**NEW JERSEY HAS ADOPTED NEW COURT RULES REGARDING AFFIDAVITS OF MERIT AND EXPERTS**

**IN MEDICAL MALPRACTICE CASES**

Rule 4:5B-4 provides for the scheduling of a case management conference (or Ferreira conference) within ninety (90) days of the filing date of the first answer to address the sufficiency of an affidavit of merit (“AOM”) provided pursuant to N.J.S.A. §2A:53A-27 and the qualifications of an affiant or other designated medical expert pursuant to the Patients First Act (“PFA”), N.J.S.A. §2A:53A-41. The plaintiff must supply a reasonably current CV of the affiant no less than thirty (30) days before the conference; and the defendant must serve the court and all parties with specific written objections, if any, to the AOM no less than fifteen (15) days before the conference. The preceding applies to all types of professional malpractice cases, not just medical malpractice actions.

The new rule requires that an order be prepared addressing: (1) the sufficiency of the AOM; (2) whether there are any disputes regarding the AOM; and (3) in medical malpractice actions, the sufficiency of the qualifications of the affiant or medical expert under the PFA. Those defendants who are joined as parties after the conference are entitled to receipt of an AOM and CV within thirty (30) days of the joinder. An analogous 15-day deadline applies to objections to the AOM. If no objection is raised, the parties must submit a consent order to the court within sixty (60) days of service of the AOM and CV; otherwise, the onus is on the added defendant to “promptly” file a motion.

Subsection (b) was added to Rule 4:24-2 and correlates with Rule 4:5B-4. If a plaintiff elects to retain an expert other than the affiant whose credentials already were vetted under Rule 4:5B-4 and a defendant is challenging that expert’s credentials pursuant to the PFA (which the NJ Supreme Court has ruled only applies to physicians and not to other categories of healthcare providers), that defendant must do so by way of motion filed not later than thirty (30) days from the service of the expert’s report. The motion must include a copy of the defendant physician’s CV and a certification setting forth the defendant’s area of specialty and qualifications that form the basis for challenging the adversary’s expert. The same holds true for a plaintiff seeking to challenge the qualifications of a defense expert under the PFA.

The new rules are in sync with the NJ Supreme Court’s decision in A.T. v. Cohen, 231 N.J. 337 (2017) , wherein the Court noted that the Judiciary’s electronic filing system should be updated regarding the AOM filing obligation and the scheduling of Ferreira conferences.