

CASE ISSUE STATEMENTS

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 Appeals Public Access and Search System (Court-PASS), which is accessible from the home page on the Court's website.

MONDAY, JUNE 1, 2015

Commonwealth of PA Public School Empl. v Morgan Stanley & Co. (Cal No. 104)

CTQ-2014-00008

Fraud--Whether the intent of parties to transfer a whole interest in a note, combined with the absence of limiting language, suffices to transfer the assignor's fraud claim, or whether an additional, more specific statement of an intent to transfer the fraud claim is required; Whether, on the record established during summary judgment proceedings, a reasonable trier of fact could find Morgan Stanley liable for fraud under New York law.

Amalgamated Bank v Helmsley-Spear, Inc. (Cal. No. 105)

APL-2014-00063

Judgments--Default judgment--Vacatur--Whether defendants sued as recipients of a fraudulent transfer may move to vacate a default judgment entered in a separate action against the allegedly fraudulent transferor, without showing that the default judgment was obtained through fraud or other wrongdoing.

People v William Henderson (Cal. No. 106)

APL-2014-00119

Crimes--Murder--Felony murder--Sufficiency of the evidence where predicate felony of burglary is based upon intent to commit assault or murder at time of entry; Instructions--Denial of request to charge lesser included offense of manslaughter in second degree--Whether the Appellate Division erred in concluding that the only reasonable view of the evidence was that defendant's stabbing of victim was intentional and not reckless.

People v Matthew Keschner (Cal. No. 15)

APL-2013-00343

Crimes--Enterprise Corruption--Medical clinic used to facilitate insurance fraud--Legal sufficiency of the evidence--Whether the "criminal enterprise" defined in Penal Law § 460.10(3) must be structured so as to permit the enterprise to continue in existence without the involvement of one or more key participants; Instructions--Accessory liability--Whether the trial court's jury instructions on accessory liability conveyed the appropriate legal standard; Right to counsel--Alleged ineffective assistance of trial counsel for failing to preserve certain issues for appellate review.

People v Aron Goldman (Cal. No. 16)

APL-2013-00342

Crimes--Enterprise Corruption--Medical clinic used to facilitate insurance fraud--Legal sufficiency of the evidence--Whether the "criminal enterprise" defined in Penal Law § 460.10(3) must be structured so as to permit the enterprise to continue in existence without the involvement of one or more key participants; Instructions--Accessory liability--Whether the trial court's jury instructions on accessory liability conveyed the appropriate legal standard; Right to counsel--Alleged ineffective assistance of trial counsel for failing to preserve certain issues for appellate review.

TUESDAY, JUNE 2, 2015

Matter of State Farm Mutual Automobile Insurance Co. v Fitzgerald (Cal. No. 119)

APL-2014-00070

Insurance--Automobile Insurance--Supplementary Uninsured/Underinsured Motorist (SUM) Endorsement--Whether a police vehicle is a "motor vehicle" within the meaning of the SUM endorsement contained in the insurance policy at issue.

Matter of Glick v Harvey (Cal. No. 107)

APL-2015-00053

Municipal corporations--Public trust doctrine--Implied dedication of land for public use--Use of parts of parcels for park-like purposes--Whether the Appellate Division erred in holding that petitioners failed to meet their burden of showing that municipality's acts and declarations manifested a present, fixed and unequivocal intent to dedicate parcels at issue as public parkland.

Matter of Greater Jamaica Development Corp. v NYC Tax Commission (Cal. No. 108)

APL-2014-00165

Taxation--Exemptions--Parking facilities owned and operated by a charitable, not-for-profit corporation with a mission to promote business development in a specific area--Whether the Appellate Division correctly ruled that the public parking facilities were entitled to a tax exemption under RPTL 420-a.

People v Curtis Basile (Cal. No. 113)

APL-2014-00038

Crimes--Cruelty to animals--Mens rea--Whether the People are required to prove that a defendant has a culpable mental state to support a conviction for failing to provide an animal with necessary sustenance in violation of Agriculture and Markets Law § 353--Defendant financially unable to provide for his dog.

People v Howard S. Wright (Cal. No. 109)

APL-2014-00096

Crimes--Murder--Sufficiency of evidence--Whether evidence is sufficient to establish intentional murder--Circumstantial evidence; Claimed prosecutorial misconduct--Statements made by prosecutor during opening statement and summation concerning DNA evidence; Claimed ineffective assistance of counsel--Defense counsel's failure to object to prosecutor's statements.

WEDNESDAY, JUNE 3, 2015

Greater NY Taxi Assoc. v NYC Taxi & Limousine Commission (Cal. No. 120)

APL-2014-00275

Municipal Corporations--Regulation of Taxicab Business--Whether New York City Taxi and Limousine Commission (TLC) exceeded its authority by issuing rule requiring new taxicabs to be specific model made by single manufacturer--Whether the TLC violated the separation of powers doctrine by designating a non-hybrid, non-accessible vehicle as the City's official taxicab.

People v Kareem Washington (Cal. No. 110)

APL-2014-00237

Crimes--Right to counsel--Effective representation--Whether defendant was denied the effective assistance of conflict-free counsel, where, after the jury rendered a verdict, the trial court denied defendant's pro se motion for assignment of new counsel in reliance on defense counsel's representations that defendant's allegations of ineffective assistance were incorrect.

People v Cleveland Lovett (Cal. No. 111)

APL-2014-00176

Crimes--Sentence--Denial of motion for resentencing under Drug Law Reform Act of 2004; Illegal sentence--Authority of Appellate Division to remit to Supreme Court for resentencing on reckless endangerment in the first degree; Right to counsel--Effective representation--Failure to object to jury instructions--Whether defendant was denied the effective assistance of conflict-free counsel.

JF Capital Advisors v Lightstone Group (Cal. No. 112)

APL-2014-00203

Contracts--Quantum Meruit--Statute of frauds--General Obligations Law § 5-701(a)(10)--"Negotiating the purchase . . . of any real estate . . . or . . . business opportunity"--Action seeking compensation from defendants for financial advisory services plaintiff provided under an alleged oral contract in connection with defendants' acquisition of certain hotels and other investment opportunities--Whether plaintiff's claims for quantum meruit and unjust enrichment were properly dismissed as barred by the statute of frauds.

Eric M. Berman, P.C. v City of New York (Cal. No. 114)

CTQ-2014-00007

Local Laws--Preemption by State--Inconsistency with State law--Whether New York City's Local Law 15, which regulates debt collection agencies, constitutes an unlawful encroachment on the State's authority to regulate attorneys insofar as the local law regulates attorney conduct--Whether there is a conflict between Local Law 15 and sections 53 and 90 of the Judiciary Law; Whether, if Local Law 15's regulation of attorney conduct is not preempted, Local Law 15, as applied to attorneys, violates section 2203(c) of the New York City Charter.

THURSDAY, JUNE 4, 2015

Burton v NYS Dept of Taxation & Finance (Cal. No. 115)

APL-2014-00046

Taxation--Nonresident shareholders-plaintiffs' election under internal revenue code § 338(h)(10) to treat stock sale as an asset sale--Whether Tax Law § 632(a)(2), as amended in 2010, violates article 16, § 3 of the New York State Constitution by treating the gain from the sale of stock subject to such an election as New York source income taxable in New York, rather than as non-taxable income from the sale of intangible personal property.

Caprio v NYS Dept of Taxation & Finance (Cal. No. 116)

APL-2014-00177

Statutes--Retroactive application of statute--Personal income tax--Whether retroactive application of 2010 amendment to Tax Law § 632(a)(2) violates plaintiffs' due process rights.

People v Stanley A. Brown (Cal. No. 117)

APL-2014-00164

Crimes--Sex offenders--Sex Offender Registration Act (SORA)--Proper standard of proof to be applied to defendant seeking to prove the existence of a mitigating factor warranting a downward departure under SORA; Degree of consideration a hearing court should give to a certificate of relief from civil disabilities when assessing a defendant points under risk factor 9 for a prior DWI.

People v Dean Pacquette (Cal. No. 118)

APL-2014-00135

Crimes--Identification of defendant--Whether the Appellate Division correctly held that the identification of defendant by a "ghost officer" in a "buy and bust" case was confirmatory and, thus, did not require CPL 710.30(1)(b) notice.