

# The Appellate Advocate:

## A Recap of Recent Decisions by NJ's Appellate Courts



### **JJ Bada 464 Operating Corp. v. Advance Security Systems A-2555-23**

How many times can a fire alarm trigger false alerts before you will be convinced it is haunted by ghosts? And not the benevolent ghosts that just want to listen to “Unchained Melody” while doing some pottery. Real, malicious ghosts that want to haunt a restaurant with the incessant ringing of a fire alarm. To be clear, this case probably does not involve ghosts. But I digress.

JJ Bada 464 Operating Corp., which runs the Bada Story Restaurant in Fort Lee, accused Advance Security Systems, a division of U.S. Security Services, of selling defective alarm services that triggered repeated false fire alarms. The restaurant argued the disruptions forced costly evacuations and emergency responses, even after it paid thousands of dollars in upgrades.

Initially, the trial judge dismissed the restaurant’s consumer fraud allegations, finding they lacked the required specificity. The court did allow breach-of-contract and good-faith claims to proceed. But as the litigation wore on, summary judgment eliminated the good-faith claim, and—after a reconsideration motion—the contract claim was thrown out as well.

On appeal, the Appellate Division sided with the lower court on key points, agreeing that the fraud allegations were too conclusory to stand (after a lengthy explanation on whether Bada could even appeal from the dismissal order, which is worth a read for any appellate litigators). But it faulted the trial court for failing to explain fully why it reversed itself on the breach-of-contract issue. The appellate judges said the record offered only a brief notation about late filings and technical errors by the plaintiff, leaving unclear the substantive reasoning behind the dismissal.

The panel ordered the contract claim reconsidered, directing the trial court to hear arguments anew and issue a fuller explanation. At the same time, it affirmed the dismissal of the good-faith claim, finding no evidence that the security firm acted with bad intent.

The ruling leaves the restaurant with one last chance to press its core contract claim—whether it paid for services it never truly received—while reinforcing the strict pleading standards that govern fraud claims in New Jersey. Stay tuned to see whether anyone raises a “it was probably ghosts” theory.

### 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.



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