

CASE ISSUE STATEMENTS – OCTOBER 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, OCTOBER 16

Haar v Nationwide Mutual Fire Ins. Co.

CQ 2019-01

Torts--Actionable Wrong--Whether New York Public Health Law Section 230(11)(b) creates a private right of action for bad faith and malicious reporting to the Office of Professional Medical Conduct.

Matter of Walsh v New York State Comptroller

APL-2018-00172

Civil Service--Retirement and Pension Benefits--in CPLR article 78 proceeding challenging the denial of performance of duty disability retirement benefits under Retirement and Social Security Law § 607-c, whether substantial evidence supports the Comptroller's determination that petitioner failed to demonstrate that her injuries were the "natural and proximate result of [] an act of any inmate" within the meaning of section 607-c—injury occurring when inmate impaired by alcohol or drugs fell on petitioner correction officer—involuntary versus deliberate act by inmate.

Town of Delaware v Leifer

APL-2018-00133

Municipal Corporations—Zoning—Variance—Action by town to enjoin defendant landowner from holding outdoor festival on his land without applying for a use variance—whether the outdoor festival with presentation of music falls within the zoning code definition of a "theater" prohibited in the town's Rural District; claimed violations of defendant's First Amendment rights.

THURSDAY, OCTOBER 17

Deutsche Bank v Barclays Bank; Deutsche Bank v HSBC Bank USA

APL-2018-00169

Limitation of Actions —What Statute Governs--Whether plaintiff trustee's breach of contract claims were barred by California's four-year statute of limitations, pursuant to the borrowing statute of CPLR 202; defendant banks alleged to have breached representations and warranties made in connection with the sale of residential mortgage-backed securities pooled in trust; whether claim accrued in California or New York.

Lubonty v U.S. Bank National Association

APL 2018-00166

Mortgages--Foreclosure--Whether six-year statute of limitations for defendant's foreclosure action was tolled pursuant to CPLR 204(a) because of plaintiff's two bankruptcy filings, which invoked the automatic stay under 11 USC § 362(a); limitation of actions; RPAPL 1501(4) action to cancel and discharge mortgage on real property.

People v Stan XuHui Li

APL-2018-00117

Crimes—Manslaughter—Whether legally sufficient evidence supports defendant's convictions for second degree manslaughter; defendant physician prescribed a combination of opioids and alpraxolam to the victims, who overdosed; whether a homicide charge may be based on the sale of a controlled substance; reckless endangerment—whether legally sufficient evidence exists that defendant's prescribing practices placed patients at imminent risk of death.

WEDNESDAY, OCTOBER 23

People v Victor Thomas

APL-2018-00094

Crimes--Appeal--Waiver of Right to Appeal—whether defendant's waiver of the right to appeal was valid; Crimes—Confession—Whether defendant's statement to police, made after a detective showed defendant an incriminating photograph, was the result of custodial interrogation.

People v Nicole Green

APL-2018-00182

Crimes—Appeal—Waiver of Right to Appeal—Whether defendant knowingly, voluntarily and intelligently waived right to appeal; waiver colloquy inaccurately stated rights defendant was waiving.

People v Storm U. Lang a/k/a Storm U.J. Lang, a/k/a Storm Lang

APL-2019-21

Crimes—Appeal—Whether defendant's waiver of the right to appeal was valid; Crimes—Sentence—Youthful Offender—whether defendant waived or forfeited his right to challenge sentencing court's denial of youthful offender status.

People ex rel Prieston v Nassau County Sheriff's Dept.

APL-2018-00171

Bail—Bail Bonds—Whether Supreme Court properly disapproved a bail package on the ground that the amount of collateral posted to secure the insurance company bail bond was insufficient.

THURSDAY, OCTOBER 24

Matter of Krug v City of Buffalo

APL-2018-00120

Proceeding Against Body or Officer--CPLR article 78 proceeding to annul respondent's denial of petitioner's request to be defended in a civil action alleging that petitioner police officer assaulted civilian; whether the denial of petitioner's request for a defense was arbitrary and capricious; whether conduct occurred while petitioner was acting within the scope of his public employment or duties.

Rivera v SNY

APL-2018-00162

Employment Relations —Respondeat Superior—Vicarious Liability—Whether the Court of Claims properly concluded that the State was not vicariously liable for the actions of a corrections officer; whether corrections officer, who assaulted inmate, was acting outside the scope of officer's employment; Pleading—Answer—whether the Court of Claims abused its discretion in allowing State to amend its answer to include affirmative defense.

People v Clarence Rouse

APL-2018-00150

Crimes—Witnesses—Whether trial court's restriction of cross-examination of a police witness concerning prior bad acts deprived defendant of his right to confrontation; whether the trial judge's denigration of defense counsel in front of the jury deprived defendant of a fair trial; whether trial court properly excluded evidence including 911 recordings; whether the verdict was based on legally sufficient evidence.