

State of New York Court of Appeals

Case Background Summaries

November 18 through November 20, 2025

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

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State of New York Court of Appeals

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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.

State of New York Court of Appeals

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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.

State of New York Court of Appeals

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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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To be argued Tuesday, November 18, 2025

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.

State of New York Court of Appeals

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To be argued Tuesday, November 18, 2025

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 entities 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 sufficiency 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.

State of New York Court of Appeals

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To be argued Wednesday, November 19, 2025

Matter of Klosterman (225AD3d 1068 [AD3])

Court PASS Docket No. APL-2025-00006

Matter of Almindo (223 AD3d 5 [AD3])

Court PASS Docket No. APL-2025-00005

Matter of Bruyere (224 AD3d 1032 [AD3])

Court PASS Docket No. APL-2025-00007

Matter of Lamphier (225 AD3d 1082 [AD3])

Court PASS Docket No. APL-2025-00008

Matter of Dixon-Domines (225 AD3d 1085 [AD3])

Court PASS Docket No. APL-2025-00010

Matter of Dunn (225 AD3d 1070 [AD3])

Court PASS Docket No. 2025-00012

Claimants are civil service employees who worked full-time for the Department of Corrections and Community Supervision (DOCCS) as instructors or teachers for incarcerated individuals. Claimants were paid an annual salary under a collective bargaining agreement that allowed them to receive their salary either over the 10-month academic year (September–June) or spread across the full calendar year.

Before 2020, claimants were offered optional summer work and could earn additional hourly wages. In 2020, claimants worked through June 2020, were not offered summer work due to the COVID-19 pandemic and returned to their regular positions in September 2020.

For the 2020 summer, claimants applied for and received federal benefits under the federal CARES Act, including Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), and Lost Wage Assistance (LWA).

The New York State Department of Labor determined claimants were not eligible for these benefits because they received an annual salary and were not totally unemployed during the summer of 2020. The Unemployment Insurance Appeal Board upheld the determinations, finding that claimants must be totally unemployed as defined by New York State's Labor Law to be eligible for benefits.

The Appellate Division affirmed the determinations, holding because the Board found claimants were “not totally unemployed and therefore ineligible for unemployment insurance benefits under state law, claimant[s] were] also not eligible to receive federal pandemic assistance under the CARES Act.” The court rejected claimants' argument that eligibility for federal benefits should be governed solely by federal law. Citing federal guidance, the court emphasized that “the terms and conditions of the state law of the applicable state for an individual which apply to claims for, and the payment of, regular compensation apply to the payment of PUA to individuals.”

State of New York Court of Appeals

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To be argued Wednesday, November 19, 2025

Matter of Mantilla v NYC Dept. of Housing Preservation and Dev. (230 AD3d 1006 [AD1])
Court PASS Docket No. APL-2024-00148

Ray Mantilla was a jazz musician who lived in a Mitchell-Lama apartment in Manhattan Plaza. After his death in March 2020, his brother, Kermit Mantilla applied for succession rights to the apartment. Kermit Mantilla claimed he had moved from Florida to New York in 2018 to care for his brother and had lived in the apartment continuously since then.

The New York City Department of Housing Preservation and Development (HPD) denied Kermit Mantilla's application, finding that Kermit Mantilla did not show that the apartment was his primary residence for the required one-year period before Ray Mantilla's death. HPD found Kermit Mantilla's documentation insufficient because some documents were issued after Ray Mantilla's death; bank statements sent to the apartment and addressed to Kermit Mantilla, as Ray Mantilla's power of attorney, were not credible proof of actual residency; and Kermit Mantilla held a valid Florida driver's license during the one- year period. HPD also noted that Kermit Mantilla did not submit any bank statements in his own name, credit card statements, utility bills, voter registration documentation, or correspondence addressed to him at the apartment.

Kermit Mantilla challenged the denial in this CPLR article 78 proceeding. Supreme Court annulled HPD's determination, finding it arbitrary and capricious based on documentation showing Kermit Mantilla received public benefits at the apartment and bank statements showing consistent local activity near the apartment.

On appeal, in a 3-2 decision, a majority of the Appellate Division disagreed with Supreme Court, holding that HPD's determination was entitled to deference and had a rational basis. The majority emphasized that a reviewing court cannot substitute its own view of the evidence for HPD's, even if the court would have reached a different result. The majority said HPD's determination had a rational basis and should be upheld.

The dissenting Justices disagreed, saying "[w]hat the majority refers to as deference" does not require it to "ignore the lack of a rational basis on the part of HPD for denying the petition."

State of New York Court of Appeals

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To be argued Wednesday, November 19, 2025

Matter of The Coalition for Fairness v City of New York (233 AD3d 433 [AD1])
Court PASS Docket No. APL-2025-00028

In 2021, the City of New York rezoned the SoHo and NoHo neighborhoods, historically limited to “Joint Live-Work Quarters for Artists” (JLWQA). Under the new zoning, occupants of JLWQA units who were not certified artists or who held familial succession rights could legalize their occupancies by applying to convert their units from JLWQA to unrestricted residential use. A permit for such conversion requires a payment of a one-time, nonrefundable Arts Fund fee of \$100 per square foot into the newly created SoHo/NoHo Arts Fund. The fee is due upon application, regardless of whether the permit is granted or denied.

Petitioners, a community organization and several residents, challenged the fee as an unconstitutional “exaction” under *Nollan v California Coastal Commission* (483 US 825) and *Dolan v City of Tigard* (512 US 825). Petitioners argued that the fee was a permit condition that had no “nexus” to the City’s land-use interest and was not “roughly proportional” to the impact of the conversion.

The trial court dismissed the claim, holding the fee was a monetary obligation, not a taking.

The Appellate Division disagreed, holding that the Arts Fund fee was a permit condition and was unconstitutional because there was no essential nexus between the fee and a valid land-use interest, and the fee was not “roughly proportional” to the impact caused by the conversion of JLWQA units.

State of New York Court of Appeals

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To be argued Wednesday, November 19, 2025

People v Samuel Shaw (229 AD3d 1180 [AD4])
Court PASS Docket No. APL-2024-00129

In June 2018, two men were shot and killed while sitting in a car in a Rochester parking lot, and a woman in a nearby car was shot and severely injured. Law enforcement identified Samuel Shaw as the suspected shooter. In July 2018, Mr. Shaw spent the night and next day at a friend's apartment. Law enforcement arrived at the apartment without a warrant. Mr. Shaw exited the apartment and was arrested outside. Mr. Shaw's friend, the tenant of the apartment, consented to a search of the apartment. During the search, law enforcement found a gun in a toilet tank.

Before trial, Mr. Shaw challenged the search of the apartment and moved to suppress the gun. Mr. Shaw also challenged his arrest under *People v Payton* (445 US 573), which prohibits warrantless, nonconsensual entries into a home to make a routine felony arrest absent exigent circumstances.

County Court denied the motion, holding that Mr. Shaw lacked standing to challenge the search of the apartment because he was an overnight guest who had overstayed his welcome and did not have an expectation of privacy in the toilet tank of the apartment. County Court summarily denied Mr. Shaw's *Payton* claim without a hearing.

A jury convicted Mr. Shaw of two counts of first-degree murder, one count of attempted murder in the second degree, assault in the first degree and criminal possession of a weapon in the second degree.

On appeal, the Appellate Division, in a 4-1 decision, affirmed the convictions. The majority held that Mr. Shaw had standing to raise a *Payton* claim as an overnight guest. The majority said that where, as here, law enforcement's "manner of entry constitute[s] 'coercive circumstances suggesting that defendant was submitting to authority' by leaving the apartment," defendant did not voluntarily exit the premises, resulting in a *Payton* violation. The majority concluded, however, that suppression of the gun was not required because the apartment's tenant voluntarily consented to the search.

The dissenting Justice concluded the tenant's consent was not voluntary and, even if it was voluntary, it was not "sufficiently attenuated" from the *Payton* violation to "purge the taint of illegality." The dissenting Justice would have suppressed the gun and dismissed the weapon possession count but found the error harmless as to the other convictions.

State of New York Court of Appeals

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To be argued Thursday, November 20, 2025

Hudson View Park v Town of Fishkill (234 AD3d 40 [AD2])

Court PASS Docket No. APL-2024-00167

Hudson View Park Company (HVP), a private landowner, sought to develop a mixed-use housing project on its 50-acre property in the Town of Fishkill. The project required rezoning part of the land to allow for multifamily residential use. In 2017, HVP and the Town agreed, by a memorandum of understanding, that the Town Board would perform its review obligations and “shall not terminate its review” of the zoning petition and project in general “until it reaches a final determination on the merits in its legislative judgment regarding the best interests of the Town based upon empirical data and other factual bases.”

After a change in Town leadership in 2020, the Town Board issued a resolution ending its review of the zoning petition. HVP filed suit, alleging breach of contract and breach of the duty of good faith and fair dealing, seeking to recover damages for its expenditures and costs incurred in application and review process. The Town moved to dismiss, arguing the agreement violated the “term limits rule” and constituted illegal “contract zoning.”

Supreme Court dismissed the complaint, holding that the agreement violated the term limits rule because it bound future boards in matters of legislative discretion. The court also held that the agreement constituted illegal “contract zoning,” because it committed the Town to a specific course of action.

The Appellate Division affirmed, finding the agreement violated the term limits rule and the prohibition on contract zoning.

State of New York Court of Appeals

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To be argued Thursday, November 20, 2025

Smith v City of New York (236 AD3d 414 [AD1]).
Court PASS Docket No. APL-2025-00055

Johnte Smith filed two separate lawsuits against the City of New York, each arising from different arrests by NYPD officers in May 2020. The same attorney represented Smith in both actions. The first action (Action 1) stemmed from a May 5 arrest; the second (Action 2), jointly filed with Sheldon Moore, arose from a May 19 arrest. Both suits alleged false arrest and malicious prosecution.

In May 2022, Smith, represented by counsel, settled Action 2 for \$30,000. As part of that settlement, he signed a general release that included broad language discharging the City from “any and all” tort claims unless specifically excluded. Smith did not list Action 1 in the exclusion section.

Supreme Court denied the City’s motion for summary judgment in Action 1, finding the release applied only to Action 2.

The Appellate Division reversed in a 3–2 decision, holding the general release signed by Smith in connection with the settlement of Action 2 (the May 19, 2020 arrest) was clear and unambiguous. The majority said because the release broadly waived “any and all” tort claims unless specifically excluded, and Smith did not list Action 1 (the May 5, 2020 arrest) in the exclusion section, Action 1 was barred. The majority also noted that there was no basis to consider extrinsic evidence because the release was unambiguous and, even if extrinsic evidence were considered, it would not override the broad language of the release. The majority also observed that the City had no legal or ethical obligation to advise a represented plaintiff on how to complete a clear release.

The dissenting Justices disagreed, holding the parties clearly intended to settle only Action 2, because the release only referenced Action 2 and all communications and documents referenced only Action 2. The dissenting Justices noted that applying the release to Action 1 was unfair and unjust, because the City never disclosed its intent to extinguish Action 1. The dissenting Justices warned that allowing such a practice incentivizes defendants to “surreptitiously dispose” of unrelated claims and undermines fair settlement practices.

State of New York Court of Appeals

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To be argued Thursday, November 20, 2025

People v Mark Smith (228 AD3d 1324 [AD4])
Court PASS Docket No. APL-2024-00181

On a rainy evening in April 2017, a masked man wearing a rain poncho entered a hair salon in Rochester and pointed what appeared to be a gun at salon employees and customers. He forced an employee to open a safe and hand over the cash inside.

In May 2017, police received a tip from Crime Stoppers. The tipster reported that Mark Smith had confessed to robbing a hair salon and that she had purchased a BB gun for him as a birthday gift. She explained that she did not initially contact police but felt compelled to do so after Mr. Smith began pressuring her to help him scout additional salons to rob.

Pursuant to a search warrant, police searched Mr. Smith's apartment and recovered a black air pistol, a black homemade mask, and a white plastic poncho. Smith was indicted for one count of robbery in the first degree under Penal Law § 160.15(4).

Before trial, County Court granted the People's application to introduce evidence that Mr. Smith was planning a second robbery and had asked the tipster to help identify a target. The court found the evidence relevant to establish identity and a common scheme or plan, and to complete the narrative explaining how the tipster came to contact Crime Stoppers. The court also concluded that the probative value of the evidence outweighed any prejudicial effect.

At trial, following the tipster's testimony, the court instructed the jury that the evidence of the planned second robbery could not be considered as proof of Mr. Smith's criminal propensity, but could be considered for limited purposes, including the tipster's motive for contacting police and Smith's modus operandi.

At the close of evidence, the court denied Smith's request to instruct the jury on the statutory affirmative defense under Penal Law § 160.15(4), which applies when the object displayed was not a loaded weapon capable of discharging a shot likely to cause death or serious physical injury. The jury convicted Smith of robbery in the first degree.

The Appellate Division affirmed. The court first held that County Court erred in permitting the tipster to testify about Mr. Smith's alleged plan to commit a second robbery but concluded that the error was harmless. The court also held that County Court properly denied Mr. Smith's request to instruct the jury on the statutory affirmative defense under Penal Law §160.15(4). The court concluded there was no reasonable interpretation of the evidence that the BB gun allegedly displayed was unloaded or inoperable.

State of New York Court of Appeals

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To be argued Thursday, November 20, 2025

People v Roderick Collier (223 AD3d 539 [AD1])

Court PASS Docket No. APL-2024-00130 ***case materials not available*

In 2009, Roderick Collier, then 22 years old, punched and sexually assaulted a 16-year-old girl. He was charged with multiple offenses, including rape and assault. As part of a negotiated plea agreement, Mr. Collier pleaded guilty to misdemeanor sexual misconduct, was sentenced to one year in jail, and assessed a \$1,000 sex offender fee. He was released from custody in December 2009.

In November 2014, nearly five years later, the Board of Examiners of Sex Offenders initiated proceedings under the Sex Offender Registration Act (SORA), recommending that Mr. Collier be classified as a risk level two sex offender. Mr. Collier moved to dismiss the proceedings, arguing that the delay was “outrageously arbitrary” and violated his due process rights. The trial court denied the motion but, considering Mr. Collier’s law-abiding conduct following his release, adjudicated him a risk level one offender.

The Appellate Division affirmed. The court recounted that the SORA statute says a court must make its determination within 30 days before an offender’s discharge, parole or release, but that a failure to do so “shall not affect the obligation of a sex offender to register or verify” or “prevent a court from making a determination” of a sex offender’s level of notification.

“Notwithstanding this statutory flexibility,” the court explained that an offender’s due process rights are violated when a delay is “so outrageously arbitrary as to constitute gross abuse of government authority.” The court articulated a four-factor test to determine whether a delay in SORA proceedings rises to the level of a due process violation. The factors include: (1) the length of the delay; (2) the reason for the delay; (3) whether the defendant had notice of the SORA registration requirement; and (4) whether the defendant was prejudiced by the delay.

Applying this framework, the court concluded that the delay, although substantial, did not violate Mr. Collier’s due process rights.

State of New York Court of Appeals

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To be argued Thursday, November 20, 2025

Matter of Seneca Meadows v Town of Seneca Falls (233 AD3d 1430 [AD4])
Court PASS Docket No. APL-2025-00116

Seneca Meadows, Inc. (SMI) challenged the Town of Seneca Falls' Local Law No. 3 of 2016, which prohibits solid waste disposal facilities in the Town after December 31, 2025. SMI alleged that the law targeted its landfill for closure and was enacted in violation of the State Environmental Quality Review Act (SEQRA). The Town and intervenors defended the law.

Supreme Court granted SMI's motion for summary judgment on its SEQRA claim, holding that the Town violated SEQRA in adopting the Local Law. As a threshold matter, the court found that SMI had standing to bring the SEQRA challenge as the owner of the property directly affected by the law. Relying on *Matter of Har Enterprises v Town of Brookhaven* (74 NY2d 524), the court held that a property owner targeted by a zoning change has standing under SEQRA even without alleging specific environmental harm.

On the merits, the court concluded that the Town Board failed to comply with SEQRA because it did not take the required "hard look" at the environmental impacts of the Local Law and issued a negative declaration without meaningful discussion or analysis. The court found the Town's SEQRA process to be both procedurally and substantively deficient and annulled the Local Law.

Intervenors appealed. In a 3–2 decision, the Appellate Division reversed and dismissed SMI's petition, holding that SMI lacked standing to challenge the Local Law under SEQRA. The majority reasoned that SMI had alleged only economic harm, not environmental injury, and, under SEQRA, standing requires a showing of environmental harm within the "zone of interests" the statute is intended to protect. Economic injury alone, the court held, is insufficient.

The dissenting justices disagreed, concluding that SMI had standing under *Matter of Har Enterprises*. They said that the majority applied the general SEQRA standing rule and failed to recognize the exception for property owners directly targeted by government action. In their view, SMI, as the owner and operator of the only landfill affected by the Local Law, fell squarely within that exception.