

Jerry Capeci

Gang Land News

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This Week in Gang Land

July 12, 2018

By Jerry Capeci

Wiseguy's Wife Pulled A Fast One On Granddaughter: Cyber Sleuth Says JoJo Cacace's Will Is A Fraud



The Colombo crime family has always enjoyed a good old-fashioned swindle. But this one is much too close to home: An internationally renowned expert has stated that a will allegedly signed by Joel (JoJo)

Cacace Jr., son of Colombo family *consigliere* Joel (Joe Waverly) Cacace, who died of a sudden heart attack at age 44 is a fraud, Gang Land has learned.



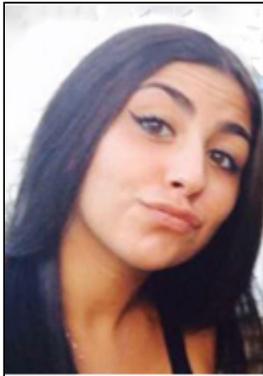
In a sworn affidavit, John B. Minor, an expert in wireless and digital technology, states that Cacace could not have signed the document presented as his last will and testament by an attorney who claims the instrument was executed at her Great Neck, Long Island office a few months before Cacace's sudden death.

Minor, who specializes in cellphone tracking, also states that JoJo's old pal James (Jimmy Jack) Jackson, whose signature is also on the will, could not have been anywhere near Great Neck on October 7, 2014, the date the will was allegedly signed in the office of lawyer Erica Yitzhak.

The fight over the will has split the Cacace clan right down the middle — the same way Joe Waverly's Colombo crime family has been split by civil wars throughout its existence.

On one side is Joe Waverly's granddaughter Dina Marie, 21, who is contesting [the will](#) in court. On the other is her grandma Vita Rose, 76, who is given sole control of her late son's assets until 2028 when she will be 87, and when Dina Marie will be 31. At stake are holdings worth more than \$1million.

In a June 26 court filing, Dina's lawyer, James Mermigis, alleges that virtually the rest of the Cacace family took part in preparing and filing a fraudulent will for probate. In addition to Minor's compelling analysis and report, the lawyer's evidence includes court records, text messages between JoJo Cacace and Jackson on the 2014 day in question, and a tape recorded talk between JoJo's sister and Dina Marie's mom.

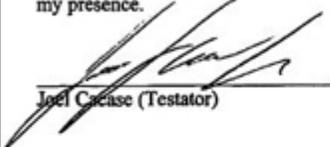
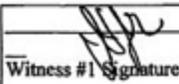
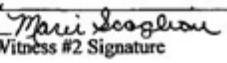


Dina Marie Cacace G L

Even before the experts weighed in, there was much to suspect that a clumsy scheme was afoot:

For one thing, JoJo Cacace's name is spelled wrong in the will, the kind of mistake most people don't make when they are drawing up important documents. For another, the date on the will was initially typed as four months after Cacace Jr. died. It was then crossed out and penciled in as October 7, 2014. It also contains a poison pill provision called an *In Terrorem Clause* that gives Dina nothing if she contests the suspicious-looking document — and loses. For those unfamiliar with such language, the phrase is the Latin version of the gangster credo: *Do this or else*.

Ironically, the only family member other than Dina Marie who is not implicated in what Mermigis states is a forged will is JoJo's father, [Joe Waverly](#). He's been behind bars since 2003 and has two more years to serve for four murders, including the bizarre mistaken-identity slaying of a retired 78 year-old lawyer who was killed by underlings he assigned to whack the lawyer's son, a former prosecutor.

<p>IN WITNESS WHEREOF, I have signed my names on this the May^{Oct} day of May^{Oct}, 2014, at Great Neck, New York, declaring and publishing this instrument as my Last Will, in the presence of the undersigned witnesses, who witnessed and subscribed this Last Will at my request, and in my presence.</p> <p> Joel Cacace (Testator)</p>	
<p>SIGNED AND DECLARED by Joel Cacace on the May^{Oct} day of May^{Oct}, 2014 to be their Last Will, in my presence, at Great Neck, New York, who at his request, in their presence and in the presence of each other, all being present at the same time, have signed my names as witnesses.</p>	
<p> Witness #1 Signature</p>	<p> Witness #2 Signature</p>
<p>Witness #1 Name (Please Print) James Jackson</p>	<p>Witness #2 Name (Please Print) Marie Scaglione</p>

In his court filing, Mermigis accuses the 77-year-old mobster's son Steven, his daughter Susan Giambertone, and their mom, Vita Rose Cacace, of trying to take JoJo Cacace's assets from his only heir — his daughter Dina. Vita Rose filed the "will" for probate in February of 2015, six weeks after her son died on [New Year's Day](#). At the time of her dad's fatal heart attack, Dina was 17 and living with him at his Deer Park, L.I. home, one of three properties [in his estate](#), with a total estimated value of about \$1.5 million.

"Dina Marie has not received any money since her father died and has seen the estate dwindle" during the last three years, wrote Mermigis, alleging that the estate's account, which includes rental income, is currently "over \$250,000 short."

Stating that Dina's evidence supports her "claim of forgery" and "fraud" by her father's relatives, his friend Jimmy Jack, and attorney Yitzhak, Mermigis has asked Suffolk County Surrogate Judge John Czygier to block Vita Rose's efforts to probate the will, to toss the *In Terrorem Clause* and give Dina whatever further relief that seems "just and proper."

In arguing that the will is "a forged writing," Mermigis claims that there is even a bogus look and feel to [the will](#). He noted that its "paper differs in shade, weight or age in some pages" and that the will contains "corrections in text, cross-outs in texts, additions in text, missing or replaced pages, (and) misspelled names."



Steven Cacace G L

But the bulk of his 53-page brief focuses on three separate pieces of evidence about the events of the day that the suspect will was allegedly signed. On that date Yitzhak was in court handling a separate case, he states. He also cites text messages between JoJo and Jimmy Jack that same day, and a taped talk between Dina Marie's mom and JoJo's sister about the alleged will signing.

"It is simply not possible" that the "alleged will ceremony" involving JoJo Cacace and James Jackson took place in lawyer Yitzhak's office "in Great Neck, New York on October 7, 2014," the lawyer wrote.

Mermigis wrote that on January 26, 2015, three weeks before Vita Rose filed the alleged will, her daughter Susan Giambertone, told Dina's mother, Laura Meyer, "the lawyer met JoJo in the parking lot and had JoJo sign it in front of her." The conversation was a heated tape-recorded talk in which Giambertone badmouthed her dead brother when Meyer stated that JoJo never told her about a will.

Mermigis wrote that Giambertone's remarks that "the alleged will was signed in a parking lot" puts a crimp in Yitzhak's claim that the will was executed in her office. The lawyer argues that Giambertone's intimate involvement with the alleged will — she was with Vita Rose during "the initial reading of the alleged will in early January" and she spoke to Jackson the morning that he was deposed in the case — is admissible to counter the claim that the will is a valid document.



VitaRose Cacace & Son Joel

Like all the data on JoJo Cacace's phone, wrote Mermigis, the telling text messages had been deleted when Cacace's brother Steven gave the phone to Dina Marie after her father passed away. But she took "her dad's cell phone to the Apple store" and the deleted text messages were restored, Mermigis wrote.

In recovered texts, JoJo speaks from the grave: On October 6, Jackson alerts JoJo that "she (lawyer Yitzhak) is looking to meet tomorrow morning at 9:20 in Islip," to which JoJo agrees, "K." At 8 AM the next morning, Jackson's first text reads, "Good morning. Will be by you at 8:50." Until he died on New Year's Day of 2015, Cacace never mentioned in any text — or in a conversation with Dina Marie or her mom — that he was using Yitzhak to draw up a will.



Laura Meyer G L

Official Suffolk County Supreme Court records state that on the morning of October 7, 2014, Yitzhak attended a court session at the Central Islip courthouse before Judge William Kent, Mermigis wrote. In her deposition, Yitzhak conceded that she met Jackson and Cacace in Central Islip one day, but she testified she couldn't recall when, or whether she or an associate handled the court session before Judge Kent on October 7.

"If they were allegedly going to her office for an alleged will signing, why bother to meet at Islip at 9:20 am on the same day as the alleged will signing?" Mermigis asked in his filing with Judge Czygier.

Vita Rose's lawyer, Edwin Black, who is slated to answer that question next week, and respond to several other points in Mermigis's brief, did not return a call from

Gang Land about the case.

Dina Marie's main argument that the will is an abject fraud is the finding by Minor, who stated forcefully in his detailed 25-page report that "there is no way possible that" JoJo Cacace or Jimmy Jack were in Great Neck, LI, on October 7, 2014.

Minor, who was recognized last year as an expert on wireless technology by a federal appeals court that upheld a \$30 million verdict against Sprint, wrote that the closest that Cacace or Jackson got to Great Neck that day was 14 miles away, and that "90% of the call traffic was located no nearer than 18 miles from Great Neck."



Dina Marie Cacace & Grandpa

Minor, who has testified as an expert more than 50 times, in civil and criminal cases, on both sides of the aisle, wrote that he based his finding on an analysis of 25 calls that Cacace made or received on his cell phone and 20 that Jackson made or received on three cell phones he used that day.

After examining the "origination" of each call, and analyzing all the cell sites that Verizon Wireless operates in 16 towns and villages that the calls went through, Minor found there was "no likelihood that radio frequency signals from any of the cell sites . . . could propagate into the Great Neck, NY vicinity."

"It is my expert opinion," Minor concluded, "that there is no way possible that James Jackson could have witnessed a will on October 7, 2014 in Great Neck, NY and no way possible that Joel 'JoJo' Cacace could have executed a will in Great Neck, NY on October 7, 2014."



Erica Yitzhak G L

Those were Minor's final words on the matter.

But Mermigis had a few points he wanted to make about attorney Yitzhak, who drafted the alleged will and testified that it was duly executed in her office on October 7, 2014 — in light of all the evidence he had submitted that proved that never happened.

He told Czygier that Yitzhak has been charged with fraud, forging a deed, and legal malpractice in three state court civil cases in Brooklyn and Nassau County between 2014 and 2016. And in a 2013 case, Mermigis wrote, Central Islip Federal Judge Leonard Wexler told Yitzhak that he was "putting on the record" that a "federal judge found your conduct disgusting" and that "you violated everything a lawyer should have done in a case."

Because of "her history of bad acts," Mermigis wrote, the evidence submitted by Minor that JoJo Cacace and James Jackson "could not have been in Great Neck, NY on October 7, 2014" greatly outweighs "any credibility she may have as a witness."

Chin's Son Agrees To Put Off Trial And Pay The Freight For Another Year

Vincent Esposito, the son of the late Mafia boss, Vincent (Chin) Gigante has decided to put off his pending trial until next year and continue shelling out a cool million bucks a year to pay for an armed guard in front of his Upper East Side

home so he can live there with his mom instead of that vermin-ridden federal lockup a few miles down the FDR Drive.

Esposito had agreed to a September face-off with his stool pigeon nephew [Vincent Fyfe](#) — a union leader who claims his Uncle Vincent's been shaking him down for years. Esposito's rush to get to trial was partly predicated on saving some money on those hefty armed guard bills. But he's had an apparent change of heart and has agreed to continue paying the high cost of his pre-trial freedom until next June — if necessary.



Vincent Esposito G L

He may not be happy about the added costs, but along with his four codefendants, Esposito agreed at a June 22 session before Manhattan Federal Judge Victor Marrero to a motion by federal prosecutors Jason Swergold and Jared Lenow to postpone trial for a year. The prosecutors had stated back in April that they weren't happy with the scheduled September trial date.

[Esposito](#) and his codefendants are now slated to appear for a September status conference to iron out any disputes between the prosecution and defense team — there are always disputes about something — and prepare to go to trial on June 17, 2019.



Vincent Fyfe

The Oddfather's son, however, is still hoping to off-load some of his security costs before then.

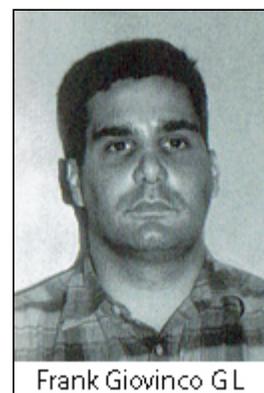
On October 1, a few days after their September conference, Esposito's appeals lawyer, Marc Fernich is slated to square off with prosecutor Swergold before a Second Circuit Court of Appeals panel over Fernich's contention that the [armed guard](#) provisions should be eliminated.

Fernich contends that Marrero's ruling that forces Esposito to pay for armed guards to keep him from absconding is tantamount to "pretrial detention" that "constitutes a contradiction in logic" and is "a flagrant abuse of discretion that cannot stand." Marrero had initially stated that detention was not needed in Esposito's case and Fernich claims that the judge's decision ordering Esposito to pay for the guards was a "legal mistake" that should be reversed.

The attorney seems to feel pretty confident of success before the appeals panel.

Yesterday, noting that on May 1, the court had granted a motion he filed seeking an expedited appeal, Fernich asked the court to push the oral arguments ahead to mid or early August, when both he and Swergold will be available.

Then again, there's also the matter of the \$85,000 a month that his client is paying for the [armed guards](#). As Fernich wrote, while Esposito isn't behind bars these days he is "suffering ongoing injury from a bail restriction said to be excessive and unwarranted."



Frank Giovinco G L

And while on the subject of expenses, an Esposito codefendant, Genovese soldier Frank Giovinco doesn't have to worry any longer about paying lawyers' fees, which soured him with his last attorney in the case, who begged off, after telling the judge that the wiseguy skunked him for his fee.

According to the docket sheet, the public is paying Giovinco's legal fees. He is now represented by court-appointed attorney Aaron Goldsmith.

Meanwhile, Esposito's nephew Vincent Fyfe, who owes the job he got 18 years ago as President of Local 2D of the United Food & Commercial Workers to grandpa Chin Gigante, continues to earn his \$300,000 annual salary as union president.

Fyfe is biding his time in hopes that his Uncle Vinny will decide to cop a plea, rather than have Fyfe make good on his pledge to the feds to finger his uncle from the witness stand as an extortionist. That's the kind of thing his late grandfather just might decide to come back and haunt him about.

Maybe He Should Now Be Called *Benny The Fade*



Mob associate Battista (Benny the Blade) Geritano spent the past year [roaring at the judge](#), scorning his own lawyers, and generally making courtroom mayhem as he contested charges that he had threatened the attorney who defended him at his trial for a 2012 Brooklyn barroom stabbing — and two other lawyers as well.

But last week the 45-year-old Geritano meekly agreed to plead guilty to sending a threatening letter to his trial lawyer Al Brackley. The proposed plea deal confirms that Geritano's angry temper tantrums didn't help his cause much: Last year Benny rejected a plea deal with sentencing guidelines of 63-to-78 months. His new deal will keep him in prison even longer: The guidelines call for a recommended prison term between 70 and 87 months in return for an agreement that prosecutors would drop a second extortion charge against him.

Since Brooklyn Federal Court Judge [Sterling Johnson](#) — who endured The Blade's many tirades — is on vacation this week, his guilty plea was scheduled to take place today before Magistrate Judge Steven Gold.

But nothing involving the impulsive, some might say hot headed, mob associate is as cut and dried as it appears.

On Tuesday, Geritano's most recent attorney, Jeremy Iandolo, notified the court that his client declined to enter a guilty plea before a magistrate judge, and the session was canceled. But at press time yesterday, the guilty plea was back on the calendar for today, scheduled to take place before Brooklyn Federal Court Judge Ann Donnelly.



It remains to be seen what will happen today, but according to the plea deal that Iandolo worked out with prosecutors Lindsay Gerdes and Matthew Jacobs, the upside for Benny is that he can seek a prison term below the recommended one, and ask Judge Johnson, who is slated to impose sentence, to make the prison term concurrent to the 12 year term he got for the stabbing.

The downside is that prosecutors can — and likely will — cite many allegations of violence that have been lodged against Benny The Blade over the years and ask Johnson, whom Geritano has already accused of being biased and prejudiced against him, of imposing a longer prison stretch than the maximum recommended term of 87 months.

The latest chapter in the Benny The Blade saga that began last year when he was arrested by the feds and refused to enter a plea when he was brought to court, is slated to play out this morning before Judge Donnelly. Unless it doesn't.

Iandolo did not respond to Gang Land calls to inquire about his client's intentions. That may be a smart move. His prior lawyer, the mild-mannered veteran [Walter Mack](#), always stoutly [defended his client](#) regardless of how zany his antics. Not that it helped. Geritano denounced Mack in court and ultimately fired him.



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