

COUNSELORS AT LAW

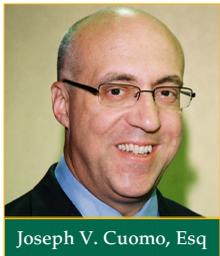
# Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP

FORCHELLILAW.COM

P R E S E N T S

## The COUNSELOR

### THE VALUE OF CORPORATE CLEAN-UP AND GOOD RECORD KEEPING



Joseph V. Cuomo, Esq.



Allison W. Rosenzweig, Esq.

Business owners tend to focus on the specifics of running a business and may let record keeping fall to the wayside. Many things occur during the life of a company, such as the coming and going of officers and directors; the change of the service of process address; the change of owners of the company; etc. Each event should be recorded in the minute book.

Failure to keep records of all the changes that occur in a company may result in a disorganized or incomplete corporate minute book and may present gaps in the corporate history. The process of filling in the gaps in the records is known as corporate clean-up. This process results in a more organized minute book that will lay out a cohesive corporate history so that a third party, when necessary, could pick up and understand. The clean-up will be crucial when the company wants to enter into a potential sale of the company, a significant equity or debt financing, and/or a significant joint venture.

#### COVER

The Value of Corporate Clean-Up  
and Good Record Keeping

PAGE 2

Awards, Presentations & Events

PAGE 3

Successful Lawyers,  
Successful Clients

BACK COVER

Awards and Events (cont'd.)

This article highlights the importance of good corporate record keeping and resolving any potential issues, as well as the potential pitfalls of not cleaning up the corporate records in a timely fashion.

#### Corporate Formalities

Business owners typically like to keep a growth or exit strategy in mind at all times. Such strategies may include the sale of the business, a significant equity or debt financing, and/or a significant joint venture. It is important for business owners to prepare their companies for these major corporate events before they are even contemplated. One easy way for a business owner to prepare for a major corporate event is to have good corporate records.

In any of the major corporate events described above, the buyer of the company, the investor, the lender and/or the joint venture partner will perform due diligence of the corporate records. It is essential for the business owner's attorney to first perform a review of the entity documents in advance to identify potential missing information or inconsistencies in the corporate records that could be "fixed" prior to the third party due diligence. If the records do not clearly show every step of the corporate history, documents may have to be adjusted or added to lay out a complete corporate history. Having the corporate records "cleaned" prior to the corporate event allows the process to move more smoothly and provides the third party with more peace of mind. Advanced preparation is essential to maximizing the

value of the business, and may even result in a greater sale price or valuation.

#### Value of Record Keeping

The goal for any business owner should be to keep records up-to-date as corporate actions occur. There are several risks associated with waiting to update the minute book that may make things more difficult down the road. As an example, stock certificates reflect ownership of shares of the corporation, and if a shareholder is no longer an owner of shares, the stock certificate must be cancelled by having the shareholder endorse the back of the certificate. If a business owner fails to get the certificate signed at the time of the ownership transfer, the transferring shareholder may become uncooperative or unavailable.

Corporate records are also relied upon by service professionals helping the business. Accountants will want to review the minute book in order to properly prepare the company tax returns. The corporate records will also be relied upon by the company's counsel. Counsel may need to provide a legal opinion, which provides a buyer, investors or lenders with comfort that the corporate records are in order. An attorney will not provide a legal opinion if there is too much risk associated with providing such an opinion. As stated above, an attorney will also rely on the corporate records during due diligence when a buyer is interested in acquiring the company or assets of the company.

While this article covers record keeping for corporations, as an example, record clean-up is important for all business entities, including limited liability companies (LLC). An LLC has different formation and organization documents, but the goal is still for a third party to be able to review the company minute book and see the "chain of title" since the formation of the company.

#### Conclusion

It is essential for all business owners to keep accurate and organized corporate records. The records are a company's story since incorporation. If the records have not been kept up-to-date, action should be taken as quickly as possible to adjust or add documents to create a clearer history of the company actions. The importance of record keeping is heightened by the fact that casual treatment of corporate formalities may have disastrous effects.



L- R: Dr. Jeffrey Reynolds, President and CEO of FCA  
& Jeffrey D. Forchelli, Esq.

Family & Children's Association Honored  
Managing Partner Jeffrey D. Forchelli with its  
**Hero of the Month Award.**

## Veterinary Practice Group (VPG)



As an outgrowth of its corporate and transactional practice, the Firm has expanded its specialized Veterinary Practice Group (VPG), which consists of a dedicated team of attorneys who can address the special needs of veterinarians in the sale and purchase of their practices, as well as their day-to-day contractual and management issues and compliance matters. The VPG provides the veterinary

community with professional guidance across a broad spectrum of legal disciplines.

### Veterinary Practice Group (VPG)

The Veterinary Practice Group (VPG) consists of a dedicated team of attorneys who can address the special needs of veterinarians in the sale and purchase of their practices, as well as their day-to-day contractual and management issues and compliance matters. The VPG recently completed the multi-million dollar sale of a local veterinary laboratory to a national laboratory company and also successfully guided an emerging small capital group in the acquisition of a veterinary practice in the mid-west. The group is also currently engaged in handling a license defense matter before the New York State Department of Education on behalf of a veterinarian employed by a multi-state company.

## Media Mentions

*The Firm and its attorneys have been recognized in leading publications including:*

### New York Law Journal

The results of this publication's 2016 Reader Survey were announced and **Peter Skelos** was named one of the top 10 mediators in New York State.

### Newsday

**Daniel S. Dornfeld** was quoted for his representation of Firm client Designatronics Inc.

### Long Island Business News:

**Dan Deegan** was interviewed for the article, "Long Island IDAs: Mysteries Unraveled."

**James C. Ricca** was featured in the Who's Who in Real Estate Law special section. He answered the question – As you look towards 2017, is there an issue/trend you are keeping an eye on? **Nathan R. Jones** was spotlighted in Law Ones to Watch.

**Landon Dais** was interviewed on Fox 5 News for his L.I. Fight for Charity fundraising efforts.

### New York Real Estate Journal:

**Andrew E. Curto** was quoted in the Year in Review special section. He answered the question – What was your most notable project or transaction in 2016? **Daniel S. Dornfeld** was interviewed for the special section, State of the State 2016. **Brian R. Sahn's** article, "The Greening of Fannie and Freddie," was published.

**Joseph Cuomo** and **Allison Rosenzweig's** co-authored article, "Handling & Managing a Joint Venture In-House," was published in the New York State Bar Association's *Inside!* Corporate Counsel newsletter.

## Awards, Presentations & Events



**Jeffrey D. Forchelli** was an honoree at the Dante Foundation annual dinner. (Frank Antetomaso left of Jeffrey Forchelli and Michael Ricigliano, Sr., Esq. right.)

*The Dante Foundation of Nassau County is composed of men and women of Italian heritage who have united to encourage fellowship among Americans of Italian descent.*

**Brian R. Sahn** was a panelist at the 2016 Queens Real Estate Conference. His panel topic was Green Buildings.

The Firm's "Long Island General Counsel Network" managed by **Joseph V. Cuomo** co-hosted a networking event with the Association of Corporate Counsel (ACC). The event attended by about 50 guests was held at The Arizona Beverages corporate office rooftop.

**Peter Skelos** was the moderator for the CLE entitled "Reasonable Accommodations in the Workplace Under the ADA & Recent Trends and Practical Tips When Dealing with Restrictive Covenants and Trade Secrets." The CLE was sponsored by National Arbitration & Mediation (NAM).

The Firm co-hosted a CLE seminar with the Asian American Bar Association (AABNY), titled "EB-5 and the Foreign Investor." **Robert B. Moy** moderated the panel, which included representatives from Signature Bank, Baker Tilly Capital LLC and AmTrust Title Insurance.



**Nicole S. Forchelli** was honored with the Champions for Families award by RotaCare. (Left -Right Mary Beth Welsh, President, RotaCare and Nicole S. Forchelli)

*The mission of RotaCare is to facilitate free health care for the relief of pain and suffering to those who have the most need and the least access to medical care.*

The Firm co-hosted a seminar, titled "Working With International Buyers," with Daniel Gale Sotheby's International Realty. **Robert B. Moy** was the moderator and **Rob Renda** was a panelist.

# SUCCESSFUL LAWYERS SUCCESSFUL CLIENTS

## Banking and Finance

- **James C. Ricca**, on behalf of an institutional lender, negotiated and closed a multimillion dollar construction mortgage loan for a mixed-use project consisting of senior housing, medical office space, retail space and a hotel, located in Pawling, New York.
- **Steve G. Gaebler** successfully represented Citibank in the closing of a \$7,500,000 mortgage loan involving a property on which a prominent art gallery is operated.
- **James C. Ricca**, on behalf of a prestigious Long Island Country Club negotiated and closed a multimillion dollar term loan and line of credit used to make improvements to the club's facilities and golf course.
- **James C. Ricca** and **Lindsay Mesh** negotiated and closed the refinancing of a \$27,000,000 mortgage loan on behalf of the owner of a large retail commercial property located in Nassau County. The transaction involved an assignment of a defeasance mortgage loan.
- **John P. Bues** represented New York Community Bank in closing a mortgage loan secured by four multifamily apartment buildings with 40 units in the amount of \$4,250,000 in Freehold, New Jersey.
- **John P. Bues** and **Peter L. Agovino** represented the owner of commercial property in negotiating and securing a \$10,540,000 construction loan for the construction of a 95,000 square foot manufacturing facility in Hicksville. **Daniel P. Deegan** and **Frank R. Davis** were successful in obtaining a mortgage tax savings on behalf of the client in excess of \$79,000.

## IDA

- **Dan Deegan** participated in the long awaited groundbreaking for the \$2.5 billion Village of Hempstead mixed-use downtown revitalization project being developed by Firm client Renaissance Downtowns and RXR Realty. The project will create over two million square feet of commercial space and 3,500 units of housing in the heart of downtown at the train station and regional bus terminal. The project is projected to create thousands of jobs for local residents.
- Ropack Inc. is a Canadian pharmaceutical company that wanted to expand to the U.S. In 2015, we helped them acquire two buildings in Hauppauge and obtain municipal benefits from the Suffolk County Industrial Development Agency (IDA). In 2016, their business plan was changed so they decided to sell one of their buildings. Under the terms of their transaction, we expected the IDA to require that they pay back approximately \$164,000 in benefits, which is what Ropack had received for the building they were selling. By managing the process and negotiation, **Dan Deegan** and **Daniel S. Dornfeld** were able to get the IDA to reduce the amount Ropack had to pay back to \$120,750.

Managing Partner **Jeffrey D. Forchelli** announced that after a lengthy process which began many years ago, the Firm was able to secure both considerable tax relief and finally tax exempt status for a not-for-profit client.

The matter, originally handled by another firm, resulted in denials of tax relief and tax exempt status for the not-for-profit. Under the direction of **Jeffrey D. Forchelli** and **John V. Terrana**, the Firm achieved a five year settlement, which granted the client considerable tax relief. After that settlement expired, the Firm applied for tax exempt status and commenced litigation, spearheaded by **Nathan R. Jones**, which sought to overturn the County's denial of tax exempt status. The litigation concluded with the Appellate Division reversing the Supreme Court and granting the long sought-after tax exempt status.

This matter was a collaborative effort by **Jeffrey D. Forchelli**, **John V. Terrana**, **Jeffrey G. Stark** and **Nathan R. Jones**.



Pictured: **Reginald Benjamin**, head of the Village's Jobs and Business Referral Center, **Sean McLean**, Project Manager for Renaissance, and **Dan Deegan, Esq.**, at the November, Village of Hempstead's Downtown Revitalization Groundbreaking

## Real Estate/ Land Use & Zoning

- On November 21, 2016, the Village of Old Westbury, after a lengthy environmental and zoning process, granted the necessary approvals for the Diocese of Rockville Centre to develop its Old Westbury property for the Queen of Peace Cemetery. The final approval will ensure an environmentally friendly project which will meet the needs of the Diocese. The process in securing approvals for the Cemetery was spearheaded by **Jeffrey D. Forchelli** and **Judy L. Simoncic**.
- **Kathleen Deegan Dickson** obtained variances and site plan approval from the Town of North Hempstead for a new TD Bank branch with drive-through facilities in Manhasset. Working with the local civic groups, Ms. Deegan Dickson and her client presented a plan that reflected the local aesthetics and the importance of the bank's location at the corner of Northern Boulevard and Plandome Road, which was then approved by the Town Board and Zoning Board.
- **Kathleen Deegan Dickson** obtained and completed all necessary easements and covenants required for the construction of a 46-unit affordable artists' housing development for which she had previously obtained approvals in the Town of Riverhead. Working closely with the Suffolk County Department of Health, the Town of Riverhead and nearby property owners, the filings were completed and construction is scheduled to begin in early 2017.

## Tax Certiorari

- **John Terrana** and **Warren Arthur** handled property tax appeals for a luxury fitness center in Nassau County. The property's tax structure was in flux as Industrial Development Agency benefits were expiring, but the Firm was still able to obtain \$205,000 in savings for the client.
- **Douglas Atkins** and **Robert Renda** represented the landlord of a large regional shopping center in southern Nassau County. By analyzing market data and comparing that to the shopping center's declining performance, the Firm increased the client's bottom line through \$157,000 in refunds and savings.
- **Robert Renda** and **Nicole Forchelli** represented owners of a luxury condominium building in an incorporated village on Long Island. By ensuring that the condo units were assessed using the proper valuation method, the Firm secured a \$192,000 refund for the condo association.
- **John Terrana** and **Douglas Atkins** represented an owner of an upscale assisted living facility in the Town of Babylon. After researching case law trends throughout the state and nation, John and Douglas established that the Town was employing valuation methods that resulted in over-taxation. The result was \$200,000 in refunds and savings for the client.

COUNSELORS AT LAW

# Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP

FORCHELLILAW.COM

The Omni • 333 Earle Ovington Boulevard • Suite 1010 • Uniondale, NY 11553

READ THE COUNSELOR ONLINE  
[www.forchellilaw.com](http://www.forchellilaw.com)

**PARTNERS**

JEFFREY D. FORCHELLI  
ANTHONY V. CURTO, P.C.  
DANIEL P. DEEGAN  
PETER R. MINEO  
JOHN V. TERRANA, P.C.  
KATHLEEN DEEGAN DICKSON  
PETER ALPERT  
BRIAN R. SAHN  
JAMES C. RICCA, P.C.  
ROBERT CHICCO  
ROBERT H. GROMAN, P.C.  
RUSSELL G. TISMAN  
WILLIAM F. BONESSO  
ANDREW E. CURTO, P.C.  
STEVEN G. GAEBLER  
JUDY LYNN SIMONCIC, P.C.  
JOSEPH V. CUOMO  
GREGORY S. LISI  
JEFFREY G. STARK  
JOSEPH P. ASSELTA  
PETER L. AGOVINO  
WARREN S. ARTHUR  
RICHARD A. BLUMBERG  
FRANK DAVIS  
AARON GERSHONOWITZ  
ANDREA TSOUKALAS  
DAVID A. LOGLISCI

**JASON L. ROTHMAN**

ROBERT B. MOY  
MARY E. MONGIOI  
FRANK W. BRENNAN  
DANIEL S. DORNFELD  
ELBERT F. NASIS  
PETER B. SKELOS  
DOUGLAS W. ATKINS

**OF COUNSEL**

ANTHONY B. BARTON  
MICHAEL A. CIAFFA  
BARRY C. FELDMAN  
ALEXANDER LEONG  
HAL MAYER

**ASSOCIATES**

STEPANIE M. ALBERTS  
JOHN P. BUES  
LISA M. CASA  
RAYMOND A. CASTRONOVO  
JOHN M. COMISKEY  
LONDON C. DAIS  
NICOLE S. FORCHELLI  
DANIELLE B. GATTO  
BRIAN J. HUFNAGEL  
NATHAN R. JONES  
DANA Y. LEE  
LINDSAY MESH  
PARSHHURAM T. MISIR  
ROBERT L. RENDA  
ALLISON W. ROSENZWEIG  
TARA SORENSEN  
DANIELLE TRICOLLA

Presorted Standard  
U.S. Postage  
**PAID**  
Permit No. 255  
Hicksville, NY

Find us on



## AWARDS AND EVENTS CONT'D.



Partner **Kathleen Deegan Dickson** was honored as one of Long Island's 50 Most Influential Women Hall of Fame award by the Long Island Business News. The Top 50 program recognizes Long Island's top women professionals in business, education, government and the not-for-profit fields for their business acumen, mentoring and community involvement.



Landon "Lights Out Litigator" Dais, associate in the Employment and Labor Department participated in the 13th Long Island Fight for Charity event. Over \$200,000 was raised to support members of the community through The Long Island Community Chest.



Partner **Andrew E. Curto** (L) & associate **Stephanie M. Alberts** (R) were honored by the Long Island Business News with the Leadership in Law award. The Leadership in Law Award recognizes experience, dedication, hard work, skill and excellence and is dedicated to those individuals whose leadership, both in the legal profession and in the community, has had a positive impact on Long Island.