

July 11, 2008

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.

ASPEN CREEK ESTATES, LTD., MATTER OF, v TOWN OF BROOKHAVEN, et al.:

EMINENT DOMAIN - PUBLIC USE - WHETHER TOWN'S DECISION TO EXERCISE ITS POWER OF EMINENT DOMAIN TO CONDEMN THE SUBJECT PROPERTY IN ORDER TO PRESERVE ITS USE AS FARMLAND SERVES A LEGITIMATE PUBLIC PURPOSE OR IS INSTEAD A PRETEXT TO IMPROPERLY CONFER BENEFITS UPON PRIVATE PERSONS - EDPL 207 PROCEEDING;

AVINS &c. et al. v FEDERATION EMPLOYMENT AND GUIDANCE SERVICE INC., et al.:

NEGLIGENCE - NEGLIGENT SUPERVISION - WHETHER COMPLAINT ALLEGES FACTS THAT WOULD GIVE RISE TO A DUTY OF CARE ON PART OF CERTAIN DEFENDANTS TO PROTECT MEMBERS OF THE GENERAL PUBLIC FROM KNOWN OR REASONABLY DISCOVERABLE VIOLENT PROPENSITIES OF A PARTICIPANT IN A COMMUNITY RESIDENCE PROGRAM THOSE DEFENDANTS OPERATE KNOWN AS THE INTENSIVE SUPPORTIVE APARTMENT PROGRAM;

JASON B., MATTER OF v NOVELLO et al.:

ADMINISTRATIVE LAW - RES JUDICATA - DENIAL OF ELIGIBILITY BASED ON SAME EVIDENCE UPON WHICH AGENCY PREVIOUSLY GRANTED ELIGIBILITY - INITIAL ELIGIBILITY FINDING MADE WITHOUT A CONTESTED HEARING - EXISTENCE OF SUBSTANTIAL EVIDENCE SUPPORTING DENIAL OF ELIGIBILITY;

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;

BAUMAN (AMBER) and LAFLEER (CHARLES EDWARD), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - INDICTMENT - DISMISSAL - WHETHER COUNTS IN INDICTMENT ARE DUPLICITOUS - INTENTIONAL ASSAULT IN THE FIRST DEGREE (PENAL LAW § 120.10[1]) - MULTIPLE DANGEROUS INSTRUMENTS CAUSING MULTIPLE PHYSICAL INJURIES OVER TIME; DEPRAVED INDIFFERENCE ASSAULT (PENAL LAW § 120.10[3]);

BENITEZ (RIGOBERTO), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION;

BERNSTEIN v FEINER:

MUNICIPAL CORPORATIONS - PARKS - TOWN LAW § 232 - THE "FINNERMAN LAW" (L. 1982, CH 891) - CHALLENGE TO IMPOSITION OF COST OF PARK ONLY UPON TAXPAYERS OF TOWN'S UNINCORPORATED AREAS AND NOT UPON RESIDENTS OF TOWN'S INCORPORATED VILLAGES WHERE PARK IS OPEN TO USE BY ALL TOWN RESIDENTS;

BOUDREAUX v THE STATE OF LOUISIANA &c., et al.:

(Cal. Date 9/9/08)

JUDGMENTS - FOREIGN JUDGMENT - COMITY - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING SUPREME COURT ORDER THAT DENIED PLAINTIFFS' MOTION FOR LEAVE TO MAKE CERTAIN CHANGES TO A LOUISIANA JUDGMENT SO IT COULD BE DOCKETED IN NEW YORK AND VACATED THE FILING OF THE LOUISIANA JUDGMENT - ALLEGED VIOLATIONS OF THE FULL FAITH AND CREDIT AND PRIVILEGES AND IMMUNITIES CLAUSES OF THE FEDERAL CONSTITUTION - ALLEGED VIOLATION OF CPLR ARTICLE 54;

BOYD (PAUL), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - VOLUNTARINESS OF GUILTY PLEA - WAIVER OF RIGHT TO APPEAL - PRESERVATION; POST-RELEASE SUPERVISION - APPROPRIATE REMEDY WHERE POST-RELEASE SUPERVISION NOT PRONOUNCED AS PART OF SENTENCE;

BROOKS et al. v JUDLAU CONTRACTING, INC.: (Cal. Date 9/4/08)

INDEMNITY - CONTRACTUAL INDEMNIFICATION - TRIAL COURT DISMISSAL OF THIRD-PARTY CLAIM FOR CONTRACTUAL INDEMNIFICATION - GENERAL CONTRACTOR'S CLAIM FOR INDEMNIFICATION FROM SUBCONTRACTOR FOR INJURY TO IRONWORKER WHO FELL FROM AN OVERPASS WHILE INSTALLING A STEEL GIRDER;

BROWNLEY v DOAR &c.:

1ST Dept. App. Div. order of 10/2/07; affirmance; leave to appeal granted by Court of Appeals, 5/1/08;

SOCIAL SERVICES - PUBLIC ASSISTANCE - SAFETY NET ASSISTANCE - STANDING - WHETHER RECIPIENTS OF AID UNDER THE STATE SAFETY NET ASSISTANCE PROGRAM HAVE STANDING TO CHALLENGE THE ADEQUACY OF SHELTER ALLOWANCES PURSUANT TO SOCIAL SERVICES LAW § 350(1)(a);

BUSS (ROBERT), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER DEFENDANT IS SUBJECT TO SORA'S REQUIREMENTS WHERE HIS 1983 SENTENCE FOR A REGISTRABLE OFFENSE EXPIRED PRIOR TO SORA'S EFFECTIVE DATE - CHALLENGE TO LEVEL THREE DESIGNATION - DENIAL OF MOTION TO STRIKE VICTIM IMPACT STATEMENT FROM 1987 PRESENTENCE REPORT - CLAIM THAT DEFENDANT DID NOT

COMMIT SEX CRIMES;

CASTELLANO (ROBERTO), PEOPLE v: (Cal. Date 10/21/08)

CRIMES AND CRIMINAL PROCEDURE - MURDER - DEPRAVED INDIFFERENCE
MURDER - SUFFICIENCY OF THE EVIDENCE - DETERMINING SUFFICIENCY OF
THE EVIDENCE BASED UPON ELEMENTS OF CRIME CHARGED TO THE JURY
WITHOUT OBJECTION - RETROACTIVE APPLICATION OF PEOPLE v FEINGOLD
(7 NY3d 288) TO CONVICTIONS ON DIRECT APPEAL; PRESERVATION;

CINTRON (ELIEZER), PEOPLE v:

CONSTITUTIONAL LAW - DUE PROCESS - EQUAL PROTECTION - SEX
OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ARTICLE 6-C) -
WHETHER INDIVIDUAL CONVICTED OF AN ABDUCTION-RELATED CRIME
INVOLVING A CHILD CAN BE REQUIRED TO REGISTER AS A "SEX OFFENDER"
WHERE THERE WAS NO SEXUAL COMPONENT OR MOTIVE FOR THE CRIME;

CITY OF ELMIRA, et al., MATTER OF v DOE: (Cal. Date 9/3/08)

RECORDS - SEALING OF RECORDS UPON FAVORABLE TERMINATION OF
CRIMINAL ACTION IN FAVOR OF ACCUSED - CPL 160.50 - CHALLENGE TO
APPELLATE DIVISION ORDER GRANTING A MOTION FOR RESETTLEMENT AND
REARGUMENT AND MODIFYING PRIOR ORDER BY EXPANDING THE SCOPE OF
RECORDS NOT SUBJECT TO SEAL;

COHEN et al. v MEMORIAL SLOAN-KETTERING CANCER CENTER et al.:

LABOR - SAFE PLACE TO WORK - SUMMARY JUDGMENT - WHETHER
PLAINTIFFS WERE ENTITLED TO SUMMARY JUDGMENT ON LIABILITY ON
THEIR LABOR LAW § 240(1) CLAIM UPON THE GROUND THAT "THE SAFETY
DEVICE MADE AVAILABLE TO PERFORM THE ASSIGNED TASK AT AN
ELEVATION COULD NOT BE PROPERLY PLACED AT THAT SPOT IN A POSITION
THAT WOULD PROVIDE ADEQUATE PROTECTION TO THE WORKER FROM THE
RISK OF FALLING WHEN HE DESCENDED THE LADDER";

CONTRERAS (WALKINS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO BE PRESENT AT MATERIAL
STAGE OF TRIAL - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION -
EVIDENCE - CHALLENGE TO TRIAL COURT'S EX PARTE INTERVIEW OF
VICTIM CONCERNING NOTE SHE WROTE INVOLVING GRAPHIC SEXUAL
MATTERS, ORDER PROHIBITING DEFENSE COUNSEL FROM DISCLOSING THE
NOTE TO DEFENDANT AND RULING PRECLUDING THE USE OF THE NOTE ON
THE GROUND OF RELEVANCE;

CONSEDINE v PORTVILLE CENTRAL SCHOOL DISTRICT:

SCHOOLS - BOARD OF EDUCATION - WHETHER EDUCATION LAW § 3012
PROHIBITS A BOARD OF EDUCATION FROM ENTERING INTO A DURATIONAL
EMPLOYMENT CONTRACT WITH A PROBATIONARY SCHOOL ADMINISTRATOR AND,
IF NOT, WHETHER THE PARTIES' EMPLOYMENT CONTRACT GUARANTEED
PLAINTIFF EMPLOYMENT FOR A SPECIFIED PERIOD OF TIME;

CRISCOLO, et al., MATTER OF v VAGIANELIS &c. et al.:

CIVIL SERVICE - CLASSIFICATION - CPLR ARTICLE 78 PROCEEDING TO
REVIEW A DETERMINATION OF RESPONDENT DEPARTMENT OF CIVIL SERVICE
RECLASSIFYING CERTAIN CIVIL SERVICE JOB TITLES - REVISION OF JOB
TITLES WITHIN THE DEPARTMENT OF CORRECTIONAL SERVICES TO INCLUDE

A DUTY TO CONDUCT TIER III INMATE DISCIPLINARY HEARINGS;
DEFILIPPO, MATTER OF, v ROONEY, et al.:
 PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DOUBLE
 JEOPARDY - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT
 PETITIONER FAILED TO DEMONSTRATE PROSECUTORIAL OR JUDICIAL
 MISCONDUCT INTENDED TO PROVOKE HIM INTO REQUESTING A MISTRIAL AND
 THAT PETITIONER OTHERWISE FAILED TO DEMONSTRATE A CLEAR LEGAL
 RIGHT TO REMEDIES IN THE NATURE OF PROHIBITION OR MANDAMUS;

DIGGINS (ISAAC), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - SENTENCE - PERSISTENT VIOLENT
 FELONY OFFENDER - WHETHER TRIAL COURT ERRED IN FINDING DEFENDANT
 TO BE A PERSISTENT VIOLENT FELONY OFFENDER WITHOUT A HEARING
 REGARDING THE CONSTITUTIONALITY OF THE PRIOR CONVICTION AND
 WITHOUT ALLOWING DEFENDANT AN ADJOURNMENT TO OBTAIN THE
 TRANSCRIPT OF THE PRIOR TRIAL; EVIDENCE OF PRIOR CONVICTIONS;
 PROSECUTOR'S ALLEGEDLY IMPROPER REMARKS IN SUMMATION;

DISANZA v CITY OF NEW YORK, et al.:
 NEGLIGENCE - MAINTENANCE OF PREMISES - ACTUAL OR CONSTRUCTIVE
 NOTICE OF DEFECT - TRIP AND FALL OVER RAISED METAL SIDEWALK
 GRATING; SUMMARY JUDGMENT;

D'ONOFRIO et al. v THE CITY OF NEW YORK et al.: (Cal. 10/15/08)
 NEGLIGENCE - PRIMA FACIE CASE OF NEGLIGENCE - BIG APPLE POTHOLE
 AND SIDEWALK PROTECTION CORPORATION MAP AS PRIOR WRITTEN NOTICE
 OF ALLEGED DEFECT;

DORM (CHRIS), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - CHALLENGE
 TO TRIAL COURT'S MOLINEAUX RULING (PEOPLE v MOLINEAUX, 168 NY
 264) - EVIDENCE OF CONFLICTS BETWEEN DEFENDANT AND VICTIM OF
 DOMESTIC ABUSE BEFORE AND AFTER INCIDENT GIVING RISE TO CRIMINAL
 CHARGES, INCLUDING EVIDENCE OF DEFENDANT'S AGGRESSIVE AND
 CONTROLLING BEHAVIOR;

DUFFY v VOGEL, et al.:
 TRIAL - HARMLESS OR PREJUDICIAL ERROR - WHETHER DENIAL OF
 PLAINTIFF'S REQUEST TO POLL JURY IS HARMLESS ERROR; JURY; MOTION
 TO SET ASIDE VERDICT AND FOR MISTRIAL; PHYSICIANS - MEDICAL
 MALPRACTICE;

EDUARDO (JUAN), PEOPLE v: (Cal. Date 10/23/08)
 CRIMES AND CRIMINAL PROCEDURE - CONTROLLED SUBSTANCES - LEGAL
 SUFFICIENCY OF THE EVIDENCE SUPPORTING DEFENDANT'S CONVICTION OF
 CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE THIRD DEGREE;
 APPELLATE DIVISION DETERMINATION THAT DEFENDANT FAILED TO
 PRESERVE HIS CONSTITUTIONAL CLAIMS;

ELLIS, MATTER OF v MAHON:
 CIVIL SERVICE - DISCIPLINARY PUNISHMENT - APPELLATE DIVISION'S

DISCRETIONARY AUTHORITY IN A CPLR ARTICLE 78 PROCEEDING TO REVIEW THE PENALTY IMPOSED BY RESPONDENT COMMISSIONER - WHETHER THE APPELLATE DIVISION APPROPRIATELY ANNULLED PENALTY OF TERMINATION OF EMPLOYMENT;

ELVIN G., MATTER OF (ANONYMOUS):

INFANTS - JUVENILE DELINQUENTS - STUDENT SEARCH - DENIAL OF SUPPRESSION MOTION WITHOUT A HEARING - JUSTIFICATION FOR SEARCH;

ELYSEE (FRITZ), 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; INSTRUCTIONS - WHETHER THE TRIAL COURT PROPERLY REFUSED TO CHARGE THE JURY WITH CRIMINALLY NEGLIGENT HOMICIDE AS A LESSER INCLUDED OFFENSE OF MANSLAUGHTER IN THE SECOND DEGREE;

ENNIS (SHELDON), PEOPLE v: (Cal. Date 10/15/08)

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - CONFLICT OF INTEREST - DEFENSE COUNSEL'S PROMISE NOT TO REVEAL EXCULPATORY INFORMATION PROVIDED TO HIM IN CONFIDENCE BY CO-DEFENDANT'S COUNSEL - ALLEGED VIOLATION OF BRADY v MARYLAND (373 US 83) - LEGAL SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF FIRST AND SECOND DEGREE ASSAULT AS TO PARTICULAR VICTIM;

COUNTY OF ERIE, et al., MATTER OF v STATE OF NEW YORK PUBLIC EMPLOYMENT RELATIONS BOARD, et al.:

CIVIL SERVICE - PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT - REFUSAL TO NEGOTIATE IN GOOD FAITH - CHALLENGE TO PUBLIC EMPLOYMENT RELATIONS BOARD (PERB) DETERMINATION THAT PETITIONERS VIOLATED CIVIL SERVICE LAW § 209-a(1)(d) BY TRANSFERRING EXCLUSIVE BARGAINING UNIT WORK TO NON-UNIT EMPLOYEES - PREEMPTION - CORRECTION LAW § 500-b(7) - 9 NYCRR 7013.8(c);

FARID, MATTER OF v DENNISON:

PAROLE - DENIAL - CHALLENGE TO APPELLATE DIVISION ORDER DISMISSING, AS MOOT, PETITIONER'S APPEAL FROM A SUPREME COURT JUDGMENT DISMISSING HIS CPLR ARTICLE 78 PETITION CHALLENGING RESPONDENT'S DETERMINATION DENYING PAROLE;

FARKAS v FARKAS: (Cal. Date 9/10/08)

DISMISSAL AND NONSUIT - ABANDONED CASES - DELAY IN SETTLEMENT OF JUDGMENT IN FAVOR OF PLAINTIFF - DEFENDANT'S OPPOSITION TO ENTRY OF PROPOSED JUDGMENT BASED ON UNTIMELINESS (22 NYCRR 202.48[a], [b]) - WHETHER THERE WAS GOOD CAUSE FOR DELAY - LAW OFFICE FAILURE; JUDGMENT - VACATUR;

FASSO v DOERR:

INSURANCE - SUBROGATION RIGHTS OF NSURER - WHETHER THE TRIAL

COURT ERRED IN DISMISSING INTERVENOR-PLAINTIFF HEALTH INSURER'S CAUSE OF ACTION FOR EQUITABLE SUBROGATION SUA SPONTE AFTER INJURED PLAINTIFF IN MALPRACTICE ACTION SETTLED WITH DEFENDANT;

FORD (ALFRED), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - ROBBERY - WHETHER THE EVIDENCE AT TRIAL WAS SUFFICIENT TO ESTABLISH FIRST-DEGREE ROBBERY UNDER PENAL LAW § 160.15(3) REQUIRING USE OR THREATENED USE OF A DANGEROUS INSTRUMENT WHERE VICTIM TESTIFIED THAT DEFENDANT SAID HE HAD A KNIFE BUT WITNESS NEVER SAW KNIFE AND NO KNIFE WAS RECOVERED - SEVERANCE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION PURSUANT TO CPL 200.23(3)(a) IN DENYING SEVERANCE FOR TRIAL OF TWO SEPARATE ROBBERY TRANSACTIONS;

FRUTCHEY &c. et al. v FELICITA et al.:

NEGLIGENCE - EMERGENCY DOCTRINE - SUMMARY JUDGMENT;

FURET (DWIGHT), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - WHETHER MANDATORY SURCHARGE AND FEES PURSUANT TO CPL 60.35 MUST BE IMPOSED ORALLY BY JUDGE AS PART OF DEFENDANT'S SENTENCE; ARREST - PROBABLE CAUSE;

GASTON, &c. et al. v AMERICAN TRANSIT INSURANCE COMPANY:

INSURANCE - AUTOMOBILE INSURANCE - UNINSURED MOTORIST CLAIM - ACTION TO RECOVER UNSATISFIED JUDGMENT PURSUANT TO INSURANCE LAW § 3420(a)(2); ISSUE PRECLUSION - COLLATERAL ESTOPPEL - WHETHER DEFAULT JUDGMENT AGAINST INSURER IN PRIOR PROCEEDING TO STAY ARBITRATION OF UNINSURED MOTORIST VEHICLE CLAIMS HAS PRECLUSIVE EFFECT IN ACTION TO RECOVER UNSATISFIED JUDGMENT;

GEORGE (RAYMOND C.), PEOPLE v: (Cal. Date 10/21/08)

CRIMES AND CRIMINAL PROCEDURE - MURDER - DEPRAVED INDIFFERENCE MURDER - WHETHER THERE WAS LEGALLY SUFFICIENT EVIDENCE TO CONVICT DEFENDANT OF DEPRAVED INDIFFERENCE MURDER; CASE LAW TO BE APPLIED; APPROPRIATE REMEDY WHERE APPELLATE DIVISION DETERMINES THAT CONVICTION FOR DEPRAVED INDIFFERENCE MURDER IS NOT SUPPORTED BY SUFFICIENT EVIDENCE;

GILES (DWIGHT), PEOPLE v: (Cal. Date 10/23/08)

CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - WHETHER TRIAL COURT ERRED IN PERMITTING ADMISSION OF PRIOR UNCHARGED CRIMES; SENTENCE;

GOLDMAN v WHITE PLAINS CENTER FOR NURSING CARE, LLC, et al.:

(Cal. Date 9/2/08)

CONTRACTS - EMPLOYMENT CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - WHETHER PLAINTIFF IS ENTITLED TO PRESUMPTION THAT HER EMPLOYMENT CONTRACT WAS RENEWED FOR CONTINUOUS ONE-YEAR TERMS

BASED UPON THE PARTIES' CONDUCT;
GOMEZ (VICTOR), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - UNLAWFUL SEARCH AND SEIZURE -
 INVENTORY SEARCH - PRESERVATION;

GORMAN et al. v TOWN OF HUNTINGTON:
 MUNICIPAL CORPORATIONS - SIDEWALKS - PRIOR NOTICE OF DEFECTIVE
 CONDITION - ESTOPPEL - CHALLENGE TO APPELLATE DIVISION ORDER
 HOLDING THAT "WHERE A MUNICIPAL EMPLOYEE ACTING WITHIN AN
 OFFICIAL CAPACITY INSTRUCTS A MEMBER OF THE PUBLIC TO CONVEY
 WRITTEN NOTICE OF A CONDITION TO A MUNICIPAL EMPLOYEE OTHER THAN
 THOSE AGENTS DESIGNATED BY LOCAL STATUTE, AND WHERE SUCH NOTICE
 IS THEN RECEIVED BY THE DEPARTMENT RESPONSIBLE FOR SIDEWALK-
 RELATED RECORD KEEPING AND FOR ACTUAL INSPECTION AND REPAIR OF
 THE DANGEROUS OR DEFECTIVE SIDEWALK CONDITIONS, THE MUNICIPALITY
 IS ESTOPPED FROM CLAIMING THE ABSENCE OF PRIOR WRITTEN NOTICE TO
 THE PROPER STATUTORY DESIGNEE AS A DEFENSE IN A SUBSEQUENT
 ACTION";

GORMLEY v NEW YORK STATE ETHICS COMMISSION: (Cal. Date 10/14/08)
 PUBLIC OFFICERS - ETHICS - PUBLIC OFFICERS LAW § 73 -
 APPLICABILITY OF THE "LIFETIME BAR" PROVISION (PUBLIC OFFICERS
 LAW § 73 [8] [a] [ii]) TO FORMER HEALTH DEPARTMENT EMPLOYEE
 RESPONSIBLE FOR DEVELOPING AND IMPLEMENTING THE STATE'S NURSING
 HOME REIMBURSEMENT RATE SYSTEM AND WHO WAS COMPENSATED FOR
 SUBMITTING ON BEHALF OF NURSING HOME LITIGANTS AN AFFIDAVIT
 DISCUSSING THE REIMBURSEMENT RATE SYSTEM - JUSTIFICATION FOR
 IMPOSITION OF CIVIL PENALTY;

GREEN v WILLIAM PENN LIFE INSURANCE COMPANY OF NEW YORK:
 - INSURANCE - LIFE INSURANCE - ACTION TO RECOVER UNDER LIFE
 INSURANCE POLICY - EVIDENTIARY PRESUMPTION AGAINST DEATH BY
 SUICIDE - DEGREE OF BURDEN TO PROVE DEATH BY SUICIDE - WHETHER
 TRIAL COURT PROPERLY CONCLUDED THAT SUICIDE WAS THE ONLY
 CONCLUSION THAT COULD REASONABLY BE DRAWN FROM THE EVIDENCE;

GUERRERO (FELIX SORIANO), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - SENTENCE - WHETHER MANDATORY
 SURCHARGE AND FEES PURSUANT TO CPL 60.35 MUST BE IMPOSED ORALLY
 BY JUDGE AS PART OF THE DEFENDANT'S SENTENCE;

HARRIS (CHRISTOPHER), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - SENTENCE - WHETHER MANDATORY
 SURCHARGE AND FEES PURSUANT TO CPL 60.35 MUST BE IMPOSED ORALLY
 BY JUDGE AS PART OF DEFENDANT'S SENTENCE;

HAWKINS (BRYAN), PEOPLE v: (Cal. Date 10/21/08)
 CRIMES AND CRIMINAL PROCEDURE - MURDER - DEPRAVED INDIFFERENCE
 MURDER - SUFFICIENCY OF THE EVIDENCE; EVIDENCE - CHAIN OF CUSTODY
 - ADMISSIBILITY OF BLOOD SAMPLE; ALLEGED SANDOVAL ERROR;

CHALLENGE TO SENTENCE;

HELMSLEY-SPEAR, INC., et al. v FISHMAN et al.:

(Cal. Date 10/14/08)

LABOR UNIONS - FEDERAL PREEMPTION - WHETHER NATIONAL LABOR RELATIONS ACT PREEMPTS ACTION AGAINST LABOR UNION FOR PRIVATE NUISANCE ARISING OUT OF LOUD DRUMMING TO PUBLICIZE UNION'S HANDBILLING ACTIVITIES;

IDT CORPORATION v MORGAN STANLEY DEAN WITTER & CO., et al.:

CONTRACTS - CLAIMS BY A TELECOMMUNICATIONS COMPANY AGAINST ITS INVESTMENT BANKER FOR BREACH OF FIDUCIARY DUTY, TORTUOUS INTERFERENCE WITH CONTRACT, TORTUOUS INTERFERENCE WITH PROSPECTIVE BUSINESS RELATIONS, MISAPPROPRIATION OF CONFIDENTIAL AND PROPRIETARY BUSINESS INFORMATION AND UNJUST ENRICHMENT; WHETHER COLLATERAL ESTOPPEL BARS CERTAIN CLAIMS AS A RESULT OF PLAINTIFF'S PRIOR ARBITRATION AGAINST ANOTHER COMPANY;

INFINITY CONSULTING GROUP, INC. v TOWN OF HUNTINGTON:

MUNICIPAL CORPORATIONS - ZONING - WHETHER ONE-ACRE RESIDENTIAL ZONING CLASSIFICATION WAS VALID - CLAIMED VIOLATION OF PLAINTIFF'S RIGHTS UNDER THE EQUAL PROTECTION CLAUSE OF THE STATE AND FEDERAL CONSTITUTIONS;

JAMES (TEBRUE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - LESSER INCLUDED OFFENSE - WHETHER ANY REASONABLE VIEW OF THE EVIDENCE SUPPORTED THE SUBMISSION TO THE JURY OF THIRD-DEGREE ROBBERY AS A LESSER INCLUDED OFFENSE OF FIRST-DEGREE ROBBERY;

JEAN-BAPTISTE (JEAN), PEOPLE v: (Cal. Date 10/21/08)

CRIMES AND CRIMINAL PROCEDURE - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE OF DEPRAVED INDIFFERENCE MURDER (PENAL LAW § 125.25[2]); MANSLAUGHTER - SUFFICIENCY OF THE EVIDENCE OF MANSLAUGHTER IN THE SECOND DEGREE (PENAL LAW § 125.15[1]); RETROACTIVE APPLICATION OF PEOPLE v FEINGOLD (7 NY3d 288);

JEAN-LAURENT, MATTER OF v DAVID:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATIONS OF GUILT WITH RESPECT TO VARIOUS CHARGES STEMMING FROM TWO UNRELATED INCIDENTS; DUE PROCESS - PRISONER'S ABILITY TO PRESENT WITNESSES - CLAIMED BIAS OF HEARING OFFICER;

JENKINS (JONATHAN), PEOPLE v: (Cal. Date 9/11/08)

CRIMES AND CRIMINAL PROCEDURE - PLEA BARGAINING - ENFORCEMENT OF AGREEMENT - COMPLIANCE WITH CONDITIONS OF PLEA AGREEMENT - SPECIFIC PERFORMANCE; CLAYTON MOTION (People v Clayton, 41 AD2d 204) - PRESERVATION OR WAIVER OF ISSUES RAISED IN WITHDRAWN MOTION;

JOHNSON (CLARENCE A.), PEOPLE v: (Cal. Date 10/15/08)
 CRIMES AND CRIMINAL PROCEDURE - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER A SEX OFFENDER WHOSE CONVICTION ARISES FROM DOWNLOADING PORNOGRAPHIC IMAGES OF UNKNOWN MINORS ONTO HIS COMPUTER HAD A "RELATIONSHIP" WITH THE INDIVIDUALS DEPICTED IN THE IMAGES SO AS TO BE ASSESSED POINTS UNDER SORA RISK FACTOR SEVEN, "RELATIONSHIP WITH VICTIM";

JOHNSON v CHAPIN:

HUSBAND AND WIFE - DIVORCE - EQUITABLE DISTRIBUTION - VALUATION OF HUSBAND'S SEPARATE PROPERTY - REDUCTION IN VALUE OF SEPARATE PROPERTY BY AMOUNTS HUSBAND REQUIRED TO PAY TO A PRIOR WIFE PURSUANT TO THE TERMS OF A PRIOR DIVORCE JUDGMENT;

JOLLEY, MATTER OF CLAIM v IND-VENTURE COMMUNICATIONS, INC., et al.:
 WORKERS' COMPENSATION - REDUCED EARNING BENEFITS - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A WORKERS' COMPENSATION BOARD DECISION THAT REDUCED CLAIMANT'S EARNINGS AWARD TO THE MAXIMUM PARTIAL DISABILITY RATE;

JONES (LIONEL), PEOPLE v: (Cal. Date 9/11/08)
 CRIMES AND CRIMINAL PROCEDURE - JURORS - PEREMPTORY CHALLENGE - ALLEGED RACIAL DISCRIMINATION IN THE JURY SELECTION PROCESS - WHETHER TRIAL COURT ERRED IN DECIDING DEFENDANT'S BATSON CHALLENGE WITHOUT FIRST REQUIRING THE PROSECUTOR TO GIVE HIS REASON FOR THE CHALLENGE;

JOSEY, MATTER OF v NEW YORK CITY POLICE DEPARTMENT et al.:
 CIVIL SERVICE - POLICE - ACCIDENTAL DISABILITY RETIREMENT BENEFITS;

KALIN (WILLIAM), PEOPLE v:
 CRIMES AND CRIMINAL PROCEDURE - INFORMATION - WHETHER THE PEOPLE'S FAILURE TO ATTACH A LABORATORY REPORT TO AN INFORMATION CHARGING DEFENDANT WITH CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE IN THE SEVENTH DEGREE CONSTITUTES A JURISDICTIONAL DEFECT; CORRECTIVE ACTION;

KASSIS et al. v THE OHIO CASUALTY INSURANCE COMPANY:
 INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER DEFENDANT HAD A DUTY TO DEFEND AND INDEMNIFY PLAINTIFF KASSIS UNDER A COMMERCIAL GENERAL LIABILITY POLICY IT ISSUED TO PLAINTIFF SUPERIOR SIGN ON THE GROUNDS THAT KASSIS WAS AN ADDITIONAL INSURED UNDER THE POLICY'S BLANKET ADDITIONAL INSURED ENDORSEMENT AND THAT HE WAS AN INTENDED THIRD-PARTY BENEFICIARY UNDER THE POLICY;

KOZLOWSKI (L. DENNIS), PEOPLE v: (Cal. Date 9/2/08)
 CRIMES AND CRIMINAL PROCEDURE - LARCENY - CORPORATE OFFICERS - UNAUTHORIZED BONUSES - UNAUTHORIZED REIMBURSEMENT - UNAUTHORIZED

CAPITAL EXPENDITURES FOR PERSONAL USE - FALSIFYING BUSINESS RECORDS - FINDER'S FEE - ADMISSION OF TESTIMONY CONCERNING INTERNAL CORPORATE INVESTIGATION AND CO-DEFENDANT'S STATEMENT ALLEGEDLY INCRIMINATING DEFENDANT KOZLOWSKI - ALLEGED VIOLATION OF APPRENDI v NEW JERSEY (530 US 466) BY IMPOSITION OF FINES - WHETHER TRIAL COURT PROPERLY QUASHED SUBPOENA FOR NOTES AND MEMORANDA OF STATEMENTS BY DIRECTORS/WITNESSES DURING AN INTERNAL CORPORATE INVESTIGATION;

KNOX (JUDY), PEOPLE v:

CONSTITUTIONAL LAW - DUE PROCESS - EQUAL PROTECTION - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ARTICLE 6-C) - WHETHER INDIVIDUAL CONVICTED OF ABDUCTION-RELATED OFFENSE INVOLVING A CHILD CAN BE REQUIRED TO REGISTER AS A "SEX OFFENDER" WHERE THERE WAS NO SEXUAL COMPONENT OR MOTIVE FOR THE CRIME;

KRAMER &c., et al. v W10Z/515 REAL ESTATE LIMITED PARTNERSHIP, et al. (AND ANOTHER ACTION):

CONDOMINIUMS AND COOPERATIVES - OFFERING PLAN - DISCLOSURE OF CONSTRUCTION PROBLEMS - WHETHER INDIVIDUAL COMMON LAW FRAUD CLAIMS AGAINST CONDOMINIUM SPONSOR ARE BARRED BY THE MARTIN ACT (GENERAL BUSINESS LAW ART. 23-A); CLAIM OF GROSS NEGLIGENCE AGAINST SPONSOR;

LAWRENCE v GRAUBARD MILLER, et al. (and two other proceedings):
(Cal. Date 10/23/08)

ATTORNEY AND CLIENT - COMPENSATION - WHETHER A REVISED RETAINER AGREEMENT REQUIRING CLIENT TO PAY LAW FIRM A CONTINGENCY FEE OF 40 PERCENT OF ANY FUTURE MONIES DISTRIBUTED TO BENEFICIARIES OF AN ESTATE IS UNCONSCIONABLE ON ITS FACE; TORTIOUS INTERFERENCE WITH CONTRACT;

LITWACK v PLAZA REALTY INVESTORS, INC., et al.:

(Cal. Date 9/11/08)

NEGLIGENCE - MAINTENANCE OF PREMISES - ACTION TO RECOVER DAMAGES FOR PERSONAL INJURIES ALLEGEDLY CAUSED BY TOXIC MOLD IN AN APARTMENT - WHETHER DEFENDANTS CREATED OR HAD NOTICE OF THE ALLEGED MOLD HAZARD; SUMMARY JUDGMENT - EXPERT OPINION;

LUCIDO v MANCUSO, et al.:

NEGLIGENCE - WRONGFUL DEATH CAUSE OF ACTION - WHETHER THE "PALPABLY INSUFFICIENT OR PATENTLY DEVOID OF MERIT" STANDARD APPLIES TO MOTIONS MADE PURSUANT TO CPLR 3025(b) FOR LEAVE TO AMEND A COMPLAINT TO ADD A CAUSE OF ACTION FOR WRONGFUL DEATH OR WHETHER SUCH MOTIONS MUST BE SUPPORTED WITH AN EVIDENTIARY SHOWING BY COMPETENT MEDICAL PROOF THAT A DEFENDANT'S CONDUCT CAUSED THE DECEDENT'S DEATH;

LUCAS (DELON), PEOPLE v: (Cal. Date 9/4/08)

CRIMES AND CRIMINAL PROCEDURE - MURDER - WHETHER TRIAL COURT ERRED IN DENYING MOTION TO DISMISS THE FIRST-DEGREE MURDER COUNT

OF THE INDICTMENT - WHETHER THE KIDNAPING OFFENSE, THE AGGRAVATOR SUPPORTING ELEVATION OF THE INTENTIONAL MURDER TO A FIRST DEGREE OFFENSE, WAS SUBSUMED IN THE MURDER OFFENSE ITSELF - PEOPLE v CAHILL (2 NY3d 13 [2003]);

MCCLEERY, et al. v CONSOLIDATED EDISON OF NEW YORK, INC., et al.:
NEGLIGENCE - WHETHER DEFENDANTS WERE ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT IN A PERSONAL INJURY ACTION;

MELROSE COMMONS URBAN RENEWAL AREA PHASE II, MATTER OF, v CITY OF NEW YORK: (Cal. Date 9/3/08)
EMINENT DOMAIN - AWARD - WHETHER ITEMS AT THE BUSINESS PREMISES ARE COMPENSABLE AS TRADE FIXTURES IN THE CONTEXT OF EMINENT DOMAIN;

MEISELMAN v FOGEL, et al.:
LIMITATION OF ACTIONS - MEDICAL MALPRACTICE - TREATMENT BY PHYSICAL THERAPIST; DISMISSAL OF ACTION AS TIME-BARRED - CPLR 214-a;

MILLS (DONALD), PEOPLE v:
CRIMES AND CRIMINAL PROCEDURE - SENTENCE - DRUG LAW REFORM ACT (DLRA) (L 2005, ch 643) - WHETHER DEFENDANT, A CLASS A-II DRUG OFFENDER, WAS ELIGIBLE FOR RESENTENCING UNDER THE DLRA WHERE HE WAS DENIED PAROLE;

MOODY v SOROKINA:
ATTORNEY AND CLIENT - ATTORNEY'S LIEN - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING SUPREME COURT ORDER GRANTING FORMER ATTORNEY A CHARGING LIEN AGAINST AN AWARD REPRESENTING DEFENDANT'S EQUITABLE DISTRIBUTION;

MORAN et al. v ERK et al.: (Cal. Date 10/22/08)
CONTRACTS - BREACH OR PERFORMANCE - WHETHER PROSPECTIVE PURCHASERS' INSTRUCTION TO THEIR ATTORNEY TO DISAPPROVE A RESIDENTIAL REAL ESTATE CONTRACT PURSUANT TO THE CONTRACT'S ATTORNEY APPROVAL CONTINGENCY CONSTITUTED A BAD FAITH REPUDIATION OF THE CONTRACT WHERE PURCHASERS' ACTS WERE BASED ON THEIR MISGIVINGS ABOUT PURCHASING THE PROPERTY;

MORGENTHAU &c. v AVION RESOURCES, LTD., et al.:
(Cal. Date 10/15/08)
ATTACHMENT - CONFIRMING OR VACATING ORDER OF ATTACHMENT - FUNDS TRANSFERRED BY FEDERAL GOVERNMENT FROM OUT OF STATE TO PLAINTIFF IN NEW YORK AFTER SUPREME COURT ISSUED AN ORDER OF ATTACHMENT;
PROCESS - DISMISSAL OF COMPLAINT FOR LACK OF PERSONAL JURISDICTION - WHETHER PLAINTIFF APPROPRIATELY EFFECTED SERVICE ON DEFENDANTS IN BRAZIL;

MOYE (RONALD), PEOPLE v:
CRIMES AND CRIMINAL PROCEDURE - PROSECUTOR'S CONDUCT AT TRIAL -

SUMMATION - UNSWORN WITNESS RULE;

NARADZAY (JASON), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SUFFICIENCY OF THE EVIDENCE ESTABLISHING DEFENDANT'S COMMISSION OF ATTEMPTED MURDER IN THE SECOND DEGREE AND ATTEMPTED BURGLARY IN THE FIRST DEGREE; WHETHER DEFENDANT'S HANDWRITTEN "TO DO LIST" AND STATEMENTS MADE AT THE SCENE BEFORE HE WAS ADVISED OF HIS MIRANDA RIGHTS SHOULD HAVE BEEN SUPPRESSED;

COUNTY OF NASSAU v ROJAS:

FORFEITURE AND PENALTIES - FORFEITURE OF AUTOMOBILE OF PERSON ARRESTED FOR DRIVING WHILE INTOXICATED - NASSAU COUNTY ADMINISTRATIVE CODE § 8-7.0(g); VEHICLE NOT SEIZED BY POLICE AT TIME OF ARREST - JURISDICTION OF TRIAL COURT;

OMNI RECYCLING OF WESTBURY, INC., MATTER OF v TOWN OF OYSTER BAY et al.:

MUNICIPAL CORPORATIONS - BIDS AND BIDDERS - WHETHER COMPETITIVE BIDDING REQUIREMENTS OF GENERAL MUNICIPAL LAW § 103(1) APPLY TO THE CONTRACT FOR RECYCLING SERVICES AT ISSUE - APPLICABILITY OF GENERAL MUNICIPAL LAW § 104-b;

OKUN v TANNERS:

DISMISSAL AND NONSUIT - RESTORING ACTION TO CALENDAR - WHETHER SUPREME COURT PROPERLY RESTORED A CASE TO THE TRIAL CALENDAR AFTER IT HAD BEEN DISMISSED PURSUANT TO CPLR 3404;

PARTNERSHIP 92, LP, MATTER OF v STATE OF NEW YORK DIVISION OF HOUSING AND COMMUNITY RENEWAL:

LANDLORD AND TENANT - RENT REGULATION - APPLICATION OF RENT REGULATION REFORM ACT OF 1997 TO OVERCHARGE COMPLAINT FILED IN 1987 - CALCULATION OF LEGAL REGULATED RENT - EXISTENCE OF OVERCHARGE;

PASSANTE et al. v AGWAY CONSUMER PRODUCTS, INC., et al.:

PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - FAILURE TO WARN OF DANGER - WHETHER DEFENDANT MANUFACTURER OF DOCK LEVELER WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING PLAINTIFF'S DESIGN DEFECT AND FAILURE TO WARN CLAIMS;

PERI, et al. v CITY OF NEW YORK:

NEGLIGENCE - MAINTENANCE OF PREMISES - LEAD PAINT HAZARD - WHETHER AFFIDAVIT IN OPPOSITION TO CITY OF NEW YORK'S MOTION FOR SUMMARY JUDGMENT RAISED AN ISSUE OF FACT AS TO THE CITY'S ACTUAL OR CONSTRUCTIVE NOTICE THAT A CHILD UNDER THE AGE OF SEVEN LIVED IN THE CITY'S BUILDING; NOTICE OF CLAIM;

PITERNIAK, MATTER OF v CINQUE:

SPECIFIC PERFORMANCE - CONTRACT FOR SALE OF REAL PROPERTY - STATUTE OF FRAUDS - SUMMARY JUDGMENT;

QUATTROCCHI v FJ SCIAME CONSTRUCTION CORPORATION:

LABOR - SAFE PLACE TO WORK - SUMMARY JUDGMENT - WHETHER PLAINTIFF'S CLAIM UNDER LABOR LAW § 240(1) SHOULD HAVE BEEN DISMISSED PURSUANT TO NARDUCCI v MANHASSET BAY ASSOCIATES (96 NY2d 259);

QUINONES (GEORGE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - WHETHER DEFENDANT'S SENTENCING AS A PERSISTENT FELONY OFFENDER VIOLATED HIS CONSTITUTIONAL RIGHTS PURSUANT TO APPRENDI v NEW JERSEY (503 US 466) - CUNNINGHAM v CALIFORNIA (__ US __, 127 S Ct 856); EXISTENCE OF REASONABLE SUSPICION TO DETAIN DEFENDANT; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL DUE TO COUNSEL'S FAILURE TO CHALLENGE THE SEARCH OF DEFENDANT'S KNAPSACK WITHOUT A WARRANT;

RIVERA, MATTER OF v FIRETOG, et al.: (Cal. Date 10/22/08)

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - DOUBLE JEOPARDY - PROCEEDING TO PROHIBIT DISTRICT ATTORNEY AND TRIAL JUDGE FROM RETRYING PETITIONER ON COUNT OF MURDER IN THE SECOND DEGREE - WHETHER TRIAL COURT IMPROPERLY DECLARED A MISTRIAL ON THE COUNT OF MURDER IN THE SECOND DEGREE WITHOUT FIRST INQUIRING IF THE JURY HAD REACHED A PARTIAL VERDICT;

ROMEO (ANTHONY), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO SPEEDY TRIAL - PEOPLE v TARANOVICH (37 NY2d 442) - WHETHER DEFENDANT'S STATE CONSTITUTIONAL SPEEDY TRIAL RIGHTS WERE VIOLATED WITH RESPECT TO A 1987 MURDER INDICTMENT WHERE DEFENDANT WAS FIRST TRIED AND CONVICTED ON A SEPARATE MURDER IN CANADA AND THE PEOPLE DID NOT SEEK EXTRADITION UNTIL 2003 AFTER THE TREATY ON EXTRADITION BETWEEN CANADA AND THE UNITED STATES ADDED A TEMPORARY SURRENDER PROVISION; PRESERVATION;

ROSE et al. v BROWN & WILLIAMSON TOBACCO CORPORATION &c. et al.:

PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - IN A CASE ALLEGING THAT REGULAR CIGARETTES WERE NEGLIGENTLY DESIGNED ON THE THEORY THAT DEFENDANT TOBACCO COMPANIES SHOULD HAVE SOLD ONLY "LIGHT" CIGARETTES, MUST PLAINTIFFS ESTABLISH THAT "LIGHT" CIGARETTES WOULD HAVE BEEN ACCEPTABLE TO THE CONSUMERS THAT CONSTITUTED THE MARKET FOR REGULAR CIGARETTES; PROXIMATE CAUSE; PREEMPTION;

ROUSE (MICHELLE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - RIGHT TO SPEEDY TRIAL - CPL 30.30 - WHETHER TRIAL COURT PROPERLY EXCLUDED A 30-DAY PERIOD COMMENCING ON DATE COURT APPOINTED CO-DEFENDANT NEW COUNSEL AND GRANTED A 30-DAY ADJOURNMENT;

RYAN (RICKEY), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CHALLENGE TO PRE-ARREST DETENTION OF DEFENDANT AND PHOTO ARRAY;

COMMITTEE TO SAVE ST. BRIGID'S, INC., et al. v EGAN, et al.:

(Cal. Date 9/3/08)

RELIGIOUS CORPORATIONS AND ASSOCIATIONS - DEMOLITION OF CHURCH BUILDING - RES JUDICATA - REVOCATION OF DEMOLITION PERMITS - ALLEGED VIOLATION OF RELIGIOUS CORPORATION LAW § 5 - BREACH OF FIDUCIARY DUTY - PARISHIONERS' STANDING TO SUE UNDER NOT-FOR-PROFIT CORPORATION LAW § 623;

SHAPERONOVITCH v CITY OF NEW YORK:

MUNICIPAL CORPORATIONS - NOTICE OF STREET DEFECT - WHETHER AN "AMBIGUOUS" SYMBOL IN A BIG APPLE POT HOLE AND SIDEWALK PROTECTION CORPORATION MAP WAS SUFFICIENT TO CREATE AN ISSUE OF FACT CONCERNING WHETHER THE MUNICIPAL DEFENDANT HAD PRIOR WRITTEN NOTICE OF THE DEFECT COMPLAINED OF BY PLAINTIFFS;

SHEMESH (MENASHE), PEOPLE v.:

CRIMES AND CRIMINAL PROCEDURE - GRAND JURY - RIGHT TO APPEAR BEFORE GRAND JURY - DISMISSAL OF INDICTMENT PURSUANT TO CPL 190.50;

SHULMAN v HUNDERFUND et al.:

LIBEL AND SLANDER - LIBEL PER SE - DEFAMATION - STATEMENTS IN A FLIER OPPOSING PLAINTIFF'S ELECTION TO THE BOARD OF EDUCATION; MOTION TO SET ASIDE JURY VERDICT - CPLR 4404(a); STANDARD OF APPELLATE REVIEW OF JURY VERDICT;

SIAO-PAO, MATTER OF v DENNISON &c.:

PAROLE - DENIAL - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING JUDGMENT DENYING CPLR ARTICLE 78 PETITION CHALLENGING A DETERMINATION DENYING PAROLE;

SMALL (ANDREW), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - ADMISSION, AS MOLINEAUX EVIDENCE, OF DEFENDANT'S PRIOR CONVICTION OF CRIMINAL POSSESSION OF A CONTROLLED SUBSTANCE TO REBUT DEFENDANT'S AGENCY DEFENSE - ALLEGED "SURPRISE" TO DEFENDANT;

SORBARA CONSTRUCTION CORPORATION v AIU INSURANCE COMPANY, et al.:

(Cal. Date 9/3/08)

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - INSURED'S DUTY UNDER AN EXCESS LIABILITY INSURANCE POLICY TO PROVIDE NOTICE OF OCCURRENCE AND CLAIM OR SUIT - INSURER'S ACTUAL NOTICE ACQUIRED FROM ANOTHER SOURCE;

SUFFOLK REGIONAL OTB, MATTER OF, et al. v NEW YORK STATE RACING AND WAGERING BOARD, et al. (AND FOUR OTHER RELATED PROCEEDINGS):

HORSE RACING - OFF-TRACK BETTING - SIMULCASTING HORSE RACING - PAYMENTS TO REGIONAL HARNESS TRACKS - VALIDITY OF NEW YORK STATE RACING AND WAGERING BOARD'S "DARK DAY," "SEPARATE CALCULATION," AND "MAINTENANCE OF EFFORT" DETERMINATIONS - RACING, PARI-MUTUEL WAGERING AND BREEDING LAW §§ 1017 AND 1017-a; ADMINISTRATIVE LAW - RULE MAKING - INTERPRETIVE STATEMENTS - WHETHER THE DETERMINATIONS AT ISSUE SHOULD HAVE BEEN ENACTED IN ACCORDANCE WITH THE STATE ADMINISTRATIVE PROCEDURE ACT;

SUM v TISHMAN SPEYER PROPERTIES, INC., et al.:

ARBITRATION - MATTERS ARBITRABLE - WHETHER PLAINTIFF'S UNION-NEGOTIATED AGREEMENT TO WAIVE HER RIGHT TO A JUDICIAL FORUM FOR HER GENDER DISCRIMINATION CLAIM IS ENFORCEABLE - FEDERAL ARBITRATION ACT - CPLR 7503(a) MOTION TO COMPEL ARBITRATION; CIVIL RIGHTS - DISCRIMINATION BASED ON GENDER; COLLECTIVE BARGAINING AGREEMENT;

SUSAN ANONYMOUS, MATTER OF, v JAMES ANONYMOUS:

PARENT AND CHILD - SUPPORT - WHETHER FAMILY COURT LACKED SUBJECT MATTER JURISDICTION TO GRANT A NEW SUPPORT ORDER DIRECTING RESPONDENT PAY CHILD SUPPORT UNTIL SON REACHED THE AGE OF 21 WHERE PRIOR CONNECTICUT JUDGMENT DIRECTED CHILD SUPPORT ONLY UNTIL SON REACHED AGE OF 18 (FEDERAL FULL FAITH AND CREDIT FOR CHILD SUPPORT ORDERS ACT; UNIFORM INTERSTATE FAMILY SUPPORT ACT); ATTORNEYS' FEES - WHETHER FAMILY COURT PROPERLY GRANTED PETITIONER ATTORNEYS' FEES;

SWARTZ (MARK H.), PEOPLE v: (Cal. Date 9/2/08)

CRIMES AND CRIMINAL PROCEDURE - CORPORATE OFFICERS - WHETHER TRIAL COURT PROPERLY QUASHED DEFENDANTS' SUBPOENA FOR NOTES AND MEMORANDA OF STATEMENTS BY DIRECTORS/WITNESSES DURING AN INTERNAL CORPORATE INVESTIGATION - LARCENY - SUFFICIENCY OF THE EVIDENCE - WHETHER IMPOSITION OF FINES VIOLATED DEFENDANT'S RIGHTS UNDER THE SIXTH AMENDMENT TO THE FEDERAL CONSTITUTION;

SYNDICATED COMMUNICATION VENTURE PARTNERS IV, LP v BAYSTAR CAPITAL LP et al.:

JURY - RIGHT TO JURY TRIAL - WAIVER OF JURY TRIAL BY JOINDER OF LEGAL AND EQUITABLE CLAIMS; CPLR 4213(b) - FORM OF DECISION - STATEMENT OF FACTS COURT DEEMS ESSENTIAL;

TAVERAS (JUAN), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER THE SENTENCING COURT PROPERLY IMPOSED CONSECUTIVE SENTENCES FOR THE CRIMES OF CRIMINAL SEXUAL ACT IN THE THIRD DEGREE AND FALSIFYING BUSINESS RECORDS IN THE FIRST DEGREE - PENAL LAW § 70.25(2);

10 EAST REALTY, LLC, MATTER OF, et al. v VILLAGE OF VALLEY STREAM, et al.:

MUNICIPAL CORPORATIONS - MUNICIPAL PARKING LOT - WHETHER THE

"GIFT OR LOAN" CLAUSE OF THE STATE CONSTITUTION (NY CONST ART VIII, § 1) PROHIBITED A VILLAGE FROM TAKING A PURCHASE MONEY MORTGAGE IN CONNECTION WITH ITS SALE OF A MUNICIPAL PARKING LOT TO A PRIVATE ENTITY;

THEN (JOSE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - DRUG LAW REFORM ACT (DLRA) (L 2005, ch 643) - WHETHER DEFENDANT WAS ELIGIBLE FOR RESENTENCING UNDER THE DLRA ON HIS 1999 CONVICTION FOR CRIMINAL SALE OF A CONTROLLED SUBSTANCE IN THE SECOND DEGREE;

VAN KIPNIS v VAN KIPNIS:

MARRIAGE - PRENUPTIAL AGREEMENT - WHETHER FRENCH PRENUPTIAL AGREEMENT PROVIDING FOR "SEPARATION OF ESTATES" PROPERTY REGIME IS ENFORCEABLE BY THE HUSBAND TO PRECLUDE EQUITABLE DISTRIBUTION OF THE PARTIES' SEPARATELY OWNED ASSETS UPON THEIR DIVORCE - MAINTENANCE - ATTORNEYS' FEES;

WILLIAMS (RILEY), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PROOF OF PRIOR CONVICTIONS - SANDOVAL HEARING COURT'S RULING THAT, SHOULD DEFENDANT CHOOSE TO TESTIFY, THE PEOPLE COULD QUESTION HIM ABOUT THE EXISTENCE, BUT NOT UNDERLYING FACTS, OF HIS "45 MISDEMEANORS DATING FROM 1975" AND THE EXISTENCE, BUT NOT UNDERLYING FACTS, NATURE OF THE CRIME OR DATE OF COMMISSION, OF A JULY 8, 1980 FELONY CONVICTION;

WINDY RIDGE FARMS, et. al. v ASSESSOR OF THE TOWN OF SHANDAKEN: LIMITATION OF ACTIONS - FOUR-MONTH STATUTE OF LIMITATIONS - WHEN LIMITATIONS PERIOD BEGINS TO RUN WITH RESPECT TO A CPLR ARTICLE 78 PETITION CHALLENGING THE CONSTITUTIONALITY OF A TOWN'S TAX ASSESSMENT METHODOLOGY; PARTIES - NECESSARY PARTIES - WHETHER ACTION WAS IMPROPERLY DISMISSED FOR FAILURE TO JOIN NECESSARY PARTIES WITHOUT CONSIDERATION OF DISCRETIONARY FACTORS SET FORTH IN CPLR 1001(b) - MATTER OF RED HOOK/GOWANUS CHAMBER OF COMMERCE v NEW YORK CITY BD. OF STDS. AND APPEALS (5 NY3d 452);

ABRAHAM XX, MATTER OF: (Cal. Date 10/14/08)

TRUSTS - SUPPLEMENTAL NEEDS TRUSTS - REIMBURSEMENT OF STATE FOR MEDICAID EXPENSES - WHETHER THE STATE IS ENTITLED TO RECOVER FROM THE REMAINDER OF A SUPPLEMENTAL NEEDS TRUST (SNT) MEDICAID EXPENDITURES MADE ON BEHALF OF AN INDIVIDUAL FROM THE PERIOD BEGINNING THE DAY AFTER A MALPRACTICE VERDICT AWARDED DAMAGES TO THAT INDIVIDUAL AND ENDING THE DAY BEFORE THE SNT WAS FUNDED;