

Legal lessons from the Armenian genocide are focus of upcoming program

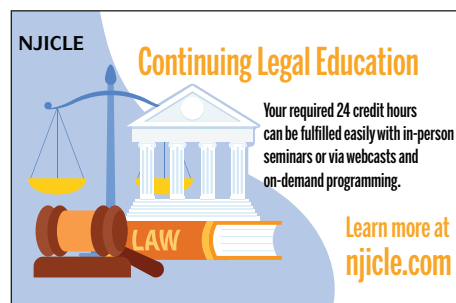
An upcoming seminar hosted by the New Jersey Institute for Continuing Legal Education will delve into the history and legal issues surrounding the Armenian genocide in the early 20th century.

Those who tune in to the webcast on April 25 will hear an in-depth discussion of the legal ramifications caused by countries that were slow to recognize the genocide and how the delay impacted reparations and justice for survivors, along with a legal analysis of the current conflicts in Europe and Western Asia.

New Jersey, according to U.S. census data, is home to the fourth largest population of Armenian Americans in the country, including many attorneys. For John L. Shahdanian, the seminar's moderator and a New Jersey State Bar Association trustee, the topic is personal. His grandfather was the son of a genocide victim, who was killed by Ottoman Turks. Shahdanian said his grandfather was lucky to escape at a young age to Syria and then France.

"He passed down the stories of the horrors that he saw, including seeing his father being taken away to jail then ultimately disappearing," Shahdanian said.

The Armenian genocide refers to the physical annihilation of Armenian people, an ethnic group of 1.5 million living in the Ottoman Empire, from the spring of 1915 through fall 1916. At



least 664,000 and as many as 1.2 million died during the genocide, either in massacres and individual killings, or from systematic ill treatment, exposure and starvation, according to the United States Holocaust Memorial Museum. The killings were carried out to establish Turkish dominance in the regions of central and eastern Anatolia, or what is now modern-day Turkey.

For decades, many countries including the U.S. were reluctant to label the Armenian deaths as a genocide over the risk of disturbing interna-

tional relations with Turkey, which denies that the killings were systematic or meet the U.N. definition of genocide. It wasn't until March 2010 that a U.S. Congressional panel finally voted to recognize the genocide. In April 2021, President Joe Biden became the first U.S. president to publicly acknowledge the genocide, stating that "the American people honor all those Armenians who perished in the genocide that began 106 years ago today."

"It's the use of the term genocide, that's what Turkey has fought against for all these years. They claim that, historically, it was a war, which is ridiculous because Armenians were not a country," Shahdanian said.

The long and arduous legal and political journey by the Armenian community to achieve justice and genocide recognition is among the topics of discussion in the April seminar, according to Shahdanian. U.S. Sen. Robert Menendez, who was one of the biggest advocates on the national stage for attaining genocide recognition, will make a brief appearance virtually. An expert panel will also feature Raffi Hamparian, executive director of the

Armenian National Committee of America; Scott A. Ohnegian, a partner at Riker Danzig in Morristown; and Dr. Henry Theriault, president of the International Association of Genocide Scholars.

"Recognizing the genocide is important from a historical perspective and especially for education. If you don't know history, you're doomed to repeat it," Shahdanian said.

For practicing attorneys, the seminar will bridge together a host of legal affairs that emerged from the genocide—from litigation in human rights and international law, to reparations for the loss of indigenous lives, property and rights. The seminar will cover a series of lawsuits by the Armenian community to have U.S. companies honor life insurance policies for family members who were killed.

"There is a legal component of this that attorneys will find fascinating. And obviously, there's the whole legal history of the political process to get genocide recognition," Shahdanian said.

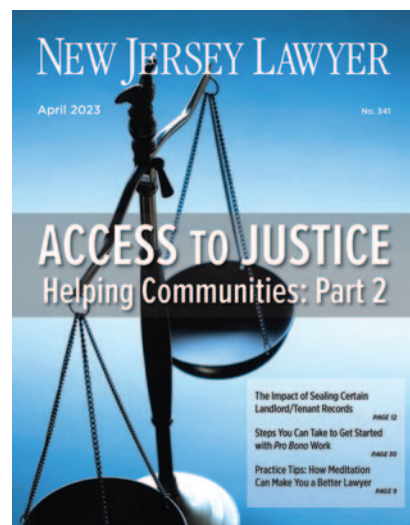
Visit njicle.com to register for the seminar.

New Jersey Lawyer returns for second edition on access to justice

The April 2023 edition of *New Jersey Lawyer* revisits the topic of helping people and communities access justice.

The issue, published by the New Jersey State Bar Association, covers institutional or idiosyncratic roadblocks that people face in finding access to justice and equality. Two articles are dedicated to promoting better access to justice in housing, while other entries address a new law school requirement to provide bias education and how law firms can build sustainable *pro bono* programs.

The *New Jersey Lawyer* Editorial Board partnered with the NJSBA's Pro Bono Committee to devote consecutive issues to the theme given its importance to society and the legal



profession. The interest from the NJSBA community to contribute

articles was also so overwhelming that the Editorial Board had enough submissions for multiple editions, according to Bill Singer and Nancy A. Del Pizzo, the special editors for the April edition.

Here is a full list of the articles in the edition:

- Access to Justice through Non-Access: New Jersey's Sealing of Certain Landlord-Tenant Records—By Ariela Rutbeck-Goldman.
- Understanding Modern Anti-Eviction Act Can Help People Stay in Their Homes—By Gerald R. Brennan.
- Teaching Justice to Law Students: Implementing the New ABA Curriculum Requirements for Law

Schools—By Lori Outzs Borgen.

- Applying the Collaborative Models Between Corporations and Science to *Pro Bono* Dream Teams—By Amy E. Vasquez.
- How to Do It: The Power of *Pro Bono* Partnerships—By Jessica Kitson and Jessica Hodkinson.

The edition also includes practice tips for how attorneys can navigate Microsoft Word, NJSBA President Jeralyn L. Lawrence's perspective on the Association's top achievements for New Jersey lawyers in the last year and an introduction to meditation for attorneys.

The full issue of *New Jersey Lawyer* is available on njsba.com.

NJSBA urges Supreme Court to clarify process for alimony modification due to cohabitation

The New Jersey State Bar Association (NJSBA) urged the state Supreme Court to apply a modified *Lepis* standard in an effort to provide clarity and statewide uniformity in how requests for modification of alimony based on cohabitation are addressed by the courts. In an *amicus curiae* brief filed last week, the Association is seeking to participate as a friend of the court in *Cardali v. Cardali*, which asks what constitutes a *prima facie* case of cohabitation in support of an application to terminate alimony. NJSBA President Jeralyn L. Lawrence, Family Law Section Chair Derek M. Freed, NJSBA President-Elect Timothy F. McGoughran, Catherine Murphy and Brian G. Paul wrote the brief.

The case centers on what needs to be shown to establish a mutually supportive, intimate personal relationship that has many of the same characteristics of a marriage or civil union, as required by statute.

In *Cardali*, the payor argued that the Appellate Division's holding presented a near-impossible standard to proving cohabitation by placing the burden of proof on the payor to demonstrate the payee's financial entanglements with her long-time partner. In support of this argument, the NJSBA

argued that this simply is not the case under current alimony statute, which was modified in 2014 supported by the efforts of the NJSBA.



CAPITOL REPORT

"After the adoption of N.J.S.A. 2A:34-23(n), the party seeking modification no longer had to prove that the recipient of alimony was living with a third party to obtain relief," said the NJSBA in its briefing. "Instead, the statute requires the Court to examine the nature of the relationship, assisted by considering a series of factors (the last factor being an open-ended 'catch-all'), to evaluate whether the parties were involved in a relationship that was akin to marriage (regardless of whether the new relationship provided an economic benefit to the supported spouse). The statute does not require any of these factors to be present, but rather only that they be considered when assessing whether a 'mutually supportive, intimate personal relationship' has been formed."

The NJSBA argued in its papers that case law did away with the need to evaluate financial entanglements. Rather, it said, the courts should eval-

uate whether the relationship between the payee and the third party "has the hallmarks of a marriage." If such a showing is made, then the burden of proof should shift to the payee to prove there is no cohabitation and allow discovery to access financial information, evidence of sharing household chores, and other types of evidence to address the factors establishing cohabitation. Only after discovery is completed should the court determine whether there are genuine issues of disputed fact on the cohabitation claim requiring a plenary hearing.

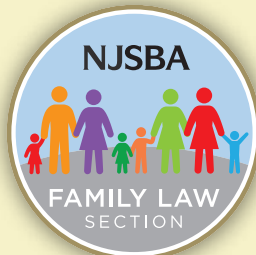
"To assist the trial court in this determination, the NJSBA proposes that the three-step process outlined in *Lepis* be clarified to provide that the trial court conduct a mandatory case management conference following the completion of discovery," said the

NJSBA in its brief.

The Court in *Lepis v. Lepis*, 83 N.J. 139 (1980) established a three-step process for determining whether a material change in circumstances warranted modification of an existing support award. In adapting *Lepis* in the cohabitation context, the analysis "helps level the playing field and ensure fairness by recognizing that it is unreasonable to place the burden of proof on the moving party who likely would not have access to all the evidence necessary to support that burden of proof," said the Association.

Already appearing as *amicus* is the New Jersey American Academy of Matrimonial Lawyers, which is presenting arguments similar to the NJSBA's. Oral argument is tentatively scheduled for late April. The NJSBA awaits the Court's approval of its motion to participate as *amicus* and continues to monitor this case.

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.



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