

CASE ISSUE STATEMENTS- MAY 2026

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, MAY 19

Election Cases

WEDNESDAY, MAY 20

People v Coggins (Tonie) (No. 57)

APL 2025-159

Crimes—Evidence—Whether the trial court's admission of testimony regarding the contents of surveillance video footage violated the best evidence rule;

People v Khamdavanh (Kham) (No. 56)

APL 2025-114

Issue: Crimes—Witnesses—Failure to Call Witness—Missing Witness Charge—Whether the trial court erred in refusing to give a missing witness charge on the basis that the witness's testimony would have been cumulative; Crimes—Justification—Whether the trial court erred by instructing the jury on the initial aggressor exception to the justification defense;

State of NY ex rel. Louis M. v Popiel (No. 55)

APL 2025-176

Habeas Corpus— Whether the writ of habeas corpus lies to challenge the use of restraints on an arrestee during a psychiatric hospitalization.

Walton v Comfort Systems USA (No. 53)

CTQ 2025-7

Contracts—Agreement for Benefit of Third Persons—"(1) Is the promise to pay prevailing wages implicit in every public works contract so that individuals employed on public works projects may sue their employers for breach of contract to enforce the prevailing wage requirement under [Labor Law] § 220 even if the employer's written contract does not include the statutorily required promise to pay prevailing wages? (2) Are agreements to shorten the statute of limitations in public works contracts to one year enforceable against workers bringing third-party beneficiary breach of contract claims to enforce the prevailing wage law?"

Village of Freeport v Freeport Plaza West (No. 63)

APL 2025-175

Municipal Corporations—Notice of Claim—Whether the doctrine of equitable estoppel applies to prevent plaintiff village from asserting that defendant’s counterclaim should be dismissed for failure to file a notice of claim in compliance with CPLR 9802.

Matter of Miller v State of New York (No. 64)

APL 2026-33

Constitutional Law—State Constitutional Law—Whether the Equal Rights Amendment to the State Constitution—which, among other things, added the category of “age” to the Civil Rights Clause set forth in article I, § 11 of the State Constitution—nullified the mandatory retirement age for judges and justices of the New York State Courts set forth in article VI, § 25(b) of the State Constitution; whether the application of Judiciary Law §§ 23 and 115 violates article I, § 11 of the State Constitution.

THURSDAY, MAY 21

Volokh v James (No. 58)

CTQ 2025-6

Statutes—“(1) Does a social media network comply with N.Y. Gen. Bus. Law § 394-ccc(3)’s requirement to publish a “clear and concise policy . . . which includes how such social media network will respond and address the reports of incidents of hateful conduct on their platform” if its policy does not explicitly reference or address the content encompassed by the statute’s definition of “hateful conduct” and does not otherwise address content that encompasses this defined category? (2) Does a social media network comply with N.Y. Gen. Bus. Law § 394-ccc(2)’s requirement to “provide and maintain a ... mechanism for individual users to report incidents of hateful conduct” if that mechanism does not explicitly reference or address the content encompassed by the statute's definition of “hateful conduct” and does not specifically state that content meeting the statute’s definition of “hateful conduct” may be reported using that mechanism? (3) Does N.Y. Gen. Bus. Law § 394-ccc require a social media network to provide a direct response to any individual reporting hateful conduct informing them of how the matter is being handled?”

Reyes v City of New York (No. 59)

CTQ 2025-4

Statutes—“Does either N.Y. Civ. Rights Law § 79-p or N.Y.C. Admin. Code § 14-189 afford individuals such as plaintiff Reyes the right to video record law enforcement activities inside public facilities—specifically, inside the publicly accessible lobbies of police stationhouses—notwithstanding a New York City Police Department policy forbidding any video recording inside its facilities?”

People v Kelley (Anton) (No. 60)

APL 2025-179

Crimes—Plea of Guilty—Whether defendant abandoned his request for substitution of counsel by pleading guilty while still represented by the same attorney;

People v Fernandez (Andre) (No. 61)

APL 2025-133

Crimes—Right to Counsel—Effective Representation—Whether defendant was denied the effective assistance of counsel by trial counsel’s failure to investigate defendant’s mental health and substance abuse history in connection with a challenge to the voluntariness of defendant’s statements to the police;

People v Guerra (Diego) (No. 62)

APL 2025-80

Crimes—Right to Counsel—Whether defendant was denied the effective assistance of counsel because defense counsel signed and permitted the jury to consider a stipulation containing definitions of the crimes charged that eliminated the required mens rea element.