2021 Annual Meeting & Scholarship Presentation

On Thursday, May 20, 2021, NWSBA President Gary Newland lead the membership of the NWSBA in a virtual Annual Meeting and Election of Slate.

President Newland introduced the Hon. Jill Cerone-Marisie, Presiding Judge of the Third Municipal District, who provided updates on courthouse operations and who spoke of the valued relationship between the presiding judge’s office, the judiciary and our Association.

Judge Marisie was followed by Moe Ahmad, first vice president, who honored members of the Suburban Bar Coalition and their outstanding efforts in the judicial screening process. A full list of the SBC leadership and evaluators are listed on pages 11 and 13.

The election of the slate was conducted by NWSBA Secretary Stephanie Garces Donat followed by the scholarship portion of the program.

We were honored to have Judge Evans with us, via zoom, to present three scholarships in his name. The longstanding Hon. Timothy C. Evans scholarship to a deserving law student was presented to Ms. Emily Motin who attends Chicago-Kent College of Law. The law firm of Klein, Daday, Aretos & O’Donoghue, LLC. generously matched the NWSBA scholarship.

For the first time in our history, President Newland in partnership with Harper College, instituted a scholarship program for students in the Harper College Paralegal Studies Program. We were joined by Dr. Avis Proctor, President, Harper College; Dr. MaryAnn Janosik, Provost of Harper College; Dr. Joanne Ivory, Dean of Career and Technical Programs and Carol Carlson-Nofsinger, Asst. Prof. & Coordinator of Paralegal Studies.

The following scholarships were presented:

*Honorable Timothy C. Evans Scholarship for Paralegal Studies funded by the NWSBA* was awarded to Mia Omalley.

*Honorable Timothy C. Evans Scholarship for Paralegal Studies funded by Newland & Newland, LLP* was presented to Chaltu Spray.

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Hi everyone, my name is Gary Newland and as president of the NWSBA I would like to welcome everyone to this event.

This is a very exciting evening as we are honored with the presence of Chief Judge Timothy Evans who will award his scholarship to three well deserving students. I would further like to acknowledge the Hon. Jill Cerone-Marise, the Presiding Judge of the Third Municipal District Court House in Rolling Meadows, and welcome our community partner Harper College. I welcome Carol Carlson-Nofsinger the head of the paralegal program, Dr. Joanne Ivory, Dean of Career and Technical Programs, Provost Dr. MaryAnn Janosik and of course the president of Harper College Dr. Avis Proctor. Congressman Krishnamoorthi will appear via video as Congress is in session. Of special note, past president of the NWSBA and current Trustee for Harper College William Kelly is present as well.

I want to acknowledge the following sponsors for tonight’s event:

- Bernadette Barrett, The Barrett Law Group
- Daniel Calandriello, Law Office of Daniel Calandriello
- Cristin Duffy, Crane and Norcross
- Michael Rothmann, Law Office of Martin L. Glink
- George M. Sachs, Law Office George M. Sachs

Since this is the annual meeting of the NWSBA, we will be voting on the new slate of Bar Association Officers and for the first time we will be acknowledging the Suburban Bar Coalition led by Michael Rothmann for its contributions related to judicial screening. But first I would like to take the time to present several honors to our membership consistent with the theme of the past year of community. Please keep in mind there is no way to recognize all those members of our Bar that contributed through service but I will acknowledge several this evening.

First to be recognized Stephanie Garces Donat you are awarded the Ruth Bader Ginsburg award for your leadership and legal knowledge. Stephanie is one of our brightest stars as a member of the executive committee of the NWSBA and a Chair of our Women and Law Committee among other responsibilities. If that was not enough Steph’s work with the League of Woman Voters setting up a candidate forum for judicial candidates allowed the Northwest Suburban community during the pandemic to see and hear from the candidates and retention judges first hand in a debate like format on Zoom. Steph also arranged a virtual tour of the Skokie Holocaust Museum Ruth Bader Ginsburg exhibit during the pandemic. She takes time to speak to students in the classroom in high school District 214 and elsewhere and Steph has also set up a mock interview process for the paralegal program at Harper College to help Harper students find employment in law. I have just skimmed the surface of her recent achievements and community contributions as she is active and a member of many organizations and volunteer efforts. On behalf of the Bar Association it is an absolute honor to recognize your leadership in our community and I cannot think of anyone more deserving of an award named after such a prominent Justice as the late Justice Ginsburg. Steph your contributions to this bar are unmatched. You will now and forever be known as the notorious Stephanie Garces Donat.

Continued on Page 8
Once our courts open again, we hope that you will consider volunteering for one or more of the services listed below.

**Court Facilitator**
The Court Facilitator program is unique to the Third Municipal District. The NWSBA provides volunteers on Thursdays from 9:00 AM until 12:00 PM to assist the Domestic Relations judges. Dates are scheduled by the Association staff through use of a Sign Up Genius website.

**Paternity Court Facilitator**
Paternity Court Facilitators volunteer on Thursdays from 9:00 AM – 12:00 PM to assist the Paternity Call. Dates are scheduled by the Association staff through use of a Sign Up Genius website.

**Pro Bono Desk**
The Pro Bono Desk, located in Room 251 in the Rolling Meadows Courthouse, is a volunteer service provided by members of the Northwest Suburban Bar Association. It is a free service to members of our community.

Attorneys serving at the pro bono desk are available to answer legal questions members of the general public may have. While the attorneys serving at the pro bono desk will try to answer your questions to the best of their ability, understand the attorney(s) serving that day may not have expertise in the legal area for which you have a question. The attorney(s) serving the pro

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Volunteers are needed at the Third District Courthouse every Friday from 1:00 PM – 3:00 PM. Volunteer dates are scheduled by the Association staff through use of a Sign Up Genius website.

**LINK TO SIGN UP GENIUS:**
A link to the volunteer sign up can be found on the Home Page of our website under the “Member Dashboard” tab. If you are a member and are not receiving volunteer emails from Sign Up Genius, please call the Association office at 847-621-2378.

Again, thank you for your service,
Pro Bono Committee Co-Chairs

Matthew Hess    Lance Ziebell
847-577-1123    847-705-7555
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### Newsbriefs

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Northwest Suburban Bar Association
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C CORPORATION DISGUISED DIVIDENDS
– Aspro, Inc. v. Commissioner, T.C. Memo. 2021-8 (2021)

Why this Case is Important: Because W-2 compensation is deductible to corporations but dividends are not, it generally is less expensive from a tax perspective for C corporation shareholders to receive payments from their corporation in the form of compensation rather than dividends, even taking into account the employment taxes that must be paid. However, corporations are not free to characterize payments as compensation or dividends in their sole discretion, as this case demonstrates.

Facts: Aspro, Inc. was a C corporation in the asphalt paving business. Its stock was owned by two corporations and one individual. During and prior to the years at issue in this case (2012 through 2014), it had never declared and paid a dividend. For each year at issue, the taxpayer paid significant management fees, characterized as W-2 compensation, to each of its shareholders. The deduction of these management fees enabled the taxpayer to eliminate approximately 80% of its taxable income for these years. In addition, the individual shareholder, who was also the company’s president, received substantial salary and bonus payments, along with compensation for acting as a member of the company’s board of directors. The IRS examined the taxpayer’s 2012 through 2014 corporate tax returns and disallowed the management fee deductions, asserting that those payments should have been characterized as dividends because, with respect to the corporate shareholders, they were not paid for any identifiable services, and with respect to the individual shareholder, they were not reasonable. The IRS issued notices of deficiency asserting a total tax deficiency of almost $1.5 million plus penalties and interest, which the taxpayer contested by filing a Tax Court petition.

Law and Conclusion: Section 162(a) of the Internal Revenue Code allows taxpayers to deduct the ordinary costs of carrying on a trade or business, including, reasonable salaries or other compensation and similar payments to non-employees for services. Under related Treasury Regulations, whether a payment is deductible as compensation depends on whether the payment is reasonable (subject to certain exceptions) and is in fact a payment purely for services. In determining whether payment amounts are reasonable, Eighth Circuit courts (this case was governed by Eighth Circuit case law) look at several factors, including the employee’s qualifications, the nature and extent of the employee’s work, the size and complexities of the business, industry standards, a comparison of salaries paid to gross and net income, and to dividends paid, and general economic conditions, among other factors. In this case, the Court held that the management fees paid to the corporate shareholders were not for identifiable services because the taxpayer could not clearly identify anything more than minimal services provided to the taxpayer by its corporate shareholders. In addition, there was no contract between the taxpayer and those shareholders setting forth the services to be provided or establishing the amount to be paid for those services. Instead, the amount of the management fees were decided at a year-end board meeting, and the only rationale used to determine those amounts was how the taxpayer, as a whole, had performed; the payment amounts did not take into account the actual value of the services provided by the shareholders. With respect to the payments to the individual shareholder, the Court relied on expert testimony that, even before payment of the management fee, that shareholder, through the compensation he received as company president, was already paid $200,000 more than the average company president in the taxpayer’s industry. That being the case, the payment of the additional management fee for those same services was unreasonable. Accordingly, the Court found in favor of the IRS and upheld the notices of deficiency.


Why this Case is Important: Unlike C corporation shareholders, S corporations shareholders have an interest in paying themselves through profit distributions rather than W-2 compensation because of the way S corporations and their shareholders are taxed. As this case demonstrates, though, S corporation shareholders generally are required to receive a reasonable salary, and shareholders who do not collect a salary or collect an unreasonably low salary, while also receiving profit distributions, are at risk of having the IRS recharacterize those distributions as compensation.

Facts: In Ward, the taxpayer was an attorney and the sole shareholder and officer of her law firm. During the years at issue, 2011 through 2013, the taxpayer’s reporting of compensation paid to her by her law firm on the corporate and her personal tax returns was inconsistent. For each year, the company reported paying and deducted officer compensation, but on her personal return she reported these payments as non-taxable “draws.” The IRS examined these returns.

Continued on Next Page
Among other changes, the IRS determined that because the taxpayer was an officer of the company and provided services to the company, she was an employee of the company and all payments she received in exchange for her services were taxable compensation. Therefore, the IRS issued notices of deficiency to the company requiring it to pay employment taxes on the amounts paid to the taxpayer for each year and notices of deficiency to the taxpayer requiring her to pay income taxes on the same amounts (some or all of which would be paid through the company’s payment of the past-due income tax withholding). The taxpayer filed a Tax Court petition contesting these notices of deficiency.

**Law and Analysis:** Unlike C corporations, S corporations are not taxed on their taxable income. Instead, S corporations allocate their taxable income to their shareholders, who then report their share of that taxable income on their personal tax returns and pay income taxes (but not employment or self-employment taxes) on it. Because these income allocations are taxable regardless of whether the company actually distributes corresponding profits, S corporation profit distributions are not taxed. While W-2 compensation paid by S corporations is deductible, therefore reducing the taxable income allocable to shareholders, it is subject to federal and state employment taxes, generally making it more expensive for S corporation shareholders to pay themselves through W-2 compensation than through profit distributions. Under Sections 3212 and 3121 of the Internal Revenue Code, officers of a corporation who provide services to the corporation generally are employees of the corporation, and payments to employees for services generally must be treated as taxable compensation. This is especially the case for the sole shareholder of a corporation who is also an officer and provide services. Because the taxpayer was the corporation’s sole shareholder and an officer, and provided services to the corporation, the Court found that the payments she received for those services constituted taxable compensation, rather than nontaxable draws, except to the extent she could prove that the payments were unreasonably high in relation to her services (in which case she could argue that at least a portion of the payments should be characterized as non-taxable profit distributions), or that they were never actually paid to her. The taxpayer could not prove either of these points, and the Court upheld the IRS’s determination.

If you would like more details about these cases, please contact me at 312-888-4113 or jnesser@lavellelaw.com

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Also the Women and Law Committee made up of Stephanie Garces Donat, Margaret Zuleger and Erin Adamski really was one of the best run committees over the past year offering fantastic CLE and creating an additional pathway for more women to get involved in the association.

Next, the membership of the Bar knows the success of Geo and Raj and their lunch and learn CLE programming. They can collectively take credit for well over 1000 hours of CLE credit being provided to members and have helped our attorney’s retrain and retool during the pandemic. I note Geo Bellas as a past President of the Bar and one of our communities’ most prestigious attorneys has also received many honors from this association for good reason so today I will focus on acknowledging Raj Jutla from the Geo and Raj Lunch and Learns for his contributions. When this association was forced to make budget cuts because of the pandemic it was board member Raj Jutla that stood up to plate and helped facilitate the behind the scenes process for CLE through Geo’s lunch and learn program. We would not have facilitated anywhere near the hours of training Geo had arranged without Raj volunteering considering budget cuts caused by the pandemic. Raj you have exhibited great leadership during the pandemic and you are awarded the Abraham Lincoln Award of Excellence in Law that can only be provided to someone of outstanding character.

I would like to thank Brian Frieman chair of our Community Outreach Committee. Brian made things better for hundreds of families in our community through the bar this year. Brian collected money through our bar association and arranged for well over 100 families to have a full Thanksgiving dinner that they otherwise could not afford and Brian along with my daughter and our intern Chloe Newland and several community organizations provided over 100...
Continued From Previous Page

economically challenged families gifts for their children over the holiday. Brian also united the different divisions of the 3rd District Court House with a winter clothing drive for those less fortunate to name just a few of Brian’s contributions. Brian Freiman you are a powerful force of good and the above is only a fraction of what you do for Northwest Suburban community as Brian is also President of the Board of Northwest Compass. Brian you are awarded the Robert F. Kennedy award of Social Justice for impacting the legal community in such a significant and positive way and being an inspirational leader of our community.

Next on behalf of the Bar I would like to thank Klein, Daday, Aretos and O’Donohue, LLC for matching the Law School Portion of the Scholarship Chief Judge Evans will be presenting. I would like to thank my brother and law partner Stephen Newland for never having issue with my time commitment to this organization and for agreeing to match the Timothy Evans scholarship contribution to Harper College on Behalf of Newland and Newland LLP.

Throughout my life my brother Steve has always been there for me and has been my biggest supporter along with my wife Brenette and my kids.

I must say being president of the association during the pandemic is nothing compared to the effort put forth by medical personal, police and grocery store workers, but it is also true the judges and educators also managed to overcome great adversity in performance of their jobs. Leadership has its burdens, Judge Evans, Judge Cerone-Marisie and Dr. Proctor, the three of you and your staff also deserve special recognition for your leadership contributions through this pandemic and moving our community forward. I know you all have worked more hours than you can count and likely had sleepless nights with such great responsibility and weight on your shoulders this past 15 months. So on behalf of the NWSBA we humbly express our thanks and gratitude for you and your staff’s dedication through the pandemic for our community.

It should be noted much of the above achievements of our Bar Association would not be possible without the help and support of the Executive Director of the NWSBA Julie Barth and staff member Christine Bartels.

In conclusion we are honored to share this event with Harper College as your paralegal program is an important labor source for our legal community. I am confident our community partnership will continue to thrive in the future and the future is bright as next month the torch of leadership will be passed to Moe Ahmad a representative of a new generation of leaders. Moe has exhibited the character and leadership skills necessary to move the NWSBA forward in a post pandemic world. Good luck Moe.
We Take a Stand:
LWV-AH-MP-BG and Issues

Many people assume because League is a non-partisan organization, we do not take a position on important issues. And the flip side of the coin is people believe since we take a position on many issues, we must not be non-partisan. I want to dispel both of these myths.

League of Women Voters-Arlington Heights-Mount Prospect-Buffalo Grove Area is a political organization. Indeed, our primary mission is to encourage all citizens to use their right to vote: our motto is Empowering Voters. Defending Democracy. We believe voters are empowered when they understand the issues facing our Democracy. For most of our 101-year history, League has actively studied issues and utilized the Democratic process to reach consensus among our membership before formulating a formal position as a guideline for Leagues to act.

For instance, one of League’s oldest standing positions is on the Environment. This position has grown and matured over the years. As a new organization, League understood its members, limited initially to women, had a vested interest in the health of drinking water. Because women traditionally were the gatekeepers of family health, the founders of our organization understood clean water was an issue that would drive women to the polls. The issue Empowered Voters.

Many people today believe the Environment is a partisan issue, but League believes everyone relies on a clean and healthy environment regardless of political party. In fact, my father, a lifelong Republican, was also a staunch supporter of The Sierra Club and had a great love and dedication to the Environment. League believes it is the political parties who have made certain issues partisan; the issues themselves are neutral. Defending our Environment, Defends our Democracy.

Our League has an Annual Meeting every May when we do the regular business of a non-profit civic organization, such as update our bylaws, approve a budget and elect new leaders. Additionally, our League votes on what we call “Program Priorities.” Program is League Lingo for “Issues.” For our 2021-2022 “Program (a/k/a Issues) Priorities, we will be focused on DEI (Diversity, Equity, and Inclusion), The Environment and Mental Health. The purpose is to educate our communities on these issues, offer a space for critical thinking and dialogue on the issues, and advocate accordingly on these priorities with our locally elected boards.

We are launching a new website, www.lwvah.org, (same address but brand new format) this week, and our new interactive calendar has all the information needed to join any of our Program Interest Groups (IG). Our Environmental IG meets the 3rd Tuesday of the month at 6:30, the Mental Health IG meets every Friday at 1 PM, and our DEI IG meets the 2nd Wednesday and fourth Monday of the month at 7:30. These groups offer an opportunity to dig deep into an issue and make a real difference in our community.
Thank you to the Leadership and Evaluators of the Suburban Bar Coalition

SBC LEADERSHIP

Michael Rothmann, Chair, Suburban Bar Coalition
Deidre Baumann: Immediate Past Chair
Jeff Harris, President: West Suburban Bar
Hon. Patrick Heneghan: President, North Sub. Bar
Kelly Moore: President, Southwest Suburban Bar
Gary Newland: President, Northwest Suburban Bar
Joanna Panici: President, South Suburban Bar

Southwest Bar

Kelly Moore
Katie Duhig
Danielle Vlcek
Daniel Calandriello
Tom Kantas
Dan Farrell
Camilo Oceguera
Bernadette Barrett

Northwest Suburban Bar

Michael Rothmann
Ken Apicella
Gary Newland
Moe Ahmad
Martin Glink
Jonathan Anderson
Stavri Vako
John Corbett
Bill Noelle
Anthony Calzaretta
Bryan Seyring
Frank Serio
Adam Berger
Sami Azari
George Sachs
Dave Saxe
Nicholas Dollenmaier
Joe Vito
Konrad Grabowski
Marie Sarantakis

North Suburban Bar

Rick Pullano
Elizabeth Al-Dajani
Charles Franklin
Monica-Kaye Gamble
Khalid Hasan
Corinne Heggie
Peter Higgins
John Zrnich
Marvin Mendez
Kim Pressling
John Stimson
Andreana Turano
Dimitrie Umbrarescu
Caidi Vanderporten
David Vander Ploeg
Steven Vanderporten

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Speaking on behalf of Harper College, Carol Carlson-Nofsinger said: “I would like to thank Judge Evans, the Northwest Suburban Bar Association, and Newland and Newland, LLP for sponsoring and funding two very generous scholarships for my deserving Harper College Paralegal Studies Program students, Mia Omalley and Chaltu Spray. These scholarships mean the world to my paralegal students! It was very heartwarming to hear Judge Marisie say that she supports Harper College students as a student coach/mentor in our One Million Degrees Program. Harper College and the Paralegal Studies Program values our partnership. With your help, I plan to develop and expand our partnership in the future.”

The meeting concluded with a brief video from Congressman Raja Krishnamoorthi, U.S. Representative from Illinois’s 8th congressional district. A copy of his video can be found on our Facebook page.

We would like to take this time to thank our generous event sponsors:

- Bernadette Barrett, The Barrett Law Group
- Daniel Calandriello, Law Office of Daniel Calandriello
- Cristin Duffy, Crane and Norcross
- Michael Rothmann, Law Office of Martin L. Glink
- George M. Sachs, Law Office George M. Sachs

2021 INSTALLATION DINNER
Thursday, July 22, 2021
Makray Memorial Golf Club

Mohammad Ahmad: President
Kenneth Apicella: First Vice President
Anthony Calzaretta: Second Vice President
Stephanie Donat: Treasurer
Nicholas Richardson: Secretary
Kenneth Donat: Board Member
Patricia Jochum: Board Member
Zubair Khan: Board Member
Scott Zambo: Board Member

Adam Berger, Association Attorney
George Sachs, Co-Parliamentarian
Tja Chiapelli Co-Parliamentarian

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SAVE THE DATE EVENTS:

2021 Annual Golf Outing
Wednesday, September 22, 2021
Schaumburg Golf Club

2021 Annual Holiday Party
Wednesday, December 8, 2021
Maggiano’s Schaumburg
President, Gary Newland, called the meeting to order at 5:16 p.m.

The NWSBA annual meeting was a success this year. It was conducted virtually along with Harper Community College, and many attorney members and judges attended. The Honorable Judge Timothy C. Evans, was also present and presented his scholarships to three very deserving students. One scholarship was awarded to law student Emily Mortin. The other two scholarships were awarded to two paralegal students at Harper Community College named Mia O’Malley and Chaltu Spray. This paralegal scholarship was funded with the help of Newland and Newland, LLP. Congratulations to these fantastic students on their achievements!

As always if you would like to volunteer and help conduct mock interviews for Harper College paralegal students who are preparing for job interviews. Please contact Stephanie Donat by emailing Sgarces@garceslawfirm.com

In other news, the NWSBA is relocating to another office building and is in the middle of reviewing leases before picking the best location. More details to come.

Lastly, there is a new NWSBA Courthouse Relations committee that was created and is being led by Frank Serio and Moe Ahmad. The purpose of this committee is to address community issues from members and different arms of the community. The Honorable Judge Jill Marisie is assisting with this initiative and there will be 4 meetings per year. The Honorable Judge Jill Marisie, a member of the NWSBA, the clerk’s office, a supervisor of the public defender and state’s attorney, and a probation officer, will be present during these meetings. This will help resolve any issues or concerns regarding communication issues especially in light of COVID-19.

Congratulations to Cristin M. Duffy, Beth Shapiro, Peter Shayman as new members of the NWSBA.

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OFFICE SPACE NEAR THE 3rd DISTRICT COURTHOUSE:

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*You must be a member of the NWSBA (Including Law Student/Student Status) in order to place an ad in the Employment Opportunities section. All ads are subject to approval by the Editor.

Referrals

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CALENDAR


JUNE 30 -  Swearing In Ceremony

JULY 22 -  Installation Dinner

SEPTEMBER 22 -  Annual Golf Outing

DECEMBER 8 -  Holiday Party

Please check the website calendar for a complete list of CLEs & Committee Meetings.