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New York Law Journal  
Volume 235

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Monday, June 12, 2006

## NEWS IN BRIEF

## Pollution Prosecution Dismissed on Jurisdictional Grounds

A state judge in Brooklyn has dismissed a criminal prosecution in an environmental pollution case, finding that local prosecutors did not have the authority to bring such a case without prior approval of the Department of Environmental Conservation. Brooklyn Supreme Court Justice Carolyn E. Demarest found that the state's Environmental Conservation Law requires DEC approval for a prosecution by the Attorney General's Office. The requirement did not change, she said, if a district attorney was acting in the place of the attorney general. In January 2005, Brooklyn District Attorney Charles J. Hynes indicted Constantine Quadrozzi, the CEO of Maspeth Concrete Loading, and his company, formerly Quality Concrete of New York, for polluting Newtown Creek, between Brooklyn and Queens. Mr. Hynes said his office had jurisdiction because the pollution occurred within 500 feet of the Kings County line. The indictment was spurred by a joint investigation with Riverkeeper, an environmental advocacy group whose chief prosecuting attorney is Robert F. Kennedy Jr. In seeking to dismiss the indictment, Mr. Quadrozzi and his attorney, Peter R. Sullivan of **Sullivan Gardner**, contended the prosecution could not stand without authorization from the DEC. Justice Demarest agreed. 'There is no evidence in this record that the DEC instituted the prosecution,' she wrote. 'In fact, the failure of the People to come forward with an affidavit of the Commissioner stating that the prosecution had been authorized gives rise to the reasonable inference that DEC did not authorize it.' The judge also pointed out that Mr. Quadrozzi's company had since paid to stop the pollution. 'Thus, having completely remedied the problem at great expense, there appears to be no additional benefit to be derived to the community by further prosecuting Defendants,' she wrote. People v. Quadrozzi, 7895/04, will be published Thursday. -- Tom Perrotta

## Lawyer Suspended For Withdrawing Case Without Telling Client

The Appellate Division, First Department, has suspended attorney Saul A. Berkman for nine months for failing to file a required notice that doomed his client's slip-and-fall case and for then withdrawing her claim without telling her. Mr. Berkman, who was forced to leave his law firm, Young & Associates, after his disciplinary problems surfaced, failed to advise the state Attorney General's Office about his client's negligence claim against the state Board of Higher Education. To avoid a likely assessment of costs, Mr. Berkman withdrew his client's claim without her knowledge or consent. According to the per curiam opinion, the client

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did not find out about the withdrawal until four years later after an attorney with her union asked Mr. Berkman about the case. The First Department, however, reduced its Disciplinary Committee's recommendation of a one-year suspension to nine months. Matter of Berkman, M-5571, appears on page 19. -- Daniel Wise

#### Felon Who Tried to Fake Death Gets Longer Sentence

A convicted felon who used his unwitting lawyer in an attempt to fake his death received a harsh sentence from a federal judge on Friday. Kevin Walker was convicted of bank fraud in October 2005. Prior to his sentencing, he told his former attorney, Louis R. Aidala, that he had checked into Calvary Hospital, which runs a hospice for cancer patients. Mr. Aidala later called the hospital to speak to Mr. Walker and was told he had died. The attorney informed the Probation Department, which in turn wrote a memo to Eastern District Judge John Gleeson suggesting that the case be closed. Federal prosecutors in the Eastern District U.S. Attorney's Office uncovered the hoax after they sent investigators to the hospital with Mr. Walker's photo. The man who died was actually another man the defendant found after calling eight hospice centers. On Friday, Judge Gleeson sentenced Mr. Walker to 96 months in prison--24 months longer than the high-end of the sentencing guidelines. Mr. Walker was represented by another attorney, Larry Silverman, at sentencing. Assistant U.S. Attorney Walter M. Norkin appeared for the government. -- Tom Perrotta

#### New Law Combats 'Phishing' Identity Theft

Governor George E. Pataki signed bills Friday to end 'phishing,' the growing scheme of posing as a legitimate business and sending e-mails to trick computer users into turning over private information about credit cards and bank accounts. Phishing is short for 'password harvesting fishing.' One of the new laws allows private companies, nonprofit groups and the state attorney general to bring civil actions against phishing scam artists. The second measure allows New Yorkers to freeze their credit files, blocking access to consumer credit reports and preventing thieves from taking out new loans and credit under a victim's name. The latter law makes phishing a crime. -- Associated Press

#### Veteran Nassau Prosecutor Is Dismissed

Assistant Nassau County District Attorney Fred Klein, a 27-year veteran of the office, was dismissed Thursday because he 'didn't see eye to eye' with District Attorney Kathleen Rice on how to prosecute major cases, Rice spokesman Eric Phillips told Newsday in Friday's editions. Mr. Klein, who was named chief of the major offense bureau in 1994 by then-District Attorney Denis Dillon, said he was 'disappointed and disillusioned' by the decision. Mr. Klein prosecuted some of Long Island's most high-profile cases, including the convictions of Amy Fisher, who as a teen shot the wife of her lover, Joey Buttafuoco; serial killer Joel Rifkin; and Reginald Gousse, who was sentenced in April for killing a banker while posing as a police officer. -- Associated Press

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