



MCBA

Upcoming Events

Annual YLC Brew Ho-Ho
Fox & Hound, Menlo Park Mall
Tuesday, December 6th

Annual Family Law CLE & Dinner
Joint Meeting with the Union &
Somerset County Bar Assns
Wednesday, January 18th
(See page 9 for details)

Mark Your Calendars Now!
Bar Foundation Mardi Gras Night
Friday, February 17th
The Grand Marquis, Old Bridge
(See page for 11 details)

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The Middlesex
ADVOCATE

The Middlesex County Bar Association Monthly Newsletter
December 2016 · Volume 31, Number 4



A Message from the President

By Andrea J. Sullivan

On October 25, 2016, together with the Bergen County and Passaic County Bar Associations, the Middlesex County Bar Association filed a lawsuit on behalf of our members against the State of New Jersey and the Supreme Court of New Jersey. The purpose of the lawsuit is to address the unconstitutionality and unlawful enactment of N.J.S.A. 2B:1-7, et seq. (the "Act") and Rule 1:43, with regard to filing fees.

Specifically, the Legislature passed the Act on August 4, 2014 and it was approved by the Governor on August 11, 2014. The Supreme Court issued its rule on October 31, 2014 - the result of which raised 82 court filing fees effective on November 17, 2014. These actions violated:

(1) Article IV, section I(1) of the New Jersey Constitution by unlawfully abrogating the New Jersey Legislature's exclusive legislative power and delegating same to the Judicial Branch;

(2) Article IV, Section VI of the New Jersey Constitution by unlawfully abrogating the Legislature's exclusive power to pass bills to raise revenue and the General Assembly's power to originate bills to raise revenue, and delegating the same to the Judicial Branch;

(3) Article VII, Section II(2) of the New Jersey Constitution by unlawfully abrogating the Legislature's exclusive power to appropriate and expend state monies;

(4) Article IV, Section II(3) of the New Jersey Constitution by permitting the

Supreme Court to raise revenues which exceeds its authority to make rules governing the administration of courts and the practice and procedure in such courts;

(5) Article V, Section I (14) of the New Jersey Constitution by permitting the Judicial Branch to originate and pass bills without presenting same to the Governor;

(6) Article V, Section I(15) of the New Jersey Constitution by abrogating the constitutional powers of the Executive Branch to object to any item or items included in an appropriations bill through the exercise of the selective veto; and

(7) Article III (1) of the New Jersey Constitution by abrogating the exclusive powers of the Legislative and Executive Branches, delegating exclusive legislative and executive powers to the Judicial Branch and exceeding the constitutional authority of the Judicial Branch.

The Bar Associations, on behalf of our more than 3800 members, are requesting that both the Act and the Rule be declared unconstitutional, and that the Defendants, the State of New Jersey and the Supreme Court be enjoined from charging the schedule of increased fees adopted as part of the Rule and be ordered to reinstate all such fees to their pre-Rule levels.

We will keep you informed as the case progresses.

Calendar

Calendar of Events

December 1 – Thursday, 5:00 p.m.

REAL ESTATE LAW CLE SEMINAR (2.0 Credits) – Appraisals 101: Standards, Definitions, and Basic Concepts, Principles and Techniques. Speakers: John J. Reilly, Esq. and Russell K. Sterling, MAI, CRE. Cost: \$20-Law Clerks, \$30-Young Lawyers, \$40-Members and \$75-All Others.

December 2 – Friday, 12:15 p.m.

YLC CIVIL PRACTICE LUNCH CLE (1.5 Credits) – How to Handle Your First: Motion, Arbitration, Deposition & Trial. Speakers: Matthew Bonanno, Esq. and Michael Allongo, Esq. Cost: \$15-Law Clerks, \$25-Young Lawyers, \$30-Members and \$50-All Others.

December 6 – Tuesday, 6:00 p.m.

YLC ANNUAL HOLIDAY BREW HO-HO – Fox & Hound, Menlo Park Mall, Edison. Co-sponsored by the NJSBA YLD and NJDA. Cost: \$20-Law Clerks; \$25-MCBA Young Lawyers; \$35-MCBA Members; \$50-All Others (includes food, beer, wine & soft drinks).

December 8 – Thursday, 8:00 a.m.

YLC CRIMINAL PRACTICE BREAKFAST CLE (1.5 Credits) – Pre-Arrestment, Arrestment, PTI, Pleas and Sentencing. Speakers: Hon. Dennis V. Nieves, JSC and Jonathan Petty, Esq. Cost: \$5-Law Clerks; \$10-Young Lawyers; \$15-Members; and \$30-All Others.

December 9 – Friday, 12:15 p.m.

“BAR GOES LOCAL” LUNCH MEETING – The Barge Restaurant, 201 Front Street, Perth Amboy. Guest speakers: Hon. John Wisniewski and Hon. Craig Coughlin. Cost: \$20-Members & \$25-All Others.

December 12 – Monday, 8:00 a.m.

TRIAL PRACTICE BREAKFAST CLE (1.5 Credits) – 104 Hearings & Biomechanical Devices. Speaker: Hon. Arnold Natali, Jr., JSC. Cost: \$10-Superior Court Law Clerks; \$20-Young Lawyers; \$25-MCBA Members; and \$50-All Others.

December 12 – Monday, 5:00 p.m.

ETHICS CLE SEMINAR (2.0 Credits) – Ethical Advertising in a Time of AVVO. Speakers: David Rubin, Esq., Craig Aronow, Esq., David Wolfe, Esq., Matthew Roberts, Esq. and Greg Sutphin. Cost: \$20-Law Clerks, \$35-Young Lawyers, \$40-Members and \$75-All Others.

December 14 – Wednesday, 8:00 a.m.

ELDER LAW BREAKFAST CLE (1.5 Credits) – Advising Clients on Long-Term Care Issues. Speaker: Rob Back, Nationwide Financial Network. Cost: \$5-Law Clerks; \$10-Young Lawyers; \$15-Members; and \$30-All Others.

December 14 – Wednesday, 5:30 p.m.

ETHICS CLE SEMINAR (2.0 Credits) – State v. You: Ethical Implications for Lawyers and Other Professionals Facing Criminal Prosecution. Speakers: David Rubin, Esq. and Patricia Furci, RN, MA, Esq. Cost: \$25-Law Clerks, \$35-Young Lawyers, \$40-Members and \$80-All Others.

December 15 – Thursday, 12:15 p.m.

YLC MUNICIPAL COURT PRACTICE LUNCH CLE (1.5 Credits) – Driving While Suspended. Speakers: Hon. Mary Casey, JMC and Edison Prosecutor Tara Auciello, Esq. Moderator: Matthew Teeter, Esq. Cost: \$15-Law Clerks; \$25-Young Lawyers; \$30-Members; and \$50-All Others.

December 19 – Monday, 4:30 p.m.

CRIMINAL PRACTICE CLE SEMINAR (2.0 Credits) – Prosecuting & Defending Sex Offense Cases. Speakers: Hon. Pedro Jimenez, JSC; Assistant Prosecutor Sheree Pitchford, Esq.; and Steven D. Altman, Esq. Cost: \$20-Law Clerks, \$30-Young Lawyers, \$40-Members and \$75-All Others.

December 20 – Tuesday, 8:00 a.m.

TAX COMMITTEE CLE SEMINAR (1.5 Credits) - Law Offices of Greenberg & Schulman, 90 Woodbridge Center Drive, Suite 200, Woodbridge. Topic: Updates & Changes in Pensions & Retirement Planning. Speaker: Leonard J. Witman, Esq., Witman Stadtmauer, P.A. Cost: \$5-Young Lawyers & \$10-All Others.

December 20 – Tuesday, 5:00 p.m.

ETHICS CLE SEMINAR (2.0 Credits) – Common Mistakes by Civil Practitioners That Lead to Disciplinary Charges (and How to Avoid Them). Speakers: Frederic Shenkman, Esq. and Gary Pinckney, Esq. Cost: \$20-Law Clerks, \$30-Young Lawyers, \$40-Members and \$75-All Others.

December 23 – Friday, 4:30 p.m.

RUTGERS V. SETON HALL MENS BASKETBALL NETWORKING MIXER – Redds Biergharten, 220 Market Street, Newark. \$50 per ticket, includes food, drink at Redds and ticket to the game. Tickets must be picked up at Redds. Sponsored by RU Newark Law School Alumni and the Middlesex & Essex County Bar Association’s Young Lawyers Committees. RSVP at rulaw.tix.com.

The Middlesex Advocate
87 Bayard Street
New Brunswick, NJ 08901
Phone: (732) 828-3433
Fax: (732) 828-5862
www.mcbalaw.com

Newsletter Editor

Joanne Vos, Esq.

Letters to the Editor

We welcome letters from MCBA members responding to recent articles or to events or issues of general concern to the bar.

Commentary Articles

Bar members are invited to submit “op-ed” articles, not longer than 750 words, which take affirmative or negative positions on matters of interest to the bar.

Practice-Oriented Articles

We welcome the submission of substantive law articles, to be limited to 2,000 words or less.

News About People & Firms

MCBA members are invited to submit announcements and photographs of new firms, new hires, promotions, awards, celebrations and other noteworthy events.

Obituaries

Obituaries about Middlesex County lawyers may be submitted and should be 300 words or less.

Materials submitted for publication in *The Middlesex Advocate* should be sent to jcowles@mcbalaw.com and may be edited for style or abridged due to space limits. Photographs must be submitted electronically in jpg format.

The MCBA is an approved provider of continuing legal education in NJ and all CLE programs listed above meet the requirements of the BCLE of the Supreme Court of NJ. All events will be held at the MCBA Office, 87 Bayard Street in New Brunswick unless otherwise indicated.

To RSVP go to www.mcbalaw.com or call 732.828.3433, ext. 102.



OF SURVEYS AND BOUNDARY LINES

By Charles D. Whelan III, Esq.

"Good fences make good neighbors", Robert Frost.

(Except when the fence is misplaced.)

Introduction

Home purchasers will obtain a property survey as part of their

due diligence, to ensure that the improvements on the home are within the boundary lines and that no neighbor's improvements encroach onto the property being purchased. In the 21st century professional land surveyors employ sophisticated electronic equipment that allows them to gather many "points" in the field using laser technology. The collected data is then downloaded into an office computer, and used in conjunction with computer-aided programs in order to draw an accurate representation of the house, other improvements and boundary lines. The surveyor will also consult any available prior surveys, as well as the current and prior property deeds, and deeds for adjoining properties, to ensure the most accurate measuring and depiction of the property. In some cases, the surveyor will look back to a common owner of adjoining lots far in the past for guidance.

It is not unusual for the survey to show some deviation between the boundary line and an improvement such as a fence. Often, homebuyers will accept the property with such minor deviations. However, in the past two years in my residential real estate and litigation practice, I have encountered four properties where the house is over the property line. This presents at least two problems. First, the neighbor being encroached upon can sue to compel the improvement to be removed, or alternatively to recover damages for the encroachment and for trespass. Moreover, such an encroachment may be a major impediment to the future resale of the property.

Given this, I cannot fathom why most mortgage lenders no longer require the borrower to obtain a property survey. Typically the purchasers would submit their survey to their title company to be insured as a part of the owner's title insurance policy. In the absence of an insured survey, a mortgage lender may find it extremely difficult to foreclose on the property in the event of a loan default. Perhaps the answer is that a mortgage company perceives a competitive disadvantage in requiring a borrower to pay for a survey when other lenders do not.

If you handle residential real estate closings and your client advises you that she does not want a survey because her lender does not require it, it is important to document in writing that you have strongly urged your client to obtain a survey and communicated the potential risks of not having one.

Of course, if the seller has a survey that is acceptable to the title company, it can be incorporated as an insured item in the owner's policy with an appropriate affidavit of no change signed by the seller. This would involve no cost to

the buyer.

Resolving Boundary Disputes

In a purchase transaction I handled last year, the new survey showed that the house being purchased was more than two feet onto the neighbor's property. As a condition of proceeding with the closing, I required the seller to obtain a written easement from the neighbor permitting the encroachment to remain, running with the land. Practitioners can provide opposing counsel with an easement template, either from their forms file or from the title company. The easement in final form should be reviewed by buyer's counsel and the title company, and then executed and recorded in the county clerk's office. The recorded easement will then be incorporated into the owner's title insurance policy.

Sometimes the boundaries depicted on the survey of a recent home purchaser conflict with the property lines shown on a neighbor's survey. That may lead to a dispute, which may then develop into a title insurance claim. In resolving an overlap dispute, the parties may agree to a compromise boundary line by written agreement or certificate, which would then be recorded in the county clerk's office (1). In some cases, the parties may agree on a third party neutral surveyor to confirm the questioned boundary line, and to plot the compromise line on a survey which is then attached to the agreement before recording. Any such boundary line agreement must take into consideration whether the compromise line itself creates any encroachments. In that event, the boundary line agreement must provide for the grant of an easement for the encroachment. Counsel should also be concerned whether a boundary line adjustment creates a zoning violation or requires any municipal approval. Typically the surveyor will work with counsel (conferring with the municipality) to determine that.

If the parties cannot agree, then one may file an action in the Superior Court requesting the appointment of three commissioners (one of whom must be a licensed surveyor), to determine the location of the disputed boundary (2). The boundary line commissioners are entitled to enter upon the properties, depose witnesses, and conduct needed investigation. The commission then files a report with the court within a prescribed time. Any party who disagrees with the report may apply to the court to have the dispute tried by the court, with or without a jury. The court determines the compensation of the commissioners and decides whether one or both of the parties shall pay.

In order to reduce expense, the parties may agree to have the judge appoint a surveyor as a neutral expert to determine the boundary location and file a report, in lieu of a full boundary line commission.

The findings of the report must be memorialized in some way, such as by way of a court order which can then be recorded in the county clerk's office.

(Continued on page 13)



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- FREE financial review
- Unlimited domestic ATM fee refunds
- Cash rewards for debit card purchases and paying bills online

*Minimum opening deposit \$50



FOR ALL THE DETAILS, CONTACT Cynthia Senatore
MCBAaffinity@providentnj.com or 732 590 9187

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Hacking Humans

by: Nathan Horn-Mitchem

First Vice President, Information Security - Provident Bank

The FBI is warning that the Russian government hacked the Democratic National Committee and may have tried to influence the Presidential election. A cyber-organization affiliated with the National Security Agency (NSA) was hacked, and a number of military grade cyber-tools were released on the internet. A group of hackers stole \$63 million in BitCoin (a digital currency used primarily for anonymous transactions on the internet), causing a 30% drop in the value of BitCoin. Every day another story of Cybercrime becomes front page news but the simple truth is that most Cybercrime is never reported to law enforcement.

Cybercrime cost the world \$3 trillion in 2015 and that's expected to double in the next 5 years, predicts Cybersecurity Ventures, a research and security intelligence organization. Organizations of all sizes are being directly and indirectly affected by Cybercrime. Cyber-criminals are indiscriminate in their targets, and smaller organizations are often at a loss on how to protect their business. Most Cyber-defense tools and guidance are aimed at individuals or large organizations but small businesses arguably have the most to lose.

The good news: it doesn't take an engineering degree or a ton of money to protect your organization. The fundamentals of good Cyber-hygiene start with training and awareness for your employees, which doesn't have to cost anything other than time.

91% of all Cyber attacks begin with an email. Why an email? Emails go directly from the bad guy to the end user, assuming they aren't caught by a spam filter or anti-virus program. It's always easier to hack a human rather than try to break through a firewall or to trick an anti-virus program. Criminals hope that the person reading the email is willing to open the attachment, click a link, or respond to the email. Using a little psychology and targeting in bulk they are able to get the responses they desire.

With attachment names such as "Department Salaries.doc," links promising free tickets to concerts, or emails impersonating the IRS demanding a response, it's no wonder email is the preferred malicious method of entry into an organization. Since you now know how these bad guys operate; you can take steps to protect yourself.

Here are 8 quick tips for keeping your small business safe:

1. **Have Security Awareness Training.** Organizations like Stop Think Connect offer free Security Material for your small business. <https://www.stopthinkconnect.org/> (Cost: \$0)

2. **Use a Spam Filter.** A spam filter will go a long way to removing lots of the bad emails that end up in your inbox. Talk to your email provider to see what protection they offer you for spam. If they have a business or corporate version it may be worth exploring the cost. (Cost: starts at \$0)

3. **Deploy a Web Filter.** The internet is full of dangerous links and malicious pages and one wrong click can get your organization into trouble. Using a web filter helps to block traffic to the worst parts of the internet. (Cost: as low as \$20 per user per year)

4. **Keep Your Systems Patched.** Microsoft (Windows, IE, Office, Silverlight), Apple (OSX, Safari, iOS), Mozilla (Firefox), Google (Android, Chrome, ChromeOS), Oracle (Java), and Adobe (Reader, Acrobat, Flash, ColdFusion) account for the vast majority of all patches businesses need to deploy. (Cost: free)

5. **Keep Your Anti-Virus Program Up-to-Date.** Anti-Virus technology at its best is only 40% effective but 40% still beats 0%. Understand: it's not a silver bullet. But machines without up-to-date anti-virus software are very exposed. (Cost: starts at free)

6. **Don't Give Your Non-IT Staff Admin Access.** Admin access allows you to install software; it's also an easy way for malicious software to get installed by an unsuspecting user. Most users should be able to do their everyday jobs with a standard user role. (Cost: \$0)

7. **Use a Password Manager.** Using weak passwords is a surefire way to lose access to an account. Instead, use a password manager to help create and store strong passwords. PCMag has a great article on the best password managers, available here: <http://www.pcmag.com/article2/0,2817,2407168,00.asp>. (Cost: Starts at \$13 per user per year)

8. **Turn on Two-Factor Authentication.** Two-factor authentication requires that you use more than just a password to get into a website; usually a text message or phone call gives you the second piece of authentication. This will go a long way to keeping bad guys out of your accounts, and best of all -- it's free. Check out Two Factor Auth List for an up-to-date list of which sites support this login method: <https://twofactorauth.org/>. (Cost: \$0)

Save the Date February 9, 2017!

Please join us for the MCBA's

ANNUAL OPEN HOUSE

Thursday, February 9, 2017

4:00 pm to 7:00 pm

MCBA Office, 87 Bayard Street, New Brunswick

Complimentary Wine and Cheese

Join your colleagues for an evening of networking and information about the MCBA.

Meet MCBA Officers, Trustees, Committee Chairs and Service Partners, and learn about the benefits, discounts and programs available to MCBA members.

To RSVP Call 732.828.3433, x. 102 or
send email to admin@mcbalaw.com.

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MCBA Member Christopher Placitella Featured on American Law Journal

MCBA Member Christopher Placitella was interviewed by Gina Passarella of the American Law Journal on the



topic "Unsafe/Dangerous Products: How Do Courts and Juries Deliver Justice Today?" Issues that were covered include the current state of product liability, shifts in product liability, defining "strict liability", product recalls and relevant cases. This interview will be aired (date and time to be announced) on the Philadelphia CNN News affiliate and

can be viewed on www.youtube.com/LawJournalTV.

Chris is partner at Cohen, Placitella and Roth, PA, in Philadelphia and Red Bank.

MCBA Member Marc Gaffrey Moderates at National Asbestos Litigation Conference

MCBA Board Trustee Marc Gaffrey, partner at Hoagland Longo Moran Dunst & Doukas, LLP in New Brunswick, was a panel moderator



at Perrin Conferences' Asbestos Litigation Conference: A National Overview & Outlook on September 12-14, 2016 in San Francisco, CA. This highly acclaimed annual event attracted over 700 attendees and assembled leaders in U.S. asbestos litigation, including many of the most prominent plaintiff and defense attorneys, judges, in-house counsel, insurance professionals, risk managers, and scientific and medical experts to engage in thought-provoking discussions regarding cutting-edge

knowledge, trends and updates in the asbestos litigation industry. Marc helped put together and moderate a panel discussion on whether there is a genetic marker or genetic predisposition for mesothelioma and other toxic tort related cancers. The panel consisted of the following expert professionals and attorneys: Debra A. Kaden, PhD, Toxicologist, Ramboll Environ, Austin, Texas; Dr. Paolo Boffetto, Molecular Epidemiologist, Mt. Sinai Hospital, New York, NY; Angela C. Bullock, Esq., Bullock Campbell Bullock & Harris, PC, Houston, TX; and Thomas J. Burns, Esq., O'Connell, Tivin, Miller & Burns, Chicago, IL.

Rutgers University Mock Trial Association Update

November 2016

The Rutgers University Mock Trial Association (RUMTA) A team took 1st place at the US Coast



Drexel's Market Street Invitational on October 15-16. The C team placed 5th out of 18

Guard Academy's Guardian Invitational on October 15-16 and 1st place at the Columbia University Big Apple Tournament the following weekend. President Anish Patel won perfect ranks as an attorney and witness, and members Tanshree Bansal and Mike Kleynman also received top attorney awards at Coast Guard Invitational. Patel and Mike Kleynman took home perfect 20 ranks top attorney awards at the Big Apple Tournament.

The A team won all 8 of their ballots at the Guardian Invitational and ended the weekend with a 7-1 record at The Big Apple Tournament facing some of the top teams such as NYU, Harvard, and Fordham.

The RUMTA B and C teams competed at

teams and members Emily O'Leary and Anu Chugh from B and C won top attorney awards.

Team B Captain Nicoletta Eby, on the Drexel Invitational, said, "Drexel is our first invitational of the year, and I knew our teams had to come out strong. It's a good experience both for returning members to get back on their feet, and for new members to get experience in competing against other competitive teams. Overall, both of our teams did very well, and I'm very pleased with our performance."

RUMTA thanks Head Coach Michael Roberts of Roberts & Teeter, and Assistant Coaches Jennifer Przybylski of Desmarais LLP and Middlesex County Assistant Prosecutor Jess Ma.

New Brunswick Mayor James Cahill Honored by Diocese of Metuchen

New Brunswick Mayor and MCBA Member James M. Cahill, was honored at the Diocese of Metuchen's Champi-



(Above, from left, Marianne Majewski, executive director of Catholic Charities, Diocese of Metuchen, with the 2016 Champions for Catholic Charities honorees, Mercy Sister M. Michaelita Popovice, program director of the Warren Basic Material Needs Catholic Charities Social Service Center, Phillipsburg, and Mayor Cahill.)

ons for Catholic Charities Dinner, held on November 10th at The Palace at Somerset Park in Somerset. Mayor Cahill, who has served the City of New Brunswick as mayor since 1991, was recognized for

his exemplary work and servant leadership in the community.

The Champions Dinner supports the work of Catholic

Charities, Diocese of Metuchen. In 2015, Catholic Charities served 53,000 people through 103 programs in the four counties of the diocese, regardless of race, religion or ethnicity.



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FREEHOLD



2017-18 CALL FOR NOMINATIONS FUTURE BAR LEADERS WANTED FOR OFFICER AND TRUSTEE POSITIONS

Wanted: intelligent, energetic lawyers with time to devote to vital, non-profit professional association. Must have innovative ideas for positive change on a Board of Trustees devoted to enhancing relationships among members of the profession, lawyers and the judiciary, and lawyers and the public.

Great opportunity for professional growth and networking. Past leadership experience a plus. Equal Opportunity Board.

Interested candidates should submit a resume and letter outlining their qualifications to: Craig M. Aronow, Esq., Nominating Committee Chair, c/o Middlesex County Bar Association, 87 Bayard Street, New Brunswick, NJ 08901.

The deadline for submissions is Friday, December 16, 2016.

ASSOCIATE ATTORNEY

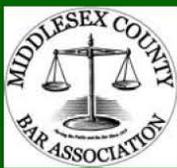
Prominent Northern Ocean County Law Firm seeks an Associate with 2-6 years experience. Must be admitted to practice in New Jersey. Practice areas to include corporate and complex commercial transactions. To be considered for this position, candidates must submit the following, in confidence, via email to: irusso@bathweg.com.

- ~ Cover letter with salary requirements
- ~ Resume
- ~ Writing sample

Ideal candidates will be self-motivated, well-organized, possess excellent writing and verbal communication skills, with the ability to generate business and have a portable book of business.

BATHGATE, WEGENER & WOLF, P.C.

One Airport Road
Lakewood, NJ 08701



General Membership Dinner Meeting

Wednesday, January 18, 2017

The Pines Manor, 2085 Route 27, Edison

Joint Meeting with the Union & Somerset County Bar Associations

Program:

4:30 p.m.

**Pre-Dinner CLE Seminar
(Review of 2016
Family Law Opinions)**



David M. Wildstein, Esq.

6:15pm:

**Cocktail Hour
Hors D'oeuvres & Cash Bar**

7:30pm:

**Dinner Program
Family Law Section Goldin &
Schoifet Family Law Awards**

Cost:

MCBA/UCBA/SCBA Members

\$35: CLE Seminar Only

\$65: Dinner Only

\$80: CLE Seminar & Dinner

Non-Members

\$65: CLE Seminar Only

\$75: Dinner Only

\$95: CLE Seminar & Dinner

Superior Court Law Clerks

Free: CLE Seminar Only

\$30: Dinner Only

\$30: Dinner & CLE

*** \$5 extra at the door and for
payment made after the event**

RSVP Online at: www.mcbalaw.com

Pre-Dinner Seminar

A Review of the 2016 Family Law Opinions

Featured Speakers

Hon. Deborah J. Venezia
Presiding Judge Family Part
Middlesex County



Hon. Hany Mawla, PJFP
Presiding Judge Family Part
Somerset County

Jeralyn Lawrence, Esq.
Norris McLaughlin & Marcus, PA
SCBA Immediate Past President



Hon. Lisa F. Chrystal
Presiding Judge Family Part
Union County

Additional Speakers:

Joseph Russell, Jr., Esq. | Joseph Freda, Esq. | Jenna Shapiro, Esq.

The Pre-Dinner Seminar is presented by the MCBA Family Law Section. All attendees will receive a bound 2016 Family Law Case Digest provided by the Family Law Department at Wilentz, Goldman & Spitzer, PA. The program has been approved by the BCLE of the Supreme Court of New Jersey for 2.0 hours of total CLE credit. Of these, 2.0 qualify as hours of credit toward certification in matrimonial law. (Please note that Approved CLE Courses in NJ are Recognized for CLE Credit in New York.)

**and the Middlesex County Bar Association & MCBA Family Law Section
will present the following awards at the dinner meeting:**



**2017 Edward Schoifet
Family Law Award**

to

Ellen F. Schwartz, Esq.
Ramatowski, Spilka & Schwartz



**2017 Martin S. Goldin
Family Law Award**

to

Brian McFadden-DiNicola, Esq.
Hoagland Longo Moran Dunst & Doukas, LLP

DINNER MEETING SPONSORS

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MCBA General Membership Dinner Meeting - 1/18/2017

Dinner & CLE Seminar Dinner Only CLE Seminar Only

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Cost to attend: See pricing above. Make checks payable to "MCBA" and mail registration form to: Middlesex County Bar Association; 87 Bayard Street, New Brunswick, NJ 08901.
Deadline for advance reservations – Monday, January 16th. Cancellations must be made by January 17th, 12:00 noon to receive a refund. To reserve by phone call (732) 828-3433, ext. 102, to reserve by fax send to (732) 828-5862 or to reserve by e-mail send to jcowles@mcbalaw.com.



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On my mind . . . by Linda Lashbrook

Alone in my room . . .

Because I am still suffering from PESD (Post-Election Stress Disorder), I find myself unable to provide an upbeat or even sensible account of what's on my mind this month. My family and I

will do our best to process the events of November 8 and figure out how to look forward. Meanwhile, enjoy the holidays in the best way you can, and check back in January.

(The views expressed in this column are those of the author and do not necessarily represent the views of the Association's Board of Trustees.)

Letter to the Editor

Dear Editor:

I think it is inappropriate to have our newsletter used as a rant for any political point of view and request that the board adopt an appropriate policy regarding such columns and letters. Like-minded members are urged to contact Mr. Cowles at jcowles@mcbalaw.com.

Mark Epstein

Response from the Editor

The nation now knows the outcome of the very contentious Presidential election which was the subject of the "political rant" that has presumably been referenced above. Today, some are breathing a sigh of relief while others are just in disbelief. I, myself, fall into the latter category of voters for various reasons - reasons which I choose not to identify here but could if I wanted to, certainly. The beauty of that choice is that it even exists and as attorneys, we are all charged with the great responsibility to uphold the United States Constitution and the freedoms that it confers upon us.

I am not going to publish a lesson on the First Amendment (I think I'd be speaking to the choir). However, as the Editor of this Newsletter, I want to let our readers know that I respect the First Amendment and the lives that have been lost over the course of history defending it such that I would not refuse to publish an editorial piece, as long as it were written in a responsible and professional man-

ner, even if the piece conveyed ideas which were less than popular amongst the majority (or anyone, for that matter).

It has been suggested that MCBA adopt an "appropriate policy" regarding columns like the one that has been referred to as a "rant." What would such a policy say? And how could we be sure that in implementing that policy we did not abridge anyone's freedoms? Or become Stepford Wives spouting out the same thoughts? Would such a policy say that MCBA shall not publish anything that is potentially offensive to anyone? Or would it say that MCBA shall exercise its discretion in deciding what to publish in its newsletter? I assure you that we do the latter already - it's just that obviously, not everyone agrees with every viewpoint that gets expressed in the newsletter and frankly, there's not much we can do about that.

With all due respect to all of our valued readers, I think the bottom line is that if you don't like what you're reading in our newsletter, turn the page just as you might switch the radio dial from Howard Stern to KidzBop if your 8 year old daughter was in the car. After all, you certainly wouldn't want your 8 year old daughter hearing about life at the Playboy Mansion with Hef or the most recent Kardashian conquest, both of which topics are sure to elicit comments that someone (probably the majority) might deem "offensive" yet they are allowed to be broadcast.

Now that the election is over, I submit that we all need to stop being so darn touchy and offended about things, take personal responsibility for what you subject yourself and your loved ones to, and move forward as not only a unified nation but a unified Bar Association for the greater good.

PS: When I was in college, I volunteered my time for the Religious Education Program at my Church and I taught CCD to 8th Graders. I was young and inexperienced as a teacher of any kind but I did it for free and I had the best intentions. Some parents of my students complained that I was too "strict" with homework and grading and went to Sister Claire to voice their concerns. Sister Claire had my back and she told those parents that if they thought they could do better than any of the existing CCD teachers, me included, they were welcome to step up to the plate on Sunday morning. Suddenly, the "offended" parents were OK with me treating CCD like Harvard Law and I once again found myself alone buying the Munchkins, making the dittos, and testing who had memorized the Apostles' Creed. Catch my drift? (and I say that with the utmost respect)

Joanne Vos, Esq.

(Continued from page 3)

Legal Precedent and Procedure

In Stransky v. Monmouth Council of Girl Scouts Inc., the Appellate Division reviewed some of the rules employed in boundary line determinations (3). For instance, in boundary disputes generally, permanent and natural monuments control over all other calls. A call is a landmark chosen by a surveyor or utilized in a deed to designate real property boundaries. A "call" may be a monument, often a sturdy and permanent stone or metal marker that has been placed in its spot long before; a specific corner of an existing building; the spot where two watercourses or roads meet; in old deeds it may be a specified oak tree. In modern times it may be a marker placed at a corner of the adjacent parcel by a surveyor. Calls in a deed will generally control in descending order of priority by monuments, natural being preferred over human-made structures, followed by direction, distance and quantity of land conveyed (*ibid*).

There is a presumption in favor of the permanency of natural boundary lines, Normanoch Ass'n. V. Baldasanno (4)

Public streets or roads may be used as artificial monuments, but these must be definitely located to be controlling, S.R.H. Corp. v. Rogers Trailer Park Inc. (5)

Abutting landowners generally own their fee to the center of the street, J.R. Christ Const. Co., Inc. v. Willete Associates (6).

When a conveyed property bounds upon a lake or pond, the deed grant extends only to the water's edge if it is a natural pond, but to the middle of the stream in its natural state if it is an artificial pond, Baker v. Normanoch Ass'n. (7)

An unambiguous deed description is generally honored, Schroeder v. Engroff (8).

Where a map must be redrawn, the problem should be resolved in a manner doing a minimum of violence to the affected property owners, following the original intent of the developer to the extent consonant with the physical realities of the factual situation, Battaglia v. Mazzu (9).

Conclusion

A property survey is a wise investment for a home purchaser, considering the cost and aggravation that may ensue when a boundary dispute or encroachment arises. Further,

buyers of real estate can further protect themselves from expense of future claims by having their surveys endorsed into their owners' title insurance policy. Practitioners can protect themselves and their clients by strongly urging that the property to be purchased is surveyed, and explaining the risks of closing title without a survey.

- | | |
|---|---|
| 1. N.J.S.A. 46:3A-5 | 5. 54 <u>N.J.</u> 12 (1969). |
| 2. N.J.S.A. 2A:1 through 3. | 6. 25 <u>N.J.</u> 407 (1957). |
| 3. 393 <u>N.J. Super.</u> 599 (App. Div. 2007), certif. den. 194 <u>N.J.</u> 271. | 7. 47 <u>N.J.</u> 473 (1966). |
| 4. 40 <u>N.J.</u> 100 (1963). | 8. 33 <u>N.J.</u> 204 (1960) |
| | 9. 92 <u>N.J. Super.</u> 385 (Law Div. 1966). |

Charles D. Whelan III is a sole practitioner in New Brunswick, specializing in title and real estate litigation.

Unsolicited Advice for Law & Life

By Hon. John A. Jorgensen, II, JSC

Read the applicable statute involved in your case every time. It's when you think you know everything about something that you tend to get in trouble. No matter how many times you've handled a particular type of case it's absolutely imperative that you prepare for it as if it's the first time you've done it. That means paying attention to all of the details, including reading the entire applicable statute that may be involved.

Read every day for at least 30 minutes. The average person reads less than 1 book a year. If you read 30 minutes a day, that would average out to at least 20 books per year. Think about it – if you're reading 20 books on topics in your chosen field, and you come up against somebody who is reading only 1 book a year, who do you think has the advantage? By reading 30 minutes a day you'll become a regional expert in your field in less than 3 years, and a national expert in your field in 5 years. That goes for any topic of interest that you may have.



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MCBA Seeks Nominations for Annual Practice Area Awards Dinner

On March 22, 2017, the Association will hold its 12th Annual Awards Dinner at The Pines Manor in Edison. Awards will be given to bar members in the following areas: *Pro Bono*; Non-Litigation; Civil Trial Practice; Criminal Trial Practice; Municipal Court Practice; Chancery; and Young Lawyers.

The purpose of the Practice Area Awards is to recognize attorneys practicing in Middlesex County and adjacent municipalities who devote a significant portion of their work to their respective specialty areas and exhibit one or more of the following:

- Leadership in the potential candidate's field of practice;
- Significant, tangible contributions to the Bar, such as providing CLE, serving on Bar committees, etc., pertaining to non-litigation issues;
- Significant, tangible contributions to the community and/or charitable endeavors;
- A record of promoting participation and involvement in the MCBA and collegiality within the Association; and
- A reputation for personal and professional integrity.

The purpose of the Young Lawyer of the Year Award is to recognize attorneys who meet one or more of the following conditions:

- Devote substantial time and energy to community-oriented activities such as *pro bono* work, government service, charity involvement or other public service;

- Dedicate considerable volunteer time to bar activities at the county or state level, including specialty and minority bars; and/or
- Have received professional recognition through publications, excellence in a particular area of law, a significant verdict or law-changing appellate decision, or other such professional achievement.

The purpose of the *Pro Bono* Award is to recognize attorneys who have devoted substantial time and effort doing *pro bono* work through the Central Jersey Legal Services Corporation.

The Bar Association invites the submission of names of those individuals whom you believe to be appropriate candidates. Please include a brief explanation as to why you believe the individual you name is an appropriate candidate for one of these awards. The candidates should be bar members who are well recognized for character and competence, individuals who are respected by all and looked upon as models of professional behavior. The deadline for submitting nominations is December 16th.

Last year's recipients were Edward Testino (*Pro Bono*), David Pepe (Civil), Jack Venturi (Criminal), Joseph Lombardi (Municipal Court), Tyler Hall (Young Lawyer) and Ann Renaud (Chancery).

Please submit names for consideration to the attention of Executive Director Jonathan Cowles at jcowles@mcbalaw.com by December 16th.

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Fredric L. Shenkman, Esq. LL.M.

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