JUNE 2020

NEW FILINGS DIGEST - QUARTERLY UPDATE

This report lists, by title and subject matter, appeals pending as of June 30, 2020. The appeals were previously published as "Court of Appeals New Filings."

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

ALLEN (CHARO N.), PEOPLE v:
Crimes--Accusatory Instrument--Whether District Court properly dismissed accusatory instrument as facially insufficient where People failed to properly file a certificate of translation.

ALSTON (RICKEY), PEOPLE v:
Crimes--Arraignment--Whether trial court's failure to follow procedure set forth in CPL 200.60 was harmless error; trial court required defendant to decide, prior to jury selection, whether to admit his prior conviction; Evidence--Whether trial court providently exercised its discretion in admitting a cell phone video recording of a restaurant's surveillance videotape; Sentence--Whether defendant was properly adjudicated a second felony offender based on a Washington D.C. drug conviction.

AYBAR, et al. v AYBAR, et al.; FORD MOTOR COMPANY et al.:
Courts--Jurisdiction--Whether the Appellate Division improperly ignored this Court's ruling in Bagdon v Philadelphia & Reading Coal & Iron Co. (217 NY 432 [1916]) and the United State Supreme Court's ruling in Neirbo Co. v Bethlehem Shipbuilding Corp. (308 US 165 [1939]), by holding that a foreign corporation's voluntary registration to do business in New York and its designation of New York's Secretary of State as its agent for the service of process was insufficient as a consent to general jurisdiction in New York.

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

BAKER (TREVIS D.), PEOPLE v:
Appeal--Waiver of Right to Appeal--Whether defendant's waiver of the right to appeal was invalid.

BALKMAN (EVERETT D.), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether the police had reasonable suspicion to stop a vehicle in which defendant was a passenger based on a computerized alert indicating the existence of a "similarity" between the registered owner of the vehicle and a person with an active arrest warrant.

BARRY, &c. v LEE, et al.:
Physicians and Surgeons--Malpractice--Summary Judgment.

BATTICKS (JONATHAN), PEOPLE v:
Crimes--Jurors--Challenge to trial court's handling of situation involving juror who made an outburst during cross-examination of a witness by co-defendant's counsel--whether trial court erred in failing to conduct an inquiry of the juror pursuant to People v Buford (69 NY2d 290).

BIASELLI (JOSHUA D.), PEOPLE v:
Crimes--Appeal--Whether defendant validly waived the right to appeal; whether the police lawfully stopped defendant.

BISONO (JOSE L.), PEOPLE v:
Crimes--Appeal--Whether defendant validly waived the right to appeal.

BROOKS (KIETH), PEOPLE v a/k/a BROOKS (KEITH):
Crimes--Accusatory Instrument--Whether certificate of translation was necessary to convert accusatory instrument to an information; whether certificate of translation must comply with 22 NYCRR 200.3.

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

CHEN v INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA:
Contracts--Waiver--Whether excess insurer defendant waived argument relating to its obligation to cover interest on personal injury judgment; Motions--Reargument or Renewal--Whether Supreme Court properly granted reargument to consider interest issue; Insurance--Construction of Policy--Whether Supreme Court properly interpreted excess insurance policy.

CNH DIVERSIFIED OPPORTUNITIES MASTER ACCOUNT, L.P. v CLEVELAND UNLIMITED, INC.:
Secured Transactions--Security Agreements--Whether Supreme Court properly dismissed plaintiffs' breach of contract claim based on parties' indenture, which tracked the language of section 316(b) of the Trust Indenture Act of 1939 (15 USC § 77ppp[b]) and provided that bondholder's right to receive payment or to bring enforcement suit shall not be impaired without holder's consent; whether collateral trustee was authorized to pursue default remedy of strict foreclosure.

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

CUTAIA v THE BOARD OF MANAGERS OF 160/170 VARICK STREET CONDOMINIUM, et al.:
Labor--Safe Place to Work--Whether plaintiff established entitlement to summary judgment on the Labor Law § 240(1) claim; plaintiff was injured when he received electrical shock and fell off ladder; application of Nazario v 222 Broadway, LLC (28 NY3d 1054 [2016]).

DANIELS (TODD), PEOPLE v:
Crimes--Appeal--Waiver of Right to Appeal--Whether defendant validly waived the right to appeal.

DEL ROSARIO (SERGIO), PEOPLE v:
Crimes--Sex Offenders--Sex Offender Registration Act--Level Two Sex Offender--Upward Departure--Whether the courts below erred in concluding that defendant's familial relationship with the victim was an aggravating circumstance not adequately taken into account by the Risk Assessment Instrument and provided a basis to upwardly depart from the presumptive risk level.

DEUTSCHE BANK NATIONAL TRUST COMPANY, &c. v MORGAN STANLEY MORTGAGE CAPITAL HOLDINGS LLC, &c., et al.:
Contracts--Contractual Limitation of Liability--Whether plaintiff sufficiently pleaded gross negligence to render "sole remedy" clauses in parties' residential mortgage-backed security agreements unenforceable, thereby permitting a claim for compensatory damages; whether plaintiff's allegations of wrongdoing against it were sufficient to support a demand for punitive damages.

DiLORENZO v WINDERMERE OWNERS LLC, et al.:
Landlord and Tenant--Rent Regulation--Whether defendants, original and successor owner of residential building, substantiated defendants' claims that they made sufficient expenditures for individual apartment improvements, thereby rendering subject apartment exempt from rent stabilization; whether plaintiff waived claim regarding useful life of improvements.

DITECH FINANCIAL, LLC, &c. v NAIDU, et al.:
Mortgages--Acceleration Clause--Whether plaintiff's execution of a stipulation to discontinue prior foreclosure action constituted an affirmative act to revoke plaintiff's election to accelerate the mortgage, thereby rendering subsequent foreclosure action timely.

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

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

EPAKCHI (DARIA, N.), PEOPLE v:
Crimes--Accusatory Instrument--Whether a simplified traffic information may be re-filed after another simplified traffic information alleging the same offense was dismissed for failure to timely provide a supporting deposition.

FORBES (JAMES), PEOPLE v:
Crimes--Evidence--Hearsay Evidence--"Identity" or "modus operandi" exception to the Molineux rule—defendant convicted of two separate theft incidents in one trial--whether his identity in both incidents was "conclusively established" for purposes of the Molineux identity exception to the hearsay rule for admission of evidence of prior bad acts; whether CPL 200.20 eliminates the discretionary analysis by the trial court as to whether the probative value of the evidence outweighs the potential for prejudice to the defendant.

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

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

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

GOLDMAN (REGINALD), PEOPLE v:
Crimes--Search Warrant--DNA Evidence--Whether DNA evidence obtained as a result of an ex parte search warrant application made when defendant was incarcerated on a separate matter was properly admitted into evidence at trial; Whether a YouTube video was properly authenticated.

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

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

HALLOCK, MATTER OF:
Attorney and Client--Disciplinary Proceedings.

HARDIN (ZESTRA), PEOPLE v:
Crimes--Appeal--Waiver of right to appeal--Whether defendant validly waived the right to appeal.

HARDY (EDWARD), PEOPLE v:
Crimes--Complaint--Whether local criminal court information can be amended by adding to or altering the factual allegations contained therein; application of CPL 100.45 and People v Easton (307 NY 336, 338 [1954]); date on which crime allegedly took place had not yet occurred when information was filed.

HERKIMER COUNTY INDUSTRIAL DEVELOPMENT AGENCY v VILLAGE OF HERKIMER, et al.:
Municipal Corporations--Water Supply--Whether county industrial development agency assented to village supplying water to agency owned property and tenant using that water, thereby giving rise to implied contract for water services between agency and village; application of Village Law § 11-1116 and local regulations.

HEWITT v PALMER VETERINARY CLINIC, P.C.:
Animals--Knowledge of Vicious Propensity--Whether strict liability rule applies where plaintiff seeks to recover from a defendant who maintained the premises where the injury occurred but did not own the animal that caused the injury; plaintiff attacked by another patron’s dog at defendant veterinarian’s office.

HIMMELSTEIN, McCONNELL, GRIBBEN, DONOGHUE & JOSEPH, LLP, et al. v MATTHEW BENDER & COMPANY, INC, &c.:
Consumer Protection--Deceptive Acts and Practices--Whether plaintiffs stated a cause of action under General Business Law § 349 where the only injury alleged to have resulted from defendant's allegedly deceptive business practices is the amount that plaintiffs paid for the product; Dismissal--Complaint--Whether plaintiffs stated a cause of action for breach of contract, breach of express warranty, or breach of implied covenant of good faith and fair dealing.

HINSHAW (ROBERT), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether the police had reasonable suspicion to stop defendant's vehicle; officer checked Department of Motor Vehicles (DMV) computer records for the vehicle's license plate number, which revealed that he car had been impounded and therefore should have been located on an impound lot; DMV report stated that it "should not be treated as a stolen vehicle hit" and "[n]o further action should be taken based solely upon this impounded response."

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

HOME EQUITY MORTGAGE TRUST SERIES 2006-1, et al. v DLJ MORTGAGE CAPITAL, INC.:
Contracts--Breach or Performance of Contract--Whether the doctrine of relation back permits residential mortgage-backed securities (RMBS) plaintiffs to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse plaintiffs' failure to comply with a contractual precondition to invoking the repurchase remedy, as long as the plaintiffs provided timely pre-suit repurchase demands relating to some specified loans in the trust--Evidence--Demonstrative Evidence--Whether plaintiffs may rely on statistical sampling to prove liability and damages for loans outside of the sample when a RMBS sole remedy provision requires loan-specific proof of breach, materiality, and damages--Contracts--Breach or Performance of Contract--Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

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

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

TOWN OF IRONDEQUOIT AND TOWN OF BRIGHTON, MATTER OF v COUNTY OF MONROE, et al.:
Statutes--Construction--Whether maintenance repair and demolition charges assessed against real property by a town pursuant to Town Law §§ 64 (5-1) and 130 (16) that are not paid must be credited by the county to the town under Real Property Tax Law § 936.

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

JEAN-PAUL v 67-30 DARTMOUTH ST. OWNERS CORP.:
Parties--Capacity to Sue--Whether a Chapter 7 bankruptcy proceeding dismissal restores a debtor-plaintiff's capacity or standing to pursue a personal injury action that the debtor-plaintiff failed to list as an asset during the bankruptcy proceeding.

PEOPLE ex rel. JOHNSON v SUPERINTENDENT, ADIRONDACK CORRECTIONAL FACILITY, et al.:
Crimes--Sex Offender--Whether the mandatory condition on parole release imposed under Executive Law § 259-c (14) is violative of substantive due process under the Federal or State Constitution.

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION v CALIGURI, &c.:
Mortgages--Foreclosures--Whether plaintiff mortgagee established standing in foreclosure action; plaintiff attached to summons and complaint a copy of consolidated note, which bore an endorsement in blank from original lender; defendant demanded inspection of original note; Whether second foreclosure action was barred by res judicata; Whether Supreme Court erred in not transferring foreclosure action to Justice who dismissed plaintiff's earlier foreclosure action.

J.P. MORGAN SECURITIES, INC. et al. v VIGILANT INSURANCE COMPANY, et al.:
Insurance--Business Insurance--Disgorgement payment to Securities and Exchange Commission not insurable loss.

JUAREZ, et al., MATTER OF v NEW YORK STATE OFFICE OF VICTIM SERVICES, et al.:
Administrative Law--Rule Making--Whether New York State Office of Victim Services exceeded its authority under Executive Law article 22 to adopt regulations for the

approval of crime victims' counsel fee requests by amending its regulations to provide that such awards may be considered only for fees incurred in successful administrative reconsideration reviews and judicial review (9 NYCRR 525.9 [a],[c]).

LASHLEY (SHARON), PEOPLE v:
Crimes--Sentence--Resentence--Filing of proper predicate felony statement.

LAWS (RYAN), PEOPLE v
Crimes--Accusatory Instrument--Whether defendant's waiver of indictment was jurisdictionally defective and reviewable on direct appeal, notwithstanding the defendant's guilty plea and waiver of the right to appeal; waiver of indictment omitted the "approximate time" of the charged offense, as required by CPL 195.20.

LENDOF-GONZALEZ (BENITO), PEOPLE v:
Crimes--Attempt--Whether evidence was legally sufficient to support conviction for attempted murder in the first and second degree; defendant, inmate at county jail, solicited fellow inmate to kill defendant's wife and mother-in-law upon the inmate’s release from jail.

LEWIS (DAVE), PEOPLE v:
Motor Vehicles--Injuries to Bicyclist--Whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1) impose a civil negligence standard of care rather than a criminal negligence standard; whether New York City Administrative Code § 19-190(b) and New York State Vehicle and Traffic Law § 1146(c)(1), if interpreted to impose a civil negligence standard, are unconstitutional for using a civil negligence standard as a basis for criminal liability; Whether New York City Administrative Code § 19-190(b), if interpreted to impose a civil negligence standard, is preempted by state law; Whether the evidence was legally sufficient to support the verdict.

LIPIN v DANSKE BANK, et al.:
Appeal.

LIPIN, et al., ESTATE OF v LIPIN:
Appeal.

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

PEOPLE v J. L. (ANONYMOUS):
Crimes--Possession of Weapon--Whether trial court erred in declining defendant's request to instruct the jury that voluntariness is an element of the charged criminal possession of a weapon; suppression of physical evidence--whether trial court erred in denying defendant's motion to suppress firearm and marihuana evidence found when police entered apartment where defendant's blood trail lead; alleged prosecutorial misconduct in summation to jury.

LYNCH, &c., et al. v CITY OF NEW YORK, et al.:
Civil Service--Retirement and Pension Benefits--Whether police officers employed by the New York City Police Department who are tier 3 and tier 3 revised plan members of the New York City Police Pension Fund are eligible for the child care leave credit set forth in Administrative Code § 13-218(h); summary judgment; declaratory judgment.

MAGEE (JEFFREY R.), PEOPLE v:
Appeal--Waiver of Right to Appeal--Whether defendant's waiver of right to appeal was invalid.

MALERBA, MATTER OF:
Attorney and Client—Disciplinary Proceedings.

MANKO, MATTER OF v LENOX HILL HOSPITAL (A.D. NO. 01851/11):
Appeals--Matters Appealable.

MANKO v LENOX HILL HOSPITAL (A.D. NO. 30972/04):
Appeal--Appealable Paper.

MANKO, MATTER OF v MASTRO (A.D. NO. 526781/19):
Proceeding Against Body or Officer--When Remedy Available.

McCURDY, PEOPLE ex rel. v WARDEN:
Crimes--Sex Offenders--Whether Department of Corrections and Community Supervision had authority to place a level three sex offender who already completed more than six months of postrelease supervision into Residential Treatment Facility where sex offender was unable to locate housing compliant with the Sexual Assault Reform Act; application of Penal Law § 70.45(3), Correction Law § 73(10), Executive Law § 259-c(14).

MILLER, (JOSHUA L.), PEOPLE v:
Crimes--Appeal--Whether defendant validly waived the right to appeal; whether Supreme Court properly denied defendant's motion to suppress evidence seized pursuant to a search warrant.

MORALES (MANUEL), PEOPLE v:
Crimes--Identification of defendant--first-time, in-court identification during trial.

MULLER, MATTER OF v SQUARE DEAL MACHINING, INC., et al.; WORKERS' COMPENSATION BOARD:
Workers' Compensation--Whether the Board's role permitting claimant to not serve the carrier's attorney with notice of claimant's application for Board review (*see* 12 NYCRR 300.13)--although requiring service upon the carrier--impinges upon the carrier's right to counsel and, therefore, is unconstitutional, unreasonable, arbitrary, capricious and without rational basis.

NEGRON, PEOPLE ex rel. v SUPERINTENDENT, WOODBOURNE CORRECTIONAL FACILITY:
Crimes--Sex Offenders--Whether petitioner is subject to Executive Law § 259–c (14),which prohibits certain inmates being released from custody from knowingly entering into or upon any school grounds; petitioner, a level three sex offender, was serving a sentence for an offense not enumerated in section 259-c prior to his release from custody.

OGANDO (NOLIS), PEOPLE v:
Crimes--Appeal--Waiver of Right to Appeal--Whether defendant validly waived the right to appeal;

OLDS (LESLIE K.), PEOPLE v.:
Crimes--Sentence--Whether the sentence imposed was vindictive; whether defendant preserved for appellate review the issue of vindictiveness.

ORTIZ, PEOPLE ex rel. v BRESLIN &c. et al.:
Crimes–Sex Offender–Whether Department of Corrections and Community Supervision's placement of petitioner in a residential treatment facility during his period of post release supervision until petitioner was able to locate housing that complied with the Sexual Assault Reform Act violated his right to substantive due process and constituted cruel and unusual punishment.

OSBORNE, MATTER OF:
Attorney and Client--Reinstatement.

PENA (ROBIN), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether police officer made objectively reasonable mistake of law in stopping defendant's vehicle, which had working brake lights on right and left sides as required by Vehicle and Traffic Law § 375(40)(b), but defective center brake light, which is not a traffic violation.

PEOPLE CARE INCORPORATED, d/b/a ASSISTED CARE, MATTER OF v THE CITY OF NEW YORK HUMAN RESOURCES ADMINISTRATION, et al.:
Social Services--Recoupment of Overpayments--Whether respondent The City of New York Human Resources Administration Department of Social Services has the authority to audit and recover overpayments of funds provided pursuant to the Health Care Reform Act from petition, a personal care service provider.

PEREZ (ALEX), PEOPLE v:
Crimes--Harmless and Prejudicial Error--Whether error in denying defendant's motion to suppress defendant's cell phone location data and admitting such data at trial was harmless.

PEYTON, MATTER OF v NEW YORK CITY BOARD OF STANDARDS AND APPEALS:
Administrative Law--Collateral Estoppel--Whether doctrine of collateral estoppel barred CPLR article 78 proceeding challenging respondent New York City Board of Standards and Appeals' resolution upholding New York City Department of Buildings' decision granting permit for construction of a nursing home on multiple-building zoning lot where petitioners reside; Municipal Corporations--Zoning--Whether respondent erred in calculating zoning lot's open space ratio by including as open space roof-top garden to which petitioners did not have access.

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

PROTECT THE ADIRONDACKS v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:
Constitutional Law--State Constitutional Law--Whether the plan of defendants Adirondack Park Agency and Department of Environmental Conservation to construct Class II Community Connector trails in the Forest Preserve of the Adirondack Park would result in an unconstitutional destruction of "timber" in violation of article XIV, § 1.

REXFORD &c., MATTER OF v GOULD ERECTORS & RIGGERS, INC., et al.:
Workers' Compensation--Reopened cases--Workers' Compensation Law 25-a(1-a).

R.F. SCHIFFMAN ASSOCIATES, INC., et al. v BAKER & DANIELS, LLP:
Interest--Computation--Whether plaintiffs were entitled to CPLR 5001 prejudgment interest in addition to a late fee of 18% interest per annum, as awarded by prior Appellate Division order; alleged due process and equal protection violations.

ROBINSON (DAVID), PEOPLE v:
Crimes--Appeal--Waiver of Right to Appeal--Whether defendant validly waived the right to appeal.

RODRIGUEZ (LANCE), PEOPLE v:
Crimes--Appeal--Waiver of right to appeal--Whether defendant validly waived the right to appeal; whether the police lawfully stopped defendant.

SASSI v MOBILE LIFE SUPPORT SERVICES, INC.:
New York State Human Rights Law (Executive Law 296)--Employment Discrimination--Pleading--Sufficiency of Pleading.

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

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

SIMON v FRANCINVEST, S.A.:
Corporations--Shareholders' Derivative Action--alleged constitutional violations.

SLADE (KENNETH), PEOPLE v:
Crimes--Accusatory Instrument--Whether certificate of translation was required to convert complaint to information; denial of CPL 30.30 motion.

SMITH (RUSSELL), PEOPLE v:
Crimes--Jurors--Whether Supreme Court erred in denying, without a hearing, defendant's motion pursuant to CPL 330.30 to side aside the verdict based on juror misconduct; juror allegedly told another juror that the juror observed defendant commit a crime during the pendency of the proceedings.

SMYTHE v MILLER &c., PEOPLE ex rel.:
Habeas Corpus--When Remedy Available--Whether habeas corpus relief is available to address petitioner's claim that the indictment underlying his criminal conviction was jurisdictionally defective.

STATE OF NEW YORK, MATTER OF v JESUS H.:
Sex Offenders--Civil Commitment or Supervision--Mental Abnormality--Predisposition to Commit Sex Offense.

SUTTON 58 ASSOCIATES, LLC v PILEVSKY et al.:
United States--Federal Preemption--Whether plaintiff's state law claims are preempted by federal law; sole damages sought by plaintiff were losses resulting from the delay of a real estate project due to bankruptcy filing of two nonparty entities.

AUDREY T., MATTER OF:
Attorney and Client--Disciplinary Proceedings.

MATTER OF MARIAN T. (LAUREN R.):
Adoption--Adoption of Adult--Whether Surrogates' Court had discretion to dispense with adult adoptee's consent in adoption proceeding; petitioners commenced proceeding to adopt 64-year-old woman with severe intellectual disabilities, who resided in petitioners' family care home; construction of Domestic Relations Law § 111(1)(a).

TAX EQUITY NOW NEW YORK LLC v CITY OF NEW YORK, et al.:
Taxation--Real Property Tax--Whether various sections of the Real Property Tax Law pertaining to the taxation of four statutory classes of properties in New York City violate the Federal and State Equal Protection Clauses; whether the taxation scheme violates article XVI, § 2 of the New York State Constitution; whether defendants violated the Fair Housing Act; alleged due process violations.

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

TOUSSAINT v THE PORT AUTHORITY OF NEW YORK AND NEW JERSEY, et al.:
Labor--Safe Place to Work--Whether the requirement in the Industrial Code that a "designated person" operate a power buggy is sufficiently specific to support a claim under Labor Law § 241(6).

THE TRUSTEES OF COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK v D'AGOSTINO SUPERMARKETS, INC.:
Damages--Liquidated Damages--Whether liquidated damages provision of a commercial lease surrender agreement was enforceable.

U.S. BANK NATIONAL ASSOCIATION, &c. v CREATIVE ENCOUNTERS LLC et al.:
Mortgages--Whether the mortgagee's voluntary discontinuance of the first two mortgage foreclosure actions, without more, constituted an affirmative revocation of the initial acceleration of the mortgage debt, such that the debt was de-accelerated within the applicable statute of limitations and this action is not time-barred.

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

US BANK NATIONAL ASSOCIATION, &c. v NELSON, et al.:
Parties--Standing--Whether, in a mortgage foreclosure action in which the complaint alleges that the plaintiff is the owner and holder of the note and mortgage, the denial of that allegation in the answer is alone sufficient to assert that the plaintiff lacks standing, thereby placing the question of standing in issue.

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

VERNEAU, MATTER OF v CONSOLIDATED EDISON CO. OF NEW YORK, INC., et al.:
Workers' Compensation--Reopened cases--Workers' Compensation Law 25-a(1-a).

VIGNONE (PEREGRINE ENTERPRISES), MATTER OF v:
Unemployment Insurance--Dismissal of Appeal--Whether the Appellate Division properly dismissed employer's appeals based on employer's failure, under Labor Law § 625, to either deposit the sum due or file an undertaking sufficient to cover the sum due; alleged due process and equal protection violations.

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

WALLEY (ZAQUAN), PEOPLE v:
Crimes--Accusatory Instrument--Whether defendant's waiver of indictment was jurisdictionally defective and reviewable on direct appeal, notwithstanding the defendant's guilty plea and waiver of the right to appeal; waiver of indictment omitted the "approximate time" of the charged offense, as required by CPL 195.20.

WHITE, et al. v CUOMO &c., et al.:
Constitutional Law--State Constitutional Law--Whether article 14 of the Racing Pari-Mutuel and Breeding Law violates article I, section 9 of the New York State Constitution.

WILKINS (WILLIAM A.), PEOPLE v:
Crimes--Right to be Present at Trial--Whether the absence of defendant from two sidebar conferences with prospective jurors requires reversal; Crimes--Harmless and Prejudicial Error--Whether the trial court's delivery of an instruction, without a request for such an instruction from defendant, that it was to draw no adverse inference from defendant's failure to testify was reversible error; Whether reversal is required because the court sua sponte explained to the jury that the third person at defendant's table was a deputy and referred to defendant's custodial status.

WILLIAMS (LANCE), PEOPLE v:
Crimes--Possession of Weapon--Whether trial court properly denied defendant's request for a charge on the defense of temporary lawful possession; Crimes--Jurors--whether the hearing court properly denied defendant's CPL 330.30(2) motion to set aside the verdict on the ground of improper conduct toward a juror.

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

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

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

ZIELINSKI, MATTER OF v VENETTOZZI:
Prisons and Prisoners--Discipline of Inmates--Whether substantial evidence supports determination finding petitioner guilty of violating a prison disciplinary rule.