



**The NYWBA Foundation's  
Breakfast Speaker Series**

*featuring*

**Linda Greenhouse**

**Friday, December 9**  
The Cornell Club  
6 East 44th Street  
(betw 5th & Madison)

**New York Women's Bar Association**

*presents*

**Networking Skills Workshop:  
How to Work a Room**

**December 12 at 6:00 p.m.**  
Fulbright & Jaworski LLP  
666 Fifth Avenue  
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RSVP to Felicia Monte at [fmonte@fulbright.com](mailto:fmonte@fulbright.com)

***Thank you, Fulbright & Jaworski!***

**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**

**Wednesday, January 18**

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

**For the latest news and information on programs and events, check NYWBA online at [www.nywba.org](http://www.nywba.org).**

**PRESIDENT'S MESSAGE**

***Mental Health Courts - An Idea  
Whose Time Has Come?***

December 2005



Christina Kallas

Photo: Daryl-Ann Saunders

In *Madness and Civilization*, Michel Foucault suggested that people began to be defined as "crazy" as the plague died out in Europe. Large hospitals that had been built to sequester plague victims stood empty. Rather than being torn down, the buildings were used as mental institutions. People with mental illnesses were taken out of society, rather than cared for, as they had been, by their families. I was intrigued at the notion that mental illness could be defined by the society in which a person lived, as much as by the individual's behavior in that society.

In the twentieth century, Freud gave gravitas to the notion of mental illness by identifying and providing treatment for some mental illnesses. This new science of psychiatry seemed a natural evolution at the time. We had come to believe that we could solve all of our human problems using scientific methods.

It turns out that humans are more complicated than Professor Freud thought. That is not surprising, as the sample from which Freud drew when formulating his theories consisted largely of people of a single gender, a single class, and a single ethnic background - there is more diversity at Sunday brunch at the average diner on the Upper West Side.

Even the term "mental illness" is telling. It implies that a mental illness is different from a physical illness, which suggests that "mental illness" could be faked. But recent research proves that mental illness has a distinct physical component. People with mental illnesses have difficulty absorbing chemical neurotransmitters as "normal" people do. So, at least in some people, what we call "mental illness" starts out as a hormonal imbalance, which may lead to unpleasant or uncontrollable, sometimes criminal, behavior.

In other people who have more complicated mental disorders, scientists speculate that mental disorders are caused in part by environmental factors. Studies done on twins separated at birth prove that there is a genetic predisposition to some of these disorders.

All of this information becomes significant when we consider how to treat those who have a mental illness. Our society depends upon a consensus as to what is acceptable behavior, and those who behave in an unacceptable way are punished. We all agree that we need to protect society from harm, and one way to do that, certainly, is to incarcerate a person who harms others. But we also agree that the rules ought to be applied differently to a person who acts

*Continued on page 2*

## Judge Lippman Lauds Women's Bar Annual Dinner

*The Honorable Jonathan Lippman, Chief Administrative Judge for the State of New York wrote the following letter "On the Occasion of the New York Women's Bar Association's Gala 70th Anniversary Dinner Honoring Myrna Felder and Patricia M. Hynes":*

I very much regret that I am in Albany and unable to join you tonight as you celebrate the Gala 70th Anniversary Dinner of the New York Women's Bar Association.

Over the last 70 years, the Women's Bar Association has served a very, very special purpose: nurturing countless women lawyers, providing a supportive setting to share common concerns, helping tear down barriers to opportunity, educating Bar and Bench on women's issues, and lending assistance to so many women seeking to achieve their aspirations in the law.

What could be more appropriate on this gala anniversary night than to honor the contributions of two extraordinary lawyers: Myrna Felder and Patricia Hynes. Myrna Felder, your President's Special Award recipient, is a leading figure in the field of matrimonial and family law, a nationally recognized scholar, a champion of women's issues, a wonderful mentor and teacher to young lawyers, and a long time stalwart of the women's bar. I join you in recognizing her for all of her many accomplishments.

Patricia Hynes, tonight's Ellenbogen Award recipient, is a distinguished litigator who has never stopped giving of her time and energy to improve the justice system. She has served on judicial selection committees at the City, State and national levels. She recently presided over The Legal Aid Society and her herculean efforts were instrumental in saving it from bankruptcy. She has served with great insight and wisdom on countless commissions dedicated to government reform. She truly exemplifies the highest virtues of public service and is fully deserving of this special recognition in honor of our dear friend, Joan Ellenbogen.

Finally, I could not close without thanking Elizabeth Bryson for her service as President of the Women's Bar Association. I have been so impressed by her passion and commitment to issues affecting women in the legal profession, and so delighted by her very significant contributions to the court system's Commission on Public Access to Court Records. I know that she has been an inspiration to this organization and will provide a terrific example for her successor, Christina Kallas, who I know will continue this association's tradition of great leaders.

Congratulations to all of tonight's honorees - including the law firms of Clifford Chance and Condon and Forsyth who have done so much to support this Association's activities - and my very best wishes for a successful evening.



### *President's Message continued from page 1*

without being in control of his own actions. That is the idea behind the concept of Drug Courts, and a more recent idea, Mental Health Courts (MHCs).

An MHC is intended to protect the public, as is any criminal court. But in an MHC the personnel look beyond the immediate situation. If an offender commits an offense because of his mental illness, how does it serve society to send him to prison, where his mental illness is untreated, and where he will not learn to control his behavior in the future? Advocates for the mentally ill argue that prison often makes the defendant worse. A person who cannot control his behavior on the outside often cannot control himself on the inside. He is routinely punished for violating prison rules, possibly sent to solitary confinement. His illness worsens. When he is released from prison, he often has no support system. By definition, he lacks capacity to advocate for himself, and the behavior caused by his illness may have alienated the family and friends who would otherwise advocate for him. He is back in society, and more dangerous to us.

The MHC is an attempt to break that cycle. In an MHC, the defendant has been identified as someone with a major mental illness, such as schizophrenia or bipolar disorder. If the defendant consents to participate in the program, and the prosecutor agrees, personnel at the MHC work with the defendant (and possibly his family) to come up with a treatment plan. They arrange for the defendant to be admitted to a treatment program. The defendant is accountable - he must report periodically to the judge, who assesses his compliance with the treatment regimen. If the defendant successfully completes the treatment program, his guilty plea can be vacated, or the charges against him can be dismissed, depending upon the severity of the crime.

We have two such courts in NYC. The court staff includes a team of clinical psychologists. There is one judge assigned to the MHC, and the prosecutors who appear in the court are the same ones. As a result, the personnel develop a greater understanding of mental illnesses, which makes the program more effective.

Is a Mental Health Court a good idea? In a perfect world, mentally ill people would have access to treatment before committing crimes. MHCs pose constitutional issues concerning, e.g., due process rights, such as the length of the treatment program as compared to the length of the possible sentence, and the potential for pressuring the defendant into participating in the program. However, we now have encouraging short-term results showing lower-than-usual rates of recidivism. It is much harder to calculate the potentially profound impact on people who receive appropriate treatment, and who are able to become productive members of society, instead of career criminals. Add in their family members, especially younger siblings, and the impact of this program could be enormous.

There are many issues to consider when setting up a Mental Health Court. The Council of State Governments is on the third draft of its memo, "Essential Elements of a Mental Health Court," available at <http://www.consensusproject.org/mhcourts/essential.elements>. Kudos to the Center for Court Innovation, OCA's Court Operations and Planning staff, and all those who are willing to put so much time and effort into such a potentially important change in our society.

*Christina*

## Women & the Legal Profession: A Status Report by Dean Elena Kagan

*NYWBA Member Cassandra Arquat, a Boston University School of Law graduate and current Staff Attorney at Paul, Weiss, Rifkind, Wharton & Garrison LLP, attended a speech given by Harvard Law School Dean Elena Kagan at the New York City Bar on November 7, 2005. The following is her summary of Dean Kagan's comments:*

Although women have made considerable inroads since the post-World War II era, they still lag behind men on measures of success. With respect to academia, Dean Kagan asserted that women are predisposed to self-doubt as compared to their male counterparts. An informal Harvard Law School study (HLS study) found that women were less likely to speak in class and to obtain academic honors. When asked to rank their intellectual prowess, a small percentage of women ranked themselves in the top twenty percent of their class and gave themselves low marks when self-assessing their legal skills: legal reasoning, writing briefs, and persuading others.

With respect to the profession, Dean Kagan asserted that women are not assuming leadership roles in proportion to the number of women in the profession and as a result, society loses out on their talents. The associate level is diverse, but the associates are not moving up the pipeline in a way that mirrors their diversity. Instead, there is a continuation of the status quo at the partnership level. In 2004, women made up one-third of eighth-year associates, but only one-fifth of new partners that year.

So why have women continued to lag behind men? Dean Kagan explored several reasons. The first reason is choice of practice. The HLS study found that women chose practice areas based on the desire to help others. This desire often leads women to pursue careers in the government, public interest, and education. Secondly, men engage in informal networking. A third reason is the "opt-out"/"opt-in" revolution. Women put aside their careers either by cutting back on hours or stopping work altogether to focus on child rearing. Unfortunately, women who chose to "opt-out" faced significant difficulties in "opting-in," only three-fourths of those who "opted-out" succeeded in rejoining the labor force. Fourth, more women are dissatisfied with their work -- but not with the work itself -- or are stalled in their career. Women expressed dissatisfaction with respect to recognition, control, opportunity, money, and work relationships.

Where do we go from here? Dean Kagan suggested mid-career counseling and mentorship as possible solutions. Women's careers are nonlinear, and as a result women need advising to assist with transitions and to address issues faced during mid-career. Dean Kagan noted that Harvard Law School is exploring life-long career counseling. Another suggestion is mentorship. Mentorship is the key to success on the job and throughout one's career. Women need more role models and to learn that power and authority are compatible with their desires.

Lastly, Dean Kagan stressed that academia and the profession need to work together to address and solve these disparities among the genders and determine how best to offer support to women. She noted that Harvard Law School is having a Women's Leadership Summit during the next academic term to brainstorm possible solutions to address these issues.

## NOTES ON MEMBERS

*Has something noteworthy happened to you or another member? Send us your news at [newsletter@nywba.org](mailto:newsletter@nywba.org).*

**C**ongratulations to **Judge Betty Weinberg Ellerin** for Receiving the Abely Award for Leading Women and Children to Safety by Sanctuary for Families' Center for Battered Women's Legal Services at Davis Polk & Wardwell on September 26, 2005.



L to R: Davis Polk partner Sharon Katz; Anya Emerson; Chief Judge Judith S. Kaye; Mary Ann Mailman; Justice Betty Weinberg Ellerin; Mary Rothwell Davis; Dorchen A. Leidholdt; Laurel W. Eisner; and Dean David M. Schizer. The children are, from left, Phoebe, Charlotte, and Sarah Davis, the daughters of Mary Rothwell Davis.

## NYWBA MEMBER NOTICE

*Need another reason to make sure your membership is current? Under the Association's By-Laws, only members whose membership is current by December 31, 2005 (with full payment of required dues) are entitled to vote in the elections of officers, directors, and delegates held every April.*

### Notice of Eligibility for Voting

Every member of the Association in good standing who has been admitted to the practice of law and whose primary women's bar association membership is with the **New York Women's Bar Association** shall be entitled to vote at any election of the Association, provided that said member's dues for the current fiscal year have been received by the Association no later than midnight of **December 31st** preceding the election at which such member will vote. Dues remitted by mail will be timely received if postmarked December 31st or earlier. (Under Article X of the By-Laws, members whose primary membership is with another women's bar chapter or who have not yet been admitted to practice may not vote.)



## REMEMBERING TWO WOMEN WHO CHANGED OUR NATION

This Fall our country lost two role models in the fight for fairness and equality: the Honorable Constance Baker Motley and Rosa Parks. Judge Baker Motley was a pioneer who broke down gender and race barriers to become the first African American woman elected to the New York State Senate and the Manhattan Borough Presidency, and to be appointed to the Federal Bench. Rosa Parks also broke down barriers by engaging in an act of civil disobedience that sparked the conscience of a nation and helped ignite the Civil Rights movement. Although Ms. Parks and the Judge have passed away, they will be remembered as their deeds have fundamentally changed our society.

### Constance Baker Motley

Constance Baker Motley was remembered at the Riverside Church in Manhattan on November 4, 2005. More than six hundred family, friends, jurists, and politicians gathered to honor her for her years of public service and work towards furthering civil rights. Among those eulogizing her were her son Joel, granddaughter Hannah, former New York City Mayor David Dinkins, U.S. District Court Judge Kimba Woods, Elaine Jones of the NAACP, and her former law clerk, Assistant U.S. Attorney (Massachusetts) James Farmer.

In April of 1995, Constance Baker Motley received the New York Women's Bar Association's Florence E. Allen Award, named after the Judge, whom she said was her role model as a female judge. The Florence E. Allen Award is the New York Women's Bar Association's most prestigious award. It has only been presented thirteen times since 1967 and is awarded only to extraordinary candidates whose actions have resulted in fundamental changes to society and/or the practice of the law. No one exemplifies those qualities more than Judge Baker Motley.

Judge Baker Motley was born on September 13, 1921, in New Haven, Connecticut, the ninth of twelve children to Caribbean immigrants. Her parents could not afford to send her to college; however, someone who heard her speak at a community center became her benefactor and offered to pay for her college education. She graduated from New York University with a Bachelor of Arts in Economics in 1943. She turned down a promotion at a well-paying job at a wartime agency where she had worked after graduating to attend Columbia Law School, from which she graduated with an LLB in 1946. While at law school, Constance Baker Motley met Thurgood Marshall, the NAACP's legal director, who offered her a job as a law clerk in the New York office.

After graduating from law school, Constance Baker Motley began working full time for the NAACP Legal Defense Fund. There she participated in drafting the briefs in *Brown vs. Board of Education of Topeka, Kansas*, the landmark 1954 case that ended school segregation. In the early 1960's, she argued and won many civil rights cases before the U.S. Supreme Court including the suit James Meredith brought seeking admittance to the University of Mississippi.

In 1964, Constance Baker Motley became the first African American woman elected to the New York State Senate, where she served through 1965. Thereafter she became the first African American Borough President of Manhattan, a position she held from 1965-1966. On January 26, 1966, President Lyndon B. Johnson nominated her for the U.S. District Court in the Southern District of New York. The Senate confirmed her nomination on August 30, 1966. Later, she served as Chief Judge of that Court from 1982 to 1986. Thereafter, Constance Baker Motley continued to serve as a District Court Judge under senior status until her death on September 28, 2005.

### Rosa Parks

On October 30, 2005, Rosa Parks, nee Rosa Louise McCauley, became the first woman and only second African American accorded the honor of having her remains lie in the Rotunda, the large circular room under the Capital dome, a privilege usually accorded Presidents and war heroes. The House and Senate passed the resolutions approving this accolade, "so that the citizens . . . may pay their last respects to this great American."

As many people know, Rosa Parks' journey to becoming an icon began quite unpredictably, when she was arrested on December 1, 1955, for violating the segregation laws by refusing to give up her seat on a segregated bus to a white man. Her arrest precipitated a 381-day Montgomery, Alabama bus boycott, which also brought her pastor, Rev. Martin Luther King, to the attention of the nation.

Ms. Parks' act of defiance has been watered down in the telling; often, she is referred to as having been "old and tired." She has insisted that she was neither. She was not old; she was only 42. She was no more physically tired than anyone returning from a hard day's work. The only thing of which she had tired was being mistreated. The sanitized version of her arrest fails to credit her with taking the purposeful action that changed the face of the nation. Civil rights activism was not new to Ms. Parks at the time of her arrest. She and her husband worked together in a voting-rights group in the 1940's and she served as the secretary of her local NAACP chapter and coordinator of its Youth Council.

Ms. Parks left Montgomery for Virginia and ultimately, Detroit, Michigan, where she worked as an aide to Congressman John Conyers, Jr. until her retirement. She was cofounder of the Rosa and Raymond Parks Institute for Self-Development, which served under-privileged children, and the honorary co-chair of the 1997 Stand up for Children Day. She passed away on October 24, 2005, at the age of 92.

### **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](mailto:newsletter@nywba.org)*

## JOB ANNOUNCEMENTS

The New York City Law Department is seeking a chief for the Brooklyn Tort Office. The chief is responsible for supervising and training 80 legal and non-legal staff and managing 10,000 pending cases and a 1,500-case trial calendar. Send resume and two writing samples to Director of Legal Recruitment, NYC Law Department, 100 Church Street, New York, NY 10007.

Yale University is seeking a business law attorney. Areas of practice will include commercial transactions; advising, drafting and reviewing procurement and other contracts; licenses; business arrangements; and research collaborations. Send resume to Office of the VP and General Counsel, Yale University, P.O. Box 208255, New Haven, CT 06520-8255.

InMotion is seeking a staff attorney. Applicants who have litigated complex matrimonial and family law cases in New York for a minimum of three years and who have substantial experience representing indigent clients are welcome. Send resume and cover letter to Catherine Douglass, Esq., Executive Director, by fax (212-695-9519) or e-mail (cdouglass@inmotiononline.org).

South Brooklyn Legal Services is seeking a staff attorney for its HIV Project. The attorney will represent individual clients in all areas although initial emphasis will be on representation of clients in Housing Court. The attorney also will be involved in training and community outreach and education. Send a resume to John C. Gray, Project Director, South Brooklyn Legal Services, 105 Court Street, Brooklyn, New York 11201.

Queens Legal Services Corporation is seeking an attorney to work in its Family Law Unit. While the majority of the attorney's work will focus on child welfare issues, the attorney will also be expected to represent victims of domestic violence with divorces, orders of protection, custody, visitation, spousal and child support and equitable distribution. Send resume and recent writing sample to Carl O. Callender, Executive Director, Queens Legal Services Corporation, 89-00 Sutphin Boulevard, Suite 206, Jamaica, New York 11435.

Queens Legal Services Corporation is seeking a staff attorney for its Family Law Unit. The attorney will represent Asian battered women. Ability to speak Chinese, Korean, Bengali, Urdu, Hindi, or other Asian language is desirable. Send resume and recent writing sample to Carl O. Callender, Executive Director, Queens Legal Services Corporation, 89-00 Sutphin Boulevard, Suite 206, Jamaica, NY 11435.

Domini Social Investments LLC is seeking a part-time general counsel. Send a resume to Allison Mullen, Director of Human Resources, at amullen@domini.com.

## COMMITTEE CALENDAR

The **Committee to Advance the Status of Women** will meet on **December 13th at 6:30 p.m.** at Hunton & Williams, 200 Park Avenue, 52nd Floor. RSVP to survey@nywba.org.

### Office Space Available

**Park Ave. So., 28th & 29th Sts.**

1 windowed office (approx. 13' x 14') of a top floor law suite, sec. station, conference room, receptionist, copier, phone, fax, kitchen, library. Contact Barbara at (212) 889-3900 for more information.

## Go Red For Women on National Wear Red Day

*NYWBA Board Member Elizabeth A. Bryson and Member Kathy Bartlett submitted the following call to action for February 3rd to benefit the American Heart Association. They want to encourage law firms, agencies, and companies to participate, so if your employer might be interested, please contact Kathy at 212-878-5910:*

Cardiovascular disease, including stroke, claims more women's lives than the next six causes of death combined - nearly 500,000 a year, nearly twice as many as all forms of cancer.

On National Wear Red Day, Go Red in your own fashion to show your support for women and the fight against heart disease. Go Red For Women is a nationwide movement to empower women to love -- and save -- their hearts through lifestyle choices and actions.

National Wear Red Day for Women, February 3, 2006, has its own dress code. On this day, you are free to Go Red in your own fashion. Wear your favorite red clothes or accessory -- a red blouse, a red dress pin, red lipstick -- carry a fabulous red handbag or sport a red tie and red socks . . . and show some heart for heart disease prevention.

National Wear Red Day is a simple, powerful way to raise awareness of heart disease and improve women's heart health. It's easy to participate. Everyone (men too!) can support the fight against heart disease and stroke by wearing red on Wear Red Day. Companies can offer an additional incentive for employees to participate by allowing them to wear red and/or dress down for work on Wear Red Day in exchange for a \$5 donation to the American Heart Association. Participants also may wear a red dress pin (the symbol for women's heart health) to show the world that they "take heart" in women's health.

By joining together with hundreds of other companies and organizations across America on National Wear Red Day, you will help the American Heart Association support the ongoing research and education about women and heart disease.

## 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](mailto: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](mailto: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.

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