

December 3, 2010

NEW FILINGS DIGEST - MONTHLY 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.

ABRAMS (EMAR), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHERE THE DISTRICT ATTORNEY WAS DISQUALIFIED DUE TO HIS PRIOR REPRESENTATION OF DEFENDANT, WHETHER SPECIAL PROSECUTOR'S CONSULTATION WITH DISTRICT ATTORNEY REGARDING THE GRANTING OF IMMUNITY TO OBTAIN VICTIM'S TESTIMONY WAS IMPROPER AND DEPRIVED DEFENDANT OF HIS RIGHT TO COUNSEL; WITNESSES - IMPEACHMENT - PROSECUTION'S USE OF VICTIM'S GRAND JURY TESTIMONY IDENTIFYING DEFENDANT AS THE PERPETRATOR TO IMPEACH WITNESS AT TRIAL - HARMLESS ERROR; ALLEGED SANDOVAL VIOLATION; SUMMARY DENIAL OF DEFENDANT'S CPL 330.30 MOTION;

ACEVEDO (BENITO), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY (DUE TO TRIAL COURT'S FAILURE TO PRONOUNCE THE MANDATORY TERM OF POST-RELEASE SUPERVISION) - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, ALTHOUGH DEFENDANT'S 2001 ATTEMPTED ROBBERY CONVICTION NO LONGER QUALIFIES AS A PREDICATE FELONY, THE APPROPRIATE REMEDY IS TO REMAND FOR RESENTENCING TO AFFORD THE PEOPLE THE OPPORTUNITY TO ESTABLISH WHETHER HIS 1993 MASSACHUSETTS CONVICTION STILL QUALIFIES AS A PREDICATE FELONY WHEN THE TIME HE HAS SPENT INCARCERATED IS EXCLUDED FROM THE 10-YEAR LIMITATION PURSUANT TO PENAL LAW § 70.06(1)(b)(iv) AND (v)";

ACOSTA, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION, et al.:

(Cal. Date - 2/8/11)

ADMINISTRATIVE LAW - ADMINISTRATIVE REVIEW - NEW YORK CITY DEPARTMENT OF EDUCATION DETERMINATION DENYING PETITIONER'S APPLICATION FOR EMPLOYMENT AS AN ADMINISTRATIVE ASSISTANT WITH A NONPROFIT ORGANIZATION PROVIDING SPECIAL EDUCATION SERVICES TO PRESCHOOLERS DUE TO THE SERIOUS NATURE OF PETITIONER'S CONVICTIONS IN 1993 OF FOUR COUNTS OF ROBBERY IN THE FIRST DEGREE AND ON THE GROUND THAT GRANTING EMPLOYMENT WOULD POSE AN UNREASONABLE RISK TO THE SAFETY AND WELFARE OF THE SCHOOL COMMUNITY - WHETHER APPELLATE DIVISION ERRED IN CONCLUDING THAT THE DETERMINATION WAS ARBITRARY AND CAPRICIOUS - CORRECTION LAW § 752 - ALLEGED MISAPPLICATION OF MATTER OF ARROCHA v BOARD OF EDUCATION OF CITY OF NEW YORK (93 NY2d [1999]) - CHALLENGE TO REMEDY ORDERED BY APPELLATE DIVISION;

AGINA (ALAA), PEOPLE v:

CRIMES - EVIDENCE - PRIOR BAD ACTS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PRIOR BAD ACTS WERE NOT ADMISSIBLE TO PROVE THE PERPETRATOR'S IDENTITY THROUGH A UNIQUE MODUS OPERANDI WHERE THE VICTIM WAS DEFENDANT'S WIFE BUT DEFENDANT DENIED INFLECTING THE INJURIES;

ALBERGOTTI (ALLEN), PEOPLE v:

CRIMES - SENTENCE - PLEA AGREEMENT - WHETHER SENTENCING COURT CONDUCTED A "SUFFICIENT INQUIRY" INTO WHETHER THE PLEA AGREEMENT HAD BEEN BREACHED (PEOPLE v OUTLEY, 80 NY2d 703, 713); DUE PROCESS; PRESERVATION;

ALBUNIO et al. v CITY OF NEW YORK (AND ANOTHER ACTION):

(Cal. Date - 2/10/11)

CIVIL RIGHTS - DISCRIMINATION IN EMPLOYMENT - RETALIATION CLAIM - WHETHER PLAINTIFFS ENGAGED IN PROTECTED "OPPOSITION" ACTIVITY WITHIN THE MEANING OF ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 8-102(7);

ALONSO (ROBERT and EMILIA), PEOPLE v:

CRIMES - APPEAL - WHETHER THE APPELLATE DIVISION HAD JURISDICTION OVER THE PEOPLE'S APPEAL FROM A SUPREME COURT ORDER DISMISSING INDICTMENTS FOR THE ALLEGED VIOLATION OF BRADY v MARYLAND (373 US 83);

ALONZO (JOSE), PEOPLE v: (Cal. Date - 1/13/11)

CRIMES - INDICTMENT - DISMISSAL OF INDICTMENT COUNTS AS MULTIPLICITOUS - CPL 210.20 - WHETHER GROPING OF TWO BODY PARTS CONSTITUTED A SINGLE CONTINUOUS ACT;

AMERICAN AIRLINES, INC., MATTER OF v NEW YORK CITY TAX APPEALS TRIBUNAL, et al.:

TAXATION - HOTEL AND MOTEL OCCUPANCY TAX - NEW YORK CITY TAX APPEALS TRIBUNAL FINDING THAT PETITIONER WAS NOT PERMANENT RESIDENT WITH RESPECT TO THE HOTEL ROOMS IT OCCUPIED FOR LESS THAN 180 CONSECUTIVE DAYS - ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 11-2502(b)(1);

AMERICAN HOME ASSURANCE CO., et al. v NAUSCH, HOGAN & MURRAY, Inc. et al.:

INSURANCE - AGENTS AND BROKERS - BROKERS ON CONTRACTS OF REINSURANCE - CAUSES OF ACTION FOR INDEMNITY, CONTRIBUTION, BREACH OF FIDUCIARY DUTY, NEGLIGENCE AND UNJUST ENRICHMENT - ACCRUAL OF CAUSES OF ACTION - STATUTE OF LIMITATIONS - ALLEGED ATTEMPT TO CIRCUMVENT STATUTE OF LIMITATIONS BY PLEADING INDEMNITY AND CONTRIBUTION CAUSES OF ACTION - WHETHER THE COMPLAINT FAILS TO STATE A CAUSE ACTION FOR CONTRIBUTION;

ANAND, et al. v KAPOOR:

NEGLIGENCE - ASSUMPTION OF RISK - FORESEEABLE AMBIT OF DANGER - GOLFER INJURED BY BALL HIT BY FELLOW GOLFER WHO FAILED TO GIVE WARNING BEFORE SWING OF CLUB; SUMMARY JUDGMENT;

APONTE (HERBERT), PEOPLE v: (Cal. Date - 1/6/11)

CRIMES - STALKING - ATTEMPTED STALKING - WHETHER THE CRIME OF ATTEMPTED STALKING IN THE THIRD DEGREE IS A LEGALLY COGNIZABLE OFFENSE; INTENT;

ARFA, et al. v ZAMIR, et al.:

FRAUD - RELIANCE - ALLEGED FRAUD RELATED TO PURCHASE OF REAL ESTATE - WHETHER FRAUD CAUSE OF ACTION FALLS WITHIN SCOPE OF GENERAL RELEASE IN PARTIES' "GOVERNANCE OF ENTITIES" AGREEMENT; CONTRACTS;

ASHLEY (PATRICK R.), PEOPLE v:

CRIMES - CHALLENGE TO WAIVER OF APPEAL AND GUILTY PLEA; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL; SENTENCE - WHETHER DEFENDANT'S SENTENCE AS A SECOND FELONY OFFENDER WAS ILLEGALLY PREDICATED ON HIS 1999 ROBBERY CONVICTIONS IN WHICH THE COURT FAILED TO IMPOSE A MANDATORY PERIOD OF POST-RELEASE SUPERVISION - PRESERVATION OF ARGUMENT FOR APPELLATE REVIEW;

SASHA B., MATTER OF:

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - SUFFICIENCY OF THE EVIDENCE - CORROBORATION OF OUT-OF-COURT STATEMENTS;

BALZARINI, MATTER OF v SUFFOLK COUNTY DEPARTMENT OF SOCIAL SERVICES: (Cal. Date - 1/11/11)

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

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

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

BATTLES (CALVIN), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE ILLEGAL UNDER PENAL LAW § 70.25(2) -

WHETHER DEFENDANT'S POURING OF GASOLINE ON FOUR INDIVIDUALS WAS A "SINGLE ACT"; LESSER INCLUDED OFFENSES; PERSISTENT FELONY OFFENDER;

BEAZER v NEW YORK CITY HEALTH AND HOSPITALS CORP., et al.:  
 NEGLIGENCE - DUTY - DUTY OF BAILOR TO BAILEE - PERSONAL INJURY ACTION ARISING FROM INJURIES PLAINTIFF SUSTAINED WHILE USING ALLEGEDLY DEFECTIVE, UNGUARDED POWER GRINDER OWNED BY DEFENDANT CONTRACTOR ON A PROJECT FOR WHICH PLAINTIFF'S EMPLOYER SERVED AS CONSTRUCTION MANAGER - EXISTENCE OF MATERIAL ISSUES OF FACT AS TO WHETHER THERE WAS A BAILMENT OF THE GRINDER AND, IF SO, WHETHER THE BAILMENT WAS GRATUITOUS OR FOR MUTUAL BENEFIT - DEFENDANT'S ENTITLEMENT TO SUMMARY JUDGMENT;

BECOATS (COREY), PEOPLE v:  
 CRIMES - TRIAL - ADJOURNMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN REFUSING TO GRANT DEFENDANT AN ADJOURNMENT TO SECURE THE ATTENDANCE OF A WITNESS WHO WAS IN FEDERAL CUSTODY; CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - PRESERVATION;

BEASLEY (LAMONT), PEOPLE v: (Cal. Date - 2/16/11)  
 CRIMES - RIGHT TO SPEEDY TRIAL - CPL 30.30 - WHETHER POSTREADINESS DELAY WAS CHARGEABLE TO PEOPLE IN ABSENCE OF DEFENSE COUNSEL'S EXPRESS CONSENT TO DELAY;

BELL (JAMEL), PEOPLE v:  
 CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - CHALLENGE TO THE CONSTITUTIONALITY OF DEFENDANT'S ADJUDICATION AS A PERSISTENT VIOLENT FELONY OFFENDER -- APPRENDI v NEW JERSEY (530 US 466 [2000]);

BIRNBAUM, MATTER OF v NEW YORK STATE DEPARTMENT OF LABOR et al.:  
 CIVIL SERVICE - COMPENSATION AND BENEFITS - LEAVE FOR ORDINARY DISABILITY - WHETHER CIVIL SERVICE LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

BLAUDZIUNAS, et al. v EGAN, et al.:  
 RELIGIOUS CORPORATIONS AND ASSOCIATIONS - DETERMINATION OF CLAIM TO REAL PROPERTY - RELIGIOUS CORPORATION LAW § 5 - DECISION OF ROMAN CATHOLIC ARCHBISHOP AND TRUSTEES OF SUPPRESSED INCORPORATED PARISH TO DEMOLISH CHURCH BUILDING; STANDING OF PARISHIONERS;

BLEECKER STREET TENANTS CORP. v BLEEKER JONES LLC, et al.:

(Cal. Date - 1/6/11)

LANDLORD AND TENANT - CHALLENGE TO RENEWAL OPTION CLAUSE IN LEASE AGREEMENT - WHETHER THE EXCEPTION TO THE PROHIBITION AGAINST REMOTE VESTING OF OPTIONS APPURTENANT TO A LEASE IS APPLICABLE TO THE SUBJECT RENEWAL OPTION CLAUSE; SUMMARY JUDGMENT;

BOOTHE (JAMES O.), PEOPLE v: (Cal. Date - 1/5/11)

CRIMES - INSURANCE FRAUD - INSURANCE FRAUD IN THE FIRST DEGREE (PENAL LAW § 176.30) - WHETHER PENAL LAW § 176.30 APPLIES TO FRAUDULENT HEALTH CARE INSURANCE ACTS DEFINED IN PENAL LAW § 176.05(2);

BOARD OF EDUCATION OF THE GARRISON UNION FREE SCHOOL DISTRICT v GREEK ARCHDIOCESE OF INSTITUTE OF ST. BASIL:

SCHOOLS - TUITION FOR NONRESIDENTS - RESPONSIBILITY OF SCHOOL DISTRICT FOR COSTS OF EDUCATING CHILDREN WHO ARE NOT RESIDENTS OF THE SCHOOL DISTRICT BUT ARE PLACED AT A PRIVATE RESIDENTIAL CHILD CARE FACILITY LOCATED IN THE SCHOOL DISTRICT - SCOPE OF EDUCATION LAW § 4002(1);

BORDELEAU et al. v STATE OF NEW YORK et al.:

STATE - APPROPRIATIONS - DECLARATORY JUDGMENT ACTION BY TAXPAYERS SEEKING TO ENJOIN DEFENDANTS FROM DISTRIBUTING OR RECEIVING STATE FUNDS APPROPRIATED IN PURPORTED VIOLATION OF THE NEW YORK STATE CONSTITUTIONAL PROHIBITION AGAINST GIFTS OR LOANS OF STATE MONEY TO PRIVATE ENTITIES (ARTICLE VII, § 8[1]) AND REQUIREMENT THAT APPROPRIATIONS DISTINCTLY SPECIFY THE OBJECT OR PURPOSE OF THE FUNDS APPROPRIATED (ARTICLE VII, § 7) - APPROPRIATIONS OF STATE FUNDS TO PUBLIC BENEFIT CORPORATIONS THAT PROVIDE GRANTS TO PRIVATE ENTITIES FOR ECONOMIC DEVELOPMENT - WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF THE COMPLAINT PURSUANT TO CPLR 3211(a)(1) AND (7);  
ANOTHER CRIME;

BRADSHAW (JAY JOMAR), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF HIS RIGHT TO APPEAL WAS KNOWING AND VOLUNTARY;

BRANNON (ERNEST), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION TO BELIEVE THAT OBSERVED OUTLINE OF KNIFE IN DEFENDANT'S PANTS POCKET WAS A GRAVITY KNIFE; SUPPRESSION MOTION;

BROWN (JAZZMONE), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP IDENTIFICATION

OVER FOUR YEARS AFTER CRIME AND AFTER PHOTO ARRAY; EFFECTIVE ASSISTANCE OF COUNSEL - ALLEGED FAILURE OF DEFENSE COUNSEL TO OBJECT TO PROSECUTORIAL MISCONDUCT IN SUMMATION;

BROWN (NADIRAH), PEOPLE v:

CRIMES - ASSAULT - SUFFICIENCY OF EVIDENCE TO ESTABLISH THAT DEFENDANT ACTED RECKLESSLY - HOT WATER THROWN ON DEFENDANT'S NEPHEW; ALLEGED PROSECUTORIAL MISCONDUCT;

BRUNNER (MICHAEL), PEOPLE v: (Cal. Date - 2/16/11)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO MOVE TO DISMISS INDICTMENT ON SPEEDY TRIAL GROUNDS PURSUANT TO CPL 30.30; ALLEGED SANDOVAL VIOLATION; WITNESSES - FAILURE TO CALL WITNESS - DENIAL OF DEFENDANT'S REQUEST FOR MISSING WITNESS CHARGE AS TO CERTAIN POLICE OFFICERS;

BUENO (CHRISTIAN), PEOPLE V:

CRIMES - ASSAULT - ASSAULT OF UNIFORMED EMERGENCY MEDICAL TECHNICIAN GETTING INTO AMBULANCE - REQUISITE INTENT - PENAL LAW § 120.05(3) - SUFFICIENCY OF EVIDENCE THAT DEFENDANT INTENDED TO INTERFERE WITH THE TECHNICIAN'S PERFORMANCE OF A LAWFUL DUTY;

BUTLER v STAGECOACH GROUP, PLC, et al.:

COWAN, et al. v STAGECOACH GROUP, PLC, et al.:

GODWIN, et al. v STAGECOACH GROUP, PLC, et al.:

CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

AFTON C., MATTER OF:

PARENT AND CHILD - ABUSED OR NEGLECTED CHILD - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING NEGLECT PROCEEDINGS AS A MATTER OF LAW WHERE THE FATHER "WAS AN 'UNTREATED' LEVEL THREE SEX OFFENDER WHO, AFTER HIS RELEASE, HAD RETURNED TO THE FAMILY HOME WHERE THE SUBJECT CHILDREN RESIDED" AND THE MOTHER ALLOWED THE FATHER TO RETURN TO THE HOME;

DYLAN C., MATTER OF: (Cal. Date - 2/17/11)

CRIMES - ESCAPE - JUVENILE DELINQUENTS - ESCAPE FROM NONSECURE FACILITY - WHETHER A JUVENILE DELINQUENT WHO ABSCONDS FROM A

NONSECURE DETENTION FACILITY, AS DEFINED IN FAMILY COURT ACT § 301.2(5), MAY BE CHARGED WITH ESCAPE IN THE SECOND DEGREE UNDER PENAL LAW § 205.10;

CAMPBELL (WILLIAM), PEOPLE v: (Cal. Date - 1/6/11)  
 CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED TWO MEMBERS OF DEFENDANT'S FAMILY FROM THE COURTROOM DURING THE TESTIMONY OF AN UNDERCOVER POLICE OFFICER - FAMILY MEMBERS LIVED IN THE "ROUGH VICINITY" WHERE THE UNDERCOVER OFFICER WORKED; SUFFICIENCY OF EVIDENCE;

CASADO, et al., MATTER OF v MARKUS &c., et al.:  
 (Cal. Date - 2/8/11)

LANDLORD AND TENANT - RENT REGULATION - POWERS OF NEW YORK CITY RENT GUIDELINES BOARD (RGB) - WHETHER THE RGB HAS AUTHORITY TO CREATE A NEW CLASSIFICATION OF HOUSING ACCOMMODATIONS SUBJECT TO MINIMUM DOLLAR AMOUNT RENT INCREASE FOR APARTMENTS THAT HAD NOT BEEN SUBJECT TO VACANCY INCREASES FOR THE PREVIOUS SIX YEARS;

CECUNJANIN (ZUFER), PEOPLE v: (Cal. Date - 2/17/11)  
 CRIMES - INTOXICATION - SUFFICIENCY OF EVIDENCE - SEXUAL ABUSE IN THE FIRST DEGREE (PENAL LAW § 130.65[2]) - WHETHER VICTIM WAS "INCAPABLE OF CONSENT BY REASON OF BEING PHYSICALLY HELPLESS"; ALLEGED JUROR MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL;

CENTRO EMPRESARIAL CEMPRESA S.A. et al. v AMERICA MOVIL S.A.B. de C.V., et al.:

RELEASE - SCOPE OF RELEASE - BINDING NATURE - RELEASE ALLEGEDLY INDUCED BY FRAUD - CHALLENGE TO APPELLATE DIVISION RULING THAT GENERAL RELEASE BARS PLAINTIFFS' VARIOUS CAUSES OF ACTION FOR FRAUD AND BREACH OF CONTRACT;

CHOW, et al. v RECKITT & COLMAN, INC., et al.:

PRODUCTS LIABILITY - DEFECTIVELY DESIGNED PRODUCT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT PLAINTIFFS FAILED TO RAISE A TRIABLE ISSUE OF FACT AS TO WHETHER A LYE-BASED DRAIN CLEANER WAS DEFECTIVELY DESIGNED;

THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK v McGRAHAM:

ARBITRATION - CONFIRMING OR VACATING AWARD - AWARD FINDING TEACHER GUILTY OF SERIOUS MISCONDUCT UNBECOMING A PERSON IN THE POSITION OF TEACHER AND IMPOSING A PENALTY OF 90 DAYS SUSPENSION WITHOUT PAY AND REASSIGNMENT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT NO BASIS EXISTED "UPON WHICH [SUPREME] COURT SHOULD HAVE DISTURBED THE HEARING OFFICER'S DETERMINATION" REGARDING THE PENALTY IMPOSED;

CLYDE (RAYMOND), PEOPLE v:

CRIMES - ATTEMPTED RAPE IN THE FIRST DEGREE - SUFFICIENCY OF THE EVIDENCE; TRIAL - PHYSICALLY RESTRAINED DEFENDANT - LEG SHACKLES - APPLICABILITY OF HARMLESS ERROR ANALYSIS; WITNESS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT ABUSED ITS DISCRETION IN REFUSING TO PRECLUDE THE PROSECUTOR FROM QUESTIONING MEDICAL EXPERTS ON THE ISSUE WHETHER THE VICTIM'S INJURIES MET THE LEGAL DEFINITIONS OF PHYSICAL INJURY AND SERIOUS PHYSICAL INJURY SET FORTH IN THE PENAL LAW;

COHN, MATTER OF v BOARD OF EDUCATION OF CITY SCHOOL DISTRICT OF CITY OF NEW YORK:

SCHOOLS - TEACHERS - LETTER IN PERSONNEL FILE - HEARING PURSUANT TO EDUCATION LAW § 3020-a - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT, UNDER ARTICLE TWENTY ONE OF CURRENT COLLECTIVE BARGAINING AGREEMENT, TEACHER HAD NO RIGHT TO A HEARING WHERE LETTER IN PERSONNEL FILE DOES NOT RESULT IN ADMINISTRATIVE CHARGES OR OTHER DISCIPLINARY SANCTIONS;

COLLADO (DIONIS), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - VACATUR OF SENTENCE FOR PREDICATE FELONY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, "WHERE A DEFENDANT RECEIVES AN ENHANCED SENTENCE BASED UPON A PREDICATE FELONY OFFENSE AND THE SENTENCE IMPOSED FOR THE PREDICATE OFFENSE IS VACATED DUE TO THE FAILURE TO PRONOUNCE A TERM OF (POST-RELEASE SUPERVISION), THE RESENTENCING DATE CONTROLS WHETHER THE EARLIER CRIME QUALIFIES AS A PREDICATE OFFENSE UNDER PENAL LAW § 70.06(1)(b)(ii)";

CONCEPCION (REYNALDO), PEOPLE v:

CRIMES - EVIDENCE - SUPPRESSION HEARING - CONSENT TO SEARCH OF VAN; APPEAL - SCOPE OF REVIEW OF INTERMEDIATE APPELLATE COURT - WHETHER, ON DEFENDANT'S APPEAL TO THE APPELLATE DIVISION, CPL 470.15(1) PERMITTED THE COURT TO DECIDE THE ISSUE OF CONSENT WHERE THE CONSENT ISSUE WAS NOT DECIDED ADVERSELY TO DEFENDANT IN THE TRIAL COURT;

CONGREGATION RABBINICAL COLLEGE OF TARTIKOV v THE TOWN OF RAMAPO:

TAXATION - EXEMPTIONS - WHETHER THE APPELLATE DIVISION ERRED IN DECLARING THAT PLAINTIFF RELIGIOUS CORPORATION'S REAL PROPERTY IS EXEMPT FROM REAL PROPERTY TAXATION PURSUANT TO RPTL 420-a(1) FOR CERTAIN TAX YEARS - OPERATION ON THE SUBJECT PROPERTY OF A FOR-PROFIT SUMMER CAMP FOR ORTHODOX JEWISH BOYS;

CORNELL (BARAK), PEOPLE v:

CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT THAT SENTENCE INCLUDED A PERIOD OF POST-RELEASE SUPERVISION;

CPS OPERATING COMPANY LLC v PATHMARK STORES, INC.:

LANDLORD AND TENANT - LEASE - RIGHT TO SUBLEASE OR ASSIGN - LEASEHOLD ASSIGNMENT CONTRACT BETWEEN COMMERCIAL TENANT AND COMPANY FORMED BY REAL ESTATE DEVELOPER TO ACQUIRE TENANT'S RIGHTS UNDER THE LEASE - COMPANY'S RIGHT TO TERMINATE THE CONTRACT BASED UPON TENANT'S ALLEGED BREACH - WHETHER TENANT WAS REQUIRED TO OBTAIN CITY'S CONSENT TO ASSIGNMENT PURSUANT TO A LAND DISPOSITION AGREEMENT BETWEEN THE CITY AND LANDLORD WHERE SUCH AGREEMENT WAS INCLUDED AS A "PERMITTED EXCEPTION" IN THE LEASEHOLD ASSIGNMENT CONTRACT - EFFECT OF ESTOPPEL CERTIFICATE REQUIREMENT;

CRAGG v ALLSTATE INDEMNITY CORP.:

INSURANCE - HOMEOWNER'S INSURANCE - DUTY TO DEFEND OR INDEMNIFY - EXCLUSION FOR CLAIMS BASED ON DEATH OF INSURED - POLICY PROVISION EXCLUDING COVERAGE FOR "BODILY INJURY TO AN INSURED PERSON ... WHENEVER ANY BENEFIT OF THIS COVERAGE WOULD ACCRUE DIRECTLY OR INDIRECTLY TO AN INSURED PERSON" - APPLICABILITY OF EXCLUSION TO INSURED DEFENDANTS IN WRONGFUL DEATH ACTION BROUGHT BY NON-INSURED FATHER OF AN INSURED DECEDENT AS ADMINISTRATOR OF DECEDENT'S ESTATE;

CRAMPE (ALEXANDER), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - RIGHT TO COUNSEL - STANDBY COUNSEL - WHETHER THE TRIAL COURT ERRED IN ALLOWING DEFENDANT TO REPRESENT HIMSELF - WHETHER DEFENDANT'S ACCESS TO STANDBY COUNSEL WAS SO LIMITED AS TO BE AN INFRINGEMENT ON HIS RIGHT TO COUNSEL OR DUE PROCESS;

CREDLE (DONDI), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW A FULLY PRESENTED CASE TO A FIRST GRAND JURY WHICH VOTED "NO AFFIRMATIVE ACTION" (i.e., NOT ENOUGH VOTES TO INDICT OR DISMISS);

CRUZ (MANUEL), PEOPLE v:

APPEAL - APPEAL AS OF RIGHT IN CRIMINAL MATTER - VACATUR OF GUILTY PLEA;

CUMMINGS (ELIJAH), PEOPLE v: (Cal. Date - 1/12/11)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO MOVE FOR DISMISSAL OF THE SECOND DEGREE BURGLARY COUNT BASED ON THE ARGUMENT THAT A POLICE STATION DOES NOT CONSTITUTE A "DWELLING" UNDER PENAL LAW § 140.25(2) - POLICE STATION CONTAINING DORM ROOM; WHETHER TRIAL COURT ERRED IN PERMITTING CROSS-EXAMINATION OF DEFENDANT ABOUT A PRIOR ROBBERY AND ATTEMPTED ROBBERY CONVICTION; ALLEGED PROSECUTORIAL MISCONDUCT;

CUOMO, PEOPLE &c by v FIRST AMERICAN CORPORATION, et al.:  
 STATUTES - FEDERAL PREEMPTION - RESIDENTIAL REAL ESTATE APPRAISALS - WHETHER(1) THE HOME OWNER'S LENDING ACT OF 1933 (12 USC § 1461 ET SEQ.), (2) THE FINANCIAL INSTITUTIONS REFORM, RECOVERY AND ENFORCEMENT ACT OF 1989 (Pub. L 101-73, 103 Stat 183), AND (3) THE REGULATIONS AND GUIDELINES IMPLEMENTED PURSUANT THERETO PREEMPT STATE REGULATIONS IN THE FIELD OF REAL ESTATE APPRAISALS; ATTORNEY GENERAL - ENJOINING FRAUDULENT OR ILLEGAL ACTS - WHETHER THE COMPLAINT STATES A CAUSE OF ACTION UNDER GENERAL BUSINESS LAW § 349 WITH RESPECT TO ALLEGEDLY

PEOPLE &c., BY ANDREW M. CUOMO v WELLS FARGO INSURANCE SERVICES, INC. et al.: (Cal. Date - 1/5/11)  
 INSURANCE - AGENTS AND BROKERS - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR BREACH OF FIDUCIARY DUTY BY INSURANCE BROKER; ATTORNEY GENERAL - ENJOINING FRAUDULENT OR ILLEGAL ACTS - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR FRAUD UNDER EXECUTIVE LAW § 63(12) WITH SUFFICIENT PARTICULARITY;

DARRISAW, &c. v STRONG MEMORIAL HOSPITAL, &c., et al.:  
 PHYSICIANS AND SURGEONS - MALPRACTICE - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION ERRED IN AFFIRMING A SUPREME COURT ORDER GRANTING SUMMARY JUDGMENT TO DEFENDANTS - NEGLIGENT SUPERVISION;

DAVIDSON v COACH USA, INC., et al.:  
 CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

DAVIS (MAKEDA), PEOPLE v:  
 GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT RESUBMISSION OF DEFENDANT'S CASE TO A SECOND GRAND JURY WITHOUT LEAVE OF COURT VIOLATED CPL 190.75 AND REQUIRED DISMISSAL OF THE INDICTMENT;

DELAMOTA (SEBASTIAN), PEOPLE v:  
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DePONCEAU, MATTER OF v STATE OF NEW YORK:  
APPEAL - APPELLATE DIVISION - DISMISSAL OF APPEAL;

DEPONCEAU, MATTER OF v FISCHER:  
PRISONS AND PRISONERS - CHALLENGE TO APPELLATE DIVISION ORDER  
DENYING A MOTION FOR A WRIT OF MANDAMUS;

DOHERTY et al. &c. v MERCHANTS MUTUAL INSURANCE COMPANY:  
INSURANCE - ACTION AGAINST INSURER - ACTION ALLEGING THAT  
INSURER ACTED IN BAD FAITH BY FAILING TO SETTLE AN UNDERLYING  
PERSONAL INJURY ACTION WITHIN THE POLICY LIMITS, THEREBY  
EXPOSING THE DEFENDANT IN THE UNDERLYING ACTION TO PERSONAL  
LIABILITY FOR THE DIFFERENCE BETWEEN THE VERDICT AMOUNT AND THE  
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DOOMES v BEST TRANSIT, et al. (AND TWO RELATED ACTIONS):  
STATUTES - FEDERAL PREEMPTION - WHETHER THE NATIONAL TRAFFIC AND  
MOTOR VEHICLE SAFETY ACT OF 1966 AND FEDERAL MOTOR VEHICLE  
SAFETY STANDARD 208 PREEMPT STATE LAW TORT CLAIMS AGAINST BUS  
MANUFACTURER FOR FAILURE TO EQUIP BUS WITH PASSENGER SEATBELTS -  
WHETHER SUFFICIENT EVIDENCE IN THE RECORD SUPPORTED JURY'S  
FINDING THAT BUS MANUFACTURER WAS LIABLE FOR ACCIDENT BASED UPON  
ITS LENGTHENING OF BUS CHASSIS, THEREBY CREATING AN IMPROPER  
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DUHS (MICHAEL), PEOPLE v: (Cal. Date - 2/17/11)  
CRIMES - EVIDENCE - HEARSAY EVIDENCE - CHALLENGE TO APPELLATE  
DIVISION RULING THAT STATEMENT CHILD MADE TO EMERGENCY ROOM  
PHYSICIAN FELL WITHIN A HEARSAY EXCEPTION BECAUSE IT WAS  
RELEVANT TO THE CHILD'S DIAGNOSIS AND TREATMENT; RIGHT OF  
CONFRONTATION - WHETHER STATEMENT CHILD MADE TO EMERGENCY ROOM  
PHYSICIAN WAS TESTIMONIAL IN NATURE SO THAT ITS ADMISSION INTO  
EVIDENCE VIOLATED DEFENDANT'S CONSTITUTIONAL RIGHT TO CONFRONT  
THE WITNESSES AGAINST HIM;

EAST HAMPTON UNION FREE SCHOOL DISTRICT v SANDPEBBLE  
BUILDERS, INC, et al.: (Cal. Date - 2/12/11)  
CORPORATIONS - DISREGARDING CORPORATE ENTITY - CHALLENGE TO  
APPELLATE DIVISION ORDER GRANTING "THAT BRANCH OF THE  
DEFENDANTS' MOTION WHICH WAS PURSUANT TO CPLR 3211(a)(7) TO  
DISMISS THE COMPLAINT INSOFAR AS ASSERTED AGAINST THE DEFENDANT  
VICTOR CANSECO INDIVIDUALLY" - WHETHER COMPLAINT SUFFICIENTLY  
ALLEGES A CAUSE OF ACTION FOR LIABILITY AGAINST A CORPORATION'S  
PRESIDENT AND PRINCIPAL OWNER BASED ON THE DOCTRINE OF PIERCING  
THE CORPORATE VEIL;

EDWARDS, et al. v ERIE COACH LINES CO., et al.:  
CONFLICT OF LAW - LAW GOVERNING TORT ACTIONS - ACTION SEEKING  
DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION

OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT THE LAW OF ONTARIO, CANADA APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

ELRAC, MATTER OF v EXUM:

INSURANCE - AUTOMOBILE INSURANCE - UNINSURED MOTORIST ENDORSEMENT - EMPLOYEE DRIVING MOTOR VEHICLE OWNED BY SELF-INSURED EMPLOYER IN ACCIDENT WITH UNINSURED MOTORIST - UNINSURED MOTORIST CLAIM ASSERTED BY EMPLOYEE AGAINST EMPLOYER - WHETHER EXCLUSIVITY PROVISIONS OF WORKERS' COMPENSATION LAW PRECLUDE EMPLOYEE FROM ARBITRATING CLAIM AGAINST EMPLOYER;

ETERNAL FLAME OF HOPE MINISTRIES, INC., MATTER OF v KING et al.:

TAXATION - EXEMPTIONS - WHETHER PETITIONER WAS ENTITLED TO SUMMARY JUDGMENT DECLARING THAT CERTAIN OF ITS PROPERTY IS SUBJECT TO THE REAL PROPERTY TAX EXEMPTION PURSUANT TO RPTL 420-a(1)(a), WHICH PROVIDES THAT REAL PROPERTY OWNED AND PRIMARILY USED "BY A CORPORATION OR ASSOCIATION ORGANIZED OR CONDUCTED EXCLUSIVELY FOR RELIGIOUS, CHARITABLE, HOSPITAL, EDUCATIONAL [PURPOSES], OR [FOR THE] MORAL OR MENTAL IMPROVEMENT OF MEN, WOMEN OR CHILDREN ... SHALL BE EXEMPT FROM TAXATION";

EVANS (SHAREEF), PEOPLE v: (Cal. Date - 2/16/11)

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - TRIAL COUNSEL'S FAILURE TO RAISE THE STATUTE OF LIMITATIONS AS A DEFENSE TO THE FIRST-DEGREE MANSLAUGHTER COUNT AND TO SEEK TO REOPEN THE SUPPRESSION HEARING;

ALBERT F., MATTER OF:

INFANTS - JUVENILE DELINQUENTS - WHETHER EVIDENCE WAS SUFFICIENT TO PROVE BEYOND A REASONABLE DOUBT THAT THE JUVENILE KNOWINGLY POSSESSED TWO PAIRS OF JEANS THAT WERE IN HIS BACKPACK WHEN HE ATTEMPTED TO LEAVE A STORE - SHOPLIFTING;

FARKAS (ISIDORE), PEOPLE v: (Cal. Date - 1/11/11)

CRIMES - RIGHT TO SPEEDY TRIAL - THEFT-RELATED CHARGES CONTAINED IN INDICTMENT FILED OVER ONE YEAR AFTER ISSUANCE TO DEFENDANT OF DESK APPEARANCE TICKET AND LATER FILING OF MISDEMEANOR COMPLAINT THAT CHARGED ONLY ASSAULT-RELATED CHARGES - WHETHER THEFT-RELATED CHARGES ARE BARRED BY CPL 30.30 BECAUSE OF THE LAPSE OF TIME BETWEEN THE ISSUANCE OF THE DESK APPEARANCE TICKET AND THE INDICTMENT;

FELICIANO (LUIS), PEOPLE v:

APPEAL - EFFECTIVENESS OF APPELLATE COUNSEL - APPLICATION FOR WRIT OF ERROR CORAM NOBIS - CLAIMED FAILURE OF APPELLATE COUNSEL TO ARGUE ON DIRECT APPEAL THAT COUNSEL AT THE PROBATION VIOLATION HEARING WAS INEFFECTIVE;

FERNANDEZ (JOSE), PEOPLE:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE LACKED REASONABLE SUSPICION, BASED ON OBSERVING A CLIP ATTACHED TO THE OUTSIDE OF DEFENDANT'S POCKET AND THE PROTRUDING TOP OF A KNIFE, THAT DEFENDANT POSSESSED A GRAVITY KNIFE; SUPPRESSION MOTION; WHETHER THE LACK OF MENS REA REQUIREMENT IN PENAL LAW § 265.01 VIOLATES DUE PROCESS;

FERNANDEZ (MARCOS A.), PEOPLE v:

CRIMES - WITNESSES - REPUTATION FOR TRUTH AND VERACITY - WHETHER THE TRIAL COURT IMPROPERLY PRECLUDED DEFENDANT FROM PRESENTING TESTIMONY OF TWO FAMILY MEMBERS REGARDING THE COMPLAINANT'S REPUTATION IN THEIR FAMILY FOR UNTRUTHFULNESS;

FIELDSTON PROPERTY OWNERS ASSOCIATION, INC. v HERMITAGE INSURANCE COMPANY, INC., et al.: (Cal. Date - 1/11/11)

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - ALLOCATION OF DEFENSE COSTS - EFFECT OF "OTHER INSURANCE" CLAUSE - RESPONSIBILITY FOR COSTS OF DEFENDING MUTUAL INSURED OF ONE INSURER THAT ISSUED A COMMERCIAL GENERAL LIABILITY POLICY AND ANOTHER INSURER THAT ISSUED AN ASSOCIATION DIRECTORS AND OFFICERS LIABILITY POLICY CONTAINING AN "OTHER INSURANCE" CLAUSE;

FOOTE et al. v ALBANY MEDICAL CENTER HOSPITAL, et al.: (Cal. Date - 1/4/11)

DAMAGES - "WRONGFUL BIRTH" MEDICAL MALPRACTICE ACTION - WHETHER TRIABLE ISSUES OF MATERIAL FACT PRECLUDED THE GRANT OF SUMMARY JUDGMENT TO DEFENDANTS WHERE DEFENDANTS ARGUED THAT PLAINTIFFS FAILED TO ESTABLISH A LEGALLY COGNIZABLE INJURY BECAUSE ALL MEDICAL AND EDUCATIONAL SERVICES NEEDED BY THEIR SON ARE BEING PROVIDED TO THEM UNDER GOVERNMENT PROGRAMS;

FRANOV (ROBERT), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - WHETHER THE TERM "OTHERWISE USES A VEHICLE" IN PENAL LAW § 165.05(1) REQUIRES "DOMINION AND CONTROL" OVER THE VEHICLE;

FRAZIER (CHARLES), PEOPLE v:

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

FREEMAN (JOHN), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW § 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

GARCIA (RODRIGUECE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CONFLICT OF INTEREST - WHETHER THE SENTENCING COURT CONDUCTED AN ADEQUATE INQUIRY INTO DEFENSE COUNSEL'S ALLEGED CONFLICT OF INTEREST;

GARDNER (DAMIAN), PEOPLE v:

CRIMES - APPEAL - ABSENCE OF DEFENDANT - INVOLUNTARY DEPORTATION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING DEFENDANT'S APPEAL ON THE GROUND THAT HE HAD BEEN DEPORTED AND WAS NO LONGER AVAILABLE TO OBEY THE MANDATE OF THE COURT WHERE DEFENDANT SERVED HIS SENTENCE, HAD BEEN PAROLED TO THE CUSTODY OF IMMIGRATION AND CUSTOMS ENFORCEMENT, AND ARGUED ON APPEAL THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT HIS CONVICTION;

GECETCHKORI, MATTER OF v ANNUCCI:

PRISONS AND PRISONERS - CITIZEN OF THE REPUBLIC OF GEORGIA CURRENTLY INCARCERATED IN NEW YORK - CHALLENGE TO APPELLATE DIVISION ORDER AFFIRMING JUDGMENT DISMISSING PETITIONER'S CPLR ARTICLE 78 PETITION CHALLENGING RESPONDENT'S DETERMINATION DENYING HIS REQUEST TO BE TRANSFERRED TO THE REPUBLIC OF GEORGIA - CLAIM THAT CORRECTION LAW § 71(1-b) IS UNCONSTITUTIONAL;

GIBSON (JEFFREY D.), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - POLICE OFFERED DEFENDANT CIGARETTE FOR PURPOSE OF OBTAINING DNA EVIDENCE - DEFENDANT KNOWN BY POLICE TO BE REPRESENTED BY COUNSEL ON ANOTHER CHARGE; SUFFICIENCY OF EVIDENCE; ALLEGED DENIAL OF RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL; ALLEGED PROSECUTORIAL MISCONDUCT ON SUMMATION; FAILURE OF TRIAL COURT TO SHOW JURY NOTES TO DEFENSE COUNSEL BEFORE RESPONDING TO THEM;

GILFORD (TERRELL), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - SHOWUP - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT THERE WAS "NO BASIS FOR SUPPRESSION OF THE SHOWUP OR IN-COURT IDENTIFICATIONS, BECAUSE THE SHOWUP WAS WITHIN PERMISSIBLY CLOSE TEMPORAL AND GEOGRAPHIC PROXIMITY TO THE CRIME . . . , TOOK PLACE SHORTLY AFTER THE WITNESS HAD ALREADY MADE A RELIABLE IDENTIFICATION . . . , AND WAS CONDUCTED IN A MANNER THAT WAS NOT UNDULY SUGGESTIVE";

GOLDENBERG v WESTCHESTER COUNTY HEALTH CARE CORP., &c., et al.:

(Cal. Date - 2/15/11)

ACTIONS - COMMENCEMENT - WHETHER COMPLAINT WAS PROPERLY DISMISSED AS TIME-BARRED ON THE GROUND THAT ACTION WAS NEVER VALIDLY COMMENCED BECAUSE PLAINTIFF SERVED A SUMMONS AND

COMPLAINT UPON DEFENDANTS WITHOUT FILING THEM OR OBTAINING AN INDEX NUMBER AND PAYING THE FILING FEE - APPLICABILITY OF CPLR 2001 TO EXCUSE FILING DEFECT WHERE PLAINTIFF PREVIOUSLY FILED A PROPOSED COMPLAINT AS AN EXHIBIT TO A PROCEEDING TO FILE A LATE NOTICE OF CLAIM - DEFENDANTS' ALLEGED WAIVER OF OBJECTION TO FILING DEFECTS BY ASSERTING THE GENERAL AFFIRMATIVE DEFENSE OF LACK OF PERSONAL JURISDICTION RATHER THAN SPECIFYING THE FILING DEFECT;

GREENBERG, TRAGER & HERBST, LLP v HSBC BANK USA et al.:  
BANKS AND BANKING - COUNTERFEITED BANK CHECK DEPOSITED BY PLAINTIFF LAW FIRM - COLLECTING BANK INVOKED RIGHT TO CHARGE BACK SUM TO PAYOR BANK AFTER ALLEGEDLY ADVISING LAW FIRM THAT CHECK HAD "CLEARED"; UNIFORM COMMERCIAL CODE; DISMISSAL OF LAW FIRM'S ACTION AGAINST BANKS;

GRIFFITH OIL COMPANY, INC., et al. v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH, PA, et al.:  
(Cal. Date - 2/15/11)  
INSURANCE - DUTY TO DEFEND AND INDEMNIFY - EXCLUSION OF GENERAL LIABILITY COVERAGE FOR PROPERTY DAMAGE CAUSED BY A POLLUTANT - SPUR PIPELINE OIL LEAK - WHETHER EXCEPTION TO POLLUTION EXCLUSION APPLIES; SUMMARY JUDGMENT;

GRIMM (RAYMOND B.), PEOPLE v: (Cal. Date - 2/15/11)  
CRIMES - PLEA OF GUILTY - FAILURE TO ADVISE DEFENDANT AT PLEA ALLOCUTION ABOUT THE LENGTH OF THE PERIOD OF MANDATORY POSTRELEASE SUPERVISION - VALIDITY OF GUILTY PLEA WHERE COURT STATED TERMS OF POSTRELEASE SUPERVISION AT SENTENCING - APPLICABILITY OF PENAL LAW § 70.85;

GRONINGER v VILLAGE OF MAMARONECK:  
MUNICIPAL CORPORATIONS - SNOW AND ICE - APPLICABILITY OF PRIOR WRITTEN NOTICE PROVISIONS OF VILLAGE LAW § 6-628 AND CPLR 9804 TO VILLAGE PARKING LOT - WALKER v TOWN OF HEMPSTEAD (84 NY2d 360);

GRONSKI, et al. v COUNTY OF MONROE:  
NEGLIGENCE - EMPLOYEE OF COMPANY OPERATING RECYCLING FACILITY OWNED BY DEFENDANT COUNTY INJURED AT THE FACILITY - WHETHER COUNTY RETAINED SUFFICIENT CONTROL OVER RECYCLING FACILITY TO INCUR LIABILITY; SUMMARY JUDGMENT - WHETHER PLAINTIFFS RAISED TRIABLE ISSUE OF FACT CONCERNING COUNTY'S CONTROL OVER FACILITY; EFFECT OF DEC PERMIT;

GUAY (DEAN), PEOPLE v:  
CRIMES - JURORS - SELECTION OF JURY - BATSON CHALLENGE - WHETHER THE TRIAL COURT ERRED IN GRANTING THE PEOPLE'S CHALLENGE FOR CAUSE WITH RESPECT TO PROSPECTIVE JUROR WITH A SLIGHT HEARING IMPAIRMENT - DEFENDANT'S STANDING TO INVOKE THE AMERICANS WITH

DISABILITIES ACT ON PROSPECTIVE JUROR'S BEHALF; ALLEGED PROSECUTORIAL MISCONDUCT; ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

BRAD H. v THE CITY OF NEW YORK, et al.:

STIPULATION - STIPULATION OF SETTLEMENT - MEANING OF STIPULATION THAT THE "PROVISIONS OF THIS AGREEMENT SHALL TERMINATE AT THE END OF FIVE YEARS AFTER MONITORING BY THE COMPLIANCE MONITORS BEGINS" - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE PROVISIONS OF THE SETTLEMENT AGREEMENT HAD "TERMINATED" AT THE TIME PLAINTIFFS SOUGHT INJUNCTIVE RELIEF TO COMPEL DEFENDANTS' COMPLIANCE WITH THE AGREEMENT; ESTOPPEL - AVAILABILITY AGAINST GOVERNMENTAL AGENCY;

HALL (MICHAEL), PEOPLE v:

CRIMES - ROBBERY - WHETHER STUN GUN USED REPEATEDLY ON ROBBERY VICTIM WAS A "DANGEROUS INSTRUMENT" (PENAL LAW 160.15[3]); PROOF OF INJURY BASED ONLY ON VICTIM'S TESTIMONY;

HARNETT (DAVID M.), PEOPLE v: (Cal. Date - 1/6/11)

CRIMES - SEX OFFENDERS - PLEA OF GUILTY - WHETHER DEFENDANT'S GUILTY PLEA TO SEXUAL ABUSE IN THE FIRST DEGREE WAS KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY ENTERED WHERE THE TRIAL COURT FAILED TO INFORM HIM PRIOR TO ENTRY OF THAT PLEA THAT HIS CONVICTION WOULD SUBJECT HIM TO THE PROVISIONS OF THE SEX OFFENDER MANAGEMENT AND TREATMENT ACT (MENTAL HYGIENE LAW ARTICLE 10), WHICH COULD RESULT IN CONFINEMENT OR INTENSIVE SUPERVISION BEYOND THE EXPIRATION OF HIS PRISON SENTENCE;

HAYES (KENNETH), PEOPLE v:

CRIMES - EVIDENCE - JUSTIFICATION DEFENSE - POLICE OFFICER AT CRIME SCENE OVERHEARD TWO WITNESSES SAY THAT THE WOUNDED MAN FIRST ATTACKED WITH A KNIFE, BUT DID NOT QUESTION THEM FURTHER OR RECORD NAMES OR CONTACT INFORMATION FOR FURTHER INVESTIGATION - CLAIMED BRADY VIOLATION; CROSS-EXAMINATION - WHETHER TRIAL COURT ERRED IN LIMITING CROSS-EXAMINATION OF POLICE OFFICER REGARDING THE ADEQUACY OF POLICE INVESTIGATION INTO CENTRAL DISPUTED FACTUAL ISSUE OF ORIGINAL KNIFE POSSESSION;

TOWN OF HEMPSTEAD v EAST COAST RESOURCE GROUP, LLC:

CONTRACTS - BREACH OR PERFORMANCE - BREACH OF INSURANCE PROCUREMENT PROVISION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TOWN WAS ENTITLED TO SUMMARY JUDGMENT ON ITS CAUSE OF ACTION ALLEGING THAT DEFENDANT BREACHED AN AGREEMENT TO OBTAIN INSURANCE IN THE TOWN'S OWN NAME, AS AN ADDITIONAL INSURED UNDER DEFENDANT'S INSURANCE POLICY;

HENDERSON v MANHATTAN and BRONX SURFACE TRANSIT OPERATING AUTHORITY, et al.:

DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - ANSWER STRICKEN PURSUANT TO CONDITIONAL ORDER FOR DEFENDANTS' FAILURE TO FULLY COMPLY WITH DISCOVERY DEMANDS;

HICKEY, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION:  
SCHOOLS - TEACHERS - LETTER IN PERSONNEL FILE - HEARING PURSUANT TO EDUCATION LAW § 3020-a - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING THAT, UNDER CURRENT COLLECTIVE BARGAINING AGREEMENT, TEACHER HAS NO RIGHT TO A HEARING WHERE LETTER IN PERSONNEL FILE DOES NOT RESULT IN A DISCIPLINARY CHARGE;

HILL (GREGORY), PEOPLE v: (Cal. Date - 2/10/11)  
CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE SECOND DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING HIM NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IN THE THIRD DEGREE IS REPUGNANT; JURORS - ALLEGED DENIAL OF FAIR TRIAL AND DUE PROCESS BECAUSE TRIAL COURT DID NOT READ JURY NOTE VERBATIM TO DEFENSE COUNSEL BEFORE SUMMONING THE JURY TO THE COURTROOM;

HOLLAND (DAVID), PEOPLE v:  
CRIMES - SUPPRESSION HEARING - EVIDENCE SEIZED AFTER POLICE STOP - WHETHER ANY ALLEGEDLY UNLAWFUL POLICE CONDUCT IN STOPPING AND QUESTIONING DEFENDANT WAS ATTENUATED BY DEFENDANT'S ACTION IN STRIKING ONE OFFICER;

HUNTER (SHAWN), PEOPLE v:  
CRIMES - SUPPRESSION HEARING - STANDING TO CHALLENGE SEARCH OF APARTMENT IN WHICH DEFENDANT WAS ARRESTED; PRESERVATION - WHETHER THE PEOPLE MAY ARGUE FOR THE FIRST TIME ON APPEAL THAT DEFENDANT LACKED STANDING TO CHALLENGE THE SEARCH; EDURAL REQUIREMENTS GOVERNING CLAIMS AGAINST THE STATE;

JOHNSON CITY PROFESSIONAL FIREFIGHTERS LOCAL 921 et al. and VILLAGE OF JOHNSON CITY, MATTER OF (PROCEEDING NO. 1); VILLAGE OF JOHNSON CITY and JOHNSON CITY FIREFIGHTERS ASSOCIATION LOCAL 921 IAFF, MATTER OF (PROCEEDING NO. 2):  
ARBITRATION - MATTERS ARBITRABLE - ARBITRABILITY OF VILLAGE'S ALLEGED VIOLATION OF COLLECTIVE BARGAINING AGREEMENT WITH FIREFIGHTERS UNION PROVIDING THAT THE "VILLAGE SHALL NOT LAY-OFF ANY MEMBER OF THE BARGAINING UNIT DURING THE TERM OF THE CONTRACT" - ALLEGED APPLICATION OF LEGAL STANDARD THAT DOES NOT COMPORT WITH THE STANDARD ANNOUNCED IN YONKERS SCHOOL CROSSING GUARD UNION OF WESTCHESTER CO., CSEA v CITY OF YONKERS (39 NY2d 964 [1976]);

JOHNSON (STEVE), PEOPLE v:  
CRIMES - INSANITY - DEFENDANT'S BELIEF THAT HIS ACTS WERE IN OBEDIENCE TO DIVINE INSTRUCTIONS - CHALLENGE TO TRIAL COURT'S STANDARD INSTRUCTIONS ON INSANITY DEFENSE AND SUPPLEMENTAL INSTRUCTIONS IN RESPONSE TO JUROR NOTES; JURY - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN DENYING DEFENDANT'S CHALLENGE FOR CAUSE TO A PROSPECTIVE JUROR WHO PROFESSED HAVING "STRONG OPINIONS" ON THE INSANITY DEFENSE BASED ON RESEARCH SHE CONDUCTED ON THE DEFENSE WHILE IN COLLEGE;

JORDAN (TERENCE G.), PEOPLE v: (Cal. Date - 2/15/11)  
 CRIMES AND CRIMINAL PROCEDURE - SENTENCE - POST-RELEASE  
 SUPERVISION (PRS) - WHETHER A TRIAL COURT IS AUTHORIZED TO  
 CORRECT A PRIOR FAILURE TO IMPOSE PRS BY RESENTENCING A  
 DEFENDANT TO PRS AFTER HIS ORIGINALLY IMPOSED SENTENCE HAS BEEN  
 FULLY SERVED - EXPIRATION OF FIVE-YEAR PRS TERM BEFORE APPEAL  
 HEARD BY APPELLATE DIVISION; MOOTNESS; AVAILABILITY OF CPL 440  
 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU 4 NY3d 242);  
 ALLEGED VIOLATION OF DEFENDANT'S DUE PROCESS RIGHTS;

KABIR v COUNTY OF MONROE, et al.: (Cal. Date - 1/13/11)  
 NEGLIGENCE - EMERGENCY DOCTRINE - PLAINTIFF INJURED WHEN HER  
 VEHICLE WAS STRUCK FROM BEHIND BY DEPUTY SHERIFF'S VEHICLE -  
 DEPUTY SHERIFF LOOKING DOWN AT MOBILE DATA TERMINAL TO ASCERTAIN  
 LOCATION OF BURGLARIZED PREMISES ANNOUNCED IN RADIO DISPATCH -  
 WHETHER DEPUTY SHERIFF ENTITLED TO QUALIFIED IMMUNITY UNDER  
 VEHICLE AND TRAFFIC LAW § 1104(3) - "RECKLESS DISREGARD"  
 STANDARD OF LIABILITY; SUMMARY JUDGMENT;

KATHLEEN K., MATTER OF (ANONYMOUS):  
 PARENT AND CHILD - TERMINATION OF PARENTAL RIGHTS - WHETHER  
 FAMILY COURT ERRED IN DENYING FATHER THE RIGHT TO REPRESENT  
 HIMSELF AT HEARING ON TERMINATION OF PARENTAL RIGHTS;

KELLY (ROBERT), PEOPLE v: (Cal. Date - 2/17/11)  
 JURY - DELIBERATIONS - AT TRIAL, COURT OFFICERS TEMPORARILY  
 REMOVED ONE JUROR FROM JURY ROOM WITHOUT DIRECTING THE REMAINING  
 JURORS TO REFRAIN FROM DELIBERATING UNTIL ALL JURORS WERE  
 TOGETHER AGAIN; ALLEGED MODE OF PROCEEDINGS ERROR;

KEMPER MUTUAL INSURANCE COMPANY et al., MATTER OF v RUSSELL:  
 INSURANCE - AUTOMOBILE INSURANCE - UNDERINSURED MOTORIST  
 ENDORSEMENT - WHETHER THE CONDITION PRECEDENT TO THE OBLIGATION  
 OF AN INSURER TO PAY UNDER THE SUPPLEMENTARY  
 UNINSURED/UNDERINSURED MOTORIST (SUM) INSURANCE COVERAGE,  
 REQUIRING EXHAUSTION OF THE LIMITS OF LIABILITY OF ALL BODILY  
 INJURY LIABILITY BONDS OR INSURANCE POLICIES APPLICABLE AT THE  
 TIME OF THE ACCIDENT, MAY BE SATISFIED THROUGH SETTLEMENT WITH A  
 THIRD PARTY INSTEAD OF THE PRIMARY INSURER; ARBITRATION;

KOZIOL, MATTER OF:  
 ATTORNEY AND CLIENT - DISCIPLINARY PROCEEDINGS - APPELLATE  
 DIVISION ORDER FINDING ATTORNEY GUILTY OF PROFESSIONAL  
 MISCONDUCT AND SUSPENDING HIM FROM THE PRACTICE OF LAW FOR ONE  
 YEAR;

L&M BUS CORP., et al., MATTER OF v THE NEW YORK CITY DEPARTMENT  
 OF EDUCATION, et al.:  
 MUNICIPAL CORPORATIONS - BIDS AND BIDDERS - REQUEST FOR BIDS -  
 WHETHER EMPLOYEE PROTECTION PROVISIONS VIOLATE THE PUBLIC  
 BIDDING LAWS;

LEHMAN v NORTH GREENWICH LANDSCAPING, LLC et al.:

(Cal. Date - 1/5/11)

NEGLIGENCE - MAINTENANCE OF PREMISES - DUTY TO SAFELY MAINTAIN PARKING LOT - WHETHER SNOW REMOVAL CONTRACT WAS COMPREHENSIVE AGREEMENT THAT DISPLACED DUTY OF DEFENDANT HORTON SCHOOL ASSOCIATES TO MAINTAIN PARKING LOT; SUMMARY JUDGMENT - WHETHER TRIABLE ISSUE OF FACT EXISTS; SNOW AND ICE - SLIP AND FALL ON ICE;

LEROY M., MATTER OF [PRESENTMENT AGENCY]:

INFANTS - JUVENILE DELINQUENTS - SEARCH OF JUVENILE SUSPECT'S HOME AFTER THEFT OF LAPTOP COMPUTER FROM A MIDDLE SCHOOL - EFFECT OF SUSPECTS'S SISTER'S CONSENT TO THE POLICE OFFICER'S SEARCH OF THEIR HOME; EVIDENCE - SUPPRESSION HEARING;

LEWIE (ALICIA), PEOPLE v:

CRIMES - SUFFICIENCY OF EVIDENCE - SECOND DEGREE MANSLAUGHTER AND RECKLESS ENDANGERMENT OF A CHILD - INFANT BATTERED BY DEFENDANT'S BOYFRIEND; ALLEGED VIOLATIONS OF DEFENDANT'S DUE PROCESS RIGHTS - CONTINUED QUESTIONING AFTER POLICE BECAME AWARE DEFENDANT WAS REPRESENTED BY COUNSEL IN A RELATED FAMILY COURT PROCEEDING - QUESTIONABLE CONDUCT BY JUROR;

LIFSON v CITY OF SYRACUSE et al.:

NEGLIGENCE - ACTION ALLEGING THAT DECEDENT WAS KILLED WHEN VEHICLE STRUCK HER WHILE SHE WAS CROSSING THE STREET - EMERGENCY DOCTRINE - WHETHER THE TRIAL COURT ERRED IN GIVING THE JURY AN EMERGENCY DOCTRINE INSTRUCTION WHERE DRIVER ASSERTED THAT HE FAILED TO OBSERVE DECEDENT BECAUSE HE WAS SUDDENLY BLINDED BY SUN GLARE; DISMISSAL OF COMPLAINT AGAINST DRIVER; DECEDENT'S NEGLIGENCE;

LIGGINS (JASON D.), PEOPLE v: (Cal. Date - 1/13/11)

CRIMES - UNLAWFUL SEARCH AND SEIZURE - EMERGENCY EXCEPTION TO WARRANT REQUIREMENT;

LINGLE (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

LOPEZ (OLLMAN), PEOPLE v: (Cal. Date - 1/6/11)

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENDANT EFFECTIVELY WAIVED HIS RIGHT TO COUNSEL IN THE ABSENCE OF COUNSEL - DEFENDANT REPRESENTED BY COUNSEL ON PENDING UNRELATED CUSTODIAL CHARGE AT TIME OF POLICE INTERROGATION;

MAKARIUS v PORT AUTHORITY OF NEW YORK and NEW JERSEY, et al.:

LABOR - SAFE PLACE TO WORK - PLAINTIFF AT CONSTRUCTION SITE INJURED WHEN TRANSFORMER THAT HAD BEEN AFFIXED TO THE WALL FELL

AND STRUCK PLAINTIFF ON THE HEAD - WHETHER THE INJURY THAT OCCURRED WAS AMONG THE TYPES OF HAZARDS INTENDED TO BE COVERED BY LABOR LAW § 240(1); SUMMARY JUDGMENT;

MANDARIN TRADING, LTD. v WILDENSTEIN et al.:

(Cal. Date - 1/5/11)

APPRAISALS - DAMAGES FOR LOSSES ALLEGEDLY SUSTAINED BY ART PURCHASER AS A RESULT OF RELIANCE ON APPRAISAL LETTER VALUING A GAUGUIN PAINTING - CLAIMS FOR FRAUDULENT OR NEGLIGENT MISREPRESENTATION, BREACH OF CONTRACT, BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING, AND UNJUST ENRICHMENT - DISMISSAL OF COMPLAINT PURSUANT TO CPLR 3211;

MARRACCINI v RYAN, et al.:

LICENSES - HOME IMPROVEMENT CONTRACTORS - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT PLAINTIFF WAS UNLICENSED AS A HOME IMPROVEMENT CONTRACTOR WITHIN THE MEANING OF THE WESTCHESTER COUNTY ADMINISTRATIVE CODE WHERE HE PERFORMED THE WORK AT ISSUE UNDER HIS REAL NAME BUT HAD A HOME IMPROVEMENT LICENSE ISSUED UNDER A TRADE NAME;

MARTE et al., MATTER OF v BERKMAN:

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING IN THE NATURE OF PROHIBITION SEEKING TO PREVENT RETRIAL OF PETITIONERS ON UNDERLYING CRIMINAL MATTER ON THE GROUND OF DOUBLE JEOPARDY - MANIFEST NECESSITY FOR MISTRIAL - PETITIONERS' CONSENT TO MISTRIAL;

MARTIN (ROY), PEOPLE v, a/k/a MARTIN (REALITY):

CRIMES - RIGHT TO PUBLIC TRIAL - CLOSURE OF COURTROOM - TRIAL COURT EXCLUDED DEFENDANT'S FATHER FROM THE COURTROOM DURING THE JURY VOIR DIRE DUE TO LACK OF SPACE; TRIAL COURT'S RESPONSE TO JUROR QUESTION;

MASON (STEVEN), PEOPLE v: (Cal. Date - 1/4/11)

CRIMES - EAVESDROPPING WARRANTS - MOTION TO SUPPRESS ELECTRONICALLY GATHERED EVIDENCE - WHETHER THE PEOPLE SATISFIED THE "EXHAUSTION" REQUIREMENT IN CPL 700.15(4) AND SHOWED "THAT NORMAL INVESTIGATIVE PROCEDURES HAVE BEEN TRIED AND HAVE FAILED, OR REASONABLY APPEAR TO BE UNLIKELY TO SUCCEED IF TRIED, OR TO BE TOO DANGEROUS TO EMPLOY";

McALPIN (CHRIS), PEOPLE v:

CRIMES - PLEA OF GUILTY - VACATUR - POST-RELEASE SUPERVISION (PRS) - WHETHER COURT WAS REQUIRED TO ADVISE DEFENDANT OF PRS DURING PLEA ALLOCUTION WHERE DEFENDANT WAS TOLD THAT HE WOULD RECEIVE A "DEFERRED SENTENCE" WITH A POSSIBILITY OF PROBATION AND YOUTHFUL OFFENDER TREATMENT IF HE ENROLLED IN AND SUCCESSFULLY COMPLETED A CERTAIN PROGRAM OR, IF HE FAILED TO DO

SO OR WAS ARRESTED FOR ANOTHER CRIME IN THE INTERIM, THAT HE WOULD BE SENTENCED TO A MINIMUM OF THREE YEARS AND A MAXIMUM OF 15 YEARS IN PRISON - COLLATERAL OR DIRECT CONSEQUENCES OF PLEA; PRESERVATION - WAIVER - SUFFICIENCY OF RECORD FOR APPELLATE REVIEW;

McCARTHY v TURNER CONSTRUCTION, INC., et al.:

INDEMNITY - WHEN CLAIM FOR COMMON-LAW INDEMNIFICATION IS AVAILABLE - PROPERTY OWNERS AND GENERAL CONTRACTOR LIABLE UNDER LABOR LAW § 240(1) TO INJURED PLAINTIFF WORKING DIRECTLY FOR A SUBCONTRACTOR - WHETHER NON-NEGLIGENT PROPERTY OWNERS MAY SEEK COMMON-LAW INDEMNIFICATION FROM A NON-NEGLIGENT GENERAL CONTRACTOR WHO DID NOT ACTUALLY SUPERVISE OR CONTROL THE INJURED PLAINTIFF'S WORK BUT WHOSE CONTRACT WITH A NON-PARTY STATED THAT IT "SHALL SUPERVISE AND DIRECT" THE CONTRACT WORK AND "SHALL BE SOLELY RESPONSIBLE FOR AND HAVE CONTROL OVER CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES AND PROCEDURES FOR COORDINATING ALL PORTIONS" OF SUCH WORK;

McINTOSH (FAYOLA), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER THE PEOPLE ARE REQUIRED TO OBTAIN COURT AUTHORIZATION UNDER CPL 190.75 TO PRESENT THE CASE TO A DIFFERENT GRAND JURY WHERE THE PEOPLE WITHDREW THE CASE PRESENTED TO A FIRST GRAND JURY DUE TO WITNESS UNAVAILABILITY;

McKNIGHT (ULYSESS), PEOPLE v:

CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER CONSECUTIVE SENTENCES WERE ILLEGAL UNDER PENAL LAW § 70.25(1) WHERE DEFENDANT WAS CONVICTED OF THE ATTEMPTED MURDER OF ONE VICTIM AND THE MURDER OF A FIRST VICTIM - BYSTANDER KILLED BY STRAY BULLETS - "SEPARATE AND DISTINCT ACT";

MEDINA (JUAN), PEOPLE v:

CRIMES - INSTRUCTIONS - CHALLENGE TO INSTRUCTION NOT CONTAINING THE STATUTORY DEFINITIONS OF "DEPRIVE" AND "APPROPRIATE" SET FORTH IN SUBDIVISIONS (3) AND (4) OF PENAL LAW § 155.00; TRIAL - MISTRIAL - CHALLENGE TO APPELLATE DIVISION HOLDINGS THAT TRIAL COURT PROPERLY EXERCISED ITS DISCRETION (1) "WHEN IT DENIED DEFENDANT'S MISTRIAL MOTIONS MADE AFTER NOTES FROM DELIBERATING JURY INDICATED IT WAS DEADLOCKED ... AND INSTEAD DELIVERED SEVERAL ALLEN CHARGES" AND (2) "BY NOT ASKING THE JURY ABOUT THE LIKELIHOOD OF A VERDICT OR CONDUCTING A SEPARATE COLLOQUY WITH A POSSIBLE HOLDOUT JUROR";

MEEGAN, JR., MATTER OF v BROWN (AND ANOTHER PROCEEDING AND ACTION): (Cal. Date 2/9/11)

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER, UNDER PUBLIC AUTHORITIES LAW § 3858(2)(c)(i) AND (iii), PROMOTIONAL SALARY STEP INCREASES WERE SUSPENDED AND DID NOT ACCRUE DURING A WAGE

FREEZE PERIOD SO THAT, UPON THE LIFTING OF THE WAGE FREEZE, UNION EMPLOYEES WERE ENTITLED ONLY TO ONE SALARY STEP INCREASE RATHER THAN FOUR SALARY STEP INCREASES;

MELLENDEZ (PEDRO), PEOPLE v:

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN ITS INSTRUCTION TO THE JURY CONCERNING THE BURDEN OF PROOF ON AN ALIBI DEFENSE; PROSECUTOR'S "BURDEN-SHIFTING" REMARKS IN SUMMATION; PRESERVATION;

MATTER OF LIQUIDATION OF MIDLAND INSURANCE COMPANY

[AMERICAN STANDARD, INC., et al. v SWISS REINSURANCE AMERICA CORPORATION, et al.]: (Cal. Date - 2/9/11)

INSURANCE - LIQUIDATION OF INSURER - CHOICE OF LAW - WHETHER NEW YORK SUBSTANTIVE LAW GOVERNS THE INTERPRETATION AND APPLICATION OF INSOLVENT INSURER'S INSURANCE POLICIES;

MIGUEL M., MATTER OF (ANONYMOUS):

MENTAL HEALTH - ASSISTED OUTPATIENT TREATMENT - PROCEEDING PURSUANT TO MENTAL HYGIENE LAW § 9.60 (KENDRA'S LAW) - WHETHER EXCEPTIONS TO PRIVACY PROVISIONS OF HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) PERMIT A PHYSICIAN, IN A KENDRA'S LAW PROCEEDING, TO OBTAIN, AND INTRODUCE INTO EVIDENCE, AN INDIVIDUAL'S MEDICAL RECORDS WITHOUT AUTHORIZATION OR A COURT ORDER; WHETHER FEDERAL HIPAA PRIVACY RULE PREEMPTS MENTAL HYGIENE LAW § 33.13;

MONTES (OMAR), PEOPLE v: (Cal. Date - 1/12/11)

CRIMES - RIGHT OF CONFRONTATION - CROSS EXAMINATION AND IMPEACHMENT - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S MOTION FOR A MISTRIAL OR TO STRIKE THE TESTIMONY OF A WITNESS DEFENDANT PREVIOUSLY CROSS EXAMINED WHERE THE WITNESS WAS UNAVAILABLE TO BE RECALLED AFTER IT WAS ESTABLISHED THAT SHE "WAS NOT HONEST WHEN SHE ... FAILED TO STATE THAT [ANOTHER INDIVIDUAL AT THE SCENE OF A SHOOTING DEATH] GAVE HER THE GUN OR GUNS WHEN HE RAN PAST HER AFTER THE SHOOTING OCCURRED";

MUHAMMAD (MUJAHID), PEOPLE v: (Cal. Date - 1/12/11)

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT'S CHARGE TO THE JURY WAS SUFFICIENT TO APPRISE THE JURY THAT THE PEOPLE WERE REQUIRED TO PROVE DEFENDANT KNEW HE POSSESSED THE SUBJECT CREDIT CARDS - ADEQUACY OF PATTERN JURY INSTRUCTION FOR CRIMINAL POSSESSION OF A FORGED INSTRUMENT IN THE SECOND DEGREE (PENAL LAW § 170.25);

MUHAMMAD (SHAHID), PEOPLE v:

CRIMES - VERDICT - WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF ASSAULT IN THE FIRST DEGREE IN CONNECTION WITH THE USE OF A WEAPON WHILE SIMULTANEOUSLY FINDING DEFENDANT NOT GUILTY OF CRIMINAL POSSESSION OF A WEAPON IS REPUGNANT; EXPERT WITNESS - DENIAL OF DEFENDANT'S REQUEST TO PRESENT EXPERT TESTIMONY ON THE RELIABILITY OF EYEWITNESS IDENTIFICATION;

MURRELL (DOMINIQUE), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT HAD SERVED ALL BUT 8 WEEKS OF HIS 10-YEAR PRISON SENTENCE AND AFTER HIS SENTENCE HAD BEEN CONSIDERED PREVIOUSLY BY THE TRIAL COURT AND APPELLATE DIVISION WITH NO MENTION OF PRS - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

NATIONAL FUEL GAS DISTRIBUTION CORP., MATTER OF v NEW YORK STATE PUBLIC SERVICE COMMISSION: (Cal. Date 2/8/11)

PUBLIC UTILITIES - PUBLIC SERVICE COMMISSION - RATE SETTING - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT RESPONDENT AGENCY IMPROPERLY REDUCED THE AMOUNT OF SITE INVESTIGATION AND REMEDIATION COSTS THAT PETITIONER GAS CORPORATION WAS PERMITTED TO PASS ON TO ITS CUSTOMERS BY DETERMINING THAT ITS PARENT COMPANY SHOULD HAVE ALLOCATED TO PETITIONER A GREATER SHARE OF CERTAIN INSURANCE SETTLEMENT PROCEEDS - ALLEGED USE OF INAPPROPRIATE STANDARD OF REVIEW;

NEW YORK COALITION FOR QUALITY ASSISTED LIVING, INC. v MFY LEGAL SERVICES, INC., et al.:

HEALTH - ADULT CARE FACILITIES - ACTION BY ASSOCIATION OF MEMBERS WHO OPERATE ASSISTED LIVING FACILITIES AND ADULT HOMES FOR A DECLARATION THAT ITS PROPOSED GUIDELINES FOR VISITOR ACCESS ARE ENFORCEABLE IN ADULT CARE FACILITIES;

NEW YORK STATE SUPERFUND COALITION, INC., MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

ENVIRONMENTAL CONSERVATION - HAZARDOUS WASTE - VALIDITY OF REGULATION - WHETHER RESPONDENT DEPARTMENT OF ENVIRONMENTAL CONSERVATION EXCEEDED ITS AUTHORITY IN PROMULGATING 6 NYCRR 375-2.8(a) AND 375-1.8(f)(9) - REGULATIONS WITH A STATED GOAL OF RESTORING CONTAMINATED INACTIVE HAZARDOUS WASTE SITES TO "PRE-DISPOSAL CONDITIONS" - WHETHER APPELLATE DIVISION CORRECTLY DEFERRED TO AGENCY INTERPRETATION OF STATUTE;

QOSHJA (ERMAL), PEOPLE v:

CRIMES - APPEAL - APPEAL WAIVER DOCUMENTS EXECUTED IN CONNECTION WITH GUILTY PLEA - APPELLATE DIVISION DID NOT SPECIFY WHETHER ITS AFFIRMANCE OF DEFENDANT'S JUDGMENT OF CONVICTION AND SENTENCE WAS BASED ON THE VALIDITY OF THE APPEAL WAIVER OR ITS REVIEW AND REJECTION OF DEFENDANT'S SUBSTANTIVE CLAIM REGARDING HIS SENTENCE;

ORTIZ v VARSITY HOLDINGS, LLC, et al.:

LABOR - SAFE PLACE TO WORK - RENOVATION LABORER INJURED IN FALL FROM DUMPSTER LEDGE - WHETHER WORKER WAS ENGAGED IN A PROTECTED ACTIVITY UNDER LABOR LAW § 240(1); SUMMARY JUDGMENT;

PACQUETTE (DEAN), PEOPLE v:

CRIMES - SUPPRESSION HEARING - WHETHER DEFENDANT'S STATEMENTS TAKEN BY BROOKLYN HOMICIDE DETECTIVES IN THE ABSENCE OF AN ATTORNEY MUST BE SUPPRESSED WHERE AN ATTORNEY TOLD THE BROOKLYN DETECTIVES THAT HE REPRESENTED DEFENDANT ON A MANHATTAN DRUG MATTER AND INSTRUCTED THEM NOT TO QUESTION DEFENDANT ON THE HOMICIDE; DEFENDANT TOLD BROOKLYN DETECTIVES THAT HE DID NOT HAVE AN ATTORNEY IN THE MANHATTAN MATTER;

PAGAN (JORGE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - ORDER ENLARGING CONDITIONS OF PROBATION TO INCLUDE WARRANTLESS SEARCHES OF DEFENDANT'S HOME - CPL 410.20 and 410.50(3) - ISSUANCE OF HOME SEARCH ORDER IN ABSENCE OF REASONABLE CAUSE TO BELIEVE THAT DEFENDANT VIOLATED CONDITIONS OF PROBATION;

PARADA (LUIS), PEOPLE v:

CRIMES - SEXUAL CONDUCT AGAINST A CHILD - ADMISSIBILITY OF STATEMENTS OF CHILD TO NURSE EXAMINER DURING EXAMINATION REQUESTED BY PROSECUTOR MORE THAN ONE YEAR AFTER ALLEGED ABUSE - WHETHER STATEMENTS MADE BY CHILD TO AUNT AND COUSIN WERE ADMISSIBLE UNDER THE "PROMPT OUTCRY" HEARSAY EXCEPTION - WHETHER DEFENSE COUNSEL'S CROSS-EXAMINATION OF POLICE DETECTIVE OPENED THE DOOR TO THE ENTIRETY OF THE CHILD'S STATEMENT TO THE DETECTIVE; EXPERT TESTIMONY REGARDING CONSISTENCY OF VICTIM'S BEHAVIOR WITH THAT OF ABUSE VICTIMS; HARMLESS ERROR;

PARKHURST, MATTER OF v UNITED RENTALS AERIAL EQUIPMENT, INC. et al.:

WORKERS' COMPENSATION - WHETHER THE 2007 AMENDMENTS TO THE WORKERS' COMPENSATION LAW REQUIRE EMPLOYERS TO DEPOSIT THE PRESENT VALUE OF THE UNCAPPED PERMANENT PARTIAL DISABILITY AWARD INTO THE AGGREGATE TRUST FUND - WORKERS' COMPENSATION LAW § 27(2);

PARISI (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED IN JUDGMENT OF RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS;

PATRIOT EXPLORATION LLC et al. v THOMPSON & KNIGHT:

COURTS - FORUM NON CONVENIENS - WHETHER MOTION COURT ABUSED ITS DISCRETION IN DECLINING TO DISMISS ACTION ON FORUM NON CONVENIENS GROUNDS (CPLR 327[a]) - WHETHER MOTION COURT COULD CONDITION AN INCONVENIENT-FORUM DISMISSAL ON A WAIVER OF THE FOREIGN FORUM'S TWO-YEAR STATUTE OF LIMITATIONS;

PAULIN (DAVID LANCE), PEOPLE v:

CRIMES - SENTENCE - WHETHER DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PERL, et al. v MEHER, et al.:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER THE AFFIDAVIT OF PLAINTIFF'S TREATING PHYSICIAN RAISED A QUESTION OF FACT TO DEFEAT SUMMARY JUDGMENT IN PERSONAL INJURY ACTION ARISING OUT OF MOTOR VEHICLE ACCIDENT - "SERIOUS INJURY" WITHIN THE MEANING OF INSURANCE LAW § 5102(d); SUMMARY JUDGMENT; DISMISSAL AND NONSUIT;

PHILLIPS (JAMES), PEOPLE v: (Cal. Date 2/10/11)

CRIMES - FITNESS TO PROCEED TO TRIAL - DEFENDANT WITH BRAIN INJURY RESULTING FROM STROKES - APPLICABILITY OF PROTOCOLS ESTABLISHED IN PEOPLE v FRANCOBANDERA (33 NY2d 429 [1974]);

PORCO (CHRISTOPHER), PEOPLE v:

CRIMES - EVIDENCE - WHETHER TRIAL COURT ERRED IN ADMITTING TESTIMONY CONCERNING VICTIM'S HEAD NOD IN RESPONSE TO POLICE INQUIRY AT CRIME SCENE AND TESTIMONY CONCERNING AN ALLEGED PRIOR "STAGED BURGLARY" BY DEFENDANT - WHETHER TRIAL COURT ERRED IN FAILING TO CONDUCT A HEARING REGARDING EVIDENCE CHALLENGED AS DERIVED FROM DEFENDANT'S SUPPRESSED STATEMENT TO THE POLICE; CLAIMED PROSECUTORIAL MISCONDUCT;

PORTO (WILLIAM), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - CHALLENGE TO APPELLATE DIVISION ORDER CONCLUDING THAT THE TRIAL "COURT PROPERLY DENIED DEFENDANT'S DAY-OF-TRIAL MOTION FOR ASSIGNMENT OF NEW COUNSEL SINCE HIS PAPERS LACKED SPECIFIC FACTUAL ALLEGATIONS AND DID NOT CONTAIN ANY SERIOUS COMPLAINT REQUIRING INQUIRY BY THE COURT" AND BECAUSE "THE COURT ENGAGED IN A COLLOQUY WITH DEFENSE COUNSEL THAT DID NOT REVEAL ANY REASON FOR SUBSTITUTION OR FURTHER INQUIRY";

PRATTS (JESUS), PEOPLE v:

CRIMES - SENTENCE - DRUG LAW REFORM ACT (DLRA) - ELIGIBILITY OF REINCARCERATED PAROLE VIOLATOR - WHETHER A DEFENDANT REINCARCERATED FOR A PAROLE VIOLATION IS ELIGIBLE FOR RESENTENCING UNDER CPL 440.46;

PRENDERGAST (JOHN), PEOPLE v:

CRIMES - SENTENCE - POST-RELEASE SUPERVISION (PRS) - PRS IMPOSED UPON RESENTENCE AFTER DEFENDANT SERVED PART OF HIS PRISON SENTENCE AND WHILE HE WAS STILL CONFINED - ALLEGED VIOLATION OF DOUBLE JEOPARDY AND DUE PROCESS RIGHTS; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT "THE RESENTENCING COURT WAS NOT REQUIRED TO EXERCISE ITS DISCRETION TO CONSIDER WHETHER THE SENTENCE AS A WHOLE WAS APPROPRIATE IN VIEW OF THE FACT THAT THE SENTENCE WOULD NOT INCLUDE A PERIOD OF PRS";

PRINDLE (MICHAEL EDWARD), PEOPLE v: (Cal. Date - 1/5/11)

CRIMES - MURDER - DEPRAVED INDIFFERENCE MURDER - SUFFICIENCY OF THE EVIDENCE OF DEPRAVITY TO SUPPORT CONVICTION AND TO SUPPORT

CHARGE IN THE INDICTMENT; EVIDENCE - WHETHER SUPREME COURT ERRED IN REFUSING TO ALLOW A DEFENSE WITNESS TO TESTIFY THAT A THIRD PERSON, RATHER THAN DEFENDANT, WAS CULPABLE;

RABB (REGINALD), PEOPLE v: (Cal. Date - 1/4/11)  
 CRIMES - EAVESROPPING WARRANTS - MOTION TO SUPPRESS ELECTRONICALLY GATHERED EVIDENCE - WHETHER THE PEOPLE SATISFIED THE "EXHAUSTION" REQUIREMENT IN CPL 700.15(4) AND SHOWED "THAT NORMAL INVESTIGATIVE PROCEDURES HAVE BEEN TRIED AND HAVE FAILED, OR REASONABLY APPEAR TO BE UNLIKELY TO SUCCEED IF TRIED, OR TO BE TOO DANGEROUS TO EMPLOY";

RAVILLE v ELNOMANY:  
 HUSBAND AND WIFE - DIVORCE - CONSTRUCTIVE ABANDONMENT (DOMESTIC RELATIONS LAW § 170[2]); EQUITABLE DISTRIBUTION; CLAIMED INEFFECTIVENESS OF COUNSEL;

RAYNOR, MATTER OF v LANDMARK CHRYSLER et al. [WORKERS' COMPENSATION BOARD]:  
 WORKERS' COMPENSATION - AGGREGATE TRUST FUND - MANDATORY LUMP-SUM PAYMENT OF PRESENT VALUE OF NONSCHEDULE PERMANENT PARTIAL DISABILITY (PPD) AWARDS MADE ON OR AFTER JULY 1, 2007 - CHALLENGE TO 2007 AMENDMENT TO WORKERS' COMPENSATION LAW § 27(2) (L 2007, Ch. 6, § 46) - APPLICABILITY TO AWARD MADE AFTER JULY 1, 2007 WHERE INJURIES ARE SUSTAINED BEFORE THE MARCH 31, 2007 EFFECTIVE DATE OF AMENDMENT CAPPING THE NUMBER OF WEEKS FOR WHICH A CLAIMANT CAN RECEIVE PPD BENEFITS - CONSTITUTIONAL CHALLENGES TO THE 2007 AMENDMENT BASED UPON THE TAKING, CONTRACTS, DUE PROCESS AND EQUAL PROTECTION CLAUSES OF THE FEDERAL CONSTITUTION - CLAIM THAT COMPUTATION OF THE PRESENT VALUE OF A LUMP-SUM PAYMENT OF UNCAPPED PPD AWARDS IS SPECULATIVE AND THEREFORE IMPROPER;

THE RGH LIQUIDATING TRUST, &c. v DELOITTE & TOUCHE LLP et al.:  
 ACCOUNTS AND ACCOUNTING - ACTION AGAINST ACCOUNTANTS - WHETHER THE SECURITIES LITIGATION UNIFORM STANDARDS ACT OF 1998 (SLUSA) REQUIRES THE DISMISSAL OF FRAUD CLAIMS AGAINST AN ACCOUNTING FIRM ASSERTED BY PLAINTIFF LIQUIDATING TRUST ON BEHALF OF HOLDERS OF BONDS ISSUED BY BANKRUPT COMPANY;

RICH v EAST 10<sup>TH</sup> STREET ASSOCIATES LLC &c., et al.:  
 LANDLORD AND TENANT - RENT - ACTION TO RECOVER RENT OVERCHARGES PAID UNDER LEASES SUBJECT TO THE RENT STABILIZATION LAW OF 1969 - WHETHER THE PROPER BASE DATE FOR DETERMINING AN OVERCHARGE IS DEEMED TO BE FOUR YEARS BEFORE THE FILING OF THE OVERCHARGE COMPLAINT - CPLR 213-a - RENT STABILIZATION CODE (9 NYCRR) § 2520.6(f);

RICHARDS, MATTER OF v CUOMO:  
 PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CHALLENGE TO SUPREME COURT JUDGMENT THAT, AMONG OTHER THINGS, DISMISSED A CPLR ARTICLE 78 PETITION IN THE NATURE OF PROHIBITION;

RIDGE ROAD FIRE DEPARTMENT, MATTER OF v SCHIANO, et al.:

(Cal. Date - 2/16/11)

PROCEEDING AGAINST BODY OR OFFICER - ACCIDENTAL DISABILITY RETIREMENT BENEFITS - WHETHER SUBSTANTIAL RECORD EVIDENCE SUPPORTS THE HEARING OFFICER'S DETERMINATION GRANTING FIREFIGHTER ACCIDENTAL DISABILITY BENEFITS PURSUANT TO GENERAL MUNICIPAL LAW § 207-a - INJURY TO DRIVER OF FIRE TRUCK; STANDARD OF REVIEW;

RIVERA &c., et al. v KLEINMAN, et al.: (Cal. Date - 1/4/11)

PHYSICIANS AND SURGEONS - MEDICAL MALPRACTICE - FAILURE TO FOLLOW DOCTOR'S ADVICE AS SUPERSEDING CAUSE OF INJURY; SUMMARY JUDGMENT;

RIVERA (PETER), PEOPLE v:

CRIMES - AGGRAVATED UNLICENSED OPERATION OF MOTOR VEHICLE - WHETHER DEFENDANT, WHOSE DRIVER'S LICENSE WAS REVOKED FOR SIX MONTHS FOLLOWING A DWI CONVICTION, BUT WHO WAS ISSUED A CONDITIONAL LICENSE, CAN BE CHARGED WITH AGGRAVATED UNLICENSED OPERATION OF A MOTOR VEHICLE OR CAN ONLY BE CHARGED WITH A TRAFFIC INFRACTION UNDER VEHICLE AND TRAFFIC LAW § 1196(7)(f), THE STATUTE AUTHORIZING ISSUANCE OF CONDITIONAL LICENSES;

RIVERS (SHERMAN), PEOPLE v:

CRIMES - HARMLESS AND PREJUDICIAL ERROR - MOLINEAUX ERROR - FIRE MARSHAL'S TESTIMONY REGARDING THE ORIGIN OF A FIRE;

ROACH, et al. v COACH USA, INC., et al.:

CONFLICT OF LAWS - LAW GOVERNING TORT ACTIONS - ACTION SEEKING DAMAGES FOR INJURIES OR WRONGFUL DEATH RESULTING FROM COLLISION OF TRACTOR-TRAILER PARKED ON SHOULDER OF HIGHWAY IN NEW YORK AND A CHARTERED BUS TRANSPORTING A YOUNG WOMEN'S HOCKEY TEAM FROM ONTARIO, CANADA - WHETHER COURTS BELOW ERRED IN DETERMINING THAT CANADIAN LAW APPLIED AS TO NONECONOMIC DAMAGES; EVIDENCE - JUDICIAL NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT SUPREME COURT DID NOT ABUSE ITS DISCRETION BY TAKING JUDICIAL NOTICE OF ONTARIO LAW REGARDING NONECONOMIC DAMAGES DESPITE DEFENDANTS' FAILURE TO RAISE THE APPLICABILITY OF SUCH LAW AS AN AFFIRMATIVE DEFENSE AND TO PROVIDE THE SUBSTANCE OF THE LAW IN THEIR PLEADINGS PURSUANT TO CPLR 3016(e) - INTERPLAY BETWEEN CPLR 3016(e) AND CPLR 4511(b);

ROBINSON (TERRANCE D.), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - AUTOMOBILE DRIVER CHARGED WITH POSSESSION OF GUN FOUND UNDER DRIVER'S SEAT - TRIAL COURT'S LIMITATION OF DEFENDANT'S DIRECT EXAMINATION - CLAIMED DUE PROCESS VIOLATION; HARMLESS ERROR; SUPPRESSION OF WEAPON - INVENTORY SEARCH;

RODDY v NEDERLANDER PRODUCING COMPANY OF AMERICA, INC., et al.:  
 JUDGMENTS - COLLATERAL ESTOPPEL - LAW OF THE CASE - WHETHER  
 PLAINTIFF DANCER HAD A FULL AND FAIR OPPORTUNITY TO LITIGATE THE  
 ISSUE OF THE NEGLIGENCE OF DEFENDANTS NEDERLANDER PRODUCING  
 COMPANY OF AMERICA, INC. AND THE GERSHWIN THEATRE IN A NEGLIGENCE  
 ACTION TO RECOVER FROM A FALL ON STAGE DURING THE BROADWAY SHOW  
 RIVERDANCE; PRIOR LITIGATION OF THE GERSHWIN THEATRE'S  
 INDEMNIFICATION CLAIM AGAINST THE DANCER'S EMPLOYER;

RODRIGUEZ (FREDDY), PEOPLE v: (Cal. Date - 2/10/11)  
 CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER THE TRIAL COURT  
 ERRED IN REFUSING TO CHARGE THE JUSTIFICATION DEFENSE PURSUANT TO  
 PENAL LAW § 35.05(2);

RODRIGUEZ (ISIDRO), PEOPLE v:  
 CRIMES - POSSESSION OF FORGED INSTRUMENT IN THE SECOND DEGREE -  
 FORGED IDENTITY DOCUMENTS, SOME BEARING DEFENDANT'S PHOTOGRAPH -  
 SUFFICIENCY OF THE EVIDENCE OF INTENT "TO DEFRAUD, DECEIVE OR  
 INJURE ANOTHER" (PENAL LAW § 170.25);

RODRIGUEZ (MANUEL), PEOPLE v:  
 CRIMES - SENTENCE - POST-RELEASE SUPERVISION - FAILURE OF COURT  
 TO PRONOUNCE A TERM OF POST-RELEASE SUPERVISION - REMITTAL FOR  
 PRESENTENCING PURSUANT TO PEOPLE v SPARBER (10 NY3d 457) -  
 WHETHER A RESENTENCING COURT HAS DISCRETION TO RECONSIDER THE  
 LENGTH OF A PREVIOUSLY IMPOSED TERM OF IMPRISONMENT - IF THE  
 SENTENCING COURT LACKS SUCH DISCRETION, WHETHER THE APPELLATE  
 DIVISION MAY MODIFY THE LENGTH OF A PREVIOUSLY IMPOSED TERM OF  
 IMPRISONMENT PURSUANT TO ITS INTEREST OF JUSTICE JURISDICTION;

ROSARIO (ANGEL), PEOPLE v:  
 CRIMES - SEXUAL ABUSE - SEXUAL CONDUCT AGAINST A CHILD - WHETHER  
 NOTE MINOR COMPLAINANT WROTE APPROXIMATELY 3 MONTHS AFTER  
 DEFENDANT'S ALLEGED ABUSE ENDED WAS ADMISSIBLE UNDER THE "PROMPT  
 OUTCRY" EXCEPTION TO THE HEARSAY RULE - ADMISSIBILITY OF  
 COMPLAINANT'S PRIOR CONSISTENT STATEMENT;

ROSYLN UNION FREE SCHOOL DISTRICT v BARKAN, et al.:  
 LIMITATION OF ACTIONS - APPLICABILITY OF SIX-YEAR STATUTE OF  
 LIMITATIONS EITHER UNDER CPLR 213(7) OR CPLR 213(5) TO SCHOOL  
 DISTRICT'S CAUSES OF ACTION FOR NEGLIGENT BREACH OF FIDUCIARY  
 DUTY AGAINST FORMER SCHOOL BOARD MEMBER; PLEADING - SUFFICIENCY  
 OF PLEADING - WHETHER COMPLAINT STATED A CAUSE OF ACTION FOR AN  
 ACCOUNTING AGAINST FORMER BOARD MEMBER ENTRUSTED WITH OVERSIGHT  
 OVER THE SCHOOL DISTRICT'S MONEY;

RUEDA, &c., MATTER OF v CHARMAINE D.:  
 INCAPACITATED AND MENTALLY DISABLED PERSONS - INVOLUNTARY  
 ADMISSION - WHETHER EMERGENCY ROOM PSYCHIATRIST WHO TREATED  
 RESPONDENT PROPERLY APPLIED FOR HER INVOLUNTARY ADMISSION TO A  
 HOSPITAL PURSUANT TO MENTAL HYGIENE LAW § 9.27 WHERE HE COULD  
 HAVE APPLIED FOR SUCH ADMISSION PURSUANT TO MENTAL HYGIENE LAW  
 § 9.39; MOOTNESS - APPLICABILITY OF MOOTNESS EXCEPTION;

SALAZAR v NOVALEX CONTRACTING CORP., et al.:

LABOR - SAFE PLACE TO WORK - PLAINTIFF CONSTRUCTION WORKER FELL INTO OPEN TRENCH WHILE WALKING BACKWARDS AND SPREADING CONCRETE ON BASEMENT FLOOR - AVAILABILITY OF CLAIMS UNDER LABOR LAW §§ 200, 240(1) AND 241(6); SUMMARY JUDGMENT;

SANTIAGO (EDWIN), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - EXPERT TESTIMONY ON RELIABILITY OF EYEWITNESS IDENTIFICATIONS - WHETHER MULTIPLE EYEWITNESS IDENTIFICATIONS CAN CORROBORATE EACH OTHER; REQUESTED SUPPRESSION OF LINE-UP IDENTIFICATION DUE TO DISPARITY IN LOOKS OF THE STAND-INS;

SCHENECTADY COUNTY SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, INC., et al., MATTER OF v MILLS:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL)- CPLR ARTICLE 78 PROCEEDING TO REVIEW RESPONDENT'S DETERMINATION DENYING PETITIONERS' FOIL REQUEST FOR NAMES AND STREET ADDRESSES OF ALL LICENSED VETERINARIANS AND VETERINARY TECHNICIANS LOCATED IN SCHENECTADY COUNTY - WHETHER FOIL'S PERSONAL PRIVACY EXCEPTION APPLIES TO THE REQUEST FOR INFORMATION - NEW YORK PUBLIC OFFICERS LAW § 89(2)(b) - AGENCY'S INABILITY TO DETERMINE WHETHER ADDRESS SUBMITTED BY LICENSEE IS BUSINESS OR RESIDENTIAL;

SCOTT (STEVEN), PEOPLE v:

CRIMES - JURORS - DISCHARGE OF JUROR - WHETHER TRIAL COURT ERRED IN DISCHARGING A SWORN JUROR FOR CAUSE WHERE THE PROSECUTOR POSED QUESTION TO PROSPECTIVE JURORS ABOUT ABSENCE OF DNA EVIDENCE IN THE CASE AND THE SUBJECT JUROR, ONLY AFTER BEING SWORN, ADVISED THE COURT THAT THE PROSECUTION SHOULD OFFER DNA EVIDENCE TO SUPPORT THE RAPE CHARGE; SELECTION OF JURY - DENIAL OF DEFENDANT'S CHALLENGE TO JUROR WHO REPORTED THAT ONE OF THE PROSECUTORS HAD REPRESENTED HER INFANT SON 13 OR 14 YEAR EARLIER; EVIDENCE - VICTIM'S PRIOR SEXUAL CONDUCT - TRIAL COURT'S REFUSAL TO APPLY THE INTEREST OF JUSTICE EXCEPTION TO THE RAPE SHIELD LAW (CPL 60.42[5]) - ALLEGED VIOLATION OF DEFENDANT'S RIGHTS TO CONFRONT WITNESSES AGAINST HIM AND PRESENT A DEFENSE;

SEIFERHELD, MATTER OF v KELLY:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT POLICE PENSION FUND LACKED STATUTORY AUTHORITY TO REVOKE OR SUSPEND PETITIONER'S DISABILITY BENEFITS BECAUSE THE BOARD OF TRUSTEES DID NOT DIRECT SUCH ACTION;

SHEERAN, MATTER OF v NEW YORK STATE DEPARTMENT OF TRANSPORTATION et al.:

CIVIL SERVICE - COMPENSATION AND BENEFITS - WHETHER CIVIL SERVICE LAW § 72 APPLIES ONLY TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM AN "ACTIVE" STATUS OR ALSO TO EMPLOYEES PLACED ON INVOLUNTARY LEAVE FROM VOLUNTARY SICK LEAVE STATUS;

SHELLFISH, INC. v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION, et al.:

ENVIRONMENTAL CONSERVATION - HUNTING AND FISHING LICENSES - SURF CLAM PERMIT - CHALLENGE TO APPELLATE DIVISION ORDER HOLDING, AMONG OTHER THINGS, THAT OWNER OF A PERMIT-HOLDING VESSEL'S FAILURE TIMELY TO NOTIFY NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION OF THE VESSEL'S SALE, TRANSFER OR REPLACEMENT PRECLUDED OWNER "FROM SEEKING TO REVIVE THE OTHERWISE ACADEMIC QUESTION OF WHETHER IT WAS PROPERLY DENIED THE 2008 PERMIT FOR A SECOND VESSEL";

SHIAMILI, &c. v THE REAL ESTATE GROUP OF NEW YORK, INC., et al.:

TELECOMMUNICATIONS - INTERNET SERVICES - ACTION FOR DEFAMATION AND UNFAIR COMPETITION BY DISPARAGEMENT BASED ON COMMENTS POSTED ON AN INTERNET WEBSITE - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING DEFENDANTS' MOTION TO DISMISS THE COMPLAINT UPON THE GROUND THAT PLAINTIFF'S CLAIMS WERE BARRED BY THE FEDERAL COMMUNICATIONS DECENCY ACT (CDA) (47 USC § 230) BECAUSE DEFENDANTS WERE NOT "INFORMATION CONTENT PROVIDERS" WITHIN THE MEANING OF THE CDA;

SIMON et al. v USHER, et al.:

TRIAL - PLACE OF TRIAL - CHANGE OF VENUE - TIMELINESS OF MOTION TO CHANGE VENUE - APPLICABILITY OF FIVE-DAY EXTENSION UNDER CPLR 2103(b)(2) TO TIME PERIOD BY WHICH DEFENDANT MUST MOVE FOR CHANGE OF VENUE UNDER CPLR 511(b);

SMITH &c. v SHERWOOD, et al.: (Cal. Date - 1/11/11)

NEGLIGENCE - DUTY - PRIVATE SCHOOL STUDENT STRUCK BY CAR AFTER EXITING PRIVATE BUS TRANSPORTING STUDENTS UNDER CONTRACT WITH REGIONAL TRANSPORTATION AUTHORITY AND SCHOOL DISTRICT - WHETHER REGIONAL TRANSPORTATION AUTHORITY AND DRIVER HAD DUTY TO PROTECT CHILD WHO HAD TO CROSS STREET; SUMMARY JUDGMENT;

SMITH (HOWARD K.), PEOPLE v:

CRIMES - DRIVING WHILE ABILITY IMPAIRED - WHEN POLICE ASKED DEFENDANT IF HE WOULD CONSENT TO A CHEMICAL SOBRIETY TEST, DEFENDANT REPEATEDLY REPLIED THAT HE WANTED TO SPEAK WITH HIS ATTORNEY - WHETHER REQUEST TO SPEAK WITH ATTORNEY CAN BE CONSIDERED A REFUSAL TO SUBMIT TO TEST - ADMISSIBILITY OF EVIDENCE OF REFUSAL AT TRIAL;

SMITH (REMY), PEOPLE v: (Cal. Date - 1/13/11)

CRIMES - JURORS - JURY INSTRUCTION - WHETHER THE TRIAL COURT ERRED IN INFORMING THE JURY "IF YOU FIND [THE VICTIM] WAS TRUTHFUL AND ACCURATE IN HER TESTIMONY TO YOU, HER TESTIMONY WITHOUT ANY OTHER EYEWITNESS TO WHAT HAPPENED INSIDE THE CAR, UNDER THE LAW SATISFIES THE PROOF BEYOND A REASONABLE DOUBT"; PRECLUSION OF CERTAIN ARGUMENT BY DEFENDANT'S COUNSEL IN SUMMATION;

SMITH (SEAN), PEOPLE v:

CRIMES - SENTENCE - DIRECTION BY SUPREME COURT THAT DEFENDANT REGISTER WITH THE NEW YORK CITY POLICE DEPARTMENT PURSUANT TO GUN OFFENDER REGISTRATION ACT (GORA) (ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 10-601, ET SEQ.) - WHETHER GORA CHALLENGE CAN BE RAISED ON DIRECT APPEAL - WHETHER GORA IS PREEMPTED BY EXECUTIVE LAW § 259-a(2) GIVING THE NEW YORK STATE DIVISION OF PAROLE RESPONSIBILITY FOR SUPERVISING EX-OFFENDERS;

SOWELL (VICTOR), PEOPLE v:

APPEAL - APPEAL AS OF RIGHT IN CRIMINAL MATTER - VACATUR OF JUDGMENT OF CONVICTION;

SPICOLA (MICHAEL), PEOPLE v: (Cal. Date - 2/17/11)

CRIMES - WITNESSES - EXPERT WITNESS - CLINICAL SOCIAL WORKER PERMITTED TO TESTIFY CONCERNING CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME AND REASON FOR DELAY IN REPORTING INCIDENT TO AUTHORITIES - TESTIMONY FROM NURSE PRACTITIONER REGARDING STATEMENTS MADE BY VICTIM DURING EXAMINATION; PRECLUSION OF CHARACTER WITNESSES FOR DEFENDANT; INDICTMENT ISSUED MORE THAN SIX YEARS AFTER ALLEGED OFFENSES; JURY INSTRUCTIONS;

STATE FARM MUTUAL AUTOMOBILE COMPANY v LANGAN &c.:

(Cal. Date - 2/9/11)

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

STATE OF NEW YORK, MATTER OF v ANDREW O.: (Cal. Date - 2/8/11)

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - CROSS-EXAMINATION OF RESPONDENT'S EXPERT REGARDING HIS RELIGIOUS BELIEFS - COMMENTS IN SUMMATION REGARDING EXPERT'S RELIGIOUS BELIEFS - ALLEGED DENIAL OF FAIR TRIAL;

STEPTER (KENNETH), PEOPLE v:

CRIMES - SENTENCE - SECOND FELONY OFFENDER - WHETHER DEFENDANT'S NORTH CAROLINA CONVICTION SATISFIES THE REQUIREMENTS OF PENAL LAW § 70.06 - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE ARGUMENT FOR APPELLATE REVIEW; ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL AT SENTENCING; CLAIM THAT SENTENCE VIOLATED APPRENDI v NEW JERSEY (530 US 466);

STEWART (OWEN), PEOPLE v:

CRIMES - JURORS - SELECTION OF JURY - WHETHER TRIAL COURT ERRED IN GIVING DEFENSE COUNSEL FIVE-MINUTE LIMIT FOR VOIR DIRE QUESTIONING OF EACH JURY PANEL; WHETHER TRIAL COURT ERRED IN ALLOWING WITNESSES TO IDENTIFY DEFENDANT ON A VIDEOTAPE; ADMISSIBILITY OF EVIDENCE OF DEFENDANT'S PRIOR CRIMINAL CONVICTION; ROBBERY;

STEWART (ANDRE), PEOPLE v: (Cal. Date - 2/15/11)  
 POST-RELEASE SUPERVISION (PRS) - WHETHER DEFENDANT'S FAILURE TO RAISE HIS PLEA VACATUR ISSUE ON DIRECT APPEAL WAS "NOT UNJUSTIFIABLE" - DEFENDANT ADVISED BY TRIAL COURT THAT HE WOULD RECEIVE "MAXIMUM POST-RELEASE SUPERVISION" BUT WAS NOT ADVISED AS TO THE SPECIFIC DURATION - AVAILABILITY OF CPL 440 MOTION - REQUEST FOR VACATUR OF PLEA (PEOPLE v CATU, 4 NY3d 242);

ST. LOUIS v TOWN OF NORTH ELBA, et al.: (Cal. Date - 2/10/11)  
 LABOR - SAFE PLACE TO WORK - CAUSE OF ACTION PURSUANT TO LABOR LAW § 241(6) - WHETHER 12 NYCRR 23-9.4, WHICH REFERS TO POWER SHOVELS AND BACKHOES, APPLIES TO A FRONT-END LOADER - HEAVY EQUIPMENT USED FOR MATERIAL HOISTING RATHER THAN MATERIAL HANDLING;

SWEEPER (BRUCE), PEOPLE v:  
 CRIMES - JURORS - SELECTION OF JURY - BATSON CHALLENGE TO PEOPLE'S USE OF PEREMPTORY CHALLENGES TO REMOVE THE ONLY TWO AFRICAN-AMERICAN WOMEN PROSPECTIVE JURORS; ALLEGED VIOLATION OF CPL 710.30; CLAIM THAT COURT'S SENTENCING OF DEFENDANT AS A PERSISTENT VIOLENT FELONY OFFENDER VIOLATED DEFENDANT'S RIGHTS TO A JURY TRIAL;

THOMAS (DANIEL), PEOPLE v:  
 CRIMES - IDENTIFICATION OF DEFENDANT - BOLSTERING OF SINGLE EYEWITNESS BY PERMITTING TESTIMONY CONCERNING THE WITNESS'S OUT-OF-COURT IDENTIFICATION OF A CO-DEFENDANT; HARMLESS ERROR;

TKESHELASHVILI et al. v STATE OF NEW YORK:  
 NEGLIGENCE - PROXIMATE CAUSE - RECKLESS CONDUCT OF PLAINTIFF - DIVING INTO SHALLOW WATER - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF'S CONDUCT IN DIVING OFF THE COLGATE LAKE DAM INTO COLGATE LAKE WAS SO RECKLESS AS TO CONSTITUTE THE SOLE PROXIMATE CAUSE OF HIS INJURY AS A MATTER OF LAW BECAUSE HE "KNEW OR SHOULD HAVE KNOWN [THAT THE] WATER WAS TOO SHALLOW FOR DIVING";

TOLEDO &c. v IGLESIA NI CHRISTO:  
 INTEREST - PREVERDICT INTEREST - PROPER METHODOLOGY FOR AWARDING PREVERDICT INTEREST ON FUTURE WRONGFUL DEATH DAMAGES - CPLR ARTICLE 50-B;

U.S. ELECTRONICS, INC. v SIRIUS SATELLITE RADIO, INC.:  
 ARBITRATION - LEGAL STANDARD GOVERNING APPLICATION TO VACATE AN ARBITRATION AWARD BASED ON FAILURE OF ARBITRATOR AND OPPOSING PARTY TO DISCLOSE ARBITRATOR'S ALLEGED CONFLICT OF INTEREST - FEDERAL ARBITRATION ACT - "EVIDENT PARTIALITY";

UPTOWN HOLDINGS, LLC, et al., MATTER OF v CITY OF NEW YORK, et al.:  
 EMINENT DOMAIN - PUBLIC USE - WHETHER CITY'S DECISION TO EXERCISE

ITS POWER OF EMINENT DOMAIN TO CONDEMN THE SUBJECT PROPERTY SERVES A LEGITIMATE PUBLIC PURPOSE - ALLEGED ABSENCE OF INTEGRATED DEVELOPMENT PLAN - ALLEGED VIOLATIONS OF DUE PROCESS - EDPL 207 PROCEEDING;

VEGA v RESTANI CONSTRUCTION CORP., et al.:

NEGLIGENCE - PERSONAL INJURY ACTION OF MAINTENANCE WORKER WHO ATTEMPTED TO MOVE A GARBAGE CAN ALLEGEDLY CONTAINING IMPROPERLY DISCARDED CONCRETE BLOCKS; SUMMARY JUDGMENT; CONDITIONS INHERENT IN WORK; RES IPSA LOQUITUR;

VALDEZ &c., et al. v CITY OF NEW YORK, et al.:

MUNICIPAL CORPORATIONS - TORT LIABILITY - SPECIAL RELATIONSHIP - POLICE - WHETHER WOMAN WITH ORDER OF PROTECTION, WHO ADVISED POLICE ABOUT VIOLATION OF ORDER AND WAS TOLD TO GO HOME INSTEAD OF TO HER MOTHER'S HOUSE, BECAUSE OFFENDER WOULD BE ARRESTED IMMEDIATELY, HAS A SPECIAL RELATIONSHIP WITH THE CITY SUFFICIENT TO SUPPORT AWARD FOR DAMAGES AFTER OFFENDER SHOT HER;

VENTURA (CARLOS), PEOPLE v:

CRIMES - APPEAL - ABSENCE OF DEFENDANT - INVOLUNTARY DEPORTATION - WHETHER THE APPELLATE DIVISION ERRED IN DISMISSING DEFENDANT'S APPEAL ON THE GROUND THAT HE HAD BEEN DEPORTED AND WAS NO LONGER AVAILABLE TO OBEY THE MANDATE OF THE COURT WHERE DEFENDANT SERVED HIS SENTENCE, HAD BEEN PAROLED TO THE CUSTODY OF IMMIGRATION AND CUSTOMS ENFORCEMENT AND ARGUED ON APPEAL SOLELY THAT THE EVIDENCE WAS LEGALLY INSUFFICIENT TO SUPPORT HIS CONVICTION;

WALSH, MATTER OF v KATZ, et al.:

ELECTIONS - DESIGNATING PETITIONS - RESIDENCY REQUIREMENT - PROCEEDING PURSUANT TO ELECTION LAW § 16-102 TO INVALIDATE A PETITION DESIGNATING DANIEL C. ROSS AS A CANDIDATE IN A PRIMARY ELECTION HELD 9/15/09 FOR THE NOMINATION OF THE DEMOCRATIC PARTY AS ITS CANDIDATE FOR TOWN JUSTICE, FISHERS ISLAND, TOWN OF SOUTHDOLD - LAWS OF 1977, CHAPTER 276 § 2, PROVIDING FOR A FIFTH TOWN JUSTICE OF THE TOWN OF SOUTHDOLD, WHO ALSO WAS TO SERVE AS A MEMBER OF THE TOWN BOARD OF THE TOWN OF SOUTHDOLD AND WAS REQUIRED TO RESIDE ON FISHERS ISLAND - EFFECTIVE DATE OF RESIDENCY REQUIREMENT - CHALLENGE TO CONSTITUTIONALITY OF THE RESIDENCY REQUIREMENT;

WARNEY v STATE OF NEW YORK: (Cal. Date - 2/8/11)

STATE - UNJUST CONVICTION AND IMPRISONMENT ACT - COURT OF CLAIMS ACT § 8-b - WHETHER THE COURT OF CLAIMS ERRED IN DISMISSING CLAIM TO RECOVER FOR UNJUST CONVICTION AND IMPRISONMENT OF A PERSON EXONERATED BY DNA EVIDENCE AFTER SERVING NINE YEARS IN PRISON FOR A MURDER CONVICTION - WHETHER FALSE CONFESSION CONSTITUTED CONDUCT BRINGING ABOUT CONVICTION;

WEAVER (TONY), PEOPLE v: (Cal Date 1/4/11)

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - DISORDERLY CONDUCT - WHETHER CIRCUMSTANCES OF INCIDENT PRESENTED A PUBLIC ANNOYANCE CONSISTENT WITH PEOPLE v MUNAFO (50 NY2d 326); RESISTING ARREST; JURY INSTRUCTIONS;

WELLS (PETER), PEOPLE v:

CRIMES - JURORS - DISCHARGE OF JUROR - WHETHER TRIAL COURT ERRED IN DISCHARGING A SWORN JUROR BEFORE COMPLETION OF JURY SELECTION WHERE THE JUROR "EXPRESSED CONCERNS ABOUT HIS ABILITY TO CONCENTRATE ON THE TRIAL DUE TO JOB-RELATED COMMITMENTS" - CPL 270.15(3) - CPL 270.35(1); JURY INSTRUCTIONS - WHETHER TRIAL COURT PROPERLY DETERMINED THAT DEFENDANT WAS NOT ENTITLED TO A CHARGE ON THE AFFIRMATIVE DEFENSE TO ROBBERY IN THE FIRST DEGREE AND BURGLARY IN THE FIRST DEGREE;

WILINSKI et al. v 334 EAST 92<sup>ND</sup> HOUSING DEVELOPMENT FUND CORP., et al.:

LABOR - SAFE PLACE TO WORK - LABOR LAW § 240(1) - PLAINTIFF ALLEGEDLY HIT IN THE HEAD BY TWO VERTICAL PIPES THAT FELL OVER WHEN HIT BY DEBRIS FROM A WALL UNDERGOING DEMOLITION - CHALLENGE TO APPELLATE DIVISION HOLDING THAT, "SINCE BOTH PIPES AND PLAINTIFF 'WERE AT THE SAME LEVEL AT THE TIME OF THE COLLAPSE [OF THE PIPES,] THE INCIDENT WAS NOT SUFFICIENTLY ATTRIBUTABLE TO ELEVATION DIFFERENTIALS TO WARRANT IMPOSITION OF LIABILITY PURSUANT TO LABOR LAW § 240(1)'" - APPLICABILITY AND CONTINUING VIABILITY OF MISSERITTI v MARK IV CONSTR. CO. (86 NY2d 487 [1995]) - RUNNER v NEW YORK STOCK EXCHANGE (13 NY3d 599 [2009]); LABOR LAW § 241(6) - APPLICABILITY OF INDUSTRIAL CODE PROVISIONS, 12 NYCRR 23-3.3(b)(3) AND (c), WHETHER SECTION 23-3.3(b)(3) REQUIRES PLAINTIFF TO SHOW THAT WIND PRESSURE OR VIBRATION CAUSED THE PIPES TO FALL - WHETHER PLAINTIFF'S INJURIES WERE CAUSED BY "WEAKENED OR DETERIORATED FLOORS OR WALLS OR FROM LOOSENED MATERIAL" WITHIN THE MEANING OF SECTION 23-3.3(c) - WHETHER CERTAIN DEFENDANTS ESTABLISHED THEIR ENTITLEMENT TO SUMMARY JUDGMENT UPON THE GROUND THAT THEY WERE NOT OWNERS OR CONTRACTORS WITHIN THE MEANING OF THE LABOR LAW;

WILLIAMS (JAIR), PEOPLE v: (Cal. Date - 2/9/11)

CRIMES - JURORS - JURY INSTRUCTIONS - WHETHER TRIAL COURT ERRED IN FAILING TO AFFORD THE DEFENSE NOTICE AND AN OPPORTUNITY TO BE HEARD BEFORE IT REJECTED AS REPUGNANT THE INITIALLY ANNOUNCED JURY VERDICT, AND IN THEREAFTER GIVING EXTENSIVE SUPPLEMENTAL JURY INSTRUCTIONS AND RESUBMITTING THE CASE FOR FURTHER DELIBERATIONS - VERDICT SHEET COMPLETED BY JURY IN THE COURTROOM WITH OPEN COURT DISCUSSIONS AMONG THE JURORS; DUE PROCESS; EFFECTIVE ASSISTANCE OF COUNSEL;

WINGATE (BLAKE), PEOPLE v:

CRIMES - RIGHT TO REPRESENTATION PRO SE - SUFFICIENCY OF "SEARCHING INQUIRY" - WHETHER JUDGMENT OF CONVICTION MUST BE REVERSED WHERE NISI PRIUS COURT ALLOWED DEFENDANT TO REPRESENT

HIMSELF AT SUPPRESSION HEARING WITHOUT GIVING HIM ADEQUATE WARNINGS ABOUT THE DANGERS AND DISADVANTAGES OF PROCEEDING WITHOUT COUNSEL BUT GAVE DEFENDANT ADEQUATE WARNINGS BEFORE ALLOWING HIM TO REPRESENT HIMSELF AT TRIAL; ALLEGED ERROR IN LIMITING ACCESS TO STANDBY COUNSEL BY PREVENTING DEFENDANT FROM COMMUNICATING WITH COUNSEL DURING CROSS-EXAMINATION OF PROSECUTION WITNESS AND WITH AN INVESTIGATOR BEFORE DECIDING WHETHER TO PUT ON A DEFENSE CASE;

WOODS, MATTER OF v NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES: (Cal. Date - 2/16/11)

PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING TO REVIEW A DETERMINATION OF RESPONDENT NEW YORK CITY DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES NOT TO PLACE PETITIONER ON A "SPECIAL ELIGIBLE LIST" PURSUANT TO MILITARY LAW §§ 243(7) AND 243(7-b) - PETITIONER SEEKING APPOINTMENT AS FIREFIGHTER; CIVIL SERVICE;

WORLD TRADE CENTER BOMBING LITIGATION, MATTER OF (STEERING COMMITTEE v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY):

NEGLIGENCE - WHETHER PORT AUTHORITY IS ENTITLED TO GOVERNMENTAL IMMUNITY FROM NEGLIGENCE CLAIMS ARISING OUT OF THE TERRORIST TRUCK BOMBING OF THE WORLD TRADE CENTER; MAINTENANCE OF PREMISES - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE JURY COULD HAVE FAIRLY CONCLUDED THAT THE PORT AUTHORITY WAS NEGLIGENT IN FAILING TO MAINTAIN ITS PARKING GARAGE IN A REASONABLY SAFE CONDITION AND THAT THIS NEGLIGENCE WAS A SUBSTANTIAL CAUSE OF THE BOMBING; APPORTIONMENT OF LIABILITY AMONG JOINT TORTFEASORS - JURY DETERMINATION THAT PORT AUTHORITY WAS 68% LIABLE AND TERRORISTS WERE 32% LIABLE FOR PERSONAL AND ECONOMIC INJURIES RESULTING FROM THE BOMBING;

WRIGHT (JASON L.), PEOPLE v:

CRIMES - CLAIM THAT ROBBERY COUNT WAS DUPLICITOUS BECAUSE DEFENDANT WAS CHARGED WITH STEALING "A BB GUN AND/OR A PAIR OF SNEAKERS" - ALLEGED INEFFECTIVENESS OF TRIAL COUNSEL - THEORY UPON WHICH JURY FOUND DEFENDANT GUILTY - SUFFICIENCY OF THE EVIDENCE SUPPORTING CONVICTION OF ROBBERY IN THE FIRST DEGREE;

WYCKOFF HEIGHTS MEDICAL CENTER &c. [NEW YORK and PRESBYTERIAN HOSPITAL, &c.] v COUNTRY-WIDE INSURANCE COMPANY:

INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - WHETHER A NO-FAULT CARRIER MAY DENY A HEALTH CARE PROVIDER'S CLAIM FOR HEALTH SERVICE EXPENSES BASED UPON THE FACT THAT A NOTICE OF ACCIDENT WAS NOT TIMELY FILED, WHERE THE HEALTH CARE PROVIDER TIMELY SUBMITTED A WRITTEN PROOF OF CLAIM FOR HEALTH SERVICE EXPENSES;

YENEM CORP. v 281 BROADWAY HOLDINGS [AND OTHER ACTIONS]:

NEGLIGENCE - VIOLATION OF STATUTORY DUTY - LIABILITY FOR DAMAGE CAUSED BY EXCAVATION WORK ON ADJOINING PROPERTY - WHETHER A MUNICIPAL ORDINANCE THAT IMPOSES A DUTY UPON THOSE PERFORMING EXCAVATION WORK 10 FEET BELOW THE CURB LEVEL TO "PRESERVE AND

PROTECT" ADJOINING STRUCTURES (ADMINISTRATIVE CODE OF THE CITY OF NY FORMER § 27-1031[b][1] [NOW ADMINISTRATIVE CODE OF THE CITY OF NY § 28-3309.4]) IMPOSES ABSOLUTE LIABILITY SO AS TO WARRANT SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY IN FAVOR OF PLAINTIFFS, THE OWNER AND TENANT OF PREMISES ALLEGEDLY DAMAGED BY DEFENDANTS' EXCAVATION WORK ON THE ADJACENT PROPERTY - CONSIDERATION OF PRIOR CONDITION OF BUILDING AND ADEQUACY OF PRECAUTIONS IN DETERMINING LIABILITY; LEAVE GRANTED TO DEFENDANTS TO ASSERT COUNTERCLAIMS AGAINST PLAINTIFF RANDALL CO. LLC;