

CASE ISSUE STATEMENTS – NOVEMBER 2023
Old County Hall, Buffalo NY

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 14

Matter of Claim of Lazalee v Wegmans (No. 87)

APL-2022-180

Workers' Compensation—Judicial Review—Whether employer's request to cross-examine claimant's treating physician was untimely.

Matter of Wang v James (No. 88)

APL 2023-8

Public Officers—Duty to Defend or Indemnify Public Employee--Whether Correction Law § 24-a, providing defense and indemnification from the state, extends to Dr. Jun Wang, a private physician who provided pathology services for a prison-approved surgical biopsy of an incarcerated individual.

Matter of Bowers Development v Oneida County Industrial (No. 89)

APL-2023-52

Eminent Domain-- Whether the Oneida County Industrial Development Agency (OCIDA) had the authority to use eminent domain to acquire property for a parking lot under General Municipal Law § 858(4); whether the Appellate Division erred in determining that the primary purpose of the acquisition was not a commercial purpose; whether privately owned medical office building and their parking facilities on a hospital campus are “commercial” uses; whether the acquisition of the parking lot was within the scope of the corporate purposes of OCIDA.

People v Perdue (Thomas P.) (No. 28)

APL 2022-81

Crimes—Identification of Defendant—Whether defendant was deprived of a fair trial when there was no pretrial identification procedure and defendant was identified in court for the first time; whether the trial court erred by permitting the People to present testimony on redirect examination.

WEDNESDAY, NOVEMBER 15

Matter of Hoffmann v NYS Independent Redistricting Commission (No. 90)

APL 2023-121

Proceeding Against Body or Officer-- Whether the Appellate Division properly granted petitioners' CPLR article 78 petition and directed the Independent Redistricting Commission to commence its duties; whether the proceeding was timely; whether the relief granted violates New York Constitution, Article III, Section 4(e); whether the relief granted conflicts with *Matter of Harkenrider v Hochul*, 38 NY3d 494 (2022).

Matter of Appellate Advocates v NYSDOCCS (No. 91)

APL 2022-63

Records—Freedom of Information Law—Whether certain documents requested by petitioner under the Freedom of Information Law that relate to how the Board of Parole determined applications for parole release were properly withheld as protected under the attorney-client privilege or the intra-agency exemption.

People v Bay (Michael) (No. 92)

APL 2023-27

Crimes—Right to Speedy Trial--Whether the People's certificate of compliance was invalid under CPL 30.30(1) because it was filed before disclosure of all of the discovery required under CPL 245.50; whether CPL 245.50 precludes finding an illusory statement under CPL 30.30(1) based on a discovery violation; whether, in response to a CPL 30.30(1) motion to dismiss based on a discovery violation, the court may issue a discovery sanction under CPL 245.80 in lieu of dismissal.

THURSDAY, NOVEMBER 16

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.

Stoneham v Barsuk (No. 94)

APL-2023-0001

Labor—Safe Place to Work—Whether plaintiff was engaged in protected activity within meaning of Labor Law § 240(1); plaintiff, who was replacing leaking air tank on flatbed trailer's brake system, utilized a front-end loader to lift the trailer; front-end loader lifting trailer rolled backward, dropping trailer on top of plaintiff.

People v Devon T. Butler (No. 95)

APL-2021-128

Crimes—Unlawful Search and Seizure--Whether reasonable suspicion or probable cause standard applies to canine sniff of defendant's person following traffic stop.

People v Joshua Messano (No. 96)

APL 2023-98

Crimes—Unlawful Search and Seizure--Whether police officers had reasonable suspicion to detain defendant; whether there was probable cause to arrest defendant for drug possession.