

CASE ISSUE STATEMENTS

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 Appeal Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.

TUESDAY, OCTOBER 10:

Davis v Scottish Re Group Limited (No. 111)

APL-2016-00146

Corporations--Merger--Action by minority shareholder asserting both direct and derivative causes of action arising out of allegedly undervalued cash-out merger that unfairly prejudiced minority shareholders; standing; choice of law; jurisdiction; dismissal of certain causes of action.

People v Roberto Estremera (No. 112)

APL-2016-00077

Crimes--Sentence--Resentence---Whether supreme court erred in conducting a postrelease supervision resentencing pursuant to Penal Law § 70.85 without defendant present.

Chauca v Abraham (No. 113)

CTQ-2016-00003

Civil Rights--Discrimination in Employment--Gender and pregnancy discrimination--standard for finding a defendant liable for punitive damages under New York City Human Rights Law, NYC Admin. Code section 8-502.

WEDNESDAY, OCTOBER 11:

People v Stanley Hardee (No. 49 - Reargument [first argued 3/29/17])

APL-2015-00170

Crimes--Unlawful Search and Seizure--Whether limited search of car stopped for traffic violations was justified after defendant had been removed from the car and frisked--People v Torres (74 NY2d 224 [1989]).

WEDNESDAY, OCTOBER 11 (cont.):

People v Mary Anne Grady Flores (No. 114)

APL-2016-00137

Crimes--Criminal Contempt--Order of protection as predicate for criminal contempt charge against protester in public street in front of military base--challenge to validity and specificity of order of protection; claimed error of trial court in response to jury question.

Bransten v State of New York (No. 67)

APL-2015-00125

Judges--Judicial Salaries--Whether application to plaintiff judges and justices of L.2011, c. 491, § 2 and amended Civil Service Law § 167 (8) violates the compensation clause of the New York State Constitution.

THURSDAY, OCTOBER 12;

People v Mario Arjune (No. 115)

APL-2016--00153

Crimes--Appeal--Denial of application for a writ of error coram nobis seeking to reinstate an appeal on the ground of ineffective assistance of trial counsel, where the notice of appeal was timely filed but the appeal was dismissed for failure to timely perfect--whether the Appellate Division erred in holding that defendant "has not established his entitlement to the relief requested" (see People v Syville, 15 NY3d 391)."

People v Leroy Savage Smith (No. 116)

APL-2016-00179

Crimes--Right to Counsel--Whether the trial court abused its discretion in denying defendant's request for substitution of assigned counsel.

People v Marlo S. Helms (No. 117)

APL-2016-00168

Crimes--Sentence--Second Violent Felony Offender--Whether the Appellate Division correctly held that defendant was improperly sentenced as a second violent felony offender because his conviction of burglary in Georgia did not constitute a predicate felony inasmuch as the Georgia statute defining burglary lacked the knowledge element required by the equivalent New York burglary statute.

TUESDAY, OCTOBER 17:

People v Otis Boone (No. 55- Reargument [first argued 4/25/17])

APL-2016-00015

Crimes--Instructions --Identification of defendant--Whether the trial court erred in denying defendant's request for a jury instruction on cross-racial identification.

Matter of Jamie J. (No. 118)

APL-2016-00233

Parent, Family and Child--Abused or Neglected Child--Whether Family Court lacked subject matter jurisdiction to conduct a permanency hearing and continue foster care placement of the child following dismissal of the neglect petition--whether the Appellate Division's interpretation of article 10-A of the Family Court Act renders the statute unconstitutional.

Matter of World Trade Center Disaster Litigation (Faltynowicz v Battery Park) (No. 119)

CTQ-2017-00001

Parties--Capacity to Sue--Whether it must first be determined whether the public benefit corporation "should be treated like the State" (see Clark-Fitzpatrick, Inc. v Long Island R.R. Co., 516 NE2d 190, 192 [1987]), based on a "particularized inquiry into the nature of the instrumentality and the statute claimed to be applicable to it" (see John Grace & Co. v State Univ. Constr. Fund, 375 NE2d 377, 379 [1978]), before New York State's capacity-to-sue doctrine may be applied to determine whether a State-created public benefit corporation has the capacity to challenge a State statute; whether the "serious injustice" standard articulated in Gallewski v H. Hentz & Co. (93 NE2d 620 [1950]), or the less stringent "reasonableness" standard articulated in Robinson v Robins Dry Dock & Repair Co. (144 NE 579 [1924]) governs the merits of a due process challenge under the New York State Constitution to a claim-revival statute.

WEDNESDAY, OCTOBER 18:

Mestecky v City of New York (No. 120)

APL-2016-00117

Process--Service of process--Notices of Violation (NOVs) issued by New York City Department of Buildings (DOB)--whether DOB inspector's one attempt at personal service of NOVs at the premises where the violations occurred satisfied the "reasonable attempt" requirement set forth in New York City Charter § 1049-a(d)(2)(b) so that resort to "affix and mail" service was appropriate--whether reference to CPLR article 3 in the New York City Charter's "affix and mail" provision incorporates the "due diligence" requirement of CPLR article 3; whether the Appellate Division erred in holding that the determinations are supported by substantial evidence, are not affected by an error of law, and are not arbitrary and capricious.

WEDNESDAY, OCTOBER 18 (cont.):

Matter of Friedman v Rice (No. 56)

APL-2016-00072

Records--Freedom of Information Law--Exemptions--statements of nontestifying witnesses--whether the Appellate Division properly determined that documents sought by petitioner were exempt from disclosure pursuant to Public Officers Law § 87 (2)(e)(iii); grand jury--inspection of grand jury minutes--whether the Appellate Division correctly held that petitioner failed to establish a compelling and particularized need for disclosure of grand jury materials pursuant to CPL 190.25 (4).

Carlson v AIG (No. 47 - Reargument [first argued on 3/28/17])

APL-2016-00041

Insurance--Duty to Defend and Indemnify--Whether the Appellate Division erred in holding that the insurance policy was not "issued or delivered" in New York, thus precluding plaintiff from bringing suit against tortfeasor's insurance company under Insurance Law § 3420 (a)(2); automobile insurance--cartage agreement between defendant DHL Express (USA) and defendant MVP Delivery and Logistics, Inc.--whether MVP vehicle driven by tortfeasor during the underlying motor vehicle accident was a vehicle "hired" by DHL and thus covered under its automobile insurance.

7/24/17