

Reminder!

The Barrister is going digital beginning with the January issue.

Only one print Barrister after this one.

Sharing the Season with Deserving Kids



Children's Holiday Party set for December 2

The Bar Foundation's Annual Children's Holiday Breakfast and Party is returning to the Boys & Girls Club, Marjorie & Lewis Katz East Camden Clubhouse on Dudley Street in Camden. Scheduled for Saturday, December 2, breakfast will be provided by Chick Fil A and the Public Benefits Committee is hoping for another good showing of volunteers to help the party run smoothly for our young guests—hundreds of less fortunate children from Camden.

Beginning at 9 am, busses will start unloading our special guests for a full breakfast, followed by a few magical hours of fun, gifts, and a visit with Santa.

A cast of volunteer attorneys and judges, many in holiday and elf costumes, will lead a carol-sing to get everyone in the holiday spirit.

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Save This Date!

Fall Frolic!



Reduced Drink Prices • Hot Buffet

The PUB
Pennsauken

November 14th

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Adopt-A-Family for the Holidays

'Tis the season of sharing

Share your good fortune and make the holidays special for an underprivileged family in the City of Camden by "adopting" a deserving family at this special time of year. The Public Benefits committee is asking for your support of this year's Adopt-A-Family program. Our goal is to bring the joy of the season to 100 families and with your help we can do it!

Adopting a family is easy! You can choose to provide food and gifts for a small, medium or large family. Although you will not meet the family in person, you will be provided with the ages of the children, their clothing sizes, and in some cases, their Christmas "wish list." All you have to do is shop, pack, and deliver your donations to St. Joseph's Pro Cathedral Church in Camden.

(Continued on Page 13)

MEMBER ON THE SPOT



NAME: Jessica L. Starkman, Esq.
PRACTICE AFFILIATION: Per Diem
YEAR ADMITTED TO BAR: 2013
OTHER BAR ADMITTANCES: N/A

PRIOR OCCUPATION: N/A

RESIDENCE: Cherry Hill, NJ

HIGH SCHOOL: Cherry Hill High School East

COLLEGE: Rutgers University

LAW SCHOOL: Rutgers School of Law--Camden

WHAT LED YOU TO A LEGAL CAREER: I wanted to be involved in the world and make a difference in people's lives. I always wanted to be a superhero.

BEST PERSONAL/PROFESSIONAL ATTRIBUTE: Legal Research Skills

HOBBIES: Crochet/Knitting

FAVORITE TELEVISION SHOW: *Firefly*

FAVORITE MOVIE: *Wonder Woman* (2017)

FAVORITE VACATION PLACES: Anywhere with culture and history to explore.

ENJOY MOST ABOUT PRACTICING LAW: Getting to hear people's stories—the good, the bad, and the unusual.

CHERISHED MEMORIES: Childhood memories of my grandparents.

ALTERNATE CAREER CHOICE: Event Planner

GREATEST LESSON LEARNED FROM PRACTICE OF LAW: No matter what the issue—get it in writing.

FAVORITE QUOTATION: “Well behaved women seldom make history.”

A Year's
Worth of
CLE Credits!

Camden County Bar Association Continuing Legal Education

Career Development Series



The Career Development Series (CDS) is an series of practical skills CLE programs designed to assist junior to mid-level attorneys in their professional development and serve as a refresher for more seasoned practitioners, which allows you to easily complete your annual CLE requirement without travelling outside of Camden County. Program faculty includes a number of local jurists and experienced Camden County practitioners who have practical knowledge on the topics, and are familiar with the local court rules and customs, and the behaviors to avoid.

Wednesday, September 13th • 4-6:15 pm
Drafting, Pleadings & Motions

Thursday, October 12th • 4-6:15 pm
**Effectiveness & Professionalism in
 Brief Writing & Oral Advocacy***

Thursday, January 25th • 4-6:15 pm
Taking & Defending Depositions*

Thursday, April 12th • 4-6:15 pm
Basics of Civil & Criminal Trial Advocacy*

Thursday, February 15th • 4-6:15 pm
**Marketing for the Legal Professional
 & Law Firm Advertising***

Thursday, March 8th • 4-6:15 pm
Fundamentals of Federal Court

Thursday, March 15th • 4-6:15 pm
Avoiding Pitfalls on Appeals

Seminars are pending approval by the Board on Continuing Legal Education of the Supreme Court of New Jersey for 16.8 hours of total CLE credit. Of these, 4.0 qualify as hours of credit for ethics/professionalism.

* Ethics/Professionalism Credits



PERSONAL INJURY LAW

Income Taxation of Confidentiality Agreements in Personal Injury Cases

By Thomas D. Begley, Jr., CELA

Frequently, large personal injury settlements contain confidentiality agreements. Unless these agreements are handled properly, they can result in a significant income tax liability to the plaintiff. As a general rule, recoveries in personal injury actions are excluded from federal income tax under §104 of the Internal Revenue Code. However, the exception only applies to damages received on account of personal physical injuries or physical sickness. This exclusion is not available to monies attributable to medical deductions allowed in any prior taxable year. As a general rule, punitive damages are considered taxable income. If a Trial Court has awarded compensatory and punitive damages and the case settles on appeal, there is always an issue as to the allocation between compensatory and punitive damages. The determining factor as to how a litigation settlement or award will be treated for tax purposes is the origin of the underlying claim. This is known as the "Origin of the Claim Test." If the claim is for physical injuries or sickness, the recovery will qualify for an exclusion. Otherwise, the recovery is taxable. Cases often arise for a mixture of employment claim, claim for emotional distress and a claim for physical injury and sickness, and also contain a confidentiality agreement. Treatment of claims in that situation will depend on the origin of the underlying claim.

The taxation of Confidentiality Agreements in personal injury settlements is becoming an increasing concern to plaintiffs and to personal injury lawyers. The issue arises out of a United States tax court case.¹ This case involved an incident in which Dennis Rodman, a basketball player for the Chicago Bulls, during the course of a game against the Minnesota Timberwolves landed on a group of photographers and twisted his ankle. Mr. Rodman then kicked one of the photographers, Eugene Amos. Mr. Amos was immediately taken to a local hospital and the next day sought medical treatment from the Veterans Affairs Medical Center. The medical reports from the local hospital and the VA Medical Center did not disclose any serious injuries. Nevertheless, Amos filed a Complaint against Rodman seeking damages for personal injury. The case was settled for \$200,000.

The Confidential Settlement Agreement and release stated that the amount of the settlement was \$200,000 and that Rodman would be released from any and all claims by reason of any damage, loss or injury sustained by Amos as a result of the incident. The Release went on to say that part of the consideration was that the terms of the agreement and release be kept confidential. The Release also contained a liquidated damages clause to the effect that if there was a material breach of the Confidentiality Agreement, Rodman would be entitled to \$200,000.

Amos excluded from his gross income the \$200,000 he received claiming that it was non-taxable under I.R.C. § 104(a)(2) as a physical injury. However, the tax court held that the determination of the nature of the claim is factual. The court stated that the character of the settlement payment hinges ultimately on the dominant reason [emphasis added] of the payer in making the payment. Amos contended that the entire amount of the settlement was excludable from gross income. The Service contended that, except for a nominal amount, the settlement was compensation for Amos' agreement to the confidentiality provision. The court held that Rodman's dominant reason in paying the settlement was the petitioner's claimed physical injuries, but that there was a separate payment for Amos' acceptance of the confidentiality clause. The court determined that \$120,000 of the settlement amount was for Amos' claimed physical injuries and \$80,000 was on account of the non-physical injury provisions of the Settlement Agreement. The court noted that the Settlement Agreement lacked an express allocation between the physical and non-physical injury.

VERDICTS OF THE COURT

Superior Court of New Jersey

VERDICT: No Cause (8/2/17)
Case Type: Auto Negligence
Judge: Thomas T. Booth, Jr., J.S.C.
Plaintiff's Atty: Michael Gaze, Esq.
Defendant's Atty: John Dingle, Esq.
L-4230-15 Jury

VERDICT: No Cause (8/8/17)
Case Type: Auto Negligence
Judge: Anthony M. Pugliese, J.S.C.
Plaintiff's Atty: Alex Taylor, Esq.
Defendant's Atty: Robert Nicodemo, Esq.
L-1954-15 Jury

VERDICT: Liability Verdict: 20% Defendant Ciocco, Inc. d/b/a Bargain Brakes & Muffler; 80% Defendant, Joseph Ciocco - Damages Verdict: \$600,000 (8/16/17)
Case Type: Personal Injury
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Craig Robinson, Esq.
Defendant's Atty: Mark Dewland, Esq.
L-4060-15 Jury

VERDICT: No Cause (8/16/17)
Case Type: Contract
Judge: Anthony M. Pugliese, J.S.C.
Plaintiff's Atty: Stephen Buividias, Esq.
Defendant's Atty: Alec Shibano - Pro Se
L-4352-15 Jury

VERDICT: No Cause (8/22/17)
Case Type: Auto Negligence
Judge: Michael J. Kassel, J.S.C.
Plaintiff's Atty: Christopher Markos, Esq.
Defendant's Atty: Thomas Murphy, Esq.
L-2172-15 Jury

VERDICT: No Cause (8/23/17)
Case Type: Auto Negligence
Judge: Francisco Dominguez, J.S.C.
Plaintiff's Atty: Michael J. Malinsky, Esq.
Defendant's Atty: Robert M. Kaplan, Esq.
L-52-15 Jury

VERDICT: Damages Verdict: \$47,500 - settled prior (while jury in deliberation)
Case Type: Auto Negligence
Judge: Francisco Dominguez, J.S.C.
Plaintiff's Atty: W. Robb Graham, Esq.
Defendant's Atty: Rodd Dewitt, Esq.
L-741-15 Jury



FINANCIAL FORENSICS

Lawyers And Judges—Well, How Up-To-Date is Your Own Estate Planning?

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

Nah, we won't lecture but we do think you should involve your personal and practice CPA in the process. Enough said.

But, I do want to touch on what I consider a neglected but essential part of estate planning—a letter of instruction.

Although tax planning is extremely important, it is not the nucleus of financial/estate planning (did I really just say that). You should be primarily concerned with the welfare and security of those you care for and how they may be protected by wills, trusts, and other tools of the planning team. But this CPA has noted that no matter how carefully attorneys plan their own affairs, all too many, if not most, neglect to include another valuable document—the letter of instruction.

One of the most important features of a letter of instruction (I know some estate planning attorneys like to call it a “letter of intent”) is that it provides details regarding personal preferences in medical or funeral care or details concerning dispersion of personal assets that your ever so artfully crafted legal documents may not be able to outline. The main use of this letter of instruction is simply to lead the person or persons who must settle your estate through the process, step by step and in plain language that he or she can easily understand.

This letter can also outline more personal desires, including such details as where you want to be buried and the kind of funeral you'd like or if you'd like to be cremated. You can use the letter to voice other personal requests that may be inappropriate for a will or trust, such as a general sentiment about how you would like your heirs to use their inherited assets. You could even tell Marty Abo he better not wear the shirt with the super Abo logo on it to your funeral.

Of course, if you feel that your spouse and/or family will not support your wishes and you want your desires to be legally binding, put such wishes in your will, not in a letter of instruction. Again, this is coming from a CPA who loves to bug his individual lawyer clients and practices but it seems to me that the letter of instruction I'm referring to should supplement but it should never contradict the will. The will takes precedence. Although it may have little, if any, legal weight, in many situations, it can at least serve as a valuable guide in settling your affairs and assuring that estate administration proceeds smoothly.

Soooo....what follows are some of Abo and Company's suggestions for your “Letter of Instruction”. It's certainly not all inclusive so do forward to us any items you think should be appropriately added.

(Continued on Page 6)

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Abo Cipolla Financial Forensics, LLC and its affiliate, Abo and Company, LLC, are proud to be *Partners in Progress* with the Camden County Bar Association. As part of this program, we are offering member lawyers our most prized assets—our time, our insight and our expertise. Should you wish to confer on a complex technical issue, or simply get a second opinion, we welcome the conversation. Consider us an extension of your office where you can freely discuss any and all matters involving your clients or you personally.

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!

We strive to successfully meet the needs of a very diverse client base. We have carefully focused and developed our practice to specialize in the complexities of tax planning and compliance; financial consulting; accounting and review services; estate planning and compliance. We are here to assist our judiciary and legal colleagues in any and all accounting, tax, valuation, investigative or litigation support project where our team may be of benefit. We offer consultations in many areas, including the following:

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- Lost profit claims & damage measurement
- Business interruption claims
- Business valuations
- Critique of other expert reports and Interrogatory assistance
- Matrimonial litigation
- Document requests & productions
- Fraud investigations
- Arbitration and Mediation
- Tax related valuations
- Lost earnings from wrongful death, termination or personal injury claims

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Philadelphia Suburb Office
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Morrisville, PA 19067
(215) 736-3156

North Jersey Office
851 Franklin Lake Road
Franklin Lakes, NJ 07417
(201) 490-1117

www.aboandcompany.com

Lawyers And Judges—Well, How Up-To-Date

Is Your Own Estate Planning?

(Continued from Page 5)

1. Provide a detailed list of key people, with detailed contact information and instructions to alert them of your death. Consider your employer; executor; attorney; CPA; bankers or financial institutions where you have accounts; stockbroker/investment advisor; life insurance agent; property & casualty insurance agent; your clergy; trust officer; social security office (list your social security number and provide the location of your card).
2. Provide the names and contact information of any estate beneficiaries.
3. Describe the funeral arrangements you have already made or would like your family to make. Include a reminder to request a number of copies of the death certificate since they will be needed to process social security, insurance and other claims. Give the details if you have already reserved and/or paid for a burial plot. If requesting cremation, indicate where you would like your ashes placed or spread. Veterans may consider being buried in national cemeteries.
4. If you have designated yourself an organ or tissue donor, identify the recipient organization and phone number to contact so that the necessary arrangements can be made promptly.
5. Explain your wishes and reasons for or against an autopsy. Identify the nature and location of any anatomical gift declarations you have made.
6. Give the details and location of all your personal documents. Such might include your birth and marriage certificates, divorce papers, real estate deeds, diplomas, burial plot deed, warranties, military papers, citizenship certificates, your will and other estate planning documents; trust documents; buy sell agreements; extraneous writings incorporated in your will; adoption records; alimony/support agreements; durable power of attorney, medical power of attorney, living will and other documents important to you.
7. Prepare an exhaustive listing of friends, relatives, and others who should be contacted upon your death.
8. Detail out any information related to membership in societies, lodges, trade associations, or other such organizations. Many of them offer death benefits for named beneficiaries.
9. Identify where documents related to life insurance may be found, name of insurer(s),— policy number(s), face values, loan values, cash surrender values. etc.
10. List user IDs, passwords and account numbers for all of your liquid asset accounts (online accounts for any other asset should be included as well)
11. Provide a listing of any U.S. Savings Bonds (include names, denominations, serial numbers, and where located).
12. Provide any pension plan information, where located as well as beneficiary designation for all IRAs and other retirement plans.
13. Identify the location of personal, gift and business income tax returns, both state and federal, from the past few years.
14. Disclose where bills and records of payment are located.
15. Detail any large gifts that you have given in the past few years
16. List your banking accounts by name of institutions, address of the office where the accounts are located, PIN numbers, passwords, secret questions and type of account (i.e. checking, savings, retirement, investment, etc.)
17. List all stocks, bonds and other securities by their certificate numbers, bond denominations, name of issuers and tell where the securities are located.
18. Provide amounts, account numbers and statements for all of your debts, consumer and car loans, mortgages, and private debts of any kind. Detail any outstanding or recurring bills and identify where bills and records of payment are located or how paid (i.e. mail, email, text, automatic debit).

(Continued on Page 16)

WELCOME NEW MEMBERS

September 2017

Active (8)

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Public Sector

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Melissa Gullo

Marshall, Dennehey, Warner,
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Mount Laurel, NJ 08054



Things to Remember When Mediating

By Louis R. Meloni, J.S.C. (ret.)

By the time you reach the mediation table you would have considered all the advantages of mediation; speed of resolution, cost savings, party input in the resolution, confidentiality, and finality, and determined it is the right method for the resolution of your matter.

You should also have had a frank discussion with your client explaining the difference between litigation, arbitration and mediation, and the advantages of mediation, as well as the role of the mediator as a neutral. They must understand that the mediator is not there to determine who is right or wrong but to facilitate a resolution of the dispute.

Lastly, as you have been told since your first day in law school "be prepared". You should have submitted a mediation statement to the mediator outlining your position and its supporting legal and factual basis. Review your submission and file before the mediation. As often happens in our profession, time escapes us. Suddenly the day of mediation is here, you grab the file, run to the mediation and hope you can review the file at the table or remember enough to get by. That is not a good way to start. Being at the top of your game at mediation is as critical as it is at trial.

Once you are at the mediation table, here are some hints that may help you resolve the case:

Have the Right Demeanor

The attorney's demeanor at the mediation sets the tone for the negotiations. Be confident but make it clear that you have come ready to resolve the dispute.

Many times an attorney or a party will say or do something that will suggest that they are not committed to the mediation process.

For instance in one multi party case I recently mediated, one attorney announced in the opening session he was only here because the other parties wanted to mediate and he was going to observe.

In another case, a litigant announced that he was here because his lawyer wanted him to participate and he had agreed to pay for one hour of mediation but was not optimistic.

In both of these cases the wrong message was sent at the outset. In each case I spent a considerable amount of time in the private caucus convincing those parties to rethink their attitude toward the process.

Although neither one of these cases resolved, significant movement on each side occurred. I suspect that had I not spent so much time persuading the objecting parties to commit to the mediation, it would have been more successful.

Put Yourself in the Other Party's Shoes

Some litigants and their attorneys look at the facts of the case only through their own eyes. It is important to understand the other party's position. To do this you must listen to their side of the story and with an open mind evaluate the strengths and weaknesses of their case and be willing to accept any valid points they may make.

Be Reasonable

Taking an approach that rejects whatever the other party says will not lead to a resolution.

On the other hand listening to the other side's position and identifying areas of agreement will help to reduce the issues to be resolved and build trust with your adversary.

Focus on Resolving the Dispute Not Finding Fault

One of the most important reasons for choosing mediation over arbitration or litigation is that there is no finding of fault or determination of right or wrong. However, some litigants are looking for such a determination. I have seen this mostly in LAD cases where an employee alleges wrongful conduct by an employer and wants the employer punished, or where the employer contends the employee's assertions are without merit and wants vindication.

The desire for this type of result is fueled by emotion, which is going to be present in any dispute. The attorney must seek to eliminate the emotion and have the client look beyond their feelings to resolving the dispute as you would make a business decision; that is balancing the pros and cons of any proposed resolution on their merit.

(Continued on Page 17)

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FOUNDATION UPDATE

By Jenifer G. Fowler

The leaves are all falling from the trees and summer is now just a distant memory. As I reminisce about the last days of summer, I would like to thank those who worked so hard to make the Young Lawyer Lobster Bake to support the Larc School at the Cooper House in September such a success. I would also like to thank all the sponsors who made it possible Presentation Sponsor: **Locks Law Firm**; Cigar Bar Sponsor: **Madden & Madden**; Lobster Sponsors: **Hagner & Zohlman & Relievus**; Lobster Man: **Flaster Greenberg**; Souvenir Sponsor: **Brenda Lee Eutsler & Associates**; Larc Sponsors: **Eisner & Fowler**; **Tate & Tate**; **Craig David Becker Attorney at Law**; **McDowell, Posternock, Appel & Detrick**; **Victory Bar Recovery**; **OnPoint Legal Nurse Consulting**; It was a beautiful September day. We had great weather, great food, great music and all for a great cause. To top it all off, it was a sold out event.

Hard to believe the holiday season is right around the corner. The Foundation is always very busy during the holidays. The annual holiday party for the children in Camden takes place every year on the first Saturday of December. This year is no exception. Once again the Foundation will have a Christmas party at the Boys and Girls Club in Camden for about 250 children. The Foundation will provide breakfast to each of the children, donated by Chick-fil-A, then the children will enjoy a magic show and for the grand finale Santa will make an appearance and give a present to each child. I think all of the volunteers who come out each year would agree and say that it is truly one of the most gratifying days of the year.

Preparation for this event starts in November with the Fall Frolic. The Fall Frolic this year is on November 14, 2017. It will once again be held at The Pub in Pennsauken. The cost is \$20 and all proceeds from the event go toward the cost of purchasing the presents for the children's Christmas Party. I ask that all of you purchase a ticket to the Fall Frolic and come out to the event. This event is open to all persons, not just attorneys. Bring your staff, bring your spouses, bring your friends. The more the merrier. It is a

great way to catch up with our friends and colleagues while supporting a great cause.

After the Foundation has purchased the presents for the children's holiday party it is then time to wrap them. Each year we have a wrapping party at Bar Headquarters to wrap all 250 presents. We welcome all elves to come and join us to help wrap presents. The date for the wrapping party is November 29th from 5-7 pm at Bar Headquarters. More details will follow with regard to date and time to help wrap presents.

Then the big event, the Christmas party itself, we always need volunteers to help hand out the breakfasts, sing songs with the children, help clean up breakfast and of course help Santa hand out the presents. The date for the party is December 2. Children start arriving at the Boys and Girls Club at 9 am. Please come out and help with this great event.

Don't forget each year you have an opportunity to adopt a family for the holidays. You can adopt a small or large family. Multiple firms or attorneys can

adopt a family together. Information will be forthcoming as to the process to adopt a family. The saying "giving is more fun than getting" does have merit. I personally enjoy each year finding out the ages and genders of the children in my adopted family and what is on their wish lists. I am always amazed when I drop off the donations by the boxes and boxes of food and gifts that are left for the families. It is a beautiful sight to see.

I hope to see all of you at the Fall Frolic and that each of you take just one opportunity to help the Foundation during the holiday season. Come and wrap some presents. Help hand out food to a child at the Christmas party. Adopt a family for the holidays. There are so many opportunities to help those in need through our Foundation. You can make a difference.

Wishing you all a Happy Thanksgiving.

Sharing the Season with Deserving Kids

Continued from Page 1

The children will also be treated to a magic show before Santa (a.k.a. U.S. District Court Senior Judge Joseph Rodriguez) and his sleigh full of goodies arrive. Every child will have a chance to tell Santa what they want for Christmas and then be sent off with a photo and a wrapped gift.

With that many gifts to wrap, it takes time and hands! To ensure a beautifully wrapped gift awaits each child, a wrapping party is scheduled for 5 pm on Wednesday, November 29th at Bar headquarters. Volunteer wrappers are needed to assist in wrapping and filling goody bags. If you can't join us on Saturday for the party but want to help, please stop by and help us wrap.

No volunteer has ever been turned away from this incredible experience and we need volunteers more than ever this year. If you are inspired to make a positive difference in the lives of those who need it most and you can spare several hours, please call or email Roseanne at Bar Headquarters, 856.482.0620/rry@camdencountybar.org.



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Eat, Network, Eat, Network, and so on!

The annual Meet the Judges & Law Clerks Reception attracted over 200 members of the bench and bar to the TD Bank Atrium on Route 70 in Cherry Hill on September 19th for an enjoyable evening of back to the bar-year networking, camaraderie and introductions. The surroundings were beautiful, the crowd was lively and the food was plentiful and outstanding.



Judge Dominguez, Alex Jacobs, CCBA President Eric Fikry, Immediate Past President Lou Moffa



Judge Fratto, Amanda Figlan, Judge Shusted



Lou Moffa, Assignment Judge Silverman Katz, Amy Goldstein



Sr. Judge Simandle & Doug Johnson



Dean Lintzeris, Veronica Vizzard, George Farrell



Magistrate Judge Schneider, Regina Lawrence, Victoria Stolyar, Jeremy Zacharias



Brian Herman, David Gelman, Matt Rooney, Mike Dennin



Harris Feldman & Judge Meloni



Marty Abo, Carlo Scaramella, Peter Boyer



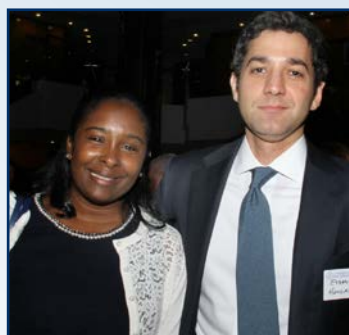
Mike & Karen Berger, May Kay Wysocki



Judge Natal, Justice Solomon, Mike & Tom Hagner



Judge Leone, Brooke Lewis, Kevin Farrell



Tiana Sampson & Ethan Hough



Kevin Bright & John Kahn



Howard Goldberg & Anne Walters

WINE & FOOD

By Jim Hamilton

It has been awhile since we talked turkey (not, of course, the much in the news capital T country), so it seemed timely to look at our All American holiday, Thanksgiving, or, as it has come to be known in many households, Black Friday Eve. As anyone who has tried to secure a dinner reservation at a popular restaurant knows, the Norman Rockwell inspired vision of families gathered around a dining room table for a quiet meal with all the trimmings is not quite standard fare in our modern times. Hectic work and play schedules before the holiday, and television football schedules on it, impose obstacles that even the most fiercely tradition-minded family may be unable to overcome. However, a person has to eat, and whether at home or at a favorite dining destination, turkey often is the entrée of choice. What, then, are some of the options for wine to accompany a Thanksgiving dinner?

Since holidays are times of celebration, one prospect might be a sparkling wine. While there is a tendency to view such wines as preprandial options, in reality the right bottle of bubbly is quite versatile. Linda and I have enjoyed entire meals (at an Italian restaurant, no less) drinking only Champagne. With the increasing interest in grower Champagnes (producers who grow the grapes and then make, bottle and sell their wines rather than sell the grapes to the large Champagne



houses), the consumer has an increasing array of choices. Some of the more affordable artisanal producers include Agrapart, Aubry, Chartogne-Taillet, Diebolt-Valois, Gaston Chiquet, Moutard, Varnier-Fanniere, Marc Hébrart, Moussé Fils, Ployez-Jacquemart, Geoffroy and P. Gimmonnet.

If the price of a nice bottle of Champagne is more than you feel comfortable serving to Aunt Agnes, there are many less costly options. New Mexico's Gruet Winery brings French sensibility, and technique, to its sparkling wines at prices that represent more than fair value. Thanks in part to the recession, the market for Champagne alternatives such as Spain's Cava and Italy's Prosecco blossomed and, recovery notwithstanding, have remained popular. Furthermore, there are some really nice sparkling wines from regions in France not entitled to call their wines "Champagne," such as Alsace, the Loire Valley and the southern region around Limoux. From the latter, a perennial best buy is the Crémant de Limoux of Domaine Collin.

Understanding that some may be apprehensive serving bubbly, let's talk about some white still wine options. A dry ("trocken") or slightly off-dry Riesling is worth considering, particularly those made in cold weather regions such as Germany, Austria, Italy's Alto Adige or New York's Finger Lakes, where the grapes can provide the acidity to make a wine that can stand up to some of the accompaniments served with the main course. Focusing on value, some of the German producers to consider include Darting, Gunderloch, von Winning, Strub, Selbach-Oster, Geil, Zilliken, Kuger-Rumpf, Meulenhof, Reuscher-Haart, St. Urbans-Hof and Merkelbach. We have discussed many of the specific wines of these producers in the past, but one that I recently tasted for the first time that should represent value is the 2015 St. Urbans-Hof Single Post Riesling.

If you favor red wines, big bruisers with bold fruit or imposing tannins may not be the most suitable, but there are some good options. A wine I recommended last year to one of our newest members was Illahe Pinot Noir from Oregon's Willamette Valley, and I recently tasted the current (2015) vintage and maintain my enthusiasm. While affordable New World Pinot Noir often will offer fruit without the structure to support it, this wine's acidity drives the spicy, mineral accented red cherry fruit with a precision that is more likely to complement, rather than compete with, the food being served. The winery also makes one of the more interesting Viogniers I have encountered recently. Once again, it offers its fruit in a clean, crisp framework that invites food pairing. While France's Burgundy region is commonly considered to produce



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(Continued on Page 15)



By Eric G. Fikry

PRESIDENT'S PERSPECTIVE

What exactly does professionalism mean in the context of legal practice in the digital age? Is it simply maintaining civility in one's dealings with the Court and adversaries? Is it compliance with the Rules of Professional conduct, and a making a conscious effort to conduct oneself in an ethical manner? Is it the diligent preparation of one's work product and the exercise of care in the handling of one's client's affairs? Professionalism involves all of those things, but goes further to promote the development of "aspirational goals and traditions that seek to encourage the bar, and bench, towards conduct that preserves and strengthens the dignity, honor, and integrity of the profession." *Professionalism and Independence*, New Jersey Commission on Professionalism in the Law (citing, *Between Law and Virtue*, Joseph P. Tomain and Barbara G. Watts, 71 U.Cin.L.Rev. 585 (2003)).

I suspect that many of you are not aware that the CCBA has developed its own Code of Professionalism. The CCBA's Code of Professionalism, "represents the higher standard of conduct that makes the profession of law more than a competitive service industry."¹ While I strongly recommend that you take a few moments to visit the CCBA's website and review the Code of Professionalism in its entirety, there are a few provisions that capture the main thrust of the Code that I'd like to excerpt here:

1. I will provide my client with objective advice and will endeavor to represent my client's lawful interests as expeditiously and economically as possible.
2. I will advise my client against pursuing a course of action that is without merit and against tactics which are intended to delay resolution of a matter, or to harass or drain the financial resources of the opposing party.
3. I will counsel my client that a willingness to initiate or engage in settlement discussions is consistent with zealous and effective representation, and that civility and courtesy during the course of client representation are not a display of weakness, but are virtues upon which our system of justice was founded.
4. I will treat opposing counsel, other lawyers and their staffs, parties, witnesses, the courts and members of the court staff with civility and courtesy. Professional courtesy is a necessity entirely compatible with vigorous advocacy and zealous representation.

...

These above provisions remind us that our obligations to our clients neither require nor permit us to employ tactics in litigation that attempt to exploit the economic superiority of one party over another. They also require that attorneys not acquiesce to client preferences for overly aggressive theatrics or other behavior intended primarily to intimidate or otherwise create the misperception of relative strength. The Code makes clear that such methods should not be confused for zealous and effective representation in this county, strengthening the dignity, honor, and integrity of the profession as described above.

The CCBA is actively working to assist members in becoming more effective advocates while simultaneously exhibiting the high level of professionalism it expects of the bar. The CCBA's *Career Development Series* of CLE programming is now in its second year. If you've read this

column in the past, you are aware that the *Career Development Series* are practical skills CLE programs designed to provide practical training for junior and mid-level attorneys, or serve as a refresher for more seasoned practitioners. Prior *Career Development Series* programs this year include—"Drafting Pleadings & Motions" with the Honorable Thomas J. Shusted, Jr., J.S.C., and "Effectiveness & Professionalism in Brief Writing & Oral Advocacy" which I had the privilege of moderating last month with the Honorable Charles W. Dortch, Jr., P.J.F.P., and the Honorable Marie E. Lihotz., P.J.A.D. (Ret.). The next program in the *Career Development Series* will be "Taking & Defending Depositions" on January 25, 2018, to be followed by "Marketing for the Legal Professional & Law Firm Advertising" on February 15, 2018, "Fundamentals of Federal Court Practice" on March 8, 2018, "Avoiding Pitfalls on Appeals" on March 15, 2018, and finally, "Basics of Civil and Criminal Trial Advocacy" on April 12, 2018. Registration for these and all CLE programs is now open on the CCBA's website: www.camdencountybar.org.

The CCBA strives to provide its members with unique CLE offerings that promote interaction both with members of the judiciary as well as with knowledgeable practitioners. Junior lawyers attending these programs can also benefit from the opportunity to network with the many experienced members in attendance whose insight and guidance enhance the discussions taking place during these programs.

Join the CCBA for Professionalism Day. The CCBA's Professionalism Day program will take place on Thursday, November 2, 2017 from 2:00 p.m. – 4:00 p.m. at the Hall of Justice. This year's program entitled, "The Good, the Bad & the Ugly" takes a novel and creative approach in addressing a wide array of ethical dilemmas that frequently arise in the areas of civil, criminal and family law practice. Rather than the standard series of speakers or panel discussions, this year's program participants will face hypothetical factual scenarios that are routinely sources of professional conduct issues. They will then attempt to resolve those issues in real time, and in front of a real Judge. Attendees will then have an opportunity to get in the act by engaging the Judges and participants in a Q & A about the nature of the ethical concerns being presented, the courses of action taken by the participants, and the most appropriate ways of dealing with these situations in a way that serves both the client's needs while complying with the Rules of Professional Conduct.

The program will feature the Honorable Edward J. McBride, Jr., P.J.Cr., introducing a sequence on common issues arising during depositions; the Honorable Kathleen M. Delaney, J.S.C. introducing the discussion on ethical issues frequently arising during criminal hearings; the Honorable Anthony M. Pugliese, P.J.Cv., introducing the segment on civil discovery; the Honorable Judith S. Charny, J.S.C. on common problems arising in the course of family law hearings; and, Paul Melletz, Esq. and Joseph Connell, Esq. addressing professionalism issues in settlement negotiations.

Be sure to pre-register for what promises to be an engaging, informative and practical discussion that will help you more effectively represent your clients in an ethical and professional fashion.

¹ See <http://www.camdencountybar.org/code-of-professionalism/>

YOUNG LAWYER HAPPENINGS



YOUNG LAWYER CHAIR

The Times They Are A-Changin'

By Tom Hagner

It should come as no surprise to anyone reading this article, that technology is changing the practice of law. Whether it is for better or for worse, likely depends on when you started to practice. Technology may make us more efficient lawyers, but whether or not it can serve to make us better lawyers is certainly a topic for debate. For many, technology may be viewed as a competitor, as more and more people use online services such as LegalZoom to draft basic legal documents such as wills and contracts for sale. For others, technology is a life saver, as many firms rely on software to assist with case and practice management.

That said, while technology is advancing rapidly around us, inside the legal profession, advances are much slower. As researchers on this topic have acknowledged, due to this risk-averse nature of attorneys, we tend to stick to what we know, and are hesitant to adopt new ways of doing things – especially when the old ways have proven successful. Adopting a new system for case management or practice management is a tall order, and requires the investment of many hours into learning and perfecting new processes and programs.

Nevertheless, as I, like many of you, adjust to our Superior Court's adoption of electronic filing, I can't help but wonder about what the next big change will be, and what the benefits and detriments of that change will be. The changes are not limited to the way we serve our adversaries, the way we file our Complaints, and the way we communicate. Rather, automation of the legal practice is necessarily detrimental to the almighty billable hour, and may result in practices that can be successfully automated in large part switching from hourly billing to flat fees. In fact, there are already services which exist to create reusable forms for practice, much like the forms available for *pro se* litigants on the Superior Court's website. Other changes in technology will undoubtedly positively affect a lawyer's ability to effectively use and present evidence at Trial.

Perhaps one of the most obvious examples of technology's impact on the legal profession can be seen with Social Media. The advent of Social Media has caused attorney's to re-write discovery requests to cover Facebook, LinkedIn, Twitter, Instagram, etc. accounts. Social

(Continued on Page 13)

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YOUNG LAWYER CHAIR**The Times They Are A-Changin'***(Continued from Page 12)*

Media has opened a window into the personal lives of litigants which can often prove to be detrimental them, causing lawyers to have to caution and advise clients accordingly. On the other hand, lawyers and law firms are taking advantage of Social Media to advertise and reach new clients bases.

It appears inevitable that, like the three-martini-lunch, the days of attorneys sitting behind desks in front of large legal libraries are dwindling; and at the same time, companies like Fastcase, Westlaw, and LexisNexis are thriving by virtue of their provision of streamlined researching capabilities and nearly instantaneous obtainment of information. The digitalization of the legal profession has also opened doors for new businesses, such as those who assist with organization and distribution of electronic discovery.

In recognition of the fact that the old road of paper periodicals is rapidly aging, and in an effort to keep up with the changing times, our beloved *Barrister* will be going digital beginning in January 2018! For the times they are a-changin'!

Upcoming Young Lawyer Events

Mark your calendar for November 9, for a Young Lawyer Happy Hour sponsored by BIRE Financial Services, a valued CCBA Partner in Progress (location TBA). Look forward to seeing you there!

Adopt-A-Family for the Holidays

'Tis the season of sharing

Continued from Page 1

In addition to gifts, we are also asking that you include enough food for Christmas dinner. The amount you spend is up to you, and everything is appreciated.

St. Joseph's Pro Cathedral Church helps needy families throughout the year, regardless of creed, and your generous support will help brighten the holidays for those most in need in our community. We are thrilled to be working with St. Joseph's again this year, and look forward to meeting or surpassing our goal of 100 adopted families.

We urge all Bar members to consider adopting a family in 2017 either through their firm or individually. Your participation is guaranteed to make you feel wonderful, and it's tax deductible!

Refer to the flier included with this month's inserts for contact information to adopt YOUR family, and thank you!

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PERSONAL INJURY LAW

Income Taxation of Confidentiality Agreements in Personal Injury Cases

(Continued from Page 4)

How should plaintiffs and plaintiff's personal injury lawyers address confidentiality agreements? There are a number of possibilities:

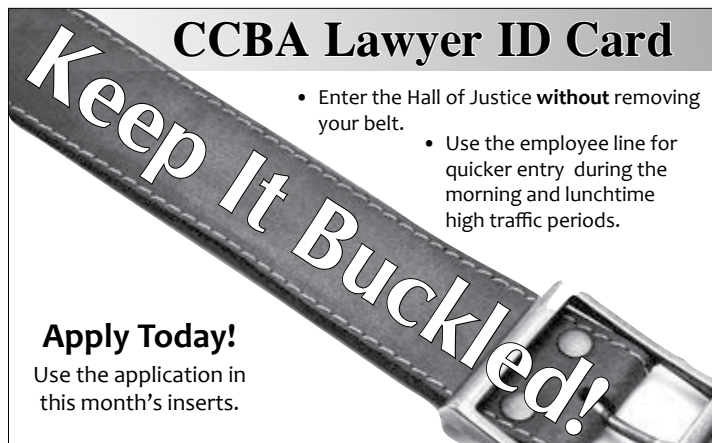
- (1) Do not agree to a confidentiality clause; however, this may preclude settlement.
- (2) Make a specific allocation of consideration between the physical injury and the confidentiality clause. Such an allocation should be reasonable, because it is likely that the Service will look beyond any nominal consideration and make a determination based on the substance of the transaction.
- (3) Include reciprocal promises of confidentiality without additional consideration. Again, the Service may look to substance over form. Clearly, the defendant would have an interest in keeping confidential either the existence of his conduct or the amount of the settlement. The plaintiff's motive for confidentiality may be more difficult to prove, but it could include a desire not to have friends and neighbors know that he has received money or, if so, how much money.
- (4) Allocate \$1 to each party as consideration for reciprocal promises of confidentiality.
- (5) Include an indemnity provision compelling the defendant to indemnify the plaintiff for adverse or unforeseen tax consequences. It is unlikely that a defendant will agree to this.
- (6) Seek a private IRS ruling in advance of finalizing the settlement. Such a ruling would take a long period of time and could cost \$30,000 to \$40,000. In most instances, this will not be practical strategy.

¹ Amos v. Commissioner of Internal Revenue, T.C. Memo. 2003-329 (Dec. 1, 2003).

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WINE & FOOD

Continued from Page 10

benchmark Pinot Noirs, the prices for even village-level red Burgundies has escalated to exceed most people's comfortable reach. However, while not usually under \$20, some quality producers often make an entry level wine (often labeled as "Bourgogne" that is worth a try. Some of the larger producers like Jadot, Louis Latour and Drouhin make good Bourgogne Rouge wines. We also can look to the southern reaches of the Burgundy appellation and find a nice Beaujolais wine. These wines are made with the Gamay grape which can offer dark fruit and a black pepper quality at a range of prices (and body) depending on whether it is from the broader Beaujolais region or one of the ten "crus," or village-driven appellations that generally offer superior quality.

Another red wine prospect is Grenache (or Garnacha in Spain). Again, we probably will keep our sights, and cost, lower and search for a nice Cotes-du-Rhone (most of which are Grenache-based) or a Spanish Garnacha from a quality producer. As we have discussed many times, Spain offers a treasure trove of quality wines at very affordable prices.

If you are inclined to conclude your meal with dessert and want a wine to enjoy with it, what might that be? Let's limit our discussion to wines to try with that All-American dessert, apple pie. Among possible choices might be an off-dry German Riesling (which if you opened a bottle for the meal you can continue to enjoy – if there is any left!), a Moscato d'Asti (which has the advantage of being even lower in alcohol than a German Riesling) or, if the pie is sauced up a bit, a Sauternes. And, if you decline dessert but remain thirsty, these are wines that on their own can function as a nice dessert alternative! Happy Thanksgiving!

SEMINARS



The Association kicked off its *Career Development Series* seminars with **Drafting Pleadings & Motions**. Program participants were: Moderator/faculty **Matt Rooney**, *DeMichele & DeMichele, P.C.*; **Hon. Thomas T. Booth, J.S.C.**, *Camden County Superior Court, Law Division*; and **Abraham Tran**, *Andres & Berger*.



Moderator **Brian Herman** with **Brenda Lee Eutsler & Associates, P.A.**, **Jae Kim**, **Laura Winston & Chintan Desai** all with **Kim Winston, LLP**, recently presented **Introduction to Intellectual Property: Keeping Your Clients Protected**.



One of the Association's traditional CLE programs was back for 2017, **Black Letter Blast on Criminal Law '17**. Program participants included: Moderator **Peter Crawford**, *Camden County Prosecutor's Office*; and faculty members **Timothy A. Wright**, *Asst. Camden County Public Defender*; **Linda A. Shashoua**, *Assistant Camden County Prosecutor*; **Dennis Wixted & Derek Decosmo**, *Zucker, Steinberg & Wixted*.



Rebecca L. Rakoski, *XPan Law Group, LLC, Downingtown, PA* and **Matthew R. Steger**, *Keavney & Steger, Princeton* teamed up for **Top 10 Tips for Law Firms on Cybersecurity** recently at Tavistock.

FINANCIAL FORENSICS

Lawyers And Judges—Well, How Up-To-Date Is Your Own Estate Planning?*(Continued from Page 6)*

19. Provide a list of credit cards by issuer and card number, web information and access information. You might also include a reminder to cancel them or get them reissued in the name of your spouse.
20. For insurance list all life, homeowner's, veterans, auto, and medical policies you have and the location of all the documents needed to process the claims. Again, list the name and address of your agent.
21. Tell where registration and other papers may be found for all motor vehicles you own or where any leases for vehicles are located.
22. Consider describing the circumstances under which you want the doctors to pull the plug in simpler terms than can be used in medical powers of attorney. Use this as an opportunity to clarify your wishes and complement a living will.
23. If information is stored electronically, identify the location of the computer, backup, logon passwords, cloud, etc.
24. List any living trusts you have set up and where the relevant documents are located. Similarly, identify any trusts where you are a beneficiary or serve as a trustee.
25. List all debts owed to you, with relevant information of the accounts /notes receivable.
26. List possible sources of survivor benefits not named in your will.
27. Give the location of the safe deposit box and key and a list of the contents of the box.
28. Detail out how you want your affairs handled and how you wish your sentimental personal property (heirlooms) distributed. Your will may state that these articles are to be distributed according to the letter.
29. Any thoughts you have about the future education of your children and/or the care of elderly parents. If self-employed, express thoughts about managing your business/office.
30. Describe the whereabouts of any and all tangible assets that are not readily accessible.
31. You can use your letter to send important messages to your survivors. For example, you might include special hopes you have for your grandchildren's education, or the important values you want to pass on. This could be the place you tell them something you never got around to saying. It can be whatever you want it to be.

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FINANCIAL FORENSICS

Lawyers And Judges—Well, How Up-To-Date Is Your Own Estate Planning?

(Continued from Page 16)

32. Comment on the care and placement of any pets.
33. Identify what charities or organizations might be appropriate recipients of memorials or charitable donations made in your memory, especially if they are expected in lieu of flowers.
34. You may wish to prepare your obituary in advance and be updated periodically and even identify to which newspapers it should be sent.
35. Besides those financial/business advisors identified previously, describe those persons to be contracted upon your death, noting any particular requests or messages to be given, and listing their current addresses and phone numbers. Such may include friends, relatives, business associates, and colleagues in charitable or civic groups.
36. Identify current or potential benefits of the Social Security or Veterans Administration.
37. Identify key employees and business friends to keep business operating until sale. The value of an ongoing business is much greater than a closed one!
38. Identify location of records for health savings accounts, listing name of account, number and access information.
39. Passwords and secret questions for email accounts, plus online social media, such as Facebook, LinkedIn, Twitter, Gmail, etc.
40. Identify any intangible assets such as patents, trademarks and copyrights and indicate when you control them directly or through a trust.
41. Identify records of accounts for which you serve as the custodian for minors.
42. Details of frequent flier miles such as airline, frequent flier number and access.

Abo and Company, LLC and its affiliate, Abo Cipolla Financial Forensics, LLC, Certified Public Accountants – Litigation and Forensic Accountants are proud Sponsors of the Burlington County Bar Association. The above article was retrieved from the "E-mail alerts" disseminated to clients and friends of the firm. With offices in Mount Laurel, Morrisville, PA and Franklin Lakes, NJ, tips like the above can also be accessed by going to the firm's website at www.aboandcompany.com or by calling 856-222-4723.

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Things to Remember When Mediating

(Continued from Page 7)

Demand and Offer

The essence of the mediation process is to massage the demand and offer until there is an agreement. An unreasonably high demand will spawn an unreasonably low offer and lead to each party saying the other is not truly interested in settling the matter. It is important that the proposed resolution bear some relation to reality.

In making a demand or offer, counsel should evaluate the case the same as they would for trial. Consider the question of liability. Ask yourself the following questions: Do the facts and law support my claim? What are the nature and extent of damages? Can I overcome any evidentiary problems?

Provide the mediator with the rationale or explanation for the demand or offer and ask the mediator to convey the same with the expectation that your adversary would provide a basis for their response.

Mediation is a give and take process. Patience is required. With a continued dialogue a reconciliation of interests can be achieved and the mediation a success.

Be Persuasive

Whether it is negotiating a contract or addressing a jury, lawyers are called upon to be persuasive. In making the argument for your position be respectful to the other party. Listen to their wants and needs, and use logic to support your stand. Time your strongest argument for a point in the process when it will have maximum effect.

Conclusion

When you come to mediation, remember why you chose this form of dispute resolution. Be committed to making it work. Be patient and prepared to continue talking even if it involves going into another session. The ultimate result in avoiding additional time, effort and a potential trial with an uncertain result, is well worth it.

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AUTUMN SCRAMBLE

Despite experiencing the tropical storm remnants of Hurricane Nate, the Foundation's Autumn Scramble went on as scheduled on **October 9th** at Scotland Run Golf Club. By tee time, most of the rain had passed through and the sun even made an appearance late in the day. Even the overcast, rainy day couldn't dampen the spirits of our intrepid golfers.



Outing co-chair Mark Oddo with the First Place Team from our Partner in Progress, BIRE Financial Services – Philadelphia Flyer Brian Propp, Jenna Gyger, Teadra Vito, & Loren Kagan.



The Second Place Team with Foundation President Jen Fowler, Mike Hagner, Tom Hagner, Brian Herman & Mark Strasle.



Jen Fowler with the Third Place Team of Dan Reinganum, Judge Poslusny & Art Abramowitz.



Jen Fowler won the Women's longest drive competition, while Brenda Eutsler took the women's closest to the pin competition.



Cocktail Hour Sponsor **MCS** represented by Chris Esposito and Casey Langel, teamed up with Rachael & Blaire Brekke.



Sweet Treats Sponsor **Ken Landis Tax Solutions**, Beth & Linn Way from Cocktail Hour Sponsor **Surety Title Company**.



Cocktail Hour Sponsor **Resolution Funding** was represented by Rich Camisa & Anthony Leonard who teamed up with Greg Sciolla.

Law Offices of Andrew Ballerini



Andrew A. Ballerini

Certified Civil Trial Attorney
Million Dollar Advocates Forum Member

As Certified Civil Trial Attorneys, we have and will pay one third referral fees to those attorneys who give us the opportunity to serve their clients.

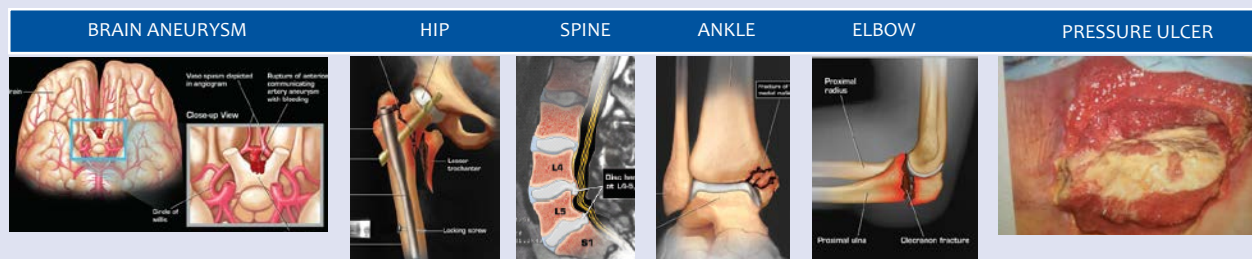
Accepting Referrals of Serious and
Catastrophic Injury Cases Including:

**Nursing Home, Medical Malpractice,
Product Liability, Premises Liability,
Truck & Automobile Injuries**



Richard J. Talbot

Certified Civil Trial Attorney
Million Dollar Advocates Forum Member
N.J.A.J. Board of Governors
A.A.J. Nursing Home Litigation Group Member



See other exhibits @ www.ballerinilaw.com

We **RELENTLESSLY** represent our clients using our valuable resources to help prove the significance of
OUR CLIENTS' INJURIES!

Recent case results include:

- \$990K Nursing Home & Assisted Living Facility Neglect-Multiple Pressure Ulcers
- \$400K Recovery-Pain & Suffering for Fatal Fire (Verdict of \$375K plus \$25K Settlement)
- \$500K Jury Verdict-Excess Over Remainder of \$100K CSL Policy Against Allstate Insureds with Offer of Judgment for Policy-Herniated Discs
- \$500K Nursing Home/Hospital Neglect - Pressure Ulcers
- \$750K Nursing Home Neglect During Rehab Admission-Infected Pressure Ulcer-Surgery
- \$950K Nursing Home Neglect-Failure to Recognize and Act Upon Signs of Stroke
- \$400K Nursing Home Neglect-Pressure Ulcer Developed on Cancer Patient During Rehab Admission
- \$400K Hospital and Nursing Home Neglect - Pressure Ulcers
- \$300K Nursing Home Neglect/Violations of Rights-Bedsore for About 40 Days
- \$300K Nursing Home Neglect/Violations of Rights-Medication Error-Hypoglycemic Event
- \$550K Nursing Home Neglect/Violations of Rights-Fractured Hip During Transfer-Pressure Ulcers
- \$850K Nursing Home Neglect/Violations of Rights-Bedsore

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