

Lawyer

Mercer County

December 2014

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From the President's Desk...

As we enter the holiday season, on the heels of our November general membership meeting centered on a pro bono theme, I can't help but be truly thankful for having had the ability and means to become an attorney. At the General Membership Meeting we heard about the unselfish giving, albeit in wildly different capacities, of various members of our Association. At that meeting, we bestowed our highest honor, the Michael J. Nizolek award, upon Ezra Rosenberg, a pillar in our legal community. Ezra has served as President of this Association and the first President of the Mercer County Bar Foundation, not to mention that he is a well-respected litigator of complex commercial matters. Notwithstanding such a resume, as the Honorable Allison Accurso mentioned in her remarks on the 19th, Ezra has managed to find the means to be involved in numerous high profile pro bono cases. For example, he has been one of the lead counsel challenging Texas' photo ID voting law. Ezra has recently retired from Dechert to join the Lawyers' Committee for Civil Rights Under Law, where he will



Dorothy Bolinsky

work on voting rights litigation, among other things.

Also on the 19th we honored M. Daniel Cantor, Leslie Chappo, Murray Gendzel, Edward S. Kahn, Patricia Ratner, Daniel I. Rubin, Bruce M. Sattin, and Francis St. John - the core group of attorneys who have consistently volunteered for our Lawyers Care Project, a free legal clinic which began in 1996. Through this program our attorneys volunteer on a monthly basis to entertain legal questions from the general public. Lawyers provide each person with approximately 15 minutes of assistance which may consist of explaining basic legal fundamentals or directing them to resources which might be available to them with respect to their specific circumstance. Related thereto, we granted the Mercer County Connection with our 2014 Community Partner

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Award. The Mercer County Connection has helped spread the word about Lawyers Care and has provided us with the opportunity to host Lawyers Care at its facility in Hamilton for approximately 3 years.

After the speeches, one of the Lawyers Care Project award recipients mentioned to me that he felt inadequate compared to Ezra's accomplishments. I responded by explaining that is how I feel about the Lawyers Care attorneys. It is truly amazing that these attorneys volunteer to help the average person for free - after work - for about two hours a night. With all of the competing pressures we have on our time, many attorneys could find a hundred excuses not to participate.

According to Black's Dictionary, pro bono is derived from the Latin term pro bono publico with a literal translation "for the public good". Although the current definition refers to attorneys providing free legal service to indigent persons or to religious, charitable, or other non-profit organizations, the definition should be broader and include all the charitable work that we do. As President, I have witnessed first hand how generous our attorneys are with their time and skills. Many of our attorneys give back to the community in various ways. For example, we awarded Melissa Chimbangu with our 2014 Young Lawyer of the Year Award. For the past several years Melissa has worked tirelessly on behalf of the Association developing and implementing events, programs and benefits to encourage other young lawyers to join our Bar Association. In particular she has developed various events sponsored by the Young Lawyers Committee, the proceeds of which have been donated to various charities. Her dedication is so profound that Bob Lytle, in his opening remarks regarding Melissa, felt compelled to "plug" the upcoming Santa Hot Line where the proceeds will benefit PEI Kids. As another example, on November 20th I joined our Community Projects Committee, lead by Robin Echevarria and Stacey Geurds, where we donated and served root beer floats at the Lawrenceville Senior Center during bingo. Many of the attendees were of limited means and their level of appreciation for a complimentary root beer float and a few minutes of conversation is hard to even articulate.

As a non-litigator, I do not have the proper legal skills to provide the traditional pro bono assistance. Many years ago, I met a local nurse who described her dream of developing a high quality assisted living center for people of limited financial means. She was so passionate in her

mission, that I felt compelled to her help in the only way I really knew how: I assisted her in forming a company and purchasing the real estate for the center. Recently I receive a letter from her describing her fifth year anniversary of operations and thanking me. She explained that without my help in making the initial purchase, her vision would never have become a reality.



Lawyers C.A.R.E. Clinic Award Recipients M. Daniel Cantor, Daniel Ruben, Francis X. St. John, Lionel J. Frank accepting for Bruce Sattin, and Leslie Chappo, with Chrissy Brennan and MCBA Dorothy Bolinsky

If you have been inspired by our award winners this year, the Association and the Foundation have a means by which you can easily get involved and give back without having to commit to a high profile pro bono litigation. Although maybe not as newsworthy, the small interactions, such as serving a meal at the Trenton Area Soup Kitchen or attending the Lawyers' Care event can have a meaningful impact on someone. We would love to see you, please join us.

Given that my term as President is coming to the end and this is my last newsletter, I would be remiss in not mentioning how truly thankful and privileged I feel to have served as the Association President this past year. It has been an extraordinary experience. So many of our members, including all of our officers and trustees, too many to mention by name, have contributed in various ways to make this year memorable and a great success. Thank you all for your time, energy, ideas and commitment: our Association is so amazing because of you, our members. I also wanted to thank Judge Mary Jacobson and the entire Mercer County Judiciary for the unbelievable support you have provided this past year; sitting as seminar panelists, attending our events, participating in Law Day and so much more. The relationship between the Bench and Bar in our County is truly unique and cherished. Finally, a special thank you to Chrissy Brennan and the entire Association staff who keep the daily wheels turning, we could not produce the events we do without you! As I turn over the reigns to Michelle, I wish her the best success for next year and know that she will receive the same incredible support that you have shown me.

Commercial Tenant Appeals Judgment of Possession Based on Square Footage Discrepancy and Language of "AS IS" Clause

Thomas Onder, Esq.

In a rare event, the Appellate Division recently granted a tenant's appeal to transfer a non-payment eviction matter to the law division. The case, *Bejoray, Inc. v. Academy House Child Development Center*, A-5161-12T3 held that a tenant's request to transfer an eviction matter, when it asserted claims for negligent misrepresentation and breach of contract for damages and rescission of the lease, should have been granted. This case is very important as it raises a number of issues that should be addressed prior to proceeding with an eviction action.

In *Bejoray*, landlord and tenant entered into a five-year commercial lease. The monthly rent was \$15,000 at commencement, but increased 3% every year. The lease provided an "as is" paragraph that acknowledge that the tenant inspected and examined the premises prior to executing the lease. Further, the lease's terms included the retail space which comprised "approximately" 3,800 ft.² on the ground and approximately 7,400 ft.² below ground providing a total square footage of about 11,200 ft.²

In January 2013, tenant discovered plans that revealed that the square footage was approximately 9,600 ft.² about a 15% difference in the amount represented in the lease. After attempting to contact landlord's attorney with no response, tenant's attorney advised the tenant would only pay \$13,000 of the \$15,000 in rent due and **deposit the difference into court**. Approximately a week later, landlord advised that it had retained an architect to determine the square footage was actually 12,100 ft.², about 900 ft.² more than indicated in the lease.

In March 2013, landlord filed a complaint seeking possession based on non-payment for February and March. Tenant filed a motion to transfer the action to the Law Division with a verified answer and counterclaims, alleging breach of lease and negligent misrepresenta-



tion, seeking compensatory damages of about \$29,000, punitive damages, counsel fees, as well as rescission of the lease.

At trial, the Court denied the motion to transfer the matter. The Court concluded that tenant's concerns could be resolved by examining the lease and the "as is" provision. A judgment of possession was then entered in favor of landlord.

On appeal, tenant claimed that the trial Court erred to transfer the matter because the issues were complex and not amenable to adjudication in a summary proceeding. The Appellate Division noted nine (9) factors as guidelines to be used when determining a transfer to Law Division, citing *Morocco v. Felton*, 112 NJ Super. 226, 235 (Law Div. 1970). Among the factors are the complexity of issues presented and whether discovery or other pretrial procedures are necessary or appropriate.

Here, the Appellate Division held that parties each retained an expert concerning the issue of square footage and each expert held significantly different views. Further, the Appellate Division held that tenant made affirmative claims for damages, as well as rescission of the contract. The Appellate Court held that a claim for rescission was "...more than a defense or avoidance by the tenant." As such, the Appellate Division vacated the judgment for possession and remanded the matter to the Law Division.

Interestingly, nowhere in the opinion does it provide whether tenant actually posted the difference in the funds into court. Although the opinion references that tenant advised landlord prior to the eviction action that it would post the funds into court, nowhere in the opinion does it provide that the tenant actually did that. The trial judge in this matter, could have simply required the tenant post the difference into court, if it thought that tenant was just making frivolous defenses and either transfer the matter to the Law Division and/or heard the matter with expert testimony. Additionally, nowhere in the opinion does it provide whether the Court actually heard testimony from the two (2) experts concerning the square footage. Had the court required the tenant post the monies into court and then carry the matter for hearing at the court's convenience, the Court could have adjudicated the substance of whether the defenses were in fact correct.

This case could have turned out very differently, if the lease provided a clause that stated parties agree to deem the size of the premises as a certain number of square feet and that tenant

agrees to any changes in the square footage as determined by landlord's architect, in the sole discretion of landlord's architect, could have avoided this entire situation. Further, such a clause could have stated that in the event that landlord's architect determines that the size is larger, tenant will thereafter pay increased minimum and additional rent as determined by landlord, but in no event will tenant be permitted to reduce any minimum rent or additional rent or have any other rights or remedies if the size is smaller.

For more discussion on lease enforcement issues for commercial landlords, Stark & Stark's Commercial, Industrial and Retail Real Estate Group can help. Contact the group's chair, Thomas Onder, Shareholder at Stark & Stark (609) 219-7458 or tonder@Stark-Stark.com. Mr. Onder litigates commercial eviction and enforcement matters regularly in the tri-state area. He writes regularly on commercial real estate issues and is a member of ICSC and Co-Chair of ICSC's NextGEN Committee for NJ/PA and DE.

1937 Mercer County Bench Bar Composite



**Gifted by the Salvatore Family and
Presented to the Hon. Mary Jacobson at the
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**Upcoming Bench Bar Meetings
All Attorneys Invited To Attend
Bench Bar Meetings**

**Bankruptcy Bench Bar Meeting
January 6, 2015
Judge Kaplan's Courtroom
4:00 p.m.**

**Civil Bench Bar Meeting
Judge Hurd's Courtroom
January 14, 3:30 p.m.**

Mercer County Lawyer Basketball League



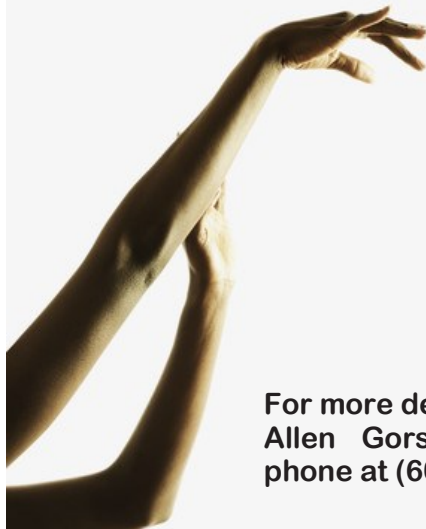
The Mercer County Lawyer Basketball League has been occurring for approximately 20 years. Games are played at 999 Lower Ferry Road in Ewing. The building is now the Ewing Senior and Recreation Center, formerly the Jewish Community Center.

All attorneys, Judges, judicial law clerks and law students are welcome. This is a competitive league with referees, scorekeepers, timekeepers and standings.

The league will begin on Monday evening, December 8th at 7:00 p.m. There will be a holiday breaks on December 22nd and 29th, and then games will continue every Monday through the end of March.

1. Old Guys (Red)
2. Cookies & Kareen (Blue)
3. DAGS (Green)
4. AsSOCEYates (Black)

Date	Home	Away	Time
1-5-15	2	3	7:00
	1	4	8:00
1-12-15	1	3	7:00
	2	4	8:00
1-19-15	1	2	7:00
	3	4	8:00
1-26-15	1	4	7:00
	2	3	8:00
2-2-15	1	3	7:00
	2	4	8:00



For more details and information contact Commissioner Allen Gorski at AGorski@GorskiKnowlton.com or by phone at (609) 964-4000.

MCBA Lawyer Referral Service

MCBA Lawyer Referral Service– needs attorneys who focus on *any* of the following categories: Immigration, Landlord/Tenant, Administrative Law and Board of Education. We are also seeking Spanish-speaking attorneys in all practice areas.

Awards Ceremony and November General Membership Meeting

Mercer Oaks
November 19, 2014

Over 100 members and guests honored Ezra Rosenberg, Melissa Chimbangu, The County Connection and our core group of Lawyers C.A.R.E. attorneys for their contributions to the Bar and our community. To see more photos from the dinner, visit us online at www.mercerbar.com/



**Marcy Kleiner, Director of the Mercer County Connection, with
MCBA President Dorothy Bolinsky**



Hon. Travis Francis, Melissa Chimbangu and Farayi Chimbangu



Robert Stephens, Brian Duff and Brian Heyesey



Hon. Maria Sypek (ret.) and Hon. Linda Feinberg (ret.)



Hon. Mary Brennan, Jeffrey Gradone and Sahbra Smook Jacobs



Hon. Allison Accurso, Ezra Rosenberg and Betsy Doverman



Hon. John Hughes (ret.)
and Arthur Sypek



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Teens Beware: New Jersey's Marijuana Laws Criminalizing Possession for Recreational Use Are Still on the Books and Are Still Enforced

Tirza Wahrman, Esq.

The actress Sarah Silverman was hard to miss at the recent showing of the Emmy Awards. There she was, flaunting her use of a vaporizer which contained marijuana. In fact, she was reflecting what is part of a national trend.¹

All around us, across the country, the laws making the recreational use of marijuana a crime are being rethought and repealed. (This is to be distinguished from the medicinal use of marijuana; New Jersey is one of many States that has such a program; it is administered by the New Jersey Department of Health. See <http://www.nj.gov/health/medical/marijuana/>). In recent months, the Sunday Review of The New York Times published a front-page editorial, entitled "Repeal Prohibition, Again".²

The article asserts that the laws punishing the recreational use of marijuana use are outdated and the dangers of marijuana use, compared to cigarette smoking and alcohol use, are overstated. Proponents of legalization argue that rather than continue to spend scarce resources on enforcement for marijuana possession, states should be requiring "pot stores" to disclose the relative potency of what they sell, much like liquor stores do; and like liquor, the tax revenue from legal marijuana sales can boost state coffers.

This past summer, the State of Washington became the second state in the nation to legalize recreational use of marijuana.³ This follows on the heels of Colorado's program, where sales became legal on January 1, 2014. This past June, the Philadelphia City Council voted to decriminalize the possession of up to one ounce of marijuana.⁴ Thanks to successful ballot initiatives this month, in Washington, D.C., Alaska and Oregon, it will soon be legal to smoke marijuana for recreational use.

New Jersey parents and teens, do not be lulled into thinking that New Jersey will follow suit. It likely will not, at least not in the

short term; certainly not while Chris Christie remains governor. The Governor takes the position that marijuana remains potentially addictive, and the State Legislature would appear to have little appetite to take on this issue. And the Governor's position is close to that of Michele Leonhart, the administrator of the federal Drug Enforcement Administration, who argues that marijuana is potentially addictive, and that it can be a "gateway" drug to other more dangerous drugs. The medical community continues to have a range of views on the topic. This month's issue of Education Life in The New York Times suggests that the effects of marijuana use on young people may be greater than was first thought, citing to studies indicating that young, habitual users of marijuana suffered memory loss and lack of motivation.⁵

So, recognizing that New Jersey laws have yet to change, in contrast to other states, here is some advice based on my recent experience advising teenage clients:

1. New Jersey laws penalizing recreational use are on the books, and they are enforced.

New Jersey laws make possession of 50 grams (or approximately 1.5 ounces) of marijuana a disorderly persons offense. N.J.S.A. 2C:5-10(a) (4). If convicted, the court may impose a \$500.00 penalty and a \$50.00 lab fee for each charge. New Jersey law defines marijuana as a controlled dangerous substance ("CDS"). Even possession of less than 50 grams can result in a prison term of up to six months and a fine of up to \$1,000. A convicted person can have their driver's license suspended for up to 24 months. When a person possesses more than 50 grams of marijuana (that's 1.5 ounces or more), this offense is a fourth degree crime; a jail term of up to eighteen months can be imposed. N.J.S.A. 2C:35-10a(3). A convicted person can have their license suspended for up to 24 months.

2. When you drive a car or are a passenger in a car, you have a reduced expectation of privacy. The police have significant power to stop a vehicle to protect the public safety. See

State v. Alston, 88 N.J. 211, 230 (1981) (holding that the “automobile exception” to the Fourth Amendment holds a search warrant unnecessary when the police stop an automobile on the highway and have probable cause to believe there is evidence of a crime). They can make random stops, for example, if they are concerned about a rash of burglaries in town. If a car makes a funny turn, they can stop it to see if the driver is under the influence, for example, drinking alcohol or smoking marijuana, to cite to two of the most common reasons for pulling a motorist over.

3. If you are pulled over, the police do not have to “read you your rights.” Routine traffic stops do not constitute an unlawful seizure within the meaning of the Constitution. State v. ex rel. J.V., 2014 N.J. Super. Unpub. LEXIS 783. As they do not rise to the level of a custodial interrogation, they do not require that Miranda warnings be given. So, you may think you have the right to remain silent when the police pull you over; but you do not. A brief roadside stop of a motorist does not trigger your right to be told that you have the right to remain silent or that you have a right to consult an attorney.

4. Marijuana has a strong odor. If the police smell it in the vehicle when they stop you, they can claim the right to search your car. In fact, you may not have smoked marijuana that day or even for several days. Its odor is pungent; it lingers, and the police are trained to be alert for it. In many cases, in New Jersey, a judge will uphold the actions of a police officer to search a vehicle based on the officer’s statement that he or she smelled the odor of marijuana. State v. Menon, 2013 N.J. Super. Unpub LEXIS 1548. You may have a basis for challenging the search in court. But the results are mixed, and you cannot count on a judge finding that the search was unlawful.

5. If you are under 18 years old and you are detained, you have the right to call home. Sometimes, the police decide they want more

information from a person they pull over. What if the police decide to bring you in for questioning? In that case, your parents must be notified. N.J. Rule 5:21-1. And if they are not, as intimidating as this may be, you should insist that your parents be called, or that you be permitted to call them. If you are not permitted to call them, then anything they learn can be challenged in court.

6. The State of New Jersey does have a program of “conditional discharge” for first offenders. See N.J.S.A. 2C:36A-1. The program is available for disorderly persons offenses, and you can be eligible for it if you have not been previously convicted in any state of a drug offense or have not been previously granted a conditional discharge or pre-trial intervention. The average supervisory treatment program generally runs for a year, and requires random drug testing. Importantly, upon successful completion of the program, the criminal case is dismissed; you will be cleared of all charges, and you will not have a criminal record.

Some day, New Jersey may join other States in legalizing marijuana use. But that day is not here yet. And so, teens and parents, be careful out there. And know what your rights are.

Tirza Wahrman is a general-practice litigator in the Law Office of Tirza S. Wahrman, LLC, in Princeton Junction, New Jersey. She previously served as a Deputy Attorney General in the New Jersey Attorney General’s Office from 2002 to 2012.

¹ Gregory Miller, “Sarah Silverman Flaunts Liquid Pot on Emmy’s Red Carpet,” N.Y. Post, page 6, August 25, 2014.

² The Sunday Review, “Repeal Prohibition, Again,” July 27, 2014, p. 1.

³ Trevor Hughes, “What to Know About Recreational Marijuana,” USA Today, July 7, 2014.

⁴ Dan McQuade, “Philadelphia City Council Votes to Decriminalize Marijuana,” June 2014.

⁵ Abigail Sullivan Moore, “This is Your Brain on Drugs,” N.Y. Times, November 2, 2014.

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**Congratulations Samuel Gaylord
2014 Professional Lawyer of the Year**

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Craig Hubert getting a hole in one
at the Little Mill Country Club on
October 28, 2014

Members In the News



Hill Wallack LLP attorney **Ryan P. Kennedy** has been elected President of the Hopewell Valley YMCA Board of Directors. Mr. Kennedy is counsel in the Princeton, N.J. office of the firm and is a member of the firm's Real Estate Division and Banking & Financial Services, Eminent Domain, Property

Tax Appeals and Regulatory & Government Affairs practice groups.

"I am honored to have this opportunity to help advance the YMCA's charitable mission here in my home town," said Mr. Kennedy. "We have an amazing group of volunteers and staff that are making a difference in this community, especially in the lives of our children. We will be building on our existing partnerships and working on new collaborations to meet our community's needs through programming, events and activities that we can all be proud of. I can't wait to get started."

"I am looking forward to working closely with Ryan and our new executive committee members," stated Hopewell Valley YMCA CEO Doug Pszczolkowski. "Change always brings opportunity. I want to extend a special thanks to both Phil Volpe and Randy Bull who have given so much of their time and leadership to the Y. As their terms ended, Phil and Randy made sure that the Y would not miss a beat with President Ryan Kennedy and First Vice President Tom Finn to lead the organization into the next era."

Mr. Kennedy concentrates his practice in all aspects of commercial real estate acquisition, lending and development, with particular emphasis on redevelopment, condemnation, transit oriented development and lender work-outs. Mr. Kennedy also regularly advises clients on New Jersey election and campaign finance law and has represented property owners in real estate tax appeals throughout the state.

Alex Paul Genato, an attorney in the Princeton, N.J. office of the law firm of Archer & Greiner, P.C., has been promoted to Partner. Mr. Genato is a member of the firm's Real Estate Tax Appeal Group and concentrates his practice in the areas of local property taxation, eminent domain, redevelopment, and state tax matters. He has handled matters involving all phases of property tax appeal litigation throughout New Jersey, New York, Pennsylvania, Connecticut, Massachusetts, Virginia, Ohio, Florida and various other states.



Mr. Genato is regularly quoted as an authority on local property taxation in publications such as Bloomberg News, The Star-Ledger, The Philadelphia Inquirer, Hudson Reporter, NJBIZ,

GlobeSt.com, examiner.com, and the Press of Atlantic City. He has also been featured or quoted in PCWorld, iPhone Life, NJ.com, The Modesto Bee, and The Las Vegas Review-Journal.

Mr. Genato has extensive experience with cases involving office complexes, corporate headquarters, industrial facilities, oil refineries, manufacturing facilities, research and development facilities, warehouses, data centers, hotels, extended-stay corporate suites, golf courses, ski resorts, shopping malls, banks, telecommunication facilities, assisted living facilities, nursing homes, parking garages, truck terminals, apartment buildings, and condominiums. He advises clients on issues regarding property tax issues, liabilities, exemptions, and farmland assessment qualification.

After graduating from law school, Mr. Genato was a law clerk to the Honorable Vito L. Bianco, J.T.C. of the Tax Court of New Jersey. In this capacity, he assisted Judge Bian-

co in drafting the first published case in the nation to comprehensively address casino valuation. Prior to joining Archer & Greiner, P.C., Mr. Genato was associated with the law firm of McCarter & English, LLP, in Newark, New Jersey, where he focused on local property taxation, eminent domain, and business litigation.

Chloe Gogo of Lawrenceville has been selected as a Public Interest Fellow in the Kinoy-Stavis Fellowship Program at Rutgers Law School, Newark. The Public Interest Program is ranked among the finest in the nation.

Three Kinoy-Stavis Fellowships are awarded each spring semester to applicants from the first year class who demonstrate commitment to public service and who are planning public interest careers. Fellows normally serve until graduation.



Fellows participate in the Constitutional Litigation Clinic where they are exposed to the various aspects of legal practice including “impact” litigation in the area of individual civil liberties and civil rights as protected by the United States Constitution and the New Jersey Constitution. Along with other duties Clinic participants are expected to research and draft briefs and other pleadings at both the trial and appellate level.

Eckert Seamans Cherin and Mellott, LLC, announced today that the **Frank J. Petrino and Richard J. Van Wagner** from the Trenton, New Jersey office were recently selected again by their peers for inclusion in *The Best Lawyers in America*® 2015.

Petrino focuses his practice on the acquisition, development and financing of real estate. He represents national, regional and local builders and developers before county, state and federal agencies with respect to the development of fee



simple residential communities, common interest communities and business and industrial parks, including industrial parks located within redevelopment areas and on Brownfields sites. Petrino has extensive litigation

experience in the regulation of the use, sale of interests, and environmental impact of real estate development. In addition, he represents clients in complex commercial litigation.

Van Wagner focuses his practice in the areas of legislative affairs, administrative litigation and regulatory counseling and has a unique understanding of the law with an appreciation of the legislative and regulatory processes. As a registered Government Affairs Agent, he lobbies on behalf of insurers, financial institutions, transportation-related entities, racetracks and casinos, higher education institutions and post-secondary educational institutions. Van Wagner also has extensive experience in corporate and regulatory affairs and has practiced extensively before the Departments of Environmental Protection, Banking and Insurance, Health and Senior Services, Transportation, Labor and Community Affairs, the Casino Control Commission, the New Jersey



Racing Commission, the Divisions of Taxation, Purchase and Property, Alcoholic Beverage Control, and Consumer Affairs, and the Bureau of Securities.

Dear Colleagues,

As many of you know our friend and colleague John Carbonara suffered a traumatic brain stem stroke on November 8, 2014. John has been an Assistant Prosecutor for over 11 years and is a trustee of the Mercer County Bar Association.

John is currently undergoing rehabilitation in North Jersey which will be a long process. During this time his family will incur many expenses including transportation, meals and lodging.

A tax-deductible donation to the family can be made online through the Mercer County Bar Foundation by going to the MCBA website, www.mercerbar.com, and using one of the Donate Now buttons. The buttons are for \$25, \$50, \$100 and \$250 donations.

John is a friend, a co-worker, a devoted husband and son. Any contributions would be appreciated during this season of giving.

Thank you so much,

Michelle Gasparian
President-Elect
Mercer County Bar Association





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Early African-American Attorneys in New Jersey

Franklin L. Flacks, Esq.

With the approach of Black History Month, I thought it would be interesting to recognize the first African-Americans who became attorneys in New Jersey and describe their accomplishments.

The first African-American to become a lawyer in New Jersey was **George Jackson** who was one of only twenty-six applicants who sought admission to practice law in 1893.

Little is known about him except that he subsequently left New Jersey and went to St. Paul, Minnesota to practice law.

George A. Douglas graduated from Howard University Law School in 1893 and became the second black admitted in New Jersey although he was already admitted in the District of Columbia.

Only two other black lawyers are known to have been admitted to the New Jersey bar before the turn of the 19th Century – **Alfredo Bonito Cosey** and **Traverse Spraggins**. Little is known of Spraggins but Cosey was an accomplished scholar having published several books including “American and English Title Record, 1535 – 1911 (1914).”

His legal career was not as stellar as his scholarly life. In 1914, he was charged with extortion and disbarred.

James A. Garfield Lightfoot was a 1907 graduate of Howard University Law School. He was admitted to practice here in 1912. He formed a partnership with another black lawyer, Henry Nutter and they were successful in defending criminal cases, especially murder cases.

Issac Henry Nutter was a 1901 graduate of Howard University Law School and admitted here in 1905. He also established a reputation as a criminal defense lawyer. Because of that reputation, the New Jersey courts would appoint him to prosecute cases from time to

time. Between 1905-1919 he handled approximately 30 murder cases.

Nutter’s performance as a criminal defense attorney and community leader, came to the attention of the Governor who publically praised Nutter for advancing the cause of civil rights.

In 1920, he was charged with receiving stolen goods but claimed it was racist retaliation for speaking in favor of the passage of an equal rights bill in New Jersey. He proved he was framed and the charge was dropped.

Trenton S. Hartgrove was a 1908 Boston University Law School graduate. He was first admitted to practice in Massachusetts in 1908 and then in New Jersey in 1915. He was appointed Master in Chancery in New Jersey and later Assistant Attorney General (the first black to review that appointment).

Hartgrove was one of the first black lawyers to argue a case before the New Jersey Supreme Court. In 1933, he won an important civil rights case involving black children who had been denied swimming privileges in public schools because of their race.

Robert Queen was a 1915 graduate of Howard University Law School who was admitted to the District of Columbia bar in 1918. He relocated to New Jersey and was admitted here in 1921. He opened a law office in Trenton, working part-time for the City doing tax foreclosures and part-time for the City doing tax foreclosures and part-time for the Housing Authority.

In 1943, Queen and **Frank H. Wimberly**, a 1922 graduate of Howard University Law School, defended Clarence Hill, a black soldier charged with murdering six people in Mercer County and four shotgun attacks in Bucks County. These were referred to as the “Duck Island Murders.” Through their skill, Hill was only convicted of one murder but sentenced to

life imprisonment.

Queen's most significant and lasting legal service was his argument before the New Jersey Supreme Court in 1944 where he persuaded the Court to strike down the separate but equal doctrine in New Jersey public education – Hedgepath – Williams v. Trenton Board of Education.

William A. Dart, a 1918 graduate of Boston University Law School was admitted in Massachusetts in 1919, South Carolina in 1920 and New Jersey in 1921. In New Jersey, he was appointed Deputy Attorney General in 1935, becoming the highest ranking black attorney ever to reach that position.

I would be remiss if I didn't mention **Bryan V. Moore**. For those of us who were members of the Mercer County Prosecutor's Office in the early 1970's, we worked with Moore who was the first black full-time Assistant Prosecutor in that office.

Moore was a lifelong resident of Princeton graduating from Rutgers Law School. His name is engraved on a plaque that hangs in Princeton High School where he graduated from the 1936.



Nationally, **Macon Bolling Allen** is believed to be the first African-American licensed to practice law and hold a judicial position in America. Allen was admitted to practice in Maine in 1844 and later became a Justice of the Peace in Massachusetts in 1848.

He moved to South Carolina after the Civil War to practice law and was elected as a Probate Court Judge in 1874.

It is believed that Allen and attorney **Robert Morris** opened the first black law office in America while he lived in Boston. It is also believed that in 1845, he walked fifty miles to the bar exam test site because he couldn't afford transportation.

Charlotte E. Ray is believed to be the first black woman attorney in America. Graduating from Howard University Law School in 1872, she was the first female to be admitted to the District of Columbia bar and the first woman to practice before the Supreme Court of District of Columbia.

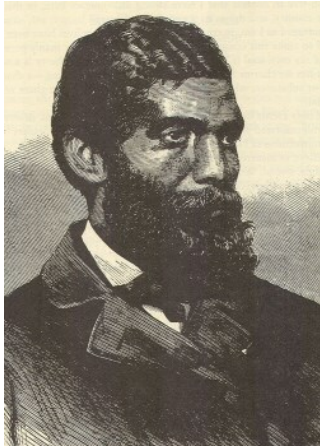


Despite her Howard University connections, she was unable to maintain a steady client flow sufficient to support herself. At that time, not enough people were willing to trust a black woman with their cases.

Ray eventually moved to New York where she became a teacher in Brooklyn and was also active in the women's suffrage movement.

John Rock, was an American teacher, doctor, dentist, lawyer and abolitionist. He was one of the first African-American men to earn a medical degree and the first black person to be admitted to practice before the United States Supreme Court.

Continued on Next Page



Rock was born in Salem, N.J. in 1825. By age 19 he was a teacher in a one-room schoolhouse in Salem. He studied medicine under two white physicians. He applied to medical school in 1848 but was rejected due to his race.

He then transferred to the field of dentistry and, after an apprenticeship, opened a dental practice in 1850 in Philadelphia. He was then able to enter medical school in Philadelphia and graduated in 1852.

In 1853, Rock moved to Boston setting up a practice in both medicine and dentistry. He treated many of the slaves fleeing from the South on the Underground Railroad becoming an ardent abolitionist.

By 1860, Rock gave up his medical and dental practices and began to study law. In 1861, Rock passed the Massachusetts bar exam and was admitted to practice in that State.

On February 1, 1865, the day after Congress approved the Thirteenth Amendment ending slavery, Rock became the first black attorney to be admitted to practice before the United States Supreme Court. Regretfully Rock died one year later of tuberculosis. His admittance into the Supreme Court is inscribed on his tombstone.



Happy Holidays!

*From the Mercer County Bar
Association Staff*



*Sincerely,
Chrissy, Alberta, Mary,
Siobhan and Sandy*

Calendar

<u>December</u>			
December 15, 2014 Municipal Court Boot Camp—3.0 CLE MCBA Office 9:30 a.m. to 12:30 p.m.	December 15, 2014 Family Court Boot Camp MCBA Office 1:00 to 4:00 p.m.	December 16, 2014 Real Estate Trustees Meeting MCBA Office 9:00 a.m.	December 16, 2014 Criminal Trial Prep Boot Camp— 3.0 CLE MCBA Office 9:30 to 12:30 p.m.
December 16, 2014 Estate Planning Boot Camp—3.0 CLE MCBA Office 1:00 to 4:00 p.m.	December 16, 2014 Serve Lunch at Trenton Area Soup Kitchen 10:00 to 1:00 p.m.	December 17, 2014 Real Estate Closing Boot Camp—3 CLE MCBA Office 9:00 to 12:30 p.m.	December 18, 2014 Ethics and Professionalism CLE Seminar 2 Ethics CLE MCBA Office 9:30 to 11:30 a.m.
December 22, 2014 Santa Hotline MCBA Office 6:00 to 8:00 p.m.	December 24, 2014 Christmas Eve MCBA Office Closed Half Day	 December 25th Merry Christmas!	
<u>January</u>			
<i>January 1st</i> <i>Happy New Year!</i>	January 6, 2015 Bankruptcy Bench Bar Meeting Judge Kaplan's Courtroom; 5:30 p.m.	January 6, 2015 Trustees Meeting Avanti Restaurant 5:30 p.m.	January 8, 2015 Lawyers CARE Mercer County Connection Rt 33 at Paxson Ave 5:30 to 7:00 p.m.
January 14, 2015 Civil Bench Bar Meeting Judge Hurd's Courtroom 3:30 to 5:00 p.m.	January 20, 2014 Installation Real Estate Trustees Meeting MCBA Office; 9:00 a.m.	January 21, 2014 Installation The Stone Terrace by John Henry 5:30 to 8:30 p.m.	



Visit us online at www.mercerbar.com/calendar_of_events.htm to see our complete calendar of events, register online for an event or to download a registration flyer.

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MCBA General Membership Meeting
and Installation Dinner

Wednesday, January 21, 2015
The Stone Terrace by John Henry
2275 Kuser Road, Hamilton, NJ 08690

Show your support for the Association by joining us for an elegant evening of camaraderie and dining as the **Honorable Bill Mathesius (ret.)**, gives introductory remarks and swears in the Executive Board and the **2017 Trustees of the Mercer County Bar Association**.

The 2015 Executive Board

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