

## MEMORANDUM

To: New Jersey Press Association  
From: Thomas J. Cafferty, Esq., Nomi I. Lowy, Esq. and Lauren James-Weir, Esq.  
Date: May 11, 2010  
RE: Salzano v. North Jersey Media Group et al.

On May 11, 2010, the New Jersey Supreme Court decided the case of Salzano v. North Jersey Media Group et al. The Supreme Court, reversing the decision of the Appellate Division on this issue, determined that the fair report privilege attaches to first filed pleadings. This means that as long as a news story “fully, fairly and accurately” reports on the contents of a first filed Court pleading, such as a Complaint, there is an absolute privilege afforded to the newspaper/reporter for that report against suits for defamation – regardless of whether the reporter believed the contents of the pleading to be true or false. This was precisely the position advanced by the New Jersey Press Association in its amicus brief and in oral argument before the Court.

In determining what constitutes a “full, fair and accurate” report, the Court reiterated that “[I]t is not necessary that [the account] be exact in every immaterial detail ... It is enough that it conveys to the persons who read it a substantially correct account of the [contents of the official document].” “A ‘fair’ report need not be a verbatim report; it is enough that the report be a ‘rough-and-ready summary that is substantially correct.’” The headline of the report is not to be read in a vacuum and the Court will presume, in assessing the fairness and accuracy of a report, that the public reads the entire article. The Supreme Court was divided equally as to whether the report in question was a full fair and accurate report and, thus, the Appellate Division determination that the report was full, fair and accurate was affirmed.

In reaching its decision that the fair report privilege attaches to first filed pleadings, the Supreme Court recognized that it is impossible for citizens to monitor all of the operations of our system of justice and that “we rely upon the press for vital information about such matters.”