

THE B&B ALERT

(800) 533-7227



**Begley &
Bookbinder, PC**
ATTORNEYS AT LAW
COMMITTED TO EXCELLENCE
Specializing in Elder & Disability Law

No. 12 Vol. 3

December 15, 2006

Please visit us on the World Wide Web at: www.begleylawyer.com

Lewis v. Harris
*New Jersey Supreme Court Finds Same Sex Couples are
denied Equal Protection, but leaves Responsibility of
Correcting it Up to the Legislature*

By Neil A. Derman, Esquire

On October 25, 2006 the New Jersey Supreme Court finally put an end to the debate of whether same sex couples should be afforded equal treatment to opposite sex couples. The court unanimously agreed that current state law deprives is unconstitutional with respect to the equal protection of same sex couples. The New Jersey Supreme Court ruled same-sex couples must be provided the full and equal rights and benefits of marriage. It gave the New Jersey legislature 180 days to protect New Jersey families and bring equality to same-sex couples.

Prior to this decision, New Jersey same-sex couples relied on the Domestic Partnership Act as a means of obtaining equal protection in the State of New Jersey. However, the Domestic Partnership Act fell well short of providing same-sex couples with all of the benefits and protections provided to opposite sex couples. Where the Domestic Partnership Act sought to equalize treatment between same-sex couples with regards to the New Jersey Inheritance Tax, it provided no benefit to registered domestic partners for New Jersey Estate Tax, and limited benefits for the New Jersey Income Tax.

If the New Jersey legislature follows other states who have found their state constitution to violate the equal protection of their same-sex residents, such as Massachusetts, a significant amount of change will be made to both the income tax and

estate tax treatment of registered domestic partners. An unlimited deduction among domestic partners may become effective allowing the surviving member of a same-sex relationship to inherit all assets New Jersey Estate Tax free. Furthermore, deductions and credits which married opposite-sex couples are entitled to, may be afforded to same-sex partners filing New Jersey income tax returns. Most importantly, a form of legalized marriage or civil union will be recognized in the State of New Jersey for same-sex couples.

However the disparity between state and federal treatment will remain as the Federal Government does not recognize same-sex unions and has statutorily stated that marriage will only be recognized between a man and a woman under the Defense of Marriage Act (DOMA).

Despite this inequality of treatment between state and federal laws, same-sex couples have won a landmark decision in their quest towards equality in the State of New Jersey.



Begley & Bookbinder, P.C. is an Elder & Disability Law Firm with offices in Moorestown, Stone Harbor and Lawrenceville, New Jersey and can be contacted at 800-533-7227. The firm services southern and central New Jersey and eastern Pennsylvania.

The Firm provides services in connection with protecting assets from nursing home costs, Medicaid applications, Estate Planning and Estate Administration, Special Needs Planning and Guardianships. If you have a legal problem in one of these areas of law, contact Begley & Bookbinder at 800-533-7227.

Begley & Bookbinder has prepared **Special Reports** concerning:

- ❖ *Estate Planning for Parents with Children with Disabilities*
- ❖ *Blended Families*
- ❖ *Bloodline Trusts*
- ❖ *Vacation Area Homes – Tax and Management Issue*
- ❖ *Special Needs Trusts*
- ❖ *Utilizing Special Needs Trusts in Matrimonial Cases.*
- ❖ *Using Special Needs Trust to Protect Public Benefits*
- ❖ *Resolving Your Nursing Home Medicaid Application Challenge*

Please contact Begley & Bookbinder at 800-533-7227 or visit our website at www.begleylawyer.com to obtain a **Special Report**.

Our web site contains a library of firm newsletters, articles, on-line forms for

Medicaid, Estate Planning and Guardianship, as well as our upcoming speaking engagements, our products, and other relevant information.

If you have any comments, e-mail us at ccaruso@begleylawyer.com

If you are interested in having an Elder & Disabilities Law Attorney from Begley & Bookbinder speak at an event, please contact Colleen Caruso at (856) 787-4237.

This newsletter is not intended as a substitute for legal counsel. While every precaution has been taken to make this newsletter accurate, we assume no responsibility for errors or omissions, or for damages resulting from the use of the information in this newsletter.



Member, National Academy of Elder Law Attorneys

Copyright © 2006 by Begley & Bookbinder, P.C., 509 South Lenola, Building 7, Moorestown, NJ 08057

This newsletter is expressly produced to be sent electronically. If you know someone who would also like to receive this electronic newsletter, please have him or her e-mail us ccaruso@begleylawyer.com