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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

TWO NEW PARTNERS JOIN TO ENHANCE CORPORATE AND BANKRUPTCY PRACTICE GROUPS



Gerard R. Luckman, Esq.



David J. Borkon, Esq.

The hallmark of our growth as a Firm has been to evaluate the needs of our clients and deliver leading-edge solutions to help them achieve their objectives. Our clients often tell us that our representation, which is tailored to their specific situation, is highly valued. In introducing the two newest partners to our Firm, we have even renamed one of the departments to reflect the skills and experience that he brings to the table.

The two new partners are Gerard R. Luckman, who joined as Partner and Chair of the Corporate Restructuring/Bankruptcy practice group, and David J. Borkon, who joined the Corporate department as a Partner.

Reflecting Jerry's extensive experience

in corporate restructuring, the name of the practice group now includes restructuring. His pragmatic approach and experience has led him to represent virtually every type of client in a financial workout or Chapter 11 bankruptcy case, including clients involved in distressed debt transactions, asset acquisitions, and asset sales outside of bankruptcy. He has also represented debtors, creditors' committees, equity holders, landlords, and secured and unsecured creditors in Chapter 11 proceedings.

Jerry can take the client from the initial filing of Chapter 11 bankruptcy petition through the management of the case, and ultimately confirm a plan of reorganization or liquidation. In representing clients in a work out, his hands-on approach assists the client in negotiating and executing the restructuring of their financial obligations while avoiding the uncertainty associated with a Chapter 11 filing.

A graduate of St. John's University School of Law, he serves on the Board of Directors. He is a former President of the Long Island Chapter of the Turnaround Management Association and is a member of the American Bankruptcy Institute.

"I am thrilled to be able to provide my

clients and relationships with such a broad range of legal services such as tax certiorari, zoning and land use as well as our corporate, employment and litigation capabilities," said Jerry. "The attorneys and staff understand that the success of the Firm is tied to the success of our clients and together we strive to reach these goals. I am looking forward to growing my practice in this environment."

David Borkon is a corporate attorney concentrating in business and transactional matters for a wide range of clients, including startups, growth stage companies, and private equity firms and their portfolio companies, with a focus on mergers and acquisitions, financings, recapitalizations, and joint ventures.

He has experience with equity and debt financings, venture capital financings, private placements, mergers and acquisitions, dispositions, joint ventures, entity formation, shareholder and operating agreements, reorganizations, employment and consulting agreements, entertainment agreements, manufacturing, supply agreements, and a wide variety of other commercial agreements.

David also has extensive experience representing clients in the food, beverage, and hospitality sectors, and regularly counsels entrepreneurs, startup and growth-stage companies, and investors regarding the structuring and formation of new business enterprises, capital raise transactions, agreements among founders, and employment and equity arrangements with key personnel.

"I am very excited to join a Long Island-based firm which is held in such high regard," David said. "I look forward to helping the corporate department continue its growth." He is a graduate of Rutgers University School of Law.

Jeffrey D. Forchelli, Managing Partner of the Firm, said "We are very happy to have Partners like Jerry and David join our Firm. We never grow for growth's sake but to enhance the services we can provide our clients."



Nicole S. Forchelli and Judy L. Simoncic were honored by Hofstra University at the Outstanding Women in Law event.

(L-R: Judge A. Gail Prudenti, Nicole S. Forchelli and Judy L. Simoncic).

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Awards & Events

Awards, Media Mentions & Events

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

New York Law Journal

Peter B. Skelos' article, "Preparing for Oral Argument of Your Appeal," was published.

New York Real Estate Journal:

Danielle Tricolla's article, "NYC Freelancers Protected Under New Law," was published.

Newsday

Andrea Tsoukalas was quoted for her representation of Firm client Hanullim Presbyterian in the article, "Carle Place Civic Group Mulls Church's Request to Relocate Queens-Based Korean Congregation."

Dan Deegan was quoted for his representation of client Carlyle Building, LLC, in the article, "Tax Tussle – Developer Seeks Tax Breaks for \$7.9M Senior Project."



The Firm dedicated a conference room and renamed it as the new Anthony V. Curto Boardroom.

Cox & Company Inc., one of Long Island's largest players in the aerospace and defense industry, had its plan to expand its presence in Plainview recently endorsed by the Nassau County Industrial Agency (IDA). The company received tax incentives to expand its operations on Old Country Road. The original incentives granted the company were set to expire at the end of 2019 but the IDA extended them until 2033. According to Newsday, **Dan Deegan**, representing Cox, said at the hearing that the tax incentives were crucial to keeping the company in Nassau County.

Long Island Business News:

Elbert Nasis was interviewed for the Who's Who in Labor Law special section. He was asked, "As you look into the New Year, what issue will be key to your area of practice?" **Gerard Luckman** was spotlighted in Law Ones to Watch.



The Huntington Chamber of Commerce Honored Long Island's Young Professionals including Allison W. Rosenzweig (Top Center)



William F. Bonesso (Top Center) was recognized as Man of the Year by the Yeshiva of South Shore.



Lindsay E. Mesh (Bottom Center) was honored at the 40 Stars Under 40 event hosted by the Queens Courier publications.

Presentations

Peter Skelos was a panelist at a CLE seminar titled "Civil Motion Practice in the Appellate Division, Second Department and An Overview of the New Rules for Attorney Discipline." The seminar was presented by the Nassau Lawyers Association of Long Island and sponsored by National Arbitration & Mediation (NAM).

Kathleen Deegan Dickson presented on "Getting Deals Done on Long Island" to the Long Island Real Estate Women's Group.

The Firm's "Long Island General Counsel Network and the Association of Corporate Counsel (ACC) co-hosted a CLE seminar titled "Renewable Energy – What Is It?" The featured speakers were Victor Mezh, President of ClearCell Power, Inc., Montgomery "Monty" Bannerman, Chief Executive Officer, ArcStar Energy, LLC, and John J. Burke, Jr., Esq., General Counsel at D'Addario & Company, Inc. **Andrew E. Curto** moderated the seminar.

Gregory S. Lisi presented a CLE seminar titled, "Who Wants to be an Employment Law Millionaire?" to the Nassau County Bar Association.

Gerard R. Luckman presented an overview in Bankruptcy Law and recent developments at the Community Bankers Mortgage Forum event.

Dan Deegan presented on IDA Benefits to Daniel Gale Sotheby's International Realty Commercial Division.

SUCCESSFUL LAWYERS SUCCESSFUL CLIENTS

Banking and Finance

- *Steve Gaebler* negotiated and closed an \$11,800,000 mortgage loan covering properties owned by the Wolf Family, LLC, which it leases out to its affiliate, Contract Pharmacal Corp. for the operation of its business as a developer, manufacturer and packager of premium vitamins, OTC drugs, antacids and nutritional products.
- *James C. Ricca* negotiated and closed on behalf of New York Community Bank, a \$26,000,000 first mortgage loan on a development site containing five commercial and mixed-use buildings at 34th St. & Third Avenue, NY, NY.
- *James C. Ricca* and *John P. Bues*, on behalf of New York Community Bank, negotiated and closed a \$17,000,000 mortgage loan secured by a multi-family apartment complex in Manhattan.
- *Lindsay E. Mesh*, on behalf of Valley National Bank, negotiated and closed three mortgage loans secured by three mixed-use properties in Brooklyn, aggregating \$2,236,000.
- *James C. Ricca* and *Lindsay E. Mesh*, on behalf of Valley National Bank, negotiated and closed the assumption of a \$6,000,000 mortgage loan with a SWAP interest rate, secured by a commercial building in Long Island City.
- *John P. Bues* negotiated and closed a commercial loan secured by a restaurant in Southampton for \$2,000,000 on behalf of a property owner.
- *Steve Gaebler* and *Lindsay E. Mesh* represented Hanmi Bank in the negotiation and closing of a \$20,000,000 Term Loan, \$5,000,000 Revolving Line of Credit Facility and \$5,000,000 Capital Expenditure Guidance Facility made to Best Market, Inc. In addition to these facilities being secured by a grant of security in all assets, the closing required the negotiation and documentation of two Leasehold Mortgages and five Collateral Assignment of Leases.

Corporate

- *Anthony V. Curto* and *Joseph V. Cuomo* handled for long time client Joy Mangano a complex Publishing Agreement with Simon & Schuster, Inc., along with several related side agreements. Under the S&S Agreement, Joy will author a book, *Inventing Joy*, detailing her philosophies on how to reach personal, business and financial fulfillment. The book is scheduled for publication in time for the 2017 holiday season. The deal with S&S, which involved a substantial advance, was the result of a competitive auction and bidding war among several high level publishers.
- *Daniel S. Dornfeld* led a team representing Ruthian Baseball, LLC, in the purchase of a controlling interest of the New Britain Bees, an independent minor league team in the Atlantic League of Professional Baseball. He was assisted by *Allison W. Rosenzweig* on due diligence, and *Joseph V. Cuomo* and *Anthony B. Barton*.

IDA

- *Dan Deegan* represented client Michael Kelly at a well-attended public hearing before Suffolk County's Industrial Agency (IDA), in support of a request for tax incentives for a proposed 126 unit apartment complex, Westfield Green, in Selden. The \$32 million project on Middle Country Road in Brookhaven is not financially feasible without the IDA tax incentives. The majority of the attendees at the public hearing supported the project and the IDA ultimately granted final approval.

Forchelli Environmental Law blog
managed by **Aaron Gershonowitz**
<https://forchellienvironmentallaw.com>
posted the following:

- "NYSDEC Proposes Amendments to SEQRA Regulations."
- "Asarco v Noranda: Uncertainty in Remediation Costs Means a Settlement Can Be Fair or UnFair."
- "How and When to Challenge Regulatory Action."

Litigation/Construction Law

- In an action commenced against a Firm client in the U.S. District Court for the Southern District of New York, *Peter B. Skelos*, *Aaron Gershonowitz*, *Michael A. Ciaffa* and *Danielle B. Gatto* obtained an order of dismissal on a motion dismissing the complaint. The complaint alleged that our client, an environmental consulting firm retained by a commercial mortgage lender to perform a Phase I environmental study, failed to properly perform the study. The complaint alleged breach of contract and negligent misrepresentation, and sought damages arising out of the alleged radioactive waste at the property. Notwithstanding the presiding judge's policy against a stay of discovery during the pendency of dismissal motions, Mr. Skelos successfully obtained a stay, saving our client tens of thousands of dollars in litigation expense.
- In connection with their representation of the City of Long Beach, *William F. Bonesso*, *Richard A. Blumberg*, *Peter B. Skelos* and *Danielle Tricolla* defeated a motion filed by the Aqua Condominium to renew its application to enjoin the City's operation of its newly constructed comfort stations along the Boardwalk, which application had previously been denied by the Supreme Court in 2015. Aqua also filed a separate application for similar relief in the Appellate Division, Second Department, which Mr. Bonesso, Mr. Blumberg and Ms. Tricolla also successfully defeated.
- *Joseph P. Asselta* and *Raymond A. Castronovo* obtained summary judgment in favor of a multinational corporate owner in a mechanic's lien foreclosure action brought by a subcontractor. The subcontractor's mechanic's lien had been discharged by the deposit of money intocourt. While the New York Lien Law does not expressly provide that under such circumstances an owner is not a necessary party to a mechanic's lien foreclosure action, it was argued that the claims against the owner should be dismissed based on analogous principles that apply when a mechanic's lien has been discharged by bond. The court agreed and granted the owner's motion in its entirety, dismissing all claims asserted against it, with costs and disbursements.
- The Employment and Labor department received a dismissal in the case of NYC District Council of Carpenters Pension, et al. v. A Quest Corporation, a Labor Management Relations Act/ERISA/Project Labor Agreement matter concerning our client's contribution requirements to the Union pension, welfare and charity funds. *Frank W. Brennan* wrote a Motion to Dismiss and the Court agreed, dismissing the case in its entirety.

- *Raymond A. Castronovo* obtained an arbitration award in favor of an electrical subcontractor for its additional costs and expenses resulting from design changes at a project involving the construction of a sewage treatment plant in Suffolk County, N.Y. The arbitrator determined that the subcontractor's additional costs and expenses were directly caused by latent deficiencies in the design of the project, which resulted in significant changes to the electrical drawings. The arbitrator awarded the subcontractor the full amount of its claim plus two years of interest.

Land Use & Zoning

- *Peter R. Mineo* and *Andrea Tsoukalas* obtained approvals for a major five-lot subdivision in the Incorporated Village of Sands Point. As required for a project of this magnitude, our client conducted an extensive environmental review under the State Environmental Quality Review Act (SEQRA). To facilitate the project, our client also agreed to the widening, improvement and repair of an existing private road that currently serves a number of houses.
- *Andrea Tsoukalas* obtained a parking variance and conditional use permit for a café restaurant in Manhasset for For-Five Coffee Roasters. The project was approved after Ms. Tsoukalas worked closely with the President of the Greater Council of Manhasset to address parking and traffic concerns on Plandome Road.
- *Andrea Tsoukalas* obtained variances for the Hanullim Korean Presbyterian Church on Westbury Avenue in Carle Place. Ms. Tsoukalas conducted extensive community outreach for this project to include a work session and presentation before the Carle Place Civic Association. Although there were some concerns regarding parking on residential streets most community members supported the application.

Tax

- *Barry C. Feldman* succeeded in persuading the Internal Revenue Service ("IRS") to reconsider a tax deficiency and accuracy related penalty already assessed against our client with respect to his 2014 personal income tax liability. The total amount of tax, penalty and interest asserted by the IRS was in excess of \$925,000. The assessment was reduced to \$2,743, including interest.

Tax Certiorari

- *John V. Terrana* and *Robert Renda* represented an owner of a skilled nursing facility in property tax appeals against the Village of Hempstead. The Firm was able to obtain \$600,000 in tax refunds for the client by arguing that the facility should not be assessed and taxed based upon the income generated by the business, rather it should be taxed solely on the value of the real estate.
- *Douglas W. Atkins* and *Nicole S. Forchelli* collaborated on a special use property in the City of Glen Cove. At issue was the valuation and property classification of the assessment. After prosecuting the taxes on both issues, Mr. Atkins and Ms. Forchelli obtained nearly \$100,000 in refunds for the client.
- *John V. Terrana* and *Robert Renda* represented a large national retailer in property tax appeals against Nassau County. By persuading the County to adopt an elevated expense factor due to a unique parking lease agreement, the Firm was able to obtain over \$320,000 in tax savings and refunds for the client.

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AWARDS AND EVENTS



Firm attorneys (Left to Right)
John V. Terrana, Dan Deegan, William F. Bonesso and **Daniel S. Dornfeld** attended the annual International Council of Shopping Centers (ICSC) conference in Las Vegas, Nevada.



Russell G. Tisman was recognized by Touro Law for his legal work, volunteerism and public interest contributions. (Left to Right) Russell G. Tisman, Harry Balan, Dean of Touro Law School and Lois Schlissel, Chair of the event).



Long Island Pulse Magazine honored **Gregory S. Lisi** (Center) as a 2017 Legal Eagle in Employment Law.