

CASE ISSUE STATEMENTS – JANUARY 2023

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, JANUARY 3

Town of Southampton v DEC (No. 1)

APL 2022-17

Mines and Minerals—Mined Land Reclamation Law--Whether section 23-2703 (3) of the Mined Land Reclamation Law bars the Department of Environmental Conservation from processing the renewal and modification permits sought for a preexisting mine because the local zoning code prohibits mining in the Suffolk County District where the mine is located.

State of New York v Vayu (No. 2)

APL 2021-148

Courts—Jurisdiction—Long-Arm-Jurisdiction—Whether the courts below erred in holding that plaintiff failed to make a prima facie showing of personal jurisdiction over defendant under CPLR 302(a)(1).

Hetelekides v County of Ontario (No. 3)

APL 2021-111

Taxation--Tax Liens, Tax Sales and Tax Titles-Whether tax foreclosure proceeding, commenced against deceased individual, was a nullity; alleged due process violations.

WEDNESDAY, JANUARY 4

Bank of America v Kessler (No. 4)

APL 2022-61

Mortgage—Foreclosures--Whether the courts below properly held that the inclusion of certain language in a 90-day notice sent to the borrowers in this foreclosure action, in addition to the language required to be included under RPAPL 1304, violated the “separate envelope” provision in RPAPL 1304.

Matter of State of NY v PERB (No. 5)

APL 2021-167

Civil Service—Public Employment Relations Board-- Whether PERB’s determination that the imposition of an application fee for promotional examinations was a mandatory subject of negotiation was rational and supported by substantial evidence; whether the Appellate Division applied the appropriate standard of review in resolving a purported question of statutory interpretation; whether PERB lacked authority or jurisdiction over the Department of Civil Service.

People v Myers (Michael) (No. 6)

APL 2022-36

Crimes—Suppression Hearing-- Whether statements made by defendant should have been suppressed on the ground that the People failed to comply with the notice requirement of CPL 700.70; whether a phone conversation is an "intercepted communication" under CPL 700.05 (3) (a) if the conversation is simultaneously overheard on a government wiretap and recorded by a third party with consent from a caller other than the defendant to record the call; whether evidence is "derived []from" an intercepted communication such that it triggers CPL 700.70's notice requirements.

THURSDAY, JANUARY 5

Brookdale Physicians v Department of Finance (No. 7)

APL 2021-56

Taxation--Whether the building owned by petitioner, a not-for-profit organization, that is leased to respondent, a for-profit corporation, qualifies for tax exempt status under Real Property Tax Law § 420-a.

Suzanne P. v Joint Board of Directors (No. 8)

APL 2022-33

Negligence—Duty—Whether defendant Joint Board of Directors of Erie-Wyoming County Soil Conservation District was owner of dam at which decedent sustained injuries; whether remaining defendants were entitled to summary judgment.

People v Oscar Sanders (No. 9)

APL-2021-157

Crimes—Harmless and Prejudicial Error—Whether the trial court erred in ordering defendant to be handcuffed during rendition of the verdict and the polling of the jury and, if so, whether the error was harmless; Crimes—Sentence—Whether the court failed to follow proper procedure in adjudicating defendant a persistent felony offender; Crimes—Lesser Included Offenses—Whether the trial court properly declined to submit assault in the third degree as a lesser included offense of assault in the second degree; Crimes—Instructions—Whether the trial court properly declined to charge the jury on justified use of ordinary force.