

The **GL** GALASSO LANGIONE REPORT

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Why send newsletters?

In addition to keeping in contact with former clients with whom we have built a strong bond, like any other business, we write with the hope that our track record of successful outcomes will motivate you to refer friends and relatives to us should the need arise. After receiving several 'million dollar' referrals from you, we will send you a Galasso Langione decoder ring. Only kidding; but you will make a strong friend in the firm, justifying our pronounced loyalty to you.

We firmly believe that our formulaic approach to litigation streamlines away the excesses and uncertainty that too often over-complicates the process. The numerous legal publications that have sought fit to highlight our ideal and litigation results evidences that the bar has also recognized our distinct approach. In essence, less wasted energy translates into greater prosperity for all concerned.

We all know that the world is becoming more proactive and interrelated. We think a close tie with our law firm will cause you to consult with us before you need us and thereby prove to be a positive energy in your lives. Stay in touch.

COURTS IN CONFUSION

In a recently published article authored by Peter, he commented on the judiciary's lack of clarity, and ultimately its lack of leadership in handling matrimonial actions:

It is an enigma, wrapped in a puzzle. Married for 31 years, the Leeds experienced a divorce that seemed snakebit from the outset and felt as if it lasted as long as their marriage. Hired to prosecute the appeal, we saw nothing particularly novel about the facts of this rather typical long-term breakup. The twist was in the lower court's decision to divide the value of the wife's pension 70%-30% in her favor.

A closely scrutinized record and decision did not reveal any reason or factor that might explain why one asset was divided on a 70-30 basis, while all the other assets were divided on the normal 50-50 basis. The one paragraph in the lower court's decision devoted to the pension set forth only its disposition, without any explanation. Confident that the Appellate Division would correct the lower Court's obvious error, we all but guaranteed our client a reversal.

....

Because the appeal was denied, Peter went on to comment:

While good reasons may exist for treating certain assets differently than other marital assets, the judiciary has not yet let us in on how we as attorneys should counsel our clients about the odds of nailing a 50% share rather than a 10% share of that entitlement. Hopefully, in 2002, the courts will be more willing to lead with the precedent it creates and thereby eliminate some of the uncertainty that too often fuels divorce litigation.

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The above scenario merely punctuates our oft given advice that it is better to compromise than to trust a stranger to decide your fate.

ANNOUNCEMENTS

- On May 10th, the *New York Law Journal* reported Jim's \$375,000 settlement of a Suffolk County case where our client required back surgery after being rear-ended. While the defendant argued that she had epilepsy and had suffered a seizure at the time of the accident, and, as a result, should not be held responsible, the opposition mounted by Jeff Catterson's excellent legal research ultimately repelled that defense, greatly influencing the outcome of the case.
- In March, 2002, during trial, Jim obtained a \$320,000 settlement on behalf of a Rockland County man who sustained injuries while changing a lightbulb at a tennis club in Manhasset.
- Congratulations to Michael F. Lo Frumento, who is now a member of the New York Bar.



Welcome the newest member
of our firm, Jessica Catterson

GL HINTS

- **How is your home titled?**

Business people, fearful of being sued by creditors, often transfer their interest in the marital residence to their spouse, not appreciating the fact that their spouse might one day be an adversary. In a recent case decided by Justice Sunshine of Richmond County, the Court held:

A party in a matrimonial action who transfers real property to a spouse in the course of a marriage to avoid his creditors will be barred from seeking equitable distribution of that asset by the "clean hands" doctrine.

Furthermore, a court of equity will not assist a party in a scheme to defraud his lawful creditors. When property is transferred for the purpose of defrauding creditors and the debtor seeks later to set aside that transfer, "the door of a court of equity is always shut against such a claimant". The Court does not concern

itself as to whether or not the rule results in a windfall to a particular party. The purpose of the rule is to protect the integrity of the Court.

While we do not suggest that gifting an interest in one's house is a bad idea, if a friend indicates that he or she wants to pursue such course of action, you might be best advising them that the transfer may be irreversible and thereby cause them to lose out on the equity of the marital residence entirely.

- **A Lesson to be Learned Before Opening Joint Bank Accounts**

A client recently found herself shaking her head over what she had done with her mother's inheritance. Seeing her step-father despondent over her mother's death, she took him in and even set up an account with a balance of 40,000, from which he could withdraw up to \$250 per month, from her own inheritance. Unfortunately, the client did not consult with us before she set up that account. We would have told her that the Banking Law presumes a gift of 1/2 of the account once it is opened. Regrettably, she now finds herself in a lawsuit over the \$40,000 and rues the day that she neglected to first consult with us.

- **Proms and the Social Host Liability Act**

Where a host-parent knowingly permits an underage person to become intoxicated at a pre-prom party, that parent may be held liable to a victim of that intoxicated prom-goer. *So be careful out there.*

Tuesday, May 21, 2002
NEW YORK LAW JOURNAL.

Legislature Treats Attorneys Unfairly

An article on April 20 "Foreclosure Bill Set to Pass Legislature," discussed impending legislation that would bar attorneys from compelling the sale of a client's home based upon an unpaid fee. While I understand that certain unscrupulous or heartless attorneys might compel an elderly client from a modest home, the majority of us toil for our fees under highly charged conditions with the hope of getting paid, not ousting senior citizens. As a counter to that legislation, if it can be demonstrated that the equity in the legislatively guarded home is substantial and the client is not a public charge, an attorney should continue to have the same access to enforcement vehicles available to the public at large; unless, of course, attorneys are further singled out as recipients of government subsidies to pay the mortgages on their own homes.

For the record, clients often steer cases into costly avenues of litigation, despite a divorce attorney's best efforts to de-escalate the conflict. With that scenario in mind, when the marital estate is comprised of only a \$600,000 house, why should our fees be deferred to death or a voluntary sale? Is it because we should know better than to generate such fees? That perception assumes a lot. Moreover, when we seek to withdraw as counsel based upon a client's refusal to take a less litigious path, our applications are often denied, and we are judicially stuck in the case until it ends. I wonder if the Legislature ever reflected on the paradox of forcing us to service clients who refuse to follow our recommendations for free. Is this what they mean by "pro bono"?

As most practitioner's are aware, the Bankruptcy Code affords a debtor a homestead exemption of only \$10,000. By virtue of the new law, a debtor's exempt property under New York State Law could be as high as \$1 million, but only when the debt is owed to an attorney. The question that must be answered is whether someone in the Legislature will ever stand up for our unfairly treated profession.

Peter J. Galasso
Garden City, NY