



NEW YORK WOMEN'S BAR ASSOCIATION

PRESIDENT'S MESSAGE

JANUARY 2020

"So I would like my granddaughters, when they pick up the Constitution, to see that the notion – that women and men are persons of equal stature – I'd like them to see that is a basic principle of our society." **Ruth Bader Ginsburg**



Virginia A. LoPreto

One cannot go wrong starting a message to women in law with a quote from our beloved RBG. This particular one was chosen as the year 2020 promises to bring the Equal Rights Amendment to front and center stage. While legal scholars may differ as to whether the anticipated ratification by Virginia will, without more, be sufficient to pass the ERA at this late date, it is nonetheless clear that the ERA is alive! WBASNY and the NYWBA are presenting a CLE on the ERA on January 24, 2020 at 6:00 p.m., generously hosted by Proskauer Rose. **Hon. Betty Weinberg Ellerin** will be the moderator for a dynamic panel of women fleshing out the possibilities for the passage of the ERA. (Please see page 7 of the Newsletter for information.)

While Justice Ginsburg and the ERA get top billing this month, it in no way diminishes the honor and privilege I have in announcing that **Amanda B. Norejko** has been nominated to serve as President of the NYWBA for 2020-2021—and in fact there is a connection: Amanda struggled last year with her own health issues, has made a wonderful recovery and is going to be spectacular in leading our association!

Currently, Amanda is a Family Court Support Magistrate in New York County. Prior to that, and for many years, she was the director of the Matrimonial and Economic Justice Project at Sanctuary for Families where she specialized in the representation of domestic violence and trafficking survivors. Amanda is a long time co-chair of the NYWBA Domestic Violence Committee as well as the WBASNY DV Committee. She has been an Officer for several years, serving in several capacities, most recently as one of my vice presidents. Amanda hears the clarion call for women lawyers and the issues we face in the law and in our communities! Congratulations to all of our nominees for Officer positions, and particularly the new additions: **Hon. Laura E. Drager** (Vice President) and **Lissett Costa Ferreira** (Corresponding Secretary). In addition, it is with great pleasure that I announce that our long-time board member and chair of many of our committees, notably Membership, Judiciary, and Auction Committees, **Michael W. Appelbaum**, will join the NYWBA Advisory Council as of June 1.

(Continued on Page 2)

The New York Women's Bar Association
*invites you to join us in honoring
our special guests*

***The Newly Elected, Newly Appointed,
and Re-Elected Judges of New York County***

at a **Cocktail Reception**

Tuesday, February 25, 2020
6:00 to 8:00 p.m.

The Yale Club, 50 Vanderbilt Ave., NYC
(at 44th St., across from Grand Central's west entrance)

Cost: **\$100 Members** (paid in advance);
\$120 Non-Members (paid in advance);
\$135 for all, at the door (space permitting)

Note: **No charge for:**

- Judges of the New York Court of Appeals
- Judges of the United States Court of Appeals for the Second Circuit
- Justices of the Appellate Division, First Department
- Judges and Magistrates newly appointed in the Southern District of New York
- Judges and Justices who are *newly elected, newly appointed, or re-elected* in NY County

Sponsorship: Law firms, companies, and individuals are invited to make a donation to help support this event at the following sponsorship levels:

Platinum (\$1,000) Gold (\$750) Silver (\$500)

Sponsors will be acknowledged at the event, on our Website, and in the NYWBA Newsletter, and they will be entitled to free admissions (Platinum-3; Gold-2; and Silver-1) (Contributions of **\$100** or more are welcome and will be recognized at the **"Friend"** level.)

(Send an email to JudgesReception@nywba.org for details on how to contribute at the Friend level.)

Info: For questions or information, call (212) 490-8202 or email JudgesReception@nywba.org.

RSVP: www.nywba.org/events/2020-annual-judicial-reception/

President's Message (Continued from Page 1)

Michael will also be honored with the association's **Doris S. Hoffman Service Award** at the **Annual Dinner** on **June 9, 2020**.

As many of you know, January is our membership drive month and it is crucial that everyone renews, even if you have not been a member for a year or two. I meet many women attorneys, especially younger ones, who tell me they are ready to come back! Our careers take many trajectories and some times are better for membership than others. But in reality, every time is the best time to be a member of the NYWBA. Every year, and this one is no exception, we bring in about 100 new members, and yet our overall membership numbers have remained stagnant the last few years. This means we lose members as well. If you know someone who was a member and has not rejoined, bring them back! Although our many committees, programs, and networking opportunities should be enough to inspire you, we will hold two membership raffles: We will raffle a gift certificate to Exhale Spa which will be drawn from all members who renew their membership this month. For those members who did not renew last year (2018-2019) but join again, we will raffle a gift certificate to Soul Cycle—to get you in shape for the spectacular year to come as a NYWBA member.

Here are a few of the programs and events we have lined up:

- **January 23, 2020: NYWBA Federal Practice Committee** and the Federal Bar Association are presenting a **CLE: "Servicing and Responding to Federal Non-Party Subpoenas: A Practical Overview"**. This is a live program and a Webinar.
- **February 5, 2020: Matrimonial and Family Law Committee** presents: **Elements of a Cross-Examination** by **Hon. Laura E. Drager**.
- **February 5, 2020: Trust and Estates Committee** presents a **CLE: "Contested Probate Proceedings."**
- **February 25, 2020: the Annual Judicial Reception**, held at the Yale Club. (ticket prices reduced for members)

I look forward to this New Year and working together with our officers, directors, committee chairs, members, advisory council and executive director in making our organization the one that puts women lawyers first!

Virginia

MARK YOUR CALENDARS!

NYWBA's 2020 Annual Awards and Installation Dinner

Tuesday, June 9, 2020

Three Sixty°
Tribeca, New York

NYWBA NOMINATIONS COMMITTEE REPORT

At its January 10, 2020 meeting, the *NYWBA Committee on Nominations* nominated the following candidates to serve for the positions and terms stated below. The elections will be held at the Association's Annual Membership Meeting on **April 21, 2020**. (See meeting notice, page 3.)

OFFICERS (2020-2021)

President:	Amanda B. Norejko
Vice Presidents:	Magnolia D. Levy Hon. Laura E. Drager Jocelyn L. Jacobson
Treasurer:	Sabrina E. Morrissey
Recording Secretary:	Melissa Ephron-Mandel
Corresponding Secretary:	Lisett Costa Ferreira
Immediate Past President:	Virginia A. LoPreto

BOARD OF DIRECTORS

Directors to be Installed – Class of 2020-2023

Jennifer P. Brown	Dawn M. Cardi
Tara Diamond	Hon. Sherry Klein Heitler
Fran R. Hoffinger	Nicole I. Hyland
S. Yan Sin	

Directors Continuing in Office (Classes 2019-22 & 2018-21)

Yacine Barry-Wun	Julie Hyman
Leona Beane	Alexandra King
Meaghan E. Carey	Kay Marmorek
Vivian R. Drohan	Nidhi Shetye
Myra L. Freed	Morgan Fraser Mouchette
Hon. Judith J. Gische	Deborah G. Rosenthal
Amy B. Goldsmith	Judith E. White

COMMITTEE ON NOMINATIONS* Class of 2020-2022

Yacine Barry-Wun	Hon. Kelly O'Neill Levy
Myra L. Freed	Hon. Lisa A. Sokoloff

* Nominations Committee members continuing in office:
Jennifer P. Brown, Elizabeth A. Bryson, Jo Ann Douglas,
Virginia A. LoPreto and Deborah G. Rosenthal.

NYWBA MEMBERS OF WBASNY BOARD (2020-2021)

Jennifer P. Brown	Magnolia D. Levy
Elizabeth A. Bryson	Virginia A. LoPreto
Dawn M. Cardi	Marjorie A. Martin
Hon. Betty Weinberg Ellerin	Sabrina E. Morrissey
Julie Hyman	Hon. Jacqueline W. Silbermann
Jocelyn L. Jacobson	

NEW MEMBER OF NYWBA ADVISORY COUNCIL (eff. 6/1/2020)

Michael W. Appelbaum

NOTICE TO MEMBERS – ANNUAL MEETING & ELECTIONS

The NYWBA Annual Membership Meeting will be held on April 21, 2020, when the President & Treasurer will present reports on the state of the NYWBA and its finances, and the Association will hold elections. (See p. 2 for the **NYWBA Nominations Committee Report**, which includes a list of all open positions, terms of office and nominees, as well as a list of those continuing in office.)

Article XIV, Section 1 of the By-Laws provides that only members who are in good standing and whose membership dues were received by **January 31st** may vote at the Annual Meeting. **If you have not yet paid your dues for the 2019-2020 fiscal year, please do so now!**

Article XVII, Section 10 of the 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 NYWBA offices or directorships to be voted on at the Annual Meeting. Such petition must be *received* by no later than **March 12, 2020** and must be addressed to Corresponding Secretary **Melissa Ephron-Mandel**, c/o New York Women's Bar Association, P. O. Box 1207, New York, New York 10150.

WELCOME NEW MEMBERS

Amanda M. Boitano	Linette Munoz
Michelle Caiola	Carmen Rodriguez
Honglv Chen	Grace E. Schmidt
Theresa D'Andrea	Zoya Shpigelman
Jacqueline M. Demarest	Allie L. Silbert
Julia L. Harvey	Jeffrey S. Zellan

as of 01/06/2020

SUSTAINING MEMBERS

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

Stacy Statkus

NOTES ON MEMBERS

NYWBA sends its deepest condolences to NYWBA Past President **Mikki Golar**, whose mother, Alice Golar, passed away on January 3 at the age of 99½. A brilliant woman, Ms. Golar attained master's degrees from Columbia and NYU during a time when this was atypical for women.

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.

COMMITTEE CALENDAR

Committee to Advance the Status of Women in the Profession presents An Evening to Meet & Mingle on **February 6, 2020** from 6:30 p.m. to 7:30 p.m. at Harris St. Laurent, LLP, 40 Wall Street, 53rd Floor, NYC. Please RSVP by e-mail at advancestatus@nywba.org. Attendance will be capped at 15 people.

Events Committee presents An Evening of Wine Tasting, Networking and Shopping at Aysha New York on **February 5, 2020** from 6:00 p.m. to 8:00 p.m. Aysha is located at 109 West 38th Street, Suite 301, NYC. Registration and payment is required by January 21, 2020. For more info e-mail Events@nywba.org. RSVP at <http://bit.ly/nywba-aysha>.

Federal Practice Committee and the Federal Bar Association present a CLE Program, **"Serving and Responding to Federal Non-Party Subpoena's: A Practical Overview"** on **January 23, 2020** from 12:30 p.m. to 2:00 p.m. at Drohan Lee LLP, 680 Fifth Avenue, 10th Floor, NYC. For info and to RSVP, e-mail FederalPractice@nywba.org.

LGBT Committee will meet **January 21, 2020** at 7:00 p.m. at Morgan, Lewis & Bockius, 101 Park Ave., NYC. For more info and to RSVP email LGBT@nywba.org.

Programs and Events Committee will meet **January 22, 2020** at 6:00 p.m. at Kirkland & Ellis, 601 Lexington Ave., NYC. RSVP and ID are required for admission into the building. RSVP events@nywba.org.

Solo & Small Practice Committee presents **"Using Technology to Increase Productivity"** on **January 16, 2020** at 8:30 a.m. at the Office of Gail I. Bader, Esq., 488 Madison Avenue, Suite 1120, NYC. RSVP at ssfchairs@nywba.org.

Trusts & Estates Committee presents a CLE program, **"Contested Probate Proceedings,"** on **February 5, 2020** from 6:30 p.m. to 8:30 p.m. at Paul, Ewiss, Rifkind, Wharton & Garrison, 1285 Avenue of the Americas, NYC. For more info e-mail techairs@nywba.org. RSVP at <http://bit.ly/ContestedProbate>.

The Solo & Small Practice Committee presents **"Using Technology to Increase Productivity"**

The start of a new year brings the promise of new beginnings. What better way to start the new year than to meet with a productivity and efficiency expert? The speaker at our next meeting will be Elki Comacho, who will discuss ways in which technology can elevate your practice and explore with us new ways to glean the benefits of a more efficient practice.

We hope to see you there! Bring your business cards for networking.

Date: January 16, 2020, 8:30 a.m.
Place: Office of Gail I. Bader, Esq.
488 Madison Ave, Suite 1120, NYC
Cost: Free
RSVP: Email ssfchairs@nywba.org

Criminal Record Relief for Survivors of Human Trafficking in New York

By Kate Mogulescu

The 50-year-old woman sits across the table from the clinic team. She has come to the Criminal Defense & Advocacy Clinic at Brooklyn Law School for criminal record assistance. She just lost her job of nearly 20 years and fears how background checks will take her out of the running for the range of jobs for which she is qualified. As we begin to talk about what appears on her criminal history – a series of cases from the mid-1980s – the raw emotion emerges.

This woman was a victim of human trafficking at the time of her arrests, years before the vocabulary or legal framework existed. She has not told anyone, including her family, what happened to her. She feels fortunate that her entry into the workplace came before what are now ubiquitous and unavoidable criminal history checks. She was arrested and convicted of offenses eight times when she was 16 and 17 years old. The final conviction on her record is a violent felony, Robbery in the Second Degree. After a brutal beating by her exploiter for not making enough money for him in prostitution, she and another victim attempted to steal a woman's purse in the bathroom at Port Authority. They struggled over the purse, causing injury to its owner. The police pursued and arrested them right away. Both ended up sentenced to state prison. Because of the conditions of her childhood and the extensive neglect she endured, this woman recalls that as a teenager in state prison, she felt cared for by the older women who were serving life or long term sentences. Sitting with us in our office, she explains that was the first time in her life she felt supported or nurtured.

Decades later, she sought assistance sealing her convictions under NY's relatively new sealing law, C.P.L. § 160.59, only to learn she was excluded because her conviction was a violent felony and she had more than 2 convictions overall. She came to the clinic because we specialize in vacating convictions for human trafficking survivors under C.P.L. § 440.10(1)(i), relief that became available in 2010. In our office, we explored what happened to her in the 1980s, as we must to determine her eligibility for relief. Everything rises to the surface – fear, shame, anger, sadness, guilt. Each emotion is compounded as we explain that her robbery conviction is ineligible to be cleared under existing law, which limits record clearing to prostitution offenses.

This woman, like so many other survivors of violence and exploitation, has carried the weight of her criminal record for years. At this point, the record and the barriers it creates nearly overshadows her experience being forced into commercial sex as a homeless minor.

Criminalized survivors shoulder the burden of their records, their imprisonment, their punishment, in ways we can't begin to quantify. However, over the last many years, state law has begun to recognize this phenomenon. In 2010, New York became the first state to allow survivors of human trafficking to vacate criminal convictions for prostitution offenses imposed as a result of their trafficking. This was groundbreaking, brought on by the thoughtful and deliberate advocacy of sex workers' rights advocates across the state.

Since New York passed its law, almost every state in the country has followed suit and enacted some form of relief for human trafficking survivors with criminal records. Last March, I co-authored a report that analyzes these state laws and grades each state on the relief it offers trafficking survivors. The laws vary greatly. Many are too limited in scope to offer meaningful relief, such as applying to only juvenile records or only certain charges. Some impose unnecessary conditions or obstacles, like waiting periods or high fees, such that the process becomes too burdensome to matter. As the laws stand now, nearly all of the states receive failing grades. New York earned a 63 out of 100 possible points, mostly because of the restriction that relief is only available for prostitution offenses.

Although this is a relatively new area of law with respect to human trafficking, advocates have been fighting for years to reduce the harm caused by criminalizing survivors of violence more broadly. New York saw a critical, and hard-won victory, last year in the passage of the Domestic Violence Survivors Justice Act (DVSJA), which allows judges to depart from mandatory sentencing on felony cases where domestic violence was a significant contributing factor in the commission of the offense. The DVSJA also creates a mechanism for incarcerated domestic violence survivors to seek sentence modifications.

Specific to human trafficking, Senator Jessica Ramos and Assembly Member Richard Gottfried have introduced a bill that would address the shortcomings in New York's criminal record relief law. S04981/A06983 expands the relief available to survivors of human trafficking to include all criminal convictions resulting from their trafficking and exploitation, rather than just prostitution offenses. The bill also protects the confidentiality of the information provided to the court when survivors seek post-conviction relief.

The amendment to the law also makes clear that trafficking survivors do not need to prove their "rehabilitation" in order to be eligible for criminal

record relief. This is much more consistent with the underlying justification for post-conviction relief. S04981/A06983 affirms that when a court grants a survivor's motion to vacate a conviction, it is on the merits, not because the survivor has earned the relief by showing good conduct after their victimization. One other improvement is that the new version allows survivors to consolidate motions for relief from different counties into one proceeding, with the prosecutor's consent. This will streamline the process for many survivors and lessen the burden of seeking relief in multiple places. S04981/A06983 offers critical protection of people arrested because of their compelled involvement in the commercial sex industry or because of their exploitation in other labor sectors.

What resistance do these efforts encounter? None that is persuasive. Predictably, the impulse of both lawmakers and law enforcement is to lament that this may open the flood gates to a sea of unfounded claims from people purporting to be survivors. But the truth of the matter is that this has not, and will not, come to pass. In fact, our experience under the original law has been the opposite. Most trafficking survivors remain unaware of criminal record relief and are reluctant to seek relief because of their profound and well-earned distrust of the criminal legal system.

Even if people who aren't eligible seek relief under an expanded law, their motions will be denied. This bill, like the DVSJA, simply empowers courts to decide survivors' motions. The criminal legal system constantly assesses, evaluates and reconciles complicated situations. We should not, and cannot, shy away from important reform that involves undoing harm or reducing sentences because of a small chance that people will seek to use the law incorrectly and opportunistically.

Last year, the Assembly passed A06983 overwhelmingly, but the bill didn't get to a floor vote in the Senate. Promisingly, at the end of last legislative session, District Attorneys Cyrus Vance and Eric Gonzalez both pledged their support for the bill. Using our recent report's ranking system, if New York passes S04981/A06983, its score will go from 63/100 to a 99/100. More important than a score that would put New York in the lead, the reform is critical for survivors like the woman sitting in our office. She has worked tirelessly for over 30 years to move past her victimization. At each turn, her criminal record looms over her. Under S04981/A06983, she would be able to finally seek relief in court.

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Guardianship Judges' Roundtable



(l. to. r.): Alexis R. Gruttadauria, Amy B. Goldsmith, Antonia J. Martinez, Lissett Ferreira, Hon. Lillian Wan, Hon. Mary V. Rosado, Hon. Tanya R. Kennedy, and Hon. Kelly O'Neill Levy

On November 18, 2019, the **NYWBA's Elder Law & Disabilities Committee** had the rare honor to host a roundtable with the Guardianship Part Supreme Court Justices of New York County: **Hon. Tanya R. Kennedy, Hon. Kelly O'Neill Levy, Hon. Mary V. Rosado** and **Hon. Lillian Wan**. The roundtable, hosted by **Tarter Krinsky & Drogin LLP**, was an unprecedented opportunity to have an open conversation with the judges about the current Elder Law practice, specifically, MHL Article 81 guardianships. Special mention and thanks to **Lissett Ferreira, Esq.** who was the moving force behind the organization and ultimate success of this CLE.

The first speaker, Hon. Kelly O'Neill Levy, walked us through pre-hearing issues such as service upon interested parties, including facilities and issues with service. Hon. O'Neill Levy reminded us that communication is key to guaranteeing that any pre-hearing issues are resolved so the eventual hearing will progress smoothly. As such, she recommended contacting chambers with any service-related problems as timely intervention by the court will save time and resolve any problems ahead of the hearing. Furthermore, it is important to remind clients to do their due diligence when it comes to finding all the interested parties who should receive notice. Practitioners should also communicate with the court well in advance if they will require any accommodations at the hearing, for example, translators, headphone devices, screen to read live transcript, Skype, etc.

Judge O'Neill Levy also discussed the role of the Court Evaluator (the "eyes and ears of the Court") and the importance of the Court Evaluator's Report in the guardianship proceeding. The report must be as thorough as possible (include age, whether the person is a Medicaid recipient, insurance information, real property, any recent transfers, advance directives, etc.) to give the court the necessary information to decide the alleged incapacitated person's needs, available resources, issues and recommended care. The Court Evaluator's Report is a fundamental evidentiary piece in any guardianship proceeding and needs to be as thorough as possible. If the report is not reliable, then the Court and the parties must rely on collateral sources to corroborate statements to the extent necessary.

Next, Hon. Lillian Wan spoke about the importance of the rules of evidence in guardianship proceedings. She said that while there is a common misconception that the rules of evidence do not apply to guardianship proceedings, this only pertains to uncontested matters. Practitioners would do well to review the rules of evidence when preparing for a hearing, especially in contested guardianships where the waiver provision does not apply (MHL 81.12(b)). Common evidentiary issues in guardianships include the proper introduction of business records, medical records, and other documents such as photographs and e-mails. Laying a proper foundation and effectively introducing evidence is paramount to proving the merits of your case

and navigating any potential objections. Judge Wan reviewed several court cases which detailed how business records are properly introduced into evidence (records made in the regular course of business, near the time of the transaction, made by someone who has the duty of making them); introduction of photographs (as long as they are introduced as a "fair and accurate representation of what is depicted in the photograph"); the waiver of doctor-patient privilege (privilege can only be asserted as to the treating physician or when the Court Evaluator seeks to review medical records under MHL); and self-incrimination in guardianships (burden of proof on the petitioner -the AIP's testimony is not required); and that witnesses without personal knowledge cannot testify (hearsay).

Hon. Tanya R. Kennedy stated that that in the last few years she has seen an increase in contested guardianship cases relating to high net worth individuals. Judge Kennedy stated that the Court Evaluator's Report is key to give the court a picture of the family dynamics, the potential for conflict, and the suitability of the proposed guardians. She said it is often clear to the court that a guardianship is being used to set the tone for a potential contest in Surrogate's Court. Some signs include parties bringing 5-10 witnesses or attempting to introduce medical evidence or bringing in forensic evaluators. Usually 2-3 witnesses should be enough to have the necessary testimony and avoid repetition.

Judge Kennedy reminded practitioners that the standard at a guardianship hearing is "functional limitations" and for that purpose she usually bifurcates the issues, one to prove if the person is incapacitated, and the other to decide whether there is a suitable guardian (and usually advises parties that she will not appoint a family member because of family strife). She also discussed what happened if a Person in Need of a Guardian, or PING, now wishes to withdraw his or her consent to the guardianship. In that case Judge Kennedy will request the PING's testimony to that effect. If the PING objects to a petition to further expand the guardianship powers, then a new petition must be filed alleging the incapacity of the PING. In closing, Judge Kennedy remarked on how important it is for attorneys and guardians alike to be mindful of an individual's cultural background and diversity, and to respect these choices and manage personal and property needs in keeping with the person's life style choices.

Last, but most certainly not least, we heard from Hon. Mary V. Rosado. Judge Rosado practiced for 30 years and served herself as court-appointed guardian. Judge Rosado also discussed how important the rules of evidence are and how it makes a difference to have practitioners well versed with these rules during hearings. It is not her practice to relax the rules of evidence in her courtroom, therefore she encouraged everyone to review trial practice and rules to better prepare for a hearing, particularly in contested cases.

Judge Rosado discussed how financial exploitation is one of the areas of elder abuse that most commonly causes the need for a guardianship. Financial exploitation can happen to anyone and it can be in the form of abusing a Power of Attorney, or ATM card, pension and benefit checks, illegal transfers, etc.

Other forms of exploitation that are non financial can be seen in changes in relationships such as new sweethearts, isolation or changing moods and habits. Usually the abuser is a person known and trusted by the victim, for example a relative or caregiver. Remedies for exploitation are not only civil but also criminal, as there are several new "con games" targeting the elderly such as lotteries, sweetheart swindles, home repair frauds and identity theft.

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Presumptive ADR in the New York State Unified Court System CLE

By Crystal R. Villasenor

On December 2, 2019, the NYWBA hosted an informative CLE, "**New York State's Presumptive ADR Initiative - Structure, Timing and Accomplishments to Date.**"

In her State of Our Judiciary speech on February 26, 2019, **Chief Judge Janet DiFiore** declared, "The time is right to provide litigants and lawyers with a broader range of options to resolve disputes without the high monetary and emotional costs of conventional litigation. We consider this vision of ADR to be an integral part of our Excellence Initiative, and we are excited to work with the Bar to make it a reality."

Lisa M Courtney, Esq., the Statewide ADR Coordinator of the NYS Unified Court System, moderated the impressive panel, including: The **Hon. Deborah Kaplan**, Administrative Judge, Supreme Court, New York County; The **Hon. Anthony Cannataro**, Administrative Judge, Civil Court, of the City of New York; The **Hon. Rita Mella**, Surrogate Court, New York County; The **Hon. Carol Sherman**, Chief Magistrate and Counsel of the New York City Family Court; **Lisa Denig, Esq.**, Special Counsel for ADR Initiatives, Office of Deputy Chief Administrative Judge George J. Silver for NYC, and **Joan Levenson, Esq.**, Principal Law Clerk to Administrative Judge Deborah A. Kaplan.

The panelists spoke about the various ADR programs that have been in place in various courts throughout New York State, for the past several years. The current programs include mediation referrals in the Surrogates Court and Matrimonial Court, a robust ADR program in the Commercial Division, Resolution Parts in the Civil Housing Courts, and judicial settlement conferences. The panelists also spoke about future ADR initiatives in their respective courts. For example, Judge Carol Sherman indicated the Bronx Family Court implemented a Presumptive ADR program where litigants in custody and visitation cases referred to mediators from a court approved roster. If no resolution is made after 30-45 days, then the case is placed on the trial track. Eventually this program will be implemented in all other counties in New York State Family Court.



The ADR initiative's end result is to reduce the overwhelming caseloads across the state for represented and pro se litigants from diverse backgrounds on a wide range of cases throughout New York State. Judge Mella said it best: "the courthouse should be a place where discourse should be resolved in an appropriate manner, which does not always necessarily mean litigation."

The program was well attended by Judges, court personnel, and attorneys.

The program was co-sponsored by the NYWBA: ADR Committee – co-chaired by **Michelle Kern-Rappy**, **Lisa M. Courtney**, and **Leona Beane**; Litigation Committee – co-chaired by **Sara Crasson** and **Nidhi Shetye**; Diversity Committee – co-chaired by **Yasmin Dwedar** and **Ernestine Mings**; Matrimonial and Family Law Committee – co-chaired by **Nina Gross**, **Matthew Goodwin** and **Olivia S. Lee**; Trust & Estates Committee – co-chaired by **Leona Beane**, **Tzipora Zelmanowitz** and **Loretta A. Ippolito**; Civil Courts Committee – co-chaired by **Melissa G. Ephron-Mandel**, **Judith Rifkin**, **Crystal R. Villasenor** and **Hon. John Wang**; Domestic Violence Committee – co-chaired by **Hon. Amanda B. Norejko**, **Laura Russell** and **Shani Adess**; and NYCLA: Civil Practice Section.

Human Trafficking (Continued from Page 4)

January is Human Trafficking Awareness Month. There would be no better time for the New York State legislature to pass S04981/A06983 and, consistent with other contemporaneous efforts, work to reduce the harm caused to survivors by their own criminalization.

For more information on how to support the effort to pass S04981/A06983 this year, contact kate.mogulescu@brooklaw.edu.

Kate Mogulescu is an Assistant Professor of Clinical Law at Brooklyn Law School, where she directs the Criminal Defense & Advocacy Clinic. Her work and scholarship concentrate on gender issues in the criminal legal system, with a focus on sex work and human trafficking. Prior to joining Brooklyn Law School, Kate spent 14 years as a public defender with The Legal Aid Society's Criminal Defense Practice. Kate has founded several projects that attempt to address the criminalization of vulnerable and exploited people, including the Exploitation Intervention Project (2011), the Survivor Reentry Project (2016) and the Human Trafficking Clemency Initiative (2017). Kate received her J.D. from Yale Law School and B.A. from the State University of New York at Binghamton.

Guardianship (Continued from Page 5)

Judge Rosado noted that even though judges often issued temporary restraining orders to protect the assets of an Incapacitated Person, these do not offer the same protection as an order of protection, and for that reason legislation is currently pending to authorize guardianship judges to issue Orders of Protection, upon application or on the court's own motion, to protect those people that need it.

At the conclusion, the judges gave other tips for practice. All judges agreed that practitioners should be mindful of emails to the court and court attorneys as well as ex-parte communications. While technology and emails are a helpful tool, the court should not be included in emails among parties regarding ongoing guardianship matters. The courts are overburdened with cases and cannot waste time and resources in reading and addressing these communications. However, if the court does need to be contacted, all communication should include the Index number and the Court Examiner should be copied.

They also spoke about fee applications and noted that when making one, practitioners should be careful to itemize time and task so the court can easily look at each task performed without trying to segregate and determine the appropriate value for the work done.

**NYWBA's Federal Practice Committee
and the Federal Bar Association
present a CLE Program:**

**Serving and Responding to Federal Non-Party
Subpoenas: A Practical Overview
LIVE AND WEBINAR**

Speakers:

Matthew Handler, Esq. and **Jason Canales, Esq.**
Vivian Rivera Drohan, Introduction

Date January 23, 2020
Time 12:30 p.m. – 2:00 p.m.
Location **Drohan Lee LLP**
680 Fifth Avenue, 10th Floor, NYC
CLE Credits 1.5*
This CLE is also being offered via webinar.
Sign in information to be provided.
Cost Free – Current NYWBA Members
\$35 – Non-members**
Info & RSVP Email FederalPractice@nywba.org

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The Events Committee presents

**An Evening of Wine Tasting, Networking
and Shopping at Aysha New York**

Date Wednesday, February 5, 2020, 6 pm – 8 pm
Place **Aysha New York**
109 W. 38th St., Suite 301, NYC
Cost \$50 per person for members and non-members.
Registration and payment required by January 21, 2020. Credit/Debit cards only
Info Email Events@nywba.org
RSVP <http://bit.ly/nywba-aysha>

**The Committee to Advance the Status of Women
in the Profession presents:**

An Evening to “Meet & Mingle”

Date February 6, 2020, 6:30 – 7:30 p.m.
Place **Harris St. Laurent, LLP**
40 Wall Street, 53rd Floor, NYC
Cost Free
RSVP Email advancestatus@nywba.org
Attendance will be capped at 15.

WBASNY presents a CLE Program:

**Equal Rights Amendment at the State
and Federal Levels CLE**

Sponsored by Proskauer Pro-Bono Program

First proposed almost a century ago and passed by Congress in 1972, the Federal constitutional amendment — whose main clause reads, “Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex” — has sweeping implications. For women, it would bolster pay equity, domestic violence laws and pregnancy discrimination protections, among many other things. It could also affect men, such as by guaranteeing paid paternity leave equal to maternity leave. Panelists will discuss the implications and history of the ERA, including legal challenges opposing a Federal constitutional change; the current political climate and its impact on ratification; and the current legislative efforts in New York to pass a state constitutional amendment to enshrine protections against gender discrimination.

Moderator: **Hon. Betty Weinberg Ellerin**

Panelists: **Katharine Bodde**, Senior Policy Counsel, NYCLU
Maria T. Vullo, Co-Founder and Chair, ERA Coalition

Date: January 24, 2020, 6:00 – 8:00 p.m.
Place: **Proskauer Rose LLP**
11 Times Square, NYC
CLE: 1.5 CLE Credits (1.5 Diversity, Inclusion, and Elimination of Bias) (Transitional)
Cost: \$30
RSVP: Go to <http://bit.ly/CLE-ERA> by January 20, 2020

**The NYWBA Trusts & Estates Committee is
proud to sponsor a CLE Program on**

“Contested Probate Proceedings”

Featured Speakers:

Gary B. Freidman, Esq. and **Eric Penzer, Esq.**

Date February 5, 2020, 6:30 – 8:30 p.m.
Place **Paul, Weiss, Rifkind, Wharton & Garrison**
1285 Avenue of the Americas, NYC
CLE 1.5 Credits*
Cost Free for members; \$50 for non-members**
Info Email techairs@nywba.org
RSVP <http://bit.ly/ContestedProbate>

Beverages and Light Snacks Will Be Served

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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.

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Submissions must be sent to the Newsletter Committee (Chairs **Dana E. Heitz**, **Gabriella Formosa**, **Jennifer Branca** and **Katelyn M. Brack**) 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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