

CASE ISSUE STATEMENTS –SEPTEMBER 2019

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.

WEDNESDAY, SEPTEMBER 4

Maddicks v Big City Properties (No. 67)

APL-2018-00183

Landlord and Tenant—Rent Regulation—Whether pre-answer dismissal regarding class action allegations was premature; putative class of rent-stabilized tenants alleged that defendants engaged in systematic effort to avoid compliance with rent-stabilization law; whether Supreme Court's sua sponte dismissal of complaint based on arguments not raised by defendants was improper.

People v Michael Cubero (No. 68)

APL-2018-00115

Crimes—Appeal—Preservation of constitutional challenge to statute creating Justice Center for the Protection of People with Special Needs; whether Appellate Division, pursuant to its interest of justice jurisdiction, may remit matter for further factual findings as to whether Special Prosecutor acted with consent of District Attorney; Crimes—Right to Counsel—Effective Representation—Whether defendant's counsel was ineffective for failing to raise constitutional argument challenging authority of Special Prosecutor.

THURSDAY, SEPTEMBER 5

Matter of Adirondack Wild: Friends of the Forest Preserve v New York State Adirondack Park Agency (No. 69)

APL-2018-00112

Environmental Conservation —Judicial Review— in CPLR article 78 proceeding challenging Department of Environmental Conservation's approval of Essex Chain Lakes Complex Unit Management Plan, whether certain causes of action were ripe for judicial review; whether a rational basis exists for the determination of the Department of Environmental Conservation that the Wild, Scenic and Recreational Rivers System Act permits establishment of snowmobile trail on a road that is located in a wild river area; whether Supreme Court properly dismissed the fourth cause of action on the basis that respondents are not bound by guidance document for the siting, construction and maintenance of snowmobile trails that was adopted by Department of Environmental Conservation in 2009.

Cayuga Nation v Campbell (No. 70)

APL-2018-00179

Native Americans—Internal Tribal Affairs—Dispute over which of two competing factions should have control as the lawful governing body of the Cayuga Nation, a sovereign Indian Nation; subject matter jurisdiction—whether determination of the controversy is beyond the authority of the courts of New York as usurping the sovereign right of the people of the Cayuga Nation to determine their own leadership.

People v M. Robert Neulander (No. 71)

APL-2018-00144

Crimes—Jurors—Misconduct of Jurors—Whether the trial court improperly denied defendant’s CPL 330.30 motion to set aside verdict on basis of juror misconduct; during trial, juror exchanged text messages with third parties regarding the trial

TUESDAY, SEPTEMBER 10

Henry v Hamilton Equities, Inc. (No. 72)

APL-2018-00160

Negligence—Maintenance of Premises—Liability of out-of-possession landlords for condition of nursing home premises where plaintiff nurse was injured in a slip and fall incident—whether exception to out-of-possession landlord rule set forth in Putnam v Stout (38 NY2d 607 [1976]) applies where the owner has a duty to repair under its contract with and regulations promulgated by HUD.

He v Troon Management (No. 73)

APL-2018-00168

Negligence—Maintenance of Premises—Whether New York City Administrative Code § 2-710 imposes a nondelegable duty on out-of-possession landlord to keep sidewalk free of ice and snow; commercial lease assigned the duty to clear snow and ice to tenant.

157 AD3d 586 (AD1)

People v Mouhamed Thiam (No. 74)

APL-2018-136

Crimes—Accusatory Instrument—Where a defendant is charged only with misdemeanors or lesser charges in a multi-count accusatory instrument and at least one misdemeanor count is facially sufficient, does the trial court have jurisdiction over the defendant such that it may accept a plea to any count in the accusatory instrument, even those that are facially insufficient—whether a defendant may plead to a misdemeanor that is of an equal or higher grade than the misdemeanor charge that is facially sufficient.

WEDNESDAY, SEPTEMBER 11

People v Rong He (No. 75)

Hall, J. APL-2018-00055

Crimes—Confession—whether statement obtained from defendant following a Payton violation (see Payton v New York, 455 US 573 [1980]) was sufficiently attenuated from illegal arrest;

Evidence—whether the People committed a Brady violation (see *Brady v Maryland*, 373 US 83 [1963]) by failing to disclose the contact information of potential witnesses.
156 AD3d 907 (AD2)

People v Manuel Rodriguez (No. 76)

APL-2018-00061

Crimes—Larceny—Whether evidence was legally sufficient to establish grand larceny in the third degree where defendant exercised dominion and control over proceeds of stolen check, but not over the stolen check itself.

People v Omar Deleon (No. 77)

APL-2018-00124

Crimes—Larceny—Whether evidence before grand jury was sufficient to support the charges of attempted grand larceny in the third and fourth degrees; defendant placed “fishing device” in mailbox into which joint police-postal service task force had inserted more than \$3000 in money orders; no evidence presented as to the value of the mail defendant attempted to remove.