

OPENING OF COURTS & MEMORIAL SERVICE SET FOR SEPTEMBER 16th

Join us as the Court and CCBA pay tribute to departed friends and colleagues



Members and former members of the Camden County Bar Association who passed away during the past year will be honored and memorialized at the Bar's annual Opening of Courts & Memorial Service on Monday, September 16 at 9 a.m. in Courtroom 63 of the Hall of Justice in Camden.

All Bar members, family and friends are invited and encouraged to attend the ceremony, which will be presided over by Assignment Judge Deborah Silverman Katz. A coffee and pastry reception sponsored by the CCBA immediately follows the ceremony.

"The Opening of Court and Memorial Ceremony is one of the Association's oldest and most meaningful traditions," said Bob Greenberg, Chair of the Memorials Committee. "It is the one opportunity we have to come together and

pay respects to the memory of cherished friends and colleagues who are no longer with us. I urge every Bar member to take the time and make every effort to join us for this special event."

Those being memorialized and remembered, are: **Edward N. Adourian, Jr., Esq., Ira Back, Esq., Hon. Michael A. Diamond, Stephen Dumser, Esq., Hon. James J. Florio, Peter P. Green, Esq., Philip J. Kirchner, Esq., Hon. Lee B. Laskin, Esq., Norman E. Lehrer, Esq., Hon. Teofilo "Tito" Montanez, Ira Rabkin, Esq., William E. Reifsteck, Esq.**

Tate & Tate Certified Shorthand Reporters in Medford will donate their services to transcribe the proceedings and provide a complimentary transcript to the families of those memorialized. The court will be closed until the ceremony concludes, so we hope you make every effort to attend this special ceremony.



RICHARD A. DEMICHELE, JR. NAMED 2024 PROFESSIONAL LAWYER OF THE YEAR

Following a comprehensive review of nominations from Camden County Bar members, the CCBA's Committee on Professionalism and Board of Trustees are honored to announce **Richard A. DeMichele, Jr.** as the **2024 Camden County Harvey M. Mitnick Professional Lawyer of the Year.**

This prestigious award, named in memory of past CCBA President **Harvey M. Mitnick**, recognizes exceptional professionalism in the legal community. Mitnick, who passed away in 2014, was the recipient of the 1998 Camden County Professional Lawyer of the Year Award, and the award continues to honor his legacy.

Rick DeMichele has built a distinguished career as a litigator, focusing primarily on family law. With significant trial and appellate experience, he provides legal guidance to a wide range of clients, including both high-net-worth individuals and those of modest means navigating divorce or seeking post-divorce relief. His practice areas include alimony, equitable distribution, child custody, child support, visitation, asset valuation, no-fault divorce, prenuptial agreements, counsel fee awards, and domestic violence cases.

Rick's legal expertise and dedication have made him a trusted advisor for clients across the spectrum of family law.

Throughout his career, Rick has been an active leader within the Camden County Bar Association, having served as President of the CCBA (2009-2010) and President of the Camden County Bar Foundation (2011-2012). His involvement with the association includes roles as Trustee of the CCBA and chairing several committees, including the Young Lawyers Committee, Family Law Committee, and Lawyer Referral Service Committee. Beyond Camden County, Rick has served as a Delegate to the American Bar Association's House of Delegates and as a Trustee of the New Jersey State Bar Association.

Rick's contributions extend to the national legal community through his involvement with the American Bar Association's Section of Family Law, where he served on the Continuing Legal Education Committee, responsible for selecting and producing educational programs for the ABA's meetings. He also serves on the ABA's Commission on Domestic Violence and is the Family Law Coordinator for the ABA's General Practice Section. His past roles include council member of the ABA's Section of Family Law and the General Practice Division.

A proud alumnus of Cherry Hill High School East, Rick went on to earn his undergraduate degree from Rutgers University School of Engineering

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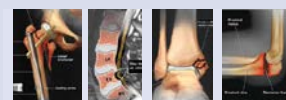
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THE DOCKET

SEPT 2024

Tuesday, September 10th

Young Lawyers Committee Meeting
5:30 p.m. — Bar Headquarters, Cherry Hill

Monday, September 16th

Opening of Courts & Memorial Service
9 a.m. — Hall of Justice, Camden

Wednesday, September 18th

CCBA Board of Trustees Meeting
4:30 p.m. — Kaminski's, Cherry Hill

Thursday, September 19th

NJCPA & CCBA Networking Cocktail Party
5 p.m. — Miller's Ale House, Mount Laurel

Wednesday, September 25th

CCBF Board of Trustees Meeting
4 p.m. — Bar Headquarters, Cherry Hill

Sunday, September 29th

CCBF Eagles Watch Party benefiting Larc School
12:30 p.m. — PJ Whelihan's, Cherry Hill

Monday, September 30th

Meet the Judges & Law Clerks
Camden County Boathouse, Pennsauken



Tentative Agenda for September 18 Board Meeting

A tentative agenda for this month's regular Board of Trustees meeting follows. The meeting will begin at 4:30 p.m. at Kaminski's in Cherry Hill. All meetings are open to the membership. Anyone interested in attending should notify and confirm their attendance by calling Bar Headquarters at 856.482.0620.

- I. Call to Order
- II. Approval of Minutes from Meeting
- III. Treasurer's Report
- IV. President's Report
- V. Executive Director's Report
- VI. Committee Reports
 - a. Membership Committee
 - b. Young Lawyers Committee
 - c. Standing Committee Reports
- VII. Foundation Update
- VIII. NJSBA Update
- IX. Old Business (if any)
- X. New Business (if any)
- XI. Adjournment

RICHARD A. DEMICHELE, JR.

NAMED 2024 PROFESSIONAL LAWYER OF THE YEAR

Continued from Page 1

and his Juris Doctor from Villanova University School of Law in 1995. He lives in Haddonfield with his wife Sharon and their two daughters, Amanda and Elizabeth.

Rick is admitted to practice law in all New Jersey and Pennsylvania state courts, as well as the United States Supreme Court, the United States District Court for the District of New Jersey, and

the Eastern District of Pennsylvania.

The award was presented in June during the New Jersey Commission on Professionalism Awards Luncheon, recognizing Rick's outstanding contributions to the legal profession.

Congratulations, Rick, on this well-deserved honor!

GOT NEWS?

Do you have news you want to share with the CCBA membership? Submit your newsworthy items for publication in The Barrister to **Kara Edens** at kara@camdencountybar.org! We are happy to publish news of board appointments, participation in charitable organizations, awards and honors, joining a new firm, and more! We want to hear from you and help celebrate our members' accomplishments.

Send your news today!

ATTENTION LEGAL PROFESSIONALS SEEKING A REFINED SETTING FOR CLIENT MEETINGS AND DEPOSITIONS

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THE BARRISTER

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PRESIDENT'S PERSPECTIVE

By Matt Rooney

"What lies behind us and what lies before us are tiny matters compared to what lies within us."

- Ralph Waldo Emerson

As we turn the page to a new chapter in our legal community, I am honored to step into the role of Camden County Bar President. Much like summer, this moment is brimming with potential, ripe with the promise of what could be—a time when the air is thick with the anticipation of what lies ahead.

Summer has a way of reminding us of the joys of possibility. As children, it's the season of endless days and boundless imagination, a time when the world seems full of promise and adventure. As adults, we often find ourselves balancing that same sense of wonder with the realities of our responsibilities, but the underlying message remains the same: summer is a time to embrace what might be.

As we embark on this new bar year, that sense of possibility is exactly what I hope to channel. Our legal community is more than just a network; it's a vibrant, dynamic force with the power to inspire change, foster growth, and make a lasting

impact. Over the coming year, we will build on the foundation laid by those who came before us, exploring new avenues for growth and innovation while staying true to our core mission.

There will be opportunities to connect (kicking off at our annual Meet the Judges on September 30th), to learn (register for the seminar on October 15th on Residential Real Estate), and to contribute to something greater than ourselves (join the CCBF at their Larc Fundraiser and Eagles Watch Party on September 29th). From our upcoming events and CLE courses to our community outreach initiatives, we have a full calendar that promises to engage and inspire each one of you. But beyond the events and programs, I want this year to be about embracing the possibilities—about daring to ask, "What might we achieve together?"

So, as we dive into the year ahead, I encourage each of you to get involved, to bring your ideas, your energy, and your passion to the table. Let's work together to make this year one of growth, connection, and achievement. The Camden County Bar Association is not just an organization; it's a community, and it's one that thrives on the contributions of its members.

Welcome back, and here's to a year filled with the best of what might be.

From the Desk of the Executive Director

What does it mean to be a member of the Camden County Bar Association (CCBA)?

by Kara Edens Graser

Membership signifies a commitment to the local legal community, professional development, and the association's goals. Whether you're an attorney, judge, law clerk, or law student, choosing to join the CCBA reflects your dedication to these values and to fostering a collaborative environment for growth, learning, and advocacy in the legal field.

Membership comes with valuable benefits, such as access to resources, continuing education, and opportunities to collaborate with peers. Whether your dues are covered by your employer or paid personally, your membership indicates active participation in and support of the CCBA's mission.

Being a CCBA member means more than just joining; it requires fulfilling both financial and participatory responsibilities. Timely payment of dues ensures the association can operate effectively and continue providing valuable services. Engaging in events, committees, and activities like the Lawyer Referral Service and seminars enhances your membership experience and contributes to the CCBA's overall vitality and success.

Why is this important? Some members have expressed feeling disconnected from the CCBA in recent years. I am dedicated to revitalizing our organization, but this effort requires collective action and support.

To help in this revitalization, please ensure your dues are paid, as they were due on June 1 for the 2024-25 Bar year. A second notice will be sent to those who remain unpaid. Beyond paying dues, I challenge you to participate in at least two events or causes over the next year. Your involvement will not only enrich your experience but also strengthen the CCBA as a whole.

For new members or attorneys just starting out, I'd be happy to personally introduce you to long-standing CCBA members to help you connect with experienced professionals and get started on the right foot. Your successful integration into the CCBA is important, and I'm here to support you.

As a member of the CCBA, you play a vital role in our collective success. I'm calling on all members to contribute to this revitalization effort and help restore the CCBA to its full potential. Your participation is crucial for our shared success. See you at Meet the Judges!

LOOKING FOR VOLUNTEER FAMILY LAW ATTORNEYS!

The SJLS Private Attorney Involvement Program is looking for attorneys willing to handle uncontested, no issue divorces throughout our nine county service area through our Divorce Project. For these divorces, the parties just want a divorce – they cannot have any debt issues, asset issues or issues with children. If there are children born of the marriage, the client must provide copies of court orders establishing custody and support in order to be referred to a volunteer. The filing spouse also must have a good address for the spouse. If you meet with

the client and determine there are any issues, you can tell the client this project is just for no issue divorces and they will have to seek assistance elsewhere. Earn Madden credits while helping someone in need! If you want to help, please contact SJLS Director of Pro Bono Services **Michelle T. Nuciglio, Esq.** at MNuciglio@lsnj.org and advise in which counties you will accept cases.

Thank you!

FOUNDATION UPDATE

Raising Funds and Spirits: A Look Back at Summer and Ahead to Fall

By Rachael B. Brekke



I hope you enjoyed your summer and stayed cool in that never ending heat wave! Thank you to everyone who sponsored and attended the Installation Dinner in June. It was a huge success and raised a lot of money for the Foundation and its charitable causes in the year ahead. As promised, we played softball in August and it was really fun! The Prosecutor's Office brought their heavy hitters but the Weitz & Luxenberg played their hearts out and won the Championship game! The best part? We raised over \$2,000 for the Foundation with the help of 50 registrations and 7 sponsors! Many thanks to our sponsors: Kulzer & DiPadova, Garden State Home Loans, Tate & Tate, Ferrara & Gable, Weitz & Luxenberg, The Law Offices of Christopher St. John, and Esquire Digital!

September is always a busy month at the Bar and the Foundation hopes to join in the fall festivities. The Young Lawyers are hosting an Eagles Watch Party on September 29th at PJ Whelihan's and raising funds to support the Larc School. Check out our website for details and bring a friend. Go Birds!

The Gerry Award Committee will be announcing their annual honoree shortly with details about the Gerry Award Dinner coming soon as well. For those of you who may not be familiar with the Gerry Award, the Foundation honors a member of the State Bar and/or Federal Bench who exemplifies the spirit and humanitarianism of Judge John F. Gerry. It is a wonderful event filled with members who support each other and their outstanding contributions to the Bar.

Aside from our traditional fundraising efforts, I'd like to introduce more volunteer opportunities into the Foundation's great work in our Camden community. You can expect to see the Foundation working to give back in new ways this year. We will be conducting mock interviews at Hopeworks in November to help their students get ready to start working towards their dreams. Please always feel free to reach out to me directly if you would like to volunteer more in Camden County. Our Foundation's core values are centered around supporting our community, including helping those who need and deserve our support. We are committed to giving back to Camden County with you in the year ahead!



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 members-only events, will pay non-member tuition rates for Association-sponsored CLE seminars and events, will not be able to serve on committees, 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, and the CCBA's member portal makes it easy to securely pay online. You can even opt-in to automatic annual renewals to ensure you don't miss out on our important

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.

If you have any questions, or to use a credit card, call (856) 482-0620.

REMEMBER: The Meet the Judges & Law Clerks Reception on September 30th is a members-only event, which requires that dues be current to attend.

COMMITTEE CORNER: SPECIAL CIVIL PART COMMITTEE UPDATE

The Supreme Court mandates semi-annual meetings of the Special Civil Part Presiding Judge, court staff, Bar Association Committee members and Special Civil Part court officers. **Judge Polansky**, who is the presiding Law Division Judge for Camden County, and **Judge Charny**, who is the presiding Special Civil Part Judge, take special interest in the Committee and are always willing to address issues of mutual concern whenever presented. The Committee's most recent meeting occurred on June 5, 2024. Here are the takeaways/recommendation/updates that were discussed at that time:

1. The landlord tenant list is currently manageable. The number of Trial dates per week, which has been as many as three, is adjusted as necessary to reflect changes in the caseload.
2. Landlord clients should be notified by their attorneys that lockout dates are "dates certain". If a landlord's representative fails to appear or decides to postpone a lockout through side agreement that is made with a tenant, it is unlikely that a new lockout date can be obtained promptly, if something goes wrong.
3. Landlord clients should be instructed not to contact the assigned Special Civil Part court officers regarding the schedule of lockout dates prior to six (6) to ten (10) business days after Warrants are issued. These Warrants are usually received by landlord's counsel before being transmitted to the assigned court officer, which makes premature contact initiated by the landlord unproductive and burdensome.

4. Court Officer Charles Gorman retired as of April 2024, after several years of distinguished service. He is authorized to continue collecting bank levies and Wage Executions that are already in his system for the next two (2) years. He will disburse to Plaintiff's counsel as usual during this timeframe.
5. A survey regarding court officers performance is expected to be distributed to Special Civil Part practitioners through e-courts sometime this fall. The deadline for a response is likely to be by the end of October 2024. All practitioners who have contact with court officers are encouraged to complete the survey. The information that is received is carefully reviewed by court staff for the purpose of improving the system.
6. A considerable amount of time is saved if Plaintiff's counsel provides Social Security numbers and dates of birth for Defendants to the assigned court officers once a Writ of Execution has been issued. Most banks will not process a bank levy inquiry that is made by a court officer without receipt of a Social Security number.

Please continue to address any and all questions/areas of concern/problems to Travis Richards, Esquire (L/T cases) and Barry W. Rosenberg (non-L/T cases) for review and discussion with the presiding Judge. We are ready, willing and able to help in an expeditious manner.

ANNUAL CHILDREN'S PICNIC BRINGS JOY AND HOPE TO OVER 100 CHILDREN

It was a day of fun in the sun at the Camden County Bar Foundation's annual Children's Picnic on June 15 at Challenge Grove Park in Cherry Hill. Over 100 underserved children from Camden enjoyed a picnic in the park complete with freshly grilled hamburgers and hot dogs, ice cream, popcorn, pretzels, snacks, cotton candy, bounce-houses, games, dancing, face-painting and more. This event is made possible by the many fundraisers held by the Foundation throughout the year, as well as the volunteer efforts of our fantastic members who take time out of their busy schedules to ensure these deserving kids have a terrific time. Thanks to everyone for their support! As you can see, a wonderful day was had by all.





Typical Problems with Special Needs and Settlement Protection Trusts in Personal Injury Recoveries

by Thomas D. Begley, Jr., Esquire, CELA

Money in a Special Needs Trust (SNT) must be expended solely for the benefit of the trust beneficiary in a judicious manner to ensure that all of the needs of the trust beneficiary are met over a lifetime. Money in an Settlement Protection Trust (SPT) for a minor or incapacitated person belongs to the beneficiary and trust monies must be used primarily for that individual's benefit. The problem is many parents try to live off their children's trust or to raise their standard of living using their children's trust. Many families of personal injury victims feel that the entire family has been affected by the personal injury. Some families look at the money being received through a personal injury settlement as a "family bank account." Courts see this on a regular basis and are vigilant in stopping it. The Social Security Administration (SSA) and State Medicaid Agencies also are aggressive in this regard where an SNT is involved. Courts are very strict in their views that the money belongs to the minor or incapacitated person and should last for the lifetime of that individual whenever possible. Trustees, mindful of the need to have the funds last, will limit routine and ongoing distributions to what is considered a "safe" rate of distribution, even if the family feels that all of the beneficiary's needs are not being met at the same time. As a rule of thumb, distributions are limited to between 4 and 5 percent of the value of the principal of the trust plus income earned by the trust. Trustees' fees, money management fees, and income taxes must be deducted from these distributions.

States vary in their interpretation as to whether to treat payments from a structured settlement as income or principal. In New Jersey, those payments are considered income; in Pennsylvania, they are considered principal.

Trustees must balance what is necessary, affordable, and reasonable under the circumstances. Major problems typically encountered with these types of trusts include the following:

- **Home.** Many families look at the personal injury settlement and want to use all or a major portion of it to buy a home for the family. In some cases, the family does not own a home. In other cases, they want to upgrade significantly from their current residence. If any portion of the settlement is to be used to purchase a home, it is best to try to allocate a portion of the settlement to other family members, such as parents, and have the parents use that money to purchase a home. Otherwise, the home will be subject to a Medicaid payback, if it is owned by an SNT. While an SNT or an SPT can purchase a home legally, the problem that many family members do not take into account is whether the trust can afford to maintain the home, and meet the beneficiary's other living expenses. Many families of personal injury victims are unsophisticated, have never owned a home, and have no idea of the expenses attendant to home ownership, including taxes, insurance, and higher utility bills.

If the trust is to purchase the home, courts and trustees generally will not approve more than 20 percent of trust assets to be used for this purpose. Operating expenses of the home must be considered as well as the personal injury victim's other needs for the rest of his or her lifetime. If the trust purchases a home to be occupied by other family members, the other family members should be able to pay a pro rata share of these operating expenses and are often unable or unwilling to do so. Some trustees will refuse to serve, if the trust owns a home.

Continued on Page 7



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Typical Problems with Special Needs and Settlement Protection Trusts in Personal Injury Recoveries

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- **Modifications to the Home.** In many instances the family owns a home, but it is no longer suitable because of the injuries sustained by the personal injury victim. Modifications can be made to the existing home to accommodate the individual with disabilities. These modifications often include installation of handicap ramps, altering the bathrooms to make them handicap accessible, installation of chair lifts or elevators, or adding an addition to the first floor for sleeping accommodations for the family member with disabilities. Courts usually will readily approve these modifications. Some families want to go further and install swimming pools, cabanas, and other amenities. In some cases, these are perfectly justified; in others, they are really more for the benefit of other family members and must be carefully scrutinized. The question then becomes, "can trust money be used to modify a home not owned by the trust?" Where an SNT is involved, many State Medicaid Agencies require that the homeowner grant the trust a lien on the value of the home before and after improvements.
- **Vehicle.** Either an SNT or an SPT can purchase a vehicle. Most trustees do not want to own the vehicle but are willing to expend money to purchase the vehicle to be titled in the name of the person with disabilities, if appropriate, or in the name of another family member. The trustee then takes back a lien on the vehicle. Many family members want to purchase luxury vehicles that are unnecessary. Good trustees will resist this effort and agree only to purchase an average-priced vehicle. The same is true of a handicap van. Courts and State Medicaid Agencies are willing to approve purchase of a handicap van with appropriate equipment but are reluctant to approve unnecessary luxury features.
- **Parents as Caregivers.** Parents often want to or are forced to quit their jobs and have the trust pay them as a caregiver. Trustees, SSA, and most State Medicaid Agencies have no objection to this, so long as compensation is reasonable. However, many families want excessive compensation—often in excess of \$100,000-\$150,000 per year. Parents have an obligation to support their children, however, and distributions from SNTs and SPTs cannot be used to satisfy that obligation of support. Each state has guidelines on how to calculate the legal obligation of support. In general, these guidelines should be followed. Both courts and State Medicaid Agencies recognize that where a child with disabilities is involved, the parents' actual obligation of support exceeds the normal obligation of support, and both courts and State Medicaid Agencies will approve trust distributions for these extra support obligations. However, SSA has said an SNT "cannot pay mom to be mom." Parents can be paid only for the extraordinary care that they provide.
- **Divorced or Separated Families.** Where there are divorced or separated families, the administration of a trust becomes more complex. Courts are very reluctant to authorize expenditures from trusts to provide items for the convenience of the parents. For example, it would be very unlikely that a court will approve the purchase of more than one handicap van. Parents are expected to share the van. The same would be true of wheelchairs and other medical equipment. While there may be some inconvenience caused to the parents, the trust is for the benefit of the child and not the parents. The obligation of the courts and the trustees is to provide for all of the beneficiary's needs over the beneficiary's lifetime. Duplication of equipment is viewed as wasteful.

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HAPPY NEW YEAR

BAR INSTALLS MATTHEW ROONEY AS 98TH PRESIDENT

It was a fantastic celebration at the sold-out Installation of Camden County Bar Association President **Matthew T. Rooney** on June 13, 2024 at lovely Camden County Boathouse in Pennsauken. Guests enjoyed cocktails and hors d'oeuvres, delicious dinner, live music and dancing, and a photo booth, as they kicked off the Bar's new fiscal year for 2024-2025. **Rachael B. Brekke** was installed as President of the Camden County Bar Foundation, and the Officers and Trustees of both the Association and Foundation were sworn-in by **Hon. Lee A. Solomon**, Associate Justice, New Jersey Supreme Court. President Rooney received his oath of office from **Hon. Michael Donohue (Ret.)**. As the photos show, it was a wonderful evening!



CCBA President Matt Rooney and CCBF President Rachael Brekke



CCBA Officers: Secretary Carly Fowler, Treasurer Timothy Farrow, President Matthew Rooney, Vice President Jeanette Kwon and President-elect Thomas Hagner



Cathy Kane, Tina Tate and Bob Tate



CCBF Officers: Secretary Lynda Hinkle, President Rachael Brekke, Treasurer Stephanie Zane and Vice President Steven Salinger



Dennis Frazier and Jeffrey Kasten



Hon. Eric Fikry and Jeanette Kwon



Jim Badolato and Simon Rossetter



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FINANCIAL FORENSICS



It's Not Just Those in Florida or the Carolinas who need to Worry Storm Season is Here...

What Attorneys Need to Know about Property Damaged by Flooding

by Martin H. Abo, CPA/ABV/CVA/CFE

As of the writing of this article (*mid-August*), the pre-season outlook is predicted to be one of the most active hurricane seasons on record. While Florida, Georgia and North Carolina got the majority of the wind and water damage, as of this writing I learned that seven or more tornadoes were spawned by Hurricane Debby in other states (yep even here in New Jersey and Pennsylvania). Such was shortly followed by Hurricane Ernesto in Puerto Rico, moving to destroy other areas on its course. I am reminded of Hurricane Ida in 2021 which was one of the deadliest storms to hit New Jersey since Hurricane Sandy struck in 2012 which brought historic flooding here in the Northeast.

We previously issued one of our informative email alerts on handling Business Interruption claims. We had used the materials for a presentation to NACVA (National Association of Certified Valuators and Analysts) in Fort Lauderdale, so why not get some extra mileage from them? Call or email us if you'd like copies of:

1. The checklist we put together on handling Business Interruptions Claims
2. The professional profiles for those of us working in this Business Interruption arena.
3. Our Business Interruption Document Request List

TAX BACKGROUND

Normally, taxpayers can't deduct losses associated with property that is not used for a trade or business or held for investment (*personal-use property*). However, within limits, personal casualty losses are deductible. The Tax Cuts and Jobs Act (TCJA) suspended the deduction for 2018-2025, except for losses attributable to a federally declared disaster. At first blush, this would seem to doom the deduction for most taxpayers, but it turns out that federally declared disasters happen a lot. Forecasters are predicting a very active hurricane season, as well as other extreme weather events for the upcoming summer and fall. So, it's a good time to review the general rules for personal casualty losses and take a closer look at the deduction in the context of damage caused by flooding.

No, Counselors, we are not going to make you tax geeks like us at Abo and Company, but you should know how to discuss this topic for your clients - for your friends—for your family.

A Tax Note: The casualty loss deduction for personal-use property is limited to the amount by which each casualty loss exceeds \$100. A net casualty loss (*i.e., casualty losses in excess of casualty gains for the year*) is allowed only to the extent it exceeds 10% of the taxpayer's Adjusted Gross Income (AGI).

Continued on Page 12

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FINANCIAL FORENSICS

What Attorneys Need to Know about Property Damaged by Flooding

Continued from Page 11

IS THE LOSS ATTRIBUTABLE TO A FEDERALLY DECLARED DISASTER?

Individuals can deduct net personal casualty losses incurred in 2018-2025 only if they are attributable to a federally declared disaster. Here, a federally declared disaster is one determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. A federally declared disaster includes a major disaster declaration or an emergency declaration under the Stafford Act. The first hurdle to clear is to determine whether your loss is attributable to a federally declared disaster. To find out if an area qualifies for disaster relief, check IRS news around the nation. Anyone living or owning property at an address in an area that qualifies for Disaster Relief, they automatically A list of federally declared disasters is available at www.fema.gov/disasters.

WHEN IS FLOODING A CASUALTY?

A personal casualty loss is a loss due to damage or destruction of personal-use property (such as a home, boat, or car) due to fire, storm, shipwreck, or another casualty. If your property is damaged by wind and flooding during a hurricane, it's clear that any loss is a casualty loss since a hurricane obviously fits the description of a storm.

Flooding events that aren't associated with a hurricane can damage property and give rise to a deductible casualty loss. For example, we read in Trinity Meadows Raceway, Inc. that the Tax Court found that four days of heavy rains that resulted in raging water spewing onto the taxpayers' property and damaging it extensively was a casualty. In Rev. Rul. 76-134, the IRS said that a casualty is an identifiable event that is sudden, unexpected, or unusual in nature. So, losses from damage due to wave action or wind during a storm are deductible, as are losses due to flooding of buildings and basements as a result of a storm.

Caution: Some damage, even if caused by flooding, does not give rise to a casualty loss. Damage due to gradual erosion is not a casualty, nor are the costs of building protective works or moving homes to prevent losses. Also, the rise and fall of a body of water's levels is a normal process, and damage resulting from normal high-water levels alone is not a casualty. So, no casualty loss deduction was allowed where taxpayers couldn't show that their kitchen water pipes broke because of the two floods that occurred during the year. The taxpayers' flood insurance provider refused to cover the damage from the broken pipes because they were located below the flood water line, which indicated that the floods didn't cause the pipes to break. The logical conclusion was that they broke because of progressive deterioration.

HOW TO MEASURE A FLOOD LOSS

The amount of any casualty loss equals the decline in the property FMV (Fair Market Value) due to casualty (measured immediately before and after the casualty), but in no case can the loss be more than the property's adjusted tax basis. One way to determine the decrease in FMV is a competent appraisal that recognizes the effect of any general market decline affecting both damaged and undamaged property that may have occurred as a result of the casualty. This means that the deduction is limited to the actual loss resulting from the casualty.

Note: No deduction is allowed for a general decline in market value after a flood because of buyer resistance resulting from fear of future storms. The casualty loss is limited to the actual loss resulting from the damage to the property and does not include a decline in value due to the fears of prospective buyers.

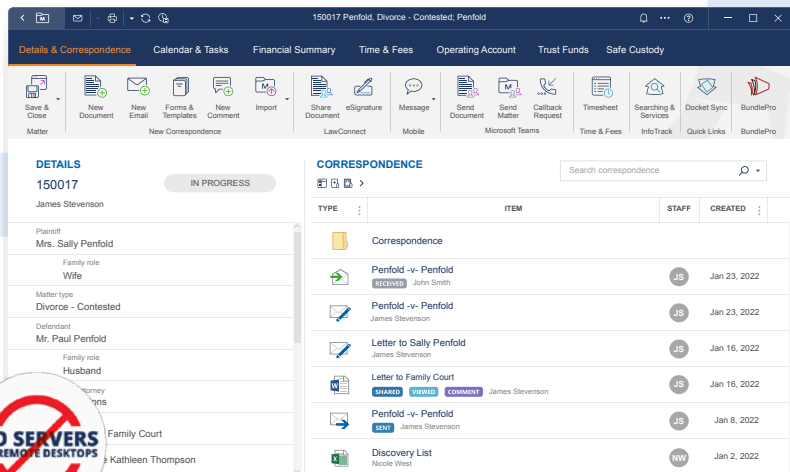
Another way to determine the decrease in FMV is to use the actual cost of repairing the damaged property. According to IRS regulations, this method can be used if all the following are true:

- (1.) The repairs are necessary to restore the property to its condition immediately before the casualty.

Continued on Page 15




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WINE & FOOD

By Jim Hamilton

September...the ninth month that sounds so seven. Our courts will officially be opening (please be sure to attend as Judge Silverman Katz once again presides over our always memorable and moving memorial service), and many of us will have taken time from our practices to recharge, refresh, and reinvigorate as we begin the sprint to 2025.

Before our *Barrister* break, we practiced our wine ABCs by exploring a few lesser-known grape varieties that begin with those letters with the hope you may be enticed to try one or two and, perhaps, broaden your wine horizons. The next logical step would be to resume our alphabetical progression. While this is something we **DE**finately could pursue, once we got past Dolcetto, a lovely and increasingly popular red grape that grows well in Italy's Piedmont region, we would end up so far off the beaten path that even the geekiest among you may require a visit to your ophthalmologist for help unrolling your eyes. Few of us have tasted wines from Croatia's Debit grape or Portugal's Diagalves, and, while perhaps slightly better known, wines fashioned from Italy's Erbaluce or Germany's Ehrenfelser probably do not warrant discussing their virtues. Certainly, Hungary's Furmint is a grape worth our attention, but let's save it for another time.

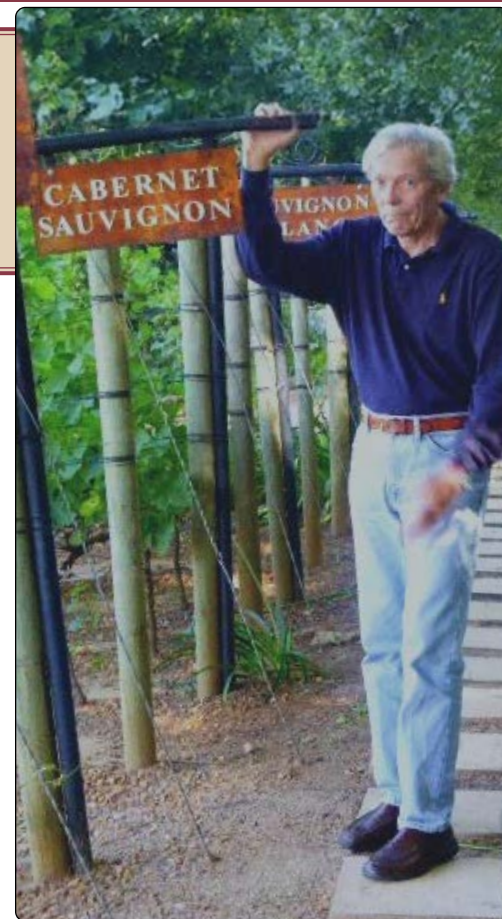
While the primary point of delving into the Anything But Chardonnay mindset was that when it comes to wine we should not limit ourselves only to the more famous varieties, there is a middle ground we can explore. While it can be rewarding to expand our varietal repertoire, there is a reason wines made from certain grapes are popular. Naturally, history and culture play a role, particularly in countries where wines have been made and consumed for many centuries. There definitely is a learning curve confronting newer (in relative terms) wine industries such as ours in determining what grape varieties not only can be grown but can thrive in the regions where people want to establish vineyards. California's Napa Valley may be the best-known American wine region, but however well-informed or well-intentioned landowners may be, mistakes were and perhaps still are made when deciding what grapes to plant and where to plant them. If again we use Chardonnay as our reference, the wine area where this grape has flourished and achieved its star status is France's Burgundy. It is perhaps human or at least entrepreneurial nature for someone wise or lucky enough to have acquired land in the Napa Valley to want to grow Chardonnay. Whether seeking to emulate the high quality of Burgundian wines or to capitalize on the grape's popularity, today Chardonnay is Napa Valley's most widely planted white grape variety and is second in acreage (albeit a distant one) only to Cabernet Sauvignon. The problem confronting those who aspire

to produce Burgundian-styled Chardonnays is that it is a varietal that does best in cooler climates. Traditionally, Burgundy has been a region perfectly suitable for growing this grape. Even with climate change, the differences between it and Napa, particularly on or near the latter's valley floor, are dramatic. Nevertheless, while Napa Valley + Chardonnay often may not be a marriage that Bacchus would bless, it is difficult for winery owners to discard a winning (or at least profitable) hand, so they take what the land (and climate) gives them and make distinctly California-styled wines.

Besides being credited as the standard bearer for Chardonnay (and Pinot Noir) wines, Burgundy also is considered the birthplace of another white grape that continues to gain in popularity not only in our country, but worldwide. Pinot Gris is a mutation of the Pinot Noir grape and, indeed, for a white grape its skins are darker than most in color (in French, gris means gray). The skins often are pink or blue gray and often will produce a more copper colored juice. It has existed since the Middle Ages and reportedly was transported from France to Switzerland, Hungary, and beyond by Cistercian monks in the 14th century.

As is the case with many grape varieties, this varietal has many different names depending on where it is grown. As one of the "noble grapes" in France's Alsace it once was called Tokay d'Alsace, but now is known and labeled there as Pinot Gris. In the United States, the person credited with introducing the varietal to our country in 1975 is Oregon's David Lett of Eyrie Vineyards, although it became much better known when the well-financed King Estate Vineyards in Oregon began producing large quantities of its Pinot Gris in the early 1990s. In Germany, the grape can be grown successfully, especially in the Baden region, where it usually is known as Grauburgunder, although sometimes it will be labeled as Ruländer, a name honoring Johann Ruland who discovered that the varietal was growing in his part of Germany in the early 18th century. Today, most German dry wines made from the grape are called Grauburgunder and the name Ruländer tends to be used more for off-dry versions.

Perhaps the winery that deserves the most credit for popularizing the grape is Italy's Santa Margherita. The Italian name for the grape is, of course, Pinot Grigio, and in 1935 Count Marzotto embarked on establishing a winery he named for his wife, Margherita. In 1961, Santa Margherita's winemaker decided to change how Pinot Grigio was being vinified. The then common *ramato* approach involved extracting considerable pigment from the darker colored skins to produce an almost savory flavored wine that had a copper or sometimes orange hue. Santa Margherita set about



creating a wine that was lighter in color and crisper in taste. This new style of wine caught the attention of the head of America's Terlato Wine Group, which introduced the winery and its Pinot Grigio to our country in 1979. Its success can be seen today not only with the popularity Santa Margherita still enjoys, but more importantly perhaps, the large number of Italian wineries producing and exporting Pinot Grigio. According to blogger and publisher Wine Folly based on information from 2016, there were 120,020 acres of Pinot Gris planted worldwide, with Italy by far leading the way with 46,508 acres. After Italy, the countries growing the most Pinot Gris are, in order, the United States, Germany, Australia, France, and New Zealand.

Before we discuss producers of Pinot Gris whose wines you may want to consider, let's offer some generalizations about the style of wine one may expect depending on its origin. Alsatian Pinot Gris is among the most stylistically diverse, depending on such factors as vineyard site (there are Grand Cru vineyards, but most are of lesser standing), the degree of ripeness, and how the grapes' sugars are handled. Broadly speaking, however, Alsace versions will tend to offer a bit more weight and spiciness than one may experience from Pinot Grigio. In Italy, regional differences also are important, with the northern Italian regions perhaps the most successful. In the far northeast, the wines of Friuli, and its Collio subregion in particular, often exhibit more structure and concentration than their counterparts in the more famous Pinot Grigio region of Alto Adige located further west in the Alpine area bordering Switzerland. The high elevation and cooler temperatures of that region tend to result in wines that

WINE & FOOD

Continued from Page 14

display more vibrancy with flinty and floral notes and fruit that can resemble apples, pears, and white peaches.

American Pinot Gris (sometimes labeled Pinot Grigio to capitalize on greater name recognition) will be as diverse as the country, but if we focus on Oregon, where King Estate now is the largest single producer of the varietal, the wines often will have more depth and breadth than their Italian counterparts, with fruit that ranges from citrus to green apples to more tropical impressions, often undergirded by mineral influences.

While we don't find very many German Grauburgunders on retailers' shelves, a country that has been increasing its production of the varietal since the 1990s is New Zealand. While it won't overtake its very popular Sauvignon Blancs anytime soon, as with Pinot Noir, we are seeing more Pinot Gris becoming available, and its expression also is a function of the region in which it is grown. The warmer North Island tends to yield wines that offer an oilier and fatter profile, while those made on the cooler South Island will usually be tighter and more penetrating, although often with a texture that is enhanced by contact with lees (dead yeast cells).

While identifying wineries that excel in making Pinot Gris necessarily will be incomplete, nevertheless let me offer a few suggestions for some of the better producers from the countries we've been discussing. While we are awash in Italian Pinot Grigios, some that are justifiably popular include Peter Zemmer, Saint Michael Eppan, Elena Walch, Zenato, Jermann, Tiefenbrunner, Alois Lageder, and Cantina Terlato. Looking to Oregon, pioneer Eyrie Vineyards remains a strong contender, to which we may add Elk Cove, Erath, Ponzi, A to Z, Archery Summit, Chehalem, and Illahe. Turning to France, among the star Alsace wineries are Zind-Humbrecht, Domaine Weinbach, Albert Boxler and Domaine Marcel Deiss, but finding and affording their wines may be a challenge. However, two of the reliable larger wineries to consider are Famile Hugel and F.E. Trimbach, to which we can add such smaller producers as Albert Mann, Bott-Geyl, Dirlir Cadé, and Domaine Schoffit. Finally, if you want to

experience a New Zealand Pinot Gris, you may enjoy trying one from Greywacke, Amisfield, Kumeu River, or Babich (in particular its Black Label release).

Whatever the grape is called, Pinot Gris wines certainly have come a long way, both from a historical perspective and as a wine worthy of gracing our dining table. If you have not yet become familiar with these wines, perhaps the time is as ripe as the grapes now being harvested.

What Attorneys Need to Know about Property Damaged by Flooding

Continued from Page 12

FINANCIAL FORENSICS

- (2.) The amount spent on the repairs is not excessive.
- (3.) The repairs do not cost more than the damage suffered.
- (4.) The property's value after the repairs doesn't (as a result of the repairs) exceed the property's value before the casualty.

After property is damaged by flooding it can be hard to determine the amount by which its FMV declined. We've seen that the taxpayer often won't have any documentation of the property's FMV immediately before the event. According to the IRS's FAQs for disaster victims at www.irs.gov, the property's value as stated in the most recent property tax statement can't be used to establish its FMV before a casualty. The IRS also said that even though the regulations use the term *immediately* after when referring to damaged property's post-casualty value, it recognizes that taxpayers' ability to determine the decrease in the FMV of their property may be restricted by lack of access to it and the need to remove water from flooded property. The decrease in FMV would consider additional damage sustained to the property because of delays due to these causes.

An IRS Revenue Procedure provides optional safe-harbor methods for determining the amount of a casualty loss related to a taxpayer's personal-use residential real property or to the taxpayer's personal belongings. **Personal belongings** means tangible personal property owned by the individual who suffered a casualty loss that is not related to property used in a trade or business or for investment, but does not include a boat, aircraft, mobile home, trailer, vehicle, or an antique or other asset that maintains or increases its value over time. For personal residential property, an estimated repairs cost, a *de minimis*, an insurance, and a contractor safe harbor method are available. For personal belongings, a *de minimis* and a replacement cost safe harbor are available. Some of the safe harbors are only available if the loss is attributable to a Federally declared disaster, but since that's a requirement for deducting any personal casualty loss in 2018-2025, all the safe harbors are available those years.

A loss isn't deductible to the extent the taxpayer is compensated for the loss. In other words, the amount of compensation reduces the loss. Insurance proceeds are probably the most encountered form of compensation, but payments for the replacement of lost or destroyed property (e.g., FEMA payments) are subtracted from the decline in value to determine the deductible loss. However, disaster-related payments for food, medical supplies and other assistance do not reduce the amount of the deductible loss unless they are replacements for lost or destroyed property.

ABO'S TAKEAWAY

We hope you don't experience a casualty loss of any kind. If you are affected by flooding, or some other federally declared disaster, knowing how to get the best tax outcome is something you should look into when it may be sorely needed.

Martin H. Abo, CPA/ABV/CVA/CFF is a principle of Abo and Company, LLC and its affiliate, Abo Cipolla Financial Forensics, LLC, Certified Public Accountants – Litigation and Forensic Accountants. The firm is a Partner in Progress of the Camden County Bar Association. With offices in Mount Laurel, NJ, Morrisville, PA and Franklin Lakes, NJ. Marty can be reached at marty@aboandcompany.com or by calling 856-222-4723.

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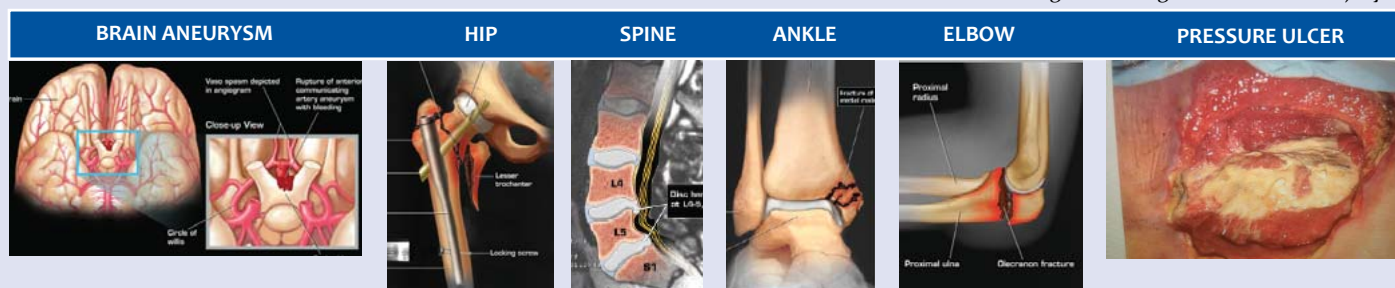


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- \$750K Nursing Home Neglect During Rehab Admission-Infected Pressure Ulcer – Surgery
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- \$400K Hospital and Nursing Home Neglect – Pressure Ulcers
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Continued Legal Education Committee

"Residential Real Estate Primer"

October 15, 2024 4:00pm - 6:15pm

SPEAKER

Charles G. Resnick, Esq.
Law Offices of Charles G. Resnick

Jeffrey R. Gans, Esq.
Law Offices of Jeffrey R. Gans

TOPICS

Listing Agreements
New commission schemes for realtors
Contract formation (Agreement of Sale), including Addenda
Due Diligence
Mortgages
Title Insurance
Condition Issues
Closings
Post Closing Issues

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Nicholas DeMarco at ndemarco@camdencountybar.org

1939 Route 70 East, Suite 120, Cherry Hill NJ 08003

ZOOM WEBINAR

A link and materials will be emailed the day of the program.



COST

CCBA Members: \$40
w/PA Credits: \$46

CLE Key: \$0
CLE Key w/PA Credits: \$6

Non-Members: \$60
w/PA Credits: \$66

Paralegals/Legal Secretaries: \$20
Law Students: FREE

CREDITS

This program is approved by the NJ CLE Board of the Supreme Court of New Jersey for 2.4 hours of total CLE credit. Of these, 0.0 hours qualify as hours of credit for ethics/professionalism and 0.0 hours qualify for Diversity, Inclusion & Elimination of Bias.

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CANCELLATION POLICY: Full refunds will be given to registrants whose cancellations are received at Bar Headquarters at least 48 hours prior to the event. Refunds WILL NOT BE GRANTED THEREAFTER. Substitute attendees, however, are welcome. This policy also applies to pay-at-the-door registrants who will be invoiced if proper cancellation is not provided.



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