

New Jersey State Bar Association Recognizes Two Greenbaum Partners with Amicus Curiae Awards

Robert B. Hille and **Kersten Kortbawi**, partners in the firm's **Litigation** Department, were the recipients of Amicus Curiae Awards from the New Jersey State Bar Association at the Bar's 2023 Board of Trustees Awards Celebration on January 12, 2023. The Amicus Curiae Awards recognize lawyers who have volunteered their time and expertise to advance friend-of-the-court arguments, legislative positions, diversity and inclusion in society, and improvements in areas of practice.

Mr. Hille was recognized for his efforts in assisting with the Bar's amicus curiae participation in the matters of *OAE v. Wade* and *In re Lucid*. Both matters involved Disciplinary Review Board recommendations for disbarment for knowing misappropriation of client funds. Mr. Hille authored the *Wade* brief and co-authored the *Lucid* brief to the New Jersey Supreme Court on behalf of the NJSBA and argued the *Wade* case before the Court.

In *Wade*, the central question was whether there should be an exception to the Wilson Rule that mandates the draconian discipline of permanent disbarment for the knowing misappropriation of client and escrow funds. The NJSBA argued that the knowing misappropriation standard needed to be clarified to reserve application of the Wilson Rule and permanent disbarment to where the lawyers' actions were tantamount to theft or fraud. At argument, it was urged on behalf of the NJSBA that clarification of the knowing standard was needed to limit the circumstances where the Court disbarred lawyers under the Wilson Rule and to reconcile Wilson cases with those finding negligent misappropriation and less severe discipline. In *Lucid*, the Court found negligent misappropriation and issued a censure. In *Wade*, the Court found the lawyer admitted to knowing misappropriation and disbarred her. However, in a significant departure from precedent, the Court created a committee to review and recommend whether disbarment should be permanent. If not, the committee was charged with developing a readmission process. It was also made clear that Ms. Wade would qualify to reapply.

Ms. Kortbawi was recognized for her efforts in assisting with the Bar's amicus curiae participation in the matter of *Delaney v. Dickey*. Ms. Kortbawi co-authored a brief to the New Jersey Supreme Court on behalf of the NJSBA.


In *Delaney v. Dickey*, the Court considered the question of whether an arbitration provision in a retainer agreement a client signed when he engaged the representation of a law firm was enforceable given the fiduciary responsibility that lawyers owe their clients and the professional obligations imposed on

attorneys by the New Jersey Rules of Professional Conduct (RPCs). As amicus curiae, the Bar took the position that the Appellate Division had improperly engaged in rulemaking, thereby usurping the New Jersey Supreme Court 's constitutional authority to regulate attorney conduct and promulgate rules when it created new regulations for attorneys under the RPCs. In December 2020, the Supreme Court clarified the requirements that attorneys must follow in order to include a valid arbitration clause in a retainer agreement, basing its holding on the Model RPCs as well as the fiduciary duties that attorneys owe to their clients.

Mr. Hille's practice includes the representation of attorneys in ethics and professional liability matters as well as the defense of individuals and entities in administrative and enforcement matters. His extensive trial expertise encompasses insurance matters, healthcare disputes, professional liability defense, fraud and abuse, and regulatory issues. A past President of the NJSBA, he is the author of *New Jersey Pleadings* and co-author of *New Appleman on New Jersey Insurance Law* and *New Jersey Pretrial Practice*.

Ms. Kortbawi's litigation practice encompasses the representation of individuals, businesses, and governmental entities in all forms of commercial disputes, including complex construction, insurance defense, consumer fraud, and professional and product liability matters, as well as personal injury and sexual abuse claims. She is a member of the NJSBA and serves on the Middlesex County Bar Association Board of Trustees.

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