DATE	NAME OF CASE (DOCKET NUMBER)
8-19-20	Fraternal Order of Police, Newark Lodge No. 12 v. City of Newark (A-15-19; 083197)

The Ordinance is sustained subject to the Court's further modifications to comply with current legislative enactments. The Court concludes that state law permits the creation by ordinance of this civilian board with its overall beneficial oversight purpose. The Court holds that this review board can investigate citizen complaints alleging police misconduct, and those investigations may result in recommendations to the Public Safety Director for the pursuit of discipline against a police officer. In addition, the review board may conduct its oversight function by reviewing the overall operation of the police force, including the performance of its IA function in its totality or its pattern of conduct, and provide the called-for periodic reports to the officials and entities as prescribed by municipal ordinance. However, to the extent some investigatory powers that the City wishes to confer on its oversight board conflict with existing state law, the Court modifies the Appellate Division's judgment. The board cannot exercise its investigatory powers when a concurrent investigation is conducted by the Newark Police Department's IA unit. An investigation by the IA unit is a function carefully regulated by law, and such an investigation must operate under the statutory supervision of the police chief and comply with procedures established by Newark's Public Safety Director and the mandatory guidelines established by the Attorney General. Concurrent investigations would interfere with the police chief's statutory responsibility over the IA function, and the review board's separate investigatory proceedings would be in conflict with specific requirements imposed on IA investigations and their results. The Court also invalidates the conferral of subpoena power on this review board.

8-18-20	Amy Skuse v. Pfizer, Inc (A-86-18; 082509)

Pfizer's Agreement and related communications informed Skuse that if she remained a Pfizer employee more than sixty days from her receipt of that Agreement, she was deemed to assent to it. Those communications clearly and unmistakably explained the rights that Skuse would waive by agreeing to arbitration, thus complying with waiver-of-rights case law, and Pfizer's delivery of the Agreement by e-mail did not warrant its invalidation. Pfizer's use of the word "acknowledge" was appropriate in the circumstances of this case, given the terms of Pfizer's arbitration policy and other expressions of assent that immediately preceded that request. Pfizer should not have labeled its communication explaining its arbitration agreement a "training module" or training "activity," but that is not a basis to invalidate the Agreement. The Agreement was valid and binding, and the Court concurs with the trial court's decision to enforce it.

8-17-20 In the Matter of Ridgefield Park Board of Education (A-2-19; 083091)

The health insurance premium contribution rates paid by the Association's members were preempted by statute and therefore non-negotiable. PERC's construction of Chapter 78 comports with the statute's language and the Legislature's stated objective to achieve a long-term solution to a fiscal crisis.

8-12-20 New Jersey Republican State Committee v. Philip D. Murphy (A-82-19; 084731)

Subject to the limits imposed here by the Court, the Bond Act does not violate the Constitution

8-10-20 State v. Robert Andrews (A-72-18; 082209)

Neither federal nor state protections against compelled disclosure shield Andrews's passcodes

8-6-20 IMO Carlia M. Brady, J.S.C. (D-10-19; 083462)

The Court concurs in substantial part with the ACJC's factual findings and holds that clear and convincing evidence supports the ACJC's determination that respondent committed the Code violations charged. The Court modifies the ACJC's recommendation that respondent be removed from judicial office, however, and instead imposes on respondent a three-month suspension from judicial duties.

8-5-20 State v. G.E.P.; State v. R.P.; State v. C.P.; State v. C.K. (A-4-19; 082732)

When all factors bearing upon retroactivity are weighed -- whether the rule's purpose "would be furthered by a retroactive application," the State's reliance on the previous rule, and "the effect a retroactive application would have on the administration of justice," State v. Henderson, 208 N.J. 208, 300 (2011) -- pipeline retroactivity is appropriate. Considering the evidence presented in G.E.P.'s case, the admission of CSAAS testimony did not deny him a fair trial, and the Court reverses the Appellate Division's judgment as to him. As to R.P., C.P., and C.K., the CSAAS testimony bolstering the alleged victims' testimony was clearly capable of producing an unjust result, and their convictions were thus properly reversed by the Appellate Division.

8-4-20 State v. Juan E. Cruz-Pena (A-3-19; 083177)

The language of the kidnapping statute, along with the case law construing that language, must be read in a sensible manner and not taken to an illogical conclusion. Holding a victim in captivity for a period of four to five hours, while assaulting and sexually abusing her, satisfies the "substantial period" requirement of the kidnapping statute -- even if the length of the confinement is co-extensive with the continuous sexual and physical abuse of the victim. In addition, the Court cannot find that, as a matter of law, the terrifying four-to-five-hour period of C.M.'s confinement was "merely incidental" to the sexual violence committed against her. There is no basis to disturb the jury's verdict.

7-29-20 Sun Chemical Corporation v. Fike Corporation (A-89-18; 082815)

The Court answers the certified question in the affirmative. A CFA claim alleging express misrepresentations -- deceptive, fraudulent, misleading, and other unconscionable commercial practices -- may be brought in the same action as a PLA claim premised upon product manufacturing, warning, or design defects. It is the nature of the claims brought, not the nature of the damages sought, that is dispositive of whether the PLA precludes the separate causes of action. In other words, the PLA will not bar a CFA claim alleging express or affirmative misrepresentations.

7-28-20 Christopher J. Gramiccioni v. Department of Law and Public Safety (A-21-19; 083198)

All claims related to the MCPO defendants' acts or alleged omissions associated with duties imposed by the Directive constitute state prosecutorial functions. The Department's parsing of the pleadings in this matter led to crabbed determinations about the scope of law enforcement activity that are inconsistent with the letter and purpose of Wright. The Court finds the Department's four determinations -- which reflect shifting and conflicting positions -- to be arbitrary and unreasonable.

7-22-20 Carol Crispino v. Township of Sparta (A-16-19; 083171)

The expert report relied on by the Township did not apply any reliable methodology to assure that the assessment allocating the costs among the properties was "in proportion to and not in excess of the benefits conferred," as required by N.J.S.A. 58:4-12(d)(1) and other statutes. The Court is constrained to invalidate Sparta Township Resolution 6-1, which imposes a special assessment on plaintiffs' properties to recoup the costs of the dam restoration project. The Township must pass a resolution allocating costs based on a valid methodology in accordance with the applicable statutes and relevant case law.

7-21-20 Bank Leumi USA v. Edward J. Kloss (A-32-19; 083372)

The Court answers the certified question in the negative. A party who files a successful motion to dismiss for failure to state a claim is not precluded by the entire controversy doctrine from asserting claims in a later suit that arise from the same transactional facts.

7-20-20 State v. Antoine McCray; State v. Sahaile Gabourel (A-75/76-18; 082744)

The history of the CJRA reveals the Legislature did not intend to authorize criminal contempt charges for violations of release conditions. Beyond that, allowing such charges for all violations of conditions of release, no matter how minor, is at odds with the purpose and structure of the CJRA. No-contact orders are treated differently, however, because the CJRA did not modify settled law relating to them. In State v. Gandhi, 201 N.J. 161 (2010), the Court held that violations of no-contact orders -- even if issued as part of a pretrial release order -- can serve as a basis for contempt charges. That precedent remains firmly in place. Because neither appeal here involved a violation of a no-contact order, the Court reverses the judgment of the Appellate Division and dismisses the contempt charges against both defendants.

7-15-20 Christian Mission John 316 v. Passaic City (A-33-19; 083487)

It was error to grant summary judgment because, construing all inferences in Christian Mission's favor, there is evidence that the property might have been used in a manner that could satisfy N.J.S.A. 54:4-3.6's actual use requirement -- storage of religious items and/or other church-related activities at the property before construction began, during construction, and as of the valuation date in 2012.

7-14-20 Essam Arafa v. Health Express Corporation (A-6-19; 083174)

The NJAA may apply to arbitration agreements even if parties to the agreements are exempt under section 1 of the FAA. Therefore, the parties in both Colon and Arafa are not exempt from arbitration and their arbitration agreements are enforceable. In Arafa, the arbitration agreements are enforceable under the NJAA. In Colon, the arbitration agreements are enforceable under either the FAA or the NJAA, which will be determined by the trial court upon remand when it resolves whether the employees in that case were transportation workers engaged in interstate commerce.

7-14-20 Gloria Colon v. Strategic Delivery Solutions, LLC (A-7-19; 083154)

The NJAA may apply to arbitration agreements even if parties to the agreements are exempt under section 1 of the FAA. Therefore, the parties in both Colon and Arafa are not exempt from arbitration and their arbitration agreements are enforceable. In Arafa, the arbitration agreements are enforceable under the NJAA. In Colon, the arbitration agreements are enforceable under either the FAA or the NJAA, which will be determined by the trial court upon remand when it resolves whether the employees in that case were transportation workers engaged in interstate commerce.

7-9-20 Bryheim Jamar Baskin v. Rafael Martinez (A-70-18; 081982)

For summary judgment purposes, the Court must accept as true the sworn deposition testimony of Baskin and the independent eyewitness, who both stated that Baskin's open and empty hands were above his head, in an act of surrender, when Detective Martinez fired the shot. Under that scenario, a police officer would not have had an objectively reasonable basis to use deadly force. The law prohibiting the use of deadly force against a non-threatening and surrendering suspect was clearly established, as evidenced by cases in jurisdictions that have addressed the issue. Thus, Detective Martinez was not entitled to qualified immunity on summary judgment.

7-8-20 West Pleasant-CPGT, Inc. v. U.S. Home Corporation, d/b/a Lennar Homes (A-1-19; 082981)

The use of fair market value credit by this debtor to obtain a money judgment against a creditor -- in the absence of a deficiency claim threatened or pursued or any objection being raised at the time of the sheriff's sales -- is inconsistent with sound foreclosure processes and, moreover, inequitable in the circumstances presented.

7-7-20 State v. Rahsjahn Courtney (A-17-19; 082857)

Section 12 does not require a formal application when a prosecutor agrees not to request a mandatory extended-term sentence under N.J.S.A. 2C:43-6(f) yet seeks the benefit of a Section 12 plea agreement. Here, defendant was given ample notice that he was extended-term eligible and that the State was seeking the benefit of Section 12 for the negotiated plea agreement, and defendant did not object to the State's proffer that he was extended-term eligible. The Court affirms the judgment of the Appellate Division upholding his sentence. Given the importance of ensuring consistency and accuracy in sentencing, the Court provides guidance for future cases where the State agrees not to request an extended term but still seeks the benefit of a negotiated waiver of the CDRA's mandatory sentencing requirements under N.J.S.A. 2C:35-12.

7-2-20 State v. Michael A. Jackson (A-11-19; 082735)

Under the circumstances here, the jury should have had full access to the cooperating witness's plea agreement history through the defense counsel's unfettered examination of that history. The trial court's limitations on defendant's cross examination were in error. Defendant was deprived of his right to confrontation and denied a fair trial. His conviction for conspiracy to commit burglary is vacated.

7-1-20 Investors Bank v. Javier Torres (A-55-18; 082239)

Relying on two statutes addressing assignments, N.J.S.A. 2A:25-1 and N.J.S.A. 46:9-9, as well as common-law assignment principles, the Court holds that Investors had the right as an assignee of the Mortgage and transferee of the Note to enforce the Note. The Court construes N.J.S.A. 12A:3-309 to address the rights of CitiMortgage as the possessor of a note or other instrument at the time that the instrument is lost, but not to supplant New Jersey assignment statutes and common law in the setting of this appeal or to preclude an assignee in Investors' position from asserting its rights according to the Note's terms. Read together, those three statutes clearly authorized the assignment and entitled Investors to enforce its assigned Mortgage and transferred Note. The Court does not rely on the equitable principle of unjust enrichment invoked by the Appellate Division.

6-30-20 Gourmet Dining, LLC v. Union Township (A-8-19; 083146)

The arrangement by which Gourmet Dining operates Ursino is taxable as a lease or lease-like interest. The public-benefit-oriented exemption provisions in issue were not intended to exempt the for-profit operator of a high-end, regionally renowned restaurant situated on a college campus, when the overriding purpose of this commercial endeavor is focused on profitmaking. Gourmet Dining, as the exclusive operator and manager of this restaurant establishment, must bear its fair share of the local real property tax burden.

6-29-20 City of Asbury Park v. Star Insurance Company (A-20-19; 083371)

The Court answers the certified question in the negative. Under equitable principles of New Jersey law, the made-whole doctrine does not apply to first-dollar risk, such as a self-insured retention or deductible, that is allocated to an insured under an insurance policy.

6-25-20 Regina Little v. Kia Motors America, Inc. (A-24-18; 081691)

Although aggregate proof of damages can be appropriate in some settings, the Court considers such proof improper as presented in this case. The trial court erred when it initially allowed plaintiff to prove class-members' out-of-pocket costs for brake repairs based on an estimate untethered to the experience of plaintiff's class. The trial court properly ordered individualized proof of damages on plaintiff's brake-repair claim based on the actual costs incurred by the class members. Thus, the trial court's grant of defendant's motions for a new trial and for partial decertification of the class were a proper exercise of its discretion.

6-23-20 State v. Carey R. Greene; State v. Tyleek A. Lewis (A-96-18; 082536)

The prosecutor's detailed account of Greene's incriminating statement to his grandmother was not likely forgotten by the jury, despite the trial court's best efforts in providing a curative instruction. That the prosecutor acted in good faith, moreover, did not abate the damage done to Greene's ability to receive a fair trial, particularly because the evidence against him was not overwhelming and the prosecutor's opening had the capacity to tip the scales in favor of a conviction. The Court therefore affirms the judgment of the Appellate Division ordering a new trial for Greene

6-17-20 Dr. Dominick A. Lembo v. Arlene Marchese (A-92-18; 082930)

The UFL does not authorize an affirmative cause of action against a bank but rather provides a bank with a limited immunity from liability for failing to take notice of and action on the breach of a fiduciary's obligation. The UFL does not displace, subsume, or supplement common law claims. When an action is brought against a bank, the UFL provides that a bank's liability depends on whether the bank acted with actual knowledge or bad faith in the face of a fiduciary's breach of his obligations. Whether a UFL claim was adequately pled in this case is therefore a moot issue. And, recognizing the predominant role the UCC plays in assigning liability for the handling of checks, the Court also finds that Lembo had no "special relationship" with the bank to sustain the common law causes of action

6-16-20 Jamie Friedman v. Teodoro Martinez (A-37/81-18; 081093)

An intrusion on privacy occurs when someone uses a private space where a spying device has been concealed and "the intrusion would be highly offensive to a reasonable person." Restatement (Second) of Torts § 652B. To bring a claim, the victim does not have to present direct evidence that she was secretly recorded. She can instead establish a case of intrusion on seclusion based on reasonable inferences drawn from the evidence. Here, however, there was not enough evidence in the summary judgment record to demonstrate, either directly or inferentially, that the plaintiffs who were dismissed used bathrooms with cameras in them during the relevant time period.

6-9-20 State v. Jose Medina (A-67-18; 081926)

Viewing the trial record in its entirety, the detective's testimony, in context, did not compel the inference that he had superior knowledge incriminating defendant from a non-testifying witness. The testimony therefore did not violate defendant's confrontation right or the hearsay rule. Although there was no abuse of discretion in the admission of the testimony here, the Court cautions against using the phrase "based on the evidence collected" in this context and provides guidance as to curative instructions

6-5-20 In the Matter of the Request to Modify Prison Sentences, Expedite Parole Hearings, and Identify Vulnerable Prisoners (M-1093-19; 084412)

Executive Order 124 creates a sufficient expectation of eligibility for release through a furlough program to call for certain due process protections. The Court adds to the Executive Order the protections summarized on pages 6 to 7 and detailed on pages 33 to 36 of the opinion to comport with due process. The Court also notes that inmates may challenge the DOC's action, a final agency decision, by seeking review before the Appellate Division. The agency's decision is entitled to deference on appeal. Individual inmates may also seek relief independently under Rule 3:21-10(b)(2). They do not have to exhaust the remedies available under the Executive Order before they may file a motion in court. As to sentences imposed on juveniles who are in the custody of the Juvenile Justice Commission (JJC), those individuals may seek relief from the court on an individual basis. To the extent the opinion calls for trial judges to rule on motions and the Appellate Division to review agency decisions, the Court exercises its supervisory authority to require that applications be heard and decided in a matter of days and urges the Commissioner and the Parole Board to act as expeditiously as possible.

6-2-20 Township of Manalapan v. Anthony Gentile (A-14-19; 083137)

As the Court explained in Borough of Saddle River v. 66 East Allendale, LLC, evidence that risks misleading the jury into assuming a zoning variance for purposes of calculating a property's value must not be admitted absent a judicial finding it is reasonably probable that the variance will be obtained. 216 N.J. 115, 142 (2013). Therefore, the trial court erred by allowing the jury to consider testimony that the highest and best use of the subject property would require a variance without first confirming the probability of securing that variance.

6-1-20 H.R. & I.R. v. New Jersey State Parole Board (A-90-18; 082373)

SOMA's legislatively enumerated purposes demonstrate that a special need -- not an immediate need to gather evidence to pursue criminal charges -- motivates the GPS monitoring prescribed by the Legislature. That satisfies the first step in a special needs analysis and allows the determination that this search may be constitutional. The Court therefore balances the interests of the parties and concludes that, although GPS monitoring is a significantly invasive search, it is outweighed by the compelling government interest advanced by the search and H.R.'s severely diminished expectation of privacy. The Court notes that H.R.'s PSL status is critical to that conclusion.

5-28-20 Henry Sanchez v. Fitness Factory Edgewater, LLC (A-93-18; 082834)

By its terms, RISA applies to services contracts. Further, in the statute as written, there is no requirement that a contract include a financing arrangement to be covered by RISA.

5-27-20 S.C. v. New Jersey Department of Children and Families (A-57-18; 081870)

The Court reverses and remands (a) for the Department to provide improved notice of the basis on which its investigation has found some evidence -- which the Court stresses must be some credible evidence -- to support the allegation of harm; and (b) for S.C. to have an informal opportunity before the Department to rebut and/or supplement the record before the Department finalizes its finding. The Court does not address the amici's challenge to the validity of the "not established" category but recognizes problems with the standard as presently articulated and notes that it would be well worth the effort of the Department to revisit its regulatory language concerning the standard for making a "not established" finding as well as its processes related to such findings.

5-26-20 IMO John F. Russo, Jr. (D-100-18; 082636)

Based on its review of the extensive record, the Court finds beyond a reasonable doubt that there is cause for removal. Because of Respondent's multiple, serious acts of misconduct -- in particular, his inappropriate behavior in a matter involving an alleged victim of domestic violence -- the Court orders his removal from office.

5-13-20 State v. Quashawn K. Jones (A-64-18; 081862)

Although the facts lie at the outer edges of what is sufficient to show a substantial step based on verbal acts, when defendant's statements on the recorded conversations are considered in the context of this case, the State presented sufficient evidence for the jury to find a substantial step for attempted murder.

5-12-20 New Jersey Transit Corporation v. Sandra Sanchez and Chad Smith (A-68-18; 082292)

The judgment of the Appellate Division is affirmed by an equally divided Court.

5-6-20 State v. R.Y. (A-60-18; 081706)

The caseworker's testimony regarding Sharie's statement is clear evidence of third-party guilt and was therefore impermissibly excluded at trial. As such, the Court reverses the judgment of the Appellate Division and vacates defendant's convictions for crimes against Sharie. However, the State's leading questions were appropriate for the child victim witnesses, and defendant's sentence was not manifestly excessive with respect to the convictions for crimes against Brianna. The Court finds no reason to disturb defendant's convictions or sentence as to his offenses against Brianna.

5-5-20 Shipyard Associates, L.P. v. City of Hoboken (A-83/84/85-18; 082446)

Both ordinances at issue are unquestionably zoning ordinances subject to the limitations of the MLUL, the plain language of which contains no exception for the retroactive application of changes in zoning requirements within two years of the issuance of a final approval. The City therefore cannot apply either ordinance to the Project, because they became effective within two years of the issuance of Shipyard's final approval. And Shipyard's period of statutory protection has been tolled.

5-4-20 Linda Cowley v. Virtua Health System (A-47-18; 081891)

Here, where a patient removed the tube herself and refused replacement, important questions about the procedures, protocols, and duties of a licensed nurse in these circumstances must be explained in order to establish a deviation in the standard of care. In addition, important considerations about patient autonomy complicate the standard-of-care analysis. A jury could not reach a determination as to a nurse's responsibility under these circumstances without the benefit of expert opinion as to the appropriate balance between patient autonomy and prescribed treatment. An affidavit of merit was therefore required.

4-20-20 Paul Barila v. Board of Education of Cliffside Park, Bergen County (A-39-18; 081626)

The Court concurs with the Appellate Division that the parties' dispute did not raise a scope-of-negotiations question and that the trial court therefore properly asserted subject matter jurisdiction. However, the Court reverses the Appellate Division's judgment on the vested-rights claim. As the governing contracts made clear, a given teacher's right to sick leave compensation did not vest until that teacher, having served the length of time required by the agreement, retired or otherwise separated from employment with his or her sick leave still unused. When the Board and the Association limited such compensation in their 2015 Agreement for the Association's members, they did not infringe on a vested right. The cases on which the trial court and Appellate Division relied address issues distinct from those involved here and warrant no departure from the unambiguous contractual terms to which the Board and the Association agreed.

4-16-20 Juan Morales-Hurtado v. Abel V. Reinoso (A-5-19; 082293)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in that court's opinion. The Court comments briefly on the Appellate Division's reversal of the trial court's decision to exclude the opinion of Dianne Simmons-Grab and offers guidance for the trial court on remand in its role under N.J.R.E. 702 and N.J.R.E. 703 as the gatekeeper of expert witness testimony.

4-15-20 Antonio Chaparro Nieves v. Office of the Public Defender (A-69-18; 082262)

The TCA applied to Nieves's legal malpractice action, and his claim for loss of liberty damages failed to vault the verbal threshold for a pain and suffering damages claim under the strictures of N.J.S.A. 59:9-2(d). Defendants were entitled to summary judgment

4-14-20 State v. Isaiah Bell (A-58-18; 081743)

The prosecutor did not impermissibly interfere with the grand jury's investigative functions. As the trial court found, the grand jury here sought clarification rather than specific instructions on lesser-included offenses for murder. The Court provides guidance as to when such instructions should be given.

4-1-20 State v. Mark Jackson; State v. Jamie Monroe (A-18/19-19; 083286)

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

3-18-20 State v. Orlando Trinidad (A-65-18; 081881)

The trial court erred by admitting both prejudicial testimony and, separately, lay opinion testimony as to defendant's guilt. Yet, the evidence against Trinidad was overwhelming, and any error was therefore harmless. There was no error in the sentencing of defendant or the denial of his motion for a judgment of acquittal.

3-17-20 In the Matter of Registrant H.D.; In the Matter of Registrant J.M (A-73/74-18; 082254)

Under the plain language of subsection (f), the fifteen-year period during which an eligible registrant must remain offense-free to qualify for registration relief commences upon his or her conviction or release from confinement for the sex offense that gave rise to his or her registration requirement.

3-16-20 Samuel Mejia v. Quest Diagnostics, Inc (A-88-18; 082739)

Third-party defendants are subject to the contribution claims filed against them by joint tortfeasors, unless there exists a right to a dismissal of the claims against them. Here, Fernandez fails to present a meritorious right to dismissal. Fernandez is therefore an active third-party defendant who must participate at trial.

3-11-20 Joseph Kornbleuth, DMD v. Thomas Westover (A-71-18; 081898)

There was no abuse of discretion with respect to either the imposition of sanctions or the denial of reconsideration.

3-10-20 Justin Wild v. Carriage Funeral Holdings, Inc. d/b/a Feeny Funeral Home, LLC (A-91-18; 082836)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in that court's opinion. The Court declines, however, to adopt the Appellate Division's view that "the Compassionate Use Act intended to cause no impact on existing employment rights." See 458 N.J. Super. at 428.

3-9-20 S.T. v. 1515 Broad Street, LLC (A-87-18; 081916)

Before depriving S.T. of the right to control the direction of her case and appointing a guardian to make legal decisions on her behalf, the court was required to conduct a hearing to determine whether she lacked "sufficient capacity to govern [herself] and manage [her] affairs" "by reason of mental illness or intellectual disability." See N.J.S.A. 3B:1-2; N.J.S.A. 3B:12-24; R. 4:86-4. At such a hearing, S.T. had the right to independent counsel. See R. 4:86-4(a)(7). In the absence of a guardianship hearing and a judicial finding by clear and convincing evidence that S.T. lacked the requisite mental capacity to decide how to proceed with her lawsuit, the court had no authority to accept a settlement against S.T.'s wishes.

3-4-20 State v. Jerome Shaw, Jr. (A-59-18; 081652)

Invoking its supervisory authority, the Court holds that if grand juries decline to indict on two prior occasions, the State must obtain advance approval from the Assignment Judge before it can submit the same case to a third grand jury. To decide whether to permit a third presentation, Assignment Judges should consider whether the State has new or additional evidence to present; the strength of the State's evidence; and whether there has been any prosecutorial misconduct in the prior presentations. Based on the circumstances of this case, which did not violate defendant's right to a fundamentally fair grand jury presentation, the Court affirms the judgment of the Appellate Division and declines to dismiss defendant's indictment

2-26-20 Guerline Felix v. Brian V. Richards (A-27-18; 081799)

The deemer statute does not incorporate by reference the basic policy's BI level for insurers, like GEICO, to which the second sentence of N.J.S.A. 17:28-1.4 applies. From the perspective of the insurers' obligation, the required compulsory insurance liability limits remain $15,000/$30,000. As to the equal protection claim, New Jersey insureds are the ones who have a choice to purchase less than the presumptive minimum BI amount. The obligation of in-state insurers to offer and provide that minimum is the same as the obligation imposed under the deemer statute's second sentence on authorized insurers writing an out-of-state policy. The equal protection claim therefore falls flat.

2-5-20 Estate of Mary Van Riper v. Director, Division of Taxation (A-51-18; 082000)

The Court agrees with both the Tax Court and the Appellate Division that the Division properly taxed the entirety of the residence when both life interests were extinguished, and the remainder was transferred to Marita. The property's transfer, in its entirety, took place "at or after" Mary's death, and was appropriately taxed at its full value at that time. In light of the estate-planning mechanism used here, any other holding would introduce an intolerable measure of speculation and uncertainty in an area of law in which clarity, simplicity, and ease of implementation are paramount.

2-3-20 The Plastic Surgery Center, PA v. Malouf Chevrolet-Cadillac, Inc. (A-78/79/80-18; 082502)

The judgment of the Appellate Division is affirmed substantially for the reasons expressed in that court's opinion. As the Appellate Division noted, in the 2012 amendment to N.J.S.A. 34:15-15, the Legislature did not expressly address the statute of limitations. The Legislature is, of course, free to do so in the future.

1-30-20 Paula Melnyk v. Board of Education of the Delsea Regional High School District (A-77-18; 082354)

Tenure is a statutory right controlled by law. The tribunals that concluded petitioner suffered no deprivation of her tenure rights engaged in legal error by labeling the position as "extracurricular" and then short-circuiting the requisite analysis based on that classification. This instructional and tenure-eligible position did not become extracurricular and tenure ineligible simply because petitioner already held tenure in another position. Petitioner met the statutory criteria for tenure and is entitled to a remedy for the violation of her right not to be removed or reduced in salary while protected by tenure for her work in the BookBinders program.

1-29-20 Lisa Balducci v. Brian M. Cige (A-54-18; 081877)

The invalidation of the retainer agreement is supported by sufficient credible evidence in the record. Although the Appellate Division's concerns over the retainer agreement in this case are understandable, the ethical pronouncements issued in its opinion may have far-reaching and negative effects, not only on employment-law attorneys and attorneys handling fee-shifting claims, but also on their clients. Some of those pronouncements appear too broad and some unsound, and others are worthy of the deliberative process by which new ethical rules are promulgated by the Court. The Court addresses those issues under its constitutional authority to regulate the conduct of attorneys in this State, N.J. Const. art. VI, § 2, ¶ 3, and directs that an ad hoc committee be established to address the professional-responsibility issues discussed in this opinion. The Court expresses no ultimate opinion on the matters referred to the committee, which will report its recommendations to the Court.

1-28-20 In re Application for Permit to Carry a Handgun of Calvin Carlstrom (A-63-18; 081981)

The Directive, issued pursuant to the Court's administrative rulemaking authority, requires a hearing and is controlling on this issue. The Court remands this matter to the Law Division to conduct a hearing on Carlstrom's application for a carry-permit and provides guidance as to the scope of that hearing.

1-27-20 State v. Donna M. Alessi (A-41/42-17; 079255)

The circumstances of this case do not legitimize the stop. Law enforcement must have reasonable and articulable suspicion of a traffic violation, the commission of a crime, or unlawful activity before executing a traffic stop. Accordingly, the roadside statement given by defendant during the unlawful stop should have been excluded at trial, and the Court affirms the Appellate Division's reversal of her convictions for hindering apprehension and false reporting. Because defendant's roadside statement permeated the trial, severely affecting her credibility and ability to mount a defense to the separate burglary charge, that conviction is reversed as well.

1-23-20 Baldwin Shields v. Ramslee Motors (A-53-18; 081969)

Ramslee Motors's lease agreement directly addressed responsibility for maintenance of the property, which includes removal of snow and ice. That duty rested solely with Ramslee Motors, whether based on the lease or common law. Ramslee Motors retained complete control over the premises where plaintiff fell and was exclusively responsible for plaintiff's injuries. The Court declines to hold the landlord responsible for property over which it had relinquished control.

1-22-20 State v. Roger Covil (A-35/36-18; 081267)

The new rule stated in Cain and Simms was intended to apply prospectively to guide future trials, not retroactively to proceedings conducted prior to those decisions. At the time of defendant's trial, the governing law authorized the use of hypothetical questions such as the questions posed to the State's experts in this case. And in light of the distinctions between Melendez and the present case, there was no error in the trial court's admission of defendant's notice of motion for a writ of replevin and certification.

1-21-20 In the Matter of the Investigation of Burglary and Theft (A-61-18; 082243)

In light of the federal and state requirements to obtain a follow-up sample, the State has shown that the physical characteristics sought in this case cannot practicably be obtained by any means other than investigative detention pursuant to Rule 3:5A-1. The Court therefore reverses the judgment of the Appellate Division.

1-16-20 Bernice Pisack v. B&C Towing, Inc.; Eptisam Pellegrino v. Nick's Towing Service, Inc.; Christopher Walker v. All Points Automotive & Towing, Inc. (A-17/18-18; 081492)

The 2018 legislation amending the Towing Act does not have retroactive effect, and the Court agrees with the Appellate Division's construction of the pre-2018 Act. The Court affirms the Appellate Division's thorough and thoughtful decision as to exhaustion of administrative remedies, derivative immunity, and the remand as to the Towing Act and CFA claims, all substantially for the reasons expressed in Judge Gilson's opinion. The Court separately addresses whether plaintiffs can pursue claims under the TCCWNA and finds that plaintiffs are unable to state a claim under that statute. The Court therefore reverses the judgment of the Appellate Division on that issue but affirms as to all others.

1-15-20 State in the Interest A.A. (A-50-18; 081793)

The actions of the police amounted to the functional equivalent of interrogation. As a result, A.A. should have been advised of his Miranda rights in the presence of his mother. To hold otherwise would turn Presha and the safeguards it envisioned on their head. To address the special concerns presented when a juvenile is brought into custody, police officers should advise juveniles of their Miranda rights in the presence of a parent or guardian before the police question, or a parent speaks with, the juvenile. Officers should then let the parent and child consult in private. That approach would afford parents a meaningful opportunity to help juveniles understand their rights and decide whether to waive them. Because A.A.'s inadmissible statements comprised a substantial part of the proofs against him, a new hearing is necessary.

1-13-20 State v. Randy K. Manning (A-10-18; 080834)

During the three-year interim period between passage of the amendment to the Wiretap Act in 2010 and the effective date of the Court's Earls decision in 2013, individuals possessed a reasonable expectation of privacy in cell-phone location information cognizable under our State Constitution. As in other contexts, exceptions to the constitutional warrant requirement -- such as consent or exigent circumstances -- apply to securing cell-phone records. Therefore, in 2011, our Constitution required law-enforcement officers to obtain either a warrant or court order for cell-phone location information in accordance with the standards of N.J.S.A. 2A:156A-29 or to satisfy one of the exceptions to the warrant requirement. It also follows that, under Article I, Paragraph 7, the exclusionary rule applies to unconstitutional searches and seizures of cell-phone records. Here, the State did not obtain a warrant or court order and failed to satisfy its burden of proving that exigent circumstances justified the warrantless search, requiring suppression of defendant's cell-phone records.

1-9-20 Moshe Meisels v. Fox Rothschild LLP (A-20/21-18; 081534)

The firm did not breach any fiduciary duty where the firm was not made aware, nor did it have any basis on which it reasonably should have been aware, of plaintiff or of a claim by plaintiff to the funds. As such, there was no relationship between the firm and plaintiff on which a fiduciary duty was owed. On that issue, the Court affirms the judgment of the Appellate Division. However, defendants cannot be found to have engaged in conversion in this matter. Where, as here, a law firm lawfully holds in trust wired funds for its client's real estate transaction, which funds are received with no limiting direction or instruction and for which the firm receives no demand from the non-client, the firm's disposition of the trust funds in accordance with the client's instructions does not give rise to a claim for conversion. The Court rejects the reasoning that under these circumstances the obligation to make a demand is excused and reverses as to the conversion claim.

1-8-20 State v. Luis Melendez (A-22/23-18; 081246)

Under the reasoning of Garrity v. New Jersey, 385 U.S. 493 (1967), a defendant's statements in an answer to a civil forfeiture action cannot be introduced in a parallel criminal proceeding in the State's case in chief. Like the Appellate Division, the Court finds the error was harmless in light of other strong evidence connecting defendant to the apartment. The Court also agrees that criminal defendants who have been served with civil forfeiture complaints are entitled to enhanced notice of certain issues. The Court outlines several points about notice and refers the matter to the Civil and Criminal Practice Committees for further review.

12-11-19 State v. Earnst Williams a/k/a Ernest Williams (A-33-18; 081283)

The Court agrees with the Appellate Division's determination that Rule 404(b) was inapplicable here but finds that defendant's proffered evidence failed to meet the threshold requirement of admissibility: relevancy. It was therefore not admissible.

11-4-19 Brenda Miller v. State-Operated School District of the City of Newark (A-52-18; 081771)

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

10-29-19 In the Matter of Registrant G.H.; In the Matter of Registrant G.A. (A-38-18; 081737)

Like the Appellate Division, the Court finds no statement of legislative intent, express or implied, that subsection (g) should be applied retroactively. Nor does it find that subsection (g) was curative, or that the parties' expectations warranted retroactive application.

10-24-19 Christine Minsavage v. Board of Trustees, Teachers' Pension and Annuity Fund (A-48-18; 081507)

Neither membership nor prior approval of a retirement application is required for modification of a retirement selection where good cause, reasonable grounds, and reasonable diligence are shown. The Court remands this matter for further proceedings to allow petitioner Christine Minsavage the opportunity to argue in favor of modification under that standard.

10-23-19 State v. Shangzhen Huang (A-62-18; 082140)

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

9-23-19 Barbara Orientale v. Darrin L. Jennings (A-43-17; 079953)

The Court brings the use of remittitur and additur in line with basic notions of fair play and equity. When a damages award is deemed a miscarriage of justice requiring the grant of a new trial, then the acceptance of a damages award fixed by the judge must be based on the mutual consent of the parties. Going forward, in those rare instances when a trial judge determines that a damages award is either so grossly excessive or grossly inadequate that the grant of a new damages trial is justified, the judge has the option of setting a remittitur or an additur at an amount that a reasonable jury would award given the evidence in the case. Setting the figure at an amount a reasonable jury would award -- an amount that favors neither side -- is intended to give the competing parties the greatest incentive to reach agreement. If both parties accept the remittitur or additur, then the case is settled; if not, a new trial on damages must proceed before a jury.

9-11-19 Donna Rowe v. Bell & Gossett Company (A-16-18; 081602)

The excerpts from the settling defendants' interrogatory answers and corporate representative depositions were admissible as statements against interest under N.J.R.E. 803(c)(25). Those statements, in combination with other evidence presented at trial, gave rise to a prima facie showing that the settling defendants bore some fault in this matter. The trial court properly submitted to the jury the question of whether a percentage of fault should be apportioned to the settling defendants.