

**PUBLISHED CIVIL OPINION SUMMARIES**  
**October, 2019 – September, 2020**

***SUPREME COURT***

**Christine Minsavage vs. Board of Trustees, Teachers’ Pension and Annuity Fund (081507) (Statewide)** (A-48-18; 081507) October 24, 2019

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.

**Brenda Miller vs. State-Operated School District of the City of Newark (081771) (Statewide)** (A-52-18; 081771) November 4, 2019

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

**Paula Melnyk vs. Board of Education of the Delsea Regional High School District (082354) (Statewide)** (A-77-18; 082354) January 30, 2020

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.

**Moshe Meisels vs. Fox Rothschild LLP (081534) (Mercer County and Statewide)** (A-20/21-18; 081534) January 9, 2020

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.

**Bernice Pisack vs. B & C Towing, Inc.; Eptisam Pellegrino vs. Nick's Towing Service, Inc.; Christopher Walker vs. All Points Automotive & Towing, Inc. (081492) (Bergen and Middlesex Counties and Statewide)** (A-17/18-18; 081492) January 16, 2020

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.

**Baldwin Shields vs. Ramslee Motors (081969) (Essex County and Statewide)** (A-53-18; 081969) January 23, 2020

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.

**Lisa Balducci vs. Brian M. Cige (081877) (Somerset County and Statewide)** (A-54-18; 081877) January 29, 2020

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.

**The Plastic Surgery Center, PA vs. Malouf Chevrolet-Cadillac, Inc. (082502) (Statewide)** (A-78/79/80-18; 082354) February 3, 2020

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.

**New Jersey Land Title Association vs. Dana Rone (082620) (Hudson County and Statewide)** (A-82-18 ; 082354) February 4, 2020

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