

Published by the Camden County Bar Association

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### The Legal Profession has a Suicide Problem and Silence is Deadly



Not long ago, I keynoted the Cuban American Bar Association Annual Judicial Luncheon in Miami. They said it was the first time they had brought in a speaker such as myself as the event was usually about election cycle stump speeches. They wanted this event to be different for very personal reasons.

The Cuban and Miami legal community had recently lost a well known and respected colleague with the suicide of Miami lawyer, Ervin Gonzalez. Not long after that, the death of Miami federal prosecutor Beranton J. Whisenant was ruled a suicide. Two tragedies among a profession with a suicide rate in the top five of all professions. I was almost one of those grim statistics.

July 2005. A dark room. Table, desk, chairs. I'm with a staff psychiatrist of the Green Oaks Psychiatric Facility in Dallas, Texas. My brothers, Mark and Jeff, are sitting at the table across from me. I have a vague recollection of my younger brother rousing me from my bed. My .45 automatic lying on my nightstand.

The residuals of cocaine, Xanax, and Jack Daniels are still coursing through my veins. Questions from the attending psychiatrist pierce my fog and anger like tracer rounds. "What drugs have you taken? How are you feeling? Do you want to hurt yourself? "

In the back of my mind, what's left of the lawyer takes over. I know that my family can't commit me, but he can. Proceed with caution. I don't mention that I had been "practicing" sticking the barrel of the gun in my mouth and dry-firing the gun.

Ripped back to reality. Voices in the room. The doctor is talking to me again. When was the last time I used cocaine? I'm pretty sure it has been recently, since it was all over the room when my brothers showed up. I had become the consummate liar in hiding the obvious cocaine habit and drinking problem from my family.

More questions. Do I think I need help? Will I go to rehab? Sure, whatever will get me out of here? I lash out again. They have no right

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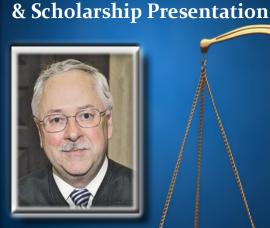
### Honorable Charles W. Dortch, Jr., P.J. F.P. receives the Justice Thurgood Marshall Award



The Association extends sincere congratulations to **Honorable Charles W. Dortch, Jr., P.J. F.P.** on receiving the **Justice Thurgood Marshall Award**, presented by the Diversity Committee of the New Jersey State Bar Association. Judge Dortch will receive the award at the NJ Law Center at the annual reception honoring Diverse Judges on October

11th. This award recognizes diverse New Jersey judges who have made outstanding efforts in the area of diversity and inclusion, consistent with the NJSBA Statement of Diversity and Inclusion.

Judge John F. Gerry Award



## **Sr. Judge Jerome B. Simandle** *Sr. Judge, United States District Court*

Sr. Judge, United States District Court for the District of New Jersey

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## THE DOCKET

### Tuesday, October 3

Introduction to Intellectual Property: Keeping Your Clients Protected 4 - 6:15 pm Tavistock Country Club, Haddonfield

**Thursday, October 5** Black Letter Blast on Criminal Law 2017 4 - 7:15 pm Tavistock Country Club, Haddonfield

### Monday, October 9

Autumn Scramble '17 Golf Outing 10:30 am - 7:30 pm Scotland Run Golf Club, Williamstown, NJ

### Wednesday, October 11

Top 10 Tips for Law Firms on Cybersecurity 4 - 6:15 pm Tavistock Country Club, Haddonfield

### Thursday, October 12

Effectiveness & Professionalism in Brief Writing and Oral Advocacy 4 - 6:15 pm Tavistock Country Club, Haddonfield

### Tuesday, October 17

Judge John F. Gerry Award Presentation 6 – 9 pm Tavistock Country Club, Haddonfield

### Wednesday, October 18

CCBA Board of Trustees Meeting 4 pm Bar Headquarters

### Thursday, October 19

OCTOBER 2017

Professional Networking Happy Hour 6 - 8 pm PJ Whelihan's, Cherry Hill

**Tuesday, October 24** Young Lawyer's Committee Meeting 12:30 - 1:30 pm Bar Headquarters

### Thursday, October 26

CLE on Tap - NJ Municipal Court - Newly Admitted Attorneys 3 - 6:15 pm Tavistock Country Club, Haddonfield

## Tentative agenda for October 18, Trustees Meeting

A tentative agenda for this month's regular Board of Trustees meeting follows. The meeting will begin at 4:00 pm, at Bar Headquarters. 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

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## **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, and the CCBA's new Member Portal (*https://camden. intouchondemand.com*) makes it easy to securely pay online.

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.



### NOTICE TO THE BAR

### Camden Vicinage–Mandatory eCourts and Non-Acceptance of Paper Filings–eCourts Civil, DC (Special Civil), and Foreclosure

Please be advised that pursuant to the New Jersey Supreme Court's orders dated May 30, 2017 and July 5, 2017, and the notice to the Bar dated July 6, 2017, the mandatory electronic filing date for eCourts Civil and nonacceptance of paper filings by attorneys in the Camden Vicinage shall be **Monday, October 2, 2017.** Exceptions to this requirement are confidential documents, documents excluded under public access, documents to be filed under seal, and enforcement motions filed under a docketed judgment lien ("J" docket), all of which will continue to be filed on paper. Additionally, as of the electronic filing date, in accordance with the Court's order, the direct filing of matters with a judge or with chambers staff will no longer be applicable.

Accordingly, pursuant to the New Jersey Supreme Court Order dated July 5, 2017, as of Monday, October 2, 2017, any document submitted for filing in paper form in Camden Vicinage by an attorney in a Civil matter (Law Division, Civil Part) shall be rejected for filing, with the direction to the attorney to file the matter electronically. In such instances, the filed date will be the date the document is received electronically through eCourts.

### (REVISED\_09/05/2017)

Additionally, a paper courtesy copy of all motion-related papers should be provided directly to the Civil Judge assigned to handle the motion. This requirements includes, but is not limited to, notices of motion, briefs in support of or in opposition to the motion, certifications, exhibits, proposed orders, and cross motions. <u>This includes</u> <u>Orders to Show Cause applications</u> and requests to withdraw or reschedule <u>motions</u>. Attorneys must clearly indicate "COURTESY COPY" on the first page of each motion-related paper.

Honorable Deborah Silverman Katz Assignment Judge Camden Vicinage

Dated: September 5, 2017



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## Parents' Estate Planning for Personal Injury Victims

By Thomas D. Begley, Jr., CELA

injury victims frequently Personal receive means-tested public benefits. They often establish Self-Settled Special Needs Trusts (SSSNTs) to hold the personal injury settlement, so that the settlement does not interfere with public benefits eligibility. However, it is important that parents not leave these children with disabilities monies as part of their estate plan. Parents should consider establishing a Third Party Special Needs Trust (TPSNT) and changing the beneficiary designations on their life insurance, retirement accounts and annuities accordingly. The parents cannot leave money to the SSSNT that may have already been established. The reason is that the SSSNT can only contain "assets of the individual." The individual is the personal injury victim who is the beneficiary of the trust. The parents must establish a separate trust. The TPSNT to be established by the parent also has other benefits in that there is no Medicaid payback on death of the personal injury victim and distributions from the trust are much more flexible since they are not governed by the "sole benefit of" rule.

### What is a Special Needs Trust?

A special needs trust is a discretionary, spendthrift trust created for a person who is disabled, as a way to supplement that person's public benefits. Those public benefits may include SSI, Medicaid, Section 8 Housing, SNAP

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No Cause (7/13/17)

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Brittany Rasmussen, Esg.

Auto Negligence Yolanda Rodriguez, J.S.C.

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Jury

Judge:

Plaintiff's Atty:

L-4311-14

VERDICT:

Case Type:

L-3076-15

Plaintiff's Atty:

Defendant's Atty:

Judge:

Defendant's Atty:

(Food Stamps), LIHEAP (utility assistance), TANF (Temporary Assistance to Needy Families), Group Homes, and other federally or state-sponsored assistance programs.

## What are the Advantages of Special Needs Trusts?

A Special Needs Trust can:

- Help maintain an individual's public benefits.
- Help enrich the beneficiary's life.

## What Can the Special Needs Trust Pay For?

The type of Special Needs Trust being discussed is called a "Third-Party Special Needs Trust," because it is being funded by assets of someone other than the trust beneficiary. The trust is usually funded by parents, but is often funded in whole or in part by grandparents, other family members, and even friends. If the beneficiary is receiving SSI, the SSI is intended for food and shelter. Therefore, any distribution from the trust for food or shelter will reduce the beneficiary's SSI payment. The maximum deduction is one-third of the payment plus \$20. Sometimes this reduction is unavoidable. but where possible the beneficiary should use the SSI payment for food and shelter and let the trust pay for other needs. Typically Special Needs Trusts pay for the following:

VERDICTS OF THE COURT			Superior Court of New Jers	
VERDICT: Case Type: Judge: Plaintiff's Atty: Defendant's Atty: L-1569-15	No Cause (7/6/17) Auto Negligence Michael J. Kassel, J.S.C. Michael Weiss, Esq. Kimberly Hoehing, Esq. Jury	VERDICT: Case Type: Judge: Plaintiff's Atty: Defendant's Atty: L-3799-15	No Cause (7/26/17) Auto Negligence Michael J. Kassel, J.S.C. David Cuneo, Esq. Francis McDevitt, Esq. Jury	
VERDICT: Case Type:	Liability Verdict: 100% Against Defendant (7/11/17) Auto Negligence	VERDICT: Case Type: Judge:	No Cause (7/27/17) Auto Negligence Francisco Dominguez, J.S.C.	

VERDICT: No Cause (7/27/17) Case Type: Auto Negligence Judge: Francisco Dominguez, J.S.C. Plaintiff's Atty: John D, Borbi, Esq. Defendant's Atty: Rachel Vicari-Haninczak, Esq. L-2167-15 Jury

- · Household goods;
- Furniture;
- Automobile;
- Durable medical equipment, such as wheelchairs;
- Television, radio and cable services;
- Computers, iPads and other forms of technology;
- Telephone;
- Musical instruments;
- Recreation and entertainment;
- Medical insurance;
- Telephone bills;
- Newspaper subscriptions;
- Services of a Care Manager;
- Vacations;
- Movies;
- Tax payments;
- Medical treatment for which public funds are unavailable;
- Education;

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- Cleaning supplies and paper products;
- Dental care, physical therapy, massages; support services and other medical costs not included by any benefit program;
- Home care services not covered by another program; and
- Personal services, including lawn mowing, house cleaning, grocery shopping and babysitting.

### What Requirements must be met when Establishing a Special Needs Trust

There are three key requirements:

- The trustee must be given absolute control over the distribution of the funds.
- The person with special needs cannot have the authority to revoke, amend, or terminate the trust.
- The person with special needs cannot have the power to compel a distribution from the trust.

### How can the Amount of Funding Required for a Special Needs Trust be Determined?

The best way for parents to determine how much of their estate to leave to a special needs child is to obtain a life care plan from a professional life care planner, who will estimate

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## Factors to Consider in Valuing a Closely Held Business

(Yep, that even includes your law practice)

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

Many owners of closely held businesses assume they have a pretty good idea of their businesses' value. Often an owner may decide his or her company's value based simply on cash flow and profit margin. While determining the value of a closely held business may appear to be a straightforward process, it is actually quite complex, involving consideration of numerous factors. A valuator should understand their impact and, more important, know how to combine them to derive a reasonable, wellsupported value.

Not to confuse you in the titling arena with alphabet soup, when I refer to a "Valuator" I'm generally referring to a professional with one or more of the following designations:

- ABV (Accredited in Business Valuation - American Institute of Certified Public Accountants)
- CVA (Certified Valuation Analyst - National Association of Certified Valuators and Analysts)
- ASA (American Society of Appraisers)

• ABO (Just seeing if you're paying attention-I'm one of a limited few with this designation)

The data that a valuation professional relies on will vary from one case to the next. Common documents include:

- Historical financial statements
- Business plans and financial projections
- Advertising and professional literature
- Bank loan agreements
- Backlog information
- Income tax returns
- Asset appraisals
- Long-term contracts
- Leases
- Buy-sell agreements
- Price lists, procedures manuals and other internal documents used to manage the business

After gathering background information, a valuator normally visits the company's facilities and interviews management. The visit can take from a few hours to a few days and may require

follow-up visits to fill in information gaps.

The valuator may search for information regarding the company and its industry to add to this foundation, including:

- Industry data
- Economic forecasts
- Rates in the financial markets
- Pricing data from acquisitions of similar businesses
- Relevant pricing data from public equity markets

To give you an idea of the factors a valuator typically considers, here's a brief overview.

### Competition

Fundamental to a determination of a closely held company's value, competition encompasses a number of categories, including the company's:

- Relative size compared with other businesses in its industry
- Relative product or service quality
- Product or service differentiation

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### Remember! It doesn't cost you anything to call us on a matter. It may cost you *dearly* by *not* calling us on that matter. We can help, so why not give us a call!

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## Factors to Consider in Valuing a Closely Held Business

(Yep, that even includes your law practice)

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from others in the industry

- Market strengths
- · Market size and share
- Competitiveness within its industry in terms of price and reputation
- Copyright or patent protection of its products

### **Management Ability**

Is management skilled and experienced enough to keep the company at the top of its game for the foreseeable future? Several factors can indicate management ability:

- Accounts receivable, inventory, fixed asset and total asset turnover,
- Employee turnover
- Condition of the facilities
- Family involvement, if any
- Quality of books and records
- Sales as well as gross and operating profit

### **Financial Strength**

Consideration of financial strength entails a number of ratios, including a company's:

- Total debt to assets
- · Long-term debt to equity
- Current and quick ratios
- Interest coverage
- · Operating cycle

#### Profitability and Stability of Earnings

Another important factor is the financial stability of the company, as revealed by its profitability during its operating history, including:

- The number of years the company has been in business and its sales and earnings trends
- The life cycle of the industry as a whole
- The returns on sales, assets and equity

### **Other Factors**

As if this were not enough, the valuator also should consider the economic conditions in which the company is operating, including the broad industry outlook and the impact of various Internal Revenue Service (IRS) rulings and court cases that may affect the company's value. In addition, the valuator will often analyze restricted stock studies and the values of comparable companies to determine their relationship to the company's value. Intangible factors such as goodwill value and noncompete agreements can be significant as well.

Finally, the valuator needs to determine the discount or capitalization rate of the company, specify what percentage of the company is being valued, and take into account any marketability or minority interest discounts.

### **Putting It All Together**

Perhaps the most difficult part of the entire process is knowing how to combine all of these factors in a meaningful way to reach a value that will aid in withstanding challenges by potential buyers, the IRS, dissatisfied partners or others. A valuator with professional training, experience and expertise should be able to accomplish this.

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**Ashley N Keavney** 2049 Barnsboro Road Clementon, NJ 08021

**Lauren Hill** 250 Warren Dr Wrightstown, NJ 08562

### LOBSTER BAKE



YLC Lobster Bake Committee members, Bar Foundation Trustees and Larc School officials pause for a photo to celebrate another successful Bar Foundation/Young Lawyer Lobster Bake to benefit the Larc School.

This year's bake was presented by Mike Galpern and Locks Law Firm. (I-r) CCBF Vice President Rachael Brekke, Amir Goodarzi, Larc Executive Director Susan Weiner, Abe the Lobster, Assemblywoman Patricia Egan Jones, YLC Chair Tom Hagner, Jeanette Kwon, David Hasner, Mike Dennin, Mark Strasle & Chris Keating.



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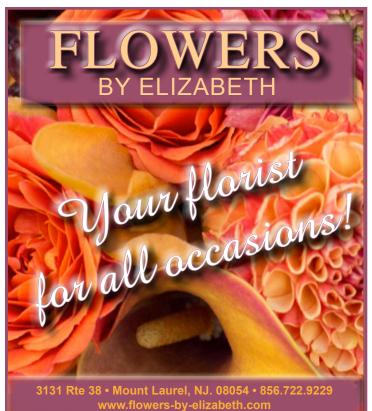


#### By Jim Hamilton

It is October already...scary how quickly the days and months pass. This month we celebrate a "holiday" that seems to occur more frequently than once a year – Mischief Night. Rather than soaping up windows or tossing rolls of toilet paper onto neighborhood trees (okay, an old-fashioned view of mischief), perhaps it might be devilish fun to surprise your dining companion with a wine likely to confound. Admittedly, that may be most wines we discuss monthly in this column, but let's stretch our palates and minds a bit and find a few wines you may want to open with a mischievous grin on the eve of All Hallows Eve.

As I have mentioned before, among those distributors that deserve our confidence is David Bowler Wine, and I enjoyed tasting many of the wines being poured at the portfolio tasting earlier this year. While the wineries represented come from far and wide, to concentrate on value I paid particular attention to the wines of Spain, so let's make it this month's focus.

While this has not been the sort of hot, dry summer that helped rosé wines achieve their now significant popularity, perhaps we will experience some warm October days that will encourage you to stop by your favorite wine shop to pick up a rosé or two to enjoy before the colder weather causes people (unfortunately including retailers) to stop thinking pink. One of the most commonly employed grapes used to make rosés is Grenache (called Garnacha in Spain), so let's try one I thought to be a real find. **2016 Zorzal Rosé** is simply a pretty wine, redolent of red berry flavors that are compote ripe and creamy but not





the least bit overdone. As with most wines, balance is key, and this wine deftly manages to offer rich fruit while retaining the grace that makes rosés such a charming choice.

In keeping with our rascal theme, let's talk about a different rosé made by a producer on the Canary Island of Lanzarote using an indigenous grape, Listán Negro. **2016 Los Bermejos Listán Rosado** offers layers of red berry fruit, primarily strawberry, with a silky salinity that enhances the fruit's texture. The islands are remote (near the coast of Africa), and the soil and climate are unforgiving so the corresponding grape yields are low. Add to this the fact that the vineyards are worked by hand and the cost of production pushes retail prices a tad higher than many rosé wines you can buy. Still, the wine remains affordable and definitely is mischief theme worthy.

While Spanish wines have been on the radar of most bargain hunting wine drinkers for decades, you're not alone if you are unfamiliar with the Ribera del Guadiana region in southwestern Spain near the Portuguese border. While **2015 Dacu Tempranillo** uses Spain's most famous grape, this wine offers lively red berry fruit that is clearly and cleanly delivered, eschewing the long exposure in American oak one may find in the more famous appellations like Rioja in favor of modest aging in used, French oak. If you can find a bottle your mischievous grin may broaden into a full-fledged smile.

Another somewhat obscure Spanish wine region to explore while prices remain modest is Terra Alta, and a producer to search out is Cellar Vinos Piñol. The lineup of Piñol wines covers a broad price spectrum, and the one I thought offered the best value is **2015 Piñol Portal Blanco Terra Alta**. This white wine is fashioned from Garnacha Blanca grapes and displays a crisp linen textured apple and melon fruit profile in an unadorned, medium body.

While the above wines may require some sleuthing to locate, there are two Spanish value entries I have seen and bought locally. **2015 Via Artenxea Treixadura y Godello** (the latter two names are the grapes used) is a small production white wine that sees no oak and conveys an impression of white flowers gracing a deceptively sturdy body that benefited from the warm vintage. The fruit is subtly citric and is etched with minerality. **2015 Merayo Bierzo Mencia** is real red wine bargain that can be found for under \$8. Mencia is a grape that shows many sides to it depending on where it is grown and how it is handled, and Bierzo is one of three adjacent wine regions where the grape grows best. This wine reveals blackberry and plum fruit that is delivered with acid-driven



## **PRESIDENT'S PERSPECTIVE**

By Erik G. Fikry

Over the summer, the *New York Times* published a very informative, moving and powerful article entitled, *The Lawyer, the Addict*, in which the ex-wife of an intellectual property lawyer described how she first learned that "Peter," her former spouse and the father of her children, suffered from a serious drug addiction when she discovered his body after he died from a bacterial infection common to intravenous users.<sup>1</sup> The author expresses surprise at both the fact of Peter's addiction, and that it went undetected both by her and by everyone with whom her husband interacted for years, despite his having maintained an active, and by all accounts, successful legal practice with a large law firm until the end. Perhaps the saddest revelation in the story was that as Peter lay dying, his last telephone call was not to seek help or say goodbye to children, but was instead a conference call for work.

The article recounts what Peter was like as a young man before he entered the profession—a chemist working for a pharmaceutical company, who had great enthusiasm not just for science, but for philosophy and music as well. Peter decided to go to law school to pursue a more lucrative career as a patent attorney despite the fact that—at least according to his ex-wife— practicing law was in some ways incongruous with his personality. Peter's story is relatable to many, and his relationship with his chosen profession was vividly and succinctly captured by the author in the following passage:

Peter himself lived in a state of heavy stress. He obsessed about the competition, about his compensation, about the clients, their demands and his fear of losing them. He loved the intellectual challenge of his work but hated the combative nature of the profession, because it was at odds with his own nature.

However ill-fitting the profession may have been for him, Peter was driven to succeed, graduating first in his class and serving as editor of the law review. Peter maintained this degree of intensity in private practice, and it ultimately exacted a heavy toll on his marriage, and his private life.

The Times article is not just a sad story about the professional and personal difficulties experienced by one of our brethren. It also addresses how the legal education system and the profession generally may be contributing to a large scale problem for the bar. The author cites research reflecting that prior to entering law school, students are healthier than the general population, but that during the course of their professional training, there is a trend towards focusing on "external values" like "status, comparative worth and competition" which leads to students leaving school more "significantly impaired, with depression, anxiety and hostility." The article also references a 2016 report prepared by the Hazleden Betty Ford Foundation and the American Bar Association, which analyzed responses from 12,825 licensed practitioners in 19 states, and found that 21% of lawyers qualify as problem drinkers, 28% struggle with mild or more serious depression and 19% struggle with anxiety.<sup>2</sup> The author of the Hazleden/ ABA study also notes however that 75% of survey respondents skipped over the section addressing drug use in its entirety, perhaps out of fear of possible legal or professional sanctions were they to acknowledge use of illegal drugs. As such, the possibility exists that illegal drug use among lawyers may be under-reported, perhaps significantly.<sup>3</sup>

Peter's story is a tragedy to which many of us should be able to relate, irrespective of whether we or anyone we know personally suffers from substance abuse issues. This coming Spring, the CCBA and the New Jersey State Bar Association will be co-sponsoring a continuing legal education program that will address the issue of substance abuse facing the legal profession, including how to recognize and assist those who may be in need of assistance. Details regarding this program will be made available soon, so look for announcements both in *The Barrister* and online. Although Peter's story and recent statistics tell a grim story, the CCBA looks forward to working with the NJSBA to provide information, guidance and support to members in crisis, with the aim of positively impacting the profession by helping individual practitioners obtain whatever sort of assistance they may need.

A Brief Note on Charlottesville. The September issue of The Barrister went to press before the violence that occurred last month in Charlottesville, Virginia which resulted in the taking of the life of Heather Heyer. It is unfortunate that in this day and age, the ignorance and hatefulness of a disaffected few can still wreak so much havoc in our society. Incidents such as these serve to remind us that as members of the legal profession, we are charged with responsibility for ensuring that the virtues upon which our country was founded—freedom, equality, individual rights, justice and tolerance for all—are defended and preserved for future generations. As lawyers and as citizens, we must be ever vigilant in making sure that these fundamental values are not permitted to be compromised by those espousing or engaging in violence, racism and xenophobia.

<sup>1</sup> The article is available at: https://nyti.ms/2voahKB.

- <sup>2</sup> See, Krill, P., et als., The Prevalence of Substance Abuse and Other Mental Health Concerns Among American Attorneys, American Society of Addiction Medicine (2016).
- <sup>3</sup> A 2014 report by the ABA Commission on Lawyer Assistance Program which identifies alcohol and prescription medications as the as the most frequently abused substances by lawyers. The ABA Commission on Lawyer Assistance Program's Report is available at: https://www.americanbar.org/content/dam/ aba/administrative/lawyer\_assistance/ls\_colap\_2014\_comprehensive\_survey\_ of\_laps.authcheckdam.pdf.

### Nominations Sought for Devine Award The Association's Highest Honor For Service

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 Past President Louis R. Moffa, Jr.

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 20, to be considered.



## YOUNG LAWYER HAPPENINGS



### **YOUNG LAWYER CHAIR**

## Help for Texas and Florida in the Wake of Hurricanes Harvey and Irma

By Tom Hagner

By the time this article goes to print, it will have been about a month and a half since Hurricane Harvey decimated the Houston, Texas area. As I write this, Hurricane Irma is ferociously bearing down on Florida. Following these two events, I am certain there are a number of our members wondering how they can help the victims of these natural disasters. The simple and overwhelming response we hear is to provide money. However, that may not be an option for everyone, especially young lawyers. For those who want to help but making a monetary contribution is unrealistic, I would urge you to consider donating your time and skills.

On August 29, in response to Hurricane Harvey, the Supreme Court of Texas entered an Emergency Order (Misc. Docket No. 17-9099) permitting out-of-state attorneys to gain temporary admission to the Texas Bar for the purposes of providing pro bono legal services to victims of Hurricane Harvey.

For those interested in volunteering, here is the link to the Disaster Relief Volunteer Form: *https://texasbar.informz.net/survistapro/sn.asp?gid=505FCF85-F0B1-4C93-BD73-29E73E3B7642.* People interested in helping should also visit the State Bar of Texas' Disaster Relief Resources page: *https://www.texasbar.com/Content/NavigationMenu/ForThePublic/DisasterReliefResources1/default.htm.* Out-of-state attorneys must be in good standing within the jurisdiction in which they are licensed. The temporary admission is for a period of six months, and anyone seeking to volunteer must be "retained" by a legal-aid or pro bono program or bar association providing relief to victims of Hurricane Harvey. One such organization is known as Lone Star Legal Aid, which did not stop providing services to needy citizens despite their office being damaged in an explosion and fire.

The optimist has a way to find the silver lining in every gray cloud. Hurricane Harvey, and the destruction it caused, is one of the grayest

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clouds the city of Houston has seen. However, there is a silver lining for eager, optimistic young lawyers who are driven to help those in need, as this natural disaster has created an opportunity for lawyers to make a contribution to the rebuilding of our nation's communities, while simultaneously creating an opportunity to gain skills and experience in the profession. Questions posed by victims of Hurricane Harvey may include, but are by no means limited to, how to apply for a variety of government assistance programs; how to obtain a new birth certificate or social security card; how to file insurance claims; how to handle FEMA appeals; how does this impact the statute of limitations on my lawsuit; and how to handle custody disputes where one or both parents are forced to relocate.

Presently, the State Bar of Florida has not followed Texas' lead in opening the door to out-of-state attorneys. However, for those who are licensed to practice in Florida, the Florida Bar Association's website has information and links to opportunities for attorneys to register to assist with pro bono matters. I would strongly encourage anyone who is willing and able to help out the victims of these tragic natural disasters to do so. As we know, New Jersey is not immune from these types of weather events, and the skills you pick up now may allow you to help even more people in the future.

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## **Parents' Estate Planning for Personal Injury Victims**

(Continued from Page 4)

the cost of the child's care over a typical lifetime. Alternatively, a budget can be established by the personal injury victim or family. Assets in a Self-Settled Special Needs Trust should be considered in determining the needs of the personal injury victim.

If there are insufficient funds available, parents may consider buying a life insurance policy. With one type of policy, upon the death of the second parent, the insurance proceeds are paid to the special needs trust for the care of the person with special needs.

### How is Trust Accounting Handled?

The Social Security Administration requires an annual accounting of the expenditure of funds in a special needs trust. This accounting is intended to ensure that trust funds have not been mishandled, and it serves to protect the person with special needs, as well as any other beneficiaries of the trust.

Because the accounting work is fairly technical and must adhere to the rules of the Principal and Income Act, it is best handled by an accountant, who can be hired by the trustee.

### **Trust Protector**

The role of the trustee is to work with the

family to achieve the desired results for the trust beneficiary. It always makes sense to select a professional trustee. However, it is always good to have a family member remain involved. Sometimes a trustee that is wonderful today may not be good in the future. The trustee may be bought by a larger institution with a different view towards Special Needs Trusts, or key personnel may retire and be replaced by other personnel without the same commitment. Therefore, it is always good to have a family member serve as trust protector. The trust protector is given the right to remove the trustee and replace them with another professional trustee.

### What is a Letter of Intent?

As part of the process of planning for the future of a special needs child, it is very important for parents to write a letter of intent laying out their wishes for the child's care. A letter of intent provides parents with an opportunity to explain, in detail, their child's unique life and background. The letter helps ensure that those responsible for the child's care in the future will see him or her as a "real," multi-faceted person, rather than a number, statistic, or faceless subject in a legal document. The letter also serves as a vital document for the trustee, providing him or her with a greater understanding of the child, and ensuring that the family's specific wishes, goals, and expectations can be carried out.

A typical letter of intent details the child's:

- Unique personality traits.
- Medical history and special needs.
- Special education, past and present.
- Treatment, therapy, and daily care needs.
- Favorite foods and clothing.
- Friends, co-workers, family members, and anyone else who is close to the child.
- Favorite recreational activities and sports.
- Past vacations and those he or she hopes to take in the future.

#### What Happens at Age 18?

Prior to age 18, the income of the parents are deemed to the child. This means that prior to age 18 the income and assets of the parents are considered to be the income and assets of the child. For most children under 18, this means they (Continued on Page 13)

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precision. While it is not a wine of layers or dimension (nor should it be for the price), the un-oaked, forward fruit is sure to please those seeking an affordable house wine.

If you want to exhibit your puckish inclinations but feel obliged to offer something more familiar, a wine that may accommodate both goals is 2015 Finca La Estacada Ocho y Medio Chardonnay. While it is unlikely your drinking companion(s) will be familiar with the winery (it was founded in 2001 in the Castilla-La Mancha region not far from Madrid), the grape variety will be, although the style is far from the overtly oaky versions many associate with the varietal. This Chardonnay offers linear melon fruit nuanced by a dusting of chalk with a bit tighter profile than might be expected from the region or price. This is, at least in part, due to the elevation of the vineyards from which the grapes were sourced.

2012 Gordo Yecla is a wine fashioned by importer Patrick Mata as a tribute to his winemaking father, Jose, whom he affectionately called Gordo (but of course!). Yecla is a winegrowing region in southeastern Spain, and the vineyards from which the Monastrell (70%) and Cabernet Sauvignon (30%) grapes are grown were planted at high elevation in 1970. The wine sees only limited oak aging in used barrels, allowing the fruit to be the center of attention. There is a brambly, black fruit character that is boldly enveloping, but there is a firm acid grip to help the wine retain a freshness that invites food pairing (keep that barbecue grill on the patio!).

Probably the two best known Spanish wine regions are Rioja and Ribera del Duero. David Bowler represents what arguably is the most famous winery in Spain, Vega Sicilia, located in the Ribera

del Duero, and I detoured from my hunt for values to enjoy the four wines from this venerable producer that were being poured. These wines, particularly the flagship Único, are highly collectible, although I am not among those who buy and cellar them as I think there are better high-end options.

Among the Rioja values at this tasting was 2014 Hacienda Grimón Crianza. While this wine does not have the price point of a bottle of Vega Sicilia (although perhaps a pallet of the wine might), both use the Tempranillo grape. "Crianza" designates a wine that has been aged in barrel for two years, with at least one year in oak. Here, the wine was aged 14 months in a mix of American and French oak and, critical for my taste, the oak does not dominate. Rather, there is a blend of fleshy berry fruit that is mid-weight in body, accented by a touch of balsamic and charged with a vibrancy that ties everything together.

### **Parents' Estate Planning** for Personal Injury Victims

(Continued from Page 11)

will not be eligible for SSI until they are 18. Upon attaining age 18, the parents should apply for SSI.

Also at age 18, the parents should consider applying for guardianship for the child with disabilities, if the child lacks sufficient mental capacity to make life decisions or to manage money. There are several types of guardianship including limited guardianship.

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## **The Legal Profession has a Suicide Problem** and Silence is Deadly

to do this. I yell across the table. "You have no right to control my life! I am an adult! Mind your own business!" They quietly let me rant.

Blaming them for the darkness is so much easier than seeing the light. The doctor is asking calm, focused questions, to ascertain whether I am a danger to myself. At times I am calm in my answers. At times I am crying, angry at him, then at my brothers. Quit asking the same questions! I know your game! Quit treating me like an idiot!

An hour has passed. The room is getting brighter. The love and calm of my brothers soothes me. Quiets me, softens my edges. It's always been there, but I wasn't present enough to sense it. I was thinking only of myself: My next high. My next drink. Without the drugs, what am I going to see in the mirror each morning? The thought terrifies me. My brothers calm me, and I begin to focus on my love for my family. Arms are around me. Holding me. I begin to feel the love penetrating my shell. They are not the enemy. Should I go to rehab? What about twelve-step? I'm still on

(Continued from Page 1)

the defensive, but at least for the moment I can listen. Have to grab those moments. They don't come often.

Sitting in that room during my first of two trips to a psychiatric facility seems so long ago. Today I am approaching 11 years in long term recovery. I still deal with clinical depression and take medication daily. I see a psychiatrist weekly. I am also a lawyer. I am part of profession with alarmingly high depression rates. As I often write about, there is also the serious issue of problem drinking in the profession. Both have a strong correlation with suicide. I've been there. I get it. I talk to many in the profession weekly who are currently struggling. Some have contemplated suicide. I ask them what they are afraid of in seeking help. What's holding them back from taking that first step forward towards the light. It's almost always about loss. Loss of license. Loss of job. Loss of family. Interestingly however, the fear of loss is generally attached to disclosure of the problem and not the possible consequences of the problem itself. That is

what we know as "stigma." A problem that cuts across demographics but is particularly powerful in the legal profession. We are strong. We are hard chargers. We are "thinkers" who can problem solve our way out of any situation without disclosure. We are not vulnerable.

I am here to tell you that that emotional vulnerability is a good thing in taking that first step to get help. Reaching out is not weakness, it's courage. Asking questions as a friend or family member is not intrusive, it's compassionate.

September was Suicide Prevention and Awareness Month. Be vulnerable. Be compassionate. Ask questions. Provide resources. Learn what your State Lawyers Assistance Program (LAP) has to offer. Learn what your local bar association has to offer. Does your law firm have an employee assistance program? What is your law firm doing to empower talking, compassion and empathy without stigma? If you are a solo practitioner, don't isolate. People want to listen. Talking is healing. Silence can be deadly.

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