

DECEMBER 2020

NEW FILINGS DIGEST - QUARTERLY UPDATE

This report lists, by title and subject matter, appeals pending as of December 31, 2020. The appeals were previously published as "Court of Appeals New Filings."

Contact the Clerk's Office for additional information on pending appeals.

ACE SECURITIES CORP., &c. v DB STRUCTURED PRODUCTS, INC.:

Limitation of Actions--Commencement of Action after Termination of Prior Action-- Whether the trustee of a residential mortgage-backed securities trust is a "plaintiff" within the meaning of CPLR 205(a) when the prior action was commenced by the trust's certificate holders.

ALLEN (CHARO N.), PEOPLE v:

Crimes--Accusatory Instrument--Whether District Court properly dismissed accusatory instrument as facially insufficient where People failed to properly file a certificate of translation.

ANDERSON (KATHON), PEOPLE v:

Crimes--Witnesses--Expert Witnesses--Whether Supreme Court properly denied defendant's request to present expert testimony on the topic of adolescent brain development; defendant, 14 years old at time of the crime, asserted justification defense.

ANDERSON v ANDERSON:

Marriage--Nuptial agreement--Where nuptial agreement is not contemporaneously acknowledged by both parties at the time they sign the agreement, whether the parties must reaffirm agreement for it to be valid.

MATTER OF ANONYMOUS:

Attorneys and Clients--Disciplinary Proceedings--Denial of motion to stay disciplinary proceeding; alleged constitutional violations.

AYBAR, et al. v AYBAR, et al.; FORD MOTOR COMPANY et al.:

Courts--Jurisdiction--Whether the Appellate Division improperly ignored this Court's ruling in Bagdon v Philadelphia & Reading Coal & Iron Co. (217 NY 432 [1916]) and the United State Supreme Court's ruling in Neirbo Co. v Bethlehem Shipbuilding Corp.

(308 US 165 [1939]), by holding that a foreign corporation's voluntary registration to do business in New York and its designation of New York's Secretary of State as its agent for the service of process was insufficient as a consent to general jurisdiction in New York.

BADJI (FREDERIC), PEOPLE v:

Crimes--Larceny--Whether a defendant may be convicted of grand larceny based on the theft of the victim's credit card where the People present proof that defendant used victim's credit card number to make purchases but did not possess the physical credit card; Crimes--Identification of Defendant--Whether the trial court properly admitted non-eyewitness testimony regarding identification of defendant; Crimes--Evidence--Whether best evidence rule applies to video stills where the People did not introduce video surveillance tape from which the video stills were taken.

BONCZAR v AMERICAN MULTI-CINEMA, INC., &c.:

Labor--Safe Place to Work--Whether plaintiff was entitled to partial summary judgment on the issue of liability under Labor Law Sec. 240(1).

BROOKS (KIETH), PEOPLE v a/k/a BROOKS (KEITH):

Crimes--Accusatory Instrument--Whether certificate of translation was necessary to convert accusatory instrument to an information; whether certificate of translation must comply with 22 NYCRR 200.3.

BROWN (GEORGE), PEOPLE v:

Crimes--Appeal--Whether defendant's waiver of appeal forecloses review of his claim that the sentencing court violated CPL 380.50(1) by failing to provide him with the opportunity to make a statement in his own behalf prior to sentencing.

BUSH (JEFFERY), PEOPLE v:

Crimes--Plea of Guilty--Whether defendant is required to preserve his claim that his guilty plea was not knowing, voluntary and intelligent where he was not made aware that he would be subject to a one-year period of conditional discharge until the sentence was pronounced.

BUYUND (DONOVAN), PEOPLE v:

Crimes--Sex Offenders--Whether sentencing court's certification of a defendant as a sex offender pursuant to the Sex Offender Registration Act is a part of the sentence component of a judgment of conviction and sentence; whether a conviction for burglary as a sexually motivated felony is a registerable sex offense under Correction Law § 168-a(2)(a).

CALLEN, &c., MATTER OF v NEW YORK CITY LOFT BOARD, et al.:

Landlord and Tenant--Loft Law--Whether respondent Loft Board has the authority to deny a tenant's request to withdraw an application for the legal conversion of a loft from commercial use to residential use pursuant to the Loft Law (see Multiple Dwelling Law 7-C).

CENTER ON PRIVACY & TECHNOLOGY, MATTER OF v NEW YORK CITY POLICE DEPARTMENT:

Constitutional Law--Freedom of Speech--Whether Supreme Court imposed an unconstitutional prior restraint by precluding petitioner from referring to the source of unredacted documents inadvertently disclosed by respondent in response to petitioner's Freedom of Information Law request.

CUCERALDO (JACK J.), PEOPLE v:

Motor Vehicles--Traffic Infractions--Whether hearing officer properly entered default judgments against defendant when defendant pleaded not guilty to charges alleging violations of the Vehicle and Traffic Law and requested trial but failed to appear for trial and no trial was held.

CUTAIA v THE BOARD OF MANAGERS OF 160/170 VARICK STREET CONDOMINIUM, et al.:

Labor--Safe Place to Work--Whether plaintiff established entitlement to summary judgment on the Labor Law § 240(1) claim; plaintiff was injured when he received electrical shock and fell off ladder; application of Nazario v 222 Broadway, LLC (28 NY3d 1054 [2016]).

DEVEROW (DASHAWN), PEOPLE v:

Crimes--Evidence--Whether the court deprived defendant of his right to present a defense by excluding a defense witness who would have contradicted the sole eyewitness's account and limiting cross-examination of the eyewitness; excluding 911 calls proffered in support of defendant's justification defense; and excluding DNA evidence connecting a gun used in a retaliatory shooting to the victim; Whether the court's Sandoval ruling deprived defendant of his constitutional right to due process and to testify; Whether the court properly denied defendant's Batson challenge to the prosecutor's exercise of peremptory challenges; Whether the court violated defendant's right to a fair trial by allowing the People to bolster their case with improper evidence.

DITECH FINANCIAL, LLC, &c. v NAIDU, et al.:

Mortgages--Acceleration Clause--Whether plaintiff's execution of a stipulation to discontinue prior foreclosure action constituted an affirmative act to revoke plaintiff's election to accelerate the mortgage, thereby rendering subsequent foreclosure action timely.

DOE v BLOOMBERG, L.P., et al.:

Civil Rights--New York City Human Rights Law--Whether an individual owner or officer of corporate employer may be held strictly liable under the New York City Human Rights Law (Administrative Code of City of NY § 8-107[13][b]) where plaintiff fails to allege that individual owner or officer encouraged, condoned or approved of alleged discriminatory conduct.

DUVAL (DRURY), PEOPLE v:

Crimes--Search Warrant--Whether the search warrant on its face gave adequate constitutional notice of which particular unit in the house would be searched; whether the motion court was authorized to rely on materials not incorporated into the warrant to uphold its validity.

ENDARA-CAICEDO, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, et al.:

Motor Vehicles--Revocations or Suspension of Operator's License--Whether Vehicle and Traffic Law § 1194 (2) permits the refusal of a motorist arrested for operating a motor vehicle while under the influence of alcohol or drugs to submit to a chemical test to be used against the motorist in administrative license revocation hearings even if the chemical test is offered, and the refusal occurs, more than two hours after the motorist's arrest.

EPAKCHI (DARIA, N.), PEOPLE v:

Crimes--Accusatory Instrument--Whether a simplified traffic information may be re-filed after another simplified traffic information alleging the same offense was dismissed for failure to timely provide a supporting deposition.

FREEDOM MORTGAGE CORPORATION v ENGEL, et al.:

Mortgages--Foreclosure--Whether mortgagee's voluntary discontinuance of prior foreclosure action constituted an affirmative act of revocation of its prior election to accelerate the mortgage debt; prior foreclosure action discontinued by so-ordered stipulation, which was silent on issue of revocation of election to accelerate.

GARCIA (CESAR), PEOPLE v:

Crimes--Right to Jury Trial--Whether defendant was entitled to a jury trial where he was charged with one or more crimes that may have subjected him to deportation, but convicted of single crime that was not deportable offense; retroactive application of People v Suazo (32 NY3d 491 [2018]).

GAWORECKI (RICHARD B.), PEOPLE v:

Crimes--Indictment--Sufficiency of Evidence before Grand Jury--Whether the evidence presented to the grand jury was legally sufficient to establish that defendant committed manslaughter in the second degree or the lesser included offense of criminally negligent homicide; indictment alleged that defendant sold victim heroin, which resulted in victim's subsequent overdose and death.

GREENE, &c., et al. v ESPLANADE VENTURE PARTNERSHIP, et al.:

Pleading--Amendment--Whether Supreme Court improvidently exercised its discretion to grant that branch of plaintiffs' motion which was for leave to amend the complaint to add a cause of action sounding in negligent infliction of emotional distress, alleging, among other things, that plaintiff grandmother suffered emotional distress as a result of witnessing the fatal injury sustained by her granddaughter while plaintiff grandmother was within the "zone of danger."

GORDON (TYRONE D.), PEOPLE v:

Crimes--Search Warrant--Whether Supreme Court properly granted suppression of physical evidence seized from two vehicles during execution of search warrant that permitted a search of the "entire premises" located at a specific residential address, but did not particularize that a search of the vehicles was permitted.

HALLOCK, MATTER OF:

Attorney and Client--Disciplinary Proceedings.

HAYON, MATTER OF v NEW YORK STATE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION et al.:

Proceeding Against Body or Officer--CPLR article 78 proceeding seeking to challenge prison disciplinary determination.

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY v VILLAGE OF HERKIMER, et al.:

Municipal Corporations--Water Supply--Whether county industrial development agency assented to village supplying water to agency owned property and tenant using that water, thereby giving rise to implied contract for water services between agency and village; application of Village Law § 11-1116 and local regulations.

HIMMELSTEIN, McCONNELL, GRIBBEN, DONOGHUE & JOSEPH, LLP, et al. v MATTHEW BENDER & COMPANY, INC, &c.:

Consumer Protection--Deceptive Acts and Practices--Whether plaintiffs stated a cause of action under General Business Law § 349 where the only injury alleged to have resulted from defendant's allegedly deceptive business practices is the amount that plaintiffs paid

for the product; Dismissal--Complaint--Whether plaintiffs stated a cause of action for breach of contract, breach of express warranty, or breach of implied covenant of good faith and fair dealing.

HODGDON (NICOLE), PEOPLE v:

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522.

HOME EQUITY MORTGAGE TRUST SERIES 2006-1, et al. v DLJ MORTGAGE CAPITAL, INC.:

Contracts--Breach or Performance of Contract--Whether the doctrine of relation back permits residential mortgage-backed securities (RMBS) plaintiffs to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse plaintiffs' failure to comply with a contractual precondition to invoking the repurchase remedy, as long as the plaintiffs provided timely pre-suit repurchase demands relating to some specified loans in the trust--Evidence--Demonstrative Evidence--Whether plaintiffs may rely on statistical sampling to prove liability and damages for loans outside of the sample when a RMBS sole remedy provision requires loan-specific proof of breach, materiality, and damages--Contracts--Breach or Performance of Contract--Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

HOPE (JUSTIN), PEOPLE v:

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522.

HUNTERS FOR DEER et al. v TOWN OF SMITHTOWN:

Local Laws--Preemption--Whether Smithtown Town Code § 160-5 is preempted by Environmental Conservation Law § 11-0931(4)(a)(2) with regard to minimum setback limits for the discharge of a bow and arrow.

HSBC BANK, N.A., &c. v BYTHEWOOD:

Dismissal and Nonsuit--Want of Prosecution--Whether the Appellate Division erred in concluding that the action was not properly dismissed pursuant to CPLR 3216, such that Supreme Court should have granted plaintiff's motion to vacate the certification order, to restore the action to the court's calendar, and to reinstate the notice of pendency.

IBARGUEN (ERIC), PEOPLE v:

Crimes--Unlawful Search and Seizure--Standing--Whether the trial court erred in summarily denying defendant's motion to suppress evidence obtained following police officers' entry and search of the apartment where defendant was arrested when defendant alleged standing based on his status as a social guest; Crimes--Instructions--Whether the trial court's failure to instruct the jury on cross-racial identification constituted reversible error; Whether defendant was deprived of a fair trial by the court's charge regarding flight as consciousness of guilt.

IVERSON (ERIC J.), PEOPLE v:

Motor Vehicles--Traffic Infractions--Whether hearing officer properly entered default judgments against defendant when defendant pleaded not guilty to charges alleging violations of the Vehicle and Traffic Law and requested trial but failed to appear for trial and no trial was held.

JEAN-PAUL v 67-30 DARTMOUTH ST. OWNERS CORP.:

Parties--Capacity to Sue--Whether a Chapter 7 bankruptcy proceeding dismissal restores a debtor-plaintiff's capacity or standing to pursue a personal injury action that the debtor-plaintiff failed to list as an asset during the bankruptcy proceeding.

JOHNSON, MATTER OF v CITY OF NEW YORK; WORKERS' COMPENSATION BOARD:

Workers' Compensation--Award--Whether an award of workers' compensation benefits for a schedule of loss of use (SLU) attributable to an injury to one part of a qualifying limb must be offset by a prior award for an injury involving a different part of the same qualifying limb.

J.P. MORGAN SECURITIES, INC. et al. v VIGILANT INSURANCE COMPANY, et al.:

Insurance--Business Insurance--Disgorgement payment to Securities and Exchange Commission not insurable loss.

JUAREZ, et al., MATTER OF v NEW YORK STATE OFFICE OF VICTIM SERVICES, et al.:

Administrative Law--Rule Making--Whether New York State Office of Victim Services exceeded its authority under Executive Law article 22 to adopt regulations for the approval of crime victims' counsel fee requests by amending its regulations to provide that such awards may be considered only for fees incurred in successful administrative reconsideration reviews and judicial review (9 NYCRR 525.9 [a],[c]).

KAINER, ESTATE OF, &c., et al. v UBS AG, &c., et al.:

Courts--Forum Non Conveniens--Whether the motion court properly dismissed the action on forum non conveniens grounds without first determining whether it had personal jurisdiction over all defendants.

KARPEN v ANDRADE (INDEX NO. 87730/17):

Constitutional Law--Whether the Housing Stability and Tenant Protection Act violates petitioner's due process rights and protections pursuant to the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 6 of the New York State Constitution.

KARPEN v AREVALO et al. (INDEX NO. 87288/17):

Constitutional Law--Whether the Housing Stability and Tenant Protection Act violates petitioner's due process rights and protections pursuant to the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 6 of the New York State Constitution.

KARPEN v CASTRO et al. (INDEX NO. 87287/17):

Constitutional Law--Whether the Housing Stability and Tenant Protection Act violates petitioner's due process rights and protections pursuant to the Fifth and Fourteenth Amendments to the United States Constitution and Article I, Section 6 of the New York State Constitution.

KONKUR v UTICA ACADEMY OF SCIENCE CHARTER SCHOOL; TURKISH CULTURAL CENTER AND HIGH WAY EDUCATION, INC.:

Labor--Hours and Wages--Whether the Appellate Division erred in dismissing plaintiff's cause of action pursuant to Labor Law § 198-b on the ground that the statute does not provide for a private right of action.

MATTER OF KOZIOL, A SUSPENDED ATTORNEY:

Attorney and Client--Reinstatement--Denial of Reinstatement.

LASHLEY (SHARON), PEOPLE v:

Crimes--Sentence--Resentence--Filing of proper predicate felony statement.

LEWIS (DAVE), PEOPLE v:

Motor Vehicles--Injuries to Bicyclist--Whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1) impose a civil negligence standard of care rather than a criminal negligence standard; whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1), if interpreted to impose a civil negligence standard, are

unconstitutional for using a civil negligence standard as a basis for criminal liability; Whether New York City Administrative Code § 19-190(b), if interpreted to impose a civil negligence standard, is preempted by state law; Whether the evidence was legally sufficient to support the verdict.

LIVIDINI v GOLDSTEIN:

Courts--Transfer or Removal to Other Courts--Residency--Whether, for purposes of a motion to change venue, venue was properly placed in Bronx County under CPLR 503 (a) or (d) when an individual defendant listed a Bronx County address with a licensing agency but it was undisputed that the address was not his principal place of business.

MABRY (NATHANIEL), PEOPLE v:

Crimes--Unlawful Search and Seizure--Whether the police had reasonable suspicion to pursue and stop defendant; whether the police were justified in searching the defendant's backpack incident to his arrest; Whether the warrantless search of the defendant's backpack incident to arrest was justified; Crimes--Right to Counsel--Whether counsel was ineffective.

MALERBA, MATTER OF:

Attorney and Client—Disciplinary Proceedings.

MANKO v MANNOR, et al.:

Motions and Orders.

MENTAL HYGIENE LEGAL SERVICE, &c., MATTER OF v DELANEY, &c., et al.:

Proceeding Against Body or Officer--Mandamus--When Remedy Available--Whether mandamus was available to challenge placement of developmentally disabled child in hospital emergency room while child waited for a residential placement; Social Services--Medical Assistance--Whether Medicaid Act's requirement that medical assistance “shall be furnished with reasonable promptness to all eligible individuals” (42 USC § 1396a [a] [8]) gives rise to a private right of action; Civil rights--Discrimination Based on Disability--Whether respondent's failure to provide child with certain services violated the Americans with Disabilities Act.

MILLER, MATTER OF v ANNUCCI, &c., et al.:

Appeal--Timeliness--Whether the Appellate Division properly dismissed the appeal as untimely.

MITCHELL v CIGNA CORPORATION, et al.:

Motions and Orders.

NAHUM, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES:

Proceeding Against Body or Officer--Whether petitioner was deprived of an impartial hearing.

NEMETH, etc. v BRENNTAG NORTH AMERICA, etc. et al.:

Products Liability--Exposure to Toxic Substances--Whether plaintiff presented sufficient evidence that her peritoneal mesothelioma was caused by respirable asbestos contained in talcum powder used by plaintiff over an 11-year period; defendant supplied asbestos-contaminated talc for talcum powder; Trial--Fair Trial--whether plaintiff's counsel's remarks on summation and the trial court's failure to issue a curative instruction deprived defendant of a fair trial.

NINIVAGGI v COUNTY OF NASSAU; MERRICK UNION FREE SCHOOL DISTRICT:

Negligence--Assumption of Risk--Whether Supreme Court properly dismissed the complaint on the basis of primary assumption of risk; plaintiff injured when he stepped into a hole on a grassy field while playing catch.

OLDS (LESLIE K.), PEOPLE v.:

Crimes--Sentence--Whether the sentence imposed was vindictive; whether defendant preserved for appellate review the issue of vindictiveness.

PEOPLE CARE INCORPORATED, d/b/a ASSISTED CARE, MATTER OF v THE CITY OF NEW YORK HUMAN RESOURCES ADMINISTRATION, et al.:

Social Services--Recoupment of Overpayments--Whether respondent The City of New York Human Resources Administration Department of Social Services has the authority to audit and recover overpayments of funds provided pursuant to the Health Care Reform Act from petition, a personal care service provider.

PEREZ (ALEX), PEOPLE v.:

Crimes--Harmless and Prejudicial Error--Whether error in denying defendant's motion to suppress defendant's cell phone location data and admitting such data at trial was harmless.

POWELL (HOWARD), PEOPLE:

Crimes--Witnesses--Whether Supreme Court erred in denying, after a hearing, defendant's motion to present expert testimony on the topic of false confessions.

PROTECT THE ADIRONDACKS v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

Constitutional Law--State Constitutional Law--Whether the plan of defendants Adirondack Park Agency and Department of Environmental Conservation to construct Class II Community Connector trails in the Forest Preserve of the Adirondack Park would result in an unconstitutional destruction of "timber" in violation of article XIV, § 1.

PUTLAND (DAVID G.), PEOPLE v:

Crimes--Sex Offenders--Whether provisions of the Sex Offender Registration Act (SORA) requiring mandatory registration for juveniles convicted of certain crimes constitutes cruel and unusual punishment and violates a defendant's constitutional right to substantive due process; defendant, 15 years old at time of offense, prosecuted and convicted as an adult of sodomy in the first degree and murder in the second degree.

REXFORD &c., MATTER OF v GOULD ERECTORS & RIGGERS, INC., et al.:

Workers' Compensation--Reopened cases--Workers' Compensation Law 25-a(1-a).

ROMINE v LAURITO et al.:

Motions and Orders.

ROMUALDO (FERNANDO), PEOPLE v:

Crimes--Verdict--Sufficiency of the Evidence--Whether the verdict convicting defendant of murder in the second degree was supported by legally sufficient evidence; whether the verdict was against the weight of the evidence.

SALLARD (DAMON), PEOPLE v:

Crimes--Appeal--Whether defendant validly waived the right to appeal--Crimes--Plea of Guilty--Withdrawal of Plea--Whether County Court properly denied defendant's motion to withdraw his guilty plea on the basis of actual innocence.

SASSI v MOBILE LIFE SUPPORT SERVICES, INC.:

New York State Human Rights Law (Executive Law 296)--Employment Discrimination--Pleading--Sufficiency of Pleading.

SCHNEIDER (JOSEPH), PEOPLE v:

Crimes--Eavesdropping Warrants--Whether Supreme Court lacked jurisdiction to issue eavesdropping warrants against defendant to intercept cellular telephone calls and electronic messages that were made and received outside New York State; interpretation of the word "executed" in CPL article 700; alleged constitutional violations.

SCHOCH v LAKE CHAMPLAIN OB-GYN, P.C.:

Insurance--Liability Insurance--Whether defendant employer was entitled to receive cash consideration resulting from the demutualization of an insurance fund where the employer purchased the insurance policy and paid all the premiums but where the employee is named as the sole insured on the policy; whether plaintiff is unjustly enriched by the receipt of the cash consideration resulting from demutualization of insurance fund.

SEGAL v OFFICE OF COURT ADMINISTRATION:

Appeal--Appealable Paper--Order denying motion to vacate.

SEGAL v OFFICE OF COURT ADMINISTRATION et al. (5/21/20 order):

Motions and Orders.

SEGAL v OFFICE OF COURT ADMINISTRATION et al. (9/30/20 order):

Motions and Orders.

SEGAL v OFFICE OF COURT ADMINISTRATION et al. (10/28/20 order):

Motions and Orders.

SHANKS (BRADFORD L.), PEOPLE v:

Crimes--Appeal--Whether the Appellate Division properly upheld the waiver of appeal--Crimes--Right to Counsel--Whether the Appellate Division erred in holding that defendant properly forfeited his right to counsel at trial--Whether the Appellate Division erred in holding that defendant's claim of pervasive judicial bias was precluded by the appeal waiver.

SLADE (KENNETH), PEOPLE v:

Crimes--Accusatory Instrument--Whether certificate of translation was required to convert complaint to information; denial of CPL 30.30 motion.

STATE OF NEW YORK, MATTER OF v DONALD G.:

Trial--Verdict--Setting Verdict Aside--Whether Supreme Court properly granted petitioner's motion to set aside the verdict pursuant to CPLR 4404(a) on the ground of juror misconduct; proceeding pursuant to Mental Hygiene Law article 10.

STEFANIAK v ZULKHARNAIN:

Attorney and Client--Compensation--Award of nunc pro tunc attorney's fees.

MATTER OF AUDREY A.T.:

Attorney and Client--Attorney Discipline; Alleged constitutional violations in pending attorney discipline matter.

TCR SPORTS BROADCASTING HOLDING, LLP v WN PARTNER, LLC, et al.:

Arbitration--Agreement of Arbitrate--Forum--Whether courts have the power, after vacating an arbitration award based on "evident partiality" related to the forum, to order rehearing in a forum other than that provided for in the parties' arbitration agreement.

TORRES (CARLOS), PEOPLE v:

Constitutional Law--Validity of Statute--Whether Administrative Code of the City of New York § 19-190 is unconstitutional because it criminalizes an act committed without "due care," a civil negligence standard rather than a criminal negligence standard; whether Administrative Code § 19-190 is preempted by state law.

TOUSSAINT v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, et al.:

Labor--Safe Place to Work--Whether the requirement in the Industrial Code that a "designated person" operate a power buggy is sufficiently specific to support a claim under Labor Law § 241(6).

U.S. BANK NATIONAL ASSOCIATION, &c. v DLJ MORTGAGE CAPITAL, INC.:

Contracts--Breach or Performance of Contracts--Whether the doctrine of relation back permits a residential mortgage-backed securities (RMBS) plaintiff-trustee to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse the plaintiff's failure to comply with a contractual precondition to invoking the repurchase remedy, when the plaintiff provided timely pre-suit repurchase demands relating to some specified loans in the trust; Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

VARGAS v DEUTSCHE BANK NATIONAL TRUST COMPANY:

Mortgages--Acceleration Clause--Whether letter from defendant's predecessor-in-interest, which informed plaintiff that the mortgage debt would be accelerated if he failed to cure his default, accelerated the loan balance and commenced the statute of limitations for foreclosure action; whether discontinuance of prior foreclosure action constituted an affirmative act by defendant to revoke acceleration.

VASQUEZ (LUIS), PEOPLE v:

Crimes--Fitness to Proceed to Trial--Whether Supreme Court erred in dispensing with a previously granted CPL article 730 exam; Crimes--Harmless and Prejudicial Error--Whether Supreme Court erred in denying defense counsel's request to speak to defense witness, who was incarcerated, before he was called to the stand; whether prosecutor's improper cross-examination of a defense witness about prior crimes deprived defendant of a fair trial.

VERNEAU, MATTER OF v CONSOLIDATED EDISON CO. OF NEW YORK, INC., et al.:

Workers' Compensation--Reopened cases--Workers' Compensation Law 25-a(1-a).

VIVIANI (MARINA Y.), PEOPLE v:

District and Prosecuting Attorneys--Special Prosecutor--Whether Executive Law § 522 allows special prosecutor to prosecute individuals accused of crimes against vulnerable persons where the special prosecutor obtains the knowing, written consent of a district attorney to do so and the district attorney retains ultimate responsibility for the prosecution; constitutionality of Executive Law § 522.

WELLS FARGO BANK, N.A., etc. v FERRATO:

Mortgages--Foreclosure--Whether plaintiff failed to affirmatively revoke acceleration of mortgage debt, where plaintiff voluntarily discontinued foreclosure action.

WESTCHESTER FIRE INSURANCE CO. v SCHORSCH et al.:

Insurance--Directors and Officers Liability Policy--Whether a directors and officers liability policy's bankruptcy exception, which allows claims asserted by the "bankruptcy trustee" or "comparative authority," applies to claims raised by a creditor trust, as a post-confirmation litigation trust, to restore coverage removed by the insured versus insured exclusion.

WEST 58TH STREET COALITION, INC. et al., MATTER OF v CITY OF NEW YORK, et al.:

Municipal Corporations--Unsafe Buildings--Whether respondents rationally determined that the building was a class A multiple dwelling "apartment hotel" and properly classified in the "R-2" occupancy group under the current New York City Building Code (Administrative Code of City of NY, title 28, ch 7, § BC 310.1.2); whether competing evidence raises a question of fact necessitating a hearing on the issue of whether the building's use is consistent with general safety and public welfare.

WHITE, et al. v CUOMO &c., et al.:

Constitutional Law--State Constitutional Law--Whether article 14 of the Racing Pari-Mutuel and Breeding Law violates article I, section 9 of the New York State Constitution.

WILKINS (WILLIAM A.), PEOPLE v:

Crimes--Right to be Present at Trial--Whether the absence of defendant from two sidebar conferences with prospective jurors requires reversal; Crimes--Harmless and Prejudicial

Error--Whether the trial court's delivery of an instruction, without a request for such an instruction from defendant, that it was to draw no adverse inference from defendant's failure to testify was reversible error; Whether reversal is required because the court sua sponte explained to the jury that the third person at defendant's table was a deputy and referred to defendant's custodial status.

WILLIAMS (DON), PEOPLE v:

Crimes--Instructions--Whether the trial court erred when, in response to a jury note, it projected a portion of the court's final instructions on a screen in view of the jury and simultaneously reread that portion of the charge to the jury; Crimes--Fair Trial--Whether defendant was deprived of a fair trial by a remark made by the court and comments of the prosecutor on summation and during cross-examination; Crimes--Jurors--Whether the trial court erred in denying defendant's for cause challenge of a prospective juror.

WORTHAM (TYRONE), PEOPLE v:

Crimes--Confession--Statement Made in Response to Pedigree Question--Whether admissions made in response to routine booking questions asked during the execution of a search warrant that are not designed to elicit an incriminating response are admissible under the pedigree exception to the requirements of Miranda v Arizona (384 US 436), even if the answer is reasonably likely to be incriminating; Crimes--Evidence--DNA Identification Tests--Whether defendant was entitled to a hearing pursuant to Frye v United States (293 F 1013 [DC Cir 1923]) to determine the reliability of forensic statistical tool DNA evidence.

YOUNGJOHN, MATTER OF THE ESTATE v BERRY PLASTICS CORPORATION et al.:

Workers' Compensation--Award--Whether 2009 amendments to Workers' Compensation Law authorizing full payment of Schedule Loss Use (SLU) awards in one lump sum at the request of the injured employee altered rule that where injured employee dies without leaving a surviving spouse, child under 18 years old, or dependent, only that portion of claimant's SLU award that had accrued at the time of death is payable to claimant's estate, along with reasonable funeral expenses.

ZERVOS v TRUMP:

Constitutional Law--Supremacy Clause--Whether the Supremacy Clause (U.S. Constitution, article VI, cl 2) provides blanket immunity to the President of the United States from having to defend against a civil damages action brought in state court; plaintiff commenced defamation action alleging that when defendant was a presidential candidate, he wrongly smeared plaintiff by claiming that her allegations of sexual misconduct against him were lies.