

DATE NAME OF CASE (DOCKET NUMBER)

8-16-12 State v. Carlton Harris (A-111-10; 067929)

Items seized during a search conducted pursuant to a warrant issued under the Prevention of Domestic Violence Act can serve as the basis for a subsequent criminal prosecution if their illegal nature is immediately apparent. A firearm's serial number is visible simply by looking at the weapon. Recording that number does not constitute a seizure, and entry of that number into the NCIC system and review of the results does not constitute a search. Whether the officers could recognize immediately that the assault rifle and large capacity magazines were illegal to possess are factual determinations that must be remanded to the trial court.

8-15-12 Jamie Gannon and Rebecca Gannon v. American Home Products, Inc., et al. (A-80-10; 066899)

Federal principles must govern the preclusive effect of a federal judgment. For collateral estoppel purposes, plaintiffs were afforded a full and fair opportunity to be heard on the essential claims of their dispute. The appellate panel erred in concluding that equitable considerations demand that plaintiffs be permitted to have their claims heard again.

8-14-12 N.J. Division of Youth and Family Services v. F.M.
(A-108-10; 067611)

In this termination of parental rights case pursuant to N.J.S.A. 30:4C-15, the record supports the family court's decision to terminate defendant F.M.'s parental rights, and the doctrine of laches bars her claim, raised for the first time on appeal, that a statutory prerequisite for the commencing the termination of her parental rights was not met.

8-13-12 State v. Norman Jackson (A-131/132-10; 067869)

The trial court properly exercised its discretion when it denied defendant's motion for a mistrial because the prosecutor's improper comments did not deprive defendant of a fair trial. Defendant both transported the victim a "substantial distance" and confined him for a "substantial period" within the meaning of N.J.S.A. 2C:13-1(b).

8-9-12 Vonnie Cornett v. Johnson & Johnson and Cordis Corp.
(A-88/89-10; 066671)

The Cornett complaint is time-barred. The failure to warn claim as to approved and off-label uses is preempted, except to the extent plaintiffs base the claim on allegations of deliberate non-disclosure or fraudulent representations of known adverse information apart from defendants' failure to comply with FDA disclosure requirements or promotion of off-label uses outside the safe harbor. The breach of express warranty claim is also preempted, except to the extent plaintiffs allege defendants have made voluntary statements to third parties beyond and different from the information on the approved label or packaging.

8-9-12 State v. J.D. (A-33-11; 064757)

Evidence proffered by defendant J.D. of the victim's prior sexual contact with other males consisted of vague allegations that were inadmissible and not constitutionally compelled, and the trial court properly excluded it under the Rape Shield Law, which protects the victim of sexual assault from unjustified incursions into past conduct.

8-8-12 State v. Aurielo Ray Cagno (A-60-09; 064834)

The totality of the evidence permitted the jury to find that the charged conspiracy continued into the limitations period; the manner in which the prosecution was permitted to establish the continuation of the conspiracy did not violate defendant's right to confrontation; and the jury

instructions, as a whole, presented a fair, clear, and accurate statement of the law.

8-7-12 State v. Alfonso Herrerra/State v. Nelson Gonzalez
(A-121-10; 067308)

The exclusionary rule does not apply to a prosecution for attempted murder and related offenses after a possibly unlawful stop. An attenuation analysis is unnecessary. Defendants are not entitled to racial profiling discovery in seeking to suppress the drug evidence or to challenge the Trooper's credibility at a new trial.

8-6-12 Douglas Trautmann v. Chris Christie (A-16-11; 067705)

The judgment is affirmed substantially for the reasons expressed in the opinion of the Appellate Division. Chapter 37 is not preempted by federal law, does not violate equal protection, and does not give rise to an unconstitutional search and seizure.

8-2-12 Moses Segal v. Cynthia Lynch and Linda A. Schofel
(A-127-10; 067683)

The judgment of the Appellate Division is affirmed to the extent that it affirmed the trial court's April 14, 2008, order awarding fees to Schofel for her work as a parent coordinator in responding to the grievances and to the extent that it affirmed the trial court's rejection of Segal's argument that he was entitled to an evidentiary hearing on his grievances; in all other respects the judgment of the Appellate Division is reversed.

8-1-12 Wade Stancil v. ACE USA (A-112-10; 067640)

An injured employee does not have a common law right of action against a workers' compensation carrier for pain and suffering caused by the carrier's delay in paying for or authorizing treatment because 1) the workers' compensation system was designed to provide injured workers with a remedy outside of the ordinary

tort or contract remedies cognizable in the Superior Court; 2) in amending the Workers' Compensation Act in 2008, the Legislature rejected a provision that would have given the compensation courts broader permission to authorize a resort to the Superior Court and adopted a remedy that permits compensation courts to act through a contempt power; and 3) allowing a direct common-law cause of action against a carrier would undermine the workers' compensation system by substituting a cause of action that would become the preferred manner of securing relief.

7-31-12 Joyce McDougall v. Charlot Lamm (A-99-10; 067436)

There is no basis in law or public policy to expand the traditionally and intentionally narrow grounds established in Portee v. Jaffee, 84 N.J. 88 (1980), which permits compensation for the traumatic loss of carefully defined classes of individuals, to include emotional distress claims arising from observing a pet's death. Although humans may share an emotional and enduring bond with pets, permitting that bond to support a recovery for emotional distress would require the Court to vastly expand the classes of human relationships that would qualify for Portee damages or to elevate relationships with animals above those shared with other human beings.

7-30-12 State of New Jersey v. Boyce Singleton, Jr. (A-124-10; 067746)

The trial court did not commit plain error by failing to give, sua sponte, a Worlock charge as part of the insanity-defense jury instruction. The evidence does not clearly indicate defendant killed Cazan as a result of a deific command.

7-26-12 State of New Jersey v. Shareef Edmonds (A-106-10; 067889)

In responding to a 9-1-1 report of possible domestic violence, once the police officers found that there was inadequate evidence to corroborate the 9-1-1 report and determined that the parties' safety was not an issue, there was no objectively reasonable basis to

search the residence under either the community-caretaking or emergency-aid exceptions to the warrant requirement and the evidence obtained through the warrantless search must be suppressed.

7-25-12 Francis J. McGovern, Jr., v. Rutgers, the State University of New Jersey (A-113-10; 067787)

The Board's resolution adopted at the special meeting satisfied N.J.S.A. 10:4-13 by advising of "the general nature" of what was to be discussed at the closed session. The notice of that meeting was not adequate under N.J.S.A. 10:4-8 because it did not include the proposed agenda for the meeting "to the extent known" at the time the notice was prepared. OPMA does not permit excluding the public from discussion of issues such as policy recommendations and rule formulation. However, OPMA affords no remedy for these violations because the Board took no action that could be voided and there was no showing of a pattern of noncompliance or of a knowing violation. Finally, OPMA does not require that a public body complete the open portion of its meetings before going into closed session.

7-24-12 Paul M. DePascale v. State of New Jersey (A-34-11; 069401)

The Pension and Health Care Benefits Act (Chapter 78), which requires increased pension and health care contributions by sitting justices and judges, diminishes judicial salaries during a jurist's term of appointment in violation of Article VI, Section 6, Paragraph 6 of the New Jersey Constitution.

7-23-12 State v. Barrington McDonald (A-118-10; 067022)

Balancing the Slater factors, the interests of justice do not warrant an order permitting defendant to withdraw his guilty plea to assault by auto in a school zone. Defendant cannot present a colorable claim that he did not commit that offense and has not provided a credible excuse for his failure to assert his defense prior to his plea.

7-18-12 Selective Insurance Company of America v. Hudson East Pain Management (A-105-10; 067133)

An insured had no duty to provide information to plaintiff with respect to the ownership structure, billing practices, or referral methods of the medical providers from whom he or she sought treatment for his or her injuries. Because an insured had no obligation to supply that information to plaintiff, the assignment of benefits executed by an insured could not serve to impose that duty on the providers.

7-17-12 Geraldine Murray and Odis E. Murray v. Plainfield Rescue Squad (A-128-10; 067996)

Although N.J.S.A. 26:2K-29 provides immunity to "officers and members" of a rescue squad for civil damages in rendering "intermediate life support services in good faith," the plain language of the statute does not provide immunity to a rescue squad as an entity. Thus, Plainfield Rescue Squad is subject to a civil suit for negligence based on the facts alleged by plaintiffs.

7-9-12 In re Ronald C. Kollman, Jr., Petition for Expungement (A-126-10; 067807)

Defendants seeking relief under the statute's new five-year pathway to expungement have the burden of proving why expungement of a criminal record is in the public interest. Because petitioner appears to have met that burden, the Court reverses the denial of his expungement application and remands to the trial court to assess the petitioner's character and conduct as of the date of its new ruling.

7-5-12 Sussex Commons Associates v. Rutgers, the State University (A-97-10; 067232)

Records related to cases at public law school clinics are not subject to OPRA. This ruling encompasses client-related documents or clinical cases files, as well as requests for information about the development and management of litigation.

6-28-12 Memorial Properties, LLC, et al. v. Zurich American Insurance Company, et al. (A-119-10; 067913)

Neither the Assurance policy nor the Maryland policy requires the insurer to defend or indemnify Memorial and Mt. Hebron for claims asserted in the New Jersey and New York litigation, arising from the illegal harvesting of human remains.

6-27-12 State v. Leroy Munroe (A-125-10; 067772)

The trial court mistakenly exercised its discretion and should have allowed defendant to withdraw his guilty plea in the interests of justice under the factors set forth in Slater. Defendant asserted a colorable claim of innocence based on a plausible defense of self-defense; there would not have been undue delay or prejudice had the case proceeded to trial; and the factual issues in dispute identified by the trial court should have been decided by a jury.

6-26-12 Kenneth Van Dunk, Sr., et al. v. Reckson Associates Realty Corporation, et al. (A-69-10; 066949)

In this case in which an employee is suing his employer for injuries sustained on the job, the employer's conduct fell short of an intentional wrong creating a substantial certainty of bodily injury or death; therefore, the workers' compensation statutory bar against common-law tort actions precludes this action.

6-20-12 Thomas F. Fox v. Jean Millman (A-39/40-10; 066564)

The equitable doctrine of laches cannot be utilized to bar an action at law that was commenced within the time constraints of an applicable statute of limitations.

6-19-12 State v. Reynaldo Galicia (A-79-10; 067018)

The facts of this case, as developed in the trial record, do not support a passion/provocation finding under N.J.S.A. 2C:11-4(b)(2).

6-18-12 State v. Buddy Randolph (A-87-10; 067218)

When an appellate court orders reconsideration of sentence or resentencing, the trial court should view defendant as he stands before the court on that day unless the remand order specifies a different and more limited resentencing proceeding such as correction of a plainly technical error or a directive to view the sentencing issue from the vantage point of the original sentencing. The Court does not infer such a limitation in the circumstances of this case; thus, defendant is entitled to present evidence of his post-sentencing rehabilitative efforts at resentencing.

6-14-12 State v. Alnesha Minittee
State v. Darnell Bland (A-70/71-10; 066771)

Under the circumstances of this case, the trial court correctly denied the defendants' motion to suppress because the warrantless search of the SUV that was involved in the robbery fit within the scope of the automobile exception to the search warrant requirement.

6-14-12 State v. J.A.C. (A-102-10; 067520)

The content of the instant messages written by and to the victim in this case constitutes "sexual conduct" within the meaning of N.J.S.A. 2C:14-7(f), and that content is therefore protected by New Jersey's Rape Shield Law. Any probative value of the content of the victim's messages is substantially outweighed by its prejudice.

6-13-12 Mazdabrook Commons Homeowners' Association v. Wasim Khan (A-65-10; 067094)

Balancing the minimal interference with Mazdabrook's private property interest against Khan's free speech

right to post political signs on his own property, the sign policy in question violates the free speech clause of the State Constitution.

5-22-12 US Bank, N.A. v. Nikia Hough (067029; A-82-83-10)

According to the plain language of N.J.A.C. 5:80-26.18(e), the portion of the loan exceeding the permissible limits of N.J.A.C. 5:80-26.8(b) is void and not collectible by the lender; the remainder of the loan is valid and secured by the affordable housing unit.

5-16-12 W.J.A. v. D.A. (067093; A-77-10)

Presumed damages continue to play a role in New Jersey's defamation jurisprudence in private plaintiff cases that do not involve matters of public concern. Where a plaintiff does not proffer evidence of actual damage to reputation, the doctrine of presumed damages permits him to survive a motion for summary judgment and to obtain nominal damages, thus vindicating his good name.

5-14-12 John Seals and Julia Seals v. County of Morris
(067441; A-84/85-10)

Neither Contey nor N.J.S.A. 48:3-17.1 confers immunity on the utility for its negligence, if any, in placing the electric pole. If a governmental entity directs a utility where to place a pole - as in Contey - the utility is immune from liability. When there is no governmental dictate, ordinary negligence standards apply. A utility will be liable if it places or maintains an electric pole where there is an unreasonable and unnecessary danger to travelers upon the highway. Whether the County is entitled to TCA immunity must be remanded for further proceedings.

5-8-12 State v. Juan Pablo Santos (067989; A-114-10)

The grant of an evidentiary hearing in which defendant was to be permitted to provide telephonic testimony

must be reversed and the matter remanded for full reconsideration by the post-conviction relief (PCR) court as to whether defendant can meet the standard for entitlement to an evidentiary hearing under State v. Gaitan, 209 N.J. 339 (2012).

5-7-12 Twenty-First Century Rail Corporation, et al. v. New Jersey Transit Corporation, et al. (067652; A-101-10)

Disqualification of the attorney for PB Americas is warranted in this case because details relating to the construction project, the relationship among the parties, and the attorney's prior representation of an adverse party, FKSB, demonstrate that the subsequent representation was prohibited by RPC 1.9(a).

5-3-12 N.J. Association of School Administrators v. Bret Schundler (066789; A-98-10)

N.J.A.C. 6A:23A-3.1(e)(3) - (6) are valid, and N.J.S.A. 18A:30-3.6 did not supersede N.J.S.A. 18A:30-3.5. The Legislature had the authority to modify terms and conditions for future contracts for public employment in a manner that did not raise constitutional concerns; the laws that protect tenure rights did not prevent the Legislature's later actions; the Legislature properly exercised its power when it directed the Commissioner to issue the regulations; and the regulations were consistent with their respective enabling statutes, advanced the Legislature's goals, and protected benefits that employees had already accumulated. The statute capping sick leave payments has not been superseded and covers high-level employees, including superintendents and assistant superintendents; the more recent enactment expands the sick leave cap to cover all newly hired school employees.

5-1-12 State v. Derek J. Kaltner (068778; A-8-11)

The decision of the Appellate Division is affirmed substantially for the reasons expressed in Judge Parrillo's opinion. Because the police officers' warrantless search of the home after they were called to address a noise complaint was not objectively

reasonable, the evidence obtained during the search was properly suppressed.

4-12-12 State v. Marcus King (067265; A-104-10)

The trial court's examination was insufficient and, as a result, its ultimate determination was flawed. Because the Supreme Court is satisfied that the record created in response to defendant's motion does not support the denial of his right to represent himself, his convictions must be reversed.

4-3-12 In the Matter of Kevin P. Wigenton, an Attorney at Law (068659; D-131-10)

Kevin P. Wigenton failed to safeguard and negligently misappropriated escrow and client trust funds, violated attorney recordkeeping rules, and acted with a conflict of interest. For his unethical conduct, he is censured.

3-8-12 Paris Wilson, et al. v. City of Jersey City, et al. (066782; A-61/62-10)

N.J.S.A. 52:17C-10 provides immunity to 9-1-1 operators and their public-entity employers for negligence in delivering 9-1-1 services, including the mishandling of emergency calls. Because the statute does not protect conduct that constitutes wanton and willful disregard for safety, that issue must be addressed on remand.

3-6-12 Julia Gere v. Frank A. Louis, Esq. and John DeBartolo, Esq. (066926; A-78-10)

Because the situation here is materially distinguishable from that which was considered in Puder, plaintiff's legal malpractice claim is not barred.

2-29-12 State v. John Wessells (064599; A-27-09)

Because the defendant has not yet been tried for the crimes with which he has been charged, he is entitled to the benefit of the United States Supreme Court's decision in Maryland v. Shatzer, ___ U.S. ___, 130 S. Ct. 1213, 175 L. Ed. 2d 1045 (2010), and the statements he made during his second interrogation must therefore be suppressed.

2-29-12 Vandella Davis, as Guardian Ad Litem for Roland Davis v. Devereux Foundation (066800; A-54/55-10)

The Court reaffirms the duty of due care imposed upon caregivers with in loco parentis responsibilities to persons with developmental disabilities. However, applying the analysis set forth and developed by prior Court opinions, the parties' relationship, the nature of the risk, the opportunity and ability to exercise care, and public policy, do not justify imposing on such caregivers a "non-delegable duty" to protect residents from harm caused by employees' intentional acts. Also, no rational factfinder could find that McClain's criminal assault on Davis was conducted within the scope of her employment.

2-28-12 Ronald Durando and Gustave Dotoli v. The Nutley Sun and North Jersey Media Group, Inc. (065978; A-105-09)

Although this case unquestionably involves sloppy journalism, the careless acts of a harried editor, the summary-judgment record before the Court cannot support a finding by clear and convincing evidence that the editor knowingly or in reckless disregard of the truth published the false front-page teaser.

2-28-12 State v. Frensel Gaitan (067613; A-109-10)
State v. Rohan Goulbourne (068039; A-129-10)

Padilla represents a new constitutional rule of law that, for Sixth Amendment purposes, is not entitled to retroactive application on collateral review. Although Nunez-Valdez governs the standard of attorney performance in these cases, defendants are not entitled to relief under that decision because neither

defendant was affirmatively misadvised by counsel or established prejudice.

2-27-12 Kamie S. Kendall v. Hoffman-LaRoche, Inc., et al.
(066802; A-73-10)

Because a reasonable person in plaintiff Kamie Kendall's situation would not have known by December 2003 of the relationship between Accutane and ulcerative colitis, her December 2005 lawsuit against the defendant developers and marketers of the drug was timely.

2-27-12 State v. Derrick Harris, Sr. (067348; A-103-10)

The trial court did not abuse its discretion when it viewed defendant's intervening convictions for disorderly persons offenses as removing the bar to admission of defendant's prior criminal convictions as too remote and, thus, determined that defendant's prior criminal convictions would be admissible if he testified at trial.

2-27-12 US Bank National Association, etc. v. Maryse Guillaume and Emilio Guillaume, et al. (068176; A-11-11)

The Fair Foreclosure Act requires that foreclosure plaintiffs list on the notice of intention to foreclose the name and address of the actual lender, in addition to contact information for any loan servicer involved in the mortgage. Because the trial court in this matter appropriately ordered the lender to reissue a complaint notice of intention and because the borrowers' other arguments do not warrant a grant of relief, the Court affirms the denial of their motion to vacate the default judgment of foreclosure.

2-16-12 In Re: Contest of November 8, 2011 General Election of Office of New Jersey General Assembly, Fourth Legislative District (069853; A-58-11)

The New Jersey Constitution's durational residency requirement for members of the General Assembly does

not violate the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution; this decision is not a new ruling and the Court therefore declines to limit this judgment to prospective application; and, because Mosquera was the incumbent at the time of the vacancy, the Democratic Party, with which Mosquera was affiliated at the time of the election, will select an interim successor for the vacant seat. Further, in construing the vacancy-filling provisions the Court recognizes that Mosquera would meet eligibility requirements for appointment as interim successor, if she were selected by her party.

2-16-12 Cast Art Industries, LLC v. KPMG LLP (066891; A-51/52-10)

Because Cast Art failed to establish that KPMG either "knew at the time of the engagement by the client," which means at the outset of the engagement, or later agreed that Cast Art could rely on its work for Papel in proceeding with the merger, Cast Art failed to satisfy the prerequisites of N.J.S.A. 2A:53A-25(b)(2).

2-16-12 American Dream at Marlboro, L.L.C. v. The Planning Board of the Township of Marlboro (067617; A-107-10)

The trial court misapplied the governing standards for considering an application to eliminate a deed restriction based on changed circumstances. The matter is remanded for further proceedings, at which time the trial court must consider alternate reasons for the imposition of the deed restriction and defendant's assertion that plaintiff acted with unclean hands.

2-6-12 State v. Kevin Jerome Hudson (066660; A-64-10)
[This is a companion case to State v. Sally A. McDonald, also decided today.]

In this case in which an indictment was severed, resulting in two trials and two sentencing proceedings, and the first sentencing court imposed an extended-term prison sentence, it was error for the second court also to impose an extend-term sentence. The time and sequence of the offenses and sentencings

brought the defendant squarely under N.J.S.A. 2C:44-5(b)(1)'s proscription against multiple extended-term sentences.

2-6-12 State v. Sally A. McDonald (066773; A-56-10)
[This is a companion case to State v. Kevin Jerome Hudson, also decided today.]

For the reasons expressed in State v. Hudson, also decided today, the majority of the Court adheres to a plain-meaning reading of the language of N.J.S.A. 2C:44-5(b)(1), and finds that the sentencing court erred by imposing an extended-term sentence on defendant Sally A. McDonald for an offense that she pled guilty to second in time but that was committed earlier than the imposition of the extended-term sentence that she presently is serving.

2-2-12 Willie C. Rowe, et al. v. Mazel Thirty, LLC, et al.
(067237; A-95-10)

The police officer stood in the shoes of a licensee to whom the landowner owed a duty to warn of any dangerous conditions of which the owner knew or had reason to know and of which the officer was reasonably unaware. Because this record presented a genuine issue of material fact regarding the officer's awareness of the dangerous condition, the grant of summary judgment was a usurpation of the jury's function.

2-1-12 State v. Danny Lazo (066199; A-14-10)

The officer's testimony about the photo array had no independent relevance, merely served to bolster the victim's account, and should not have been admitted at trial in light of the principles outlined in State v. Branch, 182 N.J. 338 (2005).

1-25-12 May L. Walker v. Carmelo Guiffre (066969; A-72-10)
Bobbie Humphries v. Powder Mill Shopping Plaza
(067267; A-100-10)

The mechanisms for awarding attorneys' fees, including contingency enhancements, adopted in Rendine remain in full force and effect as the governing principles for awards made pursuant to New Jersey fee-shifting statutes.

1-24-12 State v. Roy Friedman (066332; A-18/19-10)

When a defendant has been sentenced to consecutive custodial terms under NERA, the periods of parole supervision that follow must be served consecutively. There is no need to determine whether Hess applies here because the trial court recognized its inherent sentencing authority, engaged in its own Yarbough analysis, and did not abuse its discretion in concluding that it was appropriate to impose consecutive sentences for three separate assaults defendant admitted committing upon his wife during three separate periods of time.

1-23-12 State v. James J. Mauti (067006; A-48-10)

The wife of defendant James J. Mauti was entitled to exercise the spousal privilege of refusing to testify in his criminal trial because there was no conflict between her exercise of the privilege and a constitutional right, and she did not waive her right to exercise the privilege.

1-19-12 Borough of Sayreville v. 35 Club, L.L.C.
(067092; A-66-10)

In evaluating the adequacy of alternative channels of communication when deciding an as-applied constitutional challenge to the State's statute limiting the places where sexually-oriented businesses may operate, trial courts are not precluded from considering the existence of sites that are located outside of New Jersey but that are found within the relevant market area as defined by the parties' experts.

1-18-12 Selective Insurance Company of America v. Arthur C. Rothman, M.D. (066630; A-60-10)

Physician Assistants are not authorized to perform the electrodiagnostic test known as needle electromyography (EMG). The Court declines to consider defendant's application that its decision be given only prospective effect.

1-18-12 Donald T. Polzo v. County of Essex (066910; A-74/75-10)

Viewing the record in the light most favorable to plaintiff, it cannot be concluded that the County was on constructive notice of a "dangerous condition" on the shoulder of its roadway that "created a reasonably foreseeable risk" of death, or that the failure to correct the depression before the accident was "palpably unreasonable."

1-12-12 State v. Demetrius Diaz-Bridges (067065; A-49/50-10)

Because neither defendant's statements about his desire to speak with his mother nor any of his other statements were assertions of his constitutionally-protected right to silence, the suppression of any portion of his confession was in error.

12-22-11 Michael McDade, et al. v. Rodolfo Siazon, et al. (067086; A-59-10)

In asserting a claim against the Egg Harbor Township Municipal Utilities Authority (MUA) under the New Jersey Tort Claims Act, plaintiff Michael McDade did not comply with the statutory ninety-day notice of claim requirement, N.J.S.A. 59:8-8(a), or seek relief from that requirement by filing a notice of motion for leave to file a late notice of claim, N.J.S.A. 59:8-9. Because the discovery rules does not obviate the need to comply with the statutory notice requirements, the defendant MUA is entitled to summary judgment.

12-20-11 In the Matter of Ty Hyderally, an Attorney at Law (D-134-10; 068701)

There is no clear and convincing evidence that Hyderally either intentionally included the New Jersey Supreme Court Certified Attorney seal or approved its continued presence on his website, so there is no basis on which to find that his conduct constituted "dishonesty, fraud, deceit or misrepresentation," in violation of RPC 8.4 (c), and the ethics complaint should be dismissed. Attorneys are responsible for monitoring the content of all communications with the public, including their websites, so henceforth, attorneys who are not authorized to display the Certified Attorney seal on their websites or in other communication but do so, will be subject to appropriate discipline.

12-14-11 State v. Reynold Regis (A-81-10; 066947)

N.J.S.A. 39:4-88(b) describes two separate and independent offenses, one for a driver's failure to maintain a lane to the extent practicable and the other for changing lanes without ascertaining the safety of the lane change.

12-8-11 Mark Tannen v. Wendy Tannen (A-53-10; 066951)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Messano's opinion.

12-5-11 John Rogers v. Cape May County Office of the Public Defender (A-63-10; 067048)

Defendant was not "exonerated" until the indictment was dismissed with prejudice on July 25, 2008, and his claim was thus not barred by the one-year filing limitation in N.J.S.A. 59:8-9. Nevertheless, because the claim was filed ten days beyond the ninety-day limit set forth in N.J.S.A. 59:8-8, further proceedings are required to determine whether the "extraordinary circumstances" standard in N.J.S.A. 59:8-9 was satisfied.

11-30-11 State v. Stanford Yough (A-67-10; 066950)

The trial court did not err in denying defendant Stanford Yough's motion for a mistrial after the victim testified on direct and cross-examination that he observed defendant more times than he had indicated in his statement to the police. No errors occurred during those exchanges that were clearly capable of producing an unjust result.