

# *State of New York Court of Appeals*

Summaries of cases before the Court of Appeals are prepared by the Public Information Office for background purposes only. The summaries are based on briefs filed with the Court. For further information contact Gary Spencer at (518) 455-7711 or [gspencer@nycourts.gov](mailto:gspencer@nycourts.gov).

To be argued Tuesday, October 18, 2022

## **No. 83 Delgado v State of New York**

Roxanne Delgado and three other New York residents brought this action to challenge the constitutionality of a provision of the 2018 budget bill that created the Committee on Legislative and Executive Compensation (the “Committee”) and directed it to determine whether the salaries and allowances of state legislators, statewide elected officials, and executive branch commissioners “warrant an increase.” The enabling statute gave the Committee a list of factors to consider, including “the parties’ performance and timely fulfillment of their statutory and Constitutional responsibilities; the overall economic climate;” and the compensation and benefits provided to such officials in other states and the federal government. The statute required the Committee to report its findings and recommendations by Dec. 10, 2018, and provided that the recommendations would “have the force of law” unless the Legislature modified or rejected them prior to Jan. 1, 2019. It also stated that the recommendations, once in effect, would supercede inconsistent salary provisions in the Executive Law and Legislative Law. The Committee met its deadline and recommended an array of pay increases, including a raise to \$110,000 for legislators in 2019. It also imposed restrictions on outside income for legislators beginning in 2020. The Legislature took no action, allowing the recommendations to take effect. The plaintiffs argued that the enabling statute amounted to an unconstitutional delegation of legislative power and that the Committee exceeded any authority that had been delegated to it.

Supreme Court rejected the plaintiffs’ unconstitutional delegation claim and upheld the pay increases for statewide elected officials and commissioners for 2019, 2020 and 2021. However, it ruled the Committee exceeded its authority in imposing restrictions on outside income for legislators and, because those restrictions were intertwined with the legislative pay raises for 2020 and 2021, the court voided them. It upheld the legislative pay hike for 2019.

The Appellate Division, Third Department affirmed, saying “the Legislature enacted a law making the basic policy choice that the salaries of [the officials] must be ‘adequate,’ and circumscribed the Committee’s power by providing a list of factors to help guide its analysis.... The Legislature then implemented a safeguard whereby it reserved the right to view a report of the Committee’s recommendations, after which it could either modify them or grant them the force of law. In other words, it was the Legislature – not the Committee – that had the final say in determining whether the Committee’s recommended changes would go into effect....”

The plaintiffs argue, “The Legislature granted an unelected body the power to make compensation ‘recommendations’ that superseded existing statutes” in violation of the State Constitution. “It further failed to fix legislative salaries by law, as the Constitution requires, or make any policy decision on compensation. Further, the Committee unconstitutionally exceeded any authority lawfully delegated to it by the Legislature by implementing its own policy determinations.”

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For respondent State: Senior Assistant Solicitor General Victor Paladino (518) 776-2012

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To be argued Tuesday, October 18, 2022

## **No. 84 Federal National Mortgage Association v Jeanty**

In 2007, Maxi Jeanty obtained a \$384,000 mortgage to purchase a residential property in Brooklyn and, in 2008, Chase Home Finance LLC commenced an action to foreclose on it. In 2009, Jeanty executed a Home Affordable Modification Trial Period (HAMP) plan, a newly created federal program designed to help struggling homeowners by allowing those who qualified to modify their mortgages and reduce their monthly payments. Under his HAMP trial plan, Jeanty agreed to make three monthly payments at a reduced rate of \$2,553. The plan provided that if Jeanty made the payments and complied with all other terms of the agreement, the lender would offer a permanent modification but, if he was not in compliance, the trial plan would terminate and any payments made would be applied to the amount owed on the mortgage. Jeanty made seven payments of \$2,553 under the HAMP plan, but Chase never offered a permanent modification. In 2014, Chase moved for a voluntary discontinuance of its 2008 foreclosure action and the mortgage was transferred to the Federal National Mortgage Association (Fannie Mae). In 2015, Fannie Mae commenced this action against Maxi and Sherley Jeanty, co-owners of the property, to foreclose on the mortgage.

The Jeantys argued the action was barred by the six-year statute of limitations, which was triggered when the 2008 foreclosure action accelerated the mortgage. Fannie Mae contended the HAMP agreement was an acknowledgment of the mortgage debt which restarted the limitations period under General Obligations Law (GOL) § 17-101, and that the payments Jeanty made under the plan were partial payments on the mortgage that renewed the statute of limitations.

Supreme Court dismissed the action as untimely, saying the HAMP agreement “is insufficient to serve as an acknowledgment of the debt” and reset the limitations period. “While the agreement presumes the continued existence of a debt, there was no unconditional promise to pay it... [T]he borrowers were making payments in the hope of being offered a chance to pay on terms other than those previously agreed to. Their ‘promise’ to pay, if any, was conditional and the condition was not fulfilled.”

The Appellate Division, Second Department affirmed, finding the foreclosure action was time-barred. Jeanty’s “execution of the HAMP plan, and the trial payments made pursuant thereto, did not constitute an ‘unconditional and unqualified acknowledgment of [the] debt sufficient to reset the statute of limitations’ ...,” it said, because “[a]ny intention to repay the debt was conditioned on the parties reaching a permanent modification agreement....”

Fannie Mae cites the conflicting decision by the Appellate Division, Third Department in Wells Fargo Bank v Grover (165 AD3d 1541), which said “a borrower who entered into a HAMP agreement necessarily admitted the existence of the underlying debt, acknowledged that more payments were due, and made an implied promise to pay them in consideration of the modification of the mortgage.” It also argues that, under GOL § 17-107, “the statute of limitations began running anew on March 8, 2010, when Borrowers made their final trial plan payment under the HAMP Agreement.”

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