



New York Women's Bar Association

invites you to join us in honoring the

***Newly-elected and Appointed
Judges of New York County***

at a Cocktail Reception at

Nicole's

10 East 60th Street

(betw Madison and Fifth Avenues)

Wednesday, January 18

RSVP to Executive Director Arlene Stock
(212-490-8202 or info@nywba.org)

Please consider making a donation
to help victims affected by the

HURRICANE KATRINA DISASTER

NYWBA was pleased to
make a donation to

**LOUISIANA COALITION AGAINST
DOMESTIC VIOLENCE**

(www.lcadv.org)

Help the NYWBA to make a difference!

***For the latest news and information on programs and
events, check NYWBA online at www.nywba.org.***



PRESIDENT'S MESSAGE

January 2006

***Do We Need A Women's
Bar Association?***



Photo: Daryl-Ann Saunders

Christina Kallas

This year will be the 30th anniversary of my graduation from law school. The practice of law has changed substantially in that time.

I graduated from high school in 1969; that was the first fall that Yale accepted women as undergraduates. Vietnam had become a highly divisive background to all else that went on in our lives; we wore black armbands on our white graduation gowns, scandalizing our parents, who did not understand our anger.

In 1972, Congress passed the Equal Rights Amendment. It has yet to be ratified by a sufficient number of states to become part of the Constitution.

In 1973, the American Psychological Association amended their DSM-II to declassify "homosexuality" as a mental disorder. As I interviewed for jobs, my shiny new Ivy League bachelor's degree in hand, I was consistently asked, "Can you type?" Women went to law school in droves. My class was over 35% female - an astonishing statistic at the time, and a phenomenon that not all were comfortable with. People still said, "How dare you? You're taking away a job from a man, who will have to feed a family!" On job interviews, I was consistently asked if I planned to marry. Once married, I was consistently told, "We would hire you -- but you'll just get pregnant and leave."

In 1977, I closed an average of 8 mortgage loans a day. All the papers were typed on electric typewriters. Often when I walked into a closing, one of the (male) lawyers would ask, "Are you a paralegal?" or "Can you type a deed for me?" I was one of two "lady lawyers" who practiced real estate law in Nassau County.

In 1979, the UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It now has 180 signatories -- but not the U.S.

It wasn't until 1980, (when, unbeknownst to me, WBASNY was formed), that I had access to "word processing." For our 60 in-house lawyers, my company purchased 4 computers, and trained 4 secretaries in their use.

The first IBM PC was sold in 1981. I moved to Wall Street in 1982. Our secretaries had mag card machines, which stored text on floppies that looked like microfiche. There was 1 word processor for the entire firm. I asked for my own computer. My request was denied, because the male lawyers would surely ask me to type their contracts.

Continued on page 2

Hurricane Katrina Victim Reflects on Life Changes

Margaret Alverson, who formerly practiced in New York and then in Louisiana, recently relocated with her family to New York in the wake of Hurricane Katrina. The following is her account of the changes to her life:

When I told my father years ago that I wanted to go to law school, he agreed. The education, he said, would be valuable even if I never practiced law.

Now, close to twenty-five years later (gasp!), I view that education from a rather interesting perspective. I have enjoyed a fantastic career as a criminal defense lawyer. I have tried every kind of case imaginable, from a strange matter in New York County landlord-tenant court to death penalty prosecutions in my hometown of New Orleans, Louisiana. And that is what gives rise to the reflections on the value of that legal education and the life skills we develop as attorneys.

Not long ago, I returned to New Orleans, married, and began raising a family. A rather predictable school year began on August 18. All that was familiar was soon to change dramatically and unexpectedly.

Although our Katrina saga is not as compelling as some, suffice it to say that my husband and I woke our boys (aged four and six) and my octogenarian parents at dawn on Sunday, August 28, and told them that this storm had not veered east to any significant degree and that at Category V, we could not take the chance of riding this one out. The father who sent me to law school and had always been the one who made these hard decisions now looked to me, his youngest daughter, to make the decision for our family. We headed to my in-laws in Gonzales right outside of Baton Rouge. As I stood in the stillness of our house, somehow I knew that it would be alright. It was, and it is. But we fear it will be a long time before we can live there again. By Wednesday, the day after the floods claimed the city, my husband (also an attorney) and I made the decision to place my parents in an assisted living home and to return to New York to enroll the boys in school here.

What has changed is our city and our way of life. I can neither comprehend nor describe the extent of the disaster, for I have not been back. I feel the pain of a big gaping wound as well as an overwhelming sense of pride when I hear the words "New Orleans."

What has any of this to do with being an attorney -- a criminal defense trial attorney at that -- a career role that in some ways seems very focused, perhaps even limited? Who we are and what we have to offer as parents, teachers, role models, and community members are, I think, greatly enriched by the skills we hone as attorneys. We have a resilience and flexibility of mind that enables us to rapidly analyze a set of facts and make life-altering decisions. This requires good judgment, intelligence, and loads of self-confidence. We possess the ability to take charge of a situation, whether it be in a meeting with arguing adversaries or in a courtroom. We have enormous patience -- and even compassion -- as we explain difficult and often bizarre legal concepts to clients.

Continued on page 5

President's Message continued from page 1

I started my own practice in 1989, the year that the U.S. Supreme Court ruled in Stanford v. Kentucky that the Constitution did not preclude us from executing 16 year olds.

Technology has evolved: now I work on a laptop with wireless networking capacity. I have a "SmartPhone" which stores the contact information for the people I call and holds my calendar. I have my own copy machine and printer that scans and is a fax. I email clients in Saudi Arabia and receive phone calls from Dubai. Practicing as a solo practitioner as I do today would not have been possible in 1976; it was the stuff of Star Wars.

Women are graduating from law schools in record numbers, but we still do not constitute 50% of the partners in Wall Street law firms. Congress passed The Family and Medical Leave Act in 1993, but few males take advantage of its provisions. Why is that? NYWBA is instituting a survey this year, so that we can begin to identify firms that are supportive of women lawyers; stay tuned for further details.

We have many more female judges than we did 30 years ago, and it is no longer a sin to wear pantsuits to court, but we have only one female Supreme Court Justice and one African-American Supreme Court Justice -- why is that?

The good news: Congress has reauthorized the Violence Against Women Act. The bad news: in the US each day, 4 women die at the hands of their partners and 700 are raped or sexually assaulted.

What is NYWBA doing to change all of this? In the past few months, we have sponsored (free) programs on effective networking, on international arbitration, (free) opportunities to network with our members, who include many judges, a fund-raising breakfast through our Foundation featuring Linda Greenhouse discussing what influenced the evolution of Justice Blackmun's thinking over his years on the Supreme Court, several free "Lunch with a Judge" programs affording an opportunity to meet with judges for intimate discussions of how they view their roles, our (free) annual "What it's Really Like to Practice Law as a Woman in New York" panel discussion. Through our committees, we have had (free) presentations on such topics as "What solo and small firm lawyers need to know about accounting," and the list goes on. Through our membership in WBASNY, we have considered positions on pending legislation (no-fault divorce, anti-trafficking legislation) and pending cases, such as one concerning the potential susceptibility of law guardians to malpractice claims. Our mentoring program continues to provide peer mentoring as well as mentoring for new lawyers.

In the next few months, we will be sponsoring programs on heart health, and how to recognize and deal effectively with mental illness in your clients and colleagues. Our Annual Judges Reception on January 18th is a wonderful opportunity to meet and congratulate the newly-elected and appointed judges in our county. On March 7th, join us and our sisters from Brooklyn for a celebration of Women's History Month. And, of course, our committees meet frequently to discuss topics of interest in particular fields, affording you the opportunity to meet with members having expertise in various fields of practice.

We have certainly come a long way, and we have a long way to go. Could your career use a boost? Have questions about juggling career and work? Wondering whether to change your life in some way? One of our members may have answers for you. Join us! And may 2006 be your best year yet.

Christina

LUNCH WITH JUDGE FAVIOLA SOTO



Continuing with our "Lunch with a Judge" program, on November 14, 2005, a group of our members chatted over lunch with the Honorable Faviola Soto in her chambers at 111 Center Street. The assembled group sat in a circle and told the judge a little about themselves and their practice. In turn, the judge spoke of her six children (whose pictures were on the walls of her chambers), her years of practice before taking the

bench, and some of her assignments as a judge. She was as warm and bubbly in person as she is kind and solicitous on the bench.

Justice Soto was the first Dominican judge elected in the City. She has received tremendous feedback from litigants and juries who have expressed approval over seeing "someone who looks like them" presiding over cases. She really enjoys her current assignment (as an Acting Supreme Court Judge) to an IAS Part. Much of her allotment is PI (personal injury), which she prefers to commercial cases because they are "juicier" and they involve more contact with the litigants. She was last assigned to a City Part, in which she had little time or flexibility to be as hands-on and pro-active as she would have liked. In her current Part, she hears more oral argument and has more time to spend on crafting her own decisions. When Justice Soto first took the bench she was assigned to criminal court, although she had never practiced in that area previously. She felt her time there was well spent because of the gravity of dealing with people's freedom.

Justice Soto spoke a bit about the notoriety of being a judge and the effect it has had on her family. Some of the judge's decisions have drawn quite a bit of (favorable) press and other media coverage, such as her opinion in a case involving the return of an engagement ring [Ms. Manners take note]. Judges are not allowed to respond to the press about pending cases. She mentioned how difficult that is for judges sitting in arraignments in Criminal Court who are often criticized for setting people free (due to lack of proof or information) who later commit heinous crimes.

Justice Soto sits on the New York County Supreme Court Tort Advisory committee. The committee has been involved in many issues, big and small, affecting day-to-day practice, including the creation of the HIPAA compliant authorization forms that we now use. Currently the committee is studying expedited trials that take 2-3 days as opposed to weeks, in which expert proof is admitted in the form of reports instead of through testimony, and only a small number of witnesses testify. Apparently, expedited trials have been used very successfully upstate, but there is resistance here.

"Lunch with a Judge" will take a hiatus during December and return early next year. In response to requests, we are lining up lunches with Appellate Judges, Judges of the Commercial Parts, and Housing Court Judges. We hope you will consider joining us for one. Please check our website (www.nywba.org) for time, date, and place.

NOTES ON MEMBERS

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

Condolences to NYWBA Board Member **Justice Laura Drager** on the death of her mother, Lenore Drager. In her honor, donations may be made to the New York University Medical Center, 530 First Avenue, New York, NY 10016.

Condolences to NYWBA Member **Harriet Cohen** on the death of her husband, Dr. Arthur Feinberg. Messages of sympathy may be sent to Harriet at Cohen, Hennessey & Bienstock, PC, 11 West 42nd Street, 19th Floor, New York, NY 10036-8002.

Congratulations to NYWBA Treasurer **Elizabeth R. Gorman** on her joining the partnership of Fabiani & Cohen, LLP, effective January 1, 2006.

WELCOME NEW MEMBERS

*Jesse Rose Eisenberg
Bronwyn Gonzales
Alison Imperato
Susan Kang
Argyria Kehagias
Karen Paik*

*Danielle Petitti
Romy Porrazzo
Jennifer Rolnick
Narisa Sasitorn
Daphne Schlick
Veronica J. Wiles*

SUSTAINING MEMBERS

With their generous contributions, our 2005-06 sustaining members make it possible for us to accomplish so much more. We honor and thank them for their support:

*Laurie Berke-Weiss
Elizabeth A. Bryson*

Lower East Side Ecology Center

will host an

Electronics Recycling Event

Sunday, January 8, 2006
9 a.m. to 5 p.m.

Union Square Park - North Plaza
17th Street & Broadway
(Look for a truck parked in the
NW corner of the plaza)

www.lesecologycenter.org

CALLING ALL AUTHORS!

We need you
to submit

**articles, notes on members, committee
calendars, and announcements**

for publication in the NYWBA's monthly newsletter.
Please e-mail submissions to newsletter@nywba.org

REPORTING PROFESSIONAL MISCONDUCT

NYWBA Member Sarah Diane McShea contributed the following report about professional responsibility. Sarah practices in Manhattan, representing lawyers and law firms in ethics matters and disciplinary proceedings. She is an adjunct professor of professional responsibility at Brooklyn Law School.

The Code of Professional Responsibility requires lawyers to report professional misconduct by other lawyers, but only in certain circumstances. While some lawyers believe that the Code requires them to report any violation of the ethics rules and others believe that even potential violations must be reported, neither understanding is correct. This article will examine the reporting requirement as it applies to New York lawyers.

Disciplinary Rule 1-103(a), affectionately referred to as the "rat fink" rule, provides that:

A lawyer possessing knowledge, (1) not protected as a confidence or secret, or (2) not gained in the lawyer's capacity as a member of a bona fide lawyer assistance or similar program or committee, of a violation of section 1200.3 [DR 1-102] of this Part, that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

DR 1-103(a) [22 NYCRR § 1200.4(a)]. An older version of the rule required the reporting of all misconduct, but for more than fifteen years, DR 1-103(a) has required reporting only in specific circumstances and only if specific requirements are met. Of course, lawyers are free to report professional misconduct by other lawyers, even if mandatory reporting is not required.

First, DR 1-103(a) requires that a lawyer have "knowledge" of another lawyer's misdeed. Mere suspicion does not trigger the reporting requirement. The knowledge requirement means that a lawyer must have "actual knowledge" that another lawyer acted so unethically as to raise a "substantial question" as to the other lawyer's honesty or fitness as a lawyer, or else the reporting rule does not apply. *Doe v. Federal Grievance Committee*, 847 F.2d 57 (2nd Cir.1988) (lawyer's "mere suspicions of fraud" do not trigger duty to report fraud on the tribunal; lawyer must have "actual knowledge" of the fraud to mandate disclosure to the tribunal). A lawyer is free to report suspicion of another lawyer's misconduct, but is not required to do so.

Second, DR 1-103(a) requires a lawyer to report knowledge of another lawyer's misconduct, but only if that knowledge is not protected as a "confidence or secret." The Code of Professional Responsibility defines a "confidence" as information protected by the attorney-client evidentiary privilege and a "secret" as "other information gained in the professional relationship" that the client has requested be held inviolate or the disclosure of which would be embarrassing or likely to be detrimental to the client. DR 4-101(a)[22 NYCRR 1200.19(a)]. Clearly, most information that lawyers have about their clients is protected either as a confidence or a secret. Even information that is contained in public records may be ethically protected as a client "secret" under DR 4-101(a). See EC 4-4 (the "ethical

precept, unlike the evidentiary privilege, exists without regard to the nature or source of information, or the fact that others share the knowledge.") The limitation on the applicability of the reporting requirement is consistent with the Code's prohibitions on the disclosure of client confidences or secrets. See DR 4-101(b) and (c).

Thus, if a lawyer's knowledge of another lawyer's misconduct is protected as a confidence or secret, the lawyer is not required to report it. Indeed, the lawyer is not permitted to report it unless the client consents or the client information falls within one of the other enumerated exceptions to confidentiality contained in DR 4-101(c). The reporting rule is clearly concerned about putting a lawyer in the untenable situation of requiring a disclosure which would harm a client. Balancing the competing policies of protecting client confidences and exposing professional misconduct, the rule strikes a fair balance by not requiring reporting of privileged or ethically protected information.

Third, the lawyer must have unprotected knowledge of another lawyer's violation of DR 1-102 that "raises a substantial question as to another lawyer's honesty, trustworthiness or fitness as a lawyer." DR 1-102 prohibits lawyers and law firms from doing anything wrong, including violating any disciplinary rule. However, the reporting rule does not require that all ethics violations be reported. Only a serious violation which raises a "substantial question" about another lawyer's "honesty, trustworthiness or fitness as a lawyer" must be reported. Again, while lawyers are free to report any violation of the Code, only violations that go to the core of a lawyer's duties and raise a substantial question about the lawyer's ability to act honestly or in a trustworthy manner will trigger the reporting requirement.

It bears mentioning that the "fitness" requirement is not a general one, but is limited to "fitness as a lawyer." This effectively exempts from the scope of the reporting rule a lawyer's personal conduct which does not raise a substantial question about his or her honesty or integrity in the practice of law. While reporting another lawyer's personal misconduct is permitted, it is not required unless it is so serious as to cast doubt on that lawyer's fitness as a lawyer.

If a lawyer is required to report another lawyer's misconduct, the report may be made to "a tribunal or other authority empowered to investigate or act upon such violation." In most cases, this means the appropriate disciplinary or grievance committee. However, in some cases, the misconduct may be criminal in nature and the lawyer may report his or her knowledge to the appropriate law enforcement agency, which will satisfy the requirements of the rule and ensure that the matter is effectively addressed.

Lawyers are not required to report their own misconduct - unless they have been convicted of a criminal offense or professionally disciplined in another jurisdiction. In those instances, Judiciary Law § 90 or the rules of the Appellate

Continued on page 5

WEB CITES

This month we share some websites that are favorites of members of the Technology and Internet Committee.

Not sure what a word means? Find out at <http://www.dictionary.com>. The site also includes links to foreign-language dictionaries that will translate words to and from French, Spanish, German, Japanese, etc.

Ever wish you could view a webpage as it used to be? Try the Internet Archive Wayback Machine at <http://www.waybackmachine.org>, which is a gigantic epository of archived webpages. It does not have all webpages that ever existed, but the chances are good that you will find earlier versions.

If you want to learn about non-profit organizations, visit GuideStar at <http://www.guidestar.org>. It contains documents such as annual reports, audited financial statements, and searchable data from IRS returns, including employee compensation and grant activity.

Distinguishing fact from fiction and sincerity from swindle is ever more crucial. Two invaluable sites for identifying scams and debunking e-mail chain-letters are the Urban Legends Reference Pages at Snopes, <http://www.snopes.com>, and HoaxKill, <http://www.hoaxkill.com>.

And just for fun, visit Rotten Tomatoes, <http://rottentomatoes.com>, which consolidates published reviews of movies and generates a score.

Remember that you can use search-engines such as Google, <http://www.google.com>; AltaVista, <http://www.altavista.com>; and WebCrawler, <http://www.webcrawler.com>. You can also visit websites for legal professionals, such as FindLaw, <http://www.findlaw.com>; and the Legal Information Institute, <http://www.law.cornell.edu>.

Please send comments and suggested websites to techcolumn@nywba.org. We appreciate your contributions.

~ Gerry Fifer

We intend this as a service to our members. As with all research tools, you should use your judgment in assessing the accuracy and completeness of the information you find on the Internet.

Hurricane Katrina continued from page 2

We compartmentalize our emotions while we help them make decisions in devastating personal circumstances. We develop interviewing and listening skills; we learn that clear-headedness is paramount to an angry tirade. The latter lesson comes in very handy when dealing with a phone company which has unilaterally cut your e-mail service, your only life line to the friends, neighbors, and family members who suddenly have been scattered throughout the country.

The wise words of my father have proven true in a way I never expected them to as I share with you my newfound appreciation of the value of that education he so generously provided me.

COMMITTEE CALENDAR

The **Technology and Internet for Lawyers Committee** will meet on **Tuesday, January 24th, at 6:45 p.m.** at Kaye Scholer, 425 Park Avenue, hosted by Cassandra Porter. Please RSVP to Kay Marmorek at 646-386-4661 or til@nywba.org. Please save the date for our February 28th meeting. Contact Kay for details and to RSVP.

JOB ANNOUNCEMENTS

The New York City Law Department is seeking an attorney for its Tax and Bankruptcy Litigation Division. Applicants should have been admitted within three to five years and have experience in litigation and/or real property valuation. Please send resume, transcript, and two writing samples to Director of Legal Recruitment, New York City Law Department, 100 Church Street, Room 6-110, New York, NY 10007.

The New York City Law Department's Pensions Division is seeking one or more attorneys with as many as five years of experience. Please send resume, transcript, two writing samples, and references to Director of Legal Recruitment, New York City Law Department, 100 Church Street, New York, NY 10007.

The Feinstein Institute for Legal Service at Roger Williams University School of Law is seeking a director for its Pro Bono Collaborative Pilot Project, a grant-funded project which begins in January 2006. Please e-mail a resume to Laurie Barron at lbarron@rwu.edu.

Reporting Professional Misconduct continued from page 4

Division require lawyers to report their offenses. DR 1-103 does not require a lawyer to report his or her own misconduct.

The rule does not contain a specific timing requirement for a mandatory report, although implicit in the requirement is that reporting be made in a reasonably timely fashion. Obviously a greatly delayed report of another lawyer's misconduct does little to effectuate the underlying policies of the reporting requirement. As a self-policing profession, lawyers are in the best position to recognize serious misconduct by other lawyers. If a report must be made, it should be made in a fashion that enables the appropriate agency to pursue the matter effectively.

Lawyers often consult ethics practitioners to determine whether they are ethically obliged to report another lawyer's misconduct. In addition, several bar associations have ethics "hot lines" staffed by volunteer lawyers who are often able to help determine whether the reporting requirement applies to any particular set of circumstances.



Newsletter Deadline and Contact Information

Submissions must be sent to the Newsletter Committee by the **10th** of the month for publication in the following month's newsletter. Please email articles, notes on members, committee calendars, and any other announcements to **Teresa Schiller, Esq.**, tel. no. 212-878-3003, email newsletter@nywba.org.

NYWBA List Serve

The NYWBA List Serve provides up-to-the-moment information concerning events, programs, and job announcements through email. Please email us at info@nywba.org if you have an announcement you would like to post on the list serve or if you would like to be added to the list serve.

Have you changed your address, firm, phone number or other information? Please call 212-490-8202 or send an email to "info@nywba.org" with the updated information. This will help us keep you informed and our records up-to-date.

TAG[®] online

**Official Website Provider
for the NEW YORK WOMEN'S BAR ASSOCIATION**

Specializes in creating websites for attorneys and law firms, businesses and not-for-profit organizations

- * Web Hosting *
- * Web Design *
- * Web Development *
- * Web Anything! *

Contact Judy or Amy at 973-783-5583 or
sales@tagonline.com.
www.tagonline.com

*TAG Online is a women-owned business, certified
by the Women's Business Enterprise National Council.*

Visit our website at www.nywba.org

President

Christina Kallas

Vice-Presidents

Lisa A. Sokoloff

Teresa Schiller

Jo Ann Douglas

Treasurer

Elizabeth R. Gorman

Recording Secretary

Lisa A. Bauer

Corresponding Secretary

Kay Marmorek

Board of Directors

Susan L. Bender

Jane Bevans

Elizabeth A. Bryson

Hon. Laura E. Drager

Robin E. Eichen

Catherine M. Foti

Myra L. Freed

Hon. Phyllis Gangel-Jacob

Amy E. Halpert

Hon. Sherry Klein Heitler

Loretta A. Ippolito

Phyllis S. Koffman

Kelly O'Neill Levy

Marjorie A. Martin

Hon. Milagros A. Matos

Hon. Angela Mazzarelli

Susan M. Moss

Donna M. Praiss

Amy Saltzman

Hon. Jacqueline W. Silbermann

Andrea Vacca

WBASNY Representative

Lisa A. Bauer

Jane Bevans

Jo Ann Douglas

Hon. Betty Weinberg Ellerin

Martha E. Gifford

Amy E. Halpert

Christine M. Harman

Christina Kallas

Phyllis S. Koffman

Marjorie A. Martin

Teresa Schiller

Executive Director

Dynamic Management Services Inc.

Arlene Stock, President

Editor

Teresa Schiller

NEW YORK WOMEN'S BAR ASSOCIATION

551 Fifth Avenue, Suite 3025, New York, New York 10176
(212) 490-8202 • Fax (212) 687-4016 • info@nywba.org

PRESORTED
FIRST CLASS MAIL
US POSTAGE
PAID
PERMIT #257
HOBOKEN, NJ
07030