

CASE ISSUE STATEMENTS- NOVEMBER 2025

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, NOVEMBER 18

Sander v Westchester Reform Temple (No. 100)

APL-2024-174

Employment Relationship—Wrongful Discharge—Whether discharge of employee for content of blog post was a protected recreational activity outside work within the scope of Labor Law § 201-d (2) (c).

Matter of Monaghan v Schroeder (No. 101)

APL-2024-137

Witnesses—Subpoena—Whether the revocation of petitioner's driver's license following a DMV chemical test refusal hearing violated petitioner's due process right to confront and cross-examine the relevant police officers when the officers failed to appear after being properly subpoenaed by petitioner; whether *Matter of Gray v Adduci*, 73 NY2d 741 (1988), mandates that a motorist should prevail at a DMV chemical test refusal hearing when the arresting officer repeatedly fails to appear at the hearing after being properly subpoenaed; whether CPLR 2308(b) applies to a chemical test refusal hearing and, if so, whether the Administrative Law Judge was required to advise petitioner's counsel that DMV changed its interpretation of Gray and would apply CPLR 2308(b) in contravention of its regulations.

Gurbanova v City of Ithaca (No. 102)

APL-2025-38

Municipal Corporations—Whether the City's prior written notice statute applied to bar plaintiff's recovery when plaintiff's injuries were caused by a falling parking bollard; whether plaintiff's expert witness affirmation failed to raise a triable issue of fact; whether the burden was properly shifted to plaintiff on whether the bollard was properly installed; whether plaintiff was required to show that the dangerous condition of the bollard was "immediately apparent" when it was installed.

Dibrino v Rockefeller Center North (No. 103)

APL-2024-158

Labor-Safe Place to Work—Whether there is an issue of fact as to whether DAL Electrical Corporation launched a force or instrument of harm by leaving a defective ladder unattended at the work site because it was foreseeable that workers from other trades could take the ladder without permission and sustain injury while using the same; whether Rockefeller Center North, Inc. and JRM Construction Mgmt LLC are entitled to contractual indemnity from DAL Electrical Corporation because it agreed to indemnify for damages "arising out of" DAL's work and damages

caused by or alleged to have been caused by DAL's negligence or any violations of law arising from its work.

Cortlandt Street v Bonderman (No. 104)

APL-2025-15

Corporations—Disregarding Corporate Entity—Whether plaintiff raised a triable issue of fact as to whether the TPG defendants dominated judgment debtors or was their alter ego such that judgment debtors' corporate veil should be pierced to impose liability on the TPG defendants for their debts.

WEDNESDAY, NOVEMBER 19

Matter of Claim of Klosterman (and 5 related appeals) Nos. 105-110

APL-2025-6 (105); APL-2025-5 (106; Almindo); APL-2025-7 (107; Bruyere); APL-2025-8 (108; Lamphier); APL-2025-10 (109; Dixon-Domines); APL-2025-12 (110; Dunn Jr.)

Unemployment Insurance—Benefits—Whether claimants were eligible to receive federal benefits under the CARES Act during the 2020 summer period because they were “totally unemployed” under Labor Law § 522 or unable to work due to the Covid-19 pandemic; whether educational and vocational instructors and supervisors in corrections facilities who received a salary for 10-months work but worked prior summers teaching summer school may be deemed “totally unemployed” during summer 2020 because they were unable to work in the summer of 2020 due to the Covid-19 pandemic shutting down summer educational programs.

Matter of Mantilla v New York City Dept. of Hous. Preserv. & Dev. (No. 111)

APL-2024-148

Public Housing—Succession Rights—Whether a rational basis exists for the determination of respondent denying petitioner's application for succession rights to a Mitchell-Lama apartment.

Matter of Coalition for Fairness v City of NY (No. 112)

APL-2025-28

Constitutional Law—Taking of Property—Whether the Arts Fund fee is not an unconstitutional condition because it imposes a general monetary obligation that is not a taking; whether the Arts Fund fee is not an unconstitutional condition because it is sufficiently related to the removal of artist live-work restrictions to satisfy the constitutional test.

People v Shaw (Samuel) (No. 113)

APL 2024-129

Crimes—Unlawful Search and Seizure—Whether law enforcement's use of coercive means to order a suspect out of a house in order to conduct a warrantless arrest constitutes a *Payton* violation; whether the tenant's consent to search the house following her warrantless arrest was involuntary and, even if voluntary, was not attenuated from the alleged Fourth Amendment violation of seizing the occupants of the home; whether the evidence seized should have been suppressed.

THURSDAY, NOVEMBER 20

Hudson View Park Co. v Town of Fishkill (No. 115)

APL-2024-167

Municipal Corporations—Whether the term limits rule and/or the prohibition against contract zoning are violated by a memorandum of understanding entered into by a private developer and the Town of Fishkill Town Board and the Town of Fishkill Planning Board that is binding on their successors and where the Town Board agreed, among other things, not to terminate its review of the developer’s Zoning Petition and the Project in general, until it reaches a final determination on the merits in its legislative judgment regarding the best interests of the Town based on empirical data and other objective factual bases; whether the memorandum of understanding is consistent with any implied constitutional rules that one legislature may not bind a subsequent legislature and that municipal governments may no conduct zoning by contract.

Smith v City of New York (No. 116)

APL-2025-55

Release—Scope of Release—Whether the Appellate Division properly held that a general release executed in another action barred plaintiff’s claims in this action.

People v Smith (Mark A.) (No. 117)

APL-2024-181

Crimes—Robbery—Whether a defendant charged with first-degree robbery under Penal Law § 160.15 (4) is entitled to a statutory affirmative defense instruction when there is evidence that the defendant used a BB gun to commit the robbery; whether admitting evidence of a second planned robbery erroneously under *Molineux* was harmless error.

People v Collier (Roderick) (No. 118)

APL-2024-130

Crimes—Sex Offenders—Whether the nearly six-year delay between defendant’s release and his Sex Offender Registration Act hearing violated due process.

Matter of Seneca Meadows v Town of Seneca Falls (No. 125)

APL-2025-116

Parties—Standing—Whether petitioner-plaintiff has standing to challenge the Town’s passage of Local Law #3 under the State Environmental Quality Review Act (SEQRA) without alleging a specific environmental harm because petitioner-plaintiff’s property was directly targeted by the Local Law; whether the Town Board failed to comply with the requirements of SEQRA by failing to take a “hard look” at the environmental impacts of the Local Law.