



Sharing the Season with Deserving Kids

Children's Holiday Party set for December 3

The Bar Foundation's Annual Children's Holiday Breakfast and Party at the Coastline in Cherry Hill has been set for Saturday, December 3, and volunteers are needed to help ensure a festive party for hundreds of less fortunate children from Camden.

Beginning at 9 am, buses will start unloading our special guests for a full breakfast, compliments of the Coastline and its staff, followed by a few magical hours of fun, gifts, and a visit with Santa.

A cast of volunteer attorneys and judges, many in holiday and elf costumes, will lead a carol-sing to get everyone in the holiday spirit.

The children will also be treated to a magic show before Santa (a.k.a. U.S. District Court Senior Judge Joseph Rodriguez) and his sleigh full of goodies arrive. Every child will have a chance to tell Santa what they want for Christmas and then be sent off with a photo and a wrapped gift.

With that many gifts to wrap, it takes time and hands! To ensure a beautifully wrapped gift awaits each child, a wrapping party is scheduled for 5 pm on Wednesday, November 30 at Bar Headquarters. Volunteer wrappers are needed to assist in wrapping and filling goody bags. If you can't join us on Saturday for the party but want to help, please stop by and help us wrap.

No volunteer has ever been turned away from this incredible experience. If you are inspired to make a positive difference in the lives of those who need it most and you can spare several hours, please call or email Kathy at Bar Headquarters, 856.482.0620/kdp@camdencountybar.org.

Adopt-A-Family For the Holidays

'Tis the season of sharing

Share your good fortune and make the holidays special for an underprivileged family in the City of Camden by "adopting" a deserving family at this special time of year. The Public Benefits committee is asking for your support of this year's Adopt-A-Family program. Our goal is to bring the joy of the season to 100 families and with your help we can do it!

Adopting a family is easy! You can choose to provide food and gifts for a small, medium or large family. Although you will not meet the family in person, you will be provided with the ages of the children, their clothing sizes, and in some cases, their Christmas "wish list." All you have to do is shop, pack, and deliver your donations to St. Joseph's Pro Cathedral Church in Camden.

In addition to gifts, we are also asking that you include enough food for Christmas dinner. The amount you spend is up to you, and everything is appreciated.

St. Joseph's Pro Cathedral Church helps needy families throughout the year, regardless of creed, and your generous support will help brighten the holidays for those most in need in our community. We are thrilled to be working with St. Joseph's again this year, and look forward to meeting or surpassing our goal of 100 adopted families.

We urge all Bar members to consider adopting a family in 2011 either through their firm or individually. Your participation is guaranteed to make you feel wonderful, and it's tax deductible!

Refer to the flier included with this month's inserts for contact information for adopting YOUR family, and thank you!



Plan to Celebrate!

HOLIDAY COCKTAIL PARTY

MONDAY, DECEMBER 19TH

TAVISTOCK COUNTRY CLUB

MEMBERS ONLY

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Come Frolic with Us!



Fall Frolic '11

Tuesday, November 15th - The Coastline

The Probate & Trust Committee

held its annual "State of the Probate & Surrogate Courts" Luncheon at Tavistock in September. In addition to presentations by Judge Colalillo, Surrogate Jones and Donald P. Craig, Staff Counsel in the Surrogate's Office, the committee presented a plaque to Don Craig congratulating him on his retirement after 25 years in the Surrogate's office and thanking him for his assistance over the years.



(l-r) Committee co-chair Glenn A. Henkel, Esq., Donald P. Craig, Esq., Committee co-chair Brenda Lee Eutsler, Esq., and Camden County Surrogate Patricia Egan Jones.

Barrister

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The Docket

Tuesday, November 1st

Young Lawyer Committee Meeting

Noon

Bar Headquarters, Cherry Hill

Monday, November 7th

Civil Practice Update – What You Need to Know! Seminar

4 – 6:15 PM

The Mansion, Voorhees

Tuesday, November 15th

Association Board of Trustees Meeting

4 PM

Bar Headquarters, Cherry Hill

Tuesday, November 15th

CCBF Fall Frolic to benefit the Children's Holiday Party

6 – 8 PM

The Coastline,
1240 Brace Road, Cherry Hill

Thursday, November 17th

CLE on Tap!

NJ Family Law Seminar

4 – 7:15 PM

Tavistock Country Club, Haddonfield

Wednesday, November 30th

Wrapping for Children's Holiday Party

2 – 4 PM

Bar Headquarters, Cherry Hill

Tentative agenda for November 15 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

NJ Real Estate Closings was the subject for the **CLE on Tap Seminar Series** for newly admitted lawyers.



Presenters included: (l-r) Jeffrey R. Gans, Esq., Kevin B. O'Donnell, Esq., Charles G. Resnick, Esq., and Jaime Holland with Patriot Land Transfer.

Be an active participant in YOUR professional organization.

ATTEND MEETINGS AND FUNCTIONS!

Out & About

Meet the Judges & Law Clerks

Steve Polansky &
Sherri Schweitzer



Rick DeMichele
& Lou Moffa



Jim Hamilton &
Ken Bossong



Christin Deacon &
Sara Matthews



Carl Poplar &
Ed Borden



Paul Mainardi
& Bill Cook



Matt Baker &
Melissa Hirsch



2011 Camden County Bar MCLE Planner

Notice Regarding Seminar Materials

Paper course materials will no longer be available for pick up at seminars. Pre-registrants must choose one of two options: 1) An advance email with a pdf attachment of the materials that can be printed; or 2) Receive a compact disk containing the materials at seminar check-in. **YOUR CHOICE MUST BE SELECTED AT THE BOTTOM OF THE SEMINAR RESERVATION FORM.**

Walk-in attendees only: Compact disks will be available at check-in. A limited number of paper materials packets will also be available for an additional \$10 charge.

REMINDER Lawyers in Compliance Group 1 (birthdays between January 1 & June 30) are responsible for completing 24 hours of NJ MCLE requirements by **December 31, 2011**. If you're in Compliance Group 1, you only have 2 months to complete your course requirements.

Monday, November 7th – The Mansion Civil Practice Update

This comprehensive program brings the courtroom to the seminar room. Discussions will include:

- Case management procedures in the Civil Division
- Civil Practice Blast—Must-have updates on the latest leading Civil Cases
- Rule change updates
- Practice tips & Strategies
- Motion Practice and Trial from the judge's perspective
- CCBA Civil Practice Committee proposals regarding trial lists and other items.

New Jersey Credit: This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for **2.4** hours of total CLE credit. Of these, **0** qualify as hours of credit for ethics/professionalism and **2.4** qualify as hours of credit toward certification in civil trial law. *The actual credits earned may be less if the course time is less than 135 minutes.*

Pennsylvania Credit: Seminar includes **2.0** hours of SUBSTANTIVE credit from the Pennsylvania CLE Board.

Wednesday, November 9th – Tavistock CC (Rescheduled From June 23rd)

New Jersey Landlord/Tenant Practice CLE on Tap! for Newly Admitted Lawyers

The Camden County Bar Association is YOUR one stop shop for those fifteen “Bridge the Gap” CLE credits required of newly admitted lawyers. The “CLE on Tap” program is an easy, affordable and enjoyable way to complete your requirements.

New Jersey Credit: This program has been approved by the Board on Continuing Legal Education of the Supreme Court of

New Jersey for **3.9** hours of total CLE credit. Of these, **0** qualify as hours of credit for ethics/professionalism. *The actual credits earned may be less if the course time is less than 195 minutes.*

Pennsylvania Credit: Seminar includes **3.0** hours of SUBSTANTIVE credit from the Pennsylvania CLE Board.

Thursday, November 17th – Tavistock CC New Jersey Landlord/Tenant Practice CLE on Tap! for Newly Admitted Lawyers

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Pennsylvania Credit: Seminar includes **3.0** hours of SUBSTANTIVE credit from the Pennsylvania CLE Board.

Thursday, December 1st – The Mansion Alimony & Child Support

Alimony: Establishing alimony on a pendente lite basis—What do you do when you don't have information? • Does Mallamo really mean anything? • Issues for trial • Trial & the CIS • Post judgment issues.

Child Support: • Shared parenting calculations • Over Guidelines – support,

Continued on Page 6

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*NY Law Journal and Legal Intelligencer Polls, 2011; Ct. Law Tribune Poll, 2011; Harvey Research Study, 2010

FALL FROLIC

Frolic With Us On November 15

It's a lot more than a good time!

The holidays will be here before we know it so it's time to get into celebration mode. Join colleagues from the bench and bar and bring your office staff, friends, clients and family members to the Coastline for one of the Foundation's most popular events — Fall Frolic!

Thanks to the unfailing generosity of our good friends at The Coastline, the Camden County Bar Foundation will be hosting two annual events there this year.

On December 3rd, we will once again be treating 250 or more wide-eyed children from Camden to a very special holiday celebration featuring a sumptuous Coastline breakfast, an always dazzling magic show, and a visit with Santa who, with the help of his many elves, gives each child a beautifully wrapped Christmas gift and a photograph of them sitting on Santa's lap. While the Coastline and its employees donate the food and their time to prepare and serve it, the Bar Foundation underwrites the entertainment and, of course, the gifts. To enable us to pay costs associated with this event, the Bar Foundation turns yet again to our caring Coastline friends.

Each year, the Coastline opens its doors to Association members, their staff, clients, families and friends for a happy hour featuring a hot buffet and even hotter dance music. Once again, we will frolic at the Coastline from 6 to 8 p.m. on Tuesday, November 15th, and

WE NEED YOU TO JOIN US! Due to ABC regulatory changes, a minimum charge per drink is required; therefore, the \$15 ticket price *includes* one drink ticket.

Why is your support important?

- Fall Frolic proceeds will be used to purchase gifts for Santa to give our guests on December 3rd.
- Our average cost the past 5 years to treat the children was \$6,200.
- Your support will help reduce the cost to provide a not-to-be-forgotten day for our special kids!

Thanks to The Coastline and YOU, this will be a great *FUN*draiser – fun for you and for the children who will benefit from your kindness. To purchase tickets, please send a check to CCBF Fall Frolic, 1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034. To pay by credit card or for questions, call bar headquarters – 856.482.0620, or email Kathy at kd@camdencountybar.org.

Q and A on a Healthy Work-Life Balance

What is work-life balance?

Work-life balance means knowing the things that are important to you, including work, and adjusting your schedule to allow time for them. It means making a list of priorities so you can focus on the top three or four, knowing that you cannot do everything. Another key is to devote yourself to just one priority at a time so that when you are at work, you focus on your job, and when you are with your family, you focus on them.

How can you tell when you are working too much?

If you are a perfectionist, you have a greater chance of becoming a workaholic than others. Workaholics often start many projects but have trouble completing them because of their need for perfection, or they may start many projects and fail to follow up on details. Workaholics often are less effective than other workers because they have trouble delegating, take on too many projects, are unorganized in their approach to work or miss deadlines in their quest for perfection.

How do you begin to reduce stress and improve balance?

Begin by organizing so you can plan blocks of time devoted to yourself. You will need to step away from the cell phone, Blackberry and computer, and then clear your desk to eliminate clutter. You will need to identify the situations that are most likely to cause you stress and determine if it is beneficial stress that keeps you on your toes or harmful stress that causes unease. Making lists and crossing off items as you accomplish them is one way to give yourself a sense of accomplishment. At the same time you might want to consider an exercise program, such as biking, walking, yoga, Pilates, spinning, boxing or weight training. Other therapies such as massage, hypnosis and chiropractic can offer beneficial results as well. In addition, hobbies, socializing with friends, a change of scenery and helping others also contribute to a sense of balance.



What can firms do to help lawyers balance work and personal life?

It is important for companies and organizations to acknowledge that employees have lives outside work. Treating each employee as an individual, knowing his or her strengths and letting each employee know that he or she is valued for themselves, not just for

their work, are a good beginning. Know what your organization has in the way of a Lawyer Assistance Program and let employees know it is OK to ask for help. It is also important for managers to walk the talk, setting an example by their own action of the importance of work-life balance

For more information, contact the New Jersey Lawyer Assistance Program at 800.246.5527 or the ABA Commission on Lawyer Assistance Programs at www.americanbar.org/groups/lawyer_assistance.html.

What Can We Do For You?

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MCLE Planner

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calculations & issues • Credits in calculations • Court calculations vs. attorney calculations • Modification of child support • Much more!

New Jersey Credit: This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 2.4 hours of total CLE credit. Of these, 0 qualify as hours of credit for ethics/professionalism and 2.4 qualify as hours of credit toward certification in civil trial law, criminal trial law, workers compensation law and/or matrimonial law. *The actual credits earned may be less if the course time is less than 195 minutes.*

Pennsylvania Credit: Seminar includes 2.0 hours of SUBSTANTIVE credit from the Pennsylvania CLE Board.

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Partner Marty Abo recently gave an ICLE seminar entitled "*The Financial Side of a Law Practice—What They Forgot To Tell You in Law School.*" The session prepared attendee attorneys for the business of law. They knew how to practice law but wanted to learn how to make money doing it. Whether you are a sole practitioner, in a boutique firm, thinking about leaving a firm to start your own, just beginning in the legal profession or have been running your own firm for years, the handouts authored by Marty are available to members of the Camden County Bar by requesting at www.aboandcompany.com. The seminar was full of essential, easy to understand information designed to help you become successful.

Let us know if you:

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- Have a company or individual you'd like us to meet with;
- Would like any of the many articles and handouts of particular interest to lawyers and law firms published by Abo and Company.

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

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Anatomy of a Business Valuation

What To Look for When Reading a Valuation Report



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

Your client is in the beginning stages of selling his company, Tax E. Vader's Distributors, Inc. He hired a business appraiser to get an idea of what the business is worth. The valuator delivers the report to the client with a copy to you. Now what?

The value appears to be in the ballpark, but what do the report's details mean? Whatever the reason for a valuation, a basic understanding of the report's content means there's no need to take it at face value.

In today's fast-paced business environment, it's not uncommon for business owners and their counsel to quickly scan a valuation report, searching for the final figure. But you can learn much more from a report if you know what to look for throughout. Here are four key areas within the document you might want to focus on:

1. Procedures.

Credible business appraisers will visit the site as well as perform a detailed financial analysis. Any information the valuator

uses should have been available — or at least foreseeable — at the valuation's "as of" date.

2. Methodology.

With various valuation approaches available, valutors choose one based on a company's unique characteristics. The valuation report should discuss all of the valuator's options, including why some methodologies may be more appropriate than others.

3. Discounts.

Once the valuator applies a methodology, he or she determines whether to apply valuation discounts (or premiums) to the preliminary value. Common discounts include the minority interest and marketability. If the valuator applies discounts, he or she should detail why each was chosen, based on empirical evidence and the company's unique characteristics.

4. Conclusion.

After all is said and done, the value conclusion should make economic sense, considering both the hypothetical buyer and the hypothetical seller.

In addition to these four areas, also look for the definition of the entity being valued. This definition should include the valuation's purpose, the company's name, the number of shares, the entity type and the "as of" date.

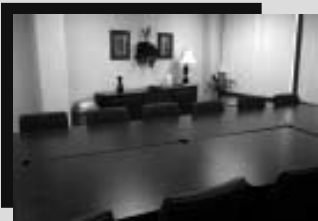
Dig Into the Details

If you've ever received a business valuation report and wondered, "What's all this mean?" — you're not alone. The right resources can help you decipher the report's details. If you need help evaluating a valuation report, consider conferring with a business appraiser who's been awarded an ABV (Accredited in Business Valuation) by the American Institute of Certified Public Accountants or a CVA (Certified Valuation Analyst) by the National Association of Certified Valuation Analysts or a colleague with a similar credential in business valuation, ASA, from the American Society of Appraisers.

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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Included in your rental fee: ✓ Free WI-FI ✓ Free Conference Phone ✓ Refreshments/lunch available (additional fee)

Take advantage of your membership — your search for affordable, convenient space is over!

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1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034

NJSBA UPDATE

Seeing Is Believing



By Arnold Fishman
arnold@fishmanandfishmanlaw.com

While seeing is believing, believing and the truth are not the same.

If you read only one opinion this year, read State v. Henderson (A-8-08) (062218) 138 pages – long, but well worth it. It is a primer on how our courts should function to permit the law to evolve in an ever-changing body of scientific knowledge. It is also an eye opening and useful insight into the frailties of human memory. Anyone who litigates, civil or criminal, has to deal with eyewitnesses. They are generally regarded as the best of evidence. But is that so? Henderson, decided August 24, 2011, raises substantial questions regarding that assumption, and calls for safeguards to ameliorate the effects of faulty recollection.

There is a large and growing body of undisputed scientific studies that memory is malleable. Suggestion can influence our recall, and once that has occurred, we become fixed in our conviction of the correctness of that flawed remembrance. The old tests concerning assessing credibility are useless because, once the memory is molded, the person is convinced of its accuracy. It becomes that person's reality. They are in no way deceptive and could pass a polygraph test if necessary. Equally pernicious is that those who are called upon to judge the truth of testimony, be that judge or jury or just you and I in a social situation, are conditioned to accept these reminiscences as the gospel truth. The impetus for the decision is a finding that eyewitness misidentification is widely recognized as the single greatest cause of wrongful convictions in this country. They stem from the malleability of human memory; they are not the result of malice.

The main thrust of the opinion deals with what is called irreparable misidentification caused by system and estimator variables with respect to eyewitness identifications. System variables are issues like "showups" (single-person lineups) or suggestive lineup procedures that are within the control of the criminal justice system. Estimator variables are factors relating to the witness, the perpetrator or the event itself. Distance, lighting and stress – features over which the legal system has no control – fall into this latter category.

This unanimous opinion of our Supreme Court authored by Chief Justice Rabner (based upon a 2,000 page remand record of the testimony of seven experts relying on hundreds of scientific studies, with the Association of Criminal Defense Lawyers of New Jersey and the Innocence Project acting as *amici*, and report of a special master) has implications important to litigation involving eyewitness testimony other than identifications and outside of the criminal trial context. It describes studies where peoples' memories are manipulated by the nature of the question asked. For example people who were asked how fast the car was going when it "smashed" gave much higher speeds than those who were asked the speed of the car when it "contacted" the other car. (It is interesting to note that police "Accident" Reports have recently been renamed "Crash" Reports.) Also, those asked, "How fast was the car going when it passed the barn?" immediately following viewing a filmed event were much more likely to include a barn in a later description of the event than were those who were not asked that suggestive question. In truth, there was no barn. Henderson and its companion case of State v.

Chen (A-69-08) (063177) 32 pages, which extends and modifies the holding as applied to non-State actors, gives lawyers much to think about and fertile fields to plow when confronted by eyewitness testimony. (If you got through Henderson, you have to read Chen.)

My only criticism of these decisions is that by their express terms they apply only to the two defendants in the cases at bar. As a new rule of law, I can understand not giving it complete retroactive effect. The flood of Post Conviction Relief applications of all of those persons whose guilt was predicated, at least in part, by eyewitness testimony would wreck havoc with the criminal justice system. Giving it "pipeline retroactivity" so as to apply to all cases not yet tried and those on direct appeal would have been the fair resolution of this thorny question. The Court, however, determined that as to future cases, the ruling would take effect thirty days from the date the Court approves new model jury charges on eyewitness identification. Those charges are to be developed by the Supreme Court Criminal Practice Committee and the Committee on Model Criminal Jury Charges. As a long time member of the Supreme Court Municipal Court Practice Committee, I am painfully aware of how deliberately these committees act. That there are two committees involved will significantly exacerbate this problem. How many lives will be ruined in the interim?

In the meantime, fundamental fairness militates that courts act as being informed by the wisdom of the truth to be found in these opinions.

Be sure to check this month's inserts

Depositions — Mediations — Meetings

The CCBA has two conference rooms available that are conveniently located and reasonably priced* with plenty of free parking.

Call or email Kathy for availability and pricing. **856.482.0620**
or kdp@camdencountybar.org.

* Reduced rates for CCBA members.



LAW PRACTICE MANAGEMENT

Crossing the “T’s”, Dotting the “I’s” for Flawless Business Manners

Barbara Pachter
bpachter@pachter.com.

When a lawyer did not extend his hand to a prospective client’s wife, she was offended. The lawyer’s firm did not get the business.

Many of the old ways of interacting have changed in today’s business world as gender has been put aside in favor of professional standing, or whether one is the host or visitor. It is important for lawyers to understand the subtle, and not so subtle, details that have affected gender etiquette. Your behavior matters.

The Rules of Greetings ~ Introductions

Standing when greeting others. Today, both men and woman should stand when being introduced or when greeting others. If you are caught off guard, and can’t rise, you should lean forward and give the indication that you would stand, if you could. Women who don’t stand make it easy for others to ignore them. Standing helps establish your presence.

Shaking hands correctly. In today’s workplace, the higher-rank person or host, regardless of gender, should extend his or her hand first. If he or she doesn’t—often because of the gender confusion—the lower-rank person should extend his/her hand. The key is that the handshake needs to happen. When shaking hands, extend your hand with the

thumb up. Touch thumb joint to thumb joint. Put your thumb down, wrap your fingers around the palm of the other person. Your grip should be firm, but not bone breaking.

Making introductions. If you are the host, the person in charge or you know both parties, it is your responsibility to make introductions. In today’s world, the name of the person of highest rank is said first, regardless of gender. For example, “Mr. Greater Importance, I would like you to meet Ms. Lesser Importance.” If you don’t know who is most important, mention first the name of the person that you would like to flatter. The key is that the introduction happens.

The New Rules of Helping Etiquette

Ordering food. The guest should order first, regardless of gender. If the host is a woman and the waiter comes to her first, she can say, “Oh, please take my guest’s order first.”

Paying the bill. If you did the inviting and you are the host then you should pay the bill, regardless of gender. What if a male guest wants to pay? A woman does have some choices. She can say, “Oh, it’s not me, it is the firm that is paying.” Or, she can excuse herself from the table and pay the bill away from the guests. This option is a very gracious way to pay a bill. However, the bottom line is that you don’t argue over a bill. If a male guest insists on paying despite a female host’s best efforts, let him pay.

Opening a door. Whoever gets to the door first, regardless of gender, should open

it and hold it for the person behind him or her. Also, it is a very gracious host who subtly gets to the door first, and opens and holds it for the guest.

Some Additional New Etiquette Guidelines

Do not text under the table. It is distracting to others if you text under the table during a meeting. A firm lost business because a senior partner sent text messages during a meeting with a potential client. Don’t do it.

Do not answer your cell phone (or land line for that matter) while others are present. It is rude to answer your phone in the presence of others. If you answer your phone when meeting with a client, you are telling that client that the person on the phone is more important. If you know beforehand that you will be forced to interrupt the meeting for an important call, explain the situation to your client, and apologize in advance, at the start of the meeting.

Be cautious with social media. Think before you post. Things you put on your sites can and will come back to haunt you. Follow your firm’s guidelines.

About the author: Barbara Pachter is president of Pachter & Associates, an employee-development company providing business etiquette and communication training, speaking and coaching services to companies worldwide. Pachter has given over 2100 seminars and has authored nine business books. She can be reached at 856-751-6141, or bpachter@pachter.com. To learn more, visit www.pachter.com.

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BANKRUPTCY UPDATE

Stern V Marshall



By Ellen M. McDowell and Devin O'Leary
emcdowell@mrattorneys.com

Earlier this year, in a case closely watched by the public for reasons unrelated to this article, the Supreme Court issued an opinion which has new and far-reaching implications for Bankruptcy Courts nationwide.

When Vickie Marshall's elderly and extremely wealthy husband died in 1995, the actress, whose stage name is Anna Nicole Smith, was not one of the named beneficiaries of his trust. Prior to his death, Ms. Marshall had filed suit against her husband's son, Pierce, for tortious interference with her expected proceeds from her husband's estate. After her husband's death, Ms. Marshall filed a petition for bankruptcy protection, and Pierce filed a claim in that proceeding alleging defamation in that Ms. Marshall publicly claimed that Pierce fraudulently induced his father to exclude her from his living trust and will. Pierce sought a declaration that his claim was non-dischargeable and filed a proof of claim to recover damages from Ms. Marshall's bankruptcy estate. In response to Pierce's claim, Ms. Marshall filed a counterclaim for the same tortious interference claim she had asserted in State court. The issue that arose posed the question whether the Bankruptcy Court had the authority to enter a final judgment on that counterclaim, or whether — as a non-core proceeding — it could only issue findings of fact and conclusions of law in referring the issue to the District Court for entry of the judgment.

Generally, Pierce argued that the counterclaim was a non-core proceeding under § 157(b) and, in the alternative, even if it was core, the Bankruptcy Court did not have jurisdiction to hear the counterclaim. The Supreme Court, at Docket No. 10-179, 131 S. Ct. 2594, in an opinion penned by Chief Justice John Roberts, handily dismissed both of these arguments.

First, the Bankruptcy Code provides that a core proceeding encompasses “counterclaims by the estate against persons filing claims against the estate.” Moreover, Pierce could have and did consent to the Bankruptcy Court's jurisdiction for resolution of his claim. Indeed, he never challenged the Bankruptcy Court's authority to hear either his claim or the counterclaim until it reached the Supreme Court, and thus the Court refused to entertain what it considered “sandbagging” the Court with issues not previously raised either at trial or on appeal.

Though the Court determined that the Bankruptcy Code authorized the court to issue a final judgment on Ms. Marshall's counterclaim, it concluded that Article III of the United States Constitution does not.

Bankruptcy Courts are not Article III courts like district or circuit courts; they are created by Congressional statute and, as such, cannot be given the powers of an Article III court by another branch of government: “Article III could neither serve its purpose in the system of checks and balances nor preserve the integrity of judicial decisionmaking if the other branches of the Federal Government could confer the Government's ‘judicial Power’ on entities outside Article III.” *Id.* at 18. Thus, a Bankruptcy Court

is a legislative one, and Congress can only assign authority appropriate for Article III courts to issues of “public right.” *Id.* at 19.

Ms. Marshall's claim is a state law action “independent of federal bankruptcy law” and, under the Court's prior “public right” jurisprudence, does not fall within the “public right” exception to a legislative court's oversight of an issue more appropriate for an Article III court. *Id.* at 21-29 (discussing the history of the “public right” doctrine and describing this case as “prototypical” of Article III judicial power, which Bankruptcy Courts are not authorized to exercise). Whereas Ms. Marshall and the dissent tried to distinguish this case because Pierce filed a proof of claim in bankruptcy, the Court found this a distinction without difference. Indeed, the Court makes clear that “Congress may not bypass Article III simply because a proceeding may have some bearing on a bankruptcy case; the question is whether the action at issue stems from the bankruptcy itself or would necessarily be resolved in the claims allowance process.” Ms. Marshall's counterclaim, the Court concludes, is not such an action. *Id.* at 34.

The Court also rejects the notion that the Bankruptcy Court, in adjudicating Ms. Marshall's counterclaim, acts as an adjunct of the District Court. The powers the court possesses, such as the issuance of final judgments subject to review only upon the filing of an appeal, make it such that a Bankruptcy Court “can no more be deemed a mere ‘adjunct’ of the district court than a district court can be deemed such an ‘adjunct’ of the court of appeals.” *Id.* at 35. It is of no difference that bankruptcy judges are appointed by Article III courts rather than the President. *Id.* at 36.

Finally, the Court is unconvinced that the efficiency of the Bankruptcy Courts' adjudication of claims like this one saves it from being unconstitutional. The Court is not saying that the Bankruptcy Court cannot hear counterclaims like Ms. Marshall's; merely that it is the role of the District Court to issue final judgment on such claims. *Id.* at 37. The Court holds that Congress has exceeded its authority in granting Bankruptcy Courts discretion to issue final judgments on counterclaims like Ms. Marshall's, and accordingly affirms the judgment of the Ninth Circuit Court of Appeals that the Bankruptcy Court lacked authority to enter final judgment on the merits of her claim.

This case reinforces the notion that Bankruptcy Courts, while yielding various, broad powers, are nonetheless limited in authority to hear many kinds of cases. The Court makes clear that bankruptcy judges may only adjudicate claims that either arise in the bankruptcy or are necessary to the resolution of the claims process; on most other matters, the Bankruptcy Court is only authorized to issue findings of fact and conclusions of law and refer the matter to the District Court for resolution. This case illuminates the distinction between Article III federal courts and the legislatively-created Bankruptcy Courts and how the two must interact. More like cousins than siblings, Bankruptcy Courts may seem similar to other federal courts but are very much a different type of entity altogether.

Networking at Its Finest!

The annual "Meet the Judges & Law Clerks" Reception attracted over 200 members of the bench and bar to the Camden County Boathouse on September 20 for an enjoyable evening of back to the bar year networking, camaraderie and introductions. The surroundings were beautiful, the crowd was lively and everyone enjoyed the evening. Invited guests included judges and law clerks of the Superior Court, United States District Court for the District of New Jersey, and Workers' Compensation Court.



Judges Snyder, Baxter, Famular & Axelrad



Bill O'Kane, Judge Delaney & Judge Fox



Judge Holden, Gigio Ninan & Justin Loughry



Robert Johnson, Daniel Blanchard, Judge Blue, Judge Silverman-Katz & Russell DePersia



Adam Greenberg & CCBA President Louis Lessig



Adam Gersh & Eric Fikry



Chuck Heusler, Camden County Surrogate Jones & Joe McCormick



Andy Kushner, Linda Eynon & Judge Brotman



Daryl Wander, Taranae Hashemi & Leighann Reilly



Mike Madden, Bill Tobolsky & Greg DeMichele



Judges Wells & Kugler



Ryan Nolan & Kevin Huang



Scott Amitrano, Adita Aggarwal & Max Friedman

FOUNDATION UPDATE

Part of Thanks is Giving



By Richard A. DeMichele, Jr.
rick@southjerseylawfirm.com

Hopefully by now you have taken down your Halloween decorations and you are getting ready for November's Thanksgiving feast. I know at this time of year I struggle endlessly to not eat my children's "left over" trick-or-treat candy. Yes, I have been known to eat some of my children's trick-or-treat candy but I only do it for their benefit. I see it as a little way that I can look out for their health and make sure they do not consume too much of that "unhealthy" but delicious Halloween candy. If my December article is conspicuously missing from next month's Barrister someone should check with DYFS and make sure that I was not hauled away for pilfering my children's Halloween goodie bag!

Please do not forget to mark your calendars for this year's Fall Frolic. As many of you are aware the Camden County Bar Foundation is earmarking money from our fundraising events to benefit specific charitable efforts. This year, as in past years, proceeds from the Fall Frolic will be used to purchase the gifts for our annual children's holiday party. On average the foundation spends \$6,200 to purchase Christmas gifts for the most needy of children in our community.

The Fall Frolic is Tuesday, November 15th from 6 to 8 PM and, as is our tradition, the event will be held at the Coastline Restaurant in Cherry Hill. Tickets for this event are only \$15 and that includes the first drink. Please consider buying 20 tickets and asking your friends, clients, and colleagues to join you for a good time that benefits a worthy cause.

While we are on the subject of great charitable causes, we need your help with the Foundation's Adopt-A-Family. For those of you who are unfamiliar, the Adopt-A-Family matches up law firms, groups and individuals with needy families in Camden County. The donors get a wish list from the families and make sure that "Santa and his elves" do not miss a needy family in our community. The recipient families not only receive toys for their children but food for the Christmas dinner table as well as clothing and outerwear for the coming cold months.

This year the Foundation will return to St. Joe's Pro-Cathedral Church in Camden to organize and distribute Adopt-A-Family donations. It is truly inspiring to see the church basement filled with donations. This year we are hopeful to adopt 100 families. Please talk to your law firm, your family, and your friends about adopting a needy family this year. The warm feeling you get from helping someone else is well worth the effort.

So this year as you are planning your Thanksgiving dinner and trying to figure out how long to cook a 30 pound turkey without drying it out or digging for your grandmother's oyster stuffing recipe take a moment to consider that part of Thanksgiving is "giving." What better way to give a little bit in November than to participate in your Bar Foundation's most worthy charitable functions.



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Bette E. Uhrmacher was a Judge of the Superior Court of New Jersey for more than 15 years, serving in all three divisions. Seven of those years were served in the Civil Division where she recently managed the medical malpractice calendar. Judge Uhrmacher has handled a broad spectrum of civil cases as well as handling some probate and general equity matters. For four years, Judge Uhrmacher was Presiding Judge of the Criminal Division.

Prior to joining the bench, Judge Uhrmacher served as the Chief of the Civil Division of the U.S. Attorney's Office for the District of New Jersey. Additionally, she was Attorney-in-Charge of the Trenton U.S. Attorney's Office, and appointed to a Senior Litigation Counsel position. She also served as an Assistant U.S. Attorney for the District of New Jersey.

Throughout her career, Judge Uhrmacher has been active in Teaching and Continuing Legal Education programs. Currently, she serves as Chair, Haydn Proctor Inn of Court, Monmouth County and will be teaching a Trial Advocacy course in the Fall.

Judge Uhrmacher has received consistently high ratings from attorneys appearing before her in each of the New Jersey Law Journal surveys of the Judiciary.

Judge Uhrmacher received a JD from the University of Texas at Austin and a BS from Simmons College, Boston, Massachusetts.

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Closing the Personal Injury File and Keeping It Closed: Avoiding Legal Malpractice Problem Areas in Releases



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

This is the second in a series of articles relating to the settlement of personal injury cases. Three issues in releases often make it difficult to finalize the settlement of personal injury cases. These issues are Medicare, Medicaid, and Plaintiff's counsel's indemnity.

Medicare

Under the Medicare Secondary Payer Act (MSP),¹ the Centers for Medicare and Medicaid Services (CMS) has a lien against a personal injury settlement achieved on behalf of a Medicare recipient. CMS also has a right of recovery from parties who received third party payments. These include a beneficiary, provider, supplier, physician, attorney, state agency, or primary insurer who has received a third party payment.² In one reported case, CMS sued and recovered from a plaintiff's attorney who ignored the Medicare lien.³ Clearly, it is appropriate for a release to require that the plaintiff satisfy the Medicare lien for *past* payment.

With respect to *future* payments, the issue becomes unclear. CMS has issued guidance regarding workers' compensation claims, but has not yet issued any guidance pertaining to third party liability claims. In communications between the author and CMS in both New York and Philadelphia, CMS has taken the position that the Medicare Secondary Payer Act does apply to third party liability claims, but that, due to a lack of manpower, there is at most spotty enforcement. The New York and Philadelphia regions indicated that until third party guidance is issued, the workers' compensation guidelines should be followed. It should be noted that a Medicare Set Aside (MSA) is never required; the statute simply requires that Medicare's interest be considered.⁴ Clearly, there is no requirement for an MSA if the facts of the case demonstrate that the injured individual is only to be compensated for past medical expenses, if there is no evidence that the individual is attempting to maximize other aspects of the settlement (i.e. lost wages and disability) to Medicare's detriment, and if the individual's treating physician concludes in writing that to a reasonable degree of medical certainty, the individual will no longer require any Medicare-covered treatment related to the workers' compensation injury.

Of note, in order to be eligible for Medicare, an individual must be (a) age 65 or older, or (b) receiving SSDI for two years, or (c) suffering from Lou Gehrig's disease (ALS), or (d) suffering from end-stage renal disease (ESRD). If an individual is not eligible for Medicare, Medicare's interest need not be considered, and no set aside is appropriate.

Medicaid

Medicaid does have a lien against a personal injury settlement for any funds expended on behalf of the Medicaid recipient. By law, Medicaid will reduce the lien by procurement costs, i.e., the fees and costs incurred by Plaintiff's counsel in order to achieve the settlement. In cases where the recovery is significantly less than the true value of the case, i.e., lack of insurance, liability concerns, etc., an *Ahlborn* reduction may reduce the lien still further. *Ahlborn* will be the subject of a future column.

There is no requirement under the Medicaid law requiring a set aside or anything similar to a set aside. Payment of the *past* lien is sufficient. Medicaid does have an estate recovery statute, which means that for certain individuals Medicaid benefits are recovered on death. If there is a self-settled special needs trust, there must be a payback provision to Medicaid. There is no vehicle similar to an MSA for Medicaid, and a release should not contain language requiring that *future* payments to Medicaid be considered.

Plaintiff's Counsel's Indemnity

Many releases are drafted to require an indemnity by Plaintiff's counsel on behalf of the client for any future liability due to claims of Medicare, Medicaid, ERISA, or other entitlements. The New York State Bar Association has issued an opinion that a Plaintiff's attorney cannot issue such an indemnity on behalf of his or her client and that to do so would be a violation of Rules 1.2(a), 1.8(e), 5.6(a), and 8.4(a).⁵ The New Jersey Rules of Professional Conduct are similar to the New York rules, and both are based on the ABA model rules. Therefore, it is likely that Plaintiff's counsel's indemnity on behalf of his client would violate the New Jersey ethics rules.

¹ 42 USC §1395y(b)(2).

² 42 CFR §411.24(g).

³ *United States v. Harris*, 2009 WL 891931(N.D.W.Va. March 26, 2009).

⁴ 42 CFR §411.26(b).

⁵ New York State Bar Association Committee on Professional Ethics Opinion 852 (February 10, 2011).

The Association's Municipal Court Committee recently held the CLE seminar "Municipal Court in a Nutshell" at Tavistock Country Club.

Presenters included: (l-r) Arnold N. Fishman, Esq., Gregory P. DeMichele, Esq. (moderator), Jeffrey Evan Gold, Esq., Steven P. Burkett, Esq. and Dean J. Buono, Esq.



WINE & FOOD



By Jim Hamilton

As companies in the landscaping industry like to remind us, fall is for planting, be it grass, shrubs or trees. I am sure many of us have been mindful of this advice, digging deep into soil and wallets to prepare for seasons ahead. In some ways, the wine industry adopts a similar marketing approach, although the seeds being planted are different. The autumn season is when many of the wine distributors hold their largest trade tastings, inviting those who make wine buying decisions to taste what usually will be the current releases from wineries they represent, often poured by owners, winemakers or other producer representatives. I have been privileged to attend many of these “portfolio tastings” presented by companies of varying sizes, and I would like to offer some suggestions for

value-priced wines that I hope (but cannot promise) your favorite retailer will buy for its customers.

Les Vins de Vienne represents the collaboration of three respected northern Rhone winemakers, Yves Cuilleron, Pierre Gaillard and François Villard. Their individual efforts are from regions where wines command relatively lofty prices; however, among the wines of this joint effort are several notable values. At their home estates, white wines often are the focus, so it is not surprising that one of the values of this project is **2010 Les Vins de Vienne Reméage Blanc**. This wine is made from a blend of the three top white Rhone varietals to produce a wine that is clean, chalky and crisp, a perfect accompaniment to shellfish or lightly sauced chicken or fish dishes. While it is unadorned by oak influences, it offers a lively palate

presence that suggests a level of seriousness belying its price. Given the winemakers’ white wine pedigree, I was surprised that I actually liked the **2010 Les Vins de Vienne Reméage Rouge** slightly more than its white sibling. A Syrah-based wine selling for this price that has this degree of complexity is a find. The flavors tend towards the black pepper and earth one associates with the varietal with some gentle spices and a dusting of cocoa adding another dimension.

Turning next to Spain, it was my first experience with this winery owned by two children from highly regarded wine families. Rene Barbier, Jr. and Sara Perez are looking to make their mark in the Montsant region of Spain much the way their parents did in



neighboring Priorat. Sara is the winemaker, and the **2010 Mas Sorrer** is a wine made from Cabernet Sauvignon, Merlot and Syrah grapes that, to use a football and/or dating metaphor, out kicks its coverage from a quality versus price standpoint. The nose impresses with wild strawberry fruit, which is carried out on the palate with some floral qualities delivered in a medium body. The wine is framed with a clean minerality, more high toned than earthy.

Another entry from the increasingly important Montsant region is **2009 Clos de Noi Samsó**. The wine is deftly balanced, melding fruit and structure seamlessly. The fruit is mostly red — think Bing cherry and under-ripe strawberry — with a light touch of oak that adds rather than detracts from the wine’s taste and texture.

Malbecs have become quite the rage among consumers seeking value reds, and the **2011 Payana** may be another property to search out as some of the better known Argentinean producers such as Achaval Ferrer, Catena and Ben Marco, to name a few, inch up from the price at which many consumers remain comfortable. This wine exhibits the earthy, brambly fruit qualities that can make Malbec such a nice match for grilled foods, while it also has plenty of ripe fruit, a mélange of plums, lingonberry, black cherry and blackberry.

Finding good value Cabernet Sauvignon can be a challenge; since the grape is so well known and sought after that it very often commands premium prices. As the **2009 Viña Chocolán Selección Cabernet Sauvignon** proves, one can catch a cheap Cab if one is willing to look beyond California. This Chilean winery was begun 12 years ago by the Toro family in the highly respected Maipo Valley area of Chile. I suspect a few consumers may be confused by “Chocolán,” which has nothing to do with the confection, but rather is the region in which the winery is located and the grapes are grown. This wine

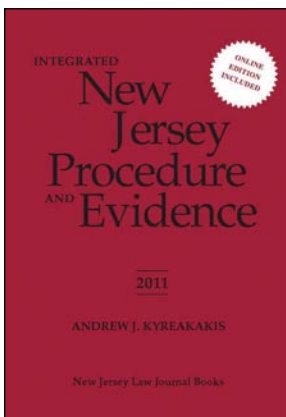
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Wine & Food

Continued from previous Page

shows surprising heft, with good grip and ripe cassis fruit that avoids the chemical or green notes one can find in an inexpensive South American Cabernet Sauvignon.

Like Mas Sorrer, a winery new to me (and new to our area) that is helmed by people with good wine pedigree is Italy's Vinosia. Many of you may be familiar with the excellent wines produced in the Campania region by Feudi di San Gregorio. Ancient grape varieties like Falanghina, Greco di Tufo and Fiano di Avellino were brought back to the market by the Ercolino family (some might say saved from extinction) at Feudi di San Gregorio and a few other Campania producers. Well, the Ercolinos sold their estate, and Mario and Luciano Ercolino set about starting Vinosia. Mario was the winemaker at Feudi di San Gregorio, and assumes that role at the new winery. Once again, the Ercolinos are making quality wines that should sell for less than the more established properties, such as Feudi di San Gregorio or Terradoro. I was impressed by Vinosia's entire lineup, but will save my comment for two of the wines. **2010 Vinosia Falanghina** is an expressively textured wine that is nicely stuffed with stone fruit impressions and more than ample citrus notes interwoven within the medium body. The similarly priced red offering from Campania's best red varietal, Aglianico, is also worth trying. **2009 Irpinia Aglianico** offers plenty of dark berry fruit and a soft framework of

ripe but restrained tannins. This is important in Aglianicos at all price levels, since the grape can be harsh if the tannins are not tamed either in the vineyard or in the cellar.

A grape in which I have developed an increasing interest is Mencia. The spectrum of prices for this aromatic Spanish red grape is broad, but many, at least for now, seem to fit best buy criteria. A winery situated in the western region of Galicia, the "arm" that hangs over northern Portugal, is Benaza. The **2009 Benaza Mencia** is a real find, as it offers the floral qualities one finds in the varietal, perhaps most reminiscent of violets, with a medium weight delivery of ripe red grape fruit. It is a wine that offers character beyond its purchase price.

Let us stay in Galicia, but once again discuss a grape varietal for which increased interest seems to have led to a price escalation that has left many dollar conscience consumers searching for alternatives. **2010 Benito Santos Albariño Igrexario de Saïar** is a wine made from grapes that benefit from proximity to the Atlantic Ocean, where the cooling breezes moderate temperatures and enable the grapes to maintain good acidity. This wine offers creamy lime and pink grapefruit that while ripe has the acidity one desires from the varietal to provide an overall impression of crispness.

Let me finish with a wine from a new winery that, again, has ownership with a proven track record. Indeed, winemaker and co-owner, Phillippe Cambie, is among the more sought after wine consultants in France, helping make

wines at some very well regarded estates. Two of the least expensive offerings from this reach for the stars (or at least planets) project, *Halos de Jupiter*, are very good buys. **2009 Halos de Jupiter Costieres de Nîmes** is made from old vine Syrah and Grenache that, while near to the southern Rhone is not accorded the loftier status grapes from that region enjoy, hence the favorable price. The wine is very fleshy, with dark berried and red plum fruit, a touch of loam and the herbal quality the French call garrigues. A wine made from southern Rhone grapes, mostly old vine Grenache with some Syrah and Mourvedre, is the **2009 Halos de Jupiter Côtes du Rhone**. The wine exhibits deeper color, suggesting more extract, and is more intense than its above stablemate. The fruit impression resembles dark berries, with etches of graphite and cocoa, all offered at a price that is endearingly affordable, particularly given the enthusiasm within the wine community for the 2009 vintage in the southern Rhone.

I have tasted a few wines from Champagne that, while never inexpensive, may be priced within reach for that special holiday occasion. I shall work on preparing some notes for next month's column.

Returning to Spain's Montsant region, another value entry worth trying is **2009 Clos de Noi Samsó**. The wine is deftly balanced with fruit and structure standing toe-to-toe. There is a light oak touch, but the dominant characteristic is seamlessly expressed red fruit.



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The law firm of Reger Rizzo & Darnall LLP is pleased to welcome a new associate, **Jennifer L. Zegel**, to its Philadelphia and New Jersey offices. Ms. Zegel is joining the Estates & Trusts and Business Services practice groups. She concentrates her practice in the areas of estates and trusts, business transactional law, real estate and employment law.

Capehart Scatchard is pleased to announce that **Kelly A. Grant, Esq.** has recently joined the Firm's Workers' Compensation Department in its Mt. Laurel office. She represents insurance carriers and employers in the defense of workers' compensation claims at all stages of litigation. Ms. Grant received her law degree from Rutgers University School of Law in Camden and her B.A and B.S. degrees from Cabrini College, *magna cum laude*. Upon law school graduation, Ms. Grant worked as a law clerk to the Honorable John L. Call, Jr., P.J.F.P. Ms. Grant is admitted to practice law in New Jersey.



Young Lawyers on the Move

By William F. Cook
wcook@brownconnery.com

This is a great time to be part of the Young Lawyer Committee. We have had several awesome

events throughout the fall and it's only going to get better.

I encourage all newly admitted attorneys to join us for our monthly meeting on November 1st. Our Bar Association President, Lou Lessig of Brown & Connery, will be on hand to meet with everyone. We meet at Bar Headquarters at noon on the first Tuesday of every month. We discuss upcoming events, networking, and job opportunities. I especially encourage law clerks to consider joining us to take advantage of the discussion.

On November 9th we will have a CLE on Tap seminar at Tavistock from 4-7:15 on New Jersey Landlord Tenant Practice. For those who might not know, CLE on Tap is the Bar Association's program for

newly admitted attorneys to meet MCLE requirements. Attorneys admitted after 2009 are required to complete 24 credit hours of instruction in their first two years of practice. Fifteen 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 new lawyers to meet these requirements with a networking happy hour afterward. There is no better way for new attorneys to knock out their credits and make connections.

On November 15th the Bar Foundation will hold its annual Fall Frolic at the Coastline in Cherry Hill. This annual event is always a blast and proceeds are used to purchase gifts for the Children's Holiday Breakfast and Party in December. Don't miss this great chance to mingle with fellow

young lawyers.

I encourage all young lawyers to stay tuned for further details on the Bar Foundation's annual Kid's Holiday Party on Saturday, December 3rd. I am told from a confidential source that the "Big Man" in red will be making a special appearance. The annual Kid's Party is truly a remarkable experience. Buses full of disadvantaged kids make their way to the Coastline for a full breakfast and a chance to meet with Santa. Whether you can stay for a half-hour or for the full event, you are guaranteed a great time.

Of course, November brings us turkey. This Thanksgiving, I am grateful for all the hard work and dedication of this year's Young Lawyer Committee. It is truly inspiring to see all of your enthusiasm and ideas at our meetings and events. With all the demands and stresses of this profession, it is so good to know that we can count on each other. Looking forward to seeing all of the young lawyers at our future events!



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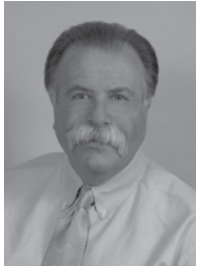


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SPINNING MY WHEELS

The Ultimate Driving Machine, Jr.



By Andrew Kushner
akushner@abkushnerlaw.com

Let's say that you are looking for a new car and have certain requirements. Among them include four doors, reasonable fuel economy, more than sufficient power (though not outstanding), a manual transmission and a degree of sportiness. Add to those requirements European design and a well equipped price of well under \$30K and

the field narrows still. In fact, it could be said that there is only one car that fits that description: The Volkswagen GLI. Even those of you who consider yourselves familiar with the car scene might be forgiven for hesitating at the mention of the name. You see, the GLI, just released in its sixth iteration, has been operating under the radar for years. Perhaps if I simply said "VW Jetta" that may clear things up, although referring to the GLI as just another Jetta is like lumping the sirloin served at Old Country Buffet with the one served at Peter Luger's in Brooklyn both as "steaks." Yes, they both come from a cow but that's where the similarities end.

It's surprising that the GLI has operated as stealthily as it has for over 30 years since it is based on the more plebian Jetta, but traditionally the best selling sedan that VW offers in the US. That is even more the case considering the popularity of the GLI's first cousin, the GTI, which is based on the Golf hatchback model. The GTI has more of a reputation as a boy racer type, considering that it is up against the American market's alleged preference for sedan bodies over hatchbacks. VW is on a crusade to become the largest manufacturer in the world and the first market it wishes to address is North America. VW has always been known for well designed, German engineered, high quality vehicles offered at a fair price. There has been a certain cachet in VW although their attempts to market a \$100K sedan some years ago fell flat when the target

market couldn't quite see the combination. For the US, VW has determined to join its intended competitors—Toyota, Honda, Nissan and the US origin manufacturers—in offering cars that more closely fit the US expectations of size, mileage and, especially, price. To that end, VW has most recently created a North American market only Passat which is going head to head with the Toyota Camry in price, size and features. The car's base price dropped by over 25% and, according to testers, the basic goodness wasn't reduced by anywhere near that much.

But even before the new Passat's release, the first model supporting VW's new US strategy was the Jetta sedan for the 2011 model year. Again the price of the car was chopped but the cost savings were more visible. VW's traditional top of the line interior materials were swapped for hard plastic on the dash and doors. The independent rear suspension was exchanged for a twist beam axle. The thought was that most consumers would not fail to buy the car due to some small changes in material quality and even more wouldn't notice the substitution of the cheaper rear suspension in driving. Confirming H.L. Mencken's statement, "Nobody ever went broke underestimating the intelligence of the American public," the Jetta and the Passat are breaking US sales records for VW, with Jetta sales increasing 88% this model year. Both cars are substantially larger than their predecessors and offer comparable ride and handling.

Despite the release of the revised Jetta last year, the entry of the GLI would have to wait another year. Just released this month, and initially in teaser quantities, the GLI restores the Jetta to its prior quality standards. Instead of the solid rear axle, the Jetta sports an independent rear. The squishy materials of prior generations return (although the door panels remain the hard stuff) and, most importantly, the drive train combination of VW's 2.0 turbo four and six speed manual returns to the GLI. Together with the fine

Continued on Page __



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Back in the Day

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

In a recent article about “characters” in our profession in former days, I regretted I couldn’t include some others because of space limitations so here are some more best remembered.

Frank Vittori was considered to be the smartest lawyer around and combined his brilliance with a marvelous sense of humor. I first met him before we became attorneys because he was a good friend of my brother John in the 1945 class at Camden High where his classmates had the foresight to vote him class scholar. Despite very poor eyesight he studied for the Bar by reading every relevant hornbook cover to cover.

He represented the plaintiff in the landmark Supreme Court case of *Theobald v. Angelos* where he sued many defendants and attempted to obtain more than one satisfaction. When asked by defense counsel what his theory was, he replied “The pig theory—all I could get.” I was co-counsel with him in an administrative hearing before the Cherry Hill Council that started before dinner and lasted past 1 am. Hungry and exhausted, I suggested we stop at the nearby “Farm” (now the “Coastline”), but he had to go right back to his office in Camden City. For dinner he was going to eat an entire jar of peanut butter. He had 8 children, died at 42 and was driven to provide the best for them. R.I.P. Frank.

Ed Segal was a sweet and diminutive former Golden Gloves boxer who had a modest, but successful practice with many cases in the former Camden County District Court where I sat at the time. Ever the eager student, he would attend virtually every CLE course even if it had no apparent relevance to his practice. He always sat in the first row and always was the first to raise his hand during the question period. When I had to rule against him, he couldn’t have been more gracious and friendly afterwards. We miss you Ed. R.I.P.

Charley Degnan was Federal Judge Madden’s court reporter and recorded all the proceedings in shorthand with a fountain pen. Probably an Esterbrook, then manufactured only a few blocks away from the courthouse. Fun-loving and boisterous, he loved to have a few drinks and sing Irish songs at Tom Kenney’s restaurant and bar on Market St. (owned by our Joe’s father). One night Tom wanted to close up but couldn’t get rid of him so he offered to drive him home to Philadelphia. and dropped him off at about 45th and Market. When he alighted from the car he hailed the first taxi with a \$20 bill in hand and told the driver he could get that tip if he beat Tom’s car back to Kenney’s in Camden. He did and when Tom came back through his door he was astonished to see Charley sitting at the same table singing his songs. R.I.P. Charley.

Please send any comments to me at:
Rhylandatlaw@aol.com
Hon. Richard S. Hyland (ret.)



SPINNING MY WHEELS**The Ultimate Driving Machine, Jr.***Continued from Page 17*

suspension, lifted almost intact from the GTI, and the deeper front air dam and body kit, the GLI is differentiated from its lesser brethren—which is a good thing—considering the regular Jetta’s exterior is about as generic as one could find. Because the standard Jetta has been selling so well, the GLI will probably be released in limited quantities from the Pueblo, Mexico factory sometime early next year.

Knowing that the GLI was finally available for a test drive I stopped at Cherry Hill Volkswagen and found that, of the two delivered, the black GLI had already been sold (it came with the DSG automatic transmission anyway) but the “write me up” red with the six speed manual was available. The GLI provided to me was the almost full-on “autobahn” version which had all options with the exception of navigation for a list price of \$26,315, delivered. For that money the car has the larger 18” wheels, dual climate control and the much touted Fender audio system. For about another \$1,000 you can have the navigation and (so what?) push button starting. For about another \$1,000 on top of that you can specify the six speed DSG automatic transmission which I have yet to drive but which gets rave reviews, as automatic transmissions go. EPA highway mileage is 31 for the manual and 32 for the DSG equipped car.

I admit being partial to European designed cars and this one, while made in Mexico, is no exception. As I said, the overall exterior look of the car is so generic as to be anonymous. Body cladding, and air dam do little to change the perception. The red stitching on the seating and flat bottom steering wheel do lighten up the otherwise distinctly Germanic interior. One thing VW decided on this GLI generation was to forgo leather seating entirely, I suppose in another of its costs cutting measures. The upscale GLI seats have very passable vinyl which will almost certainly wear better and longer than its leather counterpart. That small problem is nothing that a good set of sheepskin seat covers can’t fix.

But the heart of the GLI experience is the driving and the hour I spent with the car validates that VW has not lost any of the goodness the car had in its prior iteration. The little 2 liter turbo engine makes

some good noises and has surprising torque if one hasn’t had any experience with it. VW could certainly squeeze more than the 200 hp out of the engine and will do so in the upcoming Golf R model that will have over 250 hp from the same displacement. Perhaps it was class leading seven or eight years ago when the engine debuted but it has fallen behind. Despite that criticism, the experience is still enjoyable and we more mature drivers realize that this engine does all it needs to do with smoothness and great fuel economy.

I took the car on my usual route which consisted of a combination of local divided highway, freeway and some fun back roads. With the GLI’s increased size the car shouldn’t be viewed as one for the small family or relegated to the choice of only the younger generation. As I expected I came away impressed with the handling, comfort and appointments.

BMW touts itself as “The Ultimate Driving Machine” and, perhaps it remains true. However, as I age I realize that the pricing of cars like the BMW continue to push them out of range for the typical buyer. I understand that this could have been said twenty or even thirty years ago, as well, when I recall thinking that BMW must have had some access to my own financial situation, since it appeared that their price increases always placed my desired car just out of reach. The original BMW 2002 was an iconic car that started the trend in sports sedans. It married a light body with more than adequate power and magnificent handling for its time. More than forty years later this combination still works. While the GLI may not be spiritual successor to the 2002, this car has the chops to provide most of the comforts and options to satisfy the average adult looking for something more sporting than Japanese, Korean offerings or, yes, American cars as well. And it still comes in at a price that is surprisingly reasonable. Even with the navigation option and the DSG transmission you can still deliver the dealer \$30K and get more than \$2K back and that is based upon the list price! So, like the 2002, the GLI is understated but deserves real consideration if you are looking for that just right compact sports sedan.

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VERDICTS IN THE COURT

Superior Court of New Jersey

*VERDICT: Liability Verdict: \$12,500 in compensatory damages under the NJ Law Against Discrimination (8/23/11)

Case Type: Sexual Harrassment
 Judge: Steven M. Holden, J.S.C.
 Plaintiff's Atty: Kevin Costello, Esq.
 Defendant's Atty: Mark Molz, Esq.
 L-5893-07 Jury

* Note. This verdict was incorrectly reported in the October Barrister. The corrected verdict is above.

VERDICT: No Cause (8/31/11)
 Case Type: Auto Negligence
 Judge: Robert G. Millenky, J.S.C.
 Plaintiff's Atty: John C. Smith, Esq.
 Defendant's Atty: Thomas J. Murphy, Esq.
 L-2279-09 Jury (6)

VERDICT: Case Dismissed (9/7/11)
 Case Type: Complex Commercial
 Judge: John A. Fratto, J.S.C.
 Plaintiff's Atty: Michael N. Kouvates, Jr., Esq.
 Defendant's Atty: Daniel M. Baker, Esq.
 L-6269-09 Bench

VERDICT: No Cause Liability Verdict: 0% Against Defendant, Damage Verdict: \$0 for Defendant (9/14/11)
 Case Type: Medical Malpractice
 Judge: Stephen M. Holden, J.S.C.
 Plaintiff's Atty: Robert A. Greenberg, Esq.
 Defendant's Atty: Dominic A. DeLaurentis, Esq.
 L-490-09 Jury

VERDICT: Settled During Jury Selection (9/13/11)
 Case Type: Auto Negligence
 Judge: Robert G. Millenky, J.S.C.
 Plaintiff's Atty: David York, Esq.
 Defendant's Atty: Tanja Riotto Seybold, Esq.
 L-1037-09 Jury

VERDICT: No Cause for Plaintiff, Judgment for Defendant on Counterclaim, Damage Verdict: \$0 for Defendant (9/14/11)

Case Type: Contract
 Judge: Stephen M. Holden, J.S.C.
 Plaintiff's Atty: Deborah J. Miller (Pro-Se)
 Defendant's Atty: Lewis G. Adler, Esq.
 L-3887-10 Bench

VERDICT: No Cause, Liability Verdict: 100% Against Defendant, Damage Verdict: \$0 (9/14/11)
 Case Type: Auto Negligence
 Judge: Deborah Silverman-Katz, J.S.C.
 Plaintiff's Atty: Jeffrey Stern, Esq.
 Defendant's Atty: Jacqueline McDonald, Esq.
 L-5850-08 Jury

VERDICT: No Cause (9/15/11)
 Case Type: Personal Injury
 Judge: John A. Fratto, J.S.C.
 Plaintiff's Atty: Eric Dahkari, Esq.
 Defendant's Atty: Laurie Tilghman, Esq.
 L-5765-09 Jury

VERDICT: Liability Verdict: In Favor of Defendant (9/19/11)
 Case Type: Contract
 Judge: Mary Eva Colalillo, J.S.C.
 Plaintiff's Atty: Steven Hummel and Sherry Hummel (Pro-Se)
 Defendant's Atty: Harriet Tonelli and Vincent Tonelli (Pro-Se)
 C-40-11 Bench

VERDICT: No Cause (9/21/11)
 Case Type: Auto
 Judge: John A. Fratto, J.S.C.
 Plaintiff's Atty: Dominik Rostocki, Esq.
 Defendant's Atty: Joanna M. Inglessis, Esq.
 L-3641-09 Jury

VERDICT: Liability Verdict: 40% Against Plaintiff, 60% Against Defendant, Damage Verdict: \$100,000,000 for Defendant, molded to \$600,000 (9/23/11)

Case Type: Personal Injury
 Judge: Louis R. Meloni, J.S.C.
 Plaintiff's Atty: Stephen DeNittis, Esq.
 Defendant's Atty: Michael Dunn, Esq.
 L-6115-08 Jury

VERDICT: Damage Verdict: 0% for Defendant (9/28/11)
 Case Type: Auto
 Judge: Stephen M. Holden, J.S.C.
 Plaintiff's Atty: Arthur Bugay, Esq.
 Defendant's Atty: Richard Astornio, Esq.
 L-5526-09 Jury

VERDICT: Liability Verdict: 100% Against Defendant, Damage Verdict: \$0 for Defendant (9/28/11)
 Case Type: UM/UIM
 Judge: Louis R. Meloni, J.S.C.
 Plaintiff's Atty: Thomas Gosse, Esq.
 Defendant's Atty: Rachel Haninczak, Esq.
 L-83-10 Jury

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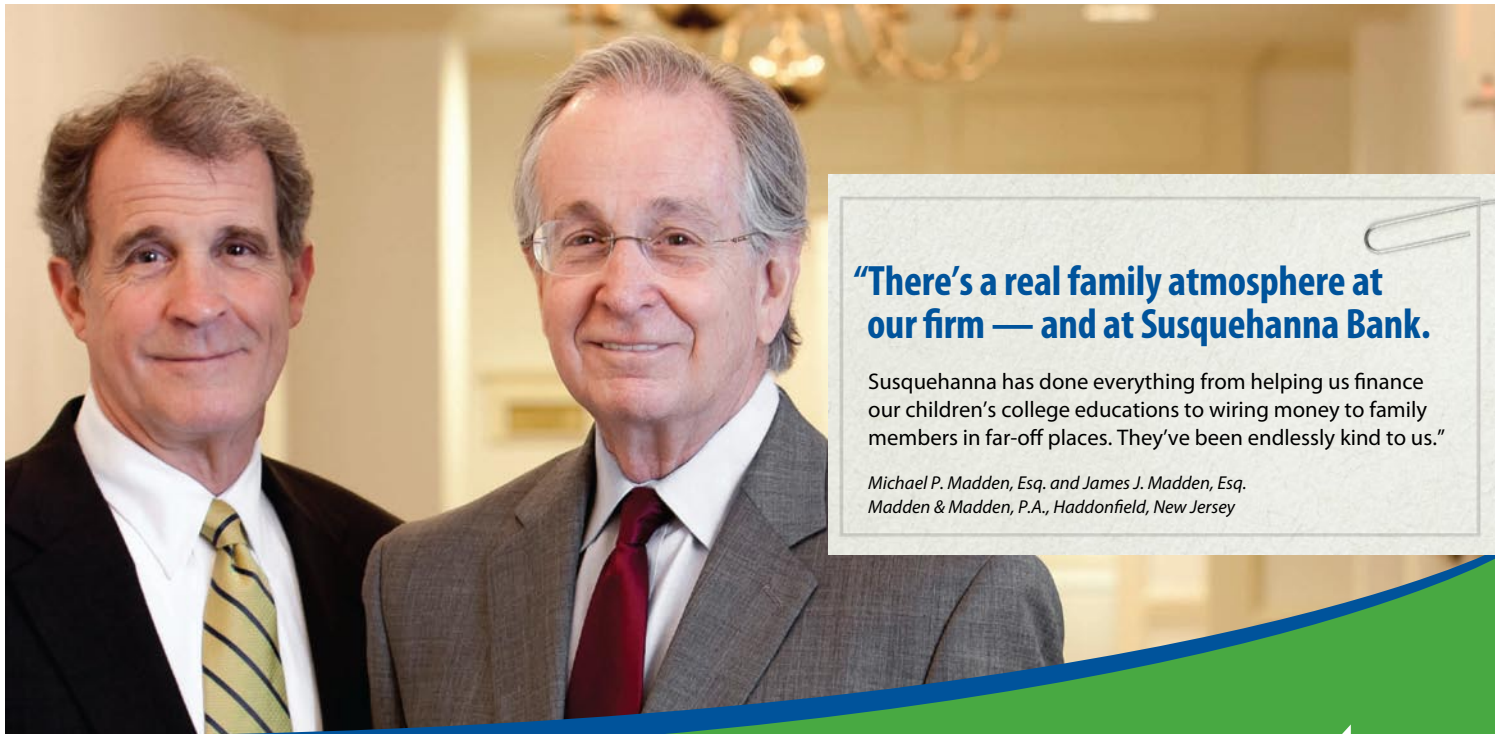
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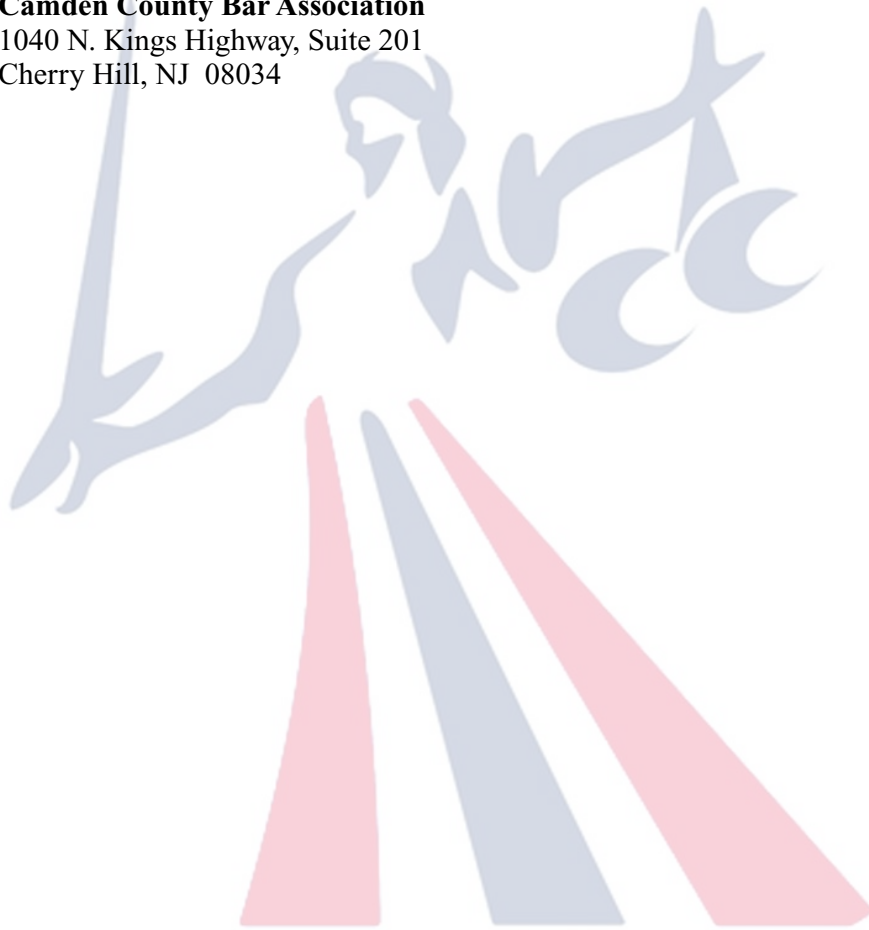
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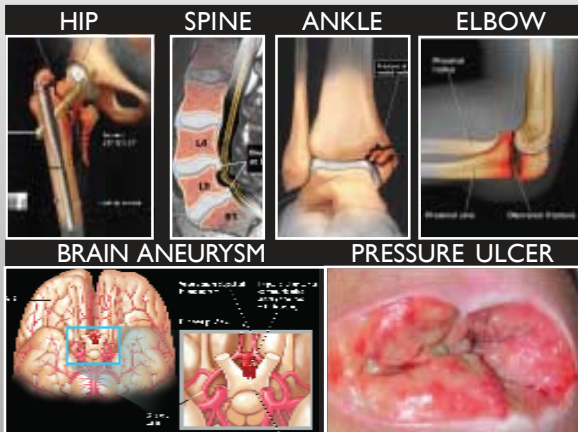


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