

DECKER DECKER DITO & INTERNICOLA LLP

✧ Newsletter for our Clients and Friends ✧

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5 IMPORTANT STEPS TO SAVE MONEY WHEN YOU REFINANCE

by Steven Decker, Esq.

Every month we help many clients save money when they refinance their mortgages. With an email or a phone call we can assist you with the mortgage refinance process and help you avoid some common “pitfalls”. Before starting the refinance process you must determine if the monthly mortgage savings outweighs the closing costs and expenses that you will incur. Before refinancing, consider the following information:



No. 1 - CHECK YOUR BANK FEES, TITLE FEES & MORTGAGE TAX

If a refinance makes financial sense make sure you understand the 3 main areas where you can save money on the cost of your closing. They are Bank fees, Title Company fees and Mortgage Tax. Get me a Good Faith Estimate of Closing Costs (GFE) and I will show how to save on fees charged by your lender (Bank Fees), title fees and mortgage tax. Costs can vary substantially between different lenders, so we can try to get your lender to waive or reduce some of their junk fees. Your savings can be huge!

No. 2 - SHOP AROUND - GET SEVERAL GOOD FAITH ESTIMATES TO COMPARE

Before you apply make sure to check the amount of monthly savings, the new interest rate and closing fees. Make sure your mortgage broker prepares a Good Faith Estimate of Closing Costs (GFE). This information should show the rate and closing costs needed to determine if the refinance makes sense. If you take the amount of the closing costs and divide by your monthly payment savings this will tell you how long it will take to recoup the closing costs. It is important to negotiate with your mortgage broker upfront so you can save money. The GFE will show the fees charged by your lender (Bank Fees), for title insurance required by the lender (title fees) and mortgage tax due to the county clerk.

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WHAT IS THE RIGHT PRICE WHEN BUYING A BUSINESS OR FRANCHISE?

by Charles Internicola, Esq.



When buying a business or franchise one of the most important issues that our clients face is “valuation” – that is, what is the right price to pay for the business? When buying a business you will need to rely on various professionals for advice, including your business lawyer, accountant and, possibly, an independent business appraiser. Although attorneys do not perform business valuations, your business lawyer should be communicating with your accountant and implementing protections through out your business agreement that will afford you the time and resources necessary to conduct a complete “due diligence” review of the business that you are purchasing.

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TOUGH QUESTION: WHAT IS THE RIGHT PRICE WHEN BUYING A BUSINESS OR FRANCHISE? (Continued from pg. 1)

Some important points that a prospective business / franchise purchaser should consider and discuss with his or her attorney, include:

- **Due Diligence** - always insure that you thoroughly review the finances (tax returns, royalty reports, purchase order receipts and register receipts) of the business that you are purchasing to verify the earning claims of the seller.
- **On-Site Due Diligence** - Don't stop at a "paper review", spend time "on-site" interacting with customers and sampling/measuring daily sales. This is not asking too much and your attorney can structure confidentiality agreements to protect the seller and encourage him or her to provide you with access.
- **Include a Due Diligence Contingency Clause** - If your financial review/due diligence cannot be completed prior to signing the business purchase or franchise agreement, then ensure that your agreement includes a "due diligence contingency clause" enabling you to complete your review and back out of the agreement if necessary.



- **Coordinate Communications** - Ensure that your attorney and accountant speak and coordinate their activities.
- **Remember that Profits (not gross sales) are key** - This is an obvious point but one that should be emphasized again and again. The most important factor to you will be how much money you get to take home to your family on a weekly or monthly basis and not the gross sales of your business and how much you paid the franchisor in royalties. So don't get enamored with gross sales, pay attention to the recurring expenses of the business.

Essentially, leave no stone unturned. For more information on buying a business check out our new blog: www.NewYorkFranchiseLaw.com.

FIRM BATTLES CITY OVER FERRY NEGLIGENCE by Frank J. Dito Jr., Esq.

On October 15, 2005, the Staten Island Ferry boat Andrew J. Barberi crashed, full speed, into a concrete maintenance pier at the St. George Ferry Terminal when the assistant captain passed out at the wheel. The toll from what would turn out to be one of the worst maritime disasters to affect the City of New York was readily apparent; over 175 people injured and 11 people killed. The real tragedy was how easily the accident could have been avoided. Had the City of New York simply followed its own rule, the "two pilot" rule, a second person would have been in the wheelhouse while the ferry was operating and been able to bring the ferry to a stop or simply call for help. The City's inaction was so egregious that the U.S. Attorney brought criminal charges against various Staten Island Ferry personnel for manslaughter in the deaths of those involved.

Soon after the crash, I was contacted by a ferry passenger who was severely injured in the crash. Little did we know that this was the start of a long journey that would see criminal charges, use of "the law of the sea", changes in the ferry's safety procedures, an appeal to the United States Court of Appeals and ultimately, one of the largest recoveries for personal injuries sustained onboard the ferry (See Recent Case Settlements on page 4 of this newsletter).

Approximately 186 claims were filed against the City

of New York for their negligence in operating the ferry. The City's reaction to these claims wasn't to own up to their responsibility. Instead, the City sought protection of the federal court under a 19th century maritime law that would shield their liability to the value of the ferry, or approximately \$16 million for the 186 claims. The City's request also brought with it the protection of the federal courts which are much less receptive to injury cases. The criminal prosecutions also prevented the injury cases from moving forward. Everything seemed to be against the victims and it looked as if they would receive little or no money for their injuries. Every effort made to advance the cases was met with fierce opposition by both the U.S. Attorney's office and the City of New York.

A group of attorneys for the injured began to coordinate their efforts in the face of this overwhelming opposition to advancing the victim's cases. The Barberi and the maintenance pier were inspected and photographed. Experts in ferry operations throughout the United States were consulted. The claimants' attorneys banded together to form a unified voice on behalf of all victims. Together, we overcame every obstacle that the City of New York and the federal courts placed in front of us.

Eventually, the criminal prosecutions resulted in guilty pleas from all those charged. Claimants' attorneys were

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5 IMPORTANT STEPS TO SAVE MONEY WHEN YOU REFINANCE (Continued from pg. 1)

No. 3 - AVOIDING BANK FEES - REDUCE JUNK FEES

Lenders charge fees to process your mortgage application. Normal fees include application, credit report, appraisals and settlement fees. There are also other fees (junk fees) that some lenders charge including document review fees, underwriting fees, warehouse fees among others. Many of these fees can be reduced.

No. 4 - REDUCING TITLE FEES - ASK FOR A REISSUE RATE

Title Insurance is required to insure the lender is getting clear title to the refinanced mortgage. The cost (title premium) is set by law and is based on the mortgage amount. Since rates are regulated it is possible to save money on the premium by getting a REISSUE RATE. If your mortgage is less than 10 years old the title company must give you a lower rate. BUT ONLY IF YOU ASK! The reissue rate gives you a credit based on the amount of the mortgage you currently have so if you do not ask for the REISSUE RATE or you may not get the lower

premium. The title company must show you the difference between the straight rate and the reissue rate which is your cost savings. BUT YOU MUST ASK

No. 5 - SAVING MORTGAGE TAX-MODIFICATIONS & ASSIGNMENTS

One of the largest closing costs is mortgage recording tax, almost 2% of the loan amount. When you took out the original mortgage and you paid the tax and if you are not aware you may have to pay it again on the refinance. If your lender does a straight refinance you will have to pay tax again based on the principal amount of the new mortgage. If you can get your lender to accept a Mortgage Modification or Assignment of Mortgage you can save thousands on mortgage tax.

For Additional information about how we represent our client's everyday in refinance transactions, feel free to email me at sdecker@dddilaw.com or contact my assistant Jamie at 718-979-4300 ext. 12.



THANK YOU !!

We are grateful that every day we receive referrals from our clients.

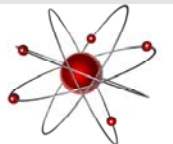
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FIRM BATTLES CITY OVER FERRY NEGLIGENCE (Continued from pg. 2)

present in the courtroom when ferry personnel admitted that they failed to enforce the "two-pilot" rule. Armed with this admission, the claimants' attorneys now had the upper hand. We had a City official admitting to allowing ferry employees to simply ignore basic safety precautions. As a result of the efforts of the claimants' attorneys, Judge Edward Korman ruled that the maritime shield law didn't apply here. The victims won a great victory but still the City would not take responsibility for their negligence. They appealed Judge Korman's ruling to a higher court. During the appeal, a judge summed up his view of the City's disregard for their own rules by stating "when a 747 lands, you expect both (pilots) to be in the cockpit when it lands. You don't expect one to be in the back cleaning dishes." Needless to say, the appeals court agreed with Judge Korman's decision.

The aftermath of the accident and resulting law suits resulted in a much improved and safer ferry system. Important announcements onboard the ferry are now louder and clearer, deckhands are present on deck throughout the entire trip from Whitehall to St. George and are in a uniform that is easily recognizable. If one deckhand was present on deck that fateful day, it just may have provided enough time to warn others to move away from the impact zone, possibly saving many lives in the process.

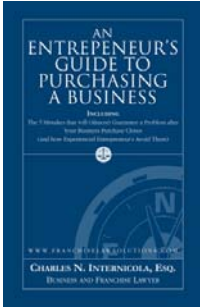
Did you know that your time to bring a lawsuit against the City of New York is extremely limited? If you have been injured, please speak to me, Frank J. Dito, Jr., so that I may advise you of your legal rights. At Decker, Decker, Dito & Internicola, LLP, we level the playing field between the injured and insurance companies.



IMPORTANT NEW WEB RESOURCES

We are pleased to announce the recent launch of our new business and franchise law blog located at www.NewYorkFranchiseLaw.com. The blog is published by Charles Internicola and provides critical information for anyone interested in purchasing a business or franchise. Check it out.

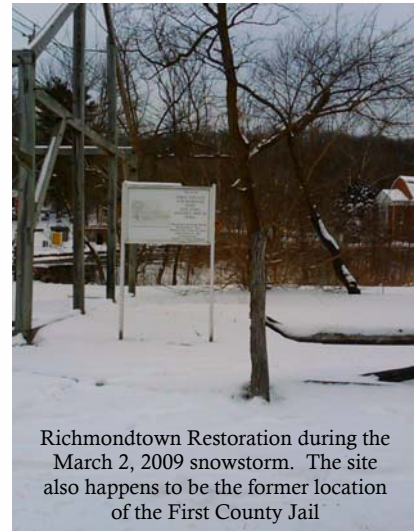
FREE NEW BOOK FOR OUR CLIENTS & FRIENDS



We wish to congratulate our partner, Charles Internicola, on the recent publication of his new book "*An Entrepreneur's Guide to Purchasing a Business*". After years of working with clients on business and franchise transactions Charles decided to put it all in a book.

If you are looking to buy a business or franchise definitely get the book. The book is currently selling at Amazon.com for \$19.95 however, for our clients and friends, for a limited time you can receive a FREE copy of Charles' new book – just give Vicki a call at 718-979-4300 ext. 22. Please note that we have a limited number of these free publication copies.

**APPOINTMENTS AVAILABLE IN
NEW YORK & NEW JERSEY**



Richmondton Restoration during the March 2, 2009 snowstorm. The site also happens to be the former location of the First County Jail

RECENT CASE SETTLEMENTS

CLIENT GETS \$2.5M SETTLEMENT - Injured in the October 15, 2005 crash of the Staten Island Ferry boat Andrew J. Barberi. Our client was a passenger who sustained injuries when the ferry boat crashed into a concrete pier just outside the St. George Terminal. Despite his injuries, our client continued to aid in the rescue of the severely injured passengers on the ferry while awaiting emergency help. The client sustained injuries to his neck, knee and shoulder during the crash. Due to his injuries, the client underwent spinal fusion surgery and multiple knee and shoulder surgeries. The case settled for \$2,500,000.00 prior to the scheduled February 16, 2009 trial date. We wish the client well and hope that he will further recover from his injuries as time moves on. It was a privilege and an honor to represent him throughout this ordeal and we know that the future will bring him better days.

This publication is intended to educate the general public about business, personal injury, real estate and insurance issues. It is not intended to be legal advice. Every case is different. The information in this newsletter may be freely copied and distributed as long as the newsletter is copied in its entirety.



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Clients & Friends

With the change in seasons comes the need to update/prepare your Will. Call our office today to learn about our substantially reduced fee for recipients of this newsletter only. Ask for Vicki Gracia at 718-979-4300 ext. 22.

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**Inside – 5 IMPORTANT STEPS TO SAVE
MONEY WHEN YOU REFINANCE**