

2015 Young Lawyers Symposium  
Co-Sponsored by the Young Lawyers Division and the NJSBA Diversity Committee  
Saturday, October 3<sup>rd</sup>  
Parsippany Hilton, 1 Hilton Court, Parsippany, NJ 07054

Symposium Coordinator:

Jonas K. Seigel, Esq.

*Seigel Capozzi Law Firm LLC, Ridgewood*

Speakers:

Hon. Peter A. Bogaard, J.S.C. (Morris)

Hon. Mitzy Galis-Menendez, J.S.C. (Hudson)

Hon. Sohail Mohammed, J.S.C. (Passaic)

Thomas H. Prol, Esq., NJSBA President-Elect

*Laddey, Clark & Ryan, LLP (Sparta)*

Evelyn Padin, Esq., NJSBA Treasurer

*Law Office of Evelyn Padin (Jersey City)*

Gary Ahladianakis, Esq.

*Kent & McBride, PC (Iselin)*

Russell F. Anderson, Jr., Esq.

*Law Offices of Russell F. Anderson, Jr. (Hackensack)*

Cedric Ashley, Esq.

*Ashley Law Firm, LLC (Princeton)*

Michael A. Austin, Esq.

*Conte Clayton & Austin, PA (Wykoff)*

Joseph A. Bahgat, Esq.

*Hub City Law Group (New Brunswick)*

K. Raja Bhattacharya, Esq.

*Bendit Weinstock, PA (West Orange)*

Kate Carballo, Esq.

*Davis Saperstein & Salomon, PC (Teaneck)*

Joshua F. Cheslow, Esq.

*Drescher & Cheslow, PA (Manalapan)*

Michael L. Detzky, Esq.

*Detzky Hunter & DeFillippo, LLC (Freehold)*

Christina Vassiliou Harvey, Esq.

*Lomurro Law (Freehold)*

Christopher R. Higgins, Esq.

*Law Office of Christopher R. Higgins (East Brunswick)*

John P. Kahn

*Duane Morris, LLP (Cherry Hill)*

Jeffrey Neu, Esq.

*Kuza Neu (Red Bank)*

Rajeh A. Saadeh, Esq.

*The Law Office of Rajeh A. Saadeh, LLC (Somerville)*

Shawn M. LaTourette

*Gibbons, PC (Newark)*  
Jonathan H. Lomurro, Esq.  
*Lomurro Law (Freehold)*  
Thomas J. Manzo, Esq.  
Szaferman Lakind Blumstein & Blader, PC (Lawrenceville)  
Mike Mooney, Vice-President, Bar Association Programs  
*USI Affinity, Philadelphia*  
Nicole J. O'Hara, Esq.  
*Gross McGinley, LLP (Allentown, PA)*  
Michael Jay Plata, Esq.  
*Plata Ferrer Law Group (Ridgefield)*  
Joshua H. Reinitz, Esq.  
*Iacullo Martino, LLC (Nutley)*  
Marc B. Samuelson, Esq.  
*Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi and Gill (Atlantic City)*  
*Seigel Capozzi Law Firm LLC, Ridgewood*  
Evelyn R. Storch, Esq.  
*Harwood Lloyd, LLC (Hackensack)*  
James J. Uliano, Esq.  
*Chamlin Rosen Uliano & Witherington (West Long Branch)*  
Dana M. Van Leuven, Esq.  
*O'Sullivan Law Group (Morristown)*

## **Screen It and then Refer It or Keep It**

Russell F. Anderson, Jr., Esq.

Evelyn Padin

Joshua H. Reinitz, Esq.

Marc B. Samuelson

Jonas K. Seigel

---

Screen it and then Refer it or Keep  
it?

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First things first...



KNOW THE GROUND RULES!

## New Jersey Rule of Professional Conduct 1.5(e):

- (e) Except as otherwise provided by the Court Rules, a division of fee between lawyers who are not in the same firm may be made only if:
  - (1) the division is in proportion to the services performed by each lawyer, or, by written agreement with the client, each lawyer assumes joint responsibility for the representation; and
  - (2) the client is notified of the fee division; and
  - (3) the client consents to the participation of all the lawyers involved; and
  - (4) the total fee is reasonable.

## 1:39-6. Effect of Certification

- (a) Not Exclusive. The standards and systems adopted herein shall in no way limit the right of a certified attorney to practice law in any respect nor shall any attorney-at-law of this State be barred from engaging in a designated area of practice by reason of lack of eligibility or certification.
- (b) Use of Designation. An attorney who has satisfied the requirements of this rule and who has been certified may make dignified use of the area of practice designation as provided in the Regulations of the Board.

## 1:39-6. Effect of Certification (Continued)

- (c) Restrictions on Designation Use. No use may be made of the designations set forth in the Regulations of the Board except as therein provided, nor may other words or combination of words be used by a certified attorney in place of such designations.
- (d) Division of Fees. A certified attorney who receives a case referral from a lawyer who is not a partner in or associate of that attorney's law firm or law office may divide a fee for legal services with the referring attorney or the referring attorney's estate. The fee division may be made without regard to services performed or responsibility assumed by the referring attorney, provided that the total fee charged the client relates only to the matter referred and does not exceed reasonable compensation for the legal services rendered therein. The provisions of this paragraph shall not apply to matrimonial law matters that are referred to certified attorneys.



## 1:39-6. Effect of Certification (Continued)

- (e) **Obligation of Certified Attorneys.** A certified attorney is under a continuing obligation, during the duration of the certification period, to notify the Board of any malpractice action brought, fee arbitrations filed, disciplinary complaints filed, or discipline imposed.

# The Distinction Between a Certified and Non-Certified Attorney



THE FEE DIVISION MAY BE MADE WITHOUT REGARD TO SERVICES PERFORMED OR RESPONSIBILITY ASSUMED BY THE REFERRING ATTORNEY, PROVIDED THAT THE TOTAL FEE CHARGED THE CLIENT RELATES ONLY TO THE MATTER REFERRED AND DOES NOT EXCEED REASONABLE COMPENSATION FOR THE LEGAL SERVICES RENDERED THEREIN.

If obtaining a fee pursuant to Rule 1.5 (e) remember the  
AFFIDAVIT OF SERVICES

**AFFIDAVIT**

I, (Insert Name of Affiant) , citizen of legal age, single/married to (Insert Name of Spouse if any), and a resident of (Insert Address of Affiant), after having been duly sworn in accordance with law, hereby depose and say:

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That Affiant sayeth none.

IN WITNESS WHEREOF, I have hereunto affixed my signature this ..... day of ..... , 20\_\_ in .....

.....  
(Signature of Affiant) Printed Name

# Keep track of the time spent on the referred matter and any expenses before drafting your Affidavit of Services



- (1) DRAFT A SYNOPSIS.
- (2) COLLECT EVIDENCE
- (3) CONDUCT PRELIMINARY INTERVIEWS

# *DEVELOP YOUR EXPERTISE*



# *MARKET YOURSELF*



- 1) Websites
- 2) Business Cards
- 3) Advertisements
- 4) Phone Book
- 5) Seminars

REFERRALS ARE A WAY TO GROW YOUR  
PRACTICE → YOUR BUSINESS

Build your  
**Network.**  
Grow your  
**Business.**

# Look for opportunities to build your network



- (1) Friends from law school.
- (2) Local and State Bar Associations
- (3) Community Involvement
- (4) Sports & Recreation
- (5) Religious Institutions



# NEGLIGENT REFERRAL

- Tormo v. Yormark, 398 F.Supp. 1159 (D.N.J. 1975)
- The court stated that the referring attorney's responsibility arose from his "duties as an agent toward his [clients] and from his affirmative conduct in bringing his clients into contact with a person of previously unknown character under circumstances affording the opportunity for crime." It noted that the referring attorney, who was from New York, might not be required to know of the other attorney's indictment, in New Jersey, but that a jury could conclude that the referring attorney was negligent because he should have been suspicious of the other attorney's solicitation of clients in violation of the Code of Professional Responsibility. The court found that the alleged negligence selecting the attorney could be a proximate cause of plaintiff's damages and allowed the negligent referral claim to proceed.

Marc B. Samuelson, Esq.

Goldenberg, Mackler, Sayegh, Mintz, Pfeffer, Bonchi & Gill

1030 Atlantic Avenue  
Atlantic City, NJ 08401

Phone: (609) 344-7131  
[msamuelson@gmslaw.com](mailto:msamuelson@gmslaw.com)





Ms. Padin is the senior partner and founder of the Law Offices of Evelyn Padin. The firm was established in 1996, and has represented clients in many legal areas throughout Hudson County.

Ms. Padin is licensed to practice in the state of New Jersey, and was admitted to the bar in 1992. She received her Bachelor of Arts degree at Rutgers College, a Master of Social Work at Fordham University, and her Juris Doctor degree from Seton Hall University School of Law.

As an experienced litigator and an aggressive advocate, Ms. Padin has represented more than 5,000 clients during her extensive legal career. Of the thousands of clients she has represented, many have been defendants in cases brought by bank lenders attempting to foreclose on residential mortgages. Furthermore, Ms. Padin is bilingual in English and Spanish, and therefore able to communicate directly and easily to the substantial percentage of Spanish-speakers in foreclosure proceedings.

Ms. Padin serves as a Trustee of the [New Jersey State Bar Association](#) and as the Hudson County Trustee of the Hispanic Bar Association of New Jersey. She formerly served as a Municipal Court Judge of the City of Jersey City and also served as In House Counsel for the Office of Landlord Tenant Relations with the City of Jersey City. She is a member of the [Hudson Bar Association](#), and belongs to the [New Jersey Association for Justice](#), where she sits on the Board of Governors. In addition, Ms. Padin is a member of the New Jersey State Bar Association and sits on the Family Law Executive Committee as a Representative of Hudson County.

A notable case in 2006 that Ms. Padin worked on involved a construction worker who sued his employer for a 15' fall that caused him to be paralyzed for the rest of his life. Read about the [\\$4.275M fall settlement](#) in the *New Jersey Law Journal*.

OUR ATTORNEYS

PRACTICE AREAS

- Violent Crimes
- Drug Crimes
- DWI Defense
- Restraining Orders/Domestic Violence
- Juvenile Crimes
- Divorce and Property Division
- Alimony in Divorce
- Modifications of Child Support or Custody Orders
- Mediation in Divorce and Custody
- Bankruptcy
- Real Estate

OUR ATTORNEYS

- Anthony J. Iacullo
- Steven J Martino
- Lynne M. Machtemes
- [Joshua Reinitz](#)

JOSHUA REINITZ

Associate

**Location:** Nutley, New Jersey  
**Phone:** 973-498-8787  
**Fax:** 973-661-1653  
**Email:** [E-mail Me](#)



DWI and Criminal Defense Trial Attorney who provides a compassionate and vigorous defense to achieve the desired individualized results for each client. Unanimously elected Legislative Coordinator of the Municipal Court Practice Section of the New Jersey State Bar Association. Experienced as both a Prosecutor and Public Defender in Municipal Courts throughout the State of New Jersey. Skilled legal writer whose briefs have assisted in overturning multiple criminal convictions. Testified before the New Jersey Legislature on behalf of the New Jersey State Bar Association. Lecturer for other attorneys in continuing education classes. Also possess real world business experience thriving in the high pressure environment of an elite college basketball program.

**Areas of Practice**

- Driving While Intoxicated/Municipal Court Defense
- Criminal Defense
- Civil Rights Defense
- Employment Law

**Litigation Percentage**

100% of Practice Devoted to Litigation

**Certified Legal Specialties**

Certified Municipal Law Attorney, New Jersey Supreme Court

**REVIEW US**

## EMAIL US

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### Bar Admissions

New Jersey, 2003

U.S. District Court District of New Jersey, 2007

### Education

**Rutgers, The State University of New Jersey School of Law - Newark, Newark, New Jersey**

J.D. - 2003

**Rutgers College, Rutgers University, New Brunswick, New Jersey**

B.S. - 1999

Honors: Dean's List

Major: Administration of Justice

### Published Works

State v. Barros, 425 N.J.Super. 329 , 2012

### Classes/Seminars

Post Conviction Relief in Municipal Court, NJICLE, 2012

### Honors and Awards

Super Lawyers Rising Star in Criminal Defense/DWI, 2012 - 2015

### Professional Associations and Memberships

New Jersey State Bar Association, Trustee/Director Municipal Court Practice Section, 2003 - Present

New Jersey Association of Criminal Defense Attorneys, Municipal Court Committee, 2011 - Present

### Past Employment Positions

Superior Court of New Jersey, Law Clerk to Hon. Eugene H Austin, J.S.C, 2003 - 2004

Rutgers University Women's Basketball, Director of Basketball Operations, 2005 - 2006

**Super Lawyers**  
RISING STARS



PROUDLY SERVING NEW JERSEY AND THE SURROUNDING AREA

Iacullo Martino, LLC  
247 Franklin Avenue  
Nutley, NJ 07110

[NUTLEY LAW OFFICE MAP](#) | [EMAIL](#)

Iacullo Martino, LLC has handled numerous high profile litigation matters throughout the State and throughout the Country. Since its inception, the firm has been dedicated to serving the legal community.



Iacullo Martino, LLC, in Nutley, New Jersey, serves Essex County, Passaic County and Bergen County, including Clifton, Passaic, Belleville, Newark, Paterson, Hackensack, West Orange, East Orange, South Orange, Verona, Cedar Grove, Wayne, Little Falls, Glen Ridge, Montclair, Bloomfield, North Arlington and Lyndhurst.

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GOLDENBERG, MACKLER, SAYEGH,  
MINTZ, PFEFFER, BONCHI & GILL  
ATTORNEYS AT LAW

 1-800-355-7131 **se habla español**

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## Marc B. Samuelson

[msamuelson@gmslaw.com](mailto:msamuelson@gmslaw.com)

Workers' Compensation and Social Security Disability Law

### PROFESSIONAL AFFILIATIONS

Past lecturer for the New Jersey Institute for Continuing Legal Education; Member of the New Jersey State Bar Association; Atlantic County Bar Association and Justice James H. Coleman Jr. Workers' Compensation American Inn of Court; Admitted to practice in the State of New Jersey and United States District Court for the District of New Jersey; A graduate of the University of Rochester and Widener University School of Law - Delaware.

### AREAS OF SPECIALIZATION

- Workers' Compensation
- Social Security Disability

Contact **Marc B. Samuelson** by calling: **609-344-7131** or 1-800-355-7131.

### SENIOR MEMBERS

**KENNETH D. MACKLER**

**JOSEPH E. SAYEGH**

**LAWRENCE A. MINTZ**

**MARK PFEFFER**

**KEITH BONCHI**

**MICHAEL A. GILL**

**MICHAEL J. MACKLER**

**JOEL CHIPKIN**

### ATTORNEYS

**ALLISON E. WEINER**

**FRANCIS J. BALLAK**

**LAUREN E. TYLER**

**DANIEL G. TRACY**

**JEANINE WARRINGTON**

**MARC B. SAMUELSON**

**HARRY A. GOLDENBERG**  
(1938 - 2003)

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**Northfield:** (609) 646-0222

**Rio Grande:** (609) 886-4333

**Vineland:** (856) 839-0953

**SERVING THESE COUNTIES:**

**Atlantic County**

**Cape May County**

**Cumberland County**

**Ocean County**

**SITEMAP:**

**Areas Of Practice**

Personal Injury

Workers Compensation

Matrimonial and Family Law

Commercial Law

Municipal Law

Employee Discrimination

Wills and Trusts

Mediation and Arbitration

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**JONAS K. SEIGEL**

## PARTNER

201.444.4000

[Email Jonas K. Seigel](mailto:jonas.seigel@seigal.com)

Jonas K. Seigel was awarded a Master of Laws in Trial Advocacy from Temple University's James E. Beasley School of Law, following degrees from Goucher College and Thomas M. Cooley Law School. He has litigated cases in both Superior Court and arbitration forums. At present, he manages all pre-litigation files for the firm.

He is a recipient of the New Jersey State Bar Association's prestigious Young Lawyer Awards for 'Professional Achievement' in 2013, and 'Service to the Community' in 2009. Mr. Seigel has repeatedly been named as a New Jersey Super Lawyers, "Rising Star," and as a 'Top 40 Under 40' by the National Trial Lawyers. Already a life member of both the Million and Multi-million Dollar Advocates Forum, the Top Trial Lawyers in America and an Editor's Choice Award recipient for a book that he co-authored entitled, *Consumer Advocate*, Jonas manages to find the time to volunteer for several charities and lecture to both attorneys and the public on issues of public safety and insurance law.

Additionally, Jonas serves as a Trustee of the Bergen County Bar Association and Foundation, the Passaic County Bar Association and Foundation, and on several committees of the New Jersey State Bar Association. He is a member of the Board of Governors of the New Jersey Association for Justice and a member of the Advisory Board of Paterson Habitat for Humanity.

When Jonas is not fighting on behalf of his clients or engaged in charity work, there is no place he would rather be than with his wife Eliana and their two boys, Max and Luca.

## NOTABLE CASES

\$2.025 million dollar recovery in Bergen County on behalf of family of motorcyclist killed in crash  
\$875,000 recovery in Bergen County from truck accident  
\$565,000 recovery in Bergen County from truck accident.

## PUBLISHED WORKS

Co Author "Consumer's Advocate", 2012  
Dictum Vol. 37, No.1: "Understanding New Jersey Auto Insurance Policies"  
Dictum Vol. 37, No.2: "Medical Malpractice: When Health Providers Make Mistakes"  
Dictum Vol. 37, No.3: "The Nuts and Bolts of New Jersey's Wrongful Death Act"

## CLASSES/SEMINARS

Program Coordinator / Lecturer, First Annual Young Lawyers Conference, New Jersey Institute for Continuing Legal Education and New Jersey State Bar Association  
Lecturer, Networking for Career Success, Young Lawyers Division and Law Office Management Committee of the New Jersey State Bar Association  
Lecturer, Hot Tips for Hot Solos (Civil), Solo and Small Firm Practice, New Jersey Institute for Continuing Legal Education and New Jersey State Bar Association  
Lecturer, The Business of Law: Marketing for Young Lawyers, Bergen County Bar Association  
Lecturer, The Business of Law: Marketing for Young Lawyers, Passaic County Bar Association  
Moderator, Lawscapes: New Jersey Auto Insurance

## HONORS AND AWARDS

Young Lawyer of the Year, New Jersey State Bar Association 2014  
New Jersey Super Lawyers: Rising Star, 2011-2014  
Top Young Attorneys in New Jersey, New Jersey Monthly Magazine, 2011-2014  
National Trial Lawyers, Top 100 Trial Lawyers, 2013  
National Trial Lawyers, Top 40 Under 40, 2013  
Lifetime Member, Million Dollar Advocates Forum, 2013  
The American Society of Legal Advocates, Top 40 Litigation Lawyer under 40  
Lifetime Member, Multi-million Dollar Advocates Forum, 2013  
Latino American Who's Who, 2012  
Editor's Choice Award for: Consumer Advocate, 2012  
"Community Service Award", New Jersey State Bar Association, 2009  
Who's Who in American Law, 2010, 2014  
Paul Patti Humanitarian of The Year Award, Boys & Girls Club of Lodi/Hackensack, 2010  
"Professional Achievement Award", New Jersey State Bar Association, 2013  
Superior Courts of New Jersey, Office of Attorney Ethics, District Fee Arbitration Committee member

## PROFESSIONAL ASSOCIATIONS AND MEMBERSHIPS

American Bar Association, Advisory Panel  
American Association for Justice  
New Jersey State Bar Association, Civil Trial Bar Section Executive Committee  
New Jersey State Bar Association, Membership/PR Committee  
New Jersey State Bar Association, Young Lawyers Division, Past Executive Committee Officer  
New Jersey Association for Justice, Board of Governors  
Bergen County Bar Association, Trustee  
Bergen County Bar Foundation, Trustee  
Passaic County Bar Association, Trustee  
Passaic County Bar Foundation, Trustee  
Hudson County Bar Association  
The Justice Morris Pashman American Inn of Court  
The Justice Robert L. Clifford American Inn of Court

## PRO BONO ACTIVITIES

Seigel Capozzi Law Firm Charity Fund, Founder  
Paterson Habitat for Humanity, Advisory Board  
Wills for Heroes  
BACKpacks To School  
Order of the Lamp  
Valerie Fund  
Boys & Girls Club of Lodi/ Hackensack  
Boys & Girls Club of Passaic  
Bergen WIB: Clean Slate Project  
Paterson Blue Devils Youth Soccer Team  
Paterson R & G Youth Basketball Team  
Community Food Bank of new Jersey  
Eva's Village

New Jersey Tree Foundation

## AREAS OF PRACTICE

100% Personal Injury & Medical Malpractice - Plaintiff

AWARDS &  
AFFILIATIONS

## BAR ADMISSIONS

New Jersey, 2008

U.S. District Court District of New Jersey, 2008

## EDUCATION

LL.M.in Trial Advocacy, Temple University Beasley School of Law, Philadelphia, 2011

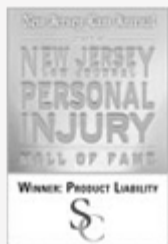
J.D., Thomas M. Cooley Law School, Lansing, Michigan, 2007

B.A., Goucher College, Baltimore, Maryland, 2000

Don Bosco Preparatory, Ramsey, New Jersey, 1996



Super Lawyers



Office Location:

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Free Initial Consultation: 201.444.4000



Seigel Capozzi Law Firm LLC is located in Ridgewood, New Jersey and serves clients in and around Ridgewood, Cresskill, Ho Ho Kus, Glen Rock, Midland Park, Saddle Brook, Wyckoff, Hawthorne, Fair Lawn, Paramus, Allendale, Hillsdale, Waldwick, Saddle River, Little Ferry, Haledon, Emerson, Oradell, Park Ridge, Westwood, Elmwood Park, Franklin Lakes, Ramsey, River Edge, Essex, Bergen and Passaic County.

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The Associate-How to Get Noticed When You're a Small Fish  
in a Big Pond

Gary Ahladianakis

John P. Kahn

Nicole O'Hara, Esq.

# THE ASSOCIATE – HOW TO GET NOTICED WHEN YOU’RE A SMALL FISH IN A BIG POND

2015 YOUNG LAWYERS SYMPOSIUM  
Saturday, October 3, 2015

# BALANCE QUANTITY AND QUALITY OF WORK

1. Be the “go to” associate, but focus on a practice area.
2. Ask questions.
3. Point out issues, errors or inconsistencies.
4. Provide possible solutions/suggested courses of action with each question or error.



# BE CONFIDENT IN YOUR WORK AND SKILL SET, BUT BE OPEN TO LEARNING FROM PARTNERS

Ideal confidence level: between Jeff Winger and Barry Zuckercorn



# EXTERNAL MARKETING

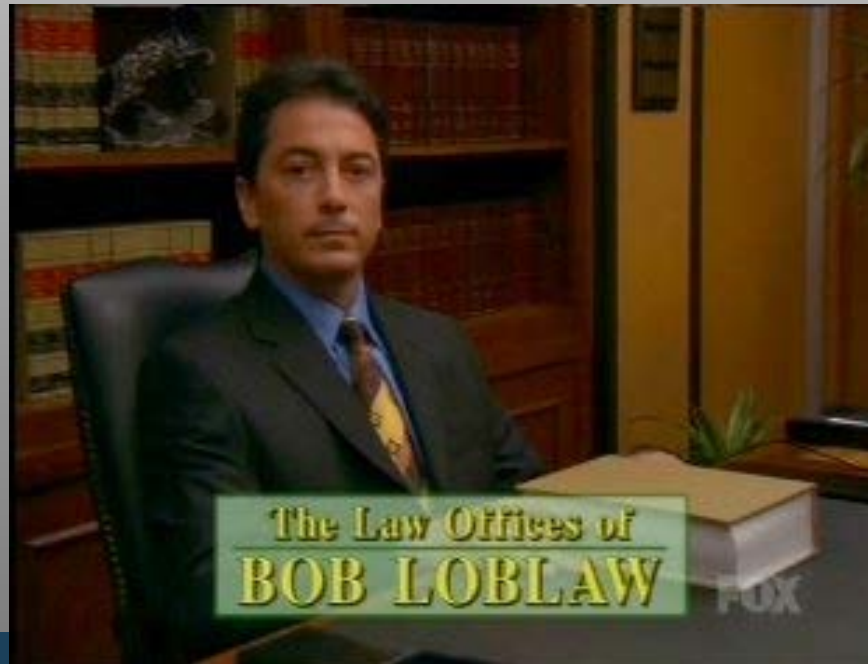


# SHOW PARTNERS YOU ARE SERIOUS (AND SAVVY) ABOUT MARKETING

1. Get active in the NJ State Bar Association Young Lawyers Division (...and other bar associations and chambers of commerce)
2. Publish and Present
3. Blog or video blog for your firm's site



INTERNAL MARKETING... Make sure partners know your face and especially your name!



# ENSURE PARTNERS KNOW WHO YOU ARE AND WHAT YOU DO

1. Cross-market your area of practice to existing clients of the firm
2. Educate partners about what you do, your ideal clients, the types of services you commonly provide
3. Internal marketing and face time

# Thank you!

**Gary Ahladianakis**

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**John P. Kahn**

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**Nicole J. O'Hara**

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## Gary Ahladianakis

Gary Ahladianakis was born and raised in Woodbridge, New Jersey. He graduated magna cum laude from Ramapo College of New Jersey in 2001 with a B.A. in Law & Society and minor in International Business. Gary then attended the University of Connecticut School of Law and received his J.D. in 2004.

Gary is licensed to practice law in New Jersey, New York and the District of Columbia and is also admitted to practice before the United States District Courts for the District of New Jersey, District of Columbia and the United States Second Circuit Court of Appeals.

Prior to joining Kent/McBride, Gary was employed as a Senior Associate Attorney practicing insurance defense litigation in the areas of personal injury, motor vehicle liability, premises liability, products liability, construction defects, employment, and consumer fraud in State and Federal court matters for over nine (9) years at a firm in New Jersey.

### Gary Ahladianakis

*Associate*

555 Route 1 South

Suite 440

Iselin, NJ 08830

Phone: (732) 326-1711

Fax: (732) 326-1830

[gahladianakis@kentmcbride.com](mailto:gahladianakis@kentmcbride.com)

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### Education

Ramapo College of New Jersey  
(B.A., 2001)

University of Connecticut School  
of Law (J.D., 2004)

---

### Bar Admissions

New Jersey

New York

### Areas of Practice:

- Asbestos Litigation
- Motor Vehicle Defense Litigation
- Premises Liability Litigation

### Professional Associations & Memberships

- New Jersey State Bar Association, Young Lawyers Division, Executive Committee Member
- American Bar Association, New Jersey District Delegate
- Hellenic American Bar Association, Vice President

District of Columbia

U.S. Second Circuit Court of Appeals

U.S. District Court for the District of New Jersey

U.S. District Court for the District of Columbia

### Honors and Awards

- 2004 National Native American Law Moot Court Competition (Denver, CO), First Place

### Foreign Languages

- Greek



**JOHN P. KAHN****Associate****Duane Morris LLP****1940 Route 70 East, Suite 100****Cherry Hill, NJ 08003-2171****USA****Phone: +1 856 874 4276****Fax: +1 856 874 4386****Email: JPKahn@duanemorris.com**

**John P. Kahn** practices in the area of litigation. Mr. Kahn has experience with healthcare fraud and abuse claims; mortgage fraud claims; securities fraud claims; class action claims; and claims arising under employment and healthcare plans.

Mr. Kahn has experience in all phases of litigation, including the handling complex discovery issues, preparing and arguing motions in State and Federal Court, as well as trial experience in State and Federal Court. Mr. Kahn has also obtained favorable results through representation in mediation and arbitration.

Mr. Kahn is a 2005 graduate of Rutgers Law School - Camden. Prior to law school, Mr. Kahn was a Series 7 - General Securities Representative and Registered Investment Advisor. Mr. Kahn is a member of the American Bar Association, New Jersey Bar Association, Pennsylvania Bar Association, and Philadelphia Bar Association. Mr. Kahn serves on the Board of Trustees of the Camden County Bar Association and is an Officer of the Garden State Bar Association.

**Areas of Practice**

- Commercial Litigation

**Representative Matters**

- Obtained on behalf of Taberna Europe, an Irish company that manages collateralized debt obligations, a \$34 million misrepresentation judgment in the London High Court against a failed Danish financial institution, Roskilde Bank.
- Obtained on behalf of Wells Fargo Bank an order granting summary judgment against the Luzerne County Tax Claim Bureau setting aside an improper judicial tax sale.
- Successfully prosecuted a Federal False Claims Act Qui Tam case resulting in a favorable settlement for the relator which included defending against a summary judgment motion brought by the defendant medical provider. *Landau v. Lucasti*, 680 F. Supp.2d 659 (2010).
- Co-chaired trial team which obtained defense verdict in a bench trial involving multi-million dollar breach of contract claims arising under a stock purchase agreement.

- Secured summary judgment for a third party administrator and a self-insured health and welfare benefits plan in defense of an ERISA claims for benefit lawsuit brought by an out-of-network medical provider.
- Argued appeal before the Superior Court of Pennsylvania which upheld a \$500,000 judgment obtained on behalf of a Philadelphia law firm.
- Argued appeal filed on behalf of twenty-seven employees of the United States Bureau of Prisons, before the United States Court of Appeals for the Third Circuit, resulting in a partial reversal of the trial court's decision and dismissal of thirteen of the twenty-seven defendants. *Bistrain v. Levi*, 696 F.3d 352 (2012).
- Counseled and secured settlements on behalf of investment advisor registered representatives relative to investigations and enforcement actions initiated by the Financial Industry Regulatory Authority.

#### Admissions

- New Jersey
- Pennsylvania
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. Court of Appeals for the Third Circuit

#### Education

- Rutgers School of Law - Camden, J.D., 2005
- Lafayette College, B.A., 1995

#### Experience

- Duane Morris LLP
  - Associate, 2013-present
- Archer & Greiner
  - Associate, 2005-2013

#### Professional Activities

- American Bar Association
  - Business Law Section
  - Health Law Section
- New Jersey State Bar Association
  - Diversity Committee
- Garden State Bar Association
  - President, October 2014-present
  - Treasurer, October 2012-2013
  - Board of Directors, October 2011-present
  - Regional Director, October 2010-2011
- Camden County Bar Association
  - Board of Trustees

### Civic and Charitable Activities

- Newark Boys Chorus School  *Lawyers Leading the Way*
  - Event Planning Committee

### Selected Publications

- Co-author, "Update on the Enforceability of Restrictive Covenants Against a Terminated Employee," *New Jersey Lawyer*, April 2014

### Selected Speaking Engagements

- Panelist, "Know Your Rights," Garden State Bar Association, Camden, N.J., February 11, 2015

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## NICOLE J. O'HARA

ASSOCIATE ATTORNEY



Nicole J. O'Hara, a member of the firm's Business Services Group, has specific experience with intellectual property law. She works with businesses large and small, advancing and managing patent portfolios, drafting patent applications, and resolving trademark, copyright, trade secret, and patent-related issues. Nicole also negotiates contracts for the commercialization of intellectual property including licenses, confidentiality, material transfer, inter-institutional, service, and research contracts.

Nicole also boasts experience in employment law including compensation and benefits. Prior to attending law school, Nicole served as a Human Resources Manager with a large manufacturing company and provides a hands-on perspective to Gross McGinley's Employment Group.

Earning her undergraduate degree in Biochemistry, Nicole has a strong background in science. She has applied her skills to her intellectual property and patent-related legal practice.

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Allentown, PA 18105-4060

✉ [NOHara@GrossMcGinley.com](mailto:NOHara@GrossMcGinley.com)

☎ (610) 871-1326

### Areas of Practice

Business Law  
Employment Law  
Intellectual Property  
Media & Publishing

### Admissions

Pennsylvania  
New Jersey  
U.S. Patent and Trademark Office

### Education

Rutgers Camden School of Law,  
J.D., 2010  
Rutgers University New Brunswick,  
B.S., 2005

### Professional Associations

American Bar Association, Young  
Lawyers' Division  
New Jersey State Bar Association,  
Voting Member of Young  
Lawyers' Division Council  
Pennsylvania Bar Association  
Bar Association of Lehigh County

### Community Involvement

St. Luke's Neighborhood Center,  
Board Member  
LifePath Foundation, Board Member  
Rutgers Alumni of Greater  
Philadelphia, President  
American Bar Association, District  
Representative for New Jersey

## Build a Book of Business-Ethics and Strategy

Michael L. Detzky, Esq.

Jan K. Seigel, Esq.

These materials will be posted soon. Please check this website again after October 14<sup>th</sup>.

# Malpractice Insurance-Why You Need It, What to Look For

Mike Mooney

Michael Jay Plata, Esq.





# What Young Lawyers Need to Know about Malpractice Insurance





**Mike Mooney**

**Vice President**

**Bar Association Programs**

**USI Affinity**

**Young Lawyers Symposium**

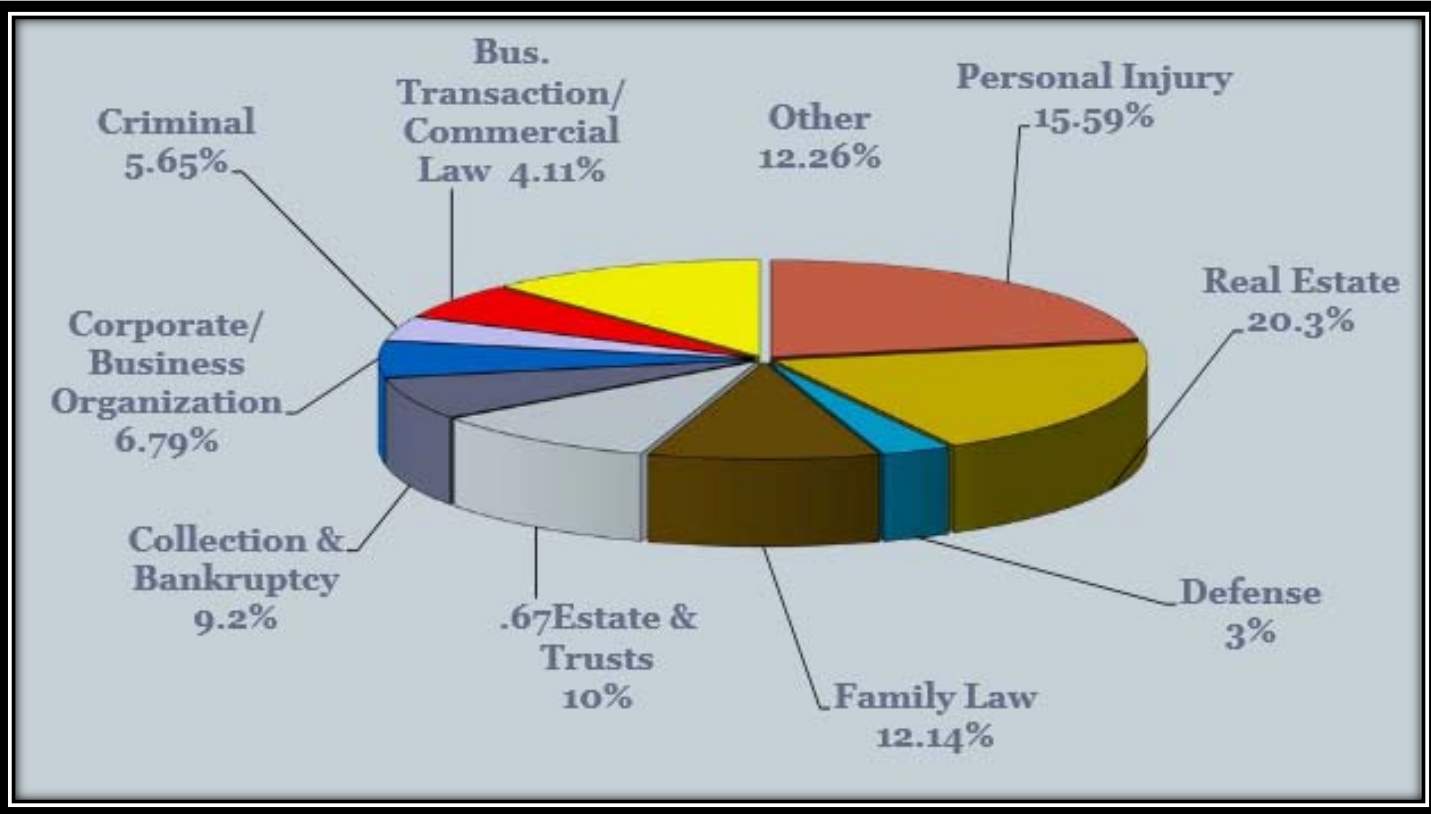
**October 3, 2015**

# Agenda

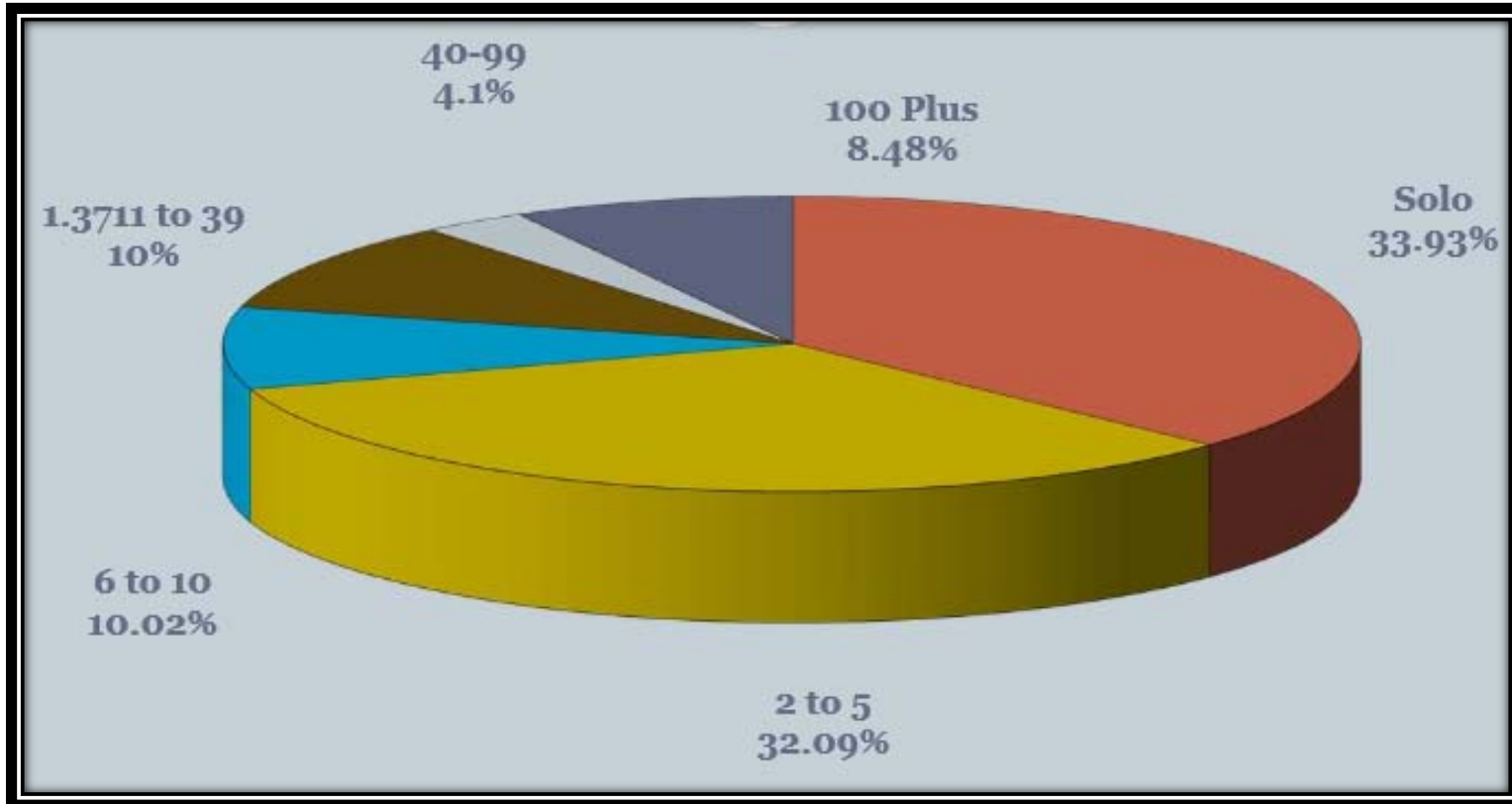


- Where do Claims come from?
- The Policy
- Purchasing the appropriate coverage
- The insurance application
- Selecting a Carrier
- Selecting a Policy
- Selecting a Broker
- Other Insurance Considerations

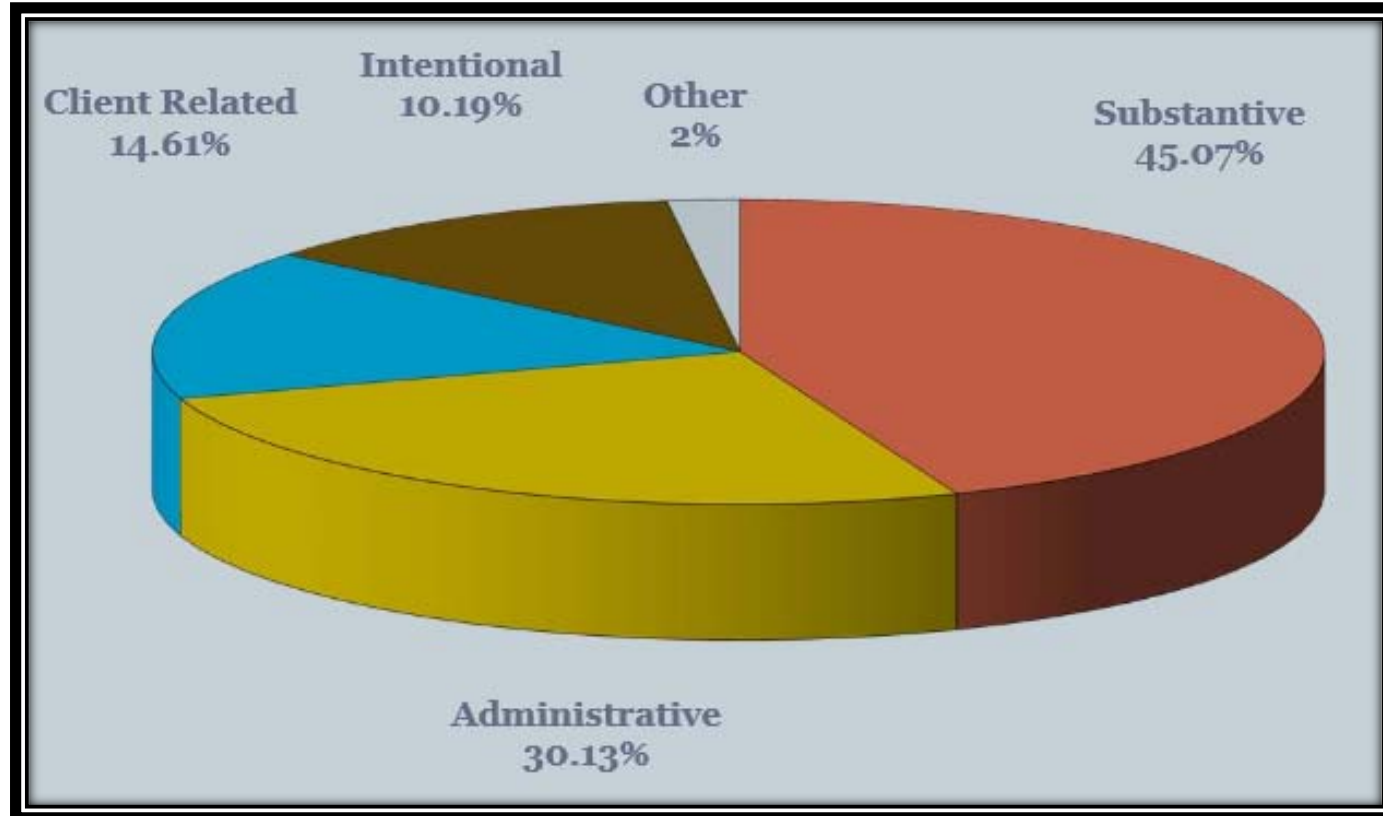
# Claims by Areas of Practice



# Percentage of Claim by Size of Firm



# Percentage of Claim by Type of Error



# Claims Made vs. Occurrence Policy



- An LPL policy generally provides coverage for demands made upon the policyholder for damages brought forth during the policy period resulting from an error or omission within the firms covered prior acts date.
- An “occurrence” policy (such as a homeowner’s policy) normally insures an unexpected event within the policy period that result in bodily injury or property damage.

# What is Covered?



- **Professional Services**
  - Title Agent
  - Notary Public
  - Activities as an Officer or Director
  - Author or Presenter
  - Investment Advice
  
- **Supplementary Coverages**
  - Disciplinary Proceedings
  - Subpoena
  - Loss of Earning
  - Public Relations Expense\*
  - Breach Notification Expense\*



# Who is Insured?



- The Named Insured
- Is coverage provided to:
  - Shareholders or partners?
  - Employees?
  - Former employees?
  - “Of Counsel” lawyers?
  - Independent contractors?
  - The estate/heirs/executors/administrators of an insured?

# Common Exclusions



- **Intentional Acts**
  - Dishonesty
  - Fraudulent or Criminal Acts
- **Bodily Injury / Property Damage**
- **Insured vs. Insured**
  - Unless Attorney Client relationship exists and professional services are being rendered.
- **Owned Equity**
  - Normally greater than 10%-15%

# Prior Acts Coverage



- “Retroactive Date”
- The date continuous coverage was first obtained
- Claims triggered before this date are not covered
- Changing Carriers

# Proper and timely notice



- Report incidents or situations to your carrier immediately
- Provide written notice of claim
- These circumstances may be considered a claim:
  - A demand is received for money or services
  - Service of suit
  - Institution of alternative dispute resolution or arbitration proceedings
  - Disciplinary action is threatened or filed
  - Notice received by any insured that is the intention of a person or entity to hold the insured responsible for the consequences of an alleged wrongful act
  - Any request to waive a statute of limitations

# Extended reporting periods



- “ECRP or Tail Coverage”
- Available for attorneys who retire from the practice of law
- Provides coverage for claims arising from conduct within the policy period which would otherwise be covered by the policy but the claim is first made during the extended reporting period.
- Claim must have occurred while policy was in force.

# Are all insurance policies the same?



- Deductible Options (Per Claim vs. Aggregate)
- Expense Allowances (Inside Limits vs. Outside Limits)
- Definition of Professional Services
- Exclusions
- Supplementary Coverages

# What is appropriate coverage?



- The dollar value of transactions or cases you work on
- The cost of defending a claim
- The value of assets you want to protect
- Potential billable hours lost

# What can cause premiums to be high?



- Step Rating
- Area of Practice
- Dabbling
- Geographic Location
- Attorney to Staff Ratios
- Retainer Agreements
  - Engagement Letters
  - Disengagement Letters
  - No engagement Letters
- Docket Systems
- Fee Suits



# The insurance application



## The parts of an application:

- About the Firm
- Firm Coverage Information
- Attorney Information
- Areas of Practice
- Firm Operations & Management
- Claim/ Incident / Disciplinary Information
- Requested Coverage

# Common Mistakes on an Application



- Area of Practice Grid
- Website Information
- Attorney Information
- Missing Supplements
- Letterhead

# What features should I look for when selecting a Liability Carrier?



- Experience
- AM Best Rating
- Claims Handling
- Panel Counsel
- Distribution
- Risk Management Services
  - Website
  - Claims Hotline
  - CLE
  - Newsletter & Email Alerts

# What Policy features should I look for on my Liability Policy?



## ■ **Policy Features**

- Consent to settle Provision
- Liberalization Clause
- Extending Reporting Period Options
- Broad definition of legal services
- Limited Exclusions

## ■ **Supplementary Coverages**

- Disciplinary Proceedings
- Subpoena
- Loss of Earnings
- Network Risk Coverage
  - 1<sup>st</sup> Party
  - 3<sup>rd</sup> Party

# What features should I look for when selecting a broker?



- Experience with Lawyers
  - Benchmarking
  - Claims knowledge
  - Advocacy
- Endorsements
- Client Base
- Distribution
- Customer Service
- Full Service

# Questions.....





Thank you!



## **Mike Mooney**

### **Vice President – Association Programs, USI Affinity**

Mike Mooney is the Vice President – Association Programs for USI Affinity. Mike is responsible for coordinating the program management for USI Affinity's endorsed insurance programs, including The New York State Bar Association, The New Jersey State Bar Association, DC Bar, Boston Bar, The State Bar of Texas, and The Association of Small Foundations.

With more than 10 years of industry experience, Mike has worked extensively on many facets of insurance programs for professional service firms. Prior to joining USI Affinity, Mike spent over 8 years with Aon in a variety of management roles. Most notably, Mike was the Assistant Vice President and National Sales Manager for Aon Affinity's Healthcare Division, and also spent time as the National Sales Manager for the AICPA Accountant's Professional Liability Program. Mike also focused on the Program Management of accounts such as the AICPA, Academy of General Dentistry and Louisiana CPAs. Additionally, Mike spent time as a product lead on the Network Liability, Management Liability, and Employment Practices Liability programs.

Mike currently sits on the Law Practice Management Services Committee of the DC Bar. Mike is a regular speaker and panelist for the Law Practice Sections of the NYSBA, NJSBA, and NJICLE regarding Insurance and Risk Management topics relative to the legal industry.

Mike holds a Property and Casualty Insurance License in New Jersey and many non-resident Producer Licenses in a variety of other states. He graduated from Rowan University in New Jersey with a Bachelors Degree in Business Management.



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## Michael Jay Plata



### MICHAEL JAY PLATA

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### Highlights

#### Education:

- Rutgers School of Law - Newark (J.D.), Editor-in-Chief, Rutgers Race and the Law Review
- Florida State University, *magna cum laude*, with high honors (B.A.)

Michael Plata's practice is focused on complex business and commercial litigation in federal and state court. Mr. Plata has directed litigation in matters as diverse as environmental law, employment law, Section 1983 litigation, franchise law, licensing disputes, restrictive covenants, and insurance coverage disputes for several public entities and Fortune 500 companies in federal and state courts. He also has handled expedited litigation and injunction proceedings in New Jersey chancery courts and appeals in New Jersey state courts. Prior to founding Plata Ferrer Law Group, Mr. Plata was a partner at an Am Law 200 law firm.

Mr. Plata is a *magna cum laude* graduate of Florida State University and a graduate of Rutgers School of Law-Newark, where he was Editor-in-Chief of the Rutgers Race and the Law Review. After graduating from law school, Mr. Plata served as a law clerk to The Honorable Ariel A. Rodríguez, Judge, Appellate Division, Superior Court of New Jersey, and thereafter, The Honorable John E. Wallace, Jr., Associate Justice, Supreme Court of New Jersey. Mr. Plata's experience as a clerk in both the New Jersey Appellate Division and Supreme Court allowed him to develop a comprehensive understanding of New Jersey appellate procedure.

Mr. Plata was named a "rising star" for the 2010, 2012, and 2013 editions of New Jersey "Super Lawyers" by Law and Politics Magazine. He is currently the President of the Hispanic Bar Association of New Jersey and serves on the American Bar Association, Tort Trial & Insurance Practice Section's Trial

Techniques and Diversity Committees. Mr. Plata is also an active member of the New Jersey State Bar Association. He is admitted to practice law in the State of New Jersey.

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- Supreme Court of the United States
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- New Jersey State Bar Association
- American Bar Association, Tort Trial and Insurance Practice Section's Trial Techniques Committee, Vice-Chair

**Clerkships:**

- The Honorable John E. Wallace, Jr., Associate Justice, Supreme Court of new Jersey
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- Supreme Court of New Jersey, Committee on the Rules of Evidence (2010-2011)

**Publications:**

- Coauthored, "Marketing Diversity as a Competitive Advantage," *New Jersey Lawyer Magazine*, April 2012  
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## Advocacy Advice from the Bench

Hon. Mitzy Galis-Menendez, J.S.C. (Hudson)

Hon. Sohail Mohammed, J.S.C. (Passaic)

These materials will be posted soon. Please check this website again after October 14<sup>th</sup>.

## Hot Tips for Solo/Small Firm Attorneys

Cedric Ashley, Esq.

Michael Jay Plata, Esq.

Thomas H. Prol, Esq.

## RULE 1:21. Practice Of Law

### 1:21-1. Who May Practice; Appearance in Court

- **(a) Qualifications.** Except as provided below, no person shall practice law in this State unless that person is an attorney holding a plenary license to practice in this State, is in good standing, and complies with the following requirements:
  - **(1)** An attorney need not maintain a fixed physical location for the practice of law, but must structure his or her practice in such a manner as to assure, as set forth in RPC 1.4, prompt and reliable communication with and accessibility by clients, other counsel, and judicial and administrative tribunals before which the attorney may practice, provided that an attorney must designate one or more fixed physical locations where client files and the attorney's business and financial records may be inspected on short notice by duly authorized regulatory authorities, where mail or hand-deliveries may be made and promptly received, and where process may be served on the attorney for all actions, including disciplinary actions, that may arise out of the practice of law and activities related thereto.
  - **(2)** An attorney who is not domiciled in this State and does not maintain a fixed physical location for the practice of law in this State, but who meets all qualifications for the practice of law set forth herein must designate the Clerk of the Supreme Court as agent upon whom service of process may be made for the purposes set forth in subsection (a)(1) of this rule, in the event that service cannot otherwise be effectuated pursuant to the appropriate Rules of Court. The designation of the Clerk as agent shall be made on a form approved by the Supreme Court.
  - **(3)** The system of prompt and reliable communication required by this rule may be achieved through maintenance of telephone service staffed by individuals with whom the attorney is in regular contact during normal business hours, through promptly returned voicemail or electronic mail service, or through any other means demonstrably likely to meet the standard enunciated in subsection (a)(1).
  - **(4)** An attorney shall be reasonably available for in-person consultations requested by clients at mutually convenient times and places..

A person not qualifying to practice pursuant to the first paragraph of this rule shall nonetheless be permitted to appear and prosecute or defend an action in any court of this State if the person (1) is a real party in interest to the action or the guardian of the party; or (2) has been admitted to speak pro hac vice pursuant to R. 1:21-2; (3) is a law student or law graduate practicing within the limits of R. 1:21-3; or (4) is an in-house counsel licensed and practicing within the limitations of R. 1:27-2.

- Attorneys admitted to the practice of law in another United States jurisdiction may practice law in this state in accordance with RPC 5.5(b) and (c) as long as they comply with Rule 1:21-1(a)(1).
- No attorney authorized to practice in this State shall permit another person to practice in this State in the attorney's name or as the attorney's partner,

employee or associate unless such other person satisfies the requirements of this rule.

- **(b) Appearance.** All attorneys and pro se parties appearing in any action shall be under the control of the court in which they appear and subject to appropriate disciplinary action. An attorney admitted in another jurisdiction shall not be deemed to be making an appearance in this State by reason of taking a deposition pursuant to R. 4:11-4.
- **(c) Prohibition on Entities.** Except as otherwise provided by paragraph (d) of this rule and by R. 1:21-1A (professional corporations), R. 1:21-1B (limited liability companies), R. 1:21-1C (limited liability partnerships), R. 6:10 (appearances in landlord-tenant actions), R. 6:11 (appearances in small claims actions), R. 7:6-2(a) (pleas in municipal court), R. 7:8-7(a) (presence of defendant in municipal court) and by R. 7:12-4(d) (municipal court violations bureau), an entity, however formed and for whatever purpose, other than a sole proprietorship shall neither appear nor file any paper in any action in any court of this State except through an attorney authorized to practice in this State.
- **(d) Federal Government Agencies.** Staff attorneys employed full time by agencies of the federal government that have an office in New Jersey may represent the interests of that agency in federal and state courts in New Jersey without complying with subsection (a)(1) of this rule.
- **(e) Legal Assistance Organizations.** Nonprofit organizations incorporated in this or any other state for the purpose of providing legal assistance to the poor or functioning as a public interest law firm, and other federally tax exempt legal assistance organizations or trusts, such as those defined by 26 U.S.C.A. 120(b) and 501(c)(20), that provide legal assistance to a defined and limited class of clients, may practice law in their own names through staff attorneys who are members of the bar of the State of New Jersey, provided that: (1) the legal work serves the intended beneficiaries of the organizational purpose, (2) the staff attorney responsible for the matter signs all papers prepared by the organization, and (3) the relationship between staff attorney and client meets the attorney's professional responsibilities to the client and is not subject to interference, control, or direction by the organization's board or employees except for a supervising attorney who is a member of the New Jersey bar. In addition, nonprofit organizations incorporated in this or any other state for the purpose of providing legal assistance to persons of low and low-moderate means, which are affiliated or associated with an ABA-accredited law school and which include a program to educate, mentor, or train recent law school graduates who are recently admitted members of the New Jersey bar ("participating new attorneys"), may practice law in the name of the organization through such participating new attorneys, provided that: (1) the legal work provided by the organization serves clients of low to low-moderate means, (2) the participating new attorney responsible for any particular matter signs all papers in that matter on behalf of the organization, and (3) the relationship between the participating new attorney and the client is consistent with the attorney's professional responsibilities to the client and is not subject to interference, control, or direction by the organization's board or employees, except to the extent that the participating new attorney is under the oversight of a supervising attorney who is a member of the New Jersey bar.



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# Ashley Law Firm LLC

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## About Us

Cedric Ashley, Esq. is the Managing Attorney of *Ashley Law Firm LLC* and is admitted to practice law in New Jersey and New York. Cedric's legal background has included serving as an Assistant District Attorney in the New York County District Attorney's Office where his responsibilities encompassed all phases of criminal litigation, including grand jury presentations, trials, and appellate brief writing. After serving as an Assistant District Attorney, Cedric became associated with the law firm of Pitney Hardin Kipp & Szuch LLP (now Day Pitney LLP). As a litigation associate his practice areas encompassed corporate and complex commercial litigation, internal investigations, corporate grand jury investigations, and white-collar criminal defense. Thereafter, Cedric served as Director of Academic Development at Rutgers Law School-Newark.

Cedric has served as a Team Leader (Summer 1999) for the NITA Western Regional Basic Trial Skills Program and an Instructor (Spring 1998 & 1999) for the NITA New Jersey Regional Basic Trial Skills Program. Cedric has also served as a Team Leader (Spring 1999) and Instructor (Winter 1998, Spring 1996 & 1997) for the Rutgers Law School-Newark Intensive Trial Advocacy Program. Cedric holds B.A. and J.D. degrees from Rutgers University and a Master of Divinity degree from Drew University Theological School. He is a member of First Baptist Church of Lincoln Gardens in Somerset, New Jersey, where he serves on the Project 25:36 Prison Ministry Steering Committee, and teaches in the Institute for Christian Discipleship. Cedric also serves as a member of the Mercer County Superior Court Juvenile Conference Committee, and is also a member of the NAACP.

During law school Cedric was a Finalist in the Eighth Annual Nathan Baker Mock Trial Competition, won First Place in the Intra Scholastic Client Counseling Competition, and was the recipient of the Myron S. Harkavy Scholarship (Most Promise As a Trial Lawyer). Upon graduation he was awarded the Myron S. Harkavy Memorial Prize (Most Promise As a Trial Lawyer).

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## Michael Jay Plata



### MICHAEL JAY PLATA

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### Highlights

#### Education:

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- Florida State University, *magna cum laude*, with high honors (B.A.)

Michael Plata's practice is focused on complex business and commercial litigation in federal and state court. Mr. Plata has directed litigation in matters as diverse as environmental law, employment law, Section 1983 litigation, franchise law, licensing disputes, restrictive covenants, and insurance coverage disputes for several public entities and Fortune 500 companies in federal and state courts. He also has handled expedited litigation and injunction proceedings in New Jersey chancery courts and appeals in New Jersey state courts. Prior to founding Plata Ferrer Law Group, Mr. Plata was a partner at an Am Law 200 law firm.

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Techniques and Diversity Committees. Mr. Plata is also an active member of the New Jersey State Bar Association. He is admitted to practice law in the State of New Jersey.

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- Coauthored, "Marketing Diversity as a Competitive Advantage," *New Jersey Lawyer Magazine*, April 2012  
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Michael J. Plata

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# Thomas H. Prol, Partner

## Laddy Clark & Ryan, LLP

Thomas Prol concentrates his practice in environmental law, business litigation and government services.

### **PRACTICE AREAS:**

Board of Public Works / Breach of Contract / Commercial Litigation / Consumer Fraud Act / Corporate and Real Estate Transactions / Environmental / Environmental Law / Environmental Litigation / Government Services / Government Tax Appeals / Hazardous Site Remediation / Land Use and Zoning / Landlord/Tenant / Legislation and Ordinances / Municipal Attorney / Permitting and Regulatory / Real Estate Tax Appeals / Real Property / Residential Real Estate / Special Counsel

### **ADMITTED TO PRACTICE:**

New Jersey / New York / U.S. District Court (EDNY) / U.S. District Court (NJ) / U.S. District Court (SDNY) / U.S. Supreme Court / US Court of Appeals for the D.C. Circuit / US Court of Appeals for the Third Circuit



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### About Thomas H. Prol

**Thomas H. Prol** is the President-elect of the NJ State Bar Association and a partner with Laddey, Clark & Ryan, LLP. He concentrates his legal practice in environmental law, public entity representation and real property (purchase, tax & assessments, community association, and land use/development) matters.

Licensed to practice law in New Jersey and New York, Mr. Prol was selected for inclusion on the list of NJ *Super Lawyers & Rising Stars* in 2011, 2012, 2014 and 2015, and on the national *Super Lawyers* Business Edition list in 2014 and 2015 for environmental law. Mr. Prol previously served as Associate General Counsel & Agency Chief Contracting Officer for the [NYC Department of Consumer Affairs](#), administering portfolios involving the City's extensive sidewalk café licensing and business & vendor licensing systems, administrative code litigation and employee discipline.

Mr. Prol is a frequent lecturer for the NJ Institute for Continuing Legal Education and was previously an adjunct professor at [NY Law School](#) and the Rutgers School of Management and Labor Relations. He worked as an environmental scientist and enforcement officer for the US Environmental Protection Agency and served two years as a volunteer in the US Peace Corps in Nepal. He has also held externships with the US Attorney's Office (EDNY), the NYC Commission on Human Rights, CNN, and the Carter Presidential Center.

Mr. Prol has appeared and has authored/co-authored numerous briefs over the past decade before the NJ Supreme Court, NJ Council on Local Mandates and the U.S. Third Circuit Court of Appeals. In 2004, Mr. Prol was named the New Jersey "Young Lawyer of the Year" and was lauded as one of the "[magnificent seven](#)" NJ attorneys of the year that same year by *New Jersey Lawyer* magazine. He is active in numerous community organizations and previously served as vice chair of Garden State Equality, the LGBT civil rights organization that was hailed by the *Star Ledger* as "the most effective grassroots campaign" in NJ. He has been a vocal advocate for civil rights including marriage equality for same-sex couples in New Jersey, and he argued the legal defense of New Jersey's landmark Anti-bullying Bill of Rights.

## Persuasive Legal Writing-Be Heard on Paper

Christina Vassiliou Harvey, Esq.

Corrie S. Sirkin, Esq.

Evelyn R. Storch, Esq.



## Persuasive Legal Writing - Be Heard on Paper

Christina Vassiliou Harvey, Esq. – Lomurro, Munson, Comer, Brown & Schottland, LLC

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- I. Persuasive writing versus analytic writing
- II. Know your audience
  - a. Investigate style preferences of judge or forum
  - b. Look to samples of other briefs for forum
  - c. Use Westlaw/Lexis to review briefs
- III. Principles of Good Legal Writing
  - a. Structure of brief
    - i. Make sure you look at rules to see what parts are required. E.g., Third Circuit requirements versus Appellate Division
  - b. Use Preliminary Statement to summarize your entire brief in one page or less
    - i. Essence of your whole position
    - ii. Simplify your argument into its most persuasive form
  - c. Thesis paragraph
    - i. Begin with your conclusion
    - ii. Summarize your entire brief in only a few sentences
    - iii. Essence of your argument
  - d. Statement of Facts
    - i. Emphasize all of the facts that are relevant to the case law
    - ii. Key to good persuasive writing is application of the facts to the case law
    - iii. Incorporate facts into Legal Argument section
  - e. Conclusion
    - i. Don't use a generic "For these reasons, I win".
    - ii. Simplify your argument
    - iii. Judge might review Preliminary Statement and Conclusion before deciding case as summary
  - f. Simplification
    - i. Use one word versus phrases
      1. e.g. "Because" rather than "Due to the fact"
  - g. Avoid adjectives or adverbs
    - i. Adjectives / adverbs give your adversary fodder because easy to disprove
    - ii. Be precise – "It was a cold day" versus "It was 10 degrees."
  - h. Active voice v. passive voice
    - i. Active voice moves action forward
      1. Plaintiff wants to use active voice to connect the subject with the action
    - ii. Passive voice can be helpful if you want to disconnect your subject from the action
      1. Passive voice focuses on the object not the subject e.g. "The leaves were on the street."
      2. Defendant might want to use passive voice to divorce client from action
  - i. Punctuation

- i. Eliminating phrases and clauses separated by commas makes the sentence flow better
    - ii. Clauses should start or end a sentence to make sentence flow better
  - j. Keep things short
    - i. 1-2 syllable words better than longer words
    - ii. Shorter sentences are more comprehensible
  - k. Editing
    - i. Edit on paper
    - ii. Pay attention to verbs versus adverbs
    - iii. Make sentences shorter
    - iv. Read aloud to make sure it flows
  - l. Oral argument
    - i. Don't repeat every part of your brief
    - ii. Create one sheet outline of key points
    - iii. Summarize and emphasize
    - iv. Address judge's questions
    - v. Use judge's questions to incorporate the main points of your outline

Suggested reading:

Antonin Scalia and Bryan A. Garner, *Making Your Case*, ABA JOURNAL (May 2008).

James McElhaney, *Legal Writing that Works*, ABA JOURNAL (July 2007).

John W. Davis, *The Argument of an Appeal*, JOURNAL OF APPELLATE PRACTICE AND PROCESS (Fall 2001).

Steven Stark, STEVEN STARK ON WRITING AND SPEAKING TO WIN (NJ ICLE 2015).

William Zinssener, ON WRITING WELL (2006).

Bryan A. Gardner, THE WINNING BRIEF (2014).

# Brief Thoughts on Effective Brief Writing

by Christine D. Petruzzell

Despite the image of a successful lawyer as one who handles high-profile cases or presents gripping closing arguments, much of the significant work attorneys do is accomplished methodically and in less dramatic fashion through their writing; for example, in preparing correspondence, memos, briefs and agreements. This essential fact underscores the necessity for skill and clarity in legal writing, and with respect to briefs, writing as an advocate.

**T**he technical requirements of a brief are readily ascertainable by reviewing the relevant Rules of Court of the jurisdiction where the brief will be filed, and are not addressed here. The following thoughts move beyond these technical requirements to the next level of effective brief writing.

## Planning is Essential

Preparing a brief affords an opportunity to present the facts and legal arguments of a matter on your own terms and in a light most favorable to your client, without the pressure and time constraints of oral argument on a motion or an appeal. One of the ironies of effective brief writing is that careful planning must precede the process of writing.

The effective advocate plans the presentation, the points to be raised, and how each argument will be developed and supported with the relevant law and facts before beginning to

write. Such planning will bring focus and clarity to the brief, making it more understandable and persuasive.

Preparing a short outline of the points to be raised and how each will be developed, even if jotted down as brief notes on a legal pad, assists this process. Additionally, it is a useful way to break the ice for attorneys who find it hard to begin writing, since this starts the process. The outline provides the framework that can then be developed into a workable first draft of the brief.

However, there is no need to be irrevocably wedded to the outline as you develop and refine your arguments, add to them, or decide that late night flash of genius now actually makes no sense. Writing and evaluating the arguments being made are fluid processes. One can see what works effectively only after a draft of the brief is prepared. This fact also points to the need to continually revise and edit a brief before it is finalized.

Repeated revisions are not signs of a deficient work product, but rather demonstrate careful thought and consideration of the matter, highlighting the writer's professionalism and dedication to the task. Only after an argument is written can it be read with a critical eye to see if it is sound, well-organized and logical. Invariably, changes will be necessary to make the arguments clear, concise and more persuasive. In the course of editing, it is useful to let a day or so pass before reading the brief again, so it can be approached with a fresh eye to spot typographical and other technical errors, and with a fresh mind to examine and refine arguments that are not well articulated or supported.

## The Skill and Strategy of a Preliminary Statement

One of the most powerful, but often overlooked, sections of a brief is the preliminary statement. A preliminary statement allows the attorney to set forth a concise overview of the client's position on the issues being raised, providing a framework for the more detailed arguments that follow. As such, it provides a useful frame of reference for the determinations you seek from the court. This concise overview is particularly important to our judiciary, given the fact that many briefs are far from brief (for example, a party's initial brief can contain

up to 65 pages),<sup>1</sup> and in light of the volume of matters addressed by the courts.

A preliminary statement also provides the opportunity to go beyond merely summarizing the arguments being made, allowing the advocate to get to the essence of the case. As an advocate, you are able to explain in a preliminary statement what the case is really about, beyond the purely legal arguments being raised, or to elaborate upon the consequences that will follow from granting seemingly innocuous relief sought by the adverse party. It is your chance to speak from the heart. While the Court Rules reference a preliminary statement as an optional section in an appellate brief,<sup>2</sup> it should be viewed by the writer as an essential part of the argument in all briefs.

While the preliminary statement appears as the first section of a brief, preceding the procedural history and statement of facts, it is best written after the brief is completed. It is only at this point that the writer will have a true appreciation of the arguments ultimately made and their nuances, allowing for a powerful preliminary statement.

As a cautionary note, it is important to follow the requirements of Rule 2:6-2(a)(6) for appellate briefs, limiting a preliminary statement to three pages, precluding footnotes, and to the extent practicable, citations as well. This will avoid the possibility that the brief will be rejected by the court as non-conforming, thereby requiring revision and re-submission.

### **Lead With Your Strongest Argument**

A brief is your forum to present the strongest possible argument for your client. Therefore, particularly when representing the movant on a motion or the appellant on an appeal, the attorney should avoid the natural tendency to present arguments in logical or chronological order if that presentation causes your best argument to be made toward the end.

Take, for example, a case in which a defendant's arguments in support of summary judgment on the issue of liability under the Consumer Fraud Act are the assertions that the action is barred by the statute of limitations; the plaintiff lacks standing to assert the claim; and the plaintiff cannot establish one of the necessary elements of the claim asserted as a matter of law. The order stated above is the logical way of conceptualizing the arguments being made. However, if the strongest point supporting summary judgment is the last—the plaintiff cannot establish one of the elements necessary to the claim—that argument should be presented first in the brief.

### **Frame the Brief in the Context of the Relief Sought**

All parts of a brief should work toward the relief sought. This means more than simply stating the nature of the relief sought and asking the court to grant it. The relief sought should guide the brief in its entirety.

For example, on a motion for summary judgment, entitlement to that relief exists only if the material facts are not in dispute, and the movant is entitled to judgment under the law.<sup>3</sup> The brief of the moving party should present, cleanly and precisely, the key facts, whether based upon oral testimony or documentary evidence, on which there is no dispute.

The proper approach would *not* be to state and discuss at length additional facts that are not relevant to the issues presented on the motion. Such an approach runs the risk of detracting from the issues on which the motion is based, creating the impression that the case is a fact-intensive one that warrants determination only after a plenary hearing, and provides the opportunity for your adversary to raise fact disputes that may exist regarding these additional facts. Conversely, in opposing summary judgment, the focus should be upon the

fact-intensive nature of the matter and the legitimate factual disputes in the record, warranting determination of credibility and other issues at trial.

Similarly, if a temporary restraining order is sought, the brief should consistently highlight the urgency of the matter and the immediate and irreparable harm that will occur in the absence of the requested restraint. The standards for the grant of such relief are established and well known to our courts, and need not be discussed at length.<sup>4</sup> What is important to the motion is the application of those standards to the facts of the matter at hand, particularly on the issue of immediate and irreparable injury.

### **State Explicitly the Relief Sought**

While this sounds like an obvious point, it can be lost in the complexities of the facts or the law being argued. The brief should end with a separate conclusion section that explicitly states the relief being sought. For example, on a pre-trial motion, the conclusion should go beyond stating simply that the relief sought "should be granted."

The writer should elaborate to specify the particular relief being sought (*i.e.*, on a motion to dismiss, "the complaint should be dismissed;" on a discovery motion, "the deponent should be ordered to appear for deposition within 10 days and to produce the documents identified in the notice to produce served by the defendant;" on a motion for a preliminary injunction, "the defendant should be preliminarily enjoined during the course of this case from performing the following specified activities [which should then be specifically set forth])."

Without such specificity, the risk exists that not all of the relief needed will be granted, particularly when so many pre-trial motions are decided on the motion papers submitted, and without oral argument offering the opportunity to elaborate on the relief being sought.

## Be an Advocate at All Times

Every first-year associate in a law firm litigation department hears the same lecture: You are writing a brief as an advocate for your client, not a law review article providing a neutral assessment of the law and an intellectual discussion of legal principles. This is advice that must be taken to heart, applied, and refined with each brief that is written.

Advocacy means more than simply referencing cases that support the position being advanced. It is not accomplished by simply string-citing cases, or blandly reciting the facts and holdings of a series of cases as was done in briefing cases for law school classes. It means addressing the key aspects of a cited case, explaining how it is exactly on point (or dissimilar, if one is the opponent of the motion or appeal), and constitutes controlling or persuasive authority (or not, if one is opposing the relief sought).

Similarly, if the case contains specific language worthy of note, advocacy is not accomplished by quoting wholesale from the case at length. Quote only the pertinent and most powerful language and integrate it into your argument, demonstrating that the language is particularly relevant to your case. Lengthy, rambling quotes lose the reader.

The fact that contrary authority may exist and should be disclosed to the court does not impair the mandate to be an advocate. While the adverse authority, at first blush, may contradict your client's position, it often can be distinguished in order to demonstrate that the authority is not pertinent to the issue at hand. If this is not possible, you may be able to respectfully argue that the authority is wrongly decided and should not be followed.

In the event you are sure an argument against your position will be made by your adversary, it may be appropriate to address and rebut the argument or case in advance, rather than waiting for it to be stated in opposition to your

position. Doing so has the benefit of defusing the argument when it is raised by your opponent.

On a more subtle basis, advocacy should also be used in presenting the statement of facts in a brief. An effective factual statement is one that is presented in narrative form, as a story, with a central focus supporting the theme of your client's position.

For example, in a matter involving misappropriation of a company's trade secrets, the facts should tell the story of why the information at issue is proprietary, the steps taken by the company to maintain its confidentiality, and the facts that lead to the belief the information was wrongfully acquired by the defendant.

The telling of such a story engages the reader, and advocates the plaintiff's position more effectively than a disjointed witness-by-witness account of the facts summarizing the testimony of each witness.<sup>5</sup> As stated by Justice Oliver Wendell Holmes: "Make the facts live." As a respondent on a motion or an appeal, it may be useful to include a counter-statement of facts, setting forth your client's version of the facts rather than simply stating that you adopt and rely upon the facts stated by your adversary.

Effective advocacy is accomplished with a clear and well-organized brief. Each paragraph should make a point, and the sentences should not be lengthy or complex. If the arguments are sound and easy to comprehend, the brief has inherent strength.

Each legal argument made should contain a point heading that identifies the argument. The argument itself should start with a brief introduction. This can be as simple as stating: "It is well recognized that the discovery rule tolls the running of the statute of limitations under N.J.S.A. 2A:14-1. As demonstrated below, the discovery rule is applicable here and demonstrates that the plaintiff's claim is timely brought."

Each separately stated legal argument

should then end with a brief concluding sentence or two, summarizing the position just argued.

## Retain Your Credibility

As an advocate, your credibility is a key element of your professionalism and the service you provide to a client. Once compromised, credibility is not easily regained, and unfortunately may not be restored to a viable level during the case in which it was lost. Your credibility should, therefore, permeate your brief.

Arguments should not be overstated, and the facts and holdings of cited cases should never be misstated. The same is true of references to documents in the record, or to deposition or trial testimony. On appeal, references to facts outside of the record are inappropriate and may result in the imposition of sanctions.<sup>6</sup> Such misstatements will likely be caught by your adversary, and addressed to your embarrassment, or worse, will be noticed disapprovingly by the court.

Credibility is also inherent in the particular arguments made in a brief. In arguing a point, the writer should not misstate the law or take a position that is without reasonable basis in fact or law, or based upon a reasonable argument for an extension of the law.

Lastly, your written product reflects upon your credibility. It should be free of typographical errors and improper grammatical usage. The use of a spell check program does not ensure a brief free from errors, since the word used may be spelled correctly but is an inappropriate usage.

The technical rules that govern preparation of a brief or a motion should be satisfied.<sup>7</sup> Errors in following these rules suggest the writer is not a careful attorney, raising the question whether such carelessness extends to the attorney's analysis and argument of the law. This slippery slope can easily be avoided by careful attention to the written form of the brief, and is well worth the effort.

## An Effective Brief Takes Time, Skill and Effort

An effective brief does not just happen. As the observations above demonstrate, it takes time, skill and effort. Additionally, it is much harder to prepare a pointed, concise and powerful brief than it is to write a lengthy brief that meanders endlessly through the facts and law, telling it all in a case without theme or focus.

Leaving sufficient time to prepare, think about and edit a brief before it is filed is also essential. The good news is that with each brief prepared, additional skill is acquired, and the task becomes a more enjoyable challenge. ⚖️

## Endnotes

1. See Rule 2:6-7, setting page limits for briefs submitted on an appeal and on a cross-appeal to the Appellate Division, including a limit of up to 65 pages for the parties' initial

briefs on appeal, and up to 90 pages for briefs where a cross-appeal has been filed.

2. See Rule 2:6-2(a)(6).
3. See *Brill v. Guardian Life Ins. Co. of America*, 142 N.J. 520 (1995).
4. See *Crowe v. DeGioia*, 90 N.J. 126 (1982).
5. For example, Rule 2:6-2(a)(4), governing briefs submitted to the Appellate Division, cautions against presenting a statement of facts as a summary of all of the evidence adduced at trial, witness by witness.
6. See, e.g., *Cherry Hill Dodge, Inc. v. Chrysler Credit Corp.*, 194 N.J. Super. 282, 283 (App. Div. 1984)(dismissing appeal for numerous violations and observing that it was "completely improper" to include in appendix numerous documents that were not in evidence before the trial court); *Drake v. Human Services Dept.*, 186

N.J. Super. 532, 537 (App. Div. 1982)(reliance on appeal upon material not before the lower tribunal can trigger censure for violation of the appellate practice rules).

7. See, e.g., with respect to briefs to the Appellate Division: Rule 2:6-2; Rule 2:6-4; Rule 2:6-5; Rule 2:6-6; Rule 2:6-7; Rule 2:6-8; with respect to a motion for summary judgment before the trial court: Rule 4:46-1 and Rule 4:46-2; and with respect to discovery motions before the trial court: Rule 1:6-2(c).

**Christine D. Petruzzell** is a shareholder of Wilentz, Goldman & Spitzer, P.A., where she concentrates her practice in commercial litigation and general equity matters in state and federal courts. She is a member of the firm's appellate practice group and previously served as a member and contributing editor of the New Jersey Lawyer newspaper.

# Christina Vassiliou Harvey

## Lomurro Law

Christina Vassiliou Harvey



Christina Vassiliou Harvey focuses her practice on personal injury litigation, social security disability claims and appellate writing. She has experience litigating personal injury cases on both the plaintiff and defense sides, medical malpractice cases for plaintiffs, commercial disputes, and defending insurance brokers and attorneys against claims of professional negligence. She also practices in the area of horseracing law.

Ms. Harvey practices in the federal and state courts in New Jersey and Pennsylvania, at both the trial and appellate levels, as well as before administrative agencies.

Ms. Harvey has authored articles for the *Business Law Today*, *New Jersey Lawyer* newspaper, *NJ Esq.*, *The Affiliate*, *The Young Lawyer* and the New Jersey State Bar Association Young Lawyers Division (NJSBA-YLD) newsletter. She has lectured for the New Jersey Institute of Continuing Legal Education on professional responsibility as part of the Skills and Methods course and on ethics for the New Jersey State Bar Association. Ms. Harvey has also lectured on topics pertaining to ethics, collections and client relations through the American Bar Association, the NJSBA, Mercer County Inns of Court, Hudson County Bar Association, and Somerset County Bar Association.

Ms. Harvey serves as Secretary to the Board of Directors of the Rutgers University School of Law – Newark Loan Repayment Assistance Program. In addition, she served as past Chair to the NJSBA-YLD and past President of the Mercer County Women Lawyers Caucus. Ms. Harvey also serves as a founding board member to the Community Justice Center, a non-profit organization that assists disabled veterans to obtain disability benefits. She has received three “Star of the Quarter” awards for her work in the American Bar Association Young Lawyers Division. Ms. Harvey was awarded the Service to the Bar Award by the NJSBA-YLD in 2009 and was recently named “Star of the Year” for the American Bar Association YLD 2013.

**Corrie S. Sirkin, Esq. Associate**



Corrie Sirkin is an associate in the Family Law Department of Lesnevich, Marzano-Lesnevich, & Trigg LLC. She received her J.D. from the University of Virginia School of Law in Charlottesville, VA. She previously practiced family law at Central Jersey Legal Services through the University of Virginia Law School Post-Graduate Fellowship and was trained in mediation through the UVA Law Family Alternative Dispute Resolution Clinic. Corrie authored the article "Don't Believe Your Eyes: Spoofing" for the Electronically in Touch Newsletter of the Young Lawyers Section of the New York State Bar Association.

Corrie received Bachelors degrees in Psychology and Sociology from the University of Virginia. She is admitted to practice in New Jersey, New York and Virginia. Corrie is a member of the New Jersey State Bar Association Family Law Section, New Jersey Young Lawyers Division, New York State Bar Association, Virginia State Bar and Young Lawyers Conference of the Virginia State Bar. She practices exclusively in the field of Family Law.



## **Evelyn R. Storch** ✦ **Partner**

Evelyn R. Storch is a partner in Harwood Lloyd's Commercial Department, specializing in complex commercial, real estate based, construction and employment litigation, professional liability claims, and insurance defense and coverage disputes. She has litigated intricate matters involving partnership dissolutions, shareholder and securities disputes, restrictive covenant suits, real estate brokerage claims (on behalf of both brokers and developers/owners), and civil rights violations. Her clients include individuals, small and medium businesses, medium and closely held companies and the occasional multi-national corporation. Her diverse experience enables her to adapt her services to the particular needs of each client.

Ms. Storch received her A.B. from Douglass College in 1968. She received her J.D., Cum Laude, from Rutgers School of Law, Camden in 1981. While in law school, she was Associate Editor of the Rutgers Law Journal. She was a semi-finalist and won the Best Brief Award in the school's Moot Court Competition. She served as a legal intern to the Hon. Dolores K. Sloviter, United States Court of Appeals for the Third Circuit, Philadelphia, Pennsylvania.

Ms. Storch is admitted to practice before the courts of the State of New Jersey (1981), the United States District Court for the District of New Jersey (1981), United States Supreme Court (2001), the United States District Court for the Eastern District of New York (2004) and the United States District Court for the Southern District of New York (2004)..

Ms. Storch is a member of the American Bar Association and the New Jersey State Bar Association. She is a Trustee for the Women in the Profession Section of the New Jersey State Bar Association and is the Chair of the Legislative Committee for that Section. She also serves on the Amicus Committee of the New Jersey State Bar Association, for which she was chair in 2006 - 2008, and on the Business and Commercial Litigation Committee. She is part of the leadership of the Woman Advocate Committee of the Litigation Section of the American Bar Association. She is now Chair of the Regional Lunch Meeting Program Subcommittee for the 2010 - 2011 year and previously served as co-editor as well as one of the authors of The Woman Advocate 2nd ed.

On behalf of the New Jersey State Bar Association, Ms. Storch wrote the amicus brief to the New Jersey Supreme Court in *Jerista v. Murray*, 185 N.J. 175 (2005), which upheld the proximate cause requirement in legal malpractice cases. In addition to serving as co-editor of *The Woman Advocate* 2nd ed. and writing one of its chapters, Ms. Storch has authored or co-authored numerous articles: American Bar Association, LITIGATION, Admissibility of Electronically Stored Information: It's Still the Same Old Story (May, 2008); American Bar Association, Section of Litigation, Corporate Counsel Committee Annual Meeting, Electronically Stored Information: Are You Ready? (February, 2008); American Bar Association, LITIGATION, Spoliation, or Please Don't Leave the Cake Out in the Rain (July, 2006); and American Bar Association, Section of Litigation, The Woman Advocate Committee Newsletter, If You've Got It, Flaunt It: Persuasive Brief Writing (Fall, 2005). Evelyn has served as a panelist and presenter, both locally and nationally, on electronic discovery, bad faith insurance claims, brief writing, and taking and defending depositions.

### **Practice Areas**

- [Litigation](#)

### **Education**

#### **Undergraduate**

- Douglass College (A.B. 1968)

#### **Law School**

- Rutgers University School of Law, Camden (J.D. 1981)

## Admissions

### Bar Admissions

- New Jersey, 1981

### Court Admissions

- New Jersey, 1981
- United States District Court, District of New Jersey, 1981
- United States Supreme Court, 2001
- United States District Court, Eastern District of New York, 2004
- United States District Court, Southern District of New York, 2004

## Memberships & Associations

### Legal

- American Bar Association
- Woman Advocate Committee
  - Co-Chair, Emerging Legal Issues SubComm.
  - Co-Editor, The Woman Advocate 2nd ed.
  - Co-Chair, Corporate Counsel Interview Program
  - Chair, Regional Lunch Program
- New Jersey State Bar Association
  - Member, Amicus Committee
  - Trustee, Women in the Profession Section

## Related Publications

- The Woman Advocate, 2nd Edition, February 2010 - Evelyn R. Storch, Co-Editor; Author: Dealing With Difficult Adversaries

## Awards & Recognition

- Recognized by New Jersey Monthly Magazine as one of the best attorneys in New Jersey (Commercial Litigation), 2012
- Recognized by 201 Magazine as one of the best attorneys in Bergen County (Commercial Litigation), 2012

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## Law Office Management-Technology You Need to Succeed

Joseph A. Bahgat, Esq.

Jonathan H. Lomurro, Esq.

These materials will be posted soon. Please check this website again after October 14<sup>th</sup>.

## Hot Tips for Hot Litigators

Michael A. Austin, Esq.

K. Raja Bhattacharya, Esq.

Shawn M. LaTourette, Esq.

Joshua H. Reinitz, Esq.

These materials will be posted soon. Please check this website again after October 14<sup>th</sup>.

## Hot Tips for Family Law Attorneys

Hon. Peter A. Bogaard, J.S.C. (Morris)

Rajeh A. Saadeh , Esq.

Dana M. Van Leuven, Esq.



# **YOUNG LAWYERS SYMPOSIUM 2015**

**HOT TIPS FOR FAMILY LAW ATTORNEYS**



# SPEAKERS



- Honorable Peter A. Bogaard, J.S.C.
  - Superior Court of NJ—Family Part (Morristown)
- Dana M. Van Leuven, Esq. (Moderator)
  - O’Sullivan Law Group, LLC (Morristown)
  - [dvl@osullivanlawgroup.com](mailto:dvl@osullivanlawgroup.com)
- Rajeh A. Saadeh, Esq.
  - The Law Office of Rajeh A. Saadeh, LLC (Somerville)
  - [rsaadeh@rajehsaadeh.com](mailto:rsaadeh@rajehsaadeh.com)

# PROFESSIONALISM/CIVILITY



- Code of Professionalism in each county
- Respecting the Court, your adversary, and your client
  - Promptly responding
  - Courtesy
  - Attitude
  - Do not hide behind “zealous advocacy”
- Do not take anything personally

# MANAGING CLIENT EXPECTATIONS



- Begins at first meeting
- Be honest—no guarantees!
- Regular contact
- Explain rights and responsibilities

# NEW LAW/COURT RULES



- Know the Court Rules and keep up with amendments
- Be aware of changing statutes
  - For example, NJSA 2A:34-23
- Monitor Appellate and Supreme Court decisions
  - Daily Briefing is a NJSBA member benefit

# KNOW YOUR JUDGE



- Talk to other lawyers
  - Benefit of being a member of NJSBA
- Talk to the law clerk/Court staff
- Observe a proceeding
- Look up background
  - Recent decisions
  - Practice area prior to being on the bench

# LETTER BRIEFS



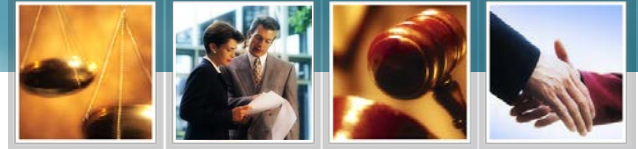
- Especially if the judge is new to the Family Part
- Highlight changes in the law
  - New case law
  - Amended Rules/Statutes
- Analyze applicable factors

# CHILD SUPPORT GUIDELINES



- Be complete
  - Account for health insurance, overnights, unearned income, child care, etc.
- Sole Parenting v. Shared Parenting Worksheet
- *Wunsch-Deffler v. Deffler*, 406 N.J. Super. 505 (Ch. Div. 2009) adjustment
- Other dependent deductions
- When to deviate
  - Extreme income
  - Away at college

# TAX RETURNS



- Check for deductions that need to be added back into income
- Check for unearned income
- Check that it matches up with CIS



# DISCOVERY



- Requests for admissions
- Case related Interrogatories and Notices to Produce as opposed to forms
- Depositions
  - Especially when self or family owned business is involved
- Make discovery demands early

# WRITTEN SUBMISSIONS



- Be clear in what you're asking for
  - Make sure the Notice of Motion/Proposed Order match up with Certification
- Provide supporting proof
  - For example, proof of payment of medical bills—not just the actual bills
- Do the calculations for the Judge
  - For example, add up the total amount of the medical bills or run the guidelines for child support recalculation
- Keep it simple!

# ORAL ARGUMENT/COURT APPEARANCES



- Prepare and know the file
- Key facts
- Relevant law (case law, rules, statutes)
- Know when to keep quiet and when to argue

# PRESERVING THE RECORD FOR APPEAL



- Ensure the Judge's reasons are clear and on the record
- Make appropriate objections
- Be respectful—even if the Judge is wrong you will likely have to appear in front of him or her again

# CONCLUSION



- Other sources of information and guidance
  - Inns of Court
    - Barry Croland Family Law American Inn of Court
      - North Jersey
    - Thomas S. Forkin Family Law American Inn of Court
      - South Jersey
    - Ocean-Monmouth Family Law American Inn of Court
      - Shore
  - County Bar Associations
  - New Jersey State Bar Association
    - Young Lawyers Division
    - Family Law Section

## About Us



Rajeh A. Saadeh devotes a substantial portion of his litigation practice to matrimonial and family law and handles all issues pertaining to divorce, dissolution of civil unions, and domestic partnerships, including child custody, visitation, parenting time, child support, equitable distribution of assets and debts, complex valuation of businesses and professional practices, stock options, executive benefits and compensation, alimony, palimony, arbitration, and mediation. He also handles domestic violence litigation, post-judgment modification and enforcement and drafting of prenuptial, mid-marriage, and divorce settlement agreements. This knowledge and experience serves Rajeh well as an appointee of the Supreme Court of New Jersey's Family Practice Committee. Whether the case is leaning toward settlement or trial, Rajeh takes great pride and care in helping his clients make it through these difficult, personal, and life-changing matters.

In addition to family law, Rajeh has experience litigating criminal cases, civil matters involving both law and equity, including foreclosure and condemnation cases, municipal court matters involving traffic tickets, DUI/DWI charges, disorderly persons offenses, landlord tenant matters, including evictions, and violations of municipal ordinances, and appeals before appellate courts. This breadth of experience enables Rajeh to provide comprehensive representation and advice to his clients when they need it most.

Aside from his substantial litigation practice, Rajeh represents clients in commercial and residential real estate transactions, and he has experience negotiating short sales, loan modifications, and forbearances with banks and mortgage holders and servicers. Related to his real estate practice, Rajeh helps property owners who desire to sell their property via short sale, are at risk of foreclosure, or who cannot make their mortgage payments. Rajeh also serves as the attorney for the Board of Health in the Township of Springfield in Union County, New Jersey, and he is also a member of the Planning Board in Springfield.

Rajeh volunteered with [Wafa House](#), a support center predominantly dedicated to educating and assisting victims of domestic violence. Rajeh is/was a member of the [American Bar Association](#), [New Jersey State Bar Association](#), [Somerset County Bar Association](#), [Middlesex County Bar Association](#), [Hunterdon County Bar Association](#), and [Union County Bar Association](#). Rajeh previously served as the Somerset County representative of the [Young Lawyers Division](#) of the [New Jersey State Bar Association](#), and he presently serves as the Parliamentarian of the YLD as well as the President of the [New Jersey Muslim Lawyers Association](#). As for the [New Jersey State Bar Association](#), Rajeh is a member of the Diversity Committee, Appellate Practice Committee, and Equity Jurisprudence Committee. These affiliations and memberships help Rajeh forge the bonds and relationships to empower him to provide the most effective and efficient representation to his clients.

Prior to private practice, Rajeh served as the Judicial Law Clerk to the Honorable Hany A. Mawla, J.S.C., where he obtained considerable exposure as to how litigation is handled from the trial court's perspective. This experience and knowledge enables Rajeh to serve his clients effectively throughout all stages of their matters.

At the [Ivy League](#) and renowned [University of Pennsylvania Law School](#), Rajeh A. Saadeh was elected Class Officer by his peers and received the Outstanding Pro Bono Service Award in recognition of his work with the [Homeless Advocacy Project](#). Also while in law school, Rajeh A. Saadeh completed criminal law internships with the [New Jersey Office of Public Defender](#) and the Major Trials Unit of the [Philadelphia Office of the District Attorney](#). At [Rutgers, The State University of New Jersey](#), Rajeh A. Saadeh was an Edward J. Bloustein Distinguished Scholar, a member of the [Rutgers College Honors Program](#), and a frequenter on the Dean's List.

Rajeh is licensed to practice law in the States of New Jersey and New York, and he is authorized to appear before the United States District Court for the District of New Jersey and the United States Court of Appeals for the Third Circuit.

Dana M. Van Leuven, Esq.

Ms. Van Leuven is a senior associate at the O'Sullivan Law Group, LLC in Morristown, New Jersey. She is admitted to the bar of the state of New Jersey and the United States District Court of New Jersey. She received her Bachelor of Arts from Rutgers University in New Brunswick, New Jersey in 2003 where she double majored in American Studies and Sociology and was a Rutgers Outstanding Scholar. After graduating from college, Ms. Van Leuven earned her Juris Doctorate from Hofstra University School of Law in Hempstead, New York in 2007. While at Hofstra, Ms. Van Leuven focused her studies on family law and was awarded the American Academy of Matrimonial Lawyers Award for Excellence in Family Law. She also was a member of the Moot Court Board. Upon completion of law school, Ms. Van Leuven served as a judicial law clerk to the Honorable Ronald Lee Reisner, J.S.C. in the Family Part of the Superior Court of New Jersey Monmouth County. Since entering into private practice, Ms. Van Leuven has devoted her practice primarily to various family law issues, including divorce, child custody and support, and domestic violence. Ms. Van Leuven was previously awarded the New Jersey State Bar Association Young Lawyers Division Award for Service to the Community for her work with domestic violence victims and is this year's recipient of New Jersey State Bar Association Young Lawyers Division Award for Service to the Bar. She has lectured for the New Jersey Institute for Continuing Legal Education on the topics of ethics and family law for young and new lawyers. Ms. Van Leuven is also a member of the Family Law Section of the New Jersey State Bar Association, the Secretary of the Young Lawyers Division of the New Jersey State Bar Association, on the Membership and Public Relations Committee of the New Jersey State Bar Association, on the Professionalism and Unlawful Practice Committee of the New Jersey State Bar Association, and a member of the Morris County Bar Association Family Law Committee.

## Stages of a Trial-Opening, Direct, Cross and Closing

Cedric Ashley, Esq.

Thomas J. Manzo, Esq.

Jonas K. Seigel, Esq.

James J. Uliano, Esq.



These materials will be posted soon. Please check this website again after October 14<sup>th</sup>.

## Top Tips for Transactional Attorneys

Joshua F. Cheslow, Esq.

Christopher R. Higgins, Esq.

Jeffrey Neu, Esq.

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