CHAIR’S COLUMN

Forever Vigilant

by Thomas Snyder

The death of Judith Novellino, a matrimonial litigant, is a grim reminder to judges and lawyers alike that we, as professionals and colleagues, must be vigilant in reporting circumstances that would lead us to believe the conduct of a litigant may pose a danger to others.

On June 19, 2010, Morris County resident Judith Novellino was brutally murdered; she was stabbed 84 times. Accused of the crime is her former husband. Ms. Novellino had been married almost 37 years prior to her June 8, 2010, divorce. As reported by the Morris County Daily Record, one theory regarding the motive for the murder is Ms. Novellino’s former husband’s “visceral” response to the divorce and frustration at having to split retirement accounts and other assets.

In addition to being charged with Ms. Novellino’s murder, her former husband was also charged with threatening to harm her divorce attorney.

The threats allegedly made against Ms. Novellino’s attorney bear witness to the fact that lawyers and judges are not immune from being the target of the violent conduct of litigants embroiled in stressful, expensive, and often acrimonious litigation.

As family law attorneys and judges, we function in a system that, although driven by human behavior, is sometimes inhuman. The Novellino case is just one chilling example of this reality.

There is a dearth of published statistical data reporting incidents of violence directed at judges and lawyers in connection with representing clients or judges presiding over family law matters. New Jersey’s Administrative Office of the Courts does not maintain statistical data reflecting reported acts of violence committed against lawyers or judges.

One’s status as attorney or judge has little or no impact upon the nature of a crime charged relative to an alleged act of violence. Consequently, most law enforcement agencies do not maintain crime statistics based on a victim’s status as judge or attorney. The fact that a crime may have been committed against a member of the judiciary, under certain circumstances, may be considered as an aggravating factor relative to sentencing. However, the sentence imposed upon someone who senselessly kills or harms another does little to rectify the consequences and loss to the victims of the crime.

Despite the absence of quantifiable statistical data on this issue, a review of news headlines readily serves as a reminder that our involvement in the legal system can have horrific life-altering consequences for ourselves and our families.

In February 2010, 61-year-old South Carolina attorney Redmond Coyle was shot and killed outside his office by his client’s former husband. The alleged shooter was upset over the divorce settlement. In the not too distant past, in June of 2002, a Red Bank matrimonial attorney suffered a broken back, a broken pelvis and several broken ribs as a result of an attack allegedly emanating out of his representation of a client in a matrimonial matter.

In 2006, Nevada Family Court Judge Chuck Weller was shot while in his office by a man who had appeared before him in a divorce case. The case caught national attention when the suspect, a multimillionaire father of three whose relatives say he was deeply upset over the court’s ruling, allegedly used a sniper’s rifle to fire through the window of the judge’s third-floor office building. Judge Weller was shot in the chest, hospitalized and survived the attack.

The tragedy that befell U.S. District Judge Joan H. Lefkow of Chicago in 2005 is perhaps one of the most horrific examples of the consequences of violence directed toward members of the judiciary. Judge Lefkow found her husband and mother shot dead in

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the basement of her home. The suspected murderer was a litigant whom she had previously held in contempt of court.

While the details of these tragedies are nothing short of grizzly, grim and disturbing, to omit the occurrence of these tragedies from this article would be to overlook the very stark realities of our profession.

As part of the family law community, and the legal community as a whole, we as lawyers and judges have an ethical and moral obligation to be vigilant in our assessment of the prospect that a litigant or a client may intend to harm colleagues, judges or any person.

While this duty and obligation need not be codified in any moral code, it is clearly delineated pursuant to New Jersey Rule of Professional Conduct 1.6, which provides in part that:

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b), (c), and (d). (b) A lawyer shall reveal such information to the property authorities, as soon as, and to the extent the lawyer reasonably believes necessary, to prevent the client or another person:

1) from committing a criminal, illegal or fraudulent act that the lawyer reasonably believes is likely to result in death or substantial bodily harm or substantial injury to the financial interest or property of another...

(c) If a lawyer reveals information pursuant to RPC 1.6(b), the lawyer also may reveal the information to the person threatened to the extent the lawyer reasonably believes is necessary to protect that person from death, substantial bodily harm, substantial financial injury, or substantial property loss....

(e) Reasonable belief for purposes of RPC 1.6 is the belief or conclusion of a reasonable lawyer that is based upon information that has some foundations in fact and constitutes prima facie evidence of the matters referred to in subsections (b), (c), or (d).

Hypothetical and rhetorical debate regarding the definition of “reasonable belief” and what is “a reasonable lawyer” may make for interesting colloquy, but the real life consequences of false sophistry can be devastating. I truly hope none of us are ever in the position of having to face the ethical reality of whether or not we are obligated to comply with the provision of RPC 1.6(b). However, should that day occur for you, do not lose sight of the fact that we, as members of the legal community, have a duty and responsibility to be diligent in not dismissing warning signs that would lead us to conclude that colleagues, adversaries, judges, adverse clients or members of the public at large may be in harm's way as a result of human emotion gone awry.

ENDNOTES

2. N.J.S.A. 2C:11-3(h); 2C:44-1a(8).

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