

## CASE ISSUE STATEMENTS – APRIL 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, APRIL 16*

### Roman Catholic Diocese v Vullo (No. 45)

APL-2022-89

Constitutional Law—Whether, in light of the U.S. Supreme Court holding in *Fulton v Philadelphia* (592 US \_\_, 141 S Ct 1868 [2021]), *Catholic Charities of Diocese of Albany v Serio* (7 NY3d 510 [2006]) remains controlling law in this action challenging regulations requiring health insurance policies in New York to include coverage for medically necessary abortion services.

### Matter of Timperio v Bronx-Lebanon Hospital (No. 46)

APL-2023-49

Workers' Compensation—Exclusiveness of Remedy—Whether injury arose out of and in the course of employment; claimant medical resident injured in mass shooting perpetrated by former employee of hospital.

### Matter of Rawlins v Teachers' Retirement System (No. 47)

APL-2023-77

Civil Service—Retirement and Pension Benefits—Whether harassing and stalking behavior of a former employee toward a school principal constitutes an accident for purposes of disability retirement benefits.

### Mulacek v ExxonMobil Corporation (No. 48)

APL-2023-97

Contracts—Whether a contractual no-action clause bars plaintiffs' action; whether plaintiffs' claim may be asserted outside of a contractual dispute resolution process; whether plaintiffs stated a claim.

### Eccles v Shamrock Capital (No. 49)

APL-2023-87

Conflict of Laws—What Law Governs— Whether the Appellate Division erred by holding that Scots law rather than New York law applied to plaintiffs' claims of breach of fiduciary duty; whether the Appellate Division erred by taking judicial notice of the content of Scots law and dismissing the complaint for failure to state a cause of action.

**WEDNESDAY, APRIL 17**

**People v Samuel Nektalov (No. 50)**

APL-2023-78

Crimes—Unlawful Search and Seizure—Whether the courts below properly held that there was probable cause to lawfully stop a vehicle based on excessively tinted windows under Vehicle and Traffic Law § 375 (12-a) (b); whether the arrest was lawful; whether the failure to conduct a test of the cocaine for 17 months after arraignment rendered the prior statements of readiness illusory, violating defendant’s constitutional and statutory speedy trial rights.

**People v Jason Brown (No. 51)**

APL-2023-159

Crimes—Unlawful Search and Seizure—Whether public safety concerns justified automobile stop in the absence of a traffic violation.

**People v Kevin Thomas (No. 52)**

APL-2023-20

Crimes—Unlawful Search and Seizure—Whether police lacked justification for prolonged traffic stop; whether parole officer acted as a conduit for police in conducting vehicle search; Crimes—Evidence—Whether People's failure to produce dashcam video constituted a *Brady* violation.

**People v Dominic Spirito (No. 53)**

APL-2023-90

Crimes—Unlawful Search and Seizure—Whether warrantless search of defendant's residence by parole officer, based on tip from defendant's mother that she believed he had a gun, was unreasonable and in violation of the Fourth Amendment.

**People v Eugene L. Lively (No. 54)**

APL-2023-169

Crimes—Unlawful Search and Seizure—Whether warrantless search of defendant’s person and residence by parole officer was unreasonable and in violation of the Fourth Amendment.

**THURSDAY, APRIL 18**

**People v Freddie T. Wright (No. 55)**

APL-2022-140

Crimes—Jurors—Selection of Jury—Whether Supreme Court properly denied defendant's *Batson* challenges.

**People v Dwane Estwick (No. 56)**

APL-2023-37

Crimes—Jurors—Selection of Jury—Whether Supreme Court properly denied defendant's *Batson* challenges; Crimes—Robbery—Whether the evidence was legally insufficient to establish defendant's guilt for robbery in the first degree.

**People v Mark Watkins (No. 57)**

APL-2023-99

Crimes—Right to Counsel—Effective Representation—Whether the Appellate Division properly held that defendant's ineffective assistance claim was unreviewable on direct appeal; whether defense counsel was ineffective for refraining from requesting a jury charge on cross-racial identification.

**People v Antwyne Lucas (No. 58)**

APL-2023-133

Crimes—Right to Counsel—Effective Representation—Whether defendant was denied the effective assistance of counsel when the suppression hearing testimony established that the complainant was unsure about defendant's role in the incident but counsel did not impeach the trial testimony of complainant or a detective that the complainant had previously identified defendant as the gunman and main perpetrator; whether defendant was denied the effective assistance of counsel when counsel consented to the omission of a jury instruction on cross-racial identification.