

MAY 2017

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.

ABDUR-RASHID, MATTER OF v NEW YORK CITY POLICE DEPARTMENT, et al.
(AND ANOTHER PROCEEDING):

PROCEEDING AGAINST BODY OR OFFICER - MANDAMUS - CPLR ARTICLE 8 PROCEEDINGS TO COMPEL RESPONDENTS NEW YORK CITY POLICE DEPARTMENT (NYPD) AND NYPD COMMISSIONER KELLY TO DISCLOSE DOCUMENTS REQUESTED BY PETITIONERS PURSUANT TO FREEDOM OF INFORMATION LAW (FOIL) (PUBLIC OFFICERS LAW § 84 ET SEQ.) - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE NYPD MAY INVOKE THE FEDERAL GLOMAR DOCTRINE (PERMITTING AGENCIES TO NEITHER CONFIRM NOR DENY THE EXISTENCE OF RECORDS SOUGHT) WHEN RESPONDING TO A FOIL REQUEST - FOIL ACTIVITIES AND INVESTIGATIONS INVOLVING PETITIONERS AND THEIR ASSOCIATED ORGANIZATIONS;

ALEYNIKOV (SERGEY), PEOPLE v:

Crimes--Verdict--Sufficiency of Evidence--Whether legally sufficient evidence supports defendant's conviction of unlawful use of secret scientific material, in violation of Penal Law § 165.07, where defendant made a digital copy of his employer's proprietary computer source code by uploading the code to a server and copying it to his own personal computing devices;

ALTMAN v 285 WEST FOURTH LLC:

Landlord and Tenant--Rent Regulation--Whether the Appellate Division erred in concluding that defendant's entitlement to a vacancy increase following the departure of the prior tenant of record did not effectuate a deregulation of the apartment under Rent Stabilization Law § 26-504.2;

AMERICAN ECONOMY INSURANCE COMPANY v STATE OF NEW YORK, et al.:

WORKERS' COMPENSATION - SPECIAL FUNDS - WHETHER WORKERS' COMPENSATION LAW § 25-a(1-a) IMPOSES RETROACTIVE LIABILITY IN VIOLATION OF THE CONTRACT CLAUSE OF THE U.S. CONSTITUTION AND THE TAKINGS CLAUSE OF THE U.S. AND NEW YORK STATE CONSTITUTIONS;

TOWN OF AMHERST v GRANITE STATE INSURANCE COMPANY:

ARBITRATION - AGREEMENT TO ARBITRATE - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT IT WAS FOR THE ARBITRATOR, NOT THE COURT, TO DECIDE THE VALIDITY AND EFFECT OF A SUBSEQUENT AGREEMENT TO LITIGATE A CLAIM THAT WAS SUBJECT TO ARBITRATION UNDER THE TERMS OF THE PARTIES' INSURANCE POLICY;

ANDINO, MATTER OF v MILLS, et al.:

Damages--Collateral source of payment--CPLR 4545--whether the Appellate Division correctly held that, under Oden v Chemung County Indus. Dev. Agency (87 NY2d 81 [1995]), the jury's award for future loss of pension benefits should have been offset by the total amount that plaintiff was projected to receive under her accidental disability pension;

ANDUJAR (JOHN), PEOPLE v:

CRIMES - ACCUSATORY INSTRUMENT - WHETHER VEHICLE AND TRAFFIC LAW § 397 APPLIES ONLY TO A POLICE SCANNER OR RADIO RECEIVING SET THAT IS ATTACHED TO THE MOTOR VEHICLE OR APPLIES TO SUCH A DEVICE CARRIED IN THE DRIVER'S CLOTHING WHILE DRIVING A MOTOR VEHICLE - DEFINITION OF "EQUIP" AS WORD IS USED IN STATUTE;

ANONYMOUS &c., MATTER OF v MOLIK, et al.:

Proceeding Against Body or Officer--Certiorari--CPLR article 78 proceeding to review respondent's determination denying petitioner intermediate health care facility to amend and seal the New York State Justice Center for the Protection of People with Special Needs' substantiated allegation of neglect against petitioner made pursuant to Social Services Law § 493--whether Social Services Law § 493 authorizes the Justice Center to substantiate a finding of neglect against a facility where the Justice Center determines that systemic conditions at the facility gave rise to an incident of neglect but the employees identified as the subjects of the initial report alleging neglect bear no individual responsibility for the incident; whether the Appellate Division erred in granting petitioner anonymity and so amending the caption of the proceeding;

APONTE, MATTER OF v OLATOYE, &c., et al.:

PUBLIC HOUSING - DENIAL OF REMAINING FAMILY MEMBER STATUS - WHETHER DETERMINATION DENYING PETITIONER SUCCESSION RIGHTS TO HIS MOTHER'S APARTMENT WAS ARBITRARY AND CAPRICIOUS WHERE AGENCY DID NOT CONSIDER MOTHER'S DISABILITY IN REACHING ITS DETERMINATION;

ARISTY-FARER, et al. v STATE OF NEW YORK, et al.; NEW YORKERS FOR STUDENTS' EDUCATIONAL RIGHTS v STATE OF NEW YORK, et al.:

SCHOOLS - STATE AID TO SCHOOL DISTRICTS - WHETHER PLAINTIFFS' COMPLAINTS ADEQUATELY STATED A CLAIM UNDER THE EDUCATION ARTICLE OF THE NEW YORK CONSTITUTION (ART XI, § 1) BASED ON THEIR ALLEGATIONS THAT THE UNDERFUNDING OF SCHOOL DISTRICTS THROUGHOUT THE STATE DEPRIVES STUDENTS OF THE OPPORTUNITY FOR A SOUND BASIC EDUCATION - WHETHER PLAINTIFFS' COMPLAINTS BASED ON THE EDUCATION ARTICLE SHOULD BE DISMISSED INsofar AS THEY RELATE TO DISTRICTS AS TO WHICH THERE WERE NO PARTICULARIZED PLEADINGS; PARTIES - STANDING - WHETHER PLAINTIFF EDUCATIONAL ADVOCACY GROUP HAS STANDING TO ASSERT EDUCATION ARTICLE CLAIMS AS TO SCHOOL DISTRICTS OTHER THAN THE SEVEN SCHOOL DISTRICTS IN WHICH THE INDIVIDUALLY NAMED PLAINTIFFS RESIDE;

ARJUNE (MARIO), PEOPLE v:

CRIMES - APPEAL - DENIAL OF APPLICATION FOR A WRIT OF ERROR CORAM NOBIS SEEKING TO REINSTATE AN APPEAL ON THE GROUND OF INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL, WHERE THE NOTICE OF APPEAL WAS TIMELY FILED BUT THE APPEAL WAS DISMISSED FOR FAILURE TO TIMELY PERFECT - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT DEFENDANT "HAS NOT ESTABLISHED HIS ENTITLEMENT TO THE RELIEF REQUESTED (see PEOPLE v SYVILLE, 15 NY3d 391)";

AUSTIN (PETER), PEOPLE v:

CRIMES - INSTRUCTIONS - ADVERSE INFERENCE CHARGE BASED ON LOSS OF BLOOD EVIDENCE AS A RESULT OF A NATURAL CATASTROPHE - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DECLINING DEFENDANT'S REQUEST FOR A PERMISSIVE ADVERSE INFERENCE CHARGE BASED ON THE UNAVAILABILITY OF BLOOD EVIDENCE AND PROHIBITING DEFENSE COUNSEL FROM COMMENTING ON THE LOST EVIDENCE IN SUMMATION;

AVELLA, MATTER OF v CITY OF NEW YORK:

PARKS AND PARKWAYS - PUBLIC TRUST DOCTRINE - DEVELOPMENT OF MUNICIPAL PARKLAND - LEGISLATIVE AUTHORITY REQUIRED - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT ADMINISTRATIVE CODE § 18-118 DID NOT AUTHORIZE USE OF FLUSHING MEADOWS-CORONA PARK FOR CONSTRUCTION OF ANY STRUCTURE THAT DID NOT HAVE A NATURAL CONNECTION TO SHEA STADIUM AND THAT CONSTRUCTION OF A RETAIL MALL VIOLATED THE PUBLIC TRUST DOCTRINE ABSENT AUTHORIZATION BY THE STATE LEGISLATURE;

BAUMANN, et al. v LONG ISLAND POWER AUTHORITY, et al.:

PUBLIC AUTHORITIES - CLAIMS AGAINST PUBLIC AUTHORITIES - CLAIMS OF PROPERTY OWNERS AGAINST PROVIDERS OF ELECTRICAL TRANSMISSION FOR PROPERTY DAMAGE OCCURRING DURING STORM SURGE OF HURRICANE SANDY OVER ROCKAWAY PENINSULA; WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF COMPLAINT UNDER THE DOCTRINE OF GOVERNMENTAL FUNCTION IMMUNITY - GOVERNMENTAL VERSUS PROPRIETARY FUNCTIONS; DISMISSAL AND NONSUIT; NEGLIGENCE;

BAUTISTA (VILMA), PEOPLE v:

CRIMES - ARGUMENT AND CONDUCT OF COUNSEL - PROSECUTOR'S ARGUMENT ON SUMMATION - WHETHER DEFENDANT WAS DEPRIVED OF A FAIR TRIAL BY THE PROSECUTOR'S ALLEGED MISSTATEMENT OF THE EVIDENCE; DISCLOSURE - FAILURE TO DISCLOSE EXCULPATORY MATERIAL - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT AN INVESTIGATOR'S NOTES FROM AN INTERVIEW WITH A COCONSPIRATOR DID NOT CONSTITUTE BRADY MATERIAL; EVIDENCE - JUDICIAL NOTICE - FACT FINDINGS OF FOREIGN COUNTRY COURT IMPROPERLY READ TO JURY - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE TRIAL COURT'S ERROR IN READING THE FACT FINDINGS OF A FOREIGN COUNTRY COURT TO THE JURY WAS HARMLESS AS TO THE TAX COUNTS;

BETHUNE (JAMAR), PEOPLE v:

CRIMES - TRIAL - RESETTLEMENT OF TRIAL TRANSCRIPTS - WHETHER TRIAL JUDGE ERRED IN FAILING TO CONDUCT A RECONSTRUCTION HEARING BEFORE SETTLING THE TRIAL TRANSCRIPT TO ALTER THE COURT'S SUPPLEMENTAL CHARGE TO THE JURY - NO AFFIDAVIT FROM STENOGRAPHER EXPLAINING DISCREPANCY IN TRANSCRIPTION VERSIONS CERTIFIED APPROXIMATELY FIVE YEARS APART - NO SPECIFIC KNOWLEDGE OF DISCREPANCY CIRCUMSTANCES BY TRIAL JUDGE; CLAIMED ERRONEOUS SUPPLEMENTAL JURY INSTRUCTIONS ON THE ISSUE OF INTENT; WHETHER JURY VERDICT FINDING DEFENDANT GUILTY OF INTENTIONAL MURDER IN THE SECOND DEGREE WAS AGAINST THE WEIGHT OF THE EVIDENCE;

BOLT, MATTER OF v NEW YORK CITY DEPARTMENT OF EDUCATION:

Schools--Teachers--Where teacher allegedly assisted students on a statewide exam, whether the arbitrator's penalty of termination was excessive;

BOONE (OTIS), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - WHETHER THE TRIAL COURT ERRED IN DENYING DEFENDANT'S REQUEST FOR A JURY INSTRUCTION ON CROSS-RACIAL IDENTIFICATIONS;

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;

BROOKS (NICHOLAS), PEOPLE v:

CRIMES - EVIDENCE - EXPERT WITNESS - WHETHER THE TRIAL COURT ERRED IN (1) ALLOWING AN EXTENDED FRYE HEARING REQUESTED BY THE PEOPLE TO CHALLENGE DEFENDANT'S EXPERT WITNESS, AND IN DENYING DEFENDANT'S MOTION FOR A FRYE HEARING REGARDING THE MEDICAL EXAMINER INTENDED TO BE PRESENTED BY THE PEOPLE, (2) LIMITING THE TESTIMONY OF DEFENDANT'S EXPERT, INCLUDING THAT REGARDING CERTAIN DRUGS AND TOXICOLOGY, (3) ALLOWING THE CLAIMED HEARSAY TESTIMONY OF 11 OF DECEDENT'S FRIENDS TO SHOW THE VICTIM'S UNFAVORABLE PERCEPTION OF DEFENDANT'S CHARACTER, AND (4) DENYING DEFENDANT'S MOTION TO SET ASIDE THE VERDICT BASED ON JUROR MISCONDUCT;

BROOKFORD, LLC, MATTER OF v NEW YORK STATE DIVISION OF HOUSING AND COMMUNITY RENEWAL, et al.:

LANDLORD AND TENANT - RENT REGULATION - DENIAL OF LANDLORD'S APPLICATION TO DEREGULATE A RENT CONTROLLED APARTMENT - APPORTIONMENT OF INCOME REPORTED ON JOINT TAX RETURN FOR REMAINING SPOUSE AFTER HUSBAND VACATED APARTMENT AND ENTERED ASSISTED LIVING FACILITY;

BROWN v STATE OF NEW YORK (CLAIM #110037):

NEGLIGENCE - PROXIMATE CAUSE - HIGHWAY ACCIDENT AT AN INTERSECTION FOR WHICH THE STATE HAD FAILED TO COMPLETE A TRAFFIC STUDY AND UPGRADE TRAFFIC CONTROL OR WARNING DEVICES - STANDARD APPLICABLE TO DETERMINATION OF WHETHER STATE'S ACTION OR INACTION WAS A PROXIMATE CAUSE OF THE INJURIES SUSTAINED;

BROWN, AS ADMINISTRATRIX v STATE OF NEW YORK (CLAIM #108961):

NEGLIGENCE - PROXIMATE CAUSE - HIGHWAY ACCIDENT AT AN INTERSECTION FOR WHICH THE STATE HAD FAILED TO COMPLETE A TRAFFIC STUDY AND UPGRADE TRAFFIC CONTROL OR WARNING DEVICES - STANDARD APPLICABLE TO DETERMINATION OF WHETHER STATE'S ACTION OR INACTION WAS A PROXIMATE CAUSE OF THE INJURIES SUSTAINED;

THE BURLINGTON INSURANCE COMPANY v NEW YORK CITY TRANSIT AUTHORITY et al.:

INSURANCE - LIABILITY INSURANCE - CONSTRUCTION OF POLICY - WHETHER THE APPELLATE DIVISION ERRED IN DETERMINING THAT DEFENDANTS WERE ADDITIONAL INSURED UNDER PLAINTIFF INSURER'S GENERAL LIABILITY POLICY WITH A CONTRACTOR, WHERE THE ACCIDENT FOR WHICH COVERAGE WAS SOUGHT WAS NOT CAUSED BY THE CONTRACTOR'S NEGLIGENCE OR FAULT;

BURNS, &c. v GOYAL, et al.:

Physicians and Surgeons--Malpractice--Wrongful death--Whether the Appellate Division properly granted defendants' motions for summary judgment--various physicians' duties of care regarding prescriptions, heart condition and kidney biopsy--expert affidavits used on summary judgment motions;

CAMPBELL (ROSS), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER, IN A CASE INVOLVING SEX CRIMES, DEFENSE COUNSEL WAS INEFFECTIVE IN FAILING TO CHALLENGE A PROSPECTIVE JUROR WHO EXPRESSED DIFFICULTY IN SERVING AS A JUROR BECAUSE SHE HAD BEEN SUBJECTED TO SEXUAL VIOLENCE;

CANGRO v SOLOMON, et al.:

Appeal--Appellate Division--Dismissal of appeal;

CARLSON v AMERICAN INTERNATIONAL GROUP, INC. et al.:

INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE INSURANCE POLICY WAS NOT "ISSUED OR DELIVERED" IN NEW YORK, THUS PRECLUDING PLAINTIFF FROM BRINGING SUIT AGAINST TORTFEASOR'S INSURANCE COMPANY UNDER INSURANCE LAW § 3420(a)(2); AUTOMOBILE INSURANCE - CARTAGE AGREEMENT BETWEEN DEFENDANT DHL EXPRESS (USA) AND DEFENDANT MVP DELIVERY AND LOGISTICS, INC. - WHETHER MVP VEHICLE DRIVEN BY TORTFEASOR DURING THE UNDERLYING MOTOR VEHICLE ACCIDENT WAS A VEHICLE "HIRED" BY DHL AND THUS COVERED UNDER ITS AUTOMOBILE INSURANCE;

CARR (JAMES L.), PEOPLE v:

GRAND JURY - RESUBMISSION OF CHARGES - WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S CPL 440.10 MOTION TO VACATE THE JUDGMENT CONVICTING HIM OF TWO COUNTS OF MURDER IN THE SECOND DEGREE ON THE GROUND THAT THE PEOPLE FAILED TO SEEK LEAVE TO REPRESENT THE MURDER CHARGES TO A SECOND GRAND JURY, IN VIOLATION OF CPL 190.75(3);

CASTRO, MATTER OF v SCHRIRO:

CIVIL SERVICE - TERMINATION OF EMPLOYMENT - PLEADING - PETITION - WHETHER PROBATIONARY PUBLIC EMPLOYEE'S PLEADINGS SUFFICIENTLY RAISED AN ISSUE AS TO BAD FAITH OR ANY OTHER IMPROPER REASON FOR HIS TERMINATION, THEREBY WARRANTING DENIAL OF THE PRE-ANSWER MOTION TO DISMISS;

CHAMBERLAIN et al. v NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE, et al.:

Taxation--Personal Income Tax--Connecticut residents who also had "living quarters" in New York City were determined to be "statutory residents" of New York State and New York City during the relevant tax periods who should have filed New York Resident Income Tax Returns--taxpayers claim that New York's residency scheme pursuant to Tax Law §§ 605(b)(1)(B), 612 and 620 violates the United States Commerce Clause; whether a credit for investment and intangible income earned should have been applied;

CHECKSFIELD v BERG:

Dismissal and Nonsuit--Failure to enter default judgment within one year--whether Supreme Court properly dismissed the action as abandoned; lack of reasonable excuse for delay in entering default judgment; application of CPLR 3215(c);

CITY OF NEW YORK, MATTER OF v NEW YORK STATE NURSES ASSOCIATION, et al.:

LABOR UNIONS - DISCIPLINARY PROCEEDINGS - DISCLOSURE OF INFORMATION TO EMPLOYEE - EMPLOYER'S DUTY TO FURNISH DATA NORMALLY MAINTAINED IN REGULAR COURSE OF BUSINESS - WHETHER THE BOARD OF COLLECTIVE BARGAINING OF THE CITY OF NEW YORK (BCB) PROPERLY GRANTED PETITIONER UNION'S IMPROPER PRACTICE CHARGE TO THE EXTENT OF DIRECTING THE CITY TO PROVIDE PRE-HEARING DISCOVERY IN AN EMPLOYEE DISCIPLINARY PROCEEDING - ADMINISTRATIVE CODE OF CITY OF NEW YORK § 12-306(a)(1) AND (4);

CLEMENT v DURBAN, et al.:

Constitutional Law--Privileges and Immunities Clause--Whether the requirements of CPLR 8501(a) and 8503 that nonresident plaintiffs maintaining lawsuits in New York courts post security for the

costs for which they would be liable if their lawsuits were unsuccessful violate the Privileges and Immunities Clause of the United States Constitution (US Const, art IV, § 2); claimed due process and equal protection violations;

COKE, SR., MATTER OF v BARGNESI:

Proceeding Against Body or Officer--Certiorari--Conditional dismissal of proceeding by Appellate Division;

CONGEL, et al. v MALFITANO:

PARTNERSHIP - DISSOLUTION - WHETHER THE APPELLATE DIVISION ERRED IN FINDING A WRONGFUL DISSOLUTION OF THE PARTNERSHIP WHICH LACKED A DEFINITE TERM OR PARTICULAR UNDERTAKING (PARTNERSHIP LAW § 62), IN AWARDING COUNSEL AND EXPERT FEES AS PART OF THE DAMAGES, IN APPLYING MINORITY AND MARKETABILITY DISCOUNTS TO DEFENDANT'S PARTNERSHIP INTEREST, AND IN ATTRIBUTING GOODWILL TO THE PARTNERSHIP'S VALUE;

CONNOLLY, et al. v LONG ISLAND POWER AUTHORITY, et al.:

PUBLIC AUTHORITIES - CLAIMS AGAINST PUBLIC AUTHORITIES - CLAIMS OF PROPERTY OWNERS AGAINST PROVIDERS OF ELECTRICAL TRANSMISSION FOR PROPERTY DAMAGE OCCURRING DURING STORM SURGE OF HURRICANE SANDY OVER ROCKAWAY PENINSULA; WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF COMPLAINT UNDER THE DOCTRINE OF GOVERNMENTAL FUNCTION IMMUNITY - GOVERNMENTAL VERSUS PROPRIETARY FUNCTIONS; DISMISSAL AND NONSUIT; NEGLIGENCE;

CONTACT CHIROPRACTIC, P.C., &c. v NEW YORK CITY TRANSIT AUTHORITY:

LIMITATION OF ACTIONS - WHAT STATUTE GOVERNS - ACTION TO RECOVER FIRST-PARTY NO-FAULT BENEFITS - WHETHER AN ACTION BY AN INJURED CLAIMANT, OR THE CLAIMANT'S ASSIGNEE, TO RECOVER FIRST-PARTY NO-FAULT BENEFITS FROM A SELF-INSURED DEFENDANT, IS SUBJECT TO SIX-YEAR OR THREE-YEAR STATUTE OF LIMITATIONS;

CORTLANDT STREET RECOVERY CORP., et al. v BONDERMAN, et al. (AND THREE RELATED ACTIONS):

PARTIES - STANDING - WHETHER INDENTURE TRUSTEE HAD STANDING TO ASSERT CAUSES OF ACTION FOR BREACH OF CONTRACT, FRAUDULENT CONVEYANCE, UNLAWFUL CORPORATE DISTRIBUTION, UNJUST ENRICHMENT, AND BASED ON AN ALTER EGO THEORY; CORPORATIONS - DISREGARDING THE CORPORATE ENTITY - WHETHER COMPLAINT SUFFICIENTLY STATED A CAUSE OF ACTION UNDER A VEIL-PIERCING THEORY;

COVINGTON, MATTER OF v FISCHER &c.:

Dismissal and Nonsuit--Motion to vacate dismissal; proceeding against body or officer;

CRESPO (RAYMOND), PEOPLE v:

Crimes--Right to Representation Pro Se--Whether defendant's requests to proceed pro se, made during jury selection, were timely asserted;

CUMMINGS (TWANEK), PEOPLE v:

Crimes--Evidence--Excited Utterances--admissibility of statement of an unidentified man in the background of the victim's 911 call pursuant to the excited utterance exception to the hearsay rule; whether, upon retrial after deadlocked jury in first trial, a different trial court judge had authority to change the ruling on the admissibility of the statement at issue--law of the case;

DAVIS v SCOTTISH RE GROUP LIMITED, et al.:

CORPORATIONS - MERGER - ACTION BY MINORITY SHAREHOLDER ASSERTING BOTH DIRECT AND DERIVATIVE CAUSES OF ACTION ARISING OUT OF ALLEGEDLY UNDERVALUED CASH-OUT MERGER THAT UNFAIRLY PREJUDICED MINORITY SHAREHOLDERS; STANDING; CHOICE OF LAW; JURISDICTION; DISMISSAL OF CERTAIN CAUSES OF ACTION;

DENNEHY et al. v COPPERMAN, et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - WHETHER THE ACCRUAL DATE FOR A "WRONGFUL BIRTH" MEDICAL MALPRACTICE ACTION IS THE DATE OF BIRTH OR THE DATE OF THE CLAIMED MALPRACTICE - CPLR 214-a; STATUTE OF LIMITATIONS; DISMISSAL OF CLAIMS;

DESROSIERS v PERRY ELLIS MENSWEAR, LLC:

ACTIONS - CLASS ACTIONS - WHETHER PUTATIVE CLASS MEMBERS WERE ENTITLED TO NOTICE OF DISCONTINUANCE OF THE ACTION UNDER CPLR 908 DESPITE THE FACT THAT THE TIME FOR THE INDIVIDUAL PLAINTIFF TO MOVE FOR CLASS CERTIFICATION HAD EXPIRED UNDER CPLR 902;

DEUTSCHE BANK NATIONAL TRUST COMPANY, &c. v FLAGSTAR CAPITAL MARKETS CORPORATION, et al.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - WHETHER STATUTE OF LIMITATIONS BARS A BREACH OF CONTRACT ACTION BROUGHT MORE THAN SIX YEARS AFTER SELLER MADE ALLEGEDLY FALSE REPRESENTATIONS AND WARRANTIES REGARDING LOAN UNDERLYING RESIDENTIAL MORTGAGE-BACKED SECURITIES - CONTRACT PROVISION SPECIFYING SET OF CONDITIONS THAT WOULD DELAY CAUSE OF ACTION'S ACCRUAL - ENFORCEABILITY OF ACCRUAL CLAUSE;

DIAZ, MATTER OF v GOLDBERG, &c., et al.:

Proceeding Against Body or Officer--Prohibition--Dismissal of petition; claimed double jeopardy violation by judge and district attorney;

DIAZ, MATTER OF v VANCE, &c. et al.:

Proceeding against Body or Officer--Prohibition--Claimed equal protection, due process and double jeopardy violations;

DORMITORY AUTHORITY OF THE STATE OF NEW YORK, et al. v SAMSON CONSTRUCTION CO., &c., et al.:

NEGLIGENCE - ARCHITECT'S MALPRACTICE - WHETHER DORMITORY AUTHORITY MAY PURSUE A NEGLIGENCE CLAIM AGAINST THE ARCHITECT IN ADDITION TO ITS BREACH OF CONTRACT CLAIM ARISING OUT OF DAMAGES INCURRED DURING SITE EXCAVATION FOR THE CONSTRUCTION PROJECT'S FOUNDATION; PARTIES - WHETHER CITY OF NEW YORK, A NONPARTY TO THE UNDERLYING CONSTRUCTION CONTRACT, CAN ASSERT A CLAIM AS A THIRD-PARTY BENEFICIARY AS ULTIMATE END-USER OF THE BUILDING TO BE CONSTRUCTED;

D&R GLOBAL SELECTIONS, S.L. v BODEGA OLEGARIO FALCON PINEIRO:

COURTS - JURISDICTION - LACK OF BASIS FOR PERSONAL AND LONG-ARM JURISDICTION - WHETHER NEW YORK COURTS POSSESSED SUBJECT MATTER JURISDICTION OVER THIS ACTION, ARISING FROM AN ORAL AGREEMENT BY THE NONDOMICILIARY PLAINTIFF BROKER TO PROCURE AN AMERICAN IMPORTER FOR THE NONDOMICILIARY DEFENDANT WINERY'S PRODUCTS, PURSUANT TO BUSINESS CORPORATION LAW § 1314(b)(4), WHICH REQUIRES A SHOWING OF PERSONAL JURISDICTION UNDER CPLR 302;

EDWARD (ALBERT), PEOPLE v:

CRIMES - POSSESSION OF WEAPON - SUFFICIENCY OF ACCUSATORY INSTRUMENT - WHETHER FACTUAL ALLEGATIONS WERE SUFFICIENT TO SUPPORT CHARGE OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE, WHERE DEFENDANT WAS ARRESTED FOR TRESPASSING IN THE LOBBY OF A HOUSING AUTHORITY BUILDING AND THE ACCUSATORY INSTRUMENT ALLEGED THAT, UPON HIS ARREST, THE POLICE RECOVERED "A BOX CUTTER FROM THE DEFENDANT AND DEFENDANT STATED IN SUBSTANCE, I USE IT ON THE TRAIN FOR PROTECTION" - POSSESSION OF "DANGEROUS KNIFE" OR A "DANGEROUS OR DEADLY INSTRUMENT OR WEAPON" WITH INTENT TO USE IT "UNLAWFULLY AGAINST ANOTHER" (PENAL LAW § 265.01[2]);

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 - NECESSITY OF SHOWING SPECIAL CIRCUMSTANCES WARRANTING REPROSECUTION;

ESTREMERA (ROBERTO), PEOPLE v:

CRIMES - SENTENCE - RESENTENCE - WHETHER SUPREME COURT ERRED IN CONDUCTING A POSTRELEASE SUPERVISION RESENTENCING PURSUANT TO PENAL LAW § 70.85 WITHOUT DEFENDANT PRESENT;

EVERY (DOUGLAS), PEOPLE v:

Crimes--Justification-- whether the trial court improperly excluded evidence of victim's prior threats of violence, threatening conduct and reputation for violence; Instructions--

whether the trial court improperly instructed the jury on the definition of a dwelling; Argument and Conduct of Counsel -- whether alleged prosecutorial misconduct deprived defendant of a fair trial; Right to Counsel--Effective Representation--whether trial counsel was ineffective for failing to object to (1) jury instruction regarding the duty to retreat, (2) alleged prosecutorial misconduct, and (3) testimony by the medical examiner and coroner characterizing the victim's death as a homicide;

EXCESS LINE ASSOCIATION OF NEW YORK (ELANY) v WALDORF & ASSOCIATES, et al.:

PARTIES - CAPACITY TO SUE - GOVERNMENTAL ENTITIES - WHETHER PLAINTIFF ASSOCIATION HAS CAPACITY AND STANDING TO SUE ONE OF ITS MEMBERS TO COMPEL COMPLIANCE WITH ITS PLAN OF OPERATION OR TO RECOVER STAMPING FEES;

B. F., et al. v REPRODUCTIVE MEDICINE ASSOCIATES OF NEW YORK, LLP, et al.:

PHYSICIANS AND SURGEONS - MALPRACTICE - WHETHER THE ACCRUAL DATE FOR A "WRONGFUL BIRTH" MEDICAL MALPRACTICE ACTION IS THE DATE OF BIRTH OR THE DATE OF THE CLAIMED MALPRACTICE - CPLR 214-a; STATUTE OF LIMITATIONS; DISMISSAL OF CLAIMS;

FERRIS v KENDIG, et al.:

Dismissal and Nonsuit--Dismissal of complaint--whether all of plaintiff's causes of action are barred by the existence of another action between the parties, res judicata or the statute of limitations; claimed due process violations;

FLORES (MARY ANNE GRADY), PEOPLE v:

CRIMES - CRIMINAL CONTEMPT - ORDER OF PROTECTION AS PREDICATE FOR CRIMINAL CONTEMPT CHARGE AGAINST PROTESTER IN PUBLIC STREET IN FRONT OF MILITARY BASE - CHALLENGE TO VALIDITY AND SPECIFICITY OF ORDER OF PROTECTION; CLAIMED ERROR OF TRIAL COURT IN RESPONSE TO JURY QUESTION;

FMC CORPORATION, MATTER OF v NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION:

Limitation of Actions--Four-Month Statute of Limitations--Whether four-month statute of limitations began to run when respondent advised petitioner that administrative order on consent was closed or when respondent issued final statement of basis selecting a remedy to address environmental contamination; environmental conservation--hazardous waste--whether respondent's selection of a remedial plan to address environmental contamination and decision to use the hazardous waste remedial fund to pay for the remediation was arbitrary and capricious;

FOR THE PEOPLE THEATERS v CITY OF NEW YORK; TEN'S CABARET v CITY OF NEW YORK:

CONSTITUTIONAL LAW - FREEDOM OF SPEECH - ZONING AMENDMENTS RESTRICTING ADULT ESTABLISHMENTS - CHALLENGE TO 2001 AMENDMENTS TO NEW YORK CITY ZONING RESOLUTION § 12-10 - WHETHER THE APPELLATE DIVISION APPLIED AN IMPROPER STANDARD OF REVIEW IN DETERMINING WHETHER CITY MET ITS BURDEN OF PROOF - ALLEGED IMPROPER RECONSIDERATION OF NEGATIVE SECONDARY EFFECTS;

FORMAN v HENKIN:

DISCLOSURE - DISCOVERY AND INSPECTION - SCOPE OF DISCLOSURE - SOCIAL MEDIA - WHETHER A PERSONAL INJURY PLAINTIFF MAY BE COMPELLED TO PRODUCE PHOTOGRAPHS PRIVATELY POSTED ON FACEBOOK AND AUTHORIZATIONS RELATED TO PLAINTIFF'S PRIVATE FACEBOOK MESSAGES;

FOTHERINGHAM v RIVERSOURCE LIFE INSURANCE CO. OF NEW YORK &c., et al.:

Conflict of Laws--Whether 2001 settlement and judgment in a class action commenced in the federal District Court for the District of Minnesota barred plaintiff's state court action; whether federal court enforcement order was entitled to full faith and credit in state court action; claimed due process violation;

FRANCIS (JUDE), PEOPLE v:

CRIMES - SEX OFFENDERS - SEX OFFENDER REGISTRATION ACT (SORA) - USE OF YOUTHFUL OFFENDER ADJUDICATION IN DETERMINING RISK LEVEL - WHETHER A DEFENDANT'S PRIOR YOUTHFUL OFFENDER ADJUDICATION MAY BE CONSIDERED IN DETERMINING THE DEFENDANT'S RISK LEVEL DESIGNATION UNDER SORA;

FRIEDMAN, MATTER OF v RICE:

RECORDS - FREEDOM OF INFORMATION LAW (FOIL) - EXEMPTIONS - STATEMENTS OF NONTESTIFYING WITNESSES - WHETHER THE APPELLATE DIVISION PROPERLY DETERMINED THAT DOCUMENTS SOUGHT BY PETITIONER WERE EXEMPT FROM DISCLOSURE PURSUANT TO PUBLIC OFFICERS LAW § 87(2)(e)(iii); GRAND JURY - INSPECTION OF GRAND JURY MINUTES - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT PETITIONER FAILED TO ESTABLISH A COMPELLING AND PARTICULARIZED NEED FOR DISCLOSURE OF GRAND JURY MATERIALS PURSUANT TO CPL 190.25(4);

THE FRIENDS OF P.S. 163, INC., et al., MATTER OF v JEWISH HOME LIFECARE, MANHATTAN; DAISY WRIGHT, et al., MATTER OF v JEWISH HOME LIFECARE, MANHATTAN:

Environmental Conservation--Environmental Quality Review--Whether respondent Department of Health took the requisite "hard look" at the proposed project's anticipated adverse environmental impacts, including noise and hazardous material impacts, and provided a "reasoned elaboration" of its basis for approving the project, including the remedial measures to be employed to mitigate adverse impacts;

FRUMUSA (LAWRENCE P.) a/k/a JOHN DOE, PEOPLE v:
 CRIMES - EVIDENCE - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE A CIVIL CONTEMPT ORDER FINDING DEFENDANT'S BUSINESSES IN CONTEMPT FOR FAILING TO OBEY AN ORDER DIRECTING THEM TO TURN OVER ALL THE MONIES AT ISSUE IN THE GRAND LARCENY CHARGE AGAINST DEFENDANT - CONTEMPT ORDER PERTAINED TO DEFENDANT'S CONDUCT OCCURRING AFTER THE CHARGED CRIME, AS OPPOSED TO PRIOR BAD ACTS ADDRESSED IN PEOPLE v MOLINEUX (168 NY 264); WHETHER THE TRIAL COURT IMPROPERLY LIMITED DEFENDANT'S CROSS EXAMINATION OF A WITNESS; CLAIMED INEFFECTIVE ASSISTANCE OF COUNSEL; CLAIMED ABUSE OF TRIAL COURT'S DISCRETION IN DENYING DEFENDANT'S REQUEST FOR AN ADJOURNMENT OF SENTENCING TO GIVE NEWLY RETAINED COUNSEL TIME TO PREPARE;

GAINES, &c. v CITY OF NEW YORK, et al.:
 TRUSTS - CREATION - DEATH OF PLAINTIFF'S DAUGHTER BEFORE COMPLETION OF DOCUMENTS CREATING AND FUNDING A SUPPLEMENTAL NEEDS TRUST (SNT) AFTER SETTLEMENT OF A PERSONAL INJURY ACTION - DENIAL OF PLAINTIFF'S MOTION TO OBTAIN THE PRINCIPAL AND INTEREST IN THE SNT, AS POTENTIAL REMAINDERMAN OF TRUST;

GARCIA v NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE, et al.:
 Health--CPLR article 78 proceeding and declaratory judgment action seeking to permanently enjoin defendants-respondents from implementing and enforcing amendments to the New York City Health Code mandating that children attending certain child care, pre-kindergarten, and kindergarten programs receive an annual influenza (flu) vaccine--whether the New York City Board of Health's regulations exceeded the limit of its authority, thereby violating the separation of powers doctrine;

GARVIN (SEAN), PEOPLE v:
 CRIMES - ARREST - WHETHER DEFENDANT'S WARRANTLESS ARREST VIOLATED PAYTON v NEW YORK (445 US 573), WHERE DEFENDANT LIVED IN THE UPSTAIRS APARTMENT OF A BUILDING CONTAINING TWO SEPARATE APARTMENTS AND WAS ARRESTED IN THE DOORWAY TO HIS APARTMENT AFTER HE OPENED THE DOOR IN RESPONSE TO A KNOCK BY A POLICE OFFICER; ALLEGED VIOLATION OF DEFENDANT'S RIGHT TO REMAIN SILENT; ALLEGED VIOLATION OF APPENDI v NEW JERSEY (530 US 466) BY DEFENDANT'S SENTENCING AS A PERSISTENT FELONY OFFENDER;

GILBANE BUILDING CO./TDX CONSTRUCTION CORP, et al. v ST. PAUL FIRE AND MARINE INSURANCE COMPANY, et al.:
 INSURANCE - DUTY TO DEFEND AND INDEMNIFY - WHETHER THE ADDITIONAL INSURED CLAUSE IN THE COMMERCIAL GENERAL LIABILITY INSURANCE POLICY AT ISSUE COVERS ONLY THOSE THAT HAVE A WRITTEN CONTRACT DIRECTLY WITH THE NAMED INSURED - INTERPRETATION OF THE ADDITIONAL INSURANCE ENDORSEMENT IN POLICY COVERING BUILDING CONSTRUCTION PROJECT; DECLARATORY JUDGMENT;

GONZALEZ, MATTER OF v ANNUCCI &c.:

Appeal--Academic and Moot Questions--Where petitioner level one sex offender was released from an approved residential treatment facility, whether mootness exception applied to petitioner's challenge to his placement in the facility and the conditions thereof; prisons and prisoners--whether Department of Corrections and Community Supervision had an affirmative statutory duty to provide substantial assistance to petitioner in finding housing that complied with the Sexual Assault Reform Act and, under the circumstances, whether the assistance provided was insufficient; application of Correction Law § 201(5);

GRAVANO v TAKE-TWO INTERACTIVE SOFTWARE, INC, et al.:

Civil Rights--Right of Privacy--Whether plaintiff's allegation that defendant video game maker used plaintiff's likeness to advertise video game stated a cause of action under Civil Rights Law §§ 50, 51; whether video game and subject images are protected works under the First Amendment;

GUIDANCE ENHANCED GREEN TERRAIN, LLC v BANK OF AMERICA MERRILL LYNCH &c. et al.:

Contracts--Breach or Performance of Contract--Assignments--Scope of Assignment--Whether plaintiff assignor had a contractual right to compel defendant assignee to reassign bankruptcy claims to a third party as a condition of settlement--Covenants--covenant of good faith and fair dealing--whether plaintiff stated a claim that defendant assignee breached the covenant of good faith and fair dealing in withholding its consent to the proposed settlement;

GURNETT, MATTER OF v BARGNESI:

Licenses--Firearms--Whether the revocation of petitioner's pistol permit without a hearing denied petitioner due process; whether the revocation of the pistol permit was arbitrary and capricious, or an abuse of discretion; claimed Second Amendment violations;

HAKES (BRIAN), PEOPLE v:

Crimes--Sentence--Whether sentencing court had the authority to require defendant to pay for an electronic monitoring program (a Secure Continuous Remote Alcohol Monitoring [SCRAM] bracelet) as a condition of his probation--SCRAM bracelet removed when defendant told monitoring company that he was unable to make payments required for continued use of bracelet;

HARDEE (STANLEY), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER LIMITED SEARCH OF CAR STOPPED FOR TRAFFIC VIOLATIONS WAS JUSTIFIED AFTER DEFENDANT HAD BEEN REMOVED FROM THE CAR AND FRISKED - PEOPLE v TORRES (74 NY2d 224 [1989]);

HARRIS (WILLIAM), PEOPLE v:

Crimes--Right to Counsel--Whether the trial court's refusal to allow summations at the conclusion of a bench trial in a local criminal court deprived defendant of his constitutional right to the assistance of counsel; constitutionality of CPL 350.10(3)(c);

HAUG, MATTER OF v STATE UNIVERSITY OF NEW YORK AT POTSDAM, et al.:

Proceeding against body or officer--CPLR article 78 proceeding to review the university's determination; Evidence--hearsay accounts of incident as reported by complainant to campus police officer and director of student conduct;

HEERAN, et al. v LONG ISLAND POWER AUTHORITY, et al.:

PUBLIC AUTHORITIES - CLAIMS AGAINST PUBLIC AUTHORITIES - CLAIMS OF PROPERTY OWNERS AGAINST PROVIDERS OF ELECTRICAL TRANSMISSION FOR PROPERTY DAMAGE OCCURRING DURING STORM SURGE OF HURRICANE SANDY OVER ROCKAWAY PENINSULA; WHETHER DEFENDANTS WERE ENTITLED TO DISMISSAL OF COMPLAINT UNDER THE DOCTRINE OF GOVERNMENTAL FUNCTION IMMUNITY - GOVERNMENTAL VERSUS PROPRIETARY FUNCTIONS; DISMISSAL AND NONSUIT; NEGLIGENCE;

HELMS (MARLO S.), PEOPLE v:

CRIMES - SENTENCE - SECOND VIOLENT FELONY OFFENDER - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT DEFENDANT WAS IMPROPERLY SENTENCED AS A SECOND VIOLENT FELONY OFFENDER BECAUSE HIS CONVICTION OF BURGLARY IN GEORGIA DID NOT CONSTITUTE A PREDICATE FELONY INASMUCH AS THE GEORGIA STATUTE DEFINING BURGLARY LACKED THE KNOWLEDGE ELEMENT REQUIRED BY THE EQUIVALENT NEW YORK BURGLARY STATUTE;

ESTATE OF EDMUND FELIX HENNEL, MATTER OF:

CONTRACTS - AGREEMENT TO SATISFY MORTGAGE OUT OF ESTATE ASSETS - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT, ALTHOUGH DECEDENT REVOKED PRIOR WILL DIRECTING ESTATE TO PAY MORTGAGE ON PROPERTY HE TRANSFERRED BY DEED TO HIS GRANDCHILDREN, GRANDCHILDREN ESTABLISHED THEIR CLAIM AGAINST THE ESTATE FOR PAYMENT OF THE MORTGAGE BASED UPON THE DOCTRINE OF PROMISSORY ESTOPPEL, AND THAT THE ESTATE WAS ESTOPPED FROM INVOKING THE STATUTE OF FRAUDS DEFENSE BECAUSE APPLICATION OF THAT DEFENSE WOULD CREATE AN UNCONSCIONABLE RESULT;

HENRY (BRYAN), PEOPLE v:

Crimes--Right to Counsel--Representation on Unrelated Matter--Where defendant's right to counsel was violated when he was questioned by officers with regard to a robbery after he had been assigned counsel in connection with an arrest for marijuana possession, whether his right to counsel also was violated when

he was questioned by officers on a homicide that was "factually interwoven" with the robbery charge; application of People v Cohen (90 NY2d 632 [1997]) and People v Grant (91 NY2d 989 [1998]);

HERMAN &c., et al. v HERMAN, et al.:

Disclosure--Penalty for Failure to Disclose--Whether trial court properly precluded defendant from participating in an inquest into plaintiffs' damages where defendant failed to comply with court orders directing the disclosure of certain documents;

KHALEEL, MATTER OF v VANREIL, et al.:

Proceeding against Body or Officer--Order to show cause submitted to Appellate Division--Justice declined to sign; claimed due process violations;

HONGHIRUN (NIRUN), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - WHETHER DEFENSE COUNSEL WAS INEFFECTIVE FOR FAILING TO SEEK AN IN LIMINE RULING PRECLUDING DELAYED DISCLOSURE EVIDENCE, OR OBJECTING TO ITS ADMISSION INTO EVIDENCE UNDER THE PROMPT OUTCRY EXCEPTION TO THE HEARSAY RULE, AND ELICITING ON CROSS EXAMINATION DETAILS BOLSTERING COMPLAINANT'S CLAIMS;

MATTER OF JAMIE J. (WAYNE COUNTY DEPARTMENT OF SOCIAL SERVICES; MICHELLE E.C.):

PARENT, CHILD AND FAMILY - ABUSED OR NEGLECTED CHILD - WHETHER FAMILY COURT LACKED SUBJECT MATTER JURISDICTION TO CONDUCT A PERMANENCY HEARING AND CONTINUE FOSTER CARE PLACEMENT OF THE CHILD FOLLOWING DISMISSAL OF THE NEGLECT PETITION - WHETHER THE APPELLATE DIVISION'S INTERPRETATION OF ARTICLE 10-A OF THE FAMILY COURT ACT RENDERS THE STATUTE UNCONSTITUTIONAL;

INTERNATIONAL UNION OF PAINTERS & ALLIED TRADES, DISTRICT COUNCIL NO. 4, &c., et al. v NEW YORK STATE DEPARTMENT OF LABOR, et al.:

Labor--Hours and Wages--Whether, under Labor Law § 220(3-e), apprentices who are registered individually under a bona fide apprenticeship may work and be paid as apprentices even if the work they are performing is not work in the same trade or occupation as their apprenticeship program;

JOHNSON (MICHAEL), PEOPLE v:

CRIMES - SUPPRESSION HEARING - VOLUNTARINESS OF STATEMENTS - WHETHER THE APPELLATE DIVISION CORRECTLY DETERMINED THAT PRE-ARRAIGNMENT DELAY AND CIRCUMSTANCES SURROUNDING INTERROGATION DURING THAT TIME DID NOT ESTABLISH THAT DEFENDANT'S STATEMENTS TO POLICE WERE INVOLUNTARY; WITNESSES - FAILURE TO CALL WITNESS - WHETHER TRIAL COURT PROPERLY DENIED DEFENDANT'S REQUEST FOR A MISSING WITNESS CHARGE AS TO VICTIM'S SON, AN EYEWITNESS TO THE

CRIME; PROOF OF OTHER CRIMES - WHETHER THE TRIAL COURT PROPERLY DENIED DEFENDANT'S MOTION FOR A MISTRIAL, WHERE IT SUSTAINED DEFENDANT'S OBJECTION TO IMPROPER TESTIMONY BY A COOPERATING WITNESS, STRUCK THAT PORTION OF HIS TESTIMONY AND PROVIDED A CURATIVE INSTRUCTION; DISCLOSURE - DELAY IN PROVIDING EVIDENTIARY MATERIALS REGARDING COOPERATING WITNESS;

KELLY, MATTER OF v DiNAPOLI:

CIVIL SERVICE - RETIREMENT AND PENSION BENEFITS - ACCIDENTAL DISABILITY RETIREMENT - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT SUBSTANTIAL EVIDENCE SUPPORTS THE COMPTROLLER'S DETERMINATION THAT PETITIONER'S INJURY DID NOT RESULT FROM AN "ACCIDENT" WITHIN THE MEANING OF RETIREMENT AND SOCIAL SECURITY LAW § 363 AND, THEREFORE, PETITIONER WAS NOT ENTITLED TO ACCIDENTAL DISABILITY RETIREMENT BENEFITS;

KEYSPAN GAS EAST CORPORATION v MUNICH REINSURANCE AMERICA, INC., et al.:

INSURANCE - ACTION AGAINST INSURER - COVERAGE - LONG-TERM ENVIRONMENTAL PROPERTY DAMAGE CAUSED BY POLLUTION FROM MANUFACTURED GAS PLANTS - ALLOCATION OF RISK OF LOSS ATTRIBUTABLE TO A CONTINUOUS HARM OCCURRING, IN PART, DURING PERIODS WHEN LIABILITY INSURANCE WAS UNAVAILABLE IN THE MARKETPLACE - WHETHER THE POLICIES AT ISSUE CONTAIN ANTI-STACKING LANGUAGE REQUIRING AN ALL-SUMS ALLOCATION METHOD;

KISLOWSKI (JOSEPH W.), PEOPLE v:

Crimes--Sentence--Probation--Sufficiency of evidence to support finding that defendant violated terms of his probation by associating with a convicted criminal--on approximately four occasions defendant contacted his former girlfriend and went to her apartment to pick up and walk the dog they once shared--whether evidence was sufficient to establish defendant's "association" with his former girlfriend and his awareness that she had been convicted of a crime; challenge to facial sufficiency of the amended violation petition;

KOLCHINS v EVOLUTION MARKETS, INC.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - WHETHER THE PARTIES' EMAILS AND OTHER CORRESPONDENCE CONSTITUTED A BINDING OFFER AND ACCEPTANCE OF AN EXTENSION OF A 2009 EMPLOYMENT AGREEMENT - WHETHER RESPONDENT IS ENTITLED TO A "PRODUCTION BONUS" DEPENDENT ON ACTIVE EMPLOYMENT AT THE TIME OF PAYMENT;

MATTER OF KOZIOL, A SUSPENDED ATTORNEY:

Attorney and Client--Disciplinary Proceedings--Denial of motion to set aside suspension orders; alleged constitutional violations;

KUZDZAL (MATTHEW), PEOPLE v:

Crimes--Jurors--Discharge of Juror--Whether the trial court erred in failing to make a proper inquiry of two jurors who allegedly were overheard making disparaging comments about defendant during a court recess--possible necessity for further inquiry pursuant to People v Buford (69 NY2d 290);

LEBENSOLD v MANCUSO, et al.:

Contracts--Breach or Performance of Contract--Agreement for return of \$15,000 investment in a pickup truck--dismissal of counterclaims and award of \$15,000 to plaintiff; claimed due process violations;

LEE (GREGORY), PEOPLE v:

CRIMES - ARREST - WHETHER THE POLICE HAD PROBABLE CAUSE TO ARREST DEFENDANT FOR UNLAWFUL POSSESSION OF MARIJUANA - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE INVENTORY SEARCH OF DEFENDANT'S CAR, CONDUCTED AT THE POLICE HEADQUARTERS AND NOT AT THE ARREST LOCATION, WAS A LEGITIMATE INVENTORY SEARCH; POSSESSION OF STOLEN PROPERTY - WHETHER POSSESSION OF PROPERTY THAT WAS PURCHASED WITH A STOLEN CREDIT CARD CONSTITUTES POSSESSION OF STOLEN PROPERTY;

LEMMA, MATTER OF v NASSAU COUNTY POLICE OFFICER INDEMNIFICATION BOARD, et al.:

Counties--Defense and Indemnification of Employee--Whether police officer's actions were within the "proper discharge of his duties," thereby entitling him to defense and indemnification under General Municipal Law § 50-1; whether respondent Board's determination denying defense and indemnification was arbitrary and capricious;

LOFTON (DAVID), PEOPLE v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - DENIAL OF YOUTHFUL OFFENDER STATUS - WHETHER THE TRIAL COURT'S STATEMENTS AT SENTENCING SATISFIED THE REQUIREMENT SET FORTH IN PEOPLE v MIDDLEBROOKS (25 NY3d 516, 522 [2015]) THAT THE COURT "DETERMINE ON THE RECORD IF [DEFENDANT] WAS AN ELIGIBLE YOUTH DUE TO THE EXISTENCE OF ONE OR MORE OF THE FACTORS SET FORTH IN CPL 720.10(3)";

LOHAN v TAKE-TWO INTERACTIVE SOFTWARE, INC., et al.:

Civil Rights--Right of Privacy--Whether plaintiff's allegation that defendant video game maker used plaintiff's digital portrait to advertise video game stated a cause of action under Civil Rights Law §§ 50, 51;

LOHNAS v LUZI:

LIMITATION OF ACTIONS - MEDICAL MALPRACTICE - ESTOPPEL TO PLEAD
STATUTE OF LIMITATIONS - WHETHER AN ISSUE OF FACT EXISTED
REGARDING APPLICATION OF THE CONTINUOUS TREATMENT DOCTRINE;
WHETHER THE EQUITABLE ESTOPPEL DOCTRINE APPLIED TO TOLL THE
STATUTE OF LIMITATIONS;

MADEIROS, MATTER OF v NEW YORK STATE EDUCATION DEPARTMENT et al.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78
PROCEEDING TO REVIEW RESPONDENT NEW YORK STATE EDUCATION
DEPARTMENT'S DENIAL OF PETITIONER'S REQUEST FOR DOCUMENTS UNDER
THE FREEDOM OF INFORMATION LAW (FOIL) - FOIL REQUEST FOR
DOCUMENTS RELATED TO FISCAL AUDITS OF PRESCHOOL SPECIAL EDUCATION
PROGRAMS AUTHORIZED BY EDUCATION LAW § 4410 - WHETHER THE
APPELLATE DIVISION ERRONEOUSLY CONCLUDED THAT THE LAW ENFORCEMENT
EXCEPTION TO FOIL PERMITS RESPONDENT TO WITHHOLD THE DOCUMENTS AT
ISSUE - PUBLIC OFFICERS LAW § 87(2)(e) AND (g); ATTORNEYS' FEES
RECOVERABLE UNDER FOIL;

MAHONEY v BROCKBANK:

Interest--Prejudgment interest--in a personal injury action,
whether prejudgment interest was properly computed from the date
of the jury verdict on the issue of damages, rather than the date
of the parties' stipulation, in which defendant conceded
liability; application of CPLR 5002;

MAKI v BASSETT HEALTHCARE, et al.:

Motions and Orders--Vacatur of Order--Whether the Appellate
Division properly denied the motion to vacate that court's prior
order affirming the dismissal of plaintiff's complaint;

MANKO v GABAY, et al.:

Appeal--Appellate Division--Denial of motion to reinstate
appeals;

MANKO v GABAY, et al.:

Appeal--Appellate Division--Denial of motion for leave to appeal;

MARINE HOLDINGS, LLC, &c., et al., MATTER OF v NEW YORK CITY
COMMISSION ON HUMAN RIGHTS:

Civil Rights--Discrimination Based on Disability--Whether
substantial evidence supported the Commission's determination
that landlord failed to establish it would suffer an undue
hardship if required to accommodate a tenant with disabilities;

MARINO, MATTER OF v ANNUCCI, &c.:

Proceeding Against Body or Officer--Dismissal of petition--
Proceeding challenging multiple determinations denying various

grievances filed by petitioner and requests for information filed under the Freedom of Information Law--delay in service on respondent resulting in lack of personal jurisdiction--claimed due process violations;

McCain (Douglas), People v:

CRIMES - POSSESSION OF WEAPON - SUFFICIENCY OF ACCUSATORY INSTRUMENT - WHETHER FACTUAL ALLEGATIONS WERE SUFFICIENT TO SUPPORT CHARGE OF CRIMINAL POSSESSION OF A WEAPON IN THE FOURTH DEGREE, WHERE DEFENDANT TOLD ARRESTING OFFICER THAT HE POSSESSED A RAZOR KNIFE CLIPPED TO THE OUTSIDE OF HIS PANTS POCKET FOR SELF PROTECTION - WHETHER APPELLATE TERM IMPROPERLY RELIED ON THE PRESUMPTION CONTAINED IN PENAL LAW § 265.15(4) IN UPHOLDING THE ACCUSATORY INSTRUMENT;

Mestecky, Matter of v City of New York, et al.:

PROCESS - SERVICE OF PROCESS - NOTICES OF VIOLATION (NOVs) ISSUED BY NEW YORK CITY DEPARTMENT OF BUILDINGS (DOB) - WHETHER DOB INSPECTOR'S ONE ATTEMPT AT PERSONAL SERVICE OF NOVs AT THE PREMISES WHERE THE VIOLATIONS OCCURRED SATISFIED THE "REASONABLE ATTEMPT" REQUIREMENT SET FORTH IN NEW YORK CITY CHARTER § 1049-a(d)(2)(b) SO THAT RESORT TO "AFFIX AND MAIL" SERVICE WAS APPROPRIATE - WHETHER REFERENCE TO CPLR ARTICLE 3 IN THE NEW YORK CITY CHARTER'S "AFFIX AND MAIL" PROVISION INCORPORATES THE "DUE DILIGENCE" REQUIREMENT OF CPLR ARTICLE 3; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT THE DETERMINATIONS ARE SUPPORTED BY SUBSTANTIAL EVIDENCE, ARE NOT AFFECTED BY AN ERROR OF LAW, AND ARE NOT ARBITRARY AND CAPRICIOUS;

Minemier (Kevin M.), People v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - DENIAL OF YOUTHFUL OFFENDER STATUS - COURT'S FAILURE TO STATE REASONS FOR DENIAL OR TO DISCLOSE CONFIDENTIAL INFORMATION - WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, UNDER People v Rudolph (21 NY3d 497 [2013]), CPL 720.20(1) DOES NOT REQUIRE THE SENTENCING COURT TO STATE ITS REASONS FOR DENYING YOUTHFUL OFFENDER STATUS TO A DEFENDANT; WHETHER THE APPELLATE DIVISION ERRED IN HOLDING THAT, UNDER CPL 390.50, DEFENDANT WAS NOT ENTITLED TO DISCLOSURE OF ANY INFORMATION IN A DOCUMENT INCLUDED WITH THE PRE-SENTENCE REPORT ON THE BASIS THAT THE SOURCE OF THE INFORMATION WAS PROMISED CONFIDENTIALITY;

Moore v Guerra, et al.:

Appeal--Appellate Division--Denial of motion for various types of relief related to trial and appeal;

MORGAN STANLEY MORTGAGE LOAN TRUST 2006-13ARX, &c. v MORGAN STANLEY MORTGAGE CAPITAL HOLDINGS LLC, &c.:

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - RESIDENTIAL MORTGAGE-BACKED SECURITIES - WHETHER DEFENDANT'S ALLEGED BREACH OF A CONTRACTUAL OBLIGATION TO NOTIFY THE TRUSTEE OF DEFECTIVE LOANS GIVES RISE TO DAMAGES NOT GOVERNED BY THE "SOLE REMEDIES" RESTRICTIONS IN THE PARTIES' AGREEMENTS - WHETHER ALLEGATIONS OF GROSS NEGLIGENCE AFFECT THE ENFORCEABILITY OF CONTRACT PROVISIONS LIMITING A PARTY'S LIABILITY;

MYERS, et al. v SCHNEIDERMAN, &c., et al.:

CONSTITUTIONAL LAW - VALIDITY OF STATUTE - WHETHER PENAL LAW §§ 120.30 AND 125.15, WHICH PROHIBIT PHYSICIAN-ASSISTED SUICIDE, VIOLATE THE EQUAL PROTECTION AND DUE PROCESS CLAUSES OF THE STATE CONSTITUTION AND WHETHER SUCH STATUTES PROHIBIT A LICENSED PHYSICIAN FROM ENGAGING IN THE PRACTICE KNOWN AS "AID IN DYING" TO TERMINALLY ILL, MENTALLY COMPETENT ADULT PATIENTS;

NEW YORK CITY ASBESTOS LITIGATION, MATTER OF (HACKSHAW, &c. v ABB, INC., &c., et al.):

Damages--Conscious Pain and Suffering--Injury caused by asbestos exposure--mesothelioma; judgment pursuant to stipulation--whether Appellate Division abused its discretion in ordering a new trial unless plaintiff stipulated to further reduced award for past pain and suffering; claimed constitutional violations; appeal to Court of Appeals pursuant to CPLR 5601(c);

NOMURA HOME EQUITY LOAN, INC., &c. v NOMURA CREDIT & CAPITAL, INC. (AND THREE OTHER ACTIONS):

CONTRACTS - BREACH OR PERFORMANCE OF CONTRACT - RESIDENTIAL MORTGAGE-BACKED SECURITIES - WHETHER "SOLE REMEDY" PROVISION REQUIRING DEFENDANT TO CURE OR REPURCHASE MORTGAGE LOANS NOT CONFORMING TO REPRESENTATIONS AND WARRANTIES PROHIBITS PLAINTIFFS FROM SEEKING MONEY DAMAGES FOR BREACH OF A CONTRACTUAL PROVISION PROVIDING THAT THE CONTRACT CONTAINS NO UNTRUE STATEMENTS;

NONNI (MARK), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER POLICE HAD A FOUNDED SUSPICION OF CRIMINALITY JUSTIFYING A LEVEL TWO INQUIRY UNDER PEOPLE v DE BOUR (40 NY2d 210) - WHETHER THE LEVEL OF SUSPICION WAS ELEVATED TO REASONABLE SUSPICION WHEN DEFENDANT FLED, JUSTIFYING PURSUIT AND AN INVESTIGATIVE DETENTION; WHETHER POLICE WERE JUSTIFIED IN CONDUCTING A PROTECTIVE SEARCH OF DEFENDANT'S BAG AND PERSON;

NOVAK (BRIAN), PEOPLE v:

JUDGES - RECUSAL - WHETHER A JUDGE WHO DECIDED DEFENDANT'S PRETRIAL MOTIONS AND PRESIDED OVER HIS BENCH TRIAL MAY DECIDE HIS

APPEAL; CRIMES - INFORMATION - WHETHER A PROSECUTOR'S INFORMATION MAY SUPERCEDE A SIMPLIFIED TRAFFIC INFORMATION; WHETHER TRIAL COURT ABUSED ITS DISCRETION BY FAILING TO IMPOSE A SANCTION FOR THE PEOPLE'S ROSARIO VIOLATION; EVIDENCE - WHETHER TRIAL COURT IMPROPERLY ADMITTED EVIDENCE REGARDING HORIZONTAL GAZE NYSTAGMUS (HGN) WITHOUT FIRST ESTABLISHING ITS SCIENTIFIC VALIDITY; WHETHER EVIDENCE PRESENTED AT TRIAL WAS SUFFICIENT TO PROVE THAT DEFENDANT WAS IMPAIRED BY THE USE OF ALCOHOL;

O'KANE (DENNIS), PEOPLE v:

CRIMES - VERDICT - CONTENT OF VERDICT SHEET - DEFENSE COUNSEL'S CONSENT TO ANNOTATIONS ON VERDICT SHEET SUMMARIZING SPECIFIC ALLEGATIONS AGAINST DEFENDANT - WHETHER COUNTY COURT ERRED IN HOLDING THAT DEFENSE COUNSEL WAS INEFFECTIVE FOR CONSENTING TO THE VERDICT SHEET ANNOTATIONS AND THAT SUCH ANNOTATIONS CONSTITUTED REVERSIBLE ERROR - ISSUE NOT ADDRESSED BY THE PARTIES BUT RAISED BY COUNTY COURT SUA SPONTE IN ITS OPINION;

RUTH JOANNA O. O., MATTER OF:

Parent, Child and Family--Abused or Neglected Child--Whether a preponderance of the evidence supports the finding that the mother's untreated mental condition exposed the subject child to risk of imminent harm and that mother therefore neglected the child; Family Court Act § 1012(f)(i);

PAPA et al., &c. v ASSOCIATED INDEMNITY CORPORATION, et al.:

Insurance--Construction of Policy--Exclusion in an all-risk insurance policy--whether the language of the policy exclusion unambiguously applies to the water damage plaintiffs experienced in the basement of their commercial property;

PARAMOUNT PICTURES CORPORATION v ALLIANZ RISK TRANSFER

AG, et al.:

JUDGMENTS - RES JUDICATA - APPLICATION OF FEDERAL RULE OF CIVIL PROCEDURE 13(a) TO NEW YORK STATE COURT CASES; WHETHER A PARTY'S FAILURE TO ASSERT A COMPULSORY COUNTERCLAIM IN A PRIOR FEDERAL ACTION PRECLUDED THE PARTY FROM PURSUING THE COUNTERCLAIM IN A SUBSEQUENT STATE COURT ACTION UNDER THE DOCTRINE OF RES JUDICATA;

PARIETTI et al. v WAL-MART STORES, INC., et al.:

Negligence--Maintenance of Premises--whether a triable issue of fact exists regarding defendants' notice of the wet surface on which plaintiff slipped, thereby precluding summary judgment;

PARKER (LAWRENCE), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE RECORD SUPPORTS THE CONCLUSION THAT DEFENDANT ACTIVELY FLED FROM POLICE, THUS ELEVATING THE LEVEL OF SUSPICION UNDER PEOPLE v DE BOUR (40 NY2d 210) TO REASONABLE SUSPICION;

PEOPLE &c., MATTER OF v JUAREZ (CONRADO); ROBLES (FRANCES):

Appeal--Matters Appealable--Whether an order resolving a nonparty's motion to quash a subpoena in a pending criminal action is appealable; Crimes--Disclosure--Shield Law--whether the People made a clear and specific showing that disclosure sought from reporter is critical and necessary to the People's proof of a material issue so as to overcome the qualified protection for the reporter's nonconfidential material; application of Civil Rights Law section 79-h(c);

PEOPLE OF THE STATE OF NEW YORK &c. v CREDIT SUISSE SECURITIES (USA), LLC, &c., et al.:

Limitation of Actions--Fraud--Whether an action brought by the Attorney General under the Martin Act and Executive Law § 63(12) for alleged investor fraud is subject to the three-year statute of limitations under CPLR 214 or the six-year statute of limitations under CPLR 213;

MATTER OF PEOPLE OF THE STATE OF NEW YORK, &c. v THE TRUMP ENTREPRENEUR INITIATIVE, LLC, &c, et al.:

FRAUD - OPERATION OF UNLICENSED EDUCATIONAL INSTITUTION - SPECIAL PROCEEDING BY ATTORNEY GENERAL TO ENJOIN FRAUDULENT OR ILLEGAL ACTS UNDER EXECUTIVE LAW § 63(12) - WHETHER THE APPELLATE DIVISION PROPERLY REINSTATED THE STATE'S CAUSE OF ACTION PURPORTING TO ALLEGE FRAUD UNDER EXECUTIVE LAW § 63(12) AS AN INDEPENDENT CAUSE OF ACTION - APPLICABILITY OF RESIDUAL SIX-YEAR STATUTE OF LIMITATIONS IN CPLR 213(1) - NECESSITY TO ESTABLISH ELEMENTS OF SCIENTER AND RELIANCE; AFFIRMATIVE DEFENSES - WHETHER THE TRIAL COURT PROPERLY DISMISSED RESPONDENTS' AFFIRMATIVE DEFENSES IN PART; DISCOVERY - WHETHER THE TRIAL COURT PROPERLY DENIED RESPONDENTS' REQUEST FOR DISCOVERY IN PART;

PEREZ (RAFAEL), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WHETHER THE POLICE, WHO WERE INVESTIGATING A PATTERN OF ROBBERIES AT A NEW YORK HOUSING AUTHORITY BUILDING, WERE JUSTIFIED IN MAKING AN INVESTIGATORY STOP OF DEFENDANT AND IN SUBSEQUENTLY SEARCHING DEFENDANT FOR A WEAPON; IDENTIFICATION OF DEFENDANT - WHETHER THE SHOW UP IDENTIFICATION PROCEDURE WAS UNDULY SUGGESTIVE; CONFESSION - WHETHER DEFENDANT'S STATEMENTS TO POLICE WERE SPONTANEOUS; SENTENCE - WHETHER VACATUR OF DEFENDANT'S SENTENCE ON A CRIME FOR WHICH HE WAS SENTENCED AS A SECOND FELONY OFFENDER WAS WARRANTED WHERE THE SENTENCE ON THE PREDICATE CRIME WAS VACATED AND THE MATTER REMANDED FOR A YOUTHFUL OFFENDER DETERMINATION;

PERRY (ROBERT), PEOPLE v:

CRIMES - EVIDENCE - DNA IDENTIFICATION TESTS - PROPRIETY OF DENIAL OF MOTION FOR FORENSIC DNA TESTING - WHETHER DEFENDANT SATISFIED THE "REASONABLE PROBABILITY" STANDARD FOR FORENSIC DNA TESTING UNDER CPL 440.30 - WHETHER A COURT MAY CONSIDER EVIDENCE OUTSIDE THE TRIAL RECORD ON A CPL 440.30 MOTION;

PILARZ, MATTER OF v HELFER &c.:

Constitutional Law--Due Process of Law--Whether section 307-8(D) of the Code of the City of Buffalo, pertaining to the hearing required after a not guilty plea to a parking violation, is facially unconstitutional; alleged due process violation;

PRICE (CHRIS), PEOPLE v:

CRIMES - EVIDENCE - PHOTOGRAPH OF DEFENDANT HOLDING GUN - WHETHER THE TRIAL COURT ERRED IN ADMITTING INTO EVIDENCE A PHOTOGRAPH POSTED ON DEFENDANT'S WEBSITE WHERE DEFENSE COUNSEL OBJECTED ON THE GROUND THAT THE PEOPLE FAILED TO LAY A PROPER FOUNDATION BECAUSE THEY DID NOT ESTABLISH THAT THE PHOTOGRAPH WAS GENUINE AND THE COMPLAINANT DID NOT CONFIRM THAT THE GUN IN THE PHOTOGRAPH WAS THE SAME AS THAT USED IN THE ROBBERY; SUFFICIENCY OF THE EVIDENCE ESTABLISHING DEFENDANT'S IDENTITY AS THE MAN WHO ROBBED THE VICTIM AT GUNPOINT;

PRINCES POINT LLC v MUSS DEVELOPMENT LLC, et al.:

VENDOR AND PURCHASER - CONTRACT FOR SALE OF REAL PROPERTY - WHETHER PROSPECTIVE PURCHASER OF REAL PROPERTY COMMITS ANTICIPATORY BREACH OF CONTRACT BY COMMENCING AN ACTION AGAINST SELLERS FOR RESCISSION OF THE CONTRACT BEFORE THE CLOSING DATE - WHETHER SELLERS ARE REQUIRED TO ESTABLISH THAT THEY ARE READY, WILLING AND ABLE TO CLOSE AFTER BUYER'S ANTICIPATORY BREACH IN ORDER TO RETAIN THE DEPOSIT AND CERTAIN OTHER PAYMENTS AS LIQUIDATED DAMAGES;

PRINDLE (MICHAEL E.), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT FELONY OFFENDER - WHETHER THE INCREASE IN DEFENDANT'S PRESCRIBED MINIMUM TERM BASED ON HIS ADJUDICATION AS A PERSISTENT FELONY OFFENDER AND A JUDICIAL FINDING THAT "THE HISTORY AND CHARACTER OF THE DEFENDANT AND THE NATURE AND CIRCUMSTANCES OF HIS CRIMINAL CONDUCT ARE SUCH THAT EXTENDED INCARCERATION AND LIFETIME SUPERVISION OF THE DEFENDANT ARE WARRANTED TO BEST SERVE THE PUBLIC INTEREST" (PENAL LAW § 70.10[2]) CONSTITUTES AN INCREASE IN THE PRESCRIBED MINIMUM PREDICATED ON NON-JURY FINDINGS IN VIOLATION OF APPENDI v NEW JERSEY (530 US 466 [2000]) OR ALLEYN v UNITED STATES (570 US ___, 133 S Ct 2151 [2013]); CHALLENGE TO CONSTITUTIONALITY OF PENAL LAW § 70.10 AND CPL 400.20;

PROMETHEUS REALTY CORP., et al., MATTER OF v NEW YORK CITY WATER BOARD, et al.:

Municipal Corporations--Water and Sewer Rates--Whether respondent Water Board's actions in approving a rate increase and one-time credit for certain ratepayers was ultra vires and without a rational basis;

RAMSARAN (GANESH R.), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER DEFENSE COUNSEL WAS INEFFECTIVE FOR (1) FAILING TO OBJECT TO COMMENTS MADE BY THE PROSECUTOR DURING SUMMATION THAT MISCHARACTERIZED THE NATURE OF DNA EVIDENCE, (2) FAILING TO OBJECT TO IRRELEVANT AND PREJUDICIAL TESTIMONY, AND (3) PRESENTING A CONFUSING SUMMATION;

REYES (CASIMIRO), PEOPLE v:

Crimes--Conspiracy--Evidence--sufficiency of evidence--whether the evidence was sufficient to support the conviction of defendant for conspiracy to commit an arson committed by a street gang where defendant gang member was present at meetings where the gang members planned and discussed the arson--Penal Law § 105--element of agreement with others to engage in or cause the performance of criminal conduct;

ROBERTS (KERRI), PEOPLE v:

CRIMES - EVIDENCE - SUFFICIENCY OF EVIDENCE - IDENTITY THEFT (PENAL LAW § 190.79 [3]) - WHETHER THERE WAS PROOF THAT DEFENDANT ASSUMED THE VICTIM'S IDENTITY IN ADDITION TO USING HER DRIVER'S LICENSE AND CREDIT CARD INFORMATION;

RODRIGUEZ v CITY OF NEW YORK:

NEGLIGENCE - COMPARATIVE NEGLIGENCE - WHETHER PLAINTIFF WAS REQUIRED TO ESTABLISH THE ABSENCE OF COMPARATIVE NEGLIGENCE IN ORDER TO OBTAIN SUMMARY JUDGMENT ON THE ISSUE OF LIABILITY;

PEOPLE ex rel. ROLAND v WARDEN, RIKERS ISLAND &c.:

Habeas Corpus--Availability of relief; claimed due process violations;

S&P GLOBAL, INC. &c. v NEW YORK CITY TAX APPEALS TRIBUNAL, et al.:

Taxation--General Corporation Tax--whether income earned from petitioner's credit rating business was properly sourced on place-of-performance or origin basis pursuant to Administrative Code of the City of New York § 11-604.3(a); Constitutional Law--Freedom of Speech--whether allocation of income from petitioner's credit rating business violated petitioner's First Amendment right to free speech;

CITY OF SCHENECTADY, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD (PERB):

CIVIL SERVICE - PUBLIC EMPLOYEES' FAIR EMPLOYMENT ACT - COLLECTIVE BARGAINING - DISCIPLINE OF POLICE - WHETHER THE TAYLOR LAW, AS CODIFIED IN CIVIL SERVICE LAW ARTICLE 14, SUPERCEDED ARTICLE 9 OF THE SECOND CLASS CITIES LAW, MAKING THE MUNICIPALITY'S POLICE DISCIPLINARY PROCEDURES A MANDATORY SUBJECT OF COLLECTIVE BARGAINING - MATTER OF PATROLMEN'S BENEVOLENT ASSN. OF CITY OF N.Y., INC. v NEW YORK STATE PUB. EMPL. RELATIONS BD. (6 NY3d 563 [2006]) AND MATTER OF TOWN OF WALLKILL v CIVIL SERV. EMPLS. ASSN., INC. (LOCAL 1000, AFSCME, AFL-CIO, TOWN OF WALLKILL POLICE DEPT. UNIT, ORANGE COUNTY LOCAL 836) (19 NY3d 1066 [2012]);

SCIALDONE v STEPPING STONES ASSOCIATES, L.P., et al.:

Landlord and Tenant--Eviction--Apartment complex landlord terminated tenant's use of one of three parking spaces; claimed denial of due process;

SICA, MATTER OF v DiNAPOLI &c.:

Civil Service--Retirement and Pension Benefits--Accidental disability retirement--whether the Appellate Division correctly held that the record did not contain substantial evidence to support the Comptroller's determination that petitioner firefighter's injuries from being exposed to colorless and odorless gases while responding to an emergency at a supermarket were not the result of an "accident" within the meaning of Retirement and Social Security Law § 363;

SIEGEL v THE DAKOTA, INC.:

Judges--Recusal--Whether the motion court properly denied plaintiff's motions for recusal; whether the Appellate Division properly treated the appeal from the denial of plaintiff's second motion to recuse as an appeal from a order denying reargument;

SILBURN (SPENCE), PEOPLE v:

Crimes--Right to representation pro se--Whether defendant unequivocally invoked his right to proceed pro se--request to proceed pro se with standby counsel; notice of defendant's intent to present psychiatric evidence solely to aid jury in determining whether post-Miranda statements to police were knowing and voluntary--CPL 250.10;

SIVERTSON (SHAWN J.), PEOPLE v:

CRIMES - UNLAWFUL SEARCH AND SEIZURE - WARRANTLESS ENTRY INTO RESIDENCE - WHETHER EXIGENT CIRCUMSTANCES JUSTIFIED THE WARRANTLESS ENTRY INTO DEFENDANT'S APARTMENT WHERE THE SUBJECT WEAPON WAS A KNIFE, NOT A GUN; RIGHT TO COUNSEL - EFFECTIVE

REPRESENTATION - WHETHER TRIAL COUNSEL PROVIDED INEFFECTIVE ASSISTANCE OF COUNSEL BY FAILING TO OBJECT TO CERTAIN COMMENTS MADE BY THE PROSECUTOR DURING SUMMATION, INCLUDING THAT DEFENDANT'S SILENCE UPON HIS ARREST EVIDENCED HIS GUILT;

SKANSKA USA BUILDING, INC. v ATLANTIC YARDS B2
OWNER, LLC, et al.:

Contracts--Breach or Performance of Contract--Construction maintenance contract for construction of high-rise residential tower in the Atlantic Yards project in Brooklyn--whether the Appellate Division erred in its interpretation of Lien Law § 5 as it applied to the security provided for contractor payment in this project--nature of bond or undertaking required to be posted for labor and materials furnished for work on public improvement; corporations--piercing of corporate veil--whether the Appellate Division erred in finding that plaintiff failed to plead a veil-piercing claim; attorney and client--disqualification--whether the Appellate Division erred in declining to disqualify one of defendants' law firms based on a conflict of interest;

SMART (ANDREW), PEOPLE v:

CRIMES - IDENTIFICATION OF DEFENDANT - LINEUP - WHETHER LINEUP IS UNDULY SUGGESTIVE WHERE DEFENDANT CONTENDS HE WAS SINGLED OUT BY A TATTOO ON HIS NECK AND THE COLOR OF HIS SHIRT, AND BY THE APPARENT AGE DIFFERENCE BETWEEN HIMSELF AND THE LINEUP FILLERS; DENIAL OF DEFENDANT'S MOTION FOR SUBSTITUTION OF COUNSEL;

SMITH (DWIGHT), PEOPLE v:

CRIMES - APPEAL - WAIVER OF RIGHT TO APPEAL - WHETHER DEFENDANT'S WAIVER OF THE RIGHT TO APPEAL WAS INVALID - RIGHT TO COUNSEL - WHETHER THE DENIAL OF DEFENDANT'S REQUESTS FOR A LAWYER DURING PRETRIAL PROCEEDINGS CONCERNING A DNA TEST VIOLATED DEFENDANT'S RIGHT TO COUNSEL - WHETHER DISMISSAL OF THE INDICTMENT IS THE PROPER REMEDY FOR THE DEPRIVATION OF COUNSEL;

SMITH (LEROY SAVAGE), PEOPLE v:

CRIMES - RIGHT TO COUNSEL - WHETHER THE TRIAL COURT ABUSED ITS DISCRETION IN DENYING DEFENDANT'S REQUEST FOR SUBSTITUTION OF ASSIGNED COUNSEL;

SOMEREVE v PLAZA CONSTRUCTION CORP.:

LABOR - SAFE PLACE TO WORK - WHETHER LABOR LAW § 240(1) APPLIES WHERE PLAINTIFF WAS USING A PRIME MOVER TO HOIST A LOAD AND THE PRIME MOVER PITCHED FORWARD, CAUSING PLAINTIFF TO BE EJECTED OFF THE BACK OF THE MACHINE; WHETHER SUMMARY JUDGMENT WAS PREMATURE WHERE DISCOVERY WAS STILL ONGOING; WHETHER ISSUES OF FACT EXISTED PRECLUDING THE GRANT OF SUMMARY JUDGMENT; COMPARATIVE NEGLIGENCE AND SOLE PROXIMATE CAUSE;

SPENCER (DARRELL), PEOPLE v.:

CRIMES - JURORS - QUALIFICATION INQUIRY - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GRANT A MISTRIAL WHEN, ON THE FOURTH DAY OF DELIBERATIONS, AFTER DISCHARGE OF THE ALTERNATE JURORS, JUROR NUMBER ONE STATED THAT SHE COULD NOT "SEPARATE [HER] EMOTIONS FROM THE CASE" AND "D[ID NOT] HAVE IT IN [HER]" TO DECIDE THE CASE ON THE FACTS AND LAW; JURY INSTRUCTIONS - INTOXICATION CHARGE - PURPOSEFUL BEHAVIOR - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE AN INTOXICATION CHARGE IN LIGHT OF DEFENDANT'S PURPOSEFUL ATTEMPT TO CONCEAL THE DEATH OF THE VICTIM; SEARCH AND SEIZURE - KNOWINGLY AND VOLUNTARILY EXITING APARTMENT - WHETHER DEFENDANT'S WARRANTLESS ARREST WAS UNLAWFUL UNDER PAYTON v NEW YORK (445 US 573 [1980]);

SPOSITO (JOSEPH), PEOPLE v.:

CRIMES - RIGHT TO COUNSEL - EFFECTIVE REPRESENTATION - TRIAL COUNSEL'S WAIVER OF A HUNTLEY HEARING, RESULTING IN THE ADMISSION AT TRIAL OF A HIGHLY PREJUDICIAL VIDEOTAPED STATEMENT; DNA TESTING - POST-CONVICTION RELIEF - WHETHER COUNTY COURT PROPERLY DENIED DEFENDANT'S MOTION FOR DNA TESTING;

STATE OF NEW YORK, MATTER OF v FLOYD Y.:

CRIMES - SEX OFFENDERS - CIVIL COMMITMENT OR SUPERVISION - MENTAL ABNORMALITY - WHETHER LEGALLY SUFFICIENT EVIDENCE SUPPORTED THE JURY'S FINDING THAT RESPONDENT HAS SERIOUS DIFFICULTY CONTROLLING HIS SEXUAL MISCONDUCT UNDER MATTER OF STATE OF NEW YORK v DONALD DD. (24 NY3d 174 [2014]);

STEGA &c. et al. v NEW YORK DOWNTOWN HOSPITAL, et al.:

Libel and Slander--Privilege-- whether statements made by defendants to a Food and Drug Administration investigator during the course of an investigation into the hospital's institutional review board are protected by an absolute privilege in an action for defamation;

TERRANOVA, MATTER OF v LEHR:

WORKERS' COMPENSATION - THIRD PARTY ACTION - WHETHER CLAIMANT, WHO SUSTAINED A WORK-RELATED INJURY AND OBTAINED A SCHEDULE LOSS OF USE AWARD, WAS ENTITLED TO ONGOING PAYMENTS FOR LITIGATION EXPENSES INCURRED IN AN ACTION AGAINST A THIRD-PARTY TORTFEASOR;

THOMPSON, MATTER OF v VANCE, et al.:

Proceeding against Body or Officer--Prohibition-- Whether remedy of prohibition is available to enjoin a criminal court from proceeding on an indictment where it is alleged that the court lacks geographic jurisdiction; claimed violations of Article I §§ 2, 6 and 11 and Article III, § 2 of the New York State Constitution; claimed Sixth Amendment violation;

TOMHANNOCK, LLC v ROUSTABOUT RESOURCES, LLC:

Specific Performance--When Remedy Appropriate--Whether plaintiff, which entered into an option agreement whereby buyers of a parcel of real property agreed to reconvey a portion of the parcel to plaintiff upon plaintiff's request, was entitled to specific performance of the option agreement despite the fact that plaintiff was unable to record the necessary deed due to a failure to obtain subdivision approval;

U.S. BANK NATIONAL ASSOCIATION &c. v GREENPOINT MORTGAGE FUNDING, INC.:

Contracts--Breach or Performance of Contract--"Put-back" action involving residential mortgage backed securities--whether a breach notice is required when the underlying contract claim is based on defendant's independent discovery or knowledge of nonconforming mortgages--whether late breach notice can relate back in time to the commencement of the underlying action in order to avoid dismissal; demand requirement contained within accrual clause of loan sale agreement--CPLR 203(f);

VALENTE, et al. v LEND LEASE (US) CONSTRUCTION LMB, INC., et al.:

Negligence--Proximate Cause--Slip and fall on grease on planks used as makeshift ramp to descend from top of building to a scaffold--prima facie showing that fall was covered by Labor Law § 240 (1)--whether defendants raised an issue of fact as to whether plaintiff was the sole proximate cause of the accident because he chose to use the planks instead of using or constructing a proper ramp; summary judgment;

VASQUEZ, &c. v NATIONAL SECURITIES CORPORATION et al.:

ACTIONS - CLASS ACTIONS - WHETHER THE NOTICE PROVISION OF CPLR 908 APPLIES TO AN ACTION PLEADED AS A CLASS ACTION BUT DISMISSED PRIOR TO CLASS CERTIFICATION - NOTICE TO PUTATIVE CLASS OF IMPENDING DISMISSAL;

VIRUET (MIGUEL), PEOPLE v:

CRIMES - INSTRUCTIONS - WHETHER THE TRIAL COURT ERRED IN REFUSING TO GIVE AN ADVERSE INFERENCE CHARGE TO THE JURY AFTER THE POLICE LOST A SURVEILLANCE VIDEO THAT HAD SOME RELEVANCE TO THE SHOOTING AT ISSUE - MISSING EVIDENCE;

WALLACE (AKEEM), PEOPLE v:

Crimes--Possession of Weapon--Whether "place of business" exception of Penal Law § 265.03 (3) should apply to defendant restaurant manager who brought an unlicensed handgun to work and shot himself in the leg--employees prohibited from bringing firearms to work;

WATSON v STATE OF NEW YORK:

State--Claim Against State--Dismissal of claims by Court of Claims;

WELLS FARGO BANK, N.A., &c. v EITANI, et al.:

Limitation of Actions--Commencement of Action after Termination of Prior Action--Whether CPLR 205(a) applies when the party seeking to recommence a prior action is not the original plaintiff, but is plaintiff's successor-in-interest who was not a party to the prior action; mortgages--foreclosure;

WEST MIDTOWN MANAGEMENT GROUP, INC., MATTER OF v STATE OF NEW YORK &c.:

PROCEEDING AGAINST BODY OR OFFICER - CERTIORARI - CPLR ARTICLE 78 PROCEEDING SEEKING A JUDGMENT DECLARING WHAT SUM THE OFFICE OF MEDICAID INSPECTOR GENERAL IS ENTITLED TO SEEK AS REPAYMENT UNDER A FINAL AUDIT REPORT - MEDICAID REIMBURSEMENT OVERPAYMENT LIABILITY;

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

Taxation--Whether New York State's imposition through Tax Law § 471 of a tax on cigarettes sold on Indian reservations to nonmembers of the tribe conflicts with state law; claimed violations of Indian Law § 6, federal treaty provisions, and state and federal constitutional protections; declaratory judgment;

WIGGINS (REGINALD), PEOPLE v:

CRIMES - RIGHT TO SPEEDY TRIAL - WHETHER A SIX-YEAR DELAY BETWEEN THE CRIME AND DEFENDANT'S GUILTY PLEA DENIED DEFENDANT THE CONSTITUTIONAL RIGHT TO A SPEEDY TRIAL;

WILLIAMS, MATTER OF v DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION:

CRIMES - SEX OFFENDERS - RESIDENCY RESTRICTIONS - WHETHER THE MANDATORY BUFFER ZONE CONTAINED IN THE SEXUAL ASSAULT REFORM ACT (EXECUTIVE LAW § 259-c[14]), WHICH PROHIBITS SEX OFFENDER PAROLEES FROM RESIDING OR TRAVELING WITHIN 1000 FEET OF SCHOOLS OR OTHER INSTITUTIONS WHERE CHILDREN CONGREGATE, VIOLATES THE EX POST FACTO CLAUSE OF THE FEDERAL CONSTITUTION, AND DEPRIVES HIM OF HIS RIGHT TO TRAVEL AND TO SUBSTANTIVE DUE PROCESS UNDER THE FEDERAL AND STATE CONSTITUTIONS;

WILSON v DANTAS, et al.:

COURTS - JURISDICTION - LONG-ARM JURISDICTION - INTERNATIONAL FINANCIAL TRANSACTION - TRANSACTION OF BUSINESS IN NEW YORK - EXECUTION OF CONTRACTS IN NEW YORK - WHETHER THE APPELLATE DIVISION CORRECTLY HELD THAT THE COMPLAINT SUFFICIENTLY ALLEGED THAT DEFENDANTS TRANSACTED BUSINESS IN NEW YORK AND THAT PLAINTIFF'S CAUSES OF ACTION ARISE FROM DEFENDANTS' NEW YORK CONTACTS - WHETHER THE APPELLATE DIVISION CORRECTLY REJECTED DEFENDANTS' CONTENTION THAT THE ACTION SHOULD BE DISMISSED ON THE GROUND OF FORUM NON CONVENIENS;

NATASHA W., MATTER OF v NEW YORK STATE OFFICE OF CHILDREN AND FAMILY SERVICES, et al.:

SOCIAL SERVICES - REGISTER OF CHILD ABUSE AND MALTREATMENT - WHETHER THE STATE PROVED, BY A FAIR PREPONDERANCE OF THE EVIDENCE, THAT PETITIONER MALTREATED HER CHILD BY USING THE CHILD TO FACILITATE COMMITTING A CRIME;

WORD, PEOPLE ex rel. v STATE OF NEW YORK, et al.:

Appeal--Appellate Division--Denial of motion for renewal;

WRIGHT (PHILLIP), PEOPLE v:

CRIMES - SENTENCE - PERSISTENT VIOLENT FELONY OFFENDER - WHETHER THE ADJUDICATION OF DEFENDANT AS A PERSISTENT FELONY OFFENDER WAS BASED ON NON-JURY FINDINGS IN VIOLATION OF THE RULE SET FORTH IN APPENDI v NEW JERSEY (530 US 466) AND ITS PROGENY; JURORS - WHETHER SUPREME COURT ERRED IN DENYING DEFENDANT'S CHALLENGES FOR CAUSE TO THREE PROSPECTIVE JURORS - FAILURE TO OBTAIN UNEQUIVOCAL ASSURANCES FROM JURORS REGARDING IMPARTIALITY;

W. (TERI), PEOPLE v:

CRIMES - SENTENCE - YOUTHFUL OFFENDER - WHETHER SUPREME COURT LAWFULLY IMPOSED A 10-YEAR TERM OF PROBATION RATHER THAN A 5-YEAR TERM - WHETHER THE MAXIMUM PROBATIONARY TERM AUTHORIZED BY STATUTE FOR A YOUTHFUL OFFENDER CONVICTED OF A FELONY IS FIVE YEARS (PENAL LAW §§ 60.02[2]; 65.00[3][a][i]);