

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

8-8-17 Jaime Taormina Bisbing v. Glenn R. Bisbing, III
(A-2-16; 077533)

The Court recognizes a "special justification" to abandon the standard it established in Baures v. Lewis, 167 N.J. 91 (2001) for determining the outcome of contested relocation determinations pursuant to N.J.S.A. 9:2-2. In place of the Baures standard, courts should conduct a best interests analysis to determine "cause" under N.J.S.A. 9:2-2 in all contested relocation disputes in which the parents share legal custody.

8-7-17 Robert A. Verry v. Franklin Fire District No. 1
(Somerset) (A-77-15; 077495)

The fire district, to which the OPRA request was made, is obliged to release such documents in its possession or to obtain them from a member volunteer fire company under its supervision and release them. OPRA demands such transparency and accountability of public agencies, and the fire district is undoubtedly a public agency subject to OPRA. The Court therefore affirms the judgment in that respect. However, to the extent the holding under review also concluded that the member volunteer fire company is a "public agency" subject directly and independently to OPRA requirements, the Court disagrees and modifies the judgment.

8-3-17 In the Matter of the New Jersey State Fireman's Association Obligation to Provide Relief Applications Under the Open Public Records Act (A-68-15; 077097)

OPRA does not, in all instances, prohibit a public entity from instituting proceedings under the Declaratory Judgment Act to determine whether records are subject to disclosure. After carefully balancing the public's interest in accessing information against the private interest in confidentiality, the Court finds that the relief checks to Doe are exempt from disclosure under OPRA and the common law right of access.

8-2-17 In the Matter of County of Atlantic; In the Matter of Township of Bridgewater (A-98/99/100-15)

In these cases, the governing contract language of the respective agreements required that the salary step increases remain in place after expiration and until the parties reach agreement on a new CNA. Atlantic County and Bridgewater Township committed an unfair labor practice when they altered those terms.

8-1-17 State v. Amed Ingram
(A-56-16; 079079)

Neither the statute's plain language nor principles of due process require the State to present testimony from a live witness at every detention hearing. Instead, the State may proceed by proffer to try to satisfy its burden of proof and show that detention is warranted. Trial judges, however, retain discretion to require direct testimony when they are dissatisfied with the State's proffer.

7-31-17 GMAC Mortgage, LLC v. Tamilynn Willoughby
(A-97-15; 076006)

Willoughby satisfied all contingent terms of the May 2010 Agreement, rendering the Agreement permanent and binding. Despite being compelled to engage in subsequent mediations and negotiations in an effort to save her home, Willoughby did not voluntarily abandon the May 2010 Agreement. The chancery court should have granted her pro se motion to enforce the Agreement as a permanent loan modification.

7-27-17 Twanda Jones v. Morey's Pier, Inc. (A-75-15; 077502)

When a defendant does not serve a timely notice of claim on a public entity, and is not granted leave to file a late notice of claim, the statute bars that defendant's cross-claim or third-party claim for contribution and common-law indemnification against the public entity. Accordingly, the Morey defendants' third-party contribution and common-law indemnification claims against the Association are barred. On remand, the trial court should afford the Morey defendants an opportunity to present evidence that the Association was negligent and that its negligence was a proximate cause of Abiah Jones's death. If the Morey defendants present prima facie

evidence, the trial court should instruct the jury to determine whether any fault should be allocated to the Association. If the jury finds that the Association was negligent and that its negligence was a proximate cause of her death, the trial court should mold any judgment entered in plaintiffs' favor to reduce the damages awarded to plaintiffs by the percentage of fault that the jury allocates to the Association.

7-26-17 Edan Ben Elazar v. Macrietta Cleaners, Inc.
(A-11-16; 078079)

When a plaintiff is injured by a third party and has no reason to believe that another party, specifically a public entity, is responsible, the discovery rule applies to toll the accrual date that triggers the notice-of-claim requirement. Here, it was error for summary judgment to have been granted to the public-entity defendant based on the record presented, because plaintiffs put forward a reasonable basis to support a determination that the claim against the public entity was diligently pursued and notice of claim was timely filed.

7-25-17 Denise Brown v. State of New Jersey (A-71-15; 076656)

In light of the context in which these circumstances arose—i.e., the lack of clarity in the law governing the lawful means by which law enforcement may secure a home pending issuance of a warrant and, significantly, that law's intersection with the law governing the exigent circumstances exception to the warrant requirement—defendant did not violate a "clearly established" right when he entered Brown's home to secure it, and qualified immunity applies.

7-24-17 Capital Health Systems, Inc. v. Horizon Healthcare Services, Inc. (A-29/30-16; 077998); Saint Peter's University Hospital, Inc. v. Horizon Healthcare Services, Inc. (A-59-16; 079097)

Having closely examined the record, the Court rejects the Appellate Division's determination that the chancery judges encharged with these matters abused their discretion.

7-20-17 State v. S.B. (A-95-15; 077519)

A plain-language reading of N.J.S.A. 2C:7-22 does not exempt a youth ministry associated with a church or other religious organization from the definition of "youth serving organization."

7-12-17 Maryanne Grande v. Saint Clare's Health System
(A-67-15; 076606)

On the record before the trial court, issues of material fact exist. The Court affirms and modifies the judgment of the Appellate Division and remands the matter to the trial court for further proceedings.

7-11-17 North Jersey Media Group, Inc. v. Township of Lyndhurst (A-35-15; 076184)

NJMG was entitled to disclosure of unredacted Use of Force Reports, under OPRA, and dash-cam recordings of the incident, under the common law. Investigative reports, witness statements, and similarly detailed records were not subject to disclosure at the outset of the investigation, when they were requested.

7-10-17 State v. Mark Dunbar (A-94-15; 077839)

The Court adopts the federal standard barring unnecessary delays for the purpose of canine sniffs. Officers do not need reasonable suspicion of a drug offense provided that the canine sniff does not prolong the stop beyond the time required to complete the stop's mission.

6-28-17 State v. Thomas L. Scott (A-86-15; 077434)

The evidence proffered by the State goes far afield of a proper bias inquiry. The evidence is inadmissible under the dictates of New Jersey Rules of Evidence 403 and 608, which govern admissibility of prior bad acts and character evidence for truthfulness. That error prevented defendant from fully developing his defense at trial and deprived the jury of key witness testimony. Exclusion of testimony central to a defendant's claim or defense, if otherwise admissible, cannot be held to be harmless error.

6-27-17 State v. Anthony K. Cole (A-66-15; 076255)

The trial court properly exercised its broad discretion when it applied N.J.R.E. 401 and 403 to the contested evidence and admitted the video recordings in their entirety. The lack of a limiting instruction and the prosecutor's comment on the evidence did not constitute plain error.

6-26-17 State v. Michael Ross II (A-79-15; 077458)

Although some of the trial court's inquiries were unnecessary and over-reaching, the trial judge's conduct did not rise to the level of plain error. Upon review of the record, the Court is satisfied that the trial court's questions did not deprive defendant of a fair trial.

6-21-17 State v. S.S. (A-84-15; 077486)

After a careful reappraisal of Diaz-Bridges, the Court now holds that the non-deferential standard articulated in that case is at odds with traditional principles limiting appellate review. An appellate court ordinarily should defer to a trial court's factual findings, even when those findings are based solely on its review of a video recording. Deference, however, is not required when the trial court's factual findings are clearly mistaken. Here, sufficient credible evidence in the record supports the factual finding that defendant invoked his right to silence during the interrogation.

6-20-17 John Paff v. Galloway Township (A-88-15; 077692)

The Appellate Division's overly constrictive reading of OPRA cannot be squared with the OPRA's objectives or statutory language. OPRA recognizes that government records will constitute not only paper documents, but also information electronically stored. The fields of information covering "sender," "recipient," "date," and "subject" in the emails sent by the Galloway Township Chief of Police and Clerk over a two-week period are government records under OPRA.

6-8-17 State v. Crisoforo Montalvo (A-76-15; 077331)

The right to possess a weapon in one's own home for self-defense would be of little effect if one were

required to keep the weapon out-of-hand, picking it up only "spontaneously." Defendant had a constitutional right to possess the machete in his home for his own defense and that of his pregnant wife. Because the trial court's instructions did not convey this principle, the instructions were erroneous. Further, because the erroneous instructions were capable of producing an unjust result in this matter, they constitute plain error.

6-7-17 In the Matter of the Enforcement of New Jersey False Claims Act Subpoenas (A-5-16; 077506)

The Court concurs with the Appellate Division panel's conclusion that the language of the NJFCA does not authorize the Attorney General to invoke his or her administrative subpoena power in a given matter after the right to intervene in the qui tam action has expired. After the Attorney General declines to intervene in a qui tam action pursuant to N.J.S.A. 2A:32C-5(g) and leaves that action in the relator's control, the Attorney General loses the authority conferred by N.J.S.A. 2A:32C-14(a) to issue administrative subpoenas.

6-6-17 State v. Lurdes Rosario (A-91-15; 077420)

Defendant was faced with an investigative detention once the officer blocked in her vehicle, directed the patrol car's alley light to shine into her car, and then approached her driver's-side window to address her. Under the totality of the circumstances, a reasonable person would feel the constraints on her freedom of movement from having become the focus of law enforcement attention. Accordingly, an investigative detention had begun. Reasonable articulable suspicion did not ripen prior to the officer's subsequent exchanges with defendant.

6-5-17 State v. Dasean Harper (A-74-15; 077427)

The amnesty law did not afford defendants blanket immunity for the entire amnesty period. Reading the law in that way would lead to absurd results that the Legislature did not intend. Instead, the law created a period of no more than six months during which people could dispose of weapons they illegally possessed

without being prosecuted. The provision affords a defense to those who attempted to comply with its terms. As with other affirmative defenses, a defendant must raise the defense at trial or it is waived.

5-25-17 Oxford Realty Group Cedar v. Travelers Excess and Surplus Lines Company (A-85-15; 077617)

Although the Policy assigns debris removal a coverage sublimit, it does not constitute a self-contained policy provision outside the application of the \$1,000,000 flood limit. Because the terms of the Policy are not ambiguous, the Court need not address contentions about contra proferentem or the doctrine of reasonable expectations.

5-24-17 In the Matter of Mark G. Legato, Regan C. Kenyon, Jr., Alexander D. Walter, Attorneys at Law (D-99/100/101-15; 077464, 077465, 077467)

For respondents Legato and Kenyon, the Court imposes indeterminate suspensions from the practice of law, pursuant to Rule 1:20-15A(a)(2). The Court disbars respondent Walter, pursuant to Rule 1:20-15A(a)(1).

5-22-17 State v. Fernando Carrero, Jr. (A-13-16; 078071)

The trial testimony presents a rational basis on which the jury could acquit defendant of murder but convict him of passion/provocation manslaughter. Although the passion/provocation charge is inconsistent with defendant's theories of self-defense and accidental shooting, when the evidence supports such a charge, a defendant may be entitled to the requested instruction regardless of whether the charge is consistent with the defense.

5-17-17 New Jersey Division of Child Protection and Permanency v. J.L.G. (A-80-15; 076543)

The judgment of the Appellate Division is **AFFIRMED** substantially for the reasons expressed in Judge Simonelli's majority opinion.

5-16-17 State v. Rodney J. Miles a/k/a Jamal D. Allen (A-72-15; 077035)

New Jersey now joins the majority of jurisdictions in returning to the Blockburger same-elements test as the sole test for determining what constitutes the "same offense" for purposes of double jeopardy. In the interest of justice, the Court applied both the same-elements test and the now-replaced same-evidence test in this case; going forward, for offenses committed after the issuance of this opinion, the same-elements test will serve as the singular framework for determining whether two charges are the same offense for purposes of double-jeopardy analysis.

5-10-17 State v. Habeeb Robinson (A-40-16; 078900)

Both the trial court and the Appellate Division directed the State to disclose the statements of two eyewitnesses, photos used in the identification process, any incident report of the crime prepared by the police, and a surveillance video. Rule 3:4-2(c)(1)(B) required disclosure of the reports and the photos but not the video. The Court also clarifies and reframes the Rule to help ensure that it strikes the proper balance between two important concerns: a defendant's liberty interest and the State's ability to seek to detain high-risk defendants before trial.

5-8-17 J.B./L.A./B.M./W.M./R.L. v. New Jersey State Parole Board (A-81/82/83-15; 077235)

The Court affirms but modifies the Appellate Division's opinion. The Court upholds the Parole Board's use of polygraph testing with the same limitations as the Appellate Division, but adds that the Parole Board's regulations must be further supplemented to buttress the parolees' Fifth Amendment right against self-incrimination.

5-4-17 Allstate Insurance Company v. Northfield Medical Center P.C. (A-27-15; 076069)

Defendants extensively promoted a professional practice structure that a fact-finder could reasonably conclude was little more than a sham intended to evade well-established prohibitions and restrictions governing ownership and control of a medical practice by a non-doctor. In light of the broad anti-fraud liability imposed under the IFPA, holding defendants responsible

for promoting and assisting in the formation of an ineligible medical practice was not a novel or unanticipated application of the statute. The trial court correctly applied a plain-language understanding of "knowing," and its finding of a knowing violation of the IFPA is amply supported in this record.

5-3-17 State v. Amir Randolph (A-70-15; 076506)

Defendant had automatic standing to challenge the search of the apartment because he was charged with possessory drug offenses and because the State failed to show that the apartment was abandoned or that defendant was a trespasser. Failing to issue the "mere presence" charge was harmless error.

5-2-17 State v. Brian Tier (A-73-15; 077328)

A plain reading of Rule 3:13-3(b)(2)(C) requires production of witness statements only if those statements have already been reduced to writing. Nothing in the rules precludes a trial court from ordering a defendant to designate witnesses as either character or fact witnesses, however. The Court encourages practitioners to participate in cooperative discovery in order to ease the burden on all parties involved.

5-1-17 State v. Dion E. Robinson (A-40-15; 076267)

Although the circumstances gave rise to a reasonable suspicion that there was a weapon in the vehicle, the five officers' swift and coordinated action eliminated the risk that any of the four occupants would gain immediate access to the weapon. Accordingly, the protective sweep exception to the warrant requirement does not govern this case. The community-caretaking exception to the warrant requirement is irrelevant. However, the inevitable discovery exception to the exclusionary rule may be pertinent to this case.

4-5-17 State v. Shaquille A. Nance; State v. Taja L. Willis Bolton; State v. Alvin D. Williams
(A-47/48/49-15; 076626)

Section 6.2 was misapplied in defendants' sentencing proceedings and therefore defendants should be

resentenced. The assignment judge, not the sentencing judge, has the authority to decide whether a defendant will be sentenced to a term of probation or a term of incarceration with a one-year period of parole ineligibility. If the defendant has been convicted of a first-degree or second-degree Graves Act offense, the assignment judge (or designee) must consider the presumption of incarceration prescribed by N.J.S.A. 2C:44-1(d) when he or she chooses between the probationary and one-year mandatory minimum sentences envisioned by section 6.2.

4-5-17 State v. Kasse Benjamin (A-43-15; 076612)

Defendants are not entitled to discovery of the prosecution's files for cases in which Graves Act waivers have been granted to other defendants.

4-3-17 Michael Conley, Jr. v. Mona Guerrero (A-65-15; 076928)

In this case, because Buyers received actual notice of disapproval within the three-day attorney-review period by a method of communication commonly used in the industry, the notice of disapproval was valid. The Court also exercises its constitutional authority over the practice of law and finds that an attorney's notice of disapproval of a real estate contract may be transmitted by fax, e-mail, personal delivery, or overnight mail with proof of delivery. Notice by overnight mail will be effective upon mailing. The attorney-review period within which this notice must be sent remains three business days.

3-30-17 Motorworld, Inc. v. William Benkendorf, et al.
(A-64-15; 077009)

The record reveals no reason to abandon the corporate form. By virtue of the Release, Motorworld received no value at all, let alone value commensurate with the loss of its sole asset: a debt in the amount of \$600,000 plus accumulating interest and penalties. The disputed transfer was not made for "reasonably equivalent value" under N.J.S.A. 25:2-27(a), and plaintiffs established all elements of a constructively fraudulent transfer.

3-27-17 NL Industries, Inc. v. State (A-44-15; 076550)

The Spill Act contains no clear expression of a legislative intent to waive the State's sovereign immunity retroactively to cover periods of State activity prior to the Spill Act's enactment. Therefore, the State's sovereign immunity prevails against Spill Act contribution claims based on State activities that occurred prior to the original effective date of that Act.

3-21-17 J.I. v. New Jersey State Parole Board
(A-29-15; 076442)

Arbitrarily imposed Internet restrictions that are not tethered to promoting public safety, reducing recidivism, or fostering an offender's reintegration into society are inconsistent with the administrative regime governing CSL offenders. The complete denial of access to the Internet implicates a liberty interest, which triggers due process concerns. After the imposition of the total ban for J.I.'s Internet violations, he should have been granted a hearing. The matter is remanded to the full Parole Board for a hearing in which it must determine whether the total computer and Internet ban serves any public-safety, rehabilitative, or other penological goal.

3-20-17 State v. Carl J. Garrison (A-38-15; 076537)

The evidence of the strip poker game meets the rigorous test set forth in State v. Cofield, 127 N.J. 328 (1992), and therefore was admissible under Rule 404(b). The evidence was properly admitted at trial with an appropriate limiting instruction.

3-9-17 Tahisha Roach v. BM Motoring, LLC (A-69-15; 077125)

Defendants' non-payment of filing and arbitration fees amounted to a material breach of the DRA. Defendants are therefore precluded from enforcing the arbitration provision, and the case will proceed in the courts.

3-8-17 State v. Scott Robertson (A-58-14; 075326)

The Crowe factors are not a good fit to assess license suspensions in driving while intoxicated (DWI) cases. Defendants who seek a new trial before the Law

Division should be presumptively eligible for a stay of a driver's license suspension. The State can overcome that presumption by showing that a stay would present a serious threat to the safety of any person or the community. If no conditions would mitigate that risk, the court should not stay the sentence. If a defendant is convicted of DWI by the Law Division, the defendant has the burden to justify a stay of a driver's license pending appeal to the Appellate Division by demonstrating the three elements set forth in Rule 2:9-4. If a stay is granted, the court may impose appropriate conditions similar to those available after a defendant's conviction in municipal court. Municipal court and trial judges should set forth reasons on the record when they rule on a stay motion.

3-7-17 State v. William R. Joe (A-62-15; 077034)

Consistent with the policy purposes of Rule 3:21-8, as explained in State v. Hernandez, 208 N.J. 24 (2011), defendants who are confined out of state on non-New Jersey charges are not entitled to jail credit for time spent in pre-sentence custody.

3-7-17 State v. C.H. (A-56-15; 076535)

Defendant's sentences should be viewed together and jail credit applied to the front end of the aggregate imprisonment term for both indictments. To the extent that State v. Hernandez, 208 N.J. 24 (2011), has been read differently with respect to consecutive sentences, Hernandez is modified as follows: double credit should not be awarded where a defendant is sentenced to consecutive sentences under separate indictments and receives the optimal benefits of jail credit for time spent in pre-sentence custody. Instead, the sentencing court should treat the sentences as a unified proceeding and maximize the benefits to the defendant by applying jail credit to the front end of the imprisonment term.

2-21-17 Bound Brook Board of Education v. Glenn Ciripompa
(A-57-15; 076905)

The arbitrator impermissibly converted the second charge of unbecoming conduct into one of sexual harassment. The re-characterization of Count II erroneously tasked

the Board with substantiating charges it did not file with evidence it did not proffer. The arbitrator's review was not "consonant with the matter submitted," Grover v. Universal Underwriters Ins. Co., 80 N.J. 221, 231 (1979); rather, he "imperfectly executed his powers" as well as exceeded his authority by failing to decide whether Count II stated a successful claim of unbecoming conduct in support of termination. N.J.S.A. 2A:41-8(d). The arbitrator's award is therefore invalid.

2-7-17 IMO Registrant A.D.; IMO Registrant J.B.; IMO Registrant C.M. (A-55-15; 076345)

The judgment of the Appellate Division is **AFFIRMED** substantially for the reasons expressed in Judge Nugent's opinion.

2-1-17 Givaudan Fragrances Corporation v. Aetna Casualty & Surety Company
(A-16/17/18/19/20/21/22/23/24/25-15; 076523)

The Court adopts the policy that, once an insured loss has occurred, an anti-assignment clause in an occurrence policy may not provide a basis for an insurer's declination of coverage based on the insured's assignment of the right to invoke policy coverage for that loss. The assignment at issue in this case was a post-loss claim assignment and therefore the rule voiding application of anti-assignment clauses to such assignments applies.

1-31-17 State v. Tawian Bacome (A-9-15; 075953)

The heightened-caution standard announced in Smith, supra, 134 N.J. at 618-20, remains the proper test for determining the appropriateness of ordering a passenger from a car. Under the Smith test, defendant's furtive movements inside a recently stopped vehicle provided an objectively reasonable basis for officers' exercising heightened caution, justifying removal of the passenger.

1-30-17 State v. James P. Kucinski (A-58-15; 076798)

Defendant waived his right to remain silent and therefore the State permissibly questioned defendant on cross-examination about the inconsistencies between his

post-arrest statement to police and his statement on direct-examination at trial.

1-24-17 Andrew McCarrell v. Hoffmann-La Roche, Inc.
(A-28-15; 076524)

Section 142 of the Second Restatement is now the operative choice-of-law rule in New Jersey for resolving statute-of-limitations conflicts because it will channel judicial discretion and lead to more predictable and uniform results that are consistent with the just expectations of the parties. Based on a choice-of-law analysis under section 142, New Jersey's limitations period governs, and therefore McCarrell's action was timely filed. The Court therefore reinstates McCarrell's verdict and damages award and remands to the Appellate Division for consideration of the unaddressed issues remaining on appeal.

1-23-17 State v. Rodney Bull (A-46-15; 075919)

Hudson did not create a new rule; it merely illuminated an old one. Hudson's illumination of N.J.S.A. 2C:44-5(b) applies to this pre-Hudson case, and defendant must receive a new, legal sentence.

1-19-17 State v. DeShawn P. Wilson (A-42-15; 076609)

The map commissioned and adopted by the Board pursuant to N.J.S.A. 2C:35-7.1(e) is nontestimonial and its admission therefore did not violate Wilson's confrontation rights. Further, such maps are admissible, if properly authenticated, under N.J.S.A. 2C:35-7.1(e) and as public records pursuant to N.J.R.E. 803(c)(8). Because the map was not properly authenticated, however, the Court is constrained to reverse the Appellate Division's judgment that the map was properly admitted into evidence at trial and to remand the matter for a new trial on the count of defendant's conviction that depended on the map.

1-18-17 In re the Declaratory Judgment Actions Filed by Various Municipalities, County of Ocean, Pursuant to the Supreme Court's Decision in In re Adoption of N.J.A.C. 5:96, 221 N.J. 1 (2015) (A-1-16; 077565)

Towns are constitutionally obligated to provide a realistic opportunity for their fair share of affordable housing for low- and moderate-income households formed during the gap period and presently existing in New Jersey. A form of present-need analysis under the Fair Housing Act—redefined to include a component premised on a calculation of those low- and moderate-income New Jersey households, newly formed since 1999, that presently exist and are entitled to their opportunity of access to affordable housing—provides the appropriate approach to addressing statewide and regional need. The modification of the previous definition of a present-need analysis is essential in order to address the failure of COAH to perform its required mission, in connection with a constitutional obligation, for a period of time affecting almost a generation of New Jersey citizens.

1-17-17 Brian Royster v. New Jersey State Police
(A-1-15; 075926)

The Court agrees with the Appellate Division that sovereign immunity precludes Royster's ADA claim. The NJSP's litigation conduct did not amount to a waiver of immunity, nor is the NJSP estopped from asserting the defense of sovereign immunity against Royster's ADA claim. However, the interests of justice require reinstatement of Royster's LAD failure-to-accommodate claim. The Court reinstates the LAD claim and remands to the trial court to mold the jury's verdict and enter judgment on Royster's LAD claim in favor of Royster and against the NJSP in the amount of \$500,000.

1-12-17 State v. James Legette (A-12-16; 076124)

Chrisman and Bruzzese do not support warrantless entries into detainees' homes; they apply only to cases in which a suspect has been arrested prior to the officer's entry into the home. Here, because the State failed to meet its burden of demonstrating that the warrantless entry fell within a recognized exception to the warrant requirement, the entry was illegal and the evidence obtained as a result of that entry should have been suppressed.

1-11-17 State v. Ricky Zuber (A-54-15; 076806); State v. James Comer (A-63-15; 077318)

Sentencing judges should evaluate the Miller factors when a juvenile facing a lengthy term of imprisonment that is the practical equivalent of life without parole is first sentenced, to "take into account how children are different, and how those differences counsel against irrevocably sentencing them to a lifetime in prison." Miller, supra, 567 U.S. ____, 132 S. Ct. at 2469, 183 L. Ed. 2d at 424. Given this holding, both Zuber and Comer are entitled to be resentenced. To stave off possible future constitutional challenges to the current sentencing scheme, the Court asks the Legislature to consider enacting a statute that would provide for later review of juvenile sentences that have lengthy periods of parole ineligibility.

1-9-17 State v. J.R. (A-50-15; 076694)

Although Dr. Taska's testimony was in part proper CSAAS opinion evidence, it exceeded the parameters imposed on CSAAS testimony. In that respect, the admission of her testimony constituted error. However, the trial court's error with respect to Dr. Taska was not clearly capable of producing an unjust result, and does not warrant a new trial. Accordingly, the Court reverses the judgment of the Appellate Division panel, and remands to the Appellate Division for consideration of the issues raised by defendant that the panel did not reach.

12-14-16 State v. Brandon Morrison (A-36-15; 076379)

A municipality's contracting for emergency medical services through a private, non-profit first-aid squad does not convert the EMTs into public servants because they are not exercising authority of a uniquely governmental nature or performing a function exclusive to government in any traditional sense, regardless of whether there are one or more non-profit providers of publically funded emergency medical services for the municipality. Morrison did not commit the offense of official misconduct because he was not performing a governmental function and therefore was not a public servant. The Court affirms the judgment of the Appellate Division and remands for proceedings on the four remaining counts.

12-12-16 Michael J. Thieme v. Bernice F. Aucoin-Thieme

(A-51-15; 076683)

N.J.S.A. 2A:34-23(h) authorizes the equitable distribution of Thieme's Closing Bonus only to the extent that the compensation was earned during the parties' marriage because, under that statute, the property to be divided is that which was earned, or otherwise acquired, during a marriage or civil union. The Court holds, however, that the extraordinary circumstances of this case warrant the imposition of a constructive trust as a remedy for Aucoin-Thieme's claim of unjust enrichment and that Aucoin-Thieme is entitled to a percentage of the portion of the Closing Bonus earned during the parties' cohabitation.

11-29-16 In the Matter of Robbinsville Township Board of Education v. Washington Township Education Association
(A-32-15; 076497)

The Court rejects the Appellate Division's mistaken reading of Keyport to authorize the Board's unilateral alteration of a collectively negotiated agreement. Keyport does not stand for the proposition that anytime a municipal public employer can claim an economic crisis, managerial prerogative allows the public employer to throw a collectively negotiated agreement out the window. To the contrary, Keyport painstakingly emphasized the significance of an agency of State government enacting a temporary emergency regulation to provide local governmental managers with enhanced prerogatives. The regulation's existence made all the difference in Keyport, and there is a lack here of an authorizing temporary emergency regulation that permitted temporary furloughs. Keyport does not support the award of summary judgment to the Board.

11-22-16 Patricia Gilleran v. Township of Bloomfield
(A-15-15; 076114)

Compelling release on demand of security surveillance video would be contrary to the legislative intent motivating OPRA's exemptions based on security concerns. The Township's explanation for denying the request for the footage was adequate. Requests for video from surveillance cameras protecting public facilities are better analyzed under the common law right of access. The Court therefore reverses the judgment of the

Appellate Division and remands the matter for further proceedings based on the unresolved common law claim.

11-15-16 State v. Xiomara Gonzales (A-5-15; 075911)

The Court now excises the inadvertence requirement from the plain-view doctrine. Because it is setting forth a new rule of law, the Court will apply the reformulated plain-view doctrine prospectively. Nevertheless, the Court holds that the trial court's finding of inadvertence is supported by credible evidence in the record. The Court therefore reverses the judgment of the Appellate Division and reinstates the trial court's denial of the motion to suppress.

11-10-16 State v. Charles Bryant, Jr. (A-2-15; 075958)

The officers here lacked reasonable and articulable suspicion that another party was present, much less that another party posed a danger to officer safety. The protective sweep was thus insufficient to establish an exception to the warrant requirement, and any evidence found as a result of that sweep—even if it was found in plain view—must be excluded and suppressed as fruit of the poisonous tree.

10-26-16 Abigail Ginsberg v. Quest Diagnostics, Incorporated (A-33/34/53-15; 076288)

The judgment of the Appellate Division is **AFFIRMED** substantially for the reasons expressed in Judge Sabatino's opinion.

9-28-16 State v. June Gorthy (A-51-14; 075009)

When a criminal defendant is found competent to stand trial under N.J.S.A. 2C:4-4, he or she has the autonomy to make strategic decisions at trial, with the advice of counsel, including whether to assert the insanity defense. Based on the trial court's finding that defendant was competent to stand trial, and the detailed explanation that it gave defendant of the potential benefits and risks of the insanity defense, the court should have permitted her to decide whether to assert the defense, rather than invoking it on her behalf. We reverse the trial court's judgment of acquittal by reason of insanity on the stalking

charge, and remand for a new competency determination and, if appropriate, a new trial on this charge. We affirm defendant's conviction on the weapons charges.

9-19-16 Ramon Cuevas v. Wentworth Group (A-30-14; 075077)

A judge should not rely on personal knowledge of other verdicts or comparative-verdict methodology when deciding a remittitur motion. In this case, the trial judge did not rely on personal knowledge of other verdicts or comparable verdicts presented by the parties in deciding the remittitur motion, but rather on the record before her. The denial of remittitur here conforms to the deferential standard of review of a jury's award of damages.

9-15-16 E & J Equities v. Board of Adjustment of the Township of Franklin (A-40-14; 075207)

A digital billboard, as a form of communication, is subject to the protections afforded to speech under the First Amendment to the United States Constitution and the New Jersey Constitution. To the extent that a municipality seeks to restrict billboards, the regulation must find support in the governmental interests that the municipality seeks to protect or advance. Although the Township relied upon aesthetic and public safety concerns in banning digital billboards, while permitting static billboards in designated zones, the record fails to demonstrate that the ban furthers the governmental interests that the Township asserts. The ordinance ban on digital billboards is therefore unconstitutional.