

June 2021

NEW FILINGS DIGEST - QUARTERLY UPDATE

This report lists, by title and subject matter, appeals pending as of June 30, 2021. The appeals were previously published as "Court of Appeals New Filings."

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

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

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

ALVAREZ MATTER OF v ANNUCCI, &c.:

Crimes--Sex Offenders--Whether the correctional facility where petitioner was incarcerated after his release to postrelease supervision met the statutory requirements for Residential Treatment Facilities with regard to sex offenders or to petitioner individually; whether the residency restriction of the Sexual Assault Reform Act (SARA) applies to sex offenders on postrelease supervision who have completed their prison sentence.

ANDERSON v ANDERSON:

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

AURORA ASSOCIATES LLC v LOCATELLI:

Landlord and Tenant--Loft Law--Whether the Appellate Division properly held that the loft unit at issue remained subject to rent regulation because the apartment was located in a pre-1974 building containing six or more residential units, notwithstanding the predecessor owner's purchase of a prior tenant's rights under Multiple Dwelling Law § 286 (12); Whether respondent's motion for summary judgment on the counterclaim for attorneys' fees was properly granted.

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

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

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

BATAVIA TOWNHOUSES, LTD., et al. v COUNCIL OF CHURCHES HOUSING DEVELOPMENT FUND COMPANY, INC.:

Limitation of Actions--Revival of Time-Barred Claims--Whether mortgage is unenforceable on the ground that the statute of limitations had expired; application of General Obligations Law §§ 17-101 and 17-105.

MATTER OF DAGAN B.:

Parent, Child and Family--Whether respondent's parental rights were properly terminated.

BLANDFORD (REGINALD), PEOPLE v:

Crimes--Unlawful Search and Seizure--Whether there is record support for the determination that the police had a founded suspicion that criminality was afoot, justifying an extension of the traffic stop and a canine search of the vehicle's exterior.

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

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

BORELLI, et al., MATTER OF v CITY OF YONKERS:

Civil Service--Firefighters--Whether petitioners, retired disabled firefighters and fire officers, are entitled to compensation for night differential, check-in pay, and holiday pay under General Municipal Law § 207-a (2).

BRENNAN, MATTER OF v HOBBS, &c., et al.:

Proceeding Against Body or Officer--CPLR article 78 proceeding to review determination of Zoning Board of Appeals denying application for use variance.

BROOKDALE PHYSICIANS' DIALYSIS ASSOCIATES, INC., &c., et al., MATTER OF v DEPARTMENT OF FINANCE OF THE CITY OF NEW YORK:

Taxation--Whether the building owned by petitioner, a not-for-profit organization, that is leased to respondent, a for-profit corporation, qualifies for tax exempt status under Real Property Tax Law § 420-a.

BUSH (JEFFERY), PEOPLE v:

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

BUYUND (DONOVAN), PEOPLE v:

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

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

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

CARMONA (VINCENT), PEOPLE v:

Crimes--Identification--Whether Supreme Court erred in relying on People's assurances of familiarity between defendant and complainant in denying defendant's request for a Rodriguez hearing (*see People v Rodriguez*, 79 NY2d 445 [1992]).

COLUMBIA MEMORIAL HOSPITAL v HINDS:

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

CUENCAS (TRAMEL), PEOPLE v:

Crimes--Unlawful Search and Seizure--Whether warrantless arrest of defendant at home, absent exigent circumstances, violated defendant's right to counsel under the New York State Constitution; Supreme Court found that no Payton violation occurred (*see Payton v New York*, 445 US 573 [1980]), where resident of second floor apartment of two-family residence tacitly consented to police entry into residence and defendant was arrested without warrant in first-floor apartment.

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

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

DCH AUTO, &c., et al., MATTER OF v TOWN OF MAMARONECK, &c., et al.:

Taxation--Assessment--Whether petitioner, lessee of premises on which it paid real estate taxes, failed to satisfy a condition precedent to the commencement of an RPTL article 7 proceeding; petitioner filed administrative complaints under RPTL 524 in its own name rather than in the owner's name and was not identified in the complaints as an agent of the owner.

DELGADO, et al. v STATE OF NEW YORK, et al.:

Constitutional Law--Validity of Statute--Whether Part HHH of Chapter 59 of the Laws of 2018 violates the New York State Constitution.

DEVEROW (DASHAWN), PEOPLE v:

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

D&G CONSTRUCTION DEAN GONZALEZ, LLC, et al. v CAPETOLA, &c., et al.:

Proceeding Against Body or Officer--Prohibition--Mandamus--Whether petitioners demonstrated a clear legal right to the relief sought.

DIEFFENBACHER, MATTER OF v JACKSON, &c, et al.:

Crimes--Double Jeopardy--Whether petitioner's guilty plea in satisfaction of the 2018 indictment bars on statutory double jeopardy grounds his subsequent prosecution for similar alleged crimes arising out of the same investigation (CPL 40.40; CPL 40.10 [2] [b]).

DOGAN (KEVIN), PEOPLE v:

Crimes--Right to Counsel--Effective Representation--Whether defendant received the effective assistance of counsel at the suppression hearing; Crimes--Vacatur of Judgment

of Conviction--Whether the papers in support of defendant's motion to vacate the judgment of conviction were insufficient to warrant a hearing on the motion; defendant argued his plea was not knowing, voluntary or intelligent based on counsel's failure to advise him of potential affirmative defense.

DUARTE (VLADIMIR), PEOPLE v:

Crimes--Right to Representation Pro Se--Whether defendant made a clear and unequivocal request to proceed pro se that would trigger the need for a fully inquiry by the court (*see People v McIntyre*, 36 NY2d 10 [1974]); whether defendant abandoned his request to represent himself.

DUKES (KEVIN A.), PEOPLE v:

Crimes--Sex Offenders--Whether the court erred in relying on the facts underlying two juvenile delinquency adjudications contained within defendant's presentence report to grant an upward departure when it was not established that the underlying facts were admissible under Family Court Act § 381.2(1).

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

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

F.F., &c., et al. v STATE OF NEW YORK, et al.:

Constitutional Law--Whether New York State's repeal of the religious exemption to its childhood vaccination requirement (*see* Public Health Law § 2164), violates the First Amendment or article I, section 3 of the New York State Constitution.

558 SEVENTH AVE. CORP., et al. v TIMES SQUARE PHOTO INC. et al.:

Landlord and Tenant--Action to recover unpaid rent; alleged constitutional violations.

FORD, MATTER OF v THE BOARD OF EDUCATION OF THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, &c. et al.:

Schools--Teachers--Termination of Employment--Whether penalty of termination of petitioner's employment as a teacher is shocking to one's sense of fairness; alleged constitutional violations.

GALINDO (CARLOS), PEOPLE v:

Crimes--Right to Speedy Trial--Whether the 2020 amendments to CPL 30.30(1), adding a subdivision stating that "the term offense shall include vehicle and traffic law infractions," has retroactive application to cases pending on direct appeal at the time the statute was amended; whether the legislature amended the statutory language so as to abrogate case law that statutory speedy trial analysis does not apply to traffic infractions.

GARCIA (CESAR), PEOPLE v:

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

GAWORECKI (RICHARD B.), PEOPLE v:

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

GESMER, MATTER OF v ADMINISTRATIVE BOARD OF THE NEW YORK STATE UNIFIED COURT SYSTEM, et al.:

Judges--Certification of Retired Justice to Remain in Office--Whether Supreme Court properly annulled the determination of respondent Administrative Board of the New York State Unified Court System denying certification to 46 of 49 elected Supreme Court Justices who had reached the mandatory retirement age of 70 or more as of December 31, 2020, and who had applied for certification for a two-year period (*see* N. Y. Const, art VI, § 25[b]; Judiciary Law § 115[1]).

GOLDMAN v CITY OF NEW YORK et al.:

Proceeding Against Body or Officer--Whether the courts below erred by concluding that respondent's rejection of petitioner's application to work as a substitute teacher was rationally based on petitioner's employment history and a failure to fulfill respondent's 20-day minimum substitute teaching requirement for the 2014-2015 school year.

GRADY v CHENANGO VALLEY CENTRAL SCHOOL DISTRICT, et al.:

Negligence--Assumption of Risk--Whether defendants were entitled to summary judgment dismissing the complaint on the ground that plaintiff assumed the risk of injury; plaintiff alleged injuries sustained after being struck by baseball during practice drill were caused by defendants' negligence.

GRAFTON, PEOPLE ex rel. v DZURENDA, &c.:
Habeas Corpus--When Remedy Available.

GRAY v LAFOUNTAIN, &c., et al.:
Civil Service--Disciplinary Proceedings--Whether substantial evidence supports the determination of guilt; whether the penalty of termination is so disproportionate to the offense as to shock one's sense of fairness.

GUEVARA (JOSE), PEOPLE v:
Crimes--Evidence--Whether trial court's error in allowing People to introduce photographs taken by police of an M9 bayonet found in a collection of knives in defendant's bedroom was harmless; whether the exclusion of defense counsel from defendant's psychiatric examination by the People's expert constituted harmless error.

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

HARGROVE (TYJHE), PEOPLE v:
Crimes--Sentence--Whether the sentencing court erred in failing to make a finding on the record as to defendant's eligibility for a youthful offender adjudication.

HEALY v EST DOWNTOWN, LLC, c/o FIRST AMHERST DEVELOPMENT GROUP:
Labor--Safe Place to Work--Whether plaintiff was engaged in an activity protected by Labor Law 240 when he fell from a ladder.

HETELEKIDES, &c. v COUNTY OF ONTARIO, et al.:
Taxation--Tax Liens, Tax Sales and Tax Titles--Whether tax foreclosure proceeding, commenced against deceased individual, was nullity; alleged due process violations.

HILGREEN v POLLARD EXCAVATING, INC., et al.:
Pleading--Sufficiency of Pleading--Whether the second amended third-party complaint stated a cause of action for reformation based on mutual mistake.

HILL (RON), PEOPLE v:
Crimes--Controlled Substances--Whether the accusatory instrument charging defendant with criminal possession of a controlled substance in the seventh degree, for the possession of an unspecified synthetic cannabinoid, was jurisdictionally defective, given that not all synthetic cannabinoids are illegal in this state.

HUNTERS FOR DEER et al. v TOWN OF SMITHTOWN:

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

IBARGUEN (ERIC), PEOPLE v:

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

IGNIS DEVELOPMENT, INC. v THE LONG ISLAND COLLEGE HOSPITAL, et al.:

Motions and Orders.

INDEPENDENT INSURANCE AGENTS AND BROKERS OF NEW YORK, INC., et al., MATTER OF v NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES et al. (AND ANOTHER PROCEEDING):

Constitutional Law--Validity of Regulation--Whether amendment to Insurance Regulation No. 187, which requires insurance producers to consider the best interests of the consumer when making recommendations involving life insurance and annuity products, is unconstitutionally vague.

JIMENEZ (LUIS), PEOPLE v:

Crimes--Justification--Whether the Appellate Division properly concluded that there was no reasonable view of the evidence warranting an instruction on the defense of justification under Penal Law 35.05(2), such that the grand jury proceeding was not defective within the meaning of CPL 210.35(5); defendant allegedly struck dog with stick during altercation.

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

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

JOHNSON (JUAN), PEOPLE v:

Appeal--Waiver of Right to Appeal--Whether defendant validly waived his right to appeal.

JPMORGAN CHASE BANK NATIONAL ASSOCIATION v KELLEHER, et al.:

Process--Service of Process--Whether Supreme Court abused its discretion in denying plaintiff's CPLR 306-b motion for an extension of time to serve defendant mortgagor.

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

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

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

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

MATTER OF THE ESTATE OF KING:

Appeal--Stay.

KITTY HOLDING CORP. v CORRITETTE, d/b/a BOULEVARD DESIGN INC.:

Landlord and Tenant--Eviction.

MATTER OF KOEGEL:

Marriage--Prenuptial Agreement--Whether an acknowledgment accompanying a nuptial agreement, which does not comply with Domestic Relations Law 236(B)(3), may be cured by extrinsic evidence.

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

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

MATTER OF ESTATE OF KOTSONES:

Executors and Administrators--Breach of Fiduciary Duty--Whether the Appellate Division properly reversed the order of Surrogate's Court, holding that the subject will, trust, and real estate transactions had been procured by undue influence.

MATTER OF KOZIOL, A SUSPENDED ATTORNEY:

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

LALAND, MATTER OF v BOOKHART et al.:

Parent, Child and Family--Abused or Neglected Child--Whether Interstate Compact on the Placement of Children applies to out-of-state, noncustodial parent; out-of-state authority would not consent to placing child with the father.

LAMB (MICHAEL), PEOPLE v:

Crimes--Jurisdiction of Offenses--Whether New York had territorial jurisdiction to prosecute sex trafficking counts; defendant advanced or profited from prostitution in New York, but coercive conduct against particular victim occurred in New Jersey.

LASHLEY (SHARON), PEOPLE v:

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

LEWIS (DAVE), PEOPLE v:

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

LIUNI, MATTER OF v GANDER MOUNTAIN, et al.:

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

LIVIDINI v GOLDSTEIN:

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

MATTER OF LONG (A SUSPENDED ATTORNEY):

Attorney and Client--Disciplinary Proceedings.

CITY OF LONG BEACH, MATTER OF v NEW YORK STATE PUBLIC EMPLOYMENT RELATIONS BOARD:

Civil Service--Collective Bargaining--Whether procedures implemented by a public employer for terminating a public employee under Civil Service Law § 71 are subject to mandatory negotiation under the Public Employees' Fair Employment Act (Taylor Law).

MALERBA, MATTER OF:

Attorney and Client—Disciplinary Proceedings.

MANKO v MANNOR, et al.:

Motions and Orders--Motion to vacate and reconsider.

MANKO v SHOREFRONT APARTMENTS, LLC:

Motions and orders.

MAPLE MEDICAL, LLP v AREVALO, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MAPLE MEDICAL, LLP v GOLDENBERG, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MAPLE MEDICAL, LLP v MUTIC, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MAPLE MEDICAL, LLP v SCOTT, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MAPLE MEDICAL, LLP v SUNDARAM, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MAPLE MEDICAL, LLP v YOUKELES, etc.:

Insurance--Liability Insurance--Whether the cash consideration paid as part of the conversion from a mutual insurance company to a stock insurance company belongs to a physician who was a policy holder of the medical malpractice insurance policy or to the medical practice that employed the physician and paid the premiums on the policy.

MENDOZA (EUGENE), PEOPLE v:

Appeal--Waiver of Right to Appeal--Whether defendant validly waived his right to appeal.

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

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

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

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

MITCHELL (MARC), PEOPLE v:

Crimes--Accusatory Instrument--Whether the misdemeanor complaint provided reasonable cause to believe that defendant was guilty of fraudulent accosting; whether accosting element was satisfied by allegation that defendant asked pedestrians to give donations to the homeless.

MURRAY (HASAHN D.), PEOPLE v:

Crimes--Jurors--Whether an alternate juror who had been discharged and gone home was "available for service" under CPL 270.35(1) to replace a seated juror who had been discharged.

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

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

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

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

NYCTL 1998-2 TRUST et al. v DR 226 HOLDINGS, LLC, et al.:

Landlord and Tenant--Rent Regulation--Whether defendant sustained his burden of proving succession rights to the rent-stabilized apartment; alleged unconstitutional taking.

NONHUMAN RIGHTS PROJECT, INC., &c, MATTER OF v BREHENY, &c., et al.:

Habeas Corpus--When Remedy Available--Whether the common-law writ of habeas corpus lies on behalf of elephant.

PEOPLE ex rel. E. S. v SUPERINTENDENT, LIVINGSTON CORRECTIONAL FACILITY et al.:

Crimes--Sex Offenders--Whether the mandatory school grounds condition set forth in Executive Law § 259-c(14) applies to those adjudicated youthful offenders who are serving sentences for enumerated sex offenses against victims under the age of eighteen.

POLICARPIO, MATTER OF v RALLY RESTORATION CORP., et al.; WORKERS' COMPENSATION BOARD:

Workers' Compensation--Disability Benefits--Whether substantial evidence supports the Board's determination that claimant failed to demonstrate labor market attachment after July 31, 2018.

POWELL (HOWARD), PEOPLE:

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

REAMES, &c. v STATE OF NEW YORK et al.:

Negligence--Causation--Whether the trial court properly concluded that defendants did not create a dangerous condition that proximately caused defendant's death; defendants used steel box beam as barrier at entrance to out-of-commission bridge.

REIS v J.B. KAUFMAN REALTY CO., LLC, et al.:

Landlord and Tenant--Lease--Whether the parties' 2021 letter agreement containing a commercial lease renewal provision was an unenforceable agreement to agree.

REVIS et al. v SCHWARTZ, et al.:

Arbitration--Matters Arbitrable--Whether plaintiff Darrelle Revis and defendant Neil Schwartz agreed to arbitrate the threshold question of the arbitrability of their dispute; whether the nonsignatory defendants are entitled to compel arbitration.

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

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

RODRIGUEZ (LUIS), PEOPLE v:

Crimes--Evidence--Whether screenshots purporting to depict selected portions of a text message conversation between defendant and the complainant were properly admitted into evidence.

ROMUALDO (FERNANDO), PEOPLE v:

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

SASSI v MOBILE LIFE SUPPORT SERVICES, INC.:

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

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

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

SCOHN ENTERPRISES, INC. v D&G CONSTRUCTION DEAN GONZALEZ, LLC, et al.:

Motions and Orders--Denial of motion to vacate order dismissing appeal.

SEGAL v OFFICE OF COURT ADMINISTRATION:

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

SHANKS (BRADFORD L.), PEOPLE v:

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

SIMON v FRANCIINVEST, S. A., et al.:

Corporations--Shareholders' Derivative Action--alleged constitutional violations.

MATTER OF IRELYNN S.:

Parent and Child--Termination of Parental Rights--Whether father's failure to appear at the dispositional hearing constituted a default where attorney is present but elects not to participate in father's absence.

SMITH (MARK), PEOPLE v:

Crimes--Sex Offenders--Whether defendant's adjudication as a sexually violent offender, based on having been convicted of attempted sexual abuse in the first degree, constituted a denial of his procedural or substantive due process rights.

STATE OF NEW YORK v FRANCISCO R. (ANONYMOUS):

Crimes--Sex Offenders--Civil Commitment or Supervision--Whether Supreme Court erred in allowing expert witness to give hearsay basis testimony; alleged due process and confrontation clause violations.

TAYLOR (QUANIECE S.), PEOPLE v:

Crimes--Jurors--Selection of Jury--Whether the People's statement that a juror "was from Trinidad" and not African American constituted a facially nondiscriminatory basis for a preemptory strike under step two of the Batson analysis (*see Batson v Kentucky*, 476 US 779 [1986]); Whether defendant's Batson challenge as to the juror was preserved for appellate review.

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

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

TEAMSTERS LOCAL 445, MATTER OF v TOWN OF MONROE:

Arbitration--Collective Bargaining Agreement--Whether there is a statutory, constitutional, or public policy prohibition against arbitrating a dispute regarding the termination of an employee in an "exempt class" under Civil Service Law § 41 (1)(c).

TIMKO (THOMAS), PEOPLE v:

Crimes--Accusatory Instrument--Whether accusatory instrument charging defendant with aggravated harassment was facially insufficient.

TORRES (CARLOS), PEOPLE v:

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

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

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

U.S. BANK NATIONAL ASSOCIATION, &c. v HARRIS; IWACHIW (AND THREE OTHER ACTIONS):

Motions and Orders.

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

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

WALLS (JOHN W.), PEOPLE v:

Crimes--Unlawful Search and Seizure--Whether the police had reasonable suspicion of criminal activity to stop the vehicle in which defendant was an occupant.

WESTCHESTER FIRE INSURANCE CO. v SCHORSCH et al.:

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

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

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

WILLIAMS, PEOPLE &c ex rel. v BRANN &c, et al.:

Habeas Corpus--When Remedy Appropriate.

WILLIAMS (DON), PEOPLE v:

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

WORD, MATTER OF v RENWICK, &c, et al.:

Proceeding Against body or Officer--Mandamus--Whether petitioner demonstrated a clear legal right to the relief sought.

WORTHAM (TYRONE), PEOPLE v:

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

XIE v YAN FANG CHEN &c.:

Appeal--Dismissal.