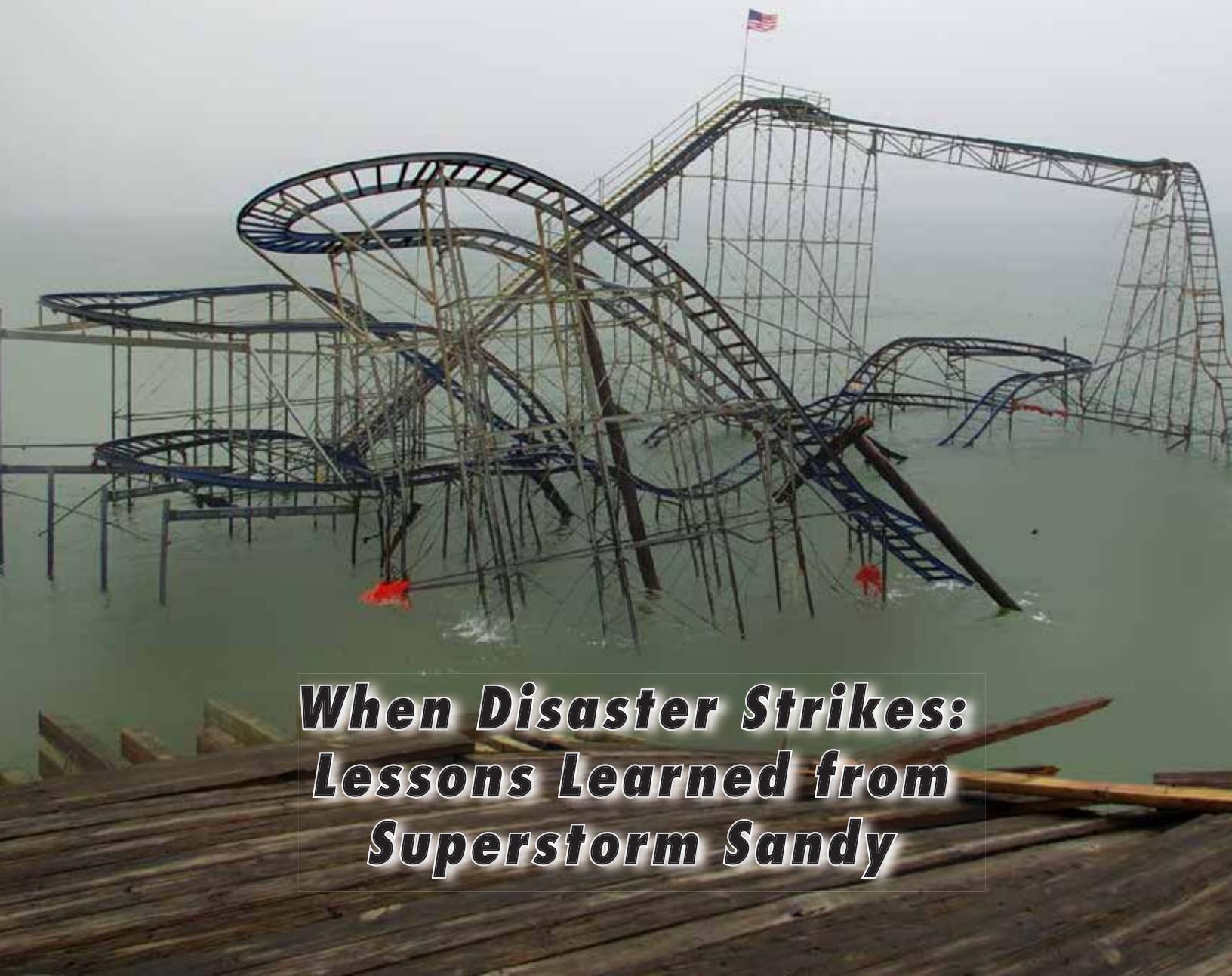


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Lessons Learned from  
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**ON THE COVER**

The iconic photo of the rollercoaster in the ocean at Seaside Heights, NJ, will always serve to remind us about the massive destruction brought by Superstorm Sandy to so many who experienced the storm and its impact. In this edition, we explore how the storm affected our businesses, how we responded to it, and what we need to do in the future to protect our firms from unanticipated disasters. *Photo credit: Justin Scalera.*

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## WEATHERING THE STORM— AND RETURNING TO NORMAL OPERATIONS

BY MARY ELLEN DOLAN

I am stating the obvious when I say that New Jersey (and New York) law firms were really hit hard by Superstorm Sandy. For this article, since it is not being written for insurance adjusters, we can call it what is really was—one heck of a hurricane. For this issue of the *Jer-Z-Journal*, we are focusing on “Lessons Learned from Hurricane Sandy,” and dealing with the after-affects of the worst storm our state has seen in decades.

Many firms were faced with outages of up to one week and beyond without power, computer networks, and/or staffing (because they needed to be out to deal with their own personal issues and losses). The damage was devastating, but as we try to move forward and resume normal operations, there are still so many issues that plague our firms to this day.

When I sat down and thought about Hurricane Sandy and the impact it had on the Garden State, the emotions came flooding back. Our beloved Jersey shore is forever changed. Entire towns were obliterated and there was so much personal loss: It is truly hard to grasp.

We were forced to deal with the one thing every administrator hopes never happens—the need for an effective Disaster Recovery Plan. In the days leading up to the storm, we were all warned that this would be bad, but like most other disasters, we shrugged it off, took cover, and hoped for the best. People will certainly better prepare in advance of future storms, as it was a wake up call for so many individuals and businesses.

In this issue, you will learn from others about what worked and what did not. More importantly, we will discuss what we need to do to be better prepared for future disasters. Some things to consider—is your firm purchasing a generator for future storms? Did you have cell phone numbers at home, in hard copy, so you could text your employees with updates? Did you have an Alert Now System in place? Was your space secure because the security system was disarmed due to the power outage? Putting personal insurance and FEMA claims aside, still today, so many firms are waiting to collect on Business Interruption claims.

Thankfully, because we have all taken steps to develop and test our disaster recovery plans, many firms were able to continue working almost immediately after the storm through remote access; but now is the time to go back to the drawing board and fix any deficiencies in our plans.

While I know there were many lessons learned from the storm, I must say that I was very moved by how quickly our NJALA family sprung into action to lend a helping hand. Within days of the storm, e-mails were flying offering assistance. It demonstrates what a wonderful organization we are.

I saw firsthand local administrators reaching out to their colleagues to see if everyone was okay, and if they needed anything. People offered space to other firms to hold client meetings. They allowed attorneys to utilize resources, giving them access to work on documents. They offered charging stations, a warm place to stay, and even showers to those who did not have heat and hot water. Business partners offered assistance with whatever anyone needed as well. I had one business partner offer to paint my shore home, which was heavily damaged in the storm. I may just take him up on that. (JJ: Expect my call.) The outpouring of human kindness and compassion was surreal.

It was a challenge as we sat without power and lacking gasoline and basic necessities, and we began to lose patience. But as we now pull ourselves out of the worst, we have to gain perspective that we are safe, and that it could have been so much worse. We know our state will rebuild what has been lost. It may not look the same, but we have not lost our memories or our spirit. Together we are “Jersey Strong.”

I personally thank each of you who weathered the storm and yet found the time and energy to help others. I am so thankful for our local and national ALA colleagues and friends. I am proud to serve as your NJALA president and represent this wonderful organization.

*Mary Ellen Dolan is the Office Administrator of Greenberg Traurig, LLP in Florham Park*



# THE CHALLENGE OF MANAGING CHANGE

BY LISA CUFFARI, CLM

Managing change is both challenging and unavoidable. Sometimes we embrace the task, other times we grit our teeth and proceed gingerly. It is worth giving thought to your role at the office when the routine is disrupted, either from within or without. You know what I mean—sometimes change is sought by you, the office administrator, in order to improve a system, upgrade equipment or reassign roles, and sometimes the change is forced upon you by circumstances outside of your control, as we experienced during Superstorm Sandy. I decided to look at this particular type of management to see if there are some predictable, and helpful, steps we can take to smooth the way for our employees during change.

We all seem to thrive on the routine, the ordinary. Knowing what to expect when we get to the office, and having a general idea of how our day is going to progress makes us feel secure in our jobs. Stress and anxiety rise up quickly when we are thrown into an unexpected situation and have the responsibility to lead and manage employees through the event. I am not speaking of the crazy things that come up every day in the professional environment; but rather of the occurrences that we can predict will bring resistance from our co-workers and staff (and even the firm partners/shareholders) during the change process.

We know, of course, that it is normal human behavior to resist change and to be uncomfortable with things we don't understand or can't control. So how do we lay out the groundwork for effective change? Brien Palmer, in his book *Making Change Work – Practical Tools for Overcoming Human Resistance to Change*<sup>1</sup>, gives us the basic framework for success.

Palmer identifies seven steps to be followed when managing change, all of which are essential to the process. I share a synopsis of these steps now because I believe the review is essential in our roles at work.

**"We know, of course, that it is normal human behavior to resist change and to be uncomfortable with things we don't understand or can't control."**

First, you need to be a champion to the cause—by providing strong and committed leadership with accountability for the project. Even when delegating, the leader must stay involved. At the onset, attention should be given to your budget, manpower, equipment and whatever political backing you need to bring your project to fruition. Think about how to sell your idea to upper management in order to get whatever approvals are needed before the "launch." You will want to have a written document setting forth your objectives. This agreement will form a contract among the team members. The mission, its scope and boundaries will be identified in the document, and the specific role of each team member will also be defined here. Major changes need organization and a clear delineation of what each person's role will be during the change process.

You will also want to perform a "calendar" test—ask yourself whether this the right time for your initiative. Are other events already putting stress on the work routine? If this is not an ideal time to start, consider putting off the project until the timing is right.

Second, for a successful change to occur, we need to create a shared need within the group. Is this an opportunity to improve something, or a way to avoid a negative event from occurring? Both require change management. Palmer notes that the need for change must exceed the anticipated resistance to the change. When our colleagues understand the need for change, and can identify the outcome, we are half way home.

In fact, the third step is shaping the vision for your firm. Assuming you have done your research, you are ready to show the real costs of keeping things the way they are and why change is so important. Here is where you present your case for the change, being clear and rational. Palmer states that all change moves people out of their comfort zone, where inertia is the status quo. If we ask key stakeholders how the current problem or situation impacts them, we may get just the fuel needed to push through the change we want.

<sup>1</sup> Palmer, Brien, *Making Change Work: Practical Tools for Overcoming Human Resistance to Change*, ASQ Quality Press, Milwaukee, WI, 2004.

(Continued on page 6)

## The Challenge of Managing Change

(Continued from page 5)

In a law firm, the internal change may be either client service oriented (with clear economic benefits and goals) or internal system changes to improve morale, streamline processes, improve time management and support of practice groups—all of which ultimately improve client services and the success of the firm.

When communicating the need for change, you can do a simple “more of/less of” exercise to identify what the outcome of the change will look like. Make a list of “more of” and “less of” columns. You may say the outcome of the change will provide more prompt follow-ups and less late calls back to clients, more organized files and less missing and disorganized files, more consistent review of new matters and less conflicts of interest.

Palmer states that usually 25% of an organization will support a reasonable change effort, 50% will start out neutral and take a “wait and see” attitude, ending up either supporting or opposing the change, and 25% will actively oppose the change. This group may never be in your corner. Still, attempting to have an honest dialogue will help. It is the middle 50% that will require your attention. Open and frequent communication is essential.

The fourth step comes naturally. Now you mobilize the commitment to change and move forward. By seeking feedback during the change process, you will keep the project on track, make sure the objectives stay in focus, and iron out any bumps in the road as they occur. The change you seek will be successful if you have all agreed on the objectives and the milestones in the process, each worker’s role has been established, and you have a way to evaluate progress along the way. Indeed, monitoring progress is the fifth step for effective change management. Watch for hitting the benchmarks you have set in your initial agreement.

The sixth step is, actually, finishing the job. If training is necessary, as with the installation of new software systems, make sure you have lined up training sessions so that everyone is ready for the changeover to the new system. Some managers of big projects will do a pilot run before the final phase of a project.

Finally, you want to re-enforce or anchor the change. This is the seventh step. By recognizing and defining the end result, you bring the process full circle and acknowledge the efforts of everyone who participated. This is what makes you a manager of people, and a good one at that.

We can keep these steps in mind during times of unexpected change. Having a sense of how change impacts those around us and how to lead during periods of uncertainty in a professional way will benefit your firm and strengthen your skill set.

*Lisa J. Cuffari, CLM, is the Office Administrator for Fox and Fox LLP in Livingston*

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## BE PREPARED FOR THE STORM

BY SUSAN EPPNER

As we recover from "Sandy," it is time to sit back and think about what we should do to protect ourselves and our businesses from a "Superstorm."

As attorneys, clearly the most important insurance protection you have is your professional liability insurance, which provides protection against errors and omissions in your performance of professional legal services. However, this coverage will not protect you against losses that stem from a storm.

In connection with protecting your business against losses from such catastrophic events, you should start with a review of property insurance coverage what you have and what coverage is available. Many of you may own your building. You most likely have insurance coverage for that building in case of loss due to a fire that damages the property. However, do you have coverage for flood? Most Business Owner's policies do not cover flood losses. Please be sure to read your policy, and when you do, note not only current specified coverage, but also take particular notice of what is expressly not included, that is, the exclusions.

Historically, floods are the number one natural disaster encountered by property owners. Statistically, if your building is in a high-risk area, there is a 25% chance you will have a flood within any given 30-year period. By way of statistical contrast, there is only a 10% chance of your encountering a fire that affects your property in that same period.

When considering flood insurance, it is best to determine if your property is in a high-risk flood area, then consider whether the cost of flood insurance outweighs the risk of the losses you could encounter at your property in case of a flood.

Business personal property, such as furniture and computers, is also covered under a Business Owner's policy. However, water damage to your business personal property due to a flood is usually not covered without specific flood insurance. This should be distinguished from water damage from an accidental discharge or leakage from the breaking or cracking of any system or appliance, which is covered by a typical Business Owner's policy because that is not considered a flood.

Next, you should consider Business Interruption insurance

coverage. Business Interruption insurance covers the loss of income that you would suffer while you are unable to function as a law firm. This coverage is not available on a stand-alone policy basis, but can be included in a Business Owner's or package policy. Such coverage would be subject to the terms and conditions of that policy. Taking advantage of the experience gained as a result of what Sandy taught, it should be noted that this coverage would not include protection against a loss stemming from power outages that do not result from a direct loss; for example, during the power outages experienced in the aftermath, which is not, therefore, a direct result of a covered peril that your office would have experienced. To obtain coverage for power outages that are deemed to stem from the utility company's loss, an endorsement can be purchased. A Utility Services-Time Element endorsement would cover such losses, including loss of income and expenses. An additional endorsement that you might find useful in this regard is the Utility Services-Direct Damage endorsement, which provides protection against damage to your business that would result from its suffering an interruption of utility services. It should be noted that this endorsement covers only specified causes of such interruption, such as a windstorm, and only losses that stem from specified utility services that are set forth in the policy.

Extra Expense coverage is coverage that you can consider to cover the expenses you would incur in order to allow you to continue your operations while your property is being repaired or replaced after a covered loss. For example, the costs of renting temporary office space could be covered. Again, it should be noted that this coverage is available under both Business Owner's and package policies.

Accounts Receivable coverage can also be purchased on the Business Owner's policy to extend coverage for amounts due that you are unable to collect as a direct result of damage to your accounts receivable records.

Lastly, in today's business arena, you should make certain that you have satisfactory Computer coverage. Most importantly, be sure that you have what your business needs in the way of coverage for loss of "data," which is defined as information or facts stored in a computer's memory, software or media. Most Business Owner's policies cover some data losses. However,

(Continued on page 9)

## Be Prepared for the Storm

(Continued from page 8)

with the growing importance of business data, and particularly electronic data, to the ongoing welfare of a law office's business, it may be beneficial for you to discuss with your broker what coverage you currently have and whether you should expand your coverage and/or purchase a separate policy. As part of that exercise, you should review how you are backing up your data. One useful strategy is to upload your data to a cloud based service.

In today's business world, many businesses are able to function remotely. This fact should be taken into account when determining the amount of Business Interruption insurance you may require.

Most property insurance policies exclude "Acts of God." An "Act of God" is defined for these purposes as a natural catastrophe which no one can prevent, such as an earthquake, hurricane, tidal wave, volcanic eruption, or tornado. Some policies exclude coverage for "Acts of God" without using that term, but, rather, by listing the exclusions individually. The effect is, of course, the same.

Hopefully, you and your business came through the storm without any major damage or loss. However, there are many in our community who did not. Please review your insurance coverage with your broker and make sure you are protected in the event of another "Sandy."

*Susan Eppner is an Account Executive with USI Affinity, a business partner sponsor of the NJALA. For more information, call USI Affinity today. For Lawyers Professional Liability, contact Sharon Scotton at (610) 537-1310. For Business Owners and Cyber Liability, contact Adam Wells at (917) 551-8510.*



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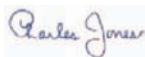
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## MARY ELLEN DOLAN... JERSEY STRONG

BY FRAN PUNTILLO, CLM

Mary Ellen Dolan, our current chapter President, was born and raised in Newark, New Jersey and currently resides in Morristown. Her career goal in high school was to become a teacher. Upon graduation from Archbishop Walsh High School, however, she took a job at a bank. Five years later, in

work day as well as the “peeps” she works with. As busy as the firm is, Mary Ellen enjoys the camaraderie in the office.

While employed at one of her prior law firms, a partner encouraged her to go back to school and get her college



*Mary Ellen Dolan,  
2012-2013 NJALA President*

1985, she began her career in legal. She moved from positions as a billing clerk to billing supervisor and then progressed through the years to the position of law office administrator.

Mary Ellen is currently employed at Greenberg Traurig, a law firm with more than 30 branches nationwide. She is the Office Administrator in Greenberg Traurig’s Florham Park office, and is responsible for human resources, benefits, facilities and all that encompasses at that location. She enjoys her position, and loves the diversity of tasks that make up her



*Awww ... The new pups*

degree. Mary Ellen said his faith in her abilities and potential empowered her to believe in herself. So, while working full time, she enrolled at Union County College and earned her Associates degree. She continued on with her education and earned her bachelor’s degree in business management at Kean University.

While Mary Ellen didn’t pursue her high school dream of becoming a teacher, she does satisfy her need to work with young people and “gives back” to her community. After high school, while working at the bank and law firms, Mary Ellen

*(Continued on page 12)*

## Mary Ellen Dolan...Jersey Strong

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did volunteer work as a mentor for the Ready Foundation in Newark. That organization helps Newark youth recognize and realize their potential through a combination of academic, social, and economic opportunities. Mary Ellen continues to find time to volunteer today, and coaches girl's softball for the Recreation Department in Madison. This lady excels at time management!

Although I initially kept our conversation on "business" topics, I could see the light shine in Mary Ellen's eyes when we moved away from work topics and the professional arena to discuss home, family and friends. Mary Ellen and Jessica, her partner of thirteen years, recently adopted two puppies from an animal rescue facility in Lancaster, PA. They had intended to get one puppy, but the Jack Russell/Shitzu puppies they saw were so adorable, it was impossible to pick just one. So they brought Theo and Reese home to Morristown. I asked Mary Ellen if she had a photo of the puppies... did she ever! Take a peek at the photo attached to this article. She's right—they are adorable!

Mary Ellen is a positive, upbeat person, who is always up for a challenge. She has decided to start checking things off her bucket list. In 2010, she went parasailing; in 2011, she took a hot air balloon ride; in 2012, she rode on every roller coaster in Disney World and Universal Studios. For 2013, she will join Appalachia Help Week and go to West Virginia with her godchild, Christina, to renovate and repair dilapidated homes for the unfortunate people who live in rural poverty. This adventure will certainly be a very rewarding experience. Mary Ellen enjoys kayaking (she has *three* kayaks, I'm so jealous!) on rivers and lakes. And she loves to shop, cook, and entertain. I asked if she had a kitchen specialty that she enjoys preparing, but it seems she'll try just about any dish! She also enjoys photography and sports. Her favorite teams are the Mets (that was hard for me to hear, Mary Ellen since I'm a Yankee fan), the Miami Dolphins and the Devils.

Family is very precious to Mary Ellen. When I asked Mary Ellen to name a hero, she said it was her mom. Her mom, a widow, is Mary Ellen's rock in good times and in bad, and she continues to provide support and encouragement to her daughter. Mary Ellen says her love of family comes from her mom. Mary Ellen took each of her nieces (she is "Aunt Mare" to all kids) to Disney World for their Sweet Sixteen birthdays, and a wonderful time was had by all. In fact, they had so much fun, another family birthday trip is in the planning stages for a set of twins. The kids get to pick the destination and "Aunt Mare" gets to pick up the tab.

Mary Ellen joined ALA and NJALA in 2005, primarily to get Sarah Clark off her back! But she's now willing to admit

that Sarah was right... Mary Ellen has found that ALA's and NJALA's networking and educational opportunities have been very beneficial, both personally and professionally, over the years. The NJALA board quickly identified her as a "good catch" and she was invited to become a board member. She rose through the ranks to become the chapter's 2012-2013 President. When asked about her management or "presidential" style, she said she's a "democratic collaborator." Her presidential focus will be to continue to engage the membership by offering high quality educational sessions. She feels it is very important to keep the "seasoned" members engaged in the chapter. She also wants to focus on nurturing the relationships the chapter has formed with its business partners (Mary Ellen has worked tirelessly on the Business Partner Expo over the past several years).

When asked about what she sees in her future, she said she's considering earning ALA's CLM and/or SHRM's SPHR certification. As far as work, she's going to try to keep her coworkers' moral up in spite of the economy and natural disasters. When looking far into her future, she sees herself retiring and living somewhere on a beach.

Speaking of the beach, Mary Ellen has a two-bedroom cottage in Manasquan, New Jersey. Her house was hit hard this past October when Sandy visited New Jersey and rearranged our coast line. Typical of Mary Ellen, she said she was "lucky": She *only* lost furniture and personal items in her cottage. Many of her neighbors lost their entire homes, and some people lost their lives. She said one of the hardest things she ever had to do was watch the crane pick up her home's water-soaked furnishings from the curb and dump them into a truck to be carted away to a dump. Her memorabilia may have left on the truck that day, but Mary Ellen's memories, dreams and love of the shore will always remain and will reside in the cottage down the shore as she rebuilds in the weeks, months and years to come.

Mary Ellen was born in New Jersey and doesn't plan on ever leaving it! Mary Ellen's new mantra is "Jersey Strong." She is confident that her cottage and the Jersey shore will be reborn and be even better than before.

From your mouth to God's ears, Madam President!

**Fran Puntillo, CLM, is the Office Manager of  
Weiner Lesniak, LLP, in Parsippany**



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# BUSINESS CONTINUITY PLANNING: PRACTICAL APPLICATIONS IN THE WAKE OF SUPERSTORM SANDY

BY ROBBIN DOLAN, CLM, SPHR

Developing a Business Continuity Plan is one of the myriad responsibilities of a Legal Administrator and the law firm management. I dutifully performed this exercise in 2006, shortly after Hurricane Katrina hit. Although we were not affected by Katrina in the Northeast, the devastating pictures and widespread repercussions drove home the possibility that something similar could happen in our area. I wasn't asked by management to prepare the plan, but I sure knew they would all be looking right at me if we ever suffered a similar natural disaster, wanting answers on how to continue managing firm operations and personnel.

The chance to put the plan in action came on October 29<sup>th</sup>, 2012, with the arrival of Superstorm Sandy. While we had recently suffered storms with high winds that downed trees and disrupted power services, I don't think anyone was prepared for the magnitude of devastation wrought by this storm. The following describes how we brought each piece of our Business Continuity Plan into action, and highlights the successes and the failures.

## Business Continuity Planning – Objectives and Strategy

Stating objectives is a key starting point for any plan. Objectives help to guide plan developers, and state specific details for firm expectations for meeting the goals of the plan. In our case, our objective was to continue business operations in the event of an internal or external emergency. The plan was enacted with the advent of Superstorm Sandy, an external emergency.

Strategies are the tactics for responding to and recovering from the emergencies. In our case, the strategy involved plan development, which included establishing a crisis management team. The crisis management team was provided with a hard copy of the business continuity plan, to store off site, and an electronic version on USB drive. Communications is a key strategy for any continuity plan, and ours established a communications plan that was used successfully throughout the storm and its aftermath.

## Crisis Management Team

A key part of planning includes identification of the Crisis

Management Team. The team should consist of key decision makers and managers. We are a small firm of 15 attorneys and a total of 30 employees. We own our building and have tenants, so the plan needed to involve building and tenant-related emergency response issues, in addition to the continuing of business operations.

The team consisted of the following:

**"Communications  
is a key strategy for  
any continuity plan,  
and ours established  
a communications  
plan that was  
used successfully  
throughout the storm  
and its aftermath."**

- Team Leader, in this case the Managing Partner. In a larger firm, it might be the CEO;
- Building Leader, to deal with tenant-related issues;
- Firm Leader, who manages IT, Communications, Personnel, Workflow and Facilities, in this case the Legal Administrator;
- Staff Leader, who manages communications with staff, in this case a senior Legal Assistant;
- Client Leader, to manage client communications, in this case the Legal Administrator;

Our plan listed all contact information for the Leaders, including home phone, cell phone, address and personal e-mail address. In addition, the roles and responsibilities of all leaders were identified in writing.

## Potential Hazards and Risks

Business Continuity planning involves identifying the potential hazards the firm could face, and then prioritizing them in order of possibility that hazard might occur. In our case, the number one anticipated hazard proved to be the one that caused business operation disruption after Sandy for two weeks. Our list included:

1. Energy/Power Interruption
2. Violence
3. Fire
4. Ice Storm/Blizzard
5. Road Closures

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## Business Continuity Planning

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6. Flood
7. Hurricane
8. Earthquake
9. Tornado
10. Pandemic
11. Criminal Act
12. Terrorism

Once they are prioritized, identify and describe the potential impact of each and the risks associated with loss of operations as a result.

In our case, we identified Energy/Power Interruption, Ice Storm/Blizzard and Road Closures as the most likely risks to occur. Our plan described our susceptibility to Energy Interruptions and Power Outages. We experience them frequently, and in the past there had been electrical interruption issues in the building. Recent storms had made many roads impassable, and downed trees sometimes prevented employees from getting to work.

Our plan stated the risks of power outages, including: “losing electronic documents, destroying servers and computer equipment, and destroying telephone and voice mail systems. These disruptions could last from minutes to hours. In the event of longer term energy disruptions (brown outs, regional power outages), we would be unable to function.” The plan stated that, “As a result of these events, similar energy disruptions could occur, and these disruptions could last for days. We might be unable to use electrical equipment and would also be unable to make it to the office.”

Our plan was accurate in identifying the potential risks, particularly those involving regional power outages. Our primary hazard turned out to be the power outage, and it turned out that this was the case for most of northern New Jersey.

### Evacuation Plan

Evacuation plans must be included in a Business Continuity Plan, in case the hazard occurs during work hours. This plan was not implemented as the storm occurred when the office was closed.

The Evacuation plan should identify the circumstances under which an evacuation should occur, such as in the event of fire, under order of emergency personnel, earthquake, tornado and violence.

The Evacuation plan should include the chain of command for ordering the evacuation, procedures for initiating a fire alarm, notification of authorities, a plan for leaving the building, and a designated meeting area outside the building. Evacuation plans should be practiced by all employees periodically, and visitors should be apprised of evacuation plans as well.

### Shelter in Place

Under certain circumstances, employees will be safer by remaining in the building. Under this scenario, a Shelter in Place Plan should be enacted. This was not necessary during Sandy but could be needed under many other potential circumstances.

In the event it is determined by the Disaster Management Team or instructed by emergency personnel, a Shelter in Place plan will be executed. This may occur when authorities or team leaders determine it is safer for people to remain in place rather than take to the roads.

Under these circumstances adequate supplies of food, water and emergency preparedness equipment should be available, to accommodate employees and clients. Emergency kits should include: flashlights, portable radios, fresh batteries, first aid supplies, food and bottled water. A NOAA radio should be available for weather updates.

The Shelter in Place provision is logically difficult to prepare for. In our case, we would be able to accommodate this provision for a very short amount of time because it is just not practical to have substantial amounts of food and bottled water on site.

### Alternate Work Site

This provision turned out to be key for the continued technology and personnel operations of many law firms in New Jersey during the Sandy aftermath. Many were lucky enough to have supplemental offices and temporarily located operations at these facilities. In our case, we had no second office. While our plan provided for leasing an alternate nearby location, we decided not to do this, as it was cost-prohibitive. Most of our employees could work from home as power was restored to many of them much sooner than it was restored to the office building.

### Emergency Contacts

The plan should include a list of all emergency contacts, including police, fire, township, poison control, and county and state emergency management. The plan should also include contact information for government services such as FEMA.

The contact list should include a list of all employees' phone numbers, cell phone numbers, addresses and personal e-mail contacts. Cell phones and personal e-mails were key, as these became the only way to contact employees after the storm. One of the first things we did was establish that all employees were safe.

Finally, every plan should have a list of vendor contacts, including insurance agents, cleaning services, telephone vendors, IT personnel and building maintenance. Since we own the building, we needed a list of tenant contact information

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## Business Continuity Planning

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as well. As with employee contact, frequently e-mail was the only way to contact vendors after the storm, so e-mail addresses or websites need to be included in the plan.

### Communications Plan

The most important part of the plan was the Communications Plan. As with the case of many in New Jersey, cell phones became the best means of communicating with employees and clients. Our plan included an employee phone chain, status updates posted to our website, and forwarding of all calls to an employee cell phone, as our building phone system was down. These means of communication worked very well, and we were able to keep everyone informed during the crisis, reschedule client meetings and attend court dates.

Communicating with clients proved to be challenging. Because we knew the storm was coming, attorneys were instructed to take client contact information with them. After the storm and with lack of power, we were not able to access our client contact list on our server. The widespread use of portable devices proved to be fortuitous, as many attorneys had client contact information on their phones.

### Critical Documents

Important firm-related documents like partnership agreements, bank account information, insurance coverage, client records, server backups and equipment leases should be identified, and the location of these documents recorded in the plan. This is in case of fire or other hazard and the need for recovery of these documents. In addition, some of these documents can be scanned and put on USB drives for offsite storage and access.

### Plan Improvements

In general, our Business Continuity Plan worked very well. We were able to communicate with all of our employees, vendors and clients. Establishing offsite technology operations turned out to be a key failure in our plan, as we decided not to pursue the Alternate Work Location. Our greatest challenge was access to information on our server, which was not operational. Because we receive emails through an Exchange Server, we also were not able to access emails sent to our office addresses. These failures will be addressed through establishing more Cloud services.

**Robbin Dolan, CLM, SPHR, is the Office Administrator of Laddey, Clark & Ryan, LLP in Sparta**

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## HEALTHCARE “REFORM” UPDATE

BY MARK SHORE

In 2012, the majority of news regarding the Patient Protection and Affordable Care Act (PPACA) and the Healthcare Reconciliation Act of 2010 (HCRA), together referred to as Obamacare, centered on the Supreme Court decision confirming its legality, as a tax, and the re-election of President Obama, thus removing the possibility of an imminent repeal.

Some lesser publicized but important elements of the legislation were enacted in the latter half of 2012, requiring insurers and employers to comply. Numerous provisions were effective in 2010 and 2011; however, this article will focus on those implemented in the latter half of 2012 and later. For a complete review of the legislation and how it may affect your firm, please contact your broker and/or insurance representative.

### 2012

Two major provisions and one fee were implemented in 2012. One provision expanded coverage and the other attempts to make coverage clearer.

Non-grandfathered plans with plan years that began on or after August 1 are required to offer **Women’s Preventive Health Benefits** with no cost sharing. Benefits include, but are not limited to, contraceptives and contraceptive counseling. Insurance carriers decided that implementing this benefit at each group’s specific renewal would be difficult. Therefore, most carriers implemented this provision for their fully insured groups on a uniform date, usually August 1, 2012 or January 1, 2013, regardless of the plans’ renewal date.

Obamacare requires employers to distribute the **Uniform Summary of Benefit and Coverage (SBC)** so their employees can better understand their policies. If Open Enrollment began on or after September 23, 2012, the SBC should have been distributed as soon as plan changes were considered. A minimum 30-day grace period is required to allow employees to make changes to their coverage.

If a plan renewed on October 1, 2012, but Open Enrollment began prior to September 23, the SBC was not required for that Open Enrollment. However, the SBC is required for any new hires or new entrants to the plan on or after October 1. Additionally, if material plan changes are made during the plan year, the employer must distribute the SBC at least 60 days in advance of the change.

Most Insurance Carriers will provide the required SBC to the employer in the standard format. It will be written in easily-understood language, no longer than four double-sided pages, and include subscriber cost estimates for two common scenarios: having a newborn via normal delivery, and Type II Diabetes.

Effective for plan years ending on or after October 1, 2012, issuers and sponsors of self-insured health plans must pay the **Comparative Effectiveness Research Fee (CER)** to fund health care research. The fee in 2012 is \$1 multiplied by the average number of lives, \$2 in 2013, and indexed each subsequent year until the intended expiration in 2019.

### 2013

2013 is intended to be a relatively quiet year for Obamacare. The most prominent changes report the value of healthcare and generate revenue (taxes) for the legislation.

FSA Plan Years starting in 2013 are limited to a maximum pre-tax contribution of \$2,500 per year. Limiting the allowable pre-tax contribution effectively raises taxes on anyone wanting to contribute more than the maximum.

Employers *issuing* at least 250 W2s in 2012 are required to report the total cost of health coverage in box 12 of their employees’ W2s. The **W2 Reporting Requirement** includes both taxable and non-taxable health benefits if the benefits are reportable. An example of included taxable benefits would be the premiums paid for a domestic partner.

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## Healthcare “Reform” Update

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For people incurring large, unreimbursed medical expenses, those expenses need to exceed 10% of their Adjusted Gross Income (up from 7.5%) to itemize them as deductions. Additionally, a 2.3% tax is added to the first sale for use of a medical device. High wage earners will pay an additional 0.9% Medicare tax for the hospital insurance tax rate, as well as a 3.8% tax on net investment income.

As of this writing, employers will be required to deliver the **Employee Notice of Exchanges** to their employees by March 1, 2013 (we expect this to be delayed). The HHS intends to issue model exchange notices for employers to use for this purpose.

### 2014

The most controversial aspects of Obamacare, as well as the majority of the taxes/penalties, will be implemented in 2014. These include the **Individual Coverage Mandate**, **Healthcare Exchanges** and the **Employer Shared Responsibility (Pay or Play) Mandate**. A lesser publicized tax, the **Transitional Reinsurance Program**, will be implemented as well.

The **Transitional Reinsurance Program** requires Health insurance issuers and third-party administrators to pay an assessment into a fund for the purpose of establishing a high-risk pool for the individual market. Payments will be made based on the insurers’ or TPA’s market share. *We expect this cost to be listed as an additional line item on Employers’ monthly invoices and passed on to employers.*

Under the **Individual Coverage Mandate**, Individuals are required to purchase health insurance or pay modest taxes. For individuals, the taxes will be \$95 in 2014, \$325 in 2015, and increase modestly each year. In future years, the tax will be capped at \$2,250 per family per year. Because insurers will no longer be allowed to deny coverage based on pre-existing conditions in 2014, the Individual Coverage Mandate was intended to make people purchase insurance before they experience a loss. However, because the annual taxes are so low, skeptics believe individuals would rather incur the tax while they are healthy, then purchase insurance when needed, thus potentially avoiding months/years of premium.

Large employers, defined as employers with 50 or more full time equivalent (FTE) employees will be required to offer affordable, comprehensive coverage to their employees or be faced with fines: **Pay or Play**. FTE employees are calculated by adding all of the part time employees’ hours and dividing by 120 each month. Group size for this purpose is determined by adding the number of FTEs to the actual full-time employees. Full-time employees are those that

work at least 30 hours per week, or 130 per month. If the resulting number is more than 50, the entity is deemed a large employer for the purpose of the Pay or Play Mandate.

If an employer charges more than 9.5% of an employee’s annual income, as shown on his/her W2, for insurance, and the employee receives a subsidy to purchase insurance through an exchange, the employer will be fined for each full time employee he employs exceeding the first 30.

New Jersey opted not to institute either a State-based or Federal Partnership Exchange. Health and Human Services (HHS) will implement and run NJ’s **Health Insurance Exchange**. Exchanges are anticipated to be ready for quoting on October 1, 2013, with enrollments on January 1, 2014. Two Exchanges will be created, one for individuals and one for employers.

Initially, small employers, those with fewer than 100 employees, will be allowed to shop for insurance through the exchange. Employers with more than 100 employees will be allowed to enter the Exchange in 2017. States may limit the size of employers to 50 for the first two years of the exchange.

The Exchange will offer four levels of coverage, subject to an Actuarial Value test. Each plan will include the **Essential Health Benefits** and cover an expected percentage of costs, 60%, 70%, 80%, and 90% for Bronze, Silver, Gold and Platinum, respectively.

There are several additional provisions, exceptions and variables to the legislation requiring employers to be diligent in their compliance. Employers should seek the guidance of their brokers, accountants, legal, and insurance advisors to help navigate the labyrinth of Obamacare.

*Mark Shore is the President of Atlas Consulting Services, LLC. Atlas Consulting Services, LLC is a full service insurance brokerage firm. We have special expertise in sophisticated and complex employee benefit programs. Atlas offers a variety of individual and group benefit coverage programs. For more information, contact Mark Shore at (973) 258-0550, or by email at mshore@atlasconsultingllc.com.*



# CELEBRATING THE HOLIDAYS WITH NJALA

BY CINDY LANDIS

Monthly NJALA meetings always begin with greeting friends, and meeting new members and speakers. Personally, I enjoy the opportunity to discuss the current issues in the legal field with my peers as well as catching up with members and their family news. After enjoying a great dinner and conversation, a speaker presents a program at the monthly meetings concerning the topic at hand. Twice a year, however, the NJALA sponsors a social evening to which we are all invited. One of the two socials that are held during the year is the December Holiday Social.

On December 7, 2012, the evening began at 6:00 p.m. at the Canoe Brook Country Club in Summit. Upon opening up the front door and walking up the large staircase and into the banquet room, my eyes focused on the spectacular Christmas tree in the right-hand corner of the room. Not only the tree, but the entire room was filled with lights, greenery, and friends and colleagues dressed for the occasion. I immediately took out my camera and began to snap pictures of all the smiles in the room.

The holiday season is also a time to remember those less fortunate, and a holiday collection is always an important component of the NJALA Holiday Social. This year, gift cards totaling over \$1,000 were collected during the evening to benefit the children of Youth Consultation Services in Newark (which houses and cares for displaced children), a charity with which the NJALA has had a long relationship. I could only imagine the light in the eyes of those children as they opened gifts purchased just for them with our donations. The holiday season always brings back memories of my children as they opened beautifully wrapped gifts that were under the tree on Christmas morning. An American Girl doll, soccer net, bicycles, Hess trucks... The children of YCS would be able to experience a measure of that joy due to our members' generosity this year.

A dinner buffet was served, which included salad, chicken, beef, and more. Dessert is always a highlight at meetings and this night was no different. The "dessert table" was filled with sweets to tempt our taste buds.

Some of our generous NJALA Business Partners were in attendance and were kind enough to donate gifts that were raffled off to members. Some of the lucky winners received gift cards, gift baskets, Jets tickets, an iPad and more. We thank our business partners, whose generosity allows us to put on so many of our events. (And now for a commercial break: Next time an NJALA business partner calls you, take the call, and thank them for their sponsorship, even if you do not need their services.)

During the December social we also celebrate members' milestone anniversaries, who also receive a gift from the organization as a way saying thank you for their years of membership and service to the organization. We would like to congratulate them again. They are:

## **25 years**

Kenneth A. Bailey  
Bruce William Campbell  
Kathryn Z. Krylowski

## **20 Years**

Phyllis M. McGraw  
Mary E. Rutledge  
Steven Segal

## **15 Years**

Patricia J. Spencer  
Donna M. Sanders

## **10 Years**

Steven M. Goldberg  
Barbara E. McGee  
Karen E. Moore-Negast  
James G. Mortenson  
Mitchell Rait, Esq.  
Kathy Reuter

## **5 Years**

Ronald K. Barr  
Patricia E. Bean  
Kathleen M. Cox  
Linda S. Gerber  
Barbara A. Maglin  
Michele A. Reasoner  
Theresa L. Siegle  
Charles A. Tamasaukas

The evening was a tremendous success. A special thank you goes to all who put the event together as well as to our hosts for the evening, Mary Ellen Dolan and Audrey Serban. For those who were not able to attend, you missed a remarkable night. Make sure you attend the next social event this spring, which will bring this NJALA season to a close. I wish all of you a Happy New Year, with wishes that it is healthy and filled with laughter and joy.

*Cindy Landis, Office Administrator at Gennet Kallmann Antin & Robinson, in Parsippany*