



NEW YORK WOMEN'S BAR ASSOCIATION

PRESIDENT'S MESSAGE

APRIL 2022

Despite the challenge of enduring two years of pandemic conditions, our Association remains strong with over 700 members, and we continue to make plans for an exciting year to come. Our Annual Meeting, Elections and Ethics CLE program will take place on April 26, hosted once again by **Nicole I. Hyland** at Frankfurt Kurnit Klein & Selz. We hope that you will join us for this virtual event to hear the State of the Association address, and vote on NYWBA Officers, Directors, Delegates to WBASNY, and WBASNY Officers. For the slate of candidates for these positions, please see page 3 of this newsletter.



Amanda B. Norejko

We are thrilled that in 2022-2023, WBASNY will be led by our own NYWBA Past President **Deborah G. Rosenthal**, who will be install as WBASNY's next President at the WBASNY Convention in June. Convention will return to an in-person format June 2 through 5, 2022 at the Kartrite Resort in Monticello, NY. Please book your lodgings soon if you are able to join us.

After two long years of social distancing, the NYWBA finally held its own first major in-person event on March 3rd. Our Annual Judicial Reception was a huge success with over 100 attendees. We honored New York County's newly-elected, newly-appointed, and re-elected judges, most of whom attended the event. The judges we honored were **Hon. Anthony Cannataro**, **Hon. Madeline Singas**, and **Hon. Shirley Troutman** (Court of Appeals); **Hon. Deborah A. Kaplan** (Deputy Chief Administrative Judge of the New York City Courts); **Hon. Adam Silvera** (Administrative Judge for the State Supreme Court-Civil Term in New York County); **Hon. Tamiko Amaker** (Deputy Chief Administrative Judge for Management Support); **Hon. Marsha Michael** and **Hon. Alexander Tisch** (Appellate Term, First Department); **Hon. Margaret Chan**, **Hon. J.J. Kelley** (Elected Supreme Court); **Hon. Christopher Chin**, **Hon. Paul A. Goetz**, **Hon. Barbara Jaffe**, **Hon. Betty Lugo**, **Hon. Hasa Kingo**, **Hon. Kim M. Parker**, and **Hon. Jeffrey Zellan** (Elected Civil Court); **Hon. Melissa Lewis** (appointed to criminal court); **Hon. Rachel Pauley** (appointed to interim civil court sitting in criminal court); **Hon. Vanessa Fang**, **Hon. Tracy Ferdinand**, and **Hon. Travis Arrindell** (appointed to housing court). A wonderful time was had by judges and attorneys who finally had a chance to celebrate together at a cocktail reception held in the roof dining room and terrace of the Yale Club. Many thanks go to our sponsors, who are listed on our website, our organizers, Past President **Virginia A. LoPreto** and Vice President **Magnolia D. Levy**, our Yale Club member sponsor and Judiciary

(Continued on Page 2)

**NYWBA & Frankfurt Kurnit Klein + Selz
present**

The NYWBA Annual Membership Meeting, Elections and Ethics CLE Program

Please join us at the Virtual Annual Meeting.

Hear the State of the Association and vote for your NYWBA and WBASNY Officers, Directors and Delegates for next year. Following the Annual Meeting, login to our Ethics CLE:

Hot Topics and Current Developments in Ethics

Topics will include: Remote lawyering; risks of block billing; updating conflicts of interest, ethics in negotiations; ending representations; and more.. Moderated by **Nicole I. Hyland, Esq.**

Date: Tuesday, April 26, 2022

Time: 6:00 p.m. – Annual Meeting & Elections
6:30 – 8:00 p.m. – Ethics CLE Program

Location: Zoom

CLE: 1.5 CLE Credits*

Cost: Meeting and/or CLE – Free for current NYWBA/WBASNY members
CLE Program – Free for non-members

Info: For more info, e-mail
EthicsRSVP@nywba.org.

RSVP: Go to www.nywba.org for more info.

*CLE Credits: 1.5 CLE Credits. Frankfurt Kurnit Klein + Selz is an accredited CLE provider. Approval of CLE credit is pending in accordance with the requirements of the New York State CLE Board for the above-listed credit hours for experienced attorneys (those admitted to the New York Bar for more than 2 years) and as transitional credit hours for newly admitted attorneys. Please be advised that, in accordance with the New York State CLE Board Regulations and Guidance, while newly admitted attorneys are encouraged to participate in diversity programs, only experienced attorneys may earn credit in the Diversity, Inclusion and Elimination of Bias category of CLE credits.

President's Message (Continued from Page 1)

Committee Co-Chair **Tuozhi Lorna Zhen**, and our Executive Director **Karen Lu** for their contributions to making the evening such a success. Seeing so many friendly faces at this event was like seeing the first buds on the trees and the green shoots coming up from the ground after a prolonged winter freeze. It warmed my heart, and I hope that all those who were able to participate thoroughly enjoyed this long-awaited opportunity to connect with colleagues outside the four corners of a screen.

As we move into the spring season, we plan to provide our members with more opportunities to emerge from our lengthy hibernation and come together at more networking events. However, having learned that virtual meetings and CLE programs have been beneficial to members whose personal and professional commitments or health conditions make attendance at in-person events challenging, we will also continue to offer a wide variety of programming through virtual platforms in the next few months as well.

In the month of March, the NYWBA sponsored several virtual programs. The Matrimonial and Family Law Committee held a program on March 7 on "Financial Planning for Divorce." The Elder Law and Disabilities Committee launched its "Lunch & Learn" series, which is scheduled for the second Tuesday of each month. On March 17, the Solo and Small Practice Committee held a program on "The Basics of Personal Financial Planning for Solos & Small Firms." On March 22, the Diversity, Equity and Inclusion Committee presented its "Equity in Action" speaker series featuring the **Hon. Ashlee Crawford**. The Guardianship Diversity Initiative and Elder Law and Disabilities Committee held a CLE program on "Best Practices for Court Evaluators" on March 23.

Springtime is when many of us switch to a new seasonal wardrobe and our leisure activities move into gardens and parks, perhaps to watch the birds in their resplendent breeding plumage as they return from their winter homes and to witness the plants turning green and blossoming again. I hope that this spring will hold more opportunities for our members to finally trade the pajama pants and slippers that have become symbols of the long months of hiding behind a screen for a chance to come outside again, get dressed in our favorite suits and dresses, and reclaim some of the professional identity and networking skills that we once proudly displayed in public spaces. In that spirit, we are pleased to announce that we plan to return to Three Sixty at 10 Desbrosses Street in Tribeca for our Annual Installation and Awards Dinner on June 16, 2022. We hope that you will be able to join us for this exciting event. Please watch your email inbox and the website calendar for registration information coming soon.

Finally, spring is an excellent time to recruit new members to add to the diverse voices who make up this great Association. Please encourage your friends, colleagues, and interns to join us for an upcoming event and consider gifting them a membership. New members who join now will get April and May membership for free as their first year's dues will carry through from now until June 1, 2023.

Thank you all for your continued contributions to the NYWBA.

Amanda

*"The first bud of spring sings the other seeds into joining her uprising."
- Amanda Gorman*

NOTES ON MEMBERS

The NYWBA congratulates our Past President **Deborah G. Rosenthal** on being named #82 on this year's City and State Law Power 100 list. The list can be found at <https://www.cityandstateny.com/power-lists/2022/03/2022-law-power-100/362812/>

Olivia Sohmer has joined the NYC Office of Administrative Trials and Hearings (OATH) as a Special Education Hearing Officer.

The United States Constitution in Concert: The Grace Chorale of Brooklyn (of which **Olivia Sohmer** is a member), will be performing The Constitution, A Secular Oratorio by Benjamin Yarmolinsky on Friday May 14 at 7 p.m. and Saturday May 15 at 3 p.m. in Brooklyn Heights. This is just what you would expect from the title: a musical setting of the text of the United States Constitution! During the pandemic shutdown, the chorus recorded a virtual performance of the Fifth and Sixth Amendments, which can be found on YouTube by searching "the Constitution Grace Chorale." Concert details and tickets at www.gracechorale.org.

WELCOME NEW MEMBERS

Angela Autier-Chanot
Ella R. Cohen
Michelle K. Futch
Anna Maria Hardcastle
Elizabeth A. Harvell
Alexandra Lewis-Reisen

as of March 22, 2022

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.

Debra S. Cohen

NYWBA MEMBERSHIP

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.

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.

COMMITTEE CALENDAR

Animal Rights Committee will meet by Zoom on **April 4** at 6:00 p.m. RSVP animallaw@nywba.org.

The **Diversity, Equity, and Inclusion Committee** will meet by Zoom on **April 12** at 6:00 p.m. For more info and to RSVP email DiversityChairs@nywba.org.

Elder Law Committee will host its **"Lunch & Learn"** meeting by Zoom on **April 12** at 1:00 p.m. For more info and to RSVP email elderlawchairs@nywba.org.

Matrimonial & Family Law Committee will host a Q & A Session with **Justices Chesler** and **Waterman-Marshall** - in-person and by Zoom on **April 27** at 6:00 p.m. For more info and/or to RSVP email mfchairs@nywba.org.

NOTICE TO MEMBERS – ANNUAL MEETING & ELECTIONS

The NYWBA Annual Membership Meeting will be held on **April 26, 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.

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.

WBASNY NOMINATIONS COMMITTEE REPORT

| | |
|-----------------------------|--|
| President:** | Deborah G. Rosenthal (NYWBA) |
| President-Elect: | Dawn A. Lott (Suffolk) |
| Vice Presidents: | Simone M. Freeman (Nassau) Shari R. Gordon (Westchester) Brittany L. Hannah (Central New York) |
| Treasurer: | Madison Porzio (Queens) |
| Corresponding Secretary: | Marea L. Wachsmann (Brooklyn) |
| Recording Secretary: | Rebekah Nellis Kennedy (Capital) |
| Immediate Past President:** | Dawn Reid-Green (Staten Island) |

** President & Immediate Past President automatically take office; other WBASNY positions will be elected at the Annual Meeting. (WBASNY Chapter affiliations appear after nominees' names.)

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 26, 2022**, with all new terms commencing as of June 1, 2022.

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. Card |
| 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. Card |
| 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

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.

***NYWBA Annual Judicial Reception Honoring The Newly Elected,
Newly Appointed, and Re-Elected Judges of New York County
Thursday, March 3, 2022***



***The NYWBA Thanks the Sponsors
of the 2022 Judicial Reception***

PLATINUM

Aaronson Rappaport Feinstein & Deutsch, LLP

Aronson Mayefsky & Sloan, LLP

Bender & Rosenthal LLP

*Gair, Gair, Conason, Rubinowitz, Bloom,
Hershenhorn, Steigman & Mackauf*

Julie Hyman, P.C.

*MSG Accountants, Consultants
& Business Valuators*

Schwartz Sladkus Reich Greenberg Atlas LLP

SILVER

Berke-Weiss Law PLLC

Myra L. Freed, Esq.

Morrissey & Morrissey, LLP

FRIEND

Hon. Betty Weinberg Ellerin

Martha E. Gifford, Esq.

The No Surprises Act, Will it help Seniors?

*By Sabrina E. Morrissey,
Elder Law and Disability Committee*

A new Federal Law called the No Surprises Act of the 2021 Consolidated Appropriations Act took effect January 1, 2022. The law is cited as Pub. L. No. 116-260, 134 Stat. 1182, Division BB, § 109. The law prevents patients from receiving a surprise medical bill when they are unexpectedly treated by a health care provider outside their insurance network.

According to CNN's Tami Luhby, in an article dated December 28, 2021, surprise medical bills can number in the millions each year. According to the CNN article, two in three adults say they worry about unexpected charges, as reported by the Kaiser Family Foundation, and about 20% of emergency room visits include at least one surprise out-of-network bill.

Will it impact seniors? Possibly. If a senior is not yet 65, not on Medicare, or is working at a job still where she has private, employer-sponsored health-care, it is likely that she has been subjected to "balance billing," which is just what it sounds like. Balance billing happens when a health care provider charges the patient for the balance over what insurance has paid. Avoiding balance billing is one goal of the No Surprises Act.

Medicare and Medicaid are largely prohibited from balance billing already.

How does the No Surprises Act work? Suppose a patient receives out-of-network services during an emergency visit or from a provider at an in-network hospital without advance notice. As a result of the No Surprises Act, the provider is prohibited from billing the patient more than the applicable in-network cost sharing amount. The provider must find out the patient's insurance status before submitting the out-of-network bill directly to the health plan. However, patients can give written consent to waive their rights under the No Surprises Act and be billed more by out-of-network providers.

What aspects of medical care are covered? The No Surprises Act covers most emergency services provided in hospitals, freestanding emergency departments and urgent care centers licensed to provide emergency care. It also applies to air ambulance services, but not ground ambulances. Also, the law covers non-emergency care from out-of-network providers at in-network facilities -- such as an out-of-network anesthesiologist working with an in-network surgeon or an out-of-network radiologist reading an X-ray ordered by an in-network doctor.

The No Surprises Act applies to nearly all private health plans offered by employers (including grandfathered group health plans and the Federal Employees Health Benefits Program), as well as non-group health insurance policies whether through or outside of the marketplace.

The No Surprises Act allows patients to appeal disputes over coverage of surprise medical bills to an external reviewer. The Affordable Care Act (ACA) also requires that all consumers in non-grandfathered health plans have the right to appeal denied claims, first internally, and then, if the plan upholds its denial, to an independent external reviewer.

For states, such as New York, which already have a version of the No Surprises law, the new federal law supplements state billing laws but does not supplant them. The No Surprises Act instead creates a "floor" for consumer protections against surprise bills from out-of-network providers.

For more information, including policy information and fact sheets about consumer protection under the No Surprise law, visit [cms.gov](https://www.cms.gov).

The Pro Bono and Community Service Committee present a CLE Program:

Applying an Equity Lens to Pro Bono

Speakers: Abja Midha, Executive Director, Volunteers of Legal Service (VOLS) and *Kerri-Ann Wright*, Director of Training & Professional Development, Civil Practice, The Legal Aid Society

Date: April 5, 2022, 2:00 p.m. to 3:30 p.m.

Place: Zoom Webinar

CLE: 1.0 Professional Practice and 0.5 Diversity, Equity and Inclusion

Cost: Free – NYWBA and WBASNY Members**
\$25 – Non-members

RSVP: Before March 29, 2022 to
probono@nywba.org.

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

*CLE Credits: 1.0 Professional Practice and 0.5 Diversity, Equity and Inclusion. 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 experienced attorneys (those admitted to the New York Bar for more than 2 years) and as transitional credit hours for newly admitted attorneys. Please be advised that, in accordance with the NYS CLE Board Regulations and Guidance, while newly admitted attorneys are encouraged to participate in diversity programs, only experienced attorneys may earn credit in the Diversity, Inclusion and Elimination of Bias category of CLE credit.

** 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.

NYWBA – Cycle for Survival

We are proud to announce that this year the NYWBA is coming together as a team to beat rare cancers. We will be participating in the Memorial Sloan Kettering Hospital and Equinox Cycle for Survival event on May 21, 2022.

We are so excited that you have decided to join us in raising money to beat rare cancers. As you know, 100% of Every Dollar Goes to Beat Rare Cancers.

The event will take place on May 21st between 1-5pm at the Wollman Rink in Central Park. All Participants must be vaccinated and provide proof of vaccination on site. This is a four-hour cycling event during which team members will sign up for 30-minute time slots. There is no training necessary. This is a high energy, fun event. There will be speakers, music and cycling instructors to keep our energy and spirits up.

We look forward to joining together and raising money for a great cause that, unfortunately, touches so many of our lives.

Follow this link to sign up for our team: <https://bit.ly/NYWBAcycle2022>
Team Name: **New York Women's Bar Association (NYWBA)**
Team password is **NYWBA2022**

Once you have joined our team, please use the following link to sign up for a timeslot to ride at the event: <https://bit.ly/NYWBAcycleSignUp>

Thank you for joining the NYWBA Cycle for Survival Team,

Crystal R. Villaseñor & Melissa F. Glassman

The Pro Bono and Community Service Committee
present a CLE Program:

The Ethics of Pro Bono Practice

Speaker: Catherine Weiss, Partner and Chair
Lowenstein Center for the Public Interest
Lowenstein Sandler LLP

Date: May 26, 2022

Time: 1:00 p.m. to 2:30 p.m.

Place: Zoom – invitation to follow upon RSVP

Cost: Free – NYWBA and WBASNY Members**
\$25 – Non-members

RSVP: Before May 9, 2022 at

<https://bit.ly/3qrTeWJ>

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

*CLE Credits: 1.5 Ethics Credits. 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 New York State CLE Board for the above-listed credit hours for experienced attorneys (those admitted to the New York Bar for more than 2 years) and as transitional credit hours for newly admitted attorneys. Please be advised that, in accordance with the New York State CLE Board Regulations and Guidance, while newly admitted attorneys are encouraged to participate in diversity programs, only experienced attorneys may earn credit in the Diversity, Inclusion and Elimination of Bias category of CLE credit.

** 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 Amy B. Goldsmith or Stacey Better Phillips at cle@nywba.org or 212-216-1135. All requests are confidential.

***NYWBA'S Matrimonial and Family Law
Committee presents:***

Meet the Judges!

An evening with

***Hon. Kathleen Waterman-Marshall
and Hon. Ariel D. Chesler***

We invite you to join us for this special event with Justice Waterman-Marshall and Justice Chesler and their court attorneys. The event will have limited in person capacity, with additional participation available via Zoom

Moderator: Olivia S. Lee, Esq.

Date: April 27, 2022

Time: 6:00 p.m.

Place: Lee Anav Chung White Kim Ruger & Richter LLP
99 Madison Ave., 8th Fl., NYC
(Limited to first 40 people to RSVP)

- Or -

Zoom - invitation to follow upon RSVP

Cost: Free – NYWBA and WBASNY Members
\$25 - Non-members

RSVP: By April 22, 2022 to MFchairs@nywba.org

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

***Calling all Mentors: Mentor
a NYC High School Student!***

iMentor is an education non-profit and youth mentoring program working to empower first-generation college students to graduate high school, succeed in college, and achieve their ambitions through one-on-one mentorships. Many of iMentor's students identify as people of color, are international students, or speak languages other than English. When students meet their mentors, it is important that they see successful working professionals who are as diverse and unique as they are. iMentor NYC operates in 13 partner high schools located in the Bronx, Queens, Brooklyn, and Manhattan. ***Many of our students are interested in legal careers!***

Mentor Requirements: Mentors commit to writing mentee once per week and meeting once per month during the school year.

Looking for a chance to give back and join an incredible community of volunteers? To take the next step to becoming a mentor: <https://immentor.org/get-involved/become-a-mentor>.

If you have any further questions don't hesitate to reach out to ***Rachel Hutt***, Senior Volunteer Recruitment Manager, rhutt@immentor.org.

Save-the-Date

***NYWBA Annual Installation
and Awards Dinner***

***Three Sixty°
Tribeca, New York***

June 16, 2022 6:00 p.m.

Your Opinion Matters

NYWBA is seeking monthly opinions on legal matters. Please send your op-ed piece to
opinions@nywba.org.

DISCUSSION ABOUT POOLED INCOME TRUSTS - PRESENTATION BY NAELA

By Sabrina E. Morrissey


I attended a virtual Lunch and Learn program sponsored by the National Association of Elder Law Attorneys on February 22, 2022, with a presentation by Karen Dunivan Konvicka, Esq. She is Director of Client Services and General Counsel to the Commonwealth Community Trust, a Pooled Income Trust (trustCCT.org).

Karen Dunivan Ko...

Recording

What is a Pooled Special Needs Trust (PSNT)?

- Trust arrangement for *disabled individuals*
- Established by one Master Trust Agreement
- Clients "join" by signing the Joinder Agreement or contract to join
- Non-profit *Trust Administrator* may not always be Trustee
- Funds are pooled together for investment purposes
- Each beneficiary has his own sub-account
- *Advantages:* expertise with public benefits dedication to special needs community lower fees and funding requirements



Ms. Konvicka discussed the differences between Supplemental Needs Trusts and Pooled Income Trusts. Both allow for assets to be exempt for means tested benefits (Medicaid home care, for example), but there are dramatic differences, including who manages the assets and how the remainder assets in trust, if any, are distributed, after death of the beneficiary.


Karen Dunivan Ko...

Recording

Source of Law: *Third-Party PSNT*
POMS SI01120.200D.2 and state Medicaid Manuals
Creatures of Contract

A trust is not a countable resource *IF:*

- It is funded by the assets of a third-party (anyone besides the beneficiary)
- It does not grant beneficiary the ability to revoke or terminate
- It does not grant the beneficiary the authority to direct distributions (this power lies with the trust administrator)



NAELA
National Academy of Elder Law Attorneys

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She explained how different states and different companies regulate the payment of remainder of assets held in trust. She said there is a wide divergence in how remainder assets are paid out. In some cases, the pooled income trust will keep the funds, at death, and in other cases, the pooled income trust may permit those assets to be paid to a successor beneficiary. It is up to the individual trust, and it is worth a discussion before you enter into a trust agreement.

Karen Dunivan Ko...

Recording

States' Authority to Regulate PSNT Retainer

Divergent state regulations – are they allowed?

- Some states disallow any retainer by the nonprofit organization
- A few states have a sliding scale based on the number of years the account existed
- Some only allow a certain percentage to be retained

The issue (amongst several others) was litigated in Pennsylvania. Ruling: Third Circuit said NO! *Lewis v. Alexander*, 685 F.3d 325 (3d Cir. 2012) (U.S. Supreme Court denied Pennsylvania's request for a writ of certiorari in 2013)

Other circuits (not deciding the specific issue of retainer policies) have held that states CAN further regulate the requirements of special needs trusts

One important point that Ms. Konvicka made is that a Pooled Income Trust may pay for a pre-plan funeral and burial before the death of the trust beneficiary but not after death. This is an issue often overlooked by practitioners.

This was an informative and interesting program.

Mark Your Calendars for NYWBA CLE Programs

NYWBA Civil Courts, Students and New Lawyers and Solo and Small Firms Committees present a CLE Program *"Tech Skills Every Lawyer Needs to Know"* on May 5, 2022 1:00 p.m.

The Litigation and Students & New Lawyers Committees will host a CLE *"Re-Thinking Careers in a Post-Pandemic World"* on May 10, 2022 at 6:00 p.m.

NYWBA Civil Courts Committee presents a CLE: *"Current Issues in Commercial L&T / Part 52 Practice"* on May 24, 2022 at 1:00 p.m.

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Melissa Ephron-Mandel

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Morgan Mouchette

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NEW YORK WOMEN'S BAR ASSOCIATION

A Founding Chapter of THE WOMEN'S BAR ASSOCIATION OF THE STATE OF NEW YORK

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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 **Jennifer Branca**, **Katelyn M. Brack**, **Elizabeth Friedrich** & **Olivia Sohmer**) 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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