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The celebration of the new year is said to be the oldest of all holidays. The first new year celebration dates back some 4,000 years. In its earliest incarnation, the new year was seen as commencing with the coming of Spring and the planting season. It was not until 46 B.C. that

Julius Caesar established January 1 as the beginning of the year. Although many cultures and religions celebrate new year traditions that are not based on the progeny of the Julian calendar, most new year celebrations concern optimism for the future.

Some historians argue that the tradition of the New Year's resolution began as far back as 2000 B.C., with the Babylonians. If you believe the internet source [www.wilstar.com](http://www.wilstar.com), the number one resolution of the early Babylonians was to return borrowed farm equipment. Others give credit for the earliest New Year's resolutions to the Romans.

According to a recent survey conducted by Goalsguy Learning Systems, Inc., the top ten New Year's resolutions made in our times are to:

1. Exercise more frequently and lose weight.
2. Stick to a budget
3. Reduce personal debt
4. Enjoy more quality time with friends and family
5. Find a "soul mate"
6. Quit smoking
7. Find a better job
8. Learn something new
9. Volunteer and help others
10. Get organized

These are certainly laudable goals. If these are the most common resolutions, then we are, as a group, well-intentioned optimists.

Two Harris Interactive polls taken at the end of 2005 and 2006 agreed that the most common New Year's resolutions regard personal physical fitness. The 2005 survey found that one-quarter of adults made resolutions to exercise more frequently (26%), lose weight (25%), and eat a healthier diet or less food (24%). Both Harris Interactive polls also concluded that while women may be more likely than men to make New Year's resolutions, men are more likely to say that they were successful. No surprises there either.

Regardless of its content or when the first New Year's resolution was uttered, it was doubtless one year to the day thereafter that the tradition of failed resolutions began. I will go out on a limb here and suggest that the man who made the first New Year's resolution also claimed to his friends the following year that he was successful in achieving his goal. Just as certainly today, no one needs a methodologically valid survey to verify that we tend to be unsuccessful in achieving our annual self-improvement goals.

Despite our collective history of failing to be successful in our resolutions, I plan once again to make a list of New Year's resolutions. If I include in my resolutions some of those from the list above, I will be off to a very good start. If I accomplish positive results in any chosen resolution, I will at least know that I am making progress.

Mindful as always that we have special obligations, I propose an additional list of New Year's resolutions for attorneys. Accordingly, I resolve, in no particular order of importance, to:

1. Be more responsive to clients
2. Be more responsive to colleagues
3. Not to miss any deadlines (NewsJournal

*Continued on page 3*

## PGCBA NewsJOURNAL

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**Bar Association**

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John R. Foran..... 301-441-2022

Steven Rosen..... 301-699-1400

### Designated Conciliator Program

Martin G. Oliverio ..... 301-513-0613

# PRESIDENT'S MESSAGE

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*Continued from page 1*

included)

4. Be punctual
5. Complete more billable time/resolve that big case
6. Perform more pro bono work
7. Get organized
8. Respond to all my email

Hopefully, this list of attorney resolutions will be as well received as the aforementioned top ten list. Again, I may not accomplish all of the attorney resolutions that I set out, however, I will at least engage in the effort to improve. Any progress I make will cause me to be a better attorney.

One resolution I urge you to consider now is to become more active in our Bar Association. Come to a membership meeting or event, join a committee, and help us build a better legal community. In return, it will be the New Year's resolution of the PGCBA to make membership in the PGCBA more meaningful and worthwhile. With your commitment and participation we can accomplish these resolutions. We make progress toward our goals with every new member who joins us and every time a member participates as

best he or she can in the PGCBA. I hope you all are successful in accomplishing the goals you set for yourselves for 2008.

John C. Fredrickson President,  
Prince George's County Bar Association  
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## NEW MEMBERS

### CONGRATULATIONS

A special thank you to Mr. Joseph F. Vallario, Law Offices of Vallario and Collins, and to Scott G. Sanford, Law Offices of Wilson and Parlett, for their contribution to the Adopt-A-School Program. Both were winners of the 50/50 raffle from the November and the December meetings and both graciously donated their winnings back to the Adopt-A-School Program. Thanks to both of them for their support of this program. If you would like information about this program or would like to make a donation please contact Karen Pasciuto or Linda Gantt.



The **Olender Foundation**, founded by Washington attorney Jack Olender and his wife Lovell, celebrated its 22nd Annual Olender Foundation Awards. D.C. Court of Appeals Judge Inez Smith Reid accepts the Hero in Law Award, presented by her twin brother, New York State of Appeals Judge (Ret.) George Bundy Smith and Jack Olender. Honors also went to advocacy groups Public Citizen, represented by President Joan Claybrook and Public Justice represented by Sandra Robinson, and seriously wounded Iraq War veteran Capt. (Ret.) Ryan Kules. Scholarships were given to twelve students from Howard University School of Law and the University of the District of Columbia David A. Clarke School of Law.

**CONGRATULATIONS....**The Prince George's County Bar Association congratulates the Honorable Peter B. Krauser on his appointment by Governor O'Malley as Chief Judge, Court of Special Appeals. Among other distinctions, Judge Krauser, is a former appellate attorney, Criminal Division, U.S. Department of Justice, former partner at prominent area law firms, and long time member of the Prince George's County Bar Association. Judge Krauser was first appointed to the Court of Special Appeals in January, 2000.

The Prince George's County Bar Association congratulates....

The Honorable Beverly J. Woodard on her appointment by Governor O'Malley as Associate Judge, Circuit Court for Prince George's County. Judge Woodard was most recently an Associate Judge, District

Court of Maryland for Prince George's County.

The Honorable Crystal D. Mittelstaedt on her appointment by Governor O'Malley as Associate Judge, Circuit Court for Prince George's County. Judge Mittelstaedt was most recently as Associate Judge, District Court of Maryland for Prince George's County.

Nicholas E. Rattal on his appointment by Governor O'Malley as Associate Judge, Circuit Court for Prince George's County. Judge Rattal is the Secretary of the Prince George's County Bar Association and was most recently Chief, Felony Trials Division, Office of the Public Defender for Prince George's County.



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**Our Gratitude to You, the Private Bar!**

Thank you Ms. Ruby!

This is how we call her affectionately, Ms. Ruby! We dedicate this

column to Ruby Annette Honesty who has been working with us at CLS since March 12, 2007. Her work is part of an internship from the Senior Community Service Employment Program, operated by the Prince George's County Department of Family Services Administration on Aging. The program is aimed to train ages 55 and over seniors to get back into the work force. The training took place at Prince George's Community College, Largo, where Ms. Ruby went every Friday for 9 months to attend classes on job related skills. She learned how to prepare for job interviews, create resumes, do job search, and enhance her computer skills. At the end of the training, she received 2 certificates, one Computer Skills and the other on Job Readiness.

At CLS, Ms. Ruby performs several tasks including conducting client telephone-interviews, accessing clients' legal matters, and determining financial eligibility for our programs. Currently, Ms. Ruby is looking for full-time employment as a legal assistant, receptionist, or other clerical positions.

Ms. Ruby is involved in doing other community work as well. On December 15th, 2007, she was honored with an Award from the Progressive Life Center for her dedication to provide a home for disadvantaged children. Working with Ms. Ruby has been delightful. Ms. Ruby states "I enjoyed working at CLS, and particularly liked meeting people from other cultures; I feel part of the family!"

Thank you Ms. Ruby!!!



*Community Legal Services of Prince George's County, Inc., is a non-profit organization established to provide quality civil legal services to low-income persons in Prince George's County. It does this through the generous contribution of legal advice and legal representation by members of the private Bar. Additionally, CLS operates three free legal Clinics in the County. They are located in the in Circuit Court House, Oxon Hill, and Langley Park respectively. For more information about our services, please contact Nora C. Eidelman, at 301-864-4907, ext. 12.*

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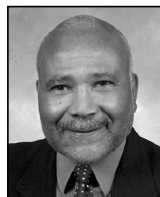
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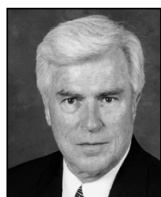
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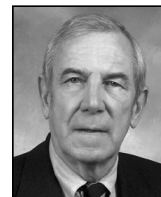
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# MINUTES

## BOARD OF DIRECTORS MEETING PRINCE GEORGE'S COUNTY BAR ASSOCIATION NOVEMBER 13, 2007

**PRESENT:** John Fredrickson (President), William Parker, Jr. (President-elect), Garland Stillwell (Treasurer), Nicholas Rattal (Secretary), Clayton Aarons, Karen Pasciuto, Eric Nyce, Arnold Bruckner, William Monks, Jennifer Muskus, Joe Gibson, Bryon Bereano, Linda Gantt, Robin Bright, John Burns, Alicia Lucero, Gerald Baker, Judge Krystal Alves, Debra Davis, Richard Moore, Judge Mark O'Brien, William Snoddy, Georgia Perry.

The membership meeting was preceded by a reception for Dean Closius from University of Baltimore School of Law. This reception was hosted by bar members who were University of Baltimore graduates. This was a chance for them to meet the new dean and hear about his plans for the school.

The membership meeting was brought to order by John Fredrickson. The first matter of business was the induction of new members into the Association. Isaac Marks introduced the following new members to the general membership: Monifa N. Bailey, Ander Brady, Thomas T. Craddock, Joseph M. Creed, Ellen Fox Davis, Matthew P. Gorman, Kimberly A. Johnson, David Scott Messersmith, Cynthia Robinson, Traci R. Scudder, Jill M. Shea, Althea R. Stewart Jones, and Susan Zuhowski. A motion was made and seconded to accept the new members into the Bar Association.

The guest speaker for the evening was Dean Philip Closius. He focused on the opportunity for members of the legal community to get involved in the University of Baltimore School of Law as mentors. He encouraged everyone to take advantage of the chance to be a positive role model.

The members were reminded of the upcoming events: Law Practice 101, Judge Harrell's presentation on the 26th and finally the Holiday party on the 4th of December. A motion was made to adjourn the meeting and seconded. The meeting was adjourned.

## MINUTES FOR PRINCE GEORGE'S COUNTY BOARD OF DIRECTORS MEETING NOVEMBER 20, 2007

**PRESENT:** John Fredrickson (President), Nicholas Rattal (Secretary), Bryon Bereano, Jennifer Muskus, Erik Nyce, Denise Bowman, Honorable Crystal Alves, Richard Moore, Robin Bright, Linda Gantt, Honorable Cathy Serrette, Alicia Lucero, Honorable Gerald Devlin, Georgia Perry

John Fredrickson called the meeting to order and the first topic was the November 13, 2007, meeting at the Showplace Arena. It was discussed that many members of the Bar had said the food was not up to its usual standards at the Showplace Arena. However, the Showplace Arena has a preferred caterer, Putting on the Ritz, and if Putting on the Ritz is not used, there is a \$500 fee. Erik Nyce said that we should talk to Putting on the Ritz and determine if there were any problems. Georgia Perry advised that she had already discussed this with them.

The President, John Fredrickson, advised that he went to the Bar President's meeting at Rocky Gap with Bill Parker and Georgia Perry. He advised that it was a good program and there were many Bar leaders from the county there and that hopefully there will be an article in the upcoming newsletter.

The computer consulting contract was discussed. The Bar Association is currently operating under an aged and faulty server. Our old consultant advised that it would be approximately \$50,000 to get the server up to par. A new consultant was hired and there was a proposal for new equipment. The cost to start transferring the network would be approximately \$7,000.

The Bar was informed that a condo leasing agreement had been signed and the Bar Association condo would soon be on the market.

The Secretary's report was presented. Judge Serrette made a motion to accept it, which was seconded by Richard Moore, and the minutes were passed.

John Frederickson gave the Treasurer's report and presented the budget to the Board. Linda Gantt made a motion to accept the report, which was passed. It was further advised that Garland Stillwell, Georgia Perry, and John Fredrickson will

meet with the banks who hold our cash and operating account to develop a better working relationship. This relationship will hopefully provide better service and benefits to the Bar and its members.

The Executive Director's report. Georgia Perry stated that at the previous meeting there were 191 members delinquent and now there are only 161. She advised that the holiday party would have a new caterer, New Style Catering, and the food should be very, very good. She also asked the members of the Bar to do articles for the newsletter. She reminded the directors to bring canned goods, toys, and toiletries to the Bar Association Christmas party.

Old Business: Law Practice 101 was discussed by Jennifer Muskus, Bryon Bereano, and Alicia Lucero, who reminded Executive Director that the first meeting would be November 29, 2007.

Linda Gantt advised that the Adopt-A-School Program is still in need of money and a 50-50 raffle netted \$90 at the meeting in October and that she would send a letter to all contributors from last year.

There was no new business and Judge Devlin made a motion to adjourn, which was passed.



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# PGCBA HOLIDAY PHOTOS - DEC. 4, 2007



# PGCBA HOLIDAY PHOTOS - DEC. 4, 2007



Hardly a day passes without a news item dealing with identity theft. Easy access to personal information has opened the way for thieves and con artists to traffic in the names of innocent victims. While the public is just now confronting the ubiquitous crime of identity theft, many of these same issues have been plaguing family law practitioners for years. Careful planning can head off credit problems before they arise in the context of a divorce.

Some of the most common forms of identity theft come at the hands of former spouses who harbor ill will or feel cheated by the final judgment of divorce. These former spouses stand in a unique position to create mischief and generally have had unfettered access to all of the personal information relating to their former spouses. Throughout the marriage they were jointly listed on many-if not all-credit accounts. Those credit accounts which were not jointly held were likely associated with the same address as the former spouse. If the marital home has not been sold, junk mail will continue to arrive at that residence for both spouses long after the separation of the parties and the dissolution of the marriage.

Coupled with the above is the fact that few family law litigants are entirely happy with the results of litigation. This incentive and the ease of access to personal information places former spouses in a position to engage in self-help reformation of the property settlement or divorce judgment: identity theft.

Even where a spouse does not affirmatively seek to steal the identity of their former spouse, they still may have the opportunity to harm their former spouse's credit inadvertently. While the final judgment of divorce should sever the marital estate, this exercise is often

easier in theory than in practice. Many times, credit accounts remain open until final invoices can be paid, homes remain in the name of both parties, and both spouses remain liable for medical bills. While failing to sever these financial ties may be an expeditious way to close the marital estate (by simply allocating the relative amounts due from each party in the final judgment), this strategy creates potential for problems down the road. While the client may consent to this strategy, the potential for future harm should be disclosed to the client.

As long as joint accounts remain open under both spouses' names, the future actions of each spouse can affect the other. This may mean that the failure to close credit accounts can cause a spouse who was relieved of a credit card bill in the final divorce decree to suffer devastating damage to their credit when the other spouse fails to pay. If this situation arises, the "closed" divorce case must be "reopened" for the purpose of pursuing payment of the debt and further post judgment litigation. Even if the bill is ultimately satisfied and sanctions are paid, these facts will not alter the negative blemishes that will remain on the injured spouse's credit report for up to 7 years.

As such, proper planning and counsel for the client is essential.

While there are no guarantees that former spouses will not seek to harm each other's credit or continue to affect it, there are ways of reducing the likelihood of this happening. Be aware of issues that can arise and follow these steps to prevent problems for your clients:

1. Obtain Credit Reports Before Severing the Marital Estate – Before setting about the task of severing the marital estate, make sure that you have an accurate picture of the financial

relationship of the parties. The best source is the credit report of each spouse. A review of the credit reports may show previously unknown debts which must be divided and which accounts are joint or individual. While your client can order their own credit reports, you as the attorney may not obtain the credit report of the other spouse without a written authorization or a court order. (Any misuse of a credit report opens you up to criminal and civil liability under the Fair Credit Reporting Act.) Each party's credit report may be obtained by court order. The best practice is to obtain a stipulation for issuance of a subpoena signed by the judge.

2. Close All Joint Credit Accounts – Rather than simply allocating debts in the divorce decree, close all joint accounts. While this is not possible in every case or with every account, the potential for future harm to the non-paying spouse is an important factor to consider when negotiating the divorce settlement. If the account remains open and one spouse is to be responsible for the debt, the other spouse remains liable (regardless of the court's divorce decree) and open to possible credit damage when the other spouse does not pay. The failure to advise your client of this potential harm can lead to unwanted return visits from the client and the necessity of rendering uncompensated services to clear up the problem.

3. Notify Creditors and Obtain Novations – Notify all creditors of the divorce and inform them that your client is closing the account to any new charges. If at all possible, obtain a novation from any creditor where accounts will remain open. While creditors are not generally keen on freeing one of the joint account holders from liability, they may be willing to do so if you client can pay down some of the outstanding balance

or if the other spouse can meet the credit requirements on their own. The possibility of a novation is more likely if each spouse cooperates and the item is specifically negotiated before the final divorce decree.

4. **Notify Credit Reporting Agencies** – Notify the credit reporting agencies of any change in the status of marriage, joint accounts and addresses. By notifying the credit reporting agencies of a change in address, you will also prevent any pre-approved credit offers (a common means of identity theft) from arriving at the former marital address.

Every family law attorney can smell a problem divorce and its potential to cause more trouble down the road. If it appears that the final judgment will not end the problems with the marriage, take extra precautions in severing the marital estate and credit relationships of

the parties. If all the joint accounts are not closed prior to the final judgment, and instead debts are simply allocated, negotiate specific remedies for failure to pay into the final judgment. Close all credit accounts where possible, retitle and refinance the marital home, and eradicate any vestiges of a financial relationship between the parties. If this cannot be accomplished, the attorney should document the possible problems which may arise down the road in correspondence to the client. Once the divorce is final, you client may no longer receive monthly statements, so have your client check their credit report regularly to make sure bills are being paid timely. This will enable your client to make payments to prevent the credit damage that can arise from a charged-off account.

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## AFTER HOLIDAY DAMAGE CONTROL

Okay.....so you overdid it a little for Thanksgiving, but that's only one day right? Then, you went to a few holiday parties, a couple courthouse celebrations, and well.... you never quite got back on track. Sound familiar? Probably. But don't worry. You're not alone. It's the holiday eating cycle that most of us fall into during the months of November through early January. And there's no sense in telling yourself that you won't do it again, because in all likelihood, you will do again, year after year, after year. And it's great going out socializing and sampling all kinds of tasty treats and desserts. I'm sure it puts us all in a merrier mood. The only downside of all this festivity and cheer is that on average, we'll gain about 5 to 10 pounds in these three short months. Do this every year and well....let's just say you won't be very happy after a few years of holiday merriment.

I'm not going to focus on all the negatives of indulging during the holiday season. That'll just make folks mad at me. Instead, I'm going to focus on post-season damage control. That's right...post season, when you've gotten all of the gingerbread lattes, sweet potato pie, and chocolate fudge cake you can stand. By now, you've indeed gotten all of your decadent cravings for seasonal indulgences out of your system. It is, after all, January and time for New Year's Resolutions right? So your number one Resolution will be to commit four short weeks to un-do what you did during the holidays. Four weeks, you might ask? Yes, four weeks. It took over two months to accumulate but you'll only need half that time to un-do all the bad that you've done. It won't be easy. But it won't be difficult either. Here's the plan....

The most important part of reversing the damage from holiday overindulgence is consistency. You have to be consistent with the program that will follow. I'll only ask you to exercise 4 times per week for about an hour each session, and that should be doable. Remember, it's only four short weeks. And as for the diet, you won't be hungry ever. But, you have to be even more consistent about following the eating program set forth. It is the most important part of the diet and exercise program if you want to lose the extra pounds that found you at the end of the

year. Even if you can only manage to stick with it for 3 weeks, if you're consistent with your eating habits and exercise, you'll likely still lose the holiday layer of warmth that all your good cheer has left you with.

**The Food:** You should eat 6-7 times a day for the next four weeks. This is extremely important because each time you eat, your body goes into calorie burning mode and starts burning calories. The trick is to eat very fewer calories than your body needs to sustain itself at your present weight, but to do it several times a day so that your body keeps burning additional calories all day. To accomplish this "trick", three or four of these meals will be either low calorie, low fat protein shakes or low calorie protein bars if you don't like drinking your meals. The other three or four meals (depending on whether you want 3 real food meals vs. 4 protein drinks or vice versa) will consist of approximately six ounces of lean protein, fibrous carbohydrates and green vegetables. It's really hard for some people to stick to a diet of certain foods that they have to eat for each respective meal, while other people love not having to think about what to eat and actually prefer being told specifically what to eat for each meal. I'm gonna give five sample meals so you can pick and choose and mix and match 3 or 4 of these (or similar meals) each day. Just make sure 3-4 of each day's 6 meals are low calorie ( i.e. 200 calories or less) protein drinks or bars.

**Meal Option 1:** 1/2 cup of egg whites or egg beaters with chopped veggies (mushrooms, peppers, etc) and tablespoon of low-fat cheese, 1/2 sliced pear or apple, coffee or tea with no sugar or sugar substitute.

**Meal Option 2:** large mixed green salad w/ grilled chicken breast, no dressing, and one piece of toasted bread (try Quizno's grilled flatbread chicken salad without the dressing and eat only half the flat bread).

**Meal Option 3:** 1/4 grilled chicken white meat with mixed vegetables. Make it at home yourself or go to Boston Market. Just don't eat the corn bread.

**Meal Option 4:** 6 oz. grilled Tilapia or Salmon (no oil for cooking) seasoned without salt (try salt free Ms. Dash), 1/2 cup of cooked brown rice and 1 cup of broccoli, green beans, or spinach.

**Meal Option 5:** a 6 oz. turkey burger (no bun) with steamed broccoli or cauliflower (make your own or try Ruby Tuesday's - but you'll need to cut their burger in half and remove the bun).

To ensure that you'll be able to fit all of your six meals in each day, you'll need to space them so that you're eating every 2-3 hours. I find it easiest to alternate a solid food meal with a protein drink. Protein drinks are easily accessible nowadays so that you can now find them at grocery stores, Target, even CVS. Some of my favorites are Myoplex Lite in Strawberry and Muscle Milk Lite in Banana. If you buy in large quantities, you can get them for about \$2.00 per meal which is way better than some sort of "meal deal" from McDonald's. Following this plan, I doubt you'll ever be hungry. But if for some reason that 6th meal doesn't satisfy you and you're lying in bed awake at night, with visions of sugar plums dancing in your head, just go on down to the kitchen and grab a piece of fruit or a small bag of air popped popcorn (even microwaved "light" popcorn isn't so bad). Just limit it to a small sandwich sized bag or one small apple, orange, or pear. Sometimes your brain needs carbohydrates at night for your stomach to feel full and to help induce sleep. If you really feel the need, go ahead - it won't sabotage everything else you've been doing right.

**The Workout:** This is really simple so it'll be a surprisingly short paragraph. I could give you all kinds of fancy workouts that break up the various bodyparts and focus on two bodyparts per day, with giant sets or supersets, but the truth is that you can lose holiday fat without such a technical program. This is what you need to do - get moving. Cardio, cardio, cardio. Four days a week you need to do 45 minutes of cardiovascular exercise. Walk outside briskly for 45 minutes or if you have access to a treadmill do incline level 11 and go at a pace of 3.2. If you're a jogger, run for 10 minutes then walk for 10 minutes for alternating sets until you reach 45 minutes. If you're a swimmer or you play racquetball, just go for 45 minutes. You don't have to go non-stop, but try to go as long as possible before resting and try to rest as little as possible.

And then just 15 more minutes of simple exercises such as sit-ups/crunches, pushups (even "girl" pushups will do), wall squats, and "good mornings". You can do these exercises anywhere and you don't need any special equipment. You'll do three sets altogether, with each set consisting of 15 repetitions of each exercise. Each set should only take about 5 minutes. Go straight from one exercise to the next without any rest until you've completed all four, then rest one



minute before doing it again two more times with one minute rest after the second set.

Exercise descriptions:

Wall squats - back against the wall with feet slightly wider than shoulder width, toes pointed outward. Keeping back and butt in contact with the wall, squat down do just a few inches above parallel, hold for 5 seconds then push slowly up.

Good mornings - feet shoulder width apart, hands crossed at your chest, bend at the hips (Japanese greeting style) keeping a slight arch in your back and your knees slightly bent until your body is parallel with the floor. Slowly return to upright position. For added resistance, you can hold a couple Annotated Code of Maryland books in your arms, against your chest as you perform this exercise.

Crunches - Lying on your back on the floor with knees bent to form a triangle, and hands behind your head near the your neck, look straight at the ceiling and squeeze abdominal muscles until your shoulders are lifted off the floor. Do not pull on your neck or head and do not round your back. Lifting only a couple inches off the ground is sufficient.

Girl Pushups ( do regular ones of you can) - get on your hands and knees, feet off of the ground and lower your upper chest area to the floor without arching your back.

four days a week, for just 4 weeks and you'll definitely undo EVERYTHING you did this holiday season! Remember, though, this is just a "quick fix" to undo your holiday indulgences. You don't want to stick to this eating plan for more than about four weeks because there are other important components to a healthy diet that you should incorporate for the long term such as nuts, beans, and other fibrous carbohydrates. But for now, good luck with that New Year's Resolution!

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***Celebrating 20 Years of Service***  
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Early every Thursday morning on a normal calendar day members of the Prince George's County Circuit/Drug Court Team convene to discuss the cases pending on the docket for that day. This meeting is chaired by Judge Maureen Lamasney, Associate Judge, Circuit Court, who has been the judge in this innovative program since its inception. Her temperament and wisdom is the heart and soul of the Drug Court Program. The team is comprised of the Drug Court Coordinator and her staff, the case management team provided by the Prince George's County Department of Health, representatives of the Office of the Public Defender, and representatives of the Office of the State's Attorney. Under the leadership of Judge Lamasney, the Circuit Court Drug Court Team currently supervises approximately one hundred and nine (109) Drug Court participants. During the course of its existence seventy six (76) individuals have successfully completed the program and participated in the Drug Court graduation which is conducted in Court Room M3400 three (3) times a year. The commencement exercise is particularly important in the Drug Court experience because it memorializes in a public forum the commitment and perseverance of the graduates to achieve their goal of a drug free, productive life. All of the participants of the Drug Court attend the graduation and observe the honors bestowed upon their fellow Drug Court members.

The existence of the Drug Court program in Prince George's County is the result of the work of Drug Court Steering Committee that was organized in August, 2000, by Judge William D. Missouri, who at that time was the Prince George's County Circuit Court Administrative Judge. He appointed Judge Steven I. Pratt, Associate Judge, Circuit Court, as the Chair of this committee. The Drug Court Steering Committee was comprised of executive level personnel from each agency participating in the program. Its membership included Judge Maureen Lamasney, Candice Cason, Director, Division of Addictions and Mental Health, Health Department, Belinda Reed, Office of the State's Attorney, Mark K. Spencer, former Deputy, Office of the State's Attorney, and Nicholas Rattal, Chief, formerly of the Office of the Public Defender and newly appointed Prince

George's County Circuit Court Judge.

On January 25, 2007, while presiding at the Adult Drug Court Graduation, Judge William D. Missouri, now the Administrative Judge and Chief Judge of the 7th Judicial Circuit, surprised Judge Platt when he announced the creation of the "The Steven I. Platt Recognition Award" that would be given once a year to a person who has made a significant contribution to the development, maintenance and growth of drug court within Prince George's County. He then surprised Judge Platt again by naming Judge Platt as the first person to receive "The Steven L. Platt Recognition Award" for his outstanding contribution to the establishment of Drug Court Program in Prince George's County.

Answers to some of the most frequently asked questions about Drug Court  
When is the next Drug Court Graduation and who is invited to attend the commencement?

The next Drug Court Graduation will be held at 9:30 AM on Thursday, January 31, 2007, in Courtroom M3400. The public is invited to attend the commencement. The commencement speaker will feature an outstanding leader of Prince George's County and the Drug Court graduates. A reception will be held immediately following the ceremony in the foyer of the courtroom.

What is Drug Court?

Drug Court is a special court that hears selected felony and violation of probation cases involving non-violent, drug-using offenders. The program includes frequent random drug testing, judicial and community supervision, drug treatment, counseling, educational and vocational training opportunities, and the use of court-imposed sanctions and incentives. The judge is a central figure in a team effort that focuses on sobriety and accountability as the primary goals. The participant's performance is immediately and directly communicated to the judge, who rewards progress or penalizes noncompliance. The Drug Court establishes an environment that the participant can understand - a system in which clear choices are presented and

individuals are encouraged to take control of their own recovery.

What is the Drug Court's Mission?

The mission of the Prince George's County Drug Court is to employ innovative judicial supervision to decrease drug-related crime and violence, reduce incarceration, and provide need-specific treatment and services for substance abusers and thereby enhance the quality of life for the community. The goal is to graduate a clean, sober, responsible, productive and employed member of our community.

Who is eligible for Drug Court?

The typical offender eligible for participation is a non-violent, habitual substance abuser who may be a first time or repeat low-level offender. However, individuals with other types of criminal records may be eligible if their offenses are within our guidelines which exclude violent crimes and handgun offense. Offenders who are charged with Possession With Intent to Distribute (PWID) or narcotics distribution charges that are not assessed as habitual substance abusers by the accepted additions assessment indexes are excluded. Misdemeanor assaults and burglaries are presumptively eligible for Drug Court. Felonious burglary cases may be referred to the Drug Court at the discretion of the State's Attorney's Office. Offenders charged with crimes of violence and who have a criminal history of convictions for crimes of violence are excluded. Also excluded are persons charged with handgun offenses, or those with a history of handgun offenses, domestic violence and adult offenders who had an adjudication as a juvenile for an offense related to threatened or actual use of force, or use, possession or carrying a firearm or dangerous weapon.

The State's Attorney's Office (SAO) is responsible for determining the legal basis for eligibility.

Who is involved in the Drug Court?

Drug Court Team

Drug Court Judge - Judge Maureen M. Lamasney



Drug Court Director - Julisa Robinson  
Drug Court Coordinator - Stephanie D'Amato

Assistant Public Defenders - Betty Stilt,  
Erin Josendale

Assistant State's Attorney - Carolyn Starks Saxon

Paralegals - Faroukar Ali and Elaine Patton

Drug Court Case Manager Supervisor - Gwendolyn Short

Drug Court Case Managers - Joann Brown, Alfred Mitchell, Sabrina Moore, Ron Rocco, Greg Tolson, and Sharon Warrick

Community Supervision Manager - Marc Tyler

Administrative Assistant - Nicole Holland

(Note: The combined years of experience of the Drug Court case managers with the Health Department total over one hundred and twenty five (125) years). Donald Shell, MD, MA, Prince George's County Health Officer, Prince George's County Health Department, and Candice Cason, Director, Division of Addictions and Mental Health, have provided excellent support to the Drug Court Program).

How often does Drug Court convene?

Court status hearings with the Drug Court Team are held weekly. Participants appear before the judge weekly, bi-weekly, or monthly, depending on their phase assignment.

A report of each participant's progress is prepared and given to the judge prior to the hearing. The judge is notified of positive and negative urinalysis tests, attendance at counseling and educational classes, and community supervision compliance. Any special circumstances concerning the participant are included in the progress report. The Court will employ graduated sanctions for all noncompliant behaviors. Terminating the defendant from Drug Court and sentencing them, is the final sanction.

What is the Drug Court Alumni Association?

As of November, 2007, the Adult Drug Court Alumni Association was organized to support the participants and Alumni of the Adult Drug Court. The Alumni are also tasked with the responsibility

of developing innovative strategies to enhance the substance and design of the Adult Drug Court program.

More Information

If you would like additional information about the Prince George's County Circuit Court Drug Programs or to obtain a referral form, please contact Stephanie

D'Amato, Drug Court Coordinator, at 301 952- 3606.

Respectfully Submitted by:

Carolyn Starks Saxon, Assistant State's Attorney & Adult Drug Court Team Member and Stephanie D'Amato, Adult Drug Court Coordinator

THE  
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MAUREEN M. LAMASNEY

AND THE  
PRINCE GEORGE'S COUNTY  
ADULT DRUG COURT  
TEAM

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# MSBA ANNUAL MEETING JUNE 2007 “WARM” MEMORIES



# MSBA ANNUAL MEETING JUNE 2007 “WARM” MEMORIES



Illegal immigration has become a hot button issue in America and the focus of national debate. Advocates, representing clients who are not U.S. citizens in criminal proceedings, must be aware of the complications that can arise upon a conviction or a plea to a drug charge. What follows is a real case of a legal U.S. resident from El Salvador, returning from his native country, arriving at Dulles International Airport one day. Drug convictions are in a special category. This discussion will focus on a very tiny slice of the whole immigration framework which deals with post conviction proceedings in immigration court.

The screening agent found the Defendant previously had been arrested and charged in the Circuit Court for Prince Georges County, Maryland, with a narcotics violation a year prior. It was cocaine possession, case for which he received PBJ and two days time served. Upon attempting to reenter, he was detained and denied entry. This is a "war story", but the case illustrates, in real terms, what can happen to Clients down the road after they think they just "dodged a big bullet" in State Court..

While represented by the Public Defender, Defendant had entered a plea to possession of cocaine, as opposed to possession with intent to distribute, the original charge. He had served two days in pre trial detention. To the Client, it must have seemed like a no-brainer, plea to possession, get PBJ and time served! What a deal! Defendant, who had no priors, was ecstatic and grateful to Counsel. Now he could go and enjoy a long vacation back in his country. A legal U.S. resident, he had been living in the U.S. for 10 years. He was married with kids, a wife and a home with a mortgage. He could come and go through the main channels of transportation. If he had been a Client with no legal status, and there are many of those who get convicted, he would have gone undetected, traveling by "unconventional" means. But now immigration had him pegged. No good deed goes unpunished.

The Government proceeded to exclude the Client under the relevant portions of the Immigration and Nationality Act (INA) ("the Act"), to wit:

(An alien) a. . . who has been convicted of, or who admits having committed, or who admits committing acts, which constitute the essential elements of (or a conspiracy or attempt to violate) any law or regulation of a state, the United States or any

foreign country, relating to a controlled dangerous substance, (as defined in 21 U.S.C. 802)", is subject to removal, exclusion or deportation.(emphasis added) '212(a)(2)(A)(i)(II), INA.

The first impulse was to try to vacate the "guilty" plea and enter a "nolo contendere" instead. The Court granted the modification of the plea, to "nolo contendere", but kept the two days time served and PBJ. It was explained to the Immigration Judge the trial court had withheld adjudication, pursuant to Maryland Criminal Rule of Procedure, 6-220(b), which allows the trial court to defer judgment of conviction for first time offenders. So, according to state law, there was no conviction. (Wrong!) It was further argued that the Rule 6-220(b) was very similar to the Federal First Offender's statute, under which the Courts had waived the penalty of deportation/exclusion. That part deals with the "plea", but there was still the legal definition of a "conviction".

The statutory, textual definition is contained in, '101(a)(48)(A), INA; (8 USCS ' 1251(a), which reads as follows:

(48)(A): The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien, entered by a court, or, if adjudication of guilt has been withheld, where, -

(i) A judge or jury has found the alien guilty or the alien has entered a plea of guilty or "nolo contendere", or has admitted sufficient facts to warrant a finding of guilt, and

(ii)The judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law, regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.

In trying to carve an exception, it was represented that since upon his arrest on the narcotics charge the Client had spent 48 hrs in lockup. On the disposition docket entry, the clerk first noted, "incorrectly", that Defendant had been sentenced to "two days, time served". Upon further petition for relief, the Circuit Court later corrected the "error" and deleted that reference and noted that the Court was imposing

no sentence, punishment or restraint on the Defendant's liberty following his plea. After several trips to the Circuit Court, the Defendant's criminal record now showed no guilty plea or admission and no state court conviction; more significantly, no punishment or restraint imposed with respect to the "controlled substance" allegation. The issue then became whether, given the current status of Defendant's state court record, showing an absence of a "conviction" or an "admission" to the predicate crime involving a controlled substance, as well as the absence of any punishment, penalty, or restraint on his liberty being imposed, could Defendant be brought under the purview of '212(a)(2)(A)(i)(II), INA, and excluded from the United States?.

For the Defendant to be deported/excluded, the test must show that there is either a "conviction", pursuant to Congressional or statutory definition, or an "admission", i.e., a guilty plea, and, irrespective of the "admission" whether the Defendant received an imposition of some form of punishment, penalty, restraint; or incarceration, even if the period of incarceration was suspended in favor of probation. This means the Government wins either way; by entering "nolo contendere" one can delete the "admission", but the State Court will still enter a "conviction" or a finding of guilt, which under the PBJ rule, it can defer. In this Defendant's case, the only hope was to argue that the statute requires a two prong test as to whether a "conviction" has been obtained in state court in order to bring the Defendant under the relevant provision of the statute, '212(a)(2)(A)(i)(II), INA. Hence, the entire argument hinged on the nuanced legal definition and legal interpretation of what counts as a "conviction".

Please note that the Immigration Court is not bound by the conventional understanding of what a "conviction" is, as accepted by the state court's traditional definition. Congress, in its infinite wisdom, when enacting the statute in question, arrogated unto itself the right to introduce its own definition of what a "conviction" is for purposes of immigration law and that definition is evidently much broader than the conventional norm. On the other hand, the Board of Immigration (BIA), which reviews the Immigration Court decisions, has always shown deference for the state court's sentence later modifications. Matter of Song, 23 I & N, Dec 173, (BIA

2001). In this case, the lower court decision to delete a critically important error by the Clerk when referring to the 48 hour pre-trial detention as a "sentence", is one of those corrections to which deference is owed.

To be sure, Defendant's record seemed to satisfy part of '101(a)(48)(A), insofar that he did tender a *nolo contendere* plea, and it is now recognized that, although not considered an admission in a subsequent civil proceeding, a *nolo contendere*, in an immigration context, has the same effect as a plea of guilty. However, since that state court withheld adjudication, one can not say that this plea led to or resulted in a "conviction", as such. But the statute and the case law seem unconcerned with the fact that no state "conviction" actually obtained in the case. But for the statute's broad interpretation, that it is a "conviction" merely because of the nature of the Defendant's plea, (*nolo contendere*) this would not qualify in any other context. And although it can be said that the first requirement in (48)(i) defining a "conviction" is satisfied in this case, the definition is not complete until the second prong is met.

The statute and the cases expanding on its interpretation, suggest that the two key paragraphs, (48)(i) and (48)(ii), have to work conjunctively, in order for the statute to be effective for deportation analysis. Clearly, sub-paragraph (ii) requires that

the Defendant must have suffered some form of punishment, penalty, or restraint on his liberty.

There being no imposition of a sentence or punishment upon this Defendant, even one that was suspended in part or in its entirety, the provisions of sub paragraph (ii) seem to be inapplicable. It has been held that the "essential element" with reference to deportations under the INA, is the **imposition** of the sentence, rather than the actual **serving** of the sentence", *Velez Lozano vs INS*, (1972) 150 App DC 214, 463 F2d 1305. Since Defendant received no sentence below, it obviates the need to argue whether the suspension of the sentence counts as "no sentence".

This case is distinguishable from those in which Defendants have sought to **modify, expunge or vacate** convictions in the state courts, **after** pleading guilty or being adjudicated guilty. More often than not these cases involve periods of rehabilitation in which the state courts, in an effort to reward good behavior, agree to expunge or vacate a conviction, but only **after** a sentence of some kind has been imposed on those Defendants. Generally, it is established that in deportation proceedings, how the state courts deal with the Defendants, **subsequent** to their "conviction", is not of controlling importance. The point here is that if the disposition of the Defendant's case was deemed a "conviction" at the time it was

decided initially, then there is very little that can be done by the state court in post "conviction" mode; once a "conviction" always a conviction, as it were. In other words, one can not attempt to "unring" a bell. The fundamental difference between this case and the host of others that have attempted some creative way of unringing the "conviction bell," is that this Defendant's case never, at any point, completely met the threshold definition of a "conviction", because there was no "sentence" imposed.

Drug convictions of non-U.S. citizens fall under a special category for exclusion, deportation or removal of those involved. It is unlikely ICE (Immigration and Customs Enforcement) will actively go and knock on the Client's door and confront him with the fact he was convicted. When the undocumented travel internationally, they do so through "unconventional" means, presumably they jump the fence, undetected. They never experience this "problem", and even if caught, having a drug conviction is the least of their worries. It is more likely that a responsible person, non-US, with roots in the community but with a criminal record, who has his papers in order and who travels through normal channels, will someday get flagged upon re-entry and denied entrance into this country until he presents proof, before an Immigration Judge, of the disposition of his charge in state court.

## ANNOUNCEMENT

### The Honorable William B. Spellbring Jr.

Prince George's County State's Attorney, Glenn F. Ivey announced today that retired Circuit Court Judge William B. Spellbring, Jr. will offer his expertise and services in a volunteer advisory capacity in the office of the State's Attorney.

Though Judge Spellbring hung up his robe after serving 14 years as an Associate Judge for Prince George's County, MD Circuit Court, 7th Judicial Circuit, he has decided he is not quite ready for full retirement from serving the County's citizens.

In his new role, Ivey says Judge Spellbring is available as a liaison for all court house and community stakeholders that

might want to communicate with him. "He is a great asset to the office and the community, is a highly respected judge, a former assistant states attorney and a private practice litigator – essentially, he is the best hire in the state and he's working for free," said Ivey. "Most importantly, at 65, he is in this office now because he is still genuinely and actively concerned about the County and wanted a way to give back and stay connected to the people he once served."

Judge Spellbring (University of Scranton, Villanova Law School), also is a retired veteran who spent his first year after Law School serving in the Vietnam War. He first served Prince George's County as an Assistant State's Attorney from 1971-76 before joining O'Malley & Miles as an Associate in 1976 and Partner in

1980. He was nominated to the bench as an Associate Judge in 1992 where he remained until his retirement in 2007.

"I always enjoyed working with and teaching young lawyers. This continues that opportunity," said Judge Spellbring. He was born in Washington, DC.

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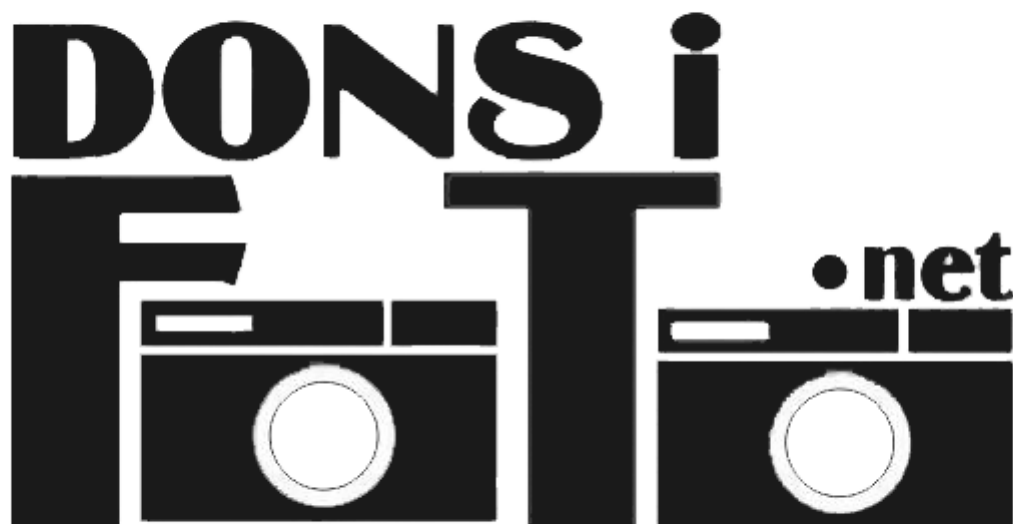
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