



Santa and his many volunteer elves hosted hundreds of disadvantaged Camden children at the Coastline in Cherry for another successful Christmas Breakfast and Party on December 3. Special thanks to Coastline owner Dawn Mourtos and her staff for the continued generosity and support. See more of the festivities inside.

Rand to Receive Devine Award

Past CCBA President to be honored at January 27th Luncheon



Soon to be retired Judge Charles M. Rand, P.J.S.C., Family Part, has been named recipient of the Association's 2011 Honorable Peter J. Devine, Jr. Award. The award will be presented at a luncheon in his honor on Friday, January 27, at the Crowne Plaza Hotel's Riverside Pavilion in Cherry Hill.

Established in 1981 in honor of the popular Judge Devine, bar president in 1967-68, the Devine Award is the Bar Association's most prestigious award. It is presented annually by the Association in recognition of distinguished service to the Association and its members.

The festivities get underway at Noon with a cash bar networking reception followed by lunch and the award presentation beginning at 12:30 pm.

Luncheon Reservations are \$50 per person and can be made by calling Bar Headquarters at 856.482.0620 or by mailing the reservation reply from the flyer inserted in this month's issue of *The Barrister*. Tables of 8 or 10 are available. Spouses and friends are welcome and encouraged to attend.

Don't miss this opportunity to congratulate and thank our colleague and friend for his commitment to the Camden County legal community and the community at large.

We're Looking for YOU!

Association Officer and Trustee Nominations Open

What is leadership? A simple definition of leadership is **the art of motivating a group of people to act towards achieving a common goal and the ability to make things happen.**

This definition captures the leadership essentials of inspiration and preparation. Effective leadership is based upon ideas, but won't happen unless those ideas can be communicated to others in a way that engages them.

Put even more simply, the leader is the inspiration for action. He/she is the person who possesses the combination of personality and leadership skills that makes others want to follow.

The Association's Nominating Committee is looking for Association members who possess the leadership skills and desire to help the Association build on its past achievements while meeting the challenges of the future for the benefit of its members.

Continued on Page 6

In Memoriam



It is with great sadness that we learned of the passing of longtime Bar employee Cheryl Todd on October 31.

During her 30 years of service with the Association, Cheryl performed various duties, always with a smile and a can-do attitude, and was a friend to many members.

We extend our sincere condolences and sympathies to Cheryl's family, especially her husband

Joe and son Josh, and her many friends.

She will be missed.

Dues Unpaid?

Members whose 2011-2012 dues are delinquent as of January, 31, 2012 will be officially dropped from the Camden County Bar Association and will forfeit the benefits associated with membership.

Once dropped, it will be necessary to submit a new application for approval by the Board of Trustees should you desire to resume your membership in the future.

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The Docket

Tuesday, January 3rd

Young Lawyer Committee Meeting

Noon

Bar Headquarters, Cherry Hill

Wednesday, January 11th

*Lunch & Learn Series,
Social Media for Beginners Workshop*

Noon – 2 pm

Bar Headquarters, Cherry Hill

Wednesday, January 11th

*Computer Forensics & E-Discovery,
How It Works Seminar*

4 – 6:15 pm

Tavistock Country Club, Haddonfield

Friday, January 20th

Young Lawyer Committee Dinner

7:00 pm

Casona Restaurant, Collingswood

Thursday, January, 26th

*Black Letter Blast on
Criminal Law Seminar*

4 – 6:15 pm

Tavistock Country Club, Haddonfield

Wednesday, February 1st

*Lunch & Learn Series,
How to Increase Traffic to Your Website*

Noon – 2 pm

Bar Headquarters, Cherry Hill

Tentative Agenda for January 18 Trustees Meeting

A tentative agenda for this month's regular Board of Trustees meeting follows. The meeting will begin at 4 p.m., at Bar Headquarters in Cherry Hill. All meetings are open to the membership. Anyone interested in attending should notify and confirm their attendance by calling Bar Headquarters at 856.482.0620.

- I. Call to Order
- II. Minutes from Previous Meeting
- III. Treasurer's Report
- IV. President's Report
- V. Executive Director's Report
- VI. Membership Committee Report
- VII. Young Lawyer Committee Report
- VIII. Standing Committee Reports
- IX. Foundation Update
- X. NJSBA Update
- XII. New Business (if any)
- XIII. Old Business
- XIV. Adjourn

Barrister

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The Young Lawyer Committee's second annual Lobster Bake in September was another resounding success with NET proceeds exceeding \$10,000 to support the committee's Scholarship Fund for the Larc School in Bellmawr, allowing them to make an \$8,000 donation to the school. On hand for the check presentation were: Bill Cook, YLC Chair, Susan Weiner, Executive Director of the Larc School and Bar Foundation President Rick DeMichele. To date, the Young Lawyer Committee has donated \$13,000 in scholarship funds to the school. Watch future *Barristers* for information about next September's Lobster Bake and reserve your place early!

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Out & About

Fall Frolic



Mary Shaw, Andy Kushner,
Linda Eynon



Dawn & Greg Sutphin, Lou Lessig,
Lou Moffa



Mike Madden,
Matt Zonies,
Brian McGroarty



Harry & Rita Schmolli



Joe McCormick, Tom Hagner

Children's Christmas Party



Uhhmm, Good!



Sr. Judge Rodriguez?



BFF



A hearty Coastline breakfast to start the day



Judge Fox, Judge Brown

NOTICES TO THE BAR

Vacancies on Criminal Justice Act Panel for the District of New Jersey

Since 1971, the United States District Court for the District of New Jersey has maintained a list of attorneys to be appointed as counsel for eligible defendants pursuant to the Criminal Justice Act ("CJA"), 18 U.S.C. §3006A. The Court has adopted a CJA Plan, revised as of December 10, 1997 and effective September 11, 1998, which "particularize(s) the requirements of the CJA, the Anti-Drug Abuse Act of 1988 ... and the CJA Guidelines in a way that meets the needs of this district." In summary, the CJA Plan has established a Panel Selection and Management Committee which meets annually to consider applications for the District's CJA Panel. The District's CJA Panel consists of 100 attorneys, divided by Vicinage who are members in good standing of the Bar of this District, and have trial experience and knowledge of the Federal Rules of Criminal and Appellate Procedure, the Federal Rules of Evidence, the Federal Sentencing Guidelines and the Local Rules of both the District and Circuit Courts. The CJA Committee selects the 100 attorneys for the CJA Panel based upon merit and experience.

Membership on the CJA Panel is ordinarily for a term of three years. On March 11, 2012, the term of one-third of the members of the CJA Panel will expire. The Court invites all attorneys interested in becoming members of the CJA Panel to submit an application to William T. Walsh, Clerk, United States District Court, Clarkson S. Fisher Courthouse, 402 East State Street, Room 2020, Trenton, NJ 08608, on or before January 20, 2012. Applications will also be accepted via e-mail at njcja@njd.uscourts.gov; however, the document must be in PDF format. Application forms and copies of the CJA Plan may be obtained from the Clerk of Court in Newark, Trenton and Camden, or may be downloaded from the Court's website at: www.njd.uscourts.gov, located under "CJA." No application will be considered unless it is received no later than January 20, 2012. The Court, in conjunction with the Office of the Federal Public Defender, the Association of the Federal Bar of the State of New Jersey and the Association of Criminal Defense Attorneys of New Jersey, has arranged annual training programs

for new and experienced panel members. It is anticipated that the application and selection process to fill the vacancies for one-third of the CJA Panel will be completed on or before March 6, 2012. Any member of the CJA Panel whose term will expire on March 11, 2012, may apply for reappointment.

All qualified attorneys are encouraged to apply for membership on the CJA Panel. The Panel Selection Committee shall determine membership on the CJA Panel on the basis of merit and experience, without regard to race, color, religion, gender, age, national origin, or disability.

Any inquiries regarding the CJA Plan or the application process should be directed to William T. Walsh, Clerk, United States District Court, Martin Luther King, Jr. Federal Building, 50 Walnut Street, Room 4015, Newark, NJ 07102-3595, telephone number 973-645-6697, or William Holland, Director of Court Services, 402 E. State Street, Room 2020, Trenton, NJ 08608, telephone number 609-989-2328.

Relocation of the Superior Court Transcript Office

The recently distributed 2012 Lawyers Diary contains the old address for the Camden Vicinage Superior Court Transcript Office. The correct address is:

Transcript Office
Camden Superior Court
Hall of Justice - Suite 600-B
Camden, NJ 08103-4001
(856) 379-2272
Fax: (856) 379-2276

2012 CLE on Tap for Newly Admitted Lawyers Schedule Finalized

Registration is now open for the 2012 CLE on Tap programs for newly admitted lawyers. The CLE on Tap program is an easy, affordable and enjoyable way to complete the *Additional Mandatory CLE Requirements* for newly admitted lawyers.

Each course provides 3.9 NJ MCLE credits and 3 PA Substantive credits, and is followed by a relaxing, Young Lawyer's networking happy hour.

The 2012 Seminars will be held from 3 - 6:15 pm at The TapRoom Grill on Crystal Lake Drive in Haddon Township. Check this month's inserts for the seminar schedule and reservation form.

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By William F. Cook
wcook@brownconnery.com

2012: Bring It



Young Lawyer Corner

I would like to wish all of the young lawyers in our Association a very happy and healthy new year. What a year it's going to be. From social events to networking opportunities to our third annual Lobster Bake, it's going to be an exciting year for the YLC. Bring it!

Are you a young lawyer who's not yet on our committee? Heard about the YLC but not sure what it's all about? How about joining the YLC as one of your New Year's resolutions?

Our monthly meetings are a great way to network with other new attorneys. We meet for lunch on the first Tuesday of every month at Bar Headquarters in Cherry Hill. Come to a meeting and learn about our upcoming events, job opportunities, practice tips, and other issues facing young lawyers. Just this past month, we were happy to have **Joanne Stoltz** and **Rosie Tizzano** from **Susquehanna Bank** talk to us about financial planning for young lawyers. We start at noon and wrap up by 12:45. Did I say lunch is on the Bar Association?

We also have monthly happy hours at the TapRoom in Westmont. Our happy hours are the last Thursday of every month. Stop by for a drink and unwind with other young lawyers, or join us for joint networking happy hours with other young professionals. Last October, we had a happy hour with the South

Jersey CPA Society thanks to the efforts of **Doug Madanick**, our social chair.

The YLC has a proud tradition of reaching out to the community. Last October, the Committee hosted an amazing Halloween Party for homeless children at the Anna Sample House in Camden, thanks to the efforts of **Mike Dennin**, **Craig Becker** and **Jenny Kasen**. In December, the Young Lawyers were out in force at the Bar Association's Annual Kids Holiday Party at the Coastline in Cherry Hill. It was truly inspiring to see the huge turnout of young lawyers and it certainly put the holiday season in perspective.

And dare I forget our annual Lobster Bake for the Larc School? This past September we raised over \$8,000 for Larc while feasting on lobsters at the TapRoom. Larc is a non-profit special education school in Bellmawr serving children and adult students with a wide range of moderate to severe disabilities. The school was founded in 1968 by a group of concerned parents and is renowned for its warm, family-like atmosphere focused on each student's individual goals and capabilities. Larc's programs are provided at no cost to the families of its students. Planning for the 2012 Lobster Bake is already underway. Join the Young Lawyers Committee and be part of this great event for a great cause.

As we turn the page to 2012, we also start the second year of our CLE on Tap Program. If you have recently passed the bar and you are looking to satisfy your MCLE credits, CLE on Tap is for you. Attorneys admitted after 2009 are required to complete 24 credit hours of instruction in their first two years of practice. 15 of the 24 credit hours must be in five of the following nine subject areas: New Jersey Basic Estate Administration; New Jersey Basic Estate Planning; New Jersey Civil or Criminal Trial Preparation; New Jersey Family Law Practice; New Jersey Real Estate Closing Procedures; New Jersey Trust and Business Accounting; New Jersey Landlord/Tenant Practice; New Jersey Municipal Court Practice; and New Jersey Law Office Management. The CLE on Tap program allows newly admitted lawyers to meet these requirements followed by a networking happy hour. Keep an eye out for the CLE on Tap flyers in *The Barrister* for further details or go onto the Association's website www.camdencountybar.org.

If you're a young lawyer and haven't yet joined our committee, I hope I've made the case and convinced you. It's more than a great New Year's resolution. It's one of the best decisions you can make in your young professional career. Join us for one of our upcoming meetings or events. You'll be glad you did.



Spring and another exciting season of
Lawyer's League Softball is just
around the corner!

Register your team for
the 2012 Lawyer's
Softball League by
calling Commissioner
Jeffrey Klinger at
856.428.5900 by the
February 17th deadline.

Two competitive levels are available. All teams and individual players are welcome.

Play Ball!

We're Looking for YOU!

Continued from Page 1

To that end, we are seeking nominations for the offices of president-elect, first vice president, second vice president, treasurer, and secretary, and for five Board of Trustees openings. The Trustee seats are for a term of three years beginning on June 1, 2012 and ending in May 2015.

"With 130 years of history, tradition and success, we're looking to keep the association vibrant and in the forefront of services to the legal community and the community-at-large in the ever-changing fast-paced world of the 21st Century" commented Linda Eynon, chair of the Nominating Committee. "I know there are many talented, energetic and creative members in our Association with strong leadership skills. These are the folks who will help us keep our Association strong and vital" she continued. "If you enjoy participating in Association networking programs and seminars, have served or wish to serve in a committee leadership role and are interested in being a part of the decision-making process, we're looking for you."

Members wishing to be considered for any of the available positions are expected to have the time and means to attend and participate in the monthly Board of Trustee meetings (10), attend and participate in Association & Foundation events and programs throughout the year, and perform other duties that may be assigned by the president.

If you have the desire to help shape the future of your Association, and can meet the responsibilities outlined above, please send a letter

of interest along with a resume to Linda Eynon, Esq., Chairperson, Nominating Committee, c/o Camden County Bar Association, 1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034. **Current members of the Board of Trustees whose terms expire at the end of this bar year must also send a letter of interest to be considered for reappointment.**

Members who have practiced five years or less at the Bar of New Jersey or are 35 years or younger are eligible for the position of Young Lawyer Trustee or Vice Chairperson of the Young Lawyer Committee. Again, a commitment to attend and chair monthly Young Lawyer Committee meetings, submit a monthly article to *The Barrister*, and attend monthly Board of Trustee meetings and Young Lawyer and Association events and programs must be made. To be considered for either position, please send a letter of interest along with a resume to William F. Cook, Chairperson, Young Lawyer Nominating Committee, c/o Camden County Bar Association, 1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034. Both young lawyer posts are for a one-year term beginning June 1, 2012.

For more information regarding the nominating process, please feel free to contact Executive Director Larry Pelletier at 856.482.0620 or via e-mail at lbpc@camdencountybar.org.

The deadline for consideration of nominations is 5 pm, Friday, February 10, 2012.



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CRIMINAL LAW

The Henderson Standard: A Revision of Eyewitness Identification Evidence

By Eric McKinley,
Assistant Deputy Public Defender

This summer, the standard for assessing eyewitness identification evidence in criminal cases changed as the New Jersey Supreme Court found that the previous standard did not offer an adequate measure for reliability, did not deter police misconduct, and overstated juries' abilities to evaluate such evidence. In *State v. Henderson*, ___ N.J. ___ (2011) the Court ruled that two major modifications to the standard are required. First, when a defendant can make some showing of suggestiveness from law enforcement, all relevant variables leading to the identification must be explored through pretrial hearings to determine the identification's admissibility. Criminal defendants are now entitled to such hearings. Second, if the identifications are deemed admissible, then new jury charges for trial courts must be developed to educate jurors on the reliability (or unreliability) of eyewitness identifications.

On January 1, 2003, Rodney Harper was shot and killed in a Camden apartment. A witness was present in the apartment and saw two men forcibly enter and demand money from Harper. The witness knew one man but not the other. The record indicated that Harper was shot in a small, dark hallway. Thirteen days later, the witness identified Larry Henderson as the unknown assailant through a photo array. That identification led to a change in the standard for eyewitness identification evidence.

The trial court in *Henderson* conducted a *Wade* hearing to determine the admissibility of his identification. See *United States v. Wade*, 388 U.S. 218 (1967). At that hearing, it was established that the photo array was not conducted by the case's primary investigator during which the witness was unable to make a definitive identification. The two investigating officers then intervened. They told the witness to "do what you have to do and we'll be out of here." The witness then identified Henderson. During the *Wade* hearing, the witness testified that he felt that the detectives had "nudged" him to choose Henderson and that he felt pressure to make identification.

The trial court found that the officers' behavior was not unduly permissive and that the identification evidence was admissible. The trial court applied the previous standard under the two-part *Madison/Manson* test. See *Manson v. Brathwaite*, 432 U.S. 98 (1977); *State v. Madison*, 109 N.J. 223 (1988). This test required courts to determine first if the identification was impermissibly suggestive. If so, the court had to weigh reliability factors to determine if the identification was otherwise admissible. The trial court made this finding that was later ruled unreliable. The eyewitnesses did not testify at the *Wade* hearing and the case went to trial with the witness further testifying about his identification. At the trial's conclusion, the jury was given the existing model jury charge. Henderson was convicted of reckless manslaughter and other offenses. He was sentenced to an eleven-year aggregate prison term.

The Appellate Division and eventually the NJ Supreme Court held that Henderson's identification was unduly suggestive under the first prong of the *Madison/Manson* test. Moreover, the court found that the scientific evidence that has all emerged after *Manson* produced an array of variables that must be considered to determine whether an eyewitness identification is admissible. The variables are divided into two categories: system and estimator. The changes to eyewitness identification admissibility are based principally on these variables.

System variables deal with how police conduct identification procedures and include: whether the photo array is administered "blind" (i.e. by an officer not central to the investigation), whether there are pre-identification instructions, the line-up/array construction, whether there are multiple showings, whether composite photos are used, and whether there is an in person, on scene "show up."

Estimator variables are those factors which are present during the actual incident and affect the reliability of the eyewitness' ability to make a reliable identification. These variables include: stress, weapon focus, duration of observation, distance to perpetrator, lighting, witness characteristics such as age and intoxication, perpetrator

characteristics such as clothing and facial features, memory decay, racial bias, co-witness input, and identification speed.

The *Henderson* Court ruled that these variables must be taken into account to determine whether eyewitness identifications are admissible. Additionally, the Court found that if an identification is admissible and a trial commences, jurors must be instructed as to the complexity of these variables and how they affect identifications.

Going forward, *Henderson*'s practical and procedural application should be as follows. In cases where there are eyewitness identifications, defense counsel must file a notice of motion for a *Wade* hearing. Again, defendants are entitled to these hearings. At the *Wade* hearing, *Henderson* now provides for a new two pronged analysis to determine if the eyewitness identification must be excluded.

First, defense counsel may argue in open court and/or in their brief that the variables in their particular case made the identification suggestive or unreliable. If such argument is successful, then a threshold is crossed and the hearing must move to prong number two. That is, both police officers *and* eyewitness can and should be called to testify regarding the identification to determine admissibility. If the identification is deemed admissible and a trial goes forth, the jury must be instructed with an enhanced, more comprehensive jury charge to educate jurors on the identification factors and the complexity of eyewitness identifications as it relates to reasonable doubt. To that end, the Supreme Court has asked the Criminal Practice Committee and the Committee on Model Jury charges to draft revisions to the current eyewitness identification charge for review and eventual implementation.

Finally, this new and improved standard set forth in *Henderson* takes effect thirty days from the date the Supreme Court adopts the new jury charge. That said, trial courts are and should be applying *Henderson* to test the reliability and admissibility of eyewitness identifications.

Retaining Income Tax Records



By Martin H. Abo, CPA/
ABV/CVA/CFF

Retaining and storing your income tax records is an important final step of your tax filing responsibility. This article is a refresher on the rules for keeping your tax records along with some information on storage options.

When determining how long to keep most of your income tax records, we look at the time frame over which the IRS can audit a return and assess a tax deficiency or that you can file an amended return. For most taxpayers, this period is three years from the original due date of the return or the date the return is filed, if later. For example, if you filed your 2010 Form 1040 on or before April 15, 2011, the IRS has until April 15, 2013, to audit the return and assess a deficiency. However, if a return includes a substantial understatement of income, which is defined as omitting income exceeding 25% of the amount

reported on the return, the statute of limitations period is extended to six years.

A good rule of thumb for keeping tax records is to add a year to the IRS statute of limitations period. Using this approach, you should keep your income tax records for a minimum of four years, but it may be more prudent to retain them for seven years, which is what the IRS informally recommends. State tax rules must also be considered, but holding records long enough for IRS purposes will normally suffice for federal and state tax purposes, assuming the federal and state returns were filed at the same time.

Certain tax records, however, should be kept much longer than described above and some, indefinitely. Records substantiating the cost basis of property that could eventually be sold, such as investment property and business fixed assets, should be retained based on the record retention period for the year in which the property is sold. Tax returns, IRS and state audit reports, and business ledgers and financial statements are examples of the types of records you should

normally retain indefinitely.

Keep in mind that there may be non-tax reasons to keep certain tax records beyond the time needed for tax purposes. This might include documents such as insurance policies, leases, real estate closing statements, employment records, and other legal documents.

It's also important to know that the IRS permits taxpayers to store certain tax documents electronically. Although the rules are aimed primarily at businesses and sole proprietors, they presumably apply to other individuals as well. The rules permit taxpayers to convert paper documents to electronic images and maintain only the electronic files. The paper documents can then be destroyed.

The above article was retrieved from the "E-mail alerts" disseminated to clients and friends of Abo and Company, LLC, Certified Public Accountants - Litigation & Forensic Consultants. With offices in Mount Laurel, NJ and Morrisville, PA you can check them out at www.aboandcompany.com or by calling 856-222-4723 for their newsletters or updates.

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- Would like any of the numerous articles and handouts of particular interest to lawyers and law firms at Abo and Company, including:
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 - Presentation to the National Employment Lawyers Assoc-NJ on "Law Firm Collections and Receivable Tips"
 - Labor & Employment Law Section of the New Jersey Bar's seminar "Use of Experts in Employment Cases"
 - The National Business Institute (NBI) at their two days of seminars entitled "Accounting 101 For Attorneys"
 - NYC, NJ, Camden County and Chester County PA Bar seminars on "Buy-Sell Agreements" (includes our 122 point checklist on buy-sells)
 - The Sharper Lawyer's seminar entitled "Practical Strategies to Improve Your Law Firm's Bottom Line"
- Abo and Company's "Inventory of Personal Assets—Financial and Estate Planner"
- Abo and Company's 88 point "Attorney Trust Accounting Checklist"
- Abo's Hitlist to Consider in the Buy-Sell Valuation and Formula
- Memo on C-Corporation vs. LLC or S-Corporation
- IRS Audit Technique Guide on Attorneys and Law Firms
- Checklist for those serving as Executors
- Sample Reconciliation of Income Tax Return with Actual Disposable Income

To learn more or to receive any of the above, please contact by phone, fax or e-mail:

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BANKRUPTCY UPDATE

Goldstein v. BRT, Inc.

By Ellen McDowell
emcdowell@mrpattoorneys.com



Chapter 7 trustees are often permitted significantly relaxed pleading requirements because they frequently lack the type of information concerning the debtor's estate that normal plaintiffs have in their possession. *Goldstein v. BRT, Inc.*, 2011 Bankr. LEXIS 4101 (E. D. Pa. October 27, 2011) contains an interesting analysis of how little information the trustee must have in its possession in order to successfully assert avoidance claims against third parties.

The debtor in *Goldstein*, Universal Marketing, Inc., was, along with its affiliates¹, the owner and operator of approximately thirty-six gas stations and convenience stores in the Northeast and Mid-Atlantic region. The debtor purchased fuel products from suppliers and sold the product to affiliated entities within its own network as well as to certain other third parties.

After the trustee was appointed, his attorneys filed 180 adversary complaints all substantially similar to the complaint in the case addressed by the court. These complaints asserted claims for the avoidance of preferential and fraudulent transfers as well as for the disallowance of defendants' claims and an award of attorneys' fees.

The complaint in *Goldstein v. BRT, Inc.*, like the 179 other complaints filed by the trustee, alleged that the debtors' books and records suggested that the debtors sold fuel products to affiliates and third parties "at cost, and in some instances below cost" and that the debtors were insolvent on the petition date.

The complaint also alleged, conclusorily, that the debtors received less than equivalent value in exchange for certain pre-petition transfers made by the debtor. However, the complaint did not explain whether the debtors received nothing in exchange for the transfers or that goods and/or services were provided, but were not of a reasonably equivalent value. Significantly, the complaint only provided that:

the Debtors failed to maintain invoices, records or other supporting documents relating to Defendant which would tend to support that all of the . . . transfers were made in the ordinary operation of the Debtors' businesses and in payment for the fair value of goods and/or services provided by the Defendant to the Debtors.

The defendant moved to dismiss the complaint. In deciding the motion, the judge first reviewed the pleading standards set forth in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009). The court summarized this standard as requiring it to accept as true all facts alleged in the complaint, but to deny a motion to dismiss only if such allegations are "more than speculative." Recognizing that "a claim is facially plausible where the facts set forth in the complaint allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged," the court emphasized that a pleading that "offers labels and conclusions or naked assertions is insufficient."

The court further recognized that the "flashpoint" in the application of these pleading standards is found in cases like the one

before it where a plaintiff "lacks access to the evidentiary matter to support the asserted claims" and thus has difficulty pleading facts with a high degree of specificity. In those cases, the court found, though the plaintiff need not be in possession of the relevant evidence in order to plead a claim, a plaintiff "need only have some good reasons—even if circumstantial and inferential—for believing that the defendant has engaged in some identifiable legal wrong" sufficient to convince the court of the claim's plausibility.

Applying these principles to the facts before it, the court found that the allegation that the debtors failed to maintain documentation "which would tend to support that all of the . . . transfers" were made in the ordinary course of the debtors' businesses and in payment for the fair value of goods and services was not sufficient to form the basis for a fraudulent transfer claim. In fact, the court "fail[ed] to perceive how the trustee's allegation that there is no record of the transactions bears any logical relationship to the value of the goods and services" provided by the defendant to the debtors "or creates any inference that the payments exceeded the value of the goods and services the Trustee implicitly concedes the Debtors received."

In sum, while the trustee claimed that "the state of the debtors' records afford[ed] . . . [him] a good faith basis for asserting" certain claims, the court saw this only as a good faith basis to *suspect* that the estate had a claim. Under *Twombly* and *Iqbal*, that suspicion falls short of the standard for acceptable pleading. Accordingly, the court dismissed the portions of the complaint seeking the avoidance of fraudulent transfers.

Chapter 7 trustees often have a difficult time piecing together pre-petition activity engaged in by debtors. Certainly they have a duty to maximize the recovery to creditors. However, sometimes they have too little information to proceed. *Goldstein v. BRT* is a helpful tool for determining when certain claims should *not* be pursued and when a defendant might successfully seek to dismiss a thinly pled complaint.

¹ The bankruptcy estate of Universal Marketing, Inc. was substantively consolidated with six affiliated entities.

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NJSBA UPDATE

Economic Justice[★]

(A Bubba Meinsa - a grandmother story)



By Arnold Fishman
arnold@fishmanandfishmanlaw.com

I may not be a member of the one percent. But—like the guy who was struck by a car said to the person who put a coat under his head and asked, “Are you comfortable?”—“I make a living.” My house is not under water; my kids are well educated without the dreaded student loans; my wife has, long ago, traded her teacher’s chalk for a volunteer hat; and if my car were any larger, I would need a commercial driver’s license. Even so, I support the Occupy Movement in its quest for economic justice.

There has been a great deal of attention focused on the failure of the Movement to enunciate a list of demands. With the plethora of wrongs that would naturally be encompassed within the expected agenda of the ninety-nine percent, the fact that they have determined not to articulate a platform is extraordinary. Marking down the principal due on mortgages to match market value, a miniscule tax on stock trades held less than a few days, the reduction of interest, deferral of payments and the ability to discharge student loans that now exceed credit card debt (banks borrow at less than 1% our kids at more than 6%), a cap on executive compensation, increasing the revenue side of the deficit reduction plans through greater contributions from wealthy individuals and corporations to ameliorate the draconian spending cuts aimed at our most vulnerable citizens, rewriting a tax code that permits hugely profitable multinationals from enjoying a negative tax rate, curtailing the political power of corporate personhood, the creation of budgets at all levels of government that would restore the shredded safety net, rehire our laid-off teachers, fire fighters and police officers, repair our deteriorating infrastructure, and stimulate job creation are some that spring readily to mind. With such a menu to pick and choose from, why would the Occupiers make a conscious decision to remain mute on the subject?

I suspect the answer is that each of these ideas has already been debated and rejected by our governmental institutions at all levels. These people have good reason to be satisfied that any such proposals will be unsuccessful. When our President compromises with Congress (presently enjoying a nine percent approval rating, the lowest in history and lower than BP at the height of the Gulf oil spill) explaining that this is the best he could get, these people actually believe him. The Occupation Movement then is accommodating their shared reality that government, so dominated by me-firstism-greed, is impotent to address the needs of the vast majority of the people. The point they are making is that a list of grievances is a fantasy, when the institution is incompetent to tackle the task. As one Occupier’s sign read, “I could not afford to buy a politician so I bought this sign.”

If the change necessary to establish economic justice is not achievable through political means, other means must of necessity be employed. The Occupy Movement, like war, is politics by other means. The burning question is, Will the means selected produce anything substantial? If consciousness-raising qualifies, then they already have. Even if the armies of the Ninety-Nine were forced to

go home today, they have, for the moment, changed the terms of the debate. But this Movement is squandering a golden opportunity to have a lasting effect. It has the capacity to reverse the trend of “I got mine, now I want yours,” and start us on a pathway toward a more humane society. What is missing is a direct appeal to the one percent; what is needed is one hundred percent if real and lasting change is to occur. Not a petition directed to our elected representatives, but an honest full-throated plea to the dominant voices of civilization. Everyone wants a better world.

I would like to believe that there are many who, like me, have had the good fortune to enjoy a bountiful life that would be amenable to such an entreaty. Please don’t misunderstand what I am saying. I am neither delusional nor naive. I do not expect that Michael Bloomberg’s tent will be confiscated in Zuccotti Park, that Steven Forbes’ sign depicting people being peed on and captioned “Trickle Down Economics” will be destroyed on the National Mall, that Jeffrey Laurie will be served with an eviction notice in Dilworth Plaza, or that Bill Gates, sitting peacefully, stoically, and unflinching, will be pepper sprayed multiple times from canisters the size of fire extinguishers on the Berkeley Campus anytime in the near future. But, the presence of voices that wield real muscle would curb those excesses. (Does anyone really believe Bill Gates would have been pepper sprayed?) And statements made by those with influence endorsing the dream of a system of wealth distribution more equitable than winner-take-all would give legitimacy to the endeavor. Those who would resist must be enlisted into the cause of restoring America’s promise of equality, prosperity and freedom, at this critical time in our planet’s history.

The national, indeed the global, economy demands our coming together in the fulfillment of the common good. The mentality of “us against them” has to be jettisoned in favor of the “We are all in this together” paradigm. Those who exercise the power have to be convinced that it is in their interest to live in a world where empathy and fairness predominates over narrow self-interest. The search for tax loopholes can yield to factory democracy. The struggle for a minimum wage could morph into a guarantee of a living wage. The rape of the land transformed into loving Mother Earth. A culture of gated communities, burglar alarms, and guard dogs can be replaced with caring for the old, nurturing the young, and respecting the worth and dignity of all. The politics of hope must triumph over the politics of fear. Absent such a vision, this movement, like so many that have long been forgotten, will be remembered only by those who participated in it, as a good story to tell their grandchildren—a bubba meinsa.

** The Ethical Humanist Society of Philadelphia—where I am proud to be a past president and continue to serve as a member of its Board of Trustees—at its November meeting, adopted a resolution supporting the Occupy Movement in its quest for economic justice. And the American Ethical Union, the national organization of the federation Ethical Culture Societies—where once again, I am proud to be a past president and continue to serve as a member of its Board of Trustees—has adopted economic justice as its theme for its annual assembly to be held in Albany, NY this coming June.*

PERSONAL INJURY

Closing the Personal Injury File and Keeping It Closed

Allocation of settlement proceeds



By Thomas D. Begley, Jr., CELA
www.begleylawgroup.com

Case Study

John is a 26-year old male who was injured in an automobile accident and suffered serious brain injury. He will require expensive care for the rest of his life. John is eligible for SSI, Medicaid, and the TBI Waiver Program. John lives with his parents, Bill and Diane. The family lives in a modest row home that is not handicap accessible. Bill works full-time as a Frito Lay delivery man. Diane had to give up her job as waitress to provide full-time care for John. The family has an old van, but it is very difficult to get John in and out of this vehicle. It has been four years since John's accident and he has not been able to work during that time. In addition to presettlement funding loans, Bill and Diane found it necessary to take out a home equity loan on their home and have maxed out their credit cards. They have also borrowed from family and friends. John is receiving a significant settlement in his case.

How can the personal injury attorney help this family maximize the settlement? Personal injury victims have hopes and dreams. They typically include the following three wishes:

- new home;
- new vehicle; and
- trip to Disney World.


In addition, the personal injury victims and their families often have incurred significant debt. In analyzing John's case, it becomes apparent that he will need a special needs trust in order to maintain his SSI and Medicaid and his eligibility for the TBI Waiver Program. The TBI Waiver Program is Medicaid dollars and has financial eligibility tests. Unfortunately, the special needs trust must contain a payback provision reimbursing the State Medicaid Program for any assistance paid during John's lifetime. Therefore, it is always wise to purchase the home outside the trust, if that is possible. In addition, funds in a special needs trust cannot be used to pay prior debts. Another problem is that the assets in the special needs trust must be used for the sole benefit of the beneficiary, in this case John, and cannot be used to pay the debts of the parents.

- **Allocation.** Once a case is settled, the defendant usually does not care how the money is allocated. Wherever possible, a claim should be asserted for the parents so that funds can easily be allocated to them from the settlement. Unfortunately, parents do not always have a claim, but even in those cases most judges will permit an allocation to the parents in recognition of the past services, which the parents have rendered that are well over and above any support obligation they owe to their injured child. Wherever possible, money should be allocated to the parents to buy the new home. Avoid having a mortgage on the home, so that it is not lost through foreclosure.

Most clients who come from poor backgrounds see the settlement as a pot of gold. They don't understand that if they use too much of the settlement for the home purchase,

they will not have enough money to pay the taxes, insurance, maintenance, and other home-operating expenses. Care must be taken to ensure that there is a sufficient source of income to pay these expenses. The family should be encouraged to develop a budget to determine if the home purchase will work.

- **Caregiver.** Since the settlement is significant, the trust can hire Diane and pay her to care for John. There are a myriad of issues that arise when hiring a caregiver that will be the subject of a future column. The monies paid from the trust to Diane can be used to pay Diane's pro rata share of the home expenses. Bill and Diane must understand that if they live in the home, they will also have to pay a pro rata share of the expenses.
- **Vehicle.** There is no problem with the special needs trust buying a vehicle. The trust will not want to hold title to the vehicle for liability reasons, so the mechanics are that the trust buys the vehicle in the name of Bill or Diane and takes a lien.
- **Past Debt.** Since the special needs trust cannot pay past debt, this must all be paid out of the settlement proceeds. The debt incurred by Bill and Diane must be paid out of the monies allocated to them. This is another reason that an allocation to the parents is important. Payment of any debt in John's name must be paid out of the settlement proceeds prior to the funding of the special needs trust.



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A Frolicking Good Time at the Coastline

Bar members, their office personnel, family and friends gathered for another memorable evening of networking, camaraderie, and just plain fun at the Bar Foundation's popular "Fall Frolic" hosted by Dawn Mourtos and the Coastline in Cherry Hill. The Foundation thanks all who supported the event and the good that it will do for the underprivileged kids of Camden, especially the Coastline for generously donating the bar and buffet. When all was said and done, proceeds totaled more than \$3,000 to purchase toys for the Public Benefits Committee's "Children's Breakfast & Christmas Party" at the Coastline on December 3rd. Enjoying the evening were:



Chris Tucci, Tom Blewitt, Bill Cook



Nick Pedone, Eric Fikry



Allen Elish, Judge Fox, Lou Moffa



CCBA President Lou Lessig, Justin Loughry



Matt Behr, Ari Brownstein



Judge Schuck, Gary Boguski, Claire & Judge Snyder



Matt Spatro, Aditi Aggarwal, Ken Funkhouser



Pete Banfe, Don Levenson, Debra Rosen Drew Burach



Jim Hamilton, Bob Tate, Robert Tate



Sean O'Mara, Bill Tobolsky, Ron Lieberman



Shannon Philips, Chris Chancler



Kevin Doyle, Judge Mariano

The Spirit of Giving Alive & Well in Camden County

Annual Kid's Christmas Party another Success!

Saturday December 3, was a brisk but Sunny December day as hundreds of disadvantaged kids from Camden arrived at The Coastline Restaurant in Cherry Hill for the Public Benefits Committee's annual Christmas breakfast and party with Santa.

Greeted by elves and volunteers of all descriptions, the kids were treated to a hearty breakfast, compliments of Dawn Mourtos and the Coastline staff who generously donated their time, food and facility for this annual holiday tradition.

Co-chaired by Brenda Eutsler and Jenifer Fowler this year's party will be remembered by our guests for a long time to come! Special thanks to all of the volunteers who helped at the wrapping party and the party itself.



Elves at work



A little Christmas Goose to start the day!



Judicial Elves



Waiting for Santa



It's a Magical season!



Here Comes Santa Claus, Here Comes Santa Claus . . .



Obviously, a good little boy . .



. . . and a good little girl



That's for me?



And a good time was had by all.



Party co-chairs Jenifer Fowler and Brenda Eutsler with the star of the Show!

WINE & FOOD



By Jim Hamilton

Like Santa's sack before making his rounds, *The Barrister* was so jam packed with news last month we were unable to fit a column dedicated to sparkling wine. Since many bubbly fans lament that too many people view

sparklers as special occasion wines, I thought we might keep those flutes klinking and the wine talk sparkling as we kick off the New Year. Recognizing that many of you may have overspent or under-earned in December, we'll keep the focus on value. This will require that we forsake the vaunted wines of France's Champagne region and look to less hallowed grounds.

Two countries producing inexpensive but well-made sparkling wines are Spain and its Cava and Italy with Prosecco. Unlike Champagne, which is a single wine district involving contiguous villages with their vineyards, there are many Cava districts sprinkled about Spain. The grapes used to make Cava are not those familiar to most consumers, e.g. Chardonnay and Pinot Noir. Rather, most Cavas are fashioned employing three indigenous grapes, often blended—Xarel-lo, Macabeo and Parellada.

The superb Spanish wine importer, Jorge Ordonez, brings us the **2009 Kila Cava**, a wine with a clever name but garish packaging that may cause consumers to shy away despite its less than \$10 price. However, the wine has that steely penetration of good Cava, with the lean minerality rather than forward fruit dominant. It is a decidedly crisp wine delivered with a mousse (i.e. the bubbles) that while somewhat ephemeral is finely focused.

You may recall that some other Cava producers meriting consideration include Castellroig, Llopart, Marques de Gelida and Raventos I Blanc.

Italy's Franciacorta wine from Lombardy in some ways represents that country's answer to France's Champagne district, but prices of those wines usually will be a reach for cost-conscious consumers. An alternative we have explored previously is Prosecco, the name for both the grape and the region in northern Italy where these sparkling wines are produced. Among some of the reliable Prosecco producers one can find locally are the nicely packaged (i.e. nice bottle and label) Loredan Gasparini and Anime, as well as Zardetto and Bisol.

Astoria Vini, a producer I only recently encountered, has a lineup of 4 different Prosecco wines. While I was not impressed with the basic Prosecco, the three "better" offerings—Prosecco Lounge, Prosecco Valdobbiadene and Prosecco Sweet Lounge hit the mark. Let's discuss the last wine, since it is decidedly different. **NV Astoria Vini Prosecco Sweet Lounge** is a blend of equal parts Prosecco and Moscato, the grape we find in Moscato d'Asti. Whether vinified dry or off-dry,



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(Ret.) was a Trial Judge from 1992 until his retirement from the bench in July 2008. During this time he served in the Civil Division, General Equity and The Family Division.

During his sixteen (16) year tenure, he served as a Trial Judge, Assignment Judge and Presiding Judge in Burlington County. He has extensive trial experience in personal injury, medical malpractice, product liability, commercial litigation and insurance matters.

He is one of only a few individuals who has served in all three branches of state government, he was a state legislator in 1974, chief counsel to the governor in 1990 and then a trial judge, capping off his forty-three (43) years in the legal profession.

Judge Sweeney received The Distinguished citizen of the Year Award from The Boy Scouts of America in 2008. He is also a member of the Board of Trustees for Virtua Health System.

He received his B.A. degree from LaSalle University in 1963 and law degree from Seton Hall University School of Law in 1966.

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Moscato is fragrant, with floral notes that at times can create exotically tropical impressions. In this wine, the combination of the two varietals and the residual sugar yields a wine that is decidedly spicy, with fruit that resembles baked, brown sugar-dusted apples. It certainly would be a fun wine to pair with the right dessert—one that is not too sweet since this wine does not possess sufficient sugar and would easily be overpowered. At the same time, the wine might be a nice alternative to heavier after dinner drinks.

A wine region in France few visit, either as tourists or tasters, is the Jura, a hilly area that abuts Switzerland, and, like Prosecco, offers a wine route that few outsiders seem to travel. Since Jura wines are a difficult find, I shall confine my comments to a producer in the well-represented Frederick Wildman portfolio whose wines *may* be available. **NV Domaine André et Mireille Tissot Crémant du Jura** virtually bursts onto the palate with its foamy explosion of linear fruit. There are under-ripe melons and crisp apple impressions that are shepherded along by the mousse. If the Jura region is known for anything, it is its Savagnin grape (not to be confused with Sauvignon) which reaches its height of renown (such as it is) in Vin Jaune (yellow wine). Most Jura Crémants, however, are fashioned using good old-fashioned Chardonnay.

As if the Jura region were not obscure enough, there is an even less well-known French wine region where one can find a very different, but again worthwhile, sparkler. Between the Loire Valley and Burgundy regions lies the Côte Roannaise. As in nearby Beaujolais, the red wine grape of choice is Gamay. The **NV Domaine Robert Sérol Turbulent** is a real mouthful of spicy, fizzy, fruity wine. It offers impressions of red cherries and cola, with enough foam to readily explain the wine's name.

I hope everyone enjoys a sparkling New Year!

LAW PRACTICE MANAGEMENT

How Will YOU Make 2012 a Game Changer?



By Kimberly Alford Rice

About this time every year, I receive a flurry of calls and emails from clients and contacts who are indecisive and unclear what they can do to make the new year successful for their practice. I hear a variety of comments along the lines of “I’ve tried

this marketing tactic and that marketing tactic and it just doesn’t work...” Sound familiar?

So, I would pose, how will you make 2012 a different kind of year? Better?

While lawyers may know “what” they need to do to promote themselves and their services, I have found over many years that 1. they don’t always understand the “how” to promote themselves and their services; 2. more times than not, they approach “marketing” like quail hunting—in a scattershot manner; and 3. for whatever reason, time management issues usually, they are unable/unwilling to consistently follow through.

To get started on strong footing and to make 2012 a different kind of year for you and your practice, allow me to challenge your marketing mindset.

Times Have Changed

For decades, professional services providers such as lawyers, accountants and others have been reluctant marketers. They thrived in

a cozy world where networks of personal relationships and word-of-mouth referrals brought them enough new clients to grow a profitable business. Those days are all but gone and lawyers who bury their heads and do not embrace the “new normal” do so at their own peril.

For many services buyers, personal relationships are still the driver of purchase decisions, but the cracks in that buying model are now apparent. In a recent study of client buying behavior, analysts found that more than half of professional services clients are receptive to switching service providers. *More than half—ouch!* Sports and theatre tickets, trips to the golf course and other such perks are losing some of their appeal as ways to strengthen relationships.

To compete for and win profitable work, lawyers must rethink familiar marketing practices, and focus their marketing strategies on the issues that *really* matter to clients.

Begin to shift your marketing mindset by challenging four common myths.

Myth 1: Great Work Wins the Day

There is a long-held belief by many that producing exceptional work product and results is an effective marketing strategy and enough to build a healthy practice. Seems reasonable, but sadly is not the case in an uber-competitive marketplace and in these economic times.

It is true that superior delivery is essential for long-term success but assuming that word of your great performance will travel through your clients’ organizations and to that of others without proactive and sustained effort on your part is wishful thinking and not a wise business move.

To create awareness and build a strong reputation, lawyers must significantly ramp up client-level communication and integrate the details of the clients’ successes you have helped them achieve into a well-crafted marketing plan.

Myth 2: “Following the Leader” is a Sound Strategy

Many law firms follow a safe and predictable strategy – a series of “safe” marketing tactics based on what “other” law firms and lawyers are doing.

The result in “me-too” marketing is that 1. it does very little to differentiate one law firm from its competitors and 2. it often does

Continued on Page 19



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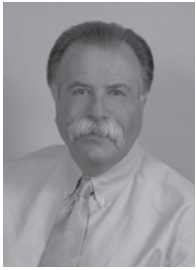
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SPINNING MY WHEELS

By Andrew Kushner

Volvo – Definition: turn, transform; become.

It used to be that a car company represented its nation's character. The VW, Mercedes and BMW built in Germany, by Germans (ok, and by lots of foreign workers or "gastarbeiters," also) were thought of as technically excellent and robust enough to be driven indefinitely at high speeds on the *autobahn*. French Peugeots, Citroens and Renaults were elegant, technically proficient in an artful way and terminally weird. British Rovers, Triumphs, and MGs, leaving aside Rolls and Bentley, displayed much less technical prowess and foresight in general and were saddled with a not entirely unfair reputation for unreliability. If you are a fan, as I am, of the old British sit-com "Fawlty Towers" you may recall the long suffering Basil Fawlty beating his old Austin with a tree branch and screaming at it for stranding him at an inopportune moment.

What then did the Swedish auto industry bring to illustrate the country's sensible, efficient, spare, and reliable ethic? Well, Saabs and Volvos have mostly served to illustrate these characteristics. Actually, there has always been a part of Volvo that had

Roll On

sporting pretensions but was kept somewhat on the "down-low," I suppose since that may have contrasted with its upright, safety message.

Enter the S60 completely new from ground up—as they say—for the 2011 model year. Continuing to move away from Volvo's styling reputation of a brick on wheels, the S60 is sleek and svelte but retains a unique profile and front fascia that is unmistakable. I thought it about time to take the S60 T6 for a spin. The T6 comes in either front or all wheel drive and produces a very strong 300 bhp. To be honest, although I was given the keys to a reasonably loaded version, I thought I would be either underwhelmed or feel that Volvo was out of its element. Boy was I wrong on both accounts.

My 2012 metallic silver car with charcoal leather had most of the important and exciting options, save navigation. You can buy a portable unit for a couple of hundred dollars and take it anywhere now. The upgraded "R" model provides a 25 bhp gain, larger, sportier wheels and some other options that escape me. The plain T6 was fine with me. The new S60 is larger than the car it replaces. Not by a whole lot, and the legroom in the rear is still at a premium but, overall, there is a more substantial feel and look to the car

than its predecessor. As a Volvo customer, the interior and switchgear all looked and felt familiar and were intuitive for the most part. The excellent Volvo seats were in residence and "fob as a key" thing was easily inserted into the dash mounted slot.

The day of my test drive was rainy so I was even gentler with the car than I might have been but it took me no longer than 25 yards of travel to know that this car had buttoned down suspension like no earlier Volvo I have driven. It is of no use to compare the ride and handling quality of this car with my own S80—they are completely different animals. However, Volvo has finally found the combination of suppleness and firmness that is so elusive to most non German manufacturers. The car was silent both on the local roads as well as the highway and accelerated effortlessly, its power being transmitted through a six speed automatic with manual mode. Missing from the option list is a manual transmission but this is not the place to bemoan that lapse. Ultimately, I was about as impressed with this Volvo as I might be and the lack of the manual transmission is the only substantial negative for my personal taste.

What then is Volvo's competition for this car? Volvo's own website has a comparison

Continued on Page 21

VERDICTS IN THE COURT

Superior Court of New Jersey

VERDICT: Damage Verdict: \$3,500 Against Defendant (10/7/11)
Case Type: Auto
Judge: John T. Kelley, J.S.C.
Plaintiff's Atty: Libro Tagalianetti, Esq.
Defendant's Atty: Mary Brennan, Esq.
L-4872-07 Jury (7)

VERDICT: No Cause (11/1/11)
Case Type: Auto
Judge: John T. Kelley, J.S.C.
Plaintiff's Atty: Steve Rothman, Esq.
Defendant's Atty: Laurie Tilghman, Esq.
L-369-10 Jury (6)

VERDICT: No Cause (11/3/11)
Case Type: Auto Negligence
Judge: F. J. Fernandez-Vina, J.S.C.
Plaintiff's Atty: Marc Greenfield, Esq.
Defendant's Atty: Diane Magram, Esq.
L-5143-09 Jury (6)

VERDICT: No Cause Damage Verdict: \$0 Against Defendant (11/3/11)
Case Type: Auto
Judge: Deborah Silverman-Katz, J.S.C.
Plaintiff's Atty: David York, Esq.
Defendant's Atty: Rachel Vicari-Heninezak, Esq.
L-1445-09 Jury

VERDICT: No Cause (11/16/11)
Case Type: Medical Malpractice
Judge: Louis R. Meloni, J.S.C.
Plaintiff's Atty: Michael Glassman, Esq.
Defendant's Atty: Yves Veenstra, Esq.
L-7017-06 Jury

VERDICT: Damage Verdict: 100% Against Defendant, \$25,000 (11/10/11)
Case Type: Auto Negligence
Judge: John A. Fratto, J.S.C.
Plaintiff's Atty: Michael D. Miller, Esq.
Defendant's Atty: Thomas J. Murphy, Esq.
L-3320-09 Jury

VERDICT: No Cause Damage Verdict: \$0 Against Defendant (11/15/11)
Case Type: Auto Negligence
Judge: John A. Fratto, J.S.C.
Plaintiff's Atty: Steven Passarella, Esq.
Defendant's Atty: Joseph Bernhardt, Esq.
L-5410-09 Jury (6)

VERDICT: Damage Verdict: \$3,960 Against Defendant (11/29/11)
Case Type: Auto Negligence
Judge: Deborah Silverman Katz, J.S.C.
Plaintiff's Atty: George Saponaro, Esq.
Defendant's Atty: Thomas Murphy, Esq.
L-5750-09 Jury (6)

VERDICT: No Cause (11/30/11)
Case Type: Personal Injury
Judge: John T. Kelley, J.S.C.
Plaintiff's Atty: Sal B. Daidone, Esq.
Defendant's Atty: Terrence Bolan, Esq.
L-2266-09 Jury

Back in the Day



By Hon. Richard S. Hyland (ret.)
rhylandatlaw@aol.com

During my career I have appeared before many fine judges, but three giants from the past stand out and we may never see their likes again.

W. Orvyl Schalick was our Assignment Judge for many years and was originally from Salem County. A portly, gentle man, his family was so prominent there that the local high school bears its name. An excellent student, he gained unusual early acceptance to Penn Law School and returned to Salem where he immersed himself in private practice and Democratic politics.

When holding conferences in his chambers, he would avoid the legal issue at hand and would regale the lawyers with stories about the law and politics, all the while chewing on an unlit cigar. I concluded he did this while mulling over the legal issue until he was ready to decide it. When ruling from the bench, he would lean back in his chair, look to the heavens, close his eyes, and then deliver a brilliant and most eloquent opinion with out any notes.

As a result of his personality, the Monday morning “call of the list” could be entertaining. For instance, a personal injury attorney was known for “doggin it” to avoid trying his cases and once told the Court that he would be out of town the week of the given peremptory date. The judge was somewhat skeptical and asked where that would be. The reply was “Collingswood.” Everyone laughed including the judge.

William Lipkin was our tireless Bankruptcy Judge for many years and was the hardest working judge I ever encountered. Not only was he a master of the Code but also mastered the many ancillary areas of law that would come up. He was fair and practical and possessed fine judicial demeanor.

When a vacancy on the U.S. District Court opened up he was the obvious candidate. To move his nomination along a local lawyer who was close to Sen. Harrison (Pete) Williams was dispatched to Washington to do so. However, he reported back that the Senator wanted that lawyer instead of Bill for the position. To further frustrate matters, LBJ got into a snit about something and refused to appoint any more judges during the balance of his term. Despite his disappointment, he manfully stayed on until his well earned retirement.

Peter J. Devine was one of the finest trial lawyers of our day and one of my partners hated to try a case against him because “he took the ball at the beginning of the trial and never let go until the end.” I first knew him and his partner Neil Deighan from sitting at the lunch counter downstairs at the Wilson building. They would feed off each other telling stories, anecdotes and jokes and it was a delight. He was an excellent Chancery Judge (as well as appellate) and at a settlement conference before trial I had argued to my opponent that “what’s the difference.” This gave him the opportunity for a story about the kid who went to the candy store to buy a “boy” Easter bunny. The owner patiently explained that there were no boy and girl bunnies, but the kid persisted. Exasperated, the owner said “what’s the difference?” The kid replied “I’ll get a little more chocolate.” This Association honors him annually with the Peter J. Devine Award and deservedly so.

For any comments please contact me at rhylandatlaw@aol.com.

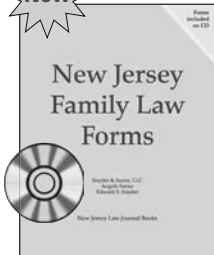


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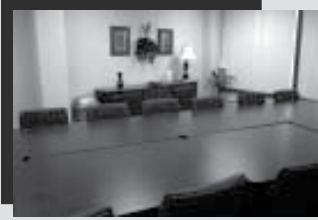
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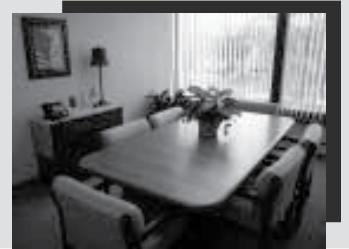


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LAW PRACTICE MANAGEMENT**How Will YOU Make 2012 a Game Changer?***Continued from Page 15*

not work because all law firm targets are not the same. The result: attorney frustration and business reduction. Lose-lose.

Better to lead your marketing communication in a more client-focused manner, such as your detailed understanding of a client's problem followed by how you helped others in a similar situation. See what a difference this approach can make.

Myth 3: Online Marketing Does Not Bring in New Clients

As uncomfortable as it can be for some lawyers to accept how technology is pervasively creeping into the practice of law, one area which cannot be ignored or resisted is how legal services consumers are identifying and retaining counsel in today's highly connected world.

Even with a referral in hand, most, if not all, prospective clients head straight to your website before they reach out to you. Often, visiting your website is a prospective client's first encounter with you in a business relationship. So, are they impressed and more likely to pick up the phone to retain you or does your website send the unfortunate message that you are not ready for "prime time"?

With a virtual handshake, your website has the power to create a positive first impression that can mean the difference between receiving a follow-up call and losing an opportunity.

Your website should be a critical part of your strategy to initiate and sustain relationships with clients, instead of just a promotional tool. Nothing substitutes for the power of personal interaction with clients, but your website can and should re-enforce your commitment to clients.

Myth 4:**A Strong Referral Network is Key**

Building a strong referral network is critical to developing a healthy practice but it is no magic bullet in and of itself. The gospel truth is **there is NO magic bullet**, no single tactic, activity or promotional tool unto itself that will help you build a healthy practice. This is the number one myth that too many lawyers believe!

To proactively build and sustain a healthy practice over the course of your career, you must develop sound strategies which reach specific audiences (existing clients, sound referral sources, and qualified prospects) in a meaningful way over a sustained period of time. There are many, many economical ways to do that but they do not include any one-shot wonders (like placing one ad in a charity fund raiser program book), building a website and never adding fresh content to it, or even attending a scattershot array of networking events without appropriately following up in a timely manner.

No Myth

Marketing legal services is evolving, with many new ways to attract and retain clients. Some marketing strategies have lost their magic while others are emerging as winners.

One marketing truth won't change. Clients will continue to purchase legal services from trustworthy and competent people who can demonstrate, beyond a reasonable doubt, that they can produce the results they promise. Demonstrate that to the market and you'll have clients lined up to work with you.



We rely on members to provide announcements for the Legal Briefs section. If you have a new member of the firm, you've moved or you or a member of your firm has received an award or recognition for a professional or community activity, we want to know and share it with fellow bar members. Please email your submissions to lbp@camdencountybar.org.

Tobolsky Law is pleased to announce that **Sean A. O'Mara, Esq.**, has joined the firm in its Cherry Hill office.

O'Mara, a Collingswood resident and Haddonfield native, focuses his practice in commercial real estate and land use matters. He received his law degree from The Pennsylvania State University, The Dickinson School of Law and his B.A. degree from Franklin and Marshall College. He is admitted to practice law in Pennsylvania and New Jersey.

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Continued from Page 16

chart naming the Audi A4 2.0T, BMW 328, Lexus IS250 and Mercedes C300 as its competition. While Volvo's chart compares items that are skewed in Volvo's favor over its competition (every manufacturer does the same) what the typical buyer considers when purchasing, such as price, value, features and reputation of the company push the decision in Volvo's favor. The prices for the S60 and its competitors (high thirties/low forties well equipped) can't be easily compared as "apples to apples" since each company has its own standard and optional features so it is difficult to find exact units to compare. Rough equivalents of each model generally place the S60 T5 within range of the others, and sometimes substantially lower. Oh, and did I

mention that Volvo also comes with a killer warranty it calls "Safe and Secure" which provides 5 years or 60K miles of bumper to bumper warranty for EVERYTHING except tires, together with all maintenance during that period of time or mileage?

If Volvo has any disadvantage, it is perception; perception that the traditional safety and durability of Volvo cars comes with lack of excitement standard as well. Volvo has developed some sex appeal with the S60 and it is no wonder that it is a leader in sales. For a sporty, mid size sedan that hits all the traditional high notes, one could do quite a bit worse than this.

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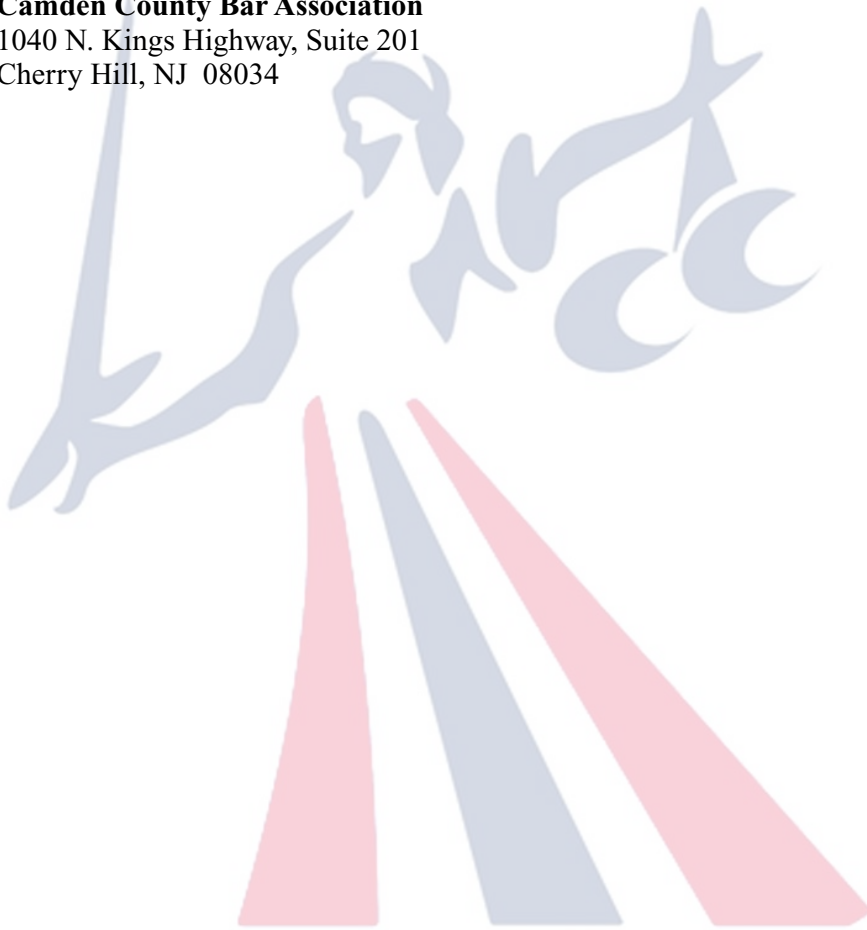
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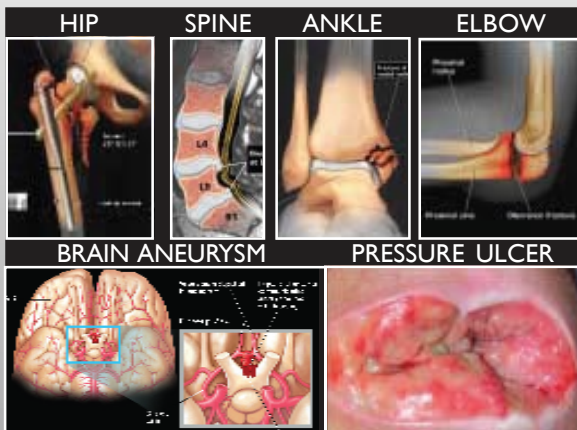


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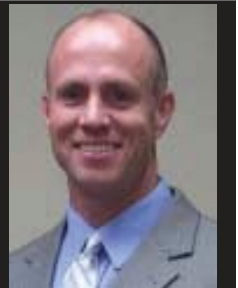


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