

Tort Law: Back to Basics

September 26, 2016

By: William Kraiss

Court solidifies bedrock standards in tort law without breaking new ground.

By William A. Kraiss and Pamela R. Kaplan

New Jersey Law Journal, September 26, 2016

While a theme is difficult to infer based on a handful of Supreme Court opinions, the 2015-16 term with respect to personal injury and tort law suggests a return to basics. For example, in *Prioleau v. KFC*, the New Jersey Supreme Court reiterated the specific principles associated with the mode-of-operation charge. In *Meehan v. Antonellis*, the court addressed requirements under the Affidavit of Merit statute by simply reading the statute. In *Schwartz v. Accuratus Corp.*, the court reminded us that foreseeability requires a case-by-case analysis. In *Jarrell v. Kaul*, while finding that a physician's failure to maintain required malpractice coverage could lead to a "negligent hiring" claim against the facility that "employs" the physician, the court declined to find a private cause of action against the physician or extend the concept of informed consent. Similarly, in *Steinberg v. Sahara Sam's Oasis*, while refining the definition of gross negligence, the court declined to find a private cause of action within the statute governing the safety of carnival rides. Finally, in *Torres v. Pabon*, the court reminded practitioners of the importance of adhering to the Court Rules and provided valuable lessons in trial practice. In sum, the court took the opportunity to solidify and clarify bedrock standards within our tort law without breaking new ground.

The full article was published by the *New Jersey Law Journal*. Subscribers may read the full article [here](#).

