

CASE ISSUE STATEMENTS – APRIL-MAY 2021

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, APRIL 27

Home Equity Mortgage v DLJ Mortgage (No. 31)

APL-2019-247

Contracts—Breach or Performance of Contract--Whether the doctrine of relation back permits residential mortgage-backed securities (RMBS) plaintiffs to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse plaintiffs' failure to comply with a contractual precondition to invoking the repurchase remedy, as long as the plaintiffs provided timely pre-suit repurchase demands relating to some specified loans in the trust--Evidence--Demonstrative Evidence--Whether plaintiffs may rely on statistical sampling to prove liability and damages for loans outside of the sample when a RMBS sole remedy provision requires loan-specific proof of breach, materiality, and damages--Contracts--Breach or Performance of Contract--Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

U.S. Bank National Association v DLJ (No. 32)

APL-2020-18

Contracts--Breach or Performance of Contracts--Whether the doctrine of relation back permits a residential mortgage-backed securities (RMBS) plaintiff-trustee to assert otherwise untimely notice-based claims for any loan in an RMBS trust, and thereby excuse the plaintiff's failure to comply with a contractual precondition to invoking the repurchase remedy, when the plaintiff provided timely pre-suit repurchase demands relating to some specified loans in the trust; Whether plaintiffs are entitled to recover as damages interest that did not, in fact, accrue when an RMBS contractual provision provides for the payment of "accrued" interest as part of the repurchase remedy.

West 58th Street Coalition v City of New York (No. 33)

APL-2020-161

Municipal Corporations--Unsafe Buildings--Whether respondents rationally determined that the building was a class A multiple dwelling "apartment hotel" and properly classified in the "R-2" occupancy group under the current New York City Building Code (Administrative Code of City of NY, title 28, ch 7, § BC 310.1.2); whether competing evidence raises a question of fact necessitating a hearing on the issue of whether the building's use is consistent with general safety and public welfare.

WEDNESDAY, APRIL 28

Simmons v Trans Express (No. 34)

CQ 20-03

Judgments- Second Circuit Court of Appeals certified the following question: Under New York City Civil Court Act § 1808, what issue preclusion, claim preclusion, and/or res judicata effects, if any, does a small claims court's prior judgment have on subsequent actions brought in other courts involving the same facts, issues, and/or parties? In particular, where a small claims court has rendered a judgment on a claim, does Section 1808 preclude a subsequent action involving a claim arising from the same transaction, occurrence, or employment relationship?

People v Wilkins (William) (No. 35)

APL-2019-207

Crimes--Right to be Present at Trial--Whether the absence of defendant from two sidebar conferences with prospective jurors requires reversal; Crimes--Harmless and Prejudicial Error--Whether the trial court's delivery of an instruction, without a request for such an instruction from defendant, that it was to draw no adverse inference from defendant's failure to testify was reversible error; Whether reversal is required because the court sua sponte explained to the jury that the third person at defendant's table was a deputy and referred to defendant's custodial status.

TUESDAY, MAY 4

People v Iverson (Eric J.) (No. 36)

APL 2019-199

Motor Vehicles—Traffic Infractions-- Whether hearing officer properly entered default judgments against defendant when defendant pleaded not guilty to charges alleging violations of the Vehicle and Traffic Law and requested trial but failed to appear for trial and no trial was held.

People v Cucceraldo (Jack J.) (No. 37)

APL 2019-200

Motor Vehicles—Traffic Infractions-- Whether hearing officer properly entered default judgments against defendant when defendant pleaded not guilty to charges alleging violations of the Vehicle and Traffic Law and requested trial but failed to appear for trial and no trial was held.

People v Garcia (Cesar) (No. 38)

APL-2020-174

Crimes--Right to Jury Trial--Whether defendant was entitled to a jury trial where he was charged with one or more crimes that may have subjected him to deportation, but convicted of single crime that was not deportable offense; retroactive application of People v Suazo (32 NY3d 491 [2018]).

WEDNESDAY, MAY 5

Himmelstein v Matthew Bender & Co. (No. 39)

APL-2020-08

Consumer Protection--Deceptive Acts and Practices--Whether plaintiffs stated a cause of action under General Business Law § 349 where the only injury alleged to have resulted from defendant's allegedly deceptive business practices is the amount that plaintiffs paid for the product; Dismissal--Complaint--Whether plaintiffs stated a cause of action for breach of contract, breach of express warranty, or breach of implied covenant of good faith and fair dealing.

People v Schneider (Joseph) (No. 41)

APL-2020-10

Crimes--Eavesdropping Warrants--Whether Supreme Court lacked jurisdiction to issue eavesdropping warrants against defendant to intercept cellular telephone calls and electronic messages that were made and received outside New York State; interpretation of the word "executed" in CPL article 700; alleged constitutional violations.