

CASE ISSUE STATEMENTS

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 home page on the Court's website.

TUESDAY, APRIL 26, 2016

People v Terrance L. Mack (Case No. 74)

APL-2014-00175

Crimes--Jurors--Whether County Court committed reversible error by accepting the jury verdict without first responding to three notes from the jury--People v O'Rama.

People v Martesha Davidson (Case No. 86)

APL-2015-00160

Crimes--District and prosecuting attorneys--special prosecutor--whether the special prosecutor of the New York State Justice Center for the Protection of People with Special Needs (created by Executive Law § 552) is authorized to prosecute cases of abuse or neglect of vulnerable persons by their caregivers in New York's local criminal courts.

People v Anthony Parson, Jr. (Case No. 100)

APL-2015-00023

Crimes--Right to counsel--Effective representation--failure to advance more vigorous challenge to police officer's testimony at suppression hearing regarding reason for stopping defendant's vehicle--stop for alleged violations of Vehicle and Traffic Law § 375 (22) and (30); unlawful search and seizure--challenge to lawful basis for stop of defendant's vehicle and search of his person and his car--whether statements made by defendant should have been suppressed.

People v Leroy Carver (Case No. 76)

APL-2015-00068

Crimes--Right to counsel--Effective representation--Legitimate reason for failure to make suppression motion--futility of suppression motion--whether defendant was deprived of the effective assistance of counsel when trial counsel did not move to suppress the physical evidence; unlawful search and seizure--failure to follow police officer's instructions following stop of vehicle--attempting to exit vehicle following driver's flight.

WEDNESDAY, APRIL 27, 2016

Matter of Westchester Joint Water Works v Assessor of City of Rye (Case No. 77)

APL-2015-00159

Taxation--Assessment--Real Property Tax Law article 7 proceedings to review assessments on two parcels of real property, one located wholly within the Rye Neck District and one wholly located in the Rye Neck District--notice of the proceedings initially given only to the Superintendent of the City School District--whether the courts below erred in determining that the dismissal of the proceedings pursuant to RPTL 708 (2) precluded CPLR 205(a) relief to recommence the proceedings.

People v Scott Barden (Case No. 98)

APL-2014-00250

Crimes--Possession of stolen property--Intangibles--credit card numbers--whether a person may be convicted of criminal possession of stolen property in the fourth degree for using credit card number to make unauthorized charges where the rightful owner retains physical possession of the credit card (Penal Law § 165.45 [2])--constructive possession of credit card number; alleged violation of defendant's statutory speedy trial rights.

People v Baasil Reynolds (Case No. 78)

APL-2015-00097

Crimes--Plea of guilty--Conditional plea agreement in which defendant agreed to submit to a further xis month incarceration prior to sentencing, among other things; Outley hearing to determine validity of defendant's arrest--Whether hearing court erroneously applied a probable cause standard instead of determining whether defendant's arrest was the result of a false or malicious report by a complainant.

Red Zone LLC v Cadwalader, Wickersham & Taft LLP (Case No. 5)

APL-2014-00288

Attorney and client--Malpractice--Alleged negligent drafting of agreement--whether plaintiff was entitled to summary judgment; limitation of actions--tolling--whether the Appellate Division erred in concluding that the statute of limitations was tolled by the continuous representation doctrine; whether the courts below erred in dismissing defendant's affirmative defense of comparative negligence.

THURSDAY, APRIL 28, 2016

Dryden Mutual Ins. Co. v Goessl (Case No. 79)

APL-2014-00231

Insurance--Duty to defend and indemnify--Business general liability policy--whether the Appellate Division correctly determined that, for liability insurance purposes, defendant plumber was an independent contractor, not an employee, for defendant plumbing company when the alleged negligent acts occurred.

Ambac Assurance Corp. v Countrywide Home Loans, Inc. (Case No. 80)

APL-2015-00061

Disclosure--Material exempt from disclosure--Communications subject to attorney-client privilege--waiver of privilege as to communications made between attorney and client in known presence of third party--Common-interest exception--whether the Appellate Division correctly held that the common-interest exception applies even where the parties' common legal interest does not involve pending or reasonably anticipated litigation--application to communications relating to pending merger.

People v Glenford C. Hull (Case No. 81)

APL-2015-00081

Crimes--Lesser included offense--First-degree manslaughter as lesser included offense of second-degree murder--whether the evidence could reasonably support a finding that defendant intended to seriously injure rather than kill the victim; whether the verdict was supported by legally sufficient evidence; whether the trial court conducted an insufficient inquiry into alleged juror misconduct; whether the trial court improperly permitted the People to use a witness's prior testimony for impeachment purposes; whether the trial court erred in refusing to give a circumstantial evidence charge.

Matter of Columbia County Support Collection Unit v Risley (Case No. 82)

APL-2015-00045

Parent, Child and Family--Support--Willful violation of orders of support--revocation of suspended sentences of incarceration and imposition of consecutive terms of incarceration--whether Family Court Act § 454(3)(a) permits consecutive commitments for violations of prior child support orders.

TUESDAY, MAY 3, 2016

Matter of NYC Asbestos Litigation (Dummit v A.W. Chesterton Company) (Case No. 83)

APL-2014-00209

Negligence--Proximate cause--Whether defendant was entitled to judgment as a matter of law due to plaintiff's failure to produce evidence that defendant manufactured or placed into the stream of commerce any of the asbestos-containing materials to which the decedent was exposed--liability for failure to warn of asbestos danger for products defendant did not manufacture, sell or distribute; joint and several liability and allocation of fault; jury instructions.

Matter of Eight Judicial District Asbestos Litigation (Suttner v A.W. Chesterton Company) (Case No. 84)

APL-2014-00261

Products liability--Failure to warn of danger--Whether the courts below erred in holding that valve manufacturer had a duty to warn of the dangers inherent in the use of asbestos-containing gaskets and other materials that were components of the valves sold by valve manufacturer where Suttner routinely replaced those gaskets and materials and the valve manufacturer did not manufacture or sell the gaskets and materials.

Matter of NYC Asbestos Litigation (Konstantin v 630 Third Ave. Assocs.) (Case No. 85)

APL-2014-00317

Actions--Consolidation and severance--Asbestos litigation--whether the trial court properly consolidated this case with Dummitt--similarities of consolidated cases--theories of liability--disjointed nature of trial; labor--safe place to work--exposure to toxic substances--asbestos dust--apportionment of liability between general contractor and manufacturer--whether jury could allocate more fault to general contractor; recklessness--whether it was rational for the jury to conclude that general contractor acted recklessly; damages--challenge to damages award as unprecedented.

People v Maurice R. Greenberg et al. (Case No. 90)

APL-2015-00172

Fraud--Martin Act--Disgorgement--Availability of disgorgement and permanent injunctive relief as remedies--whether defendants were entitled to summary judgment dismissing Attorney General's complaint.

People v Perry C. Griggs (Case No. 87)

APL-2015-00034

Crimes--Robbery--Forcible stealing--Whether legally sufficient evidence existed to establish that defendant forcibly stole property from the victim while using a gun; Whether defendant's sentence was properly the subject of a sentencing enhancement pursuant to Penal Law § 60.07; Grand Jury--Defective proceeding--Shackled defendant--Prosecutorial misconduct--Whether defendant's appearance before the Grand Jury in shackles, the prosecutor's cross-examination of defendant, or the prosecutor's failure to inform the Grand Jury of a defense request to have another witness testify rendered the proceeding defective and warranted dismissal of the indictment.

WEDNESDAY, MAY 4, 2016

People v Gary Wright (Case No. 88)

APL-2015-00289

Crimes--Right to Counsel--Effective representation--actual or potential conflict of interest--Whether the Appellate Division erred in holding that (1) defendant failed to show that an actual conflict of interest existed between his defense counsel and the Albany County District Attorney, whose office was prosecuting defendant, (2) even assuming the existence of a potential conflict of interest, defendant failed to show that any such conflict operated on his defense, and (3) County Court was not required to disqualify the District Attorney's office in any further proceedings that may occur in this case; effect of District Attorney's failure to file an affidavit in response to defendant's CPL 440 motion.

People v Lennie Frankline (Case No. 89)

APL-2015-00149

Crimes--Proof of other crimes--Evidence of prior assault on victim admitted as background evidence to complete narrative and probative of motive--whether victim's detailed narrative account of prior assault was so prejudicial and inflammatory that it deprived defendant of a fair trial.

Aetna Health Plans v Hanover Insurance Company (Case No. 97)

APL-2015-00009

Insurance--No-fault automobile insurance--Whether a health care insurer that paid for medical treatment of an individual hurt in a car accident while driving a car covered by no-fault automobile insurance may maintain a reimbursement claim against the no-fault insurance carrier under principles of subrogation--11 NYCRR 65-3.11(a); Necessity for privity of contract; Whether the complaint should have been dismissed for lack of standing--Estoppel--Untimely disclaimer.

CRP/Extell v Cuomo (Case No. 75)

APL-2015-00120

Interest--Actions in which recoverable--Dismissal of underlying proceeding to reform alleged scrivener's error in condominium offering--whether the Appellate Division correctly held that Supreme Court exceeded its jurisdiction by deciding a motion for the award of prejudgment interest because the underlying reformation action/proceeding had been resolved, respondents in that action/proceeding sought release of funds in escrow plus interest while funds were held in escrow, and respondents did not seek an award of statutory interest in that prior action/proceeding.

THURSDAY, MAY 5, 2016

S.L. v J.R (Case No. 93)

APL-2015-00272

Parent, Child and Family--Custody--Whether the Appellate Division erred in holding that a custody determination can be made without an evidentiary hearing on the basis that the record contains adequate relevant information; claimed due process violation.

People v Anthony Berry (Case No. 94)

APL-2015-00098

Crimes--Unlawfully dealing with a child--Activity involving controlled substance--whether the crime of unlawfully dealing with a child under Penal Law § 260.20(1) requires a defendant to have a legal duty to the child.

Wally G. v NYC Health & Hospitals Corp. (Case No. 95)

APL-2014-00268

Municipal Corporations--Notice of claim--Late notice--whether the Appellate Division erred in concluding that medical records did not put hospital on notice of alleged medical malpractice because infant's condition was consistent with premature birth rather than malpractice.

Littleton Construction Ltd. v Huber Construction, Inc. (Case No. 96)

APL-2015-00063

Contracts--Breach of contract--Joint venture for public school renovation projects--claim that operating agreement between the parties was fraudulent--whether material issues of fact were raised regarding forgery of the document; summary judgment.