

OCTOBER 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;

ADAMS, MATTER OF v NEW YORK STATE DEPARTMENT OF CORRECTIONS AND
COMMUNITY SUPERVISION:

Prisons and Prisoners--Discipline of Inmates--Whether inmate was denied his right to call witnesses; whether alleged chain of custody violation required reversal; whether inmate was denied adequate employee assistance where employee assistant incorrectly informed inmate that requested document did not exist; whether misbehavior report was sufficiently specific to enable inmate to prepare a defense; alleged due process and equal protection violations;

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;

ALLIANCE TO END CHICKENS AS KAPOROS, et al v NEW YORK CITY POLICE
DEPARTMENT, et al.:

Proceeding against Body or Officer--Mandamus--Whether plaintiffs have a right, via a writ of mandamus, to compel the municipal defendants to enforce certain laws related to preserving public

health and preventing animal cruelty, which they allege are violated by Orthodox Jews who perform the religious practice of Kaporos--chickens killed in religious ritual; discretionary versus mandatory actions of municipal agents; animals;

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;

AMBAC ASSURANCE CORPORATION, et al. v COUNTRYWIDE HOME LOANS, INC., et al.:

Fraud--Fraud in Inducement--Alleged fraudulent inducement to issue financial guaranty insurance policies for residential mortgage-backed securitizations--elements to establish cause of action for fraudulent inducement--justifiable reliance--applicability of Insurance Law § 3105; recovery of claims payments made by insurer--contractual repurchase protocol; recovery of attorneys' fees; summary judgment;

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;

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;

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)";

TOWN OF AURORA &c. v VILLAGE OF EAST AURORA, &c.:

Bridges--Maintenance--Whether Town of Aurora or Village of East Aurora is responsible for the costs of repairing a bridge constructed and maintained by the Village; Village board of trustees never adopted resolution assuming care, control and maintenance of the bridge; application of Village Law §§ 6-604, 6-606;

BAILEY (PRINCESAM), PEOPLE v:

Crimes--Jurors--Repeated use of racial epithet by defendant's counsel as strategy in cross examination of victim affected juror--request for mistrial by defendant's counsel based on allegedly "grossly unqualified" juror--whether trial court erred in failing to conduct an individual inquiry of the juror involved; evidence--whether trial court erred in permitting extensive gang-related testimony;

BAISLEY (STEVEN), PEOPLE v:

Courts--Jurisdiction--Whether a local criminal court has jurisdiction over charges of nonsupport of a child in the second degree (Penal Law § 260.05[2]) and criminal contempt in the second degree (Penal Law § 215.30[3]); criminal contempt charge based on defendant's failure to obey a Family Court order of child support; application of Family Court Act §§ 156, 411;

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;

BEATTY, MATTER OF v CITY OF NEW YORK, et al.:

Schools--Teachers--Where teacher submitted time sheets falsely stating that she had provided instruction to a disabled student over a two-month period, whether the arbitrator's penalty of termination shocks the conscience;

BOYD (MARK), PEOPLE v:

Crimes--Instructions--Submission of noninclusory concurrent count to jury--whether the trial court abused its discretion in granting People's request to dismiss the count of unlawful possession of an air pistol or BB gun and submitting to the jury only those counts relating to defendant's possession of a pistol; evidence--whether certain evidentiary rulings deprived defendant of a meaningful opportunity to present a defense; right to counsel--whether trial counsel was ineffective for failing to request admission of defendant's out-of-court post-arrest statement; district and prosecuting attorneys--alleged prosecutorial misconduct;

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;

BRITTON (QUINN), PEOPLE v:

Crimes--Sex Offenders--Sex Offender Registration Act (SORA)--Whether the SORA hearing court properly assesses points under risk factor 2 for sexual intercourse, deviant sexual intercourse, or aggravated sexual abuse, where defendant was acquitted of the charges pertaining to such conduct.

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, MATTER OF v VELEZ, &c., et al.:

Social Services--Register of Child Abuse and Maltreatment--Whether hearsay evidence was erroneously admitted at administrative expungement hearing; alleged violations of petitioner's due process rights and right to confront witnesses against him;

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;

BURGOS, MATTER OF v CITYWIDE CENTRAL INSURANCE PROGRAM, et al.:

Workers' Compensation--Extent of Disability--Where the Workers' Compensation Board has accepted the medical testimony assigning the most severe rating to a lumbar injury and determined that claimant is unable to perform even sedentary work, it is an abuse of discretion to find that claimant has less than a permanent total disability under the 2012 New York State Guidelines for Determining Permanent Impairment;

CAPITAL ONE TAXI MEDALLION FINANCE v CORRIGAN, et al.:

Suretyship and Guarantee--Action to recover on two guaranties--line of credit secured by loans to Chicago taxi owners and drivers for the purchase of taxi medallions--whether defendants' claim for negligent impairment of collateral, which remains pending in parallel litigation, barred summary judgment

in plaintiff's favor; lender's alleged refusal to release liens to permit sale of taxi medallions while they had higher value, and alleged withdrawal from medallion lending market to pursue competing venture with a ride-sharing service;

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;

THOMAS CC., MATTER OF:

Guardian and Ward--Appointment of Guardian--Powers--Powers of Attorney--Revocation of power of attorney; claimed denial of equal protection and due process;

CISSE (ALI), PEOPLE v:

Crimes--Evidence--Whether defendant's telephone calls from prison were admitted into evidence in violation of federal and/or state wiretapping statutes, or right to counsel and due process protections; suppression--whether various physical items should have been suppressed as fruits of an improper stop and search; whether the trial court improperly asked the jury whether it had reached a partial verdict; claimed ineffective assistance of counsel--counsel failed to move to suppress a suggestive identification and to dismiss the reckless endangerment count; whether the trial court erred in rejecting a voluntariness instruction to the jury;

CLARK, PEOPLE ex rel. v TEDFORD, &c.:

Habeas Corpus--Availability of relief--alleged due process violations regarding parole board appearance;

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;

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;

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 v MANVILLE:

Negligence--Maintenance of Premises--Whether defendant established as a matter of law entitlement to immunity under General Obligations Law § 9-103; plaintiff injured while operating a four-wheel all-terrain vehicle on a road owned by defendant; whether road was suitable for recreational use of ATV riding;

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 (EMMANUEL), PEOPLE v:

Crimes--Evidence--Whether defendant's telephone calls from prison were improperly admitted into evidence in the absence of his consent to release of the recordings to the prosecution; right to counsel--effective representation--whether defendant was deprived of the effective assistance of counsel as a result of his trial counsel's failure to request that the jury be charged on the affirmative defense that the object which he displayed was not a loaded weapon;

DIAZ (FREDERICK), PEOPLE v:

Crimes--Sex Offenders--Sex Offender Registration Act (SORA)
 (Correction Law article 6-C)--Defendant convicted in Virginia of
 first-degree murder of a victim under the age of 15 (crime not
 involving any sexual motivation or conduct)--whether Appellate
 Division correctly concluded, under the specific facts of this
 case, that requiring defendant to register as a sex offender
 under Correction Law § 168-a (2)(ii) violated his substantive due
 process rights and was not rationally related to SORA's
 legislative purpose;

DODSON (PHILLIP A.), PEOPLE v:

Crimes--Right to Counsel--Whether the trial court abused its
 discretion in denying defendant's request for substitution of
 assigned counsel--breakdown in communications between
 counsel and client;

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;

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;

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;

FENG LI, AN ATTORNEY, MATTER OF:

Attorney and Client--Disciplinary Proceedings--Application by Grievance Committee for the Ninth Judicial District to impose discipline on respondent attorney based upon disciplinary action taken against him by the Supreme Court of New Jersey--attorney's disbursement of funds to himself from judgment recovered for client after dispute as to amount of attorney's fees; claimed due process and other constitutional violations related to the reciprocal discipline imposed;

FERRARA v PEACHES CAFÉ LLC, et al:

Liens--Mechanic's Lien--Whether defendant owner consented to improvements on real property it leased to a tenant who contracted for the improvements, thereby permitting imposition of a lien on the property under Lien Law § 3; whether lease indemnification clause extinguished owner's responsibility to pay for contractor's work;

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;

FLORES (ALEX), RAMIREZ (LUCIO), AGUILAR (BENIGNO), FLORES EMMANUEL), PEOPLE v:

Crimes--Jurors--Selection of Jurors--whether trial court's empaneling of an anonymous jury was improper under CPL 270.15 and deprived defendants of their right to a fair trial; whether error in empaneling anonymous jury was harmless;

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;

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;

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;

FRELIGH v GOVERNMENT EMPLOYEES INSURANCE COMPANY:

Insurance--No-Fault Automobile Insurance--whether plaintiff's claim for projected future earnings as an employee of an automobile parts business was speculative; Insurance Law § 5102; whether summary judgment was proper;

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;

GARCIA v GOVERNMENT EMPLOYEES INSURANCE COMPANY:

Insurance--Cancellation--Failure to Pay Premium--whether questions of fact exist regarding divisibility of umbrella insurance policy, thereby precluding summary judgment; whether insurance policy is ambiguous;

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;

GERRISH v 56 LEONARD LLC, et al.:

Labor--Safe Place to Work--Where plaintiff was fabricating steel rebars at an off-site temporary project facility in the Bronx for a construction project located in Manhattan, whether plaintiff was working in a construction area within the meaning of Labor Law § 241(6); whether a question of fact exists as to involvement of defendants property owner and construction manager with off-site temporary construction facility;

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;

GOLD, et al. v NEW YORK LIFE INSURANCE COMPANY, et al.:

Arbitration--Agreement to Arbitrate--Whether the Appellate Division erred in determining that plaintiff Kartal's arbitration agreement containing a class action waiver is unenforceable as violating section 7 of the National Labor Relations Act--employee wage dispute with employer;

GONZALEZ, MATTER OF v ANNUCCI &c.:

Prisons and Prisoners--Whether the Department of Corrections and Community Supervision wrongfully denied petitioner good time credit based on his failure to locate housing that complied with the Sexual Assault Reform Act (SARA); whether the Department of Corrections and Community Supervision failed to comply with its obligations under the Correction Law by placing petitioner at a residential treatment facility following the maximum expiration date of his prison sentence and by failing to provide him statutorily required privileges and programming; 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);

GRAJKO, MATTER OF v CITY OF NEW YORK, et al.:

Municipal Corporations--Notice of Claims--Late Notice--whether petitioner failed to establish the statutory factors warranting leave to serve a late notice of claim (General Municipal Law § 50-e)--injured bricklayer's alleged failure to realize the severity of his injuries within 90 days after his accident;

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;

GRIMES (JAKIM), PEOPLE v:

Crimes--Right to Counsel--Effective Representation--Whether, under the New York State Constitution, an attorney's failure to file a criminal leave application on a defendant's behalf at the Court of Appeals deprives the defendant of the effective assistance of counsel or due process of law;

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;

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;

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]);

HILL (NICHOLAS), PEOPLE v:

Crimes--Suppression Hearing--Police retained defendant's proffered identification while investigating defendant's explanation about who he was visiting in a particular apartment building--whether the trial court properly denied defendant's motion to suppress physical evidence on the basis that the police officer's retention of defendant's identification constituted a significant interruption of his freedom of movement so as to constitute an unreasonable seizure;

HUTZENLAUB, MATTER OF v VENETTOZZI, &c., et al.:

Prisons and Prisoners--Discipline of Inmates--Violation of prison rule; whether hearing officer properly denied prisoner's request to call witnesses; alleged due process violations; alleged bias of hearing officer; assistance of counsel; collection of evidence;

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;

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;

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;

JONES (DAMIAN), PEOPLE v:

Crimes--Enterprise Corruption--whether verdict convicting defendant of enterprise corruption is supported by legally sufficient evidence; proof of "ascertainable structure" under Penal Law §§ 460.10, 460.20; Crimes--Indictment--whether prosecution constructively amended the indictment by introducing a new theory of criminal liability at trial; Crimes--Fair Trial--whether prosecutorial misconduct deprived defendant of a fair trial;

MATTER OF NEW YORK CITY ASBESTOS LITIGATION (JUNI, &c. v A.O. SMITH WATER PRODUCTS COMPANY, et al):

Labor--Safe Place to Work--Exposure to Toxic Substances--asbestos dust--whether there was a sufficient "scientific expression" of plaintiff's exposure to asbestos to support the jury's verdict in plaintiff's favor; evidence--expert proof of causation in toxic tort case brought by auto mechanic afflicted with mesothelioma after more than 25 years of working in two garages which serviced vehicles manufactured by defendant Ford Motor Company;

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;

KIRTON, MATTER OF v ANNUCCI:

Prisons and Prisoners--Discipline of Inmates--Whether substantial evidence supports the determination of guilt with respect to charges remaining after Appellate Division modification; claimed due process violation--prisoner's ability to present witnesses;

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;

KOWAL, MATTER OF v DiNAPOLI &c., et al.:

Civil Service--Retirement and Pension Benefits--Accidental Disability Retirement--whether 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 § 605-a and, therefore, petitioner was not entitled to accidental disability retirement benefits;

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);

LAITY, MATTER OF v STATE OF NEW YORK, et al.:

Elections--Designating petitions--Proceeding to declare invalid the certificate of designation naming certain persons as Republican Party candidates for the office of President of the United States in the 2016 presidential primary election; eligibility for office based on place of birth;

LAU v MARGARET E. PESCATORE PARKING, INC., et al.:

Negligence--Maintenance of Premises--whether a triable issue of fact exists regarding defendants' ownership of parking barrels to which a cord was tied and over which plaintiff tripped, and as to defendants' notice of the cord, thereby precluding summary judgment;

LEADINGAGE NEW YORK, INC., et al., MATTER OF v SHAH, et al. (AND ANOTHER PROCEEDING):

Proceeding Against Body or Officer--Certiorari--CPLR article 78 proceedings challenging executive order and regulations imposing limits on administrative costs and executive compensation of health care providers that receive State financial

assistance--Executive Order No. 39 and 10 NYCRR part 1002;
 claimed unconstitutionality of compensation cap as violative of
 separation of powers doctrine under New York State Constitution;
 whether Department of Health regulations at issue are arbitrary
 and capricious;

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;

LOBELLO v NEW YORK CENTRAL MUTUAL FIRE INSURANCE COMPANY:

Insurance--Disclaimer of Coverage--Whether the two-year
 limitations period set forth in the homeowner's insurance policy
 at issue ran from the date of burglary or from the date the
 insurer denied coverage for the loss--"date of loss" interpreted
 as date of claim denial; dismissal of affirmative defense;

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;

MAKI v BASSETT HEALTHCARE, et al.:

Appeal--Appellate Division--Denial of appellant's vacatur motion;

MANRAGH (ROHAN JR.), PEOPLE v:

Crimes--Plea of Guilty--Forfeiture of Right to Raise Issues on
 Appeal--whether, by pleading guilty, defendant forfeited his
 claim that the prosecutor failed to inform the grand jury of
 defendant's request to call a witness to testify before that
 body; CPL 190.50(6);

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;

MARTIN (TIMOTHY), PEOPLE v:

Crimes--Suppression Hearing--Whether the trial court erred in admitting evidence of defendant's response to a police officer that he lived in the apartment being searched, to prove defendant's constructive possession of the drugs found--whether defendant's response fell within the pedigree exception to the *Miranda* rule;

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;

KEVIN McK., MATTER OF v ELIZABETH A.E.:

Parent, Child and Family--Custody--Whether father was entitled to counsel to represent him in custody proceeding; claimed due process violations; Uniform Child Custody Jurisdiction and Enforcement Act;

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

Mental Health--Patient in Custody of Commissioner of Mental Health--Treatment planning meetings--whether person confined after having been adjudicated a dangerous sex offender is statutorily entitled to have his Mental Hygiene Legal Service counsel present at his treatment planning meetings--construction of Mental Hygiene Law § 29.13 (b)--"person otherwise concerned with the welfare of the patient";

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;

MOORE, PEOPLE ex rel. v SUPERINTENDENT OF COXSACKIE CORRECTIONAL FACILITY:

Habeas Corpus--When Remedy Available--alleged constitutional violations; entitlement to immediate release from custody;

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;

MORRISON-ALLEN v STATE OF NEW YORK:

State--Claim Against State--Whether the Court of Claims properly dismissed claimant's claim for, among other things, damages for the wrongful termination of her parental rights; claimed due process violations;

MORRISON (WILLIAM), PEOPLE v:

Crimes--Appeal--Mode of Proceedings Error--Whether a jury note constituted a substantive inquiry, thereby implicating the procedure required under People v O'Rama (78 NY2d 270 [1991]); application of CPL 310.30; whether a reconstruction hearing is appropriate where the record is ambiguous as to whether the court provided counsel with notice of a substantive jury note;

MYERS (STEVEN), PEOPLE v:

Crimes--Indictment--Waiver of indictment by grand jury--Whether the trial court failed to protect defendant's rights by not speaking with him prior to entering his guilty plea to ensure defendant understood the written waiver document he had signed;

NEW YORK CIVIL LIBERTIES UNION, MATTER OF v NEW YORK CITY POLICE DEPARTMENT et al.:

Records--Freedom of Information Law--Whether Civil Rights Law § 50-a exempts from disclosure written disciplinary decisions of the New York City Police Department, despite that the disciplinary trials are open to the public and redaction of

identifying information is available; whether respondents' previous disclosure of other redacted records waives any objection to redacting the subject disciplinary decisions; application of Public Officers Law § 87, Matter of Short v Board of Mgrs. of Nassau County Med. Ctr. (57 NY2d 399 [2001]), Karlin v McMahon (96 NY2d 842 [2001]);

NICKE, et al. v SCHWARTZAPFEL PARTNERS P.C. &c., et al.:
 Bankruptcy--Capacity to Sue--whether plaintiffs, chapter 13 bankruptcy debtors, had capacity to maintain legal malpractice action against law firm that represented bankruptcy trustee in a personal injury action asserted on behalf of one of the plaintiffs; Estoppel--Collateral Estoppel--whether collateral estoppel barred plaintiff from commencing legal malpractice action;

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;

ODUM (DONALD), PEOPLE v:
 Motor Vehicles--Chemical Tests--Where request to administer chemical breath test occurred more than two hours after defendant's arrest, whether defendant's refusal to submit to that test can be used against defendant in court; whether defendant's consent to the chemical breath test was involuntary;

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);

PALACIOS, MATTER OF v SINGAS, et al.:

Proceeding against Body or Officer--Prohibition--CPLR article 78 proceeding to prohibit respondents from retrying petitioner in a criminal action entitled People v Jose Palacios, pending in County Court, Nassau County, on the ground that to do so would subject him to double jeopardy; mistrial; alleged gross misconduct of an individual acting on petitioner's behalf --unavailability of complainant at trial;

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;

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;

ALAN S. PEARCE AND JOEL A LEVIN, AS SUCCESSOR TRUSTEES UNDER THE GOLDSTEIN TRUST v LIPETZ:

Landlord and Tenant--Rent Regulation--Whether a rent stabilized tenant who repeatedly rents out a room in her apartment at market rates through the Airbnb website may be subject to lease termination pursuant to the Rent Stabilization Code (9 NYCRR 2525.6 [b] and [f])--room occupants as subtenants versus roommates or guests--excessive profit over regulated rent plus ten percent sublet allowance; possible landlord knowledge of/acquiescence to Airbnb arrangement through building manager--agency; eviction without opportunity to cure; summary judgment;

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;

PENA, MATTER OF v NEW YORK STATE GAMING COMMISSION:

Horse Racing--Revocation or Suspension of License--Trainer--Whether New York State Gaming Commission's determination revoking petitioner's licenses to participate in pari-mutuel harness racing for three years is supported by substantial evidence--veterinary records;

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;

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;

JAMES Q. (COMMISSIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES; JAMES Q.; SUFFOLK COUNTY DISTRICT ATTORNEY), MATTER OF:

Records--Sealing of Records--Motion to seal record of CPL 330.20 retention proceeding--whether the Appellate Division erred in determining that the confidentiality provisions of the Mental Hygiene Law do not require the sealing of documents filed in a CPL 330.20 (9) subsequent retention program; redaction;

REEVES (KEVIN), PEOPLE v:

Crimes--Identification of Defendant--Whether unreliability of an undercover police officer's identification of defendant, absent any finding of suggestiveness, can serve as a basis to suppress the identification; whether the police officer's identification of defendant was reliable; application of CPL 710.20;

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;

ROCKTASCHEL (KEVIN), PEOPLE v:

Crimes--Sex Offenders--Sex Offender Registration Act--whether sex offender failed to properly notify the New York State Attorney General of his constitutional challenge to the Sex Offender Registration Act, as required under Executive Law § 71; whether retroactive application of a 2006 amendment to the Sex Offender Registration Act, which extended from 10 to 20 years the period of registration required for level one sex offenders (see Correction Law § 168-h), violates due process;

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;

ROMAIN v O'CONNOR, et al.:

Appeals--Appellate Division--Denial of relief sought concerning dismissal of action concerning plaintiff's nursing duties and nursing license; claimed due process violations;

RUSH (TERRIE J.), PEOPLE v:

Crimes--Identity Theft--Sufficiency and Weight of Evidence--whether the evidence was legally sufficient to support defendant's conviction of identity theft in the first degree; whether, under Penal Law § 190.80(3), the assumption of a person's identity is a discrete element that must be proved; whether use of the term "thereby" in Penal Law § 190.80(3) requires that the assumption of a person's identity precede commission of another felony--Right to Public Trial--whether closure of the courtroom was trivial and therefore did not violate defendant's right to a public trial;

SANCHEZ (ALADDIN), PEOPLE v, a/k/a SHAGS:

Crimes--Instructions--whether County Court properly denied defendant's request for a justification charge;

SCHNAPP v MILLER'S LAUNCH, INC.:

Workers' Compensation--Longshore and Harbor Workers' Compensation Act--Plaintiff maritime surveyor injured while attempting to board vessel by jumping from bulkhead to vessel deck; whether questions of fact exist as to whether defendant vessel owner violated the turnover duty and duty to intervene under the Longshore and Harbor Workers' Compensation Act (33 USC § 901 et seq); application of Scinda Steam Nav. Co. v De los Santos (451 US 156 [1981]);

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;

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;

SILVAGNOLI (ROQUE), PEOPLE v:

Crimes--Right to Counsel--Representation on Unrelated Matter--Whether defendant's right to counsel was violated when detective, while questioning defendant on a homicide investigation, mentioned pending drug charge on which defendant was represented by counsel; whether questioning on drug charge was discrete and fairly separable from questioning on homicide charge;

SKANSKA USA BUILDING, INC. v ATLANTIC YARDS B2OWNER, 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;

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, MATTER OF v LASAK, &c., et al.:

Proceeding Against Body or Officer--Prohibition--Whether petitioner demonstrated a clear legal right to the relief sought;

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;

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 KEITH F.:

Crimes--Sex Offenders--Sex Offender Management and Treatment Act--Whether Mental Hygiene Law § 10.07(a) imposes a strict deadline for commencement of a trial within 60 days after the court determines there is probable cause to believe that the respondent is a sex offender requiring civil management; whether respondent's due process rights were violated by the 15-month delay between the declaration of readiness and the commencement of trial, during which time respondent was subject to mandatory pretrial detention;

STEFANIAK v ZULKHARNAIN:

Attorney and Client--Compensation--Attorneys' fees for attorney for the children in a matrimonial action--whether there was good cause to appoint attorney Reedy as attorney for the children nunc pro tunc pursuant to 22 NYCRR part 36 and to direct payment of attorneys' fees by defendant; husband, wife and family--divorce--custody of children--counsel fees;

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;

STEINBERG, AN ATTORNEY, MATTER OF:

Attorney and Client--Disciplinary Proceedings--Challenge to Appellate Division order denying attorney's motion to transfer disciplinary proceeding to another Appellate Division department; alleged constitutional violations;

ST. LAWRENCE COUNTY SUPPORT COLLECTION UNIT &c., MATTER OF v BOWMAN:

Motions and Orders--Order to Show Cause--Reargument or Renewal--Appealability of order denying ex parte motion to issue an order to show cause and order denying reargument; alleged violations of due process and equal protection clauses; claimed violation of the constitutional right to petition the government for redress of grievances;

SUAZO (SAYLOR), PEOPLE v:

Crimes--Right to Jury Trial--Whether defendant was entitled to a jury trial, despite that he was only being tried for class B misdemeanors carrying maximum sentences of 90 days, because he was subject to deportation if convicted of a crime of domestic violence; constitutionality of CPL 340.40;

TAPIA (CARLOS), PEOPLE v:

Crimes--Verdict--Sufficiency of the Evidence--Whether the evidence was legally sufficient to support verdict of attempted assault in the first degree; charge based on use of dangerous instrument under an acting-in-concert theory, but no dangerous instrument recovered from crime scene and no evidence that defendant knew other perpetrator possessed a dangerous instrument; Identification of Defendant--Showup--Whether Supreme Court properly denied defendant's motion to suppress a showup identification--Evidence--Whether admission of police officer's grand jury testimony as a past recollection recorded violated the Confrontation Clause or the rule against hearsay;

TCR SPORTS BROADCASTING HOLDING, LLP, MATTER OF v WN PARTNER, LLC, et al. (AND ANOTHER PROCEEDING):

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

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;

LISA T., MATTER OF v KING E. T.:

Parent, Child and Family--Order of Protection--Whether Family Court erred in imposing an order of protection upon a finding that respondent willfully violated two temporary orders of protection--sufficiency of proof of violation of temporary orders of protection--Family Court Act § 846-a;

THIBODEAU (GARY), PEOPLE v:

Crimes--Vacatur of Judgment of Conviction--whether County Court erred in denying that part of defendant's CPL 440.10 motion alleging a Brady violation; Newly Discovered Evidence--whether County Court properly denied that part of defendant's CPL 440.10 motion based on newly discovered evidence; Evidence--whether third-party admissions were admissible hearsay; Claim of Actual Innocence--whether county court's rejection of defendant's newly discovered evidence claim constituted an implicit rejection of his actual innocence claim;

THOMAS, MATTER OF v TOWN OF OYSTER BAY, et al.:

Proceeding Against Body or Officer--Prohibition--Whether prohibition lies to prohibit prosecution for violations of the Code of the Town of Oyster Bay; claim of racially-based selective prosecution;

TIGER (NATASCHA), PEOPLE v:

Crimes--Vacatur of Judgment of Conviction--Whether a freestanding claim of actual innocence is cognizable under CPL 440.10(1)(h); whether a defendant who pleads guilty may assert a freestanding actual innocence claim pursuant to CPL 440.10(1)(h); whether defendant made the requisite prima facie showing of actual innocence; right to counsel--effective representation; whether counsel was ineffective for failing to investigate possible alternative cause of victim's injuries;

TORRES V CERGNUL, et al.:

Physicians and Surgeons--Malpractice--Whether plaintiff raised a triable issue of fact as to whether defendants departed from the standard of medical care in diagnosing and treating plaintiff; proximate cause; expert opinion;

2138747 ONTARIO, INC. v SAMSUNG C&T CORPORATION, et al.:

Conflict of Laws--Law Governing Contract Action--In breach of contract action brought by nonresident alleging economic claim that accrued outside New York, whether a contract provision specifying that the agreement is to be "governed by, construed and enforced" in accordance with New York law renders inapplicable New York's borrowing statute, CPLR 202;

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);

U.S. BANK NATIONAL ASSOCIATION &c. v DLJ MORTGAGE CAPITAL, INC.
(A.D. DOCKET NO. 1678):

Limitation of Actions--Commencement of action after termination of prior action--where complaint was dismissed because plaintiff failed to satisfy a condition precedent and plaintiff lacked standing to sue, whether CPLR 205(a) applies to allow trustee, which was substituted as plaintiff, to commence a new action; whether trustee may rely on relation-back doctrine of CPLR 203(f);

U.S. BANK NATIONAL ASSOCIATION &c. v DLJ MORTGAGE CAPITAL, INC.
(A.D. DOCKET NO. 1679):

Contracts--Conditions Precedent--Where plaintiff trustee failed to comply with a contractual condition precedent to bringing suit, whether the timely claims were properly dismissed without prejudice to refileing pursuant to CPLR 205(a); limitation of actions--commencement of action after termination of prior action;

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;

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;

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]);

WAITE, et al. MATTER OF v TOWN OF CHAMPION:

Municipal Corporations--Fire Districts--Dissolution--Whether respondent Town's dissolution plan for a fire protection district complied with General Municipal Law, article 17-A;

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;

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 CITY OF NEW YORK, et al.:

Schools--Teachers--Where a teacher discussed potential romantic interest in students' female relatives, whether the arbitrator's penalty of termination shocks the conscience;

WILSON (THEODORE), PEOPLE v:

Crimes--Assault--Whether legally sufficient evidence supports defendant's conviction for depraved indifference assault; claimed due process violation regarding court's response to a jury note;

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

Habeas Corpus--Challenge to Appellate Division order denying petitioner's motion for a final determination of a habeas corpus proceeding; alleged illegal detention and violation of petitioner's due process rights;