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Weekly Reversal Report
April 13 – 17, 2026

An Organized Compilation of Summaries of Selected Decisions, Mostly Reversals, Released by Our New York State Appellate Courts April 13 – 17, 2026, and Posted on the New York Appellate Digest Website on Monday, April 20, 2026. The Entries in the Table of Contents Link to the Summaries Which Link to the Full Decisions on the Official New York Courts Website. Click on “Table of Contents” in the Header on Any Page to Return There. Right Click on the Citations to Keep Your Place in the Reversal Report.

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CIVIL PROCEDURE, RELIGION, CONSTITUTIONAL LAW, REAL PROPERTY LAW.

PLAINTIFF SUED A CHURCH ALLEGING THE CHURCH HELD PROPERTY IN TRUST FOR PLAINTIFF AND THE CHURCH WRONGFULLY OUSTED PLAINTIFF FROM THE PROPERTY; RESOLUTION OF THE SUIT WOULD INVOLVE NEUTRAL PRINCIPLES OF LAW, NOT RELIGIOUS PRINCIPLES; THEREFORE, THE LAWSUIT WAS NOT PRECLUDED BY THE FIRST AMENDMENT (SECOND DEPT).

The Second Department, reversing Supreme Court, determined the lawsuit concerning ownership of church property was not precluded by the First Amendment because the suit could be decided by applying neutral principles of civil law, not religious principles:

The complaint alleged, among other things, that Synod held the church property in trust for the plaintiff, as the beneficial owner, and that Synod wrongfully ousted the plaintiff from the church property in March 2020 following a series of disputes between the plaintiff and Synod. Synod moved pursuant to CPLR 3211(a) to dismiss the complaint insofar as asserted against it, arguing, inter alia, that resolution of the causes of action requires review of ecclesiastical matters over which the Supreme Court lacked subject matter jurisdiction. …

"'The First Amendment forbids civil courts from interfering in or determining religious disputes, because there is substantial danger that the state will become entangled in essentially religious controversies or intervene on behalf of groups espousing particular doctrines or beliefs'" … . "However, a court may resolve church property disputes 'when the case can be decided solely upon the application of neutral principles of . . . law, without reference to any religious principle'" … . "'The neutral principles of law approach requires courts to apply objective, well-established principles of secular law to the issues,' and '[i]n doing so, courts may rely upon internal documents, such as a congregation's bylaws, but only if those documents do not require interpretation of ecclesiastical doctrine'" … .

Here, contrary to Synod's contention, it failed to demonstrate that the causes of action cannot be resolved solely upon the application of neutral principles of law, without reference to any religious principle … . Lutheran Church of the Risen Christ, Mo. Synod v Atlantic Dist. of the Lutheran Church Mo. Synod, 2026 NY Slip Op 02260, Second Dept 4-15-26

Practice Point: If a lawsuit against a church involves ownership of property and can be decided based on neutral principles of law (not religious principles) the suit is not precluded by the First Amendment and can be brought in state court.

April 15, 2026

CRIMINAL LAW, EVIDENCE.

A POLICE OFFICER INTERVIEWED AN EYEWITNESS AND CREATED A "PROBABLE CAUSE I-CARD" FOR THE ARREST OF THE DEFENDANT; THE ARRESTING OFFICER DID NOT TESTIFY AT THE SUPPRESSION HEARING; THEREFORE THE PEOPLE DID NOT PROVE THE ARRESTING OFFICER SAW AND RELIED ON THE I-CARD, WHICH THE "FELLOW OFFICER" RULE REQUIRES FOR A LAWFUL ARREST; DEFENDANT'S STATEMENT SHOULD HAVE BEEN SUPPRESSED (CT APP).

The Court of Appeals, reversing the Appellate Division, in a full-fledged opinion by Judge Halligan, determined the motion to suppress defendant's statement should have been granted because the People failed to prove the arrest was based upon the "fellow officer" rule, An officer who interviewed a witness created a probable-cause I-card which was posted to inform other police officers of the probable cause for defendant's arrest. But the People did not prove the arresting officer relied on the I-card as the basis of the arrest:

Whether the People presented sufficient evidence of a communication under the fellow officer rule is a fact-specific question that requires examination of the record before the suppression court. Here, the People presented no direct evidence that prior to arresting the defendant, the arresting officers were aware of the I-card and relied upon it in effectuating the defendant's arrest. The arresting officers did

not testify at the suppression hearing, nor did the detective testify about the circumstances of the arrest. * * *

We conclude that the People failed to provide evidence sufficient to show a communication between the officers based on the I-card, and therefore failed to meet their burden at the suppression hearing to establish probable cause for the defendant's arrest. Absent the requisite showing of probable cause, the defendant's statement must be suppressed as the fruit of an unlawful arrest. People v Palacios, 2026 NY Slip Op 02360, CtApp 4-16-26

Practice Point: Here the required proof for the application of the "fellow officer" rule was not presented by the People. To prove the arrest was based on a "probable cause I-card" the People were required to show the arresting officer saw the I-card and relied on it. The arresting officer did not testify, so there was a failure of proof requiring suppression of the defendant's statement.

April 16, 2026

CRIMINAL LAW.

THE INDICTMENT DID NOT INDICATE THE SPECIFIC SUBDIVISION OF THE STATUTE DEFENDANT WAS CHARGED WITH VIOLATING, A JURISIDICTIONAL DEFECT WHICH WAS NOT CURED BY AN AMENDMENT; CONVICTION REVERSED AND INDICTMENT DISMISSED (FIRST DEPT).

The First Department, reversing defendant's conviction, determined the indictment was defective because it did not indicate the specific statutory subdivision defendant was accused of violating:

… [W]e agree with defendant that the count of the indictment under which he was convicted was jurisdictionally defective and that the court should not have amended the indictment at the People's request. While the jurisdictional requirements of an indictment count are ordinarily met by an allegation that the defendant "violated the terms of a specific statute designated by name and section" … , that rule does not apply where, as here, the statute at issue allows for

commission under discrete subdivisions and there is no specific allegations regarding the subsection that the defendant allegedly violated … . The second count of the indictment charging defendant with criminal possession of a weapon in the third degree under Penal Law § 265.02(1), could be satisfied by proof that defendant committed the "bump-up" crime of fourth-degree criminal possession of a weapon (Penal Law 265.01) in one of four ways, without specifically alleging the provision that defendant violated. Further, the amendment had the effect of "curing . . . a failure . . . to charge or state an offense" or the "legal insufficiency of the factual allegations," both of which are prohibited by CPL 200.70(2).

Accordingly, the judgment of conviction is vacated and the indictment dismissed. People v Jones, 2026 NY Slip Op 02214, First Dept 4-14-26

Practice Point: If the statute allows for commission of the offense under discrete subdivisions, the specific subdivision under which defendant is charged must be indicated in the indictment. Failure to indicate the subdivision is a jurisdictional defect which apparently cannot be cured by amendment.

April 14, 2026

EMPLOYMENT LAW, HUMAN RIGHTS LAW, EVIDENCE.

THERE ARE QUESTIONS OF FACT WHETHER PLAINTIFF WAS TERMINATED FROM HIS EMPLOYMENT BASED ON "FAMILIAL STATUS" AND "CAREGIVER" DISCRIMINATION PURSUANT TO THE NYS AND NYC HUMAN RIGHTS LAW (FIRST DEPT).

The First Department, reversing (modifying) Supreme Court, determined the causes of action for "familial status" and "caregiver" discrimination under the Human Rights Law should not have been dismissed in this wrongful termination action:

… [T]he record presents issues of fact as to plaintiff's familial and caregiver status causes of action under the State HRL [Human Rights Law], which prohibits discrimination based on "familial status," including against "any person who . . . has a child or is in the process of securing legal custody" of a child (Executive Law

§§ 292[26][a], 296[1][a]), and the City HRL, which prohibits discrimination based on "caregiver status" (Administrative Code of City of NY § 8-107[1][a]). On July 11, 2016, the day before DSC's [defendant's] decision to put plaintiff on probation, plaintiff attended a hearing in a custody proceeding regarding his daughter. According to plaintiff, Richard Greenberg, DSC's co-chief investment officer, questioned whether plaintiff "was sure [he wanted] to do this" (that is, to participate in custody proceedings) and encouraged him to "[g]ive up on [his] daughter." In addition, at plaintiff's year-end review meeting, which plaintiff recorded, Greenberg gave him negative feedback about his job performance and stated, "I just want to know . . . is your heart still in it, you know? . . . I mean you've got all these things going on."

Additionally, in January 2017, Jane Park, the firm's director of business development and client relations, authored a memo for Smith and Greenberg that discussed whether to disclose to firm clients that a more junior investment analyst had received firm equity while plaintiff had not. The memo posited telling clients, as one option, that plaintiff "is going through some personal issues which make[] the current timing less than ideal for ownership disbursement." Park testified at her deposition that she was referring to the fact that plaintiff was "distracted" because of his divorce and custody fight. …

Taken together, the evidence could lead a reasonable factfinder to conclude that defendants' proffered reasons for denying plaintiff equity and ultimately terminating him were "false, misleading, or incomplete," and that plaintiff was, in fact, terminated on the basis of his familial or caregiver status … . Mezinev v Donald Smith & Co., 2026 NY Slip Op 02209, First Dept 4-14-26

Practice Point: Consult this decision for insight into what constitutes "familial status" and "caregiver" discrimination in the context of an alleged wrongful termination of employment pursuant to the NYS and NYC Human Rights Law.

April 14, 2026

FAMILY LAW, JUDGES, CIVIL PROCEDURE, EVIDENCE.

THE JUDGE SHOULD NOT HAVE GRANTED MOTHER A SUSPENDED JUDGMENT IN THIS NEGLECT PROCEEDING; THE SERIOUSNESS OF MOTHER'S CONDUCT WAS NOT ACKNOWLEDGED BY THE JUDGE (FIRST DEPT).

The First Department, reversing Family Court, determined the judge should not granted a suspended judgment in this neglect proceeding:

The court abused its discretion in granting the mother a suspended judgment. A court should not vacate a neglect finding except upon a determination that doing so serves the child's best interests, including "consideration of a parent's ability to supervise a child and eliminate any threat of future abuse or neglect" … . "[A]t its core, a suspended judgment affords a respondent the opportunity to correct his or her neglectful actions" … . Courts considering whether to grant a suspended judgment should examine four factors: "(1) the respondent's prior child protective history; (2) the seriousness of respondent's offense; (3) respondent's remorse and acknowledgment of the abusive or neglectful nature of his or her act; and (4) respondent's amenability to correction, including compliance with court orders" (id. at 12 [internal quotation marks omitted]).

Here, Family Court failed to consider the second, third and fourth factors adequately. The trial court addressed the first factor by noting that the mother had no prior involvement with the child welfare system. As to the second factor, although the mother admitted inflicting excessive corporal punishment on [the child] on more than one occasion and causing him injury, Family court's decision does not acknowledge the seriousness of the mother's conduct. Matter of N.G. (Angelica T.), 2026 NY Slip Op 02198, First Dept 4-14-26

Practice Point: Consult this decision for insight into the factors Family Court must consider before granting a suspended judgment in a neglect proceeding. Here it was not enough that mother had no prior involvement with the child welfare system. The seriousness of her conduct must be considered.

April 14, 2026

MUNICIPAL LAW, CIVIL PROCEDURE, BATTERY, FALSE ARREST.

PLAINTIFF'S MOTION TO DEEM A NOTICE OF CLAIM TIMELY SERVED IN THIS FALSE ARREST AND BATTERY ACTION AGAINST THE CITY DEFENDANTS SHOULD NOT HAVE BEEN GRANTED; PLAINTIFF'S EXCUSE FOR LATE FILING WAS INADEQUATE; PLAINTIFF DID NOT SHOW THE CITY DEFENDANTS HAD TIMELY KNOWLEDGE OF THE NATURE OF THE CLAIM; AND PLAINTIFF DID NOT SHOW THE CITY WAS NOT PREJUDICED BY THE 11-MONTH DELAY IN FILING (FIRST DEPT).

The First Department, reversing Supreme Court, determined plaintiff's motion to deem a notice of claim timely served should not have been granted. The excuse for failing to timely file was not sufficient, plaintiff failed show the city defendants had timely knowledge of the claim, and plaintiff did not demonstrate the city defendants were not prejudiced the the 11-month delay in filing the notice:

Plaintiff's averment that he was unaware of the time limits necessary to file a notice of claim and initially did not retain counsel after being released from custody because he was focusing on the criminal charges against him are not acceptable excuses for failing to file a timely notice of claim … .

Furthermore, plaintiff failed to submit any evidence establishing that defendants acquired actual knowledge of the essential facts constituting the claims within 90 days of the accrual of the claims or within a reasonable time thereafter … . Plaintiff's allegations that NYPD officers participated in his false arrest and detention and that they assaulted and battered him do not satisfy plaintiff's burden of establishing that defendants acquired actual knowledge of the essential facts because his allegations do not constitute facts or evidence … . Plaintiff's allegation that defendants must have records regarding his arrest, detention, and prosecution is also unavailing, as "the alleged existence of records does not suffice to establish actual knowledge" … .

Since plaintiff failed to make an initial showing that defendants were not prejudiced by the delay of about 11 months in filing the notice of claim, the burden never shifted to defendants to make a particularized showing of prejudice to their

ability to defend on the merits … . Waddell v City of New York, 2026 NY Slip Op 02357, First Dept 4-16-26

Practice Point: Consult this decision for insight into the factors a court will consider when determining whether a late notice of claim should be allowed.

April 16, 2026

MUNICIPAL LAW, NEGLIGENCE, IMMUNITY, CIVIL PROCEDURE, FAMILY LAW, EVIDENCE.

PLAINTIFF FATHER WAS AWARDED SOLE CUSTODY OF THE CHILD IN AN ORDER THAT DIRECTED MOTHER TO "STAY AWAY" FROM FATHER AND CHILD; FATHER ASKED THE POLICE FOR HELP IN SERVING THE ORDER AND PICKING UP THE CHLID; MOTHER WOULD NOT LET THE POLICE INTO HER HOME; DISTRICT ATTORNEYS ADVISED THAT THE POLICE COULD NOT ENTER MOTHER'S HOME; THE NEXT DAY MOTHER MURDERED THE CHILD; THE COMPLAINT AGAINST THE MUNICIPAL DEFENDANTS SHOULD NOT HAVE BEEN DIISMISSED; PLAINTIFF DEMONSTRATED A SPECIAL RELATIONSHIP WITH THE MUNICIPALITY AND THE MUNICIPALITY DID NOT DEMONSTRATE IT WAS ENTITLED TO GOVERNMENTAL FUNCTION IMMUNITY (SECOND DEPT).

The Second Department, reversing Supreme Court, in a full-fledged opinion by Justice Taylor, determined the negligence and wrongful death action against the municipal defendants should not have been dismissed, and plaintiff's motion for leave to amend the notice of claim or leave to file a late notice of claim should have been granted. Plaintiff father was granted sole custody of his child in an order which required mother to "stay away" from father and the child. Plaintiff asked the police for help in serving the order on mother and picking up the child. The police attempted to serve the order, but mother slammed the door and would not let them in. District attorneys were then contacted for advice but determined the police

could not enter mother's home. The next day the police were called to mother's home where the child was found deceased. Mother was convicted of murdering the child. The Second Department held that there was a special relationship between plaintiff and the municipality and the municipality was not entitled to governmental function immunity: The opinion is too complex to fairly summarize here:

To establish the existence of a special relationship, a plaintiff is required to prove four elements, also referred to as "the Cuffy factors" or "the Cuffy test," namely:

"(1) an assumption by the municipality, through promises or actions, of an affirmative duty to act on behalf of the party who was injured; (2) knowledge on the part of the municipality's agents that inaction could lead to harm; (3) some form of direct contact between the municipality's agents and the injured party; and (4) that party's justifiable reliance on the municipality's affirmative undertaking" (Cuffy v City of New York, 69 NY2d 255, 260 …). * * *

Generally, the "decision to arrest an individual involves the exercise of discretion . . . and thus is cloaked with governmental immunity" … . However, here, in the face of what was, in effect, a temporary order of protection, the defendant police officers became, at a minimum, "obligated to respond and investigate" … . Therefore, the Village defendants have not conclusively established that their actions were purely discretionary … . Boyd v Village of Mamaroneck, 2026 NY Slip Op 02239, Second Dept 4-15-26

Practice Point: Consult this opinion for insight into what constitutes a "special relationship" between a plaintiff and a municipality and when a municipality is protected from liability in negligence by governmental function immunity.

April 15, 2026

NEGLIGENCE, EVIDENCE.

IN A "SMOOTH, SLIPPERY, SHINY FLOOR" SLIP AND FALL CASE, THE FACT THAT THE FLOOR WAS WAXED DOES NOT DEMONSTRATE NEGLIGENCE; THERE MUST BE EVIDENCE THE WAX WAS NEGLIGENTLY APPLIED (SECOND DEPT).

The Second Department, reversing Supreme Court, determined the defendants were entitled to summary judgment in this "smooth, slippery, shiny floor" slip and fall case. The fact that a floor has been polished does not establish negligence. Plaintiff must show the wax or polish was negligently applied:

"A defendant may not be held liable for the application of wax, polish, or paint to a floor . . . unless the defendant had actual, constructive, or imputed knowledge that the product could render the floor dangerously slippery" … . "A prima facie case of the negligent application of wax may be established by evidence that a dangerous residue of wax was present on the floor" … . "In the absence of evidence of a negligent application of floor wax or polish, the mere fact that a smooth floor may be shiny or slippery does not support a cause of action to recover damages for negligence, nor does it give rise to an inference of negligence" … .

Here, the defendants established their prima facie entitlement to judgment as a matter of law dismissing the complaint by demonstrating that there was no negligent application of wax to the floor … . Brener v Queens Blvd. Extended Care Facility Corp., 2026 NY Slip Op 02240, Second Dept 9-15-26

Practice Point: A smooth, slippery, shiny floor is not actionable in a slip and fall case unless there is evidence wax was negligently applied.

April 15, 2026

NELGIGENCE, IMMUNITY, EVIDENCE.

THE RENTAL-CAR DEFENDANT IN THIS REAR-END COLLISION CASE DID NOT DEMONSTRATE THE RENTAL CAR WAS NOT NEGLIGENTLY MAINTAINED; THEREFORE, PURSUANT TO THE "GRAVES AMENDMENT," THE RENTAL CAR DEFENDANT WAS NOT ENTITLED TO SUMMARY JUDGMENT DISMISSING THE COMPLAINT (SECOND DEPT).

The Second Department, reversing Supreme Court in this traffic accident case, determined the evidence submitted by the rental car company (A-1 Cars) did not eliminate a question of fact whether the car was negligently maintained. Plaintiff driver was rear-ended by the rental car:

"Under the Graves Amendment (49 USC § 30106), the owner of a leased or rented motor vehicle cannot be held liable for personal injuries resulting from the use of such vehicle if the owner (i) is engaged in the trade or business of renting or leasing motor vehicles, and (ii) engaged in no negligence or criminal wrongdoing" … . Thus, under the circumstances of this case, in order to establish entitlement to judgment as a matter of law dismissing the complaint under the Graves Amendment, A-1 Cars was required to show, prima facie, (1) that it owned the subject vehicle, (2) that it engaged in the trade or business of leasing or renting motor vehicles, (3) that the accident occurred during the period of the lease or rental, and (4) that there is no triable issue of fact as to any allegation of negligent maintenance contributing to the accident … .

Here, the only evidence submitted by A-1 Cars aside from an uncertified police accident report, which was inadmissible … , was an affidavit from its "Claims Administrator," Mariley Mendez. The conclusory, unsupported affidavit was insufficient to demonstrate, prima facie, A-1 Cars's entitlement to judgment as a matter of law dismissing the complaint insofar as asserted against it on the basis of the Graves Amendment. Among other things, Mendez's averments that she "check[ed]" the vehicle prior to the rental and that there were no records of mechanical problems with the vehicle were insufficient to establish, prima facie, that the vehicle was properly maintained and in good repair at the time of the subject accident … . Joseph v Marmolejos, 2026 NY Slip Op 02256, Second Dept 4-15-26

Practice Point: Consult this decision for insight into what a rental-car company must prove with respect to maintenance of the rental car to take advantage of immunity from liability pursuant to the Graves Amendment.

April 15, 2026