

## ATTENTION ALL PARENTS: *Know Your Rights*

All too often, divorced parents inform me that they are denied access to their children's health and education records. This happens, usually to the non-custodial parent, despite language in Matrimonial Settlement Agreements entitling them to detailed information from medical and educational providers regarding their children. This should not be the case and is contrary to New Jersey law. N.J.S.A. 9:2-4.2 provides that every parent, to the extent permitted by federal and state laws concerning privacy, shall have access to records and information pertaining to his or her unemancipated child. This information should include, but not be limited to, medical, dental, insurance, child care and educational records, **whether or not the child resides with the parent**. Access to the records may be denied if the court finds such access to be contrary to the best interest of the child or that access is being sought for the purpose of causing detriment to the other parent. While school officials, health care providers, child care providers and other agencies and companies who keep your child should know this law,

*cont. on page 4*

### FIRM NEWS

○ *Peter Lederman* was a guest lecturer before the Middlesex County IDRC on November 2nd, the Union County Bar Association on November 29th, the Middlesex Young Lawyers Committee on December 6th. He was also interviewed on December 1st by News Channel 12 on the Alcotest 7110, the new breath test machine. Mr. Lederman was the keynote speaker at the Municipal Court Practice Section meeting of the New Jersey State Bar Association on January 9th.

○ *Edward Eastman, Jr. and Heidi K. Hoffman* spoke before the New Jersey Institute for Continuing Legal Education at a seminar on Commercial Real Estate & Leasing for Paralegals. The group was able to gain a thorough understanding of the process and procedures needed to expedite commercial real estate purchase, sale, and leasing transactions.

○ *Robert F. Muñoz* was installed as Chairman of the Board of the Western Monmouth Chamber of Commerce on January 11th. He was also the keynote speaker at the Learn How to Create, Protect, Manage and Keep Your Personal Wealth seminars that were held throughout the month of October. He spoke on how to reduce your estate taxes and pass more money to your next generation.

○ *Donald Lomurro* has been certified as a member of the Million Dollar Advocates Forum. Membership is limited to attorneys who have won million and multi-million dollar verdicts, awards and settlements. There are approximately 3,000 members throughout the country.

○ *Bettina Munson* was honored by the Women Lawyers of Monmouth County at their annual dinner on October 25th "in appreciation and recognition of her efforts and achievements on behalf of her profession, her gender and her community."

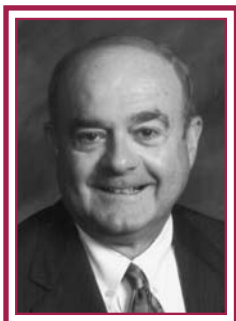
○ *Duane O. Davison* spoke at the 90th Annual League of Municipalities Conference in Atlantic City, in November, on Ethics Education - The Local Government Ethics Law and More and on "Avoiding Ethical Pitfalls in Municipal Law."

○ *Judy Frusciano*, who has been our office coordinator for over 18 years, was elected President of the NJALS for the State of New Jersey (The Association for Legal Professionals). She will also be the representative for the Association on the national level.

*cont. on page 2*

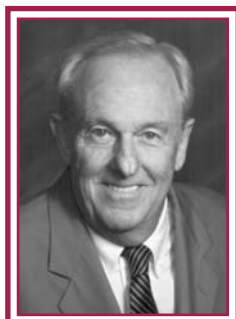
\*Lomurro, Davison, Eastman and Muñoz, P.A. is "A.V." rated by Martindale-Hubbell, which is its highest rating. Martindale-Hubbell is the facilitator of a peer review process that rates lawyers on legal ability and general ethical standards. Ratings reflect the confidential opinions of the Bar and the Judiciary.

### We are proud to announce the newest members of our firm:



**Michael D. Schottland** graduated with honors from Rutgers Law School in 1965. He was admitted to practice in New Jersey in 1965, before the United States Supreme Court in 1969, and before the United States Court of Appeals for the Third Circuit in 1974. In 1983, he was among the first group of attorneys to achieve the designation of Certified Civil Trial Attorney by the New Jersey Supreme

Court. Since his admission to the bar, Mr. Schottland has been an active litigator in civil, chancery and criminal courts and in matters before administrative agencies. He has served as trial and appellate counsel in several pivotal and highly publicized cases, including *State v. Bruce Curtis*, a murder trial that was the subject of a television movie and several books and that went to the Superior Court, Appellate Division with a reported opinion. Mr. Schottland has written several articles that have appeared in the New Jersey Law Journal on various topics from no-fault/verbal threshold law to comments regarding judicial evaluation and the publication of ethics matters. He has also had articles on various topics of public interest published in the *New York Times* and local newspapers. He currently serves as attorney for the New Jersey Thoroughbred Horseman's Association and for the faculty of Monmouth University. He is a member of the Monmouth Bar Association; the New Jersey State Bar Association; the American Trial Lawyers Association; and the New Jersey chapter of the Association of Trial Lawyers of America. **Mr. Schottland's practice areas are Personal Injury, Medical Malpractice, complex Land Use Litigation, and Appellate Litigation.**



**H. Frank Carpentier** is a 1955 graduate of the University of Maryland and earned his LL.B. from Seton Hall University School of Law. He served in the U.S. Navy from 1956-1957. Mr. Carpentier was admitted to practice in New Jersey in 1963 and may appear before the United States Supreme Court, the United States Court of Appeals for the Third Circuit, the United States District Court, and the

United States Court of International Trade. He is a member of the Monmouth Bar Association and served as the Association's president from 1982-1983. He is a former municipal prosecutor in Ocean Township, Neptune City, and Brielle and a former secretary for the Monmouth County Ethics Committee. In 2003, Mr. Carpentier was the recipient of the Professional Lawyer of the Year Award from the New Jersey Commission on Professionalism in the Law. **Mr. Carpentier's practice focuses on Litigation.**



**Peter V. Koenig** graduated from Johns Hopkins University in 1977 and from Columbia University Law School in 1980. He also attended the School of Economics at the University of London in 1975, where he earned a certificate from the American Institute for Foreign Study. He was admitted to practice in New Jersey and before the United States District Court for the District of New

Jersey in 1980 and before the United States Court of Appeals for the Third Circuit in 2003. Mr. Koenig was formerly with the law firm of Argeris & Associates. Throughout his career, he has participated in many substantial cases that resulted in several published opinions. He is a member of the Monmouth Bar Association, the Columbia University School Alumni Association (Life Member), the United States Naval Institute (Associate Member), and volunteers at the Meals at Noon food program in Long Branch. **Mr. Koenig's practice focuses on Litigation.**



**Andrea White O'Brien** earned her bachelor of arts degree from Villanova University in 1991 and her juris doctor from Brooklyn School of Law in 1994. She was admitted to practice in New Jersey and before the United States District Court for the District of New Jersey in 1994 and was admitted to practice in New York in 1995. Ms. O'Brien has been certified by the Supreme Court of New Jersey as a

Matrimonial Law Attorney. She served as a judicial law clerk to the Honorable Clarkson S. Fisher, Jr. in the Superior Court of New Jersey, Chancery Division, Family Part. She has been practicing in the area of family law for over ten years, assisting clients in divorce, custody, parenting time, child support, alimony and domestic violence issues. Ms. O'Brien is an Associate Managing Editor for the New Jersey Family Lawyer, and she is a member of the New Jersey State Bar Association, Family Law Executive Committee. She is qualified pursuant to R. 1:40 to mediate family law cases throughout the state. Ms. O'Brien is a member of the Association of Trial Lawyers of America, New Jersey Chapter and has been nominated as an officer in the matrimonial section. She is a member of the Monmouth Bar Association, Family Law Committee; the Ocean County Bar Association and the Women Lawyers of Monmouth County. **Ms. O'Brien's practice area is Family Law.**

# The Role of a DWI Defense Attorney in Alcohol Treatment

by **Peter H. Lederman, Esq.**

---

An attorney can perform an important role involving alcohol-related issues when representing a defendant in a DWI prosecution. The DWI defense attorney is generally the first professional person who comes into contact with the accused after arrest. He or she is also a person who deals with alcohol-related issues arising out of DWI complaints on a regular basis and who is trusted by the accused. The defense attorney, therefore, has a unique opportunity to make a difference in assisting a client in recognizing and addressing alcohol issues. These matters should be addressed in the initial consultation. This discussion should involve the four reasons why a client should make a serious effort to address these issues:

1. People receiving DWI complaints need to understand that alcohol is a dangerous drug, and that while alcohol consumption and subsequent vehicle operation may not amount to a violation of law, operation when intoxicated is obviously dangerous, wrong and illegal. It is important, therefore, that the client understand how the misuse of alcohol must be avoided in the future and that the defendant acknowledge the need to make a good thing out of a bad thing. Clients with obvious alcohol-related problems should be encouraged to use the occasion to address those issues. In cases where counseling is not needed, clients should be encouraged to acquire skills and techniques to prevent inappropriate use of alcohol before vehicle operation in the future.
2. Seeking and undertaking counseling also helps the defendant in coping with difficult inter-personal and self-esteem issues, which arise within families and among others who care for the defendant. Obviously, seeking help makes an affirmative statement that the defendant is taking steps to address these issues.
3. Our professional and personal responsibility should lead us to assist our clients in dealing with what could be a dangerous and life-threatening disease. Even when this is not the case, attorneys have a professional and personal obligation to make roads safer and to prevent unnecessary loss of life, injury and damage to property whenever possible. I can say, from personal experience, that there is nothing more satisfying than being contacted by a client, years after representation, to be thanked for encouraging them to seriously address alcohol-related issues.
4. Finally, there are few things judges, prosecutors and police officers respect more than action taken by defendants in addressing alcohol-related issues before they are mandated by law to do so. These people bear a heavy burden when dealing with defendants charged with driving while intoxicated. They must protect society while, at the same time, ensure that defendants are afforded rights guaranteed by our Constitution and laws for fair disposition of complaints against them. The fact that a defendant seeks help and successfully completes a program dealing with alcohol issues can give the court some assurance that the defendant will not repeat the conduct that led to the issuance of the summons.

Attorneys then should actively address questions of alcohol use and abuse with clients. They should be prepared to encourage defendants to use the occasion to focus on issues involving alcohol use and to submit to a program of evaluation, education and counseling, when necessary.

The attorney is also in a position to explain the Intoxicated Driver Resource Center (IDRC) program and to ensure compliance with IDRC requirements. The attorney can also assist clients who reside outside the state in arranging for IDRC compliance.

Finally, attorneys representing clients in DWI matters have a unique opportunity to make a difference in how a defendant ultimately emerges from a DWI prosecution. In my view, the attorney has a professional and personal obligation to encourage the defendant to pursue evaluation, education and counseling.

Contact Mr. Lederman at 732-462-7170 for more information about this article.

**Lomurro  
Davison  
Eastman  
and  
Muñoz  
P.A.**

ATTORNEYS AT LAW  
"AV" Rated\*

**Know Your Rights** continued from page 1

they often do not. Further, these institutions often desire to remain "neutral" and may inadvertently side with the custodial parent because it is the parent with whom they have the most dealings.

To address the problem, matrimonial attorneys draft post-judgment agreements to provide that the agreement itself serves as a **General Release** permitting both parties to access any and all records relating to the child from any institution keeping such records. If a parent is unsuccessful in obtaining the information, we can often resolve the problem for our clients by communicating with the institution withholding the information. We can also file an application in Superior Court to require disclosure of the information, and, if warranted, to require the custodial parent to provide the information directly to the non-custodial parent. For private institutions, such as day care providers, private after-school care programs and summer camps, withholding information from a non-custodial parent may be grounds to remove the child from that facility.

The Family Department of Lomurro, Davison, Eastman & Muñoz, P.A. is a team of highly-skilled, experienced professionals who specialize in addressing these issues. If you would like to speak to an attorney regarding access to your child's health or education records, please call Allison C. Williams, Esq. at (732) 462-7170 to schedule a consultation.

*By: Allison C. Williams, Esq.*

DONALD M. LOMURRO ◦ •  
DUANE O. DAVISON  
EDWARD C. EASTMAN, JR. •  
ROBERT F. MUÑOZ  
ROBERT L. HEUGLE, JR. •  
JULES S. LITTMAN  
JAMES M. MCGOVERN, JR.  
PETER H. LEDERMAN  
BETTINA E. MUNSON ✧  
JAMES A. PAONE, II  
THOMAS M. COMER •  
ROBERT S. BONNEY, JR. ◦  
ANDREA WHITE O'BRIEN ✧  
GARY P. MCLEAN  
MICHAEL J. FASANO  
SIMON L. KAUFMAN  
ALTON D. KENNEY  
PETER V. KOENIG  
H. FRANK CARPENTIER  
HEIDI HOFFMAN-SHALLOO  
TRACY A. ARMSTRONG  
LOREN ROSENBERG LIGHTMAN  
CARRIE A. LUMI  
JAIME R. ACKERMAN  
JONATHAN H. LOMURRO  
ALLISON C. WILLIAMS  
CHRISTINA D. HARDMAN  
OF COUNSEL  
JOSEPH M. CLAYTON, JR.  
STEPHEN C. CARTON  
MICHAEL D. SCHOTTLAND •

**LOMURRO, DAVISON, EASTMAN & MUÑOZ, P.A.**

**ATTORNEYS AT LAW**

Monmouth Executive Center

100 Willowbrook Road

Building 1

Freehold, New Jersey 07728-2879

(732) 462-7170 • Telefax (732) 462-8955

WWW.LOMURROLAW.COM

Presort Std  
US Postage  
Paid  
Freehold, NJ  
Permit No. 22

Certified by the Supreme Court of N.J. as a:

- Civil Trial Attorney
- Criminal Trial Attorney
- ✧ Matrimonial Law Attorney