

On The Record . . .

Official Newsletter of BERTOLINO LLP

November 2021



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Our Firm

Tony R. Bertolino, Esq.
Managing Partner

Sheri L. Middlemas
Chief Operating Officer

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Senior Associate Attorney

Kerry J. Bloodsaw, Esq.
Associate Attorney

Penny Smith
Certified Paralegal

London de la Teja
Accounts Receivable Manager

Bruce Kingsley
Client Relations Coordinator

Melissa Caffery
Legal Assistant

Marcus Wennrich
Marketing Coordinator

Claire Crofford
Senior Law Clerk

Joe Gillespie-Hill
Senior Law Clerk

Team Bertolino Share Thankful Hearts this Holiday Season



TONY: In many ways, 2021 has been just as challenging of a year as 2020. But despite life's obstacles, there are still many things to be thankful for. For one, I am so thankful for my family's good health and blessings. This year my oldest daughter moved to Hawaii with her new husband and she is prospering despite living so far away from family. My son is completing his final year of study at the University of Texas at Austin while majoring in the Electrical Engineering program and he will likely graduate with honors. My youngest daughter is graduating in the top 10% of her high school class and is currently applying to some top universities in the country. Indeed, I have so much to be thankful for in 2021.

I am also very thankful for my second family: my Bertolino Law Firm family. I am thankful for being surrounded by an awesome team of compassionate and talented employees. And despite the challenges of a pandemic, my team has stayed the course and continued to remain 100% client-centered. Again, I have a lot to be thankful for in 2021.

I hope you and your family have much to be thankful for in 2021. On behalf of the Bertolino Law Firm, we hope you have a very Happy Thanksgiving!!!

KERRY: 2021 was a very exciting year both personally and professionally. During 2021, I had two hearings with the State Office of

Administrative Hearings and won both cases. I also received pre-litigation dismissals for several cases, after informal settlement conferences, allowing my clients to continue to practice in their desired fields. In March, my spouse returned home safely from a seven month deployment in the Middle East. The return came just 21 days prior to the birth of our first child, Gabriel Mark Bloodsaw, on April 3, 2021. Since his birth, he has brought us more joy than we ever thought possible.



FRANK : I am thankful that my family and myself have plenty of food to eat, and that I have time to volunteer at the

Central Texas Food Bank to provide food for our neighbors who aren't so fortunate.

LONDON: I love the word thankful. Just saying it, is a simple reminder of the wonderful things in life. I have so much to be thankful for. This past year was a big year for our family. We brought in a new baby boy to the world, and we are beyond thankful for him. I'm thankful for a loving and supportive family, lifelong friends and a job with employees that feel like home. I'm thankful each night for a bed I can lay my head on and a cup of coffee in the morning to tackle the day. I'm grateful for my health and the health of my loved ones around me. I'm thankful I'm here today to write how thankful I am! Wishing everyone a lifetime of reasons to be thankful!



PENNY : I am thankful for my family and friends, and for being able to provide and take care of my family. I am thankful for

being able to provide a safe and healthy environment for my son and husband. I am thankful for being able to volunteer for *Meals on Wheels* and assist the elderly. I am thankful for God and all his many blessings.

BRUCE: I am thankful for the forward progress and the blessings my family has received over the past year. In this crazy time of having to readjust how we interact and where we can go, my family has been blessed by the opportunity to become closer and see each other more than we have in the past 12 years.



My wife and I sold our home and moved into our forever home. Our daughters, who were living in New York, decided to move to Texas so we all could be closer and spend more time with each other. Our oldest daughter got married and had a beautiful baby girl (Zelda). Our son and his wife are expecting their third son in the beginning of next year. Another son graduated from high school and is now a freshman in college, and our youngest daughter is thriving as a student athlete in high school.

I am also thankful for my extended family at the Bertolino Law Firm. I know to the outside world we are a firm, but between the walls of the firm we consider ourselves a family. I am surrounded by the best people I have ever worked with since I left my career in the military and became a civilian. It has truly been a great year for family.



MARCUS: I am thankful for the possibility I had to take my now wife Shelley to Utah and get married in one of the most beautiful national parks in that area all while having a great work life balance. I am also thankful for my fellow volunteers at Team Rubicon that couldn't make it due to ongoing disaster response but still thought of me. And of course the team here at BERTOLINO LLP that made it easy to go on a road trip to get

married up there without being stressed about work.

MELISSA: I am grateful for the experience and talent of people I am surrounded with every day at BERTOLINO LLP. This has afforded me many skills and insights by example and I am able to apply this knowledge to various aspects of life.



This year I also gained perspective in what it means to maintain a cause with courage and determination through our clients. I am very thankful for the sacrifice and positive outlooks they present because it continues to shape who I am.



SHERI: This year has seen many changes, both at home and in the work place. An unprecedented freeze that shut our city down while bringing people together with the ultimate in giving of food, water, clothing and

shelter. Celebrations of family gained, the mourning of family lost. In some things a comforting reassurance and a returned sense of normalcy, while in others only a realization that what was once normal will never return. I am grateful for every moment and see each as a blessing, as they have collectively brought me to where I am right now. Cheers!



In this month of giving thanks, we would like to show our gratitude for Penny's strong work ethic and dedication to our clients, and celebrate her two year "workiversary" with the firm. Here are some fun facts about our Paralegal.



My nickname at work: I am not aware that I have one, I have been called Pen at other places that I have worked

My hobbies: Dancing, riding horses, and listening to Christian music

On the weekends and in my free time I am often: Reading, sleeping, spending time with my family, or catching up on my "Mommy To-Do List"

Number one on my bucket list: Obtain my law degree; travel to Rome and see the colosseum, Vatican, museums, and Sistine chapel

The best sweet or salty snack: Lone Star Bakery donuts or funnel cakes, and chocolate pretzels

Best movie ever: Pretty in Pink and The Shack

My favorite candy: Reece's Pieces

My favorite sports teams: Houston Texans and the Houston Astros

If I had a theme song that played every time I walk into the office it would be: "Find Me in the River" by the cast of I Still Believe

People say I look like: Alicia Silverstone

The best part of my job: Getting to work with amazing people and knowing that what I do makes a difference in someone's life

[Learn more about Penny here](#)



THE VETERANS DAY 5K



THE VETERANS DAY 5K



Click to register now for the 5th Annual Veteran's Day 5K to benefit the Marine CorpToys for Tots Program

We are just days away from the 5th annual Veteran's Day 5K. Whether you're a seasoned runner or you want to support a good cause, or perhaps both; sign up now for the Veteran's Day 5K on Saturday, November 13th from 7:00AM - 11:00AM. Bring a

donation or two for Toys for Tots, support local vendors, and enjoy a walk or run in beautiful Fritz Park. Free wine for all finishers over 21 years of age. Hope to see you out there!

Pictured left to right: Sheri Middlemas,
Derrick White, Bruce Kingsley



Hallmark Achievements



Texas Behavioral Health Executive Council v. CD

Facts: Our client was facing two complaints with the Council. In the first, it was alleged, that CD crossed ethical boundaries with his client by purchasing items from the client while he was treating him. It was further alleged that he did not properly terminate services or transfer services once CD was made aware that the client was no longer benefitting from the services.

The second complaint alleged that CD failed to report a report of child abuse by one of his clients.

Outcome: During an informal conference Bertolino LLP argued that CD did not fail to terminate services, nor did he fail to transfer services. We provided evidence that the client was benefiting from CD's treatment and that it was the client who failed to make his last two appointments. We argued that had the client reported for his last remaining sessions, CD would have properly terminated the client after the last session. CD testified that after this complaint he modified his administrative procedures for following up with clients and scheduling client appointments. He also apologized for purchasing the items from the client, but that the exchange of was client's idea, CD did not bring it up and he paid the price the client requested. Based on the above, the Council dismissed the complaint with a non-disciplinary letter requiring CD to complete 3 hours of continuing education.

Regarding the second complaint, Bertolino LLP argued that CD was not required to report the child abuse. Per the code, a professional is only required to report when he has "reasonable cause" to believe the abuse occurred. In this situation, we argued that CD did not have reasonable cause. He did not believe the report. He based such belief on witness statements, third party reports and his professional opinion of the credibility of the report. After argument, the Council dismissed the complaint.

Executive Council on Physical Therapy and Occupational Therapy Examiners v. JV

Facts: Our client, JV, faced allegations by the Executive Council on Physical Therapy and Occupational Therapy Examiners (the “Board”) that she billed a patient for services not provided. She was terminated from her position and reported to the Board. She was investigated under Section 454.301(a)(6) of the Texas Occupational Therapy Practice Act, which provides for the disciplining of a licensee found to have “practiced occupational therapy in a manner detrimental to the public health and welfare.” Section 374.2(4) of the Texas Occupational Therapy Board Rules defines detrimental practice, in part, as “intentionally making or filing a false or misleading report.”

Outcome: Bertolino LLP prepared a written response with exhibits attached to the Board which refuted the allegation that JV had deliberately padded her billing. On the date in question, JV was rushing to finish her billing so that she could leave for the day because she had a terrible headache. She had intended to double-check her billing the next day, but a complaint was issued against her by a co-worker and her facility had locked her out of the billing system and then terminated her for improper billing. The response pointed out to the Board that, in order to discipline JV for violating Texas Occupations Code Section 454.301(a)(6) and Section 374.2(4) of the Texas Occupational Therapy Board Rules, the Board must prove that she was “intentionally making or filing a false or misleading report.” Based on the attached evidence, JV’s mistake in billing was unintentional because of her stress and health issues and her desire to rush through billing in order to leave work. She clearly had the intent to double-check her billing the next day, but was unable to do so because she was locked out due to the investigation by her employer. The Board issued a suspension, but Bertolino LLP was able to negotiate that it occur during JV’s paid time off.

Client Survey: Your Opinion Matters

Bertolino LLP strives to be a 100% client-centered law firm. Running a client-centered law firm means putting our clients at the center of our thinking. This goes beyond the legal deliverables the Firm will provide: Being client-centered means truly putting ourselves in our client’s shoes and looking at the experience of hiring an attorney and going through a legal matter from our client's point of view.

Each month, we will pose a quick, client-focused survey in this section of our newsletter. We asked our clients to please assist us by taking this survey, as your feedback is essential

Thanksgiving Edition: Help us settle this once and for all. What do you call it?

Stuffing

Select

Dressing

Select

Don't care, pass the potatoes

Select

in our on-going efforts to deliver an amazing client experience.

-Sheri L. Middlemas,
Chief Operating Officer



Side Bar ...

Let Our Lives Be Full of Both Thanks and Giving



Once again, Bertolino Law Firm has teamed up with SAFE Alliance to sponsor a family in need during the holiday season.

Last year, thanks to the generous contributions from our incredible team, we were able to provide every gift item on the family's "wish list" ... and then some.

The SAFE Alliance is a merger of Austin Children's Shelter and SafePlace, both long-standing and respected human service agencies in Austin serving the survivors of child abuse, sexual assault and exploitation, and domestic violence.

Pictured above: Sheri Middlemas, COO, prepares the 2020 donations for delivery to SAFE Alliance and our sponsored family.

[Contact Us](#)

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