



# LADDEY CLARK & RYAN

ATTORNEYS AT LAW

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## NEWSLETTER

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### Profile: Michael Garofalo, Esq.



**T**exas. New York. Pennsylvania. New Jersey. North Carolina. At one time or another during his childhood, Michael, his two younger sisters Patty and Janeane, and his parents Michael and

Joan, referred to each of the preceding states as home. Quite normal circumstances for the family of an Exxon Corporation Executive, the family adjusted to the frequent moves and challenges associated with starting anew. Throughout these moves and changes, New Jersey was always the one place that Michael remembered most fondly and Sussex County was the one place he truly considered his home. Over the years the Garofalo family scattered and settled down throughout the country. Michael returned to Sussex County and for the last fourteen years, it is the place he has called both his personal and professional residence.

Michael would be the first to admit that his road to the legal profession and Laddey, Clark & Ryan may have been filled with almost as many changes as his childhood address. After graduating from Guilford College in Greensboro, North Carolina, Michael began his professional career as a financial analyst, first at the Exxon Corporation and then at Dun & Bradstreet. While working with Exxon and Dun & Bradstreet, Michael earned his M.B.A. from Fairleigh Dickinson University. After 13 years as a corporate analyst, Michael enrolled at Seton Hall University School of Law.

Law student by evening, Michael worked full-time by day as a Paralegal, with a con-

centration in land use and municipal law. As a Paralegal he worked closely with municipal corporations and other government entities, expertise he uses daily while working with the firm's municipal clients.

Drawing upon experience from his pre-law days would also pave the road to Michael's legal future. While Michael was moonlighting as a reporter covering Franklin Borough, he soon found himself coaxed into turning his written words into practice by running for and being elected Franklin Borough Councilman. It was during his service as Borough Councilman that he would come to work closely with Franklin Borough Attorney, Richard Clark. Clark, the Chairman of Laddey, Clark & Ryan's

*Michael came to Laddey, Clark & Ryan in 2000 because it embodied what he values most; the opportunity to work with and for people in his community.*

Municipal Law Practice Group, as well as the Land Use and Real Estate, and Trusts and Estates Practice Groups, would become a professional mentor for Michael's legal aspirations.

Michael came to Laddey, Clark & Ryan in 2000 because it embodied what he values most; the opportunity to work with and for people in his community. Under the tutelage of Richard Clark, he has gained invaluable knowledge and insights into municipal representation and land use and zoning law. Michael represents individuals, developers and businesses before zoning and planning boards throughout the region. Michael has

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# New Jersey's Malpractice Insurance Debate

By Andrew A. Fraser, Esq.

There is an ongoing debate in New Jersey's Legislature regarding the awards that plaintiffs receive when they sue their doctors for malpractice. On one side of the debate are doctors, of which there are about 27,000 licensed physicians in New Jersey, claiming these injury verdicts are excessive, and that they drive up doctors' insurance premiums. In protesting these high awards and verdicts, doctors went on strike in February and again in June in what was the largest protest by medical doctors in the nation. It is "high risk" physicians, such as obstetricians and surgeons, who have the majority of these malpractice lawsuits brought against them. Currently, there is a cap on damages for hospitals, but those who work for them, such as physicians and nurses, are vulnerable to large awards. Doctors believe these large verdicts are causing insurers to abandon their business or leave New Jersey.

Attorneys, on the other hand, believe that insurance premiums rise, not from excessive verdicts, but from the actions of the insurer (i.e. bad investments, a

sour economy), that plaintiffs are entitled to compensation for their sometimes life-altering injury and loss, and that there should be an end to malpractice, not malpractice awards. Therefore, inadequate physicians with a history of malpractice should be weeded out of the profession. Republicans, lead by President Bush, a proponent of tort reform, are seeking a cap on awards for pain and suffering at \$300,000. Democrats, on the other had, take a pro-plaintiff stance and are against these caps. President Bush was responsible for enacting a similar cap in his home state when he was governor of Texas. Other states, such as California, Nevada and Mississippi, have enacted similar legislation; however, insurance premium rates are still rising in these states.

The types of damages at issue, non-economic damages, are synonymous with a plaintiff's pain and suffering. These damages, computed by the jury, also take into account a plaintiff's non-monetary losses; such as inconvenience, disability, mental distress, disfigurement, loss of society and injury

to reputation. Basically, a plaintiff is being compensated for no longer being able to engage in regular, daily activities, from the necessary to the recreational.

Recent reports seem to suggest that awards are not as excessive as they seem and that perhaps insurance premiums are rising for reasons other than large payouts. Many feel sympathy for the injured plaintiff, and believe they should not be limited in their award for serious, permanent injuries. As is common in a litigation context, many cases settle before they even get to a jury. Further, statistics indicate that not all plaintiffs' claims are frivolous, and not all their awards are unfounded. A 1999 report by the Institute of Health, National Academy of Sciences found that there are 98,000 deaths each year due to medical errors. This, attorneys argue, is what they are trying to prevent. The Trial Lawyers Association of New Jersey believes that jury verdicts correlate with the severity of a patient's injury and, as such, are not random calculations.

In 2000, the median payout for a malpractice award was \$115,000. Other facts show that the majority of cases obtain verdicts within a similar range. The New Jersey State Bar Association, reporting a study by the Administrative Office of the Courts, showed that there

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## New Associate: Jarrod Cofrancesco



The Firm is pleased to announce the arrival of our newest associate, Jarrod Cofrancesco, Esq. Jarrod is a graduate of Pope John

High School and the University of Notre Dame, from which he received a BA degree in Business Administration. He will work with the Business Law and Corporate Transactional Group at the Firm. Jarrod was admitted to the New Jersey State Bar and the United States

District Court for the District of New Jersey following his graduation from the Dickinson School of Law of the Pennsylvania State University.

Upon graduation, Jarrod accepted and served a Judicial Clerkship with the Honorable Joseph A. Falcone, Presiding Judge of the Superior Court of New Jersey in Essex County. During law school, Jarrod was a summer associate for two New Jersey law firms and the Sussex County Prosecutor's Office.

In addition to bringing his legal skills and knowledge to the Firm, Jarrod brings the practical experience and knowledge from working with his family's businesses and philanthropic

activities. The Cofrancesco family owns and operates the Grinnell family of businesses, including Grinnell Concrete; Grinnell Paving Stone; Grinnell Recycling; Grinnell Sand and Gravel; and Grinnell Hauling. The family also established and continues to operate the Homestead Restaurant in Sparta since 1989.

Jarrod and his family were recently honored by the Boy Scouts of America with their Distinguished Citizen Award and received New Jersey Monthly Magazine's "Family Business of the Year Award" for Grinnell Paving Stones.

Jarrod can be reached at 973-729-1880, or via e-mail at [jcofrancesco@lclrlaw.com](mailto:jcofrancesco@lclrlaw.com).

## Cases of Note

### **\$1,025,000 SETTLEMENT OF RETALIATION AND WRONGFUL DISCHARGE CASE**

On the evening before trial was to commence in State Superior Court, partner Thomas Ryan reached a settlement for \$1,025,000 on behalf of a former Police Chief in Hudson County. In his lawsuit filed by Ryan against the Borough of East Newark and its Administrator, the former Chief alleged retaliation, wrongful discharge and violations of the Conscientious Employee Protection Act (CEPA), the New Jersey Law Against Discrimination (NJLAD) and other contractual obligations. Partner Andrew Fraser had previously secured an \$85,000 settlement of the companion workers' compensation claim on behalf of the Chief. Ryan, assisted by associate Lee Ann Pounds throughout the litigation, also secured a disability pension for the client due to injuries suffered by the Chief as a result of the alleged conduct of the Borough and its Administrator.

### **\$300,000 SETTLEMENT FOR CLIENT INJURY**

Partner Andrew Fraser recently secured a total settlement of \$300,000 on behalf of a twenty-one year old client who suffered head and hand injuries in an automobile accident. The settlement included compensation from the defendant driver, the driver of the auto in which the plaintiff was a passenger, and the plaintiff's own under-insured motorist coverage.

### **\$130,500 WORKERS' COMPENSATION AWARD**

Partner Andrew A. Fraser recently obtained a workers' compensation award totaling \$130,500 for a client who suffered a back injury during a slip and fall incident while employed at a national retail store. The defendant will not appeal the award which included sanctions for the defendant's failure to provide medical and temporary benefits immediately following the injury.

*Results in any one case cannot be guaranteed. Results will vary from case to case based on particular facts and circumstances.*

## LCR In Action

Outside of the courtroom, **Andrew A. Fraser** is a longtime motorcycle enthusiast. Andrew recently joined thousands of fellow bikers on a ride from



Rockaway to Manhattan for the annual "Gooch's Garlic Run", a motorcycle tour to benefit local charities. The next stop for Andrew was co-chairman and participant in the "Thunder for the Disabled" motorcy-

cle tour which was held on October 18th. This ride benefited the Department for Persons with Disabilities, a Catholic Charities

Agency, which is responsible for twelve group homes and a vocational training center located in northern New Jersey. Andrew has been a member of the Board of Trustees for the Department for five years.

## LCR in the News

**Richard I. Clark** was appointed Associate Legal Counsel for the New Jersey Planning Officials ("NJPO"). NJPO, founded in 1938, is a non-profit, tax exempt organization whose mission statement is "to promote public interest in municipal and regional planning; to foster the cooperation of planning boards and boards of adjustment throughout New Jersey in furthering the aims of planning; to assist local planning boards and boards of adjustment with advice; and to encourage the development of regional, county and state planning as an aid to local planning." In addition to assisting governmental officials with legislative issues, NJPO also sponsors seminars and educational programs throughout New Jersey for citizen groups, corporations and professionals. Richard is a longstanding member of NJPO and is one of only five attorneys appointed as Associate Legal Counsel for the statewide organization.



**Thomas N. Ryan** has been elected President of the Lakers Sports Club, Inc., a 501(c)(3) non-profit organization established to provide support for the athletic programs and student athletes at Mountain Lakes High School, by its Board of Trustees. Tom, a former President of the Mountain Lakes Board of Education, and his wife, Jean, have two children, Chris and Sally, attending Mountain Lakes High School.

## LCR In Action

**Brian Laddey** will travel to Iceland to play in an international Old Timers Hockey Tournament. After graduating from the Lawrenceville School in 1963 as the high scorer on their Varsity hockey team, he continued his passion in college and, since Law School, has participated in tournaments in such far flung places as Russia, Australia, New Zealand, the British Isles, Finland, and Canada. He's not as good as he used to be, but he still skates a regular shift.

# Firm Recovers 7.5 Million Dollars for Personal Injury Clients

Laddey, Clark & Ryan's Personal Injury Practice Group has successfully obtained judgments at trial and settlements for its clients in excess of 7.5 million dollars, through its representation of injured plaintiffs over the past four years. This total represents awards and settlements for injuries suffered in auto accidents, slip and falls, defective products, workers' compensation claims and domestic animal attacks.

For inquiries about the firm's Personal Injury Practice Group, contact Brian Laddey by phone at 973-729-1008, or by e-mail at [bladdey@lclaw.com](mailto:bladdey@lclaw.com). For inquiries about the firm's Workers' Compensation Practice Group contact Andrew Fraser by phone at 973-729-1880, or by email at [afraser@lclaw.com](mailto:afraser@lclaw.com).

*Results in any one case cannot be guaranteed. Results will vary from case to case based on particular facts and circumstances.*

## Michael Garofalo

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come to appreciate his varied professional experience and skills because they enable him to effect productive change for his clients and his community.

Most lawyers will agree there are no "typical" days for a lawyer and Michael is no exception. On any given day Michael will handle several residential closings in addition to appearing before a land use board or municipal court. The Land Use and Real Estate Practice Group handles residential closings in addition to representing buyers and sellers in commercial

and industrial property transactions. In addition, Michael represents individuals and corporate entities in real estate financing.

When he is not practicing law, Michael and his wife Amy, who works as the Director of Patient Accounts at Pascack Valley Hospital, share a passion for showing quarter horses. Michael discovered his affinity for horses on a family trip to a ranch in Colorado and has been in the saddle ever since. Michael and Amy own three quarter horses and show them in many horse shows including the granddaddy of them all, the annual Sussex County Farm and Horse Show in Augusta.

With a burgeoning real estate, land use and municipal law practice, Michael's professional career has come full circle. What comes to mind is a quote from the poetry of Robert Frost: "...And I took the road less traveled and it has made all the difference." In the case of Michael Garofalo, attorney, corporate analyst, councilman, horse trainer, one may find a person who can personally attest to the truth of such wisdom.

*Michael can be reached at 973-729-1880 or via email at [mgarofalo@lclaw.com](mailto:mgarofalo@lclaw.com).*

## Malpractice

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were 205 malpractice verdicts last year. Of these 205 verdicts, 151 were against the plaintiffs, 54 against the defendants, with jury-calculated damages averaging \$300,000. While there were 18 verdicts for \$1,000,000 or more, there were also 12 verdicts for \$100,000 or less. The Physicians Association of America, in a

study spanning 1985-2001, found that the average indemnity over the years was \$195,723. The average payout for the least severe injury was \$49,947 where the average payout for a "grave injury", which includes paralysis, was \$454,454.

At present, the issue is unresolved in the Legislature, and it appears the proposed bill requiring damage caps is losing steam. While the issue is still unre-

solved, it appears that both sides of the debate will require more answers to outstanding questions before a resolution can be reached.

*Christine Lupinski, our Summer Associate, contributed to this article. Andrew Fraser can be reached at 973-729-1880 or via e-mail at [afraser@lclaw.com](mailto:afraser@lclaw.com).*