

The GLG 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.

Contempt Order for Non-Pay: Not Easily Obtained

The following excerpt is taken from a letter to the Editor dated December 19, 1997, written by partner PETER J. GALASSO, titled "Contempt Order Not Easily Obtainable" and published in the New York Law Journal.

I recently read with great interest Justice Ralph T. Gazzillo's detailed and erudite analysis of the roadblocks that impede the successful prosecution of a contempt motion. His decision in *Anderson v. Anderson* (NYLJ, Dec. 2) certainly provides a thorough explication of the difficulties one encounters in seeking to have a defaulting party held in contempt for failure to pay court-ordered support.

In the *Anderson* decision, Justice Gazzillo referenced the case of *Melcher v. Melcher*, which was a matter that I handled on behalf of a similarly constrained ex-wife, whose contempt motion failed for an alleged want of proof.

* * * * *

Absent from Justice Gazzillo's summary were certain pertinent facts that seem to raise the contempt bar to a nearly unattainable height, however. In *Melcher*, the stocks that the husband relinquished were valued at trial at over \$300,000. Sometime between the court's decision and the date a judgment of divorce was entered, but before his obligation to pay the \$200,000 distributive award came due, those stocks were allegedly "seized" by his divorce attorneys, who doubled as his business attorneys, and with whom he continued to have a friendly relationship. His attorneys then sold the stock to defendant's partners for a proverbial song, i.e., \$20,000, payable in \$500 monthly installments. To stay the wife's attempt to have him held in contempt, the husband then filed for bankruptcy, a proceeding which languished for approximately three years. Eventually, the husband withdrew his bankruptcy action, without having to suffer any sanctions. Thereafter, nearly four years later, our office was engaged to challenge the ex-husband's ruse.

From a litigant's standpoint, the circumstantial proof in *Melcher* was truly compelling. Indeed, the only evidence of the husband's duplicity that was missing was a signed confession, or documentation evidencing that the ex-husband's partners were funneling to him his fair share of the profits, despite the \$55,000 per

ANNOUNCEMENTS

- **Late-breaking News!**...Partner **MARK E. GOIDELL** wins the gun possession trial of rap star "Nature" of the group, "The Firm" in Supreme Court, Queens County.
- Partner **PETER J. GALASSO** lectures... Peter recently lectured in a Continuing Legal Education Program, sponsored by the New York State Bar Association, and received rave reviews.
- Partner **JAMES R. LANGIONE** appears with client **Richard Jewell** before the Judicial Committee of Congress relative to a congressional investigation of possible FBI abuses of power in connection with the FBI's investigation of the Centennial Park bombing. The entire proceeding and Mr. Jewell's statement to the Committee was carried live by the major news networks.
- Partner **MARK E. GOIDELL** has been appointed as counsel to Local 1-S of the Department Store Worker's Union.
- Partner **JAMES R. LANGIONE** obtained a \$950,000 settlement in a medical malpractice claim, concerning a 61-year-old man, who suffered damages related to bile leakage and resulting cardiac arrest after gall bladder surgery (see RECENT JURY VERDICTS p. 2)
- Partner **MARK E. GOIDELL** conducted **National Business Institute Seminar**... Mark will be speaking at a seminar regarding "Employee Leave Rights under State and Federal law" on February 24, 1998.

year salary fiction. Not surprisingly, such evidence was not readily available to convert this relatively great circumstantial case into a direct evidence case. Notwithstanding, Justice H. Patrick Leis found the proof somehow lacking as far as the husband's contempt case was concerned, but nevertheless, felt that his alleged co-conspirator attorney deserved recognition before the Grievance Committee.

Hence, to punctuate what Justice Gazzillo charted in his decision, it is no easy task to persuade a trial judge to hold a defaulting ex-spouse in contempt.

Peter J. Galasso
Garden City, NY

If you would like to have this entire New York Law Journal article faxed back to you, please fax your request to us at (516) 222-1094.

Excerpts From Mark Goidell's Recent Submission in Richard Jewel Case

*The following excerpts were taken from partner **MARK E. GOIDELL'S** recent submission in the *Richard Jewell* federal libel action, pending in Federal Court, against the *New York Post*.*

On rare occasions, news stories become so broad-reaching, so infused with public interest and importance, that news organizations quickly publish or broadcast breaking news accounts from other

TURN OVER FOR MORE... 

RECENTLY PUBLISHED IN

The New York Jury Verdict Reporter

**MEDICAL MALPRACTICE—DIAGNOSIS AND TREATMENT OF
BILE LEAKAGE AFTER GALL BLADDER SURGERY—BILE
PERITONITIS AND CARDIAC ARREST—BRAIN DAMAGE**

SETTLEMENT: Bob and Joyce Lee v. Dr. Phillip Barie 134572/94
New York Supreme

Plaintiff Attorney: James R. Langione of Galasso, Langione &
Goidell, Garden City and Melville

This medical malpractice case settled for \$950,000 after jury selection. Pltf., age 61 and retired at the time, presented to Def. for gall bladder surgery at the end of September 1993. A T-tube was left in after surgery and on 10/7/93, Pltf. returned to Def.'s office located in New York Hospital for removal of the tube. During the removal procedure, Pltf. became faint and lightheaded, and manifested significant shoulder pain. He remained at Def.'s office for 2-3 hours and Def. discharged him after his vital signs had stabilized. Pltf. had a blood gas workup done at the hospital that day. Tests revealed that Pltf.'s white cell count was 14.6 which is remarkably elevated and an indication that an infection consistent with bile leakage was present. It was disputed when the results of these tests were received and reviewed. Testimony indicated that on 10/9/93 Pltf.'s wife called Def. to inform him that Pltf. had abdominal pains, was weak, had no appetite, was constipated, and was experiencing shoulder pain. Def. gave him a prescription for a laxative and indicated that he would call to follow up. Pltf. claimed that Def. did not call back that day and that 3-4 hours later Pltf.'s wife again called Def. to report that Pltf. had the same symptoms. She contended that Def. told her "you may want to" have an X-ray taken at the hospital and informed her that he was going away. Testimony indicated that the night of 10/9 Pltf. was still in pain and was sweating. He collapsed and had no blood pressure. He was taken to United Hospital (nonparty) on 10/10 where he was stabilized and was subsequently diagnosed with *bile peritonitis*. He became septic and again suffered cardiac arrest due to hypoxia. As a result, Pltf. is left *severely neurologically compromised* and is confined to a nursing home facility. He suffered *brain damage* and is unable to walk. He has limited use of his arms.

Pltf. claimed that Def. should have followed up immediately after Pltf. experienced shoulder pain and weakness at his office when the T-tube was removed and contended that the pain was an indication of the bile leakage which should have been monitored. Def. would have argued that

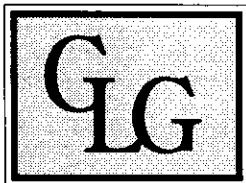
when Pltf. arrived at United Hospital on 10/10 his condition was stable, and that he suffered cardiac arrest after being left unobserved while awaiting a second CAT scan. Def. would have argued that Pltf. should have presented for follow-up care on 10/9 as he recommended and argued that Pltf.'s condition was not extreme at that point.

Pltf.'s Experts: Pltf. would have called Dr. Jack Rudick, gastroenterologist, Manhattan; Dr. Joseph Carfi, physical and rehabilitative medicine, Great Neck; Dr. Wayne Longmore, director of emergency services, Bronx Lebanon Hospital.

Excerpts from Richard Jewell Case - continued

publishers and wire service providers. Sometimes, people who are widely touted as being suspects, later turn out to be innocent. The *Jewell* case presents such a scenario. The *Jewell* Federal action arises from the tragic bombing of the 1996 Centennial Olympic Games which killed 1 person and injured over 100 others. Richard Jewell, a security guard at the Olympic Games, was credited with discovering the bomb and was initially lauded as a hero. However, on July 30, 1996, Mr. Jewell was identified as a "focus" of the Federal investigation into the bombing and was dogged by the FBI for nearly three months. On October 26, 1996, the Department of Justice announced Jewell was no longer a suspect.

The *Post* was one of a multitude of papers around the country to report on the FBI's investigation of Jewell. The *Post* falsely accused the plaintiff of being "desperate to be a hero", falsely reported that he matched the widely reported profile of the bomber, and falsely attributed conduct, personality traits and a background to plaintiff which matched the profile. Combined with an express and implied portrayal of Jewell's twisted motive, the *Post* also falsely described law enforcement's mounting evidence against him, its confidence in his guilt, the likelihood of his arrest, and that he was their sole prime suspect. Through its publication of these various articles, columns, headlines, pictures, captions and even cartoons, the *Post's* false portrayal of Richard Jewell of being guilty or likely guilty of the Centennial Olympic Park bombing in July 1996, compelled Richard Jewell to endure an ordeal of suspicion and accusation that few in our American history of journalism have had to confront. Forever branded, Richard Jewell's life dramatically changed as a consequence of the *Post's* "rush to judgment" mentality. We have been engaged to hold the *Post* liable for this irresponsible media smear. ⁶²

**GLG creates proprietary website as source of
information, expertise for its clients**

We are excited to announce that we have completed our first stage of development and have launched our very own website at www.justiceprevails.com. According to partner, Peter Galasso, "In today's marketplace, to ignore the potential of the World Wide Web would be naive. With an interactive design and, ultimately, eye-catching graphics and photos online, our firm plans to move into the 21st century with the understanding that much of our future communication will be via the internet."

GLG is now on the Web!

At: <http://www.justiceprevails.com>

**OUR NEW WEBSITE IS YOUR SOURCE FOR LEGAL INFORMATION!**

- Ability to e-mail legal questions, from your home/office computer
- Monthly updates on cases and key verdicts and jury awards
- Commentary on significant new legislation and legal decisions
- Much More! To find out, go to <http://www.justiceprevails.com>

Our website is professionally designed and maintained by Atlantic Web Designs, John Geerlings, President. He can be reached at (516) 422-6740.

**OUR MISSION:
The GLG Creed**

With so many practicing attorneys and available firms, it is increasingly important to know more about what a firm holds most important.

Here is what we try to maintain daily to best serve our clients:

1. *Treat clients as our most valuable asset.*
2. *Be proactive.*
3. *Maintain an uncompromising commitment to excellence.*
4. *Begin with the end in mind.*
5. *Focus on negotiation not confrontation.*
6. *Inform client what, when and why things are happening every step of the way.*
7. *Deliver the highest quality representation at the lowest possible cost.*
8. *Inspire team spirit and integrity.*