



# The Report



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## Introduction

It is our desire to keep our friends and clients informed of general legal principles and recent developments in the law. Toward that end, we will occasionally provide you with bulletins summarizing important legal issues. We welcome any suggestions or comments regarding these topics.

## LETTER TO THE EDITOR

### Relocation of Parent Addressed in “Browner”

On October 20, 2003 the New York Law Journal published Peter’s article opposing psychological work-ups in cases where the custodial parent relocates to a not so distant locale. Rather than bore our clients with the entire article, Peter’s view is summarized below:

The ultimate question is whether or not a “commuter relocation” (60 miles or less) is to be permitted without the attendant forensic work-up. The Court of Appeals decision in Browner seems to have decided that issue. Provided the relocating parent offers a reconfigured visitation schedule that ensures the non-custodial parent ‘meaningful access’, the need for an inescapably subjective forensic balancing act is obviated.

Many matrimonial practitioners believe that the mental healthcare professionals have objectified their skills to rationalize a role in family matters they have no business getting into. Indeed, it is too easy for a psychologist to vote to maintain a functioning status quo and oppose a relocation. If the relocating parent is asked by the psychologist whether they would relocate without the child, the custodial parent would have to say ‘no’. What kind of parent would answer otherwise? Hence, the relocating parent is placed in a catch-22 situation. Simply stated, if the child is doing well in the status quo, why permit a relocation? With the custodial parent understandably prioritizing continued custody over a relocation, the psychologist can then recommend against a relocation with relative impunity. However, since the healthcare professional cannot see the future, who is he to opine whether a commuter-relocation is in a child’s best interests, especially if meaningful access is afforded the non-custodial parent?

## RECENT ACHIEVEMENTS

- In a medical malpractice claim alleging failure to timely diagnose breast cancer brought in Orange county, Jim Langione obtained a \$625,000 settlement on behalf of an Orange County woman
- In a medical malpractice claim alleging surgical error brought in Queens County, Jim Langione obtained a \$375,000 settlement on behalf of a Queens County woman.
- In November, as part of the Continuing Education Requirement for New York Lawyers, Jim Langione lectured for the New York State Bar Association on the subject of Expert Witnesses.

## ANNOUNCEMENTS

We are proud to announce that Allan S. Botter has joined our firm, which shall from this point be known as Galasso Langione & Botter. Mr. Botter, a graduate of Harvard University, and Columbia University School of Law, is a Fellow to the American Academy of Matrimonial Lawyers, currently serves on its Board of Managers, and is also a skilled Estate Lawyer.

## TELL YOUR FRIENDS ABOUT US

As a valued client, your opinion of us really matters. We hope you’re satisfied with the service you received and that you’ll think of us if someone you know is divorcing, has been injured, has been the victim of medical malpractice or is in need of legal advice. Please pass along our telephone number to someone who might need it. Thank you.  
**516-222-6500 • 1-800-640-0392**



## Saving for College and Tax-Advantaged Accounts

As many of our clients have probably already learned, the tax laws provide certain tax-advantages to encourage savings for college. For those of you unfamiliar with what are commonly referred to as 529 Savings Plans, contributions to all of these plans are not deductible for Federal Income Tax purposes, but funds build up on a tax-deferred basis. Moreover, earnings are never taxed if distributions are used for tuition and other eligible expenses.

Contributions to 529 Savings Plans can be made by anyone (e.g. the parent, grandparent, aunt or uncle). New York allows a state tax deduction of \$5,000 per resident for contributions to New York's 529 Saving Plan. These plans also provide an estate planning opportunity for contributors. Contributions are treated as gifts eligible for the annual gift tax exclusion. For more information on 529 Saving Plans, visit [www.savingforcollege.com](http://www.savingforcollege.com).

## Representing P. Diddy

After having first entered the world of celebrity couples through his engagement by Toukie Smith against Robert DeNiro over the support of their two children, Peter is now representing Sean Combs a/k/a P. Diddy, and formerly known as Puff Daddy, in a Family Court support proceeding being conducted in Westchester County. In an effort to pressure P. Diddy into capitulating by pleading her case to the media, the New York Post recently created a misimpression that Peter looks forward to challenging as this battle continues to be litigated.

### ABOUT THE FIRM...

**GALASSO, LANGIONE & BOTTER** has its law offices at 600 Old Country Road, Suite 304, Garden City, New York. Our boutique litigation firm focusses on personal injury, medical malpractice, matrimonial, commercial and employment matters. Our main office number is (516) 222-6500.

**PETER J. GALASSO, ESQ.**, Peter graduated from Boston University Law School in 1981, honed his trial skills as a prosecutor in the Bronx District Attorney's office. Eventually, he gravitated to Family Law, publishing numerous articles on the topic, as well as lecturing and appearing on television and on the radio to explain how best to manage a matrimonial client to his or her best outcome. His credentials include having been inducted as a Fellow to the American Academy of Matrimonial Lawyers. This is the national organization that is comprised of elite matrimonial practitioners, all of whose expertise, knowledge of the law and practical insights are vigorously tested before being elected to the Academy. Locally, Peter has, among other things, been designated as Barrister to the American Inns of Court, as a Family Law Mentor to the Nassau County Bar Association, and as an Early Neutral Evaluator by the Nassau County Supreme Court.

**JAMES R. LANGIONE, ESQ.**, is a 1978 Magna Cum Laude graduate of Fordham University and a 1981 graduate of Villanova University Law School, also began his career as an Assistant District Attorney in the Sex Crimes Unit of the Bronx County District Attorney's office. He then utilized his trial skills in the defense of malpractice and personal injury cases with Bower and Gardner in New York City. In 1989, the Chief Judge of the Appellate Division appointed him as an attorney panelist on medical malpractice panels pending in the Bronx. He is a member of the Speakers' Bureau of the New York State Trial Lawyers' Association and Nassau County Bar Association and has lectured on the subjects of personal injury and medical malpractice. He is a member of the Million Dollar Advocate Forum. He has won multiple million dollar awards on behalf of personal injury and medical malpractice victims. He is a Member of the New York and New Jersey Bars. Jim was lead New York counsel for Richard Jewell in connection with the defamation claims he brought in Federal Court against the New York Post and Capital Cities concerning their coverage of the Centennial Park bombing during the 1996 Summer Olympics.

**ALAN S. BOTTER, ESQ.**, has been practicing law in New York for more than 45 years. He earned his undergraduate degree from Harvard University and his Juris Doctor from Columbia University School of Law. After practicing with the firm Dikman & Botter and its successor, Dikman, Dikman, & Botter for more than 25 years, he has continued to specialize in matrimonial litigation, as well as real estate and trusts and estates. He has been a Fellow of the American Academy of Matrimonial Lawyers since 1972 and currently serves as a member of its Board of Managers. He has also served on the board of Managers of the Queens County Bar Association and is a member of the Nassau County Bar and the New York State Bar Association Family Law Section. He also served as counsel to the New York City Family Court Judge's Association. Mr. Botter has also been active in community affairs. He was elected to two years as a Trustee of the Syosset Board of Education and for many years was President of the Syosset Scholarship fund.

**JEFFREY L. CATTERSON, ESQ.**, a 1994 Summa Cum Laude graduate of SUNY of Stony Brook, and 1998 graduate of Hofstra University School of Law, commenced his legal career with the firm in 1997. He has drawn rave reviews from the Bar for his demonstration of legal abilities beyond his years. Jeff is a member of the New York Bar, American Bar Association and is also a member of the Matrimonial and Family Law Sections of both the Nassau and Suffolk County Bar Associations.

**MICHAEL F. LOFRUMENTO, ESQ.**, Before graduating from Hofstra University School of Law in 2001, Michael attended the University of Massachusetts at Amherst where he graduated Magna Cum Laude and was the recipient of the Commonwealth Scholar Award. After graduation from UMass in 1996, Michael continued his work at the Hole in the Wall Gang Camp, where he was a counselor to children suffering from cancer and various blood disorders for several years.