

## **CASE ISSUE STATEMENTS – SEPTEMBER 2022**

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, SEPTEMBER 7***

#### **Matter of City of Long Beach v PERB (No. 70)**

APL-2021-78

Civil Service—Collective Bargaining—Whether procedures implemented by a public employer for terminating a public employee under Civil Service Law § 71 are subject to mandatory negotiation under the Public Employees' Fair Employment Act ( Taylor Law).

#### **34-06 73 LLC v Seneca Insurance (No. 81)**

APL 2021-183

Limitation of Actions—Claim in Amended Pleading--Whether the courts below erred by permitting plaintiffs to conform the pleadings to the proof to assert a claim for reformation, based on mutual mistake, that would have been untimely but for application of the relation back doctrine codified at CPLR 203(f).

#### **People v Hasahn D. Murray (No. 72)**

APL-2021-18

Crimes—Jurors—Whether an alternate juror who had been discharged and gone home was " available for service" under CPL 270.35(1) to replace a seated juror who had been discharged.

### ***THURSDAY, SEPTEMBER 8 (ARGUMENTS IN JOHNSTOWN)***

#### **Independent Ins. Agents v Dept. of Financial Svcs. (No. 73)**

APL 2021-108

Constitutional Law—Validity of Regulation--Whether amendment to Insurance Regulation No. 187, which insurances producers to consider the best interests of consumer when making recommendations involving life insurance and annuity products, is unconstitutionally vague.

### ***TUESDAY, SEPTEMBER 13***

#### **Sage Systems v Liss (No. 75)**

APL 2021-168

Partnership—Partnership Agreement—Whether the indemnification clause in the parties' partnership agreement allows for the recovery of attorneys' fees in direct actions between the partners; whether the finding of the court in the dissolution action that the decedent had unclear hands in bringing that action is the equivalent of a determination that decedent acted in bad faith.

**Matter of D. L. v S. B. (No. 76)**

APL 2021-98

Parent, Child and Family--Abused or Neglected Child--Whether Interstate Compact on the Placement of Children applies to out-of-state, noncustodial parent; out-of-state authority would not consent to placing child with the father.

**People v Baines (Donnell) (No. 77)**

APL 2021-125

Crimes--Search Warrant--Whether search warrant was facially insufficient; warrant failed to specify crime for which evidence was sought or describe with particularity the property to be seized; whether suppression court improperly considered supporting materials not incorporated by reference and attached to warrant; Crimes--Right to Counsel--Whether defendant was denied the right to counsel when the trial court permitted defendant to proceed pro se at pretrial proceedings; Crimes--Sufficiency of the Evidence--Whether the evidence was legally sufficient to support defendant's conviction.

***WEDNESDAY, SEPTEMBER 14***

**Matter of Green v Dutchess County BOCES (No. 78)**

APL 2021-152

Workers' Compensation—Disability Benefits—Whether a claimant's non-schedule award under Workers' Compensation Law (WCL) § 15 (3) (w), “payable during the continuance of such disability [and] subject to reconsideration of the degree of such impairment,” abates upon their death arising from causes other than the injury itself such that WCL § 15 (4) does not apply to entitle the claimant's spouse or qualifying dependents to recover the posthumous unpaid benefits associated with the remaining potential weeks of the award.

**People v Rakeem Douglas (No. 79)**

APL 2021-141

Crimes—Unlawful Search and Seizure—Whether police conducted a valid inventory search of the vehicle defendant was driving.

**People v Cuencas (Tramel) (No. 80)**

APL-2021-96

Crimes—Unlawful Search and Seizure—Whether warrantless of arrest of defendant at home, absent exigent circumstances, violated defendant's right to counsel under the New York State Constitution; Supreme Court found that no *Payton* violation occurred (*see Payton v New York*, 445 US 573 [1980]), where resident of second floor apartment of two-family residence tacitly consented to police entry into residence and defendant was arrested without warrant in first-floor apartment.