

Elder Law Planning: Protecting Yourself, Your Assets and Providing Peace of Mind

By **Constantina S. Papageorgiou, Esq.**

What is Elder Law?

Elder Law is the practice of law aimed at assisting individuals (usually approaching the age of retirement or older) with legal issues which are important to them, such as long term care planning, age discrimination, public benefits, housing, guardianship and health care decision making. The most important aspects of Elder Law are planning for long term care of the elderly and asset preservation, which must be tailored to meet the needs of each individual. Very often this will entail planning to qualify for government benefits such as Veteran's benefits and Medicaid.

But, doesn't Medicare cover the cost of my long term care...? The short answer is "no." It's important to understand that Medicare is health insurance for individuals aged 65 and older or disabled, which covers hospital and other medical care, but usually leaves a copay for the patient. The copay may be covered by supplemental insurance if one is in place, or if not, paid by the individual. Medicare only pays for rehabilitation for a very limited time, whether at home or in a rehabilitation facility, if one needs rehab after a hospital stay.

Medicaid Overview

Many individuals confuse the terms "MediCARE" and "MedicaID." The difference is that MediCARE "cares" for the elderly, while MedicaID "aids" indigent persons. In order to be eligible for Medicaid as of January 1, 2015, an unmarried individual over the age of 65 should have a monthly income of less than \$825 and assets less than \$14,850. Those receiving Medicaid receive insurance that supplements Medicare and covers all costs of long term care. One can receive Medicaid in the community (home care) or in an institution (facility). Becoming eligible for institutional Medicaid can take up to five years, especially if one has assets to "protect" for the next generation. Community Medicaid has a shorter "look-back" period of one month.

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Constantina S.
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Mediation: A Viable Alternative to Litigation

By Andrew A. Kimler, Esq.

It is not unusual for an attorney to meet a client who has been wronged and who seeks the attorney's assistance in the filing of a lawsuit. Obviously, this can arise in a variety of situations such as business and employment disputes. What many clients do not realize, however, is that litigation is not the only way to resolve a dispute. Indeed, most non-lawyers have no idea how time consuming and costly the courtroom process can be. Moreover, they are unaccustomed to crowded court calendars and procedures which may be extremely stressful.

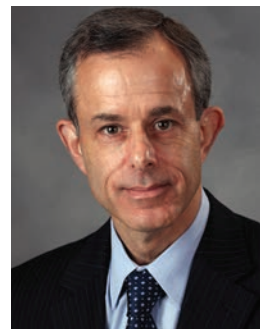
A viable alternative to litigation is mediation. Generally speaking, mediation is a voluntary process which permits the informal resolution of the parties' disputes. As opposed to focusing on who is right and who is wrong, the mediation process aims at reaching a mutually acceptable resolution with the assistance of an attorney mediator who has been trained to assist the parties in developing their own solutions, as opposed to having one imposed on them by a judge.

There are a variety of advantages to a mediated resolution of a dispute over a traditional lawsuit. For example, mediations are usually much quicker and less expensive than lawsuits. In addition, a mediation (which is usually done in a less formal setting than a court-

room), allows for the parties to openly discuss their concerns in a confidential setting. More specifically, nothing that is stated in the mediation can be used for any purpose outside the mediation setting. Because of the informal setting, there is also a greater likelihood that the parties can possibly work towards preserving their relationship, which could be destroyed by a heated lawsuit. Remember, the mediation process is not concerned with winning or losing, but rather allowing the parties to collaborate, with the assistance of a mediator, in coming up with a solution that satisfies both sides.

Finally, since a mediated settlement results from the cooperative efforts of both sides, compliance with the resulting settlement agreement is more likely to occur. If the mediation process does not succeed, the parties still have the option of proceeding with a litigation. However, since most cases are usually settled prior to trial, the parties have nothing to lose by attempting to resolve their disputes early on without additional cost, aggravation and risk. **M**

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Andrew A. Kimler, Esq.

Meet Terry DeStasio, VMM Firm Administrator

Professional law firm administrators make important contributions to the financial and operating success of their law firms. Terry DeStasio has been Vishnick McGovern Milizio's administrator for five years.

Managing administrative operations, supervising all non-attorney personnel, evaluating and managing operating and information systems, overseeing the firm's finance functions and evaluating, managing and supervising the facilities are among the many duties she juggles each day. We asked Terry a few questions about her work and her life beyond the office.



SideBar: Law firms are known for a variety of personalities, opinions and strict deadlines. How do you see these factors in relation to Vishnick McGovern Milizio?

TD: While the workplace can and should have an array of personalities and opinions, it's important to remember that everyone is working toward the same objective. Strong opinions are the sign of a passionate team and I am grateful I'm surrounded by people who care about their work as much as I do. At the end of the day, it's about getting the work done, both on time and capably.

SideBar: You seem to fit two days' work into every single day. What's your 'secret' to managing your time and balancing your workday?

TD: I try to start early. I arrive at the office by 7:45 a.m. to tackle my daily administrative duties before everyone arrives. By 9 a.m., I am ready to face whatever 'disasters' may come my way. If necessary, I will stay late to make sure any tasks for that day are accomplished.

SideBar: What's your formula for dealing with attorneys and support staff whom you assist at VMM?

TD: I treat everyone equally, in the same way that I wish to be treated. We have a very supportive atmosphere at Vishnick McGovern Milizio. Mutual respect is an important part of why we work so well together.

SideBar: If your career had taken another direction, what do you think that would have been?

TD: I would probably still be associated with the legal field. I attended school to become a court reporter. However, after a few months the teachers went on strike and the school closed down. At that time, I started working full time with Joe Trotti and decided I wanted to continue this type of work. The rest is history.

SideBar: What do you do to wind down after a hectic day at the office?

TD: I enjoy exercising. Working out at the gym with a personal trainer several times a week helps to relieve the tension and stress built up from an intense day.



news & Events

Partner **Joe Trotti** and firm administrator **Terry DeStasio** pictured right, mark 30 years of work collaboration on May 2, 2015. Terry became Joe's assistant at a small law firm in Flushing in 1985; in 1991, he established his own firm in Bayside with Terry continuing as his right hand. They joined VMM in 2001.



Partner **Joe Milizio**, a board trustee of the National M.S. Society, Long Island Chapter, has been appointed chair of the chapter's Governance committee. In this capacity, he leads the group that establishes and administers the proper procedures for the board of trustees; interviews and approves board candidates; and oversees board member obligations.

Associate **Eun Chong (EJ) Thorsen** has been appointed by the New York State Appellate Division, Second Judicial Department, as a member of the Committee on Character and Fitness for the Second, Tenth, Eleventh and Thirteenth Judicial Districts.



Joe Milizio (center) congratulates EJ Thorsen (left) and Constantina Papageorgiou (right) on their accomplishments.

(formerly known as the Hellenic American Neighborhood Action Committee), is one of New York City's largest and most successful social service agencies.

Associate **Constantina Papageorgiou** has been elected to the board of directors of HANAC

Associate **Jordan M. Freundlich** has been elected to the board of directors of the Riley Sandler Memorial Foundation, established by her parents with the mission of carrying forward Riley's spirit and love of life by instilling her kindness, caring, compassion and empathy in other children.



Jordan M. Freundlich



Partner **Jim Burdi** and associate **John Gordon**, pictured left, presented an evening program on March 10, 2015 at VMM's Lake Success office entitled "Avoiding the Pitfalls of Buying Investment Property."

Associate **John Gordon** participated in the annual Long Beach Polar Bear Super Bowl Sunday Splash on February 1, 2015, raising funds to benefit Make-A-Wish® of Metro New York and Western New York, which grants wishes to children with life-threatening medical conditions.

Eun Chong (EJ) Thorsen spoke at a press conference at the Kupferberg Holocaust Center announcing plans for a permanent exhibit memorializing the inhumanities suffered by comfort women (*ianfu*), a euphemism referring to young females of various ethnic and national backgrounds and social circumstances who were forced to provide sexual services to Japanese troops before and during WWII.

VMM welcomes you to our Manhattan and New Jersey offices

For the convenience of our clients we are also available to meet in our Manhattan and New Jersey offices.

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Elder Law Planning... (Cont'd from Page 1)

What does Elder Law planning entail?

Many clients come to our office and say, "I need a will." Having a will is essential, but it can only be used after your death. Advance directives such as a power of attorney, health care proxy, living will, and revocable or irrevocable trust, are documents that can be used during your life to enable your family or your trusted agents to provide you with the care that you may need, should you become incapacitated or require long term assistance. These documents must be prepared while you are still of "right mind," as you cannot execute them when you are suffering from cognitive impairment and are unable to understand their importance. As an Elder Law attorney, it is my primary goal to ensure that you are protected and able to be cared for while you are alive and unable to manage your own finances or health care decisions. It is imperative that your wishes are known and followed by your agents.

How should I proceed?

Elder law planning is specific to each individual's needs, comforts and his or her financial circumstances. Although some steps can be taken to engage in "emergency" planning when nursing home care is imminent, it is critical to plan ahead so you can take advantage of the tools that are available. One should not to make any gifts or transfers without consulting with an Elder Law attorney who can provide you with invaluable advisement as to the benefits available, the process to obtain those benefits and how the law can enable you to protect your life-long, hard earned assets. **M**

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