



Committee: Directly to Council
Staff: Judy Rupp, Clerk of the Council
Purpose: To confirm CE appointment
Keywords:

AGENDA ITEM #5
October 18, 2022
Action

SUBJECT

To interview and approve the appointment of County Attorney in the Office of the County Attorney: John Markovs, Esq.

EXPECTED ATTENDEES

Mr. John Markovs, Esq.

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

None.

DESCRIPTION/ISSUE

John Markovs, Esq. was appointed as Acting County Attorney in the Office of the County Attorney on January 28, 2022. Section 1A-105(g) of the Montgomery County Code requires Council approval for an acting official to serve in this capacity for more than six months. On June 7, 2022, the County Executive requested that the County Council approve the extension of this appointment until January 28, 2023, due to the upcoming election.

On September 26, 2022, the County Executive requested that the County Council approve Mr. Makovs for the position of County Attorney for Montgomery County Government.

SUMMARY OF KEY DISCUSSION POINTS

Not applicable.

This report contains:

Memorandum and appointment documents from
County Executive for the County Attorney.
Mr. Markovs resume
Draft resolution

© 1
© 2-9
© 10

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OFFICE OF THE COUNTY EXECUTIVE

Marc Elrich
County Executive

CONFIDENTIAL MEMORANDUM

September 26, 2022

TO: Gabe Albornoz, President
Montgomery County Council

FROM: Marc Elrich, Montgomery County Executive

RE: Recruitment of County Attorney

John Markovs is the candidate for the position of County Attorney for Montgomery County Government. The salary for this position is \$236,000, plus benefits. This information is being provided to you as a courtesy and for your information. Mr. Markov's resume is also attached. The final appointment documentation will be provided for your review shortly.

Enclosure

cc: Judy Rupp, Clerk of the Council, Montgomery County Council
Richard S. Madaleno, Chief Administrative Officer, Office of the County Executive
Fariba Kassiri, Deputy Chief Administrative Officer, Office of the County Executive
Ken Hartman, Director of Strategic Partnerships, Office of the County Executive
Dale Tibbitts, Special Assistant to the County Executive, Office of the County Executive

JOHN P. MARKOV, ESQUIRE

101 Monroe Street, 3rd Floor
Rockville, Maryland 20850

EXPERIENCE

**ACTING COUNTY ATTORNEY
DEPUTY COUNTY ATTORNEY
OFFICE OF THE COUNTY ATTORNEY
MONTGOMERY COUNTY, MARYLAND**

**JANUARY 2022 - PRESENT
JUNE 2012 - JANUARY 2022**

ROCKVILLE, MARYLAND

Provide legal advice to elected and appointed officials and represent the County in high profile negotiations, litigation, and other matters. Manage an annual budget of 10M, directly supervise six Division Chiefs, IT Manager, Administrative Specialists, and oversee the legal work of 52 lawyers and 26 support personnel. Lead trial counsel in the successful defense of the County's decisions to restrict development in the Ten Mile Creek and Patuxent River watersheds. Lead trial counsel in the Silver Spring Transit Center case that resulted in a recovering 25M for the County. Led the County's investigation of theft by the former COO of the County's Department of Economic Development and recovered 2.5M. Worked closely with State and Federal authorities to achieve the criminal conviction of the former COO. Manage outside counsel assigned to represent members of the Self-Insurance Fund. Oversee all the County's affirmative litigation, including the lawsuits filed against the opioid manufacturers and distributors, vaping companies for deceptive trade practices targeting youths, and several national banks for their predatory racial lending practices.

**ASSOCIATE COUNTY ATTORNEY
OFFICE OF THE COUNTY ATTORNEY
MONTGOMERY COUNTY, MARYLAND**

**JANUARY 2007 - MAY 2012
ROCKVILLE, MARYLAND**

Served as lead counsel for the County's construction projects. Represented the Department of General Services and the Department of Transportation in construction projects and related procurements, contracts, surety, insurance, and litigation matters. Drafted solicitations, contracts, bonds, and change directives. Conducted litigation and administrative hearings involving contract disputes. Enforced the County's Prevailing Wage Law to protect the rights of employees of contractors and subcontractors to have their jobs properly classified and to receive the correct compensation for their labor.

Represented the County in negotiations with contractors, sureties, real estate developers, Maryland-National Capital Park & Planning Commission, Washington Metropolitan Area Transit Authority, Maryland Department of General Services, Federal Highway Administration, Maryland State Highway Administration, Maryland Department of Transportation, and other State and Federal authorities.

As lead trial counsel, successfully defended the County in a 100M lawsuit filed by a developer that was not selected for the Site II project in the East County (White Oak).

McMILLAN METRO, P.C.

MARCH 1998 - JANUARY 2007
ROCKVILLE, MARYLAND

Shareholder and led the firm's litigation practice group in providing complex corporate, commercial, construction, real estate, employment, and bankruptcy litigation services to individuals, and to regional and national companies. Responsibilities included conducting discovery, motions, trials, and appeals in the State and Federal courts of Maryland, Virginia, and the District of Columbia. Also represented clients in mediations, arbitrations, and administrative proceedings.

Served as vice-president of the firm. Management duties included those typically associated with operating a law firm, including recruiting, hiring, disciplining, and terminating employees. Reviewed and implemented firm wide fringe benefits. Financial responsibilities included preparing the firm's annual budget and monthly bills to clients, preparing and implementing the firm's business plan and negotiating contracts with third-party vendors.

ADAMS, PORTER & RADIGAN, LTD.

DECEMBER 1992 - MARCH 1998
MCLEAN, VIRGINIA

Joined firm in 1992 as an associate and became a shareholder in 1997. Represented clients in corporate, commercial, employment, fiduciary, real estate, trust and estate, and bankruptcy litigation in the State and Federal courts of Maryland, Virginia, and the District of Columbia. Conducted numerous depositions, motions, trials, and other evidentiary hearings.

SULLIVAN, LEWIN, HILL & MARKHAM

SEPTEMBER 1991 - MAY 1992
SAN DIEGO, CALIFORNIA

Participated in the firm's commercial and bankruptcy litigation practice group in the representation of trustees, creditors, creditors' committees and debtors in Chapter 11 and Chapter 7 bankruptcy proceedings in Federal Bankruptcy Court. Represented Chapter 7 trustees in the prosecution of adversary proceedings and claim objections.

FOSSETT & BRUGGER, CHARTERED

JANUARY 1989 - JULY 1991
SEABROOK, MARYLAND

Participated in all aspects of the firm's practice that included real estate development, commercial, and contract litigation. Performed as second chair in the successful trial of a case of first impression in 1990 involving a class action against more than 800 homeowners and lenders to remove restrictive covenants. Actively participated in the case from original consideration through its appeal to the Maryland Court of Special Appeals. Represented clients in matters involving creditors' rights, land acquisition, financing, and development, State and Federal condemnation defense, construction, and mechanics' lien litigation.

**SUMMARY OF LEGAL AND BUSINESS EXPERIENCE
GOVERNMENT/PRIVATE LAW PRACTICE****Commercial, Corporate, and Bankruptcy Litigation**

Significant first chair trial experience in representing corporations, partnerships, limited liability companies, financial institutions, and individuals in disputes that involve contracts, loans, leases, the Uniform Commercial Code, loan workouts, debt restructuring, and other business matters. Prosecuted and defended breach of fiduciary duty, dissolution, and receivership claims against directors, partners, and members of limited liability companies. Represented clients in cases involving conversion, defamation, tortious interference with contracts, tortious interference with prospective economic advantage, and other intentional torts asserted by and against businesses and their owners. Pursued the enforcement of creditor's rights against debtors and collateral, including actions to avoid fraudulent transfers of assets, and implementing post-judgment collection remedies. Provided clients with comprehensive advice regarding asset protection and wealth preservation strategies.

Advised clients in all aspects of Chapter 7, 11, and 13 bankruptcy cases. Provided pre-bankruptcy planning for clients. Handled Chapter 11 cases from filing through plan confirmation, motions for relief from the automatic stay, motions regarding the use of cash collateral, motions for assumption or rejection of leases and objections to disclosure statements and confirmation of plans. Represented clients in actions to avoid liens, objections to claims and trials in adversary proceedings involving fraudulent conveyances and preferential transfers of assets.

Employment Law and Litigation

Lead trial counsel in the prosecution and defense of employment claims brought under Federal, State, and local laws and regulations. Represented employers and employees in actions involving Title VII of the Civil Rights Act of 1964, Age Discrimination in Employment Act (ADEA), Americans with Disabilities Act (ADA), Civil Rights Act of 1866 (Section 1981 actions), Pregnancy Discrimination Act (PDA), Equal Pay Act (EPA), Fair Labor Standards Act (FLSA), Family Medical Leave Act (FMLA), Health Insurance Portability and Accountability Act of 1996 (HIPAA), Older Workers Benefits Protection Act (OWBPA), Electronic Communications Privacy Act (ECPA), Employee Polygraph Protection Act (EPPA), Employee Retirement Income and Security Act (ERISA), and other actions filed under Federal, State, and local employment laws and regulations.

Advised employers and employees regarding common law employment claims, which included breach of contract, wrongful termination, retaliation, negligent hiring, defamation, invasion of privacy, and intentional infliction of emotional distress. Counseled employers regarding compliance with the various employment laws and regulations to reduce their exposure to employment claims. Conducted in-house claims avoidance training for employers' managers and human resource personnel. Assisted employers in drafting and implementing employment agreements, handbooks, policies and procedures, severance agreements, and releases.

Significant trial and negotiation experience in aggressively representing employers and employees in prosecuting or defending actions to enforce employment agreements and restrictive covenants for non-competition, non-solicitation, trade secrets, and the theft of intellectual property.

Real Estate Development and Construction Litigation

Provided comprehensive litigation services to real estate developers, builders, and individuals in disputes involving real property financing, acquisition and development, construction claims, construction defect claims, real property title issues, commercial and residential leases, mechanics' liens, foreclosures, loan workouts, and debt restructuring. Negotiated agreements for the financing, acquisition and development of real property and settlement agreements for real estate and construction related litigation.

EDUCATION

JURIS DOCTOR

WASHINGTON COLLEGE OF LAW - AMERICAN UNIVERSITY

MAY 1989

WASHINGTON, D.C.

Managing Editor, Administrative Law Journal of American University

Dean's Fellow for Professor Barlow D. Burke, 1988-1989

Vice Magister, Phi Delta Phi Legal Fraternity, 1987-1988

BACHELOR OF ARTS, POLITICAL SCIENCE, CUM LAUDE

STATE UNIVERSITY OF NEW YORK AT ALBANY

MAY 1986

ALBANY, NEW YORK

Thesis: *The Deregulation of Natural Gas, 1977-78, A Public Policy Dilemma*

Received University's Presidential Award for the outstanding undergraduate Thesis in Political Science

Member of Pi Sigma Alpha, National Political Science Honor Society

BAR AND COURT ADMISSIONS

Maryland Bar, Virginia Bar, District of Columbia Bar, Pennsylvania Bar, U.S. District Court for the District of Maryland, U.S. Bankruptcy Court for the District of Maryland, U.S. District Court for the Eastern District of Virginia, U.S. Bankruptcy Court for the Eastern District of Virginia, U.S. District Court for the Western District of Virginia, U.S. Bankruptcy Court for the Western District of Virginia, U.S. District Court for the District of Columbia, U.S. Court of Appeals for the Fourth Circuit, U.S. Court of Appeals for the District of Columbia, and U.S. Supreme Court.

PROFESSIONAL ASSOCIATIONS

Member of the American Bar Association (Sections on Litigation and Construction Law), Maryland State Bar Association (Litigation Section Council 2007-2018 and Chair 2014-2015; State and Local Government Law Section; Construction Law Section), Virginia State Bar, District of Columbia Bar, Pennsylvania Bar, Northern Virginia Bankruptcy Bar Association (President, 1999-2000; Board of Directors, 1994-2007). Barrister in the Congressman Walter C. Chandler American Inn of Court, 1999-2002. Barrister in the Montgomery County American Inn of Court, 2006-2010.

ADDITIONAL PROFESSIONAL LICENSE

Licensed Maryland Real Estate Broker (2018 - Present)

TEACHING POSITIONS

Adjunct Professor, University of Maryland Francis King Carey School of Law
Written and Oral Advocacy and Lawyering II (Trial Advocacy Classes), 2008 - Present

HONORS AND AWARDS

National Association of Counties (NACo) Achievement Award
2014 Award for negotiating land sales and acquisitions to support the County's Smart Growth Initiative and for legal work in the acquisition, design, and construction of six new facilities

AV Rated by Martindale Hubbell

Super Lawyers since 2007

FREQUENT LECTURER - LITIGATION, CONSTRUCTION AND BUSINESS LAW ISSUES**Representative programs:**

Case Study: The Perfect Storm: A Case Study of Violated Trust, Internal Control Weaknesses & Avarice, Association of Inspectors General, DC Chapter-Winter 2020 Training Session, January 28, 2020, District of Columbia

Case Study: The Perfect Storm: A Case Study of Violated Trust, Internal Control Weaknesses & Avarice, Association of Inspectors General - Fall 2019 Training Conference, September 27, 2019, Palm Beach County, Florida

CMAA's Standards of Practice and Global Trends in Construction Disputes, September 23, 2019, Construction Management Association of America, Orlando, Florida

The Battle of Construction Contracts – Team USA v. Team Canada, October 15, 2017, International Municipal Lawyers Association, Annual Conference, Niagara Falls, Ontario, Canada

What the Owner Wants: Claims Avoidance by the CM, October 9, 2017, Construction Management Association of America (CMAA), National Conference and Trade Show, Washington, DC

IMLA Drafting Initiative – Horizontal Construction Contracts for Local Government, September 29, 2016, International Municipal Lawyers Association, Annual Conference, San Diego, California

IMLA Drafting Initiative - A Model Design Build Contract for Local Government, October 5, 2015 International Municipal Lawyers Association, Annual Conference, Las Vegas, Nevada

2015 TKI Buildings Line Best Practices Conference, April 17, 2015, ARCADIS N.V., Gaylord National Resort & Convention Center, National Harbor, Maryland

IMLA Drafting Initiative - A Model Construction Contract for Local Government, September 12, 2014, International Municipal Lawyers Association, Annual Conference, Baltimore Maryland

Protecting the Public Owner When Drafting Design and Construction Contracts - Success Through Risk Allocation, April 24, 2014, Massachusetts Municipal Lawyers Association, Foxborough, Massachusetts

Drafting Design and Construction Contracts for Public Projects-Success Through Risk Allocation, November 22, 2013, Iowa Municipal Attorneys Association, Des Moines, Iowa

IMLA Drafting Initiative - Recommended Modifications to the AIA A201 General Conditions of Construction Contract, September 30, 2013, International Municipal Lawyers Association, Annual Conference, San Francisco, California

Owner's Guide to Surviving the AIA A201, September 20, 2013, Michigan Association of Municipal Attorneys, Detroit Michigan

IMLA Drafting Initiative – Group Discussion Regarding the Effective Terms, Conditions, and Forms to Use in Construction Contracts for Public Projects, October 22, 2012, International Municipal Lawyers Association, Annual Conference, Austin, Texas

Your Construction Project is at Death's Door! Practical Strategies to Avoid a Date with the Devil, September 12, 2011, International Municipal Lawyers Association, Annual Conference, Chicago, Illinois

Surfing the E-Discovery Tsunami - An E-Discovery Surfer's Guide to Avoiding Reefs and Wipeouts in Construction and Civil Litigation, October 18-21, 2009, International Municipal Lawyers Association, Annual Conference, Miami, Florida

Construction Projects in Uncertain Times - What You Should Do if the Project is Sailing into Uncharted Waters! March 1-3, 2009, International Municipal Lawyers Association, Construction Law Conference, San Diego, California

Risk Allocation in Construction Contracts, October 10-12, 2008, International Municipal Lawyers Association, Annual Conference, Las Vegas, Nevada

2008 State and Local Government Institute - Sureties and Letters of Credit, May 9, 2008, Maryland Institute for Continuing Professional Education of Lawyers, Inc., Columbia, Maryland

Construction Law and Claims for the Municipal Lawyer, January 7-8, 2008, International Municipal Lawyers Association, Construction Law Conference, St. Augustine, Florida

Sureties and Letters of Credit, October 29, 2007, International Municipal Lawyers Association, Annual Conference, Nashville, Tennessee

Personal Bankruptcy, Fair Credit, Debt Collection and Other Issues, September 6, 2006, National Telecommunications Cooperative Association, Annual Conference, Nashville, Tennessee

Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), November 14, 2005, National Telecommunications Cooperative Association, Tucson, Arizona
Construction Defects and Litigation Seminar, June 26, 2002, Maryland-National Capital Building Industry Association, Clarksville, Maryland

Protecting a Company's Intellectual Property and Human Capital, July 17, 2001, Anne Arundel County High Tech Council, Anne Arundel County, Maryland

CLE Program Post-Judgment Collection Efforts - The Last Attack in Debtor/Creditor Warfare, June 10, 1999, George Mason University Law School

Resolution: _____
Introduced: _____
Adopted: _____

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: County Council

Subject: County Executive's Appointment of County Attorney

The County Council for Montgomery County, Maryland approves the following resolution:

The County Executive's appointment of County Attorney

John Markovs

The appointment of Mr. Markovs is confirmed by the County Council.

This is a correct copy of Council action:

Judy Rupp
Clerk of the Council