

# Stim & Warmuth, P.C.

Thank you for your positive response to our first issue of the Stim & Warmuth Newsletter. We hope you enjoy this issue.

Joseph D. Stim  
Paula J. Warmuth



## Client's Rights

You may have seen the notice posted in our office entitled "Statement of Client's Rights." We were required to post this statement in a manner visible to you pursuant to a recently enacted court rule<sup>1</sup>. The statement contains 10 points dealing with such issues as courtesy, having telephone calls returned promptly and keeping you informed as to the status of your matter. The statement is supposed to be a guide to conducting an ideal attorney-client relationship. Hopefully our firm was already doing a good job in that regard. If you want a copy of the full statement, please let us know and we'll be happy to send it to you.

## Civility

Along with the Client's Rights, attorneys in New York have recently been provided with guidelines entitled "Standards of Civility"<sup>2</sup> to encourage us to observe principles of civility and decorum. Among other things, we must be courteous to opposing counsel, litigants and witnesses, we should cooperate to resolve litigation and we should respect

the schedule and commitments of opposing counsel. Our actions still must be consistent with the protection of your interests. However, if we adjourn your

**if we adjourn your matter or try to settle it, remember we are observing principles of civility . . .**

matter or try to settle it, remember we are observing principles of civility which the legal profession has long honored.

## Lien Rights

Many of you have asked us to file a mechanic's lien for you. Protect your lien rights by contacting us as soon as possible regarding the lien. That gives us time to research the information necessary to file the mechanic's lien. There are two types of mechanic's liens - private liens and public liens. A private lien must be filed within eight months from when the last item of work was performed by you or materials furnished by you<sup>3</sup>. If the improvement is a single family dwelling, then your lien must be filed within four months<sup>4</sup>. A public lien must be filed within thirty days after the completion of the public improvement and its acceptance by the public corporation<sup>5</sup>.

Often it is difficult to determine whether you should file a private lien or a public lien. For example, if you had to file a lien for work done on the Long Island Rail Road, first you have to know that the Long Island Rail Road is a subsidiary of the Metropolitan Transportation Authority<sup>6</sup>. Then you have to look at the Public Authorities Law which defines the

MTA as a "public benefit corporation"<sup>7</sup>. Then you have to look at the General Construction Law which includes a public benefit corporation in the definition of a "public corporation"<sup>8</sup>. Construction work done for a public corporation is considered to be work done in the construction of a public improvement<sup>9</sup>. As a consequence, a lien against the Long Island Rail Road is a public improvement lien.

Not all liens are that complicated but there usually is substantial work that we must do either to locate an accurate description of the real property for a private lien or to learn the details regarding the public improvement for a public lien. That is why you should give us as much time as possible to do an investigation so that we can timely file your lien.



## Recent Decision

**Stim & Warmuth** represented a Library Director in a civil rights action brought in the federal court by an unsuccessful candidate for the office of Library Trustee. The candidate claimed that his civil rights were violated when some library employees, during their break periods, after work or on their time off, handed out flyers on election day which endorsed the candidate's opponent. The candidate claimed that the Library Director violated his civil rights because the work schedule gave the library employees time off on election day which permitted them to electioneer. U.S. District Judge

Arthur D. Spatt granted the Library Director's motion to dismiss the complaint on the grounds that his actions described in the complaint did not violate any federal statute or constitutional provision<sup>10</sup>.

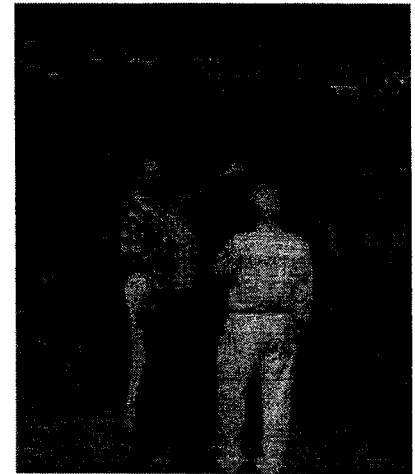
## Filing Payroll Records

Labor Law §220 requires that all contractors on a public works project pay their employees according to the prevailing wage. To enforce the prevailing wage requirements, Labor Law §220 was recently amended<sup>11</sup>. Contractors and subcontractors on public works projects must now submit a transcript of payroll records to the public owner every thirty days. The Governor stated that this bill will enable state and local governments to identify prevailing wage violations more quickly and to intervene prior to the project's completion when the chances for recoupment are best.

## American Returns

On August 15, 1944, our senior litigator, Joseph D. Stim, parachuted ten miles behind enemy lines in Southern France as a private with the 517th Parachute Combat Infantry Regiment. Fifty-four years later in October of 1998, he returned to Le Muy, France to be greeted by the curators of the Musée de la Libération. At the museum, the curators exhibited the army equipment, parachutes and memorabilia of the airborne invasion of Southern France. Among the exhibits were Joe's dog tags and silver parachute wings. At the museum, he was interviewed by a reporter for *Var-matin* and was photographed for the newspaper with the museum curators. The newspaper

published an article in the October 25, 1998 Sunday edition entitled "Retrouvailles américaines." Joe's picture appeared prominently in the article. After the visit to the museum, the curators took Joe to a hill overlooking the drop zone in which he landed during the invasion (pictured).



They were able to show him the highway to the coast which was one of the main objectives of his battalion as well as the village where the German artillery was located.

-----Footnotes-----

<sup>1</sup>22 NYCRR Part 1210.

<sup>2</sup>22 NYCRR Part 1200 App. A.

<sup>3</sup>Lien Law §10(1).

<sup>4</sup>*Id.*

<sup>5</sup>Lien Law §12.

<sup>6</sup>*People v. Long Island Railroad*, 90 Misc. 2d 269, 397 N.Y.S.2d 846 (1976), *aff'd*, 41 N.Y.2d 1039, 396 N.Y.S.2d 179 (1977).

<sup>7</sup>Public Authorities Law §1263(1)(a).

<sup>8</sup>General Construction Law §66(1).

<sup>9</sup>*Callanan Road Improv. Co. v. Arthur McMullen Co.*, 253 A.D. 424, 2 N.Y.S.2d 666 (1st Dept. 1938).

<sup>10</sup>*Slutsky v. Hughes*, CV 98-3485 (E.D.N.Y. November 2, 1998).

<sup>11</sup>Laws of 1997, ch. 565.

**Stim & Warmuth, P.C.**  
**83 Prospect Street**  
**Huntington, NY 11743**  
**516-673-6200 - telephone**  
**516-673-3533 - fax**