



Summer 2016

the SideBar


VMM Welcomes The Honorable Edward W. McCarty, III to the firm

By Joseph G. Milizio, Esq., Managing Partner

The Honorable Edward W. McCarty, III, former Nassau County Surrogate, joined Vishnick McGovern Milizio LLP in April 2016 as Of Counsel in the Trust and Estate Administration and Litigation practice groups, as well as the Alternate Dispute Resolution practice group.

It is a great honor to our firm to add Judge McCarty's legal acumen, spirit of public service and diverse background – from the district attorney's office to presiding over the Nassau County Surrogates Court to law school professorships – as he segues into the latest phase of his career.

When asked about making this transition, Judge McCarty commented, "Leaving the bench after 30 years was a difficult task, since I had accomplished a lot of good in numerous peoples' lives. I knew I would miss the opportunity to help people during difficult challenges for themselves and their families. I accepted a position at Vishnick McGovern Milizio with the knowledge of the firm's approach to helping people, gained by my observations as a judge and the personalities of the members of the firm."

A retired US Army Colonel, Judge McCarty has spent significant time on the bench. In addition to being the Nassau County Surrogate, he has served as a New York State Justice of the Supreme Court, Nassau County District Court Judge and the US Army Judge Advocate General's Corps. Earlier in his career, he served as a Nassau County Assistant District Attorney in the Homicide Bureau. Among many other accomplishments, he is a law professor at the Maurice A. Deane School of Law at Hofstra University and St. John's University School of Law, and mediator-arbitrator for National Arbitration and Mediation (NAM). Judge McCarty also possesses a unique understanding of Art Law, including mediation and negotiations to return stolen or lost works of art to their rightful owners. He earned his Juris Doctor degree from St. John's University School of Law and Bachelor of Science degree from Siena College. 

Judge McCarty can be reached at emccarty@vmmlegal.com or at 516-437-4385, ext. 124.



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LAST WILL AND TESTAMENT

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this instrument

The Prince of Estate Litigation

By Jordan Freundlich, Esq.

As you most certainly have heard, preeminent rock star Prince died unexpectedly on April 21 without leaving a will distributing his assets. Prince therefore joins a long list of celebrities who have died without leaving a will, including Jimi Hendrix, Pablo Picasso, Bob Marley, Sonny Bono, Howard Hughes and even President Abraham Lincoln.

Without leaving a will, these notables' estates fell into what is known as "intestacy," meaning that the decedent's wishes with respect to the distribution of his or her estate assets are disregarded and very often contentious litigation will ensue. In addition to the possibility of protracted and expensive litigation, dying without a will brings with it myriad other problems, such as:

- Having no executor, guardian or trustees, requiring appointments by the court to fill these roles;
- The potential for increased taxes in the absence of proper estate planning; and

- The greater likelihood that there will be disputes over the administration and distribution of the estate.

You do not need to be famous to want to avoid dying without a will and estate plan. Now is the time to take precautionary steps to protect your assets, regardless of your age, health or financial well-being.

The attorneys who practice in Vishnick McGovern Milizio LLP's Trusts and Estates group are at the ready to help you plan for your future and to make sure that your estate is distributed per your wishes instead of being determined by a court. **M**

Jordan Freundlich, Esq., is counsel in VMM's Commercial Litigation and Trust and Estate Litigation Practice Groups. He can be reached at jfreundlich@vmmlegal.com or 516.437.4385, ext. 142.



Jordan Freundlich, Esq.

U.S. Dept. of Labor Expands Overtime Eligibility

By Andrew A. Kimler, Esq.

The United States Department of Labor has announced a new rule that it claims will extend overtime protections to an estimated 4.2 million workers who currently are exempt. The effective date of the new rule is December 1, 2016.

The Fair Labor Standards Act (FLSA) currently requires that most employees in the U.S. be paid at least a minimum wage and overtime pay at time and one-half the regular rate of pay for all hours worked over 40 in a work week. However, the FLSA provides an exemption from both minimum wage and overtime pay for individuals employed as executive, administrative, professional, outside



sales and computer employees. Moreover, some occupations are not eligible for overtime pay (including teachers, doctors and lawyers).

Generally speaking, to qualify for the exemption under the FLSA, employees were required to meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. The new rule increases the salary level required for the exemption from \$455 a week (\$23,660 annually) to \$913 a week (\$47,476 annually). The increase is of particular significance in New York State, since the standard weekly salary level required for the overtime exemption in New York is currently \$675 a week.

In addition, the new rule increases the threshold salary level for highly-compensated workers. Such workers were exempt from overtime pay if their annual compensation was \$100,000 and they performed certain duties. The new threshold is \$134,000 per year.

Future updates to all of these thresholds will occur every three years, beginning on January 1, 2020. **M**

Partner Andrew A. Kimler, Esq. practices in the firm's Commercial Litigation and Employment Law Practice Groups. He can be reached at akimler@vmmlegal.com or 516.437.4385, ext. 122.



Andrew A. Kimler, Esq.

Buy-Sell Agreements: Don't Leave the Continued Success of Your Business up to Chance

By John P. Gordon, Esq.

Almost every business owner needs a buy-sell agreement. Since every business is different—there are many types of business ownership—there is no single buy-sell strategy that works for everyone.

Some owners simply want to pass their ownership on to a particular person in the family without causing family turmoil. A buy-sell agreement, usually combined with life insurance, can allow the intended successor to take over while the other family members receive a fair share of the estate.

With multiple owners, a buy-sell agreement should be negotiated when a business is started, to allow continuity when the owners encounter unexpected poor health, a downturn in a particular industry, or when their circumstances change, such as moving away from the location of the business or not seeing eye-to-eye with the other owners on the direction of the company.

When a buy-sell agreement is being negotiated, owners can usually envision themselves as being bought out of the business in the future, or staying in and making buyout payments. By negotiating from both sides, the outcome generally yields fair terms. On

the other hand, if sale agreements are being negotiated when somebody is actually leaving the business, bargaining positions are often unequal. This brings us back to why almost every business owner needs a buy-sell agreement.

In addition, the buy-sell agreement need not be a stagnant document; it should be updated as necessitated by any number of conditions. Many agreements contain a stated value of the business for buyout purposes, which should be updated as the value changes. Reviews should be done by the owners to make sure the agreement still works for them, and by professionals to ensure compliance with legal and tax changes. **M**

John P. Gordon, Esq., is an associate in VMM's Business and Transactional Law, Exit Planning for Business Owners and Real Estate Practice Groups. He can be reached at jgordon@vmmlegal.com or 516.437.4385, ext. 143.



John P. Gordon, Esq.

news & Events

Senior Partner **Bernard Vishnick** has been honored by the Brandeis Association at the organization's Scholarship Fund Breakfast, held on May 22, 2016. Bernie also recently was re-elected to the position of Vice President on the Executive Board of the Brandeis Association.



Bernard Vishnick



Eun Chong (EJ) Thorsen

Associate **Eun Chong (EJ) Thorsen** has been elected as the first Korean-American President of the Queens County Women's Bar Association for the 2016-2017 term. In addition, she has been named the Queens Chapter Rising Star by the Women's Bar Association of the State of New York.

Associate **Madison Porzio Schneider** has been named a delegate to the Women's Bar Association of the State of New York, representing the Queens County Women's Bar Association.



Madison Porzio Schneider



Avrohom Gefen

Avrohom Gefen, an associate in VMM's Litigation Practice group, has been named a New York Metro Area Rising Star for the second consecutive year by Super Lawyers, a publication of The New York Times. In addition, he recently presented two workshops: "Risk Management: Protect Your Non-Profit Organization and Your Volunteers" for the Association of Professional

Volunteer Administrators and "The Impact of Plaintiff's Bankruptcy on Employment Law Cases: Plaintiff's and Defense Perspectives" for the Nassau County Bar Association.

Reaffirming its pride in VMM's seven St. John's University School of Law graduates – **Hon. Edward W. McCarty, III, Bernard McGovern, Joseph Trotti, James Burdi, EJ Thorsen, Constantina S. Papageorgiou** and **Dennis Lyons** – Vishnick McGovern Milizio celebrated the law school's 90th Anniversary Gala at the Waldorf Astoria New York as a St. Thomas More event sponsor.



ST. JOHN'S UNIVERSITY
SCHOOL OF LAW

Associate **Constantina S. Papageorgiou** recently made two professional presentations. She covered estate planning and elder law at a Continuing Legal Education seminar hosted by the Hellenic Lawyers Association and elder law at a program on aging presented by the Hellenic Medical Society.



Constantina S. Papageorgiou

Vishnick McGovern Milizio LLP is a proud supporter of **Literacy Nassau**. Our "Team Friendly" participates annually in "unScrabble," a unique fundraising/networking event. On March 31, 2016, Team Friendly took honors in the event's final round.

VMM attorney and three year Literacy Nassau board member **Jordan Freundlich** was elected as Secretary of the organization's Executive Board for a one-year term beginning July 1, 2016.



Left to right standing: Dennis Lyons, Michael and Randi May, Tina Panos and Bernie McGovern. Front: Laurie Freundlich and Team Captain Jordan Freundlich. Not pictured: Madison Porzio Schneider, Karen Auer and Mindy Wolfe.

VMM IN THE NEWS

Hon. Edward W. McCarty, III featured in a *Long Island Business News* article entitled "Off the Bench," highlighting his transition from judge to of counsel at VMM ... **Joe Milizio** commenting in *Long Island Business News* in an article entitled, "Pride and Prejudice" ... **Jim Burdi** highlighted in *The Garden City News* for his performance in the Garden City Community Theater presentation of "Making Change" ... **Andy Kimler** quoted in *Newsday* on the topic of annual performance reviews ... **Joe Milizio** featured in *The Garden City News* under the headline "Joseph G. Milizio on LGBT Issues at Community Church" ... **Andy Kimler** on his speaking engagement at the Ohio Northern University Pettit College of Law. Read the full posts at <http://tinyurl.com/zfzpv8g>.

VMM ACADEMY

Fall 2016 Semester—Mark Your Calendar Now!

DATE	TOPIC	PRESENTER
SEPTEMBER 28, 2016	EMPLOYMENT LAW FOR BUSINESS OWNERS	ANDREW A. KIMLER, ESQ. & AVROHOM GEFEN, ESQ.
OCTOBER 26, 2016	AVOIDING THE PITFALLS OF BUYING INVESTMENT PROPERTY	JAMES F. BURDI, ESQ. & JOHN P. GORDON, ESQ.
NOVEMBER 30, 2016	EXIT PLANNING FOR BUSINESS OWNERS	JOSEPH G. MILIZIO, ESQ. & JOHN P. GORDON, ESQ.

All programs are held at
Vishnick McGovern Milizio LLP
3000 Marcus Avenue, Suite 1E9
Lake Success, NY

Last Wednesday of the Month
5:45 PM: Check in & refreshments
6:15 – 8:00 PM: Program, including
question & answer period

VMM Academy, established as a way to educate, connect and foster discussions about legal topics we believe will provide the greatest benefit to the public, ended its spring 2016 semester with great anticipation towards the fall when three new programs will be presented: Employment Law for Business Owners, Avoiding the Pitfalls of Buying Investment Property and Exit Planning for Business Owners.

All three spring programs – Estate Planning for Young Families, Tax Implications of Estate Planning and Before the Divorce: Planning for Your Future – were presented to a full house of involved attendees. The interactive format encouraged participants to present questions and engage in broader discussions.

Stay tuned to upcoming email announcements to reserve your seat to attend our fall seminars. There is no fee to attend VMM Academy, but reservations are a must. Additional information is available at <http://tinyurl.com/jjp35v6>.



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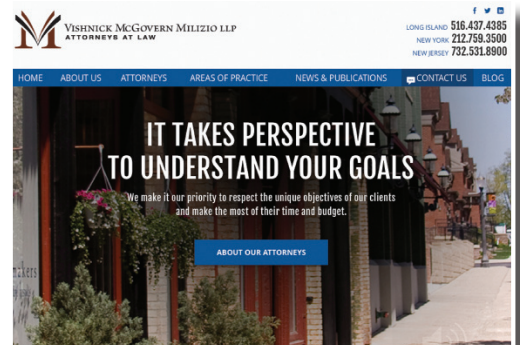
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request to: SideBar@vmmlegal.com**