



Justinian Society of Lawyers

Fall 2019 Newsletter

2019-2020 OFFICERS

Natalie M. Petric
President
Hon. Regina A. Scannicchio
1st Vice President
Dion U. Davi
2nd Vice President
Bruno R. Marasso
3rd Vice President
Michael D. Pisano
Treasurer
Brian T. Monico
Secretary

EXEC COMMITTEE

Hon. Celia A. Gamrath
Hon. Robert Bertucci
Hon. Jill Cerone-Marisie

Louis Siracusano
Michael Bertucci
Anita M. DeCarlo

Frank A. Sommario
Michael F. Bonamarte
Vincent R. Vidmer

Honorable Gloria G. Coco
Antonio M. Romanucci
*President's Advisory
Council*

Salvatore Salvato
Student Member

Nina Albano Vidmer
Executive Secretary

Please notify Nina Albano Vidmer of any address changes by contacting her at: 1018 W. Madison, Ste. 9, Chicago, IL 60607;
justinians@navandassoc.com

Visit our Website
www.justinians.org

President's Message

Dear fellow Justinians,

I am humbled to serve you as the 2019-2020 President of the Justinian Society of Lawyers. It is the highlight of my professional career, and personally, it is a culmination of a dream I shared with my late grandfather, past-president, Anthony Fornelli. Though he is not physically present, his legacy will guide me throughout my tenure as president. The magnitude of this responsibility is one that I both embrace and cherish deeply.

I would first like to thank Vince Vidmer, as he graciously passes along the torch of leadership. The society's success this past year is due in no small part to his leadership and unwavering commitment. I have witnessed his dedication to the society and to his presidency, and I will do my best to follow the example he set this next year.

I would next like to recognize my fellow officers: Judge Regina Scannicchio and Dion Davi, who will shepherd this organization into and through its landmark centennial with wisdom and reverence. Bruno Marasso and Mike Pisano, whose youthful appearance bely immeasurable insight and strength. I'd also like to welcome Brian Monico as secretary. Brian has already shown enthusiasm and commitment to the society, and will undoubtedly leave a personal and lasting mark, as did his father, Michael. Thus, as you can see, the future of the society is in extremely dedicated and capable hands.

However, this slate of officers and I, we stand on the shoulders of giants. These giants paved the way for the successes, in the legal profession and elsewhere, of countless Italian Americans. I am no different, as I have benefited from the courage and tireless efforts of those who came before me. Though I could never name all of those who have assisted me in my path, I would be remiss if I failed to mention just a few of these giants.

Tony Romanucci, who hired me out of law school, and taught me not only skill, but what true compassion looks like both inside and outside a courtroom. Judge Gloria Coco, the first female president of this great organization. A trailblazer and problem-solver, she has selflessly shared with me her tremendous experience and guidance. Past Presidents Katherine Amari, Michael Bonamarte, Greg Garofalo, Jessica DePinto, Judge Bob Bertucci, and Judge Lisa Marino for providing continuous encouragement, perspective, and offers of service. Sam Tornatore, Franco Coladipietro, and Rich Caldazzo, who have been instrumental to the success of our golf outing each year. Frank Sommario, who has been steadfast in his support by giving me counsel and an ear. He has been a rock upon which I lean and reminds me daily to trust my instincts.

I would also like to thank Anita DeCarlo for nominating me as her secretary years ago. My trusted counselor and a consummate mentor, she is never without words of advice to those around her, especially law students and young lawyers. Also, I would like to thank Nina Vidmer for keeping the society managed and organized, and for making the transition of my office as seamless as possible.

Lastly, I would like to thank my parents – by blood and by marriage – for giving me the confidence to pursue my dreams and accomplish my goals. You have championed my successes and built me up when I have failed. A simple thank you is never enough. Also, to my husband and fellow Justinian, James Whalen, for understanding my passions and sharing in my convictions, and for raising our three young daughters to be strong, fearless, and gracious. I am beyond blessed to have him as my partner.

In the past 90-plus years, the Italian-American lawyer has moved from an outsider

Continued on page 23

NATALIE M. PETRIC

PRESIDENT

Natalie M. Petric serves as the director of enforcement counsel in the Legal and Market Regulation Department of CME Group, the world's leading and most diverse derivatives marketplace. In this role, Natalie works to protect the integrity of the markets,



to enforce rules and protect all market participants, and to proactively mitigate risks and prevent damage to the marketplace. She maintains her own docket of regulatory matters and is responsible for managing a team of attorneys and their cases. Moreover, in her role she litigates complex regulatory matters that involve trade practice violations and market abuses, such as manipulation and fraud, after a thorough analysis of regulatory guidance, case precedent, and evidence, including trade data and witness testimony. Her cases, on occasion, require engagement with federal regulators, including the Commodity Futures Trading Commission and the Department of Justice. Moreover, Natalie presents these matters, either for settlement, probable cause, or contested hearings (trials) before the exchange's disciplinary committees.

Prior to joining CME Group in 2011, Natalie worked as a civil defense trial attorney. She concentrated her practice on defending individuals and large corporations in general, premises, and products liability matters, as well as various complex commercial litigation cases. She was responsible for every aspect of these matters, from intake through discovery and dispositive motions, and, after months of rigorous preparation, served on the trial teams of several high-exposure matters. Undoubtedly, the valuable trial experience she received while serving as a prosecutor in the Cook County State's Attorney's Office prepared her for her role in private practice. While an

assistant state's attorney, Natalie handled both civil and criminal cases, including traffic, child support enforcement, and post-decree matters, and tried numerous bench and jury trials to verdict.

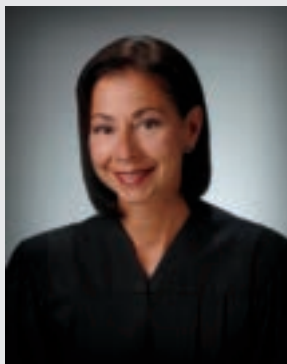
Natalie graduated cum laude from Tufts University with a bachelor's degree in International Relations, with a concentration in Global Conflict, Cooperation, and Justice. While at Tufts, she captained the Women's Lightweight Varsity Crew team, on which she was a member all four years. She is currently an active member of the Tufts Admissions Network, where she routinely interviews and screens prospective Tufts applicants throughout the year. She received her law degree from DePaul University College of Law, served as Notes & Comments Editor of DePaul's Journal of Health Care Law, and remains active with DePaul College of Law alumni. She is happily married to fellow attorney and Justinian, James Whalen, and is constantly busy with her three young daughters, ages seven, five, and three. She is the proud granddaughter of past Justinian President Anthony J. Fornelli and credits him for instilling in her dedication to the community and love of the practice of law.

HON. REGINA A. SCANNICCHIO

1ST VICE PRESIDENT

Cook County Circuit Court Judge Regina A. Scannicchio sits in the D o m e s -

t i c R e l a t i o n s D i v i s i o n . She was appointed in 2011 and elected in 2012. Prior to that, she was the prin-



ciple in a private practice concentrating in the area of family law. A graduate of DePaul University and The John Marshall Law School, Regina served as President of The John Marshall Alumni Association,

receiving the Distinguished Service Award from the school's Alumni Association and the Spirit of John Marshall Award from the school's Board of Trustees. She serves on the boards of the Illinois Judges Association and the Catholic Lawyers Guild of Chicago and the executive boards of The Shrine of Our Lady of Pompeii and the Little Italy Chicago Neighborhood Association. She received the da Vinci Award for Community Service from the Order Sons and Daughters of Italy in America.

DION U. DAVI

2ND VICE PRESIDENT

Dion U. Davi is the founding attorney of Davi Law Group, LLC, which concentrates in the areas of family law, criminal law, estate planning, and motor-sports law with offices in Wheaton, Naperville, Chicago, and Joliet. Dion received his Juris



Doctor from The John Marshall Law School after attending DePaul University, where he received his B.A. in psychology. He has served as an officer, including the President, of the DuPage Justinian Society of Lawyers. He has also served on the Board of Governors of the Illinois State Bar Association and the Board of Directors of the DuPage County Bar Association. Dion has received recognitions as an Illinois Super Lawyers Rising Star 2010-2013, Illinois Super Lawyer 2015-2019, and Law Bulletin Leading Lawyer 2015-2019.

BRUNO M. MARASSO **3RD VICE PRESIDENT**

Bruno R. Marasso is a Senior Associate Attorney at Romanucci & Blandin, LLC, where he focuses his practice in the area of construction negligence, automobile collisions, wrongful death, premises liability, police misconduct, sexual abuse, and institutional misconduct.

In addition to his thriving

practice and serving as 3rd VP of the Justinian Society of Lawyers, Bruno serves on the Assembly of the Illinois State Bar Association.

Bruno is also an active member in the Illinois Trial Lawyers Association, the Chicago Bar Association, and the American Association of Justice.

For his successes representing injured peoples, Bruno has proudly been named an Emerging Lawyer by Law Bulletin Publishing Company for 2017 and 2018 and Rising Star by Super Lawyers in 2018.



MICHAEL D. PISANO **TREASURER**



Michael Pisano is an associate in Ice Miller's Litigation Group. He concentrates his practice in prosecuting and defending civil litigation matters with an emphasis in representing owners and construction professionals in claims for breach of contract, defective construction, construction delay, personal injury and property damage.

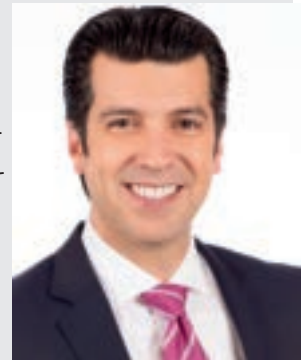
Michael received his J.D., *magna cum laude*, from The John Marshall Law School, where he was a member of The John Marshall Law Review and recipient of numerous merit scholarships. Notably, Michael was a recipient of the Lupel & Amari Scholarship and the Justinian Society of Lawyers Scholarship.

Michael has been an active member of the Justinian Society of Lawyers since he began law school. Over the years, he has served on many committees, including the Executive Committee, Newsletter Committee, Membership Committee, and Website Committee. Michael is also a member of the Illinois State Bar Association and the DuPage Children's Museum's Next Gen Board. He has been recognized by Super Lawyers as a "Rising Star" from 2014-2018.

BRIAN T. MONICO **SECRETARY**

Brian T. Monico is a principal

with the law firm of Hale & Monico, which focuses on wrongful death, professional malpractice, personal injury and



civil rights cases. He previously served in the Cook County State's Attorney's Office. A graduate of Fairfield University and the Loyola University Chicago School of Law, he earned a Philip H. Corboy Fellowship and Thomas F. and Patricia A. Bridgman Scholarship and was a member of the Corboy Trail Team while in law school. A member of the Executive Board of the Chicago Bar Association's Lawyer's Lend a Hand to Youth, he chaired the Young Lawyers section of the Center For Disability and Elder Law. Brian has been recognized as an Emerging Lawyer, Super Lawyer, Leading Lawyer and one of 40 under 40 Attorneys to Watch.

REV. MICHAEL P. CARUSO, SJ

2019 Award of Excellence

The Rev. Michael P. Caruso, SJ, is the president of Saint Ignatius College Prep in Chicago. He is starting his 10th year at Saint Ignatius. Rev. Caruso is a distinguished scholar and educator. Prior to his arrival at Saint Ignatius, he served as the chair of the Department of Educational Leadership at Loyola Marymount University in Los Angeles. Additionally, he was an associate professor of education with an emphasis in Catholic administration; his areas of interest include Catholic school leadership, spirituality in education and the historic foundations of Catholic education. Rev. Caruso has worked extensively in forming Catholic elementary and high school teachers and administrators in the Diocese of Orange and the Archdiocese of Los Angeles, one of the most diverse Catholic school systems in the U.S. Rev. Caruso earned his bachelor of arts degree from Conception Seminary College in Missouri and his master of divinity degree and S.T.B., from St. Mary of the Lake University in Mundelein, Illinois, thus his early priesthood studies took place in Chicago. Rev. Caruso was ordained for the Diocese of Kansas City-St. Joseph in Missouri and then entered the Jesuits. Subsequently, he earned his Ed.D. from the Jesuits University of San Francisco in its highly respected Institute of Catholic Educational Leadership. Prior to his position in Los Angeles, Rev. Caruso taught at both DeSmet Jesuit High School in St. Louis, Missouri, and Regis Jesuit High School in Denver, Colorado. He also has worked in college campus ministry at Rockhurst Jesuit University in Kansas City, Missouri.



LARRY WERT

2019 Communications Award



Larry Wert was appointed President/Broadcast Media for Tribune Media in February 2013. He is responsible for overseeing the strategy and day-to-day activities of the company's 42 owned or operated television stations, their related websites, and the company's Chicago radio station WGN-AM. Wert currently serves on the NAB TV Board of Directors and the CBS Board of Governors. In 2017, he was named Broadcaster of the Year by the Illinois Broadcasters Association. Wert came to Tribune Media Company from WMAQ-TV, the NBC owned and operated station in Chicago where he was President/General Manager, while also serving since 2011 as executive vice president of station initiatives for all 10 NBC-owned stations. A Chicago-area native, Wert has spent nearly 40 years in broadcasting. He started at Leo Burnett Advertising in Chicago in 1978 and moved on to television sales with ABC, working in Los Angeles, New York and Chicago, where he became local sales manager at WLS-Ch. 7. In 1989, Wert shifted to radio as president and general manager of WLUP-97.9 FM and AM 1000 in Chicago, better known as "The

Loop." In 1996, he was named president of Evergreen Media. When it merged with Chancellor Broadcasting, he became senior vice president of Chancellor, overseeing 13 radio properties. Wert is very involved in the community. He is the chairman of the Museum of Broadcast Communications in Chicago and serves on the Board of Directors for several charities, including the Children's Brittle Bone Foundation, Catholic Charities, the Chicagoland Chamber of Commerce and the 100 Club.

2019 Golf Outing



2019 Installation of Officers



2019 CEF Dinner



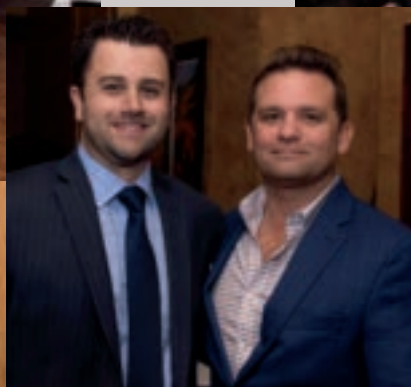
2019 Nomination of Officers



2019 Casino Night



2018 Past Presidents & Scholarship Dinner



2018 Installation Dinner



Law School Updates:

JMLS - Justinian Chapter Report

By Evan Davi

On April 10th, the John Marshall Justinians hosted their first networking and cocktail reception at the law school. The purpose of the event was to give students the opportunity to meet with other practicing attorneys in the area in a more informal setting and get to know each other. The JMLS event had a great turnout with over 50 students and professionals at the law school. Justinian students from DePaul, Loyola and Kent were also in attendance. Justinian President Vince Vidmer was in attendance and gave some brief remarks to students about the importance of being active members of the Justinian Society and the tremendous benefits it can offer as students advance their careers. The JMLS event was also very fortunate to have Leonard Amari on hand as well who was gracious enough to talk a little about the history of the organization and the importance of belonging, being involved



and what the society can do for Italian-American students and professionals. The leaders of the JMLS chapter are very appreciative to both for taking the time to attend and talk about this prestigious society and the importance of being actively involved.



Joe Iacullo has done a wonderful job as President of the student chapter this year and has hosted two very successful events. The JMLS Justinians also announced that Evan Davi will serve as the Justinian President of the chapter for the 2019-2020 school year and Robbie Cifelli will be the Vice-President.



Congratulations 2018-19 Scholarship Recipients

This past year the Justinian Society Endowment Fund awarded 22 scholarships from both members' donations and generous benefactors, including Louis and Gloria Cairo, the Morici-LoBello Family, The Rosina Family and the Civil Justice Preservation Scholarship Fund. Our congratulations to all the recipients and thanks to those of you who have paid it forward in assisting law school students realize their dreams.

College of Law DePaul University Scholarship Recipients

Stephanie Berardi
Dominick Ranallo
Brittany VanNess

John Marshall Law School Scholarship Recipients

Evan Davi
Adrienne Halverson
Joseph Iacullo
Alyssa LaMantia
Nicholas Sandowski
Marco Scola

Chicago-Kent College of Law Scholarship Recipients

Sara Agate
Claire Axelrood
Taylor Brewer
Elizabeth Orr
John Romanucci
Robert Romano

Loyola University School of Law Scholarship Recipients

Mario Casciaro
Jessica Fenton
Pasquale Gianni
John Miceli
Lucas Terna

College of Law - Northern Illinois University Scholarship Recipients

Mario Sankis

Southern Illinois School of Law Scholarship Recipients

Elizabeth Aguzino Reynolds

Tangential Relationships for the “Winding Down” Attorney

By Leonard F. Amari

Oftentimes, many a Justinian lawyer who wants to “quit” the practice of law elects to downsize rather than to completely shut down. More often than not they enter into some informal, tangential relationship with another firm, or another lawyer, perhaps serving as of counsel, co-counsel, referring attorney, or just as a tenant.

Entering into any of these relationships creates the very real risk of vicarious (malpractice) liability. Black’s Law Dictionary defines vicarious liability as “the imposition of liability on one person for the actionable conduct of another, based solely on the relationship between two persons: indirect or imputed legal responsibility for the acts of another.”

Also, and especially for the “winding down/retiring lawyer,” these relationships can potentially impact tail/EPR coverage. Tail/EPR coverage is a provision found within a claims-made policy that permits an insured to report claims that are made against the insured after a policy has expired or been cancelled, if the wrongful act that gave rise to the claim took place during the effective of the expired/cancelled policy. Tail coverage requires that the insured pay additional premiums. Thus, there is no coverage available for wrongful acts if committed after the retirement and during the period of tail coverage.

This article identifies relationships a “winding down” attorney



may enter into that could give rise to vicarious liability, and the impact on one’s “tail coverage,” potentially the denial of coverage for the acts of another attorney.

Of Counsel:

The generally understood meaning of the term “of counsel” is an effort to identify a lawyer with a firm, thereby clarifying his or her status. It is the identification as an attorney who is not a partner, associate, shareholder, or member of a firm, and who has some sort of a relationship with the firm. The American Bar Association Formal opinion #90-357 identifies the “core characteristic” of “of counsel” as a “close, regular, personal relationship” but excluding “that of a partner (or its equivalent, a principal of a professional corporation), with the shared liability and/or managerial responsibility implied by that term,” and associates, defined as a “junior non-partner lawyer, regularly employed by the firm.”

Arguably, lawyers identified as “tax counsel,” “antitrust counsel,”

“special counsel,” and the like are understood, de facto, to have an “of counsel” relationship to the firm, and the requisites of a “close, regular, personal relationship” apply to them as well, as do all the caveats and consequences discussed in the article.

The name of a lawyer who is of counsel to a firm should not appear in the name of the firm (e.g. in its letterhead with partners and associates) unless the lawyer who is of counsel is a retired name partner of the firm. The “of counsel” is listed on the right margin of a firm’s stationary, under the heading “of counsel.” There are a few generally applicable issues that take on special significance in an “of counsel” relationship:

- conflicts/disqualification
- vicarious liability, and
- insurance coverage disputes,
- with perhaps a few difficult to imagine outliers.

A. Conflicts/Disqualification. For conflict purposes, the of counsel affiliation means that the affiliated firm and the of counsel attorney will often be treated as one entity, thus governing disqualification, recusal, and any other conflict imperatives. The problems are further compounded when a lawyer or firm has an of counsel relationship with more than one firm, since all of the lawyers in those firms may be disqualified, even if their only connection is the same of counsel lawyer, obviously the proverbial “Pandora’s Box.”

Continued page 14

B. Vicarious Liability. Of course the firm for which a lawyer serves only as “of counsel” is not going to be liable for the independent acts and omissions of the of counsel attorney that were not “within the scope” of the of counsel relationship, though those issues may still arise, especially if it would serve the purposes of an adversary in some way, litigation, coverage, denial of coverage, or whatever, and vice versa.

C. Insurance Coverage Disputes. In the unfortunate event of a claim, coverage problems can arise when an of counsel’s affiliated firm has done work on a matter that the of counsel attorney had no involvement in, or awareness of. Unfortunately, his name was listed on the letterhead so he may become named as a defendant. If the of counsel attorney is not covered by the affiliated firm’s malpractice policy, there may be a significant problem because the of counsel attorney’s own tail/ERP policy will often not afford indemnification and defense coverage either. Appropriate coverage for the exposures of both the affiliated firm and the of counsel attorney can usually be obtained, so long as the issue is addressed at the outset. My experience is, though probably very limited, these insurance coverage issues are not thought about when establishing this amorphous relationship.

Also, it is vital to check with one’s malpractice carrier (tail/ERP coverage company?) that this relationship is covered and not in violation of the terms of the policy.

Referring Attorney:

It is imperative that the referring (retiring) attorney recognizes the risk inherent in referring matters to another attorney in exchange for the sharing of a fee. Initially and most importantly, be sure that the carrier of the referring attorney’s tail/ERP coverage allows his referral/referral fee relationship and is covered. As a general principle, attorneys who refer work for a fee become “partners” from a liability standpoint with the attorney to whom the matter was referred. This means that the attorney earning the referral fee can be held legally liable for a malpractice committed by the attorney who receives the referral (the “receiving attorney”).

In terms of this referring attorney sending another matter for handling to another firm, obviously the referring attorney will be covered for malpractice by the firm handling the matter. The question is whether, for example, if the firm handling the matter becomes guilty of malpractice, without coverage, does the tail/ERP coverage of the referring attorney provide coverage? Arguably, the “retired attorney” who refers the case will not be covered for malpractice of the attorney whom the matter is referred to, because the referring of another is “the practice of law” and is in violation of the terms of the tail coverage. Check your tail coverage policy!

Co-Counsel:

The referring attorney with tail coverage should be sure to check with the carrier to be sure that this engagement is permitted under the tail for coverage. As with being a referring attorney, a retiring lawyer that engages another attorney or

firm as co-counsel on a particular matter or case is basically forming a partnership with its co-counsel from a risk standpoint with respect to the co-counsel matter.

Office Sharing:

A retiring/winding down lawyer may elect for to be a tenant with another firm, or any lawyer for that matter—very often the case. This could create, arguably, an event of vicarious liability if the circumstances are such, to give rise for the client, fairly, concluding that he or she is a “member” of the lessor’s firm. Therefore, it is incumbent of this, or any, “tenant”/“sub-tenant” to review the arrangement objectively so no impressions are left that would give rise to the incorrect conclusion of the relationship. For example, do not list the name of the retiring attorney in the lessor’s stationary. Be cautious of the perception created by phone numbers and listings. For example, if using a common switch board operator, do not let the answerer just say the name of the lessor firm, preferably recite “law office” when answering calls.

Conclusion:

Most of us, when we know it’s time to hang it up, usually prefer to do it “softly,” to gradually walk away. The above circumstances offer alternatives, tangential relationships. Just be conscious of the consequences, the risk of vicarious liability, and the potential effect or impact on one’s tail/ERP coverage.

Elder Law Update:

Diminished Mental Capacity:

How it Affects Your Patient, Resident, Client or Loved One on the Elder Care Journey

Quite often we take for granted the importance of the execution of powers of attorney for both property and healthcare matters in beginning senior estate planning or traditional estate planning.

However with diminished mental capacity, sometimes it is difficult and sometimes impossible to have such documents executed by a patient, resident, loved one or client due to the fact that they no longer possess the required cognitive capability to legally and ethically sign documents.

This is an impediment, even if we know that the documents would be good for them to have. But because cognitive capacity may not exist, the documents cannot be signed, legally or ethically, even if the individual is capable of going through the physical motion of signing their name. This is because even though they may be able to sign their name, they may not understand what it is that they are signing.

Sometimes circumstances are very clear-cut as to whether mental capacity exists, but sometimes the facts surrounding the behavior of a loved one are not so clear or not so well understood.

What can be done then?

In situations where it is not clear as to whether or not your loved one has mental capacity, the attorney involved may need to seek consultation from a medical professional or mental health expert.

If a formal assessment is de-

sired, the attorney usually attempts to obtain the consent and cooperation of the client, if that is possible. Sometimes this can be upsetting or embarrassing to a client. Nevertheless, the determination of mental capacity is something that must be established before other matters that are encountered on the Elder Care Journey are confronted.

Assuming that either the consent of the client is obtained, or perhaps the client cannot consent, then who does the lawyer look to as a referral for consultation on matters of diminished mental capacity?

If the patient, resident, loved one or client is fortunate enough to have a physician regularly attending to them, then reaching out to that physician may be the first order of business. Sometimes however, primary care physicians may decline as they may feel that they are not trained sufficiently to administer psychiatric and psychological assessment tests.

If the attending physician will not undertake the assessment, you may look to other geriatric assessment professionals that can often take a multidisciplinary approach to determining mental capacity.

Keep in mind that the determination of mental capacity is sometimes complicated by the fact that mental capacity can vary from day to day and can often be task specific. This means that an individual can have the capacity for one type of task, for example, the execution of a power of attorney for



healthcare, but may not have sufficient capacity for the execution of a power of attorney for property that has gifting and asset repositioning authorizations written into the document.

Why the difference?

The reason is: The former task (executing a power of attorney for healthcare) has a lower cognitive capacity standard or threshold that must be met in order to establish capacity. The latter task (executing a power of attorney for property) has a higher cognitive capacity standard that must be met, which standard is, for example, closer to the standard that must be met to knowingly execute a contract.

These varying degrees of capacity are why it's important to select professionals that are trained to parse the levels of capacity needed based on the specific tasks that are being contemplated. As you can see this can become complicated.

The Takeaway: Obtain and sign powers of attorney for healthcare and powers of attorney for property, as well as any other estate planning documents that you need for either senior estate planning or traditional estate planning, as soon

Continued page 15

as possible. Waiting till one reaches the later stages in life creates the risk that in those later stages, you may not have the requisite mental capacity to execute the documents that you need.

The problem that arises: If you do not have the requisite mental capacity to legally and ethically execute documents, it may be necessary to engage in a protective action such as a expensive guardianship proceeding in the State of Illinois. Let's assume the senior resides in the City of Chicago, at this time, in the Circuit Court of the County, the waiting period for a hearing on a guardianship petition can take as long as 4 to 6 weeks due to tremendous case backlog in Cook County. This creates unnecessary expense and time delay that can be avoided with the timely execution of estate planning documents such as powers of attorney for property and powers of attorney for healthcare.

In our office we recommend people execute powers of attorney when they are 18 years of age! Obviously the type of power of attorney that an 18-year-old may need will be quite different than that of a 88-year-old, but the point is you need to get these documents in place sooner rather than later. Don't fall into the trap of helplessness that diminished mental capacity can create, and possibly be permanently locked out of your constitutional right to self determination , regarding your own health needs, property matters, estate plan, and other related matters.

Anthony B. Ferraro
Partner, Di Monte & Lizak, LLC

Justinian Society Calendar

2019

Thursday, September 12, 2019

Installation and Awards Dinner

Palmer House Hilton, 17 E. Monroe, Chicago
5:00 PM Cocktails; 6:30 PM Dinner

Monday, October 14, 2019

Columbus Day Parade

State Street & Wacker Drive, Chicago

Thursday, October 24, 2019

Joint Justinian & NIABA Mixer

Holland & Knight, 150 N. Riverside
Plaza, Ste. 2700, Chicago
6:00 PM

Thursday, November 21, 2019

Past Presidents and Scholarship Dinner

Bella Notte, 1374 W. Grand, Chicago
6:00 PM Cocktails; 7:00 PM Dinner

2020

February 2020 – DATE TBD

Casino Night

Formentos, 925 W. Randolph, Chicago
6:00 PM

Thursday, March 19, 2020

Children's Endowment Dinner

LuxBar, 18 E. Bellevue, Chicago
6:00 PM Cocktails; 7:00 PM Dinner

Thursday, April 16, 2020

Nomination of Officers

Tufano's, 1073 W. Vernon Park Pl, Chicago
6:00 PM Cocktails; 7:00 PM Dinner

Wednesday, May 20, 2020

Installation of Officers

Gibsons Bar & Steakhouse, 1028 N. Rush, Chicago
6:00 PM Cocktails; 7:00 PM Dinner

For reservations and online payment, visit www.justinians.org or call 708-338-0760



JUSTINIAN SOCIETY OF LAWYERS

2019-20 DUES REQUEST FORM

Please complete the following form and return it with your check to:

THE JUSTINIAN SOCIETY OF LAWYERS

c/o Nina Albano Vidmer

1018 W. Madison Ave. Ste. 9, Chicago, IL 60607

OR PAYONLINE AT WWW.JUSTINIANS.ORG

Name: _____
Last First Middle

Employer: _____
Firm name, business, corporation, government agency

Business Address: _____
Number Street Suite
City State Zip

Business Phone:(_____)_____ Fax:(_____)_____

Are you admitted to practice in states other than Illinois? If so, please specify: _____.

Year Admitted to Bar _____ Year Admitted to Justinian Society _____

E-Mail Address _____ URL _____

2019-2020 JUSTINIAN DUES

Check one:

___ **REGULAR MEMBER: \$150.00** ___ **JUDGES : \$150.00** ___ **RETIRED: \$50.00**
Regular Membership includes \$20 contribution to the JUSTINIAN SCHOLARSHIP FUND and free subscription to FRA NOI.

___ **FIRST-YEAR LAWYERS** – complimentary membership

___ **STUDENT** – member of student Justinian Chapters -- complimentary membership when providing:

Law School: _____ Graduation Date: _____

Payment:

I have enclosed \$ _____ for Dues

Optional \$ _____ for the Law Scholarship Fund

Optional \$ _____ for the Children's Endowment Fund

TOTAL \$ _____

Please make your check payable to: **THE JUSTINIAN SOCIETY OF LAWYERS**

Please Complete ***Area of Concentration Form*** on the next page.

Tort Notes

Recognition of General Contractor's Responsibility by Fifth Circuit in OSHA Decision Buttresses Liability Under Illinois Construction Negligence

By James J. Morici, Jr.

In *Acosta v. Hensel Phelps Constr. Co.*, the Fifth Circuit Court of Appeals overturned a decades-old precedent that “OSHA regulations protect only an employer’s own employees.” 909 F.3d 723 (5th Cir. 2018). This brings its OSHA jurisprudence in line with *Chevron, USA, Inc. v. NRDC, Inc.* in a long-overdue recognition of the realities of how construction sites operate. 467 U.S. 837 (1985). *Chevron* affords an administrative agency deference in interpreting statutes when the legislature has been silent on the issue. *Acosta* allows general contractors to be held accountable for their subcontractors’ OSHA violations when the general contractor is acting as a “controlling employer” with “general supervisory authority” over a construction site. This general supervisory authority includes the power to correct, or require others to correct, health and safety violations. This brings the Fifth Circuit’s jurisprudence in line with *Chevron* and mirrors the factors Illinois courts consider when determining whether a general contractor is liable for injuries on a construction site. See, *Carney v. Union Pac. R.R. Co.*, 77 N.E.3d 1 (Ill. 2016).

Illinois has adopted Restatement (Second) of Torts § 414, which places a duty on general contractors to maintain a safe work site when they retain control over any part of the work. Control is determined by looking at two things:

the contract between the general contractor and the subcontractor; and the conduct of the general contractor. If either of these show the general contractor retained control over the work, the general contractor can be held liable for injuries on the job site. This rule recognizes general contractors can exercise sweeping control over their construction sites. This control must be accompanied by a duty to maintain the construction site in a safe condition. But even if the contract places the duty to maintain the premises on the subcontractor, delegation can be overcome in many cases.

General contractors often hold safety meetings, correct unsafe conditions, and otherwise hold significant power over the means and methods of the work done on the site. General contractors also understand the site as a whole, as they are charged with shepherding the construction project to completion. They must understand all parts of the project and manage subcontractors so that the project is completed on-time and according to specifications. That responsibility requires general contractors to know what is happening on the construction site and maintain control over the various subcontractors working on the site. Because of their responsibilities and level of knowledge, general contractors often maintain control over the work, resulting in a duty to the various workers on their sites. When this duty is breached and re-



sults in an injury to an employee of a subcontractor, Illinois courts have held general contractors liable where the general contractor knew or should have known about the hazard causing the injury.

The additional support provided by the court’s rationale in *Acosta* adds to the persuasiveness of this position. *Acosta* involved a general contractor hired to build a library in Austin. A demolition subcontractor had allowed a “nearly vertical wall” of soil to form during excavation. The subcontractor had not implemented an OSHA-mandated protective system to prevent cave-ins. The Austin OSHA Area Office received a complaint of hazardous working conditions, prompting a compliance officer to conduct an inspection. The inspection determined the soil wall, without a protective system, was an OSHA violation. As a result, the general contractor and the subcontractor were cited and fined.

The general contractor was fined pursuant to OSHA’s multi-employer citation policy, which holds accountable employers who control construction sites, and should have found and fixed OSHA violations.

Continued page 17

At the OSHA hearing, the parties stipulated the general contractor knew there was not adequate cave-in protection and had the authority to correct the hazardous condition. The administrative law judge determined the general contractor met the definition of a controlling employer that can be held liable for OSHA violations. However, the judge held the citation of the general contractor was improper since Fifth Circuit precedent stated OSHA citations can only be issued to the employer of the workers who caused the hazard. See, *Melerine v. Avondale Shipyards, Inc.*, 659 F.2d 706 (5th Cir. 1981). Since the excavation was done by a subcontractor, the judge found that the general contractor could not be held liable for the unsafe condition of the excavation.

After being denied discretionary review of the decision, the Secretary of Labor then petitioned for review by the appellate court. The Fifth Circuit granted this petition, resulting in a decades-old rule being overturned. The court reasoned that the Department of Labor's interpretation of OSHA should supersede its prior ruling and held the general contractor liable for the subcontractor's OSHA violation.

James J. Morici, Jr. is a partner in the firm of MORICI, FIGLIOLI & ASSOCIATES, and represents Plaintiffs in personal injury, workers' compensation, and construction site related injury suits. Read all prior issues of "Tort Notes" at www.MoriciFiglioli.com.

Young Lawyer Buying Out a Law Practice from a Retiring Sr. Partner - Issues for Consideration

By Leonard F. Amari and Trent West

INTRODUCTION

I was sitting in my office one afternoon in early May, 2018, minding my own business, when out of a clear blue sky I received a call from a young lawyer from some place in far Southern Illinois I never heard of. Anyway, this young man indicated to me that he knows of me as a result of reading articles in the Illinois State Bar Association Senior Lawyers Section Counsel Newsletter (also published in the *Justinian Society* newsletter) that I've written over the years, e.g., an article on "tail" coverage for retiring lawyers, an article dealing with the meaning and liability of the use of the term "of counsel" in the firm's stationery among others, and, because he was dealing with these very circumstances for which he needed a little help from a person like me, a senior lawyer, he called to discuss what he was confronted with professionally.

He is a young associate attorney in a two man law firm, where the senior partner is contemplating retirement, a firm that deals with the general practice of law, but has historically done a great deal of estate planning work, wills, trusts, etc. The young man was

interested in purchasing the firm but he wanted to run by me what he thought the issues are that he had to address and would I mind walking through the process and advising him as I deem appropriate and necessary. I was flattered by the call and also recognized immediately, it was an opportunity to recite this experience in the various bar publications for a little free CLE and the spreading of a little wisdom dealing with this situation to other lawyers, especially senior lawyers.

As this bright young lawyer pointed out to me immediately, we had to examine the transaction from the framework of rules governing the legal profession in Illinois. What prohibitions, guidelines, or whatever, do the Illinois Attorney Registration and Disciplinary Commission (ARDC) rules provide. Secondly, to review the practicalities of the sale of the firm from the retiring partner in terms of continuing malpractice exposure to him, and to the successor owner of the firm. The third potential tangential issue he wanted to discuss was the question can he buy the firm from the retiring attorney and continue to list his former senior partner as "of counsel" on the stationery of the successor firm.

Continued on page 18

As to the first issue, what ARDC rules apply in terms of selling/buying a law practice. He suggested to me during our first phone conversation that Rule 1.17 would certainly apply, dealing with the Sale of Law Practice. The published ARDC comment to that rule makes this issue very clear when it provides “the practice of law is a profession, not merely a business. Clients are not commodities that can be purchased and sold at will. Pursuant to this rule, when a lawyer or an entire firm ceases to practice, or other lawyers or firms take over the representation, the selling lawyer or firm may obtain compensation for the reasonable value of the practice as may withdrawing partners of the law firm.” Of course, that then begs the question of determining fair market value, but that was not an issue that the young lawyer brought to my attention on which to focus. The rule further states that in the event of the sale of the practice at the time of a retirement to existing members of the firm, in this case the young inquirer, the seller ceases to engage in the private practice of law.

This last caveat raises the question, can the senior retiring lawyer ceasing to actively engage in the practice of law, for public relations purposes, out of respect and for whatever other reason, or reasons, remain on the stationery as “of counsel” or, as he would prefer, the name of the retired lawyer followed by the word “retired.” The second and extraordinarily important issue to be discussed involved coverage for potential claims of malpractice

that arise or became recognized after the sale of the practice but result from work done by the retiring attorney prior to his retirement. This is an especially significant issue to deal with because the practice of the firm historically was in no small part estate planning. We all know the bugaboo of claims arising from trusts and wills done years ago that arise as a result of the client passing subsequently to the preparer-lawyer’s death or retirement. Of course, a discussion then ensued about “tail coverage.” As a refresher, I will restate here a few paragraphs from the article I wrote for this newsletter some years back which was a primer dealing with the subject of “tail” coverage.

Insurance 101 tells us that all legal malpractice insurance policies are “claims-made” policies. That an attorney is provided lawyer malpractice coverage for claims made and reported to the insurance carrier only while the policy is in force. Further, the alleged act or omission of practice upon which a claim is based had to occur only after the policy was written – the inception date of the first claims-made policy purchased, providing there has not been a gap in coverage. Lawyer malpractice policies provide coverage year-to-year and, therefore, in order for an attorney to have coverage in force at all times, a policy must be purchased (or renewed) every year – without a gap in coverage. Also, an attorney can only purchase or renew a malpractice insurance policy while actively engaged in the practice of law. Of course, this presents a problem for an attorney who is planning

on going into retirement as the attorney can no longer purchase coverage because he or she will no longer actively practice law. This is where tail coverage comes into play, a/k/a Extended Reporting Period (“ERP”).

Simply put, the word “tail” is a synonymous term for the concept of an extended reporting period. A retiring lawyer buying tail coverage adds an extended reporting endorsement (ERE) to an existing policy that extends the time in which a claim may be reported to the insurance carrier. In short, the purchased endorsement (tail coverage) provides an attorney the right to report claims to the insurer after his or her retirement and, therefore, after a policy has expired or been cancelled.

So, is the answer for this succession question to this young, practice-purchasing lawyer just to be sure the retiring lawyer has “tail” or “ERP” coverage? And how long a term shall he purchase – the three years standard malpractice insurance company tail periods? Five years? Longer? And at what premium cost?

Another consideration we discussed is just to keep the “firm” as it was, and for which and to which malpractice insurance was purchased. For example, the situation for an attorney retiring from a multi-member, continuing-to-stay-in-existence firm, is quite different than this senior partner retiring situation and the firm no longer existing in its prior iteration – before the buy-out. A number of insurance companies will not provide an opportunity for this retiring attorney to purchase an ERP, arguably because the

firm's existing policy is not expiring or about to be canceled and the retired lawyer is still covered under the policy of the continuing entity. The firm will continue to remain insured and therefore the retiring attorney remains insured so long as the firm continues, and continues to renew their firm's insurance coverage, without any gaps in coverage.

Some insurance carriers do, however, offer a free Retirement ERP to their insured who are retiring from the practice of law. ISBA Mutual's Lawyers Professional Liability policy now offers certain Insureds who have been insured with ISBA Mutual for at least 3 continuous years the ability to secure a free, Unlimited Retirement ERP. A limit of liability available of up to \$1M is available, depending on the firm's current limit of liability.

Therefore, what has this young lawyer learned about what he has to do at this critical time in his young career, when faced with a wonderful business opportunity?

Here is the decision this young purchasing associate has made, in his own words:

- Plan: the buyout is going forward and the retiring attorney is not becoming "of counsel"; the retiring attorney's name is staying in firm name but the firm name will be slightly altered and a new company is being formed; a "firm tail" will be purchased that covers all actions by the retiring attorney and his firm going back to its inception date.
- My opinion as to keeping a retiring attorney's name on the firm letterhead: we, as attorneys, can-

not mislead clients per rules 7.1 and 7.5 as cited in ISBA Opinion No. 03-02 January 2004 (see for examples and more insight); research indicates that a purchasing attorney can keep a retiring attorney's name in the new firm name but the purchasing attorney must signify that the retiring attorney is in fact retired on the letterhead, so clients are not mislead. In the purchasing attorney's situation and most likely most situations like this, the retiring attorney's name holds value in their community as the attorney has been around for 40 years, whereas the purchasing lawyer is not even 40 years old.

- 100% Retirement instead of becoming "of counsel": under the rules of ethics, a call made to the ARDC inquiry line, and a great article drafted previously by Leonard Amari, it appears that a purchasing attorney can buy a law practice and the retiring attorney would be allowed to become "of counsel" BUT only if the retiring attorney is not "practicing", does not earn fees from clients, and is in just an advisory role, BUT this is still a murky area of ethics in Illinois as it may still mislead clients and there may be added complications regarding "firm tail" coverage. Based on these facts and the fact that the retiring attorney wants a full exit for the sake of enjoying of retirement, the "of counsel" route was not taken.

- ERP/Tail Coverage: while most lawyers malpractice insurance companies do offer a "firm tail" that can be purchased and some offer free retirement, death or disability tails, not all lawyers malpractice insurance policies contain the same options. It is important

to remember this feature of a lawyer's professional liability policy when making the decision which carrier to choose for your firm's lawyer's malpractice coverage. After a few discussions with Andrew Murray, ISBA Mutual's Director of Sales, the ISBA Mutual policy offers an unlimited firm tail option that can be purchased as well as a free retirement, death or disability tail for insureds covered under the policy. The cost of an unlimited firm tail, if offered by your current policy, can range from 275% to 325% of expiring premium with the coverage limit the same as the policy limit in effect at the time of purchasing the tail. This is great because it covers all work done by the retiring attorney and his firm from date of opening his private practice in 1982 to date of his retirement and the sale of the practice. The price is understandable and well worth it.

This experience with this young associate tells me he's (a) a terrific young lawyer and (b) will be successful as a lawyer – and a good, quality, ethical Illinois attorney.

[The authors wish to thank Janet Raap, Vice President of Underwriting, and Andrew Murray, Vice President of Sales, of the Illinois State Bar Association Mutual Insurance Company for lending their considerable expertise and valuable time in writing this article.]

Negotiation Tip:

“OUT OF CLUTTER, FIND SIMPLICITY.” (Albert Einstein)

By John J. Lag

While the famed physicist and author of the theory of relativity was describing his methodology for making sense out of the seemingly incomprehensible vastness of the universe, one can apply this simple maxim when evaluating what course of action to take and decisions to make in developing a methodology for negotiation to obtain What's Best for You.

The pursuit of more has become pervasive in our current society, more things, bigger things, more expensive things, more complex tools to maintain our things, eventually leading to chaos. The good news is that through thoughtful reflection and application of principled and purposeful negotiation tactics and techniques this can lead to order and simplicity that will satisfy your core needs. From chaos you can find order. Crisis begets necessity which begets immediacy which begets intervention which begets resolution.

Negotiation takes its genesis from the need to create order from disorder. It is this very immediacy and necessity to obtain a perceived gain or to avoid a perceived loss that makes your interaction purposeful in negotiation. If everything is in order in your life, your needs and wants are satisfied, you will lack the passion to make purposeful changes to your life. The interactions you have with others will lack purpose if there is no need for gain or prevention of loss. Nothing ventured, nothing gained. This is unfortunately the exception rather than the rule. Life happens and you are more likely to experience a passion for improvement and a pressing need to put your affairs in order. This state of confusion, chaos and clutter can be a powerful motivator which can lead to solutions and improvement if you artfully obtain What's Best For You. Un-



fortunately for many it can also lead to overwhelming impairment and mental immobilization that is detrimental if one lacks purpose and passion for resolution.

Most often parties to negotiation will find their own level of chaos necessitating the initiation of purposeful interaction. A simple example is someone owning a car normally has no reason to sell the car. If the owner is moving out of town dies or otherwise has a change of circumstances where the car is no longer needed, then there is disorder necessitating purposeful interaction, i.e. selling the car. Someone making an offer to buy the car prior to this change in circumstances will be met with a negative reply. An offer to buy the car after necessity has created disorder will begin the negotiation for the sale. Chaos and disorder affect the timing of the initiation of negotiations and likewise affect subsequent steps in the negotiation process.

A party seeking to initiate negotiations may create a real or imagined crisis in order to apply leverage to an opponent to their advantage. An ongoing example of this is the continual attempts at negotiation with the North Korean dictator. After stalled attempts by the international community to bring North Korea to the bargaining table to discuss nuclear non-proliferation, sanctions are imposed on North Korea. The sanctions create shortages in North Korea which create chaos which provides leverage to force them to the bargaining table. North

Korea then agrees to discuss limiting their nuclear pursuits and the sanctions are reduced. Both parties feel that the crisis has been resolved and order has been restored. But not for long. North Korea then fires missiles, conducts a nuclear test and/or threatens regional and international missile attacks creating chaos and crisis which provides leverage to get the attention of the international community and attempt to obtain concessions. And over and over again.

Real and artificially manufactured crisis and chaos can be effective in creating exigencies to get your opponent to negotiate or to obtain concessions, but as with all tactics they must be purposefully utilized or they will be ineffective. If you proclaim that the sky is falling too many times then you will be ignored as was Chicken Little.

Crisis, chaos, clutter and disorder can be powerful motivators that can be useful in the initiation of purposeful negotiations and as an effective form of leverage during negotiations.

JOHN J. LAG has developed The Art of Purposeful Negotiation over the course of a legal career spanning five decades which has provided him with invaluable knowledge and experience in the field of dispute resolution. In addition to practicing law, the author is an Adjunct Professor of Law at the John Marshall Law School where he teaches Negotiation Theory and Practice. He is also a Director of the International Academy of Dispute Resolution, promoting peace-making and education, worldwide. John can be reached via email: johnjlag@gmail.com

to positions of prominence and leadership in Chicago and throughout. This is due in no small part to this organization, ethnic organizations like the Justinian Society, and the giants who paved the way before us. The next generation of lawyers must learn to appreciate these pioneers, the benefits of this unique fraternity, and the relationships that are built one meeting at a time.

Thus, it is my goal this year to focus on this next generation, to increase membership, and to create a bridge between this organization's glorious past and its bright future. As our legal community is constantly evolving, so too must we. But we must tread lightly, and do so through honoring the traditions, experience, and wisdom of the past while also welcoming the ideas of the future generation. I urge our membership, old and new, to engage with our future young lawyers, utilize the new Career Center on our website, and support our monthly events, especially the Installation Dinner on September 12. It is a balance this Society is prepared to embrace, and one it can continue long after my time as President has ended.

Today there is a law student somewhere anxiously awaiting the results of her law school finals. There is a third-year associate burning the midnight oil drafting a responsive motion. These young people may be the future pillars of this organization -- the next Tony Fornelli, Joe Bisceglia, or Jack Cerone. As members of the Society, we must each do our part to find them, mentor them, and show them what true Justinian brotherhood and sisterhood is.

Thank you for this tremendous opportunity. I look forward to another incredible year.

- **Natalie M. Petric**
President 2019-2020

JUSTINIANS IN THE NEWS

➤ Past President, and Northwestern Alum, **Judge Gloria G. Coco, Ret.** has been cast in a

reoccurring guest star role in the Amazon Series UTOPIA. Judge Coco joins the cast starring John Cusack, Rainn Wilson of "The Office," and Cory Michael Smith, of "Gotham." The 9 episode thriller is produced and written by "Gone Girl," "Sharp Objects," author Gillian Flynn. This past year, Judge Coco performed her one woman show, "Finding Uncle Alfio" in New York. Congratulations!



➤ **Judge Diann K. Marsalek** was honored by the Advocates Society with its 2019 Award of merit.

➤ Hale Law announces the addition of **Brian Monico**; the new firm is now known as Hale & Monico.

➤ Salvi, Schostok & Pritchard has promoted **Brian L. Salvi** to Partner.

➤ Past President **Mauro Glorioso** was appointed by the Governor to be the PTAB Exec. Director.

➤ The ISBA Distinguished Counsellor luncheon on November 15th, 2018. Pictured are three past Justinian presidents, **John Locallo**, Distinguished Counselor **Leonard F Amari** and **Katherine**

(Amari) O'Dell along with firm associate **Vesna Marusic** from the Law Firm of Amari & Locallo.



➤ Sam F. Cannizzaro, president of the Sicilian American Cultural Association, announced that SACA will honor three outstanding leaders of SACA and the Italian-American community. This year's Medal of Merit recipients are husband and wife **Joseph and Martha Monastero**; and **Katherine (Amari) O'Dell**. The presentation of their awards will be at SACA's 25th year anniversary luncheon banquet at noon on September 8th at the Belvedere Banquet Hall, 1170 W. Devon, Elk Grove Village, IL. \$40 per person. For reservations or more information, contact Maria Orszula at (773) 454.4710, or mariagorszula@gmail.com.

➤ Congratulations to Morici, Fighlioli & Associates partners **Robert H. Butzow**, **Lisa M. Longo** and **Mitchell B. Friedman**, as well as associates **Tomas Cabrera** and **Kenneth Lubinski** on their election to the ISBA Assembly.

➤ **Lisa M. Longo** has been named one of the top 100 civil plaintiff attorneys in the country for 2019 by The National Trial Lawyers.

Justinians, Continued

➤ **James H. Whalen**, husband of President Natalie M. Petric, was named one of Crain's 2019 Notable Gen X Leaders in Law. James serves as co-managing partner of Lipe Lyons Murphy Nahrstadt & Pontikis in Chicago and is a 2004 graduate of the DePaul College of Law. He focuses on civil litigation, including tort, commercial, and employment matters. He is licensed to practice law in Illinois, Indiana, and Ohio.

➤ Romanucci & Blandin proudly ranked 'number four' for total settlement results secured in the 2018 JVR Settlements Report. In addition, nine attorneys from Romanucci & Blandin have been named to the 2019 Illinois Super Lawyers and Illinois Rising Stars list by Super Lawyers Magazine. Founding Partners **Antonio M. Romanucci** and **Stephan D. Blandin**, along with Partner **Frank A. Sommario**, have been named 2019 Illinois Super Lawyers. Furthermore, the three partners were named to the prestigious Top 100 Lawyers in Illinois list. This is the first year Sommario has appeared on the Top 100 list. Senior Associate **Bruno R. Marasso** has also been named a 2019 Illinois Rising Star. Additionally, Marasso and **Vincent J. Arrigo** were named 2019 Emerging Lawyers.

➤ Romanucci & Blandin attorneys, **Antonio M. Romanucci** and **Frank A. Sommario** were recently selected by their peers for inclusion in The Best Lawyers in America © 2019 in the fields of personal injury litigation and workers' compensation law.

➤ Romanucci & Blandin proudly appointed **Gina Arquilla DeBoni** to managing partner.

➤ **Lupel & Amari Scholarship**
Photo below: David Meunier, far left and Sandi Tanoue, far right are the 2018-19 Lupel & Amari scholarship recipients at The John Marshall Law School.

The Lupel & Amari scholarship, starting in 2000, is the second largest endowed scholarship at this 117 year old law school. Of course the bulk of the contributions come from Warren and Leonard but also many dollars from supportive brother and sister Justinians.

From its interest income, the school awards two annual \$10,000 scholarships, and like our very generous Justinian scholarships is based upon need (primarily) and scholarship achievement.



Wednesday, September 12, 2019

**INSTALLATION AND
AWARDS DINNER**

**Palmer House Hilton, 17
E. Monroe, Chicago**

5:00 PM Cocktails

6:30 PM Dinner

Reserve your tickets online

➤ Levin & Perconti partner **Michael F. Bonamarte IV** was elected to chair the American Association for Justice's Nursing Home Litigation Group. He concentrates his practice on nursing home, wrongful-death, medical-malpractice, and personal-injury cases.

➤ **Chris Niro** has joined Aronberg Goldgehn as a Member. Chris advises individuals, entrepreneurs, mid-size companies and multinational organizations with regard to patents, trademarks, copyrights and trade secrets, and is experienced with all aspects of intellectual property litigation.

➤ Johnson & Bell, Ltd. announced that Financial Services and Commercial Litigator, **Mark D. Belongia** has joined the firm as a Shareholder. Mr. Belongia comes to the firm from Thompson Coburn, where he was a Partner advising and defending banks and thrift organizations in regulatory, litigation and transactional matters. Mr. Belongia will join the firm's business litigation and commercial transactions practices.



Justinians, Continued

➤ In July, at the American Association for Justice's 2019 Annual Convention in San Diego, California, Romanucci & Blandin founding partner, **Antonio M. Romanucci** was named co-chair of the organization's National Finance Committee. Romanucci continues to serve AAJ on the PAC Task Force, National Finance Council, Evergreen Advisory Board and Exchange Advisory Committee.

➤ **Antonio M. Romanucci** was installed as the 66th President of the Illinois Trial Lawyers Association (ITLA) at its annual convention at the JW Marriott Chicago. Since 1995, Romanucci has been an active member of ITLA. He was elected to the Board of Managers in 2003 and has served on ITLA's Executive Committee as well as ITLA's Nominating Committee.

➤ Romanucci & Blandin partner **Frank A. Sommario** (*below far right*) was named secretary of the National Italian American Bar Association at the Superior Court in New Haven, Connecticut. He will serve as secretary of the association for the 2019-2021 term.



➤ **Judge Gloria G. Coco (Ret)** was appointed adjunct professor at IIT Chicago-Kent College of Law, her father Samuel J. Coco's alma mater, who graduated from Kent in 1931. Sam Coco was one of the original members of the Justinian Society of Lawyers.

➤ Bloomingdale Mayor and Past President **Franco Coladipietro** (*below right*) was named by the DuPage Mayors and Manager Conference as "2018 Governmental Leader of the Year." The award is given annually to elected or appointed officials who support initiatives important to DuPage municipalities and promote intergovernmental cooperation at the local and regional level. In Bloomingdale, the mayor has worked with the chamber of commerce, local businesses, fire, school and park districts, as well as representatives from several surrounding communities, to promote a revitalization of business centers along the major commercial corridors.



VERDICTS & SETTLEMENTS

➤ Morici, Figlioli & Associates partners, **James J. Morici, Jr.** and **Lisa M. Longo**, recovered \$7,500,000 in a confidential settlement in January, 2019. The suit was centered upon injuries sustained by a construction laborer when he fell off of a two foot diameter pipe, striking his head on an excavation project.

Morici, Jr., in conjunction with partners, **Lisa M. Longo** and **Mitchell B. Friedman**, recovered a partial settlement in the amount of \$15,000,000 on behalf of an injured soil testing engineer who was struck by a 2,000 pound crane boom extension.

Verdicts & Settlements, Continued

➤ Romanucci & Blandin founding partner, Antonio M. Romanucci is fighting to provide support for individuals and families who are suffering from cancer, birth defects and miscarriages among other catastrophic injuries due to carcinogenic emissions coming from the Sterigenics International plant in Willowbrook, Illinois. Plaintiffs and their attorneys have filed lawsuits against Sterigenics on allegations including civil battery, negligence and public nuisance for knowingly emitting the cancer-causing chemical, ethylene oxide – all with the goal of holding Sterigenics accountable for their reckless negligence that has resulted in the needless and continuous poisoning of men, women, and children in Illinois for so many years.

➤ **Antonio M. Romanucci** and the trial team at Romanucci & Blandin secured a \$21.3 million verdict in April after a jury found the City of Chicago and two Chicago Police Department officers liable for the death of a 37-year-old mother of five following a horrific car accident in early December 2015 when a reportedly stolen vehicle collided with the family's van during a high-speed chase with police on the city's South Side. The jury, impaneled before Cook County Circuit Court Judge Joan E. Powell, issued its verdict finding that the officers displayed conscious disregard for community safety by engaging in the deadly pursuit.

➤ **Romanucci & Blandin** was recently obtained by the wife of Antoine Lewis, a U.S. Army Captain from suburban Chicago who

was a passenger on the fatal Ethiopian Airlines Flight 302. Lewis died on March 10, when a brand-new Boeing 737 MAX 8 fell from the sky only six minutes after takeoff, killing all 157 people aboard. Antonio M. Romanucci recently filed a lawsuit on Lewis's behalf against the Boeing Company for strict product liability and negligence and is calling on all U.S. airlines to ban the Boeing 737 MAX from their fleets.

➤ A Cook County jury awarded \$7 million to the family of a veteran who died in 2014 after he climbed out of a moving ambulance. His estate was represented by **Michael F. Bonamarte IV**, **Margaret P. Battersby Black** and **Cari F. Silverman** of Levin & Perconti.

In July, a Cook County jury awarded \$12 million to Bonamarte's clients, a family whose mother died from lung cancer. The family based its case on the fact that doctors treating their mother discovered an abnormality after they scanned her chest with X-rays, but never told her about it.

➤ A construction worker who sustained multiple injuries when he was run over by an asphalt road grinder has settled his lawsuit with three defendants for \$7 million. The construction worker reached a \$1 million agreement with Kenny Construction Company to settle his claims, according to **The Law firm of Goldberg Wisman Cairo**.

➤ **Steve Phillips** is pleased and proud to report that after four (4) long years of litigation and fighting for the rights of a 17 year-old boy who lost his kidneys due to

gross negligence of a physician, he procured a 25 million dollar settlement for this young man. The settlement was finalized and the case dismissed on April 1, 2019. The settlement agreement was reached just prior to jury selection in a case against a Confidential Chicagoland Hospital.

➤ Congratulations to Morici, Fighlioli & Associates partner, **Lisa M. Longo** on the recovery of \$1,700,000 in the death of a construction laborer who was killed when he was struck by a piece of equipment in 2014.

OBITS

† **Dominic DiFrisco**, the man known as the "voice of Chicago's Italian-American Community," died April 27,. He was 85. DiFrisco helped resurrect Little Italy's Shrine of Our Lady of Pompeii. He was President Emeritus of the Joint Civic Committee of Italian Americans (JCCIA) and well-known for creating and hosting its annual Dante Awards.

After graduating from Fordham University in 1955, DiFrisco began his public relations career that brought him to Chicago in 1962. DiFrisco was born November 14, 1933, in the Bronx.

† Deepest sympathies to Ret. Cook County Circuit Court Judge Tony Iosco on the passing of his father-**Tony Iosco, Sr.**

† **George R. Randazzo**, A friend of the Joint Civic Committee of Italian Americans, has passed. He was a Founder of the National Italian American Sports Hall of Fame.



smart | strategic | secure

secure (sĭ-kyōōr') *adj.*

1. A situation that you can depend on because it is not likely to change.
2. Affording safety, as a place: *He needed a secure hideout.*
3. Feeling confident and free from fear or anxiety: *everyone needs to have a home and to feel secure and wanted.*
4. Firm and not likely to fail; stable.

[*syn.* defendable, defended, dependable, insured, protected, safe, shielded, sound, strong, trustworthy, watched over]

Take the long view of practice and practitioner

success. Consult with ISBA Mutual today to define your unique risk needs and learn about our free resources, so you can stay smart, strategic and secure.



ISBAMutual
Lawyers' Malpractice Insurance

312 379-2000 isbamutual.com



JUSTINIAN SOCIETY OF LAWYERS
1018 W. MADISON AVE., STE. 9
CHICAGO, IL 60607

PRE-SORTED
FIRST CLASS
U.S. POSTAGE
PAID
CAROL STREAM, IL
PERMIT #1167

NEWSLETTER EDITOR:
NICOLE M. PISANO



Anyone wishing to share
information with their fellow
Justinians is encouraged to
contact Newsletter Editor

Nicole Pisano

at

editor4justinians@gmail.com

NEWSLETTER
CONTRIBUTORS:

Leonard F. Amari

Anthony B. Ferraro

John J. Lag

John G. Locallo

James J. Morici, Jr.

Ralph Greenslade, photography

Nina Albano Vidmer, layout