

DAY CALENDAR
Wednesday, October 18, 2017 - 10:00 AM
COURTROOM 2

1224.0
TP 17-00672

LEROY JOHNSON
V
STEWART ECKERT

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [Russell P. Buscaglia, A.J.], entered November 1, 2017) to review a determination of respondent. The determination found after a tier II hearing that petitioner had violated various inmate rules.

LEROY JOHNSON for HIMSELF Submitted

MARCUS J. MASTRACCO for STEWART ECKERT Submitted

1225.0
TP 17-00813

MARK INESTI
V
LT. RIZZO

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Seneca County [Dennis F. Bender, A.J.], entered April 25, 2017) to review a determination of respondent. The determination found after a tier III hearing that petitioner had violated various inmate rules.

MARK INESTI for HIMSELF Submitted

JULIE M. SHERIDAN for LT. RIZZO Submitted

1227.0
KA 15-02179

PEOPLE
V
TAIWAN BALDWIN

Appeal from a judgment of the Erie County Court (Michael F. Pietruszka, J.), rendered June 12, 2015. The judgment convicted defendant upon a nonjury verdict, of criminal possession of a weapon in the second degree.

KRISTIN M. PREVE for TAIWAN BALDWIN 5 minutes

MICHAEL J. HILLERY for PEOPLE OF THE STATE OF NEW YORK 5 minutes

1228.0
KA 15-01279

PEOPLE
V
RASHEED I. MILTON

Appeal from an order of the Supreme Court, Erie County (John L. Michalski, A.J.), dated February 11, 2015. The order, insofar as appealed from, denied the motion of defendant pursuant to CPL 440.30 (1-a) for DNA testing.

KRISTIN M. PREVE for RASHEED I. MILTON 5 minutes

DAVID A. HERATY for PEOPLE OF THE STATE OF NEW YORK 5 minutes

1229.0
KA 17-00063

PEOPLE
V
JOHN DRAKE

Appeal from a judgment of the Supreme Court, Erie County (Penny M. Wolfgang, J.), rendered November 15, 2016. The judgment convicted defendant, upon his plea of guilty, of attempted criminal possession of a controlled substance in the fourth degree.

BARRY J. DONOHUE for JOHN DRAKE Submitted

DANIEL J. PUNCH for PEOPLE OF THE STATE OF NEW YORK Submitted

1230.0
CAF 15-01604

**In the Matter of
DAVID M.J.B.**

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered August 20, 2015 in a proceeding pursuant to Social Services Law § 384-b. The order, among other things, terminated the parental rights of respondent Cynthia M. with respect to the subject child.

DAVID J. PAJAK for CYNTHIA M. Submitted

ERIC R. ZIOBRO for ERIE COUNTY D.S.S. Submitted

CHARLES D. HALVORSEN, ATTORNEY FOR CHILD Submitted

1231.0
CAF 17-00320

**KATHLEEN PHALEN
V
JOSEPH ROBINSON, III**

Appeal from an order of the Family Court, Erie County (Kevin M. Carter, J.), entered May 12, 2016 in a proceeding pursuant to Family Court Act article 4. The order denied respondent's objection to the order of the Support Magistrate.

JUSTIN S. WHITE for JOSEPH ROBINSON, III 10 minutes

KATHLEEN PHALEN for HERSELF Submitted

1232.0
CAF 16-00712

**RONALD E. PEAY
V
MICHELLE L. PEAY**

Appeal from an order of the Family Court, Erie County (Deanne M. Tripi, J.), entered April 20, 2016 in a proceeding pursuant to Family Court Act article 6. The order, among other things, held respondent in contempt of court.

DAVID J. PAJAK for MICHELLE L. PEAY Submitted

RONALD E. PEAY for HIMSELF Submitted

CHRISTOPHER BRECHTEL, ATTORNEY FOR CHILD 5 minutes

1233.0
CAF 16-00713

**MICHELLE L. PEAY
V
RONALD E. PEAY**

Appeal from an order of the Family Court, Erie County (Deanne M. Tripi, J.), entered April 20, 2016 in a proceeding pursuant to Family Court Act article 6. The order, among other things, denied and dismissed the petition.

DAVID J. PAJAK for MICHELLE L. PEAY Submitted

RONALD E. PEAY for HIMSELF Submitted

CHRISTOPHER BRECHTEL, ATTORNEY FOR CHILD Submitted

1234.0
CAF 16-01310

RICHARD B. DEVITA
V
MARIE DEVITA

Appeal from an order of the Family Court, Erie County (Brenda M. Freedman, J.), entered June 6, 2016 in a proceeding pursuant to Family Court Act article 6. The order granted petitioners sole child custody with no access for respondent.

DENIS A. KITCHEN, JR., for MARIE DEVITA	10 minutes
MICHAEL W. COLE for RICHARD B. DEVITA	10 minutes
JESSICA NICHOLE MUSSELL, ATTORNEY FOR CHILD	5 minutes
JESSICA L. VESPER, ATTORNEY FOR CHILD	5 minutes
FRANK LONGO, ATTORNEY FOR CHILD	Submitted

1235.0
CAF 16-01311

RICHARD B. DEVITA
V
MARIE L. DEVITA

Appeal from an order of the Family Court, Erie County (Brenda M. Freedman, J.), entered June 6, 2016 in a proceeding pursuant to Family Court Act article 6. The order granted petitioners sole child custody with no access for respondent.

DENIS A. KITCHEN, JR., for MARIE L. DEVITA	Submitted
MICHAEL W. COLE for RICHARD B. DEVITA	Submitted
JESSICA NICHOLE MUSSELL, ATTORNEY FOR CHILD	Submitted
JESSICA L. VESPER, ATTORNEY FOR CHILD	Submitted
FRANK LONGO, ATTORNEY FOR CHILD	Submitted

1236.0
CAF 15-01470

THOMAS MULLETT
V
DAWN MULLETT

Appeal from an order of the Family Court, Erie County (Mary G. Carney, J.), entered August 5, 2015 in a proceeding pursuant to Family Court Act article 6. The order dismissed the petition for a modification of custody.

CHARLES J. GREENBERG for THOMAS MULLETT	5 minutes
TIMOTHY R. LOVALLO for DAWN MULLETT	5 minutes
MARY ANNE CONNELL, ATTORNEY FOR CHILD	5 minutes

1237.0
CA 17-00825

JOHN H. BAUSENWEIN, III
V
THOMAS J. WELSH

Appeal from an order of the Supreme Court, Erie County (John F. O'Donnell, J.), entered August 25, 2016. The order, among other things, denied in part the third-party plaintiffs' motion for summary judgment.

VINCENT G. SACCOMANDO for THOMAS J. WELSH	15 minutes
STEVEN P. CURVIN for TIMOTHY ALLISON	15 minutes

1238.0
CA 17-00860

JOHN KOLODZIEJSKI
V
ROBERT JASKOLA

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered January 31, 2017. The order, insofar as appealed from, denied the motion of defendant to compel a further independent medical exam, or to preclude proof at trial.

AALOK J. KARAMBELKAR for **ROBERT JASKOLA** 10 minutes

JEANNE M. VINAL for **JOHN KOLODZIEJSKI** 10 minutes

1239.0
CA 17-00381

JEANNE FUMERELLE
V
VISONE BROS., INC.

Appeal from an order of the Supreme Court, Erie County (Emilio L. Colaiacovo, J.), entered November 15, 2016. The order, among other things, granted the motion of defendants and cross motion of third-party defendants for summary judgment dismissing all of plaintiff's claims and any cross claims.

SCOTT R. ORNDOFF for **JEANNE FUMERELLE** 10 minutes

JENNA W. KLUCSIK for **VISONE BROS., INC.** 10 minutes

REBECCA C. CRONAUER for **FHN** 10 minutes

1240.0
CA 17-00828

CYNTHIA L. CHAN
V
ONYX CAPITAL, LLC

Appeal from an order of the Supreme Court, Erie County (Henry J. Nowak, Jr., J.), entered November 1, 2016. The order, among other things, denied the motion of SRP-2012-4, LLC, as successor in interest to defendant Onyx Capital, LLC, to vacate the default judgment and to dismiss the plaintiff's complaint.

MICHAEL FALKOWSKI for **SRP-2012-4** 10 minutes

KEISHA WILLIAMS for **CYNTHIA L. CHAN** 10 minutes

1241.0
CA 17-00141

MANUFACTURERS AND TRADERS TRUST CO.
V
CLIENT SERVER DIRECT, INC.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered June 10, 2016. The order denied the motion of third-party defendants for partial summary judgment against third-party defendant.

ROBERT J. FLUSKEY for **MANUFACTURERS AND TRADERS TRUST CO.** 15 minutes

HELEN CHAITMAN for **CLIENT SERVER DIRECT, INC.** 15 minutes

RODNEY O. PERSONIUS for **MICHAEL WHIPPLE** Submitted

1242.0
CA 16-01441

MANUFACTURERS AND TRADERS TRUST CO.
V
CLIENT SERVER DIRECT, INC.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered June 10, 2016. The order, insofar as appealed from, granted in part the motion of plaintiff and third-party defendants for a protective order.

HELEN CHAITMAN for CLIENT SERVER DIRECT, INC. Submitted

ROBERT J. FLUSKEY for MANUFACTURERS AND TRADERS TRUST CO. Submitted

RODNEY O. PERSONIUS for MICHAEL WHIPPLE Submitted

1243.0
CA 17-00142

MANUFACTURERS AND TRADERS TRUST CO.
V
CLIENT SERVER DIRECT, INC.

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, A.J.), entered October 17, 2016. The order denied the motion of defendants Client Server Direct, Inc., ACN Properties, LLC, Jeffrey T. Drilling and Holly Drilling to unseal the record.

HELEN CHAITMAN for CLIENT SERVER DIRECT, INC. Submitted

ROBERT J. FLUSKEY for MANUFACTURERS AND TRADERS TRUST CO. Submitted

RODNEY O. PERSONIUS for MICHAEL WHIPPLE Submitted

1244.0
CA 17-00764

GREAT LAKES MOTOR CORP.
V
PATRICK J. JOHNSON

Appeal from an order of the Supreme Court, Erie County (Donna M. Siwek, J.), entered July 1, 2016. The order denied the motion of plaintiff to amend the verified complaint.

SHARON MARIE PORCELLIO for GREAT LAKES MOTOR CORP. 15 minutes

WARREN B. ROSWENBAUM for PATRICK J. JOHNSON 15 minutes

1245.0
CA 17-00851

JOHN BENDER
V
LANCASTER CENTRAL SCHOOL DISTRICT

Appeal from an order and judgment (one paper) of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), entered August 1, 2016. The order and judgment denied the motion of respondent to dismiss the petition.

SHANNON K. BUFFUM for LANCASTER CENTRAL SCHOOL DISTRICT 15 minutes

BRENDA JEAN JOYCE for JOHN BENDER 10 minutes

1246.0
CA 17-00576

JESSICA WROBEL
V
TOPS MARKETS, LLC

Appeal from an order of the Supreme Court, Erie County (Catherine R. Nugent Panepinto, J.), entered September 26, 2016. The order denied the motion of defendant for summary judgment.

HARRY T. DIXON, JR., for TOPS MARKETS, LLC 15 minutes

JAMES M. VANDETTE for JESSICA WROBEL 10 minutes