



Camden County Bar Fall Frolic Set For November 16th

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

On December 4th, we once again will 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 their photograph 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.

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Thompson Named Camden County's Professional Lawyer of the Year

By vote of the membership, William J. Thompson has been named the 2010 Camden County Professional Lawyer of the Year.

A partner with Archer & Greiner in Haddonfield, Bill will receive his award at the annual Professionalism Awards Luncheon

on October 6th at the Hyatt Regency Hotel in New Brunswick.

Sponsored by the New Jersey Commission on Professionalism in the Law, the award recognizes and honors attorneys who are considered by their peers to exhibit the highest professional character and competency, are respected in the community, and are considered to be models of professional behavior.

Congratulations, Bill! You are truly deserving of this special award.

Justice John E. Wallace, Jr. to Receive Gerry Award October 19

Retired New Jersey Supreme Court Justice to receive prestigious award

Justice John E. Wallace, Jr. (retired) has been named the 2010 recipient of the prestigious Judge John F. Gerry Award. The award will be presented at the 15th annual Gerry Award dinner on Tuesday, October 19, at the Westin Hotel in Mount Laurel. Beginning with a cash bar cocktail reception at 6 p.m., the award will be presented during the dinner, which begins at 7 p.m. The 2010 Judge John F. Gerry Memorial Scholarship recipient will also be announced and presented with a check during the dinner.

"Justice Wallace's long and very distinguished record of public service exemplifies the same dedication reflected in the life and times of Judge Gerry and serves as a shining example for all of us in the legal profession," said retired Superior Court Judge John B. Mariano, who chairs the Gerry Award Committee. "Judge Gerry would be delighted to know that he will receive the award that bears his name." Those words were echoed by Camden County Bar Foundation President, Joseph A. McCormick, Jr. who stated "Justice Wallace is universally respected, not only throughout the legal community, but also through his active participation in the South Jersey community. Anyone who knows Justice Wallace would agree that he is most deserving of this prestigious award."

The Judge Gerry Award is presented annually by the Camden County Bar Foundation to recognize the continuing outstanding contributions of a member of the Bar of the State of New Jersey, or a member of the State or Federal Judiciary, who exemplifies the spirit and humanitarianism for which Judge Gerry is remembered.

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IN MEMORIAM

The Association was saddened to learn of the passing of two CCBA members over the summer.

Brian P. O'Connor, Esq., on July 24. Brian was a partner in the firm of Ginsberg & O'Connor in Mount Laurel.

Richard J. (Rick) Flaster, Esq., on August 9. Rick was the name partner, founder and president of the law firm Flaster/Greenberg in Cherry Hill.

We extend our sincere condolences and sympathies to the families, friends and colleagues of Brian and Rick. They will be missed.

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Out & About



The Dinner Dance

Erica & Greg DeMichele



Frances &
Judge Fratto,
Judge Baxter



Joe McCormick,
Sandy & Andy
Kushner



Don & Judge Fox,
Judge Brown,
Susan Santanasto
& Mark Oddo



Judge Famular,
Linda Eynon,
Judge Colalillo



The Lobster Bake

Susan Weiner,
Executive Director
of the Larc School,
Mike Madden,
Bill Cook,
Austin DuBois,
Rachel Licausi,
Adam Gersh



Joe McCormick,
Judges Colalillo
& Famular,
Joe Famular,
Pete Jamison



Drew &
Bernadette
Davidson,
Linda Eynon



2010-2011 Camden County Bar MCLE Planner

**Monday, October 18, Room 207,
Rutgers School of Law-Camden**

New Jersey Driver's License Restoration: Getting Back on the Road (Free Seminar)

In New Jersey there are over 400 different grounds for suspension of one's driver's license. The procedures to address each type of suspension vary greatly, and navigating them one at a time can be confusing and logistically challenging. This CLE will help attorneys representing clients with suspended driver's licenses understand the complex web of laws and regulations affecting driver's license suspension in New Jersey, and provide a road map for getting a license restored.

Thursday, October 21, Tavistock CC
What's New in Civil Practice?

A "can't-miss" for all civil attorneys. This is one of the biggest CCBA seminars of the year featuring current judges in the Civil Division in Camden as well as the Civil Division Manager, George Coan. Review recent case law developments in civil practice and get useful tips from the judges on discovery, motion practice, and trials.

NOVEMBER

18 UM/UIM, Tavistock

DECEMBER

7 In-House Counsel, The Mansion

9 Ethics, The Mansion

JANUARY

18 Elder Law, Tavistock

25 Black Letter Blast on Criminal Law,
Tavistock

27 Bankruptcy Conference, Tavistock

FEBRUARY

2 DWI Review - Part II, Tavistock

TBD Joint Family Law & Probate & Trust

TBD Legal Malpractice*

17 Appellate & Appellate Brief Writing,
Tavistock

Tuesday, October 26, Tavistock CC

The Nuts and Bolts of the Lawyer/ Client Fee Arbitration Process

A new client came to see you about a year ago. You had him sign a fee agreement, you obtained a retainer, you achieved an excellent result, you issued a final bill, and then your client pretended like he never knew you. Now what? Welcome to R. 1:20 A-1 et seq. and the world of attorney/client fee arbitration.

Do yourself a favor by attending this fast paced seminar. If you have worked hard and zealously on behalf of a client who refuses to pay or ignores your bills, put yourself in the position of knowing what to do when this type of client demands fee arbitration and you receive a complaint from the Committee.

**Wednesday, October 27,
The Mansion, Voorhees**

Family Law Update 2010

Recent developments and hot topics await in the Family Law Update 2010! This seminar is designed to highlight new and recent family law case law and developments. It will also provide some hot tips for difficult family law topics. Satisfy your mandatory CLE credits and attend this annual seminar which is a must attend seminar for any attorney practicing family law!

MARCH

TBD Personal Injury

TBD Labor & Employment Law

TBD Criminal Law

APRIL

TBD Ethics

TBD Commercial Debtor-Creditor

TBD Medicare Set-Asides

MAY

TBD Joint Probate & Trust and Taxation

TBD Workers' Compensation

TBD Real Estate

* Includes Ethics credit

ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION

• ANY STATE • ANY NATION • ANYWHERE • ANY STATE • ANY NATION • ANYWHERE •

Surviving in the Legal Practice

By Sonia Munoz Gallagher

Time is constantly ticking isn't it? Doesn't it seem to get even faster when you walk into your office? Competition for solo practitioners and law firm associates is only getting tougher each month as more lawyers lose their jobs.

So, how can you stand out? How can you differentiate yourself, be profitable, and truly enjoy being a lawyer?

As lawyers, we often see clients with issues that could have easily been prevented. We can learn from their mistakes to avoid these issues for ourselves. Though some days may seem like the world is against you, there are specific things we should always keep in mind. If opposing counsel yells at you on the phone, your paralegal gives you an attitude, or a client refuses to pay for work you've already done, always remember these 6 rules for the firm.

Camden County Bar Fall Frolic Set For November 16th

Continued from page 1

Each year, Chris Mourtos opens the Coastline doors to Association members, their staff and friends for a happy hour featuring a hot buffet and even hotter dance music. Once again, we will frolic at the Coastline (1240 Brace Road, Cherry Hill) between 6 and 8 p.m. on Tuesday, November 16th. WE NEED YOU TO JOIN US! Since due to ABC regulatory changes there now must be a \$1 charge per drink, we have reduced the ticket price to \$10, which includes one drink ticket. PLEASE understand why your support is so vital:

1. The proceeds from the Fall Frolic will be used to purchase gifts for Santa to give our guests on December 4th.
2. Our average cost the past 5 years to treat the children was \$6,200.
3. Every Fall Frolic dollar is used to pay for the children's presents.
4. Your staff members will *really* appreciate receiving tickets.
5. Your pleasure will be at least doubled. Besides mixing and mingling with your colleagues and friends of the bench and bar, you will gain the satisfaction of contributing to what truly is a smile-producing day for so many delightful and deserving kids.

Thanks to The Coastline and YOU, this will be a great FUNdraiser — fun for you and for the children who will benefit from your kindness. To help us, you can send a check to **CCBF Fall Frolic, 1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034**. To pay by credit card or to ask questions, please call bar headquarters —(856) 482-0620, or email Kathy at kmc@camdencountybar.org.

These 6 rules enable you to get more work done, keep you from getting a bad reputation, and allow you to be a happier lawyer.

1. **Listen.** How often do you truly listen? Paying close attention to your colleagues and staff can give you a wealth of knowledge. It allows you to have your finger on the dial. You can find out about issues, concerns, and developments going on in your own practice. Don't lock yourself up in your office. You can miss really important information about things going on around you. The information you miss can be incredibly helpful for your professional development, partnership potential, or change of employment.
2. **Take a breath.** We are known for liking to hear our own voices. Be careful not to say whatever pops into your mind, unless you want to take the risk of having to explain it later. This may happen at the worst possible time—like when you are up for a review or promotion to partnership. Also think about the way you say things.
3. **Your beliefs become your reality.** You are the captain of your own thoughts. The only things in life that you have complete control over are your own thoughts. Yet, so many of us find it extremely difficult to control our thinking patterns. The easiest way to change this is to take 10 minute silence breaks each day. This can be done anywhere and at any time. Doing this frequently empowers you to be able to recognize negative thoughts for what they are, acknowledge and let them pass, and not be affected by them.
4. **Patience is a virtue.** Patience is one of the key elements to being an effective lawyer.

After all, we work with a wide variety of cases and personalities each day. It's easy to see how we can lose it at some point. Remember, you can be patient and strong. In the practice of law more than any other profession, it's extremely important to keep your cool. Think about it. How quickly will you be at risk of losing a client or losing a case if you get affected by every little thing that people say or do to you? Don't give anyone else that much control over you.

5. **Lend a hand.** Try not to be territorial in defining your work from the work of others around you. If you face an opportunity to be helpful, do it. Not only will it make you feel great to be useful, it reflects that you are willing to collaborate and go the extra mile—an attorney to watch come promotion time.
6. **A moment.** Sometimes the stress can get the best of us. The key thing to keep in mind when we face a difficult case, client, or situation is that it is only a moment in our life. Like all other moments, it too will soon pass. Remembering this can be the key to a profitable and balanced practice. Apply these tips to your professional and personal life as often as possible. Before you know it they will become second nature and won't require any effort from you at all.

Sonia Munoz Gallagher, Esq. is an attorney, trainer, and executive coach for lawyers at Time for Life, LLC. She works with lawyers nation-wide helping them to steer the direction of their careers and create sustainable practices reflective of their values. She also trains individual lawyers and law firms on the implementation of strategies to get more clients, more profits, and more free time.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY NOTICE TO THE BAR

Changes to the Rule 11 Form Used in Entering a Plea of Guilty Effective August 1, 2010

The Court has updated the Application for Permission to Enter a Plea of Guilty (Rule 11 Form) for use at all guilty plea proceedings. All counsel and clients are required to complete this form when entering a plea of guilty. The revised Form can be found by accessing the Court's website at www.njd.uscourts.gov/forms/criminalForms.html

WILLIAM T. WALSH
CLERK

NJSBA Trustee Update

If It Isn't Broken...

By Arnold Fishman



While a prosecutor can plea-bargain a murder indictment, she cannot in any way compromise a traffic ticket alleging drunk driving (NJSA 39:4-50). As a municipal court practitioner specializing in defending persons accused of that heinous offense, that prohibition looms large in my life. On the other hand, it is unethical for a prosecutor to try a case that the State cannot win. This conundrum leads to some bizarre results. Historically, the way cases, unwinnable by the State, would be resolved, was through the entry of a plea of guilty to the charge of reckless driving (NJSA 39:4-96). This disposition invariably included some period of driver's license suspension.

The problem is that the sentencing alternatives included in the reckless driving statute do not include a period of suspension. This technicality was easily overcome by NJSA 39:5-31. That law invests municipal court judges with the authority to suspend the driver's license of any defendant convicted of a "willful" violation. Since the charge of reckless driving contains the element of willfulness, there was a logical connection that justified the imposition of the D/L suspension. Therefore, a suspension for driving recklessly has some intellectual honesty.

Recently, a defendant charged with reckless driving, who clearly drove recklessly, had her D/L suspended. In her trial there was no hint or allegation of intoxication. As to the suspension, her attorney claimed, *inter*

alia, that this unlimited legislative grant of authority was unconstitutional. There is nothing in the statute to guide a sentencing court as to the length of the suspension once the finding of "willful" has been made. Consider that Title 39, the Motor Vehicle Code, says that a third or subsequent DWI and refusal in a school zone requires a suspension of forty years, and a second leaving the scene of an accident (NJSA 39:4-129) resulting in personal injury requires a permanent forfeiture of the driving privilege. It appears the range is anywhere between zero and infinity.

Our Supreme Court preserved the constitutionality of the statute by remanding the case for resentencing under factors established within its opinion.

These factors include:

1. the nature and circumstances of the defendant's conduct, including whether the conduct posed a high risk of danger to the public or caused physical harm or property damage;
2. the defendant's driving record, including the defendant's age and length of time as a licensed driver, and the number, seriousness, and frequency of prior infractions;
3. whether the defendant was infraction-free for a substantial period before the most recent violation;
4. whether the nature and extent of the defendant's driving record indicates that there is a substantial risk that he or she will commit another violation;
5. whether the character and attitude of the defendant indicate that he or she is likely or unlikely to commit another violation;
6. whether the defendant's conduct was the result of circumstances unlikely to recur;

7. whether a license suspension would cause excessive hardship to the defendant and/or dependants;
8. comparisons to other motor vehicle statutes that impose mandatory license suspensions;
9. the need for personal deterrence; and
10. any other relevant aggravating or mitigating factor(s) clearly identified by the court.

In weighing and evaluating the foregoing, it is not necessarily the number of factors that apply but the weight to be attributed by the sentencing court to a factor or combination of factors. A Superior Court judge sentencing under a municipal appeal must articulate the reasons for imposing a period of license suspension. *State v. Moran*, ___ N.J. ___ (2010).

Keep in mind that before the *Moran* factors can be applied, there must be a finding of willfulness. I concede there are other violations of Title 39 upon which a court can predicate a finding of willfulness. Racing (NJSA 39:4-52) and tailgating (NJSA 39: 4-89) are excellent candidates. Certainly a person doing 125 MPH in a residential (25 MPH) zone cannot credibly claim he didn't know he was speeding. However, there are also some Title 39 violations for which the issue of willfulness is inappropriate. Would the question of intent be appropriate to a prosecution for failure to exhibit a driver's license in violation of NJSA 39:3-29?

Some time ago I defended a young man with a good driving record who was charged with careless driving as a result of an accident in which the other driver was killed. No alcohol was involved. At the scene he freely admitted he hadn't noticed the stop

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Hon. Richard S. Hyland

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Code of Professionalism



The Camden County Bar Association has an extensive and proud history of service to the public, to the American justice system and to its members. The lawyers who have the privilege of being accepted as Association members continue a tradition of treating fellow members and the judiciary before whom they practice in a professional and courteous manner. While this professionalism includes demonstrating the utmost of integrity and compliance with the ethical standards mandated by the Rules of Professional Conduct, it goes beyond those fundamental obligations. It represents the higher standard of conduct that makes the profession of law more than a competitive service industry. The legal profession stands at the crossroads of becoming such a large, impersonal and technologically-oriented business that some members lose sight of the traditional values and virtues to which lawyers of the past subscribed.

At a time when the complexities of the law make practicing our noble art increasingly difficult, the Camden County Bar Association and its membership reaffirm their commitment to the standards of professional courtesy. To advance the standards of professionalism and civility, the Camden County Bar Association has adopted the following Code of Professionalism.

1. I will provide my client with objective advice and will endeavor to represent my client's lawful interests as expeditiously and economically as possible.
2. I will advise my client against pursuing a course of action that is without merit and against tactics which are intended to delay resolution of a matter, or to harass or drain the financial resources of the opposing party.
3. I will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation and that civility and courtesy during the course of client representation are not a display of weakness, but are virtues upon which our system of justice was founded.
4. I will treat opposing counsel, other lawyers and their staffs, parties, witnesses, the courts and members of the court staff with civility and courtesy. Professional courtesy is a necessity entirely compatible with vigorous advocacy and zealous representation.
5. I will never knowingly misstate facts or law, and will consistently act in such a manner

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Different Values for Different Purposes

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

Value may be a worthless term by itself because it can mean so many different things. A value found for one purpose can be entirely different from the value for another. Here's a look at some of the many uses of the term "value" we've come across:



Book value: Often referred to "Net Book Value" but not a standard of value at all. It's an accounting term for the difference between total assets (net of accumulated depreciation and amortization) and total liabilities (often synonymous with Shareholders' Equity). Intangible assets, unless purchased, are usually excluded from book value.

Fair market value: "The price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable knowledge of relevant facts." This definition was set by the IRS in Revenue Ruling 59-60. It suggests that fair market value cannot result from purely subjective factors such as sentimental value and cannot result from a forced sale or one resulting from an unusual or rigged market. It is used for federal and state tax matters, including gift, estate, income and inheritance taxes.

Fair value: Statutory standard of value usually used in court cases involving dissenting shareholders' litigation. Court precedent in most states has not equated fair value with fair market value, but the courts have reached little other consensus on its meaning.

Liquidation value: Liquidation value is the value derived from the piecemeal sale of assets. The sale can be orderly or forced but such is typically at the low end of the value spectrum.

Intrinsic value: The value that an investor considers, on the basis of an evaluation or available facts, to be the "true" or "real" value that will become the market value when other investors reach the same conclusion. Intrinsic value may exclude current market influences but may include consideration of such things as the company's assets, and its likely future earnings, dividends and growth rate.

Investment value: Value to a particular buyer or investor considering his or her specific personal circumstances, expectations, knowledge of the transaction and potential synergies.

Enterprise value: Value of 100% of the shareholders' equity on a control basis.

Invested capital value: Fair market value of 100% of the equity plus the market value of long-term debt.

Minority value: Value reflecting an ownership position of less than 50%.

Control value: Additional value inherent in a legally controlling interest, reflecting the power of control over the business. A control premium will be an amount or a percentage by which the pro rata value of a controlling interest exceeds the pro rata value of a noncontrolling interest in a business enterprise to reflect the power of control.

Marketable value: Value of an equity assuming a pre-established market in which that equity can be exchanged. Marketability would therefore refer to the ability to quickly convert property to cash at minimal cost

Choosing the Wrong Value May Be Costly

Relying on the wrong type of value may be quite an expensive mistake. Understanding the differences between standards of value can help you interpret their relative worth in your situation.

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.

Recent Changes in Unemployment Compensation Law

This past summer, the Legislature enacted several significant new changes to New Jersey's Unemployment Compensation Benefits Law. These changes will affect virtually all employers and many newly-unemployed workers. In addition to providing a one-time reduction in employer unemployment taxes for fiscal year 2011, the new amendments (1) increase the re-qualification standards for employees who have voluntarily quit their jobs; (2) lengthens the disqualification period for employees who were discharged or suspended for misconduct in connection with the work; and (3) adds a new disqualification standard for employees who have been suspended or discharged for "severe misconduct."

The new disqualification standards are contained in amended *N.J.S.A.* 43:21-5, and are effective immediately. Individuals who leave work voluntarily now must work *eight weeks* (instead of four weeks) in new employment to re-qualify for benefits, and earn *ten times* (instead of six times) their weekly benefit rate. *N.J.S.A.* 43:21-5(a). Individuals discharged or suspended for "misconduct connected with the work" now must wait seven weeks (instead of five weeks) before receiving their first benefits check. *N.J.S.A.* 43:21-5(b). "Misconduct" must

be "improper, intentional, connected with one's work, malicious, within the individual's control, a deliberate violation of the employer's rules, or a disregard of standards of behavior which the employer has the right to expect of an employee." *N.J.A.C.* 12:17-10.2(a). It does not mean mere mistakes or errors of judgment, minor but casual or unintentional negligence or carelessness, or mere inefficiency or unsatisfactory conduct or performance as a result of inability, incapacity or inadvertence in isolated instances. *Beaunit Mills, Inc. v. Board of Review*, 43 *N.J. Super.* 172, 182 (App. Div. 1957); *Demech v. Board of Review*, 167 *N.J. Super.* 35, 38-39 (App. Div. 1979).

Previously, workers suspended or discharged for even severe misconduct could be assured of receiving benefits after an initial delay of five (now seven) weeks. They would not be totally disqualified from receiving benefits unless they were discharged for "gross misconduct connected with the work because of the commission of an act punishable as a crime of the first, second, third or fourth degree," an admittedly high standard. *N.J.S.A.* 43:21-5(b). However, the recent amendments also provide similar treatment for individuals who have been suspended or discharged for "severe

misconduct connected with the work." *Id.* This new category includes "repeated violations of an employer's rule or policy, repeated lateness or absences, after a written warning by an employer, falsification of records, physical assault or threats that do not constitute gross misconduct as defined in this section, misuse of benefits, misuse of sick time, abuse of leave, theft of company property, excessive use of intoxicants or drugs on work premises, theft of time, or where the behavior is malicious and deliberate but is not considered gross misconduct as defined in this section." Therefore, this new standard could disqualify many individuals who previously qualified for benefits, albeit after a brief waiting period.

This new standard could result in a more adversarial discharge process, with increased and earlier attorney involvement. Now, it behooves management to tailor the reasons for an employee's suspension or discharge to meet the new standard for "severe misconduct," thereby avoiding responsibility for unemployment benefits. Unemployment appeals will likely increase and be more contentious, because more is at stake. Whatever happens, these new amendments will undoubtedly result in a major change in unemployment benefits law.

Abo and Company, LLC

CERTIFIED PUBLIC ACCOUNTANTS / LITIGATION & FORENSIC CONSULTANTS

We are proud to be a Partner in Progress of the Camden County Bar Association. As part of this program, we offer a free hour consultation in any tax/valuation/accounting/forensic/business planning arena where our insight, our expertise will be of help professionally or personally.

Let us know if you:

- Need our technical experience and professional insight for projects on accounting, tax, auditing, valuation, investigative or litigation support;
- Need help with estate or trust tax returns;
- Would like us to confidentially assess your own personal tax situation or run multiple scenario tax projections for you;
- Have a company or individual you'd like us to meet with;
- Would like our "122 Review Items To Consider for Buy-Sell Agreements" or "Abo's Hitlist to Consider in the Buy-sell Valuation or Formula" which ICLE and the NYC Bar used in crafting their seminars on Buy-Sell Agreements;
- Would like our handout "Selected Collection Techniques & Tips" presented to National Employment Lawyers Association-NJ Meeting;
- Would like our handout from ICLE's live, on-line program entitled "Tax Aspects of Personal Injury Awards";
- Would like any of the following articles and handouts available from our firm:
 - Attorney Trust Accounting Checklist and Questionnaire
 - Financial and Estate Planner – Inventory of Personal Assets
 - IRS Audit Guide For Lawsuit Awards
 - Special Report by Abo and Company on Dispute Resolution
 - Maximizing Travel, Entertainment and Business Meal Deductions in Your Practice
 - Special Report by Abo and Company on Valuation Issues
 - 50 Deficiencies Noted in Business Plans
 - The Intestate Will (or "Your Will as Drafted by the State of New Jersey")
 - Annual Fiscal Checkup

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

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**PLEASE NOTE:
Our NJ Office
has relocated**



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LEGAL LINE TO CRIMINAL COURT LAW

So Long, Summer

by Howard C. Gilfert, Assistant Camden Count Prosecutor

Now that summer is only a fond memory, it is time to return to reality and discuss recent developments in our area of practice. As this article goes to press, Labor Day weekend approaches. The Appellate Division and Supreme Court have handed down quite a few criminal opinions while we were enjoying ourselves.

Space, and my reticence to torture the innocent, prohibits an in-depth discussion of all of these opinions. You may, however, find a cursory review of some of the more significant decisions to be helpful. In no particular order and at my complete discretion as to significance, here they are.

Our Supreme Court ruled on the propriety of investigatory stops and resultant searches in two opinions: *State v. Privott*, ___ N.J. ___, ___ A.2d ___ WL 2571355 (2010) and *State v. Mann*, ___ N.J. ___, ___ A. 2d ___ WL 3021912 (2010).

In *Privott*, the police received a report from an anonymous caller that a man was in possession of a gun at a particular street corner in Plainfield. The caller provided a description of the man and his clothing. When the responding officer arrived at the street corner, he saw a man who closely matched the physical description and, with one exception, matched the clothing description. The officer recognized the man as Tysen Privott whom the officer had previously arrested for narcotics crimes. The officer knew Privott to live in the area and to associate with members of a violent local gang. Privott was talking to two other men.

As the officer approached, Privott and the two men started to walk away. As he turned, Privott reached toward his waist and appeared nervous. The officer became concerned Privott may have a gun in his waistband. He directed Privott to stop and put his hands on a fence. Privott complied.

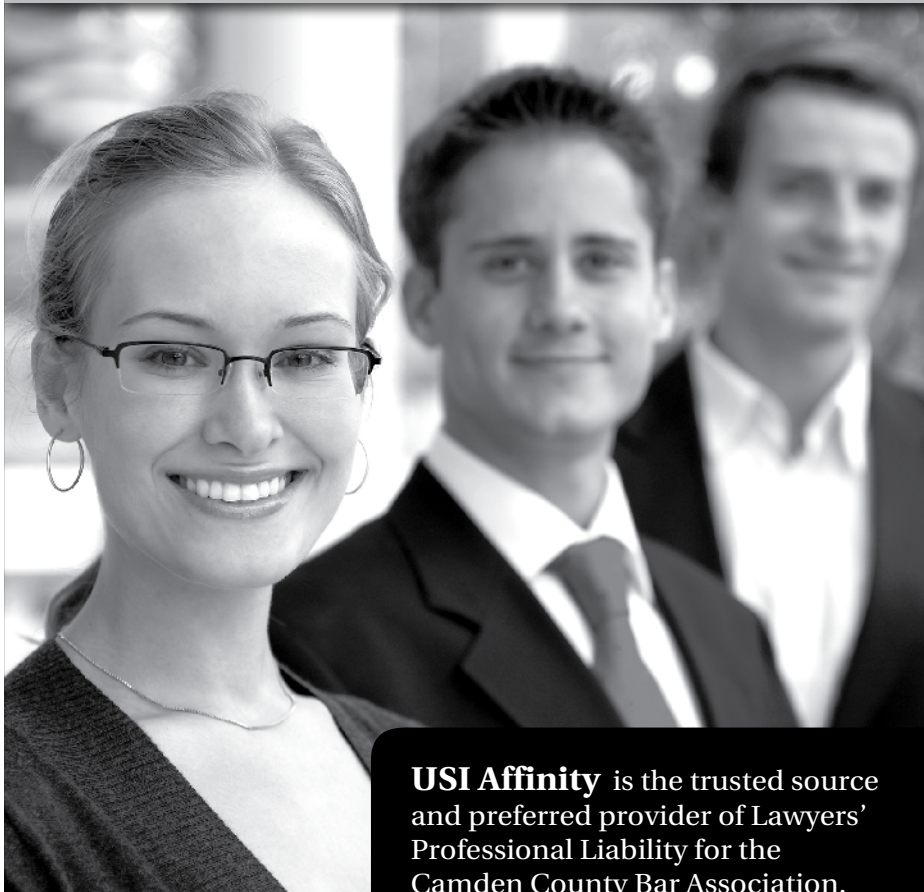
The officer lifted Privott's shirt. He observed a plastic bag protruding from Privott's waistband that contained what the officer believed to be cocaine. The officer seized the bag.

Privott's motion to dismiss the seized cocaine was denied by the trial court. On appeal, the Appellate Division reversed the trial court, holding that the anonymous tip and corroborating observations of the officer did not amount to the reasonable and articulable suspicion necessary to stop and frisk Privott. The Supreme Court affirmed the Appellate Division, but significantly it found the stop of Privott to be justified under the circumstances. In 5 to 2 opinion, the Supreme Court ruled that the seizure of the evidence was nevertheless improper because the officer exceeded the permissible bounds of a frisk for weapons by lifting Privott's shirt rather than patting his clothing to confirm or dispel the legitimate suspicion Privott may be in possession of a gun.

In *Mann*, the police obtained search warrants and an arrest warrant for the home, vehicle and person, respectively, of a man named Michael

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Spinning My Wheels

Crossing Over



By Andrew Kushner

Back some years ago, John Edward, a TV psychic and medium hosted a show called "Crossing Over" where he would engage an audience to show how he was able to connect to their dear departed. I don't deprecate his talent. In fact I used to be glued to the show nightly even though his performance was what some critics and skeptics called a classic "cold reading" where the performer would elicit enough information of a general type either before the show through surreptitious eavesdropping by crew members or through John's carefully crafted questions. He would then slowly allow the subject(s), unwittingly to be sure, to provide enough specific information to engage them and provide the contact so achingly sought. I don't pooh pooh this type of "talent" for I know that there are "more things in heaven and earth, than are dreamt of in your philosophy"—to coin a phrase. John is still doing his thing on late night TV with just a slightly modified shtick so I guess that he is making someone happy.

I was reminded of the idea of "crossing over" in a recent jaunt with a certain county bar president to test drive a replacement for the imminent ending of her SUV lease. Her thought was to stay with the current manufacturer—Acura, and possibly to look at alternatives to the MDX SUV that she has leased for the past two terms. Now it is no surprise to anyone who has read this column that I am the original anti-SUV person. I have never signed up to the view that 2.5 tons of road hugging weight, a high driving position and storage capacity that might be used a couple of times annually is a good choice for the run of the mill driver who could do just as well with a sedan. I can grudgingly agree that for those several times a year that hauling something is called for, the SUV comes in very handy. But as has been said (probably by no one else of my faith), "You don't build a church for Easter."

As an alternative to her MDX replacement with another SUV, we discussed the idea of looking at a compromise vehicle. One that straddles both sides of the fence by providing most of the utility of an SUV while having the driving characteristics of a sedan. We may now "crossover" to the Crossover type vehicle. A "Crossover," sometimes referred

to as a "CUV," as I understand it, is a name created by manufacturers and their marketing arms to distinguish this new product from all that came before. As I said, a Crossover has some of the attributes of both parents, but in addition is also built on a car, rather than a truck platform. This not only has the potential of saving weight, it also skews the handling more towards the sedan class rather than the truck class.

Crossovers have been with us as far back as the middle 1990s when Subaru created the first "Crossover" in their Outback model which, truth be told, was not much more than a Legacy Wagon with higher ground clearance and a whole lot of plastic cladding. Ok, maybe there were some suspension tweaks as well, but the point was made that you can still drive a station wagon and be cool. Or, if not cool, at least not completely dorky. The Outback cracked open the floodgates so that by the middle of the first decade of the new millennium, almost every manufacturer offered at least one model. But the idea of an SUV as Crossover didn't exhaust every possible market niche so some companies created yet another type of vehicle, a glamorous sister to the Crossover which would be lower, (or at least appear so) more "coupe" like although it would lose some carrying space in the bargain. Renditions arrived from BMW (X6), Toyota (Venza), Volvo (XC60) and Honda (Accord Crosstour). Acura just entered the fray in the last nine months or so with its ZDX, and that is the model that we took a look at down at Turnersville Acura.

Besides being curious about the ZDX, I was also interested in re-acquainting myself with the TL model sedan seeing as the lease on the old Infiniti was over in September. My plan was to accompany Mdm. President to the dealership and partake in some test drives at Turnersville Acura, the huge complex of dealerships identified by their location. What is somewhat interesting is that the complex has a purpose built "test track" for customers to drive the cars without dealing with the sometimes difficult traffic situation on Route 168—the Black Horse Pike to us locals. Well, the term "test track" is somewhat optimistic. The dealership's approximately ¼ mile of winding, two lane asphalt, complete with a toll gate, is like a test track in the same fashion that The Olive Garden is an Italian Restaurant. It is devoid of any straight-aways and the turns are spaced strategically so

that you can't really exceed about 35 mph without braking for the next turn. Of course the entire amusement ride is over almost before you can be sure that your mirrors are adjusted, so multiple passes are needed just to get the basic feel of the vehicle. Our pleasant sales person allowed that he would be happy to provide a real test drive on public roads on the next visit. I have since had some real seat time in the car and I was impressed by the smoothness and car like handling that is expected from a car based platform albeit one walking on high heels.

So, what could be gleaned of the ZDX from my short stint behind the wheel? As is true in the opinion of the appearance of any vehicle you either love it, hate it or fall somewhere in between. Personal preferences dictate why ice cream comes in a myriad of flavors including mainstream chocolate, vanilla and strawberry. But ice cream also comes in rum raisin, actually, a flavor I am partial to if that is any indication of my car preferences. This from a serial offender-owner of six Alfa Romeos.

As SUVs or CUVs go, this one is stylistically cutting edge attractive. There must be some reason for a buyer to shell out the additional cash for a vehicle which, mechanically, is an MDX without the third row of seats. While that is an oversimplification, the elimination of the third row, and the consequential loss of head room and rear storage, allows for the sloping rear of the car to assume sedan (or coupe) like proportions and to give the impression that it is an entirely new vehicle which, of course, it is not. That is not to say that the upscale tech stuff and upscale interior aren't other attractions to prospective buyers. I suppose that if you are shopping for an AWD four door vehicle in the \$45K-\$55K range, the price difference will not be a deterrent. I made a couple of forays into the back seats and, once I found the cleverly hidden door pull, I was able to contort myself through the smallish opening into a back seat with more than adequate leg room and a cossetting feeling (read: tight) in the headroom realm. The rear seat accommodations are not a BMW 760Li or even a Cadillac DTS (do they still make that?) but it is perfectly adequate for medium length trips for those with no serious flexibility limitations.

Continued on next page



Demystifying Social Media: Two Simple Points

By Greg Sutphin

Setting aside the debates and various perceived inhibitors on all aspects of law firms using social media for a moment,

- **The results are in....it works!**
- **Making "connections" with people in online "communities" matters in any marketing strategy.**

Using social media to cultivate professional relationships WORKS in generating new business! Based on a study conducted recently by HubSpot, business-to-consumer users generated two times more leads than non-Twitter users. Twitter's positive correlation to leads was statistically confirmed for B2C companies. For B2B companies, however, the results are less reliable. In addition, "35% of adult Internet users have a profile on an online social network site."—Forrester

Social Media for Search Engines

Search engines (SEs) place huge emphasis on content because their single most important objective is to find the most relevant, up-to-date information for any given searched term typed into their search box. The more you Tweet, blog, and Facebook, for example, the more search

engines will "like you" due to the content. It is actually the blogging that can disseminate all of this content optimally to the search engines.

Matthew Harrod, who practices with Wood, Atter, & Wolf (www.woodatter.com and www.estateplanningandtaxlawyer.com) in Florida, is a great example of a lawyer who embraces social media effectively. However, does his social media involvement generate new clients? Matthew says, "As far as Facebook goes, it in and of itself does not necessarily bring in clients. It is a vehicle to disseminate the education/news that I post on my estate planning blog. The main tool we use is the blog, followed by Facebook, Twitter and LinkedIn to get the message out. These tools are critical in broadening the reach of our message which does support the website..." In fact, lawyers with blogs generate 67% more leads when compared to those who do not have a blog (HubSpot, 2010).

Social Media Helps Attorneys Connect

Since there are more than 70 million registered LinkedIn users, spanning more than 200 countries and territories worldwide and millions more "connecting" in online communities, why would attorneys *not* want to be where their potential clients are? As social media trainer Gina Rubel explains,

"people do business with people they know, like and trust. As a result, when people you know personally (alumni, friends, family, etc.) know that you're a lawyer, they are more likely to remember you when they have a need. I also find that people like to know that you're a real person. The fact that you may have children, you may participate in community programs, you have interests other than work, etc., can instigate conversations which ultimately may lead to business."

In these challenging economic times, the "giving to get" philosophy may not bode well with attorneys who struggle to maintain their practices. Social media is pro bono work and a practice development investment. There is a huge misconception among lawyers that participating in online social networks by giving freely of useful information does not guarantee that business comes back to you. The facts are clear. The results are in. Social media works as part of an overall marketing strategy. It helps build your personal "brand" and creates better results with client development.

Greg Sutphin is a veteran law marketer and partner with GetLegal.com, a legal information and Internet client development company which specializes in website design, content development and search engine marketing.

Spinning My Wheels Crossing Over

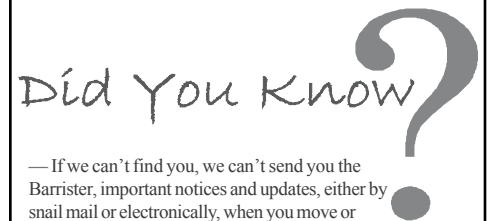
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If it seems that I am negative about the car, that is not the case. Acura is known for its leading edge technology both in its drive train and interiors and the ZDX is no exception. From the DVD based digital navigation (which purports to be not only faster in access than prior versions, but sharper) to the gee-whiz voice command for audio, HVAC and telephone which actually work without feeling like you are speaking to an off shore customer service site. This is one savvy technical vehicle. Materials, fit and finish are first rate as is expected from Honda and the car has a solidity about it. I got the impression that I was driving a smaller, lighter vehicle than was the case.

Mechanically the ZDX is a clone of the more conventional MDX with a 3.7L V6 that produces 300 bhp and 270 lb ft. of torque. These are numbers that would be eye popping as recently as a decade ago but are now just ho-hum, run of the mill out puts from an engine of this size. EPA fuel

economy is listed at 16/23 which is neither outstanding nor surprising considering the package. It would be surprising that fuel economy would figure as a primary purchase criterion if you are spending north of \$50K on a vehicle anyway. Perhaps Acura should provide free bumper stickers that state "My other car is an Insight") to take the edge off of the eco-police.

One thing that the ZDX is, however, is eye catching. It is immediately recognized as an Acura by the Darth Vader front grille family resemblance. Even though the car hit the market last December, there are not many seen on the road even nine months later and, depending upon your orientation, you can't quite figure out if it is a CUV, SUV, sedan or coupe without closer inspection. If nothing else, that statement proves that Acura has been successful in marketing this niche vehicle and, barring any near term spike in gas prices, they have another winner on their hands.



— If we can't find you, we can't send you the Barrister, important notices and updates, either by snail mail or electronically, when you move or change firms and don't let us know? Please call Kathy at Bar Headquarters (856.482.0620) when your contact information changes so we can keep our membership database up to date.

— The CCBA offers FREE advertising on its website for members who are looking to fill a position or who are looking for a position? Go to www.camdencountybar.org to see what positions are available, or to see who is looking for a position. Email your posting to lbp@camdencountybar.org or fax it to 856.482.0637.

— The CCBA has a number of benefits to save you money and make the practice of law easier? From exclusive CCBA discounts from our Partners in Progress to savings on clothing at Jos. A. Bank and Brooks Brothers to Hertz rental cars, we can save you money. Check out our website for ALL of the benefits that add value to your CCBA membership.

— The CCBA can provide a place for depositions, mediations and small meetings? Our Bar Headquarters conference rooms are conveniently located, reasonably priced and offer plenty of free parking, seating for 25-30, and refreshments for an additional charge.

Let us help with your meeting space needs. Contact Kathy for availability at 856.482.0620 or email your request to kmc@camdencountybar.org.

Foundation Update

Back in the Swing

By Joseph A. McCormick, Jr.

Well, face it-the Fall season is here. The Summer is but a memory. The leaves are falling and the football season has started in earnest. Although very busy, this can be a fun-filled time of the year with the various events that have been planned.

But first, before we look ahead, let's take a second to pat ourselves on the back. We raised more than \$2,400 in contributions to the "Dress-A-Student" School Uniform Campaign for the students at the H.B. Wilson School in Camden. As a result, uniforms were purchased for 268 students whose families are unable to afford them. Thanks for the good work!

Also, thanks to all of you who attended the Lobster Bake which was set up by the Young Lawyers. We are using the proceeds from this to fund a new scholarship for students attending the Larc School in Bellmawr. This is an event that will help in the community. We would like to thank the following sponsors: **Agent 06, LLC –Keller Williams; Asbell & Eutsler, P.A.; Craig David Becker, Esq.; Flaster/Greenberg; The Ferrara Law Firm, LLC; Louis G. Guzzo, Esq.; Madden & Madden, P.A.; New Jersey Legal Copy; North American Title Agency; Placido Verna LTD; Rothamel & Bratton, Attorneys at Law; Tate & Tate Certified Shorthand Reporters; UBS – The Fendrick Group; and WestlawNext.**

October is an active time of the year in the Bar calendar. The schedule for this month includes the Autumn Scramble Golf Outing at Scotland Run on the 4th which is a great time. Good weather is guaranteed but birdies are not. Also, the Judge Gerry Award Dinner will take place on the 19th at the Westin-Regency Ballroom in Mount



Laurel. This award of statewide significance is being presented to a most deserving recipient, retired New Jersey Supreme Court Justice John E. Wallace, Jr. It is advised that reservations be made early since this event promises to be a sell out.

Coming up on November 16 is the Bar Foundation Fall Frolic at the Coastline in Cherry Hill. Chris Mourtos, the owner of the Coastline, donates an evening of food and dance at his great facility. The proceeds will be used to fund the Children's Holiday Party which is also at the Coastline. This party is an event that many children in Camden look forward to each year. It is an opportunity to help those who are less fortunate. Please support this great event by coming out and socializing with members of the Bar. Bring a friend! It's for a good cause.

As you can see, the Foundation is involved in a great number of worthwhile endeavors. However, we can do more. Do you have ideas that you would like to share? If so, please give Larry or me a call. For example, I am now becoming more interested in charities involving cancer research as I recently have had to deal with that issue for a family member. Fortunately, we anticipate a complete recovery but it makes you think. So, share your thoughts with us. Maybe, we can help.

It's time for another reminder about the Children's Holiday Party on Saturday, December 4. Please volunteer. It helps get you into the holiday spirit. If you can help, give Bar headquarters a call and let us know. I can guarantee that you will have a good time and that your efforts will be appreciated by a number of deserving children. Please think about my earlier suggestion that the people at your office agree to make a donation to the Foundation in lieu of gifts this holiday season. That agreement would certainly be in the true spirit of the holiday and would truly "keep on giving." Think about it.

Let's help make a difference.

Open Letter to the Bar

Pro Bono Services Needed

The New Jersey legislature's budget for FY2010-2011 cut funding for legal services by 33% for the period of July 1, 2010 through June 30, 2011. For South Jersey Legal Services, that amounts to a loss of \$1.8 million for calendar year 2011.

Because of the severity of these budget cuts, South Jersey Legal Services must significantly reduce staffing levels by January 1, 2011. Towards this end, we intend to lay-off 27 staff members throughout the seven-counties we serve at year's end.

These staffing cuts require South Jersey Legal Services to reduce its level of client services proportionately. This means that we must begin reducing caseloads now in preparation for this transition and that we expect to handle a third fewer cases in 2011 than in 2010, which is about 3,500 fewer cases.

Also, we will no longer be able to accept the same number of referrals from the courts, the bar, social service agencies and others as we have in the past.

Although a decrease in services to the low income population is inevitable due to the funding reductions, we are attempting to mitigate the effects of the decrease in funding by increasing the

involvement of the private bar. Many of you already volunteer your limited time to assist our clients and have done so for years—we thank you and hope this will continue. If you are not already volunteering and would like to learn more about how you may become involved, please contact Michelle T. Williams, Esquire, Director of Pro Bono Services, at (856) 964-2010 ext. 6229.

We ask that you be patient with us in this difficult time. Should you have any questions or concerns, please do not hesitate to contact me. I may be reached at (856) 964-2010 ext. 6209.

Douglas E. Gershuny, Executive Director
South Jersey Legal Services, Inc.
 745 Market Street - 2nd Floor
 Camden, NJ 08102
 Tel: (856) 964-2010 x. 6209
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 Cell: (609) 214-6987
 E-Mail: dgershuny@lsnj.org

Changing of the Guard

Association & Foundation kick off a new bar year!

May 22nd was a typical sunny spring day as members of the bench and bar, and friends of incoming CCBA President Linda W. Eynon descended upon Tavistock Country Club for the annual Installation of Officers & Trustees Dinner Dance. As guests enjoyed a wonderfully prepared meal, Hon. David G. Eynon (retired) presided over the swearing in of the new officers and trustees of the Association & Foundation.



Linda W. Eynon receives the Presidential Oath of Office from her father, Hon. David G. Eynon (retired).



Judge and Carol Eynon share the proud moment with their daughter.



Casey Price, Michelle & Jim Badolato.



The official passing of the gavel.



New Officers & Trustees (l-r) Carol A. Cannerelli, Trustee; outgoing President Richard A. DeMichele, Jr.; Louis R. Lessig, President-Elect; Casey Price, Treasurer; Linda W. Eynon, President; Michael V. Madden, Young Lawyer Trustee; Brenda Lee Eutsler, First Vice President; Charles C. Bratton, II, Trustee; Jenifer G. Fowler, Secretary; Steven J. Polansky, Trustee. Not pictured: Gary W. Boguski, Second Vice President; Louis G. Guzzo and William Tobolsky, Trustees.



Judge & Mrs. Rodriguez and Linda.



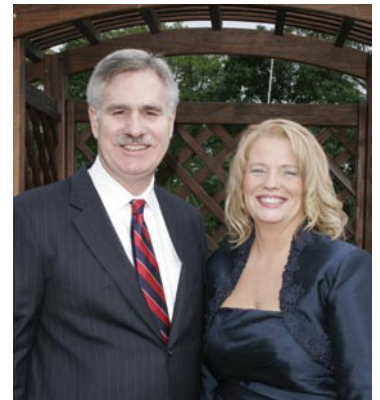
Guests mingle and enjoy the great outdoors before dinner.



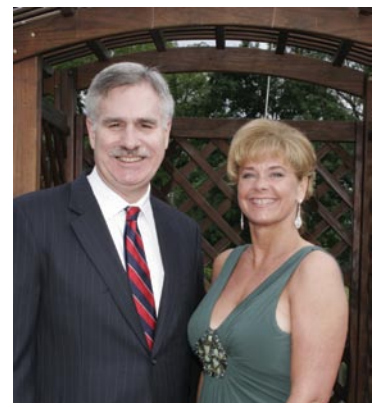
Rick receives his newest prized possession - the Past President's pin!



Rick DeMichele and Linda Eynon.



Working together for a great year!



Joseph A. McCormick, Jr. takes over as Bar Foundation President from Carolyn Kornas Karbasian.



CCBA member and performer extraordinaire, Matt Portella, provided the cocktail party entertainment.

Crackin' for A Cause

YLC Lobster Bake an overwhelming success!

Sunny, warm weather greeted a sold out crowd for the Young Lawyer Committee's Lobster Bake on Saturday, September 11th at the TapRoom in Haddon Township. Lobster enthusiasts enjoyed a terrific day of fun, friendship and food to support the YLC's Scholarship Fund for disabled students attending the Larc School in Bellmawr. "The response was awesome" said Mike Madden, Young Lawyer chair, "we expected a good crowd, but were blown away when we sold out!"

If you didn't attend this year's event, talk to someone who did and you'll probably want to be there next year!



Reggie Beckett, Michael P. Madden, Dan Beckett



Freeholder Ed McDonnell, Jim Rhoades



Uhhh, Good!



Jorge Franco, Amy Newman, Brenda Eutsler



Lobster Bake Committee members (l-r) Rachael Licausi, Michael V. Madden, Bar President Linda Eynon, Adam Gersh, Bill Cook, Austin Dubois. Job well done, gang!



Time to eat!



Mrs. Rattan, Jim Herman



Dennis & Brenda Vogt, Amy McClintock, Duane Miller



Andy Kushner, Sara & Bob Little.



Bill Cook, Erica Stec, Michelle & Jim Badolato



Judge & Joe Famular



Marnie Davis



PRESIDENT'S PERSPECTIVE

by Linda W. Eynon

Off to a Great Start!

After a long, hot summer, our Bar Association is off to a great start! September was a busy month, starting with a new event, The Lobster Bake. What a fabulous, FUN evening.

The Young Lawyers' Committee hosted the Lobster Bake on Saturday, September 11th, at the TapRoom in Haddon Township. The proceeds of this fundraiser went to a newly created scholarship fund, established by the YLC, for the benefit of the Larc School, which serves students with a wide range of disabilities. Everyone had a fantastic time at this SOLD OUT event. The YLC, under the direction of Chair, Michael Madden, did a fantastic job and they are to be commended for their hard work and success on this event.

I have not seen this much excitement and enthusiasm for a Bar Association event from the organizers and participants alike, in a number of years. Somehow, we need to find a way to bottle that, so to speak, to

ensure that all of our Bar Association events are successful, for whatever the purpose they serve (educational, FUNdraising, networking or social). As you read this article, please know that the Officers and Trustees are reviewing many of our events to determine what to keep, what to tweak and what should be ditched. However, your input, as a member of the CCBA is invaluable. To that end, we have developed a survey, which will come in an e-Barrister or can be accessed on our website. Please take a moment to fill this out. We need your input. Not into surveys (even short ones!), then give us a call or send me an email at linda_eynon@horizonNJhealth.com.

On September 13th, the Annual Opening of Court Memorial Ceremony took place. This is one of the Camden County Bar Association's oldest and most meaningful traditions; where we acknowledge the new court term, and most importantly, honor our distinguished Bar Association colleagues who have passed away during this past year. Though a solemn occasion, you can not help but be inspired by learning about the lives

and passions of our departed colleagues.

We ended the month on a great note, with the usual success of Meet the Judges and Law Clerks Reception. On behalf of the Bar Association, I want to welcome all the new judicial law clerks. I know the Young Lawyers' Committee will be reaching out to introduce them to the great benefits of the CCBA.

I look forward to seeing everyone at the Foundation's Autumn Scramble, on October 4th at Scotland Run Golf Club. This is the Foundation's major fundraiser, so I hope you will support this event. Even if you do not play golf, come for cocktails and dinner.

I also know that I will see many of you at the Judge Gerry Award Dinner on October 19th, as we honor Justice John Wallace. I can not think of a more deserving individual who has made outstanding contributions to the Bar of the State of New Jersey, served the bench with the highest distinction and exemplifies the spirit and humanitarianism for which Judge Gerry is remembered. Congratulations to Justice Wallace on this well deserved honor.

Enjoy this beautiful fall.

Barristers Back on Top

After a sub-par 2009 season during which several key players had to visit cardiologists and orthopods, Harvey Mitnick's Barristers softball team bounced back this season to regain the CCBA softball league championship. The Association's thirty-third season of competition concluded on August 4, 2010 when the Barristers completed a three game sweep of last year's champion, PBA #277. Led by Scott Schweiger, who successfully recovered from rotator cuff surgery following the end of the 2009 season, consensus rookie of the year Steve Ornstein, and Tim Pasquale, who is one of the tri-county region's elite players, the Barristers earned their eighth league championship in convincing fashion, by winning five straight playoff games against two very strong teams, Par 4 and PBA #277.

Although Commissioner Jeff Klinger believes that thirty or more CCBA softball league players could successfully compete in any of our region's top leagues, which demonstrates our high quality of play, the league has contracted to seven teams, down from a high of fourteen teams about twenty years ago. Although the smaller number of CCBA teams is consistent with the national trend, which shows growth in "Senior" leagues but reductions in the number of younger participants, Commissioner Klinger believes that the influx of larger Philadelphia and North Jersey headquartered firms is capable of producing new teams. Even if a mid-size firm or group of law clerks can produce only three to six players per group, the Commissioner would have the ability to merge players to form a new team or teams. Any interested players are encouraged to call the Commissioner at 856-428-5900.

The regular season standings are as follows:

	W	L
PBA#277	11	1
Barristers	10	2
Par 4 Landscaping	8	4
Young Lawyers	7	5
Brown & Connery	4	8
Prosecutors	2	10
Archer & Greiner	0	12

The 2010 Barristers championship team consisted of Corey Ahart, James Barry, Ken Bosson, Andrew Cohen, Maury Cutler, Kevin Fayette, Steve Greenberg, Tom Keeley-Cain, Mike Mignogna, Harvey Mitnick, Scott Mitnick, Marc Oddo, Steven Ornstein, Tim Pasquale, Barry Rosenberg, Judge Rand, Scott Schweiger, Andrew Sklar, Andrew Smith and Bob Tate.



Front row (kneeling, from left to right): Ken Bosson, Mark Oddo, Mike Mignogna, Harvey Mitnick, Judge Rand, Bob Tate, Andrew Cohen. Back row (standing, from left to right): Barry Rosenberg, Shirley Genay, Tim Pasquale (Sr. & Jr.), Corey Ahart, Scott Mitnick, Steve Ornstein, James Barry, Maury Cutler. Not pictured: Scott Schweiger, Andrew Sklar, Kevin Fayette, Tom Keeley-Cain, Steve Greenberg, Andrew Smith.

WINE & FOOD

By Jim Hamilton

Perhaps because I am preparing this column on a sunny day when my air conditioner strains to provide relief from 98 degree heat, I find it so much easier to write about white wines I have enjoyed tasting recently. I recognize that by the time this issue of *The Barrister* finds its way to your desk we may be experiencing better red wine weather; however, there will remain many opportunities to uncork/unscrew a bottle of white wine to pair with your fish, chicken, salad or other such fare. So, for those of you who only drink red wine, I will provide one recommendation at the outset so that you can set about reading the many substantive columns found only in our County Bar Association news magazine.

If you enjoy Italian wines, you undoubtedly have purchased wines from the more heralded regions like Piedmont and Tuscany and enjoyed producers' efforts from the well-known grapes of those regions such as Nebbiolo and Barbera from Piedmont and Sangiovese from Tuscany. During the past several years, as distributors search for value to fill that growing need in the market, we have seen more wines from Sicily where vineyards of Nero d'Avola can be found.

If we look to the mainland of southern Italy, we have seen waves of white wines coming to our shores during the past decade, particularly from the Campania region outside Naples. Many of you have tried and, perhaps enjoyed, wines made from formerly obscure (but long established) varietals such as Fiano di Avellino, Falanghina and Greco di Tufo. Well, this same area, including not only Campania but also the Basilicata and Molise regions, produces formidable red wines made from the often powerful grape, Aglianico. The most renowned wine made from this grape is Taurasi, but as the prices for Taurasi have increased, we are seeing more Aglianico wines not entitled to be called Taurasi (because they are outside the designated area or, perhaps, have not spent the required time aging) sold at more reasonable prices. One such wine is the **2008 Antonio Caggiano Tari**. The wine has the tannic, muscular profile of good quality Aglianico, with appropriately brambly fruit that is dark and almost brooding. While the fruit shows glimpses of wild red berries, there clearly is a

plummy, earthy quality that leaves the most lasting impression. If you want an entry level Aglianico that is not this aggressive on the palate, you may want to check out the value priced Fidelis bottling from the Cantina del Taburno cooperative. It is usually softer and more restrained for those who want a more delicate approach to making wine from this grape.

If the white wines of Campania are making inroads into our market, so, too, is Austria's workhorse white grape, Gruner Veltliner. We are finding catchy (or is that Kitschy?) labels designed to attract attention, much like the old "Black Cat" German bottlings of years past, but most producers are finding more dignified ways of simplifying the "GV" buying experience. One entry level wine from a talented producer worth trying is **2009 Hiedler Gruner Veltliner Löss**. While Gruner often has a green vegetable edge to its fruit, this rendition is more mineral driven, with crisp, subdued melon fruit and a vein of chalk that further softens the impression while adding another level of interest.

Venturing back to Italy, many of you will be familiar with Orvieto, at least by name, and you would do well to consider tasting the **2009 Palazzone Orvieto Classico Terre Vineate**. Palazzone is a very reliable Umbrian producer, and with this value entry employs to good effect the five grape varieties allowed in making Orvieto wines. This is a very spicy and steely wine that penetrates more than it caresses. The flavor profile leans more toward nuts and stone fruits and has the vibrancy to stand up to sauced fish or chicken dishes.

Since we have strayed a bit off the beaten track, one of my favorite wine journeys, I might add, why not "visit" the Basque country straddling northern Spain and southern France? If you have ever visited this region and tried to understand the signage, you will

Continued on next page



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Law Practice Management

Why Firms Should Develop a Strategic Plan

10 Steps to High Impact Networking

By Kimberly Alford Rice

**(Part 1 of 2)**

Networking is one of the foundations of client development (no network = no clients). You can't get business if the *right* people don't know, trust, and like you. Commit yourself to gradually building a network of the *right* contacts. Begin by identifying the most likely sources of new business you are trying to develop — your "target audience."

As much as networking is used as a business development tool, few professionals treat it with the attention and follow up it requires to be worthwhile and successful in developing new clients.

To maximize networking events, below are a few tips:

1. **Know Who Will Be There.** Whenever possible, call the event sponsor a day ahead to request a copy of the registration list to gather a sense of who will attend the function. Identify 3-5 prospects you would like to meet during the event and seek them out. Even better is if you can identify someone you know who will attend the event who already knows the prospect you will seek out. Gaining an introduction is a powerful way to make a connection. Consider posting a LinkedIn search.
2. **Prepare for an Event** by doing some online research on prospects' companies and position affiliation to gain a sense of

their business/place in the organization, etc. The more you know, the better.

Find out as much as possible about the company's clients, the scope of its business, whether or not the prospect serves in any official roles such as management committee, department chair, etc. This information will also come in handy for introductory conversations. Access LinkedIn, Facebook, Martindale, Law.com, Lexis, etc. for useful information.

3. **Never Arrive Late.** Vince Lombardi said, "If you are 10 minutes early, you are late." When attending a networking event, the most critical time is the half-hour of mingling before and after any planned program—you can't meet people during the speaker's presentation. Arrive early and make effective use of that time.

4. **Succinctly Prepare 30-Second Commercial/Introductory Description of Yourself.** You are not your job title. Create a verbal picture of yourself in response to the "what do you do?" question.

For example, instead of saying, "I'm a lawyer" it would be more helpful to respond, "I help business owners to protect themselves against employment-related claims." OR "I help minimize risk for privately-held professional services firms." Much more interesting and memorable.

5. **Always Carry Business Cards.** This is how people "place" you within an organization. It is also a great way to extend a connection. In an effort to be helpful, you can jot down some useful

tidbit of information on the back of your card to hand to a qualified prospect (i.e. name of a needed referral source for their business). To express your accessibility, you may write down your cell number on the back of the card or a web address for something useful to your contact.

At an event, keep business cards handy so you're not fumbling around trying to pull a dog-eared leftover out of an obscure compartment in your wallet. Plan your wardrobe on "event day" to ensure you can effortlessly pull out a card. Don't leave the office without them.

On the other side of this essential networking tool, it is much more important to gather business cards of others than to hand out yours indiscriminately. First, by asking a contact for their card expresses interest on your part to know that person better. Secondly, jotting down a distinguishing note about the contact on the back of their card will help you remember or "place" them for future reference. Third, having a business card of the folks you meet is imperative for follow-up activities. Don't let opportunity slip through your fingers by not gathering business cards of those you meet at networking events.

Kimberly Alford Rice is Principal of KLA Marketing Associates (www.klamarketing.net), a business development advisory firm focusing on legal services. As a law marketing authority, Kimberly helps law firms and lawyers develop practical business development and marketing strategies which lead directly to new clients and increased revenues. Additionally, Kimberly provides career management services to lawyers in transition. She may be reached at 609.458.0415 or via email at kimberly@klamarketing.net.

Wine & Food

Continued from previous page

understand how truly foreign it is. One of the white wines of choice in the Basque region is Txakolina, made from the Hondarrubi Zuri grape, and a nice example is **2009 Ulacia Txakolina**. These Spanish wines are known for offering a zesty spritz and relatively low alcohol as much as for their difficult to pronounce names, and this is a fine example of the varietal. It offers a laser-like beam of lime and quince fruit that is at once vibrant and austere, owing to its stone and slate underpinnings, but yet concludes with a tart fruit finish.

If we stay in Spain, but look further south to the Rueda region located near the more famous red wine regions of Toro and Ribero del Duero, the white grapes rule, especially the Verdejo. I have touted a number of wines from Rueda in the past, and can add for your consideration **2008 Bodegas Pedro Escudero Valdelainos**. This is

a 100% Verdejo wine that displays the expected grassy impressions, but with fruit that is both ripe and round. The wine carries good length to it and is a nice alternative to Sauvignon Blanc for its crisp, unadorned flavors.

If you are a Sauvignon Blanc fan, but also a fan of value, the **2009 Teira Wines Sauvignon Blanc** is an estate grown wine from the winery's Woods Vineyard located in the southern end of the Dry Creek Valley in Sonoma County California. There are some of the green bean notes one finds in many wines made from this grape, but the wine also carries some vanilla and subtle spice overtones. The wine is nicely crafted for its modest price, but like most wines outside the tide of mainstream labels, it may take some hunting to locate a bottle.

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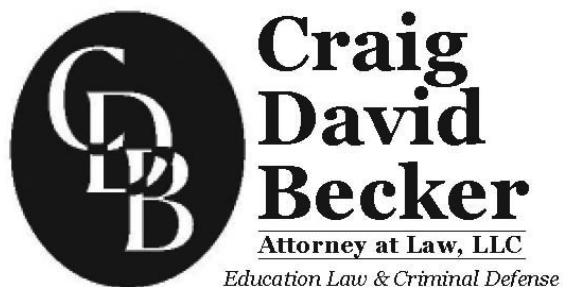
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Key to Success – Finding a Mentor



By Michael V. Madden

Young Lawyer Corner

As a preliminary matter, I would like to thank Larry Pelletier, Kathy Caira, Adam Gersh, Rachel Licausi, Bill Cook and Austin DuBois for their hard work and dedication in making the first annual YLC Lobster Bake a resounding success. Although this article was written a week prior to the event, our team worked incredibly hard throughout this summer to ensure that the YLC Scholarship Fund benefitting the Larc School became a reality. A special thanks to all of our generous sponsors—without your contributions and assistance, we would have never reached and surpassed our goals. Thank you as well to Susan Weiner, Executive Director of the Larc School, for her unwavering support and assistance. With a little teamwork, some creative thinking and amazing sponsors, we were able to create a scholarship fund to benefit a truly incredible institution.

Switching gears, for most young attorneys, a mentor can provide the critical keys to a successful and long lasting legal career. Although law school provides the tools for our profession, it is often difficult for young lawyers to apply those tools to the practice of law. Regardless of your focus, a mentor can assist you with those difficult projects, tell you candidly when you're off the mark and even make the daily grind a little bit more enjoyable.

From a personal standpoint, I was lucky. Upon the completion of a clerkship, I became an associate with Madden & Madden, PA. Finding a mentor was easy as I looked no further than my father, Mike Madden, and my uncle, James Madden. Working with family is a remarkable experience and over the course of my legal career, I have been strengthened both professionally and personally by listening to my father and uncle's advice as I try to emulate their practice. They both are mentors in every sense of the word and continue to make me a better attorney time and time again.

For young attorneys commencing their professional journey, a mentor can be your strongest asset. Above all else, a mentor should be an attorney whom you respect and with whom you can openly discuss all aspects of your career, whether it be as simple as the legal problems you encounter or the difficult road of your professional goals and aspirations. A mentor can be a partner in your firm, another associate or an attorney you meet through your practice—it makes no difference so long as you have that voice and sounding board to assist you in those difficult moments or to share a drink after a hard fought victory.

In the words of John Crosby, "Mentoring is a brain to pick, an ear to listen and a push in the right direction." As you begin your journey, don't be afraid to ask for assistance. We were all there at one time or another and most, if not all, are more than willing to share their early fears and learning experiences. You are fortunate to be the newest addition to an incredible and honorable profession. A mentor will assist you in recognizing your strengths and weaknesses and will enhance your confidence and demeanor as you walk into that court room or conference room for the first time.

Code of Professionalism

Continued from page 7

- that other lawyers and judges can trust in and rely upon my oral or written word.
6. I will agree to reasonable extensions of time or for waiver of procedural formalities when the legitimate interest of my client is not adversely affected.
 7. I will endeavor to consult with opposing counsel prior to scheduling depositions, meetings, or rescheduling hearings, and I will cooperate with opposing counsel when scheduling changes are requested. I will be punctual in honoring scheduled appearances and in providing the earliest possible notice of cancellation of appointments, depositions, or hearings to all concerned parties.
 8. In the conduct of litigation or negotiation, I will conduct myself with fairness and dignity, refraining from any course of conduct meant to harass the opposing party. I will not engage in excessive or abusive discovery, and will refrain from advancing groundless objections or committing other acts of rudeness or disrespect.
 9. I will be considerate in my communications with others, promptly returning telephone calls and responding to correspondence from clients and other lawyers in a timely manner.
 10. While I will be a vigorous advocate on behalf of my client, I always will be mindful that I am an officer of the court, and of the obligation to conduct myself with respect for the court and for my adversaries.
 11. In civil proceedings, I will voluntarily withdraw claims or defenses if it becomes apparent that they lack merit, and I will stipulate to non-essential facts as to which there is no genuine dispute. I will cooperate with other lawyers towards the goal of having matters resolved in a prompt and fair fashion.
 12. I will not quarrel needlessly over matters of form or style, but will concentrate on matters of substance and content.
 13. I will strive to remain current in the areas in which I practice. I will familiarize myself with the Rules of Professional Conduct and adhere to these rules in the everyday practice of my profession.
 14. I will be mindful of my obligation to enhance the image of the legal profession in all of my professional actions. I will be so guided in my comments about the judiciary, opposing counsel or the members of any other profession, and in the methods and contents of any advertising I may pursue.
 15. I recognize that the law is a learned profession. Among its desirable goals are devotion to public service, improvement of the administration of justice, and the contribution of uncompensated time towards the administration of justice on behalf of those persons unable to afford legal assistance.
- As a condition of membership in the Camden County Bar Association, I agree to abide by and conduct the practice of law in a manner consistent with this Code.

Adopted November 1993

VERDICTS IN THE COURT

Superior Court of New Jersey

CORRECTION TO 6/23/10 – SEE BELOW

VERDICT: **Damage Verdict: \$1,779,523**
Against All Defendants (6/23/10)

Case Type: **Medical Malpractice**
Judge: **Louis R. Meloni, J.S.C.**
Plaintiff's Atty: **Michael Berger, Esq.**
Defendant's Attys: **Thomas Walsh, Esq. & Robert Gunning, Esq.**

L-4626-07 **Jury**

VERDICT: No Cause (7/8/10)
 Arbitration Award \$14,000

Case Type: Auto Negligence
Judge: John A. Fratto, J.S.C.
Plaintiff's Atty: Michael Pomerantz, Esq.
Defendant's Attys: Neal Thakkar & Raymond Danielewicz, Esq.

L-789-08 **Jury**

VERDICT: No Cause (7/8/10)
Case Type: Auto Negligence
Judge: Robert G. Millenky, J.S.C.
Plaintiff's Atty: David Cuneo, Esq.
Defendant's Atty: Andrew Siegeltuch, Esq.

L-3337-08 **Jury**
Synopsis: Defendant admitted to liability.
Damage verdict only – non-verbal

VERDICT: No Cause – Arbitration Award
 \$22,500 (7/13/10)

Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Danielle Walcoff, Esq.
Defendant's Attys: Charles Blumenstein, Esq.

L-2999-07 **Jury**
Synopsis: Damages pain & suffering. Injuries in the neck, back & knee. No liability & no economic loss.

VERDICT: **Damage Verdict: \$40,000**
Arbitration Award: \$70,000
(7/15/10)

Case Type: Auto Negligence
Judge: Frederick J. Schuck, J.S.C.
Plaintiff's Atty: Nicholas Trabosh, Esq.
Defendant's Atty: Everette Simpson, Esq.

L-700-08 **Jury**
Synopsis: Liability was stipulated before trial.
 Defendant was at fault. Trial was as to injuries the Plaintiff received in the accident. The Plaintiff received a lower back injury.

VERDICT: **Damage Verdict: \$250,000 –**
Arbitration Award: \$325,000
(7/21/10)

Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Sal Daidone, Esq.
Defendant's Attys: Brooke Didonato, Esq. & Andrew Siegeltuch, Esq.

L-5695-07 **Jury**
Synopsis: Liability in dispute, verbal threshold, permanent injuries on the lumbar area.

VERDICT: No Cause (7/26/10)
Case Type: Medical Malpractice
Judge: Ronald J. Freeman, J.S.C.
Plaintiff's Atty: Jeffrey Keiser, Esq.
Defendant's Atty: Jay Blumberg, Esq.

L-3808-07 **Jury**
Synopsis: Failure to Diagnose

VERDICT: No Cause (7/29/10) –
 Arbitration Award: \$70,000

Case Type: Auto Liability Only
Judge: Ronald J. Freeman, J.S.C.
Plaintiff's Atty: Jeffrey Hark, Esq.
Defendant's Atty: Lauri Tilghman, Esq.

L-4583-08 **Jury**
Synopsis: Liability only

VERDICT: No Cause (8/3/10) –
 Arbitration Award: \$92,500

Case Type: Auto Negligence
Judge: Louis R. Meloni, J.S.C.
Plaintiff's Atty: David Daniels, Esq.
Defendant's Atty: Lawrence Berger, Esq.

L-2226-07 **Jury**
Synopsis: Trial focused around Plaintiff's claims of injuries. Automobile accident case. Liability verdict in favor of Defendant.

VERDICT: No Cause (8/5/10)
Case Type: Medical Malpractice
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: James Lufty, Esq.
Defendant's Atty: Robert Evers, Esq.

L-4309-07 **Jury**

VERDICT: No Cause (8/5/10)
Case Type: Auto Damages
Judge: Ronald J. Freeman, J.S.C.
Plaintiff's Atty: Mark Leonetti, Esq.
Defendant's Atty: Rachel Hanicky, Esq.

L-3299-08 **Jury**

VERDICT: No Cause (8/5/10)
Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Joseph Walsh, Esq.
Defendant's Atty: Michael David, Esq.

L-5796-08 **Jury**

VERDICT: No Cause (8/10/10)
Case Type: Auto Negligence
Judge: Robert G. Millenky, J.S.C.
Plaintiff's Atty: Allen Littlefield, Esq.
Defendant's Atty: Laurie Tilghman, Esq.

L-2723-08 **Jury**

VERDICT: **Damage Verdict:**
\$65,979.32 (8/10/10)

Case Type: Other Insurance Claim
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: George Hariates, Esq.
Defendant's Atty: Gregory Pennington, Esq.

L-2309-09 **Bench**

VERDICT: No Cause (8/11/10)
Case Type: Auto Negligence
Judge: F.J. Fernandez-Vina, PJ, CV
Plaintiff's Atty: Jay F. Levin, Esq.
Defendant's Atty: Murianda L. Ruffin, Esq.

L-6063-08 **Jury**

VERDICT: No Cause (8/12/10);
 Liability Verdict \$65% Plaintiff;
 35% Defendant

Case Type: Auto Negligence
Judge: Frederick J. Schuck, J.S.C.
Plaintiff's Atty: Scott Goldberg, Esq.
Defendant's Atty: Jacqueline McDonald, Esq.

L-3072-08 **Jury**

VERDICT: Liability Verdict: 49% Plaintiff;
 51% Defendant; Damage Verdict:
 \$65,000 molded to \$33,150
 (8/18/10)

Case Type: Auto Negligence
Judge: Louis R. Meloni, J.S.C.
Plaintiff's Atty: Marie Ramos-Wright, Esq.
Defendant's Atty: Laurie Tilghman, Esq.

L-5817-07 **Jury**

VERDICT: No Cause (8/18/10)
Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Mark Shoemaker, Esq.
Defendant's Atty: William Hanifen IV, Esq.

L-4503-08 **Jury**

VERDICT: Liability Verdict: 100% Defendant
 (8/18/10)

Case Type: Auto Negligence
Judge: F.J. Fernandez-Vina, PJ, CV
Plaintiff's Atty: Michael Mi, Esq.
Defendant's Atty: Kimberly Hoehing, Esq.

L-2858-08 **Jury**

VERDICT: No Cause (8/19/10)
Case Type: Auto Negligence
Judge: Robert G. Millenky, J.S.C.
Plaintiff's Atty: Brian Katz, Esq.
Defendant's Atty: Robert Kaplan, Esq.

L-330-08 **Jury**

VERDICT: No Cause (8/24/10)
Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Michael Mignogna, Esq.
Defendant's Atty: Lawrence Berger, Esq.

L-710-08 **Jury**

VERDICT: **Damage Verdict: \$35,000 to**
Plaintiff 1; \$60,000 to Plaintiff 2

Case Type: Auto Negligence
Judge: Frederick J. Schuck, J.S.C.
Plaintiff's Atty: Rocco DePersia, Esq.
Defendant's Atty: Raymond Danielewicz, Esq.

L-3675-08 **Jury**

NJSBA Trustee Update

If It Isn't Broken...

Continued from page 6

sign, so there was very little hope of an acquittal. I convinced my client to permit me to plead him guilty and concentrate on saving his license from suspension. The Court agreed with my argument that, since suspension was not mentioned in the careless driving statute and there were no facts upon which a finding of willfulness could be predicated, no D/L suspension could be imposed.

I recently tried a case where the DWI was accompanied by a summons for careless (NJSA 39:4-97) rather than reckless driving. Here too—without an accident let alone a death—there was no evidence of willful conduct. The only thing that could possibly qualify as willful was his consumption of some alcohol. Remember the law of the State of NJ is not don't drink and drive, but know your limits. For an adult it is perfectly legal to drive after having consumed alcohol so long as you are not under its influence and don't have a prohibited BAC. The Court was unable to find that the state had met its burden as to the DWI, but was prepared to convict the defendant of willfully having driven carelessly.

This convoluted logic was required in order to put the Court in a position to punish the defendant through a D/L suspension for the charge of which he was just found not guilty. This added penalty was for being negligent after having done a legal act with no provable

connection between the two. My crystal ball (read my cynical nature) tells me that the Moran factors enunciated by Justice Albin, in an effort to protect our citizens from arbitrarily long suspensions, will be subverted to impose D/L suspensions in cases way outside the expressed intent of the legislature.

Although invited to do so, the NJSBA chose not to get involved in the Moran case. We were satisfied with the existing situation. It was a no win situation to those of us heavily involved in the municipal courts. If the statute was unconstitutional, and Courts were not permitted to suspend for reckless driving, how would we get rid of our DWIs? And if the statute together with the Moran yardstick is the law, won't Courts be tempted to seize the opportunity to accomplish their agenda of punishing those who have driven after drinking—even those not guilty of drunk driving?

And what about poor Mrs. Moran? She awaits resentencing in the municipal court. Once again, my crystal ball tells me that the Moran factors will be used to justify the same 45-day suspension as previously imposed. Cases such as this reinforce the advice I have been giving for years. Be careful about taking appeals. If it isn't broken, don't fix it!

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September 2010

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LEGAL LINE TO CRIMINAL COURT LAW

So Long, Summer

Continued from Page 9

Futch. Futch was known by the investigating officers to distribute CDS from his vehicle.

Apparently in preparation to execute the search and arrest warrants, the police surveilled Futch at a Wendy's restaurant. They observed Wendell Mann drive into the parking lot with two passengers and park next to Futch's vehicle. Mann and Futch engaged in a brief conversation. Officers believed a drug transaction was taking place.

As officers converged on the vehicles, Mann appeared nervous, got out of his vehicle and ran toward the restaurant. He ignored orders to stop. An officer pursued Mann into the restaurant bathroom where Mann tried to flush three bags of marijuana and ecstasy down the toilet. The officer stopped Mann from doing so and retrieved the drugs from the toilet.

The officer returned to Mann's vehicle. Through an open window, he observed additional drugs on the rear seat. After removing the other men from the vehicle, the officer recovered the drugs from the rear seat.

The trial court denied Mann's motion to suppress the drugs finding that under the totality of the circumstances, the police had a reasonable and articulable suspicion that a drug transaction was taking place and they were therefore justified in following Mann into the restaurant and seizing the drugs he tried to flush down the toilet. The trial court also upheld the seizure of the drugs from the defendant's vehicle under the plain view doctrine.

The Appellate Division reversed the trial court. It held that Mann's actions did not provide more than a "hunch" to the officers that a drug transaction was taking place and there was therefore an insufficient basis to attempt to stop and pursue Mann and seize the drugs he tried to flush down the toilet. The Appellate Division further held that the drugs seized from Mann's vehicle were fruits of the unlawful stop of Mann and unlawful seizure of the drugs from the bathroom.

In a unanimous opinion, the Supreme Court upheld the trial court's ruling. The Court held that under the totality of the circumstances, the police had a reasonable and articulable suspicion criminal activity was afoot justifying an investigatory stop of Mann and seizure of the drugs he tried to flush down the toilet. The Court also upheld the seizure of the drugs from Mann's vehicle under the plain view exception to the warrant requirement.

In *State v. Blackmon*, 202 N.J. 283 (2010), the Court addressed the right of a defendant's family member to speak at sentencing. The Court noted that the New Jersey Constitution, court rules and statutes provide a right to speak at sentencing to crime victims and their families as well as to the defendant. Friends, relatives and supporters of the defendant are not afforded a similar right and the decision whether to hear from them at sentencing is subject to the discretion of the sentencing court. The sentencing court must, however, state its reasons for declining to hear from such persons to allow appellate review. Such decisions will not be overturned unless they are arbitrary and capricious.

Lastly, the Court considered whether forfeiture of public office was required pursuant to N.J.S.A. 2C:51-2 where a police officer pled guilty to fourth degree criminal sexual contact in *State v. Hupka*, ___ N.J. ___, ___ A.2d ___, WL 3121892 (2010). Jeremiah Hupka was

a sheriff's officer and part-time municipal police officer. He was indicted for aggravated sexual assault and sexual assault for having intercourse with a female acquaintance after she apparently passed out from drinking. Hupka was off-duty and not in uniform at the time.

Hupka pled guilty to fourth degree criminal sexual contact. At the time, he had resigned from his law enforcement positions. As part of the plea agreement, he agreed to never seek employment in New Jersey or elsewhere as a law enforcement officer. The question whether the conviction permanently barred Mr. Hupka from any public employment under N.J.S.A. 2C:51-2 was left to the trial court.

The trial court held that N.J.S.A. applied under the facts and barred Hupka from any public employment. Our Supreme Court reversed the trial court, finding that under the circumstances, the offense did not involve or touch on Hupka's positions as a sheriff's officer and police officer. Please note that if the conviction had been for a third degree or higher crime, forfeiture of public office would have been required under N.J.S.A. 2C:51-2 even if the offense did not touch on the offender's public office.

For those of you interested in a broader survey of developments in the criminal law during the course of the entire year, I encourage you to attend the *Black Letter Law Blast* early next year when Deputy Public Defender Terry Lytle presents a pithy review of new criminal case law. Other fine presenters review new and amended criminal statutes and developments in the Code of Professional Responsibility.

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Legal briefs

Steven K. Mignogna, Esq. has been appointed Chair of the Probate and Fiduciary Litigation Committee of the American Bar Association (ABA) for a fourth consecutive year. Mr. Mignogna, a Partner in the Haddonfield office of Archer & Greiner, P.C., Chairs the firm's Estate and Trust Litigation Group.

John H. Geaney, Esq. and Prudence M. Higbee, Esq., Capehart Scatchard Shareholders, recently spoke at the Millennium Seminars in Mount Laurel. In his presentation, Mr. Geaney spoke on recent key court decisions in New Jersey workers' compensation law. Mr. Geaney also gave an overview of workers' compensation law, including medical, temporary and permanency benefits. Additionally, he discussed why the ADA and FMLA amendments are important to compensation managers.

Joseph A. McCormick, Jr., Esq. and **Paul S. Plumm, Esq.** formerly of Weinberg & McCormick, P.A., announce the formation of their new practice as follows:
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Ballard Spahr, LLP announces its New Jersey office relocation to Woodland Falls Corporate Park, in Cherry Hill effective August 16, 2010. The new firm address is as follows (telephone and fax numbers remain the same at TEL 856.761.3400 FAX 856.761.1020) :

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The Estate and Financial Planning Council of Southern New Jersey officially swore in the 2010-2011 Board of Directors at their Annual Installation and Awards Dinner that was held at Catelli's Ristorante in Voorhees, NJ on June 10, 2010.

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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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Justice John E. Wallace, Jr. to Receive Gerry Award October 19

Continued from Page 1

Now in its 15th year, previous recipients include: Donald A. Robinson, 1996; Judge William Lipkin, 1997; Judge Dickinson Debevoise, 1998; former Attorney General George F. Kugler, Jr., 1999; Ambassador and former Congressman William J. Hughes, 2000; Judge Stanley S. Brotman, 2001; Judge John B. Mariano, 2002; Judge Joseph Irenas, 2003; Judge Michael P. King, 2004; Chief Judge John W. Bissell, 2005; Joseph H. Kenney, Esq. and posthumously to Chief Judge Edward R. Becker, 2006; Hon. Joseph H. Rodriguez, Senior Judge, United States District Court, District of New Jersey, 2007; Hon. Joel B. Rosen, former United States Magistrate, 2008; and Thomas R. Curtin, Past State Bar President, 2009.

Nominated to New Jersey Supreme Court by Governor James E. McGreevey in 2003, Justice Wallace was sworn in as an Associate Justice by Chief Justice Deborah T. Poritz at a private ceremony on May 20, 2003 followed by a reaffirmation of the oath on June 4, 2003 in a public ceremony at Rowan University.

At the time of his nomination, Justice Wallace was a New Jersey Superior Court Judge, sitting in the Appellate Division. Appointed to the Superior Court in 1984, Justice Wallace was promoted to the Appellate Division in 1992. As a trial judge, Justice Wallace sat in Criminal and Civil Divisions, as well as the Family Part, in the Gloucester County vicinage.

Prior to his appointment to the New Jersey Superior Court, Justice Wallace was a partner in the law firm of Atkinson, Myers, Archie & Wallace. During that time he also served as the Municipal Judge for Washington Township in Gloucester County, was an Associate at the Philadelphia law firm of Montgomery, McCracken, Walker & Rhodes, and an attorney for the Trustees of the Penn Central Transportation Co.

Born in Pitman, N. J., Justice Wallace received his B.A. from the University of Delaware in 1964 and his J.D. from Harvard Law School in 1967. He also served in the United States Army from 1968 to 1970, attaining the rank of Captain.

Justice Wallace is a member of the Gloucester and Camden County Bar Associations, the American Bar Association, the National Bar Association, the New Jersey State Bar Association, and the Garden State Bar Association. He has served on the New Jersey Supreme Court Task Force for Minority Concerns, the New Jersey Ethics Commission, the Judiciary Advisory Committee on Americans with Disabilities Act, the Supreme Court Special Committee on Matrimonial Litigation, and the Appellate Division Rules Committee, and was the Chairman of the Supreme Court Ad Hoc Committee on Admissions. Justice Wallace is also a member of the Board of Trustees of the University of Delaware and a member of the University's Wall of Fame.

The recipient of numerous honors from respected civic and legal organizations, including the Association of Black Women Lawyers of New Jersey; the Orient of New Jersey Dedicated Service Award from the Valley of Camden; the Washington Township Board of Education Appreciation Award; and the Van J. Clinton award from the Garden State Bar Association.

Justice Wallace has also coached Little League Baseball since 1970, and since 1991 has volunteered on the football coaching

staff at Washington Township High School. He is also a member of several Sports Halls of Fame including, Gloucester County, Pitman High School, Washington Township High School, and Washington Township Babe Ruth Baseball.

Justice Wallace currently resides in Sewell, with his wife Barbara. The couple has five children.

The Judge John F. Gerry Memorial Scholarship Award, established in 2002, will also be presented at the dinner. The award is available to students enrolled at any New Jersey law school. Scholarship recipients have demonstrated academic achievement and genuine financial need, coupled with a verifiable history of and/or a desire to practice in the public service sector.

Tax deductible donations to support the Gerry Memorial Scholarship may be sent to the Camden County Bar Foundation, 1040 N. Kings Highway, Suite 201, Cherry Hill, NJ 08034.

Tickets for the Award Dinner are \$75, with a portion of the ticket price going to the Gerry Scholarship Fund. Reservations may be made by calling Bar Headquarters at 856.482.0620, or by using the flyer insert in this edition of the Barrister. Reservations must be received by Wednesday, October 13.

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By Paul DePetrìs

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Navigating the Ethical Minefield: 6:30 p.m. - 8:30 p.m.

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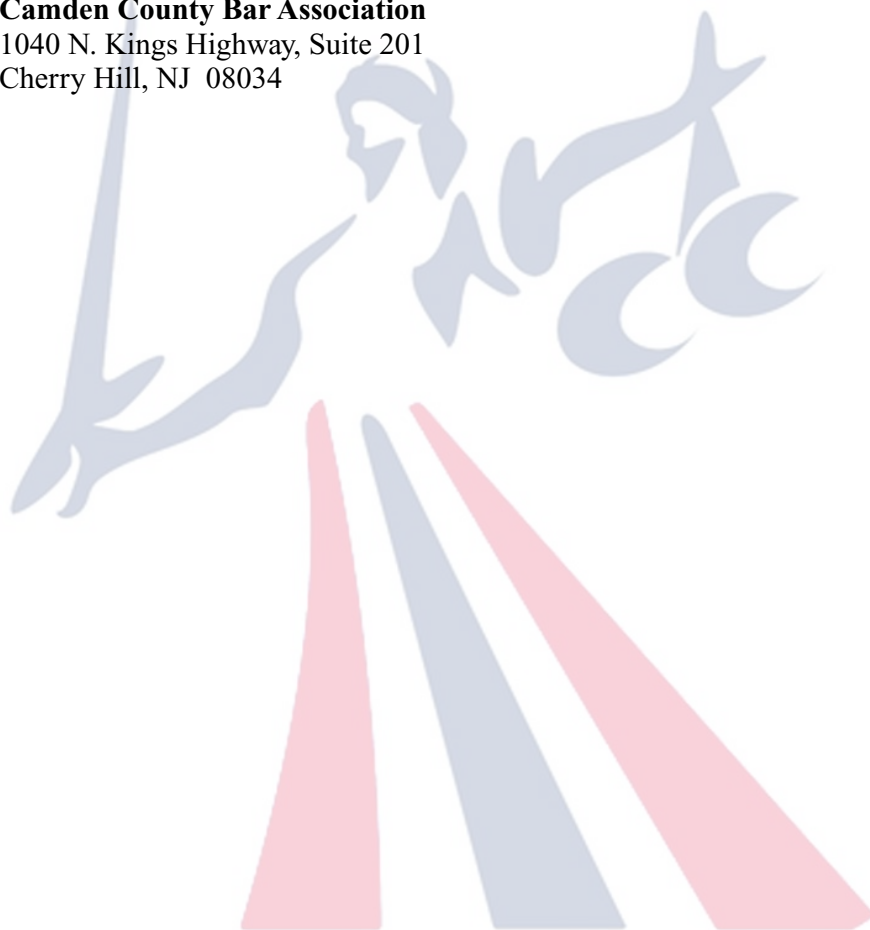
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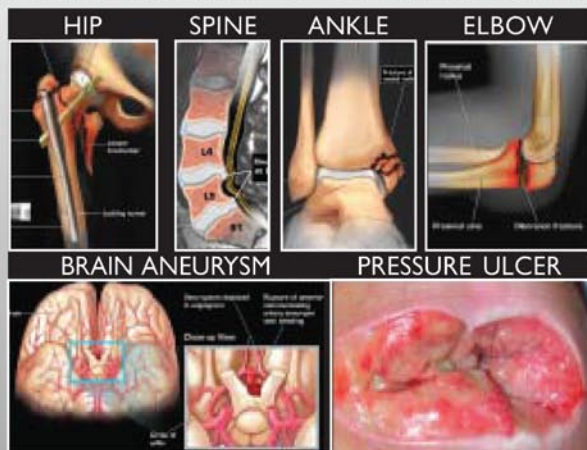


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