



## Meet the Judges and Law Clerks Reception Sept. 20

### Mix & Mingle on the river!

Kick off the new Bar year at one of the Association's most popular events, the "Meet the Judges and Law Clerks" Reception. Plan now to join your colleagues, from 5:30 to 7:30 p.m. on Tuesday, September 20th at the Camden County Boathouse on the Cooper River in Pennsauken. This annual **member-only** event features a two-hour open bar and an abundance of mouth-watering hot and cold hors d'oeuvres.

"The Meet the Judges and Law Clerks Reception is a terrific way for members of the bench and bar to mix and mingle on an informal basis," said Bar President Louis Lessig. "It's an opportunity to meet the Judges and law clerks of the Camden County Superior Court and its Appellate Division, United States District Court for the District of New Jersey, and the Workers' Compensation Court, in a relaxed setting conducive to conversation. I urge all members to take advantage of this unique, member-only occasion for camaraderie, networking and getting back into the Bar year."

Use the registration flier included in this month's inserts to register early and guarantee your place at this traditionally sold-out, **member-only** event. Valet parking will be available.

## Crackin' For A Cause!

### All members and friends invited to attend

Plans are just about complete for the Young Lawyer Committee's **Second Annual Lobster Bake** on Saturday, September 10, from 4-8 p.m. at The TapRoom in Haddon Township and **ALL members and friends are invited.**

In addition to a perfectly prepared, freshly flown-in Maine lobster, the menu includes shrimp, clams, corn on the cob, hamburgers, hot dogs, beer and wine all for just \$70 per person! Not to mention the live entertainment, games and just plain fun for all!

Proceeds from the Lobster Bake will be used to continue the **Scholarship Fund** for disabled students attending the **Larc School** in Bellmawr. The scholarship was established through the Bar Foundation with proceeds from last year's Lobster Bake, resulting in a \$5,000 gift to the school from the Young Lawyer Committee.

See the Young Lawyer Article on page 10 for additional details and use the Lobster Bake insert to reserve your place for this exciting new event.

## Annual Memorial Service Set for September 19th

### CCBA pays tribute to departed friends & colleagues

Members and former members of the Camden County Bar Association who passed away during the past year will be remembered and memorialized at the Bar's annual "Opening of Court" Memorial Ceremony at 9 am, Monday, September 19th in Courtroom 63 of the Hall of Justice in Camden.

All Bar members, family and friends are urged to attend the ceremony, which will be presided over by Assignment Judge Francis J. Orlando, Jr. A coffee and pastry reception immediately follows the ceremony.

"The Annual memorial ceremony is one of our Association's oldest and most meaningful traditions," said Robert Aaron Greenberg, chair of the Memorials Committee. "It is the one opportunity we have as an

*Continued on Page 9*

## Pay Your Dues, Don't Miss Out!

The Association's dues policy states: *Members whose dues remain unpaid as of **September 1**, will not be entitled to the benefits of membership. As long as dues are outstanding, unpaid members will not be able to attend member-only events, will pay non-member tuition rates for Association-sponsored CLE seminars and events, will be removed from the Barrister mailing list, will not be able to serve on a committee, and will not receive discounts and services provided by Association Partners in Progress.*

*All benefits will be restored when dues are paid in full.*

Paying promptly enables your Association to continue serving you and the community with its many important programs and services. This year's dues structure remains the same as last year.

Think about the many benefits you receive, in addition to a number of reduced member tuition and informative seminars throughout the year, each with New

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Camden County Bar Foundation

Autumn Scramble

**Columbus Day**  
**October 10th**  
**The Links, Marlton**

Sign up Today!

# The Docket

## Tuesday, September 6th

*Young Lawyer Committee Meeting*  
Noon  
Bar Headquarters, Cherry Hill

## Thursday, September 8th

*Diversity Mixer*  
5:30 – 7 pm  
Rutgers-Camden

## Saturday, September 10th

*Young Lawyer Committee*  
*2nd Annual Lobster Bake*  
4 – 8 pm  
The TapRoom, Haddon Township

## Monday, September 12th

*9/11 Day of Service*  
9 am – 4 pm  
Hall of Justice, Camden

## Monday, September 19th

*Opening of Court Memorial Ceremony*  
9 am  
Hall of Justice, Courtroom 63  
Camden

## Tuesday, September 20th

*Association Board of Trustees Meeting*  
4 pm  
Camden County Boathouse, Pennsauken

*Meet the Judges and Law Clerks*

5:30 – 7:30 pm  
Camden County Boathouse, Pennsauken

## Wednesday, September 21st

*Foundation Board of Trustees Meeting*  
4:00 pm  
Bar Headquarters, Cherry Hill

## Thursday, September 22nd

*Probate and Trust Committee*  
*Luncheon Meeting*  
*State of the Probate & Surrogate Courts*  
*in Camden County*  
Noon  
Tavistock Country Club, Haddonfield

*CLE on Tap! - NJ Real Estate*  
*Closing Procedures*  
4 – 7:15 pm  
Tavistock Country Club, Haddonfield

## Friday, September 23rd

*Social Security Meeting*  
Noon  
Bar Headquarters, Cherry Hill

## Tuesday, September 27th

*Municipal Court in a Nutshell Seminar*  
4 – 6:15 pm  
The Mansion, Voorhees

## Nominations Sought for Devine Award

The Hon. Peter J. Devine, Jr. Award Committee is accepting nominations for this year's award. The Devine Award is the highest honor afforded to the membership and is bestowed upon a member for distinguished service to the Camden County Bar Association. The Committee is chaired by Louis R. Moffa, Jr., a partner with Montgomery, McCracken, Walker & Rhoads, LLP

Please use the Devine Award Nomination Form included in this month's *Barrister* inserts to nominate a colleague who has provided distinguished service to the Association and the legal community in Camden County. Nominations must be received by October 21, to be considered.

The award will be presented at the Annual Devine Award Luncheon in January.

## The Barrister

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Views and opinions in editorials and articles are not to be taken as official expressions of the Association's policies unless so stated, and publication of contributed articles does not necessarily imply endorsement in any way of the views expressed.

## Tentative Agenda for September 20, Trustees Meeting

A tentative agenda for this month's regular Board of Trustees meeting follows. The meeting will begin at 4 p.m., at THE CAMDEN COUNTY BOAT HOUSE in Pennsauken immediately preceding the Meet the Judges & Law Clerks Reception. All meetings are open to the membership. Members interested in attending should notify and confirm their attendance by calling Bar Headquarters at 856.482.0620.

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

Be an active  
participant  
in YOUR  
professional  
organization.

ATTEND  
MEETINGS  
AND  
FUNCTIONS!

## Out & About

### Joint Bar Picnic



Above: Linda Eynon, Andy Kushner, Partner in Progress  
Marty Abo



Above: Judge Little & Judge Fratto



Left: Ken Landis & Ken Bossong



## 2011 Camden County Bar MCLE Planner

### Important Notice Regarding Seminar Materials

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

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

#### Thursday, September 22nd – Tavistock CC

#### **New Jersey Real Estate Closing Procedures CLE on Tap! for Newly Admitted Lawyers**

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

**New Jersey Credit:** This program has been approved by the Board on Continuing Legal Education of the Supreme Court of New Jersey for **3.9** hours of total CLE credit. Of these, **0** qualify as hours of credit for ethics/professionalism. *The actual credits earned may be less if the course time is less than 195 minutes.*

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

#### Tuesday, September 27th – The Mansion *Municipal Court in a Nutshell*

The nuts and bolts of today’s Municipal Court Practice. Beyond the rules and statutes, an insider’s guide to handling cases in New Jersey’s busiest courts from three of our most experienced practitioners. This course qualifies for CLE “bridge” credits.

Includes discussion of brand new *Municipal Court Trial Certification* qualifications!

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

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

### Installation Dinner Dance



Jim & Linda Hamilton



Pam & Past President Joe McCormick



Jennifer & Matt Wait



Matt Dopkin, Bill Tobolsky, Casey Price & Carl Price

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\*NY Law Journal/Legal Intelligencer Polls, 2010; Ct. Law Tribune Poll 2009; Harvey Research Study, 2010

## NJSBA Trustee Update

# Judicial Dependence



By Arnold Fishman

In case you haven't noticed, either by happenstance or design, the law is not always easy to comprehend. A proper result often requires a nuanced analysis of the competing positions being advanced. Such a rigorous analysis requires the demeanor of a good listener, the integrity of an open mind, and an intellect up to the highest of standards. What could be worse than a judge

who, in spite of your best efforts and those of her or him, just fails to comprehend your argument? To avoid this eventuality we recruit the best and the brightest to adjudicate the disputes inherent in a vibrant, pulsating and animated society. The unstated assumption within our profession is that the talents of the preeminent practitioners will be recognized by both their peers and the consuming public leading to their advancement within their careers and its concomitant financial reward. Implicitly, this path ultimately culminates in that person being eligible to assume the bench. That means that the best and the brightest are making more money than we the governed can afford or are willing to pay them. The charisma of the bench is so enticing that many of the persons who succumb to its appeal take substantial pay cuts. Superior Court Judges earn about \$165,000 per annum; many made multiples of that amount in private practice.

The drafters of our present State Constitution were so concerned about judicial independence that they inserted a provision prohibiting the cutting of the "salary" of a sitting judge. Their fear was that the other branches of government might punish jurists for their unpopular decisions. Thus protected, the Judicial Branch was free to decide cases absent the concern of being starved off the Bench. Almost by definition, the vast majority of cases do not involve issues of burning ideological controversy. Therefore, the quality of the adjudicatory process is much more a function of integrity, demeanor and intellect than of courage. The excellence of the Judiciary is dependent upon the worth of those who apply and the superiority of those who are retained. As the former long-time chair of the County Judicial and Prosecutorial Appointments Committee and present Camden County representative to the NJSBA JPAC, I am acutely mindful of the need for such persons.

My former partner, a gentleman in his mid forties with two children yet to be educated was just sworn in as a Judge of the Superior Court in Atlantic County. (Congratulations Allen!) His application preceded the recent passage of the legislation raising the amounts that judges are required to pay for their medical and pension contributions. After his confirmation, but before taking his oath, he crunched the numbers. According to him, our judges will be getting paid approximately \$140,000, and are prohibited from any outside employment. (We are enriched that, to his credit, this eminently qualified, hard-working young attorney, took the oath.) The problem all of this creates is: Who will want these jobs? And who, already serving, will want to stay? Consider that lawyers who have "former judge" on their résumés garner great respect and get cushy well-compensated positions in the large prestigious law firms.

Does there not come a point where the meager remuneration overcomes the attraction? Do we really want this branch of our

government, with all the important decisions it makes, to be open only to either those who can't make a living or the independently wealthy? The courts are the escape valves on the pressure cooker of our dynamic culture. Independence is illusory—and even worse, corruption is imminent—where workers can't depend on the adequacy of their compensation. A sitting judge has sued. It is his position that these increases in "contributions" are unconstitutional. Those defending the constitutionality of the legislation argue that increased medical and pension contributions are not a diminution of "salary." Regardless of the legal niceties, the law is wrong headed, at least as applied to sitting judges, and should be repealed. The State Bar Resolution calling for the repeal of this unwise legislation follows.

## RESOLUTION OF THE NEW JERSEY STATE BAR ASSOCIATION

A resolution calling for the repeal of those portions of P.L. 2011, Chapter 78, an Act Concerning Public Employee Pension and Health Care Benefits, as they apply to Justices of the New Jersey Supreme Court and Judges of the New Jersey Superior Court.

WHEREAS, Article VI, Section VI, Paragraph 6, of the New Jersey Constitution states: "The Justices of the Supreme Court and the Judges of the Superior Court shall receive for their services such salaries as may be provided by law, which shall not be diminished during the term of their appointment;" and

WHEREAS, the New Jersey State Bar Association asserts that P.L. 2011, Chapter 78 as it applies to Justices of the New Jersey Supreme Court and Judges of the New Jersey Superior Court will result in a diminution of judicial salary that is contrary to the entire concept of an independent judiciary, which is the hallmark of the New Jersey legal system; and

WHEREAS, the New Jersey State Bar Association believes the statute will have a severe impact on our Judiciary's ability to accomplish its mission to provide New Jersey citizens with timely consideration of their cases by encouraging many experienced jurists to retire; and

WHEREAS, the New Jersey State Bar Association believes that such a migration of judicial talent will have adverse consequences on the public's ability to seek redress for their grievances and on the ability of lawyers to effectively represent their clients causing unnecessary delay, and will otherwise diminish the overall quality of justice New Jersey judges provide by increasing their already burgeoning caseloads in the wake of years of budget and personnel cuts; and

WHEREAS, the New Jersey State Bar Association further asserts the probable effect of this legislation will be to discourage many qualified attorneys from seeking judicial office;

NOW, THEREFORE, BE IT RESOLVED, that, in furtherance of a belief in an independent court system dedicated to the fair, timely and effective administration of justice, as well as a fundamental dedication to preserving the high quality and integrity of a judicial system that is nationally recognized for its excellence, the New Jersey State Bar Association calls on Governor Chris Christie and the New Jersey Legislature to repeal the provisions of P.L. 2011, Chapter 78, an Act Concerning Public Employee Pension and Health Care Benefits, in so far as it applies to Justices of the New Jersey Supreme Court and Judges of the New Jersey Superior Court.

I, Angela W. Dalton, Secretary of the New Jersey State Bar Association, do hereby certify that the above is a full, true and accurate copy of a resolution passed by the Board of Trustees on July 15, 2011.

# Want to Know How Much the IRS Knows About Attorneys?



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

...for a copy of the *Attorneys Audit Technique Guide*. Yep, your friend and mine, the Internal Revenue Service, has recently issued a new guide to help their examiners audit an attorney's tax returns. You should be familiar with the guide. And your accountant? Well, he or she would be well advised to so read up, as well. If you (or they) want a full copy, just shoot me an email at [marty@aboandcompany.com](mailto:marty@aboandcompany.com).

I recall a number of years back presenting a seminar with members of the Bar and IRS on their *Market Segment Specialization Program (MSSP)* as it applied to lawyers and law firms. The MSSP focuses on developing highly trained examiners for a particular market segment. It makes sense since, historically, IRS examiners were assigned to audit taxpayers in many different industries.

On one day, an examiner audited a retail store and on the following day the examiner may have audited a tavern or a physician. As a result, experience gained in one audit did not significantly enhance the examiner's experience for purposes of conducting other audits.

Yep, the IRS loves attorneys—so much that in March 2011 they updated their audit guide. Agents have been trained in specific market segments, such as attorneys, to become specialists in those areas. They then conduct audits within that market segment regardless of the form of organization, whether it is a proprietorship, partnership, S corporation, C corporation or limited liability company. Agents also focus their attention on trust accounts as well as cash and non-cash income not reported by attorneys. The Guide is written so that the examiners know what practices to look for in auditing a law practice. However, the Guide is a gold mine of information to help you operate your practice from a tax standpoint to keep the auditors away from your door.

A few examples addressed in the Guide to whet your appetite?

- Some sources of returns selected for examination include the internet, general newspaper and law journal articles and case reviews, Martindale Hubbel Directory, yellow pages, county and state bar directories, non filer programs coordinated with states and from other IRS examination groups.
- Examinations appear concentrated on smaller firms where internal controls tend to be more lax.
- Examiner's concerns often arise with funds or other forms of income bypassing the general account. For example, some attorneys have cashed trust or fee checks or deposited them directly into personal or investment accounts. The lawyer's particular specialization also grabs the attention of examiners (i.e. a personal injury practice might be more prone to result in client costs advanced adjustment; a criminal and immigration attorney's

*Continued on next Page*

## Abo and Company, LLC

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

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;
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## Want to Know How Much the IRS Knows About Attorneys?

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- increased access to cash receipts; a real estate attorney may receive deeds in lieu of fees; a security or tax attorney may receive an equity interest for services rendered; legal services performed for non-deductible products or services received in barter, etc.
- Examiners are utilizing available audit techniques to identify the law firm's attempt to defer income by allowing fees to remain in the trust account until the next year.
  - A key focus is in the proper treatment of client costs advanced by a lawyer, especially prevalent in a contingency practice. Generally, such advances are nondeductible unless the firm fails to receive a reimbursement at the appropriate time. Deduct it when the case is lost or the firm fails to receive reimbursement—not when you pay the filing fees or the expert witness or the other case costs. The key point is that the IRS (and the Courts) treats client advances as “loans” not as current deductions (i.e. expense advances are treated as loans until settlement).
  - It is my understanding that trying to use the attorney-client privilege as an out, won't necessarily fly. As a “general rule,” where a party demonstrates that there is a legitimate need for the IRS or a court to require disclosure of such matters, the identity of an attorney's clients and the nature of his or her fee arrangements with his or her clients are not confidential communications protected by the attorney-client privilege. A summons prepared by the IRS in good faith will be enforced while the burden will be on the claimant to prove attorney-client privilege. Check with your lawyer.

My suggestion? Look over this new IRS *Attorneys Audit Technique Guide*.

*The above article was retrieved from the “E-mail alerts” disseminated to clients and friends of CCBA Partner in Progress, 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](http://www.aboandcompany.com) or by calling 856-222-4723 for their newsletters or updates.*

## CCBA – YOUR Trusted Source for MCLE Compliance

The Camden County Bar Association has long been recognized for its quality, affordable and convenient CLE courses presented by local experts who you know and meet in court. As a **New Jersey MCLE Accredited Service Provider**, we're all you need to meet your MCLE requirements. With a full schedule of seminars planned for the upcoming year, including those required for newly admitted attorneys, we're here for YOU!

In addition, **Lunch & Learn** programs addressing various areas and aspects of the law, and substantive committee meeting programs are also being planned that will include MCLE credits.

Make the most of your CCBA membership and rely on us for your MCLE Compliance needs. Take advantage of the 33% member savings on seminar tuition, and the quality and convenience that you know and trust.

Since Mandatory CLE (MCLE) has become law in New Jersey, every active New Jersey attorney is required to complete 24 credit hours of continuing legal education every two years. Of those 24 credits, at least four must be in ethics and/or professionalism. This requirement also includes attorneys with a plenary or limited license to the New Jersey bar, judges, in-house corporate counsel, and attorneys who work for government entities.

Although the Skills & Methods courses for newly admitted lawyers are no longer required, during a newly admitted lawyer's



first compliance period after admission to the Bar of New Jersey, newly admitted lawyers must satisfy 15 of his/her 24 required credit

hours in any five of the following nine subject areas: New Jersey basic estate administration; New Jersey basic estate planning; New Jersey civil or criminal trial preparation; New Jersey family law practice; New Jersey real estate closing procedures; New Jersey trust and business accounting; New Jersey landlord/tenant practice; New Jersey municipal court practice; and New Jersey law office management. A lawyer who has completed at least the first full year's requirements of the Skills and Methods Course will be considered to have met the additional requirements for a newly admitted lawyer.

### Compliance Reporting Groups

Every active lawyer is permanently assigned to one of two compliance groups for CLE purposes, with one group reporting each year.

**Those whose birthdays fall between January 1 and June 30 (Compliance Group 1)** must certify their compliance on the Annual Attorney Registration Statement (or on such other form as provided by the Board) of each even numbered year next following the completion of a compliance period.

**Those whose birthdays fall between July 1 and December 31 (Compliance Group 2)** must certify their compliance on the Annual Attorney Registration Statement (or on such other form as provided by the Board) of each odd numbered year next following the completion of a compliance period.

In 2011, lawyers in **Compliance Group 2 (July 1 – December 31)** will be required to report compliance on the Annual Attorney Registration Statement of continuing legal education courses or activities equal to one-half of the mandatory CLE requirements (12 credits of which two are in ethics or professionalism).

Be sure to read the weekly E-Barrister, visit our website [www.camdencountybar.org](http://www.camdencountybar.org), and check your monthly *Barrister* inserts for the latest information on upcoming CLE offerings, and visit <http://camdencountycle.learningcenter.com/> to purchase online CLE seminars.

### Pay Your Dues

Continued from Page 1

Jersey and Pennsylvania CLE credit. There's the monthly publication, *The Barrister*; committees that offer opportunities to network with peers while shaping the future of your Association and profession; numerous networking professional and social activities designed to enhance your law practice; discounts on many legal products and services; and much more.

Should you have questions or to use a credit card for payment, call 856.482.0620.

**REMEMBER: The upcoming Meet the Judges & Law Clerks Reception is a Member-only event, which requires that dues be current to attend.**

**LEGAL LINE TO CRIMINAL COURT LAW**

# Practicing in Camden and Philadelphia Courts

By Lou Presenza

Ah, Monday morning, and you have several matters in both Philly and Camden. You have matters in 404 CJC, 406 CJC and Courtrooms 46 and 35 in the Hall of Justice. This is a typical schedule for someone who practices in both Philly and Camden, or, perhaps it is the type of business someone wants to create for themselves. However, navigating across the river in Criminal Courts is not as easy as EZ Pass. There are many issues to confront, terminology to get used to, and an understanding of the process in each state. This article will highlight some of the differences for the general practitioner or for someone who may be curious about venturing across the border and using that PA license.

## I. Courts and Procedures

For starters, it is important to realize that each Court has its very own unique feel. The Criminal Justice Center in Center City Philadelphia is a busy place. Anyone arrested in the City of Philadelphia will have a hearing in the Municipal Court, by way of a preliminary hearing, or a potential trial on a misdemeanor charge. Whereas, in the Hall of Justice, anyone arrested for a felony will have a CJP date along with a possible Pre-Indictment Conference before that individual is indicted. Thus, the main difference between Pennsylvania and New Jersey is the process by which the Court reviews the evidence to determine the probable cause for the allowance of the charges to go forward. And as such, this is where the attorney can earn a living.

### A. Pre-Indictment and Preliminary Hearings

In New Jersey, the process of indictment is done secretly, but, that does not mean that an attorney cannot influence an outcome. This is usually done by way of pre-indictment plea negotiations and investigations. In Pennsylvania, a defendant charged with a felony is entitled to a preliminary hearing within 10 days after his or her arrest. 234 Pa.Code Rule 540. At the preliminary hearing, an attorney has the right to cross examine the witnesses for the Commonwealth, thereby creating a record either for trial purposes in the Court of Common Pleas or for use in cross examination if the matter results in a trial at the Court of Common Pleas level.

### B. Discovery Process

In New Jersey, a criminal defendant is not entitled to discovery until after their matter has been indicted. *Rule 3:13-3(b)*. While pre-indictment discovery is exchanged, most of the time, in preparation for the PIC date, a defendant is not entitled to the discovery until their Pre-Arrest Conference date. In Pennsylvania, for matters involving felonies, a similar rule exists. 234 Pa.Code Rule 573. For matters involving misdemeanors, all cases begin in Room 404 CJC, at which time discovery is passed from the Commonwealth to the criminal defense attorney, and a new hearing date is given, at which time, the case can be resolved by way of resolution or trial.

### C. Pleas and Negotiated Stip Trials

In New Jersey and Pennsylvania, both the prosecutor or the district attorney and the defense attorney can reach an agreement upon resolution of their matter. However, the manner in which this is accomplished can be very different. In New Jersey, this is done by the submission of a plea form to be reviewed by the Court by way of colloquy, in order to determine whether there is a voluntary

waiver of the defendant's rights, an acknowledgement that there is no force or coercion in admitting guilt, and an understanding of the potential penalties faced by the Defendant. *R. 3:9-2 and 3:9-3(c)-(d)*. For the Criminal Defense attorney, all he or she needs to do is to put forth a factual basis by the Defendant indicative of the facts needed to prove the elements of the offense for which the Defendant is admitting guilt.

In the Philadelphia Municipal Court, a stipulated trial is essentially conducted by the District Attorney who colloquies the Defendant about his or her rights under the law that they are waiving, their understanding of the nature of the facts of the case, and the willingness to proceed by way of a stipulated trial. Once this has been accomplished, the Commonwealth seeks the admission of the police reports in lieu of live testimony, at which time the Commonwealth rests. 234 Pa. Code Rule 1031.1. A Defendant may present evidence, although, usually, no evidence is presented and a guilty finding is found by the Court. Essentially, the Criminal Defense Attorney is not involved in the matter, with the exception of a reading of the appellate rights to the Defendant on the record.

Whether the Criminal Defense attorney is actually involved on the record, as in New Jersey, or behind the scenes, as in Pennsylvania, an understanding of the law of each state is critical in the representation of a criminal defendant.

## II. Driving While Intoxicated

One of the major differences between Pennsylvania and New Jersey is the way driving while intoxicated is treated. In New Jersey, the local Municipal Court handles these matters, and not the Superior Court. However, pursuant to the new AOC Directive 04-11, routine DWI matters may now be handled in the Superior Court if 39:4-50 is related to underlying felony matters. While the institution of this directive has not been finalized, it is something to consider as part of any plea bargaining where the 39:4-50 or the 39:4-50.2 is involved. In Pennsylvania, driving while intoxicated, otherwise known as Driving After Imbibing, is generally considered a criminal offense. 75 Pa.C.S. §3802. As like New Jersey, the number of offenses is graded based upon the reading, but, a first offense in Pennsylvania with a reading over 0.10% BAC will result in a jail sentence. The essential difference in Pennsylvania is that first time offenders may avail themselves to the Accelerated Rehabilitative Disposition Program, otherwise known as ARD. In Philadelphia, this is generally offered to matters where there are no accidents and no prior offenses, and the Defendant is notified of their acceptance into ARD at the time of the 404 CJC hearing. If the client is not accepted into the ARD program, then as the Criminal Defense attorney, it is important to counsel the client that they are facing a jail sentence, along with a loss of license.

## III. Controlled Deadly Substances

In New Jersey, simple drug possession is found at 2C:35-10, and in Pennsylvania, it is found at 35 Pa.C.S. §780-113(a)(16). Both states believe that in order to be convicted of possession of a controlled deadly substance, one must be in either actual possession or have constructive possession. However, one difference between the two states is in their outlook on marijuana and the amount. In New Jersey, less than 50

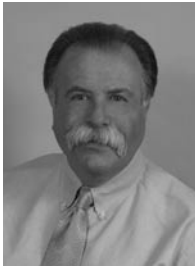
Continued on Page 12



## SPINNING MY WHEELS

## Mini and Me

By Andrew Kushner



It's 1956 and much of Europe is feeling the fallout of the Suez crisis which cut off oil supplies and in some countries, like the UK, gasoline was rationed for the first time since the end of World War II. In order for people to remain mobile, a spate of "bubble cars" appeared on European and British roads (European and British are different, you know, just ask the British). These were gussied up motorcycles with three wheels, fiberglass frames and two seats. Italian refrigerator maker's Isetta, which was later built under license by BMW, as well as others. The single door opened from the front of the car, swinging the steering wheel with it and allowed passenger and driver to enter and exit directly to the sidewalk. While these "cars" may have been thrifty and popular, the head of British Motor Corporation—BMC—was aghast and set his

designers to work to build a proper micro car which would have four wheels and more conventional layout and would banish these vehicles from the streets of Old Blighty.

The Austin division of BMC gave the task to one Alec Issigonis (later Sir Alec) who had some experience in building small cars. He was given orders that the car should not be more than about 10 feet long and should devote at least 60% of that length to passengers and luggage. Alec, along with a few other designers on the project accomplished their task more successfully than anyone could have imagined. The original Mini which was displayed for the first time in 1959 devoted not 60, but 80% of its length to passengers and luggage and employed some technologies that drove the small car industry in Europe, Japan and, finally, in the US for the next half century.

The original Mini was a tiny thing: 10 feet long, 4 feet wide and 4 feet high. To accomplish this feat the designers took an existing Austin engine and turned it sideways with the transmission incorporated into its side and lubricated by the engine oil. The heavy and intrusive suspension springs were replaced with rubber cones. And the Mini also had one more new idea: front wheel drive. These innovations allowed for four passengers and a modicum of luggage space. They also made the Mini one of the most copied designs of the second half of the twentieth century. So much so that the Mini was voted in one poll as the second most important car of the century after the Ford Model T.

The Mini had a good run. While it was never well known in the US, it certainly couldn't have been imported after the first round of emission and safety requirements in 1967. In fact, I don't recall seeing a Mini, let alone knowing it existed until 1970 when I met a camp counselor over here from Scotland where we both worked that summer. He would go on and on about a Mini Cooper and how "hot" a car it was. When I finally got to see one I was sorely disappointed with its minuscule size, small one liter engine and ten inch wheels. What I didn't get was the car weighed less than 1400 pounds so perhaps the "hot" Cooper version with 55 horses did make an impression. The "go kart" handling certainly did. Clearly, at least in the UK, the original Mini remains an icon even though

production stopped in 2000.

Enter BMW which bought up a bunch of British car makers along with their nameplates over the last 15 years and finally both the inclination as well as the money for the resurrection of the Mini was at hand. By 2001 the new, improved and much larger version, now tagged MINI or BMW MINI hit the market. It ultimately wound its way to the US with selected BMW dealers given the franchise to sell the car in purpose built MINI stores. The MINI is already in its Mark II iteration and has grown bigger and more luxe over the past 10 years. The original MINI begat a convertible, which then begat the "Clubman," which is an expanded four door version. The MINI now encompasses an almost full line of cars.

I had the pleasure of visiting MINI of Mt. Laurel where I was served up, at my request, a MINI two door hardtop with the "S" designation. The "S" model takes the standard 1.6 liter engine of 121 bhp and substitutes a turbo charged 4 cylinder which pumps out 181 horsepower. That along with stiffer suspension and other gee-gaws including navigation, cold weather package, 17" wheels and the like pushed the entry level price above \$30K. I don't know that I could have added more equipment, but I know that the car was near its maximum. The dealer was especially accommodating, handing me the key with an almost full tank of gas and just confirming that I would return prior to close of business that evening. I assured them I would.

I fired up the engine and eased the short throw six speed manual into first as I exited the dealer lot onto Route 73. The clutch was easily learned although the take up point was a little higher than I was used to. That precipitated a few head jerking moments until I got the hang of it. I zoomed onto Route 73, gave it some reasonable gas in second gear and was met with torque steer the likes of which I hadn't felt since the mid-eighties Saab turbos that I hankered for at the time. This may sound like a complaint. It really isn't. The fact that this little four, even with the turbo, could generate that type of force was pretty impressive and, once known, was easily handled on full acceleration. I took a "U" turn at the next traffic light and was impressed by the small turning radius even for a small car,

## Annual Memorial Service Set for September 19th

Continued from Page 1

Association to come together and pay our respects to the memory of cherished friends and colleagues who are no longer with us. I urge Bar members to take the time and make every effort to join us on September 19th."

Those being memorialized and remembered, as of the date of publication are: Alfred Vitarelli, Sr.; Michael E. Carson; Arthur Montano; John Adler; Joseph John McGovern; Nathan A. Friedman; Kathleen D. Friel; Michael D. Matteo; Mario Joseph D'Alfonso; Joseph Asbell; Richard J. Flaster; Christos Mourtos (*honorary member*).

Judge Orlando echoes the sentiment of Mr. Greenberg, stating "Your presence will demonstrate to the families of the deceased the high esteem and regard felt for their loved ones by their colleagues in the Bar Association."

As in past years, Tate & Tate Certified Shorthand Reporters in Medford will donate their services to transcribe the proceedings and provide a complimentary transcript to the family of the deceased.

Continued on Page 19



## The Lobsters are Back!

By Bill Cook

Young Lawyer Corner

As a new year begins for the Young Lawyer Committee, I must first begin with a very, very big "Thank-You" to our outgoing Chair, Mike Madden. If you haven't heard of everything Mike's done for this Committee, you must have been watching too much TV on the debt crisis. Mike, your tireless dedication and enthusiasm this past year have been nothing short of incredible. You have truly taken this Committee "up a notch," and more. From start to finish, from the Lobster Bake to Cathedral Kitchen visits, and all of the networking happy hours and meetings in between, your vision for this Committee has set the tone for years to come. You have certainly left some big shoes to fill. Maybe if I was Shaq I could fit into them. Let me speak for everyone on this Committee in thanking you Mike for a job well done!

Have you signed up for this fall's "Main Event" yet? Not the Phils! Not

the Eagles! It's the 2nd Annual Lobster Bake of course! A can't-miss event! Saturday, September 10th is our big day this year from 4-8 at the **TapRoom** in Westmont. Tickets are going fast so get your tickets now by calling Bar Headquarters at 856.482.0620.

For those who don't know, the Lobster Bake is our annual bash to benefit the Larc School in Bellmawr. Larc is a unique, non-profit special education school serving children and adult students with a wide range of moderate to severe disabilities. Larc was founded in 1968 by a group of concerned parents and is renowned for its warm, family-like atmosphere focused on each student's individual goals and capabilities. Larc's programs are provided at no cost to the families of its students. Our vision is to combine the hard work of the YLC with a philanthropic mission so that we will meet this year's goal of \$8,000 raised for the Larc School. I can tell you that I have had the opportunity to visit this incredible place. I am so proud that our Lobster Bake is supporting such an amazing group of people. It will be an absolutely awesome time for everyone and their families and it is a tradition that is only going to get bigger and better!

We are happy to have a growing list of generous sponsors for the Bake including **Flaster Greenberg, Rothamel Bratton, Madden & Madden, Connell Foley, UBS-The Fendrick Group, The Ferrara Law Firm, Craig David Becker, Esquire, Asbell & Eutsler, P.A.** and **North American Title**. This event would simply not be possible without their generosity and support. If you are interested in sponsoring and helping us get to our funding goal, please let me know!

Meanwhile, our Committee has been active throughout the summer. On July 13th the team of Mike Dennin, Sarah Barnwell, Jon Friedman and I went to Camden to help with dinner service at the Cathedral Kitchen, which serves dinner to 200-300 people each day. We put on our aprons and hairnets and got to work! There is nothing more rewarding than knowing that time and hard work make a difference. I find that I am much more productive at work after going to these charity events. Thanks Mike, Sarah, and Jon for your generous time and dedication!



Continued on Page 15



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# Lessig Takes the Helm

*Association & Foundation kick off a new bar year!*

June 11th was a warm, muggy day with storms threatening as hundreds of members of the bench and bar, family and friends of incoming CCBA President Louis R. Lessig came to the Adventure Aquarium in Camden to party with the sharks and witness the changing of the guard. As guests enjoyed a wonderfully prepared meal, Justice John E. Wallace, Jr. (retired) presided over the swearing in of the new officers and trustees of the Association & Foundation. Then the Honorable M. Allan Vogelson (retired) took to the podium to swear in Louis R. Lessig as the Association's 85th President.

Special thanks to **Alloy, Silverstein, Shapiro, Adams, Mulford, Cicalese, Wilson & Co.**, Cocktail Hour Sponsor, and **Tate & Tate Certified Shorthand Reporters**, Dessert Sponsor.



Louis R. Lessig receives the Presidential Oath of Office from Hon. M. Allan Vogelson (retired).



Justice Wallace administers the Presidential Oath of Office to Foundation President Richard A. DeMichele, Jr.



New Officers & Trustees (l-r) Secretary, Louis R. Moffa, Jr.; Eric G. Fikry; Treasurer, Jenifer G. Fowler; Justin T. Loughry; President Louis R. Lessig; William F. Cook; President-Elect, Brenda Lee Eutsler; Second Vice President, Casey Price. (Not pictured) First Vice President, Gary W. Boguski; Trustees Gregory P. DeMichele; Louis G. Guzzo and Michael V. Madden.



President Lou Lessig and Immediate Past President Linda W. Eynon



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Surprise guest CBS 3 Anchor Ukee Washington & Immediate Past President Linda Eynon



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



CCBA Partner in Progress Susquehanna Bank's Marcin & Amy Bielecki, Lou Lessig



Jennifer Perez, Justin Loughry, Donna Siegal Moffa, Leah Morris, Pasquale Guglietta



Linda receives her newest prized possession – the Past President's pin!

**LEGAL LINE TO CRIMINAL COURT LAW****Practicing in Camden and Philadelphia Courts***Continued from Page 8*

grams of marijuana is generally considered a disorderly persons offense and is remanded to the Municipal Court for further review. N.J.S.A. 2C:35-10(a)(4). This is punishable by up to 6 months in jail and up to a \$1,000 fine. However, in Pennsylvania, possession of marijuana under 30 grams, even with the intent to distribute it but not sell it, is punishable by up to 30 days imprisonment and/or a \$500 fine. 35 P.S. §780-113(a)(31). As for possession of cocaine, New Jersey treats it as a third degree offense punishable by up to 5 years in jail and up to a \$15,000 fine. However, Pennsylvania treats it as a misdemeanor punishable by up to one year in jail and up to a \$5,000 fine. 35 P.S. §780-113(a)(31). As for distribution of a controlled deadly substance, both New Jersey and Pennsylvania agree that the crime is punishable by up to 5 years and a \$15,000 fine. 35 P.S. §780-113(a)(30) and N.J.S.A. 2C:35-5, *et seq.* The other thing that Pennsylvania and New Jersey agree upon is that if convicted of drug possession, you will receive a six month loss of license.

**III. Conclusion**

Well, Monday afternoon, and you have wrapped up all four matters, spent \$5 to cross the bridge, \$9.75 to park in Camden and \$12 to park in Center City, but you have resolved all matters. With the exception of calling the prosecutor the district attorney and telling the Municipal Court judge in Philly that you are ready on call and the State is not ready in asking for a dismissal, all has gone well. If you are going to practice in both states, it is important not only to know the linguistics of the courts, but also the penalties in advising clients of their rights under the law.



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**John E. Wallace, Jr.** is a retired Justice of the New Jersey Supreme Court. He was appointed to the Superior Court of New Jersey in 1984 and was elevated to the Appellate Division in 1992. He was confirmed to the Supreme Court of New Jersey in 2003.

Justice Wallace served the Superior Court through the Civil Division handling all types of matters. He was admired and respected by both sides of the aisle. The *New York Times* described him as "a sound jurist and a political moderate." Mr. Wallace is counsel to the firm of Brown & Connery, LLP. Justice Wallace has received many awards including the William J. Brennan Citation, the Lawyer of the Year Award from the New Jersey Commission on Professionalism in the Law and the Judge John Gerry Award from the Camden County Bar Association.

Mr. Wallace is a Trustee of the Board of Legal Services of New Jersey and a Board Member of Kennedy University Hospital. He is a member of the University of Delaware Wall of Fame and a member of its Board of Trustees. He has coached youth baseball and football teams for decades.

Justice Wallace served in the United States Army from 1968-1970 earning the rank of captain. Mr. Wallace received his Bachelors Degree from the University of Delaware in 1964 and received his law degree from Harvard Law School in 1967.

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## PRESIDENT'S PERSPECTIVE

by Louis Lessig

### Welcome Back!

Welcome back to a new bar year. This year is going to be busy and it has already started out in a stellar fashion. Once Judge M. Allan Vogelson swore me in at the Camden Aquarium before literally hundreds of sharks, things have been incredibly exciting. For starters, I was fortunate enough to travel down to Washington D.C. shortly after becoming President for our annual group swearing in ceremony at the United States Supreme Court. If you have never had this experience, it is truly a once in a lifetime opportunity. For myself and the admittees who were fortunate enough to join me, we had the chance for families to get to know one another, hear their individual names read into the record before the full Court and even have a private audience with Justice Alito, who is a longtime Phillies fan. In addition we were in the gallery when the Court released four new decisions, including *Walmart v. Dukes*.

Since returning to the area, your Board of Trustees have been planning and meeting in preparation for another strong year. As I mentioned in my speech at the Aquarium, we have continued to plan and set things in motion for our first major strategic planning initiative in some time. So if you hear from someone who says they are with the bar and want to discuss the association, please, take the call or respond to the email because this initiative will be incredibly helpful as we chart our course for the next several years and we cannot do it without your assistance.

More immediately we are starting our bar year off with a bang this month. How you may ask? Well, with the Young Lawyer Lobster Bake on September 10th of course, which is bound to be a sold out event. So, if you want to support our foundation and the Larc

School, spend time with friends and have some tasty lobster, make sure you make a reservation before you finish reading this article.

For me, one of the truly special events that I attend every year is our Memorial Ceremony. Since my installation I am aware of an unfortunately large number of individuals who have passed away, including my grandmother and a friend I have known since middle school. Whether you know any of our members who have passed away over the last year or not, this is the opportunity we all have to pay our respects and start the year by honoring those who have come before and to whom we owe a debt of gratitude. I hope to see you there as we remember our colleagues and friends on September 19th in the Hall of Justice.

Next we have our annual Meet the Judges and Law Clerks Reception, which will once again be at the Camden County Boathouse on September 20th. For myself I have to say that this often sold out event is a who's who of both the bar and the bench. But, it is only open to paid members of the Camden County Bar Association, so make sure your dues are paid because this is one event that you will not want to miss.

No matter what you have going on or what you are doing this year, I do hope to see you at bar events. There is so much your association offers that I hope you have a chance to take part in something that interests you. Of course, if you have any suggestions or concerns do not hesitate to contact our association. There is a reason that the CCBA is your home court advantage and it all starts with you.

## A Professional "Experience of a Lifetime"

In his first official act as president, newly installed CCBA President Louis Lessig moved the admission of 7 Association members before the Justices of the Supreme Court of the United States in Washington, D.C. on Monday, June 20. Following the ceremony, Justice Samuel A. Alito, Jr., addressed the new admittees and their families in a private conference room.

The CCBA's next group admission ceremony is scheduled for Monday, June 11, 2012. Don't miss this experience of a lifetime. Refer to the Group Admission Flyer in this month's inserts and call to reserve now for our next trip to D.C.



l-r: (front row) President Louis R. Lessig; Pamela A. Mulligan; Justice Samuel A. Alito, Jr.; Nevan Soumilas; Salvatore J. Siciliano. (back row) Robert P. Simons; Patrick J. Holston; Eric A. Feldhake. Not pictured, Jeffrey L. Nash.

# WINE & FOOD



## The Finger Lakes

By Jim Hamilton

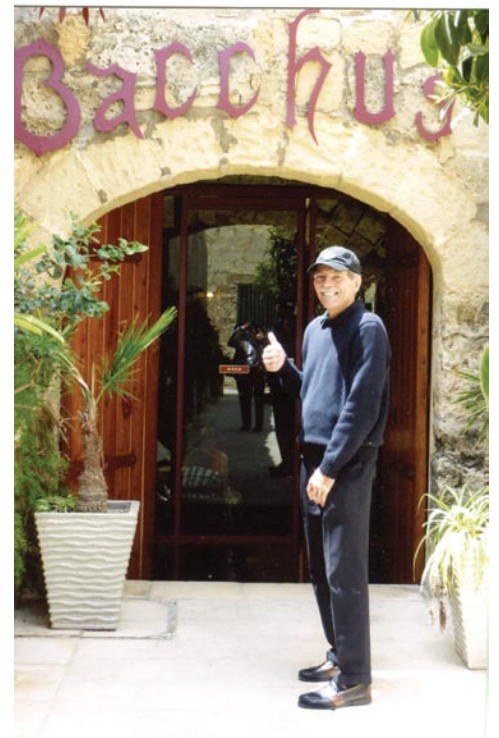
As more senior members of the bar will (may?) recall, before the business of law overshadowed the practice and court administrators *encouraged* the judiciary to work faster and harder with fewer resources, lawyers enjoyed a summer reprieve from the pressures and pace the profession imposed. Today, our summer vacations tend to be shorter with lawyers tethered to their office by a variety of electronic umbilicals. In that spirit, Linda and I enjoyed an annual long weekend with wine friends exploring one of our country's wine-producing regions. Having ventured previously to Long Island's North Fork, the Hudson River Valley, Virginia (twice) and, of course, Napa Valley, we decided this

year to head to upstate New York's Finger Lakes. Linda and I had been there decades earlier and left unimpressed, a view that was reinforced when several years ago another wine friend brought back an array of Finger Lake wines we tasted at a wine group gathering. What about now?

If you are selective in the wineries you visit, a trip to the Finger Lakes can be a worthwhile journey. While autumn is a busy season in most northern hemisphere wine regions, the relative proximity of the Finger Lakes and a seemingly increased fascination with turning leaves would make a fall trip to this region timely.

In less than 2 ½ days in June we were able to visit 15 wineries, including four extended "VIP" tours and tastings pre-arranged by one of our "in the biz" traveling companions. While all of the wineries we chose to visit had at least the potential to

make good wines, more than a few seemed intent on maximizing the amount of wine they could make and sell to tourists as, or along with, souvenirs from well-stocked gift shops. However, we were pleased to taste wines from producers whose focus clearly was on quality. As with many relatively young wine growing regions (when compared to benchmark wine cultures), even the best grape growers still are working to determine what vines work best in their particular terroir (generally speaking the soil, exposition and climate or micro-climate). While a cool climate grape like Riesling may be an easy choice, other varieties can be successful, and may perform better than



Riesling in certain vineyard locations. As with many things in life, trial and error is a concept that at some point wine producers everywhere face. The real dilemma is whether a grape grower has the willingness and/or ability to recognize when s/he should re-graft or replant a vineyard, or part of one, to a different grape variety.

Since some wines of quality-minded Finger Lakes producers are distributed in our marketplace, and with the hope that some of you may plan or be enticed to travel to the region to take in the natural beauty or hand-grown bounty found five hours away, I thought I would offer a general overview of the region based on wineries we visited, with some specific impressions of the better producers.

Not all wineries one might call venerable enjoy critical acclaim, but if there is one Finger Lakes winery that has built and maintained a regionally outstanding reputation it is Dr. Konstantin Frank. This winery is large, certainly by Finger Lakes standards, and employs at least 5 winemakers led by Mark Veraguth, a well-credentialed industry veteran. We were fortunate to taste an extensive lineup of wines with Mark (and his wife) and came away with an increased appreciation not only for this winery, but also what the area's winemakers can do if they have the resources and motivation to perform at similarly high levels. Among my favorite Dr. Frank wines were the 2008 Pinot Blanc, 2010 Gruner

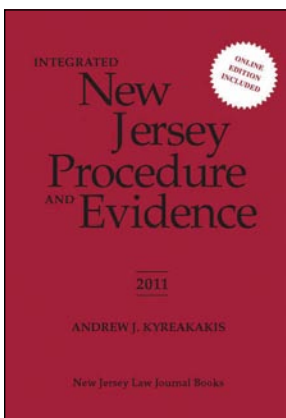
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## LAW PRACTICE MANAGEMENT

# Leverage Bar Association's Law Practice Management Committee Resources to Grow a Successful Practice



By Kimberly Alford Rice

Every year the same thing happens...the summer months wind down, lawyers head back from the Shore to settle back into their practices full time, take a serious look at “the numbers” and then suddenly panic because their billings are not where they “should” be. They can’t figure out why they are not getting the calls, not growing their clients, and why the phones are not ringing like they used to. Sound familiar?

As we’ve all seen, particularly in the last few years, the landscape of the practice of law is changing and in some ways, drastically. It involves a business component that is integral to success yet not taught at most law schools or law firms. And, it is so easy for solo and small firm attorneys to get lost among the growing competition for legal services.

However, being a solo or small firm lawyer does not mean you’re alone—the Bar Association’s Law Practice Management Committee (LPM) is here as your partner to provide members with essential, relevant tools needed for the business of practicing law.

The Bar Association’s Law Practice Management Committee was formed specifically to assist and support members (practicing attorneys and legal professionals alike) in growing a healthy practice through the development of educational programming by legal experts in the areas of management, marketing, finance, and technology. It provides valuable resources that legal professionals need to successfully manage a law practice.

For example, if your firm is considering ramping up its online presence both through its website and exploring the business development benefits of leveraging social media, our Partner in Progress **GetLegal.com** provides members with turnkey solutions for all things online marketing including website development, blogging (which is a huge search engine attraction), and learning how to develop and manage social media tools like Facebook, LinkedIn, and Twitter.

In addition, some of the services members can find within the expertise of the Committee include:

- Strategic marketing planning and client satisfaction programs
- Management consulting on issues such as lawyers’ earnings plans and income expectations, succession planning, and merger feasibility analysis
- Business development (sales) skills training
- Internet/social media marketing consultations
- One-on-one coaching to increase the effectiveness of your marketing efforts
- Finance assistance with such matters as bookkeeping issues, income/disbursement analysis, fees and billing policy evaluation.

CCBA members seeking information and practical answers about technology solutions, critical practice management issues, how to most effectively market your practice and reach your target audience are well served to attend educational programming and networking events. The LPM Committee provides resources to help CCBA member attorneys, paralegals and legal administrators improve efficiency, reduce risk and improve client relations in their

law firms. Committee experts are available to meet with members at a discounted rate to help them grow and manage often complicated practice issues.

As Chair of the Law Practice Management Committee, I and my other committee members understand that solos and small firms have unique needs – if you enjoy these resources and want to experience all that LPM offers, you may want to consider joining the Committee.

As we begin to plan for 2012 and how we’ll make it a better year, consider the Committee membership benefits of participating and learning how to leverage the Bar Association’s resources to help you grow your practice.

The next educational program “**So, You’re A Business Owner, Too? Dealing With The Pressing Issues Of Law Firm Managers And Owners**” is scheduled for 4 pm, Wednesday, October 12th at Tavistock Country Club. (Details and reservation form in this month’s inserts)

To learn how you can get involved with the Committee and/or schedule a consultation with a qualified vendor, email Kimberly Alford Rice or contact her at 609.458.0415.

*Kimberly Alford Rice is Principal of KLA Marketing Associates ([www.klamarketing.net](http://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](mailto:kimberly@klamarketing.net).*

## The Lobsters are Back!

Continued from Page 10

On July 14th we had another BIG event, the Philly-Camden Young Lawyer Happy Hour at Ladder 15 in Philly. A very, very special thanks to our friends at WOODARD & CURRAN and KELLER WILLIAMS for making this event possible! This event was a huge success by all accounts. We look forward to catching up with our Philly colleagues again soon.

To all our newly admitted young lawyers, our **CLE on Tap** program picks up again this fall. Attorneys admitted in or after 2009 are required to complete 24 credit hours of instruction in their first 2 years of practice. New attorneys must take 15 of these 24 credit hours in five of the following nine subject areas: New Jersey Basic Estate Administration; New Jersey Basic Estate Planning; New Jersey Civil or Criminal Trial Preparation; New Jersey Family Law Practice; New Jersey Real Estate Closing Procedures; New Jersey Trust and Business Accounting; New Jersey Landlord/Tenant Practice; New Jersey Municipal Court Practice; and New Jersey Law Office Management. The CLE on Tap program is a package program where you can knock out these credits and network with other lawyers at the same time! Please keep an eye out for CLE on Tap announcements in the coming weeks.

This is truly a great time to be part of the Young Lawyer Committee. I encourage all newly admitted attorneys to join us at noon on the first Tuesday of each month at Bar Headquarters for our monthly lunch meetings—come for a free lunch, mingle with other young lawyers, get practice tips and job updates, and get involved with everything that’s going on with our Committee. We look forward to seeing you!

# Success Story from the Children's Supplemental Security Income Project

In 2006, South Jersey Legal Services, Inc., a civil legal services provider in New Jersey, started The Children's Supplemental Security Income (SSI) Project, a project in which pro bono attorneys and law students assist low-income, disabled children with obtaining SSI benefits. SSI benefits are monthly payments made by the Social Security Administration (SSA) to individuals who are low income, have few resources and who are over sixty-five, blind or disabled.

Paul F. Jenkins, Esquire, part of The Children's SSI Team at Ballard Spahr LLP in Cherry Hill, along with Elena Fikaris, a Rutgers School of Law – Camden law student volunteer, worked to assist a little girl with serious behavioral and learning issues. They obtained the medical records and educational records of the child to help appeal the unfavorable SSI ruling previously rendered. Mr. Jenkins and Ms. Fikaris prepared a letter brief highlighting the important data in the record as well as the supportive statements

by the child's family members and teachers. After reviewing the brief, the SSA reversed its prior decision and awarded the full amount of disability benefits available to the child without requiring a fact hearing.

On his participation in The Children's SSI Project, Mr. Jenkins stated: "As always with Children's SSI cases, we found it very fulfilling to help a disadvantaged family obtain the disability benefits to which they were entitled, knowing that these disability benefits will provide the family with assistance in the struggles that lay ahead." Ms. Fikaris reiterated that she enjoyed working on the case as well: "It was a great learning experience to work through the issues of the case with a practicing attorney and to be part of a team effort. South Jersey Legal Services, Inc. also provided invaluable advice and expertise enabling us to put forth the best case for the client. Obtaining a favorable decision will have a lasting impact on the health and well-being of our client

and I feel fortunate to have been a part of the legal team."

In the face of the current economic situation and drastic cuts to legal services organizations around the country, the assistance of attorneys like those at Ballard Spahr LLP and volunteer law students is needed now more than ever. Douglas E. Gershuny, Executive Director of SJLS, states that "SJLS is very grateful for the generosity of pro bono attorneys and the law students involved in The Children's SSI Project. The attorneys and law students should be commended for giving of their limited time to provide legal advocacy to children and families who might not otherwise receive it." If you or your firm would like to join the effort to make a difference in the life of a child, please contact Michelle T. Williams, Esquire, Director of Pro Bono Services and Centralized Intake, at (856) 964-2010 ext. 6229 or [mtwilliams@lsnj.org](mailto:mtwilliams@lsnj.org).

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## Wine & Food

Continued from Page 14

Veltliner (yes, the popular white grape of Austria), the 2010 Dry Riesling, 2010 Semi-Dry Riesling and, perhaps even more surprising to me than the Gruner, the 2008 Muscat Ottonel. If you search, you should be able to find locally the Rieslings, and perhaps the Pinot Blanc.

Another of the established wineries enjoying at least regional success is Herman J. Wiemer. As at Dr. Konstantin Frank, we had a lengthy visit at Wiemer, and once again we came away impressed. While the array of wines is not quite as broad as at Dr. Frank, there were more than a few high quality bottles. Among my favorites were the 2009 HJW Riesling, 2009 Dry Riesling, 2006 Brut sparkling wine and an exquisite, if expensive, 2008 Bunch Select late harvest Riesling...Yum! As at most of the wineries we visited, the white wines were considerably better than the red wines, although most red wines we tasted had merit. My favorite Wiemer red wine was the 2008 Cabernet Franc.

The third winery we made advance plans to visit was a fairly new one, Ravines. While I thought the lineup was less consistently good than either Frank or Wiemer, we tasted several very fine wines. The two that most impressed me were the 2008 Dry Riesling and the 2007 Meritage (a red wine blend made from Cabernet Sauvignon, Cabernet Franc and Merlot). Once again, we tasted with the

owner/winemaker, Morten Hallgren, which invariably adds an element of subjectivity and a healthy dose of education about the winemaker's philosophy and his plans for future development.

The fourth and final winery for which an arranged visit was scheduled was Heron Hill. The winery facility was by far the most impressive we visited, striking in both its architecture and location on a hill overlooking (but not directly adjacent to) Seneca Lake. Sometimes, money invested in structures is at the expense of the product, and while that was not the case here, as at Ravines, there were misses among the hits. Among the wines that stood out were 2009 Classic Muscat, 2008 Classic Semi-Dry Riesling and 2008 Ingle Vineyard Unoaked Chardonnay. Once again, I was less taken with the red wine lineup.

While not set up by a wine distributor, we had a personal entrée to taste at Bloomer Creek, another of the many more recent entries to the ever-growing roster of Finger Lakes wine producers. Among the wines that struck a favorable chord with me were the 2009 Tanzen Dame Morehouse Road Riesling and the 2008 Chardonnay. I probably would have been equally impressed with the 2009 Tanzen Dame Auten Vineyard "First Pick" Riesling, but the wine poured for us was slightly corked.

A winery about which we had heard some favorable, albeit second hand, comments

we felt warranted a stop was Lamoreaux Landing. Judging from the crowded tasting rooms (note the plural), others either were aware of the buzz or were capitalizing on its convenient location. This is a winery that seems equipped to attract and cater to tourists, but provides wines for all levels of interest. I don't know on which side of the quality versus maximum profitability line the winery will end up, or whether it will study films of Nadia Comaneci to learn how to balance both, but certainly the potential to be a top-flight producer exists. My three favorite wines were the 2008 Semi-Dry Gewurztraminer, 2009 Red Oak Riesling and 2008 Cabernet Franc.

Honorable mentions might go to Anthony Road Wine Cellars, where the dessert wines were among the best we tasted on our trip, and Red Tail Ridge, where the 2010 Unoaked Chardonnay and 2009 Estate Grown Pinot Noir were commendable. We also visited J.R. Dill, Wagner, Shalestone, Standing Stone, Shaw, Hazlit 1852, Atwater Estate, Catherine Valley and Damiani. We stayed at a B & B on Seneca Lake, and other than Dr. Konstantin Frank, Heron Hill and Ravines, which are on Keuka Lake, the wineries we visited were on the Seneca Lake Wine Trail. Wine prices varied, with the better wines often costing in the \$17 to \$20 range. All wineries seem to charge modest tasting fees, ranging from \$2 to \$4, typically to taste six different wines.

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# Back in the Day

By Richard Hyland

Several thousand law graduates took the Bar Exam this July and are anxiously awaiting the results. Many are still seeking employment. When I took the exam in July 1960, the numbers were considerably less and included only a few women, but virtually all had positions lined up. Most from Camden County came from local schools like Penn, Temple and recently accredited Villanova. What about Rutgers/Camden? That's a story worth telling here.

Rutgers University had taken over the South Jersey College of Law (SJCL) in the 50's but its enrollment was sparse. One of my partners used to brag that he was first in his class, only mentioning later that there were only two in the class! Because of the numbers and the chronic indifference towards South Jersey, the administration announced it was going to close the school. This created quite an uproar in this Association since it would deny, as a practical matter, a legal education to South Jersey residents who couldn't afford to go elsewhere.

The opposition was led by U.S. District Court Judge Thomas M. Madden who was an SJCL graduate (and the father and grandfather of the present Madden clan). He solicited members (and Penn graduates by the way) State Senator Joe Cowgill and my brother, Assemblyman and former Speaker Bill Hyland to use their influence as members of the Appropriations Committee. They advised New Brunswick that unless it committed to keep the school open they would block all funding for the University. It worked and the rest is history. Rutgers students, past and present, most likely don't realize that their fine education was due only to this Association.

In my class at Penn there were only three women and there were similar small numbers at other schools. Even by 1965, there were just five here in Camden and only one had trial court ambitions. She applied to a litigation firm and was rejected despite being bright, personable, hard-working and having strong family connections there. The reason given was that its clients would not want a female trying its cases.

We were good friends and I advised her to pursue the public sector which she did, launching a distinguished career which included being a trial attorney, Superior Court Judge, and heading a major department as a cabinet officer.

In 1960, who would have predicted that a majority of our Supreme Court Justices, as well as our Attorney-General would be women! At the risk of being politically incorrect, I'm reminded of the famous slogan for Virginia Slims cigarettes: "You've come a long way, baby!"

Please send comments or questions to: [rhylandatlaw@aol.com](mailto:rhylandatlaw@aol.com).



## SPINNING MY WHEELS

### Mini and Me

Continued from Page 9

considering it is front wheel drive. Proceeding on, I got to fifth gear at about 60 mph and watched the little tachometer that sits directly over the heavily padded steering wheel swing relentlessly towards the redline. What a kick!

A couple of miles south I turned off the highway to the short "test track" of twisty, almost two lane back roads in Marlton and let the car's suspension do its work. MINI has kept the go kart feel and I knew that I would reach limits of my comfort level way before the car did. The 17" tires and short wheel base conspired to keep this little car planted in curves providing a fun quotient that will keep the smile on your face and the gas mileage lower than it should be!

I spent some additional time on limited access highways blowing through the on and of ramps and getting up to speed in sixth gear. The gear ratios seemed surprisingly low (numerically high) which made for great acceleration but had the tachometer showing 3K rpm at 71 mph. That's ok. I will trade a loping engine at speed for the great response of the power train. The car's ride, not surprisingly, was a bit choppy but not unexpected on such a short wheelbase car with stiff suspension. Again, if you want the handling and the quickness, it won't ride like your father's Buick. No pain, no gain.

The car's interior can best be described as RubeGoldbergcute. An ergonomic masterpiece it is not. The tachometer is perched above the steering wheel on a pod which also contains a digital speedometer and outside temperature display. A huge analog speedometer is located in the center of the dash and looks and works like nothing so much as the large, old, round freight scales found at railway stations. It is unnecessary duplication, distracting to read and horrendously ugly. In my car the center of the speedometer contained the digital display for radio, HVAC and navigation.

Which brings me to the secondary controls: Window lifts are located down low on the center stack just above the two cup holders and just below the speed-o-matic display. The right and left window lift flank other buttons which appear to have been located because space permitted it and for no other reason. Other controls include the fan switch which is tucked into the left side of the dash as a scroll wheel with only tactile feel and fan noise to confirm your choice. There was a "joy stick" between the streets that operated somewhat

# Restoring Balance to the Commercial Foreclosure Process



By Ellen M. McDowell

Picture yourself representing a client whose business recently failed. Your client owned the building out of which she operated and personally guaranteed the mortgage on the building. Business has been bad for months and the bank finally foreclosed on the property. Your client believes the building is worth \$500,000.

She owes the bank \$525,000. She has come to you to discuss filing a bankruptcy since she does not have the ability to pay the Bank and she has a relatively small amount of trade debt as well. She also has a home with equity of \$100,000.

Logic would dictate that you would be safe advising your client that since the Bank now owns the property worth around \$500,000, the client's obligation to the Bank is somewhere in the neighborhood of \$25,000, right? The answer is not so clear, at least in New Jersey.

In the spring of 2010, the New Jersey Appellate Division decided *Borden v. Cadles of Grassy Meadows II, LLC*, 412 N.J. Super. 567 (App. Div. 2010). The facts in *Borden* are complicated and tortured,

but the short version is that the Bank obtained a judgment against the borrower and Borden, one of the guarantors of the debt, for \$4 million. Around the time the judgment was entered, guarantors obtained an appraisal valuing the property at between \$3.7 million and \$4 million. At Sheriff's sale, a third party bidder paid \$640,035 for the property. Notably, no objection was made to the sale.

Years later, the Bank assigned the judgment to a different party and the assignee began to pursue Borden as guarantor. Borden sued to prevent enforcement of the judgment on the basis that (1) the holder of the judgment had waited too long to collect the debt and (2) Borden was entitled to a credit for the amount generated by the Sheriff's sale of the property. The trial court agreed and extinguished the judgment against Borden. On appeal, the Appellate Division reversed, holding that the burden was on the guarantor to object to the sale within ten days after the sale under R. 4:65-6, thus initiating a deficiency action to determine the amount remaining on the debt. Since Borden had failed to object to the sale or otherwise take steps to seek a court determination of the remaining balance due, the Court found that Borden had waived his right to a credit and was obligated for the entire amount of the claim, presumably \$4 million plus interest.

The *Borden* decision sent shock waves through commercial bankruptcy practices all over New Jersey. Too often debtors retain counsel long after the Sheriff's sale takes place and the time to object to the sale under R. 4:65-6 has passed. Under *Borden*, this would result in debtors and guarantors being liable for the entire amount of the Bank's claim, regardless of the amount generated at the sale or the value of the property now owned by the Bank.

In another sea change, however, the Bankruptcy Court in New Jersey recently held that a Chapter 13 debtor whose property was foreclosed on in 2010 and taken back by the Bank was entitled to a credit for the fair market value of such property even though she did not object to the sale.

In *In re Karagiannis*, 2011 Lexis 1806 (Bankr. N.J. 2011), Judge Stern conducted a painstaking analysis of New Jersey law as it pertained to *Borden* and its genesis. While the decision is well reasoned and thorough in its application of the law to the facts before the court, it is clear that Judge Stern was offended by the notion that the Bank in that case might obtain a windfall if he applied the holding in *Borden* and refused to allow a credit for the value of the property taken back at the sale. Judge Stern offered that such a result would be, in his opinion, "rank unfairness." *Id.* at 4.

Although Judge Stern set forth several reasons why *Karagiannis* should be distinguished from *Borden*, including the extreme facts of the *Borden* case, the overriding basis for his opinion was his belief that fairness and equity demanded that the debtor be given a credit, especially in the bankruptcy context, where the Court has jurisdiction to "determine the value of a claim secured by a lien on property in which the estate has an interest." Fed. R. Bankr. P. 3012. In fact, Judge Stern called that valuation hearing "a bankruptcy process imperative." *Id.* at 59.

Judge Stern's opinion in *In re Karagiannis* is the right decision. While the outcome of *Borden* may have been required under the facts of that case, it did not lead to a fair and equitable result for the parties. *In re Karagiannis* restores balance to the commercial foreclosure process, at least in New Jersey Bankruptcy Court.

## SPINNING MY WHEELS

Continued from previous Page

like a "mini" BMW idrive controller. I had neither the time nor the inclination to figure it out so I leave it to more patient drivers. The "sport" button for the shifter (kind of unnecessary in a manual transmission) is located at the 11 o'clock position of the shifter and there are a bunch of interior lighting controls above the center of the windshield that are separated by some type of wire "gates" which ostensibly protect you from hitting the wrong switch by mistake and thereby taking out some other essential system.

Would that they had done the same for the engagement into reverse gear. There is a positive "lock-out" or spring loaded lever to prohibit a careless driver from engaging reverse gear instead of first. Truth be told, it happened to me at a traffic light when I slapped the shift lever over to the left and found reverse instead. I figured it out before I let out the clutch but it was close.

I will now stop my rant about the interior of the car because, ultimately, I really don't believe much should be made of ergonomics in any event. If you live with a car daily you should know its idiosyncrasies and not be troubled by them. As I have said in earlier columns regarding this issue, I accommodated myself to ignition switches on the left of the steering wheel and in the center console, a turn signal stalk on the right of the steering wheel and window lift switches on the center console so, yes, you should be able to get used to anything and not have them be disqualifiers in the choice of a car.

Was the hour plus I spent in the MINI fun? You betcha. Would it be the choice for my aging body and need for space for people and luggage? No. With age comes the realization that if you have only one car to drive you might need the trunk space and extra doors more than you care to admit. Of course all these requirements become moot if the keys to a 911 were to be put in my hand, but that is another story altogether. If you want some daily fun, can live with the lack of space and go kart ride along with its handling, you probably can't do worse for the money than the new MINI.

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# Using Social Media to Build Your Practice

By Greg Sutphin, GetLegal.com  
a CCBA Partner in Progress

Today, more attorneys are getting on board with social media. A blog here, a Facebook page there, and maybe a Twitter account for good measure. But in the back of your minds, many of you are asking: Is this really worth the time it's taking out of my busy days, and how do I know if it's paying off for my practice?

In our connected world, social media are turning the monologues of traditional marketing into dialogues. To be relevant, you have to be part of the conversation. It's not enough to put up a Web site and hope they will come. Social media are critical tools for driving clients to your Web site and providing the value when they get there that will seal the deal and keep them coming back. But how do you make sure your investment in social media generates meaningful returns?

"An integrated, strategic approach is what it takes to get results from the time and resources you invest in social media," says

Akhil Saklani, founder of GetLegal.com, a site dedicated to helping law professionals make the most of their Web presence. "It's not enough to dabble. You have to set goals and focus on implementing the tools that will work together to get you where you want to go."

## Three Ways Social Media Strategy Helps Cultivate Clients

There are three phases of client development where social media play a critical role.

**Attract.** Putting up a Web site isn't enough to get on the radar of potential clients. There are many others competing for the same prospects, and you need to make sure the site they come to is yours. A blog regularly updated with fresh content demonstrating expertise in your specialty area will increase your ranking in searches, moving your site closer to the top of the list. Participating in discussions on Facebook or using Twitter and other mobile media will also drive traffic to your site.

**Engage.** A relationship of trust such as the one you nurture with clients requires ongoing reinforcement. Identifying key areas of concern to your clients and using your blog to provide context and helpful links goes a long way toward demonstrating the value you bring when they need your services. Then go a step further and grow the relationship by providing an opportunity through Facebook, LinkedIn and mobile apps such as Twitter for clients to follow you in real-time.

**Retain.** Clients retain your services, but social media are also a great way for you to retain your clients. Providing links within your blogs for getting further information or contacting your firm helps convert interest into new contracts. Keeping updated profiles of your staff on business sites such as LinkedIn shows you're a key player in your field and makes it easy for clients to refer new prospects to your practice.

"With a well-thought-out, coordinated strategy, social media can help you get the attention of clients, get them interested, and get them coming back," Saklani says.

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**Jessica Corbett**, a May 2011 graduate of Rutgers School of Law-Camden, was the recipient of the \$2,500 Blaine E. Capehart Legal Writing Award in recognition of her exemplary legal writing and research abilities. The award honors Blaine E. Capehart, the Firm's distinguished 103-year-old senior shareholder who in 2005 celebrated 75 years as a member of the New Jersey Bar. The Firm offers this award to a graduating Rutgers - Camden law student on an annual basis.

Capehart Scatchard Shareholder **Richard T. DeCou, Esq.** was presented with the 2011 Founders' Award by the Estate and Financial Planning Council of Southern New Jersey on June 9th at the annual Installation of Officers Dinner. The Founders' Award is presented to an individual who has provided distinguished service to the estate and financial planning profession. Mr. DeCou concentrates his practice in tax-related matters including estate planning, and estate and trust administration, real estate, corporate and business matters. He represents both individuals and corporate fiduciaries in all aspects of estate planning and administration.

Capehart Scatchard Trusts and Estates Department Shareholder **Yasmeen S. Khaleel, Esq.**, was sworn in as Treasurer of the Estate and Financial Planning Council of Southern New Jersey. Ms. Khaleel concentrates her practice in the areas of estate planning, estate and trust administration, business succession planning, transactional and tax planning. She routinely handles matters of special needs planning including guardianship applications. Additionally, she has experience in complex estate and trust litigation matters in conjunction with the Litigation Group.

Capehart Scatchard school lawyer **Robert A. Muccilli, Esq.** spoke on the topic of "Writing an Effective Evaluation for Support Staff – The Good, The Bad and The Ugly" at the New Jersey Association of School Business Officials Annual Conference in Atlantic City. The presentation focused on why evaluations are important for both tenured and non-tenured employees.

Dilworth Paxson LLP is pleased to announce that **Michael J. Fekete, Esq.** has joined the firm as Partner in the Litigation Department of its Cherry Hill office, where he focuses his practice on breach of contract, breach of warranty, consumer fraud claims, commercial tenancy and collection actions. He also defends a major on-line advertising institution in litigation and other matters throughout the United States, and represents commercial landlords in Pennsylvania, New Jersey and New York while looking forward to expanding his practice to Delaware and Maryland. Additionally, he also handles compliance issues under the New Jersey Home Improvement Contractor's Act and has appeared before various New Jersey Township Zoning and Planning Boards in representation of clients for land use matters and variance applications.

Brown & Connery is pleased to report another successful result for an underprivileged local child and the firm through the CCBA/SJLS Child Advocacy Pro Bono Project. **Abigail Green, Esq.** volunteered to represent Devin Brown, a child with asthma, depression and anxiety whose application for SSI benefits was denied in June of 2009. She filed a reconsideration brief which was also denied. Undeterred, she requested a hearing before an ALJ. Before the hearing was held, ALJ Timm granted Devin SSI benefits (future and retroactive) based on the paperwork submitted by Abigail. Thanks to Ms Green's efforts and the firm's commitment to this program, another local child has a better shot at a healthy and productive life.

Davis & Mendelson is pleased to announce the addition of **Hedwig M. Konrad, Esq.** as an Associate practicing primarily family law and education law. Ms. Konrad is admitted to practice in both New Jersey and Pennsylvania. Ms. Konrad received her Bachelor of Science degree from John Carroll University, a Masters Degree in Public Health from Drexel University, and her Juris Doctor from Rutgers University School of Law in Camden.

Prior to joining Davis & Mendelson, Ms. Konrad was employed as an associate with the law firm Hoffman, Schreiber & Cores, P.C. in Red Bank. Ms. Konrad was previously employed as the law clerk to the Honorable Charles M. Rand, P.J.F.P. of the Superior Court of New Jersey, Family Division, in Camden County.



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July 2011

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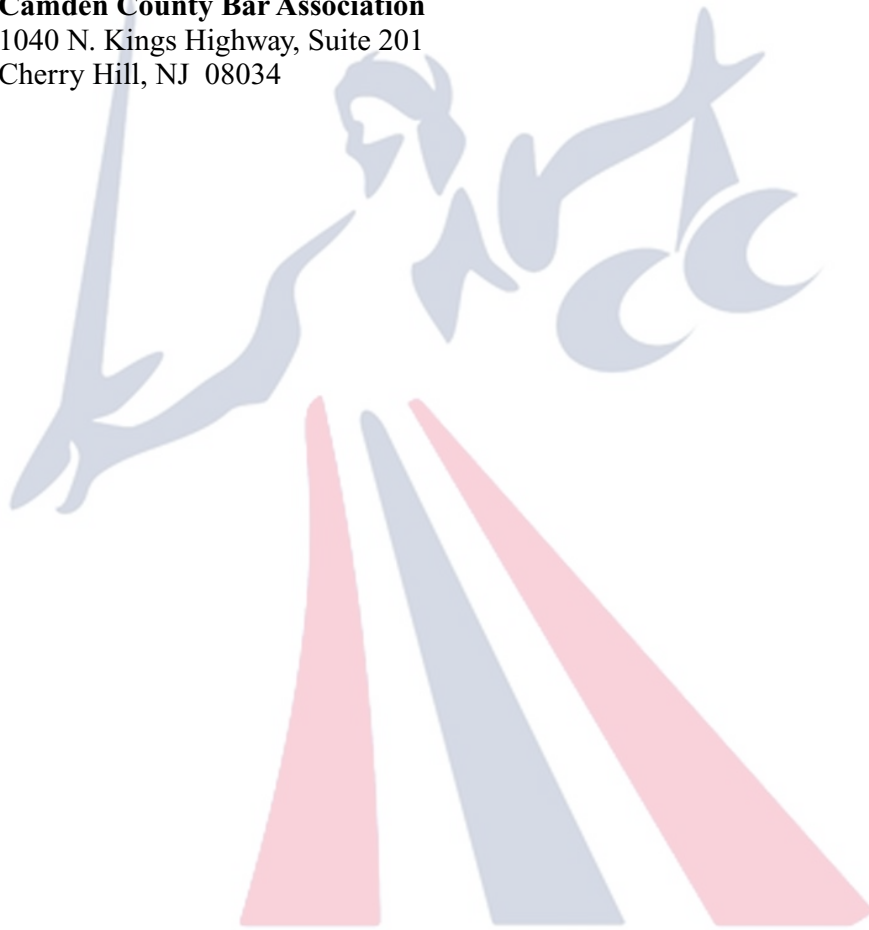
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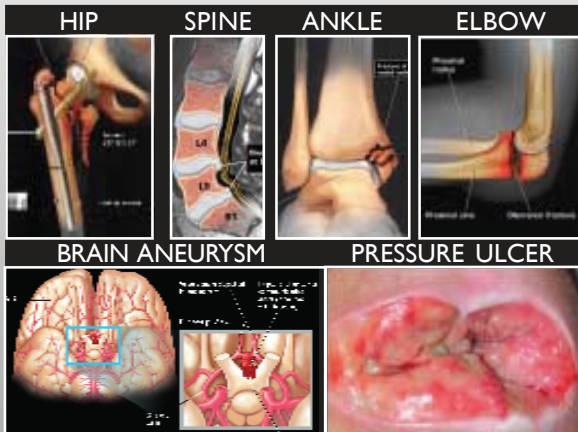


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