

October 9, 2009

NEW FILINGS DIGEST - QUARTERLY 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.

ABNEY (QUENTIN), PEOPLE v: (Cal. Date - 9/16/09)
CRIMES AND CRIMINAL PROCEDURE - IDENTIFICATION OF DEFENDANT -
EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS -
PEOPLE v LEGRAND (8 NY3d 449); ALLEGED ERROR IN ADMITTING INTO
EVIDENCE CERTAIN SCHOOL LOGBOOKS;

ACEVEDO (STEVEN), PEOPLE v:
CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - DRUG LAW
REFORM ACT OF 2004 (DLRA) (L 2004, CH 738, § 23) - WHETHER A
COURT ENGAGING IN A RESENTENCING UNDER THE DLRA HAS AUTHORITY TO
RECONSIDER THE ORIGINAL SENTENCING COURT'S CONSECUTIVE SENTENCING
DETERMINATION AND DIRECT THAT SENTENCES ON FELONY DRUG
CONVICTIONS RUN CONCURRENTLY WITH SENTENCES ON NON-DRUG FELONY
CONVICTIONS; APPEALABILITY OF APPELLATE DIVISION ORDER AFFIRMING
THE GRANT OF AN APPLICATION FOR RESENTENCING;

ADAIR, et al. v MUNICIPAL UTILITY COMMISSION OF THE VILLAGE OF
BATH, et al.:
CONTRACT - BREACH OF CONTRACT ACTION AGAINST EMPLOYER BY RETIRED
EMPLOYEES ALLEGING IMPROPER CHANGE OF HEALTH INSURANCE COVERAGE -
WHETHER RETIREES WERE OBLIGATED TO USE THE GRIEVANCE PROCEDURE
UNDER THE COLLECTIVE BARGAINING AGREEMENT; ARBITRATION; DISMISSAL
AND NONSUIT;

ADAMS v GENIE INDUSTRIES, INC.:
PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - CONTINUING
DUTY OF PRODUCT MANUFACTURER TO REMEDY OR PROVIDE WARNING OF
DANGEROUS DEFECTS BROUGHT TO ITS ATTENTION AFTER THE SALE OF SUCH
PRODUCT - SAFER ALTERNATIVE DESIGN;

AFFRI v BASCH: (Cal. Date - 10/20/09)
LABOR - SAFE PLACE TO WORK - HOMEOWNER'S EXEMPTION - WHETHER
DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT BASED ON APPLICATION
OF THE HOMEOWNER EXEMPTION IN LABOR LAW § 240(1) - EXISTENCE OF
FACT ISSUES AS TO WHETHER DEFENDANTS EXERCISED SUPERVISORY
CONTROL OVER WORK;

ALEMANY (MIGUEL), PEOPLE &c.: (Cal. Date - 10/13/09)
CRIMES AND CRIMINAL PROCEDURE - SEX OFFENDERS - SEX OFFENDER
REGISTRATION ACT (SORA) - CONSIDERATION OF THE UNCERTAINTY OF
DEFENDANT'S LIVING SITUATION;

ALLEN (GREGORY), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - PEOPLE v LEGRAND (8 NY3d 449); CLAIMED UNDULY SUGGESTIVE LINEUP; CLAIMED ERROR IN JURY INSTRUCTIONS; BATSON CHALLENGE TO JURY CHALLENGES BY PROSECUTION;

AMERICAN STANDARD, INC. v OAKFABCO, INC., &c.:

PRODUCTS LIABILITY - LIABILITY OF MANUFACTURER'S SUCCESSOR CORPORATION - WHETHER AN ASSUMPTION OF LIABILITY CLAUSE APPLIED ONLY TO TORT CLAIMS ACTUALLY ASSERTED BEFORE THE DATE OF THE AGREEMENT OR EXTENDED TO ALL TORT CLAIMS BY PLAINTIFFS INJURED BY BOILERS SOLD OR INSTALLED BEFORE 1970 - ALLEGED CONFLICT BETWEEN APPELLATE DIVISION DECISION AND HOWARD ASSOCS. v GENERAL HOUSEWARES CORP. (63 NY2d 291) - DEFENDANT PERMANENTLY ENJOINED FROM RELITIGATING ITS ASSUMPTION OF LIABILITY IN ANY FORUM; DENIAL OF CROSS MOTION FOR A DECLARATORY JUDGMENT UPON THE GROUNDS THAT DEFENDANT DID NOT PLEAD ANY COUNTERCLAIMS FOR DECLARATORY RELIEF AND THAT, IN ANY EVENT, THE CROSS MOTION DID NOT PRESENT A JUSTICIABLE CONTROVERSY;

ANONYMOUS, MATTER OF, AN APPLICANT FOR ADMISSION TO THE BAR:

ATTORNEY AND CLIENT - ADMISSION TO PRACTICE - CHALLENGE TO APPELLATE DIVISION ORDER DENYING APPLICATION FOR ADMISSION TO THE BAR;

ARAFET (NASIN), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - PROOF OF OTHER HIJACKINGS OF TRACTOR TRAILERS AND THEFTS OF THEIR CARGO - WHETHER PROOF OF SIMILAR MODUS OPERANDI IN TWO OTHER HIJACKINGS WAS ADMISSIBLE IN THIS CASE; CELL PHONE RECORDS;

ARTS4ALL v HANCOCK:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - STRIKING OF PLEADINGS FOR NONCOMPLIANCE WITH DISCLOSURE ORDERS (CPLR 3126[3]) - REQUEST FOR SIGNED TRANSCRIPTS REFLECTING SUPREME COURT'S ORAL ORDERS;

ASHLAND MANAGEMENT, INC. v ALTAIR INVESTMENTS NA, LLC et al.:

MASTER AND SERVANT - ENFORCEABILITY OF CONFIDENTIALITY AGREEMENT IN EMPLOYMENT CONTRACT - BREACH OF FIDUCIARY DUTY;

ASSI (MAZIN), PEOPLE v:

CRIMES - HATE CRIMES - WHETHER HATE CRIMES ACT OF 2000 APPLIES TO CRIMES DIRECTED AT BUILDINGS - MOLOTOV COCKTAIL THROWN AGAINST DOOR OF SYNAGOGUE - WHETHER CRIME TOOK PLACE BEFORE OR AFTER EFFECTIVE DATE OF THE STATUTE; JURORS - PEOPLE'S ALLEGED INTENTIONAL EXCLUSION OF YOUNG ADULTS FROM THE JURY;

ATTEA, MATTER OF v TAX APPEALS TRIBUNAL, et al.:

TAXATION - PERSONAL INCOME TAX - ARTICLE 78 PROCEEDING TO REVIEW RESPONDENT TAX APPEALS TRIBUNAL'S DETERMINATION SUSTAINING A PERSONAL INCOME TAX ASSESSMENT IMPOSED AGAINST PETITIONERS UNDER TAX LAW ARTICLE 22 - FEDERALLY LICENSED INDIAN TRADER INVOLVED IN WHOLESALE TOBACCO SALES; PROCEEDING AGAINST OFFICER OR BODY;

AWARDS.COM et al v KINKO'S, INC., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - MATERIALITY OF DEFAULT - FAILURE TO MAKE ONE PAYMENT OF MONTHLY FEE - LOST PROFITS - PARTIES' CONTEMPLATION OF LOST PROFITS AS A POTENTIAL BASIS FOR DAMAGES IN THE EVENT OF BREACH - SPECULATIVE NATURE OF SUCH DAMAGES;

AYERS v O'BRIEN et al.: (Cal. Date 11/18/09)

NEGLIGENCE - EXEMPTION FROM LIABILITY FOR PERSON ENGAGED IN EMERGENCY OPERATION OF AN AUTHORIZED VEHICLE - VEHICLE AND TRAFFIC LAW §§ 101, 114-b AND 1104 - MOTION BY PLAINTIFF DEPUTY SHERIFF TO DISMISS AFFIRMATIVE DEFENSE ASSERTED BY DEFENDANTS ALLEGING THAT PLAINTIFF'S OWN CULPABLE CONDUCT CAUSED OR CONTRIBUTED TO HIS DAMAGES;

BRANDY B. &c. v EDEN CENTRAL SCHOOL DISTRICT, et al.:

NEGLIGENCE - FORESEEABILITY - NOTICE OF DANGEROUS CONDUCT OF STUDENT WHO SEXUALLY ASSAULTED PLAINTIFF MINOR ON A SCHOOL BUS; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUE OF FACT;

BACKUS (DEREK), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CONCURRENT AND CONSECUTIVE ONE-YEAR TERMS - APPROPRIATE CORRECTIVE ACTION WHERE APPELLATE COURT VACATES AN ILLEGAL SENTENCE ENTERED ON A CONVICTION FOLLOWING A GUILTY PLEA WHERE DEFENDANT HAS SERVED ONE YEAR OF HIS SENTENCE - REMITTAL FOR FURTHER PROCEEDINGS INCLUDING RESENTENCING OR MOTION BY PEOPLE TO VACATE THE PLEA AND SET ASIDE THE CONVICTION AS OPPOSED TO MODIFICATION BY APPELLATE COURT TO DIRECT THAT ILLEGAL CONSECUTIVE SENTENCES RUN CONCURRENTLY;

BAKER, JR. (AVERY V.), PEOPLE v.:

CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - PEOPLE'S DISPLAY DURING SUMMATION OF COMPUTER SLIDES WITH VERBATIM STATUTORY DEFINITIONS OF RECKLESSNESS AND DEPRAVED INDIFFERENCE; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO OBJECT TO SUBMISSION OF THREE HOMICIDE COUNTS TO JURY THAT ALLEGEDLY RESULTED IN AN INCONSISTENT VERDICT; RIGHT TO PUBLIC TRIAL - EXCLUSION FROM COURTROOM OF THE MOTHER OF DEFENDANT'S CHILDREN WHERE DEFENDANT LISTED HER AS A POTENTIAL WITNESS BUT ULTIMATELY DECIDED NOT TO CALL HER AS A WITNESS;

BALLMAN (DANIEL J.), PEOPLE v:

CRIMES - PROOF OF PRIOR CONVICTIONS - DRIVING WHILE INTOXICATED (DWI) - WHETHER A PRIOR OUT-OF-STATE CONVICTION FOR DRIVING UNDER THE INFLUENCE OF ALCOHOL OR DRUGS COULD BE USED TO ELEVATE DEFENDANT'S DWI TO A FELONY - INTERPRETATION OF 2006 AMENDMENT TO VEHICLE AND TRAFFIC LAW § 1192; DEFENDANT'S SUPPRESSION MOTION - WHETHER POLICE HAD PROBABLE CAUSE TO ARREST DEFENDANT OR KEEP HIM IN CUSTODY - INVESTIGATIVE DETENTION;

BALZARINI, MATTER OF v SUFFOLK COUNTY DEPARTMENT OF SOCIAL SERVICES:

SOCIAL SERVICES - MEDICAL ASSISTANCE - COMMUNITY SPOUSE INCOME ALLOWANCE - MEANING OF "EXCEPTIONAL CIRCUMSTANCES RESULTING IN SIGNIFICANT FINANCIAL DISTRESS" - 42 USC § 1396r-5(e)(2)(B) - SOCIAL SERVICES LAW § 366-c(8)(b);

BANC OF AMERICA SECURITIES LLC v SOLOW BUILDING CO. II, LLC:

LANDLORD AND TENANT - ALTERATION OF LEASED PREMISES - LEASE PROVISION PROVIDING THAT TENANT'S SOLE REMEDY FOR CLAIM THAT LANDLORD UNREASONABLY WITHHELD OR DELAYED CONSENT TO ALTERATION PROPOSALS IS AN ACTION FOR SPECIFIC ENFORCEMENT, INJUNCTION OR DECLARATORY JUDGMENT, OR AN ARBITRATION PROCEEDING - ASSERTION THAT SUCH PROVISION IS UNENFORCEABLE BECAUSE LANDLORD'S REFUSAL TO TIMELY REVIEW AND APPROVE PROPOSED ALTERATIONS CONSTITUTES BAD FAITH - SUFFICIENCY OF ALLEGATIONS OF LANDLORD'S BAD FAITH NONPERFORMANCE OF LEASE PROVISION IN CAUSE OF ACTION FOR CONSEQUENTIAL DAMAGES;

BARKLEE REALTY COMPANY, LLC et al. v BLOOMBERG, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT JUDGMENT DENYING A CPLR ARTICLE 78 PETITION SEEKING, AMONG OTHER THINGS, TO VACATE RESPONDENT NEW YORK CITY ENVIRONMENTAL CONTROL BOARD'S REJECTION OF PETITIONERS' ADMINISTRATIVE APPEAL FROM A DECISION THAT IMPOSED FINES FOR THEIR FAILURE TO CERTIFY THE CORRECTION OF VIOLATIONS NOTICED BY RESPONDENT NEW YORK CITY FIRE DEPARTMENT - ALLEGED VIOLATION OF APPELLANTS' DUE PROCESS RIGHTS;

BARNAN ASSOCIATES v 196 OWNERS CORP.:

LANDLORD AND TENANT - LEASE - TAX ESCALATION CLAUSE - WHETHER TAX ABATEMENTS GRANTED TO DEFENDANT COOPERATIVE AFFECT THE AMOUNT OF TAX ESCALATION PAYABLE BY PLAINTIFF COMMERCIAL TENANT - APPLICATION OF VOLUNTARY PAYMENT DOCTRINE AND SIX-YEAR STATUTE OF LIMITATION;

BIKMAN, MATTER OF v NEW YORK CITY LOFT BOARD:

LANDLORD AND TENANT - LOFT LAW - WHETHER THE RIGHT TO SELL IMPROVEMENTS UNDER MULTIPLE DWELLING LAW § 286(6) EXTENDS TO THE ESTATE OF A DECEASED TENANT;

BOARD OF EDUCATION OF THE BAY SHORE UNION FREE SCHOOL DISTRICT,
MATTER OF v KAIN:

SCHOOLS - EDUCATION OF CHILDREN WITH DISABILITIES - PROVISION OF AIDE AT PRIVATE SCHOOL - WHETHER SCHOOL DISTRICT IS REQUIRED TO PROVIDE A STUDENT CLASSIFIED AS "OTHER HEALTH IMPAIRED" WITH A ONE-ON-ONE AIDE AT THE STUDENT'S PRIVATE SCHOOL - EDUCATION LAW § 3602-c(9) - WHETHER A ONE-ON-ONE AIDE FALLS WITHIN THE DEFINITION OF "SERVICES" IN EDUCATION LAW § 3602-c(1)(a);

BRADY v THE WILLIAMS CAPITAL GROUP, L.P. et al.:

ARBITRATION - ARBITRATION FEES AND COSTS - WHETHER THE FEE-SPLITTING PROVISION OF THE ARBITRATION AGREEMENT BETWEEN EMPLOYEE AND EMPLOYER IS VIOLATIVE OF PUBLIC POLICY - AMERICAN ARBITRATION ASSOCIATION'S "EMPLOYER PAYS" RULE;

BROWN (HOMER), PEOPLE v:

CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - DENIAL OF MOTION TO WITHDRAW PLEA IN ABSENCE OF INQUIRY INTO WHETHER DEFENDANT'S DECISION TO ENTER PLEA WAS INFLUENCED BY THE OPPORTUNITY TO GET OUT OF JAIL TO SEE HIS HOSPITALIZED CHILD;

BROWN (MICHAEL), PEOPLE v: (Cal. Date - 10/14/09)

CRIMES AND CRIMINAL PROCEDURE - TIMELINESS OF PROSECUTION - DNA EVIDENCE FROM 1993 CRIME PROCESSED IN 2002 AS PART OF A DNA BACKLOG PROJECT, WHICH WAS MATCHED TO A DNA SAMPLE TAKEN OF DEFENDANT IN 2002, RESULTING IN DEFENDANT'S INDICTMENT IN 2003 - APPLICATION OF FIVE-YEAR EXTENSION OF STATUTE OF LIMITATIONS WHERE DEFENDANT'S WHEREABOUTS "WERE CONTINUOUSLY UNKNOWN AND CONTINUOUSLY UNASCERTAINABLE BY THE EXERCISE OF REASONABLE DILIGENCE" (CPL 30.10[4][a][ii]); RIGHT OF CONFRONTATION - DNA EVIDENCE PREPARED BY PRIVATE LAB - TRIAL TESTIMONY FROM A CRIMINOLOGIST EMPLOYED BY THE OFFICE OF THE CHIEF MEDICAL EXAMINER, WHO WAS FAMILIAR WITH THE PRIVATE LAB'S PRACTICES, PROTOCOLS AND ACCREDITATION - WHETHER THE CONFRONTATION CLAUSE OF THE SIXTH AMENDMENT TO THE U.S. CONSTITUTION REQUIRES THE TESTIMONY OF A PERSON EMPLOYED BY THE PRIVATE LAB THAT PREPARED A DNA PROFILE LINKING DEFENDANT TO A CRIME;

BUFFALO PROFESSIONAL FIREFIGHTERS ASSOCIATION v MASIELLO, et al.:

ARBITRATION - CONFIRMING OR VACATING AWARD - COMPULSORY PUBLIC INTEREST ARBITRATION - WHETHER THE APPELLATE DIVISION PROPERLY MODIFIED AN ARBITRATION AWARD - SCOPE OF REVIEW - DEFERENCE TO ARBITRATION PANEL'S DETERMINATION OF THE SCOPE OF THE ISSUES BEFORE IT;

CARNCROSS (JAMES J.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CRIMINALLY NEGLIGENT HOMICIDE - SUFFICIENCY OF EVIDENCE; RIGHT TO COUNSEL - WHETHER TRIAL COURT ERRED IN GRANTING THE PEOPLE'S MOTION TO DISQUALIFY DEFENSE COUNSEL; CLAIMED VIOLATION OF DUE PROCESS RIGHTS;

CARR (ERIC D.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A MISSING WITNESS CHARGE; SUFFICIENCY OF THE EVIDENCE TO ESTABLISH THE ELEMENT OF INTENT WITH RESPECT TO THE ATTEMPTED MURDER CHARGE;

CHASM HYDRO, INC., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

ENVIRONMENTAL CONSERVATION - WATER SUPPLY - WATER POLLUTION CONTROL - WHETHER RESPONDENT AGENCY WAS ACTING WITHOUT JURISDICTION IN COMMENCING AN ADMINISTRATIVE ENFORCEMENT PROCEEDING AGAINST OPERATORS OF AN HYDROELECTRIC DAM LOCATED ON A NAVIGABLE, CLASS C RIVER FOR ALLEGED VIOLATIONS OF STATE WATER QUALITY STANDARDS;

CHIEF JUDGE OF THE STATE OF NEW YORK et al. v GOVERNOR, et al.:

CONSTITUTIONAL LAW - LEGISLATIVE INACTION IN FUNDING JUDICIAL SALARY INCREASES - COMPENSATION CLAUSE (NY CONSTITUTION ARTICLE VI, § 25[a]) - SEPARATION OF POWERS DOCTRINE;

CINTRON, MATTER OF v CALOGERO &c.:

LANDLORD AND TENANT - RENT - CPLR ARTICLE 78 PROCEEDING TO ANNUL AN ORDER OF RESPONDENT COMMISSIONER OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL LIMITING RENT OVERCHARGES RECOVERABLE BY A TENANT;

CITY OF NEW YORK, et al. v MAUL &c. (AND ANOTHER PROCEEDING):

PARTIES - PROPER PARTIES - CLASS CERTIFICATION - DEVELOPMENTALLY DISABLED PERSONS IN THE CARE OR CUSTODY OF DEFENDANT NEW YORK CITY ADMINISTRATION FOR CHILDRENS' SERVICES ENTITLED TO SERVICES FROM NEW YORK OFFICE OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES; MUNICIPAL CORPORATIONS - SERVICES; MOOTNESS; SUMMARY JUDGMENT;

THE CITY OF NEW YORK, et al., MATTER OF v THE PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, et al.:

(Cal. Date - 11/18/09)

LABOR UNIONS - COLLECTIVE BARGAINING - NEW YORK CITY POLICE DEPARTMENT'S CHANGE OF METHOD OF RANDOM DRUG SCREENING FOR EMPLOYEES FROM URINE TESTING TO HAIR TESTING - WHETHER CHOICE OF METHOD OF RANDOM DRUG TESTING FOR POLICE OFFICERS IS EXCLUDED FROM COLLECTIVE BARGAINING;

COLON (DANNY), PEOPLE v: (Cal. Date - 10/20/09)

CRIMES AND CRIMINAL PROCEDURE - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - ALLEGED BRADY VIOLATIONS - PROSECUTOR'S FAILURE TO DISCLOSE (1) THAT A KEY WITNESS HAD BEEN GIVEN BENEFITS NOT EXPLICITLY BARGAINED FOR IN AN AGREEMENT IN EXCHANGE FOR HIS TESTIMONY AND (2) NOTES FROM INTERVIEWS OF TWO WITNESSES WHO IMPLICATED PEOPLE OTHER THAN DEFENDANT AS BEING THE

PERPETRATORS OF THE CRIME - HARMLESS ERROR - PEOPLE'S DUTY TO DISCLOSE BRADY AND ROSARIO MATERIAL IN DEPARTMENT OF PROBATION'S POSSESSION; ALLEGED PROSECUTORIAL MISCONDUCT;

COZZANI (HENRY), PEOPLE v:

CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT - WHETHER THE PEOPLE MAY AVOID DISMISSAL OF INDICTMENT ON SPEEDY TRIAL GROUNDS BY INVOKING THE "EXCEPTIONAL CIRCUMSTANCES" EXCLUSION OF CPL 30.30(4)(g) TO EXCLUDE THE PERIOD DURING WHICH AN APPEAL WAS PENDING IN AN UNRELATED PROSECUTION INVOLVING SIMILAR LEGAL ISSUES;

CRONIN v JAMAICA HOSPITAL MEDICAL CENTER:

HOSPITALS - MALPRACTICE - WHETHER A NEGLIGENCE ACTION MAY BE PREDICATED UPON A DEFENDANT'S FAILURE TO COMPLY WITH A DECEDENT'S DO NOT RESUSCITATE ORDER - PUBLIC HEALTH LAW § 2965(4);

CRUZ (ANGEL L.), PEOPLE v:

CRIMES - JURORS - NOTE FROM JURY REQUESTING TRIAL EXHIBIT - TRIAL COURT'S FAILURE TO NOTIFY COUNSEL OF JURY NOTE - UNCLEAR RECORD OF TRIAL COURT'S RESPONSE TO JURY'S NOTE;

CUSUMANO et al. v CITY OF NEW YORK:

NEGLIGENCE - INJURIES TO FIREFIGHTERS - ACTION PURSUANT TO GENERAL MUNICIPAL LAW § 205-a TO RECOVER DAMAGES FOR PERSONAL INJURIES TO A FIREFIGHTER WHO FELL DOWN A FLIGHT OF STAIRS WHILE ATTENDING TRAINING IN A BUILDING OWNED BY DEFENDANT CITY - ALLEGED VIOLATION OF CERTAIN ADMINISTRATIVE CODE SECTIONS REQUIRING A BUILDING OWNER TO MAINTAIN THE BUILDING, INCLUDING THE STAIRWELL AND HANDRAILS, IN SAFE CONDITION; SUFFICIENCY OF EVIDENCE TO SUPPORT JURY VERDICT;

D'ALESSANDRO (GUISEPPE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - TREATMENT OF SUCCESSIVE APPLICATIONS FOR WRIT OF ERROR CORAM NOBIS - RIGHT TO COUNSEL - EFFECTIVE APPELLATE REPRESENTATION;

DALY (JOHN), PEOPLE v:

CRIMES - TRIAL - ALLEGED PREJUDICIAL "SPILLOVER EFFECT" OF ROSARIO AND BRADY VIOLATIONS FOR WHICH CONVICTIONS ON COUNTS ARISING OUT OF AN INCIDENT AT ONE SITE WERE VACATED WITH RESPECT TO JOINTLY-TRIED COUNTS ARISING OUT OF A SEPARATE INCIDENT AT A DIFFERENT SITE AS TO WHICH CONVICTIONS WERE AFFIRMED;

DAVIS (GEORGE), PEOPLE v: (Cal. Date - 10/22/09)

CRIMES - CONTROLLED SUBSTANCES - WHETHER TRIAL COURT PROPERLY DECLINED TO CHARGE CRIMINAL POSSESSION IN THE SEVENTH DEGREE (SIMPLE POSSESSION OF A CONTROLLED SUBSTANCE) AS A LESSER INCLUDED COUNT WHERE DEFENDANT CHARGED WITH CRIMINAL SALE OF A CONTROLLED SUBSTANCE AND POSSESSION WITH INTENT TO SELL RELIED ON AN "AGENCY" DEFENSE;

DEBRA H. v JANICE R.:

PARENT AND CHILD - CUSTODY - VISITATION - WHETHER A PARTY WHO IS NOT THE CHILD'S BIOLOGICAL OR ADOPTIVE PARENT HAS STANDING TO SEEK CUSTODY AND VISITATION UNDER DOMESTIC RELATIONS LAW § 740 AS A PARENT UNDER EQUITABLE ESTOPPEL PRINCIPLES WHERE THE PARTY ALLEGEDLY ESTABLISHED A STRONG FAMILY BOND WITH THE CHILD WITH THE BIOLOGICAL PARENT'S ENCOURAGEMENT AND, AMONG OTHER THINGS, ENTERED INTO AN OUT-OF-STATE CIVIL UNION WITH THE BIOLOGICAL PARENT BEFORE THE CHILD'S BIRTH; STANDING; DUE PROCESS AND EQUAL PROTECTION;

DEVONE (DAMIEN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER REASONABLE SUSPICION OF DRUG-RELATED CRIMINAL CONDUCT IS A PREREQUISITE TO A CANINE SNIFF OF THE EXTERIOR OF A CAR STOPPED FOR A TRAFFIC VIOLATION; SEARCH;

DIAZ (TEOFILO), PEOPLE v:

CRIMES - DISCLOSURE - NOTICE OF INTENTION TO OFFER PSYCHIATRIC EVIDENCE - LAY TESTIMONY IN SUPPORT OF AFFIRMATIVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE (EED) - WHETHER A DEFENDANT WHO INTENDS TO RELY ON HIS OWN TESTIMONY TO SUPPORT AN EED DEFENSE MUST (1) GIVE NOTICE TO THE PROSECUTION UNDER CPL 250.10, WHICH REQUIRES SUCH NOTICE WHERE THE DEFENDANT PLANS TO OFFER EVIDENCE OF "MENTAL DISEASE OR DEFECT" IN SUPPORT OF AN EED DEFENSE, AND (2) SUBMIT TO AN EXAMINATION BY A PROSECUTION PSYCHIATRIST; WHETHER THE PEOPLE'S EXPERT PSYCHIATRIST IMPROPERLY TESTIFIED AS TO MATTERS OF CREDIBILITY - HARMLESS ERROR;

DINARDO v CITY OF NEW YORK et al.: (Cal. Date - 10/15/09)

SCHOOLS - NEGLIGENCE - SPECIAL DUTY - LIABILITY OF BOARD OF EDUCATION - TEACHER INJURED WHILE BREAKING UP A FIGHT BETWEEN TWO STUDENTS IN HER CLASS;

MATTER OF ADOPTION OF DOE [L.M.B. v E.R.J.]:

INTERNATIONAL LAW - ACT OF STATE DOCTRINE - APPLICATION TO TRANSNATIONAL ADOPTIONS; CHOICE OF LAW - APPLICATION OF CAMBODIAN LAW OR NEW YORK LAW TO DETERMINE VALIDITY OF RELINQUISHMENT OF ADOPTIVE RIGHTS TO AN ORPHANED CAMBODIAN CITIZEN; TERMINATION OF ADOPTIVE PARENT'S RIGHTS WITHOUT CONSIDERATION OF THE BEST INTERESTS OF THE CHILD;

DRAYTON (GREGORY M.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SEARCH AND SEIZURE - WHETHER SEIZURE OF BLOOD TAKEN FROM DEFENDANT BY A MEDICAL PROFESSIONAL AT A HOSPITAL VIOLATES THE PHYSICIAN - PATIENT PRIVILEGE (CPLR 4505[a]) - SUPPRESSION OR EXCLUSION OF EVIDENCE;

DREYDEN (JAMES), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - WHETHER A MISDEMEANOR COMPLAINT CHARGING DEFENDANT WITH CRIMINAL POSSESSION OF A GRAVITY KNIFE IS LEGALLY SUFFICIENT - PENAL LAW § 265.01(1);

EAST HAMPTON UNION FREE SCHOOL DISTRICT v SANDPEBBLE BUILDERS, INC, et al.:

CORPORATIONS - DISREGARDING CORPORATE ENTITY - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING "THAT BRANCH OF THE DEFENDANTS' MOTION WHICH WAS PURSUANT TO CPLR 3211(a)(7) TO DISMISS THE COMPLAINT INsofar AS ASSERTED AGAINST THE DEFENDANT VICTOR CANSECO INDIVIDUALLY" - WHETHER COMPLAINT SUFFICIENTLY ALLEGES A CAUSE OF ACTION FOR LIABILITY AGAINST A CORPORATION'S PRESIDENT AND PRINCIPAL OWNER BASED ON THE DOCTRINE OF PIERCING THE CORPORATE VEIL;

ECHEVARRIA, MATTER OF v MARKS &c.:

PROCEEDINGS AGAINST BODY OR OFFICER - PROHIBITION - POST-RELEASE SUPERVISION (PRS) - WHETHER PROHIBITION LIES TO PREVENT RESPONDENT COUNTY COURT JUDGE FROM CORRECTING A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY SERVED - ALLEGED DOUBLE JEOPARDY AND DUE PROCESS VIOLATIONS IF DEFENDANT IS RESENTENCED TO PRS;

EMREY PROPERTIES, INC., MATTER OF v BARANELLO &c., et al.:

MUNICIPAL CORPORATIONS - PERMITS - BUILDING PERMIT - INTENSIFICATION OR ENLARGEMENT OF PRIOR NON-CONFORMING USE - CONVERSION OF SERVICE STATION INTO CONVENIENCE STORE;

EDWARDS (MICHAEL), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - MOTION TO SUPPRESS STATEMENTS TO INVESTIGATORS FROM ATTORNEY GENERAL'S OFFICE AS BEING MADE IN VIOLATION OF DEFENDANT'S RIGHT TO COUNSEL - WHETHER DEFENDANT MADE AN UNEQUIVOCAL REQUEST FOR COUNSEL;

EIDLISZ v NEW YORK UNIVERSITY et al.:

COLLEGES AND UNIVERSITIES - DIPLOMA BY ESTOPPEL DOCTRINE - DENTAL DEGREE; CONTRACTS - SPECIFIC PERFORMANCE; SCOPE OF REVIEW; STAY;

ELLSWORTH (ROBERT W.), PEOPLE v:

CRIMES - PLEA OF GUILTY - DEFENDANT NOT ADVISED AT TIME OF HIS GUILTY PLEA THAT A CONDITION OF HIS 10-YEAR PROBATIONARY TERM WAS THAT HE COULD NOT HAVE CONTACT WITH ANY CHILD UNDER THE AGE OF 18 (INCLUDING HIS OWN MINOR CHILDREN LIVING IN HIS HOUSEHOLD) WHERE THE VICTIM WAS NOT A MEMBER OF HIS HOUSEHOLD; WHETHER PLEA MAY BE VACATED;

EXECUTIVE RISK INDEMNITY, INC. v PEPPER HAMILTON LLP, et al.:

INSURANCE - EXCESS COVERAGE - PROFESSIONAL LIABILITY POLICIES - WHETHER THREE EXCESS INSURANCE CARRIERS HAVE AN OBLIGATION TO DEFEND AND INDEMNIFY A LAW FIRM AND ONE OF ITS MEMBERS - COVERAGE EXCLUSIONS FOR "PRIOR KNOWLEDGE" OF MISCONDUCT ON THE PART OF THE LAW FIRM'S CLIENT - RECISSION OF POLICIES - APPLICATION OF CONTINUOUS COVERAGE PROVISION; SUMMARY JUDGMENT;

FALZONE, MATTER OF v NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY:

ARBITRATION - CONFIRMING OR VACATING AWARD - WHETHER THE ARBITRATOR EXCEEDED HIS POWER OR RENDERED AN IRRATIONAL AWARD BY NOT GIVING PRECLUSIVE EFFECT TO A PRIOR ARBITRATION AWARD BETWEEN THE PARTIES - PUBLIC POLICY FAVORING FINALITY OF AWARD;

FIAMMEGTA (VINCENT), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - WHAT PROCESS IS DUE WHEN DEFENDANT TAKES A DEFERRED SENTENCING PLEA AND DISPUTES THE CLAIM THAT HE VIOLATED A CONDITION OF THAT PLEA - CLAIM BY DRUG TREATMENT PROGRAM THAT DEFENDANT BREACHED THE PROGRAM'S RULES;

FIELDS v FIELDS:

HUSBAND AND WIFE - EQUITABLE DISTRIBUTION - MARITAL RESIDENCE - WHETHER WIFE IS ENTITLED TO EQUITABLE DISTRIBUTION OF ENHANCED VALUE OF HUSBAND'S INTEREST IN TEN-APARTMENT TOWNHOUSE AND HIS INTEREST IN TOWNHOUSE'S BANK ACCOUNT;

FIGUEROA (MICHAEL), PEOPLE:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO BE PRESENT AT MATERIAL STAGE OF PROCEEDINGS - JUDGE'S COMMUNICATION WITH JURY FOREPERSON WHO SENT NOTE TO JUDGE INDICATING THAT HE DID NOT FEEL COMFORTABLE ABOUT READING THE VERDICT - CPL 310.30;

47 AVENUE B EAST, INC., MATTER OF v NEW YORK STATE LIQUOR AUTHORITY:

LICENSES - REVOCATION OF LIQUOR LICENSE - ALLEGED VIOLATION OF STATE LIQUOR AUTHORITY RULES 54.2 AND 54.3 (9 NYCRR) §§ 48.2 AND 48.3; PROCEEDING AGAINST BODY OR OFFICER - WHETHER RESPONDENT EXCEEDED ITS AUTHORITY AND ACTED ULTRA VIRES IN PROMULGATING RULES;

FRANCOIS (JERRY), PEOPLE v:

CRIMES - POSSESSION OF STOLEN PROPERTY - STOP AND DETENTION BY POLICE BASED ON DEFENDANT'S SUSPICIOUS ACTIVITY WITH CREDIT CARD AT SUBWAY METROCARD MACHINE - WHETHER POLICE CONDUCT ELEVATED THE ENCOUNTER TO A SEIZURE REQUIRING REASONABLE SUSPICION; SUPPRESSION MOTION;

FRAZIER (CHARLES), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER DEFENDANT MAY BE SENTENCED CONSECUTIVELY FOR THE CRIMES OF BURGLARY AND GRAND LARCENY WHERE THE EVIDENCE ESTABLISHES THAT DEFENDANT MADE HIS UNLAWFUL ENTRY WITH THE INTENT TO COMMIT GRAND LARCENY; COMPETENCY OF DEFENDANT TO STAND TRIAL; PROOF OF PRIOR CONVICTION; SENTENCE - PERSISTENT FELONY OFFENDER;

FREDERICK (TREVOR), PEOPLE v.:

CRIMES - INDICTMENT - WHETHER SUPREME COURT PROPERLY REINSTATED INDICTMENT THAT HAD BEEN DISMISSED PURSUANT TO CPL 200.80 AS SUPERSEDED BY A NEW INDICTMENT WHERE THE COURT DISMISSED THE SUPERSEDING INDICTMENT AS PROCEDURALLY DEFECTIVE;

GALLAGHER et al. v THE NEW YORK POST et al.:

LABOR - SAFE PLACE TO WORK - EXISTENCE OF ISSUES OF FACT ON THE ISSUE OF LIABILITY ON A LABOR LAW § 240(1) CAUSE OF ACTION;

GALLIANO v STALLION, INC.:

JUDGMENTS - FOREIGN JUDGMENT - THE HAGUE CONVENTION ON THE SERVICE ABROAD OF JUDICIAL AND EXTRAJUDICIAL DOCUMENTS IN CIVIL OR COMMERCIAL MATTERS - WHETHER NEW YORK CAN RECOGNIZE A FOREIGN JUDGMENT ENTERED ON DEFAULT WHERE PROCESS INITIATING THE FOREIGN ACTION WAS SERVED UPON A NEW YORK DEFENDANT IN A FOREIGN LANGUAGE - NECESSITY TO TRANSLATE DOCUMENT INTO ENGLISH - CPLR 2101; PROPRIETY OF SERVICE OF PROCESS ON CORPORATE EMPLOYEES; CHALLENGE TO APPELLATE DIVISION'S INTERPRETATION OF CPLR 5305 AND TO THE CONSTITUTIONALITY OF THAT STATUTE;

GASQUES et al. v THE STATE OF NEW YORK:

LABOR - SAFE PLACE TO WORK - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT "DEFENDANT MADE A PRIMA FACIE SHOWING OF ENTITLEMENT TO JUDGMENT AS A MATTER OF LAW DISMISSING THE LABOR LAW § 240(1) CLAIM BY DEMONSTRATING THAT THE INJURED CLAIMANT'S INJURY, WHILE TANGENTIALLY RELATED TO THE EFFECTS OF GRAVITY, WAS NOT CAUSED BY THE LIMITED TYPE OF ELEVATION-RELATED HAZARDS ENCOMPASSED BY THE STATUTE" AND THAT CLAIMANTS FAILED TO RAISE A TRIABLE ISSUE OF FACT TO REBUT THAT SHOWING;

GIBBS v ST. BARNABAS HOSPITAL, et al.:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING SUPREME COURT ORDER GRANTING A DEFENDANT'S MOTION TO ENFORCE A CONDITIONAL ORDER OF PRECLUSION TO THE EXTENT OF DIRECTING PLAINTIFF TO PAY \$500 AS COSTS FOR HIS DELAY IN COMPLYING WITH DISCOVERY;

GILLEN, MATTER OF v CONKLING: (Cal. Date - 10/14/09)

TAXATION - REAL PROPERTY TAX - APPLICATION OF NASSAU COUNTY ADMINISTRATIVE CODE §§ 5-15.0(a)(3), 5-49.0(a) AND 5-45.0 TO TENDER OF A TAX PAYMENT BY TAX SALE CERTIFICATE HOLDER;

GLACIAL AGGREGATES LLC v TOWN OF YORKSHIRE:

MUNICIPAL CORPORATIONS - ZONING - NONCONFORMING USE - WHETHER PLAINTIFF'S MINING OF SAND AND GRAVEL AGGREGATE ON THE PROPERTY IN QUESTION WAS A LAWFUL NONCONFORMING USE AND WHETHER PLAINTIFF HAD ACQUIRED A VESTED RIGHT TO MINE THE PROPERTY - PLAINTIFF'S ENTITLEMENT TO DAMAGES PURSUANT TO 42 USC § 1983 FOR DEPRIVATION OF A CONSTITUTIONALLY VESTED RIGHT TO MINE THE PROPERTY; DIRECTED VERDICT;

GLASSMAN v PROHEALTH AMBULATORY SURGERY CENTER, INC., et al.:
 CONTRACTS - EMPLOYMENT CONTRACTS - WHETHER AN AMBULATORY SURGERY CENTER LICENSED UNDER ARTICLE 28 OF THE PUBLIC HEALTH LAW MAY SHARE IN FEES THAT ITS FULL-TIME PHYSICIAN-EMPLOYEE EARNED FROM PROVIDING SERVICES OUTSIDE THE AMBULATORY SURGERY CENTER WHERE THE PROVISION IN THE EMPLOYMENT AGREEMENT PROVIDING FOR THE SHARE OF SUCH FEES WAS ALLEGEDLY ILLEGAL AND UNENFORCEABLE BECAUSE IT VIOLATED THE CENTER'S CERTIFICATE OF OPERATION;

GILLYARD (COLLIER), PEOPLE v: (Cal. Date - 10/21/09)
 CRIMES AND CRIMINAL PROCEDURE - EVIDENCE - ADMISSION INTO EVIDENCE OF A "UNIVERSAL" HANDCUFF KEY RECOVERED FROM DEFENDANT DURING HIS PRETRIAL INCARCERATION APPROXIMATELY ONE MONTH AFTER THE LAST CHARGED CRIME - ALLEGED VIOLATION OF PEOPLE v MOLINEAUX (168 NY 264); CHALLENGE TO PROSECUTOR'S SUMMATION - TRIAL COURT'S DENIAL OF DEFENDANT'S SEVERANCE MOTION;

GODFREY v SPANO: (Cal. Date - 10/13/09)
 MARRIAGE - SAME-SEX MARRIAGE - MUNICIPAL CORPORATIONS - TAXPAYER ACTION - WHETHER WESTCHESTER COUNTY EXECUTIVE ORDER REQUIRING COUNTY AGENCIES TO RECOGNIZE OUT-OF-STATE SAME SEX-MARRIAGES IS ILLEGAL, UNCONSTITUTIONAL AND RESULTS IN THE UNLAWFUL DISBURSEMENT OF PUBLIC FUNDS;

GOLDSTEIN, et al., MATTER OF v NEW YORK STATE URBAN DEVELOPMENT CORPORATION &c.: z(Cal. Date - 10/14/09)
 EMINENT DOMAIN - PUBLIC USE - ATLANTIC YARDS REDEVELOPMENT PROJECT - EDPL 207 - VARIOUS CONSTITUTIONAL CHALLENGES TO CONDEMNATION DETERMINATION - ARTICLE I, § 7 AND ARTICLE XVIII, § 6 OF THE NEW YORK STATE CONSTITUTION;

GOMEZ, MATTER OF v STOUT, et al.:
 ADMINISTRATION LAW - ADMINISTRATIVE REVIEW - WHETHER THE COMMISSIONER OF THE WESTCHESTER COUNTY DEPARTMENT OF PARKS, RECREATION AND CONSERVATION COULD PROPERLY APPOINT COUNTY PUBLIC WORKS COMMISSIONER TO REVIEW A HEARING OFFICER'S RECOMMENDATION REGARDING THE EMPLOYMENT OF AN EMPLOYEE OF THE COUNTY DEPARTMENT OF PARKS, RECREATION AND CONSERVATION; EMPLOYEE'S ENTITLEMENT TO REINSTATEMENT, BACK PAY AND BENEFITS;

GORDON, MATTER OF et al. v TOWN OF ESOPUS et al. (AND THREE OTHER PROCEEDINGS):
 TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW ARTICLE 7 PROCEEDING TO REVIEW AN ASSESSMENT ON REAL PROPERTY - WHETHER MANAGED FOREST LAND UNDER RPTL 480-a SHOULD BE VALUED ON ITS HIGHEST AND BEST USE, INSTEAD OF ON ITS CURRENT USE; EVIDENCE - WHETHER PETITIONERS DEMONSTRATED BY A PREPONDERANCE OF THE EVIDENCE THAT THE SUBJECT PROPERTY IS OVERVALUED;

GRAVINO (TARA), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRY - WHETHER DEFENDANT MAY BE ENTITLED TO WITHDRAW HER GUILTY PLEA WHERE SHE WAS NOT ADVISED PRIOR TO HER PLEA AND SENTENCING THAT SHE WOULD BE REQUIRED TO REGISTER AS A SEX OFFENDER; RAPE IN THE THIRD DEGREE; DEFENDANT'S ALLEGED CONFLICT OF INTEREST WITH TRIAL COUNSEL;

GUARDINO (ANTHONY), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - DENIAL OF DEFENDANT'S APPLICATION PURSUANT TO BATSON v KENTUCKY (476 US 79) - WHETHER DEFENDANT MADE A PRIMA FACIE SHOWING OF DISCRIMINATION BASED UPON THE PEOPLE'S PEREMPTORY CHALLENGE OF FOUR OF SIX BLACK FEMALE PROSPECTIVE JURORS;

HARDY, JR. (J.W.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - ESCAPE IN THE SECOND DEGREE (PENAL LAW § 205.10[2]) - SUFFICIENCY OF THE EVIDENCE THAT DEFENDANT WAS IN "CUSTODY" WHEN HE FLED FROM THE COURTHOUSE;

HARGETT v TOWN OF TICONDEROGA, et al.: (Cal. Date - 10/22/09)
EMINENT DOMAIN - LITIGATION EXPENSES - ACTION PURSUANT TO EDPL 702(B) SEEKING REIMBURSEMENT FOR LEGAL COSTS AND EXPENSES INCURRED IN PRIOR CONDEMNATION PROCEEDING PURSUANT TO EDPL 207(A) - ATTORNEY'S FEES;

HAUSMAN, MATTER OF (DECEASED): (Cal. Date - 10/20/09)

DEEDS - VALIDITY - DEED TRANSFERRING DECEDENT'S REAL PROPERTY TO EXECUTOR'S LIMITED LIABILITY COMPANY (LLC) PRIOR TO ITS FORMATION - WHETHER THE LLC WAS A DE FACTO ENTITY CAPABLE OF TAKING TITLE ON THE DATE DEED WAS EXECUTED - CORPORATE ESTOPPEL DOCTRINE;

HENDERSON (BRIAN), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES - WITNESSES - CLAIM THAT WITNESS TESTIMONY PROCURED BY INTIMIDATION; DISCLOSURE - FAILURE TO PRODUCE ROSARIO MATERIAL - PROSECUTION'S BELATED DISCLOSURE OF CORRECTION OFFICER'S REPORT; SUFFICIENCY OF EVIDENCE; CLAIMED DENIAL OF RIGHT TO FAIR TRIAL;

HERNANDEZ (EFRAIN), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - POST-RELEASE SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS CONDITIONAL RELEASE FROM PRISON;

HESLIN &c. v COUNTY OF GREENE et al.:

MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - APPLICABILITY OF INFANCY TOLL PROVISION OF CPLR 208 TO SUSPEND RUNNING OF STATUTE OF LIMITATIONS FOR PERSONAL INJURY CLAIM AGAINST MUNICIPALITY WHERE INTESTATE DECEDENT AND DECEDENT'S SOLE DISTRIBUTEES ARE INFANTS;

HIRSCHFELD, &c. v TELLER:

HEALTH - NURSING HOMES - MENTAL HYGIENE LEGAL SERVICE'S RIGHT OF ACCESS TO PATIENTS WITH A PRIMARY DIAGNOSIS OF MENTAL ILLNESS WHO RESIDE IN NEUROBIOLOGICAL UNITS OF DEFENDANT NURSING HOMES - MENTAL HYGIENE LAW § 47.01;

HOWARD S. v LILLIAN S.:

HUSBAND AND WIFE - DIVORCE - EQUITABLE DISTRIBUTION - CONSIDERATION OF MARITAL FAULT - EGREGIOUS FAULT - ENTITLEMENT TO DISCOVERY; LIMITATION OF DAMAGES ON CLAIM OF FRAUD AGAINST DEFENDANT WIFE;

HOTEL 71 MEZZ LENDER, LLC v FALOR et al.:

ATTACHMENT - WHEN REMEDY AVAILABLE - ATTACHMENT OF FOREIGN INTANGIBLE ASSETS - NONDOMICILIARY DEFENDANTS' OWNERSHIP/MANAGEMENT INTERESTS IN VARIOUS OUT-OF-STATE LIMITED LIABILITY COMPANIES - SERVICE UPON PROPER GARNISHEE WHILE TEMPORARILY LOCATED IN NEW YORK; RECEIVERS - APPOINTMENT OF RECEIVER OF DEFENDANTS' INTERESTS IN FOREIGN ENTITIES WHERE DEFENDANT-DEBTORS HAD SUBMITTED TO PERSONAL JURISDICTION IN NEW YORK;

HURRELL-HARRING, et al. v STATE OF NEW YORK, et al.:

DISMISSAL AND NONSUIT - NONJUSTICIABLE CONTROVERSY - COMPLAINT ALLEGING SYSTEMIC VIOLATIONS OF THE RIGHT OF INDIGENT DEFENDANTS TO APPOINTED COUNSEL; CONSTITUTIONAL LAW - RIGHT TO COUNSEL;

HYDE, MATTER OF v WHITNEY (AND ANOTHER PROCEEDING):

TRUSTS - ACCOUNTING - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING DENIAL OF MOTION BY NON-OBJECTING TRUST BENEFICIARIES TO HAVE COUNSEL FEES INCURRED BY TRUSTEES IN DEFENDING AGAINST OBJECTIONS TO INTERMEDIATE ACCOUNTINGS MADE BY OTHER TRUST BENEFICIARIES CHARGED SOLELY TO THE OBJECTING BENEFICIARIES' INTERESTS IN THE TRUSTS RATHER THAN TO THE TRUST ASSETS GENERALLY - SCPA 2110;

IDT CORP., et al. v TYCO GROUP, S.A.R.L., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - ALLEGED BREACH OF SETTLEMENT AGREEMENT - HYBRID CATEGORY OF PRELIMINARY AGREEMENT OR "CONTINGENT TYPE I AGREEMENT" - SUMMARY JUDGMENT GRANTED TO DEFENDANTS;

JENKINS v FIELDBRIDGE ASSOCIATES, LLC:

LANDLORD AND TENANT - RENT REGULATION - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT CIVIL COURT OF THE CITY OF NEW YORK PROPERLY CONSIDERED A RENT REDUCTION ORDER ISSUED MORE THAN FOUR YEARS BEFORE THE FILING OF THE RENT OVERCHARGE COMPLAINT AND IN EFFECT WITHIN SUCH FOUR-YEAR PERIOD WHERE CPLR 213-a PRECLUDES "EXAMINATION OF THE RENTAL HISTORY OF THE [APARTMENT] PRIOR TO THE FOUR-YEAR PERIOD IMMEDIATELY PRECEDING THE COMMENCEMENT OF THE ACTION";

JOHNSON (TERRANCE), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - VALIDITY;

JOSEPH II, PEOPLE ex rel. v SUPERINTENDENT OF SOUTHPORT
CORRECTIONAL FACILITY:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - GRANT OF WRIT OF HABEAS CORPUS - WHETHER PETITIONER IS A "DETAINED SEX OFFENDER" AS DEFINED IN MENTAL HYGIENE LAW § 10.03(g)(5) AND THUS THE PROPER SUBJECT OF A PETITION FOR CIVIL MANAGEMENT WHERE PETITIONER WAS IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONAL SERVICES (DOCS) FOR VIOLATING THE CONDITIONS OF HIS POSTRELEASE SUPERVISION THAT DOCS ADMINISTRATIVELY IMPOSED AT THE SAME TIME THAT PETITIONER WAS RELEASED FROM PRISON AND COMMITTED TO AN OFFICE OF MENTAL HEALTH FACILITY PURSUANT TO MENTAL HYGIENE LAW § 9.27;

KADARKO (JAMES), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - JURY DELIBERATIONS - NOTICE TO COUNSEL OF SUBSTANTIVE INQUIRY FROM JURY - WHETHER TRIAL COURT'S FAILURE TO READ SECOND JURY NOTE TO COUNSEL VERBATIM BEFORE DELIVERING A SECOND ALLEN CHARGE CONSTITUTED REVERSIBLE ERROR;

KING (BRIAN S.), PEOPLE v:

CRIMES - SUPPRESSION HEARING - TRIAL COURT DENIED SUPPRESSION OF THE RESULTS OF SOBRIETY TEST GIVEN TO DEFENDANT WHEN HIS MOTORCYCLE WAS STOPPED IN CONNECTION WITH THE STOP OF ANOTHER BIKER WHO HAD A BURNED OUT TAILLIGHT AND APPEARED INTOXICATED;

KISINA (TATYANA), PEOPLE v:

CRIMES - FALSIFYING BUSINESS RECORDS - WHETHER DOCUMENTS DEFENDANT SUBMITTED TO A HEALTH INSURANCE COMPANY WERE BUSINESS RECORDS WITHIN THE MEANING OF PENAL LAW § 175.00 (2); EVIDENCE - EXCLUSION OF EVIDENCE THAT DEFENDANT PROVIDED PROPER MEDICAL TREATMENT TO AN UNDERCOVER INVESTIGATOR; PRESERVATION;

KONSTANTINIDES (GEORGE), PEOPLE v: (Cal. Date - 11/17/09)

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE EFFECTIVE ASSISTANCE OF COUNSEL BASED UPON A CONFLICT OF INTEREST; DEFENDANT'S ENTITLEMENT TO A HEARING PURSUANT TO CPL 400.21(5);

KOWALESKI v NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES:

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - CHALLENGE TO ARBITRATION AWARD DETERMINING THAT TERMINATION WAS APPROPRIATE PENALTY FOR PETITIONER CORRECTION OFFICER'S DISCIPLINARY INFRACTIONS - CLAIM THAT ARBITRATOR EXCEEDED HIS POWER BY IGNORING STRONG PUBLIC POLICY IN CIVIL SERVICE LAW § 75-b TO PROTECT PUBLIC EMPLOYEES FROM RETALIATION - CLAIM THAT DETERMINATION WAS IRRATIONAL, NOT SUPPORTED BY RECORD EVIDENCE, AND ARBITRARY AND CAPRICIOUS;

LARABEE v GOVERNOR OF THE STATE OF NEW YORK, et al.:
 CONSTITUTIONAL LAW - LEGISLATIVE INACTION IN FUNDING JUDICIAL
 SALARY INCREASES - COMPENSATION CLAUSE (NY CONSTITUTION ARTICLE
 VI, § 25[a]) - EQUAL PROTECTION OF THE LAWS - SEPARATION OF
 POWERS DOCTRINE - ALLEGED UNCONSTITUTIONAL PRACTICE OF "LINKAGE"
 OF CONSIDERATION OF JUDICIAL PAY RAISES WITH UNRELATED MATTERS;
 DAMAGES - REQUEST FOR DAMAGES IN THE AMOUNT OF COST-OF-LIVING
 ADJUSTMENTS TO ANNUAL COMPENSATION FOR CERTAIN TIME PERIOD;

LEE v ASTORIA, et al.: (Cal. Date - 10/20/09)
 LABOR - SAFE PLACE TO WORK - FALL ON PERMANENTLY ANCHORED BARGE -
 PREEMPTION OF LABOR LAW CLAIMS (LABOR LAW §§ 240[1] AND 241[6])
 BY FEDERAL MARITIME LAW (LONGSHORE AND HARBOR WORKERS'
 COMPENSATION ACT, 33 USC § 901) - CAMMON v CITY OF NEW YORK (95
 NY2d 583 [2000]) - SUMMARY JUDGMENT ON LIABILITY;

LEWIS, et al. v NEW YORK STATE DEPARTMENT OF CIVIL
 SERVICE, et al.: (Cal. Date - 10/13/09)
 MARRIAGE - SAME-SEX MARRIAGE - MUNICIPAL CORPORATIONS - TAXPAYER
 ACTION - WHETHER NEW YORK STATE DEPARTMENT OF CIVIL SERVICE'S
 RECOGNITION OF OUT-OF-STATE SAME-SEX MARRIAGES IS ILLEGAL,
 UNCONSTITUTIONAL AND RESULTS IN THE UNLAWFUL DISBURSEMENT OF
 PUBLIC FUNDS;

LEWIS (CRAIG), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - SENTENCE - POST-RELEASE
 SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO
 CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT
 TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY
 SERVED;

LIGGINS (JASON D.), PEOPLE v:
 CRIMES - UNLAWFUL SEARCH AND SEIZURE - EMERGENCY EXCEPTION TO
 WARRANT REQUIREMENT;

LIGHTHOUSE POINTE PROPERTY ASSOCIATES, LLC, MATTER OF v NEW YORK
 STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.:
 PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 78
 PROCEEDING TO REVIEW DETERMINATION OF THE NEW YORK STATE
 DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) DENYING
 PETITIONER'S APPLICATIONS FOR ACCEPTANCE INTO THE BROWNFIELD
 CLEANUP PROGRAM (BCP) PURSUANT TO ENVIRONMENTAL CONSERVATION LAW,
 ARTICLE 27, TITLE 14 - WHETHER THE DEC ACTED IN AN ARBITRARY AND
 CAPRICIOUS MANNER IN DENYING PETITIONER'S APPLICATIONS FOR
 ACCEPTANCE INTO THE BCP;

LUCIERE (ANDREW), PEOPLE v:
 CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT - WHETHER THE
 PEOPLE MAY AVOID DISMISSAL OF INDICTMENT ON SPEEDY TRIAL GROUNDS
 BY INVOKING THE "EXCEPTIONAL CIRCUMSTANCES" EXCLUSION OF CPL

30.30(4)(g) TO EXCLUDE THE PERIOD DURING WHICH AN APPEAL WAS PENDING IN AN UNRELATED PROSECUTION INVOLVING SIMILAR LEGAL ISSUES;

M ENTERTAINMENT, INC., et al. v LEYDIER, et al.:

APPEAL - DISMISSAL - DISMISSAL OF APPEAL FOR UNTIMELY SERVICE OF NOTICE OF APPEAL - NOTICE OF APPEAL MAILED FROM OUT OF STATE - CPLR 2103(f)(1);

H.M. (ANONYMOUS), MATTER OF v E.T. (ANONYMOUS):

COURTS - JURISDICTION - WHETHER FAMILY COURT HAS SUBJECT MATTER JURISDICTION UNDER THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (FAMILY COURT ACT ARTICLE 5-B) TO ENTERTAIN A PETITION BROUGHT BY A CHILD'S BIRTH MOTHER AGAINST HER FORMER SAME-SEX PARTNER, WHO LACKS LEGAL TIES TO THE BIRTH MOTHER AND BIOLOGICAL AND LEGAL TIES TO THE CHILD, FOR AN ORDER ADJUDICATING THE FORMER PARTNER A PARENT OF THE CHILD AND DIRECTING HER TO PAY CHILD SUPPORT;

MALIK, MATTER OF v STATE OF NEW YORK:

HABEAS CORPUS - WHEN REMEDY AVAILABLE;

MARON, et. al., MATTER OF v SILVER, et al.:

CONSTITUTIONAL LAW - LEGISLATIVE INACTION IN FUNDING JUDICIAL SALARY INCREASES - COMPENSATION CLAUSE (NY CONSTITUTION ARTICLE VI § 25[a]) - EQUAL PROTECTION OF THE LAWS - SEPARATION OF POWERS DOCTRINE - AVAILABILITY OF MANDAMUS TO COMPEL - ALLEGED PROCEDURAL ERRORS;

MCBRIDE (NORMAN), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER SUPPRESSION COURT ERRED IN FAILING TO DETERMINE VALIDITY OF WARRANTLESS ENTRY INTO APARTMENT PURSUANT TO PRIMARY MOTIVATION TEST SET FORTH IN PEOPLE v MITCHELL (39 NY2d 173 [1976]) - VALIDITY OF MITCHELL IN LIGHT OF BRIGHAM CITY v STUART (547 US 398 [2006]) - POLICE-CREATED EXIGENCY; CHALLENGE TO IDENTIFICATION TESTIMONY AS PRODUCT OF UNDULY SUGGESTIVE LINEUP;

MCDADE (SUSAN), PEOPLE v:

CRIMES - RAPE - WHETHER THERE WAS LEGALLY SUFFICIENT EVIDENCE OF PENETRATION TO SUPPORT DEFENDANT'S CONVICTION OF RAPE IN THE SECOND DEGREE;

MCKINNON (DONALD), PEOPLE v:

CRIMES - ASSAULT - EVIDENCE OF "PERMANENT DISFIGUREMENT" PURSUANT TO PENAL LAW § 120.10(2) - SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION OF ASSAULT IN THE FIRST DEGREE WHERE VICTIM DISPLAYED HER ARM TO THE JURY, BUT RECORD GIVES NO INDICATION OF WHAT THE JURY SAW;

MCLEAN (SAMUEL), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENDANT'S RIGHT TO COUNSEL ATTACHED IN 2003 IN CONNECTION WITH ROBBERY CHARGES SUCH THAT HIS QUESTIONING BY POLICE OUTSIDE THE PRESENCE OF COUNSEL IN 2006 IN A MURDER INVESTIGATION WAS IMPROPER; SUPPRESSION OF INCULPATORY STATEMENT;

MCNAIR (RASHAD), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PRESERVATION OF ISSUE FOR APPELLATE REVIEW - SUFFICIENCY OF PLEA ALLOCUTION - EXCEPTION TO PRESERVATION REQUIREMENT - PEOPLE v LOPEZ (71 NY2d 662 [1988]);

MITCHELL (SCOTT), PEOPLE v:

CRIMES - VACATUR OF JUDGMENT OF CONVICTION - WHETHER THE TRANSFER OF DEFENDANT'S PROBATION SUPERVISION TO ANOTHER COUNTY WITHIN NEW YORK STATE, PURSUANT TO CPL 410.80(1) AND 410.80(2), DIVESTS THE ORIGINAL TRIAL/SENTENCING COURT OF JURISDICTION TO HEAR THE DEFENDANT'S CPL 440 MOTION TO SET ASIDE THE UNDERLYING CONVICTION AND SENTENCE;

MORTON et al. v STATE OF NEW YORK:

LABOR LAW - SAFE PLACE TO WORK - PLAINTIFF CONSTRUCTION WORKER, EMPLOYED BY NON-PARTY NEW YORK WATER SERVICE COMPANY, INJURED WHEN EXCAVATION WALL COLLAPSED DURING EMERGENCY REPAIRS ON UNDERGROUND WATER MAIN UNDER STATE-OWNED ROADWAY - STATE HAD NO KNOWLEDGE OF WORK BEING PERFORMED - WHETHER PLAINTIFF WAS WITHIN THE CLASS OF PERSONS PROTECTED UNDER LABOR LAW § 241(6); SUMMARY JUDGMENT;

MOTHERSELL (ROBERT), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - SEARCH WARRANT - STRIP SEARCH - CHALLENGE TO STRIP SEARCH CONDUCTED PURSUANT TO WARRANT PERMITTING THE SEARCH OF "ANY AND ALL PERSON(S) PRESENT" AT APARTMENT DESIGNATED IN THE WARRANT; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

MURRAY (KEZINE), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - WHETHER DEFENDANT'S GUILTY PLEA WAS KNOWINGLY AND VOLUNTARILY ENTERED IN LIGHT OF JUDGE'S IMPOSITION OF THREE YEARS' POST-RELEASE SUPERVISION (PRS) RATHER THAN THE TWO YEARS' PRS DISCUSSED AT THE TIME OF HIS CONDITIONAL PLEA; PRESERVATION OF CLAIM FOR APPELLATE REVIEW;

MYNIN (LARRY), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - GANG ASSAULT - WHETHER "TWO OR MORE PERSONS" SPECIFIED IN PENAL LAW § 120.06 MUST SHARE DEFENDANT'S INTENT TO CAUSE "SERIOUS PHYSICAL INJURY" IN ORDER TO HAVE "AIDED" DEFENDANT IN COMMITTING A GANG ASSAULT - EFFECT OF ACQUITTAL OF CO-DEFENDANTS - JURY CHARGE - ACCOMPLICE LIABILITY;

NATION, MATTER OF v CITY OF NEW YORK:

STATUTES - RETROACTIVE APPLICATION OF STATUTE - WHETHER FORMER SECTION 26-124(c) OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK, WHICH PERMITTED THE COMMISSIONER OF THE DEPARTMENT OF BUILDINGS TO "REFUSE TO ACCEPT ANY APPLICATION OR OTHER DOCUMENT ... THAT BEARS THE SIGNATURE OF ANY PERSON WHO HAS BEEN FOUND ... TO HAVE ... NEGLIGENTLY MADE A FALSE STATEMENT," WAS PENAL AND THEREFORE COULD NOT BE APPLIED RETROACTIVELY AGAINST PETITIONER FOR ACTS COMMITTED PRIOR TO ITS PROMULGATION;

NYCTL 1999-1 TRUST v 573 JACKSON AVENUE REALTY CORP.:

(Cal. Date - 11/18/09)

TAXATION - TAX LIENS, TAX SALES AND TAX TITLES - FORECLOSURE OF TAX LIEN - RPAPL 1341 - CPLR 5519 - SATISFACTION OF STATUTORY REQUIREMENTS FOR STAY OF FORECLOSURE SALE - CHALLENGE TO ENTRY OF JUDGMENT OF FORECLOSURE THAT INCLUDES AMOUNTS DEFENDANT SAYS IT ALREADY PAID OR ARISE FROM AN UNREASONABLE CLAIM FOR LEGAL FEES AND COSTS;

NEW YORK CITY TRANSIT AUTHORITY v TRANSPORT WORKERS UNION OF GREATER NEW YORK, et al.:

ARBITRATION - DETERMINATION THAT AWARD REDUCING DISCIPLINARY PENALTY WAS IN EXCESS OF ARBITRATOR'S POWERS - SCOPE OF JUDICIAL REVIEW;

NEW YORK STATE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, MATTER OF v ORTIZ, et al.:

ARBITRATION - STAY OF ARBITRATION - CPLR ARTICLE 75 PROCEEDING TO PERMANENTLY STAY ARBITRATION OF DISPUTE OVER TERMINATION OF A CREDENTIALLED ALCOHOLISM AND SUBSTANCE ABUSE COUNSELOR (CASAC) FOR FAILURE TO MAINTAIN HIS CASAC CERTIFICATION - WHETHER THE COLLECTIVE BARGAINING AGREEMENT CONTEMPLATES ARBITRATION OF THE DISPUTE;

NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, et al., MATTER OF v LANTERMAN et al.:

ARBITRATION - MATTERS ARBITRABLE - TEACHER CERTIFICATION - PUBLIC POLICY EXCEPTION - TERMINATION OF PUBLIC SCHOOL TEACHER BASED UPON FAILURE TO MAINTAIN PROFESSIONAL CERTIFICATION;

OCHOA (MARK), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - PRIOR CONSISTENT STATEMENT - CLAIMED IMPROPER BOLSTERING OF WITNESS TESTIMONY; RIGHT TO BE PRESENT AT MATERIAL STAGE OF PROCEEDINGS - JUDGE'S COMMUNICATION WITH JUROR;

ORTIZ (ANTHONY), PEOPLE v: (Cal. Date - 10/20/09)

CRIMES AND CRIMINAL PROCEDURE - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - ALLEGED BRADY VIOLATIONS - PROSECUTOR'S FAILURE TO DISCLOSE (1) THAT A KEY WITNESS HAD BEEN GIVEN

BENEFITS NOT EXPLICITLY BARGAINED FOR IN AN AGREEMENT IN EXCHANGE FOR HIS TESTIMONY AND (2) NOTES FROM INTERVIEWS OF TWO WITNESSES WHO IMPLICATED PEOPLE OTHER THAN DEFENDANT AS BEING THE PERPETRATORS OF THE CRIME - HARMLESS ERROR;

PERKINS (NAYSHAWN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - CPL 60.30 - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR BY ADMITTING TESTIMONY FROM SOLE WITNESS TO IDENTIFY DEFENDANT AT TRIAL CONCERNING, AMONG OTHER THINGS, THAT WITNESS'S PRETRIAL PHOTO ARRAY IDENTIFICATION OF DEFENDANT WHERE THE PHOTO ARRAY WAS CONDUCTED AFTER DEFENDANT REFUSED TO PARTICIPATE IN A LINEUP EVEN THOUGH DEFENDANT ULTIMATELY WAS IDENTIFIED IN A LINEUP NINE MONTHS AFTER THE CRIME - WHETHER POLICE TESTIMONY IMPROPERLY BOLSTERED DEFENDANT'S IDENTIFICATION;

PETTIGREW (AVERY), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - CHALLENGE TO DESIGNATION OF DEFENDANT AS A LEVEL THREE SEX OFFENDER - WHETHER CLEAR AND CONVINCING EVIDENCE SUPPORTED COUNTY COURT'S POINT ASSESSMENTS UNDER THE RISK FACTORS OF BEING ARMED WITH A DANGEROUS INSTRUMENT, HISTORY OF DRUG ABUSE AND FAILURE TO ACCEPT RESPONSIBILITY;

THE PHOENIX CORPORATION v U.W. MARX, INC., et al.:

STATUTE OF FRAUDS - ORAL MODIFICATION OF WRITTEN AGREEMENT - PART PERFORMANCE - EQUITABLE ESTOPPEL - WHETHER PLAINTIFF DEMONSTRATED AN ENFORCEABLE ORAL MODIFICATION TO THE PARTIES' WRITTEN SUBCONTRACT WITH RESPECT TO THE RESPONSIBILITY FOR THE PAYMENT OF OVERTIME EXPENSES;

PIERCE (MARCELLUS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - INFORMATION - JURISDICTIONAL VALIDITY;

PORTFOLIO RECOVERY ASSOCIATES, LLC v KING:

CONFLICT OF LAWS - WHAT LAW GOVERNS - WHETHER NEW YORK'S "BORROWING STATUTE," CPLR 202, APPLIES AND, IF SO, WHETHER THIS COLLECTION ACTION TO RECOVER A CREDIT CARD BALANCE IS UNTIMELY UNDER THE THREE-YEAR DELAWARE STATUTE OF LIMITATION (WHERE THE BANK THAT ISSUED THE CREDIT CARD WAS INCORPORATED); ASSIGNMENTS - VALIDITY; SUMMARY JUDGMENT - EXISTENCE OF TRIABLE ISSUES OF MATERIAL FACT;

PRICE (STEPHEN), PEOPLE v:

CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT - WHETHER THE PEOPLE MAY AVOID DISMISSAL OF INDICTMENT ON SPEEDY TRIAL GROUNDS BY INVOKING THE "EXCEPTIONAL CIRCUMSTANCES" EXCLUSION OF CPL 30.30(4)(g) TO EXCLUDE THE PERIOD DURING WHICH AN APPEAL WAS PENDING IN AN UNRELATED PROSECUTION INVOLVING SIMILAR LEGAL ISSUES;

RACEPOINT PARTNERS, LLC, et al. v JPMORGAN CHASE BANK, N.A.:
 CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT AN INDENTURE AGREEMENT "REQUIRED ENRON TO FILE WITH THE INDENTURE TRUSTEE COPIES OF THE INFORMATION, DOCUMENTS AND OTHER REPORTS IT FILED WITH THE SEC" AND "DID NOT REQUIRE ENRON TO FILE WITH THE INDENTURE TRUSTEE FINANCIAL STATEMENTS THE CONTENTS OF WHICH COMPLY WITH FEDERAL SECURITIES LAW";

RAMOS (RAMON), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - ALLEGED DENIAL OF RIGHT TO ACT PRO SE BY COURT'S APPOINTMENT OF STANDBY COUNSEL; ALLEGED DEPRIVATION OF DEFENDANT'S RIGHT TO COUNSEL OF HIS OWN CHOOSING; RIGHT TO BE PRESENT AT TRIAL - WAIVER - ALLEGED DELEGATION OF JUDICIAL FUNCTION TO COURT CLERK WHO, AT COURT'S DIRECTION, EXPLAINED TO DEFENDANT HIS RIGHT TO BE PRESENT AT TRIAL AND THAT THE TRIAL WOULD CONTINUE IN HIS ABSENCE; TIMELINESS OF PROSECUTION - INDICTMENT FILED NEARLY 10 YEARS AFTER INCIDENT - APPLICATION OF FIVE-YEAR STATUTE OF LIMITATIONS PURSUANT TO CPL 30.10(2)(b) WHERE DEFENDANT'S WHEREABOUTS WERE CONTINUOUSLY UNKNOWN AND UNASCERTAINABLE BY THE EXERCISE OF REASONABLE DILIGENCE UNTIL HIS DNA PROFILE FROM SEXUAL ASSAULT EVIDENCE KIT WAS MATCHED TO DNA EVIDENCE TAKEN FROM HIM PURSUANT TO A SUBSEQUENT INCARCERATION;

RAMOS (ROLAND), PEOPLE v:

CRIMES - EVIDENCE - BUSINESS RECORDS - JUDICIAL NOTICE - WHETHER JUDICIAL NOTICE PROVIDED A BASIS FOR ADMITTING A COMPLAINING WITNESS'S ALLEGED BANK RECORDS INTO EVIDENCE AS BUSINESS RECORDS;

REGAL CONSTRUCTION CORPORATION, et al. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - ADDITIONAL INSURED COVERAGE - INSURANCE COVERAGE FOR PROJECT MANAGER'S FALL ON FRESHLY PAINTED FLOOR JOIST IN RENOVATION PROJECT AT RIKERS ISLAND; SUMMARY JUDGMENT;

REOME (NATHAN), PEOPLE v:

CRIMES - RAPE - CORROBORATION OF ACCOMPLICE TESTIMONY;

RIBACK (PHILLIP), PEOPLE v: (Cal. Date - 10/22/09)

CRIMES AND CRIMINAL PROCEDURE - ARGUMENT AND CONDUCT OF COUNSEL - ARGUMENT THAT PROSECUTOR'S SUMMATION DENIED DEFENDANT A FAIR TRIAL;

RIVERA (ALEX), PEOPLE v:

CRIMES - VERDICT - PROPRIETY OF TRIAL COURT'S REJECTION OF JURY'S PARTIAL VERDICT; ADJUDICATION OF DEFENDANT AS A PERSISTENT VIOLENT FELONY OFFENDER - SPECIFICITY OF PROOF OF VIOLENT FELONY; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

RIVERA (JUAN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CHALLENGE TO APPELLATE DIVISION ORDER DENYING APPLICATION FOR A WRIT OF ERROR CORAM NOBIS WHICH ALLEGED THAT APPELLATE COUNSEL ON DIRECT APPEAL WAS INEFFECTIVE BECAUSE SHE DID NOT SEEK VACATUR OF DEFENDANT'S GUILTY PLEA ON THE BASIS OF PEOPLE v CATU (4 NY3d 252 [2005]), WHICH WAS DECIDED BEFORE COUNSEL FILED DEFENDANT'S BRIEF WITH THE APPELLATE DIVISION;

RIVERSIDE SOUTH PLANNING CORP. v CRP/EXTELL RIVERSIDE, LP, et al.:
(Cal. Date - 10/22/09)

CONTRACTS - AMBIGUOUS CONTRACTS - SCOPE OF "SUNSET PROVISION" IN 1993 AGREEMENT;

ROBERTS, et al. v TISHMAN SPEYER PROPERTIES, L.P., et al.:

LANDLORD AND TENANT - RENT REGULATION - LUXURY DECONTROL PROVISIONS OF RENT STABILIZATION LAW - RECEIPT OF TAX BENEFITS PURSUANT TO REAL PROPERTY TAX LAW § 489 ("J-51 BENEFITS") - WHETHER THE EXCEPTION TO LUXURY DECONTROL FOR PROPERTIES RECEIVING J-51 BENEFITS APPLIES ONLY WHEN AN APARTMENT IS SUBJECT TO RENT STABILIZATION "SOLELY BY VIRTUE OF" THE RECEIPT OF J-51 BENEFITS;

RONDACK CONSTRUCTION SERVICES v KAATSBAAN INTERNATIONAL DANCE CENTER, et al.: (Cal. Date - 11/18/09)

EXECUTION - SHERIFF'S SALE - CHALLENGE TO APPELLATE DIVISION ORDER GRANTING MOTION TO SET ASIDE A JUDICIAL SALE OF REAL PROPERTY AND TO COMPEL SHERIFF TO ACCEPT DEFENDANT'S CERTIFIED CHECK IN FULL SATISFACTION OF A JUDGMENT AGAINST IT - CPLR ARTICLE 52 - TIFFANY v ST. JOHN (65 NY 314);

RODRIGUEZ (EDWIN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION - POWER OF COURT TO RESENTENCE DEFENDANT TO A PERIOD OF POSTRELEASE SUPERVISION AFTER COMPLETION OF HIS PRISON SENTENCE - ALLEGED DOUBLE JEOPARDY AND DUE PROCESS VIOLATIONS - NECESSITY FOR PRESERVATION OF DOUBLE JEOPARDY ARGUMENT - SENTENCING COURT'S DISCRETION NOT TO RESENTENCE DEFENDANT;

ROSA v STATE OF NEW YORK:

NEGLIGENCE - MAINTENANCE OF PREMISES - TABLE SAW INJURY TO INMATE WORKING AS A CARPENTER - WHETHER CLAIMANT FAILED TO PROVE BY A PREPONDERANCE OF THE EVIDENCE THAT DEFENDANT DID NOT PROVIDE HIM WITH REASONABLY SAFE EQUIPMENT;

ST. LAWRENCE FACTORY STORES v OGDENSBURG BRIDGE AND PORT AUTHORITY:

VENDOR AND PURCHASER - CONTRACT FOR THE SALE OF REAL PROPERTY - BREACH - DAMAGES - WHETHER, UNDER A RELIANCE DAMAGES THEORY, PLAINTIFF MAY RECOVER COMPENSATION FOR EXPENSES INCURRED IN DEVELOPING COMMERCIAL REAL PROPERTY ON WHICH IT INTENDED TO CONSTRUCT A RETAIL FACTORY OUTLET;

SALM v MOSES:

WITNESSES - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT "THE TRIAL COURT PROPERLY LIMITED THE SCOPE OF CROSS-EXAMINATION OF DEFENDANT'S EXPERT BY PRECLUDING INQUIRY INTO THE FACT THAT HE AND DEFENDANT WERE INSURED AND SHAREHOLDERS IN THE SAME DENTAL MALPRACTICE INSURANCE COMPANY";

SAMANDAROV (SIMON), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CPL 440.10 MOTION WITHOUT A HEARING - ALLEGED VIOLATION OF RIGHTS UNDER PEOPLE v ROSARIO (9 NY2d 286) - CONTRADICTORY AFFIDAVITS FROM ONE OF THE PEOPLE'S PRIMARY WITNESSES;

SANCHEZ (MATTHEW), PEOPLE v: (Cal. Date - 10/21/09)

CRIMES AND CRIMINAL PROCEDURE - GANG ASSAULT - WHETHER "TWO OR MORE PERSONS" SPECIFIED IN PENAL LAW § 120.06 MUST SHARE DEFENDANT'S INTENT TO CAUSE "SERIOUS PHYSICAL INJURY" IN ORDER TO HAVE "AIDED" DEFENDANT IN COMMITTING A GANG ASSAULT - JURY CHARGE - ARGUMENT THAT STATUTE IS VOID FOR VAGUENESS - PROSECUTOR'S USE OF DEFENDANT'S COLLEGE RECORD ON CROSS-EXAMINATION AND COURT'S INSTRUCTION THAT JURY COULD CONSIDER THAT RECORD IN EVALUATING DEFENDANT'S CREDIBILITY - ALLEGED ROSARIO VIOLATIONS - MOTION TO VACATE VERDICT BASED UPON POST-CONVICTION SURVEILLANCE TAPES OF VICTIM AND JUROR MISCONDUCT;

SAVE THE PINE BUSH, INC., MATTER OF v COMMON COUNCIL OF THE CITY OF ALBANY:

MUNICIPAL CORPORATIONS - ZONING - STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) - PETITIONER'S STANDING TO BRING CPLR ARTICLE 78 PROCEEDING TO CHALLENGE SEQRA DETERMINATION - WHETHER RESPONDENT TOOK THE REQUISITE "HARD LOOK" AT RELEVANT AREAS OF ENVIRONMENTAL CONCERN;

SCAPARO et al. v VILLAGE OF ILION, et al. (AND ANOTHER PROCEEDING):

NEGLIGENCE - MAINTENANCE OF PREMISES - LABOR LAW - INJURY TO VILLAGE EMPLOYEES INSTALLING SEWER LATERAL FROM CHURCH PROPERTY TO THE SEWER MAIN OVER PROPERTY OWNED BY THE HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY (HCIDA) - WHETHER HCIDA OR CHURCH WAS OWNER WITHIN THE MEANING OF LABOR LAW § 241(6); PLAINTIFFS' ENTITLEMENT TO SUMMARY JUDGMENT ON LIABILITY UNDER LABOR LAW §§ 200 AND 241(6);

SCHNEIDER, ESTATE OF v FINMANN, et al.:

ATTORNEY AND CLIENT - MALPRACTICE - ACCRUAL OF CAUSE OF ACTION - WHETHER CAUSE OF ACTION FOR LEGAL MALPRACTICE IN ESTATE PLANNING ACCRUES WHEN THE MALPRACTICE IS COMMITTED, THEREBY SURVIVING DECEDENT'S DEATH AND PERMITTING THE ESTATE TO COMMENCE A LEGAL ACTION PURSUANT TO EPTL 11-3.2(b) - QUESTION OF PRIVACY BETWEEN ESTATE AND DECEDENT'S LAWYER; INCREASED ESTATE TAXES AS DAMAGES;

SCULLY (RANCE), PEOPLE v:

CRIMES - SEARCH WARRANT - DENIAL OF MOTION TO SUPPRESS GUN RECOVERED FROM DEFENDANT'S PERSON AND DRUGS RECOVERED FROM HIS APARTMENT DURING EXECUTION OF A SEARCH WARRANT FOR THE APARTMENT - WHETHER DEFENDANT HAD STANDING TO CHALLENGE ISSUANCE OF THE SEARCH WARRANT; JURY INSTRUCTIONS - COURT'S SUA SPONTE INSTRUCTION THAT THE JURY WAS NOT TO DRAW A NEGATIVE INFERENCE FROM DEFENDANT'S FAILURE TO TESTIFY AND COURT'S FAILURE TO REPEAT IN FINAL JURY CHARGE AN INSTRUCTION REGARDING DEFENDANT'S ABSENCE AT TRIAL; ALLEGEDLY IMPROPER EXPERT TESTIMONY - TESTIMONY BY POLICE OFFICERS THAT, IN THEIR EXPERIENCE, THE AMOUNT OF COCAINE FOUND IN THE APARTMENT WAS CONSISTENT WITH POSSESSION WITH INTENT TO SELL;

SHAPARD, MATTER OF v ZON, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING TO REVIEW DETERMINATION IN PRISON DISCIPLINARY PROCEEDING; APPEAL DISMISSED BY APPELLATE DIVISION - MOOTNESS;

SIMMS (EVERTON D.), PEOPLE v: (Cal. Date - 10/15/09)

CRIMES AND CRIMINAL PROCEDURE - VERDICT - WHETHER TRIAL COURT ERRED IN ACCEPTING VERDICT BASED UPON STATEMENTS MADE BY JUROR DURING POLLING AND SUBSEQUENT INQUIRY BY THE COURT;

JOSEPH SINGER, DECEASED, MATTER OF (SINGER v SINGER):

(Cal. Date - 10/15/09)

WILL - PROBATE - WHETHER RESPONDENT'S DEPOSITION OF TESTATOR'S FORMER ATTORNEY, WHICH IS NOT EXPRESSLY PROTECTED BY SAFE HARBOR PROVISIONS OF EPTL 3 - 3.5(b)(3)(D) AND SCPA 1404(4), VIOLATED IN TERROREM CLAUSES OF WILL EVEN THOUGH RESPONDENT NEVER OBJECTED TO PROBATE THEREOF;

SNYDER v BRONFMAN: (Cal. Date - 10/14/09)

STATUTE OF FRAUDS - AGREEMENT TO PAY FINDER'S FEE - DISMISSAL OF CAUSES OF ACTION FOR UNJUST ENRICHMENT AND QUANTUM MERUIT - APPLICATION OF GENERAL OBLIGATIONS LAW § 5-701(a)(10) TO ORAL JOINT VENTURE AGREEMENT;

STATE FARM MUTUAL AUTOMOBILE COMPANY v LANGAN &c.:

INSURANCE - AUTOMOBILE INSURANCE - INSURED INTENTIONALLY STRUCK BY CAR - COVERAGE UNDER POLICY'S MANDATORY PERSONAL INJURY PROTECTION ENDORSEMENT AND DEATH, DISMEMBERMENT AND LOSS OF SIGHT PROVISIONS - INTERPRETATION OF TERM "ACCIDENT"; LAW OF THE CASE;

STATE OF NEW YORK v LVF REALTY CO., INC., et al.:

GAS AND OIL - OIL SPILL CLEANUP - CONSTITUTIONAL CHALLENGES TO IMPOSITION OF \$6 MILLION IN CIVIL PENALTIES PURSUANT TO NAVIGATION LAW § 192 GIVEN THE AMOUNT AWARDED FOR CLEANUP COSTS, THE ACCRUAL OF THE PENALTY WITHOUT AN OPPORTUNITY FOR A HEARING, THE IMPOSITION OF THE PENALTY WITHOUT AN OPPORTUNITY TO ASSERT A GOOD FAITH DEFENSE AND THE ABSENCE OF JURY INSTRUCTIONS REGARDING THE ASSESSMENT OF PENALTIES;

TABB (CHRISTIAN), PEOPLE v:

CRIMES - JURORS - NOTES FROM JURY - TRIAL COURT'S FAILURE TO NOTIFY COUNSEL OF JURY NOTES AND TO READ NOTES INTO THE RECORD;

TARONE v TARONE:

HUSBAND AND WIFE - DIVORCE - CHALLENGE TO APPELLATE DIVISION ORDER DENYING PLAINTIFF-HUSBAND'S MOTION TO VACATE AN APPELLATE DIVISION ORDER GRANTING DEFENDANT-WIFE'S MOTION TO DIRECT THE SUFFOLK COUNTY TREASURER TO RELEASE \$50,000 TO HER ATTORNEY;

TAYLOR (DAIVERY) et al. v PEOPLE:

CRIMES AND CRIMINAL PROCEDURE - OFFERING FALSE INSTRUMENT FOR FILING - SUFFICIENCY OF EVIDENCE - PENAL LAW § 175.35 - FILING OF RETAINER STATEMENTS WITH OFFICE OF COURT ADMINISTRATION - INTENT TO DEFRAUD THE STATE OR ANY OF ITS SUBDIVISIONS - NECESSITY OF PROOF THAT STATE AGENCY "CHECK[ED], VERIF[IED], OR REL[IED] UPON" INFORMATION CONTAINED IN RETAINER STATEMENTS;

TAYLOR (GREGORY), PEOPLE v:

CRIMES - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE;

TEODORESCU v RESNICK & BINDER, P.C.:

ATTORNEY AND CLIENT - MALPRACTICE - DEFENDANT'S SERVICE OF UNTIMELY NOTICE OF CLAIM AND FAILURE TO SEEK PERMISSION TO FILE A LATE NOTICE OF CLAIM - WHETHER TRIABLE ISSUES OF FACT EXIST CONCERNING WHETHER PLAINTIFF WOULD HAVE PREVAILED IN HER UNDERLYING PERSONAL INJURY ACTION BUT FOR DEFENDANT'S NEGLIGENCE;

TOLENTINO (JOSE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SUPPRESSION HEARING - TRIAL COURT DENIED, WITHOUT A HEARING, DEFENDANT'S MOTION TO SUPPRESS DEPARTMENT OF MOTOR VEHICLES' RECORDS RELATING TO SUSPENSION OF HIS DRIVER'S LICENSE - WHETHER DMV RECORDS SHOULD HAVE BEEN SUPPRESSED AS FRUITS OF AN ALLEGEDLY UNLAWFUL VEHICULAR STOP DURING WHICH THE POLICE OBTAINED DEFENDANT'S PEDIGREE INFORMATION AND THEREBY OBTAINED HIS DMV INFORMATION THROUGH A COMPUTER CHECK;

TRUPIA et al. v LAKE GEORGE CENTRAL SCHOOL DISTRICT, et al.:

NEGLIGENCE - ASSUMPTION OF RISK - CHILD INJURED DURING SLIDE DOWN STAIRWAY BANNISTER DURING SUMMER SCHOOL PROGRAM; PLEADINGS - AFFIRMATIVE DEFENSE;

VALENCIA (ALBEIRO), PEOPLE &c.:

CRIMES AND CRIMINAL PROCEDURE - ASSAULT - DEPRAVED INDIFFERENCE ASSAULT - MENS REA - WHETHER DEFENDANT'S STATE OF MIND AT THE TIME HE CONSUMED ALCOHOL WAS TOO TEMPORALLY REMOTE FROM HIS LATER OPERATION OF A VEHICLE AND COLLISION WITH COMPLAINANT'S VEHICLES TO SUPPORT A CONVICTION FOR DEPRAVED INDIFFERENCE ASSAULT;

VELAZQUEZ v ST. BARNABAS HOSPITAL:

STIPULATIONS - ENFORCEMENT - CONFIDENTIALITY AGREEMENT -
SATISFACTION OF "OPEN COURT" REQUIREMENT OF CPLR 2104 - AGREEMENT
TO IMPOSITION OF PUNITIVE DAMAGES;

VERIZON NEW YORK, INC. v GARVIN et al. (AND ANOTHER ACTION):

NEGLIGENCE - MAINTENANCE OF PREMISES - ACTION SEEKING TO RECOVER
DAMAGES FOR INJURY TO PLAINTIFF'S AERIAL CABLES SUSTAINED AS A
RESULT OF A FIRE ON PROPERTY OWNED BY DEFENDANT LANDLORD -
WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT
WAS ENTITLED TO SUMMARY JUDGMENT BECAUSE HE ESTABLISHED THAT A
TENANT'S CARELESS SMOKING CAUSED THE FIRE AND PLAINTIFF FAILED TO
RAISE A TRIABLE ISSUE OF FACT AS TO WHETHER THE ALLEGED ABSENCE
OF OPERABLE SMOKE DETECTORS WAS A SUBSTANTIAL FACTOR IN CAUSING
THE FIRE TO SPREAD AND THUS DAMAGE ITS PROPERTY;

VETTER, MATTER OF v BOARD OF EDUCATION, RAVENA-COEYMANS-SELKIRK
CENTRAL SCHOOL DISTRICT, et al.:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING
BY PROBATIONARY TEACHER TERMINATED WITHOUT 30 DAYS NOTICE
PURSUANT TO EDUCATION LAW § 3019-a - RIGHT TO ATTORNEYS' FEES AS
A "PREVAILING PARTY" PURSUANT TO 49 USC § 1988 WHERE RESPONDENT
VOLUNTARILY PROVIDED THE REQUESTED NAME-CLEARING HEARING AND NO
CONSENT DECREE OR COURT JUDGMENT WAS ENTERED; EMPLOYMENT
RELATIONSHIPS;

VINTAGE, LLC v LAWS CONSTRUCTION CORP., et al.:

(Cal. Date - 10/14/09)

CONTRACTS - FORMATION OF CONTRACT - WHETHER SUFFICIENT EVIDENCE
EXISTED FROM WHICH A JURY COULD DETERMINE THAT A JOINT VENTURE
HAD BEEN FORMED AT A PARTICULAR TIME; JURY INSTRUCTIONS;

VOMERO v CITY OF NEW YORK: (Cal. Date - 10/15/09)

MUNICIPAL CORPORATIONS - ZONING - VARIANCE - WHETHER ZONING
BOARD'S DETERMINATION WAS ILLEGAL, ARBITRARY AND CAPRICIOUS, OR
AN ABUSE OF DISCRETION;

WADLER v CITY OF NEW YORK:

MUNICIPAL CORPORATIONS - TORT LIABILITY - POLICE - WHETHER
FIREFIGHTER'S RULE BARS PLAINTIFF'S COMMON-LAW NEGLIGENCE CLAIM;

WALTON v NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES:

(Cal. Date - 10/13/09)

CONSTITUTIONAL LAW - STATE CONSTITUTIONAL LAW - CONSTITUTIONALITY
OF SINGLE-PROVIDER COLLECT CALL SYSTEM FOR PRISON INMATES;

WEST HARLEM BUSINESS GROUP, MATTER OF v EMPIRE STATE DEVELOPMENT
CORPORATION: (Cal. Date 11/17/09)

DISCLOSURE - FREEDOM OF INFORMATION LAW - CPLR ARTICLE 78
PROCEEDING CHALLENGING THE DETERMINATION OF RESPONDENT EMPIRE
STATE DEVELOPMENT CORPORATION THAT CERTAIN AGENCY DOCUMENTS WERE

EXEMPT FROM DISCLOSURE UNDER NEW YORK'S FREEDOM OF INFORMATION LAW (FOIL) (PUBLIC OFFICERS LAW, ARTICLE 6); ATTORNEY-CLIENT PRIVILEGE - WORK PRODUCT PRIVILEGE;

WILLIAMS (DARRELL), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - POST-RELEASE SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A DEFENDANT TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN FULLY SERVED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DEFENDANT'S DUE PROCESS RIGHTS;

WILLIAMS (RAHJEEM), PEOPLE v:

CRIMES - JURORS - WHETHER DEFENDANT MADE A KNOWING, INTELLIGENT AND VOLUNTARY WAIVER OF THE RIGHT TO BE PRESENT AT DISCUSSIONS WITH PROSPECTIVE JURORS REGARDING POSSIBLE BIAS;

WILSON (DESIRIE), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT CONVICTION OF ATTEMPTED AGGRAVATED HARASSMENT IN THE SECOND DEGREE; CLAIMED IMPROPRIETY IN TRANSFER OF CASE FROM CRIMINAL COURT TO SUPREME COURT; SUBJECT MATTER JURISDICTION OF TRIAL COURT;

WOOLEY, MATTER OF v NEW YORK STATE DEPARTMENT OF CORRECTIONAL SERVICES:

PRISONS AND PRISONERS - MEDICAL AND SURGICAL TREATMENT - DISMISSAL OF CPLR ARTICLE 78 PROCEEDING CHALLENGING RESPONDENT'S ALLEGED FAILURE TO PROVIDE NECESSARY MEDICAL CARE;

WROTTEN (JUWANNA), PEOPLE: (Cal. Date - 11/17/09)

CRIMES AND CRIMINAL PROCEDURE - WITNESSES - PRESENTATION OF OUT-OF-STATE COMPLAINANT'S TESTIMONY THROUGH TWO-WAY TELEVISION - DEFENDANT'S RIGHT OF CONFRONTATION;

ZARATE (CHARLES), PEOPLE v:

CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT - WHETHER THE PEOPLE MAY AVOID DISMISSAL OF INDICTMENT ON SPEEDY TRIAL GROUNDS BY INVOKING THE "EXCEPTIONAL CIRCUMSTANCES" EXCLUSION OF CPL 30.30(4)(g) TO EXCLUDE THE PERIOD DURING WHICH AN APPEAL WAS PENDING IN AN UNRELATED PROSECUTION INVOLVING SIMILAR LEGAL ISSUES;

ZEPHRIN (PATRICK), PEOPLE v:

CRIMES - SENTENCE - PROBATION-REVOCATION - WHETHER A DEFENDANT'S PRE-SENTENCE INCARCERATION SHOULD BE CREDITED AGAINST A PERIOD OF PROBATION THAT IS PART OF DEFENDANT'S SPLIT SENTENCE OF INCARCERATION AND PROBATION UNDER PENAL LAW § 60.01(2)(d);

ZONA (JOSHUA M.), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN DECLINING TO INSTRUCT THE JURY ON THE CLAIM OF RIGHT DEFENSE ASSERTED BY DEFENDANT - PENAL LAW § 155.15(1); LARCENY;