

CASE ISSUE STATEMENTS – MARCH 2024

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 homepage on the Court's website.

TUESDAY, MARCH 12

Lelchook v Société Générale (No. 29)

CQ-2023-00002

“1. Under New York law, does an entity that acquires all of another entity's liabilities and assets, but does not merge with that entity, inherit the acquired entity's status for purposes of specific personal jurisdiction?

2. In what circumstances will the acquiring entity be subject to specific personal jurisdiction in New York?”

Audthan v Nick & Duke (No. 30)

APL-2023-00054

Landlord and Tenant—Whether the courts below properly dismissed tenant’s claim for breach of contract premised on the theory of repudiation; whether section 33.09 of the lease operates to foreclose the tenant from seeking monetary damages for the landlord’s refusal to enter into a cure agreement; whether the courts below properly held that tenant may not seek attorneys’ fees as damages for the notices of termination the landlord allegedly served in bad faith; whether tenant sufficiently stated a cause of action for breach of the covenant of quiet enjoyment; whether the tenant’s remedy for the landlord’s refusal to enter into a cure agreement is limited to injunctive relief; whether tenant sufficiently stated a cause of action for the return of its security deposit.

Matter of Aaron Manor Rehabilitation v Zucker (No. 31)

APL-2023-00006

Health—Medicaid Reimbursement Rates—Whether Public Health Law § 2808(20)(d), which was enacted on April 3, 2020 and required the elimination of residual equity reimbursement retroactive to April 1, 2020 “notwithstanding any contrary provision of law, rule or regulation,” supersedes the prohibition in Public Health Law § 2807(7) on retroactive rate changes.

Alcantara v Annucci (No. 32)

APL-2023-00007

Crimes—Sex Offenders—Whether the Fishkill Correctional Facility satisfies the criteria governing residential treatment facilities under Correction Law § 2(6); Whether the Fishkill Correctional Facility satisfies the criteria governing residential treatment facilities under Correction Law § 73; Whether individuals held at a residential treatment facility under Correction Law § 73(10) can be held at the Fishkill Correctional Facility without the Department of Corrections and Community Supervision permitting or facilitating access to community-based employment, educational, and training opportunities for those residents.

People v Baez (Melvin) (No. 33)

APL-2022-00139

Crimes—Evidence—Whether the evidence was legally sufficient to establish chain of custody of certain drugs after they were recovered and vouchered into police custody.

WEDNESDAY, MARCH 13

Matter of Walt Disney v Tax Appeals Tribunal (No. 34)

APL-2022-00161

Taxation—Franchise Tax on Business Corporations—Whether petitioner properly deducted royalty payments received from its foreign affiliates under Tax Law § 208; whether Tax Law § 208 violates the dormant Commerce Clause of the U.S. Constitution.

Matter of IBM v Tax Appeals Tribunal (No. 35)

APL-2023-00056

Taxation—Franchise Tax of a Business Corporation—Whether petitioner properly deducted royalty payments received from its foreign affiliates under Tax Law § 208; whether Tax Law § 208 violates the dormant Commerce Clause of the U.S. Constitution.

Morrison v NYCHA (No. 36)

APL-2023-00045

Negligence—Maintenance of Premises—Whether defendant established entitlement to summary judgment; plaintiff slipped and fell on wet or slippery substance on a stairway in a building owned by defendant.

Russell v NYU (No. 37)

APL-2022-00175

Judgments—Collateral Estoppel—Whether Supreme Court properly dismissed complaint on collateral estoppel grounds; federal court dismissed plaintiff's discrimination, hostile work environment and retaliation claims against defendants; plaintiff then filed a complaint in New York state court alleging violations of the New York State Human Rights Law and New York City Human Rights Law based on same factual allegations as claims asserted in federal action.

People v Williams (David) (No. 38)

APL-2022-00156

Crimes—Suppression Hearing—Whether, after suppressing on Fourth Amendment grounds an undercover officer's confirmatory identification of defendant, the hearing court correctly found that the testimony adduced at the hearing demonstrated by clear and convincing evidence that the officer had an independent source for the identification; whether the hearing court properly denied defendant's request for a separate independent source hearing.

THURSDAY, MARCH 14

People v Franklin (Cid C.) (No. 39)

APL-2023-00005

Crimes—Right of Confrontation—Whether the introduction of a form prepared by an employee of the Criminal Justice Agency violated defendant’s rights under the Confrontation Clause because the employee who created the form did not testify.

People v Sims (Yasif) (No. 40)

APL-2023-00021

Crimes—Sentence—Whether County Court failed to conduct a sufficient inquiry into whether defendant violated the terms of the plea agreement prior to imposing an enhanced sentence; whether the court was required to conduct a hearing under *People v Outley* (80 NY2d 702 [1993]); whether the court improperly imposed an enhanced sentence; whether the sentence was improperly based upon hearsay; whether defendant was denied effective assistance of counsel.

People v Fisher (Kenneth) (No. 41)

APL-2023-00059

Crimes—Jurors—Whether the trial court properly denied defendant’s motion for a mistrial under CPL 270.35 when a juror indicated she believed defendant may have followed her home during jury selection and other jurors feared for their safety; whether the court conducted a sufficient inquiry of the juror under *People v Buford* (69 NY2d 290 [1987]).

People v Dunton (Corey) (No. 42)

APL 2023-00055

Crimes—Right to be Present at Trial—Whether the Appellate Division erred in granting defendant’s coram nobis application based on appellate counsel’s failure to argue that the court’s removal of defendant from the courtroom during the reading of the verdict on the last charge and jury polling, without first issuing a warning, violated defendant’s constitutional right to be present.