

CASE ISSUE STATEMENTS - FEBRUARY 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.

TUESDAY, FEBRUARY 12

Andryeveva v New York Health Care – No. 11

APL-2018-00038

Actions--Class Actions--Whether plaintiffs' renewed motion for class certification was properly granted; employment relationships—wages—whether the Appellate Division erred in finding that the premise upon which the employer based its payment practices with respect to nonresidential home health care attendants -- that is, the Department of Labor's interpretation of the Wage Order (12 NYCRR 142.2.1) -- is neither rational nor reasonable.

Moreno v Future Care Health Services, Inc. – No. 12

APL-2018-00039

Labor—Hours and Wages—Whether defendant employer violated labor law article 19 by paying plaintiff home health care attendants a flat rate for 24-hour shifts, resulting in a wage below minimum wage; application of 12 NYCRR 142-2.1(b); Actions—Class Actions—whether Supreme Court properly denied plaintiffs' motion for class certification.

People v Omar Alvarez – No. 13

APL-2018-00024

Crimes--Right to Counsel--Effective Representation--Whether appellate counsel's deficient performance, including failing to request that the Appellate Division reduce defendant's sentence in the interest of justice, deprived defendant of the effective assistance of counsel.

Matter of Madison County Indus. Dev. Agency v State of N.Y. Auths. Budget Off. – No. 14

APL-2018-00026

Counties—Industrial Development Agency—Whether petitioner industrial development agency had authority to form a local development corporation (see N-PCL 1411; Public Authorities Law § 2) as a subsidiary under General Municipal Law § 858; interpretation of “necessary or convenient” clause of General Municipal Law § 858 (17).

WEDNESDAY, FEBRUARY 13

Matter of Eastbrooke Condominium v Ainsworth – No. 15

APL-2017-00218

Taxation--Assessment--Whether condominium unit owner's authorization to condominium's board of managers to act as an agent in proceeding challenging tax assessment for a particular tax year authorizes the board to act as unit owner's agent for a different year; application of Real Property Tax Law § 339-y (4); whether respondents waived any deficiency in unit owners' authorizations.

Matter of Larchmont Pancake House v Board of Assessors – No. 16

APL-2018-00084

Taxation—Assessment—proceeding pursuant to Real Property Tax Law article 7 brought by petitioner, nonowner of subject property, to review real property tax assessments; whether petitioner is an aggrieved party within the meaning of the Real Property Tax Law; whether petitioner failed to satisfy condition precedent set forth in RPTL 524(3) because grievance was not filed by property owner, thereby depriving court of subject matter jurisdiction to review assessments.

Matter of Save America's Clocks v City of New York – No. 17

APL-2017-00248

Municipal Corporations--Landmarks--Whether determination of New York City Landmarks Preservation Committee (LPC) approving a Certificate of Appropriateness allowing owner of property to convert landmark-designated clock tower into a private residence, and to convert the clock from a mechanical to an electrical system of operation, was arbitrary and capricious, lacked a rational basis in the record, or was affected by an error of law; whether New York City's Landmarks Preservation and Historic Districts Law (Administrative Code of City of NY § 25-301 et seq.) permits the LPC to require the property owner to allow continuing public access to interior landmark; whether requiring continued public access to interior landmark constitutes a taking under the 5th Amendment to the U.S. Constitution.

THURSDAY, FEBRUARY 14

Ajdlar v Province of Mendoza – No. 18

CTQ-2018-00001

Limitation of Actions—Six-Year Statute of Limitations—Whether four-year prescriptive period set forth in indenture for bonds, rather than six-year statute of limitations generally applicable to contract claims, applied to bond purchaser's action against bond issuer; where bond issuer remains obligated to make interest payments until the principal is paid, including after date of bond's maturity, whether enforceable claims for interest continue to accrue after a claim for principal of the bonds is time-barred.

People v Carlos Tapia – No. 19

APL-2017-00208

Crimes--Verdict--Sufficiency of the Evidence--whether the evidence was legally sufficient to support verdict of attempted assault in the first degree; charge based on use of dangerous instrument under an acting-in-concert theory, but no dangerous instrument recovered from crime scene and no evidence that defendant knew other perpetrator possessed a dangerous instrument; identification of defendant--showup--whether Supreme Court properly denied defendant's motion to suppress a showup identification; evidence--whether admission of police officer's grand jury testimony as a past recollection recorded violated the Confrontation Clause or the rule against hearsay.

People v Timothy Martin – No. 20

APL-2017-00204

Crimes--Suppression Hearing--Whether the trial court erred in admitting evidence of defendant's response to a police officer that he lived in the apartment being searched, to prove defendant's constructive possession of the drugs found--whether defendants' response fell within the pedigree exception to the Miranda rule.

12/13/18