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DATE: June 17, 2026  
TO: Commissioners  
FROM: Counsel Staff  
RE: Developments in Counsel's Office since May 28, 2026

**Commission Cases**

Appeals from Commission Decisions

No new appeals have been filed since May 28.

Commission Court Decisions

No decisions have been issued since May 28.

**Non-Commission Court Decisions**  
**Related to the Commission's Jurisdiction**

Appellate Division orders trial court to consider whether anti-SLAPP law bars town's lawsuit against ex-police officer alleging his social media posts critical of town officials breached non-disparagement clause of their prior settlement agreement

Town of Dover v. Gonzalez, 2026 N.J. Super. LEXIS 55 (App. Div. 2026) (App. Div. Dkt. No. A-0047-25)

The Appellate Division, in a published opinion on defendant

Richard Gonzalez's appeal from a Law Division order of dismissal with prejudice, vacates and remands for further proceedings on Gonzalez's counterclaim against the plaintiff, Town of Dover, seeking relief under the Uniform Public Expression Protection act (UPEPA), N.J.S.A. 2A:53A-49 to - 61. Enacted in 2023, the state law "protect[s] residents against frivolous, ill-intentioned lawsuits" intended to curb speech on matters of public concern, commonly known as strategic lawsuits against public participation (SLAPP). The underlying dispute arose in 2025 when the town sued Gonzalez, a former Dover police officer, for allegedly violating a non-disparagement clause in a settlement agreement that resolved Gonzalez's 2014 federal lawsuit against the town claiming he suffered harassment and retaliation at work in response to, among other things, his support of Dover mayoral candidate challenging the then-incumbent mayor, and his social media comment critical of that mayor. In the 2015 settlement agreement, Gonzalez retired from his position in exchange for \$175,000 and his promise to make no "negative comments or disparaging remarks" about the town or its officials. In its 2025 lawsuit Dover alleged Gonzalez invalidated the settlement agreement and breached the non-disparagement clause when, beginning in 2024, he posted on social media "numerous negative comments and/or disparaging remarks" without "credible evidence of any kind" about Dover officials and employees including the mayor and town clerk.<sup>1</sup> The Town sought to enjoin him from further such posts, as well as damages and disgorgement of the \$175,000. Gonzalez counterclaimed seeking dismissal under UPEPA, alleging the Town's complaint was intended to suppress his First Amendment speech and intimidate him from participating in public debate on matters of public concern in Dover. The trial court granted the Town preliminary injunctive relief and dismissed Gonzalez's counterclaim, finding UPEPA did not apply because he voluntarily executed an agreement to forbear from engaging in the speech he alleged the town was attempting to suppress. The Appellate Division disagreed, finding the social media posts were protected speech un UPEPA because they criticized elected officials and public employees on matters relating to the performance of their official duties, and that the law did not expressly exclude from its protection those bound by a non-

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<sup>1</sup>The social media posts included such statements as: the town clerk was "the worst municipal clerk ever"; the mayor's name "is synonymous with..." followed by a feces emoji; and, about a town employee, "How many times can the elected official praise his girlfriend in a public meeting?...She gets paid...to hang out with her boyfriend all day and go to events that are not her job.... Isn't there a conflict of interest here?"

disparagement provision in a settlement agreement. The Appellate Division therefore remanded for the trial court to consider whether Gonzalez is entitled to dismissal of the Town's complaint under UPEPA.

Appellate Division hold cannabis-use law allows private right of action against employer for refusing to hire an individual because that person tested positive for cannabis

Sanders v. Levari Grp., LLC, 2026 N.J. Super. LEXIS 56 (App. Div. 2026) (App. Div. Dkt. No. A-2715-23)

The Appellate Division, in a published opinion, holds that the Cannabis Regulatory, Enforcement Assistance, and Market Modernization Act (CREAMMA), N.J.S.A. 24:6I-31 to - 56, enacted in 2021, provides an individual with private right of action against an employer for allegedly violating CREAMMA's prohibition against refusing to hire an individual because that person tested positive for cannabinoid metabolites. The underlying dispute arose in April 2023 when the plaintiff, Darlene Sanders, filed a complaint against defendant, The Levari Group, alleging among other things that after interviewing with the company for a customer service representative position, and being offered and accepting the job, the company subjected her to a pre-employment drug screening and then refused to hire her based on her recreational use of cannabis, in violation of CREAMMA's anti-discrimination provision. The trial court dismissed this claim, finding that though Sanders was entitled to benefit from the provision, there was no evidence that Legislature meant to imply a private right of action to enforce it, and thus Sanders' remedy was through the Cannabis Regulatory Commission (CRC), the agency established by the Legislature to regulate and enforce CREAMMA, and not the court. In reversing and remanding for further proceedings on the CREAMMA claim, the Appellate Division found CREAMMA's overall purpose would be served by a private right of action. The appellate court further held that because CREAMMA does not provide for administrative enforcement, permitting a judicial remedy would not run afoul of or bypass any intricate regulatory structure; and moreover, that since no administrative remedy was authorized by statute, the anti-discrimination provisions would be meaningless and unenforceable absent an individual's right sure for violation. The Appellate Division also affirmed the trial court's dismissal of the plaintiff's related common law claim because its legal scope is limited to wrongful discharges and not failures to hire, but reversed the trial court's rulings dismissing her breach of contract claim and denying her motion to amend the complaint.

Appellate Division affirms class certification for city firefighters in complaint alleging CNA violates wage/hour law

Evans v. City of Paterson, 2026 N.J. Super. Unpub. LEXIS 1079 (App. Div. 2026) (App. Div. Dkt. No. A-1218-25)

The Appellate Division, in an unpublished opinion, affirms a Law Division order granting plaintiffs/firefighters Adrian Evans and Kenneth Hicks class certification concerning a wage and hour complaint filed on behalf of themselves and similarly situated firefighters. The complaint alleged the firefighters' collective negotiations agreement (CNA) with the defendant, City of Paterson, violated their statutory rights under the New Jersey Wage and Hour Law (NJWHL) because the CNA permits plaintiffs to routinely work over forty hours per week without receiving overtime pay as required by NJWHL. As reported in the February 2025 General Counsel's Report, at an earlier stage of this litigation the Appellate Division reversed and remanded the trial court's dismissal of the complaint on the city's motion asserting the CNA bound plaintiffs' to submit their claims to binding grievance arbitration under the CNA.<sup>2</sup> Following remand the trial court granted plaintiffs' motion for class certification, holding that common questions in the case predominated over individual ones and that a class action was the superior method for resolving the controversy. The trial court denied the city's motion for reconsideration and the city appealed. In affirming, the Appellate Division, rejecting the city's argument that class certification was premature because no formal discovery had yet occurred, found plaintiffs' claims were sufficient on their face to satisfy the relevant court rule, which did not expressly prohibit class certification before discovery was undertaken. The Appellate Division next sustained the trial court's definition of the class based on the evidence before it, finding the city's arguments that the definition was legally and factually incorrect were premature because the trial court had the power to alter or amend the class to accommodate any factual issues that may arise. The Appellate Division otherwise concluded the trial court made exhaustive factual findings and correctly applied the relevant legal standards in certifying the class.

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<sup>2</sup>2025 N.J. Super. Unpub. LEXIS 139. The Appellate Division found the plaintiffs were not required to exhaust administrative remedies prior to filing their complaint.

Supreme Court hold that logs of personal, private email accounts containing government-related emails are government records pursuant to OPRA.

Alex Rosetti v. Ramapo-Indian Hills Reg. High School Bd. Of Ed., 2026 NJ Lexis 560 (June 11, 2026)

The Supreme Court holds that logs of personal, private email accounts containing government-related emails are government records pursuant to OPRA. In January 2023, Rosetti made an OPRA request to the Board seeking certain records, including "email logs of all past and present Board members for all email accounts in which they have discussed Board of Education matters." The Board produced a redacted log derived from Board-issued government email accounts which they used to conduct Board business. The Court stated that government agencies should strongly advise their employees, elected officials and others from engaging in government related business to refrain from using their personal email accounts when conducting government-related business.

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