JUNE 2015

NEW FILINGS DIGEST - CUMULATIVE 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.

ABRAHAM, &c. v CHELSEA PIERS MANAGEMENT, INC.:
NEGLIGENCE - FORESEEABILITY - TRESPASSER DROWNING AT PIER - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING DEFENDANT SUMMARY JUDGMENT DISMISSING THE COMPLAINT UPON THE GROUND THAT DECEDENT'S ACTIONS IN TRESPASSING ONTO A CLOSED PIER BY SCALING A LOCKED GATE WHILE INTOXICATED WERE NOT FORESEEABLE;

ADLER v QPI-VIII,LLC:
NEGLIGENCE - MAINTENANCE OF PREMISES - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE ALLEGED DEFECT OF STEP WAS TRIVIAL AS A MATTER OF LAW AND DID NOT POSSESS THE CHARACTERISTICS OF A TRAP OR NUISANCE - DEFENDANTS' ENTITLEMENT TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT;

AETNA HEALTH PLANS, &c. v HANOVER INSURANCE COMPANY:
INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - WHETHER A HEALTH CARE INSURER THAT PAID FOR THE MEDICAL TREATMENT OF AN INDIVIDUAL HURT IN A CAR ACCIDENT WHILE DRIVING A CAR COVERED BY NO-FAULT AUTOMOBILE INSURANCE MAY MAINTAIN A REIMBURSEMENT CLAIM AGAINST THE NO-FAULT INSURANCE CARRIER UNDER PRINCIPLES OF SUBROGATION - 11 NYCRR 65-3.11(a); NECESSITY FOR PRIVITY OF CONTRACT; WHETHER THE COMPLAINT SHOULD HAVE BEEN DISMISSED FOR LACK OF STANDING - ESTOPPEL - UNTIMELY DISCLAIMER;

AFILAL (ABDELOUHAD), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - WHETHER THE RECORD ESTABLISHED THAT DEFENDANT KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVED HIS BOYKIN RIGHTS WHERE DEFENDANT STATED, AMONG OTHER THINGS, THAT HE UNDERSTOOD HE WAS WAIVING HIS RIGHT TO A TRIAL AND HAD A CHANCE TO FULLY DISCUSS THE PLEA AND ITS CONSEQUENCES WITH COUNSEL; CRIMINAL POSSESSION OF MARIHUANA IN THE FIFTH DEGREE - SUFFICIENCY OF FACTUAL ALLEGATIONS IN ACCUSATORY INSTRUMENT;

AMBERS (NUGENE), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED THE RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS COUNSEL FAILED TO RAISE A STATUTE OF LIMITATIONS DEFENSE AS TO CERTAIN COUNTS, OBJECT TO CERTAIN STATEMENTS BY THE PROSECUTOR, MOVE FOR A MISTRIAL OR REQUEST CURATIVE INSTRUCTIONS;

AMBAC ASSURANCE CORP., et al. v COUNTRYWIDE HOME LOANS, INC.:
DISCLOSURE - MATERIAL EXEMPT FROM DISCLOSURE - COMMUNICATIONS SUBJECT TO ATTORNEY-CLIENT PRIVILEGE - WAIVER OF PRIVILEGE AS TO COMMUNICATIONS MADE BETWEEN ATTORNEY AND CLIENT IN KNOWN PRESENCE OF THIRD PARTY - COMMON-INTEREST EXCEPTION - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE COMMON-INTEREST EXCEPTION APPLIES EVEN WHERE THE PARTIES' COMMON LEGAL INTEREST DOES NOT INVOLVE PENDING OR REASONABLY ANTICIPATED LITIGATION - APPLICATION TO COMMUNICATIONS RELATING TO PENDING MERGER;

MATTER OF ANONYMOUS, FOR ADMISSION AS AN ATTORNEY AND COUNSELOR-AT-LAW:
ATTORNEY AND CLIENT - ADMISSION TO PRACTICE - CONVICTED FELON - WHETHER THE APPELLATE DIVISION ERRED IN DENYING PETITIONER'S THIRD APPLICATION FOR ADMISSION TO THE BAR;

AOKI, MATTER OF v AOKI:
POWERS - POWER OF APPOINTMENT - VALIDITY OF IRREVOCABLE PARTIAL RELEASE - CONSTRUCTIVE FRAUD - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT (1) THE BURDEN-SHIFTING FRAMEWORK FOR CONSTRUCTIVE FRAUD BY A FIDUCIARY APPLIES ONLY WHERE THE FIDUCIARY WAS A PARTY TO OR HAD AN INTEREST IN THE SUBJECT TRANSACTION AND (2) THE CONSTRUCTIVE FRAUD DOCTRINE DID NOT APPLY BECAUSE DECEDENT'S ATTORNEYS WERE NOT PARTIES TO NOR HAD AN INTEREST IN THE RELEASES AT ISSUE, WHERE THE ATTORNEYS ALLEGEDLY BENEFITTED INDIRECTLY FROM THE SIGNING OF THE RELEASES;

ARAGON (ANTONIO), PEOPLE v:
CRIMES - ACCUSATORY INSTRUMENT - FACIAL SUFFICIENCY - POSSESSION OF WEAPON - BRASS METAL KNUCKLES - WHETHER THE ACCUSATORY INSTRUMENT WAS FACIALLY SUFFICIENT WHERE IT ALLEGED THAT POLICE RECOVERED FROM DEFENDANT "ONE SET OF BRASS METAL KNUCKLES";

BADALAMENTI (ANTHONY), PEOPLE v:
CRIMES - EVIDENCE - RECORDING OF TELEPHONE CONVERSATION WITHOUT CONSENT OF EITHER PARTY - WHETHER THE APPELLATE DIVISION CORRECTLY RECOGNIZED A "VICARIOUS CONSENT" EXEMPTION TO PENAL LAW § 250.05 WHERE A CHILD'S PARENT RECORDS A CONVERSATION BETWEEN THE CHILD AND A THIRD PARTY, UPON A SHOWING THAT THE PARENT HAD A GOOD FAITH, OBJECTIVELY REASONABLE BASIS TO BELIEVE THE RECORDING WAS NECESSARY FOR THE WELFARE OF THE CHILD; JURY CHARGE - VARIANCE BETWEEN JURY CHARGE AND ALLEGATIONS IN INDICTMENT - HARMLESS ERROR; ARGUMENT AND CONDUCT OF COUNSEL - WHETHER PROSECUTOR'S QUESTIONS, COMMENTS AND ARGUMENTS DEPRIVED DEFENDANT OF A FAIR TRIAL; EVIDENCE - CHALLENGE TO ADMISSION OF TESTIMONY OF CHILD'S TEACHER; SENTENCE - ALLEGED IMPOSITION OF SENTENCE OF IMPRISONMENT AS RETRIBUTION FOR DEFENDANT'S DECISION TO PROCEED TO TRIAL;

BARDEN (SCOTT), PEOPLE v:
CRIMES - POSSESSION OF STOLEN PROPERTY - INTANGIBLES - CREDIT CARD NUMBERS - WHETHER A PERSON MAY BE CONVICTED FOR CRIMINAL POSSESSION OF STOLEN PROPERTY IN THE FOURTH DEGREE FOR USING A CREDIT CARD NUMBER TO MAKE UNAUTHORIZED CHARGES WHERE THE RIGHTFUL OWNER RETAINS PHYSICAL POSSESSION OF THE CREDIT CARD (PENAL LAW § 165.45[2]) - CONSTRUCTIVE POSSESSION OF CREDIT CARD NUMBER; ALLEGED VIOLATION OF DEFENDANT'S STATUTORY SPEEDY TRIAL RIGHTS;

BARKSDALE (ANTHONY), PEOPLE v:
CRIMES - ARREST - PROBABLE CAUSE - WHETHER THE POLICE HAD AN OBJECTIVE CREDIBLE REASON UNDER STEP ONE OF THE DEBOUR INQUIRY TO APPROACH DEFENDANT AND ASK HIM TO EXPLAIN HIS PRESENCE IN THE LOBBY OF AN APARTMENT BASED UPON THE REPUTATION OF THE AREA AND THE FACT THAT THE BUILDING WAS SO PRONE TO TRESPASSING THAT THE LANDLORD HAD EXECUTED A "TRESPASS AFFIDAVIT" REQUESTING POLICE ASSISTANCE IN REMOVING INTRUDERS FROM THE BUILDING;

BARNES (THOMAS), PEOPLE v:
CRIMES - TRESPASSING - WHETHER AN INDIVIDUAL MAY BE PROSECUTED FOR SECOND-DEGREE CRIMINAL TRESPASS IN A PUBLIC HOUSING APARTMENT BUILDING, OR IF SUCH CONDUCT CAN ONLY BE PROSECUTED AS THIRD-DEGREE CRIMINAL TRESPASS; PENAL LAW §§ 140.10(e) AND (f), 140.15(1);

BASILE (CURTIS), PEOPLE v:
CRIMES - CRUELTY TO ANIMALS - MENS REA - WHETHER THE PEOPLE ARE REQUIRED TO PROVE THAT A DEFENDANT HAS A CULPABLE MENTAL STATE TO SUPPORT A CONVICTION FOR FAILING TO PROVIDE AN ANIMAL WITH NECESSARY SUSTENANCE IN VIOLATION OF AGRICULTURE AND MARKETS LAW § 353 - DEFENDANT FINANCIALLY UNABLE TO PROVIDE FOR HIS DOG;

BAXIN (JOSE MARTINEZ), PEOPLE v:
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER THE SORA HEARING COURT COMMITTED REVERSIBLE ERROR BY CONSIDERING GRAND JURY MINUTES THAT WERE NOT DISCLOSED TO DEFENDANT AND OVER DEFENSE COUNSEL'S OBJECTION;

BERRY (ANTHONY), PEOPLE v:
CRIMES - UNLAWFULLY DEALING WITH CHILD - ACTIVITY INVOLVING CONTROLLED SUBSTANCE - WHETHER THE CRIME OF UNLAWFULLY DEALING WITH A CHILD UNDER PENAL LAW § 260.20(1) REQUIRES A DEFENDANT TO HAVE A LEGAL DUTY TO THE CHILD;

BERRY (OLIVER), PEOPLE v a/k/a TUCKER (CHRIS):
CRIMES - WITNESSES - WHETHER WITNESS FOR THE PROSECUTION'S INVOCATION OF THE FIFTH AMENDMENT PRIVILEGE AGAINST SELF-INCRIMINATION ADDED CRITICAL WEIGHT TO THE PROSECUTION'S CASE -

INFERENCES DRAWN BY WITNESS'S SILENCE; WHETHER TRIAL COURT PROPERLY PRECLUDED DEFENDANT'S EXPERT WITNESS FROM TESTIFYING ABOUT THE EFFECTS OF STRESS ON ACCURACY OF IDENTIFICATION;

BILAL (RASHID), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT COUNSEL'S ERROR IN FAILING TO MOVE TO SUPPRESS A WEAPON DEFENDANT DISCARDED WHILE BEING CHASED BY PLAINCLOTHES POLICE DID NOT CAUSE DEFENDANT PREJUDICE BECAUSE DEFENDANT WOULD NOT HAVE PREVAILED ON A SUPPRESSION MOTION BASED UPON THE COURT'S CONCLUSION THAT "THE UNDISPUTED FACTS ESTABLISH THAT, WHEN ADDED TO THE INFORMATION ALREADY KNOWN TO THE POLICE, DEFENDANT'S FLIGHT CREATED REASONABLE SUSPICION WARRANTING PURSUIT" AND "THE SEIZURE WAS LAWFUL, IN ANY EVENT, UNDER THE DOCTRINE OF ABANDONMENT";

BOTTOM, MATTER OF v ANNUCCI, &c.:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER A PRISON DISCIPLINARY DETERMINATION CAN BE BASED UPON A LOCAL FACILITY RULE THAT WAS NOT FILED WITH THE SECRETARY OF STATE;

BRAHNEY (RYAN P.), PEOPLE v:
CRIMES - SENTENCE - CONCURRENT AND CONSECUTIVE TERMS - WHETHER COUNTY COURT ERRED IN DIRECTING THAT THE SENTENCES FOR INTENTIONAL MURDER AND BURGLARY RUN CONSECUTIVELY; MURDER - FAILURE TO PROVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE - EVIDENCE OF DEFENDANT'S VIOLENT HISTORY - WHETHER THE COURTS BELOW ERRED IN CONCLUDING THAT THE FACTS, INCLUDING EXTREME BRUTALITY OF THE CRIME, WERE INSUFFICIENT TO ESTABLISH THE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE; CONFESSIONS - WAIVER OF RIGHT TO HUNTLEY HEARING REGARDING CERTAIN POLICE TESTIMONY - HARMLESS ERROR;

BRANIC INTERNATIONAL REALTY CORP. v PITT:
APPEALS - WHETHER THE APPELLATE DIVISION VIOLATED THE TERMS OF THIS COURT'S REMITTITUR;

BRANSTEN, et al. v STATE OF NEW YORK:
JUDGES - JUDICIAL SALARIES - WHETHER APPLICATION TO PLAINTIFF JUDGES AND JUSTICES OF L. 2011, c. 491, § 2 AND AMENDED CIVIL SERVICE LAW § 167(8) VIOLATES THE COMPENSATION CLAUSE OF THE NEW YORK STATE CONSTITUTION;

BRIDGEFORTH (JOSEPH), PEOPLE v:
CRIMES - JURORS - SELECTION OF JURY - BATSON APPLICATION - FAILURE TO SHOW PROSECUTOR'S MISCONDUCT - WHETHER DEFENDANT MET HIS PRIMA FACIE BURDEN OF ESTABLISHING THAT THE PROSECUTOR EXERCISED PEREMPTORY CHALLENGES TO REMOVE PROSPECTIVE JURORS ON

THE BASIS OF THEIR MEMBERSHIP IN A CONSTITUTIONALLY COGNIZABLE PROTECTED CLASS; RIGHT TO BE PRESENT AT TRIAL - FAILURE TO REBUT PRESUMPTION OF REGULARITY - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO BE PRESENT AT ALL MATERIAL STAGES OF THE TRIAL;

BROWNLEE, MATTER OF v ANNUCCI et al.:
APPEAL - CHALLENGE TO ORDER DISMISSING AS PREMATURE UNDER 22 NYCRR 1000.13(f) PETITIONER'S MOTION FOR AN EXTENSION OF TIME TO PERFECT AN APPEAL FROM A 1/12/15 SUPREME COURT ORDER;

BURTON v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:
TAXATION - NONRESIDENT SHAREHOLDERS - PLAINTIFFS' ELECTION UNDER INTERNAL REVENUE CODE § 338(h)(10) TO TREAT STOCK SALE AS AN ASSET SALE - WHETHER TAX LAW § 632(a)(2), AS AMENDED IN 2010, VIOLATES ARTICLE XVI, § 3 OF THE NEW YORK STATE CONSTITUTION BY TREATING THE GAIN FROM THE SALE OF STOCK SUBJECT TO SUCH AN ELECTION AS NEW YORK SOURCE INCOME TAXABLE IN NEW YORK, RATHER THAN AS NON-TAXABLE INCOME FROM THE SALE OF INTANGIBLE PERSONAL PROPERTY;

CALDAVADO a/k/a CALDERARO(ALMA), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS ENTITLED TO AN EVIDENTIARY HEARING ON HER CPL 440.10 MOTION ASSERTING INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN LIGHT OF GROWING BODY OF MEDICAL EVIDENCE, NOT INTRODUCED AT TRIAL, SUGGESTING THAT "SHAKEN BABY SYNDROME" CAN BE EXPLAINED BY A MEDICAL CONDITION UNRELATED TO PHYSICAL MISTREATMENT OF THE CHILD;

CAPRIO v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE:
STATUTES - RETROACTIVE APPLICATION OF STATUTE - PERSONAL INCOME TAX - WHETHER RETROACTIVE APPLICATION OF 2010 AMENDMENT TO TAX LAW § 632(a)(2) VIOLATES PLAINTIFFS' DUE PROCESS RIGHTS;

CARVER, MATTER OF v STATE OF NEW YORK, et al.:
SOCIAL SERVICES - PUBLIC ASSISTANCE - STATE'S ENTITLEMENT TO REIMBURSEMENT FROM FORMER PUBLIC ASSISTANCE RECIPIENT'S LOTTERY WINNINGS - WORK EXPERIENCE PROGRAM (WEP) PARTICIPANT - WHETHER A PUBLIC ASSISTANCE BENEFICIARY WHO WAS STATUTORILY REQUIRED TO PARTICIPATE IN NEW YORK CITY'S WEP AS A CONDITION OF CONTINUED RECEIPT OF BENEFITS (SOCIAL SERVICES LAW § 336[1][d]), WAS AN "EMPLOYEE" ENTITLED TO THE MINIMUM WAGE PROTECTIONS OF THE FEDERAL FAIR LABOR STANDARDS ACT (29 USC § 201, et seq);

CARVER (LEROY), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - LEGITIMATE REASON FOR FAILURE TO MAKE SUPPRESSION MOTION - FUTILITY OF SUPPRESSION MOTION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL WHEN TRIAL COUNSEL DID NOT MOVE

TO SUPPRESS THE PHYSICAL EVIDENCE; CRIMES - UNLAWFUL SEARCH AND SEIZURE - FAILURE TO FOLLOW POLICE OFFICER'S INSTRUCTIONS FOLLOWING STOP OF VEHICLE - ATTEMPTING TO EXIT VEHICLE FOLLOWING DRIVER'S FLIGHT;

CEDENO (ASSAD), PEOPLE v:
CRIMES - RIGHT OF CONFRONTATION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE ADMISSION INTO EVIDENCE OF A CODEFENDANT'S REDACTED STATEMENT TO POLICE DID NOT VIOLATE THE BRUTON RULE "BECAUSE THE SUBJECT REDACTION WOULD NOT HAVE CAUSED THE JURORS TO REALIZE THAT THE CONFESSION REFERS SPECIFICALLY TO THE DEFENDANT" - PROOF OF OTHER CRIMES - WHETHER THE TRIAL COURT IMPROPERLY ADMITTED PRIOR UNCHARGED CRIME EVIDENCE AGAINST DEFENDANT WITHOUT FIRST EVALUATING ITS RELIABILITY;

CHANKO, &c., et al. v AMERICAN BROADCASTING COMPANIES, INC., et al.:
TORTS - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - EXTREME AND OUTRAGEOUS CONDUCT - WHETHER DEFENDANTS' CONDUCT IN PRODUCING AND TELEVISING A SHOW DEPICTING MEDICAL CARE PROVIDED AT DEFENDANT HOSPITAL, WHICH INCLUDED PIXILATED IMAGE OF PLAINTIFFS' DECEDENT, CONSTITUTED EXTREME AND OUTRAGEOUS CONDUCT SUPPORTING A CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; TORTS - WRONGFUL DISCLOSURE OF CONFIDENTIAL INFORMATION - WHETHER PLAINTIFFS STATED A CLAIM FOR BREACH OF THE DUTY NOT TO DISCLOSE PERSONAL MEDICAL INFORMATION;

CHU-JOI (KARL), PEOPLE v a/k/a CHU-JOY a/k/a CHUJOI:
CRIMES - SENTENCE - MOTION TO SET ASIDE SENTENCE - WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S CPL 440 MOTION WITHOUT A HEARING WHERE THE MOTION TO SET ASIDE THE SENTENCE AS INVALID WAS BASED ON NEW EVIDENCE INDICATING THAT DEFENDANT WAS 15 YEARS OLD AT THE TIME OF THE CRIME;

CISSE, MATTER OF v GRAHAM:
PARENT, CHILD AND FAMILY - CUSTODY - CHANGE OF CUSTODY - FAMILY COURT ORDER MODIFYING PRIOR CUSTODY ORDER TO CHANGE CUSTODY FROM MOTHER TO FATHER; WHETHER FAMILY COURT'S AFFIRMED FINDING THAT A SUFFICIENT CHANGE IN CIRCUMSTANCES OCCURRED WARRANTING MODIFICATION OF ITS PRIOR CUSTODY ORDER IN THE CHILD'S BEST INTERESTS HAS A SUFFICIENT BASIS IN THE RECORD;

CLARKE (NNAMDI), PEOPLE v:
CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE PROSECUTION'S DELAY IN SEEKING THE TESTING OF DNA IS AN EXCEPTIONAL CIRCUMSTANCE EXCLUDABLE FROM SPEEDY TRIAL COMPUTATION UNDER CPL 30.30;

COLUMBIA COUNTY SUPPORT COLLECTION UNIT, &c., MATTER OF v RISLEY:
PARENT, CHILD AND FAMILY - SUPPORT - WILLFUL VIOLATION OF ORDERS OF SUPPORT - REVOCATION OF SUSPENDED SENTENCES OF INCARCERATION

AND IMPOSITION OF CONSECUTIVE TERMS OF INCARCERATION - WHETHER FAMILY COURT ACT § 454(3)(a) PERMITS CONSECUTIVE COMMITMENTS FOR VIOLATIONS OF PRIOR CHILD SUPPORT ORDERS;

CONCEICAO (JOSEPH), PEOPLE v:
CRIMES - PLEA OF GUILTY - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT WAS NOT INFORMED OF THE RIGHTS HE WAS WAIVING PRIOR TO MAKING HIS GUILTY PLEA - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE FOR APPELLATE REVIEW HIS CHALLENGE TO THE GUILTY PLEA;

CONNOLLY (JONATHAN J.), PEOPLE v:
CRIMES - EVIDENCE - RESTITUTION - EVIDENTIARY BASIS FOR AMOUNT - WHETHER THE PROCEDURES USED AT DEFENDANT'S RESTITUTION HEARING COMPORTED WITH PENAL LAW § 60.27 AND CPL 400.30 WHERE COUNTY COURT RELIED ON THE TRANSCRIPT AND EXHIBITS FROM A HEARING PREVIOUSLY CONDUCTED BY A JUDICIAL HEARING OFFICER; WHETHER THE DELAY IN IMPOSING RESTITUTION DIVESTED THE COURT OF JURISDICTION; WHETHER COUNSEL PROVIDED INEFFECTIVE ASSISTANCE;

CORTORREAL, MATTER OF v ANNUCCI, &c.:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - RIGHT TO PRESENT WITNESSES - WHETHER FURTHER INQUIRY INTO THE REASON FOR A REQUESTED INMATE WITNESS'S REFUSAL TO TESTIFY IS REQUIRED WHERE THE REQUESTED INMATE WITNESS SIGNS A FORM INDICATING, WITHOUT FURTHER EXPLANATION, THAT THE WITNESS DOES NOT WISH TO TESTIFY - MATTER OF BARNES v LEFEVRE (69 NY2d 649 [1986]); WHETHER AND TO WHAT EXTENT A HEARING OFFICER MUST INQUIRE INTO THE CIRCUMSTANCES SURROUNDING A REQUESTED INMATE WITNESS'S REFUSAL TO TESTIFY IN A SECOND ADMINISTRATIVE HEARING ON THE GROUND THAT HE HAD NO KNOWLEDGE OF THE MATTER, WHERE THAT WITNESS SIGNED AN AFFIDAVIT STATING HE WAS COERCED BY AN IDENTIFIED PRISON STAFF PERSON NOT TO TESTIFY IN AN EARLIER, ADMINISTRATIVELY-REVERSED PROCEEDING INVOLVING THE SAME DISCIPLINARY CHARGES, AFTER THAT PROCEEDING TERMINATED AND BEFORE THE SECOND PROCEEDING BEGAN;

COUNTY OF CHAUTAUQUA, MATTER OF v SHAH:
PARTIES - CAPACITY TO SUE - PROCEEDING SEEKING REIMBURSEMENT FOR MEDICAID OVERBURDEN EXPENDITURES - WHETHER COUNTIES ARE PERSONS WITHIN THE MEANING OF THE STATE AND FEDERAL CONSTITUTIONS SO THAT THEY MAY RAISE DUE PROCESS CLAIMS AGAINST THE STATE; PETITIONER'S ENTITLEMENT TO RELIEF IN THE NATURE OF MANDAMUS, DIRECTING RESPONDENTS TO SEARCH THEIR RECORDS, LOCATE ALL UNREIMBURSED CLAIMS FOR OVERBURDEN EXPENDITURES MADE BY PETITIONERS AND REIMBURSE PETITIONERS FOR THOSE EXPENDITURES;

COUNTY OF CHEMUNG, MATTER OF v SHAH:
HEALTH - MEDICAID REIMBURSEMENT PAYMENTS - REIMBURSEMENT OF OVERBURDEN EXPENDITURES - WHETHER THE 2012 AMENDMENT TO THE

MEDICAID CAP STATUTE (L 2012, CH 56, PART D, § 61) EXTINGUISHES THE STATE'S OBLIGATION UNDER SOCIAL SERVICES LAW § 368-a(1)(h) TO REIMBURSE THE COUNTY FOR OVERBURDEN EXPENDITURES ACCRUED PRIOR TO JANUARY 1, 2006, BUT NOT SUBMITTED TO THE STATE FOR PAYMENT UNTIL ON OR AFTER THE AMENDMENT'S EFFECTIVE DATE OF APRIL 1, 2012 - NECESSITY FOR IMPOSITION OF SIX-MONTH GRACE PERIOD TO SATISFY DUE PROCESS; MANDAMUS - WHETHER THE COUNTY IS ENTITLED TO MANDAMUS RELIEF DIRECTING THE STATE TO IDENTIFY, CALCULATE AND PAY ALL PRE-2006 OVERBURDEN EXPENDITURES EVEN WITHOUT ANY CLAIMS BEING MADE FOR SUCH EXPENDITURES;

COUNTY OF GENESEE, MATTER OF v SHAH:
PARTIES - CAPACITY TO SUE - PROCEEDING SEEKING REIMBURSEMENT FOR MEDICAID OVERBURDEN EXPENDITURES - WHETHER COUNTIES ARE PERSONS WITHIN THE MEANING OF THE STATE AND FEDERAL CONSTITUTIONS SO THAT THEY MAY RAISE DUE PROCESS CLAIMS AGAINST THE STATE; PETITIONER'S ENTITLEMENT TO RELIEF IN THE NATURE OF MANDAMUS, DIRECTING RESPONDENTS TO SEARCH THEIR RECORDS, LOCATE ALL UNREIMBURSED CLAIMS FOR OVERBURDEN EXPENDITURES MADE BY PETITIONER AND REIMBURSE PETITIONER FOR THOSE EXPENDITURES;

COUNTY OF JEFFERSON, MATTER OF v SHAH:
PARTIES - CAPACITY TO SUE - PROCEEDING SEEKING REIMBURSEMENT FOR MEDICAID OVERBURDEN EXPENDITURES - WHETHER COUNTIES ARE PERSONS WITHIN THE MEANING OF THE STATE AND FEDERAL CONSTITUTIONS SO THAT THEY MAY RAISE DUE PROCESS CLAIMS AGAINST THE STATE; PETITIONER'S ENTITLEMENT TO RELIEF IN THE NATURE OF MANDAMUS, DIRECTING RESPONDENTS TO SEARCH THEIR RECORDS, LOCATE ALL UNREIMBURSED CLAIMS FOR OVERBURDEN EXPENDITURES MADE BY PETITIONERS AND REIMBURSE PETITIONERS FOR THOSE EXPENDITURES;

COUNTY OF ONEIDA, MATTER OF v SHAH:
PARTIES - CAPACITY TO SUE - PROCEEDING SEEKING REIMBURSEMENT FOR MEDICAID OVERBURDEN EXPENDITURES - WHETHER COUNTIES ARE PERSONS WITHIN THE MEANING OF THE STATE AND FEDERAL CONSTITUTIONS SO THAT THEY MAY RAISE DUE PROCESS CLAIMS AGAINST THE STATE; PETITIONER'S ENTITLEMENT TO RELIEF IN THE NATURE OF MANDAMUS, DIRECTING RESPONDENTS TO SEARCH THEIR RECORDS, LOCATE ALL UNREIMBURSED CLAIMS FOR OVERBURDEN EXPENDITURES MADE BY PETITIONER AND REIMBURSE PETITIONER FOR THOSE EXPENDITURES;

COUNTY OF ST. LAWRENCE, MATTER OF v SHAH:
HEALTH - MEDICAID REIMBURSEMENT PAYMENTS - REIMBURSEMENT OF OVERBURDEN EXPENDITURES - WHETHER THE 2012 AMENDMENT TO THE MEDICAID CAP STATUTE (L 2012, CH 56, PART D, § 61) EXTINGUISHES THE STATE'S OBLIGATION UNDER SOCIAL SERVICES LAW § 368-a(1)(h) TO REIMBURSE THE COUNTY FOR OVERBURDEN EXPENDITURES ACCRUED PRIOR TO JANUARY 1, 2006, BUT NOT SUBMITTED TO THE STATE FOR PAYMENT UNTIL ON OR AFTER THE AMENDMENT'S EFFECTIVE DATE OF APRIL 1, 2012 -

NECESSITY FOR IMPOSITION OF SIX-MONTH GRACE PERIOD TO SATISFY DUE PROCESS; MANDAMUS - WHETHER THE COUNTY IS ENTITLED TO MANDAMUS RELIEF DIRECTING THE STATE TO IDENTIFY, CALCULATE AND PAY ALL PRE-2006 OVERBURDEN EXPENDITURES EVEN WITHOUT ANY CLAIMS BEING MADE FOR SUCH EXPENDITURES;

COWARD, MATTER OF v NEW YORK STATE BOARD OF PAROLE:
PAROLE - JUDICIAL REVIEW - DISMISSAL OF CPLR ARTICLE 78 PETITION FOR FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES;

CRP/EXTELL PARCEL I.L.P. v CUOMO, et al.:
INTEREST - ACTIONS IN WHICH RECOVERABLE - DISMISSAL OF UNDERLYING PROCEEDING TO REFORM ALLEGED SCRIVENER'S ERROR IN CONDOMINIUM OFFERING - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT SUPREME COURT EXCEEDED ITS JURISDICTION BY DECIDING A MOTION FOR THE AWARD OF PREJUDGMENT INTEREST BECAUSE THE UNDERLYING REFORMATION ACTION/PROCEEDING HAD BEEN RESOLVED, RESPONDENTS IN THAT ACTION/PROCEEDING SOUGHT RELEASE OF FUNDS IN ESCROW PLUS INTEREST WHILE FUNDS WERE HELD IN ESCROW, AND RESPONDENTS DID NOT SEEK AN AWARD OF STATUTORY INTEREST IN THAT PRIOR ACTION/PROCEEDING;

CUSIMANO v SCHNURR:
ARBITRATION - FEDERAL ARBITRATION ACT (FAA) - AGREEMENTS INVOLVING INTERSTATE COMMERCE - COMMERCIAL REAL ESTATE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE FAA APPLIED TO THE CONTRACTS AT ISSUE BY LOOKING BEYOND THE FOUR CORNERS OF THE AGREEMENTS AND CONSIDERING TRANSACTIONS THAT OCCURRED AFTER THE AGREEMENTS WERE EXECUTED; WAIVER OF RIGHT TO ARBITRATE - WHETHER PLAINTIFFS WAIVED THEIR RIGHT TO ARBITRATION BY FILING AN ACTION IN COURT AND PARTICIPATING IN LITIGATION BEFORE FILING FOR ARBITRATION - LACK OF PREJUDICE TO DEFENDANTS;

DANIEL (SPARKLE), PEOPLE v:
CRIMES - CONFESSION - CUSTODIAL INTERROGATION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT STATEMENTS DEFENDANT MADE FOLLOWING THE ADMINISTRATION OF MIRANDA WARNINGS HAD TO BE SUPPRESSED BECAUSE THEY WERE THE RESULT OF A CONTINUING CUSTODIAL INTERROGATION THAT BEGAN BEFORE THE WARNINGS WERE ADMINISTERED AND CONTINUED WITHOUT A PRONOUNCED BREAK;

DAVIS et al. v SOUTH NASSAU COMMUNITIES HOSPITAL, et al.:
NEGLIGENCE - DUTY - WHETHER DEFENDANTS OWED A DUTY OF CARE TO PLAINTIFF WHO WAS INJURED WHEN THE BUS HE WAS OPERATING WAS STRUCK BY A VEHICLE DRIVEN BY DEFENDANT'S PATIENT AFTER SHE ALLEGEDLY BECAME UNCONSCIOUS AS A RESULT OF NARCOTIC MEDICATIONS ADMINISTERED TO HER AT DEFENDANT HOSPITAL'S EMERGENCY ROOM; PHYSICIANS AND SURGEONS;

DENSON (RAYMOND), PEOPLE v:
CRIMES - KIDNAPPING - ATTEMPT - RESTRAINT OF CHILD LESS THAN 16 YEARS OLD - WHETHER THE EVIDENCE WAS LEGALLY SUFFICIENT TO ESTABLISH THAT DEFENDANT COMMITTED ATTEMPTED KIDNAPPING IN THE SECOND DEGREE; PROOF OF PRIOR CONVICTIONS - WHETHER THE TRIAL COURT PROPERLY EXERCISED ITS DISCRETION IN PERMITTING TESTIMONY REGARDING DEFENDANT'S PRIOR CONVICTION OF SEX CRIME COMMITTED AGAINST A CHILD OVER TWENTY YEARS AGO, AND THE FACTS UNDERLYING THAT CONVICTION, ON THE ISSUE OF DEFENDANT'S INTENT; WHETHER THE ATTEMPTED KIDNAPPING CHARGE SHOULD HAVE BEEN DISMISSED UNDER THE MERGER DOCTRINE; CONFESSION - WHETHER DEFENDANT'S STATEMENTS TO POLICE WERE ADMISSIBLE AS NONCUSTODIAL STATEMENTS AND POST-MIRANDA STATEMENTS; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN ALLOWING THE DEFENSE EXPERT TO TESTIFY UNDER THE PREMISE THAT DEFENDANT WAS A PEDOPHILE AND IN FAILING TO OBJECT WHEN THE PROSECUTION'S EXPERT BASED HER CONCLUSIONS ON THAT PREMISE;

DiPIPPO (ANTHONY), PEOPLE v:
CRIMES - EVIDENCE - WHETHER THE TRIAL COURT COMMITTED REVERSIBLE ERROR IN DENYING DEFENDANT'S MOTION TO ADMIT EVIDENCE OF ALLEGED THIRD-PARTY CULPABILITY, CONSISTING OF THE THIRD-PARTY'S ALLEGED DECLARATION AGAINST PENAL INTEREST, WHERE PROOF OF THE THIRD-PARTY'S PRIOR ACTS OF MISCONDUCT ARE PROFFERED UNDER A "REVERSE MOLINEUX" THEORY TO DEMONSTRATE THE RELIABILITY OF SUCH DECLARATION; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL FOR FAILING TO REQUEST THAT (1) THE ALLEGEDLY CULPABLE THIRD PARTY BE GRANTED IMMUNITY UPON INVOKING HIS RIGHT AGAINST SELF-INCRIMINATION AND (2) A PARTICULAR WITNESS BE CHARGED TO THE JURY AS AN ACCOMPLICE IN FACT;

DRYDEN MUTUAL INSURANCE COMPANY v GOESSL:
INSURANCE - DUTY TO DEFEND AND INDEMNIFY - BUSINESS GENERAL LIABILITY POLICY - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT, FOR LIABILITY INSURANCE PURPOSES, DEFENDANT PLUMBER WAS AN INDEPENDENT CONTRACTOR, NOT AN EMPLOYEE, FOR DEFENDANT PLUMBING COMPANY WHEN THE ALLEGED NEGLIGENT ACTS OCCURRED;

DURANT (EVERETT M.), PEOPLE v:
CRIMES - ROBBERY - JURY INSTRUCTIONS - WHETHER COUNTY COURT PROPERLY DENIED DEFENDANT'S REQUEST FOR AN ADVERSE INFERENCE CHARGE REQUESTED BECAUSE THE POLICE, ALTHOUGH CAPABLE OF DOING SO, FAILED TO VIDEOTAPE DEFENDANT'S CONFESSION;

ECHEVARRIA, MATTER OF v WAMBUA, et al.:
PARTIES - STANDING - CHALLENGE TO PUBLIC HOUSING OCCUPANCY WAIVER - WHETHER PETITIONER, AS HEAD OF A FIVE-PERSON HOUSEHOLD LIVING IN A TWO-BEDROOM APARTMENT, LACKED STANDING TO CHALLENGE THE

DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT'S (HPD) WAIVER OF THE SIX-PERSON OCCUPANCY REQUIREMENT FOR A FOUR-BEDROOM APARTMENT IN A MITCHELL-LAMA BUILDING, WHERE THE WAIVER WAS GRANTED TO ANOTHER FIVE-PERSON FAMILY WHO FILED AN APPLICATION FOR THE APARTMENT, PETITIONER HAD NOT SUBMITTED AN APPLICATION, AND HPD LATER DETERMINED THAT IT DID NOT HAVE AUTHORITY TO GRANT SUCH A WAIVER;

EL-DEHDAN v EL-DEHDAN A/K/A REED:
CONTEMPT - CIVIL CONTEMPT - IN A MATRIMONIAL ACTION, WHETHER PLAINTIFF MET HER BURDEN OF PROOF REGARDING DEFENDANT'S VIOLATION OF AN ORDER DIRECTING HIM TO DEPOSIT WITH PLAINTIFF'S ATTORNEY THE PROCEEDS OF A CERTAIN REAL ESTATE TRANSACTION - WHETHER SUPREME COURT IMPROPERLY DREW AN ADVERSE INFERENCE AGAINST DEFENDANT FOR INVOKING HIS CONSTITUTIONAL PRIVILEGE AGAINST SELF-INCRIMINATION - WHETHER WILLFULNESS IS AN ELEMENT OF CIVIL CONTEMPT;

ENTERGY NUCLEAR OPERATION, INC, et al., MATTER OF v NEW YORK DEPARTMENT OF STATE et al.:
ENVIRONMENTAL CONSERVATION - ENVIRONMENTAL QUALITY REVIEW - WHETHER PETITIONER'S LICENSE RENEWAL APPLICATION TO THE NUCLEAR REGULATORY COMMISSION TRIGGERS CONSISTENCY REVIEW UNDER THE COASTAL ZONE MANAGEMENT ACT AND NEW YORK'S COASTAL MANAGEMENT PROGRAM (CMP) - WHETHER CERTAIN GENERATING PLANT UNITS WERE GRANDFATHERED PURSUANT TO THE STATE ENVIRONMENTAL QUALITY REVIEW ACT; WHETHER QUALIFYING FINAL ENVIRONMENTAL IMPACT STATEMENTS WERE PREPARED FOR THE UNITS; WHETHER SUBSEQUENT CHANGES TO UNITS HAVE TRIGGERED A CONSISTENCY REVIEW UNDER THE CMP;

EXETER BUILDING CORP., MATTER OF v TOWN OF NEWBURGH:
MUNICIPAL CORPORATIONS - ZONING - NONCONFORMING USE - COMMON-LAW VESTED RIGHT - WHETHER PROPERTY OWNER ESTABLISHED A VESTED RIGHT UNDER THE COMMON LAW TO DEVELOP PROPERTY UNDER A FORMER ZONING REGULATION BY TAKING VARIOUS ACTIONS IN RELIANCE UPON CONDITIONAL APPROVAL OF A SITE PLAN;

EZZARD v ONE EAST RIVER PLACE REALTY CO., LLC, et al.:
NEGLIGENCE - MAINTENANCE OF PREMISES - MISLEVELING OF ELEVATORS - RES IPSA LOQUITOR - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT GENUINE ISSUES OF MATERIAL FACT EXIST AS TO WHETHER THE BUILDING'S ELEVATOR WAS MISLEVELED OR PLAINTIFF MERELY STUMBLED, PRECLUDING SUMMARY JUDGMENT FOR DEFENDANT ELEVATOR SERVICE MAINTENANCE COMPANY ON PLAINTIFF'S CLAIM BASED ON RES IPSA LOQUITOR;

FINERTY v ABEX CORPORATION:
PRODUCTS LIABILITY - EXPOSURE TO TOXIC SUBSTANCES - ASBESTOS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT FORD MOTOR

COMPANY IS SUBJECT TO LIABILITY FOR INJURIES RESULTING FROM ASBESTOS-CONTAINING AUTO PARTS MANUFACTURED AND DISTRIBUTED IN IRELAND BY ITS WHOLLY OWNED SUBSIDIARY, UPON THE GROUND THAT FORD MOTOR COMPANY "ACTED AS THE GLOBAL GUARDIAN OF THE FORD BRAND, HAVING A SUBSTANTIAL ROLE IN THE DESIGN, DEVELOPMENT, AND USE OF THE AUTO PARTS DISTRIBUTED" BY ITS SUBSIDIARY, "WITH THE APPARENT GOAL OF THE COMPLETE STANDARDIZATION OF ALL PRODUCTS WORLDWIDE THAT CARRIED THE SIGNATURE FORD LOGO";

MATTER OF FIZZINOGLIA, DECEASED:
WILLS - ELECTIVE SHARE OF SURVIVING SPOUSE - WHETHER A PRENUPTIAL AGREEMENT DISQUALIFIED SURVIVING SPOUSE AS A DISTRIBUTEE OF DECEDENT'S ESTATE - WHETHER THE PRENUPTIAL AGREEMENT WAS INVALID AND UNENFORCEABLE ON THE GROUNDS THAT AN ESSENTIAL TERM WAS OMITTED FROM THE AGREEMENT AND THE AGREEMENT WAS UNCONSCIONABLE OR PROCURED THROUGH FRAUD, DURESS, OVERREACHING OR OTHER INEQUITABLE CONDUCT;

FLOWERS (IMMANUEL), PEOPLE v:
CRIMES - SENTENCE - RESENTENCE - DUE PROCESS CLAUSE OF STATE CONSTITUTION - WHETHER THE PEOPLE v VAN PELT (76 NY2d 156 [1990]) "PRESUMPTION OF INSTITUTIONAL VINDICTIVENESS" APPLIES WHERE THE TRIAL COURT, WHICH IMPROPERLY CONSIDERED DURING THE ORIGINAL SENTENCING A CRIME THAT WAS DISMISSED AT TRIAL FOR LACK OF LEGALLY SUFFICIENT EVIDENCE, IMPOSES AN IDENTICAL SENTENCE UPON REMITTITUR FROM THE APPELLATE DIVISION FOR RESETENCING; CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - NO DUTY TO MAKE FUTILE ARGUMENT - WHETHER DEFENSE COUNSEL'S FAILURE TO REGISTER AN OBJECTION TO THE TRIAL COURT'S IMPOSITION OF A RESENTENCE IDENTICAL TO THE ORIGINAL SENTENCE CONSTITUTED INEFFECTIVE ASSISTANCE OF COUNSEL;

FRANKLINE (LENNIE), PEOPLE v:
CRIMES - PROOF OF OTHER CRIMES - EVIDENCE OF PRIOR ASSAULT ON VICTIM ADMITTED AS BACKGROUND EVIDENCE TO COMPLETE NARRATIVE AND PROBATIVE OF MOTIVE - WHETHER VICTIM'S DETAILED NARRATIVE ACCOUNT OF PRIOR ASSAULT WAS SO PREJUDICIAL AND INFLAMMATORY THAT IT DEPRIVED DEFENDANT OF A FAIR TRIAL;

FRIENDS OF THAYER LAKE LLC v BROWN:
NAVIGABLE WATERS - PUBLIC RIGHT OF USE - NAVIGABILITY - CAPACITY FOR TRANSPORT - SUMMARY JUDGMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE MUD POND WATERWAY IS NAVIGABLE-IN-FACT;

WALLY G., &c. v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION:
MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - LATE NOTICE - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT MEDICAL RECORDS DID NOT PUT HOSPITAL ON NOTICE OF ALLEGED MEDICAL MALPRACTICE BECAUSE INFANT'S CONDITION WAS CONSISTENT WITH PREMATURE BIRTH RATHER THAN MALPRACTICE;

GARY (ALFRED), PEOPLE v:
CRIMES - CONSPIRACY - DEFENDANT CLAIMS HEARSAY EVIDENCE MISTAKENLY STIPULATED INTO EVIDENCE WITH LARGE NUMBER OF DOCUMENTS SHOULD NOT HAVE BEEN ADMITTED INTO EVIDENCE - SUFFICIENCY OF EVIDENCE TO SUPPORT CONSPIRACY CHARGE; CLAIMED REPUGNANCY OF VERDICT DUE TO ACQUITTALS ON OTHER CHARGES BASED ON THE SAME FACTS UNDERLYING SCHEME TO DEFRAUD;

GENTIL, MATTER OF v MARGULIS, et al.:
PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CPLR ARTICLE 78 PROCEEDING TO PROHIBIT RESPONDENTS FROM RETRYING PETITIONER ON TWO COUNTS OF THE INDICTMENT IN PEOPLE v GENTIL ON THE GROUND THAT TO DO SO WOULD SUBJECT HIM TO DOUBLE JEOPARDY - TRIAL COURT DECLINED TO ACCEPT A PARTIAL VERDICT - DISCHARGE OF JUROR - MISTRIAL;

GOLO (ALLY), PEOPLE v:
CRIMES - SENTENCE - DRUG LAW REFORM ACT OF 2009 - RESENTENCING DENIED BASED ON SUBSTANTIAL JUSTICE - WHETHER TRIAL COURT HAS AUTHORITY TO DENY A MOTION FOR RESENTENCING WITHOUT HOLDING A HEARING;

GOVERNMENT EMPLOYEES INSURANCE CO., et al. v AVANGUARD MEDICAL GROUP:
INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - NECESSARY EXPENSES - FACILITY FEE FOR OFFICE-BASED SURGERY - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT INSURANCE LAW § 5102 AND 11 NYCRR 68.5 DO NOT REQUIRE INSURERS TO PAY FACILITY FEES TO OFFICE-BASED SURGERY PRACTICES;

GRAY (ROY), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO MOVE TO REOPEN SUPPRESSION HEARING AFTER TRIAL TESTIMONY ESTABLISHED THAT DEFENDANT HAD "A STRONGER ARGUMENT THAT HIS WRITTEN STATEMENT WAS NOT ATTENUATED" THAN THE APPELLATE DIVISION BELIEVED WHEN IT PREVIOUSLY REVERSED THE TRIAL COURT'S GRANT OF DEFENDANT'S MOTION TO SUPPRESS THAT STATEMENT; EVIDENCE - AMMUNITION OF TYPE CAPABLE OF BEING USED IN HOMICIDE - WHETHER DEFENDANT WAS PREJUDICED BY THE ADMISSION INTO EVIDENCE OF LIVE AMMUNITION FOUND WHEN HIS HALF-BROTHER WAS ARRESTED;

GREATER JAMAICA DEVELOPMENT CORP., et al. MATTER OF v NEW YORK CITY TAX COMMISSION, et al.:
TAXATION - EXEMPTIONS - PARKING FACILITIES OWNED AND OPERATED BY A CHARITABLE NOT-FOR-PROFIT CORPORATION WITH A MISSION TO PROMOTE BUSINESS DEVELOPMENT IN A SPECIFIC AREA - WHETHER THE APPELLATE DIVISION CORRECTLY RULED THAT THE PUBLIC PARKING FACILITIES WERE ENTITLED TO A TAX EXEMPTION UNDER RPTL 420-a;

GRIGGS (PERRY C.), PEOPLE v:
CRIMES - ROBBERY - FORCIBLE STEALING - WHETHER LEGALLY SUFFICIENT EVIDENCE EXISTED TO ESTABLISH THAT DEFENDANT FORCIBLY STOLE PROPERTY FROM THE VICTIM WHILE USING A GUN; WHETHER DEFENDANT'S SENTENCE WAS PROPERLY THE SUBJECT OF A SENTENCING ENHANCEMENT PURSUANT TO PENAL LAW § 60.07; GRAND JURY - DEFECTIVE PROCEEDING - SHACKLED DEFENDANT - PROSECUTORIAL MISCONDUCT - WHETHER DEFENDANT'S APPEARANCE BEFORE THE GRAND JURY IN SHACKLES, THE PROSECUTOR'S CROSS-EXAMINATION OF DEFENDANT, OR THE PROSECUTOR'S FAILURE TO INFORM THE GRAND JURY OF A DEFENSE REQUEST TO HAVE ANOTHER WITNESS TESTIFY RENDERED THE PROCEEDING DEFECTIVE AND WARRANTED DISMISSAL OF THE INDICTMENT;

GROSS (GORDON), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO OBJECT TO THE PROSECUTION'S PRESENTATION OF AND REFERENCE TO TESTIMONY OF CERTAIN NON-EXPERT WITNESSES ON THE GROUND THAT SUCH TESTIMONY BOLSTERED THE TESTIMONY OF THE VICTIM OF A CHILD SEX CRIME - WHETHER THE APPELLATE DIVISION CORRECTLY RULED THAT THE TESTIMONY DID NOT CONSTITUTE IMPROPER BOLSTERING BECAUSE IT WAS NOT ADMITTED FOR ITS TRUTH, AND THAT COUNSEL'S FAILURE TO OBJECT TO THAT TESTIMONY THEREFORE DID NOT CONSTITUTE INEFFECTIVE ASSISTANCE - WHETHER DEFENSE COUNSEL WAS INEFFECTIVE FOR FAILING TO CONSULT WITH OR PRESENT TESTIMONY FROM A MEDICAL EXPERT ON DEFENDANT'S BEHALF;

GUERIN (ZACHARY T.), PEOPLE v:
CRIMES - TRESPASSING - DEFENDANT TICKETED FOR WALKING ON POSTED LAND - DEFENDANT CHALLENGED TICKET ON GROUNDS THAT SIGNS POSTED WHERE HE WAS WALKING DID NOT COMPLY WITH ENVIRONMENTAL CONSERVATION LAW § 11-2111(2)'S REQUIREMENT THAT THE SIGN STATE THE NAME AND ADDRESS OF THE LAWFUL OWNERS OF THE LAND;

HARDY (PETTIS), PEOPLE v:
CRIMES - INSTRUCTIONS - WHETHER THE TRIAL COURT PROPERLY DECLINED TO GIVE THE JURY A CIRCUMSTANTIAL EVIDENCE CHARGE ON THE BASIS THAT THERE WAS BOTH DIRECT AND CIRCUMSTANTIAL EVIDENCE OF DEFENDANT'S GUILT; TRIAL - MISTRIAL - DENIAL OF MISTRIAL MOTIONS - WHETHER THE TRIAL COURT ERRED IN GIVING SUPPLEMENTAL CHARGES TO ENCOURAGE THE JURY TO REACH A VERDICT IN RESPONSE TO TWO NOTES FROM THE JURY INDICATING DEADLOCK, WHERE THE TRIAL WAS RELATIVELY UNCOMPLICATED AND THE JURY DELIBERATIONS WERE LENGTHY; EVIDENCE - WHETHER THE TRIAL COURT IMPROPERLY ADMITTED TESTIMONY OF TWO PROSECUTION WITNESSES NARRATING SURVEILLANCE VIDEOTAPES;

HARRIS (DAVON), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL WHEN HIS TRIAL ATTORNEY FAILED TO RAISE A STATUTE OF LIMITATIONS DEFENSE THAT

WOULD HAVE BARRED PROSECUTION ON ONE OF THE TWO INDICTED CRIMES; SUFFICIENCY OF EVIDENCE OF DEFENDANT'S INTENT TO STEAL PROPERTY WHEN HE ENTERED THE DWELLING; FAILURE OF TRIAL COURT TO GRANT DEFENDANT'S FOR-CAUSE CHALLENGE TO A JUROR; CLAIMED DUE PROCESS VIOLATIONS;

HARRIS (DUPREE), PEOPLE v:
CRIMES - PROOF OF OTHER CRIMES - IN CASE WHERE DEFENDANT WAS CHARGED WITH BRIBING AND TAMPERING WITH THREE WITNESSES TO A HOMICIDE, WHETHER THE TRIAL COURT ERRED IN ADMITTING EVIDENCE THAT A DIFFERENT WITNESS TO THE HOMICIDE WAS MURDERED SHORTLY BEFORE THE HOMICIDE TRIAL AND THAT DEFENDANT HAD SOUGHT TO CONTACT HIM;

HARRISON (ANDRE), 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;

HATTON (FRANKIE), PEOPLE v:
CRIMES - PLEA OF GUILTY - FORFEITURE OF RIGHT TO RAISE ISSUES ON APPEAL - JURISDICTIONAL SUFFICIENCY OF ACCUSATORY INSTRUMENT - WHETHER DEFENDANT WAIVED HIS RIGHT TO PROSECUTION BY INFORMATION BY A BLANKET WAIVER OF THE READING OF THAT RIGHT MADE BY HIS ATTORNEY IN THE CONTEXT OF AN UNRELATED CASE OUTSIDE OF DEFENDANT'S PRESENCE OR BY SUBSEQUENTLY PLEADING GUILTY; CRIMES - INFORMATION - INSUFFICIENT INFORMATION CHARGING FORCIBLE TOUCHING - WHETHER THE ACCUSATORY INSTRUMENT CONTAINED SUFFICIENT FACTUAL - ALLEGATIONS RELATED TO THE "PURPOSE" ELEMENT OF FORCIBLE TOUCHING;

HAWKINS, MATTER OF v BERLIN &c., et al.:
SOCIAL SERVICES - PUBLIC ASSISTANCE - WHETHER PETITIONER IS ENTITLED TO DISTRIBUTION OF CHILD SUPPORT ARREARS COLLECTED BY RESPONDENTS TO REIMBURSE PUBLIC ASSISTANCE PROVIDED BY PETITIONER'S HOUSEHOLD DURING A PERIOD WHEN THE CHILD SUPPORT BENEFICIARY WAS NOT PART OF THE HOUSEHOLD; SOCIAL SERVICES LAW § 158(5); WHETHER RESPONDENTS' DETERMINATIONS WERE ARBITRARY AND CAPRICIOUS;

HENDERSON (STEVEN), PEOPLE v:
CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - RIGHT TO SPEEDY TRIAL; CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER THE PROSECUTION'S DELAY IN SEEKING THE TESTING OF DNA IS AN EXCEPTIONAL CIRCUMSTANCE EXCLUDABLE FROM SPEEDY TRIAL COMPUTATION UNDER CPL 30.30;

HENDERSON (WAYNE), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - SINGLE ERROR STANDARD - WHETHER TRIAL COUNSEL'S CLAIMED DEFICIENT PREPARATION OF AN EXPERT WITNESS DEPRIVED DEFENDANT OF MEANINGFUL REPRESENTATION;

HENRY, MATTER OF v FISCHER:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - WHETHER PETITIONER'S CHALLENGES TO ALLEGED VIOLATIONS OF HIS RIGHTS TO PRESENT DOCUMENTARY EVIDENCE AND CALL WITNESSES AT HIS DISCIPLINARY HEARING WERE PRESERVED FOR JUDICIAL REVIEW; WAIVER OF PETITIONER'S RIGHTS TO PRESENT DOCUMENTARY EVIDENCE AND CALL WITNESSES;

HODGE v COUNTY OF WESTCHESTER:
NEGLIGENCE - DISMISSAL OF COMPLAINT AGAINST COUNTY BROUGHT BY INMATE ASSAULTED BY ANOTHER INMATE AT COUNTY JAIL - WHETHER SUPREME COURT CORRECTLY GRANTED COUNTY SUMMARY JUDGMENT DISMISSING THE COMPLAINT;

HOGAN (MARCUS D.), PEOPLE v:
CRIMES - CONTROLLED SUBSTANCES - PRESUMPTION OF KNOWING POSSESSION - WHETHER THE EVIDENCE SUPPORTED THE TRIAL COURT'S APPLICATION OF THE "DRUG FACTORY PRESUMPTION" SET FORTH IN PENAL LAW § 220.25(2); RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT RECEIVED EFFECTIVE ASSISTANCE OF COUNSEL WHERE HIS ATTORNEY FAILED TO DISCUSS HIS RIGHT TO TESTIFY BEFORE THE GRAND JURY AND FAILED TO MAKE A TIMELY MOTION TO DISMISS THE INDICTMENT BASED ON THE PEOPLE'S ALLEGED VIOLATION OF CPL 190.50(5)(a);

HOLLEY (TODD), PEOPLE v:
CRIMES - IDENTIFICATION OF DEFENDANT - PHOTOGRAPHIC ARRAY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE PROCEDURE BY WHICH A WITNESS IDENTIFIED DEFENDANT FROM A SERIES OF PHOTO ARRAYS GENERATED BY THE POLICE PHOTO MANAGER COMPUTER SYSTEM WAS NOT UNDULY SUGGESTIVE AND THAT A DIFFERENT CONCLUSION WAS NOT WARRANTED BECAUSE THE POLICE FAILED TO PRESERVE THE PHOTO ARRAYS VIEWED BY THE WITNESS; LINEUP - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT THE RECORD SUPPORTED THE HEARING COURT'S FINDING THAT THE LINEUP WAS NOT UNDULY SUGGESTIVE;

HOWARD (QUANAPARKER), PEOPLE v:
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) WHETHER THE COURTS BELOW ERRED IN DECLINING TO DEPART FROM THE SERIOUS PHYSICAL INJURY OVERRIDE'S PRESUMPTIVE LEVEL THREE RISK DESIGNATION;

HULL (GLENFORD C.), PEOPLE v:
CRIMES - LESSER INCLUDED OFFENSE - FIRST-DEGREE MANSLAUGHTER AS LESSER INCLUDED OFFENSE OF SECOND-DEGREE MURDER - WHETHER THE EVIDENCE COULD REASONABLY SUPPORT A FINDING THAT DEFENDANT INTENDED TO SERIOUSLY INJURE RATHER THAN KILL THE VICTIM; WHETHER THE VERDICT WAS SUPPORTED BY LEGALLY SUFFICIENT EVIDENCE; WHETHER THE TRIAL COURT CONDUCTED AN INSUFFICIENT INQUIRY INTO ALLEGED JUROR MISCONDUCT; WHETHER THE TRIAL COURT IMPROPERLY PERMITTED THE PEOPLE TO USE A WITNESS'S PRIOR TESTIMONY FOR IMPEACHMENT PURPOSES; WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE A CIRCUMSTANTIAL EVIDENCE CHARGE;

HUTCHINSON v SHERIDAN HILL HOUSE CORP.:
NEGLIGENCE - SIDEWALKS - TRIP AND FALL ON METAL SCREW OR OTHER OBJECT PROTRUDING FROM THE SIDEWALK - SUMMARY JUDGMENT GRANTED TO DEFENDANT BASED UPON TRIVIAL NATURE OF DEFECT, LACK OF NOTICE, AND SPECULATIVE AND CONCLUSORY NATURE OF PLAINTIFF'S EXPERT REPORT;

ISRAEL (DANIEL), PEOPLE v:
CRIMES - EVIDENCE - OTHER UNCHARGED CRIMES - WHETHER THE TRIAL COURT ERRED IN PERMITTING THE PEOPLE TO INTRODUCE REBUTTAL EVIDENCE OF TWO UNCHARGED CRIMES WHERE THE WITNESSES LACKED DIRECT KNOWLEDGE OF PROVOCATION (PEOPLE v SANTARELLI, 49 NY2d 241); WHETHER IN THE CONTEXT OF AN EXTREME EMOTIONAL DISTURBANCE DEFENSE, INCIDENTS OF UNCHARGED VIOLENCE MAY BE ADMISSIBLE EVEN IF THE DEGREE OF VIOLENCE IS NOT COMMENSURATE WITH THE CONDUCT UNDERLYING THE CHARGES;

IZZO (VINCENT), PEOPLE v:
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT - LEVEL II SEX OFFENDER - CHALLENGE TO ASSESSMENT OF 30 POINTS UNDER RISK FACTOR 3 (NUMBER OF VICTIMS) DUE TO THREE OR MORE VICTIMS - CHALLENGE TO ASSESSMENT OF 20 POINTS UNDER RISK FACTOR 7 (RELATIONSHIP BETWEEN OFFENDER AND VICTIM) FOR ENGAGING IN "GROOMING" BEHAVIOR WITH HIS VICTIMS FOR THE PRIMARY PURPOSE OF VICTIMIZATION - DEFENDANT'S ENTITLEMENT TO A DOWNWARD DEPARTURE FROM THE PRESUMPTIVE RISK LEVEL CLASSIFICATION - EFFECT OF COUNTY COURT'S FAILURE TO EXPRESSLY REFERENCE IN ITS OPINION DEFENDANT'S REQUEST FOR A DOWNWARD DEPARTURE;

JF CAPITAL ADVISORS, LLC v THE LIGHTSTONE GROUP, LLC, et al.:
CONTRACTS - QUANTUM MERUIT - STATUTE OF FRAUDS - GENERAL OBLIGATIONS LAW § 5-701(a)(10) - "NEGOTIATING THE PURCHASE ... OF ANY REAL ESTATE ... OR ... BUSINESS OPPORTUNITIES" - ACTION SEEKING COMPENSATION FROM DEFENDANTS FOR FINANCIAL ADVISORY SERVICES PLAINTIFF PROVIDED UNDER AN ALLEGED ORAL CONTRACT IN

CONNECTION WITH DEFENDANTS' ACQUISITION OF CERTAIN HOTELS AND OTHER INVESTMENT OPPORTUNITIES - WHETHER PLAINTIFF'S CLAIMS FOR QUANTUM MERUIT AND UNJUST ENRICHMENT WERE PROPERLY DISMISSED AS BARRED BY THE STATUTE OF FRAUDS;

JIANNARAS v ALFANT, et al.:
ACTIONS - CLASS ACTIONS - SETTLEMENT PURPORTING TO EXTINGUISH RIGHTS OF OUT-OF-STATE CLASS MEMBERS TO LITIGATE DAMAGES CLAIMS WITHOUT ABILITY TO OPT-OUT - WHETHER SUPREME COURT ABUSED ITS DISCRETION IN DENYING A MOTION TO APPROVE A SETTLEMENT OF THE PROPOSED CLASS ACTION BECAUSE IT DID NOT AFFORD NONRESIDENT CLASS MEMBERS THE OPPORTUNITY TO OPT-OUT AND PURSUE INDIVIDUAL CLAIMS FOR DAMAGES - APPLICATION OF MATTER OF COLT INDUS. SHAREHOLDERS LITIG. (77 NY2d 185 [1991]);

JOHN (SEAN), PEOPLE v:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - PLAIN VIEW DOCTRINE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE POLICE VALIDLY SEIZED A BOX MARKED "SMITH AND WESSON" UNDER THE PLAIN VIEW DOCTRINE AND LAWFULLY OPENED THE BOX, WHICH CONTAINED A HANDGUN AND AMMUNITION, BECAUSE SUCH CONTENTS COULD BE INFERRED FROM THE "SMITH AND WESSON" MARKING ON THE OUTSIDE OF THE BOX - WARRRANTLESS ENTRY INTO BASEMENT OF BROWNSTONE - PROBABLE CAUSE TO OBTAIN DNA SAMPLE FROM DEFENDANT; EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ALLOWING EVIDENCE OF DEFENDANT'S ALLEGED ASSAULT ON HIS GIRLFRIEND; ALLEGED PROSECUTORIAL MISCONDUCT IN SUMMATION; ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

JOHNSON (KEITH), PEOPLE v:
CRIMES - HARMLESS AND PREJUDICIAL ERROR - ADMISSION IN EVIDENCE AT JOINT TRIAL OF CODEFENDANT'S STATEMENTS IMPLICATING DEFENDANT - FACIALLY INCRIMINATING STATEMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE CONFESSION OF THE NONTESTIFYING CODEFENDANT INTRODUCED AT THEIR JOINT TRIAL WAS FACIALLY INCRIMINATING SUCH THAT DEFENDANT WAS DEPRIVED OF HIS SIXTH AMENDMENT RIGHT OF CONFRONTATION UNDER BRUTON v UNITED STATES (391 US 123 [1968]); WHETHER THE ALLEGED ERROR WAS HARMLESS;

JOHNSON (MARCELLUS), PEOPLE v:
CRIMES - EVIDENCE - TAPE RECORDINGS - TELEPHONE CALLS MADE BY DEFENDANT FROM CORRECTION FACILITY - WHETHER SUPREME COURT ERRED IN ADMITTING INTO EVIDENCE PORTIONS OF TELEPHONE CALLS MADE BY DEFENDANT FROM RIKERS ISLAND THAT WERE ROUTINELY RECORDED BY THE DEPARTMENT OF CORRECTION;

JONES (ANTHONY), PEOPLE v:
CRIMES - SENTENCE - MANDATORY SURCHARGE - WHETHER THE SENTENCING JUDGE HAS DISCRETION TO GRANT DEFENDANT RELIEF FROM THE MANDATORY SURCHARGE AT THE TIME OF SENTENCING, OR WHETHER DEFENDANT WAS REQUIRED TO SEEK SUCH RELIEF BY MOTION FOR RESENTENCING PURSUANT TO CPL 420.10(5);

JONES, MATTER OF v HICKEY, &c.:
PROCEEDING AGAINST BODY OR OFFICER - WHEN REMEDY AVAILABLE - WHETHER CPLR ARTICLE 78 PROCEEDING BROUGHT TO REVISIT DENIAL OF PRIOR APPLICATION FOR A WRIT OF HABEAS CORPUS SEEKS RELIEF OUTSIDE THE SCOPE OF AN ARTICLE 78 PROCEEDING;

JONES, MATTER OF v HICKEY:
MOTIONS AND ORDERS - APPELLATE DIVISION ORDER DENYING MOTION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS;

JORGENSEN (JENNIFER), PEOPLE v:
CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - DEFENDANT, WHILE PREGNANT, CRASHED INTO ANOTHER CAR - DEFENDANT'S CHILD, BORN IN EMERGENCY C-SECTION, DIED DAYS AFTER THE ACCIDENT - WHETHER EVIDENCE WAS LEGALLY SUFFICIENT TO CONVICT DEFENDANT OF MANSLAUGHTER IN THE SECOND DEGREE CONCERNING THE CHILD; ADMISSION OF EVIDENCE - WHETHER THE TRIAL COURT ERRED IN PERMITTING ADMISSION OF EVIDENCE OF DRUGS TAKEN BY DEFENDANT DURING HER PREGNANCY; CLAIMED INFLAMMATORY COMMENTS BY PROSECUTOR DURING SUMMATION; CLAIMED DUE PROCESS VIOLATIONS;

JOSEPH (JOEL), PEOPLE v:
CRIMES - ARREST - PROBABLE CAUSE - DRUG TRANSACTION - CIRCUMSTANTIAL EVIDENCE OF ONGOING DRUG ACTIVITY - WHETHER THE POLICE HAD PROBABLE CAUSE TO ARREST DEFENDANT WHEN SOME OF THE INFORMATION UPON WHICH THE POLICE RELIED CAME FROM A CONFIDENTIAL INFORMANT SEVERAL MONTHS EARLIER;

JOSEPH (RONEL), PEOPLE v:
CRIMES - BURGLARY - BURGLARY OF A DWELLING - INTRUSION INTO NONRESIDENTIAL PART OF APARTMENT BUILDING - WHETHER, UNDER PEOPLE v McCRAY (23 NY3d 621 [2014]), DEFENDANT WAS PROPERLY CONVICTED OF SECOND-DEGREE BURGLARY, WHICH REQUIRES ENTRY INTO A "DWELLING," BASED ON HIS ENTRY INTO THE BASEMENT OF A STORE ON THE GROUND FLOOR OF A SEVEN-FLOOR APARTMENT BUILDING; WHETHER THE EVIDENCE WAS LEGALLY SUFFICIENT TO ESTABLISH DEFENDANT'S ENTRY WITH THE INTENT TO COMMIT A CRIME;

JURGINS (MARK), PEOPLE v:
CRIMES - SENTENCE - SECOND FELONY OFFENDER - EQUIVALENCY OF FOREIGN FELONY CONVICTION - WHETHER A DEFENDANT CAN RAISE A CHALLENGE TO THE EQUIVALENCY OF A FOREIGN FELONY CONVICTION FOR THE FIRST TIME IN A CPL 440.20 MOTION - EQUIVALENCY OF PRIOR WASHINGTON, D.C. CONVICTION FOR ROBBERY UNDER A STATUTE THAT DEFINES ROBBERY TO INCLUDE "STEALTHY SEIZURE OR SNATCHING";

KENNETH COLE PRODUCTIONS, MATTER OF:
CORPORATIONS - MERGER - "GOING PRIVATE" MERGER - FAIRNESS TO MINORITY SHAREHOLDERS - WHETHER THE ENTIRE FAIRNESS STANDARD

APPLIES TO GOING-PRIVATE MERGERS; BUSINESS JUDGMENT DOCTRINE - PRE-DISCOVERY DISMISSAL - WHETHER THE COURTS BELOW CORRECTLY DISMISSED THE COMPLAINT UNDER THE BUSINESS JUDGMENT RULE;

KENT, MATTER OF v LEFKOWITZ &c., et al.:
CIVIL SERVICE - PUBLIC EMPLOYMENT RELATIONS BOARD (PERB) - IMPROPER PRACTICE CHARGE - WHETHER THE DUTY OF THE STATE RACING AND WAGERING BOARD TO NEGOTIATE WAGES FOR SEASONAL TRACK EMPLOYEES WAS SATISFIED BY THE EXECUTION OF A SIDE LETTER AGREEMENT BETWEEN THE UNION AND THE STATE;

KILLON v PARROTTA:
TRIAL - VERDICT - SETTING VERDICT ASIDE - ASSAULT AND BATTERY - CHALLENGE TO APPELLATE DIVISION ORDER SETTING ASIDE A JURY VERDICT AND ORDERING A NEW TRIAL ON THE GROUND THAT NO FAIR INTERPRETATION OF THE EVIDENCE SUPPORTED THE CONCLUSION THAT DEFENDANT ACTED IN SELF-DEFENSE; COURTS - LAW OF THE CASE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT DID NOT ERR IN REFUSING TO ISSUE A JUSTIFICATION CHARGE AT SECOND TRIAL ON THE GROUND THAT THE APPELLATE DIVISION PREVIOUSLY DETERMINED, BASED ON THE EVIDENCE AT THE FIRST TRIAL, THAT DEFENDANT WAS THE INITIAL AGGRESSOR, WHERE THE EVIDENCE WAS THE SAME AT THE SECOND TRIAL; WHETHER THE TRIAL COURT IN SECOND TRIAL WAS REQUIRED TO GIVE SAME COMPARATIVE FAULT CHARGE IT GAVE DURING FIRST TRIAL; EVIDENCE - WHETHER TESTIMONY THAT DEFENDANT HAD THREATENED TO BEAT HIS EX-WIFE, WHO WAS THEN PLAINTIFF'S FRIEND, WAS ADMISSIBLE TO PROVIDE CONTEXT FOR ASSAULT VICTIM'S "PROVOCATIVE CONDUCT" - NEED FOR CURATIVE INSTRUCTION REGARDING SUCH TESTIMONY;

KIMMEL v STATE OF NEW YORK et al.:
STATE - EQUAL ACCESS TO JUSTICE ACT (EAJA) (CPLR ARTICLE 86) - WHETHER PREVAILING PARTY IN A SEX DISCRIMINATION ACTION FOR MONEY DAMAGES AGAINST THE STATE IS ELIGIBLE TO RECOVER ATTORNEYS' FEES AND EXPENSES UNDER THE EAJA;

KING (URSELINA), PEOPLE v:
CRIMES - JURORS - SELECTION OF JURY - WHETHER THE TRIAL COURT DISCHARGED POTENTIAL JURORS BASED UPON HARDSHIP WITHOUT CONDUCTING A SUFFICIENT INQUIRY - ALLEGED MODE OF PROCEEDINGS ERROR; EVIDENCE - THIRD-PARTY CULPABILITY - WHETHER THE TRIAL COURT PROPERLY PRECLUDED EVIDENCE OF THIRD-PARTY CULPABILITY AS SPECULATIVE, LACKING IN PROBATIVE VALUE, AND CONSTITUTING INADMISSIBLE HEARSAY; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO OBJECT TO ALLEGED PROSECUTORIAL MISCONDUCT DURING SUMMATION;

KNIGHT v STATE OF NEW YORK:
STATE - CLAIM AGAINST STATE - CLAIM THAT STATE FAILED TO RENDER PROPER MEDICAL CARE TO PRISONER CLAIMANT WHEN IT DECIDED HE NO LONGER REQUIRED THE USE OF A CANE AND CONFISCATED IT - PRISONER FELL AND SUSTAINED PERSONAL INJURIES - WHETHER CLAIMANT PROVIDED COMPETENT EVIDENCE TO SUPPORT CLAIM; NEGLIGENCE - EXPERT TESTIMONY;

KORELIS v CONRIV REALTY CORP.:
APPEAL - POOR PERSONS - WHETHER THE APPELLATE DIVISION ERRED IN DENYING PLAINTIFF'S CPLR 5704(a) MOTION FOR POOR PERSON RELIEF;

LARABEE, et al. v GOVERNOR OF STATE OF NEW YORK, et al.:
JUDGES - JUDICIAL SALARIES - SEPARATION OF POWERS - WHETHER PLAINTIFFS DEMONSTRATED THAT THE LEGISLATURE FAILED TO ABIDE BY THIS COURT'S RULING IN MATTER OF MARON v SILVER (14 NY3d 230 [2010]) BY ESTABLISHING A COMMISSION ON JUDICIAL COMPENSATION TO MAKE RECOMMENDATIONS FOR PROSPECTIVE-ONLY SALARY ADJUSTMENTS; WHETHER PLAINTIFF'S ARE ENTITLED TO DAMAGES FOR PAST CONSTITUTIONAL VIOLATIONS;

LEACH (RAYMOND), PEOPLE v:
CRIMES - FITNESS TO PROCEED TO TRIAL - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT THE RECORD BELIED DEFENDANT'S CONTENTION THAT HE WAS MENTALLY INCOMPETENT TO UNDERSTAND THE NATURE OF THE CHARGES AGAINST HIM; ENFORCEMENT OF AGREEMENT - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL WAS VOLUNTARY, KNOWING AND INTELLIGENT; VALIDITY OF DEFENDANT'S GUILTY PLEA TO REDUCED CHARGE OF ATTEMPTED GRAND LARCENY IN THE THIRD DEGREE, WHERE THE PEOPLE "NEITHER FILED A REDUCED INDICTMENT NOR EXERCISED ANY OF THEIR OTHER OPTIONS PURSUANT TO CPL 210.20(6) WITHIN 30 DAYS FOLLOWING THE ENTRY" OF THE COUNTY COURT ORDER REDUCING CHARGE FROM GRAND LARCENY IN THE THIRD DEGREE; CHALLENGE TO SENTENCE AS EXCESSIVE - WHETHER DEFENDANT WAS DEPRIVED OF HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL;

LEWIS, MATTER OF v NEW YORK CITY HEALTH AND HOSPITALS CORPORATION, et al.:
CIVIL RIGHTS - DISCRIMINATION BASED ON DISABILITY - CPLR ARTICLE 78 PROCEEDING TO REVIEW THE DETERMINATION OF RESPONDENT NEW YORK STATE DIVISION OF HUMAN RIGHTS THAT THERE WAS NO PROBABLE CAUSE THAT RESPONDENT NEW YORK HEALTH AND HOSPITALS CORPORATION ENGAGED IN UNLAWFUL DISCRIMINATION PRACTICES AGAINST PETITIONER;

LIN (JIN CHENG), PEOPLE v:
CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN PRECLUDING ADMISSION INTO EVIDENCE OF DEFENDANT'S COMPLAINT OF MISTREATMENT BY POLICE AND A VIDEOTAPE OF DEFENDANT'S INTERVIEW BY AN ASSISTANT DISTRICT ATTORNEY; CONFESSION - VOLUNTARINESS OF

CONFESSION - PRE-ARRAIGNMENT DELAY AND CIRCUMSTANCES SURROUNDING INTERROGATION DURING THAT TIME; DIRECTION TO JURY TO CONTINUE DELIBERATIONS AFTER TRIAL COURT REFUSED TO ACCEPT VERDICT ON GROUNDS OF REPUGNANCY - WHETHER TRIAL COURT ERRED IN REFUSING TO DIRECT THE JURY TO RECONSIDER VERDICT IN ITS ENTIRETY;

LINARES, MATTER OF v EVANS:
PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING CHALLENGING AN 11/8/11 DETERMINATION OF THE BOARD OF PAROLE DENYING PETITIONER'S REQUEST FOR PAROLE RELEASE - WHETHER THE PAROLE BOARD'S FAILURE TO PROMULGATE REGULATIONS PURSUANT TO EXECUTIVE LAW § 259-c(4) PRIOR TO PETITIONER'S PAROLE HEARING MAKES THE BOARD'S DETERMINATION IMPROPER; AGGRIEVEMENT; WHETHER THE BOARD'S DETERMINATION IS SUPPORTED BY THE RECORD; PROPRIETY OF THE BOARD'S SUBMISSION OF DOCUMENTS TO SUPREME COURT FOR IN CAMERA REVIEW;

LITTLETON CONSTRUCTION LTD. v HUBER CONSTRUCTION, INC., et al.:
CONTRACTS - BREACH OF CONTRACT - JOINT VENTURE FOR PUBLIC SCHOOL RENOVATION PROJECTS - CLAIM THAT OPERATING AGREEMENT BETWEEN PARTIES WAS FRAUDULENT - WHETHER MATERIAL ISSUES OF FACT WERE RAISED REGARDING FORGERY OF THE DOCUMENT; SUMMARY JUDGMENT;

LLIBRE (MARCOS), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - COUNSEL'S FAILURE TO INFORM DEFENDANT OF HIS RIGHT TO APPEAL AND TO FILE A NOTICE OF APPEAL - WHETHER THE APPELLATE DIVISION ERRED IN DENYING DEFENDANT'S APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING LEAVE TO FILE A LATE NOTICE OF APPEAL - PEOPLE v SYVILLE (15 NY3d 392 [2010]);

MACK (TERRANCE L.), PEOPLE v:
CRIMES - JURORS - WHETHER COUNTY COURT COMMITTED REVERSIBLE ERROR BY ACCEPTING THE JURY VERDICT WITHOUT FIRST RESPONDING TO THREE NOTES FROM THE JURY;

MANOR (TYRONE D.), PEOPLE v:
CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - PURPORTED INTOXICATION OF DEFENDANT - DEFENDANT ALLEGEDLY COERCED INTO MAKING PLEA BY HIS FAMILY; SUFFICIENCY OF ALLOCUTION - INTENT AND JUSTIFICATION IN HOMICIDE PROSECUTION; WHETHER COUNTY COURT ABUSED ITS DISCRETION IN DENYING DEFENDANT'S MOTION TO WITHDRAW HIS GUILTY PLEA WITHOUT A HEARING; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL AT THE PLEA PROCEEDING;

MARSHALL (KAITY), PEOPLE v:
CRIMES - IDENTIFICATION OF DEFENDANT - TRIAL COURT HELD LIMITED HEARING TO DETERMINE WHETHER THE SINGLE PHOTO IDENTIFICATION

PROCEDURE THAT THE PEOPLE CONDUCTED WITH THE COMPLAINING WITNESS OVER A YEAR AFTER THE INCIDENT WAS PERMISSIBLE AS "TRIAL PREPARATION" - PRE-WADE HEARING PURSUANT TO PEOPLE v HERNER (85 NY2d 877 [1995]); DUE PROCESS;

MARTINEZ (ANTONIO), PEOPLE v:
CRIMES - SENTENCE - IMPOSITION AFTER TRIAL OF MAXIMUM SENTENCE OF IMPRISONMENT WHERE PEOPLE PREVIOUSLY OFFERED A PLEA WITH A PROBATIONARY SENTENCE - CHALLENGE TO SENTENCE FOR UNCONSTITUTIONALLY PENALIZING DEFENDANT FOR EXERCISING HIS RIGHT TO TRIAL;

MAZELLA, &c. v BEALS:
PHYSICIANS AND SURGEONS - MALPRACTICE - WHETHER THE JURY VERDICT SHOULD HAVE BEEN SET ASIDE UPON THE GROUND THAT PLAINTIFF'S PROOF ON PROXIMATE CAUSE WAS LEGALLY INSUFFICIENT; EVIDENCE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT, EVEN IF THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE A CONSENT AGREEMENT IN WHICH DEFENDANT ADMITTED CERTAIN CHARGES BROUGHT AGAINST DEFENDANT BY THE OFFICE OF PROFESSIONAL MEDICAL CONDUCT, SUCH ERROR WAS HARMLESS; TRIAL - VERDICT - WHETHER THE TRIAL COURT'S FAILURE TO SUBMIT A SPECIAL VERDICT SHEET TO THE JURY WAS PREJUDICIAL AND REQUIRES A NEW TRIAL;

McCULLOUGH (JAMELL R.), PEOPLE v:
CRIMES - WITNESSES - EXPERT WITNESS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE TRIAL COURT ABUSED ITS DISCRETION IN PRECLUDING EXPERT TESTIMONY ON THE RELIABILITY OF EYEWITNESS IDENTIFICATIONS - WHETHER THE APPELLATE DIVISION ERRED IN GRANTING A NEW TRIAL RATHER THAN REMITTING FOR A FRYE HEARING;

McCUMMINGS (DAVIEL), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - SUBSTITUTION OF ASSIGNED COUNSEL - WHETHER THE APPELLATE DIVISION CORRECTLY CONCLUDED THAT DEFENDANT WAS ENTITLED TO A NEW TRIAL BECAUSE, WHEN DEFENDANT ASKED TO SPEAK TO THE JUDGE ON THE FOURTH DAY OF TRIAL CONCERNING HIS "ATTORNEY AND ADVICE," THE TRIAL COURT "IMPROPERLY DENIED HIS REQUEST FOR SUBSTITUTION OF COUNSEL WITHOUT CONDUCTING ANY INQUIRY WHATSOEVER, AND WITHOUT PERMITTING DEFENDANT TO EXPLAIN, EITHER ORALLY OR IN WRITING, WHY SUCH AN INQUIRY MIGHT BE NECESSARY";

MENDEZ (EDWIN), PEOPLE v:
CRIMES - JURORS - RESPONSE TO JURY INQUIRIES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT, ALTHOUGH THE RECORD WAS SILENT REGARDING THE TRIAL COURT'S RESPONSES TO THREE JURY NOTES, REVERSAL WAS NOT REQUIRED BECAUSE THE JURY NOTES REQUESTED MATERIALS NOT IN EVIDENCE AND THUS WERE NOT SUBSTANTIVE INQUIRIES REQUIRING COMPLIANCE WITH CPL 310.30 IN ACCORDANCE WITH THE PROCEDURE SET FORTH IN PEOPLE v O'RAMA (78 NY2d 270 [1991]), AND

ONLY NECESSITATED THE MINISTERIAL ACTION OF INFORMING THE JURY THAT NONE OF THE REQUESTED ITEMS WERE IN EVIDENCE - NOTES REQUESTING TRANSCRIPTS OF RECORDED TELEPHONE CONVERSATIONS AND WHETHER THERE WERE ANY 911 CALLS RELATED TO THE INCIDENT; JUSTIFICATION - WHETHER THE TRIAL COURT IMPROPERLY LIMITED DEFENDANT'S EVIDENCE OF COMPLAINANT'S PRIOR VIOLENT ACTS;

MILLENNIUM HOLDINGS, LLC, et al. v THE GLIDDEN COMPANY, &c.:
INSURANCE - SUBROGATION RIGHTS OF INSURER - ANTISUBROGATION RULE - WHETHER THE COURTS BELOW CORRECTLY HELD THAT THE ANTISUBROGATION RULE BARS THE INSURERS FROM RECOVERING CERTAIN PAYMENTS MADE TO THEIR INSURED, MILLENNIUM HOLDINGS LLC, FOR THE DEFENSE AND INDEMNIFICATION OF NONPARTY CLAIMS THAT RESULTED FROM LEAD-BASED PAINT EXPOSURE LITIGATION;

MIRANDA (NELSON), PEOPLE v:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - SEARCH OF BACKPACK INCIDENT TO LAWFUL ARREST - WHETHER THE WARRANTLESS SEARCH INCIDENT TO ARREST WAS REASONABLE; WHETHER THE ACCUSATORY INSTRUMENT WAS JURISDICTIONALLY DEFECTIVE;

MONARCH CONSULTING, INC., et al., MATTER OF v NATIONAL UNION FIRE INSURANCE COMPANY OF PITTSBURGH PA. (AND TWO OTHER PROCEEDINGS):
ARBITRATION - AGREEMENT TO ARBITRATE - WHETHER INSUREDS ARE COMPELLED TO ARBITRATE THEIR DISPUTES WITH THEIR WORKERS' COMPENSATION INSURANCE CARRIER EVEN THOUGH THE CARRIER FAILED TO FILE THE ARBITRATION AGREEMENTS WITH THE CALIFORNIA DEPARTMENT OF INSURANCE AS CALIFORNIA LAW REQUIRES;

MORGAN (PATRICK), PEOPLE v:
CRIMES - INSTRUCTIONS - DEADLOCKED JURY - WHETHER THE TRIAL COURT'S DEADLOCK CHARGE IN RESPONSE TO A DEFECTIVE VERDICT WAS IMPROPERLY COERCIVE; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL;

MORRIS (SHANE), PEOPLE v:
CRIMES - JURORS - NOTICE TO COUNSEL OF SUBSTANTIVE JUROR INQUIRY LETTER - MODE OF PROCEEDINGS ERROR - WITHOUT DEFENSE COUNSEL'S OBJECTION TO THE COURT'S PROCEDURES OR RESPONSES, TRIAL JUDGE READ NOTES FROM JURY FOR THE FIRST TIME IN PRESENCE OF COUNSEL AND DEFENDANT, AND RESPONDED TO JURY WITHOUT INPUT FROM COUNSEL;

NEALON (KENNETH), PEOPLE v:
CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - MEANINGFUL NOTICE OF JURY NOTES - FAILURE TO OBJECT - WHETHER THE TRIAL COURT COMMITTED A MODE OF PROCEEDINGS ERROR WHEN, ACCORDING TO THE ORIGINAL TRIAL RECORD, IT READ THE CONTENTS OF THREE JURY NOTES REQUESTING CHARGE CLARIFICATIONS FOR THE FIRST TIME IN FRONT OF THE JURY AND IMMEDIATELY RESPONDED; IF SO, WHETHER THE APPELLATE DIVISION PROPERLY REFUSED TO CONSIDER THE RESETTLED TRIAL RECORD;

NEGRON (JULIO), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DENIED HIS RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL WHEN HIS TRIAL COUNSEL FAILED TO OBJECT TO THE TRIAL COURT'S IMPROPER USE OF THE "CLEAR LINK" STANDARD FOR THE INTRODUCTION OF THIRD-PARTY CULPABILITY EVIDENCE, AMONG OTHER FAILURES; CRIMES - DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - WHETHER THE PEOPLE COMMITTED PREJUDICIAL BRADY VIOLATIONS BY FAILING TO DISCLOSE THAT DEFENDANT'S NEIGHBOR FLED WITH A CACHE OF WEAPONS THE NIGHT OF THE SHOOTING, WHICH INCLUDED THE SAME CALIBER OF AMMUNITION USED IN THE SHOOTING;

NELSON (JOEL), PEOPLE v:
CRIMES - FAIR TRIAL - PHOTO OF DECEASED VICTIM DEPICTED ON FAMILY MEMBERS' T-SHIRTS DURING TRIAL - WHETHER DEFENDANT WAS DEPRIVED OF A FAIR TRIAL DUE TO THE ALLEGEDLY PREJUDICIAL CONDUCT BY SPECTATORS IN THE COURTROOM; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF TRIAL COUNSEL; WHETHER THE SENTENCING COURT VIOLATED DEFENDANT'S DUE PROCESS RIGHTS;

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (DUMMIT, &c. v A.W. CHESTERTON, et al.):
NEGLIGENCE - PROXIMATE CAUSE - WHETHER DEFENDANT WAS ENTITLED TO JUDGMENT AS A MATTER OF LAW DUE TO PLAINTIFF'S FAILURE TO PRODUCE EVIDENCE THAT DEFENDANT MANUFACTURED OR PLACED INTO THE STREAM OF COMMERCE ANY OF THE ASBESTOS-CONTAINING MATERIALS TO WHICH THE DECEDENT WAS EXPOSED - LIABILITY FOR FAILURE TO WARN OF ASBESTOS DANGER FOR PRODUCTS DEFENDANT DID NOT MANUFACTURE, SELL OR DISTRIBUTE; JOINT AND SEVERAL LIABILITY AND ALLOCATION OF FAULT; JURY INSTRUCTIONS;

IN RE: NEW YORK CITY ASBESTOS LITIGATION (KONSTANTIN v 630 THIRD AVENUE ASSOCIATES, et al.):
ACTIONS - CONSOLIDATION AND SEVERANCE - ASBESTOS LITIGATION - WHETHER THE TRIAL COURT PROPERLY CONSOLIDATED THIS CASE WITH DUMMITT v A.W. CHESTERTON - SIMILARITIES OF CONSOLIDATED CASES - THEORIES OF LIABILITY - DISJOINTED NATURE OF TRIAL; LABOR - SAFE PLACE TO WORK - EXPOSURE TO TOXIC SUBSTANCES - ASBESTOS DUST - APPORTIONMENT OF LIABILITY BETWEEN GENERAL CONTRACTOR AND MANUFACTURER - WHETHER JURY COULD ALLOCATE MORE FAULT TO GENERAL CONTRACTOR; RECKLESSNESS - WHETHER IT WAS RATIONAL FOR THE JURY TO CONCLUDE THAT GENERAL CONTRACTOR ACTED RECKLESSLY; DAMAGES - CHALLENGE TO DAMAGES AWARD AS UNPRECEDENTED;

NEW YORK STATE CORRECTIONAL OFFICERS AND POLICE BENEVOLENT ASSOCIATION, INC., et al., MATTER OF v GOVERNOR'S OFFICE OF EMPLOYEE RELATIONS et al.:
LABOR UNIONS - GRIEVANCES - OUT-OF-TITLE WORK GRIEVANCE; PROCEEDING AGAINST BODY OR OFFICER - CPLR ARTICLE 78 PROCEEDING

TO REVIEW DENIAL OF AN OUT-OF-TITLE WORK GRIEVANCE OF A SAFETY AND SECURITY OFFICER WITH THE OFFICE OF MENTAL HEALTH; CIVIL SERVICE CLASSIFICATION STANDARDS;

NICHOLSON (CHRISTOPHER A.), PEOPLE v:
CRIMES - WITNESSES - REBUTTAL WITNESS IN CHILD SEX PROSECUTION - WHETHER SUPREME COURT ERRED IN ALLOWING THE PEOPLE TO CALL DEFENDANT'S EX-WIFE AS A REBUTTAL WITNESS TO REBUT CERTAIN TESTIMONY OFFERED BY DEFENDANT'S ONLY WITNESS, HIS FORMER GIRLFRIEND; WITNESSES - EXPERT WITNESS - WHETHER SUPREME COURT ERRED IN ADMITTING THE TESTIMONY OF AN EXPERT WITH RESPECT TO CHILD SEXUAL ABUSE ACCOMMODATION SYNDROME; RIGHT TO COUNSEL - CLAIMED INEFFECTIVE ASSISTANCE;

NOMURA ASSET CAPITAL CORPORATION, et al. v CADWALADER, WICKERSHAM & TAFT, LLP:
ATTORNEY AND CLIENT - MALPRACTICE - ACTION AGAINST LAW FIRM ALLEGING FAILURE TO PROVIDE APPROPRIATE LEGAL ADVICE AND THE RENDERING OF LEGAL OPINION WITHOUT PERFORMING THE NECESSARY DUE DILIGENCE, IN CONNECTION WITH THE SECURITIZATION OF A POOL OF COMMERCIAL MORTGAGE LOANS; SUMMARY JUDGMENT;

NOWLIN v VANROON et al.:
APPEALS - CHALLENGE TO APPELLATE DIVISION ORDERS THAT (1) DENIED PLAINTIFF'S MOTION FOR REARGUMENT OR LEAVE TO APPEAL TO THE COURT OF APPEALS FROM A PRIOR APPELLATE DIVISION ORDER AND (2) DENIED PLAINTIFF'S MOTION AS UNTIMELY INSOFAR AS IT SOUGHT TO VACATE THE DISMISSAL OF HIS APPEAL FOR FAILURE TO PERFECT AND DISMISSED THE MOTION FOR AN EXTENSION OF TIME TO PERFECT THE APPEAL;

NYC C.L.A.S.H, INC., MATTER OF v NEW YORK STATE OFFICE OF PARKS, RECREATION and HISTORIC PRESERVATION, et al.:
ADMINISTRATIVE LAW - VALIDITY OF REGULATION - SEPARATION OF POWERS - REGULATION EXCEEDING DELEGATED AUTHORITY - WHETHER RESPONDENT NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION EXCEEDED ITS DELEGATED AUTHORITY, AND THUS VIOLATED THE SEPARATION OF POWERS DOCTRINE, BY PROMULGATING A RULE ESTABLISHING SMOKE-FREE AREAS IN CERTAIN OUTDOOR LOCATIONS UNDER ITS JURISDICTION;

OLIVER, MATTER OF v GROSS:
APPEAL - ACADEMIC AND MOOT QUESTIONS - PROCEEDING IN THE NATURE OF PROHIBITION REQUIRING PETITIONER TO FOLLOW TREATMENT PROGRAM AS CONDITION OF RELEASE IN PENDING CRIMINAL PROSECUTION - WHETHER THE APPELLATE DIVISION ABUSED ITS DISCRETION IN REFUSING TO INVOKE THE MOOTNESS DOCTRINE EXCEPTION AND IN DISMISSING THE APPEAL ON THE GROUND THAT PETITIONER COMPLETED THE TREATMENT PROGRAM AND CITY COURT DISMISSED THE UNDERLYING CRIMINAL PROSECUTION; WHETHER A TRIAL COURT, IN RELEASING A CRIMINAL DEFENDANT ON HIS OR HER OWN RECOGNIZANCE, HAS AUTHORITY TO

CONDITION SUCH RELEASE ON DEFENDANT'S COOPERATION WITH A COUNTY AGENCY KNOWN AS TREATMENT ALTERNATIVES FOR SAFER COMMUNITIES (TASC) AND HER COMPLIANCE WITH THE TREATMENT RECOMMENDATIONS MADE BY TASC;

OLMOSPEREZ, MATTER OF v EVANS &c.:
PAROLE - DENIAL - CPLR ARTICLE 78 PROCEEDING TO REVIEW DETERMINATION OF BOARD OF PAROLE DENYING PETITIONER PAROLE RELEASE - FAILURE OF PAROLE BOARD TO ISSUE AND PROMULGATE WRITTEN GUIDELINES PURSUANT TO EXECUTIVE LAW § 259-c(4) TO ASSESS RISKS AND NEEDS FOR PAROLE DECISIONS BEFORE DETERMINATION MADE IN THIS CASE;

ORTIZ (LUIS), PEOPLE v:
CRIMES - COLLATERAL ESTOPPEL - WHETHER THE PEOPLE WERE BARRED FROM PRESENTING ON DEFENDANT'S RETRIAL EVIDENCE THAT DEFENDANT HELD A RAZOR BLADE TO THE VICTIM'S NECK - DEFENDANT WAS ACQUITTED OF BURGLARY IN THE FIRST DEGREE AT THE FIRST TRIAL BUT CONVICTED OF ROBBERY IN THE SECOND DEGREE, AND THE ONLY DIFFERENCE BETWEEN THE TWO OFFENSES WAS WHETHER DEFENDANT USED OR THREATENED USE OF A DANGEROUS INSTRUMENT - WHETHER CASE IS DISTINGUISHABLE FROM PEOPLE v O'TOOLE (22 NY3d 335 [2013]);

P.(MATTHEW), PEOPLE v:
CRIMES - INFORMATION - CHALLENGE TO SUFFICIENCY - LARCENY - SUFFICIENCY OF ALLEGATIONS THAT DEFENDANT IMPROPERLY USED A KEY THAT DID NOT BELONG TO HIM TO LET TWO UNDERCOVER POLICE OFFICERS (AND HIMSELF) INTO THE SUBWAY THROUGH AN EMERGENCY EXIT GATE IN EXCHANGE FOR MONEY - PEOPLE v HIGHTOWER (18 NY3d 249 [2011]); THEFT OF SERVICES - SUFFICIENCY OF ALLEGATIONS BASED ON THE SWORN STATEMENT OF A TRANSIT POLICE OFFICER THAT HE OBSERVED DEFENDANT ENTER THE SUBWAY "BEYOND THE TURNSTILES" AND WITHOUT "PAYING THE REQUIRED FARE" BY "WALKING THROUGH AN EXIT GATE";

PAF-PAR LLC v SILBERBERG, et al.:
SURETYSHIP AND GUARANTEE - GUARANTEE OF PROMISSORY NOTE - BORROWER'S FULL PAYMENT OF MODIFIED LOAN AMOUNT - GUARANTOR NOT LIABLE FOR MORE - WHETHER THE GUARANTOR IS LIABLE FOR THE FULL ORIGINAL LOAN AMOUNT WHERE THE BORROWER SATISFIED ITS OBLIGATIONS UNDER A MODIFICATION AGREEMENT AND THE GUARANTY STATES THAT THE GUARANTOR'S OBLIGATIONS SHALL NOT BE AFFECTED BY "MODIFICATION, ALTERATION OR REARRANGEMENT";

PANTON (NADINE), PEOPLE v:
CRIMES - CONFESSION - CUSTODIAL INTERROGATION - WHETHER THE STATEMENTS MADE BY DEFENDANT AFTER RECEIVING MIRANDA WARNINGS SHOULD HAVE BEEN SUPPRESSED AS THE PRODUCT OF CUSTODIAL

INTERROGATION BEFORE THE WARNINGS WERE ADMINISTERED; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL BASED ON COUNSEL'S ALLEGED FAILURE TO RAISE THE MIRANDA CLAIM;

PARSON, JR. (ANTHONY), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - FAILURE TO ADVANCE MORE VIGOROUS CHALLENGE TO POLICE OFFICER'S TESTIMONY AT SUPPRESSION HEARING REGARDING REASON FOR STOPPING DEFENDANT'S VEHICLE - STOP FOR ALLEGED VIOLATIONS OF VEHICLE AND TRAFFIC LAW § 375(22) AND (30); UNLAWFUL SEARCH AND SEIZURE - CHALLENGE TO LAWFUL BASIS FOR STOP OF DEFENDANT'S VEHICLE AND SEARCH OF HIS PERSON AND HIS CAR - WHETHER STATEMENTS MADE BY DEFENDANT SHOULD HAVE BEEN SUPPRESSED;

PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK, INC. &c., et al. v CITY OF NEW YORK, et al.:
INJUNCTIONS - PRELIMINARY INJUNCTION - WHETHER PETITIONERS ESTABLISHED A LIKELIHOOD OF SUCCESS ON THE MERITS OF THE CLAIM TO BE ARBITRATED - WHETHER ARBITRATION AWARD IN PETITIONERS' FAVOR WOULD BE RENDERED INEFFECTUAL WITHOUT PROVISIONAL RELIEF;

PAVONE (ANTHONY), PEOPLE v:
CRIMES - HARMLESS AND PREJUDICIAL ERROR - VIOLATION OF DEFENDANT'S RIGHT TO REMAIN SILENT BY, AMONG OTHER THINGS, PEOPLE'S ELICITING OF TESTIMONY IN ITS CASE-IN-CHIEF THAT DEFENDANT FAILED TO MENTION EXTREME EMOTIONAL DISTURBANCE WHEN HE WAS APPREHENDED - WHETHER THE APPELLATE DIVISION, AFTER CONCLUDING THAT THE ISSUE WAS LARGELY UNPRESERVED, ERRED IN HOLDING THAT, IN ANY EVENT, THE ADMISSION OF THE CHALLENGED EVIDENCE WAS HARMLESS "IN LIGHT OF THE OVERWHELMING EVIDENCE ESTABLISHING BOTH DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT AND HIS CORRESPONDING FAILURE TO PROVE HIS AFFIRMATIVE DEFENSE OF EXTREME EMOTIONAL DISTURBANCE BY A PREPONDERANCE OF THE EVIDENCE"; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL IN FAILING, WITH ONE EXCEPTION, TO OBJECT TO TESTIMONY AND ARGUMENT CONCERNING DEFENDANT'S PRETRIAL SILENCE REGARDING EXTREME EMOTIONAL DISTURBANCE, IN FAILING TO REQUEST A LIMITING INSTRUCTION ON THAT ISSUE, AND IN FAILING TO PROVIDE THE DEFENSE EXPERT WITH MATERIALS NEEDED TO ADEQUATELY PREPARE AN EXTREME EMOTIONAL DISTRESS DEFENSE;

PEGASUS AVIATION I, INC., et al. v VARIG LOGISTICA S.A., et al.:
EVIDENCE - LOSS OR DESTRUCTION OF EVIDENCE - RELEVANCE OF SPOLIATED DOCUMENTS - WHETHER MP DEFENDANTS EXERCISED SUFFICIENT CONTROL OVER DEFENDANT VARIG LOGISTICA'S TO RENDER THE MP DEFENDANTS LIABLE FOR SANCTIONS FOR EVIDENCE SPOLIATION BASED ON

VARIG LOGISTIC'S LOSS OF ITS ELECTRONICALLY STORED INFORMATION;

PELLEGRINO (STEPHEN), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - WHETHER DEFENDANT'S COLLOQUY AT CRIMINAL COURT WAS SUFFICIENT UNDER BOYKIN v ALABAMA (395 US 238 [1969]) AND PEOPLE v TYRELL (22 NY3d 359 [2013]) WHERE IT CONTAINED NO DISCUSSION OF THE RIGHTS DEFENDANT WAS WAIVING BY ENTERING THE PLEA, PURSUANT TO WHICH HE PLEADED GUILTY TO A MISDEMEANOR IN RETURN FOR A NEGOTIATED SENTENCE OF A $250 FINE;

PEREZ (FREDERICO), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - WHETHER A GUILTY PLEA TO A VIOLATION, WHICH REQUIRED ONLY THE PAYMENT OF A $100 FINE, MUST BE VACATED UNDER PEOPLE v TYRELL (22 NY3d 359 [2003]) BECAUSE DEFENDANT WAS NOT ADVISED OF HIS CONSTITUTIONAL RIGHTS UNDER BOYKIN v ALABAMA (395 US 238[1969]);

PERLBINDER HOLDINGS, LLC v SRINIVASAN, et al.:
MUNICIPAL CORPORATIONS - ZONING - VARIANCE - OUTDOOR ADVERTISING - WHETHER THE APPELLATE DIVISION ERRED IN CONSTRUING PETITIONER'S APPEAL TO THE BOARD OF STANDARDS AND APPEALS OF THE CITY OF NEW YORK (BSA) AS A VARIANCE APPLICATION AND DIRECTING BSA, ON REMAND, TO CONSIDER THE VARIANCE REQUEST UNDER NEW YORK CITY CHARTER §666(7) - WHETHER PETITIONER WAS ENTITLED TO MAINTAIN ITS ADVERTISING SIGN, WITHOUT A VARIANCE, BASED ON ITS GOOD-FAITH RELIANCE ON A PERMIT ISSUED BY THE NEW YORK CITY DEPARTMENT OF BUILDINGS (DOB) AND A 2008 DETERMINATION BY THE MANHATTAN BOROUGH BUILDING COMMISSIONER APPROVING THE ERECTION OF THE SIGN - WHETHER THE APPELLATE DIVISION ERRED IN FINDING AS A MATTER OF LAW THAT PETITIONER'S RELIANCE ON A PERMIT WAS IN GOOD FAITH;

PETKE (HAROLD L.), PEOPLE v:
CRIMES - JURORS - IMPROPER DENIAL OF CHALLENGE FOR CAUSE - WHETHER HARMLESS ERROR ANALYSIS SHOULD BE APPLIED WHERE THE TRIAL COURT FAILED TO DISCHARGE A JUROR FOR CAUSE, DEFENDANT USED A PEREMPTORY CHALLENGE ON THAT JUROR, THE ONE ADDITIONAL JUROR SELECTED AFTER DEFENDANT EXHAUSTED HIS PEREMPTORY CHALLENGES DID NOT PARTICIPATE IN DELIBERATIONS DUE TO A MEDICAL SITUATION, DEFENDANT HAD BEEN GIVEN ADDITIONAL PEREMPTORY CHALLENGES WHEN SELECTING ALTERNATIVE JURORS, AND DEFENDANT CHOOSE NOT TO EXERCISE A PEREMPTORY CHALLENGE ON THE ALTERNATE JUROR WHO REPLACED THE ILL JUROR;

PINK et al. v RICCI, et al.:
NEGLIGENCE - DUTY - WHETHER THE DUTY OF A YOUTH HOCKEY ASSOCIATION AS THE FACILITY LESSOR TO HOCKEY SPECTATORS INCLUDED THE DUTY TO PROTECT PLAINTIFFS FROM ASSAULT BY A FELLOW SPECTATOR

- FORESEEABILITY OF FIGHT BREAKING OUT IN LIGHT OF HOSTILE ENVIRONMENT IN THE AREA; SUMMARY JUDGMENT - WHETHER AN ISSUE OF FACT EXISTS;

PLOTCH v CITIBANK, N.A.:
CONDOMINIUMS AND COOPERATIVES - LIENS - PRIORITY - WHETHER TWO MORTGAGES, CONSOLIDATED PRIOR TO THE FILING OF A LIEN FOR UNPAID CONDOMINIUM COMMON CHARGES, QUALIFY AS THE FIRST MORTGAGE OF RECORD FOR PURPOSES OF REAL PROPERTY LAW ART. 9-B;

POLEUN (JAMES R.), PEOPLE v:
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) (CORRECTION LAW ART. 6-C) - WHETHER DEFENDANT WAS DENIED DUE PROCESS OF LAW WHEN THE HEARING COURT ACCEPTED HIS WAIVER OF APPEARANCE AND HELD A HEARING TO ASSESS HIS RISK LEVEL IN HIS ABSENCE, ALTHOUGH HE EXPRESSED HIS DESIRE TO BE PRESENT AT THE HEARING AND PROFFERED AN EXCUSE FOR HIS INABILITY TO ATTEND;

POPE v CITY OF NEW YORK:
APPEAL - POOR PERSON - WHETHER THE APPELLATE DIVISION ERRED IN DENYING PLAINTIFF'S MOTION FOR POOR PERSON RELIEF;

POWELL (REGINALD), PEOPLE v:
CRIMES - EVIDENCE - THIRD-PARTY CULPABILITY - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT SUPREME COURT PROPERLY PRECLUDED DEFENDANT FROM PRESENTING EVIDENCE THAT THE MURDER VICTIM HAD A $500,000 LIFE INSURANCE POLICY NAMING DEFENDANT'S BROTHER AS THE PRIMARY BENEFICIARY ON THE GROUND THAT SUCH EVIDENCE WAS "BASED ON MERE SPECULATION" BECAUSE DEFENDANT HAD NOT STATED THAT HE WAS ACTUALLY ACCUSING HIS BROTHER OF COMMITTING THE MURDER; LESSER INCLUDED OFFENSE - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A JURY CHARGE ON MANSLAUGHTER IN THE FIRST DEGREE AS A LESSER-INCLUDED OFFENSE OF MURDER IN THE FIRST DEGREE AND ON CRIMINAL TRESPASS AS A LESSER-INCLUDED OFFENSE OF BURGLARY IN THE SECOND DEGREE; CONFESSION - WHETHER STATEMENTS DEFENDANT MADE AFTER WAIVING HIS MIRANDA RIGHTS WERE SUFFICIENTLY ATTENUATED FROM INADMISSIBLE PRE-MIRANDA STATEMENTS SO THAT THEY WERE PROPERLY ADMITTED AT TRIAL; SUFFICIENCY OF THE EVIDENCE OF DEFENDANT'S INTENT TO REMAIN UNLAWFULLY IN VICTIM'S HOME TO SUPPORT CONVICTION OF BURGLARY IN THE SECOND DEGREE; ALLEGED PREJUDICIAL TESTIMONY FROM DEFENDANT'S PAROLE OFFICER; TRIAL COURT'S ALLEGED FAILURE TO MEANINGFULLY RESPOND TO JURY NOTE REGARDING CLARIFICATION OF INTENT ELEMENT AS TO MURDER COUNT; SENTENCE - WHETHER SUPREME COURT IMPROPERLY CONSIDERED UNCHARGED CRIMES IN IMPOSING SENTENCE;

SEAN R., &c. v BMW OF NORTH AMERICA, LLC, et al.:
EVIDENCE - SCIENTIFIC EVIDENCE - FAILURE OF SCIENTIFIC LITERATURE TO SUPPORT EXPERT'S PROFFERED THEORY - WHETHER THE TESTIMONY OF PLAINTIFF'S EXPERTS, WHO THEORIZED THAT EXPOSURE TO GASOLINE FUMES CAUSED PLAINTIFF'S BIRTH DEFECTS, WAS PROPERLY PRECLUDED

WHERE THE MEDICAL LITERATURE SHOWED THAT SOME CONSTITUENT CHEMICALS CONTAINED IN GASOLINE CAN LEAD TO BIRTH DEFECTS, NOT THAT EXPOSURE TO GASOLINE VAPORS CAN CAUSE SUCH DEFECTS;

YANIVETH R., &c. et al. v LTD REALTY CO., et al:
LANDLORD AND TENANT - LANDLORD'S DUTY TO REMOVE LEAD PAINT - WHETHER INFANT EXPOSED TO LEAD PAINT RESIDED IN APARTMENT - INFANT CARED FOR IN HER GRANDMOTHER'S APARTMENT 10-12 HOURS PER DAY; NEGLIGENCE - VIOLATION OF STATUTORY DUTY - ADMINISTRATIVE CODE OF CITY OF NEW YORK §§ 27-2056.3, 27-2056.5; SUMMARY JUDGMENT;

RAM I, LLC, MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, et al.:
LANDLORD AND TENANT - RENT REGULATION - LUXURY DEREGULATION OF RENT-CONTROLLED APARTMENT UNAVAILABLE FOLLOWING ACCEPTANCE OF CERTAIN TAX BENEFITS - WHETHER AN APARTMENT THAT WAS SUBJECT TO RENT CONTROL PRIOR TO RECEIVING J-51 TAX BENEFITS REMAINS EXEMPT FROM LUXURY DEREGULATION BY VIRTUE OF ITS RENT-CONTROLLED STATUS AFTER THE J-51 BENEFITS EXPIRE, NOTWITHSTANDING THE FACT THAT IT WAS OTHERWISE QUALIFIED FOR LUXURY DEREGULATION; WHETHER DHCR'S INTERPRETATION OF ADMINISTRATIVE CODE OF THE CITY OF NEW YORK § 26-403(e)(2)(j), AS APPLIED TO THIS CASE, VIOLATES THE OWNER'S EQUAL PROTECTION RIGHTS;

RANCO SAND AND STONE CORP., MATTER OF v VECCHIO:
COURTS - RIPENESS DOCTRINE - PROCEEDING TO REVIEW DETERMINATION OF TOWN BOARD APPROVING RESOLUTION ISSUING POSITIVE DECLARATION PURSUANT TO STATE ENVIRONMENTAL QUALITY REVIEW ACT - WHETHER, UNDER MATTER OF GORDON v RUSH (100 NY2d 236 [2003]), THE TOWN BOARD'S POSITIVE DECLARATION IS RIPE FOR JUDICIAL REVIEW;

RED ZONE LLC v CADWALADER, WICKERSHAM & TAFT, LLP:
ATTORNEY AND CLIENT - MALPRACTICE - ALLEGED NEGLIGENT DRAFTING OF AGREEMENT - WHETHER PLAINTIFF WAS ENTITLED TO SUMMARY JUDGMENT; LIMITATION OF ACTIONS - TOLLING - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT THE STATUTE OF LIMITATIONS WAS TOLLED BY THE CONTINUOUS REPRESENTATION DOCTRINE; WHETHER THE COURT'S BELOW ERRED IN DISMISSING DEFENDANT'S AFFIRMATIVE DEFENSE OF COMPARATIVE NEGLIGENCE;

PEOPLE ex rel. REID v C. AUGUSTUS, etc.:
HABEAS CORPUS - WHETHER THE APPELLATE DIVISION ERRED IN DENYING THE PETITION SEEKING A WRIT OF HABEAS CORPUS;

REMET CORPORATION v ESTATE OF JAMES R. PYNE (DECEASED), et al.:
INDEMNITY - CONTRACTUAL INDEMNIFICATION - ENVIRONMENTAL REMEDIATION COSTS - NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION (DEC) LETTER IDENTIFYING PLAINTIFF AS A POTENTIALLY

RESPONSIBLE PARTY, REQUESTING PLAINTIFF TO DEVELOP, IMPLEMENT AND FINANCE A REMEDIAL PROGRAM FOR HAZARDOUS WASTE SITE, AND STATING THAT, IF PLAINTIFF DID NOT ACT, DEC WOULD PERFORM THE REMEDIATION AND SEEK RECOVERY FROM PLAINTIFF - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEC'S LETTER DID NOT REQUIRE PLAINTIFF TO TAKE ACTION, AND THUS, THAT PLAINTIFF WAS NOT ENTITLED TO INDEMNIFICATION PURSUANT TO AN AGREEMENT RESULTING FROM ACTIONS THAT PLAINTIFF "IS REQUIRED TO TAKE UNDER OR IN CONNECTION WITH ANY ENVIRONMENTAL LAW OR ENVIRONMENTAL PERMIT";

REYNOLDS (BAASIL), PEOPLE v:
CRIMES - PLEA OF GUILTY - CONDITIONAL PLEA AGREEMENTS IN WHICH DEFENDANT AGREED TO SUBMIT TO A FURTHER SIX MONTH INCARCERATION PRIOR TO SENTENCING, AMONG OTHER THINGS; OUTLEY HEARING TO DETERMINE VALIDITY OF DEFENDANT'S ARREST - WHETHER JUDGE ERRONEOUSLY APPLIED A PROBABLE CAUSE STANDARD INSTEAD OF DETERMINING WHETHER DEFENDANT'S ARREST WAS THE RESULT OF A FALSE OR MALICIOUS REPORT BY A COMPLAINANT;

RIDGE v GOLD, et al.:
ADMINISTRATIVE LAW - COLLATERAL ESTOPPEL - PRECLUSIVE EFFECT OF WORKERS' COMPENSATION BOARD FINDING AS TO CAUSAL RELATIONSHIP - IDENTITY OF ISSUE - WHETHER THE APPELLATE DIVISION ERRED IN AWARDING SUMMARY JUDGMENT TO DEFENDANT CONTRACTOR ON THE GROUND THAT THE WORKERS' COMPENSATION BOARD DETERMINED THAT NO ACCIDENT OCCURRED AND THAT SUCH DETERMINATION WAS ENTITLED TO COLLATERAL ESTOPPEL EFFECT;

RIVERA, et al. v FERNANDEZ & ULLOA AUTO GROUP, et al.:
INSURANCE - NO-FAULT AUTOMOBILE INSURANCE - SERIOUS INJURY - WHETHER PLAINTIFF RAISED A TRIABLE ISSUE OF FACT AS TO WHETHER HE SUFFERED A SERIOUS INJURY WITHIN THE MEANING OF INSURANCE LAW § 5102(d) - SUMMARY JUDGMENT; EXPERT WITNESSES - MEDICAL OPINIONS;

RIVERA, &c. v MONTEFIORE MEDICAL CENTER:
DISCLOSURE - SCOPE OF DISCLOSURE - MEDICAL EXPERT - ADEQUACY OF RESPONSE TO DEMAND FOR INFORMATION CONCERNING EXPERT WITNESS - CHALLENGE TO APPELLATE DIVISION HOLDING THAT TRIAL COURT PROPERLY DENIED AS UNTIMELY PLAINTIFF'S APPLICATION DURING TRIAL TO PRECLUDE DEFENDANT'S EXPERT FROM TESTIFYING THAT A SUDDEN HEART ATTACK, RATHER THAN PNEUMONIA, CAUSED DECEDENT'S DEATH ON GROUND THAT SUCH TESTIMONY CAME AS A SURPRISE BECAUSE DEFENDANT'S EXPERT DISCLOSURE STATEMENT PURSUANT TO CPLR 3101(d) LACKED SPECIFICITY AS TO EXPERT'S OPINION ON CAUSATION - WHETHER TRIAL MOTION WAS UNTIMELY BECAUSE PLAINTIFF FAILED TO OBJECT TO LACK OF SPECIFICITY IN DEFENDANT'S EXPERT DISCLOSURE STATEMENT UPON RECEIPT OF THAT DOCUMENT - WHETHER EXPERT TESTIMONY CONCERNING

HEART ATTACK SHOULD HAVE BEEN PRECLUDED AS UNDULY SPECULATIVE;

ROGERS, MATTER OF v PRACK, &c.:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - INMATE FOUND GUILTY OF ASSAULTING STAFF, ENGAGING IN VIOLENT CONDUCT AND DISTURBING THE ORDER OF THE FACILITY - WHETHER THE PENALTY OF 60-MONTHS CONFINEMENT IN THE SPECIAL HOUSING UNIT (SHU) SHOCKS THE CONSCIENCE AND IS AN ABUSE OF DISCRETION AS A MATTER OF LAW - WHETHER PETITIONER'S DUE PROCESS RIGHTS WERE VIOLATED BY THE HEARING OFFICER'S DENIAL OF HIS REQUESTS TO CALL AN ADDITIONAL WITNESS AND TO PRESENT CERTAIN DOCUMENTARY EVIDENCE;

ROSARIO (LUCIANO), PEOPLE v:
CRIMES - APPEAL - DENIAL OF APPLICATION FOR A WRIT OF ERROR CORAM NOBIS - ALLEGED INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL FOR FAILING TO INFORM DEFENDANT ABOUT THE APPELLATE PROCESS AND FAILING TO FILE A NOTICE OF APPEAL FROM DEFENDANT'S GUILTY PLEA;

ROSSBOROUGH (RONALD D.), PEOPLE v:
CRIMES - SENTENCE - VALIDITY OF DEFENDANT'S WAIVER OF HIS RIGHT TO BE PRESENT DURING SENTENCING; APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL INCLUDES DEFENDANT'S CONTENTION THAT COUNTY COURT ERRED IN SENTENCING HIM IN ABSENTIA;

JAMAL S., MATTER OF:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE SEARCH, WHICH INVOLVED REQUIRING THE JUVENILE TO REMOVE HIS SHOES WHILE HE WAS HELD IN TEMPORARY DETENTION PENDING HIS MOTHER'S ARRIVAL AT THE POLICE STATION, WAS REASONABLE;

MATTER OF KENNETH S., &c.:
CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE MAY LAWFULLY TAKE A JUVENILE INTO CUSTODY FOR VIOLATING A PAROLE CONDITION SET BY A COURT AS A CONDITION FOR RELEASE PENDING TRIAL; WHETHER POLICE MAY TRANSPORT A MINOR DETAINED FOR TRUANCY TO A POLICE STATION RATHER THAN TO SCHOOL; SUPPRESSION HEARING - DENIAL OF MOTION - WHETHER POLICE WERE JUSTIFIED IN CONDUCTING WARRANTLESS SEARCH OF SUSPECTED TRUANT'S BOOK BAG;

SADEK v WESLEY, et al.:
WITNESSES - EXPERT WITNESS - PRECLUSION OF TESTIMONY - TRIAL COURT GRANTED MOTION TO PRECLUDE NEUROLOGICAL EXPERT FROM TESTIFYING UPON THE GROUND THAT EXPERT'S FIRST REPORT, WHICH STATED THERE WAS A PROBABLE CAUSAL RELATIONSHIP BETWEEN MOTOR VEHICLE ACCIDENT AND PLAINTIFF'S EMBOLIC STROKE, WAS NEGATED BY EXPERT'S SUPPLEMENTAL REPORT BECAUSE THAT REPORT DID NOT SUFFICIENTLY ESTABLISH CAUSATION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT EXPERT'S FIRST REPORT PROVIDED A SUFFICIENT BASIS TO ALLOW THE EXPERT TO TESTIFY AS TO THE CAUSE OF

PLAINTIFF'S EMBOLIC STROKE AND THE SUPPLEMENTAL REPORT ONLY PROVIDED GROUNDS TO IMPEACH EXPERT'S ANTICIPATED TRIAL TESTIMONY; WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT NEW EXPERT'S PROPOSED TESTIMONY SHOULD NOT HAVE BEEN PRECLUDED BECAUSE IT DID NOT ENTIRELY CONCERN A NEW THEORY OF CAUSATION TO THE EXTENT HE WAS PREPARED TO TESTIFY THAT THE ACCIDENT WAS A PROBABLE CAUSE OF DISLODGING THE BLOOD CLOT THAT CAUSED PLAINTIFF'S STROKE - NECESSITY FOR A FRYE HEARING - WHETHER EVIDENCE AT FRYE HEARING SUFFICIENTLY ESTABLISHED THE RELIABILITY OF EXPERT'S ASSERTIONS AS TO CAUSATION - TIMING OF IN LIMINE MOTIONS;

SANCHEZ (JAVIER), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - DRIVING WHILE INTOXICATED NOT A PETTY OFFENSE - WHETHER THE GUILTY PLEA WAS VOLUNTARY, KNOWING AND INTELLIGENT WHERE DEFENDANT WAS NOT INFORMED OF THE RIGHTS HE WAS WAIVING PRIOR TO MAKING HIS GUILTY PLEA;

SANDERS (OSCAR), PEOPLE v:
CRIMES - SUPPRESSION HEARING - SEARCH AND SEIZURE OF DEFENDANT'S CLOTHING LYING ON THE FLOOR OF A HOSPITAL ROOM IN A CLEAR PLASTIC BAG, AS POSSIBLE EVIDENCE OF A CRIME IN WHICH POLICE BELIEVED DEFENDANT WAS THE VICTIM - AFTER SEARCH OF BAG, OFFICER CONCLUDED DEFENDANT'S WOUNDS WERE SELF-INFLICTED AND ARRESTED DEFENDANT FOR CRIMINAL POSSESSION OF A WEAPON; WHETHER TRIAL COURT ERRED IN CONDUCTING AN OFF-THE-RECORD SANDOVAL HEARING OUTSIDE OF DEFENDANT'S PRESENCE; CLAIMED VIOLATIONS OF CONSTITUTIONAL RIGHTS;

SANGARAY v WEST RIVER ASSOCIATES, LLC, et al.:
NEGLIGENCE - SIDEWALKS - FAILURE TO MAINTAIN SIDEWALK IN REASONABLY SAFE CONDITION - PROPERTY OWNER LIABILITY UNDER ADMINISTRATIVE CODE OF CITY OF NEW YORK § 7-210 FOR INJURIES ARISING OUT OF A TRIP AND FALL DUE TO A HEIGHT DIFFERENTIAL BETWEEN TWO ADJACENT FLAGS OF PAVEMENT ON A PUBLIC SIDEWALK - WHETHER SECTION 7-210 IMPOSES LIABILITY NOT ONLY ON OWNER OF PREMISES DIRECTLY ABUTTING HEIGHT DIFFERENTIAL OVER WHICH PLAINTIFF TRIPPED, BUT ALSO ON THE OWNER OF THE NEIGHBORING PREMISES WHERE OVER 90% OF THE LOWER OF THE TWO PAVEMENT FLAGS ALLEGEDLY WAS SITUATED - COMMON-LAW LIABILITY OF OWNER OF NEIGHBORING PREMISES;

SANS (MICHAEL), PEOPLE v:
CRIMES - POSSESSION OF WEAPON - SUFFICIENCY OF ACCUSATORY INSTRUMENT - MISDEMEANOR COMPLAINT CHARGING CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE BASED UPON DEFENDANT'S

POSSESSION OF A GRAVITY KNIFE - PEOPLE v DREYDEN (15 NY3d 100 [2010]);

SCHMID v KNAUER, et al.:
DISMISSAL AND NONSUIT - DISMISSAL OF COMPLAINT - CPLR 3211(a)(7);

SELECTIVE INSURANCE COMPANY OF AMERICA, et al. v COUNTY OF RENSSELAER:
INSURANCE - LIABILITY INSURANCE - POLICE PROFESSIONAL LIABILITY POLICY - SETTLEMENT OF CLASS ACTION LAWSUIT SEEKING DAMAGES FOR INDIVIDUALS STRIP SEARCHED PURSUANT TO AN ALLEGEDLY UNCONSTITUTIONAL POLICY - WHETHER THE UNDERLYING ALLEGATIONS IN THE CLASS ACTION LAWSUIT REQUIRE COUNTY TO PAY INSURERS ONE DEDUCTIBLE FOR ONE OCCURRENCE OR SEPARATE DEDUCTIBLES FOR EACH CLASS ACTION PLAINTIFF - WHETHER THE ATTORNEYS' FEES AND COSTS ARISING OUT OF THE CLASS ACTION LAWSUIT ARE TO BE ALLOCATED RATABLY TO EACH CLASS ACTION PLAINTIFF; WHETHER THE INSURERS ACTED IN BAD FAITH IN THEIR REPRESENTATION OF THE COUNTY IN THE CLASS ACTION LAWSUIT; WHETHER INSURERS ARE LIABLE FOR COUNTY'S ATTORNEYS' FEES IN DEFENDING THIS ACTION;

SERRANO (MARINO), PEOPLE v:
CRIMES - APPEALS - 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;

SHERMAN v NEW YORK STATE THRUWAY AUTHORITY:
NEGLIGENCE - SNOW AND ICE - STORM IN PROGRESS - WHETHER DEFENDANT WAS ENTITLED TO SUMMARY JUDGMENT DISMISSING THE CLAIM UPON THE GROUND THAT THERE WAS A STORM IN PROGRESS WHEN PLAINTIFF SLIPPED AND FELL ON ICE - APPLICATION WHERE THERE IS NO LONGER ANY APPRECIABLE ACCUMULATION OF ICE OR SNOW WHEN ACCIDENT OCCURS;

SINCERBEAUX (DENNIS J.), PEOPLE v:
CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - WHETHER POINTS WERE IMPROPERLY ASSESSED UNDER RISK FACTOR 9 BECAUSE DEFENDANT'S CONVICTION FOR ENDANGERING THE WELFARE OF A CHILD WAS NOT SEXUAL IN NATURE, AND WHETHER THERE IS SUFFICIENT EVIDENCE TO SUPPORT THE IMPOSITION OF POINTS UNDER RISK FACTORS 1 AND 5;

SIERRA CLUB, et al., MATTER OF v VILLAGE OF PAINTED POST, et al.:
PARTIES - STANDING - ENVIRONMENTAL PROTECTION - COMPLAINT OF TRAIN NOISE NEWLY INTRODUCED INTO NEIGHBORHOOD - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT RESIDENT LACKED STANDING BECAUSE HE FAILED TO ESTABLISH INJURY DIFFERENT FROM THAT OF

PUBLIC AT LARGE - ALLEGED PRESUMPTION OF STANDING BASED UPON RESIDENT'S PROXIMITY TO A RAIL LINE THAT TRAVERSED THE ENTIRE VILLAGE AND TRAIN NOISE; SEQRA REVIEW;

SILVERMAN, &c. v SILVER, &c., et al.:
JUDGES - JUDICIAL SALARIES - SEPARATION OF POWERS DOCTRINE - REMEDY FOR VIOLATION OF SEPARATION OF POWERS DOCTRINE - WHETHER LEGISLATION THAT CREATED A COMMISSION ON JUDICIAL COMPENSATION TO RECOMMEND PROSPECTIVE-ONLY ADJUSTMENTS TO JUDICIAL PAY, VIOLATES MATTER OF MARON v SILVER AND OTHER CASES DECIDED THEREWITH (14 NY3d 230 [2010]), BECAUSE IT DOES NOT PROVIDE FOR CONSIDERATION OF RETROACTIVE COMPENSATION - ENTITLEMENT TO DAMAGES FOR BACK PAY BASED UPON RETROACTIVE PAY INCREASES;

SMALL (SAMUEL), PEOPLE v a/k/a SMALLS (SAMUEL):
GRAND JURY - RIGHT TO APPEAR BEFORE GRAND JURY - DEFENDANT IN CUSTODY FOR ONE BURGLARY WHEN FELONY COMPLAINT ISSUED CHARGING HIM WITH ANOTHER BURGLARY WAS NOT ARRESTED OR ARRAIGNED ON THE SECOND CHARGE - WHETHER DEFENDANT WAS ENTITLED TO NOTICE THAT THE SECOND CHARGE WOULD BE PRESENTED TO THE GRAND JURY; SECOND VIOLENT FELONY OFFENDER STATUS - TOLLING OF TIME TO EXTEND 10-YEAR LIMITATION ON PRIOR FELONIES (PENAL LAW § 70.04[1]) WHERE DEFENDANT WAS GRANTED HABEAS CORPUS RELIEF FROM INCARCERATION FOR PRIOR PAROLE VIOLATION;

SMALLING (OMAR A.), PEOPLE v:
CRIMES - INSTRUCTIONS - SUPPLEMENTAL INSTRUCTION - WHETHER SUPREME COURT ERRED WHEN IT GAVE A SUPPLEMENTAL INSTRUCTION REGARDING CONSTRUCTIVE POSSESSION OF A WEAPON IN RESPONSE TO A NOTE FROM THE JURY;

SMALLS (DENNIS P.), PEOPLE v:
CRIMES - ACCUSATORY INSTRUMENT - SUFFICIENCY - CRIMINAL POSSESSION OF CONTROLLED SUBSTANCE - WHETHER CONFIRMATORY SCIENTIFIC TESTING IS REQUIRED FOR AN INFORMATION TO ADEQUATELY ALLEGE THAT THE RESIDUE ON A CRACK PIPE CONTAINS COCAINE (PEOPLE v KALIN, 12 NY3d 225 [2009]);

SMITH (CHARLES), PEOPLE v:
CRIMES - TRIAL - CROSS-EXAMINATION OF POLICE WITNESSES - USE OF FACTUAL ALLEGATIONS IN FEDERAL CIVIL RIGHTS LAWSUITS AGAINST ARRESTING OFFICERS TO SHOW THAT OFFICERS WERE ACCUSED OF FABRICATING CHARGES IN DRUG SALE CASES SIMILAR TO DEFENDANT'S CASE - LIMITATION OF CROSS EXAMINATION BASED UPON IRRELEVANT OR COLLATERAL MATTERS; INSTRUCTIONS - CIRCUMSTANTIAL EVIDENCE CHARGE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT THE TRIAL COURT PROPERLY DECLINED TO GIVE A CIRCUMSTANTIAL EVIDENCE

CHARGE BECAUSE THE PEOPLE'S CASE WAS NOT BASED ENTIRELY ON CIRCUMSTANTIAL EVIDENCE;

SMITH (GLENN S.), PEOPLE v:
CRIMES - APPEAL - WHETHER DEFENDANT WAS REQUIRED TO SUBMIT AN AFFIDAVIT OF ERRORS UPON TAKING AN APPEAL TO APPELLATE TERM, WHERE DEFENDANT PROVIDED AN ELECTRONIC RECORDING OF THE UNDERLYING PROCEEDING INSTEAD OF A STENOGRAPHIC TRANSCRIPTION - CPL 460.10(3);

SOTO (VICTOR), PEOPLE v:
CRIMES - EVIDENCE - DECLARATION AGAINST INTEREST - WHETHER A STATEMENT IN WHICH AN INDIVIDUAL ADMITS TO CONDUCT CONSTITUTING AN OFFENSE IS A STATEMENT AGAINST PENAL INTEREST, WHERE THE DECLARANT BELIEVES THAT THE CONDUCT MAY BE ILLEGAL BUT DOES NOT KNOW WHETHER IT IS ILLEGAL;

SOUBBOTIN, MATTER OF v COMMISSIONER OF LABOR:
UNEMPLOYMENT INSURANCE - BENEFITS - TIMELINESS OF REQUEST FOR HEARING;

SOUGOU (MACTAR), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - WHETHER THE RECORD ESTABLISHED THAT DEFENDANT KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVED HIS BOYKIN RIGHTS WHERE THE TRIAL COURT, DURING THE PLEA COLLOQUY, CONFIRMED THAT DEFENDANT UNDERSTOOD HE WAS GIVING UP HIS RIGHT TO TRIAL AND FAILED TO DISCUSS OTHER BOYKIN RIGHTS;

SPEAKS (LOUIS), PEOPLE v:
CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP - NO REQUIREMENT THAT LINEUP PARTICIPANTS BE NEARLY IDENTICAL TO DEFENDANT - WHETHER THE LINEUP IN WHICH DEFENDANT WAS IDENTIFIED BY A WITNESS WAS UNDULY SUGGESTIVE; CRIMES - EVIDENCE - WHETHER THE ADMISSION OF TESTIMONY OF A DETECTIVE RECOUNTING DESCRIPTION OF PERPETRATOR GIVEN BY NONTESTIFYING AND TESTIFYING WITNESSES VIOLATED THE HEARSAY RULE OR DEFENDANT'S RIGHT OF CONFRONTATION; WHETHER DEFENDANT WAS DEPRIVED OF THE EFFECTIVE ASSISTANCE OF COUNSEL BECAUSE HIS ATTORNEY FAILED TO OBJECT TO THE PROSECUTOR'S ALLEGEDLY IMPROPER COMMENTS DURING SUMMATION;

SPOLETA CONSTRUCTION, LLC v ASPEN INSURANCE UK LIMITED, &c., et al.:
INSURANCE - COVERAGE - WHETHER PLAINTIFF GENERAL CONTRACTOR ON A CONSTRUCTION PROJECT PROVIDED TIMELY NOTICE OF AN "OCCURRENCE" SUCH THAT IT WAS ENTITLED TO COVERAGE AS AN ADDITIONAL INSURED UNDER THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY ISSUED BY DEFENDANT ASPEN TO SUBCONTRACTOR; DECLARATORY JUDGMENT ACTION SEEKING DEFENSE AND INDEMNIFICATION IN UNDERLYING PERSONAL INJURY ACTION BY INJURED WORKER;

SPRINGER, MATTER OF v BOARD OF EDUCATION et al.:
SCHOOLS - TEACHERS - WITHDRAWAL OF RESIGNATION BY TENURED STAFF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PETITIONER FAILED TO COMPLY WITH THE PROCEDURE FOR WITHDRAWING HIS RESIGNATION AS A TENURED TEACHER, WHERE HE APPLIED AND WAS HIRED FOR A TEACHING POSITION UNDER HIS PRIOR LICENSE NUMBER AND AT THE SAME SALARY HE WAS PAID WHEN HE RESIGNED SEVERAL MONTHS EARLIER; ENTITLEMENT TO HEARING PURSUANT TO EDUCATION LAW § 3020-a;

PEOPLE, et al. v SPRINT NEXTEL CORP., et al.:
TAXATION - SALES AND USE TAXES - COMPLAINT ALLEGING VIOLATION OF NEW YORK FALSE CLAIMS ACT (STATE FINANCE LAW § 189[1][g]), EXECUTIVE LAW § 63(12) AND TAX LAW, ARTICLE 12, BY KNOWINGLY MAKING FALSE STATEMENTS MATERIAL TO AN OBLIGATION TO PAY SALES TAX PURSUANT TO TAX LAW § 1105(b)(2) - SALES TAX ON INTERSTATE VOICE SERVICE SOLD BY A MOBILE PROVIDER; PREEMPTION BY FEDERAL MOBILE TELECOMMUNICATIONS SOURCING ACT (4 USC § 116, et seq.) - WHETHER EX POST FACTO CLAUSE OF THE U.S. CONSTITUTION (ART. 1, § 10) BARS RETROACTIVE EFFECT OF CIVIL PENALTIES SOUGHT UNDER NEW YORK FALSE CLAIMS ACT;

PEOPLE &c., ex rel. DeLIA, ON BEHALF OF SS. (ANONYMOUS) v MUNSEY:
HABEAS CORPUS - INVOLUNTARY COMMITMENT - PATIENT'S RIGHT TO IMMEDIATE RELEASE WHERE HOSPITAL FILES AN INVOLUNTARY RETENTION APPLICATION AFTER EXPIRATION OF THE INITIAL RETENTION PERIOD - WHETHER MENTAL HYGIENE LAW § 33.15(b) REQUIRES SUPREME COURT TO CONDUCT AN EXAMINATION INTO PATIENT'S ALLEGED MENTAL DISABILITY AND RETENTION BEFORE GRANTING WRIT OF HABEAS CORPUS IN A PROCEEDING BROUGHT PURSUANT TO CPLR ARTICLE 70;

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, MATTER OF v FITZGERALD:
INSURANCE - AUTOMOBILE INSURANCE - SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORIST (SUM) ENDORSEMENT - WHETHER A POLICE VEHICLE IS A "MOTOR VEHICLE" WITHIN THE MEANING OF THE SUM ENDORSEMENT CONTAINED IN THE INSURANCE POLICY AT ISSUE;

STATE OF NEW YORK, MATTER OF v ANTHONY N.:
CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - DIAGNOSIS OF BORDERLINE PERSONALITY DISORDER (BPD) - WHETHER BPD CAN CONSTITUTE A MENTAL ABNORMALITY REQUIRING CIVIL COMMITMENT;

STATE OF NEW YORK, MATTER OF v DENNIS K. (ANONYMOUS):
CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE JURY FINDING THAT DENNIS K. HAD A MENTAL ABNORMALITY UNDER MENTAL HYGIENE LAW § 10.03(i) - ANTISOCIAL PERSONALITY DISORDER AND

PARAPHILIA NOT OTHERWISE SPECIFIED NONCONSENT; CONFINEMENT REQUIRED - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE FINDING THAT DENNIS K. WAS A DANGEROUS SEX OFFENDER REQUIRING CONFINEMENT; TRIAL - INSTRUCTIONS - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, IN LIGHT OF SUPREME COURT'S JURY CHARGE, THE SUMMATION REMARKS BY THE ASSISTANT ATTORNEY GENERAL DID NOT DEPRIVE DENNIS K. OF A FAIR TRIAL, AND THAT SUPREME COURT DID NOT IMPROVIDENTLY EXERCISE ITS DISCRETION IN DECLINING TO GIVE THE SPECIFIC CHARGE REQUESTED BY COUNSEL FOR DENNIS K.; DISCLOSURE - PENALTY FOR FAILURE TO DISCLOSE - PRECLUSION OF EXPERT TESTIMONY - WHETHER SUPREME COURT ERRED IN NOT PRECLUDING OR LIMITING THE TESTIMONY OF THE STATE'S EXPERT WITNESSES AT THE DISPOSITIONAL HEARING;

STATE OF NEW YORK, MATTER OF v HUMBERTO G.:
CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT HUMBERTO G. WAS A DETAINED SEX OFFENDER - WHETHER DIAGNOSIS OF ANTISOCIAL PERSONALITY DISORDER ALONE CAN SUPPORT A FINDING THAT HUMBERTO G. SUFFERED FROM A "MENTAL ABNORMALITY" AS DEFINED IN MENTAL HYGIENE LAW § 10.03(i);

SUAREZ, MATTER OF v WILLIAMS:
PARENT, CHILD AND FAMILY - CUSTODY - AWARD OF CUSTODY TO GRANDPARENTS - EXTRAORDINARY CIRCUMSTANCES - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT PETITIONER GRANDPARENTS FAILED TO DEMONSTRATE EXTRAORDINARY CIRCUMSTANCES SUFFICIENT TO DEPRIVE RESPONDENT MOTHER OF CUSTODY OF HER CHILD;

SUTTNER, &c. v A.W. CHESTERTON COMPANY et al.:
PRODUCTS LIABILITY - FAILURE TO WARN OF DANGER - WHETHER THE COURTS BELOW ERRED IN HOLDING THAT VALVE MANUFACTURER HAD A DUTY TO WARN OF THE DANGERS INHERENT IN THE USE OF ASBESTOS-CONTAINING GASKETS THAT WERE COMPONENTS OF THE VALVES, BUT WHICH DEFENDANT DID NOT MANUFACTURE OR SELL;

SYDORIAK (TYSON), PEOPLE v:
CRIMES - JURORS - NOTICE TO COUNSEL OF SUBSTANTIVE JUROR INQUIRY LETTER - MODE OF PROCEEDINGS ERROR - WITHOUT DEFENSE COUNSEL'S OBJECTION TO THE COURT'S PROCEDURES OR RESPONSES, TRIAL JUDGE READ NOTES TO JURY FOR THE FIRST TIME IN PRESENCE OF COUNSEL AND DEFENDANT, AND RESPONDED TO JURY WITHOUT FIRST GETTING INPUT FROM COUNSEL;
TAYLOR (RHIAN), PEOPLE v:
CRIMES - JURORS - NOTICE OF SUBSTANTIVE JURY INQUIRY - WHERE THE PARTIES AGREED THAT THE COURT COULD PROVIDE THE JURY WITH ANY "REQUESTED EXHIBITS" WITHOUT CONSULTING COUNSEL, WHETHER THE TRIAL COURT COMMITTED AN ERROR UNDER PEOPLE v O'RAMA (78 NY2d

270), WHERE IT DID NOT CONSULT COUNSEL BEFORE RESPONDING TO A JURY NOTE ASKING "TO SEE THE BENEFITS OFFERED" TO THE PEOPLE'S TWO COOPERATING WITNESSES BY PROVIDING THE JURY WITH THE WRITTEN COOPERATION AGREEMENT AS TO ONE OF THE WITNESSES, WHICH WAS IN EVIDENCE, WHERE THE BENEFITS OFFERED TO THE OTHER WITNESS WERE REFLECTED ONLY IN TESTIMONY AND NOT IN ANY EXHIBIT; IDENTIFICATION OF DEFENDANT - PHOTOGRAPHIC ARRAY - WHETHER DEFENDANT "OPENED THE DOOR" TO A WITNESS TESTIFYING TO AN EXTRAJUDICIAL IDENTIFICATION OF A PHOTOGRAPH OF DEFENDANT; WHETHER THE TRIAL COURT ERRED IN ALLOWING A DETECTIVE TO TESTIFY THAT DEFENSE COUNSEL WAS PRESENT AT A LINEUP OBSERVED BY A WITNESS;

TEXEIRA, MATTER OF v FISCHER &c.:
PRISONS AND PRISONERS - DISCIPLINE OF INMATES - VIOLATION OF A PRISONER'S RIGHT TO CALL A WITNESS AT A DISCIPLINARY HEARING - WHETHER THE PROPER REMEDY FOR SUCH A VIOLATION IS EXPUNGEMENT OR REMITTAL FOR A NEW HEARING;

THOMPSON (FREDDIE), PEOPLE v:
CRIMES - SENTENCE - RESENTENCE - WHETHER THE COURTS BELOW PROPERLY CALCULATED THE 10-YEAR LOOK-BACK PERIOD IN ADJUDICATING DEFENDANT A SECOND VIOLENT FELONY OFFENDER; WHETHER DEFENDANT WAS DEPRIVED OF A FAIR TRIAL BY COMMENTS MADE DURING SUMMATION; WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S MOTION TO REOPEN THE WADE HEARING;

THOMPSON (RITA), PEOPLE v:
CRIMES - PLEA OF GUILTY - SUFFICIENCY OF ALLOCUTION - WAIVER OF CONSTITUTIONAL RIGHTS - WHETHER THE RECORD ESTABLISHED THAT DEFENDANT KNOWINGLY, VOLUNTARILY AND INTELLIGENTLY WAIVED HER BOYKIN RIGHTS WHERE THE TRIAL COURT INQUIRED WHETHER DEFENDANT UNDERSTOOD SHE WAS GIVING UP HER RIGHT TO A TRIAL, BUT FAILED TO MENTION OTHER BOYKIN RIGHTS;

TIPALDO v LYNN:
LABOR - WHISTLEBLOWER LAW (CIVIL SERVICE LAW § 75-b) - RETALIATORY PERSONNEL ACTION AGAINST CITY DEPARTMENT OF TRANSPORTATION (DOT) EMPLOYEE WHO REPORTED TO THE DEPARTMENT OF INVESTIGATION (DOI) THAT TWO OF HIS SUPERVISORS VIOLATED BIDDING RULES - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT IT WAS FUTILE FOR PLAINTIFF TO FIRST REPORT THE ALLEGED VIOLATION TO THE INTERNAL DOT "APPOINTING AUTHORITY," AS REQUIRED BY THE STATUTE, BECAUSE THE SAME PEOPLE WHO COMMITTED THE ALLEGED VIOLATION WERE THE "APPOINTING AUTHORITY," AND THAT PLAINTIFF'S INFORMAL REPORT TO HIS IMMEDIATE SUPERVISORS AND HIS FORMAL REPORT TO THE DOI "SATISFACTORILY MET" THE STATUTORY REQUIREMENT; INTEREST - INTEREST ON AWARD - PRE-DETERMINATION INTEREST - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PRE-

DETERMINATION INTEREST IS AVAILABLE TO A PREVAILING PLAINTIFF IN AN ACTION BROUGHT UNDER CIVIL SERVICE LAW § 75-b;

TONAWANDA SENECA NATION, MATTER OF v NOONAN:
PROCEEDING AGAINST BODY OR OFFICER - PROHIBITION - CPLR ARTICLE 78 PROCEEDING BROUGHT IN APPELLATE DIVISION TO PROHIBIT SURROGATE FROM EXERCISING JURISDICTION OVER REAL PROPERTY SITUATED WITHIN TERRITORY OF INDIAN NATION - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT THE PROCEEDING SHOULD HAVE BEEN COMMENCED IN SUPREME COURT;

TORRES v JONES, et al. (AND ANOTHER ACTION):
TORTS - CIVIL RIGHTS - FALSE ARREST, FALSE IMPRISONMENT AND UNREASONABLE SEIZURE - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF FAILED TO RAISE A TRIABLE ISSUE OF FACT REGARDING THE EXISTENCE OF PROBABLE CAUSE FOR HER ARREST; MALICIOUS PROSECUTION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF FAILED TO REBUT THE PRESUMPTION OF PROBABLE CAUSE CREATED BY THE GRAND JURY'S INDICTMENT AND FAILED TO RAISE A TRIABLE ISSUE OF FACT THAT HER ARREST AND PROSECUTION WERE MOTIVATED BY ACTUAL MALICE; QUALIFIED IMMUNITY; APPEARANCE BY INDIVIDUAL DEFENDANT IN ACTION;

230 PARK AVENUE HOLDCO, LLC v KURZMAN KARELSEN & FRANK, LLP:
LANDLORD AND TENANT - LEASE - RIGHT TO SUBLEASE OR ASSIGN - WHETHER THE COURTS BELOW PROPERLY INTERPRETED A STIPULATION OF SETTLEMENT AS GRANTING THE TENANT THE RIGHT TO LOCATE PROSPECTIVE TENANTS FOR THE PREMISES; WHETHER THE COURTS BELOW CORRECTLY CONCLUDED THAT TRIABLE ISSUES OF FACT EXIST AS TO WHETHER THE LANDLORD BREACHED THE STIPULATION;

VARENGA (NATANAEL SAGASTUMEAL), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT A HEARING ON HIS MOTION TO VACATE HIS CONVICTION ON THE GROUND THAT HE WAS DEPRIVED OF HIS RIGHT TO THE EFFECTIVE ASSISTANCE OF COUNSEL BY HIS ATTORNEY'S ALLEGED FAILURE TO ADVISE HIM OF THE IMMIGRATION CONSEQUENCES OF HIS GUILTY PLEA - FINALITY OF DEFENDANT'S CONVICTION IN RELATION TO TIMING OF U.S. SUPREME COURT DECISION IN PADILLA v KENTUCKY (559 US 356); RETROACTIVE EFFECT OF PADILLA DECISION;

VILLAR v HOWARD:
MUNICIPAL CORPORATIONS - NOTICE OF CLAIM - NOTICE NOT REQUIRED FOR CLAIM AGAINST SHERIFF ARISING OUT OF SEXUAL ASSAULT OF INMATE - NO DUTY BY COUNTY TO INDEMNIFY SHERIFF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT PLAINTIFF WAS NOT REQUIRED TO

SERVE A NOTICE OF CLAIM UNDER GENERAL MUNICIPAL LAW § 50-e; NEGLIGENCE - DUTY - DUTY TO PROTECT INMATE FROM SEXUAL ASSAULT BY FELLOW JAIL INMATE - POTENTIAL LIABILITY FOR DEPUTIES' NEGLIGENT TRAINING AND SUPERVISION - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT DEFENDANT OWED A DUTY OF CARE TO PLAINTIFF; SHERIFFS AND CONSTABLES - LIABILITY FOR NEGLIGENCE - SEXUAL ASSAULT OF JAIL INMATE - NO IMMUNITY OWING TO ALLEGEDLY DISCRETIONARY ACTS OF SHERIFF - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE ISSUE WHETHER DEFENDANT'S ALLEGED ACTS OF NEGLIGENCE WERE DISCRETIONARY AND THUS IMMUNE FROM LIABILITY CONSTITUTED A FACTUAL QUESTION THAT CANNOT BE DETERMINED AT THE PLEADING STAGE;

WALKER (CHRISTOPHER E.), PEOPLE v:
CRIMES - JUSTIFICATION - PROPER JURY CHARGE - WHETHER THE PATTERN JURY INSTRUCTION ON THE "INITIAL AGGRESSOR EXCEPTION" TO THE JUSTIFICATION DEFENSE MISSTATES THE APPLICABLE LAW WHERE THE DEFENDANT CLAIMS HE USED FORCE TO SHIELD ANOTHER PERSON FROM ATTACK IN AN ONGOING ALTERCATION;

WALLACE (BOBBY), PEOPLE v:
CRIMES - SUPPRESSION HEARING - STATEMENTS MADE BY DEFENDANT TO POLICE PRIOR TO HIS ARREST - WHETHER DEFENDANT WAS "IN CUSTODY" FOR PURPOSES OF THE RULE SET FORTH IN MIRANDA v ARIZONA - WHETHER THE "PUBLIC SAFETY" EXCEPTION TO THE MIRANDA RULE APPLIES IN THIS CASE WHERE THE OFFICERS WERE NOT CONCERNED FOR THEIR SAFETY AND THE "WEAPON" AT ISSUE WAS NOT AN INHERENTLY DANGEROUS ITEM LIKE A GUN OR KNIFE;

WATSON (LAWRENCE), PEOPLE v:
CRIMES - RIGHT TO COUNSEL - EFFECTIVE PRESENTATION - POTENTIAL CONFLICT OF INTEREST - REPRESENTATION OF DEFENDANT BY STAFF ATTORNEY OF AN INSTITUTIONAL DEFENDER WHERE POTENTIAL WITNESS IN DEFENDANT'S CASE HAD BEEN REPRESENTED BY A DIFFERENT STAFF ATTORNEY IN A CASE ARISING OUT OF THE SAME INCIDENT UNDERLYING THE CHARGES AGAINST DEFENDANT - APPLICATION OF PEOPLE v WILKINS (28 NY2d 53) TO SMALLER-SCALE PUBLIC DEFENSE AGENCY - WHETHER THE APPELLATE DIVISION ERRED IN CONCLUDING THAT NO ACTUAL OR POTENTIAL CONFLICT OF INTEREST EXISTED - WHETHER THE TRIAL COURT VIOLATED DEFENDANT'S RIGHT TO COUNSEL OF HIS OWN CHOOSING BY DISQUALIFYING DEFENSE COUNSEL EVEN THOUGH DEFENDANT WAIVED ANY POTENTIAL CONFLICT;

WESTCHESTER JOINT WATER WORKS, MATTER OF v ASSESSOR OF CITY OF RYE, et al.:
TAXATION - ASSESSMENT - REAL PROPERTY TAX LAW ARTICLE 7 PROCEEDINGS TO REVIEW ASSESSMENTS ON TWO PARCELS OF REAL

PROPERTY, ONE LOCATED WHOLLY WITHIN THE RYE NECK DISTRICT AND ONE WHOLLY LOCATED IN THE RYE CITY SCHOOL DISTRICT - NOTICE OF THE PROCEEDINGS INITIALLY GIVEN ONLY TO THE SUPERINTENDENT OF THE CITY SCHOOL DISTRICT - WHETHER THE COURTS BELOW ERRED IN DETERMINING THAT THE DISMISSAL OF THE PROCEEDINGS PURSUANT TO RPTL 708(3) PRECLUDED CPLR 205(a) RELIEF TO RECOMMENCE THE PROCEEDINGS;

WILLIAMS (CHRISTIAN), PEOPLE v:
CRIMES - PLEA OF GUILTY - WITHDRAWAL OF PLEA - ILLEGALITY OF AGREED UPON SENTENCE - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT'S JUDGMENT OF CONVICTION, ENTERED UPON A GUILTY PLEA, MUST BE VACATED BECAUSE THE RECORD DISCLOSED THAT NEITHER THE COURT NOR THE PARTIES REALIZED THAT THE AGREED UPON SENTENCE, TO BE IMPOSED IF DEFENDANT COMPLIED WITH THE CONDITIONS OF THE PLEA, WAS ILLEGAL; CRIMES - APPEAL - PRESERVATION OF ISSUE FOR REVIEW - CONSTITUTIONAL CLAIM THAT GUILTY PLEA VIOLATED DUE PROCESS - WHETHER DEFENDANT WAS REQUIRED TO PRESERVE HIS CONSTITUTIONAL CLAIM BY MOVING TO WITHDRAW HIS PLEA;

WILLIAMS (LEONARD), PEOPLE v:
CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - WHETHER POWER POINT PRESENTATION USED BY PROSECUTOR IN SUMMATION DEPRIVED DEFENDANT OF A FAIR TRIAL - MISCHARACTERIZATION OF TRIAL EVIDENCE - CURATIVE INSTRUCTIONS; RIGHT TO COUNSEL - ALLEGED INEFFECTIVE ASSISTANCE OF COUNSEL FOR FAILING TO OBJECT TO VARIOUS COMMENTS DURING PROSECUTOR'S SUMMATION;

WILSON (CHARLES K.), PEOPLE v:
CRIMES - CONFESSION - VOLUNTARY NATURE OF STATEMENTS - WHETHER THE PEOPLE SHOULD HAVE BEEN PRECLUDED FROM CROSS-EXAMINING DEFENDANT WITH STATEMENTS HE MADE TO POLICE AFTER INVOKING HIS MIRANDA RIGHTS - CLAIM THAT POLICE UNLAWFULLY CONTINUED TO QUESTION DEFENDANT KNOWING THAT HIS POST-MIRANDA STATEMENTS COULD BE USED FOR IMPEACHMENT PURPOSES; IDENTIFICATION OF DEFENDANT - PHOTOGRAPHIC ARRAY - INCLUSION OF SINGLE SUSPECT'S PHOTOGRAPH IN SUCCESSIVE ARRAYS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT IDENTIFICATION EVIDENCE DID NOT HAVE TO BE SUPPRESSED WHERE DIFFERENT PHOTOGRAPHS OF DEFENDANT WERE USED IN EACH PHOTO ARRAY AND WERE PLACED IN A DIFFERENT LOCATION WITHIN EACH ARRAY, AND THE FILLERS WERE VERY SIMILAR IN APPEARANCE TO DEFENDANT;

WOODSIDE MANOR NURSING HOME, MATTER OF v SHAH:
HEALTH - MEDICAID REIMBURSEMENT RATES - WHETHER (1) PUBLIC HEALTH LAW § 2808(17)(b), WHICH ESTABLISHED A MORATORIUM AND CAP ON THE DEPARTMENT OF HEALTH'S REVISION OF MEDICAID RATE APPEALS BY RESIDENTIAL HEALTH CARE FACILITIES, APPLIES RETROACTIVELY TO RATE

APPEALS FILED PRIOR TO ITS ENACTMENT; (2) RETROACTIVE APPLICATION UNCONSTITUTIONALLY DEPRIVES PETITIONERS OF VESTED PROPERTY RIGHTS; AND (3) PETITIONERS ARE ENTITLED UNDER STATE AND FEDERAL LAWS AND REGULATIONS TO A WRIT OF MANDAMUS COMPELLING DETERMINATION OF THEIR RATE APPEALS;

WRAGG (WILLIE L.), PEOPLE v:
CRIMES - SENTENCE - SECOND CHILD SEXUAL ASSAULT FELONY OFFENDER - WHETHER THE PEOPLE ARE PERMITTED TO SEEK A SENTENCING ENHANCEMENT PURSUANT TO PENAL LAW § 70.07 BY FILING A CPL 400.19 SECOND CHILD SEXUAL ASSAULT FELONY OFFENDER STATEMENT AFTER THE COMMENCEMENT OF TRIAL; RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENDANT RECEIVED INEFFECTIVE ASSISTANCE OF COUNSEL WHEN, AMONG OTHER THINGS, HIS ATTORNEY FAILED TO OBJECT TO THE TESTIMONY OF A POLICE OFFICER WHO REFERRED TO THE VICTIM'S PRE-ARREST IDENTIFICATION OF DEFENDANT;

WRIGHT (HOWARD S.), PEOPLE v:
CRIMES - MURDER - SUFFICIENCY OF EVIDENCE - WHETHER EVIDENCE IS SUFFICIENT TO ESTABLISH INTENTIONAL MURDER - CIRCUMSTANTIAL EVIDENCE; CLAIMED PROSECUTORIAL MISCONDUCT - STATEMENTS MADE BY PROSECUTOR DURING OPENING STATEMENT AND SUMMATION CONCERNING DNA EVIDENCE; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL - DEFENSE COUNSEL'S FAILURE TO OBJECT TO PROSECUTOR'S STATEMENTS;

MATTER OF YOGA VIDA NYC, INC. v COMMISSIONER OF LABOR:
UNEMPLOYMENT INSURANCE - EMPLOYEE OR INDEPENDENT CONTRACTOR - SUFFICIENT CONTROL OVER INSTRUCTORS TO CREATE EMPLOYMENT RELATIONSHIP - WHETHER SUBSTANTIAL EVIDENCE SUPPORTS THE BOARD'S DETERMINATION THAT NON-STAFF INSTRUCTORS, WHO TAUGHT YOGA CLASSES AT BOTH YOGA VIDA AND OTHER VARIOUS LOCATIONS, WERE IN FACT YOGA VIDA'S EMPLOYEES RATHER THAN INDEPENDENT CONTRACTORS, THUS REQUIRING YOGA VIDA TO MAKE ADDITIONAL UNEMPLOYMENT INSURANCE CONTRIBUTIONS;

ZELICHENKO v 301 ORIENTAL BOULEVARD, LLC:
NEGLIGENCE - MAINTENANCE OF PREMISES - TRIP AND FALL ON STAIRS DUE TO CHIP ON EDGE OF STEP - WHETHER SUMMARY JUDGMENT WAS PROPERLY GRANTED TO DEFENDANT UPON THE GROUND THAT, AS A MATTER OF LAW, THE CHIP WAS A TRIVIAL DEFECT AND DID NOT CONSTITUTE A TRAP OR NUISANCE;