

SUBJECT INDEX

ABORTION

Elective Abortion	13:792-95
Equal Protection	13:790-91
Establishment Clause	13:791-92
Federal Abortion Rights	13:783-87
Federal Constitutional Law	13:779-802
Medicaid Funding	13:784-87
“Medically Necessary Abortions”	13:792-95
Protection of Privacy	13:787-90
Public Funding	13:779-802
Right to Health	13:779-802

ACCOUNTANTS

Accountant-Client Relationship	13:315
Good Will Value in Accounting Contracts	13:321
Restrictive Covenants	13:312-22
—Balancing of Interest in Breach of Noncompetition Covenants	13:319
—Damages	13:320-22
—Enforceability Against Accountants	13:312-13, 318- 19
—Factors Determining Effect of Noncompetition Covenants ...	13:316-19
—Legitimate Interests	13:314-15

ADMINISTRATION OF JUSTICE

Civil Monetary Penalties	13:416
Civil Penalties for Medicaid Fraud	13:415-17
Cruel and Unusual Punishment	13:415-16
Double Jeopardy Prohibition	13:415-16
<i>Ex Post Facto</i> Laws	13:415-16
Reasonableness of Statutory Penalties	13:416
Remedies for Medical Fraud Statutory Violations	13:415-17

ADMINISTRATIVE LAW

Affirmative Action Programs for Public Works Contracts	13:199-202
--------------------------------------------------------------	------------

AGENCY

Fiduciary Obligations	13:15-16
Remedies of Defrauded Principal	13:16

ANTITRUST

Agency	13:354
Antitrust Law	13:69-75
Apparent Authority Doctrine	13:359
Disclosure of Grand Jury Material	13:71-103
Hart-Scott-Rodino Antitrust Improvement Act	13:69
— <i>Parens Patriae</i> Provision	13:69
—Section 4F	13:69-70
—Section 4F(b)	
—Attempt to Strengthen Enforcement	13:76
—Legislative History	13:81
—Relation to Grand Jury	13:71, 85

Insider Trading	13:92-93
Non Profit Organizations	13:354
Restatement of Foreign Relations Law	13:99, 111
Swiss Bank Secrecy Law	13:108-111
Trading with the Enemy Act	13:95
—Effect on Treaties	13:105, 111, 114
—Foreign Banks	
—Forcing Disclosure of Customer Identification	13:101-109
—Contempt Sanctions	13:94
—Good Faith Defense	13:97, 105, 112, 115
—Retaliatory Action	13:108
—Rule 10B-5 Violation	13:107
—Violation of Foreign Law	13:96-103
—Waiver	13:94, 104
—Treble Damages	13:365, 370, 371
 APPEAL	
Interlocutory Orders	13:384-85
 ATTORNEYS	
Advertising	13:417-19
—Prohibition on Out-Of-State Attorneys	13:417-19
—Prohibition on Use of Unlicensed Attorneys' Names	13:417
—Television Advertising, Ban on	13:417
Disciplinary Rule 2-102(c)	13:417-19
—Commerce Clause Violation	13:418
—Equal Protection Violation	13:418
—Free Speech	13:418
—Privileges and Immunities Clause Violation	13:418
 CAPITAL PUNISHMENT	
Aggravating and Mitigating Circumstances	13:533-47
Bifurcated Trials	13:530-32
Constitutional Requirements in Penalty Proceedings	13:526-29
Denial of Mercy	13:547-48
New Jersey Capital Punishment Act	13:529-48
 CIVIL PROCEDURE	
Complaint Barred after Dismissal for Discovery Violation	13:202-04
 CIVIL RIGHTS	
Civil Rights Act of 1964 — Title VII	13:262-91
—Back Pay Award in Title VII Violation	13:288-91
—Back Pay Calculation	13:265-75
—Continuing Violation Theory in Awarding Back Pay	13:276-88
—Damages	13:262-65
—Judicial Interpretation of Proper Damages	13:269-75
—Legislative History of Damages	13:266-69
—Past Discrimination	13:276-85
—Statutory Directives for Setting Damages	13:265-66
Discrimination Based on National Origin	13:763-78
Race	13:763-78

SUBJECT INDEX

xxix

—Contrast to “National Origin”	13:764, 775, 777
—Discrimination	13:763-78
—Dynamic vs. Static Definition	13:772-78
Statutes	13:763-78
—Congressional Intent in Passing 42 U.S.C. § 1981	13:765-67
—Scope of Protection Under 42 U.S.C. § 1981	13:763-78
Title VII	13:324-53
—EEOC 1972 Guidelines	13:325-27
—EEOC 1979 Guidelines	13:337-38
—Interpretation of PDA	13:343-45
—Pregnancy Discrimination	13:327-36
—Principles of Title VII	13:345-53
—Spousal Benefit Litigation	13:338-43
CIVIL SERVICE	
Termination Pay Requirement	13:375-76
COMMERCIAL	
Uniform Commercial Code	13:204-07
—Perfect Tender Rule	13:204-07
—Seller’s Right to Cure	13:204-07
CONFLICTS OF LAW	
Insurance	13:836-37
Insurance — Interspousal	13:836-37
<i>Lex Loci</i> Contracts	13:836-37
CONSCIENTIOUS OBJECTORS	
See Constitutional Law	
CONSTITUTIONAL LAW	
Abortion	13:779-802
—Elective Abortion	13:792-95
—Equal Protection	13:790-91
—Establishment Clause	13:791-92
—Federal Abortion Rights	13:783-87
—Federal Constitutional Law	13:779-802
—Medicaid Funding	13:784-87
—“Medically Necessary” Abortions	13:792-95
—Protection of Privacy	13:787-790
Capital Punishment	13:515-48
—Aggravating and Mitigating Circumstances	13:533-47
—Bifurcated Trials	13:530-32
—Constitutional Requirements in Penalty Proceedings	13:526-29
—Denial of Mercy	13:547-48
—New Jersey Capital Punishment Act	13:529-48
Contract Clause	13:1-20
— <i>Fletcher v. Peck</i>	13:1-20
—State Statutes Interfering With Contract Rights	13:11-20
Cruel and Unusual Punishment	13:415-16
Distress Act, New Jersey Law	13:845-47
Double Jeopardy	13:415-16
Draft Registration	13:677-79
—Conscientious Objector Exception	13:677-79

SUBJECT INDEX

—Ability to Declare at Time of Registration	13:679-81
—Assertion of Antipathy	13:677-79
—Balancing Test to Determine Exemption	13:675-77
—Failure to Register	13:667-68
—Females Not Required to Register	13:669-70
—History	13:668-70
—Legislative Solution	13:679-80
—Qualification for Status, Currently	13:673-75
—Qualification for Status, Historically	13:670-73
First Amendment	13:378-92
—Application to Government Employees	13:378
—Immunity as a Defense	13:379-81, 391-92
Fourth Amendment	13:803-18
—Expectation of Privacy	13:806-08, 810
—Protection of Bank Records	13:816-18
—Protection of Pen Registers	13:807
Grand Juries (See Grand Jury)	13:72-88
Judicial Review	13:1-20
Judiciary Act of 1789	13:3
Legislative Veto	13:549-74
Preemption	13:42-68
—Preemption Doctrine	13:45-48
—Punitive Damages Award in State Tort Action	13:52-57
—State Interests	13:48-52
Right to Counsel	13:134-52
—Appellate Review of Incompetent Representation Claim	13:145
—Burden of Proof on Defendant Asserting Conflict of Interest	13:142
—Effective Assistance of Counsel	13:144
—Right to Counsel of Reasonable Competence	13:145
—Right to Counsel's Undivided Loyalty	13:145
—Waiver of Right to Counsel	13:142
Search and Seizure	13:804, 808
Separation of Powers	13:549-74
Statute of Limitations	13:701-34
—Applicability to Foreign Corporations With Minimum Contacts	13:707-12, 719-23
—Certification Laws, Foreign Corporation Compliance	13:724-33
—Constitutionality of New Jersey Tolling Statute	13:701-34
—Interstate Commerce, Impact on	13:724-33
— <i>In Personam</i> Jurisdiction, Relation to Tolling Statutes	13:703-05, 714-18
—Scrutiny of “Registered” or “Unregistered” Classifications of Foreign Corporations	13:711-12, 714, 719-23
Thirteenth Amendment	13:763

COURTS

Juvenile Courts	13:427-30
—Balancing of Interests to Determine Proper Jurisdiction	13:429
—Jurisdiction	13:427-29
—Waiver of Jurisdiction	13:428-29
Tribute to Justice Morris Pashman	13:441-45

SUBJECT INDEX

xxxi

CRIMINAL LAW AND PROCEDURE

Exclusionary Rule 13:824-25
—Limited by Redaction Principle 13:831-33
Federal Rules of Criminal Procedure 13:71, 78-79,
134-52
—Rule 6(e) 13:78-79
—Rule 6(e)(2), (3) 13:71
—Rule 11(c) 13:141
—Rule 44(c) 13:150
Grand Juries 13:72-88
—Balancing Test for Disclosure of Materials 13:80
—Chilling Effect of Disclosure 13:88
—Secrecy 13:72-88
—Generally 13:78-79
—Particularized Need Standard 13:72-73
—Reasons for Maintaining 13:87
Incompetence 13:834-39
Multiple Representation in Criminal Proceedings 13:134-52
—Adverse Effect on Counsel’s Representation 13:140
—Burden of Proof on Defendant 13:140
—Conflict of Interest 13:140
—Ineffective Assistance of Counsel 13:139
—Standard for Appellate Review 13:139
Right to Counsel 13:134-52
—Appellate Review of Incompetent Representation Claim 13:145
—Burden of Proof on Defendant Asserting Conflict of Interest . 13:142
—Effective Assistance of Counsel 13:144
—Right to Counsel of Reasonable Competence 13:145
—Right to Counsel’s Undivided Loyalty 13:145
Robbery 13:425-27
—N.J. STAT. ANN. § 2C:15-1(b) 13:425-26
—N.J. STAT. ANN. § 2C:15-1(d) 13:426
—Possession of Weapon 13:426
—Sentence in Second Degree Crime 13:425
—Stimulated Use of Handgun 13:425-27
Warrants 13:826-27
—Partially Invalid Search Warrant 13:819-34
—Preservation of Valid Evidence 13:819-34
—Redaction Principle, Effect of 13:830-31
—Testing Validity of Generic Terms 13:828-29

DAMAGES

Immunity as a Defense 13:374-97
—Constitutional Violations 13:379-81, 391-
92
—Good Faith Defense 13:380-81, 391-
92, 345
—History of Defense 13:379-84
—Judicial Review 13:381
—Scope of Privilege 13:382-83
—State Officials 13:380-83

DIVORCE

Attorney’s 13:839-41
—Equitable Distribution of Good Will 13:839-41

DOMESTIC RELATIONS

- Alimony and Maintenance 13:841-43
 Effect of Cohabitation of Former Spouse 13:841-43

DRAFT REGISTRATION

See **Constitutional Law**

EDUCATION

- Handicapped Children Act 13:575-98
 Individually Designed Programs 13:575-98
 Reasonableness, Court's Determination 13:575-98

EMINENT DOMAIN

- Common Ownership and Partial Taking 13:843-45
 Just Compensation 13:843-45

EMPLOYER—EMPLOYEE

- Confidential Employees 13:490-514
 Employee/Employer Negotiations 13:490-514
 Employee/Employer Relations 13:490-514

EMPLOYMENT DISCRIMINATION

- Burden of Proof 13:423-24
 Cease and Desist Order 13:424
 Damages, Emotional Distress 13:424
 New Jersey Law Against Discrimination, N.J. STAT. ANN.
 §§ 10:5-1 - 5-38 13:422-24
 Physical Examination, Reliance on Before Employment 13:423-24
 Physical Handicap 13:422-25
 Recognition of Unlawful Discrimination 13:423

EQUITY

- Bona Fide Purchaser 13:16

ESTATES AND TRUSTS

- Accounting by Trustee, Beneficiary Duty to Notify Surety 13:661-62

EVIDENCE

- Expert Character Witness, Admissibility Of Testimony 13:213-16

EXCLUSIONARY RULE

See **Criminal Law and Procedure**

FAMILY LAW

- Book Review: Protection of Abuse Victims—State Laws and
 Decisions 13:663-65
 Domestic Relations 13:207-13
 —Degree Not Distributable Marital Property Asset 13:207-11
 —Latest Marriage, Overcoming Presumptive Validity of 13:211-13

FIRST AMENDMENT

- Application to Government Employees 13:378
 Immunity as a Defence 13:379-81, 391-

SUBJECT INDEX

xxxiii

GOVERNMENT IMMUNITY AND LIABILITY

- New Jersey Tort Claims Act 13:436-37, 644-46
 - Action Against County School Board Barred 13:436-37
 - Constitutional Challenge 13:437
 - Damages for Pain and Suffering Awarded Against Public Entity 13:436
 - Defendant's Assertion of Tort Claims Act as a Defense 13:437
 - Statutory Limitation on a Public Entity's Liability for Pain and Suffering 13:436-37

GRAND JURY

- Balancing Test for Disclosure of Material 13:80
- Chilling Effect of Disclosure 13:88
- Secrecy 13:72-88
 - Generally 13:78-79
 - Particularized Need Standard 13:72-73
 - Reason for Maintaining 13:87

HANDICAPPED

- Handicapped Children Act 13:573-98

HEALTH AND ENVIRONMENT

- Atomic Energy Regulation 13:57-58
- Hazardous Waste 13:229-61, 446-74
 - Complexity of the Problem 13:451-54
 - Industrial Waste Management Facilities 13:254
 - Integration of Waste Management and Water Pollution Controls 13:254-57
 - Protection 13:247-54
 - Discharge Into Ground Water 13:251-54
 - Discharge Into Surface Water 13:247-49
 - Retreatment of Waste 13:250-51
 - Remedies 13:454-71
 - Superfund Study Group Recommendations 13:446-74
 - Synopsis of Law 13:234-43
 - Federal Law 13:234-35, 238-40
 - State Law 13:235-38, 240-41
- Price Anderson Act, and State Power to Regulate Hazardous Waste Materials 13:59-64
- Waste Regulation 13:229-61
- Water Pollution Law 13:243-54

IMMUNITY

- Constitutional Violations Cases 13:379-81, 391-92
- Executive Branch 13:382-83
- Good Faith Defense 13:380-81, 391-92, 395
- History of Defense 13:379-84
- Judicial Review 13:381
- Parent/Child 13:398-402

Scope of Privilege	13:382-83
State Officials	13:380-83
INCOMPOTENTS	
See Criminal Procedure	
JUDICIAL REVIEW	
Official Action Outside Scope of Immunity	13:381
LABOR	
Arbitrator, Jurisdiction	13:647-48
Collective Bargaining	13:648-51
Constitutionality of Replacement Workers During Strike	13:419-21
—Out-of-State Replacements	13:419-21
—Recruitment	13:419-21
—Referral of Replacement Applicants	13:419-21
Employment Discrimination	13:422-25
—Burden of Proof	13:423-24
—Cease and Desist Order	13:424
—Damages, Emotional Distress	13:424
—New Jersey Law Against Discrimination	13:422-24
—Physical Examination	13:423-24
—Physical Handicap	13:422-25
—Recognition of Unlawful Discrimination	13:423
Federal Preemption of New Jersey Regulatory Scheme	13:419-21
“National Free Trade Zone”	13:421
National Labor Relations Act	13:420-21
New Jersey Strikebreakers’ Act N.J. STAT. ANN. §§ 34:13C-1 to 13C-6	13:419-21
—Commerce Clause Challenge	13:420-21
—Due Process Challenge	13:420-21
—Equal Protection Challenge	13:420-21
—Non-NLRA Employers and Employees	13:421
Regulation of State Agencies	13:650-51
Standing To Sue Under Declaratory Judgment Act, N.J. STAT. ANN. §§ 2A:16-50 - 16-62	13:420
Union	13:490-514
—Confidential Employees	13:490-514
—Employee/Employer Negotiations	13:490-514
—Employee/Employer Relations	13:490-514
—Labor Management Reporting and Disclosure Act	13:492
—Labor Negotiations	13:490-514
—Landrum-Griffin Act	13:492
—Management/Labor Negotiations	13:490-514
—NLRA	13:490-94
—Taft-Hartley Act	13:491-92
—Unfair Labor Practices	13:498
—Wagner Act	13:490-94
LANDLORD — TENANT	
Constitutionality of New Jersey Distress Act	13:845-47
Evicted Occupants as Displaced Persons	13:216-17
Notice to Quit Required for Rent Increase	13:430-32
Rent Control	13:430-33
Retroactivity of Rent Increases	13:432

SUBJECT INDEX

xxxv

Termination of Month-to-Month Tenancy	13:431
LIBEL AND SLANDER	
Defamation	13:612-18
—Burden of Proof	13:606-08, 614
—Constitutional Protection of Plaintiff's Right of Action	13:612-13, 615-18
—Malice	13:606-09, 622, 624
—Subpoena of Newspaper Materials	13:605, 610
Discovery of Editorial Process	13:608-09, 611, 615, 619-24
New Jersey Shield Law	13:600-06, 609-11, 616, 618-20, 623
LIS PENDENS	
Deprivation of Property	13:122-24
Due Process	13:115-33
—New Jersey Statute	13:115-33
—State Action	13:124-26
New Jersey, Development and Application	13:117-22
PHYSICIANS	
Disciplinary Procedures	13:654-57
Falsification of Medical Records	13:217-19
Standard of Proof for Guilt in Administrative Adjudication	13:655-57
PREEMPTION	
Preemption Doctrine	13:45-48
Punitive Damages Award in State Tort Action	13:52-57
State Interests	13:48-52
PRODUCTS LIABILITY	
Asbestos Related Diseases	13:626
Design Defect	13:657-60
Drug Liability Cases	13:639-41
Manufacturing Defects	13:628-29
Negligence	13:625, 629-33
State-of-the-Art Defense	13:625, 627-28, 632-33, 637-41
Strict Liability	13:625-38, 641-42, 658-60
REAL ESTATE AGENTS/BROKERS	
Commissions	13:433-35
—Business Brokers' Commissions on Personality	13:435
—Sale of Business by Business Broker	13:433-34
—Statutory Prohibitions on Non-Licensed Broker	13:433-34
REAL PROPERTY	
Mortgages	13:219-22, 652-54

—Gift Assignment to Tenant-By-The-Entirety for Benefit of Both Co-Tenants	13:219-22
—Priority of Liens	13:652-54
REMEDIES	
Punitive Damages Under Exclusive Federal Regulation	13:65-67
SEARCH AND SEIZURE	
Effect of Redaction Principle on Warrants	13:830-34
Interpretation of New Jersey Search and Seizure Provision	13:803-18
Preservation of Valid Evidence in a Partially Invalid Search Warrant	13:819-34
Testing Validity of Generic Terms in Warrant	13:829-39
STATUTE OF LIMITATIONS	
Applicability to Foreign Corporations With Minimum Contacts ..	13:707-12, 719- 23
Certification Laws, Foreign Corporation Compliance	13:724-33
Constitutionality of New Jersey Tolling Statute	13:701-34
Interstate Commerce, Impact on	13:724-33
In Personam Jurisdiction, Relation to Tolling Statutes	13:703-05, 714- 18
Scrutiny of “Registered” or “Unregistered” Classifications of Foreign Corporations	13:711-12, 714, 719-23
TAXATION	
Judgements: Freeze Act	13:222-24
TORTS	
Parent-Child, Negligent Supervision	13:400-04
—Development of Rule	13:398-413
—Duty of Parents	13:398
—Immunity	13:398-402
—Liability of Parent	13:408-13
—Parental Discretion	13:403-08
—Standard Applied	13:402-05
—Torts Claims Act	13:398
Personal Injury	13:847-50
Public Sidewalks	13:847-50
UNEMPLOYMENT INSURANCE	
Notice of Determination	13:438-39
—Due Process Challenge of English Notice to Non-English Speaking Claimants	13:438-39
—Reasonable Notice Requirements	13:438
—Seven Day Limit for Appeal of Notice	13:438
WATER POLLUTION	
See Health and Environment	