

**DATE                    NAME OF CASE (DOCKET NUMBER)**

8-15-18     Josh Willner v. Vertical Reality, Inc.  
(A-9-17; 079626)

The Court affirms the panel's approval of the judge's jury instruction, albeit under a different standard of review, finding that the judge's actions were harmless error. The Court reverses the imposition of sanctions. It would be unfair to impose sanctions in a case where the only means for a party to avoid sanctions would be to pay an amount greater than the jury's verdict against that party, without advance notice of that consequence.

8-14-18     Agriculture Development Committee v. Quaker Valley Farms, LLC (A-43/44/45/46-16; 078517)

Quaker Valley had the right to erect hoop houses, but did not have the authority to permanently damage a wide swath of premier quality soil in doing so. Quaker Valley clearly violated the deed and the ARDA. Accordingly, the judgment of the Appellate Division, which overturned the trial court's grant of summary judgment in favor of the SADC, is reversed. Those who own deed-restricted farmland must have well delineated guidelines that will permit them to make informed decisions about the permissible limits of their activities. It is only the extreme nature of this case that saves the present enforcement action.

8-13-18     John Paff v. Ocean County Prosecutor's Office  
(A-17-16; 078040)

The Court reverses the judgment of the Appellate Division panel, concurring with the panel's dissenting judge that the MVR recordings were not "required by law" within the meaning of N.J.S.A. 47:1A-1.1, that they constitute criminal investigatory records under that provision, and that they are therefore not subject to disclosure under OPRA. The Court agrees with the panel's conclusion that the recordings are not within OPRA's "investigations in progress" provision, and that OPRA's privacy clause does not exempt the recordings from disclosure. The Court remands the matter to the trial court for consideration of plaintiff's claim of a common-law

right of access to the MVR recordings.

8-9-18 State v. Danyell Fuqua (A-4-17; 079034)

The trial court and Appellate Division correctly determined that a conviction under N.J.S.A. 2C:24-4(a) can be sustained by exposing children to a substantial risk of harm.

8-8-18 Communications Workers of America, AFL-C10 v. Civil Service Commission (A-47-16; 078742)

A court may reverse the Legislature's invalidation of an agency rule or regulation pursuant to the Legislative Review Clause if (1) the Legislature has not complied with the procedural requirements of the Clause; (2) the Legislature has incorrectly asserted that the challenged rule or regulation is inconsistent with "the intent of the Legislature as expressed in the language of the statute which the rule or regulation is intended to implement," N.J. Const. art. V, § 4, ¶ 6; or (3) the Legislature's action violates a protection afforded by any other provision of the New Jersey Constitution, or a provision of the United States Constitution. To determine legislative intent, the court should rely exclusively on statutory language. It should not apply a presumption in favor of either the Legislature's findings or the agency's exercise of its rulemaking authority. Here, the Court finds no procedural defect or constitutional infirmity in the Legislature's actions. The Legislature correctly determined that N.J.A.C. 4A:3-3.2A conflicts with two provisions of the Civil Service Act.

8-7-18 RSI Bank v. The Providence Mutual Fire Insurance Company (A-68-16; 079116)

A PTI court may include a restitution condition in a PTI agreement only if it can quantify the financial obligation and assess the participant's current and prospective ability to meet that obligation. An open-ended agreement to indemnify the victim of the participant's alleged offense for unspecified future losses is not an appropriate condition of PTI. Moreover, a restitution condition of PTI is inadmissible as evidence in a subsequent civil proceeding against the PTI participant. The indemnification provision of the

PTI agreement at issue should have played no role in this civil litigation.

8-6-18 Montclair State University v. County of Passaic and City of Clifton (A-16-17; 080084)

First, under the qualified immunity addressed in Rutgers a state agency must be able to demonstrate both that the planned action is reasonable and that the agency reasonably consulted with local authorities and took into consideration legitimate local concerns. Second, although an otherwise immune state entity may not be compelled to submit to review before a planning board, when its improvement directly affects off-site property and implicates a safety concern raised by a local governmental entity responsible to protect public safety with respect to that off-site property, special judicial review and action is required. In circumstances such as are presented here, a judicial finding that the cited public safety concern has been reasonably addressed shall be a necessary additional requirement before a court may either compel local regulatory action or grant declaratory relief that the planned action is exempt from land use regulation. The Court does not specify what record warrants such a finding in every case. Rather, the trial court should determine, on a case-by-case basis, whether it could make such a finding via a summary proceeding or whether a more fulsome proceeding is necessary.

8-2-18 Cherokee LCP Land, LLC v. City of Linden Planning Board (A-82-16; 079146)

Pursuant to N.J.S.A. 40:55D-4, a tax lienholder who can show that its "right to use, acquire or enjoy property is or may be affected" if the application is granted is an interested party and therefore may have standing to challenge a planning board's approval of a land use application.

8-1-18 In re: Accutane Litigation (A-25-17; 079958)

There is little distinction between Daubert's principles regarding expert testimony and New Jersey's, and Daubert's factors for assessing the reliability of expert testimony will aid New Jersey trial courts in their role as the gatekeeper of

scientific expert testimony in civil cases. Accordingly, the Court now reconciles the standard under N.J.R.E. 702, and relatedly N.J.R.E. 703, with the federal Daubert standard to incorporate its factors for civil cases. Analysis of the record in this case leads to a clear result: the trial court properly excluded plaintiffs' experts' testimony. Moreover, the Court reaffirms that the abuse of discretion standard must be applied by an appellate court assessing whether a trial court has properly admitted or excluded expert scientific testimony in a civil case. In this matter, the trial court did not abuse its discretion in its evidential ruling and, therefore, the Appellate Division erred in reversing the trial court's exclusion of the testimony of plaintiffs' experts.

7-31-18 State v. J.L.G. a/k/a J.L.J. (A-50-16; 078718)

The Court finds continued scientific support for only one aspect of CSAAS -- delayed disclosure -- because scientists generally accept that a significant percentage of children delay reporting sexual abuse. Expert testimony about CSAAS in general, and its component behaviors other than delayed disclosure, may no longer be admitted at criminal trials. Evidence about delayed disclosure can be presented if it satisfies all parts of the applicable evidence rule. See N.J.R.E. 702. In particular, the State must show that the evidence is beyond the understanding of the average juror. That decision will turn on the facts of each case. Here, because the victim gave straightforward reasons about why she delayed reporting abuse, the jury did not need help from an expert to evaluate her explanation. However, if a child cannot offer a rational explanation, expert testimony may help the jury understand the witness's behavior. The Court asks the Committee on Model Jury Charges to develop an appropriate instruction on delayed disclosure. In this appeal, there was overwhelming evidence of defendant's guilt. As a result, the expert testimony about CSAAS introduced at trial was harmless, and defendant's convictions are affirmed.

7-25-18 Janell Brugaletta v. Calixto Garcia, D.O.  
(A-66-16; 079056)

The Court affirms the panel's order shielding the redacted document from discovery because the PSA's self-critical-analysis privilege prevents its disclosure. The Court also affirms the panel's determination that, when reviewing a discovery dispute such as this, a trial court should not be determining whether a reportable event under the PSA has occurred. The Court reverses the judgment to the extent it ends defendants' discovery obligation with respect to this dispute, finding that defendants have an unmet discovery duty under Rule 4:17-4(d) that must be addressed. Accordingly, the Court provides direction on how the court should have addressed, through New Jersey's current discovery rules, the proper balancing of interests between the requesting party and the responding party here, and remands to the trial court.

7-24-18 State v. Tariq S. Gathers (A-80-16; 079274)

Although an affidavit of a police officer familiar with the investigation is preferable, a hearsay certification from an assistant prosecutor may support probable cause to compel a defendant to submit to a buccal swab if it sets forth the basis for the prosecutor's knowledge. Second, an affidavit or certification supporting probable cause to compel a buccal swab must establish a fair probability that defendant's DNA will be found on the evidence. Here, the State failed to show probable cause.

7-19-18 Lucia Serico v. Robert M. Rothberg, M.D.  
(A-69-16; 079041)

The high-low agreement is a settlement subject to the rules of contract interpretation. Based on the expressed intent of the parties and the context of the agreement, the agreement set \$1,000,000 as the maximum recovery. Therefore, Serico may not seek additional litigation expenses allowed by Rule 4:58. The judgment of the Appellate Division is accordingly affirmed.

7-18-18 Allstars Auto Group, Inc. v. New Jersey Motor Vehicle Commission (A-72/73/74/75/76/77/78/79-16; 078991)

If the reasons given by the dealers present a colorable dispute of facts or at least the presence of mitigating evidence, the Commission is required to provide an in-person hearing pursuant to N.J.S.A. 39:10-20. An in-person hearing must be held prior to a license suspension or revocation when the target of the enforcement action requests it. Accordingly, the Court reverses the judgment of the Appellate Division and remands.

7-17-18 Maureen McDaid v. Aztec West Condominium Association  
(A-88-16; 079325)

The dictates of Jerista apply to the facts presented here. The res ipsa inference of negligence is applicable because common experience instructs that elevator doors -- however complex their operation may be -- ordinarily should not strike a person entering or exiting an elevator in the absence of negligence. To warrant the inference, plaintiff had no obligation to exclude other possible causes that might explain the malfunctioning of the elevator doors or to show that defendants were on notice of some defect in the doors' operation.

7-11-18 State in the Interest of A.R., a minor  
(A-67-16; 078672)

The Court reverses Alex's delinquency adjudication on state-law grounds, concluding that the video-recorded statement did not possess a sufficient probability of trustworthiness to justify its introduction at trial under N.J.R.E. 803(c)(27). Striking the juvenile's recorded statement from the record does not leave sufficient evidence in the record to support, on any rational basis, the adjudication of delinquency against Alex. Accordingly, the sexual assault charge must be dismissed. The Court concludes that the incompetency proviso of the present version of N.J.R.E. 803(c)(27) is flawed and remands that rule for review to the Supreme Court Committee on the Rules of Evidence.

6-28-18 State v. Robert L. Evans (A-85/86-16; 079144)

The panel erred in its application of the "plain feel" doctrine. Officer Laboy had witnessed "hundreds" of

instances where defendants concealed contraband in the front of their pants and therefore immediately recognized the "rocklike" substance he felt to be similar to crack cocaine. Between the officer's experience-derived identification of the substance and the presence of \$2000 in cash, the "plain feel" exception -- which the Court adopts -- applied.

6-27-18 Continental Insurance Company v. Honeywell International, Inc. (A-21-16; 078152)

New Jersey law on the allocation of liability among insurers applies in this matter, and the Court sets forth the pertinent choice-of-law principles to resolve this dispute over insurance coverage for numerous products-liability claims. Concerning the second question, on these facts, the Court also affirms the determination to follow the unavailability exception to the continuous-trigger method of allocation set forth in Owens-Illinois.

6-26-18 Mary Harz v. Borough of Spring Lake (A-48-16; 078711)

The Borough's zoning officer did not adhere to the precise statutory procedures for processing Harz's appeal, and the Court does not take issue with Harz's claims that the Borough could have responded in a more efficient way to her objections. In the end, however, Harz has not established that the Borough denied her the right to be heard before the Planning Board. She therefore cannot demonstrate that she was deprived of a substantive right protected by the Civil Rights Act.

6-21-18 Kean Federation of Teachers v. Ada Morell (A-84-16; 078926)

There is no obligation to send Rice notices here, where the Board determined from the start to conduct its discussion about faculty reappointments in public session. Turning to the release of meeting minutes, the delay that occurred is unreasonable no matter the excuses advanced by the Board, but the Court modifies the Appellate Division's holding requiring the Board to set a regular meeting schedule.

6-20-18 Dunbar Homes, Inc. v. Zoning Board of Adjustment of the Township of Franklin (A-89-16; 079076)

The plain language of the MLUL defines an "application for development" as the application form and all accompanying documents required by ordinance." N.J.S.A. 40:55D-3. Because Dunbar's application lacked many of the documents required by the Ordinance, the application was not complete upon submission and does not benefit from the TOA Rule.

6-19-18 State v. Gary Twiggs (A-51-16; 077686)  
State v. James E. Jones and Likisha Jones  
(A-63/64/65-16; 077964)

The DNA-tolling exception applies only when the State obtains DNA evidence that directly matches the defendant to physical evidence of a crime. In Jones, the State presented sufficient evidence of a continuing course of conduct to survive the motion to dismiss.

6-14-18 State v. Leo C. Pinkston (A-22-17; 080118)

The CJRA -- like the federal and D.C. laws on which it is based in part -- provides defendants a qualified right to summon adverse witnesses. Before calling an adverse witness, a defendant must proffer how the witness's testimony would tend to negate probable cause or undermine the State's evidence in support of detention in a material way.

6-6-18 State in the Interest of J.A., a Juvenile  
(A-38-16; 077383)

Neither exigency nor the hot pursuit doctrine justified the officers' warrantless entry here. However, defendant's brother's actions did not constitute state action and were sufficiently attenuated from the unlawful police conduct to preclude application of the exclusionary rule to the evidence.

6-5-18 Christopher Mount v. Board of Trustees, Police and Firemen's Retirement System (A-9-16; 078021)  
Gerardo Martinez v. Board of Trustees, Police and Firemen's Retirement System (A-83-16; 078823)

Mount has proven, under requirements established in case law construing N.J.S.A. 43:16A-7(1), that he

experienced a terrifying or horror-inducing event and that the event was undesigned and unexpected. The Court remands to the Appellate Division panel to decide Mount's claim that his mental disability was a direct result of that incident. Martinez has not demonstrated that the incident that caused his disability was undesigned and unexpected and therefore is not entitled to accidental disability benefits pursuant to N.J.S.A. 43:16A-7.

5-30-18 State v. Melvin Hester; State v. Mark Warner; State v. Anthony McKinney; State v. Linwood Roundtree  
(A-91-16; 079228)

The Federal and State Ex Post Facto Clauses bar the retroactive application of the 2014 Amendment to defendants' CSL violations. The 2014 Amendment retroactively increased the punishment for defendants' earlier committed sex offenses by enhancing the penalties for violations of the terms of their supervised release. The Amendment, therefore, is an ex post facto law that violates the Federal and State Constitutions as applied to defendants. The Court affirms the judgment of the Appellate Division dismissing defendants' indictments.

5-24-18 State v. Isaac Young (A-61-16; 078862)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Rothstadt's well-reasoned opinion.

5-23-18 William J. Brennan v. Bergen County Prosecutor's Office (A-62-16; 078074)

Courts are not required to analyze the Doe factors each time a party asserts that a privacy interest exists. A party must first present a colorable claim that public access to records would invade a person's reasonable expectation of privacy. It is not reasonable to expect that details about a public auction of government property will remain private. OPRA calls for disclosure of records relating to the auction.

5-8-18 In the Matter of State and School Employees Health Benefits Commissions' Implementation of In the Matter of Philip Yucht (A-21-17; 079966)

Because significant questions exist concerning the extent of the notice actually provided, either by the Commissions or through their agents to active employees, former employees, and retirees, a hearing is necessary. The hearing is to be conducted in accordance with the principles outlined in this opinion and, at the hearing, the adequacy of the content of the notice can be raised.

5-7-18 Petro-Lubricant Testing Laboratories, Inc. v. Asher Adelman (A-39-16; 078597)

The single publication rule applies to an internet article. However, if a material and substantive change is made to the article's defamatory content, then the modified article will constitute a republication, restarting the statute of limitations. In this case, there are genuine issues of disputed fact concerning whether Adelman made a material and substantive change to the original article, and the Appellate Division erred in dismissing the defamation action based on the single publication rule. However, the modified article is entitled to the protection of the fair report privilege. The article is a full, fair, and accurate recitation of a court-filed complaint. The trial court properly dismissed the defamation action, and on that basis the Court affirms the Appellate Division's judgment.

5-3-18 Jaclyn Thompson v. Board of Trustees, Teachers' Pension and Annuity Fund (A-5-17; 079359)

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

5-2-18 American Civil Liberties Union of New Jersey v. Rochelle Hendricks (A-22-16; 077885)

Judicial review is premature because factual disputes require resolution before the Secretary can make a properly informed decision on the grant applications. Because an informed administrative decision could not have been made without the benefit of a proper record, the matter is remanded to the Secretary, in order that a contested case proceeding be conducted prior to the

ultimate administrative decision of the Secretary concerning the challenged grants.

5-1-18 State v. Jonathan Mercedes (A-6-17; 079995)  
State v. Hassan Travis (A-7-17; 080020)

The Court now revises Rule 3:4A(b)(5) to make clear that a recommendation against a defendant's pretrial release that is based only on the type of offense charged cannot justify detention by itself unless the recommendation is based on one of two presumptions in the statute. See N.J.S.A. 2A:162-19(b). A pending charge is a charge that has a future pre-disposition related court date or is pending presentation to the grand jury, or has not been disposed of due to the defendant's failure to appear pending trial or sentencing, or that is in some form of deferred status.

4-30-18 State v. Allen Alexander a/k/a Karon Keenan  
(A-49-16; 078515)

Under the circumstances of this case, aggravated assault is, at most, a related offense of the State's robbery charge. The trial court had no obligation to charge the jury sua sponte on aggravated assault as a lesser-included offense of the State's robbery charge.

4-25-18 State v. Todd Dorn (A-54-16; 078399)

The amendment to count two of defendant's indictment was a violation of defendant's right to grand jury presentment under the New Jersey Constitution. Defendant waived his right to object to the map's authentication.

4-24-18 State in the Interest of C.K. (A-15-16; 077672)

N.J.S.A. 2C:7-2(g) is unconstitutional as applied to juveniles adjudicated delinquent as sex offenders. In the absence of subsection (g), N.J.S.A. 2C:7-2(f) provides the original safeguard incorporated into Megan's Law: no juvenile adjudicated delinquent will be released from his registration and notification requirements unless a Superior Court judge is persuaded that he has been offense-free and does not likely pose a societal risk after a fifteen-year look-back period.

4-23-18 State v. Malcolm C. Hagans (A-37-16; 078014)

Because the trial court's determination that the driver ultimately knowingly and voluntarily gave consent to search is supported by sufficient credible evidence, the trial court properly denied defendant's motion to suppress the evidence seized during the search.

4-19-18 State v. Dorian Pressley (A-52-16; 078747)

Based on the record, the Court cannot determine whether part or all of the protections outlined in Henderson should apply to identifications made by law enforcement officers. For the reasons expressed, the Court affirms the judgment of the Appellate Division and upholds defendant's convictions.

4-18-18 Freedom from Religion Foundation v. Morris County Board of Chosen Freeholders (A-71-16; 079277)

The plain language of the Religious Aid Clause bars the use of taxpayer funds to repair and restore churches, and Morris County's program ran afoul of that longstanding provision. Based on its understanding of the current state of the law, including the United States Supreme Court's recent decision in Trinity Lutheran Church of Columbia, Inc. v. Comer, 582 U.S. \_\_\_, 137 S. Ct. 2012 (2017), the Court concludes that that the application of the Religious Aid Clause in this case does not violate the Free Exercise Clause.

4-17-18 Mark R. Krzykalski v. David T. Tindall

The jury properly apportioned fault between defendant and the John Doe defendant because plaintiff and defendant acknowledged the role of John Doe in the accident, plaintiff's UM carrier was aware of the litigation, and plaintiff had fair and timely notice that defendant would assert that John Doe was the cause of the accident.

4-16-18 David Spade v. Select Comfort Corp.; Christopher Wenger v. Bob's Discount Furniture, LLC (A-57-16; 078611)

(1) The inclusion of language prohibited by N.J.A.C. 13:45A-5.3(c) in contracts of sale or sale orders for the delivery of household furniture may alone give rise to a violation of a "clearly established legal right of a consumer or responsibility of a seller" for purposes of the TCCWNA. N.J.S.A. 56:12-15. (2) A consumer who receives a contract that includes language prohibited by N.J.A.C. 13:45A-5.3(c), but who suffers no monetary or other harm as a result of that noncompliance, is not an "aggrieved consumer" entitled to a remedy under the TCCWNA. N.J.S.A. 56:12-17.

4-11-18 Robert Ferrante v. New Jersey Manufactures Insurance Group (A-87-16; 078496)

Due to the complete absence of notice by Ferrante to NJM at any point over years of litigation, including the lack of notice about the high-low agreement or completed jury trial during the UIM process, NJM may refuse to pay the UIM benefits.

3-29-18 State v. Aharon Atwood and Shalom Mizrahi (A-42-16; 078804)

Search warrants are prospective in nature—they authorize the taking of action. A later-obtained search warrant does not retroactively validate preceding warrantless conduct that is challenged through a suppression motion focused on the legitimacy of the seizure that gave rise to a later search. The State must bear the burden of proving the legitimacy of the seizure that led to a later warrant and search—in this case the stop.

3-27-18 State v. Shayna Zalcborg (A-41-16; 078308)

The totality of the circumstances in this case evince an objective exigency, relaxing the need for a warrant and rendering the officer's warrantless blood draw constitutional.

3-22-18 State v. Donnell Jones (A-53-16; 078793)

The sentencing court did not abuse its discretion during defendant's sentencing proceedings or infringe defendant's allocution right in any way.

3-14-18 State v. Ornette M. Terry (A-23-16; 077942)

Sufficient credible evidence supported the trial court's determination that defendant was given an adequate opportunity to present the vehicle's registration before the search commenced. When a driver is unwilling or unable to present proof of a vehicle's ownership, a police officer may conduct a limited search for the registration papers in the areas where they are likely kept in the vehicle. When a police officer can readily determine that the driver or passenger is the lawful possessor of the vehicle—despite an inability to produce the registration—a warrantless search for proof of ownership will not be justified.

3-13-18 State v. Lori A. Hummel (A-36-16; 078476)

The Court finds no valid inventory search and therefore affirms the Appellate Division's determination that the evidence seized during the search should be suppressed.

3-6-18 State v. Noah Mosley (A-24-16; 078369)

Hearsay is generally admissible in a VOP hearing. When assessing the State's ability to rely on hearsay to satisfy its proof obligation without contravening a defendant's due process rights, a court fundamentally should consider the State's reasons for relying on hearsay forms of evidence and the reliability of the evidence for its proposed purpose. In this matter, the State failed to provide any justification for relying on hearsay, and the hearsay evidence was not sufficiently reliable for its asserted purpose of substantiating the new criminal charges against defendant.

2-21-18 Hazel Hamrick Lee v. Florence Brown, et al.  
(A-7/8-16; 078043)

Because the critical causative conduct in this case was a failure to enforce the law, Bierals is entitled to absolute immunity. The City's liability is conditioned on that of Bierals, and thus the City is entitled to absolute immunity as well.

2-5-18 State v. Melvin T. Dickerson (A-1-17; 079769)

The affidavit supporting a search warrant disclosed in discovery need not be disclosed as a matter of course,

and no particular circumstances necessitated disclosure of that affidavit here. To the extent that the trial court's order of release served as a "sanction" for the State's failure to meet what the court viewed to be the State's discovery requirements, that release order was improper.

2-1-18 Margo S. Ardan v. Board of Review, Department of Labor and Workforce Development (A-35-16; 077771)

N.J.A.C. 12:17-9.3(b) does not generally impose a notice-and-inquiry requirement on every claimant who has departed her work because that work aggravated a medical condition. Nonetheless, Ardan failed to meet the burden imposed by the regulation. The Appellate Division panel properly decided this appeal based on the version of the statute that was in effect when Ardan applied for unemployment benefits in 2012.

1-31-18 State v. Tormu E. Prall (A-28-16; 078169)

The court erred by allowing evidence that defendant threatened to burn down his girlfriend's homes and by admitting John's hearsay statements that defendant was responsible for the arson. However, the errors were not capable of producing an unjust result because of the overwhelming weight and quality of the evidence against defendant.

1-30-18 State v. S.N. (A-60-16; 079320)

The proper standard of appellate review of pretrial detention decisions is whether the trial court abused its discretion by relying on an impermissible basis, by relying upon irrelevant or inappropriate factors, by failing to consider all relevant factors, or by making a clear error in judgment. Here, the trial court abused its discretion.

1-22-18 State v. Karlton L. Bailey (A-96-15; 077141)

Because the State never proved an essential element of the certain persons charge to the jury, defendant's conviction cannot stand.

1-18-18 State v. Alexis Sanchez-Medina (A-10-16; 077883)

The cumulative effect of both errors denied defendant his right to a fair trial.

1-11-18 State v. Ryan Sutherland (A-14-16; 077807)

The Appellate Division erred in concluding that the holding in Heien is applicable here. The motor vehicle statutes pertinent here are not ambiguous. The officer's stop of defendant's motor vehicle was not an objectively reasonable mistake of law that gave rise to constitutional reasonable suspicion; the stop was therefore unconstitutional.

1-10-18 Doreen Hayes v. Barbara Delamotte (A-4-16; 077819)

Because the trial court's error in preventing plaintiff from replaying a portion of the deposition during summation at the first trial resulted in a miscarriage of justice, the trial court properly granted plaintiff's motion for a new trial. Further, the trial court erred in permitting Dr. Vasen to bolster his testimony using "congruent" opinions in reports of non-testifying doctors during the first trial rather than simply explain the sources of information used in forming his opinion.

12-21-17 New Jersey Division of Child Protection and Permanency v. A.B. (A-27-16; 077664)

The Division met its burden of proof concerning A.B.'s abuse or neglect of A.F. under N.J.S.A. 9:6-8.21(c)(4). The Court finds insufficient proof of willful abandonment under N.J.S.A. 9:6-8.21(c)(5) and reverses on that issue. The hearsay evidence was properly suppressed.

12-19-17 State v. William Burkert (A-6-16; 077623)

To ensure that N.J.S.A. 2C:33-4(c) does not exceed its constitutional reach in cases involving the prosecution of pure speech, repeated acts to "alarm" and "seriously annoy" must be read as encompassing only repeated communications directed at a person that reasonably put that person in fear for his safety or security or that intolerably interfere with that person's reasonable expectation of privacy.

12-18-17 State v. Akeem Boone (A-3-16; 077757)

Because the warrant affidavit failed to provide specific information as to why defendant's apartment and not other units should be searched, the warrant application was deficient.

12-14-17 A.T. v. M. Cohen, M.D. (A-12-16; 077821)

The Court reverses the grant of summary judgment to defendants and remands the matter for further proceedings, finding that the equities militate in favor of permitting a facially meritorious action to proceed here. The Court declines to approve recourse to a voluntary dismissal without prejudice under Rule 4:37-1(b) as an appropriate avenue for addressing failures to comply with the affidavit of merit requirement, including when a minor is involved. Rather, the Court will require modification of the Judiciary's electronic filing and notification case management system to ensure that, going forward, necessary and expected conferences are scheduled to enhance parties' compliance with requirements under the Affidavit of Merit Statute, in furtherance of the statutory policy goals.

12-11-17 Philip Vitale v. Schering-Plough (A-20-16; 078294)

The Disclaimer is void because it is contrary to the public policy expressed in sections 39 and 40 of the Workers' Compensation Act.

11-29-17 State v. Rolando Terrell (A-25-16; 077730)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in the per curiam opinion.

11-15-17 EQR-LPC Urban Renewal North Pier, LLC v. City of Jersey City (A-16-16; 078268)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in the per curiam opinion.

11-14-17 John Giovanni Granata v. Edward F. Broderick, Jr. (A-31/32-16; 078207)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in those parts of Judge Guadagno's opinion addressing the distribution priorities of the attorney's fee award.

10-4-17 Debra Dugan v. TGI Friday's, Inc. (A-92-15; 077567)  
Ernest Bozzi v. OSI Restaurant Partners, LLC  
(A-93-15; 077556)

Because CFA class action jurisprudence rejects "price-inflation" theories, such as the theory presented by the Dugan plaintiffs, as incompatible with the CFA's terms, the Dugan plaintiffs have not established predominance with respect to their CFA claims. Bozzi's allegations focus primarily on a specific pricing practice. If the Bozzi class is redefined to include only customers who make that specific CFA claim, and the claim is limited accordingly, plaintiff Bozzi has met the requirements of Rule 4:32-1 and may attempt to prove that claim on behalf of the class. As to the TCCWNA claims in both appeals, plaintiffs have failed to satisfy the predominance requirement of Rule 4:32-1.

9-14-17 The Palisades at Fort Lee Condominium Association, Inc. v. 100 Old Palisades, LLC  
(A-101/102/103/104-15; 077249)

A construction-defect cause of action accrues at the time that the building's original or subsequent owners first knew or, through the exercise of reasonable diligence, should have known of the basis for a claim. From that point, the plaintiff has six years to file a claim. A subsequent owner stands in no better position than a prior owner in calculating the limitations period. If a prior owner knew or reasonably should have known of a basis for a construction-defect action, the limitations period began at that point. Here, the Court cannot determine when the accrual clock commenced for each defendant based on the record before it and accordingly remands to the trial court.