

The Appellate Advocate:

A Recap of Recent Decisions by NJ's Appellate Courts



445 YYH LLC v. Blue Moon Lounge, LLC No. A-3056-23

I have watched every episode of *The Wire*. I have watched the fourth season multiple times. Correct me if I am wrong: I do not recall any episode where Avon, Marlo, or Prop Joe went to court to resolve their business disputes. But the year is 2025. So this particular lawsuit, between aspiring cannabis distributors, had me whistling “The Farmer in the Dell” (iykyk).

In a 16-page unpublished opinion, the Appellate Division sided with 445 YYH LLC, a landlord who alleged it was fraudulently induced by Blue Moon Lounge LLC and its principals, Kamini Shah and Harsh Desai, to enter into a lease and invest in the early groundwork of a recreational marijuana dispensary. The trial court had previously tossed the complaint with prejudice, citing a failure to state a claim.

But Judges Natali and Vinci disagreed.

445 YYH LLC contended it entered into a July 2023 lease with Blue Moon for a Paterson property after being assured of a 25% equity stake in the dispensary business, reimbursement of outlays for regulatory approvals, and a \$40,000 monthly rent once operations began. Key to that agreement, per the complaint, was the landlord’s successful effort to obtain a resolution from the Paterson City Council supporting the dispensary’s location—a necessary step for obtaining a state license.

Problems arose when Blue Moon tried to cancel the lease, arguing the municipal resolution wasn’t enough to satisfy licensing requirements. The company then began exploring a new location—without the 445 YYH LLC’s involvement.

The trial judge sided with Blue Moon, concluding the resolution was insufficient because it wasn’t a license and thus did not meet the lease’s municipal approval contingency. But the appellate court said the judge had misconstrued both the lease and the relevant cannabis regulations: “Plaintiff was obligated to obtain municipal approval from Paterson, not a license from the [state].”.

The panel emphasized that the municipal resolution—while not a license itself—is a prerequisite for applying to the state’s regulatory commission. They found it plausible that the resolution fulfilled the lease’s requirements and ruled that factual disputes over its sufficiency warranted discovery, not dismissal.

The court also reinstated claims of fraudulent inducement and breach of the covenant of good faith and fair dealing, citing allegations that Blue Moon and its principals had misrepresented their intentions while secretly preparing to move the venture elsewhere.

The decision means the lawsuit, originally filed in December 2023, will proceed in Passaic County Superior Court. And it underscores the complexity—and rising tensions—in New Jersey’s fledgling cannabis market, where real estate, zoning, and state licensure remain new frontiers.

About Thomas Cotton

Thomas Cotton is a litigation partner at Schenck Price, representing clients in trial and appellate courts throughout the United States. In addition to his practice, he authors *The Appellate Advocate*, a semi-weekly blog offering thoughtful yet accessible commentary on recent appellate rulings.



973-540-7333

tjc@spsk.com

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