

MOTION NO. (87/02) KA 00-02959. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V EVERTON HIBBERT, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., NEMOYER, CURRAN, TROUTMAN, AND DEJOSEPH, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (699/06) KA 05-01283. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V MARVIN D. VASSAR, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: WHALEN, P.J., SMITH, CARNI, CURRAN, AND TROUTMAN, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (788/06) KA 04-02067. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DANIEL GAFFNEY, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: SMITH, J.P., LINDLEY, NEMOYER, CURRAN, AND BANNISTER, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (1235/19) KA 01-01201. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V DENNIS TIMMONS, DEFENDANT-APPELLANT. -- Motion for writ of error coram nobis denied. PRESENT: CENTRA, J.P., PERADOTTO, CARNI, CURRAN, AND WINSLOW, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (1299/19) CA 18-02343. -- FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT, V CLAUDE TORTORA, ALSO KNOWN AS CLAUDE TOTORA, ALSO KNOWN AS CLAUDE T. TORTORA, DEFENDANT-RESPONDENT, ET

AL., DEFENDANTS. (ACTION NO. 1.) CLAUDE TORTORA, INDIVIDUALLY, AND AS EXECUTOR OF THE ESTATE OF JACQUELINE SQUITIERI, DECEASED, PLAINTIFF-RESPONDENT, V FEDERAL NATIONAL MORTGAGE ASSOCIATION ("FANNIE MAE"), A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE UNITED STATES OF AMERICA, DEFENDANT-APPELLANT. (ACTION NO. 2.) (APPEAL NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., CARNI, LINDLEY, CURRAN, AND WINSLOW, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (40/20) CA 19-00675. -- LAUREN D. DZIWULSKI, PLAINTIFF-RESPONDENT, V LISA TOLLINI-REICHERT, M.D., DEFENDANT-APPELLANT, ET AL., DEFENDANTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CARNI, J.P., CURRAN, WINSLOW, AND DEJOSEPH, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (189/20) CA 18-02000. -- STEPHANIE L. AND PETER L., INDIVIDUALLY AND AS PARENTS AND NATURAL GUARDIANS OF M.L., AN INFANT, PLAINTIFFS-RESPONDENTS, V HOUSE OF THE GOOD SHEPHERD AND COUNTY OF ONEIDA, DEFENDANTS-APPELLANTS. -- Motions for reargument or leave to appeal to the Court of Appeals denied. PRESENT: WHALEN, P.J., CENTRA, CURRAN, WINSLOW, AND BANNISTER, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (199/20) CA 19-01912. -- CHRISTA CONSTRUCTION, LLC,
PLAINTIFF-RESPONDENT, V VANGUARD LIGHT GAUGE STEEL BUILDINGS, A DIVISION OR
SUBSIDIARY OF SHELTER2HOME, LLC, DEFENDANT-APPELLANT. (APPEAL NO. 3.) --
Motion for reargument or leave to appeal to the Court of Appeals denied.
PRESENT: WHALEN, P.J., CENTRA, CURRAN, WINSLOW, AND BANNISTER, JJ. (Filed
Dec. 23, 2020.)

MOTION NO. (355/20) CA 19-01778. -- JEFFREY D. CONRAD AND KATHERINE M.
CONRAD, PLAINTIFFS-RESPONDENTS, V HOLIDAY VALLEY, INC., AND WIN-SUM SKI
CORP., DOING BUSINESS AS HOLIDAY VALLEY RESORT, DEFENDANTS-APPELLANTS. --
Motion for leave to appeal to the Court of Appeals denied. PRESENT:
SMITH, J.P., CARNI, NEMOYER, CURRAN, AND BANNISTER, JJ. (Filed Dec. 23,
2020.)

MOTION NO. (389/20) CA 18-01429. -- BENJAMIN L. JOLLEY,
PLAINTIFF-RESPONDENT, V AGOSTINHA R. LANDO, DEFENDANT-APPELLANT. (APPEAL
NO. 1.) -- Motion for reargument or leave to appeal to the Court of Appeals
denied. PRESENT: WHALEN, P.J., CENTRA, PERADOTTO, WINSLOW, AND BANNISTER,
JJ. (Filed Dec. 23, 2020.)

MOTION NO. (412/20) CA 19-01975. -- IN THE MATTER OF EIGHTH JUDICIAL
DISTRICT ASBESTOS LITIGATION. LYNN M. STOCK, INDIVIDUALLY AND AS EXECUTRIX
OF THE ESTATE OF JAMES G. STOCK, DECEASED, PLAINTIFF-RESPONDENT-APPELLANT,

V AIR & LIQUID SYSTEMS CORP., AS SUCCESSOR BY MERGER TO BUFFALO PUMPS, INC., ET AL., DEFENDANTS, AND JENKINS BROS.,

DEFENDANT-APPELLANT-RESPONDENT. -- Motion for leave to appeal to the Court of Appeals denied. PRESENT: SMITH, J.P., CARNI, LINDLEY, CURRAN, AND DEJOSEPH, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (815/20) CA 19-02189. -- GEOFFREY DUBEY, PLAINTIFF-APPELLANT, V RONEN ZOUR AND ROC CITY PARTNERS, LLC, DEFENDANTS-RESPONDENTS. -- Motion for reargument or leave to appeal to the Court of Appeals denied. PRESENT: CENTRA, J.P., PERADOTTO, NEMOYER, TROUTMAN, AND WINSLOW, JJ. (Filed Dec. 23, 2020.)

MOTION NO. (832/20) CA 19-01813. -- BRYAN G. BROCKWAY, PLAINTIFF-RESPONDENT, V COUNTY OF CHAUTAUQUA, DEFENDANT-APPELLANT. -- Motion for reargument denied. PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND BANNISTER, JJ. (Filed Dec. 23, 2020.)

KA 17-01724. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V JAMES GRAHAM, DEFENDANT-APPELLANT. -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant was convicted upon a guilty plea of manslaughter in the first degree (Penal Law § 125.20 [1]), and was sentenced to a determinate term of imprisonment of seventeen years and five years of postrelease supervision. Defendant's assigned appellate counsel

has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38 [4th Dept 1979]). However, a nonfrivolous issue exists as to whether defendant's waiver of the right to appeal was valid. Therefore, we relieve counsel of her assignment and assign new counsel to brief this issue, as well as any other issues that counsel's review of the record may disclose. (Appeal from Judgment of Monroe County Court, Victoria M. Argento, J. - Manslaughter, 1st Degree). PRESENT: PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND BANNISTER, JJ. (Filed Dec. 23, 2020.)

KA 13-01965. -- THE PEOPLE OF THE STATE OF NEW YORK, RESPONDENT, V ANDRE J. PORTIS, DEFENDANT-APPELLANT. -- The case is held, the decision is reserved, the motion to relieve counsel of assignment is granted and new counsel is to be assigned. Memorandum: Defendant was convicted upon a guilty plea of attempted criminal possession of a forged instrument in the first degree (Penal Law §§ 110.00, 170.30), and was sentenced to an indeterminate term of imprisonment of two to four years. Defendant's assigned appellate counsel has moved to be relieved of the assignment pursuant to *People v Crawford* (71 AD2d 38 [4th Dept 1979]). However, upon a review of the record we conclude that nonfrivolous issues exist with respect to whether defendant's plea was knowing, voluntary and intelligent, whether the court providently exercised its discretion in denying defendant's requests to vacate his plea and for the appointment of new counsel, and whether defendant's waiver of the right to appeal was valid. Therefore, we relieve counsel of her assignment and assign new counsel to brief these issues, as

well as any other issues that counsel's review of the record may disclose.
(Appeal from Judgment of Monroe County Court, Melchor E. Castro, A.J. -
Attempted Criminal Possession Forged Instrument, 1st Degree). PRESENT:
PERADOTTO, J.P., CARNI, LINDLEY, CURRAN, AND BANNISTER, JJ. (Filed Dec.
23, 2020.)