

CASE ISSUE STATEMENTS

The calendar is subject to change. Please contact the Clerk's Office for any updated information.

If available, briefs, records and appendices can be viewed and downloaded from the Court of Appeals Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.

TUESDAY, SEPTEMBER 5

Matter of Madeiros v New York State Education Department

APL-2016-00073

Proceeding Against Body or Officer--Certiorari--CPLR article 78 proceeding to review respondent New York State Education Department's denial of petitioner's request for documents under the Freedom of Information Law (FOIL)--FOIL request for documents related to fiscal audits of preschool special education programs authorized by Education Law § 4410--whether the Appellate Division erroneously concluded that the law enforcement exception to FOIL permits respondent to withhold the documents at issue--Public Officers Law § 87 (2)(e) and (g); attorneys' fees recoverable under FOIL.

People v John Andujar

APL-2015-00338

Crimes--Accusatory Instrument--Whether Vehicle and Traffic Law § 397 applies only to a police scanner or radio receiving set that is attached to the motor vehicle or applies to such a device carried in the driver's clothing while driving a motor vehicle--definition of "equip" as word is used in statute.

Princes Point v Muss Development

APL-2016-00105

Vendor and Purchaser--Contract for Sale of Real Property--Whether prospective purchaser of real property commits anticipatory breach of contract by commencing an action against sellers for rescission of the contract before the closing date--Whether sellers are required to establish that they are ready, willing and able to close after buyer's anticipatory breach in order to retain the deposit and certain other payments as liquidated damages.

Makinen v City of New York

CQ 2017-00002

Civil Rights -- New York City Human Rights Law -- Do sections 8-102(16)(c) and 8-107(1)(a) of the New York City Administrative Code preclude a plaintiff from bringing a disability discrimination claim based solely on a perception of untreated alcoholism?

WEDNESDAY, SEPTEMBER 6

Matter of City of Schenectady v PERB

APL-2016-00122

Civil Service--Public Employees' Fair Employment Act--collective bargaining--discipline of police--whether the Taylor Law, as codified in Civil Service Law article 14, superceded article 9 of the Second Class Cities Law, making the municipality's police disciplinary procedures a mandatory subject of collective bargaining--Matter of Patrolmen's Benevolent Assn. of City of N.Y., Inc. v New York State Pub. Empl. Relations Bd. (6 NY3d 563 [2006]) and Matter of Town of Wallkill v Civil Serv. Empls. Ass., Inc. (19 NY3d 1066 [2012]).

People v Brian Novak

APL-2016-00109

Judges--Recusal--Whether a judge who decided defendant's pretrial motions and presided over his bench trial may decide his appeal; Crimes--information--whether a prosecutor's information may supercede a simplified traffic information; whether trial court abused its discretion by failing to impose a sanction for the People's Rosario violation; Evidence--whether trial court improperly admitted evidence regarding horizontal gaze nystagmus (HGN) without first establishing its scientific validity; whether evidence presented at trial was sufficient to prove that defendant was impaired by the use of alcohol.

People v James L. Carr

APL-2016-00005

Crimes--Grand Jury--Resubmission of Charges--Whether Supreme Court erred in denying defendant's CPL 440.10 motion to vacate the judgment convicting him of two counts of murder in the second degree on the ground that the People failed to seek leave to represent the murder charges to a second Grand Jury, in violation of CPL 190.75(3).

Matter of Hon. J. Marshall Ayres

JCR-2017-00006

SCJC removal determination -- Justice of the Conklin Town Court, Broome County

THURSDAY, SEPTEMBER 7

American Economy v State of New York

APL-2016-00100

Workers' Compensation--Special Funds--Whether Workers' Compensation Law § 25-a (1-a) imposes retroactive liability in violation of the Contract Clause of the U.S. Constitution and the Takings Clause of the U.S. and New York State Constitutions.

People v Peter Austin

APL-2016-00037

Crimes-Instructions--Adverse inference charge based on loss of blood evidence as a result of a natural catastrophe--Whether the trial court abused its discretion in declining defendant's request

for a permissive adverse inference charge based on the unavailability of blood evidence and prohibiting defense counsel from commenting on the lost evidence in summation; Confrontation; whether defendant properly preserved his claim that his right to confrontation was violated when an employee of the Office of the Chief Medical Examiner testified about DNA comparison evidence produced by others.

Excess Line Association of New York (ELANY) v Waldorf & Associates

APL-2016-00069

Parties--Capacity to Sue--Governmental entities--Whether plaintiff association has capacity and standing to sue one of its members to compel compliance with its plan of operation or to recover stamping fees.

TUESDAY, SEPTEMBER 12

Garthon Business v Stein

APL-2016-00097

Arbitration--Agreement to Arbitrate--Successive agreements--whether the Appellate Division correctly held that, as to claims that arose when the first agreement at issue was in force, the forum selection clause in the first agreement, which stated that disputes would be resolved in the courts of the United States of America, survived certain subsequent agreements that terminated prior agreements, contained merger clauses and clauses requiring arbitration of disputes--whether claims that otherwise would be subject to arbitration should be litigated in court because they are "inextricably bound" to claims arising under the first agreement--whether court or arbitrators should decide issue of arbitrability; whether the Appellate Division correctly granted plaintiffs' motion for discovery on the issues of personal jurisdiction and alter ego.

People v Ross Campbell

APL-2016-00035

Crimes--Right to Counsel--Effective Representation--Whether, in a case involving sex crimes, defense counsel was ineffective in failing to challenge a prospective juror who expressed difficulty in serving as a juror because she had been subjected to sexual violence.

People v Vilma Bautista

APL 2016-00079

Crimes--Argument and Conduct of Counsel--Prosecutor's argument on summation--Whether defendant was deprived of a fair trial by the prosecutor's alleged misstatement of the evidence; Crimes--Disclosure--Failure to disclose exculpatory material--Whether the Appellate Division correctly held that an investigator's notes from an interview with a coconspirator did not constitute Brady material; Crimes--Evidence--Judicial notice--Fact findings of foreign country court improperly read to jury--Whether the Appellate Division correctly held that the trial court's error in reading the fact findings of a foreign country court to the jury was harmless as to the tax counts.

WEDNESDAY, SEPTEMBER 13

Matter of State of New York v Floyd Y.

APL-2016-00070

Crimes--Sex Offenders--Civil commitment or supervision--mental abnormality--whether legally sufficient evidence supported the jury's finding that respondent has serious difficulty controlling his sexual misconduct under Matter of State of New York v Donald DD. (24 NY3d 174 [2014]).

People v Sean Garvin

APL-2015-00321

Crimes--Arrest--Whether defendant's warrantless arrest violated Payton v New York (445 US 573), where defendant lived in the upstairs apartment of a building containing two separate apartments and was arrested in the doorway to his apartment after he opened the door in response to a knock by a police officer; alleged violation of defendant's right to remain silent; alleged violation of Apprendi v New Jersey (530 US 466) by defendant's sentencing as a persistent felony offender.

People v Phillip Wright

APL-2016-00078

Crimes--Sentence--Persistent Violent Felony Offender--whether the adjudication of defendant as a persistent felony offender was based on nonjury findings in violation of the rule set forth in Apprendi v New Jersey (530 US 466) and its progeny; Jurors--whether Supreme court erred in denying defendant's challenges for cause to three prospective jurors--failure to obtain unequivocal assurances from jurors regarding impartiality.