

The BARRISTER

Published by the Camden County Bar Association



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www.camdencountybar.org

A Tribute

On Thursday, May 14, longtime member of the Bar and retired Superior Court Judge, the **Honorable Barry M. Weinberg** passed away unexpectedly at the age of 78. A devoted family man, he left behind his wife Rhonda, his children Rhea and Howard, five grandchildren and many friends from the bench, bar and Camden County community.

A native of Camden, Judge Weinberg received his Bachelor's from Temple in 1953, and graduated from Rutgers Law in 1956. He practiced law for 20 years in Camden County until his appointment to the bench by Gov. Brendan Byrne in 1976. His career on the bench spanned 20 years until his retirement as Presiding Judge in the Civil Division in 1996. Following his retirement, Judge Weinberg started Private ADR a successful mediation/arbitration service.

In addition to his family and professional lives, Judge Weinberg was active in the Republican Party and held political office prior to his appointment to the bench, and sat on many boards including the Saltzman Foundation and Kennedy Health System.

At Judge Weinberg's funeral service, members of the bench and bar were present to pay final respects, including Judge Charles Rand, a close friend of Judge Weinberg, who described him as "a mentor, advisor and teacher to many young lawyers and newly appointed judges, taking them under his wing. He was always available and never too busy." Both Judge Rand and Judge Solomon considered him a "father figure."

"He was fair, practical, predictable, wise and oh so conscientious" said Judge Rand during his eulogy. "He had an uncanny knack for being able to read people's situations and solve complex problems. He used these skills as a public servant, judge and mediator."

In his mediation activities "he was trusted by the bench and bar which is why he was so successful. He was the master when it came to settling a case and making everyone happy. He had a

Continued on page 3



Richard A DeMichele, Jr. (l) succeeds Joseph A. McCormick, Jr. to become the 83rd president of the CCBA. Additional photos on last page.

Trustees Add New Committee

The Board of Trustees, at its May meeting, approved a member request to establish a new committee – Class Action Practice Committee – chaired by Kristen Polovoy, an attorney at Montgomery, McCracken, Walker & Rhoads in Cherry Hill, the committee will begin work in the fall.

With the number of class action filings proliferating in New Jersey, especially given the fact that NJ's Consumer Fraud Act is the most aggressive piece of consumer fraud legislation in the country and judges' preference to certify classes making claims under the Act, the trustees believe that a Class Action Practice Committee will serve the needs of Association members. The Committee will serve as a forum for members to discuss emerging issues in this practice area, and sponsor CLE seminars on current topics pertinent to class action practice in New Jersey.

Members interested in joining the Class Action Practice Committee should use the Committee Call list in this month's inserts to sign up.

Enjoy Your Summer!

Barrister presses on vacation

As is our tradition, this is the final Barrister until we resume publication with the September issue. We hope it has been an interesting and informative Barrister year for you, our readers, and we look forward to continuing to the tradition next year.

The Barrister Editorial Board appreciates the efforts of all who have taken the time and interest to provide columns for our readers month after month, and extends its gratitude to all of our regular columnists.

In addition to the regular columns that appear, the Barrister is fortunate to receive a number of interesting articles throughout the year from various Bar members. To those of you who pen these articles, thank and keep 'em comin'!

This is YOUR bar publication, written for and by members of the Camden County Bar Association and we're always looking for a fresh idea for a new regular column and additional articles on various topics. We invite submissions from ALL Bar members.

Please remember that editorial contributions should be 2-3 pages, 12pt. type, double-spaced and forwarded as an email attachment in MSWord or WordPerfect format.

For additional information on submitting articles for publication, please contact Bar Headquarters at 856.482.0620 or via email to lbp@camdencountybar.org.

Rest, relax and have a great and safe summer! See you in September!

2009 Professional Lawyer of the Year Nominations

Nominations for Camden County's Professional Lawyer of the Year Award for 2009 are now being accepted.

The Professional Lawyer of the Year Awards are given jointly by New Jersey Bar Associations and the New Jersey Commission on Professionalism in the Law to recognize deserving individuals and focus positive attention on the good works done by lawyers.

The criteria for determining a Professional Lawyer of the Year remain the same – the lawyer must be someone who is committed to the ideals of professionalism and

well recognized in the legal community for character and competence. Someone who is respected by all and looked upon as a model of professional behavior.

The awards will be presented at the annual awards luncheon on Friday, October 2, at the Law Center in New Brunswick.

Use the nomination form included in this month's inserts to nominate a colleague you believe fits the criteria and is deserving of the award.

Nominations are due to Bar Headquarters by 5 pm, Friday June 26.

Members Only Side of Website Online

As promised, the Association's website now has a members only section up and running. When totally populated, the section will contain information, articles and other content accessible only by CCBA members.

Currently, the members only side has the new "member to member" referral program by which members can sign up to receive referrals from other members for various practice areas. On the flip side, members will also be able to find members in practice areas for referring their clients.

To access the members only side: Logon to our website www.camdencountybar.org

Under the "Attorneys" drop down, click on Members Only at the Bottom.

The first time you access the

site, you will be asked to verify your member status. Follow the on screen instructions and, if you are in our database, you will be able to access the members only section. The password is "ccbar0509"

Once verified, you will be asked to set your own personal password for future access.

At this point you will be able to register for the member referral service.

We hope this new service is of help to our members in expanding their client base and that you will check back often as new items are added to the site.

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In Memoriam

The Association was saddened to learn of the passing of our colleague and friend **M. Bruce MacNaul** on April 26. Bruce received his J.D. from Rutgers in 1971. He joined the CCBA in 1977 and was a 1981 recipient of the Hon. Peter J. Devine, Jr. Award, the Association's Most prestigious honor. He was also a former mayor of Oaklyn and Camden County Surrogate.

We extend our deepest sympathies and condolences to Bruce's family and friends. He will be missed.



Notice To The Bar

Effective immediately, private counsel and their clients no longer need to appear at PAC provided, pursuant to New Jersey Court Rule 3:9-1, that: (1) an appearance has been filed under rule 3:8-1; and (2) that discovery, if requested, has been obtained; and (3) that defendant and counsel have obtained a date, place and time for the arraignment status conference.

Discovery can be obtained at the Criminal Records window located in the lower level of the Camden Hall of Justice each Wednesday and Thursday prior to the PAC date. Counsel will also be able to waive their client's appearance at PAC at that time and accept service for their client's next court appearance for arraignment status.

If you have any questions, please contact Mary Fiducioso, PAC Coordinator, at 856.379.2200, ext. 3336.

Hon. Thomas A. Brown, Jr., P.J. Cr.

Tentative agenda for June 17 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.

Agenda

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

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Don't Forget Your Dues!

Dues notices for the 2009-10 Bar year were mailed in April and are payable now. Paying promptly will ensure that your Association continues to serve you and the community with its many important programs and services. Please note that this year's dues structure remains the same as last year.

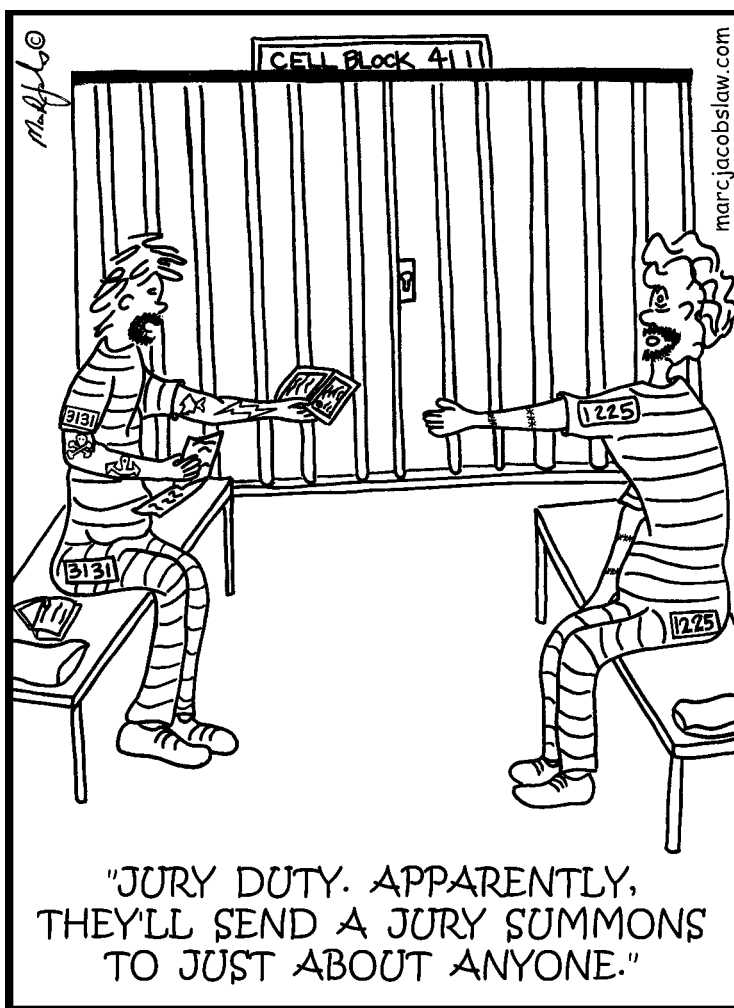
Another good reason to pay your dues on time is the Board of Trustees policy, which states that:

Members whose dues remain unpaid as of September 1, 2009, will not be entitled to the benefits of membership. Unpaid members will not be able to attend member-only events, will pay non-member tuition rates for Association-sponsored CLE seminars and events, will be removed from the Barrister mailing list, and will not receive discounts and services provided by Association Partners in Progress, and retail partners. Members who remain unpaid as of January 30, 2010 will be dropped from the membership and required to reapply for membership.

All benefits will be restored upon receipt of full payment of dues.

So pay your dues and continue to take advantage of all that your CCBA membership offers. The first Members Only event of the season, the Meet the Judges & Law Clerks reception, will be held in September, and your dues must be paid in full to attend.

For questions or to use a credit card for payment, call Bar Headquarters at 856.482.0620.



The BARRISTER

Published monthly, except July and August, by the Camden County Bar Association

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GET INVOLVED AND SHAPE THE FUTURE OF YOUR ASSOCIATION

A major benefit of your CCBA membership is the opportunity to serve on one of the many Association committees. Committee participation offers you a voice in the future of YOUR professional organization. As a new Bar year begins, committee appointments will be one of the first official acts of president Rick DeMichele. Let Rick know how you want to be involved!

Use the committee call list included in this month's inserts and return it to Bar Headquarters with your committee choice(s) indicated. Committee involvement is important to the future of the Association, and a terrific way to meet and network with fellow lawyers, judges and other members of the legal community. The strength of your Association depends upon the strength and activities of its committees.

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A Tribute

Continued from front page

computer-like ability to input information and come up with the right dollar amount to settle a case and satisfy both sides," noted Judge Rand.

Assignment Judge Orlando described him as one who could

"take the complicated and make it look simple."

All of the judges who spoke so kindly of Judge Weinberg commented on one particular thing for which Judge Weinberg will always be remembered – his famous running fountain in his chambers.

Judge Weinberg will be missed but not forgotten. The Association is saddened by his passing and extends its deepest sympathy to his family and many friends and colleagues. As Judge Rand noted "If you were he friend, he treated you like family."

Lawyers in Transition Set to Begin

New program to assist members

There can be no doubt that our country is facing severe economic conditions. This recession is global in scope and has its grips on the legal community. On Thursday, February 12, 2009 more than 1,000 people in the national legal community lost their jobs when several major law firms announced layoffs. Many lawyers and commentators refer to this day as Black Thursday or the Valentines Day Massacre. Unfortunately, mass lawyer layoffs have continued since then.

Our country's economic troubles are felt here at home in our legal community in South Jersey. As a result, many of us are out of work or "in transition."

The Camden County Bar Association and its leadership are well aware of the issues and, in many cases, the pain that our members are experiencing. Recognizing the challenges that we are facing, the Camden County Bar Association will launch "Lawyers in Transition." This program will provide specific programming for those of our members who are not working and are actively in a job search. The program will also provide programming to parents who are returning to work after an absence to raise a family.

Lawyers in Transition will consist of programming on skills and talents needed by those who are looking for legal employment. It will focus on skills such as interviewing, networking, resume revision and career counseling and we are thrilled to let you know that Louis Lessig and Carol Cannerelli have agreed to chair the Lawyers in Transition committee.



The Association is also mindful that lawyers who are out of work and looking to return to the workforce may have limited funds for the essentials like membership in the Camden County Bar Association. To facilitate continued membership of those lawyers who are in transition, we are providing affordable membership dues for our transitioning member lawyers. Those who are in Transition will not have a watered down or limited membership, rather, their membership will be a full Camden County Bar Association membership with the added benefit of special programming designed to help them obtain employment.

Programming will start in late July and a programming schedule will be posted to the website and disseminated through the E-Barrister over the summer months.

If you are a lawyer who could benefit from the Lawyers in Transition program, or know someone who could benefit from the program, please complete the information requested below and return it to Larry Pelletier at Bar Headquarters.

(please print clearly)

Name _____

Address _____

City _____

State _____

Zip _____

Phone _____

FAX _____

Email _____

Current/most recent employer: _____

Date last employed: _____

Mail or fax this completed form to Larry Pelletier at Bar Headquarters:

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NJSBA TRUSTEE'S REPORT

By Arnold N. Fishman, Esq.
State Bar Trustee for Camden County

TOOLBOXES

In my 45 years at the bar, I have done it all, from the Supreme Court of the United States to the Municipal Court of Who-Knows-Where-Ville. Now, as a municipal court practitioner, I do my best to stay out of the Superior Court. That predilection even extends to being extremely careful with respect to which adverse municipal court rulings should be appealed. I have often lectured that it is better to leave the law unsettled than to have to live with a definitive adverse decision. A couple of weeks ago my son and law partner asked me to serve as second chair for an exceptionally difficult personal injury case he was trying in the Law Division. So, after many years, I spent a week with those who labor in the civil jury trial vineyards.

Of all the differences, I was most impressed by the size of the files. At the old Thursday call of the list, I could have several trials marked ready for that following

Monday. I would report to the Civil Assignment Judge with all of my files in one well-stuffed brief case. What I saw now horrified me. The files are huge! They are in multiple boxes stacked on luggage carriers with oversize exhibit cases for the other hand. It seemed to be as much a part of the uniform as the obligatory dark suit.

To a much lesser extent, that same disease has infected the municipal courts as well. My drunk driving files are only slightly thinner than my old personal injury files used to be. And the trunk of my car is a veritable law library. I have a trial bag that contains books, opinions and other documents that I have found useful over the years. So when I go to a municipal court for a trial, I carry two brief cases. One contains my files and the other is my trial bag.

I have used this platform to rail against the system before. But never before have I been so incensed. Although I have not experienced it myself, I am told that there is a new rule in Monmouth County Municipal

Courts. Lawyers are not allowed to bring brief cases into the courtrooms. The shocked and disgruntled attorneys are being told that it addresses security concerns, and it is being blamed on the Assignment Judge. (A call to his chambers failed to confirm that, and as of this writing no memorandum has surfaced.) This is particularly problematic for the municipal courts whose judges have neither law clerks at their disposal nor law libraries associated with their courtrooms. It is incumbent upon the advocates to bring the necessary authority with them. Not having my toolbox would not only make my life difficult, it would diminish the quality of my representation. I can just imagine this spreading to other counties and to other courts. The organized bar must put an end to this practice before it can catch hold!

NJSBA TRUSTEES REPORT

Following is a summary of actions taken at the April 24, 2009 meeting of the New Jersey State Bar Association Board of Trustees

at the New Jersey Law Center in New Brunswick. This summary does not constitute official minutes.

Backup Courtroom Recording

Two New Jersey State Bar Association representatives were appointed to the Supreme Court's Working Group on Digital Recording Issues, which will evaluate the CourtSmart back-up recording system. Trustees John DeBartolo and Bennett Robbins were named to serve on behalf of the Association. Appellate Division Judge Edwin Stern will serve as chair of the working group and their first meeting will be held April 30.

Supreme Court Special Committee Appointments

The New Jersey State Bar Association was invited to recommend two additional State Bar Association representatives for two Supreme Court Special Committees as follows: The Special Committee on Discovery in Criminal and Quasi-Criminal Matters, Brian Neary and Charles J.X. Kahwaty; and the Special Committee on Telephonic and Electronic Search Warrants, Arnold Fishman and Ralph Lamparello. Attorney General's Letter on Workers' Compensation Personnel The Attorney General responded to a letter sent by the New Jersey State Bar Association to request that Division of Law attorneys be assigned to the Second Injury Fund. The Attorney General indicated that an additional deputy attorney general will be assigned

to the Fund bringing the total number up to five.

Recommendation on Proposed Court Rule Amendments

Family Law Section: The Board voted to adopt the recommendations of the Family Law Section as they pertain to the Supreme Court Family Practice Committee Report.

The Family Law Section (FLS) supports the proposed amendments to Rule 5:3-5 (c)(3), which makes it clear that the reasonableness and good faith of the positions advanced by the parties includes positions taken both during and prior to trial.

The report of the Family Practice Committee focuses on the practice of submitting Early Settlement Panel settlement positions to the judge who would then weigh the reasonableness of the position in deciding an award of counsel fees. The FLS has significant concerns because of the many variables of an ESP recommendation, including the accuracy of what is purported to be the recommendation, given that they are not provided in writing. The FLS suggests that it must be absolutely clear that the amendment of the rule cannot contravene the current rule which prohibits settlement negotiations from being disclosed to the court during the pendency of the litigation (both during and prior to trial). The FLS also would like the rule to make clear that any disclosure to the court of settlement positions, whether from an Early Settlement Panel or otherwise, as a means to argue for counsel fees can only be done after trial, and after a final decision in the matter has been rendered.

The FLS objects to aspects of a proposed amendment to Rule 5:5-4(a) that requires pleadings filed in response to a motion for a modification of support have all prior Case Information Statements (CIS) attached. The FLS sees this as an improper shifting of the burden to the responding litigant before there is a finding that a prima facie case has been made.

The FLS further suggested that Rule 5:5-4 (b) be clarified to make consistent references to page limits for certifications.

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NJSBA TRUSTEE'S REPORT

Continued from page 4

Regarding alternate models for child support guidelines, the FLS recommends that the Family Practice Committee continue to study this controversial issue, after receiving data from the AOC.

The FLS recommends that there is no need to adopt rules relating to counsel fees in appellate practice, and that the Family Practice Committee should address the CIS in its next term, with input from the bar.

In addition, the Board approved sending a letter to the Supreme Court asking that they release court rule reports as they are received, so that they are received earlier than the current practice, thus providing the Bar with additional time to comment.

Judicial Administration Committee/Dispute Resolution Section: The Board voted to support the recommendations of the Supreme Court Complementary Dispute Resolution Committee Rules Report with the exception of 1:40-12 (i) (2) which would permit non-attorneys to mediate economic disputes.

Judicial Administration Committee: The Board voted to support the report of the Supreme Court Criminal Practice Rules Committee covering Post-Conviction relief because the new rules will streamline present practices and alleviate scheduling delays. Further, the Board recommends that ex-parte post-trial communications between the judge and jurors should not be allowed, but rather be permitted at the judge's discretion only when the parties are present.

Judicial Administration Committee: The Board voted to support the recommendations of the Supreme Court Municipal

Court Practice Committee Rules Report with one exception: Proposed Amendment to Rule 7:7-8 – Form of Subpoena. The JAC strongly feels the rule needs to be redrafted to clarify its provisions, which, as drafted, may be misunderstood by practitioners.

Judicial Administration Committee: The Board voted to support the Supreme Court Rules of Evidence Committee recommendations which include two rules: N.J.R.E. 702, (Testimony by Experts) to clarify the standard for the admission of expert testimony and N.J.R.E. 102, (Purpose and Construction) which makes technical changes to the rules to conform with the provisions of the Civil Union Law and Domestic Partnership Act.

Young Lawyers Division Dues Increase

The Board approved a \$5 increase in dues for Young Lawyers Division membership and section dues for YLD members. YLD dues will be raised from \$20 to \$25 effective July 1 and the cost of individual sections will increase from \$20 to \$25 as well.

Government Relations S-2705/A-3757 (Codey/Albano) <http://www.njleg.state.nj.us/2008/Bills/S3000/2705_I1.HTM> Provides penalties for sexually offensive communication or harassing communication through social networking websites. The Board voted to oppose high priority and to include in the NJSBA comments that present criminal laws on the books are adequate to prosecute website related conduct.

Proposed Standard of Conduct for NJSBA Board Members

The Board approved a Standard of Conduct for NJSBA Board members.

VERDICTS IN THE COURT

Superior Court of New Jersey

VERDICT: (03/12/09) Judge: Plaintiff's Atty: Defendant's Atty: L-4533-06	\$210,000 Damages Defendant Louis R. Meloni, J.S.C. Dennis Abrams, Esq., Esther Gallagher, Esq. Mark Petnaske, Esq. Jury	VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L136-06	No Cause (03/25/09) Louis R. Meloni, J.S.C. Bruce Zamost, Esq. J. Brooks DiDonato, Esq. Jury
VERDICT: (03/18/09) Judge: Plaintiff's Atty: Defendant's Atty: L-2552-07	40% Liability Plaintiff, 60% Liability Defendant \$10,000 Damages Defendant Frederick J. Schuck, J.S.C. Adam Davis, Esq. James Nolan, Esq. Jury	VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-9053-04	No Cause (03/27/09) Robert G. Millenky, J.S.C. Jayne Piarulli, Esq. David Mayfield, Esq. Jury
VERDICT: (03/24/09) Judge: Plaintiff's Atty: Defendant's Atty: L-5109-04	5% Liability Plaintiff, 95% Liability Defendant \$175,000 Damages Defendant Michele M. Fox, J.S.C. Saul Steinberg, Esq. Terri Bolan, Esq. Jury	VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-3031-07	No Cause (03/28/09) Louis R. Meloni, J.S.C. Andrea Hemschoot, Esq. William Mead, Esq., David Mapp, Esq. Rae Voss, Esq. Bench
VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-224-04	No Cause (03/25/09) Ronald J. Freeman, J.S.C. James Radmore, Esq. Mark Petraske, Esq. Jury	VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-2151-07	No Cause (03/31/09) Robert G. Millenky, J.S.C. Scott Diamond, Esq. Diane Magram, Esq. Jury
VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-7901-06	No Cause (03/25/09) Michele M. Fox, J.S.C. William DiGiurcio, Esq. Murianda Ruffin, Esq. Jury	VERDICT: Judge: Plaintiff's Atty: Defendant's Atty: L-2269-07	\$20,000 Damages Defendant (04/01/09) F.J. Fernandez-Vina, P.J.Cv. Robert Porter, Esq. Lawrence Berger, Esq. Jury

OUR CONDOLENCES

To the Family and Friends of

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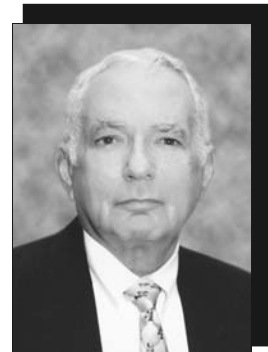
Referral of malpractice and personal injury claims involving significant permanent injury or death are invited from members of the bar and referral fees are honored pursuant to Rule 1:39-6(d).



THE USUAL SUSPECTS

“Fairly Unbalanced”

By M.W. Pinsky
mike@mwpinsky.com



“In my time, I have seen truth that was anything under the sun but just, and I have seen justice using tools and instruments I wouldn’t want to touch with a 10 foot rail.”

- William Faulkner
“Knight’s Gambit” (1949)

“I suspect everyone. I suspect no one.”

- Inspector Clouseau
The Pink Panther

“The poor man looks upon the law as an enemy, not as a friend. For him, the law is always taking something away.”

- Robert F. Kennedy
Law Day speech (5/1/64)

NEW PROCEDURE ALERT

Dateline: Camden. The Honorable Thomas A. Brown, Jr., P.J.Cr., recently announced the

implementation of a new and more efficient PAC process that features updated procedures for the first listing event that involves private counsel and their clients. Previously, subsequent to indictment, a lawyer, accompanied by his client, would have to appear in the Jury Assembly Room in the Hall of Justice for purposes of entering his appearance, picking up discovery, and receiving a Subpoena to appear at the second listing event which is an Arraignment/Status Conference. The new streamlined procedure permits all of the above to be accomplished by the private attorney merely by stopping by the Criminal Records window located in the lower level of the Camden County Hall of Justice each Wednesday and Thursday prior to the PAC date. They will also be able to waive their client’s appearance at PAC at that time and

accept service for the client’s next Court appearance for the Arraignment/Status Conference. Judge Brown’s full notice to the Bar is reprinted elsewhere in this edition of The Barrister.

Particularly gratified by the new procedure is trial wiz Jeff Zucker, whose clients always seem to be in the men’s or ladies’ room when time comes to acknowledge receipt of the Subpoena. That’s probably because Jeff just handed them his bill. Kudos to Judge Brown and his minions for coming up with a better system. Incidentally, the new procedure is already in place and operating. The Suspect also hears that more improvements are on the way.

LIAR, LIAR, PANTS ON FIRE

Dateline: Washington, D.C.
Question: What is the difference

between lying and spinning? Answer: If you are a politician, there is no difference. Case in point, Vice President, Joe Biden a.k.a. the Gaffe Master, appeared on television in the midst of the Swine Flu hysteria and clearly stated that he would advise his family not to use public transportation, airlines, subways, trains, etc... or even attend school during the alleged health crisis. As this was a shocking departure from President Obama’s “go about your business and don’t panic” statements, the spin began immediately.

Since everyone involved was a politician, it apparently was impossible to admit that Vice President Biden misspoke. The politicians, including Biden, spun a tale that what the Veep meant was if you are sick, stay home and don’t infect others. The Old Suspect saw and heard that portion of Biden’s speech at least ten times with his own eyes and ears and in no way can any rational person interpret anything that was said or implied by the Veep as being directed towards those sick with the flu.

In summary, everyone from Rom Emmanuel to Janet Napolitano to Vice President Biden stood up in public and told damnable lies; bold face lies. What’s more, they told these lies without showing the slightest bit of embarrassment. More hum bug and balderdash.

SENATOR FLIP FLOP

Dateline: Philadelphia. Senator Arlen Specter recently shocked the political world by announcing that he was switching from Republican and running for reelection as a Democrat. Originally, Arlen was a card carrying Democrat but switched his allegiance just in time to ride the Republican gravy train during its golden years. Although he occasionally strayed off the reservation, for the most part, he was a loyal Republican stalwart who had no problem whatsoever falling in line with the Reagan and Bush agendas.

Apparently, all that changed

when polls showed that he was going to get ripped in the Republican primary by arch-conservative candidate, Pat Toomey. Being a classic political opportunist, Senator Specter opened negotiations with the Democratic leadership of the Senate who promised to award him full seniority as a Democrat when the next Congress is seated. One must bear in mind that Senator Specter’s switcharoo coupled with the eventual seating of former alleged funnyman, Al Franken, as Junior Senator from Minnesota, will give the Democrats a filibuster-proof 60/40 majority in the Senate. What is so great about the whole scenario is that nobody is even claiming any motives other than self-interest or pure power politics.

The good news is that Specter may yet lose his reelection bid. Pennsylvania voters could decide it is time to put the 80 year old Specter out to pasture once and for all.

KUDOS – PART ONE

On May 2, 2009, Richard A. DeMichele, Jr., was sworn in as the 83rd President of the Camden County Bar effective June 1, 2009. Also taking the oath were Linda W. Eynon, President-Elect; Louis R. Lessig, First Vice-President; Brenda Lee Eutsler, Second Vice-President; Gary Boguski, Treasurer; and Casey Price, Secretary.

Richard, a partner in the firm of DeMichele & DeMichele in Haddon Heights, succeeds Joseph A. McCormick, Jr., of the firm of Weinberg & McCormick in Haddonfield, the outgoing Prezy.

We congratulate Joe McCormick on a job well-done and extend all best wishes to Richard for a successful administration.

KUDOS – PART TWO

To current Bar Foundation President, the lovely and talented Carolyn Kornas Karbasian, who will serve yet another year as President of the Bar Association’s charitable twin.

Continued on page 7



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THE USUAL SUSPECTS

Continued from page 6

KUDOS – PART THREE

To the great and good Allen Etish, who was recently installed as President of the New Jersey State Bar Association. It gives the Old Suspect much Naches (Yiddish – proud pleasure, special joy) to see good guy Allen achieve such a high honor. Allen, a partner in the prestigious Haddonfield firm of Archer & Greiner is one of the more popular lawyers in Camden County and highly respected by the bench and Bar. No doubt this will be a great year for the New Jersey State Bar Association.

CRUEL & UNUSUAL?

Dateline: Westmont. Due to the number of public officials, elected and otherwise, indicted, tried and convicted in New Jersey each year, the Suspect is campaigning to reinstitute the truly American practice of tarring, feathering, and running miscreants out of town on a rail. Certainly, there is no shortage of tar in New Jersey and Vineland can supply all the chicken feathers we would possibly need. I am certain that

grateful tax payers would be happy to donate all the necessary materials and flock to see the festivities.

No doubt some bleeding hearts would classify this as cruel and unusual punishment. Not so. Article VIII of the United States Constitution provides “excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.” The crucial word is “and.” Being a strict constructionist of the Clarence Thomas/John Roberts School, I would argue that to be constitutionally prohibited a punishment would have to be both cruel and unusual. If, we tarred and feathered each and every public official convicted of official misconduct, the practice would not be unusual and, therefore, would pass constitutional muster.

STUPENDOUS LAWYERS

Dateline: Trenton. Three years ago, Opinion 39 of the State Committee on Attorney Advertising said that the use of words like “super” and “best” violated R.P.C. 7.1’s bans on misleading ads and

R.P.C. 7.1(a)(3), which says ads that compare one lawyer’s services with another’s are misleading by definition. This resulted in a temporary ban on ads by attorneys picked by Best Lawyers or Super Lawyers and the two profit making publications appealed. The Supreme Court ruled that the First Amendment to the United States Constitution trumped the plain language of the Rules and, thus, the R.P.C. had to be changed. The Court asked the Rules Panel to recommend how.

Recently, the Professional Responsibility Rules Committee recommended a nine word change in the R.P.C.’s to make it legal for New Jersey lawyers to advertise their inclusion in Super Lawyers, Best Lawyers in America, or other rating publications. The Panel did recommend that the Court add a comment to the Rules warning lawyers that if they are going to blow their own horns they need authority of arguable value and, perhaps, a disclaimer providing the public with more information. That’s as clear as mud.

I have no idea how these cockamamie publications arrive at

their conclusions but I believe it is based upon some type of polling of attorneys throughout the State. I do not know if they permit partners and associates to vote for people in their own firms. Apparently, the publications consider the basis of their ratings some type of trade secret so an analysis or evaluation of validity is next to impossible.

Are the ratings legitimate or merely a gimmick for making money through the sale of ads? Who knows? Personally, I am extremely skeptical because I know too many great attorneys who have never been rated “super” or “best.” I know too few lawyers, if any, who have received ballots that are not members of large firms.

It should also be noted that the adjectives “super” and “best” are played. We have supermarkets, super bowls, supermen, Best of Philly, Best of South Jersey, etc..., etc..., ad infinitum.

Being a “homer” and based on a secret rating system, I hereby designate the entire Camden County Bar Association plus all prosecutors and public defenders as “stupendous” lawyers. Congratulations! Advertisement accepted.

BLESSED EVENT

The law firm of Testa & Testa

(Kelly and Frank) has announced the birth of a new member of the firm henceforth and forever to be known as Joseph Testa. Kelly’s trial partner, A.P. Megan Mullen, advises that baby Joseph is adorable and that both baby and mother are thriving.

The Old Suspect is wondering why the relentless Kelly could not have squeezed one more trial in before the baby was born.

HERE TO STAY

Dateline: Trenton. Monday, May 11, 2009, proved to be a red-letter day for Camden County Superior Court Judges Louis Meloni (Civil) and Octavia Melendez (Family). The State Senate confirmed the appointment of three new Superior Court Judges, tenure for five other Judges and a second term for Salem County Prosecutor John Lenahan. The tenured five included the deserving Melendez and Meloni. Sometimes even the New Jersey Senate gets it right.

Threats, curses, maledictions and assorted evil spells should be sent to our e-mail address of mike@mwpinsky.com. The identity of lunatics, crazies and village idiots will be zealously protected.

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WINE & FOOD

By Jim Hamilton
jimhamilton@dshllaw.com



2007 Ockfener Bockstein Riesling Kabinett. Even those

who claimed to drink only dry white wines were smitten, or at least pleased to experience a wine they otherwise may have dismissed out of hand. While not in the same price point as this entry level wine in the German hierarchy of wines having special quality, a wine proprietor Nik Weis poured recently at *Wine Spectator's* Grand Tour event in Atlantic City was the scrumptious **2007 St. Urbans-Hof Piesporter Goldtröpfchen Riesling Spätlese.** This is a fairly versatile wine since it has the wonderful balance of off-dry fruit and acidity that is so important in German Rieslings. The fruit is lush, with flavors of apricot and ripe peaches dominating, yet with that bright and prickly spine that keeps the fruit and residual sugar from becoming the least bit clumsy. Whether as an aperitif or at a meal's end, this wine simply charms.

A very different wine for summer drinking is **2007 Quintay Clova Sauvignon Blanc.** This wine comes from Chile's Casablanca Valley, and is broad enough in flavor and texture to straddle the sometimes competing camps that either enjoy the aggressive qualities of New Zealand Sauvignon Blanc or the often tamer domestic versions of this grape variety. It has

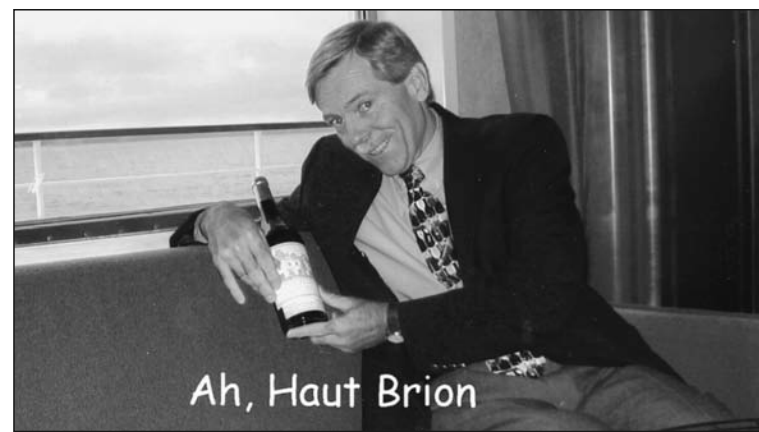
typical Sauvignon Blanc box-wood aromas, and while grassy, is gently so. It manages to be both round and firm in acidity, with tart, white grapefruit flavors and a touch of lemon zest on the finish.

A wine that may be harder to find than the Clova but will provide solid bang for the buck is the **2007 Domaine Pellehaut Côtes de Gascogne white.** This is a wine from France's Gascony region that has a zippy touch to its round, easy drinking fruit. It is a simple, but well made wine that should please even the most budget conscious purchaser.

While the prices of white Burgundies these days are difficult to swallow, there remain values, particularly outside the hallowed grounds of the Côte de Beaune, where wines such as Puligny-Montrachet and Meursault are made. From the house of Louis Latour, a producer who is likely familiar to most wine enthusiasts, there are three nice Chardonnays in or coming to our market. **2006 Louis Latour Ardeche** offers a nice round mouth feel with a touch of flint, matchstick and slate offering greater dimension than many similarly priced wines that often rely on creating an impression of value through oak treatment. **2006 Louis Latour Viré Clesse** has a dash of spices infused within its melon fruit. It exhibits medium weight, nicely extracted ripeness and a simply sunny disposition. Finally, the **2006 Louis Latour Marsannay Blanc** offers more noticeable grip and flesh, and remains fairly priced for the texture and relative complexity it offers.

A wine I enjoyed very much when it first was introduced by distributor and creator, Neal Empson, but for no particular reason had not tried in many years, recently was poured at a trade tasting enabling me to redress this oversight. **2006 Monte Antico Rosso** is a nicely priced alternative for Chianti lovers to consider. It has the acidity of the Sangiovese grape used to make Chianti, which serves it well with tomato-based foods, a lithe but ample body, and nice red cherry fruit. It exhibits an all around pleasing personality for a wine of its modest stature.

A winemaker whose Sauvignon Blanc we have discussed in



the past has a very nice red wine entry to consider. **2007 Neil Ellis The Left Bank** offers fine quality at a very affordable price, particularly when compared to that other "left bank," a term given to Bordeaux's Medoc region (where estates like Chateau Lafite-Rothschild are located). While the French "left bank" refers to the side of the river that bisects that storied wine region, this "left bank" wine hales from South Africa, and offers expressive, dark berry fruit that leans toward lingonberry presented in a solid frame that deftly displays both extract and restraint, all enhanced by a long, lingering finish.

Two wines for your barbecue you may want to consider come from regions that, while far from each other have a common wine-making influence. As I have written previously, Chris Ringland is one of those winemakers whose talent and recognition have earned him more than a few consulting assignments. With his importer, he developed a line of wines from his native Australia, "R Wines," which offers a broad array of interesting bottlings at various pricing levels. You may recall reading about or seeing wines such as Evil and Bitch, all of which provide such value that they move quickly from store shelves to consumers' carts. Another of the many wines in the R Wines portfolio is one featured at a recent wine tasting, **2007 Luchador Shiraz.** Predictably, this is a boldly flavored wine, a hallmark of the producer, offering intense but reigned-in blackberry fruit with anise nuances. The key to a wine like this is keeping it from flying too far over the top and becoming overly jammy, which this wine manages to accomplish. There is no denying the wine is extracted; yet it is able to immediately get one's attention with its fruit-forward introduction without being so heavy handed that the palate fatigues before getting to its lingering finish.

A winery in Spain that has captured the attention of the press

during the past 5 years or so is Bodegas El Nido. It certainly is easy to get attention when one has the temerity in this economy to produce a wine from Spain's Jumilla region that sells for six figures, even when the quality very well may merit the price it commands. I have been privileged to taste several vintages of the flagship wine, and the 2006 El Nido was a highlight at *Wine Spectator's* Grand Tour. However, for everyday drinking, this producer's entry level wine represents true value. **2006 Juan Gil** (the Gil family owns Bodegas El Nido) is a wine you many want to bring to your or your friend's next deck or patio grill-out. It is an earthy, brambly wine, as many wines made from the Monastrell (a/k/a Mourvèdre) grape will be. It offers a sneaky structure to its dark, plummy fruit. Once again, the talent of winemaker Chris Ringland is on display as he artfully walks the tightrope between offering a wine of character but not caricature, that can be sold for a relatively modest price.

People often ask about the aging ability of wines. The answer requires more discussion than remaining space allows. However, I can share a recent experience to provide an example of a wine that more than held its own. At dinner with Dirk Niepoort, a fifth generation producer from Portugal, we enjoyed some very fine wines. One of Dirk's offerings was, well, special. It had vibrant fruit, all caramel, toffee, nuts and herbs with layer upon layer of complex tastes. Dirk did not conceal the wine's age, fortunately for us since I doubt anyone would have come close to guessing it was a Colheita (a vintage tawny port) from 1863!

If you are looking for a wine to take to your favorite BYO restaurant, to bring to a friendly gathering or to pour for guests when entertaining at home, I hope you find one that suits your palate and budget. Whether you are traveling or *staycationing*, I hope you have an enjoyable summer!



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Admissibility of Expert Testimony

State v. Rahmann Reeds

By Margeau J. Ney

As both criminal defense attorneys and prosecutors are well aware, during a narcotics distribution trial, the State often seeks to introduce the testimony of a witness purported to be an expert in issues of narcotics distribution. Such an expert witness, often a former or current law enforcement officer or investigator, is typically used to explain aspects of drug trafficking activity that may not be common knowledge to a jury and to corroborate officers' testimony about activity allegedly consistent with drug distribution. Such testimony is admissible, assuming that the witness is qualified as having specialized knowledge sufficient to express an expert opinion and to explain the basis for that opinion. *State v. Kelly*, 97 N.J. 178, 208 (1984); *State v. Odom*, 116 N.J. 65 (1989). However, expert witness testimony in a narcotics distribution trial has specific limits, which were further clarified and limited in the recent case of *State v. Rahmann Reeds*, No. A-103-07 (N.J. January 22, 2009) (slip op.).

The admissibility of expert testimony is governed by New Jersey Evidence Rule 702, which states: "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education may testify thereto in the form of an opinion or otherwise." N.J.R.E. 702.

Evidence Rule 704 allows for even broader limits on expert witness testimony, stating that "testimony in the form of an opinion or inference otherwise admissible is not objectionable because it embraces an ultimate issue to be decided by the trier of fact." N.J.R.E. 704. Generally, expert testimony is admissible where the witness has "peculiar knowledge or experience not common to the world" which makes their opinions an "aid to the court or jury in determining the questions at issue." *State v. Zola*, 112 N.J. 384, 414 (1988), cert. denied, 489 U.S. 1022, 109 S. Ct. 1146, 103 L. Ed. 2d 205 (1989). In *State v. Odom*, the New Jersey Supreme Court held that expert witness testimony regarding narcotics trafficking and distribution methods is admissible as to the issue of whether narcotics were possessed by a defendant for personal use or with the intent to distribute them. 116 N.J. at 67. The Court found that where expert witness testimony in a CDS distribution case covers a subject "beyond the understanding of average persons and was genuinely helpful to the jury" in deciding issues of fact and understanding evidence presented, it is admissible. *Id.* at 76. However, in keeping with the admissibility of expert witness testimony generally, the *Odom* court disallowed a narcotics expert witness from giving an opinion as to the defendant's guilt, as such an opinion would usurp the "ultimate issue" a trier of fact must decide. *Id.* at 80; but see *State v. Summers*, 176 N.J. 306, 315-316 (2003) (holding that although an expert witness's testimony in a narcotics distribution trial, through use of a hypothetical question, that a defendant possessed drugs with the intent to distribute them was declarative in nature and embraced ultimate issues

that a jury had to decide, it was still acceptable under *Odom*).

Of particular importance to the *Reeds* decision, *State v. Odom* also held that the State can utilize a hypothetical question to ask an expert witness to present an opinion as to whether narcotics were possessed for personal use or for distribution. 116 N.J. at 81-82. The Court held that a hypothetical question posed to an expert witness in a narcotics distribution trial must be phrased carefully, referring only to testimony and evidence presented

"about the manner of packaging and processing for use or distribution, the significance of various quantities and concentrations of narcotics, the roles of various drug paraphernalia, characteristics of the drugs themselves, the import of circumstances surrounding possession, the conduct of the possessor and the manner in which drugs may be secreted or otherwise possessed for personal use or distribution." *Id.* at 82.

The expert witness may be asked if, hypothetically, given the facts presented, he or she has an opinion as to whether the CDS was for a defendant's personal use or for distribution. *Ibid.* This appears

to have dangerous implications, however, as it seems difficult for an expert witness to opine on whether a defendant possessed narcotics for the purpose of distributing them without the jury inferring that the witness believes the defendant to be guilty of drug distribution.

The danger of this narrow distinction was highlighted by the New Jersey Supreme Court when it decided *State v. Rahmann Reeds* in January of 2009, *supra*, slip op. at 2-3. In *Reeds*, the question presented was whether an expert witness in a narcotics distribution trial could opine on whether a defendant was in "constructive possession" of drugs recovered by police in a car holding three people. *Ibid.* During the direct examination of a detective qualified as an expert witness in the area of narcotics distribution and possession, the prosecutor used a hypothetical question to ask the detective whether, in his opinion, three people traveling together in a car where 798 bags of heroin were found were in possession of those drugs with intent to distribute them. *Reeds* at 5-7. Specifically, following the detective's testimony that the drugs were possessed with intent to distribute, the prosecutor asked, "And

Continued on page 16

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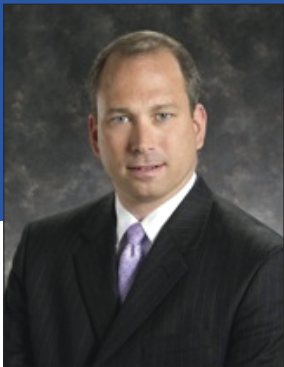
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PRESIDENT'S PERSPECTIVE

by Richard DeMichele, Jr.



Getting old is never easy

This year on April 15th I turned 40. This birthday was not very traumatic for me. At the time I did not reflect on how old I was, what I accomplished thus far in my life or where I was going in the next 40 or so years. I had a wonderful birthday dinner with my family and on the 16th I continued with my "normal routine." It was not until the eve of the installation dinner that it hit me, "If I was not old I certainly was getting older."

On May 1st I was asked to give a Family law lecture at Haddon Township High School. I had done this in past years with out incident; however, this year was different. This year the classroom where I was lecturing was not right next to the front entrance of the building where it had been in the past. This year the classroom was on the second floor of the school at the rear of the building. For the first time I had to walk through the halls with the students to get to my

class. Almost instantaneously, while I was in the hallway I knew I was old.

The next night I arrived at our installation dinner dance and the students from Cherry Hill East's Jazz Standards group were tuning up. I had never heard this group play before so I was somewhat anxious. After the photographs were completed the group was playing and many people commented on how great they were. I was very impressed with their talent and was no longer anxious. During one of the band breaks I went over to the group and introduced myself and thanked them for playing at the cocktail hour. I let them know I was a Cougar class of '87. After seeing their blank gazes I realized for the second time in two days I was old. The group members were born in 1989 and were not even alive when I graduated high school. During the entire night I had to remind myself 40 is the new

20 and I had a hard time trying to believe it.

What has not been hard to believe is the Camden County Bar Association's lead role in helping attorneys who are out of work or in transition. I am particularly proud that this association launched Lawyers in Transition in March of this year. To my knowledge we were the first lawyer association to directly address the needs of displaced lawyers. Since our dues notices were sent with the announcement of the Lawyers in Transition Program details I have learned of several similar programs. The advent of these programs is a blessing and a true indication of how the legal community is coming together to address a problem that in some way effects us all. I am proud that the Camden County Bar Association led the way and can count on committee co-chairs Louis Lessig and Carol Cannerelli to help provide meaningful benefits for those

who need it

It is the tradition of the Association that the first President's Perspective is a copy of their dinner dance speech. So I don't disappoint. The text of my remarks are as follows:

Thank you Joe McCormick. Thank you all for being here tonight. I want to thank Judge Fox for swearing in our new board members.

I have been to many installation dinners over the past 14 years and I've noticed there is an accepted format - you thank your family, you thank your firm and you give an inspirational message. Fortunately for you, my family is my firm so these remarks should be brief. Even though I can speak longer than Eric did - I won't try to beat his record!

Dad, I want to thank you for swearing me in tonight. I could have taken the more traditional route and asked a judge to swear

me in; or as has been done in the past - asked a state senator or I could have even asked a certain former US Attorney to swear me in.

But dad you are the reason I am able to be here tonight. Without your tireless support, good guidance and encouragement I'm not able to stand here - let alone be a lawyer. So when I thought about who should be responsible for initiating my bar presidency I knew it was only appropriate to have the same man that started my legal career start my presidency. Thanks Pal.

In giving this speech so many of my predecessors have told the audience how they wish one or both of their parents could be with them on this night. I am very fortunate to have both my parents with me here tonight. Like my father, my mother is equally responsible for my being here. Thirteen years ago when I left Atlantic City to practice law with my father the name of the firm changed to DeMichele & DeMichele. Given my age and inexperience many said the firm really was Dick and Joyce... and not necessarily in that order. They were right on both accounts!

My mother has helped me professionally in more ways than just as an office manager and a personal cheerleader. Mom you have been instrumental in the smooth operation of the firm, but more importantly your unbelievable flexibility and understanding have enabled me to actively participate in this association. I do not know how I could be here tonight without the regular phone call to you "...MOM, I've got a bar meeting can you take the girls to school or ... MOM, I've got a bar meeting can you get them from school and take them to soccer." Thanks mom!

Many of you here tonight have partners who have had the honor of being president of the Camden County Bar Association and you know what a responsibility that is for the other lawyers working at the firm. It is no



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Another Successful Bench Bar Luncheon

Members, law students, family and friends came together with judges from the Camden County Superior Court, United States District Court and Workers' Compensation Court for the 10th Annual Bench Bar Luncheon at the Crowne Plaza Hotel in Cherry Hill.

This year's luncheon featured State of the Bench and Bar addresses from Hon. Jerome B. Simandle, U.S. District Court Judge, U.S. District Court for State of New Jersey; Hon. Francis J. Orlando, Jr., Assignment Judge, Superior Court of New Jersey; and Joseph A. McCormick, Jr., President, Camden County Bar Association. Bar Foundation President, Carolyn Kornas Karbasian, also presented this year's law student scholarship awards.

Following the scholarship presentations, the official portrait of Honorable Charles A. Little, Sr., J.S.C., (ret.) was presented by President McCormick on behalf of the Bar Association.



President Joseph A. McCormick Emcees the program



Simandle and the State of the District Court



Judge Orlando provides updates from the Superior Court



(l-r) Bar Foundation President Carolyn Kornas Karbasian and Scholarship Recipients



(l-r) Judge Little, Joe McCormick



Judges Kugler & Brotman



(l-r) Monica Hennessy, Carol Harding, Stacy Fols



(l-r) Jim Mullen, Judges Fratto & Greene



(l-r) Judge Simandle, Judge Burns, Ira Deiches & Norman Lehrer



(l-r) Judge Marino, Judge Eynon & Bill Seaton



(l-r) Judge Blue, Judge Fernandez-Vina, Judge Silverman Katz & Judge Orlando



(l-r) Past President Andy Kushner & President-Elect Rick DeMichele

PRESIDENT'S PERSPECTIVE

Continued from page 10

different for my brother Greg. He has supported me and, just as importantly, covered for me so that I could attend ABA meetings in far off places, traverse the turnpike as a Trustee for the State Bar Association, and spend what seems like countless hours attending Camden County Bar Association events. One of the best parts about practicing law with my

brother is that I trust him not just in dealing with clients but in every way. I am very fortunate to have a law partner I trust implicitly and one who has been so selflessly supportive of me.

You may think I'm done with thanking my firm but I'm not. I need to acknowledge and thank my general counsel, my wife, Sharon.

Nearly 12 years ago when I met this blond woman at a

deposition I was smitten. I knew right away I was physically attracted to her. I later came to learn that I was even more attracted to her charm and intellect. However, I have come to learn that being married to a lawyer who is much smarter than you has its drawbacks. I'm still trying to win my first argument. Going zero for 12 years is not too impressive. I'm hopeful she will now take a cue from her general

counsel counterpart in the White House and end all of our discussions with these three words "... yes ... Mr. President!" I'm not holding my breath.

One of the things that Sharon and I share is a passion for the profession and a dedication to our bar associations. Sharon will be president of the Burlington County Bar Association next year. From the time we first met, Sharon has always supported my bar activities and I have support hers. However, to this point, there can be no doubt I got the better end of this deal. I know next year when she takes the helm in Burlington County I will have the opportunity to show her instead of just tell her how thankful I really am.

I would be remiss if I did not thank our staff Larry and Denise who did a wonderful job here tonight. From the looks of things no one would know we are short staffed and have budgetary issues. You both did a wonderful job.

As many of you are aware our Association has hit a final rough patch. Our expenses continue to climb and our revenue is faltering. This is not very surprising given the economy out there. You should know our Association has been in existence for 124 years and has survived far worse financial conditions than we experience today.

Many have told me privately how unfortunate it is that I get to be president when the association is struggling financially. While this year may not include any of the traditional presidential perks I welcome the opportunity to contribute my leadership and begin our financial comeback. Really, I can't wait to get started!

In many ways that comeback has begun with you here tonight and everyone who purchased an ad in our program book. I am truly appreciative of your generous ad book purchases not for my sake but the sake of the Association and Foundation. A special thank you to Brenda Eutsler and Jim Hamilton who both worked so hard to sell our ads.

In a time when many want to believe lawyers are brash, self absorbed, egotistical people, we can point to your ad book generosity as Exhibit A in making the case against that perception. Thanks for making sure that a lawyer stereotype is not the face of our Association and Foundation.

Our Association has always

been responsive to the needs of its members. This year will be no different. We are launching the Lawyers in Transition Program to help our members who have been hit hardest by this economy. Lawyers in Transition is a reduced dues program that will provide specific programming to help those who are unemployed or are trying to re-enter the legal marketplace. The program will provide traditional classes to help with interviewing, resumé writing, and marketing to prospective employers. In addition we will offer networking opportunities and all other association benefits at member rates. Not only will we help those who need it the most we will also demonstrate to the community our dedication to the profession. I am pleased to announce Carol Cannerelli and Louis Lessig will co-chair this very important program. Thank you Lou and Carol.

While the economy is down and our news outlets are filled with doom and gloom we need to step up our efforts to share with the public all of our good work. This year we are going work on making sure the public knows about all that our Association does. We will certainly tell the media about our children's Christmas Party, our children's summer picnic, our coat drives, and all of the other great charitable efforts our Foundation sponsors. However, this year we are going to expand our public relations effort to include news releases about our Lawyers in Transition Program, our CLE classes and the presenters, and the pro bono efforts of our members. We are going to send our releases to an expanded universe of media outlets. The public needs to know all that we do so don't be surprised to read about our members in your local town newspaper.

Finally, I wanted to acknowledge the Cherry Hill East Jazz Standards group who performed at the cocktail hour. As an East Graduate they make me proud. They were wonderful, especially considering not one has a high school diploma. I also wanted to thank my dear friend from middle school, Glenn, who honored me by being here tonight. Thank you for traveling such a distance to be with me.

Thanks again and enjoy the evening.

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Spinning My Wheels



By Andrew B. Kushner
akushner@ake-law.com

The People's Car Has Got It Goin' On

VW recently took a page out of the Mercedes play book in marketing a swoopy four door with a low roof line along the lines of the CLS model. But while the Mercedes model is a very upscale and expensive four door sedan that they persist in calling a "four door coupe" (how's that for an oxymoron?), VW's entry is a variation on the very tasty (and well known to me) Passat model which they have re-skinned completely as the "CC." For 2009 VW decided to limit the variations in the regular Passat, deleting the manual transmission option for the four cylinder and ending the 6 cylinder option with all wheel drive and instead transferred those options to the CC. Pricing for the one and only version of the Passat is, for reasons quite unclear to me, slightly more expensive than the comparably equipped CC. The Passat base price is \$29,000 while the base automatic CC is \$28,850. I don't know why, but perhaps the price was set by some Don Corleone type in an attempt to extract some punitive concession from buyers who couldn't recognize the wholesome goodness of the CC.

Having spent almost two years with the Passat in my son's care, I can say without question that it is one of the best and least expensive sports sedans available, at least prior to the creation of the CC. The Passat is a good looking, well appointed sedan with the typical excellent VW fit and finish but the CC is the sexy sister who gets all the attention instead of her more pedestrian sibling. Moreover, the CC comes standard with the torquey and fuel efficient 2.0 liter turbo 4 cylinder and also offers, at great additional expense, the 6 cylinder in either front or all wheel drive. When the 4 motion, 6 cylinder version is selected, however, the price moves quickly up to the \$40,000 range.

Since I may find myself in the market for a replacement for the Saab which I intend to pass to my

college age son, I got myself over the Cherry Hill Imports and met Joe Serrano, who set me up for a test drive with the manual Sport CC and also with a manual Jetta GLI (more on the GLI later). As I have said, the CC is a "looker." I don't know how you cannot be attracted to the car just on the visuals, both exterior and interior. It comes well equipped for its base price without a power passenger seat, sunroof and navigation. Those options are only possible on the "luxury model." The very credible vinyl clad seats have "rolled" seat cushions and seat backs which give the car a feel of luxury that belies its price. Likewise, the dash is very similar to the first rate soft touch materials, accented with brushed aluminum found in the Passat. No wood, no leather, but those are hardly missed, so well executed is this interior.

Joe set me loose with a black CC Sport manual and I spent a good half hour with the car doing some driving on local roads and also a spin on Route 295. I have already given kudos to the interior but with the leather wrapped steering wheel, integral controls for stereo and cruise and the comfortable and relatively supportive front seats, I felt immediately at home in the car. The 200 hp 4 cylinder makes all the right noises and provides surprising low down torque for an engine of its size. The turbo is unobtrusive and there is none of the sudden surge of acceleration when it spools up.

The suspension was very similar to the Passat: nicely damped with softer springs that can soak up road irregularities and bumps, but do not give the floaty feel that afflicts some sedans in this class. By the time I hit Route 295, I had acclimated to the clutch (which had a very low engagement point) and moved out smartly on the entrance ramp. While one would not confuse this engine with a V8, or even with VW's own V6, power came on in

a linear fashion and I only backed off after I attained 80+ mph. At that speed the car was very stable, with no tendency to wander at all. The cabin remained quiet and I don't think that either wind or tire noise was obtrusive. The engine, which was turning at about 3000 rpm in sixth gear at that speed was not laboring and was clearly good for more of the same if my right foot had requested it.

Oh, yes, the transmission. To those of you who might be inclined to take my last month's column to heart, this is a good'un. Six forward speeds work well with this engine combination and the first five are nicely matched to the

engine. Sixth gear, while helpful in reducing noise and engine rpm somewhat, terminal gear is probably most valuable for helping to produce the excellent highway gas mileage of 31 mpg. Coming back down 295, I approached the Route 70 exit and downshifted through the gears effortlessly although that old time use of engine braking is something I use much less now than in my youth. My complaints were limited to the overly light clutch and the inability to have a sport model equipped with some of the more upscale options reserved for the luxury and 6 cylinder models.

Upon returning to the dealer-

ship I found the trunk as capacious as I recall the Passat and rear seat room reasonable for the size of the car. All in all, I was pretty impressed that VW had taken a well turned out Passat and given it some additional perks to appeal to a new crowd.

I mentioned earlier that I drove another VW and that was the Jetta GLI. The GLI is the four door sister to the GTI, one of the best inexpensive hot hatchbacks on the planet. The current GTI is being replaced by a Mark VI model, due out this fall but the four door GLI remains unchanged

Continued on page 15

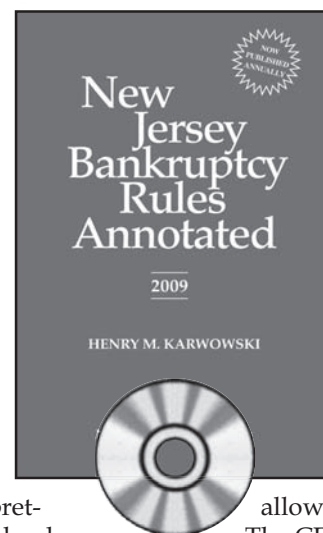
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by Henry M. Karwowski

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Bar Foundation Update

by Carolyn Kornas Karbasian

The legal profession is all about helping people. Since its inception 23 years ago, the Camden County Bar Foundation has established an extraordinary tradition of public service that continues to grow each year. The mission of the Bar Foundation is to help meet the needs of those less fortunate as well as foster a greater understanding of our legal system. This charitable arm of the Camden County Bar Association is backed by the volunteer efforts of numerous members who reach out to help strengthen our community.

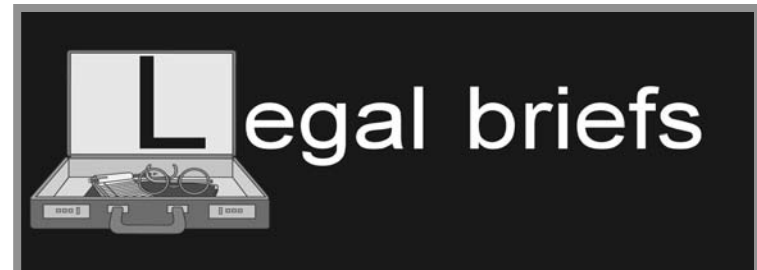
We all have become acutely aware of how deep the recession has become and how correspondingly sweeping it has been on charities such as the Foundation. Thanks to your generous support, the Foundation can continue to make its presence felt in neighborhoods where tough times are the rule rather than the exception. We

continued our tradition of honoring graduating high school seniors with a scholarship to, in our very small way, help them to become our future leaders.

There is a lot of joy and satisfaction that comes from helping the children of Camden. If you want to experience what I am talking about, on Saturday June 6, around 11 a.m., take a ride to Challenge Grove Park (the park almost directly behind the Coastline Restaurant on Brace Road) in Cherry Hill. Observe the smiles on the faces of hundreds of inner city children as they ride a pony for the first time, compete in a dance contest to win McDonald's gift certificates, jump in a moon bounce, have their face painted or feed their otherwise hungry bellies until they simply can eat no more. How do you get involved? Just show up and we will put you to work interacting with the children.

Or, you can donate any sum of money to the Camden County Bar Foundation which will be used to purchase the food, moonbounce, pony rides or the prizes for the picnic.

Thank you for the honor and privilege of serving as the President of the Camden County Bar Foundation. I would like to thank the immediate past President of the Camden County Bar Association, Joe McCormick, for his relentless dedication and tireless leadership as it ensured that the Foundation would continue to assist those less fortunate. Congratulations to our new President, Rick DeMichele! I look forward to working with him as well as all of the newly-elected officers and trustees to continue to improve the lives of the residents of Camden County. Remember, you can make a difference!



Gone or going solo? Changed firms or positions? Received an award or made a professional presentation? If so, share your news with your colleagues. Email your news to lbp@camdencountybar.org to get listed in the monthly Barrister "Legal Briefs" section. We also appreciate updates so we can keep our membership files current.

• **Albert M. Belmont, III** of Laurel Springs, NJ has joined the law firm of Bochetto and Lentz, P.C. as Of Counsel in both its Philadelphia and Cherry Hill offices. Belmont's practice involves representing individuals, small businesses and Fortune 500 companies in most aspects of civil litigation in South Jersey and Southeastern Pennsylvania, including complex commercial litigation and litigation avoidance, real estate advice and litigation, including landlord/tenant matters and real estate tax appeals, environmental land use advice and litigation, and professional malpractice/catastrophic personal injury. Belmont received his A.B. in Public Policy and International Affairs with a Certificate in Environmental Studies from Princeton University and his J.D. from Northwestern Law School.

• Environmental law firm **Manko, Gold, Katcher & Fox, LLP (MGKF)**, located in Bala Cynwyd, Pa. and Cherry Hill, N.J., recently hosted a seminar on New Jersey's Site Remediation Reform Act (SRRRA), which includes the addition of the new Licensed Site Remediation Professional (LSRP) program. Presenters included **Jonathan Spergel, Esq.**, partner with MGKF; **Bruce Katcher, Esq.**, partner with MGKF; **Mary Ann Susavidge, PE, ARM, RPLU**, Managing Executive Underwriter of the Environmental Unit for XL Insurance; **Irene Kropp**, Assistant Commissioner NJDEP; and **Thomas Griffin, PE**, partner at Environment Resource Management (ERM).

• **Robert J. Incollingo**, of the Law Offices of Robert J. Incollingo in Glendora, has been elected co-chair of the Construction Section of the New Jersey State Bar Association.

In practice for 27 years, Mr. Incollingo focuses his practice on business and construction litigation. He also serves as a commercial arbitrator by appointment of the Superior Court in Camden and Burlington Counties.

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- Transfer or wire funds in or out of Control and Client accounts.

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- IOLTA / IOLA / IOTA Account

Client Account Options

- Checking Account
- Insured Money Market Account
- IOLTA / IOLA / IOTA Account

Transaction Capabilities

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Sharp Bratton is pleased to announce that we have expanded our services to include representation of debtors in Chapter 7 and Chapter 13 bankruptcy proceedings.



Cynthia and Chris are members of the National Association of Consumer Bankruptcy Attorneys.

Cynthia Sharp was featured as an Awesome Attorney in South Jersey Magazine (September of 2007).

Chris Bratton was featured as a Rising Star for 2009 in New Jersey Super Lawyer Magazine (April of 2009).



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By Adam Gersh

The Young Lawyer Inside Everyone: An Open Invitation

Believe it or not, there is a “young lawyer” inside each of us. Lawyers who are eager to learn, to network, to grow their practice, and to help the community. But lawyers who are also reluctant. These lawyers know that their time is money and they do not want to attend a bar association function where they might not know anyone, do not want to add one more thing to their list of work-related activities that will take them away from billing and their families, and do not want to be a part of a bar association group that will be a waste of their valuable time. I know this because I am one of these lawyers, but, more important, so are you. We all want to be good lawyers and successful lawyers, but we aren’t willing to put ourselves in socially awkward positions or risk wasting our precious time to achieve these goals.

My point is not simply that these universal desires and pressures bind lawyers to one another, you don’t need to read this column to know that. Rather, I am writing about these universal desires and pressures because they shape not only lawyers (young and old) but also the organizations they run, like the Young Lawyers’ Committee (“YLC”). As a result, the YLC is an organization that reflects these values by helping young lawyers achieve their goals of learning, networking, helping the broader community, and growing their practice, without wasting members’ time or forcing them to endure socially awkward events to achieve these goals. I think one of the most dramatic illustrations of this point is that, as the “bar year” is coming to a close, the Young Lawyers Committee has a busy summer planned, something the YLC members only do because they derive value from their participation in the YLC. Thanks to the hard work of our former chairman, Jerry Poslusny, and the rest of the YLC, the YLC

continues to be a tremendously rewarding and vital group.

How does the YLC do all this? By serving the needs of the young lawyer inside each of us through:

Networking — Through the YLC, you can meet, network, develop referral relationships, find a job, and grow your practice;

Social activities — When you join the YLC, you join a diverse group of friendly, interesting and dedicated individuals who like to have fun. Members of the YLC (and their friends and families) join together for sporting events, happy hours, and more that will enrich your professional and social life;

Education — Being a member of the YLC will put you in touch with other young attorneys in a wide-range of practice areas and will give you resources to learn about your practice area(s), other areas of practice, and the business of being a lawyer; and

Charity — Through YLC-sponsored events and participation in bar-sponsored events, you will have an opportunity to make a difference in the lives of the members of your own community and have a great time doing it.

If you too want experience the benefits of the YLC, please join us for our meeting (scheduled for June 2, 2009, at noon at bar headquarters) and discover how the YLC can help you achieve your professional goals and have fun at the same time.

In keeping with the YLC’s mission to enhance the professional lives of its members, and not waste their time, this YLC column in next year’s Barrister will feature a series of articles by some of the bar’s most respected and experienced lawyers on the topic of “What I wish I knew when I was a young lawyer.” I am confident you will join me in looking forward to learning what other practitioners can teach us about the job and life of a lawyer.

Spinning My Wheels

Continued from page 13

for 2010. The GLI, though based on the Jetta, has the same 2 liter turbo four shared by the Passat and the CC. Same great engine; smaller (read: lighter) car. And it works. By essentially utilizing the GTI’s suspension and interior, this car was an absolute blast to drive coupled with the added utility of four doors and a conventional sedan trunk. The base GLI, optioned with a sunroof was still several thousands less than the CC but, I couldn’t help but feel that this was more of a young man’s car with the Recaro type sports seats clad in traditional GTI/GLI

plaid cloth inserts. If I judged solely on driving fun quotient, the GLI wins, hands down, and not just because it is marginally cheaper.

As the summer approaches and a decision is reached about a new car or just keeping the Saab and finding an alternative for my son, if I choose the former option, I will surely be back to see Joe Serrano, and Joe, I haven’t even tried to “beat you up” about the price so stay tuned. VW keep up the good work. You weren’t the number one monthly volume car seller in the world a couple of months ago for nothin’!

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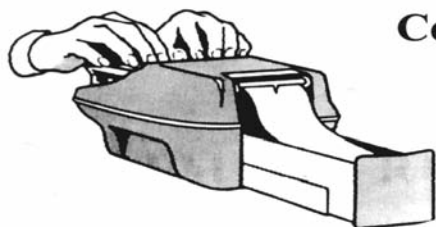
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Criminal Court Law

Continued from page 9

would that opinion be as to suspects one, two and three?" *Id.* at 6. The detective replied, "All constructive possession with the intent to distribute." *Ibid.* Defense counsel objected, and the prosecutor rephrased the question in hypothetical terms, asking, "Hypothetically, considering these facts . . . would it be your opinion these drugs could be possessed

not with the intent to distribute?" *Reeds* at 7 (emphasis added). The detective responded that he believed the narcotics would be possessed with the intent to distribute, and further stated that his opinion was based on both "the amount" of narcotics and "the fact that there's three individuals in the vehicle." *Ibid.* During the charging conference, the trial court provided a limiting instruction that stated that "the issue of

possession and/or constructive possession is for you to decide based on the actual facts presented." *Reeds* at 9-10.

Upon the defendant's conviction and appeal, the New Jersey Supreme Court held that the detective's expert witness testimony "exceeded the bounds of acceptable hypothetical question testimony." *Id.* at 10. The *Reeds* court cited *State v. Nesbitt* in describing the trial court's need to be a "gatekeeper" with regard to expert testimony in narcotics distribution trials in order to avoid undue prejudice to defendants. *Id.* at 15 (citing 185 N.J. 504, 514

(2006). The court also noted that a trial court must be careful to keep an expert witness in a narcotics distribution trial from slipping "dangerously close to usurpation of the jury's role by essentially telling the jurors how to resolve a case." *Reeds* at 15.

In finding that the expert witness's testimony regarding constructive possession was improper, the *Reeds* court noted that "by mimicking the language of the statute, and positing on [a] pivotal legal element," the expert's testimony "did not constitute probative, helpful testimony for the jury." *Id.* at 22. Further, the court stated that the witness's opinion on constructive possession was "tantamount to a legal conclusion, resulting in a veritable pronouncement of guilt on the two possession crimes for which defendant was charged," resulting in clear undue prejudice to the defendant and "irredeemably" tainting the remaining trial proofs. *Ibid.*, *Id.* at 27-28. Additionally, the *Reeds* court found that the trial court's limiting instruction did not cure the prejudice that the testi-

mony caused to the defendant. *Ibid.* Holding that the trial court committed plain error by allowing the testimony and giving the limiting instruction, the *Reeds* court reversed the defendant's conviction and remanded the case for a new trial. *Id.* at 28.

In recognizing the continuing need for trial courts to limit expert witness testimony in narcotics distribution cases, *State v. Rahmann* *Reeds* establishes an important precedent. Despite the arguably broad allowances that *Odom* and its progeny make for such testimony, *Reeds* emphasizes a trial court's role in ensuring that expert witnesses do not opine too closely to the ultimate issue of a defendant's guilt, creating undue prejudice. For this reason, it is imperative that criminal law practitioners and judges alike pay close attention to expert witness testimony in a narcotics distribution trial, to restrict that testimony to the limits established by case law and protect defendants' constitutional right to a fair trial.

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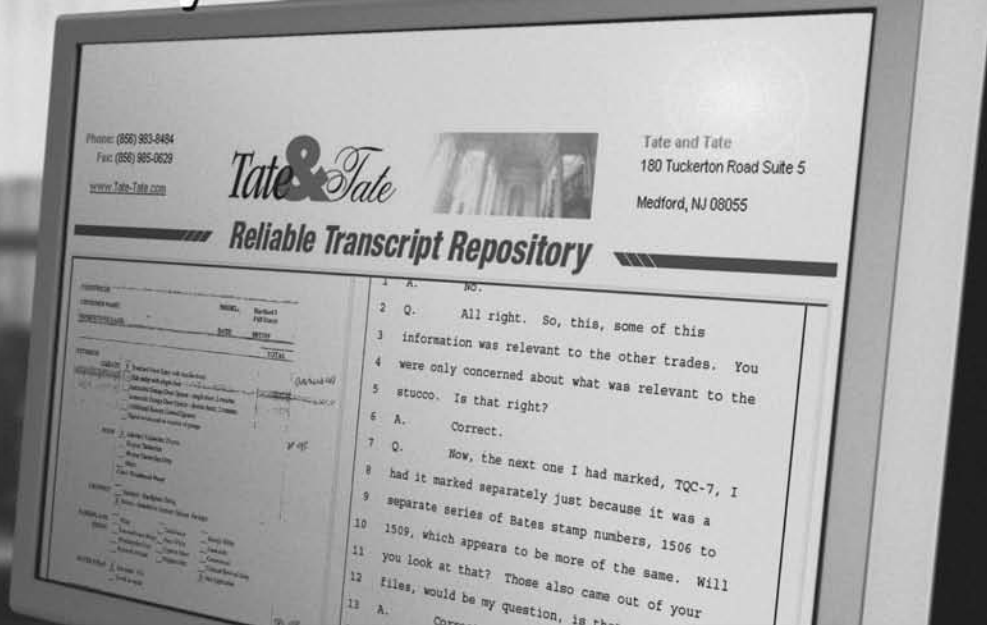
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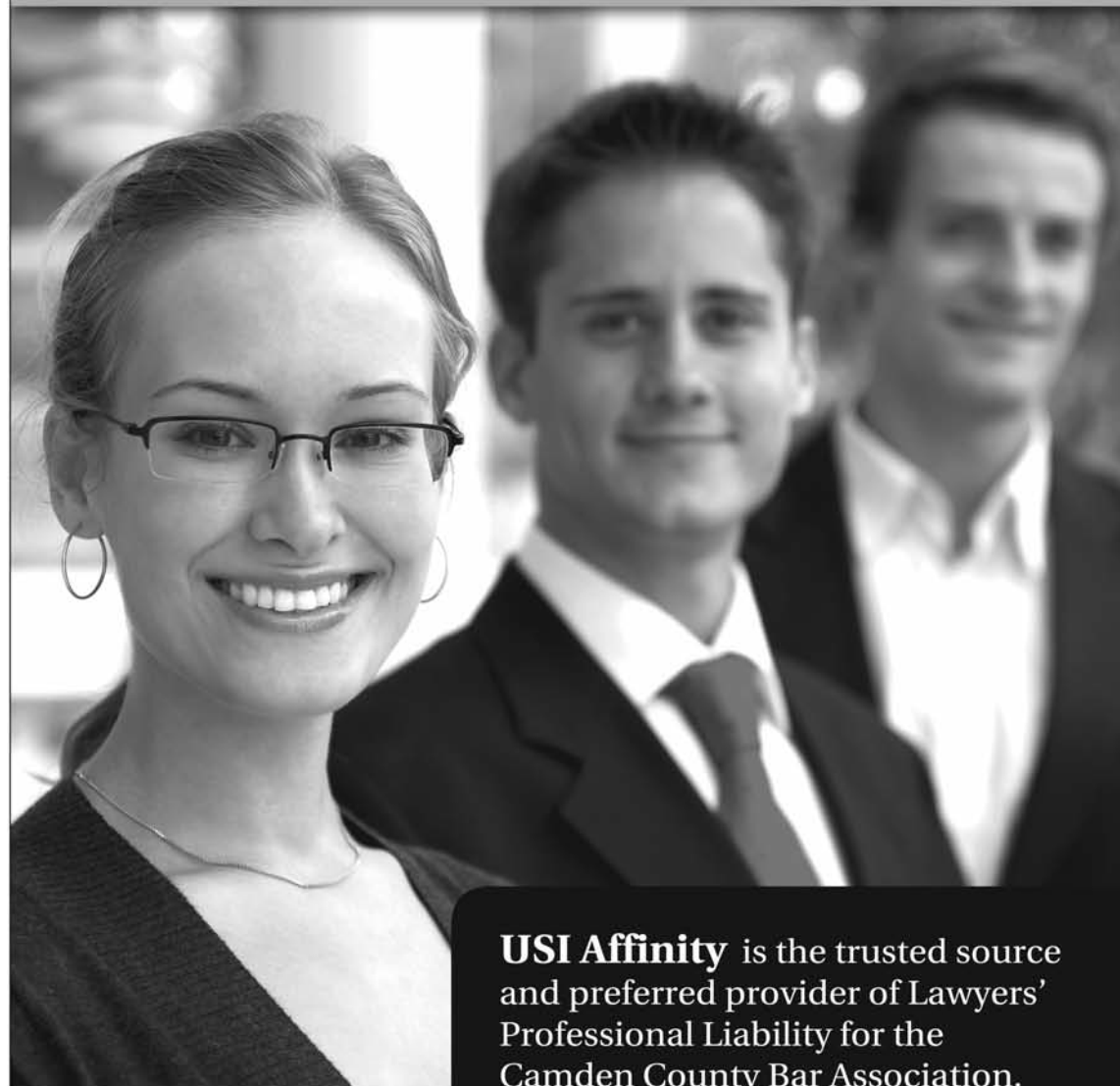
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Changing of the Guard

Association & Foundation kick off a new Bar year!

May 2nd was a typical sunny spring day as members of the bench and bar and friends of incoming CCBA President Rick DeMichele filled the Versailles Ballroom at the The Mansion for the annual Installation of Officers & Trustees Dinner Dance. As guests enjoyed a wonderfully prepared meal, Hon. Michele M. Fox presided over the swearing in of the new officers and trustees of the Association & Foundation.



Front (l-r) Incoming President Richard A. DeMichele, Jr.; President-elect Linda W. Eynon; Second Vice President Brenda Lee Eutsler, new trustee Ellen M. McDowell; Immediate Past President Joseph A. McCormick, Jr.
2nd (l-r) Carl A. Price; First Vice President Louis R. Lessig; Ronald G. Lieberman
3rd (l-r) Young Lawyer Trustee Adam Gersh; Secretary Casey Price
4th (l-r) John F. Renner; Jerrold N. Poslusny, Jr.
5th (l-r) John Zohlman, III; Treasurer Gary W. Boguski



Judge Michele M. Fox congratulates T. Alex Kushner after being sworn in as a Foundation Trustee



(l-r) Richard A. DeMichele, Sr. has the honor of administering the presidential oath to son Richard A. DeMichele, Jr. as he becomes the 83rd president of the CCBA



(l-r) Immediate Past President Joe McCormick passes the gavel to his successor



Joe McCormick is all tears as he accepts his Past President's pin!



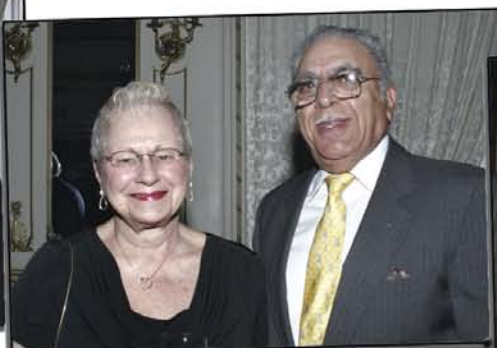
Rick lays out his plans for the coming year



Calories don't count at a time like this!



Mike Kulzer with Patty & Gary Boguski



Frances & Judge Fratto



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Mike & Penny Ferrara and Judge & Don Fox



Carol Cannerelli, Debbie Palitto & Maisie Smith