

# THE NJSBA DOCKET

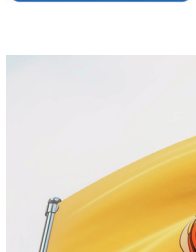
December 26, 2025



## Hello friends,

Welcome to the latest issue of *The NJSBA Docket*, a monthly bulletin with news from the legal community and Association highlights.

Be sure to check out the [calendar](#) for our lineup of educational offerings and networking opportunities. Here's a primer of what we have in store for the coming weeks, as well as the latest court notices from the Judiciary:



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## Supreme Court and Appellate Decisions—December 2025

### New Jersey Supreme Court

#### Commercial Contract

[Extech Building Materials, Inc. v. E&N Construction, Inc. \(Bergen County and Statewide\)](#)—The Court

considered whether a single signature in a single agreement in which the signer binds a company as the principal debtor can simultaneously bind the signer in their personal capacity as guarantor. The Court held that valid personal guaranty of a company's indebtedness requires the signer to unambiguously manifest their intent to be personally bound.

#### Warrant Requirement During an Active Fire

[A-1-25 State v. Paul J. Caneiro \(Monmouth County and Statewide\)](#)—The Court held that—under the totality of the circumstances in this case—the police acted in an objectively reasonable manner to meet an exigency that did not permit time to secure a warrant. No bright-line rule governs the question of exigency, and determining whether the exigency exception to the warrant requirement applies requires courts to conduct an objective, fact-sensitive analysis, the Court held.

#### School District Withdrawal

[In the Matter of the Verified Petition for the Proposed Creation of a PK-12 All-Purpose Regional School District \(Statewide\)](#)—The Court considered whether the Borough of Sea Bright can withdraw from the two school districts currently serving its public school students and join an all-purpose regional school district pursuant to N.J.S.A. 18A:13-47.11(a). The Court held that—based on the plain language of the relevant statutes—a municipality in Sea Bright's position is a governing body authorized to pursue withdrawal from a school district to form or enlarge a regional school district pursuant to N.J.S.A. 18A:13-47.11. Accordingly, Sea Bright may seek approval of its proposed withdrawal, the Court held.

#### Teacher Discipline

[In the Matter of the Certificates of Nicholas Cilento, State Board of Examiners, New Jersey Department of Education](#)—The Court considered whether the imposition of additional discipline by the New Jersey State Board of Examiners and the Commissioner of Education—beyond the disciplinary suspension imposed by an arbitrator based on tenure charges—violated principles of privity, comity, and due process, or the doctrines of res judicata and collateral estoppel. The Woodbridge Township Board of Education brought tenure charges against the petitioner Nicholas Cilento, a special education teacher, for consuming alcohol on school grounds. The Court upheld the decision to suspend Cilento's teaching certificate for two years.

#### COVID-19 Death

[Giuseppe Amato v. Township of Ocean School District](#)—The Court considered whether a teacher was an essential employee entitled to a rebuttable presumption that her contraction of COVID-19 was work-related and fully compensable for purposes of workers' compensation benefits. The Appellate Division had affirmed that "teachers were deemed essential employees through the Governor's delegation of the responsibility to protect the public to OEM, and OEM's adoption of CISA's list of essential employees, which included teachers." The Court upheld the Appellate Division.

### New Jersey Appellate Division

#### Cyber-Harassment

[A.C. vs. R.S. \(Middlesex County and Statewide\)](#)—The Appellate Division held that the Legislature did not intend to exclude text messages as a form of online communications under the Victim's Assistance and Survivor Protection Act (VASPA). The case stemmed from allegations of cyber-harassment via text and whether the messages qualified as "communication in an online capacity" as defined under VASPA.

#### Stack Amendment

[Fairkings Partners, LLC, etc. vs. Essence L. Daniels \(Essex County and Statewide\)](#)—Effective March 1, 2020, the Legislature amended the Fair Eviction Notice Act to allow tenants who are about to be evicted for non-payment of rent, "to submit a rent payment," and thereby avoid eviction, also known as the "Stack Amendment." This appeal presented the issue of whether the rent payment must be in the amount set forth in the judgment of possession or the amount of rent due at the time the tenant makes the payment. The Appellate Division interpreted the Stack Amendment to allow the tenant to pay the amount set forth in the judgement, because the judgment is the judicial determination that allows a landlord to evict a tenant under the Anti-Eviction Act.

## Cell Tower Data Search and Seizure

[State of New Jersey vs. Phillip D. Bryant and James Hunter \(Middlesex County and Statewide\)](#)—

In an issue of first impression in New Jersey, the Appellate Division held that governmental requests for all data from cell towers, referred to as "tower dump" searches, require a warrant and the warrant must be particularized and supported by probable cause. The Appellate Division also held that at the appropriate time the state must delete, and cannot retain, information it obtains concerning third-party users who were not involved in the crimes being investigated.

## Medical Malpractice

[Ira Weissman vs. Sean Li, M.D., et al. \(L-4708-21, Middlesex County and Statewide\)](#)—The case arose out of a spinal surgery, the motion judge excluded the opinions of the plaintiff's liability expert, a board-certified anesthesiologist and pain management specialist, on issues of medical causation. The trial judge barred the expert from opining on causation issues for two reasons, one being that at his discovery deposition, the expert agreed with the defense counsel's question that he would "defer to a neurologist" on whether the surgery caused the plaintiff to experience symptoms of pain in his leg and foot. The Appellate Division declined to adopt a per se rule that would treat a testifying expert's acknowledgment to "defer" to another expert who has a different or overlapping specialty as a categorical admission that the testifying expert lacks the qualifications to render opinions about the subject. Instead, the context of the "deferral" must be evaluated on a case-by-case basis.

## Toxicology Testimony

[State of New Jersey v. K.W. \(Middlesex County and Statewide\)](#)—Following a jury trial, K.W. was convicted of second-degree sexual assault and fourth-degree criminal sexual contact, with the state alleging the victim was under the influence of ketamine and other substances based on toxicology testing. Because the original toxicologist was unavailable, the state presented the toxicologist's supervisor, who independently reviewed the data and testified under *State v. Michaels*, which permits substitute expert testimony based on machine-generated data without violating confrontation rights. On appeal, K.W. argued that the testimony violated the Confrontation Clauses of the U.S. and New Jersey Constitutions in light of the U.S. Supreme Court's later decision in *Smith v. Arizona*, which he claimed overruled *Michaels*. The Appellate Division affirmed, holding that the confrontation argument was waived, that *Michaels* remains valid after *Smith* and that testimony based on independent analysis of machine-generated data does not violate the Confrontation Clause.

## Official Misconduct

[State of New Jersey vs. Anthony L. Gibson \(Essex County and Statewide\)](#)—A jury convicted the defendant, a Newark police officer, of theft by unlawful taking and official misconduct after he worked a second job as a hospital security guard for seven months while on paid administrative sick leave, in violation of department policy. On appeal, the Appellate Division vacated the official misconduct conviction, holding there was insufficient evidence under N.J.S.A. 2C:30-2(a) that receiving sick pay in violation of leave policies constituted an unauthorized exercise of official functions, and declined to address potential liability under subsection (b). The Appellate Division affirmed the theft conviction, rejected the defendant's remaining arguments and remanded for resentencing and other specified proceedings.

## U.S. Court of Appeals for the Third Circuit

### Alina Habba Appointment

[USA v. Julien Giraud, Jr.](#)—The Third Circuit held that Alina Habba was unlawfully serving as Acting U.S. Attorney for New Jersey. The appeal arose from defendants in two criminal cases who moved to dismiss their indictments and disqualify Habba from participating in their prosecutions.

## College Athlete Eligibility

[Jett Elad v. NCAA](#)—A case involving the JUCO Rule for college sports in the wake of the U.S. Supreme Court decision in *NCAA v. Alston*. The plaintiff, a Rutgers University football player, argued that the JUCO Rule unreasonably restrains the college football athlete labor market in violation of Section 1 of the Sherman Act.

## Arbitration Waiver

[Dawn Valli v. Avis Budget Group Inc.](#)—The appeal presented a narrow question: did Avis Budget Group, Inc. waive, through conduct in litigation, its contractual right to compel arbitration of putative class members' claims? The District Court held that it did. The Third Circuit disagreed. Avis's actions and inaction at times did not evince a preference for litigation over arbitration, the Third Circuit held. The appeals court vacated the District Court's order denying Avis's motion to compel arbitration and remanded for the District Court to address enforceability questions it did not reach when denying the motion.



## Top News Stories for December

Catch up on the top Daily Briefing articles of the month.

### Trump's Former Lawyer Alina Habba Resigns as Top Federal Prosecutor in New Jersey

President Donald Trump's former personal attorney, [Alina Habba](#), resigned as the top federal prosecutor for New Jersey, leaving the job after an appeals court said she had been serving in the post unlawfully.

### New Jersey Judicial Vacancies Set to Fall to Lowest Level in Years

A Senate panel advanced more than a dozen [judicial nominees](#) that could bring court vacancies to their lowest levels in years after confirmation votes that are planned to go before the full chamber. If confirmed, the 13 would-be Superior Court judges, plus the one jurist confirmed during the Senate's voting session, would drop vacancies on New Jersey's bench to 30, a level top court officials have said is sustainable for the Judiciary.

### Sherrill Nominates Davenport as State's Next Attorney General

Gov.-elect Mikie Sherrill has nominated [Jennifer L. Davenport](#) to become the 63rd Attorney General of New Jersey. Davenport, the former First Assistant Attorney General, is currently the senior director of compliance for PSEG.

### Vigilante Lawyers Expose the Rising Tide of AI Slop in Court Filings

Robert Freund is part of a growing [network of lawyers](#) who track down artificial intelligence abuses committed by their peers, collecting the most egregious examples and posting them online. The group hopes that by tracking down the AI slop, it can help draw attention to the problem and put an end to it.

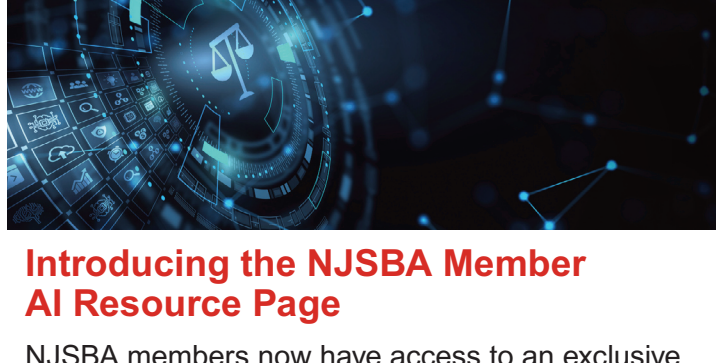
### U.S. Supreme Court Poised to Side with Anti-Abortion Pregnancy Centers in New Jersey Case

U.S. Supreme Court justices appeared poised to side with the operator of Christian faith-based anti-abortion "crisis pregnancy centers" in New Jersey in a dispute stemming from the state attorney general's investigation into whether these facilities engage in deceptive practices.



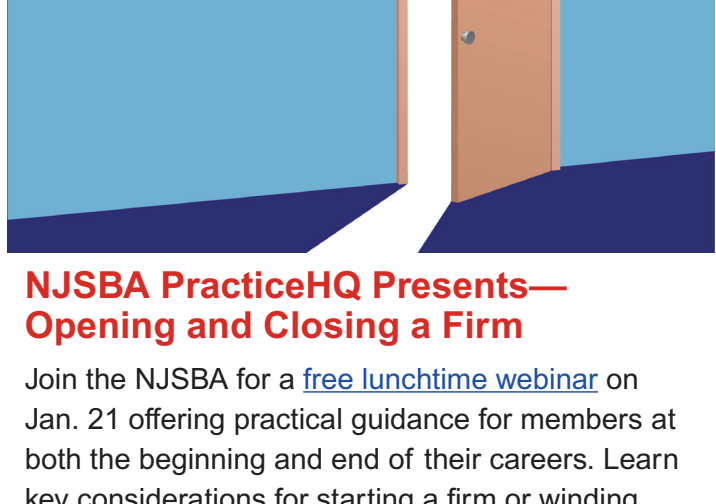
## News and Notices from the Courts—December 2025

- The Judiciary set forth the process for addressing [Non-Dissolution filings](#) when there is a co-occurring Children in Court case or an allegation of child abuse or neglect discovered during the intake process.
- The Judiciary cautioned that attorney business phone numbers and emails may have been exposed in a [cyberattack on CodeRED](#), the Judiciary's emergency notifications system for robocalls and mass emails. To avoid the potential for anyone to impersonate Judiciary notifications, the Judiciary is suspending robocall reminders about attorney registration.
- The state Supreme Court is seeking comments on an application for [multicounty litigation](#) involving Daniel's Law compliance matters. The deadline for comments is Jan. 4, 2026.
- The Judiciary announced the [rescission](#) of Administrative Directive #03-20 related to the adult drug court program.



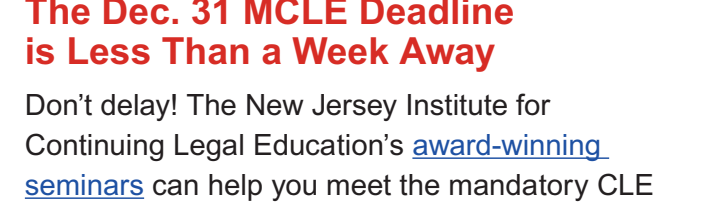
## Introducing the NJSBA Member AI Resource Page

NJSBA members now have access to an exclusive resource page designed to support all their AI needs. This dedicated hub provides an easy sign-in for current Lexis+ AI subscribers and a comprehensive suite of AI materials, including thought leadership articles, video content and both live and archived webinars. New Lexis+ AI subscribers can receive an exclusive 15% discount through the resource. Access this new member benefit [here](#).



## NJSBA PracticeHQ Presents—Opening and Closing a Firm

Join the NJSBA for a [free lunchtime webinar](#) on Jan. 21 offering practical guidance for members at both the beginning and end of their careers. Learn key considerations for starting a firm or winding down a practice, including accounting, marketing and file management.



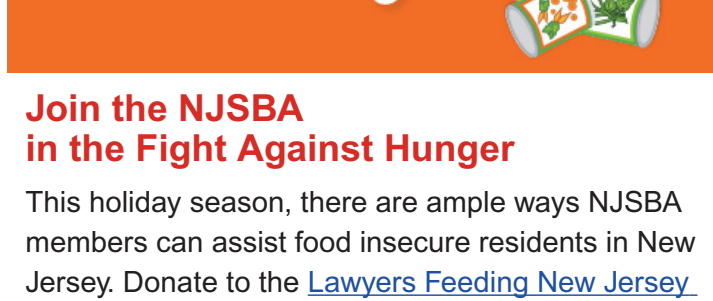
## The Dec. 31 MCLE Deadline is Less Than a Week Away

Don't delay! The New Jersey Institute for Continuing Legal Education's [award-winning seminars](#) can help you meet the mandatory CLE requirement deadline with live seminars scheduled through the end of the year, as well as webcasts, webinars and on-demand programs.



## Join Hundreds of Family Law Practitioners at Annual Symposium

The NJSBA's annual [Family Law Symposium](#) on Jan. 23–24 is the premier event for family law attorneys and related professionals. Register today to hear thought-provoking and insightful presentations from many of the state's leading lawyers and judges, and network with colleagues.



## Join the NJSBA in the Fight Against Hunger

This holiday season, there are ample ways NJSBA members can assist food insecure residents in New Jersey. Donate to the [Lawyers Feeding New Jersey campaign](#), with proceeds benefiting Community FoodBank of New Jersey. [Danny's Pantry](#) at the federal courthouse in Newark also invites volunteers, donations or support for the pantry's wish list. Together, we can make a meaningful difference for families in need.

Whether you are a law student just starting out, a mid-career professional looking to reinvigorate your practice, or an experienced practitioner, the NJSBA has something for you. Join a powerful network of 16,000 legal professionals today. [Learn more here.](#)