NEW YORK APPELLATE DIGEST, INC.

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Weekly Reversal Report
June 15 – 19, 2026.

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APPEALS, CRIMINAL LAW, JUDGES.

THE APPELLATE DIVISION ABUSED ITS DISCRETION IN DISMISSING TWO APPEALS FOR “FAILURE OF TIMELY PROSECUTION OR PERFECTION;” CRITERIA EXPLAINED (CT APP).

The Court of Appeals, without discussing the facts, determined the appellate division abused its discretion in dismissing two appeals for “failure of timely prosecution or perfection:”

We have identified as relevant factors (1) the length of the appellant’s delay; (2) the reasonableness of any excuse for the delay, including whether the appellant received clear instructions on how to pursue an appeal and whether the delay was strategic or resulted from a belated change in strategy; and (3) the specific prejudice, if any, the respondent has suffered from the delay (Perez, 23 NY3d at 99-101; Taveras, 10 NY3d at 233; People v West, 100 NY2d 23, 27-28 [2003]). Under the circumstances of these cases, including the People’s concession, the Appellate Division abused its discretion in dismissing defendants’ appeals. People v Matthews, 2026 NY Slip Op 03908, CtApp 6-18-26

Practice Point: Consult this decision for the criteria the appellate division should apply to the dismissal of an appeal for “failure of timely prosecution or perfection.”

June 18, 2026

CIVIL PROCEDURE, MUNICIPAL LAW, VILLAGE LAW, CONTRACT LAW.

THE DOCTRINE OF EQUITABLE ESTOPPEL SHOULD NOT HAVE BEEN APPLIED TO PRECLUDE THE VILLAGE FROM RAISING THE “FAILURE TO FILE A NOTICE OF CLAIM” DEFENSE TO DEFENDANT’S COUNTERCLAIM (CT APP).

The Court of Appeals, affirming the Appellate Division’s reversal of Supreme Court, in a full-fledged opinion by Judge Halligan, over a two-judge dissent, determined the defendant-developer, FPW, in a breach-of-a-real-estate-contract action brought by the plaintiff-village, was precluded from litigating a counterclaim because it never filed a notice of claim with the village. Supreme Court had ruled the doctrine of equitable estoppel precluded the village's "lack-of-notice-of-claim" argument because the village was aware of the facts underlying the counterclaim from the start of the lawsuit and failed to raise the defense until the statute of limitations had run. The Court of Appeals rejected the equitable-estoppel argument:

We have explained that equitable estoppel generally "is not applied against the government, as a matter of policy, because to do so could easily result in large scale public fraud" and "violate the doctrine of separation of powers" … . Thus, "[w]e have recognized that estoppel may be warranted in unusual factual situations to prevent injustice . . . but we have limited its use against government agencies to all but the rarest cases" … . * * *

… [W]e conclude that the Village did not engage in wrongful or misleading conduct warranting the application of equitable estoppel. As the Appellate Division correctly determined, participation in litigation, without more, does not constitute action calculated to mislead or discourage a party from filing a notice of claim … . That holds true here, where the Village was pressing its own breach of contract claim and therefore had every reason to participate in discovery and related court conferences, independent of FPW's counterclaim. Moreover, the Village's answer to the counterclaim put FPW on notice that it was raising FPW's "fail[ure] to perform all conditions precedent" as an affirmative defense, and compliance with a notice of claim statute such as CPLR 9802 "is a condition precedent" to an action against a municipality … . Incorporated Vil. of Freeport v Freeport Plaza W., LLC, 2026 NY Slip Op 03906, CtApp 6-18-26

Practice Point: Although the equitable estoppel doctrine can very rarely be applied to a municipality, the village did nothing improper or misleading which would warrant precluding the village's "failure to file a notice of claim" defense to defendant's counterclaim. There was a two-judge dissent.

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CRIMINAL LAW, CONSTITUTIONAL LAW, ATTORNEYS, APPEALS.

DEFENDANT HAD REQUESTED NEW COUNSEL AND ARGUED THE JUDGE DID NOT MAKE THE PROPER INQUIRY BEFORE DENYING THE REQUEST; DEFENDANT PLED GUILTY REPRESENTED BY HIS ORIGINAL COUNSEL; THE FOURTH DEPARTMENT RULED THE DEFENDANT “ABANDONED” HIS “INVOLUNTARY PLEA” ARGUMENT BY REMAINING REPRESENTED BY THE SAME ATTORNEY AT THE TIME OF THE PLEA; THE COURT OF APPEALS RULED DEFENDANT NEVER ABANDONED THE “INVOLUNTARY PLEA” ARGUMENT AND THE LINE OF FOURTH DEPARTMENT DECISIONS TO THE CONTRARY SHOULD NOT BE FOLLOWED (CT APP).

The Court of Appeals, reversing the Appellate Division and invalidating a line of Fourth Department decisions, determined the defendant did not waive the argument that his guilty plea was not voluntarily entered. Defendant had argued the trial judge did not make the required findings after defendant requested new counsel. The Fourth Department ruled that argument was abandoned because defendant pled guilty while represented by his original defense attorney. The Court of Appeals held the defendant had never waived the “involuntary plea” argument:

The Fourth Department’s holding, the most recent in a line of cases to the same effect, is wrong for several reasons. First, as the Appellate Division acknowledged, a claim challenging the voluntariness of a plea survives even a valid appeal waiver … . A challenge to voluntariness cannot be extinguished because the same counsel about whom a defendant has complained, unsuccessfully, continued to represent the defendant at plea and sentencing. Second, in any event, these circumstances do not constitute waiver of defendant’s voluntariness claim … . Waiver “occurs when a defendant intentionally and voluntarily relinquishes or abandons a known right that would otherwise survive a guilty plea” … . Here, the fact that defendant pleaded guilty while represented by the same attorneys does not evince an intentional choice to abandon review of the voluntariness of his plea. Defendant contends that his guilty plea was an effort to mitigate the harm resulting from the court’s denial of his request for new counsel, not an abandonment of his request.

To the extent that the Appellate Division relied on the fact that, during the plea colloquy, defendant did not renew his complaints about counsel, his silence does not indicate waiver. Finally, the Fourth Department's line of cases adopting this erroneous rule originates in People v Hobart (286 AD2d 916 [4th Dept 2001]), which cited no case law or authority for its rule, nor does it explain the rule's origins. The other Departments have not adopted that rule. People v Kelley, 2026 NY Slip Op 03904, CtApp 6-18-26

Practice Point: Here defendant requested new counsel and the request was denied. Then defendant pled guilty while represented by his original counsel. Defendant did not waive his "involuntary plea" argument by pleading guilty with his original counsel. The line of Fourth Department decisions which held a guilty plea in this context abandons defendant's "involuntary plea" argument is no longer valid. The abandonment or waiver of an "involuntary plea" argument must be explicit.

June 18, 2026

CRIMINAL LAW, ATTORNEYS, EVIDENCE.

WHEN DEFENSE COUNSEL REALIZED THE STIPULATION SHE HAD SIGNED EFFECTIVELY EQUATED POSSESSION OF THE LAPTOP WITH POSSESSION OF THE CHILD PORNOGRAPHY FOUND ON THE LAPTOP SHE MOVED FOR A MISTRIAL ARGUING SHE HAD PROVIDED INEFFECTIVE ASSISTANCE; THE APPELLATE DIVISION AND THE COURT OF APPEALS AGREED (CT APP).

The Court of Appeals, in a full-fledged opinion by Judge Halligan, affirming the Appellate Division, and agreeing with defense counsel's own trial argument that her signing the stipulation constituted ineffective assistance, determined the stipulation in this child pornography case essentially equated possession of the laptop with possession of child pornography found on the laptop. Defendant asserted that he found the laptop in the garbage and that any child pornography was placed there by someone else:

Defense counsel's decision to sign paragraphs 4 and 5 of the stipulation … deprived the defendant of meaningful representation. On their face, paragraphs 4 and 5 may be read to eliminate the crimes' mens rea requirements—the very elements on which the defense theory rested—contrary to the court's instruction that to convict the defendant of possessing the CSAM [child sexual abuse material], the jury had to conclude beyond a reasonable doubt that he committed the requisite "affirmative acts." So understood, the stipulation would have undermined the defendant's core contention that he possessed the laptop without knowing it contained the CSAM. … [P]aragraphs 4 and 5, which provide that "whoever possessed" the videos "promoted" a sexual performance by a child "with knowledge of the character and content of the videos," and that "whoever possessed" the images did so "knowingly," went further than was necessary … . … [T]he record reveals no other strategic reason for agreeing to those paragraphs' vital legal concessions. * * *

… [I]n the specific circumstances of this case, where the defendant conceded physical possession of the laptop and the images in the unallocated space were repeatedly described as "on the laptop" by the parties, the witnesses, and the stipulation itself, the stipulation could have allowed the jury to conclude that the defendant's physical possession of the laptop equated to his knowing possession of the images in the unallocated space. As for the video counts, although defense counsel contended that the defendant had never possessed the videos at all, the theory of the People's case was that the same person shared and downloaded both the videos and images. Thus, the stipulation's concession as to the image counts could well have tainted the jury's deliberations on video counts. People v Guerra, 2026 NY Slip Op 03905, CtApp 6-18-26

Practice Point: Consult this opinion for insight into what the People must prove to demonstrate the possessor of a laptop "possesses" child pornography found on the laptop. Merely viewing is not possessing. The People must prove defendant "exercised dominion and control" over the pornography by downloading or printing it for example. Here the defendant asserted he found the laptop in the garbage and any pornography found on the laptop was not put there by him.

June 18, 2026

CRIMINAL LAW, EVIDENCE.

ASSAULT SECOND HAS A PERPETRATOR-VICTIM-AGE-DIFFERENCE" ELEMENT; THE PEOPLE FAILED TO PROVE DEFENDANT'S AGE WITH ADMISSIBLE EVIDENCE; CONVICTION REVERSED (FIRST DEPT).

The First Department, reversing defendant's attempted assault conviction, which has an "victim-perpetrator age-difference" element, determined the age of the defendant was not proven with admissible evidence:

… [T]he second-degree assault conviction based on the victim and defendant's respective ages was against the weight of the evidence because the People did not meet their burden to adduce adequate admissible evidence to establish defendant's age (see Penal Law § 120.05[12] …). The only evidence offered by the People was the testimony of the arresting officer's partner, who stated that while "assisting with the arrest," he learned defendant's date of birth without explaining whether he acquired the information from questioning defendant, from a fellow officer or from some document or report (see People v Justice, 99 AD3d 1213, 1214 [4th Dept 2012], lv denied 20 NY3d 1012 [2013] [insufficient evidence of the defendant's age where a police officer generally testified that he learned the defendant's birthday "during the course of his investigation," and the People failed to establish that the testimony was admissible under some exception to the hearsay rule]). People v McVay, 2026 NY Slip Op 03887, First Dept 6-18-26

Practice Point: Here the defendant's age was an element of the crime and the People failed to prove it with admissible evidence. The conviction was therefore reversed.

June 18, 2026

CRIMINAL LAW, EVIDENCE.

DOWSING THE VICTIM WITH ACCELERANT AND IGNITING IT DO NOT SATISFY THE STATUTORY CRITERIA FOR ATTEMPTED MURDER FIRST DEGREE (THIRD DEPT).

The Third Department reversed defendant's attempted murder first degree conviction as against the weight of the evidence. The act of dowsing the victim with accelerant did not satisfy the "physical pain" element of the offense and the act of igniting the accelerant did not meet the "course of conduct" element of the offense:

A person is guilty of attempted murder in the first degree when, with the intent to cause the death of another person, they attempt to cause the death of such person and, as relevant here, they "act[ ] in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim" … . In People v Estrella (41 NY3d 514 [2024]), the Court of Appeals explained that, to satisfy the course of conduct element of this "torture murder" subparagraph, the People must demonstrate "a series of distinct acts before the victim's death that are intended to inflict and actually inflict extreme physical pain" … . The Court of Appeals made it clear that, in order to satisfy this standard, it is not enough that only the ultimate fatal act result in such pain … . Further, actions such as planning and stalking cannot be considered part of the course of conduct insofar as they do not cause physical pain … .

Here, assuming arguendo that defendant engaged in a series of distinct acts when he threw accelerant on victim A and then immediately lit her on fire, the evidence nevertheless fails to sustain the subject crime because the act of dousing victim A with accelerant cannot be said, under the particular facts of this case, to have caused her extreme physical pain. To be sure, the evidence plainly revealed the deplorable purpose behind throwing accelerant on victim A, and it would be difficult to imagine such an act not leading to psychological terror. However, such circumstances do not equate to the requisite physical pain … . While the remaining act of setting victim A on fire obviously led to extreme physical pain, a single act does not comprise a course of conduct … . Accordingly, we are constrained to conclude that the conviction on this count is against the weight of the evidence … . People v Ketter, 2026 NY Slip Op 03848, Third Dept 6-18-26

Practice Point: Consult this decision for an analysis of the elements of attempted murder first degree.

June 17, 2026

CRIMINAL LAW, JUDGES, EVIDENCE.

THE DEFENSE REQUEST FOR A MISSING WITNESS JURY INSTRUCTION WAS PROPERLY DENIED; ANALYTICAL CRITERIA EXPLAINED (CT APP).

The Court of Appeals, affirming defendant's conviction, determined the trial judge properly denied the defense request for a missing witness charge. The Court explained the analytical criteria:

A jury convicted defendant of attempted murder in the second degree … arising from an altercation at a traffic signal where defendant shot and permanently paralyzed the victim. Defendant asserted a justification defense. Defendant, defendant's son, the victim, and one of the two other men travelling in the victim's car testified to the events. Because the People did not call the third man travelling in the victim's car to testify, defendant requested a missing witness instruction. * * *

The proponent of a missing witness charge must first "promptly notify the court that there is an uncalled witness believed to be knowledgeable about a material issue pending in the case, that such witness can be expected to testify favorably to the opposing party and that such party has failed to call him to testify" … . Once the proponent has satisfied that initial burden, the burden shifts to the opponent "to account for the witness' absence or otherwise demonstrate that the charge would not be appropriate" … . … [T]he opposing party may establish that the missing witness charge would be inappropriate because the missing witness's testimony would be cumulative … . If the opponent successfully rebuts the proponent's prima facie showing, "the proponent retains the ultimate burden to show the charge would be appropriate" … .

… The People met their burden to show that the missing witness's testimony would have been cumulative by specifically directing the court to the trial testimony and the supporting deposition of the missing witness, which offered a reasonable expectation of how the witness would testify by recounting the witness's observations of the charged conduct. When the court asked defense counsel if she had anything to add to its review, counsel said, "[n]o," thus failing to point to any deficiencies in the missing witness's deposition, inconsistencies with the testimony of the other witnesses, or evidence in the record or elsewhere that might establish noncumulative testimony the missing witness might give … . People v Khiamdavanh, 2026 NY Slip Op 03903, CtApp 6-18-26

Practice Point: Consult this decision for insight into the analytical criteria to be applied when the defense requests a missing witness jury instruction.

June 18, 2026

JUDGES, CONSTITUTIONAL LAW, EMPLOYMENT LAW, JUDICIARY LAW.

THE EQUAL RIGHTS AMENDMENT DOES NOT RENDER THE MANDATORY RETIREMENT AGES FOR JUDGES UNCONSTITUTIONAL (CT APP).

The Court of Appeals determined the mandatory retirement ages for judges (70 and 76) do not violate the Equal Rights Amendment (ERA) and do not constitute "age discrimination:"

Members of the judiciary in New York State have been subject to a mandatory retirement age since the adoption of our first State Constitution in 1777. In the current Constitution, article VI, § 25 (b) mandates retirement at 70 years old, with an opportunity for certain judges and justices to serve until age 76. Petitioners, former and sitting justices of the New York State Courts, contend that this provision was implicitly repealed by the Equal Rights Amendment ("ERA") of 2024, which amended article I, § 11 to add, inter alia, age to the classes protected from discrimination in the exercise of civil rights. Petitioners argue that as a result of this alleged implicit repeal, Judiciary Law §§ 23 and 115, which together implement the constitutional mandatory retirement age cap and certification system set forth in article VI, § 25 (b), are now unconstitutional. However, we have long held that implied repeal is disfavored … . The text, purpose, and history of these constitutional provisions establish that they operate independently: article VI, § 25 (b)'s retirement mandate addresses a different constitutional matter than the ERA, and the two provisions are not antagonistic and may be harmonized. Therefore, we affirm the Appellate Division order affirming dismissal of the underlying petition. Matter of Miller v State of New York, 2026 NY Slip Op 03907, CtApp 6-18-26

June 18, 2026

LABOR LAW-CONSTRUCTION LAW. EVIDENCE.

EVIDENCE THAT THE A-FRAME LADDER FROM WHICH PLAINTIFF FELL WAS UNSECURED AND SHIFTED FOR NO APPARENT REASON WARRANTED SUMMARY JUDGMENT ON THE LABOR LAW 240(1) CAUSE OF ACTION; EVIDENCE THAT THE LADDER WAS RESTING ON GARBAGE BAGS SPOKE TO COMPARATIVE NEGLIGENCE, WHICH IS NOT A DEFENSE (FIRST DEPT).

The First Department, reversing Supreme Court, determined plaintiff should have been awarded summary judgment on the Labor Law 240(1) cause of action in this A-frame ladder-fall case. The evidence that the ladder was unsecured and shifted for no apparent reason was sufficient to support summary judgment. The allegation that the ladder was resting on garbage bags spoke only to comparative negligence which is not a defense to a Labor Law 240(1) violation:

Supreme Court should have granted plaintiff's motion for summary judgment as to liability on his Labor Law § 240(1) cause of action. Plaintiff established his entitlement to summary judgment through his testimony that while he was standing on the ladder, it shifted and fell for no apparent reason … . Plaintiff also established that he was provided with a safety device — namely, the ladder itself — but that the device proved to be inadequate … .

The testimony stating that the feet of the ladder were resting on garbage bags is insufficient to warrant denial of plaintiff's motion, as there is no dispute that the ladder was unsecured … and at most, such evidence constitutes comparative negligence which is not a defense to a violation of Labor Law § 240(1). Rudzikewycz v 164 W. 79th St. Corp., 2026 NY Slip Op 03897, First Dept 6-18-26

Practice Point: If a ladder isn't "secured" and it moves and plaintiff falls, plaintiff is entitled to summary judgment on a Labor Law 240(1) cause of action, irrespective of any comparative negligence.

June 18, 2026

MEDICAL MALPRACTICE, NEGLIGENCE, EVIDENCE, JUDGES.

THE DENIAL OF THE JURY'S REQUEST TO SEE MRI IMAGES ON THE GROUND VIEWING THEM WAS "BEYOND THE KEN" OF THE JURY WAS REVERSIBLE ERROR (SECOND DEPT).

The Second Department, reversing the denial of plaintiff's motion to set aside the verdict, determined the judge should not have withheld from the jury MRI images on the ground they were "beyond the ken" of the jury:

… [T]he Supreme Court failed to respond meaningfully to the jury's request to view all of the infant plaintiff's MRI images during deliberations … . Although the MRI images were admitted into evidence at trial, the court denied the jury's request to view the MRI images during deliberations on the ground that viewing them was "beyond the ken of a juror." … [T]he error deprived the plaintiffs of "substantial justice" with respect to the jury's finding that Halitsky's departure was not a substantial factor in causing the infant plaintiff's injury … . Accordingly, the court should have granted that branch of the plaintiffs' motion which was pursuant to CPLR 4404(a) to set aside so much of the jury verdict as was in favor of Halitsky …. J.T.M. v Parrinello, 2026 NY Slip Op 03787, Second Dept 6-17-26

Practice Point: Here the judge should not have refused the jury's request to view MRI images which were in evidence on the ground they were "beyond the ken" of the jury.

June 17, 2026

NEGLIGENCE.

PLAINTIFF SUED THE DEVELOPER OF PROPERTY ADJACENT TO PLAINTIFF'S BUILDING ALLEGING EXCAVATION WORK CAUSED PLAINTIFF'S BUILDING TO SETTLE AND LEAN; THE CITY ISSUED A STOP-WORK ORDER STEMMING FROM PLAINTIFF'S COMPLAINT; DEFENDANT-DEVELOPER THEN COUNTERCLAIMED ALLEGING PLAINTIFF WAS NEGLIGENT IN NOT MAINTAINING PLAINTIFF'S BUILDING SUCH THAT THE EXCAVATION WORK WOULD NOT DAMAGE IT, RESULTING IN THE STOP-WORK ORDER AND CAUSING THE DEVELOPER PURELY ECONOMIC LOSS OF AT LEAST $16 MILLION; SUPREME COURT LET THE COUNTERCLAIM STAND BUT THE FIRST DEPARTMENT DISMISSED IT; PLAINTIFF DID NOT OWE A DUTY TO THE DEVELOPER AND THE DEVELOPER WAS NOT ENTITLED TO PURELY ECONOMIC DAMAGES (FIRST DEPT).

The First Department, reversing Supreme Court, in a full-fledged opinion by Justice Moulton, determined the defendant-developer's counterclaim alleging plaintiff was negligent should have been dismissed. Plaintiff sued the developer alleging excavation and construction on the developer's property, which is adjacent to plaintiff's building, caused plaintiff's building to settle and lean. Defendant-developer counterclaimed alleging plaintiff was negligent in not maintaining plaintiff's building such that the excavation would would not damage it. The counterclaim alleged economic harm ($16 million) stemming from a stop-work order triggered by the plaintiff's complaint:

The negligence counterclaim asserts that plaintiff "had a duty to construct and maintain the 1992 Building in compliance with the [Building] Code" and "a duty to maintain the 1992 Building in a reasonable and safe condition." It contends that, as evidenced by three structural engineering reports, the building was "not constructed in compliance with the Code," "remains in violation of the Code" and "was constructed and remains in an unsafe condition." … The counterclaim further asserts that, on December 13, 2023, as a result of these conditions, "the DOB issued a partial Stop Work Order for the Project Site, forcing [the developer] to stop construction on its own property because of structural instability of the 1992 Building that was caused by the 1992 Building's non-compliance with the Code and [plaintiff's] failure to maintain the 1992 Building in a reasonable condition." According to the developer, it was "harmed by the delay in construction . . . due to this stoppage" in an amount not less than $16 million. The developer does not allege that plaintiff's negligent design, construction, and maintenance of its building caused any bodily injury or property damage.

This appeal raises two novel issues: 1) whether Supreme Court correctly held that plaintiff owes the developer a common-law duty as an adjacent landowner to protect the developer's excavation/foundation work from construction delays arising out of the stop work order and, 2) assuming the existence of a duty based on plaintiff's status as an adjacent landowner, whether the court correctly held that the developer could recover purely economic damages.

We now answer both questions in the negative and reverse. 1992 Third Realty LLC v Third Ave NY Realty LLC, 2026 NY Slip Op 03871, First Dept 6-18-26

Practice Point: The owner of a building which is damaged by excavation work on an adjacent building by a developer, does not owe a duty to the developer to maintain his building such that the excavation work would not damage it.

June 18, 2026

REAL PROPERTY ACTIONS AND PROCEEDINGS LAW (RPAPL).

IF THE FACTS FIT THE STATUTORY CRITERIA OF THE “HEIRS ACT” (RPAPL 993(2)), THE ACT MUST BE APPLIED TO A PARTITION ACTION RE: PROPERTY HELD BY TENANTS-IN-COMMON (FIRST DEPT).

The First Department, remitting the matter, determined Supreme Court should have applied the Heirs Act to this partition action re: property held as tenants-in-common. The First Department noted that if the facts fit the requirements of RPAPL 993(2) (the Heirs Act), the Act must be applied:

The Heirs Act does not apply in all cases where real property is owned by tenants-in-common. Rather, “heirs property” is defined as real property that is held in tenancy in common and satisfies all of the following requirements: there is no agreement in a record binding all of the co-tenants which governs the partition of the property (RPAPL 993[2][e][i]); any of the co-tenants acquired title from a relative (RPAPL 993[2][e][i]); the property is used for residential or agricultural purposes (RPAPL 993[2][e][iii]); and any of the following applies: (a) 20% or more of the interests are held by co-tenants who are relatives; (b) 20% or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; (c) 20% or more of the co-tenants are relatives of each other; or (d) any co-tenant who acquired title from a relative resides in the property (RPAPL 993[2][e][iv][A]-[D]).

Construing unambiguous language to give effect to its plain meaning, as we must …, we find that the Heirs Act is applicable in this action because all of the conditions noted in RPAPL 993(2)(e) were satisfied. There was no agreement in the record governing the partition of the property; both parties acquired their interest from their mother; the property was used as a residence; and all of the conditions set forth in RPAPL 9939(2)(e)(iv) were present. Thus, the statute unambiguously applies to the parties here and expressly takes precedence over the traditional partition proceedings under RPAPL 901(1) (RPAPL 993[3][c]). Accordingly, the matter should be remitted to Supreme Court to comply with the requirements of the Heirs Act. Williams v Williams, 2026 NY Slip Op 03902, First Dept 6-18-26

Practice Point: Consult this decision for the circumstances under which the "Heirs Act" must be applied to a partition action re: property held by tenants-in-common.

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