

MOTION NO. (1230/99) KA 98-05449. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EMMANUEL JOHNSON, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: SMITH, J.P., CENTRA, LINDLEY, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (1499/05) KA 03-01080. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V RONNIE A. DIGGS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, TROUTMAN, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (158/06) KA 03-01725. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TERRIEN WILLIAMS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NOS. (415-416/13) KA 09-01789. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARTIN S. PAULK, DEFENDANT-APPELLANT. (APPEAL NO. 1.) KA 09-01790. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARTIN S. PAULK, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for writ of error coram nobis denied. PRESENT: PERADOTTO, J.P., LINDLEY, CURRAN, NEMOYER, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (1331/14) KA 13-00183. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANDREW T. SPEARS, DEFENDANT-APPELLANT. -- Motion for writ of

error coram nobis denied. PRESENT: WHALEN, P.J., CENTRA, CARNI, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (236/15) KA 14-01564. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V TODD C. MIRABELLA, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, LINDLEY, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NOS. (711.1-711.3/15) KA 12-00753. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ERIC HARRIS, DEFENDANT-APPELLANT. (APPEAL NO. 1.) KA 03-00716. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ERIC HARRIS, DEFENDANT-APPELLANT. (APPEAL NO. 2.) KA 06-02577. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ERIC HARRIS, DEFENDANT-APPELLANT. (APPEAL NO. 3.) -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., CARNI, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (1143/15) CA 15-00737. -- CHAMBERLAIN, D'AMANDA, OPPENHEIMER & GREENFIELD, LLP, PLAINTIFF-APPELLANT-RESPONDENT, V REBECCA P. WILSON, DEFENDANT-RESPONDENT-APPELLANT. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., PERADOTTO, CARNI, AND DEJOSEPH, JJ. (Filed Apr. 29, 2016.)

MOTION NO. (1168/15) CA 15-00575. -- DARTNELL ENTERPRISES, INC.,  
PLAINTIFF-APPELLANT, V HEWLETT-PACKARD COMPANY (INDIVIDUALLY, AND AS  
SUCCESSOR-IN-INTEREST TO COMPAQ COMPUTER CORPORATION),  
DEFENDANT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals  
denied. PRESENT: WHALEN, P.J., CENTRA, CARNI, DEJOSEPH, AND SCUDDER, JJ.  
(Filed Apr. 29, 2016.)

MOTION NOS. (1251-1252/15) KA 14-00785. -- THE PEOPLE OF THE STATE OF NEW  
YORK, RESPONDENT, V DONALD W. REINARD, DEFENDANT-APPELLANT. (APPEAL NO.  
1.) KA 15-00527. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V  
DONALD W. REINARD, DEFENDANT-APPELLANT. (APPEAL NO. 2.) -- Motion for  
reargument denied. PRESENT: CENTRA, J.P., PERADOTTO, LINDLEY, AND  
SCUDDER, JJ. (Filed Mar. 21, 2016.)

MOTION NO. (1305/15) CA 15-00978. -- MARK A. LEO, PLAINTIFF-APPELLANT, V  
NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY, DEFENDANT-RESPONDENT. --  
Motion for reargument or leave to appeal to the Court of Appeals denied.  
PRESENT: WHALEN, P.J., SMITH, PERADOTTO, CARNI, AND LINDLEY, JJ. (Filed  
Apr. 29, 2016.)

MOTION NO. (3/16) KA 12-01682. -- THE PEOPLE OF THE STATE OF NEW YORK,  
RESPONDENT, V THOMAS B. SIMCOE, DEFENDANT-APPELLANT. -- Motion for  
reargument denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH,

AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (6/16) KA 15-00472. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V FRANCIS FINSTER, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (15/16) CA 15-01045. -- DEBORAH S. VOSS, PROP-CO, LLC, CLASSI PEOPLE, INC., DOING BUSINESS AS SERTINO'S CAFÉ, AND DREAM PEOPLE, INC., DOING BUSINESS AS SHIVER MODEL, PLAINTIFFS-RESPONDENTS, V THE NETHERLANDS INSURANCE COMPANY, ET AL., DEFENDANTS, AND CH INSURANCE BROKERAGE SERVICES, CO., INC., DEFENDANT-APPELLANT.** -- Motion to resettle order denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (17/16) CA 15-00443. -- MARIA A. LEGGO, PLAINTIFF-RESPONDENT, V MARTIN J. LEGGO, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., PERADOTTO, LINDLEY, DEJOSEPH, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (43/16) TP 15-00056. -- IN THE MATTER OF ANTHONY MEDINA, PETITIONER, V MICHAEL SHEAHAN, SUPERINTENDENT, FIVE POINTS CORRECTIONAL FACILITY, RESPONDENT.** -- Motion for reargument denied. PRESENT: SMITH,

J.P., CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (48/16) KA 14-00110. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DYLAN SCHUMAKER, DEFENDANT-APPELLANT.** -- Motion for reargument denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, WHALEN, AND DEJOSEPH, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (56/16) CA 15-01079. -- ADAM DAILEY, PLAINTIFF-RESPONDENT, V LABRADOR DEVELOPMENT CORP., DEFENDANT-APPELLANT.** -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Apr. 29, 2016.)

**MOTION NO. (135/16) CA 15-01085. -- TATTOOS BY DESIGN, INC., DOING BUSINESS AS "HARDCORE TATOO", AND NICHOLE K. HUDSON, PLAINTIFFS-RESPONDENTS, V MARK KOWALSKI, HANS KULLERKUPP, ERIE COUNTY DEPARTMENT OF HEALTH AND COUNTY OF ERIE, DEFENDANTS-APPELLANTS.** -- Motion for reargument or, in the alternative, leave to appeal to the Court of Appeals is granted to the extent that, upon reargument, the memorandum and order entered February 11, 2016 (136 AD3d 1406) is amended by deleting the second sentence of the third paragraph of the memorandum and substituting the following sentence: "Here, Hardcore's owner conceded at her deposition that she had 'no evidence' that any of the statements in the press release were false and that the tattoo artist may have made the statements attributed to him in order to expand his client base, thereby essentially conceding that

plaintiffs could not establish a prima facie case of defamation." PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, AND DEJOSEPH, JJ. (Filed Apr. 29, 2016.)

**KAH 15-00951. -- THE PEOPLE OF THE STATE OF NEW YORK EX REL. KEITH TODD, PETITIONER-APPELLANT, V NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION, RESPONDENT-RESPONDENT.** -- Judgment unanimously affirmed. Counsel's motion to be relieved of assignment granted (*see People v Crawford*, 71 AD2d 38 [1979]). (Appeal from Judgment [denominated order] of Supreme Court, Wyoming County, Michael M. Mohun, A.J. - Habeas Corpus). PRESENT: CENTRA, J.P., CARNI, DEJOSEPH, CURRAN, AND SCUDDER, JJ. (Filed Apr. 29, 2016.)

**KA 14-00876. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V KEVIN COLEY, DEFENDANT-APPELLANT.** -- Motion to dismiss granted. Memorandum: The matter is remitted to Oneida County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application of either the District Attorney or the counsel for defendant (*see People v Matteson*, 75 NY2d 745). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Apr. 29, 2016.)

**KA 15-00324. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MICHAEL RODRIGUEZ, DEFENDANT-APPELLANT.** -- Motion to dismiss granted. Memorandum: The matter is remitted to Erie County Court to vacate the judgment of conviction and dismiss the indictment either sua sponte or on application

of either the District Attorney or the counsel for defendant (see *People v Matteson*, 75 NY2d 745). PRESENT: WHALEN, P.J., SMITH, CENTRA, PERADOTTO, AND CARNI, JJ. (Filed Apr. 29, 2016.)