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

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P R E S E N T S

## The COUNSELOR

### RENEWABLE ENERGY - WHAT IS IT?

Incentives and Navigating the Landscape

*Firm Launches the Renewable Energy and Emerging Technology Practice Group*



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In July, Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP launched the Renewable Energy and Emerging Technology Practice Group ("REET"). REET is dedicated to assisting clients navigate the growing, overlapping and often confusing array of government and private sector initiatives and incentives aimed at increasing the use of renewable energy and sustainable consumption. Apropos to this initiative, Governor Cuomo recently launched a \$5 billion Clean Energy Fund (the "Fund") to grow New York's clean energy economy. The Fund, which will be administered by the New York State Energy Research and Development Authority ("NYSERDA"), will advance renewable energy, such as combined heat and power ("CHP"), solar, wind, energy efficiency and other clean tech industries to boost

economic development and reduce harmful emissions. The Fund provides generous incentives, such as rebates and tax breaks, for the installation of clean energy systems.

#### What Is Renewable Energy?

Renewable energy is energy generated from natural resources that are continuously replenished. This energy may be captured by different types of processes, including CHP, solar power, and wind power, as well as geothermal, hydroelectric and biomass. Combined Heat and Power - CHP, also known as cogeneration, is the process of using one fuel source of energy to produce two individual energy products: thermal energy (heat) and

electricity. Traditional power generation involves two separate processes to produce the same two energy products, but results in more energy "waste" and emissions to the environment. With CHP, thermal energy that would otherwise be wasted is recovered and recycled to supply thermal energy for heating and cooling systems. Solar Energy - Solar energy converts the energy from the sun into electricity. Solar panels can be mounted on the roof of a home or building, or even in a parking field. Excess electricity produced by the solar electric system goes into the utility grid, where the user can reuse the excess electricity or can receive a rebate for the money saved. Solar energy does not generate greenhouse gases. Wind Energy - Wind turbines convert wind energy directly into pollution-free, renewable electric power.

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*Andrea Tsoukalas (left) and Managing Partner Jeffrey D. Forchelli (center) at the Nassau Woman's Bar Foundation Annual Scholarship Luncheon.*

#### Governor Cuomo's \$5 Billion Clean Energy Fund

Through the Fund, NYSERDA will focus its efforts in four portfolios: (1) Market Development, to which \$2.7 billion has been allocated, to stimulate consumer demand for clean energy; (2) NY-Sun, to which \$961 million has been allocated, to stimulate the state's solar industry; (3) NY Green Bank, to which \$782 million has been allocated, to fund clean energy projects; and (4) Innovation and Research, to which \$717 million has been allocated, for research and development of new renewable energy technology.

## How Can the \$5 Billion Clean Energy Fund Pool Be Accessed?

REET has and will assist clients in determining what incentives are available and how to access them. REET will cover various disciplines, such as bringing to the forefront sound procurement practices to obtain such technologies and negotiating contracts from vendors of such technologies, reviewing land use approvals that may be necessary to implement such technologies, looking at tax incentives and other development-oriented benefits available,

and promoting a more sustainable environment for our clients and their business enterprises and employees.

Supported by the Firm's real estate, zoning and land use, corporate and litigation practices, key partners in the group are Andrew Curto, Joseph Cuomo, Brian Sahn and Andrea Tsoukalas, who will collectively advise clients of the available resources and then quarterback the myriad of issues that arise including the management of corporate agreements, procurement contracts and real property concerns, oversee indemnification and insurance matters and

review any land use or municipal compliance issues for sites implementing such technologies. Forchelli, Curto, Deegan, Schwartz, Mineo & Terrana, LLP has always been environmentally conscious. The Firm is proud to be the first law firm on Long Island to be LEED-Certified Silver (Leadership in Energy & Environmental Design) in the Commercial Interior category. If you have any questions regarding the various incentives available to you and your business and the application process, please do not hesitate to contact our office or any of the partners listed herein.

## Media Mentions

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

### *New York Law Journal*

**Peter Skelos** co-authored an article with Stephen Schlissel titled, "Mediation and Arbitration: Alternatives to Matrimonial Litigation."

**Gregory S. Lisi** was interviewed for the radio program, "Law You Should Know" (90.3 FM) about best practices pertaining to the hiring process (questions you can and cannot ask).

### *Newsday*

**Jeffrey D. Forchelli** was quoted for his matter with Rottkamp Brothers farm. **Daniel S. Dornfeld** was quoted for his representation of Firm client Ropack.

### *Long Island Business News:*

The Firm was noted in the *Long Island Business News'* Celebrate Your Milestone special section for celebrating 40 years! (1976-2016)



**Andrea Tsoukalas** was interviewed for the Who's Who in Women in Professional Services special section.

**Brian J. Hufnagel** was spotlighted as a Law Ones to Watch.

### *New York Real Estate Journal:*

**Daniel P. Deegan** was featured as the Executive of the Month. **Brian R. Sahn's** article, "Passive Means Savings," was published. **Judy L. Simoncic, Danielle Tricolla, Lindsay Mesh** and **Tara Sorensen** were interviewed for the publication's annual Women in Real Estate special section.

"When Does an Administrative Order Resolve CERCLA Liability Sufficiently to Trigger a §113 Contribution Action?" by **Aaron Gershonowitz** was published in the *Environmental Claims Journal*.

**Joseph V. Cuomo** and **Allison Rosenzweig's** co-authored article, "Disclosure Schedules in Acquisition Transactions," was published in the New York State Bar Association's *NY Business Law Journal*.

## Awards, Presentations & Events



*The Huntington Arts Council honored Anthony V. Curto with the Harry and Sandy Chapin Arts & Humanitarian Award. (L to R: Anthony V. Curto and Sandy Chapin)*

The Firm was a sponsor for the Hofstra University's Distinguished Lecture Series titled "Deciphering the 2016 Presidential Election: What Do Voters Want?" The speaker was former Firm Of Counsel and current New York State Senator John J. Flanagan.

**Nathan Jones** participated in a panel discussion on Civil Litigation Practice for law interns working at Nassau County Supreme Court.



*Robert L. Renda (L) was honored with the first Annual Millennial Award by the Long Island Business News.*



*James C. Ricca (Center) was honored by the Queens Courier with the Top Business Man Award*



*The Firm was proud to support the Smile Farms Summer Soiree whose mission is to provide adults with developmental disabilities meaningful work opportunities at local farms, urban gardens, greenhouses and farm stands in the communities where they live. (L to R: 1-800-Flowers CEO Jim McCann and event co-chair Allison Rosenzweig.)*

**Peter Skelos** was a panelist at the National Arbitration and Mediation (NAM) Continuing Legal Education seminar titled, "Mediating Construction Defect Claims."

**Robert B. Moy** presented to the National Asian Pacific American Bar Association.

**Robert L. Renda** presented to the Suffolk County Bar on improvements to the e-filing system pertaining to property tax challenge filings.

## Banking and Finance

- **James C. Ricca** negotiated and closed on behalf of New York Community Bank a \$121,000,000 leasehold mortgage loan secured by a 35-story office building located at 475 Park Avenue South, New York City.
- **James C. Ricca** and **Lindsay E. Mesh** negotiated and closed a \$20,385,000 mortgage loan secured by four commercial condominium units and a stand-alone bank branch in Garden City, NY.
- **James C. Ricca** and **Lindsay E. Mesh** negotiated and closed a \$5,000,000 first mortgage loan secured by a retail and office building and a second mortgage secured by an adjacent office park in Plainview, NY.
- **John P. Bues** negotiated and closed a construction loan for \$2,500,000 on behalf of a property owner for the construction of an 18-unit multi-family building in Bloomfield, NJ.
- **Steve Gaebler** represented Citibank in connection with an extension of a \$5,000,000 Letter of Credit issued in connection with a Tax Exempt Industrial Revenue Bond originally issued by the California Statewide Communities Development Authority.
- **John P. Bues** representing Valley National Bank, successfully obtained an order dismissing all claims against the client that were alleged to have arisen out of the client's establishment of a trust bank account. The claims were for monetary damages in excess of \$200,000.
- **Steve Gaebler** represented New York Commercial Bank on the simultaneous closing of five mortgage loans and a commercial coop loan aggregating in the total amount of \$28,827,750. The loans were made to affiliated borrowers.
- **Steve Gaebler** and **Dana Lee** successfully represented BBCN n/k/a Bank of Hope on a \$20,000,000 mortgage loan on property located in New York City. This matter was complicated by the fact that the existing loan on the premises had an outstanding balance which exceeded the \$2,000,000 loan from BBCN and encumbered property that was not to be taken as collateral for the BBCN loan. Accordingly, arrangements were made to coordinate a simultaneous closing with Bank of China and a simultaneous split of the existing loan, enabling part of the existing loan to be paid with the BBCN loan and assigned to BBCN, with the remaining part to be assigned to Bank of China and paid off with the Bank of China loan.

## Construction Law

**Joseph P. Asselta** and **Raymond A. Castronovo** obtained an order vacating an arbitration award issued through the American Arbitration Association and involving a construction contract dispute on the grounds that the arbitrator failed to disclose a potential conflict of interest. In a proceeding held in the Supreme Court, Nassau County, evidence was presented which demonstrated that both the arbitrator's company and its parent company were awarded construction contracts by various agencies totaling over \$1 billion dollars. A company affiliated with one of the parties to the arbi-

tration was also hired by the agencies as a consultant to oversee the performance of the awarded construction contracts. The Court held that although it believed the arbitrator's claim that he did not know of the overlapping involvement of entities, he should have delved further into potential conflicts in order to have protected the integrity and impartiality of the arbitration process and avoided any question of fairness.

## Corporate

The "Long Island General Counsel Network," managed by **Joseph V. Cuomo** co-hosted a Continuing Legal Education (CLE) seminar with the Association of Corporate Council (ACC). The topic for the CLE seminar was "The Hidden Dangers of OPEX & More." The featured speakers were Joel Binstok, Managing Principal of The York Group, LLC, and Firm Partner **Brian R. Sahn**. The speakers covered the hidden pitfalls of pass-through charges in commercial leases, among other hot topics.

## Litigation

**Judy L. Simoncic**, **Richard A. Blumberg**, and **Danielle B. Gatto** brought another successful Article 78 proceeding in the Nassau County Supreme Court against the Village of Muttontown. Among other things, the suit arose from the Village of Muttontown's improper claim that a building permit was required from the Village to expand and re-pave an existing driveway, which was the primary means of access to the equestrian riding arena being constructed by our client. They argued that this work was depicted on the approved site plan and thus already approved by the Village. The Court agreed and concluded that no separate permit was required from the Village. As a result, the Firm's client can finish the construction of the project.

**Andrew Curto** and **Danielle Tricolla** represented the long-time majority shareholder, president and founder of a manufacturing company and its affiliated real estate holding companies valued at nearly \$10 million dollars in a family dispute wherein our client's shares were wrongly transferred into trusts, depriving our client of the operational control of the companies. Mr. Curto and Ms. Tricolla coordinated a successful, clandestine take-back of the companies by use of the unique terms of the applicable shareholders agreement and trust documents as well as experts retained by the Firm to facilitate the take-back. This action resulted in the removal and expulsion of the culpable parties and recovery of the shares for our client, securing control of the companies back into the hands of the founder, our client.

**Judy L. Simoncic**, **Richard A. Blumberg**, **Danielle B. Gatto** and **Danielle E. Tricolla** brought a successful Article 78 proceeding in the Nassau County Supreme Court against the Village of Muttontown. Among other things, the suit arose from the Village of Muttontown's improper claim that a building permit was required from the Village for the installation of water mains, fire hydrant and an associated underground vault, all of which were necessary to provide water service and

fire protection to an equestrian riding arena being constructed by our client. They argued that proper authority for the work was obtained from the only entities that had jurisdiction over the work performed, namely the Nassau County Department of Health and Jericho Water District. The Court agreed and concluded that no separate permit was required from the Village. As a result, the Firm's client continued with the construction of the project.

## Real Estate/ Land Use & Zoning

**Peter R. Mineo** and **Andrea Tsoukalas** obtained zoning approvals for a GoHealth medical facility in the Village of Mineola, NY. The approvals included a subdivision of the premises to create a pad site for the new use and site plan approval from the Planning Board and a special use permit from the Board of Trustees. They also recently obtained approvals for a Walgreens on the site which is currently under construction.

**Peter R. Mineo** and **Andrea Tsoukalas** obtained zoning approvals for a renovation and expansion of Rallye Acura in the Village of Roslyn, NY. The two-story 3,200 square-foot addition includes a new carport for customers, a new service area, and new offices on the second floor.

**Andrea Tsoukalas** obtained approvals for a four-story apartment building in the Village of Floral Park, NY, as well as the renovation and expansion of Koenig's restaurant. The project was approved after Ms. Tsoukalas conducted extensive public outreach to the neighboring school board. Ms. Tsoukalas also settled an Article 78 proceeding concerning the same matter.

**Andrea Tsoukalas** obtained zoning approvals for a pediatric dentist office in Port Washington, NY and a general family dentist office in Manhasset, NY. Andrea Tsoukalas obtained approvals for a new signage at the Americana Mall in Manhasset, NY for Tory Burch and Chanel. With over 60 fabulous luxury and contemporary shops and a bevy of services, Americana is the ultimate shopping oasis.

## Tax Certiorari

**John V. Terrana** and **Robert L. Renda** obtained over \$200,000 in real estate tax savings for the developer of an affordable housing apartment complex in Hempstead, NY. They were able to secure the real estate tax savings by utilizing a special provision of the Real Property Tax Law which mandates that low-income apartment buildings be valued for real estate tax purposes based upon the buildings' actual net operating income.

**Douglas W. Atkins** and **Nicole Forchelli** handled the representation of the owner of a large tract of vacant industrial land in Suffolk County, NY. The owner was seeking a property tax reduction, but the realty valuation was extremely specialized based on the property's use. After pursuing the matter in Supreme Court and engaging with the assessing authorities, the Firm was able to secure over \$300,000 in refunds and savings for the client.

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## NEW ADDITIONS AND BOARD APPOINTMENTS



**Harold B. Mayer** joined the Firm as Of Counsel in the Land Use & Zoning department. Mr. Mayer has been a practicing attorney on Long Island for almost 40 years. His area of concentration is real estate, focusing on complex transactions, zoning, land use planning and municipal law.



**Lisa M. Casa** has joined the Firm as an Associate in the Employment and Labor department. She concentrates her practice in the areas of employment and labor law, sexual harassment and discrimination law, overtime and failure to pay wages law, union/management issues and litigation.

**Judy L. Simoncic** was appointed to the board of Vision L.I.

**Russell G. Tisman & Michael A. Ciaffa** were re-appointed to the board of The Theodore Roosevelt American INN of Court



*Firm staff participated in and attended the annual Marcum Workplace Challenge at Jones Beach.*

**James C. Ricca** was appointed to the board of the Huntington Arts Council

**Dana Y. Lee** was appointed to the executive board of the Korean American Youth Foundation