State of New York
Court of Appeals

Summaries are prepared based on the parties' briefs and are for background purposes only.

To be argued Tuesday, November 18, 2025

Sander v Westchester Reform Temple (228 AD3d 688 [AD2])
Court PASS Docket No. APL-2024-00174

The Westchester Reform Temple hired Jessie Sander as a full-time instructor. After the Temple discharged Sander, Sander sued the Temple under New York Labor Law § 201-d, alleging she was unlawfully fired for co-authoring a blog post critical of Israel's actions in Gaza.

New York Labor Law § 201-d(2)(c) provides an employer cannot discharge an employee because of an individual's legal recreational activities done outside of work hours, off the employer's premises and without use of the employer's equipment or other property. Recreational activities are any "lawful, leisure-time activity, for which the employee receives no compensation, and which is generally engaged in for recreational purposes, including but not limited to sports, games, hobbies, exercise, reading and the viewing of television, movies and similar material."

Sander argued her blogging was a protected recreational activity because it was done off-duty, without pay, and outside the workplace. She also argued that the law protects not just the act of blogging but also the views expressed.

The Temple countered that Sander was not terminated for blogging itself, but for the anti-Zionist views expressed, arguing those views materially conflicted with the Temple's Zionist identity. They further asserted that her role as a religious educator falls under the First Amendment's "ministerial exception," exempting religious institutions from certain employment laws.

The Appellate Division unanimously affirmed the trial court's dismissal of Sander's case, holding that even if blogging were a protected recreational activity, Sander was terminated for the content of her blog, not the act of blogging itself.

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To be argued Tuesday, November 18, 2025

Matter of Monaghan v Schroeder (223 AD3d 972 [AD3])
Court PASS Docket No. APL-2024-00137

In February 2021, a State Trooper saw John M. Monaghan driving erratically in Saugerties and pulled him over. Mr. Monaghan was arrested and charged with driving while intoxicated. Because Mr. Monaghan refused to submit to a chemical breath test during the traffic stop, his license was suspended pending a DMV hearing. At the initial hearing, the arresting officers did not appear, and the hearing was adjourned. Mr. Monaghan subpoenaed the officers for the rescheduled hearing, but they again failed to appear. The Administrative Law Judge (ALJ) proceeded with the hearing and read into evidence parts of the officers' refusal report, supporting deposition and bill of particulars. The ALJ revoked Monaghan's license.

Monaghan commenced this CPLR article 78 proceeding against the Commissioner of Motor Vehicles, seeking annulment of the determination to revoke his license and arguing that his constitutional and statutory rights were violated when the ALJ proceeded with the hearing despite the nonappearance of the subpoenaed officers. He also argued that DMV failed to explain its departure from its long-standing practice of dismissing a revocation hearing after a subpoenaed officer failed to appear.

The Appellate Division upheld the revocation, noting that Mr. Monaghan had subpoenaed the officers but, upon their failure to appear at the rescheduled hearing, did not seek to have the subpoenas enforced pursuant to CPLR 2308(b) or seek an adjournment to do so. "Taking into account that there is a limited right to cross-examine witnesses in an administrative proceeding," the court concluded Mr. Monaghan was not entitled to dismissal of the administrative proceeding on this basis. The court further held that the ALJ did not err by considering the refusal report because administrative determinations may be based on hearsay alone.

To be argued Tuesday, November 18, 2025

Gurbanova v City of Ithaca (233 AD3d 1147 [AD3])
Court PASS Docket No. APL-2025-00038

In July 2019, Lazifa S. Gurbanova and her child were riding bicycles in a park in the City of Ithaca. After returning to their car, which was parked in a municipal lot, Ms. Gurbanova began loading her child's bike into the trunk. While she did so, the child grabbed onto a three-foot-high, arch-shaped metal bollard—installed to protect nearby trees from vehicle damage—and began swinging from it. The bollard dislodged from the asphalt and fell, injuring the child.

Ms. Gurbanova filed a negligence action against the City of Ithaca. The City asked for judgment in its favor, arguing that it had not received prior written notice of any defect, as required by its Charter and General Municipal Law 50-e. Under the Charter and General Municipal Law, actions against the City for injuries caused by defective conditions in streets, highways, bridges, culverts, sidewalks, or crosswalks are prohibited, unless the City had received prior written notice of the defect.

Ms. Gurbanova argued that the prior written notice requirement did not apply. Alternatively, she contended that even if it did, an exception applied because the City had affirmatively created the dangerous condition when it installed the bollard.

The Supreme Court ruled in favor of the City. On appeal, the Appellate Division, in a 3-2 decision, affirmed. The majority held that the prior written notice requirement applied because the bollard was in a municipal parking lot, which qualifies as a "highway" under General Municipal Law § 50-e (4). The court further held that Ms. Gurbanova failed to raise a triable issue of fact that the City affirmatively created a dangerous condition.

The dissenting justices disagreed, stating that the bollard was not part of a street, highway, bridge, culvert, sidewalk, or crosswalk and therefore fell outside the scope of the prior written notice requirement. They also noted that the City had submitted no evidence that the bollard was properly installed.

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Dibrino v Rockefeller Center North (230 AD3d 127 [AD1])
Court PASS Docket No. APL-2024-00158

Rockefeller Center North, Inc. owned the property that was being renovated to serve as the headquarters for Major League Baseball. JRM Construction was the general contractor for the renovation project. DAL Electrical Corporation and Jacobson & Co. were separate subcontractors on the project. Dominick DiBrino, a carpenter employed by Jacobson & Co., fell from an A-frame ladder while measuring a ceiling. DAL owned the ladder.

DiBrino sought to recover damages for injuries from Rockefeller, JRM and DAL. In turn, JRM/Rockefeller asserted a claim against DAL for indemnification.

Supreme Court granted judgment to DiBrino on his Labor Law § 240(1) claim against JRM/Rockefeller and allowed DiBrino's claims against DAL for common law negligence and violations of Labor Law § 200 to proceed. The court also determined that DAL was required to indemnify JRM/Rockefeller.

On appeal, the Appellate Division, in a 3-2 decision, agreed with Supreme Court in part and disagreed with Supreme Court in part. The court said Supreme Court properly granted judgment to DiBrino against JRM/Rockefeller. As to DAL, however, the court dismissed DiBrino's claims, holding DAL owned no duty to DiBrino. The Appellate Division also held that DAL did not have to indemnify JRM/Rockefeller. The court explained that the "scope of work" indemnification provision in the contract between DAL and JRM/Rockefeller did not apply because DiBrino was not performing work on DAL's behalf and the "negligence" indemnification provision did not apply because the negligence claim against DAL had been dismissed.

The dissenting Justices disagreed with the dismissal of DiBrino's common law negligence claim against DAL, stating DAL owed a duty to DiBrino because it launched a force or instrument of harm by leaving a defective ladder unattended in a location where another worker might use it and be injured. Because the negligence claim should proceed, the dissenting Justices said, so too should the indemnification claim by JRM/Rockefeller against DAL.

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Cortlandt Street Recovery Corp. v Bonderman (226 AD3d 103 [AD1])
Court PASS Docket No. APL-2025-00015

This case arises from a 2006 financial transaction involving the Hellas telecommunications group. Wilmington Trust Company (WTC), acting as trustee for noteholders, seeks to enforce a $1 billion judgment against various private equity entities affiliated with TPG Capital under an alter ego theory of liability.

WTC alleges that TPG and Apax Partners, acting as a consortium, jointly controlled a network of shell companies (the Hellas Entities). According to WTC, the consortium used these entitles to issue over €1 billion in debt, including the notes at issue, and then extracted nearly €974 million through a dividend funded by that debt. WTC claims that this left the Hellas Entities insolvent and unable to repay the noteholders.

WTC commenced this action against the TPG defendants, seeking to pierce the corporate veil to impose liability on the TPG defendants as the alter egos of the Hellas Entities. In 2018, the Court of Appeals upheld the sufficient of WTC's pleadings, holding WTC alleged "with specificity the conduct alleged against each defendant that would support alter ego liability." The Court noted "whether plaintiff can ultimately prove its allegations is not a consideration in determining a motion to dismiss" based on the pleadings (*Cortlandt I*, 31 NY3d 30 [2018]).

After extensive discovery, the trial court denied TPG summary judgment, allowing WTC's claims to proceed to trial.

On appeal, the Appellate Division reversed, holding that New York law does not recognize a theory of "collective" alter ego liability and that WTC failed to present sufficient evidence that any individual TPG entity exercised complete domination over the Hellas Entities or used such control to commit a fraud or wrong.