

CASE ISSUE STATEMENTS – FEBRUARY 2024

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 13

Matter of Jaime v City of New York

APL 2022-166

Municipal Corporations—Notice of Claim—When determining whether to grant a petition for leave to serve a late notice of claim under General Municipal Law § 50-e(5), whether “actual knowledge of the essential facts constituting the claim” may be properly imputed to a municipality because its employees are alleged to have committed an intentional tort or witnessed an unintentional tort.

Matter of Orozco v City of New York

APL 2022-167

Municipal Corporations—Notice of Claim—When determining whether to grant a petition for leave to serve a late notice of claim under General Municipal Law § 50-e(5), whether “actual knowledge of the essential facts constituting the claim” may be properly imputed to a municipality because its employees are alleged to have committed an intentional tort.

Favourite Limited v Cico

APL-2022-102

Pleading—Amendment—Whether a trial court has the discretion to grant a plaintiff leave to amend a complaint after the Appellate Division has ordered the complaint dismissed with direction to enter judgment accordingly; at time plaintiffs sought leave to amend the time to commence a new action expired including the CPLR 205(a) grace period.

Urias v Buttafuoco & Assocs.

APL 2023-23

Attorney and Client—Malpractice—Whether plaintiffs’ cause of action seeking damages for violation of Judiciary Law § 487 was properly dismissed; whether the exclusive remedy for violations of section 487 lies in the underlying lawsuit by moving to vacate under CPLR 5015, rather than a second plenary action; whether the courts below properly granted summary judgment; whether the courts below properly denied leave to amend; whether the cause of action alleging breach of fiduciary duty was properly dismissed as duplicative of the legal malpractice cause of action.

People v Steven Sidbury

APL 2022-148

Crimes—Arson—Whether the verdict was based on legally sufficient evidence; defendant set fire to a cuffing port in the door of his jail cell. Whether defendant's notice of intent to introduce expert psychiatric testimony under CPL 250.10 was insufficient; whether counsel was ineffective for failing to request a lesser-included charge.

WEDNESDAY, FEBRUARY 14

Syed v Bloomberg

CQ 2023-01

“Whether a nonresident plaintiff not yet employed in New York City or State satisfies the impact requirement of the New York City Human Rights Law or the New York State Human Rights Law if the plaintiff pleads and later proves that an employer deprived the plaintiff of a New York City- or State-based job opportunity on discriminatory grounds.”

People v Jonaiki Martinez Estrella

APL 2023-113

Crimes—Murder—Whether the evidence was legally sufficient to support defendant’s conviction of murder in the first degree under Penal Law 125.27(1)(a)(x) based on the infliction of torture upon the victim.

People v Jason Bohn

APL-2022-145

Crimes—Evidence—Whether the evidence was legally sufficient to support defendant’s conviction of murder in the first degree under Penal Law 125.27(1)(a)(x) based on the infliction of torture upon the victim; Crimes—Jurors—Whether Supreme Court properly denied for-cause challenges to jurors; Crimes—Witnesses—Whether Supreme Court erred in qualifying witness to testify as an expert on the issue of extreme emotional disturbance.

People v Farod Mosley

APL-2022-120

Crimes—Evidence—Whether County Court erred in allowing police detective to identify defendant in surveillance video; Crimes—Instructions—Whether the trial court erred in declining defendant’s request for an adverse inference instruction based on People’s failure to preserve a surveillance video; Crimes—Evidence—Whether defendant’s conviction is supported by legally sufficient evidence; Crimes—Sentence—Youthful Offender—Whether sentencing court abused its discretion in refusing to grant defendant youthful offender status.

People v Harvey Weinstein

APL-2022-112

Issue: Crimes—Rape—Statute of Limitations—Whether statute of limitations was tolled where defendant, resident of New York, was outside the state for a period following the commission of the offense (*see* CPL 30.10 (4) (a) (i); Crimes—Jurors—Whether trial court properly denied defendant's for-cause challenges to a juror, made both before and after the jury was sworn; Crimes—Proof of Other Crimes—Whether trial court properly allowed prosecution to present

Molineux evidence consisting of defendant's uncharged crimes of sexual assault; Crimes—Defendant as Witness—Impeachment—*Sandoval* Material—Whether trial court abused its discretion in partially granting prosecution's *Sandoval* motion, which would have permitted the People to ask defendant about 28 acts spanning nearly 30 years, including uncharged sex offenses and other uncharged bad acts.

THURSDAY, FEBRUARY 15

Matter of Colon v Teachers' Retirement System

APL 2022-170

Civil Service—Retirement and Pension Benefits—Whether the May 2020 amendments to the Retirement and Social Security Law enacted in response to the COVID-19 pandemic (see Retirement and Social Security Law former § 607-I, as added by L 2020, ch 89, § 4), is unconstitutional under the New York State Constitution; whether petitioner was entitled to ordinary death benefits under the statute; whether respondent retirement system properly suspended petitioner's application for ordinary death benefits prior to receiving an application for accidental death benefits.

Matter of Agramonte v Local 461

APL 2023-26

Labor Unions—Whether the petition, alleging violations of the unincorporated union's constitution, was properly dismissed under General Associations Law § 13 and *Martin v Curran* (303 NY 276 [1951]) for failure to allege that each union member ratified or authorized the alleged violations of the union constitution concerning the election of union officers.

Taxi Tours v Go New York Tours

APL 2023-25

Monopolies—Donnelly Act—Whether the courts below correctly held that Go New York failed to state causes of action for violation of the Donnelly Act and tortious interference with prospective business relations; whether the courts below improperly applied the state pleading standard rather than the federal standard; whether the Donnelly Act prohibits a greater range of anti-competitive conduct than the Sherman Act.

People v Patrick Labate

APL 2022-143

Crimes—Right to Speedy Trial—Whether defendant's motion to dismiss, on statutory speedy trial grounds, the count of reckless driving should have been granted; whether the People's statement of readiness was illusive when, following later adjournments, the People were not ready for trial without explanation.