



NEW YORK WOMEN'S BAR ASSOCIATION

Presents

Just the Facts, Ma'am: Interviewing Techniques

Panel discussion on techniques for interviewing clients and third parties

February 18, 2004

6:00 p.m.- 9:00 p.m.

Clifford Chance US LLP
200 Park Avenue (at 45th)

Moderator

Elizabeth A. Bryson

President, New York Women's Bar Association

Panelists:

Susan Bender

Partner, Bender Burrows & Rosenthal LLP

Lori Martin

First Vice President, Merrill Lynch Investment Managers

Lecia Smith

Senior Private Investigator, James Mintz Group

Judge (ret.) Leslie Crocker Snyder

Partner, Kasowitz, Benson, Torres & Friedman LLP

M. Blair Soyster

Partner, Clifford Chance US LLP

CLE - 3 Skills credits
NYWBA Members - \$35
Non-members - \$50
Registration at the Door - \$60

Full and partial scholarships for this program based on financial need are available. For information on the guidelines and to apply, please contact the NYWBA at 212-360-7055.

All requests are confidential.

Application on Pages 9 and 10

PRESIDENT'S MESSAGE MENTORING, NETWORKING AND OPPORTUNITY

FEBRUARY 2004



Photo: Daryl-Ann Saunders

The Association provides attorneys at every level, from novices to experienced practitioners, many opportunities for networking and mentoring. Our CLE programs, committee meetings, the fall Membership Reception, the Reception Honoring Newly Elected and Appointed Judges in January, and our wonderful Annual Dinner in May, each provide a venue for members to share experiences, to get to know each other, and to mingle with distinguished judges and distinguished attorneys whom they might not otherwise get to know. Often, this leads to mentoring relationships.

I am honored to have had many mentors whom I got to know through Women's Bar events - distinguished jurists and attorneys, such as Chief Judge Judith Kaye, Appellate Division Justice Betty Weinberg Ellerin, past President Laurie Berke-Weiss, and of course our founder, the Honorable Florence Perlow Shientag. Without them, I would not have had the chance to serve our wonderful Association at all, much less as President. I would not have been appointed to a statewide Commission or taken on other challenges that have helped me grow as a professional and a person.

It is self-evident that it is important to have mentors, but our mentors and protégés need not "look like us." Former U.S. Attorneys Robert Fiske and John Martin (now a retired U.S. District Judge) have been very important mentors in my life, though their backgrounds, experiences and life paths have been very different from mine. Why? Because at crucial moments, they made it possible for me to make choices that I didn't even know I was capable of. When I was an Intelligence Analyst with the Justice Department in the Southern District, Bob Fiske supported my decision to go to law school, providing inspiration and understanding to me personally, while also serving as a shining example to us all by dramatically increasing the number of women Assistant U.S. Attorneys. Judge Martin expanded on the appointments of women AUSA's, and he made it possible for me to take a leave of absence (unheard of for a "civil servant") so I could be a Summer Associate at a New York firm. Similarly, after I became an attorney, I worked closely with partner Jack Kaplan at Carter, Ledyard & Milburn, and on a daily basis he provided lessons on the "craft" and "art" of being a fine litigator, the importance of learning not just the facts and the law but the client's goals and values, and how to best develop my own strengths and talents.

Continued on page 2

Report of the 2003-04 Committee on Nominations

The Committee on Nominations met on February 4, 2004 and proposes the following slate of candidates to serve during the 2004-05 year and for other terms as stated. The proposed slate will be voted upon by members in good standing at the Annual Membership Meeting on April 28, 2004 at the offices of New York Life Insurance Company, 51 Madison Avenue, New York, NY 10010.

Officers

| | |
|--------------------------|--|
| President: | Elizabeth A. Bryson |
| Vice Presidents: | Christina Kallas Lisa Sokoloff Teresa Schiller |
| Treasurer: | Janet I. Cord |
| Recording Secretary: | Lisa A. Bauer |
| Corresponding Secretary: | Jo Ann Douglas |

Directors

| | |
|--|--|
| <u>Class of 2002-05</u> Hon. Laura E. Drager* | <u>Class of 2004-07</u> Susan L. Bender Catherine M. Foti |
| <u>Class of 2003-06</u> Robin Eichen* Kelly O'Neill Levy* Milagros Matos* | Myra L. Freed Loretta Ippolito Amy Saltzman Wendy Schwartz Elise Yablonski |

(*Candidates to fill director vacancies for indicated unexpired terms.)

NYWBA Delegates to WBASNY

| | |
|-----------------------------|------------------|
| Lisa Bauer | Christine Harman |
| Jo Ann Douglas | Christina Kallas |
| Hon. Betty Weinberg Ellerin | Phyllis Koffman |
| Martha E. Gifford | Marjorie Martin |
| Amy Halpert | Teresa Schiller |

NOTICE TO MEMBERS ON VOTING

Article XVII, Section 10 of the NYWBA By-Laws provides that any fifty members eligible to vote at the Annual Meeting may, by a writing delivered to the Corresponding Secretary not less than forty days prior to the Annual Meeting, propose candidates for any or all of the offices and directorships to be voted on at such Annual Meeting. The Annual Meeting of the Association will be held on April 28, 2004. Accordingly, any petition for a candidate should be forwarded to Corresponding Secretary Jo Ann Douglas, 303 Park Avenue South, #1190, New York, NY 10010-3601, by no later than March 19, 2004.

President's Message continued from page 1

Over the years, I have attempted to repay my mentors, and the finest way I have found is to be a mentor to others who are starting out, are considering changing careers or otherwise looking for support. Many of those whom I have had the privilege of mentoring are now Association members, making their own striking contributions.

NYWBA has two formal mentoring programs. First, we have our famous "mentoring circles," which Elise Yablonski does a wonderful job in administering. Each circle consists of about ten members, from different practice areas and varying levels of seniority, who meet regularly during the year. Due to the emphasis on variety within groups, each member serves as a mentor to the others. Over time, successful groups develop trust and cohesiveness and foster the honest exchange of practical advice, perspective, wisdom, and friendship that is the goal of mentoring relationships.

We also have a new program, launched two years ago by WBASNY, to provide mentors to students in their final year of law school and attorneys in their first year of practice. Lisa Bauer is doing a fantastic job with this new program. Of course, there are never enough mentors for the number of prospective protégés, and I encourage you to become a mentor through this program. It doesn't take much time, and it will not only change the life of the person whom you advise, it will change your life as well, providing a richness of experience and a wonderful sense of accomplishment.

I am thrilled to include in this Newsletter the Report of the Nominations Committee, which has nominated an amazing slate of officers and directors, plus delegates to WBASNY. I am particularly honored to have been asked to serve another year as President. Together, we have accomplished a tremendous amount already this year, including dramatically increasing our membership. (As of January 31, we have nearly twice as many members as for all of 2001-02, and a third more than last year; as a result, we will go from having 6 delegates to WBASNY to having 10!). We have presented amazing programs and events, and there are many more to come, including the "Annual Meeting and Ethics Forum" on April 28th, and our Annual Dinner on May 26th. Be sure to mark these important events and our upcoming CLE programs in your calendar.

At the Annual Dinner, we will present our President's Special Award to Linda Greenhouse, the Pulitzer Prize winning author and *New York Times* reporter who covers the U.S. Supreme Court. In addition, thanks to the generosity of past President Sheila Birnbaum, we will present a new award in honor of Joan Ellenbogen to the Honorable Jacqueline Silbermann, Administrative Judge of the 1st Judicial District and Statewide Administrative Judge for Matrimonial Matters. Justice Silbermann has served our Association in many capacities over the years, most recently as a Board member, and she has had an amazing impact on the practice of matrimonial and family law across the State. We know you will want to join us on May 26th to honor her. We will also present the Award of Merit to two firms that have provided tremendous support to the Association over the years - Davis Polk & Wardwell and Blank Rome LLP. The Annual Dinner promises to be a wonderful event.

NYWBA SUCCESS STORIES

We are pleased to introduce a new feature - a column where members can share stories and successes in their lives that occurred because of their NYWBA membership or participation in NYWBA events, programs and activities.

Our inaugural NYWBA Success Story is from member Brenda Pomerance:

"No, we don't have to accomplish specific goals at every meeting, just relax," said the members of the NYWBA Technology and Internet Law committee to me, during my first meeting in 1998.

"But, what will we DO?" I exclaimed.

"We just sit around and have fun," they said.

Doubtfully, I shut up and watched. These women seemed responsible and successful, but all they wanted to do was chit-chat and laugh, not my idea of what should happen at a professional meeting of a serious bar organization. I felt awkward and like an outsider, but slowly I got the hang of how to temper my smart-a*s humor so that they would laugh in a good way. After a year or so, I felt like I belonged to the committee. I realized I had learned to schmooze.

In September 2003, I attended a fairly expensive several day conference for business people related to my practice area, patent law. Since I'm a sole practitioner, I was directly paying for this, and having concerns about my sanity, as this was a lot of money for no apparent reason. Nevertheless, I went in the hope of marketing myself, that is, meeting people who might eventually refer business to me.

The first day of the conference had parallel tracks of all-day workshops. I picked one, and discovered I was the only woman among about 30 men. From time to time during the day, I spoke up, just so that a woman's voice would be heard. I didn't think I had anything important to say, but then, neither did most of the men and yet they were quite uninhibited about speaking up. Basically, I treated the workshop like a schmoozing session.

The next day, I was hanging around the coffee table before the start of the program, and one of the speakers from my workshop came over to me.

"You're an attorney?" he inquired.

"Yes, I am," I answered, remembering that the speakers asked for a show of hands as to who in the audience was an attorney.

"What kind of law?" he asked.

"Patent," I replied.

"Oh great," he said, "we have some work we could send you."

"Aaaahhh uuuhhhh," I uttered gratefully as I gave him my card, "that would be terrific!"

So, I ended up with a very prestigious client who is a joy to work with, all because I spoke up using schmoozing skills I developed through my NYWBA committee participation. Thank you to NYWBA for providing an environment where I could learn to schmooze.

~ Brenda

NOTES ON MEMBERS

Board Member & Newsletter Co-Chair **Diana Ceccacci** had a baby on Tuesday, January 13th at 2:19 PM. Everyone is doing fine. The baby's name is Faith MaryCaroline Mosley. She weighed 9 lb. 3 oz. Diana and the baby are home with the rest of the Ceccacci/Mosley family.

WELCOME NEW MEMBERS

| | |
|----------------------------------|------------------------------|
| <i>Judith Aarons</i> | <i>Elana V. Konstant</i> |
| <i>Randi Adelstein</i> | <i>Elana Krieger</i> |
| <i>Panayiota Alexandropoulos</i> | <i>Jill Kurtzman</i> |
| <i>Bonnie Barsamian</i> | <i>Zoe Langsten</i> |
| <i>Carrie Bonner</i> | <i>Katharine Larsen</i> |
| <i>Kenneth David Burrows</i> | <i>Laura Leibfreid</i> |
| <i>Marye Cherry</i> | <i>Audrey Leigh</i> |
| <i>Alan Christenfeld</i> | <i>Victoria Litz</i> |
| <i>Alice Chung</i> | <i>Elizabeth Lynch</i> |
| <i>Dayna Cooper</i> | <i>Victoria Manthas</i> |
| <i>Lisa Del Puerto</i> | <i>Delenia Mclver</i> |
| <i>Catherine J. Douglass</i> | <i>Sherry Mitchell</i> |
| <i>Jesse Eisenberg</i> | <i>Cecilia Moss</i> |
| <i>Lara Fetsco</i> | <i>Kara Oboler</i> |
| <i>Erica Fine</i> | <i>Joan Papke</i> |
| <i>Kris Fitzmaurice</i> | <i>Madlyn Primoff</i> |
| <i>Mary Gail Gearns</i> | <i>Keila D. Ravelo</i> |
| <i>Caroline Giusio</i> | <i>Jennifer Rie</i> |
| <i>Andrea Goldberg</i> | <i>Amy Roth</i> |
| <i>Dawn Goldberg</i> | <i>Christine A. Ryan</i> |
| <i>Debra Goldberg</i> | <i>Maureen Ryan</i> |
| <i>Barbara Goodstein</i> | <i>Margot Schonholtz</i> |
| <i>Katherine Hawkins</i> | <i>Allison J. Schoonthal</i> |
| <i>Larissa Herczeg</i> | <i>Angelique Shingler</i> |
| <i>Lindsay Kaplan</i> | <i>Lisa Shroyer</i> |
| <i>Ani Kasparian</i> | <i>Rita Stephanz</i> |
| <i>Seth Kaufman</i> | <i>Tara Swidler</i> |
| <i>Yelena Khelemskaya</i> | <i>Pia Thadhani</i> |
| <i>Jeeheon Kim</i> | <i>Ariane West-Pernica</i> |
| <i>Mina Kim</i> | <i>Oda Wypior</i> |
| <i>Maryana Kodner</i> | <i>Rachel Yoskowitz</i> |
| <i>Catherine Koh</i> | |

Editor's Note: During the period covered by Brenda's story, the NYWBA Technology and the Internet for Lawyers Committee has put on four major CLE programs (including two at annual WBASNY Conventions), has been responsible for at least a dozen articles and other contributions to the Newsletters, has selected a new website vendor and completely revamped the Association's web site (see related story), and has educated members of the Association and WBASNY on issues relating to the Internet and technology in general. In other words, a lot can get accomplished while you are having fun and learning to relax and schmooze!

If you have an "NYWBA Success Story," please share it with your colleagues and friends by sending a note to "info@nywba.org" or by faxing it to 212-937-2371. If you have a great story but need help fashioning it into an article, just give us a call at 212-360-7055, and we will find someone to help turn your tale into an "NYWBA Success Story."

KATI MARTON SPEAKS AT SECOND SUCCESSFUL NYWBA FOUNDATION FUNDRAISING BREAKFAST

Once again, rain greeted the participants at the NYWBA Foundation breakfast at the Harvard Club. The second in the fundraising series, held on November 19, 2003, featured speaker Kati Marton, award-winning journalist, human rights advocate, and best-selling author of *Hidden Power: Presidential Marriages that Shaped our History*.

The sold-out function included many participants from the June breakfast, as well as several very special guests. In welcoming everyone to the breakfast, Kathy Posner, President of the Foundation, thanked those participants and donors who made it possible to invite a high school student from the Washington Irving High School's Law and Public Service Program. "These are impressive young women who have expressed an interest in law as a future career and we are pleased to be able to have them with us. We would also like to donate a signed copy of Ms. Marton's book to their school library and urge them and their friends to read it and learn how women can influence world events. Today, however, more and more women are having a more direct impact, by holding office and making policy. And who knows, maybe one of our guests will be the first female president and a book can be written about the "First Gentleman."

Board member Marian Burnbaum, who works with these young women in the program, commented, "My belief is that if you treat young people like future leaders, they will grow to believe in themselves and fulfill leadership roles."

Five young women from Washington Irving High School attended the breakfast and sat with members of the Board. The students, Roseline Louis, Danisha Bailey, Rachel Cousar, Tina Paige, and Troi Irving, are all sophomores, and between them hold such recognition as receiving the Martin Luther King Jr. Award (a school-wide honor), winning a place on the debate team and/or are winning award as policy debaters, representing the school as a Delegate to Pace University's Student Presidential Convention, and holding high academic averages with appropriate academic recognition.

The students expressed their delight with being in the distinguished Harvard Club and with meeting so many women attorneys who were happy to talk to them. In fact, Ms. Burnbaum told the Board that they have been speaking so excitedly about the program around school that kids have already approached her about attending future programs.

Kati Marton gave the group a presentation filled with both informative and entertaining facts about first ladies ranging from Edith Wilson to Laura Bush. She made the case that these presidential marriages, for the most part, have served the nation and that it is important for Presidents to have smart, fearless wives who connect them to the country because in many ways, the President lives in a "bubble."

Each first lady had her own style and made a unique impression on the position, from the strength of Eleanor Roosevelt to the non-participatory role of Pat Nixon.

Kati shared the insights she gathered through her interviews with all the living First Ladies, and extensive research and interviews regarding the twelve marriages covered in *Hidden Power*.

Martha Gifford, member of the Foundation Board, commented, "Ms. Marton's remarks offered insight into the different types of power an individual can wield, especially that power that is informal and subtle. She raised some very interesting questions about how the administrations of some of our recent presidents would have been different if they had not married the women they did."

We have all heard of the First Lady, now Senator Hillary Clinton. Kati spoke of her intelligence and drive, and made the point that the story of the Clinton presidency is the story of their marriage. Moreover, while there was great scandal during the Clinton years, Ms. Marton pointed out that a First Lady perpetrated the greatest presidential cover-up - and it was not Hillary Clinton.

When Woodrow Wilson was incapacitated, his wife Edith virtually ran the government. Perhaps the greatest irony was that Edith was against women having the right to vote, and while he called her "my little partner," she saw herself as "first wife" rather than First Lady of the country.

Some of the memorable comments Ms. Marton made during her remarks were:

- Barbara Bush was "a much more skilled politician than her husband" and "beneath the genial exteriors [of Barbara and her son] is steel;"
- Eleanor Roosevelt she referred to as the "gold standard" in First Ladies;
- Laura Bush "stepped up in the aftermath of 9/11, but now has retreated;"
- Lady Bird Johnson, her personal favorite, "thrived in the White House;"
- Nancy Reagan, "enabled her husband to function at maximum capacity."

Kati Marton has combined a career as a reporter and writer with human rights advocacy. She has contributed to major news organizations such as ABC News, The Wall Street Journal, The Washington Post, and The Times of London, covering everything from terrorist attacks in Northern Ireland to the peace efforts in the Middle East and the Balkans.

The author of five books, Marton's latest, *Hidden Power: How Presidential Marriages Have Shaped Our Recent History*, is a New York Times bestseller and a Book of the Month Club selection.

Kati is currently chair of the International Women's Health Coalition, a director and former chair of the Committee to Protect Journalists, and she serves on the boards of the International Rescue Committee, Human Rights Watch, the New America Foundation, and Central European University.

NYWBA FOUNDATION FUNDRAISING BREAKFAST (continued)

The November breakfast, at \$75 per person, raised funds to advance the goals of the Foundation, specifically to support an internship at an organization that assists women and children. With two successful breakfasts this year, the Foundation has been able to increase its assistance for internships at non-profit organizations that reach out to the most vulnerable women and children.

The New York Women's Bar Association created the New York Women's Bar Association Foundation, Inc. in 1995. Our goals are: (1) to eliminate gender bias and other forms of discrimination from the legal system and legal profession, (2) to

promote the social and economic equality, safety and well being of women and children, and (3) to address the unmet legal needs of women and children. We are a 501 (c) (3) not-for-profit charitable organization, which supports and funds charitable and philanthropic programs to aid women and girls throughout Manhattan and beyond.

If you would like more information about the Foundation, or would like to support its mission, please contact Board Member Denise A. Coleman at dacoleman@erols.com or call Kathy Posner, Esq. at 212-894-6730.



NYWBA President Elizabeth Bryson; author, journalist, and featured speaker Kati Marton; NYWBA Foundation President Katherine Posner (l-r)



NYWBA President Elizabeth Bryson, speaker Kati Marton, NYWBA Foundation President Katherine Posner, student Danisha Bailey, NYWBA Foundation Board Member Marian Burnbaum (standing, l-r); students Rachel Cousar, Troi Irving, Tina Paige and Roseline Louis (seated, l-r)



NYWBA President Elizabeth Bryson (far right) presents a signed copy of Kati Marton's book to NYWBA Foundation Board Member Marian Burnbaum, who accepted it on behalf of the Washington Irving High School Library. Joining them are students Roseline Louis, Rachel Cousar, Danisha Bailey, Troi Irving and Tina Paige (l-r), who were able to attend the event thanks to the generous donations of numerous NYWBA members.



NYWBA Foundation Board Member Marian Burnbaum and students Roseline Louis and Tina Paige.

New NYWBA Website Launched

In December 2003, NYWBA launched its very own website (www.nywba.org). It has information on NYWBA events, committees, and officers, among other things, along with the full Newsletter (for members only), a membership form that can be easily downloaded, and many other features. The members-only area has contact information for Committee Chairs, along with information about our List Serve service, issues of past Newsletters and more. Please explore the website. We welcome your comments - just send an email to til@nywba.org or call us at 212-360-7055.

Our chapter's website previously was hosted through the WBASNY website (www.wbasny.org). For several years, NYWBA member Anne Hilliard Johnson graciously volunteered her time and skills to maintain our NYWBA web pages on that site. In 2003, we had a chance to develop our own site, and we took the opportunity to really think about what our members would want and need from our site. NYWBA President Elizabeth Bryson proposed an autonomous website that could expand to serve the diverse and growing online needs of our membership, and the NYWBA Board of Directors enthusiastically endorsed the project.

Our Technology and Internet for Lawyers (TIL) Committee rose to the challenge. In early 2003, it started scouting for website developers. To best communicate its concept, the Web Development Subcommittee prepared a request for proposal (RFP). Members Gerry Fifer and Brenda Pomerance became project co-managers. From about two-dozen "indications of interest" by developers in several states, the sub-committee winnowed the proposals to a handful, and then interviewed the "finalists." Two strong, cost-effective candidates emerged from this process.

In August 2003, the TIL sub-committee determined that the best candidate was web-developer and hosting company TagOnline, Inc. (www.tagonline.com), a highly recommended woman-

owned business that has developed many sites similar to what was envisioned, and whose president, Amy Gideon, clearly intends to provide excellent service over the long haul.

The development of the website proceeded very smoothly, with the cooperation and creativity of TagOnline, the TIL Committee, and other members, vendors, and staff of NYWBA and WBASNY. The new website is the first phase of an ongoing plan. In a future column we will share our vision of the next phases, which will offer more features and greater convenience to members and prospective members.

We are proud of our new website: please visit it and let us know what you think!

<http://www.nywba.org>

Our new website is online!

Click for news and events, committee information, copies of the Newsletter, information about the NYWBA Foundation, membership renewal, links to WBASNY and other great sites, and more! You can even download a membership application.

Take a "test drive," and give us your feedback!

NOTE - We have a special "Members Only" section, which you can access using these special codes:

2003-04 Member User Name: **nywba**

2003-04 Member Password: **justice**

Over the coming months, we will add even more features! If you have comments or ideas, send an email to our Technology & Internet for Lawyers Committee at til@nywba.org, or call 212-360-7055.

SAVE THE DATE! NYWBA Annual Dinner

**May 26, 2004
Grand Hyatt**

NYWBA is proud to announce that its Annual Dinner will be held on May 26, 2004 at the Grand Hyatt, Park Avenue. At this gala event, The President's Special Award will be presented to Linda Greenhouse, Pulitzer Prize author and New York Times reporter covering the United States Supreme Court. The newly endowed Joan Ellenbogen Award will be presented to Jacqueline Silbermann, Chief Administrative Judge for Matrimonial Matters for the State of New York and Administrative Judge for New York State Supreme Court, New York County.

Save the Date!

**NYWBA FOUNDATION
BREAKFAST SPEAKER SERIES**

featuring

GAIL COLLINS

Editorial Page Editor, *The New York Times*
Author, *America's Women: Four Hundred Years of
Dolls, Drudges, Helpmates and Heroines*

Tuesday, May 4, 2004, The Harvard Club

*Look for more information about this exciting
fundraising event in next month's Newsletter.*



WEB CITES

WELCOME to the second column sponsored by the Technology & Internet for Lawyers Committee on practical practice pages available on the World Wide Web.

This column addresses **REAL PROPERTY & REAL ESTATE LAW**.

To practice real estate law, you must have information about the property. Accordingly, we list here some of the major sites that provide essential real property data (e.g., deeds, zoning, easements, codes), as well as forms for transfers or for refinancing property located in New York City.

REAL PROPERTY (synonymous with REAL ESTATE) is land and anything permanently affixed to the land (*Black's Law Dictionary, 7th ed.*).

1. Addresses and lot numbers, mortgages, deeds, UCC liens on property, etc., through New York City Automated Register Information System (ACRIS):

<http://www.nyc.gov/acris>

(The County of Richmond/Borough of Staten Island is not yet included.)

2. Access to New York City building data Includes building codes, regulations on individual properties (including co-ops and condos), some violations, complaints, and applications:

<http://www.nyc.gov/html/dob>

3. A site that combines data from various city agencies on maps, lot boundaries, zoning, easements:

<http://www.spacetrack.net>

4. New York State and City-Specific Transfer Forms:

<http://www.ci.nyc.ny.us/finance>

5. Other Resources:

Offline, the "Green Book" sold at the Municipal Building (One Centre Street) is a helpful compendium of names, addresses, phone-numbers, and key personnel of all city agencies.

Remember there are many search-engines and directories you can use for research, such as www.webcrawler.com, www.google.com, and www.yahoo.com.

We look forward to your contributions to our next column, which will be on landlord-tenant relations, and the various forms of ownership of real property. If you know of useful web sites on this or any other topic, or if you have comments on this column, please send them to "til@nywba.org."

~ Eleanor Vale

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.

COMMITTEE CALENDAR

The **Technology & Internet for Lawyers Committee** will be meeting on **Thursday, February 19, 2004, 6:15 p.m.** at the offices of NYWBA President Elizabeth Bryson, New York Life, Room 2612, entrance at 44 East 27th Street [between Park and Madison Avenues]. New members welcome. Light refreshments will be served. For information or to R.S.V.P., please contact Co-chair Kay Marmorek at 212-748-5967 or til@nywba.org. Be sure to also save the date for the next TIL Committee meeting, which will be on **Monday, March 15, 2004, 6:15 p.m.**

The **Matrimonial & Family Law Committee**, our largest active committee, meets on a monthly basis. If you are interested in attending these meetings, contact Committee Secretary Jo Ann Douglas (k9kastle@aol.com or 212-673-2895), or Co-Chairs Randi Isaacs (212-371-0799 or rsi613@aol.com) or Marilyn Sugarman (212-374-8383 or msugarma@courts.state.ny.us).

The **Working Mothers Committee** meets on a regular basis. If you are interested in attending these meetings, contact Committee Co-Chairs Christine Harman (212-578-7647 or charman@metlife.com) or Allison Brecher (212-345-9286 or allison.l.brecher@mmc.com).

The **Professional Ethics and Discipline Committee** is in the planning stages for the Association's **Annual Ethics Forum**, which is held every year on the same night as our official **NYWBA Annual Meeting**. This is a wonderful program that brings together representatives of the bar, bench and Appellate Division Grievance Committee to discuss important topics that affect practitioners every day. The event will be in **April 2004**. If you would like to join this important standing Committee of the Association, would like to participate in the planning for the Ethics Forum, or just have an idea for a topic to be covered, contact Committee Co-Chairs Robin Eichen (212-607-2803 or reichen@ftc.gov) or Millie Matos (212-553-1250 or milmato@aol.com).

The **Business Law, Taxation, and Bankruptcy Committee** is currently planning its next meeting. If you are interested in participating in this exciting meeting, please contact us at infor@nywba.org or (212) 360-7055.

The **Trusts & Estates Committee** will meet on **Monday, March 22, 2004 at 6:00 p.m.** at Willkie Farr & Gallagher LLP, 787 Seventh Avenue (51-52 Streets). The meeting is open to all NYWBA members. Please RSVP to Co-Chair Loretta Ippolito (lippolito@willkie.com) or contact her secretary, Annette Piazza (212-728-8334). (Your RSVP will ensure that your name is on the Security list.)

Special Education Update

(3 CLE Credits)

February 18, 2004, 9:30 am to 12:30 pm

Legal Support Unit, Legal Services for NYC
350 Broadway, 6th Floor, NYC

RSVP: Roger Stroud (rstroud@legalsupport.org)

Protecting the Privilege: Maintaining Confidentiality of Sensitive Client Documents

by Allison L. Brecher

With the surge of recent lawsuits filed against financial institutions and the proliferation of regulations of corporate conduct to prevent future actions, many corporations retain outside consultants to evaluate compliance with these regulations or develop ideas for restructuring the company to maximize shareholder value. One drawback to the prophylactic benefit of corporate self-analyses is that the written reports and candid critiques of a company's operations and practices may later be used in a civil suit or other proceeding. To lessen that danger and foster the free and honest flow of self-critical information, a **self-evaluation privilege** has evolved that may aid non-party consultants from having to disclose those candid critiques in the context of litigation.

The privilege has since become known by many different names, but the principles underlying it are the same. It is grounded on the notion that disclosure of documents reflecting candid self-examination will deter socially useful investigations or compliance with the law. Without the privilege, companies have argued, a corporation would be caught in a predicament of doing self-analysis and risking a subsequent costly disclosure or not doing the analysis and risking subsequent costly violations of the law.

To establish the privilege, the movant must show that the "information results from a critical self-analysis" undertaken by the party seeking protection; the "public has a strong interest in preserving the free flow of the type of information sought"; and the information must be "the type whose flow would be curtailed if discovery were allowed." There are no bright-line rules that automatically protect certain information, and the privilege has been applied in a variety of contexts on a case-by-case basis. For example, the privilege has been applied in medical malpractice actions to protect minutes of a committee meeting in which staff members were asked for their frank analyses of hospital procedures; to police department investigations where the plaintiff has alleged civil rights violations; and to a corporation's equal employment opportunity compliance forms in an employment discrimination action. In the securities area, the privilege was applied to protect from discovery a company's internal review of a company audit, a peer review report on internal quality controls, and a candid performance evaluation of the employees of the defendant's outside auditors.

The self-evaluation privilege has led a checkered existence and some circuits have been more willing to recognize it than others. Even in those jurisdictions that have applied the privilege, such as the Second Circuit, the scope of it varies among state and federal courts. One consistent theme is that, as with all privileges, the self-evaluation privilege may be waived. It is therefore imperative to take practical steps to maximize the chances of protecting the operating company's work product from disclosure.

1. Properly label the document. The privilege only protects self-critical analyses and does not protect the facts and statistics underlying the analysis. Therefore, the document must be a true self-critique. All notes and other documents created during the course of an engagement should be aptly titled and composed of

sections clearly delineated as subjective opinions. While title and section headings will not transform objective facts into subjective self-criticism, such labels may at least lay the foundation for a privilege argument.

2. Limit internal and external distribution. A self-evaluative document must not only be drafted with the intent that it be treated as confidential, but it must also be kept confidential. The confidentiality of the document at issue should be established at the outset of the client relationship. The consultant preparing the critique should also make it clear that any comments made during interviews of corporate personnel will also be kept confidential and anonymous. Self-critical documents should be conspicuously marked "confidential" at the time they are prepared. Internal and external distribution of the document should be limited to individuals on a "need to know" basis. Although none of the measures guarantees successful invocation of the self-evaluation privilege, taking these steps will bolster a privilege argument.

3. Assert the privilege early and often. The privilege is not personal to the holder, so a non-party who possesses such self-critical information could assert the privilege. Accordingly, the privilege should be raised immediately in response to any discovery request seeking production of self-critical documents.

If the self-evaluation privilege is unavailable or unsuccessful, several alternatives exist to protect the document in whole or in part. First, Rule 26(c) of the Federal Rules of Civil Procedure permits a party to move for an order to protect it from discovery which may cause "annoyance, embarrassment, oppression, or undue burden or expense." A protective order may direct that discovery not occur, that it be limited to certain matters, or that proprietary information not be revealed. While these orders may only shield portions of a self-critical document, some protection is better than none.

The attorney-client privilege may also protect the document. That privilege shields documents written to or from attorneys for the purpose of seeking or receiving legal advice. It does not protect correspondence between other parties that the attorney merely keeps in his/her possession. However, it may protect self-critical evaluations contained in a communication between an employee and a company's in-house or outside counsel. Since the attorney-client privilege is absolute and, generally, broadly construed, it will likely protect self-critical analyses conducted in connection with an attorney's legal advice and may also protect communications from an employee who is in a position to control a substantial part of the corporation's actions and the company's attorney.

None of these strategies is foolproof. Despite the uncertainty, the self-evaluation privilege and its underlying principles should be considered when corporate self-evaluations and other compliance reviews are sought in litigation.

New York Women's Bar Association
A Chapter of the Women's Bar Association of the State of New York

Presents

Just the Facts, Ma'am: Interviewing Techniques

This program will target the legal skill of gathering facts through client and third-party interviews, a skill which is valuable in both the litigation and corporate realms. Program speakers have extensive interviewing experience and will likely provide insights that are helpful not only for novices, but for seasoned practitioners as well. Attendees will receive a handout packet containing a substantive outline on interviewing techniques as well as a set of relevant articles.

NYWBA President Beth Bryson will moderate the panel discussion. Susan Bender, a matrimonial lawyer and partner at Bender Burrows & Rosenthal LLP, will be a panelist. Lori Martin, a securities lawyer, in-house counsel, and first vice-president at Merrill Lynch Investment Managers, will serve on the panel. Lecia Smith, a senior private investigator and managing partner for litigation at the James Mintz Group, will speak as well. Leslie Crocker Snyder, a retired Supreme Court Justice and partner at Kasowitz, Benson, Torres & Friedman LLP, will be a panelist. Margaret Blair Soyster, an employment lawyer and partner at Clifford Chance US LLP, will round out the panel.

When:

Wednesday, February 18, 2004
6:00 p.m. - 9:00 p.m.

Where:

Clifford Chance US LLP
200 Park Avenue (at 45th)
52nd Floor
New York, New York

Fee:

NYWBA Members \$35
Non-Members \$50
(Please complete the attached form.)
\$60 Registration at the Door \$60

CLE Credit:

3 hours of Skills CLE credits

This course or program is approved in accordance with the requirements of the New York State Continuing Legal Education Board for a maximum of 3 Skills credit hours, all of which may be applied toward transitional credit.

Financial Hardship Scholarships:

Full and partial scholarships for this program based on financial need are available. For information on the guidelines and to apply, please contact the NYWBA at 212-360-7055. All requests are confidential.

New York Women's Bar Association

303 PARK AVENUE SOUTH, #1190, NEW YORK, NY 10010-3601
212-360-7055 • 212-937-2371 (fax) • info@nywba.org

Just the Facts, Ma'am: Interviewing Techniques

Registration Form

To register, please include your credit card information below and fax your registration form to NYWBA at 212-937-2371. If paying by check, make the check payable to "New York Women's Bar Association" and mail a completed registration form and the check to the address listed above.

Please contact the NYWBA at 212-360-7055 or at info@nywba.org with questions.

Registrations will be accepted at the door if space permits.

Registrants must provide at least 24 hours' written notice of cancellation in order to receive a full refund. Please fax cancellations to NYWBA at 212-937-2371.

Name: _____

Firm: _____

Address: _____

Phone: _____

Email: _____

Credit Card (MasterCard or Visa): _____

Cardholder Name: _____

(As Appears on Card)

Account Number: _____ Expiration Date: ____/____

Cardholder Signature: _____

____ I am a member of the New York Women's Bar Association.

____ I am not a member of the New York Women's Bar Association.

____ I would like to receive a membership application.

Thank you!

TO: NYWBA MEMBERS

FROM: THE NEW YORK WOMEN'S BAR ASSOCIATION FOUNDATION, INC.

(a 501(c)(3) charitable organization established by the NYWBA)

The Foundation's Goals:

to eliminate gender bias and other forms of discrimination from the legal system and legal profession, to promote the social and economic equality, safety and well being of women and children, and to address the unmet legal needs of women and children.

In past years,
our members have been extremely generous when renewing their membership,
and we hope we can continue to count on your financial support this year.
In addition to the check-off box contained in your annual NYWBA renewal notice,
you can use this separate notice to provide for a
voluntary **tax-deductible** contribution to the Foundation.

If your contribution is in memory of, or in honor of, a particular person or event,
the Foundation will gladly notify an individual designated by you of your contribution.

Thank you in advance for your generosity.

**VOLUNTARY TAX-DEDUCTIBLE CONTRIBUTION TO
NEW YORK WOMEN'S BAR ASSOCIATION FOUNDATION, INC.**

Contribution Amount \$ _____

Name _____

Address _____

My contribution is (circle one) in honor/memory of:

(Please provide contact information if you would like the honoree/honoree's family to receive notification of your generosity.)

Please send this form along with your check to:
New York Women's Bar Association Foundation, Inc.
303 Park Avenue South, #1190
New York, NY 10010-3601

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 e-mail 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 send an e-mail to "info@nywba.org" with the updated information. This will help us keep you informed and our records up-to-date.

Save the Date!

"Beware of False Confessions! Should All Custodial Interrogations of Crime Suspects Be Video Taped?"

NYWBA is proud to join the NYCLA Criminal Law Committee in sponsoring this important program

Monday, March 1, 2004
6:00 to 9:00 p.m.
New York County Lawyer's Association
14 Vesey Street, NYC

No Charge
Free Evening Forum Event
RSVP to NYCLA - 212-267-6646

Visit our website at www.nywba.org

- President**
Elizabeth A. Bryson
- Vice-Presidents**
Catherine M. Foti
Myra L. Freed
Christina Kallas
- Treasurer**
Janet I. Cord
- Recording Secretary**
Elise A. Yablonski
- Corresponding Secretary**
Jo Ann Douglas
- Board of Directors**
Lisa A. Bauer
Susan L. Bender
Jane Bevans
Diana E. Ceccacci
Hon. Laura E. Drager
Robin E. Eichen
Hon. Phyllis Gangel-Jacob
Hon. Sherry Klein Heitler
Phyllis S. Koffman
Nancy L. Lazar
Kay Marmorek
Marjorie A. Martin
Milagros Matos
Hon. Angela Mazzarelli
Sarah Diane McShea
Amy Saltzman
Teresa Schiller
Wendy Schwartz
Hon. Jacqueline W. Silbermann
Lisa Sokoloff
Heather Martinez Zona
- WBASNY Delegates**
Jo Ann Douglas
Hon. Betty Weinberg Ellerin
Christine M. Harman
Martha E. Gifford
Phyllis S. Koffman
Marjorie Martin
- Executive Director**
Marta I. Toro
- Editor**
Teresa Schiller

NEW YORK WOMEN'S BAR ASSOCIATION

303 Park Avenue South, #1190, New York, NY 10010-3601
(212) 360-7055 • Fax (212) 937-2371

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