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Administrative Law and Procedure

Reich v. Hercules, Inc. 857 F.Supp. 367 (D.N.J. 1994)

Court enforced the administrative subpoena duces tecum served the Secretary of Labor on defendant, Hercules, Inc., thereby rejecting the application of self-critical analysis privilege, attorney-client privilege, and attorney work-product doctrine.

Maritime Law

Complaint of Nautilus Motor Tanker Co. Ltd. 900 F.Supp. 697 (D.N.J. 1995)

Under New Jersey common law, vessel operator was liable to berth operator for purely economic losses incurred as a result of an oil spill caused by the grounding of a vessel.

Complaint of Nautilus Motor Tanker Co., Ltd., 862 F.Supp. 1260 (D.N.J. 1994) *aff'd* 85 F.3d 105 (3d Cir. 1996).

Vessel owner's claim seeking exoneration from or limitation of liability for the oil spill caused by the negligent grounding of an oil tanker was denied, and wharf owner was found not liable for damages in the amount of $26 million.

Complaint of Nautilus Motor Tanker Co., Ltd., 862 F.Supp. 1251 (D.N.J. 1994)

On three evidentiary motions that arose during trial, Court held that Coast Guard report portions of defendant's witness's testimony, and a sketch drawn by commercial diver during his testimony were admissible.

Metal Processing, Inc. v. Humm, 56 F.Supp.2d 455 (D.N.J. 1999)

Shipper of cargo was liable to plaintiff, tug and barge owner, who sought indemnity for settlement paid to third party for lost cargo.

Alternate Dispute Resolution

Bosworth v. Ehrenreich, 823 F.Supp. 1175 (D.N.J. 1993)

A dispute among co-owners regarding the operation of a corporation was arbitrable under broad language in shareholders agreement. Preliminary injunction was granted pending commencement of arbitration in New York to help stabilize corporate operations and prevent irreparable harm.

Bender v. Smith Barney, Harris Upham & Co., Inc. 789 F.Supp. 155 (D.N.J. 1992)

Title VII action by former employee of a securities brokerage firm was subject to compulsory arbitration, which was not contrary to public policy.

Antitrust and Trade Regulation

Novartis Consumer Health, Inc. v. Johnson & Johnson-Merck Consumer Pharmaceuticals Co. 129 F.Supp.2d. 351 (D.N.J. 2000), *aff'd* 290 F.3d 578 (3d Cir. 2002).

Preliminary injunction was granted in a suit by an antacid manufacturer against competitor for false advertising in violation of the Lanham Trade-Mark Act and the New Jersey Consumer Fraud Act.

Bankruptcy

In re G-I Holdings, Inc. 380 F.Supp.2d 469 (D.N.J. 2005)

In an action for declaratory judgment that non-bankrupt plaintiffs cannot be held liable for asbestos-related claims brought against debtor G-I under any theory of successor liability or "alter ego" (piercing the corporate veil), defendants are entitled to a jury trial under the Seventh Amendment on both the issue of successor liability and the issue of piercing the corporate veil.

In re G-I Holdings, Inc. 328 B.R. 691 (D.N.J. 2005)

Bankruptcy Court-appointed legal representative could not be conscripted to help debtor obtain nonbankruptcy relief for subsidiaries that would bind future asbestos claimants and was not a guardian ad litem with power to bind such future claimants.

In re G-I Holdings, Inc. Slip Copy, 2005 WL 1303473 (D.N.J. 2005)

Debtor G-I Holding's motion for clarification and reconsideration of Court's July 16, 2004 Order is denied because failure to fully brief the issue and attempt to re-litigate old matters did not warrant a motion for reconsideration.

In re G-I Holdings, Inc., 318 B.R. 66 (D.N.J. 2004) *aff'd* 122 Fed.Appx. 554 (3d Cir. 2004)

Court affirmed the Bankruptcy Court's June 18, 2003 decision that it did not have subject matter jurisdiction to prejudice the rights and defenses BNY might assert in any subsequent proceedings due to lack of ripeness.

In re G-I Holdings, Inc., 218 F.R.D. 428 (D.N.J. 2003)

Debtors' Motion to Bifurcate Discovery and Trial on the Issue of Penalties was denied because debtors suffered no prejudice that would warrant a separation of trial and waived their attorney-client privilege with regard to the subject matter of the 1990 Transaction and Subsequent Events.

In re G-I Holdings, Inc., 295 B.R. 502 (D.N.J. 2003), *aff'd* 385 F.3d 313 (3d Cir. 2004)

There was no legal error or abuse of discretion in Bankruptcy Court's denial of creditors' committee's motion to appoint a Chapter 11 trustee. Denial of motion was proper because of a strong presumption in favor of debtor's current management and the creditors' committee failure to prove the need for a trustee by clear and convincing evidence.

In re G-I Holdings, Inc., 295 B.R. 222 (D.N.J. 2003)

Withdrawal of the reference to the Bankruptcy Court was mandatory because substantial and material consideration of competing non-bankruptcy legal standards were required.

In re G-I Holdings, Inc., 295 B.R. 211 (D.N.J. 2003)

Withdrawal of the reference to the Bankruptcy Court was warranted as to the Adversary Proceeding concerning successor liability of G-I's subsidiary, BMCA in asbestos tort actions du to equity and due process concerns. Withdrawal of the reference motions as to the Estimation and Bar Date were denied because of they could be adequately addressed in a bankruptcy proceeding.

In re Bernehim Litigation, 290 B.R. 249 (D.N.J 2003)

Chapter 11 debtor's claims against defendants to recover for alleged violation of automatic stay were time-barred under New Jersey statue of limitations.

FGH Realty Credit Corp. V. Newark Airport/Hotel Ltd. Partnership, 155 B.R. 93 (D.N.J. 1993)

Bankruptcy Court's denial of under-secured mortgagee's motion for relief from automatic stay and motion to dismiss debtor's Chapter 11 petition was not clearly erroneous because the debtor had shown a reasonable possibility of reorganization.

In re Chiro Plus, Inc. 339 B.R. 111 (D.N.J. 2006)

Bankruptcy Court properly expunged appellants' claims when it determined that appellants failed to overcome valid objection to the proof of their claim and that the prevention doctrine did not apply.

Banks and Banking

Condus V. Howard Sav. Bank, 999 F.Supp.594 (D.N.J 1998)

Judgment creditors could recover full pre-judgement interest as provided by New Jersey law in tort actions that result in a final judgment for the payment of money, and creditors could recover post-judgment interest as provided by federal law because of the FDIC has paid ratable distribution to other creditors.

Condus v. Howard Sav. Bank, 986 F.Supp. 914 (D.N.J. 1997)

In action against bank, plaintiffs could admit into evidence reports prepared by an outside company hired by the defendant bank. Even thought the company was a naonagent independent contractor and the reports were inadmissible as admission of party opponent, the reports were admissible under business records exception to hearsay rule.

Bank Potska Kasa Opieki, S.A. v. Pantrapo Sav. Bank, S.L.A. 909 F.Supp. 948 (D.Nj>j. 1995)

In a suite involving a $2,000,000.00 check drawn by Bank Polska on its account with the drawee bank, Chemical Bank, and deposited in Pamrap Bank's corporate account, the drawer bank lacks standing to assert a conversion claim, warranty claim, and negligence claim against the depository bank.

Civil Rights

Jackson v. Fauver, 334 F.Supp.2d 697 (D.N.J. 2004)

Plaintiffs, 15 former and current inmates at East Jersey State Prison, filed individual §1983 and state law actions against defendants. Correctional Medical Services, four of its officials, and officials and employees of the New Jersey Department of Corrections, alleging that

the defendants were deliberately indifferent to Plaintiff's serious medical records, in violation of Plaintiff's constitutional rights under the Eighth Amendment. Court granted summary judgment with regard to some of the defendants and denied summary judgment with regard to others finding genuine issue as to material facts.

Johnson v. Paparozzi, 219 F.Supp.2d 635 (D.N.J. 2002)

State prisoner's action against the New Jersey Parole Board (NJPB) pursuant to 1983 for alleged violations for his due process and equal protection rights was dismissed for failure to state a claim.

Johnson v. Guhl, 91 F.Supp.2d 754 (D.N.J. 2000)

Plaintiffs were Medicaid applicants residing in long-term care facilities, their non-institutionalized spouses who were beneficiaries of Community Spouse Annuity Trusts (CSATs), and prospective Medicaid applicants, who sued the Commissioner of the New Jersey Department of Human Services under 1983 and 1988, and alleges that changes to New Jersey's Medicaid policies and procedures violated plaintiffs' due process and equal protection rights. On defendants' motion to dismiss and plaintiffs' motion for preliminary injunction, Court found that claims of prospective applicants were not ripe for review, claims for monetary damages were barred, and defendants' policy regarding CSAT's did not violate equal protection. Preliminary injunctive relief was not granted because plaintiffs were not likely to succeed on merits of their claim.

Blakey v. Continental Airlines, Inc., 2 F.Supp.2d. 598 (D.N.J. 1998)

Court awarded plaintiff reasonable attorney fees, costs, and prejudgment interest following her hostile work environment sexual harassment action against Continental Airlines.

Blakey v. Continental Airlines, Inc., 992 F.Supp. 731. (D.N.J. 1998)

Court remitted jury award by $250,000 in plaintiff's action against her former employer for hostile work environment sexual harassment under Title VII of Civil Rights Act of 1964 and New Jersey Law Against Discrimination (LAD), finding that jury's award of $500,000 for emotional distress and pain and suffering was excessive and that remittitur was the proper remedy rather than a new trial.

Gittleman v. Woodhaven Condominium Ass'n Inc., 972 F.Supp. 894 (D.N.J. 1997)

In an action brought by a handicapped owner of a condominium unit against defendant condominium association under the Fair Housing Amendments Act (FHAA) and New Jersey Law Against Discrimination, the Court held that the association's master deed providing that condominium's parking spaces were common elements for non-exclusive use and therefore denying handicapped unit owner's request for exclusive parking space was subject to requirements of FHAA and that the association was the proper party to sure for alleged violations of the FHAA.

Presbytery of New Jersey of the Orthodox Presbyterian Church v. Florio, 902 F.Supp. 492 (D.N.J. 1995), *aff'*d 99 F.3d 101 (3d Cir. 1996).

On remand, Court held that church minister had standing and could properly challenge the constitutionality of aiding and abetting provisions of New Jersey's Law Against Discrimination because they were ripe for judicial review. Summary judgment was inappropriate because aiding and abetting provisions were not facially invalid under the First Amendment.

Kessler Institute for Rehabilitation, Inc. v. Mayor and Council of Borough of Essex Fells, 876 F.Supp. 641 (D.N.J. 1995)

Property owner had Article III standing to challenge municipal ordinance authorizing condemnation of property on which owner planned to build treatment facility for disabled adults for violation of equal protection clauses of State and Federal Constitutions, FHA, and NJLAD, but lacked standing to assert claims under the ADA. Claim was ripe for judicial review even though condemnation had not yet occurred, and *Younger* abstention doctrine applied to claims for injunctive relief but not to monetary damages.

Presbytery of New Jersey of the Orthodox Presbyterian Church v. Florio, 830 F.Supp. 241, *aff'd in part, rev'd in part* 40 F.3d 1435 (3d Cir. 1994).

Governing body of religious denomination and a church minister challenged the constitutionality and enforcement of New Jersey's Law Against Discrimination "affectional or sexual orientation" provision. Court granted defendants' motion to dismiss because the action was not ripe for judicial determination.

Fagan v. City of Vineland, 804 F.Supp. 591, *aff'd in part, rev'd in part* 22 F.3d 1283 (3d Cir. 1994)

Police officers' involvement in high speed pursuit did not "shock-the-conscience" as required to support plaintiffs' Fourteenth Amendment substantive due process claims and summary judgment for defendants was granted. Court did not retain federal jurisdiction over remaining state claims under the New Jersey Tort Claims Act.

Constitutional Law

New Jersey Environmental Federation v. Wayne Tp., 310 F.Supp.2d 681 (D.N.J. 2004)

Municipal ordinance that required canvassers who asked for donations as part of their canvassing activities to obtain a permit imposed an impermissible restraint on speech and violated the First Amendment.

Tenafly Eruv Ass'n, Inc. v. Borough of Tenafly, 155 F.Supp.2d 142, *rev'd*, 309 F.3d 144 (3d Cir. 2002).

Court denied injunctive relief to a religious group who was denied permission to make ceremonial demarcations in borough's right-of-way and alleged constitutional, civil rights, and Fair Housing Act violations, and dissolved the temporary restraining order prohibiting borough from removing erected demarcations.

Contracts

Norwest Bank Minnesota v. Blair Road Associated, L.P., 252 F.Supp.2d 86 (D.N.J. 2003)

In a mortgage foreclosure action, the Court held that under the totality of circumstances test under New Jersey law, the default interest rate provision in the promissory note, that was tied to greater of two formulas, did not constitute oppressive penalty for default on load; prepayment premium was not duplicative of default interest rate; calculation of prepayment premium at time or execution judgment was commercially reasonable; and plaintiff lender did not breach its covenant of good faith and fair dealing.

National Utility Service, Inc. v. Huntsman Chemical Corp., 70 F.Supp.2d 496 (D.N.J. 1999)

In a contingent fee contract governed by California law, the Court had to decide whether the defendant's offered evidence was relevant to prove a meaning to which certain terms of the Agreement are reasonably susceptible. Court held that parol evidence was admissible to resolve ambiguity in contact terms, and evidence as to defendant's understanding as to the nature of plaintiff's recommendation was admissible.

Laidlaw, Inc. v. Student Transp. of America, Inc., 20 F.Supp.2d 727 (D.N.J. 1998)

In denying plaintiff motion for preliminary injuctive relief to enforce noncompetition agreements and enjoin sellers and former executives of a competing school bus company, the plaintiff no longer had a protectable interest in purchased good will nine and a half years after the sale of the business, did no have a likelihood of success on the merits, and failed to establish that it would suffer irreparable harm if restrictive covenants were not enforced.

Glynwed, Inc. v. Plastimatic, Inc., 869 F.Supp. 265 (D.N.J. 1994)

In a declaratory action brought by tenant and assignor of a lease against corporation which had purchased assets of assignee under foreclosure sale, New Jersey law applies because New Jersey has the most significant relationship with the transaction and the parties. On cross-motions or summary judgment, foreclosure sale pursuant to Uniform Commercial Code did not preclude claim that purchasing corporation was liable as successor to assignee, and purchasing corporation had engaged in de facto merger with assignee, or was it continuation, and was liable for assignee's debts including lease in question.

Criminal Law

Morelli v. U.S., 285 F.Supp.2d 454 (D.N.J. 2003), *aff'd* 169 F.3d 798 (3d Cir. 1999).

Government's failure to disclose certain evidence at trial did not constitute a *Brady* violation because it was not material to the conviction, and therefore, vacation of petitioner's sentence and a new trial were not warranted.

U.S. v. Mohammad, 95 F.Supp.2d 236 (D.N.J. 2000)

Defendant motion to return property that was seized and not returned to him was granted regarding his Rado watch and denied regarding the other allegedly missing items.

U.S. v. Martinez, 75 F.Supp.2d 360 (D.N.J. 1999)

Government's 270-day violation of the Speedy Trial Act warranted dismissal with prejudice of a drug conspiracy indictment.

Damages

Mandile v. Clark Material Handling Co., 303 F.Supp.2d 531 (D.N.J. 2004), *aff'd* 131 Fed.Appx. 836 (3d Cir. 2005).

Plaintiff's judgment in a product liability action had to be reduced by amount of social security benefits that were payable to him, but not for possible future social security benefits, and plaintiff was entitled to credit for social security contributions paid. Plaintiff's failure to request a breakdown on the jury verdict form precluded award of prejudgment interest, and suspension of prejudgment interest award was warranted with respect to time gap that occurred due to original defendant's bankruptcy filing.

Environmental Law

Stoeco Development, Ltd. v. Department of Army Corps of Engineers of U.S., 792 F.Supp. 339 (D.N.J. 1992).

Plaintiffs sought a declaratory judgment that areas they were developing were not wetlands within the meaning of the Clean Water Act. On cross summary judgment motions, Court held that defendant Corps had the burden of providing existence of wetlands by preponderance of evidence and that genuine issue of material fact existed concerning whether Corps' data regarding wetlands determination was gathered in a reliable manner.

Evidence

Nunez v. Schneider National Carriers, 217 F.Supp.2d 562 (D.N.J. 2002)

Evidence of bicyclist's failure to wear helmet was admissible to prove her comparative negligence in order to reduce damages in a wrongful death action.

U.S. v. Van Wyk, 83 F.Supp.2d 515 (D.N.J. 2000), *aff'd* 262 F.3d 405 (3d Cir. 2001).

In prosecution for making threatening communications, FBI agent qualified as expert on the subject and could testify as to similarities between defendant's known and unknown writings, but not as to the authorship of unknown writings.

Federal Civil Procedure

Fields v. Biomatrix, Inc., 198 F.R.D. 451 (D.N.J. 2000)

Not deciding whether defendants have standing to object to the appointment of lead plaintiff in consolidated class action, Court could sua sponte consider defendants' objections to institutional investor's appointment. Even though the institutional investor made some short sales, its claims were not atypical and it could adequately represent the class.

Walsh Securities, Inc. v. Cristo Property Management, Ltd., 7 F.Supp.2d 523 (D.N.J. 1998)

In an action over allegedly fraudulent real estate transactions, stay of all interrogatory and deposition discovery was warranted by similarity of issues in civil and criminal proceedings, serious Fifth Amendment concerns about self-incrimination if civil trial continued, absence of prejudice to mortgagee from delay, burden on defendants without stay, and public interest in favor of stay.

Kramer v. Tribe, 156 F.R.D. 96 (D.N.J. 1994), *aff'd* 52 F.3d 315 (3d Cir. 1995).

Ordering sanctions, Court found attorney's conduct warranted dismissal of complaint, payment of appellate counsel's attorney fees, submission to attorney disciplinary authorities, and submission to criminal authorities.

Federal Courts

Zdrok v. V Secret Catalogue, Inc., 215 F.Supp.2d 510, vacated by 108 Fed.Appx. 692 (3d Cir. 2004).

Plaintiff's action to void the default judgment obtained by defendant in Ohio court was barred by claim preclusion after having been involuntarily dismissed by a California court.

Espinosa v. Continental Airlines, 80 F.Supp.2d 297 (D.N.J. 2000)

Remand was granted because Plaintiff's CEPA claims were not completely preempted by Federal Aviation Administration Authorization Act (FAAAA) or the Railway Labor Act. Court did not have diversity jurisdiction because supervisor defendants were non-diverse, and employee was entitled to fees and costs for improvident removal.

NCR Credit Corp. v. Ye Seekers Horizon, Inc., 17 F.Supp.2d 317 (D.N.J. 1998)

In a breach of contract action, venue was proper under forum selection clause, and transfer was not warranted for convenience of parties and witnesses.

New Jersey Sports Productions, Inc. v. Don King Productions, Inc., 15 F.Supp.2d 534 (D.N.J. 1998)

Interpleader action to resolve disputed claims to purse was granted because the District of New Jersey was the proper venue; fear of related adverse claims existed; proceedings before Nevada Athletic Commission would not provide adequate remedy; Court had personal jurisdiction over boxer and restrained other actions involving boxer's purse.

New Jersey Sports Productions, Inc. v. Don King Productions, Inc., 15 F.Supp.2d 546 (D.N.J. 1998), *aff'd* 159 F.3d 1352 (3d Cir. 1998).

Court retained jurisdiction to modify and clarify an existing injunction to effectuate its purpose.

Deep v. Manufacturers Life Ins. Co., 944 F.Supp. 358 (D.N.J. 1996)

Court held that under 28 U.S.C. § 1367, a district court can exercise supplemental jurisdiction over members of a class, although they do not meet the amount-in-controversy requirement, as long as the class representative does. Remand denied.

Hunter v. Supreme Court of New Jersey, 951 F.Supp. 1161 (D.N.J. 1996), *aff'd* 118 F.3d 1575 (3d Cir. 1997).

State trial judge's action challenging private reprimand by the New Jersey Supreme Court and the constitutionality of New Jersey judicial disciplinary rules was barred by the *Rooker - Feldman* doctrine, the doctrine of claim preclusion, the Eleventh Amendment, and by judicial immunity. Judicial disciplinary rules did not violate due process.

Derensis v. Coopers & Lybrand Chartered Accountants, 930 F.Supp. 1003 (D.N.J. 1996)

Motion to dismiss for forum non conveniens was denied because Canadian courts were non adequate alternative forum and public interest factors overwhelmingly favored United States forum in a securities fraud class action.

National Property Investors VIII v. Shell Oil Co., 917 F.Supp. 324 (D.N.J. 1995)

Transfer of venue to the Eastern District of North Caroline was warranted because of availability of potential witnesses, location of premises, North Carolina's greater interest in the action, and judicial efficiency.

Lowsley-Williams v. North River Ins. Co., 884 F.Supp. 166 (D.N.J. 1995)

Plaintiffs' action was dismissed for a failure to plead all factions relevant to diversity jurisdiction under 28 U.S.C. § 1332(a)(2) by not alleging the citizenship of each individual reinsurer.

Forfeitures

U.S. v. Contents of Account No. 03001288, 167 F.Supp.2d 707 (D.N.J. 2001), *aff'd* 344 F.3d 999 (2d Cir. 2003).

Court had in rem jurisdiction over defendant foreign accounts only after U.A.E. officials agreed to enforce US forfeiture order, and property was "absent" for purposes of 19 U.S.C. 1621's tolling provision when it was beyond the Court's constructive control. The delay of this case was directly and completely attributable to the claimant and not a violation of due process.

Franchise

Lightning Lube, Inc. v. Witco Corp., 144 F.R.D. 662 (D.N.J. 1992)

Rule 11 sanctions could no be imposed against signing attorney's law firm or against the client who did not sign offending document. Attorneys fees or sanctions would not be awarded against defendant under 28 U.S.C. § 1927 because they did not act in subjective bad faith.

Lighting Lube, Inc. v. Witco Corp., 802 F.Supp. 1180 (D.N.J. 1992), *aff'd* 4 F.3d 1153 (3d Cir. 1993).

On a motion for judgment as a matter of law or new trial, Court held that there was insufficient evidence as a matter of law to sustain the jury's awards against oil supplier on the claim for fraud and misrepresentation. Furthermore, award of $50 million for punitive damages was clearly excessive, and new trial on punitive damages was ordered.

Fraud

U.S. v. Lane-Labs-USA, Inc., 328 F.Supp.2d 520 (D.N.J. 2004), *aff'd* 427 F.3d 219 (3d Cir. 2005).

Amended Order.

U.S. v. Lane-Labs-USA, Inc., 324 F.Supp.2d 582 (D.N.J. 2004), *modified in part* 328 F.Supp.520 (D.N.J. 2004).

Order granting plaintiff's summary judgment motion and permanent injunction against defendants.

U.S. v. Lane-Labs-USA, Inc., 324 F.Supp.2d 547 (D.N.J. 2004), *aff'd* 427 F.3d 219 (3d Cir. 2005).

Finding that defendant's products were drugs, rather than dietary supplements, which violated drug labeling requirements, Court granted permanent injunction restraining defendants from marketing misbranded and unapproved drugs and ordering defendants to pay restitution.

Habeas Corpus

Toulson v. Beyer, 827 F.Supp. 307 (D.N.J. 1993), *aff'd* 30 F.3d 1488 (3d Cir. 1994).

Court denied prisoner's habeas petition, finding no abuse of discretion by the state court in sentencing, the sentence did not violate the Cruel and Unusual Punishments Clause of the Eighth and Fourteenth Amendments, and there was no due process violation.

Toulson v. Beyer, 792 F.Supp. 352 (D.N.J. 1992), *rev'd* 987 F.2d 984 (3d Cir. 1993).

Petitioner's request for habeas corpus relief was denied with respect to his conviction, but granted with respect to his sentence. Petitioner's case was remanded for re-sentencing based on facts undisputably established in the record.

Health

Medical Soc. of New Jersey v. Mottola, 320 F.Supp.2d 254 (D.N.J. 2004)

Physicians' association challenged the New Jersey Health Care Consumer Information Act (NJHCCIA), which provided for disclosure of medical malpractice judgments and settlements as part of each practitioner's profile. Court held that the act did not violate federal right to privacy provided medical practitioners by the HCQIA and was not unconstitutional. Plaintiff was not entitled to any relief based on federal, statutory, or state law, and the complaint was dismissed for failure to state a claim.

Insurance

Suter v. General Acc. Ins. Co. of America, -F.Supp.2d-

Defendant reinsurer denied payment under facultative reinsurance policies on grounds that Integrity, an excess-liability insurer, did not act reasonably or in good faith in allowing coverage under occurrence-based policies for claims of anxiety using a date of implant trigger. Finding that Integrity was grossly negligent in allowing coverage of anxiety claims, Court held that defendant was not obligated to make payments under follow the settlements doctrine.

Suter v. General Acc. Ins. Co. of America, 424 F.Supp.2d 781 (D.N.J. 2006)

In post-trial motions to exclude certain expert testimony, Court held that plaintiff's medical expert's opinion that injury occurred at time of implant was admissible and characterization that the heart valve was a "ticking time bomb" was reasonable; insurer's former employee's expert opinion as to insurer's reasonableness and good faith was admissible; and cardiologist was qualified to testify as to whether and when heart injury occurred.

British Ins. Co. of Cayman v. Safety Nat. Cas. Corp., 146 F.Supp.2d 586 (D.N.J. 2001), *rev'd*, 335 F.3d 205 (3d Cir. 2003).

Having determined that plaintiff's predecessor-in-interest failed to provide timely notice in accordance with the terms of the Facultative Re and that New Jersey law doe not require a showing of prejudice to prevail on a late notice defense, Court granted defendant reinsurer's cross motion for summary judgment.

Esoldi v. Esoldi, 930 F.Supp. 1015 (D.N.J. 1996)

Defendant, a professional liability insurer, was entitled to reformation of the insurance policy even as to innocent insureds because of a material misrepresentation on the insurance application.

Caldwell Trucking PRP Group v. Spaulding Composites, Co., Inc., 890 F.Supp. 1247 (D.N.J. 1995)

The New Jersey Spill Act does not authorize direct action by a third party against a defendant insurer without some statutory or contractual provision. Under the insurance policies, Spaulding could not pursue claims for declaratory relief against the insurers in this action, and therefore, its alleged assignee, the PRP Group, could not pursue the same claims as a result of the assignment.

North River Ins. Co. v. Philadelphia Reinsurance Corp., 831 F.Supp. 1132 (D.N.J. 1993), *rev'd* 52 F.3d 1194 (3d Cir. 1995).

Reinsurer was not required to reimburse reinsured because the reinsurance policies did not provide for coverage of defense costs, and the reinsurer was not liable for them under "follow the fortunes" and "following form" clauses of the reinsurance certificates.

Cooper Sportswear Mfg. Co., Inc. v. Hartford Cas. Ins. Co., 818 F.Supp. 721 (D.N.J. 1993), *aff'd* 16 F.3d 403 (3d Cir. 1993).

Defendant insurer was entitled to disclaim coverage because the insured failed to disclose knowledge of the offending employee's dishonesty prior to the issuance of the insurance policy.

Intellectual Property

Value Group, Inc. v. Mendham Lake Estates, L.P., 800 F.Supp. 1228 (D.N.J. 1992)

The Copyright Infringement Act of 1990 entitled plaintiffs, copyright owners of architectural plans, to a temporary restraining order against defendants, enjoining the construction of a house that would infringe plaintiffs' copyrighted architectural work, and their further use, modification, or copying of plaintiffs' copyrighted architectural designs.

Daiichi Pharmaceutical Co., Ltd. v. Apotex, Inc., 380 F.Supp.2d 478 (D.N.J. 2005)

Court construed disputed claim terms in U.S. Patent No. 5,410,741: "otopathy" referred to a bacterial ear infection; "effective to treat" meant "safe and efficacious to treat"; and "intratympanically injected through a puncture of the tympanic membrane" meant "introduced into the middle ear with an instrument such as a syringe."

Ben Venue Laboratories, Inc. v. Novartis Pharmaceutical Corp., 146 F.Supp.2d 572 (D.N.J. 2001)

In a suit by a generic drug manufacturer against the owner of a patent, Court had subject matter jurisdiction over the entire infringement action, including plaintiff's FDA Abbreviate New Drug Application, and the defendant patent owner could rightfully engage in discovery relevant to all aspects of the manufacturer's application to produce a generic version of the patented drug.

Kemco Sales, Inc. v. Control Papers Co., Inc., 93 F.Supp.2d 563 (D.N.J. 1998), *aff'd* 208 F.3d 1352 (Fed. Cir. 2000).

Tamper-evident envelope that called for a fold-over flap sealed to outer portion of the envelope panels was substantially different from and not infringed by a tamper-evident envelope with an internal or "press-to-close" seal.

Ben Venue Laboratories, Inc. v. Novartis Pharmaceutical Corp., 10 F.Supp.2d 446 (D.N.J. 1998)

Preliminary injunction in a patent infringement case was not proper because plaintiff, generic drug manufacturer, was not likely to succeed on the merits of the case and failed to show that irreparable harm would result without injunctive relief.

M & R Marketing Systems, Inc. v. Top Stamp, Inc., 926 F.Supp. 466 (D.N.J. 1996)

In a patent infringement case, Court granted plaintiff preliminary injunction against defendants with respect to a mechanical patent for a hand stamp because of plaintiff's likelihood of success on the merits and a showing of irreparable harm, but not with respect to a design patent for a handle top for a hand stamp.

Dr. Reddy's Laboratories, Inc. v. Thompson, 302 F.Supp.2d 340 (D.N.J. 2003)

The FDA properly interpreted and applied the Hatch-Waxman Amendments in approving plaintiff manufacture's generic drug and finding the manufacturer was not eligible for exclusive marketing period.

Internal Revenue

DeGuzman v. U.S., 147 F.Supp.2d 274 (D.N.J. 2001)

Plaintiffs were not entitled as a matter of law to deduct the losses they have incurred from their real estate holdings because they failed to meet the 750 hour requirement in real property trade or business under IRC § 469(c)(7)(B) for years 1994 and 1995.

U.S. v. Gollapudi, 947 F.Supp. 768 (D.N.J. 1996), *aff'd* 130 F.3d 66 (3d Cir. 1997)

Court found the defendant guilty beyond a reasonable doubt of willfully failing to file employer's quarterly tax returns form, failing to remit withheld federal income and FICA taxes, and willfully making and subscribing false personal income tax returns.

U.S. v. Gollapudi, 947 F.Supp. 763 (D.N.J. 1996), *aff'd* 130 F.3d 66 (3d Cir.1997)

Prosecutions for violations of 26 U.S.C. § 7202 must be commenced within six years under 26 U.S.C. § 6531(4) statute of limitations provision. The government was entitled to reciprocal discovery under Rule 16(b) because discovery was made available to the defendant.

International Law

In re Application of Sasson v. Sasson, 327 F.Supp.2d 489 (D.N.J. 2004)

Father's petition to return his child to Israel pursuant to the Hague Convention On the Civil Aspects of International Child Abduction, as implemented in the International Child Abduction Remedies Act (ICARA), was denied because child's habitual residence was not Israel, but the United States, and retention in this country by the mother was not wrongful under the Convention.

Dimension Communications, Inc. v. OZ Optics Ltd., 218 F.Supp.2d 653 (D.N.J. 2002), *aff'd* 148 Fed. Appx. 82 (3d Cir. 2005).

In a breach of contract suit by and American corporation against a Canadian corporation, the Hague Convention authorized service of process and the Canadian process server was competent to effect service of process under Hague Convention.

In re Nazi Era Cases Against German Defendants Litigation, 334 F.Supp.2d 690 (D.N.J. 2004)

Plaintiff's claims alleging defendants' complicity with the Nazi regime in violation of international law were dismissed as nonjusticiable under the political question doctrine and the Joint Statement and the Executive Agreement.

In re Nazi Era Cases Against German Defendants Litigation, 320 F.Supp.2d 235 (D.N.J. 2004)

Plaintiffs' action to enforce interest obligations contained in settlement with the German Foundation was dismissed as non-justiciable and barred by the political question doctrine.

In re Nazi Era Cases Against German Defendants Litigation, 320 F.Supp.2d 204 (D.N.J. 2004), *aff'd* 153 Fed.Appx. 819 (3d Cir. 2005).

Court dismissed claims by victims of property appropriation by German government during World War II for lack of personal jurisdiction over defendants, who did not have minimum contacts with the transferor forum, the Southern District of New York.

In re Nazi Era Cases Against German Defendants Litigation, 213 F.Supp.2d 439 (D.N.J. 2002)

Court did not retain jurisdiction to enforce settlement in dismissed cases and could not issue declaratory orders. Plaintiffs' requested relief to interpret the parties' rights and obligations

under the settlement and to order German Industry to make additional payments into the Foundation was denied.

In re Nazi Era Cases Against German Defendants Litigation, 129 F.Supp.2d 370 (D.N.J. 2001)

Plaintiff's claim against German company and its American subsidiaries for damages resulting from forced labor during World War II was dismissed with prejudice on the grounds that it was a non-justiciable political question and that international comity required dismissal.

In re Nazi Era Cases Against German Defendants Litigation, 198 F.R.D. 429 (D.N.J. 2000)

Court approved plaintiffs' voluntary dismissal of actions with prejudice as a condition of the proposed settlement under which payments would be made to victims from a fund created by the German Foundation. No notice to putative class members was required because there was no evidence of collusion or prejudice in the settlement.

Judgment

Building Materials Corp. of America v. Certainteed Corp., 273 F.Supp.2d 552 (D.N.J. 2003)

Certain statements posted on defendant's website constituted a breach of a settlement agreement between the parties and were ordered to be removed.

Itzkoff v. F & G Realty of New Jersey, Corp., 890 F.Supp. 351 (D.N.J. 1995)

Under New Jersey's entire controversy doctrine, fur trader's claims against defendant storage company were barred by fur trader's failure to include the storage company as a party in a prior action in New York state court.

Labor and Employment

Kendellen v. Evergreen America Corp., 428 F.Supp.2d 243 (D.N.J. 2006)

Interim injunctive relief pending the National Labor Regulations Board's resolution of unfair labor practice proceeding against defendant was granted because there was reasonable cause to believe that unfair labor practices have been committed in violation of the National Labor Relations Act and that injunctive relief was just and proper.

Mulder v. PCS Health Systems, Inc., 216 F.R.D. 307 (D.N.J. 2003)

Plaintiff met four requirements for class certification in an action for relief from defendant's alleged breach of its fiduciary duties to its beneficiaries under ERISA.

Conti v. Equitable Life Assur. Soc. of U.S., 227 F.Supp.2d 282 (D.N.J. 2002)

Defendant insurance company's decision to terminate plaintiff's disability benefits under an ERISA plan was not arbitrary and capricious.

LaResca v. American Tel. & Tel., 161 F.Supp.2d 323 (D.N.J. 2001)

In an action by former employee under the New Jersey Law Against Discrimination (LAD), employee's accommodation claim was not preempted by Section 301 of the Labor Management Relations Act, employer was not obligated to accommodate a commuting problem, and employee failed to show that employer's reason for termination was pretextual. Defendant's summary judgment motion was granted.

System Council T-3 of Intern. Broth. Of Elec. Workers v. American Tel. & Tel. Co., 905 F.Supp. 198 (D.N.J. 1995), *aff'd* 91 F.3d 125 (3d Cir. 1996).

Plaintiff who left AT&T to work for NCR Corporation, an interchange company within the meaning of AT&T's pension plan, was not entitled to pension benefits under ERISA. Defendant's decision to suspend benefits was not arbitrary and capricious.

Reich v. Local 843, Bottle Beer Drivers, Warehousemen, Bottlers and Helpers, Inter. Broth. Of Teamsters, Chauffers, Warehousemen, and Helpers of America, AFL-CIO, 869 F.Supp. 1142 (D.N.J. 1994)

Local 843's election for the office of President violated Title IV of the Labor-Management Reporting and Disclosure of 1959 when a letter criticizing one candidate was issued at Local 439's expense. Defendant was ordered to conduct a new election under the Secretary of Labor's supervision.

Walsh v. Port Authority Trans-Hudson Corp., 813 F.Supp. 1095 (D.N.J. 1993)

Plaintiff's complaint under Federal Employers' Liability Act was barred by the Eleventh Amendment because the PATH is a state agency entitled to immunity and by the one-year limitation provision in the Port Authority's consent-to-suit statutes.

Postal Service

U.S. v. Weingold, 844 F.Supp. 1560 (D.N.J. 1994)

Government was entitled to injunctive relief on two grounds: (1) a showing by a preponderance of the evidence that false representations were made in violation of 39 U.S.C. § 3005; and (2) a showing of probable cause that defendants are engaged or about to engage in mail fraud violative of 18 U.S.C. § 1341.

Racketeer Influenced and Corrupt Organizations

Leone Industries v. Associated Packaging, Inc., 795 F.Supp. 117 (D.N.J. 1992)

A special fiscal agent was appointed to oversee compliance with the injunction requiring defendant to seek Court approval before transferring any assets. Appointment of a receiver would be too intrusive and was not warranted in this case.

Records

Pipko v. C.I.A., 312 F.Supp.2d 669 (D.N.J. 2004)

CIA adequately met its burden of justifying FOIA exemptions and Privacy Act exemptions through affidavits and declarations, and summary judgment motion was granted.

Schaquble v. Reno, 87 F.Supp.2d 383 (D.N.J. 2000)

The FBI were not required to expunge plaintiff's 1985 conviction because there was no authorization from the Wisconsin court to do so. However, since plaintiff's conviction was vacated, the FBI and INS were ordered to amend their records accordingly.

Securities Regulation

S.E.C. v. Hughes Capital Corp., 917 F.Supp. 1080 (D.N.J. 1996), *aff'd* 124 F.3d 443 (3d Cir. 1997)

Court granted S.E.C.'s summary judgment motion as to disgorgement of fraud proceeds and pre-judgment interest to deprive the defendants of their unjust enrichment. Summary judgment as to restitution was denied as no court has awarded both.

Zucker v. Quasha, 891 F.Supp. 1010 (D.N.J. 1995), *aff'd* 82 F.3d 408 (3d Cir. 1996).

Statements in prospectus and registration for public offering of stock were not misleading, and shareholder's complaint was dismissed for failure to state a claim on which relief can be granted.

Sentencing and Punishment

U.S. v. McBroom, 991 F.Supp. 445 (D.N.J. 1998)

On remand, defendant who pled guilty to one count of possession of child pornography was granted one-point downward departure for diminished capacity and two-point downward departure for post-offense rehabilitation.

U.S. v. Rabin, 986 F.Supp. 887 (D.N.J. 1997), *aff'd* 159 F.3d 1354 (3d Cir. 1998).

Defendant who pled guilty to conspiracy to evade personal income tax received a two-point increase in guidelines sentence for intentionally encouraging others to violate tax laws and two-point increase for causing significant disruption of government function.

U.S. v. Sutton, 973 F.Supp. 488 (D.N.J. 1997), *aff'd* 156 F.3d 1226 (3d Cir. 1998).

Defendant who was convicted of importing heroin received a three-point downward departure from sentence on grounds that defendant accepted responsibility. Defendant was not entitled to a two-point downward adjustment for playing a minor role in the crime or for conditions of pretrial confinement.

Social Security and Public Welfare

Flecha v. Shalala, 872 F.Supp. 1312 (D.N.J. 1994)

Medical evidence supported the ALJ's determination that claimant was able to perform sedentary work, medical-vocational guidelines showed that claimant was not disabled, and the ALJ satisfied his burden of developing complete record.

Chalmers v. Sullican, 818 F.Supp. 98 (D.N.J. 1993), *aff'd* 23 F.3d 752 (3d Cir. 1994).

Claimant's interest in partnership was countable resource exceeding $2,000, preventing her from meeting financial eligibility requirements for SSI benefits, and Secretary's redetermination of claimant's eligibility was proper.

Thomas v. Comm's of Soc. Sec., rev'd en banc 294 F.3d 568 (3d Cir. 2002), *rev'd sub nom. Barnhart v. Thomas*, 540 U.S. 20 (2003).

Court affirmed Commissioner's and ALJ's finding that claimant, who had worked as an elevator operator before seeking Social Security and Supplemental Security Income benefits, was not disabled.

States

Black Car Assistance Corp. v. New Jersey, 351 F.Supp.2d 284 (D.N.J. 2004)

New Jersey Out of State Registration Law regulating out-of-state, for-hire vehicles that conducted business within New Jersey was preempted by the Real Interstate Driver Act, 49 U.S.C. § 14501(d).

Torts

Coucher v. Worldwide Flight Services, Inc., 111 F.Supp.2d 501 (D.N.J. 2000)

Liability limitations of the Warsaw Convention applied to defendant's performance of cleaning services on aircraft, and the incident was covered by the Article 17 of the Warsaw Convention because it occurred "on board the aircraft."

Port Authority of New York and New Jersey v. Arcadian Corp., 991 F.Supp. 390 (D.N.J. 1997), *aff'd* 189 F.3d 305 (3d Cir. 1999).

Port Authority of New York and New Jersey, owner of the World Trade Center, failed to state a products liability claim under New Jersey law or negligence or products liability claim

under New York law based on failure to warn. As a matter of law, the World Trade Center bombing was not the proximate cause of the plaintiff's injury; and defendants' failure to warn would not have prevented the crime.

Herbert v. Newton Memorial Hosp., 933 F.Supp. 1222 (D.N.J. 1996), *aff'd* 116 F.3d 468 (3d Cir. 1997).

No liability for tortuous interference lies against defendants because they were reasonably exercising a right superior to plaintiff's in choosing who should acquire hospital staff privileges. The Agreement between plaintiff and buyer of his medical practice constituted an attempt to transfer non-transferable staff privileges.

Trademarks

Hertz Corp. v. The Gator Corp., 250 F.Supp.2d 421 (D.N.J. 2003)

Court stayed all proceedings, including Plaintiff Hertz's motion for preliminary injunction in a suit alleging misappropriation of trademark and other violations of intellectual property law, pending a MDL Panel decision of defendant's motion to consolidate all actions against it.

Pharmacia Corp. v. Alcon Laboratories, Inc., 201 F.Supp.2d 335 (D.N.J. 2002)

Preliminary injunction was denied because plaintiff manufacturer was unlikely to prevail on claims of trademark infringement and dilution, plaintiff's delay in bringing suit precluded a finding of irreparable harm, and balance of harms an public interest favored denial of relief.

Euro Pro Corp. v. Tristar Products, Inc., 172 F.Supp.2d 567 (D.N.J. 2001)

Preliminary injunction was not warranted because plaintiff manufacturer was unlikely to succeed on the merits in a trade dress infringement suit due to inability to show that its product achieved secondary meaning.

Witnesses

In re Grand Jury Empanelled on April 6, 1993, 869 F.Supp. 298 (D.N.J. 1994)

Respondent, who was under federal grand jury investigation and the custodian of records for a corporation also under investigation, was protected by the Fifth Amendment privilege against self-incrimination from producing corporate records or providing oral testimony to bring the records within the business records exception to the hearsay rule.

Zoning

Cellular Telephone Co. v. Zoning Bd. of Adjustment of Borough of Harrington Park, 90 F.Supp.2d 557 (D.N.J. 2000)

Plaintiff AT & T Wireless failed to show that it was legally entitled to a reversal of Defendant's denial of its application for variances and site plan approval necessary to construct cellular telephone monopole and ancillary telecommunications equipment. However, plaintiff was not required to pay for expert hired by defendant.

STATE COURT

Marriage

Culp v. Culp, 242 N.J.Super. 567 (N.J.Super.Ch. 1990)

Court held that funds collected by receiver in matrimonial action were *in custodial egis*, and thus beyond reach of obligor spouse's judgment creditor. Writ of execution and levy issued against the funds were vacated.

Dilger v. Dilger, 242 N.J.Super. 380 (N.J.Super.Ch. 1990)

Former husband's voluntary early retirement at the age of 62 did not constitute a change of circumstances justifying termination of obligation to pay alimony, as retirement was not undertaken in good faith and under reasonable circumstances.

Rosenfeld v. Rosenfeld, 239 N.J.Super. 77 (N.J.Super.Ch. 1989), *superseded by statute* N.J.S.A. 2A: 13-5; R. 1:20A-6.

Attorney who was discharged by divorce client had to first notify client of remedy of arbitration before filing a petition under Attorney's Lien Act. Attorney's petition was dismissed.

El-Maksoud v. El-Maksoud, 237 N.J.Super. 483 (N.J.Super.Ch. 1989)

Denying defendant's motion to dismiss, Court held that personal jurisdiction over nonresident defendant could be predicated on defendant's temporary physical presence and personal service within the forum state without offending traditional notions of fair play and substantial justice, and determination of forum non conveniens and choice of law question was premature.

Wajda v. Wajda, 239 N.J.Super. 248 (N.J.Super.Ch 1989)

Wife was not entitled to equitable distribution of former husband's retirement benefits because the court was not free to exercise its power of equitable distribution with respect to the original divorce proceeding, and there was sufficient consideration to support wife's waiver in the divorce proceeding of her right to husband's retirement benefits.

Contracts

Northeast Custom Homes, Inc. Howell, 230 N.J.Super. 296 (N.J.Super.L. 1988)

Granting summary judgment to defendant home purchasers, Court found that they did not satisfy mortgage contingency clause in sales contract and were entitled to return of down payment, and vendor was not entitled to damages on ground that purchasers misrepresented that they had a firm mortgage commitment.

INTELLECTUAL PROPERTY ADDENDUM
UNPULISHED OPINIONS

Genpharm Pharmaceuticals, Inc. v. Hoffman La-Roche, Inc. 93-5594

Roche was ordered to produce drafts of its co-promotion agreement and the correspondence concerning the negotiation, formation, and execution of the agreement that were reasonably calculated to lead to the discovery of admissible evidence in an on-going patent cause in the District Court in Maryland.

Glaxo Group Ltd. v. Johnson & Johnson 95-524

Court granted defendant's motion to dismiss finding that plaintiff failed to establish a substantial controversy warranting the issuance of a declaratory judgment.

Zarina Holding C.V., et al. v. Aqua Products, Inc. 92-522

Summary judgment was proper on plaintiff's patent infringement claim because no pool cleaners have been sold by the defendant company, and since was no real and immediate controversy, plaintiff lacked standing to obtain a declaratory judgment. Court ordered parties to share the expense of the expert hired to assist the Court with technical patent-related issues raised by the parties.

Zarina Holding C.V., et al. v. Aqua Products, Inc. 92-522

Defendant was compelled to pay expert's fees in connection with this case pursuant to an existing Court Order.

American Standard, Inc. v. Lyons Industries, Inc. 97-4806

In a design patent infringement case, Court granted plaintiff's motion for injunctive relief and ordered defendant to post a $1 million bond finding that plaintiff established likelihood of success on validity of patent and infringement, irreparable harm, and public interest factors that favored injunctive relief.

American Standard, Inc. v. Lyons Industries, Inc. 97-4806

Defendant's motion to dismiss actions as a second-filed was denied because defendant had engaged in bad faith "race to the courthouse" by filing action in Western District in Michigan. Furthermore, balance of interests did not favor transfer of venue to Michigan.

Novartis Corp. v. Ben Venue Laboratories, Inc. 99-2336

Court granted defendant's motion for summary judgment of non-infringement based on defendant's evidence that crystalline pamidronate disodium with water of crystallization did not form in defendant's commercial process and did not infringe plaintiff's patent.

Weatherbeeta PTY Ltd., et. al. v. Everest Express, Inc. 03-1188

Injunctive relief was granted due to plaintiff's likelihood of success on the merits of federal trademark infringement, cybersquatting, as well as state trademark infringement and unfair competition claims. Plaintiff also showed that it had been and would be irreparably harmed by defendant's continued use of disputed trademark and that balance of hardships weighted in its favor.

Dr. Reddy's Laboratories, Inc., et. al. v. Genpharm, Inc. 02-452

Court granted summary judgment to the FDA, finding that the agency properly interpreted and applied the Hatch-Waxman Amendments in finding that generic drug manufacturer was not eligible for exclusive marketing period.

Laidlaw, Inc. v. Student Transportation of America, Inc. 98-2241

Court granted injunctive relief and denied supplemental injunctive relief to plaintiffs.

Novartis Consumer Health, Inc. v. Johnson & Johnson – Merck Consumer Pharmaceuticals Co. 00-5361

The amount of security bond posted by plaintiff pursuant to Court Order issued on December 22, 2000 was increased to $9.18 million, which included marketing expenses, the cost of complying with injunction by eventually destroying existing inventory, and the loss of present value of the MNTS brand name.

Pharmacia Corp., et. al. v. Alcon Laboratories, Inc. 01-1539 {201 F.Supp.2d 335 (D.N.J. 2002)}

On defendant's motion to exclude certain expert testimony, Court considered admissibility of the evidence under the *Daubert* and *Downing* standards and partially granted motion.

Pharmacia Corp., et. al. v. Alcon Laboratories, Inc. 01-1539

Court denied injunctive relief to plaintiffs for failure to prove likelihood of success on the merits of trademark infringement and trademark dilution claims.

Ricoh Corp. v. Pitney Bowes, Inc. 02-5639

In a suit for willful patent infringement, defendant sought to bifurcate liability and damaged issues from willfulness issues for both trial and discovery. Court denied motion,

finding that there was substantial evidentiary and issue overlap between paten infringement, damaged, and willfulness claims, especially because of defendant's laches and estoppel defenses. Bifurcation would not promote judicial economy in this case and could prejudice the plaintiffs.

Hinton and Hinton v. Marinaro, et. al. 01-4848

Plaintiffs, who alleged copyright infringement of architectural plans of their custom home, moved for preliminary injunction to enjoin defendants from constructing any residence substantially similar to plaintiff's home. Court granted injunction, finding that plaintiffs were likely to prove existence of a valid copyright and that defendants copied the plans and violated copyright law.