

CASES OF INTEREST  
September, 2010

**People v. Michael Ellis**  
**Appellate Division, Fourth Department**  
**73 AD3d 1433**  
**May 7, 2010**

**People v. William Releford, 73 AD3d 1437**  
**People v. James Dwyer, 73 AD3d 1467**  
**People v. Julio Nunez, 73 AD3d 1469**

In these cases, all decided by the Fourth Department on the same date, the Court found that the defendant had forfeited his right to appellate review of the suppression hearing held below because a guilty plea was entered **before a final order denying the suppression motion was issued.**

In other words, you could get past the usual problem of a *Seaburg* waiver, and you could get past the fact that a guilty plea generally results in a forfeiture of the right to appellate review of any non-jurisdictional defects in the proceedings, but then CPL §710.70(2), although allowing review, still requires an **order finally denying** a motion to suppress evidence. Therefore, to give the appellate attorneys any issues to work with from the pre-trial hearing(s), you must ask the Court to issue a final order before entering any plea of guilty.