

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

TUESDAY, MARCH 20:

Skanska USA Building, Inc. v Atlantic Yards B2 Owner, LLC (No. 38)

APL-2017-00043

Contracts--Breach or Performance of Contract--Construction maintenance contract for construction of high-rise residential tower in the Atlantic Yards project in Brooklyn--whether the Appellate Division erred in its interpretation of Lien Law § 5 as it applied to the security provided for contractor payment in this project--nature of bond or undertaking required to be posted for labor and materials furnished for work on public improvement; corporations--piercing of corporate veil--whether the Appellate Division erred in finding that plaintiff failed to plead a veil-piercing claim; attorney and client--disqualification--whether the Appellate Division erred in declining to disqualify one of defendants' law firms based on a conflict of interest.

WEDNESDAY, MARCH 21:

Contact Chiropractic v New York City Transit Authority (No. 39)

APL-2016-00111

Limitation of Actions--What Statute Governs--Action to recover first-party no-fault benefits--whether an action by an injured claimant, or the claimant's assignee, to recover first-party no-fault benefits from a self-insured defendant, is subject to a six-year or three-year statute of limitations.

People of the State of New York &c. v Credit Suisse Securities (USA). LLC,etal. (No. 40)

APL-2017-00056

Limitation of Actions -- Fraud -- Whether an action brought by the Attorney General under the Martin Act and Executive Law § 63(12) for alleged investor fraud is subject to the three-year statute of limitations under CPLR 214 or the six-year statute of limitations under CPLR 213.

Matter of FMC Corporation v NYS Dept. of Environmental Conservation (No. 41)

APL-2017-00019

Limitation of Actions -- Four-Month Statute of Limitations -- Whether four-month statute of limitations began to run when respondent advised petitioner that administrative order on consent was closed or when respondent issued final statement of basis selecting a remedy to address environmental contamination; environmental conservation -- hazardous waste -- whether respondent's selection of a remedial plan to address environmental contamination and decision to use the hazardous waste remedial fund to pay for the remediation was arbitrary and capricious.

THURSDAY, MARCH 22:

People v Kerri Roberts (No. 42)

APL-2016-00204

Crimes--Evidence--Sufficiency of evidence--identity theft (Penal Law § 190.79[3])--whether there was proof that defendant assumed the victim's identity in addition to using her driver's license and credit card information.

People v Terrie J. Rush (No. 43)

APL-2017-00159

Crimes--Evidence--Identity theft--sufficiency and weight of evidence--whether the evidence was legally sufficient to support defendant's conviction of identity theft in the first degree; whether, under Penal Law § 190.80(3), the assumption of a person's identity is a discrete element that must be proved; whether use of the term "thereby" in Penal Law § 190.80(3) requires that the assumption of a person's identity precede commission of another felony-- Right to Public Trial--whether closure of the courtroom was trivial and therefore did not violate defendant's right to a public trial.

Altman v 285 West Fourth LLC (No. 44)

APL-2017-00054

Landlord and Tenant--Rent Regulation--Whether the Appellate Division erred in concluding that defendant's entitlement to a vacancy increase following the departure of the prior tenant of record did not effectuate a deregulation of the apartment under Rent Stabilization Law § 26-504.2.

TUESDAY, MARCH 27:

Matter of Marine Holdings v New York City Commission on Human Rights (No. 45)

APL-2017-00025

Civil Rights--Discrimination Based on Disability--Whether substantial evidence supported the Commission's determination that landlord failed to establish it would suffer an undue hardship if required to accommodate a tenant with disabilities.

People v Donald Odum (No. 46)

APL-2017-128

Crimes-- Intoxication--Chemical Tests--Where request to administer chemical breath test occurred more than two hours after defendant's arrest, whether defendant's refusal to submit to that test can be used against defendant in court; whether defendant's consent to the chemical breath test was involuntary.

People v Sergey Aleynikov (No. 47)

APL 2017-00078

Crimes -- Verdict -- Sufficiency of Evidence -- Whether legally sufficient evidence supports defendant's conviction of unlawful use of secret scientific material, in violation of Penal Law § 165.07, where defendant made a digital copy of his employer's proprietary computer source code by uploading the code to a server and copying it to his own personal computing devices.

WEDNESDAY, MARCH 28:

People v Matthew Kuzdzal (No. 48)

APL-2017-00032

Crimes--Jurors--Discharge of Juror--Whether the trial court erred in failing to make a proper inquiry of two jurors who allegedly were overheard making disparaging comments about defendant during a court recess--possible necessity for further inquiry pursuant to People v Buford (69 NY2d 290).

People v Akeem Wallace (No. 49)

APL 2015-00053

Crimes--Possession of Weapon -- Whether "place of business" exception of Penal Law § 265.03 (3) should apply to defendant restaurant manager who brought an unlicensed handgun to work and shot himself in the leg--employees prohibited from bringing firearms to work.

People v Twanek Cummings (No. 50)

APL-2017-00063

Crimes--Evidence--Excited Utterances--admissibility of statement of an unidentified man in the background of the victim's 911 call pursuant to the excited utterance exception to the hearsay rule; whether, upon retrial after deadlocked jury in first trial, a different trial court judge had authority to change the ruling on the admissibility of the statement at issue--law of the case.

3/20/18