



Opening of Court Memorial Ceremony Set for September 29th

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 29th 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 Deborah Silverman Katz. 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 Bob Greenberg, chair of the Memorials Committee. "It is the one opportunity we have as an 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 29th."

Those being memorialized and remembered, as of the date of publication are: **Salvatore Avena, Hon. Stanley S. Brotman, James J. Casby, Jr., Hon. Diane B. Cohen, John A. DeFalco, Thomas S. Higgins, William S. Keown, Eleanor H. Klein, William L. Lundgren, Burchard V. Martin, Harvey M. Mitnick, Stacey L. Schwartz, Joel Selikoff, Elliott Yampell, and Joseph W. Zampino.**

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 families of the deceased.

INSIDE

Personal Injury Law.....	4
Member on the Spot.....	5
Wine & Food.....	10
President's Perspective.....	11
Young Lawyer Happenings.....	12

Eutsler Named Camden County's 2014 Professional Lawyer of the Year

Camden County Award Named in Memory of Harvey M. Mitnick



Following a review of nominations received from the membership, the CCBA's Committee on Professionalism and Board of Trustees have named **Brenda Lee Eutsler** the **2014 Camden County Harvey M. Mitnick Professional Lawyer of the Year**.

The Committee and Trustees also renamed Camden County's Professional Lawyer Award in memory of past CCBA President Harvey M. Mitnick who passed away in March. Harvey was the 1998 Camden County Professional Lawyer of the Year.

"A very fitting honor in Harvey's memory and I am extremely honored to be the first recipient of the award in his name," commented Brenda when learning of her selection and the name change.

Brenda is a partner in the Law Firm of Asbell & Eutsler in Cherry Hill and is current President of the Bar Foundation. She served as Association President in 2012-13, and has been active on many Association & Foundation committees including Probate & Trust, Public Benefits, Autumn Scamble Golf Outing, and is co-chair of the Women in the Profession Committee.

Brenda will receive her award at the annual Professionalism Awards Luncheon on October 22nd at the Imperia in Somerset

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

Congratulations Brenda!

Meet the Judges and Law Clerks Reception Sept. 23

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 6 to 8 p.m. on Tuesday, September 23rd at the Savoy in Pennsauken (formerly the Woodbine Inn). This annual **member-only** event features a two-hour open bar and an abundance of mouth-watering hot and cold hors d'oeuvres prepared as only Chef Les can do.

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. **DUES MUST BE CURRENT TO ATTEND.**

Don't Delay, RENEW TODAY! Pay dues by September 1!

• See page 2 •

Unpaid Members will NOT be able to attend Member-Only Events!

Changing of the Guard



2014-2015 Officers:

Casey Price, President; Jenifer Fowler, President-elect; Lou Moffa, First Vice President; Ron Lieberman, Treasurer & Mike Dennin, Secretary (not pictured: Eric Fikry, Second Vice President). For more photos, please see page 9.

THE DOCKET

Tuesday, September 2nd

Young Lawyer Committee Lunch
12:30 pm
Bar Headquarters, Cherry Hill

Monday, September 8th

Autumn Scramble Golf Outing
10:30 am – 9 pm
Tavistock Country Club
100 Tavistock Lane, Haddonfield

Thursday, September 11th

Debtor-Creditor Committee Meeting
8 am
Bar Headquarters, Cherry Hill

Tuesday, September 16th

Going and Coming & Going Again
Case law update on commuting injuries
in Workers' Compensation cases
4 – 6:15 pm
Tavistock Country Club
100 Tavistock Lane, Haddonfield

Tuesday, September 23rd

CLE on Tap! New Jersey Real Estate
Closing Procedures
3 – 6:15 pm
Tavistock Country Club
100 Tavistock Lane, Haddonfield

Tuesday, September 23rd

Meet the Judges and Law Clerks Reception
6 – 8 pm
Colleen's at the Savoy
1444 Route 73, Pennsauken

Tentative Agenda for September 23, Trustees Meeting

A tentative agenda for this month's regular Board of Trustees meeting follows. The meeting will begin at 4:30 pm, at THE SAVOY 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
- XI. New Business (if any)
- XII. Old Business
- XIII. Adjourn

Saturday, September 27th

Young Lawyer Committee
5th Annual Lobster Bake
4 – 8 pm
The TapRoom
427 W. Crystal Lake Avenue, Haddonfield

Monday, September 29th

Opening of Court Memorial Ceremony
9 am
Hall of Justice, Camden

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 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; 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.

THE BARRISTER

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**Be an active participant
in YOUR professional
organization.**

**ATTEND MEETINGS
AND FUNCTIONS!**

Lobstermania!

Plans are just about complete for the Young Lawyer Committee's **Fifth Annual Lobster Bake** presented by **Flaster Greenberg** on Saturday, September 27, 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 \$75 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 resulting in more than \$23,000 being donated to the school from first four events.

To reserve your place early for this potentially sold out event, use the Lobster Bake flyer in this month's inserts.

NOTICE TO THE BAR

SUPREME COURT OF NEW JERSEY

Pursuant to N.J. Const. Art. VI, sec. 2, par. 3, it is ORDERED that, effective immediately through August 31, 2016, the provisions of paragraph (c) ("Arbitrator Qualification and Training") of Rule 1:40-12 ("Mediators and Arbitrators in Court-Annexed Programs") of the Rules Governing the Courts of the State of New Jersey are supplemented and relaxed so as to suspend the requirement that arbitrators serving in the court-annexed arbitration program attend a two-hour biennial training course in the areas of (a) reinforcing and enhancing relevant arbitration skills and procedures; (b) ethical issues associated with arbitration; or (c) other matters related to arbitration. The purpose of this suspension of the biennial training requirement is to provide the

Supreme Court Arbitration Advisory Committee with the opportunity to develop and recommend to the Court an improved and more effective training course for arbitrators. This rule relaxation does not affect the provisions of paragraph (c) of Rule 1:40-12 that set out the initial training requirement for new arbitrators.

For the Court,

Chief Justice

Dated: May 6, 2014

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 - The National Business Institute (NBI) at their two days of seminars entitled "Accounting 101 For Attorneys"
 - NYC, NJ, Camden County and Chester County PA Bar seminars on "Buy-Sell Agreements" (includes our 122 point checklist on buy-sells)
 - The Sharper Lawyer's seminar entitled "Practical Strategies to Improve Your Law Firm's Bottom Line"
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- IRS Audit Technique Guide on Attorneys and Law Firms
- Checklist for those serving as Executors
- Sample Reconciliation of Income Tax Return with Actual Disposable Income

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

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PERSONAL INJURY LAW

The Importance of a Financial Analysis to Determine if a Special Needs Trust Is Required In A Personal Injury Case

By Thomas D. Begley, Jr., CELA

When a plaintiff receiving public benefits achieves a personal injury settlement, the plaintiff essentially has four choices: (1) use a special needs trust (SNT) only; (2) use the SNT, but also buy ACA private health care; (3) do not use an SNT and buy ACA private insurance; or (4) do not use an SNT and attempt to become eligible for Medicaid-funded insurance through programs such as New Jersey Family Care:

Analysis of the Four Options with Respect to Special Needs Trusts

Let's examine the advantages of each option.

- 1. Using an SNT only.** The advantage is that the plaintiff will continue to receive SSI, Medicaid, and other means-tested public benefits. The disadvantages are that distributions from the trust must be for the sole benefit of the individual and that there is a Medicaid payback on the death of the trust beneficiary.
- 2. Use the SNT but also buy ACA private health care.** The advantage here is that the plaintiff's SSI and Medicaid are protected. The ACA insurance will result in a reduction or elimination of the Medicaid payback. Also, purchase of the ACA insurance may result in better health care and more access to health care providers than Traditional Medicaid. The

disadvantage is that the trust must pay the premiums for the ACA insurance, so this is a consideration in smaller trusts but definitely a good strategy for larger trusts.

- 3. Not use an SNT and buy ACA private insurance.** The advantage is that there is greater flexibility with respect to accessing the recovery. The disadvantages are that the personal injury victim may squander the money and ACA insurance only covers what typical private medical insurance covers (i.e., hospitals and physicians), but does not cover what Medicaid Waiver programs cover, such as home- and community-based services or placement in group homes, assisted living facilities, or nursing homes.
- 4. Not use an SNT but rely on programs such as New Jersey Family Care.** The advantage is that there is greater access to the litigation proceeds. The disadvantage is the money may be squandered, not everyone is eligible for New Jersey Family Care, and New Jersey Family Care does not cover hospital and physician costs.

Importance of SSI

If a personal injury victim is receiving means-tested public benefits such as SSI, Medicaid, Medicaid Waiver benefits, etc., it is often assumed that the plaintiff will require an SNT to preserve those benefits. In the past, that conclusion was almost always true. However, with the passage of the Affordable Care Act effective January 1, 2014, individuals with pre-existing conditions are now able to obtain private medical insurance and may not need to rely on Medicaid as much as prior to the ACA. However, the analysis does not stop there.

Currently in New Jersey an SSI recipient is entitled to approximately \$750 per month. SSI comes with a COLA. The value of the SSI payment over a lifetime is usually hundreds of thousands of dollars.

Who Will Hold the Money

In most cases, it makes financial sense to utilize an SNT if the plaintiff also receives SSI, unless the net settlement to the plaintiff exceeds roughly \$3,000,000. The SNT preserves SSI, which is often the individual's only access to income. In addition, if the

plaintiff is incapacitated and is receiving means-tested public benefits, the litigation recovery must be placed in some kind of court-supervised entity, typically a guardianship or the Surrogate's office. It is always less expensive and easier to access funds held in an SNT than those held by a guardianship account or the Surrogate's Court. Funds held in a guardianship account or Surrogate's Court are considered to be available for public benefits purposes and would cause a loss of both SSI and Medicaid.

Protecting the Plaintiff from Himself and Predators

Even if the plaintiff has legal capacity, frequently they do not have the sophistication to properly manage wealth. An SNT allows the plaintiff to preserve eligibility for benefits, usually without court supervision in New Jersey, and to have a trustee with a fiduciary obligation to utilize the funds for the plaintiff's sole benefit under a prudent investment strategy. The trust also offers protection from financial predators including strangers, members of the opposite sex, and even family members looking to take advantage. Under these circumstances, the SNT will provide the best option to safeguard and protect the person with a disability.

Budgeting

According to an analysis by Scott MacDonald, CSNA, Affordable Care Act's Financial Effect on Settlement Planning, an individual receiving a net settlement of \$1,000,000 that is placed into an SNT will receive an attainable annual total budget of \$33,484. If instead the plaintiff took the settlement and purchased private health care, even under the ACA, the annual budget would be reduced to \$15,494. If you add in the loss of the SSI COLA estimated at 2.5% over time, the plaintiff would be taking a 52% annual pay cut by not utilizing an SNT. Using a similar analysis with a \$100,000 net settlement, the SNT could provide \$12,610 toward an annual budget, but if the beneficiary took the funds directly and lost SSI, the annual spending amount would be \$3,614, a 71% reduction for life. Under MacDonald's analysis unless the plaintiff is netting at least \$3,000,000, he will always be better off with an SNT.

Make YOUR
association
work for you!
Get Involved
in a
Committee.

MEMBER ON THE SPOT



NAME: Megan Knowlton Balne, Esq
PRACTICE AFFILIATION: Associate at Hyland Levin LLP
 Specializing in commercial litigation, real estate and land use.
YEAR ADMITTED TO BAR: 2010
OTHER BAR ADMITTANCES: Pennsylvania 2010

PRIOR OCCUPATION: N/A

RESIDENCE: Somerdale, New Jersey

HIGH SCHOOL: Cinnaminson High School

COLLEGE: Ramapo College

LAW SCHOOL: Rutgers-Camden

WHAT LED YOU TO A LEGAL CAREER: I was a double major in college in Theater and History. I struggled with whether to pursue graduate studies in history and obtain my PhD or whether to pursue the arts as a director and move to New York City. After deciding that neither of these paths was right for me, I went back to the drawing board to consider other options. I decided on a legal career because it really blended the aspects of history and theater that I loved—research, writing, working with people and telling a good story.

BEST PERSONAL/PROFESSIONAL ATTRIBUTE: I am a good listener and a good communicator.

GREATEST FAULT: I may be too empathetic at times.

WHAT I DO TO RELAX: Read a good book on my porch swing.

HOBBIES: I am very active in community theater. Despite my decision not to pursue theater as a career, I remain active as a director, stage manager and actor in the South Jersey community. My most recent production was directing *42nd Street* at the Broadway Theatre of Pitman. Next, I am slated to direct at Haddonfield Plays and Players for their 2015 season.

FAVORITE RESTAURANT: The ChopHouse in Gibbsboro, NJ

FAVORITE TELEVISION SHOW: Currently airing – *Downton Abbey*/
Reruns – *Star Trek Voyager*

FAVORITE MOVIE: *Ocean's Eleven*

FAVORITE AUTHOR/BOOK: *Pride and Prejudice* by Jane Austen

FAVORITE VACATION PLACES: Sea Isle City, NJ; London, UK

FAVORITE WEBSITE: Amazon

FAVORITE MUSEUM: Philadelphia Museum of Art

FAVORITE WEEKEND GETAWAY: Cape May, NJ

ENJOY MOST ABOUT PRACTICING LAW: I love finding creative ways to use case law and writing strong argument sections in legal briefs. I enjoy arguing a case at oral argument and going to court. I also enjoy talking to clients and getting their story first hand.

MOST ADMIRER PERSON AND WHY: Abigail Adams, because she was a strong woman at a tumultuous time in our country's history who made important contributions to our founding ideals.

WHEN AND WHERE HAPPIEST? On the beach during our annual family vacation.

CHERISHED MEMORIES: I have many cherished memories, the most recent being the birth of my son, Sammy!

GREATEST FEAR: Losing my loved ones.

ALTERNATE CAREER CHOICE: Artistic Director at a professional theater

GREATEST LESSON LEARNED FROM PRACTICE OF LAW: Always proofread everything.

PET PEEVE(S): Drivers who travel under the speed limit.

PERSON YOU'D MOST LIKE TO DINE WITH: Ruth Bader Ginsburg.

During my first year of law school, I was in the library and stumbled across an old essay written by Justice Ginsburg (then Professor Ginsburg, as she was a professor at Rutgers-Newark at the time) regarding a symposium on Women and the Law in 1970. I read this essay and was amazed at how much her words rang true nearly 40 years later. As a young 1L student, nervous about whether law school was the right fit, Justice Ginsburg's words reassured me that I made the right choice about law school even though the road had its challenges. She continues to be an inspiration to me as I move through my career. I'd like to thank her for easing my 1L nerves and giving me strength to embark on this career path.

LIFE'S HIGHLIGHTS: Professionally, I have graduated law school with honors, I have clerked for two accomplished and respected judges, and I have started my career as a practicing attorney at a reputable and skilled law firm. Personally, I am married to a wonderful man and have a terrific family, and I continue to be active in the South Jersey community by volunteering at local theaters.

GREATEST ACCOMPLISHMENT: Balancing my home life with my professional life.

#1 PROFESSIONAL GOAL: Develop a reputation as a competent, professional and sought-after attorney.

#1 PERSONAL GOAL: Be an active part of my family and community and maintain a healthy balance between my professional life and my personal life.

LIFE EXPERIENCE(S) WITH GREATEST IMPACT: When I was in high school, I became drum major for my marching band. It was my first leadership role and challenged me in several ways. I learned what it meant to be a leader, how to be kind but firm and how to utilize the different talents of my peers to achieve the best result. The lessons I learned as drum major stayed with me throughout college and law school and continue to help me as a leader in my professional career.

ADVICE TO YOUNG LAWYER: Learn from each experience you have—be involved and take charge of your career. Aspire to leadership positions.

HOPE TO BE DOING IN 10 YEARS: Have a steady client-base and be an active part of the South Jersey legal community.

FAVORITE QUOTATION: "Freely you have received, freely give."

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 17, to be considered. The award will be presented at the Annual Devine Award Event in January.

Lawyers Investing in the Future of the Profession



lr – Foundation President, **Louis R. Lessig**; **Brielle N. Kovalchek** (Hon. Joseph W. Cowgill Memorial Scholarship); **Jonathan L. Triantos** (Eivind H. Barth, Jr. Memorial Scholarship); **Julianne Bollettieri** (DuBois Brothers Scholarship); Association President, **Gary W. Boguski**; **Jacquelyn A. Suarez** (George F. Kugler, Jr. Scholarship); **Jason Eberight** (Benjamin Asbell Memorial Scholarship).

Last Spring's *Cocktails & Conversation Bench/Bar Cocktail Party* was the perfect occasion to present the Bar Foundation's Law School Scholarships.

The Foundation annually awards a number of \$1,000 scholarships to qualified law school students to assist them in reaching their educational dreams and goals.

Due to school-related events and assignments, there were other recipients who were unable to attend the party and personally receive their awards. Those also receiving scholarships were:

Cory Sidelski – Bruce A. Wallace Memorial Scholarship

Philip Jaworskyj – Louis C. Portella Memorial Scholarship

Brittany A. Yodis – Daniel B. Toll Memorial Scholarship

William Bessmer – Hon. Rudolph J. Rossetti Memorial Scholarship

Matthew D. Knoblauch – William Tomar Memorial Scholarship

Congratulations and Good Luck recipients!

For additional information about the scholarship program, or to discuss establishing a new scholarship, please inquire at info@camdencountybar.org.

THE LAWYER STRESS CENTER[®]

is pleased to announce that its
Founder and Executive Director

Steven Ager, M.D.

has been elected

President

of the

Southern Chapter of the
New Jersey Psychiatric Association



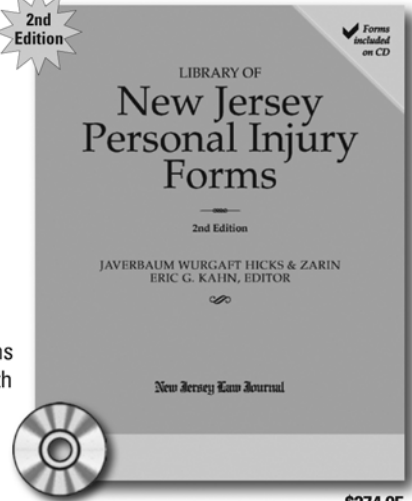
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Library of New Jersey Personal Injury Forms

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Do You Want to Help Bridge the Justice Gap in New Jersey?

South Jersey Legal Services, Inc. (SJLS) serves the legal needs of the poor in Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester and Salem counties and provides free legal services in some civil cases to clients whose income and assets are within established limits. SJLS always has a need for bankruptcy attorneys, family law attorneys, tax attorneys, consumer law attorneys and attorneys willing to take children's benefits cases. We also need attorneys willing to assist with individuals still feeling the effects of Hurricane Sandy.

The **Pro Bono Bankruptcy Project** refers bankruptcy cases in two ways (1) through our joint program with the bankruptcy bench/bar and Rutgers Law School—Camden where attorneys work with law students to help our clients file for Chapter 7 and (2) through individual referrals directly through SJLS, outside of the Rutgers Project. Applicants are currently waiting 5-6 months to get assigned an attorney. SJLS works with the clients prior to making any referral to get much of the necessary document gathering done before the file is referred.

To participate in **The Divorce Project**, a client must be seeking dissolution of the marriage only. There can be no asset or debt issues and child support and/or custody must already be established by court order. We also have a need for attorneys who speak Spanish to assist with some of the clients currently waiting for divorce assistance.

The **Low Income Taxpayer Clinic (LITC)** assists taxpayers who have controversies of less than \$50,000 with the Internal Revenue Service and taxpayers for whom English is a second language. Because of funding cuts and staff reductions, our clinic is staffed by only one attorney. We are seeking attorneys willing to (1) accept case referrals for representation to assist in the overflow of cases and those of a more complex nature than we are able to handle and (2) be available when needed to briefly consult on cases when the matter is beyond our expertise as tax is not the primary practice of SJLS. The majority of the referrals will be overflow cases of a routine nature. JD/CPAs are particularly encouraged to participate. The types of cases we regularly handle include controversies related to identity theft problems, Earned Income Tax Credit, Child Tax Credit, Employee/Independent Contractor Issues (SS-8 petitions), preventing or managing liens, levies and collections, challenges to tax liability, correcting improper filing status (erroneous HoH filing amended to MFJ, etc.), Innocent Spouse Relief, installment agreements, offers in

compromise, hardship waiver for senior citizens, representation in U.S. Tax Court. We do not prepare tax returns.

The **Children's Supplemental Security Income (SSI) Project** assists children who have been denied disability benefits. This Project was started in 2006 and has resulted in over 100 favorable decisions for children in New Jersey and their families. SJLS provides training materials and is available for questions throughout the cases if needed.

Through specialized grant funding, SJLS has been assisting victims of **Hurricane Sandy** since November 2012. We need attorneys who have expertise in consumer and contractor fraud, including the N.J. Consumer Fraud Act, public adjuster fraud and insurance and banking matters.

The benefits of taking a case for *pro bono* representation include the following: malpractice insurance provided by SJLS for the duration of the case; confidence that your time and efforts go to a deserving, low-income client; time towards satisfaction of your annual *Madden* requirement; the knowledge that you have made a difference in the life of an indigent New Jersey resident.


If you are willing to assist with Hurricane Sandy cases, please contact Alexander Hersonski, Esquire, Disaster Relief Pro Bono Coordinator, at (609) 348-4200 ext. 6326 or AHersonski@lsnj.org. If you would like to assist with any other project, please contact Michelle T. Nuciglio, Esquire, Director of Pro Bono Services and Centralized Intake, at (856) 964-2010 ext. 6229 or MNuciglio@lsnj.org.

DAVID C. EPLER, ESQUIRE
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LEGAL LINE TO CRIMINAL LAW

Developing Issues of Third-Party Consent: Police Removal of Objecting and Potentially Objecting Occupants

by Kevin J. Hein, Assistant Camden County Prosecutor

Consent searches have long been recognized as a “constitutionally permissible and wholly legitimate aspect of effective police activity.”¹ It is firmly established that a warrantless search is reasonable when valid consent is obtained from the sole occupant of the premises.² However, what if an objecting or potentially objecting occupant is removed by police prior to obtaining valid consent from his or her co-occupant?

In *Georgia v. Randolph*³, the U.S. Supreme Court held that “if a potential defendant with self-interest in objecting is in fact at the door and objects, the co-tenant’s permission does not suffice for a reasonable search, whereas the potential objector nearby but not invited to take part in the threshold colloquy, loses out.”⁴ The Court recognized the practical value in limiting the need for police to seek out all potentially objecting co-occupants before acting by expressly limiting its ruling to the presently objecting occupant. However, in dictum, the Court suggested that consent by a willing occupant might not be enough when “there is ... evidence that the police have removed the potentially objecting tenant from the entrance for the sake of avoiding a possible objection.”⁵ The question remaining following *Randolph* was how the courts should deal with a potentially objecting occupant who is not simply “nearby but not invited to take part [in the consent],” but who is removed from the premises by police.

Earlier this year, the U.S. Supreme Court clarified *Randolph* on just that issue in *Fernandez v. California*.⁶ In *Fernandez*, police investigation of a male suspect involved in an armed robbery brought officers to an apartment where a woman appeared at the door crying with a large bump on her nose and fresh blood on her shirt and hand. When asked to step outside so police could perform a protective sweep of the apartment, Fernandez appeared and refused to allow police entry. Believing Fernandez had assaulted the woman, police removed him from the apartment and placed him under arrest. The woman later gave police oral and written consent to search the home, which revealed numerous items of incriminating evidence.⁷

At the suppression hearing, Fernandez argued that since police were responsible for his absence at the apartment when consent was obtained over his prior objection, the police acted unreasonably and the consent was illegal.⁸ Fernandez further argued that his prior objection should have remained effective.⁹ The Court concluded that the dictum in *Randolph* “should not be read to suggest that improper motive may invalidate objectively justified removal.”¹⁰ Thus, so long as the detention or arrest is lawful, the subjective motives of police are irrelevant and the detained objector “stands in the same shoes as an occupant who is absent for any other reason.”¹¹ Moreover, the Court declared that any objection made before a lawful removal will not remain effective.¹² The *Fernandez* Court established that not only the absent potential objector, but the absent prior objector also “loses out.”


In two opinions decided on the same date this year, the New Jersey Supreme Court examined *Fernandez* and the issue of third-party consent. In *State v. Lamb*,¹³ officers arrived at the home of the defendant who was suspected of attempted murder. Upon arrival, the defendant’s stepfather insisted defendant was not home and that the officers leave the premises. The defendant’s girlfriend was seen inside the home and removed, at which time she indicated the defendant was inside with his mother and three young children. Police persuaded the stepfather to come outside, where he was detained away from the area. The defendant also went outside and was

arrested. The defendant’s mother subsequently consented to a search of the home wherein police located incriminating evidence.¹⁴

Following the reasoning in *Randolph* and *Fernandez*, the unanimous Court held that since the objecting stepfather was absent due to a lawful and thus objectively reasonable detention when consent was obtained, he was in the same position as an occupant who is absent for any other reason.¹⁵ Therefore, “by virtue of his removal from the scene, [the stepfather’s] earlier objection to police was no longer effective and [defendant’s mother] had full authority to consent to a search of her home.”¹⁶

In *State v. Coles*,¹⁷ however, the Court found that the detention of the defendant was unlawful and thus not objectively reasonable, thereby invalidating the consent-based search. In that case, police stopped the defendant who matched the description of a reported robber. He appeared nervous and gave suspicious answers, but the victim could not identify him as the perpetrator. The defendant could not provide identification but said there were relatives at his house who could identify him. The defendant was subsequently placed in the patrol car while officers walked to his residence where his aunt confirmed he lived at the house. At that point, police continued to investigate and obtained consent from the aunt to search defendant’s bedroom while defendant remained in the patrol vehicle. The search revealed incriminating evidence.¹⁸

(Continued on Page 14)



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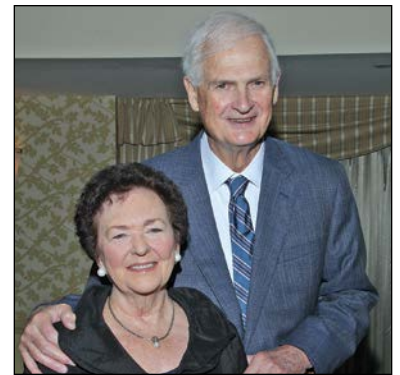
Changing of the Guard

Casey Price becomes 88th President of the CCBA

Friday evening, June 13th was a typical warm, muggy June day as members of the bench and bar, family and friends of incoming CCBA President Casey Price fought flooding downpours and snarled traffic to witness the changing of the CCBA guard at the Collingswood Grand Ballroom. Following a lively cocktail party sponsored by Asbell & Eutsler, P.A., guests watched as Justice Faustino "Fuzzy" Fernandez-Vina delivered the oaths to the new officers and trustees of the Association and Foundation.



New Young Lawyer Trustee Matt Rooney & outgoing Young Lawyer Trustee Rachael Brekke



Judy & Jim Mullen



Joan Bucci & Chuck Resnick



New Association Trustees with Justice Fernandez-Vina: Casey Price, Alex Kushner, Dawnn Briddell, Mike Madden, Greg DeMichele & Young Lawyer Trustee Matt Rooney (not pictured: Rachel Brekke & Lou Guzzo)



Newly installed President Casey Price with Immediate Past President Gary Boguski



Also sworn in were Foundation President Brenda Eutsler and Foundation Trustee Justin Loughry (not pictured: Christine Campbell)



The Young Lawyer Committee was well represented



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Mike Kulzer, Judge Fox & Lou Moffa



Adam & Amy Gersh, Jennifer Perez & Pasquale Guglietta



Lou and Megan Lessig & Sandi and Judge Vogelsson



Vince and Mark D'Agostino & Matt Rooney



Carolyn O'Kane, Marianne Johnston & Lynn Manning



Greg DeMichele, Mike Madden & Eric Fikry

WINE & FOOD

By Jim Hamilton

Deadlines demand writing columns for *The Barrister* well in advance of publication, so I shall offer some wine suggestions without the benefit of knowing just how canine the dog days of August will have been. However, polar vortex notwithstanding, I expect most of us still will be looking to open wines for summer weather sipping. With this in mind, allow me to report on some wines I tasted at a recent Michael Skurnik Wines tasting that should, if sourced, offer affordable options to enjoy before the autumn chill has you reaching for bolder red wines.

Let's start with two rosé wines not discussed in the June column. **2013 Isabel de France Côtes de Provence Rosé** is one of several wines from the project undertaken by Isabel Ferrando, a proprietress of several highly regarded southern Rhone wineries. She purchases grapes from top sites and is very involved in how the raw materials are treated and the wines are crafted. While Provençal rosés are known for their pale and delicately floral qualities, this is a wine that is fairly substantial in weight, offering quintessential strawberry fruit notes that are clean, rich and expressive. The wine is both lithe and expansive, a deft balance in this delightful red wine alternative.

The second rosé is fashioned from what may be Spain's most well-known red grape, Tempranillo, grown in one of the top Spanish wine regions, Ribera del Duero. **2013 Finca Torremilanos Montecastrillo Rosado** is a winning entry in the ever increasing roster of rosé wines. As dry rosés become more popular, we are seeing the price for their pleasure creeping upward. This is a wine that should serve as an antidote for any rosé sticker shock. It is perhaps even more fruit forward than the Isabel de France rosé, with the same strawberry core edged by watermelon nuances. While the fruit clearly is ripe, it is kept in balance by the grape's natural acidity and delivers the fruit impressions in a medium framework to a satisfying finish.

There are a number of white wines that may be available in our area that are worth searching out for your lighter summer fare. For those who dismiss German wines as too sweet for their liking, you will be glad to know that an increasing number of dry German wines are entering our market. Three that impressed me for their quality and price are brought to us by the irrepressible importer, Terry Theise. Two Riesling entries are from wineries whose ascendant rise into the upper echelons of German producers previously has been highlighted. While the **2012 Reuscher-Haart Piesporter Falkenberg Riesling Kabinett Trocken** perpetuates the labeling detail that some producers are eschewing by creating less daunting brand names, ultimately it is what is in the bottle that counts. This wine delivers a big, fleshy mouthful of stone fruit, such as peaches and apricots, with a creamy texture flecked with minerals that offers nice weight and relative complexity. **2013 Schneider Riesling Melaphyr Trocken** is a stylish wine that presents dry, spicy notes in a broad brush of lime and orange fruit. The winemaking talent at this property was evident as I tasted through their lineup of 2013 wines and this affordable entry is one to seek out for its crisp but dry Riesling fruit qualities. To take a Monty Python phrase...and now for something completely different...there is **2013 Geil Muskateller Trocken**. The grape commonly known as Muscat often offers bracing, floral qualities, particularly in dry versions, and this wine certainly follows that path. It certainly is aromatic, with a

lively citric fruit that is penetrating enough to cut through saucy or spicy foods. Indeed, if you are looking for a wine to pair with Asian cuisine where often Gewurztraminer is the go-to choice, you would do well to consider this distinctive alternative.

For those who want a more "traditional" white wine to consider, let's talk Chardonnay, but not



from the more well-accepted regions such as the United States or France, but rather Italy. When thinking of the Piedmont region, most people, and with good reason, think of the red wines, be they Dolcetto, Barbera or the wines that bring the spotlight to the region, Barbaresco and Barolo. A rising star in Piedmont, Cavolotto certainly makes an impressive lineup of red wines. However, it also makes one of the better Piedmont white wines, so I direct your attention to the **2012 Cavolotto Chardonnay Langhe Bricco Boschis**. If you want to try a Chardonnay that offers ample fruit without exaggerating it or framing it in oak, this wine deserves your consideration. It conveys melon, quince and lime fruit impressions with perhaps a touch of saffron that will broadly coat the palate and hopefully raise lips to a smile. The wine offers unadorned Chardonnay fruit without the premium cost one might find with wines in the Burgundy or California bins of your favorite wine shop.

For red wine lovers, let me close with a Piedmont wine that is soft and easy to drink in the warm weather. **2012 Silvio Grasso Dolcetto Langhe** is simply a pretty wine made from the Dolcetto grape that conveys bright red cherry and red currant fruit to capture the essence of freshness with the wine's aromatics and taste. While not a lightweight in body, this wine won't overpower a meal with tannins or structure, but will win fans both with its style and affordability.

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By Casey Price

PRESIDENT'S PERSPECTIVE

5% Is A Very Small Number

First I would like to thank everyone for the honor and privilege of serving as the 88th President of the CCBA. I will work diligently to represent the position and bar association with a sense of pride and purpose.

Now, what's the point of me writing this monthly column? And why should you take the time out of your busy day to read it? Frankly there have been 87 Presidents before me, many of whom were distinguished and learned individuals who always had something poignant to say. Many of the articles were inspirational pieces leading to expanded thought and often containing a strong call to action. Maybe you've heard it all before and in a manner better than I can say it. So, I'm not going to preach or try to inspire. Instead I am going to ask a favor.

I have the opportunity—together with an exceptional board of directors and other important contributors—to lead this fantastic association for the next ten months. It was a great organization when I joined it 14 years ago and I expect it will be great for the next 88 years—maybe when some of our grandchildren or great-grandchildren are members and serving in leadership positions.

With all of this said I am still curious as to how we can make the CCBA stronger. We have a large number of active attorneys spanning all ages. We also have a large base of members who pay their dues each year and enjoy passive benefits of membership. The question is how we can get some—just some—of those less active members to become more active because active members make a stronger association.

I am not going to be so presumptions as to answer the question as to how we can get our members who enjoy passive membership benefits to be more active. I will share some of my thoughts at some point in the near future. I will say this though... the board is going to reexamine some of the things we do and see if we might be able to improve them. That will range from substantive committees to various events and parties. Some of the new approaches will be subtle and others may seem radical. The point is I am not afraid to try something new and fail, I am afraid not to try at all.

My personal—some might say arbitrary goal—is to increase active membership by 5%. To me the definition of an active member is someone who comes to one or more events each year (not including CLE seminars) and volunteers to do something (this would include speaking at a CLE seminar). If we have 2,000 members—we actually have more than that but I am an attorney not a mathematician so let's round down to 2,000—then 5% of our membership is 100 members. That means if we hit this goal we will have 100 more members volunteering to do something at the CCBA. If that were to happen then imagine how much more we can do. And if we get 100 more active members that will mean 100 more people will be touting the benefits of the CCBA and that will lead to even more members becoming active. Success will lead to more success. The CCBA is already great. Imagine how much greater it could be—how much greater it will be.

Until next month. All the best.

~ Casey

News & Notes—President Style

Technology Update: The CCBA will be rolling out a new website in the near future. The new site will incorporate current best practices. It will allow us to do more online to serve our members and the community. In addition, we are going to start a weekly podcast—think an online radio show—where we can disseminate information to our members about CCBA news, events and a member on the spot interview. The goal of the podcast is to approach the dissemination of important and fun information from a different angle. For those of you who are so inclined to listen the podcast will be an opportunity to keep abreast of the CCBA news and notes at a time convenient to you when you otherwise couldn't have done it—like driving in your car, walking the dog or some other activity. The first episodes of the podcast will come out in mid to late September—keep an eye out in upcoming editions of the e-barrister for news about its release.

CLE Seminars: Every one of our 2,400 plus members has access to member pricing for CLE seminar. Camden County is home to some of the most spectacular attorneys in the country. These attorneys—and one of them might be you—volunteer to share their experience and expertise on various topics throughout the year. You should strongly consider taking advantage of this fantastic opportunity. Learn from people practicing in your own backyard and the judges you appear before. The CCBA is your home court advantage—don't let that advantage slip away. Don't give up your home court advantage. Get your CLE credits here. Stay in the county and attend the CLE seminars in person or take the courses online. Take advantage of this benefit and your membership pays for itself many times over. I will see you at the seminars.

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YOUNG LAWYER HAPPENINGS



YOUNG LAWYER CHAIR

Young Lawyers Falling Forward

By Matt Rooney

Autumn has always been my favorite season. Not simply because cooler temperatures and football represent a very welcome change of pace after a long, hot and hazy summer, but falling leaves also signal big, positive changes for the Camden County Bar Association and its extremely active Young Lawyer Committee.

This is the time of year when law students dust off their textbooks, judicial clerks start new jobs, bar examination survivors nurse their wounds and hard-working firm associates return from vacation. That means it's also prime recruitment season for our growing organization, and if we can help our community's most vulnerable members in the process, then that's all the better. In fact, that's the primary reason why we do what we do!

Our marquee early fall event is the annual Lobster Bake, presented by Flaster Greenberg and produced in conjunction with the Camden County Bar Foundation, held at The TapRoom in Westmont on Saturday, September 27th from 4 to 8 p.m. The Young Lawyer Committee prides itself on presenting a diverse array of programming for every type of taste; all the same, this is one event that every member agrees is a "don't miss" occasion. Lobster, live music, horseshoes, cigars, beer... did I mention the lobsters? The best part, however, is that the proceeds benefit the Young Lawyer Larc School Scholarship Fund.

For those who don't know, Larc School (www.larschool.com) is located in nearby residential Bellmawr, New Jersey, operating as a non-profit special education institution serving students, ranging in age from

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3 to 21, who grapple with a myriad of moderate to severe disabilities. Larc proudly provides this valuable service at no cost to families, a cost which would otherwise drive many families into a dire financial predicament. Consequently, Larc needs our help to continue its important mission for the South Jersey community. We're thrilled to do so yet again this year. Please contact the Camden County Bar Association office at 856.482.0620 for more information. Hope to see you there!

Don't despair if you can't attend the Lobster Bake (but try to make it—you don't want that jealous feeling to linger all year when everyone else is still talking about it). There will be plenty of other ways to help out going forward as we move into the fall and winter seasons. Never hesitate to reach out to me at matt@southjerseylawfirm.com to make sure you're in the loop.

As I already mentioned, our recruitment activities kick into high gear in August as we host an annual luncheon for incoming and outgoing law clerks at the Camden County Hall of Justice at 12:30 p.m., on August 27th, and we will once again participate in Dean's Law Day, an annual event at Rutgers-Camden School of Law for its newly-admitted students. I firmly believe bar association involvement should begin long before bar admission. It's imperative to give soon-to-be lawyers a sense that they're part of a larger law community from the first day of their long journey in the legal profession. It's a support system, networking opportunity and, yes, much-needed fun break from the daily grind!

Continuing to study and discuss the substance of the law, in addition to the ongoing developments in our respective practice areas, is also a big part of what we do. Thomas Jefferson famously observed how "[a] lawyer without books would be like a workman without tools." You could easily substitute "books" with "CLE's" in our modern world, and the Young Lawyer Committee will present a few seminars in the months ahead. Stay tuned.

Did I overwhelm you with information? Good! This article isn't a memorization test but, rather, yet another chance for me to remind you of the many ways through which you can get involved over the coming year. There's work to be done. Important work. Let's build on past successes by falling forward together as autumn draws near and, of course, enjoying some serious fun all along the way.

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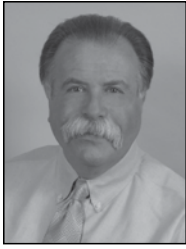
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SPINNING MY WHEELS

By Andrew Kushner

Life With a 20 Year Old

It has now been about three months since I took possession of my almost 20 year old Alfa Romeo, having collected it from Woody the mechanic following his two week going-over and maintenance after the car was dropped (not literally, fortunately) at his shop in late March. He called me on an early April Saturday advising me somewhat tersely that the car is ready and I need to come pick it up so he can have room to get another one in for service. Upon arrival, we conversed about the work done—anticipated or otherwise—and he opined that this was probably “...the fastest 24 valve Alfa he has driven.” Taking heart from his parting words, I started home on my 30 mile drive over a mix of back roads and interstates.

Since there had been only about a quarter of a tank of fuel (and that was from the seller’s last fill up last fall, I found a gas station just over this side of the Burlington Bristol Bridge and filled it up with premium. Yes, the airbag light had been blinking as I was told but it settled into a stationary position after about two minutes. Quite unobtrusive, really. Whether the airbag is functional or not is an open question. However, back to the fill up. As I lowered the passenger side window and placed my order with the pump jockey, I then, quite naturally, started to raise the window closed. Nothing. Another attempt, still nothing. My first welcome to the reality of a 20 year old car. No matter, the window would raise easily when the switch was pushed on the passenger side, just a quick lean to my right. As I intuited that the problem was the switch, it will easily be fixed either by cleaning the contacts or replacement with the \$5 new old stock switch purchased on Ebay. So, herein lies the double edged sword: Despite best efforts and good wishes from the seller, a car that is 20 years old will have the potential to have some aspect of its moving (mechanical or electrical) parts head south at unexpected intervals. On the other hand, with a number of exceptions, replacement used parts or new ones can be found at a bargain—relative to other Italian exotic cars on the internet.

Taking the car to work, a two mile drive from my home, on Monday promised to be uneventful and allowed me to plan the first couple of remaining items to be done locally to get the car completely fettled. Top

of the list was the set of new tires anticipated to be needed both due to time and mileage. They were already waiting for me at my friend’s body shop for installation and I assumed that I would make those arrangements later in the week. It was not to be so. On that short, two mile trip I found the one gaping pothole I had managed to avoid all winter in my commute. The bang/crash that resulted informed me immediately that the tire had, in the words of John Cleese, ceased to be. The fact that I was 25 feet from a gas station to pull into and had AAA on speed dial was of little consequence. While the donut spare was installed (it was serviceable despite not having been out of the trunk since new) I now drove the car to the shop for an early tire installation. Picking up the car later in the day I was very pleased with the new rubber, now nicely balanced on the four wheels which eliminated the steering wheel shudder at 80 mph. All was good. Well, not quite.

Ten mornings later I sat down, turned the key and...nothing. Remember the cartoon characters who met with frustration and they closed their eyes and counted to ten but the steam still came out their ears anyway? My AAA friend arrived within the hour, this time to jump the car and set me on my way to my favorite battery store, Sears. Five minutes with them confirmed that the type of battery called for was not only not in stock but the counterman told me he had “never heard of that battery class.” I thanked him and sat in the passenger seat calling first AutoZone (“Yes, I see one listed but we can’t get it until tomorrow”) and then, somewhat in desperation, Pep Boys. Strangely the lady on the phone recited that they have 7 units of the type 31 battery needed. Assuring her I only needed one, I placed my order and appeared at the Berlin store about 15 minutes later.

Now, Alfas being Alfas, the battery location is in the trunk (better weight distribution and not as subject to engine heat and the elements if located under the hood). Of course taking out the protective cover and the metal straps to get at the item was giving the mechanic fits although to be fair, he was very



up-beat about it as it attracted all of the mechanics on duty at the time to gawk. When the battery was finally removed, it proved to be a monster commercial type battery which, according to the date markings on the top, was no less than ten years old. Of course the new one went in without a hitch and I was back on the road with confidence.

Sometimes car problems have nothing to do with the car as I learned last week on entering the car on a Tuesday morning. Something on the passenger seat caught my eye and it proved to be a dime sized hole in the perforated leather seat cushion, surrounded by little bits of leather scraps and some claw scrapings along the way. After living in the house for close to 25 years, I was suddenly in the embrace of a hungry rodent. Cut to frustrated cartoon character. After being satisfied that he was not with me at the moment, I stopped by my friendly hardware place to find a no-kill trap so that I could get the little guy, take him to some secluded wood and let him or her run free. I settled on an interesting plastic rectangular tube device that had the bait (peanut butter) smeared at the rear and, when the unsuspecting rodent crawled in to get the snack, his weight would tip the rectangle back and the door would click shut, trapping him in. Such was the plan. I set the trap that night on the passenger floor on top of a magazine so the trap was properly flat and balanced. Come the morning I found the trap on its side, the door still open, the peanut butter gone and a thank you note from Mickey.

Well, this wouldn’t do. Despite my love of animals, even the cute little rodents, this conduct would not stand. Back to the hardware store and the purchase of two traditional spring loaded-kill them instantly models. Baited and situated that evening, I awaited the dawn. He was grey and white and, in life I am sure he was quite a cute little fellow but his crushed neck and motionless body proved that gluttony, at least in the rodent world, came to no good end. To be sure he had no confederates, I baited the other trap the next night but no other takers were found.

(Continued on Page 14)

VERDICTS OF THE COURT

Superior Court of New Jersey

VERDICT: No Cause (7/9/14)
Case Type: Auto
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Stephen Tatonetti, Esq.
Defendant's Atty: Michael Debona, Esq.
L-1671-12 Jury (6)

VERDICT: No Cause (7/10/14)
Case Type: Construction
Judge: John A. Fratto, J.S.C.
Plaintiff's Atty: Daniel M. Replogle, III, Esq.
Defendant's Atty: Monica E. O'Neill, Esq.
L-1642-12 Jury (6)

VERDICT: No Cause (7/16/14)
Case Type: Auto Negligence
Judge: Louis R. Meloni, J.S.C.
Plaintiff's Atty: Edward Mulvihill, Esq.
Defendant's Atty: James Nolan, Esq.
L-1322-12 Jury

VERDICT: No Cause (7/18/14)
Case Type: Medical Malpractice
Judge: Robert G. Millenky, P.J.Cv.
Plaintiff's Atty: Blake Berenbaum, Esq.
Defendant's Atty: William Theroux, Esq.
L-4959-10 Jury

VERDICT: Liability Verdict: 45% Against Plaintiff and 55% Against Defendant; Damage Verdict: \$7,000 Against Defendant (7/24/14)
Case Type: Personal Injury
Judge: Anthony M. Pugliese, J.S.C.
Plaintiff's Atty: Jeremy Wietz, Esq.
Defendant's Atty: Lawrence Berger, Esq.
L-2130-11 Jury

VERDICT: Damage Verdict: \$0 Against Defendant (8/1/14)
Case Type: Auto Negligence
Judge: David Ragonese, J.S.C.
Plaintiff's Atty: Lou Bornstein, Esq.
Defendant's Atty: Robert Kaplan, Esq.
L-2143-12 Jury

LEGAL LINE TO CRIMINAL LAW

Developing Issues of Third-Party Consent

Continued from Page 8

In applying *Fernandez*, the *Coles* Court held that the search was invalid because defendant was unlawfully detained. Specifically, defendant's detention became unlawful "the moment the last vestige of a valid, continued investigatory detention had been resolved through confirmation of his identity and residence."¹⁹ Once the detention became unlawful, his removal was objectively unreasonable and, consequently, the subsequent consent-based search was invalid.²⁰ Notably, unlike the objectors in *Fernandez* and *Lamb*, this defendant was never present at the premises and never actually objected.²¹ Nevertheless, the Court held that due to his unlawful detention, police "effectively prevented any objection from [the] defendant."²²

In conclusion, the issues stemming from third-party consent-based searches in New Jersey going forward will likely include the lawfulness of the detention or arrest of both objecting and potentially objecting occupants. Nevertheless, inasmuch as they are lawfully detained or arrested, their co-occupants with common authority may continue to allow police to perform warrantless searches of their homes.

¹ *Schneekloth v. Bustamonte*, 412 U.S. 218, 228, 231-32 (1973).

² *Ibid.*

³ 547 U.S. 103, 126 S. Ct. 1515, 164 L. Ed. 2d. 208 (2006).

⁴ *Id.* at 121. The consenting party must have "common authority" over the premises to be searched, which authority derives not from technical property interests, but "on mutual use of the property by persons generally having joint access or control for most purposes, so that it is reasonable to recognize that any of the co-inhabitants has the right to permit the inspection in his own right and that the others have assumed the risk that one of their number might permit the common area to be searched." *Id.* at 110 (quoting *United States v. Matlock*, 415 U.S. 164, 171 (1974)).

⁵ *Ibid.*

⁶ ___ U.S. ___, 134 S. Ct. 1126, 188 L. Ed. 2d. 25 (2014).

⁷ *Id.* at 1130-31.

⁸ *Id.* at 1134.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Id.* at 1135-36.

¹³ 217 N.J. 442 (2014).

¹⁴ *Id.* at 447-50.

¹⁵ *Id.* at 462-63.

¹⁶ *Ibid.* The Court also noted that the circumstances of that consent "were infused with exigency," which, although not relied upon by the State, provided additional reasonableness to the officers' actions. *Id.* at 463.

¹⁷ 217 N.J. 467 (2014).

¹⁸ *Id.* at 473-76.

¹⁹ *Id.* at 491.

²⁰ *Id.* at 491-92.

²¹ In her dissent, Justice Patterson argued that this case should not come within the purview of *Randolph* and *Fernandez* because defendant was not present at the home when the police arrived, or at any time during the entire police encounter. The *Fernandez* rule, Justice Patterson argued, requires either that the objector be present at the scene or that he be removed during the encounter. Since defendant was not present or removed during the encounter, the *Fernandez* rule was not satisfied on these facts. *Id.* at 493-501.

²² *Id.* at 492.

SPINNING MY WHEELS

Life with a 20 Year Old

Continued from Page 13

Since the first 30 day shake down there are a few small continuing problems, mechanical, electric and otherwise but they will be addressed in due course and do not affect the drivability of the car. One other unexpected acquisition: While the wheels on the 164 are very serviceable they are not what one would call terribly attractive. Replacement wheels are thin on the ground in this part of the world since so few cars were sold here that most vendors have no reason to stock aftermarket wheels. There are a number of companies in the UK that have alternatives but shipping along with their pricing (and the iffy quality of the wheels) makes that an unattractive alternative. In one of my more bored moments I was surfing the internet, specifically the UK version of ebay and found the equivalent of a needle in a haystack: a set of Speedline Wheels manufactured for Alfa Romeo and specified for other European Alfa models but would fit on the 164 perfectly! The vendor's location was (wait for it) in Hungary.

He appeared to be a legitimate vendor of very high line wheels for Mercedes, BMW and Porsche so these wheels were sort of a one off exception for him and I would have thought that he would be willing to bargain. No such luck. I think he knew what he had and that my own options to find something similar *anywhere* were very limited. Although the shipping costs doubled the cost of the wheels, the total price was still much less than the aftermarket UK alternatives and much less than the real article, assuming I could find a set. They arrived, balanced and fit perfectly and really dress up the car.

A couple of words on the wonderfully positive aspects of this Alfa: The car sings at full throttle. It starts reliably and handles well with its electronic suspension working perfectly. All in all, exactly what I had hoped. There will still be a few very minor things to put right at my own schedule but nothing that disappoints me when I turn the key each morning.

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LEGAL BRIEFS

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

Benjamin D. Morgan, a commercial litigation attorney with Archer & Greiner P.C. in Haddonfield was recently installed as President of the Gloucester County Bar Association (GCBA).

Becker Meisel attorneys **Kenneth Roth** and **Timothy Szuhaj** were among the featured speakers at a seminar focused on legal issues for professional engineers entitled "Legal and Ethical Issues for Professional Engineers," presented by Halfmoon LLC, at the Hyatt Regency Princeton.

Mr. Roth, of counsel to the firm and a member of the firm's Business Services Group, discussed the various forms of business organization—corporations, partnerships, limited liability companies, sole proprietorships and limited partnerships. Mr. Szuhaj, a partner at the firm and chair of the Business Services Group, addressed intellectual property essentials for engineers, including patents, trademarks, copyrights, and trade secrets.

Kerri E. Chewning of Archer & Greiner P.C. has been appointed Chair of the Federal Practice and Procedure Section of the New Jersey State Bar Association (NJSBA), and will have overall management responsibility for the Federal Practice and Procedure Section monitors, studies and comments on developments in or relating to the federal courts, and promotes and conducts educational programs and activities which increase awareness of these developments.

Ms. Chewning practices in the firm's Litigation Department in Haddonfield, where she is also a member of the firm's Commercial Litigation Group and Intellectual Property Group.

Adinolfi & Lieberman, PA is pleased to announce that **Drew A. Molotsky** has joined the firm as a Partner. Drew focuses his practice on both simple and complex family and matrimonial litigation, and has prosecuted many matters in the Appellate Division, arguing appeals for matrimonial litigants on the issues of jurisdiction, custody, grandparent visitation, and alimony.

He served as Law Clerk to the Hon. Robert W. Page, then Presiding Judge of the Family Court in Camden County, and is a former Adjunct Professor of Family Law at Camden County College. He is a member of the Camden and Burlington County Bar's Family Law Committees, as

well as the New Jersey State Bar Association. He has been certified as a Matrimonial Law Attorney by the Supreme Court of New Jersey.

The Law Offices of Dennis J. Crawford is pleased to announce the firm's new name, **Crawford & McElhatton**. The new named partner, **Mike McElhatton** has practiced in New Jersey and Pennsylvania for 25 years in the areas of Real Estate, Corporate Representation, Estates and Insurance Defense. In addition to his own clients, Mike is the Managing Partner of the Firm with offices in Audubon and Bala Cynwyd, PA.

Lloyd Freeman with Archer & Greiner P.C. in Haddonfield, has been named to the Board of Directors of the American Red Cross (ARC) of Camden and Burlington Counties. Mr. Freeman practices litigation in state and federal courts in New Jersey and Pennsylvania. He has experience in complex commercial litigation, litigation related to intellectual property and real estate transactions, and consumer fraud actions.

Steven K. Mignogna, a shareholder at Arche & Greiner in Haddonfield, presented "Seven Deadly Claims" at the American Law Institute Continuing Legal Education Group (ALI-CLE), "Representing Estate and Trust Beneficiaries and Fiduciaries" in Chicago. Mr. Mignogna discussed claims involving estates and trusts that are unique yet growing around the country. This presentation was part of a program with nationally-recognized experts in their exploration of developments in the estate and trust world on topics of interest to estate and trust beneficiaries and fiduciaries across the United States.

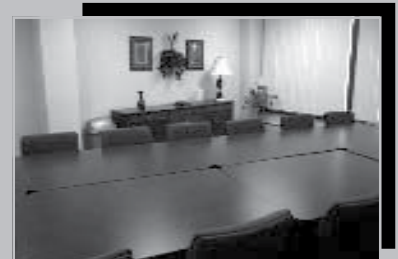
Mr. Mignogna is in the Litigation Department, and chair of the firm's Estate & Trust Litigation Group. He specializes in commercial litigation, with a concentration on litigation involving probate matters, estates, trusts, gifts, fiduciaries, guardianships, and real estate.

Allen I. Gorski has relocated his office and is pleased to announce his new contact information: Gorski & Knowlton PC, 311 Whitehorse Avenue, Suite A, Hamilton, New Jersey 08610. Phone: (609) 964-4000.; Facsimile: (609) 585-2553; Email: agorski@gorskiknowlton.com



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