



THE STRAIGHT WORD

VOL. 55 NO. 6

BURLINGTON COUNTY BAR ASSOCIATION

JUNE 2021



JUDGE HAINES RETIREMENT DINNER

The Burlington County Bar Association had a lovely night celebrating the Honorable Philip E. Haines at Medford Village Country Club.

**ADDITIONAL PHOTOGRAPHS
ON PAGE 8**

JUNE

- 6/3 Installation Dinner
6:00-8:30p, Historic Prison
- 6/14 Oral History Project Meeting
5:00p, Zoom
- 6/16 BCBA Board Meeting
4:30p, Zoom
- 6/24 Gender Identity and Race Issues In Criminal Justice
12:30-1:30p, Zoom



New Members



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CRISCUOLO AWARD COMMITTEE SEEKING NOMINATIONS

The Robert W. Criscuolo Award Committee is accepting nominations for the 2021 award. To be eligible, candidates must be a member in good standing of the Burlington County Bar Association, under the age of 36 at the time of presentation of the award or involved in the practice of law 5 years or less, and demonstrate significant involvement and contributions to the Burlington County Bar Association, community service and other civic activities. To submit a nomination, complete the form located below and return to the Bar Association or email to rgoldenberg@burlcobar.org no later than August 9, 2021.

[Download Criscuolo Award Form Here](#)

Seeking Nominations for the Professional Lawyer of the Year Award

Nominations for the Burlington County 2021 Professional Lawyer of the Year Award sponsored by the New Jersey Commission on Professionalism in the Law are currently being collected. The nominated individual should be one who is: well recognized in the legal community for character and competence, someone who is respected by all, and someone who is considered to be a model of professional behavior. Send your submissions for this prestigious award by using the form included below.

The deadline for submissions is August 9, 2019.

[Download Nomination Form for
Professional Lawyer of the Year Here](#)

THE STRAIGHT WORD

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STATEMENT OF POLICY

Opinions expressed in signed articles appearing in *The Straight Word* are those of the author alone and not necessarily of the Burlington County Bar Association, its officers, or its Board of Trustees.

The existence of the Burlington County Bar Association is made possible by your financial support. However, our success in fostering professional growth and improving the practice depends on your participation in meetings, programs, seminars, and the work of committees, as well as your support of *The Straight Word* by way of suggestions and contributions. Contributions are welcome, subject to the deadline of the 10th day of each month. *The Straight Word* is published ten times a year. The right to edit and publish is reserved.

PRESIDENT'S MESSAGE



The legendary football coach Vince Lombardi once said, “The achievements of an organization are the result of the combined effort of each individual.”

When I was sworn in as the Association’s 89th president one year ago, we were at the height of a worldwide pandemic. Sobering moments were taking place across the country, and the courts were a mostly remote operation. “Unprecedented times” was the phrase we

kept hearing.

In a moment of uncertainty, I was certain of one thing: Our Association would not only rise to the challenge of the upcoming year, we would flourish. And flourish we did! I knew that our organization was comprised of resilient, dedicated, hardworking, caring attorneys. Together, we would work hard to continue to make our Association the best in the state.

My platform focused on service, diversity and inclusion, not realizing how prescient that was. During the pandemic, many people lost jobs, the lines at the food banks were long, and for many, our mental health was pushed to the limit. Our Association recognized these challenges and responded in meaningful ways. We created a Wellness Committee that provided articles and CLE seminars designed to help our members cope with these trying moments. We partnered with the Association of Black Women Lawyers, Bar Foundation, Burlington County Community Action Program and Thinking Learning and Fun Foundation, and along with the individual generosity of our members, we were able to provide Thanksgiving and December holiday meals and gift cards to dozens of needy Burlington County families.

We held our sixth Annual Day of Service, continuing to provide free legal services, including the drafting of wills and offered divorce, bankruptcy, and expungement consultations, to the residents of our great county. We also initiated a Monthly Day of Service to address specific Covid-19 related issues, such as landlord/tenant assistance, employment and municipal court issues. Not even a pandemic could keep our lawyers from continuing with our long-standing tradition of service to our community!

We understood the need to help our young lawyers, particularly our law clerks, who missed out on the opportunity to network with other lawyers. Under the exceptional leadership of our Young Lawyer Co-Chairs, Stacey Gorin and Daniel Thornton, our Association sponsored two successful networking events, with lawyers from both the public and private sector joining to provide a job fair-type program where these newly minted lawyers could submit resumes and interview for positions. It was very well received! We also developed our lunch-and-learn CLE series.

As our Association’s first Arab American president — and a first-gen-

eration American — I enjoyed sharing with all of you my family’s journey to this country. Particularly, I was most moved by the opportunity to reflect on, and honor, my late mother’s life and all that she and my father taught me. How blessed I was to have parents who gave me an appreciation of my heritage, and the importance of love, kindness and service to others. We interviewed some of our members who immigrated to this country from other lands so they could share their experiences with our Association. Each of our stories is unique, but together, they unite us in the knowledge that these stories enrich not only our own lives but provide an understanding of others with whom we interact.

Our Association took meaningful strides offering quality seminars on the complex issue of racism and its impact on justice for all. We partnered with our affinity bars and our faith-based community, presenting a CLE seminar titled “You’ve Got a Friend in Me: Effective Allyship.” We also presented the collaborative three-part series “Good Intentions Are Not Enough.” This series provided our members the opportunity to discuss in an open forum the issues that confront vulnerable populations, focusing on people of color. We continued our journey by partnering with our affinity bars and hosting our Diversity Open House, which was designed, successfully, to invite more diversity into our Association.

We celebrated our strong women leaders by paying tribute to the 100-year anniversary of women’s suffrage. Our Association also joined with others around the country holding a candlelight vigil on the steps of the historic courthouse honoring the life and legacy of the one and only Justice Ruth Bader Ginsburg (RBG).

We welcomed three new judges: Judge Craig Ambrose, Judge Sander Friedman and Judge Mary Ann O’Brien. We also celebrated the retirement of Judge Janet Smith and Judge Philip Haines. We honored two esteemed criminal defense attorneys, First Assistant Public Defender Kevin Walker and Jim Gerrow, as recipients of the Honorable Martin L. Haines Award.

I thank Sharon Larmore for leading our Foundation during such a trying year. I also wish incoming foundation president Len Wizmur all the best as he takes on his new role. I also thank Assignment Judge Jeanne Covert and Trial Court Administrator Alba Rivera, two remarkable women who lead our Judiciary. Together, they bring our bench/bar compact to life by providing unwavering support to our Association and our initiatives. They are truly exceptional women! I also want to thank Erika Attanasio for all her hard work throughout this difficult year. Our new Executive Director, Robyn Goldenberg, started in December, just days before our Foundation’s holiday toy drive and our Association’s CLE extravaganza and made the transition appear effortless. She quickly took to the role, and there was nothing too big or too small to ask of her, and I cannot thank her enough for all she has done in such a short time. I also thank our incredible Board of Trustees. You are all such a dedicated group of attorneys, tirelessly working on our members’ behalf.

I also thank my children, Amira and Leila, for being some of the youngest bar mascots ever to serve. Before their teenage years, they wrapped gifts, took photos and helped the children with their crafts

at the Children's Holiday Party and enjoyed the family picnics at Liberty Lake. They now eagerly join me at the young lawyers and women-in-the-profession events because they have grown up with this Association. To my husband, Adam, you said that it was Providence that I was leading this Association at the time of a pandemic. What I say to you is that it was Providence that I met you over thirty years ago on a beautiful summer day. You have stood by my side each day, and I could not have achieved this milestone without your support.

I am honored to join in the ranks of our other past presidents whose hard work and dedication laid the foundation for this great Association. I am proud to pass the torch to Brett Gorman, who I know will do a great job as President. He will continue to move this Association in the right direction with his great ideas and initiatives.

Finally, I thank the Association for giving me the privilege to lead this awesome organization. I never took one day for granted. Together, our combined efforts allowed us to educate, discuss, serve, weep, and celebrate all that this year has had to offer. I am so proud of all that we have accomplished, and I could not have asked for anything more.

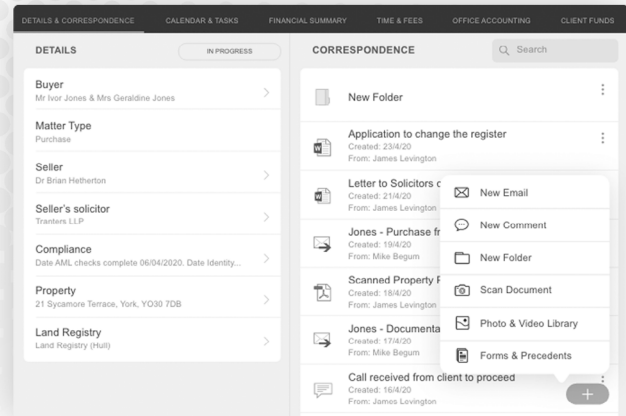
Thank you for the honor to serve as your Association's 89th president. It was truly one of the highlights of my professional career.

Wishing you all peace.

Reema Y. Scaramella

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BCBA Plants Flowers on Main Street in Medford for Pride Month



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WINE PICK OF THE MONTH

By Janice L. Heinold, Esq.



In May, I attended one of my first in-person wine tastings (with fully-vaccinated attendees) in months. It was an American Wine Society tasting of wines from Armenia, a country I had never tasted wines from before, from indigenous grapes, all but one I had never tasted before. We tried a white, a rosé, and two red wines.

The wines were from Van Ardi Winery, a winery founded by Varuzhan Mouradian, an accountant, who, in 2007, moved his family from California to Armenia, the country of his ancestors. In 2008, he bought a winery 40 miles north of Yerevan, in the Ashtarak region of Armenia, in the shadow of Mount Ararat. The vineyards are situated on southern-facing slopes. The soil is rocky and volcanic, with rolling hills. Wine grapes have been grown in this region for several millennia, and a winery used to make wines used in religious ceremonies was found in a cave dating over 6,100 years old (Areni-1 Cave). “Van Ardi” means “son of Van.”

The white wine was a 2016 bottling composed of 70% Kangun and 30% Rkatsiteli. (I have tasted Rkatsiteli before; Dr. Konstantin Frank Winery in the Finger Lakes makes a Rkatsiteli wine, a grape largely planted in former Soviet Union countries.) The wine was straw-colored in the glass, with tropical notes on the nose (pineapple) and stone fruit (apricot). On the mouth, the flavor didn't really deliver on the flavors in the bouquet, sadly. It was indistinct as a commercial pinot grigio. However, paired with food (melon and prosciutto), it improved, due to nice acidity. 12.5% ABV.

The rosé was a 2016 bottling composed of 50% Areni and 50% Kakhet grapes. The rosé had a noticeable barnyard funk on it, which is not an aroma I usually equate with rosé. (Rose is usually red berries). This wine smelled a bit like brie cheese, but I don't think it had *brettanomyces*; I think it may have been passed its prime as a rosé (they are usually consumed young). Unlike the white, the rosé had a full mouth-feel, but was slightly unbalanced, in that it seemed a bit hot (high alcohol) to me. However, several people really enjoyed it. I would call it a red wine drinker's rosé. 12.5% ABV.

The first red was a 2018 red blend, made of 40% Areni, 30% Kakhet, and 30% Haghtanak. The aroma was spicy/peppery. On the palate, ripe red fruit gave way to coffee and chocolate flavors. It was a little unbalanced, showing a little too hot (high

alcohol). Aged six months in French and Armenian oak barrels. 13.5% ABV.

The second red was a 2016 reserve wine made of 100% Areni grape. Areni, sometimes called Areni Noir, could be best described as a cross between Merlot and Pinot Noir. Both grapes are very versatile, and can be either elegant and feminine (Burgundy) to robust and masculine (California), depending on where the grapes are grown and what the winemakers do with them. The Areni reserve was aged 14 months in French and Armenian oak. A lot of oak was on the nose, giving the wine a very cedar box, resin-y aroma. On the palate, ripe fruit gave way to dark red cherries and tobacco. The wine was well-balanced, with a long finish. 13.5% ABV.

The white and rosé were about \$12 each, the red blend was \$14, and the Areni reserve was \$30. You can find Van Ardi wines, and other Armenian wines, online at cedarwines.com. I look forward to trying more Armenian wines from this ancient wine region. Kenadz!



LAW DAY



JUDGE HAINES RETIREMENT DINNER





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LOOKING FORWARD

By *Melanie Levan, Esq.*



I don't know about you, but I still fall into the familiar school year calendar rhythms. Maybe a leftover from my own time in school, or because I still have school-age children.

So as the weather gets

warmer, and our thoughts (and cars) head down the shore, this time of year always feels like a wind down, even though it's only half way through the calendar year. But this time, there's something else in the air. As New Jersey and the rest of the country begin to open up, vacations are now a possibility. Backyard barbecues, outdoor concerts, they're all back. This time it feels like a fresh start, like we've hit the reset button, even if it is really just doing what we did (and took for granted) for decades.

The fresh start effect, as it's come to be known in scientific studies, is the idea that a person can disassociate their past performance outcomes from current ones. Temporal landmarks act as a kind of mental reset button to help get us back on track and get us focused on important goals. Studies show that fresh starts help us separate our old 'inferior' selves from our new 'improved' selves" as noted by researcher Hengchen Dai, who led the study, 'The Fresh Start Effect: Temporal Landmarks Motivate Aspirational Behavior.'¹ Fresh starts also encourage people to evaluate their lives in a wider context.

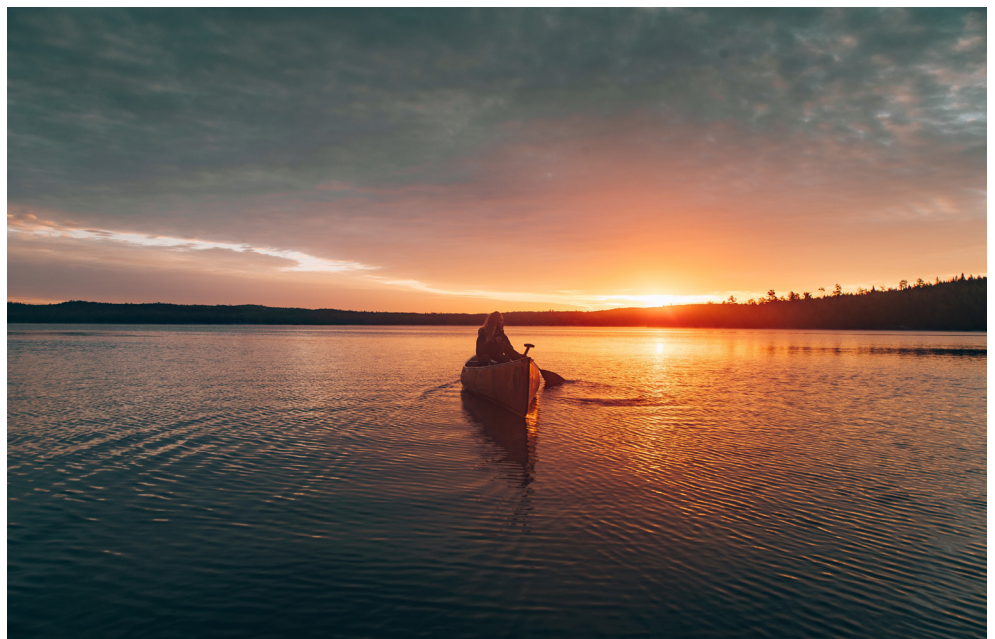
Where January 2020 feels like a "before time", it now is starting to feel like an "after time." Let this summer be your own reset, as you emerge from your personal coronavirus cocoon. Consider setting goals that incorporate positive changes, habits or lessons from the past 18 months that you want to carry with you. Conversely, you can set goals to change certain

habits that you don't want to carry with you. These can be professional or personal areas of growth that you want to see in your life. Setting goals can be a way to live with intention and foster a sense of accomplishment, resilience, and grit.

Here at the Wellness Committee, we are taking our own personal reset, as the Straight Word takes its traditional break in July. Looking back, we hope that our columns, CLE on stress management, and zoom yoga have opened a dialogue on wellness and maybe prompted folks to think about things in a different light. As the we prepare for the upcoming 2021-2022 year, we'd love feedback from you. What topics would you love to learn or hear more about in the monthly Wellness column? How can we better serve you with CLEs that help you find some ease in your daily law practice? We're kicking around some ideas, like a multi-part beginner meditation series, mindfulness training, a healthy eating/cooking series. We'd love your feedback about what you'd like to see. Email your suggestions to mlevan@earp-cohn.com.

Have a great summer. May you and yours be well, may you be safe, may you be healthy, may you live with ease.

¹The Fresh Start Effect: Temporal Landmarks Motivate Aspirational Behavior Dai, H., Milkman, K.L., & Riis, J. (2014). The Fresh Start Effect: Temporal Landmarks Motivate Aspirational Behavior. *Management Science*, 60(10), 2563-2582



IT'S MEMBERSHIP RENEWAL TIME!!!



Burlington County Bar Association RENEWAL MEMBERSHIP APPLICATION

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I am interested in (check all that apply):	
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☐ Continuing Legal Education Committee	☐ Women in the Profession Committee
☐ Corporate Networking Committee	☐ Workers' Compensation Committee
	☐ Young Lawyers Committee

____ I am interested in serving as () Chair, () Vice/Co-Chair of the following Committee/Section*:

*Note: Practice Sections/Committees will be responsible for at least one seminar(s) and/or workshop(s), one Lunch and Learn CLE, one article for the Straight Word during the Bar year.

DUES STRUCTURE

First year at the Bar of New Jersey (2022)	FREE
2nd - 3rd year at the Bar of New Jersey (2020-21)	\$85
4th - 5th year at the Bar of New Jersey (2018-19)	\$135
Admitted 6+ years at Bar of New Jersey (2017 and prior)	\$195
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Emeritus I Admitted to the NJ Bar before 1971 and 10 years with BCBA	FREE
Donation to the BCBF	\$25+

Return with appropriate fee to: **Burlington County Bar Association, 137 High Street, 3rd Floor, Mount Holly, NJ 08060**

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<https://burlcobar.org/lawyer-referral-service/>

SOUTH JERSEY LEGAL SERVICES, INC. NEEDS YOU!!



By Michelle T. Nuciglio, Esq.

South Jersey Legal Services, Inc. (SJLS) is a private, non-profit law firm that provides free legal services to lower-income individuals and families in the nine southern counties in New Jersey, including Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Monmouth, Ocean, and Salem.

The mission of SJLS is to empower low-income individuals to access the judicial system so they will achieve the greatest possible measure of substantive, procedural, and economic justice through the provision of high-quality, cost-efficient, innovative, and effective pro bono civil legal assistance. SJLS provides free legal services aiding low-income clients in select civil cases based on established priorities. SJLS most often provides advice, brief services, or extended representation in the following areas: public benefits, Medicaid, unemployment benefits, domestic violence, family, landlord/tenant disputes, public housing rights, Section 8 housing assistance, migrant farmworker rights, rights of the elderly, bankruptcy, foreclosure, consumer issues, and Internal Revenue Service tax disputes.

Through the Private Attorney Involvement Program (PAI) of SJLS, private, volunteer attorneys assist income-eligible clients in the nine counties in South Jersey SJLS serves. PAI has an opportunity for every attorney who wants to volunteer. Below are some of the current volunteer projects available and other ways you can help.

The Pro Bono Bankruptcy Project

PAI refers Chapter 7 bankruptcy cases to volunteer attorneys in one of two ways. First, PAI refers Chapter 7 bankruptcy cases directly to volunteer attorneys. Second, PAI refers Chapter 7 bankruptcy cases through The Honorable Judith H. Wizmur Bankruptcy Pro Bono Project. This project is a joint collaboration between SJLS, the United States Bankruptcy Court for the District of New Jersey, Rutgers Law School in Camden, and the local bankruptcy bar. The project has assisted Chapter 7 debtors since 1993.

PAI staff members assist clients in compiling all the necessary documents the attorney will need to file the bankruptcy prior to referral. These documents are forwarded to the volunteer attorney when he or she accepts a bankruptcy case. The filing fee is the responsibility of the client if the court does not waive the fee. Further, the New Jersey Bankruptcy Lawyers Foundation accepts applications from volunteer attorneys on behalf of their clients who are seeking financial assistance to pay their filing fees.

The Children's Supplemental Security Income (SSI) Project

The Children's Supplemental Security Income (SSI) Project was started in Sept. 2006, in response to the numerous requests from parents whose children were denied SSI

benefits. Through this project, volunteer attorneys help children appeal the denial of disability benefits. Under the SSI program, a child from birth to age 18 may receive monthly benefits based on disability if he or she has an impairment or a combination of impairments that meets the definition of a disability for children, and the parent(s) and the child are within the allowed resource and asset limits. The Social Security Administration definition of a disabled child states that the child must have a physical or mental condition(s) that very seriously limits his or her activities, and the condition(s) must have lasted, or be expected to last, at least one year or result in death.

All cases are screened for merit by PAI staff prior to referring the case to a volunteer attorney. As part of the screening process, PAI staff members obtain some educational and medical records from the parent or guardian of the child claimant. Periodically, trainings are held for volunteer attorneys who receive a manual and appendix to help guide them through the case.

The Divorce Project



Through The Divorce Project, income-eligible individuals in need of divorce are assisted by volunteer attorneys. The Divorce Project is limited to individuals who only want a divorce—there can be no debt, asset, or equitable distribution issues. Further, if there are children born of the marriage, the client must provide PAI with copies of court orders establishing custody and child support

before the file is referred to a volunteer attorney.

Attorneys who accept cases through The Divorce Project receive a questionnaire completed by the client, a copy of the certificate of marriage, a copy of the certification of insurance coverage, any court orders regarding custody and child support of children born of the marriage, and a waiver letter that may be filed with the court to waive filing fees and service fees for in-state service.

The Expungement Project

The Expungement Project assists individuals who need to expunge their criminal records. Because of the recent changes in the law, PAI has received a large number of requests for assistance from individuals who need to expunge their criminal records. Many of these individuals need the expungements in order to secure employment. SJLS also has in-house staff attorneys to assist individuals who need expungements.

Attorneys who accept cases through The Expungement Project receive the individual's New Jersey criminal

background check. SJLS will reimburse the attorney for reasonable out-of-pocket expenses associated with these cases, which often involve mailings to multiple parties of interest.

Family Assist Project

The Family Assist Project was started in 2016. Through this project, volunteer family law attorneys provide 30-minute advice consultations in areas including divorce, child support, post-judgment issues, grandparent visitation and removal. Currently, these appointments are being held via phone only. All clients must provide PAI staff with copies of any orders or agreements they are seeking to modify.

The SJLS Guardianship Project for Children

The SJLS Guardianship Project for Children was launched in 2016. Typically, parents with a disabled child are confronted with the possibility of guardianship as their child approaches the age of 18. Once a child turns 18, parents no longer have the ability to make decisions for them and are forced to file for guardianship. This process can be a significant expense for most parents, who already have substantial expenses associated with their disabled child. Through this project, eligible parents are assigned a private, volunteer attorney to help them establish guardianship for their child.

Encourage a Colleague to Volunteer

A volunteer attorney encouraging his or her colleagues to volunteer their time is a great way to help a local legal services program. Testimonials from other attorneys about their pro bono work and the satisfaction they receive from helping someone in need are very effective means of recruitment. There is always a need for more volunteers.

Propose a Pro Bono Project

Many of PAI's most successful projects have resulted from the passions and insights of private practitioners who want to help address a need in the communities in which they live and work. PAI gladly accepts insight from those in the private sector as to how collaborative partnerships might be formed to help everyone have equal access to justice.

So Why Volunteer?

There are many benefits to accepting a case for pro bono representation with SJLS.

Attorneys who certify they have performed at least 25 hours of voluntary qualifying pro bono service in New Jersey are exempt from being appointed to handle a *Madden v. Delran* pro bono case for the following year under Rule 1:21-12. Further, New Jersey Rule of Professional Conduct 6.1 states that "Every lawyer has a professional responsibility to render public interest legal service. A lawyer may discharge this responsibility by providing professional services at no fee or a reduced fee to persons of limited means or to public service or charitable groups or organizations, by service in activities for improving the law, the legal system, or the legal

profession, and by financial support for organizations that provide legal services to persons of limited means."

In cases handled through SJLS, all applicants are screened by the SJLS Centralized Intake Unit to determine whether they meet the income and asset eligibility and case type requirements. For most projects, PAI staff members provide the volunteer attorney with most of the documentation he or she will need to proceed with the case. PAI also conducts CLEs periodically and provides free credits in exchange for the commitment to accept a pro bono case. For any case accepted, SJLS provides malpractice insurance coverage. Additionally, all reasonable case-related costs are covered by SJLS or are exempt by court rule.

If you are interested in volunteering, please contact Michelle T. Nuciglio, Esq., SJLS Director of Pro Bono Services, at 856-964-2010 ext. 6229 or at MNuciglio@lsnj.org.



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It may cost you *dearly* by *not* calling us on that matter.
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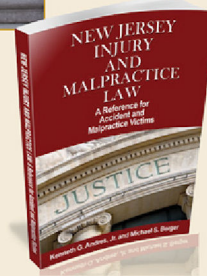
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TOP 10 MEDICAID PLANNING STRATEGIES

By Thomas D. Begley, Jr., CELA



Medicaid Planning strategies basically fall into two categories: spend down and transfer of assets. The ten top strategies include the following:

1. Home. There are several options with respect to the home. The home could be transferred to the community

spouse without a transfer of asset penalty. However, if the community spouse suffers from a diagnosis or is aging, then this might not be the best option. The home could be transferred to children subject to the transfer of asset penalty, but there are risk factors such as lawsuits by children's creditors, divorce, death of a child, etc. The child will also be saddled with carryover basis on the value of the home. Often, transferring the home to an irrevocable trust and retaining a right to use and occupy for the individual makes the most sense.

The individual would pay all of the expenses of maintaining the home including taxes, insurance, utilities, etc. The individual would remain entitled to the homestead tax rebate, senior citizen's deduction, Veteran's deduction, Veteran's exemption, and real estate tax freeze. The transfer would be subject to the Medicaid transfer of asset penalty. However, the primary residence exclusion on the sale of a home could be retained as well as the step-up in basis, if the home is not sold during the individual's lifetime.

The home could be transferred without a Medicaid transfer of asset penalty to: a child under age 21, a child who is blind or disabled, a sibling who has lived in the home for at least one year prior to the date of institutionalization and has an equitable interest in the home, or to a caregiver child discussed above. The Medicaid applicant could sell a remainder interest in the home. The purchase price for the remainder interest would be the Medicaid value of the home minus the

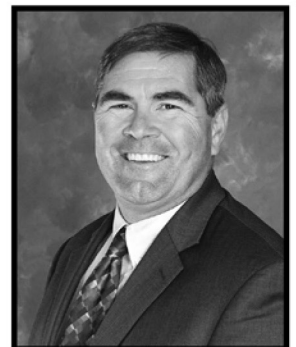
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value of the life estate. At age 75, a life estate is worth approximately 52%. Therefore, a remainder interest in a \$400,000 house could be sold to a child for approximately \$192,000. The problem is if the home is sold during the parent's lifetime, the parent would be entitled to that portion of the proceeds of sale represented by the value of the life estate.

is no Medicaid transfer of asset penalty for gifts to a blind or disabled child, but care must be taken not to disqualify that child from public benefits they may be receiving and a determination must be made as to whether the child has liens against him. The child must be responsible. When necessary, assets should be transferred to a blind or disabled child using a special type of trust designed to protect the child's own benefits.



2. Debt Repayment. The Medicaid applicant could repay all debts including outstanding mortgages on real estate, home equity loans, car loans, credit card bills, and student loans.

3. Home Improvements. Prior to the application for Medicaid, the community spouse may want to spend money on home improvements that will have to be made anyway over the next few years.

4. New Car. The community spouse may want to purchase a new car.

5. Prepaid Funeral. A prepaid funeral should be purchased for the Medicaid applicant and the community spouse, and burial plots could be considered for other family members.

6. Annuity. The community spouse may wish to purchase a Medicaid-compliant annuity. This would convert countable assets used to purchase the annuity to a non-countable income stream for the community spouse.

7. Transfer Assets to a Blind or Disabled Child. There

8. Care Agreement. If a child is caring for a parent, a written care agreement can be drafted and the parent can hire the child to provide care. The agreement should be very detailed outlining the scope of care, the hours of care being provided, and should provide for reasonable compensation. Fifteen dollars an hour is probably about the limit that would escape a Medicaid challenge. The Care Agreement must be fully executed and in place prior to any money changing hands in payment of caregiving services.

9. Large Transfer of Assets. A large transfer of assets could be made, including the transfer of the home to a trust with the expectation that the Medicaid applicant or the transferee would pay for whatever care is necessary for five years.

10. Transfer Assets and Pay a Penalty. If assets are transferred during the five-year period, there will be a Medicaid transfer of asset penalty. The penalty is calculated by dividing the amount transferred by the divisor, which currently is \$361.20 per day or \$10,836 per year. So if \$108,360 were transferred, the Medicaid applicant would be ineligible for Medicaid for ten months. If the applicant were receiving care at home at a cost of \$3,000 per month, half of the funds transferred to the transferee would have to pay for the care. If the care costs \$3,000 per month, the transferee would essentially be giving back \$30,000, but would retain the remaining \$78,360. In order for this strategy to work, the Medicaid applicant must be clinically and financially eligible, so all assets must be transferred and a Medicaid application must be filed.

LOCAL GIANTS: AN INTERVIEW WITH THE HONORABLE JOHN L. CALL



By Tessa Wagoner, Esq.

The Honorable John L. Call, Jr. was appointed as a judge to the Superior Court of New Jersey in 2005 and served as Presiding Judge of the Family Part from 2009 until his retirement in 2017. Before being appointed to the bench, Judge Call practiced criminal defense, where he worked 15 capital murder cases.

Judge Call serves on recall in the Family Division.

Tessa Wagoner is a member of the Young Lawyer's Committee and is the current law clerk for Judge Nocella and Judge Call in the Burlington Family Division.

Wagoner: How would you define professionalism?

Call: Professionalism for an attorney is a combination of technical expertise, compliance with the rules of professional conduct, and incorporating zealous advocacy on behalf of your client. Lacking any one of those three factors and an attorney can't present themselves as professional. If they don't know what they are doing, they embarrass themselves in front of the court, in front of the jury, and in front of a courtroom. If they don't comply with the rules of professional ethics, they then embarrass not only themselves but the entire profession and face sanctions. An additional factor with not abiding by the ethics rules is that you tend to give the profession a bad name and we do not need additional attorneys giving the profession a bad name. Finally, and this is a double-edged sword, an attorney in order to be professional has to represent the interest of their client to the best of their ability. Sometimes you don't necessarily have a winning position, but you have to make an argument that in essence is the best that can be made based upon the facts that you have. That would be the three keys to professionalism.

Wagoner: How would you characterize the relationship between professionalism and "zealous advocacy"?

Call: Zealous advocacy is important within ethical and appropriate bounds. One of the problems today is that

many young lawyers have watched too many TV shows or Netflix series and believe that being obnoxious, abrasive, and combative are the only ways that one can be zealous. In the vast majority of cases that type of behavior only proves once again to embarrass the attorney and that type of conduct certainly impacts the judge's view of an attorney. You can't act like a TV lawyer within a courtroom and not make a fool of yourself. If you want to be a TV lawyer, try out for a TV show.

Wagoner: What about empathy? Is empathy necessary for the practice of law and how is it used while also upholding professional standards?



Call: Without empathy, you are not going to be a professional lawyer – you're not even going to be a decent human being. Empathy is important in every aspect of the law. Lawyers deal continuously with people with problems and many times these are problems that were not of their own creation. Without feeling some empathy for a client

under the appropriate circumstances you really cannot be an effective advocate. There are some clients that might not generate empathy, but in the vast majority of cases persons come to lawyers about problems and it makes you very effective if you are able to listen and respond with some empathy to your client. You obtain so much more information which would assist you in preparing the case for a judge. Finally, if you do not have empathy, you simply should not be a judge – real simple.

Wagoner: When you started out, was there someone you looked to as an example of professionalism?

Call: There were certainly not as many attorneys when I was a young lawyer. I began my career working for Jim Logan, who was the epitome of zealous advocacy. Jim

was, shall we say, a tiger in the courtroom. I recognized that Frank Hartman was a superb attorney and Frank Hartman's performances, and performances might not be the best word, were examples of great lawyering and such effective presentation. Frank Hartman was one of the best attorneys I have ever seen in a courtroom. Finally, Victor Friedman, who I did not know as a lawyer, but rather when he became a judge. Every time I appeared before Judge Friedman, I learned something about how a great lawyer thinks or acts. He was like going to law school all over again and that went on until he retired. No matter how long I practiced, it was rare when I appeared before him, even for the simplest of matters, and it was not instructional.

Wagoner: What role do you feel judges play in upholding professional standards? At what point do you step in and referee when two attorneys are arguing?

Call: I think it is extremely important for judges to recognize that they are in control of the courtroom. All the attorneys who appear before me know that I do not put up with attorneys who cast first personal aspersions upon opposing counsel or who make unwarranted personal attacks upon litigants. The court has to always be aware that it has to function as, in essence, a referee. What is a difficult balancing test is when you have a very accomplished and skilled attorney who is a little lacking in the ethics area and suffering from over zealousness, who then has on the other side an attorney far less skilled and perhaps less combative. That presents a very difficult problem for a judge because it is an adversary system, but I believe that a judge has to step in when things become unfair as a result of the inadequate skill match and aggressiveness between attorneys. A litigant should not suffer because of their choice of counsel.

Wagoner: In your long career, have you noticed any shifts in how the legal community views professionalism?

Call: There has been a decline over the years in the degree of professionalism displayed by lawyers and in large part it is probably due to the tremendous increase in the number of lawyers and the fact that many young lawyers coming out of law school don't have the opportunity to get a job with larger firms and experience

mentoring by more experienced lawyers. Practicing

law is not an easy thing to do – coming out of law school and opening your own office and trying to navigate all the pitfalls that face a young lawyer without some type of mentor, someone to go to and say I have this problem, what would you do with it. Many times what appears to be a huge problem to the young lawyer is a problem the older lawyer has faced a hundred times and after hundred tries you generally figure out how to deal with it. I think that is one thing that there is not enough of – mentorship available for younger lawyers. That would be something I wish the Bar Association, both state and county, would facilitate more out to help young lawyers navigate their way through the labyrinth of practicing law.

Wagoner: With that, would you say experienced attorneys have a responsibility to seek out opportunities to mentor young attorneys?

Call: I think older attorneys, when they have the opportunity, when they're sitting around the courtroom and they watch a young attorney do something in court and it is not particularly effective or it is really completely wrong under the circumstances, that it doesn't hurt the older attorney to simply ask the younger attorney "would you like a little advice"? Now some younger attorneys would say "yes, I'd love some advice" and other attorneys will say "no, I know it all myself," and that particular attorney has kind of bitten their own tail at that point. As a judge, for example, I would try cases primarily in juvenile where I had both young public defenders and young prosecutors and after the case was over I would ask if they'd like a critique as to some things that were effective and weren't effective. I think that's sort of an obligation, but some judges would disagree with that. I think if you see an attorney bearing down the wrong course, you might suggest to them that when you get to the fork in the road, take the other one next time

Wagoner: Thank you, Judge Call, for sharing your thoughts on professionalism and for always going out of your way to mentor young attorneys, myself included.



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<i>Jenkins vs. Perrine</i> Attorneys: P: G. Harrison Walters; D: Charles Blumenstein L-2308-18	Auto	4/9/21	Belgard	No Cause	No Cause
<i>Avent-Price vs. Clark</i> Attorneys: P: Abraham Tran; D: Brad Parker L-481-18	Auto	4/23/21	Belgard	\$15,000 total awd 80% deflt/20% pltf	No Cause

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