

**MOTION NO. (1184/97) KA 09-01231. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT V ANTHONY HENDERSON, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, CARNI, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1116/99) KA 99-00063. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SAMUEL L. MCNEAR, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., FAHEY, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1752/00) KA 99-05535. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL SHAW, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., SMITH, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (969/02) KA 00-00810. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LLOYD E. BARKER, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., HURLBUTT, SMITH, CENTRA, AND CARNI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (330/04) KA 01-02565. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHAWN K. WILLIAMS, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., GREEN, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (298/06) KA 03-01815. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HENRY HOLIFIELD, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., MARTOCHE, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (788/06) KA 04-02067. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DANIEL GAFFNEY, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., MARTOCHE, SMITH, AND, GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1437/06) OP 06-01392. -- IN THE MATTER OF SEPHORA K. DAVIS, PETITIONER, V JOAN S. KOHOUT, AS ACTING LIVINGSTON COUNTY COURT JUDGE, AND THOMAS E. MORAN, AS LIVINGSTON COUNTY DISTRICT ATTORNEY, RESPONDENTS.** -- Motion for reargument, clarification or leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., SMITH, CENTRA, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1033/07) KA 05-00228. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EDWIN MORALES, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: MARTOCHE, J.P., SMITH, PERADOTTO, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1125/07) KA 06-01069. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SHAWN E. AKIN, DEFENDANT-APPELLANT.** -- Motion for reargument and leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P. J., HURLBUTT, FAHEY, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1172/07) KA 05-02316. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V PHILIP FELICE, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., MARTOCHE, SMITH, CENTRA, AND FAHEY, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (5/08) KA 06-03550. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GLEN MACLEAN, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., CENTRA, FAHEY, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (710/08) KA 04-02291. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANTONIO BROADNAX, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., HURLBUTT, SMITH, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (712/08) KA 06-00530. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CHRISTOPHER M. DIAZ, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., HURLBUTT, SMITH, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1007/08) KA 07-01184. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JACK VANDEVIVER, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., SMITH, CENTRA, FAHEY, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (1584/08) TP 08-01313. -- IN THE MATTER OF ELIZABETH L. WINKLER,**

PETITIONER, V NEW YORK STATE DIVISION OF HUMAN RIGHTS, THE FITNESS  
INSTITUTE AND PILATES STUDIO, RICHARD WILLIAMSON AND JULIE WILLIAMSON,  
RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of  
Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, FAHEY, AND GORSKI, JJ.  
(Filed Oct. 2, 2009.)

MOTION NO. (1684/08) CA 08-01307. -- HEARTWOOD FORESTLAND FUND, III, L.P.,  
PLAINTIFF-APPELLANT, V CROOKED LAKE PRESERVE, LLC, AND BERNARD J. RYAN,  
DEFENDANTS-RESPONDENTS. -- Motion for leave to appeal to the Court of  
Appeals denied. PRESENT: SCUDDER, P.J., HURLBUTT, FAHEY, PERADOTTO, AND  
PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NOS. (22.1-22.2/09) CA 07-02552. -- DAVID P. RICKICKI AND PATRICIA  
RICKICKI, PLAINTIFFS-APPELLANTS, V BORDEN CHEMICAL, DIVISION OF BORDEN,  
INC., ET AL., DEFENDANTS, UNIMIN CORPORATION AND U.S. SILICA COMPANY,  
DEFENDANTS-RESPONDENTS. (ACTION NO. 1.) MICHAEL C. CROWLEY AND SHARON M.  
CROWLEY, PLAINTIFFS-APPELLANTS, V C-E MINERALS, INC., ET AL., DEFENDANTS,  
NYCO MINERALS COMPANY, UNIMIN CORPORATION, U.S. SILICA COMPANY, MEYERS  
CHEMICALS, MALVERN MINERALS COMPANY, FERRO CORPORATION, CHARLES B. CHRYSTAL  
CO., INC., AND UNIMIN SPECIALTY MINERALS, INC., DEFENDANTS-RESPONDENTS.  
(ACTION NO. 2.) (APPEAL NO. 1.) CA 07-01668. -- DAVID P. RICKICKI AND  
PATRICIA RICKICKI, PLAINTIFFS-APPELLANTS, V BORDEN CHEMICAL, DIVISION OF  
BORDEN, INC., ET AL., DEFENDANTS, UNIMIN CORPORATION AND U.S. SILICA  
COMPANY, DEFENDANTS-RESPONDENTS. (ACTION NO. 1.) MICHAEL C. CROWLEY AND  
SHARON M. CROWLEY, PLAINTIFFS-APPELLANTS, V C-E MINERALS, INC., ET AL.,

DEFENDANTS, NYCO MINERALS COMPANY, UNIMIN CORPORATION, U.S. SILICA COMPANY, MEYERS CHEMICALS, MALVERN MINERALS COMPANY, FERRO CORPORATION, CHARLES B. CHRYSTAL CO., INC., AND UNIMIN SPECIALTY MINERALS, INC.,

DEFENDANTS-RESPONDENTS. (ACTION NO. 2.) (APPEAL NO. 2.) -- Motions for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., HURLBUTT, CENTRA, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (322/09) CA 08-00492. -- IN THE MATTER OF ROBERT P. MEEGAN, JR., INDIVIDUALLY AND AS PRESIDENT OF BUFFALO POLICE BENEVOLENT ASSOCIATION, AND BUFFALO POLICE BENEVOLENT ASSOCIATION, PETITIONERS-RESPONDENTS-APPELLANTS, V BYRON W. BROWN, MAYOR OF CITY OF BUFFALO, CITY OF BUFFALO AND BUFFALO FISCAL STABILITY AUTHORITY, RESPONDENTS-APPELLANTS-RESPONDENTS.

(PROCEEDING NO. 1.) IN THE MATTER OF JOSEPH E. FOLEY, INDIVIDUALLY AND AS PRESIDENT OF BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION, INC., LOCAL 282, IAFF, AFL-CIO-CLC, AND BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION, INC., LOCAL 282, IAFF, AFL-CIO-CLC, PETITIONERS-RESPONDENTS, V BYRON W. BROWN, MAYOR OF CITY OF BUFFALO, CITY OF BUFFALO AND BUFFALO FISCAL STABILITY AUTHORITY, RESPONDENTS-APPELLANTS. (PROCEEDING NO. 2.) BUFFALO TEACHERS FEDERATION, INC., NYSUT, BUFFALO EDUCATIONAL SUPPORT TEAM, NYSUT, TRANSPORTATION AIDES OF BUFFALO, NYSUT, AFSCME LOCAL 264, AND PROFESSIONAL, CLERICAL AND TECHNICAL EMPLOYEES ASSOCIATION, PLAINTIFFS-RESPONDENTS, V BUFFALO BOARD OF EDUCATION FOR CITY SCHOOL DISTRICT OF CITY OF BUFFALO AND BUFFALO FISCAL STABILITY AUTHORITY, DEFENDANTS-APPELLANTS. (ACTION NO. 1.)

-- Motions for leave to appeal to the Court of Appeals denied. PRESENT:

MARTOCHE, J.P., CENTRA, CARNI, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (392/09) KA 07-00821. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HENRY SCOTT, DEFENDANT-APPELLANT. (APPEAL NO. 1.) -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (393/09) KA 07-00913. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V HENRY SCOTT, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (408/09) CA 08-01175. -- INNOVATIVE TRANSMISSION & ENGINE COMPANY, LLC, AND D.R. WATSON HOLDINGS, LLC, PLAINTIFFS-APPELLANTS, V RICHARD S. MASSARO, JR., RICHARD S. MASSARO, SR., JAMES RAIA, A.P. BERSOHN AND CO., LLC, CPAS, RAIA, BREDEFELD & ASSOCIATES, P.C., DEFENDANTS-RESPONDENTS, ET AL., DEFENDANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., SMITH, PERADOTTO, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (435/09) CA 08-01418. -- FIRST BAPTIST CHURCH OF OLEAN, ALSO KNOWN AS FIRST BAPTIST CHURCH, PLAINTIFF-RESPONDENT, V JOHN S. GREY, JENNIFER L. GREY, DEFENDANTS-RESPONDENTS, AMERICAN STATES INSURANCE COMPANY, DEFENDANT-APPELLANT, ET AL., DEFENDANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE,

CENTRA, PERADOTTO, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (478/09) CA 08-02152. -- CATHERINE BARNES AND SCOTT BARNES, PLAINTIFFS-RESPONDENTS, V DEAN E. FIX, DAVID S. BRODERICK, AS ADMINISTRATOR OF THE ESTATE OF HARRISON W. CALEB, JR., DECEASED, DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, CARNI, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (498/09) CA 08-01936. -- BRIAN PETERS, PLAINTIFF-APPELLANT, V THE KISSLING INTERESTS, INC., DEFENDANT-RESPONDENT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, PERADOTTO, CARNI, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (519/09) KA 06-03542. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V SCOTT R. MACDONALD, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., PERADOTTO, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (528/09) CA 08-01230. -- CHARLES SCAPARO AND DARLENE SCAPARO, PLAINTIFFS-APPELLANTS-RESPONDENTS, V VILLAGE OF ILION, ET AL., DEFENDANTS, HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DEFENDANT-RESPONDENT, AND OUR LADY QUEEN OF APOSTLES CHURCH OF ST. MARY OF MOUNT CARMEL/S.S. PETER AND PAUL, DEFENDANT-RESPONDENT-APPELLANT. (ACTION NO. 1.) ANTHONY YERO

AND CYNTHIA YERO, PLAINTIFFS-APPELLANTS-RESPONDENTS, V VILLAGE OF ILION, ET AL., DEFENDANTS, HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY, DEFENDANT-RESPONDENT, AND OUR LADY QUEEN OF APOSTLES CHURCH OF ST. MARY OF MOUNT CARMEL/S.S. PETER AND PAUL, DEFENDANT-RESPONDENT-APPELLANT. (ACTION NO. 2.) -- Motion for reargument denied; motion for leave to appeal to the Court of Appeals granted. PRESENT: SCUDDER, P.J., PERADOTTO, CARNI, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (558/09) CA 08-01565. -- MICHAEL J. SCARBOROUGH, JR., AS ADMINISTRATOR OF THE ESTATE OF MICHAEL J. SCARBOROUGH, SR., DECEASED, PLAINTIFF-RESPONDENT-APPELLANT, V NAPOLI, KAISER & BERN, LLP, JEFFREY R. GUZMAN, STEVEN KRENTSEL, DEFENDANTS-APPELLANTS-RESPONDENTS, RANDOLPH D. JANIS, MELINDA RUTH ALEXIS AND WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP, AS TEMPORARY ADMINISTRATOR OF THE ESTATE OF BRADLEY C. ABBOTT, DECEASED, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NOS. (608-609/09) CA 08-01700. -- VILLAGE OF ILION, VILLAGE OF HERKIMER, VILLAGE OF FRANKFORT, AND TOWN OF FRANKFORT, AS MUNICIPAL CORPORATIONS AND ON BEHALF OF THEIR CONSTITUENT TAXPAYERS, PLAINTIFFS-APPELLANTS, V COUNTY OF HERKIMER, INDIVIDUALLY AND AS ADMINISTRATOR OF THE HERKIMER COUNTY SELF-INSURANCE PLAN, VILLAGE OF DOLGEVILLE, VILLAGE OF MIDDLEVILLE, VILLAGE OF MOHAWK, VILLAGE OF WEST WINFIELD, TOWN OF COLUMBIA, TOWN OF DANUBE, TOWN OF GERMAN FLATS, TOWN OF

HERKIMER, TOWN OF LITCHFIELD, TOWN OF LITTLE FALLS, TOWN OF MANHEIM, TOWN OF NEWPORT, TOWN OF STARK, TOWN OF WARREN, TOWN OF WINFIELD, AND CITY OF LITTLE FALLS, DEFENDANTS-RESPONDENTS. (APPEAL NO. 1.) CA 08-02120. -- VILLAGE OF ILION, VILLAGE OF HERKIMER, VILLAGE OF FRANKFORT, AND TOWN OF FRANKFORT, AS MUNICIPAL CORPORATIONS AND ON BEHALF OF THEIR CONSTITUENT TAXPAYERS, PLAINTIFFS-APPELLANTS, V COUNTY OF HERKIMER, INDIVIDUALLY AND AS ADMINISTRATOR OF THE HERKIMER COUNTY SELF-INSURANCE PLAN, DEFENDANT-RESPONDENT, ET AL., DEFENDANTS. (APPEAL NO. 2.) -- Motion for reargument or clarification denied. PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO, GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (612/09) CA 08-01913. -- IN THE MATTER OF LOCKPORT SMART GROWTH, INC., DOROTHY STOCKTON, THOMAS WALKER, JOSEPH P. STUART, JR., JAMES EMMERT, JOAN A. GRIGG, AND JOANNE WOODSIDE, PETITIONERS-APPELLANTS, V TOWN OF LOCKPORT, TOWN OF LOCKPORT PLANNING BOARD, RICHARD FORSEY, ROBERT BALCERZAK, MORRIS WINGARD, DAVID KINYON, WALTER THORMAN, RODNEY CONRAD, WILLIAM FEW, AND ROBERT LANGDON, IN THEIR CAPACITIES AS MEMBERS OF TOWN OF LOCKPORT PLANNING BOARD, WAL-MART STORES, INC., WAL-MART REAL ESTATE BUSINESS TRUST, AND LOCKPORT L.L.C., RESPONDENTS-RESPONDENTS. (PROCEEDING NO. 1.) IN THE MATTER OF LOCKPORT SMART GROWTH, INC., JOAN A. GRIGG, AND JAMES EMMERT, PETITIONERS-APPELLANTS, V TOWN OF LOCKPORT ZONING BOARD OF APPEALS, EUGENE NENNIS, IN HIS OFFICIAL CAPACITY AS TOWN OF LOCKPORT BUILDING INSPECTOR, WAL-MART STORES, INC., LOCKPORT L.L.C., AND WAL-MART REAL ESTATE BUSINESS TRUST, RESPONDENTS-RESPONDENTS. (PROCEEDING NO. 2.)

-- Motion for reargument or leave to appeal to the Court of Appeals denied.  
PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO, GREEN, AND GORSKI, JJ. (Filed  
Oct. 2, 2009.)

MOTION NOS. (614-615/09) CA 08-01829. -- PAUL THOMAS ZULAWSKI, JR.,  
PLAINTIFF-APPELLANT, V RICHARD TAYLOR, PATRICIA HARTNER, DONALD G. POWELL,  
ESQ., ZDARSKY, SAWICKI & AGOSTINELLI, DEFENDANTS-RESPONDENTS, ET AL.,  
DEFENDANT. (APPEAL NO. 1.) CA 08-01929. -- PAUL THOMAS ZULAWSKI, JR.,  
PLAINTIFF-APPELLANT, V RICHARD TAYLOR, PATRICIA HARTNER, DONALD G. POWELL,  
ESQ., ZDARSKY, SAWICKI & AGOSTINELLI, DEFENDANTS-RESPONDENTS, ET AL.,  
DEFENDANT. (APPEAL NO. 2.) -- Motion for reargument or leave to appeal to  
the Court of Appeals denied. PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO,  
GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (615.1/09) CA 08-02582. -- CAYUGA INDIAN NATION OF NEW YORK,  
PLAINTIFF-APPELLANT, V CAYUGA COUNTY SHERIFF DAVID S. GOULD AND SENECA  
COUNTY SHERIFF JACK S. STENBERG, DEFENDANTS-RESPONDENTS, ET AL.,  
DEFENDANTS. -- Motion for stay denied; motion for leave to appeal to the  
Court of Appeals granted. PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO,  
GREEN, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (630/09) CA 08-02453. -- LARRY C. HOLLY AND SANDRA HOLLY,  
PLAINTIFFS-RESPONDENTS, V COUNTY OF CHAUTAUQUA AND E.E. AUSTIN & SON, INC.,  
DEFENDANTS-APPELLANTS. -- Motion for reargument denied; motion for leave to  
appeal to the Court of Appeals granted. PRESENT: SCUDDER, P.J., SMITH,

FAHEY, CARNI, AND PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (647/09) CA 08-01855. -- IN THE MATTER OF DESTINY USA DEVELOPMENT, LLC AND PYRAMID COMPANY OF ONONDAGA, PETITIONERS-RESPONDENTS, V NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND ALEXANDER B. GRANNIS, AS COMMISSIONER OF NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, CENTRA, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (651/09) CA 07-02219. -- EUGENE MARGERUM, ANTHONY HYNES, JOSEPH FAHEY, TIMOTHY HAZELET, PETER KERTZIE, PETER LOTOCKI, SCOTT SKINNER, THOMAS REDDINGTON, TIMOTHY CASSEL, MATTHEW S. OSINSKI, MARK ABAD, BRAD ARNONE, AND DAVID DENZ, PLAINTIFFS-RESPONDENTS, V CITY OF BUFFALO, CITY OF BUFFALO DEPARTMENT OF FIRE, AND LEONARD MATARESE, INDIVIDUALLY AND AS COMMISSIONER OF HUMAN RESOURCES FOR CITY OF BUFFALO, DEFENDANTS-APPELLANTS. -- Motion and cross motion to renew denied without prejudice; motion and cross motion for leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, CENTRA, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (665/09) CA 08-02502. -- RUDOLPH V. HEROD AND ARLENE HEROD, PLAINTIFFS-RESPONDENTS, V MICHAEL C. MELE, COUNTY OF ORLEANS, DEFENDANTS-APPELLANTS, ET AL., DEFENDANTS. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, PERADOTTO, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (717/09) TP 08-02230. -- IN THE MATTER OF JULIET A. PADULO, AS VOLUNTARY ADMINISTRATOR OF THE ESTATE OF ADA J. ROMEO, DECEASED, PETITIONER, V KELLY REED, COMMISSIONER, MONROE COUNTY DEPARTMENT OF HUMAN SERVICES, RICHARD F. DAINES, M.D., COMMISSIONER, NEW YORK STATE DEPARTMENT OF HEALTH, AND MARK LACIVITA, DIRECTOR OF ADMINISTRATION, OFFICE OF ADMINISTRATIVE HEARINGS, RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (738/09) CA 08-02578. -- IN THE MATTER OF THE APPLICATION OF FAXTON-ST. LUKE'S HEALTHCARE, INC., PETITIONER-RESPONDENT, PURSUANT TO ARTICLE 81 OF THE MENTAL HYGIENE LAW FOR THE APPOINTMENT OF A GUARDIAN OF THE PERSON AND PROPERTY OF CAESAR A., AN ALLEGED INCAPACITATED PERSON. ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES, RESPONDENT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (768/09) TP 08-01893. -- IN THE MATTER OF ORLANDO RIOS, PETITIONER, V NORMAN BEZIO, DIRECTOR, SPECIAL HOUSING UNIT, MIDSTATE CORRECTIONAL FACILITY, RESPONDENT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., FAHEY, PERADOTTO, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (826/09) CA 08-01601. -- ANTHONY FOSTER, TERRIL ELLIS AND ARNOLD

**PENDER, PLAINTIFFS-RESPONDENTS, V DEALMAKER, SLS, LLC, AND MATTHEW J. MCCARGAR, DEFENDANTS-APPELLANTS.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (848/09) CA 08-02303. -- JOHN K. SABUNCU AND DEBBIE E. SABUNCU, PLAINTIFFS-APPELLANTS, V THANEY & ASSOCIATES CPAS, P.C. AND GREGG GENOVESE, C.P.A., DEFENDANTS-RESPONDENTS.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., CENTRA, PERADOTTO, CARNI, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (859/09) KA 08-01165. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V STANLEY A. BROWN, DEFENDANT-APPELLANT.** -- Motion for reargument and leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (870/09) CA 08-00553. -- IN THE MATTER OF DEPUTY JOSEPH D. RAYMOND, SR., PETITIONER-APPELLANT, V KEVIN E. WALSH, SHERIFF, COUNTY OF ONONDAGA, COUNTY OF ONONDAGA AND ONONDAGA COUNTY SHERIFF'S OFFICE, RESPONDENTS-RESPONDENTS.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (887/09) CA 09-00226. -- TRACY L. WILLIAMS, PLAINTIFF-RESPONDENT, V MARTIN JOHNSON, DEFENDANT-APPELLANT.** -- Motion for

reargument denied. PRESENT: MARTOCHE, J.P., SMITH, FAHEY, CARNI, AND GREEN, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (904/09) CA 08-02604. -- RONALD SPANOS AND MARIANNE SPANOS, PLAINTIFFS-RESPONDENTS, V MICHAEL R. FANTO AND MICHAEL FANTO, DEFENDANTS-APPELLANTS. -- Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (910/09) CA 08-02200. -- IN THE MATTER OF HARTFORD/NORTH BAILEY HOMEOWNERS ASSOCIATION, BY FRANK S. PASZTOR, ITS PRESIDENT, PETITIONER-APPELLANT, V ZONING BOARD OF APPEALS OF THE TOWN OF AMHERST, WAL-MART STORES, INC. AND BENDERSON DEVELOPMENT CO., INC., RESPONDENTS-RESPONDENTS. (PROCEEDING NO. 1.) IN THE MATTER OF HARTFORD/NORTH BAILEY HOMEOWNERS ASSOCIATION, BY FRANK S. PASZTOR, ITS PRESIDENT, PETITIONER-APPELLANT, V PLANNING BOARD OF THE TOWN OF AMHERST, WAL-MART STORES, INC. AND BENDERSON DEVELOPMENT CO., INC., RESPONDENTS-RESPONDENTS. (PROCEEDING NO. 2.) -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

MOTION NO. (928/09) KAH 08-00644. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. DEXTER WASHINGTON, PETITIONER-APPELLANT, V HAROLD GRAHAM, SUPERINTENDENT, AUBURN CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT. -- Motion for reargument denied. PRESENT: SCUDDER, P.J., SMITH, CENTRA, PERADOTTO, AND GREEN, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (964/09) CA 08-00110. -- MICHAEL A. DAVIS, CLAIMANT-APPELLANT, V STATE OF NEW YORK, DEFENDANT-RESPONDENT. (CLAIM NO. 106740.)** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., FAHEY, CARNI, PINE, AND GORSKI, JJ. (Filed Oct. 2, 2009.)

**KA 08-00224. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V BRANDON P. BEAMAN, DEFENDANT-APPELLANT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Ontario County Court, Frederick G. Reed, J. - Aggravated Unlicensed Operation of a Motor Vehicle, 1st Degree). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**MOTION NO. (83/09) CAF 08-00595. -- IN THE MATTER OF MARIA F. AND EDUARDO F. ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES, PETITIONER-RESPONDENT; JAMES F., RESPONDENT-APPELLANT.** -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., FAHEY, GREEN, AND PINE, JJ. (Filed Oct. 2, 2009.)

**KA 06-03651. -- THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V WILLIAM KINCHEN, DEFENDANT-APPELLANT.** -- Order unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Order of Monroe County Court, Alex R. Renzi, J. - Termination of sentence pursuant to Executive Law § 259-j [3-a]). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND

CENTRA, JJ. (Filed Oct. 2, 2009.)

**KA 07-01129. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMIE A. KING, DEFENDANT-APPELLANT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Supreme Court, Monroe County, Francis A. Affronti, J. - Robbery, 2nd Degree). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**KA 08-01813. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOSE LEBRON, DEFENDANT-APPELLANT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Wyoming County Court, Penny M. Wolfgang, J. - Attempted Promoting Prison Contraband, 1st Degree). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**KAH 08-01539. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. VICTOR MANTILLA, PETITIONER-APPELLANT, V JAMES T. CONWAY, SUPERINTENDENT, ATTICA CORRECTIONAL FACILITY, RESPONDENT-RESPONDENT.** -- Order unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Order of Supreme Court, Wyoming County, Mark H. Dadd, A.J. - Habeas Corpus). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**KA 06-01596. -- THE PEOPLE OF THE STATE OF NEW YORK, PLAINTIFF-RESPONDENT, V COREY OLIVER, DEFENDANT-APPELLANT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Monroe County Court, Stephen R. Sirkin, J. - Criminal Sale Controlled Substance, 3rd Degree). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**KAH 08-01692. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. TIMOTHY THORSEN, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES, RESPONDENT-RESPONDENT** -- Order unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Order of Supreme Court, Wyoming County, Mark H. Dadd, A.J. - Habeas Corpus). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)

**KA 08-01891. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ERIC P. WILLIAMS, ALSO KNOWN AS PAUL WILLIAMS, DEFENDANT-APPELLANT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment of Genesee County Court, Robert C. Noonan, J. - Criminal Possession Controlled Substance, 5th Degree). PRESENT: SCUDDER, P.J., HURLBUTT, MARTOCHE, SMITH, AND CENTRA, JJ. (Filed Oct. 2, 2009.)