

## **CASE ISSUE STATEMENTS –NOVEMBER 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, NOVEMBER 16***

### **Plymouth Venture Partners v GTR Source; Plymouth Venture Partners v Capital Merchant Services (No. 73)**

CQ 2021-01

Whether a judgment debtor suffers cognizable damages in tort when its property is seized pursuant to a levy by service of execution that does not comply with the procedural requirements of CPLR 5232(a), even though the seized property is applied to a valid money judgment; and, if so, whether the judgment debtor can, under these circumstances, bring a tort claim against either the judgment creditor or the marshal without first seeking relief under CPLR 5240.

### **Matter of Hallock (No. 74)**

APL-2020-46

Attorney and Client—Disciplinary Proceedings—Reciprocal discipline based on censure order imposed by federal District Court; alleged due process violations.

### **Matter of Malerba (No. 75)**

APL-2020-47

Attorney and Client—Disciplinary Proceedings—Reciprocal discipline based on censure order imposed by federal District Court; alleged due process violations.

***WEDNESDAY, NOVEMBER 17***

### **People v William Wilkins (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.

### **Estate of Kainer v UBS AG (No. 76)**

APL-2020-90

Courts—Forum Non Conveniens--Whether the motion court properly dismissed the action on forum non conveniens grounds without first determining whether it had personal jurisdiction over all defendants.

**People v Michael Lamb (No. 77)**

APL-2021-34

Crimes-- Jurisdiction of Offenses--Whether New York had territorial jurisdiction to prosecute sex trafficking counts; defendant advanced or profited from prostitution in New York, but coercive conduct against particular victim occurred in New Jersey.

***THURSDAY, NOVEMBER 18***

**Anderson v Anderson (No. 78)**

APL-2020-145

Marriage--Nuptial agreement--Where nuptial agreement is not contemporaneously acknowledged by both parties at the time they sign the agreement, whether the parties must reaffirm agreement for it to be valid.

**Matter of Koegel (No. 79)**

APL 2021-17

Marriage—Prenuptial Agreement—Whether an acknowledgement accompanying a nuptial agreement, which does not comply with Domestic Relations Law 236 (B) (3), may be cured by extrinsic evidence.

**People v Sharon Lashley (No. 80)**

APL-2020-49

Crimes—Sentence—Resentence--Filing of proper predicate felony statement.