

MAY 2016

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.

ESTRELLITA A., MATTER OF v JENNIFER D.:

PARENT, CHILD AND FAMILY - VISITATION - WHETHER FORMER SAME SEX PARTNER OF BIOLOGICAL MOTHER OF CHILD HAS STANDING TO SEEK VISITATION WITH THE CHILD UPON THE GROUND THAT MOTHER WAS JUDICIALLY ESTOPPED FROM ARGUING THAT HER FORMER PARTNER WAS NOT A PARENT OF THE CHILD WITHIN THE MEANING OF DOMESTIC RELATIONS LAW § 70 WHERE MOTHER SUCCESSFULLY SOUGHT AN AWARD OF CHILD SUPPORT FROM HER FORMER PARTNER ON THE GROUND THAT HER FORMER PARTNER WAS A PARENT OF THE CHILD;

ACE FIRE UNDERWRITERS INSURANCE COMPANY v SPECIAL FUNDS CONSERVATION COMMITTEE:

WORKERS' COMPENSATION - SPECIAL FUNDS - WHERE THE WORKERS' COMPENSATION INSURANCE CARRIER APPROVES THE SETTLEMENT OF A THIRD-PARTY PERSONAL INJURY ACTION WITHOUT FIRST OBTAINING THE CONSENT OF THE SPECIAL FUNDS CONSERVATION COMMITTEE (SFCC) TO SUCH SETTLEMENT, AND THE SFCC THEREAFTER DENIES RETROACTIVE CONSENT FOR THE SETTLEMENT, DOES THE COURT IN WHICH THE UNDERLYING PERSONAL INJURY ACTION WAS COMMENCED HAVE THE POWER TO COMPEL THE SFCC TO CONSENT TO THE SETTLEMENT NUNC PRO TUNC, OR MUST THE CARRIER SEEK SUCH RELIEF FROM THE WORKERS' COMPENSATION BOARD;

ACEVEDO, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES:

MOTOR VEHICLES - OPERATOR'S LICENSE - DENIAL OF DRIVER'S LICENSE - REGULATIONS GOVERNING TREATMENT OF RELICENSING APPLICATIONS BY PERSONS WITH AT LEAST THREE ALCOHOL OR DRUG-RELATED CONVICTIONS (15 NYCRR 136.5) - WHETHER SUPREME COURT PROPERLY DISMISSED AS NONJUSTICIABLE PETITIONER'S CHALLENGES TO PROVISIONS IMPOSING A LIFETIME LICENSE REVOCATION AND REQUIRING THE ISSUANCE OF A RESTRICTED LICENSE AND INSTALLATION OF AN IGNITION INTERLOCK DEVICE - ALLEGED VIOLATION OF THE SEPARATION OF POWERS DOCTRINE - WHETHER CHALLENGED REGULATIONS CONFLICT WITH THE VEHICLE AND TRAFFIC LAW - WHETHER DENIAL OF RELICENSING APPLICATION CONSTITUTED AN IMPERMISSIBLE RETROACTIVE APPLICATION OF CHALLENGED REGULATIONS AND A VIOLATION OF THE EX POST FACTO CLAUSE OF THE US CONSTITUTION - CHALLENGE TO REGULATIONS AS BEING ARBITRARY AND CAPRICIOUS - NECESSITY FOR A HEARING;

ACME BUS CORP., MATTER OF v ORANGE COUNTY, et al.:  
 MUNICIPAL CORPORATIONS - PROCUREMENT - CPLR ARTICLE 78 PROCEEDING  
 TO REVIEW A COUNTY DETERMINATION AWARDED OTHER COMPANIES  
 CONTRACTS TO PROVIDE BUS TRANSPORTATION - WHETHER THE COUNTY  
 ACTED IRRATIONALLY BY FAILING TO FOLLOW THE PROPOSAL EVALUATION  
 PROCEDURES SET FORTH IN ITS REQUEST FOR PROPOSALS;

AETNA HEALTH PLANS, &c. v HANOVER INSURANCE COMPANY:  
 INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - WHETHER A HEALTH CARE  
 INSURER THAT PAID FOR THE MEDICAL TREATMENT OF AN INDIVIDUAL HURT  
 IN A CAR ACCIDENT WHILE DRIVING A CAR COVERED BY NO-FAULT  
 AUTOMOBILE INSURANCE MAY MAINTAIN A REIMBURSEMENT CLAIM AGAINST  
 THE NO-FAULT INSURANCE CARRIER UNDER PRINCIPLES OF SUBROGATION -  
 11 NYCRR 65-3.11(a); NECESSITY FOR PRIVITY OF CONTRACT; WHETHER  
 THE COMPLAINT SHOULD HAVE BEEN DISMISSED FOR LACK OF STANDING -  
 ESTOPPEL - UNTIMELY DISCLAIMER;

ALLARD (DRU), PEOPLE v:  
 CRIMES - RIGHT TO SPEEDY TRIAL - PRESERVATION OF ISSUE FOR REVIEW  
 - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT'S  
 CPL 30.30 CLAIM WAS PRESERVED FOR APPELLATE REVIEW;

AL RUSHAID, et al. v PICTET & CIE, et al.:  
 COURTS - JURISDICTION - LONG-ARM JURISDICTION - FOREIGN BANK'S  
 ALLEGED TRANSFER OF KICKBACKS AND BRIBES TO NEW YORK ACCOUNTS -  
 WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT  
 DEFENDANTS' ALLEGED CONDUCT (USING NEW YORK CORRESPONDENT BANK  
 ACCOUNTS TO EFFECT WIRE TRANSFERS ON BEHALF OF CERTAIN  
 INDIVIDUALS) WAS INSUFFICIENT TO CONFER PERSONAL JURISDICTION;

AMBAC ASSURANCE CORP., et al. v COUNTRYWIDE HOME LOANS, INC.:  
 DISCLOSURE - MATERIAL EXEMPT FROM DISCLOSURE - COMMUNICATIONS  
 SUBJECT TO ATTORNEY-CLIENT PRIVILEGE - WAIVER OF PRIVILEGE AS TO  
 COMMUNICATIONS MADE BETWEEN ATTORNEY AND CLIENT IN KNOWN PRESENCE  
 OF THIRD PARTY - COMMON-INTEREST EXCEPTION - WHETHER THE  
 APPELLATE DIVISION CORRECTLY HELD THAT THE COMMON-INTEREST  
 EXCEPTION APPLIES EVEN WHERE THE PARTIES' COMMON LEGAL INTEREST  
 DOES NOT INVOLVE PENDING OR REASONABLY ANTICIPATED LITIGATION -  
 APPLICATION TO COMMUNICATIONS RELATING TO PENDING MERGER;

AMERICAN ECONOMY INSURANCE COMPANY v STATE OF NEW YORK, et al.:  
 WORKERS' COMPENSATION - SPECIAL FUNDS - WHETHER WORKERS'  
 COMPENSATION LAW § 25-a(1-a) IMPOSES RETROACTIVE LIABILITY IN  
 VIOLATION OF THE CONTRACT CLAUSE OF THE U.S. CONSTITUTION AND THE  
 TAKINGS CLAUSE OF THE U.S. AND NEW YORK STATE CONSTITUTIONS;

TOWN OF AMHERST v GRANITE STATE INSURANCE COMPANY:

ARBITRATION - AGREEMENT TO ARBITRATE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT IT WAS FOR THE ARBITRATOR, NOT THE COURT, TO DECIDE THE VALIDITY AND EFFECT OF A SUBSEQUENT AGREEMENT TO LITIGATE A CLAIM THAT WAS SUBJECT TO ARBITRATION UNDER THE TERMS OF THE PARTIES' INSURANCE POLICY;

ANDERSON (TREVOR), PEOPLE v:

CRIMES - PROOF OF PRIOR CONVICTIONS - INQUIRY INTO NATURE OF PRIOR CONVICTIONS - DISCRETION OF TRIAL COURT - WHETHER FOLLOWING A SANDOVAL HEARING, THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY ALLOWING THE PEOPLE TO INQUIRE ABOUT DEFENDANT'S PRIOR CONDUCT OF POSSESSING GUNS; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL DUE TO COUNSEL'S ASSERTED FAILURE TO OBJECT TO THE PEOPLE'S POWERPOINT PRESENTATION DURING SUMMATION;

ANDUJAR (JOHN), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - WHETHER VEHICLE AND TRAFFIC LAW § 397 APPLIES ONLY TO A POLICE SCANNER OR RADIO RECEIVING SET THAT IS ATTACHED TO THE MOTOR VEHICLE OR APPLIES TO SUCH A DEVICE CARRIED IN THE DRIVER'S CLOTHING WHILE DRIVING A MOTOR VEHICLE - DEFINITION OF "EQUIP" AS WORD IS USED IN STATUTE;

ARAGON (ANTONIO), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - FACIAL SUFFICIENCY - POSSESSION OF WEAPON - BRASS METAL KNUCKLES - WHETHER THE ACCUSATORY INSTRUMENT WAS FACIALLY SUFFICIENT WHERE IT ALLEGED THAT POLICE RECOVERED FROM DEFENDANT "ONE SET OF BRASS METAL KNUCKLES";

ARTIBEE, et al. v HOME PLACE CORPORATION:

NEGLIGENCE - COMPARATIVE NEGLIGENCE - APPORTIONMENT OF LIABILITY FOR INJURIES CAUSED BY FALLING TREE BRANCH BETWEEN DEFENDANT PROPERTY OWNER AND STATE OF NEW YORK, A NONPARTY WHICH WAS BEING SUED SEPARATELY BY PLAINTIFFS IN THE COURT OF CLAIMS - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION FOR A JURY CHARGE ON APPORTIONMENT; JURY INSTRUCTIONS;

AUSTIN (PETER), PEOPLE v:

CRIMES - INSTRUCTIONS - ADVERSE INFERENCE CHARGE BASED ON LOSS OF BLOOD EVIDENCE AS A RESULT OF A NATURAL CATASTROPHE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DECLINING DEFENDANT'S REQUEST FOR A PERMISSIVE ADVERSE INFERENCE CHARGE BASED ON THE UNAVAILABILITY OF BLOOD EVIDENCE AND PROHIBITING DEFENSE COUNSEL FROM COMMENTING ON THE LOST EVIDENCE IN SUMMATION;

AVELLA, MATTER OF v CITY OF NEW YORK:

PARKS AND PARKWAYS - PUBLIC TRUST DOCTRINE - DEVELOPMENT OF MUNICIPAL PARKLAND - LEGISLATIVE AUTHORITY REQUIRED - WHETHER THE

APPELLATE DIVISION ERRED IN DETERMINING THAT ADMINISTRATIVE CODE § 18-118 DID NOT AUTHORIZE USE OF FLUSHING MEADOWS-CORONA PARK FOR CONSTRUCTION OF ANY STRUCTURE THAT DID NOT HAVE A NATURAL CONNECTION TO SHEA STADIUM AND THAT CONSTRUCTION OF A RETAIL MALL VIOLATED THE PUBLIC TRUST DOCTRINE ABSENT AUTHORIZATION BY THE STATE LEGISLATURE;

AVILES (JOSE), PEOPLE v:

CONSTITUTIONAL LAW - EQUAL PROTECTION OF LAWS - WHETHER THE FAILURE OF POLICE TO ADMINISTER A PHYSICAL COORDINATION TEST TO A NON-ENGLISH SPEAKING DRIVING WHILE INTOXICATED SUSPECT VIOLATES EQUAL PROTECTION OR DUE PROCESS WHERE SUCH TESTS ARE ROUTINELY ADMINISTERED TO ENGLISH-SPEAKING SUSPECTS;

BROOKE S.B., MATTER OF, v ELIZABETH C.C.:

PARENT, CHILD AND FAMILY - VISITATION - CUSTODY - WHETHER FORMER SAME-SEX PARTNER OF CHILD'S BIOLOGICAL MOTHER, WHO DID NOT ADOPT CHILD, HAS STANDING TO SEEK VISITATION OR CUSTODY UNDER ARTICLE 5 OF THE DOMESTIC RELATIONS LAW;

PEOPLE ex rel. BAEZ v SUPERINTENDENT, &c.:

CRIMES - SENTENCE - RESENTENCING UNDER DRUG LAW REFORM ACT - ELIGIBILITY - WHETHER PETITIONER IS ENTITLED TO EARLY TERMINATION OF HIS NON-DRUG-RELATED SENTENCE ON THE GROUND THAT IT MERGED, UNDER PENAL LAW § 70.30, WITH THE INDETERMINATE SENTENCE IMPOSED ON HIS DRUG-RELATED CONVICTIONS TERMINATED EARLY PURSUANT TO EXECUTIVE LAW FORMER § 259-j(3-a);

BANK (HERMAN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CLAIM THAT DEFENDANT WAS DEPRIVED OF OPPORTUNITY TO PLEAD TO LESSER SENTENCE BY COUNSEL'S MISUNDERSTANDING OF LAW AND INCORRECT ADVICE DURING PLEA NEGOTIATIONS - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT WAS NOT DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL DURING PLEA NEGOTIATIONS;

BANK (HERMAN H.), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CHOICE TO PURSUE DEFENSE BASED ON MENTAL DISEASE OR DEFECT - DILIGENCE OF COUNSEL - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL BY COUNSEL'S CHOICE TO PURSUE A DEFENSE BASED ON MENTAL DISEASE OR DEFECT WHILE RELYING ON THE TESTIMONY OF A PHARMACOLOGICAL WITNESS;

THE BANK OF NEW YORK MELLON &c. v WMC MORTGAGE, LLC:

CONTRACTS - CONSTRUCTION - SECURITIZATION OF RESIDENTIAL MORTGAGES - REPRESENTATION AND WARRANTY IN POOLING AND SERVICING AGREEMENT - WHETHER THE COURTS BELOW ERRED IN HOLDING THAT THE

AGREEMENT UNAMBIGUOUSLY PROVIDED THAT DEFENDANT J.P. MORGAN MORTGAGE ACQUISITION CORPORATION (JPMMAC) BREACHED THE AGREEMENT IF THE INFORMATION IN THE MORTGAGE LOAN STATEMENT AND OTHER DOCUMENTS WAS NOT CORRECT AT ANY POINT FROM 10/30/06 TO 12/1/06;

BARDEN (SCOTT), PEOPLE v:

CRIMES - POSSESSION OF STOLEN PROPERTY - INTANGIBLES - CREDIT CARD NUMBERS - WHETHER A PERSON MAY BE CONVICTED FOR CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FOURTH DEGREE FOR USING A CREDIT CARD NUMBER TO MAKE UNAUTHORIZED CHARGES WHERE THE RIGHTFUL OWNER RETAINS PHYSICAL POSSESSION OF THE CREDIT CARD (PENAL LAW § 165.45[2]) - CONSTRUCTIVE POSSESSION OF CREDIT CARD NUMBER; ALLEGED VIOLATION OF DEFENDANT'S STATUTORY SPEEDY TRIAL RIGHTS;

BAUTISTA (VILMA), PEOPLE v:

CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - PROSECUTOR'S ARGUMENT ON SUMMATION - WHETHER DEFENDANT WAS DEPRIVED OF A FAIR TRIAL BY THE PROSECUTOR'S ALLEGED MISSTATEMENT OF THE EVIDENCE; DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT AN INVESTIGATOR'S NOTES FROM AN INTERVIEW WITH A COCONSPIRATOR DID NOT CONSTITUTE BRADY MATERIAL; EVIDENCE - JUDICIAL NOTICE - FACT FINDINGS OF FOREIGN COUNTRY COURT IMPROPERLY READ TO JURY - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT'S ERROR IN READING THE FACT FINDINGS OF A FOREIGN COUNTRY COURT TO THE JURY WAS HARMLESS AS TO THE TAX COUNTS;

BENNETT v HUCKE, et al.:

LABOR - SAFE PLACE TO WORK - LIABILITY OF CONSTRUCTION MANAGER - WHETHER PLAINTIFF RAISED A TRIABLE ISSUE OF FACT AS TO CONSTRUCTION MANAGER'S STATUS AS THE GENERAL CONTRACTOR ON THE PROJECT THROUGH THE SUBMISSION OF CHECKS BY THE HOMEOWNER TO THE CONSTRUCTION MANAGER WITH THE LETTERS "G.C." CONTAINED IN THE MEMO LINE;

BERRY (ANTHONY), PEOPLE v:

CRIMES - UNLAWFULLY DEALING WITH CHILD - ACTIVITY INVOLVING CONTROLLED SUBSTANCE - WHETHER THE CRIME OF UNLAWFULLY DEALING WITH A CHILD UNDER PENAL LAW § 260.20(1) REQUIRES A DEFENDANT TO HAVE A LEGAL DUTY TO THE CHILD;

BETHUNE (JAMAR), PEOPLE v:

CRIMES - TRIAL - RESETTLEMENT OF TRIAL TRANSCRIPTS - WHETHER TRIAL JUDGE ERRED IN FAILING TO CONDUCT A RECONSTRUCTION HEARING BEFORE SETTLING THE TRIAL TRANSCRIPT TO ALTER THE COURT'S SUPPLEMENTAL CHARGE TO THE JURY - NO AFFIDAVIT FROM STENOGRAPHER EXPLAINING DISCREPANCY IN TRANSCRIPTION VERSIONS CERTIFIED

APPROXIMATELY FIVE YEARS APART - NO SPECIFIC KNOWLEDGE OF DISCREPANCY CIRCUMSTANCES BY TRIAL JUDGE; CLAIMED ERRONEOUS SUPPLEMENTAL JURY INSTRUCTIONS ON THE ISSUE OF INTENT; WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF INTENTIONAL MURDER IN THE SECOND DEGREE WAS AGAINST THE WEIGHT OF THE EVIDENCE;

BHUGRA v MASSACHUSETTS CASUALTY INSURANCE COMPANY:

APPEAL - APPELLATE DIVISION - MOTION TO ENLARGE TIME TO PERFECT APPEAL;

BOOKMAN (DAVID), PEOPLE v:

CRIMES - SUPPRESSION HEARING - HANDGUN FOUND IN TRUNK OF CAR STOPPED FOR INOPERATIVE BRAKE LIGHT AND ITEMS HANGING FROM REARVIEW MIRROR - CAR SEARCHED AFTER ARREST OF CAR OCCUPANTS WHEN POLICE OFFICER SAW "CLOUDY" PLASTIC BAG, BELIEVED TO CONTAIN COCAINE RESIDUE, IN CAR; WHETHER THE PEOPLE MADE A PRIMA FACIE SHOWING THAT THE STOP OF THE VEHICLE HAD A LEGALLY SUFFICIENT BASIS; APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER WAS VOLUNTARY, KNOWING AND INTELLIGENT;

BOONE (OTIS), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A JURY INSTRUCTION ON CROSS-RACIAL IDENTIFICATIONS;

BRAHNEY (RYAN P.), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER COUNTY COURT ERRED IN DIRECTING THAT THE SENTENCES FOR INTENTIONAL MURDER AND BURGLARY RUN CONSECUTIVELY; MURDER - FAILURE TO PROVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE - EVIDENCE OF DEFENDANT'S VIOLENT HISTORY - WHETHER THE COURTS BELOW ERRED IN CONCLUDING THAT THE FACTS, INCLUDING EXTREME BRUTALITY OF THE CRIME, WERE INSUFFICIENT TO ESTABLISH THE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE; CONFESSIONS - WAIVER OF RIGHT TO HUNTLEY HEARING REGARDING CERTAIN POLICE TESTIMONY - HARMLESS ERROR;

MATTER OF BRANDES, A DISBARRED ATTORNEY:

ATTORNEY AND CLIENT - REINSTATEMENT - WHETHER THE APPELLATE DIVISION, IN DENYING REINSTATEMENT, ERRED IN CONCLUDING THAT DISBARRED ATTORNEY ENGAGED IN THE PRACTICE OF LAW IN VIOLATION OF JUDICIARY LAW § 90(2); CLAIMED CONSTITUTIONAL VIOLATIONS;

BRANSTEN, et al. v STATE OF NEW YORK:

JUDGES - JUDICIAL SALARIES - WHETHER APPLICATION TO PLAINTIFF JUDGES AND JUSTICES OF L. 2011, c. 491, § 2 AND AMENDED CIVIL SERVICE LAW § 167(8) VIOLATES THE COMPENSATION CLAUSE OF THE NEW YORK STATE CONSTITUTION;

BREWER (TIMOTHY), PEOPLE v:

CRIMES - EVIDENCE - DEFENDANT'S SEXUAL PROCLIVITIES - CORROBORATION OF CHILD SEXUAL ASSAULT VICTIMS' TESTIMONY - WHETHER THE TRIAL COURT COMMITTED REVERSIBLE ERROR BY GRANTING THE PEOPLE'S MOLINEUX APPLICATION TO ALLOW EVIDENCE AT TRIAL OF DEFENDANT'S DRUG USE AND SEXUAL PROCLIVITIES;

BRIDGEFORTH (JOSEPH), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - BATSON APPLICATION - FAILURE TO SHOW PROSECUTOR'S MISCONDUCT - WHETHER DEFENDANT MET HIS PRIMA FACIE BURDEN OF ESTABLISHING THAT THE PROSECUTOR EXERCISED PEREMPTORY CHALLENGES TO REMOVE PROSPECTIVE JURORS ON THE BASIS OF THEIR MEMBERSHIP IN A CONSTITUTIONALLY COGNIZABLE PROTECTED CLASS; RIGHT TO BE PRESENT AT TRIAL - FAILURE TO REBUT PRESUMPTION OF REGULARITY - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF THE TRIAL;

BROWN (JAMES), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE PEOPLE'S SUBSEQUENT STATEMENT OF UNREADINESS RENDERED THEIR OFF-CALENDAR CERTIFICATE OF READINESS ILLUSORY; COURTS - COURT OF APPEALS - APPLICATION OF PLURALITY OPINIONS - PEOPLE v SIBBLIES (22 NY3d 1174 [2014]);

BROWN (LARRY), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - POSTPLEA DENIAL OF JUDICIAL DIVERSION PLAN- WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT'S PLEA WAS KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY ENTERED ON THE BASIS THAT DEFENDANT'S CLAIM THAT HE WAS MISLED ABOUT HIS PROSPECTS OF RECEIVING JUDICIAL DIVERSION UNDER CPL 216.05 WAS REFUTED BY THE RECORD; WHETHER DEFENDANT'S PLEA WAS NOT KNOWINGLY, INTELLIGENTLY, AND VOLUNTARILY ENTERED ON THE BASIS THAT THE PROMISED SENTENCE WAS ILLEGALLY LENIENT;

THE BURLINGTON INSURANCE COMPANY v NEW YORK CITY TRANSIT AUTHORITY et al.:

INSURANCE - LIABILITY INSURANCE - CONSTRUCTION OF POLICY - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT DEFENDANTS WERE ADDITIONAL INSURED UNDER PLAINTIFF INSURER'S GENERAL LIABILITY POLICY WITH A CONTRACTOR, WHERE THE ACCIDENT FOR WHICH COVERAGE WAS SOUGHT WAS NOT CAUSED BY THE CONTRACTOR'S NEGLIGENCE OR FAULT;

BUSHEY (ANDREW R.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER COUNTY COURT ERRED IN DETERMINING THAT THE PLATE CHECK OF DEFENDANT'S VEHICLE AND THE ENSUING STOP WERE LAWFUL;

CANADY (EARL), PEOPLE v:

CRIMES - RIGHT TO A SPEEDY TRIAL - WHETHER TRIAL COURT IMPROPERLY CALCULATED THE TIME CHARGEABLE TO THE PEOPLE BY CHARGING THEM WITH TIME BEFORE THE OFF-CALENDAR STATEMENT OF READINESS WAS FILED, INSTEAD OF ONLY TIME AFTER THE DECLARATION; WHETHER PEOPLE'S OFF-CALENDAR READINESS DECLARATION WAS ILLUSORY;

CAMPBELL (ROSS), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER, IN A CASE INVOLVING SEX CRIMES, DEFENSE COUNSEL WAS INEFFECTIVE IN FAILING TO CHALLENGE A PROSPECTIVE JUROR WHO EXPRESSED DIFFICULTY IN SERVING AS A JUROR BECAUSE SHE HAD BEEN SUBJECTED TO SEXUAL VIOLENCE;

CARLSON v AMERICAN INTERNATIONAL GROUP, INC. et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE INSURANCE POLICY WAS NOT "ISSUED OR DELIVERED" IN NEW YORK, THUS PRECLUDING PLAINTIFF FROM BRINGING SUIT AGAINST TORTFEASOR'S INSURANCE COMPANY UNDER INSURANCE LAW § 3420(a)(2); AUTOMOBILE INSURANCE - CARTAGE AGREEMENT BETWEEN DEFENDANT DHL EXPRESS (USA) AND DEFENDANT MVP DELIVERY AND LOGISTICS, INC. - WHETHER MVP VEHICLE DRIVEN BY TORTFEASOR DURING THE UNDERLYING MOTOR VEHICLE ACCIDENT WAS A VEHICLE "HIRED" BY DHL AND THUS COVERED UNDER ITS AUTOMOBILE INSURANCE;

CARNEY, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, et al.:

MOTOR VEHICLES - OPERATOR'S LICENSE - APPLICATION FOR NEW LICENSE AFTER LICENSE REVOCATION FOR ALCOHOL-RELATED DRIVING OFFENSE - NEW REGULATIONS ADOPTED DURING REVIEW OF PETITIONER'S APPLICATION FOR RELICENSING OF PERSONS WITH MULTIPLE ALCOHOL-OR-DRUG-RELATED DRIVING OFFENSES (15 NYCRR 136.5[b][1]) - WHETHER THE REGULATORY IMPOSITION OF A PERMANENT LIFETIME BAN AGAINST A DRIVER WITH FIVE OR MORE ALCOHOL-RELATED CONVICTIONS DURING HIS LIFETIME EXCEEDS THE COMMISSIONER'S ADMINISTRATIVE AUTHORITY;

CARR (JAMES L.), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S CPL 440.10 MOTION TO VACATE THE JUDGMENT CONVICTING HIM OF TWO COUNTS OF MURDER IN THE SECOND DEGREE ON THE GROUND THAT THE PEOPLE FAILED TO SEEK LEAVE TO REPRESENT THE MURDER CHARGES TO A SECOND GRAND JURY, IN VIOLATION OF CPL 190.75(3);

CARVER (LEROY), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - LEGITIMATE REASON FOR FAILURE TO MAKE SUPPRESSION MOTION - FUTILITY OF SUPPRESSION MOTION - WHETHER DEFENDANT WAS DEPRIVED OF THE



EFFECTIVE ASSISTANCE OF COUNSEL WHEN TRIAL COUNSEL DID NOT MOVE TO SUPPRESS THE PHYSICAL EVIDENCE; CRIMES - UNLAWFUL SEARCH AND SEIZURE - FAILURE TO FOLLOW POLICE OFFICER'S INSTRUCTIONS FOLLOWING STOP OF VEHICLE - ATTEMPTING TO EXIT VEHICLE FOLLOWING DRIVER'S FLIGHT;

CF HY LLC v HUDSON YARDS LLC, et al.:

MORTGAGES - FORECLOSURE - DETERMINATION OF FAIR MARKET VALUE OF MORTGAGED PROPERTY FOR PURPOSES OF CONSIDERING APPLICATION FOR DEFICIENCY JUDGMENT - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT SINGER'S REQUEST FOR AN ADJOURNMENT OF THE HEARING SO THAT HE COULD BE PRESENT AND TESTIFY REGARDING VALUATION - WHETHER THE TRIAL COURT PROPERLY CONSIDERED VARIOUS FACTORS IN DETERMINING MARKET VALUE, INCLUDING THE PURCHASE PRICE AFTER THE FORECLOSURE SALE;

CHARITE, et al. v DUANE READE, INC., et al.:

CIVIL RIGHTS - ELECTION OF REMEDIES - RETALIATION IN EMPLOYMENT - PRIOR ACTION - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT PLAINTIFF'S CAUSE OF ACTION FOR UNLAWFUL RETALIATION IN EMPLOYMENT IN VIOLATION OF ADMINISTRATIVE CODE OF THE CITY OF NEW YORK §8-107 WAS BARRED BY THE ELECTION OF REMEDIES PROVISION IN LABOR LAW §740(7);

CHERY (LYXON), PEOPLE v:

CRIMES - DEFENDANT AS WITNESS - CROSS-EXAMINATION OF DEFENDANT - IMPEACHMENT - WHETHER THE TRIAL COURT ERRED IN ALLOWING THE PEOPLE TO IMPEACH DEFENDANT WITH OMISSIONS FROM DEFENDANT'S SPONTANEOUS POST-ARREST, PRE-MIRANDA STATEMENT;

CHOMYN, MATTER OF v BOLLER, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENTS' DETERMINATION REVOKING PETITIONER'S PISTOL PERMIT; CLAIMED DUE PROCESS AND SECOND AMENDMENT VIOLATIONS;

CITIZENS FOR ST. PATRICK'S et al., MATTER OF v WATERVLIET ZONING BOARD OF APPEALS, et al.:

INJUNCTIONS - DAMAGES - BOND POSTED WHEN APPELLATE DIVISION JUSTICE GRANTED PETITIONERS' REQUEST FOR A TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION PENDING APPEAL - WHETHER SUPREME COURT ERRED IN GRANTING RESPONDENT'S APPLICATION FOR DAMAGES, IN THE FORM OF COUNSEL FEES, INCURRED AS A RESULT OF THE ISSUANCE OF THE TEMPORARY RESTRAINING ORDER (THEREAFTER AWARDED RESPONDENT DAMAGES IN THE FULL AMOUNT OF THE BOND SUM) - CPLR 6315;

CITY OF NEW YORK, MATTER OF v NEW YORK STATE NURSES ASSOCIATION, et al.:

LABOR UNIONS - DISCIPLINARY PROCEEDINGS - DISCLOSURE OF INFORMATION TO EMPLOYEE - EMPLOYER'S DUTY TO FURNISH DATA NORMALLY MAINTAINED IN REGULAR COURSE OF BUSINESS - WHETHER THE BOARD OF COLLECTIVE BARGAINING OF THE CITY OF NEW YORK (BCB) PROPERLY GRANTED PETITIONER UNION'S IMPROPER PRACTICE CHARGE TO THE EXTENT OF DIRECTING THE CITY TO PROVIDE PRE-HEARING DISCOVERY IN AN EMPLOYEE DISCIPLINARY PROCEEDING - ADMINISTRATIVE CODE OF CITY OF NEW YORK § 12-306(a)(1) AND (4);

CLARKE (NNAMDI), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE PROSECUTION'S DELAY IN SEEKING THE TESTING OF DNA IS AN EXCEPTIONAL CIRCUMSTANCE EXCLUDABLE FROM SPEEDY TRIAL COMPUTATION UNDER CPL 30.30;

CLARK (PRINCE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - TRIAL COUNSEL'S FAILURE TO REQUEST THAT THE COURT CHARGE THE JURY ON THE POTENTIAL ALTERNATIVE DEFENSE OF JUSTIFICATION - TRIAL COURT'S FAILURE TO MAKE A JUSTIFICATION CHARGE TO THE JURY SUA SPONTE; CLAIMED DUE PROCESS VIOLATION;

COFFED, &c. v McCARTHY et al.:

NEGLIGENCE - PROXIMATE CAUSE - ACTION SEEKING DAMAGES FOR FATAL INJURIES SUSTAINED BY DECEDENT WHEN THE BICYCLE HE WAS RIDING COLLIDED WITH A DUMP TRUCK - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANTS UPON THE GROUND THAT DECEDENT'S FAILURE TO STOP AT A RED LIGHT WAS THE SOLE PROXIMATE CAUSE OF THE ACCIDENT;

COLUMBIA COUNTY SUPPORT COLLECTION UNIT, &c., MATTER OF v RISLEY:

PARENT, CHILD AND FAMILY - SUPPORT - WILLFUL VIOLATION OF ORDERS OF SUPPORT - REVOCATION OF SUSPENDED SENTENCES OF INCARCERATION AND IMPOSITION OF CONSECUTIVE TERMS OF INCARCERATION - WHETHER FAMILY COURT ACT § 454(3)(a) PERMITS CONSECUTIVE COMMITMENTS FOR VIOLATIONS OF PRIOR CHILD SUPPORT ORDERS;

CONNAUGHTON v CHIPOTLE MEXICAN GRILL, INC.:

FRAUD - FRAUD IN INDUCEMENT - WHETHER PLAINTIFF, A CHEF WHO ENTERED INTO AN AT-WILL EMPLOYMENT RELATIONSHIP WITH DEFENDANTS, ADEQUATELY ALLEGED A CAUSE OF ACTION FOR FRAUDULENT INDUCEMENT BASED UPON DEFENDANTS' "SUPERIOR KNOWLEDGE" OF PREVIOUS BUSINESS DEALINGS THAT THEY WITHHELD FROM PLAINTIFF TO INDUCE HIM TO ACCEPT THEIR OFFER OF EMPLOYMENT, AND WHETHER HE SUFFICIENTLY ALLEGED DAMAGES;

CONNOLLY (JONATHAN J.), PEOPLE v:

CRIMES - EVIDENCE - RESTITUTION - EVIDENTIARY BASIS FOR AMOUNT - WHETHER THE PROCEDURES USED AT DEFENDANT'S RESTITUTION HEARING COMPORTED WITH PENAL LAW § 60.27 AND CPL 400.30 WHERE COUNTY COURT RELIED ON THE TRANSCRIPT AND EXHIBITS FROM A HEARING PREVIOUSLY CONDUCTED BY A JUDICIAL HEARING OFFICER; WHETHER THE DELAY IN IMPOSING RESTITUTION DIVESTED THE COURT OF JURISDICTION; WHETHER COUNSEL PROVIDED INEFFECTIVE ASSISTANCE;

CONTACT CHIROPRACTIC, P.C., &c. v NEW YORK CITY TRANSIT

AUTHORITY:

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COUNTY OF CHEMUNG, MATTER OF v SHAH:

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COUNTY OF JEFFERSON, MATTER OF v SHAH:

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COUNTY OF MONROE, MATTER OF v SHAH:

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COUNTY OF ONEIDA, MATTER OF v SHAH:

PARTIES - CAPACITY TO SUE - PROCEEDING SEEKING REIMBURSEMENT FOR MEDICAID OVERBURDEN EXPENDITURES - WHETHER COUNTIES ARE PERSONS WITHIN THE MEANING OF THE STATE AND FEDERAL CONSTITUTIONS SO THAT THEY MAY RAISE DUE PROCESS CLAIMS AGAINST THE STATE; PETITIONER'S ENTITLEMENT TO RELIEF IN THE NATURE OF MANDAMUS, DIRECTING RESPONDENTS TO SEARCH THEIR RECORDS, LOCATE ALL UNREIMBURSED CLAIMS FOR OVERBURDEN EXPENDITURES MADE BY PETITIONER AND REIMBURSE PETITIONER FOR THOSE EXPENDITURES;

COUNTY OF ST. LAWRENCE, MATTER OF v SHAH:

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PROCESS; MANDAMUS - WHETHER THE COUNTY IS ENTITLED TO MANDAMUS RELIEF DIRECTING THE STATE TO IDENTIFY, CALCULATE AND PAY ALL PRE-2006 OVERBURDEN EXPENDITURES EVEN WITHOUT ANY CLAIMS BEING MADE FOR SUCH EXPENDITURES;

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COUSER (PHILLIP), PEOPLE v (APPEAL NO. 2):

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - ATTEMPTED MURDER - WHETHER THE MODIFICATION OF THE AGGREGATE SENTENCE IN APPEAL NO. 1 NULLIFIED AN EXPRESSLY PROMISED BENEFIT OR CONSTITUTED MATERIAL INDUCEMENT TO PLEA AT ISSUE IN APPEAL NO. 2 - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE MODIFICATION OF DEFENDANT'S AGGREGATE SENTENCE ON ROBBERY AND ATTEMPTED ROBBERY CHARGES DID NOT ENTITLE HIM TO VACATUR OF THE PLEA ON THE ATTEMPTED MURDER CHARGE; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER THE APPELLATE DIVISION ERRED IN REJECTING DEFENDANT'S CLAIM THAT HE WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL BASED ON COUNSEL'S ALLEGED FAILURE TO RECOGNIZE THAT DEFENDANT WAS NOT SUBJECT TO A CONSECUTIVE SENTENCE FOR THE ATTEMPTED MURDER COUNT;

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DANIEL (SPARKLE), PEOPLE v:

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DAVIDSON (MARTESHA), PEOPLE v:

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CONDOMINIUMS AND COOPERATIVES - PROPRIETARY LEASE - BOARD'S CONSENT TO TRANSFER - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANT RESIDENTIAL COOPERATIVE CORPORATION VIOLATED A PROVISION OF THE PROPRIETARY LEASE STATING THAT "CONSENT SHALL NOT BE UNREASONABLY WITHHELD TO AN ASSIGNMENT OF THE LEASE AND SHARES TO A FINANCIALLY RESPONSIBLE MEMBER OF THE LESSEE'S FAMILY"; STATUTE OF LIMITATIONS - WHETHER DEFENDANT WAIVED A DEFENSE BASED ON THE FOUR-MONTH STATUTE OF LIMITATIONS AND WHETHER A SIX-YEAR STATUTE OF LIMITATIONS APPLIED IN ANY EVENT; WHETHER TRIABLE ISSUES OF FACT PRECLUDED SUMMARY JUDGMENT;

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D&R GLOBAL SELECTIONS, S.L. v BODEGA OLEGARIO FALCON PINEIRO:  
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DRYDEN MUTUAL INSURANCE COMPANY v GOESSL:  
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ENTERGY NUCLEAR OPERATION, INC, et al., MATTER OF v NEW YORK DEPARTMENT OF STATE et al.:  
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GARVIN (SEAN), PEOPLE v:  
CRIMES - ARREST - WHETHER DEFENDANT'S WARRANTLESS ARREST VIOLATED PAYTON v NEW YORK (445 US 573), WHERE DEFENDANT LIVED IN THE UPSTAIRS APARTMENT OF A BUILDING CONTAINING TWO SEPARATE APARTMENTS AND WAS ARRESTED IN THE DOORWAY TO HIS APARTMENT AFTER HE OPENED THE DOOR IN RESPONSE TO A KNOCK BY A POLICE OFFICER; ALLEGED VIOLATION OF DEFENDANT'S RIGHT TO REMAIN SILENT; ALLEGED VIOLATION OF APPENDI v NEW JERSEY (530 US 466) BY DEFENDANT'S SENTENCING AS A PERSISTENT FELONY OFFENDER;

GAYDEN (JOHN), PEOPLE v:  
CRIMES - SUPPRESSION HEARING - WHETHER TRIAL COURT ERRED IN REFUSING TO SUPPRESS THE GUN DEFENDANT DISCARDED WHILE HE WAS BEING PURSUED BY THE POLICE - WHETHER RADIO DISPATCH BASED ON AN ANONYMOUS TIP PROVIDED BASIS FOR REASONABLE SUSPICION OF CRIMINAL ACTIVITY WARRANTING PURSUIT OF DEFENDANT;

GRIGGS (PERRY C.), PEOPLE v:  
CRIMES - ROBBERY - FORCIBLE STEALING - WHETHER LEGALLY SUFFICIENT EVIDENCE EXISTED TO ESTABLISH THAT DEFENDANT FORCIBLY STOLE PROPERTY FROM THE VICTIM WHILE USING A GUN; WHETHER DEFENDANT'S SENTENCE WAS PROPERLY THE SUBJECT OF A SENTENCING ENHANCEMENT PURSUANT TO PENAL LAW § 60.07; GRAND JURY - DEFECTIVE PROCEEDING - SHACKLED DEFENDANT - PROSECUTORIAL MISCONDUCT - WHETHER DEFENDANT'S APPEARANCE BEFORE THE GRAND JURY IN SHACKLES, THE

PROSECUTOR'S CROSS-EXAMINATION OF DEFENDANT, OR THE PROSECUTOR'S FAILURE TO INFORM THE GRAND JURY OF A DEFENSE REQUEST TO HAVE ANOTHER WITNESS TESTIFY RENDERED THE PROCEEDING DEFECTIVE AND WARRANTED DISMISSAL OF THE INDICTMENT;

GUERIN (ZACHARY T.), PEOPLE v:

CRIMES - TRESPASSING - DEFENDANT TICKETED FOR WALKING ON POSTED LAND - DEFENDANT CHALLENGED TICKET ON GROUNDS THAT SIGNS POSTED WHERE HE WAS WALKING DID NOT COMPLY WITH ENVIRONMENTAL CONSERVATION LAW § 11-2111(2)'S REQUIREMENT THAT THE SIGN STATE THE NAME AND ADDRESS OF THE LAWFUL OWNERS OF THE LAND;

GUERRERO (LERIO), PEOPLE v:

CRIMES - INDICTMENT - IDENTIFICATION OF DEFENDANT BY DNA PROFILE - VALIDITY OF DNA INDICTMENT AND ITS AMENDMENT TO ADD THE NAME OF DEFENDANT ONCE HE WAS IDENTIFIED AS THE SOURCE OF THE DNA; PLEA OF GUILTY - WHETHER DEFENDANT FORFEITED THE RIGHT TO CHALLENGE THE INDICTMENT BY PLEADING GUILTY;

HAIN, &c. v JAMISON, et al.:

ANIMALS - ROAMING ON HIGHWAY - PERSON STRUCK BY VEHICLE WHILE ALLEGEDLY HELPING BABY CALF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE ALLEGED NEGLIGENCE OF THE DEFENDANT IN ALLOWING A CALF TO ESCAPE ITS FARM WAS NOT A PROXIMATE CAUSE OF THE MOTOR VEHICLE ACCIDENT;

HARDEE (STANLEY), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER LIMITED SEARCH OF CAR STOPPED FOR TRAFFIC VIOLATIONS WAS JUSTIFIED AFTER DEFENDANT HAD BEEN REMOVED FROM THE CAR AND FRISKED - PEOPLE v TORRES (74 NY2d 224 [1989]);

HENDERSON (STEVEN), PEOPLE v:

CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - RIGHT TO SPEEDY TRIAL; CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE PROSECUTION'S DELAY IN SEEKING THE TESTING OF DNA IS AN EXCEPTIONAL CIRCUMSTANCE EXCLUDABLE FROM SPEEDY TRIAL COMPUTATION UNDER CPL 30.30;

ESTATE OF EDMUND FELIX HENNEL, MATTER OF:

CONTRACTS - AGREEMENT TO SATISFY MORTGAGE OUT OF ESTATE ASSETS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT, ALTHOUGH DECEDENT REVOKED PRIOR WILL DIRECTING ESTATE TO PAY MORTGAGE ON PROPERTY HE TRANSFERRED BY DEED TO HIS GRANDCHILDREN, GRANDCHILDREN ESTABLISHED THEIR CLAIM AGAINST THE ESTATE FOR PAYMENT OF THE MORTGAGE BASED UPON THE DOCTRINE OF PROMISSORY ESTOPPEL, AND THAT THE ESTATE WAS ESTOPPED FROM INVOKING THE STATUTE OF FRAUDS DEFENSE BECAUSE APPLICATION OF THAT DEFENSE WOULD CREATE AN UNCONSCIONABLE RESULT;

HENRY, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER PETITIONER'S CHALLENGES TO ALLEGED VIOLATIONS OF HIS RIGHTS TO PRESENT DOCUMENTARY EVIDENCE AND CALL WITNESSES AT HIS DISCIPLINARY HEARING WERE PRESERVED FOR JUDICIAL REVIEW; WAIVER OF PETITIONER'S RIGHTS TO PRESENT DOCUMENTARY EVIDENCE AND CALL WITNESSES;

HENRY PHIPPS PLAZA SOUTH ASSOCIATES, MATTER OF v QUIJANO:

PUBLIC HOUSING - TERMINATION OF TENANCY - APPROPRIATENESS OF PENALTY - WHETHER THE PENALTY OF EVICTION WAS DISPROPORTIONATE TO THE TENANT'S MISCONDUCT; WHETHER THE LANDLORD TOOK REQUIRED PROCEDURAL STEPS PRIOR TO COMMENCING THIS SUMMARY HOLDOVER PROCEEDING;

HERNANDEZ (RODOLFO), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - ADMISSION OF CHILD'S OUT-OF-COURT COMMUNICATIONS, AS TESTIFIED TO BY HER PARENTS - EXCITED UTTERANCE EXCEPTION TO THE HEARSAY RULE - WHETHER CHILD'S COMMUNICATIONS WERE NONTESTIMONIAL IN NATURE; WHETHER VERDICT WAS AGAINST THE WEIGHT OF THE EVIDENCE;

HONGHIRUN (NIRUN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENSE COUNSEL WAS INEFFECTIVE FOR FAILING TO SEEK AN IN LIMINE RULING PRECLUDING DELAYED DISCLOSURE EVIDENCE, OR OBJECTING TO ITS ADMISSION INTO EVIDENCE UNDER THE PROMPT OUTCRY EXCEPTION TO THE HEARSAY RULE, AND ELICITING ON CROSS EXAMINATION DETAILS BOLSTERING COMPLAINANT'S CLAIMS;

HULL (GLENFORD C.), PEOPLE v:

CRIMES - LESSER INCLUDED OFFENSE - FIRST-DEGREE MANSLAUGHTER AS LESSER INCLUDED OFFENSE OF SECOND-DEGREE MURDER - WHETHER THE EVIDENCE COULD REASONABLY SUPPORT A FINDING THAT DEFENDANT INTENDED TO SERIOUSLY INJURE RATHER THAN KILL THE VICTIM; WHETHER THE VERDICT WAS SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE; WHETHER THE TRIAL COURT CONDUCTED AN INSUFFICIENT INQUIRY INTO ALLEGED JUROR MISCONDUCT; WHETHER THE TRIAL COURT IMPROPERLY PERMITTED THE PEOPLE TO USE A WITNESS'S PRIOR TESTIMONY FOR IMPEACHMENT PURPOSES; WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE A CIRCUMSTANTIAL EVIDENCE CHARGE;

INGRAM (TYRELL), PEOPLE v:

CRIMES - WITNESSES - IMPEACHMENT - POLICE OFFICER - WHETHER THE TRIAL COURT CORRECTLY PRECLUDED DEFENSE COUNSEL FROM CROSS EXAMINING POLICE OFFICER WITNESS ABOUT AN UNRELATED FEDERAL CIVIL RIGHTS LAWSUIT IN WHICH THE POLICE OFFICER WAS NAMED AS A DEFENDANT;

JACKSON (THOMAS), PEOPLE v:

CRIMES - PROOF OF PRIOR CONVICTIONS - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SANDOVAL ERROR BY SUPREME COURT IN ALLOWING CROSS EXAMINATION REGARDING DEFENDANT'S JUVENILE DELINQUENCY ADJUDICATION WAS HARMLESS; RIGHT TO BE PRESENT AT TRIAL - VALIDITY OF DEFENDANT'S WAIVER TO BE PRESENT AT SIDEBAR CONFERENCES;

JONES (EARL), PEOPLE v:

CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE AS AN EXCITED UTTERANCE OR A PRESENT SENSE IMPRESSION AN OUT-OF-COURT STATEMENT MADE BY AN UNIDENTIFIED BYSTANDER TO A POLICE OFFICER - ALLEGED DUE PROCESS AND CONFRONTATION CLAUSE VIOLATIONS; SUFFICIENCY OF THE EVIDENCE SUPPORTING DEFENDANT'S CONVICTION OF BURGLARY IN THE THIRD DEGREE;

JOHNSON, MATTER OF v COUNTY OF ORANGE, et al.:

CIVIL SERVICE - CHALLENGE TO TERMINATION OF PETITIONER'S PROBATIONARY EMPLOYMENT AS A DEPUTY SHERIFF - WHETHER THE TERMINATION OF PETITIONER'S EMPLOYMENT WAS IN BAD FAITH, FOR A CONSTITUTIONALLY IMPERMISSIBLE OR AN ILLEGAL PURPOSE, OR IN VIOLATION OF STATUTORY OR DECISIONAL LAW - PETITIONER'S RIGHT OF INTIMATE ASSOCIATION UNDER THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION;

JOSEPH (RONEL), PEOPLE v:

CRIMES - BURGLARY - BURGLARY OF A DWELLING - INTRUSION INTO NONRESIDENTIAL PART OF APARTMENT BUILDING - WHETHER, UNDER PEOPLE v McCRAY (23 NY3d 621 [2014]), DEFENDANT WAS PROPERLY CONVICTED OF SECOND-DEGREE BURGLARY, WHICH REQUIRES ENTRY INTO A "DWELLING," BASED ON HIS ENTRY INTO THE BASEMENT OF A STORE ON THE GROUND FLOOR OF A SEVEN-FLOOR APARTMENT BUILDING; WHETHER THE EVIDENCE WAS LEGALLY SUFFICIENT TO ESTABLISH DEFENDANT'S ENTRY WITH THE INTENT TO COMMIT A CRIME;

JUSTINIAN CAPITAL SPC &c. v WestLB AG, &c., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - FRAUD - AGREEMENT TO PURCHASE NOTES - WHETHER PLAINTIFF'S PURPORTED PURCHASE OF NOTES FROM NONPARTY BANK WAS SUFFICIENT BASIS FOR PLAINTIFF TO AVAIL ITSELF OF THE SAFE HARBOR PROVISION OF THE CHAMPERTY STATUTE (JUDICIARY LAW § 489[1]) - IF NOT, WHETHER PLAINTIFF'S ACQUISITION OF THE NOTES WAS CHAMPERTOUS;

KALAMARAS, PEOPLE &c., ex rel. v SPOSATO &c.:

HABEAS CORPUS - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DENIED PETITIONER'S APPLICATION FOR A WRIT OF HABEAS CORPUS;

KANGAS (ROY S.), PEOPLE v:

CRIMES - EVIDENCE - BUSINESS RECORDS - ELECTRONIC RECORDS - WHETHER THE TRIAL COURT IMPROPERLY ADMITTED BREATH TEST DOCUMENTS INTO EVIDENCE UNDER THE BUSINESS RECORDS EXCEPTION TO THE HEARSAY RULE;

KELLY, MATTER OF v DiNAPOLI:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT SUBSTANTIAL EVIDENCE SUPPORTS THE COMPTROLLER'S DETERMINATION THAT PETITIONER'S INJURY DID NOT RESULT FROM AN "ACCIDENT" WITH THE MEANING OF RETIREMENT AND SOCIAL SECURITY LAW § 363 AND, THEREFORE, PETITIONER WAS NOT ENTITLED TO ACCIDENTAL DISABILITY RETIREMENT BENEFITS;

KILLON v PARROTTA:

TRIAL - VERDICT - SETTING VERDICT ASIDE - ASSAULT AND BATTERY - CHALLENGE TO APPELLATE DIVISION ORDER SETTING ASIDE A JURY VERDICT AND ORDERING A NEW TRIAL ON THE GROUND THAT NO FAIR INTERPRETATION OF THE EVIDENCE SUPPORTED THE CONCLUSION THAT DEFENDANT ACTED IN SELF-DEFENSE; COURTS - LAW OF THE CASE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT DID NOT ERR IN REFUSING TO ISSUE A JUSTIFICATION CHARGE AT SECOND TRIAL ON THE GROUND THAT THE APPELLATE DIVISION PREVIOUSLY DETERMINED, BASED ON THE EVIDENCE AT THE FIRST TRIAL, THAT DEFENDANT WAS THE INITIAL AGGRESSOR, WHERE THE EVIDENCE WAS THE SAME AT THE SECOND TRIAL; WHETHER THE TRIAL COURT IN SECOND TRIAL WAS REQUIRED TO GIVE SAME COMPARATIVE FAULT CHARGE IT GAVE DURING FIRST TRIAL; EVIDENCE - WHETHER TESTIMONY THAT DEFENDANT HAD THREATENED TO BEAT HIS EX-WIFE, WHO WAS THEN PLAINTIFF'S FRIEND, WAS ADMISSIBLE TO PROVIDE CONTEXT FOR ASSAULT VICTIM'S "PROVOCATIVE CONDUCT" - NEED FOR CURATIVE INSTRUCTION REGARDING SUCH TESTIMONY;

KIMMEL v STATE OF NEW YORK et al.:

STATE - EQUAL ACCESS TO JUSTICE ACT (EAJA) (CPLR ARTICLE 86) - WHETHER PREVAILING PARTY IN A SEX DISCRIMINATION ACTION FOR MONEY DAMAGES AGAINST THE STATE IS ELIGIBLE TO RECOVER ATTORNEYS' FEES AND EXPENSES UNDER THE EAJA;

LANGDON (FRANK DINEHART), PEOPLE v:

APPEAL - APPEALABLE PAPER - DENIAL OF MOTION FOR A HEARING IN A CRIMINAL MATTER;

LEND LEASE (US) CONSTRUCTION LMB, INC., et al. v ZURICH AMERICAN INSURANCE COMPANY, et al.:

INSURANCE - BUILDER'S RISK POLICY - IN THIS BREACH OF CONTRACT AND DECLARATORY JUDGMENT ACTION, WHETHER THE APPELLATE DIVISION CORRECTLY HELD AS A MATTER OF LAW THAT TOWER CRANE AFFIXED TO BUILDING FOR USE IN THE PERFORMANCE OF CONSTRUCTION WORK WAS NOT



"COVERED PROPERTY" BECAUSE IT DID NOT FALL WITHIN THE POLICY'S DEFINITION OF "TEMPORARY WORKS," AND THAT, EVEN IF THE CRANE WAS "COVERED PROPERTY," IT WAS EXCLUDED FROM COVERAGE UNDER THE POLICY'S CONTRACTOR'S TOOLS, MACHINERY, PLANT AND EQUIPMENT EXCLUSION;

MATTER OF LEO, A DISBARRED ATTORNEY:

ATTORNEY AND CLIENT - REINSTATEMENT - DENIAL - WHETHER DUE PROCESS OF LAW REQUIRES THE APPELLATE DIVISION TO ARTICULATE THE REASONS FOR DENYING MOTIONS FOR REINSTATEMENT TO THE BAR - ALLEGED INCORRECT FINDINGS OF FACT - MOVANT'S RELIANCE ON ADVICE OF COUNSEL WHEN UNDERTAKING CERTAIN ACTIONS;

LEONARD (RICHARD M.), PEOPLE v (2 APPEALS):

CRIMES - RIGHT TO COUNSEL - TRIAL STRATEGY - DEFENSE COUNSEL'S FAILURE TO USE WITNESS'S PRIOR, ALLEGEDLY INCONSISTENT STATEMENTS AT TRIAL AND TO REQUEST LIMITING INSTRUCTION REGARDING PROOF OF UNCHARGED CRIME ALLEGEDLY COMMITTED AGAINST THE SAME COMPLAINANT; CHALLENGE TO DENIAL OF CPL 440 MOTION WITHOUT A HEARING UPON THE GROUND THAT TRIAL COUNSEL WAS DECEASED AND WAS THE ONLY PERSON WHO COULD HAVE PROVIDED ANY MATERIAL INFORMATION NOT ALREADY BEFORE THE COURT; PROOF OF OTHER CRIMES - ALLEGED MOLINEUX VIOLATION - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN ADMITTING TESTIMONY REGARDING PRIOR UNCHARGED CRIME OF SEXUAL ABUSE OF VICTIM WHILE UNCONSCIOUS AS PROBATIVE OF DEFENDANT'S MOTIVE AND INTENT AND AS PROVIDING NECESSARY BACKGROUND INFORMATION;

LIN (HAO), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - WHETHER A POLICE OFFICER WHO OBSERVED THE ADMINISTRATION OF A BREATHALYZER TEST TO DEFENDANT BY ANOTHER OFFICER, WHO WAS ALSO QUALIFIED TO ADMINISTER THAT BREATHALYZER TEST, AND WHO TESTIFIED AT TRIAL BECAUSE THE TESTING OFFICER WAS UNAVAILABLE, SATISFIED THE STANDARDS FOR QUALIFYING AS A SUBSTITUTE WITNESS UNDER BULLCOMING v NEW MEXICO (564 US 647 [2011]);

LIPIN v HUNT, et al.:

DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT - RES JUDICATA - CLAIMS AGAINST VARIOUS PERSONS AND ENTITIES RELATED TO PLAINTIFF'S FATHER'S ESTATE;

LITTLETON CONSTRUCTION LTD. v HUBER CONSTRUCTION, INC., et al.:

CONTRACTS - BREACH OF CONTRACT - JOINT VENTURE FOR PUBLIC SCHOOL RENOVATION PROJECTS - CLAIM THAT OPERATING AGREEMENT BETWEEN PARTIES WAS FRAUDULENT - WHETHER MATERIAL ISSUES OF FACT WERE RAISED REGARDING FORGERY OF THE DOCUMENT; SUMMARY JUDGMENT;

LOEHR et al., MATTER OF v ADMINISTRATIVE BOARD OF THE COURTS OF THE STATE OF NEW YORK:

JUDGES - CERTIFICATION OF JUSTICE FOR JUDICIAL SERVICE BEYOND THE MANDATORY RETIREMENT AGE OF 70 - WHETHER POLICY OF ADMINISTRATIVE BOARD OF THE COURTS OF THE STATE OF NEW YORK THAT "NO JUDGE HENCEFORTH CERTIFICATED FOR SERVICE AS A JUSTICE OF THE SUPREME COURT PURSUANT TO JUDICIARY LAW § 115 MAY RECEIVE, CONCURRENT WITH RECEIPT OF A SALARY FOR SUCH SERVICE, A RETIREMENT ALLOWANCE FOR PRIOR JUDICIAL SERVICE WITHIN THE UNIFIED COURT SYSTEM" VIOLATES NY CONSTITUTION, ARTICLE V, § 7, JUDICIARY LAW § 115(3) AND RETIREMENT AND SOCIAL SECURITY LAW § 212;

LOFTON (DAVID), PEOPLE v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - DENIAL OF YOUTHFUL OFFENDER STATUS - WHETHER THE TRIAL COURT'S STATEMENTS AT SENTENCING SATISFIED THE REQUIREMENT SET FORTH IN PEOPLE v MIDDLEBROOKS (25 NY3d 516, 522 [2015]) THAT THE COURT "DETERMINE ON THE RECORD IF [DEFENDANT] WAS AN ELIGIBLE YOUTH DUE TO THE EXISTENCE OF ONE OR MORE OF THE FACTORS SET FORTH IN CPL 720.10(3)";

MADEIROS, MATTER OF v NEW YORK STATE EDUCATION DEPARTMENT et al.: PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENT NEW YORK STATE EDUCATION DEPARTMENT'S DENIAL OF PETITIONER'S REQUEST FOR DOCUMENTS UNDER THE FREEDOM OF INFORMATION LAW (FOIL) - FOIL REQUEST FOR DOCUMENTS RELATED TO FISCAL AUDITS OF PRESCHOOL SPECIAL EDUCATION PROGRAMS AUTHORIZED BY EDUCATION LAW § 4410 - WHETHER THE APPELLATE DIVISION ERRONEOUSLY CONCLUDED THAT THE LAW ENFORCEMENT EXCEPTION TO FOIL PERMITS RESPONDENT TO WITHHOLD THE DOCUMENTS AT ISSUE - PUBLIC OFFICERS LAW § 87(2)(e) AND (g); ATTORNEYS' FEES RECOVERABLE UNDER FOIL;

MALDONADO (FERNANDO), PEOPLE v:

CRIMES - LARCENY - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED DEFENDANT'S CONVICTION FOR GRAND LARCENY OF REAL PROPERTY BASED ON A FORGED DEED - SUFFICIENCY OF EVIDENCE TO SUPPORT POSSESSION AND ATTEMPT CHARGES; EFFECTIVENESS OF COUNSEL;

MAISONET et al. v ROMAN, et al.:

NEGLIGENCE - EMERGENCY DOCTRINE - MOTOR VEHICLE CASE INVOLVING REAR-END COLLISION - WHETHER PLAINTIFFS' FACTUAL ALLEGATIONS ARE SUFFICIENT TO RAISE TRIABLE ISSUES OF FACT AS TO THE EXISTENCE OF AN EMERGENCY AND THE REASONABLENESS OF DEFENDANT DRIVER'S RESPONSE TO THAT EMERGENCY;

MANKO v LENOX HILL HOSPITAL:

APPEAL - APPELLATE DIVISION - DENIAL OF MOTION TO REINSTATE APPEALS AND VACATE VARIOUS APPELLATE DIVISION ORDERS;

MASON (LANZE R.), PEOPLE v:

CRIMES - INSTRUCTIONS - DEFENSE OF JUSTIFICATION - WHETHER THE TRIAL COURT PROPERLY DETERMINED, IN DENYING DEFENDANT'S REQUEST FOR A JUSTIFICATION CHARGE, THAT DEFENDANT USED DEADLY PHYSICAL FORCE WHEN HE STRUCK THE COMPLAINANT IN THE FACE WITH A GLASS BOTTLE; JURORS - SELECTION OF JURY - PROPRIETY OF COURT'S COMMENT THAT ANY PROSPECTIVE JUROR WHO WAS EXCUSED BASED ON HIS OR HER DIFFICULTY WITH THE ENGLISH LANGUAGE WOULD BE REQUIRED TO TAKE A COURSE IN ENGLISH - CLAIMED MODE OF PROCEEDINGS ERROR;

MATSEN, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, et al:

ADMINISTRATIVE LAW - DELEGATION OF LEGISLATIVE POWER - VALIDITY OF REGULATION - REGULATION GOVERNING TREATMENT OF RELICENSING OF PERSONS WITH MULTIPLE ALCOHOL OR DRUG-RELATED DRIVING OFFENSES AND ONE OR MORE "SERIOUS DRIVING OFFENSES" (15 NYCRR 136.5) - WHETHER 15 NYCRR 136.5(a)(2) ARBITRARILY DESIGNATES A "CONVICTION OF TWO OR MORE VIOLATIONS FOR WHICH FIVE OR MORE POINTS ARE ASSESSED ON A VIOLATOR'S DRIVING RECORD" TO BE A SERIOUS DRIVING OFFENSE - CHALLENGE TO REGULATION AS VIOLATING THE SEPARATION OF POWERS DOCTRINE, ULTRA VIRES, CONFLICTING WITH EXISTING STATUTES, VIOLATING THE EX POST FACTO CLAUSE, ARBITRARY AND CAPRICIOUS, AND EFFECTING AN EXCESSIVE PENALTY AS APPLIED TO PETITIONER;

MAZELLA, &c. v BEALS:

PHYSICIANS AND SURGEONS - MALPRACTICE - WHETHER THE JURY VERDICT SHOULD HAVE BEEN SET ASIDE UPON THE GROUND THAT PLAINTIFF'S PROOF ON PROXIMATE CAUSE WAS LEGALLY INSUFFICIENT; EVIDENCE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT, EVEN IF THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE A CONSENT AGREEMENT IN WHICH DEFENDANT ADMITTED CERTAIN CHARGES BROUGHT AGAINST DEFENDANT BY THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, SUCH ERROR WAS HARMLESS; TRIAL - VERDICT - WHETHER THE TRIAL COURT'S FAILURE TO SUBMIT A SPECIAL VERDICT SHEET TO THE JURY WAS PREJUDICIAL AND REQUIRES A NEW TRIAL;

McCULLOUGH (JAMELL R.), PEOPLE v:

CRIMES - WITNESSES - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL COURT ABUSED ITS DISCRETION IN PRECLUDING EXPERT TESTIMONY ON THE RELIABILITY OF EYEWITNESS IDENTIFICATIONS - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING A NEW TRIAL RATHER THAN REMITTING FOR A FRYE HEARING;

McCUMMINGS (DAVIEL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - SUBSTITUTION OF ASSIGNED COUNSEL - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT DEFENDANT WAS ENTITLED TO A NEW TRIAL BECAUSE, WHEN DEFENDANT ASKED TO SPEAK TO THE JUDGE ON THE FOURTH DAY OF TRIAL CONCERNING HIS

"ATTORNEY AND ADVICE," THE TRIAL COURT "IMPROPERLY DENIED HIS REQUEST FOR SUBSTITUTION OF COUNSEL WITHOUT CONDUCTING ANY INQUIRY WHATSOEVER, AND WITHOUT PERMITTING DEFENDANT TO EXPLAIN, EITHER ORALLY OR IN WRITING, WHY SUCH AN INQUIRY MIGHT BE NECESSARY";

McFADDEN v STATE OF NEW YORK:

STATE - CLAIM AGAINST STATE - CLAIM BY PRISONER THAT CORRECTION OFFICERS USED EXCESSIVE FORCE AND ASSAULTED HIM, AND THAT HE WAS THEREAFTER PROVIDED WITH INADEQUATE MEDICAL CARE; SUMMARY JUDGMENT - MOTION FOR PARTIAL SUMMARY JUDGMENT DENIED;

McGHEE (ISMA), PEOPLE v:

CRIMES - WITNESSES - RIGHT OF CONFRONTATION AND TO PRESENT A DEFENSE - WHETHER DEFENDANT SHOULD HAVE BEEN PERMITTED TO CROSS EXAMINE SUPERVISING DETECTIVE ABOUT AN UNRELATED FEDERAL CIVIL RIGHTS LAWSUIT IN WHICH THE DETECTIVE WAS NAMED AS A DEFENDANT; PROOF OF OTHER CRIMES - WHETHER THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION IN RULING THAT DEFENDANT'S IMPEACHMENT OF THE DETECTIVE REGARDING A DISCREPANCY IN A DOCUMENT PREPARED BY HIM OPENED THE DOOR TO EVIDENCE OF THE DETECTIVE'S KNOWLEDGE OF DEFENDANT'S INVOLVEMENT IN UNCHARGED DRUG SALES THAT WERE PART OF THE SAME INVESTIGATION; SENTENCE - SECOND FELONY DRUG OFFENDER - PRIOR VIOLENT FELONY - WHETHER DEFENDANT'S CONVICTION OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE QUALIFIES AS A VIOLENT FELONY;

McMILLAN (EVERETT B.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - AFTER DEFENDANT WAS ARRESTED INSIDE A BUILDING ON A PAROLE WARRANT, HIS CAR WAS SEARCHED WITHOUT A WARRANT BASED ON A TIP RECEIVED EARLIER IN THE DAY ABOUT A GUN IN THE VEHICLE - WHETHER GUN SHOULD HAVE BEEN SUPPRESSED; RIGHTS OF PAROLEES; WHETHER TRIAL COURT MADE ERRONEOUS RULING ABOUT DEFENSE COUNSEL'S REASON FOR STRIKING A PROSPECTIVE JUROR;

MENDEZ, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:

SCHOOLS - TEACHERS - PERFORMANCE REVIEW - WHETHER THE APPELLATE DIVISION ERRED IN ANNULING THE TERMINATION OF A PROBATIONARY TEACHER'S EMPLOYMENT BASED UPON THE COURT'S CONCLUSION THAT TEACHER'S UNSATISFACTORY RATING ON PERFORMANCE REVIEW LACKED A RATIONAL BASIS;

MENKES v GOLOMB:

ATTORNEY AND CLIENT - COMPENSATION - FEE-SHARING AGREEMENT - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING MOTIONS TO FIX ATTORNEYS' FEES AT CERTAIN STATED PERCENTAGES UPON THE GROUND THAT THE AGREEMENTS AT ISSUE UNAMBIGUOUSLY PROVIDED FOR THE SHARING OF FEES AT THOSE PERCENTAGES;

MILLER (JAMES), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - QUESTIONING OF PROSPECTIVE JURORS - WHETHER THE TRIAL COURT ERRED IN PRECLUDING DEFENDANT FROM QUESTIONING PROSPECTIVE JURORS DURING VOIR DIRE REGARDING WHETHER THEY COULD DISREGARD A CONFESSION IF THEY FOUND IT TO BE INVOLUNTARY WHERE THE PEOPLE HAD NOT YET DECIDED WHETHER THEY WOULD INTRODUCE DEFENDANT'S STATEMENTS AT TRIAL; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENSE COUNSEL WAS INEFFECTIVE FOR FAILING TO OBJECT TO VARIOUS COMMENTS MADE BY THE PROSECUTOR IN SUMMATION;

MINEMIER (KEVIN M.), PEOPLE v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - DENIAL OF YOUTHFUL OFFENDER STATUS - COURT'S FAILURE TO STATE REASONS FOR DENIAL OR TO DISCLOSE CONFIDENTIAL INFORMATION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, UNDER PEOPLE v RUDOLPH (21 NY3d 497 [2013]), CPL 720.20(1) DOES NOT REQUIRE THE SENTENCING COURT TO STATE ITS REASONS FOR DENYING YOUTHFUL OFFENDER STATUS TO A DEFENDANT; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, UNDER CPL 390.50, DEFENDANT WAS NOT ENTITLED TO DISCLOSURE OF ANY INFORMATION IN A DOCUMENT INCLUDED WITH THE PRE-SENTENCE REPORT ON THE BASIS THAT THE SOURCE OF THE INFORMATION WAS PROMISED CONFIDENTIALITY;

MORALES (CRISTIAN), PEOPLE v:

CRIMES - APPEAL - DISMISSAL OF APPEAL - INVOLUNTARILY DEPORTED DEFENDANT - WHETHER APPELLATE TERM ABUSED ITS DISCRETION OR VIOLATED THE RULE SET FORTH IN PEOPLE v VENTURA (17 NY3d 675 [2011]) BY DISMISSING DEFENDANT'S APPEAL FROM THE JUDGMENT OF CONVICTION ON THE GROUND, "AMONG OTHERS," THAT HE HAD BEEN DEPORTED AND WAS UNABLE TO OBEY THE MANDATE OF THE COURT;

MORGAN (PATRICK), PEOPLE v:

CRIMES - INSTRUCTIONS - DEADLOCKED JURY - WHETHER THE TRIAL COURT'S DEADLOCK CHARGE IN RESPONSE TO A DEFECTIVE VERDICT WAS IMPROPERLY COERCIVE; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

MORRIS (SHANE), PEOPLE v:

CRIMES - JURORS - NOTICE TO COUNSEL OF SUBSTANTIVE JUROR INQUIRY LETTER - MODE OF PROCEEDINGS ERROR - WITHOUT DEFENSE COUNSEL'S OBJECTION TO THE COURT'S PROCEDURES OR RESPONSES, TRIAL JUDGE READ NOTES FROM JURY FOR THE FIRST TIME IN PRESENCE OF COUNSEL AND DEFENDANT, AND RESPONDED TO JURY WITHOUT INPUT FROM COUNSEL;

NERONI v FOLLENDER et al.:

DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT - COMPLAINT IN FRAUD ACTION - WHETHER SUPREME COURT ERRED IN DISMISSING PLAINTIFF'S ACTION, SANCTIONING PLAINTIFF ATTORNEY FOR FRIVOLOUS CONDUCT AND ENJOINING PLAINTIFF FROM BRINGING FURTHER LITIGATION AGAINST DEFENDANTS;

NEWCOMB, et al., MATTER OF v MIDDLE COUNTRY CENTRAL SCHOOL DISTRICT:

MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - PROCEEDING FOR LEAVE TO SERVE A LATE NOTICE OF CLAIM OR TO DEEM A LATE NOTICE OF CLAIM TIMELY SERVED - BURDEN OF ESTABLISHING PREJUDICE UNDER GENERAL MUNICIPAL LAW § 50-e - WHETHER COURTS BELOW ABUSED THEIR DISCRETION IN DENYING PETITIONERS' APPLICATION;

NEWMAN v RCPI LANDMARK PROPERTIES:

NEGLIGENCE - PROXIMATE CAUSE - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING SUMMARY JUDGMENT TO DEFENDANTS ON THE GROUND THAT PLAINTIFF'S CHOICE TO USE STACKED MILK CRATES TO CLIMB DOWN FROM A LOADING DOCK, RATHER THAN A LADDER, WAS THE SOLE PROXIMATE CAUSE OF HIS INJURIES;

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (DUMMIT, &c. v A.W. CHESTERTON, et al.):

NEGLIGENCE - PROXIMATE CAUSE - WHETHER DEFENDANT WAS ENTITLED TO JUDGMENT AS A MATTER OF LAW DUE TO PLAINTIFF'S FAILURE TO PRODUCE EVIDENCE THAT DEFENDANT MANUFACTURED OR PLACED INTO THE STREAM OF COMMERCE ANY OF THE ASBESTOS-CONTAINING MATERIALS TO WHICH THE DECEDENT WAS EXPOSED - LIABILITY FOR FAILURE TO WARN OF ASBESTOS DANGER FOR PRODUCTS DEFENDANT DID NOT MANUFACTURE, SELL OR DISTRIBUTE; JOINT AND SEVERAL LIABILITY AND ALLOCATION OF FAULT; JURY INSTRUCTIONS;

IN RE: NEW YORK CITY ASBESTOS LITIGATION (KONSTANTIN v 630 THIRD AVENUE ASSOCIATES, et al.):

ACTIONS - CONSOLIDATION AND SEVERANCE - ASBESTOS LITIGATION - WHETHER THE TRIAL COURT PROPERLY CONSOLIDATED THIS CASE WITH DUMMITT v A.W. CHESTERTON - SIMILARITIES OF CONSOLIDATED CASES - THEORIES OF LIABILITY - DISJOINTED NATURE OF TRIAL; LABOR - SAFE PLACE TO WORK - EXPOSURE TO TOXIC SUBSTANCES - ASBESTOS DUST - APPORTIONMENT OF LIABILITY BETWEEN GENERAL CONTRACTOR AND MANUFACTURER - WHETHER JURY COULD ALLOCATE MORE FAULT TO GENERAL CONTRACTOR; RECKLESSNESS - WHETHER IT WAS RATIONAL FOR THE JURY TO CONCLUDE THAT GENERAL CONTRACTOR ACTED RECKLESSLY; DAMAGES - CHALLENGE TO DAMAGES AWARD AS UNPRECEDENTED;

NOMURA HOME EQUITY LOAN, INC., &c. v NOMURA CREDIT & CAPITAL, INC. (AND THREE OTHER ACTIONS):

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - RESIDENTIAL MORTGAGE-BACKED SECURITIES - WHETHER "SOLE REMEDY" PROVISION REQUIRING DEFENDANT TO CURE OR REPURCHASE MORTGAGE LOANS NOT CONFORMING TO REPRESENTATIONS AND WARRANTIES PROHIBITS PLAINTIFFS FROM SEEKING MONEY DAMAGES FOR BREACH OF A CONTRACTUAL PROVISION PROVIDING THAT THE CONTRACT CONTAINS NO UNTRUE STATEMENTS;

NONNI (MARK), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE HAD A FOUNDED SUSPICION OF CRIMINALITY JUSTIFYING A LEVEL TWO INQUIRY UNDER PEOPLE v DE BOUR (40 NY2d 210) - WHETHER THE LEVEL OF SUSPICION WAS ELEVATED TO REASONABLE SUSPICION WHEN DEFENDANT FLED, JUSTIFYING PURSUIT AND AN INVESTIGATIVE DETENTION; WHETHER POLICE WERE JUSTIFIED IN CONDUCTING A PROTECTIVE SEARCH OF DEFENDANT'S BAG AND PERSON;

OATES, &c. v NEW YORK CITY TRANSIT AUTHORITY, et al.:

NEGLIGENCE - SUFFICIENCY OF THE EVIDENCE TO ESTABLISH THAT BUS DRIVER WAS NEGLIGENT IN OPERATING A BUS THAT HIT AND KILLED A WOMAN WHILE PULLING OUT OF A BUS STOP - SUFFICIENCY OF THE EVIDENCE UNDER THE NOSEWORTHY DOCTRINE; EXPERT TESTIMONY - SUFFICIENCY OF EXPERT TESTIMONY TO ESTABLISH THAT DECEDENT ENDURED CONSCIOUS PAIN AND SUFFERING PRIOR TO HER DEATH;

O'BRIEN v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, et al.:

LABOR - SAFE PLACE TO WORK - ELEVATION-RELATED RISK - FALL DOWN WET TEMPORARY OUTDOOR STAIRCASE - APPLICABILITY OF LABOR LAW § 240(1) TO TEMPORARY OUTDOOR STAIRCASE AT WORKSITE - WHETHER PLAINTIFF WAS ENTITLED TO SUMMARY JUDGMENT ON LIABILITY ON HIS CLAIM UNDER LABOR LAW § 240(1);

OCASIO (ALEXIS), PEOPLE v:

CRIMES - CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE - SUFFICIENCY OF ACCUSATORY INSTRUMENT - WHETHER A "RUBBER-GRIPPED, METAL, EXTENDABLE BATON" IS A "BILLY" FOR PURPOSES OF PENAL LAW § 265.01(1);

ODDO v QUEENS VILLAGE COMMITTEE FOR MENTAL HEALTH FOR JAMAICA COMMUNITY ADOLESCENT PROGRAM, INC.:

NEGLIGENCE - DUTY - SUBSTANCE ABUSE TREATMENT FACILITY - CRIMINAL ACTS COMMITTED BY RESIDENT OUTSIDE OF FACILITY - WHETHER DEFENDANT SUBSTANCE ABUSE TREATMENT FACILITY OWED A DUTY OF CARE TO A THIRD PARTY AGAINST WHOM A RESIDENT COMMITS A VIOLENT ACT AFTER THE RESIDENT'S TERMINATION FROM THE PROGRAM;

ODUNBAKU, MATTER OF v ODUNBAKU:

PARENT, CHILD AND FAMILY - SUPPORT - SERVICE OF FINDINGS OF FACT AND ORDER ON PARTY RATHER THAN ATTORNEY - WHETHER, IN LIGHT OF THIS COURT'S DECISION IN BIANCA v FRANK (43 NY2d 168[1977]), A STATUTE OF LIMITATIONS OR OTHER TIME PERIOD FOR SUBMITTING OBJECTIONS TO A FAMILY COURT FACT-FINDING ORDER, PURSUANT TO FAMILY COURT ACT § 439(e), BEGINS TO RUN WHEN COURT PAPERS HAVE BEEN MAILED BY THE CLERK OF THE COURT ONLY TO A PARTY, NOT TO THE PARTY'S ATTORNEY;

DYLAN P. &c., et al. v WEBSTER PLACE ASSOCIATES, L.P.:

NEGLIGENCE - MAINTENANCE OF PREMISES - WHETHER DEFENDANT BUILDING OWNER MET ITS INITIAL BURDEN OF DEMONSTRATING THAT IT DID NOT HAVE CONSTRUCTIVE NOTICE OF THE ALLEGED DANGEROUS CONDITION, A MISSING DRAIN COVER IN THE BUILDING'S LAUNDRY ROOM; SUMMARY JUDGMENT;

TARA N.P. (ANONYMOUS) v WESTERN SUFFOLK BOARD OF COOPERATIVE EDUCATIONAL SERVICES, &c., et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - SPECIAL RELATIONSHIP - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING AS A MATTER OF LAW THAT THE COUNTY WAS NOT LIABLE EITHER (1) FOR ITS REFERRAL OF A SEX OFFENDER TO WORK AT THE SCHOOL PLAINTIFF ATTENDED OR (2) AS LANDLORD OF THE BUILDING WHERE PLAINTIFF WAS ASSAULTED; GOVERNMENTAL IMMUNITY - SPECIAL DUTY; SUMMARY JUDGMENT;

PABON (LUIS A.), PEOPLE v:

CRIMES - TIMELINESS OF PROSECUTION - TOLL OF LIMITATIONS PERIOD FOR SEXUAL OFFENSES COMMITTED AGAINST MINOR - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE INDICTMENT WAS NOT TIME-BARRED; HARMLESS AND PREJUDICIAL ERROR - PERMITTING DETECTIVE TO TESTIFY THAT DEFENDANT LIED DURING INTERVIEW - WHETHER THE APPELLATE DIVISION PROPERLY HELD THAT THE DETECTIVE'S TESTIMONY WAS HARMLESS; WITNESSES - EXTRINSIC EVIDENCE NOT PERMITTED TO CONTRADICT WITNESS'S ANSWERS CONCERNING COLLATERAL MATTERS SOLELY TO IMPEACH CREDIBILITY; ARGUMENT AND CONDUCT OF COUNSEL - PROSECUTOR'S COMMENTS DURING SUMMATION; EVIDENCE - WHETHER THE APPELLATE DIVISION CORRECTLY REJECTED DEFENDANT'S CLAIM THAT THE TRIAL COURT'S REFUSAL TO SEQUESTER CERTAIN EVIDENCE DEPRIVED HIM OF APPELLATE REVIEW OF HIS MISTRIAL MOTION BASED ON THE TRIAL COURT'S ALLEGED MISCONDUCT;

PANTON (NADINE), PEOPLE v:

CRIMES - CONFESSION - CUSTODIAL INTERROGATION - WHETHER THE STATEMENTS MADE BY DEFENDANT AFTER RECEIVING MIRANDA WARNINGS SHOULD HAVE BEEN SUPPRESSED AS THE PRODUCT OF CUSTODIAL INTERROGATION BEFORE THE WARNINGS WERE ADMINISTERED; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL BASED ON COUNSEL'S ALLEGED FAILURE TO RAISE THE MIRANDA CLAIM;

PALENCIA (CARLOS), PEOPLE v:

MOTOR VEHICLES - OPERATING VEHICLE WHILE UNDER INFLUENCE OF ALCOHOL OR DRUGS - WHETHER THE TRIAL COURT PROPERLY ADMITTED INTO EVIDENCE THE RESULTS OF A PORTABLE BREATH TEST (PBT) - WHETHER PROBATIVE VALUE OF PBT EVIDENCE WAS OUTWEIGHED BY ITS PREJUDICIAL EFFECT;



PARKER (LAWRENCE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE RECORD SUPPORTS THE CONCLUSION THAT DEFENDANT ACTIVELY FLED FROM POLICE, THUS ELEVATING THE LEVEL OF SUSPICION UNDER PEOPLE v DE BOUR (40 NY2d 210) TO REASONABLE SUSPICION;

PARSON, JR. (ANTHONY), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO ADVANCE MORE VIGOROUS CHALLENGE TO POLICE OFFICER'S TESTIMONY AT SUPPRESSION HEARING REGARDING REASON FOR STOPPING DEFENDANT'S VEHICLE - STOP FOR ALLEGED VIOLATIONS OF VEHICLE AND TRAFFIC LAW § 375(22) AND (30); UNLAWFUL SEARCH AND SEIZURE - CHALLENGE TO LAWFUL BASIS FOR STOP OF DEFENDANT'S VEHICLE AND SEARCH OF HIS PERSON AND HIS CAR - WHETHER STATEMENTS MADE BY DEFENDANT SHOULD HAVE BEEN SUPPRESSED;

PATTERSON (ROBERT), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - AUTHENTICATED RECORDS ADMITTED AS CIRCUMSTANTIAL EVIDENCE OF DEFENDANT'S IDENTITY - WHETHER THE TRIAL COURT PROPERLY ADMITTED, PURSUANT TO THE BUSINESS RECORDS EXCEPTION TO THE HEARSAY RULE, SUBSCRIBER INFORMATION FROM PRE-PAID CELLULAR PHONE RECORDS, WHICH THE ACCOUNT HOLDERS WERE NOT OBLIGATED TO PROVIDE AND WHICH THE CELL PHONE COMPANY DID NOT INDEPENDENTLY VERIFY;

PENA (MICHAEL), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - CHALLENGE TO AGGREGATE SENTENCE OF 75 YEARS TO LIFE AS SO DISPROPORTIONATE TO SENTENCES IMPOSED FOR SIMILAR AND GREATER OFFENSES THAT IT CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT;

PEOPLE &c., v GREENBERG et al.:

FRAUD - MARTIN ACT - DISGORGEMENT - AVAILABILITY OF DISGORGEMENT AND PERMANENT INJUNCTIVE RELIEF AS REMEDIES - WHETHER DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT DISMISSING ATTORNEY GENERAL'S COMPLAINT;

PERKINS (ANTHONY), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP - WHETHER LINEUP IS UNDULY SUGGESTIVE WHERE ONLY ONE LINEUP SUBJECT HAS A PARTICULAR PHYSICAL FEATURE (DREADLOCKS) DESCRIBED BY SOME BUT NOT ALL OF THE IDENTIFYING WITNESSES; FAILURE OF PROSECUTION TO PRESERVE A 911 TAPE RECORDING CONTAINING POTENTIALLY EXCULPATORY INFORMATION; CLAIMED FAILURE OF TRIAL JUDGE TO MAKE FACTUAL FINDINGS REGARDING REASONS PROFFERED FOR A PEREMPTORY CHALLENGE BEFORE CONCLUDING THAT THE CHALLENGE TO A JUROR WAS NOT RACIALLY MOTIVATED;

PETKE (HAROLD L.), PEOPLE v:

CRIMES - JURORS - IMPROPER DENIAL OF CHALLENGE FOR CAUSE - WHETHER HARMLESS ERROR ANALYSIS SHOULD BE APPLIED WHERE THE TRIAL COURT FAILED TO DISCHARGE A JUROR FOR CAUSE, DEFENDANT USED A PEREMPTORY CHALLENGE ON THAT JUROR, THE ONE ADDITIONAL JUROR SELECTED AFTER DEFENDANT EXHAUSTED HIS PEREMPTORY CHALLENGES DID NOT PARTICIPATE IN DELIBERATIONS DUE TO A MEDICAL SITUATION, DEFENDANT HAD BEEN GIVEN ADDITIONAL PEREMPTORY CHALLENGES WHEN SELECTING ALTERNATIVE JURORS, AND DEFENDANT CHOOSE NOT TO EXERCISE A PEREMPTORY CHALLENGE ON THE ALTERNATE JUROR WHO REPLACED THE ILL JUROR;

PINK et al. v RICCI, et al.:

NEGLIGENCE - DUTY - WHETHER THE DUTY OF A YOUTH HOCKEY ASSOCIATION AS THE FACILITY LESSOR TO HOCKEY SPECTATORS INCLUDED THE DUTY TO PROTECT PLAINTIFFS FROM ASSAULT BY A FELLOW SPECTATOR - FORESEEABILITY OF FIGHT BREAKING OUT IN LIGHT OF HOSTILE ENVIRONMENT IN THE AREA; SUMMARY JUDGMENT - WHETHER AN ISSUE OF FACT EXISTS;

PRICE (CHRIS), PEOPLE v:

CRIMES - EVIDENCE - PHOTOGRAPH OF DEFENDANT HOLDING GUN - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE A PHOTOGRAPH POSTED ON DEFENDANT'S WEBSITE WHERE DEFENSE COUNSEL OBJECTED ON THE GROUND THAT THE PEOPLE FAILED TO LAY A PROPER FOUNDATION BECAUSE THEY DID NOT ESTABLISH THAT THE PHOTOGRAPH WAS GENUINE AND THE COMPLAINANT DID NOT CONFIRM THAT THE GUN IN THE PHOTOGRAPH WAS THE SAME AS THAT USED IN THE ROBBERY; SUFFICIENCY OF THE EVIDENCE ESTABLISHING DEFENDANT'S IDENTITY AS THE MAN WHO ROBBED THE VICTIM AT GUNPOINT;

PRINCES POINT LLC v MUSS DEVELOPMENT LLC, et al.:

VENDOR AND PURCHASER - CONTRACT FOR SALE OF REAL PROPERTY - WHETHER PROSPECTIVE PURCHASER OF REAL PROPERTY COMMITS ANTICIPATORY BREACH OF CONTRACT BY COMMENCING AN ACTION AGAINST SELLERS FOR RESCISSION OF THE CONTRACT BEFORE THE CLOSING DATE - WHETHER SELLERS ARE REQUIRED TO ESTABLISH THAT THEY ARE READY, WILLING AND ABLE TO CLOSE AFTER BUYER'S ANTICIPATORY BREACH IN ORDER TO RETAIN THE DEPOSIT AND CERTAIN OTHER PAYMENTS AS LIQUIDATED DAMAGES;

PRINDLE (MICHAEL E.), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT FELONY OFFENDER - WHETHER THE INCREASE IN DEFENDANT'S PRESCRIBED MINIMUM TERM BASED ON HIS ADJUDICATION AS A PERSISTENT FELONY OFFENDER AND A JUDICIAL FINDING THAT "THE HISTORY AND CHARACTER OF THE DEFENDANT AND THE NATURE AND CIRCUMSTANCES OF HIS CRIMINAL CONDUCT ARE SUCH THAT EXTENDED INCARCERATION AND LIFETIME SUPERVISION OF THE DEFENDANT

ARE WARRANTED TO BEST SERVE THE PUBLIC INTEREST" (PENAL LAW § 70.10[2]) CONSTITUTES AN INCREASE IN THE PRESCRIBED MINIMUM PREDICATED ON NON-JURY FINDINGS IN VIOLATION OF APPENDI v NEW JERSEY (530 US 466 [2000]) OR ALLEYN v UNITED STATES (\_\_\_\_ US \_\_\_\_, 133 S Ct 2151 [2013]); CHALLENGE TO CONSTITUTIONALITY OF PENAL LAW § 70.10 AND CPL 400.20;

PS 157 LOFTS, LLC, et al. v AUSTIN, et al.:

MOTIONS AND ORDERS - CHALLENGE TO CIVIL COURT ORDER DETERMINING THAT WARRANT OF EVICTION MAY BE RE-EXECUTED AND GRANTING PETITIONER'S MOTION TO RENEW A PRIOR MOTION FOR USE AND OCCUPANCY TO THE EXTENT OF SCHEDULING A HEARING TO DETERMINE THE FAIR MARKET USE AND OCCUPANCY OF THE SUBJECT PREMISES - CLAIM THAT THE GRANT OF SUMMARY JUDGMENT TO PETITIONERS PURSUANT TO CPLR 3212 DEPRIVED RESPONDENTS OF THEIR CONSTITUTIONAL RIGHT TO A TRIAL BY JURY;

PULLMAN v SILVERMAN, et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - SUMMARY JUDGMENT - WHETHER DEFENDANT DOCTOR WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING COMPLAINT ALLEGING THAT DOCTOR'S NEGLIGENT ADMINISTRATION OF LIPITOR OR THE COMBINATION OF LIPITOR AND AZITHROMYCIN CAUSED PLAINTIFF'S ATRIOVENTRICULAR HEART BLOCK - WHETHER THE COURTS BELOW CORRECTLY HELD THAT PLAINTIFF FAILED TO SUBMIT EVIDENCE SUFFICIENT TO RAISE A TRIABLE ISSUE OF FACT THAT HIS EXPERTS' OPINIONS REGARDING PROXIMATE CAUSATION WERE GENERALLY ACCEPTED IN THE MEDICAL COMMUNITY - NECESSITY FOR PEER REVIEWED RESEARCH DIRECTLY ON POINT;

RAMSEY (NORMAN E.), PEOPLE v:

CRIMES - APPEAL - WHETHER DEFENDANT WAS REQUIRED TO SUBMIT AN AFFIDAVIT OF ERRORS UPON TAKING AN APPEAL TO COUNTY COURT, WHERE HE PROVIDED A TRANSCRIPT OF THE PROCEEDING DERIVED FROM AN AUDIO RECORDING OF THE UNDERLYING PROCEEDING INSTEAD OF A TRANSCRIPTION BY A COURT STENOGRAPHER - CPL 460.10(3);

RED ZONE LLC v CADWALADER, WICKERSHAM & TAFT, LLP:

ATTORNEY AND CLIENT - MALPRACTICE - ALLEGED NEGLIGENT DRAFTING OF AGREEMENT - WHETHER PLAINTIFF WAS ENTITLED TO SUMMARY JUDGMENT; LIMITATION OF ACTIONS - TOLLING - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE STATUTE OF LIMITATIONS WAS TOLLED BY THE CONTINUOUS REPRESENTATION DOCTRINE; WHETHER THE COURT'S BELOW ERRED IN DISMISSING DEFENDANT'S AFFIRMATIVE DEFENSE OF COMPARATIVE NEGLIGENCE;

REYNOLDS (BAASIL), PEOPLE v:

CRIMES - PLEA OF GUILTY - CONDITIONAL PLEA AGREEMENTS IN WHICH DEFENDANT AGREED TO SUBMIT TO A FURTHER SIX MONTH INCARCERATION PRIOR TO SENTENCING, AMONG OTHER THINGS; OUTLEY HEARING TO

DETERMINE VALIDITY OF DEFENDANT'S ARREST - WHETHER JUDGE ERRONEOUSLY APPLIED A PROBABLE CAUSE STANDARD INSTEAD OF DETERMINING WHETHER DEFENDANT'S ARREST WAS THE RESULT OF A FALSE OR MALICIOUS REPORT BY A COMPLAINANT;

RICKETTS (RICARDO), PEOPLE v:

CRIMES - RIGHT OF CONFRONTATION - ALLEGED VIOLATION OF RIGHT OF CONFRONTATION WHEN TRIAL COURT ALLOWED TWO UNDERCOVER POLICE OFFICERS TO TESTIFY ANONYMOUSLY WITHOUT THRESHOLD SHOWING OF NECESSITY FOR ANONYMOUS TESTIMONY; ALLEGED IMPROPER REMARKS MADE BY PROSECUTOR; SENTENCE - CLAIMED EXCESSIVE SENTENCE;

RIVERA, &c. v MONTEFIORE MEDICAL CENTER:

DISCLOSURE - SCOPE OF DISCLOSURE - MEDICAL EXPERT - ADEQUACY OF RESPONSE TO DEMAND FOR INFORMATION CONCERNING EXPERT WITNESS - CHALLENGE TO APPELLATE DIVISION HOLDING THAT TRIAL COURT PROPERLY DENIED AS UNTIMELY PLAINTIFF'S APPLICATION DURING TRIAL TO PRECLUDE DEFENDANT'S EXPERT FROM TESTIFYING THAT A SUDDEN HEART ATTACK, RATHER THAN PNEUMONIA, CAUSED DECEDENT'S DEATH ON GROUND THAT SUCH TESTIMONY CAME AS A SURPRISE BECAUSE DEFENDANT'S EXPERT DISCLOSURE STATEMENT PURSUANT TO CPLR 3101(d) LACKED SPECIFICITY AS TO EXPERT'S OPINION ON CAUSATION - WHETHER TRIAL MOTION WAS UNTIMELY BECAUSE PLAINTIFF FAILED TO OBJECT TO LACK OF SPECIFICITY IN DEFENDANT'S EXPERT DISCLOSURE STATEMENT UPON RECEIPT OF THAT DOCUMENT - WHETHER EXPERT TESTIMONY CONCERNING HEART ATTACK SHOULD HAVE BEEN PRECLUDED AS UNDULY SPECULATIVE;

RIVERA v DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT OF THE CITY OF NEW YORK:

LIENS - MECHANIC'S LIEN - VACATUR OR DISCHARGE - LIEN FOR LIVING EXPENSES OF RELOCATED TENANTS - WHETHER A COURT MAY SUMMARILY DETERMINE IF ASSERTEDLY UNREASONABLE CLAIMED EXPENSES RENDER A LIEN FACIALLY INVALID, OR WHETHER A FORECLOSURE TRIAL IS REQUIRED;

ROLLINS v FENCERS CLUB, INC., et al.:

CIVIL RIGHTS - DISCRIMINATION BASED ON AGE - DISCRIMINATION IN EMPLOYMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANTS WERE NOT ENTITLED TO SUMMARY JUDGMENT DISMISSING PLAINTIFF'S CLAIM OF AGE-BASED DISCRIMINATION IN VIOLATION OF THE NEW YORK CITY HUMAN RIGHTS LAW;

ROSHIA, JR. (JAMES M.), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - WHETHER COUNTY COURT ERRED IN DIRECTING DEFENDANT TO PROVIDE A BUCCAL SWAB - WHETHER GRAND JURY INDICTMENT PROVIDED THE REQUISITE PROBABLE CAUSE AND STATUTORY AUTHORITY FOR THE DIRECTION (CPL 240.40[2][b][v]); CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL BASED

ON INADEQUATE INVESTIGATION OF CASE, UNRESPONSIVENESS AND FAILURE TO KEEP DEFENDANT APPRISED OF CASE DEVELOPMENTS; WHETHER COUNTY COURT IMPROPERLY ORDERED DEFENDANT TO PAY RESTITUTION WITHOUT A HEARING;

ROSSBOROUGH (RONALD D.), PEOPLE v:

CRIMES - SENTENCE - VALIDITY OF DEFENDANT'S WAIVER OF HIS RIGHT TO BE PRESENT DURING SENTENCING; APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL INCLUDES DEFENDANT'S CONTENTION THAT COUNTY COURT ERRED IN SENTENCING HIM IN ABSENTIA;

JAMAL S., MATTER OF:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE SEARCH, WHICH INVOLVED REQUIRING THE JUVENILE TO REMOVE HIS SHOES WHILE HE WAS HELD IN TEMPORARY DETENTION PENDING HIS MOTHER'S ARRIVAL AT THE POLICE STATION, WAS REASONABLE;

S.L. (ANONYMOUS) v J.R. (ANONYMOUS):

PARENT, CHILD AND FAMILY - CUSTODY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT A CUSTODY DETERMINATION CAN BE MADE WITHOUT AN EVIDENTIARY HEARING ON THE BASIS THAT THE RECORD CONTAINS ADEQUATE RELEVANT INFORMATION; CLAIMED DUE PROCESS VIOLATION;

SCHULZ v STATE OF NEW YORK EXECUTIVE, &c., et al.:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER THE SUNY TAX-FREE AREAS TO REVITALIZE AND TRANSFORM UPSTATE NEW YORK PROGRAM (THE START-UP NY ACT) (L. 2013, Ch. 8) VIOLATES NEW YORK CONSTITUTION ARTICLE III, §§ 14 AND 17, ARTICLE VII, § 8(1), ARTICLE VIII, § 1, AND ARTICLE IX, § 2, AND ARTICLES I, V AND XIV OF THE FEDERAL CONSTITUTION; WHETHER THE UPSTATE NEW YORK GAMING AND DEVELOPMENT ACT (THE GAMING ACT) (L. 2013, Ch. 174) VIOLATES NEW YORK CONSTITUTION ARTICLES I, § 9 AND III, § 14, AND ARTICLES I, V AND XIV OF THE FEDERAL CONSTITUTION; CHALLENGE TO DISMISSAL OF CAUSES OF ACTION BASED ON CERTAIN AGREEMENTS FOR FAILURE TO JOIN NECESSARY PARTIES;

SIVERTSON (SHAWN J.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS ENTRY INTO RESIDENCE - WHETHER EXIGENT CIRCUMSTANCES JUSTIFIED THE WARRANTLESS ENTRY INTO DEFENDANT'S APARTMENT WHERE THE SUBJECT WEAPON WAS A KNIFE, NOT A GUN; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL BY FAILING TO OBJECT TO CERTAIN COMMENTS MADE BY THE PROSECUTOR DURING SUMMATION, INCLUDING THAT DEFENDANT'S SILENCE UPON HIS ARREST EVIDENCED HIS GUILT;

SINCERBEAUX (DENNIS J.), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER POINTS WERE IMPROPERLY ASSESSED UNDER RISK FACTOR 9 BECAUSE DEFENDANT'S CONVICTION FOR ENDANGERING THE WELFARE OF A CHILD WAS NOT SEXUAL IN NATURE, AND WHETHER THERE IS SUFFICIENT EVIDENCE TO SUPPORT THE IMPOSITION OF POINTS UNDER RISK FACTORS 1 AND 5;

60 EAST 12<sup>TH</sup> STREET TENANTS' ASSOCIATION, et al., MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (AND ANOTHER PROCEEDING):

LANDLORD AND TENANT - RENT REGULATION - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT AN "IRREGULARITY IN VITAL MATTERS" WARRANTED A REMAND TO THE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR); ADMINISTRATIVE LAW - COLLATERAL ESTOPPEL - CHALLENGE TO DHCR DETERMINATIONS CONCERNING MAJOR CAPITAL IMPROVEMENT (MCI) RENT INCREASE APPLICATION - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT COLLATERAL ESTOPPEL DID NOT PRECLUDE DHCR FROM CONSIDERING, ON REMAND, THE OWNER'S APPLICATION FOR AN MCI RENT INCREASE BASED ON RESURFACING WORK;

SLOCUM (MATTHEW A.), PEOPLE v:

CRIMES - CONFESSION - STATEMENTS MADE TO POLICE ON THE NIGHT OF DEFENDANT'S ARREST - WHETHER DEFENDANT UNEQUIVOCALLY INVOKED HIS RIGHT TO COUNSEL BEFORE BEING QUESTIONED BY POLICE - IF NOT, WHETHER POLICE WERE REQUIRED TO MAKE A FURTHER INQUIRY INTO DEFENDANT'S DESIRE TO HAVE COUNSEL REPRESENT HIM BEFORE QUESTIONING DEFENDANT ABOUT THE CRIMES - WHETHER STATEMENTS DEFENDANT MADE TO SOCIAL SERVICES CASEWORKER AFTER DEFENDANT'S RIGHT TO COUNSEL ATTACHED SHOULD HAVE BEEN SUPPRESSED UPON THE GROUND THAT THE CASE WORKER WAS ACTING AS AN AGENT OF LAW ENFORCEMENT - ASSUMING ALL OF DEFENDANT'S STATEMENTS SHOULD HAVE BEEN SUPPRESSED, WHETHER THE ERROR IN ADMITTING THEM WAS HARMLESS AS TO DEFENDANT'S ARSON CONVICTION;

SMALLING (OMAR A.), PEOPLE v:

CRIMES - INSTRUCTIONS - SUPPLEMENTAL INSTRUCTION - WHETHER SUPREME COURT ERRED WHEN IT GAVE A SUPPLEMENTAL INSTRUCTION REGARDING CONSTRUCTIVE POSSESSION OF A WEAPON IN RESPONSE TO A NOTE FROM THE JURY;

SMITH (CHARLES), PEOPLE v:

CRIMES - ROBBERY - FIRST DEGREE ROBBERY - WHAT CONSTITUTES "DISPLAY" OF FIREARM - WHETHER THE PROSECUTION PRESENTED LEGALLY SUFFICIENT EVIDENCE ESTABLISHING THAT DEFENDANT DISPLAYED WHAT APPEARED TO BE A FIREARM WHILE ATTEMPTING TO COMMIT A ROBBERY;

SMITH (CHARLES), PEOPLE v:

CRIMES - TRIAL - CROSS-EXAMINATION OF POLICE WITNESSES - USE OF FACTUAL ALLEGATIONS IN FEDERAL CIVIL RIGHTS LAWSUITS AGAINST ARRESTING OFFICERS TO SHOW THAT OFFICERS WERE ACCUSED OF FABRICATING CHARGES IN DRUG SALE CASES SIMILAR TO DEFENDANT'S CASE - LIMITATION OF CROSS EXAMINATION BASED UPON IRRELEVANT OR COLLATERAL MATTERS; INSTRUCTIONS - CIRCUMSTANTIAL EVIDENCE CHARGE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE TRIAL COURT PROPERLY DECLINED TO GIVE A CIRCUMSTANTIAL EVIDENCE CHARGE BECAUSE THE PEOPLE'S CASE WAS NOT BASED ENTIRELY ON CIRCUMSTANTIAL EVIDENCE;

SMITH (GLENN S.), PEOPLE v:

CRIMES - APPEAL - WHETHER DEFENDANT WAS REQUIRED TO SUBMIT AN AFFIDAVIT OF ERRORS UPON TAKING AN APPEAL TO APPELLATE TERM, WHERE DEFENDANT PROVIDED AN ELECTRONIC RECORDING OF THE UNDERLYING PROCEEDING INSTEAD OF A STENOGRAPHIC TRANSCRIPTION - CPL 460.10(3);

SMITH (RONI), PEOPLE v:

CRIMES - SENTENCE - SECOND VIOLENT FELONY OFFENDER - RETROACTIVE APPLICATION OF PEOPLE v CATU (4 NY3d 242 [2005]) - WHETHER A CONVICTION BY GUILTY PLEA WAS OBTAINED IN VIOLATION OF DEFENDANT'S RIGHTS UNDER THE FEDERAL CONSTITUTION AND THEREFORE COULD NOT BE COUNTED AS A PREDICATE FELONY (see CPL 400.15[7][b]), WHERE THE DEFENDANT WAS NOT ADVISED AT THE TIME OF THE PLEA THAT THE SENTENCE WOULD INCLUDE POSTRELEASE SUPERVISION AND THE PLEA WAS ACCEPTED BEFORE CATU WAS DECIDED - WHETHER DEFENDANT WAS PRECLUDED FROM RELYING ON CATU CHALLENGE TO INVALIDATE THE USE OF THE PRIOR CONVICTION AS A PREDICATE FELONY;

SOSA (WILLIAM), PEOPLE v:

CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WHETHER THE GUILTY PLEA WAS KNOWING, INTELLIGENT, AND VOLUNTARY UNDER PEOPLE v TYRELL (22 NY3d 359 [2013]) AND PEOPLE v CONCEICAO (26 NY3d 375 [2015]) WHERE THE DEFENDANT'S BOYKIN RIGHTS WERE NOT RECITED DURING THE PLEA COLLOQUY;

SPARKS (YUSUF), PEOPLE v:

CRIMES - JUSTIFICATION - WHETHER THE TRIAL COURT ERRED IN REFUSING TO INSTRUCT THE JURY ON DEFENDANT'S ASSERTED JUSTIFICATION DEFENSE; DEFENDANT'S TESTIMONY - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE TO CROSS EXAMINE DEFENDANT REGARDING A PRIOR, UNRELATED ROBBERY CONVICTION;

SPEAKS (LOUIS), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP - NO REQUIREMENT THAT LINEUP PARTICIPANTS BE NEARLY IDENTICAL TO DEFENDANT - WHETHER THE LINEUP IN WHICH DEFENDANT WAS IDENTIFIED BY A WITNESS

WAS UNDULY SUGGESTIVE; CRIMES - EVIDENCE - WHETHER THE ADMISSION OF TESTIMONY OF A DETECTIVE RECOUNTING DESCRIPTION OF PERPETRATOR GIVEN BY NONTESTIFYING AND TESTIFYING WITNESSES VIOLATED THE HEARSAY RULE OR DEFENDANT'S RIGHT OF CONFRONTATION; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE HIS ATTORNEY FAILED TO OBJECT TO THE PROSECUTOR'S ALLEGEDLY IMPROPER COMMENTS DURING SUMMATION;

SPENCER (DARRELL), PEOPLE v.:

CRIMES - JURORS - QUALIFICATION INQUIRY - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GRANT A MISTRIAL WHEN, ON THE FOURTH DAY OF DELIBERATIONS, AFTER DISCHARGE OF THE ALTERNATE JURORS, JUROR NUMBER ONE STATED THAT SHE COULD NOT "SEPARATE [HER] EMOTIONS FROM THE CASE" AND "D[ID NOT] HAVE IT IN [HER]" TO DECIDE THE CASE ON THE FACTS AND LAW; JURY INSTRUCTIONS - INTOXICATION CHARGE - PURPOSEFUL BEHAVIOR - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE AN INTOXICATION CHARGE IN LIGHT OF DEFENDANT'S PURPOSEFUL ATTEMPT TO CONCEAL THE DEATH OF THE VICTIM; SEARCH AND SEIZURE - KNOWINGLY AND VOLUNTARILY EXITING APARTMENT - WHETHER DEFENDANT'S WARRANTLESS ARREST WAS UNLAWFUL UNDER PAYTON v NEW YORK (445 US 573 [1980]);

STATE OF NEW YORK, MATTER OF v ANTHONY N.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - DIAGNOSIS OF BORDERLINE PERSONALITY DISORDER (BPD) - WHETHER BPD CAN CONSTITUTE A MENTAL ABNORMALITY REQUIRING CIVIL COMMITMENT;

STATE OF NEW YORK, MATTER OF v DENNIS K. (ANONYMOUS):

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE JURY FINDING THAT DENNIS K. HAD A MENTAL ABNORMALITY UNDER MENTAL HYGIENE LAW § 10.03(i) - ANTISOCIAL PERSONALITY DISORDER AND PARAPHILIA NOT OTHERWISE SPECIFIED NONCONSENT; CONFINEMENT REQUIRED - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE FINDING THAT DENNIS K. WAS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT; TRIAL - INSTRUCTIONS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, IN LIGHT OF SUPREME COURT'S JURY CHARGE, THE SUMMATION REMARKS BY THE ASSISTANT ATTORNEY GENERAL DID NOT DEPRIVE DENNIS K. OF A FAIR TRIAL, AND THAT SUPREME COURT DID NOT IMPROVIDENTLY EXERCISE ITS DISCRETION IN DECLINING TO GIVE THE SPECIFIC CHARGE REQUESTED BY COUNSEL FOR DENNIS K.; DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - PRECLUSION OF EXPERT TESTIMONY - WHETHER SUPREME COURT ERRED IN NOT PRECLUDING OR LIMITING THE TESTIMONY OF THE STATE'S EXPERT WITNESSES AT THE DISPOSITIONAL HEARING;



STATE OF NEW YORK, MATTER OF v FLOYD Y.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE JURY'S FINDING THAT RESPONDENT HAS SERIOUS DIFFICULTY CONTROLLING HIS SEXUAL MISCONDUCT UNDER MATTER OF STATE OF NEW YORK v DONALD DD. (24 NY3d 174 [2014]);

STATE OF NEW YORK, MATTER OF v RICHARD TT.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - SEX OFFENDER MANAGEMENT TREATMENT ACT (SOMTA) - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT SUPREME COURT ABUSED ITS DISCRETION IN GRANTING RESPONDENT'S MOTION TO VACATE ORDERS DETERMINING THAT RESPONDENT HAS A MENTAL ABNORMALITY AND WAS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT - SUFFICIENCY OF THE EVIDENCE OF MENTAL ABNORMALITY UNDER MATTER OF STATE OF NEW YORK v DONALD DD. (24 NY3d 174 [2014]);

STEPHENS (HARVERT), PEOPLE v:

CONSTITUTIONAL LAW - VALIDITY OF ORDINANCE - WHETHER A SYRACUSE NOISE CONTROL ORDINANCE WAS UNCONSTITUTIONALLY VAGUE UNDER PEOPLE v NEW YORK TRAP ROCK CORP. (57 NY2d 371 [1982]);

STONE (JOHN), PEOPLE v:

CRIMES - TRIAL - MISTRIAL - WHETHER MOTION FOR MISTRIAL WAS PROPERLY DENIED WHERE THE TRIAL COURT STRUCK AND INSTRUCTED THE JURY TO DISREGARD TESTIMONY BY INVESTIGATING DETECTIVE THAT, AFTER INTERVIEWING DEFENDANT'S WIFE, A WITNESS TO THE CRIME WHO DID NOT TESTIFY AT TRIAL, THE DETECTIVE CONDUCTED SEVERAL COMPUTER CHECKS ON DEFENDANT, "THE PERSON THAT HAD BEEN INDICATED AS A SUSPECT" - PREJUDICIAL EFFECT OF TESTIMONY; VERDICT - SETTING VERDICT ASIDE - ALLEGED JURY MISCONDUCT - WHETHER THE TRIAL COURT ERRED IN DENYING MOTION TO SET ASIDE VERDICT BASED UPON STATEMENTS MADE BETWEEN COMPLAINANT AND A JUROR WITHOUT HOLDING A HEARING - CPL 330.40(2)(c-e);

STONEHILL CAPITAL MANAGEMENT, LLC v BANK OF THE WEST:

CONTRACTS - FORMATION OF CONTRACT - OFFER AND ACCEPTANCE - WHETHER DEFENDANT BANK OF THE WEST CLEARLY AND UNEQUIVOCALLY ACCEPTED PLAINTIFFS' OFFER TO PURCHASE A LOAN WHERE DEFENDANT STATED THAT IT WOULD NOT BE BOUND WITHOUT AN EXECUTED WRITING;

SUIT-KOTE CORPORATION, MATTER OF v RIVERA, &c.:

LABOR - PREVAILING RATE OF WAGES - WHETHER RESPONDENT COMMISSIONER OF LABOR MUST DETERMINE IN THE FIRST INSTANCE THAT AT LEAST 30% OF WORKERS IN THE RELEVANT TRADE AND LOCALITY ARE SUBJECT TO THE COLLECTIVE BARGAINING AGREEMENTS USED TO ESTABLISH PREVAILING WAGES AND SUPPLEMENTAL BENEFITS - WHETHER THE METHOD RESPONDENT USED IN SETTING THE PREVAILING WAGES AND SUPPLEMENTAL

BENEFITS AT ISSUE RENDERED RESPONDENT'S DETERMINATION ARBITRARY AND CAPRICIOUS, AN ABUSE OF DISCRETION, OR AFFECTED BY AN ERROR OF LAW; DISCLOSURE - WHETHER SUPREME COURT ABUSED ITS DISCRETION IN DENYING EMPLOYER'S REQUEST FOR DISCLOSURE PURSUANT TO CPLR 408;

SUTTNER, &c. v A.W. CHESTERTON COMPANY et al.:

PRODUCTS LIABILITY - FAILURE TO WARN OF DANGER - WHETHER THE COURTS BELOW ERRED IN HOLDING THAT VALVE MANUFACTURER HAD A DUTY TO WARN OF THE DANGERS INHERENT IN THE USE OF ASBESTOS-CONTAINING GASKETS THAT WERE COMPONENTS OF THE VALVES, BUT WHICH DEFENDANT DID NOT MANUFACTURE OR SELL;

TARDI (WILSON J.), PEOPLE v:

CRIMES - SUPPRESSION HEARING - EVIDENCE SEIZED FROM VEHICLE WHICH WAS IMPOUNDED AFTER DEFENDANT'S ARREST AND SUBJECTED TO INVENTORY SEARCH PURSUANT TO POLICE DEPARTMENT'S WRITTEN POLICY; CLAIMED UNCONSTITUTIONALITY OF SEARCH AND POLICE POLICY;

TAVERAS v 1149 WEBSTER REALTY CORP., et al.:

NEGLIGENCE - MAINTENANCE OF PREMISES - DEFECTIVE CONDITION ON RAMP LEADING FROM SIDEWALK TO STORE ENTRANCEWAY - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANTS FAILED TO MEET THEIR INITIAL BURDEN OF ESTABLISHING, PRIMA FACIE, THEIR ENTITLEMENT TO SUMMARY JUDGMENT BASED ON THE ASSERTION THAT PLAINTIFF COULD NOT IDENTIFY THE DEFECT THAT CAUSED HIM TO FALL;

THEN (RAFAEL), PEOPLE v:

CRIMES - FAIR TRIAL - WHETHER DEFENDANT WAS DEPRIVED OF HIS RIGHT TO A FAIR TRIAL WHEN HE APPEARED WEARING ORANGE PRISON PANTS DURING JURY SELECTION; WHETHER SUPREME COURT ERRED IN ADMITTING TESTIMONY THAT DEFENDANT POSSESSED A GUN DURING THE MONTH OF THE CRIME; WHETHER THE PROSECUTOR'S SUMMATION DEPRIVED DEFENDANT OF A FAIR TRIAL;

THREE AMIGOS SJL REST., INC., v CBS NEWS, INC., et al.:

LIBEL AND SLANDER - ACTIONABLE WORDS - WHETHER DEFENDANTS' MOTION TO DISMISS LIBEL CLAIMS ASSERTED BY CERTAIN INDIVIDUAL PLAINTIFFS WAS PROPERLY GRANTED UPON THE GROUND THAT THE CHALLENGED STATEMENTS WERE NOT "OF AND CONCERNING" THOSE PLAINTIFFS;

MATTER OF 381 SEARCH WARRANTS DIRECTED TO FACEBOOK, INC.;

FACEBOOK v NEW YORK COUNTY DISTRICT ATTORNEY'S OFFICE:

CRIMES - SEARCH WARRANT - WARRANT SERVED ON ONLINE SOCIAL NETWORKING SITE - PRE-ENFORCEMENT CHALLENGE ON BEHALF OF TARGET OF WARRANT - WHETHER FACEBOOK, AN ONLINE SOCIAL NETWORKING SERVICE, SERVED WITH A WARRANT FOR CUSTOMER ACCOUNTS, CAN LITIGATE PRIOR TO ENFORCEMENT THE CONSTITUTIONALITY OF THE WARRANT ON ITS CUSTOMERS' BEHALF; COURTS - APPEALS - APPEALABLE PAPERS;

TONAWANDA SENECA NATION, MATTER OF v NOONAN:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CPLR ARTICLE 78 PROCEEDING BROUGHT IN APPELLATE DIVISION TO PROHIBIT SURROGATE FROM EXERCISING JURISDICTION OVER REAL PROPERTY SITUATED WITHIN TERRITORY OF INDIAN NATION - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT THE PROCEEDING SHOULD HAVE BEEN COMMENCED IN SUPREME COURT;

230 PARK AVENUE HOLDCO, LLC v KURZMAN KARELSEN & FRANK, LLP:

LANDLORD AND TENANT - LEASE - RIGHT TO SUBLEASE OR ASSIGN - WHETHER THE COURTS BELOW PROPERLY INTERPRETED A STIPULATION OF SETTLEMENT AS GRANTING THE TENANT THE RIGHT TO LOCATE PROSPECTIVE TENANTS FOR THE PREMISES; WHETHER THE COURTS BELOW CORRECTLY CONCLUDED THAT TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE LANDLORD BREACHED THE STIPULATION;

TURTURRO, et al. v CITY OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - WHETHER THE MUNICIPAL DEFENDANT ESTABLISHED ITS ENTITLEMENT TO QUALIFIED IMMUNITY FOR ITS TRAFFIC PLANNING DECISION REGARDING A ROADWAY FOR WHICH IT HAD RECEIVED COMPLAINTS OF SPEEDING AND LACK OF TRAFFIC SIGNALS - WHETHER PLAINTIFFS FAILED TO ESTABLISH THAT ANY ACT OR OMISSION BY THE MUNICIPAL DEFENDANT WAS A PROXIMATE CAUSE OF THE INJURIES TO AN INFANT PLAINTIFF HIT BY A SPEEDING CAR; WHETHER PLAINTIFFS WERE PROPERLY ALLOWED TO ADDRESS AT TRIAL THE MANNER IN WHICH THE MUNICIPAL DEFENDANT RESPONDED TO COMPLAINTS OF SPEEDING AS A LAW ENFORCEMENT MATTER;

VALENTIN (CARLOS), PEOPLE v:

CRIMES - JUSTIFICATION - INITIAL AGGRESSOR EXCEPTION TO JUSTIFICATION DEFENSE (PENAL LAW § 35.15 [1][b]) - WHETHER THE TRIAL COURT ERRED IN INCLUDING IN THE JURY CHARGE THE INITIAL AGGRESSOR EXCEPTION TO THE JUSTIFICATION DEFENSE - TESTIMONY RAISING AN ISSUE OF FACT AS TO WHETHER DEFENDANT WAS THE FIRST TO USE, OR THREATEN TO USE, DEADLY PHYSICAL FORCE - DEFENDANT SHOT VICTIM SWINGING A MOP HANDLE;

VALENTIN (JOSE), PEOPLE v:

CRIMES - AGENCY DEFENSE IN NARCOTICS PROSECUTION - RIGHT OF REBUTTAL - WHETHER THE PEOPLE ARE PERMITTED TO INTRODUCE EVIDENCE OF A PRIOR CONVICTION WHEN A DEFENDANT ASSERTS AN AGENCY DEFENSE BY ADOPTING PORTIONS OF THE PEOPLE'S EVIDENCE THAT SUPPORT THAT DEFENSE, RATHER THAN BY TESTIFYING OR OTHERWISE ELICITING EVIDENCE FROM DEFENSE WITNESSES; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

VILLAR v HOWARD:

MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - NOTICE NOT REQUIRED FOR CLAIM AGAINST SHERIFF ARISING OUT OF SEXUAL ASSAULT OF INMATE - NO DUTY BY COUNTY TO INDEMNIFY SHERIFF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF WAS NOT REQUIRED TO SERVE A NOTICE OF CLAIM UNDER GENERAL MUNICIPAL LAW § 50-e; NEGLIGENCE - DUTY - DUTY TO PROTECT INMATE FROM SEXUAL ASSAULT BY FELLOW JAIL INMATE - POTENTIAL LIABILITY FOR DEPUTIES' NEGLIGENT TRAINING AND SUPERVISION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT OWED A DUTY OF CARE TO PLAINTIFF; SHERIFFS AND CONSTABLES - LIABILITY FOR NEGLIGENCE - SEXUAL ASSAULT OF JAIL INMATE - NO IMMUNITY OWING TO ALLEGEDLY DISCRETIONARY ACTS OF SHERIFF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE ISSUE WHETHER DEFENDANT'S ALLEGED ACTS OF NEGLIGENCE WERE DISCRETIONARY AND THUS IMMUNE FROM LIABILITY CONSTITUTED A FACTUAL QUESTION THAT CANNOT BE DETERMINED AT THE PLEADING STAGE;

VINING (GREGORY), PEOPLE v:

EVIDENCE - ADMISSION AGAINST INTEREST - ADMISSION BY SILENCE - WHETHER A RECORDING OF A PHONE CALL PLACED BY DEFENDANT FROM PRISON TO COMPLAINANT, IN WHICH DEFENDANT WAS SILENT IN THE FACE OF COMPLAINANT'S ACCUSATION OF PHYSICAL ABUSE, WAS PROPERLY ADMITTED AGAINST DEFENDANT AS AN ADOPTIVE ADMISSION BY SILENCE; CLAIMED VIOLATION OF CONSTITUTIONAL RIGHTS;

VIRUET (MIGUEL), PEOPLE v:

CRIMES - INSTRUCTIONS - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE AN ADVERSE INFERENCE CHARGE TO THE JURY AFTER THE POLICE LOST A SURVEILLANCE VIDEO THAT HAD SOME RELEVANCE TO THE SHOOTING AT ISSUE - MISSING EVIDENCE;

WARRINGTON (BRANDON), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION TO DISMISS PROSPECTIVE JUROR NO. 383 FOR CAUSE - WHETHER TRIAL COURT ELICITED A "PERSONAL, UNEQUIVOCAL ASSURANCE OF IMPARTIALITY" AFTER JUROR NO. 383 VOLUNTEERED A DIFFICULTY BEING FAIR IN THE TRIAL INVOLVING A FIVE-YEAR-OLD VICTIM;

WESTCHESTER JOINT WATER WORKS, MATTER OF v ASSESSOR OF CITY OF RYE, et al.:

TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW ARTICLE 7 PROCEEDINGS TO REVIEW ASSESSMENTS ON TWO PARCELS OF REAL PROPERTY, ONE LOCATED WHOLLY WITHIN THE RYE NECK DISTRICT AND ONE WHOLLY LOCATED IN THE RYE CITY SCHOOL DISTRICT - NOTICE OF THE PROCEEDINGS INITIALLY GIVEN ONLY TO THE SUPERINTENDENT OF THE CITY SCHOOL DISTRICT - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT THE DISMISSAL OF THE PROCEEDINGS PURSUANT TO RPTL 708(3) PRECLUDED CPLR 205(a) RELIEF TO RECOMMENCE THE PROCEEDINGS;

WHITEHEAD, JR. (NORMAN), PEOPLE v:

CRIMES - SUFFICIENCY OF THE EVIDENCE - CONTROLLED SUBSTANCES - WHETHER THE EVIDENCE WAS SUFFICIENT TO ESTABLISH DEFENDANT'S POSSESSION AND SALE OF COCAINE WHERE NONE OF THE SUBSTANCE WAS AVAILABLE FOR TESTING AND THE EVIDENCE ESTABLISHING THE NATURE OF THE SUBSTANCE POSSESSED AND SOLD BY DEFENDANT WAS TESTIMONY BY A CO-CONSPIRATOR'S CLIENT ABOUT THE EFFECTS OF THE SUBSTANCE; CONSPIRACY - CRIMINAL SALE OF CONTROLLED SUBSTANCE - ALLEGED DUPLICITOUS COUNTS; WHETHER DEFENDANT WAS DEPRIVED OF A FAIR HEARING BY THE PEOPLE'S COMMENTS AT OPENING AND SUMMATION; JURY INSTRUCTIONS - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE A CIRCUMSTANTIAL EVIDENCE CHARGE TO THE JURY;

WHITEHEAD v STATE OF NEW YORK:

APPEAL - CHALLENGE TO APPELLATE DIVISION ORDER THAT, AMONG OTHER THINGS, DENIED APPELLANT'S RENEWED MOTION, IN EFFECT, TO WAIVE PAYMENT OF THE FILING FEE AND FOR FREE TRANSCRIPTS ON AN APPEAL FROM A COURT OF CLAIMS ORDER GRANTING THE STATE'S MOTION TO DISMISS APPELLANT'S CLAIM AS UNTIMELY;

WILLIAMS, MATTER OF v DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION:

CRIMES - SEX OFFENDERS - RESIDENCY RESTRICTIONS - WHETHER THE MANDATORY BUFFER ZONE CONTAINED IN THE SEXUAL ASSAULT REFORM ACT (EXECUTIVE LAW § 259-c[14]), WHICH PROHIBITS SEX OFFENDER PAROLEES FROM RESIDING OR TRAVELING WITHIN 1000 FEET OF SCHOOLS OR OTHER INSTITUTIONS WHERE CHILDREN CONGREGATE, VIOLATES THE EX POST FACTO CLAUSE OF THE FEDERAL CONSTITUTION, AND DEPRIVES HIM OF HIS RIGHT TO TRAVEL AND TO SUBSTANTIVE DUE PROCESS UNDER THE FEDERAL AND STATE CONSTITUTIONS;

WILLIAMS, &c., et al. v STATE OF NEW YORK:

STATE - CLAIM AGAINST STATE - PERMISSION TO FILE LATE CLAIM DENIED - WHETHER THE COURT OF CLAIMS ABUSED ITS DISCRETION IN DENYING THAT PART OF CLAIMANTS' MOTION SEEKING PERMISSION TO FILE A LATE CLAIM BASED ON A CONSTITUTIONAL TORT THEORY OR A NEGLIGENT TRAINING THEORY;

WILLIAMS (LEONARD), PEOPLE v:

CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - WHETHER POWER POINT PRESENTATION USED BY PROSECUTOR IN SUMMATION DEPRIVED DEFENDANT OF A FAIR TRIAL - MISCHARACTERIZATION OF TRIAL EVIDENCE - CURATIVE INSTRUCTIONS; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO OBJECT TO VARIOUS COMMENTS DURING PROSECUTOR'S SUMMATION;

WILSON (CHARLES K.), PEOPLE v:

CRIMES - CONFESSION - VOLUNTARY NATURE OF STATEMENTS - WHETHER THE PEOPLE SHOULD HAVE BEEN PRECLUDED FROM CROSS-EXAMINING DEFENDANT WITH STATEMENTS HE MADE TO POLICE AFTER INVOKING HIS MIRANDA RIGHTS - CLAIM THAT POLICE UNLAWFULLY CONTINUED TO QUESTION DEFENDANT KNOWING THAT HIS POST-MIRANDA STATEMENTS COULD BE USED FOR IMPEACHMENT PURPOSES; IDENTIFICATION OF DEFENDANT - PHOTOGRAPHIC ARRAY - INCLUSION OF SINGLE SUSPECT'S PHOTOGRAPH IN SUCCESSIVE ARRAYS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT IDENTIFICATION EVIDENCE DID NOT HAVE TO BE SUPPRESSED WHERE DIFFERENT PHOTOGRAPHS OF DEFENDANT WERE USED IN EACH PHOTO ARRAY AND WERE PLACED IN A DIFFERENT LOCATION WITHIN EACH ARRAY, AND THE FILLERS WERE VERY SIMILAR IN APPEARANCE TO DEFENDANT;

WILSON v DANTAS, et al.:

COURTS - JURISDICTION - LONG-ARM JURISDICTION - INTERNATIONAL FINANCIAL TRANSACTION - TRANSACTION OF BUSINESS IN NEW YORK - EXECUTION OF CONTRACTS IN NEW YORK - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE COMPLAINT SUFFICIENTLY ALLEGED THAT DEFENDANTS TRANSACTED BUSINESS IN NEW YORK AND THAT PLAINTIFF'S CAUSES OF ACTION ARISE FROM DEFENDANTS' NEW YORK CONTACTS - WHETHER THE APPELLATE DIVISION CORRECTLY REJECTED DEFENDANTS' CONTENTION THAT THE ACTION SHOULD BE DISMISSED ON THE GROUND OF FORUM NON CONVENIENS;

WOODSIDE MANOR NURSING HOME, MATTER OF v SHAH:

HEALTH - MEDICAID REIMBURSEMENT RATES - WHETHER (1) PUBLIC HEALTH LAW § 2808(17)(b), WHICH ESTABLISHED A MORATORIUM AND CAP ON THE DEPARTMENT OF HEALTH'S REVISION OF MEDICAID RATE APPEALS BY RESIDENTIAL HEALTH CARE FACILITIES, APPLIES RETROACTIVELY TO RATE APPEALS FILED PRIOR TO ITS ENACTMENT; (2) RETROACTIVE APPLICATION UNCONSTITUTIONALLY DEPRIVES PETITIONERS OF VESTED PROPERTY RIGHTS; AND (3) PETITIONERS ARE ENTITLED UNDER STATE AND FEDERAL LAWS AND REGULATIONS TO A WRIT OF MANDAMUS COMPELLING DETERMINATION OF THEIR RATE APPEALS;

WRIGHT (GARY), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - ACTUAL OR POTENTIAL CONFLICT OF INTEREST - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT (1) DEFENDANT FAILED TO SHOW THAT AN ACTUAL CONFLICT OF INTEREST EXISTED BETWEEN HIS DEFENSE COUNSEL AND THE ALBANY COUNTY DISTRICT ATTORNEY, WHOSE OFFICE WAS PROSECUTING DEFENDANT, (2) EVEN ASSUMING THE EXISTENCE OF A POTENTIAL CONFLICT OF INTEREST, DEFENDANT FAILED TO SHOW THAT ANY SUCH CONFLICT OPERATED ON HIS DEFENSE, AND (3) COUNTY COURT WAS NOT REQUIRED TO DISQUALIFY THE DISTRICT ATTORNEY'S OFFICE IN ANY FURTHER PROCEEDINGS THAT MAY OCCUR IN THIS CASE; EFFECT OF DISTRICT ATTORNEY'S FAILURE TO FILE AN AFFIDAVIT IN RESPONSE TO DEFENDANT'S CPL 440 MOTION;

WRIGHT (PHILLIP), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - WHETHER THE ADJUDICATION OF DEFENDANT AS A PERSISTENT FELONY OFFENDER WAS BASED ON NON-JURY FINDINGS IN VIOLATION OF THE RULE SET FORTH IN APPENDI v NEW JERSEY (530 US 466) AND ITS PROGENY; JURORS - WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S CHALLENGES FOR CAUSE TO THREE PROSPECTIVE JURORS - FAILURE TO OBTAIN UNEQUIVOCAL ASSURANCES FROM JURORS REGARDING IMPARTIALITY;

MATTER OF YOGA VIDA NYC, INC. v COMMISSIONER OF LABOR:

UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - SUFFICIENT CONTROL OVER INSTRUCTORS TO CREATE EMPLOYMENT RELATIONSHIP - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE BOARD'S DETERMINATION THAT NON-STAFF INSTRUCTORS, WHO TAUGHT YOGA CLASSES AT BOTH YOGA VIDA AND OTHER VARIOUS LOCATIONS, WERE IN FACT YOGA VIDA'S EMPLOYEES RATHER THAN INDEPENDENT CONTRACTORS, THUS REQUIRING YOGA VIDA TO MAKE ADDITIONAL UNEMPLOYMENT INSURANCE CONTRIBUTIONS;

YOUNG (TERRENCE), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - PEOPLE'S SECOND STATEMENT OF READINESS NOT ILLUSORY - WHETHER THE PEOPLE'S SUBSEQUENT STATEMENT OF UNREADINESS RENDERED THEIR SECOND OFF-CALENDAR CERTIFICATE OF READINESS ILLUSORY; WHETHER THE TRIAL-COURT ERRED IN CURTAILING DEFENSE COUNSEL'S CROSS-EXAMINATION OF A POLICE WITNESS;

JOHN Z., MATTER OF (COMMISSIONER OF MENTAL HEALTH; JOHN Z.):

MENTAL HEALTH - PATIENT IN CUSTODY OF COMMISSIONER OF MENTAL HEALTH - WHETHER A DIAGNOSIS OF ANTISOCIAL PERSONALITY DISORDER WITH NARCISSISTIC AND PARANOID FEATURES IS SUFFICIENT AS A MATTER OF LAW TO JUSTIFY CIVIL CONFINEMENT OF PRISONER AFTER EXPIRATION OF HIS PRISON SENTENCE PURSUANT TO CPL 330.20; CLAIMED DUE PROCESS VIOLATION;