



LOUIS R. MOFFA Named Devine Award Recipient

**Award to be presented at
IL Villaggio on February 22**

Louis R. Moffa has been named the recipient of the Camden County Bar Association's 2022 **Honorable Peter J. Devine, Jr. Award** to be presented during a reception in his honor on **February 22nd** at **IL Villaggio** in **Cherry Hill**.

A Camden County Bar Association member since 1988, Louis has served as the President of the Association from 2016-17. He currently serves on the CCBA Civil Practice Committee and Bylaws Committee among various CCBA committees.

Louis is a partner in the Litigation Department and a member of several practice groups including the Commercial Litigation Group, the Construction Law Group, and the Labor, Employment & Immigration Group of Montgomery, McCracken, Walker & Roads, LLP.

Louis is a graduate of Georgetown University in 1979 and Georgetown University Law Center in 1982.



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On December 22nd the Camden County Bar Foundation's Public Benefits Committee along with many volunteers distributed gifts, gift cards, and food to 100 families through the Adopt-Adopt Program at St. Joseph's Pro-Cathedral Church -in Camden. Thank you to all that participated this year putting smiles on the faces of families in need this holiday season.



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THE DOCKET

JAN. 2023

Monday, January 16

Martin Luther King, Jr. Day

Wednesday, January 18

CLE: Bias, Intimidation, Racism
& Non-Citizen Clients
4 pm-6:15 pm—Via Zoom

Wednesday, January 18

CCBA Board of Trustees Meeting
4 pm-5 pm—Via Zoom

Thursday, January 26

CLE: Inclusive Language and Elimination of Bias
and Barriers in Legal Communication
4 pm – 5:15 pm —Via Zoom

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VERDICTS IN THE COURT

November 2022 – Superior Court of New Jersey

VERDICT: NO CAUSE
Case Type: AUTO – Neg Tort
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Michael R. Contarino, Esq.
Defendant's Atty: Derek G. Timms, Esq.
L-3080-20 JURY

VERDICT: NO CAUSE
Case Type: AUTO – Neg – Tort
Judge: Daniel A. Bernardin, J.S.C.
Plaintiff's Atty: Daniel K. Snyder, Esq.
Defendant's Atty: Raymond F. Danielewicz, Esq.
L-172-20 JURY

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Tentative Agenda
for January 18th
Board Meeting

A tentative agenda for this month's regular Board of Trustees meeting is as follows. The meeting will begin at 4:00 p.m. via Zoom. All meetings are open to the membership. Anyone interested in participating 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

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PRESIDENT'S PERSPECTIVE

January Bar Events



By Rachael B. Brekke

Happy New Year! I hope you enjoyed the holiday season with family, friends, and colleagues. It was wonderful to see everyone at the Holiday Party and kick off the holidays together. Hopefully you were able to wear your CCBA hoodies during the extreme cold weather days. Thanks to our CLE Committee and Coordinator, Adele Polk, for hosting the All You Can CLE to make sure everyone received their credits before year end! It feels great to have our CCBA family fully staffed and ready for the year ahead.

I can't believe my tenure as President is already into the second half! Don't worry I have a list of ideas right here on my desk for the next six months. We have so much to look forward to in 2023. Just like we brought back softball last summer, we are bringing back bowling this winter! On February 1st we will be bowling at Riverton Country Club

in their exclusive bowling alley with drinks and dinner. For those of you who were concerned about your athletic performance on the softball field, there's no worries about bowling! This will be a fun night for all to enjoy, injury free!

On February 23rd we will be presenting the Association's highest honor, the Hon. Peter J. Devine, Jr. Award, to Louis R. Moffa, Esq. at Il Villaggio. Please join us to recognize Lou's distinguished service as one of the Bar's outstanding members. I have had the pleasure of working with Lou for many years at the Bar on various important initiatives. Lou's genuine care and commitment to our success is immeasurable and worthy of recognition. Looking forward to celebrating Lou with you!

As always, I appreciate all of you, your ideas and excitement for the Bar. Please reach out with any feedback you may have as we kick off this new year together. Cheers!



CAMDEN COUNTY BAR ASSOCIATION

Hon. Peter J. Devine, Jr.

AWARD RECEPTION



*Honoring
Louis R. Moffa, Esq.*

Wednesday, February 22nd

6-9pm

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McDowell Law, PC is proud to announce that Rachael B. Brekke and Daniel L. Reinganum have been promoted to Shareholders.



Attorney Conducted Voir Dire (ACVD) Kicks Off in Camden County

by Hon. Judge McBride, P.J.Cr.

In November 2021 the New Jersey Supreme Court convened a Judicial Conference on Jury Selection.

As the Chair of the Conference of Criminal Presiding Judges, I was asked to participate in the Conference Committee that developed a wide-ranging set of recommendations for reform and improvement of the jury selection process. The Supreme Court approved those recommendations in July 2022. One of the most significant recommendations was the creation of a pilot program to investigate a new approach to jury selection – Attorney-Conducted Voir Dire (ACVD).

The Camden Vicinage, under the guidance of Assignment Judge Silverman Katz, was selected as one of three pilot vicinages. The other two pilot vicinages are Bergen and Middlesex Counties.

In September and October 2022, I presided over the first two cases in the state in which ACVD was used to select the jury. In November 2022, the Camden County Bar Association conducted a CLE program on the subject. I participated as a panelist, as did some of the attorneys who were involved with the first two ACVD trials. As we shared at the CLE program, the attorneys and I all came away from the experience with a great deal of enthusiasm for ACVD.

ACVD in various forms has been used in more than 40 states for many years. The Judicial Conference Committee took the best pieces from the different approaches around the country to create a New Jersey model of ACVD.

Under our model, the traditional Judge-led questioning of prospective jurors using a single standard written questionnaire with a possible limited number of follow-up questions is replaced with a process where the attorneys each conduct the questioning of prospective jurors as a group and can customize their questioning. Through this process, and with the assistance of a case-specific electronic questionnaire, counsel can gather the information they need to make more informed decisions about requests for challenges for cause and the exercise of peremptory challenges.

The benefits of the New Jersey model of ACVD include:

- It is an opportunity for the attorney to get to know jurors, and for jurors to get to know the attorney, before the jury is selected.
- The use of a case-specific questionnaire promotes more candid responses from jurors as research has shown jurors are more comfortable answering a questionnaire in private than in open court.
- Jurors are more willing to open up to attorneys than they are to a judge.
- Greater attorney involvement supports more targeted questioning that leads to discovery of increased relevant information about jurors.
- Those who know the case best are asking the questions, and attorneys can tailor questions to the facts they know and to their theory of the case.

Continued on Page 6

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Attorney Conducted Voir Dire (ACVD) Kicks Off in Camden County

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- Attorneys can avoid relying on a “gut instinct” method based on hunches and stereotypes that might be completely wrong.
- Attorneys have much more information about all the potential replacement jurors before exercising peremptory challenges.

Under the pilot program, ACVD is consent-based and involves an agreement by both sides to a reduced number of peremptory challenges. For cases where the allotment is usually twenty for the defense and twelve for the State, the numbers are reduced to eight and six. For all other cases, the numbers are reduced from ten and ten to five and five. Interestingly, research has shown that criminal defense attorneys in New Jersey on average use fewer than ten peremptory challenges and prosecutors use around six.

Once the ACVD consent is placed on the record and confirmed in writing, counsel and the judge conference the case to craft a case-specific questionnaire, which court staff then convert into an electronic format. A template questionnaire is available on the Judiciary’s website for use as a starting point, but none of the questions on the template are mandatory, other than the qualification questions.

On the jury-selection date, the jurors complete the questionnaire electronically – using their own smartphone or a Judiciary-supplied tablet – upon arrival to Jury Assembly. Once all jurors have completed the questionnaire, the results are submitted to the judge and attorneys in the courtroom on an electronic spreadsheet.

The spreadsheet is formatted by court staff so the judge and attorneys can efficiently review the answers. Jurors who present obvious hardship issues can be quickly excused, and jurors whose answers suggest potential for-cause excusal can be brought into the courtroom on a one-by-one basis for follow-up questioning. This approach is more comfortable for jurors as well as the attorneys and is certainly an improvement on the traditional practice

of sometimes cramped, hushed gatherings at sidebar to discuss excusals.

Once the review of the questionnaire responses is complete, the remaining jurors are sent to the courtroom, with a randomly selected group of 28 (or 24) being seated in designated spaces, now called the expanded box. After the judge provides preliminary instructions, each attorney has the chance to engage in what really is a conversation with the group in the expanded box. Other jurors in the courtroom are instructed to listen since they might be selected to fill an empty seat if there are any excusals for cause.

ACVD is intended to be flexible and fluid, with no set time limits. All relevant questions are permissible. Attorneys are not required to disclose in advance the questions they intend to ask, nor are there limits on the scope of relevant inquiry. However, attorneys are not permitted to ask hypotheticals that mirror the allegations of a case. Rather, attorneys can ask about general issues that might be involved in the case.

Requests to excuse jurors for cause can be addressed both during the voir dire questioning and at the end, and counsel may conduct additional voir dire with any newly seated jurors. Once that process is complete, the list of 28 jurors in the expanded box is re-randomized and 14 jurors are seated in the jury box. Counsel then can use peremptory challenges in the usual manner, and any replacement jurors are drawn from the remaining group of 14 jurors. Upon the conclusion of the peremptory process, which takes minutes rather than hours or even days under the traditional system, the jury is sworn.

As we move forward into the new year, we expect to conduct additional ACVD trials in Camden County and to continue to refine and improve a process that already holds great promise. Additional information about ACVD is available on the Jury Reforms tab on the Judiciary’s website.



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FINANCIAL FORENSICS



Drafting a Useful Buy-Sell Agreement

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

Most lawyers, as business owners themselves, are familiar with buy-sell agreements. The way they work is relatively simple. What's not so simple is tailoring an agreement to meet the specific needs of a firm. Too often, even lawyers use "canned" buy-sell agreements that don't consider the individual circumstances of their particular group of attorneys. To help you anticipate potential disputes, consider these four preliminary steps when drafting your buy-sell agreement.

Plan Your Funding

Firms frequently fail to properly fund a buy-sell agreement. Few lawyers/partners will have readily available cash to buy out the remaining interests of the firm, and banks may be reluctant to lend, especially if the practice is young. The most common solution, though not the only one, is to take out a life insurance policy on each partner or shareholder equal to the value of that partner's interest in the firm.

Determine All Possible Triggers

Nearly all buy-sell agreements allow the death or retirement of an owner/lawyer to trigger a buy-sell option. But be sure to consider some other events that are often overlooked: disability, divorce, firing, loss of license, personal bankruptcy or criminal prosecution.

Decide Whether All Situations Should Be Valued the Same

Should the price be lower in certain situations that trigger a buy-sell agreement than in others? For instance, should an attorney who leaves in a way that is detrimental to the practice receive less for his or her interest? Value may be a worthless term by itself because it can mean so many different things. A value found for one purpose can be entirely different from the value for another. Relying on the wrong type of value may be quite an expensive mistake. Understanding the differences between standards of value can help you interpret their relative worth in your situation.

Here's a look at some of the many uses of the term "value" we've come across:

- **Book value:** Often referred to "Net Book Value" but not a standard of value at all. It's an accounting term for the difference between total assets (net of accumulated depreciation and amortization) and total liabilities (often synonymous with Shareholders' Equity). Intangible assets, unless purchased, are usually excluded from book value.
- **Fair market value:** "The price at which the property would change hands between a willing buyer and a willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, both parties having reasonable

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Drafting a Useful Buy-Sell Agreement

Continued from Page 12

knowledge of relevant facts.” This definition was set by the IRS in Revenue Ruling 59-60. It suggests that fair market value cannot result from purely subjective factors such as sentimental value and cannot result from a forced sale or one resulting from an unusual or rigged market. It is used for federal and state tax matters, including gift, estate, income and inheritance taxes.

- **Fair value:** Statutory standard of value usually used in court cases involving dissenting shareholders’ litigation. Court precedent in most states has not equated fair value with fair market value, but the courts have reached little other consensus on its meaning.
- **Liquidation value:** Liquidation value is the value derived from the piecemeal sale of assets. The sale can be orderly or forced but such is typically at the low end of the value spectrum.
- **Intrinsic value:** The value that an investor considers, on the basis of an evaluation or available facts, to be the “true” or “real” value that will become the market value when other investors reach the same conclusion. Intrinsic value may exclude current market influences but may include consideration of such things as the company’s assets, and its likely future earnings, dividends and growth rate.
- **Investment value:** Value to a particular buyer or investor considering his or her specific personal circumstances, expectations, knowledge of the transaction and potential synergies.
- **Enterprise value:** Value of 100% of the shareholders’ equity on a control basis.
- **Invested capital value:** Fair market value of 100% of the equity plus the market value of long-term debt.
- **Minority value:** Value reflecting an ownership position of less than 50%.
- **Control value:** Additional value inherent in a legally controlling interest, reflecting the power of control over the business. A control premium will be an amount or a percentage by which the pro rata value of a controlling interest exceeds the pro rata value of a non-controlling interest in a business enterprise to reflect the power of control.
- **Marketable value:** Value of an equity assuming a pre-established market in which that equity can be exchanged. Marketability would therefore refer to the ability to quickly convert property to cash at minimal cost

Allow for the Right of First Refusal

A common provision in buy-sell agreements is the right of first refusal, which stipulates that the departing lawyer cannot sell his or her shares without first offering them to the remaining partners.

Conclusion: A Buy-Sell Agreement Is Important!

Attorneys, like the business owners they often represent, should take the time now to carefully consider all of the aspects and implications of their buy-sell agreements in order to face fewer problems when interests change hands. If, on the other hand, you have been careless about your buy-sell agreement, at that point, it will be too late. Like many of our CPA colleagues, we try to help many practices with tax-planning design of valuation formulas and other aspects of equity interest transfers intended to provide a smooth succession, either voluntary or forced, due to health or other events. If you, a relative or a colleague have an interest in a law practice or other closely-held business, you might want to discuss its eventual disposition with a CPA well versed in this arena (yep, that could be Abo and Company) or to provide guidance in setting up a buy-sell agreement.

A good time to start the process? How about today? If you don’t already have an independent attorney of your own seasoned in such matters, not to worry – we’d be happy to recommend one or more credible lawyers within the Camden County Bar Association who we feel has the technical prowess and experience to “join the team”.

As mentioned in previous newsletters or presented at seminars sponsored by ICLE and several other state/local bar associations, is Abo and Company’s “129 Point Checklist on Buy Sell Agreements”. The checklist and a corollary listing of assets and liabilities to include in the valuation formula, compiled to assist in drafting a well thought out buy-sell agreement, is available by merely calling us, emailing us or requesting on our website at www.aboandcompany.com.

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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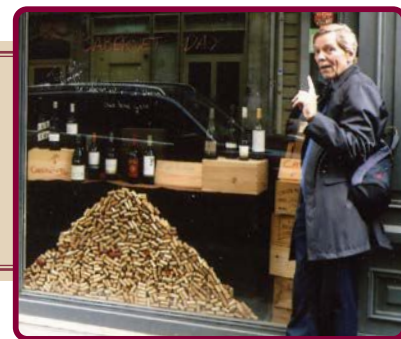
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WINE & FOOD

By Jim Hamilton



Whether you call it global warming or climate change, or perhaps a term more in line with the many weather conditions that are affecting people throughout the world, there is a heightened awareness that we are experiencing much more than melting glaciers as we fail to exit what the U.N. Secretary General recently called the highway to climate hell.

Since the focus of this column is on wine, and Brian Freedman, a fellow member of the Dead Guys Wine Society (a curious name with an explanation), authored a recently published book addressing the impact of climate change on wine (and spirits), I asked Brian to enlighten us all on a topic about which all wine drinkers should be more aware.

Brian is a contributing wine and spirits writer for Food & Wine, Whisky Advocate, and Forbes.com, among others; is a restaurant and beverage consultant; is an educator and event host and speaker; and is even more impressive in person than on paper. His book is entitled *Crushed: How A Changing Climate Is Altering the Way We Drink* and is so well-written and organized, with easily understood explanations of technical terms, that one does not have to be deeply imbedded in the world of wine to read and appreciate Brian's account of the profound impact changing climatic conditions can impose on those who produce the wines and spirits many of us have come to enjoy. Let's dig a little deeper.

Q. You could not have chosen a more dramatic way to begin an exploration of the different ways climate change, or global or climate "weirding" as some of your interviewees have termed it, than to recount winemaker

Jamie Kutch's 2017 California wildfire experience. That we now name wildfires as we do hurricanes certainly speaks volumes about this harrowing consequence of altered weather. The fact that top winemakers like Jamie, who left Wall Street to pursue his passion, must rethink how and where they should invest their money and time should open more than a few eyes. How do you see California wineries adjusting to the threats Jamie and so many others in his business have recently experienced?

A. Fortunately, the people who grow the grapes and grains and make the wines and spirits are among the most innovative, open-minded, and smart people I've ever encountered. The best of them, the ones who will survive and even thrive in this terrifying world of climate change, are the ones who will remain open to modifying the mix of grape varieties on their vineyards, to working in a more environmentally responsible manner in the vineyard and winery (and farm and distillery), and to considering many of the technologies at their disposal that can help attenuate some of the most deleterious effects of climate change—for example, shade cloths, vine-hydration mapping using drones, and more. But in the end, it's the ones who respect their land the most that will likely thrive the best.

Q. The way the Seillans at Bordeaux's Chateau Lassègue handled a destructive hailstorm in 2009 offered a very interesting perspective on how a seasoned and talented winemaker, by ignoring the advice of consultants, was able to make the very best of a bad situation. Do you think the Bordelais, perhaps

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WINE & FOOD

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less likely than others to relocate for better climate conditions, will adapt by planting different permitted grape varieties, or, given that most of the wines are blends, changing the proportions of established grape types being used? Might some even ignore what may be centuries of tradition and search for other more drastic solutions?

- A. One of the main reasons Bordeaux is a blending region is that its weather has always been fairly mercurial. Planting a mix of grape varieties allows growers and producers to have what amounts to a vinous insurance policy of sorts against unpredictable weather. This will position it well as climate extremes grow even more dramatic. But yes, I suspect that more and more producers there will begin to adopt some of the varieties that are newly permitted in parts of the region. And those who produce wines in parts of Bordeaux where the Big Five are still all that's allowed will continue modifying their blend to make the most of each individual vintage, which they've already been doing for generations and generations. It's just that now, those modifications in the final blend are as likely to be driven by climate extremes as style or anything else.
- Q. While more subtle than California wildfires, your account of Israeli wineries finding desert land to be more forgiving for grape growing than areas where vineyards traditionally had been established is still striking. I liked your observation that wine is the lens through which we can see a particular piece of earth, with the grower and winemaker fine tuning the focus. Does that lens become blurred due to climate change? If so, what roles do those within the wine industry, as well, perhaps, as those who regulate

it, have in refocusing that lens to account for worsening conditions?

- A. I actually think that climate change is sharpening that lens. That may seem counterintuitive, especially given how extreme heat in some vintages can result in higher alcohol wines that sometimes seem to less transparently transmit the character of a particular vineyard, but many of the best producers, like Tabor in Israel, for example, are working to make their vineyards more fully and seamlessly integrated into the natural ecosystem than they had been in the past, which is both better for the finished wine—it makes it more 'truthful' since the land itself hasn't been overly manipulated—and also seems to make the land more resilient in the face of a dramatically changing climate.
- Q. One of the main themes that your book highlights is how wine country warming has, on a worldwide basis, caused vintners, whether established or neophytes, to seek out cooler climate regions. You discuss England and its expanding production of what for now are mostly sparkling wines. You explore Argentina and the need to responsibly dispense water to the vines, reconsider clonal selections to grow grapes better able to handle water stress, and the increasing interest and investment in the once too cold reaches of Patagonia. You also mention how cold weather regions such as Scandinavia are attracting wine growers. How do you envision the wine world adapting to a weird weather future? Will one region's hardships allow another region to benefit?

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A. The world wine map as we know it today will certainly look different in a hundred years, with new regions coming online, familiar ones likely including new or different grape varieties alongside (or not) their current ones, and styles shifting. Then again, that's been the story of wine production forever...it's just that now, those changes are occurring far faster than they ever have before.

Q. How important is the work of organizations such as the International Wineries for Climate Action (IWCA) in attempting to combat the adverse effects of a changing climate?

A. It's deeply important—collective action in the face of a climate that's changing far more rapidly and dramatically than had been predicted is of tremendous importance now and will only continue to grow in the future. The work of these organizations is priceless.

Q. Your interaction with Robert Young, a physician turned Texas Hill Country winemaker, offered what seemed to be an almost futuristic approach to handling climate change challenges. His employment of cryo-maceration and flash détente seems to run counter to the commonly held view that it is the grower, not the winemaker, who largely is responsible for achieving success in the bottle. Do you envision the post-harvest manipulation of grapes to be a viable way to reduce the risks the changing climate raises?

A. I think this is an all-hands-on-deck type of situation. I don't think that Dr. Bob's techniques will be used by everyone, but they are an important tool that, in his case, has resulted in

really delicious wines. I don't think you'll see Burgundy's famed Domaine de La Romanée-Conti doing it, for example, but I don't judge one producer's decisions as better or worse than another, unless they're adding all sorts of unnecessary stuff to their wines. But that's a different conversation altogether!

Q. As you have detailed in several chapters of your book, determining the best grapes to grow in the terroir that exists has often been a learning experience. Does a changing climate magnify the challenge vintners are facing when deciding what to plant and where?

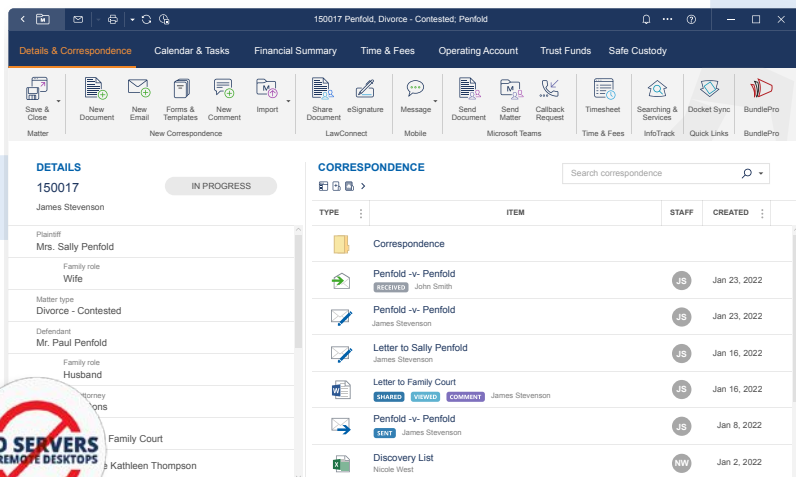
A. It does but planting a vineyard has never been a straightforward process. Once the land has been acquired, there are usually soil scientists brought in, and experts on clonal selections and rootstocks, and more. Climate change makes those decisions perhaps more fraught, and the consequences of them more dramatically embodied in the eventual success or failure of the vines and the wines produced from their grapes, but planting decisions have always been more complicated than they get credit for.

Q. I was taken by the perspective of South African philosopher/winemaker, Johan Reyneke, that while at one time man needed protection from nature, now nature needs protection from man. If, as he says, agriculture is one of the five biggest contributors to climate change, how can grape growers and winemakers play a more constructive role in addressing the conditions that,

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WINE & FOOD

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perhaps with some irony, can be so detrimental to their livelihood? Will it require more than Reyneke's viticultural approach of incorporating biodynamics and biodiversity as a soil farmer?

A. What Reyneke is doing, what Michal Akerman at Tabor is doing, conscientious producers around the world are doing - all are of the utmost importance. By bringing the vineyard back into harmony with the natural ecosystem, viticulture can absolutely be beneficial to the environment. It just has to be done in the right way. Happily, more and more are following the lead of these pioneers, to the benefit of us all, and to the land that nurtures those vines.

Anyone who is interested in what the future holds for the world of wine and spirits or simply enjoys a well-researched, beautifully written, hard to put down book should find this to be a compelling read. *Crushed: How A Changing Climate Is Altering the Way We Drink* is available at Amazon, Barnes & Noble, Bookshop.org, Porchlight Books, Booksmith.com, and many locally owned bookshops. I thank Brian not only for crafting such an eye-opening book, but also for taking the time during a very busy holiday season for answering some of the questions his work inspired.

Happy New Year everyone!

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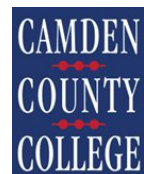
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