



NEW YORK WOMEN'S BAR ASSOCIATION

PRESIDENT'S MESSAGE

JANUARY 2022



Amanda B. Norejko

As 2022 begins, many of us are experiencing some déjà vu as a new viral threat rises with the depressingly familiar tale of soaring infection rates and disruptions to even the most fundamental human interactions. For a lot of people, there is a strong inclination to put life on hold while waiting for the virus to become a memory. Others have the opposite reaction, and feel unmoored from the life they had known. Some attorneys are leaving their jobs behind without a plan for the next move in their careers. Others have used this forced isolation from the familiar halls of offices and courthouses to reassess their goals and begin on a new path. When we are no longer held in place by familiar routines and human connections, will we drift off untethered into a void or will we be freed to fly with purpose in a new direction?

This part of the calendar year is known for its dark days, and though that seems grimly apt as a metaphor, I cannot help viewing each new year as another chance to get more things right. For the NYWBA, I see it as a chance to help our members not to lose their love for the legal profession in the midst of all the challenges, but rather to find new ways to thrive and enjoy the work we do.

For me, living to see 2022 is a gift beyond measure. While tomorrow is never assured for any of us, each new day has special meaning for me. Next month, I will celebrate the three-year anniversary of my diagnosis with stage 3C ovarian cancer. Late stage cancer like mine is considered incurable. Every three months, I have another scan to see if my cancer has progressed again. I have been lucky that my current treatments have kept my cancer small and unchanged since March 2021. Still, I know that it is a near certainty that in the not-too-distant future, my cancer, like the virus, will mutate and begin to spread again. Many cancer patients and survivors describe a cancer diagnosis as being a lot like having a gun pointed at the back of your head for the rest of your life as you try to continue to live it for as long as you can. I think a lot more people might have some sense of what that feels like since the pandemic began.

The options are to let the threat of the gun steal the time you have remaining or to forge ahead and do as much as you can with the unknown days, weeks, months or years you have left.

(Continued on Page 2)

*NYWBA Civil Courts Committee
presents a CLE Program:*

The Requirements of Proper Courtroom Decorum: In Person or Remote

Presenters:

*Hon. Anne Katz, JHC
Hon. Judy H. Kim, JCC
Hon. Lisa A. Sokoloff, JSC*

Moderator:

Hon. James G. Clynes

Date: January 11, 2022

Time: 1:00 p.m. – 2:15 p.m.

Place: via Zoom

CLE: 1 CLE Credit*

Cost: FREE – current NYWBA & WBASNY
Members

\$25 – Non-Members**

RSVP: Email CivilCourtsChairs@nywba.org

Info: Materials, Link and Passcode to attend
will be sent via email after receipt of
RSVP. If you have any questions,
please contact cle@nywba.org.

*CLE Credits: 1.0 hour Ethics. The NYWBA is an accredited CLE provider. Approval of CLE credit is pending in accordance with the requirements of the NYS CLE Board for the above-listed credit hours for established attorneys and as transitional credit hours for newly admitted attorneys.

** Free NYWBA and WBASNY members, \$25, non-member: Full and partial scholarships based on financial need are available. For info on the guidelines and to apply, contact CLE Co-Chairs at cle@nywba.org or 212-216-1135. All requests are confidential.

President's Message (Continued from Page 1)

The NYWBA and its incredible members have been such a huge part of my continued journey, and I appreciate the chance to dedicate myself to our mission, handed down to us from our founders. This Association has helped me focus not on the steel barrel at my back but at the work that lies ahead and the hope for progress toward equality and justice in the future. I will not let fear nor pain cause me to let my life slip away without working toward my goal to leave the world a better place, especially for women, children, and all marginalized and oppressed people. While each of us may only be able to move the needle by millimeters, for me it is better to try to push in the right direction than contribute to the inertia that keeps us from becoming a more just society.

Many people view a new year as a time to make resolutions for the year ahead. I hope that if you do, those resolutions will include the ways you plan to pursue meaning in your life and in your career. Whether you are adapting your current practice to current circumstances or striking out in a new direction entirely, do not let fear block your route. My many hikes in the beautiful forests of Central America have taught me that you can proceed with appropriate attentiveness to the very real dangers you may encounter without giving up the amazing experience of being part of something awe-inspiring. Explore the unknown and unpredictable, but watch where you step. Let the ephemeral nature of our human existence be motivation to live the best life you can envision for yourself for as long as you are fortunate enough to live it.

In the coming year, I hope you will join us as we forge ahead into the unknown with an appreciation for the opportunities each new day brings and a spirit of adventure. Be bold in your ambition and know that there is a whole community here that is ready and able to provide the information and encouragement you need to adapt or begin anew in the pursuit of your goals and your professional and personal fulfillment.

Institutions are only as strong and vibrant as the people who contribute their ideas and their talents. Everyone reading this can both enrich this bar association and their fellow members and also benefit from the diverse experiences and perspectives of those they meet within it. As always, we cannot do this without your continued participation. The deadline for renewing your membership is January 31st. If you have not already done so, please visit <https://www.nywba.org/membership/> and use your email address to login to ensure that you don't miss out on the chance to find new inspiration and inspire others in 2022.

Amanda

"There is light in darkness, you just have to find it."
bell hooks

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.

WELCOME NEW MEMBERS

Patrick Conway
Katherin Crossling
Emily Hoenig
Sara Reidy
Ann Seifullah
Jean M. Sweeney
Rachel E.K. Ward
as of 12/31/2021

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.

Antoinette Delruelle
Debra K. Doogan
Jennifer J. Foley
Stephen D. Hoffman
Lois J. Liberman
Susan M. Moss
Tania M. Pagan
Cassandra M. Porter
Barbara J. Schaffer
Laura M. Twomey

NOTES ON MEMBERS

The NYWBA congratulates Past President **Jennifer P. Brown** on her marriage to Bryan DiBlasi on December 11, 2021 after having to postpone their wedding for more than one year due to the COVID-19 pandemic.

The NYWBA congratulations **Lesley Adamo** on the birth of her son Cole James Adamo on December 14, 2021.

NYWBA congratulates **Hon. Adam Silvera** on his appointment as Administrative Judge for the State Supreme Court-Civil Term in New York County.

The NYWBA mourns the passing of **Hon. Felice Shea** on December 27, 2021 at age 98. She was a Justice of the Supreme Court of New York State, first Judicial District, from 1983-89; Acting Justice from 1982-83; and Civil Court Judge from 1975-82. She was the Presiding Justice of the Extraordinary Special and Trial Term of the Supreme Court for the City of New York from 1985-1990, where she tried cases of corruption in the criminal justice system. She was a member of the New York State Commission on Judicial Conduct from 1978-1988. Before election to the bench, she was for 11 years a Staff Attorney and Assistant Attorney-in-Charge of the Harlem Branch of the Legal Aid Society where she specialized in consumer and family law. After her retirement, she returned to the Legal Aid Society as a volunteer and served on the boards of the Correctional Association and Montefiore Hospital. Felice was a trailblazer and mentor for women attorneys and judges. She was one of a small handful of women law students and confronted significant bias in the legal profession of the 1950s. She served as NYWBA Vice President and was on the NYWBA Board of Directors for 17 years before serving many years on our Advisory Council. She received the NYWBA's Doris S. Hoffman Award.

At her request, there will be no funeral or memorial service. Contributions in her memory may be made to one of her favorite charitable organizations: Citizens Committee for Children, Planned Parenthood and Columbia Law School.

NOTICE TO MEMBERS – ANNUAL MEETING & ELECTIONS

The NYWBA Annual Membership Meeting will be held on April 20, 2022, when the President & Treasurer will present reports on the state of the NYWBA and its finances, and the Association will hold elections. (See to the right 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 2021-2022 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 11, 2022 and must be addressed to Corresponding Secretary Morgan Mouchette, c/o New York Women's Bar Association, P. O. Box 1207, New York, New York 10150.

COMMITTEE CALENDAR

Animal Rights Committee meeting by Zoom on Jan. 24 at 6:00 p.m. RSVP animallaw@nywba.org.

Elder Law & Special Needs Committee meeting on Jan. 13 at 1:00 p.m. **Lunchtime Open Mic: Supported Decision Making in Guardianships.** RSVP: elderlawchairs@nywba.org.

Solo & Small Firm Practice Committee meeting by Zoom on Jan. 20 at 9:00 a.m. RSVP ssfchairs@nywba.org.

Criminal Law Committee will host a panel of judges, prosecutors, and defense attorneys to discuss conducting hearings/trials under COVID. Guests include:

Hon. Diane Kiesel
Hon. Ruth Pickholz

Sam Sloane, NY County Defender Service

Naila Siddiqui, Legal Aid Society

Kristin Bailey, Office of the Special Narcotics Prosecutor

Shannon Lucey, NY County District Attorney's Office

January 10, 2022, 6:00 p.m. via Zoom

For more info and to RSVP email
CrimLawChairs@nywba.org.

NYWBA NOMINATIONS COMMITTEE REPORT

The **NYWBA Committee on Nominations** has nominated the following candidates to serve for the positions and terms stated below. Elections will be held during the NYWBA Annual Meeting on April 20, 2022, with all new terms commencing as of June 1, 2022.

NOTE: You must be a **current** member as of January 31 to vote! If you haven't yet renewed for 2021-22, please do so ASAP at www.nywba.org.

OFFICERS (2022-2023)

President:	Magnolia D. Levy
Vice Presidents:	Jocelyn L. Jacobson Melissa Ephron-Mandel Sabrina E. Morrissey
Treasurer:	Lissett Ferreira
Recording Secretary:	Vivian Rivera Drohan
Corresponding Secretary:	Morgan Fraser Mouchette
Immediate Past President:	Amanda B. Norejko

BOARD OF DIRECTORS

Directors to be Installed – Class of 2022-2025 (Seven)

2021-24 & 2020-23 Classes (Filling three vacancies for unexpired terms)

Jennifer P. Brown	Meaghan E. Carey
Yasmin Dwedar	Hon. Judith J. Gische
Amy B. Goldsmith	Virginia A. LoPreto
Antonia J. Martinez	Ernestine J. Mings
Olivia Sohmer	Judith E. White

Directors Continuing in Office – 2021-24 & 2020-23 Classes

Leona Beane	Dawn M. Cardi
Tara Diamond	Hon. Laura E. Drager
Fran R. Hoffinger	Julie Hyman
Alexandra Campbell King	Kay Marmorek
Nidhi Shetye	S. Yan Sin
Crystal Villaseñor	

New Members of NYWBA ADVISORY COUNCIL

Hon. Sherry Klein Heitler and Past President Yacine Barry-Wun

NYWBA DELEGATES TO SERVE ON

WBASNY BOARD OF DIRECTORS (2022-23)

Elizabeth A. Bryson	Dawn M. Cardi
Hon. Betty Weinberg Ellerin	Melissa Ephron-Mandel
Julie Hyman	Jocelyn L. Jacobson
Virginia A. LoPreto	Marjorie A. Martin
Sabrina E. Morrissey	Amanda B. Norejko
Hon. Jacqueline W. Silbermann	Lissett Costa Ferreira (Alt.)

NYWBA COMMITTEE ON NOMINATIONS (Class of 2022-24)

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

Continuing in Office (Class of 2021-23)

Jennifer P. Brown, Elizabeth A. Bryson,
Hon. Laura E. Drager, Virginia A. LoPreto

Mentorship at MED-NJ

The Importance of Female Mentorship in Mediation

By Laura G. Kendrick

I first interned with the New York State Supreme Court's Mediation Non-Jury Office ("MED-NJ") in the spring of 2019. It was my first legal internship, and I was eager to supplement my rigid studies with the real-world experience necessary to succeed in the practice of law. Little did I know the internship would become one of the most significant experiences of my legal education—and that I would later return to serve two more rotations.

My primary role at MED-NJ was to observe and assist the Senior Settlement Coordinator in all steps of the dispute resolution process. Michele Kern-Rappy is a highly experienced mediator who has worked at the NYS Supreme Court for over thirty years. Her contagious passion for mediation and mentorship ensured my tenure with MED-NJ was an empowering and enlightening experience, both as a woman in a male-dominated profession, and as a timid law student who dreamed about someday using her degree to help solve some of the world's biggest problems.

It has never been a secret that women's professional experiences are undeniably different from those of men. Women who embody the same traits as their male counterparts are thought to be "pushy" or "aggressive." Women who are passionate about their work are thought to be "emotional" or "unbalanced." Women who are smart and communicative are thought to be "bossy" or "know-it-alls."

What results is the expectation that women will somehow find this magic balance that allows them to be assertive—but not too assertive, smart—but not too smart, approachable—but not too approachable, and so on. In response to these different expectations, women develop a unique perspective on the world that inspires more innovative thinking. In a similar vein, there are certain attributes that women learn from a lifetime of operating in male-dominated fields, such as patience, communication, and compassion, all of which are fundamental to becoming an effective leader. As such, I have always made a conscious decision to select dynamic positions under powerful women.

The opportunity to work with Ms. Kern-Rappy was nothing short of impactful. Over the last seven years, Ms. Kern-Rappy has turned MED-NJ into one of the Unified Court System's most successful ADR programs and capitalized on its impressive statistics to spearhead the implementation of a presumptive ADR option. Her achievements are especially impressive considering MED-NJ is intricately designed to resolve complex cases that have remained deadlocked in litigation for years.

In 2014, Ms. Kern-Rappy started the MED-NJ Intern Program to educate the next generation of mediators and teach law students the practical skill of dispute resolution.

Ms. Kern-Rappy expects her interns to put down their textbooks, leave the comfort of their classrooms, and jump into real, live-action disputes. What results is a masterclass in conflict resolution.

MED-NJ's internship program threw me into interpersonal conflicts between diverse groups of people, and within diverse areas of law. This experience fast-tracked my familiarity with the dispute resolution process and developed a competence for taking a dynamic approach to litigation. This skillset quickly became relevant as the coronavirus pandemic forced an industry shift to virtual mediation. I learned that attorneys must be entrepreneurial in their practices to succeed despite ever-changing circumstances and complexities.

For me, the icing on the cake was the opportunity to observe Ms. Kern-Rappy's masterful, multidimensional approach to navigate the paradigm shift from litigation to mediation—and transform the mindsets of parties from adversary to collaborator. I walked away with refined intangible skills (e.g. communication, patience, and conflict management) that have undoubtedly benefited both my personal and professional development.

My experience as a woman at MED-NJ offered an additional more nuanced lesson, which was becoming conscious of the double scrutiny women in ADR practice must overcome. In addition to convincing skeptical parties, and their counselors, to wholly participate in the mediation process, female mediators must also command authority and respect in a male-dominated industry. Ms. Kern-Rappy navigated these delicate imbalances, and sometimes overt challenges to her authority, with grace and professionalism. I learned many invaluable lessons from her, and from an array of female attorneys who competently represented their clients in our mediations and held their own against some highly combative counselors.

Overall, my experience at MED-NJ was completely positive, and I am grateful for the opportunity to have learned from some of New York's most powerful and successful female attorneys. MED-NJ's internship program instilled more confidence in myself, as a young woman in law, and I am very fortunate to have Ms. Kern-Rappy as a mentor and role model as I begin my legal practice.

Laura Kendrick is a graduate of Brooklyn Law School. She served as head intern to Michelle Kern-Rappy in 2019 and 2020 and assisted her in her role as NYWBA ADR Committee Co-Chair.



The Hard Peace: Mediation in New York's Med-NJ Program

By Michele Kern-Rappy and Adam J. Halper

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The story begins with a decision. The decision is to try to settle a dispute. Lawyers advise their clients to go to mediation for two reasons. First, the case is at an early stage and settlement looks advantageous in light of costly litigation. Second, one or both sides have already spent enough time and money in litigation to know that they want it to end. The decision leads to a chain of predictable events. On the day of the mediation, counsel and parties convene briefly in a joint session. This is followed by separate “caucus” sessions. Each side spends long stretches of the day waiting to hear what the other is offering and how far they will move. The negotiation is binary. Resolution is driven by assessment of continued cost and a subjective risk analysis of the case. In this format, there is no resolution to either the underlying conflict or the legal conflict. Rather, the question is whether one side has offered enough money for the other side to drop their claims. Often, resolution is made without real opportunity for parties to take advantage of mediation's strongest attribute—self determination.

What if this story read differently? New York's Med-NJ Program (Mediation Non-Jury) is trying to answer this question. The Med-NJ Program, composed of one mediator and law student interns, is housed in New York County guided by Deputy Chief Administrative Judge for the City of New York, Deborah Kaplan. Med-NJ accepts multi-party commercial and construction matters, co-op/condo disputes and matrimonial cases, along with any other civil litigation. The Med-NJ Program operates with a mission statement of a sort—R.A.I.S.E. to a higher ground. The acronym stands for Recognition, Active listening and Acknowledgement, Insight, Solutions and End with Agreement. Although lofty, in practice these words are the operating instructions for how mediations at Med-NJ are conducted. The words represent the milestones counsel and parties need to reach, however briefly, to find a resolution through self-determination.

It starts from the opening page. The Med-NJ Program requires premediation statements from counsel that address: Client needs and goals, as opposed to positions; economic and non-economic interests; and how the parties will manage financial risk, maintain relationships and what each side considers to be a fair ending to the dispute. Further, each side must describe the dispute and their weaknesses, as viewed from the perspective of their adversary. Regurgitating the pleadings and positions in one's submission is not acceptable. Rather, from the very beginning, Med-NJ requests that counsel acknowledge the totality of the conflict and the many shades of gray within it.

Rapport and Recognition: The first in-person meeting is an attorneys-only session with the mediator. The goal of the first session is for the mediator to remind counsel that if they broaden their view of the case, they will likely agree on many elements. For example, the mediator will ask counsel to assume each other's position and discuss the case. This is not a mock trial or argument. It is done by design to have counsel engage in a different kind of evaluation of the case in its entirety. Standing in the shoes of the other side, one's evaluation no matter how firmly held, simply changes. Notably and often, this is counsel's favorite part of the meeting. It plays to their fundamental strengths as attorneys. Finally, the mediator advises counsel on how they should prepare their clients for the joint session. At the end of this discussion, a date is chosen for the full mediation.

Active Listening and Acknowledgement: At the second session the mediator begins by caucusing briefly with both sides. Venting and recitation of positions is largely discouraged. Instead, the mediator advises for the upcoming joint session that parties and counsel listen for themes common to both sides. What are we worried about that they are worried about too? Listen without reacting. Maintain a civil tone. Be ready to say why you came today as well as why you think they came. The mediator instructs counsel and their clients to be ready to discuss the conflict instead of merely arguing it.

After this caucus, there is a joint session and it is not optional. Many of Med-NJ's mediations are cases that have been in civil litigation for years. Still, parties have not had a meaningful chance to hear each other during any of that time. For this reason, the joint session is led by the parties and the results can be surprising. For example, in a wrongful death case, the plaintiff/spouse's initial demand was for several million dollars. After both doctor and widower listened to each other for an hour, the doctor agreed to create a foundation connected to the deceased wife's illness and to provide start-up funding for it. The case was resolved for more, but this offer was a significant piece of the settlement. A few hours earlier, neither had wanted to be in the same room with the other.

Remarkably, the chapters of this kind of resolution are drafted using the essential and first tool of any mediator—active listening. The mediator asks questions of both parties, reflects understanding and asks that the parties listen to each other's answers and reflect back on what they have heard. Although this is a common technique in other mediation venues, doing it in a joint session is practically unheard of outside of family, matrimonial and community dispute cases. Attorneys and their clients think of this kind of exchange as too great a risk. However, positions change when both sides are asked to engage in other than a positional manner. The defendant's insurance adjuster makes a different recommendation after listening to the plaintiff describe their pain postaccident and the effect it has had on his family. Restaurant workers listen to customers who allege discrimination based on non-service. After discussion, the restaurant agrees to implement diversity and bias training for their employees. Without active listening and acknowledgement, there is only the wide delta of money that separates these sides. Listening is the bridge.

Insight and Solutions: At the end of the joint session, the mediator caucuses with each side again. However, now the focus is on brainstorming solutions. Not unlike the joint session, these caucuses are very different at Med-NJ. Rarely does the mediator carry numbers back and forth. Rather, the mediator transmits (with approval) any and all ideas on how to resolve the case as well as ranges for the settlement of monetary damages. Because of what has come before, brainstorming and problem solving solutions are easier to discuss. Attorneys tend to craft messages and proposals that reflect the hoped-for-results of both sides. They move forward differently because they have also moved out of purely position based bargaining.

End in Resolution: After a short time, the mediator convenes a second joint session. By this point, counsel and parties have likely proposed several ideas for resolution. Without attribution, recent noteworthy settlement proposals include: A company and a former employee accused of violating a non-compete clause will now become joint venturers. The former employee will pay a percentage of earnings to the former company. In return, the company helps the former employee begin their business. In a breach of contract

(Continued on Page 6)

The Hard Peace (Continued from Page 5)

case, former friends who had been united in their vision of a new business, each blame the other for the subsequent failure of the enterprise. Instead of focusing endlessly on the interpretation of six lines of contract, the mediator asks the parties why the business failed. Both sides admit fear of public embarrassment led to issues of mistrust and to both sides prematurely quitting on each other with their money and effort. They settled a short time later—based largely on the exchanged currency of truth. Through an affirmative request for all sides to think differently about the conflict and collaborate on a resolution, their perspectives are transformed.

A common piece of feedback regarding the Med-NJ Program is that it operates more like an unfolding story rather than a mediation. The common elements of any story, broadly, are characters, setting, plot, conflict and resolution. Traditionally, mediations are only concerned with the last two of these elements. The Med-NJ Program asks parties and counsel to enumerate every element of what a conflict really is—a narrative of dispute, loss, frustration and how to move beyond those feelings to arrive at a result other than protracted litigation. At the end of a long day, the result is not a binary choice of settling or not. The result is agency. The result is self-determination.

Michele Kern-Rappy, the Senior Settlement Coordinator and Mediator for Supreme Court, New York County, Civil Division, is a seasoned ADR professional for the Unified Court System with over 33 years of experience. Adam J. Halper is a mediator and attorney. His practice focuses on representing and mediating with those engaged in family, matrimonial, employment and trusts and estates disputes.

Students & New Lawyers Committee
presents a CLE Program:

**Student Loans: What Lawyers
Need to Know**

Speakers:

KAT WELBECK

Director of Advocacy, Student Borrower Protection Center

CAROLINA RODRIGUEZ

Director of the Education Debt Consumer Assistance Program, The Community Service Society of New York

Date: February 3, 2022

Time: 6pm – 8pm

Place: Zoom

CLE: 1 Diversity, 1 Prof. Practice*

Cost: Free

RSVP: <https://forms.gle/xx3KfhFH5VUz9WBF9>

Info: If you have any questions, please contact nlchairs@nywba.org.

**CLE Credits: 1 Diversity, Inclusion, and the Elimination of Bias, 1 Professional Practice. The New York Women's Bar Association is an accredited CLE provider. Approval of CLE credit is pending in accordance with the requirements of the NYS CLE Board for the above-listed credit hours for established attorneys and as transitional credit hours for newly admitted attorneys.*

Please support the NYWBA Foundation by joining us for a private tour:

“Notorious RBG: The Life and Times of Ruth Bader Ginsburg”

This New York Historical Society tour will be led by a museum docent.

We will also be honoring Foundation Board Member Tamara Stephen for her years of devoted service to the Foundation.

Date: Saturday, January 22, 2022

Time: 11:15 a.m. – 12:15 p.m.
(Please arrive by 11:00 a.m.)

Place: Meet in the main lobby of the NY Historical Society, 170 Central Park West at 77th Street
Tour departs promptly at 11:15 a.m.

Cost: \$40 – NYWBA members and non-members
CREDIT CARDS ONLY

The price includes museum admission and guided tour. (Note to NY Historical Society members: You must pay the entire cost and cannot use your membership card to defray the entry fee.)

RSVP: <https://bit.ly/NYWBARBG>

Lunch (at own expense) will follow the tour for those who are interested.

In accordance with New York law, all attendees must be fully vaccinated. Please bring proof of vaccination and photo ID.

NYWBA FOUNDATION

THE NEW YORK WOMEN'S BAR ASSOCIATION FOUNDATION, INC. IS THE CHARITABLE ARM OF THE NEW YORK WOMEN'S BAR ASSOCIATION

The NYWBA created the New York Women's Bar Association Foundation, Inc. (NYWBAF) in 1995. Its 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. The Foundation 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.

Fellowships funded by the NYWBAF provide law students with the opportunity to gain valuable training, experience, and professional connections while assisting in the important work of organizations that provide free legal services. To support fellowships like this, you can donate to the Foundation by contacting info@nywbaf.org or visiting <https://nywbaf.org>.

Guardianship Mentoring Program

The NYWBA Elder Law and Disabilities Committee and the Guardianship Diversity Initiative have created a mentoring program for anyone who is interested in being appointed as Court Evaluator, Guardian or Counsel to Guardian. If you are new to the field or have interest in this area of law and would like to have an experienced attorney to help you with any one of these roles, or if you have questions about Mental Hygiene Law Article 81, please send an email to elderlawchairs@nywba.org.

Mark Your Calendars

NYWBA Judicial Reception
Returns to the Yale Club
March 3, 2022, 6:00 p.m.

NYWBA Annual Meeting,
Elections & Ethics CLE Program
April 20, 2022, 6:00 p.m.

JOB ANNOUNCEMENTS

The following NYC entities have posted legal and other employment opportunities: For more information and to apply directly, click on <https://a127-jobs.nyc.gov> and search by the Job ID#s, agencies, or titles referenced below.

The **Department of Correction** is currently inviting Attorneys to submit their application for review in order to be interviewed for prospective job opportunities within its General Counsel and Trials & Litigation Divisions respectively, and is looking for lawyers with varied levels of experience to support the agency's mission from its Queens office. There are multiple openings for four different roles:

- Job ID 504517: Transactional & Contracts Attorney in the General Counsel Unit
- Job ID 504531: Litigation & Generalist Attorney in the General Counsel Unit
- Job ID 502556: Department Advocate in Due Process Hearings in the General Counsel Unit
- Job ID 508044: Administrative Trial Attorney in the Trials & Litigation Unit

The **NYC Department of Finance's Treasury and Payment Services Division** has over 500 staff and oversees the agency's management of the City's cash balances and its relationships with banking institutions. The Adjudications Unit within the division seeks to appoint 44 Hearing Officers to adjudicate parking tickets. The selected candidates will report to the Adjudication Division and may be assigned to any of the Business Centers located in the five (5) boroughs. Selected candidates will be required to work three (3) days a week and be available to work any day Monday through Friday. Job ID# 499669

NYC Civilian Complaint Review Board

Interested in taking on discriminatory policing by the NYPD? Come work with the NYC Civilian Complaint Review Board's brand new Racial Profiling and Biased Policing Investigations Unit. Apply online at the NYC Jobs website. Just search for "Civilian Complaint Review" jobs. CCRB is hiring now for the following positions:

- Deputy Executive Director, Racial Profiling and Biased Policing Investigator, Racial Profiling and Biased Policing Investigative Manager, Racial Profiling and Biased Policing Investigating Attorney, Racial Profiling and Biased Policing Investigating Attorney Fellow, Racial Profiling and Biased Policing Chief Data Scientist, Racial Profiling and Biased Policing Data Scientist, Racial Profiling and Biased Policing Administrative Assistant, Racial Profiling and Biased Policing

NYWBA MEMBERSHIP

If you have already renewed, THANK YOU! If you haven't, it's time to RENEW your membership for 2021-2022.

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, networking events and Committee meetings, access to the "Members Only" sections of our website, access to our Newsletters online, and other benefits.

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THE ERA NEEDS YOUR HELP

By Fran Hoffinger

On January 27, 2020 Virginia became the 38th and last state necessary to ratify the Equal Rights Amendment, raising hopes of women and citizens throughout the United States that the ERA would finally be enacted, despite the failure to pass it in 1982, when 35 of the required 38 states had voted in favor of it. Renewed hope for the ERA came in 2012, when the United States Archivist announced that despite the 1982 deadline in the preamble of the ERA, if three more states voted to ratify the ERA, he would publish the ERA in the Federal Register and certify which states had voted to ratify it, both of which are Constitutional Amendment requirements. The 2012 announcement revived interest in and advocacy for passing the ERA, and as a result, Nevada and Illinois voted in favor of ratification to be followed by Virginia. However, the publication of the ERA after the Virginia vote was impeded by a memo by the former Attorney General, William Barr, instructing the United States Archivist not to do so.

On December 8, 2021, members of the WBASNY ERA/Civil Rights Committee and several members of the NYWBA met on Zoom with Kamala Lopez, author/director/actor/activist of "Equal Means Equal" which was screened for members of the NYWBA and WBASNY several years ago, and other ERA activists and lawyers to find out what can and needs to be done to push passage of the ERA. Without publication in the Federal Register, passage of the ERA is in jeopardy. Litigation brought to enforce recognition of the ERA, including by Nevada, Illinois and Virginia has been dismissed on grounds of lack of standing (based on the failure of the Archivist to "publish" it). There are legal and constitutional arguments to be made that the fact that the ERA deadline is in the preamble as opposed to the text of the Amendment renders the deadline unenforceable. There may be a further argument that the imposition of a deadline itself violates the equal rights of women, as not all Amendments have deadlines for passage. (For example, the last Amendment to be passed, the 27th, for congressional raises, was ratified 203 years after it was first proposed.)

President Biden can take steps to override the Barr memo and instruct the Archivist to publish the vote, opening the pathway to passage of the ERA. **If not published by January 27, 2022, pathway to the ERA may be blocked.**

A letter writing and phone campaign has been started to ask Senators of the 38 states that voted to ratify the ERA (which includes New York State) to ask the President to take immediate action. If you wish to help, you can access Equal Means Equal's website at equalmeansequal.org which has sample letters and phone call scripts. You can find the sample letter here: [A letter you can download, print, sign and snail mail to them](#) and the script for calling here: [A telephone script you can use when you call your Senators.](#)

Fran Hoffinger is a Member of the NYWBA Board of Trustees, Co-chair of the NYWBA Legacy Project, member of the NYWBA and WBASNY Criminal Law Committees and a member of the WBASNY ERA/Civil Rights Committee. A partner at The Hoffinger Firm, PLLC, her practice focuses on Criminal and Civil Litigation and Family Law.

MODEL LETTER TO SEND TO SENATOR

Dear Senator _____,

The people have spoken.

On January 27th, 2020, Virginia became the last necessary state to ratify the Equal Rights Amendment ("ERA"). Under Article V of the U.S. Constitution, amendments become "valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States...", which means women are now fully equal citizens for the first time in history. Yet the ERA has not yet been added to the Constitution because the United States Archivist is refusing to publish it in the Federal Register. This has caused a constitutional crisis.

Under 1 U.S.C. §106b, the Archivist is mandated to publish new amendments "forthwith" after the last necessary state notifies him that an amendment has been ratified, but the Archivist is refusing to publish the ERA in the Constitution as our Twenty-Eighth Amendment because the Office of Legal Counsel ("OLC") at the Department of Justice under the Trump Administration issued a memorandum opinion advising the Archivist that he could not lawfully publish the ERA. The OLC opined that the ERA cannot be published because its purported ratification deadline expired before the last necessary state ratified it.

Reasonable scholars believe the ERA's purported deadline is invalid. Regardless of the deadline, the Archivist has no discretion not to publish as his duties are ministerial and non discretionary.

Article II Section 3 of the Constitution requires the President to "take care that the laws be faithfully executed," but President Biden has taken no steps to ensure that the Archivist carries out his mandatory duty of publication. Nor has the President spoken out against the OLC memorandum opposing publication of the ERA. The President's failure to act has caused intolerable confusion, leaving our nation steeped in controversy about the ERA's validity.

That the Archivist is refusing to publish the ERA is curious given that it published the Twenty-Seventh Amendment in 1992 despite serious concerns about that Amendment's validity. The Twenty-Seventh Amendment was ratified some 203 years after it was proposed by Congress, yet the Archivist published it forthwith, in accordance with his duties under 106b. The Congress asked the Archivist to delay publication until after it had a chance to vote on whether the amendment was valid despite the passage of time, but the Archivist rightly did not cede to Congress' request. The Archivist also declined to delay publication until after the OLC released its opinion on the issue. Simply put, the Archivist performed his task and published an amendment pertaining to congressional pay raises regardless of the fact that other government officials believed the Amendment was not constitutional valid. Women's equality is entitled to the same respect.

I implore you to help resolve this constitutional crisis by reaching out to President Biden and asking him to take all appropriate actions to ensure the ERA's immediate publication.

As a United States Senator you must use your voice to demand that the Archivist respect the will of the people, and put women in the Constitution once and for all.

Sincerely,

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