1.12 GENERAL PROVISIONS FOR STANDARD CHARGE

C. **Role of the Attorneys** (Approved 10/2009; Revised 06/2019)

The lawyers are here as advocates for their clients. In their opening statements and in their summations, they have given you their views of the evidence and their arguments in favor of their clients' position. While you may consider their comments, nothing that the attorneys say is evidence and their comments are not binding upon you.

NOTE TO JUDGE

Although arising in the criminal context, the Appellate Division has stated that a trial court may exercise its discretion to have summations of all counsel played back (or read back, *if applicable*) to the jury, in full or in part, at the jury's request if and when presented with appropriate circumstances. *See State v. Brown*, 457 *N.J. Super*. 345, 356 (App. Div. 2018) (stating that "trial courts in New Jersey have the discretion to grant requests from juries to play back or read back closing arguments" pursuant to a multi-factor inquiry for appropriate circumstances, but holding that the lack of playback/readback in the case *sub judice* did not require a new trial. "In exercising that discretion, courts may consider such factors as: (1) whether counsel made improper or inflammatory remarks in summation; (2) whether counsel materially misstated the evidence; (3) whether multiple objections to the closing arguments had been interjected, and whether they were sustained or overruled; (4) the length and complexity of the trial; (5) whether deliberations had been lengthy or significantly interrupted; and (6) other practical and equitable considerations.")