



# LAW OFFICES OF ARDITO & ARDITO, LLP

PROFESSIONAL SERVICE

PERSONAL ATTENTION

Winter 2018/2019

WE PROVIDE THE SERVICE — YOU GET THE RESULTS



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)

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We, at the Law Offices of Ardito & Ardito are all dedicated to the success of our clients and are appreciative of the support and loyalty we have received over the past twenty two years.

### A TRIBUTE TO DAD

As our family, friends and many of our clients are aware, this past August, we lost our selfless and loving father, John J. Ardito. After a long battle with Parkinsons, our Dad is now at rest.

Without the love, dedication and sacrifice of our parents, the devotion of family and the support of you, our clients, we would not have the successful practice that we have today. You have been there for us, we are grateful and we are here for you !

### PRACTICE AREAS

- ☆ SERIOUS PERSONAL INJURY
- ☆ MEDICAL MALPRACTICE
- ☆ PROBATE AND ESTATE ADMINISTRATION
- ☆ WILLS, TRUSTS & ESTATE PLANNING
- ☆ REAL ESTATE TRANSACTIONS
- ☆ LEASE NEGOTIATIONS
- ☆ BUSINESS LAW

PLEASE VISIT OUR NEW WEBSITE!



"You miss 100% of the shots you don't take."  
- Wayne Gretzky

### OUR RECENT SUCCESSES

CAROLYN R. NARANJO, ESQ. a seasoned attorney with a wealth of legal knowledge and experience has joined our firm after 35 years in private practice. See page 4 for more on Carolyn.

Wishing you All Peace, Health, Happiness & Success in 2019

GARDEN CITY, NY Ardito & Ardito has expanded their Garden City office and provides exceptional professional service and personal attention to the GC Community!

**ArditoLaw.com**  
**516.825.0500**

### Defamation Law, Electronic Communications, Social Media and Protecting Your Reputation

This past February, partner, John A. Ardito, won a plaintiff's verdict in a defamation action brought on behalf of the firm's client, a renowned Long Island interventional cardiologist.

The matter proceeded to trial in Nassau County Supreme Court and the defendants in the action were both physicians. The defamatory statements were transmitted via email during a time in which our client, the plaintiff, and one of the defendants were vying for the position of president-elect of a professional physicians' organization.

The defendants' defamatory emails were transmitted from private email accounts to members of the organization as well as to non-members of the organization, who were part of certain chat groups & email groups to which members were also listed.

The defendants defended the case on the following defenses: 1. The plaintiff was a public figure; 2. The recipients of the emails shared a common interest; 3. The emails were true; and 4. The emails were opinions or political hyperbole.

At the conclusion of a 24 day bench trial, the judge ruled in favor of Our Client finding that he was **not** a public figure and that the organization was private. He further found that the emails were **false statements of fact** and that there was no basis for a common interest defense due to the fact that the defendants knowingly transmitted the emails to individuals who were non-members of the professional organization. The judge ruled that the defendants' emails were personalized, negative statements intended to hurt the reputation of the plaintiff and awarded the plaintiff both compensatory and special damages against the defendants.

The firm was proud to represent such an upstanding, dignified and qualified physician who was willing to see his case through to verdict and to protect the reputation that he spent nearly his lifetime to develop.

#### WORDS OF CAUTION:

We take this opportunity to once again caution the firms' clients on social media and email privacy. Your actions on social media, even with privacy settings, and the contents of your emails, even from private email accounts, may become discoverable in a litigated action. Use social media platforms with caution and be very careful of what you commit to writing in your electronic communications. Also, keep in mind that any email sent from a work email account is not private to yourself but rather your employer has rights over such emails and its contents.

## DO I HAVE A PERSONAL INJURY CASE?

In order to have a valid personal injury action, you must have suffered harm as a result of an action or omission of another, typically in the form of "Negligence" which is the failure to act reasonably under the circumstances at hand. If your injury was caused by your own actions or negligence, you will either be barred from suing or your recovery would be diminished by your share/percentage of fault.

If you believe you have suffered an injury resulting from the negligence or fault of another, you may have a viable personal injury claim. It is important to discuss your possible claim with a personal injury attorney and be sure to do so sooner rather than later!

All types of claims have a limited time frame to sue known as a statute of limitations and your lawsuit must be filed within the applicable time period, otherwise you would be barred from bringing the claim.

When pursuing a claim there are certain documents and information you should bring with you on your first meeting with your attorney. In general, you should provide your attorney with copies of any documents relating to your case including, but not limited to, accident & incident reports, medical reports and bills, insurance information, police reports, contact information of the other parties involved, witness contact information, and any photographs/video of the place of occurrence or your injuries.

If you have a personal injury case to pursue, you can contact our office for a free consultation.

**At Ardito & Ardito, LLP, we have successfully handled personal injury lawsuits for over twenty years. With our commitment to providing personal attention to each of our clients' cases, our firm strives to reach the best possible outcome for you.**

**Call us today—consultations for accident cases are always free!**



## Winter Safety



With winter upon us, be sure to stay safe by following these tips:



Snow and ice increases one's chances of slipping and falling. Be sure to clear and salt all passageways, stairways and walkways. Take caution while walking, be sure to dress warmly and use footwear with proper traction.



Winter can make roads dangerous. Clear your vehicles thoroughly of ice & snow before driving including the hood, roof, windows and mirrors. Be sure to slow down, be cautious and drive defensively.



**Stay Warm and Safe this Winter!**

## ASSET & ESTATE PLANNING

### ASSET PROTECTION

#### HOW TO PROTECT YOURSELF

Here's a few tips to protect your personal assets:

1. **Use Business Entities:** If you own a business, it is important to separate your personal assets from those of your business and to take steps to protect your personal assets. One option is to create business entities such as Limited Partnerships, Corporations or Limited Liability Companies (LLCs) for such purpose.
2. **Obtain Insurance:** If your budget allows, invest in excess or umbrella coverage. There are many options available to you including homeowners, commercial liability, worker's compensation, auto, excess and umbrella coverage, long-term care, etc.
3. **Use Retirement Accounts:** Consider moving cash you will not need until you reach 60 into one of the protected retirement plans as they are excellent vehicles to protect long-term savings and provide tax benefits as well.
4. **Titling:** If you own a home with your spouse as tenants by the entirety, you and your spouse own an indivisible interest in the home. If only one of you is named in a suit, creditors cannot force the other spouse to sell his or her interest in the house. Because the interest is indivisible, this can help you protect home equity.
5. **Transferring:** Creditors cannot seize assets you no longer own. Consider transferring ownership to irrevocable trusts; allow family members to draw income or to gift the assets outright, as part of a gifting program or strategic asset protection plan. Caveat, there is a look-back period for certain creditors.
6. **Don't wait:** You should not wait until a collection lawsuit is imminent before you take steps to protect your assets. If you do start moving assets when you are facing a lawsuit or entry of judgment against you, the Courts could rule that your transfer of funds is a fraudulent transfer or conveyance and disallow the transfer, leaving those assets exposed to recovery by your creditors.

### WILL SUBSTITUTES

A will substitute is a technique that allows you to transfer property at your death to a beneficiary and avoiding a court proceeding known as the probate or administration petition process, where someone is required to be appointed to act on behalf of the estate. Such process can be costly and time consuming. This will not only expedite the distribution process but also avoid any costs associated with probate or administration. The following are options you have for a will substitute:

**Trusts:** Living trusts are the most common form of will substitutes. These trusts are funded during your lifetime to avoid probate at death.

**Right of Survivorship:** Joint tenancy with right of survivorship (JTWROS) and tenancy by entirety (TBE) transfer assets directly to the surviving tenant at the death of the other. Tenancy by entirety can only be used by legally married individuals.

**Beneficiary Designation:** Payable-on death (POD) Accounts involve depositing funds which upon the death of the original depositor are transferred to a named beneficiary; Transfer-on-Death (TOD) Accounts are similar to POD but is used for individual stocks or stock accounts; Designating a beneficiary on contractual accounts or agreements such as life insurance, 403(b) & 401K plans, TDAs, IRAs, Pensions.

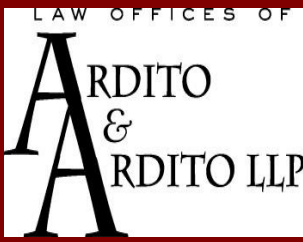
**Deeds of Title:** A deed may be used to pass a present or future interest to a grantee; fund a living trust

#### ADVANTAGES OF WILL SUBSTITUTES

- Avoid Probate Process
- Easier to Amend
- Usually revocable until death - you're in charge

Contact us today for a consultation regarding your estate plan, Elder Law planning or asset protection.

## THE ATTORNEYS' COLUMN



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**This newsletter is legal advertising and 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.**

Of increasing importance in handling our Clients' personal injury matters is the preservation and use of photographic evidence, both video and still. Photographs depicting a collision, a dangerous/defective condition or a sustained injury are all very important items to be given to your attorney as soon as possible; preferably at our initial meeting. As the partner managing the firm's Personal Injury and Medical Malpractice cases, photographic evidence is one of the first items of evidence I will ask our client to provide. Why is it so Important? Invariably at the time of a settlement or Pre-Trial conference one of the first questions an insurance adjuster or judge will ask is whether there are photographs depicting the damage to the vehicles the defective or the dangerous condition that we claim caused the injuries. With cell phones, it's easy to secure this photographic evidence & surveillance video is also widely available. Be sure to photograph or video the scene and preserve on a disc and/or zip drive. A "picture is worth a thousand words" and it may be vital to your case.

As I lead the firm's Real Estate Department, it is worth mentioning the benefits of a 1031 Like Kind Exchange which is a way to defer payment of capital gains taxes on the sale of real estate being held for investment purposes. For some it can even be a portion of your primary residence if you live in one unit of a three family rental property. The properties being exchanged must be "like kind," which relates to the **use** of the property as opposed to the type. For example you can sell a warehouse and buy a beach front condo so long as the use of both is for investment purposes. To defer payment of all capital gains taxes you must reinvest all sale proceeds into the replacement property. Strict time deadlines apply which begin from the date you sell & you have 45 days to Identify the property you will buy & 180 days to close on the purchase of the new property; & you must timely file your tax return or request an extension to file late. Call me to discuss ANY real estate matter,

We all want to protect what we work so hard for which for many of us is our Home! How can we do that? Although we all dread paying insurance premiums, I strongly suggest that you review your coverage limits to determine whether it is adequate and if it properly meets your financial situation. You may be pleasantly surprised that increasing your coverage limits is not as expensive as you might think and is certainly worthwhile reviewing with your insurance agent or our office. For instance, having adequate insurance coverage can help preserve your assets and properly cover your loved ones in the event of an accident. One instance of inadequate coverage our office sees way too often, which recent legislation sought to address, is the lack of adequate "SUM" coverage under our clients' auto insurance policies. SUM is supplementary Underinsured and Uninsured Motorist Coverage which would protect you and your passengers if the offending vehicle has limited or no insurance coverage. Contact me if you want to discuss this further

Carolyn brings to the firm over 35 years of experience representing Banks, Credit Unions and private lenders for commercial and residential properties. She has represented Developers being involved from the land purchase through obtaining tax benefits from various Industrial Development Authorities on Long Island.

Carolyn handles formation of business entities, Shareholder & Operating Agreements & Buy Sell Agreements for Corporations & LLCs; as well as financing of equipment acquisition, SBA loans, commercial leases ranging from storefronts to a major office building. Carolyn has extensive experience representing Churches of all denominations and other non-profits in the purchase and sale of real property, as well as refinancing of church loans which all require both NYS Attorney General approval and NYS Supreme Court approval.

Carolyn also specializes in all types of Business contracts including the purchase and sale of domains, URL's, book deals and all facets of Entertainment Law. In addition, Carolyn handles preparing Wills, Trusts and Probate or Administration of Estates.



**SERIOUS PERSONAL INJURY & MEDICAL MALPRACTICE**  
**PROBATE & ESTATE ADMINISTRATION**  
**WILLS, TRUSTS & ESTATE PLANNING**  
**REAL ESTATE TRANSACTIONS & LEASE NEGOTIATIONS**

