

Honorable Ellen L. Koblitz (Ret.) Quoted in New Jersey Law Journal Regarding Calls for More Published Appellate Division Rulings

RELATED ATTORNEYS

Ellen L. Koblitz

News

12.1.22

Honorable Ellen L. Koblitz (Ret.), Special Counsel at Pashman Stein Walder Hayden, was quoted in the New Jersey Law Journal article, “Why So Rare? Lawyers Are Calling for More Published Appellate Division Opinions.” The article discusses the suggestion that the New Jersey Judiciary change the rules for unpublished Appellate Division rulings. Only 4-5% of Appellate Division rulings are published, which limits the ability of lawyers to cite such cases under Rule 1:36-3, which states that “no unpublished opinion shall constitute precedent or be binding upon any court.”

Those who ponder the 5% figure for published opinions should bear in mind that New Jersey’s mid-level appellate court writes opinions for every appeal it hears, including those that judges deem not worthy of precedential designation, said Ellen Koblitz, who provides alternate dispute resolution at Pashman Stein Walder Hayden in Hackensack. Koblitz was an Appellate Division judge for 10 years, including two years as a presiding judge.

Writing opinions for cases deemed nonprecedential drives up the overall number of [opinions] in New Jersey, whereas many other states’ intermediate appellate courts only issue an order for non-precedential appeals, Koblitz said.

Koblitz added that the Appellate Division’s rules allow attorneys to write to the court if they believe an unpublished case should have been published.

“It happens from time to time and it’s granted sometimes. It causes the court to take a second look and decide if something they thought was rather routine is actually not,” she said.

Koblitz has heard calls for change concerning published and unpublished appellate cases and thinks it would not be beneficial to attorneys.

“I think if you publish more cases, or publish all cases, or made all cases precedential, it would diminish the ones that are now being published. It would be this vast sea of opinions and you could probably take sentences out of one opinion or another to back up almost any argument. Whereas [under the current rules] the legal profession’s attention is directed to those opinions, the most important opinions.”

“I think that the rule makes a lot of sense and it’s appropriate in New Jersey where we write opinions on every single appeal,” Koblitz said. “I think it’s a sound way of doing things and very helpful to litigants to have a full opinion in every case.”

To view article, [click here](#)