

CASE ISSUE STATEMENTS – NOVEMBER 2020

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, NOVEMBER 17

JP Morgan Chase Bank v Caliguri (No. 85)

APL-2019-119

Mortgages--Foreclosure--Whether plaintiff mortgagee established standing in foreclosure action; plaintiff attached to summons and complaint a copy of consolidated note, which bore an endorsement in blank from original lender; defendant demanded inspection of original note; Whether second foreclosure action was barred by res judicata; Whether Supreme Court erred in not transferring foreclosure action to Justice who dismissed plaintiff's earlier foreclosure action.

US Bank National v Nelson (No. 86)

APL-2019-145

Parties--Standing--Whether, in a mortgage foreclosure action in which the complaint alleges that the plaintiff is the owner and holder of the note and mortgage, the denial of that allegation in the answer is alone sufficient to assert that the plaintiff lacks standing, thereby placing the question of standing in issue.

Deutsche Bank v Morgan Stanley (No. 84)

APL-2019-127

Contracts--Contractual Limitation of Liability--Whether plaintiff sufficiently pleaded gross negligence to render "sole remedy" clauses in parties' residential mortgage-backed security agreements unenforceable, thereby permitting a claim for compensatory damages; whether plaintiff's allegations of wrongdoing against it were sufficient to support a demand for punitive damages.

WEDNESDAY, NOVEMBER 18

Matter of Peyton v New York City Bd. of Stds. & Appeals (No. 88)

APL-2019-39

Administrative Law --Collateral Estoppel--Whether doctrine of collateral estoppel barred CPLR article 78 proceeding challenging respondent New York City Board of Standards and Appeals' resolution upholding New York City Department of Buildings' decision granting permit for construction of a nursing home on multiple-building zoning lot where petitioners reside; Municipal Corporations--Zoning--Whether respondent erred in calculating zoning lot's open space ratio by including as open space roof-top garden to which petitioners did not have access.

People v Sergio Del Rosario (No. 89)

APL-2019-123

Crimes--Sex Offenders--Sex Offender Registration Act--Level Two Sex Offender--Upward Departure--Whether the courts below erred in concluding that defendant's familial relationship with the victim was an aggravating circumstance not adequately taken into account by the Risk Assessment Instrument and provided a basis to upwardly depart from the presumptive risk level.

THURSDAY, NOVEMBER 19

Matter of Town of Irondequoit v Monroe (No. 90)

APL-2019-195

Statutes--Construction--Whether maintenance, repair, and demolition charges assessed against real property by a town pursuant to Town Law §§ 64 (5-a) and 130 (16) that are not paid must be credited by the county to the town under Real Property Tax Law § 936.

People v J.L. (No. 91)

APL-2019-42

Crimes--Possession of Weapon--Whether trial court erred in declining defendant's request to instruct the jury that voluntariness is an element of the charged criminal possession of a weapon; suppression of physical evidence--whether trial court erred in denying defendant's motion to suppress firearm and marihuana evidence found when police entered apartment where defendant's blood trail lead; alleged prosecutorial misconduct in summation to jury.

People v Lance Williams (No. 92)

APL-2019-221

Crimes--Possession of Weapon--Whether trial court properly denied defendant's request for a charge on the defense of temporary lawful possession; Crimes--Jurors--whether the hearing court properly denied defendant's CPL 330.30(2) motion to set aside the verdict on the ground of improper conduct toward a juror.