



# Law Offices of Ardito & Ardito, LLP

*“Professional Service with Personal Attention”*

Newsletter, Volume VII

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Need legal advice? Present this newsletter to receive a free half hour consultation from our firm on any legal matter.

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We'd like to connect with you via email! If you'd prefer to receive our future publications electronically, please send us an email at: [info@arditolaw.com](mailto:info@arditolaw.com)

We've gone social!  
@ArditoLaw

516.825.0500

## 2014 is Winding Down and We Look Forward to the New Year!

We will soon give thanks for all our blessings and we will then prepare for a new year which we hope will bring us peace, health, happiness and prosperity.

During the past few months our firm has been streamlining our practice in an effort to better serve our clients. In order to provide the best service, we began to concentrate our practice in the following areas: **serious personal injury and medical malpractice cases; real estate transactions; estate planning and elder law; probate and estate administration; and business formation and consultation.** Such concentration will allow us to further improve our practice as we strive to fulfill our motto of providing “Professional Service with Personal Attention.” In addition, we have updated our website and expanded our presence on social media. You can find us at [www.ArditoLaw.com](http://www.ArditoLaw.com) as well as on Twitter and Facebook @ArditoLaw.

2015 may bring about opportunities and prospects, or possibly

obstacles for you or someone you know. For some, that may include selling or purchasing a home or investment property.

Others may refinance to secure a lower interest rate or consolidate debt; and some will seek to prepare an asset preservation plan, estate plan or long term care plan for themselves or loved ones.

As the cost of living demands that we all work longer and we recognize that we are not to rely on the government for health care benefits or to fund our retirement through social security; it is imperative to create an overall plan for savings, college expenses, retirement, long term care, asset/business succession planning and estate planning. Take comfort in knowing that we are here to guide and assist you in formalizing a global plan, for which we are able to collaborate with a CPA in our building as well as local financial planners and elder law specialists, when needed. Our goal is to provide you with peace of

mind once such planning is in place.

So whatever life may bring to you, your business, or your family, we at the Law Offices of Ardito & Ardito are eager to assist you with all your legal needs. Whether it is a new business venture, a new home, planning for college savings, business planning, retirement, estate planning, or one of life's unexpected trials and tribulations, we will be prepared and ready to serve you.

Keep in mind that our attorneys are always accessible, and we urge you to call us or contact us at any time. We stand ready to render effective “professional service” with the “personal attention” that you fully deserve. More than a half century of combined experience allows our firm to be your trusted first point of contact for all of your legal needs.

Finally, we would like to express our appreciation for the continued trust and confidence you have placed in us, and we look forward to providing you with quality legal services that you have grown accustomed to with our firm.

## What to do if you are in a Car Accident:



Stay calm, move out of harm's way, call the police and call an ambulance if necessary. You should always seek immediate medical attention as you may not know the full extent of your injuries. Gather names, addresses, phone numbers, license plate and insurance information for all involved parties and witnesses. Do NOT discuss the accident with anyone other than the police. Afterwards, contact our firm to discuss your legal rights.

You must report the accident to your carrier. Do NOT speak with any insur-

ance company representative or any investigator regarding your accident without your attorney's involvement. Your statements may be recorded and used against you in Court.

Your hospital medical bills will be paid through no-fault insurance and such coverage is normally through the vehicle you were in at the time of the accident. You can also make a claim through no-fault for lost wages and out of pocket expenses. There are strict deadlines to comply with, so you should contact us immediately.

If you have collision coverage, your insurance company will pay for the damages to your vehicle; otherwise, you can file a claim against the carrier

of the responsible party. Many cases do settle without going to trial, and some may even be resolved in less than a year. Depending on the severity of injuries and other facts and circumstances, some cases can take years to resolve and may have to go to trial. Each accident case is different, and we recommend that you contact us for a free consultation.

## Nursing Home Abuse and Neglect

As more of the population is living longer, there is a good chance that a family member of ours has been or will be in a nursing home at some point. As you may be aware, reported cases of abuse and neglect of nursing home residents are on the rise as the elderly and infirm lack the ability to help themselves. Although nursing homes are regulated by governmental agencies and many are indeed quite reputable, abuse and neglect does take place and there are danger signs which you can look out for. The most common cause of neglect is the lack of adequate and sufficiently trained staff as facilities look to cut overhead in order to maximize income at the expense of their residents. Such neglect can result in improper medication, failure to perform hygiene, failure to turn residents resulting in bedsores, failure to adequately supervise residents to avoid slips and falls, and in the worst cases, reports of theft and assault of nursing home residents. Common warning signs of abuse and neglect are bedsores, soiled bed linens, unexplained cuts and bruises, disorientation, and mood swings due to improper medication, unexplained fear or anxiety, and weight loss. Use your instincts, and if you believe there is a case of abuse and neglect, speak with your case worker and contact our office without delay.

## Medicaid 2014 Update

2014, brought several updates to Medicaid benefits. Some highlights are below:

Medicaid Monthly Income Level:

- Family Size of 1: \$809.00
- Family Size of 2: \$1,192.00

Medicaid Resources Level:

- Family Size of 1: \$14,550.00
- Family Size of 2: \$21,450.00

Rates for Medicaid Recipient in Nursing Home:

- Long Island: \$12,034.00
- New York City: \$11,350.00



## Are You In The Real Estate Market To Buy Or Sell?



### Looking to Buy?

-Buying a home, either for the first time or the fourth time can be stressful and overwhelming. Here are some tips to make the experience more smooth and efficient:

-If a realtor requests that you sign a Binder, forward it to our office for review prior to signing. Or, you can add the following language to the Binder: "subject to attorney approval, home inspection, and a formal Contract of Sale."

-Be sure to conduct a professional inspection of the premises by either a licensed engineer, or licensed home inspector prior to signing a Contract of Sale.

-A termite inspection must also be conducted by a licensed exterminator/pest control professional prior to signing the Contract of Sale.

When selecting a Lender or Mortgage Broker, we recommend that you confirm they are registered with the NYS Banking Department and are in good standing. We can also recommend reputable lenders.

-Once you select your lender, be sure they provide you with a Good Faith Estimate of Closing Costs. Be certain to review the fees and call our office with any questions or concerns.

### Looking to Sell?

-We recommend that you first consult with your accountant, our firm, and a licensed real estate broker.

-Have your accountant project the Capital Gains Tax implications involved with the sale.

-Contact a local real estate broker to determine a fair selling price for the property, which will expedite the sale and attract serious purchasers.

-Contacting a reputable broker is crucial, as he or she will free up time to show the house and deal with prospective buyers. Most importantly, the broker will pre-qualify prospective purchasers to ensure they are capable of obtaining proper mortgage financing.

-Lastly, before listing your house on the market, we recommend consulting with our firm to discuss closing costs and seller's obligations, so you properly understand your rights and duties as a seller. We can also recommend some reputable real estate brokers.

**Call Joseph Ardito today for a free consultation.**

## 1031 Tax Deferred Like Kind Exchange

**What Is It?** A 1031 Tax Deferred Like Kind Exchange allows you to defer payment of Capital Gains Tax which is due on the sale of qualifying investment property and that can drastically affect your decision to sell and reinvest in a new property. **How It Works:** You sell and buy "Like Kind" properties. "Like Kind" relates to the use of the property, **NOT** the type. For instance, you can sell a warehouse and buy vacant land, or sell a mixed use building and buy a single family home, so long as the use of both is for investment purposes. To defer payment of **all** capital gains taxes you must reinvest **all** of the sale proceeds when buying the replacement property. Strict time deadlines apply to 1031 exchanges, such as requiring you to identify the new property within 45 days from the date you sell the existing property; closing on the purchase of the new property within 180 days of selling the old property; and timely filing your tax return or request an extension to file late if necessary. **Why do a 1031 Exchange?** Avoid paying taxes now when you can defer payment until a future date and **make better use of your tax dollars!** Also, you can use tax deferred dollars to make improvements to a fixer upper new property known as an **Improvement Exchange**. Or develop vacant land with a new building, called a **Construction Exchange**. You can also perform a **reverse exchange** when you buy the new property before you sell the old property. [Call Us to Discuss a 1031](#)

## Litigation Report



Following are some recent accomplishments achieved on behalf of our clients by the firm's litigation department:

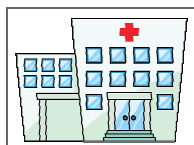
-One of our clients, who is a multiple sclerosis patient, was injured in a hit and run motor vehicle accident. Our attorneys maintained that the trauma from the accident accelerated our client's symptoms, which included intense pain in her lower back and legs. As a result, our client was no longer able to return to work. Our attorneys subsequently filed an uninsured motorist claim, and the case went to arbitration. After diligent work, the arbitrator awarded the maximum amount available under our client's insurance policy.

-In 2012, a family was scheduled to close on a waterfront property in Bell Harbor on November 1. However, the closing was postponed by the buyer's attorney due to concern over a certificate of occupancy for a garage on the property. At this time, Superstorm Sandy hit, and damaged the property by flooding the finished basement. Because of this, the seller removed the full bath and wet bar located in the basement, while insisting the purchaser consummate the transaction with a \$20,000 reduction in price. Finding this unsatisfactory, the buyer's attorney referred the family to our firm for litigation purposes. We contacted the seller's attorney and insisted that his client either refund the \$100,000 down payment, or agree to a fair and reasonable price adjustment on the property. When the request was refused, our attorneys litigated the matter, maintaining the risk of loss was the seller's responsibility. Through hard work and commitment to our client, along with the assistance of expert witnesses in the real estate appraisal and engineering fields, our firm was able to obtain a reduction in the price of \$150,000 and consummated the transaction for our client.

## Concerned about protecting your assets in the event of a catastrophic illness?

There are ways we can assist you with providing for the following:

1. Assist you in being prepared for medical expenses that are not covered by health insurance and/or Medicare;
2. Being able to cover medical expenses while you are ill;
3. Preserve and control the distribution of assets to your heirs in accordance with your specific needs.



*Come in for a FREE CONSULTATION to discuss the above or other questions and to review your current Estate Planning Documents.*

**Remember: Medical Insurance and Medicare does not cover all illnesses and does not cover living expenses while you are ill. We can discuss with you the possible eligibility for Medicaid or other ways to protect your assets.**

## It's Time For Your Annual Checkup!

- Do I have a Will, Health Care Proxy, or Power of Attorney?
- Have I recently reviewed my Will, Healthcare Proxy or Power of Attorney for necessary changes?
- Should I consider asset preservation planning or Medicaid planning?
- Do I need a Living Trust? Do I have a child with special needs I need to provide for?
- How is the title to my house held under the deed? Should someone be added or removed?
- Do I need to change the beneficiaries of my life insurance policy, 401k, IRA, or jointly held bank accounts? Do I have sufficient life insurance coverage for my family?
- Did I set up a college savings plan for my children/grandchildren?
- When was the last time I had my lease reviewed? Does it need to be modified or extended?
- Should I consider refinancing my mortgage in order to lower my interest rate, shorten my loan term, or consolidate debt?
- Should I change the limits of coverage on my auto insurance policy? Increase my "SUM" limits?

**Contact our office Today to schedule a FREE "Checkup" of your personal and business matters.**

**Call: 516.825.0500 or Email: [info@arditolaw.com](mailto:info@arditolaw.com)**

## Medical Malpractice



Recently the firm obtained a settlement in Queens County Supreme Court for the spouse of a decedent due to the neglect in the care and treatment of the decedent based upon a DNR, which the treating nursing home incorrectly entered into the decedent's chart.

If you or someone you know has suffered a loss as a result of medical negligence, please feel free to contact us and consult with us today.

All consultations on Personal Injury & Medical Malpractice matters are free and can be conducted at the office, home, or hospital.

**516.825.0500**

*We are available for home & hospital visits!*



## FAQ's About Slip/Trip & Fall Cases

### What should I do if I Slip or Trip and Fall?

Secure your safety, call for help and contact a family member. You should file a report with local law enforcement and at the location of the incident such as a hotel or supermarket. Call an ambulance if necessary. Be sure to gather names, addresses, phone numbers and insurance information for all parties involved and obtain a copy of accident reports. Also, get names, addresses and contact numbers or e-mails of all witnesses. If at all possible, **you should photograph the accident lo-**

**cation especially what it was that caused you to fall, such as a spilled substance or defective step or walkway. DO NOT** discuss the accident with anyone other than the police and medical attendants. Then contact our firm to discuss your legal rights.

### What if I am injured?

You should immediately go to the emergency room and follow up with the proper health care professionals. As you may not immediately know the full extent of your injuries, we always recommend that you promptly seek emergency medical attention.

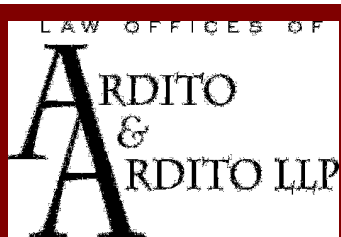
**How do I Know If I have a Case? Notice...** All accident case consultations are free. The viability of a slip/trip and fall case is dependent on whether the responsible party created the condition or had notice of it. **Creation:** Is there proof that the condition was created by the store or other responsible party? (Such as road workers creating a pothole or Janitor's mop and bucket) **Notice:** Was there an announcement about the condition, either verbal or written? ("Clean up on Aisle 5") Is there anyone or any way to establish that the condition was noticeable and existed for a prolonged period of time without remedy? (Witnesses, Photographs or Appearance of Condition). Call us Today.

## At Ardito & Ardito, LLP..

We are dedicated to assisting our clients in the various phases of their personal and professional lives which require the need for insightful, responsive, efficient and effective legal representation. Call us with any legal matter that needs attention and we stand ready to assist you, your family and your friends.

Sincerely,

John A. Ardito, Esq. - Joseph Ardito, Esq. - Roberto Cervoni, Esq.



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This newsletter is not a substitute for legal advice. If you have any questions, seek advice from professional counsel. Prior outcomes are no guarantee of future results

	<p><b>SERIOUS PERSONAL INJURY &amp; MEDICAL MALPRACTICE</b></p> <p><b>PROBATE &amp; ESTATE ADMINISTRATION</b></p> <p><b>WILLS, TRUSTS &amp; ESTATE PLANNING</b></p> <p><b>REAL ESTATE TRANSACTIONS &amp; LEASE NEGOTIATIONS</b></p>	
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