

## CASE ISSUE STATEMENTS - OCTOBER 2018

**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, OCTOBER 10*

#### **Matter of DeVera v Elia**

APL 2017-00239

Proceeding Against Body or Officer--Certiorari—CPLR article 78 proceeding on behalf of charter schools and parents of children attending pre-kindergarten programs at the schools to, among other things, annul so much of the Commissioner of Education's determination as found the charter schools properly required to execute a Pre-K contract as a condition to receiving state funds as a collaborating partner with a public school district—whether a school district can impose regulations on a charter school to obtain state funding for pre-kindergarten programming as a partner in the school district's consolidated application to the New York State Department of Education—grants under Education Law § 73.

#### **Town of Aurora v Village of East Aurora**

APL 2017-00186

Bridges--Maintenance--Whether Town of Aurora or Village of East Aurora is responsible for the costs of repairing a bridge constructed and maintained by the Village; Village board of trustees never adopted resolution assuming care, control and maintenance of the bridge; application of Village Law §§ 6-604; 6-606.

#### **People v Saylor Suazo**

APL 2017-00131

Crimes--Right to Jury Trial--Whether defendant was entitled to a jury trial, despite that he was only being tried for class B misdemeanors carrying maximum sentences of 90 days, because he was subject to deportation if convicted of a crime of domestic violence; constitutionality of CPL § 340.40.

### *THURSDAY, OCTOBER 11*

#### **Clement v Durban**

APL 2017-00102

Constitutional Law--Privileges and Immunities Clause--Whether the requirements of CPLR 8501(a) and 8503 that nonresident plaintiffs maintaining lawsuits in New York courts post security for the costs for which they would be liable if their lawsuits were unsuccessful violate

the Privileges and Immunities Clause of the United States Constitution (US Const, art IV, § 2); claimed due process and equal protection violations.

**People v Rohan Manragh, Jr.**

APL 2017-00175

Crimes--Plea of Guilty--Forfeiture of Right to Raise Issues on Appeal--whether, by pleading guilty, defendant forfeited his claim that the prosecutor failed to inform the grand jury of defendant's request to call a witness to testify before that body; CPL 190.50(6).

**Capital One Taxi Medallion Finance v Corrigan**

APL 2017-00190

Suretyship and Guarantee--Action to recover on two guaranties--Line of credit secured by loans to Chicago taxi owners and drivers for the purchase of taxi medallions--whether defendants' claim for negligent impairment of collateral, which remains pending in parallel litigation, barred summary judgment in plaintiff's favor; lender's alleged refusal to release liens to permit sale of taxi medallions while they had higher value, and alleged withdrawal from medallion lending market to pursue competing venture with a ride-sharing service.

***TUESDAY, OCTOBER 16***

**Matter of Gonzalez v Annucci**

APL 2017-00076

Appeal--Academic and Moot Questions--Where petitioner level one sex offender was released from an approved residential treatment facility, whether mootness exception applied to petitioner's challenge to his placement in the facility and the conditions thereof; Prisons and Prisoners--whether Department of Corrections and Community Supervision had an affirmative statutory duty to provide substantial assistance to petitioner in finding housing that complied with the Sexual Assault Reform Act and, under the circumstances, whether the assistance provided was insufficient; application of Correction Law § 201(5); prisons and prisoners--whether the Department of Corrections and Community Supervision wrongfully denied petitioner good time credit based on his failure to locate housing that complied with the Sexual Assault Reform Act (SARA); whether the Department of Corrections and Community Supervision failed to comply with its obligations under the Correction Law by placing petitioner at a residential treatment facility following the maximum expiration date of his prison sentence and by failing to provide him statutorily required privileges and programming.

**People v Damian Jones**

APL 2017-00166

Crimes--Enterprise Corruption--Whether verdict convicting defendant of enterprise corruption is supported by legally sufficient evidence; proof of "ascertainable structure" under Penal Law 460.10, 460.20; indictment--whether prosecution constructively amended the indictment by introducing a new theory of criminal liability at trial; fair trial--whether prosecutorial misconduct deprived defendant of a fair trial.

**Matter of New York City Asbestos Litigation (Juni v A. O. Smith Water Products)**

APL 2017-114

Labor--Safe Place to Work--Exposure to Toxic Substances--asbestos dust--whether there was a sufficient "scientific expression" of plaintiff's exposure to asbestos to support the jury's verdict in plaintiff's favor; evidence--expert proof of causation in toxic tort case brought by auto mechanic afflicted with mesothelioma after more than 25 years of working in two garages which serviced vehicles manufactured by defendant Ford Motor Company.

***WEDNESDAY, OCTOBER 17***

**Ferrara v Peaches Café**

APL 2017-00179

Liens--Mechanics Lien--Whether defendant owner consented to improvements on real property it leased to a tenant who contracted for the improvements, thereby permitting imposition of a lien on the property under Lien Law § 3; whether lease indemnification clause extinguished owner's responsibility to pay for contractor's work.

**People v Rodney Watts**

APL 2017-00214

Crimes--Forgery--Whether the crime of criminal possession of a forged instrument in the second degree, as defined by Penal Law 170.10, encompasses the sale of counterfeit concert and sporting event tickets.

**Alliance to End Chickens as Kaporos v NYC Police Dept.**

APL 2017-00124

Proceeding Against Body or Officer--Mandamus--Whether plaintiffs have a right, via a writ of mandamus, to compel the municipal defendants to enforce certain laws related to preserving public health and preventing animal cruelty, which they allege are violated by Orthodox Jews who perform the religious practice of Kaporos--chickens killed in religious ritual; discretionary versus mandatory actions of municipal agents; animals.

7/11/18