

NYWBA

NEW YORK WOMEN'S BAR ASSOCIATION

NEW YORK WOMEN'S BAR ASSOCIATION

Annual Membership Reception

Monday, September 23, 2012

6:00 to 7:45 p.m.

at

Skadden, Arps, Slate, Meagher & Flom LLP

4 Times Square, NYC

(42nd St. between 6th Ave. & Broadway)

The Annual Membership Reception is *free* and open to all current and prospective* members.

Invite friends and colleagues who are attorneys, judges, law students or recent law school graduates to enjoy wine and refreshments and hear about our committees, Mentoring Circles, upcoming events, and our innovative continuing legal education programs – offered free to all members.

RSVP by **September 19, 2013** at
www.nywba.org/memberreception

* Attendees who join the NYWBA at the Membership Reception as *new* members will receive a welcome gift (*limited supply; first come, first serve*).

NYWBA will also hold a raffle of
Marriott reward miles for all attendees.

Announcements & Calendar of Upcoming Events:

- 9/17 and 9/24 - CLE - *Guardian Ad Litem Training for Attorneys* - p. 10
- 10/5 - Children's Cultural Event & Breakfast - p. 12
- 9/19 - NYWBA Solo & Small Firm Practice Committee - *Networking* - p. 9
- 9/25 - NYWBA Program & Events Committee - *Exclusive Fashion Event hosted by J & A* - p. 3
- 9/26 - CLE - *Other People's Money: Handling Client Funds and Escrow Accounts* - p. 10
- 10/9 - Judges and Lawyers Breast Cancer Alert Symposium - p. 8
- 10/9 - 10/10 - CLE- *How to Try a Custody Case* - p. 12
- 10/23 - CLE- *Practicing in the NY County Surrogate's Court and Tour of the Court* - p. 6
- 10/24 - *Wine 101: The Basics of Wine, Wine and Food Pairings* - p. 10
- 11/14 - CLE - *Basics of Special Education Advocacy & Litigation in NYC* - p. 8

Check www.nywba.org for more meetings, programs, and events.

PRESIDENT'S MESSAGE

An Exciting Year Ahead!

SEPTEMBER 2013



Hon. Jacqueline W.
Silberman

I am thrilled to welcome everyone back as the summer ends and the New York Women's Bar Association kicks off its fall season, replete with exciting new programs. Our new year officially began on June 1, 2013, and our Officers, Directors, and Delegates were installed at our Annual Awards and Installation Dinner on June 26, 2013. Our 2013-2014 Committee Chairs also met in June for orientation and to network about ideas for this year. It is now, however, when these individuals truly begin to shine in their new positions as they engage in vital programming and set the stage for the rest of the year.

In the late spring and throughout the summer, NYWBA Committees have been actively planning incredibly exciting continuing legal education programs, informative lectures, and social events for 2013-2014. NYWBA has also utilized its numerous relationships with other legal organizations to ensure that it offers its members diverse programs on important issues. For instance, NYWBA will be one of several presenting organizations at the Eighteenth Annual Ellen P. Hermanson Memorial Symposium presented by the Judges and Lawyers Breast Cancer Alert (JALB-CA). This Symposium will unite doctors, judges, and lawyers to discuss various research, regulations, and legal issues inherent in the study of, and battle against, cancer.

NYWBA has also teamed up with the New York State Bar Association to host a two-night program offering guardian ad litem training to attorneys, and with the New York County Lawyers' Association and the College of Matrimonial Trial Attorneys to present a two-day program on how to conduct custody trials. Additionally, NYWBA has joined with the New York State Lawyer's Fund for Client Protection and the New York State Interest on Lawyer Account Fund to guide members on how best to handle client funds and escrow accounts. The aforementioned programs provide just a taste of the many events that NYWBA plans to sponsor in the upcoming year, and details about them can be found in this edition of the Newsletter.

While it is clear that NYWBA is an invaluable resource, as evidenced by its unique programming and diverse membership, I would like to take this opportunity to speak about our growing numbers. Since June we have been boasting that we have attained a new milestone,

(Continued on Page 2)

COMMITTEE NEWS

- The **Criminal Law and Ethics Committee** will have its kick-off meeting on **Sept. 9** at 6:00 p.m. at The Hoffinger Firm, LLP, 150 E. 58th St., 19th Fl. (btw Lexington/3rd Ave.), NYC. Call Fran Hoffinger at 212-421-4000 to RSVP.
- The **Elder Law and Disabilities Committee** will sponsor a CLE entitled "Basics of Special Education Advocacy and Litigation in NYC" on **Nov. 14** at a time TBA. Email ElderLawChairs@nywba.org to RSVP. See notice, p. 8.
- The **Matrimonial and Family Law Committee** will have its kick-off meeting on **Oct. 2** at 6:00 p.m. at Blank Rome, LLP, 405 Lexington Ave. (The Chrysler Building), NYC. This meeting will double-function as a CLE is entitled "Basic Tax Issues for the Matrimonial Lawyer - Part 1" and will include presenters Hon. Ellen Gesmer, Joan Lipton and Jean J. Han (from ParenteBeard), and Heidi Tallentire (associate, Blank Rome, LLP). Email MatFamRSVP@nywba.org to RSVP. The Committee will also help present a CLE on "How to Try a Custody Case" on **Oct. 9/10** at Benjamin Cardozo School of Law, 55 5th Ave. (btw 12th/13th Sts.), NYC. Stay tuned for RSVP information. See notice, p. 12
- The **Professional Ethics and Discipline Committee** will meet on **Sept. 18** at 6:00 p.m. at Frankfurt Kurnit Klein & Selz PC, 488 Madison Ave. (btw 51st/52nd St.), NYC. Email EthicsChairs@nywba.org to RSVP. The Committee will also co-sponsor a CLE on "Other People's Money: Handling Client Funds and Escrow Accounts" on **Sept. 26** at 5:30 p.m. at the same location. Visit www.nywba.org/EthicsClientFundsRSVP to RSVP. See notice, p. 2.
- The **Programs and Events Committee** encourages attendance at an Exclusive Fashion Event hosted by J&A on **Sept. 25** at 6:00 p.m. at The Rooftop, 20 Exchange Pl., NYC. Go to www.nywba.org/FashionEventRSVP to RSVP. See notice, p. 3. The Committee will have a meeting on **Oct. 8** at 6:00 p.m. at Jennifer P. Brown, PLLC, 570 Lexington Ave., Suite 1600, (btw 50th/51st St.), NYC. To RSVP, email events@nywba.org. The Committee will also host an event entitled "Wine 101" on **Oct. 24** at 6:30 p.m. at STASH, 248 W. 14th St. (btw 7th/8th Ave.), NYC. Go to www.nywba.org/WineTastingRSVP to RSVP. See notice, p. 10.
- The **Reproductive Rights and Women's Health Committee** will have its kick-off meeting on **Sept. 12** at 6:30 p.m. at Rottenstreich & Ettinger, LLP, 150 E. 58th St., 21st Fl. (btw Lexington/3rd Ave.), NYC. To RSVP, email ReproductiveRights@nywba.org. The Committee also plans to meet on **Oct. 20**. Stay tuned for more details on this meeting.
- The **Solo and Small Firm Practice Committee** will have its kick-off meeting focusing on networking on **Sept. 19** at 8:30 A.M. at Reitler, Kailas & Rosenblatt, LLC, 885 3rd Ave., 20th Fl. (btw 53rd/54th St.), NYC. To RSVP, email SSFChairs@nywba.org. See notice, p. 9. The Committee also plans to hold a meeting focusing on "How to Start and Grow Your Own Practice" on **Oct. 17** at 8:30 A.M. at a location TBA. Stay tuned for more details on this meeting.
- The **Students and New Lawyers Committee** plans to meet on the second Thursday of every month. The first meeting will feature Hon. Lisa A. Sokoloff on **Sept. 12** and the second meeting will feature Hon. Lori Sattler on **Oct. 10**. Both meetings will be held at Blank Rome, LLP, 405 Lexington Ave. (The Chrysler Building), NYC at a time to be determined. To RSVP, email SNLChairs@nywba.org.
- Congratulations to the **Summer Program Committee** for hosting a successful event on July 10! See article, p. 4.
- The **Trusts and Estates Committee** will sponsor a "Guardian Ad Litem" CLE on **Sept. 17 and 24** at 5:30 p.m. at New York Law School, 185 W. Broadway (btw Worth/Leonard St.), NYC. Stay tuned for RSVP information. See notice, p. 10. The Committee will also host an event on "Practicing in the New York

President's Message (Continued from Page 1)

securing a membership of more than 700 attorneys, judges, law students, and law school graduates awaiting admission. The biggest challenge now is ensuring that our new members take advantage of all that NYWBA has to offer by joining committees, attending organization-sponsored CLEs and informative events, as well as celebrating with us at special social gatherings. It is easy enough to join an organization. The hard part is proving that you can contribute and enhance that organization! I am confident that all of our new members will enthusiastically participate in NYWBA events and that our existing members will both welcome these new members, recruit additional members, and continue to lead the way to make NYWBA even stronger and more vital to all lawyers in the City of New York!

While it can be hard to dive right into an organization as a new member, or even become more active as an existing member, NYWBA's upcoming Annual Membership Reception provides the perfect opportunity for new and existing members to find out more and to further integrate themselves into the organization. The Reception will be held on September 23 and is free to all members and prospective members. It will provide a fantastic opportunity to learn about upcoming events as well as to meet fellow judges and attorneys in various areas of practice. (For details and info about the Reception, see the announcement on p. 1.)

Again, welcome back from your summer vacations, and I look forward to seeing everyone at the Annual Membership Reception and upcoming events!



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.

County Surrogate's Court and Tour of the Court" on **Oct. 23** at the Surrogate's Court, 31 Chambers St. (corner of Centre St.), NYC. Stay tuned for more information on this event. See notice, p. 8.

- The **NYWBA** will have its **Annual Membership Reception** on **Sept. 23** at 6:00 p.m. at Skadden, Arps, Slate, Meager & Flom, LLP, 4 Times Sq. (42nd St. btw 6th Ave./Broadway), NYC. Go to www.nywba.org/memberreception to RSVP. See notice, p. 1.
- The **NYWBA** will act as a participating organization for the **Judges and Lawyers Breast Cancer Alert Symposium** on **Oct. 9** at 6:00 p.m. at the NYC Bar Association, 42 W. 44 St. (btw 5th/6th Ave.), NYC. See notice, p. 8.
- **WBASNY** will host a Children's Cultural Event and Breakfast on **Oct. 5** at 10:00 A.M. at Flushing Town Hall, Queens. Email JFlug@wbasny.org to RSVP. See notice, p. 12.
- Check the **NYWBA Calendar** (www.nywba.org/calendar) for the latest info on Committee meetings, programs and events.

WELCOME NEW MEMBERS

Bridget Adams-Davis
Marijo C. Adimey
Allison Ageyeva
Asako Aiba
Lauren S. Albert
Alison Andersen
Harriet M. Antczak
Alison L. Attanasio
Joice C. Avila
Tiffani A. Barletta
Susan G. Barrie
Sandra N. Benjamin
Caroline Bucci Benkovic
Biana Borukhovich
Lauren Breines
Nicole Brodsky
Danielle Caminiti
Caroline L. Chen
Courtney Chenette
Marilyn B. Chinitz
Debra S. Cohen
Mary E. Conroy
Robyn C. Coote
Dana M. Delger
Jennifer Lynn DeStefano
Anu Dhuga
Irma Diaz
Alexis Diaz
Arielle Disick
Christina E. Djordjevich
Elizabeth R. Doisy
Janelle R. Duyck
Steven R. Dyki
Danielle Efros
Stacie B. Feldman
Rachelle A. Fernandes
Catalina Ford
Meghan C. Gabriel
Kelly M. Garner
Lauren N. Giudice
Lauren Goldberg
Katherine Gregory
Anna Gurevich
Alexandria Gutierrez
Sarah Haag
Stephanie Hamberger
Catherine A. Helwig
Rebecca R. Hirschklau
Elisheva M. Hirshman
Fran R. Hoffinger
Elahe Hosseini
Lynn Hsieh
Shaimaa Hussein
Valerie B. Igbinoghene
Sarah Jacobson
Deborah A. Johnson
Roseann C. Julien
Shira A. Kaufman
Hon. Shawn T. Kelly
Maya Khodos

Erin C. Kormann
Stacie R. Large
Andrea D. Lawrence
Shanza S. Mailk
Jessica M. Marshall
Stephanie A. Martin
Ani Mason
Mary C. Mathwich
Julia Maxfield
Kristy Watson Milkov
Ernestine J. Mings
Katherine L. Moore
Sabrina E. Morrissey
Michael T. Mueller
Damian M. Nash
Sofiya Nozhnik
Mary Jane D. O'Connell, Ph.D.
Helen Ogbara
Margaret O'Hora
Kerry A. O'Neill
Heather J. O'Neill
Pearl D. Pari
Ian Y. Park
Stephanie L. Pavlick
Michael (Mickey) Penzer
Kayla Pesserillo
Elliot R. Podhorzer
Evridiki Poupouridis
Dilpreet K. Rai
Kim R. Rasin
Karin R. Reiss
Angela T. Rella
Susan A. Romano
Jennifer M. Rosa
Jamie Rosen
Yonit Rosengarten
Shane J. Rosen-Gould
Basha Frost Rubin
Alicia Ruiz
Virginia M. Ryan
Kelly D. Schneid
Samantha M. Schonfeld
Pamela D. Schwartz
Samantha Segal
Terri J. Seligman
Barbara L. Seniawski
Naomi M. Silkowitz
Hannah Steinblatt
Erika A. Sussman
Neena Tankha
Laura J. Tollgaard
Suzanne Tongring
Jean E. Troast
Susan R. Tucker
Gulsun Turkmenogullari
Maria T. Vullo
Cynthia R. Watkins
Anastasia M. Wincorn
Paige E. Zandri

as of 8/19/13

SUSTAINING MEMBERS

With their generous contributions, our sustaining members make it possible for us to accomplish so much more. We honor and thank them for their support.

Elkan Abramowitz	Patricia Ann Grant
Elisabeth Ames	Julie Hyman
Michael W. Appelbaum	Eileen S. King
Elizabeth A. Bryson	Denise Mortner Kranz
Hon. Karen S. Burstein	Kay Marmorek
Ivy I. Cook	Elliot R. Podhorzer
Janet I. Cord	Virginia M. Ryan
Catherine M. Foti	R. Ellen Sigal
Myra L. Freed	Hon. Jacqueline W. Silbermann
Martha E. Gifford	
Marcia C. Goldstein	

as of 8/19/13

NOTES ON MEMBERS

• Congratulations to member **Elba Galvan** on her installation as President of the Puerto Rican Bar Association for 2013-2014. Ms. Galvan is a court attorney in New York Criminal Court and serves as Co-Chair of the NYWBA Legislation Committee.

• Congratulations to long-time member **Carol A. Schrager**, who was recently elected Co-Chair of the New York Democratic Lawyers Council. Through NYDLC, attorneys and activists recruit, train, deploy, and coordinate volunteer attorneys to protect voters from fraud, intimidation, and confusion at the polls. NYDLC also maintains a comprehensive policy and legislative agenda. Ms. Schrager is a member of the NYWBA Foundation Advisory Council.

Has something noteworthy happened to you or another member? Send your news to Newsletter@nywba.org.

Join NYWBA for a Fun Social Activity

A Fashion Event hosted by J&A!

The Program & Events Committee invites NYWBA members* and friends to have an exclusive first look at J & A's Fall Collection of clothing and jewelry! Guests will enjoy a 60% discount off their entire purchase. Light refreshments will be served. Space is limited and admittance will be based on earliest responses.

Date: Wednesday, September 25, 2013

Time: 6:00 - 8:30 p.m.

Place: The Rooftop, 20 Exchange Pl., NYC

Cost: Attendance is FREE. (Bring cash, credit cards, or checks to purchase clothing & jewelry)

RSVP: Go to www.nywba.org/FashionEventRSVP

* If you are not a current member, go to www.nywba.org/Membership to join or renew using our secure membership form. To inquire about your membership status, email Executive Director Karen Lu (ED@nywba.org).

Annual "Summer Program" Gives Law Students and New Lawyers Terrific Information and Insights as They Launch Their Careers by Jamie Sinclair

The importance of career planning, mentoring, and networking were the focus of discussion at this year's annual program on "What it's REALLY Like to Practice Law as a Woman." The event was held on July 10, 2013 at the New York City Bar Association and was presented by the New York Women's Bar Association and the New York City Bar Association. The "Summer Program," as it is affectionately called, is designed to provide guidance and insight for law students, summer associates, interns, law graduates awaiting admission, and lawyers in their first few years of practice. Panelists shared their experiences in government, large firms, small firms, non-profit organizations, and in-house law departments, and further discussed issues that significantly affect women lawyers entering the profession.

Approximately 250 women attended the event. After initial introductions by program co-chair **Victoria A. Turchetti**, City Bar President **Carey Dunne** spoke of the benefits of joining the City Bar and encouraged attendees to commit to *pro bono* work. NYWBA Vice President **Yacine Barry** then noted the advantages of joining the NYWBA, with its more than 700 members and 36 committees, and its focus on promoting the advancement of women in the profession. She emphasized that the NYWBA believes in mentoring new attorneys and regularly places them in leadership positions within the organization. Yacine also shared her own personal story of her rise to leadership in the NYWBA before introducing the night's moderator, **Amy B. Goldsmith**, a Partner at Tarter Krinsky & Drogin LLP, as well as an NYWBA Officer and Recording Secretary, who in turn introduced the evening's featured speakers.

The panelists included: **Jennifer Tafet Klausner**, Partner in the Litigation Practice Group at Davis & Gilbert LLP; **Karla G. Sanchez**, Executive Deputy Attorney General for the New York State Attorney General's Office; **Raquel Thompson**, Legal and Compliance Associate at Alphadyne Asset Management LLC; and **Alita Wingfield**, Executive Director in the Legal Compliance Division of Morgan Stanley.

The panelists shared personal histories and career anecdotes as they imparted advice to the attendees. They detailed their individual efforts to develop their career plans, as well as their struggles along the way, including with gender discrimination. The panelists explored the themes of "having it all" and "work-life balance." They further emphasized the importance of mentoring and networking to advance your career.

Following the panel discussion, a wine and cheese networking reception was held to allow attendees to engage more personally with the panel and moderator, as well as with experienced attorneys from the NYWBA (including members of the Board of Directors and Committee Chairs) and from the City Bar. Lively discussions were abundant, and the feedback from the event was extremely positive. Several attendees spoke of how inspired and encouraged they were by the program and expressed great interest in returning for next year's program and in joining the NYWBA.

Special thanks to the program co-chairs **Cassandra M. Porter** and **Victoria A. Turchetti**, both from the NYWBA, and to the entire Summer Program Committee; to panelists Jennifer, Karla, Raquel and Alita, as well as to our moderator Amy; and to our co-sponsors at the City Bar. We also express our special thanks to the following firms whose underwriting sponsorships made the program possible – Platinum level donors: **Davis & Gilbert LLP**, **Patterson Belknap Webb & Tyler LLP** and **Sullivan & Cromwell LLP**; and Gold level sponsors **Blank Rome LLP** and **Jennifer Rosa, Esq.**

Jamie Sinclair is an associate at Goldstein, Rikon, Rikon & Houghton, P.C., where she focuses her practice on eminent domain litigation. She is an active member of the New York Women's Bar Association, the New York County Lawyers' Association, and the New York State Bar Association.



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Members and Guests Celebrate at the 2013 NYWBA Annual Dinner

By Kelly D. Schneid

On June 26, 2013, the New York Women's Bar Association held its Annual Awards and Installation Dinner at the elegant Marriott Marquis in Times Square.

This year's event was particularly noteworthy, as **Hon. Jacqueline W. Silberman** was installed as NYWBA President for an extraordinary second term, and because the event coincided with breaking news from the United States Supreme Court. Earlier that morning, the Supreme Court announced two landmark rulings – one overturning the infamous Defense of Marriage Act, which had forbidden the federal government from recognizing same-sex marriages, and the other refusing to uphold California's "Prop 8", which had barred same-sex marriage in that state. Speakers throughout the evening celebrated these rulings, spoke in favor of marriage equality, and acknowledged the Women's Bar's filing of amicus briefs in both cases.

The dinner began with hundreds of NYWBA members and friends enjoying delicious hors d'oeuvres and drinks, while perusing fabulous silent auction and raffle items. Dinner Co-Chair **Jo Ann Douglas** then made introductory remarks to kick off the festivities, graciously welcoming all. After transitioning from the cocktail hour to the main room, Justice Silberman took the stage and spoke eloquently of her past and upcoming term as President. She then presented the **President's Special Award** to **Hon. A. Gail Prudenti**, Chief Administrative Judge of the Courts of New York State. **Hon. John M. Czygier, Jr.** accepted the Award on behalf of Judge Prudenti.

Justice Silberman expounded upon Judge Prudenti's lengthy judicial career and extraordinary achievements. She also praised Judge Prudenti for playing a remarkable role in paving the way for women to serve in leadership positions in the New York State Judiciary. Prior to her appointment as Chief Administrative Judge, Judge Prudenti was the first woman to serve as the Presiding Justice of the Appellate Division in the Second Judicial Department and, prior to that, she was the first and only person to ever serve simultaneously as a Surrogate Judge and a District Administrative Judge in New York State.

Following this presentation, **Hon. Fern Fisher** took the stage to present the **Doris**

S. Hoffman Service Award to **Hon. Sheila Abdus-Salaam**. This Award is given to women lawyers who demonstrate exceptional leadership but have never served as President of the NYWBA. Justice Fisher recounted her admiration and long, treasured friendship with Judge Abdus-Salaam, poignantly noting that "some friends are for reasons, some friends are for seasons, and some friends are for life." She enumerated Judge Abdus-Salaam's countless accomplishments, including her recent appointment as an Associate Judge of the New York State Court of Appeals; her prior tenure as a Justice of the New York State Supreme Court's Appellate Division in the First Department, a twice-elected Trial Justice of Manhattan's New York State Supreme Court, a Judge of the Civil Court of the City of New York, and her extensive work as an attorney with City and State agencies.

Hon. Betty Weinberg Ellerin then presented the NYWBA's tribute to the women justices of the New York State Supreme Court's Appellate Division in the First Department: **Hon. Angela M. Mazzarelli**, **Hon. Karla Moskowitz**, **Hon. Dianne T. Renwick**, **Hon. Helen E. Freedman**, **Hon. Rosalyn H. Richter**, **Hon. Sallie Manzanet-Daniels**, **Hon. Judith J. Gische**, and **Hon. Darcel D. Clark**. Justice Ellerin offered special praise to these justices for their service, erudition, and extraordinary role in supporting the fair and equal administration of justice.

Justice Ellerin then proceeded to her long-standing role as "installing officer" to induct the new slate of NYWBA Officers, Directors, and Delegates to the WBASNY Board. Vice Presidents **Julie Hyman** and **Jennifer P. Brown** are trial and appellate attorneys specializing in matrimonial law, and both have spent many years supporting the work of the NYWBA in various capacities. Vice President **Yacine Barry** serves as Special Counsel for Housing Court Initiatives with the New York State Courts Access to Justice Program. Treasurer **Deborah G. Rosenthal** is the principal of Rosenthal, Attorneys at Law, P.C. concentrating on probate and estate issues, corporate and contract law, real estate and closely held corporations. Recording Secretary **Amy B. Goldsmith** is a partner at Tarter, Krinsky & Drogin LLP,

where she specializes in intellectual property. Corresponding Secretary **Virginia A. LoPreto** is the principal of Virginia A. LoPreto, LLC concentrating on matrimonial and family law, as well as criminal defense.

Justice Ellerin then installed Justice Silberman for her second term as NYWBA President. Justice Silberman is Of Counsel to Blank Rome LLP's matrimonial & family law practice. She previously served as Statewide Administrative Judge for Matrimonial Matters, as Administrative Judge of the Supreme Court for the New York County Civil Term, and as a Supreme Court Justice, and Civil Court Judge in New York County.

WBASNY President **Donna Frosco** then congratulated all of the honorees and newly-installed Officers & Directors. She also acknowledged NYWBA Past President **Elizabeth Bryson** for the role she played in the drafting of amicus briefs before the Second Circuit Court of Appeals and the U.S. Supreme Court in the two gender-neutral marriage rights cases.

Concluding remarks were made by Dinner Co-Chair **Jennifer P. Brown**, who thanked everyone for attending and noted that the evening would not have been such a remarkable success without the hard work of the Dinner Committee and the Auction Committee.

NYWBA thanks Dinner Co-Chairs Jo Ann Douglas and Jennifer Brown, Auction Co-Chairs **Michael W. Appelbaum** and Virginia A. LoPreto, Web Designer **Annie Hsu**, and the entire Dinner Committee and event volunteers. Many thanks as well to everyone who contributed items for the annual auction, which benefitted the NYWBA Foundation, Inc. Last, but far from least, a special thank you to Executive Director **Karen Lu** and her team for the hard work they exerted to make the evening such a wondrous occasion!

Kelly D. Schneid is an attorney at Windels Marx Lane & Mittendorf LLP and serves as NYWBA Newsletter Committee Chair for 2013-2014.

Annual Dinner Photos



The current and past female Justices of the Appellate Division, First Department – NYWBA Honorees



*NYWBA President
Hon. Jacqueline Silbermann
and long-time Board Member
Hon. Laura E. Drager (right)*



Board member Kathryn Salensky, Member Alison Ageyeva, Co-Chair of Program and Events Committee Diana Browne (l. to r.)



Past President Harriett Newman Cohen (left) and Corresponding Secretary Virginia LoPreto (center) enjoying the event with members



*Past WBASNY Presidents
Sandra Katz and Susan Bender,
Past NYWBA President
Hon. Betty Weinberg Ellerin
(l. to r.)*



*Dinner Co-Chair and NYWBA Vice
President Jennifer P. Brown*

*NYWBA Two-Term President
Hon. Jacqueline W. Silbermann*



Annual Dinner Photos

*Recipient of the President's Special Award
Hon. Sheila Abdus-Salaam with Hon. Fern Fisher*



*Member Hon. Saliann Scarpulla (left) and
Board Member Hon. Kelly O'Neil Levy*



*NYWBA Vice Presidents Julie Hyman and Yacine Barry
and past Newsletter Chair Susan Miller (l. to r.)*



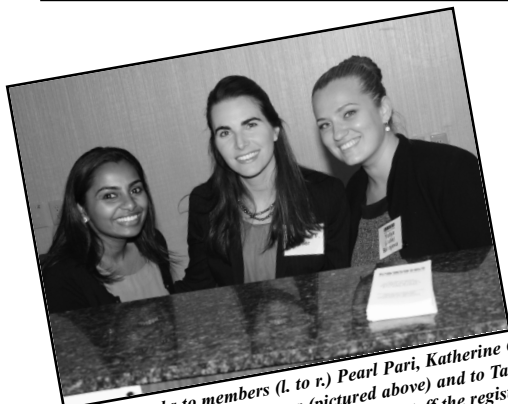
*NYWBA Past President Hon. Betty Weinberg Ellerin
installing President Hon. Jacqueline W. Silbermann*



*NYWBA Past President Hon. Lisa Sokoloff (left)
and WBASNY President Donna M. Froscio*



*Long-time Board member Hon. Phyllis Gangel-Jacob (left) and
Treasurer Deborah Rosenthal (right) review items at the silent
auction table*



*Many thanks to members (l. to r.) Pearl Pari, Katherine Czer,
and Yuliya (Julie) Babayeva (pictured above) and to Taleen
Aiazian, Serena Scott-Ram, for helping to staff the registration
desk with Executive Director Karen Lu*



New NYWBA Officers being installed

SAVE THE DATE!

New York Women's Bar Association Trusts & Estates Committee

CLE Program

"Practicing in the New York County Surrogate's Court and Tour of the Court"

Wednesday, October 23, 2013

featuring

HONORABLE RITA MELLA Surrogate, New York County

Join us at this dynamic and exciting program, designed for new attorneys and experienced attorneys who are interested in practicing in the New York Surrogate's Court. This Court handles cases involving the affairs of decedents, including the probate of wills and the administration of estates, as well as adoptions and other matters of critical importance to clients and their families.

Meet **Surrogate Hon. Rita Mella** and court personnel, and find out what attorneys and judges actually do in this Court. Pick up tips on filings, court appearances, conferences, and more! The event will conclude with a comprehensive tour of the Surrogate's Court.

Planning for this program is underway, and additional details will be available on the NYWBA online calendar at our website (www.nywba.org) and in the October Newsletter.

Puerto Rican Bar Association presents

Fourth Annual Supreme Court Review:

Key Civil Rights and Equality Case from the 2013 Term

This CLE will offer a panel of speakers including Elba Galvan (President of PRBA), Roberta Kaplan (Partner at Paul Weiss, lead attorney in *U.S. v. Windsor*), Juan Cartagena (President/General Counsel of Latino Justice PRLDEF), and Natale Gomez-Velez (Professor at CUNY Law).

Date: Tuesday, September 24, 2013
Time: 5:30 to 8:30 p.m. (CLE from 6:00 to 8:00 p.m.)
Location: Orrick, Herrington & Sutcliff LLP
 51 West 52nd St. (on 6th Ave.) NYC
CLE: 2.0 Credits
Cost: PRBA is generously allowing NYWBA members to Attend for free
RSVP: Go to www.nywba.org/calendar/calendar.cgi?month=9&view=Event&event_id=784 for details and to register.

Mark Your Calendars!

JUDGES AND LAWYERS BREAST CANCER ALERT (JALBCA) and The Post-Treatment Resource Program of Memorial Sloan Kettering Cancer Center

present

THE EIGHTEENTH ANNUAL ELLEN P. HERMANSON MEMORIAL SYMPOSIUM

Each year, this Symposium features doctors, judges, and lawyers discussing topics of interest to cancer victims, their friends, and their families concerning treatments, research, regulatory concerns, insurance considerations, and related legal issues. This event will feature renowned cancer expert, **Larry Norton, M.C.**, as a speaker and former Chief Judge of the State of New York, **Hon. Judith S. Kaye**, as moderator. Details for this year's program are being finalized, but we want you to "Save the Date" so you don't miss this important event.

Date: Wednesday, October 9, 2012
Time: 6:00 - 8:30 p.m.
Place: New York City Bar Association
 42 West 44th St. (btw 5th/6th Ave.), NYC
Cost: Open to public without charge.
 Light refreshments will be served.

Presenting Organizations:

Judges and Lawyers Breast Cancer Alert (JALBCA);
 Women's Bar Association of the State of New York;
 New York Women's Bar Association

Save the Date!

Thursday, November 14, 2013

**NYWBA Elder Law & Disabilities Committee
presents a CLE exploring**

"Basics of Special Education Advocacy and Litigation in NYC"

featuring Adrienne Akontaky

Mark your calendars for this cutting edge CLE program!
 This program is being organized so stay tuned for more details.

IT'S TIME TO RENEW YOUR MEMBERSHIP FOR 2013-2014!

Go to www.nywba.org and click on "Membership" to access our secure online membership form or contact our Executive Director (ED@nywba.org or 212-490-8202) to have a renewal form sent to you.

Factors to Consider in Determining When to Receive Social Security Benefits

by Michael B. Salmon

Over the course of your working lifetime, with every paycheck, you've dutifully paid taxes toward Social Security. When the time comes to retire, will you file for your benefits as soon as possible — age 62 under current guidelines — or will you wait until your full retirement age to receive benefits? You also have the option to wait longer than your full retirement age to receive an even bigger check. The question is when does it make sense to start collecting benefits?

For years, the "full retirement age" was 65, and there was no debate about the merits of waiting to take your Social Security. In anticipation of the millions of baby boomers entering retirement, the government has pushed the age of full retirement out. Americans born in 1960 or later don't qualify for full benefits until age 67 — and the full retirement age may continue to creep upward, as a means to stave off impending shortages in the federal government's coffers.

In general, the longer you wait to file for benefits, the bigger your monthly Social Security check will be. Conversely, if you take money out sooner, you'll get less. How much less? Well, if your full retirement age is 66 and you decide to take benefits beginning at age 62 ("early" retirement), your benefits will be reduced by 25 percent.

Still, if you are considering waiting until full retirement age or beyond to receive benefits, you may need to take into account how long it will take you to catch up to the amount you would have received, cumulatively, had you started collecting benefits at a younger age. This is called the "breakeven point." If you delay your benefits (up to age 70), you may not reach your breakeven point until your 79th birthday. That may be fine if you live to be 90, but it is not so great if you don't reach age 75. Assuming you are in good health and have a healthy family history, you may receive more money in your retirement years by waiting until age 70 to begin receiving your Social Security benefits.

There are other factors beyond the breakeven point that will influence what age is optimal for you to begin receiving your Social Security payout. If you need the money now — because you don't have sufficient savings or other sources of income to live on, you may have no real choice. Similarly, if you are in poor health, it also may not make sense to wait to receive your benefits.

You can also increase your future monthly Social Security payments by continuing to work beyond age 62 without claiming benefits. That's because the amount of your benefit is based on the average of your highest earning years. If you can bump up your income, the overall calculation of your average income will result in a plumper check. On the other hand, if you continue to work between age 62 and your full retirement age and file for Social Security, the benefits you receive may be taxed and thus reduced.

Your marital status also factors into the decision of what age you choose to receive your benefits. For married couples, there's a

potential advantage for the lower-earning spouse if the higher wage earner postpones benefits. That's because the lower wage earner receives one-half of the spouse's benefit provided he or she has reached full retirement age and the full benefit if he or she is widowed. According to ssa.gov, if the lower-earning spouse begins collecting benefits prior to reaching full retirement age, he or she could receive benefits of up to about 46 percent, depending on his or her age.

To be sure, you will want start by looking at your projected benefits (and your spouse's) by reviewing your Social Security statement to determine the benefits you would receive if you were to begin collecting at age 62, at your full retirement age or if you decide to postpone your benefits until a later age. (If you haven't done so already, you can access and review your Social Security Statement at ssa.gov.) Also, talk to your financial advisor and your accountant to get professional opinions on the value of waiting versus claiming benefits sooner. What makes sense for one retiree may not be the best choice for another.



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.

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NYWBA Solo & Small Firm Practice Committee

"Networking"

Join Co-Chairs **Jocelyn L. Jacobson** and **Elisabeth Ames** as the Committee provides invaluable advice on networking and discusses plans for programs and activities in 2013-2014. Existing and prospective members* are welcome. Don't forget to bring your business cards!

Date: Thursday, September 19, 2013
Time: 8:30 A.M.
Place: Reitler Kailas & Rosenblatt, LLC
885 3rd Ave., 20th Fl. (btw 53/54th St.), NYC
Cost: Free for NYWBA Members*
RSVP: Send an email to SSFChairs@nywba.org.
For building security purposes, advance registration is required.

* If you are not a 2013-2014 member, go to www.nywba.org/Membership to join or renew using our secure membership form. To inquire about your membership status, email Executive Director Karen Lu (ED@nywba.org).

Important Ethics CLE Program

"Other People's Money: Handling Client Funds & Escrow Accounts"

presented by

NYWBA Professional Ethics & Discipline Committee, The New York State Lawyer's Fund for Client Protection, and The New York State Interest on Lawyer Account Fund (IOLA)

One of our most important responsibilities as lawyers is the handling of client funds. All New York lawyers who receive client funds must maintain an IOLA account and keep client funds segregated. Although most lawyers understand these two basic principles, there is a great deal of confusion over how client funds should be handled and what remedies are available when funds are misused or lost. This comprehensive program will address the administration of attorney escrow accounts and the rules governing the handling of client and third-party funds.

Speakers will provide an overview of ethics rules, statutes, and regulations governing client funds. They will provide an overview of the New York IOLA program (which administers the interest earned on IOLA accounts) and the Lawyers' Fund for Client Protection (which reimburses clients for losses resulting from attorney thefts).

Speakers

Christine Fecko

The New York State Interest on Lawyer Account Fund

Michael J. Knight Sr.

The New York State Lawyer's Fund for Client Protection

Timothy J. O'Sullivan

The New York State Lawyer's Fund for Client Protection

Katie M. Lachter

Associate, Hinshaw & Culbertson LLP

Moderator

Nicole I. Hyland

Counsel, Frankfurt Kurnit Klein & Selz, PC;

Co-Chair, NYWBA Professional Ethics & Discipline Committee

Date: Thursday, September 26, 2013

Time: 5:30 p.m. Registration and Networking
6:00 - 8:00 p.m. Ethics CLE Program

Location: Frankfurt Kurnit Klein & Selz PC
488 Madison Ave. (btw 51st/52nd Sts.), NYC

CLE: 2.0 Ethics Credits * (Accreditation pending)

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

RSVP: Go to www.nywba.org/EthicsClientFundsRSVP

Info: Contact ClientFundsEthicsCLE@nywba.org

***CLE:** NYWBA is a founding chapter of the Women's Bar Association 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:** Current members of NYWBA & WBASNY Chapters attend CLE programs for free. If you are not a current member, go to www.nywba.org/Membership to join or renew using our secure membership form. **NOTE:** New membership year commenced on June 1st.

*****Financial Hardship Scholarships:** 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 or 212-216-1135. All requests are confidential.

New York Women's Bar Association

is a proud co-sponsor of the

New York State Bar Association

CLE Program on

"Guardian Ad Litem Training for Attorneys"

Are you interested in extending your Trusts & Estate's practice to offer Guardian Ad Litem services? If so, this two-night program will be well worth your time! At this CLE, **Hon. Rita Mella**, New York County Surrogate, along with several additional speakers, will provide valuable information on how to become a Guardian Ad Litem. New attorneys and established attorneys are welcome to attend!

Space is limited, so RSVP today!

Date: Tuesday, September 17, 2013 *and*
Tuesday, September 24, 2013

Time: 5:30 to 9:00 p.m.

Location: New York Law School
185 W. Broadway, (btw Worth/Leonard St.) NYC

CLE: 6.0 Credits

Cost: \$75 per person

*(This program is not presented by NYWBA and
this is not free for NYWBA members.)*

RSVP: Details and registration info will be
available shortly on the NYWBA calendar.

NEW YORK WOMEN'S BAR ASSOCIATION

Programs & Events Committee

invites you to

~ WINE 101 ~

The Basics of Wine, Wine and Food Pairings, and Wine and Cheese Tasting

*featuring wines and artisan cheeses from
The Hudson-Chatham Winery*

Date: Thursday, October 24, 2013

Time: 6:30 to 8:30 p.m.

Location: STASH
248 West 14th Street (btw 7th & 8th), NYC
(Use street level entrance to lower floor)

Cost: \$35 per person (*paid in advance*)
(\$10 surcharge at the door, *space permitting*)

RSVP: Go to www.nywba.org/WineTastingRSVP
*At this premier event, space is extremely limited.
RSVP as soon as possible on the NYWBA
website.*

Since its opening, the Hudson- Chatham Winery has won over fans and critics alike. It was voted the Capital Region's Best Local Winery two years in a row, and their wines have won multiple medals and received high scores from Wine Spectator and Wine Enthusiast magazines. Its tasting room features locally produced gourmet products, including a large selection of Hudson Valley artisanal cheeses. Those who attended last year's tasting will know that they are in for a real treat! *For more information, send a note to Wine101rsvp@nywba.org.*

Litigation Committee's Lunch with a Judge Event Featuring Hon. Alison J. Nathan, U.S. District Judge, S.D.N.Y.

by Dena Ebricht and Jill Zibkow

On Tuesday, April 16, 2013, the Honorable Alison J. Nathan, United States District Judge for the Southern District of New York, kindly opened her courtroom to NYWBA members for a candid discussion and graciously fielded questions from new and seasoned attorneys alike about litigation practice, her courtroom practices, career development, and work-life balance. Having served as a U.S. Supreme Court law clerk, big firm litigator, law school professor and Associate White House Counsel, Judge Nathan freely shared her experiences prior to and upon ascending the bench; a position, she jocularly remarked, she has held for "one year, four months and thirteen days."

On technology in the courtroom. Judge Nathan explained that judges have wide latitude when deciding whether conferences can be held by phone. Although she does not have a one-size fits all approach, she prefers to see people eye to eye and usually insists everyone be in the courtroom on at least the first appearance. She strives to be an active participant in her cases and to get to know the lawyers involved. As for technology more generally, "yes," she stated, technology can play a part "as long as it does not disadvantage either party."

On what surprises her in her new role. Judge Nathan stated that she did not truly appreciate the volume of work involved until she was on the bench herself. "It's a lot of hard work," she stated simply. There are approximately 300 civil and 30 criminal cases currently on her docket. The quantity of work aside, she also was surprised by the range of advocacy abilities, both written and oral, displayed before her. Respecting civility among members of the bar, she prefers for parties to resolve issues among themselves and turn to her only when a genuine issue cannot be resolved without her involvement. Lastly, the number of intellectual property cases she handles -- which cases currently dominate her docket -- was a surprise.

On how her experience on the bench differs from her previous experiences. Judge Nathan enjoyed being a litigator for a large firm, as it offered the unlimited resources and taught her practicality of lawyering. When in government service, Judge Nathan appreciated the public interest aspect of her work. In the White House, Judge Nathan enjoyed working out compromises, problem solving, and fostering inter-agency collaboration. Finally, for Judge Nathan, there simply was no better way to learn how judges make decisions than in her role as a law clerk. All in all, however, Judge Nathan finds being a member of the judiciary suits her the best.

On what she misses in her new role. Judge Nathan noted that as much as she enjoys the autonomy of being a judge, it can be quite solitary at times. There are times when she misses the camaraderie and teamwork in private practice.

On learning to become a federal judge. Judge Nathan, like all newly appointed federal judges, attended what is affectionately referred to as "Baby Judges School." BJS is a two phase training program hosted by the Federal Judiciary Center in Washington, D.C., where newly appointed judges learn the mechanics of being a judge and review substantive areas of law taught by distinguished experts from varying fields. Judge Nathan had the pleasure of getting to know, and sharing her experiences with, other new judges from around the country.

On career advice. Though no job is perfect, Judge Nathan emphasized the importance of having a job in which you enjoy getting out of bed in the morning. And once in your job, she further advised, you should push yourself out of your comfort zone and continuously build your skill set. She also noted that every job you have offers you a new set of skills, connections, and opportunities. Writing, she advised, is the most crucial skill an attorney can have, so one should look for these opportunities.

On whether becoming a judge was one of her career aspirations. Humbly, Judge Nathan admitted that she did not seriously entertain the idea of becoming a judge until recently. While clerking, she recalled thinking how great it would be to become a judge, but didn't consider the possibility for herself. It was not until, while working in the White House, others approached her and encouraged her to approach Senator Schumer's Committee that Judge Nathan began genuinely entertaining the possibility. In short, she was "tapped" for the job.

On how she can handle such a wide gamut of cases and still get it right. Judge Nathan noted that, as a litigator, she was accustomed to doing a quick dive-in. Thoughtfully, Judge Nathan added that she came to the bench having less experience in federal criminal practice in comparison to other areas so it's an area she works at. And, she noted, inevitably things do repeat themselves. "You do the best you can," adding light-heartedly, "and if you get it wrong that's what the folks upstairs are for."

On the use of Magistrate Judges. Judge Nathan emphasized her personal commitment not to refer cases in areas she hasn't experienced herself once or twice. To the extent she can, Judge Nathan tries

to decide pre-trial procedural matters herself. Every case is randomly assigned to a magistrate judge, she clarified, but it remains her choice whether to refer the case.

On doing things differently. Asked what she would do differently now that she has a year of experience under her belt, Judge Nathan replied that, whereas initially her overriding motivation was "to keep the plane in the air," she now intends to use the impending clerk turnover as an opportunity to rethink her individual practices and improve her efficiency. Moreover, she now has the confidence to disclose to the parties before her when she is not familiar with a certain issue.

On her own career development. When asked about her term, Judge Nathan explained that her tenure is for life. There's "only two ways out the door," she playfully quipped. Judge Nathan is pacing herself knowing she has a lifetime to sort everything out and confessed that there was "not yet tenure of the mind." She is just as demanding on herself as she ever was.

On oral arguments and papers. Oral arguments matter a lot in Judge Nathan's courtroom, because she only holds them when she thinks she needs them. And, yes, she assured, judges do read cited cases, so it is important that lawyers be intellectually honest about their citations. When questioned whether she prefers oral or written decisions, she stated that she tends to write decisions when she can, because she can be more assertive of the rationale behind her decision and can give attorneys guidance going forward.

On her days in the White House. In response to questions posed about her time in the White House, she remarked, "it was an exciting time!" There is lots of excitement and lots of idealism. However, it's a 24/7 job so most people can do it only for one or two years.

On being a Mom. Responding to a question about being a parent and a full time professional woman, Judge Nathan explained that like most families, hers is a household where both parents work full-time --and basically all the time--so it can be difficult. Can you have it all? Yes and No. Thankfully, as a Judge, she has control over her schedule that she most likely would not have if she had returned to private practice.

Judge Nathan received her J.D., magna cum laude, in 2000 from Cornell Law School, where she was Editor-in-Chief of the Cornell Law Review. She

(Continued on Page 12)

Attention Parents!

Children's Cultural Event & Breakfast ~ A Chance to Play and Network!

"Cumbia for Kids"

Bring your children and enjoy an engaging program showcasing the rich musical traditions of Colombia, featuring music led by Pablo & Anna Mayor. Attendees can experience the folkloric instruments from the four regions of Colombia, learn the origins and material of the instruments, experience a brief history of Colombia and its music, and learn a simple song in Spanish.

Date: Saturday, October 5, 2013

Time: 10:00 A.M. – Bagel Breakfast for All
11:00 A.M. – Program & Music Lesson

Place: Flushing Town Hall, Queens
Flushing Meadow Park, Queens

Cost: Complimentary*

RSVP: Email JFlug@wbasny.org

Info: Go to <http://www.flushingtownhall.org/education/pablom.php> for program info

Hosted by:

Women's Bar Association of the State of New York;
New York Women's Bar Association; Nassau County Women's
Bar Association; Westchester County Women's Bar Association
(full list of hosts & sponsors in formation)

*Many thanks to **Farrel Fritz, P.C.** in
Nassau County for underwriting the costs of this event.



Judge Nathan (Continued from Page 11)

served as a law clerk to the Honorable Betty B. Fletcher of the Ninth Circuit Court of Appeals from 2000 to 2001, and as a law clerk for the Honorable John Paul Stevens of the Supreme Court of the United States from 2001 to 2002. She was an associate in the New York and Washington D.C. offices of Wilmer Cutler Pickering Hale and Dorr from 2002 to 2006. She then spent several years as an academic, first as a Visiting Assistant Professor of Law at Fordham University School of Law (2006 to 2008) and later as a Fritz Alexander Fellow at New York University School of Law (2008 to 2009). From 2009 to 2010, she served as Special Assistant to President Obama and as Associate White House Counsel. She served in the Office of the Attorney General of the State of New York as Special Counsel to the Solicitor General from 2010 until her appointment to the federal bench in October 2011.

Dena Ebright and **Jill Zibkow** are members of the New York Women's Bar Association Litigation Committee.

CLE Program

"How to Try a Custody Case"

presented by

**New York County Lawyers' Association,
New York Women's Bar Association
Matrimonial & Family Law Committee,
College of Matrimonial Trial Attorneys, and
Benjamin N. Cardozo School of Law**

This two-day event will cover the fundamentals of direct and cross examination (party witnesses and experts), the preparation of clients for forensic-custody evaluations, evidentiary issues relating to custody-expert reports and testimony, the methodology of child-custody evaluations, and much more! Speakers include retired NYS Supreme Court Justices Harold B. Beeler and Saralee Evans; experienced attorneys in the areas of matrimonial and family law, including Dror Bikel, Jamie L. Weiss, Frederic P. Schneider, Elliot J. Wiener, Judith E. White, Andrea R. Ziegelman and Briana Denney; and Child Custody Consultant Jonathan Gould, Ph.D. For more info about speakers and this program, go to www.nytrialcollege.com.

When: October 9 & 10, 2013

Time: 9:00 A.M. to 5:00 P.M.

Where: Benjamin N. Cardozo School of Law
55 5th Ave. (btw 12th/13th Sts.), NYC

CLE: 16 Credits (NY & NJ)*
NY: 2 Ethics, 7 Skills, 7 Prof. Practice
(for Transitional & Non-Transitional)
NJ: 2 Ethics; 14 General

Cost: \$225 - Non-Members**
\$175 - Members***
(NYWBA members get NYCLA price;
this event is not presented by NYWBA,
thus is not free.)

RSVP: Go to NYCLA website - www.nycla.org/index.cfm?section=CLE&page=CLE_Detail&itemID=3263&dateID=20131009
for details and to register.

*CLE: NYCLA is an accredited CLE provider.

****Financial Hardship Scholarships:** Full and partial scholarships based on financial need are available (contact NYCLA).

*****Membership:** Go to www.nywba.org/Membership to join or renew using our secure membership form if you are not a current member for 2013-2014. **NOTE:** New membership year commenced on June 1st.

Experts Discuss How Lawyers Can Ethically Reconcile Competing or Conflicting Duties

by **Yacine Barry**

(Ethics Committee Co-Chairs Hon. Barbara Jaffe and Nicole I. Hyland, Esq. kindly contributed to this article)

On April 23, 2013, immediately after the NYWBA Annual Membership Meeting, the Committee on Professional Ethics and Discipline presented a continuing legal education program entitled *"Duties, Duties, Duties - What to Do When Your Duties to Your Client Conflict with Your Duties to the Court or Third Parties."* The event was held at the law offices of Frankfurt Kurnit Klein & Selz, PC.

Moderator **Nicole I. Hyland** led a discussion with distinguished ethics attorneys **Deborah A. Scalise** and **Hal R. Lieberman** on how to identify, analyze, and resolve issues arising from an attorney's duties of undivided loyalty and confidentiality to a client and her sometimes inconsistent duties to the court and/or third parties. The program covered communications with represented and unrepresented parties, candor to the tribunal, and confidentiality.

Drawing from the New York Rules of Professional Conduct, which took effect April 1, 2009, Ms. Scalise reviewed two rules that govern attorney communications with third parties. Rule 4.2 (Communication with Person Represented by Counsel) and Rule 4.3 (Communicating with Unrepresented Persons) were adopted to prevent third parties (represented by counsel or not) from being taken advantage of by adverse counsel. Rule 4.2, commonly referred to as the "no contact" rule, prohibits an attorney from communicating with a person the lawyer knows to be represented in a matter concerning the subject of the representation, without prior consent of the person's lawyer. By contrast, Rule 4.3 permits communications with an unrepresented party, but requires the attorney to clarify to the party her role in the matter. Specifically, the lawyer should not create the impression she is disinterested and should correct any confusion the unrepresented party may have about the attorney's role. Rule 4.3 also prohibits attorneys from providing legal advice to an unrepresented person, so as to avoid compromising that person's interests.

In the second portion of the program, Mr. Lieberman focused on the interaction between Rule 1.6 (Confidentiality of Information), and Rule 3.3 (Conduct Before a Tribunal). Rule 1.6 prohibits a lawyer from knowingly revealing confidential information except under certain circumstances. These exceptions include, but are not limited to: (1) where the client gives informed consent; (2) where consent is impliedly authorized and is reasonable under the circumstances or customary in the professional community; (3) to prevent a crime, death, or bodily harm; and (4) when collecting a fee or defending charges of wrongful conduct. Although the exceptions contained in Rule 1.6 are discretionary, in that they permit but do not require an attorney to reveal confidential information, Rule 3.3 is different. That rule prohibits conduct by a lawyer that would undermine the integrity of the adjudicative process, even – in some circumstances – at the expense of con-

fidentiality. It would require, for instance, that the attorney take "reasonable remedial measures, including, if necessary, disclosure to the tribunal" either to correct a false statement made to the tribunal or where the client intends to engage, is engaging, or has engaged in criminal or fraudulent conduct relating to the proceeding.

Mr. Lieberman highlighted the tension between an attorney's obligation to preserve client confidences and her obligation as an officer of the court to exhibit candor to the tribunal. An attorney faced with the obligation to act under Rule 3.3 must proceed cautiously in order to avoid unnecessary harm to a client. Making the wrong call on how to balance the duty of confidentiality against the duty of candor could lead to disciplinary charges. Both panelists suggested that lawyers facing such thorny ethical dilemmas may want to seek advice from ethics counsel before taking action.

Using hypotheticals ripped from real life, members of the audience then had an opportunity to "stump the panel." Ms. Hyland, acting as game show host, presented complex ethical issues to Ms. Scalise and Mr. Lieberman, with the audience indicating their agreement or disagreement with a variety of possible outcomes. Everything was fair game and lavish imaginary prizes were awarded. This portion of the program generated a lot of discussion and fruitful examination of just how subtle the rules can be, and how important it is to be aware of them and how they interplay with each other.

Many thanks to our distinguished panel. Ms. Hyland is Co-Chair of the NYWBA Professional Ethics & Discipline Committee. She is Counsel with Frankfurt Kurnit Klein's Legal Ethics and Professional Responsibility Group, and a member of the Ethics Committees of the New York City Bar Association and the Media Law Resource Center. Ms. Scalise is a Partner at Scalise & Hamilton LLP. She co-chairs the Professional Ethics Committee of the Women's Bar Association of the State of New York and chairs the CLE Committee of the New York State Bar Association. She is the former Deputy Chief Counsel to the Departmental Disciplinary Committee for the First Judicial Department. Mr. Lieberman is a partner at Hinshaw & Culbertson LLP. He is the former Chief Counsel to the Departmental Disciplinary Committee for the First Judicial Department and a frequent contributor to the *New York Law Journal* on ethics issues.

Our gratitude as well to **Frankfurt Kurnit Klein & Selz, PC** for hosting and providing refreshments at the event.

Yacine Barry is a Vice President of the NYWBA and serves as Special Counsel for Housing Court Initiatives with the New York State Courts Access to Justice Program.

Marriage Equality: U.S. Supreme Court Update

By Debra S. Cohen

This past term, the United States Supreme Court issued two rulings impacting marriage equality for same-sex couples. Both cases were decided by a 5 to 4 majority.

"Prop 8" Case – In *Hollingsworth v. Perry*, 133 S.Ct. 2652 (2013), Chief Justice John Roberts delivered the opinion of the Court. The case involved a challenge to the decisions by a California district court and the Ninth Circuit Court of Appeals' holding that Proposition 8 (California's voter initiative amending the state constitution to state that marriage was a "union between one man and one woman") was unconstitutional.

Early in the case, the State of California refused to defend Prop 8, and a group of advocates who had been involved in filing the initial petitions in support of Prop 8 stepped in to defend the law. In its decision, the Supreme Court held that these advocates had no standing, since they had no personal stake in the case and were not personally adversely impacted by the lower court rulings finding Prop 8 unconstitutional.

The effect of the Supreme Court's standing ruling was to reinstate an earlier California Supreme Court decision holding that same-sex marriage was a constitutional right *in that state*.

"DOMA" Case – The second case, *United States v. Windsor*, 133 S.Ct. 2675 (2013), was a challenge to the constitutionality of Section 3 of the federal Defense of Marriage Act ("DOMA"), which defined "marriage," for purposes of federal law, as a union between a man and a woman. That narrow definition forbade the federal government from treating same sex married couples as "spouses" under more than 1,000 federal laws and regulations, and it impacted the lives of these couples, and their families, in profound ways – denying them equal treatment under the tax codes, pension laws, penal laws, health insurance and federal financial aid regulations and plans, and in other ways affecting important rights and benefits.

The *Windsor* case is, at its core, a human story. Edith Windsor and Dr. Thea Speyer were together for more than forty years. With Thea in failing health, the couple legally married in Canada in 2007 and then returned to their New York City home. Although New York State had not yet legalized same-sex marriage, it did recognize those same-sex unions that had been sanctioned by other jurisdictions.

Two years after they were married, Thea died and left her entire estate to Edith. Because of DOMA's Section 3 limits on the definition of marriage, however, federal law did not recognize the couple's status as "spouses," and the IRS ruled that Edith was not eligible for the standard estate tax exemption as a surviving spouse. As a result, she was required to pay \$363,000 in taxes that a spouse in a different-sex marriage would not

have had to pay.

Edith filed suit, and both the federal district court and the Second Circuit Court of Appeals ruled that Section 3 of DOMA was unconstitutional and ordered the United States to provide Edith a refund. [In an interesting procedural twist, the Justice Department had been previously instructed by President Obama not to oppose challenges to Section 3's constitutionality. Normally, that would have ended the case, but the House of Representatives' "Bipartisan Legal Advisory Group" intervened as an interested party to defend the law in suits brought by Edith and others.]

The Court's decision, authored by Justice William Kennedy, was striking for both its legal analysis and sensitivity on what, for many, remains a very controversial, personal, and emotional issue. The opinion recounts the couple's story in the context of the evolving laws on gender-neutral marriage throughout the United States, and it acknowledges "the urgency of this issue for same-sex couples who wanted to affirm their commitment to one another before their children, their family, their friends, and their community." *Id.* at 2689.

Justice Kennedy noted that Congress' enactment of DOMA was an extraordinary intrusion into the traditional rights of the states to define what constitutes "marriage," and "rejects the long-established precept that the incidents, benefits, and obligations of marriage are uniform for all married couples within each State...." *Id.* at 2692. He observed that "the State's power in defining the marital relation is of central relevance in this case," but that DOMA's definition of "marriage" imposed undue restrictions on same-sex married couples and was injurious to "the very class New York seeks to protect." *Id.* at 2692-93. The Court concluded that DOMA violated "basic due process and equal protection principles applicable to the Federal Government." *Id.* at 2693.

Justice Kennedy's final observation regarding the unconstitutionality of Section 3 of DOMA was that:

The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity. By seeking to displace this protection and treating those persons as living in marriages less respected than others, the federal statute is in violation of the Fifth Amendment.

Id. at 2696.

Women's Bar Role – We are extremely proud that the Women's Bar Association of the State of New York, of which the NYWBA is a founding chapter, participated as *amicus* in the *Windsor* case before the Second Circuit, and in both *Windsor* and *Hollingsworth* before the U.S. Supreme Court, through its Amicus

Committee (co-chaired by **Melinda Saran**, **Alayne Katz**, and NYWBA Past President **Elizabeth A. Bryson**, who took the lead on the review and editing of the briefs on behalf of WBASNY).

What Does This Mean for Attorneys and Same Sex Couples?

– While *Hollingsworth* and *Windsor* provide certain benefits and rights to same-sex married couples in New York and California (and potentially in other states that currently recognize marriages on a gender-neutral basis or enact legislation to do so in the future), such couples and their families still do not enjoy all of the same rights, benefits, and status conferred on other families.

This is because the U.S. Supreme Court did **not** recognize a general federal constitutional right to marriage for gays and lesbians. These cases also do not immediately or automatically unravel the administrative labyrinth of institutionalized discrimination created by Section 3's prior limited definition of "marriage." Plus, the *Windsor* ruling striking down DOMA applies only in states that already allow recognition of same-sex marriages.

While the federal government is working through the many laws and regulations impacted by DOMA to effectuate required changes, and states with gender-neutral marriage are implementing their own procedures, it will take time for the new rules to take effect.

Nor does either case require the private sector to cease all discriminatory employment practices, which include the wrongful denial of spousal and parent benefits to same-sex couples and their families. My firm currently represents a same-sex married couple, where a spouse's employer is denying health insurance coverage under a family plan unless she adopts her stepson; a requirement not imposed on different-sex blended families, and one that has proven impossible to satisfy, because the boy's father has not waived his parental rights.

So, while *Windsor* was a significant step in showing same-sex couples and their children that they are worthy of equal respect and recognition, there remains an important role for lawyers to play in helping these families complete their journey to true marriage equality.

Debra S. Cohen is Co-Chair of the Civil Rights Practice Group at Newman Ferrara LLP and an adjunct professor at Pace University School of Law, where she teaches courses on civil rights law and litigation. She was recently appointed Co-Chair of the Committee to Advance the Status of Women in the Profession.

18-Year Old Florida Woman Becomes Britain's Youngest Attorney!

Congratulations to **Gabrielle Turnquest**, an eighteen-year-old Florida native who recently became the youngest person ever to pass Britain's Bar Exam! Ms. Turnquest was able to sit for the exam because her parents are originally from the Bahamas, which maintains an allegiance to the English Monarchy (and an affiliation to Britain's justice system – appeals from court decisions in the Bahamas can be taken to the "Privy Counsel" in London).



While Ms. Turnquest is not a NYWBA member, we would be remiss not to acknowledge this remarkable accomplishment, as she epitomizes everything that the Association stands for: dedication, drive, intelligence, and passion for the law.

Ms. Turnquest obtained her undergraduate degree in psychology from Liberty University in Virginia at age 16, received her Graduate Diploma in Law at Britain's University of Law at age 17, and then passed Britain's Bar at age 18.

While Ms. Turnquest would have to complete an additional year of training before being able practice law as a "barrister" in Britain, she reportedly plans to return to the United States, where she will take the California and Multistate Bar Exams. She also plans to enroll in the Fashion Institute of Design and Merchandising in California and pursue a career in fashion law.

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