



NEW YORK WOMEN'S BAR ASSOCIATION

PRESIDENT'S MESSAGE

JUNE 2017

At the writing of this message, I am looking forward to being sworn in as NYWBA 2017-2018 President by **Hon. Betty Weinberg Ellerin**. For decades, Judge Ellerin (NYWBA President 1969-1970) has served as a role model and mentor to NYWBA members and as an advisor to many officers in our organization. Betty's support and encouragement of me and my presidency means a great deal to me. Thank you, Betty.



Myra L. Freed

It is a true honor to serve as President of the NYWBA, an organization I love and that has been an important part of my professional and personal life since shortly after I graduated law school. I have served this organization in many capacities, including chairing many committees and serving in several officer positions. I have had the great pleasure to have worked with so many great NYWBA presidents and leaders, many of whom are now good friends. But I want to start my Presidency by thanking my dear friend and colleague, outgoing President **Deborah G. Rosenthal**, for her tremendous leadership and contributions to our organization. Deborah has served us with great distinction, with a deep appreciation and love for our mission and with a clear vision for our future. And she has done so with passion and a big heart. In the past six months she has added to her long list of duties by helping me prepare for my presidency. Despite spending more than twenty years on our board, I don't think I could have appreciated all this office entails without Deborah's tutelage. It also gave me the chance to observe up close Deborah's out of the box thinking and her infinite kindness, and for that I am truly grateful. I know Deborah will continue to serve our organization for many years to come. I have asked her to continue the important work she started during her term in the fight against Human Trafficking. We are all very proud of Deborah's work on behalf of the NYWBA, WBASNY and in our continuing fight for justice and equal rights.

I look forward to serving with my wonderful fellow officers, **Virginia A. LoPreto, Amy B. Goldsmith, Amanda B. Norejko, Jean J. Han, Magnolia D. Levy** and **Dawn M. Cardi**, all respected professionals and dedicated, hard-working members of our organization. And we all look forward to continuing to work with our Executive Director **Karen Lu**, the backbone of our organization, who makes all of our jobs easier.

We have all been busy planning a wonderful gathering for our **Annual Awards and Installation Dinner** at Three Sixty°. I thank **Jo Ann Douglas** and our Dinner Committee, Dinner Journal and Auction Committees, and all our sponsors, donors, volunteers, friends and Karen Lu, again, for all their work on this event. We meet each year to reconnect and gather in strength and purpose. We have learned in recent months the hard lesson that our democratic institutions are not self-perpetuating, and that a strong and independent judiciary is critical to our survival. That is why I am so proud that we are honoring two

(Continued on Page 2)

You're Invited to the New York Women's Bar Association 2017 Annual Awards & Installation Dinner

The President's Special Award will be presented to

Honorable Janet DiFiore
*Chief Judge of the Court of Appeals
and of the State of New York*

NYWBA's Award of Special Recognition will be presented to

Honorable Joan B. Lobis
Supreme Court, Civil Branch, New York County

Wednesday, June 7, 2017
Three Sixty°
Tribeca, New York

Cocktails and Silent Auction at 6:00 p.m.
*Silent Auction to benefit the NYWBA Foundation
and its Grant Programs (including the
Hon. Betty Weinberg Ellerin Fund)*

Dinner and Program at 7:30 p.m.

For more information, go to
<http://www.nywba.org/2017-annual-dinner/>

To Sponsor the 2017 NYWBA Annual Dinner, go to
http://archive.nywba.org/Dinner_Sponsorship/

Announcements & Calendar of Upcoming Events

- 6/6 – Reproductive Rights & Women's Health Comm. Mtg. – p. 3
- 6/7 – **NYWBA Annual Awards and Installation Dinner** – p. 1
 - 6/26 – Events Comm. Mtg. – p. 3
- 6/28 – International Women's Rights Comm. Mtg. – p. 3
 - 6/28 – Litigation Comm. Mtg. – p. 3
- 7/17 – **What It's (REALLY) Like To Practice Law** – pp. 2, 3
 - 9/11 – **Annual Membership Reception** – p. 4

Check www.nywba.org for more Meetings, Programs & Events.

President's Message (Continued from Page 1)

great jurists, **Chief Judge Janet DiFiore** and **Hon. Joan B. Lobis**, role models for all, examples of integrity, justice and compassion on the bench.

I am looking forward to working with our wonderful Committee Chairs. Our committees are the heart and soul of our organization, and the true reason so many members join our organization. We have organized numerous important programs in the past year, including on Reproductive Rights, Domestic Violence, Ethics, Appellate Practice, to name a few. We have shown the important film "Equal Means Equal" many times, thanks to **Fran R. Hoffinger**. I know our committee chairs are already planning the year ahead to keep us all informed, engaged, and networking together. If you are concerned about the news you read each day, join one of our fabulous committees. They are working to protect our rights, improve our laws, make us better lawyers and citizens and strengthen our democracy.

Thanks to our *Program & Events Committee*, we have also joined together to replenish our souls by organizing numerous cultural events from museum tours to theater outings at award winning shows. And thanks to a generous bequest from one of our Founders, **Hon. Florence Perlow Sheintag**, we have been able to offer our members free CLE programs since 2012, commencing under the term of **Hon. Jacqueline W. Silbermann** (President 2012-2014). All presidents that have served after Judge Silbermann have been happy to be able to carry this benefit forward for our members. I too, hope to continue this benefit for as long as we can.

I congratulate outgoing WBASNY President **Jacqueline P. Flug** on a successful term and a job well done. It was a delight working with her and getting to know her. I look forward to working with current WBASNY President **Amy Baldwin Littman** and her board in the year ahead. We are all especially proud that our own **Jennifer P. Brown** (President 2015-2016), will be part of Amy's board as Recording Secretary. We know Jennifer will do a fabulous job as a WBASNY officer in light of all her outstanding work for our Chapter and WBASNY to date. Our organizations and the causes we believe in are stronger when we work together.

I look forward to working with our Foundation as they carry on their great work. Please attend their wonderful programs and support their work. Keep up to date with them on our website and in our newsletter.

On **Monday, July 17, 2017** we will be co-sponsoring the annual program, founded by our Association more than 20 years ago, the "**Martha E. Gifford Annual Summer Program: What It's (Really) Like to Practice Law as a Woman.**" This program was recently named for **Martha "Meg" Gifford** (Past President NYWBA and WBASNY) in recognition of her lifelong commitment to mentoring work and the development of this program. It is a free program that offers guidance to law students and new lawyers starting to navigate their careers. It includes a panel of talented, inspiring, thoughtful women attorneys from all areas of the practice and a chance afterwards to mingle over food. Please tell the law students and new lawyers you know about the program and ask your firm to help sponsor this program. I recently read a wonderful quote in an article about Imelme Umana, the first African American woman President of the Harvard Law Review. Her own mentor told her, "You are not successful until you have brought the next woman up. It's not success if it's just you. That's evidence of leadership and integrity." I thank Program Co-Chairs **Cassandra M. Porter** and **Victoria A. Turchetti** for all their work on this beloved program. I hope to see many of you there sharing your own experiences and thoughts with our attendees.

After we all return from our summer vacations, I look forward to gathering and reconnecting on **Monday, September 11, 2017** at our **Annual Membership Reception**, a fun and free cocktail party hosted by our long time friend and

**NEW YORK WOMEN'S BAR ASSOCIATION
and NEW YORK CITY BAR ASSOCIATION**

present

The Martha E. Gifford Summer Program

"What It's (Really) Like To Practice Law As A Woman"

Law students, summer associates, summer interns, new attorneys, and recruiting coordinators are invited to hear an outstanding panel of attorneys share their experiences in government, large firms, small firms, non-profit organizations and in-house law departments and discuss the issues that significantly affect women lawyers just entering the profession.

Speakers TBA

- Date:** *Monday, July 17, 2017*
- Time:** 6:00-7:30 p.m. - Program
7:30-8:30 p.m. - Networking Reception
- Location:** *The New York City Bar Association*
42 West 44th Street, (btwn 5/6 Aves), NYC
- Sponsors:** Law firms, companies and other employers are asked to consider making a \$500 donation to help defray event costs. Sponsors will be acknowledged at the event, on the NYWBA website and in the NYWBA Newsletter.
- Cost:** **FREE** for summer associates, interns, law students and junior attorneys.
- RSVP:** Link will be available shortly.

For questions or to make a donation to support the program, contact SummerProgram@nywba.org.

NYWBA wishes to acknowledge the generous gift from

**FOUNDER AND PAST PRESIDENT
HON. FLORENCE PERLOW SHIENTAG
(1908-2009)**

Her financial bequest has helped to underwrite the cost of this Newsletter and many of our CLE programs.

sponsor, Skadden Arps. This is a favorite event of mine as I get to meet so many new members and have the opportunity to hear them discuss their interests, experiences and concerns. Please check our website for information about all our events.

If you have any interest in chairing a committee, putting together a program, writing an article or being considered for our board, please let me know. Remember, we are stronger together.

Myra

COMMITTEE NEWS

Events Committee will meet **June 26** at the offices of Kirkland & Ellis, 601 Lexington Ave. (@53rd St.) at 6:00 p.m. For more info and to RSVP email Events@nywba.org.

International Women's Rights Committee will meet **June 28** at 6:30 p.m. Location TBD. RSVP IntlChairs@nywba.org.

Litigation Committee will meet **June 28** at 6:30 p.m. Location TBD. RSVP Litigation@nywba.org.

Reproductive Rights & Women's Health Committee will meet **June 6** at 6:30 p.m. at Blank Rome LLP, 405 Lexington Ave., NYC. RSVP ReproductiveRights@nywba.org.

Summer Program Committee presents its annual Martha E. Gifford Summer Program, "**What It's (Really) Like to Practice Law As A Woman**" on **July 17**, 6:00 - 8:30 p.m. at The New York City Bar Association, 42 West 44th Street (btwn 5/6 Aves), NYC. Free for summer associates, interns, law students and junior attorneys. For more info, email SummerProgram@nywba.org. (See Notice p. 2)

A VISIT TO THE RUBIN MUSEUM

By Charlotte Lee

On the unseasonably cold Wednesday evening of March 22, 2017, eight NYWBA members walked into the warm, welcoming environment of the **Rubin Museum of Art**, a museum that features Himalayan Art. Members were treated to a free concert in the lobby and the opportunity to enjoy the museum, which is open on Wednesdays until 9:00 p.m. As arranged by the **NYWBA Events Committee**, a docent met us at the majestic modern staircase that spirals gracefully upward from the lobby. The docent noted that the staircase might remind visitors of the staircase at Barney's, which is because the museum sits on the site of the fashion store's former building.

Our docent led us to a niche holding a deep-relief stone Ganesha, the cheerfully benevolent Hindu god with a human body and an elephant's head. How appropriate to begin our tour with the God of beginnings and good fortune. We took the elevator to the second floor, where the docent put the Rubin's collection into context using a wall map of the seven countries represented in the collection: Nepal, Bhutan, India, Pakistan, Afghanistan, China and Mongolia. Beginning with a sculpture of the Hindu goddess Durga, each of her 18 arms holding a ritual implement, we walked through most of the Rubin's exhibition halls, stopping at the specific items our docent had selected for us. At one of our last stops we learned about the Wheel of Existence, a visual teaching tool in Buddhist life that illustrates the cyclical process of life, death and rebirth.

The tour ended at the special exhibit "Sacred Spaces," with an art installation recreating a traditional shrine room that a Tibetan Buddhist family would use daily for offerings, devotion, prayer, and contemplation. The special exhibit also includes an immersive sound experience based on recordings made in a Nepalese monastery, with distant bells, flags flapping and the sounds of the Himalayan wind. The exhibit creates an atmosphere of peace, isolation and spiritual immensity.

Our docent cleverly selected pieces from the museum's collection that did not overwhelm us but rather left us eager to return for more. To cap our visit, we had a delicious dinner at Café Serai on the Rubin's ground floor.

Charlotte Lee is a solo practitioner based in Lower Manhattan, with a focus on family law and estate work.

NOTES ON MEMBERS

Congratulations to Past President **Bobbi Sternheim** who will receive the *Honorable Robert Louis Cohen Award for Professional Excellence* at the New York Criminal Bar Association annual dinner on June 26.

NYWBA congratulates member **Allison Ageyeva** on her election to serve as a Director on the Board of the Queens County Women's Bar Association, effective June 1, 2017. Among other accomplishments, Ms. Ageyeva has served with distinction as Co-Chair of the NYWBA Committee on Professional Ethics and Discipline, and as a member of the WBASNY By-Laws Committee. We wish her every success in her new role.

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

WELCOME NEW MEMBERS

Kimberly E. Gelfand
Naama Hod
Darcy O'Loughlin
Dana L. Willis

as of 5/15/17

SUPPORT THE NYWBA FOUNDATION, INC.

The New York Women's Bar Association Foundation's 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. It is a 501(c)(3) not-for-profit charitable organization which supports and funds charitable and philanthropic programs to aid women and children throughout Manhattan and beyond.

NYWBAF initiatives are made possible through the financial contributions of members of the New York Women's Bar Association, colleagues and friends. Donations are tax-deductible as charitable contributions.

Help us advance our mission to aid women and children in NY and beyond by giving to the Foundation. Please go to <http://nywbaf.org/donate> to make a contribution.

It's Time to Renew Your Membership

If you have already renewed, THANK YOU! If you haven't, it's time to RENEW your membership for 2017-2018.

The NYWBA fiscal year is June 1 to May 31. Be sure to renew your membership and enjoy all NYWBA benefits, including FREE NYWBA CLE PROGRAMS (which more than pays for the cost of membership), our award-winning Mentoring Circles, networking events and Committee meetings, access to the "Members Only" sections of our website, access to our Newsletters online, and other benefits.

Save paper & mailing costs and expedite your renewal by using our secure online membership form at <http://membership.nywba.org>. You can also email Executive Director Karen Lu (ED@nywba.org) to confirm your member status or request a paper membership form by email.

Civil Court Committee’s Express Lunch Program – Rent Regulation Caselaw Update By Helene W. Hartig

On Thursday, February 16, 2017, the **Civil Court Committee** sponsored an interactive “lunch and learn” program. This “express” one-hour presentation provided a relaxed educational setting for new and experienced attorneys, opposing counsel, law clerks, Judges, and court personnel to simultaneously “break bread” and to share insights, experience and expertise. The topic for the hour was the criteria used to determine whether a market rate rental apartment is actually rent stabilized and how practitioners can best assist landlords, tenants and would be investors in assessing whether a rent overcharge has occurred.

Interacting with a near capacity crowd, seasoned attorneys **Eileen O’Toole**, a partner at the landlord oriented law firm Borah Goldstein Altschuler Nahins and Goidel PC, and **Elizabeth Donoghue**, a partner at the tenant focused law firm Himmelstein McConnell Gribbens and Donoghue, reviewed their extensive hand out materials and explained the far reaching ramifications of the Appellate Division’s landmark decision, *Altman v. 285 W. Fourth LLC*, 127 AD3d 654 (1st Dep’t 2016).

According to O’Toole and Donoghue, prior to *Altman*, appellate courts held that apartments could be automatically removed from the protections afforded by rent stabilization when a departing rent stabilized tenant vacated an apartment and the rent for the incoming new tenant (including vacancy allowances and individual apartment improvement increases) exceeded the vacancy deregulation threshold (\$2,000.00 in the *Altman* case). Conversely, in *Altman*, the Appellate Division, First Department held that it was the rent of the departing tenant, and not the incoming occupant, that was the determinative factor. As such, pursuant to *Altman*, a unit could only be removed from rent regulation when the last legal rent for the departing (as opposed to the incoming) exceeded the deregulation threshold at the time of vacatur.

Post *Altman* decisions have revealed that this issue is still not settled. For example, as our presenters explained, in *233 E. 5th St. LLC v. Smith*, 54 Misc3d 79 (App. Term, 1st Dep’t 2016), Judge Stoller followed the reasoning set forth in *Altman* and held that a unit was improperly deregulated. However, in January 2017, he was reversed by the Appellate Term, First Department. The three justice panel in that forum held that the unit in question had crossed the luxury threshold while it was vacant and was thus was no longer constrained by rent regulation. The Court also observed that the case could not be decided in a vacuum and that following *Altman* as precedent “would effectuate a sea change in nearly two decades of settled statutory and decisional law.” *Altman* has also been rejected in other situations, such as *Aimco 322 East 61 Street v. Brosius*, 50 Misc3d 10 (App. Term, 1st Dep’t 2015). In *Brosius*, Justice Mendez held that a landlord who combined two apartments and created one apartment that did not previously exist was not bound by the restrictions created by *Altman* and allowed to collect a market rent.

What is the bottom line for puzzled practitioners? Do not be discouraged by the inconsistent judicial guidance and lack of clear direction from the Division of Housing and Community Renewal, the administrative agency charged with overseeing and administering rent laws. O’Toole also emphasized the importance of researching an apartment’s history in order to figure out whether an existing rent is justified. As a preliminary step, O’Toole suggested reviewing the landlord’s files and back-up documentation, which would presumably include examining rent histories, leases, contractors invoices for individual improvements, cancelled checks, and other documents that could reasonably explain how the rent was increased over the years. O’Toole also recommended checking whether there are tax benefits, such as a J-51 tax abatements, in

effect that may impact the landlord’s ability to charge a fair market rent for a particular unit.

Donoghue, generally agreed with O’Toole regarding the importance of research, which would presumably include checking the rent registrations and histories available from the DHCR to determine any discrepancies in the rent, the court’s online record system for prior relevant rulings, and the Department of Buildings website to check whether permits had been filed for claimed individual apartment improvements that would justify an increase. Donoghue, a tenant’s advocate, also reminded the audience of the fact that in today’s economic climate, many tenants routinely complain that the rent is simply too high. As such, *Altman* is of great importance, as it affords great protection to tenants who may have been misled, albeit inadvertently, by their landlords. The result of a reversal can be a boon to once struggling tenants by ensuring an affordable “capped” rent and a substantial refund. For this reason, Donoghue advises market tenants in buildings with six or more units to obtain their rent histories from the Division of Housing and Community Renewal and to review the history with counsel before their current lease expires, along with a proof of their payment history. It could be a life changer.

Editor’s Note: Since the February 16, 2017 program, the Court of Appeals has agreed to review the landlord’s appeal of the Appellate Division’s decision in *Altman*. Stay tuned.

Helene W. Hartig has practiced real estate law, with an emphasis on tenant/landlord litigation and cooperative-condominium counseling, for approximately thirty years.

SAVE THE DATE!

NYWBA Annual Membership Cocktail Reception

Meet the Officers, Directors, Committee Chairs, NYWBA members and prospective members at this complimentary cocktail reception.

Join with your colleagues and friends, network, and discover the many benefits of NYWBA membership, including:

- Member discounts at NYWBA's exciting CLE courses
- Committees to enhance your knowledge of substantive areas of the law and help address important legal and social issues
- Legislative and legal efforts to promote the fair and equal administration of justice and to help fight against attempts to compromise the rights of women and equality for all persons under the law
- NYWBA's highly-praised "Mentoring Circles" program
- Fun social and networking events

Date: Monday, September 11, 2017

Time: 6:00 – 7:45 p.m.

Place: Skadden, Arps, Slate, Meagher & Flom LLP
4 Times Square, NYC

Cost: Complimentary

RSVP: Link will be available shortly.

Downstate Women Bar Leaders Brunch, April 30, 2017



Cutting through the complex

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Henry B. Guberman, Partner
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NEW YORK WOMEN'S BAR ASSOCIATION

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NYWBA Membership Information

We thank our current members for their continued support and involvement, and we look forward to welcoming new and renewing members. Take advantage of our many membership benefits - join committees, network, participate in mentoring circles, attend our signature events, and get CLE credits at our innovative and compelling programs at a significantly reduced cost. It's easy to join or renew - go to www.nywba.org/Membership to access our secure online membership form.

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

Newsletter and Advertising Information

Submissions must be sent to the Newsletter Committee (Chairs **Alexandra Campbell** and **Jessica Cygler Wagner**) by the 10th of the month for publication in the following month's Newsletter. Please submit articles, announcements, upcoming event programming, photos, committee news, member news, and ads to newsletternywba@gmail.com. Submissions should be proofed and cite-checked, and NYWBA retains the usual editorial discretion to omit or edit all contributions. Send an email to newsletternywba@gmail.com if you have questions or are interested in joining the Newsletter Committee.

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