

# TRUE COUNSEL®

WINTER 2022

## LEGAL HIGHLIGHTS

NEW JERSEY WORKERS' COMP ATTORNEY SAMUEL GAYLORD & TEAM JOIN SZAFTERMAN LAKIND

A NOTE FROM SAM GAYLORD

STUART A. TUCKER APPOINTED TO THE SZAFTERMAN LAKIND EXECUTIVE COMMITTEE

BOB LYTLE SUCCESSFULLY DEFENDS DOMESTIC VIOLENCE VICTIM

DAN SWEETSER PREVAILS IN DEFENSE OF PROMINENT NEW JERSEY LAW FIRM IN BREACH OF CONTRACT SUIT

MICHAEL PAGLIONE WINS \$23 MILLION ARBITRATION AWARD & SETTLES NEAR-FATAL DROWNING CASE FOR HOMEOWNERS INSURANCE POLICY LIMITS OF \$500,000

## Also Inside...

EMERGING FROM THE PANDEMIC, SEEKING LEGAL COUNSEL IS MORE IMPORTANT THAN EVER

NJ PUBLIC SAFETY WORKERS ELIGIBLE FOR WORKERS' COMP FOR COVID-19

SZAFTERMAN LAKIND SUPPORTS RESCUE MISSION OF TRENTON FOR THE HOLIDAYS

JEFFREY EPSTEIN REAPPOINTED TO MATRIMONIAL CERTIFICATION COMMITTEE

2022 "BEST LAW FIRMS" LIST ISSUED BY U.S. NEWS - BEST LAWYERS RECOGNIZES SZAFTERMAN LAKIND

## NEW JERSEY WORKERS' COMP ATTORNEY SAMUEL GAYLORD & TEAM JOIN SZAFTERMAN LAKIND

*Samuel Gaylord and his team formerly of Gaylord Popp, join the firm focusing their practice on workers' compensation, social security disability and disability pension appeals.*



**Samuel Gaylord**  
Partner

Szaferman Lakind is pleased to welcome five (5) attorneys to the firm. Samuel Gaylord, prominent New Jersey attorney and former Managing Partner of Gaylord Popp, joins Szaferman Lakind along with his team of attorneys including Tanya L. Phillips, Janis A. Eisl, Matthew Solin and Bryce Chase.

Samuel Gaylord joins the firm as a Partner and will focus his practice on workers' compensation, Social Security Disability, and disability pension appeals. He is certified as a Workers' Compensation Attorney by the Supreme Court of New Jersey and is licensed to practice in New Jersey, as well as Pennsylvania.



**Tanya L. Phillips**  
Partner

Tanya L. Phillips also joins the firm as a Partner. Ms. Phillips represents injured workers and accident victims, focusing her practice on workers' compensation claims, Social Security Disability claims and personal injury matters. She is the Immediate Past President of the Mercer County Bar Association and has served as a former President of the Mercer County Bar Foundation. She is licensed to practice in New Jersey, Pennsylvania and the United States Supreme Court.



**Janis A. Eisl**  
Associate

Janis A. Eisl and Matthew Solin join the firm as Associates and will practice primarily in workers' compensation. Mr. Eisl is a graduate of Rutgers University School of Law -Camden and is an active member of the Burlington County Bar Association. He is licensed to practice in both New Jersey and Pennsylvania. Mr. Solin is a graduate of Drexel University Law School and is licensed to practice in New Jersey and Pennsylvania.



**Matthew Solin**  
Associate

Bryce Chase will be Of Counsel to the firm, also focusing primarily on workers' compensation matters and municipal court matters. Mr. Chase has been practicing in New Jersey for over 50 years. He is certified as a Certified Workers' Compensation Attorney by the Supreme Court of New Jersey and is former Chairman of the Mercer County Indigent Committee and Mercer County Fee Arbitration Committee.



**Bryce Chase**  
Of Counsel

The team brings with them seven support staff including Office Manager Rose Szabo. Sam and his team will remain at their current location on Sanhican Drive in Ewing, New Jersey.

"We are excited to welcome Sam and his team to the Szaferman Lakind Family," commented Co-Managing Partner Barry Szaferman. "Sam, Tanya, Janis, Matthew and Bryce, along with their staff bring a wealth of knowledge and experience in workers' compensation matters and we know our clients will be in capable hands. We are pleased to see the firm continue to grow and we look forward to the future of Szaferman Lakind."



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**Samuel Gaylord**  
Partner

## *A Note from Sam Gaylord*

I am thrilled to announce that we have merged with Szaferman, Lakind, Blumstein & Blader, P.C. Although we may have a new name and logo, our goal of offering excellent client service has not changed. Our location and phone number remain the same and we are now able to offer an additional location in Lawrenceville for your convenience. We have the same team of dedicated attorneys and staff to assist you with your case but the most exciting part of this merger is that we get to offer you a wider range of legal services, a larger pool of talented attorneys and the resources to better combat the insurance and defense side of doing business.

We remain dedicated to providing caring, outstanding, and responsive legal services consistently attempting to exceed your expectations while fostering a reputation of charitable and community service. We now additionally seek to provide True Counsel™, a Szaferman Lakind concept and pledge of high quality, efficiency, ethical standards and compassion. A concept aligned with our own mission.

I have known many of the attorneys at Szaferman Lakind for more than 20 years, and I can't tell you how excited I am to now be able to call them my partners. With 30+ attorneys, the firm covers everything from personal injury cases to matrimonial issues, business and various litigation matters, commercial real estate transactions and land use matters. If you have any questions regarding this new journey we are on together please do not hesitate to reach out to me at [sgaylord@szaferman.com](mailto:sgaylord@szaferman.com) or call me at (609) 771-8611. We look forward to this exciting new chapter.

## STUART A. TUCKER APPOINTED TO SZAFERMAN LAKIND EXECUTIVE COMMITTEE



**Stuart A. Tucker**  
Partner

Stuart A. Tucker has been appointed to the Executive Committee of Szaferman, Lakind, Blumstein & Blader. Stuart, a Partner within the Personal Injury Department, has worked with the firm for 24 years and has been integral to its growth and success.

Stuart focuses his practice on personal injury litigation, business litigation and general litigation. A native of Trenton, he has deep roots in the Trenton community, serving on the boards of many nonprofits including the United Way of Greater Mercer County and Every Child Valued. Stuart serves as general counsel to Trenton's Change Church and the Trenton Housing Authority.

Stuart joins an Executive Committee consisting of Co-Managing Partners Barry Szaferman and Brian Paul, Founding Partner Arnold Lakind, Partner and General Counsel Bob Lytle and Partners Craig Hubert and Michael Paglione. Together, they represent all of the firm's practice areas, with a common goal of finding the best ways to serve their client base. The committee members collectively draw on decades of experience working with clients in and out of the courtroom. From hiring the most qualified attorneys to using the latest technology, the Executive Committee's leadership works to ensure quality and cost-effective service.

"We are proud to welcome Stuart to the Executive Committee", said Partner and Executive Committee member Craig Hubert. "I have known Stuart for 42 years, and we both were raised in Trenton, New Jersey. We have watched one another grow up as childhood friends and then as lawyers. When we met in 1979, Stuart offered me a seat next to him on the school bus. Now, I am proud to sit next to him at the Executive Committee table. Stuart's years of experience and dedication to the firm make him a valuable asset and we look forward to the perspective Stuart will bring to the committee."

## BOB LYTLE SUCCESSFULLY DEFENDS DOMESTIC VIOLENCE VICTIM



**Robert E. Lytle**  
Partner

Partner Bob Lytle recently prevailed on appeal on behalf of a client who was not only a victim of domestic violence and sexual assault at the hands of her ex-fiancé, but who was also a victim of the criminal justice system that failed to protect her identity. In fact, the Warren County Prosecutor who was responsible for handling the investigation, unlawfully disclosed our client's identity and the sordid nature of the assault to the press, re-victimizing her a second time in violation of her rights as a crime victim.

Bob filed a lawsuit on our client's behalf against the prosecutor and others seeking compensatory and punitive damages based upon the deprivation of the rights that were guaranteed to her under the N.J. Constitution, which includes the right of crime victims to be treated with fairness, compassion and respect by the judicial system. The trial court later dismissed the lawsuit, on the grounds that the prosecutor was simply informing the public about the completion of a criminal investigation. In August 2021, with Bob's assistance, the New Jersey Appellate Division reversed the trial court and reinstated the complaint that he filed on behalf of our client.

"My client and I are pleased with the Appellate Division's thoughtful opinion," commented Partner Bob Lytle. "The ruling serves to both extend and reinforce the important protections afforded to crime victims by the New Jersey Constitution and the statutes adopted by our legislature."

Bob Lytle is a Partner and serves as General Counsel for the firm. He is a member of the firm's Litigation Department and focuses his practice on criminal defense matters and complex civil litigation including consumer class actions and assisting victims of mesothelioma. To contact Bob please call (609) 275-0400 or email him directly at [rlytle@szaferman.com](mailto:rlytle@szaferman.com).



**Dan Sweetser**  
Partner

## DAN SWEETSER PREVAILS IN DEFENSE OF PROMINENT NEW JERSEY LAW FIRM IN BREACH OF CONTRACT SUIT

On November 8, 2021, Judge Michael Erdos of the Philadelphia Court of Common Pleas entered a verdict in favor of a New Jersey law firm represented by Partner Dan Sweetser.

The complaint alleged that Dan's client breached a contract with the Plaintiff relating to a business transaction and claimed \$160,000 in damages. Dan's client is a highly respected New Jersey law firm and vigorously denied any wrongdoing.

After a three-day trial before Judge Erdos, the Court entered a verdict in favor of Dan's client. Judge Erdos held that at trial, Dan successfully proved that his client did not breach the party's contract and accordingly, the Judge dismissed the complaint. The client's Managing Partner stated: "Our firm prides itself on its reputation. We greatly appreciate Dan's dedication and effort in defending us, prevailing at trial and vindicating our firm."

Dan Sweetser is a partner and chairs the firm's Employment Litigation Department. Dan has been practicing for 30 years. In addition to Employment Law matters, Dan handles a variety of Business Litigation cases for his clients in the State and Federal Courts of New Jersey and Pennsylvania. To contact Dan please email him directly at [dsweetser@szaferman.com](mailto:dsweetser@szaferman.com) or call (609) 275-0400.



**Michael Paglione**  
Partner



**Marc Brotman**  
Associate

## **MICHAEL PAGLIONE WINS \$23 MILLION ARBITRATION AWARD & SETTLES NEAR-FATAL DROWNING CASE FOR HOMEOWNERS INSURANCE POLICY LIMITS OF \$500,000**

On July 4, 2015, a family of five attended a backyard Fourth of July party at the home of the defendants. Approximately 40 to 50 people attended the party throughout the day. There were multiple activities simultaneously taking place, such as whiffle ball, trampoline, and swimming in the defendants' in-ground pool, with a slide and diving board. The defendant homeowners did not provide any rules for the pool, slide or diving board. They testified at deposition there was a standing rule that parents were responsible for watching their own children. The defendants did not hire a lifeguard or Water Watchers. They did not designate anyone with the specific duty of watching over the pool.

At approximately 7:00pm, a guest saw a body submerged at the bottom of the deep end of the pool. He dove in fully clothed and retrieved our client, an eight-year-old boy. He was unconscious and his skin color was blue. Some guests immediately began performing CPR and 911 was called. The family witnessed the boy unconscious, motionless, and blue, not knowing if he was dead or alive.

EMS quickly arrived at the scene and our client was transported via helicopter to the Emergency Room and then the Intensive Care Unit at the Children's Hospital of Philadelphia (CHOP), where he stayed for over two weeks. He was then moved to the Inpatient Rehabilitation Unit where he stayed for an additional four months.

The defendants' homeowners' insurance company took a "No Pay" position. They hired an aquatics safety expert who argued that residential homeowners in New Jersey are not obligated to provide a safe swimming environment to invited pool guests and there is no duty to exercise reasonable care to protect their guests from drowning.

Michael Paglione engaged a pool safety expert, Dr. Thomas Griffiths. Dr. Griffiths opined that the homeowners hosting a pool party owe an inherent duty to exercise reasonable care to protect their pool guests. He argued that standards require homeowners to either hire a lifeguard or have designated Water Watchers because of the vast number of drownings of both children and adults at pool parties.

Our young client suffered anoxic brain injury with severe neurodevelopment impairment due to oxygen deprivation. Mr. Paglione engaged five additional experts to prove the Plaintiff's damages; a Life Care Plan expert, a Vocational Rehabilitation specialist, an Economist, and two of the treating doctors from CHOP. A non-binding Mercer County Arbitration Panel awarded the Plaintiff Twenty-Three Million (\$23,000,000.00) dollars. The defendant homeowners filed a motion to dismiss the case right before trial. Marc Brotman, an Associate in our personal injury department who partnered with Mr. Paglione on this case, successfully defeated the motion and the matter settled for the homeowner's insurance policy limits of \$500,000.



## NJ PUBLIC SAFETY WORKERS ELIGIBLE FOR WORKERS' COMP FOR COVID-19



**Samuel Gaylord**  
Partner

Police officers, first responders and public safety workers are covered by New Jersey Workers' Compensation if exposed to and affected by COVID-19. The New Jersey Workers' Compensation Act provides benefits for injuries "arising out of and in the course of one's employment". The New Jersey Supreme Court in *Coleman v. Cycle Transformer Corp.*, 105 N.J. 285 (1986) describes the level of risk associated with the job;

particularly what "type of risk" can an officer assume and still be covered under the Workers' Compensation Act.

- a) Risks distinctly associated with the job, which resulted in injury, are compensable.
- b) Risks that are neutral, which would not have occurred but for the employee's connection to the location of an injury was deemed compensable.
- c) Risks that are "purely personal" are not associated with the job but could just as well occurred anywhere and at any time are deemed not compensable.

### New Jersey Workers' Compensation Benefits

New Jersey Workers' Compensation provides three very specific benefits for an injured worker. An injured worker is entitled to receive:

- 1) Medical Treatment
- 2) Temporary Disability
- 3) A Permanent Disability Award

Specifically, New Jersey Workers' Compensation provides medical care, which is furnished and paid for by the workers' comp insurance carrier. This includes everything from Advil to an ACL reconstruction. Temporary disability benefits are paid if A) the authorized treating physician indicates that additional medical treatment is necessary and B) an individual must be out of work. If a medical professional indicates that the individual can perform light duty, the question then becomes whether the employer can provide light duty that meets the restrictions set forth by the authorized treating physician. If not, the person continues to receive the temporary disability benefit which is 70% of the gross weekly wage or full wage by way of contract. Finally, an individual who sustains an injury while working also receives an Award for that injury.

### 2019 Protection Act

In July 2019, the Thomas P. Canzanella Protection Act was signed into legislation. This protects all public safety workers for injuries with many causes, including "epidemics". This particular legislation was designed to ensure that officers and first responders are provided with coverage and a level of protection equal to the sacrifice they make for the safety and well-being of other citizens of the State of New Jersey and the nation. What this means is that if an individual officer, first responder or a public safety worker were infected by COVID-19, a serious communicable disease, they would be covered under the New Jersey Workers' Compensation Act.

Bottom line, if a public safety worker were to contract this virus there is a presumption that any injury or disability or chronic illness or death attributed to the COVID-19 virus would, in fact, be compensable and covered by New Jersey Workers' Compensation; meaning the employer would have the responsibility to refute the presumption by way of medical proof which given the current state of affairs would prove to be difficult if not, impossible. If you have any additional questions do not hesitate to call (609) 771-8611 or email Sam Gaylord at [sgaylord@szaferman.com](mailto:sgaylord@szaferman.com).

Sam Gaylord, Esq. is a Partner at Szaferman Lakind and disability litigator in the State of New Jersey with offices in Trenton and Lawrenceville.





**Michael Brottman**  
Partner

## EMERGING FROM THE PANDEMIC, SEEKING LEGAL COUNSEL IS MORE IMPORTANT THAN EVER

*An Article By: Michael Brottman*

While we all hope that the COVID-19 pandemic is nearing its end, the reality is that COVID-19 cases continue, driven by the recent surge of the Omicron variant. Even if you have not personally been infected, we have all suffered from this pandemic. Lost

opportunities for business, education, medical treatment, travel and leisure continue to affect us all.

By now, you have almost certainly heard news reports of “supply chain” problems. While we may not understand all of the underlying causes of these problems, we can certainly see and feel the results of them. From waiting longer to receive, paying more for, or being unable to obtain the goods and services we want or need, the pandemic has affected our lives in many ways. Unfortunately, we will likely continue to feel the repercussions of COVID-19, long after the pandemic ends.

Governor Murphy recently assigned 150 members of the New Jersey National Guard to assist long-term care facilities and ensure the health and safety of their patients. It is easy to understand the effect that staffing and supply shortages have upon physicians and other medical providers. What may not be as easy to understand is the way that these problems can indirectly affect our lives.

If you have suffered a traumatic injury due to a motor vehicle accident or an accident at work you will probably be able to get the emergency medical treatment you need. However, delays in follow up, or other non-emergency medical care may result due to unanticipated, tangential effects of the COVID-19 pandemic. While these effects may be unforeseen, they do have a very real impact on both the care you receive and your body’s ability to maximize its recovery from the trauma.

In orthopedic medicine, these delays can be particularly costly. In 2020, the Hospital for Special Surgery published an article that found that delaying rotator cuff surgery for 12 months or longer may double your chances of needing a revision surgery. This is only one example of the detrimental effect a delay in receiving medical care can have on us. While we could devote our entire newsletter to discussing this topic, our focus here is what we can do to avoid unnecessary delays and maximize our recovery.

If you have never suffered a work injury, you may not know that the New Jersey Workers’ Compensation Act allows your employer, or more likely its workers’ compensation insurance carrier, to control your medical treatment. Shocking as that may seem, it is true; you do not get to select the doctor that treats you or schedule your own appointments. Consequently, unless you retain an experienced attorney, you may experience significant delays in getting the medical treatment you need. If your employer or its workers’ compensation insurance carrier contests your claim, it can delay treatment even longer. Many individuals who have been unfortunate enough to suffer an injury at work know this all too well. Some may

even regret waiting as long as they did to consult an attorney.

What can we do to minimize these delays and their impact upon our recovery? Consult an attorney right away, even if you do not want to retain them immediately. If you think that you are unable to afford to speak to an attorney, think again. In New Jersey, it is unlawful for an attorney to charge clients a fee for representing them in connection with a workers’ compensation claim. An attorney who represents an injured worker in New Jersey Workers’ Compensation Courts may only receive a fee if they obtain benefits for their clients, and a Workers’ Compensation Judge determines the amount of the fee.

Although some attorneys do require workers’ compensation clients to pay for costs associated with obtaining medical records or evaluations in advance, the more common practice is for the attorney to advance these costs and recover them from the client’s recovery at the conclusion of the case. Even if your injury happened outside of work, most personal injury attorneys in New Jersey will not charge a fee for an initial consultation.

In addition to waiting longer to schedule a necessary medical appointment, in some instances the pandemic has also caused significant delays in obtaining medical records from doctors and hospitals. As a result, legal proceedings that rely upon these records as evidence may be adjourned until after the records become available. Even if your legal matter does not involve a traumatic injury, your attorney may need to obtain medical records as evidence to prove your case. Medical records are frequently used as evidence in matrimonial, child custody and other types of litigation. For all of these reasons, consulting with an attorney as soon as possible has never been more important.

There are things that you can do to help expedite the process. The New Jersey Patient Bill of Rights requires doctors and hospitals to provide patients with copies of their medical records within 30 days of receiving a written request from the patient or their authorized representative. Medical providers may charge patients a reasonable fee for copying the records. If your doctor or hospital fails to provide you with a copy of your records after making a written request for them, you can contact the New Jersey Department of Health’s Complaint hotline: (800) 792-9770; or write to them at: New Jersey Department of Health, Division of Health Facilities Evaluation & Licensing, PO Box 367, Trenton, NJ 08625-0367.

If you have tested positive for COVID-19 and believe that your infection resulted from exposure to a co-worker or other individual while in the course of your employment, you should consult an attorney as soon as possible to understand your legal rights.

### *References/Citations*

*Delaying Rotator Cuff Surgery May Increase Need For Revision* ([hss.edu](https://hss.edu))

*Department of Health | Health Care Quality Assessment | Your Rights As A Patient* ([nj.gov](https://nj.gov))

*NJ Division of Consumer Affairs - State Board of Medical Examiners* ([njconsumeraffairs.gov](https://njconsumeraffairs.gov))

## SZAFERMAN LAKIND SUPPORTS RESCUE MISSION OF TRENTON FOR THE HOLIDAYS

For the second year, Szaferman Lakind opted to forgo holiday gifts to clients, choosing instead to provide support to the Rescue Mission of Trenton. The firm donated \$5,000 to be used for homeless families and others in need during the 2021 this holiday season.

Rescue Mission of Trenton provides shelter, food, clothing, and basic items for those facing homelessness, addiction and other hardships. The agency operates an emergency shelter and day center, as well as providing other assistance programs including addiction counseling, mental health services, housing and job training and placement services. The COVID-19 pandemic created new challenges for the organization, including caring for coronavirus patients who otherwise have nowhere else to turn and also keeping other individuals safe.

Since the pandemic began in March of 2020, the firm has donated \$25,000 to various nonprofits in the Mercer County area to assist those in need. The firm's attorneys and staff also sponsored 72 children through the HomeFront Holiday Wishes Drive, to fulfill the holiday wishes of children affected by homelessness.

"With many hardships created by the pandemic, we are gratified to be able to provide assistance to organizations like the Rescue Mission of Trenton and HomeFront," remarked Co-Managing Partner Barry Szaferman. "It brings us joy to be able to help our community during the holidays, and we hope our clients and the community had a very happy holiday season."



**Jeffrey K. Epstein**  
Partner

### JEFFREY K. EPSTEIN REAPPOINTED TO MATRIMONIAL CERTIFICATION COMMITTEE

The New Jersey Board on Attorney Certification has reappointed partner and matrimonial attorney Jeffrey K. Epstein to the Matrimonial Certification Committee. This will be Jeffrey's second three-year term serving on the committee.

The Board on Attorney Certification was established by the Supreme Court of New Jersey in 1980 and assists in the administration of the attorney certification program. The Committee makes determinations as to which attorneys qualify for Board certification after a rigorous application and exam process. This program aims to determine an attorney's level of experience, education and skill in a particular practice area in order to be deemed a "certified attorney." Attorneys must also pass a difficult examination and be recognized by their peers to be considered. Designating attorneys with these certifications helps the public make informed decisions when seeking legal counsel and protects clients from false advertising.

In addition to serving on the Matrimonial Certification Committee, Jeffrey is certified by the Supreme Court of New Jersey as a Matrimonial Attorney. Only two percent (2%) of all attorneys in the State of New Jersey have received this designation.

Jeffrey has been a Partner with the firm for 18 years and focuses his practice on matrimonial matters such as divorce, child custody, post-judgement litigation and divorce mediation and arbitration. To contact Jeffrey please call (609) 275-0400 or email him at [jepstein@szaferman.com](mailto:jepstein@szaferman.com).

# 2022 “BEST LAW FIRMS” LIST ISSUED BY U.S. NEWS – BEST LAWYERS® RECOGNIZES SZAFERMAN LAKIND



For the ninth consecutive year Szaferman, Lakind, Blumstein and Blader, P.C. has been included in the 2022 Edition of U.S. News – Best Lawyers® “Best Law Firms”\* list. For 2022, the firm was recognized as a New Jersey - Metropolitan Tier 1 law firm in the following practice areas:

- Commercial Litigation
- Family Law
- Land Use & Zoning Law
- Personal Injury Litigation - Plaintiffs

According to U.S. News – Best Lawyers®, “The U.S. News – Best Lawyers® ‘Best Law Firms’ rankings are based on a rigorous evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys, and review of additional information provided by law firms as part of the formal submission process.”

Also noted, “All of the quantitative and qualitative data were combined into an overall ‘Best Law Firms’ score for each firm. This data was then compared to other firms within the same metropolitan area and at the national level. Because firms were often separated by small or insignificant differences in overall score, we use a tiering system rather than ranking law firms sequentially.”

Each firm recognized on the “Best Law Firms” list, “must have at least one attorney who is recognized in the current edition of The Best Lawyers in a ‘Best Law Firms’ ranked practice area/metro area.” In the 2022 edition of Best Lawyers®, five (5) Szaferman Lakind attorneys were recognized in five (5) practice areas. Barry D. Szaferman and Brian G. Paul were both recognized for Family Law; Arnold C. Lakind for Commercial Litigation and Land Use & Zoning Law; Craig J. Hubert for Personal Injury Litigation – Plaintiffs and Jeffery M. Hall for Land Use & Zoning Law and Real Estate Law.

“Thank you to U.S. News – Best Lawyers as well as our colleagues in the New Jersey Metro area for recognizing us in this prestigious list,” remarked Co-Managing Partner Barry Szaferman. “We are honored to be included for the ninth consecutive year and we are grateful to the attorneys and staff at the firm for their continued dedication to our clients.”



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