

**DAY CALENDAR**  
**Tuesday, October 27, 2015 - 10:00 AM**  
**HON. SAMUEL L. GREEN COURTROOM**

1224.0  
TP 15-00560

**HENRY JOHNSON**  
V  
**JAMES THOMPSON**

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [M. William Boller, A.J.], entered March 31, 2015) to review a determination of respondent. The determination terminated the parole of petitioner.

**HENRY JOHNSON** for HIMSELF

Submitted

**KATE H. NEPVEU** for **JAMES THOMPSON**

Submitted

1225.0  
TP 15-00597

**GABRIEL M. WILLIAMS**  
V  
**ANTHONY J. ANNUCCI**

Proceeding pursuant to CPLR article 78 (transferred to the Appellate Division of the Supreme Court in the Fourth Judicial Department by order of the Supreme Court, Erie County [M. William Boller, A.J.], entered April 9, 2015) to review a determination of respondent. The determination found after a tier III hearing that petitioner had violated various inmate rules.

**GABRIEL M. WILLIAMS** for HIMSELF

Submitted

**PETER H. SCHIFF** for **ANTHONY J. ANNUCCI**

Submitted

1226.0  
KA 14-00255

**PEOPLE**  
V  
**DYLAN FOX**

Appeal from a judgment of the Wyoming County Court (Mark H. Dadd, J.), rendered December 23, 2013. The judgment convicted defendant, upon his plea of guilty, of criminal possession of a controlled substance in the third degree and driving while ability impaired by drugs, as a misdemeanor.

**GREGORY A. KILBURN** for **DYLAN FOX**

Submitted

**VINCENT A. HEMMING** for **PEOPLE OF THE STATE OF NEW YORK**

Submitted

1227.0  
KA 13-01904

**PEOPLE**  
V  
**BRENDA M. NEWKIRK**

Appeal from a judgment of the Cayuga County Court (Thomas G. Leone, J.), rendered August 15, 2013. The judgment convicted defendant, upon her plea of guilty, of murder in the second degree.

**DAVID P. ELKOVITCH** for **BRENDA M. NEWKIRK**

Submitted

**CHRISTOPHER T. VALDINA** for **PEOPLE OF THE STATE OF NEW YORK**

Submitted

1228.0  
KA 13-01487

**PEOPLE**  
V  
**AWET GEBREYESUS**

Appeal from a judgment of the Supreme Court, Erie County (Deborah A. Haendiges, J.), rendered June 3, 2013. The judgment convicted defendant, upon his plea of guilty, of attempted murder in the second degree.

ROBERT L. KEMP for AWET GEBREYESUS

Submitted

MATTHEW B. POWERS for PEOPLE OF THE STATE OF NEW YORK

Submitted

1229.0  
KA 14-00630

PEOPLE

V

JEREMY J. ROTHMUND

Appeal from a judgment of the Orleans County Court (James P. Punch, J.), rendered March 3, 2014. The judgment convicted defendant, upon his plea of guilty, of robbery in the first degree.

TIMOTHY P. MURPHY for JEREMY J. ROTHMUND

Submitted

KATHERINE K. BOGAN for PEOPLE OF THE STATE OF NEW YORK

Submitted

1230.0  
KA 11-00545

PEOPLE

V

RAYMOND V. GAUSE

Appeal from a judgment of the Monroe County Court (Stephen T. Miller, A.J.), rendered January 20, 2011. The judgment convicted defendant, upon his plea of guilty, of assault in the second degree.

JANET C. SOMES for RAYMOND V. GAUSE

Submitted

SCOTT MYLES for PEOPLE OF THE STATE OF NEW YORK

Submitted

1231.0  
KAH 14-01747

PEOPLE EX REL.

VALAVE GREEN

V

ANTHONY ANNUCCI

Appeal from a judgment of the Supreme Court, Wyoming County (Michael M. Mohun, A.J.), entered June 24, 2014 in a habeas corpus proceeding. The judgment denied and dismissed the petition.

LEAH R. NOWOTARSKI for VALAVE GREEN

Submitted

LAURA ETLINGER for ANTHONY ANNUCCI

Submitted

1232.0  
CAF 14-00880

In the Matter of

ZARHIANNA K.

Appeal from an order of the Family Court, Oneida County (James R. Griffith, J.), entered March 21, 2014 in a proceeding pursuant to Family Court Act article 10. The order, among other things, adjudged that respondent Frank K. abused the subject child.

JOHN J. RASPANTE for FRANK K.

Submitted

LISA P. DENMAN for ONEIDA COUNTY D.S.S.

5 minutes

PAUL SKAVINA, ATTORNEY FOR CHILD

5 minutes

1233.0  
CAF 14-02269

KATHLEEN MARTIN

V

CHARLES J. FLYNN

Appeal from an order of the Family Court, Erie County (Brenda M. Freedman, R.), entered September 19, 2014 in a proceeding pursuant to Family Court Act article 8. The order, among other things, granted the petition seeking an order of protection and placed respondent on probation for one year.

MARC STEVEN SHATKIN for CHARLES J. FLYNN 15 minutes

DAVID E. GUTOWSKI for KATHLEEN MARTIN 15 minutes

1234.0  
CAF 14-00685

JAMES E. DONOHUE  
V  
TANYA M. DONOHUE

Appeal from an order of the Family Court, Livingston County (Robert B. Wiggins, J.), entered March 14, 2014 in a proceeding pursuant to Family Court Act article 6. The order, among other things, denied in part the petition to modify a prior order.

KELIANN M. ARGY for JAMES E. DONOHUE 5 minutes

CHARLES J. GREENBERG for TANYA M. DONOHUE 5 minutes

JOHN M. LOCKHART, ATTORNEY FOR CHILD 5 minutes

1235.0  
CAF 14-00250

In the Matter of  
BURKE H.

Appeal from an order of the Family Court, Erie County (Margaret O. Szczur, J.), entered May 30, 2014 in proceedings pursuant to Family Court Act article 10 and Social Services Law § 384-b. The order terminated the parental rights of respondents with respect to Sean, Donna and Chloe, and determined that respondents had neglected Burke.

REGINA A. DELVECCHIO for TIFFANY H. Submitted

BERNADETTE HOPPE for RICHARD H. 5 minutes

JOSEPH T. JARZEMBEK for ERIE COUNTY D.S.S. 10 minutes

CHARLES D. HALVORSEN, ATTORNEY FOR CHILD Submitted

1236.0  
CA 14-02021

FRANCES A. MARIGLIO  
V  
BERTHEL FISHER & COMPANY FINANCIAL

Appeal from an order of the Supreme Court, Erie County (Timothy J. Walker, J.), entered June 26, 2014. The order, among other things, denied plaintiff's motion for trial preference.

JOANNE SCHULTZ for FRANCES A. MARIGLIO 20 minutes

STEPHEN A. SHARKEY for BERTHEL FISHER & COMPANY FINANCIAL 20 minutes

1237.0  
CA 15-00556

HARRY P. DAUBNEY  
V  
DANIEL J. BENNETT

Appeal from an order of the Supreme Court, Niagara County (Mark A. Montour, J.), entered July 8, 2014. The order denied the motion of defendants for summary judgment.

ROBERT S. ROBERSON for DANIEL J. BENNETT 10 minutes

WAYNE I. FREID for HARRY P. DAUBNEY 5 minutes

1238.0  
CA 15-00612

**DARREN DAVIS**  
V  
**RICHARD BRZOSTOWSKI**

Appeal from an order of the Supreme Court, Erie County (Christopher J. Burns, J.), entered January 21, 2015. The order denied the motion of defendants Richard Brzostowski and Linda Brzostowski for summary judgment.

ALAN J. BEDENKO for RICHARD BRZOSTOWSKI 15 minutes

MO J. ATHARI for DARREN DAVIS 10 minutes

1239.0  
CA 15-00592

**VERLEY DAVIS, JR.**  
V  
**COUNTY OF ERIE DEPARTMENT OF SOCIAL SERVICES**

Appeal from an order of the Supreme Court, Erie County (John A. Michalek, J.), entered June 23, 2014 in a personal injury action. The order denied the motion of Erie County Department of Social Services seeking to dismiss the plaintiff's complaint.

JEREMY C. TOTH for COUNTY OF ERIE DEPT. OF SOC. SERVS. 10 minutes

MARC STEVEN SHATKIN for VERLEY DAVIS, JR. 10 minutes

1240.0  
CA 15-00716

**RICHARD J. FRONCE**  
V  
**PORT BYRON TELEPHONE COMPANY, INC.**

Appeal and cross appeal from an order of the Supreme Court, Cayuga County (Thomas G. Leone, A.J.), entered December 12, 2014 in a personal injury action. The order denied defendants' motion for summary judgment and denied plaintiff's cross motion for summary judgment.

MICHAEL G. BERSANI for RICHARD J. FRONCE 10 minutes

DONALD S. DIBENEDETTO for PORT BYRON TELEPHONE CO., INC. 10 minutes

1241.0  
CA 15-00586

**JACQUE R. GILLIS**  
V  
**RODNEY C. BROWN**

Appeal and cross appeal from an order of the Supreme Court, Steuben County (Marianne Furfure, A.J.), entered February 11, 2015. The order, among other things, denied in part defendants' motion for summary judgment and denied plaintiff's cross motion for partial summary judgment.

ALFRED PANICCIA, JR., for JACQUE R. GILLIS 10 minutes

L. DAMIEN COSTANZA for RODNEY C. BROWN 10 minutes

1242.0  
CA 15-00639

**MARCELLA HAROLD**  
V  
**SYLVESTER HAROLD**

Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered July 30, 2014 in a divorce action. The order, among other things, denied plaintiff's request for attorney's fees and a share of defendant's severance package.

CARL B. KUSTELL for MARCELLA HAROLD 10 minutes

	JOHN P. PIERI for SYLVESTER HAROLD	10 minutes
1243.0 CA 15-00750	GARY MILITELLO V LANDSMAN DEVELOPMENT CORP.	
	Appeal from an order of the Supreme Court, Monroe County (Ann Marie Taddeo, J.), entered February 11, 2015. The order, insofar as appealed from, granted the motion of plaintiff for partial summary judgment on liability pursuant to Labor Law § 240 and denied the motion of defendant for summary judgment dismissing plaintiff's Labor Law § 240 (1) cause of action.	
	CAROL R. FINOCCHIO for LANDSMAN DEVELOPMENT CORP.	15 minutes
	MICHAEL STEINBERG for GARY MILITELLO	10 minutes
1244.0 CA 15-00562	KEITH CONRAD V LOCKPORT CITY SCHOOL DISTRICT	SETTLED
	Appeals and cross appeal from an order of the Supreme Court, Niagara County (Ralph A. Boneillo, III, J.), entered October 30, 2014. The order, among other things, denied in part defendants' motions for summary judgment and denied plaintiffs' cross motion for summary judgment against defendants Lockport City School District and Mihpier Company, Inc.	
	CHRISTINE D. HANLON for LOCKPORT CITY SCHOOL DISTRICT	
	SAMUEL J. CAPIZZI for KEITH CONRAD	
	BRIAN SUTTER for MIHPIER COMPANY, INC.	
1245.0 CA 14-00431	ROOSEVELT COBB V MICHAEL SHEAHAN	
	Appeal from a judgment of the Supreme Court, Seneca County (Dennis F. Bender, A.J.), entered December 26, 2013 in a proceeding pursuant to CPLR article 78. The judgment denied and dismissed the petition.	
	ROOSEVELT COBB for HIMSELF	Submitted
	MARCUS J. MASTRACCO for MICHAEL SHEAHAN	Submitted
1246.0 CA 14-01443	ELVIS CASTILLO V ANTHONY ANNUCCI	
	Appeal from an amended judgment of the Supreme Court, Wyoming County (Michael M. Mohun, A.J.), entered April 16, 2014 in a proceeding pursuant to CPLR article 78. The amended judgment confirmed the determination of respondent and dismissed the petition.	
	LEAH R. NOWOTARSKI for ELVIS CASTILLO	Submitted
	ANDREW B. AYERS for ANTHONY ANNUCCI	Submitted
1246.1 CA 14-01335	CAPITAL ONE NA V DAVID COLUCCI	SETTLED

**Appeal from an order of the Supreme Court, Niagara County (Frank Caruso, J.), dated October 8, 2013. The order, among other things, denied defendant's motion to vacate a default judgment.**

**JOHN J. DELMONTE for DAVID COLUCCI**

**DAVID K. KOWALENKO for CAPITAL ONE NA**