



# Court denies application for relief of *Madden* assignment; NJSBA ponders next steps

In an eight-page decision, Assignment Judge Deborah Silverman Katz denied an attorney's application to be excused from his assignment to represent a defendant in a contempt of domestic violence order matter. The New Jersey State Bar Association (NJSBA) participated as *amicus curiae* in support of Michael Haya's application and urged the court to assign the matter to publicly-funded counsel or to adopt one of the NJSBA's Right to Counsel Committee's recommendations to address the right to counsel in New Jersey. The NJSBA's request was also denied, but Haya was eventually relieved upon the request of the defendant in the underlying matter, who stated his concern that he was being assigned ineffective counsel.

"Granting the relief sought by the NJSBA would not just affect Mr. Haya. It would 'reach far beyond' and delve into the state's system of *Madden* appointments," said Judge Silverman Katz. "[I]t would be inappropriate for this Court to repeal and replace the state's long-standing system of pro bono assignment for indigent defendants." She relied upon the state constitution and case law that gives exclusive rule-making power to the

Supreme Court, not the lower courts, to make such decisions.

Haya was assigned the matter off of

man Katz rejected that argument.

"He has demonstrated the ability to become a member of the bar by gradu-



## CAPITOL REPORT

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ASSIGNMENT JUDGE DEBORAH SILVERMAN KATZ

the *Madden* list pursuant to the court's random system of assignments resulting from the matter of *Madden v. Delran*, 126 N.J. 591 (1992).

Haya argued that he had not practiced since 2000 and had no experience in this area of law; rather he consults with retirement plans and third-party administration matters. Judge Silver-

ating law school and passing the bar exam," said Judge Silverman Katz. "He has certified that he renders advice as it generally relates to retirement plans and associated matters. He is certainly capable of reading and understanding the primers provided by the court in undertaking representation of [the defendant]."

The NJSBA has called upon the Supreme Court to abolish *Madden*, declaring it an obstacle to equality. It passed a resolution, which was presented to the governor and to Chief Justice Stuart Rabner. Instead, the NJSBA urged the Court to call on the Legislature to create a publicly-funded resource for right to counsel matters. In addition, the NJSBA called upon the Supreme Court to consider the recommendations outlined in its Right to Counsel Committee report, Achieving Effective Representation in Right to Counsel Matters. That report can be found at [njsba.com](http://njsba.com).

"This is not an attorney issue," said NJSBA President Jeralyn L. Lawrence. "This is about the right of indigent defendants to have effective counsel."

The NJSBA is reviewing next steps to pursue, including joining in an appeal of the decision.

*This is a status report provided by the New Jersey State Bar Association on recently passed and pending legislation, regulations, gubernatorial nominations and/or appointments of interest to lawyers, as well as the involvement of the NJSBA as amicus in appellate court matters. To learn more, visit [njsba.com](http://njsba.com).*

## NJSBA

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Information in the *Bar Report* is compiled by the New Jersey State Bar Association, which welcomes tips and story ideas from its readers and members. Contact Tom Nobile at [tnobile@njsba.com](mailto:tnobile@njsba.com) or 732-937-7527.

## NJSBA Nominating Committee seeks candidates for leadership positions

The New Jersey State Bar Association's Nominating Committee invites members to apply for the following leadership positions, which will be open in May 2023.

The open positions include five at-large Board of Trustees seats, each for a two-year term and open to any general member of the NJSBA as per the Nov. 9, 2022 order of the Superior Court of New Jersey, Law Division. A two-year seat on the NJSBA's Nominating Committee is also available to any member of the Association.

In order for each candidate to qualify for consideration by the Nominating Committee, a letter stating the intention to seek a specific elective position should be submitted by email. Upon receipt of a letter of intention, a questionnaire will be emailed to the prospective candidate.

Completed questionnaires must be received no later than 12 p.m. on March 23. Letters may be addressed to Amy Shimalla, chair of NJSBA Nominating Committee, and emailed to Angela Scheck, executive director, at

[ascheck@njsba.com](mailto:ascheck@njsba.com). Please direct any questions regarding procedure to Scheck by email or phone at 732-937-7500.

Visit [njsba.com](http://njsba.com) to learn more about the positions and criteria. ■

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# NJSBA

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# ANNUAL MEETING AND CONVENTION

May 17–19, 2023  
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Timothy J. McGoughran



Jeralyn L. Lawrence

## Installation of Officers and Trustees Thursday, May 18

All are invited to attend this special event where **Timothy J. McGoughran** will take the oath of office as 2023–2024 NJSBA President; and we will extend our gratitude to **Jeralyn L. Lawrence** for her work as 2022–2023 NJSBA President

**Other special events** include a Welcome Reception on Wednesday and the State of the Judiciary speeches on Friday morning.

### Ticketed Events include...

- Reception Honoring Officers and Trustees
- Diversity Committee Annual Luncheon
- Labor and Employment Section Luncheon
- Public Utility Law Section Luncheon



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- Presidential Track
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- Municipal Court Practice Track

- Real Property Trust and Estate Law Track
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