

MOTION NO. (1197/02) KA 00-02618. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILMY GARRIDO-VALDEZ, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., CENTRA, CARNI, GREEN, AND GORSKI, JJ. (Filed June 5, 2009.)

MOTION NO. (1316/06) KA 04-02937. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CONSTANTINE L. JACKSON, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., SMITH, CENTRA, GREEN, AND PINE, JJ. (Filed June 5, 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 writ of error coram nobis and for other relief denied. PRESENT: HURLBUTT, J.P., SMITH, CENTRA, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (1124/07) KA 03-01578. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RAHAD ROSS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SCUDDER, P.J., HURLBUTT, FAHEY, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (542/08) KA 04-01460. -- THE PEOPLE OF THE STATE OF NEW YORK,

**RESPONDENT, V ANGEL CARRASQUILLO, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: MARTOCHE, J.P., CENTRA, PERADOTTO, AND GREEN, JJ. (Filed June 5, 2009.)

**MOTION NO. (1419/08) CA 08-01064.** -- **ROBERT W. BLOOM, JR. AND CHARMAYNE R. BLOOM, PLAINTIFFS-APPELLANTS, V RENE F. HENSEL, ESQ., DEFENDANT, AND THOMAS D. CALANDRA, ESQ., DEFENDANT-RESPONDENT.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., MARTOCHE, SMITH, FAHEY, AND PERADOTTO, JJ. (Filed June 5, 2009.)

**MOTION NO. (1489/08) CA 08-00507.** -- **BETSY ROSS REHABILITATION CENTER, INC., PLAINTIFF-RESPONDENT, V MICHAEL J. BIRNBAUM, DAVID E. JONES AND JUDITH A. JONES, DEFENDANTS-APPELLANTS. MICHAEL J. BIRNBAUM, DAVID E. JONES AND JUDITH A. JONES, THIRD-PARTY PLAINTIFFS-APPELLANTS, V IRENE KAY, DONALD ALTMAN AND CAROL HALPERN, THIRD-PARTY DEFENDANTS-RESPONDENTS.** -- Motion for clarification granted to the extent that the memorandum and order entered February 6, 2009 is amended by adding "with interest at the rate of 9% per annum commencing February 6, 2009" after the dollar amount in the ordering paragraph and after the dollar amount in the penultimate sentence of the memorandum, and the motion is otherwise denied. PRESENT: SCUDDER, P.J., HURLBUTT, PERADOTTO, GREEN, AND GORSKI, JJ. (Filed June 5, 2009.)

**MOTION NO. (1560/08) KA 03-01576. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOSE A. ROMAN, DEFENDANT-APPELLANT. (APPEAL NO. 1.) --**  
Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ. (Filed June 5, 2009.)

**MOTION NO. (1561/08) KA 03-01577. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JOSE A. ROMAN, DEFENDANT-APPELLANT. (APPEAL NO. 2.) --**  
Motion for reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, GREEN, AND PINE, JJ. (Filed June 5, 2009.)

**MOTION NO. (1681/08) CA 08-01118. -- ARDA MAKARCHUK, PLAINTIFF-APPELLANT, V EDWARD MAKARCHUK, DEFENDANT-RESPONDENT. --** Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SCUDDER, P.J., HURLBUTT, FAHEY, PERADOTTO, AND PINE, JJ. (Filed June 5, 2009.)

**MOTION NO. (53/09) KA 07-01035. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ALEXIS OBERLANDER, DEFENDANT-APPELLANT. --** Motion for reargument and reconsideration denied. PRESENT: SMITH, J.P., CENTRA, PERADOTTO, AND GORSKI, JJ. (Filed June 5, 2009.)

**MOTION NO. (55/09) KA 06-03548. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V GERRI L. BUNNELL, DEFENDANT-APPELLANT. --** Motion for reargument and other relief granted to the extent that, upon reargument, the memorandum and order entered February 6, 2009 is amended by adding the

following sentences before the last sentence of the memorandum: "It cannot be said that the procedure utilized by the court is authorized by *People v Fuller* (57 NY2d 152). Indeed, the court attorney did not act merely as a 'preliminary fact finder' (*id.* at 158) but, rather, he conducted an adversarial hearing and made credibility determinations, thereby assuming a role specifically limited to the authority of the court (see Penal Law § 60.27 [2]; *Fuller*, 57 NY2d at 158-159)." PRESENT: SMITH, J.P., CENTRA, PERADOTTO, AND GORSKI, JJ. (Filed June 5, 2009.)

**MOTION NO. (124/09) KA 06-03044. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CONSTANTINE JACKSON, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., CENTRA, FAHEY, PERADOTTO, AND PINE, JJ. (Filed June 5, 2009.)

**MOTION NO. (124/09) KA 06-03044. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V CONSTANTINE JACKSON, DEFENDANT-APPELLANT.** -- Motion for writ of error coram nobis denied. PRESENT: HURLBUTT, J.P., SMITH, CENTRA, GREEN, AND PINE, JJ. (Filed June 5, 2009.)

**MOTION NO. (154/09) CA 08-00707. -- IN THE MATTER OF LARRY BALL, MICHAEL CULKIN, THOMAS P. WEIGAND, PAUL R. THOMPSON, AND DAVID J. WALTERS, PETITIONERS-APPELLANTS-RESPONDENTS, V CITY OF SYRACUSE, ITS OFFICERS, AGENTS, SERVANTS, REPRESENTATIVES, OFFICIALS, AND/OR EMPLOYEES, RESPONDENTS-RESPONDENTS-APPELLANTS.** -- Motion for reargument or leave to

appeal to the Court of Appeals and cross motion for reargument denied.

PRESENT: SCUDDER, P.J., MARTOCHE, CENTRA, FAHEY, AND PERADOTTO, JJ.

(Filed June 5, 2009.)

MOTION NO. (246/09) CAF 08-00290. -- IN THE MATTER OF SAMANTHA K. ONEIDA COUNTY DEPARTMENT OF SOCIAL SERVICES, PETITIONER-RESPONDENT; KENNETH K., RESPONDENT-APPELLANT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., FAHEY, GREEN, PINE, AND GORSKI, JJ.

(Filed June 5, 2009.)

MOTION NO. (282/09) TP 08-01569. -- IN THE MATTER OF JOHN NEVAREZ, PETITIONER, V CARL B. HUNT, SUPERINTENDENT, GROVELAND CORRECTIONAL FACILITY, RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ.

(Filed June 5, 2009.)

MOTION NOS. (292/09 AND 297/09) CA 08-02202. -- IN THE MATTER OF COUNTY OF HERKIMER, PETITIONER-RESPONDENT, V RICHARD F. DAINES, AS COMMISSIONER OF NEW YORK STATE DEPARTMENT OF HEALTH, AND NEW YORK STATE DEPARTMENT OF HEALTH, RESPONDENTS-APPELLANTS. CA 08-02203. -- IN THE MATTER OF COUNTY OF NIAGARA, PETITIONER-RESPONDENT, V RICHARD F. DAINES, AS COMMISSIONER OF NEW YORK STATE DEPARTMENT OF HEALTH, AND NEW YORK STATE DEPARTMENT OF HEALTH, RESPONDENTS-APPELLANTS. -- Motion for leave to appeal to the Court of

Appeals denied. PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (298/09) CA 08-01318. -- IN THE MATTER OF THE ARBITRATION BETWEEN ROBERT E. PURCELL, CLAIMANT-APPELLANT, AND MARJAMA & BILINSKI, FORMERLY KNOWN AS WALL, MARJAMA & BILINSKI, LLP, RESPONDENT-RESPONDENT. --

Motion for leave to appeal to the Court of Appeals denied. PRESENT: MARTOCHE, J.P., SMITH, CENTRA, FAHEY, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (335/09) CA 08-00918. -- JOSEPH P. HYLANT, PLAINTIFF-APPELLANT, V MANUFACTURERS AND TRADERS TRUST COMPANY, DEFENDANT-RESPONDENT. -- Motion for reargument denied. PRESENT: HURLBUTT, J.P., SMITH, FAHEY, GREEN, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (341/09) CA 08-02010. -- PATRICK M. SCIORTINO, INDIVIDUALLY AND AS ADMINISTRATOR OF THE ESTATE OF ANTHONY J. SCIORTINO, JR., DECEASED, PLAINTIFF-RESPONDENT, V MARK A. LEO, DEFENDANT, ONEIDA COUNTY DEPARTMENT OF EMERGENCY SERVICES, ONEIDA COUNTY SHERIFF'S DEPARTMENT AND COUNTY OF ONEIDA, DEFENDANTS-APPELLANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: HURLBUTT, J.P., SMITH, FAHEY, GREEN, AND PINE, JJ. (Filed June 5, 2009.)

MOTION NO. (450/09) CA 08-01452. -- IN THE MATTER OF JOANNE OUTLEY,

**PETITIONER-RESPONDENT, V UPSTATE MEDICAL UNIVERSITY, RESPONDENT-APPELLANT.**

-- Motion for reargument or leave to appeal to the Court of Appeals denied.

PRESENT: SCUDDER, P.J., SMITH, CENTRA, FAHEY, AND PINE, JJ. (Filed June 5, 2009.)

**KA 07-01188. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V WILLIAM BUCHANAN, 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 Herkimer County Court, Patrick L. Kirk, J. - Criminal Contempt, 1st Degree). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed June 5, 2009.)

**KA 07-01849. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RANDALL S. CLARK, 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. - Violation of Probation). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed June 5, 2009.)

**KA 08-00888. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V LAMAR J. COOPER, 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, Frank P. Geraci, Jr., J. - Sex Offender Registration Act). PRESENT: SCUDDER, P.J.,

MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed June 5, 2009.)

**KA 08-01503. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V COREY SIMMONS, 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, Mark H. Dadd, J. - Attempted Promoting Prison Contraband, 1st Degree). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed June 5, 2009.)

**KA 08-00640. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DWAYNE WIGGINS, 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, Erie County, Christopher J. Burns, J. - Burglary, 2nd Degree). PRESENT: SCUDDER, P.J., MARTOCHE, FAHEY, CARNI, AND PINE, JJ. (Filed June 5, 2009.)