LAWYERS STAND UP FOR THE RULE OF LAW

By Barry Kamins, President

Over the past 137 years lawyers at the City Bar Association have taken countless positions on important matters affecting the legal profession and the judiciary. We have done so by filing briefs, testifying before governmental agencies and writing position papers on issues close to home, on a national scale and abroad. On rare occasions, an event occurs that touches a nerve within our membership and throughout the profession and compels attorneys to mobilize and stand up for the rule of law. November 13, 2007 was such an occasion.

On that day, approximately 700 lawyers gathered on the steps of the Supreme Court building at 60 Centre Street, and rallied in support of lawyers and judges in Pakistan battling for restoration of the rule of law. This was not unprecedented. City Bar lawyers had mobilized almost forty years ago at the height of the Viet Nam war. Six years ago, a group of City Bar attorneys traveled to Albany to support attorneys in the assigned counsel program who had been denied an increase in compensation for the prior eighteen years. More recently, lawyers have traveled to Guantanamo Naval Base to represent detainees who are being denied fundamental due process. And on November 13th lawyers from the City Bar and other bar associations joined together to support lawyers and judges in Pakistan who had been beaten by police, arrested and, in some cases, even tortured.

One week before the rally, the City Bar Association sent a letter to General Musharraf following his suspension of the Pakistan Constitution. In addition,

ALBANY: HOW TO KILL A BILL

It is that time of year again: The beginning of a new state legislative session. The City Bar’s over 160 committees have started drafting memos of support and in opposition to pending state bills, and some are even tackling the ambitious task of drafting their own legislation.

When they are done, many of these committees will ask me, as the City Bar’s state legislative director, what the odds are that the legislation they are supporting will be signed into law. Unfortunately, the odds aren’t good and I would like to take this opportunity to share my thoughts on why it is so difficult for important legislation to pass both houses and be signed into law.

In this day and age, all levels of government face conflicting ideologies from a country equally divided between red and blue. Pressures from interests groups compound the problem. Fortunately in most cases, there is a counterbalancing influence: pressure from the public that demands that our elected officials attempt to negotiate and compromise to create legislation to the benefit of the citizenry. And when they fail, as they often do, they face a dire consequence; being voted out of office.

However, due to the gerrymandered districts that virtually ensure an incumbent’s re-election in the New York State Legislature, public accountability is sadly missing from the equation in this State. Instead, legislator accountability is directed toward their party leadership, which has a panoply of rewards to hand out to those in favor (chairman-ships with corresponding stipends, an increase in staff and resources and extra money to distribute to their district) with a corresponding list of penalties.
THE CITY BAR CHORUS

Are you a singing lawyer, paralegal, legal proofreader/secretary, legal administrator or law student with an altruistic as well as artistic spirit? Would you like to join a flexible, congenial singing group honored for its excellence in public service and featured on NY1 News as "New Yorker of the Week" for "lifting spirits with its music"? Fourteen members of the New York City Bar’s Committee on Women in the Profession, participated in a round table discussion in Lima, Peru on strategies to overcome challenges facing women attorneys. The round table was co-organized by Estudio Echecopar and the Cyrus R. Vance Center for International Justice.

The seminar, which was attended by more than 25 junior and senior Peruvian women attorneys, addressed how to advance women lawyers at all stages of their careers. During the seminar, Ms. Cohen presented the "Best Practices for the Hiring, Training, Retention and Advancement of Women Attorneys." The Best Practices was issued by the City Bar’s Women in the Profession Committee at a symposium at the House of the Association in February 2006. The Best Practices has been translated into Spanish courtesy of Greenberg Traurig and presented by Ms. Cohen at a similar seminar organized by the Vance Center that was held in Buenos Aires, Argentina earlier this year.

The meeting in Lima allowed participants to exchange ideas for addressing common challenges women face in their firms such as finding appropriate mentors, flex time, and obstacles to re-entering the workforce after childbirth.

Mari Carmen Tovar, chair of the event, commented afterward, "The roundtable was an excellent opportunity to become familiar with the report, which presents the common problems that women lawyers face in both the private and public sectors. The report is helpful in identifying the challenges women confront in their practices, and is helpful in noting different strategies to address them. It was also a great chance for the Peruvian women who attended the event to share their experiences and express their points of view. These and other women are already committed to continue the initiative that Carrie helped initiate."

Women in both Buenos Aires and Lima are eager to continue the dialogue, and the Vance Center and the Committee on Women in the Profession will continue to work with them. This work has already begun, and follow up meetings were held in Buenos Aires on July 3 and October 2, during which women lawyers identified topics of interest to them to discuss and address on a going forward basis.

Carrie Cohen (far right), former Chair of the New York City Bar’s Committee on Women and the Profession, with seminar participants in Lima: (left to right) Laura Francia, Maria del Carmen Tovar and Teresa Tovar.
Among the enduring hardships associated with the aftermath of war are the injuries and diseases suffered by returning soldiers. Veterans are entitled to monthly benefits if they become disabled as a result of active military service. The Department of Veterans Affairs (VA) is the federal agency responsible for evaluating such disabilities and determining how much compensation should be given. With the formation of the City Bar Justice Center’s Veterans Assistance Project (also known as the Veterans Clinic), disabled veterans in New York City have a new place to go for help with filing benefits claims. There are approximately 245,000 veterans currently living in the city, according to statistics from Mayor Michael Bloomberg’s Office.

“Veterans who have legal assistance filling out their initial benefits claims are more likely to receive the benefits to which they are entitled, and are less likely to need to appeal a decision.”

New York City have a new place to go for help with filing benefits claims. There are approximately 245,000 veterans currently living in the city, according to statistics from Mayor Michael Bloomberg’s Office.

“Although veterans’ service departments and advocacy groups have some lawyers and lay advocates, there are not enough to fill the need of returning servicemen and women for assistance in obtaining benefits,” said Carol Bockner, Director of Pro Bono Initiatives at the City Bar Justice Center (CBJC). In June 2007, the New York Times reported that the VA takes an average of six months to rule on new disability claims, and takes an average of two years for appeals. “Several veterans’ advocates have stated that veterans who have legal assistance filling out their initial benefits claims are more likely to receive the benefits to which they are entitled, and are less likely to need to appeal a decision,” Bockner said.

Through the Veterans Clinic, the Justice Center and partnering law firms provide pro bono assistance to veterans filing these claims before the New York City Regional Office of the VA. On October 24, 2007, the City Bar Justice Center held a training session for attorney-volunteers. Associates and partners from the following firms participated: Cleary Gottlieb LLP; Covington & Burling LLP; Howrey LLP; Mayer Brown LLP; McCarter & English LLP; Orrick, Herrington & Sutcliffe LLP; Paul Weiss LLP; Reed Smith LLP; Shearman & Sterling LLP; Weil, Gotshal & Manges LLP; and Winston & Strawn LLP.

The next day, the Justice Center hosted the first clinic; more than 20 veterans received assistance. The second clinic session took place on December 4th. While the impetus for forming the Veterans Clinic arose from the conflicts in Iraq and Afghanistan, the clinic serves veterans from any war. “As a Vietnam vet myself, it has been especially gratifying to work with this group and the City Bar Justice Center to get this project started,” said William Purcell, a partner at Howrey LLP. "In fact, my first client is a Vietnam vet, and I am looking forward to helping him get his benefits.”

Purcell, along with Howrey lawyers Jennifer Liu and Charles Manice, is assisting a Vietnam veteran who has been diagnosed with post traumatic stress disorder (PTSD). As with many veterans, the client dealt with his problems himself for years. However, since the early part of this decade, memories of his experience have sparked an increased occurrence of the symptoms associated with PTSD.

According to Manice, the VA denied the veteran’s request for benefits primarily on the basis of being unable to substantiate the “stressor” events that caused his disorder. “Due to his assignment in a special operations unit, our client’s personnel record does not openly indicate his assignment to Tuy Hoa Air Force Base in Vietnam,” Manice said. “Our client offered only his personal testimony of the stressful events he endured. Without outside proof of the rocket and mortar attacks, the VA decided our client was not entitled to benefits.”

Having discovered new evidence placing the client at the scene of the attacks at Tuy Hoa base, Manice said that his firm is now preparing a Motion for Reconsideration to be sent to the Chairman of the Board of Veterans Appeals.

Any veteran seeking free legal assistance in matters relating to the VA should call 1-877-564-3383 to schedule an appointment. The City Bar Justice Center hopes to schedule another attorney-volunteer training session in early 2008. For more information on the Veterans Clinic, please email cbockner@nycbar.org.
One Hundred Thirty-Three Years Ago . . . An 1875 adultery trial in which Henry Ward Beecher, a prominent clergyman, social reformer, abolitionist and speaker, was accused of having an affair with a married woman, became one of the most famous American trials of the Nineteenth Century. In the highly publicized scandal that became known as the Beecher-Tilton Affair, Theodore Tilton brought charges of “criminal conversation” against Beecher, alleging that Beecher had committed adultery with Tilton’s wife, Elizabeth Tilton. The salacious trial became the most widely covered event of the century, garnering more newspaper headlines than the entire Civil War. The trial began in January 1875 and ended in July of that year when the jurors deliberated for six days but were unable to reach a verdict. In addition to Thomas G. Shearman and John W. Sterling, who formed a partnership that bears their names to this day, the defendant Beecher was represented at trial by several prominent members of the Association of the Bar of the City of New York, including William M. Evarts, the Association’s first president, Judge John K. Porter and Austin Abbot. Both Porter and Abbot are perhaps best remembered as members of the team of prosecutors who successfully prosecuted Charles J. Guiteau, the man who assassinated President James Garfield in 1881.

Thirty-One Years Ago . . . On January 23, 1977, Cyrus R. Vance was sworn in as the 57th United States Secretary of State following a two year term as President of the Association of the Bar of the City of New York from 1974 to 1976. The New York City Bar Association named the Cyrus R. Vance Center for International Justice Initiatives in his honor, in an effort to give continuing substance to his view of the role of the lawyer in a democratic society. Over the course of his career in private practice and public service, Secretary Vance (1917-2002) was repeatedly called upon to leave his New York City law practice at Simpson Thacher & Bartlett LLP for public service, where he served under Presidents Kennedy, Johnson, Nixon and Carter, and as a special United Nations envoy under Secretaries General Javier Pérez de Cuéllar and Boutros Boutros-Ghali. As President of the Association and through other subsequent activities, he played a leading role in expanding the commitment of New York City lawyers and law firms to pro bono legal service in order to expand access to justice and address unmet legal needs. Likewise he worked to expand opportunities for minorities in the U.S. legal profession. Secretary Vance never dwelled on his own legacy, but when asked at age 70 how he wanted to be remembered, he replied, “I hope for being a reasonably decent, honest person who tried to do some things for the country that might have lasting effect and create a better life for a large number of people.”

DIVERSITY CONFERENCE

Steven Young of Insight Education Systems presents MicroInequities: Part II the Power of Small at the 4th Annual Diversity Conference on October 29th.

Nominees for City Bar Offices & Committees

The following candidates have been nominated for the City Bar’s various offices and committees. Those elected will be announced at the Annual Meeting of the City Bar on May 20, 2008. Pursuant to By-law XXIII, other nominations must be posted no later than February 8, 2008.

President
Patricia M. Hynes

Vice Presidents
Sheila L. Birnbaum
Peter M. Kougasian
Roger J. Maldonado

Secretary
Sheila S. Boston

Treasurer
Donald S. Bernstein

Executive Committee Class of 2012
Mark C. Morril
Lynn K. Neuner
David A. Schulz
Jane C. Sherburne

Audit Committee
Robert J. Anello
Laurie Berke-Weiss
Allan L. Gropper
Christopher L. Mann
Marsha E. Simms

2008 The Year of the Lawyer City Bar Justice Center ANNUAL GALA
LINCOLN’S WRITING IN HIS LAW PRACTICE: INSIGHTS FROM HIS NEWLY DISCOVERED LEGAL PAPERS

When Lincoln’s mastery of language is discussed, little attention is paid to his legal writing skills. Now, thanks to publication of “The Law Practice of Abraham Lincoln,” with thousands of newly discovered documents, it’s possible to evaluate his legal writing. This symposium will consider the role of language in the legal career of the sixteenth president. Historians and lawyers will consider whether Lincoln had superior legal drafting skills or merely those of the average lawyer of his day. The panelists will also examine his correspondence with clients to see how skillfully he handled their concerns.

Moderator:

Harold Holzer
Co-chair, U.S. Lincoln Bicentennial Commission

Speakers:

John Lupton
Associate Director, The Papers of Abraham Lincoln

Roger Billings
Professor, Chase College of Law, Northern Kentucky University

Mark E. Steiner
Professor, South Texas College of Law; Author, An Honest Calling: The Law Practice of Abraham Lincoln

In conjunction with:

Scribes — The American Society of Legal Writers

Please register at www.nycbar.org

10 Thursday, 7-9 pm

THE SUMMER OF 1787

Politicians are properly criticized today for cutting deals behind closed doors, but that is precisely what happened in a stifling room in Philadelphia, during the summer of 1787 when the new nation’s premiere political operatives came together to both form – and save – the fledgling post-Revolutionary government.

Washington, D.C. attorney-author David O. Stewart has written a wonderfully readable and highly informative book, based largely on contemporary accounts, of that amazing summer. Readers may be surprised to learn that George Washington had a taste for fine Madeira and a reputation as an entertaining dinner guest. But the real story is how the constitution’s authors were forced to make bad compromises, particularly about the slavery issue, in order to keep the already contentious confederation of original colonies together. This historical book unfolds like a novel – all the more fascinating, not to mention frustrating and saddening because the reader knows what the founding fathers suspected but refused to confront – that the morally divisive issue of slavery would eventually tear their delicate compromise to shreds.

David Stewart will discuss his book and is joined by Prof. Jethro K. Lieberman, a constitutional scholar who will provide his own perspective on whether the constitution’s authors succeeded in their goals and whether the compromises they made to form a nation were worth it.

Speakers:

David O. Stewart
Author, The Summer of 1787; Former law clerk to U.S. Supreme Court Justice Lewis Powell

Jethro K. Lieberman
Publisher, Tribeca Square Press; former academic dean, New York Law School

Please register at www.nycbar.org

11 Friday, 7pm – cocktails; 8pm – performance

THE 47TH TWELFTH NIGHT PARTY

THE KID FROM GRAND STREET — THE LIFE AND HARD TIMES OF THE HONORABLE JONATHAN LIPPMAN — A MUSICAL

The Association’s upcoming biennial 12th Night musical extravaganza spotlights Jonathan Lippman, Presiding Justice of the Appellate Division, Supreme Court, First Department, in The Kid from Grand Street – The Life and Hard Times of the Honorable Jonathan Lippman – A Musical. The program will be presented by talented members of the Bench and Bar and the Entertainment Committee.

Mistress of Revels:

Hon. Judith S. Kaye
Chief Judge, New York Court of Appeals

Tickets are $75 ($50 for court personnel). Tickets are available online at www.nycbar.org or by mailing a check, payable to New York City Bar, to New York City Bar, Attn: Meeting Services, 42 West 44th Street, New York, NY 10036.

16 Wednesday, 6-8:30 pm

NAVIGATING THE IN-HOUSE ARENA: BECOMING AND SUCCEEDING AS AN IN-HOUSE ATTORNEY

Come and gain insight from the experienced members of the in-house community in the greater New York area. The speakers will discuss, among other things, transitioning into corporations, the challenges and excitement of the in-house realm and social, political and business skills required to succeed.

Moderator:

Vera Sullivan, M.A.
Director, In-House and Diversity Recruiting, Sivin Tobin Associates, LLC

Speakers:

Phylliss DelGreco
Associate General Counsel and Senior Vice President, Citigroup, Inc.

Taa Grays
Assistant General Counsel, Metropolitan Life Insurance Company
**PARKIN LEE**  
Managing Director and  
Associate General Counsel, New  
York Life Investment  
Management LLC

**SAMUEL RAMOS**  
Vice President and Associate  
General Counsel, Goldman,  
Sachs & Co.; Chair, Legal and  
Regulatory Committee,  
Institutional Life Markets  
Association

**Laurie N. Robinson**  
Vice President and Assistant  
General Counsel for CBS Corp.  
and Founder and CEO,  
Corporate Counsel Women of  
Color (CCWC)

Registration is required. Please  
RSVP to Camille Watson at (212)  
382-6701 or cwatson@nycbar.org

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**17 Thursday, 12:30 – 2 pm**  
**Small Law Firm Luncheon**

**Effective Technology for the Small Law Firm**

*(a three part luncheon series)*

How to Select and Implement Technology, Session 1: The number of different software, hardware and communications products available for the small- and mid-sized law firm continues to multiply, with ever increasing complexity, confusion, cost and risk surrounding each purchase decision. In this luncheon seminar you will learn how to take an informed and structured approach to selecting and implementing computer technology in your firm.

Moderator:  
**Mark Josephson, CPA, CFP, CFE**  
Murray & Josephson, CPAs, LLC

Speaker:  
**David J. Rosenbaum**  
Real-Time Computer Services, Inc.

Sponsored by: **Lexis/Nexis**

Registration by January 14 is necessary. The fee, which includes lunch, is $25 for members; $35 for non-members. Please register at www.nycbar.org

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**18 Friday, 6 pm**  
**Friday Evening Chamber Music at the Association**

The program will include J.S. Bach’s "Art of the Fugue (Contrapunctus V and VI)”, Smetena’s Piano Trio in G Minor, Op. 15, and Brahms’ Viola Quintet in G Major, Op. 111. Claire Deto, Laura Chang, Megan McPhee, James Park and Lear Janiv, violins; Wendy Keys and Ellen Butters, violas; Irene ten Cate and Larissa Koehler, cellos; and Lawrence Bein, piano.

Admission is $13 at the door. For more information, please call (212) 788-1093.

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**22 Tuesday, 6 pm**  
**Respecting Our Elders: 2008 Panel on Elder Abuse**

The National Center for State Courts’ 2005 report, *Future Trends in State Courts*, predicts that by the year 2030, 20 percent of the population in the United States will be over 65. As the nation’s baby boom population ages, problems relating to the elderly are likely to increase and a portion of these age-related matters will reach the courts.

These legal problems, which are already emerging in increasing numbers, include physical and mental abuse, as well as predatory lending, theft of assets, and other opportunistic financial transactions and crimes. The panel will focus on elder abuse from the perspective of the courts, prosecutorial agencies and the community.

Opening Remarks:  
**BARRY KAMINS**  
President, New York City Bar

Moderator:  
**Hon. John E. H. Stackhouse**  
Supreme Court Justice, New York County

Speakers:  
**Hon. Diane L. Renwick**  
Supreme Court Justice, Bronx County

**Elizabeth Loewy**  
Assistant District Attorney and  
Investigator, Elder Abuse  
Unit, New York County District  
Attorney’s Office

**Arlene Markarian**  
Assistant District Attorney and  
Bureau Chief, Elder Abuse  
Unit, Kings County District  
Attorney’s Office

**Ann L. Goldweber**  
Assistant Professor for Clinical  
Legal Education and Director,  
St. John’s University School of  
LAW CLINIC

Please register at www.nycbar.org.

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**22 Tuesday, 6:30 pm**  
**The Upheaval in the Subprime Market: The Direct and Indirect Effects of Same on the Structured Finance Market**

This program will focus on the major, highly detrimental impact that the problems in the sub-prime mortgage industry have had, directly and indirectly, on the structured finance industry (mortgage-backed securities, asset-backed securities, collateralized debt obligations, asset-backed commercial paper, etc.). It will include a discussion of (a) various legislative and regulatory responses to such impact and the status thereof, (b) recommended changes to provisions in relevant standard documentation, (c) the significant decrease in size and numbers of transactions — in particular, how this happened and what is likely to happen in the near future, (d) the increasingly important role of bankruptcy law and lawyers in this market and (e) litigation (both current and anticipated) by investors. The program will be geared toward both lawyers and non-lawyers.

Moderator:  
**Craig A. Wolson**  
Cadwalader, Wickersham & Taft LLP

Speakers:  
**Mark H. Adelson**  
Adelson & Jacob Consulting, LLC

**Nathan M. Eisler**  
Luskin, Stern & Eisler LLP

**Jeffrey R. Johnson**  
McKee Nelson LLP

**Peter C. Morreale**  
McKee Nelson LLP

**Jeffrey P. Taft**  
Mayer Brown LLP
23 Wednesday, 8:30 am - 10 am

PROFESSIONAL DEVELOPMENT WORKSHOP SERIES

ADVOCATE FOR YOUR SUCCESS

Workshop I - Getting to Know Your Client’s Business

It is easy when representing a business client to lose the forest for the trees, by focusing narrowly on the specific task at hand but ignoring the larger picture. A lawyer is much less likely to make this mistake if he or she takes the time to learn about and understand the client’s business. This program will examine some of the key facets of a business client that should be familiar to any lawyer whose goal is to provide sound and meaningful advice.

Participants will learn to:

- Identify the basic personality of the business: entrepreneurial or hierarchical, risk-accepting or risk adverse, fast-paced or methodical
- Identify the business’ capital structure, its benefits and risks
- Discover what intellectual property the business uses, and realize how the rights to it are protected
- Recognize the characteristics of the client’s cash flows, and understand how its cash is managed
- Ask themselves key business questions, like: Does the business rely on or provide trade credit? Has the company issued publicly registered securities? Is it in a highly regulated business?

Speaker:

CHARLES FOX
Fox Professional Development LLC

This program provides 1.5 transitional/non-transitional NY MCLE credits. Fee and registration information is available at www.nycbar.org
See page 24 for more information

23 Wednesday, 6:30 – 9 pm

FATWAS — FROM SALMAN RUSHDIE TO DOW JONES

Fatwas, or more properly, Fatwa, are the legal opinions of Islamic law, Shariah, and the non-binding precedential advisory opinions of Islamic jurisprudence, Usul al-fiqh. This free public program is the third in a series of Great Hall programs on Islamic law presented and hosted by the Association’s Committee on Foreign & Comparative Law. Its panel of leading Islamic legal scholars will explain the history and procedural elements of the solicitation and drafting and use of fatwas in the main Islamic jurisdictions and will focus on the two of the title — being, respectively, the most famous recent one, coming from a Shi’a jurisdiction, and the most important one, from the Sunni schools of law, underpinning many of the key advances in Islamic finance.

Speakers:

ABED AWAD
Law Offices of Abed Awad; Adjunct Professor, Rutgers Law School

BERNARD FREAMON
Professor, Seton Hall Law School

HAIDER ALA HAMOUDI
Professor, University of Pittsburgh Law School

MARION HOLMES KATZ
Professor, Department of Middle Eastern and Islamic Studies, New York University

MICHAEL J.T. McMILLEN
Dechert LLP; Chair, Islamic Law Forum (a division of the ABA International Law Section)

MARK WELTON
Professor, United States Military Academy

Please register at www.nycbar.org

28 - 31, Monday-Thursday
5 & 8 pm (Mon.-Wed.); 4 & 8 pm (Thursday)

FINAL ROUNDS OF THE 58TH ANNUAL NATIONAL MOOT COURT COMPETITION

This year, the Competition presents two issues not yet decided by the U.S. Supreme Court:

- Does the Second Amendment protect an individual’s right to "keep and bear" arms for private use?
- Does the Federal Aviation Administration Authorization Act preempt a State from exercising its own public health and police powers to regulate the delivery of handgun ammunition?

Presented in conjunction with: American College of Trial Lawyers
(including reducing a legislator’s ability to put forward and move legislation) for those who disobey.

With no pressure to pass legislation so as to enhance its record for the voters, the Legislature can operate in an almost Byzantine manner. Petty insults, communication lapses, and deference to powerful interest groups create substantial hurdles to passing laws. We have heard about the “three men in a room” problem, with the Governor, Assembly Speaker and Senate Majority Leader appearing to make all the important decisions. Their personality differences and squabbles dictate the pace. While most legislators start their careers in Albany with the best of intentions, they are quickly bogged down with a system that renders an individual legislator powerless to advance legislation disliked by either a committee chair or leadership.

So what does this mean for the City Bar’s legislative agenda? With a Democratic Assembly and a Republican Senate, it is not surprising that the controversial bills that the Association has strongly supported, such as legalizing medical marijuana, safeguarding a woman’s right to choose and same sex marriage, are difficult to pass. It is also understandable that bills that cost state dollars will face an uphill climb. But the lack of electoral accountability results in little incentive to compromise on even non-controversial bills essential to the health and safety of all New Yorkers. Here are some examples from the City Bar’s legislative agenda:

**LEGISLATIVE GRIDLOCK DUE TO CONFLICTING, UNRELATED IDEOLOGY**

**DOMESTIC VIOLENCE/CIVIL RIGHTS**

In the 2007 session both the Senate and Assembly passed legislation prohibiting discrimination against victims of domestic violence in employment. So why is it not law? Because the Assembly and Senate versions of the bill weren’t identical - a prerequisite for enactment. The Assembly’s version considers people who have lived or are living with their abuser to be victims of domestic violence. The Senate version, however, requires that the abuser be a member of the victim’s immediate family, (including spouses, former spouses or those who have a child in common) -- an exclusion that makes little sense and that the Assembly cannot accept. Hence currently no victim of domestic violence can get protection from employment discrimination on that basis under New York state law.

**FAMILY HEALTH CARE DECISIONS ACT**

The Family Health Care Decisions Act, which allows family members to make decisions for incapacitated loved ones, is a perfect example of a bill caught up in a political quagmire. Under current law, if there is no living will or health care proxy, family members (including spouses) cannot consent to any non-emergency medical procedure. This means that the termination of life support may not be possible without an expensive court battle, and families aren’t even able to consent to non-life ending procedures intended to reduce pain and suffering. But the Senate’s discomfort with allowing domestic or same sex partners a say in the decision making process, along with its insistence on including language requiring the consideration of a fetus if dealing with a pregnant comatose patient, kept this bill DOA.

There are similar problems with the definition of “domestic” and “family” in bills that would protect domestic violence victims from discrimination in housing, expand access to family court, and even in legislation encouraging organ donation.

**INTEREST GROUPS**

It is far easier to stop bills than move bills in Albany. Lobbying by strong institutional constituencies and heavy campaign contributors gives them the leverage to tie up bills. However, the same forces that give interest groups the power to stop bills make it hard for them to move their own agendas.

Beyond the logjam this tension creates, even if there is no opposition to a bill, advocates for the legislation have one more question to answer: why should we pass something someone wants without getting something we want in return? Just improving the lot of New Yorkers does not qualify as a “return”. This leads to the phenomenon of several major pieces of legislation being tied up in one end-of-session deal – or no deal. And “no deal” is often OK, because the risks of failure do not affect the ballot box.

This "what's in it for me" attitude is readily apparent in the languishing of two pieces of legislation that the City Bar is supporting: the remedying of a law that allows public employees to collect a double recovery in personal injury cases and the long deserved salary increase for our state judges.

**DOUBLE RECOVERY FOR PUBLIC EMPLOYEES**

The City Bar supports a bill which would fix a discrepancy in the treatment of public versus private employers in personal injury cases. Currently an award for a person employed by a private employer is offset by future disability benefits, while the award of a public employee is not. This anomaly in the law is costing cities and taxpayers around the state millions of dollars.

Most everyone agrees that this situation is a result of an error in drafting that could easily be fixed. However, interest groups that are benefiting from the mistake are allies of the Assembly and they don’t want to see the bill move from committee unless legislation that goes against them is corrected in exchange.

The New York City Bar Association and the New York City Corporation Counsel Michael Cardozo believe that the bill should be enacted on its own merits. Cardozo successfully lobbied to obtain a majority of Assembly Judiciary Committee members who were willing to go against their leadership’s wishes and vote the bill out of a committee - a feat almost unheard of in Albany. Yet on the day of the vote, there were three new Assembly Members appointed to fill vacancies in the committee who were handpicked to block the vote.

Soon it was obvious that the only way to see final passage of this bill was to combine it with other legislation that would benefit the opposing interest groups. Another bill also supported by the City Bar and relating to collateral source offsets seemed the perfect fit. However this time an interest group influential in the Senate opposed the bill, thus assuring the legislation’s failure in 2007.

**JUDICIAL SALARIES**

New York State’s judges have gone without a raise or cost of living increase for nearly nine years and a judicial salary increase is at the top of the City Bar’s agenda.

No one in Albany doubts that our judges deserve a raise, and money doesn’t seem to be the obstacle. Yet there is no raise in sight. Why? Because historically the raises of legislators and judges have been tied together. The legislators have made known that while the judges deserve a raise, it will not happen unless the legislators get one too. The Governor has said that he won’t sign a bill that includes a raise for legislators without the passage of campaign finance reform legislation. So as it stands, whether we see a judicial salary increase depends not on the merit or need of our judiciary, but on campaign finance reform, which while essential, is politically charged and difficult to negotiate.

**COURT RESTRUCTURING**

Chief Judge Judith Kaye has spent much of her tenure trying to simplify and restructure our overly burdensome nine tier court system and replace it with a more effective two tier system. It has been estimated that this more
user-friendly system would save the state 151 million dollars. Domestic violence clients would no longer need to go to Family, Supreme and Criminal Court and be forced to tell their emotionally draining stories to different judges only to receive conflicting results. Family Court would merge into Supreme Court, allowing for a better allocation of resources to the unconscionably under-funded Family Court.

But this proposal goes nowhere year after year. Why? One reason is that promoting many lower court judges to Supreme Court Justices would disturb the political balance with which the two major parties have become comfortable. Each party counts elective judgeships among the spoils of party allegiance and does not want to risk losing any seats or giving the other party more judicial slots. Also, some political leaders and legislators see court reform as a chance to alter the method of selecting judges, notably New York City Family Court judges, from appointment to election and have linked this to their version of the bill. The manner of selecting judges has repercussions for political parties, which can exercise far greater leverage on the judicial system when judges are elected.

INERTIA

If all of these political considerations weren’t enough, we still have to combat the prevalent attitude in Albany that if something isn’t horribly broken, it isn’t worth fixing. With thousands of bills being introduced each year, it is often hard to get the Legislature’s attention. We face the catch 22 where if a bill is quiet enough to avoid opposition, it might be too quiet to gain a legislator’s attention.

Despite all of these forces working against the passage of important legislation, City Bar committee work does lead to several successes each session.

SUCCESSES

The Committee on Legal Issues Affecting People with Disabilities and our Education and the Law Committee joined other advocacy groups to support legislation to return the burden of proof in certain special education hearings to school districts. A recent US Supreme Court decision reversed long-standing policy, shifting the burden of proof to parents claiming that their children weren’t receiving the fair and appropriate education that they were entitled to under federal law. Lower income parents were simply unable to meet this new burden and our committees celebrated when Governor Spitzer signed the legislation and returned the burden of proof to its proper place.

The City Bar’s Sex and Law Committee also ended the 2007 session with reason to celebrate. The anti-human trafficking legislation that it had spent close to three years working on is finally law. And legislation requiring employers to provide reasonable break time and accommodations for nursing mothers to pump breast milk was enacted after years of languishing in the State Senate. The Committee’s report explained that breast milk provides optimum health for infants, but that lower income women working without private offices often had to stop breast feeding as soon as they returned to work. When we were told that the reason for this bill’s annual death in the State Senate was lack of interest by constituents, we asked women from across the state to write their senators. As soon as letters started moving, so did the bill.

The Corrections Committee applauded when the Governor signed legislation suspending inmates’ eligibility for Medicaid instead of the previous practice of terminating eligibility while incarcerated. This will prevent the long delays and interruption of treatment suffered when the previously incarcerated are forced to reapply after release. The Task Force on Domestic Violence saw the enactment of a pilot program where orders of protection can be received more quickly by fax. And The Legal Issues Pertaining to Animals Committee saw a ban on the electrocution of fur animals.

Some of our favorite successes from prior years have come from the enactment of legislation drafted by our own committees including legislation by the Non-Profit Organizations Committee, which simplified the overly burdensome dissolution process of non-profits, and another by the International Commercial Disputes Committee allowing for provisional remedies in international arbitrations. Finally, the passage of Timothy’s law, which requires insurance companies to cover mental illness to the same degree as physical illness, was especially gratifying after all of the work done by our Mental Health Law Committee on this issue.

These successes inspire us to continue to work toward improving legislation, despite the uphill battle. It is our mandate to do so, and with all of us working together we can expect change one day—however slowly it may come. I look forward to working with all of our City Bar committee members in the months ahead.

Jayne Bigelsen, Director
Communication and Public Affairs

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**COMMITTEE REPORTS – JANUARY 2008**

**Women in the Profession:**

*Report and Recommendations: Parental Leave Policies and Practices for Attorneys*

The needs of new parents and their children are important issues for many lawyers. Parental leave policies need to balance an attorney’s family needs upon the birth or adoption of a child with the employer’s business needs. Recognizing the need for such balance and the lack of practical information about the parental leave practices and policies of New York City legal employers, the Committee on Women in the Profession decided to study this issue and release a report regarding parental leave policies and practices for attorneys.

To generate data for its report, the Committee disseminated a survey to legal employers in the New York City area about their parental leave policies and practices for attorneys. The Committee also collected information about parental leave policies of other area employers, both within and outside the legal profession. Based on the results of the survey and additional research the Committee came up with recommendations for model parental leave policies and practices.

Recently, there has been significant media attention focused on the issue of new mothers who leave the workforce and later want to rejoin it (often referred to as “re-entry”). The City Bar hopes that this report will focus attention on how supportive parental leave policies partially can address the re-entry issue. For some attorneys, a supportive parental leave policy may provide them with sufficient leave time to avoid having to exit the workforce and later reenter it.

The findings indicated that parental leave for the birth or adoption of a child is increasingly available for attorneys working in New York City; however, the variance among the specific leave policies is wide. The differences often depend on such things as the number of employees, type of organization, and commitment by the management of the firm. Although the survey revealed that large law firms appear to provide stronger leave policies than other legal employers, some job-guaranteed leave with at least partial pay is almost universally offered to attorneys following the birth of a child. In contrast, benefits for adoptive parents were not as widely available. Survey results also found that even when an employer has a supportive parental leave policy, attorneys are reluctant to take the entire amount of the leave due to a fear that extended leaves are detrimental to career development.

Taking these results into account and building on existing policies, the report outlines a series of recommendations for the further development and effective implementation of parental leave policies that would benefit both the attorneys and employers. The report recommends that, at a minimum, law firms and other legal employers formally implement the following policies for their attorneys: (i) three months’ job-guaranteed leave with full pay for new parents, with no loss of seniority or annual salary increase; (ii) an additional nine months’ unpaid job-guaranteed leave; (iii) continuation of health insurance coverage and other benefits for the period covering both paid and unpaid job-guaranteed leave; and (iv) reasonable reimbursement for adoption expenses. The report notes that it may not be feasible for small law firms to fully implement some of these recommendations.

In addition to the implementation of these recommended policies, the report notes, it is critical for employers to create a culture that supports these policies and ensures that parental leave practices are consistent with the formal policies. The report therefore recommends that law firms and other legal employers take the following actions: (i) develop a transparent parental leave policy and make it readily available to all employees (for example, include the policies in the employee handbook and post them on relevant internet/intranet sites); (ii) create an environment that encourages the use of parental leave at all levels of seniority and take steps to avoid the perception by employees that they will be penalized for taking parental leave; and (iii) facilitate the reintegration of attorneys returning from parental leave (for example, by maintaining communication with attorneys on leave, exploring flexible work arrangements for those attorneys returning from leave, maintaining available training and client contact throughout the leave and establishing a working parent group to assist attorneys transitioning back to work from parental leave).

**Civil Rights**

Amicus Brief: *ACLU v. National Security Agency*, filed in U.S. Supreme Court, November 2007. The brief argues that the NSA’s admitted practice of wiretapping communications in the name of national security without a court order and meaningful judicial oversight places attorneys in an ethical dilemma of choosing between diligently representing their clients or protecting the confidentiality of the communications with them. Individuals accused of wrongdoing by the Government, the brief argues, must have access to legal advice and such advice can only be effective if communications between lawyer and client are conducted in confidence. The Executive Branch’s national security concerns can be accommodated without compromising individual rights and those injured by government surveillance should be permitted to challenge the lawfulness of such surveillance in a court of law.

Letter to Congress expressing opposition to the FISA Amendments Act of 2007, introduced by Senator Rockefeller. Although the FISA Amendments Act is intended to replace the Protect America Act, it contains many of the same fundamental flaws as it fails to adequately protect the privacy interests of American citizens and residents as well as the confidentiality of their international communications.
Letter to the IRS commenting on the proposed Treasury Regulation 1.67-4. The Proposed Regulation addresses the exception to the 2% of adjusted gross income floor on miscellaneous itemized deductions for certain costs that are paid or incurred in connection with the administration of an estate or a trust, and which would not have been incurred if the property were not held in such an estate or trust. The letter first urges that the IRS hold off on the consideration of the Proposed Regulation until after the Supreme Court decides the Ruudkin-Knight case which involves the construction of the specific statutory provision that is addressed by the Proposed Regulation. With respect to the substance of the Proposed Regulation, the letter argues the Proposed Regulation unreasonably construes Section 67(e) to require that bundled trustees’ fees and commissions be unbundled and that the Regulations are arbitrary in their delineation between costs that are considered unique to an estate or trust and those costs that are not.

International Human Rights

Letter to the Association of Southeast Asian Nations expressing concern over the recent crackdown on peaceful protestors in Myanmar, and the ongoing detention of activists and monks there under abusive conditions and without access to counsel.

Letter to General Pervez Musharraf President of the Islamic Republic of Pakistan expressing concern over the situation in Pakistan. Suspending the Constitution by a Provisional Constitutional Order, the letter argues, damages the balance between security and freedom in Pakistan that has been tenuous at best since the original suspension of Chief Justice Iftikhar Muhammed Chaudhry. The letter urges the release of human rights workers, lawyers and other civilians who have been beaten and detained by the police without charge. An independent judiciary is vital for the maintenance of a democratic society. Removing the sitting justices of the Supreme Court and replacing them with judges newly appointed under the Provisional Constitutional Order, the letter points out, undermines any claim of judicial independence.

Legal Issues Pertaining to Animals

Comments in support of New York City Council bill Intro. No. 389, which would prohibit the display of wild and exotic animals in New York City for public entertainment, including circuses, rodeos, carnivals, and similar undertakings in which animals are required to perform tricks, fight or participate as accompaniment in performances for the amusement or benefit of an audience within New York City. Since the federal animal welfare laws fail to provide adequate safeguards to protect the wild and exotic animals used for entertainment and the people around them, a local law specifying proscribed practices is vital.

Lesbian, Gay, Bisexual and Transgender Rights

Letter to Congress expressing support for the original version of the Employment Non-Discrimination Act (H.R. 3685) introduced on September 27, 2007, which excludes gender identity as a protected category. Transgender and other gender-non-conforming employees are, the letter notes, among those most vulnerable to the disparagement, harassment, unfair treatment, and resulting economic hardship that the original Employment Non-Discrimination Act bill was intended to eradicate.

Professional Discipline

Amicus Brief: Departmental Disciplinary Committee for the First Judicial Department v. Richard Zalk, filed in the New York State Court of Appeals, September 2007. The brief urges that the court grant the motion by the respondent for leave to appeal on the basis that the question of whether CPLR 4519 (the Dead Man’s Statute) is applicable to an attorney disciplinary proceeding is a matter of substantial concern to members of the bar generally.

Professional Responsibility

Comments on the October 2007 ABA proposed amendments to Rule 3.8: Special Responsibilities of a Prosecutor. The comments support the proposed amendments in general as a necessary and worthwhile addition to the ethics rules governing prosecutors while recommending a number of drafting changes.

Social Welfare Law

Letter to the New York State Office of Temporary and Disability Assistance urging that New York State eliminate the requirement that applicants for, and recipients of, subsidized child care services demonstrate active pursuit of court-ordered child support as a condition of eligibility to receive subsidized child care assistance. This requirement places extraordinary burdens on families, particularly low income working families and single mothers seeking to enter the workforce and keep their children in high quality early care programs. In addition, the requirement further burdens the Family Court system and leaves the State vulnerable to potential legal challenges.

Town and Village Courts, Task Force on

This report examines the issues facing New York State’s Town and Village Courts and makes recommendations that are designed to increase the likelihood that lawyers will become town and village justices, while respecting the professed desire of communities to have local courts that are close to the citizens and understand their interests. The recommendations would enable more justices to be lawyers by reducing the number of justices and by enhancing the conditions under which the justices do their work, including benefits, compensation, facilities, and support. The report also recommends that Town and Village Court litigants be given the right to have misdemeanor and certain eviction cases heard by justices who are lawyers, or by judges.
**CITY BAR CENTER FOR CLE**  
**JANUARY 2008 CLE COURSE CALENDAR**

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- **Monday, January 7**
  - 6-9 p.m.: Video Replay: Blogs – Wave of the Future for the American Lawyer: Creation, Use, & Ethical Considerations
  
- **Tuesday, January 14**
  - 6-9 p.m.: Video Replay: Daubert & Frye on Trial: Views from the Bench on the Admissibility & Preclusion of Expert Testimony in State & Federal Court

- **Wednesday, January 16**
  - 6:30-10:30 a.m.: Preserving Privileges: Ethical Issues Confronting Insurers, Policyholders & Counsel
  - 6:9 p.m.: The Complexities of Buy-Sell Agreements – Drafting & Preparing Made Simple

- **Thursday, January 24**
  - 6:9 p.m.: The Growing Trend of Mediating Medical Malpractice Cases: What You Need to Know

- **Friday, January 25**
  - 6:9 p.m.: Video Replay: Love Among the DOMA’s: Conflict of Law Issues Affecting New York LGBT Families & Domestic Partners

- **Monday, January 28**
  - 6:9 p.m.: Video Replay: Financing Renewable Energy Projects in a Rapidly Evolving Environment

- **Tuesday, January 29**
  - 6:8:15 p.m.: Electronic Discovery: Technology, Strategy & Emerging Standards

- **Wednesday, January 30**
  - 5:30 – 7:30 p.m.: Ethical Issues in the Subprime Mortgage Lending Arena: What Lawyers Need to Know

*This program provides transitional credit for newly admitted attorneys.*
THE COMPLEXITIES OF BUY-SELL AGREEMENTS – DRAFTING & PREPARING MADE SIMPLE

24 Thursday, 6-9 p.m.

Most attorneys represent companies that have two or more owners, or individuals who own interests in businesses. Preparing a buy-sell agreement, or the buy-sell provisions of a partnership, LLC or shareholders’ agreement, involves complex issues of corporate and business law, tax law, estate planning, accounting and insurance, as well as ethical considerations. This course will cover these aspects of buy-sell agreements. The panel includes corporate, tax and estate planning attorneys, as well as an accountant and an insurance professional.

Program Chair:
BRUCE D. STEINER
Kleinberg, Kaplan, Wolff & Cohen, P.C.

Faculty:
MARTIN ABO, CPA
Abo and Company, LLC

CAROLYN LLOYD-COHEN, CLU
Preferred Pensions LLC

ISABEL MIRANDA
Law Offices of Isabel Miranda, LLC

HAROLD M. STEINBACH
Steinbach & Associates, P.C.

Live Program:
Member $225  Nonmember $335

CLE credit:
3.0 credits total: 2.5 skills & 0.5 ethics.
This program provides transitional/non-transitional credit.

SPINOFFS: LEARN THE ADVANTAGES, STRATEGIES & WHY COMPANIES SHOULD DO THEM, ESPECIALLY IN A DIFFICULT FINANCING MARKET

25 Friday, 9-12:30 p.m.

This program is designed for M&A, tax, securities and corporate attorneys, as well as in-house attorneys, who want to understand how and why companies do spin-offs, especially in difficult markets. A renowned faculty of corporate, tax and securities lawyers from outside firms, in-house counsel and investment banks will discuss practical ways to advise and complete the many complicated corporate and tax steps in spin-offs. The program will include helpful SEC and other regulatory interpretive guidance. Other topics will include the latest developments in:

- Strategic advantages, structuring and timing considerations for spin-offs
- SEC filing obligations
- IRS revenue ruling requests practice for spin-offs
- Transition and separation agreements and other corporate arrangements between the parent company and the spun-off company
- Ethical obligations of the Board, major shareholders and officers of both companies
- And much more

Program Chair:
N. ADELE HOGAN
White & Case LLP

Faculty To Be Announced.

Live Program:
Member $225  Nonmember $315

CLE credit:
3.0 credits in professional practice/practice management. This program provides transitional/non-transitional credit.

ESTATE PLANNING PRIMER: EVERYTHING YOU NEED TO KNOW ABOUT ESTATE PLANNING, BUT WERE AFRAID (OR DIDN’T THINK) TO ASK

16 Wednesday, 6-9 p.m.

Estate planning attorneys are not the only practitioners who need to understand trusts and estates issues. Such issues arise in virtually every matter from corporate to real estate to matrimonial cases. This program will provide non-estate planning attorneys with a basic understanding of estate planning and insurance issues in order for you to better serve your clients’ needs.

Program Instructors:
DAVID K. LEITNER
Troutman Sanders LLP

FREDERIC J. LAFFIE, CPA
Fred Laffie & Associates

Live Program:
Member $205  Nonmember $315

CLE credit:
3.5 credits total: credit breakdown to be determined. This program provides transitional/non-transitional credit.

ETHICAL ISSUES IN THE PRACTICE OF REAL ESTATE: WHAT EVERY ATTORNEY MUST KNOW WHEN HANDLING A TRANSACTION

17 Thursday, 6-8:45 p.m.

A vast majority of attorneys, whether in a small or large firm, will be involved in a real estate transaction in the course of
their practice. There are a great many ethical pitfalls which one may fall into while handling a real estate transaction. Some of these ethical issues are obvious and others are far more difficult to recognize. This updated course will examine in detail day-to-day ethical issues that confront real estate attorneys and the general practitioner. Special emphasis will be given to conflicts of interest; the holding of escrow monies and title issues.

Program Chair:

GEOFFREY R. MAZEL
Hankin, Handwerker & Mazel, PLLC

Faculty:

ALAN T. GALLANTY
Twomey, Hoppe & Gallanty LLP

ARTHUR W. GREIG
Attorney at Law

Live Program:
Member $235 Nonmember $345

CLE credit:
2.5 credits in ethics. This program provides transitional/non-transitional credit.

PRESERVING PRIVILEGES:
ETHICAL ISSUES CONFRONTING INSURERS, POLICYHOLDERS, AND COUNSEL

22 Tuesday, 8:30 a.m. – 10:30 a.m.

This ethics-related program will address difficult privilege issues that arise in the context of the policyholder-insurer relationship and the cedent-reinsurer relationship. The program will explore defense-related common interests between policyholders and insurers, coverage-related common interests between policyholders and their creditors (sometimes including the plaintiffs suing the policyholders), the common and divergent interests between cedents and reinsurers, and steps that lawyers and business people on all sides should take to ensure that communications intended to be privileged remain so. The program will be of interest to in-house counsel, defense and plaintiffs counsel, insurance and reinsurance counsel, and law firm attorneys involved in their firms’ loss prevention and risk management programs.

Discussion topics will include:

- Distinguishing between "defense" communications and "coverage" communications
- How coverage denials or reservations of rights may affect privileges
- How sharing information with businesspeople (such as brokers or claims handlers) may affect privileges
- How the presence of multiple insureds with conflicting interests may affect privileges
- How policyholders and other insureds can submit defense bills and claims information without waiving privileges
- How insurance companies and reinsurers can evaluate coverage claims without waiving privileges

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*Source: International Legal Technology Association, 2006 Technology Survey

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www.nycbar.org
How a policyholder’s bankruptcy may affect privileges
Best practices for policyholders, insurers, and reinsurers
Special privilege issues arising when the policyholder is a law firm

Program Chair
STEPHEN A. WEISBROD
Gilbert Randolph LLP
Washington, D.C.

Faculty:
BRYCE L. FRIEDMAN
Simpson Thacher & Bartlett LLP

MARSHALL GILINSKY
Anderson Kill & Olick PC

JOY L. LANGFORD
Chadbourne & Parke LLP
Washington, D.C.

DANIEL MARKEWICH
Mound Cotton Wollan and Greengrass

JOHN K. VILLA
Williams & Connolly LLP
Washington, D.C.

CLE Credit:
2.0 credits in ethics. This program provides transitional/non-transitional credit.

ETHICAL ISSUES IN THE SUBPRIME MORTGAGE LENDING ARENA: WHAT LAWYERS NEED TO KNOW

31 Thursday, 5:30-7:30 p.m.

There are attorneys involved in all aspects of subprime mortgage lending—representing borrowers, originators and other market participants—who are confronted with ethical dilemmas that arise due to the competing interests of the parties to a transaction. Recognizing the issues is critical to applying standards of professional conduct to resolve the complex ethical problems that are often present in the subprime mortgage lending arena.

A distinguished panel from the Federal Reserve Bank of New York, the private sector and a national trade association that promotes access to credit by traditionally under-served populations will describe, through the use of hypotheticals, certain practices associated with predatory lending in the subprime mortgage market and discuss ethical issues for lawyers. The panel will cover such issues as the distinction between subprime and predatory lending, ethical considerations under the New York Code of Professional Responsibility and the ABA Model Rules of Professional Conduct for lawyers representing borrowers or loan originators, and what a lawyer should do if he or she detects fraud on the part of a client. Any lawyer who would like to learn more about this challenging practice area will benefit from the expertise of the panelists.

Program Co-Chairs:
THOMAS C. BAXTER, JR.
The Legal Group
Federal Reserve Bank of New York

KATHLEEN A. SCOTT
White & Case LLP

Faculty:
DAVID BERENBAUM
Executive Vice President
The National Community Reinvestment Coalition

MICHAEL S. HELFER
General Counsel and Corporate Secretary
Citigroup

ANDREW SANDLER
Skadden, Arps, Slate, Meagher & Flom LLP

GREGORY D. WALKER
Managing Director and Managing Attorney
UBS

FAMILY VIDEO REPLAY: LOVE AMONG THE DOMA’S: CONFLICT OF LAW ISSUES AFFECTING NEW YORK LGBT FAMILIES & DOMESTIC PARTNERS

18 Friday, 9-12 p.m.

This program will address conflicts of law and jurisdictional issues arising for LGBT families and domestic partners who reside in New York but are considering and/or have entered into marital, domestic partner and/or civil union agreements in another jurisdiction. The program will explore what, if any, are the benefits and/or deficits of entering into agreements in other jurisdiction (or moving from or to another jurisdiction) and what recognition and dissolution issues arise.

Program chair:
LISA R. BADNER
Counsel
New York City Department of Consumer Affairs

Moderator:
YETTA KURLAND
Kurland & Associates

Faculty:
ALPHONSO B. DAVID
Lambda Legal

ALLEN A. DREXEL
Hogan & Hartson LLP

JAY WEISER
Associate Professor of Law & Real Estate
Zicklin School of Business
Baruch College
Co-sponsored with: Lesbian, Gay, Bisexual & Transgender Law Association of Greater New York (LEGAL)

Video Replay:
Member $195  Non member $305

CLE credit:
3.0 credits in professional practice. This video replay provides non-transitional credit.

INTELLECTUAL PROPERTY

VIDEO REPLAY: KEY ISSUES IN TRADEMARK & COPYRIGHT LICENSING

9 Wednesday, 6-9 p.m.

This program will follow the negotiation of a hypothetical license agreement from the initial negotiation through dispute resolution. Among the topics that the panel will address are the goals of a licensing agreement and how they may differ depending on the degree of maturity of the brand, the pros and cons of different types of licensees, the divisibility of copyrights, types of compensation arrangements, grants of rights for both traditional and new media, protection of trademarks through quality control provisions, whether licensed rights are or should be assignable, international licensing issues, and enforcement and alternative dispute resolution. An experienced panel of in-house and outside counsel will also bring you up-to-date on recent cases, pending legislation and other current legal issues in the licensing area.

Program Chair:
CLAUDIA RAY
O’Melveny & Myers LLP

Faculty:
EDWARD H. ROSENTHAL
Frankfurt Kurnit Klein & Selz PC

REBECCA SANHUEZA
Assistant General Counsel
Time Inc.

LAW FIRM PRACTICE MANAGEMENT

VIDEO REPLAY: BLOGS – WAVE OF THE FUTURE FOR THE AMERICAN LAWYER: CREATION, USE, & ETHICAL CONSIDERATIONS

14 Monday, 6-9 p.m.

Bill Gates believes email and Web sites are outmoded means of communicating with business customers because email is obtrusive and people do not return to Web sites for updates. Gates believes blogs and their RSS technology are the answer.

Find out:
- What a professional marketing blog is
- What RSS (real simple syndication) is
- The marketing advantages of blogs
- Ethics of lawyer blogs
- How lawyers are enhancing their reputations via blog publishing
- Why blogs far outperform websites on the search engines?
- How to implement a successful law firm blog
- How law firm blogs complement firm Web sites and other marketing efforts
- How to effectively market a professional blog
- How a blog is used as a networking tool

Program Chair:
KEVIN O’KEEFE
President
LexBlog

LITIGATION

THE ART OF PLEADING: TIPS & TECHNIQUES ON HOW TO STRATEGICALLY DRAFT YOUR PLEADINGS

10 Thursday, 6-9 p.m.

Pleadings are filed in every lawsuit. But artfully drafted pleadings -- those skillfully and thoughtfully prepared pleadings that can influence how your case is perceived -- are filed only in a handful of actions. A New York State judge and a federal court judge will provide their views from the bench and give practice pointers on what works and what doesn’t work. Experienced practitioners will join the judges and examine both the basic requirements and various advanced techniques in crafting artful pleadings that will not only survive motions to dismiss, but also provide strategic support throughout your case. Recent case law affecting traditional pleading requirements for complaints, answers and other types of pleadings will be addressed, along with various differences in state and federal practice. As a special feature, the program will include an interactive panel discussion where members of the bench and bar will share their thoughts on best practices. Audience participation will be encouraged.

Program Chair:
HOWARD S. KOH
Meister Seelig & Fein LLP
Faculty:

HON. KEVIN CASTEL  
United States District Judge  
Southern District of New York

MICHAEL P. GRAFF  
Graff Law Offices

HON. BARBARA R. KAPNICK  
Supreme Court Justice  
New York County

GERALD A. STEIN  
O’Melveny & Myers LLP

Live Program (includes materials):  
Member $195  Nonmember $305

CLE credit:  
3.0 credits total: 2.0 skills & 1.0 professional practice. This program provides transitional/non-transitional credit.

HON. RICHARD M. BERMAN  
United States District Judge  
Southern District of New York

RICHARD T. FARRELL  
Wilbur A. Levin Distinguished Service Professor of Law  
Brooklyn Law School

THOMAS MOVERMAN  
Lipsig Shapely Manus & Moverman PC

ANTHONY TAGLIAGAMBE  
London Fischer LLP

Video Replay:  
Member $195  Non-Member $305

CLE Credit:  
3.0 credits in professional practice. This video replay provides non-transitional credit.

VIDEO REPLAY: DAUBERT & FRYE ON TRIAL: VIEWS FROM THE BENCH ON THE ADMISSIBILITY & PRECLUSION OF EXPERT TESTIMONY IN STATE & FEDERAL COURT

21 Monday, 6-9 p.m.

This program will discuss the important distinctions and approaches in state and federal cases, focusing on the Frye standard in New York and the Daubert/Rule 702 standard in federal court. The panel will include a federal and state court judge who will provide their insights into how the respective standards are applied when it comes to the all important issues of admissibility and preclusion of expert testimony in civil litigation.

Program Chair:  
ROBERT A. CALINOFF  
Calinoff & Katz LLP

Faculty:  
HON. SHEILA ABDUS-SALAAM  
New York State Supreme Court Justice

MEDICAL MALPRACTICE: THE GROWING TREND OF MEDIATING MEDICAL MALPRACTICE CASES: WHAT YOU NEED TO KNOW

23 Wednesday, 6-9 p.m.

Time was, your malpractice case, if it settled at all, settled in the judge’s chambers on the eve of trial or even later. No more! A growing number of malpractice cases are being submitted to mediation, to the advantage of plaintiff and defendant alike. Learn the intricacies of an aspect of the practice that you cannot afford to ignore. In this dramatic program, featuring a Supreme Court Justice, a certified mediator and prominent claims representatives, you will learn:

- How and why mediation can work for you
- When mediation is, and isn’t, warranted

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PROJECT FINANCE

ELECTRONIC DISCOVERY: TECHNOLOGY, STRATEGY & EMERGING STANDARDS

29 Tuesday, 6-8:15 p.m.

Confronted with the challenges of complex networked environments, outsourced IT vendors, lax document retention policy enforcement, the risk of spoliation sanctions and new obstruction crimes for mishandling digital data, counsel tasked with identifying data to preserve, review and produce, as well as the most cost-effective way to accomplish these tasks, can benefit from this presentation on the technical, strategic and legal factors that drive effective electronic discovery. The presentation covers how to identify the relevant electronic data within a client’s IT system; the methods and strategies for preserving and producing documents and e-mail from computers, servers, removable media and backup tapes; and the role of computer forensics in electronic discovery. The key legal issues surrounding the duty to preserve evidence, including the recycling of backup tapes, the backdrop of criminal obstruction laws and new amendments to the Federal Rules of Civil Procedure are addressed, with real case examples on problems to avoid in electronic discovery.

CLE credit:
3.0 credits total: 2.5 skills & 0.5 professional practice. This program provides transitional/non-transitional credit.

PROJECT FINANCE

VIDEO REPLAY: FINANCING RENEWABLE POWER PROJECTS IN A RAPIDLY EVOLVING ENVIRONMENT

28 Monday, 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.
who will discuss the when, where and how of representing fiduciaries in accounting proceedings, including judicial and informal accountings. Topics to be discussed include:

- the preparation of accountings
- the determination of form of accounting and appropriate proceedings
- the forms for judicial and informal accounting proceedings

Program Chair:
DAVID MCCABE
Willkie Farr & Gallagher LLP

Faculty:
JOSEPH V. FALANGA CPA AEP
Managing Director
RSM McGladrey

HOWARD J. NEUTHALER
Kramer Levin Naftalis & Frankel LLP

JOHN C. NOVOGROD
Chairman, Individual Clients Groups
Kramer Levin Naftalis & Frankel LLP

DILIP B. PATEL
Willkie Farr & Gallagher LLP

CLE credit:
3.5 credits in professional practice. This video replay provides non-transitional credit.

Video Replay:
Member $205  Non-member $315

Live Program:
Member $195  Non-member $305

TAX & ACCOUNTING

VIDEO Replay: Everything You Want To Know About Fiduciary Accounting But Were Afraid To Ask!

11 Friday, 9-12:30 p.m.

The panel will consist of trust and estate practitioners and a fiduciary accountant
JANUARY 2008 CLE REGISTRATION FORM

☐ VIDEO REPLAY: KEY ISSUES IN TRADEMARK & COPYRIGHT LICENSING
January 9
Video Replays (includes materials):
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☐ THE ART OF PLEADING: TIPS & TECHNIQUES ON HOW TO STRATEGICALLY DRAFT YOUR PLEADINGS
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☐ VIDEO REPLAY: EVERYTHING YOU WANT TO KNOW ABOUT FIDUCIARY ACCOUNTING BUT WERE AFRAID TO ASK!
January 11
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☐ VIDEO REPLAY: BLOGS – WAVE OF THE FUTURE FOR THE AMERICAN LAWYER: CREATION, USE, & ETHICAL CONSIDERATIONS
January 14
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☐ ESTATE PLANNING PRIMER: EVERYTHING YOU NEED TO KNOW ABOUT ESTATE PLANNING, BUT WERE AFRAID (OR DIDN’T THINK) TO ASK
January 16
Live Program (includes materials):
Member Nonmember
CDs (includes materials): □ $205 □ $315
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DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ ETHICAL ISSUES IN THE PRACTICE OF REAL ESTATE: WHAT EVERY ATTORNEY MUST KNOW WHEN HANDLING A TRANSACTION
January 17
Live Program (includes materials):
Member Nonmember
CDs (includes materials): □ $235 □ $345
Videotapes (includes materials): □ $365 □ $435
DVDs (includes materials): □ $475 □ $565
Materials only (no CLE credit): □ $105 □ $135

☐ VIDEO REPLAY: LOVE AMONG THE DOMA’S: CONFLICT OF LAW ISSUES AFFECTING NEW YORK LGBT FAMILIES & DOMESTIC PARTNERS
January 18
Video Replays (includes materials):
Member Nonmember
CDs (includes materials): □ $195 □ $305
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ VIDEO REPLAY: DAUBERT & FRYE ON TRIAL: VIEWS FROM THE BENCH ON THE ADMISSIBILITY & PRECLUSION OF EXPERT TESTIMONY IN STATE & FEDERAL COURT
January 21
Video Replays (includes materials):
Member Nonmember
CDs (includes materials): □ $195 □ $305
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ PRESERVING PRIVILEGES: ETHICAL ISSUES CONFRONTING INSURERS, POLICYHOLDERS & COUNSEL
January 22
Live Program (includes materials):
Member Non-member
CDs (includes materials): □ $205 □ $315
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ THE GROWING TREND OF MEDIATING MEDICAL MALPRACTICE CASES: WHAT YOU NEED TO KNOW
January 23
Video Replays (includes materials):
Member Nonmember
CDs (includes materials): □ $195 □ $305
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ THE COMPLEXITIES OF BUY-SELL AGREEMENTS – DRAFTING & PREPARING MADE SIMPLE
January 24
Live Program (includes materials):
Member Non member
CDs (includes materials): □ $195 □ $305
Materials only (no CLE credit): □ $335 □ $405

☐ SPINOFFS: LEARN THE ADVANTAGES, STRATEGIES & WHY DIFFICULT COMPANIES SHOULD DO THEM, ESPECIALLY IN A DIFFICULT FINANCING MARKET
January 25
Live Program (includes materials):
Member Nonmember
CDs (includes materials): □ $225 □ $335
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ VIDEO REPLAY: FINANCING RENEWABLE ENERGY PROJECTS IN A RAPIDLY EVOLVING ENVIRONMENT
January 28
Video Replays (includes materials):
Member Non member
CDs (includes materials): □ $195 □ $305
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ ELECTRONIC DISCOVERY: TECHNOLOGY, STRATEGY & EMERGING STANDARDS
January 29
Live Program (includes materials):
Member Nonmember
CDs (includes materials): □ $235 □ $345
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

☐ ETHICAL ISSUES IN THE SUBPRIME MORTGAGE LENDING ARENA: WHAT LAWYERS NEED TO KNOW
January 31
Live Program (includes materials):
Member Nonmember
CDs (includes materials): □ $235 □ $345
Videotapes (includes materials): □ $405 □ $475
DVDs (includes materials): □ $445 □ $535
Materials only (no CLE credit): □ $105 □ $135

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Committee Membership: As a member of the City Bar, you can apply to join one of 160 committees, which cover a broad range of practice areas and interests. As a committee member, you can frame public debate on pressing legal issues and influence local and national policy.

Free Vault Online Career Library: Download free Vault guides or use other career tools, at no charge.

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The largest private law library in the United States has wireless access and computers with free Internet service for your use. In addition to our outstanding print collection of more than 500,000 volumes, members can access LexisNexis, Westlaw, and HeinOnline free of charge. The Library also has the most comprehensive collection of briefs from the New York Appellate Courts, the New York Court of Appeals, Federal Circuit Courts and the United States Supreme Court.

Our Copy Services Department can fax, email, or prepare your request for pick-up. You can use this service at a special member price by calling (212) 382-6666.

Take Advantage of the Small Law Firm Center

The City Bar created the Small Law Firm Center to address the particular needs of solo and small law firm practitioners. We offer a variety of discounts and services, such as free attorney workspace and a conference room, and a free member postings page. In addition, for members in firms of 10 or fewer attorneys:

- Every third CLE program (of equal or fewer credits) is free
- If at least two attorneys from your firm attend, each receives an additional 20% discount
- You can view CLE DVD’s in the City Bar Library for half price

For more information, visit www.nycbar.org and click on the Small Law Firm Center link or the CLE link.

Let Us Assist You

Ethics Hotline: The City Bar provides lawyers with an Ethics Hotline to help you in problematic situations. You can call (212) 382-6624 during regular business hours to seek ethical guidance regarding your prospective conduct.

Lawyer Assistance Program (LAP): LAP is a free, confidential service we offer to attorneys and their families. Whether you are struggling with stress, depression, substance abuse, or other personal challenges, we offer consultation, assessment, counseling, intervention, outreach, education, referrals, and peer support. For assistance, call (212) 302-5787.

Hold your next meeting or event at the City Bar

The House of the New York City Bar Association at 42 W 44th Street is a New York City landmark. Members can take advantage of this unique location by holding meetings and events at the City Bar at a special member rate. The rooms have modern amenities, onsite catering, and can accommodate groups of four to 400.

As a City Bar Member, take advantage of special offers and discounts:

Financial:
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- Chase Home Mortgage

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Insurance:
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  - (Professional Liability, Workers’ Compensation, Disability Income)
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- Inspired Professionals

Professional Resources:
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The rally drew a wide spectrum of lawyers including members of our Executive Committee, the deans of three area law schools, several past Presidents of the City Bar Association and Brooklyn District Attorney, Charles J. Hynes. The rally was co-sponsored by the State Bar Association, New York County Lawyers’ Association and numerous other bar groups. Ali Ahsan, the son of the president of Pakistan’s Supreme Court Bar, addressed the group. His father had been detained by civil authorities and several past presidents of the group had also been arrested.

The response to our letter and rally was extremely positive. What was most encouraging was the response of attorneys in Pakistan as well as members of the Pakistani academic community. I received an email message from the faculty and students at Lahore University expressing appreciation for our support. In the message, a professor at the school stated that our letter was “appreciated for the reassurance it provides that we are not alone in dissenting against the actions of this increasingly authoritarian regime.” An attorney in Islamabad sent an email in appreciation of our support and praised the “unprecedented solidarity now shown by the legal fraternity of the United States.”

As a footnote I received news from the Lakki Marwat District Bar Association in Pakistan that I had been given a lifetime honorary membership in their bar association. It is ironic that one month prior to our letter and rally, the City Bar Association had voted to award an honorary membership to former Chief Justice Chaudry, an honor that must be accepted in person. We look forward to the day when Judge Chaudry, after his release from custody, can come to Forty-Fourth Street to receive his honor and meet many of the lawyers who gathered on the steps of a courthouse and stood up for him and the rule of law.
It is easy when representing a business client to lose the forest for the trees, by focusing narrowly on the specific task at hand but ignoring the larger picture. A lawyer is much less likely to make this mistake if he or she takes the time to learn about and understand the client’s business. This program will examine some of the key facets of a business client that should be familiar to any lawyer whose goal is to provide sound and meaningful advice.

Successful attorneys must take an active role in order to achieve their career goals. Finding ideal mentors, and utilizing those relationships strategically, is crucial for promoting oneself in the workplace. In addition to the widely shared challenges of finding and keeping mentors, the program will also address issues unique to women and lawyers of color. Going beyond the basics of self-marketing, this program will illustrate appropriate methods for gaining positive recognition from senior associates, partners, and clients.

As careers progress and responsibilities change, attorneys need to learn a new skill set to effectively transition into more senior roles. The development of leadership skills, including the ability to build consensus, develop effective plans, gain commitments for action, and delegate effectively, is crucial to an attorney’s success. This program takes an advanced yet practical approach to improve attorneys’ ability to direct, support and motivate members of their legal team.

It is imperative for attorneys to communicate clearly and effectively. Whether an associate is conducting a one-on-one or team meeting, participating in a conference with clients, or arguing a case, the ability to deliver information with poise and command is vital for instilling confidence and establishing oneself as a skilled attorney. This program will teach methods of communication which will enable attorneys to advocate effectively and lead meetings with authority.

As attorneys progress into a more senior role, they often face new ethical challenges. It is vital that attorneys learn to navigate the complicated requests and intricate situations they may encounter with their legal team, colleagues and clients. This program will use films to generate discussion.

Successful attorneys know it is not enough to just have a long-term plan - it is critical to prioritize daily demands in order to accomplish their goals. At this program, participants will learn essential skills to recognize and avoid distractions, while working to achieve both short and long-term professional goals. This is a strategic game plan to avoid unimportant things in order to achieve the career one wants.

* This program provides 1.5 transitional/non-transitional practice management credits for all attorneys, including those who are newly admitted (less than 24 months).

** This program provides 2.0 transitional/non-transitional ethics credits for all attorneys, including those who are newly admitted (less than 24 months).

To register, please visit www.nycbar.org, or call (212) 382-4723.