

# NYWBA

## NEW YORK WOMEN'S BAR ASSOCIATION

WOMEN'S BAR ASSN. OF THE STATE OF NEW YORK

### *Annual WBASNY Convention – June 6-8, 2014*

featuring installation of NYWBA Director & Past Officer

**Amy Saltzman**

as a **WBASNY Vice President** and

Presentation of WBASNY's **Marilyn Menge Award**  
to long-time NYWBA Director & WBASNY Founder

**Hon. Phyllis Gangel-Jacob**

(See announcements, pp. 3 & 6 and at [www.wbasny.org](http://www.wbasny.org))

NEW YORK WOMEN'S BAR ASSOCIATION and  
NEW YORK CITY BAR ASSN. Committees on Law Student  
Perspectives, Sex and the Law, and Women in the Profession

present the 19th Annual Summer Program

### ***"What It's REALLY Like to Practice Law as a Woman"***

Our annual "Summer Program" is open to law students, law school graduates, junior attorneys and legal recruiters. Hear an extraordinary panel of attorneys share their experiences in government, large firms, small firms, non-profit organizations and in-house law departments and discuss the issues that significantly affect women lawyers entering the profession.

**Date:** Tuesday, July 15, 2014  
**Time:** 6:00-7:30 p.m. – Program  
7:30-9:00 p.m. – Networking Reception  
**Place:** New York City Bar, 42 West 44th St., NYC  
**Cost:** No Charge  
**Sponsors:** Law firms and other employers are asked to consider making a \$500 (Platinum) or \$250 (Gold) donation to help defray event costs. Sponsors will be acknowledged at the event, on our website, and in the Newsletter.)  
**RSVP:** Go to [www.nywba.org/SummerProgram/](http://www.nywba.org/SummerProgram/) for speakers names and to RSVP  
**Info:** Email [SummerProgram@nywba.org](mailto:SummerProgram@nywba.org) for more information or to make a donation to support the program.

## PRESIDENT'S MESSAGE

### *Serving our Members*

JUNE 2014



Yacine Barry-Wun

It is such an honor to take the helm as President of the New York Women's Bar Association as of June 1, 2014, after having attended our amazing Award Dinner on May 8. When asked during the "Q&A" portion of our Award Dinner last month to give career advice to new attorneys, the **Honorable Sonia Sotomayor**, Associate Justice of the U.S. Supreme Court, highly recommended joining the NYWBA, an organization of which she is a long-time member. We could not have hoped for a better testament to the importance of the Association.

Justice Sotomayor also spoke of the key role women have played and still play in her world, and celebrated the bond of sisterhood in both her personal and professional life. (See article about the Award Dinner on p. 4, along with photos from the event on pages 4-10.)

As I embark on the humbling and thrilling journey to lead this prestigious Association, I reflect on how immensely grateful I am to the women in my life. Upon relocating to New York City in 2006, I joined the NYWBA on the advice of then Director, and now past President **Hon. Lisa A. Sokoloff**. I can candidly say that following this advice opened up a world of opportunities for me as I rose through the organization's ranks, starting out by planning CLE programs, becoming CLE Coordinator, and going on to serve as a Director, and then as an Officer in the positions of Recording Secretary, and more recently Vice President. For the past two years, I also served as Liaison to the NYWBA Committee Chairs on behalf of immediate Past President **Hon. Jacqueline W. Silberman**.

As a young and new attorney to New York City, these roles helped me build a strong professional network, and I learned leadership skills and the critical aspects of running an organization. I was blessed with the guidance of NYWBA leaders every step of the way. Equally important as these profession-

(Continued on Page 2)

### Announcements & Calendar of Upcoming Events (See also "Committee News" on p. 3)

- 6/2 – CLE – ABC's of Probate and Administration – p. 2
  - 6/4 – M&F – Post-Judgment Blues – p. 15
- 6/6-6/8 – WBASNY Annual Convention – pp. 1 & 15
  - 6/12 – SNL – Basics of Matrimonial Practice – p. 2
  - 6/26 – CLE – Mastering the Art of Deposition – p. 12
- 7/15 – "What It's Really Like to Practice Law as a Woman" – p. 1
- 7/24 – NAWL's 2014 Annual Meeting & Awards Lunch – p. 13
- 7/29 – WNBA's NY Liberty vs. Washington – p. 13

Check [www.nywba.org](http://www.nywba.org) for more Meetings, Programs & Events.

# President's Message (Continued from Page 1)

al contacts, I have made are the friendships I have developed with so many members and colleagues.

Assessing where we stand on advancing the status of women in the profession, I still fondly recall the time when the NYWBA sent me in 2009 to attend an international conference on gender and justice in Washington, D.C. I remember how I naively thought we need not worry as much about gender parity – after all, I work closely in the Civil Court of the City of New York with so many women judges and women attorneys. The conference opened my eyes to the strides yet to be made to achieve having more women in leadership positions – whether as partners in law firms, as tenured full professors and deans in U.S. law schools, in corporations and government offices, or in the higher levels of the Court system. In New York State, we have seen a growing number of women Justices serving on the Appellate Term and the Appellate Divisions of the Supreme Court, but this progress has varied widely in the different departments.

While progress has been made in gender equality, a wider representation of women in the higher echelons of our profession and heightened awareness of subtle forms of gender discrimination are still necessary. This is particularly relevant now in light of our changing legal employment market, which has adversely impacted new lawyers, minorities, and women. We need to be more aware and focused on

ways to provide support to underrepresented groups in the profession. To echo Justice Sotomayor's address at our Award Dinner, there is still an urgent need to mentor young women lawyers to achieve their professional goals and to foster the kind of change necessary to make this a truly equal society. I couldn't agree more with our honoree.

On the subject of highly accomplished leaders, Hon. Jacqueline W. Silbermann has completed two distinguished terms as President, and she has left us an Association with thriving Committees, soaring membership numbers, and free CLE programs for all members. I know I have big shoes to fill, but fortunately, I will have alongside me a talented and dedicated team of Officers, Directors, and Committee Chairs, as well as our distinguished Advisory Council – consisting of Past Presidents and members who served on our Board of Directors for more than 15 years. I shall rely on these past, current and future leaders as I take on the challenges of the office of President.

The Association was founded in 1934 and incorporated in 1935, so in 2014-2015 we will be celebrating our 80th anniversary! On September 30, we will kick off our anniversary celebrations at an Installation Dinner, where we will officially induct our 2014-2015 Officers, Directors and Delegates (see announcement on p. 10). The anniversary year will culminate with our 2015 Annual Dinner, and we will

have several other celebratory events and articles throughout the year.

In the meantime, we will continue our mission to serve all of our members and develop CLE programs to provide substantive training as well as tools to prepare lawyers -- whether new or experienced, from small, medium or large firms, from the nonprofit, corporate, or judicial world -- to face the challenges and changes in our profession, and hopefully also to achieve a better work-life balance.

Speaking of nurturing and mentoring new attorneys, I am thrilled that we will again hold our annual "Summer Program" on **"What It's REALLY Like to Practice Law as a Woman"** on July 15, 2014. Congratulations to Chairs Cassandra Porter and Victoria Turchetti and to the entire Summer Program Committee. (See announcement, p. 1.)

Let us continue working together as part of the NYWBA, which has created a natural environment where women support women, act as sounding boards, provide each other referrals and where there is a sense of a shared community. In this challenging and evolving legal world, this is ever so important.

*Yacine*

## Students & New Lawyers Committee Speaker Series

presents

### "Basics of Matrimonial Practice and More"

featuring special guest

**Jennifer P. Brown, Esq.,**

*Principal of law firm with over a decade of experience*

**When:** Thursday, June 12, 2014, 6:00 p.m. (Due to building security, no admission after 6:30 p.m.)

**Where:** Blank Rome LLP, The Chrysler Building, 405 Lexington Avenue, NYC (Host: Morgan M. Fraser)

**Cost:** FREE for members\*

**RSVP:** Email [SNLChairs@nywba.org](mailto:SNLChairs@nywba.org) with your name and contact info. Space is limited, so register by June 11.

\* If you are not a current NYWBA member, join or renew using our secure online membership form at [www.nywba.org/Membership](http://www.nywba.org/Membership).

## NYWBA's Trusts and Estates Committee presents "ABC's of Probate and Administration"

Many times lawyers find that the Surrogate's Court rejects papers submitted in Probate and Administration Proceedings. In this program, three distinguished practitioners – NYWBA Trusts & Estates Committee Co-Chairs **Leona Beane**, **Deborah G. Rosenthal**, and **Loretta A. Ippolito** – will provide guidance based on their expertise and experience to help you learn to craft your submissions to ensure acceptance by the Court.

**Date:** Monday, June 2, 2014

**Time:** 6:15 - 8:30 p.m.

**Place:** Paul Weiss Rifkind & Garrison, LLP  
1285 Avenue of the Americas, NYC (btw 51/52nd St.)

**CLE:** 2.0 Skill Credits\* (Accreditation Pending)

**Cost:** Free - NYWBA/WBASNY Members\*\*  
\$50 - Non-members\*\*\*

**RSVP:** Send your name and contact information to [TEChairs@nywba.org](mailto:TEChairs@nywba.org) (If you have to cancel, please let us know so we can make room for others!)

\***CLE:** NYWBA is a founding chapter of the Women's Bar Assn of the State of New York, an accredited CLE provider. Approval of CLE credit is in accordance with the requirements of the NYS CLE Board for the above-listed credit hours for established attorneys and as transitional credit hours for newly admitted attorneys..

\*\***Membership:** Members attend NYWBA CLE programs for free. If you are not a member, go to [www.nywba.org/Membership](http://www.nywba.org/Membership) to join or renew using our secure online membership form.

\*\*\***Financial Hardship Scholarship:** Full and partial scholarships based on financial need are available. For info on the guidelines and to apply, contact CLE Chair Amy. B. Goldsmith at [CLE@nywba.org](mailto:CLE@nywba.org) or 212-216-1135. All requests are confidential.

## COMMITTEE NEWS

- The **Civil Courts Committee** is meeting **June 11** from 1:00-2:00 pm at the Civil Court House, 111 Centre Street, 12th Floor boardroom (White Street entrance). The meeting is open for committee members and all who are interested in joining. Please RSVP to [CivilCourtsChairs@nywba.org](mailto:CivilCourtsChairs@nywba.org).
- The **Criminal Law Committee** is meeting **June 16** at The Hoffinger Firm. Email [fhoffinger@hoffingerlaw.com](mailto:fhoffinger@hoffingerlaw.com) for more information.
- If you would like to join the **Diversity Committee**, send an email to [DiversityChairs@nywba.org](mailto:DiversityChairs@nywba.org), with a copy to [ED@nywba.org](mailto:ED@nywba.org).
- The Events Committee presents - **"An Evening of Elegance and Enchantment with American Ballet Theater Featuring ABT's Company Premier of Frederic Ashton's CINDERELLA on June 12, 7:30 p.m.** For more info or to RSVP send an email with your name, contact info and number of requested tickets to [EventsRSVP@nywba.org](mailto:EventsRSVP@nywba.org).
- **International Human Rights Committee** meetings are being scheduled for the third Wednesday of every month going forward. For details, email [IntlChairs@nywba.org](mailto:IntlChairs@nywba.org).
- The **Litigation Committee** will present a CLE entitled **"Mastering the Art of Deposition: Deposition Techniques for Lay and Expert Witnesses"** on **June 26**. (See notice, p. 12).
- The **Matrimonial & Family Law Committee** presents the CLE **"What to do about the Post-Judgment Blues"** on **June 4**. (See notice, p. 15). The event is currently closed but email [MFRsvp@nywba.org](mailto:MFRsvp@nywba.org) to be put on the waitlist. NOTE: The Committee is looking for a venue that can seat more than 50 attendees at its programs. If you or your firm have (or know of) such a venue, contact [MFRsvp@nywba.org](mailto:MFRsvp@nywba.org).
- The **Reproductive Rights & Women's Health Committee** plans to meet on **June 3, July 1 and Aug. 5** at Blank Rome, 405 Lexington Ave, NYC. For details and to RSVP, email [ReproductiveRights@nywba.org](mailto:ReproductiveRights@nywba.org).
- The **Students & New Lawyers Committee Speaker Series** continues on **June 12** with **"Basics of Matrimonial Practice and More"** by **Jennifer P. Brown, Esq.** (see notice, p. 2). For details and more info, email [SNLChairs@nywba.org](mailto:SNLChairs@nywba.org). The **Summer Program** is on **July 15** (see notice, p. 1).
- The **Summer Program Committee's "What It's REALLY Like to Practice Law as a Woman,"** is scheduled for **July 15**. For more info or to join the committee, email [SummerProgram@nywba.org](mailto:SummerProgram@nywba.org). Go to [www.nywba.org/SummerProgram](http://www.nywba.org/SummerProgram) to RSVP.
- The **Trusts and Estates Committee** will present a CLE entitled **"ABC's of Probate and Administration"** on **June 2**. (See notice, p. 2).
- The **Working Parents Committee** will hold its monthly brown bag lunch meeting on **June 20** at 12:30 p.m. (Location TBD). Email [WPChairs@nywba.org](mailto:WPChairs@nywba.org) for more info.

### OTHER EVENTS

NYWBA & WNBA invite you to **Breast Health Awareness Night at MSG**. NY Liberty vs. Washington Mystics on **July 29, 2014**. (See announcement on p. 13.)

## WELCOME NEW MEMBERS

Jennifer L. Achilles  
Luma S. Al-Shihib  
Casey J. Blumenstein  
Kirsten K. Brodsky  
Fiona M. Dutta  
Veronica N. Dunlap  
Hillary Ann Frommer  
Sophia Garcia  
Danielle George  
Rebecca T. Goldberg  
Rebecca R. Gross  
Allison S. Haltmaier

Tatiana R. Kroma  
Sara R. Litman  
Monica J. Mananzan  
Lindsay A. Miller  
Fiordaliza A. Rodriguez  
Laura C. Ruiz  
Regina Shulimovich  
Yi Stewart  
Noreen P. Travers  
Kristin N. York  
Nadia F. Zaidi

## Ethical Risks with Social Media

By Jamie L. Sinclair

Have you ever considered whether you might be breaching an ethical obligation to your client by "geo tagging" your latest Instagram post? A recent article published by the American Bar Association posits that such a seemingly innocuous act could land an attorney in serious ethical trouble.<sup>1</sup> Additionally, with the continued influx of millennials into the legal workplace, these types of social-media based ethical concerns are only going to grow. According to a study released by the Pew Research Center, "a solid majority of technology experts and stakeholders said the Millennial generation will lead society into a new world of personal disclosure and information-sharing using new media."<sup>2</sup> The millennials comprise a generation very comfortable and familiar with sharing every tidbit of their lives with the online world; consequently, they often fail to recognize, or consider, potential ethical pitfalls resulting from merely clicking a "send," "upload," or "like" button.

No one disputes that attorneys are ethically permitted to market themselves on social media platforms: social media use by attorneys has skyrocketed in the last five years alone, and it is here to stay. The issue, rather, is figuring out exactly how ethics rules apply to these online interactions. Unfortunately, the rate at which technology changes always outpaces the issuance of relevant ethics opinions. As one attorney phrased it, "We're using rules designed for oral and print communication and now applying them to another space where the rules don't always quite fit."<sup>3</sup> Nevertheless, some general lessons have emerged with respect to attorney marketing via social media channels.<sup>4</sup>

### Social Media and Marketing Activities

For the most part, ethical rules governing attorney advertising focus on the message, rather than the medium; thus, ethics rules generally target the content and purpose of the communication, whether it be in print, online, or otherwise.<sup>5</sup> Accordingly, the content, social media profiles and posts may constitute legal advertising or solicitation, and as such, would be subject to rules 7.1 through 7.5 of the New York Rules of Professional Conduct (the "Rules"). Rule 1.0(a) defines an "Advertisement" as:

any public or private communication made by or on behalf of a lawyer or law firm about that lawyer or law firm's services, the primary purpose of which is for the retention of the lawyer or law firm. It does not include communications to existing clients or other lawyers.

The central element of an attorney advertisement is that the primary purpose must be to obtain new clients. Thus, lawyers who interact with the public online or share general information about the law or their practice areas are less likely to violate advertising rules than those who promote their services on social media.

In particular, New York attorneys should be aware of myriad issues, identified below, when using social media for marketing or advertising purposes.<sup>6</sup>

### False or Misleading Statements:

Rule 7.1(a)(1) states that lawyers may not engage in advertising that "contains statements or claims that are false, deceptive or misleading." Even if a lawyer's social media posting does not constitute advertising, however, it still may not contain false or misleading statements, under Rule 8.4(c). According to a 2010 ethics opinion issued by the ABA, attorney websites (and social media profiles) must comply with the ABA rules prohibiting false and misleading statements.

### Listing of Specialties:

Rule 7.4 states that lawyers may not declare themselves "specialists" unless they have obtained a certification as such

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## NYWBA's 2014 Award Dinner: A Celebration Like None Other!

*By Kelly D. Schneid*

On May 8, 2014, the New York Women's Bar Association held an award dinner at the elegant Marriott Marquis in Times Square.

The event began with a cocktail hour, where hundreds of NYWBA members and friends enjoyed delicious hors d'oeuvres and networked with fellow attorneys. After transitioning to the ballroom, attendees were overwhelmingly eager for the main event: the opportunity to hear from our keynote speaker, **Hon. Sonia M. Sotomayor**, Associate Justice of the United States Supreme Court, a truly remarkable woman and attorney.

Director **Dawn M. Cardi, Esq.** delivered remarks, beginning with a story about when she first met the Supreme Court Justice. Ms. Cardi recounted that before trying her first criminal case, she was incredibly nervous about being a woman in a male-dominated arena. Ms. Cardi noted that when she entered the criminal court room at 80 Centre Street in Manhattan, she felt reassured when seeing, to her surprise, that both the prosecutor (Justice Sotomayor) and the judge were women. Through this trial, Ms. Cardi developed a deep respect for Justice Sotomayor. This admiration blossomed into friendship as the two women realized they were both lucky enough to have extraordinary role models, their mothers, each of whom worked tirelessly to ensure their children had a good education and all the tools necessary to succeed.

Ms. Cardi candidly spoke with the audience, noting that people often ask her what Justice Sotomayor is really like. Ms. Cardi commented that, in all honesty, she is a hardworking individual who genuinely loves the law. Ms. Cardi jovially stated that the only difference between Justice Sotomayor pre- and post-appointment, is that now while relaxing at the beach she reads slip opinions. Ms. Cardi expressed the sincerest mix

of sadness and joy when announcing that as a result of Justice Sotomayor's appointment, "I have no choice but to share her with the world."

On that poignant note, Justice Sotomayor took the stage. The Supreme Court Justice spoke largely about "the power of sisterhood," recognizing the importance of female support in both a personal and professional capacity. She explained that early in her legal career she did not have many female mentors, since women rarely held positions of power. In fact, she only had one female professor when she attended college at Princeton University. Further, there were only two tenured female professors and no women in the administration when she attended Yale Law School. Justice Sotomayor realized the importance of sisterly support when she was first promoted to partner at Pavia & Harcourt, and the only other female partner at the firm made a point to attend her partnership nomination meeting even though she was undergoing cancer treatment at the time. Justice Sotomayor recognized that such support among women is especially important where, even today, women face an upward battle in the legal field (e.g., lateral hiring favors men; men continue to receive greater credit for rainmaking, etc.).

Justice Sotomayor further recounted her delight when the United States President nominated her to the Supreme Court, noting that Justice Ginsburg even broke protocol, welcoming her to the bench and sending her a lace collar, even before the Senate confirmed her nomination. Hon. Sotomayor retorted, half in jest, "Sandra [Day O'Connor] and Ruth [Bader Ginsburg] did a great job of breaking in their male colleagues."

Justice Sotomayor then walked around the ballroom floor, weaving between tables, to take questions from the audience. When answering questions, she often emphasized that one's background and past experiences play a central role in the opinions we hold and the choices we make. She stressed to listeners that her legal work in private practice, the state government, and the judiciary opened her eyes to the "kinks" in the system and allowed her to bring a different perspective to the U.S. Supreme Court. She posed the rhetorical question, "if you don't know to look for something, then how are you ever going to see it?"



Throughout the night, attendees witnessed firsthand Justice Sotomayor's dedication and passion for the law. It was clear from her engaging speech and her warm demeanor that she prioritizes legal progress, equality, and camaraderie. The event concluded with remarks by **President Hon. Jacqueline W. Silberman**, who presented the **NYWBA President's Special Award** to Justice Sotomayor in recognition of her extraordinary service. Justice Silberman also acknowledged **President-Elect Yacine Barry-Wun** and encouraged everyone to attend the NYWBA's **Installation Dinner** in September, when all of the incoming officers and directors will be inducted (see notice, p. 10). This was truly a memorable event for all in attendance.

NYWBA thanks the 2014 Annual Award Dinner Committee, especially Co-Chairs **Jo Ann Douglas** and **Jennifer P. Brown**; Executive Director **Karen Lu** and her team; and all of the others who worked tirelessly to make the event an incredible success!

*Kelly D. Schneid is an attorney at Windels Marx Lane & Mittendorf LLP and serves as NYWBA Newsletter Committee Chair.*



**Additional Award Dinner photos will be posted on our website shortly [www.nywba.org](http://www.nywba.org)**



















*Additional Award Dinner photos will be posted on our website -- [www.nywba.org](http://www.nywba.org)*



### *Save The Date!*

**The New York Women's Bar Association**  
invites you to join us for our

### ***2014 Installation Dinner***

**Yacine Barry-Wun** will be installed as 2014-2015 NYWBA President, and the Officers and Directors will be installed for the upcoming year in their respective offices.

**Date:** Tuesday, September 30, 2014

**Time:** 6:00 p.m. - Cocktails and Silent Auction to benefit the New York Women's Bar Association Foundation and its Hon. Betty Ellerin Fellowship  
7:30 p.m. - Dinner and Program

**Place:** **Golden Unicorn Restaurant**  
18 East Broadway, NYC

**RSVP:** Details to follow soon on website.

**NYWBA Journal - Place your ad or tribute!**

For questions about the Journal, please email  
***Journal@nywba.org***.

### **NYWBA Silent Auction**

For questions about the Silent Auction to benefit the New York Women's Bar Association Foundation and the Hon. Betty Weinberg Ellerin Fellowship, or to make contributions to the Auction, contact the Auction chairs at ***Auction@nywba.org***.

### **NYWBA Dinner Sponsorship**

Sponsors for the Installation Dinner are welcomed and needed.  
Please email ***DinnerSponsorship@nywba.org***.

## NYWBA Matrimonial & Family Law Committee "Supervised Visitation—Does it Help?" By Justine A. Stringer

On April 2, 2014 at Blank Rome, LLP, the NYWBA Matrimonial & Family Law Committee had the privilege of a very insightful and interesting panel discussion led by the Honorable Justice **Deborah A. Kaplan** of the New York Supreme Court, **Bettina Thomsen, LMSW**, Assistant Director of Comprehensive Family Services (CFS) and **Virginia A. LoPreto, Esq.**, of the Law Office of Virginia LoPreto, and Co-Chair of the Matrimonial & Family Law Committee.

Ms. LoPreto began the discussion by introducing the panelists and giving a brief background on supervised visitation in New York courts. She noted that supervised visitation started in the early 1980's and has been a growing business ever since. While once viewed as a negative mark on a parent, today supervised visitation is seen in a more favorable light, given the breadth of issues it is able to address. Additionally, supervised visitation has evolved over the years with therapeutic visitation becoming a growing trend. Therapeutic visitation expands the role of a supervisor from an observing bystander into an active participant in the parent-child interaction in the hopes of facilitating a restoration and reconciliation of an estranged relationship between parent and child.

Hon. Deborah A. Kaplan has been sitting in Matrimonial Part 20 of the New York Supreme Court for the last five years. Justice Kaplan noted that in the cases where she has ordered supervised visitation, she hopes that the supervision will only be temporary, but unfortunately there are cases where the supervision never ends. The types of cases where supervised visitation was warranted have been in cases where she wanted to ensure the child(ren) were safe because the parent's conduct could have a negative impact on the child(ren)'s emotional wellbeing, especially when allegations of sexual abuse and allegations of verbal and physical abuse are present. Judge Kaplan reported that there have been instances in which the parties have agreed to supervised visitation. She recounted a case in which the father agreed to have therapeutic supervised visitation with the supervisor being a parenting coach who guided him through proper parenting techniques on visits. Additionally, supervised visitation is not always a request coming from a parent; there have been times when the request for supervised visitation has come from the children. Judge Kaplan does not view supervised visitation as a punishment or failure on the part of a parent, noting that her overriding and paramount concern is the best interests of the children.

Bettina Thomsen, LMSW, has years of experience both in the role of supervisor and monitoring other supervisors within CFS. Ms. Thomsen stated that CFS supervisors can provide various types of services based upon what the court feels the specific case necessitates. Some examples of the roles supervisors can be appointed for include: monitoring roles, "random drop-in" roles, deterrent roles, and therapeutic intervention roles. The idea behind supervision is for the supervisors to provide as many facts as possible to the court so that the court is in a better position to understand the parent-children dynamic, enabling it to render an appropriate ruling. In her experience, Ms. Thomsen has found that the most effective instances of supervised visitation comes when the parent accepts the supervision, not as a punishment, and works with the supervisor to make the process comfortable for the children. Additionally, supervision is most effective when the supervisor is fully aware of the role he/she is serving within the context of the assigned case.

Unfortunately, time did not permit Ms. LoPreto to speak on her vast experience with supervised visitation while serving as an attorney for the children and representing parents in custody and criminal trials.

The Committee would like to thank the speakers, as well as Blank Rome, LLP for hosting the event.

*Justine A. Stringer is an associate at Bikel & Mandarano where she practices matrimonial and family law. She is a member of the NYWBA Matrimonial & Family Law Committee.*

## Estate Litigation Thru Mediation By Leona Beane

On February 25, 2014, the New York Women's Bar Association co-sponsored a program entitled "**Estate Litigation in New York County Surrogate's Court: Resolving Family Disputes Through Mediation.**" The program sought to remind practitioners about the notable benefits of engaging in mediation. The speakers were:

**Hon. Rita Mella**, Surrogate's Court, New York County  
**Simeon Baum, Esq.**, President, Resolve Mediation Services Inc.  
**Leona Beane, Esq.**, Mediator, Arbitrator and Trusts and Estates Practitioner  
**Gail Davis, Esq.**, President, Resolutions NY, Inc.  
**Gary Freidman, Esq.**, Partner, Greenfield Stern & Senior, LLP  
**Professor Lela Love**, Kukin Program for Conflict Resolution, Benjamin N. Cardozo School of Law  
**Eric Penzer, Esq.**, Partner Farrell Fritz, PC  
**Robert Steele, Esq.**, Partner, Wolf Haldenstein Adler Freeman & Herz, LLP  
**Hope Winthrop, Esq.**, Mediator, Adjunct Professor, Benjamin N. Cardozo School of Law  
**Pauline Yeung-Ha, Esq.**, Partner, Grimaldi & Yeung, LLP  
Moderator was **Richard Lutringer, Esq.**, Mediator

The program began with an introduction by Surrogate Mella and Jessica Amelar, Esq., of the Surrogate's Court, and an overview of the ins and outs of mediation by Simeon Baum, Esq. Thereafter, Gary Freidman, Eric Penzer, and Pauline Yeung-Ha engaged in a panel discussion, moderated by Leona Beane, about the particular benefits and occasions to engage in mediation. Robert Steele, an estate's attorney, then provided some additional remarks on this issue. The program further included a role-playing session where two sisters, played by Hope Winthrop and Gail Davis, engaged in a heated argument stemming from their mother's death. Professor Lela Love of Cardozo Law School did a phenomenal job of mediating this demonstration.

At the end of the program, attendees enjoyed refreshments and networked. Many participants remarked on the program's success and expressed a desire to integrate mediation into their legal toolkit.

*Leona Beane, Esq. concentrates her practice in the areas of trusts and estates, guardianships, and alternative dispute resolution, including mediation and arbitration. She is also a member of the NYWBA Board of Directors, Co-Chair of the Trusts and Estates Committee, and Chair of the Alternate Dispute Resolution Committee.*

NYWBA wishes to acknowledge the generous gift from  
**FOUNDER AND PAST PRESIDENT**  
**HON. FLORENCE PERLOW SHIENTAG (1908-2009)**

Her financial bequest has helped to underwrite the cost of this newsletter and several CLE programs mentioned herein.

**It's time to RENEW your  
membership for 2014-2015!**

The NYWBA fiscal year is June 1 to May 31, which means that the 2014-2015 membership year starts on **June 1st**. To renew, go to **[www.nywba.org/membership](http://www.nywba.org/membership)** or contact our Executive Director (ED@nywba.org or 212-490-8202) to have a renewal form sent to you.

## Three Things to Know About Long-Term Care Insurance

By Michael Salmon

Does your financial plan take into account all of the possibilities regarding your health and your ability to care for yourself in the future? Most people don't think twice about insuring their possessions, or protecting their families with a life insurance product. Yet many pass on the opportunity to purchase long-term care insurance, hoping they will be fortunate enough to avoid the need for costly extended care in their lifetime or believing they will somehow manage with their own resources, if they do require it. Here are three reasons it makes sense for some people to consider investing in a long-term care insurance policy.

**There's a good chance you'll need some form of long-term care.** According to the Department of Health and Human Services, 70 percent of Americans age 65 today can expect to need long-term care services of some kind before they die.<sup>1</sup> People are also generally living longer, having smaller families and saving less than previous generations. All of these factors point to a stronger possibility that if a need for long-term care arises in the future, many of us may not have sufficient resources to manage this on our own.

Think carefully about how your family would be affected by long-term care needs. What would you do if you or your spouse needed ongoing services to assist with the personal tasks of everyday living? Could you count on family and friends to help with around-the-clock care? Would you be able to remain in your current home if you were no longer able to cook and clean for yourself? Do you have enough savings to pay for custodial care services for months or even years on end? Long-term care insurance products are designed to help families afford extended care in these kinds of circumstances.

**Public programs may not cover all of the needs of individuals requiring long-term care.** Although Medicare may cover medically necessary care for a limited time, Medicare does not pay the largest part of long-term or personal care services. And while Medicaid does include provisions for long-term care in your home or a nursing home, you must meet income and asset requirements or spend down your assets until you do.

**There's more than one kind of long-term care insurance.** Traditional long-term care policies cover services provided at your home, in assisted living or in a nursing home facility. They generally cover some or all of the cost of coordination of care, which can add up over time. You can choose long-term care plans of varying amounts of coverage and duration. Most plans include a waiting period, and you may be able to opt for inflation protection. Your plan payments may be partially or fully tax deductible. Another way to insure for long-term care expenses is by purchasing a rider on your life insurance policy, allowing you to use death benefits to cover long-term care costs.

**Talk to your financial advisor or give me a call to determine if long-term care insurance is right for you.** Together you can review your choices and consider the long-term care policy or rider that fits best within your overall financial plan. Age and health often determine your cost and eligibility, so making this decision a priority might be beneficial. Even a modest policy can go a long way toward preserving your resources in retirement in the event you or your spouse needs extended care services.

<sup>1</sup> <http://longtermcare.gov/the-basics/who-needs-care>. Any benefits and guarantees are subject to the claims paying ability of the issuing insurance company.

## The New York Women's Bar Association Litigation Committee

Presents

### "Mastering the Art of Deposition: Deposition Techniques for Lay and Expert Witnesses"

featuring

## Anthony H. Gair

Gair, Gair, Conason, Steigman, Mackauf, Bloom & Rubinowitz

A well taken deposition can make or break a case. Please join us for an opportunity to learn from one of the country's preeminent trial attorneys. **Tony Gair**, a longtime supporter of the NYWBA, will share his wealth of knowledge and expertise on this important topic. It promises to be an informative and entertaining evening. Bring your questions!

**Date:** Thursday June 26, 2014  
**Time:** 6:00 to 8:00 p.m.  
**Location:** New York County Civil Courthouse  
111 Centre Street, Room 107  
**CLE:** CLE Credits pending\*  
**Cost:** Free - Members\*\*  
\$35 - Non-members\*\*\*  
**RSVP:** [Litigationchairs@nywba.org](mailto:Litigationchairs@nywba.org)

\***CLE:** New York Women's Bar Association is a founding chapter of the Women's Bar Assn of the State of New York, an accredited CLE provider. Approval of CLE credit is pending in accordance with the requirements of the NYS CLE Board for the above-listed credit hours for established attorneys and as transitional credit hours for newly admitted attorneys.

\*\***Membership:** Members attend CLE programs for free. If you are not a member, go to [www.nywba.org/Membership](http://www.nywba.org/Membership) to join or renew using our secure online membership form.

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Michael Salmon is a Senior Financial Advisor with Ameriprise Financial, specializing in Financial Planning, Investment Portfolio Management, Retirement Planning Strategies, Estate Planning Strategies, and Saving for Education. He is an active public speaker and financial columnist. He is licensed and registered to conduct business in NY. Based on licenses and registrations he holds, he may also conduct business in MI, MA, OR, FL, PA, NM, NC, CA, RI, CT, KY, NJ, and LA. You can reach him at 646-964-9470 or [michael.b.salmon@ampf.com](mailto:michael.b.salmon@ampf.com).

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## The New York Women's Bar Association and The Women's National Basketball Association

invite you to

### Breast Health Awareness Night at MSG



### New York Liberty vs. Washington Mystics

It's that time of year again! NYWBA is gearing up for our annual visit to Madison Square Garden to cheer on our favorite Women's National Basketball Association team - the New York Liberty! We will also be helping to support an important cause - Breast Health Awareness.

The event is open to all, and children are more than welcome. Plan to join in our pre-game festivities as well. As in past years, NYWBA attendees will be given a special honor and will be allowed onto the MSG floor to form a "fan tunnel" to welcome players onto the court!

The NYWBA is reserving special blocks of center court tickets. Reserve your seats today!

**Date:** Thursday, July 29, 2014  
**Time:** 5:30 p.m. for pre-game festivities (game starts at 7:00 p.m.)  
**Place:** Madison Square Garden  
**What:** T-shirt, fun & cheering, plus on-court action before the game, when we create a human "fan tunnel" to welcome players onto the court!  
**Who:** All are welcome, including kids!  
**Cost:** \$40  
**Info:** Contact [NYLiberty@nywba.org](mailto:NYLiberty@nywba.org) for more info.  
**RSVP:** <http://www.nywba.org/NYLiberty/>  
Payment Deadline: **July 25th** if paying online with a credit card; **July 21st** if paying by check

## TWO MEMBERS TO BE HONORED AT WBASNY CONVENTION

NYWBA is a founding chapter of WBASNY and is proud to participate in **WBASNY's Annual Conventions**. We are thrilled that two long-time NYWBA members will be honored at this year's Convention:

- **Amy Saltzman** has been elected WBASNY Vice President for 2014-15. She is a past Officer of NYWBA & WBASNY, a current NYWBA Director, and has chaired many NYWBA and WBASNY committees.
- **Hon. Phyllis Gangel-Jacob**, a former Justice of the Appellate Term, First Department, will be presented with WBASNY's prestigious **Marilyn Menge Award** for extraordinary service. Justice Gangel-Jacob was a founder of WBASNY, is on our Advisory Council, and served on the NYWBA Board for more than 20 years.

This year's Convention will be held on June 6-8, 2014 (see p. 14). Join us in giving heartfelt congratulations to Justice Gangel-Jacob and Ms. Saltzman!

New York Women's Bar Association is proud to sponsor

## The National Association of Women Lawyers 2014 Annual Meeting & Awards Luncheon

### WOMEN BELONG AT THE TABLE: LEADING WITH COURAGE AND CONFIDENCE

JULY 24, 2014

The Waldorf Astoria New York

301 Park Avenue  
New York, New York

*NYWBA members receive a 10% discount on registration*

Law firms, corporations, and governments benefit in myriad ways when women are at the helm. Nevertheless, women are still the minority at most leadership tables. This year's NAWL Annual Meeting will examine the reasons behind the leadership gap and what it takes to be a courageous, confident, and effective leader. Prominent in-house counsel, private practitioners, and government lawyers will offer concrete skills, best practices, and actionable solutions relevant to women lawyers in all legal disciplines who are looking to take and make the most of their seat at the table. The Awards Luncheon will provide a unique opportunity to celebrate and network with over 800 lawyers from around the country as NAWL recognizes and honors leading lawyers, legal departments, and NAWL members who have made exceptional contributions to improve and diversify the legal profession.

#### Honorees include:

**Anita F. Hill**, Senior Advisor to the Provost, Professor of Social Policy, Law and Women's Studies, Brandeis University and Of Counsel, Cohen Milstein Sellers & Toll PLLC

**Honeywell International, Inc.**

**Kim M. Keenan**, General Counsel, National Association for the Advancement of Colored People

**Kathryn H. Ruemmler**, Partner at Latham & Watkins LLP and Former Counsel to the President of the United States

**Robert J. Grey, Jr.**, Executive Director, Leadership Council on Legal Diversity and Partner, Hunton & Williams LLP

**Lauri A. Damrell**, Orrick, Herrington & Sutcliffe LLP

**Babette V.E. Orenstein**, Consolidated Edison Company of New York, Inc.

**Lesley Weber** (posthumously), Allstate Insurance Company

#### LEARN MORE & REGISTER HERE

<http://www.nawl.org/p/cm/ld/&fid=154>

*NYWBA members will receive a 10% discount when registering for this event. Please use the following code when registering: **AMNYWBA2014***



### *Ethical Risks (Continued from Page 3)*

by an ABA-approved organization. A 2013 ethics opinion issued by the New York State Bar Association ("NYSBA") concluded that this rule prohibited lawyers from listing their practice areas under the "Specialties" heading on social media sites, such as the professional networking site LinkedIn.<sup>8</sup> By the time the opinion was issued, however, LinkedIn had ceased using the "Specialties" heading for individual profiles. The committee expressly declined to consider whether lawyers could list their practice areas under "Skills and Expertise," the heading that LinkedIn now uses for individual profiles. More recently, many have wondered whether the "endorsement" feature on LinkedIn profiles creates an ethical issue for attorneys.<sup>9</sup> So far, no New York ethics opinions have addressed this question.

#### *Confidentiality:*

Lawyers are prohibited from revealing confidential information under Rule 1.6. "Confidential Information" is not merely information that is protected by the attorney-client privilege. Rather, it is broadly defined as:

information gained during or relating to the representation of a client, whatever its source, that is (a) protected by the attorney-client privilege, (b) likely to be embarrassing or detrimental to the client if disclosed, or (c) information the client has requested be kept confidential.

The ABA cautions that attorneys must be wary of posting "any information that could conceivably violate confidentiality obligations."<sup>10</sup> Given the broad definition of "confidential information," it would be easy to run afoul of this rule without realizing it. For example, a criminal defense lawyer who posts the outcome of a criminal trial may violate Rule 1.6, even though the information is technically "public," because the wider dissemination of the information is "likely to be embarrassing or detrimental to the client."<sup>11</sup> In some cases, lawyers may reveal confidential information without realizing it. For example, according to the ABA, geo-tagging posts or photos could "reveal your geographic location when traveling on confidential client business" and may violate Rule 1.6.<sup>12</sup>

#### *Solicitation:*

Solicitation is a form of attorney advertising that is subject to higher regulation and greater restrictions. Rule 7.3(b) defines solicitation as:

any advertisement initiated by or on behalf of a lawyer or law firm that is directed to, or targeted at, a specific recipient or group of recipients, or their family members or legal representatives, the primary purpose of

which is the retention of the lawyer or law firm, and a significant motive for which is pecuniary gain. It does not include a proposal or other writing prepared and delivered in response to a specific request of a prospective client.

The interactive and amplified nature of social networking increases the risk of violating the solicitation rules. Social media allows you to interact with thousands of people at once. In some cases, social media websites will allow you to send bulk connection requests to people in your contact lists. As a recent article published in the ABA journal noted:

LinkedIn provides an option to import e-mail address books to LinkedIn for purposes of sending automatic or batch invitations. This may seem like an efficient option to minimize the time required to locate and connect with everyone you know on LinkedIn. However, sending automatic or batch invitations to everyone identified in your e-mail address book could result in networking invitations being sent to persons who are not lawyers, family members, close personal friends, current or former clients, or others with whom a lawyer may ethically communicate.<sup>13</sup>

#### *The Unlicensed Practice of Law:*

Any message posted on a social media site is not contained to one location; Social media does not conform to geographic boundaries. Therefore, if you are interacting with someone via social media or your marketing activities have an effect in a different jurisdiction, your actions may be subject to penalties beyond New York State, and such penalties might include an unauthorized practice violation. Therefore, "lawyers should avoid online activities that could be construed as the unauthorized practice of law in any jurisdiction(s) where [he/she] is not authorized to practice."<sup>14</sup>

#### *Inadvertently Creating an Attorney-Client Relationship:*

The ABA cautions that the creation of an attorney-client relationship can occur online. Specifically, the "interactive nature" of social media "creates a real risk of inadvertently forming attorney-client relationship[s] with non-lawyers, especially when the objective purpose of the communication from the consumer's perspective is to consult with the lawyer about the possibility of forming a lawyer-client relationship regarding a specific matter or legal need."<sup>15</sup> Even if an attorney-client relationship is not ultimately formed, interactions online may give rise to certain ethical duties under Rule 1.18, which governs duties to prospective clients. Attorneys who receive information from prospective clients over the Internet may have an obligation to keep that

information confidential or even to decline employment that might create a conflict of interest with the prospective client.

#### Conclusion

Social media platforms are naturally designed to encourage the sharing of information. Resisting the urge to "over share" may prove difficult for some. As previously stated, the line between permissible ethical acts and impermissible ethical violations is still blurry, and attorneys would be wise to proceed with caution in this area. Social media can be an effective forum to build relationships, share information, display expertise, and enhance one's reputation; however, attorneys must always be mindful of their ethical obligations under the Rules of Professional Conduct.

<sup>1</sup> See Christina Vassiliou Harvey, Mac R. McCoy, and Brook Sneath, *10 Tips for Avoiding Ethical Lapses When Using Social Media*, American Bar Association, January 2014, available at <http://bit.ly/1o61Yg7>.

<sup>2</sup> Janna Anderson and Lee Rainie, *Millennials Will Make Online Sharing in Networks a Lifelong Habit*, Pew Research Center, July 2010, available at <http://bit.ly/Sj9K9c>.

<sup>3</sup> Helen W. Gunnarson, *Friending Your Enemies, Tweeting Your Trials: Using Social Media Ethically*, Illinois State Bar Association, October 2011, available at <http://bit.ly/1oS9nQe>.

<sup>4</sup> This article addresses some of the ethical considerations associated with advertising and marketing on social media. Social media use by attorneys raises many other ethical issues, such as *ex parte* communications with judges and jurors, compliance with the "no contact" rule, the use of social media as a discovery and investigatory tool, and more, which are beyond the scope of this article.

<sup>5</sup> There are exceptions to this general approach. For example, Rule 7.1(f) of the New York Rules of Professional Conduct specifies that the words "ATTORNEY ADVERTISING" must appear in any advertisement other than in "radio, television or billboard advertisement, in a directory, newspaper, magazine or other periodical (and any websites related thereto)."

<sup>6</sup> Harvey, *10 Tips for Avoiding Ethical Lapses*, *supra*.

<sup>7</sup> ABA Ethics Op. 10-457 (2010) (noting that certain information on a law firm website "constitutes a 'communication about the lawyer or the lawyer's service,' and is therefore subject to the requirements of Model Rule 7.1 as well as the prohibitions against false and misleading statements").

<sup>8</sup> See NYSBA Ethics Op. 972 (2013).

<sup>9</sup> Dennis Kennedy, *Is LinkedIn's Endorsement Feature Ethical for Lawyers?*, American Bar Association Magazine, December 2013, available at <http://bit.ly/1i4dx0>.

<sup>10</sup> Harvey, *10 Tips for Avoiding Ethical Lapses*, *supra*.

<sup>11</sup> Although at least one state supreme court has held that such a broad interpretation of Rule 1.6 is unconstitutional, it is too early to know whether other states will follow suit. See *Hunter v. Virginia State Bar*, 285 Va. 485, 744 S.E.2d 611 (2013), cert. denied, 133 S. Ct. 2871 (2013).

<sup>12</sup> Harvey, *10 Tips for Avoiding Ethical Lapses*, *supra*.

<sup>13, 14, 15</sup> *Id.*

**Jamie L. Sinclair, Esq.**, is an attorney at Goldstein, Rikon, Rikon & Houghton, P.C. in Manhattan and a member of the NYWBA Professional Ethics and Discipline Committee.

**NYWBA Matrimonial and Family Law  
Committee**

*presents*

***"What to do about the  
Post-Judgment Blues"***

Distinguished panelists **Hon. Matthew F. Cooper** and **Hon. Lori S. Sattler** will present a riveting discussion of the all too common post-judgment issues that plague our clients and us after settlement. You will not be disappointed. Issues concerning relocation, support modifications and changes in custody are the mainstays of the post-judgment part and suggestions as to how to draft language to avoid such applications together with tips on what your papers should include will be addressed. (No discussion of pending cases.)

**Date:** **Wednesday, June 4, 2014, at 6:00 p.m.**  
(Attendees will not be admitted after 6:30 p.m.)

**Place:** **Blank Rome, LLP**, The Chrysler Building,  
405 Lexington Ave., NYC (at 42nd St.)

**Cost:** **Free** for Members\*

**RSVP:** This event is currently CLOSED. Email  
**MFrsvp@nywba.org** if you have ideas  
for future programs or know of venues  
that will seat more than 50 attendees.

*The Committee thanks Blank Rome, LLP for hosting.*

\*If you are not a current member, join or renew using  
our secure online membership form at **[www.nywba.org/Membership](http://www.nywba.org/Membership)**.

**WOMEN'S BAR ASSN.  
OF THE STATE OF NEW YORK  
Annual Convention**

The WBASNY Convention is a great opportunity to meet and mingle with Women's Bar members from across the state, attend first class CLEs (including those hard to find Ethics CLEs!), and celebrate as WBASNY presents its prestigious awards and installs its officers for the coming year.

The 2014 Convention will be held at the Seaview Stockton Hotel, a resort in New Jersey featuring two championship golf courses, a full service Elizabeth Arden Red Door Spa, and a satellite gallery from the Noyes Museum of Art. The hotel is just a hop, skip, and a leap from NYC and a mere 10-15 minute drive from Atlantic City.

**When:** **June 6-8, 2014**

**Where:** Seaview Stockton Hotel and Golf Club, Galloway, NJ

**Cost:** Varies depending on the package you select.

**Info:** For more info or to register for the convention,  
go to **[www.wbasny.org](http://www.wbasny.org)** or email **[info@wbasny.org](mailto:info@wbasny.org)**.

**Note:** See additional announcement on pages 1 & 3.

Details and registration information will be posted on  
NYWBA's website and in next month's newsletter.

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# NEW YORK WOMEN'S BAR ASSOCIATION

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Current members should send updated address and contact information to [ED@nywba.org](mailto:ED@nywba.org). This will help us keep you informed about our programs, events, and other benefits of membership.

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Submissions must be sent to the Newsletter Committee (Chair Kelly Schneid, Board Liaison Elizabeth Bryson, and Committee Members) by the **10th** of the month for publication in the following month's Newsletter. Please submit articles, announcements, upcoming event programming, photos, committee news, member news, and ads to [newsletter@nywba.org](mailto:newsletter@nywba.org). Submissions should be proofed and cite-checked, and NYWBA retains the usual editorial discretion to omit or edit all contributions. Send an email to [newsletter@nywba.org](mailto:newsletter@nywba.org) if you have questions or are interested in joining the Newsletter Committee.

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