIONS;

THOMAS, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:  
 (Cal. Date - 3/20/13)  
 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;

THOMAS (MICHAEL), a/k/a ADAMS (NEIL), PEOPLE v,:  
 CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT DID NOT KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTER INTO HIS GUILTY PLEA WHERE THE TRIAL COURT FAILED TO INFORM HIM OF THE POSSIBLE IMMIGRATION CONSEQUENCES OF THE PLEA; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE REPRESENTATION OF COUNSEL BASED UPON COUNSEL'S FAILURE TO INFORM DEFENDANT OF THE DEPORTATION CONSEQUENCES OF HIS GUILTY PLEA;

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;

TORRES (DENNISSE) a/k/a TORRES RODRIGUEZ (DEENISSE) &c. 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;

TREISTMAN, MATTER OF v CAYLEY:

MOTIONS AND ORDERS - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PETITIONER'S MOTIONS FOR LEAVE TO APPEAL TO THAT COURT AND FOR A STAY PENDING APPEAL - CHALLENGE TO FAMILY COURT ORDER DENYING MOTIONS FOR SANCTIONS AND ENLARGEMENT OF TRIAL DATE PENDING FURTHER DISCOVERY;

TYRELL (CAVELL CRAIG), PEOPLE v (APPEAL NO. 1):

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA - WHETHER PLEA COURT ERRED IN ACCEPTING DEFENDANT'S GUILTY PLEA TO A MISDEMEANOR CHARGE IN THE ABSENCE OF A FACTUAL ALLOCUTION BY OR OTHER COLLOQUY WITH THE DEFENDANT - WHETHER PLEA WAS KNOWING, INTELLIGENT AND VOLUNTARY ABSENT A FACTUAL ALLOCUTION AND WHERE DEFENDANT WAS NEVER ADVISED OF HIS CONSTITUTIONAL RIGHTS BEFORE HIS COUNSEL INFORMED THE COURT THAT DEFENDANT HAD AUTHORIZED HIM TO ENTER A GUILTY PLEA TO CRIMINAL POSSESSION OF MARIJUANA IN THE FIFTH DEGREE;

TYRELL (CAVELL CRAIG), PEOPLE v (APPEAL NO. 2):

CRIMES - PLEA OF GUILTY - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT ALLEGEDLY WAS NEVER INFORMED OF HIS CONSTITUTIONAL RIGHTS BEFORE THE COURT ACCEPTED THE GUILTY PLEA;

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);

VELEZ (JULIO), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - PRE-INDICTMENT DELAY - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE PROSECUTION ESTABLISHED GOOD CAUSE FOR THE DELAY BETWEEN THE CRIME AND DEFENDANT'S INDICTMENT; SUFFICIENCY OF THE EVIDENCE;

VERIZON NEW ENGLAND, INC. v TRANSCOM ENHANCED SERVICES, INC.:

(Cal. Date - 3/20/13)

JUDGMENTS - ENFORCEMENT - RESTRAINING NOTICE - PAYMENTS TO JUDGMENT DEBTOR PURSUANT TO PRE-EXISTING CONTRACT AFTER RECEIPT OF RESTRAINING NOTICE - WHETHER PAYMENTS CONSTITUTED A "DEBT" OWING TO THE JUDGMENT DEBTOR OR WHETHER JUDGMENT DEBTOR HAD RIGHTS UNDER THE CONTRACT THAT CONSTITUTED "PROPERTY" WITHIN THE MEANING OF CPLR 5222(b);

W. (DASHAWN), MATTER OF: (Cal. Date - 3/20/13)

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;

W. (KEVIN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER PEOPLE v CRANDALL (69 NY2d 459 [1987]) PERMITS A TRIAL COURT TO RE-OPEN A SUPPRESSION HEARING FOR THE PEOPLE TO ADDUCE ADDITIONAL EVIDENCE WHERE THE TRIAL COURT IS REVIEWING A REPORT OF A JUDICIAL HEARING OFFICER; WHETHER REINSTATEMENT OF ORIGINAL SUPPRESSION RULING REQUIRED DISMISSAL OF CHARGE OF RESISTING ARREST;

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;

WEBB-WEBER v COMMUNITY ACTION FOR HUMAN SERVICES, INC., et al.:

LABOR - WHISTLEBLOWER LAW - WHETHER A LABOR LAW § 740(2) CLAIM REQUIRES EMPLOYEES TO CITE IN THEIR PLEADINGS THE SPECIFIC LAW, RULE OR REGULATION THAT IS ALLEGEDLY VIOLATED BY THEIR EMPLOYER TO STATE A CAUSE OF ACTION;

WELLS (CARL D.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - INVENTORY SEARCH - DEFENDANT PLEADED GUILTY AFTER SUPREME COURT DENIED HIS MOTION TO SUPPRESS PHYSICAL EVIDENCE RECOVERED FROM THE CAR HE WAS DRIVING UPON THE GROUND THAT THE POLICE HAD CONDUCTED A PROPER INVENTORY SEARCH - WHETHER THE APPELLATE DIVISION ERRED WHERE, AFTER CONCLUDING THAT SUPREME COURT IMPROPERLY RELIED UPON THE INVENTORY SEARCH DOCTRINE IN DENYING DEFENDANT'S MOTION TO SUPPRESS PHYSICAL EVIDENCE, IT UPHELD THE CONVICTION ON HARMLESS ERROR GROUNDS WHILE ACKNOWLEDGING THAT THE HARMLESS ERROR RULE REGARDING SUPPRESSION ISSUES DOES NOT NORMALLY APPLY TO CASES WHERE A DEFENDANT PLEADS GUILTY;

WHITE &c. v FARRELL et al.: (Cal. Date - 2/12/13)

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;

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";

WILLIAM J. JENACK ESTATE APPRAISERS & AUCTIONEERS, INC. v RABIZADEH:

CONTRACTS - FORMATION OF CONTRACT - WHETHER NOTATIONS MADE BY PLAINTIFF AUCTION HOUSE CONTEMPORANEOUSLY WITH BIDDING ON AN ITEM, WHICH REFERRED TO DEFENDANT BIDDER AND THE CONSIGNOR OF AN AUCTIONED ANTIQUE BY NUMBER ONLY, CONSTITUTED A MEMORANDUM OF SALE SATISFYING THE STATUTE OF FRAUDS;

WISDOM (SIDNEY), PEOPLE v:

GRAND JURY - DEFECTIVE PROCEEDING - FAILURE TO ADMINISTER TESTIMONIAL OATH TO WITNESS BEFORE TESTIFYING TO GRAND JURY - WHETHER A TESTIMONIAL OATH IS EFFECTIVE IF ADMINISTERED AFTER A WITNESS TESTIFIES AND, IF NOT, WHETHER SUCH A DEFECT WARRANTS DISMISSAL OF AN INDICTMENT; MOTIONS AND ORDERS - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION AS A MATTER OF LAW BY PERMITTING DEFENDANT TO FILE A MOTION TO DISMISS THE INDICTMENT AFTER THE TRIAL BEGAN BASED UPON THE TIMING OF THE ADMINISTRATION OF THE OATH TO THE GRAND JURY WITNESS; WHETHER DEFENDANT'S CONVICTION ON LEGALLY SUFFICIENT TRIAL EVIDENCE PRECLUDES REVIEW ON APPEAL OF HIS CHALLENGE TO THE ALLEGEDLY DEFECTIVE GRAND JURY PROCEEDING - CPL 210.30(6);

WORDEN (ROBERT L.), PEOPLE v:

CRIMES - PLEA OF GUILTY - DENIAL OF MOTION SEEKING TO WITHDRAW GUILTY PLEA BASED UPON COMPLAINANT'S RECONTATION - 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: (Cal. Date - 2/13/13)

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;