

October 17, 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.

ALEMAN (JUAN CARLOS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - INSTRUCTIONS - WHETHER TRIAL COURT'S SUPPLEMENTAL INSTRUCTION TO JURORS DEPRIVED DEFENDANT OF A FAIR TRIAL;

ARTS4ALL, LTD. v HANCOCK:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - STRIKING OF PLEADINGS FOR NONCOMPLIANCE WITH DISCLOSURE ORDERS (CPLR 3126[3]);

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;

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;

BLOOMINGDALES, INC. v NEW YORK CITY TRANSIT AUTHORITY:

LIMITATION OF ACTIONS - WHEN CAUSE OF ACTION ACCRUES - SEVERANCE OF STORM DRAINPIPE - PLAINTIFF'S EASEMENT TO SEWER - TIMELINESS OF TRESPASS AND PRIVATE NUISANCE CLAIMS FOR COSTS TO RESTORE CUT DRAINPIPE - APPLICABILITY OF CONTINUOUS WRONG DOCTRINE;

BORRELL (JULIO), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER THE APPELLATE DIVISION ERRED IN DIRECTING THAT THE CONCURRENT SENTENCES IMPOSED ON CERTAIN COUNTS OF THE INDICTMENT RUN CONSECUTIVELY TO THE SENTENCES IMPOSED ON OTHER COUNTS OF THAT INDICTMENT;

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

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.:

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.:

1<sup>ST</sup> 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);

BUCHANAN (INGVUE E.), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PHYSICAL RESTRAINT OF DEFENDANT IN MURDER TRIAL - REQUIREMENT THAT DEFENDANT WEAR STUN BELT UNDER CLOTHING AT TRIAL - CLAIMED VIOLATION OF DUE PROCESS AND FAIR TRIAL;

BUSS (ROBERT), PEOPLE v: (Cal. Date - 11/19/08)

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;

BUTLER &c. et al. v CITY OF GLOVERSVILLE, et al.:

NEGLIGENCE - MAINTENANCE OF PREMISES - DUTY TO MAINTAIN PLAYGROUND FACILITIES IN REASONABLY SAFE CONDITION; PROXIMATE CAUSE OF INJURY TO CHILD FALLING FROM PLAYGROUND SLIDE; SUMMARY JUDGMENT;

CAFFERTY et al. v CAHILL et al.:

JUDGMENTS - RES JUDICATA - RPAPL ARTICLE 15 ACTION TO QUIET TITLE - NOTICE OF DELINQUENT TAXES IN UNDERLYING RPTL ARTICLE 11 IN REM FORECLOSURE PROCEEDING - FILING OF LIST OF DELINQUENT TAXES - NOTICE AND OPPORTUNITY TO BE HEARD - CLAIMS PURSUANT TO 42 USC § 1983;

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;

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";

COLLADO (DIONIS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - WHETHER IMPOSITION OF  
 POST-RELEASE SUPERVISION IS INVALID WHERE THE TRIAL COURT FAILED  
 TO MENTION IT DURING THE IMPOSITION OF THE SENTENCE; ARREST -  
 PROBABLE CAUSE - SUPPRESSION OF EVIDENCE - RELIABILITY OF  
 UNIDENTIFIED AND ANONYMOUS CITIZEN WITNESS;

CONDON, MATTER OF v THE INTER-RELIGIOUS FOUNDATION FOR COMMUNITY  
 ORGANIZATION:

DISCLOSURE - DISCOVERY AND INSPECTION - SUBPOENAS DUCES TECUM  
 ISSUED BY SPECIAL COMMISSIONER OF INVESTIGATION FOR THE NEW YORK  
 CITY SCHOOL DISTRICT - WHETHER THE SUPREMACY CLAUSE OF THE U.S.  
 CONSTITUTION BARS ENFORCEMENT OF THE SUBPOENAS - FIRST AND FIFTH  
 AMENDMENTS TO THE U.S. CONSTITUTION;

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;

DEJESUS v NEW YORK CITY HOUSING AUTHORITY:

NEGLIGENCE - MAINTENANCE OF PREMISES - SLIP AND FALL ON TRASH  
 LAYING IN WALKWAY TO DUMP SITE NEAR APARTMENT BUILDING - PERSONAL

INJURY; SUMMARY JUDGMENT - WHETHER ISSUE OF FACT EXISTS AS TO LANDLORD'S KNOWLEDGE, CAUSATION OR CREATION OF CONDITION THAT CAUSED ACCIDENT;

DIGGINS (ISAAC), PEOPLE v: (Cal. Date - 11/20/08)  
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;

DOE et al. v ROMAN CATHOLIC DIOCESE OF ROCHESTER, et al:  
TORTS - BREACH OF FIDUCIARY DUTY - VIABILITY OF CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY AGAINST PRIEST THAT PROVIDED MARRIAGE COUNSELING TO A WOMAN WITH WHOM HE ALLEGEDLY HAD AN ADULTEROUS AFFAIR;

D'ONOFRIO et al. v THE CITY OF NEW YORK et al.: (Cal. 11/20/08)  
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;

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:

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);

FARKAS v FARKAS:

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 INSURER - 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;

FERLUCKAJ v GOLDMAN, SACHS & CO.:

LABOR - SAFE PLACE TO WORK - TENANT'S LIABILITY UNDER LABOR LAW § 240(1) FOR INJURY SUSTAINED BY EMPLOYEE OF CLEANING SERVICES COMPANY WHILE PERFORMING WORK SPECIFIED IN THE CONTRACT BETWEEN THE CLEANING SERVICES COMPANY AND BUILDING OWNER;

FORD (ALFRED), PEOPLE v: (Cal. Date - 11/19/08)

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;

FRANCE (DONALD), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SUPPRESSION HEARING - WHETHER THE TRIAL COURT'S SUMMARY DENIAL OF DEFENDANT'S SUPPRESSION MOTION WAS PROPER - PHYSICAL EVIDENCE SEIZED FROM DEFENDANT; SENTENCE - WHETHER SENTENCE WAS EXCESSIVE - REVIEWABILITY OF SENTENCE;

FUENTES (JOSE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - DOCUMENT FROM COMPLAINANT'S HOSPITAL RECORD WITHHELD BY THE PEOPLE DURING PRETRIAL DISCOVERY - BRADY v MARYLAND (373 US 83);

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;

GLETZER &c. v HARRIS (AND ANOTHER ACTION):

LIENS - PRIORITY - ACTION FOR A RENEWAL JUDGMENT PURSUANT TO CPLR 5014 - WHEN THE RESULTING RENEWAL JUDGMENT AND LIEN TAKE EFFECT;

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;

GILL, PEOPLE ex rel. v GREENE:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - SENTENCING COURT SILENT AS TO WHETHER SECOND FELONY OFFENDER'S SENTENCES SHOULD RUN CONSECUTIVELY TO OR CONCURRENTLY WITH PREVIOUSLY IMPOSED SENTENCES - DEPARTMENT OF CORRECTIONAL SERVICES, RELYING ON PENAL LAW § 70.25(2-a), CALCULATED THE SENTENCES AS RUNNING CONSECUTIVELY; HABEAS CORPUS - CPLR ARTICLE 70 PROCEEDING CONVERTED TO CPLR ARTICLE 78 PROCEEDING - PETITIONER CONDITIONALLY RELEASED ON PAROLE;

GOLDEN GATE YATCH CLUB v SOCIETE NAUTIQUE DE GENEVE, et al.:

DEEDS - CONSTRUCTION - AMERICA'S CUP DEED OF GIFT - INTERPRETATION OF PHRASE "HAVING FOR ITS ANNUAL REGATTA" AS USED IN THE DEED OF TRUST DOCUMENT TO IDENTIFY THE CHALLENGER OF RECORD; TRUST DOCUMENT; YACHT CLUBS - SAILING REGATTAS;

GOLDSTEIN (JOSEPH), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PLEA OF GUILTY - WITHDRAWAL OF PLEA - WHETHER GUILTY PLEA WAS KNOWINGLY AND VOLUNTARILY ENTERED IN LIGHT OF JUDGE'S STATEMENT THAT DEFENDANT COULD RECEIVE CONSECUTIVE SENTENCES IF CONVICTED AFTER A TRIAL - WHETHER PLEA ALLOCUTION FAILED TO ESTABLISH THE ELEMENT OF DEPRAVED INDIFFERENCE REGARDING THE RECKLESS ENDANGERMENT COUNTS; CLAIMED INEFFECTIVENESS OF COUNSEL;

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:

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;

HARE, MATTER OF, v CHAMPION INTERNATIONAL et al.:

WORKERS' COMPENSATION - LIMITATION OF RIGHT TO COMPENSATION - WHETHER SUBSTANTIAL RECORD EVIDENCE SUPPORTED THE DETERMINATION OF THE WORKERS' COMPENSATION BOARD THAT CLAIMANT HAD A PARTIAL DISABILITY THAT DID NOT PROHIBIT EMPLOYMENT AND THAT CLAIMANT, BY FAILING TO SEEK WORK AFTER HIS JOB WAS TERMINATED, HAD NOT DEMONSTRATED THE REQUISITE ATTACHMENT TO THE LABOR MARKET;

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;

HENRIQUEZ, MATTER OF v DUBRAY:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH RESPECT TO A VERBAL THREAT TO A FACILITY EMPLOYEE; CLAIMED VIOLATION OF PRISONER'S RIGHTS;

HYNES v SONIDO, INC.:

CONTRACTS - CONSTRUCTION AND INTERPRETATION - SALES CONTRACT - ALLEGED AMBIGUITY IN CONTRACT TERM; SUMMARY JUDGMENT; CLAIMED VIOLATION OF DUE PROCESS;

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;

JACKSON (FRANCIS), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - 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 THE SURROUNDING FACTS REVEAL NO SEXUAL MOTIVE FOR OR COMPONENT TO THE CRIME;

JACKSON, PEOPLE, ex rel. v NASSAU COUNTY SHERIFF'S DEPARTMENT:  
 HABEAS CORPUS - WHEN REMEDY AVAILABLE - SUFFICIENCY OF ACCUSATORY INSTRUMENT;

JAMES (TEBRUE), PEOPLE v: (Cal. Date - 11/19/08)

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);

JENKINS (JONATHAN), PEOPLE v:

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:

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;

JOHNSON v CHAPIN:

HUSBAND AND WIFE - DIVORCE - EQUITABLE DISTRIBUTION - CREDIT TO HUSBAND FOR CERTAIN PAYMENTS - WIFE'S ENTITLEMENT TO CREDIT FOR FIFTY PERCENT OF THE DIFFERENCE BETWEEN THE TOTAL MARITAL FUNDS EXPENDED ON RENOVATIONS TO HUSBAND'S SEPARATE PROPERTY AND THE PROPERTY'S APPRECIATED VALUE - REDUCTION OF WIFE'S SHARE OF ENHANCED VALUE OF HUSBAND'S SEPARATE PROPERTY;

JONES (LIONEL), PEOPLE v:

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;

JOY BUILDERS, INC., et al. v TOWN OF CLARKSTOWN, et al.:

MUNICIPAL CORPORATIONS - ZONING - FINAL PLAT APPROVAL SUBJECT TO \$558,250 PAYMENT IN LIEU OF PARKLAND DEDICATION PURSUANT TO TOWN LAW § 277(4) - APPLICATION OF DOLAN v CITY OF TIGARD (512 US 374) - "INDIVIDUALIZED DETERMINATION" AND "ROUGH PROPORTIONALITY" -- TIMING OF TOWN'S IMPOSITION OF CONDITION REQUIRING PAYMENT IN LIEU OF PARKLAND DEDICATION;

KAHEN, et al. v WOUTERSZ, et al.:

LANDLORD AND TENANT - SUMMARY PROCEEDINGS - DEFAULT JUDGMENT OF POSSESSION IN FAVOR OF LANDLORD;

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;

KENNY, MATTER OF, v DINAPOLI &c.:

MASTER AND SERVANT - CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT BENEFITS - WHETHER SUBSTANTIAL RECORD EVIDENCE SUPPORTS THE COMPTROLLER'S DETERMINATION DENYING ACCIDENTAL DISABILITY RETIREMENT BENEFITS; SLIP AND FALL ON WET PAVEMENT;

KHRAPUNSKIY et al. v DOAR &c.:

SOCIAL SERVICES - PUBLIC ASSISTANCE - SAFETY NET ASSISTANCE (SOCIAL SERVICES LAW § 131-a[2]) - NEW YORK CONSTITUTION, ARTICLE XVII - APPLICABILITY OF STANDARD OF NEED SET FORTH IN SOCIAL SERVICES LAW § 209 TO LEGAL ALIENS ELIGIBLE FOR PUBLIC ASSISTANCE BUT INELIGIBLE FOR FEDERAL SUPPLEMENTAL SECURITY INCOME;

KIMM, (MICHAEL), MATTER OF:

ATTORNEY AND CLIENT - RECIPROCAL DISCIPLINE - PUBLIC CENSURE - IMPOSITION OF RECIPROCAL DISCIPLINE WITHOUT A HEARING TO ALLOW ATTORNEY TO PRESENT EVIDENCE IN MITIGATION;

KIPPER v NYP HOLDINGS CO.:

LIBEL AND SLANDER - WHETHER FALSE STATEMENT BY DEFENDANT PUBLICATION THAT PLAINTIFF'S MEDICAL LICENSE HAD BEEN REVOKED BY THE STATE OF CALIFORNIA IS ACTIONABLE - EDITING ACCURATE STATEMENT INTO A FALSEHOOD - NECESSITY OF PROOF OF SPECIFIC INTENT TO HARM - PLAINTIFF'S STATUS AS A PUBLIC FIGURE - LIBEL PER SE;

KOEHL, MATTER OF v FISCHER:

PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE DETERMINATION OF GUILT WITH RESPECT TO VIOLATING THE PRISON DISCIPLINARY RULE THAT PROHIBITS HARASSMENT; CLAIMED VIOLATION OF PRISONER'S DUE PROCESS RIGHTS;

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;

LMK PSYCHOLOGICAL SERVICES, P.C., et al. v STATE FARM MUTUAL AUTO INSURANCE:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - UNTIMELY DENIAL OF CLAIM - TOLL OF ACCRUAL OF INTEREST ON OVERDUE NO-FAULT BENEFITS (11 NYCRR 65.15[h], 11 NYCRR 65-3.9) - PLAINTIFFS' ENTITLEMENT TO ATTORNEYS' FEES - AWARD CALCULATED ON PER CLAIM OR PER INSURED BASIS;

LAND MASTER MONTG I, LLC et al. v TOWN OF MONTGOMERY et al.:  
MUNICIPAL CORPORATIONS - ZONING - APPELLATE DIVISION ORDER AFFIRMING JUDGMENT DECLARING UNCONSTITUTIONAL TOWN OF MONTGOMERY LOCAL LAW 4 OF 2004 AND LOCAL LAW 5 OF 2004 - EXCLUSIONARY ZONING; ENVIRONMENTAL CONSERVATION - WHETHER TOWN FOLLOWED THE PROPER PROCEDURE PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQURA) IN ADOPTING A COMPREHENSIVE PLAN AND LOCAL LAWS;

LANG v NEWMAN, et al.:

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE; EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT VERDICT IN PLAINTIFF'S FAVOR - MOTION TO SET ASIDE VERDICT;

LAWRENCE v GRAUBARD MILLER, et al. (and two other proceedings):  
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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;

LEESON (DALE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - PROOF OF OTHER CRIMES - ADMISSION OF EVIDENCE OF UNCHARGED CRIMES TO ESTABLISH A COMMON SCHEME OR PLAN - HARMLESS ERROR;

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

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;

LOWE (RICHARD), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CONTROLLED SUBSTANCES - UNLAWFUL SEARCH AND SEIZURE - SUFFICIENCY OF EVIDENCE - ADEQUACY OF PROBABLE CAUSE SHOWING AT DARDEN HEARING - NON-DISCLOSURE OF DARDEN HEARING MINUTES TO PROTECT CONFIDENTIAL INFORMANT;

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;

M&B JOINT VENTURE, INC. v LAURUS MASTER FUND, LTD. et al.:  
leave to appeal granted by App. Div., 6/24/08; LIENS - EQUITABLE LIEN - MOTION TO DISMISS - CONSIDERATION OF EXTRINSIC EVIDENCE;

MACSHANE (DERMOT), PEOPLE v: (Cal. Date - 10/20/08)  
CRIMES AND CRIMINAL PROCEDURE - JURORS - SELECTION OF JURY - ALLEGED EXERCISE OF PEREMPTORY CHALLENGES ON THE BASIS OF JUROR GENDER; OTHER CLAIMED DENIALS OF DUE PROCESS AT TRIAL;

MAHONEY-BUNTZMAN v BUNTZMAN:  
HUSBAND AND WIFE - DIVORCE - VALUATION DATE FOR CORPORATE STOCK - CREDIT TO WIFE FOR ONE-HALF OF MAINTENANCE PAYMENTS MADE DURING MARRIAGE TO HUSBAND'S FORMER SPOUSE - CREDIT TO WIFE FOR ONE-HALF OF COST OF HUSBAND'S ADVANCED DEGREE - WHETHER CERTAIN MONIES WERE PROPERTY RATHER THAN INCOME;

MATTOCKS (JONATHAN), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - FORGERY - WHETHER A NEW YORK CITY TRANSIT METROCARD, "BENT" SO THAT IT COULD BE USED TO ENTER THE SUBWAY SYSTEM WHEN IT CONTAINED A ZERO BALANCE, CONSTITUTES A FORGED INSTRUMENT WITHIN THE MEANING OF PENAL LAW § 170.00; SUPPRESSION MOTION DENIED;

MAYE (TYRONE), PEOPLE v:  
CRIMES AND CRIMINAL PROCEDURE - UNLAWFUL SEARCH AND SEIZURE - STRIP SEARCH AND BODY CAVITY SEARCH AT POLICE STATION INCIDENT TO ARREST - CONTRABAND FOUND IN DEFENDANT'S SOCKS - LEGAL SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION FOR PROMOTING PRISON CONTRABAND IN THE FIRST DEGREE;

MCLEAN et al. v CITY OF NEW YORK, et al.:  
MUNICIPAL CORPORATIONS - TORT LIABILITY - EXISTENCE OF TRIABLE ISSUES OF FACT AS TO WHETHER CITY DEFENDANT HAD AN OBLIGATION TO PLAINTIFFS PURSUANT TO CONTRACT BETWEEN THE STATE AND CITY'S DEPARTMENT OF HEALTH REGARDING THE ENFORCEMENT OF STATE REGULATIONS GOVERNING THE CERTIFICATION AND OPERATION OF PRIVATE HOME DAY CARE CENTERS (18 NYCRR PART 417) - EXISTENCE OF SPECIAL RELATIONSHIP SUBJECTING CITY DEFENDANT TO LIABILITY;

MCGILL et al v UNITED PARCEL SERVICE, INC.:  
NEGLIGENCE - PROXIMATE CAUSE - WHETHER PLAINTIFFS RAISED AN ISSUE OF FACT REGARDING THE CAUSE OF PLAINTIFF'S INJURY - ALLEGED TRIP AND FALL OVER PACKAGE PLACED ON PLAINTIFF'S FRONT PORCH BY ONE OF DEFENDANT'S EMPLOYEES; SUMMARY JUDGMENT;

MELROSE COMMONS URBAN RENEWAL AREA PHASE II, MATTER OF, v CITY OF NEW YORK:

EMINENT DOMAIN - AWARD - WHETHER ITEMS AT THE BUSINESS PREMISES ARE COMPENSABLE AS TRADE FIXTURES IN THE CONTEXT OF EMINENT DOMAIN;

MIDDLETON (DWAYNE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CONSTITUTIONAL LAW - DUE PROCESS - EQUAL PROTECTION - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ARTICLE 6-c) - DESIGNATION OF DEFENDANT AS A LEVEL THREE RISK - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING A SUPREME COURT ORDER THAT ASSESSED DEFENDANT 20 POINTS FOR MULTIPLE VICTIMS AND 30 POINTS FOR THE AGE OF THE YOUNGER VICTIM BASED UPON THE APPELLATE DIVISION'S CONCLUSION THAT "DEFENDANT SEXUALLY VICTIMIZED A 16-YEAR-OLD WHEN HE SUBJECTED HER TO SEXUAL CONTACT ... AND SEXUALLY VICTIMIZED HER 5-YEAR-OLD SISTER WHEN HE SUBJECTED THE YOUNGER CHILD TO UNLAWFUL RESTRAINT" - USE OF REVISED RISK ASSESSMENT INSTRUMENT UPON REMITTAL FOR A NEW SORA HEARING;

MILLS (DONALD), PEOPLE v: (Cal. Date - 11/18/08)

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;

MINGO (TYRONE), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER DOCUMENTS GENERATED BY THE DISTRICT ATTORNEY'S OFFICE CONSTITUTE "RELIABLE HEARSAY" WITHIN THE MEANING OF CORRECTION LAW § 168-n(3) AND "CLEAR AND CONVINCING" EVIDENCE SUPPORTING THE RISK LEVEL DETERMINATION;

MISICKI v 430-50 SHORE ROAD CORPORATION:

LABOR - SAFE PLACE TO WORK - LABOR LAW § 241(6) - WHETHER 12 NYCRR 23-9.2(a) IS SUFFICIENTLY SPECIFIC TO IMPOSE A NONDELEGABLE DUTY UPON OWNERS AND CONTRACTORS TO REMEDY AN UNSAFE CONDITION IN POWER-OPERATED EQUIPMENT UPON THE EMPLOYER'S NOTICE OF SUCH CONDITION;

MITCHELL (WILLIAM), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - DENIAL OF MOTION TO REARGUE APPLICATION FOR WRIT OF ERROR CORAM NOBIS;

MHR CAPITAL PARTNERS, LP, et al. v PRESSTEK, INC., et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - TERMINATION OF STOCK PURCHASE, ESCROW AND RELATED AGREEMENTS - SUMMARY JUDGMENT;

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;

MOYNIHAN v STATE OF NEW YORK:

CRIMES AND CRIMINAL PROCEDURE - SENTENCE - CHALLENGE TO PENAL LAW § 70.45(3) - NON-JUDICIAL OFFICER'S IMPOSITION OF CONDITIONS OF POST-RELEASE SUPERVISION;

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;

NEW YORK STATE CRIME VICTIMS BOARD v LORICK:

APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL; PRISONS AND PRISONERS - INMATE ACCOUNT - PROCEEDING BY NEW YORK STATE CRIME VICTIMS BOARD PURSUANT TO EXECUTIVE LAW § 632-a AND CPLR ARTICLE 63 TO ENJOIN RESPONDENT INMATE AND THE SUPERINTENDENT OF CLINTON CORRECTIONAL FACILITY FROM DISPERSING OR TRANSFERRING FUNDS CREDITED TO THE INMATE'S ACCOUNT;

NEW YORK STATE TUG HILL COMMISSION v NEW YORK STATE DIVISION OF HUMAN RIGHTS et al.:

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - AGE - SUBSTANTIAL EVIDENCE SUPPORTING DETERMINATION OF COMMISSIONER OF THE NEW YORK STATE DIVISION OF HUMAN RIGHTS - BACKPAY AWARD - OFFSET OR DEDUCTION OF PENSION BENEFITS;

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;

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;

PASSINO (KRISTERFER), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - CONFESSION - QUESTIONING OF INMATE - WHETHER INMATE WAS SUBJECTED TO CUSTODIAL INTERROGATION - MIRANDA v ARIZONA (384 US 436) - PEOPLE v ALLS (83 NY2d 94);

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;

PATTEN &c., et al. v HAMBURG OB/GYN GROUP P.C. et al.:

LIMITATION OF ACTIONS - MEDICAL MALPRACTICE - CONTINUOUS TREATMENT DOCTRINE;

PECKHAM, MATTER OF v CALOGERO, et al.:

PROCEEDING AGAINST BODY OR OFFICER - LANDLORD AND TENANT - WHETHER A PROPER BASIS EXISTED FOR A REMAND TO RESPONDENT STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL (DHCR) FOR FURTHER FINDINGS AND A DETERMINATION - DEMOLITION - LANDLORD'S FINANCIAL ABILITY - WHETHER APPELLATE DIVISION PROPERLY GRANTED LANDLORD LEAVE TO APPEAL TO THAT COURT ON THAT COURT'S OWN MOTION;

PIONEER TOWER OWNERS ASSOCIATION v STATE FARM FIRE & CASUALTY COMPANY et al.:

INSURANCE - EXCLUSIONS - WHETHER DAMAGE TO PLAINTIFF'S CONDOMINIUM BUILDING, CAUSED BY EXCAVATION AND CONSTRUCTION AT A NEIGHBORING PROPERTY, FALLS UNDER AN EXCLUSION IN PLAINTIFF'S CONDOMINIUM INSURANCE POLICY FOR EARTH MOVEMENT, SETTLING AND CRACKING, OR DEFECTIVE CONSTRUCTION;

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);

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.:  
 (Cal. Date - 11/18/08)  
 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.:  
 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;

SAMUEL, et al. v DRUCKMAN & SINEL LLP, et al.:  
 ATTORNEY AND CLIENT - COMPENSATION - WHETHER ATTORNEY WHO  
 REFERRED A MEDICAL MALPRACTICE ACTION TO OTHER ATTORNEYS IS  
 ENTITLED TO A ONE-THIRD SHARE OF THE "ENHANCED" LEGAL FEE AWARDED

UNDER JUDICIARY LAW § 474-a(2) OR TO A ONE-THIRD SHARE OF THE FEE AS CALCULATED UNDER THE STATUTORY SLIDING SCALE APPLICABLE IN MALPRACTICE ACTIONS; FEE AGREEMENT; SUMMARY JUDGMENT;

SCHOSEK &c. et al. v AMHERST PAVING, INC. et al.:

NEGLIGENCE - DUTY - WHETHER ROAD CONSTRUCTION CONTRACTOR HAD A DUTY OF CARE TO PERSONS TRAVELING ON ROAD BEING REPAVED - HEIGHT DIFFERENTIAL BETWEEN TRAVELED PORTION OF ROAD AND ROAD SHOULDER; SUMMARY JUDGMENT;

SELF, MATTER OF, v NEW YORK STATE DIVISION OF HUMAN RIGHTS:

CHALLENGE TO ORDER OF SINGLE APPELLATE DIVISION JUSTICE DENYING PETITIONER'S MOTION FOR RECONSIDERATION OR REARGUMENT AND FOR MODIFICATION OF A PRIOR ORDER OF THAT JUSTICE DENYING PETITIONER'S MOTION FOR PERMISSION TO APPEAL TO THE APPELLATE DIVISION;

SELVY, MATTER OF (DECEASED):

APPEAL - APPELLATE DIVISION - MOTION FOR POOR PERSON RELIEF; EXECUTORS AND ADMINISTRATORS - PROCEEDING REGARDING ESTATE;

SHAPERONOVITCH v CITY OF NEW YORK: (Cal. Date - 11/20/08)

MUNICIPAL CORPORATIONS - NOTICE OF STREET DEFECT - WHETHER AN "AMBIGUOUS" SYMBOL IN A BIG APPLE POTHOLE 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;

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;

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.:

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;

STATE FARM v WHITING, et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER THE UNDERLYING INCIDENT WAS AN "OCCURRENCE" WITHIN THE MEANING OF THE SUBJECT INSURANCE POLICY;

STERN v BLUESTONE:

CONSUMER - TELEPHONE CONSUMER PROTECTION ACT (TCPA) (47 USC § 227) - SUMMARY JUDGMENT - WHETHER "ATTORNEY MALPRACTICE REPORTS" DEFENDANT FAXED TO PLAINTIFF CONSTITUTED PROHIBITED ADVERTISEMENTS WITHIN THE MEANING OF THE TCPA - DEFENDANT'S WILLFUL AND KNOWING VIOLATION OF THE TCPA - STATUTE OF LIMITATIONS APPLICABLE TO THE TCPA - WHETHER "ATTORNEY MALPRACTICE REPORTS" CONSTITUTED PROTECTED SPEECH UNDER THE FEDERAL AND STATE CONSTITUTIONS;

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;

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: (Cal. Date - 11/18/08)

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;

TORIOLA, MATTER OF v SUPREME COURT &c., et al.:

PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION, MANDAMUS AND CERTIORARI - CPLR ARTICLE 78 PROCEEDING TO, AMONG OTHER THINGS, COMPEL THE APPELLATE TERM, SECOND AND ELEVENTH JUDICIAL DISTRICTS, TO ANNUL CERTAIN ORDERS ISSUED BY THAT COURT AND CIVIL COURT, QUEENS COUNTY - WHETHER EXTRAORDINARY REMEDIES SOUGHT BY PETITIONER ARE AVAILABLE;

VAN KIPNIS v VAN KIPNIS: (Cal. Date - 11/20/08)

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;

WASHINGTON (LORRAINE), 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;

WEAVER (SCOTT), PEOPLE v:

CRIMES AND CRIMINAL PROCEDURE - UNLAWFUL SEARCH AND SEIZURE - ALLEGED VIOLATION OF FEDERAL AND STATE CONSTITUTIONS - WARRANTLESS PLACEMENT BY POLICE OF BATTERY OPERATED GLOBAL POSITIONING SYSTEM (GPS) DEVICE UNDER THE BUMPER OF DEFENDANT'S VAN WHILE IT WAS PARKED ON A PUBLIC STREET; ACCOMPLICES - JURY CHARGE - WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR IN FAILING TO DETERMINE AS A MATTER OF LAW THAT A CO-DEFENDANT'S GIRLFRIEND WAS AN ACCOMPLICE TO A PARTICULAR BURGLARY, OR TO SUBMIT THAT ISSUE TO THE JURY; WHETHER TRIAL COURT COMMITTED REVERSIBLE ERROR IN PERMITTING THE PROSECUTION TO PRESENT ON ITS DIRECT CASE CERTAIN "CONSCIOUSNESS OF GUILT" EVIDENCE; SUFFICIENCY OF THE EVIDENCE;

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;

WYLY v MILBERG WEISS BERSHAD & SCHULMAN, LLP, et al.:

ATTORNEY AND CLIENT - SPECIAL PROCEEDING TO COMPEL RESPONDENT LAW FIRMS TO PRODUCE THEIR FILES, INCLUDING ATTORNEY WORK PRODUCT, RELATING TO THEIR PROSECUTION AND SETTLEMENT OF TWO FEDERAL SECURITIES CLASS ACTIONS - CLIENT'S RIGHT OF ACCESS TO FILE AFTER TERMINATION OF THE REPRESENTATION; CLASS ACTIONS - ABSENT MEMBER OF SETTLEMENT CLASS;

ABRAHAM XX, MATTER OF:

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;