

# SUPREME COURT OF NEW JERSEY

## NOTICE TO THE BAR

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### SUPREME COURT CASES ADDED BETWEEN APRIL 8, 2000 AND SEPTEMBER 5, 2000

**A-106-99 In re: The Distribution of Liquid Assets Upon Dissolution of Union Co. Regional High School Dist. No. 1**

In distributing liquid assets of a dissolving school district among constituent districts, should a greater share go to districts that are not receiving any of the dissolving district's real property? (Certification granted 4/28/00)

**A-107-99 Bieker v. Community House of Moorestown**

Is the defendant organization, which was originally established to provide facilities for use by other religious and charitable organizations, entitled to charitable immunity if it also rents its facilities to profit-making entities that do not qualify for charitable immunity? (Certification granted 4/28/00)

**A-108-99 Schick v. Ferolito** What is the appropriate standard for determining the liability of a golfer whose golf ball strikes and injures another golfer? (certification granted 4/28/00)

**A-109-99 State v. Jesse Timmendequas**

Proportionality review of defendant's death sentence.

**A-111-99 Conestoga Title Insurance Co. v. Premier Title Agency**

Where a title insurer's contract with a corporate title agency requires the agency to obtain a fidelity bond insuring against thefts of the agency's employees, can the insurer proceed against the bond as assignee of the agency's rights where the theft was committed by the agency's sole owner and shareholder? (certification granted 5/2/00)

**A-112-99 State v. Edward Brims**

Were the State's proofs sufficient to establish the crime of possession of a weapon for an unlawful purpose, and were the trial court's instructions on this crime adequate? (certification granted 5/4/00)

**A-113-99 State v. Daron Josephs**

Capital cause. (Notice of appeal filed 5/3/00)

**A-114-99 Caravaggio v. D'Agostini**

Did the discovery rule apply to permit plaintiff to file her medical malpractice action more than two years after her injury under the circumstances presented? (Certification granted 5/19/00)

**A-115-99 State v. Robert Smith** Did the prosecutor's comments during summation suggesting that testimony of defendant's expert witnesses was deceptive and given in exchange for financial gain require a new trial despite the judge's curative instructions? (Certification granted 5/19/00)

**A-116-99 Aden v. Fortsh**

Where a policyholder sues his insurance broker for failing to comply with the policyholder's request to secure adequate coverage, does the policyholder's failure to read the policy provide the broker with a comparative negligence defense? (Certification granted 5/19/00)

**A-117-99 Reuter v. Borough of Fort Lee**

Does N.J.S.A. 40A:14-118, which governs the establishment of police departments, require that an enabling ordinance provide a table of organization listing the specific ranks authorized and the number of positions within each rank, so

that a municipality cannot appoint by resolution an officer to a newly-created position that is not encompassed within the ordinance? (Certification granted 5/19/00)

**A-118-99 State v. Marlon Maryland**

Given the conduct of the police officers in partly blocking the defendant's path and the nature of their questions, must the resulting evidence be suppressed? (Notice of appeal filed 2/4/00)

**A-119-99 McGrogan v. Till**

Where an attorney advises a client to forego cooperating with the authorities in exchange for potential immunity from prosecution and the client is subsequently indicted, convicted and incarcerated, when would any legal malpractice claim accrue and what is the appropriate limitations period? (Certification granted 6/7/00)

**A-120-99 Fink v. Thompson**

Should plaintiff be permitted to reinstate her medical malpractice complaint against this defendant, which complaint was dismissed pursuant to the Affidavit of Merit statute, N.J.S.A. 2A:53A-27? (Leave to appeal granted 6/7/00)

**A-121-99 Pittston Co. v. Sedgwick James of New York**

On certification from the United States Court of Appeals for the Third Circuit pursuant to R. 2:12A-1, how should New Jersey courts decide whether to apply New Jersey's statute of limitations to claims of insurance broker malpractice for omitting pollution coverage from the policy? (Certification granted 6/08/00)

**A-122-99 State v. Joseph Carey**

Did the sentencing court's imposition of concurrent sentences on each of the two counts of death by auto constitute an abuse of discretion? (Certification granted 6/21/00)

**A-123-99 State v. Saul Molina**

Did the sentencing court's imposition of concurrent sentences on each of the two counts of death by auto constitute an abuse of discretion? (Certification granted 6/21/00)

**A-124-99 Mantilla v. NC Mall Associates**

Did the indemnification agreement require the janitorial contractor to indemnify the defendant mall for all of the mall's defense costs notwithstanding the jury's verdict that the mall was 40 percent liable? (Certification granted 6/21/00)

**A-125/126-99 In re: Estate of Lash v. Lopez**

Are attorneys' fees incurred by an estate to recover monies stolen by the estate's administrator chargeable against the fiduciary bond? (Certification granted 6/21/00)

**A-129-99 Neno v. Clinton**

Was it permissible for the police officer to testify as to his opinion on the cause of the accident where he was not qualified as an expert and had not personally witnessed the accident? (Certification granted 7/7/00)

**A-130-99 Nobrega v. Edison Glen Associates**

Does the New Residential Construction Off-Site Conditions Disclosure Act, N.J.S.A. 46:3C-1 to -12, which limits the obligation of residential developers and their agents to disclose adverse off-site conditions to potential purchasers, protect these developer-defendants from liability under the Consumer Fraud Act? (Certification granted 6/28/00)

**A-131-99 State v. Sherron Rolex**

Did the Prosecutor's agreement to waive the mandatory minimum term for this drug offense provided that defendant appeared at all future proceedings violate this Court's ruling in State v. Brimage, 153 N.J. 1 (1998), which required that guidelines for waiving the mandatory minimum term must be consistent throughout the State? (Certification granted 7/7/00)

**A-132-99 State v. Andre Johnson**

Was the Ano-knock warrant@ to search an apartment for drugs valid where the officer asserted only that it was necessary for the officer's safety and to prevent the destruction of evidence? (Certification granted 7/07/00)

**A-133-99 Ponzo v. Pelle**

Where defendant admitted liability for the accident, was it plain error to submit to the jury a single question of whether that liability caused plaintiff's injuries where plaintiff alleged multiple injuries, one or more of which may not have resulted from the accident? (Certification granted 7/07/00)

**A-134-99 Packard-Bamburger, Inc. v. Collier**

What remedies should be furnished to a corporate client whose attorney misappropriated an opportunity that deprived the corporation of potential assets where the defendant was an attorney acting as both counsel to the corporation and a director, and what is required to prove damages? (Certification granted 7/07/00)

**A-135-99 Baures v. Lewis**

Should plaintiff be permitted to relocate with her son from New Jersey to Wisconsin in light of the child's special needs and the child's relationship with the father, who resides and works in New Jersey? (Certification granted 7/7/00)

**A-136/137-99 Trantino v. N.J. State Parole Board**

Was the Parole Board's decision denying parole to plaintiff supported by substantial credible evidence? (Certification granted 7/6/00)

**A-138-99 Pheasant Bridge Corp. v. Twp. Of Warren**

Did an ordinance that rezoned plaintiff's property constitute a taking, irrespective of the economic impact, if the ordinance did not substantially advance a legitimate State interest? (Certification granted 7/17/00)

**A-139/140/147-99 IMO PSE&G Co.'s Rate Unbundling, Stranded Costs, and Restructuring Filings**

Did the Board of Public Utilities violate the procedural due process rights of interested parties in considering PSE&G's various applications under the Energy and Electric Competition Act of 1999, N.J.S.A. 48:3-49 to -98? Were the Board of Public Utilities' approvals of PSE&G's plans consistent with and authorized by the Act? (Certification granted 6/14/00)

**A-141-99 Fox v. Kings Grant Maintenance**

Were condominium owners deprived of fundamental rights by a municipal planning board's resolution that irrevocably delegated to a professional maintenance association the management of commonly-owned condominium property? Was the resolution invalid because it conflicted with the Condominium Act and was not authorized by the Land Use Law? (Certification granted 7/17/00)

**A-142-99 IMO Registrant J.M.**

In determining the Risk Assessment Scale score for a registrant pursuant to Megan's Law, how should the courts evaluate prior offenses for non-Megan's Law offenses? (Certification granted 7/17/00)

**A-143/144-99 Ramapo Brae Condominium v. Berge**

Is a public housing authority entitled to immunity when it acts as a general contractor in developing and constructing housing and as Managing Agent for the Condominium Association? In these circumstances, can a public housing authority be liable for contract claims based on breach of implied warranty? (Certification granted 7/17/00)

**A-145-99 Perriera v. Rediger**

Did the collateral source rule, N.J.S.A. 2A:15-97, abolish a health insurer's right to subrogation/reimbursement against a tortfeasor? (Certification granted 7/17/00)

**A-146-99 Allen v. Fauver**

Pursuant to the Contractual Liability Act, has the State waived its immunity from suit so that Department of Corrections' employees can assert wage claims pursuant to the federal Fair Labor Standards Act and, if so, did the employees satisfy the required notice provisions? Is the State an employer pursuant to New Jersey's Wage and Hour Law? (Certification granted 7/17/00)

**A-148-99 Sgro v. Ross**

In this medial malpractice action alleging lack of informed consent because the patient was not advised of alternative treatment, was the trial court required to instruct the jury to sequentially decide whether the alternative treatment was reasonably available, whether plaintiff was properly informed of the alternative treatment and associated risks, and whether the plaintiff would have chosen the treatment utilized in light of the alternative? (Certification granted 8/11/00)

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