



NIABA NEWS

Men and women sharing a common heritage in a chosen profession

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DESTINATION DESERT

NIABA is delighted to visit the West Region for our next board meeting – on January 19-22nd in Phoenix! The Board has been working hard and a terrific weekend is taking shape. All NIABA members are invited to join your Board of Directors for the dinners and social events.

Our "home" will be the Sheraton Wild Horse Pass, which will provide a wonderful, relaxing, desert resort experience. [Check out](#) their amenities – including spa, golf, tennis, and an equestrian center – and make your reservations.



Desert Rose Worldwide Transportation is welcoming our members with significantly discounted, private luxury transportation service to and from the airport. For more information and to make arrangements, contact [Desert Rose](#) at 800-716-8660 and state that you are with NIABA.

We are planning our traditional Thursday evening welcome dinner at [Marcellino](#). Chef Marcellino Verzino says on the restaurant's website: "Everything we propose is based on Italian life, from my cuisine to the European service, the music and of course the ambiance."

Friday morning is open to enjoy the resort before the board meeting over lunch hour and into the afternoon. For Friday evening, we will enjoy the country-western side of Phoenix at [Rawhide Steakhouse](#), with adjacent attractions including mechanical bull, virtual gunfights, and more!

Saturday the board will meet in the morning; lunch and the afternoon are open for sightseeing, networking, or relaxing. Saturday evening dinner is hosted by the American-Italian Club of Phoenix and the Italian-American Association of Arizona – where we will mingle with movers and shakers in the local Italian-American community. Limited seats are available at the exceptional price of \$30 per person. Call the club at 602-944-3090 ext. 5 to reserve yours.

[Register now](#) to let us know that you're planning to attend. We'll be in touch with specific details. Your Board of Directors does important work during their meetings, but the rest of the visit is focused on fun, food, connections, and a *buona festa* for all!

Special thanks to our meeting sponsors, including...



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Arizona American Italian Club • Italian Association of Arizona

HON. RICHARD M. MARANO

Connecticut IABA Honors Its Founder

By David V. DeRosa

On November 9th, the Connecticut Italian American Bar Association (CIABA) held its Annual Heritage & Awards Dinner, renaming it in the honor of the organization's founder: The Honorable Richard M. Marano. Judge Marano is a well-respected jurist with a distinguished legal career as a judge and an attorney, he is a public intellectual, and has lived a life of public service.

Recognized as "Waterbury's Best Lawyer" in a 2002 newspaper reader's poll, Judge Marano was appointed to serve as a judge of the Superior Court by Gov. Rowland in 2004. Both as an attorney and a judge, he committed his time to local philanthropic organizations, organizations to advance the law, and organizations to promote and maintain the Italian American community, culture, and heritage in Connecticut. The Board of CIABA, led by past President Francis Donnaruma and current President Daniel Elliott (both also NIABA members), chose to honor Judge Marano because he has been a leader in the Italian American community, committing himself to selfless public service his entire career.

Judge Marano was born and raised in Waterbury, CT and distinguished himself at a young age. As a youth, he was active as a Boy Scout Leader, was President of Housatonic Council, and received the Silver Beaver Award and the National Outstanding Eagle Scout Award. He graduated

from Fairfield University and attended Seton Hall Law School. Judge Marano and his wife Eileen are the proud parents of three children: Michelle, Rich and Christine.

He has been an active member of the Italian American community for his entire professional career. While a law student, he had joined the Peter W. Rodino Law Society, an Italian American Law Association named for the Congressman who sponsored legislation to make Columbus Day a national holiday.

In 1993, Marano saw a need for a chapter of the Italian American Bar Association, as Connecticut has a large population of lawyers who are descendants of the Italian diaspora. He contacted Michael C. Rainone, then President of NIABA. On October 15, 1993, the newly formed CIABA held its first meeting with the stated purpose of addressing the concerns of the Italian American legal community and to improve the administration of justice. Marano served as the first president. After some years of dormancy, in the spring of 2012 Judge Marano was instrumental in inspiring other Italian American attorneys in Connecticut to revitalize CIABA, and secure closer ties to NIABA. A number of younger attorneys were approached to pass the mantle of leadership onto a future generation of lawyers.

Judge Marano's interest in Italian American leadership was not limited to law. He



Judge Marano is pinned by Mary Sharnick as CIABA President and NIABA Board Member Daniel Elliott looks on.

has been active in – and led – a number of cultural organizations. He is a past President of the Waterbury Chapter of UNICO National and of Leonardo da Vinci Lodge, Sons of Italy, where he received the da Vinci Award. He was honored as Waterbury's Honorary Italian Mayor on Columbus Day in 2001. Judge Marano served as trustee of the Connecticut Sons of Italy's Grand Lodge and received the Good Citizens Award.

He also served his local community, applying his talents to a wide range of endeavors. He was the past President of the Boys and Girls Club of Greater Waterbury, and the Connecticut Young Democrats. He served as Waterbury alderman and commissioner. Judge Marano is also active in the Catholic Church as a trustee of the Church of Our Lady of Lourdes, and he received

the St. Joseph Medal of Appreciation from Archbishop Leonard Blair.

Judge Marano has engaged in intellectual pursuit that culminated in the publication of five books in areas that he identified as necessary additions to the respected literature, including two volumes titled *Connecticut Criminal Legal Forms*. The work is comprehensive and an indispensable collection of forms designed to assist criminal practitioners in litigating in Connecticut Superior Courts and drawn from Marano's former practice as an aggressive criminal defense litigator.

Judge Marano is the author of *History of the Order Sons of Italy in America of Waterbury Connecticut 1911-1996* and a co-author on a collection of oral histories titled *Growing Up Italian and American in*

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Award recipient Judge Richard Marano is surrounded by his family: (l-r) daughter Michelle, Judge Marano, wife Eileen, daughter Christine, and son Rich.

Waterbury. He also wrote an important work of history titled *Vote Your Conscience: The Last Campaign of George McGovern*. The book probed the details of the 1984 campaign and character of George McGovern and was described by the *Advocate* as “an honest appraisal of a decent man trapped by the indecency of the modern political process.”

Most recently, Judge Marano graciously received CIABA’s Italian American Legal Achievement Award, along with the recognition of having the annual dinner named in his honor. He provided words of honesty, wisdom, and encouragement on successfully organizing an Italian American Bar Association, saying: “Some twenty plus years ago, I had the notion that my Italian

Heritage was worthy of formal recognition and attention. With a group of other Italian American Lawyers here in Connecticut— Gena Iannucci, Judith Busch, Leonard Coviello, and Edward Giacci – we formed the Connecticut Italian American Bar Association. The founders and I felt a tug, a notion, a belief that our professional lives would be enhanced through sharing our common heritage.

“In the many years since then, so many wonderful Italian American lawyers fought the good fight and created events, seminars, parties and get-togethers of all sorts. The fellowship was evident, the shared stories both common and sacred... we all came from some uniquely Italian source and it existed, tangibly, in our memories, manners, and visions.

“The Association was that kind of dream which is only rarely realized. CIABA has continued for so long since it

rose it rose from my thoughts, because of the dedication of so many great lawyers and dear friends... [W]e all owe Fran [Donarumma] a great debt of gratitude for reestablishing this Association a few years back.

“The Connecticut Italian Bar Association happened because some dear and enduring colleagues and friends joined in our common heritage. In recent years, I have watched from a distance (although close enough to enjoy every meal) as new, young, and exuberant lawyers have stepped forward with no less enthusiasm that we had at the inception.”

Judge Marano founded CIABA and, in many respects, it is an organization that reflects his values and cultural insights. He deserves to be remembered for what he has done for so many Italian Americans, and especially Italian American Lawyers, in Connecticut.

SCHOLARSHIP FUND DRIVE NEARS HALFWAY TO GOAL

Over the years NIABA has joined with the Order Sons of Italy (OSIA) and the National Italian American Foundation (NIAF) in funding and granting annual scholarships to worthy Italian-American law students. Biographies of some of our prior scholarship recipients are featured on the NIABA [website](#).

With your assistance, NIABA will be able to continue this important program. We have set a goal of raising \$10,000 and are almost halfway there! We're asking members and friends to open their hearts and make a tax deductible contribution to our Scholarship Fund.

As an added incentive for your support of the next generation of Italian-American attorneys, NIABA board member Judge **Paul A. Victor** has agreed to match \$100 of each \$500 or larger donation! Let's make sure we take full advantage of this generous offer.



Donors of more than \$100 will also receive their choice of either a NIABA coffee mug or a lapel pin.

Open your heart and your wallet. Make a [donation](#) in honor or in memory of someone who had an impact on your career as an attorney. If you have a special event or recognition coming up, consider requesting that contributions be made to the fund in leu of gifts.

[Donate online](#) now with a credit card, or drop a check in the mail to the address below. NIABA needs your help to maintain this worthy program. The support resulting from your generosity will provide long term rewards to the individual scholarship recipients and to our community at large.

Make checks payable to NIABA and mail them to:
2020 Pennsylvania Ave., NW
PMB 932
Washington, DC 20006

MEMBER NEWS



Robert (Bobby) D'Andrea raises a flag in honor of Columbus day each year at St. Anthony of Padua in Litchfield, CT. At his left in the photo is his high school friend, Gary Mariotti, who manufactured the flag. Bobby notes that he had "asked Father Tucker years ago why the Irish flag for St. Patrick's

Day was so much larger than the Italian flag for Columbus Day. He said it was because, and I rephrase his verbiage, the Italians were 'too frugal' to pay for a bigger one. I asked if I could hang whatever I wanted. He said yes. So here we are."

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Roy L. De Barbieri, Esq. has been named to a second three-year term as a Director of the College of Commercial Arbitrators. The College is comprised of nationally and internationally recognized Commercial Arbitrators, and promotes the highest standards of integrity and professionalism.

Limited to 250 arbitrators, membership is by invitation only. Roy maintains a national practice from offices in New Haven, CT and New York City. He testifies as an expert on dispute resolution and lectures to Bar Associations and law firms on the topic of dispute resolution.

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Mark A. DiCarlo of Corpus Christi, TX notes that his office was also very festive for Columbus Day. He says, "No, Columbus did not discover America. But Cristoforo Colombo did discover the Americas for European or Western civilization."

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Valeria Granata is now a licensed attorney in New York, in addition to California, and is also a newly-certified California Certified Mediator.

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The City of Rochester, NY celebrated its first-ever Italian Cultural Day at City Hall on October 20th. Mayor Lovely Warren and other local, state and federal-level dignitaries welcomed and

received the Italian community at City Hall for the first time in the city's 200 year history. The historic cultural event was organized by NIABA member **Silvano Orsi** and the Little Italy Neighborhood Association of Rochester, NY, a 501(c)(3) non-profit corporation and public charity which he founded.

The event included the participation of the Rochester Institute of Technology, Nazareth College Casa Italiana, Casa Larga Vineyards of Fairport, NY, and the Alinari Photographic Archive of Florence, Italy, the oldest photographic archive in the world. Both the celebration and Orsi received multiple proclamations and recognition.

* * * * *



Joseph R. Polito Jr. passed away earlier this year after a long battle with cancer. Joe spent his childhood in the aisles of his parents' corner grocery store in West Chester, PA. He earned his JD from Villanova School of Law in 1963 and served as Assistant District Attorney of

Chester County in 1968. Joe's professional experience continued when he became specially assigned Deputy Attorney General for West Chester University in 1969. In 1974, he opened his first practice, Kent & Polito. Joe and his wife, Marianne, had two children.

Joe loved the law immensely and dedicated his life to community service. He served as a Past President of the Rotary Club of West Chester, where he received many distinguished awards and honors. He also served as a Pro Bono solicitor for many local clubs and organizations. He received a Dedicated Service/Lifetime Membership Award for his involvement and volunteerism with First West Chester Fire Company and was a volunteer ambulance driver and first aide technician with Good Fellowship Ambulance Company.

Joe was a NIABA member and was also involved in Lodge Guido Baccelli #687 Order Sons of Italy in America, the Grand Lodge of Pennsylvania OSIA, and his beloved Italian Social Club where he was a member, President, Dedicated Service/Honorary Lifetime Membership and DT Marone Award recipient for contributions to the West Chester Community. Joe spent his entire life in West Chester. This along with his dedication and service to his community earned him the name "Mr. Chester County" by many of his friends and family.

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Send your news to NIABA Administrator [Dana Robb](#). We will use items as space permits.



THE TAX IMPLICATIONS OF INHERITING PROPERTY IN ITALY

By Giuditta De Ricco

Anyone residing in the U.S. who inherits assets located in Italy will need to pay two types of taxes: estate and the transfer of property. In case the heir is unable to locate the property or unable to identify all properties entitled to the deceased, he may inquire with the Cadastral Office, in person or by appointing a representative, to obtain a cadastral certificate by searching under the testate's name. Once the assets have been identified, the taxes are then calculated based on those assets.

Estate tax applies to the entire net value of the estate. This includes movable and immovable assets. The rates will vary depending on the degree of kinship between the testate and his heirs, but the rates at a minimum are 4% to a maximum of 8%. Transfer to surviving parents, spouses, and children have an exemption of 1,000,000 euro for each beneficiary; however, the exemption decreases to 100,000 euro for transfers to siblings.

Property transfer tax relates to real property only. An additional 3% transfer tax is levied, with the tax calculated based on the cadastral property value or "valore catastale" in Italian. This statutory value is given to the property by

the government and is substantially less than the actual market price by about 30-40%.

Additionally, when the inherited assets are of real property, the heir will also need to consider the dues for the mortgage (*imposta ipotecaria*) and cadastral (*imposta catastale*) taxes. These taxes are respectively equivalent to 1-2% of the property value.

If there is a building within the estate that is not registered as a luxury property and will be used by the beneficiary as a "primary home," the mortgage and cadastral tax payments are fixed at 200 euro each. But to qualify for this relief, at least one of the heirs is required to physically live there and be listed on the public vital records (*Residenza Anagrafica*).

This ultimately allows other beneficiaries to benefit indirectly. For example, in case of an inheritance from a sibling, uncle, or aunt, the inheritance tax shall be 6%. However, each sibling would be entitled to claim an allowance of 100,000 euro, with no allowances of inheritance from the uncle or aunt.

A 3% property transfer tax then applies to any real estate, with the calculations based on the cadastral property value. To avoid this tax, one of the heirs will need to retain the inherited property as their primary residence.

Additional exception and reduction tips to keep in mind include:

- Certain assets, such as life insurance or Italian treasury bonds, are not subject to the inheritance estate tax.
- A beneficiary will have no obligation to file a "declaration of succession" with the Tax Office Agenzia delle Entrate or pay for inheritance tax if the inherited assets are not valued for more than 100,000 Euros; are not of real property or real property rights, and the inheritance transfers to a spouse, parents, or children.
- A disabled beneficiary's allowance increases from 1,000,000 euro to 1,500,000 euro.

A "declaration of succession" must be filed with the Tax Office by the heirs (by law or will), or by an appointed executor, within 12 months of the death of the property owner. The beneficiary will submit the following:

- The form for the declaration of succession
- An "F 24" bank form with the payment of taxes with receipt of the payments
- A cadastral certificate of the property(s) located in Italy
- Death certificate
- Authentic copy of the last will (if any)
- Civil status certificate of the testate and heirs
- Copies of passport ID pages of the testate and heirs

If the declaration is submitted after the deadline, there will be a penalty fee. Any documents coming from abroad must be duly legalized for use in Italy,

translated into Italian, and attested.

After registration is completed, the Tax Office will return the copies for transfer to the heirs, at which point they should be submitted to the Agenzia del Territorio within 30 days. The Tax Office will send copies of the inheritance declarations to the municipality where the property is located for real estate tax purposes.

Under Italian law (*art. 1292 civil code*), if there are multiple heirs then all are obligated to pay the full inheritance tax amount. But only one declaration is needed. However, if one of the heirs does not pay their share of the taxes, the Tax Office can request payment on the unpaid tax balance from all other heirs. In this situation, the heir will be entitled to recover the monies paid from other beneficiaries.

Within one year from the death of the testate, a declaration must be filed with the Tax Office based on the last known Italian residence of the decedent. If the location of residence is unknown or if the testate was not a resident of Italy, the declaration must be filed with Direzione Provinciale II di ROMA - Ufficio Territoriale ROMA 6 - EUR TORINO, in Via Canton 20 - CAP 00144 Roma.

For more detailed information on inheritance tax, forms to be used for the declaration of succession, or contact information, please visit the Tax Office [website](#).

NIABA MEMBERS: REGISTER NOW!



ROME, ITALY CLE SEPT 25-27 2017



NIABA Members throughout the USA and Italy are invited to attend a CLE program in Rome, Italy, on Monday-Wednesday, September 25-27, 2017. The program will feature two 2-hour lectures in English each day -- one from 10 a.m. to noon and the second from 4 to 6 p.m. Each

lecturer will be an attorney practicing in Italy who will provide an outline in advance to qualify the lecture for CLE credits if desired.

The following topics were selected to appeal to U.S. attorneys who have clients needing legal assistance in Italy:

1. Tax structures and loopholes in Italy.
2. Family law issues between Italy and the U.S. – case studies.
3. Emerging opportunities for lawyers.
4. Dual citizenship for Italian Americans.
5. How to navigate the Italian court system in litigation.
6. Italian heritage and Italian inheritance. How to deal with Italian probate proceeding.

The lectures will be held in the congress hall of a 4-star hotel. Following each afternoon session there will be a cash bar “meet and greet” for participants and companions. The contacts you make should be invaluable. The room price of the hotel will include breakfast for guests. Several programs and tours will be proposed to the participants who want to attend.

Terms of participation:

- 2017 NIABA dues must be paid in full
- Payment of the \$300 registration fee must be made to NIABA before June 1, 2017
- Hotel reservations should be made with the venue directly
- Airfare should be booked separately

Questions? Contact Valerio Spinaci,
NIABA VP for Italy, at valeriospinaci@gmail.com

Name _____

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Register online at www.niaba.org or
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2020 Pennsylvania Ave., NW • PMB 932
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YOUR TRIP TO ITALY: 10 ITEMS OF ADVICE

By Charles DiLorenzo
NIABA Treasurer

Whether you're planning to attend the NIABA CLE in Rome on September 25-27, 2017 (see page 6) or you're an American of Italian ancestry and dreaming about the trip of a lifetime, if you're experiencing international travel for the first time, the dreamer may stumble in planning a trip. Nonetheless, prove yourself and travel without a group tour. Here is some advice which may help you to have a more personal and rewarding trip:

Uno: Decide When to Travel

If you're planning a dream trip, the summer months of June thru August are the most popular and also the most expensive and uncomfortable. The best choices would be late spring or early fall. The ideal times are the two weeks before Memorial Day and the earlier weeks in October. The rest of the years can be problematic. For example, in November the sun sets at 5 p.m. in Italy and the early darkness shortens your travel day.

Due: Select Your Airfare and Dates of Travel

Search the Internet for a provider of discount tickets, such as Cheapoair or Tripadvisor. Some days of the week cost less: consider flying on Tuesday or Wednesday rather than Friday or Sunday. Generally a non-stop flight booked with an airline will cost \$1,200 round trip. Other flights may cost under \$600 round trip from JFK if you travel first to another European city and then a second flight to Italy. Importantly the two flight plan can be very

helpful if you want to avoid Milan or Rome and choose smaller cities as place of arrival and departure, such as Venice, Bologna, Naples, Bari, Palermo or Catania. You are best to take a flight from JFK to Munich or Frankfurt, Germany and then transfer. Pay extreme attention to lay over time between flights. One hour and 30 minutes is ideal.

Tre: Where to Go

As consequence of 50 years of advertising by Perillo tours, over 75% of the 40 million of persons who travel annually to Italy visit only 3 cities –Rome, Florence, and Venice. As a result, those cities are overwhelmed with tourists from around the world who want to tell friends at home that those cities were visited.

Best not to see them all in one trip. You'll need a few days in Rome for the NIABA CLE and after that, travel in Italy should be like a heart beat. Spend 2-3 days in large cities filled with museums and then insert a day of rest in a picturesque town such as Piacenza, Modena, Orvieto, Vicenza or Lucca, all of which are located on the main rail lines.

Quatro: Avoid Large Hotels

The staff of hotels with 50 or more rooms are mostly trained in Switzerland and do not interact with a traveler in any way. There is no voluntary action to help with suggestions or advice. Additionally, large hotels can cost 250-350 euro per night without breakfast.

Travel in Italy should be like a heart beat. Spend 2-3 days in large cities filled with museums and then insert a day of rest in a picturesque town.

If you want the benefit of the central location of a hotel, take advantage of the warmth and personal attention of a small family-run hotel with 10 or less rooms. The cost will be 100-125 euro per night and will include breakfast. Or search the Internet for bed and breakfast accommodations in the side streets of a city.

These offer clean room, private bath, and breakfast for two people, all for 80-100 euro per night. The owner is usually prepared to give good advice on the best sites, restaurants, and public transportation.

Cinque: Trains and Buses

When traveling between major cities, you may purchase all needed train tickets at the first train station, thus avoiding long lines at each station. Credit cards are accepted. Reservations for tickets on a super fast train (*freccia* means arrow) may be made in the USA at a discount using a credit card. Trains are faster and safer travel than cars. For example, the Frecciarosso between Florence and Rome covers 170 miles in 80 minutes, at an average speed of 128 mph – whereas auto travel will take three hours. In large cities, a single bus ticket costs about 1.3 euro per trip. It is better to buy a city transportation pass for 8-10 euro, which gives you unlimited travel on bus, metro, and trams for two days and avoids the delays and expenses of buying individual tickets for each trip.

Sei: Avoid Auto Rental and Its Hidden Problems

Driving: Country roads are scenic but usually just single lane roads. Italian drivers will often pull up to your trunk to encourage you to drive faster. When you do not respond, the car will pass you even when there is a solid line.

On an autostrada, the experience is different. A visiting driver is in constant danger when not driving in the slowest of three lanes. Passing cars will advance at speeds of 60 miles per hour or greater, simply by blinking the head lights and expecting you to move to the slower lane just as the passing car approaches. On an autostrada, when there is an accident they do not call the ambulance; it is more often the funeral director.

Parking tickets: Pay attention to "no parking" or limited parking signs to avoid a municipal ticket, which may cost 40 euro. A police ticket requires a personal appearance three days after the violation. Naturally, this situation becomes a big problem when your trip plan has you many miles away in three days.

Parking costs: Legal parking in municipal lots cost about 14 euro per day, even when parked in unattended municipal lots. The cost could equate to many gelati.

Sette: Two Nights Per City

Plan to stay at least two nights in each large city. Using a train or bus to travel between cities will consume the morning of the first day; and registering at the B&B or hotel will use up more time, as your expected

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By Valeria Granata

INVESTING IN THE U.S.

An Overview of the "E" Visa

Over the past few years, the number of Italian entrepreneurs who invested in the U.S. has grown significantly. While there are a wide variety of visas, the “E” visa is one of the best options, available to countries with a treaty of commerce with the US.

There are two types of E visa: the Treaty Trader Visa (E1) and Treaty Investor Visa (E2.) Both are non-immigrant visas, meaning that the trader or investor must have the intent to depart the U.S. upon expiration of the visa. The purpose of the E1 visa is to carry on substantial trade between the U.S. and the

Treaty Country, while the purpose of the E2 visa is to develop and direct the operations of a company in which the alien has either invested or is investing a substantial amount of capital. So, the E visas are not the appropriate choice if the potential investor is looking for a permanent residency in the States. In this case, the investor should opt for an immigrant visa, such as a green card.

It is highly unlikely that the trader or the investor will move to the U.S. without any employees. With the E visa, the investor’s employees will be able to receive an E1 or E2 status if they meet the qualifications required by law. Everyone in the world knows how important family is for Italians and, with the E visa, the spouse and unmarried children under age 21 of the traders, investors, or their

employees will be able to receive an E1 or an E2 to join them in the U.S. The spouses will be able to work upon approval of an Employee Authorization Card, while the children are only allowed to attend school in the U.S.

Both visas allow the trader or investor to remain in the States initially for two years, renewable or extendable depending on the satisfaction of the requirements of the E1 or E2. If the trader or investor is living outside the States, he or she will have to apply for an E1 or E2 visa to the U.S. Consulate in her country.

Usually, the E1 and the E2 visa involve either creating a new company in the U.S. or buying an existing one. Investors usually create corporations or Limited Liability Companies (LLCs) in order to do business under the E visa. Corporations are

complex entities, with several requirements and where shareholders and directors have certain obligations in terms of management. LLCs are usually less structured and perhaps more adequate for an initial investment in the U.S.

While considering opening a business, traders or investors usually travel to the U.S. in order to look for investment opportunities. In these cases, the most appropriate visa would be a B1/B2 status. It is important to know that neither traders nor investors may start to develop and direct a business while in the U.S. with a B1/B2 status, even if they are not receiving compensation for it.

Whether considering applying for an E1 or E2 visa, it is recommended to be counseled by an immigration attorney due to the complexity of the visas application process.

Travel, *continued from page 5*

arrival is usually 3 p.m. You will need all of the second day to visit the sites, churches, and museums – some of which are open only in the morning hours.

Otto: Limit Your Baggage

You will save time if you use only one wheeled carry-on bag to avoid checking your bag with the airline. You will save time when you arrive at passport inspection ahead of the other travelers. More importantly, you will be flexible in the cities to use public bus at 2 euro instead of a taxi at 25 euro.

Nove: Stay With a Consistent Meal Plan Each Day for Good Health

Search the Internet for ratings on local restaurants, trattoria, and pizzeria. You will be informed before you arrive about the costs, specialties, hours of opening, and day of closing. Try to avoid the places located on a main street or near a tourist sight. Better to find them on side streets which are frequented by locals. Enjoy your main meal of the day at lunchtime at restaurants or trattoria, between 1-3 p.m. when the choices are more abundant.

Reserve your evening meal for a pizzeria recommended by a local resident.

Diece: Acquire Euro Before Your Trip and Forget Your U.S. Dollars

Most US banks can provide euro for your use but be certain to order them a week before your travel departure date. You will be able to enjoy your first cup of Italian coffee and avoid the delay of money changers in the airport..

In Italy, use your debit card at the 24-hour money machines to replenish your euro. Usually

an ATM machine will allow up to 250 euro per transaction.

Bonus Advice

Try not to feel compelled to see all of Italy in one trip because it is not possible. Defer the visit to the family home town until your second trip to Italy because the experience will consume far more time than can be imagined. Learn to speak some Italian for your convenience and in memory of your ancestors.

WELCOME NEW NIABA MEMBERS

Welcome to the following members, who joined NIABA between September 7th and December 28.

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Affiliate Reports

Chicago Justinian Society of Lawyers

Our 2016-17 "Year of Generosity and Humility" is off to a great start. Thank you to all who attended the Annual Installation and Awards Dinner at the Palmer House on September 15th, including representatives from the NIABA Board of Directors. What an amazing night and event! Congratulations again to our honorees Antonio M. Romanucci and Vince Gerasole. Both gave humble yet wonderful speeches. Two fine examples of "generosity and humility" in their careers and everyday life!

On October 10th, members of the Justinian Society participated in the Columbus Day Parade. The Society once again had a float where some of our officers, past presidents, and student members rode and waved to the many people in attendance who lined State Street.

In keeping with the spirit of "generosity," on October 20th, we held the Justinian Society Endowment Fund Scholarship Dinner at Maggiano's Little Italy, where many attended despite the Chicago Cubs' playoffs game and a Bears' game that same night. We gave away \$31,500 in

Tampa Chapter



The Tampa Chapter of NIABA held a luncheon in October at member Ronald Christaldi's Tampa office. The program featured the Honorable E.J. Salcines, who enlightened us all about the culturally diverse history of our great city. Judge Salcines' presentation was the perfect way to celebrate our Italian Heritage Month!

scholarships and, by counting matching scholarships from the participating law schools, we ultimately had a total tuition benefit to scholarship recipients of \$51,750.00! Congratulations to all of the scholarship recipients (see photo below) and thank you to the scholarship committee and

to all of the generous donors that made this possible!

We also encourage all to attend the Joint Dinner Meeting on January 19th at the Estate by Gene & Georgetti's in Rosemont, IL. That is always a fun event where many of members from our joint

chapters in other counties, who cannot usually make it downtown to our monthly events, are able to attend and be with their fellow Justinians.

IABA Michigan

The Italian American Bar Association Michigan held a cooking class at Mirapoix Cooking School in October. The also celebrated their 85th year(!) in December, with their Annual Gala at the Grosse Pointe Yacht Club.

Wisconsin Justinian Society of Lawyers

The Wisconsin Chapter of the Justinian Society of Lawyers held our Annual Columbus Day Scholarship Banquet and Awards Dinner on October 14th at the historic Wisconsin Club in downtown Milwaukee. Besides awarding a scholarship to a deserving Marquette University Law student, our organization presented the following awards: Jurist of the Year to the Honorable Clare Fiorenza; Italian of the Year to attorney Craig Mastantuono, and Citizen of the Year to Major Jean Pyzyk.

The chapter will also be hosting our Thirteenth Annual Seminar in the Sand, a general practice legal symposium at the elegant Encore Hotel and Resort in Las Vegas, Nevada on April 27-30th. Lawyers and judges from throughout the U.S. attend; and our organization works with attorneys from states other than Wisconsin to obtain continuing legal education credits, three of which are ethics. For information, please contact Joseph G. Alioto at 414-771-7333.



Notes from the NIABA Office

Dues Are Due

NIABA membership fees for 2017 are now due. All members receive notification electronically. Even members who do not pay dues (student and first-year attorneys) must renew! You can also access your dues invoice just by logging into your account on our [website](#). Dues may be paid online with your credit

card, or by mail with a check in dollars or euros. At this time, we are not able to accept credit card payments by phone. Contact our [office](#) if you didn't receive your notice, need help logging in, or have any other questions. Just make sure you renew so that you don't miss any of your NIABA benefits!

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NIABA Brochures

An electronic version (PDF) of the NIABA membership brochure is available on our [website](#). We encourage you to share the brochure with anyone who might be interested in joining NIABA. For hard copies to distribute to your colleagues or group, please contact the NIABA [office](#).

* * * * *

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It's easy to show your NIABA affiliation on your firm's website or marketing materials. Contact the NIABA [office](#) and we will send you a file that is suitable for online or print use.



* * * * *

Reaching Out to Law Students

NIABA membership is free for law students and first-year attorneys. If you know of groups or events that we should reach out to, please contact the NIABA [office](#) and we will mail brochures to the organization you recommend.

* * * * *

How to Contact Us

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Show your NIABA pride with our oversize coffee mug and full-color lapel pin. The mug holds a generous 22 oz. and is perfect for coffee, tea, soup, or tortellini! The lapel pin is professional, attractive, and easy to read. Both are available on our [website](#) -- \$15 for the mug, \$6 for the pin, postage included -- or as our gift with a donation to the scholarship fund of \$100 or more.



CHOICE OF EVILS: THE DEFENSE OF NECESSITY

By Nicholas Ascione

On May 3, 2016, The Italian Supreme Court of Cassation ruled, "It is not a crime to steal food for those driven by hunger." Roman Ostriakov, a young homeless man from Ukraine, was in a supermarket in Genoa in 2011 when he was caught with wurtzel and cheese in his coat. The value of the stolen food items was approximately 4 euro. Before he could leave the store, he was apprehended. His initial sentence was for six months in jail with a fine of 100 euro.

Originally, the case was sent to appeal because Ostriakov had not left the store before he was caught and his attorneys claimed that the sentence should be reduced because this was "attempted theft," considered a lesser charge. Instead of reducing the sentence, the Court of Cassation overturned it completely and stated that Ostriakov did not commit a crime by stealing such a small amount of food when he had an immediate and desperate need for nourishment in order to survive.¹

Italian editor, Massimo Gramellini from *La Stampa*, said, "For the supreme judges, the right to survival has prevailed over the right to property... In America that would be blasphemy. And here as well, some conformists will talk about a legitimization of proletarian expropriation."²

Another commentator, Goffredo Buccini, said, "It seems like Dickens or Hugo: glimpses of the nineteenth

century where the weakest are ground in the gears of a ruthless society... The crisis is poverty, which in Italy now denies a decent daily meal to sixteen out of one hundred people each day. If Italian custom takes such great leaps backward towards infamy that we thought almost disappeared from our roads, like death by starvation under a bridge, the supreme court decision is reasonable."³

The idea that under certain circumstances certain crimes are permissible is not new. Humanity has been dealing with this issue for thousands of years. In the Old Testament, King Solomon and his son David discussed stealing food. He tried to show David that there is never a necessity for committing certain sins like adultery, but hunger is different.

In Proverbs it says, "People do not despise a thief if he steals to satisfy his hunger when he is starving. Yet if he is caught, he must pay sevenfold, though it costs him all the wealth of his house." It's apparent from these bible verses that the necessity defense for hunger has existed for thousands of years. However, what's different when compared to the Italian ruling is that King Solomon says it's justified but there are serious consequences.

In American legal context, the necessity defense can be best understood by examining the Model Penal Code. In addition to the three elements (avoiding a greater evil, no exception to the defense by code or

law, and no legislative exclusion) there is an additional requirement that the actor did not bring about the situation by his own recklessness or negligence.⁴

It would be interesting to see how the American courts would apply "recklessness or negligence" to a case like Ostriakov's. To use the defense in the U.S., Ostriakov would have needed to show he was not in that condition because of his own recklessness and negligence. For example, in a Colorado case similar to Ostriakov, we find that the necessity defense was not even permitted. "The defendant in the forgery trial was not entitled to a jury instruction on the choice of evils, or to use the theory as a general defense, even though the defendant's wife testified that he intended to use the money from the forged check to buy food for their children. The defendant also testified that the children had not eaten for more than 24 hours, and that three food banks had turned down his requests for food. Economic necessity could not support the choice of crime. The defendant did not show a causal link between the forgery and the harm sought to be prevented."⁵



The Court of Cassation ruling, the King Solomon reference in Proverbs, and the Colorado court decision are probably best contrasted with a heartwarming story thought to be more legend than truth. This is said to have happened during the Great Depression in New York City. In the middle of the Great Depression, New York City mayor Fiorello LaGuardia strived to live with the people. It was not unusual for him to ride with the firefighters, raid with the police, or take field trips with orphans.

On a bitterly cold night in January of 1935, the mayor turned up at a night court that served the poorest ward of the city. LaGuardia dismissed the judge for the evening and took over the bench himself. Within a few minutes, a tattered old woman was brought before him, charged with stealing a loaf of bread. She told the mayor that her daughter's husband had left, her daughter

continued on p. 13

was sick, and her two grandchildren were starving.

However, the shopkeeper, from whom the bread was stolen refused to drop the charges. "It's a real bad neighborhood, your Honor," the man told the mayor. "She's got to be punished to teach other people around here a lesson." LaGuardia sighed. He turned to the woman and said, "I've got to punish you. The law makes no exceptions. Ten dollars or ten days in jail." But even as he pronounced sentence, the mayor was already reaching into his pocket. He extracted a bill and tossed it into his famous hat, saying, "Here is the ten dollar fine which I now remit; and furthermore I am going to fine everyone in this courtroom fifty cents for living in a town where a person has to steal bread so that her grandchildren

can eat. Mr. Bailiff, collect the fines and give them to the defendant."

The following day, New York City newspapers reported that \$47.50 was turned over to a bewildered woman who had stolen a loaf of bread to feed her starving grandchildren. Fifty cents of that amount was contributed by the grocery store owner himself, while some seventy petty criminals, people with traffic violations, and New York City policemen – each of whom had just paid fifty cents for the privilege of doing so – gave the mayor a standing ovation.⁶

The woman in this story is not innocent and LaGuardia says she must be punished and pay 10 dollars or go to jail for 10 days. However, he holds himself and the community accountable. His statement,

"I am going to fine everyone in this courtroom fifty cents for living in a town where a person has to steal bread so that her grandchildren can eat," sends the message that we are to take care of our brothers and sisters in need and that things should not get to the point where one would need to steal to live.

As with any major ruling by the courts, only the passage of time will reveal what the implications of the Cassation ruling will mean for Italy. Furthermore, it begs the question of whether the decriminalization of stealing food will do anything to solve the greater problem of poverty and hunger in Italy. It is fair to say that King Solomon, mayor LaGuardia, and Massimo Gramellini would say that it does not.

Nicholas Ascione is a Senior Database Engineer at the University of Maryland University College and a part-time evening law student at the University of Baltimore.

* * * * *

¹ Corte di Cassazione, "Penale Sent. Sez. 5 Num. 18248" Anno 2016, <http://tinyurl.com/gtlwcdc>.

² Massimo Gramellini, La Stampa, 'Il diritto di avere fame' 5/03/2016, <http://tinyurl.com/hbs3qqe>.

³ Goffredo Buccini, Corriere Della Sera, 'Ha rubato per fame' 5/03/2016 <http://tinyurl.com/h9y3dvj>.

⁴ § 3.02. Justification Generally: Choice of Evils., Model Penal Code § 3.02.

⁵ People v. Fontes, 89 P.3d 484 (Colo. App. 2003).

⁶ Brennan Manning, *The Ragamuffin Gospel*, Multnomah, 1990, pp. 91-92.



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