

THE NJSBA DOCKET



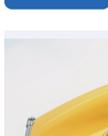
March 27, 2026



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—March 2026

U.S. Court of Appeals for the Third Circuit

Employment—Discrimination

[Christopher Massey v. Borough of Bergenfield](#)—

The plaintiff Christopher Massey is a white male who served for decades in the Borough of Bergenfield's Police Department. He rose to the rank of deputy chief and was acting as the department's officer in charge in mid-2019. Around that time, the borough denied the plaintiff a promotion to the chief position in favor of Mustafa Rabboh, an Arab-Muslim male with the rank of captain. In response, the plaintiff brought discrimination claims under state and federal law against Bergenfield and the five members of Bergenfield's Council who voted for Rabboh. Following discovery, the District Court granted the defendants' summary judgment motion in its entirety. The Third Circuit found genuine disputes concerning material facts that arise from the plaintiff's direct and circumstantial evidence of discrimination. The defendants conceded in their summary judgment motion that they "considered Rabboh's race" when deciding on the promotion. The plaintiff testified that Bergenfield's borough administrator told him the decision was "all about race." Based on this evidence, and more, the plaintiff was entitled to a trial. Accordingly, the Third Circuit reversed in part, affirmed in part, and remanded for further proceedings.

Employment—Pension Fund

[RTI Restoration Technologies Inc v. International Painters and Allied Trades Industry](#)—

The International Painters and Allied Trades Industry Pension Fund, a multi-employer pension plan fund, sought to collect "withdrawal liability" from Industrial Maintenance Industries LLC and RTI Restoration Technologies, Inc. as successors to a defunct contributing employer under the Multiemployer Pension Plan Amendments Act of 1980 (MPPAA). The companies responded by seeking a declaratory judgment in federal court that they were neither directly liable to the fund nor liable under any successor theory. The companies also urged that even if liable, the fund's failure to demand payment promptly resulted in prejudice such that the fund's claim was barred by the doctrine of laches. Although the District Court concluded that genuine issues of material fact precluded summary judgment as to liability, it nevertheless granted judgment to the companies because the fund's failure to act "[a]s soon as practicable" in notifying the companies of the withdrawal liability doomed its claim under the MPPAA. This result, the District Court reasoned, was consistent with the Third Circuit's opinion in *Allied Painting and Decorating, Inc. v. Int'l Painters and Allied Trades Indus. Pension Fund*, 107 F.4th 190 (3d Cir. 2024). The fund asked the Third Circuit to vacate the District Court's order and urged that the issue of whether the fund could state a cause of action given the Fund's failure to comply with the MPPAA's "as soon as practicable" requirement was waived. It contended that, under the scheme of the MPPAA, the issue should have been, and can only be, determined by an arbitrator. As the issue was never submitted to arbitration, the fund reasoned, and the time for seeking arbitration has passed, the Companies have waived the issue. The District Court thus had no authority to resolve the case on that ground, the fund argues. The Third Circuit disagreed and affirmed the District Court.

New Jersey Supreme Court

Immigration—Undocumented Worker Compensation

[Sergio Lopez v. Marmic LLC \(Essex County and Statewide\)](#)—

The Supreme Court considered whether the Federal Immigration Reform and Control Act of 1986, which bars employers from hiring and continuing to employ undocumented individuals who are not lawfully admitted or authorized to work in the United States, conflicts with state wage and hour laws that require employers to pay minimum wages and overtime to employees. The Court held that federal and state law do not conflict in this regard: if an employer hires an undocumented worker in violation of federal law, the employer is required to compensate the person in a manner consistent with state law for work they actually perform. Here, neither the plaintiff's immigration status nor the barter arrangement with his employer provided grounds to deny his wage claim for work already performed. The Court provided guidance about an employer's record-keeping burden and about how to assess the admissibility of evidence of an invalid Social Security number in wage and hour cases.

Environmental—Pierhead Lines on New Jersey Islands

[In the Matter of P.T. Jibsail Family Limited Partnership Tidelands License Number 1515-06-0012.1 TDI 190001 \(Statewide\)](#)—

The Supreme Court considered whether, under the Tidelands Act, the Tidelands Resource Council (TRC) must establish pierhead lines around all New Jersey islands prospectively, or whether the council can set or modify a pierhead line in the context of reviewing an application for a tidelands license. The Court held that the TRC did not exceed its statutory authority in granting Jibsail's 2017 or 2022 tidelands licenses because the plain language of the Tidelands Act authorizes the TRC to set or modify a pierhead line in the context of reviewing an application for a specific tidelands license, rather than requiring the TRC to establish pierhead lines around all New Jersey islands uniformly in advance.

Criminal—Parole

[Horace Cowan v. New Jersey State Parole Board \(Statewide\)](#)—

The Supreme Court considered whether, after denying Horace Cowan parole, the state Parole Board acted in an arbitrary, capricious, or unreasonable manner in setting a future eligibility term—the period of time an inmate must remain incarcerated before being considered for parole again—of 200 months when, under N.J.A.C. 10A:71-3.21(a)(1), Cowan's presumptive eligibility term was 27 months. The Court held that the 200-month term was arbitrary, capricious, and unreasonable. Adopting an analysis similar to the Appellate Division's analysis in *Berta v. State Parole Board*, 473 N.J. Super. 284 (App. Div. 2022), the Court held that, to impose an extended future eligibility term beyond the presumptive term, the Parole Board must (1) overcome the presumption by explaining why the presumptive term is clearly inappropriate and (2) explain why the extended term that the Board imposed is necessary and appropriate. Any extended future eligibility term imposed should be no longer than needed to address the likelihood of recidivism, which is the primary concern of the applicable statute and regulations, the Court held.

Civil—Child Victims Act

[Ormond Simpkins, Jr. v. South Orange-Maplewood School District \(Essex County and Statewide\)](#)—

The Supreme Court held that N.J.S.A. 59:2-1.3(a)(1) does not categorically bar the imposition of vicarious liability on a public entity for acts of sexual abuse outside the scope of a teacher's employment, and the plaintiffs' vicarious liability claims should not have been dismissed at the pleading stage. The Court adopted a standard for the determination of vicarious liability claims asserted against public schools pursuant to the statute. As to the second issue, a public school does not bear a fiduciary duty to a student, the Court held.

New Jersey Appellate Division

Civil—Medical Malpractice

[L.G.-P and R.P., etc. vs. Riverview Medical Center, et al. \(Monmouth County and Statewide\)](#)—

The case arose from an infant who presented at birth with jaundice. The infant's attending pediatrician, who was selected by the parents, was not employed by the hospital, but had clinical privileges to practice there. At the time of the jaundiced infant's discharge, the pediatrician orally advised the parents they could safely place the child at home in indirect sunlight. That advice indisputably conflicted with then-existing national standards of pediatric care and the hospital's own internal discharge policy. The parents took the infant home, but the child's jaundice worsened. Three days later, the parents returned the infant to a different hospital, where it was discovered that the baby had sustained brain damage and cerebral palsy. The parents sued the attending pediatrician, the hospital, and the chair of the hospital's department of pediatrics for medical malpractice. The trial judge granted summary judgment to the co-defendants, finding the hospital department chair had no notice of the attending physician's divergent discharge practices and that imposing liability in these circumstances would violate case law prohibitions on "captain of the ship" theories of liability. The Appellate Division affirmed the dismissal of the claims against the department chair and hospital. Although the Appellate Division did not agree that the "captain of the ship" prohibition barred the plaintiffs' supervisory liability claims, summary judgment was proper because the plaintiffs' expert failed to delineate with reasonable specificity the standards of care for supervisory liability that the department chair and the hospital allegedly breached, the panel held.

Civil—Nursing Home Negligence

[Joseph J. Emmons, III, etc. vs. Elmwood Hills Healthcare Center, LLC \(Camden County and Statewide\)](#)—

In this nursing home negligence case, a jury awarded the plaintiff, Joseph J. Emmons, III, administrator of the Estate of Joseph J. Emmons, Jr., \$100,000 based on a common law negligence claim and wrongful death. The jury found the plaintiff established liability under the New Jersey Nursing Home Responsibilities and Rights of Residents Act (NHA), but failed to prove proximate cause or damages under the NHA. The plaintiff sought counsel fees as a prevailing party under the NHA. The Appellate Division held that the plaintiff is not a prevailing party under the NHA because he failed to prove proximate cause and damages under the NHA. Proving an NHA violation alone is not enough. The panel affirmed the trial court's denial of counsel fees and costs under the NHA.

Criminal—Weapons Possession

[State of New Jersey vs. Jahmere Glover \(Hudson County and Statewide\)](#)—

The defendant Jahmere Glover was indicted for three crimes: second-degree possession of a weapon for an unlawful purpose, second-degree unlawful possession of a handgun without a permit and fourth-degree possession of a handgun while under the age of 21. The defendant moved to dismiss counts two and three, contending that those charges violated his right to bear arms under the Second and 14th Amendments. The trial court denied the motion as to count two but granted it as to count three. The defendant appealed from the portion of the order denying the dismissal of count two, and the state appealed from the portion of the order dismissing count three. The Appellate Division affirmed the dismissal of count two and reversed the dismissal of count three, holding that the defendant has standing because the lack of a permit is not an element of the charge.

Criminal—Warrants

[State of New Jersey vs. Carlene Harris and Norman A. Thomas 4th](#)—

On leave granted, the Appellate Division was asked to determine whether three allegedly incorrect dates contained in a certification in lieu of oath, submitted pursuant to Rule 1:4-4(b) that rendered the subsequently issued search warrants stale, should have been corrected by the motion court as typographical errors to defeat a motion to suppress evidence, or whether an evidentiary hearing should have taken place to determine whether the dates in the certification were erroneous. The state argues it should be allowed to introduce evidence not presented to the issuing judge to prove the controlled drug buys relied upon in the certification took place in 2023, not 2022. It also contends the errors were so obvious the issuing judge may have assumed the events in fact took place in 2023 and found probable cause to issue the warrants. The panel rejected both arguments and affirmed the suppression of the evidence. It concluded that the issuing judge had no basis to issue the warrants because nothing contained within the four corners of the certification indicated the dates were typographical errors. On its face, the certification did not demonstrate probable cause to search because it was based on stale information. Also, only information presented to the issuing judge may be A-3395-24 3 considered by a reviewing court. The state is barred from introducing extrinsic evidence beyond the four corners of the warrant application.

Land Use—Phased Developments

[Route 440 Developers, LLC vs. Planning Board of the City of Jersey City \(Hudson County and Statewide\)](#)—

In the appeal, the Appellate Division set forth the applicable legal standards in applications for phased developments before a land use board requesting preliminary and final subdivision/site plan approval for property located in an area designated for redevelopment pursuant to N.J.S.A. 40A:12A-1 to -22. The Appellate Division held, in phased development applications, a land use board shall consider whether each phase of the application meets the subdivision and site plan requirements of the municipality's zoning ordinance, as well as the purposes and goals of the redevelopment plan when the property is located in a redevelopment area. The plaintiff Route 440 Developers, LLC, appealed from an order of the Law Division upholding the denial by the Jersey City planning board of its multi-phase, mixed-use development application for property located within the Route 440-Culver Redevelopment Area in Jersey City. The panel affirmed determining the trial court did not err in upholding the board's denial of preliminary and final subdivision relief to the plaintiff for Phase I of its application and dismissing the remaining portions of the application based on the plaintiff's failure to satisfy a major purpose and goal of the plan by providing a lot designation for the rail line right of way independently in phase I, rather than reserving the lot designation for later phases of the development.

News and Notices from the Courts—March 2026

- The state Judiciary issued a [directive](#) updating the Judgment of Guardianship court form, which now includes a new checkbox enabling the court to following a surrender, proof hearing or trial.
- The U.S. Court of Appeals for the Third Circuit invites applications for two bankruptcy judgeship vacancies in the District of New Jersey, one seated in Trenton and one seated in Newark. A bankruptcy judge is appointed to a 14-year term. View the [public notice](#) and application [form](#).
- The state Supreme Court approved [amendments](#) establishing a six-member Attorney Regulatory Board to review reinstatement petitions from suspended attorneys and readmission applications from disbarred attorneys. The amendments also raise disciplinary costs, including administrative fees that have remained unchanged for more than 20 years.
- The Judiciary issued a [directive](#) clarifying whether claims for support and financial maintenance should be filed in the Civil, Family or Probate Parts in accordance with the Termination of Obligation to Pay Child Support Law.
- The Judiciary announced that certain [Superior Court Trust Fund balances](#) will transfer to the state by Sept. 30 pursuant to N.J.S.A. 46:30B-41. All funds that remain on deposit with the Superior Court Trust Fund for a period of 10 years with no activity shall be presumed abandoned and must escheat to the state's Treasury Unclaimed Property Administration.
- The state Office of Attorney Ethics is [seeking applicants](#) to serve as secretary for the District Ethics Committee covering Essex County. The deadline to apply is March 31.



Register for the 2026 NJSBA Annual Meeting and Convention

Don't miss the [premier annual event](#) in the New Jersey legal community. Take part in unparalleled educational and networking opportunities at the 2026 NJSBA Annual Meeting and Convention on May 13–15 at the Borgata Hotel, Casino & Spa in Atlantic City.



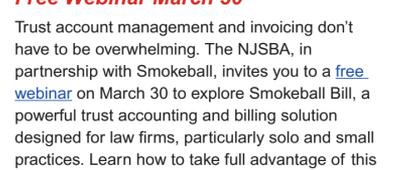
NJSBA Diversity Summit Returns for 2026

The NJSBA [Diversity Summit](#) is a premier educational and networking event exploring power, justice and accountability within the context of longstanding systemic inequities in the legal profession and beyond. This year's program on April 13 will address topics ranging from the state's role in civil rights investigations to practical guidance for navigating power dynamics within law firms, government agencies and corporations. Attendees can earn up to 5.7 CLE credits.



The Member Assistance Program Presents: Stress Management—The Importance of Breath

Join a free [virtual session](#) on April 15 exploring practical ways of managing stress with a particular focus on the importance of breath. Participants will learn several different breathing techniques that can significantly create wellbeing in body, mind and spirit. The [Member Assistance Program](#) is a free member benefit cosponsored by the New Jersey State Bar Foundation and made possible through funding from the IOLTA Fund of the Bar of New Jersey.



Explore Smokeball Bill—Your Exclusive Member Benefit Free Webinar March 30

Trust account management and invoicing don't have to be overwhelming. The NJSBA, in partnership with Smokeball, invites you to a [free webinar](#) on March 30 to explore Smokeball Bill, a powerful trust accounting and billing solution designed for law firms, particularly solo and small practices. Learn how to take full advantage of this exclusive member benefit.



NJSBA Past President Tapped for 2026 Tischler Award

The NJSBA's Family Law Section will present its annual [Saul Tischler Award](#) on April 8 to NJSBA Past President Timothy F. McGoughran for lifelong contributions to advancing the practice and profession.



Top News Stories for March

[Catch up on the top Daily Briefing articles of the month.](#)

Federal Judges, Trump Administration Agree on New US Attorney for NJ

U.S. District Court of New Jersey judges appointed a [new U.S. attorney](#), ending a months-long standoff that threatened to upend federal criminal prosecutions in the state after four interim appointees were found to be unlawfully installed. The judges' appointed Robert Frazer, a longtime prosecutor who most recently served as senior trial counsel in the office's organized crime and gangs unit.

NJ Transit Not Immunized from Out-of-State Lawsuits, U.S. Supreme Court Rules

Out-of-state residents can sue [NJ Transit](#) outside of New Jersey because the corporation is not an arm of the state and does not share in New Jersey's sovereign immunity, the U.S. Supreme Court unanimously held. The agency's ability to sue and be sued marked it out as a separate entity, and New Jersey's lack of responsibility for the corporation's debts undercut one of the major justifications for immunizing public entities from legal liability, the Court said.

Congestion Pricing Wins in Court After Lengthy Battle

A federal judge ruled that the federal government's attempt to end New York's [congestion pricing](#) toll was illegal, handing a major victory to the state in its defense of the first-in-the-nation traffic reduction plan, which the Trump administration had tried for more than a year to kill.

U.S. Supreme Court Appears Poised to Reject Mississippi Law on Late-Arriving Ballots

The U.S. Supreme Court appeared poised to reject Mississippi's [mail-in ballot law](#), a decision that could end mail-in voting throughout the country. The justices appeared divided along partisan lines, with the court's six conservatives expressing deep skepticism with Mississippi's law that allows ballots to be counted if they are postmarked by Election Day but received within five business days afterward. At least 18 other states and territories, including New Jersey, also allow ballots to be counted so long as they are postmarked by Election Day.

Judge Ejects Federal Prosecutor From Court and Orders Bosses to Testify

A federal judge threw a [top prosecutor](#) out of his courtroom during a sentencing hearing this week and demanded that the office's leadership testify about who had authority over their actions. The rapid sequence of events in the courtroom of Judge Zahid N. Quraishi was the latest indication of growing tensions between the Justice Department and the federal judiciary in New Jersey.