

NEW JERSEY LAWYER

December 2025

No. 357

Pop Culture AND THE LAW

CLE COUNTDOWN



Finish Strong: Full NJICLE program options before Dec. 31 deadline

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View From the Bench: Judicial Perspectives on Appellate Advocacy

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NJICLE

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December 15th - 31st CLE Schedule - For a full selection of programs visit [NJSBA.com](https://www.njsba.com)



The MCLE Deadline is December 31st - Do You have enough credits?

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Representing Nonprofits and Tax-Exempt Organizations

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The Art of Attack: How to Dismantle an Adversarial Valuation Report

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Civil

Legal Malpractice in NJ - Key Litigation Points for the New York Attorney

Thurs., Dec. 18 | Earn up to 2.0 credits, including 2.0 in ethics.

Criminal Law

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Mon., Dec. 15 | Earn up to 3.0 credits.

Trials of the Century - From Murder to Verdict

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Estate Law

Hot Trends in Estate Litigation 2025

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Ethics

Ethical Concerns in Risk Management 2025

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Gain the Edge! Negotiation Strategies for Lawyers

Thurs., Dec. 18 | Earn up to 6.7 credits, including 1.2 in ethics.

Legal Malpractice in NJ - Key Litigation Points for the New York Attorney

Thurs., Dec. 18 | Earn up to 2.0 credits, including 2 in ethics.

Sean Carter Presents the All New 2025 Ethy Awards - The Best of the Worst Legal Ethics Violations

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Succession Planning is Coming to New Jersey - Will You Be Ready?

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Top 20 Ways to Get Disciplined (And How to Avoid Them)

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Family

Family Formation Update 2025

Tues., Dec. 16 | Earn up to 3.4 credits.

For All Attorneys

Avoiding Disorder: Robert's Rules for Lawyers

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Microsoft Word Power Tips for Legal Users

Fri., Dec. 19 | Earn up to 3.3 credits.

Professor Akhil Amar on the US Supreme Court and the Constitution 2025

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Professor Akhil Amar on the US Supreme Court and the Constitution 2025

Tues., Dec. 16 | Earn up to 3.3 credits.

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Special Civil Part

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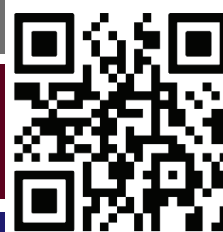
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| - Criminal Law | - Law Office Management |
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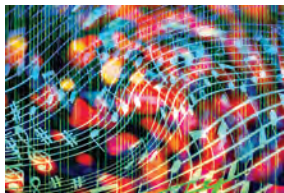
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PRESIDENT'S PERSPECTIVE

CHRISTINE A. AMALFE

The Path to Growth Starts Here



No lawyer is an island. Especially in this time of remote work, virtual meetings and court appearances, and less daily interaction with colleagues in general, we must all look for ways to find connections.

The skills, experience and network you need to build a successful practice can take decades to cultivate. These skills are built in pivotal moments across a career—on the courthouse steps, during a high-stakes deposition, with a brief handshake at a networking mixer. You never know what interaction will introduce the next tool to your legal toolkit, or when a new opportunity will propel your career forward. But one thing is certain—no one achieves success alone—least of all lawyers.

With the New Jersey State Bar Association, you have a partner every step of the way in your professional life. Steve Jobs once described computers as a “bicycle for the mind”—a tool to increase your potential. If I may borrow that analogy—the NJSBA is a bicycle for your legal career. Through its many offerings and opportunities, the Association multiplies your ability to grow your skills, expand your professional network and strengthen your personal brand. It gets you where you need to go, but faster.

Every attorney can find value in bar membership, regardless of their firm size or practice area. It is a common misconception that big-firm lawyers have little to gain from the state bar. They may view fellow New Jersey lawyer members as competitors who will not help them generate business, and instead focus on groups like the American Bar Association where out-of-state referrals are a possibility. While many lawyers focus on several organizations to build networks, there is no doubt that the state bar association is a fertile ground for business. Indeed, I have received countless referrals from members of the state bar which has helped me grow my business and enhance my professional profile.

There is no question that building business is important. More than boosting your originations, however, the state bar also helps you grow in ways that strengthen both the impact and purpose of your work. For example, consider the NJSBA's

over 80 practice-oriented sections and committees. The sections and committees are the lifeblood of the NJSBA—our go-to source for expertise, insight on legal developments, legislative updates and the trends shaping the practice. Each group represents a unique facet of law, ranging from criminal law, family law and many other legal specialties. By joining a section or committee, you not only expand your network, but you are able to delve deeper into specialized legal areas, elevating your legal knowledge and skillset. And most important, the sections and committees provide opportunities for members to take on leadership roles where you can spearhead initiatives and shape policy recommendations. No organization can thrive without strong leaders. Whatever stage of your career, we welcome those ready to step up and help guide the future of the NJSBA.

There are also plenty of opportunities to build your biography and professional profile. Lawyers spend their careers speaking, usually for their clients, but less often for the benefit of their peers. NJICLE, a division of the NJSBA, provides plenty of opportunities to lead educational panels. It is the ideal way to give back to the profession while highlighting your expertise and knowledge. We invite attorneys to submit proposals for webinars, seminars, panels and other educational programs. Similarly, the NJSBA engages in various types of advocacy on behalf of the legal profession. The Association maintains a robust amicus practice, intervening in cases that raise critical issues affecting the practice of law, New Jersey attorneys and the state's most vulnerable residents. We invite lawyers who are interested in arguing before the courts in these important matters to get involved.

If the written word is your forte, consider submitting an article to *New Jersey Lawyer*, the Association's flagship publication issued six times a year. Each edition centers on a specific legal theme, featuring articles written by NJSBA members and edited by volunteer attorneys on the magazine's editorial board. It's a great way to showcase your expertise, build credibility and shape the conversation within the legal community. And it's not just for scholarly articles—we also welcome submissions such as practice guides, short features and timely

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FROM THE SPECIAL EDITORS

What is an Attorney's Place in Modern Pop Culture?

The Influence of Law and Lawyers is Undeniable

By Brett Yore and Veronica Finkelstein

When William Shakespeare wrote "Henry VI" back in 1599, there was a character named Dick the Butcher who famously said, "first thing we do, let's kill the lawyers." This line was in response to the character Jack Cade's more gentle approach to societal changes, and showed the less than noble thought process of—the appropriately named—Dick the Butcher. It was meant to elicit laughter, but it also underscored the opinion of lawyers at that time, i.e. they impeded a better world. In the 1500s most popular form of storytelling, Shakespeare gave lawyers a moment in the cultural sun.

But nowadays, lawyers are seen in a better light. They are portrayed as voices for the voiceless or crusaders for justice, with motivations of improving the world around them. Whether it's the charm of Vinny Gambini in *My Cousin Vinny*, the tenacity of Jack McCoy in "Law and Order," or the fearlessness of Matt Murdock in "Daredevil," lawyers have made an indelible mark on popular culture, and this issue of *New Jersey Lawyer* explores the many interesting ways how.

There are many unique articles in this issue that should generate some good water cooler talk. Take for instance Steve Eisenstein's "Animated about the Law," where popular comic book and anime characters are analyzed for more than their crimefighting. Then there's "Fact or Fiction: Women Lawyers in Television" where Lynda Hinkle confronts and contrasts depictions of women lawyers on TV with real world problems of the workplace. Or how about "Striking a Chord with



BRETT YORE is the Cape May County Representative on the NJSBA Board of Trustees. He was a former president of the Cape May County Bar Association, trustee for the Atlantic County Bar Association, and co-chair of the NJSBA Membership Committee. He has been recognized by the New Jersey Law Journal as a "New Leader of the Bar," and was awarded the NJSBA Young Lawyer Division's "Young Lawyer of the Year" in 2019.



VERONICA J. FINKELSTEIN is an Associate Professor at the Wilmington University School of Law. Veronica spent a majority of her career as an Assistant U.S. Attorney in Philadelphia before transitioning to a full-time teaching role. In addition to law school teaching, she also serves as a program director for the National Institute for Trial Advocacy and travels across the country teaching advocacy skills.

Innovation: Navigating the Patent Eligibility of AI Music Generation Tools,” where Jayla E. Harvey takes a view of AI’s growing influence in music. This issue is full of thought-provoking pieces that should make for better reading than that 40-page response brief under the stack of files on your desk.

So please, take a moment and enjoy this issue of *New Jersey Lawyer*, celebrate the many ways lawyers have influenced society outside of the courtroom, and stay away from anyone named Dick the Butcher. ■


PRESIDENT’S PERSPECTIVE

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legal updates. Many sections and committees have their own newsletters as well. Contributing an article is another chance to enhance your own legal profile and at the same time give back to the profession.

Many of us were fortunate to have strong mentors during the formative years of our careers. They taught us the rules of the road, how to succeed and what it takes to be a good lawyer. The NJSBA is the largest network of attorneys in New Jersey—with 16,000 members—offering opportunities for professional growth simply by learning from the lawyer next to you. If you’re looking for mentoring or just some guidance as to next steps in your career, joining the NJSBA is a great place to start. In my years with the Association, I have connected with lawyers who I now consider trusted advisers or my personal “kitchen cabinet.” Knowing they are just a phone call away is comforting and a huge advantage as we all navigate our careers.

Over time, every lawyer builds their own path, but none of us ride alone. Feeling stuck? You can always ride with us. ■



**Join the NJSBA
Member Assistance Program
for virtual sessions to help
you navigate your busy life
and career.**



Wednesday, Feb. 11, 2026

Effective Strategies for Assertive and Mindful Communication

In this webinar, participants will gain knowledge of applying principles of mindfulness to the way we correspond with others in order to foster and sustain positive relationships.



Wednesday, April 15, 2026

Stress Management: The Importance of Breath

This installment will discuss practical ways of managing stress with a particular focus on the importance of breath. Participants will learn, demonstrate, and hopefully incorporate several different breathing techniques that can significantly create wellbeing in body, mind and spirit.

**All webinars are Noon-1 p.m.
FREE for NJSBA members | \$49 for non-members**

NJSBA

PRACTICE TIPS



ETHICS & PROFESSIONAL RESPONSIBILITY

Succession Planning for New Jersey Attorneys: Awareness, Not Requirements

By Alicia F. Williams

Director and Counsel

New Jersey Lawyers' Fund for Client Protection

Beginning with the 2026 attorney registration cycle, private practitioners in New Jersey will see the introduction of new questions related to succession planning. While succession planning is not required, the upcoming change marks an important step toward promoting attorney wellness, client protection, and continuity of service within the profession.



As noted in Administrative Director Blee's Sept. 19 Notice to the Bar, private attorneys will be asked during registration to choose from several options that best reflect the current state of their practice. They may:

- name a designated successor attorney (must be an active New Jersey attorney)
- identify a person with knowledge of the location of client files and other key information (this person need not be an attorney)
- indicate that they have no successor or person with knowledge, but they have an identifiable succession plan

- acknowledge that they currently have no successor or succession plan
- state that a succession plan is unnecessary because their employer is responsible for client files in the event of an emergency

The Court will not collect copies of succession plans. The change is intended to promote awareness and voluntary preparedness rather than to create a new compliance requirement.

These updates are the result of a collaboration between the New Jersey Supreme Court, the Supreme Court Committee on Wellness in the Law, and the New Jersey Lawyers' Fund for Client Protection (CPF). According to the American Bar Association (ABA), New Jersey remains one of fewer than 10 states without a rule mandating or recommending attorney succession planning. The upcoming registration modification represents a proactive step in fostering discussion and awareness of professional responsibility in this area.

Although New Jersey does not currently have a rule addressing succession planning, guidance can be found in ABA Model Rule 1.3 on Diligence. Comment 5 to that rule states that, to prevent neglect of client matters in the event of a sole practitioner's death or disability, a lawyer's duty of diligence "may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action."

Additionally, New Jersey RPC 1.16(d) requires attorneys, upon termination of representation, to return client papers and property and refund any unearned fees. Having a succession plan ensures that these ethical duties are met, even when an attorney can no longer personally carry them out.

Ultimately, the initiative is designed to provide attorneys with assurance that their clients and practice are protected in the face of unforeseen circumstances.

Questions about the upcoming registration changes or about attorney succession planning may be directed to the New Jersey Lawyers' Fund for Client Protection at 855-533-3863 (Option 2) or cpf.mbx@njcourts.gov.

WRITER'S CORNER

Screen-Savvy Suggestions: Formatting Your Brief for Digital Reading

By Veronica J. Finkelstein

Litigative Consultant, U.S. Attorney's Office, Eastern District of Pennsylvania

With the widespread adoption of electronic filing by most court systems and the reality that law clerks today have grown up doing most of their reading on screens, legal writers must adapt their formatting strategies to accommodate digital readers. Screen reading presents unique challenges but also some opportunities. Here are some best practices to consider as you adapt your writing to a screen-reading audience.



Fonts matter, and the best choices may not be your default choice

For decades, Times New Roman reigned supreme in legal documents. But on screen, it's not always the most legible option. Serif fonts (like Times New Roman or Century Schoolbook) can look crisp in print but may appear cramped or pixelated on screens, especially at smaller sizes. Sans-serif fonts, on the other hand—such as Calibri, Arial, or Verdana—offer cleaner lines that are easier on the eyes digitally. That said, many courts still require specific fonts, so always check local rules. Where flexibility is permitted, consider fonts optimized for screen use, including Georgia—a font created specifically for digital legibility.

Adequate spacing gives the eyes more time to rest

Screens fatigue the eyes faster than paper. Combat this by using a font size of at least 11-point (12-point is often better) and ensuring ample line spacing—ideally 1.15 to 1.5 lines. Wider line spacing improves readability by reducing visual crowding, particularly on smaller devices.

Add extra spacing between paragraphs (rather than relying solely on indents) to help readers visually separate information. This is especially helpful on tablets where long blocks of uninterrupted text can be exhausting and cause eye strain.

Use hyperlinks as a navigational tool

In digital briefs or memos, embedded hyperlinks can streamline navigation and enhance credibility. Consider linking to cited cases on Westlaw, Lexis, or court websites, statutes or regulations on official government sites, and exhibits or appendices included as separate PDFs. Ensure links open in a new tab (when possible) to avoid navigating readers away from your document.

Be selective in your use of hyperlinks. Add links only to authority you want the court to access. Too many hyperlinks can look cluttered and distract from the substance of your argument. If your brief has a table of authorities, consider including your hyperlinks there rather than interspersing them throughout the body of the brief.

Optimize the format of your document

PDF is the default format for most court filings, but make sure your PDF is searchable and optimized for screen viewing. Use built-in PDF tools to create bookmarks for major sections, especially in longer documents. Bookmarks help judges and clerks quickly navigate your argument and give your writing a professional polish.

Avoid scanned image PDFs unless absolutely necessary—they are often unreadable by assistive technologies and can't be searched. If you must scan the signature page of your brief to include an "ink" signature, make that a separate page and combine that lone scanned page with the remainder of the searchable pages.

Proofread on the screen

If your reader will interact with your brief on the screen, you should as well—especially during the editing process. Don't rely solely on print proofreading. Screen-based typos can hide in plain sight when you're used to reviewing on paper. Proof your final version on the same type of screen your reader will use—ideally a laptop or tablet—and scroll slowly to catch visual inconsistencies.

Great legal writing persuades not just with content but with clarity and accessibility. When your reader is engaging through a screen, your formatting choices become part of your advocacy. By embracing screen-friendly practices, you're not just updating your style—you're doing so in a savvy way.

7 Tips to Enjoy (Not Dread) Holidays with Your Family

Everywhere you look, there are reminders that the holidays are supposed to be a time for smiling families to gather around a perfectly set table. In these mythical families, the babies never cry, the teenagers never sulk, and the grown-ups never argue about politics. But real-life families are more complicated—and often, much more exasperating and unruly—than that.

In many cases, the holidays bring you together with relatives you don't often see the rest of the year. Being together again can remind you of how much you love and appreciate your relatives. But it may also stir up old feelings of grief, anxiety, guilt, or resentment.



Meanwhile, you're all trying to cram a year's worth of memories into a few days. Plus if you're married or part of a blended brood, you may be trying to juggle multiple visits with different sides of the family. The result, all too often, is more chaotic than festive.

But things don't have to be this way. These tips can help you enjoy holidays with your family without feeling drained.

1. Have realistic expectations

Focus on having a meaningful holiday together rather than a Facebook-ready one. It's OK if the kids—or the grown-ups—aren't always on their best behavior. Embrace the imperfections that give your family its unique personality.

2. Be mindful of your feelings

If you'll be around people who push your buttons, approach the situation with an attitude of mindfulness. Focus your attention on what's happening at the moment—not something that

happened 10 years ago. Notice and accept any feelings that come up, but try to withhold judgment for now.

3. Start positive conversations

To head off heated debates, steer the conversation toward topics that family members have in common, such as a shared hobby or an upcoming happy occasion. If the holiday has spiritual or cultural significance for your family, this is a good time to pass on some of the day's history and meaning to the younger generation.

4. Express your appreciation

This is also an ideal time to let others know how much you appreciate the support they've shown you throughout the year. Research shows that expressing gratitude can lower your own stress level.

5. Share fun family activities

Your family could take a walk, go ice skating, play a board game, make decorations, visit a children's museum, or catch a family-friendly show. Make a point of repeating some favorite activities year after year. These kinds of family traditions are the glue that helps bond family members together.

6. Don't try to do too much

A little family fun is great, but more is not necessarily better. Young kids can be easily overwhelmed by too many changes and too much excitement. To avert meltdowns, stick with their usual routine for naps and bedtime. To simplify the schedule, consider visiting different branches of the family on different holidays or in alternate years.

7. Sneak in some alone time

If you start feeling stressed, take a few minutes to walk the family dog, listen to music, read a book, or go for a run. You'll enjoy your family time more if you step away and decompress when you need to.

This article is from Charles Nechtem Associates, which provides the New Jersey State Bar Association Member Assistance Program, connecting NJSBA members to trained, experienced mental health professionals and resources. Learn more at njsba.com/member-assistance-program. ■



VIEW FROM THE BENCH

Preparing for Appellate Oral Argument

Behind the Scenes at New Jersey Courts and the Third Circuit

By Justice Douglas M. Fasciale

Supreme Court of New Jersey

and

Judge Patty Schwartz

U.S. Court of Appeals for the Third Circuit

Judicial Perspectives on Appellate Advocacy

Appellate advocacy distills complex disputes into focused legal arguments. It is often called the highest form of lawyering because of its precision and the depth of preparation required. Yet, what most advocates do not see is how judges prepare for oral argument, how they deliberate, and how panels work collaboratively. This article offers a candid look behind the scenes—drawing on our individual experiences in the Appellate Division, the Supreme Court of New Jersey, and the U.S. Court of Appeals for the Third Circuit. We provide these insights with the shared goal of equipping practitioners with a clearer understanding of the

judicial process and providing practical guidance that elevates their appellate advocacy.

What further distinguishes our perspectives is that we were both trial lawyers and trial judges before ascending to the appellate bench. That grounding shapes how we evaluate arguments, apply standards of review, and assess the practical realities of the record below. We understand what it is like to try cases—to confront evidentiary rulings in real time and to balance strategy under pressure. That experience informs everything we do at the appellate level.

Behind the Bench: How Appellate Courts Prepare

Justice Fasciale on the Appellate Division

In the New Jersey Appellate Division, the court adjudicates approximately 6,500 appeals and roughly 10,000 motions each year. From September through June, cases are assigned to various Parts weekly by the Administrative Office of the Courts. As a former Presiding Judge of Part B, the judges and I received 12 appeals each week. Ordinarily, each judge on my part would prepare approximately nine initial written impressions about whether to affirm, reverse, remand, or modify, etc. Those preliminary views on the appeals are printed on pink paper and are called “pinks.”

In advance or oral argument, we would circulate our pinks to one another. On the morning of the argument, the panel meets to discuss the appeals listed for that week. This allows us to enter the courtroom with an informed general sense of consensus or division. The presence of three judges during oral argument may signal that a case might be published, not necessarily that the panel is divided.

We hear multiple cases in a sitting, and judges prepare extensively in advance. When I served in the Appellate Division, each judge wrote four opinions

per week during the court term, and the volume requires precision and clarity from the bar.

If counsel believes their case warrants publication, they should say so directly—and help us see why. Suggesting language for the proposed holding, in my opinion, is welcomed and appreciated.

Judge Shwartz on the Third Circuit

In the Third Circuit, cases arrive via six “box drops” per year. Before those cases reach Chambers, they undergo an initial screening by the Clerk’s Office. Jurisdictional issues may be identified and resolved at that stage.

Once the cases are assigned, my four clerks and I begin our detailed review. Panel members rotate regularly and are set approximately one year in advance, though advocates typically learn their panel only 20 days before argument. Unlike the Appellate Division, we generally do not circulate pinks, though some judges may send a short email previewing their initial thoughts while others prefer to reserve all views until post-argument conference.

The Court calls all arguments for the same time, so attorneys are often waiting as other cases are argued—which we encourage them to observe. Arguments are typically limited to 15 minutes per side, and we are a hot bench. We come prepared. If we’re interrupting, it means we are engaged.

Immediately after argument, we recess and deliberate. The junior judge speaks first, followed by the other panel members. If the case is to be precedential, the opinion is circulated to the full court for potential en banc review. Two judges must agree to designate an opinion precedential.

Justice Fasciale on the Supreme Court of New Jersey

Our Supreme Court renders about 40 to 50 opinions each year. Unlike the Appellate Division, there are no pinks,

and no pre-argument discussions. Counsel presents to a Court that has fully read the briefs, appendix, and record, but before oral argument the justices have not discussed the appeal among themselves.

Each side receives 30 minutes during oral argument. Unlike the Appellate Division, counsel is entitled to five minutes of uninterrupted time. You can waive that time, but if you request it, then we expect you to state the issue, identify the standard of review, summarize the pertinent legal arguments, and articulate the precise relief sought. Reciting general facts during those five minutes is not entirely helpful. We already know them.

We often watch video recordings of oral arguments to study how counsel used that uninterrupted time. It’s a missed opportunity when the advocate meanders or focuses on irrelevant detail. Those five minutes can be very helpful if used correctly.

The first time we talk about the argued appeals is when we reconvene for a conference. At that time, one justice presents the case to the members of the Court. That justice will address key aspects of the appeal and then explain how the Court should rule. The others respond in turn. Written opinion assignments are then made by the Chief Justice.

Strategic Guidance: What Makes a Difference at the Podium

Justice Fasciale’s View

Say what you want us to do. Say it directly. If you want us to affirm, say so. If you seek reversal, say so. Don’t wait until the end of your argument to make this clear. Make sure you express your reasoning.

Listen carefully to the questions the justices ask. At times, we might ask you questions and simultaneously reveal to our colleagues a particular perspective on the appeal.

Frame your argument with the correct

standard of review. This is the lens through which we see your case. If you use the wrong standard of review, your argument will be misplaced and unhelpful.

Misstatements matter. If the trial judge said a witness was “credible,” don’t argue the judge called the witness “extraordinarily credible.” We have read the transcript. Misrepresentations undermine the merits of your contentions.

If you’re arguing before a three-judge panel in the Appellate Division, recognize the potential for publication. Offer a holding.

Above all: avoid ad hominem attacks. We expect decorum and professionalism. The burden of advocacy does not justify personal invective.

Judge Schwartz’s View

You are walking into a room where the judges already know your case. They may have questions. Welcome those questions. We are testing ideas, not arguing with you.

Sometimes the best oral argument is the one where you speak the least. Listen carefully. Engage. Be flexible.

Know what relief you seek. Be ready to teach us something we do not know—especially if your case involves a complex or emerging issue.

Use the opportunity to help us craft the opinion. Think about the rule or standard you want us to adopt. If your phrasing is clear, we may well borrow it.

Prepare your client for what success looks like: it may involve interruptions, hypotheticals, and less speechifying than they expect. That’s not a failure. That’s effective advocacy.

Certification and Inter-Judicial Dialogue

Judge Schwartz on Certification

When we face a novel question of New Jersey law, our Court may certify the issue to the Supreme Court of New Jersey. This requires us to issue a formal opinion-like document identifying the question but withholding any factual application.

In *Sun Chemical Corp. v. Fike Corp.*,¹ we asked whether claims under the Consumer Fraud Act were barred when the underlying conduct was covered by the Product Liability Act. The New Jersey Supreme Court accepted certification, answered the question, and we reversed and remanded. The case later settled.

This mechanism reflects federal-state comity. It is used rarely and with care.

Justice Fasciale on Certification

When we accept a certified question from the Third Circuit, we resolve the legal issue presented. We then draft an opinion and then the Third Circuit resumes jurisdiction and adjudicates the appeal.

These dialogues promote clarity in unsettled areas and reflect cooperative federalism at its best.

Conclusion: Advocacy in Distinct Judicial Contexts

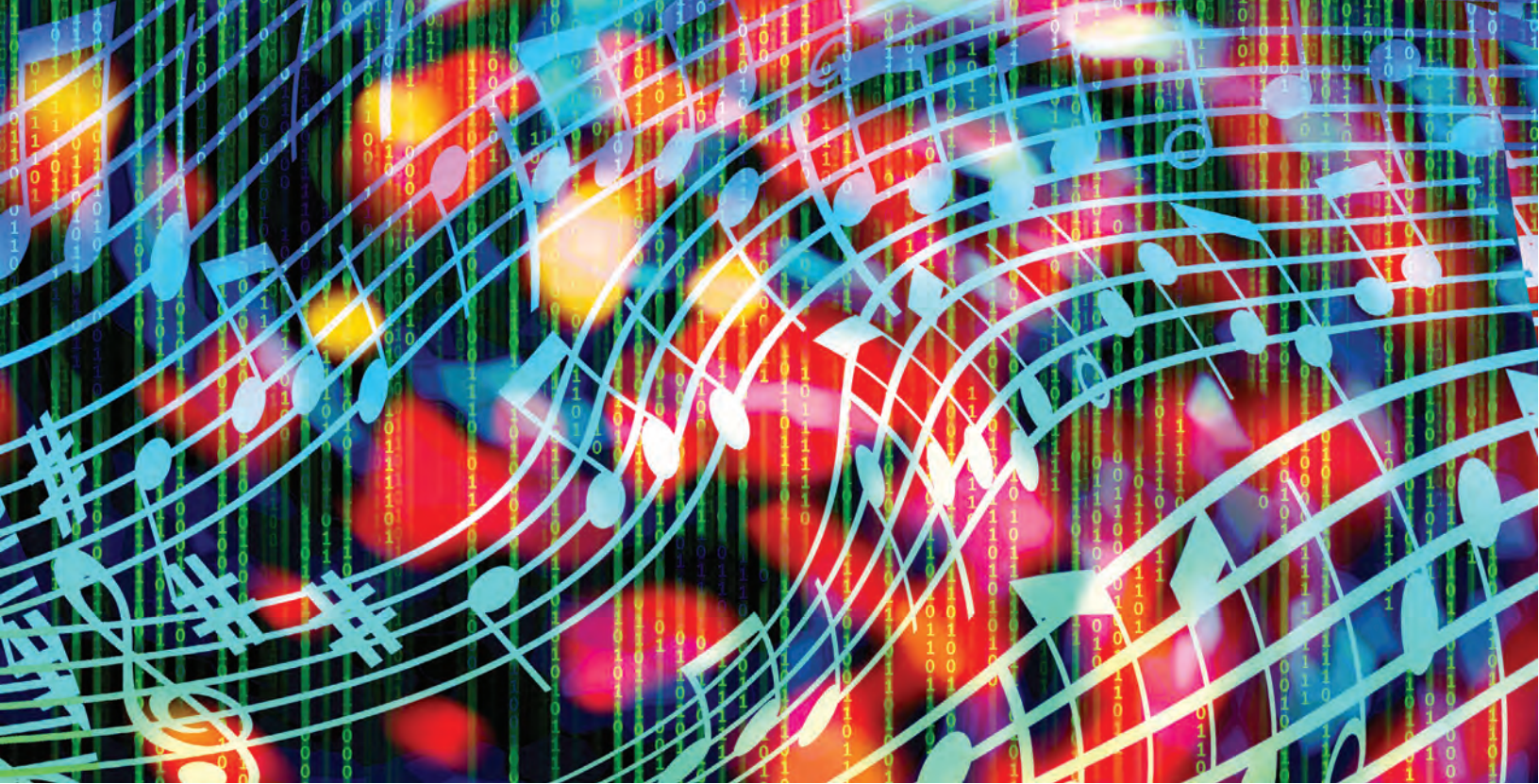
Each appellate court operates under its own norms. The Appellate Division involves extensive pre-argument coordination. The Supreme Court of New Jersey relies heavily on live deliberation. The Third Circuit emphasizes panel diversity, procedural rigor, and internal discretion.

Yet across these forums, the essentials of great advocacy remain constant: clarity, candor, command of the record, and a respect for the institutional role of the Court. Know the court you are in. Adapt your presentation to its culture. And above all, be prepared long before the presiding judge says, “Counsel, you may proceed.”■

The substance of this article is taken directly from Justice Fasciale and Judge Schwartz’s presentation at the New Jersey Institute for Continuing Legal Education 2025 Multicounty (Mass Torts) Litigation Forum, a program organized by U.S. District Court Judge Brian Martinotti and Chris Placitella. The program is available on demand at njsba.com/product/multicounty-mass-torts-litigation-forum. Learn more about NJICLE programming at njicle.com.

Endnote

1. 981 F.3d 231 (3d Cir. 2020)



Striking a Chord with Innovation

Navigating the Patent Eligibility of AI Music Generation Tools

By Jayla E. Harvey



JAYLA E. HARVEY is an attorney at Lerner David LLP, where her practice focuses on patent litigation and prosecution, including software-based and machine learning technologies. She earned her B.S. in biology with a minor in chemistry from Howard University and her J.D. from Rutgers Law School. Jayla's background in computational biology and teaching enables her to communicate complex technical and legal issues with clarity and precision.

The New Sound of Innovation

The music industry is undergoing a digital renaissance, driven largely by the proliferation of artificial intelligence tools capable of composing, arranging, and producing complex sonic landscapes.¹ From generating high-energy beats for hip-hop artists like French Montana² to producing full orchestral scores, AI music generators like Suno and Soundraw³ are becoming mainstream, offering artists and consumers new ways to interact with sound. Viral tracks, such as “Heart on My Sleeve” which mimics the voices of Drake and The Weeknd, have showcased the potential for AI to captivate mass audiences.⁴

As AI adoption accelerates, a complex set of intellectual property (IP) challenges arise.⁵ While much public discussion has focused on whether the outputs of the AI tools can be copyrighted,⁶ the greater challenge for innovators lies in patenting the technology that powers these tools. Patent law determines who will ultimately profit from these innovations, and a strong patent portfolio may often be worth more than the songs these tools produce.⁷ Understanding the eligibility landscape for these generative AI tools is crucial to protecting their underlying technology.⁸

Behind the Beats: How AI Music Generators Work

Modern AI music generation systems rely primarily on machine learning algorithms that analyze vast musical datasets.⁹ These systems, which typically use deep learning models, identify patterns in melody, rhythm, harmony, and production style. The systems then use those identified patterns to generate new compositions in diverse styles.¹⁰ Users typically initiate the process by entering natural language prompts that specify the desired genre, mood, instrumentation, or tempo.¹¹

While most AI music generators rely on conventional computing, emerging tools are trending toward incorporating quantum machine learning. For instance, Moth's platform Archaeo uses Quantum

output by the tools, which is governed by copyright,¹⁶ and ownership of the AI tools that created it, which is governed by patent law.¹⁷

The U.S. Copyright Office and a recent court decision¹⁸ have established a clear legal boundary: works created *entirely* by AI, without direct human authorship, are ineligible for copyright protection.¹⁹ As copyright exists to protect and reward human creativity, purely AI-generated tracks are often placed in the public domain.²⁰

However, if a human musician provides meaningful creative input, such as editing melodies, writing lyrics, or arranging structure, that human contribution may qualify for copyright protection.²¹ For musicians leveraging these generative AI tools, the legal focus has

reviewed to decide whether the invention qualifies for patent protection.²⁶

The United States Patent and Trademark Office's (USPTO) Subject Matter Eligibility guidance is used to analyze claims involving AI and other computer-implemented inventions, applying the Supreme Court's two-part *Alice/Mayo* framework.²⁷ The framework focuses on two core questions:

1. First, is the subject matter the type of subject matter that Congress has designated as patentable?²⁸
2. Second, if the answer to the first question is yes, do the claims amount to more than just an excluded idea?²⁹

Excluded ideas include abstract concepts, mental steps, and mathematical concepts.

The incorporation of quantum machine learning illustrates that the tools for generating music are evolving as rapidly as the music they produce.

Reservoir Computing (QRC).¹² Unlike standard generative AI tools, which may generate songs from scratch, Archaeo learns from small samples from a specific artist, whom it then helps to make a new song.¹³ This advanced method uses the unique properties of quantum computers to learn subtle, complex patterns in music faster with fewer examples than traditional AI systems.¹⁴ The incorporation of quantum machine learning illustrates that the tools for generating music are evolving as rapidly as the music they produce.¹⁵

Rights and Rhythms: Distinguishing Copyright vs. Patent

Before examining patent eligibility of the generative AI tools, it is essential to distinguish ownership over the music

shifted toward documenting the creative process and demonstrating human-AI collaboration to secure copyright rights over the resulting composition.²²

Setting the Legal Tempo: The Alice/Mayo Framework

For the developers of AI music tools, the focus shifts from ownership of music output by the tools to protection of invention, which are the algorithms and systems behind the music.²³ Patent law governs this protection, and patent practitioners must navigate complex subject matter eligibility challenges under 35 U.S.C. § 101.²⁴

The specific statements that define the scope of the invention and what aspects are legally protected and enforceable are called the claims.²⁵ The claims are

To be eligible for a patent, the invention, as defined by the claims, must apply the excluded idea in a practical, concrete, and technological way, such as by improving how a computer functions or by solving a recognized technical problem.³⁰

The Discord: Why AI Music Tools Face Eligibility Challenges

AI music tools frequently involve concepts that courts deem abstract, such as mental processes, mathematical concepts, and certain methods of organizing human activity.³¹ Generative AI often touches on all three, making the second question the critical battleground.³²

Generative music AI tools are designed to automate tasks traditionally performed by a human composer, such

The Federal Circuit has found claims ineligible when they describe a methodology that is fundamentally an improved mathematical process rather than an improved technological process.

as arrangement, melody creation, and orchestration—all inherently complex cognitive tasks.³³ If patent claims are drafted too broadly, they risk being deemed an ineligible as “mental processes” that could be performed in the human mind, or “mathematical concepts” that merely calculate relationships between notes.³⁴

Consider a hypothetical claim for a method of generating a musical composition using an AI music tool:

A method for generating a musical composition, comprising:

- receiving a user input defining a desired mood and genre;
- automatically calculating and selecting a sequence of notes and rhythms based on said input using a neural network; and
- outputting an audio file.

The step of “automatically calculating and selecting a sequence of notes...” could be characterized as an abstract mental process of “composition” or a “mathematical concept” (e.g., calculating relationships).³⁵ Merely using AI tools to generate the composition faster or more accurately is typically seen as improving the abstract idea of composition itself, not the underlying technology.³⁶ The Federal Circuit has found claims ineligible when they describe a methodology that is fundamentally an improved mathematical process rather than an improved technological process.³⁷

Finding Harmony: Integration into a Practical Application

If a claim is deemed an abstract idea, to be patent eligible the claimed invention must integrate that abstract idea into a practical application by imposing a meaningful limit on the abstract idea.³⁸ The most powerful way to demonstrate this integration is by showing that the claimed invention provides an improvement in the functioning of a computer or an improvement to another technology or technical field.³⁹ This is often interpreted as providing a “technological solution to a technological problem.”⁴⁰

A central challenge is ensuring the patent claims focus on a specific asserted improvement in computer capabilities rather than merely using a computer as a tool for an abstract idea.⁴¹ Claims that rely on generic computer components—for example, a standard processor or memory—without explaining *how* those components are improved are usually considered ineligible for patent protection.⁴² Making a mathematical calculation more accurate, for example, still only improves the math, not the machine.⁴³

To qualify, the invention must demonstrate a technological improvement, not just an improvement in the abstract idea itself.⁴⁴ An eligible claim must show how the AI system’s unique structure provides concrete technical benefits, such as reducing computational load, improving resource efficiency, improving memory requirements or database functionality, such as a logical structure for storing and retrieving

model data, or solving a specific, non-generic technological problem.⁴⁵ If a claim connects the abstract idea to a specific, tangible technical improvement, it moves beyond simply applying AI and becomes a genuine innovation that advances technology itself.⁴⁶

For AI music generators, this means claims must detail how the AI’s structure or process improves the technology itself, rather than simply claiming the musical output it creates.⁴⁷ For example, a hypothetical claim that defines an AI tool specifically configured to analyze and separate desired speech signals from background noise would likely be eligible because it claims an improvement in the technical field of audio signal processing.⁴⁸ This mirrors the case *McRO, Inc. v. Bandai Namco Games America Inc.*, where claims related to a rule-based system for animating lip synchronization were deemed eligible because the particular rules enabled the automation of specific animation tasks that previously could not be automated, thereby improving the existing technological process of computer animation.⁴⁹ Based on this reasoning, the eligibility of the hypothetical claim directed to analyzing and separating speech signals from background noise likely hinges on the ability to demonstrate an improvement in the underlying *hardware* or *signal processing* would be more likely eligible.⁵⁰

Conclusion: Composing a Patentable Future

It is important to keep in mind that

subject matter eligibility is just one of several hurdles to patentability. The invention must still satisfy the other requirements for patentability, such as utility, novelty, inventorship and double patenting, before protection is be granted.⁵¹

For professionals advising clients in the rapidly evolving music technology sphere, the IP landscape begins with a careful segmentation: copyright for protecting the song⁵² and patent law for protecting the system that made it.⁵³ To strike the right note with the USPTO, developers must claim how their AI advances the art of computing, not just how it generates art. ■

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Step 1: Determine whether the claimed invention falls within one of the statutory categories (process, machine, manufacture, composition of matter).

Step 2: If the answer to step 1 is yes, assess whether the claims are directed to a judicial exception (abstract idea, law of nature, or natural phe-

nomenon). Judicial exceptions categories defined by case law that do not inherently contain patent eligible subject matter.

Step 2A, Prong One: Does the claim recite a judicial exception (e.g., a mathematical concept, method of organizing human activity, or mental process)?

Step 2A, Prong Two: If so, does the claim integrate the exception into a “practical application,” such as improving computer functionality or another technology?

Step 2B: If still directed to an exception, do the additional elements amount to “significantly more” than the exception itself, i.e., more than well-understood, routine, or conventional activity?

Manual for Patent Examining Procedure § 2106, Sect. III (Fed. Reg. ed. 2024) (hereinafter MPEP §2106).

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37. *Recentive Analytics, Inc. v. Fox Corp.*, Case No. 2023-2437 (Fed. Cir. 2025); *Koninklijke KPN N.V. v. Gemalto M2m GmbH*, 942 F.3d 1143, 1150 (Fed. Cir. 2019); *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1339 (Fed. Cir. 2016).

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43. *In re Bd. of Trs. of the Leland Stanford Junior Univ.*, 989 F.3d 1367, 1372-1373 (Fed. Cir. 2021).

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particular rules to automate a specific process that previously could not be automated).

46. 2019 Revised Patent Subject Matter Eligibility *supra* note 30.

47. *Id.*

48. *Id.*

49. *McRO, Inc. v. Bandai Namco Games America Inc.* at 1302-1303; *see also* the recent decision in *Ex parte Desjardins* (Application 16/319,040), which related to sequentially training machine learning models, exemplified a successful approach. The claims were eligible because they reflected an improvement to how the machine learning model itself operates, allowing it to “effectively learn new tasks in succession whilst protecting knowledge about previous tasks” (“catastrophic forgetting”), thereby reducing storage capacity and system complexity.

50. *McRO, Inc. v. Bandai Namco Games America Inc.* at 1302-1303.

51. MPEP § 2106.

52. COPYRIGHT AND ARTIFICIAL INTELLIGENCE *supra* note 16.

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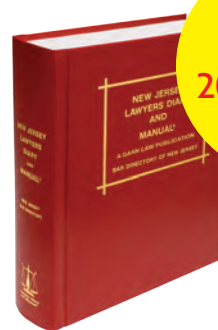
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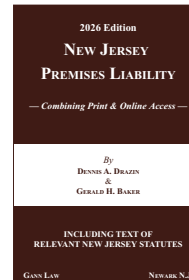
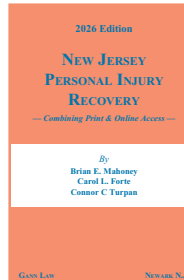
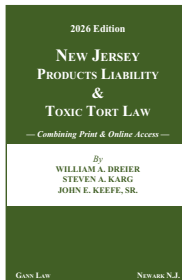
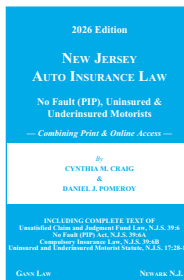
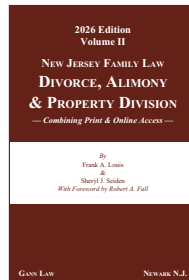
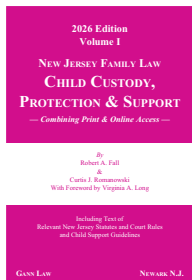
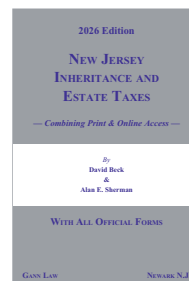
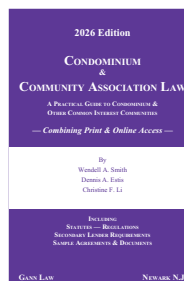
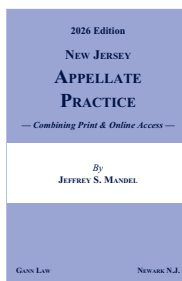
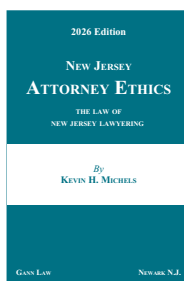
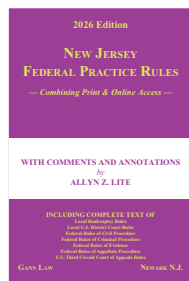
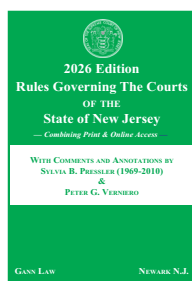


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Technology, Online Culture Provide New Challenges for Practicing Responsibly

By Bonnie C. Frost



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When you hear the words “social media,” what do you think of? Facebook? TikTok? X? Dating sites? These are just some of the platforms where people share and consume content online. The internet and electronic devices have replaced print media. People are obsessed with social media because of its powerful effect on the brain’s reward system, leading to a desire for instant gratification from likes, comments, and shares. The opportunities to connect with, and unfortunately to harass, others by using our social media platforms are infinite. Lawyers are human and are not immune from temptations that lurk on the internet. However, a lawyer’s online activities, if unrestricted, can result in discipline affecting their livelihood.

The first published New Jersey ethics case dealing with the use of the internet arose from a lawyer’s staff member using Facebook to find information about an adverse client. It is *The Matter of John J. Robertelli*¹ issued in 2021. This opinion, like many ethics opinions, deals with behavior that occurred many years prior to the court reaching the issue of discipline and, thus, the case may seem factually outdated; however, the principle is not.

In 2007, Robertelli represented a police officer in a personal injury lawsuit filed by Dennis Hernandez. Robertelli asked his paralegal to search the internet for any information about Hernandez that could be used against Hernandez in the lawsuit.

The paralegal downloaded postings which showed Hernandez wrestling, which Robertelli believed had occurred after the accident which was the subject of the litigation. At some point, she was cut off from “private” access to Hernandez on Facebook. Robertelli, therefore, gave his paralegal permission to ask Hernandez to be her friend which, if he accepted, would permit her to monitor Hernandez’s public Facebook pages.

At the time of the 2008 ethics hearing, Robertelli did not know much about Facebook. When he asked his paralegal to

that they must educate themselves about commonly used forms of social media” to avoid the scenario that arose in this case.²

Fast forward to the present day. The Administrative Office of the Courts issued a Notice to the Bar on April 2, 2025,³ advising that there will be a continuing legal education requirement for all licensed attorneys (one credit for every two-year reporting cycle) in technology-related subjects. The purpose of this requirement is to “strengthen awareness and improve practices of attorneys

Arnett to resolve all claims arising from the purchase of the property.

Three days after the settlement, Arnett began sending emails to Redfin about an alleged broken window. After several weeks of emailing had elapsed, she then sent emails to the seller’s attorney threatening a lawsuit and demanding \$101,824 to settle her claims. In addition, Arnett enlisted her mother to try to post a negative review of Redfin realtors on Realtor.com, using information relating to Arnett’s purchase and threatening legal action within the review.⁵

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monitor Hernandez’s Facebook page, he had no understanding that his paralegal was communicating directly or indirectly with Hernandez, an adverse party represented by a lawyer. He believed the information the paralegal provided was public information and, conversely, the paralegal who had experience in social networking, did not understand that Robertelli’s request might involve a violation of the disciplinary rules.

This matter focused on whether an attorney may communicate with a represented party about the subject of the representation through social media or any other manner, either directly or indirectly, without the consent of the party’s lawyer in violation of RPC 4.2. Showing some leniency given the newness of social media, the Supreme Court dismissed the discipline charges against Robertelli stating that a lawyer should “know where ethical lines are drawn and

relative to the risks posed by artificial intelligence and other emerging technologies.” It is clear that lawyers now must know much more about the internet than Robertelli did.

Since *Robertelli*, the circumstances under which lawyers have received discipline involve how they use their phone, their computer, or the internet to engage in harassing behavior. In a 2025 case, *In the Matter of Jacqueline Arnett*,⁴ Arnett and her husband entered into an agreement to purchase a residential property. Arnett repeatedly asked for monetary concessions even though a home inspection and multiple walk-throughs verified that defects she alleged were not present. After the sale closed, Arnett continued emailing Redfin, the listing realtor, and the seller’s attorney about defects, which she alleged were not disclosed. Finally, Redfin and Arnett entered into an agreement where Redfin would pay \$3,200 to

Even though Redfin sent a cease-and-desist letter to Arnett, 20 days later, she commented on five of the seller’s agent’s posts on Instagram concerning the property purchase. All five comments were substantially similar to the language her mother had used in the negative review of Redfin on Realtor.com. When pressed, Arnett advised that she deleted the posts right after she posted them, which turned out to be untrue. Arnett received a censure for her misconduct.

Another recent case demonstrates how conduct, using one’s ability to communicate via email or post on the internet can wreak havoc on someone’s life. *In the Matter of David Waldman*,⁶ Waldman and Jane Doe dated for four months in 2014. After they broke up, Waldman began a four-year-long course of conduct during which he sent hundreds of harassing and threatening emails to Doe, her family, and her employer. He created

various blogs and posted complaints about the breakup, described psychotropic medications she took and repeatedly threatened violence against her. He changed email addresses to obscure his identity. He sent Doe text messages and emails using different cell phone numbers to hide his behavior.

In 2014, he was charged with aggravated harassment and was prohibited from contacting Doe through any means including email and social media. Eight days later, Waldman again began his harassing campaign using the pseudonym of "Robert Roma." In addition to email and text messages, he created a series of blogspot webpages featuring lengthy posts devoted to harassing Doe using other pseudonyms. In one blogspot post he said he wished Doe was dead. He sent an email to Doe's employer accusing her of drug use. The New York

court issued a second order of protection.

Notwithstanding the second order of protection, Waldman continued to harass Doe using at least four different blogspot pages. Beginning in February 2018 and continuing until he was arrested in May 2018, he used anonymous email services to send out additional harassing emails. He continued other harassing conduct as well. During the investigation of Waldman's criminal conduct, it was learned that Waldman, for four years, had used eight unique accounts to harass Doe. He was sentenced to prison for 50 months and three years of supervised release. The New Jersey Supreme Court suspended him for three years.

Although Arnett's and Waldman's behavior was extreme, the cases demonstrate how one's presence on the web, left unchecked, can validate an irrefutable

case for misconduct resulting in discipline. These cases remind us that while social media may offer instant gratification and boundless connectivity, its misuse, especially by legal professionals, can have lasting ethical and professional consequences. ■

Endnotes

1. *In the Matter of Robertelli*, 248 N.J. 292 (2021).
2. *Id.* at 319,30.
3. Censure. Notice to the Bar dated April 2, 2025.
4. *In the Matter of Jacqueline Arnett*, 261 N.J. 517 (2025).
5. See Disciplinary Review Board decision, page 4.
6. *In the Matter of David Waldman*, 253 N.J. 4 (2023).



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How Litigation Turned into a Documentary, Sparking Advocacy for Social Change



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By Veronica J. Finkelstein



In the age of true crime and exposé journalism, the line between legal advocacy and documentary filmmaking is increasingly blurred. But *No Country for Old People*, a three-part docuseries now streaming on Amazon Prime Video, doesn't just tell a story—it demands systemic change. Directed by Susie Singer Carter and featuring former federal prosecutor Rick Mountcastle, the series chronicles the final months of Singer's mother's life in a five-star nursing home, revealing a harrowing tale of neglect, isolation, and institutional failure.

Carter's mother, Norma, who hailed from Asbury Park, was diagnosed with Alzheimer's disease 16 years before her death. Carter became her mother's caregiver and experienced firsthand the stigma associated with cognitive decline and aging.¹ When Norma's care needs exceeded what Carter could provide at home, Norma was moved to a facility certified by the Centers for Medicare & Medicaid Services as top-tier. But what unfolded during the COVID-19 pandemic was anything but exemplary. Norma was confined to her room for months, deprived of meaningful human contact, and subjected to prolonged neglect. She became severely undernourished, developed untreated pressure wounds, and was left in soiled clothing for extended periods. Her cries for help went unanswered. The vibrant woman was reduced to a shell of herself—isolated, voiceless, and suffering.

Carter considered legal action and reached out to Mountcastle, who attempted to connect Carter with someone who could handle the case. But even finding an attorney was a challenge. As Mountcastle explains, "Traditional lawyers tend to value cases based on medical expenses and lost wages. For the vast majority of people who are in those kinds of facilities, there are no real medical expenses apart from what is paid by Medicaid and Medicare. These people are retired; there are no lost wages." Carter met with a series of attorneys. Each declined to take the case.

Mountcastle encouraged Carter to use her background as a filmmaker to illustrate the damages to attorneys. "I suggested to her that as a filmmaker, she might be in a position to show pain and suffering in a very compelling way." He urged her to document Norma's life before and after admission to the facility. Carter did. The resulting video was devastating. Carter sent it to an attorney and immediately received a call back. "I was going to watch five minutes," the attorney said. "Instead, I watched all two hours." The attorney agreed to take the case.

But Carter wasn't done. Both she and Mountcastle realized that the footage could become something bigger than evidence for a single legal case—it could become a documentary. As Carter notes, people don't understand or believe how bad things can be for vulnerable nursing home residents—and "a picture is worth a thousand words."

Carter continued to film, transforming her footage into a documentary that captures not only Norma's decline but also the broader failures of the long-term care industry: chronic understaffing, the use of chemical restraints, and a lack of meaningful oversight. Mountcastle supported her efforts. "I spent a career handling cases—one case after another. They each had an impact, but the impact was small. There's a whole system out there that clearly is not working properly, and something needs to be done to change the system."

The reaction to the documentary has

shown that Norma's experience was not an anomaly. As Carter notes, "If you go look on Amazon at the reviews—they're not typical. They're people pouring their hearts out, saying something similar happened to their family member." Strangers email her, thanking her for bringing the abuse out into the open.

Since its release, *No Country for Old People* has sparked conversations nationwide. Advocacy groups have cited it in campaigns, and viewers have shared their own stories of neglect and abuse. Carter joined with other advocates to found the Respect, Oversight, Advocacy, and Reform for long-term care movement. The ROAR movement is gaining traction, with volunteers mobilizing to demand better staffing, transparency, and accountability.

Carter and Mountcastle hope the film will lead to legislative change. Mountcastle notes, "We're not underplaying the importance of the legal system, but we're looking at the bigger picture. Nothing has changed in 50 years. And what we're trying to do with the film is to change people's attitudes so the next generation that is going to inherit these problems understands what they're dealing with and can better deal with this problem."

No Country for Old People is more than a documentary. It's a legal intervention, a cultural critique, and a moral imperative. By turning a case into a story, Carter and Mountcastle have reframed elder care as a human rights issue—and invited the public to act. As Carter notes, the time to act is now: "This is an equal opportunity crisis for everybody." ■

Endnote

1. That experience inspired Carter to direct the short film *My Mom and the Girl* in an effort to challenge the stereotypes surrounding dementia and to humanize those living with it.

ANALYSIS

Fact or Fiction: Women Lawyers on Television

By Lynda Hinkle

The first pop culture lawyer I remember seeing popularized on network television was *Ally McBeal*. There were others that came before but none so vivid, so fully drawn as a human being (as opposed to a sterile instrument of justice or speedy bridge between plotlines) as the extremely neurotic and troublesome character of Ally McBeal.

In some of the very first lines of dialogue in the show, Ally quits her job over sexual harassment:

Ally (to her boss): Mr. Croce, I'm not comfortable with the way you touched me just now.

Mr. Croce: Oh, come on, Ally...

Ally: Don't "oh come on" me. I'm serious.¹

Although Ally McBeal is a fictional character, this situation is all too familiar. Studies show a high percentage of female lawyers have experienced sexual harassment, with some reports citing rates as high as 50%.² Indeed, depictions of female lawyers in pop culture often mirror real issues faced in the profession.



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Family or Career?

Despite this serious beginning, perhaps the most notorious and memorable images from *Ally McBeal* feel a bit unserious—those of the dancing baby. The dancing baby or the “oogachacka baby” was a well-known internet meme of a 3D-rendered baby engaged in a bizarre cha cha dance. McBeal begins hallucinating this baby everywhere. The baby is a visual representation of three things: her internalized anxiety about her biological clock being at war with her career ambitions, her continual difficulties with interpersonal relationships, and her fruitless search for balance and happiness. Is she mad? Or is she just having a particularly vivid reaction to the real-life conflicts of women lawyers in our culture?

In an American Bar Association study, they report that 60% of mothers in law firms felt that they were perceived as less committed to their profession. Also, 22% of those mothers surveyed (compared to 3% of fathers) were advised by colleagues to put their career on hold.³ Even though women now make up 49.4% of the legal profession, the consequences of personal choices around motherhood especially remain heavily disproportionate because of cultural expectations.⁴

Sexualizing Lawyers On and Off Screen

Ally McBeal’s experience of sexual harassment also echoes the sexualization of women lawyers in other televised depictions. For example, in the highly entertaining but deeply conflicting series *Boston Legal*, every female lawyer, from the empowered female partner Shirley Schmidt, brilliantly played by Candice Bergman, to the parade of female associates find themselves the target of the attention of the male partners and associates. This is especially true of the shockingly out-of-pocket Denny Crane (William Shatner) and Lothario Alan Shore (James Spader). Shore has an ongoing relationship with Tara Wilson who

begins as his paralegal and eventually becomes a lawyer in the firm. In fact, Wilson testifies in support of Shore in a sexual harassment case brought against him by another female attorney on the companion show *The Practice*:

Attorney Noel Burke: I believe you’ve witnessed Mr. Shore committing acts of sexual harassment in the workplace? Have you not?

Tara Wilson: I have.

Attorney Noel Burke: In fact, you once complained to Eugene Young that he repulsed you. That, that you thought he was vulgar?

Alan Shore (representing himself): I believe the witness said she had vulgar thoughts that involved me. There’s a difference there. Please rephrase.⁵

Humorizing Shore’s frank abuse of his power is effective television, and the viewer can’t help but be charmed by him even when troubled by him—I am! But it makes it so easy to forget that sexual harassment is a serious problem that hampers or even cripples the careers of an alarming number of female lawyers.

The International Bar Association did a global study in 2019 that found that one in three women were sexually harassed in the legal workforce.⁶ It also identified a chronic underreporting with 57% of bullying cases and 75% of sexual harassment cases going unreported, presumably because of fear of reprisal. Another study by Women Lawyers On Guard found that 86% of incidents were not reported and that there were significant barriers to reporting, specifically, “either the persons harassed did not know to whom to report the incidents, or the person they were supposed to report to was the actual harasser. These respondents believed that they would either lose their job or opportunities for promotion; they thought the employer would not believe them, or worse, that they would not do anything about it.”⁷ *Boston*

Legal presents a fictionalized depiction of the culture that such fears create a culture where men are centered and women either play along and are successful or are unimportant. Such was the case for the female attorney suing Alan Shore, whose character appeared as a plot device in one or two episodes before disappearing.

Cementing Power and the Conflict of Balance

Presumably, the older women lawyers on television who have made it up the partner track have found a way to navigate all these challenges. Diane Lockhart of the television show *The Good Wife* and its spinoff *The Good Fight* embodies the stereotype of the cool, empowered female law partner. So does Jessica Pearson of the television show *Suits*. Despite the prominence of powerful women partners in the television sphere, women and people of color represent only 27.76% of law firm partners in the United States. This is not because there is no pool to choose from as 50.31% of law firm associates are women or people of color.⁸

Lockhart, played by Christine Baranski, is known for her intellectualism and championship of liberal causes. Pearson, played by Gina Torres, is known for her intense gamesmanship in law firm politics. Both are constantly dressed so immaculately that it appears they must have a hair and makeup team tending to them before their arrival at work each day. Both characters get complicated love interest plots in their respective television shows.

It is clear from their wardrobes they are doing well financially. But emotionally, they struggle a bit. Lockhart falls in love with a conservative, Marlboro-man kind of guy named Kurt McVeigh whom she has an on again off again romance with until they finally marry—but their relationship does not continue in a smooth fashion as both end up having affairs at different points (but forgiving one another). She has no children, and

One study found, “Male attorneys expressing anger were more likely to be viewed positively (as influential, commanding, and effective), whereas female attorneys expressing anger were more likely to be viewed negatively (as shrill, overly emotional, and ineffective).”

she says in one episode, demonstrating her internal conflict, “Most people think I didn’t want kids, and that’s why I made my work my life. What they don’t realize, it’s really just the opposite.”⁹

Pearson has a relationship with a former paramour who she winds up hiring (after he investigated her firm while working for the Securities and Exchange Commission). Their relationship is complicated both professionally and romantically—and those two things are fully intertwined. Pearson also doesn’t have children and does express at one point to Malone, in her spinoff series *Pearson*, that she may have some regret about choosing career over everything else: “I spent years doing nothing but making money and fighting to keep my name up on a wall. My life needs to be about more.”¹⁰ However, she also famously says, “caring only makes you weak.”¹¹

These complex relationships and conflicting feelings about the value of connection mirror the male characters on the show, who are consistently torn between their desire for intimacy and their unwavering dedication to work and career. By embracing traditionally masculine values and approaches, the show doesn’t challenge the system—it reinforces the idea that for women to succeed, they must conform to the same mold the system imposes on men.

However, at the same time women are penalized for that very thing in actual law firms. One study found, “Male attorneys expressing anger were more likely to be viewed positively (as influential, commanding, and effective), whereas female attorneys expressing anger were more likely to be viewed negatively (as shrill,

overly emotional, and ineffective).”¹² They are also uniformly compensated less no matter how they act—in 2024 there remained a 29% pay gap between female and male attorneys. ¹³As Jessica Pearson quips, “I’m saying that for women, the rules are different. You can’t be everyone’s friend and invite them to tea because warm means you’re weak. I wasn’t gonna be weak. But now the flip side to that is, if you’re strong, they think you’re cold.”¹⁴

Also, when it comes to relationships in the real world, 10% of women with a law degree are divorced versus 7% of men. Additionally, women lawyers are up to three times more likely to remain unmarried than their male counterparts.¹⁵ Although only 12.1% of men lawyers leave the profession within five years out of law school because of family, 20.9% of women lawyers leave for the same reason.¹⁶ The complexities of Lockhart’s and Pearson’s relationships do reflect a certain reality: for women lawyers, the tension between having traditional love relationships and a successful career can be overwhelming, forcing women to choose when men can often have both.

Conclusion

Ally McBeal said, “We’re women. We have a double standard to live up to.”¹⁷ Television projects images of female lawyers as it does with women in general—they are often either plot devices in the male gaze or extraordinarily well-dressed overapproximations of what a person can aspire to daily, running in high heels toward a double standard. Real women lawyers come in all shapes, sizes and clothing budgets. We sometimes have milk or coffee spilled on our suits, some-

times let sexist jokes fly just because we don’t feel like having the same discussion again, sometimes cry at our desks, and sometimes are brutal and cold. We are wildly successful, or viciously underpaid. We are happy, sad, angry—we are heroes, victims, and cogs in the machine. But when we turn on our televisions the one thing we can all share in common is that we’re going to see women lawyers reflected there that we probably will never be like but who will help define for people outside the profession who we should be, while we continue to be who we actually are. One thing is for sure though—don’t “oh come on” us; we’re serious. ■

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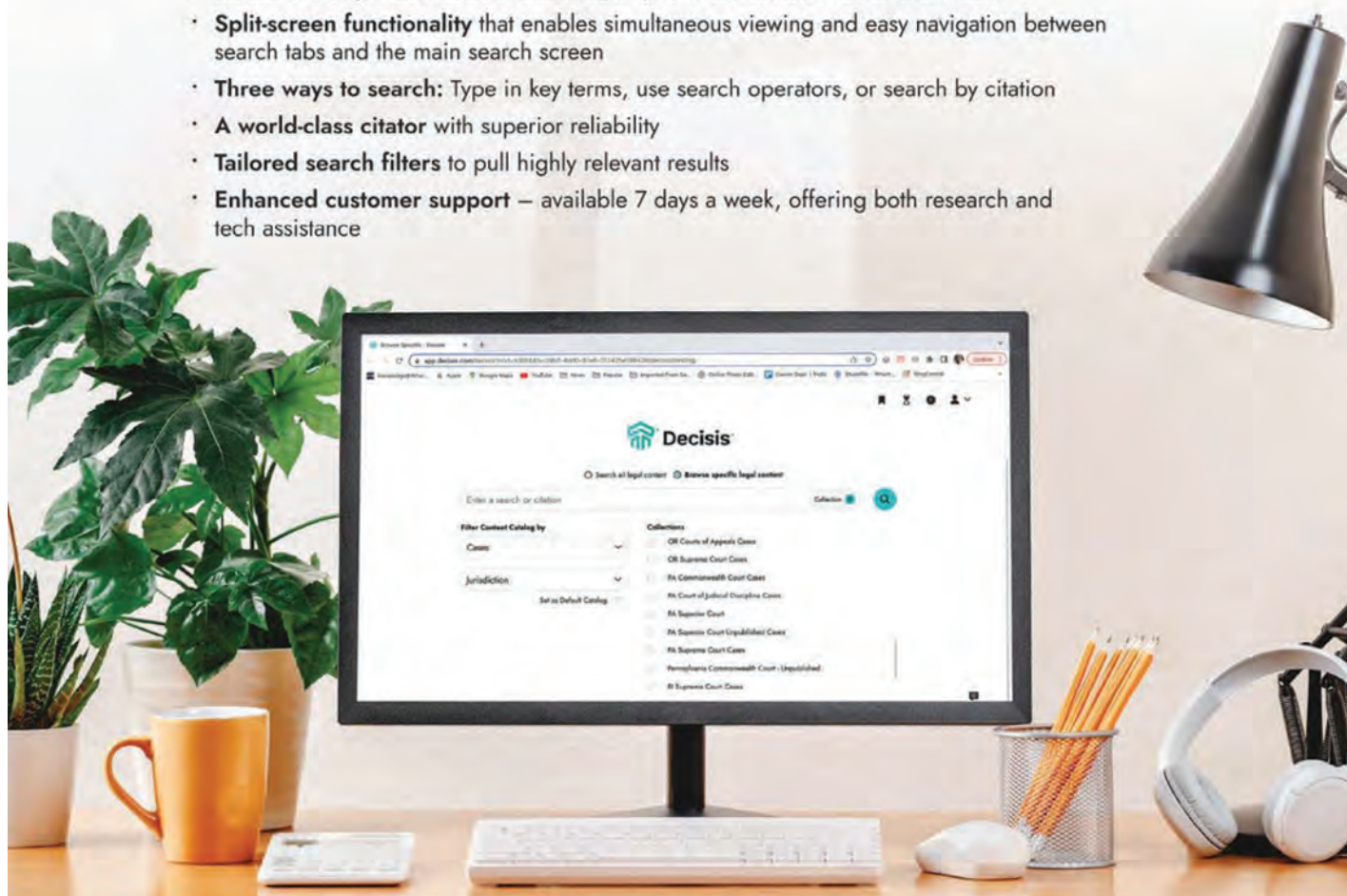
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From Grits to Greatness

What *My Cousin Vinny* Teaches Us About Winning

By Dominic Gianna

The film *My Cousin Vinny* has become something of a cult classic among lawyers—not because it’s humorous—but because it illustrates real principles of courtroom persuasion art and science. Why was a brash, Brooklyn-born, fast-talking, inexperienced personal injury lawyer, who had never tried a criminal case (and who had only recently passed the bar examination on his sixth try), so successful despite being hopelessly out of his depth in a south Alabama courtroom before a judge who wanted Vinny in jail?



DOMINIC GIANNA of Aaron & Gianna, PLC is a fellow of the International Society of Barristers, Regional Director of the National Institute for Trial Advocacy, author of *Winning in the Beginning by Winning the Beginning: Opening Statements* (Thomson/Reuters, 2025) and, first and foremost, a trial lawyer, persuasion science teacher and trial consultant with a national practice.

Why is Vinny so effective? The answer is that he never pretends to be something he is not. His thick New York accent, brash manner, and outsider status are part of his credibility. He doesn't imitate polished, southern lawyers; rather, he leans into his natural persona. From the jury perspective, he appears to be genuine and therefore, trustworthy.

The Plot

Two young New York college kids, William Gambini and Stanley Rothenstein, are driving their 1964 green Buick Skylark, with a white top, through rural Alabama on their way to college. After stopping at the Sack-o-Suds convenience store, they are mistakenly accused of robbing the store and murdering the store clerk. They are charged with first-degree murder and accessory to first-degree murder. Three eyewitnesses are prepared to identify their car and the boys. William Gambini hires his cousin, Vincent LaGuardia Gambini, to represent him. Vinny answers the call. He arrives in Alabama with his fiancée, Mona Lisa Vito, a tough, witty Brooklynite.

Stanley, on the other hand, hires a local defense lawyer.

Vinny's Authenticity

Somehow, Vinny finds his way, despite being hopelessly out of his depth. As the trial approaches, Vinny finds his footing. He uses his smart, common sense audience-centric approach, theme and sharp cross-examinations to mold the jurors' thinking and to see the weaknesses of the prosecution's seemingly fool-proof, "eyewitnessed," case. But mostly, Vinny is a success because he understands himself and recognizes his deficiencies. He is thoroughly authentic; a real person and a naturally humorous, honest advocate who uses his realness and his understanding of people to connect with a jury totally foreign to him. He even manages to get snickers and laughs from Judge J.C. Haller, the no-

nonsense presiding judge who asks Vinny "*what is a yute?*" Why is Vinny so effective? The answer is that he never pretends to be something he is not. His thick New York accent, brash manner, and outsider status are part of his credibility. He doesn't imitate polished, southern lawyers; rather, he leans into his natural persona. From the jury perspective, he appears to be genuine and therefore, trustworthy.

The Lesson: Authenticity beats polish every time. Jurors forgive quirks if they sense honesty.

Vinny's Theme

Vinny knows that he must tell a powerful story grounded in a theme that would resonate with his very Alabama jurors. His theme is—"*the witnesses are honestly mistaken.*" He portrays the local witnesses (including a local police officer, a trailer resident and a very sweet, kind older lady) as fallible humans, not bad people. Vinny builds the story that leads to only one conclusion—the boys are innocent because the evidence points to a different green car driven by the real perpetrators.

The Lesson: Jurors need a clean story they can repeat in deliberation. Themes like "*mistaken identity*" or "*rushed assumptions*" are easy to digest and resonate more than any abstract legal argument ever could.

Vinny was the Consummate Audience-Centric Advocate

Vinny understood that winning persuasion science and effective advocacy

depends upon being an audience-centered advocate. Audience-Centric advocacy is the ability to see, hear, and think from the perspective of the receivers, the listeners, the jurors. Vinny talks like a juror—not like a lawyer. He sees the world through their lenses—not filtered by the law or legal procedure. He puts himself into the position of the local jurors who know the eyewitnesses. Short questions, no jargon, human, and plain-spoken analogies ("*Are you sure about that?!*") are his tools.

The Lesson: Jurors are not law professors. They are not computers. They don't process information the way lawyers do. They react positively to the advocate who sees and hears the evidence the way they do. They respond best to simple, relatable explanations delivered in everyday language. Vinny embodies the essence of a consummate audience-centric advocate.

Vinny's Cross Examinations

Vinny's cross examinations were, in part, designed, written and molded by Dale Launer, the author of the book (the "script"), the director, Jonathan Lynn, an experienced British barrister, and the author of this article who acted as informal trial consultant. Vinny's cross-examinations are the heart of the film. He exposes weaknesses in perception (eyewitnesses' eyesight and vantage points). He highlights inconsistencies with simple, leading questions. He never over-complicates—he lets witnesses discredit themselves. Vinny never tries to embarrass them. He appreciates their humanness and shows respect for them, all the

while maintaining control and command of the cross.

The Lesson: Cross-examination is not examining crossly. Cross-examination isn't about speeches—it's about control, taking command, control and letting the jury see the truth emerge. The powerful cross-examiner reveals the truth, teaches the jury what to think, makes clear what the cross-examiner's theory is, and why that theory explains what happened.

Vinny Became the Master of the Facts

At first, Vinny was a mess—late, sloppy, completely devoid of understanding the court procedures. But as the pre-trial proceedings progressed, and as the trial proceeded, he learned the facts better than anyone in the room.

The Lesson: The great trial lawyer does not have to be polished at every procedural step—but must know the facts inside and out. Jurors trust a lawyer who has a command of the evidence. Jurors, from the moment the trial begins, look for the anecdote to deception. Jurors trust the lawyer who has command of the evidence. They don't expect perfection but they always reward persistence, honesty, and even improvement. Credibility is built moment by moment from the beginning to the very end. Jurors are human. They appreciate that people make mistakes. When Vinny's opening flops, he recovers later by keeping his cross-examinations razor-sharp. He learns the judge's preferences and works within them.

The Lesson: Great trial lawyers know the facts cold and adjust midstream. A case rarely goes as planned. The effective advocate recalibrates without losing confidence.

The Expert

Vinny knew that he needed someone to show, to teach the jurors that “*his case of mistaken identity holds water*.” Vinny was lucky. His fiancée, Mona Lisa, grew up in her father's garage. He knew that she would come across as an enthusiastic, unbiased teacher who could fill in the evidentiary gaps in his case. Somehow, Vinny had to prove that the boys' 1964 Buick Skylark was not the Buick Skylark that was seen screeching away from the Sack-o-Suds convenience store. Vinny had the perfect expert—his fiancée, someone that he knew could explain to the jury that the tire marks left by the perpetrators' car could not have been left by the 1964 Buick driven by his cousin and Stanley. Vinny knew, however, that Mona Lisa would have to convince local jurors why the local, honest, well-meaning eyewitnesses were flat-out wrong. Obviously, Vinny knew nothing of the *Daubert* case law. He knew only that Vito knew automobiles and she could explain automobile suspensions to this jury. Fortunately for Vinny, the prosecutor fell into the trap of challenging Mona Lisa without knowing about her garage-mechanic upbringing and background. Vinny knew, intuitively, that Federal Rule of Evidence 702 would fit his need—i.e., Mona Lisa was qualified by her training and experience to testify as an expert in automobile suspension and tire marks because of her experience in her father's garage. Her testimony: the boys' 1964 Buick Skylark, could not have made the tire marks at the scene because the Buick's suspension system would have left completely different tire marks. Mona Lisa talked the jurors' language,

albeit with a heavy New York accent. She saved the day.

The Lesson: Vinny understood what kind of expert his jurors needed. Choosing an expert requires more than choosing someone with a long CV, or with three degrees. The effective expert has to relate to the audience, must know the topic, must enjoy teaching. Vinny stepped back, moved out of the spotlight. Mona Lisa spoke the language of the jurors and taught an automobile science principle the jurors could, and would, understand and accept. Vinny, on the other hand, took on the role of a teacher's aide, guiding and molding the teacher's explanation.

Why Was Vinny So Effective?

Vinny was *relatable*—he spoke like a regular person, not a lawyer.

Vinny was *prepared*—he knew the facts better than any person in the room.

Vinny was *focused*—he zeroed in on the prosecutor's weaknesses by telling a story the jurors could understand and relate to.

Vinny was 100% *authentic*—his personality, humor and grit made him trustworthy.

Most of all, Vinny understood persuasion science—he knew that persuasion comes from the inside, that, to win, the message he was delivering (and selling) must match the message in the jurors' minds and hearts. Vinny understood that his jurors came to the case full of attitudes, beliefs and convictions about what probably happened, about his clients and the three eyewitnesses. He knew that his message had to make sense with the jurors' minds, sync with their

Vinny understood what kind of expert his jurors needed. Choosing an expert requires more than choosing someone with a long CV, or with three degrees. The effective expert has to relate to the audience, must know the topic, must enjoy teaching.

hearts. He understood that his theme had to go down easily, that his story had to argue his case for him, to them.

In short, Vinny, was born to be a natural courtroom advocate because he understood who and what he was, and intuited who, and what his jurors wanted and needed from him and his case.

Finale

The film *My Cousin Vinny* had the benefit of a very talented author, an experienced British barrister director, and an experienced trial lawyer who acted as an informal trial advisor to keep the trial scenes on track and as authentic as possible. Of course, the film starred two great leads—Joe Pesci (who had not been cast in the role originally. The author describes Vinny as 6-foot-4, 35 years old, and a tough New York Italian American), Marisa Tomei (who won an Oscar for Best Supporting Actress) and an all-star sup-

porting cast, including Fred Gwynne (the judge), Austin Pendleton (a New York character actor who played Stan's nervous local defense lawyer), Lane Smith (the prosecutor) and a group of fine local actors. The trial scenes were, for the most part, filmed in the Jasper County, Georgia courthouse and on set.

Thirty-three years have passed since Vinny's release. Unfortunately, many millennial and most Gen Z lawyers have never laid eyes on Vinny. *My Cousin Vinny* deserves watching by law school trial advocacy classes. Vinny is the best evidence that audience-centric advocacy, basic persuasion science and authenticity wins cases. No lawyer ever forgets the last line of Vinny's cross-examination of the "trailer man"—*"I'm finished with this guy."*

Vinny reminds us daily, that jurors don't need flash—they need truth, honesty, authenticity. Thorough prepara-

tion, clarity and the appreciation that it's not what the lawyer thinks that's important—it's only what the jurors think that counts—wins every time. Audience-centric advocacy is the key. Hopefully, Vinny will continue to teach trial lawyers of all generations how to be powerful advocates.

Take heart from Vinny. Jurors need reality, not performance in the courtroom. Anyone can earn jury trust by being honest, sincere, clear. Use humor carefully—naturally, never forced, and always be respectful of the court, the witnesses, the jurors, the adversary. *My Cousin Vinny* is one of the most legally accurate courtroom films ever made. It teaches that authenticity matters more than pretense, that a respect for the court system is non-negotiable, and that winners—like Vinny—win not by being slick, but by being real, relentless and thoroughly relatable. ■

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COMMENTARY

The View from the Couch A Trial Lawyer's Version

By Matthew James Troiano



MATTHEW JAMES TROIANO is a partner and chair of the Criminal Practice Group at Einhorn Barbarito, PC. Before joining the firm in 2018, he served as an assistant prosecutor in both Hudson and Morris counties, and ultimately in the role of chief assistant prosecutor for the Morris County Prosecutor's Office. A certified criminal trial attorney by the New Jersey Supreme Court since 2013, Matt represents clients in Superior and Municipal courts, handling charges ranging from homicide and sexual offenses to DUI and domestic violence.

On those nights when I can get home in time to sit on the couch and watch TV with my wife, which is limited in this life as a lawyer, she either is in the midst of, or starting a new show. And often times they are legal or courtroom dramas. You know them. We all know them. The characters change, but the stories more or less stay the same, whether in a movie or a TV show.

I have largely avoided these programs since becoming a lawyer, and even more so as I became more involved in criminal trial work. Whether it be frustrations with the improbable ways that criminal investigations are depicted on screen, or the unrealistic courtroom procedures that are presented as the norm, I often found myself unable to detach from my own real-world experiences and what is shown on the tube.

The basic reality is that what is on TV is not what happens in real life. The examples are endless. Police officers do not have ready access to DNA tests and databases in the back of their police vehicle. Arrestees don't automatically get their one phone call. Jury trials do not occur immediately after someone is arrested for a crime. Lawyers are bound by the rules of court and the rules of evidence, as opposed to a forum of "anything goes." Cross-examination doesn't often have the "gotcha moment." The courtroom players—judges, lawyers—don't usually know those involved—jurors, victims, witnesses, defen-

dants—much less have personal relationships. Lawyers aren't always so attractive, impeccably dressed, with high-end offices and expensive cars. What occurs in the law firm and courtroom TV setting is frequently distorted, including who says what, how they say it, what is allowed.

A few shows of late come to mind. One had a judge presiding over a trial that his child was secretly involved in. Another had a member of a jury panel sitting on a trial where he was actually the person who committed the crime.

All of these examples often make me shy away from such programming. But if I do watch, it typically leads to the common refrain of “it doesn't happen that way in real life” or “that would never happen.” These comments are met with a less-than-polite invitation to leave the room, or more often: “just watch the show and enjoy.” But it is hard to do when this is your life.

I acknowledge the difference between fact and fiction. I also acknowledge the need for entertainment that is not geared toward lawyers who have trial experience, which in and of itself is only a subset of lawyers. I also understand the importance of streamlining matters in the most entertaining and digestible way for the masses. That said, it can be difficult to watch.

This is not to suggest that all are cut from the same cloth. There are exceptions, both in the fictional sense, and those that are documentaries. Fictional programming that depicts lawyers is hit or miss. There were times in law school when the students would watch “My Cousin Vinny” for the value of oral advocacy, and for a—somewhat—fair depiction of courtroom procedure. I have always had a special place for *A Time to Kill* for similar reasons. More recently, the book-to-TV version of *Presumed Innocent* had great courtroom scenes.

One major exception for me has been the good fortune I have had in being involved in the making and telling of true crime documentary television

shows. These shows specialize in the telling of real-life stories, but in a way that is factually accurate, procedurally sound, yet entertaining to the audience.

My initial involvement in these programs began upon the conclusion of a high-profile murder case that I was involved in as the prosecutor. The case garnered significant media attention, both at the time of the crime itself, and during the murder prosecution. At one point, it made the cover of the *New York Post*. The trial, thankfully a success for the victim's family, led to the production of a number of true crime documentaries. More than anything else, I thought the shows did a tremendous job of telling the true and personal story of the young mother who was tragically and senselessly murdered, which left her loving family behind.

The more recent experiences have been in the form of a consultant, where I have been asked to comment on true life investigations and trials. This has involved providing commentary on cases that have happened throughout the country. Some recent, some as old as the 1890s (a certain woman who was accused of killing her father and stepmother with an axe). The production team's extensive efforts in researching, interviewing, and ultimately telling the stories in the most detailed and accurate ways was impressive to be just a small part of. Any viewer, regardless of legal background, could both learn, appreciate and enjoy what was being shown on television.

But there was one experience unlike any other. A true crime show wanted to follow a jury trial from start to finish. It was a high-profile murder trial, and I was the prosecutor. It involved a woman who killed her ex-boyfriend in her home. He was a retired police officer, which factored into the public attention it received. At first, the production was somewhat overwhelming. Cameras in the courtroom, technicians hidden throughout the room. Editors and pro-

ducers in the audience analyzing every word that was said, both on and off the record. The victim's family sitting shoulder to shoulder with the show's production team. This was a daunting experience. Constant scrutiny. The potential to fail on national TV. The potential to let down the victim's family in the most public way.

I objected strenuously at the outset, thinking that not only could this have a profound impact on the case, the witnesses, and potentially the jurors, but it could also impact the defendant. I saw no benefit to what I viewed as a spectacle. I saw a tremendous amount of downside. But it happened anyway. And to my surprise, the experience was unlike any other.

Despite my worry and apprehension, I found that the attention to detail, and the emphasis on explaining the technicalities of the law and procedure, to be extraordinary. Nothing was missed. Everything was digested with scrutiny and detail. The people involved cared about getting it right, regardless of the angle. The finished product was one where the audience could enjoy a good story, albeit terribly sad and emotional, but also learn accurate and detailed information about how the courtroom works, along with the players within. That product also told the story of the man who was killed, in ways that the courtroom cannot fully achieve. Had the outcome of the trial been different, my perspective may have as well. But justice prevailed, both in the courtroom and through the broadcast.

This is not intended in any way to stop you from watching your favorite show, nor is it to curry favor with the true crime showrunners. It is an advisement to not always believe that what you see on TV is what happens in real life, unless of course what happens in real life is accurately depicted on TV. Most importantly, it is an endorsement to get home from work early enough to sit on the couch with your loved one, regardless of what's on TV. ■



Animated About the Law

By Steven J. Eisenstein



STEVEN J. EISENSTEIN is a member of Lum, Drasco & Positan LLC in Roseland and is chair of the firm's business department. He is a member of the New Jersey State Bar Association Board of Trustees and is chair of the AI Committee, the By-Laws Committee, and on the editorial board of New Jersey Lawyer. He is the immediate past chair of the Business Law Section and president of the New Jersey Inn of Transactional Counsel.

Lawyers and law firms aren't always perceived as glamorous or heroic. Courtroom procedure is dense, case law is technical, and daily practice often involves drafting contracts or negotiating settlements rather than cinematic trials. Yet, in the pages of comic books and in the frames of anime, lawyers sometimes emerge as superheroes, villains, or satirical figures, offering both entertainment and cultural critique. These depictions matter because they shape public perceptions of justice, professional responsibility, and the lawyer's role in society.

Characters such as Marvel's Daredevil and She-Hulk, DC's Harvey Dent, or Capcom's Phoenix Wright engage with legal ethics, advocacy, and the tension between law and morality. They embody exaggerations, distortions, and sometimes surprisingly accurate reflections of the dilemmas faced by real lawyers.

We shall explore these portrayals, comparing them to real legal principles and identifying lessons about how society perceives lawyers through popular art.

The Lawyer as a Comic Book Character *Daredevil: Vigilantism and Confidentiality*

Matt Murdock, better known as Daredevil, is perhaps the most famous lawyer in comics. By day, he practices law in Hell's Kitchen, often representing vulnerable clients. By night, he takes justice into his own hands as a masked vigilante.¹

From a legal-ethical perspective, Daredevil presents several issues. First, there is the conflict between his duties as an attorney and his actions outside of court. The Model Rules of Professional Conduct prohibit conduct involving dishonesty, fraud, or misrepresentation, yet Murdock routinely violates criminal law in his side gig as a vigilante.² Even more problematic is his handling of client information. His dual identity sometimes tempts him to use confidential details obtained in representation to pursue criminal suspects as Daredevil. This tension illustrates, in dramatic fashion, the centrality of confidentiality and the dangers of subordinating procedure to outcome.

Daredevil also symbolizes the frustration lawyers feel with systemic injustice. When the courts fail, he resorts to extra-legal means. In this sense, the character resonates with lawyers who recognize the imperfections of the justice system but must resist the temptation to bypass it.

She-Hulk: Professional Responsibility Meets Satire

Jennifer Walters, cousin of Bruce Banner, is both a practicing attorney and the

superhero She-Hulk.³ Her stories often combine legal satire with superhero antics, providing one of the most sustained explorations of law in the Marvel universe.

Unlike Daredevil, She-Hulk's dual identity is public. She brings her superhuman persona into the courtroom, raising questions about professional decorum and judicial impartiality. Her comics have depicted trials involving superhero registration, intergalactic treaties, and even time-travel paradoxes. Beneath the humor lies commentary on real legal issues: jurisdictional complexity, the role of expert testimony, and conflicts of interest.

She-Hulk also lampoons the adversarial system. In one storyline, she represents comic-book characters suing their creators, a parody of intellectual property disputes.⁴ For lawyers, these stories are a reminder that issues of authorship, licensing, and copyright permeate creative industries, and that legal ethics must stretch to cover novel disputes arising from technological and cultural change.

Harvey Dent/Two-Face: Prosecutorial Power and Corruption

If Daredevil and She-Hulk embody the heroic lawyer, Harvey Dent—Gotham City's district attorney turned supervillain Two-Face—embodies the tragic fall. Once a crusading prosecutor, Dent's disfigurement and psychological break turn him into a criminal who decides guilt or innocence by the flip of a coin.⁵

Dent dramatizes the danger of prosecutorial power unchecked by accountability. His descent is extreme, both physically and mentally, but it underscores real concerns: selective prosecution, political ambition, and the potential corruption of justice by personal trauma or bias. For legal scholars, Dent represents the fragility of prosecutorial integrity and the fine line between guardian of justice and agent of injustice.

Journalism and the Rule of Law: Superman as Clark Kent

Although not a lawyer, Superman—through his alter ego Clark Kent—contributes to the discourse on law by embodying the journalist as watchdog. Kent, a reporter at the *Daily Planet*, and in later incarnations on TV, is committed to exposing corruption, ensuring transparency, and protecting the public's right to know.⁶

The legal relevance of Superman's profession lies in the constitutional importance of the press under the First Amendment. While Daredevil and She-Hulk symbolize lawyers working within or against the courtroom system, Clark Kent represents another vital participant in the ecosystem of justice: the press as a check on governmental power. His stories often involve investigative reporting that uncovers fraud, political malfeasance, or systemic abuse—issues that parallel the concerns raised by legal ethics and prosecutorial discretion.

For attorneys, Clark Kent highlights the symbiotic relationship between law and journalism. Lawyers rely on transparency and informed citizens for the legitimacy of democratic institutions, while journalists depend on legal protections for speech and press to fulfill their watchdog role. Including Superman in this discussion underscores that law is not only shaped by lawyers but also by the broader ecosystem of accountability institutions.

The Lawyer in Satire and Parody *Harvey Birdman, Attorney at Law*

Cartoon Network's *Harvey Birdman, Attorney at Law* reimagines a 1960s superhero as a defense attorney representing Hanna-Barbera cartoon characters.⁷ The show parodies legal practice, from absurd motions to exaggerated courtroom theatrics. Yet, its satire often cuts close to home.

Cases such as "Scooby-Doo and Shaggy being charged with marijuana possession" or "Fred Flintstone being sued for

workplace discrimination” lampoon both popular culture and the legal system’s handling of such claims. While outlandish, these stories highlight genuine legal themes: employment law, criminal defense, and constitutional rights. The series functions as a critique of how law intersects with everyday life, albeit filtered through comedy.

Law in Manga and Anime

Phoenix Wright: Ace Attorney

Although originating as a video game series, *Ace Attorney* has spawned manga and anime adaptations. Phoenix Wright is a defense attorney navigating a trial system where prosecutors are nearly invincible and defense lawyers are under constant suspicion.⁸

The series exaggerates courtroom procedure—cross-examinations last hours, evidence is routinely sprung on witnesses at the last minute, and witnesses frequently confess under Perry Mason like pressure. Yet, beneath the dramatics lies an exploration of advocacy and the adversarial process. Phoenix’s unwavering belief in his clients reflects the defense lawyer’s ethical duty to provide zealous representation, even when the odds do not ever appear in his favor.⁹

At the same time, the show illustrates due process concerns. The fictional legal system often presumes guilt, with prosecutors wielding overwhelming power. The defense lawyer’s role becomes not merely representation but a battle for the very possibility of fairness. This resonates with real critiques of criminal justice systems worldwide where resources and

structural biases undermine the presumption of innocence.

Perspectives and Conclusions

Popular culture can shape how the public views lawyers. Daredevil or Phoenix Wright may be more familiar to many people than actual attorneys. These depictions influence expectations about advocacy, courtroom drama, and a lawyer’s role. These works also offer a cultural critique, revealing how society interprets and sometimes misunderstands the profession. Understanding these public perceptions can help lawyers manage client expectations and public relations.

Comics and anime can serve as pedagogical tools. Professors have used *Ace Attorney* to teach evidence and cross-examination and *She-Hulk* to discuss intellectual property.¹⁰ Fiction can make abstract principles concrete and engage students in dialogue about law’s purpose.

Lawyers in comics and anime are larger than life. They leap across rooftops, argue before intergalactic tribunals, or cross-examine witnesses until they confess. Yet, behind the spectacle lies a genuine engagement with the legal system’s ideals and shortcomings.

For real-world attorneys, examining Daredevil, *She-Hulk*, Harvey Dent, Phoenix Wright or even Harvey Birdman is a way of understanding how culture perceives the legal profession: as heroic, flawed, satirical, or tragic. These portrayals of the legal system provide a narrative about justice.

And Superman, though not a lawyer,

reminds us that justice is larger than the legal profession. His alter ego Clark Kent highlights the indispensable role of transparency, journalism, and the public’s right to know in sustaining the rule of law. Together, these characters—lawyers and non-lawyers alike—challenge us to reflect on what justice means, how procedure sustains it, and why institutions of accountability remain essential to its preservation. ■

Endnotes

1. *Daredevil* #1 (Marvel Comics, 1964).
2. New Jersey Rules of Professional Conduct, RPC 8.4.
3. *Savage She-Hulk* #1 (Marvel Comics, 1980).
4. See, e.g., *She-Hulk* Vol. 2 #7–8 (Marvel Comics, 2005).
5. *Detective Comics* #66 (DC Comics, 1942) (introduction of Harvey Dent/Two-Face).
6. *Action Comics* #1 (DC Comics, 1938); Clark Kent’s role as reporter developed throughout the *Superman* series.
7. *Harvey Birdman, Attorney at Law* (Cartoon Network, 2000–2007).
8. *Phoenix Wright: Ace Attorney* (Capcom, 2001; anime adaptation 2016).
9. See Monroe H. Freedman, *The Lawyer’s Moral Obligations*, 74 Tex. L. Rev. 111 (1995).
10. See Susan Tiefenbrun, *Semiotics and the Comic Book in Legal Education*, 42 J. Legal Educ. 66 (1992).

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SECTION SPOTLIGHT

WIPS Chair Highlights Exciting Year of Programming for Women Attorneys



The New Jersey State Bar Association offers 80 sections, committees and divisions for members to stay apprised of the latest trends in their specialty, shape legislation and become better attorneys for their practice and clients. The Women in the Profession Section is one of the most vibrant in the Association. Ayesha K. Hamilton, the section chair, spoke recently about her history with the section, its purpose and how women attorneys can benefit by joining. Visit njsba.com to learn more.

When did you join the NJSBA and what inspired you to get involved with the Women in the Profession Section?

I joined the NJSBA in 2014 when I moved back to New Jersey. As a business and employment lawyer, I believed the state bar offered the chance to build lasting relationships that would benefit me personally and help strengthen my practice. WIPS is among the most important sections within the Association because it serves one of the largest demographics in the profession—women. Practicing law as a woman has its rewards and challenges. Even the most successful and impactful women attorneys face persistent bias and the pressures of work-life balance. I joined WIPS because I wanted to be a part of a professional network of strong, intelligent, multitasking women who can help each other.

Describe the mission of WIPS and how joining the section can benefit women lawyers at all stages of their careers.

WIPS is dedicated to advancing women's rights in the law and in the legal profession. But it is much more than that—it is a community of women with shared experiences who can relate to, support and empower one another, something women do best. WIPS is the perfect space to connect with other women attorneys across many different practice areas

and career stages. Younger attorneys can find mentors who can guide them in their career growth, while the more seasoned members can leverage their experience to speak powerfully on issues that impact women attorneys. The section also hosts an array of networking events and skill-building programs to help women thrive.

How has your involvement in WIPS benefited you both personally and professionally?

As a solo practitioner, the practice can be a lonely place. I have found friends that I consider family at the state bar and am particularly energized by the WIPS sisterhood. The support, mentorship and inspiration I've found here continues to push me to grow. It is a community that truly understands the unique challenges women face in law. Being part of this section reminds me that I'm not navigating my career alone.

WIPS is offering an exciting lineup of programs this year—can you highlight what the section has offered so far, what's coming next and describe why women in the profession should take part?

In September, we were thrilled to have Janice Heinold, a sommelier extraordinaire and a former NJSBA trustee, lead our annual wine tasting event. October featured our "Commanding the Room" workshop, where image consultant Melanie Lippman shared strategies for projecting strength and presence. We also launched the first seminar in our three-part virtual lunch and learn series discussing more topics relating to professional development specifically designed for our section. These roundtables tap into the very essence of knowledge sharing and mentoring, allowing for robust discussion, as we learn from each other. They will teach women lawyers how to negotiate for their worth, lessons in leadership and paths to growth. It's shaping up to be remarkable year. Every woman lawyer has something to gain from being part of these programs. ■



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Volunteer Attorneys Offer Free Legal Consultations for Union City Law Day

The New Jersey State Bar Association joined with community partners to host another successful Union City Law Day. In a Union City high school gym and cafeteria, more than 50 volunteer attorneys offered free legal consultations, assisting hundreds of residents with pressing issues ranging from immigration and guardianship to landlord-tenant disputes, divorce and more. The NJSBA organized the event in partnership with the Hispanic Bar Association of New Jersey, the Hudson County Bar Association, the Hudson County Prosecutor's Office, the state Office of the Public Defender, Northeast New Jersey Legal Services, the Hudson County Surrogate, the Hudson County Ombudsman's Office, the North Hudson Lawyers Club, and Union City Mayor and state Sen. Brian Stack.



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Hundreds of members of the legal community, including justices, judges and attorneys from across the state joined the New Jersey State Bar Foundation to honor and recognize retired state Supreme Court Justice Lee A. Solomon and NJSBA Past President Domenick Carmagnola, who received this year's Medal of Honor award.



Women in the Profession Toast Community and Camaraderie

On Sept. 25, the NJSBA's Women in the Profession Section celebrated another year of building a strong network of women. Attendees enjoyed wine education and tasting—led by former NJSBA Trustee and certified sommelier Janice L. Heinold—while connecting with colleagues.



Young Lawyers Assist First Responders, Veterans Through Wills for Heroes Program

The NJSBA Young Lawyers Division held pro bono events to provide estate planning services for veterans and first responders. Dozens of volunteers drafted legal documents that included wills, living wills and powers of attorney. The program offers lawyers a valuable opportunity for professional development through pro bono service. Volunteers gain hands-on experience in client interaction, document preparation and estate planning fundamentals while building their communication skills and professional connections.



NJSBA Hosts 22nd Annual Chancery Reception

The NJSBA opened its doors to the state's Chancery Division judges and their law clerks for a social reception at the New Jersey Law Center on Sept. 30. Judges celebrated the start of a new term and introduced their clerks for the coming year.



NJSBA Hosts 29th Annual Tax Court Judges Reception

The NJSBA welcomed the state's Tax Court judges and their law clerks for a social reception at the New Jersey Law Center. The special event brought members together to meet the Tax Court Judges, reconnect with peers and celebrate the arrival of the new class of law clerks.



Attorneys Connect at NJSBA TopGolf Social

NJSBA members teed off together at a TopGolf event in Edison, enjoying an evening of golf, food and professional networking. Participants spent three hours playing in a private space while connecting with colleagues from across the state. The event offered something for everyone—whether seasoned golfers or those looking for a fun, informal way to network.



NJSBA Salutes Pro Bono Excellence at Annual Awards

The New Jersey State Bar Association celebrated the profession's most inspiring volunteer legal work at its 2025 Pro Bono Awards Reception. The Oct. 22 event at the New Jersey Law Center paid tribute to five individuals, firms and corporate legal departments that have shown an outstanding commitment to providing legal services to the state's underserved residents. This year's recipients dedicated thousands of hours toward bridging the access to justice gap in child immigration, LGBTQ rights, veterans' affairs and other noble causes. ■





The NJSBA is Here to Help

The NJSBA Member Assistance Program connects our members—and anyone else in their household—to trained, experienced mental health professionals and resources.

At the heart of the program, provided through industry leader Charles Nechtem Associates, is 24/7 access to a mental health professional with at least seven years of experience. The professional will counsel callers and help them find resources. If needed, they will help people find an accessible clinician who is accepting patients. Members are eligible for **up to three** in-person counseling sessions per issue. They can also access **unlimited text, phone and email support** and search an extensive Wellness Library with 25,000 interactive resources to improve their personal and professional lives.

Contact MAP Counselors Anytime

1-800-531-0200

Phone counseling services are available 24 hours a day, 7 days a week, 365 days a year with immediate access to clinicians. Access to English and Spanish speaking therapists, with other languages upon request.

Text via the CNA app

Available from the Apple App Store and Google Play.

Connect via the website, charlesnechtem.com

Click “Member Login” and log in as a new user. The employer is NJSBA.

Email

Reach out to inquiries@charlesnechtem.com

**The Member Assistance
Program is a benefit
of membership.**

NJSBA





New Jersey State Bar Foundation



Celebrate · Honor · Remember

Make a lasting tribute with an engraved brick installed on the New Jersey Law Center portico.

***Proceeds benefit the
New Jersey State Bar Foundation's
Law School Scholarship Program.***



Engraved Brick Size Options:

4"x 8" \$250

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Brick orders are tax-deductible to the fullest extent of the law.

Place your order at donate.njsbf.org.

NJSBA PRACTICEHQ

The New Jersey State Bar Association's Practice HQ is a free member resource designed to help you build and maintain a successful, thriving legal practice.

Visit njsba.com to find checklists, whitepapers, videos, and other resources available to you as a member of the NJSBA.

Find information on topics such as:



OPENING OR CLOSING A LAW FIRM

There's a lot to know about opening or closing a law practice. Where do you start? The materials in this section start you down the right path and make sure vital considerations aren't overlooked.



CLIENT DEVELOPMENT

The success of your law practice relies on pleasing clients. But, before you can please clients, you have to obtain them. Learn how to find and retain satisfied clients.



DOCUMENTS

Learn how to effectively and securely draft, edit, share, and collaborate on electronic documents.



TECHNOLOGY

Review the fundamentals you should consider to figure out your organization's needs.



MONEY

Billing by the hour means that your supply of "product" is limited by the clock and calendar. Examine the resources provided to build a profitable practice.



MANAGEMENT

The best-run legal organizations embody a positive, growth-oriented culture, and entails fostering your organization's most valuable asset—your people.



COMPARISON CHARTS

Do you know which password manager, web meeting service, or encrypted email service is best for your business? We can help you figure that out.

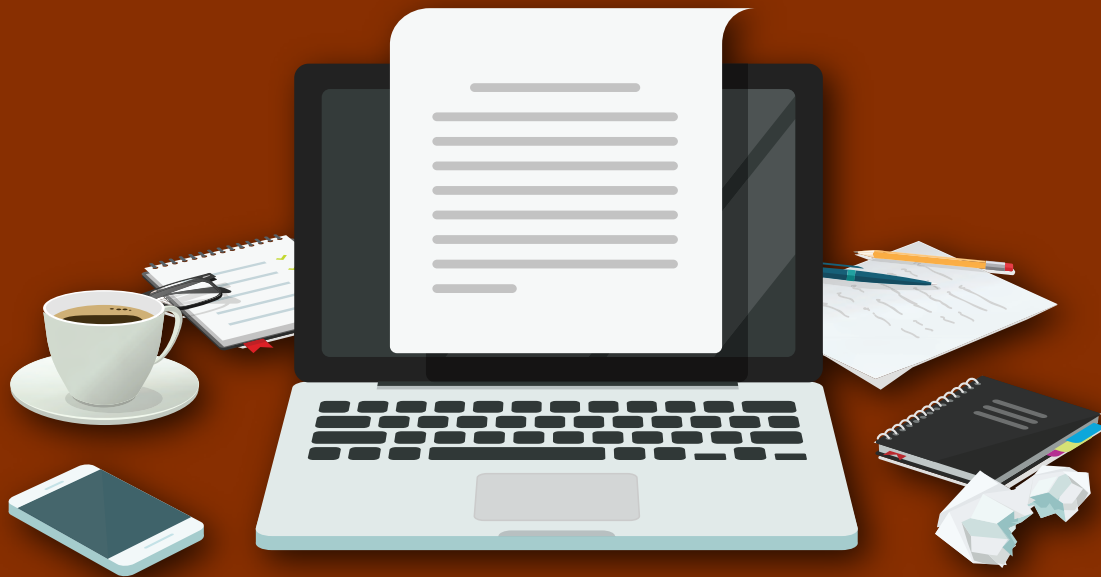


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