

## Firm Attorneys Defeat \$9 Million Suit Against Town of Secaucus



*Raymond J. Seigler, Thomas R. Kobin, and John L. Shabdianian II*

Thomas R. Kobin, John L. Shabdianian II and Raymond J. Seigler defeated a \$9 million lawsuit by Damascus Bakery against the Town of Secaucus for its refusal to issue a building permit to the industrial bakery to relocate its factory in town. Secaucus denied the permit because the bakery had not cured certain safety and zoning problems. On a Motion for Summary Judgment, the United States District Court found that the bakery was subject to the same safety and zoning standards as other businesses, that it had been treated identically to other businesses, and that it had not established that its rights to due process and equal protection of law were violated. The lawsuit was dismissed.

## Mitchell L. Pascual Joins the Firm

**Mitchell L. Pascual** has become Of Counsel to the Firm. Mr. Pascual has extensive experience in complex commercial, environmental and construction litigation and throughout his nearly 20 years of practice; he has represented a broad range of private and public clients including financial institutions, insurance companies, real estate development corporations, municipal and state entities.

Mr. Pascual is former acting Chief Counsel to the Passaic Valley Sewerage Commissioners, one of the largest sewerage treatment facilities in the world. For the last decade, he has successfully represented Passaic Valley in defense of large-scale complex claims, including construction, environmental, and



*Mitchell L. Pascual*

sewerage treatment issues. Mr. Pascual continues to represent Passaic Valley and is lead counsel for Passaic Valley in a mass party

environmental litigation involving the clean up of the Passaic River. In addition to handling the Passaic River matter, Mr. Pascual represents one of the Country's largest commercial cleaning services company, Ultimate Services Group, Inc., which provides janitorial services to major department stores and malls throughout the country.

Mr. Pascual also represents one of New York City's largest commercial property owners, who owns over seven million square feet of commercial property in New York City.

Mr. Pascual has been and remains an effective and reliable advocate for his clients and welcomes the opportunity to integrate his practice and serve the clients of CLL.

# The Firm Speaks Out

At the New Jersey State Bar Association's Annual Meeting, held in Atlantic City in May, **Ralph J. Lamparello** joined a distinguished panel discussing the issue of voir dire, which featured Associate Supreme Court Justice Barry T. Albin, Appellate Division Judge Linda G. Baxter, Hudson County Civil Presiding Judge Peter F. Bariso, Jr., and Gloucester County Civil Presiding Judge Anne McDonnell. The program focused on the future of the jury system, provided the perspectives of the bench and bar on jury selection and reviewed the recommendations of the Supreme Court's Special Committee on Peremptory Challenges.

Also at that meeting, **Steven L. Menaker**, who sits as a member of the NJSBA Professional Responsibility and Unlawful Practice Committee, participated in a panel discussion on ethical legal fees with attorneys David H. Dugan, III, Stanley A. Fink, and Christina Vassilious Harvey, before an audience of 200 attorneys and judges. The subjects covered in the discussion included estab-



*Robert A. Cappuzzo and Nicole R. Cassata*

lishing reasonable fees, creating proper fee agreements, maintaining required time and billing records and the fee arbitration system.

Insurance Defense Group Co-Chair **Robert A. Cappuzzo** served as moderator and **Nicole R. Cassata** as participant, in a New Jersey Institute of Continuing Legal Education (ICLE) seminar entitled How to Handle your First PIP File. The seminar, attended by over 100 attorneys, analyzed the defense of personal injury protection (PIP) claims and provided an overview of the field from the perspective of both claimants and insurance carriers.

**Michael A. D'Anton**, who holds a Ph.D. in Psychology, was invited by Health Ed Network to present at its annual New Jersey Mental Health and the Law seminar on June 10. His lecture covered treatment rights, psychotropic medication, ethical and guardianship issues, and involuntary and emergency civil commitments. The seminar was attended by psychologists, social workers, and health law attorneys.

**John V. Mallon**, who serves as the Vice-Chair of the NJSBA Insurance Defense Committee, was interviewed about the work of the committee and trends in the insurance defense field. The interview appeared in the July 16, 2010 issue of the *New Jersey Law Journal*.

**Mitzy Galis-Menendez** was a panelist at an October 16, 2010 ICLE program on claims against police, which reviewed strategies for successfully presenting and defending tort and constitutional claims against police officers.

## Distinguished Honors Bestowed



*Ralph J. Lamparello*

Managing partner **Ralph J. Lamparello** was selected for inclusion in the 2011 edition of *The Best Lawyers in America*® in the specialties of Commercial Litigation

and Labor and Employment Law. *Best Lawyers in America*® is the oldest legal peer review publication and is widely regarded as a definitive guide to legal excellence in the United States.

Members of the firm chosen for inclusion in the 2010 *Corporate Counsel Edition of Super Lawyers*® are **John V. Mallon**, Co-Chair of the Insurance Defense Department, **John L. Shahdanian II**, Chair of the Employment Law Department and Partner **Anthony V. D'Elia**. Attorneys are chosen for the Corporate Counsel Edition through a disciplinary and peer review selection process by practice area. This honor is bestowed on only five percent of the lawyers practicing in New Jersey.

Established in 1957, Chasan Leyner & Lamparello provides a wide range of quality legal services for a diverse clientele. Specializing in litigation, our attorneys appear regularly in federal and state courts.

Supervised by civil and criminal trial attorneys certified by the Supreme Court of New Jersey, Chasan Leyner offers skilled representation in the following areas of law:

- Appellate ■ Alternative Dispute Resolution
- Aviation ■ Banking
- Civil Rights Litigation ■ Commercial Litigation
- Commercial Real Estate/Leasing
- Corporate and Business ■ Criminal
- Environmental ■ Family ■ Governmental
- Insurance Defense ■ Labor and Employment
- Medical Malpractice ■ Probate Litigation
- Public Entity Litigation ■ School Law
- Serious Personal Injury
- Workers' Compensation Defense

To learn how our attorneys can effectively serve your legal needs, contact us at 201-348-6000, or visit us online at [www.chasanlaw.com](http://www.chasanlaw.com).

## Team Chasan Walking Together to Fight Cancer



*Members of the firm, companions and friends joined tens of thousands of other runners and walkers in May at the 13th annual Entertainment Industry Foundation Revlon Run/Walk for Women in a race through Central Park to end women's cancers. This was the third year that firm members, in celebration of a cherished staff member, participated in this event.*

## Amanda E. Jackson Joins CLL



Amanda E. Jackson has joined the firm as an associate. She is a graduate of Villanova University and obtained a Juris Doctorate from Seton Hall University School of Law. Before joining our firm, Ms. Jackson served as a Law Clerk for the Hon. Patricia K. Costello, A.J.S.C., Essex County. Ms. Jackson is joining the firm's litigation and employment law groups.

## Case Notes



**Mitzy Galis-Menendez** defeated a claim of excessive force and violation of civil rights filed against a Paterson Police Officer in the United States District Court for the District of New Jersey. Ms. Galis-Menendez, together with **Kirstin Bohn**, successfully argued in a Motion for Summary Judgment that the officer was entitled to qualified immunity, which means that he acted reasonably and lawfully under the circumstances. The Court agreed and dismissed the Complaint with prejudice.

**John V. Mallon** successfully defended Allstate in a coverage dispute involving an adult daughter, temporarily living in her parents' home, bitten by her parents' dog. Allstate claimed that the daughter was a resident of the household and, therefore, was not covered under the policy as an "insured person." Allstate's position that the policy terms "household" and "resident" were not ambiguous was upheld on Summary Judgment and again by the Appellate Division in a reported decision, *Sierfeld v. Sierfeld*, 414 N.J. Super. 85 (App. Div. 2010). The Court found that the insurance policy, which excludes coverage for an "insured person," applied to relatives such as the daughter who resided in the home.

In a recent trial in Hudson County, **Thomas A. Morrone** defended a claim against a New Jersey Manufacturers Insurance Co. (NJM)

motorist who struck a motorcyclist participating in an event involving over 100 other motorcyclists. Following a week-long trial, the jury unanimously decided that the plaintiff, who cut in front of the defendant in an attempt to block traffic at the highway entrance ramp on which the defendant was traveling, was responsible for the collision and for his extensive injuries.

**John L. Shahdanian II** and **Raymond J. Seigler** prevailed on Summary Judgment in a wrongful death claim against Bergen County Sheriff Leo P. McGuire for his alleged negligence in providing medical care to a jail inmate who died in custody. United States District Court Judge Stanley R. Chesler agreed that the New Jersey Tort Claims Act required that notice of the claim, which was never given, was a prerequisite to the lawsuit.

# Case Notes

## (cont'd)

**Mr. Shahdanian** and **Mr. Seigler** also obtained Summary Judgment and dismissal of an employee's disability discrimination lawsuit against the Passaic Valley Sewerage Commissioners (PVSC). The employee, a security guard, claimed that PVSC failed to accommodate his disability, Chronic Obstructive Pulmonary Disorder and Coronary Artery Disease, by continuing to expose him to second-hand smoke in the workplace. In dismissing the lawsuit the Court agreed that PVSC had reasonably accommodated the employee by immediately reassigning him to a smoke-free environment upon learning of the problem.

A federal judge threw out a lawsuit against a Hackensack Police Officer who, together with the City of Hackensack and numerous other police officers and city officials, were charged with misappropriating public funds and conspiring to violate the constitutional rights of seven current and former members of the Hackensack Police Department. **Mr. Shahdanian** and **Mr. Seigler** succeeded in persuading the Court that their client was not in a position to violate the plaintiffs' rights and that the plaintiffs had no standing to assert a claim for misappropriation of the public funds. The case against the remaining defendants continues.



**Nicole R. Cassata** prevailed in her defense of a National Arbitration Forum (NAF) personal injury protection (PIP)

arbitration on behalf of Allstate Insurance Company ("Allstate") against claims for Manipulations Under Anesthesia (MUAs). The arbitration was filed on behalf of three patients who all underwent the same treatment by the same provider for injuries resulting from the same motor vehicle accident. In addition to arguing that the medical records did not meet any of the clinical justifications for the procedure, Ms. Cassata argued that it was unusual bordering on suspect that three patients with different injuries would all need the identical procedure and treatment. The arbitrator agreed and denied the Demand for Arbitration of all three patients. The decision is available on the NAF website (NAF Case No. 1267548).



In a trial before Bergen County Superior Court Judge Menelaos W. Toskos, **Joseph A. Lagana** defended State Farm Indemnity Company (State Farm) against a breach of contract action. The lawsuit was filed by a medical provider against a patient for payment of outstanding medical bills. The patient, in turn, sued State Farm and asserted that the insurance company was obligated to pay the bills, even though the patient had exceeded the limit of her insurance coverage, because she claimed that a nurse employed by State Farm's medical management company promised

## Kobin and D'Anton Prevail in Defense of Schools of Technology

**Thomas R. Kobin** and **Michael A. D'Anton** successfully defended the Hudson County Schools of Technology (HCST) against an emergency application to reinstate sports programs at the Schools. The HCST accepts a limited number of talented students from municipalities (sending districts) in Hudson County. The School Board eliminated the sports programs because of extensive cuts in state aid, which prompted a number of parents to claim that the programs were arbitrarily eliminated in violation of the students' rights. The Administrative Law Judge rejected the parents' arguments and refused to compel the Board to reinstate the programs, finding that participation in sports is a privilege not a right, and that students could still participate in sports in their sending districts. The New Jersey Commissioner of Education recently affirmed the Administrative Law Judge's decision.

that all the bills would be paid by the insurance company. Mr. Lagana convincingly argued that there could be no breach of contract when State Farm paid the policy limits, which was its only obligation, and that the PIP statute (N.J.S.A. 39:6A-1, et. seq.) provided exclusive remedies which did not include breach of contract claims. In addition, he argued that the nurse was neither an employee nor an agent of State Farm and, therefore, could not obligate the company, even if she had made such a promise.