186 N.J. 163
Supreme Court of New Jersey.

LIBERTY MUTUAL INSURANCE COMPANY, Plaintiff–Appellant,
v.
Rose LAND and Frank Land, Defendants,
and
Steven Budge, Defendant–Respondent.

Argued Oct. 24, 2005.
|
Decided March 14, 2006.

Synopsis
Background: Homeowners insurer brought action against insureds and public adjuster under Insurance Fraud Prevention Act (IFPA). Insureds and adjuster counterclaimed. The Superior Court, Law Division, entered judgment on jury verdict for insurer. Appeal and cross-appeal were taken. The Superior Court, Appellate Division, reversed and remanded in unpublished opinion. Certification was granted.

[Holding:] The Supreme Court, Zazzali, J., held as a matter of first impression that proper standard of proof is a preponderance of the evidence, rather than clear and convincing evidence, overruling *Harleysville Insurance Co. v. Diamond*, 359 N.J.Super. 34, 818 A.2d 354.

Reversed in part and remanded.

Albin, J., dissented and filed opinion joined by Long, J.

West Headnotes (9)

[1] **Evidence**
Degree of Proof in General
157 Evidence
157XIV Weight and Sufficiency
157k596 Degree of Proof in General
157k596(1) In general
As a general rule, the preponderance of the evidence standard applies in civil actions. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

5 Cases that cite this headnote

[2] **Administrative Law and Procedure**
Weight and sufficiency
15A Administrative Law and Procedure
15AIV Powers and Proceedings of Administrative Agencies, Officers and Agents
15AIV(D) Hearings and Adjudications
15Ak458 Evidence
15Ak462 Weight and sufficiency
A preponderance of the evidence is the usual burden of proof for establishing claims before state agencies in contested administrative adjudications. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

2 Cases that cite this headnote

[3] **Evidence**
Preponderance of Evidence
157 Evidence
157XIV Weight and Sufficiency
157k598 Preponderance of Evidence
157k598(1) In general
Under the "preponderance of evidence standard," a litigant must establish that a desired inference is more probable than not; if the evidence is in equipoise, the burden has not been met. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

25 Cases that cite this headnote

[4] **Evidence**
Degree of Proof in General
157 Evidence
157XIV Weight and Sufficiency
157k596 Degree of Proof in General
157k596(1) In general

The "clear and convincing evidence standard" is a higher standard of proof than proof by a preponderance of the evidence, but a lower standard than proof beyond a reasonable doubt. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

21 Cases that cite this headnote

[5] **Evidence**

Degree of Proof in General

157 Evidence
157XIV Weight and Sufficiency
157k596 Degree of Proof in General
157k596(1) In general

"Clear and convincing evidence" should produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established.

14 Cases that cite this headnote

[6] **Criminal Law**

Reasonable Doubt

Evidence

Degree of Proof in General

110 Criminal Law
110XVII Evidence
110XVII(V) Weight and Sufficiency
110k561 Reasonable Doubt
110k561(1) In general
157 Evidence
157XIV Weight and Sufficiency
157k596 Degree of Proof in General
157k596(1) In general

The highest standard, proof beyond a reasonable doubt, is primarily applied in criminal cases. N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

Cases that cite this headnote

[7] **Insurance**

Fraud or False Swearing

Insurance

Miscellaneous Duties and Liabilities

217 Insurance
217XXVII Claims and Settlement Practices
217XXVII(B) Claim Procedures
217XXVII(B)2 Notice and Proof of Loss
217k3181 Fraud or False Swearing
217k3182 In general
217 Insurance
217XXVIII Miscellaneous Duties and Liabilities
217k3415 In general

Courts must construe Insurance Fraud Prevention Act (IFPA) liberally to accomplish the legislature's broad remedial goals. N.J.S.A. 17:33A–1 et seq.

17 Cases that cite this headnote

[8] **Insurance**

Weight and Sufficiency

Insurance

Actions in general;evidence

217 Insurance
217XXVII Claims and Settlement Practices
217XXVII(B) Claim Procedures
217XXVII(B)2 Notice and Proof of Loss
217k3193 Evidence
217k3198 Weight and Sufficiency
217k3198(1) In general
217 Insurance
217XXVIII Miscellaneous Duties and Liabilities
217k3426 Actions in general;evidence

Proper standard of proof under Insurance Fraud Prevention Act (IFPA) is a preponderance of the evidence, rather than clear and convincing evidence; overruling *Harleysville Insurance Co. v. Diamond,* 359 N.J.Super. 34, 818 A.2d 354. N.J.S.A. 17:33A–1 et seq.; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

10 Cases that cite this headnote

[9] **Insurance**
Weight and Sufficiency
Insurance
Actions in general;evidence
217 Insurance
217XXVII Claims and Settlement Practices
217XXVII(B) Claim Procedures
217XXVII(B)2 Notice and Proof of Loss
217k3193 Evidence
217k3198 Weight and Sufficiency
217k3198(1) In general
217 Insurance
217XXVIII Miscellaneous Duties and Liabilities
217k3426 Actions in general;evidence
The combination of treble damages and attorney fees under Insurance Fraud Prevention Act (IFPA) does not warrant application of clear and convincing evidence, rather than preponderance of evidence, standard. N.J.S.A. 17:33A–1 et seq.; N.J.S.A. 2A:84A, App. A, Rules of Evid., N.J.R.E. 101(b)(1).

24 Cases that cite this headnote

Attorneys and Law Firms

****1241** Mauro C. Casci, Leonardo, argued the cause for appellant (Mr. Casci, attorney; Russell Macnow, Colts Neck, on the brief).

Steven A. Budge, argued the cause for respondent, pro se.

John C. Grady, Deputy Attorney General, argued the cause for amicus curiae Attorney General of New Jersey (Peter C. Harvey, Attorney General, attorney; Patrick DeAlmeida, Assistant Attorney General, of counsel; Mr. Grady and Jeffrey R. Caccese, Deputy Attorney General, on the brief).

Robert B. Hille, Secaucus, argued the cause for amicus curiae New Jersey State Bar Association (Stuart A. Hoberman, President, Woodbridge and Mr. Hille, attorneys; Mr. Hoberman, of counsel; Mr. Hille, Mr. Hoberman, James A. McFaul and Megan M. Roberts, Secaucus, on the brief).

Opinion

Justice ZAZZALI delivered the opinion of the Court.

***165** In this appeal, we must determine the appropriate standard of proof under the Insurance Fraud Prevention Act (IFPA), *N.J.S.A.* 17:33A–1 to –30. In December 2000, a tree fell onto the cabin of defendants Rose and Frank Land. Following the accident, the Lands and co-defendant Steven Budge, who is the Lands' nephew and a licensed public adjuster, submitted a claim of loss to plaintiff Liberty Mutual Insurance Company (Liberty Mutual). Based on evidence suggesting fraudulent activity on the part of defendants, including a videotape depicting Budge and two other men repeatedly slamming a 600–pound portion of the fallen tree against the cabin's roof, Liberty Mutual filed suit against defendants asserting IFPA violations. At the conclusion of trial, a jury ruled ***166** in favor of Liberty Mutual, concluding that it had proven its claims by clear and convincing evidence. Defendants appealed, and Liberty Mutual cross-appealed, asserting that the trial court should have applied a preponderance of the evidence standard. The Appellate Division reversed and remanded for a new trial, finding that Liberty Mutual's counsel committed prejudicial errors. The panel, however, agreed with the trial court that IFPA violations must be proven by clear and convincing evidence.

We granted Liberty Mutual's petition for certification, limiting our review solely to the proper standard of proof. For the reasons set forth below, we hold that the standard of proof under the Insurance Fraud Prevention Act is a preponderance of the evidence.

****1242** I.

Rose Land owns a small cabin at 32 Cohocton Road in Highland Lakes that she and her husband Frank use as a vacation home. At the time that the dispute arose, Liberty Mutual insured the cabin for property damage. On the morning of December 12, 2000, a tree located on the property of Joseph Rizzo, the Lands' next-door neighbor at 30 Cohocton Road, fell onto the roof of the Lands' cabin. After Rizzo personally informed Frank Land of the accident, Land telephoned his nephew, Steven Budge, a licensed public adjuster in the State of New Jersey, to assess the damage and secure the structure. In addition to informing Land, Rizzo also called his insurance company, which sent an agent to inspect the damage later that day. During the inspection, Rizzo and the insurance representative observed that the tree "significant[ly] damage[d]" a portion of the Lands' roof.

Shortly thereafter, Rizzo's wife informed him that she saw Budge and two other men on the top of the cabin "doing some additional damage." "To protect [him]self" against increased damage claims, Rizzo then videotaped Budge and his associates working on the cabin's roof. The videotape depicts the three men taking a portion of the fallen tree, estimated to be about 600 ***167** pounds, and slamming it at least ten times against the roof, creating further damage to the roof and shattering a skylight. The videotape also shows Frank Land on the ground gesturing to Budge and his associates and climbing a ladder to provide a jacket to one of the workers. At trial, Budge explained his conduct on the videotape as "perform[ing] emergency service on the home."

Budge subsequently assisted the Lands in preparing and filing an insurance claim on their behalf with Liberty Mutual for $69,338. In connection with that claim, the Lands and Budge agreed that, if there was a recovery, Budge would receive fifteen percent of the insurance settlement proceeds. At Liberty Mutual's request, the Lands submitted four separate proofs of loss. Each proof of loss was submitted on Budge's letterhead, bore his signature, and included a provision in which the insured swore that there was no attempt to deceive Liberty Mutual. Rose Land and her husband also appeared for an examination under oath as part of the claims process.

Anne Hamtil, Liberty Mutual's insurance adjuster, and Joseph Balinski, a builder employed by the company, inspected the cabin ten days after the incident. Based on that inspection, Balinski prepared a damage estimate for the December 2000 loss, concluding that it would cost only $9,291.23 to make the necessary repairs. At trial, Balinski testified that he had previously prepared a damage estimate in connection with a 1999 insurance claim filed by Rose Land that also involved a tree falling on the cabin. In comparing the two estimates, Balinski found that some of the damage documented in the 1999 claim had not been repaired and was included in the estimate submitted in support of the December 2000 claim. Balinski also stated that, in his opinion, many of the repairs in the 2000 estimate were unnecessary.

Because of the suspect nature of the Lands' claim, Liberty Mutual denied coverage and filed suit against the Lands and Budge, alleging IFPA violations. The Lands counterclaimed against Liberty Mutual seeking to enforce their homeowners' insurance policy claim and asserting that Liberty Mutual acted in ***168** bad faith in denying that claim. Budge also counterclaimed, alleging bad faith on the part of Liberty Mutual. After a six-day trial, the jury returned a verdict in favor of Liberty Mutual, finding that it had proven by clear ****1243** and convincing evidence that all three defendants "knowingly misrepresented, concealed, or failed to disclose any material fact concerning the property loss." The jury further concluded that Budge "intentionally cause [d] or contribute[d] to the loss." The trial court awarded Liberty Mutual treble damages, counsel fees, and investigative costs totaling $82,412.64 and denied Budge's motion for reconsideration.

Defendants appealed, asserting that the trial court committed prejudicial errors during trial. Liberty Mutual cross-appealed, claiming that the trial court erred in charging the jury that an IFPA violation must be proven by clear and convincing evidence.

In an unpublished opinion, the Appellate Division reversed and remanded for a new trial for various reasons, including prejudicial statements made by Liberty Mutual's counsel during summation. The panel also concluded, without analysis, that it was "satisfied that the proper burden of proof [under IFPA] is clear and convincing evidence." We granted certification, limited solely to determining the appropriate standard of proof. 183 *N.J.* 587, 874 *A.*2d 1106 (2005). We also allowed the Attorney General and the New Jersey State Bar Association to participate as amici curiae.

II.

We commence our analysis with a review of the standards of proof at issue in this appeal. We then look to IFPA's plain language, statutory purpose, and penalties to determine whether the Legislature addressed the question. Finally, we examine prior case law addressing the issue.

A.

[1] [2] The New Jersey Rules of Evidence set forth three standards of proof: a preponderance of the evidence, clear and convincing evidence, and proof beyond a reasonable doubt. ***169** *N.J.R.E.* 101(b)(1). As a general rule, the preponderance of the evidence standard applies in civil actions. *State v. Seven Thousand Dollars,* 136 *N.J.* 223, 238, 642 *A.*2d 967 (1994) ("In civil cases, the standard of proof is a preponderance of evidence."); *see also* 2 *McCormick on Evidence* § 339 (Strong ed., 5th ed. 1999) (stating that, except "in certain exceptional controversies," preponderance of evidence standard typically applies in civil cases); 9 *Wigmore on Evidence* § 2498 (3d ed. 1940) (same). A preponderance of the evidence is also "the usual burden of proof for establishing claims before state agencies in contested administrative adjudications." *In re Polk License Revocation,* 90 *N.J.* 550, 560, 449 *A.*2d 7 (1982).

[3] Under the preponderance standard, "a litigant must establish that a desired inference is more probable than not. If the evidence is in equipoise, the burden has not been met." Biunno, *Current N.J. Rules of Evidence,* comment 5a on *N.J.R.E.* 101(b)(1) (2005); *see also McCormick on Evidence, supra,* § 339 ("The most acceptable meaning to be given to the expression, proof by a preponderance, seems to be proof which leads the jury to find that the existence of the contested fact is more probable than its nonexistence."). Application of the preponderance standard reflects a societal judgment that both parties should "share the risk of error in roughly equal fashion." *Addington v. Texas,* 441 *U.S.* 418, 423, 99 *S.Ct.* 1804, 1808, 60 *L.Ed.*2d 323, 329 (1979). The decision to apply any other standard of proof "expresses a preference for one side's interests." *Herman & MacLean v. Huddleston,* 459 *U.S.* 375, 390, 103 *S.Ct.* 683, 691, 74 *L.Ed.*2d 548, 561 (1983).

[4] [5] The second standard, clear and convincing evidence, is a higher standard ****1244** of proof than proof by a preponderance of the evidence but a lower standard than proof beyond a reasonable doubt. *Aiello v. Knoll Golf Club,* 64 *N.J.Super.* 156, 162, 165 *A.*2d 531 (App.Div.1960). The clear and convincing standard "should produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established." *In re* ***170** *Purrazzella,* 134 *N.J.* 228, 240, 633 *A.*2d 507 (1993) (internal quotation marks and citation omitted). Courts have called for clear and convincing evidence in civil cases when more is at stake than loss of money. *See, e.g., Santosky v. Kramer,* 455 *U.S.* 745, 747–48, 102 *S.Ct.* 1388, 1391–92, 71 *L.Ed.*2d 599, 603 (1982) (termination of parental rights); *Addington, supra,* 441 *U.S.* at 433, 99 *S.Ct.* at 1813, 60 *L.Ed.*2d at 335 (involuntary civil commitment to mental hospital); *Woodby v. INS,* 385 *U.S.* 276, 277, 87 *S.Ct.* 483, 484, 17 *L.Ed.*2d 362, 364 (1966) (deportation); *Chaunt v. United States,* 364 *U.S.* 350, 353, 81 *S.Ct.* 147, 149, 5 *L.Ed.*2d 120, 123 (1960) (denaturalization). In such cases, "the threatened loss resulting from civil proceedings is comparable to the consequences of a criminal proceeding in the sense that it takes away liberty or permanently deprives individuals of interests that are clearly fundamental or significant to personal welfare." *Polk, supra,* 90 *N.J.* at 563, 449 *A.*2d 7.

[6] This Court also applies a heightened standard of proof in cases in which evidentiary matters are intrinsically complex or prone to abuse. *See, e.g., Morton v. 4 Orchard Land Trust,* 180 *N.J.* 118, 129–30, 849 *A.*2d 164 (2004) (oral agreements implicating interests in land); *Haynes v. First Nat'l Bank of New Jersey,* 87 *N.J.* 163, 182–83, 432 *A.*2d 890 (1981) (undue influence on testator). Clear and convincing evidence is necessary because those cases "involve circumstances or issues that are so unusual or difficult, that proof by a lower standard will not serve to generate confidence in the ultimate factual determination." *Polk, supra,* 90 *N.J.* at 568, 449 *A.*2d 7. Finally, the highest standard, proof beyond a reasonable doubt, is primarily applied in criminal cases. Biunno, *supra,* comment 7 on *N.J.R.E.* 101(b)(1).

B.

With those considerations in mind, we first examine the plain language of the statute and its legislative history. Because both the language of the statute and its legislative history are silent concerning the applicable standard of proof, we attempt to discern ***171** the Legislature's intent. *Burns v. Belafsky,* 166 *N.J.* 466, 473, 766 *A.*2d 1095 (2001) ("When a statute is silent or ambiguous ... the Court must interpret the statute in light of the Legislature's intent." (internal quotation marks and citation omitted)). To do so, we begin by considering the Legislature's purpose in promulgating the Act. *State v. Tischio,* 107 *N.J.* 504, 511, 527 *A.*2d 388 (1987), *appeal dismissed,* 484 *U.S.* 1038, 108 *S.Ct.* 768, 98 *L.Ed.*2d 855 (1988). We then review the violations and penalties prescribed by the Act to gain further insight into the standard of proof the Legislature intended to apply. *See Merin v. Maglaki,* 126 *N.J.* 430, 435, 599 *A.*2d 1256 (1992) ("The Court fulfills its role by construing a statute in a fashion consistent with the statutory context in which it appears.").[1]

1 The dissent seeks to establish a bright-line rule that this Court must prescribe an evidentiary standard of proof when a statute does not set one forth, rather than seek to discern the Legislature's intent. *Post* at 183–84, 892 A.2d at 1252. We do not disagree that it is the province of this Court to determine the evidentiary standard in this matter. In so doing, however, courts often look to legislative intent. *See, e.g., Grogan v. Garner,* 498 *U.S.* 279, 286, 111 *S.Ct.* 654, 659, 112 *L.Ed.*2d 755, 764 (1991) (beginning inquiry into appropriate standard of proof under 11 *U.S.C.* § 523 by examining legislative intent); *Carlson & Erickson Builders v. Lampert Yards,* 190 *Wis.*2d 650, 529 *N.W.*2d 905, 908 (1995) ("The statute is silent about the burden of proof in antitrust cases.... We must therefore look to other indicia of legislative intent."); *People ex rel. Allstate Ins. Co. v. Muhyeldin,* 112 *Cal.App.*4th 604, 5 *Cal.Rptr.*3d 492, 496 (2003) (discussing legislative intent concerning appropriate standard of proof under California Insurance Frauds Prevention Act, *Cal. Ins.Code* § 1871.7); *Gennari v. Weichert Co. Realtors,* 288 *N.J.Super.* 504, 541, 672 *A.*2d 1190 (App.Div.1996), *aff'd,* 148 *N.J.* 582, 691 *A.*2d 350 (1997) (discussing legislative intent concerning appropriate standard of proof under New Jersey Consumer Fraud Act, *N.J.S.A.* 56:8–1 to –20).

> Our analysis is not limited to an either/or approach. We do not interpret the Legislature's intent in a vacuum without exercising judgment and applying interpretive rules. Nor do we impose our view on the matter without regard to the drafter's design. In that process, we undertake reasonable efforts to determine what the Legislature intended. That is what we have done in this appeal. Accordingly, even though a statute may not speak directly to the issue, canons of construction, common sense, and public policy enable us to determine probable legislative intent.

****1245** The Legislature's stated purpose in enacting IFPA was

> ***172** to confront aggressively the problem of insurance fraud in New Jersey by facilitating the detection of insurance fraud, eliminating the occurrence of such fraud through the development of fraud prevention programs, requiring the restitution of fraudulently obtained insurance benefits, and reducing the amount of premium dollars used to pay fraudulent claims.

[*N.J.S.A.* 17:33A–2.]

As Justice Garibaldi acknowledged in 1992, “[i]nsurance fraud is a problem of massive proportions that currently results in substantial and unnecessary costs to the general public in the form of increased rates.” *Merin, supra,* 126 *N.J.* at 436, 599 *A.*2d 1256. As such, “the Act is a comprehensive statute designed to help remedy high insurance premiums which the Legislature deemed to be a significant problem.” *State v. Sailor,* 355 *N.J.Super.* 315, 319, 810 *A.*2d 564 (App.Div.2001).

To that end, IFPA interdicts a broad range of fraudulent conduct. For example, a “person or practitioner” violates the Act if he or she

> [p]resents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy ... knowing that the statement contains any false or misleading information concerning any fact or thing material to the claim.
>
> [*N.J.S.A.* 17:33A–4(a)(1).]

Other violations of the Act include but are not limited to concealing or knowingly failing to disclose information concerning a person's initial or continued right or entitlement to a benefit, *N.J.S.A.* 17:33A–4(a)(3); presenting any knowingly false or misleading statement in an insurance application, *N.J.S.A.* 17:33A–4(a)(4)(b); or knowingly assisting, conspiring with, or urging any person or practitioner to violate any of the Act's provisions, *N.J.S.A.* 17:33A–4(a)(5)(b).

To deter and punish such violations, the Legislature created a number of enforcement mechanisms and penalties. First, *N.J.S.A.* 17:33A–5a(1) authorizes the Commissioner of the Department of Banking and Insurance to bring a civil action seeking monetary penalties. Those penalties range from “not more than $5,000 for the first violation, $10,000 for the second violation, and $15,000 for each subsequent violation,” plus court costs and reasonable ***173 **1246** attorneys' fees. *N.J.S.A.* 17:33A–5b. Alternatively, IFPA authorizes the Commissioner to levy identical civil administrative penalties. *N.J.S.A.* 17:33A–5c. A party assessed with administrative penalties is entitled to seek a hearing. *N.J.S.A.* 17:33A–5c. After a hearing and upon a finding that a violation occurred, the Commissioner may impose the statutory penalties as well as attorneys' fees and the costs of prosecution. *N.J.S.A.* 17:33A–5c. The Commissioner also may order the payment of restitution to any insurance company or person who has suffered a loss as a result of an IFPA violation. *N.J.S.A.* 17:33A–5c.

The Act further allows any insurance company that has been damaged as a result of a statutory violation to bring a civil action to recover compensatory damages, including reasonable investigation costs and attorneys' fees. *N.J.S.A.* 17:33A–7a. A successful insurance company shall recover treble damages if the court determines that the defendant engaged in a pattern of violations under the Act. *N.J.S.A.* 17:33A–7b. In addition, the Act permits the Commissioner to join in such an action to recover civil penalties. *N.J.S.A.* 17:33A–7d. “If the commissioner prevails, the court may also award court costs and reasonable attorney[s'] fees actually incurred by the commissioner.” *N.J.S.A.* 17:33A–7d. Finally, any person who is found to have committed insurance fraud must pay a $1,000 surcharge. *N.J.S.A.* 17:33A–5.1. And, in the context of automobile insurance fraud—a context not present here, *see* note 4, *infra,* 186 N.J. at 180, 892 *A.*2d at 1250, —a violator of IFPA is subject to a mandatory one-year loss of driving privileges. *N.J.S.A.* 39:6A–15.

[7] In reviewing IFPA's statutory sanctions, this Court has held that “the civil penalties authorized by the Act are remedial in nature,” *Merin, supra,* 126 *N.J.* at 432–33, 599 *A.*2d 1256, and serve to “compensate the State for the costs incurred as a result of investigating and prosecuting insurance fraud,” *id.* at 445, 599 *A.*2d 1256. Consequently, we must construe the Act's provisions liberally to accomplish the Legislature's broad remedial goals. *See, e.g.,* ***174** *Young v. Schering Corp.,* 141 *N.J.* 16, 25, 660 *A.*2d 1153 1995) (“Where the Legislature's intent is remedial, a court should construe a statute liberally.”).

C.

The only reported decision addressing the standard of proof that a litigant must satisfy to establish a violation of IFPA is *Harleysville Insurance Co. v. Diamond,* 359 *N.J.Super.* 34, 818 *A.*2d 354 (Law Div.2002). In that case, the Law Division held that a party seeking relief under the Act must "satisfy the burden of proof by clear and convincing evidence." *Id.* at 40, 818 *A.*2d 354. The court relied almost exclusively on the fact that the clear and convincing standard applies in common law fraud actions. *Id.* at 38–39, 818 *A.*2d 354. Defendants and amicus curiae, the New Jersey State Bar Association, assert that this Court should follow the reasoning espoused in *Harleysville,* claiming that "no material distinctions are noted between IFPA and [common law] fraud." In contrast, Liberty Mutual maintains that *Harleysville* was wrongly decided because common law fraud is distinguishable from statutory fraud. [2]

[2] The author of *Harleysville* has since expressed a different view in two subsequent unpublished opinions, and has concluded, as we do here, that the proper standard of proof under IFPA is a preponderance of the evidence, not clear and convincing evidence.

We agree with Liberty Mutual that the standard of proof for common law fraud ****1247** does not necessarily apply under IFPA. As noted by the United States Supreme Court in *Huddleston, supra,* comparing statutory fraud to common law fraud "can be misleading." 459 *U.S.* at 388, 103 *S.Ct.* at 690, 74 *L.Ed.*2d at 559. In this matter, the Legislature in enacting IFPA did not codify common law fraud but rather supplemented that action because, standing alone, it had proven to be insufficient in combating and deterring insurance fraud. *See* *N.J.S.A.* 17:33A–2 (enacting IFPA "to confront aggressively the problem of insurance fraud in New Jersey"). In furtherance of that purpose, the Act requires plaintiffs alleging IFPA violations to prove fewer elements than required ***175** for common law fraud. Indeed, proof of common law fraud requires the satisfaction of five elements: a material misrepresentation by the defendant of a presently existing fact or past fact; knowledge or belief by the defendant of its falsity; an intent that the plaintiff rely on the statement; reasonable reliance by the plaintiff; and resulting damages to the plaintiff. *Gennari, supra,* 148 *N.J.* at 610, 691 *A.*2d 350.

In contrast, the statutory language of IFPA does not require proof of reliance on a false statement or resultant damages. *See* *Merin, supra,* 126 *N.J.* at 445, 599 *A.*2d 1256 ("Nor do we find decisive the fact that [the defendant] was not successful in securing insurance proceeds. The penalties permitted by the Act are not designed to remedy direct monetary damage to the insurer."); *Sailor, supra,* 355 *N.J.Super.* at 324, 810 *A.*2d 564 (stating that under IFPA "the State is not seeking damages, as in a common law fraud action, but rather is seeking a statutory penalty designed to reduce the incidence of insurance fraud"). Because of those distinctions, we find that the standard of proof applied in a common law fraud case is not dispositive of the standard of proof applicable under IFPA.

III.

[8] Although reference to IFPA's statutory language and prior case law does not resolve the issue, a review of analogous fraud statutes, rules of statutory construction, and related considerations persuade us that the proper standard of proof is a preponderance of the evidence.

A.

For assistance in interpreting the statute in question, we review the standard of proof applied under similar statutes. By referring to similar legislation, "the court not only is able to give effect to the probable intent of the legislature, but also to establish a more uniform and harmonious system of law." Norman J. Singer, 2B ***176** *Sutherland Statutory Construction* § 53:03, at 328–29 (6th ed. 2000).

The closest statutory analogue to IFPA in New Jersey is the Consumer Fraud Act (CFA), *N.J.S.A.*

56:8–1 to –20, which also is remedial legislation that warrants liberal construction. *Lettenmaier v. Lube Connection, Inc.,* 162 *N.J.* 134, 139, 741 *A.*2d 591 (1999). Like IFPA, the CFA provides that "[i]n any action ... the court shall, in addition to any other appropriate legal or equitable relief, award threefold the damages sustained by any person in interest." *N.J.S.A.* 56:8–19. The statute further provides for the award of "reasonable attorneys' fees, filing fees and reasonable costs of suit." *N.J.S.A.* 56:8–19. As we have explained, those provisions serve "to compensate the victim for his or her actual loss; to punish the wrongdoer through the award of treble damages; and by way of the counsel fee provision, to attract competent counsel to counteract the community scourge of fraud." *Lettenmaier, supra,* 162 *N.J.* at 139, 741 *A.*2d 591 (internal citation omitted). In discussing the requisite ****1248** standard of proof under the CFA, the Appellate Division has stated: "We find no indication that the Legislature intended to impose any greater burden of proof [under the CFA] than that usually required in a civil action." *Gennari, supra,* 288 *N.J.Super.* at 541, 672 *A.*2d 1190; *see also Hyland v. Aquarian Age 2,000, Inc.,* 148 *N.J.Super.* 186, 191, 372 *A.*2d 370 (Ch.Div.1977) ("[S]ince [the CFA] is a civil action, preponderance of the evidence, the usual civil standard of proof, should be the applicable standard.").

The federal statutory counterpart to IFPA, the False Claims Act (FCA), 31 *U.S.C.* § 3729(a)(2), similarly requires proof by a preponderance of the evidence. 31 *U.S.C.* § 3731(c). As with IFPA, the FCA provides for civil penalties, and in some cases treble damages, against "any person who knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government." 31 *U.S.C.* § 3729(a)(2). Although the federal courts initially held that the standard in such actions was that of clear and convincing ***177** evidence, *see, e.g., United States v. Ekelman & Associates Inc.,* 532 *F.*2d 545, 548 (6th Cir.1976), Congress overruled that line of cases in 1986 by amending the FCA to require only the preponderance standard, 31 *U.S.C.* § 3731(c). The preponderance standard also applies in civil and administrative proceedings to enforce the anti-fraud provisions of the federal securities laws. *Huddleston, supra,* 459 *U.S.* at 388–90, 103 *S.Ct.* at 691, 74 *L.Ed.*2d at 560 (§ 10(b) of Securities Act of 1934); *Steadman v. SEC,* 450 *U.S.* 91, 102, 101 *S.Ct.* 999, 1008, 67 *L.Ed.*2d 69, 79, *reh. denied,* 451 *U.S.* 933, 101 *S.Ct.* 2008, 68 *L. Ed.*2d 318 (1981) (§ 9(b) of Investment Company Act of 1940); *SEC v. C.M. Joiner Leasing Corp.,* 320 *U.S.* 344, 355, 64 *S.Ct.* 120, 125, 88 *L.Ed.* 88, 95 (1943) (§ 17(a) of Securities Act of 1933).

B.

Additional considerations reinforce our conclusion that application of the preponderance standard is both sensible and fair. Although not fraud statutes, we find it persuasive that the preponderance standard is applied to violations of other statutes in New Jersey that provide for substantial monetary penalties. We routinely require a preponderance of the evidence in civil proceedings in which the Attorney General seeks to enforce the New Jersey Law Against Discrimination, *N.J.S.A.* 10:5–1 to –42, which prescribes penalties ranging from $10,000 to $50,000 for violations of the Act. *See Shepherd v. Hunterdon Developmental Ctr.,* 174 *N.J.* 1, 24, 803 *A.*2d 611 (2002). Our courts also use the preponderance standard in civil proceedings brought by the State to recover a statutory penalty. *See, e.g., Department of Health v. Concrete Specialties, Inc.,* 112 *N.J.Super.* 407, 411, 271 *A.*2d 595 (App.Div.1970).

Moreover, a requirement that IFPA violations must be proven by clear and convincing evidence may lead to inconsistent results. Under our common law, courts have long held that when an insurance company is defending against payment of an insurance claim that it deems to be fraudulent, the company need only prove ***178** the affirmative defenses of arson and that of fraud and false swearing by a preponderance of the evidence. *Italian Fisherman v. Commercial Union Assurance Co.,* 215 *N.J.Super.* 278, 282, 521 *A.*2d 912 (App.Div.), *certif. denied,* 107 *N.J.* 152, 526 *A.*2d 211 (1987). As the Attorney General argues, it is doubtful that the Legislature envisioned that an affirmative defense of fraud would be governed by a preponderance of the evidence but that a counterclaim ****1249** based on the same fraudulent conduct would require a heightened standard of proof. *See* State v. Lewis, 185 *N.J.* 363, 369, 886 *A.*2d 643 (2005) ("[A] court should strive to avoid statutory interpretations that lead to absurd or unreasonable results.") (internal quotation marks and citation omitted).

Finally, we note that the Legislature is well aware of its ability to impose a higher standard of proof when it so desires. *See, e.g., N.J.S.A.* 2A:15–5.12 (requiring plaintiffs to prove punitive damages by clear and convincing evidence). As this Court stated in discussing the standard of proof applied in agency adjudications under the Administrative Procedure Act, *N.J.S.A.* 52:14B–1 to –24:

> Given the long history of the preponderance standard, together with the total lack of any indication in the language of the statute or in its legislative history of an intent to alter that standard, it is reasonable to infer that the Legislature was content to continue the "traditional preponderance-of-the-evidence standard" ....
>
> [*Polk, supra,* 90 *N.J.* at 561 n. 1, 449 *A.*2d 7 (quoting *Steadman, supra,* 450 *U.S.* at 102, 101 *S.Ct.* at 1008, 67 *L.Ed.*2d at 79).]

See also *Grogan, supra,* 498 *U.S.* at 286, 111 *S.Ct.* at 659, 112 *L.Ed.*2d at 764 (noting that congressional silence on standard of proof issue is "inconsistent with the view that Congress intended to require a special, heightened standard of proof"); *State by Humphrey v. Alpine Air Prods., Inc.,* 500 *N.W.*2d 788, 790 (Minn.1993) ("When the legislature says nothing about the standard of proof to be used, this is regarded as a signal that the legislature intended the preponderance of the evidence standard."); *Allstate Ins. Co., supra,* 5 *Cal.Rptr.*3d at 496 ("Clearly, if the Legislature had wished to impose [a] higher evidentiary standard on an action to recover damages under [the California Insurance Frauds Prevention Act], it would have so stated."). We ***179** therefore decline to interpret the Legislature's silence as an indication that it intended to depart from the customary standard of proof in civil cases. Rather, the more reasonable conclusion is that absence of an evidentiary standard indicates that a preponderance of the evidence—the traditional, default standard—applies.

C.

[9] Despite substantial authority to the contrary, the dissent argues that the combination of treble damages and attorneys' fees warrants application of clear and convincing evidence. Although we do not minimize the effect that such monetary sanctions can have on a defendant, civil proceedings ordinarily do involve the risk of monetary damages. Indeed, the damages sought in certain civil actions may exceed the penalties prescribed by IFPA. As such, we are not persuaded that the presence of a treble damages or counsel fees provision mandates proof by clear and convincing evidence. As explained above, a preponderance of the evidence is applied to proceedings under the CFA, which, like IFPA, provides for the recovery of both types of sanctions. *See* *Gennari, supra,* 288 *N.J.Super.* at 541, 672 *A.*2d 1190. The federal FCA also allows for treble damages and yet applies a preponderance standard. 31 *U.S.C.* § 3731(c). [3]

3 The dissent submits that "[n]ot until today has this Court suggested that the burden of proof in cases prosecuted under the Consumer Fraud Act is by a preponderance of evidence." *Post* at 174 n. 2, 892 *A.*2d at 1246 n. 2. However, in the years since the Appellate Division's ruling in *Gennari, supra,* 288 *N.J.Super.* at 541, 672 *A.*2d 1190, this Court has never questioned application of the preponderance standard to CFA violations.

****1250** Moreover, research reveals that the United States Supreme Court has rejected application of the clear and convincing standard to civil anti-trust actions for treble damages. *Ramsey v. United Mine Workers,* 401 *U.S.* 302, 311, 91 *S.Ct.* 658, 664, 28 *L.Ed.*2d 64, 71 (1971). Courts also have held that proof by a preponderance of the evidence is sufficient for an award of treble ***180** damages under both federal and state Racketeer Influenced and Corrupt Organizations (RICO) statutes. *See, e.g., Fleischhauer v. Feltner,* 879 *F.*2d 1290, 1296 (6th Cir.1989); *Liquid Air Corp. v. Rogers,* 834 *F.*2d 1297, 1303 (7th Cir.1987); *Williams Gen. Corp. v. Stone,* 279 *Ga.* 428, 614 *S.E.*2d 758, 761 (2005). In addition, courts in other jurisdictions have rejected application of clear and convincing evidence to statutory provisions with treble damages. *See, e.g., Farmers Group, Inc. v. Williams,* 805 *P.*2d 419, 427 (Colo.1991) (applying preponderance of evidence standard to treble damages provision under Colorado No Fault Act, *Colo.Rev.Stat.* § 10–4–708(1)); *Carlson & Erickson Builders, supra,* 529 *N.W.*2d at 912 (applying preponderance of evidence standard to treble damages provision under Wisconsin anti-trust laws); *Rorrer v. P.J. Club, Inc.,* 347 *S.C.* 560, 556 *S.E.*2d 726, 731 (Ct.App.2001) (applying preponderance of evidence standard to treble damages provision under *S.C.Code Ann.* § 32–1–20). Although the dissent labels the penalties imposable under IFPA as "severe," *post* at 184–85, 892 *A.*2d at 1253, it fails to recognize that the application of the clear and convincing evidence standard typically is reserved for the protection of "particularly important individual interests" that are "more substantial than mere loss of money." *Addington, supra,* 441 *U.S.* at 424, 99 *S.Ct.* at 1808, 60 *L.Ed.*2d at 330.[4]

[4] We recognize that, in the context of automobile insurance fraud, the loss of driving privileges under *N.J.S.A.* 39:6A–15 might implicate such interests. As a result, in a case involving automobile insurance fraud, there may be a question concerning the standard of proof. That question, however, is not before the Court. None of the defendants in this appeal face a suspension of driving privileges, nor have they briefed that issue.

IV.

We reverse the Appellate Division on the evidentiary issue in this appeal and hold that the standard of proof under the New Jersey Insurance Fraud Prevention Act is a preponderance of the evidence. To the extent that the Law Division reached a contrary holding in *Harleysville,* we overrule that decision. The matter is ***181** reversed in part and remanded to the trial court for further proceedings consistent with this opinion.

Justice ALBIN, dissenting.

The majority has determined that the lowest burden of proof—the preponderance of evidence standard—should apply in cases prosecuted by insurance companies under the Insurance Fraud Prevention Act (IFPA), *N.J.S.A.* 17:33A–1 to –30, despite the lack of any language in the IFPA that suggests such a standard. The majority divines that standard by unnecessarily and vainly searching for a legislative intent when, apparently, the Legislature did not give a second thought to the subject. "Because both the language of the statute and its legislative history are silent concerning the applicable standard of proof" in cases prosecuted under the IFPA, *ante* at 170, 892 *A.*2d at 1244, this Court has not only the constitutional and equitable power, but the duty to set the standard. A defendant who is found liable under the IFPA is subject to compensatory damages, treble ****1251** damages, mandatory assessment of investigation expenses, attorneys' fees and costs, and, if the case involves automobile insurance fraud, a mandatory one-year driver's license suspension. Those penalties in their totality are more than the equivalent of punitive damages, which by statute must be proved by clear and convincing evidence. The significant consequences that flow from a judicial determination of IFPA liability should warrant a heightened degree of accuracy. The preponderance of evidence standard sets the bar too low. There is no sound reason why insurance companies should not bear the burden of proving an IFPA violation by clear and convincing evidence. I therefore respectfully dissent.

I.

When the Legislature has enacted a law that requires factfinding but has not expressed a preference for a particular burden of proof, our courts have not hesitated to establish the required burden by looking to other statutes and decisional law, rather than ***182** engaging in the enigmatic search for legislative intent. *Watkins v. Nelson,* 163 *N.J.* 235, 244, 748 *A.*2d 558 (2000) ("Because the [child-custody] statute does not provide a standard [of proof], we must look to our statutory and decisional law concerning custody to decipher the appropriate standard to be applied in this case."). *See, e.g., N.J. Div. of Youth & Family Servs. v. V.K.,* 236 *N.J.Super.* 243, 261–62, 565 *A.*2d 706 (App.Div.1989) (applying clear and convincing standard to parental-rights termination under *N.J.S.A.* 30:4C–20), *certif. denied,* 121 *N.J.* 614, 583 *A.*2d 315 (1990); *State v. Cestone,* 38 *N.J.Super.* 139, 142–43, 147–48, 118 *A.*2d 416 (App.Div.1955) (applying "beyond a reasonable doubt" standard to violation of motor vehicle statute prohibiting crossing center line, currently codified at *N.J.S.A.* 39:4–86); *State v. Kinsley,* 103 *N.J.Super.* 190, 191–92, 246 *A.*2d 764 (Cty.Ct. 1968) (holding that preponderance of evidence was proper standard under environmental protection statute, *N.J.S.A.* 23:5–28), *aff'd d.o.b.,* 105 *N.J.Super.* 347, 252 *A.*2d 224 (App.Div.1969) (per curiam).

Courts in other jurisdictions also determine the appropriate burden of proof to apply to a statutory scheme when the legislature has not spoken on the subject. *See, e.g., County Attorney v. Kaplan,* 124 *Ariz.* 510, 605 *P.*2d 912, 913 (Ct.App.1980) (applying clear and convincing standard to provision in mental health statute defining "gravely disabled"); *Swanson v. State,* 83 *Idaho* 126, 358 *P.*2d 387, 391 (1960) (applying "clear and satisfactory" standard under adverse possession statute); *In re Welfare of Rosenbloom,* 266 *N.W.*2d 888, 889–90 (Minn.1978) (per curiam) (imposing clear and convincing standard to termination of parental rights in face of statutory silence on burden of proof).

The judicial power to fashion and allocate evidentiary burdens of proof is a familiar one and is derived from this Court's constitutional rule-making authority over the practice and procedure of our courts.[1] *See N.J. Const.* art. VI, § 2, ¶ 3. It is a power ***183** that is routinely exercised. *See, e.g., Haynes v. First Nat'l State Bank of N.J.,* 87 *N.J.* 163, 182, 432 *A.*2d 890 (1981) (requiring clear and convincing evidence to rebut presumption of undue influence in respect of will); *State v. Hurd,* 86 *N.J.* 525, 546, 432 *A.*2d 86 (1981) (setting standard of clear and convincing evidence for admission of hypnotically refreshed testimony); ****1252** *State ex rel. B.F.,* 230 *N.J.Super.* 153, 158–59, 553 *A.*2d 40 (App.Div.1989) (setting standards of proof for admissibility of closed-circuit-television testimony in certain criminal prosecutions under *N.J.S.A.* 2A:84A–32.4).

1 The imposition of a heightened standard of proof in certain civil cases also derives from courts' equitable powers. *See McCormick on Evidence* § 340 & n. 15 (Strong ed., 5th ed. 1999).

That is not to say that the Legislature cannot create a civil cause of action and assign a burden of proof to the prosecution of the matter. Many civil statutes specifically provide for the standard of proof that must be met by the plaintiff. *See, e.g., N.J.S.A.* 2A:15–5.12(a) (requiring clear and convincing evidence for award of punitive damages); *N.J.S.A.* 2A:81–2 (requiring clear and convincing evidence under dead man's statute); *N.J.S.A.* 3B:3–15(b) (requiring clear and convincing evidence to revive revoked will); *N.J.S.A.* 25:1–13(b) (requiring clear and convincing evidence under statute of frauds); *N.J.S.A.* 37:2–38 (requiring clear and convincing evidence before setting aside premarital agreement). We only interfere with a legislative determination concerning the burden of proof if the burden established by the Legislature does not satisfy principles of due process. *See, e.g., State v. Cummings,* 184 *N.J.* 84, 95–96, 875 *A.*2d 906 (2005) (holding that violation under civil breathalyzer refusal statute was quasi-criminal in nature and therefore due process required proof beyond reasonable doubt, not merely preponderance of evidence as provided by statute).

Thus, ordinarily we would defer to an expression of legislative authority in the spirit of comity and out of respect for a coequal branch of government. *See In re Civil Commitment of G.G.N.,* 372 *N.J.Super.* 42, 46, 855 *A.*2d 569 (App.Div.2004) (finding "no basis to alter the burden of proof from that which is set out in the statute and which was approved by our Supreme Court"). But when the Legislature has not spoken to the subject, as in this ***184** case, we can as readily conclude that it expected the courts, which have the experience and expertise, to set the appropriate burden of proof. In the absence of a legislative directive enunciating the burden of persuasion to be applied to a statutorily created cause of action, I see no need for this Court to ascribe to the Legislature an imaginary intention. Nothing in the text or history of the IFPA intimates that the Legislature gave any thought to the burden of proof that should apply to the prosecution of matters arising under the Act. Accordingly, this Court should exercise its constitutional and equitable powers and determine the burden of proof that applies to IFPA cases.

II.

In determining the appropriate burden of proof, the Court must look at the consequences that follow from a finding of liability. Our system of justice is imperfect and erroneous judgments are inevitable. The burden of proof that we set for a plaintiff to meet in proving a cause of action is an expression of the degree of error that we are willing to tolerate in our system of justice. *See* *Addington v. Texas,* 441 *U.S.* 418, 423, 99 *S.Ct.* 1804, 1808, 60 *L.Ed.*2d 323, 329 (1979) (observing that burdens of proof serve to " 'instruct the factfinder concerning the degree of confidence our society thinks he should have in the correctness of factual conclusions for a particular type of adjudication' " (quoting *In re Winship,* 397 *U.S.* 358, 370, 90 *S.Ct.* 1068, 1076, 25 *L.Ed.*2d 368, 379 (1970) (Harlan, J., concurring))); *State v. Oliver,* 162 *N.J.* 580, 590, 745 *A.*2d 1165 (2000) (stating same). In criminal cases, where the stakes are the greatest, our judicial system demands a high degree of confidence in a correct outcome, and therefore the burden on the State is to prove guilt beyond a reasonable doubt. *See* ****1253** *Addington, supra,* 441 *U.S.* at 423–24, 99 *S.Ct.* at 1808, 60 *L.Ed.*2d at 329; *Winship, supra,* 397 *U.S.* at 369–72, 90 *S.Ct.* at 1075–77, 25 *L.Ed.*2d at 378–81 (Harlan, J., concurring).

The stakes in an IFPA case are far greater than in a typical civil case in which compensatory damages are the only form of ***185** relief. Those determined to have violated the IFPA face severe consequences. An "insurance company damaged as the result of a violation of" the IFPA may "recover compensatory damages, which shall include reasonable investigation expenses, costs of suit and attorneys fees." *N.J.S.A.* 17:33A–7(a). In addition, a successful insurance company "shall recover treble damages if the court determines that the defendant has engaged in a pattern of violating [the] act." *N.J.S.A.* 17:33A–7(b). Moreover, if a violation of the act involves automobile insurance fraud, then the violator is subject to a mandatory one-year driver's license suspension. *N.J.S.A.* 39:6A–15.

Treble damages are intended to punish, and only partly to compensate, and therefore have all the hallmarks of punitive damages. *See ante* at 176, 892 *A.*2d at 1247–48 (stating that Consumer Fraud Act's treble damages provision "serve [s] to ... punish the wrongdoer" (internal quotation marks omitted)); *Furst v. Einstein Moomjy, Inc.,* 182 *N.J.* 1, 12, 860 *A.*2d 435 (2004) ("Among the equitable and legal remedies available against violators of the [Consumer Fraud] Act are treble damages, reasonable attorneys fees, and costs of suit. The purpose of those remedies is not only to make whole the victim's loss, but also to punish the wrongdoer and to deter others from engaging in similar fraudulent practices." (citation omitted)); *In re Cohen,* 114 *N.J.* 51, 65, 552 *A.*2d 985 (1989) (alluding to "punitive nature of an award for treble damages"); *see also* *D.C.Code* § 22–3225.05(b) (providing for mandatory award of treble damages upon clear and convincing showing of "established pattern or practice" of violation of insurance fraud act); *Fla. Stat.* § 772.104 (requiring clear and convincing evidence before award for treble damages in civil action under deceptive practices statute); *Buddy Lee Attractions, Inc. v. William Morris Agency, Inc.,* 13 *S.W.*3d 343, 359–60 (Tenn.Ct.App.1999) (holding that under trebling statute, treble damages are "automatic" on showing by clear and convincing evidence).

If we are to make statutory comparisons, the closest analogue to the IFPA is the Punitive Damages Act, *N.J.S.A.* 2A:15–5.9 to ***186** –5.17. Under the Punitive Damages Act, the plaintiff must prove by clear and convincing evidence that the defendant acted with actual malice or in willful and wanton disregard of the harm that might be caused to others. *N.J.S.A.* 2A:15–5.12(a). In most cases that fall under that statute, punitive damages are capped at "five times the liability of [the] defendant for compensatory damages or $350,000, whichever is greater." *N.J.S.A.* 2A:15–5.14(b)–(c).

The Punitive Damages Act defines compensatory damages as "damages intended to make good the loss of an injured party, and no more," and punitive damages as damages intended "to penalize and to provide additional deterrence against a defendant to discourage similar conduct in the future." *N.J.S.A.* 2A:15–5.10. By that definition, only one part of a treble damages award covers compensatory damages whereas the other two parts comprise punitive damages. Under the majority's ruling, an insurance company that suffers a $1,000,000 loss will be awarded trebled damages of $3,000,000—$1,000,000 of which is compensatory and $2,000,000 of which is punitive. In such circumstances, the majority opinion allows an insurance company a $2,000,000 punitive damages award by merely satisfying ****1254** the preponderance of the evidence standard. On the other hand, in a non-IFPA case, a plaintiff must satisfy the clear and convincing evidence standard for the same $2,000,000 punitive damages award under the Punitive Damages Act. Significantly, absent from the treble damages scheme of the IFPA is any mechanism to safeguard a defendant from an excessive award of punitive damages. For example, in determining an award of punitive damages under the Punitive Damages Act, the factfinder must consider "[t]he profitability of the misconduct to the defendant" and "[t]he financial condition of the defendant." *N.J.S.A.* 2A:15–5.12(c)(2), (4). There is no similar provision in the IFPA that allows the factfinder to award trebled damages only proportionate to a defendant's financial means. [2]

2 The Consumer Fraud Act, like the IFPA, subjects violators to court costs, attorneys' fees, and treble damages. *N.J.S.A.* 56:8–19. Not until today has this Court suggested that the burden of proof in cases prosecuted under the Consumer Fraud Act is by a preponderance of evidence. *See ante* at 176–77, 892 *A.*2d at 1248 (citing Superior Court decisions defining burden of proof under Consumer Fraud Act as preponderance of evidence).

***187** For those reasons, it is difficult to imagine that the Legislature would intend a clear and convincing standard for punitive damages, but only a preponderance of the evidence standard for trebled damages, particularly when those damages are on top of requiring the defendant to pay an insurance company's investigation expenses, costs of suit and attorneys' fees, and an automatic one-year suspension of the defendant's driver's license in an automobile insurance fraud case.

In that latter regard, it is important to note that in the prosecution of a Title 39 motor vehicle violation, including those involving potential license suspensions, the State must prove guilt beyond a reasonable doubt. *Cummings, supra,* 184 *N.J.* at 92–93, 98, 875 *A.*2d 906; *State v. Dively,* 92 *N.J.* 573, 576, 577, 585, 458 *A.*2d 502 (1983); *see also Rodriguez v. Rosenblatt,* 58 *N.J.* 281, 295, 277 *A.*2d 216 (1971) (describing "substantial loss of driving privileges" as "serious consequence"). Although the present case does not involve automobile insurance fraud, clearly a heightened standard of proof is required when license suspension is added to the list of penalties that attach to an IFPA violation.

Viewed in their totality, the sanctions available under the IFPA—treble damages, *N.J.S.A.* 17:33A–7(b); mandatory assessment of investigation costs, court costs, and attorneys' fees, *N.J.S.A.* 17:33A–7(a); and mandatory driver's license revocation for automobile insurance fraud, *N.J.S.A.* 39:6A–15—are sufficiently punitive, and involve consequences of sufficient magnitude, to require a burden of proof higher than the typical preponderance standard in civil cases. There is no good reason why insurance companies should not be held to the clear and convincing evidence standard of the Punitive Damages Act, *N.J.S.A.* 2A:15–5.12(a).

***188** III.

Because I would require insurance companies in IFPA cases to prove liability by the standard of clear and convincing evidence, I respectfully dissent.

Justice LONG joins in this opinion.

For reversal in part and remandment—Chief Justice PORITZ and Justices LaVECCHIA, ZAZZALI, WALLACE and RIVERA–SOTO—5.

Dissenting—Justices LONG and ALBIN—2.

All Citations

186 N.J. 163, 892 A.2d 1240

Citing References (194)

Treatment	Title	Date	Type	Depth	Headnote(s)
Examined by	**1. Lawrence v. Emigrant Mortg. Co.** 2012 WL 1108532, *2+ , D.N.J. Pending before the Court is Defendants' Emigrant Mortgage Company ("Emigrant") and Retained Realty Inc.'s ("Retained Realty") motion to dismiss the Complaint pursuant to...	Mar. 30, 2012	Case		—
Discussed by	**2. Allstate New Jersey Ins. Co. v. Lajara** 117 A.3d 1221, 1228+ , N.J. INSURANCE - Jury. Constitutional right to jury trial applied to private-action claims under Insurance Fraud Prevention Act (IFPA).	July 16, 2015	Case		8 9 A.2d
Discussed by	**3. Abbott ex rel. Abbott v. Burke** 20 A.3d 1018, 1059+ , N.J. EDUCATION - Finance. Appropriations Clause created no bar to judicial enforcement of State's obligation to fund Abbott districts at SFRA levels.	May 24, 2011	Case		3 4 5 A.2d
Discussed by	**4. Abbott ex rel. Abbott v. Burke** 971 A.2d 989, 1045+ , N.J. EDUCATION - School Districts. School Funding Reform Act established fair funding formula in conformance with constitutional provision on public education.	May 28, 2009	Case		3 4 A.2d
Discussed by	**5. Allstate Ins. Co. v. Northfield Medical Center, P.C.** 2014 WL 8764091, *10+ , N.J.Super.A.D. Defendants Robert P. Borsody, Esquire, Daniel H. Dahan, D.C., Practice Perfect, and Medical Neurological Diagnostics, Inc. (MND), appeal from the January 18, 2012 judgment in favor...	May 04, 2015	Case		7 A.2d
Discussed by	**6. Allstate New Jersey Ins. Co. v. Lajara** 77 A.3d 491, 497+ , N.J.Super.A.D. INSURANCE - Jury. The Insurance Fraud Prevention Act did not imply a right to a jury trial.	Oct. 09, 2013	Case		7 8 9 A.2d
Discussed by	**7. Belmont Condominium Ass'n, Inc. v. Geibel** 74 A.3d 10, 35+ , N.J.Super.A.D. REAL PROPERTY - Condominiums. Association rather than unit owners was entitled to trebled portion of CFA damages.	July 09, 2013	Case		9 A.2d
Discussed by	**8. Building Materials Corp. of America v. Allstate Ins. Co.** 38 A.3d 644, 666+ , N.J.Super.A.D. INSURANCE - Liability. Insured seeking indemnity for settled claims did not establish prima facie case simply by showing that claimants raised claims that policy might have...	Mar. 13, 2012	Case		7 8 9 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Discussed by	**9. Rutgers Cas. Ins. Co. v. Torres-Ruiz** 2009 WL 1491382, *1+ , N.J.Super.A.D. Defendant Torres-Ruiz appeals from a judgment against her in the amount of $214,080.52 for violating the New Jersey Insurance Fraud Prevention Act, N.J.S.A. 17:33A-1 to -30 (the...	May 29, 2009	Case		7 8 9 A.2d
Discussed by	**10. Wessel v. Burritt** 2008 WL 4648854, *5+ , N.J.Super.A.D. Background: Former girlfriend brought palimony, fraud and unjust enrichment action against former boyfriend after he terminated their 18-year relationship. After a bench trial, the...	Oct. 14, 2008	Case		9 A.2d
Discussed by	**11. Sabelli v. All American Chevrolet, Inc.** 2007 WL 92609, *1+ , N.J.Super.A.D. Plaintiff Frank Sabelli purchased a used 1998 Chevrolet Tahoe from defendant All American Chevrolet, Inc. (All American). When he was inspecting the car before the purchase, he...	Jan. 05, 2007	Case		7 9 A.2d
Discussed by	**12. 21ST Century Insurance Company v. Felipe Express** 2017 WL 4220429, *5+ , D.N.J. Following an automobile accident on the New Jersey turnpike, Plaintiff 21 Century Centennial Insurance Company (“21 Century” or “Plaintiff”) initiated this action (the “21 Century...	Sep. 22, 2017	Case		8 A.2d
Discussed by	**13. Horizon Blue Cross Blue Shield of New Jersey v. Transitions Recovery Program** 2015 WL 8345537, *4+ , D.N.J. This matter comes before the Court on Plaintiff Horizon Blue Cross Blue Shield of New Jersey's ("Horizon") Motion for Partial Summary Judgment (Doc. No. 130) and Motion for...	Dec. 08, 2015	Case		—
Discussed by	**14. Avaya Inc. v. Telecom Labs, Inc.** 2014 WL 97335, *12+ , D.N.J. Plaintiff in this seven-year-old case is Avaya Inc. (“Avaya”), a leading manufacturer of telecommunications equipment. Defendants are Telecom Labs Inc. (“TLI”), TEAMTLI.com...	Jan. 07, 2014	Case		4 5 A.2d
Discussed by	**15. Lincoln Nat. Life Ins. Co. v. Schwarz** 2010 WL 3283550, *15+ , D.N.J. INSURANCE - Life. Insurer demonstrated that insured's life insurance policies lacked a person with an insurable interest in insured's life.	Aug. 18, 2010	Case		7 9 A.2d
Discussed by	**16. Dukes Bridge LLC v. Security Life of Denver Ins. Co.** 2013 WL 432894, *2+ , E.D.N.Y. Plaintiff Dukes Bridge LLC ("Dukes Bridge") brings this action against Security Life of Denver Insurance Company ("SLD") for payment of the death benefits on a life insurance...	Feb. 04, 2013	Case		7 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**17. Allstate Insurance Company v. Northfield Medical Center, P.C.** 159 A.3d 412, 424 , N.J. INSURANCE - Industry Regulation. Evidence supported conclusion that consulting chiropractor and attorney knowingly helped another chiropractor in fraud in control of medical...	May 04, 2017	Case		4 8 9 A.2d
Cited by	**18. Globe Motor Co. v. Igdalev** 139 A.3d 57, 64 , N.J. LITIGATION - Judgment. Issue as to owner of settlement funds precluded summary judgment on breach of contract clam for breach of settlement agreement.	June 29, 2016	Case		3 A.2d
Cited by	**19. In re Estate of Folcher** 135 A.3d 128, 141+ , N.J. ESTATE PLANNING AND PROBATE - Attorney Fees. Husband's estate could not recover fees from wife, who was neither executor nor trustee of estate, on its undue influence claim.	Apr. 26, 2016	Case		—
Cited by	**20. Hargrove v. Sleepy's, LLC** 106 A.3d 449, 463 , N.J. Background: Purported employees brought action against purported employer, alleging violations of various state wage laws due to purported employer's misclassification of them as...	Jan. 14, 2015	Case		—
Cited by	**21. Saccone v. Board of Trustees of Police and Firemen's Retirement System** 98 A.3d 1158, 1167 , N.J. LABOR AND EMPLOYMENT - Public Employment. Special needs trust was allowed to stand in place of public employee's disabled son as beneficiary of survivors' benefits.	Sep. 11, 2014	Case		7 A.2d
Cited by	**22. In re Perskie** 24 A.3d 277, 287 , N.J. JUDICIAL ADMINISTRATION - Discipline. Censure was warranted for judge who failed to recuse himself from trying case in which he had a conflict of interest.	Aug. 01, 2011	Case		4 A.2d
Cited by	**23. Ryan v. Renny** 999 A.2d 427, 447 , N.J. HEALTH - Malpractice. Patient made a good faith effort to obtain an equivalently-qualified expert, as required for waiver of specialty requirements.	July 22, 2010	Case		—
Cited by	**24. Marino v. Marino** 981 A.2d 855, 871 , N.J. ESTATE PLANNING AND PROBATE - Burial. Widow did not have a right to disinter body of decedent after body had been buried in a location that widow disapproved of.	Sep. 24, 2009	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**25. Ogborne v. Mercer Cemetery Corp.** 963 A.2d 828, 834 , N.J. GOVERNMENT - Tort Claims. Pedestrian injured when trying to leave locked city park had to show city's palpably unreasonable conduct.	Jan. 29, 2009	Case		—
Cited by	**26. Jablonowska v. Suther** 948 A.2d 610, 619 , N.J. TRANSPORTATION - Motor Vehicles. Portee claim for emotional distress was not subject to verbal threshold of Automobile Insurance Cost Reduction Act.	June 10, 2008	Case		7 A.2d
Cited by	**27. New Jersey Division of Child Protection and Permanency v. K.L.** 2017 WL 6398911, *3 , N.J.Super.A.D. Defendant A.M. (Alfred), appeals from a September 1, 2016 Family Part order entered following a fact-finding hearing concluding he abused or neglected his eighteen-month-old son,...	Dec. 15, 2017	Case		3 A.2d
Cited by	**28. New Jersey Division of Child Protection and Permanency v. N.L.** 2017 WL 5617547, *3 , N.J.Super.A.D. Defendant R.F., II, appeals from a January 19, 2016 Family Part order determining he sexually abused his five-year-old son, B.F. We affirm. We derive the following facts from...	Nov. 21, 2017	Case		3 A.2d
Cited by	**29. New Jersey Division of Child Protection and Permanency v. E.W.** 2017 WL 5076480, *4 , N.J.Super.A.D. Defendant E.W. appeals from a March 15, 2016 order entered by the Family Part following a fact-finding hearing concluding she committed abuse or neglect of her daughter B.W....	Oct. 30, 2017	Case		3 A.2d
Cited by	**30. Sabbagh v. Muller** 2017 WL 1489006, *2 , N.J.Super.A.D. This is a dispute between neighbors who share a common rear lot line. The house on plaintiff Bashar Sabbagh's property was destroyed by fire in 2004. In 2007, plaintiff received...	Apr. 26, 2017	Case		—
Cited by	**31. State v. C.W.** 156 A.3d 1088, 1104 , N.J.Super.A.D. CRIMINAL JUSTICE - Bail. General standard of review of an order granting or denying pretrial detention, under state's Bail Reform Act, is abuse of discretion.	Mar. 21, 2017	Case		4 A.2d
Cited by	**32. New Jersey Division of Child Protection and Permanency v. T.F.** 2016 WL 6776173, *3 , N.J.Super.A.D. T.F., the mother of an infant child, appeals from a September 16, 2013 order finding that she had abused or neglected her child by drinking alcohol, not taking her prescribed...	Nov. 16, 2016	Case		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**33. Badolato v. Dobrek** 2016 WL 3547741, *6 , N.J.Super.A.D. Weiran Dobrek and her husband Thomas Dobrek appeal from the Department of Banking and Insurance's (DOBI) final agency decision, adopting in part and modifying in part an...	June 30, 2016	Case		4 8 9 A.2d
Cited by	**34. Aetna Health Inc. v. Srinivasan** 2016 WL 3525298, *7+ , N.J.Super.A.D. HEALTH - Hospitals. Health insurance company could not use declaratory judgment action to regulate out-of-network cardiologist's rates for emergency room care.	June 29, 2016	Case		7 9 A.2d
Cited by	**35. In re B.V.** 2016 WL 830834, *2 , N.J.Super.A.D. Appellant B.V. appeals from an April 10, 2014 final order of involuntary commitment. A court is authorized by statute to continue a person's involuntary commitment if it determines...	Mar. 04, 2016	Case		5 A.2d
Cited by	**36. In re Estate of Fisher** 128 A.3d 203, 215+ , N.J.Super.A.D. FAMILY LAW - Child Protection. Statute providing that a parent may lose his or her right to intestate succession if the parent abandoned the decedent when he or she was a minor,...	Dec. 11, 2015	Case		1 4 A.2d
Cited by	**37. Lisowski v. Borough of Avalon** 122 A.3d 1004, 1021+ , N.J.Super.A.D. GOVERNMENT - Property. Res judicata applied to bar property owners' claim that State failed to timely preserve riparian claim.	Sep. 09, 2015	Case		3 4 A.2d
Cited by	**38. Two River Community Bank v. Mazzucca** 2015 WL 3539433, *4 , N.J.Super.A.D. Defendants Patrick Mazzucca (Patrick) and Elizabeth A. Connor–Mazzucca (Elizabeth) appeal from the final judgment of foreclosure entered in favor of plaintiff Two River Community...	June 08, 2015	Case		4 A.2d
Cited by	**39. New Jersey Div. of Youth and Family Services v. J.G.** 2014 WL 5622654, *3 , N.J.Super.A.D. Defendant J.G. (Jane) appeals from the August 10, 2012 order of the Family Part finding that she had abused or neglected her son G.V.D.G. (George), born January 2006, in...	Nov. 05, 2014	Case		3 A.2d
Cited by	**40. Joachim v. Jackson** 2014 WL 4745547, *7 , N.J.Super.A.D. Defendant Matthew A. Jackson appeals from an order of the Civil Part, finding him in breach of contract and entering a judgment in favor of plaintiff Leah A. Joachim. Defendant...	Sep. 25, 2014	Case		1 4 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**41. New Jersey Div. of Youth and Family Services v. T.T.** 2014 WL 2780464, *3 , N.J.Super.A.D. Defendant T.T. appeals from a Family Part order, entered after a fact-finding hearing, that he had sexually abused his stepdaughter, O.R., when she was between the ages of ten and...	June 20, 2014	Case		3 A.2d
Cited by	**42. Warwick Development, LLC v. McGruder** 2014 WL 2197939, *1 , N.J.Super.A.D. Plaintiff Warwick Development, LLC (Warwick) filed a single-count complaint alleging fraud by its employee, defendant Molly McGruder. In lieu of an answer, McGruder moved to...	May 28, 2014	Case		5 A.2d
Cited by	**43. A.P. v. J.D.** 2014 WL 1303118, *6 , N.J.Super.A.D. In this appeal, arising from a Family Part final restraining order (FRO), defendant J.D. challenges the sufficiency of the evidence, the analysis of the trial judge, the legal...	Apr. 02, 2014	Case		3 A.2d
Cited by	**44. Bellino v. Verizon Wireless** 86 A.3d 751, 759 , N.J.Super.A.D. LABOR AND EMPLOYMENT - Workers' Compensation. Evidence was insufficient to establish that workers' compensation claimant violated the Workmen's Compensation Act's anti-fraud...	Mar. 19, 2014	Case		8 A.2d
Cited by	**45. New Jersey Div. of Youth and Family Services v. M.H.** 2013 WL 6637386, *5 , N.J.Super.A.D. Defendant M.H. appeals from the February 25, 2011 order entered after a fact-finding trial, determining by a preponderance of the evidence that she abused or neglected her young...	Dec. 18, 2013	Case		3 A.2d
Cited by	**46. New Jersey Div. of Youth and Family Services v. C.P.** 2013 WL 5975975, *4 , N.J.Super.A.D. Defendant E.L. appeals from an April 30, 2012 Family Part order entered after a fact-finding hearing, concluding that he physically and sexually abused his two stepdaughters, Lucy,...	Nov. 12, 2013	Case		3 A.2d
Cited by	**47. Gruber v. Xactis Corp.** 2013 WL 4746529, *4 , N.J.Super.A.D. Following a non-jury trial, judgment was entered in favor of plaintiffs Kenneth and Murray Gruber against defendants Alan Kaplan (defendant) and Xactis Corporation (Xactis) in the...	Sep. 05, 2013	Case		—
Cited by	**48. New Jersey Div. of Youth and Family Services v. T.W.** 2013 WL 2494211, *2 , N.J.Super.A.D. Defendant mother T.W. (Theresa) appeals from a September 21, 2011 Family Part order entered after a fact-finding hearing, which determined she had abused or neglected her...	June 12, 2013	Case		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**49. New Jersey Div. of Youth and Family Services v. J.M.H.** 2013 WL 1953685, *2 , N.J.Super.A.D. Defendant J.M.H. appeals from an October 4, 2011 Family Part order entered after a fact-finding hearing, which determined he had abused or neglected his child pursuant to N.J.S.A....	May 14, 2013	Case		3 A.2d
Cited by	**50. Miles Technology, Inc. v. Apex I.T. Group, LLC** 2013 WL 1352024, *2 , N.J.Super.A.D. In this restrictive covenant case, defendants Apex I.T. Group, LLC (Apex), Briley Yetter, and Greg Tavares appeal from an order denying their motion for judgment notwithstanding...	Apr. 05, 2013	Case		—
Cited by	**51. Banyacki v. Green** 2013 WL 764644, *4 , N.J.Super.A.D. Plaintiff Mark Banyacki appeals the February 14, 2012 judgment of the General Equity Part, arguing that the trial judge erred in adjudicating his claims against defendant Martha...	Mar. 01, 2013	Case		3 A.2d
Cited by	**52. Clark v. Clark** 57 A.3d 1, 11+ , N.J.Super.A.D. FAMILY LAW - Spousal Support. Case would be remanded because court did not consider whether wife's economic improprieties were outrageous so as to warrant denial of alimony.	Oct. 19, 2012	Case		—
Cited by	**53. Sims v. Budd Larner, P.C.** 2012 WL 4741587, *3 , N.J.Super.A.D. In this legal malpractice case, plaintiff John D. Sims appeals from an order dismissing his complaint and granting summary judgment to Budd Larner, P.C. (defendant). Plaintiff...	Oct. 05, 2012	Case		5 A.2d
Cited by	**54. In re Tenure Hearing of Castro** 2012 WL 1414140, *1 , N.J.Super.A.D. Appellant Danny Castro appeals from the May 2, 2011 final decision of the Acting Commissioner of Education, adopting the Administrative Law Judge's (ALJ) determination upholding...	Apr. 25, 2012	Case		2 4 A.2d
Cited by	**55. Perri v. Prestigious Homes, Inc.** 2012 WL 95564, *4 , N.J.Super.A.D. Plaintiff Louis Perri purchased a new home in Atlantic City situated on a narrow peninsula bordered by Snug Harbor Inlet and Gardner's Basin. Following the closing, sea water...	Jan. 13, 2012	Case		5 A.2d
Cited by	**56. New Jersey Div. of Youth and Family Services v. I.S.** 30 A.3d 1073, 1074 , N.J.Super.A.D. FAMILY LAW - Child Protection. Burden of proof in termination of parental rights proceeding was clear and convincing evidence.	Nov. 23, 2011	Case		1 4 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**57. New Jersey Div. of Youth and Family Services v. H.P.** 37 A.3d 509, 518 , N.J.Super.A.D. FAMILY LAW - Child Protection. Evidence at hearing on abuse and neglect complaint was insufficient to support finding that father had abused children.	Oct. 27, 2011	Case		4 5 A.2d
Cited by	**58. Allstate Ins. Co. v. Simone** 2011 WL 3611355, *6 , N.J.Super.A.D. Plaintiff Allstate Insurance Company filed a recovery action pursuant to the New Jersey Insurance Fraud Prevention Act (IFPA), N.J.S.A. 17:33A–1 to –30, seeking repayment of...	Aug. 18, 2011	Case		—
Cited by	**59. New Jersey Div. of Youth and Family Services v. J.G.** 2011 WL 3241450, *3 , N.J.Super.A.D. Defendant father, J.G., appeals a July 15, 2010 order of the Family Part finding, by clear and convincing evidence, that he committed acts of child abuse pursuant to N.J.S.A....	Aug. 01, 2011	Case		5 A.2d
Cited by	**60. New Jersey Div. of Youth and Family Services v. B.K.** 2010 WL 5185107, *6 , N.J.Super.A.D. B.K. appeals from a trial court judgment terminating her parental rights to her daughter A.K., now four years of age. After reviewing the record presented on appeal, we affirm....	Dec. 23, 2010	Case		5 A.2d
Cited by	**61. State v. Deschenes** 2010 WL 3075520, *5+ , N.J.Super.A.D. HEALTH - Fraud. Genuine issue of material fact existed as to whether dentist knew at time he signed claim form that dates contained therein were incorrect, precluding summary...	Aug. 03, 2010	Case		—
Cited by	**62. New Jersey Div. of Youth And Family Services v. N.S.** 992 A.2d 20, 32 , N.J.Super.A.D. FAMILY LAW - Child Protection. Defendants in abuse and neglect actions should reserve right to challenge interlocutory findings of abuse or neglect.	Apr. 14, 2010	Case		3 A.2d
Cited by	**63. Smith v. Hudson County Register** 988 A.2d 114, 135 , N.J.Super.A.D. GOVERNMENT - Records. Counties and other government agencies may not charge requestors more than actual costs of photocopying government records.	Feb. 10, 2010	Case		1 A.2d
Cited by	**64. New Jersey Div. of Youth and Family Services v. F.V.** 2010 WL 335317, *9 , N.J.Super.A.D. FAMILY LAW - Child Protection. The grandmother abused or neglected her grandchildren when she left them in their drug addicted mother's care.	Feb. 01, 2010	Case		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**65. State v. Roberts** 2009 WL 3429608, *4+ , N.J.Super.A.D. Defendant Donna Roberts appeals from an order imposing a penalty for one violation of N.J.S.A. 4:22-26(l), which establishes penalties for persons who shall "[w]illfully sell, or...	Oct. 27, 2009	Case		3 A.2d
Cited by	**66. In re Banka** 2009 WL 3460315, *3 , N.J.Super.A.D. Petitioner Steven Banka appeals from an order of the Law Division denying his petition for expungement of a 1988 judgment of conviction for possession with intent to distribute a...	Oct. 19, 2009	Case		—
Cited by	**67. Commissioner New Jersey Dept. of Banking and Ins. v. Budge** 2009 WL 2245764, *1+ , N.J.Super.A.D. Steven Budge, pro se, appeals a final agency decision of the Commissioner of the Department of Banking and Insurance ("the Department") revoking Budge's license as a public...	July 29, 2009	Case		—
Cited by	**68. New Jersey Div. of Youth and Family Services v. N.K.** 2009 WL 972971, *6 , N.J.Super.A.D. Following a fact-finding hearing in this Title 30 litigation filed by the Division of Youth and Family Services (D.Y.F.S.) against defendant N.K. and his paramour, S.J., the trial...	Apr. 13, 2009	Case		3 A.2d
Cited by	**69. 539 Absecon Blvd., L.L.C. v. Shan Enterprises Ltd. Partnership** 2009 WL 775042, *24 , N.J.Super.A.D. After a non-jury trial, the Chancery Division ruled that defendants violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -106 (the "CFA" or "the Act") in their sale...	Mar. 26, 2009	Case		—
Cited by	**70. Open MRI of Morris & Essex, L.P. v. Frieri** 966 A.2d 48, 52 , N.J.Super.A.D. INSURANCE - Industry Regulation. Owner/operator of MRI facility violated Insurance Fraud Prevention Act.	Mar. 11, 2009	Case		—
Cited by	**71. State Farm Fire and Cas. Ins. Co. v. Florkiewicz** 2008 WL 5083143, *3 , N.J.Super.A.D. Plaintiff, State Farm Fire and Casualty Insurance Co., appeals from a judgment entered on September 17, 2007 which granted defendant Marion Florkiewicz's application for counsel...	Dec. 04, 2008	Case		9 A.2d
Cited by	**72. D'Ambrosio v. Department of Health and Senior Services** 2008 WL 4722631, *13 , N.J.Super.A.D. Petitioner Philip D. D'Ambrosio, an emergency medical technician ("EMT"), appeals a final agency decision by the Department of Health and Senior Services ("the Department")...	Oct. 29, 2008	Case		2 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**73. Nickerson v. Quaker Group** 2008 WL 2600720, *12 , N.J.Super.A.D. Plaintiffs purchased a new home from Quaker Group Glouco II, a limited partnership of the Quaker Group. Ryno Marketing was the sales agent. Not long after the start of actual...	July 03, 2008	Case		—
Cited by	**74. Liberty Mut. Ins. Co. v. Healthcare Integrated Services, Inc.** 2008 WL 2595922, *3+ , N.J.Super.A.D. We consolidate these appeals from orders entered in civil actions filed under the New Jersey Insurance Fraud Prevention Act (IFPA), N.J.S.A. 17:33A-1 to-30. The actions, which were...	July 02, 2008	Case		8 9 A.2d
Cited by	**75. Feliciano v. Ciman** 2008 WL 2078182, *4 , N.J.Super.A.D. Evelyn Ciman (Ciman) and her daughter Venus Vado (Vado), also known as Venus Banguela, appeal from the August 8, 2006 judgment in favor of Miguel A. Feliciano (Feliciano) for...	May 19, 2008	Case		9 A.2d
Cited by	**76. Singh v. Cream-O-Land Dairy** 2008 WL 794526, *6 , N.J.Super.A.D. This is a workers' compensation case. Petitioner Sarbjit Singh appeals from the order of November 27, 2006, which: 1) denied his claim for permanent partial disability; 2) directed...	Mar. 27, 2008	Case		—
Cited by	**77. Keystone Ins. Co. v. American Spinal Care, Inc.** 2008 WL 553073, *1 , N.J.Super.A.D. Plaintiffs, Keystone Insurance Company (now known as AAA Mid Atlantic Insurance Company of New Jersey), Liberty Mutual Insurance Company, and State Farm Indemnity Company filed...	Mar. 03, 2008	Case		7 A.2d
Cited by	**78. Briggs v. Luisi** 2007 WL 2460158, *3 , N.J.Super.A.D. Defendant Adam Grosz appeals from a portion of an order entering judgment in favor of plaintiff Deborah Briggs in the amount of $89,485.16. The judgment was based on a jury...	Aug. 31, 2007	Case		4 9 A.2d
Cited by	**79. Nationwide Mut. Fire Ins. Co. v. Fiouris** 928 A.2d 154, 157 , N.J.Super.A.D. INSURANCE - Arbitration and Appraisal. Claim of fraud by insured in application was not subject to arbitration in connection with claim for no-fault benefits.	July 27, 2007	Case		9 A.2d
Cited by	**80. Cramer Hill Residents Ass'n, Inc. v. Primas** 928 A.2d 61, 68 , N.J.Super.A.D. REAL PROPERTY - Eminent Domain. Trial court had to conduct hearing to determine if ordinance would assist city in meeting housing Fair Housing Act obligations.	July 17, 2007	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**81. City of South Amboy v. Lower main Street Development, LLC** 2007 WL 2012370, *3 , N.J.Super.A.D. This is a consolidated condemnation action in which plaintiff, the City of South Amboy (the City), seeks to acquire real property interests for the purpose of building an access...	July 13, 2007	Case		—
Cited by	**82. Rutgers Cas. Ins. Co. v. Torres-Ruiz** 2007 WL 528068, *3+ , N.J.Super.A.D. In this insurance coverage case, plaintiff Rutgers Casualty Insurance Company appeals from a judgment, following a bench trial, ordering Rutgers to provide personal injury...	Feb. 22, 2007	Case		9 A.2d
Cited by	**83. North Oraton Urban Renewal, L.P v. City of East Orange** 2016 WL 537261, *6 , N.J.Super.Ch. On October 20, 2014, this court issued an Order and Judgment on Count I of the Complaints and related Counterclaims in the above-referenced matters. Those Counts and Counterclaims...	Feb. 08, 2016	Case		—
Cited by	**84. Avaya Inc., RP v. Telecom Labs, Inc.** 838 F.3d 354, 388 , 3rd Cir.(N.J.) ANTITRUST - Tying Arrangements. Error in dismissing telecommunications equipment manufacturer's common-law claims prejudiced its antitrust defense.	Sep. 30, 2016	Case		4 A.2d
Cited by	**85. Phoenix v. U.S. Homes Corp.** 628 Fed.Appx. 825, 827 , 3rd Cir.(N.J.) REAL PROPERTY - Contractors and Developers. Home developer did not have a duty to disclose off-site social conditions, such as unruly neighbor, to buyer.	Oct. 20, 2015	Case		—
Cited by	**86. Premier Pork, LLC v. Westin Packaged Meats, Inc.** 406 Fed.Appx. 613, 617 , 3rd Cir.(N.J.) COMMERCIAL LAW - Successor Liability. Purchaser of buyer's assets was not buyer's successor, and therefore was not liable for buyer's debts.	Jan. 19, 2011	Case		—
Cited by	**87. In re Neurontin Marketing and Sale Practices Litigation** 244 F.R.D. 89, 104 , D.Mass. LITIGATION - Class Actions. Proposed consumer classes could not be certified in suit against drug manufacturers.	Aug. 29, 2007	Case		—
Cited by	**88. Spiniello Companies v. Infrastructure Technologies, Inc.** 2012 WL 4758041, *12+ , D.Minn. This action arises out of a subcontract agreement between Spiniello Companies (“Spiniello”) and Infrastructure Technologies, Inc. (“Infratech”). According to Spiniello, Infratech's...	Oct. 04, 2012	Case		1 3 4 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**89. FIRST AMERICAN TITLE INSURACE COMPANY, assignee and successor in interest by assignment from PNC BANK NATIONAL ASSOCIATION, Plaintiff, v. DAVID SADEK, ETTY SADEK, et al., Defendants. Additional Party Names: Rachel Sadek** 2017 WL 6663899, *3+ , D.N.J. Before me are cross-motions for summary judgment by plaintiff First American Title Insurance Company ("First American") and defendant David Sadek, who has filed in bankruptcy. This...	Dec. 29, 2017	Case		9 A.2d
Cited by	**90. Legends Management Co., LLC v. Affiliated Insurance Company** 2017 WL 4618817, *6+ , D.N.J. Before this Court is an informal motion by Plaintiff Legends Management Company, LLC ("Legends") and Third-Party Defendant/Counterclaimant Metairie Corporation ("Metaire")...	Oct. 13, 2017	Case		9 A.2d
Cited by	**91. Cioni v. Globe Specialty Metals, Inc.** 2013 WL 1844752, *7+ , D.N.J. This matter comes before the Court upon the Motion of Defendants Globe Specialty Metals, Inc., Malcolm Appelbaum, Jeffrey Bradley and Alan Kestenbaum (collectively "Defendants")...	Apr. 30, 2013	Case		4 5 9 A.2d
Cited by	**92. Martin v. Target Corp. of Minnesota** 2013 WL 1187034, *3 , D.N.J. Currently before this Court is a motion by Defendant Target Corporation of Minnesota ("Target" or "Defendant") to enforce an oral settlement agreement against Pearl i ne Martin...	Feb. 22, 2013	Case		5 A.2d
Cited by	**93. Bethea v. Roizman** 2012 WL 4490759, *22 , D.N.J. This matter is before the Court on two motions for judgment on the pleadings or in the alternative, for summary judgment, and one motion for summary judgment. The first motion was...	Sep. 27, 2012	Case		—
Cited by	**94. Vibra-Tech Engineers, Inc. v. Kavalek** 849 F.Supp.2d 462, 494 , D.N.J. LABOR AND EMPLOYMENT - Contracts. Disgorgement of profits was appropriate method of calculating damages caused by employees' breach of contract and breach of fiduciary duty.	Mar. 29, 2012	Case		—
Cited by	**95. Kare Distribution, Inc. v. Jam Labels and Cards LLC** 2012 WL 266386, *8+ , D.N.J. Before the Court is Plaintiff/Counterdefendant Kare Distribution, Inc.'s ("Kare" or "Plaintiff") Motion for Summary Judgment and Defendants/ Counterclaimants Jam Labels and Cards...	Jan. 30, 2012	Case		5 A.2d
Cited by	**96. Certain Underwriters at Lloyd's of London v. Alesi** 843 F.Supp.2d 517, 530+ , D.N.J. INSURANCE - Bad Faith and Unfair Practices. Homeowner's insurer did not act in bad faith in not paying insured's property claim.	Dec. 30, 2011	Case		7 8 9 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**97. Mitchell v. Banner Life Ins. Co.** 2011 WL 5878378, *7 , D.N.J. This matter comes before the Court by way of two motions for summary judgment pursuant to Federal Rule of Civil Procedure 56(a), by Plaintiff Steven Mitchell ("Steven" or...	Nov. 22, 2011	Case		9 A.2d
Cited by	**98. Virginia Sur. Co., Inc. v. Macedo** 2011 WL 1769858, *16 , D.N.J. This matter comes before the Court on the renewed motion to dismiss (Doc. No. 68) filed by Defendants Jack Macedo, Sandra Macedo–Bilynsky, Macedos Construction Co. Inc., of New...	May 06, 2011	Case		—
Cited by	**99. Mendez v. American General Life Ins. Co.** 2010 WL 4923347, *5 , D.N.J. In this action, Plaintiff Debbie Mendez seeks payment of benefits under Jorge Mendez's, that is, her late husband's, life insurance contract issued by Defendant American General...	Nov. 29, 2010	Case		—
Cited by	**100. Rainbow Apparel, Inc. v. KCC Trading, Inc.** 2010 WL 2179146, *5 , D.N.J. This matter comes before this Court upon motion by KCC Trading, Inc., Won Bok Choi, Misuk Choi and Ji Hae Choi a/k/a Vanessa Choi (collectively, "Defendants") to transfer venue,...	May 26, 2010	Case		—
Cited by	**101. DirecTech Delaware, Inc. v. Allstar Satellite, Inc.** 2010 WL 1838573, *5 , D.N.J. ENERGY AND UTILITIES - Telecommunications. Issue existed as to whether a telecommunications company was damaged by a contractor's failure to maintain workers' compensation...	May 06, 2010	Case		—
Cited by	**102. Park v. M & T Bank Corp.** 2010 WL 1032649, *6 , D.N.J. This matter comes before the Court upon motion to dismiss by Manufacturers and Traders Trust Company d/b/a M & T Bank ("M & T"), Mortgage Electronic Registration Systems, Inc....	Mar. 16, 2010	Case		—
Cited by	**103. Deutsche Bank Nat. Trust Co. v. Lacapria** 2010 WL 715617, *5 , D.N.J. Plaintiff Deutsche Bank National Trust brought this action against Defendants Anthony and Virginia Lacapria initiating a mortgage foreclosure. Defendants responded with numerous...	Mar. 01, 2010	Case		—
Cited by	**104. Devine v. Advanced Computer Concepts Inc.** 2009 WL 78158, *3 , D.N.J. This matter comes before the Court upon the Supplemental Memorandum of Law in Response to the Court's Order of December 16, 2008 ("Memorandum"), submitted by plaintiff Thomas...	Jan. 09, 2009	Case		9 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**105. Diebold, Inc. v. Continental Cas. Co.** 2008 WL 1372948, *6 , D.N.J. This matter having appeared before the Court on Defendant Continental Casualty Company's Motion to Dismiss the Amended Complaint pursuant to Fed.R.Civ.P. 12(b)(6), the Court having...	Apr. 10, 2008	Case		—
Cited by	**106. Titan Stone, Tile & Masonry, Inc. v. Hunt Constr. Group, Inc.** 2007 WL 3232588, *16 , D.N.J. This matter comes before the Court upon the Second Amended Complaint of Plaintiff Titan Stone, Tile & Masonry, Inc.'s ("Titan" or "Plaintiff") against Defendant Hunt Construction...	Oct. 31, 2007	Case		—
Cited by	**107. Briglia v. Horizon Healthcare Services, Inc.** 2007 WL 1959249, *5+ , D.N.J. There are four motions before the Court in this matter regarding the counterclaim filed against the plaintiff, Dr. Briglia, by Horizon Healthcare Services d/b/a Horizon Blue...	July 03, 2007	Case		7 A.2d
Cited by	**108. In re Application of Adan v. Avans** 2007 WL 1850910, *11 , D.N.J. This case concerns the petition of Ariel Adan, pursuant to the Hague Convention on the Civil Aspects of International Child Abduction, Oct. 25, 1980, 19 I.L.M. 1501 (1980) ("the...	June 25, 2007	Case		5 A.2d
Cited by	**109. Shogen v. Global Aggressive Growth Fund, Ltd.** 2007 WL 1237829, *13 , D.N.J. THIS MATTER comes before the Court on motions for partial summary judgment by Defendants Scharff Witchel & Co., Inc. ("Scharff Witchel"), Sam Witchel and Gregory ("Greg") Witchel ...	Apr. 26, 2007	Case		—
Cited by	**110. Dukes Bridge LLC v. Security Life of Denver Ins. Co.** 2015 WL 3755945, *6 , E.D.N.Y. Plaintiff Dukes Bridge LLC ("Dukes Bridge") brings this action against Security Life of Denver Insurance Company ("SLD") to obtain payment of death benefits on a life insurance...	June 16, 2015	Case		7 A.2d
Cited by	**111. Burns v. Delaware Charter Guarantee & Trust Co.** 805 F.Supp.2d 12, 29 , S.D.N.Y. LABOR AND EMPLOYMENT - Benefit Plans. Holders of IRAs lacked standing to sue financial group and trust company under ERISA.	June 08, 2011	Case		—
Cited by	**112. In re Gianninoto** 2016 WL 4401211, *5 , Bkrtcy.D.N.J. 1. On August 3 and 4, 2016, the Court conducted a trial addressing the remaining claims and defenses of Wendy P. Gianninoto ("Mrs. Gianninoto") and JP Morgan Chase, NA...	Aug. 15, 2016	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**113. In re Karpo** 2011 WL 3034486, *11 , Bkrtcy.D.N.J. The plaintiffs seek a determination of nondischargeability under 11 U.S.C. § 523(a)(2)(A) for the debt due to them from the debtors, and a denial of the debtors' discharge pursuant...	July 22, 2011	Case		3 A.2d
Cited by	**114. Ross Holding and Management Company v. Advance Realty Group, LLC** 2014 WL 4374261, *37 , Del.Ch. Plaintiffs are minority unitholders of a real estate investment and development firm. They are also former managers of the company and were terminated from their positions...	Sep. 04, 2014	Case		—
Cited by	**115. SinoMab Bioscience Ltd. v. Immunomedics, Inc.** 2009 WL 1707891, *12+ , Del.Ch. In this action, a biopharmaceutical firm and its former employee dispute whether that former employee violated his contractual and common law obligations. According to defendant...	June 16, 2009	Case		3 A.2d
Cited by	**116. Terra Nova Ins. Co. v. Fray-Witzer** 869 N.E.2d 565, 576 , Mass. INSURANCE - Liability. CGL policies provided advertising injury coverage for liability for sending unsolicited fax advertisements.	July 10, 2007	Case		9 A.2d
Cited by	**117. BRUCE BANKO, Petitioner, v. PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent.** 2017 WL 6551564, *12 , N.J. Adm. In 1985 Petitioner Bruce Banko (Banko) became employed with the Township of Woodbridge and he was enrolled in the Public Employees Retirement System (PERS). On October 21, 2013, he...	Dec. 11, 2017	Administrative Decision		3 A.2d
Cited by	**118. CONCETTA CANNADY, Petitioner, v. BOARD OF TRUSTEES, PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent.** 2017 WL 4545104, *6 , N.J. Adm. On January 27, 2016, petitioner, Concetta Cannady applied to the State of New Jersey Board of Trustees for the Public Employees Retirement Pension System (PERS) for approval to...	Sep. 27, 2017	Administrative Decision		3 A.2d
Cited by	**119. DAVID MITERKO, Petitioner, v. POLICE AND FIREMAN'S RETIREMENT SYSTEM, Respondent.** 2017 WL 3586478, *11 , N.J. Adm. David Miterko (Miterko or Petitioner), age thirty-nine, was born on December 10, 1977. On February 1, 1999, he became a Correction Officer for Hudson Country and enrolled in the...	Aug. 11, 2017	Administrative Decision		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**120. HEATHER LERCH, Petitioner, v. BOARD OF TRUSTEES, TEACHERS' PENSION AND ANNUITY FUND, Respondent.** 2017 WL 2655901, *6 , N.J. Adm. Petitioner, Heather Lerch, appeals the determination of the Board of Trustees of the Teachers' Pension and Annuity Fund (Board or TPAF) denying her application for ordinary...	June 07, 2017	Administrative Decision		3 A.2d
Cited by	**121. IN THE MATTER OF LUIS DE LEON,CAMDEN COUNTY.** 2017 WL 922739, *12 , N.J. Adm. Luis DeLeon, appellant, brings this appeal before the Civil Service Commission, asking for reinstatement following his removal for cause. The appointing authority has terminated...	Feb. 21, 2017	Administrative Decision		—
Cited by	**122. NUBIA FISCHER, Petitioner, v. PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent.** 2016 WL 6093381, *7 , N.J. Adm. Petitioner Nubia Fischer appeals from the determination of respondent Board of Trustees of the Public Employees' Retirement System (the Board) denying her application for ordinary...	Oct. 06, 2016	Administrative Decision		3 A.2d
Cited by	**123. DANIEL DELVALLE, Petitioner, v. BOARD OF TRUSTEES, POLICE & FIREMEN'S RETIREMENT SYSTEM, Respondent.** 2016 WL 1634793, *8 , N.J. Adm. On or about October 24, 2013, petitioner Daniel Delvalle applied to the State of New Jersey Board of Trustees for the Police & Firemen's Retirement System (PFRS) for approval to...	Apr. 13, 2016	Administrative Decision		3 A.2d
Cited by	**124. LEE PLATT, Petitioner, v. POLICE AND FIREMEN'S RETIREMENT SYSTEM, Respondent.** 2015 WL 4140732, *10 , N.J. Adm. This matter arises from the denial of petitioner Lee Platt's (Platt) application for accidental disability retirement benefits by respondent Board of Trustees of the Police and...	May 11, 2015	Administrative Decision		2 3 A.2d
Cited by	**125. CYNTHIA JONES, Petitioner, v. BOARD OF TRUSTEES, TEACHERS' PENSION AND ANNUITY FUND, Respondent.** 2015 WL 3962558, *7 , N.J. Adm. On April 26, 2012, petitioner Cynthia Jones applied to the State of New Jersey Board of Trustees for the Teachers' Pension and Annuity Fund (TPAF) for approval to retire on...	Feb. 10, 2015	Administrative Decision		3 A.2d
Cited by	**126. DONNA WEEKS-NATSON, Petitioner, v. BOARD OF TRUSTEES, PUBLIC EMPLOYEES' RETIREMENT SYSTEM, Respondent.** 2014 WL 6473475, *8 , N.J. Adm. On November 30, 2012, petitioner Donna Weeks-Natson applied to the State of New Jersey Board of Trustees for the Public Employees Retirement Pension System (PERS) for approval to...	Nov. 06, 2014	Administrative Decision		3 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Cited by	**127. IN THE MATTER OF EDWARD SANTIAGO, CITY OF PLAINFIELD DEPARTMENT OF PUBLIC AFFAIRS.** 2014 WL 3708657, *10 , N.J. Adm. This matter concerns appellant, Edward Santiago, who in 1999 was appointed to the position of chief of police for the City of Plainfield. In 2008, the City of Plainfield underwent...	June 30, 2014	Administrative Decision		3 A.2d
Cited by	**128. THOMAS MOLICA, Complainant, v. WILLIAM SAYRE, PEQUANNOCK TOWNSHIP BOARD OF EDUCATION, MORRIS COUNTY, Respondent.** 2014 WL 1809652, *8 , N.J. Adm. On August 9, 2013, the School Ethics Commission transmitted this matter for a hearing to determine whether respondent William Sayre, a member and President of the Pequannock...	Apr. 17, 2014	Administrative Decision		3 A.2d
Cited by	**129. DENNIS SCHUCK, Petitioner, v. BOARD OF TRUSTEES, PUBLIC EMPLOYEES RETIREMENT SYSTEM, Respondent.** 2014 WL 1005861, *8 , N.J. Adm. On April 30, 2012, petitioner Dennis Schuck applied to the State of New Jersey Board of Trustees for the Public Employees Retirement Pension System (PERS) for approval to retire on...	Mar. 06, 2014	Administrative Decision		3 A.2d
Cited by	**130. IN THE MATTER OF JEROME DUNN AND ALBERTO MARSAL, ELIZABETH BOARD OF EDUCATION, UNION COUNTY.** 2013 WL 4647753, *17 , N.J. Adm. This is a complaint brought against an assistant superintendent of the Elizabeth School District (the "District"), the Elizabeth School District coordinator of network and...	Aug. 08, 2013	Administrative Decision		3 A.2d
Cited by	**131. NEW JERSEY DEPARTMENT OF BANKING AND INSURANCE, Petitioner v. STEVEN B. BUDGE, Respondent** 2007 WL 4239479, *1+ , N.J. Adm. This matter comes before the Commissioner of Banking and Insurance (""Commissioner"") pursuant to the authority of N.J.S.A. 52:14B-1 et seq., N.J.S.A. 17:1-15 and N.J.S.A....	June 28, 2007	Administrative Decision		—
Cited by	**132. IN THE MATTER OF THE ARBITRATION BETWEEN CLAIMANT, Claimant, RESPONDENT (NOT ELSEWHERE CLASSIFIED), Respondent** 2016 WL 3615646, *3+ , AAA I, THE UNDERSIGNED ARBITRATOR, having been designated in accordance with the Arbitration Agreement entered into by Claimant [REDACTED] ([REDACTED] and Respondent [REDACTED]...	May 04, 2016	Administrative Decision		3 A.2d
Mentioned by	**133. Mitchell v. Mitchell** 2013 WL 10163958, *8 , N.J.Super.A.D. The opinion of the court was delivered by Defendant Freddie Mitchell appeals from the final judgment of divorce (FJD) entered following a default hearing conducted pursuant to Rule...	Feb. 12, 2015	Case		3 4 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**134. New Jersey Div. of Child Protection and Permanency v. C.B.** 2014 WL 2780975, *10 , N.J.Super.A.D. The Law Guardian, acting on behalf of A.B., a girl born in 1995, appeals from the order of the Family Part dismissing a verified complaint filed by the Division of Youth and...	June 20, 2014	Case		3 A.2d
Mentioned by	**135. In re Miller** 2013 WL 3762717, *4 , N.J.Super.A.D. Monica Miller, a Senior Corrections Officer at Northern State Prison (NSP), appeals from a final decision of the Civil Service Commission (CSC or the Commission) finding she had...	July 19, 2013	Case		—
Mentioned by	**136. Allstate New Jersey Ins. Co. v. Cherry Hill Pain and Rehab Institute** 911 A.2d 493, 500 , N.J.Super.A.D. INSURANCE - Judgment. Dismissal of health-care provider's suit did not require dismissal of insurers' fraud suit under entire controversy doctrine.	Dec. 07, 2006	Case		7 A.2d
Mentioned by	**137. Clementi v. Clementi** 85 A.3d 425, 428 , N.J.Super.Ch. FAMILY LAW - Equitable Distribution. Court may properly consider defendant's failure to appear in attempting to reach an equitable result in distribution of marital property.	Aug. 13, 2013	Case		—
Mentioned by	**138. News America Marketing In-Store Services, LLC v. Floorgraphics, Inc.** 576 Fed.Appx. 111, 114 , 3rd Cir.(N.J.) COMMERCIAL LAW - Settlements. Release barred competitor's proposed counterclaims in advertising services provider's pending breach of contract action.	Aug. 13, 2014	Case		—
Mentioned by	**139. SHARON OTERO, et al., Plaintiffs, v. PORT AUTHORITY OF NEW YORK AND NEW JERSEY, et al., Defendants.** 2017 WL 6447870, *5 , D.N.J. This matter comes before the Court by way of Plaintiffs' Motion for Leave to File an Amended Complaint. (ECF No. 145). In accordance with Federal Rule of Civil Procedure 78, the...	Dec. 18, 2017	Case		—
Mentioned by	**140. Government Employees Insurance Co. v. Zuberi** 2017 WL 4790383, *4 , D.N.J. This matter comes before the Court by way of Plaintiffs Government Employees Insurance Co., GEICO Indemnity Co., GEICO General Insurance Company, and GEICO Casualty Co.'s...	Oct. 23, 2017	Case		—
Mentioned by	**141. Re J&J Sports Productions v. Harris** 2017 WL 4516466, *2 , D.N.J. Counsel: Before this Court is Defendants Terrance Harris and Arlene Harris' (collectively, the “Harris Defendants”) Motion to Dismiss Counts One, Four, and Six of Plaintiff J&J...	Oct. 06, 2017	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**142. Horizon Blue Cross Blue Shield of New Jersey v. Focus Express Mail Pharmacy, Inc.** 2017 WL 3588195, *4 , D.N.J. This matter comes before the Court on Defendants Focus Express Mail Pharmacy, Inc. ("Focus Express"), Joel D. Shpigel, R.Ph. ("Shpigel"), and Ian D. Essen, R.Ph.'s ("Essen")...	Aug. 17, 2017	Case		—
Mentioned by	**143. Horizon Blue Cross Blue Shield of New Jersey v. Focus Express Mail Pharmacy, Inc.** 2017 WL 3528006, *4 , D.N.J. This matter comes before the Court on Defendants Focus Express Mail Pharmacy, Inc. ("Focus Express"), Joel D. Shpigel, R.Ph. ("Shpigel"), and Ian D. Essen, R.Ph.'s ("Essen")...	Aug. 16, 2017	Case		—
Mentioned by	**144. Colony Ins. Co. v. Kwasnik, Kanowitz & Associates, P.C.** 2014 WL 2920810, *5 , D.N.J. Before the Court is Plaintiff's Combined Motion for Summary Judgment and for Default Judgment. For the reasons set forth below, the Motion will be granted in part and denied in...	June 27, 2014	Case		7 A.2d
Mentioned by	**145. Perrotta v. LG Electronics USA, Inc.** 2013 WL 12289921, *11 , D.N.J. This matter comes before the Court by way of Defendant LG Electronics USA, Inc.'s ("Defendant") Motion to Dismiss Plaintiffs' Amended Class Action Complaint for Damages and...	Feb. 07, 2013	Case		—
Mentioned by	**146. Kim v. Dongbu Tour & Travel, Inc.** 2012 WL 12903168, *4 , D.N.J. Plaintiffs Tae In Kim and David D. Kim move to dismiss the counterclaims of Defendants Dongbu Tour & Travel Inc. ("Dongbu") and Kyu Sung Cho ("Cho"). Under Rule 78 of the...	Oct. 09, 2012	Case		—
Mentioned by	**147. SalandStacy Corp. v. Freeney** 2012 WL 3638696, *3 , D.N.J. This matter arises from a contractual agreement entered into by Plaintiffs SalandStacy Corp. ("S & S"), Salvatore Feli and Stacy Feli, as individuals and sole officers and...	Aug. 22, 2012	Case		—
Mentioned by	**148. SalandStacy Corp. v. Freeney** 2012 WL 959473, *9 , D.N.J. This matter comes before the Court by way of Defendants' Motion to Dismiss Plaintiffs' Complaint for failure to state a claim on which relief may be granted pursuant to...	Mar. 21, 2012	Case		—
Mentioned by	**149. Aequus Technologies, L.L.C. v. gh, L.L.C.** 2011 WL 1211328, *4 , D.N.J. Plaintiffs Aequus Technologies L.L.C., Aequus Technologies Corp., Richard Schatzberg and Lemuel Tarshis have brought suit against Defendants gh, L.L.C. ("gh"), David Schleppenbach...	Mar. 29, 2011	Case		—

Treatment	Title	Date	Type	Depth	Headnote(s)
Mentioned by	**150. Hettinger v. Kleinman** 733 F.Supp.2d 421, 440 , S.D.N.Y. TORTS - Fraud. Existence of parallel contract claims did not preclude investor from pursuing fraud claims.	Aug. 17, 2010	Case		—
Mentioned by	**151. Estate of Olivo v. C.I.R.** 2011 WL 2709636, *4 , U.S.Tax Ct. TAXATION - Estate and Inheritance. Estate was not entitled to deduct from estate tax $1.24 million to pay decedent's son for pre–death caregiving services.	July 11, 2011	Case		4 5 A.2d
Mentioned by	**152. Johnson v. Metropolitan Life Ins. Co.** 913 N.Y.S.2d 44, 46 , N.Y.A.D. 1 Dept. INSURANCE - Life. New Jersey law applied to allow insurer to assert fraud claim after expiration of contestability period.	Dec. 07, 2010	Case		7 A.2d
Mentioned by	**153. Ballagh v. Fauber Enterprises, Inc.** 773 S.E.2d 366, 369 , Va. COMMERCIAL LAW - Consumer Protection. Plaintiff must prove a violation of VCPA by a preponderance of the evidence rather than by clear and convincing evidence.	June 04, 2015	Case		4 A.2d
—	**154. AHLA Seminar Materials P06300840, MM. Representing Physician-Owned Ambulatory Surgery Centers in Formation and Dealing with Issues Affecting Ownership** 1. Out of Network 2. New Jersey Self Referral Law 3. California Licensure Law 4. 2 OIG Advisory Opinions 5. Safe Harbor Compliance A. New York Launches Investigation into Out of...	—	Other Secondary Source	—	—
—	**155. Couch on Insurance s 101:28, Generally** A tortfeaser may be liable to the victim for more than just compensatory damages, i.e., damages above and beyond what is required to compensate the victim for the loss. These...	2017	Other Secondary Source	—	9 A.2d
—	**156. Jones on Evidence--Civil and Criminal s 3:9, Burdens of persuasion: Preponderance of evidence; clear and convincing evidence-Preponderance of evidence** Definitions of "preponderance of the evidence" take one of three approaches. The first provides that a fact is established by a preponderance of the evidence if the factfinder is...	2017	Other Secondary Source	—	3 A.2d
—	**157. Jones on Evidence--Civil and Criminal s 3:10, Burdens of persuasion: Preponderance of evidence; clear and convincing evidence-Clear and convincing evidence** "Clear and convincing evidence" falls somewhere between a "preponderance" and the much more demanding criminal standard of "beyond a reasonable doubt." "Clear and convincing...	2017	Other Secondary Source	—	5 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**158. Jones on Evidence--Civil and Criminal s 3:14, Allocating burdens in civil cases-Options and considerations** The generalizations and mechanical rules discussed in the previous two sections provide little assistance to a court that must decide whether to deviate from an established burden...	2017	Other Secondary Source	—	9 A.2d
—	**159. Miller's Standard Insurance Policies Annotations HO-1.4-R,** Miller's Standard Insurance Policies Annotations	2017	Other Secondary Source	—	—
—	**160. Miller's Standard Insurance Policies Annotations HO-1.4-Q2,** Miller's Standard Insurance Policies Annotations	2011	Other Secondary Source	—	—
—	**161. Miller's Standard Insurance Policies Annotations HO-1.4-R2,** Miller's Standard Insurance Policies Annotations	2017	Other Secondary Source	—	—
—	**162. Miller's Standard Insurance Policies Annotations HO-1.3-A08,** Miller's Standard Insurance Policies Annotations	2017	Other Secondary Source	—	—
—	**163. 18 N.J. Prac. Series s 12.29, Fraud-In general** N.J. Prac. Series New Jersey courts recognize two varieties of the tort of fraud: legal fraud, which is an intentional tort for which the victim is entitled to money damages, and equitable fraud,...	2017	Other Secondary Source	—	4 A.2d
—	**164. 2B N.J. Prac. Series N.J.R.E. 101, Scope; Definitions** N.J. Prac. Series Rule 101 is based on N.J.Evid.R. 1, 2, and 3 of the 1967 Rules of Evidence; Fed.R.Evid. 101 and 1101 deal with the scope and applicability of the federal rules. Paragraph (a) of...	2017	Other Secondary Source	—	4 8 9 A.2d
—	**165. 47 N.J. Prac. Series s 26:5, Burden of persuasion** N.J. Prac. Series According to New Jersey Rule of Evidence 101(b)(1): "Burden of persuasion" means the obligation of a party to meet the requirements of a rule of law that the fact be proved...	2017	Other Secondary Source	—	3 4 A.2d
—	**166. 50 N.J. Prac. Series s 19:30, Fraud-In general** N.J. Prac. Series New Jersey courts recognize two varieties of the tort of fraud: legal fraud, which is an intentional tort for which the victim is entitled to money damages, and equitable fraud,...	2017	Other Secondary Source	—	4 A.2d
—	**167. 52 N.J. Prac. Series s 26:1, Summary of law** N.J. Prac. Series The term "fraud" is used in New Jersey to designate what is really an action for deceit. Depending on remedy sought, action for fraud may be either legal or equitable in nature....	2017	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**168. 53 N.J. Prac. Series 17:33A-1, Short title; New Jersey Insurance Fraud Prevention Act** N.J. Prac. Series Burden of proof in contested cases—The standard of proof in an insurance fraud case is proof by a preponderance of evidence. Liberty Mut. Ins. Co. v. Land, 186 N.J. 163, 174, 892...	2017	Other Secondary Source	—	4 8 A.2d
—	**169. 53 N.J. Prac. Series 17:33A-3, Definitions** N.J. Prac. Series Any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance...	2017	Other Secondary Source	—	9 A.2d
—	**170. 53 N.J. Prac. Series 17:33A-4, Actions which violate act** N.J. Prac. Series Presents or causes to be presented any written or oral statement as part of, or in support of or opposition to, a claim for payment or other benefit pursuant to an insurance policy...	2017	Other Secondary Source	—	7 A.2d
—	**171. 53 N.J. Prac. Series 17:33A-7, Actions by insurance companies against violators; damages; copies of legal documents sent to commissioner; report; joinder in action by commissioner** N.J. Prac. Series Right to a jury trial in private insurance fraud actions—In private action insurance fraud cases, the right to a jury trial under Article I, Paragraph 9 of the New Jersey...	2017	Other Secondary Source	—	7 A.2d
—	**172. Punitive Damages: Law and Practice, Second Edition s 9:10, Burden of proof** Punitive Damages: Law and Practice, Second Edition	2017	Other Secondary Source	—	—
—	**173. Sutherland Statutes and Statutory Construction s 53:3, Interpretive relevance of unrelated statutes** On the basis of analogy, the interpretation of a doubtful statute may be influenced by the language of other statutes which are not specifically related, but which apply to similar...	2017	Other Secondary Source	—	—
—	**174. CJS Evidence s 1624, Clear-and-convincing evidence** CJS Evidence In ordinary civil actions a fact in issue normally is sufficiently proved by a preponderance of the evidence. However, clear-and-convincing proof is required in civil cases where...	2017	Other Secondary Source	—	4 A.2d
—	**175. CJS Evidence s 1626, Proof beyond reasonable doubt** CJS Evidence The highest standard, proof beyond a reasonable doubt, is primarily applied in criminal cases. The beyond-a-reasonable-doubt standard of proof is not an empty semantic exercise; it...	2017	Other Secondary Source	—	4 6 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**176. CJS Evidence s 1627, Preponderance of evidence** CJS Evidence An issue of fact in a civil case generally cannot be regarded as proved unless the party having the burden of proof thereof produces a preponderance of the evidence. The...	2017	Other Secondary Source	—	3 A.2d
—	**177. THE NEXT BEST DEFENDANT: EXAMINING A REMOTE TEXT SENDER'S LIABILITY UNDER KUBERT v. BEST** 50 Akron L. Rev. 353 , 382 I. Introduction. 354 II. Background. 356 A. Texting and Driving Has Produced Negative Effects in Society. 356 B. Texting-and-Driving Laws Have Been Enacted by State...	2016	Law Review	—	4 5 A.2d
—	**178. THE BASICS OF INSURANCE FRAUD** 254-OCT N.J. Law. 59 , 60+ The specter of fraud has haunted commerce since long before the creative salesmanship of the snake oil salesmen of the old west. Its fundamental character, however, has remained a...	2008	Law Review	—	—
—	**179. ENFORCEABILITY OF ORAL AGREEMENTS AND PARTIAL WRITINGS FOR THE SALE OF LAND UNDER THE REVISED STATUTE OF FRAUDS** 250-FEB N.J. Law. 37 , 41 A verbal contract isn't worth the paper it's written on. Samuel Goldwyn If Samuel Goldwyn were alive today, he would have to change his tune. In 1995, New Jersey's statute of...	2008	Law Review	—	—
—	**180. INSURANCE FRAUD LITIGATION REACHES NEW HEIGHTS** 244-FEB N.J. Law. 31 , 34+ The New Jersey Insurance Fraud Prevention Act (IFPA) is potent legislation. The act was passed in 1983, creating the Division of Insurance Fraud Prevention within the New Jersey...	2007	Law Review	—	7 8 9 A.2d
—	**181. MANDATORY VICTIM RESTITUTION ACT: A REPLACEMENT FOR VICTIMS' INTENTIONAL TORT CLAIMS FOR VIOLENT CRIMES IN NEW JERSEY** 69 Rutgers U. L. Rev. 385 , 418 Victims' involvement in the criminal justice system has changed vastly in the last fifty years. Victims' rights came into prominence with President Ronald Reagan's commission of...	2016	Law Review	—	1 4 A.2d
—	**182. FROM PORITZ TO RABNER: THE NEW JERSEY SUPREME COURT'S STATUTORY JURISPRUDENCE, 2000-2009** 35 Seton Hall Legis. J. 302 , 359 "[W]e continue to believe that our primary function in statutory interpretation is effectuating the legislature's intent, but we recognize that that is often a difficult...	2011	Law Review	—	7 A.2d

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**183. CLARIFYING A POST-PAYMENT AUDIT FICTION: WHY INADEQUATE CLINICAL RECORDS ARE NOT A PER SE VIOLATION OF THE NEW JERSEY INSURANCE FRAUD PREVENTION ACT** 31 Seton Hall Legis. J. 287 , 310+ "A bare assertion is not necessarily the naked truth." I. INTRODUCTION. 288 II. THE PURPOSE, LEGAL BASIS, AND RECENT PROLIFERATION OF PRIVATE INSURANCE CARRIER-INITIATED...	2007	Law Review	—	—
—	**184. CONTRACTS, CAUSATION, AND CLARITY** 78 U. Pitt. L. Rev. 273 , 327 Contract-law remedies start with the assumption that an injured party should be fully compensated for all losses caused by the breach. As in tort law, however, difficult issues...	2017	Law Review	—	4 9 A.2d
—	**185. P 803,460 HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY V. FOCUS EXPRESS MAIL PHARMACY, INC.** Health Care Compliance Reporter Horizon Blue Cross Blue Shield of New Jersey v. Focus Express Mail Pharmacy, Inc. U.S. District Court, D. New Jersey, No. 17-571 (MAS) (TJB), August 16, 2017. NOT FOR PUBLICATION...	2017	Other Secondary Source	—	7 A.2d
—	**186. P 61,554 SAM HARGROVE, ANDRE HALL AND MARCO EUSEBIO, PLAINTIFFS-APPELLANTS V SLEEPY'S, LLC, DEFENDANT-RESPONDENT V I STEALTH, EUSEBIO'S TRUCKING CORP., AND CURVA TRUCKING, LLC, THIRD-PARTY DEFENDANTS.** Labor & Employment Law Sam Hargrove, Andre Hall and Marco Eusebio, Plaintiffs-Appellants v Sleepy's, LLC, Defendant-Respondent v I Stealth, Eusebio's Trucking Corp., and Curva Trucking, LLC, Third-Party...	2015	Other Secondary Source	—	—
—	**187. P 203,524 ROSS HOLDING AND MANAGEMENT COMPANY; ELD PARTNERS, L.P.; GREGORY N. SENKEVITCH; NICHOLAS G. STATHAKIS; AND GARY J. SOPKO, PLAINTIFFS, V. ADVANCE REALTY GROUP, LLC; ADVANCE CAPITAL PARTNERS, LLC; ADVANCE REALTY** Labor & Employment Law ROSS HOLDING AND MANAGEMENT COMPANY; ELD PARTNERS, L.P.; GREGORY N. SENKEVITCH; NICHOLAS G. STATHAKIS; and GARY J. SOPKO, Plaintiffs, v. ADVANCE REALTY GROUP, LLC; ADVANCE CAPITAL...	2014	Other Secondary Source	—	—
—	**188. P 196,227 MILES TECHNOLOGY, INC., PLAINTIFF-RESPONDENT/CROSS-APPELLANT, V. APEX I.T. GROUP, LLC, BRILEY YETTER, AND GREG TAVARES, DEFENDANTS-APPELLANTS/CROSS-RESPONDENTS.** Labor & Employment Law MILES TECHNOLOGY, INC., Plaintiff-Respondent/ Cross-Appellant, v. APEX I.T. GROUP, LLC, BRILEY YETTER, and GREG TAVARES, Defendants-Appellants/Cross-Respondents. No. A-3453-11T4....	2013	Other Secondary Source	—	—

Treatment	Title	Date	Type	Depth	Headnote(s)
—	**189. P 306,201 HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY V. FOCUS EXPRESS MAIL PHARMACY, INC., 17-571 (MAS) (TJB), AUGUST 16, 2017 - MAIL ORDER PHARMACY'S MOTION TO DISMISS CLAIMS THAT IT USED KICKBACKS TO INDUCE PATIENTS** Medicare and Medicaid Guide Horizon Blue Cross Blue Shield of New Jersey v. Focus Express Mail Pharmacy, Inc., 17-571 (MAS) (TJB), August 16, 2017 — Mail order pharmacy's motion to dismiss claims that it used...	2018	Other Secondary Source	—	7 A.2d
—	**190. P 306,201 HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY V. FOCUS EXPRESS MAIL PHARMACY, INC.** Medicare and Medicaid Guide Horizon Blue Cross Blue Shield of New Jersey v. Focus Express Mail Pharmacy, Inc. ¶ 306,201. U.S. District Court, D. New Jersey, Doc. No. 17-571 (MAS) (TJB), August 16, 2017. NOT...	2017	Other Secondary Source	—	7 A.2d
—	**191. P 304,555 HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY, PLAINTIFF, V. TRANSITIONS RECOVERY PROGRAM, DEFENDANT.** Pension Plan Guide (CCH) HORIZON BLUE CROSS BLUE SHIELD OF NEW JERSEY, Plaintiff, v. TRANSITIONS RECOVERY PROGRAM, Defendant. (Doc. Nos. 129, 130, 133, 136), Civil No. 10-3197 (RBK/KMW). U.S. District...	2015	Other Secondary Source	—	—
—	**192. P 11,344 IN RE NEURONTIN MARKETING AND SALE PRACTICES LITIGATION** RICO Business Disputes Guide In re Neurontin Marketing and Sale Practices Litigation [¶ 11,344]. U.S. District Court, District of Massachusetts. Civil Action No. 04-10981. Filed August 29, 2007.	2007	Other Secondary Source	—	—
—	**193. P 31,744 THOMAS DEVINE, PLAINTIFF V. ADVANCED COMPUTER CONCEPTS INC., DEFENDANT.** State Unfair Trade Practices Law Thomas Devine, Plaintiff v. Advanced Computer Concepts Inc., Defendant. ¶ 31744. U. S. District Court, District of New Jersey. No. 08-875 (GEB). Dated January 9, 2009. Brown,...	2009	Other Secondary Source	—	9 A.2d
—	**194. P 79,775 AVAYA INC., RP APPELLANT IN 14-4174 V. TELECOM LABS, INC.; TEAMTLI.COM CORP., CONTINUANT, INC., SCOTT GRAHAM; DOUGLAS GRAHAM; BRUCE SHELBY TELECOM LABS INC., CONTINUANT INC., APPELLANTS IN 14-4277.** Trade Regulation Reporter Avaya Inc., RP Appellant in 14-4174 v. Telecom Labs, Inc.; TeamTLI.com Corp., Continuant, Inc., Scott Graham; Douglas Graham; Bruce Shelby Telecom Labs Inc., Continuant Inc.,...	2016	Other Secondary Source	—	4 A.2d

