

# TRUE COUNSEL

APRIL 2015

## LEGAL HIGHLIGHTS

BARRY SZAFERMAN AND ROBERT PANZER SUCCESSFUL IN COMPLEX MATRIMONIAL TRIAL

CRAIG HUBERT ASSISTS VICTIM OF WORKPLACE ACCIDENT

BUSINESS SECURITIES GROUP LAUNCHES FIRST CHINA-BASED IPO IN U.S. FOR 2015

JEFFREY BLUMSTEIN PREVAILS IN APPELLATE MATTERS

### *Also Inside...*

ROBERT LYTLE PRESENTS AT "BUSINESS FRAUD" EVENT

JUDGE LINDA FEINBERG (RET.) APPOINTED TO BLUE RIBBON COMMISSION

BRIAN PAUL RECOGNIZED BY NJ STATE BAR ASSOCIATION FOR PRO BONO WORK

THOMAS MANZO APPOINTED BY NJ STATE BAR ASSOCIATION

CRAIG HUBERT BECOMES PEI KIDS BOARD OF TRUSTEES MEMBER

STUART TUCKER PRESENTS TO STUDENTS AT TCNJ

"THE OPPORTUNITY TO COMPETE ACT", AN ARTICLE BY ARNOLD LAKIND

FIRM HOSTS NJ TECH COUNCIL EVENT

## FIRM ATTORNEYS INCLUDED IN 2015 SUPER LAWYERS / RISING STARS LISTS

Seven (7) attorneys have been included in the list of 2015 Super Lawyers and one (1) attorney has received the 2015 Rising Star designation.



Super Lawyers is a rating service of lawyers who have attained a high degree of peer recognition and professional achievement. The selection process is multi-phased and includes independent research, peer nomination and peer evaluations.

To be eligible for inclusion in Rising Stars, a candidate must be either 40 years old or younger or in practice for 10 years or less. No more than 2.5% of eligible lawyers are named to Rising Stars.

Szaferman Lakind's 2015 Super Lawyers were recognized in the following practice areas:

- Business Litigation
- Business / Corporate
- Class Action
- Family Law
- General Litigation
- Personal Injury General - Plaintiff

Co-Founder and Managing Partner, Barry Szaferman, commented: "We are proud to have so many Super Lawyers at Szaferman Lakind and we're excited about the firm's growth and its continued legacy of legal excellence."

### ELEVEN CONSECUTIVE YEARS 2015 NEW JERSEY SUPER LAWYERS



**BARRY D. SZAFERMAN**  
CO-FOUNDING PARTNER  
MANAGING PARTNER



**ARNOLD C. LAKIND**  
CO-FOUNDING PARTNER



**CRAIG J. HUBERT**  
EXECUTIVE COMMITTEE  
PARTNER



**JEFFREY K. EPSTEIN**  
PARTNER

### 2015 NEW JERSEY SUPER LAWYERS



**BRIAN G. PAUL**  
EXECUTIVE COMMITTEE  
PARTNER



**ROBERT E. LYTLE**  
EXECUTIVE COMMITTEE  
PARTNER



**DANIEL S. SWEETSER**  
PARTNER



**BRIAN A. HEYSESEY**  
ASSOCIATE

## CREDIBILITY IS KING IN MATRIMONIAL LITIGATION

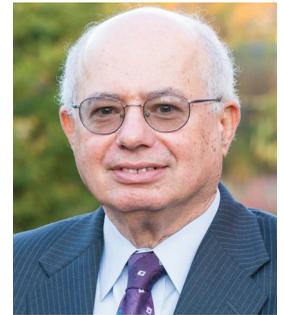
Barry Szaferman, Esq., and Partner, Robert P. Panzer, Esq., successfully represented our client in a complex matrimonial trial involving issues that included substantial alimony, child support and equitable distribution of assets. After the conclusion of the six day trial, which required the testimony of the parties, forensic accountants and employment experts, the Court entered a Final Judgment that was most favorable to our client. In fact, the Court awarded our client greater alimony and equitable distribution, which included stock options and retirement assets, than she was prepared to accept during settlement negotiations. The court also required the husband to make a significant contribution toward our client's legal and expert fees, in part, because of the unreasonable positions that he maintained during the course of the litigation.

The result in this case underscores the importance of adopting reasonable positions when litigating a matrimonial matter. In the present case, the husband adopted an overly-aggressive and unreasonable litigation strategy from the outset. For example, the husband refused to pay reasonable alimony and child support when the parties separated, which required Mr. Szaferman to file a motion for interim support for our client and the children. In response to our motion, the husband failed to include all of his income and various forms of compensation such as options and restricted stock, when computing his ability to pay support. The husband further argued that our client could earn substantial income, which was not realistic as she was

a stay-at-home mother throughout the long-term marriage. Mr. Szaferman highlighted these facts for the Court thereby damaging the husband's credibility and, in part, resulting in a favorable support order for our client. Dissatisfied with the result, the husband filed a Motion for Reconsideration of the interim support order asking the Court to reduce his obligations. However, he repeated many of the same flawed arguments that the Court had previously rejected. This resulted in the husband being ordered to pay the legal fees that our client incurred responding to the frivolous motion.

The husband continued to adopt aggressive positions at trial in an effort to reduce his financial obligations. During the trial, Mr. Szaferman exposed the unreasonableness of these positions, which ultimately had the opposite effect for the husband. The Court ordered greater support and the distribution of assets at a higher percentage than our client would have accepted if not forced to proceed to trial. Moreover, he incurred very substantial legal and expert fees while being ordered to make a significant contribution to our client's fees.

While the result of this trial was a success for our client, it also highlights the importance of proffering reasonable and credible positions during all stages of a divorce case. Failing to be reasonable and credible in an attempt to pay less (or receive more) will likely have the opposite effect on the Court.



BARRY D. SZAFERMAN  
CO-FOUNDING PARTNER  
MANAGING PARTNER



ROBERT P. PANZER  
PARTNER



## LEARN MORE ABOUT US

- *Founded 1977*
- *Full-service Law Firm*
- *40+ Attorneys*
- *100 Employees*
- *Strength & Resources of Large Firm*
- *Personal, Caring and Friendly Environment*

AV-Rated by Martindale-Hubbell® and among the Best Law Firms 2014 and 2015, by *U.S. News & World Report*, the law firm of Szaferman Lakind is a full-service law firm with a multi-faceted team of attorneys who provide legal representation for families, businesses, investors and individuals.

- *Commercial and General Litigation*
- *Family and Matrimonial Law*
- *Personal Injury Law*
- *Workers' Compensation*
- *Business Law*
- *Securities Law*

## CRAIG HUBERT ASSISTS VICTIM OF BIZARRE WORKPLACE ACCIDENT



CRAIG J. HUBERT  
PARTNER, EXECUTIVE COMMITTEE

In the summer of 2010, Craig Hubert's client was at work, assisting in the operating room of an oral surgery center in Hamilton, NJ. During the surgery, a Porsche drove through the parking lot and then into the operating room.

Craig's client saw and heard the Porsche as it crashed into the building but his client was unable to react quickly enough. As the vehicle entered the operating room, objects and surgical instruments were tossed about the room and

tables and chairs were flipped over. With its wheels still spinning and the smell of burning rubber and smoke filling the room, the Porsche finally came to a stop after pinning the victim to the wall of the operating room.

Craig's client visited an area hospital with a severe bruise and swelling on the nasal area of her face. At that time, Plaintiff reported pain in her left arm and back. She was treated and released.

Shortly thereafter, the client began experiencing emotional disturbances including panic whenever she heard loud noises and an inability to sleep. She was ultimately diagnosed with acute stress disorder and post-traumatic stress disorder characterized by multiple symptoms.

Due to her emotional and physical injuries, Plaintiff was unable to return to work for nearly 8 months and eventually was terminated. To help with physical pain from the accident, she has since undergone Carpel Tunnel surgery yet continues to experience pain and tingling sensation in her dominant, left hand.

Craig Hubert's legal expertise and persistence helped the victim of this unusual accident regain wages lost as well as reimbursement for her medical procedures and treatments. Craig cannot change what happened at the surgery center that summer morning, however, he has been able to make a positive impact in an accident victim's life.

**SZAFERMAN LAKIND IS PROUD TO HELP AND PROTECT VICTIMS.** IF YOU KNOW SOMEONE WHO'S BEEN VICTIMIZED, HAVE THE INJURED PARTY CONTACT US TODAY.

## JEFFREY BLUMSTEIN SUCCESSFUL IN TWO MESOTHELIOMA CASES IN NJ APPELLATE COURT



JEFFREY P. BLUMSTEIN  
PARTNER

Partner Jeff Blumstein recently argued and won two significant mesothelioma appeals in the Appellate Division of Superior Court. First, on March 3, 2015, the appellate court reversed a lower court decision granting summary judgment dismissing the Federal statutory and common law claims of our client, a long-time ship worker who died of mesothelioma. Although our client had worked as a deck hand and general maintenance worker on various of Defendants Weeks Marine's and American Atlantic Company's dredges from 1962 through 1978, the trial court had held that there was insufficient evidence of his exposure to asbestos on those dredges. The Appellate Division disagreed. Based on our arguments, it found that there was in fact a triable issue for a jury based on the evidence presented. The case was remanded for a trial.

Secondly, on March 27, 2015, in another case that Jeff argued, the Appellate Division affirmed our clients' \$1.6 million dollar verdict against Whittaker, Clark & Daniels. The company was the primary supplier of raw talc for a plant that produced Old Spice and Desert Flower talcum powder that was contaminated with asbestos. Our client's father had worked at the plant that produced these products and brought home asbestos on his work clothes from 1967 through 1975, when our client was an infant. Our client subsequently developed malignant peritoneal mesothelioma as an adult. He was forced to undergo extensive surgery and four months of chemotherapy.

A jury found Whittaker, Clark & Daniels liable for his exposure to asbestos-containing talc and his resulting illness. The \$1.6 million dollar verdict consisted of \$1.4 million dollars for our client's pain and suffering and \$200,000 for his wife's loss of consortium. Whittaker, Clark & Daniels challenged the verdict on numerous grounds. However, the appellate court agreed with our arguments and affirmed the verdict. It is believed that this is the first New Jersey asbestos verdict involving cosmetic talc that has been upheld on appeal.

## CRAIG J. HUBERT APPOINTED TO PEI KIDS BOARD OF TRUSTEES

Partner and Executive Committee member, Craig J. Hubert, Esq., has been appointed to the PEI Kids Board of Trustees.

Based in Lawrenceville, NJ, PEI Kids began in 1985 as Prevention Education, Inc., to serve Mercer County child sexual abuse victims. The organization has well-established working relationships with local law enforcement, government agencies, schools, universities and other social service organizations.



PEI Kids' mission is to promote and maintain a safe environment for all children and is now Mercer County's premier organization addressing issues related to violence and children.

Craig joins a board comprised of community leaders and volunteers from diverse backgrounds who want to help ensure that children are safe and have sound futures by reducing the impact of violence on the community's children and families.

## THOMAS J. MANZO ASSUMES THREE NJ STATE BAR ASSOCIATION ROLES



THOMAS J. MANZO  
ATTORNEY

Thomas J. Manzo has been selected as a member of the Executive Committee for the Civil Trial Bar Section of the New Jersey State Bar Association. The mission of this section is to provide a forum for the professional advancement of civil trial attorneys by improving and promoting the administration of justice in civil trial practice.

Mr. Manzo also has been appointed by the President of the New Jersey State Bar Association, Paris Eliades, Esquire, to the Bar Association's Legislative Committee. The Legislative Committee assists the Board of Trustees in the formulation of legislative policy by reviewing section and committee recommendations on legislation. The committee analyzes the legal and political implications of legislation on NJSBA membership and on the public generally.

Finally, Tom was nominated by the NJSBA Young Lawyers Division (YLD) to serve as the Young Lawyer's Executive Committee Representative for Mercer County. As such, Tom will act as a liaison between the YLD of the NJSBA and the Young Lawyers Committee of the Mercer County Bar.



## ROBERT LYTLE PRESENTS AT, "PROTECT YOUR BUSINESS: FRAUD RISKS AND SCHEMES" EVENT

Business Fraud is not unique to a particular industry or geographic area. Without proactive and protective measures, fraud can destroy a business, large or small, and devastate employees' and employers' livelihoods.

To help business leaders detect and protect their businesses from fraud, Partner Robert (Bob) Lytle joined forces with some of the region's experts in business fraud protection, detection and forensics this past January and addressed a MIDJersey Chamber of Commerce and media audience during an educational workshop breakfast.

*Topics addressed included:*

- Reducing Risk: Scenarios and Safeguards
- Hiring and Managing Personnel
- Identifying and Protecting High-Risk Fraud Areas
- Learning How to Deter, Detect and Defend
- Manage Through A Potential Fraud Situation

**DO YOU OWN A BUSINESS? DO YOU SUSPECT SOMEONE OF COMMITTING FRAUD?** CONTACT SZAFERMAN LAKIND TODAY AND PROTECT YOUR BUSINESS.



PARTNER, ROBERT (BOB) LYTLE, ADDRESSES AUDIENCE AT "PROTECT YOUR BUSINESS" EVENT, JANUARY 2015



L TO R: BRUCE LUDLOW, CPA, KLATZKIN & CO.; SUZANNE HELLER, CPA, FCPA, KLATZKIN & CO.; ROBERT LYTLE, ESQ., SZAFERMAN LAKIND

## SZAFERMAN LAKIND HOSTS N.J. TECH COUNCIL'S SOFTWARE DEVELOPMENT LEADERS QUARTERLY LUNCHEON

An annual sponsor of the New Jersey Technology Council (NJTC), Szaferman Lakind hosted NJTC's first Quarterly Software Engineering Leaders Luncheon of 2015 with the theme, "Innovations in Healthcare."

In attendance were software, hardware and data management technology leaders from the tri-state area. Patient and contact data management presentations were delivered by Mr. Chirag Desai, VP of Information Technology, PDI, Inc. of Parsippany, NJ; Mr. Andy Whetsel, Knee & Robotics Surgery, Stryker Orthopedics of Harrisburg, PA; and Dr. John R. Schnell, MD, of Trenton Orthopaedic Group and Robert Wood Johnson University Medical Center, Hamilton, NJ.



SZAFERMAN LAKIND ATTORNEYS (L TO R, STANDING) SCOTT BORSACK, PARTNER, AND RICHARD CATALINA, OF COUNSEL, OPEN NJTC'S QUARTERLY LUNCHEON.



Luncheon attendees were educated on topics from knee and hip replacement robotics and advancements in robotic surgery to patient and contact record management and how "big data" technologies and electronic transfer of patient files are quickly evolving the landscape of research and patient profile demographic, psychographic and record management, all leading to a common goal of optimization of surgical procedures and patient record management.

## BRIAN G. PAUL RECOGNIZED BY NEW JERSEY STATE BAR ASSOCIATION FOR PRO BONO WORK

Szaferman Lakind Executive Committee Member and Partner Brian G. Paul was invited by the New Jersey State Bar Association (NJSBA) President, Paris P. Eliades, to the annual NJSBA holiday reception to be recognized for his extraordinary volunteer efforts when advocating on behalf of the Association.

Brian was presented with the Amicus Curiae Award for his efforts in authoring the NJSBA's legal brief to the Supreme Court in the case of *Maeker v. Ross*, where the Court agreed that the legislature's amendment to the Statute of Frauds requiring all palimony agreements to be in writing could not be retroactively applied to bar the enforcement of oral palimony agreements that were already in existence at the time of the amendment.



PARTNER, BRIAN G. PAUL, ESQ., ACCEPTS NJSBA RECOGNITION FROM NEW JERSEY STATE BAR ASSOCIATION PRESIDENT-ELECT MILES S. WINDER III.





JUDGE LINDA FEINBERG (RET.)  
OF COUNSEL



## JUDGE LINDA FEINBERG (RET.) APPOINTED TO STATE BAR ASSOCIATION BLUE RIBBON PANEL

The New Jersey State Bar Association (NJSBA) has appointed Szaferman, Lakind, Blumstein & Blader, P.C., Of Counsel, Judge Linda Feinberg (ret.), to a Blue Ribbon Commission on Unmet Legal Needs.

According to the American Bar Association, “Nearly four in 10 middle-income Americans face a legal problem, but most are unable to hire an attorney.” and according to NJSBA, “the legal sector has been bleeding jobs for years and the employment rate for recent law school graduates has fallen six years in a row.”

The commission is charged with seeking innovative ways to responsibly match those who need affordable legal help with lawyers who need clients and provide them the support and guidance to ensure it is properly administered.”

NJSBA’s commission is being co-chaired by retired Supreme Court Justice Virginia A. Long and former Supreme Court Justice Helen E. Hoens. Judge Feinberg joins a panel comprised of retired jurists, legal academics, private practice attorneys from solo practices through large firms and attorneys who work in corporations, non-profit entities, healthcare and government agencies. The participants represent every geographical area of the state.

## THE OPPORTUNITY TO COMPETE ACT

AN ARTICLE BY ARNOLD C. LAKIND, ESQ., CO-FOUNDING PARTNER



ARNOLD C. LAKIND  
CO-FOUNDER, PARTNER

On August 12, 2014, Governor Christie signed “The Opportunity to Compete Act” into law. The new law addresses inquiries by an employer into the criminal history of job applicants and impacts many New Jersey businesses. This article briefly discusses the relevant provisions.

The Act, which appears at N.J.S.A. 34:6B-11 et seq, applies to employers that have “15 or more employees over 20 calendar weeks.” “Employee” is defined to include any person hired for a wage or salary other than “independent contractors.” If you do not have 15 or more employees, you need not be concerned about the Act.

Under the Act an employer is prohibited from requiring an applicant to complete an employment application that makes inquiries regarding criminal history during the “initial employment application” process. In addition, an employer may not make an oral or written inquiry concerning criminal history at the first interview nor may it publish an advertisement that indicates that consideration will not be given to an applicant who has been arrested or convicted of one or more crimes. Because the application of the Act turns on the meaning of “initial employment application,” it is important to understand that term.

The Act defines “initial employment application” as the period beginning when an applicant for employment first makes an inquiry to an employer about a prospective employment position or job vacancy or when an employer first makes an inquiry to an applicant for employment about a prospective employment position or job vacancy, and ending when an employer has conducted a first interview, whether in person or by any other means, of an applicant for employment.

Therefore, an employer is not prohibited from running a criminal background check on the applicant after the first interview. In addition, an employer may require a satisfactory background check as a condition of offering employment. Nor is an employer prohibited from making an inquiry about criminal history after the initial employment application (the first interview) has concluded.

While the reach of the Act is not broad and it should not constrain legitimate inquiries, it is important that any inquiries about criminal background be made at the appropriate time.

## STUART TUCKER PRESENTS “STUDENT LIFE: ON AND OFF-CAMPUS”

As Springtime arrives so too does the time of year for college students to begin the search for off-campus apartments and housing for the Fall Semester.

Partner Stuart Tucker visited the campus of The College of New Jersey in March and made a presentation to members of the TCNJ student body on issues related to residing off-campus. More specifically, Stuart advised students on liabilities and best practices when leasing a residence, cautioned them on what to watch out for when living off-campus and provided some suggestions specific to managing a residence and off-campus life in general.



STUART TUCKER, PARTNER, AT THE COLLEGE OF NEW JERSEY.



# THE COLLEGE OF NEW JERSEY

**IF YOU ARE A COLLEGE STUDENT OR PARENT WITH LEGAL CONCERNS, PROTECT YOURSELF. CONTACT SZAFERMAN LAKIND TODAY**

## BUSINESS & SECURITIES GROUPS CONTINUE PRACTICE GROWTH



**GREGG E. JACLIN**  
PARTNER, EXECUTIVE COMMITTEE

Szaferman Lakind is pleased to announce that Gregg E. Jaclin, Partner, has been named to Szaferman Lakind’s Executive Committee. Gregg leads a nationally-recognized Business Securities Practice consisting of eight attorneys plus support staff.



**CARLY WARD**  
ASSOCIATE

The Business Law Group also announces the addition of Ms. Carley Ward, Associate.

Carley joins Szaferman Lakind with more than eight years in the practice of business and corporate law, representing public and private companies engaging in financing and securities offerings. Carley is a graduate of Georgetown University Law Center, New York Law School and University of Maryland College Park.



## **SZAFERMAN LAKIND BUSINESS SECURITIES ADVISED VIEWTRADE SECURITIES, INC. AS THE LEAD UNDERWRITER ON \$12.8 MILLION IPO OF TANTECH HOLDINGS LTD.**

Szaferman Lakind attorneys Gregg Jaclin, Eric Stein, Yarona Liang and Jason Ye advised ViewTrade Securities, Inc. as the lead underwriter in an initial public offering (“IPO”) on NASDAQ for Tantech Holdings Ltd. Tantech, currently being traded under the symbol “TANH”, is a pioneer in China’s high tech carbonized bamboo industry and specialized manufacturer of bamboo charcoal based products with a number of applications from industrial energy to agricultural and household consumer items. The offering consisted of 3,200,000 shares of the company’s common stock at a price of \$4.00 per share. The company raised \$12,800,000 from the offering, which also marks **the first IPO of a China-based company on a major U.S. stock exchange in 2015.**



**GREGG E. JACLIN**  
EXECUTIVE COMMITTEE  
PARTNER



**ERIC M. STEIN**  
PARTNER



**YARONA LIANG**  
ATTORNEY



**MENGYI “JASON” YE**  
ATTORNEY

**SZAFERMAN  
LAKIND** **TRUE  
COUNSEL**  
ATTORNEYS AT LAW

**SZAFERMAN  
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