

DATE NAME OF CASE (DOCKET NUMBER)

8-12-14 State v. Dwayne E. Slaughter (A-134-11; 070372)

The playing of the available witness's audiotaped statement to the jury without requiring the witness to testify in front of the jury violated defendant's constitutional confrontation rights, and that violation constituted harmful error.

8-11-14 State v. Kelvin Williams (A-8-12; 071306)

To find a defendant guilty of first-degree robbery in a simulated deadly-weapon case, the victim must have an actual and reasonable belief that the defendant threatened the immediate use of such a weapon, which factfinders must ascertain through application of a totality-of-the-circumstances standard, which includes consideration of the nature of any verbal threat, the defendant's conduct, his dress, and any other relevant factors. Applying that standard here, defendant's words, conduct, and clothing provided sufficient evidence for a reasonable jury to convict defendant of first-degree robbery.

8-11-14 State v. Christopher Dekowski (A-35-12; 071019)

Applying a totality-of-the-circumstances standard, defendant's appearance, conduct, and written note demanding money and threatening a bomb in a bag provided sufficient evidence for a reasonable jury to convict defendant of first-degree robbery on a finding that the bank manager had an actual and reasonable belief that defendant was armed with a deadly weapon.

8-7-14 Borough of Merchantville v. Malik & Son, LLC, et al.
(A-66-12; 072255)

Prior to instituting a condemnation action, a condemning authority has an obligation to present an offer to acquire the subject property and to engage in bona fide negotiations only with the holder of the title of record or the holder of the interest sought

to be condemned. Therefore, the condemning authority here was not required to engage in negotiations with the holder of the final judgment of foreclosure for the property sought to be condemned.

8-6-14 State v. Julie L. Michaels (A-69-12; 072106)

Defendant's confrontation rights were not violated by the admission of Dr. Barbieri's report or his testimony regarding the blood tests and his conclusions drawn therefrom. Dr. Barbieri was knowledgeable about the testing process, independently verified the correctness of the machine-tested processes and results, and formed an independent conclusion about the results. Defendant's opportunity to cross-examine Dr. Barbieri satisfied her right to confrontation on the forensic evidence presented against her.

8-6-14 State v. Reginald Roach (A-129-11; 068874)

Defendant's confrontation rights were not violated by the testimony of the analyst who matched his DNA profile to the profile left at the scene by the perpetrator. Defendant had the opportunity to confront the analyst who personally reviewed and verified the correctness of the two DNA profiles that resulted in a highly significant statistical match inculcating him as the perpetrator. In the context of testing for the purpose of establishing DNA profiles for use in an expert's comparison of DNA samples, a defendant's federal and state confrontation rights are satisfied so long as the testifying witness is qualified to perform, and did in fact perform, an independent review of testing data and processes, rather than merely read from or vouch for another analyst's report or conclusions.

8-6-14 State v. Bryden Robert Williams (A-5-12; 070388)

Defendant's failure to object to the admission of the testimony on confrontation grounds and his decision to cross-examine the medical examiner constitute a waiver of his right of confrontation.

8-5-14 State v. Fausto Camacho (A-30-13; 072525)

The trial court's failure to provide a no-adverse-inference jury instruction constitutes trial error, requiring a harmless-error analysis, and does not mandate automatic reversal. In this case, the error was harmless.

8-4-14 State v. Vonte Skinner (A-57/58-12; 071764)

The Appellate Division correctly reversed defendant's conviction because the violent, profane, and disturbing rap lyrics authored by defendant constitute highly prejudicial evidence that bore little or no probative value as to any motive or intent behind the attempted murder offense with which he was charged.

7-31-14 Daniel Tumpson, et al. v. James Farina, et al.
(A-13/14-13; 072813)

The City Clerk violated the right of referendum guaranteed by the Faulkner Act and deprived plaintiffs of a substantive right protected by the Civil Rights Act, thus entitling them to attorney's fees.

7-30-14 James P. Renner v. AT&T (A-71-11; 068744)

Where a Workers' Compensation claimant fails to demonstrate that cardiovascular injury, disease or death, resulted from a work effort or strain involving a substantial condition or event, he or she is not entitled to compensation under N.J.S.A. 34:15-7.2.

7-29-14 State v. Kevin Gamble (A-53-12; 071234)

Under the totality of the circumstances, which provided the officers with a reasonable and articulable suspicion that defendant was engaged in criminal activity, the investigatory stop and protective sweep of the passenger compartment of the van were valid.

7-28-14 Magic Petroleum Corporation v. Exxon Mobil Corporation
(A-46-12; 069083)

Plaintiff property owners or other responsible parties may file contribution claims in Superior Court, and a court may allocate liability before the final resolution of a site remediation plan by the DEP. The trial court may assign liability based on evidence presented at trial, but may not be able to issue a final damages award. In addition, a party need not obtain written approval of the remediation plan prior to filing a claim for contribution.

7-24-14 In the Matter of Civil Commitment of D.Y. (A-42-12;
071464)

The plain language of N.J.S.A. 30:4-27.29(c) and - 27.31(a) requires that there be one of two alternative forms of representation at SVP commitment hearings: (1) full representation by counsel, or (2) self-representation by an individual who is competent to conduct his or her case, with standby counsel present throughout the hearing to assist if needed. Standby counsel may advise the committee, assist the court in expediting the proceedings, and assume an active role if his or her client proves unwilling or unable to participate cooperatively in the hearing.

7-23-14 Matthew J. Barrick, Jr. v. State of New Jersey
(A-8/9-13; 072795)

The Director's determination that the distance requirement was not material to the RFP was unassailably reasonable and the decision awarding the lease contract to RMB was not arbitrary, capricious, or unreasonable. Under the circumstances, the Court declines to consider the mootness issue, but warns future unsuccessful bidders that sitting on the right to seek a stay may imperil any opportunity for a merits review.

7-22-14 State v. Yolanda Terry and Teron Savoy (A-71-12;
072775)

A confidential marital communication protected under the marital communications privilege does not lose its privileged status by virtue of a wiretap under the New Jersey Wiretapping and Electronic Surveillance Control Act. The Court, however, proposes a crime-fraud exception to the marital communications privilege and, pursuant to the Evidence Act of 1960, transmits it for approval by a joint resolution of the Legislature and for the Governor's signature.

7-21-14 Martin E. O'Boyle v. Borough of Longport (A-16-12; 070999)

The Court expressly adopts the common interest rule as articulated in LaPorta v. Gloucester County Board of Chosen Freeholders, 340 N.J. Super. 254 (App. Div. 2001). Applying that rule, the private attorney's protected attorney work product remained privileged despite its disclosure to the third-party municipal attorney because the materials were shared in a manner calculated to preserve their confidentiality, in anticipation of litigation, and in furtherance of a common purpose. The requestor also failed to articulate a particularized need for the withheld materials as required to obtain privileged materials under the common law right of access.

7-2-14 In the Matter of Opinion No. 17-2012 of the Advisory Committee on Professional Ethics (A-22-13; 072810)

Volunteer Lawyers for Justice's pro bono bankruptcy program does not present a conflict of interest under RPC 1.7. With appropriate safeguards, a volunteer attorney can represent a low-income debtor in an asset Chapter 7 bankruptcy matter even if the attorney's firm represents one or more of the debtor's creditors in unrelated matters.

6-30-14 Lorraine Gormley v. LaTanya Wood-El (A-101/106-11; 069717)

Under the facts of this case, a lawyer assigned to represent a client civilly committed to a state psychiatric hospital had a substantive-due-process

right to be free from state-created dangers. Because that right was clearly established at the time the lawyer was attacked, the state official defendants are not entitled to qualified immunity.

6-25-14 In re: Princeton Office Park v. Plymouth Park Tax Services, LLC (A-107-11; 069521)

The Court answers the Third Circuit's certified question in the affirmative: The purchaser of a tax sale certificate possesses a tax lien on the encumbered property.

6-24-14 State v. Michael Ross II (A-67-12; 072042)

Where there was nothing in the jury's communications with the trial court to suggest that any juror had reached a determination on a factual or legal issue, the trial court's decision to instruct the deadlocked jury to continue deliberations and attempt to reach an agreement, and to later substitute an alternate for an ill juror after the deadlock had been announced, did not constitute plain error.

6-16-14 James Hitesman v. Bridgeway, Inc. (A-73-12; 072466)

Claims asserted under CEPA's "improper quality of patient care" provision must be premised upon a reasonable belief that the employer has violated a law, rule, regulation, declaratory ruling adopted pursuant to law, or a professional code of ethics that governs the employer and differentiates between acceptable conduct in the employer's delivery of patient care. N.J.S.A. 34:19-3(a)(1); N.J.S.A. 34:19-3(c)(1). Claims asserting that an employer's conduct is incompatible with a "clear mandate of public policy concerning the public health" must, at a minimum, identify authority that applies to the "activity, policy or practice" of the employer. N.J.S.A. 34:19-3(c)(3).

6-5-14 State v. James W. Robinson (A-20-12; 070556)

N.J.S.A. 2C:44-5(a)(2) bars the imposition of a mandatory extended term and a discretionary extended term in the same sentencing proceeding.

6-3-14 State v. Roger Paul Frye (A-30-12; 070975)

The Court reaffirms its holding in In re Bergwall, 85 N.J. 382 (1981). A prior DWI conviction may enhance the sentence for a subsequent refusal conviction under the refusal statute, N.J.S.A. 39:4-50.4a.

6-2-14 New Jersey Division of Youth and Family Services v. J.G. (A-116-11; 069970)

The trial court's finding that the Division of Youth and Family Services failed to prove by clear and convincing evidence that appellant's parental rights should be terminated pursuant to N.J.S.A. 30:4C-15.1(a) is supported by the trial evidence.

5-28-14 State v. John C. Blann (A-75-12; 072146)

The judgment of the Appellate Division is reversed substantially for the reasons expressed in Judge Joseph F. Lisa's dissenting opinion.

5-22-14 In re State Grand Jury Investigation (A-65-12; 072552)

The state of enforcement of each subpoena ordered by the Appellate Division shall continue in effect, provided that the State offers and each defendant executes a statute of limitations tolling agreement. If a defendant fails to execute a tolling agreement within forty-five days of the State's offer, the stay shall be lifted in respect of that defendant.

5-21-14 Luis Perez v. Zagami, LLC (A-36-12; 071358)

A private Civil Rights Act cause of action only may be pursued against persons acting under "color of law;" the Attorney General, however, is authorized to file

CRA actions against persons whether or not they acted under "color of law."

5-21-14 Maryann Cottrell v. Zagami, LLC (A-5-13; 072235)

For the reasons fully expressed in Perez, supra, ___ N.J. ___ (slip op. at 21), a private Civil Rights Act cause of action only may be pursued against persons acting under "color of law;" the Attorney General, however, is authorized to file CRA actions against persons whether or not they acted under "color of law."

5-20-14 Judy Komlodi v. Anne Picciano, M.D. (A-13-12; 071301)

The trial court erred in providing a preexisting condition jury charge under the circumstances of this case and, even if the Scafidi charge were appropriate, it suffered from multiple defects. The trial court was correct to charge the jury on avoidable consequences and superseding/intervening causation, and not comparative negligence, but improperly referenced "but for" causation in its instruction on proximate cause. Throughout the causation charge, the trial court failed to tailor the complex concepts of causation to the theories and facts advanced by the parties.

5-19-14 State v. Byseem T. Coles (A-15-12; 070653)

Under the circumstances presented here, a third party's consent to conduct a warrantless search of a defendant's living space is insufficient to justify the search when the defendant is unlawfully detained by police.

5-19-14 State v. Michael W. Lamb (A-37-12; 071262)

Under the circumstances of this appeal, an occupant's knowing and voluntary consent to search a premises is constitutionally effective against a third party and is not nullified by the prior objections of an absent

co-occupant whose absence is not the result of a police effort to avoid an objection.

5-15-14 State v. Carl Hreha (A-115-11;070222)

The record lacks sufficient credible evidence to support the trial court's finding that defendant was not offered leniency in exchange for his confession. The matter is remanded for a new Miranda hearing to allow a trial court to make fresh credibility and factual findings, after which the trial court may decide what weight, if any, to assign to any promises of leniency when it applies the totality-of-the-circumstances test.

5-13-14 State v. Sean Bell (A-21-12; 070736)

PTI is a pretrial diversionary program that is not available to a defendant once the charges have been tried before a judge or a jury and a guilty verdict has been returned.

4-23-14 L.A. v. D.Y.F.S. (A-55/56-12; 071921)

Based on the record before the Court, the circumstances surrounding S.A.'s presentation at the hospital were insufficient to give rise to a finding that defendants behaved unreasonably in failing to report an incident of suspected child abuse, as required under N.J.S.A. 9:6-8.10.

4-1-14 Cheryl Hersh v. County of Morris (A-59-12; 071433)

Because the County did not control the garage where Hersh parked, the route of ingress and egress from the parking garage to her office, or the public street where she was injured, and did not expose her to any special or additional hazards, Hersh's injury occurred outside the employer's premises and therefore is not compensable under the Workers' Compensation Act.

3-31-14 State v. Carlos Bolvito (A-44-12; 071493)

A sentencing court may impose the mandatory Sex Crime Victim Treatment Fund penalty in any amount between a nominal figure and the upper limit prescribed by N.J.S.A. 2C:14-10(a) for the degree of the offense at issue. In setting the penalty, the sentencing court should (1) consider the nature of the offense and the defendant's ability to pay the penalty during any custodial sentence imposed and after his or her release, and (2) provide a statement of reasons as to the amount of any penalty.

3-26-14 Charlotte Robinson v. Frank Vivirito, et al. (A-63-12; 072407)

Under the Tort Claims Act, a school principal owes no duty of care to a third party who decides to use school property after hours for personal purposes and is injured by a stray animal that is neither owned nor controlled by school personnel.

3-19-14 In the Matter of the Civil Commitment of R.F. (070552)

The trial Court's findings in a civil commitment hearing under the Sexually Violent Predator Act, N.J.S.A. 30:4-27.24 to -27.38, are entitled to deference, and a reviewing court may not overturn the commitment court's ruling based upon its determination that it would have come to a different conclusion had it sat as the trier of fact.

3-18-14 State v. Edward Ronald Ates (A-52-12; 070926)

New Jersey's Wiretap Act is constitutional under both the federal and state constitutions. The Legislature's focus on the "point of interception" is a rational approach because the inherent mobility of cell phones would make it impractical, if not impossible in some instances, for law enforcement to intercept cell phone conversations if agents could only rely on orders issued in the state where a call was placed or received.

3-13-14 State v. Angelina Nicole Carlucci (A-85-11; 069183)

The admission of evidence of defendant's other crimes, wrongs or acts was contrary to N.J.R.E. 404(b), and such admission constituted harmful error.

3-11-14 Manahawkin Convalescent v. Frances O'Neill (A-17-12; 071033)

Because Manahawkin's Admission Agreement imposed no requirements on O'Neill that contravened the NHA, and neither the Admission Agreement nor Manahawkin's complaint gave rise to a cause of action under the CFA or the TCCWNA, dismissal of O'Neill's claims was proper. However, nursing homes and their counsel should ensure that each party's rights and remedies are clearly reflected in contracts and communications between facilities and individuals who arrange payment on a resident's behalf.

2-24-14 State in the Interest of K.O., a minor (A-28-12; 070406)

N.J.S.A. 2A:4A-44(d)(3) requires two separate previous predicate adjudications for the imposition of an extended-term sentence on a juvenile, including one that resulted in a juvenile or adult facility, exclusive of the adjudication for which the disposition court is sentencing the juvenile.

2-12-14 State v. Joseph Diorio (A-110-11; 069597)

For purposes of the statute of limitations, when a defendant engages in a scheme to obtain the property of another by deception, theft by deception is a continuing offense. If the scheme involves the promise to pay at a later date, the limitations period does not commence until the day after payment is due. Money laundering is a continuous offense only when there is evidence of successive acts that facilitate the common scheme to defraud. Applying these principles here, the statute of limitations on the theft by deception charge expired prior to return of the indictment, thereby barring Diorio's prosecution for that offense. In contrast, the money laundering

charge was timely since the relevant transactions occurred within five years before the indictment was filed.

2-10-14 State v. Fedner Pierre-Louis (A-61-12; 071552)

The trial court's findings were not sufficient on either prong of the Strickland/Fritz standard to allow for a definitive ruling on defendant's PCR petition or appellate review of that decision.

2-3-14 Nowell James v. New Jersey Manufacturers Insurance Company (A-26-12; 071344)

As of its effective date of September 10, 2007, N.J.S.A. 17:28-1.1(f) applied to and prospectively reformed, for employees, a corporation's or business entity's motor vehicle liability policy containing UM/UIM step-down provisions, including policies that were in force at that time. No exceptions to the rule favoring prospective application of new legislation pertain to N.J.S.A. 17:28-1.1(f). Because James's accident preceded N.J.S.A. 17:28-1.1(f)'s effective date, his claims are governed by the provision of the NJM policy that were in existence as of the date of his accident.

1-30-14 Amratlal C. Bhagat v. Bharat A. Bhagat (A-31-11; 068213)

A person seeking to rebut the presumption that a transfer of property from a parent to a child is a gift must show clear and convincing evidence of a contrary intent. That person is limited to evidence antecedent to, contemporaneous with, or immediately following the transfer, and may also adduce proof of statements by the parties concerning the purpose and effect of the transfer. Applying those principles, the evidence adduced by A.C., including statements made by B.B. in a prior litigation regarding the ownership of ABB Properties stock, raises sufficient factual issues to defeat summary judgment in this case.

1-29-14 State v. Derrick Brown, Leroy Cartarphen, and Kareem Strong (A-113-11; 070200)

The State did not establish by a preponderance of the evidence that 820 Line Street in the City of Camden, although in decrepit condition, was abandoned or that defendants were trespassers, thus failing to justify the warrantless search of the property.

1-28-14 Robert B. Beim v. Trevor R. Hulfish (A-33/34-12; 071025)

The Wrongful Death Act does not authorize claims for damages based on estate taxes paid by a decedent's estate because such claims do not fit within the statutory cause of action defined by N.J.S.A. 2A:31-1 and the alleged damages do not constitute "pecuniary" losses as required by N.J.S.A. 2A:31-5.

1-27-14 In the Matter of Louis M.J. DiLeo, A Former Judge of the Municipal Court (D-66-12; 072095)

The undisputed facts clearly and convincingly demonstrate that former Judge Louis M.J. DiLeo committed egregious legal errors in conducting the proceedings involving Anthony Kirkland and Wendell Kirkland. Judge DiLeo's conduct violated Canons 1, 2A, and 3A(1) of the Code of Judicial Conduct. Respondent is reprimanded.

1-16-14 In the Matter of the Expungement Application of D.J.B. (A-39-13; 070973)

Based on its language and legislative history, N.J.S.A. 2C:52-4.1(a) applies only to the expungement of juvenile adjudications and does not transform a juvenile adjudication into a "crime" that would bar a later attempt to expunge an adult conviction under N.J.S.A. 2C:52-2.

1-15-14 State v. Jarrett Parker (A-67-11; 068966)

In accordance with N.J.R.E. 405(a) and 608, an alias which appears on a defendant's prior judgment of conviction may not be used for impeachment purposes in a future trial unless the alias was the basis for the prior conviction. Thus, the State's use of Parker's aliases to demonstrate his character for untruthfulness constituted error warranting reversal since the aliases were not the subject of his prior convictions.

1-14-14 State v. Raymond D. Kates (A-40-12; 070971)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in Judge Ostrer's opinion below. Deprivation of a defendant's right to counsel of choice is only found where, as here, a trial court denies an adjournment without properly considering the relevant factors or abuses its discretion in doing so.

1-7-14 State v. David M. Gibson (A-27-12; 070910)

There is insufficient evidence in the record to support a finding that Officer Comegno had probable cause to arrest Gibson for defiant trespass; therefore, the subsequent search at the stationhouse was unconstitutional and the drug evidence seized during the search must be suppressed.

1-7-14 State of New Jersey v. Reinaldo Fuentes (A-18-12; 070729)

Because the trial court did not adequately explain its findings with respect to the aggravating factors, or its balancing of the aggravating and mitigating factors pursuant to N.J.S.A. 2C:44-1(a) and (b), the matter is remanded for resentencing.

12-19-13 State of New Jersey v. Oscar Porter (A-91-11; 069223)

With respect to the claim of ineffective assistance of trial counsel based on failure to investigate an alibi defense, defendant made out a prima facie showing and

raised material facts in dispute, therefore entitling him to an evidentiary hearing on that issue.

12-16-13 In the Matter of the Proposed Quest Academy Charter School of Montclair Founders Group (A-12-12; 070972)

The arbitrary, capricious, or unreasonable standard of review is applicable to the Commissioner's decision to grant or deny a charter school application. The Commissioner's decision to deny Quest Academy's charter school application was amply supported by the record and was not arbitrary, capricious, or unreasonable.

11-12-13 State of New Jersey v. Troy N. Tate (A-99-11; 069314)

A conviction for possession of a weapon for an unlawful purpose must merge with a conviction for aggravated manslaughter when the evidence does not support the existence of another unlawful purpose for possession of the weapon.

10-28-13 State of New Jersey v. Amir A. Andrews (A-105-11;069594)

Gilmore's single, bright-line remedy has proven ineffective to fully and fairly respond to the use of constitutionally impermissible peremptory challenges. The Court modifies Gilmore and hereby permits trial judges to choose from a broader set of remedies to address the impermissible use of peremptory challenges.

10-24-13 State of New Jersey v. Gene Hinton (A-3/4-12; 070386)

Where, as here, an eviction proceeding has advanced to the point that a warrant of removal has been executed, a tenant does not have a reasonable expectation of privacy in the premises. Therefore, the police action in Hinton's apartment was not a "search" under either the Fourth Amendment of the United States Constitution or Article I, Paragraph 7 of the New Jersey Constitution.

10-21-13 Borough of Saddle River v. 66 East Allendale, LLC
(A-126-11; 070525)

The jury heard evidence about the probability of a zoning change that should have been ruled on by the judge in advance and outside of the jury's presence. A new trial on just compensation is required because the jury was allowed to hear speculative evidence that undermined the soundness of its property valuation determination.

10-16-13 State v. Osborne S. Maloney (A-64-11; 068877)

The trial court did not err by failing to sua sponte instruct the jury on accomplice liability and by rejecting defendant's request to charge the jury on the asserted lesser-included offenses of attempted theft by receiving stolen property and conspiracy to receive stolen property.

10-3-13 Anthony D'Agostino v. Ricardo Maldonado
(068940; A-82/83-11)

Maldonado's execution of the transaction at issue gave rise to an unconscionable commercial practice under N.J.S.A. 56:8-2. Notwithstanding the trial court's restoration of plaintiffs' equity in their home, the transfer of that equity to Maldonado constituted an ascertainable loss within the meaning of N.J.S.A. 56:8-19, and the trial court's determination of damages was within its discretion.

10-2-13 State of New Jersey v. Terrence Miller
(A-35-11; 068558)

The trial judge's denial of an adjournment did not violate defendant's constitutional right to effective representation, was not an abuse of discretion, and did not violate principles of fundamental fairness.

9-26-13 In the Matter of the Adoption of N.J.A.C. 5:96 and 5:97 by the New Jersey Council on Affordable Housing (A-90/91/92/93/94-10; 067126)

The Third Round Rules are at odds with the FHA, which incorporated the Mount Laurel II remedy. Although that remedy imposed thirty years ago should not be viewed as a constitutional straightjacket to legislative innovation of a new remedy responsive to the constitutional obligation, the FHA remains the current framework controlling COAH's actions. With respect to the current version of the FHA, the Third Round Rules are ultra vires.

9-25-13 Advance Housing, Inc. v. Township of Teaneck (069436; A-72/73/74/75/76/77/78/79-11)

Advance Housing has established that it is a not-for-profit corporation, organized exclusively for a charitable purpose, and that the properties for which it seeks tax exemptions are actually used for the charitable purpose of providing supportive housing for the mentally disabled, entitling them to tax-exempt status under N.J.S.A. 54:4-3.6.

9-24-13 Farmers Mutual Fire Insurance Company of Salem v. New Jersey Property-Liability Insurance Guaranty Association as Administrator of Claims Against Newark Insurance Company (A-42-11; 068824)

In long-tail, continuous-trigger cases where an insolvent carrier is on the risk along with solvent carriers, the PLIGA Act's exhaustion provision mandates that an insured first exhaust the policy limits of the solvent carriers prior to seeking statutory benefits from the Guaranty Association.

9-19-13 IMO Advisory Letter No. 3-11 and Opinion No. 12-08 of the Supreme Court Advisory Committee on Extrajudicial Activities (A-23-10/A-26-11; 066271)

The judge's acting and comedy career is incompatible with the Code of Judicial Conduct and therefore he may

not serve as a municipal court judge while continuing with that career.

9-18-13 State v. William O'Driscoll (A-7-12; 070438)

The police officer's errors in the reading of the standard statement informing defendant of the consequences of refusing to provide a breath sample were not material in light of the statutory purpose to inform motorists and impel compliance. The officer's misstatements could not have reasonably affected defendant's choice to refuse to provide a breath sample, and do not require reversal of defendant's conviction for refusal.

9-17-13 Darnice Green v. Morgan Properties (A-100-11; 069540)

Applying the indulgent standard used to review motions for dismissal under Rule 4:6-2(e), plaintiffs have alleged sufficient facts to state causes of action against the corporate defendants for consumer fraud and negligence. Plaintiffs have not, however, alleged sufficient facts to support a consumer fraud or negligence claim against the individual defendant.

9-16-13 Potomac Insurance Company of Illinois v. Pennsylvania Manufacturers' Association Insurance Company (A-2-12; 070756)

OneBeacon's contribution claim was valid because an insurer may assert, against a co-insurer, a claim for defense costs incurred in litigation arising from property damage manifested over a period of several years, during which the policyholder is insured by successive carriers. The release negotiated between Aristone and PMA had no bearing on OneBeacon's contribution claim against PMA because OneBeacon was not a party to the release.

9-12-13 Alex Perez and Cathy Perez v. Professionally Green, LLC, et al. (A-66-11; 069482)

When a trial court grants a defendant's motion for involuntary dismissal of plaintiffs' CFA claim under Rule 4:37-2(b), no bona fide ascertainable loss claim exists within the meaning of N.J.S.A. 56:8-19, and thus plaintiffs are not entitled to attorneys' fees.

9-10-13 In the Matter of John C. Johnson, Cape May County
(A-39-11;068900)

The reclassification of Johnson's position was an arbitrary and capricious agency action that was manifestly unjust. Johnson is entitled to restoration of his prior unclassified title of prosecutor's agent.

9-9-13 State v. Robert Handy (A-68-11; 069022)

The bifurcated trial procedure created in State v. Kahn, 175 N.J. Super. 72 (App. Div. 1980), is disapproved and that decision is overruled. In the future, trials that involve both a substantive defense and an insanity defense must be unitary proceedings. The matter is remanded to the trial court to afford defendant the opportunity to continue in a second phase of his trial which he may present his self-defense claim.