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

8-8-19 State v. A.T.C. (A-28-18; 081201)

The JLA does not violate the separation of powers doctrine, provided that the State presents a statement of reasons explaining its decision to depart from the twenty-five year mandatory minimum sentence specified in N.J.S.A. 2C:14-2(a), and the court reviews the prosecutor's exercise of discretion to determine whether it was arbitrary and capricious. So that the standard adopted today may be applied in this matter, the Court remands to the sentencing court for further proceedings in accordance with this opinion.

8-7-19 State v. Charudutt J. Patel (A-13-18; 081069)

To secure relief from an enhanced custodial sentence for a subsequent DWI conviction, a non-indigent defendant must establish that in the earlier uncounseled DWI proceeding, (1) he was not advised or did not know of his right to counsel and (2) had he known of his right to counsel, he would have retained a lawyer. A defendant contending he was indigent must establish that in the earlier uncounseled DWI proceeding (1) he was not advised and did not know of his right to appointed counsel, (2) he was entitled to the appointment of counsel under the applicable financial means test,R. 7:3-2(b), and (3) had he been properly informed of his rights, he would have accepted appointed counsel. Because denial of counsel is a structural defect in the proceeding, to secure relief from an enhanced custodial sentence, neither an indigent nor a non-indigent defendant must show that the outcome would have been different had he been represented. The Court removes the five-year limitation in Laurick petitions and amends Rule 7:10-2(g)(2), effective immediately, to provide the following: "(2) Time Limitations. A petition seeking relief under this Rule may be filed at any time." Here, Patel's unrebutted certifications established that his 1994 plea was uncounseled, and he had no obligation to establish that he would not have pled guilty or been convicted at trial had he been represented by counsel. The Court therefore reverses the judgment of the Appellate Division and remands the matter for proceedings consistent with this opinion.

8-6-19 State v. William T. Liepe (A-7-18; 080788)

The trial court properly applied the factors identified in Yarbough for the imposition of consecutive sentences, and defendant's sentence is consistent with the principles stated in Carey and does not shock the judicial conscience. The Court reverses the Appellate Division's judgment and reinstates the sentence that the trial court imposed.

8-6-19 State v. Keith V. Cuff (A-79-17; 080753)

The omission of second-degree kidnapping from the verdict sheet does not constitute plain error. The jury instruction accurately described the State's burden of proof with respect to the elements of both first-degree and second-degree kidnapping, and directed the jury to consider second-degree kidnapping as a lesser-included offense if it did not find defendant guilty of the first-degree offense. Moreover, the evidence presented at trial did not provide a rational basis for a second-degree kidnapping conviction because the victims were not "release[d] . . . unharmed and in a safe place," an element of the second-degree offense. N.J.S.A. 2C:13-1(c). Defendant was properly convicted of three counts of first-degree kidnapping. As to the sentence, the Court agrees with the Appellate Division that the terms imposed for most of defendant's offenses constituted a proper exercise of the trial court's discretion but concludes that the trial court should resentence defendant so that it may consider whether certain offenses committed within the same criminal episode warrant concurrent rather than consecutive sentences, as well as whether the decision to make the sentences consecutive rather than concurrent made the aggregate sentence imposed on defendant an abuse of discretion.

8-1-19 State v. Rafael Camey (A-73-17; 080574)

The Court affirms the suppression of DNA evidence from the first buccal swab. The trial court's thorough and detailed reasons for denying admission of this evidence, under either of the State's two inevitable discovery arguments, are clearly sustainable on appeal. However, the State's application for a second buccal swab calls for a remand for further proceedings consistent with this opinion and its new test, derived in part from aspects of the independent source doctrine: To apply for a new buccal swab for DNA evidence under Rule 3:5A, the State must demonstrate probable cause for the new search. That showing may include evidence that existed before the initial invalid search, but cannot be tainted by the results of the prior search. In addition, to deter wrongdoing by the police, the State must show by clear and convincing evidence that the initial impermissible search was not the result of flagrant police misconduct.

7-31-19 J.H. and A.R. v. R&M Tagliareni, LLC (A-6-18; 081128)

The Court is unpersuaded that N.J.A.C. 5:10-14.3(d) imposes any regulatory duty on landlords to cover in-unit radiators with insulating material or a cover. The regulatory scheme provides no evidence of an express or implied intent to include radiators as part of the "heating system" required to be insulated. Having concluded that no such regulatory duty has been imposed, and because the tenants in this case maintained exclusive control over the heat emanating from the radiator, the Court declines to impose on landlords a new common law duty to cover all in-unit radiators.

7-30-19 State v. Joey J. Fowler and Jamil L. Hearns (A-5-18; 080880)

Review of the alleged instructional error must be moored to the facts, and the Court concludes that the omission of the instructional charges was not error under the circumstances of this case. The Court therefore reverses and remands to the Appellate Division for consideration of defendants' arguments that have not yet been addressed.

7-29-19 US Masters Residential Property (USA) Fund v. New Jersey Department of Environmental Protection (A-78-17; 081137)

Flaws in the substantive reasoning of the arbitration decision as well as procedural fairness considerations undermine confidence in the outcome of this arbitration enough to persuade the Court, in the interest of fairness, to require that a new arbitration be conducted.

7-24-19 State v. James Hemenway (A-19-18; 081206)

The beneficent goal of protecting domestic violence victims must be accomplished while abiding by well-established constitutional norms. Before issuing a warrant to search for weapons under the Act, a court must find that there is (1) probable cause to believe that an act of domestic violence has been committed by the defendant; (2) probable cause to believe that a search for and seizure of weapons is necessary to protect the life, health or well-being of a victim on whose behalf the relief is sought; and (3) probable cause to believe that the weapons are located in the place to be searched. Transposed into the context of a domestic violence search warrant for weapons, probable cause requires that the issuing court only have a well-grounded suspicion.

7-23-19 State v. Kwesi Green (A-56/57-17; 080562)

Under the circumstances, the trial court properly suppressed the identification in this case. The Court proposes revisions to Rule 3:11 to offer clearer guidance on which photos officials should preserve when they use an electronic database. In addition, to guard against misidentification, the Court places on the State the obligation to show that an eyewitness was not exposed to multiple photos or viewings of the same suspect.

7-22-19 State v. L.H. (A-59-17; 079974)

The State failed to prove beyond a reasonable doubt that, under the totality of the circumstances, defendant's statement was voluntary. Defendant may withdraw his guilty plea. The failure to record the identification procedure as required by Delgado requires a remand to allow defendant the benefit of a hearing to inquire into the reliability of the identification and any other remedy deemed appropriate by the trial court.

7-17-19 L.R. v. Camden City Public School District (A-61/62-17; 080333)

The six members of the Court who participated in this matter agree upon the non-exclusive factors identified in the concurring opinion that govern a court's determination when a requestor, not otherwise authorized by statute or regulation to have access to a given student record, seeks a court order mandating disclosure of that record pursuant to N.J.A.C. 6A:32-7.5(e)(15). An equally divided Court affirms the Appellate Division's determination that a "student record" under N.J.A.C. 6A:32-2.1 retains its protected status under New Jersey law notwithstanding the school district's redaction from that record of "personally identifiable information," as required by FERPA and its implementing regulations.

7-16-19 Sergeant First Class Frank Chiofalo v. State of New Jersey (A-30-18; 081607)

The Court does not agree that the trial court erred in refusing to grant defendants summary judgment on plaintiff's CEPA claim related to the alleged refusal to destroy documents, but affirms as to the fraudulent timekeeping allegations.

7-15-19 In the Matter of Joseph Peter Barrett (D-126-17; 081035)

Because the Utah court limited the presentation of evidence of a business dispute between respondent and the law firm, and because evidence that may exist in Utah cannot be compelled by respondent here, the Court cannot conclude that the OAE has proven by clear and convincing evidence that respondent knowingly misappropriated law firm funds under circumstances justifying greater discipline than that imposed in Utah.

6-26-19 G.A.-H. v. K.G.G. (A-25/26-18; 081545)

No reasonable trier of fact could find that Arthur knew or had special reason to know that Kenneth was engaged in a sexual relationship with a minor. Accordingly, Arthur had no duty to report Kenneth. The record similarly fails to provide a basis for liability to attach to GEM. Because the record here is determinative of Arthur's and GEM's liability, the Court need not decide whether a co-worker or employer with knowledge or a special reason to know that a co-worker or employee is engaged in a sexual relationship with a minor has a legal duty to report that co-worker or employee.

6-24-19 S.L.W. v. N.J. Division of Pensions and Benefits (A-32-18; 081723)

Upon review of the PFRS statute's plain language and history, the Court finds that the Legislature did not intend for children of PFRS members to meet a dependency requirement to receive survivor benefits. The Court's finding is consistent with the PFRS's underlying policy goal of financially protecting the family members of deceased PFRS members.

6-19-19 State v. Kareem T. Tillery (A-37-17; 079832)

The Court has significant concerns about the procedure followed in this case. Neither the script set forth on the Miranda card nor the detective's statement to defendant addressed whether defendant agreed to waive his rights before answering questions. However, any error in the trial court's admission of the statement was harmless beyond a reasonable doubt because the State presented overwhelming independent evidence of defendant's guilt. And, although the State should have moved to dismiss the charges on which the jury had deadlocked before the court considered evidence relevant to those charges, the trial court did not abuse its discretion in applying three aggravating factors to impose an extended-term sentence at the high end of the statutory range.

6-18-19 State v. Rasul McNeil-Thomas (A-77-17; 080758)

The Court defers to the trial judge's determination that the disputed footage was played for the jury during the State's case-in-chief and notes that defense counsel consented to the admission of the surveillance footage depicting the moments surrounding the shooting, including the video segment at issue. The court did not abuse its discretion in permitting the prosecutor to play the video segment during his closing remarks, and the prosecutor's comments were reasonable and fair inferences supported by the evidence presented at trial.

6-17-19 In the Matter of Corey Corbo, Union City Police Department (A-72-17; 081005)

The Court modifies the judgment of the Appellate Division and remands this matter to the OAL for further proceedings to allow the City the opportunity to demonstrate that the hospital records are admissible as business records, and the opportunity to present any other theories of admissibility.

6-10-19 T.L. v. Jack Goldberg, M.D. (A-11-18; 081135)

The circumstances at issue in McKenney, which heavily depended on the prejudice caused to the party disadvantaged by the surprise change in trial testimony, are distinguishable from the change in testimony here. Here there was no demonstration that the changed testimony caused prejudice to T.L., and the plain error standard does not compel reversal, especially because counsel's failure to object was likely strategic. Under the circumstances, T.L. is not entitled to a new trial.

6-5-19 Janell Goffe v. Foulke Management Corp.; Sasha Robinson and Tijuana Johnson v. Mall Chevrolet (A-3/4-18; 081258)

The trial courts' resolution of these matters was correct and consistent with clear rulings from the United States Supreme Court that bind state and federal courts on how challenges such as plaintiffs' should proceed. Those rulings do not permit threshold issues about overall contract validity to be resolved by the courts when the arbitration agreement itself is not specifically challenged. Here, plaintiffs attack the sales contracts in their entirety, not the language or clarity of the agreements to arbitrate or the broad delegation clauses contained in those signed arbitration agreements. The Supreme Court's precedent compels only one conclusion: an arbitrator must resolve plaintiffs' claims about the validity of their sales contracts as well as any arbitrability claims that plaintiffs may choose to raise.

6-4-19 Sun Life Assurance Company of Canada v. Wells Fargo Bank NA (A-49-17; 080669)

The Court answers both parts of the first certified question in the affirmative: a life insurance policy procured with the intent to benefit persons without an insurable interest in the life of the insured does violate the public policy of New Jersey, and such a policy is void at the outset. In response to the second question, a party may be entitled to a refund of premium payments it made on the policy, depending on the circumstances.

6-3-19 State v. Susan Hyland (A-29-18; 079028)

The State may appeal a Drug Court sentence only when the sentencing judge makes a plainly mistaken, non-discretionary, non-factual finding under N.J.S.A. 2C:35-14(a). Because application of N.J.S.A. 2C:35-14(a)(9) requires fact-finding and an exercise of the sentencing judge's discretion, a sentence based on application of that factor is not appealable as an illegal sentence.

5-30-19 State v. Davon M. Johnson (A-58-17; 080394)

The 2009 amendments to N.J.S.A. 2C:35-7's sentencing structure reflect a more flexible sentencing policy that renders Caliguiri's reasoning no longer viable. The presumption against PTI for second-degree offenders cannot be applied to N.J.S.A. 2C:35-7(a) offenders. And the presumption against PTI for the "sale" of narcotics was not applicable here because defendant was charged with possession with intent to "distribute" and there is no allegation or evidence that he sold the narcotics. The decision to deny defendant's application must be reevaluated.

5-21-19 State v. Rene M. Rodriguez (A-80-17; 081046)

An individual sentenced to a fixed minimum term of parole ineligibility under N.J.S.A. 2C:40-26(c) may not serve his or her sentence intermittently at night or on weekends pursuant to N.J.S.A. 2C:43-2(b)(7).

5-20-19 State v. Noel E. Ferguson and Anthony M. Potts; State v. Shameik Byrd (A-8/9-18; 081423)

New Jersey does not have territorial jurisdiction to prosecute Ferguson, Potts, or Byrd for the drug-induced death of Cabral in New York.

5-15-19 R.A. Feuer v. Merck & Co., Inc. (A-34-18; 081409)

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

5-14-19 State in the Interest of D.M., a Juvenile (A-30-17; 079999)

Although the Legislature may decide that N.J.S.A. 2C:24-4(a)(1) should not apply in juvenile proceedings based on conduct such as that at issue here, nothing in the current text of that statute precludes the adjudication in this case. The Court declines to rewrite the statute's plain language in this appeal. However, the Family Part court's adjudication must be reversed because the court's disavowal, at the disposition hearing, of critical aspects of its previously-stated factual findings undermined its determination as to both offenses. In this extraordinary setting, it is unclear whether the State met its burden to prove beyond a reasonable doubt that D.M. violated N.J.S.A. 2C:24-4(a)(1). Accordingly, the Court affirms on other grounds the panel's judgment.

5-13-19 State v. Nathan N. Shaw; State v. Keon L. Bolden (A-33/34-16; 078247)

Defendant's confession and the drug evidence must be suppressed.

5-8-19 State v. Dwight M. Nelson a/k/a Nelson Dwight (A-60-17; 080159)

Nelson's traffic stop was prolonged as he waited for the arrival of the canine unit, but the officers had developed the reasonable and articulable suspicion necessary to prolong the stop under State v.Dunbar, 229 N.J. 521, 540 (2017). The Court therefore affirms as modified the Appellate Division's determination that the evidence seized during the car's subsequent search should not be suppressed.

5-7-19 Frances Green v. Monmouth University (A-63-17; 080612)

The concert was promoting the University's educational objectives and purposes at the time of Green's injury, and as a result, Monmouth University is afforded charitable immunity. Although Green was not a Monmouth University student, she was a beneficiary under the language of the Charitable Immunity Act.

5-6-19 Sandra Woytas v. Greenwood Tree Experts, Inc. (A-31-18; 081720)

The MSA required Timothy to "maintain" life insurance to support the children in the event of Timothy's death. Because Timothy's suicide barred recovery of the life insurance proceeds, he failed to "maintain" life insurance and therefore breached the Agreement. A precise calculation of Timothy's outstanding child support obligations would be speculative, and the Chancery Division did not abuse its discretion by finding that Timothy's outstanding obligations exceed the remaining assets of Timothy's estate. Thus, there would be no remaining estate assets to pay Sandra's claims, and a remand for a precise damages calculation is unnecessary.

5-2-19 State v. Isiah T. McNeal (A-14-18; 081112)

Defendant was repeatedly and explicitly warned that the estimated 2438 days of jail credit may not affect his period of parole ineligibility and that he should not enter the plea agreement expecting as much. Defendant cannot now credibly argue that he relied on a belief that all 2438 days would be applied to his term of parole ineligibility

5-1-19 Garden State Check Cashing Service, Inc. v. State of New Jersey Department of Banking and Insurance (A-1-18; 081044)

The only requirements for an asset sale are that a seller is conducting business by holding a valid license and is not subject to an action by the Commissioner. As such, the asset sale was valid, the Irvington location retained its grandfathered status, and DOBI's decision to grant the license to New Loan was appropriate.

4-30-19 Beryl Zimmerman and Judy Comment v. Sussex County Educational Services Commission (A-75-17; 080861)

Protection of compensation is not restricted to protection of the hourly rate of pay, and a remand is needed. A record must be created to allow the Commissioner to assess the SCESC's reasons for allocating work among its part-time teachers in a manner that severely reduced the number of hours afforded to the two tenured teachers and awarded work to non-tenured and less senior staff. The Court thus affirms the judgment of the Appellate Division but does not encourage a strict arithmetic calculation along the lines the panel has suggested

4-29-19 Cynthia M. Blake v. Board of Review (A-65-17; 080198)

Based on its interpretation of N.J.S.A. 43:21-5(a), the Court concludes that McClain and Blake are entitled to UI benefits because (1) they qualified for UI benefits at their former employment at the time of their departure, (2) they were scheduled to commence their new jobs within seven days of leaving their former employment, and (3) their new job offers were rescinded through no fault of their own before the start date.

4-29-19 Patricia J. McClain v. Board of Review (A-52-17; 080397)

Based on its interpretation of N.J.S.A. 43:21-5(a), the Court concludes that McClain and Blake are entitled to UI benefits because (1) they qualified for UI benefits at their former employment at the time of their departure, (2) they were scheduled to commence their new jobs within seven days of leaving their former employment, and (3) their new job offers were rescinded through no fault of their own before the start date.

4-25-19 Gonzalo Chirino v. Proud 2 Haul, Inc., and Ivana Koprowski (A-15-18; 080747)

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

4-1-19 State v. A.M (A-76-17; 080744)

Although the better practice would have been to read aloud the form's waiver portion to defendant, the Court relies on the trial court's well-supported observations and factual findings and reverses the Appellate Division's judgment.

3-27-19 Vincent and Rose Mary Piscitelli v. City of Garfield Zoning Board of Adjustment, et al. (A-68-17; 079900)

The Court reverses and remands for further proceedings to decide whether any Zoning Board member had a disqualifying conflict of interest in hearing the application for site plan approval and variances in this case. The trial court must assess two separate bases for a potential conflict of interest. First, did Dr. Kenneth -- as president or a member of the Board of Education -- have the authority to vote on significant matters relating to the employment of Zoning Board members or their immediate family members? Second, did any Zoning Board members or an immediate family member have a meaningful patient-physician relationship with any of the three Conte doctors? If the answer to either of those questions is yes, then a conflict of interest mandated disqualification and the decision of the Zoning Board must be vacated. The Court does not possess sufficient information to answer those questions.

3-26-19 Joshua Haines v. Jacob W. Taft; Tuwona Little v. Jayne Nishimura (A-13/14-17; 079600)

The Court cannot conclude that there is evidence of a clear intention on the part of the Legislature to deviate from the carefully constructed no-fault first-party PIP system of regulated coverage of contained medical expenses and return to fault-based suits consisting solely of economic damages claims for medical expenses in excess of an elected lesser amount of available PIP coverage. Unless the Legislature makes such an intent clearly known, the Court will not assume that such a change was intended by the Legislature through its amendments to the no-fault system in the Automobile Insurance Cost Reduction Act.

3-25-19 Frank Caraballo v. City of Jersey City Police Department (A-71-17; 080467)

Caraballo's failure to utilize the Act's administrative remedies to obtain knee replacement surgery precludes his failure-to-accommodate claim under the LAD. In addition, Caraballo's total knee replacement surgery cannot qualify as a reasonable accommodation under the LAD.

3-13-19 State v. Ibnmauric Anthony (A-11-17; 079344)

Because Rule 3:11 was not fully followed, and because the record does not reveal whether the shortcomings were technical or substantive, the Court remands for a full hearing consistent with Wade and Henderson. Based on the evidence developed at the hearing, the trial court will be in the best position to determine whether a new trial is warranted.

3-12-19 State v. Andrew J. Fede (A-53-17; 079997)

The Court stresses that the police officers had the right to enter defendant's home under the emergency-aid doctrine, which permits warrantless entry under circumstances like those presented in this case. Because defendant's refusal to remove the door chain did not constitute an affirmative interference for purposes of obstructing justice within the meaning of the obstruction statute, the Court reverses the judgment of the Appellate Division and vacates defendant's conviction.

3-11-19 State v. Adrian A. Vincenty (A-40-17; 079978)

The record reveals that the detectives failed to inform Vincenty of the charges filed against him when they read him his rights and asked him to waive his right against self-incrimination. That failure deprived Vincenty of the ability to knowingly and intelligently waive his right against self-incrimination. Pursuant to A.G.D., Vincenty's motion to suppress should have been granted.

3-7-19 Evangelos Dimitrakopoulos v. Borrus, Goldin, Foley, Vignuolo, Hyman and Stahl, P.C. (A-46-17; 080357)

The Court reiterates its holding in Olds that the entire controversy doctrine does not compel a client to assert a legal malpractice claim against an attorney in the underlying litigation in which the attorney represents the client. 150 N.J. at 443. However, the collection action at issue in this matter was not an "underlying action" as that term is used in Olds, and the entire controversy doctrine may bar the claim. The record of this appeal, however, is inadequate for an application of the equitable rules that govern here.

3-6-19 IMO Yaron Helmer (D-17-17; 080110)

In this case, because the record lacks clear and convincing evidence that respondent orchestrated the alleged misconduct, the OAE's complaint must be dismissed. That said, the record highlights a series of troublesome practices and leaves a number of questions unanswered. The Court briefly addresses some of those areas to offer guidance to private practitioners and prosecutors.

3-4-19 Alexandra Rodriguez v. Wal-Mart Stores, Inc. (A-2/3-17; 079470)

The admissibility of medical expert testimony utilizing terms such as "somatization" and "symptom magnification" must be determined by trial courts on a case-by-case basis, consistent with N.J.R.E. 403, and there was no abuse of discretion in the trial court's allowing use of those terms under the circumstances of this case. The Court disagrees with the Appellate Division's equation of the terms used by the experts with the term "malingering." The Court also disagrees with the panel's determination that one of defendant's experts, who is a neurologist rather than a mental-health specialist, was not qualified to testify about somatization or symptom magnification. The Court concurs, however, with the Appellate Division's determination that the trial court did not abuse its discretion in admitting into evidence at trial plaintiff's past medical history.

2-20-19 State v. Michael D. Miller (A-70-17; 079342)

The Appellate Division's opinion deprives trial judges of their discretion to make nuanced assessments of the nature and circumstances of offenses involving child pornography. Miller's possession charge involved child pornographic material beyond that involved in his distribution charge -- there was pornographic material in Miller's possession for an extended period of time that was not encompassed in the distribution charge. The possession and distribution offenses were therefore distinct, and the trial court appropriately determined that the offenses did not merge for sentencing purposes.

2-19-19 Jennifer Kocanowski v. Township of Bridgewater (A-55-17; 080510)

The Appellate Division's judgment is reversed. While N.J.S.A. 34:15-75's language is unclear, its legislative history indicates a strong intent to provide temporary disability coverage to volunteer firefighters at the maximum compensation provided for in the Act.

2-5-19 State v. Deyvon T. Chisum / State v. Keshown K. Woodard (A-35-17/A-36-17; 079823/079835)

Once the renter of the motel room lowered the volume of the music and the police declined to issue summonses, the police no longer had any reasonable suspicion that would justify the continued detention of the room's occupants. Once the noise was abated, the police no longer had an independent basis to detain the occupants, or a basis to run warrant checks on them. Such action was unlawful. And because the detention and warrant checks were unlawful, the subsequent pat-down of Woodard was also improper. The judgment of the Appellate Division is therefore reversed, and the matter is remanded to the trial court for the withdrawal of defendants' guilty pleas and further proceedings.

2-4-19 State v. William D. Brown / State v. Nigil J. Dawson (A-23-17/A-24-17; 079553/079556)

The State's failure to produce nineteen discovery items until one week after the beginning of defendants' murder trial did violate defendants' due process rights under Brady. The Court reaches this conclusion, in part, because the trial court abused its discretion by excluding admissible impeachment and exculpatory evidence withheld by the State. Though there is no evidence or allegation that the State acted in bad faith or intentionally in failing to timely produce the discoverable material, the Court nonetheless vacates defendants' convictions and remands for a new trial because defendants were deprived of a fair trial.

1-24-19 All The Way Towing, LLC and Chayim Goodman v. Bucks County International, Inc. and Dynamic Towing Equipment and Manufacturing, Inc. (A-66/67-17; 080700)

The customized tow truck and rig fit within the CFA's expansive definition of "merchandise" and, therefore, plaintiff's CFA claim should not have foundered based on an application of that term. The Court further agrees with the appellate panel's remand to the trial court for a determination of whether defendants' other bases for seeking summary judgment are meritorious.

1-23-19 Division of Child Protection and Permanency v. A.S.K., T.T., and E.M.C. (A-50-17; 079700)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in panel majority's per curiam opinion. The Court adds only the following.

1-17-19 Lieutenant John Kaminskas v. State of New Jersey (A-31-17; 080128)

Under N.J.S.A. 40A:14-117 and N.J.S.A. 59:10-4, the Legislature has provided that each county -- not the Attorney General -- is responsible for defending and potentially indemnifying its police officers.

1-16-19 State v. Guilermo Santamaria (A-44/45-17; 079934)

The trial court did not err in the admission of the photographs, nor did the State commit reversible error when it commented on the defendant's silence.

1-14-19 Pamela O'Donnell v. New Jersey Turnpike Authority (A-69-17; 080735)

Under the limited circumstances of this case, extraordinary circumstances existed justifying O'Donnell's late filing.

1-10-19 Amanda Kernahan v. Home Warranty Administrator of Florida, Inc. and Choice Home Warranty (A-15-17; 079680)

The so-called "arbitration agreement" within this consumer contract fails to support a finding of mutuality of assent to form an agreement to arbitrate. The provision's language is debatable, confusing, and contradictory -- and, in part, misleading. The "arbitration agreement" is also obscure when this consumer contract is viewed as a whole. The provision does not fairly convey to an ordinary person that arbitration would be the required method of dispute resolution. Accordingly, this arbitration agreement is not enforceable.

1-9-19 Josh Finkelman v. National Football League, et al (A-38-17; 080501)

(1) The term "person" in section 35.1 includes not only ticket brokers and resellers, but also other individuals and entities with "access to tickets to an event prior to the tickets' release for sale to the general public." N.J.S.A. 56:8-35.1. (2(a)) The sale of tickets to winners of the NFL's ticket lottery constitutes a "release for sale to the general public" within the meaning of section 35.1. (2(b)) The Super Bowl tickets sold to lottery winners were the only 2014 Super Bowl tickets designated by the NFL for "release for sale to the general public" within the meaning of section 35.1, however. The NFL's distribution of other tickets to the 2014 Super Bowl to its teams, other selected individuals, and entities therefore does not constitute the unlawful withholding of more than five percent of "tickets to an event prior to the tickets' release for sale to the general public" under section 35.1.

1-8-19 IMO the Expungement of the Arrest/Charge Records of T.B., J.N.-T. & R.C. (A-18/19/20-17; 079813)

The plain language of the 2016 drug court expungement statute requires judges to determine whether expungement would be consistent with the public interest. N.J.S.A. 2C:35-14(m)(2); id. § 52-2(c)(3). Successful graduates who have committed certain offenses and apply for expungement are entitled to a rebuttable presumption that expungement is consistent with the public interest.

12-13-18 N.J. Highlands Coalition and Sierra Club N.J. v. New Jersey Dept. of Environmental Protection and Bi-County Development Corporation (A-32-17; 079963)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in the per curiam opinion. The Court adds modifying comments to clarify that the affirmance is based solely on a plain language reading of the Highlands Act that does not incorporate the definition of "final approval" contained in the separate but related MLUL.

12-12-18 State v. Laurie Wint (A-28/29-17; 079660)

The Pennsylvania detectives violated Edwards by attempting to question Wint in Camden after his earlier request for counsel, and Wint did not initiate the interrogation that occurred in Bucks County. The giving of repeated Miranda warnings did not cure the Edwards violation. Wint remained in continuous pre-indictment custody for six months before the questioning in Bucks County. Pre-indictment, pretrial detainment does not qualify as a break in custody under Shatzer, and none of the exceptions set forth in Edwards apply here. Edwards requires suppression of Wint's incriminating statement concerning the shooting in Camden. The admission of that statement was not harmless error.

12-11-18 State v. Shaquan Hyppolite (A-48-17; 080302)

When exculpatory evidence is disclosed after a detention hearing, judges should use a modified materiality standard to decide whether to reopen the hearing. If there is a reasonable possibility that the result of the detention hearing would have been different had the evidence been disclosed, the hearing should be reopened. Applying that standard in this case, the Court reverses and remands to the trial court to reopen the detention hearing.

12-10-18 New Jersey Division of Child Protection and Permanency v. R.L.M. and J.J. (A-17-17; 079473)

The Court reaffirms New Jersey's longstanding adherence to the principle that a competent litigant may represent himself or herself in a matter in which he or she is a party, subject to exceptions set forth in statutes, court rules, and case law. No such exception is prescribed by the statute that governs this case. Although a parent's decision to appear pro se in this complex and consequential litigation represents poor strategy in all but the rarest case, N.J.S.A. 30:4C-15.4 plainly authorizes that parent to proceed unrepresented. The parent's right of self-representation, however, is by no means absolute. That right must be exercised in a manner that permits a full and fair adjudication of the dispute and a prompt and equitable permanency determination for the child. In this case, the court properly denied J.J.'s untimely and ambivalent claim.

11-28-18 State v. Carlos B. Green (A-39-17; 080274)

The trial court did not abuse its discretion in excluding defendant's two prior DWI convictions here. Although the Court imposes no per se exclusion of prior DWI convictions in a prosecution for vehicular homicide while intoxicated, this case does not present the rare circumstances that would render their admission appropriate.

11-13-18 State v. Eileen Cassidy (A-58-16; 078390)

The Special Master's findings are supported by substantial credible evidence in the record, and the Court adopts them. Breath test results produced by Alcotest machines not calibrated using a NIST-traceable thermometer are inadmissible.

11-5-18 State v. Nicholas Kiriakakis (A-51-17; 080100)

The four-year period of parole ineligibility imposed by the court in exercising its sentencing discretion pursuant to N.J.S.A. 2C:43-6(b) fell within the range authorized by the jury's verdict and therefore did not violate Alleyne or the Sixth Amendment. In issuing a mandatory-minimum term, the court merely identified and weighed traditional sentencing factors to set an appropriate sentence within the statutory range set by the Legislature. The aggravating factors found by the court here were not the functional equivalent of the elements of an offense.

10-30-18 State v. Rainlin Vasco (A-54-17; 080426)

The judgment of the Appellate Division is reversed substantially for the reasons expressed in Judge Espinosa's dissenting opinion. Defendant's guilty plea is vacated and the matter is remanded to the trial court for further proceedings.

10-3-18 In re: Accutane Litigation (A-26/27-17; 079933)

The Court now reverses in all those cases in which the Appellate Division reinstated plaintiffs' actions against Roche. New Jersey has the most significant interests, given the consolidation of the 532 cases for MCL purposes. New Jersey's interest in consistent, fair, and reliable outcomes cannot be achieved by applying a diverse quilt of laws to so many cases that share common issues of fact. Plaintiffs have not overcome the PLA's presumption of adequacy for medication warnings approved by the FDA. As a matter of law, the warnings provided physicians with adequate information to warn their patients of the risks of IBD.

9-18-18 In the Matter of William R. Hendrickson, Jr (A-12-17; 079885)

The appellate tests for reviewing an administrative disciplinary sanction and a criminal sentence are virtually the same. Therefore, the Appellate Division erred in suggesting that appellate review of a disciplinary sanction imposed by a judge is de novo and different from traditional appellate review of an agency determination. Additionally, merely because the factual findings and rulings made by ALJs are oftentimes contingent on whether an agency accepts, rejects, or modifies an ALJ's decision does not mean that ALJs are second-tier players or hold an inferior status as factfinders. Based on its deferential standard of review, the Court cannot conclude that the ALJ's decision is shocking to one's sense of fairness.