

SUPREME COURT OF NEW JERSEY

Owens v. Feigin, 194 N.J. 607

947 A.2d 653 (2008) · No. A-43 · Decided June 3, 2008

SUMMARY

The Supreme Court of New Jersey held that the New Jersey Tort Claims Act notice-of-claim requirement does not apply to causes of action brought under the New Jersey Civil Rights Act. The court affirmed, as modified, the Appellate Division’s judgment reversing dismissal of the plaintiffs’ Civil Rights Act claim and remanded for further proceedings.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                           |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of New Jersey                                                                                                                                                                                                                               |
| WRITING FOR THE COURT | Per Curiam; Chief Justice Rabner; Justice Long; Justice LaVecchia; Justice Albin; Justice Wallace; Justice Hoens                                                                                                                                          |
| JURISDICTION          | New Jersey                                                                                                                                                                                                                                                |
| DECIDED               | June 3, 2008                                                                                                                                                                                                                                              |
| DOCKET                | A-43                                                                                                                                                                                                                                                      |
| DISPOSITION           | affirmed                                                                                                                                                                                                                                                  |
| PROCEDURAL POSTURE    | Defendant appealed the reversal of a trial-court dismissal of plaintiffs' New Jersey Civil Rights Act claim for failure to comply with the New Jersey Tort Claims Act notice-of-claim requirement. The Supreme Court of New Jersey granted certification. |
| STANDARD OF REVIEW    | De novo review of the legal question whether the New Jersey Tort Claims Act notice-of-claim requirement applies to a New Jersey Civil Rights Act cause of action.                                                                                         |
| PRECEDENTIAL VALUE    | Published opinion; precedential decision of the Supreme Court of New Jersey.                                                                                                                                                                              |
| PARTIES               | Gerald Feigin, M.D. v. Brian Scott Owens, Sr., Shannon Eileen Owens, Brian Scott Owens, Jr., B. Montana Owens, Lane Finley Owens                                                                                                                          |

TOPICS

- civil rights
- statutory interpretation
- legislative intent
- civil procedure
- constitutional law

## PRACTICE AREAS

civil rights

constitutional law

statutory interpretation

civil procedure

municipal law

## QUESTIONS PRESENTED

1. Whether the New Jersey Tort Claims Act notice-of-claim requirement applies to a cause of action brought under the New Jersey Civil Rights Act.

## HOLDINGS

1. The New Jersey Tort Claims Act's notice-of-claim requirement does not apply to causes of action under the New Jersey Civil Rights Act.

## KEY QUOTATIONS

*“We hold, therefore, that the TCA's notice-of-claim requirement does not apply to CRA causes of action.”*  
(653)

*“We hold, in conclusion, that plaintiffs' CRA claim against Feigin was improperly dismissed.”* (657)

## FACTUAL BACKGROUND

Brian and Shannon Owens brought claims arising from the death of their thirteen-year-old son, Matthew, including a claim alleging that Gerald Feigin, the Salem County medical examiner, deliberately violated their civil rights while conducting Matthew's autopsy. The plaintiffs served timely Tort Claims Act notices on other public entities and employees but did not serve a notice of claim on Feigin. Feigin sought dismissal of the claims against him based on that omission.

## PROCEDURAL HISTORY

Plaintiffs filed claims arising from the death of their thirteen-year-old son, including a Civil Rights Act claim against Gerald Feigin, the county medical examiner. The trial court dismissed the claim because plaintiffs had not served Feigin with a Tort Claims Act notice. The Appellate Division reversed, holding that the notice requirement did not apply to the Civil Rights Act claim. The Supreme Court affirmed the Appellate Division's judgment as modified and remanded for further proceedings.

## DISPOSITION

affirmed

## REMAND INSTRUCTIONS

The matter was remanded to the Law Division for further proceedings consistent with the opinion.

## CASES CITED

- Owens v. Feigin, 394 N.J. Super. 85, 97, 925 A.2d 106 (App. Div. 2007)
- Velez v. City of Jersey City, 180 N.J. 284, 289, 292, 296, 850 A.2d 1238 (2004)

- Fuchilla v. Layman, 109 N.J. 319, 337-38, 537 A.2d 652 (1988), cert. denied, 488 U.S. 826, 109 S. Ct. 75, 102 L. Ed. 2d 51 (1988)
- Brook v. April, 294 N.J. Super. 90, 100, 682 A.2d 744 (App. Div. 1996)
- Brennan v. Norton, 350 F.3d 399, 431-33 (3d Cir. 2003)
- Lakes v. Brigantine, 396 N.J. Super. 65, 69, 931 A.2d 622 (Law Div. 2007)
- Greenway Dev. Co. v. Borough of Paramus, 163 N.J. 546, 557, 750 A.2d 764 (2000)
- Tice v. Cramer, 133 N.J. 347, 375, 627 A.2d 1090 (1993)
- Skeer v. EMK Motors, Inc., 187 N.J. Super. 465, 472, 455 A.2d 508 (App. Div. 1982)

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