December 2019

NEW FILINGS DIGEST - QUARTERLY UPDATE

This report lists, by title and subject matter, appeals pending as of December 31, 2019. The appeals were previously published as "Court of Appeals New Filings."

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

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

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

AMERICAN INTERNATIONAL SPECIALTY LINES INSURANCE COMPANY v ALLIED CAPITAL CORPORATION, et al.:
Arbitration--Award in Excess of Arbitrator's Powers--Whether the arbitration panel exceeded its authority when it reconsidered the partial final award it had previously issued--common law doctrine of functus officio; arbitration proceeding arising out of litigation involving an insurance claim payment; summary judgment.

ANONYMOUS, PEOPLE v:
Crimes--Sealing of Records--Whether prosecution was entitled, pursuant to CPL 160.50 (1)(d)(ii), to an order unsealing record for the purpose of making sentencing recommendation; prosecution sought to have sentencing court consider defendant’s testimony from another criminal case where defendant admitted to engaging in illegal activity, which was a violation of his plea agreement; if unsealing was improper, whether defendant is entitled to resentencing.

AYBAR, et al. v AYBAR, et al.; FORD MOTOR COMPANY et al.:
Courts--Jurisdiction--Whether the Appellate Division improperly ignored this Court's ruling in Bagdon v Philadelphia & Reading Coal & Iron Co. (217 NY 432 [1916]) and the

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

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

BALL (JAMES), PEOPLE v:
Grand Jury--Defective Proceeding--Whether County Court properly dismissed the indictment based on the People's failure to instruct the grand jury with respect to justification in defense of premises pursuant to Penal Law Section 35.20(3).

BASKIN v MABCO TRANSIT, INC., et al.:
Liens--Validity--Whether defendant, owner of self-service storage facility, substantially complied with Lien Law § 182(7) by mailing notices to occupant at address occupant provided to postal service; Constitutional Law--State Constitutional Law--Whether defendant's private sale of goods undertaken pursuant to a possessory lien without actual notice to plaintiff deprived plaintiff of right to due process; Consumer Protection--Deceptive Acts and Practices--Whether plaintiff stated a cause of action alleging a violation of General Business Law § 349.

BENSON, MATTER OF v NEW YORK STATE BOARD OF PAROLE:
Parole--Revocation--Victim Impact Statement--Whether victim impact statements by a murder victim's family members describing ongoing grief that are submitted after the Board of Parole's decision to grant parole constitute substantial evidence supporting the rescission of parole under 9 NYCRR 8002.5.

BIACA-NETO, et al. v BOSTON ROAD II HOUSING DEVELOPMENT FUND CORPORATION, et al.:
Labor--Safe Place to Work--Whether plaintiff was sole proximate cause of his injuries, thereby warranting dismissal of the claims for common-law negligence and violations of Labor Law §§ 200, 240; plaintiff fell while exiting scaffold and entering building through window opening; whether plaintiff raised an issue of fact as to violation of the Industrial Code, as required to support claim under Labor Law § 241(6).

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

BATTAGLIA v MDC CONCOURSE CENTER, LLC, et al.:
Negligence--Snow and Ice--Whether defendants established entitlement to summary judgment on plaintiff's negligence claim; plaintiff slipped and fell on ice in parking lot; application of "storm in progress" doctrine.

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

BILAL (RASHID), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether police had reasonable suspicion to justify a police pursuit; defendant, whose companion matched general description of perpetrator in a shooting, fled when approached by police; whether gun discarded by defendant during police pursuit was voluntarily abandoned by defendant.

BILL BIRDS, INC., et al. v STEIN LAW FIRM, P.C. et al.:
Attorney and Client--Misconduct by Attorney--Whether plaintiffs raised a triable issue of fact on their claim alleging a violation of Judiciary Law § 487; plaintiffs alleged that defendants engaged in a pattern of legal delinquency.

BOHLEN, MATTER OF v DiNAPOLI:
Civil Service--Retirement and Pension Benefits--Whether New York State Retirement System properly excluded longevity allowance payments from petitioners' final average salaries in calculating retirement benefits; application of Retirement and Social Security Law § 431.

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

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

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

COLON v MARTIN:
Municipal Corporations--Examination of Claims--Whether Supreme Court properly dismissed plaintiffs' complaint for failure to comply with General Municipal Law § 50-h; plaintiffs demanded that each plaintiff be permitted to be present while other testified at § 50-h hearing and municipal defendants refused, resulting in § 50-h hearing not being conducted; whether General Municipal Law § 50-h permits municipal defendants to exclude one claimant from the examination of another claimant.

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

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

DANIELS v NEW YORK CITY TRANSIT AUTHORITY:
Trial--Evidence--Whether the trial court abused its discretion by allowing expert witness testimony on non-mandatory "industry standards"; whether the trial court abused its discretion by allowing evidence of data concerning accidents at other subway stations.

DELORBE (JOSE), PEOPLE v:
Crimes--Plea of Guilty--Whether defendant was required to preserve Peque claim (see People v Peque, 22 NY3d 168 [2013]) where defendant was served with a notice of immigration consequences form at arraignment; crimes--vacatur of judgment of conviction--whether Supreme Court properly denied defendant's CPL 440.10 motion without a hearing.

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

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

DIAZ (VICTOR), PEOPLE v:
Crimes--Sex Offenders--Sex Offender Registration Act--Level Two Sex Offender--Whether County Court erred in assessing points for forcible compulsion under risk factor 1.

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

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

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

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

FOSTER-BEY (ELIJAH), PEOPLE v:
Crimes--Evidence--Whether trial court providently exercised its discretion in failing to hold a Frye hearing regarding admission of Low Copy Number DNA testing and the Forensic Statistical Tool used by the Office of the Chief Medical Examiner; whether admission of DNA evidence violated defendant's right to confront witnesses against him; instructions--whether trial court's Allen charge was coercive.

FRANCIS (GERALD), PEOPLE v:
Crimes--Sentence--Whether CPL 470.15 (1) prevents an intermediate appellate court from reviewing the denial of a defendant's CPL 440.20 motion for resentencing if it finds that the denial of the motion was not "adverse" to defendant; defendant who received an illegally low sentence moved for resentencing with the ultimate intention to withdraw his guilty plea on the basis that it was not knowing and voluntary.

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

DEREK G. &c., MATTER OF v STATE OF NEW YORK, et al.:
Crimes--Sex Offenders--Civil Commitment or Supervision--Whether basing the determination that petitioner has a mental abnormality on the diagnosis of unspecified paraphilic disorder comports with due process; Whether the evidence was legally sufficient to establish that petitioner suffers from a mental abnormality and whether that determination was against the weight of evidence.

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.

GIBBS v STATE FARM FIRE AND CASUALTY COMPANY:
Motions and Orders.

GOLDBERG, MATTER OF v ELIA &c.:
Proceeding Against Body or Officer; Dismissal of Petition; Motions and Orders.

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

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

GRAFTON, PEOPLE ex rel. v FLUDD, &c.:
Habeas Corpus--Petition--Whether the Appellate Division properly denied petitioner's application for a writ of habeas corpus.

PEOPLE ex rel. GRAFTON v FLUDD &c. (AD NO. 19/11444):
Habeas Corpus--Petition--Whether the Appellate Division properly denied petitioner's application for a writ of habeas corpus.

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

HAIGLER, MATTER OF v LILLEY (APP. DIV. NO. 528234):
Prisons and Prisoners--Discipline of Inmates--Whether the Appellate Division properly confirmed the determination of respondent finding petitioner guilty of a prison disciplinary rule.

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

HARRIS (WILLIE), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether exigent circumstances justified warrantless search of a closed container incident to defendant's arrest.

HEMPHILL (DARRYL), PEOPLE v:
Crimes--Evidence--Whether the verdict convicting defendant of two counts of second-degree murder is supported by legally sufficient evidence; Crimes--Right of Confrontation--Whether defendant was denied right to confront witness against him; Crimes--Appeal--Preservation of Issue for Review--Whether defendant failed to preserve his claim that trial court erred in denying his request to call grand jury court reporter in order to impeach another witness; Crimes--Right to be Present at Trial--Whether the trial court violated defendant’s right to be present at trial when it removed him from the courtroom prior to the jury being polled; Crimes--Evidence--Whether trial court properly declined to hold a hearing pursuant to Franks v Delaware (438 US 154 [1978]) to address validity of statements made in affidavit filed in support of search warrant; Crimes--Speedy trial--Whether the trial court properly denied defendant’s constitutional speedy trial motion; Crimes--Jurors--Whether the trail court erred in denying defendant’s request to adjourn sentencing to allow the defense to investigate alleged juror misconduct.

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

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

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

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

HOLZ (DAVID M.), PEOPLE v:
Crimes--Appeal--Whether Supreme Court's denial of suppression of evidence relating to a burglary count to which defendant did not plead guilty was reviewable on appeal from a judgment rendered on separate burglary count charged in the same indictment; application of CPL 710.70(2).

HOME EQUITY MORTGAGE TRUST SERIES 2006-1, et al. v DLJ MORTGAGE CAPITAL, INC.:
Contracts--Breach or Performance of Contract--Whether the doctrine of relation back permits residential mortgage-backed securities (RMBS) plaintiffs to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse plaintiffs' failure to comply with a contractual precondition to invoking the repurchase remedy, as long as the plaintiffs provided timely pre-suit repurchase demands relating to

some specified loans in the trust--Evidence--Demonstrative Evidence--Whether plaintiffs may rely on statistical sampling to prove liability and damages for loans outside of the sample when a RMBS sole remedy provision requires loan-specific proof of breach, materiality, and damages--Contracts--Breach or Performance of Contract--Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

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

HYMES (JUSTIN), PEOPLE v:
Crimes--Right to be Present at Trial--Right to be Present at Trial--Whether defendant was denied his Antommarchi right to be present during material sidebar conferences; Crimes--Proof of Other Crimes--Whether County Court should have given Molineux limiting instruction; Crimes--Witnesses--Whether County erred in allowing improper bolstering testimony and failing to give a limiting instruction regarding said testimony; Crimes--Right to Counsel--Whether defense counsel was ineffective.

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

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

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

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

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

JUAREZ, et al., MATTER OF v NEW YORK STATE OFFICE OF VICTIM SERVICES, et al.:
Administrative Law--Rule Making--Whether New York State Office of Victim Services exceeded its authority under Executive Law article 22 to adopt regulations for the approval of crime victims' counsel fee requests by amending its regulations to provide that such awards may be considered only for fees incurred in successful administrative reconsideration reviews and judicial review (9 NYCRR 525.9 [a],[c]).

KATTIS, MATTER OF v COHEN, &c., et al.:
Proceeding Against Body or Officer--Dismissal of Petition.

KLEIN v KLEIN:
Appeals--Appealable paper--Whether an appeal lies from an order to show cause signed by an individual Justice of the Appellate Division.

LANG (DAVID R.), PEOPLE v:
Crimes--Disclosure--Whether defendant was entitled to a curative instruction where the police failed to conduct a timely blood alcohol level test; jurors--discharge of juror--whether the trial court engaged in reasonably thorough inquiry prior to discharging sworn juror; argument and conduct of counsel-- whether prosecutor’s comments during summation deprived defendant of a fair trial.

LEGGIO, MATTER OF v DEVINE:
Social Services--Food Stamp Allowance--Whether Suffolk County Department of Social Services properly determined that child support payments for two of petitioner’s children, both full-time college students, counted as household income for purposes of determining eligibility for Supplemental Nutrition Assistance Program benefits.

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

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

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

MAFFEI (ROBERT), PEOPLE v:
Crimes--Right to Counsel--Effective Representation--Whether counsel's failure to challenge a juror who stated he was not certain he could be impartial deprived defendant of the effective assistance of counsel; whether defendant raised a "mixed claim" of ineffective assistance of counsel that should have been raised in a CPL 440.10 motion rather than on direct appeal.

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

MIDDLETON (DONNA), PEOPLE v:
Crimes--Official Misconduct--Whether the information sufficiently established the "intent to obtain a benefit" element of Penal Law § 195.00 (1)--whether the acts charged fell outside defendant's "official duties"; prisons and prisoners.

MUHAMMAD (ZHAKARIYYA), PEOPLE v:
Jury--Deliberations--Whether trial court's responses to notes sent by the jury were coercive; trial court repeated Allen charge it had given preceding day without providing additional guidance requested by jury and granted jury's request for more time to deliberate without addressing scheduling conflicts raised in jury note.

NATIONAL FUEL GAS SUPPLY CORP., MATTER OF v SCHUECKLER et al.:
Eminent Domain--Exemption from Public Hearing--Whether petitioner natural gas company held qualifying federal permit under Eminent Domain Procedure Law (EDPL) 206(A), thereby exempting it from standard hearing and findings procedure of EDPL article 2; Federal Energy Regulatory Commission granted petitioner's application for a certificate of public convenience and necessity to construct 97-mile natural gas pipeline across respondents' land, but State Department of Environmental Conservation denied petitioner's application for water quality certification (WQC); federal certificate of public convenience allowed construction of pipeline subject to various conditions, including State's issuance of WQC.

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

O'DONNELL, MATTER OF v ERIE COUNTY, et al.:
Workers' Compensation--Voluntary Withdrawal from Labor Market--Whether the Appellate Division erred in affirming the Workers' Compensation Board's determination on the basis that an April 2017 amendment to Workers' Compensation Law § 15(3)(w) no longer requires a claimant to demonstrate an ongoing attachment to the labor market.

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

CITY OF ONEONTA v PERVU et al.:
Motions and Orders--Order to show cause.

MATTER OF FORECLOSURE OF TAX LIENS (ORANGE COUNTY v GOLDMAN):
Taxation--Tax Liens, Tax Sales and Tax Titles--Whether the petition in a proceeding pursuant to RPTL article 11 to foreclose on a tax lien was properly dismissed when the proceeding was commenced against deceased record owners of the property.

OWENS, MATTER OF v NEW YORK CITY HUMAN RESOURCES ADMINISTRATION, DEPARTMENT OF SOCIAL SERVICES, OFFICE OF CHILD SUPPORT ENFORCEMENT, SUPPORT COLLECTION UNIT:
Parent, Child and Family--Support--Whether Supreme Court properly dismissed as moot petition to reverse respondent's determination that petitioner's tax refund would be offset to pay child support; whether petitioner could seek reimbursement of overpayment of child support; Appearances--Appearance by Corporation Counsel--Whether respondent agency appeared by a proper attorney; alleged constitutional violations.

P.B. #7, LLC v RICHMOND (APP. DIV. NO. 2013-2106; 2013-2107; 2013-2108):
Mortgages--Foreclosure--Default; Contempt--Civil Contempt.

P.B. #7, LLC v RICHMOND (APP. DIV. NO. 2015-06192):
Mortgages--Foreclosure--Default--Vacatur.

PAGE (LIMMIA), PEOPLE v:
Crimes--Unlawful Search and Seizure--Whether marine interdiction agent with the U.S. Customs and Border Protection Air and Marine Operations effected a valid citizen's arrest of defendant (CPL 140.30); whether evidence seized as a result of an invalid citizen's arrest is subject to suppression.

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

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

PEREZ (JOSE), PEOPLE v:
Crimes--Sex Offenders--Sex Offender Registration Act (SORA)--Whether Supreme Court erred when it assessed defendant 30 points for purposes of risk factor 9 based on a prior conviction of lewdness in New Jersey--whether prior New Jersey conviction for public lewdness constituted a "misdemeanor sex crime" under New York law.

PETTUS, MATTER OF v BOARD OF DIRECTORS (INDEX NOS. 251751-14; 251413-14; 250720-15):
Motions and orders.

PETTUS v BOARD OF DIRECTORS, OWNERS 800 GRAND CONCOURSE, et al.; Greenthal:
Appeal--Appealable Order.

PETTUS v YEE:
Appeal--Appealable Paper.

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

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

PRESTON, &c. v APCH, INC. et al.:
Labor--Safe Place to Work--Whether worker was engaged in covered activity under Labor Law § 240(1) at the time of accident; worker, welder at industrial facility, was assisting in fabrication of rotor compartment, which fell on worker and resulted in his death.

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

RADEN, et al. v W 7879, LLC, et al.:
Landlord and Tenant--Rent--Whether look-back period for rent overcharge claim is limited to four years before overcharge complaint is filed; whether defendants engaged in fraud in deregulating apartment and whether deviation from rent stabilization was willful; whether plaintiffs are entitled to treble damages or attorneys' fees.

RAMLALL (GANESH), PEOPLE v:
Crimes--Right to Speedy Trial--Whether a CPL 30.30 dismissal on statutory speedy trial grounds of a misdemeanor charge of driving while intoxicated (Vehicle and Traffic Law § 1192[3]) affects the CPL 30.20 speedy trial analysis of the delays related to the traffic infraction charge of "driving while ability impaired" (Vehicle and Traffic Law § 1192[1]) based on the same underlying conduct.

REICH, et al. v BELNORD PARTNERS, LLC, et al.:
Landlord and Tenant--Rent Regulation--Whether Supreme Court properly dismissed as time-barred plaintiffs' claim for rent overcharges based on defendants' failure to charge rent stabilized rents while receiving J-51 tax benefits.

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

LUIS S., MATTER OF v STATE OF NEW YORK, et al.:
Crimes--Sex Offenders--Proceeding pursuant to Mental Hygiene Law article 10 seeking an order discharging petitioner or releasing him to the community under a regimen of strict and intensive supervision and treatment after service of his sentence for a sex offense--claim by petitioner that reliance on a diagnosis of "Unspecified Paraphilic Disorder" to support a judicial finding of mental abnormality violated his due process rights; whether the finding of mental abnormality was against the weight of the evidence.

SCHULZ v TOWN BOARD OF THE TOWN OF QUEENSBURY et al.:
Declaratory Judgments--When Remedy Appropriate--Whether petitioner's claims relative to the State Environmental Quality Review Act should have been brought in the context of a CPLR article 78 proceeding; Constitutional Law--Freedom of Speech--Whether the failure of respondent Town Board to respond in writing to comments concerning a proposed land use project violated petitioner's free speech rights.

SECURITY PACIFIC NATIONAL BANK v EVANS:
Contracts--Implied Covenants--Whether Supreme Court's findings of fact concerning the alleged breach of the implied covenant of good faith were against the weight of evidence.

SEON, MATTER OF v NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES, et al.:
Administrative Law--Judicial Review--Whether there is substantial evidence in the record to support the determination of the Administrative Law Judge that petitioner, New York City Transit bus driver, failed to exercise due care and that such failure caused pedestrian serious physical injury (Vehicle and Traffic Law § 1146).

SHIFER v SHIFER:
Judgments--Collateral Estoppel--Whether the Appellate Division's ruling that appellant was in privity with her brother and therefore bound by his divorce action with respondent violates appellant's right to due process under the state and federal Constitutions; Whether the Appellate Division erred by awarding 100% of certain of appellant's real properties to respondent based on a decision in a divorce action which held that the 50% ownership share of appellant's brother in those properties was marital and subject to equitable distribution to respondent.

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

STEVENSON, MATTER OF v SMITH, &c., et al.:
Proceeding Against Body of Officer--Dismissal of Petition--Proceeding to review determination of Department of Correction and Community Supervision denying inmate's request to participate in the family reunion program.

SUN &c. v SANDERS, et al.; SUN, &c. v ZEVE:
Dismissal and Nonsuit--Dismissal of Complaint.

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

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

TAYLOR et al. v 72A REALTY ASSOCIATES, L.P., et al.:
Landlord and Tenant--Rent Regulation--Action to recover rent overcharges for apartment leased as exempt from rent regulation while landlord received tax incentives under the City's J-51 program--Whether the Appellate Division erred in recognizing a residential rent overcharge computation starting more than four years before the action was commenced, and failing to dismiss the plaintiffs' claim for treble damages; effect of expiration of landlord's tax exemption/abatement (J-51) status in the 2002/2003 tax year.

TOLAND, MATTER OF v MOYNIHAN, &c.:
Appeals--Appealable Paper.

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

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

TSINTZELIS (GEORGE), PEOPLE v:
Crimes--Evidence--DNA Identification Tests--Whether the trial court erred in denying defendant's discovery request pursuant to CPL 240.20(1)(c) for the electronic raw data used to develop his DNA profile; whether the admission of DNA lab reports through the testimony of an analyst who didn't perform or supervise the DNA testing violated defendant's confrontation rights.

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

MATTER OF VEGA (POSTMATES INC. et al.):
Unemployment Insurance--Employee or Independent Contractor--Whether claimant, who was engaged as a courier for Postmates Inc., was an employee of the company for unemployment insurance purposes—whether there is substantial evidence of an employer-employee relationship.

VELEZ (JOSE), PEOPLE v:
Crimes--Evidence--DNA Identification Tests--Whether electronic raw data underlying results of DNA test conducted by the New York City Office of the Chief Medical Examiner is discoverable in a criminal proceeding.

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

WALTON & WILLET STONE BLOCK, LLC, et al. v CAMELOT LODGE, LLC, et al.:
Motions and Orders--Reargument or Renewal--Appellate Division reversed order of Supreme Court granting leave to renew motion to dismiss.

COUNTY OF WAYNE, MATTER OF (SCHENK):
Taxation--Tax Liens--Tax Sales and Tax Titles--Whether motion to vacate default judgment of foreclosure was untimely; whether Supreme Court properly granted request for an extension of time to make motion to vacate default judgment of foreclosure; alleged due process violation.

WHEELER (DAMON), PEOPLE v:
Crimes--Obstructing Governmental Administration--Whether an accusatory instrument asserting a violation of Penal Law § 190.05 must allege sufficient facts, which if true, establish that the underlying governmental function was authorized; facial sufficiency of accusatory instrument; sufficiency of evidence to prove charged offense beyond a reasonable doubt; various claims of violation of due process at trial.

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

WILLIAMS (CADMAN), PEOPLE v:
Crimes--Evidence--Whether trial court abused its discretion in failing to hold a *Frye* hearing regarding admission of Low Copy Number Typing and the Forensic Statistical Tool used by the Office of the Chief Medical Examiner; Crimes--Right to Counsel--

Effective Representation--whether counsel was ineffective for failing to challenge court's justification instruction; Crimes--Evidence--whether recordings of defendant's phone calls, made while defendant was in pretrial detention, were admissible.

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

WINGATE, MATTER OF v FAHEY &c.:
Appeal--Appealable Paper.

WONG, MATTER OF v PONTE &c et al.:
Proceeding Against Body or Officer--Dismissal of Petition--Whether this proceeding pursuant to CPLR article 78--to review a determination of the New York City Department of Correction, which terminated petitioner's probationary employment as a correction officer--was properly dismissed.

WORD, PEOPLE ex rel. &c. v STATE OF NEW YORK, et al.:
Motions and Orders--Reargument or Renewal.

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

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