The 109th Congress convened in January with plans to press ahead with President Bush’s second-term agenda. The president, backed in large part by a Republican-controlled Congress, proposed a major revamp of Social Security, limitations on class actions and medical malpractice lawsuits, changes to the bankruptcy system, tax code revisions, an extension of the Patriot Act, energy legislation, and a new immigration law providing for more temporary workers in the United States.

While Congress enacted a number of the president’s initiatives, others were sidetracked. The tsunami in Asia, the war in Iraq, two Supreme Court vacancies, the devastation of Hurricanes Katrina, Wilma, and Rita, and new political realities dramatically changed the legislative landscape. In the end, Congress spent a significant portion of its time responding to domestic and international events and natural disasters.

The following is a summary of key legislative activity in the 1st Session of the 109th Congress — particularly with respect to those issues of interest to the legal community. The status of these issues is accurate as we went to press in early December.

**Enemy Combatants and the War in Iraq:** Congress considered two significant issues regarding the rights afforded to enemy combatants detained by the United States.

**SUMMING UP CONGRESS, 2005**
Diversity

ATTORNEYS WITH DISABILITIES: A FORGOTTEN DIVERSITY ISSUE

When discussing attorneys with disabilities, the Office for Diversity has been met with the response that this is not a pressing problem faced by legal employers. In part, this is due to the perception that few attorneys have disabilities. In the 2005 Diversity Benchmarking study, participating law firms reported only 17 attorneys with disabilities in their New York area law offices (or 0.1% of all attorneys). When contemplating disabilities, many people envision observable, physical disabilities, such as those who have vision impairments or use a wheelchair. However, there are more “invisible” disabilities, such as learning disabilities and mental illness also to be considered.

There can be a fear that hiring an attorney with a disability will be a financial burden for the employer. However, the U.S. Department of Labor data asserts that 80% of people with disabilities seeking work require no special equipment to do their jobs. In addition, 15% of accommodations cost nothing and 50% cost less than $500 (U.S. Department of Labor, Office of Disability Employment Policy - Myths and Facts About People with Disabilities, 1994).

Recommendations

At the October 20, 2005 diversity working group session, the City Bar’s Committee on Legal Issues Affecting People with Disabilities chair, Loren Gesinsky emphasized the need to focus on abilities rather than disabilities. The panel recommended the following:

- Actively Recruit Attorneys with Disabilities.
- Solicit anonymously the number of employees with disabilities and report on the NALP and NYC Bar diversity benchmarking forms.

Panel Members

- Shari B. Fallek Assistant General Counsel, Deloitte & Touche USA LLP
- Gihan Fernando Assistant Dean for Career Services, Georgetown University School of Law
- Harilyn Rouss Lead Trainer of the 7th Sense Program, Center for Independence of the Disabled, NY (CID-NY)
- Stuart Smith Director of Legal Recruitment, New York City Law Department
- Anne Davis Founder and Director of Legal Services, National Multiple Sclerosis Society, New York City

- Participate in the IMPACT Career Fair for Law Students and Attorneys with Disabilities on September 15, 2006 in Washington, D.C. Make the firm’s Web site accessible to individuals with vision impairments.

- Think outside the box.

Employers have a tendency to pigeonhole people with disabilities by making assumptions about what people can and cannot do. As panelist Anne Davis pointed out, if people cannot do things in the conventional way, they have probably developed creative ways of doing them.

- Accommodate ‘invisible’ disabilities as well as ‘visible’ ones.

Provide flex-time to accommodate dietary restrictions, medicine schedules, and the need for rest. Provide information through the organization’s Employee Assistance Program or the NYC Bar’s Lawyers Assistance Program for individuals dealing with mental illness or substance abuse problems.

- Let the person with the disability take the lead.

Ask employees with disabilities what they need, as far in advance as possible before their arrival.

- Stuart Smith described how six months before the start date of an incoming employee with a wheelchair, he brought her in to identify any needed accommodations. Her greatest challenge was opening the heavy doors to the restrooms. When Mr. Smith found out that each door would cost $30,000 to replace, he had to think creatively to come up with a more cost-effective solution – in the end, both parties agreed to leave the restroom doors on her floor open during the day.

- Set a tone of inclusion from the beginning. As Harilyn Rouss emphasized, disability awareness should be included in orientation, job training and other diversity training programs. Employers should ensure that persons with disabilities are included in the firm’s diversity statements.

- Accommodations need to extend beyond the formal workplace. Keep in mind when planning office gatherings, holiday parties and other informal networking opportunities whether they are accessible for all staff.

With respect to the business case, Shari Fallek advocated staying ahead of the curve. “Clients are going to start demanding representation of individuals with disabilities in the same way that they have already demanded firms’ representation of other minority groups.”

For more information about attorneys with disabilities or upcoming diversity working group sessions, please contact the New York City Bar’s Office for Diversity: Meredith Moore, Director at mmoore@nycbar.org, or Elizabeth Kowalczyk, Assistant, at ekowalczyk@nycbar.org.
COMMITTEE REPORTS — JANUARY, 2006

Administrative Law

New York City Affairs

Report endorsing the two November election ballot proposals by the 2005 New York City Charter Revision Commission. Ballot Question Four would incorporate features of state law with respect to fiscal management and borrowing restrictions into the City Charter. Ballot Question Three would require the establishment of a uniform code of conduct for Administrative Law Judges and city department hearing officers.

Civil Rights

Letter to the U.S. Department of Labor urging that the 90-day waiver of the affirmative action requirements of Executive Order 11246 (granted on September 9 to companies awarded federal contracts for Hurricane Katrina relief activities) be rescinded. The letter argues that the waiver is an unsound and unwise exercise of discretion and that the obligation imposed by Executive Order 11246 (that firms that do business with the federal government prepare an affirmative action plan) will not present an obstacle to the speedy accomplishment of hurricane relief.

Cooperative and Condominium Law

Memorandum in opposition to proposed local law Intro. 504 that would amend the New York City Human Rights Law to require apartment cooperative boards to set forth in writing specific reasons for withholding consent to the sale of an apartment.

Federal Legislation

Military Affairs

Letter to Congress urging the inclusion of the McCain Amendment (on the treatment of enemy detainees) in H.R. 2863, the military appropriations bill. The amendment seeks to codify and preserve the long-established basic standards of treatment for enemy detainees by the U.S. government in times of war.

Financial Reporting

Letter to the American Institute of Certified Public Accountants commenting on the revised draft white paper on Auditor Attendance at Due Diligence Meetings with Underwriters. This is the second letter to the Institute reiterating the concerns with the draft white paper. Specifically, the letter takes issue with the approach to due diligence advocated by the draft as it would undermine the quality of financial disclosure and is inconsistent with the goal of investor protection.

Letter to the Securities and Exchange Commission commenting on proposed rules to revise the accelerated filer definition and accelerated deadlines for filing periodic reports under the Securities Exchange Act of 1934. The letter expresses general support for the proposed rule but suggests, among other things, that the final rule should not include a new category of filer (“large accelerated filer”) nor require that large accelerated files become subject to the final phase-in of the accelerated filing transition schedule.

Investment Management Regulation

Letter to the Securities and Exchange Commission setting forth a proposed policy and a set of procedures which would reasonably ensure the proper retention of e-mail containing Rule 204-2 information.

President

Letter to Congress urging the rejection of an amendment to the military appropriations bill which would remove from the U.S. courts the authority to consider a habeas petition from any alien detainee being held by the Secretary of Defense as an enemy combatant. The existence of the habeas remedy, the letter argues, is the only means by which detainees can access due process and seek relief if they have been mistreated.

Professional and Judicial Ethics

Formal Opinion 2005-06 considers retired attorneys’ use of professional letterhead and whether or not there are any special disclosure obligations to clients and prospective clients. The opinion concludes that retired attorneys may use professional letterhead and that they may, but are not required to, disclose on the letterhead that they are retired.

State Affairs

Report opposing the proposed constitutional amendment, S.1 (Proposal One), on the November election ballot. Proposal One would allow a contingency budget to go into effect when an agreement on the budget has not been reached by the start of the fiscal year. Such an amendment, the report argues, shifts excessive power to the Legislature from the Governor, by permitting the Legislature to initiate its own spending plan if it does not agree with the Governor’s budget.

Structured Finance

Letter to the Financial Accounting Standards Board commenting on the revised exposure draft of proposed amendments to FASB Statement No. 140 relating to the transfer of financial assets. The letter, while supporting, in general, the proposed amendments, raises concerns with regard to two unresolved issues in the exposure draft; first, that the proposed new requirements for legal isolation are inconsistent with current bankruptcy law and, second, that there are practical difficulties in applying the additional isolation guidance to asset-backed securities transactions.

VOLUNTEERS NEEDED FOR CITY BAR TAX CLINIC

The New York City Bar seeks volunteers to prepare tax returns for persons being served by the City Bar Justice Center and the City Bar’s Monday Night LAW program. The object is to provide persons of low and moderate incomes with necessary tax assistance, under the IRS’ Volunteer Return Preparation Program. Volunteers will be trained and will provide assistance at the City Bar on several evenings during the upcoming tax season, to persons with scheduled appointments. If you are interested in participating, please contact Saleem Moghal of the Personal Income Taxation Committee, at Saleem_moghal2@hotmail.com.
JANUARY 2006 CALENDAR

Unless otherwise noted, programs are free of charge; open to all members, their guests and the general public; and held at the House of the Association. Program information subject to change. Please check our Website at www.nycbar.org for the latest program information.

6 Friday, 7 pm – Cocktails and Hors d’oeuvres, 8 pm - Performance


For more than 50 years, the Entertainment Committee has presented 12th Night at the City Bar, an original musical extravaganza which, with gentle humor, honors a distinguished member of the bench or bar. This January, the Entertainment Committee presents “The Lives of Carmen,” honoring Judge Carmen Beauchamp Ciparick, Associate Judge of the New York Court of Appeals. Chief Judge Judith S. Kaye will serve as Mistress of Revels.

Registration by December 30 is necessary. The fee is $70 ($50 for court personnel). Please register on page 5 or online at www.nycbar.org. For further information, contact Martha Cohen Stine, Chair, Entertainment Committee, at (212) 512-0810 or mstine@chlaw.com.

10 Tuesday, 12:30-2 pm

SMALL LAW FIRM LUNCHEON

Effective Methods for Marketing Your Law Firm and Expanding Your Client Base

Although we all learned about torts, contracts, civil procedure and commercial transactions in law school, most law schools do not offer a class about how to attract clients. Our panel includes a person who specializes in marketing for law firms and a website designer. Both speakers will discuss their crafts and how their work can help you develop and implement a marketing plan for your law firm.

Moderator:

TODD E. DUFFY
Duffy & Amedeo LLP

Speakers:

PARAMJIT MAHLI
Sun Communications Group

ALAN HARMON
H Communications

Registration by January 3 is necessary. The fee, which includes lunch, is $20 for members, $30 for non-members. Please register on page 5 or online at www.nycbar.org.

18 Wednesday, 6:30-8:30 pm

End of Life: Who Decides and How

A discussion of legal, medical and ethical issues in counseling patients and their families.

Moderator:

JESSE MARGOLIN
Becker Ross, LLP

Speakers:

PETER J. STRAUSS
Senior Counsel, Epstein Becker & Green PC; Distinguished Adjunct Professor of Law, New York Law School

DIANE E. MEIER, MD
Director, Center to Advance Palliative Care; Director, Hertzberg Palliative Care Institute; Professor of Medical Ethics, Mt. Sinai School of Medicine

JEFFREY BLUSTEIN, Ph.D
Professor of Bioethics, Albert Einstein College of Medicine

MICHAEL A. KLEIN
Senior Attorney, New York State Task Force on Life and the Law

For more information, please go to our website: www.nycbar.org, click on Lawyer Services, then Senior Lawyers Program, then Public Affairs Luncheon Series.

19 Thursday, 8:30am-9:30 am

Breakfast Series: Women in Commercial Litigation - Part I

This breakfast series will focus on various aspects of being a woman in commercial litigation. The series consists of five breakfasts, each with a different focus, including arbitration and a view from the bench. At the first breakfast, the panelists will discuss being a female commercial litigator at a large law firm and as an in-house counsel. The other parts in the breakfast series are scheduled as follows: Part II - February 16, Part III - March 16, Part IV - April 20, and Part V - May 18.

Moderator:

CARRIE COHEN
Chief, Public Integrity Unit, Office of Attorney General Eliot Spitzer

Speakers:

JAMIE LEVITT
Partner, Morrison & Foerster, LLP

CARLA MILLER
Counsel, Siemens Corp.

The fee for individual breakfasts is $15. Attendance is limited. Please register online at www.nycbar.org. For more information, please contact Andrea Masley at (917) 805-6267 or Carrie Cohen at (212) 416-8242.

19 Thursday, 6-8 pm

The History of the Rehnquist Court

The passing of Chief Justice William H. Rehnquist ends the nearly twenty-year stewardship of the high court by this Nixon and Reagan appointee. How does the Rehnquist Court compare to previous Courts? What will be the Rehnquist Court’s principal legacy? The new federalism? The narrowing of habeas corpus? The treatment of the abortion issue? And, how does Chief Justice Rehnquist compare to previous Chief Justices? What will be his principal legacy after thirty-three years on the Court where he evolved from the lone dissenter to the center of its conservative core?

Moderator:

JOHN Q. BARRETT
Professor of Law, St. John’s University School of Law; Elizabeth S. Lenna Fellow, Robert H. Jackson Center

Speakers:

MARTIN GARBUS
Davis & Gilbert LLP; Author of Courting Disaster: The Supreme Court and the Unmaking of American Law

ROBERT J. GIUFFRA, JR.
Sullivan and Cromwell LLP; former clerk to Chief Justice William H. Rehnquist

JAMES F. SIMON
Dean Emeritus, New York Law School; Author of The Center Holds: The Power Struggle Inside the Rehnquist Court

www.nycbar.org
20 Friday, 6:30 pm
The Lawyers’ Orchestra Presents A Seminar: Mozart’s Life Through His Symphonies
Symphonic compositions have become the cornerstone of the classical music repertoire, and it was the incredible progression of the symphonies composed throughout Mozart’s life that propelled both the composer and the symphonic form to great success. In this seminar, Park Avenue Chamber Symphony music director David Bernard will explore Mozart’s life through his symphonies. Hear musical excerpts and discussions that cover: The earliest influences on Mozart’s Symphonic output; the impact of late 18th century cultural trends; and Mozart’s impact on the evolution of the symphony past his lifetime. The seminar will include “drop the needle” audio excerpts and handouts.

Admission is $20/$10 (seniors/students) at the door. For more information visit the PACS website at www.chambersymphony.com or call (212) 570-1200.

25 Wednesday, 8:30 am – 10 am
Professional Development Breakfast Workshops Series for Mid-Level Associates
Workshop IV
Attaining Excellence in Management: Supervision, Delegation and Feedback
Mid-level associates are responsible for overseeing the work of more junior lawyers, secretaries, paralegals and other support staff. What work should be delegated? To whom? How much supervision is necessary? What are the ways to elicit the best work from others? Associates will learn management skills important in all facets of business and professional life, including techniques for:

- Allocating work
- Providing guidance and constructive criticism
- Rewarding work well done
- Encouraging performance excellence.

Speaker: DR. SALETTA BONI
Leadership Consulting Associates
1½ CLE credits in practice management. This program does not provide transitional credits for newly admitted attorneys. Please register through CLE at www.nycbar.org. This event is free for members and attorneys from sponsoring firms, and $45 for non-members.

25 Wednesday, 6 pm
Nursing Home and Home Care Insurance Seminar
Learn about whether nursing home and home care insurance is appropriate for you, including what questions you should ask and what features to look for. Spouses are invited, and refreshments will be served.

Speakers:
JOHN MARCEL
President, Madison Park Consultants
ROY S. LYONS
Senior Vice President, Marsh Affinity Group Services
MATTHEW J. NOLFO
Law Offices of Mathew J. Nolfo
To email your reservation, please contact Genise.Silvers@marsh.com, or call Marsh Affinity Group Services at 1/888/88-ABCNY (1/888/882-2269). Seating is limited.

5 - 6 pm (Friday)
Nursing Home and Home Care Insurance Seminar
5 pm (Thursday)
Nursing Home and Home Care Insurance Seminar

January 2006 Registration Form

Associate Judge of the Court of Appeals – 6 Friday
☐ The fee is $70 ($50 for court personnel).
☐ Small Law Firm Luncheon
Effective Methods for Marketing Your Law Firm and Expanding Your Client Base – 10 Tuesday
☐ The fee, which includes lunch, is $20 for members, $30 for non-members.

Name
Number of Reservations

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Total Enclosed $ 
Please charge to my ☐ Mastercard ☐ Visa ☐ American Express

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Card Number
State
Zip
Expiration Date
Phone
Signature

Please return this form to: Meeting Services, New York City Bar, 42 West 44th Street, New York, NY 10036-6689.
Please make checks payable to the Association of the Bar. If registering for additional persons, duplicate this form.
First, the Senate approved an amendment, sponsored by Senator John McCain, to Department of Defense spending bills to establish written guidelines on interrogation methods for enemy combatants, and to ensure that treatment of these combatants is consistent with the Geneva Convention.

Second, the Senate approved an amendment, offered by Senator Lindsey Graham, to eliminate habeas corpus rights for prisoners at Guantanamo Bay. This amendment, which immediately proved controversial, as of this writing has been superseded by a compromise amendment that would allow detainees quite limited rights to petition the U.S. Appeals Court. The McCain and Graham amendments are likely to be paired in the spending bills as they move forward and are sent to a Conference Committee for consideration. However, the White House has threatened to veto any measure, including a spending measure, that contains the McCain Amendment.

The New York City Bar wrote to Congress in support of the McCain Amendment and in opposition to the Graham Amendment.

The **Patriot Act**: Key provisions of the Patriot Act, enacted in 2001, are set to expire on December 31, 2005. H.R. 3199, the USA Patriot Improvement and Reauthorization Act of 2005, was passed by the House, and a related bill was passed by the Senate to extend the term of the Patriot Act and to make certain changes in the law. The legislation is pending before a Conference Committee. Conferes are negotiating the sunset provisions in the bill — the House passed a 10-year sunset and the Senate passed a 4-year sunset for specific law enforcement authorities. While Congress made a number of modifications to the original Patriot Act, including changes to the national security letters used to demand suspects’ records, and to the process for obtaining a subpoena for suspects’ library and business records, the City Bar and other groups continue to oppose many provisions of the legislation.

**Changes to the Legal System**: Congress considered several measures that affect the practice of law in the courts, and, in particular, restrict litigants’ access to the courts in seeking redress.

First, Congress passed S. 5, the Class Action Fairness Act of 2005, Public Law 109-2. This new law expands federal court jurisdiction over interstate class action lawsuits. In particular, the legislation establishes a new set of criteria for determining when the federal courts have mandatory, discretionary or no jurisdiction to hear state-based class action claims. The legislation also sets new terms for class action settlements in federal court cases. For example, the law addresses how attorneys fees should be calculated in cases with non-cash settlement agreements, and notice requirements for state and federal officials. The Class Action Fairness Act applies to particular class action lawsuits, and explicitly exempts certain security law actions and those state actions that relate to the internal affairs or governance of a corporation or business. The City Bar opposed this Act.

Second, Congress enacted into law S. 397, the Protection of Lawful Commerce in Arms Act, Public law 109-92. This legislation limits the civil liability for firearm manufacturers, preempting state product liability laws.

Third, the House passed H.R. 420, the Lawsuit Abuse Reduction Act, a bill that would limit judges’ discretion in ordering sanctions under Rule 11 of the Federal Rules of Civil Procedure, impose specific new sanctions when the Rule is violated by an attorney, and extend jurisdiction of Rule 11 to certain actions in state courts. The New York City Bar has written to Congress opposing the proposed changes to Rule 11, and objecting to the legislation on the grounds that changes to federal court rules should be done through the Rules Enabling Act process.

Fourth, the House and Senate Judiciary Committees have considered whether to split the 9th Circuit in two. The House Judiciary Committee approved legislation that would establish a new 12th Circuit, composed of Alaska, Arizona, Idaho, Montana, Nevada, Oregon and Washington, leaving California and Hawaii in the 9th Circuit.

Notably, Congress has not advanced the president’s proposed health care liability reform measures. President Bush proposed a cap on recovery for “pain and suffering,” (which the City Bar opposed) and new statute of limitations on malpractice claims. Despite an increase in the Republican majority, proponents are still short of votes in the Senate to secure passage of this bill.

**Tighter Federal Bankruptcy Laws**: Congress passed and the president signed a new bankruptcy law making it more difficult for certain individuals to file for bankruptcy under Chapter 7 of the Bankruptcy Code. As a result, more debtors will be forced to file under Chapter 13, which does not erase as much of the individual’s debt. The new law also imposes liabilities and administrative responsibilities on attorneys who represent debtors in bankruptcy proceedings. For example, attorneys will be required to certify both the accuracy of debtor’s assets and the ability of the debtor to make future payments under reaffirmation agreements. The City Bar opposed a number of the Act’s provisions.

The Case of Theresa Marie Schiavo: In March 2005, Congress passed a law, S. 686, Public Law No: 109-3, to provide relief to the parents of Theresa Marie Schiavo. Theresa Marie Schiavo, a Florida woman who was in a persistent vegetative state, was to have her feeding tube removed by order of the Florida state court. S. 686 granted the U.S. District Court for the Middle District of Florida jurisdiction to review whether state court proceedings related to the removal of her feeding tube violated Theresa Marie Schiavo’s due process rights.

**Energy**: In July 2005, Congress passed H.R. 6, the Energy Policy Act of 2005, Public Law 109-58. This law seeks to combat growing energy problems through tax incentives and loan guarantees for various types of energy production. Opponents criticized the bill for doing little more than providing subsidies to U.S. oil companies, and for failing to address either the dependency on oil or its rising price in the United States.

**Immigration**: President Bush has proposed an expansion in the guest worker programs for immigrant workers. A number of guest worker bills have been introduced in the House and Senate. However, neither the House nor the Senate has made these bills a priority. Congress has, on the other hand, passed restrictive immigration legislation as part of larger bills that aim to strengthen homeland security. In particular, the FY2005 Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and ‘Tsunami Relief (P.L. 109-13) increases the burden of proof for asylum applicants, expands the terrorism-related grounds for alien inadmissibility and deportation, and prohibits illegal aliens from obtaining state-issued drivers’ licenses. Congress is considering additional legislation to expand the role of state and local law enforcement agencies in immigration enforcement, and to intensify enforcement of employer sanctions laws.

**Intellectual Property**: Congress passed, S. 167, the Family Entertainment and Copyright Act of 2005, Public Law 109-09. This new law primarily addresses the problem of the illicit taping of motion pictures. In addition, the House passed
H.R. 2795, the Patent Act of 2005, H.R. 683, the Trademark Dilution Improvement Act, and H.R. 32, the Stop Counterfeiting in Manufactured Goods Act. The City Bar provided the House Judiciary Committee with written commentary on the Trademark Dilution Improvement Act.

**Patient Safety:** In July 2005, Congress passed and the president signed S. 544, the Patient Safety and Quality Improvement Act of 2005, P.L. 109-41. This law, passed with bipartisan support, creates a new system for physicians, nurses and other medical professionals to voluntarily report medical errors on a confidential basis. The reports would be used by new patient safety organizations to improve medical practice and reduce future errors. The law has strong penalties for violation of the confidentiality provisions, and ensures that reported data is not discoverable in medical malpractice cases.

**Corporate Pension Reform:** Congress has been considering pension reform legislation because the Pension Benefit Guarantee Corporation (PBGC), which insures pension plans, is significantly underfunded. In 2004, the PBGC was underfunded by $354 billion. The Senate passed S. 1783, the Pension Security and Transparency Act of 2005 to revise corporate pension laws with the goal of increasing the size of the insurance fund and reducing the burden on the PBGC. The Bush Administration has threatened to veto the bill, arguing that it would not sufficiently increase corporate contributions to the insurance fund or to their own pension plans. The House is expected to consider its pension reform measure, H.R. 2830.

**Free Trade:** Congress approved a Free Trade Agreement with the Dominican Republic and Central America (Public Law 109-182).

**Habeas Corpus:** The House and Senate Judiciary Committees have held hearings on legislation to change the procedures for state and federal prisoners filing habeas corpus petitions in federal courts. S. 1088 and H.R. 3035, the Streamlined Procedures Act, would further restrict state prisoners’ access to the federal courts. Almost a decade ago, Congress passed revisions to streamline state habeas petitions in the Antiterrorism and Effective Death Penalty Act of 1996. There is strong disagreement now as to whether these 1996 provisions have proven effective. Opponents of the legislation, including the City Bar, argue that there is no evidence of unreasonable delay, and that the legislation could result in the execution of innocent prisoners.

**Legal Services Funding:** Congress approved legislation to fund Legal Services at the same level as last year – $330.8 million. The City Bar argued that this funding be increased, particularly given the additional needs triggered by the hurricane disaster.

**Reauthorization of the Violence Against Women Act:** Both the House and the Senate have passed separate measures that would reauthorize the Violence Against Women Act, as the authorization for this law ends this year. The House and Senate measures will be considered by a Conference Committee.

**Shield Laws:** The House and Senate are both considering legislation that would protect journalists from having to reveal confidential sources; the City Bar has supported these measures. This issue arose in the investigation by a special prosecutor into the leak of classified information to a reporter.

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**Health Savings Accounts**

*A new savings plan that helps you pay your healthcare costs!*

As an employer faced with rising medical premiums each year, it’s time to change your strategy. By implementing a High Deductible Health Plan and Health Savings Account (HSA), you can fight back. And you can use some or all of your first year’s premium savings to help fund your employees HSA to get them started. They get the benefit of provider choice and tax benefits while you benefit by reducing your expenses.

**Among the benefits:**

- Contributions to a health savings account are tax deductible and earn tax-free interest*
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www.nycbar.org
Senior lawyers will be strongly encouraged to participate in pro bono activities, in recognition that people lead by example;

Newly hired lawyers will be asked to participate in at least one pro bono matter during their first year of employment;

Lawyers undertaking pro bono work will have access to training materials, mentoring, manuals and other relevant support for their efforts.

These principles are more than a promise of a number of hours. They are a commitment to best practices that help ensure that these pro bono efforts receive the requisite recognition and support.

The Association’s Role in Improving Access to Justice

The Principles were developed by the Association’s Committee on Pro Bono and Legal Services, chaired by William Russell of Simpson Thacher & Bartlett, with substantial assistance from Committee member Kevin Curnin of Stroock & Stroock & Lavan. In the months ahead, the Committee plans to hold periodic meetings with representatives of signatory firms to discuss implementation of the Principles and share ideas for innovative programs.

Through our pro bono affiliate, the City Bar Justice Center, the Association provides more than a half-dozen public welfare programs where lawyers can volunteer their legal services, choose from many practice areas, receive relevant support — and earn CLE credits at the same time. The Justice Center’s pro bono clients include: immigrants, battered women, the homeless, the elderly, cancer survivors, consumers filing for bankruptcy, and struggling small-business owners. The Center’s most recent efforts have been focused on victims of Hurricane Katrina. The Justice Center is also available to consult with law firms and corporate legal departments on the development of pro bono programs. For information about such assistance, please contact Kwanza Butler at (212) 382-6727 or kbutler@nycbar.org.

Law firms interested in becoming signatories to the Association’s Statement of Pro Bono Principles are asked to contact Executive Director Barbara Berger Opotowsky at (212) 382-6620 or bopotowsky@nycbar.org. The Statement of Pro Bono Principles and enrollment forms are available online at www.nycbar.org.

INAUGURAL LAW FIRM SIGNATORIES TO THE STATEMENT OF PRO BONO PRINCIPLES

ARNOLD & PORTER LLP
BRYAN CAVE LLP
CARTER LEDYARD & MILBURN LLP
CHADBOURNE & PARKE LLP
CLIFFORD CHANCE US LLP
DEBEVOISE & PLIMPTON LLP
DEWEY BALLANTINE LLP
FRIED FRANK HARRIS SHRIVER & JACOBSON LLP
GIBSON DUNN & CRUTCHER LLP
HILLER EHRMAN LLP
HOGAN & HARTSON LLP
HOLLAND & KNIGHT LLP
HUGHES HUBBARD & REED LLP
KAYE SCHOLER LLP
KELLEY DRYE & WARREN LLP
KIRKLAND & ELLIS LLP
LEBOEUR, LAMB, GREENE & MACRAE LLP
MAYER, BROWN, ROWE & MAW LLP
MILBANK, TWEED, HADLEY & MCCLOY LLP
MORGAN, LEWIS & BOCKIUS LLP
MORRISON & FOERSTER LLP
PATTERSON, BELKNAP, WEBB & TYLER LLP
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP
PROSKAUER ROSE LLP
SIDLEY AUSTIN BROWN & WOOD LLP
SIMPSON THACHER & BARTLETT LLP
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
STROOCK & STROOCK & LAVAN LLP
THELEN REID & PRIEST LLP
WEIL, GOTSHAL & MANGES LLP

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The First Annual Thomas E. Dewey Medal Presentation Ceremony

Five assistant district attorneys, one from each borough, were recognized at the New York City Bar Association on November 29th. The winners, from left to right, are Scott E. Kessler, Queens County; Timothy J. Koller, Richmond County; Anna-Sigga Nicolazzi, Kings County; Michael H. Cooper, Bronx County; and LeRoy Frazer, Jr., New York County.

The Dewey Medal was conceived by Daniel R. Alonso, chair of the City Bar’s Committee on Criminal Advocacy. The candidates were selected by district attorneys in the city’s five boroughs, who each nominated three assistant district attorneys. The medal winners were then chosen by the City Bar’s seven-member Dewey Medal Committee — chaired by Seth C. Farber, a partner at Dewey Ballantine — and judged on their career achievements and their integrity.

The Thomas E. Dewey Medal was named after the late New York Governor and Manhattan District Attorney who first rose to public attention in the 1930s by instituting successful criminal proceedings against organized crime figures of the day. Dewey is also credited with establishing the professionalism of the office by staffing it with prosecutors chosen on merit rather than through political patronage.

City Bar Justice Center Receives Distinguished Public Service Award

On December 8th, the City Bar Justice Center received the Distinguished Public Service Award from the American Immigration Law Foundation. Accepting the award was the Center’s Executive Director Maria Imperial. Pictured from left to right: Benjamin Chan, Rosemary Griffin, Suzanne Tomatore, Martin York, Annie Wang, Maria Imperial, Jennifer Kim, Henri Gueron, and Barbara Rodriguez.

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When Shirley, a mother of three, signed the lease for a two-bedroom apartment late last summer, she thought she was leaving the turbulent world of homelessness and the shelter system behind, and could finally begin a new and better life for herself and her children in a home of their own. Instead, she soon found out she had signed up for a nightmare.

Shirley has been a client of the City Bar Justice Center’s Legal Clinic for the Homeless since April 2005, working with volunteer attorney Lenor C. Marquis of Heller Ehrman LLP. Marquis has represented Shirley at several fair hearings to challenge administrative errors and improper public assistance denials so that she could qualify for the Housing Stability Plus (HSP) rent supplement program, which would help her to move out of the shelter and into an apartment.

What Marquis and Shirley did not know was that after all of their hard work, her new apartment would not be the one inspected and approved by the Department of Homeless Services for the HSP supplement — instead, she was given keys to a dilapidated unit unfit for living, with no door locks, a disconnected stove, exposed outlets, and holes in the walls and floor. Her apartment would be broken into before she even had a chance to move in all of her belongings.

Although the situation was out of the normal range of the public benefits issues that Marquis was used to dealing with as a Legal Clinic for the Homeless volunteer, she quickly went above and beyond to defuse this dangerous situation. Through the City Bar Justice Center, she was able to connect with a range of organizations that had the expertise and resources to help, sparking a broader collaborative effort to aid Shirley and other formerly homeless families facing similar circumstances.

Like a Scene Out of a Horror Movie

Shirley was shocked when she went to move her belongings into the new apartment a few days before she was set to move out of her shelter. “I was so excited about the new place, to get out of the shelter, but it was disgusting. I was scared for my kids,” says Shirley, who has three children including a newborn baby.

Shirley turned to her volunteer attorney, uncertain of what could be done. “We were talking to anyone who would listen to us for a few days, pretty frantically,” says Marquis. She and another Heller Ehrman volunteer, Linda Joseph, made constant calls to the management company, the shelter, and the Department of Homeless Services to try to find a solution.

Joseph visited the apartment herself to see the conditions. “It was like a scene out of a horror movie,” says Joseph. “If anyone had inspected it, it was clear there were just a ton of violations...I couldn’t stomach her being so young and going into an apartment like that, she was so terrified, and I felt afraid for her. And what if someone had broken in while Shirley was inside with her three young children, then ages nine, two and an infant?”

Soon, though, their advocacy efforts hit a wall. The shelter said it had no choice but to release Shirley due to Department of Homeless Services regulations, and the city denied her application for new emergency shelter. The electricity went out the night she was supposed to move into the apartment, so she took her children to sleep on the floor of a relative’s apartment, and soon they were bouncing from place to place each night. The very weekend they were supposed to have moved in someone broke into the apartment a second time.

“It got to the point where people didn’t really want to talk to me-- they just said other people would work on it, but nothing was happening,” says Marquis.
Lisa Pearlstein, director of the Legal Clinic for the Homeless, was in constant contact with the volunteer advocates, and she used the Justice Center’s resources to put them in touch with the right people at various legal and advocacy organizations.

“I got to them through Lisa, and it was just this great chain of connections. Finally, enough momentum and pressure built up until there was a tipping point when they pushed their influential contacts into doing something,” says Marquis.

Patrick Markee, senior policy analyst with the Coalition for the Homeless, discovered that Shirley’s 39-unit building had 354 code violations registered with the city’s Department of Housing Preservation and Development (HPD), 97 of which were Class “C” or “immediately hazardous.”

He, along with Joshua Goldfein of The Legal Aid Society, intervened with upper-level officials at the Department of Homeless Services until the necessary repairs were made.

“It was not something the client could in any way have done for herself, that was obvious,” says Marquis. “The fact that it took this many networks and connections just to get the apartment safe enough to live in with little kids, and so that it wouldn’t be broken into, is absolutely insane.”

Shirley is grateful that she had an advocate on her side at such an uncertain time. “It’s great. I wouldn’t have gotten anything done if it weren’t for Lenor,” she says.

Publicity for a Widespread Problem

Since the ordeal, Shirley and her volunteer advocates have learned that her situation is unfortunately not unique, and they have become involved in a wider movement to address the problems of the Housing Stability Plus program.

In mid-October, Shirley was the featured speaker at a press conference outside of her building organized by the Coalition for the Homeless and the Housing Here and Now Coalition.

At the press conference, advocates stressed that slumlords all over the city are paid HSP subsidies for apartments that are in substandard condition and are not being held accountable for their repair. As in Shirley’s case, often management shows the clients and DHS apartments that are nicer than those the clients will actually live in.

Since the HSP program began in December 2004, approximately 2,000 homeless families have moved into apartments using the subsidy, and apartment conditions have emerged as a major problem.

At the press conference, the Housing Here and Now Coalition released its report, “Your Tax Dollars At Work: How New York City Subsidizes Slumlords,” which analyzed a sample of 370 buildings with units approved to receive HSP and HASA (HIV/AIDS Services Administration) rent subsidies.

Of those buildings, almost 25% had multiple hazardous Class “B” and “C” violations per unit. They found that half of the buildings had more than one violation per unit, and at least eight landlords in the sample were on HPD’s 2003 “Major Problem Owner” list.

Markee hopes that the publicity will encourage the city to pay more attention to the issue, and do the necessary screening to ensure that homeless people are not forced to live in dangerous conditions. “The city hasn’t changed its policies regarding people like Shirley’s landlord yet,” he says, “but we’re going to continue to put pressure on.”

It Takes a Village

The City Bar Justice Center staff and volunteers will continue to work in partnership with other homeless advocacy groups to aid those in Shirley’s situation, and when possible to prevent clients from ever facing her ordeal.

The Justice Center’s Legal Clinic for the Homeless has been providing free legal assistance to homeless individuals and families since 1991. With the support of Justice Center staff, law firms “adopt” a particular shelter where their attorneys advise and represent clients on issues such as accessing and challenging denials of public benefits, including public assistance, food stamps, Medicaid, and public housing. Shirley’s case shows another way in which the clinic’s volunteer attorneys can have a positive impact on their clients’ lives.

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11
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City Bar Center for CLE Expands its Online Programs
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To learn more please call (212) 382-6663, or visit www.nycbar.org/cle/cleonline.php
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<td>6-8 p.m. ETHICAL &amp; PRACTICAL ISSUES IN ATTRACTING &amp; SERVING CLIENTS ONLINE</td>
<td>10-1 p.m. LEVELING THE PLAYING FIELD: THE NEW UNIFORM APPLICATION OF SALES TAX</td>
<td>6-9 p.m. Video Replay: BUYING &amp; SELLING COMMERCIAL REAL ESTATE</td>
<td>6-9 p.m. FINANCING RENEWABLE ENERGY PROJECTS IN A RAPIDLY EVOLVING ENVIRONMENT</td>
<td>9:11 a.m. Video Replay: THE NEW DEFERRED COMPENSATION PROPOSED REGULATIONS: WHAT YOU NEED TO KNOW</td>
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<td>6-9 p.m. BRINGING YOUR MEDIATION CAREER TO FRUITION: A PLAN FOR SUCCESS</td>
<td>6-9 p.m. DOCUMENT RETENTION &amp; DISCOVERY IN AN E-WORLD: HOW TO AVOID ETHICAL, CIVIL &amp; CRIMINAL PENALTIES</td>
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<td>6-9 p.m. SHAPING THE CITY FOR THE 21ST CENTURY — A PRIMER ON NEW YORK CITY ZONING &amp; LAND USE Part One of Two</td>
<td>8:30-10:30 a.m. CREATING “SMART” DOCUMENTS: HOW TO AVOID LITIGATION IN THE INFORMATION AGE</td>
<td>6-9 p.m. ETHICS, DISCIPLINE &amp; REAL WORLD OBLIGATIONS IN LAW FIRM PRACTICE</td>
<td>6-9 p.m. ETHICAL RISKS FROM THE USE OF TECHNOLOGY</td>
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<td>6-9 p.m. SHAPING THE CITY FOR THE 21ST CENTURY — A PRIMER ON NEW YORK CITY ZONING &amp; LAND USE Part Two of Two</td>
<td>6-9 p.m. COORDINATING A RESPONSE TO ALLEGATIONS OF FINANCIAL FRAUD</td>
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*This program provides transitional credit for newly admitted attorneys.
ADRPARBITRATION/ MEDIATION/NEGOTIATION

BRINGING YOUR MEDIATION CAREER TO FRUITION: A PLAN FOR SUCCESS

18 Wednesday 6-9 p.m.

Are you thinking about getting into mediation? Have you had some mediation training but are now wondering, “Where do I go from here?”

This interactive session is designed to help you focus your efforts on building your mediation career. The workshop presenters — all established leaders in different niches of mediation — will share their expertise to help you turn your mediation training into a productive and rewarding career. Presenters will discuss various process styles and give practical tips that will help you get started in the mediation profession. Learn how to target your ideal market, set up a mediation-friendly office and improve your skills after initial training. Through experiential exercises, create a vision, soundbite, mission and story to develop and market your services.

Come away with a better understanding of the field and an action plan to join it!

Faculty:

GLENN E. DORNFELD
Attorney, Law Office of Glenn E. Dornfeld
Mediator & Trainer, Center for Family & Divorce Mediation

TARA FISHLER
Trainee, Customized Training Solutions
Former President, The Association for Conflict Resolution of Greater New York
(ACR GNY)

DANIEL M. WEITZ
Coordinator, ADR Programs
State of New York Unified Court System

CLE credit:

3 credits total: 2 in professional practice/practice management & 1 in skills. This program provides transitional credit for newly admitted attorneys.

Live Program:

Member $195,* Non-member $305

* Includes non-legal professionals

CORPORATE & SECURITIES

CREATING “SMART” DOCUMENTS: HOW TO AVOID LITIGATION IN THE INFORMATION AGE

24 Tuesday 8:30–10:30 a.m.

The “Information Age” has ushered in a deluge of communications — electronic as well as traditional. Every day, people confront dozens, if not hundreds, of e-mails. Business presentations and legal documents in draft form are routed to multiple parties for handwritten comments in the margins. While vital to doing business, these communications nevertheless have the potential to turn into hidden time bombs that can come back in an ugly litigation to haunt both the author and the company.

Most of these documents are insignificant and harmless — except for the backlog they create in our e-mailboxes and the number of trees that died so they could live. However, particularly because of the proliferation of e-mail, more and more “bad documents” are being generated and stored by a wide range of people. Government investigators and hungry litigators have increasingly focused on “bad documents” as the basis of class action lawsuits and government crackdowns. The media has also had a field day lambasting high profile executives for controversies centered on these bad documents, many of which are created or approved by the senior executives themselves.

Lawyers have spoken and written extensively on the subject of documents. Cottage industries have cropped up in an effort to address the myriad of issues arising out of the growing mountain of information generated within organizations. Their focus has been primarily on the back end of the process — record retention and destruction.

The highly interactive “Smart Documents” program will examine the risks and land mines associated with the creation and distribution of documents within organizations. Through use of real world examples — sometimes humorous, sometimes tragic — the program will explore how an organization’s culture can alternatively foster or preempt the creation of a bad document. Using role playing techniques, the program will offer lawyers, and their clients, practical strategies and tactics for dealing with challenges presented by documents in the Information Age.

Faculty:

DAVID G. CURRAN
Chief Executive Officer
Data Communiqué International

SUSAN C. PORTIN
Managing Director
Impact Management Solutions, Inc.

CLE credit:

2 credits in professional practice/practice management. This program provides transitional credit for newly admitted attorneys.

Live Program:

Member $195, Non-member $305

COORDINATING A RESPONSE TO ALLEGATIONS OF FINANCIAL FRAUD

31 Tuesday 6-9 p.m.

A panel of experienced prosecutors, regulators and practitioners will examine how a company can effectively respond when faced with allegations of financial fraud, resulting civil complaints and investigations by prosecutors and regulators. Through an unfolding example, the panel will discuss different strategies for effective response and resolution of investigations and litigation. The panel will focus on how the criminal, regulatory and civil bar can coordinate their efforts.

Program Chair:

DONALD A. CORBETT
Dickstein Shapiro Morin & Oshinsky LLP

Faculty:

WILLIAM MCGOVERN
Vice President Law Division/Regulatory Group
Morgan Stanley

RICHARD D. OWENS
Chief of the Securities Unit
U.S. Attorney’s Office (SDNY)

IRA LEE SORKIN
Dickstein Shapiro Morin & Oshinsky LLP

RICHARD J. WOLF
Senior Vice President and Corporate Compliance Officer
Cendant Corporation
CLE Credit:
3 credits total: credit breakdown to be determined. This program provides transitional credit for newly admitted attorneys.

Live Program:
Member $195, Non-member $305

INTRODUCTION TO THE DEAL: WHAT’S INVOLVED ONCE YOUR COMPANY GOES PUBLIC

20 Friday 9-1 p.m.

The program will introduce lawyers to the basic issues that arise once a company goes public and becomes a public reporting company, particularly in light of the dramatic changes to the regulatory landscape since the enactment of The Sarbanes-Oxley Act of 2002. The program will address issues relevant to public companies, including:

- Reporting and other obligations under the Securities Exchange Act of 1934
- Obligations stemming from The Sarbanes-Oxley Act of 2002 and related SEC rules
- Obligations under stock exchange rules
- What public companies should know about securities litigation
- Communicating with financial analysts, major investors and the media

The program will also focus on issues relevant to officers, directors and major shareholders of public companies, including, Section 13(d), Section 16 and insider trading concerns.

Program Chair:
RAFAEL M. RUSSO
Paul, Weiss, Rifkind, Wharton & Garrison LLP

Faculty:
AEGIS J. FRUMENTO
Duane Morris LLP

MICHAEL E. GERTZMAN
Paul, Weiss, Rifkind, Wharton & Garrison LLP

MICHAEL P. KAPLAN
Davis Polk & Wardwell

MICHAEL R. LITENBERG
Schulte Roth & Zabel LLP

LISA M. SPIVACK
Universal American Financial Corp.

CLE credit:
4½ credits total: 4 professional practice/practice management & ½ ethics. This program provides transitional credit for newly admitted attorneys.

Live Program:
Member $335, Non-member $475

CRIMINAL

DOCUMENT RETENTION & DISCOVERY IN AN E-WORLD: HOW TO AVOID ETHICAL, CIVIL & CRIMINAL PENALTIES

19 Thursday 6-9 p.m.

Failure to follow the evolving requirements regarding the retention, restoration, and production of electronically stored documents in civil litigation may result in sanctions or lost claims. On the criminal side, the consequences in some circumstances may be prosecution and conviction. The questions of what to retain, how long backup tapes or disaster-recovery tapes should be maintained or e-mails archived, and what to produce, have become increasingly complicated in the era of electronic data. The program will address:

- Deciding what documents and data to retain
- How to set up a retention system
- Responding to civil discovery requests and criminal investigations
- How to handle parallel or successive civil litigation and criminal proceedings
- How to handle the materials that are produced to you
- Ethical consequences
- Potential civil sanctions
- Potential criminal consequences

The panelists will include a prosecutor from the S.D.N.Y. U.S. Attorney’s Office, practitioners with civil and criminal defense experience, an expert in computer forensics, counsel from a major financial institution, and the Honorable Shira A. Scheindlin, author of the precedent-setting decision in Zubulake v. UBS Warburg.

Program Chair:
KATHRYN KENEALLY
Fullbright & Jaworski L.L.P.

Faculty:
THOMAS M. LAHIB, JR.
Assistant General Counsel
Citigroup Inc.

JOHN M. McENANY
Associate United States Attorney
U.S. Attorney’s Office, Southern District New York

DENNIS J. McINERNEY
Davis Polk & Wardwell

ROBERT D. MOODY
Director
Grant Thornton LLP
Forensic Accounting and Investigative Services

CLE credit:
3 credits total: 1½ ethics & 1½ professional practice/practice management. This program provides transitional credit for newly admitted attorneys.

Live Program:
Member $195, Non-member $305

EMPLOYEE BENEFITS

Video Replay: THE NEW DEFERRED COMPENSATION PROPOSED REGULATIONS: WHAT YOU NEED TO KNOW

13 Friday 9-11 a.m.

Section 409A of the Internal Revenue Code, a part of the American Jobs Creation Act of 2004, became effective January 1, 2005. The section has revolutionized the treatment of deferred compensation arrangements and has created the need to structure and administer such arrangements in a dramatically different way. Severe penalties — income tax inclusion, penalty interest and a 20% excise tax — apply to participants in arrangements that do not comply with the new law. The law has an extremely broad reach and in addition to typical deferred compensation arrangements such as SERPs and voluntary deferred compensation plans, it impacts many types of arrangements that are not typically thought of as deferred compensation including, for example, discounted stock options, restricted stock units, foreign plans, hedge fund deferral arrangements and separation pay arrangements.

The Department of the Treasury and Internal Revenue Service have recently issued comprehensive proposed regulations on the new law. The proposed regulations provide useful guidance on how to structure deferred compensation arrangements to be exempt from or to comply with the new law.

Don’t miss this unique opportunity to hear panelists from the Office of Tax Policy, Department of the Treasury, and firms with leading employee benefits departments speak about the new proposed regulations and what you should know and do.

Program Co-Chairs:
ANDREA S. RATTNER
Proskauer Rose LLP

MARJORIE M. GLOVER
Chadbourne & Parke LLP

Faculty:
DAVID S. GRIFFEL
Schulte Roth & Zabel LLP
**Program Chair:**

**Edward M. Spiro**
Morvillo Abramowitz Grand Iason & Silberberg PC

**Faculty:**

**Sherry K. Cohen**
First Deputy Chief Counsel
Departmental Disciplinary Committee
Supreme Court, Appellate Division
First Judicial Department

**Mary C. Daly**
Dean and John V. Brennan Professor of Law and Ethics
St. John's University School of Law

**Jonathan J. Lerner**
Skadden Arps Slate Meagher & Flom LLP

**Hai R. Lieberman**
Hinshaw & Culbertson LLP

**Honorable Joseph P. Sullivan**
Associate Justice
Appellate Division of the Supreme Court of the State of New York

**Ethics, discipline, & real world obligations in law firm practice**

**25 Wednesday 6-9 p.m.**

This timely program will focus on the ethical and disciplinary issues confronting attorneys practicing in law firms as well as the law firm entities themselves, including:

- conflicts of interest
- fee issues
- system controls
- the “rogue” partner
- law firm reporting obligations for attorney misconduct
- ethical responsibilities of partners and associates

A premier faculty drawn from the judiciary, the disciplinary bar, law firms and academia will also discuss the law firm discipline rule, DR 1-104, and consider its real world application. Finally, the panel will address whether disciplinary authorities adequately focus on law firm misconduct and whether rule amendments or policy changes are in order.

Program Chair:

**Edward M. Spiro**
Morvillo Abramowitz Grand Iason & Silberberg PC

Faculty:

**Sherry K. Cohen**
First Deputy Chief Counsel
Departmental Disciplinary Committee
Supreme Court, Appellate Division
First Judicial Department

**Mary C. Daly**
Dean and John V. Brennan Professor of Law and Ethics
St. John’s University School of Law

**Jonathan J. Lerner**
Skadden Arps Slate Meagher & Flom LLP

**Ethical risks from the use of technology**

**26 Thursday 5-7 p.m.**

Most lawyers have become so comfortable with computers that they sometimes forget to consider the risks involved, both for them and their clients. These risks range from the everyday hazards of e-mail spam to the much more serious ethical dangers of betraying client confidentiality or a client’s improper retention of documents. If you are not aware of the potential hazards inherent in the use of computers to your clients and practice, you should attend this program.

This program will give you a fresh look at how you are using your computer. From the basic issues of protecting data and your computer to the more advanced issues of controlling digital data, you will learn from the perspectives of academics, who teach intellectual property and professional responsibility, and a litigation partner.

This program will benefit solo and small firm practitioners who don’t have IT staff to advise them. It will also help lawyers in big firms to identify issues about which IT staff might not be aware. Don’t take the chance of relying on your computer consultants to know about the possible violations of the rules of professional conduct. Learn how to minimize the risks and about the reasonable actions you can take to avoid violating the rules.

The program will include a cocktail reception following the final presentation.

Program Instructors:

**Professor Andrew Beckerman-Rodau**
Co-Director, IP Law Concentration
Suffolk University Law School

**Professor Andrew Perlman**
Suffolk University Law School

**Jeffrey A. Fuisz**
Kaye Scholer LLP

Co-sponsored with: Center for Advanced Legal Studies, Suffolk University Law School

**CLE credit:**

2 credits in ethics. This program provides transitional credit for newly admitted attorneys.

**Live Program:**

Member $195, *Non-member $335

*New York City Bar & Co-sponsoring members.

All registrations for this program will be handled through the Center for Advanced Legal Studies, Suffolk University Law School. Please call 617-573-8627 or go to www.law.suffolk.edu/als.

**Law Firm Practice Management**

**Ethical & practical issues in attracting & serving clients online**

**9 Monday 6-8 p.m.**

Client development is a critical component of success for all attorneys. With 63% of American adults—128 million people — now using the Internet regularly, a presence on the Web is an indispensable business tool, especially for solo and small firm practices. This program will present answers to some of the most frequently asked questions attorneys face in developing an Internet presence: How do you increase your odds of ranking high in a Google result list? How do you set up an effective website? What is ethically acceptable? How do you measure the results of your Internet presence? This program will benefit those attorneys whose firms have yet to establish a Web identity as well as those who are already on the Web.

Instructor:

**Edwin Van Riesen**
Director, Marketing Programs
Thomson FindLaw

Co-Sponsored by: Thomson FindLaw

**CLE credit:**

2 credits total: 1½ professional practice/practice management & ½ ethics. This program provides transitional credit for newly admitted attorneys.

**Live Program:**

Member $195, *Non-member $335

*New York City Bar & Co-sponsoring members.

All registrations for this program will be handled through the Center for Advanced Legal Studies, Suffolk University Law School. Please call 617-573-8627 or go to www.law.suffolk.edu/als.

www.nycbar.org
**PROJECT FINANCE**

**FINANCING RENEWABLE ENERGY PROJECTS IN A RAPIDLY EVOLVING ENVIRONMENT**

12 Thursday 6-9 p.m.

Renewable energy has come of age. Bolstered by high natural gas prices, instability in sourcing overseas energy supply, rapidly advancing technology and the recent renewal of the production tax credit, renewable energy is the fastest growing new energy sector and is emerging as a mainstream source of U.S. energy supply. Innovative financial structures driven by the unique incentives applicable to renewables continue to rapidly evolve. Long dominated by European energy suppliers and financial institutions comfortable with many years of experience in the more mature European markets, the domestic market for renewables is undergoing rapid transition with powerful U.S. entrants. Join us for this informative program and hear distinguished experts speak on emerging technologies, tax, renewable energy credits and other financial incentives as well as the rapidly evolving innovations in the development and financing of renewable power.

Program Co-Chairs:

**JOHN F. PRITCHARD**
Holland & Knight LLP

**ROGER W. ROSENDAHL**
Kaye Scholer LLP

**CLE credit:**
3 credits total; credit breakdown to be determined. This program provides transitional credit for newly admitted attorneys.

**Live Program:**
Member $195, Non-member $305

**REAL ESTATE**

**Video Replay: BUYING & SELLING COMMERCIAL REAL ESTATE**

11 Wednesday 6-9 p.m.

A panel of experts will discuss purchaser’s due diligence, contract negotiation, title issues, negotiating purchaser’s loan commitment and loan documents, preparation for the closing and the actual closing.

Program Chair:

**WILLIAM J. LIPPMAN**
Dechert LLP

**MAY PROPERTY OWNERS OPT-OUT OF THE SECTION 8 PROGRAM? A DISCUSSION OF LEGAL & PRACTICAL ISSUES & CONCERNS**

17 Tuesday 6-9 p.m.

Over the past few years, one of the most contentious issues in the area of landlord-tenant law has been whether owners of residential housing can opt-out of the Section 8 voucher program under various federal, state and local laws. This issue has significant implications for both owners and tenants given the magnitude of the Section 8 population in the City of New York — approximately 120,000 households receive Section 8 rental subsidies.

The lower courts have issued a series of conflicting decisions based on different interpretations of applicable federal, state and city laws as well as administrative determinations. Much is at stake as these cases move up the appellate ladder.

The panelists, including representatives from the landlord and tenant bar as well as governmental agencies, will discuss the various legal and practical aspects of the Section 8 opt-out issue. For example, are state and local laws preempted by the federal repeal of the “endless lease” and the “take one, take all” provisions of the Section 8 statute? Does the Rent Stabilization Code require owners to continue accepting Section 8 as a “material term and condition” of renewing a tenant’s lease? Does federal law afford tenants the right to remain and utilize their Section 8 vouchers where the owner opted out of a project-based subsidy contract? These questions and more will be considered.

Program Co-Chairs:

**ODA C. FRIEDHEIM**
Staff Attorney
The Legal Aid Society
LEVELING THE PLAYING FIELD: THE NEW UNIFORM APPLICATION OF SALES TAX

10 Tuesday 10-1 p.m.

On October 1, 2005, the Streamlined Sales and Use Tax Agreement became effective for a number of states. This measure aims to simplify the nations’ varying sales and use tax laws. This is particularly relevant to remote sales (which includes internet sales and catalogue sales). However, a majority of states have not signed the agreement, including New York. Learn about the sweeping changes brought about by this Agreement; what implications the Agreement has for New York; the support it may garner for federal legislation; and more. You’ll also hear about techniques that are being used to effectuate compliance in the collection of sales and use tax including innovative civil suits and criminal prosecution on the federal and state level.

Program Chair:
GILDA I. MARIANI
Chief, Money Laundering and Tax Crimes Unit
New York Country District Attorney’s Office

Faculty:
MICHELLE A. CUMMINGS
Deputy Commissioner, Office of Tax Policy and Analysis
New York State Department of Taxation and Finance

HARLEY T. DUNCAN
Executive Director
Federation of Tax Administrators

STEPHEN P.B. KRANZ
Tax Counsel
Council on State Taxation

CLE credit:
3 credits in professional practice/practice management. This program provides transitional credit for newly admitted attorneys. 3 CPE credits in advisory services.

Live Program:
Member $195, Non-member $305

Tapes are sold with the accompanying written materials from the program. Program materials can be purchased separately from the program. (CLE credit may not be given for materials only.) Mandatory NYS sales tax is included in the purchase price for tapes and materials. All sales of tapes, CDs, DVDs and materials are final. Please allow 3-5 weeks after the program date for your order to be processed.

Cancellations & Refunds

For live programs and video replays, refunds and program credits are available provided cancellation is made in writing and received by the City Bar Center prior to the program.

A $25 administrative fee will be charged for all refunds. The cancellation fee will be deducted directly from the refund. For program credits no administrative fee will be charged. Program credits must be used within one year of the original program date. Cancellations must be in writing and faxed to the City Bar Center at (212) 869-4451.

Refunds and program credits are not available for the purchase of tapes, CDs, DVDs, course materials or online programs.

These programs are presented under the auspices of the CLE Committee, Burton N. Lipshie, Chair, and the City Bar Center for Continuing Legal Education. Scholarships are available. Please call (212) 382-6663 for an application.

Is there a program you would like to attend or a speaker you would like to hear? Please contact the City Bar Center with your suggestions.
JANUARY 2006
CLE REGISTRATION FORM

☐ ETHICAL & PRACTICAL ISSUES IN
ATTRACTION & SERVING CLIENTS ONLINE
January 9
Member Non-member
Live Program: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

☐ LEVELING THE PLAYING FIELD:
THE NEW UNIFORM APPLICATION OF SALES TAX
January 10
Member Non-member
Live Program: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

☐ Video Replay: BUYING & SELLING COMMERCIAL REAL ESTATE
January 11
Member Non-member
Live Program: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

☐ FINANCING RENEWABLE ENERGY PROJECTS IN A RAPIDLY EVOLVING ENVIRONMENT
January 12
Member Non-member
Live Program: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

☐ Video Replay: THE NEW DEFERRED COMPENSATION PROPOSED REGULATIONS: WHAT YOU NEED TO KNOW
January 13
Member Non-member
Video Replay: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

☐ MAY PROPERTY OWNERS OPT-OUT OF THE SECTION 8 PROGRAMS?
A DISCUSSION OF LEGAL & PRACTICAL ISSUES & CONCERNS
January 17
Member Non-member
Live Program: □ $195* □ $305
Audiotapes: □ $315 □ $385

☐ BRINGING YOUR MEDIATION CAREER TO FRUITION: A PLAN FOR SUCCESS
January 18
Member Non-member
Live Program: □ $195* □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

*Includes non-legal professionals

☐ DOCUMENT RETENTION & DISCOVERY IN AN E-WORLD: HOW TO AVOID CIVIL & CRIMINAL PENALTIES
January 19
Member Non-member
Live Program: □ $195 □ $305
Audiotapes: □ $315 □ $385
Videotapes: □ $405 □ $475
CDs: □ $335 □ $405
DVDs: □ $445 □ $535
Materials: □ $105 □ $135

*Includes non-legal professionals

☐ INTRODUCTION TO THE DEAL: WHAT’S INVOLVED ONCE YOUR COMPANY GOES PUBLIC
January 20
Member Non-member
Live Program: □ $335 □ $475
Audiotapes: □ $425 □ $595
Videotapes: □ $445 □ $615
CDs: □ $455 □ $615
DVDs: □ $605 □ $765
Materials: □ $555 □ $685

☐ SHAPING THE CITY FOR THE 21ST CENTURY-A PRIMER ON NEW YORK CITY ZONING & LAND USE
January 23 & 30
Member Non-member
Live Program: □ $375 □ $515

ALL REGISTRATIONS MUST BE PREPAID BY EITHER CREDIT CARD OR A CHECK MADE PAYABLE TO: CITY BAR CENTER FOR CLE OR NEW YORK CITY BAR

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Card Number Exp. Date

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www.nycbar.org
GOOD COMMUNICATION LEADS TO PROFESSIONAL SUCCESS

The ability to communicate effectively is a basic skill that will improve both professional and personal relationships. For midlevel associates, effective communication in the workplace is key to having a more productive role in the firm, getting greater recognition for accomplishments, and gaining clients’ confidence.

On November 2, Jay Sullivan of Exec/Comm asked the 150 attendees of the City Bar’s Professional Development Breakfast Workshop, “Effective Communication Strategies,” to think about how they can communicate more clearly. “Every interaction with a client is an opportunity to build a relationship,” said Sullivan, “and how you speak and how you listen are crucial elements that build successful relationships.”

Face-to-face meetings are far more effective than telephone calls. Once in front of a client, how you present yourself can make or break a business relationship. Sullivan said studies have shown that 50% to 80% of a message comes not from the words of a speaker, but from their physical demeanor. Focusing your conversation — with appropriate pausing, gesturing and breathing — will give you the kind of speaking style that will allow people to get to the substance of what you are saying.

Conversational Aids

Mr. Sullivan said it is important to concentrate on your listeners, focus on one person at a time and establish an eye-to-eye connection with that person for five to seven seconds. Remember to pause as you speak. Pausing allows the listener to absorb what you just said. “Many lawyers,” says Sullivan, “are afraid to pause because they feel not speaking means not communicating.” To the contrary, advises Sullivan, a pause is a statement in itself that says that you stake your reputation on what you just said.

Gestures are also important. If you are standing, keep your feet solidly planted on the floor and your arms at your side. If you are seated, sit forward, place both feet on the floor, place your arms on the table and keep your hands apart. Any other stance, said Sullivan, can cause you to look sloppy, arrogant or too casual. Once properly situated, remember to keep gestures in the “gesture zone,” which is above the waist and below the chin. Use your hands to describe what you are saying.

Remember to use your voice well. Proper use of your voice means slowing down your speech so listeners can follow what you are saying and have time to digest it. Open your mouth wider than you usually do. This will increase the volume of your speech and give your voice the optimum resonance. Finally, remember to breathe. Proper breathing can control nervousness and provide relaxation.

Improve Your Listening Skills

Becoming a skilled listener is as important as speaking, if not more so. No one ever learns anything talking. “Unfortunately,” said Sullivan, “many people, especially lawyers, find listening difficult because they view it as passive. They often do not have the patience to listen to the entire thought and find effective listening exhausting.”

But there is hope. Anyone can improve their listening skills, said Sullivan. The first step is to become involved. Good listeners listen with their eyes, ears and body. Start by sitting directly at the speaker. Eye contact with the speaker lets them know you are engaged. Periodically nodding your head or giving the speaker verbal cues, such as “Uh huh” or “I see,” can help the speaker to relax, encourages them to continue speaking, and may make them more comfortable about sharing information.

Sullivan also urged the audience to make it a practice to take good notes while listening. Taking notes forces you to concentrate and improves your memory of what was said.

Listening is Productive

A focused listener also knows how to collect information while listening. The best way to collect information, said Sullivan, is to ask open-ended questions like, “What are your concerns?” or “Why is this important?” This will allow you to learn what is important to your client. By asking the right questions you can also avoid misunderstandings. Ask “you statements,” which recap what you believe the speaker had said, Sullivan recommended. Statements such as “You stated that…” or “Your thinking on that is…” allow the listener to make sure he or she has understood the speaker correctly and give the speaker a chance to clarify what was said. When collecting information, avoid “I statements,” those which lead off with your own opinion.

In concluding, Sullivan advised participants to examine their speaking and listening styles. Note their strengths and weaknesses and identify areas that need improvement. Becoming a focused listener and an effective speaker are skills that do not come naturally for most. By practicing these skills and working with a partner or senior associate who can give constructive feedback, junior associates will learn the skills that are necessary to build and maintain professional relationships.