

CASE ISSUE STATEMENTS – MARCH 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, MARCH 19

Matter of National Energy Marketers Assn. v New York State Public Serv. Commn. (No. 21)

APL-2018-00046

Public Utilities —Rate Making—whether respondent New York State Public Service Commission has the authority to impose rate-making limitations on petitioner energy service companies; challenge to “Order Resetting Retail Energy Markets and Establishing Further Process,” which imposed various requirements on new and renewal contracts between energy service companies and mass market customers; whether energy service companies have a property interest in continued access to utility systems, and thus are entitled to procedural due process.

Matter of Retail Energy Supply Assn. v Public Serv. Commn. of the State of N.Y. (No. 22)

APL-2018-00047

Public Utilities —Rate Making —whether respondent New York State Public Service Commission has the authority to impose rate-making limitations on petitioner energy service companies; challenge to “Order Resetting Retail Energy Markets and Establishing Further Process,” which imposed various requirements on new and renewal contracts between energy service companies and mass market customers; whether energy service companies have a property interest in continued access to utility systems, and thus are entitled to procedural due process.

People v Boris Brown (No. 23)

APL-2018-00095

Attorney and Client--Conflicts of Interest--Defendant's attorney paid by another suspect in the crime who was represented by the attorney on an unrelated criminal matter--whether defendant validly waived his counsel's conflict of interest--whether such conflict was waivable in any event; whether trial court erred in denying defendant's CPL 440.10 motion without setting forth findings of fact and conclusions of law (CPL 440.30[7]); propriety of consecutive sentences for murder and gun possession charges.

Niagara Mohawk Power Corp. v Allied Healthcare Products (No. 24)

APL-2017-00212

Covenants--Covenants Running with the Land--Whether affirmative covenant to provide free power to manufacturing facilities on property now owned by defendant Allied Healthcare

Products is unenforceable as a burden in perpetuity; whether plaintiff and defendant Albany Engineering are equitably estopped from challenging covenant; whether defendant Allied Healthcare Products abandoned the power covenant.

WEDNESDAY, MARCH 20

Williams v Beemiller, Inc. (No. 25)

APL-2018-00037

Courts--Jurisdiction--Long-Arm Jurisdiction--Whether exercise of personal jurisdiction over defendant under New York's long-arm statute (see CPLR 302[a][3]) comports with federal due process; defendant, out-of-state dealer of firearms, sold a gun in Ohio that was transported to New York and used in a shooting that injured plaintiff; whether jurisdiction over defendant can be obtained under an agency or alter ego theory.

159 MP Corp. v Redbridge Bedford, LLC (No. 26)

APL-2018-00087

Landlord and Tenant--Lease--Action for a judgment declaring that two commercial leases are in full force and effect and that plaintiffs are not in violation of their obligations under the leases--Yellowstone injunction to prevent landlord from terminating leases or commencing summary proceeding for eviction (First National Stores v Yellowstone Shopping Ctr., 21 NY2d 630 [1968])--whether written leases negotiated at arm's length by commercial tenants may include a waiver of the right to declarative relief that is enforceable at law, or whether such a waiver is void and unenforceable as a matter of public policy.

People v Nicholas Hill (No. 27)

APL-2017-00182

Crimes--Suppression Hearing--Police retained defendant's proffered identification while investigating defendant's explanation about who he was visiting in a particular apartment building--whether the trial court properly denied defendant's motion to suppress physical evidence on the basis that the police officer's retention of defendant's identification constituted a significant interruption of his freedom of movement so as to constitute an unreasonable seizure.

TUESDAY, MARCH 26

Fasolas v Bobcat of New York, Inc., et al. (No. 29)

APL-2018-00076

Products Liability--Strict Liability--Whether an exception to strict products liability as set forth in Scarangella v Thomas Built Buses (93 NY2d 655 [1999]) is applicable where the allegedly defectively designed product was sold without optional safety equipment to a rental company that planned to rent the product to the general public; wrongful death.

People v Agape Towns (No. 30)

APL-2018-00033

Crimes—Conduct of Trial Judge—Whether the trial court's conduct in personally negotiating and entering into a cooperation agreement with a prosecution witness deprived defendant of a fair trial; whether witness testimony should have been precluded as fruit of the poisonous tree because the police learned of the identity of the witness from defendant after violating his right to counsel.

People v Fidel Vega (No. 33)

APL-2018-00090

Crimes—Justification—Whether trial court's justification charge properly instructed the jury to apply the deadly force standard if it found that defendant used a dangerous instrument; Evidence—whether trial court properly precluded defense counsel from questioning the victim and defendant about the victim's mental health; Verdict—Sufficiency of the Evidence—whether verdict convicting defendant of first-degree burglary was supported by legally sufficient evidence.

WEDNESDAY, MARCH 27

People v Hassan Rkein (No. 31)

APL-2018-00032

Crimes--Justification--Whether trial court properly denied defendant's request for a justification charge regarding second-degree assault count; defendant struck unarmed initial aggressor in head with pint glass.

People v Darryl Brown (No. 32)

APL-2018-00070

Crimes—Justification—Whether trial court erred in denying defendant's request to instruct the jury on the defense of justification.