

# The Metropolitan Corporate Counsel®

National Edition

www.metrocorpccounsel.com

Volume 22, No. 4

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April 2014

## Roundtable: Navigating Ever-Changing Laws And Regulations

The Editor interviews *Peter G. Verniero*, *Steven R. Rothman*, *Jerold L. Zaro* and *Victor Herlinsky*, Members of Sills Cummis & Gross, P.C., which has offices in New York City, Newark and Princeton.

**Editor:** You each have had very interesting careers in government or have been involved in public policy issues in New Jersey. Would you please give our readers a sense of your background and how you came to your current firm?

**Verniero:** I joined the firm in 2004 after 10 years of public service. I served for five years in the executive branch as chief counsel and chief of staff to Governor Christine Todd Whitman and then as attorney general of New Jersey. Moving to the judicial branch, I served for five years as a justice of the New Jersey Supreme Court, the state's highest tribunal. I remain active by serving as chair of Governor Chris Christie's Judicial Advisory Panel. I recently co-chaired the New Jersey SAFE Task Force. Also, I am the current vice chair of the state's Supreme Court Civil Practice Committee.

**Rothman:** I've served 25 years in elected public office, including 16 years in the United States Congress, representing the Ninth Congressional District, six as mayor of the City of Englewood and three as Bergen County's Surrogate Court judge. In Congress, I served on the House Appropriations Committee's exclusive Subcommittee on Defense, and on Foreign Operations and State. I was also a member of the House Judiciary, Science & Technology, and Foreign Affairs Committees. I ran my own general law practice for 12 years and was pleased to join my current firm in 2013.

**Zaro:** I was privileged to have been appointed by six different governors – three Republicans and three Democrats – to a variety of leadership posts in their respective administrations. These posts included chair of the New Jersey Highway Authority and commissioner of the New Jersey Sports and Exposition Author-



Peter G. Verniero



Jerold L. Zaro



Steven R. Rothman



Victor Herlinsky

ity. Before joining the firm, I served as chief of the New Jersey Office of Economic Growth – the so-called economic czar – in the separate cabinets of Governors Jon S. Corzine and Chris Christie. In that capacity, I helped to create and then lead the Real Estate Advisory Board to eliminate red tape and attract out-of-state companies and hundreds of new jobs to New Jersey.

**Herlinsky:** I have spent the last 25 years interacting with government on all levels. I have served on the transition teams of numerous public officials, including Governor Jon Corzine, then-mayor and now United States Senator Cory Booker, and other municipal and county administrations. Governor Corzine appointed me to the New Jersey Interagency Council to Prevent and Reduce Homelessness. I was chosen in 2008 to serve as president of the 56th Electoral College in New Jersey. Most recently, I was privileged to earn appointment by President Barack Obama to the Advisory Committee on the Arts of the John F. Kennedy Center for the Performing Arts.

**Editor:** A question for Peter. There is some confusion about whether retired New Jersey state judges may appear in court on behalf of clients. What is the rule governing such appearances?

**Verniero:** All retired state judges may appear in federal court. However, the rules for appearing in state court are different. Retired state judges who are collecting their state pensions cannot appear in state court on behalf of clients, nor may they sign pleadings or appear on briefs. Because I am still too young to collect a pension, those prohibitions do not apply to me. That is how, for example, the Christie administration was able to retain me in 2011 as outside counsel to argue the *Abbott v. Burke* school funding case before the New Jersey Supreme Court. Similarly, I also have appeared and signed briefs on behalf of private-sector clients in matters before the state Appellate Division and Supreme Court.

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**Editor: What are the emerging trends in new laws and regulations that you see affecting corporate clients?**

**Rothman:** There are numerous laws, regulations and redevelopment efforts associated with land use in New Jersey, which require counsel to be well versed in this multi-disciplinary area. In addition, with the downsizing of our nation's military, uniformed and civilian decision-makers will have an even greater challenge in choosing the best products and suppliers. Also, health care will dominate our national attention as the Affordable Care Act is implemented.

**Verniero:** What's interesting to me on the state level is how state regulators have become more empowered to regulate in areas, such as the financial sector, that used to be preempted by federal regulators. I regularly attend meetings of the National Association of Attorneys General. It is clear from what is expressed at those meetings that there is a level of cooperation and power-sharing between federal and state regulators that we have not seen previously. What that means on a practical level is that we need to pay attention not only to financial regulations coming out of Washington but also enforcement actions and investigations that might originate in Trenton.

**Zaro:** As a business lawyer who has been familiar with government for many years, I see it as our skill to understand how to navigate what, to the layperson, appears to be an increasingly complex set of legal strictures, such as permitting rules, licensure regulations and other types of laws that govern business development. These rules have a laudatory purpose – to protect the public from the excesses of an unregulated market – but sometimes such policy reforms go too far in the other direction and impede legitimate growth and development. The challenge for policy makers is to achieve the right balance, and sometimes our job is to advocate where on the spectrum that balance resides.

**Herlinsky:** Jerry has stated it well. I have represented clients from small businesses to Fortune 500 companies before local zoning boards throughout northern New Jersey, and the challenges are much the same, namely, understanding the rules and properly navigating them. As Steve suggested, in a densely populated state like New Jersey, there are myriad rules and regulations governing commercial development. We have to remain current on those laws and monitor closely how they are being applied

locally. Understanding the many layers of the process and then working properly within that process are critical to achieving an appropriate outcome.

**Editor: You mentioned the importance of staying current on the latest trends. With so much changing law, how do you keep on top of it all?**

**Verniero:** As I suggested earlier, attending conferences like the ones held by state attorneys general is a good place to start because attendees hear from government officials and other leaders in their field who highlight current topics of interest. Also,

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lawyers need to be disciplined in reading, digesting and otherwise staying current with court decisions and agency rulings in their fields. That will help them to hit the ground running in advising or designing appropriate courses of action for their clients. There really is no substitute for just keeping yourself well-informed by reviewing the latest case law and literature.

**Zaro:** I stay current, in part, by virtue of my participation in various projects. For instance, I am a principal in numerous real estate companies that buy, develop, own, manage and operate various properties located in several states. In other words, I know what it means to risk capital and to answer to partners or other investors. That allows me to better understand a client's business goals and to help that client achieve those goals in an efficient and appropriate manner. Lawyers need to be both knowledgeable and practical as they assist clients in effectuating their business plans.

**Rothman:** There is something to be said for simply doing your homework. That includes paying close attention to what is occurring in Washington and Trenton, and listening to decision makers on both sides of the political aisle to better understand the particular public policy considerations behind existing or proposed laws and regulations.

**Editor: Do you have any closing comments to offer?**

**Herlinsky:** The intersection of government and law among many disciplines presents a challenging regulatory environment. It is critical for legal counsel to understand not only the law but also the process that shapes how the law is applied. Those understandings are important in assisting businesses in complying most appropriately and efficiently with the regulations facing them.

**Zaro:** Good lawyering includes, in my view, good counseling. By that I mean an effective lawyer must not only be knowledgeable in the law but also able to present practical solutions to assist clients in achieving their legitimate business aims. Good lawyering without good counseling is one dimensional. Even sophisticated clients sometimes require a road map in navigating the many layers of laws and government rules, which they must fully digest and uphold.

**Rothman:** The pendulum of law and regulation is always swinging. We seem to be in a period in which it is swinging toward more regulation in certain sectors, including but not limited to health care, defense and land use. Corporations need to have compliance systems in place to satisfy regulators at all levels of government, and those systems need to be updated constantly to conform with best practices. If you have waited until the alarm bell sounds before enacting such systems, then you have waited too long.

**Verniero:** The law is ever-changing, and that includes case law and decisions of appellate courts. But if you keep up with those cases and review them carefully, oftentimes you can predict a trend in the law. As for the current regulatory climate, state regulators increasingly are coordinating with their federal counterparts, even in areas in which federal regulators formerly occupied the field. In other words, state regulations should not be taken for granted, even in national industries.