

PRESIDENT'S PERSPECTIVE

DOMENICK CARMAGNOLA

New Lawyers Find a Vibrant Community in the NJSBA



Earlier this spring I had the pleasure of taking part in a new lawyer admissions ceremony. It was a great day, one of the best and most gratifying I have had this year as president of the New Jersey State Bar Association. The event was held at the New Jersey Law Center

where we were able to host people in person and virtually using our newly upgraded technology.

Looking into the crowd who assembled and at the screen of people taking part online, I saw faces bursting with pride, beaming with smiles and maybe even a few eyes shining with tears of relief and gratitude. Chief U.S. District Court Judge Freda Wolfson offered advice and encouragement. Chief Justice Stuart Rabner virtually welcomed the group into the profession. U.S. District Court Judge Julien Neals and Young Lawyers Division Chair Ryan Gaffney shared words of practical wisdom that resonated with everyone assembled. It was a truly special event.

But what happened in the moments after the official event ended are what really stick with me and why membership and participation are so important. As most of the crowd was filtering out or grabbing a few pictures with family members in our auditorium, a new attorney arrived. He was flustered and his face was clouded with worry that he had missed the ceremony, his opportunity to be sworn in, and disappointed his mother who had managed to login and was watching the event from home.

In a matter of moments, we knew what had to be done. Chief Judge Wolfson jumped into action. She and I administered the oath for the state and federal courts for him. Colleagues were soon shaking hands with their new colleague and suggesting to him people to connect with in his field of practice. People stepped in as surrogates to take photos and video for him to send to his family.

In that instant, his shoulders relaxed and his demeanor

shifted from panic to gratitude. He was able to see first-hand what it means to be a part not just of the New Jersey legal community, but of being welcomed into the New Jersey State Bar Association family.

Central to the NJSBA's mission "to serve, protect, foster and promote the personal and professional interests of its members" is our dedication to fostering meaningful opportunities for the next generation of attorneys. The NJSBA is here to help new attorneys get a solid start to their professional journey and be their partner throughout their careers. The Association provides everything an attorney might need: leadership opportunities, practical skill building courses and communities of lawyers ready to help them get a successful start in the law.

Our Young Lawyers Division is a vibrant community of attorneys in their early years of practice. It provides critical networking opportunities, family events, and volunteer projects, like Wills for Heroes where our volunteers create wills and other documents for first responders. The Division also has a hands-on mentorship program to connect new lawyers to those who are more experienced to get practical career advice.

We have close relationships with Seton Hall University School of Law and Rutgers University School of Law and are working to strengthen those even further with combined educational opportunities. In June, we are planning a joint symposium on diversity, equity and inclusion that will shine a specific light on intergenerational diversity in the workplace. In February, we were thrilled to host two joint ventures: a continuing legal education session on Supreme Court cases involving high schools where the law school students, as well as pre-law students from Monmouth University, served as the speakers, and a program for pre-law students with Montclair State University focused on racial justice in the legal profession.

At the upcoming Annual Meeting and Convention, which will be held at the Borgata Hotel, Casino & Spa from May 18-20, we look forward to the energy that the state's law clerks bring to the conference and its educational sessions. And the NJSBA discussed mentoring, development and retention

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dents and their families routinely victimized by school districts and their insurance carriers nefariously leveraging delays in the hearing process for tactical advantage. Having litigated special education cases since the 1970s when the original version of IDEA was enacted, including the one resulting in the reassignment of due process hearings from the Department of Education to OAL 40 years ago,⁸ I have a different perspective.

There are delays in the hearing process, to be sure, for reasons that are beyond the scope of this article. The federal courts will decide in due course whether those delays violate IDEA's timelines, but I dispute Mr. Rue's premise that they invariably work to school districts' advantage. In many cases, families benefit from those delays as well. That's because under IDEA's "stay put" clause, districts are required to continue the "current educational placement" until the dispute is resolved.

For example, let's say a district agreed to an out-of-district placement initially, because it did not have an appropriate program in-district, but later creates one that meets the student's needs. Under the Third Circuit's version of "stay put" all a family need do to delay that transition for years is request a due process hearing. Even if they're unsuccessful at OAL, "stay put" remains in effect at least until appeals to the U.S. District Court and the Third Circuit are exhausted, even if they lose there too. School districts don't get the benefit of the same rule, by the way. If the family prevails before OAL, the administrative law judge's decision automatically becomes the "stay put" placement.⁹ This built-in double standard is yet another bargaining chip families have in negotiating settlements.

Stripping districts of insurance coverage isn't warranted either. Special education cases should be decided, or settled, on their merits without either side hav-

ing an unfair advantage in the process. Districts without insurance are often financially unable to withstand even the remote chance of a six-figure counsel fee award and forced to succumb to families' demands for that reason alone. Mr. Rue suggests that's as it should be since the parents are the only parties who care about the student's welfare. Again, I disagree. From personal experience, I can attest that some districts will fight to spend *more* money to provide students with what they feel is the proper education. That doesn't make their position correct, but the vast majority of disputes involve honest disagreements over what's sufficient, not attempts by districts to deprive students of vital services.

Bottom line, most special education practitioners who actively litigate these cases, including many parent-side attorneys, agree that forbidding demands for fee waivers will only cause further delays in the disposition of cases and, in the end, hurt the families Mr. Rue seeks to protect. ■

Endnotes

1. 113 N.J. 594 (1989).
2. 200 N.J. 580 (2010).
3. See RPC 1.2(a).
4. See Court Rule 1:21-1(f); Committee on the Unauthorized Practice of Law Op. 57 (April 9, 2021).
5. (D.N.J. No. 19:12807).
6. *K.K. v. Parsippany Troy Hills*, 21 LRP 35472 (D.N.J. 2021) (Arleo, J.).
7. *Taxman v. Board of Educ. of Tp. Of Piscataway*, 91 F.3d 1547, 1567 (3d Cir. 1996)(Sloviter, C.J., dissenting).
8. *East Brunswick Board of Educ. v. New Jersey State Board of Educ.*, 554 IDELR 122 (D.N.J. 1982).
9. See N.J.A.C. 6A:14-2.6(u)(1).

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issues specific to young attorneys at a meeting we held recently with the managing partners of New Jersey firms. We also have a host of reference materials designed specifically to address the needs of new attorneys. The information covers everything from what they need to do to fulfill mandatory continuing legal education and *pro bono* requirements, to how to tackle student loans, to driving directions to courthouses and where to find discounts on clothes, technology and other tools necessary for launching into the profession.

Just as we jumped into action without hesitation to help the new attorney who showed up late to the swearing-in ceremony, the NJSBA stands ready to be a partner to the next generation of attorneys. ■