State of New York Court of Appeals

Case Background Summaries

October 14 through October 16, 2025

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

Briefs and attorney contact information are available through Court-PASS or by contacting the Clerk's Office.

NYS Court-PASS Home Page

State of New York
Court of Appeals

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To be argued Tuesday, October 14, 2025

GEICO v Mayzenberg (121 F4th 404 [Second Circuit])
Court PASS Docket No. CTQ-2024-00003

Igor Mayzenberg, a licensed acupuncturist in New York, owned three acupuncture professional services corporations. One of these companies, Mingmen Acupuncture, P.C., treated individuals injured in motor vehicle accidents and filed nearly $4.9 million in no-fault claims with insurer GEICO. The other two companies did not treat patients but paid a group of companies owned by Igor Dovman nearly $390,000. Mayzenberg claimed the payments were for advertising services, but the Dovman companies did not issue invoices for advertising services, or pay any employees, lease office space, or maintain a website or social medial presence advertising their services. Monthly, an unidentified individual would call Mayzenberg and tell him how much to pay. Mayzenberg did so by check, sometimes leaving the "pay to the order of" section blank.

GEICO commenced this federal action against Mayzenberg and others, alleging a no-fault fraud scheme where Mayzenberg paid Dovman "kickbacks" in exchange for patient referrals. GEICO asserted that Mayzenberg was not eligible for reimbursement under New York's no-fault insurance law and regulations because providers of health care services are "not eligible for reimbursement" if the provider "fails to meet any applicable New York State or local licensing requirement necessary to perform such service in New York" (11 NYCRR 65-3.16[a][12]). And, GEICO said, Mayzenberg was subject to discipline as a licensed acupuncturist under the Education Law because Education Law § 6530(18) defines medical misconduct as directly or indirectly giving any fee to a third party for referral of a patient.

On appeal to the United States Court of Appeals for the Second Circuit, that court determined that there was no dispute that Mayzenberg paid Dovman for patient referrals, violating Education Law § 6530(18). In theses circumstances, the Second Circuit asked the Court of Appeals to determine whether an insurer can "deny payment for no-fault benefits on the ground that the provider 'fail[ed] to meet' a 'necessary' State or local licensing requirement under 11 NYCRR 65-3.16(a)(12)?"

Mayzenberg argues that an Education Law disciplinary violation does not constitute a violation of a State or local licensing law, and it can be paid under the no-fault law. GEICO argues that willful, material and sufficiently grave professional misconduct will render a professional ineligible to receive no-fault benefits. The Department of Insurance argues as amicus curiae that an insurer cannot deny payment of no-fault benefits based on the insurer's determination that professional misconduct has occurred.

State of New York
Court of Appeals

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To be argued Tuesday, October 14, 2025

Matter of Parker J. (232 AD3d 1244 [AD4])
Court PASS Docket No. APL-2025-00101 ***case materials not available*

The Department of Children and Family Services commenced this proceeding to terminate mother's parental rights. Family Court assigned mother counsel and after a recess during a fact-finding hearing, mother told the court that she would like to represent herself. Family Court asked mother about her level of education, age, work history, primary language, medication use, and physical and mental conditions. Family Court then asked mother if she had time to think about representing herself and her previous exposure to legal proceedings. Family Court also asked mother if she understood some areas of the law were complicated and she would be expected to perform as an attorney and held to the same legal standard as an attorney. Satisfied with mother's responses, Family Court permitted mother to represent herself. Mother's assigned counsel was kept as "standby" counsel.

Mother represented herself but later asked for a different attorney. Family Court denied the request, explaining that mother had elected to represent herself and her prior attorney would remain as standby counsel.

Family Court determined mother permanently neglected the children and proceeded to the dispositional phase of the proceeding. Mother asked for an attorney. Family Court denied the request and allowed standby counsel to confer with mother regarding the dispositional hearing. Mother requested a suspended judgment.

Family Court denied mother's request for a suspended judgment and terminated her parental rights.

On appeal, the Appellate Division rejected mother's argument that her counsel was ineffective, stating mother received effective representation "during the time that counsel represented her." The court also held that mother "knowingly, intelligently, and voluntarily" waived her right to counsel, pointing to Family Court's "searching inquiry" to determine that mother was aware of the dangers and disadvantages of continuing without an attorney.

State of New York
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To be argued Tuesday, October 14, 2025

People v Omar Johnson (225 AD3d 453 [AD1])
Court PASS Docket No. APL-2024-00111

The police found a loaded pistol inside Omar Johnson's moped on a public roadway. The gun was unregistered, and Mr. Johnson did not have a gun license.

A grand jury charged Mr. Johnson with criminal possession of a weapon in the second degree and other weapon offenses. Mr. Johnson moved to dismiss the charges based on Second Amendment grounds, relying on *New York State Rifle & Postol Assn v Bruen* (597 US __ [2022]). Mr. Johnson argued that New York's gun licensing scheme was unconstitutional, and but for this unconstitutional requirement, he would be able to possess the gun. Mr. Johnson claimed that he was only charged with crimes because he did not obtain a license under an unconstitutional licensing system. The People opposed the motion, arguing that the Supreme Court of the United States has never said that a person has a right to possess an unlicensed gun in public. The People also argued that Mr. Johnson could not raise the Second Amendment argument because he never applied for a gun license.

Mr. Johnson pleaded guilty to attempted criminal possession of a weapon in the second degree, waived his right to appeal, and received a sentence of five years' probation.

On appeal, the Appellate Division held that Mr. Johnson's valid waiver of his right to appeal prevented the court from considering whether his conviction is unconstitutional under *Bruen*. Noting that there are only a "narrow class of appellate claims" that cannot be waived as part of a plea bargain, the court reasoned the Mr. Johnson's claim did not fit within that narrow class because it did not "go to the heard of the adjudicative process, and plainly does not do so any more than the host of constitutional claims" that are waivable.

Alternatively, the court held that Mr. Johnson could not challenge the gun licensing scheme because he did not apply for a gun license, and he did not establish that his conviction was unconstitutional under *Bruen.*

Mr. Johson argues that his constitutional challenge to his conviction cannot be waived, he can raise a Second Amendment claim without applying for a license, and his conviction is unconstitutional under *Bruen*. The People and intervenor Attorney General argue that Mr. Johnson validly waived his constitutional claim, he lacks standing to raise a constitutional claim and his constitutional challenge lacks merit.

State of New York
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To be argued Tuesday, October 14, 2025

People v Leighton R. (223 AD3d 597 [AD1])
Court PASS Docket No. APL-2024-00092
***case materials not available on Court-PASS, contact Clerk's Office*

In June 2014, around 11 p.m., an unidentified man called 911, said that he was at the intersection of 233rd Street and White Plains Road, and reported that he had been shot but that he did not need an ambulance. The caller identified the shooters as two black men driving a white Mercedes-Benz and told the dispatcher he knew where they lived and provided the dispatcher with their home address. The caller refused to give his full name or telephone number. Police were unable to identify or locate the caller.

At the same time, police officers in a marked patrol car received a radio transmission that a man was shot on the corner of 233rd Street and White Plains Road. The police officers—who were approximately four blocks from that intersection—drove towards that location and received additional information that two black males in a white Mercedes-Benz were responsible for the shooting. The responding officers received another radio transmission from a foot patrol officer, who said he was at that corner and didn't hear any shots. The responding officers saw a white Mercedes-Benz and pulled the car over. The driver, Leighton R., told the police officers that he and his passenger were coming from Mount Vernon, gave the officers his license, and told the officers they could "check" the car.

The officers then received a radio transmission with the home address provided by the caller; the address matched the address on Leighton R.'s license. The police officers handcuffed Leighton R. and his passenger outside of the car. One officer pulled on the car's glove box to open it, but it was locked. Through a gap, the officer could see a gun inside the glove box. The officer also smelled gunpower. The officer opened the glove box with the car's key and retrieved a gun and ammunition.

Leighton R. was charged with criminal possession of a weapon in the second degree. He moved to suppress the gun, ammunition and statements he made to the police as the fruit of an unlawful arrest. The trial court denied the motion, rejecting Leighton R.'s arguments challenging the initial stop of the car, the reliability of the anonymous 911 caller, and the search of the car. Leighton R. pleaded guilty to attempted criminal possession of a weapon in the second degree and was sentenced to three years' probation.

On appeal, the Appellate Division said the trial court properly denied the suppression motion, noting that the anonymous tip was "sufficiently corroborated to provide the police with reasonable suspicion to stop" the car because within "a minute of receiving the radio dispatch that the anonymous caller had reported being shot by two black men in a white Mercedes-Benz at the intersection of 233rd Street and White Plains Road, the responding officers observed" Leighton R. and a passenger in a car fitting the description within a block of the reported scene. Following the stop, the court said, the police officers were justified in searching the car and glove box based on consent, probable cause, and the automobile exception.

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To be argued Tuesday, October 14, 2025

Clarke v Town of Newburgh (237 AD3d 14 [AD2])
Court PASS Docket No. APL-2025-00110

In 2022, the New York State Legislature enacted the John R. Lewis Voting Rights Act of New York (NYVRA), to recognize that the New York State constitution protects the right to vote, encourage all eligible voters to participate in political processes to the maximum extent, and ensure that voters who are members of racial, color and language-minority groups shall have an equal opportunity to participate in the political processes of the state.

Based on a "vote dilution" provision in the NYVRA, six individual voters who live in the Town of Newburgh sued the Town and its Board. The five members of the Town Board are chosen through at-large elections. According to the voters, Black and Hispanic communities are 25% and 15% of the Town's population, respectively, but every person ever elected to the Town Board has been white. The voters asked for a new election method for the Board—either by a districting plan or an alternative method of election.

In response, the Town argued that the NYVRA's vote dilution provision violated the Equal Protection Clauses of the United States and New York State constitutions. Because, generally, a municipality such as a Town cannot challenge an act of the State Legislature, the voters argued that the Town did not have capacity to challenge the constitutionality of the vote dilution provision.

The trial court agreed with the Town, saying the Town could challenge the constitutionality of the NYVRA under an exception to the general rule because, applying that exception, if the Town had to comply with the law by enacting a different election system, they would be required to violate the Equal Protection Clause. The court further held that the NYVRA violated federal law and could not stand. The court directed that the NYVRA be stricken in its entirety and not applied to any political subdivisions in New York.

On appeal, the Appellate Division reversed. The court held that the Town could not challenge the constitutionality of the NYVRA under the exception because it did not establish that its compliance with the NYVRA would force it to violate the Equal Protection Clause.

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To be argued Wednesday, October 15, 2025

Matter of McLaurin v NYC Transit Auth. (225 AD3d 1105 [AD3])
Court PASS Docket No. APL-2024-00094

Matter of Matthews v NYC Transit Auth. (225 AD3d 1109 [AD3]
Court PASS Docket No. APL-2024-00095

Matter of Anderson v City of Yonkers (227 AD3d 63 [AD3])
Court PASS Docket No. APL-2024-00096

Matter of Djanuzakov v Manhattan & Bronx Surface Trans. Op. Auth. (225 AD3d 1107 [AD3])
Court PASS Docket No. APL-2024-00097

A train operator, subway conductor, bus driver and public-school teacher sought workers' compensation benefits for psychological injuries caused by exposure to COVID-19 at their jobs. In each matter, the Workers' Compensation Board denied the claims. The Appellate Division reversed and sent the matters back to the Board for consideration, with guidance on how to evaluate the claims.

As explained in *Matter of Anderson*, the Appellate Division directed the Board to apply the same standard to claims for physical injuries caused by contracting a communicable disease to claims for psychological injuries caused by exposure to a communicable disease. Thus, when a person seeks benefits for an injury—physical or psychological—caused by exposure to COVID-19, the person must show that such injury arose in the course of their employment by demonstrating a specific exposure to COVID-19 or prevalence of COVID-19 in the work environment that presents an elevated risk of exposure constituting an extraordinary event. If the person does so, then the Board must determine, considering the commonsense view of an average person and the person's particular vulnerabilities, whether the person established, by competent medical evidence, a causal connection between the alleged injury and the workplace accident.

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To be argued Wednesday, October 15, 2025

Matter of Aungst v Family Dollar (221 AD3d 1222 [AD3])
Court PASS Docket No. APL-2024-00064

In the Spring of 2020, Frank Aungst was deemed an "essential employee" during the COVID-19 pandemic and worked 50 or more hours per week as a store manager at a high-volume Family Dollar store. The store remained open during March and April 2020, and Mr. Aungst had direct contact with the public for most of his workday. Mr. Aungst often came into close contact with unmasked customers and, on a few occasions, had physical contact with customers. Family Dollar did not provide face masks or sneeze guards to any employees until mid-April 2020.

In late April 2020, Mr. Aungst developed a fever and tested positive for COVID-19. His only other symptom was a mild cough. Mr. Aungst did not travel out of the country, visit with family members, or use public transportation before testing positive for COVID-19.

On May 1, 2020, Mr. Aungst suffered a stroke and was hospitalized. Mr. Aungst had never been diagnosed with or received treatment for high blood pressure. Following his stroke and admission to the hospital, Mr. Aungst continued to test positive for COVID-19. He received speech, occupational and physical therapy after the stroke and could not return to work.

The Workers' Compensation Board granted Mr. Aungst benefits. Seeking review from the Appellate Division, Family Dollar argued that Mr. Aungst could not state when and where he contracted COVID-19.

The Appellate Division rejected this argument. First, the court explained, "the contraction of COVID-19 in the workplace reasonably qualifies as an unusual hazard, not the natural and unavoidable result of employment and, thus, is compensable under the Workers' Compensation Law." A claimant must establish that the injury arose out of and in the course of the employment and, further, must demonstrate, by competent medical evidence, the existence of a causal connection between the injury and the employment." "The concept of time-definiteness required of an accident can be thought of as applying to either the cause or the result, and it is not decisive that a claimant is unable to pinpoint the exact date on which the incident occurred," the court said, and it explained a claimant may meet his or her burden to show that an injury arose in the course of employment by demonstrating either a specific exposure to COVID-19 or prevalence of COVID-19 in the work environment that presents an elevated risk of exposure constituting an extraordinary event.

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To be argued Wednesday, October 15, 2025

Matter of Claim of Garcia (211 AD3d 1264 [AD3])
Court PASS Docket No. APL-2024-00127

The legislature added article 8-A to the Workers' Compensation Law for the purpose of extending the claim filing deadline for workers and volunteers who sustained a qualifying condition as the result of participation in rescue, recovery and cleanup operations following the September 11, 2001, terrorist attacks on the World Trade Center. For an article 8-A claim, the claimant must have (1) participated in the rescue, recovery or clean-up operations at the World Trade Center site (or the Fresh Kills landfill or a New York City morgue) between September 11, 2001, and September 12, 2002, (2) contracted a qualifying condition as a result of that participation, and (3) filed a written and sworn statement with the Board detailing the dates, locations and employers for whom claimant worked as part of his or her participation in the World Trade Center rescue, recovery or clean-up operations.

Miguel Garcia was a Red Cross Volunteer at the World Trade Center in the aftermath of September 11, 2001. Mr. Garcia established an article 8-A claim for posttraumatic stress disorder, depression, asthma, gastroesophageal reflux disease and obstructive sleep apnea.

Mr. Garcia died on July 15, 2016. On February 21, 2020, Mr. Garcia's spouse filed a claim for workers' compensation death benefits, asserting that Mr. Garcia's death resulted from the medical conditions established in his article 8-A workers' compensation claim. The Board denied the claim for death benefits as untimely.

A majority of the Appellate Division agreed with the Board. The majority recounted that, generally, a claim for workers' compensation benefits must be filed within two years after an accident or after a death resulting from an accident. The court explained, however, that the legislature enacted article 8-A to remove the two-year time limit to file claims, but only for employees or volunteers who were at specific locations--the World Trade Center site, Fresh Kills Land Fill, or a New York City morgue.

By describing the locations so specifically, the court reasoned that the exception to the two-year time limit applied only to "work actually performed at these sites," and, although Mr. Garcia did so and was entitled to claim benefits under article 8-A, his wife's claim for death benefits was not an article 8-A claim and was untimely under the general two-year time limit. Mrs. Garcia "cannot piggyback upon [Mr. Garcia's] entitlement, as her claim for death benefits" accrued at the time of death and is separate from Mr. Garcia's article 8-A disability claim, the court said.

The dissenting Appellate Division Justice disagreed, relying on the notice provision in article 8-A that requires notice "for injury or death for a qualifying condition" and speaks to circumstances where a participant suffers a qualifying disease or situation that eventually causes the participant's death. The dissenting Justice concluded that the statutory notice process confirmed that article 8-A extends to claims for death benefits, where the death was causally related to the participant's qualifying condition. Noting that the Board did not determine if Mrs. Garcia filed her claim for death benefits within 2 years of when she knew or should have known that Mr. Garcia's death resulted from a qualifying condition, the dissenting Justice would have remitted the matter to the Board for that determination.

State of New York
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To be argued Wednesday, October 15, 2025

People v Locksley Williams (83 Misc3d 21 [App Term])
Court PASS Docket No. APL-2024-000103

In October 2020, Locksley Williams was charged in a misdemeanor complaint with aggravated unlicensed operation of a motor vehicle in the second and third degrees, unlicensed operation of a motor vehicle, and failure to obey a traffic control signal. On December 7, 2020, the People served and filed an information to replace the complaint, charging Mr. Williams with the same offenses.

On December 21, 2020, the People filed a certificate of compliance pursuant to CPL 245.50(1) and a statement of readiness. The statement of readiness certified, pursuant to CPL 30.30 (5-a), that all counts in the accusatory instrument met the requirements of CPL 100.15 and 100.40 and those counts not meeting the requirements of those sections had been dismissed.

Mr. Williams moved to dismiss, arguing that the accusatory instrument was facially insufficient under CPL 100.40. The People conceded that the failure to obey a traffic-control signal count was facially insufficient under CPL 100.40 and should have been removed from the December 7, 2020 information. The People informed the court that the facially insufficient count was mistakenly left on the information due to a scrivener's error and argued that this error did not warrant dismissal of the entire accusatory instrument. Mr. Williams countered that CPL 30.30 (5-a) requires the People to dismiss any facially insufficient charge before validly stating the People are ready for trial and, thus, the statement of readiness was illusory and not valid. Based on the invalid statement of readiness, Mr. Williams asked the court to dismiss on statutory speedy trial grounds.

Criminal Court dismissed the traffic-control signal charge, it did not dismiss the other charges. The Appellate Term affirmed, stating that a statement of readiness is valid when the People certify that the counts charged are facially sufficient. The court concluded that the People complied with the statute here. Alternatively, the court said, if it "read into" CPL 30.30 that an inaccurate CPL 30.30 (5-a) certification as to any count in the accusatory instrument could render it and the statement of readiness illusory, and thus invalid as to any facially sufficient counts, it would "only do so where there is a basis to believe that the People acted in bad faith."

State of New York
Court of Appeals

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To be argued Wednesday, October 15, 2025

People v Derek Sargeant (230 AD3d 1341 [AD2])
Court PASS Docket No. APL-2024 -00169
***case materials not available on Court-PASS, contact Clerk's Office*

Police responded to Mr. Sargeant's home in response to a 911 call and later executed a search warrant recovering multiple guns, ammunition, two machetes, a sleeve of more than 2,000 blank credit cards, and two devices used to print on plastic cards. By indictment, Mr. Williams was charged with multiple and varying degrees of criminal possession of a weapon and forgery devices, among other crimes.

At trial, the sole alternate juror was seated as a trial juror after a trial juror was discharged. On January 23, 2019, the jury began deliberations. Deliberations were suspended mid-morning on January 24, as Mr. Sargeant was unwell, and were scheduled to resume on January 25.

Juror No. 1 remained at the courthouse for lunch and then went home. He was approached by a man outside of the gate at his home who said, "Derek Sargeant is innocent" and "he's being extorted." Juror No. 1 contacted a friend, who was a prosecutor but not involved in the case. Juror No. 1 reported to the court clerk that he could no longer be impartial. The friend separately contacted the court and advised that Juror No. 1 had been approached by "the defendant" outside of Juror No. 1's home.

At a hearing, Juror No. 1 said that a man approached him at his home, pushed some documents into his hand, and said Derek Sargeant is innocent and was being extorted. Juror No. 1 described the man but was not sure if it was Mr. Sargeant. Juror No. 1 remembered telling his friend that the man was "someone like on behalf of" Mr. Sargeant. Juror No. 1 expressed concern for the safety of his family. The trial court discharged Juror No. 1 on consent of the parties.

The People asked that deliberations continue with an 11-person jury; Mr. Sargeant asked for a mistrial. Following testimony from Juror No. 1's friend, the court denied the application for a mistrial, noting it "had no doubt" that it was Mr. Sargeant who "confronted Juror No. 1 at his home," and even if it was someone else, it was someone who acted on Mr. Sargeant's direction.

The 11-person jury convicted Mr. Sargeant of some counts and acquitted him of others. Mr. Sargeant appealed, arguing that his conviction by an 11-person jury deprived him of his federal and state constitutional rights to a 12-person jury. The Appellate Division, in a 4-1 decision, rejected these arguments.

Applying decisions from the Supreme Court of the United States and federal circuit courts, the majority held that, under the circumstances of this case, the conviction by an 11-person jury did not violate Mr. Sargeant's federal constitutional rights. Under the New York State constitution, the majority held that there is a fundamental right that "crimes prosecuted by indictment shall be tried by a jury composed of twelve persons." The majority concluded, however, that Mr. Sargeant forfeited this right by tampering with the jury.

The dissenting Justice disagreed, concluding that the conviction by an 11-person jury deprived Mr. Sargeant of his New York State constitutional right to a jury of twelve persons.

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To be argued Thursday, October 16, 2025

Article 13 LLC v Lasalle National Bank (132 F4th 586 [Second Circuit]).
Court PASS Docket No. CTQ-2025-00001

A mortgage to finance the purchase of property usually provides that the owner of the property will pay the bank or mortgage company in installments and includes an "acceleration" clause—if the owner misses an installment payment, the mortgage company has the option to "accelerate" the loan and demand that the owner pay the entire balance of the debt. If a mortgage company commences an action to recover the entire balance of the debt, it has accelerated the loan. The mortgage company has six years from acceleration to seek to foreclose on the property—to take possession of the property that secures the debt. If the debt is accelerated and the six-year period expires, the owner of the property can commence an action to cancel and discharge a mortgage (RPAPL 1501 [4]).

In 2007, following missed installment payments on a mortgage for property in Brooklyn, a mortgage company commenced an action on the mortgage in state court against the property owner. The action was pending for ten years, and the mortgage company did not apply to foreclose the property. In 2017, the mortgage company, with the court's approval, voluntarily discontinued the action.

In 2020, the owner of the property filed this action in the United States District Court for the Eastern District of New York seeking a judgment cancelling and discharging the mortgage on the property. The owner said the requirements of RPAPL 1501(4) were met, because the six-year period to commence an action to foreclosure a mortgage began when the mortgage debt was accelerated – in 2007—and had expired. A successor mortgage company argued in defense that the 2007 action did not accelerate the mortgage because the prior mortgage company did not have standing to bring that action.

Before the District Court issued a decision, in 2021, the Court of Appeals held that if a mortgage company voluntarily discontinues a mortgage foreclosure action, it revokes the "acceleration" of the mortgage debt and resets the six-year period (*Freedom Mtge. Corp. v Engel,* 37 NY3d 1). In 2022, the District Court held that if the prior mortgage company that commenced the 2007 mortgage action did not have standing, the debt was not accelerated by that action. If so, the owner could not bring this action to discharge and cancel the mortgage.

Two days after the District Court's decision, the New York State legislature enacted the Foreclosure Abuse Prevention Act (FAPA). FAPA provides that in a RPAPL 1501(4) action to cancel and discharge a mortgage, a mortgage company cannot assert that a prior foreclosure action did not accelerate a debt unless the prior foreclosure action was dismissed based on an "expressed judicial determination, made upon a timely imposed defense" that the mortgage was not validly accelerated. FAPA took "effect immediately" and applied to actions where "a final judgment of foreclosure and sale has not been enforced."

Based on FAPA, the District Court reconsidered its decision and determined that the owner was entitled to a judgment canceling and discharging the mortgage because, under FAPA, the mortgage company's 2007 action accelerated the debt, the voluntary discontinuance of that action did not impact that acceleration, and the six-year period to seek foreclosure had expired.

On appeal, the Second Circuit certified two questions to the Court of Appeals: (1) "whether, or to what extent" does FAPA apply to foreclosure actions commenced before FAPA was enacted? and (2) whether FAPA's retroactive application "violates the right to substantive and procedural due process under the New York Constitution"?

The Attorney General has intervened in the action to defend the constitutionality of FAPA.

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To be argued Thursday, October 16, 2025

VanDyke v U.S. Bank (235 AD3d 517 [AD1])
Court PASS Docket No. APL 2025-00100

A mortgage to finance the purchase of property usually provides that the owner of the property will pay the bank or mortgage company in installments and includes an "acceleration" clause—if the owner misses an installment payment, the mortgage company has the option to "accelerate" the loan and demand that the owner pay the entire balance of the debt. If a mortgage company commences an action to recover the entire balance of the debt, it has accelerated the loan. The mortgage company has six years from acceleration to seek to foreclose on the property—to take possession of the property that secures the debt. If the debt is accelerated and the six-year period expires, the owner of the property can commence an action to cancel and discharge a mortgage (RPAPL 1501 [4]).

In 2009, following missed installment payments on a mortgage for property in the Bronx, the bank commenced an action on the mortgage. In 2010, the bank sent the property owner a letter stating the mortgage was in default and identifying the full balance due on the mortgage. In 2019, a trial court held that an issue of fact existed whether the bank possessed the note when it commenced the action. In 2020, the Appellate Division affirmed the trial court order.

In March 2022, the parties stipulated to voluntarily discontinue the action. In April 2022, the property owner commenced this action to cancel and discharge the mortgage. The owner said the requirements of RPAPL 1501(4) were met because the six-year period to commence an action to foreclose on a mortgage began when the bank sent the 2010 letter.

On December 30, 2022, the New York State legislature enacted the Foreclosure Abuse Prevention Act (FAPA). FAPA provides that in a RPAPL 1501(4) action to cancel and discharge a mortgage, a bank cannot assert that a prior foreclosure action did not accelerate a debt unless the prior foreclosure action was dismissed based on an "expressed judicial determination, made upon a timely imposed defense" that the mortgage was not validly accelerated. FAPA took "effect immediately" and applied to actions where "a final judgment of foreclosure and sale has not been enforced."

The parties submitted supplemental argument to the trial court on FAPA. The property owner argued that, under FAPA, the 2009 action accelerated the debt, the voluntary discontinuance of that action did not impact that acceleration, and the six-year period to seek foreclosure had expired. The bank argued the 2019 and 2020 court orders and the 2022 stipulation in the action on the mortgage were express judicial determinations that the bank did not have standing. The bank also argued that FAPA could not be applied retroactively.

The trial court found there was no prior judicial determination on standing and awarded the property owner judgment discharging and canceling the mortgage. The Appellate Division affirmed, agreeing that there was no express judicial determination that the loan was not validly accelerated by the 2009 action. The court also held that FAPA applied "retroactively" to this case and applying FAPA would not violate the contracts clause of the Constitution nor unconstitutionally impair the bank's vest rights.

The Attorney General has intervened in the action to defend the constitutionality of FAPA.

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To be argued Thursday, October 16, 2025

Ben-Dor v Alchemy Consultant (229 AD3d 405 [AD1])
Court PASS Docket No. APL-2024-00178

Gisele Ben-Dor banked at a New Jersey branch of JPMorgan Chase Bank. David Tate learned that Ms. Ben-Dor was interested in making investments. To defraud Ms. Ben-Dor, Mr. Tate opened a business checking account at a Chase branch in New Jersey, in the name of "Alchemy Consultant LLC." The Chase employee who opened the business account recorded the taxpayer identification number as "00-000000" and did not record Tate's personal identification. No corporate documentation for Alchemy was provided to Chase. These failures were in violation of Chase's anti-fraud procedures, including online materials stating that Chase would not open a business account without proper identification and business documentation.

At Mr. Tate's direction, Ms. Ben-Dor transferred $300,000 by wire transfer from her Chase account to the Alchemy Chase account. Mr. Tate emptied the Alchemy account and abandoned it. Realizing she had been defrauded, Ms. Ben-Dor contacted Chase, demanding a reversal of the wire transfer or other corrective action. Chase took no action, and Ms. Ben-Dor's money has not been returned.

Ms. Ben-Dor commenced this action against Tate and Chase to recover the $300,000. The complaint alleged negligence against the Bank under New Jersey law. The Bank argued that the complaint must be dismissed because it owed no duty of care to Ms. Ben-Dor. The trial court determined that Ms. Ben-Dor's complaint against the Bank could not be dismissed on its face because Chase owed its customer Ms. Ben-Dor a duty of care under New Jersey law to exercise due diligence before allowing Tate to open the Alchemy account.

The Appellate Division, in a 4-1 decision, agreed. Applying New Jersey law because the accounts were in New Jersey, the majority recounted that banks do not have a duty to protect depositors from the wrongful conduct of third parties with whom the bank has done business; however, a bank may have a duty of care where a "special relationship" exists and a duty of care "flows" from that relationship. The majority further concluded that a special relationship may be formed by agreement, undertaking or contact. Thus, the majority found that Ms. Ben-Dor's complaint "adequately pleaded that Chase assumed a duty to abide by the anti-fraud policies that it publicized." With Chase's duty to Ms. Ben-Dor to enforce its anti-fraud procedures, Ms. Ben-Dor has adequately pleaded a claim against Chase for negligence based on its alleged failure to abide by the safeguards when Tate opened the business account, the majority concluded.

The dissenting Justice, recognizing the "regrettable loss" of Ms. Ben-Dor's "money to a fraudster's scheme," disagreed, holding that no common law duty existed under New Jersey law from Chase to Ms. Ben-Dor.

State of New York
Court of Appeals

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

To be argued Thursday, October 16, 2025

People v Jaylin Wiggins (225 AD3d 1305[AD4])
Court PASS Docket No. APL-2024-00059

On August 4, 2016, there were two separate shootings, approximately an hour apart, in the City of Buffalo. One shooting victim was fatally injured.

Jaylin Wiggins was indicted for crimes relating to both shootings, including murder, attempted murder, assault and criminal possession of a weapon.

At trial, Juror No. 5 raised concerns about a race-related comment made by other jurors during deliberations. The trial court asked Juror No 5 and another juror about the race-related comment; the People and Mr. Wiggins also questioned Juror No. 5 and another juror about the comment.

The trial court denied Mr. Wiggins' request for a mistrial. The jury convicted him of murder in the second degree, assault in the first degree and criminal possession of a weapon it the second degree.

On appeal, in a 3-2 decision, the Appellate Division affirmed. The majority held that "the record supports the conclusion that the procedure followed by the trial court appropriately ensured that 'defendant's right to an impartial verdict [was] properly balanced with the jury's right to adjudicate 'free from outside interference.'" "On the broader issue of whether jury deliberations were tainted by racial bias," the majority said the court, in a tactful and probing inquiry, evaluated the nature of what Juror No. 5 had reported and assessed its importance and bearing on the case.

The dissenting Justices were "unable to conclude on the record before us that the jury was not tainted by racial bias in their deliberations."