



MATTIONI, LTD.
COUNSELORS AT LAW

Newsletter

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Mattioni, Ltd.
399 Market Street
Suite 200
Philadelphia, PA 19106
(215)-629-1600
firmmail@Mattioni.com
www.mattioni.com

The Honorable Ronald R. Donatucci, Esquire, has been Elected President of the Board of Directors of City Trusts.



The Honorable Ronald R. Donatucci, Esquire, has been elected President of the Board of Directors of City Trusts. The Board of Directors of City Trusts administers millions of dollars held in trust by the City of Philadelphia and is accountable to the Judges of the Courts of Common Pleas of Philadelphia which appoints Board Members. Mr. Donatucci serves along with 11 other citizens of Philadelphia, the Mayor and the President of City Council, who serve Ex-Officio.

Mr. Donatucci is also Chairman of the Board of Wills Eye Hospital Health System, a Trustee of Temple University and a Board Member of the Temple University Health System.

Mr. Donatucci serves as Legal Counsel to Mattioni, Ltd., providing special advice and counsel regarding estate planning and administration, administrative procedures, government relations, and real estate transactions, including zoning and land use planning.

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Brian T. Guthrie, Esquire joins Mattioni, Ltd. as Of Counsel

Michael Mattioni, President of Mattioni LTD, has announced, on behalf of the Board of Directors, that Brian T. Guthrie, Esquire has joined the firm. Mr. Guthrie has had an impressive tenure as an attorney in Philadelphia and nationwide, starting in the City Solicitor's office, then serving as in-house counsel for Mobil Oil and CIGNA and most recently spending more than a decade in private practice. Mr. Guthrie has focused his practice on the insurance industry since the late 1980s. Mr. Guthrie's legal practice and litigation experience includes insurance business disputes and litigation including anti-trust and RICO, class actions, insurance coverage and bad faith, reinsurance and insurer insolvencies. Furthermore, Mr. Guthrie, as acting corporate counsel, directed outside counsel in jurisdictions throughout the United States providing strategy and direction. He has represented national and regional insurance companies throughout his career. Mr. Guthrie, is a natural fit with the firm's corporate insurance, business practice and litigation.

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Disclaimer

The content of this Newsletter has been prepared by Mattioni, Ltd. for informational purposes only and should not be construed as legal advice. The material in this Newsletter is not intended to create and receipt of it does not constitute, a lawyer-client relationship, and readers should not act upon it without seeking professional counsel.

Philadelphia Scores a New Zoning Code

After four years of revisions, Philadelphia City Council has unanimously passed the new zoning code. The new code is the result of participation from government, community groups, developers, lawyers and individuals. The Department of Licenses and Inspection and the Zoning Board of Adjustments are the two administrative bodies that will implement it.

The new code allows certain cases to be allowed by right, eliminating the need to appeal to the zoning board for a variance. Another change to the code includes codifying the role of community groups. Applicants are required to meet with registered community groups to discuss projects that impact their neighborhoods.

The new regulations become effective on August 22, 2012.

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Since 1979, Mr. Donatucci has been elected and serves as Philadelphia's Register of Wills, which includes sole jurisdiction over the probate of wills and acting as agent for the Commonwealth of Pennsylvania for the collection of inheritance tax. In addition, he was elected and served with distinction as a Member of the Pennsylvania House of Representatives for the 185th District. Throughout his career, he has been an active participant in numerous civic organizations and has received countless awards in recognition of his civic activities.

So You Want to Buy a Property at Foreclosure?

By Lauren M. Balsamo, Esquire

If you made it through the recession, you may consider purchasing a property at a foreclosure sale, *seemingly* below market value. Before rushing off to the auction, please consider the following tips.¹

BEFORE THE SALE

Buyer beware! *You* are responsible for due diligence, determining who initiated the foreclosure, whether there are any superior liens, and the condition of the property. A prior existing mortgage may remain valid after the sheriff sale. You should obtain a title search, showing current liens, including mortgages, municipal liens, unpaid real estate taxes, as well as any outstanding judgments against the owner. This information is important because some liens will be extinguished at sheriff sale, but others may not.

¹ Please note this article focuses on judicial foreclosures sales, which are separate and distinct from tax sales.

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The Sheriff's office posts the "3129s" online, which lists everyone who received notice of the pending sale. Obtaining a list of current lienholders and interested parties will help verify that the foreclosing entity sent notice to necessary parties. If an interested party or lienholder did not receive notice, their lien or interest will not be extinguished.

It is also important to know the "upset price," or the balance due on the property. The upset price includes the amount the foreclosing entity is owed plus the sum of all liens that must be extinguished at the sale, plus sheriff's costs and commission/poundage. You can determine the upset price by calling the foreclosing entity.

THE DAY OF SALE

Judicial sales in Philadelphia are conducted usually on the first Tuesday of each month, at 10:00 a.m. at 3801 Market Street, 3rd floor. They typically last several hours. Food, drinks and cell phone use are prohibited.

The sheriff's office opens the sale with a brief explanation of the process, then calls the first property. Properties are identified by their "Book and Writ Number", not addresses. Book and writ numbers are listed on the sheriff's website, but this information has not been updated in about ten months. The book and writ numbers are also found in booklets for sale outside the auction room and in various legal bulletins the week before the sale.

Properties are called in reverse chronological order; *i.e.* properties that were postponed from previous sales are called first. If it is the first day that the property you are interested in, is listed, you may not be called until the afternoon session. It is recommended that you arrive early so that you do not miss any announcements or the sale of the property.

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The successful bidder must pay the sheriff 10% of the winning bid on the spot. The sheriff only accepts certified funds (*i.e.*, cash, money orders, etc.), or an attorney's check. We recommend staying until the end of the sale, as a successful bidder may not be able to pay the full deposit, or may fail to appear, resulting in the property being called again. The balance of the price is due in thirty (30) days. It's important to note sometimes banks will buy back the property if they are not satisfied with the price being offered at auction. Those properties then usually go on the market as REO properties.

The sheriff sale process can be cumbersome, requiring patience and knowledge. This article highlights only some of the issues surrounding the purchase of property at a judicial sale in Philadelphia. Anyone with an interest in or questions regarding purchasing foreclosed properties at sheriff sale, should contact an appropriate professional as every case is different. Please also consult the Philadelphia Sheriff's office for current information on the sale process, procedures and schedule.

To contact Ms. Balsamo with real estate related questions, e-mail her at lbalsamo@mattioni.com.



Taking a Cruise

By Eugene Mattioni, Esquire

Most of the time taking a cruise would be a novel and enjoyable experience. However, some cruise experiences may seem more like the *The Poseidon Adventure*, and everything seems to go wrong. A modern cruise ship can have as many as 3,500 passengers and a crew of an additional 1,500 persons. It is a floating hotel. It can be as long as three football fields and as high as a 10- story building. As a passenger, you risk being injured in an accident, being the victim of a crime, or suffering a serious illness at sea or in a foreign port.

An important first step for understanding your rights is to carefully read your ticket. The ticket is a legally binding maritime contract governed by United States maritime law. The ticket will set out the terms and conditions incident to travel on the ship including your responsibilities as a passenger. It is of utmost importance that you understand that the ticket contains important limitations on your rights as a passenger to assert claims against the cruise line, the vessel, their agents and employees.

If injured, you must show that the cruise line deviated from its duty to exercise ordinary and reasonable care under the circumstances of the act or omission causing the injury. What is reasonable does take into account that the circumstances of maritime travel are different than those encountered in daily life. An act of the cruise ship may involve more danger to you which will determine how high a degree of care is reasonable in each case. A cruise line may only be found negligent for a defective or dangerous condition on board the ship of which it has actual or constructive notice. A cruise line has no duty to warn a passenger of open and obvious dangerous conditions. A cruise line is responsible for exercising reasonable care to protect passengers from harm committed by other passengers or terrorists.

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If the cruise line is found liable, you can recover virtually the same damages as a land-based victim of a civil wrong-doing including lost wages, medical expenses and pain and suffering. However, passengers have a duty to exercise reasonable care for their own safety. The ship may not be liable to the extent you are injured through you own carelessness.

The adequacy of health care on a cruise ship varies with the cruise line and the size of the ship. Most cruise ships will have a doctor, possibly a physician assistant and one or more nurses. It is not unusual that they will not have the level of training of an American trained, licensed and certified medical professional. You can be a victim of medical malpractice. If the medical professional is an independent contractor and not an agent or employee of the cruise line, it may be very difficult to obtain jurisdiction over and service of process on any foreign medical personnel. If the cruise ship's medical facilities are incapable of dealing with the passenger's illness, there is a duty of reasonable care to provide medical help. This duty is usually fulfilled by a requirement that the Master must put in at the nearest port or arrange for a medical evacuation.

Cruise lines have placed limitations in their contracts as to where and when they can be sued. These provisions require passengers to provide written notice of their injury generally within six months of the injury. Furthermore cruise lines place a one-year limitation on an injured passenger's right to sue. Failure to give notice and bring a timely action will result in total bar of the claim no matter whether the injury is serious and the claim is meritorious. They also insert venue provisions in the contract limiting the place where the suit can be brought. Most cruise lines designate Miami, Florida as the only location where they can be sued. The significance of the notice, limitations and venue provisions cannot be stressed enough since you could lose your right to compensation if you sue too late or in the wrong place. Your ticket may also waive your rights to a jury trial and for some cases, limit your remedy to arbitration.

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The law of the country of the cruise ship's registration, laws of the United States, law of the country and port-of-call your cruise ship is visiting, and international treaties may apply to cruise ship accidents and incidents. An overriding consideration is the uniform application of the general maritime law no matter what the cruise line or country of registration. The applicable law and standards are generally the same or similar.

Practical considerations for taking a cruise are: be prepared; use a travel agent that specializes in cruise ship travel; purchase trip insurance; consider additional insurance for overseas health coverage including medical evacuations; do not travel alone; do not travel if you are acutely ill and, carefully read the cruise ship brochure and the ticket contract.



Returning to Work While Receiving Social Security Disability Insurance

By Regina Morris Parker, Esquire

This article provides a brief overview of the impact of returning to work while receiving Social Security Disability Benefits. This article does not address any specific issue or set of circumstances. Anyone with questions regarding Social Security Disability Insurance Benefits is urged to contact an attorney or other appropriate professional.

Social Security Disability Insurance (SSDI) is a Federal Government program designed to provide monthly payments to disabled individuals. This article will shed some light on how returning to work can impact your Social Security Disability Insurance benefits. If you are receiving Social Security Disability Insurance benefits, the work incentives program makes it possible for you to return to work and continue to receive your benefits for a certain period of time while receiving a paycheck. Social Security's work incentives include the temporary continuation of cash and Medicare benefits while you work. You can also receive help with education, training and rehabilitation.

Social Security Disability Insurance beneficiaries who decide to return to work, must report any work activity. Under the work incentives program, you will be given what is referred to as a "trial work period." The trial work period allows you to test your ability to work for at least nine months. During this period, you will receive your full Social Security benefits regardless of how much you are earning as long as you report your work activity and continue to have a disabling impairment. In 2011, a "trial work month" is any month in which your total earnings are over \$720, or if you are self-employed, you earn more than \$720 (after expenses) or work more than 80 hours in your own business. The trial work period continues until you have worked nine trial work months within a 60-month period.



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You may also be entitled to an extended period of eligibility. After your trial work period, you have 36 months during which you can work and still receive benefits for any month your earnings are not "substantial." In 2011, earnings over \$1,000 (\$1,640 if you are blind) were considered to be substantial. No new application or disability decision is needed for you to receive benefits during this period.

During the trial work period, there are no limits on your earnings. During the 36-month extended period of eligibility, you usually can make no more than \$1,000 a month or your benefits will stop. After your benefits stop because your earnings are substantial, you have five years to reinstate benefits if you find that you are unable to continue working because of your condition.

Keep in mind that the work expenses related to your disability are deducted when Social Security calculates your earnings. These expenses may include the cost of any item or service you need to work, even if also useful to you in your daily living. Examples include co-payments for prescription drugs, counseling services, transportation to and from work (under certain conditions), a personal attendant or job coach, a wheelchair or any specialized work equipment. If you have extra work expenses that are deductible, your earnings could be substantially higher than \$1,000 before they affect your benefits.

If your Social Security Insurance Disability benefits stop because of your level of earnings, and you are still disabled, your free Medicare Part A coverage will continue for at least 93 months after the nine-month trial work period. After that, you can buy Medicare Part A coverage by paying a monthly premium. If you have Medicare Part B coverage, you must continue to pay the premium. To end your Part B coverage, you must do so in writing.

Firm News and Updates

Jennifer Iacono, Esquire, was a guest speaker at the Catholic Community of the Holy Spirit Parish Center on November 28, 2011. Ms. Iacono gave a presentation on Wills and Estate Planning.



To schedule a complimentary consultation, contact Ms. Iacono directly at jacono@mattioni.com.

Philadelphia Office

399 Market Street, Suite 200
Philadelphia, PA 19106

Phone:
(215)-629-1600

Fax:
(215)-923-2227

E-Mail:
firmmail@Mattioni.com

New Jersey Office

1316 Kings Highway
Swedesboro, NJ 08085

Phone:
(856)-241-9779

Fax:
(856)-241-9989

We're on the Web!
www.Mattioni.com