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THE SARATOGA COUNTY BAR ASSOCIATION

SERVING THE INTEREST OF JUSTICE

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THE PRACTICE PAGE

AUTHENTICATING RECORDS UNDER CPLR 4540-a

HON. MARK C. DILLON *

CPLR 4540-a is a relatively new statute, effective on January 1, 2019 (L. 2018, ch 219, sec 1). The statute is only two sentences long. The first sentence directs that if a party provides a discovery response pursuant to CPLR Article 31, and includes material "authored or otherwise created" by the responding party itself, the adverse party who has received the material may offer it into evidence with a presumption of authenticity. The second sentence provides that the presumption may be rebutted by a preponderance of the evidence showing that the material is not authentic. Since legal presumptions may always be rebutted, the second sentence of the statute adds little to our general law, other than to define the preponderance standard applicable to this instance of rebuttal. The second sentence also states that a rebuttal to authenticity does not preclude any other objection to the material's admissibility. In other words, the statute is only what it is.

Some observations are in order. Materials provided by a party during discovery may be of admissible relevance at both summary judgment and at trial. CPLR 4540-a is written broadly enough to be applicable to both. Practitioners may therefore proffer material authored or created by the adversary as evidence in chief, without having to establish its authenticity. Examples may conceivably include accident reports, photographs, recorded statements, business records, and tax returns. If a party moves for summary judgment, for example, and attaches an adversary's self-authored discovery material to meet the prima facie burden of proof on the motion, the opposing party cannot object on authentication grounds unless prepared to contest the authenticity of its own previously-disclosed material.

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THE PRACTICE PAGE

AUTHENTICATING RECORDS UNDER CPLR 4540-a

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The sound legislative intent behind the statute is to relieve parties of proving the authenticity of an adversary's self-authored or self-created material offered as evidence, when authenticity would typically not be a contested issue anyway. The presumption of authenticity saves the offering party the time, trouble, and expense of establishing the material's genuineness, and saves the court the trouble of having to adjudicate the issue. In the rare event that a party's disclosed material is a product of forgery, fraud, or other defect, the disclosing party may utilize the backstop provision of CPLR 4540-a to challenge the legal presumption, by producing a preponderance of evidence that the material is not authentic. By that means, the producing party may protect itself from the pitfalls of being victimized by an unwitting disclosure of inauthentic material.

The statute is limited to materials authored or created by the party providing them in discovery (Sands Bros. Venture Capital II, LLC v Park Ave. Bank, 67 Misc. 3d 1216[A] [Sup. Ct. NY Co. 2020]) . The statutory presumption does not extend to materials authored or created by third parties outside of the producing party's vicarious control, or to material obtained outside of party discovery.

CPLR 4540-a does not displace other methods of authenticating evidence, but merely augments the means by which authenticity may be established. A party proffering material as evidence at summary judgment or trial may, if it chooses, use other recognized methods for establishing the material's authenticity and admissibility.

The statute is still too young to have generated much decisional authority. So far, the Fourth Department held the statute inapplicable to the medical records of a plaintiff's physician, as they were not created by the plaintiff herself (McCarthy v Hameed, __ AD3d __, 2021 Slip Op. 00962 [Feb. 11, 2021]). One reported trial-level decision from the Supreme Court, Monroe County, Messinger v Messinger, 66 Misc.3d 1222(A), involved a dispute between ex-spouses over their proportional responsibilities toward a child's college education expenses. At trial, the court held that the father had "created" a document that he had downloaded from his pension account and was within CPLR 4540-a, even though the actual contents were derived from a state pension website. However, the court also directed that the father could establish in a supplemental submission that the documentary material was inauthentic under the second sentence of CPLR 4540-a.

Stay tuned for further court decisions on this statute.

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* Mark C. Dillon is a Justice of the Appellate Division, 2nd Dept., an Adjunct Professor of New York Practice at Fordham Law School, and a contributing author of the CPLR Practice Commentaries in McKinney's.

TORTS AND CIVIL PRACTICE:

Selected Cases from the Appellate Division, 3rd Department

TIM HIGGINS, ESQ. of LEMIRE & HIGGINS, LLC

Discovery of expert witnesses' financial records permitted.

Loiselle v. Progressive Casualty Ins. Co. (Garry, P.J., 11/5/20)

Plaintiff, hurt in a car accident caused by an uninsured driver, made a demand for payment under his SUM coverage with Progressive. When the claim was denied, he sued the insurer for breach of contract, and later served a subpoena duces tecum (seeking Form-1099 income records) on the vendor who hired two expert witness physicians to examine plaintiff (IMEs) for Progressive. Supreme Court (Ferreira, J., Schoharie Co.) granted defendant's motion for a protective order and quashed the subpoena. Noting a split among the Appellate Divisions whether such non-party records were discoverable, the Third Department –considering an issue of first impression – reversed the lower court, agreeing with plaintiff that the 1099 forms showing the amount of compensation received by the doctors from Progressive "may reveal a financial incentive that the physicians have in testifying", which is relevant on the issue of possible bias or interest on the part of the doctors.

Plaintiff's amendment to complaint fails "relation back" test.

Fasce v. Smithem (Reynolds Fitzgerald, J., 11/25/20)

Plaintiff, as administrator of decedent's estate, brought this medical malpractice and wrongful death action against a nurse practitioner, physician and hospital arising out of a 5-day hospitalization in 2016. After expiration of both applicable statutes of limitation, plaintiff successfully moved in Supreme Court (Schick, J., Sullivan Co.) for leave to amend the complaint, using the "relation back" doctrine to add two medical groups (Crystal Run) as defendants, while discontinuing all claims against the nurse practitioner and doctor. Reversing, the Third Department ruled the amended complaint was improper, finding plaintiff failed to show that the Crystal Run defendants were united in interest with the original defendants and that the would-be defendants knew or should have known that but for plaintiff's identification mistake, the action would have been brought against them.

Summary judgment denied in plaintiff's fall-down claim against landlord.

Hill v. Aubin (Colangelo, J., 11/25/20)

Plaintiff fell and suffered severe hip injuries after stepping on a wooden floorboard plank that cracked as she exited the attic of defendant's two-family home (where she rented and lived in the second floor apartment). The floorboard that snapped had been cut by the prior owners of the home to accommodate a ventilation pipe into the attic. The defendant, who purchased the property (and lived on the first floor) in 2008, moved for summary judgment dismissing the complaint, arguing that the allegedly dangerous condition was a latent defect about which he had neither actual nor constructive notice. Plaintiff testified that she and a friend went to the attic at the defendant's request to relocate boxes she was storing and to remove other boxes she no longer needed. Plaintiff disputed defendant's contention that the boxes obstructed any view of the ventilation pipe, and defendant acknowledged that he went into the attic once or twice a year to change a furnace filter. Supreme Court (Powers, J., Schenectady Co.) denied the defendant's motion and the Third Department affirmed, agreeing that "a reasonable person" looking at the floorboard would have seen the large cutout to accommodate the pipe "and questioned the structural integrity" of that part of the attic floor.

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TORTS AND CIVIL PRACTICE:

Selected Cases from the Appellate Division, 3rd Department

(Continued from Page 3)

Governmental immunity doctrine blocks claims against firefighters.

Stevens & Thompson Paper Co. v. Middle Falls Fire Dept., et al. (Devine, J., 11/25/20)

Arson was suspected as the cause of a large fire at a vacant paper mill in Greenwich. Without access to fire hydrants, firefighters used a fire engine to pump water from a nearby canal fed by the Battenkill River. Plaintiff, the former owner of the paper mill, owned and operated an adjacent hydroelectric facility which sustained significant mechanical damage – due to a stream of water that passed over the facility during the course of extinguishing the paper mill fire. The plaintiff's negligence, nuisance and trespass claims against the fire departments were dismissed by Supreme Court (Auffredou, J., Washington Co.) and the Third Department affirmed in reliance on the governmental immunity doctrine that "shields public entities from liability for discretionary actions". Plaintiff's negligence claims against the property owner were also dismissed on a finding that while the defendant company may have had reason to secure the mill against trespassers; "there was no prior history or other reason to suspect that arson was a risk".

Chiropractor's expert opinion not sufficient in malpractice claim.

Young v. Sethi (Garry, P.J., 11/5/20)

Plaintiff sued her surgeons after a spinal fusion operation, alleging that during the procedure they repositioned her pelvis – impacting a pre-existing (genetic) physical anomaly, causing her new injuries and debilitating pain. Following discovery, Supreme Court (Tait, J., Broome Co.) granted defendants' motion for summary judgment; despite testimony from the plaintiff and her sister that the defendant neurosurgeon told them that he had de-rotated her pelvis (conduct to which the plaintiff insisted she did not consent). Affirming dismissal of the action, the Third Department found the plaintiff's expert witness – a chiropractor who contended such a spinal manipulation under general anesthesia is a chiropractic, not surgical, procedure – was not qualified to render an expert medical opinion on "the standards of care applicable to interbody fusion surgery". The Appellate Division also ruled the plaintiff's claim that the defendants intentionally repositioned her pelvis, as a separate and unauthorized procedure during the course of the spinal surgery, was untimely; as it was governed by the 1-year statute of limitations for battery (CPLR § 215(3)).

Parent's negligent supervision claim survives SJ motion.

Justin M. v. Beadle (Reynolds Fitzgerald, J., 2/18/21)

Plaintiff's 11-year old son was catastrophically injured as a result of his attempt to perform a flip off a picnic table into snow. The boy had spent the night at the home of his 13-year old friend – per the agreement of the friend's mother, who was in a long-term relationship with the plaintiff (although they maintained separate residences). The boys were supposed to go to school that morning but schools were closed due to snow, and the mother went to work, leaving the boys home with her college-age daughter. Supreme Court (Burns, J., Chenango Co.) denied the defendants' motion for summary judgment on the plaintiff-father's negligent supervision cause of action which the Third Department modified by dismissing the claim against the daughter ("no duty to supervise the infant") but affirming non-dismissal against the mother, noting that adequacy of supervision and proximate cause are issues that generally must be resolved by a jury.

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TORTS AND CIVIL PRACTICE:

Selected Cases from the Appellate Division, 3rd Department

(Continued from Page 4)

Court of Appeals: "Zone of danger" rule expanded to include claim by grandparent.

Greene v. Esplanade Venture Partnership (Fahey, J., 2/18/21)

New York's "zone of danger" rule permits a plaintiff who was threatened with bodily harm due to a defendant's negligence to make a recovery for emotional distress resulting from witnessing the death of or serious physical injury to a member of the plaintiff's immediate family. Considering the claim of a grandmother whose 2-year old granddaughter died after being struck by debris that fell from the façade of the defendant's building, the Court of Appeals – reversing a divided Appellate Division – concluded that "a grandchild is the 'immediate family' of a grandparent" when applying the zone of danger rule.

Piecemeal Immigration Reform

DAVID W. MEYERS, ESQ. | MEYERS & MEYERS, LLP

I am a "dreamer," not in the immigration sense obviously;[1] rather, I dream of the day that Congress and the President get their collective acts together and implement meaningful and comprehensive immigration reform. Anyone who knows me well knows I don't like doing things piecemeal. And yet, here we are.

Many years ago, I used to work for U.S. Senator Alfonse D'Amato. (Yes, I am a registered Democrat who worked for a Republican U.S. Senator.) In those days, Washington was very different. I was actually a political wonk. While my friends and colleagues were at happy hour somewhere on Capitol Hill, you could usually find me in the Senate gallery watching the "debate", which typically included one Senator speaking to a stenographer, and whoever was sitting in as President of the Senate (who him or herself was generally not even paying attention).

In those days, Democrats and Republicans could debate issues during the day and enjoy a meal together in the evening. Senator D'Amato always worked with his colleagues across the aisle, including even the late Senator Edward Kennedy. These days, sadly, that would never happen. But I can dream.

In the here and now, we need immigration reform, and we need it badly. My hopes were high with Joe Biden coming into office. I know the prospect of legislation is challenging, particularly because of the numbers in the Senate. But I did think that we would be further along than we are since January 20, 2021, when President Biden sent the U.S. Citizenship Act of 2021 to Congress. On February 18, 2021, Representative Sánchez (D-CA) introduced the U.S. Citizenship Act of 2021 in the House. On the same day, Senator Menendez (D-NJ) introduced an identical bill in the Senate. What's happened since then? Pretty much nothing.

In the meantime, some piecemeal legislation is being introduced and passed in the House. While short of everything that we need, it's still important. Very important actually.

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[1] In immigration parlance, "Dreamers" are considered to be young undocumented immigrants who were brought to the United States as children, through no fault of their own, and have lived in the U.S. ever since.

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Piecemeal Immigration Reform

DAVID W. MEYERS, ESQ. | MEYERS & MEYERS, LLP

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First, on March 18, 2021, the House passed the Farm Workforce Modernization Act ("FWMA") by a 247 to 174 vote. The passage was bipartisan with 30 Republicans voting yes with the Democrats; one Democrat voted against the bill. The bill seeks to stabilize the agricultural sector by ensuring that farmers (like New York's dairy farmers) can meet their labor needs now and into the future. Specifically, the bill provides (a) earned legalization for certified agricultural workers (i.e., creating a program for agricultural workers in the United States, and their spouses and minor children, to earn legal status through continued agricultural employment and contribution to the U.S. agricultural economy), (b) improving the H-2A nonimmigrant visa program by providing more flexibility for employers, ensuring critical protections for workers, and creating modifications to make the H-2A program more responsive and user-friendly for employers, and (c) making the E-Verify program mandatory for the agricultural sector.

Also passed by the House on March 18, 2021 was the American Dream and Promise Act. It also passed by a bipartisan vote of 228 to 197. Nine Republicans voted yes with the Democrats. This bill allows Dreamers and individuals with Temporary Protected Status ("TPS")[2] and Deferred Enforced Departure ("DED")[3] to contribute fully in the country they call their home by providing them with a pathway to citizenship. This bill would permanently protect certain immigrants who came to the United States as children but are vulnerable to removal / deportation.

Now the Senate must act and bring these bills up for a vote. If passed by the Senate and signed into law by the President, the American Dream and Promise Act would provide a path to citizenship for several million Dreamers as well as DED and TPS holders. The FWMA would offer similar protection to more than 1 million undocumented farm workers and their immediate families.

The polls show that Americans overwhelmingly support the legalization of people living in the United States without legal status. In fact, 80 percent of Americans support permanent legal status for all unauthorized immigrants and more than 60 percent support a path to citizenship for all unauthorized immigrants.[4]

I have things that I want done around the house. I want to do them all at once. I'm just that way. My lovely wife tells me that because we still have 4 young boys in the house we should just do certain things now and save the rest for later. It's by no means a perfect analogy, but the point remains. Something is better than nothing. We need something soon. Hopefully the Senate can get to work.

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[2] Temporary Protected Status, or TPS for short, is a temporary immigration status provided to nationals of certain countries who the Secretary of Homeland Security, often in consultation with other federal agencies, determines are experiencing problems that make it difficult or unsafe for their nationals to go home (if they are lawfully in the United States) or deported there (if they are subject to removal proceedings in the United States).

[3] Deferred Enforced Departure is a benefit authorized at the discretion of the President that allows certain individuals to live and work in the United States for a designated period of time.

[4] https://www.prri.org/research/immigration-after-trump-what-would-immigration-policy-that-followed-american-public-opinion-look-like/.

O'CONNELL AND ARONOWITZ ANNOUNCE NEW PARTNERS

O'Connell and Aronowitz, one of the Capital District's largest, locally owned, full-service law firms, announces the promotion of attorney Chad A. Jerome to Shareholder.

With the Firm since 2017, Chad works in our Litigation Department representing people injured as a result of the negligence or medical malpractice of others. Additionally, Chad continues to handle some Family and Matrimonial matters as part of his practice areas.

Chad has over 26 years of legal experience, which includes being involved in and handling dozens of trials. Through his hard work and dedication, Chad has consistently obtained very successful results and recoveries for his clients. In addition to his zealous representation of clients, Chad has also presented and written on numerous topics relevant to personal injury and civil practice.

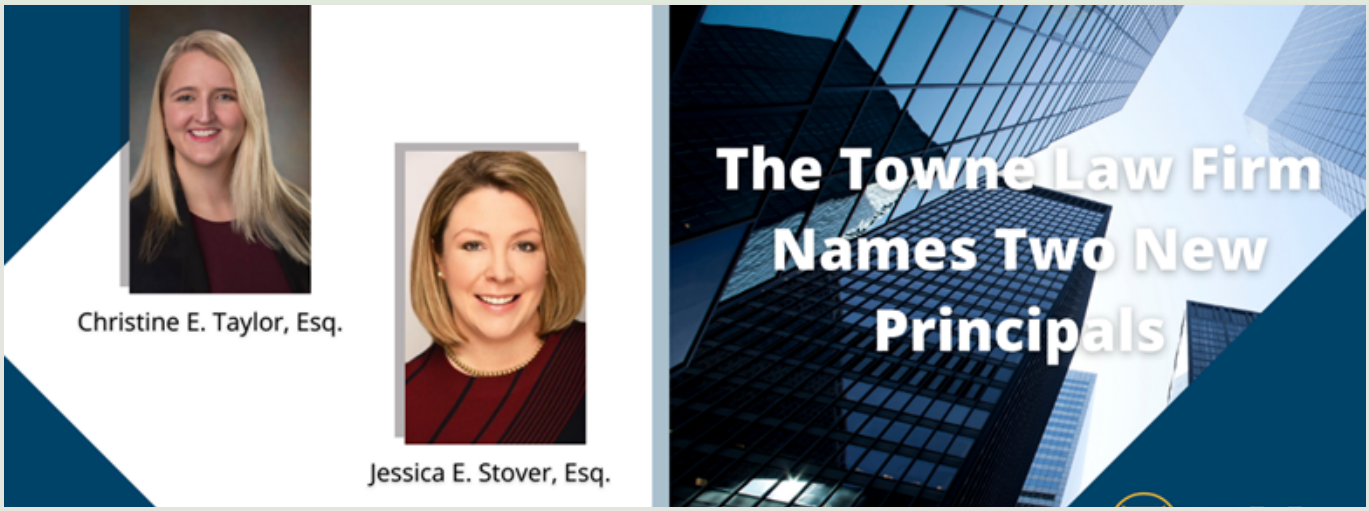
Chad is an Associate Fellow of the Litigation Counsel of America, an honor society for Trial Lawyers that a member is nominated to and consists of less than one-half of one percent of trial lawyers in America. Chad has also been named to the Super Lawyers Upstate New York Rising Stars for the years 2013-2017 (the last year he was eligible for this designation), a designation that acknowledges emerging attorneys admitted to the bar within the past ten years.

O'Connell and Aronowitz, one of the Capital District's largest, locally owned, full-service law firms, announces the promotion of attorney Graig F. Zappia to Shareholder.

Graig joined O'Connell and Aronowitz in 2018, practicing within the firm's Business Law and Commercial Litigation departments. Representing small businesses in asset acquisitions and sales, entity formations and advising clients in commercial litigation matters, Graig also regularly provides advice and consultation to employers concerning ongoing issues in the workplace. Graig also represents private real estate clients, developers, and institutional lenders in their real estate transactions.

Graig is a graduate of Albany Law School and earned his undergraduate degree from Siena College, majoring in Political Science. He is an Executive Board Member of the Capital District's Chapter of the American Diabetes Association and an active member of the Siena College Pre-Law Mentoring program.

About O'Connell and Aronowitz
Named a 2021 "Best Law Firm" by Best Lawyers and US News & World Report, O'Connell and Aronowitz is one of the Capital District's largest and most diverse law firms. With more than 30 attorneys and offices in Albany, and Saratoga Springs, the Firm provides a broad range of legal services to businesses and individuals throughout the State. If you have questions about the Firm or its services, please contact Michael McDermott at (518) 462-5601. Chad Jerome can be reached at the same number. Visit the Firm online: www.oalaw.com.



Jessica E. Stover, Esq., a former partner of The Towne Law Firm (TLF), and Christine E. Taylor, a former associate, have both been named as Principal Partners of the firm as of January 1st, 2021.

Attorney James Towne said, "I was absolutely thrilled when both of these exceptionally bright and talented attorneys agreed to become principals of the firm. They have already made a big impact on the firm's growth trajectory which we started mid-2020 and it is important that their dedication to the firm be recognized. They both will continue to help shape the firm's long-term development, so there is no better way to cement that than offering them the opportunity to become principals. It is a privilege to have them move into the role of firm principal."

In 2020, Ms. Stover brought her stellar reputation as one of the Capital Region's leading real estate attorneys to TLF. Ms. Stover is in charge of the firm's Saratoga office location. Coupling Ms. Stover's large real estate following with TLF's existing real estate matters has necessitated an expansion of both real estate attorneys and paralegals in the Saratoga office, with more expansion planned. Before moving to Saratoga Springs in 2007, Jessica attended Union College, earning her Bachelor of Arts degree. Ms. Stover then went on to attend Syracuse University School of Law, where she received her J.D. After Ms. Stover realized she wanted to specialize in Real Estate law she obtained an L.L.M. in Real Property Development from the University of Miami School of Law. Ms. Stover's real estate law services includes both residential and commercial purchase and sales; leases; bank representation; Homeowners' Associations/Condo Associations; title examination and Title Insurance Law; as well as estate planning.

Ms. Taylor joined the firm in 2018 and has refined her practice to focus primarily on the hospitality industry, serving clients across the entire northeast as well as nationally. Ms. Taylor, originally planning to focus her career on Entertainment Law, attended UCLA School of Law where she received her J.D. A former professional opera singer, Ms. Taylor began her career working with a variety of production companies and movie stations, but she ultimately returned to Upstate New York where she transitioned her career to provide comprehensive legal services to various small businesses, with a specific focus on campgrounds and RV parks. Her life experience associated with three campgrounds, across two franchises, has enabled her to provide a unique perspective across a wide variety of services to her clients including seasonal licenses, waivers, employment contracts, real estate services and litigation services as needed. Ms. Taylor now represents a multitude of individual campgrounds and multi-park owners throughout the northeast, as well as nationally.

Over the past year, The Towne Law Firm has grown tremendously, adding three new office locations in New York, Massachusetts, and New Jersey, while expanding its professional team to 25 attorneys. While the firm is a general practice law firm, covering a multitude of service areas for both business and individual clients, both Ms. Stover and Ms. Taylor have been crucial to the firm's overall growth and have helped to expand the leadership roles of women within the organization. The TLF team looks forward to the upcoming year as the firm continues to expand internally, as well as continue to increase its presence across the northeast.

The Towne Law Firm, P.C.
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www.townelaw.com

TLF WELCOMES SHALINI NATESAN TO ITS TEAM OF ATTORNEYS

The Towne Law Firm, P.C. (TLF) welcomes newest attorney, Shalini Natesan to its team. Shali joins TLF as an associate, focusing her practice in the areas of business and hospitality law and will be working mainly out of the firm's Albany office. The addition of Shali to the TLF Team further strengthens the firm's continued growth over the past year, with the addition of 3 new office locations and 11 new attorneys.

Shali, originally from Toronto, attended McMaster University in Ontario where she earned an Honours BCom, thereafter attending Albany Law School to receive her Juris Doctorate with a concentration in business law.

Ms. Natesan has previous experience in transactional work involving New York State agencies and authorities, industrial development agencies, local development corporations, municipalities, and school districts. She also previously represented lenders in the U.S. Small Business Administration's 504 loan program.

One of the firm's Principal Partners, James Towne, said, "the firm is eager to have Shali join our team; she is an outstanding attorney who can offer TLF a variety of business law expertise and offer our clients quality personalized attention in the firm's expanding transactional practice. We look forward to the firm's continued growth over the next year."

E. STEWART JONES HACKER MURPHY LLP LAWYER JULIE A. NOCIOLO NAMED TO 2021 BEST LAWYERS: "ONES TO WATCH"

E. Stewart Jones Hacker Murphy LLP is pleased to announce that its associate Julie Nociolo has been included in the inaugural 2021 Edition of Best Lawyers: Ones to Watch.

Best Lawyers: Ones to Watch recognizes lawyers who are earlier in their careers for their outstanding professional excellence in private practice in the United States.

"Best Lawyers was founded in 1981 with the purpose of recognizing extraordinary lawyers in private practice through an exhaustive peer-review process" says managing partner Jim Hacker.
Lawyers recognized in Best Lawyers: Ones to Watch are reviewed by their peers on the basis of professional expertise and undergo an authentication process to make sure they are in current practice and in good standing.

Attorney Julie Nociolo was recognized in her main practice areas of Criminal Defense. She also defends college students who are accused of Title IX or student conduct violations and represents victims of excessive force by law enforcement to vindicate their constitutional rights in federal court. Julie previously served as a law clerk to the Honorable Gary L. Sharpe, United States District Court Judge of the Northern District of New York as well as a temporary law clerk to the Honorable Leslie E. Stein, Associate Judge of the New York State Court of Appeals.

About E. Stewart Jones Hacker Murphy LLP: *Originally founded in 1898, the law firm is one of the most experienced and respected litigation firms in New York State. Our highly skilled team of lawyers and legal professionals truly care about the individuals and families we represent, the causes we undertake and the outcomes we achieve. At ESJHM, we are fully invested in our clients and their success.*

ESJHM has offices in Troy, Schenectady, Saratoga Springs and Albany, NY and specializes in Personal Injury, Medical Malpractice, Criminal Defense, Commercial Litigation, Tax Certiorari and Eminent Domain.
www.joneshacker.com

SEAN MACARI BRINGS LEGAL RECRUITING SERVICE TO UPSTATE NEW YORK

With COVID coming to an end, a new business sees opportunities

Valiant Search, a search firm that focuses on recruiting for law firms in Albany, Binghamton, Buffalo, Rochester, and Syracuse, is now open. Sean Macari, an experienced recruiter saw an opportunity when many search firms dramatically scaled down or closed due to COVID but the need for helping attorneys, support staff, and law firms get back on their feet as the pandemic starts to subside, along with an absence of legal focused recruiting firms in upstate New York, inspired him to launch his own company right now.

“The goal of Valiant Search is to help legal professionals find work during this difficult time,” said Macari.

Macari has developed a deep understanding of recruiting from his several years in the industry. Most recently, he served as the head legal recruiter with Albany based Tully Rinckey PLLC, where he helped recruit attorneys and support staff to their offices upstate New York and the U.S., including Washington, D.C., Austin, Texas, and New York City.

Prior to becoming a recruiter Macari worked in the Office of the Attorney General, where he focused on campus recruitment initiatives.

“Our search firm is truly one of a kind,” said Macari. “Valiant Search is the only search firm in upstate New York that specializes in recruiting legal professionals to successful law firms.” When asked why now? He responded, “As someone who has gone through having COVID-19, I certainly understand the struggle for so many. However, I believe as the worst of COVID nears an end, it is now time to start helping people get back to work.”

Valiant Search is currently looking for experienced legal recruiters from across the country to join the team. For questions about Valiant Search or to join our team please contact Sean Macari at smacari@valiantsearch.com.

LUDEMANN & ASSOCIATES, P.C. SEEKING AN ASSOCIATE ATTORNEY

Ludemann & Associates, P.C., located in downtown Glens Falls is seeking an associate attorney for their staff.

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ON A LIGHTER NOTE-

SUBMITTED BY ANDREA J. DIDOMENICO

AN ENGINEER DIES...

An engineer dies, and goes to hell. Dissatisfied with the level of comfort, he starts designing and building improvements. After a while, Hell has air conditioning, flush toilets, and escalators. The engineer is a pretty popular guy.

One day God calls and asks Satan, "So, how's it going down there?"

Satan says, "Hey things are going great. We've got air conditioning and flush toilets and escalators, and there's no telling what this engineer is going to come up with next."

God is horrified. "What? You've got an engineer? That's a mistake -- he should never have gone down there! You know all engineers go to Heaven. Send him up here!"

Satan says, "No way. I like having an engineer on the staff. I'm keeping him."

God says, "Send him back up here or I'll sue."

"Yeah, right," Satan laughs, "and where are you going to get a lawyer?"

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