

Legal Update



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Wells, Jaworski, Liebman & Paton, LLP

Fall 2005

Non-Compete Agreements: An Overview

By: James M. Maggio, Jr., Esq.

In today's business world, it is not uncommon for employers to require their employees to sign Agreements Not to Compete, or "Restrictive Covenants." In the past, an employer had little recourse when high-ranking members of the organization quit to join a competitor, taking with them proprietary information or worse, key customers. At one time, restrictive covenants were outlawed. Today, restrictive covenants are a lawful and effective means of controlling post-employment activities of former employees. However, to be effective, restrictive covenants must be "reasonable," as defined by law. A restrictive covenant will pass the "reasonableness test" if it: (1) protects the "legitimate interests" of the employer; (2) imposes no "undue hardship" on the employee; and (3) does not "injure" the public.

"Legitimate Interests" of the Employer

By law, the employer's legitimate interests cannot solely be aimed at preventing competition. However, an employer can have a legitimate interest in protecting its trade secrets, confidential business information, and protecting customer relationships. By contrast, legitimate interests may not include matters of general knowledge within an industry, trivial differences in methods of operation, and customer lists that are readily accessible to everyone in the company. Also, an employer has no proprietary interest in the skills or expertise developed by an employee during the employment relationship.

This vague standard reflects the law's recognition that a "protectable interest" depends upon the facts of each situation. Furthermore, to be legitimate, a restrictive covenant must also be reasonable with

respect to "scope" and "duration." Scope generally relates to the agreement's geographic reach and substantive content. Duration refers to the length of time of the restriction. The reasonableness of an agreement's scope and duration also varies from case to case, but generally should be tied to the employer's legitimate interests. For instance, if an employer's customer base is centered in Bergen County, a restriction that prohibits an ex-employee from working in the industry in the entire tri-state area might not be enforceable.

"Undue Hardship" on the Employee

It goes without saying that a restrictive covenant can be a "hardship" on a person's ability to secure a new job. But legally, to establish an "undue hardship" that prevents enforcement of the restriction, an employee must show more than mere personal inconvenience or financial hardship. The

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Our Newest Attorney

Kenneth A. Porro, Esq.



Kenneth A. Porro joined WJLP in May 2005 to head our litigation department. Ken has over seventeen years of experience practicing law throughout the State of New Jersey. He is a graduate of Loyola College, Baltimore, Maryland & University of Baltimore School of Law. In 2005, Ken was appointed as General Corporate Counsel to the New Jersey State League of Master Plumbers. He is also active in or serves as counsel to the Meadowlands Municipal Mayors Committee; Harrison Board of Adjustment; Meadowlands Construction Officials Association; Terra Firma Development Corporation; Tuckerton

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Condemnation for "Public Use" Expanded

By: James E. Jaworski, Esq.

The issue of eminent domain, defined simply as the State power to take private property for public use, has historically been a hotly debated topic. Now, with the recent Supreme Court decision in *Kelo vs. City of New London*, the discussion has reached fever pitch.

By way of background, eminent domain or condemnation, is a well established, though ever evolving body of law. Grounded in what is referred to as the "Takings Clause," the Fifth Amendment to our U.S. Constitution provides that: "...private property (shall not) be taken for public use, without just compensation." The central focus of the recent *Kelo* case was what exactly qualifies as a "public use."

The City of New London, Connecticut wanted to take steps to revitalize an underutilized waterfront area. A significant

area adjacent to the Thames River was identified for redevelopment. Numerous redevelopment plans were reviewed and ultimately the State Agency with jurisdiction settled on a mixed use plan. Successful negotiations were conducted with virtually all affected property owners. Only nine parties owning 15 parcels rejected the taking and offer of compensation, including a woman who had been born and lived in her house for 87 years. Formal condemnation proceedings were then commenced to acquire those 15 parcels.

Kelo has relevance throughout the U.S. and particularly here in New Jersey. Since its adoption in 1992, hundreds of municipalities have attempted to make use of New Jersey's Local Redevelopment and Housing Law. This Statute gives similarly broad powers to condemn "blighted" areas and redevelop them. Redevelopment is

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Developers / Property Owners Beware: Mischaracterized Tax Assessments Do Not Cure Defective Zoning Uses

By: Kenneth A. Porro, Esq.

It is well established in the State of New Jersey that property shall be assessed for municipal tax purposes based upon its actual condition. The New Jersey courts have further concluded that “[p]roperty should be assessed in the condition in which it is utilized and the burden is on the person claiming otherwise to establish differently.”

Thereby, a municipal tax assessor is under a duty to assess the municipal property as he or she sees it. It is then up to the taxpayer/property owner to challenge the assessment by showing that the “current” assessed use(s) of the property is in error.

Presumption Of Validity

While a municipal tax assessment is entitled to a presumption of validity, a tax assessment has no *res judicata* effect on subsequent tax assessment years. This means every year is considered separate and

distinct. If you do not object, however, you will have waived your respective property rights year after year.

Municipal Assessment Does Not Legitimize Improper Uses

Property owners should also be aware that a municipal tax assessment does not legitimize an improper use occurring at one's property, even if the improper use has been occurring for years. The New Jersey Supreme Court decision in *Western World* case stated that “the method by which a town [or other municipality] taxes its land is not dispositive in determining zoning questions.” The municipality remains free to enforce its zoning ordinance to enjoin the improper use, despite the actions of the municipal tax assessor in assessing municipal property for tax purposes. In addition, the tax assessor has no authority to grant a use variance from the requirements of the zoning ordinance, since that power is lodged in

the Board of Adjustment exclusively. A tax assessor's failure to take into account the true nature of the zoning restrictions affecting assessed property is of no consequence, even if the property owner is improperly assessed. The taxpayer/property owner must address assessing errors through municipal tax appeals, or it is considered waived. Therefore, a prospective purchase of property cannot rely upon the municipal tax assessor's findings when evaluating property development rights.

In short, the fact that one's property may have been improperly assessed for municipal tax purposes does not legitimize the property development rights. *Caveat emptor* (Buyer Beware) lives well in New Jersey!

Ken Porro joined our firm, “of counsel”, in May, and now serves as the Chairperson of our Litigation Department.

What Is An Easement?

By: Darrell M. Felsenstein, Esq.

New Jersey law defines an easement as a nonpossessory incorporeal interest in another's possessory estate in land, entitling the holder to make some use of the other's property. In other words, the easement holder (“dominant estate”) has the legal right to use the land of another (“servient estate”) without possessing the land.

An easement can be created by express conveyance, implication or through prescription. Of course, the “easiest” easement to deal with, and the most common, is the one created in a writing. Such an easement should clearly define the scope and location of the use of the servient estate, so as to avoid a possible future battle in the courts to determine the intent of the parties. Where there is an ambiguity it will be constructed against the grantor of the easement.

To establish an easement by prescription, similar standards to those in an adverse possession claim need to be established. Most such actions fail because a Plaintiff cannot show and prove by clear and convincing evidence one of the required elements. The claimant must show that the use of the property has been adverse or hostile, exclusive, continuous, uninterrupted, visible and notorious for the time period set

forth by statute. The element of adverse and hostile possession is the most difficult to prove. Permissive use defeats the claim for a prescriptive easement and results instead in a revocable license. “Hostility” has been defined in the courts as the intention to claim title against the true owner and it must appear that the possession or use which is claimed to be adverse was such that the owner knew or should have known that the claimant intended to make title under it. If, at inception, the use was permissive, the mere continuance of the use for the statutory period will not change the use into a hostile one.

Easements can also be abandoned. “Abandonment” occurs when there is an act tantamount to relinquishment of all rights of use and a clear intention to do so permanently. Simple non-use is not enough.

With ever increasing litigation between neighbors, it is important to fully understand what easements are and how they affect your property and also to be fully cognizant of how adjoining property owners or others may be utilizing your property without your knowledge.

Darrell M. Felsenstein is an Associate at WJLP who practices in the Litigation area.

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Non-Compete Agreements: An Overview

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two main factors are (1) the likelihood of the employee finding work elsewhere in their industry; and (2) the reason for the termination from employment.

The factor relating to the ability of the employee to find work elsewhere is often linked to the scope and duration of the agreement. The broader and longer the agreement, the less likely an employee will find new work. The second standard, relating to the reason for termination, puts a higher burden on the employer. An employer's bad motives in terminating an employee can make an otherwise enforceable restrictive covenant, more difficult to enforce.

"Injury" to the Public

The Courts have recognized that certain restrictive covenants can impact the public-at-large (for example, a restriction on health-care employees in a market suffering from a lack of health care professionals, might receive extra scrutiny by the Courts). If the impact is overly detrimental, the covenant will not be enforced. The identifiable factors that Courts focus on include (1) the effect of enforcement of the agreement on the availability of the goods or services to

which it pertains; (2) the effect of non-enforcement of the Agreement on business investments in research and development programs; and (3) the effect of enforcement on individual initiative.

Consideration

Like any other contract, an agreement not to compete must involve sufficient "consideration" to be enforceable. Consideration is something of value given in return for the performance of a contract. In the restrictive covenant setting, an employer's offer of employment, or continued employment, can be sufficient consideration.

At WJLP, we help our employer-clients by preparing restrictive covenants that address the issues raised above to increase their enforceability. Similarly, we assist our employee-clients by evaluating agreements that their employers have asked them to execute, both prior to signing, and at the end of the employment relationship, when employees need to know whether their actions will violate the terms of a restrictive covenant.

James M. Maggio, Jr. is a Partner at WJLP who practices in the Business, Corporate, and Transactional areas.

Condemnation for "Public Use" Expanded

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accomplished either through a public entity, as in the New London case, or by reconveying the condemned parcels to "redevelopers," private parties willing to develop in accordance with what the municipalities dictates.

A sharply divided Court voted 5 to 4 to support New London's actions as a permissible taking where the "public use" criteria had been met. Two dissenting opinions from Justices O'Connor and Thomas, along with a concurring opinion by Justice Kennedy were written along with the majority decision by Justice Stevens.

Reaction to the decision has been swift and loud. A Record editorial proclaimed it a loss for homeowners and a "Big Land Grab" (June 26, 2005). A tongue-in-cheek initiative has been suggested to employ the Kelo condemnation powers and turn Justice

David Souter's home in rural Weare, New Hampshire into a large hotel/retail/office complex. Souter voted with the majority. Politicians on both sides of the aisle are already calling for legislation and even constitutional amendments to preclude any such future Kelo-type takings. But in a state that has been promoting "smart growth" in cities and older suburbs, Kelo could provide the exact tool to accomplish a previously lip serviced agenda.

Look for this issue to be back before the Supreme Court again in the not too distant future. It is likely the Court will be largely reconstituted in only a matter of a few years, at which point Kelo may become yesterday's news.

James E. Jaworski is a Partner at WJLP who practices in the Land Use area and is Chairperson of our Real Estate Department.

Our Newest Attorney

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Beach Association; 358 Sixth Street Hoboken Condominium Association; Park Avenue Townhouse, LLC Rutherford Development Company; Castle Rock Title Agency; and Lyndhurst Little League, Inc.

Ken is the author of "Redevelopment Through Condemnation"; "The Effect of Government Restrictions on Valuation of Property"; and "Defending Contempt Penalties Under the Clean Water Act". His writing reflects his well established expertise in riparian issues. Ken is a member of the Bergen County Bar Association, the New Jersey Bar Association, the American Inns of Court Trial Lawyer Association, and American Trial Lawyer Association (ATLA). Ken recently received the honor of being recognized as a "New Jersey Super Lawyer" by New Jersey Magazine.

Although Ken will be based in our Paramus office, with his addition to the firm, WJLP has added satellite offices in Lyndhurst and Tuckerton, New Jersey to complement our existing offices in New York City, New York, Bristol, Vermont and main office in Paramus, New Jersey.

Ken is enthusiastic about his new home at WJLP because it provides him the opportunity to handle more complex litigation matters and to grow his legal specialties related to riparian law. Ken and his wife are the proud parents of Kyle, age 10, and Konner, age 7. In his free time, Ken enjoys coaching his two sons in baseball and basketball, golfing and skiing.

We are delighted to have Ken on our team.

E-mail Your Attorney

You can e-mail directly to your attorney's desktop computer. Address e-mail by using the first letter of the first name with the last name, followed by "wellslaw.com".

Documents can be attached to your e-mail. As an example:

E-mail to Kenneth Porro should be sent to kporro@wellslaw.com

Terri Schiavo And Other Important Estate Planning News

By: Kimberly A. Paton, Esq.

Estate Planning has become more complicated in today's world. Technology has developed and can keep a person "alive" indefinitely; the term "family" can mean any number of living arrangements; the number and types of laws increase and change constantly. Below is an overview of recent developments in Estate Planning.

I. The Importance of Living Wills.

Terri Schiavo's tragedy proves that the subject of life support is a passionate one.

A Living Will could have saved her family years of turmoil and would have insured that Mrs. Schiavo's wishes were enforced because it would specify her wishes relating to life support, including feeding tubes and hydration. Note that in New Jersey if you refuse "life sustaining treatment" or "extraordinary measures", then you refuse feeding tubes and hydration.

You should be specific about your wishes. Forms from hospitals, senior centers, religious organizations, etc. generally are not specific and leave room for interpretation and family conflict.

II. Powers of Attorney ("POA").

A POA protects you and your family in the event that you are unable to make decisions or handle your personal, financial or business affairs. (See prior articles for a complete discussion.)

The new Privacy Laws and Patriot Act mean that you must update your POA because the POA must be more detailed, including specific authority regarding medical information and decisions; financial information and retirement accounts. Further, many financial institutions will not accept a POA that names joint agents.

III. Tax Laws.

Federal Estate Tax Laws currently, allow each person to leave \$1.5 million without Federal Estate Taxes. (This amount is changing.) With proper planning, a couple can protect double this amount and save approximately \$750,000.00 now. (Remember that the value of life insurance will be included for Estate Taxes unless it is properly planned.)

Note that New Jersey Estate Taxes apply on an Estate over \$675,000 so planning must begin if your assets are \$675,000.

We can take advantage of lifetime gifting to save taxes, too, provided certain rules are followed.

We should review your documents and goals to provide maximum flexibility and greatest tax savings.

IV. New Intestacy Laws.

New Jersey's Probate Code and Laws of Intestacy have changed. If a person dies without a Will, the "next of kin" will inherit pursuant to the statutes. These statutes will also apply if a person had a Will, married and died without updating his/her Will.

Even if the distribution scheme is acceptable, there are other reasons to sign a Will. Without a Will, your "administrator" must post a bond; children will inherit now even if a spouse survives; and children receive their entire share outright at age 18.

Additionally, the Probate Laws now provide that if you divorce, then your ex-spouse and any in-laws are automatically voided as a beneficiary of your Will, pension, POD Accounts, life insurance and similar accounts. This is probably great.

However, your ex-spouse and any in-laws are also automatically voided as an

Agent or Trustee in any Trust, Living Will, POA, or similar documents. This could mean that your financial and legal documents have no fiduciaries once you are divorced. In the event of a divorce, you need to be thoughtful about and update your Estate Planning documents.

V. Family Agreements/Household Agreements.

Many family members share households - parents and adult children; siblings; life partners, etc.

Generally, these are mutually beneficial arrangements. However, without proper planning, these arrangements can cause family strife and discord -- it can break up a family forever. Frequently, nobody is at "fault". Instead, different expectations and insufficient discussions are at fault. Written agreements are recommended to avoid problems.

VI. Summary

It is important for you to have valid Estate Planning documents which are updated as your goals, circumstances, or the laws change. (Children mature and can serve as your Agent or Executor; named agents move or lose your Trust.) A 5 year routine periodic review is always a good idea.

We at WJLP are dedicated to keeping you informed of the legal changes and how they affect your estate plan and your family. Please contact Kimberly A. Paton, Esq., with any questions or if you would like to schedule a time to review your Estate Planning documents and needs.

Kimberly A. Paton is a partner at WJLP and is the Chairperson of our Estate Planning, Probate and Elder Law Department.

The Mansion Tax - Revisited

By: Linda M. Herlihy, Esq.

Last year, Assembly Bill No. 3115 "affectionately" known as the Mansion Tax was signed into law. The Bill revised the rate of transfer fees on all transactions; however, much attention has focused on the imposition of a new tax equal to one percent (1%) of the entire amount of the transaction for all transfers of \$1,000,000.00 or greater, for property zoned for residential use. Initially, the Mansion Tax applied to residential property, whether improved or vacant. This meant that a commercial use in a residential zone, or on a property split-zoned commercial and residential, would be subject to the tax.

Recognizing the imperfections in the law, the Legislature made revisions to the law earlier this year. The revisions removed zoning as the basis for the tax. Now, property subject to the Mansion Tax is limited to:

1. Real property classified for assessment purposes as Class 2 Residential.

2. (a) Real property that includes property classified for assessment purposes as Class 3A Farm Property (regular) but only if the property includes a building or structure intended or suited for residential use and (b) any other real property, regardless of class, that is effectively transferred to the same

grantee in conjunction with the other property described in subparagraph (a).

3. A cooperative unit as defined in the Cooperative Recording Law.

The amendment also exempts the transfer of property, otherwise subject to the tax, to a charitable organization that is exempt from federal income tax under Section 501(C)(3) of the Internal Revenue Code.

Linda M. Herlihy is an Associate at WJLP who practices in the Land Use and Real Estate areas.

So, You Want to be Tax Exempt?

By: Thomas M. Wells, Esq.

All non-profits are **not** necessarily tax exempt. A non-profit corporation (sometimes called a "not for profit"), is a function of state law. Simply put, any corporation in which the Certificate of Incorporation is filed with the Secretary of State stating that it is a non-profit corporation, **automatically** becomes just that. Becoming tax exempt is far more difficult. In order for a non-profit to be determined tax exempt, a separate application must be made to the Internal Revenue Service, utilizing a form 1023, with lots of schedules and information, which must be filed together with fees ranging anywhere from \$150 to \$500. Ultimately, the Internal Revenue Service will send a "determination letter," either approving or denying the request for tax exempt status.

Section 501(C)(3)

The widely known provision under which most non-profits are granted tax exemption is Section 501(C)(3). Under this section, organizations whose purpose is totally charitable, who agree to do very little lobbying and support no political candidates, can be exempt from income tax, excise taxes, and contributions to such organization are fully tax deductible. Many people do not realize that there are many other Internal Revenue Code sections under which tax exempt status can be realized. Under 501(C) for example, there are sections (4) through (27), and there are numerous other sections under which certain tax exempt status is possible. The most common section other than 501(C)(3) is 501(C)(4), which is for social welfare organizations who may not rise to a full charitable status but are primarily engaged in promoting the common good of people in the community. Organizations tax exempt under 501(C)(4) enjoy exemption from income tax, but contributions to such organizations are **not** tax deductible.

Private vs. Public

There is a major distinction between two different types of 501(C)(3) tax exempt organizations. "Private foundations" under this section are organizations that are primarily supported by one individual or organization. They are prohibited from doing any lobbying and may be subject to certain excise taxes, (for example, on investment income). "Public charities", are those organizations supported at least 50% by the public. They are allowed to do "limited lobbying", and contributions to such organizations fall within the "50% charities" distinction in the Internal Revenue Code.

Governance Varies

Focusing primarily on the 501(C)(3)s, the most common form of non-profit tax exempt organization, it is important to note that except for the one constant, that the purpose must be truly charitable as determined by the Internal Revenue Code, specific governance of the non-profit, tax exempt organization is up to the organization. Thus, an organization can have Members, Officers, Directors (frequently called Trustees), or no members, just Directors and Officers. Decision making can be made by Officers or an Executive Director, or entirely by the Directors. Important decision making can be made by a majority of the Board, or some higher percentage vote. The organization can also determine to pass through all contributions made to it consistent with its charitable purpose, or to maintain donations passing through only investment income on same. This latter method is normally referred to as an "endowment".

The one other universal rule for qualified tax exempt organizations under 501(C)(3) is should they dissolve, the money must find its way to another 501(C)(3) organization, a governmental entity, or be returned to the donors. Funds may not be distributed to the

Directors, Trustees, or Members.

All Sizes

Non-Profit tax exempts have become a major part of the American landscape. They vary in size to small foundations supporting local institutions (The Paramus Rotary Foundation, the Bergen Pines Hospital Foundation, the Ridgewood Public Library Foundation, The Fritz Behnke Historical Museum, and the Spring Valley Fire Company of the Borough of Paramus, come to mind as examples of some of such foundations that our office has helped to create), to large national organizations like the American Red Cross and the American Cancer Society. Most private hospitals are operated as non-profit tax exempts (for example, the Valley Hospital), as are other local institutions, for example, the Ridgewood YMCA. Especially with larger organizations, please note that just because the organization is non-profit and contributions to it are tax exempt, does not mean that the institution will not operate on a very big business-like basis, often times, paying substantial salaries to, especially, its senior employees.

The question of whether the organization does or does not pay local real estate taxes is an entirely separate issue. Although non-profit tax exempts must be careful about transactions that would be described as self-dealing resulting in "excess benefits", as determined by the IRC, especially large institutions that are tax exempt, will frequently have all the trappings and appearances of a "for profit" corporation.

Thomas M. Wells is the Senior Partner at WJLP, and divides his time between our New Jersey and Vermont offices. He practices in the areas of Land Use, Real Estate, and Business & Corporate areas, and also enjoys working with Non-Profits.

Tenant Security Deposits

By: Jill F. Rosenfeld, Esq.

The Rent Security Deposit Act was recently amended. The most important changes are:

- (1) All interest earned on the deposit must be paid to the Tenant on an annual basis.
- (2) The security deposit must be kept in an interest bearing account (for Landlords who own more than 10 apartments, it must be kept in a money market account).
- (3) A Landlord must give a Tenant annual written notice of the name and address of the

bank where the security deposit is being held, the amount of the deposit, the type of account, and the rate of interest paid.

- (4) Landlord must notify the Tenant within thirty (30) days of any transfers between banks or accounts.
- (5) If the Landlord does not place the security deposit in a proper bank account, does not pay the annual interest to Tenant or give the Tenant proper notice, a Tenant may demand that the Landlord use the whole deposit (plus 7% interest per year) to pay the Tenant's current or back rent. Thereafter, the Landlord cannot ask the Tenant for another deposit as long as the Tenant lives in the apartment.
- (6) A new Landlord is responsible to obtain

the Tenant security deposit and interest directly from the old Landlord when the apartment is sold.

- (7) A Landlord cannot use the Tenant's security deposit for repairs, rent due or anything else, while the Tenant still lives in the apartment.
- (8) A Landlord can only increase additional security by 10% of the current deposit.
- (9) The Small Claims Court threshold has been raised to \$5,000 for return of security deposit claims.

Jill F. Rosenfeld is an Associate at WJLP and practices in both the Litigation and Real Estate areas.

NOTEWORTHY: Our Greatest Accomplishments!

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Scholarship. He starts his career studying "Business" at the University of Maryland as a Gemstone Scholar Recipient of the President's Scholarship Award. Wow! Mom and Dad (**Stuart**) are very proud.

Staying with older kids for a moment, **Carly Wells** (Dad, **Tom**) will be a Senior at Bristol High School in Bristol, Vermont this fall, where she is a member of the National Honor Society, President of the Senior Class, and active in Peer Helpers and the Student Senate. Carly's big sister, **Jordyn**, will also be a Senior. In her case, at Bard College near Redhook, New York. **Jordyn** is back from a semester of study in Nepal, and Accra, Ghana, and will be working on her Senior projects towards degrees in Anthropology and Art, in the coming year. **Ciera Wells**, and husband, **Jim**, are just back from Japan, where she and Jim taught English for two years. **Ciera** will now begin a three year Master's program at New York University's elite Costume Design program. **Ciera** will not only study, but hold a position as a Graduate Assistant

at NYU.

I'm not done...back to the little ones...3 1/2 year old **Elizabeth Herlihy** (Mom, **Linda**) spent all summer in the pool! She is almost ready to swim on her own. Little brother, 18 month old **Michael**, spends most of his time "terrorizing" his big sister.

Kimberly Paton's son, **Joseph**, learned about sports injury this summer when he broke his "toe" and had to miss Sports Camp. Recently having made a full recovery, he is back to Karate, swimming and tennis lessons, and is headed off to Basketball Camp. Little sister, **Marisa**, will be in kindergarten at Radburn Elementary School in Fair Lawn this fall. She also took swimming lessons and attended gymnastics camp.

Michael Mezzatesta (Mom, **Fran**) spent the summer as a camp counselor for 11 and 12-year old boys, and in his spare time, played baseball (2 home runs this season!!!!) and playing bass guitar. **Michael** is headed back to the University of Rhode Island as a Sophomore in the fall, where

he continues to study "Business Management", with an emphasis on the music industry.

Finally, a big "thanks" to **Scott Geller** (Mom, **Marcia**), a National Honor Society Member who is headed off to his Senior year at Fair Lawn High School, after working a second summer here at WJLP. **Scott** also pursued his interest in Physical Therapy this summer, by interning with our client, Madison Spine & Physical Therapy. In addition to his studies, **Scott** will be playing tuba in the marching band, and bass clarinet in the pit orchestra, and heads back to the Varsity Bowling Team having sported a 197 average in his bowling league this past summer.

Okay....I must stop! Having worked my way through the proud accomplishments of the children of our attorneys and paralegals, there is, of course, a whole other chapter to be written on the accomplishments of the children of the rest of staff. Part II, anyone?

-- -- Tom Wells

It's About Time

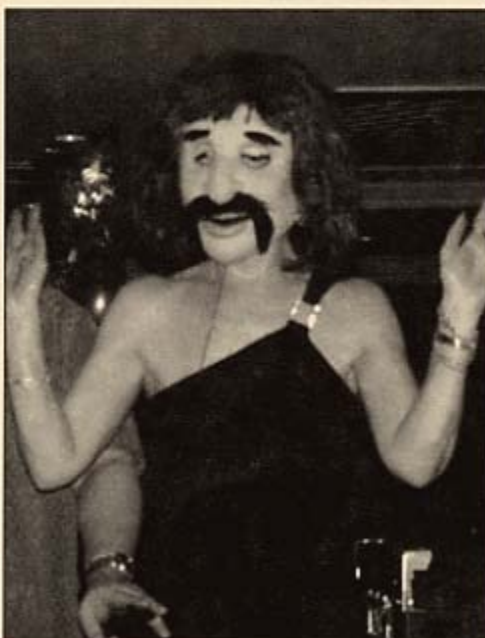
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What happened to the time to think? How many times a day can this process be repeated? Who has the luxury to set a schedule and plan for the day, and carry out that plan without an incredible number of unexpected interruptions and distractions which arrive via e-mail, overnight, hand delivery, regular mail, land phone, cell phone, etc.

Have we created an environment where it is better to do business? Or have we created an environment that is so all consuming that we no longer have the time to breathe, let alone think. It is about time, and like real estate, there is a limited supply, and we cannot make more. Perhaps we can all try to take back just a little bit each day. How nice would it be to put a few minutes in the bank every day, instead of a few extra dollars. What a savings plan that would make. Take a minute to think about it, if you can find the time.

Stuart D. Liebman is the Managing Partner of WJLP and is chairperson of our Land Use Department and practices in the Real Estate, Business & Corporate areas of our practice.

Do you recognize this long time member of the WJLP staff?



Hint: Tom Wells would be lost without him...uh, her! *Okay, we'll give you the answer. The Sonny Bono look a like is our own Kathy Soares at last December's holiday party.*

WJLP now has five offices to serve you. In addition to our main office at:

12 Route 17 North
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(201) 587-0888

we have satellite offices at:

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New York, New York 10018
(212) 330-0323

10 Stuyvesant Avenue
Lyndhurst, New Jersey 07071
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Tuckerton, New Jersey 08087
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NOTEWORTHY: Our Greatest Accomplishments!

Those of you who are regular readers of the Noteworthy section of Legal Update will know we use it as a place to tell about accomplishments of our legal staff. Please rest assured that our attorneys are just as busy as always, and our accomplishments are many. However, in this issue I thought we would take a moment to focus on our legal staff's greatest accomplishments....our kids! I hope you enjoy reading this column, as much as we are sure our young prodigies will enjoy seeing their names in print.

Kali Delia will enter 4th grade at Ho-Ho-Kus Public School this fall. She was spotted at the office recently helping her Dad (**Jim**). She continues to be proficient at Karate, and expects to receive her Junior Black Belt in the spring, 2006.

Matthew Maggio, 16 months, is not yet ready for Karate, but proud Dad reports that he has taken his first "solo" steps to the thunderous



Matthew Maggio visits Dad Jim for our annual office "cookie party".

applause of proud parents. **Matthew**, and Mom and Dad (**Jim and Jacquie**), will soon have their hands full when a new "brother" or "sister" arrives in January.

Kyle Porro can tell **Kali Delia** a little bit about 4th grade, as he was the recipient of the "Principal Award" for the best all-around student last year at the Lyndhurst Jefferson Elementary School. Not to be outdone, his younger brother, **Konner**, age 7, received 1st grade "Best Athlete" and Spanish awards. **Kyle and Konner**, along with Mom and Dad (**Ken**), just moved to a new home in Wyckoff.

Mike Jaworski is keeping Mom and Dad (**Jim**) busy. Now that he is home and a "graduate" of Rodie/YWCA Kindergarten, he is "summering" in New Hampshire, and then Mike is off to school at St. Paul's Roman Catholic School this fall.

Marleigh Felsenstein (Dad, **Darrell**) recently came in second place in the Glen Rock Spelling Bee open to all 4th and 5th graders. She even got her picture in the newspaper. **Marleigh** is growing her hair long again, and plans, for the second time, to donate her hair to the "Locks of Love" program. She will also be entering her

fourth year as a cheerleader in the Glen Rock Junior Football Association. Younger brother, **Max**, is entering 2nd grade, and continues to excel on the baseball field. After playing baseball all summer, he will soon turn to his second love, soccer.

Speaking of baseball, perhaps we can get Max together with **Andrew Liebman** (age 16), who heads into his Junior year at Fair Lawn High School where he competes on the baseball team, swim team, and participates in the Marching Band. Andrew's oldest brother, **Matthew**, will be a Junior this year at the University of Maryland, studying music and psychology. Let's not forget about middle brother, **Joel**, who will join Matt at the University of Maryland this fall, having graduated from Fair Lawn High School this past June. At graduation, **Joel** received numerous scholarships and honors for academic and civic achievement, including the "New Jersey League of Municipalities Award" and a scholarship as one of three in the state, upon nomination of his Mayor and Counsel. He also received the *Fair Lawn Filipino-American Society (BINHI)*

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