

## **JUNE 2019 CASE DESCRIPTIONS**

### ***TUESDAY, JUNE 4***

#### **Kuzmich v 50 Murray Street Acquisition LLC (No. 50)**

APL-2018-00078

Landlord and Tenant—Rent Regulation—Whether plaintiffs' apartments in a building receiving Real Property Tax Law § 421-g tax benefits are subject to rent stabilization—effect of luxury vacancy control provisions of Rent Stabilization Law of 1969 [Administrative Code of City of NY] § 26-504.2(a).

#### **West v B. C. R. E. - 90 West Street, LLC (No. 51)**

APL-2018-00181

Landlord and Tenant—Rent Regulation—Whether plaintiffs' apartments in buildings receiving Real Property Tax Law § 421-g tax benefits are subject to the luxury vacancy decontrol provisions of the Rent Stabilization Law of 1969 (Administrative Code of the City of NY) § 26-504.2; building also received low-interest mortgage financing from New York City Housing Development Corporation; interpretation of Private Housing Finance Law § 654-d(18).

#### **Tomhannock v Roustabout Resources (No. 52)**

APL-2018-00125

Specific Performance--When Remedy Appropriate--Whether plaintiff, which entered into an option agreement whereby buyers of a parcel of real property agreed to reconvey a portion of the parcel to plaintiff upon plaintiff's request, was entitled to specific performance of the option agreement despite that plaintiff was unable to record the necessary deed due to a failure to obtain subdivision approval.

### ***WEDNESDAY, JUNE 5***

#### **Pangea Capital Management v Lakian (No. 53)**

CQ-2018-02

Husband and Wife—Divorce—Marital Residence—where an entered divorce judgment grants a spouse an interest in real property pursuant to D.R.L. Section 236, and the spouse does not docket the divorce judgment in the county where the property is located, whether the spouse's interest subject to attachment by a subsequent judgment creditor that has docketed its judgment and seeks to execute against the property; Trusts—where a settlor creates a trust solely for the purpose of holding title to property for the benefit of himself and another beneficiary, and the settlor retains the unfettered right to revoke the trust, does the settlor remain the absolute owner of the trust property relative to his creditors, or is the trust property conveyed to the beneficiaries.

#### **People v Arthur W. Ellis, Jr. (No. 54)**

APL-2018-00152

Crimes— Sex Offenders —Sex Offender Registration Act—Whether Corrections Law § 168 requires a registered sex offender to register his Facebook account with the Division of Criminal Justice Services as an internet identifier.

**People v Derrick Ulett (No. 55)**

APL-2018-00073

Crimes—Disclosure—Failure to Disclose Exculpatory Material--alleged violation of Brady v Maryland (373 US 83)--People's failure to disclose a surveillance video of the lobby of the building outside of which the crime occurred--materiality of evidence--whether defendant demonstrated a reasonable probability that the trial result would have been different had the video been disclosed prior to trial--possibility that video would have led to additional exculpatory or impeaching evidence.

*THURSDAY, JUNE 6*

**Matter of Wegmans v Tax Appeals Tribunal (No. 56)**

APL-2018-104

Taxation—Sales and Use Taxes—Whether an ambiguous tax exclusion should be construed in favor of the taxpayer or the government—whether the Appellate Division correctly concluded that the information services provided to appellant by a nonparty were excluded from sales tax liability under Tax Law § 1105(c)(1)—whether the Appellate Division properly made factual determinations not addressed by the Tax Appeals Tribunal.

**People v Emmanuel Almonte (No. 57)**

APL-2018-00145

Crimes—Evidence—Excited Utterances—Whether trial court properly admitted a recording of a 911 call between the victim and dispatcher under the excited utterance exception to the hearsay rule; Crimes—Lesser Included Offense—whether court properly denied defendant's request to submit third-degree assault as a lesser included offense of second-degree assault.

**People v James McIntosh (No. 58)**

2018-153

Crimes—Lesser Included Offense—Whether County Court's error in failing to charge jury on lesser included offenses was harmless; defendant requested to charge manslaughter in the second degree and criminally negligent homicide as lesser included offenses of murder in the second degree and manslaughter in the first degree; application of People v Boettcher (69 NY2d 174 [1987]).