JUDICIAL SELECTION: A BLUEPRINT FOR CHANGE

By Barry Kamins, President

In January 2006, shock waves ripple through New York’s judicial and political landscape as U.S. District Court Judge John Gleeson held in *Lopez Torres v. N.Y. State Board of Elections* that the current nomination process for New York State Supreme Court justices is unconstitutional. The decision, which was affirmed by the Second Circuit, called for legislative action to change the current judicial convention system that has been in existence since 1921. If the New York State Legislature fails to act, the decision provides that judicial primaries will go into effect for the next elections.

The *Lopez Torres* decisions provide an important opportunity for reform. My predecessor, Betsy Plevan, appointed a Task Force on Judicial Selection, chaired by Robert D. Joffe, to develop the Association’s reform agenda. The Task Force recently issued its report, stressing that the best approach by far to solving the judicial election morass was to establish a commission-based appointment system to select New York’s judges.

Recognizing that this change would require a constitutional amendment — a three-year process — the Task Force recommended interim legislation to render the Supreme Court judicial convention system constitutional and improve the methods used to select judicial candidates, rather than permitting nomination of candidates who can be reported from the qualification committees:

- The governor, legislative leaders, the Chief Judge and appropriate presiding justices would designate the governor (or mayor in New York City) to make appointments.
- The candidates for appointment would be evaluated on the basis of intellectual capacity, integrity, fairness, independence, experience, temperament — in short, the qualities New Yorkers expect and have a right to see in their judges.

The Task Force concluded that the *Lopez Torres* decisions were right on the mark in their declaration that our current judicial convention system is a false exercise in democracy, with party leaders rather than voters having ultimate control over who gains the nomination, and thus being able to put political considerations ahead of merit. The process has produced a number of exceptional judges, but it has also produced a disconnect between the constitutional mandate of free and open participation and the reality of party leadership control.

The *Lopez Torres* decisions are yet another affirmation that the system of selecting our state’s judges is broken, and that a commission-based appointment process that the Association has long advocated is the best way to select our state’s judiciary.

The Right Fix: A Commission-Based Appointment System

The Task Force called for a system in which diverse and independent judicial qualification commissions would select a limited number of candidates from which the governor (or mayor in New York City) may choose. The candidates for appointment would be evaluated on the basis of intellectual capacity, integrity, fairness, independence, experience, temperament — in short, the qualities New Yorkers expect and have a right to see in their judges. The limit on the number of candidates who can be reported from the qualification committee will ensure that only the most meritorious are released instead of all who are adequate.

The City Bar offers clear guidelines for the composition of these qualifications committees:

- The governor, legislative leaders, the Chief Judge and appropriate presiding justices would designate 15-21 law schools, non-profits, civic organizations and bar associations to act as non-governmental appointing authorities for each qualification commission.

CONTINUED ON PAGE 5

CIVIL RIGHTS COMMITTEE PURSUES BROAD AGENDA

Some of the City Bar’s most prominent work has been done by the Civil Rights Committee. Chaired by Sidney S. Rosdeitcher, the Committee has issued reports and briefs in the past few months exploring such diverse issues as electronic surveillance, school desegregation, New York City’s parade policy, and the rights of the disabled on the Internet. These reports speak to the highest levels of the government, and further the Association’s reputation as a defender of American civil rights and liberties.

The editors of the *Forty-Fourth Street Notes* thought that it was time to highlight some of the Committee’s recent work. The Civil Rights Committee’s activity is just one example of the type of work done by the Association’s over 160 committees, which often play an active role in impacting law and public policy.

Electronic Surveillance: Warrantless Eavesdropping on Communications

The Civil Rights Committee’s most extensive efforts have been in opposition to the administration’s...
INTERESTED IN SERVING ON A COMMITTEE?

This spring, committee chairs begin nominating new members. We would like to invite our members to consider serving on a City Bar committee.

There’s more to being on a committee than just sitting through meetings. Serving on a committee is truly a rewarding experience. You can help shape law and public policy, improve your expertise and help people in need. As a committee member, you will be involved in drafting reports, commenting and testifying on legislation, submitting briefs, sponsoring continuing legal education programs and forums, and participating in public service projects.

Becoming a committee member is a great way to work towards some of your career goals. You will meet and network with colleagues in other firms and law offices that you might not otherwise have had the chance to meet. Committee service can provide opportunities to speak at or moderate a program, allowing you to gain valuable skills.

You don’t have to know the chair or any member of a committee. In fact, in the majority of appointments the chair and member do not previously know one another. Simply complete and return the form below or apply online (www.nycbar.org) and your name will go before the chair for consideration. Adding a letter of interest (and a bio or resume) would be best. In April, committee chairs begin nominating new members for a three-year term beginning in September. New members are generally notified in the spring or early summer.

Our website lists committee descriptions and the "Members Only" section lists the committee members. Or please feel free to contact our committee membership coordinator, Stephanie Glazer, at sglazer@nycbar.org or (212) 382-6664. We welcome your active participation and will do our best to accommodate your choices.

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Yes! I would like to serve on an Association Committee

Name: _______________________________ Date: _____________

Here is my order of committee preferences: (committees are listed on the next page)

1. ____________ 2. ____________ 3. ____________

Business: (please send mail here) ☐

Office ______________________________ Street __________________________

Street ____________________________ Apt __________________________

City/State/Zip ______________________ City/State/Zip ______________________

Phone ____________ Fax ____________ Phone ____________ Fax ____________

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Please return form to: Membership Department, New York City Bar
42 West 44th Street, New York, NY 10036-6689 or fax to (212)382-6760 or call (212)382-6664

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www.nycbar.org
## Association Committees, Councils and Delegations

### The Profession, Legal Education and the Organization of the Bar
- Career Advancement & Management
- Continuing Legal Education
- Fee Coniliation
- Law Student Perspectives
- Lawyer Assistance Program
- Legal Education & Admission to the Bar
- Legal History
- Lesbian, Gay, Bisexual and Transgender Rights
- Minorities in the Profession
- New York State Bar Association House of Delegates
- Professional and Judicial Ethics
- Professional Discipline
- Professional Responsibility
- Recruitment & Retention of Lawyers
- Small Law Firms
- Women in the Profession

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- Young Lawyers

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- Trust, Estates and Surrogates’ Court
- Women in the Courts

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- Investment of Funds

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- Orchestra
- City Bar Chorus
- Entertainment

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- Corrections
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- Criminal Courts
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- Criminal Justice Operations
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- Juvenile Justice

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- Government Ethics
- Military Affairs and Justice
- New York City Affairs
- State Affairs
- Uniform State Laws

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- Copyright and Literary Property
- Entertainment Law
- Information Technology Law
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- Trademark and Unfair Competition

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- Inter-American Affairs
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- International Commercial Disputes
- International Environmental Law
- International Human Rights
- International Law
- International Legal Services
- International Security Affairs
- International Trade
- United Nations
Civil Rights

Statement on Proposed New York City Parade Regulations. The statement expresses serious concerns with the proposed revisions to Chapter 19 of Title 38 of the Official Rules of the City of New York defining a “parade.” If adopted, the statement argues, these revisions would impose dramatic new restrictions on peaceful protests and other public gatherings in New York City. The New York City Council, argues the report, is the governing body that should define a parade and establish the criteria for issuing parade permits. Such a critical determination should not be relegated to rulemaking or to ad hoc decision making by the New York City Police Department.

Condemnation and Tax Certiorari

Letter to the New York City Department of Finance expressing opposition to the proposed Amendments to Section 11-208.1 of the Administrative Code. The proposed changes, the letter notes, would require the electronic filing of the mandatory real property income and expense statement (RPIE) by most owners of income producing property located in the City of New York which would place an undue burden on many owners of real property in the City.

Corporate Governance, Task Force on the Lawyer’s Role in

The report of the Task Force on the Lawyer’s Role in Corporate Governance examines the role of counsel, both in-house and outside, with respect to counseling about corporate conduct and urges strengthening the role of corporate lawyers representing public companies. The report suggests a series of “best practice” recommendations for lawyers counseling public companies including that the general counsel i) have an express mandate from the board to promote a corporate culture of integrity, ii) have ready access to the board whenever needed, iii) have regular meetings with independent directors in the absence of management, and iv) have ultimate authority over the hiring and supervision of both in-house and outside lawyers. The report also argues that New York should amend its ethical rules for lawyers to permit them to disclose to regulatory authorities criminal or fraudulent conduct by a client company’s management utilizing the lawyer’s services, as well as clearly illegal conduct. However, such a permissive right to disclose would be recognized only as a last resort, and the report opposes imposing a mandatory duty to report client wrongdoing.

Estate and Gift Taxation

Report commenting on certain provisions of the Pension Protection Act of 2006 that relate to the estate, gift and income tax charitable deductions for gifts of fractional interests in tangible personal property. The report argues that these provisions are inconsistent with Congress’s intent and that unless amended through technical corrections, they will effectively shut down an important avenue of charitable giving. The report sets forth proposed technical corrections as well as proposals for regulatory action.

Family Court and Family Law

Letter to the New York City Administration for Children’s Services supporting the agency’s collaboration with the Nurse-Family Partnership to help fund a program for pregnant teenagers in the agency’s foster care population.

International Commercial Disputes

Report on the Hague Convention on Choice of Court Agreements. The report looks at how current U.S. and foreign law and practice would be affected by U.S. and foreign ratification of the Convention. The report identifies the respects in which the Convention would change or otherwise impact current U.S. law and practice with respect to choice-of-court agreements; assesses the pros and cons of such changes; and analyzes certain practical issues with respect to the implementation of the Convention.

International Human Rights

Lesbian, Gay, Bisexual and Transgender Rights

Amicus Brief: Colombia Diversa v. State of Colombia (filed in the Constitutional Court of Colombia). The brief argues that the definition of a domestic partnership in la Ley 54 de 1990 as existing between a man and woman is contrary to fundamental rights guaranteed by the Colombian Constitution and that the Colombian Constitution's guarantee of equality before the law, as well as Colombia's commitments embodied in the ratification of international human rights treaties, prohibit the exclusion of otherwise eligible same-sex couples from attaining domestic partnership rights.

Judicial Selection, Task Force on

Recommendations on the Selection of Judges and the Improvement of the Judicial Selection System in New York State. The report reiterates the City Bar’s long-standing position in favor of a commission-based appointive system and sets forth a proposed amendment to Article 6 of the New York State Constitution to implement such a system. However, the report recognizes that a change to an appointive system could be complex and lengthy. So in the alternative the report recommends statutory reform of the current judicial convention system to redress the constitutional infirmities identified in Lopez Torres until the State Constitution is amended in favor of a commission-based appointive system. The report opposes the default solution of primary elections for Supreme Court, and also offers suggested changes that can be made to promote a more diverse pool of judicial candidates.

Military Affairs and Justice

Letter to the Department of Defense requesting that the Department provide for a period of public comment on the draft Manual for Military Commissions before its final publication. Given the importance and the public interest in this matter such an opportunity, the letter notes, would only serve to enhance the public confidence in any trials which might be conducted in accordance with the Manual.

Reports are available on the Association’s website, www.nycbar.org, or by calling 212-382-6624.
mission. Each of the chosen organizations would appoint one member of the screening commission. The organizations would rotate after three years;
■ The appointing authorities would give consideration to achieving a broad and diverse representation of the community;
■ A statewide judicial qualification commission would be established to function as a policy body and oversight mechanism for all of the commissions, including setting criteria for organizations eligible to be designated;
■ The commissions would recommend the three most qualified candidates for the first vacancy, and two such names for each additional vacancy in each court.

Fixing the Convention System in the Interim
The Task Force was fully aware that the Lopez Torres decisions require an immediate change in the law, and that a constitutional amendment will take time as well as political will. As an interim approach, the Task Force stated that a reformed convention system, although not nearly as good as commission-based appointment, would be a far superior alternative to judicial primaries. Switching to primaries for Supreme Court would exacerbate the pressures to raise campaign funds, and meritorious candidates without deep pockets or strong party connections would again lose out. The judicial convention system, on the other hand, is potentially more amenable to the nomination of the most qualified candidates, and has the potential to promote greater diversity among candidates.

The Task Force recommended changes to the judicial convention system designed to address the system’s infirmities, including:
■ Smaller and reconfigured districts from which candidates would be nominated;
■ Fewer judicial convention delegates, far lower petition signature requirements to run for delegate, and opportunities for delegates to run as a slate or indicate the Supreme Court candidates for whom they are pledged.

The Task Force also recommended establishing eight judicial qualification commissions around the state, configured as under the proposal for commission-based appointment of judges, which would review qualifications for candidates seeking election to trial courts in New York. All candidates would be required to submit their qualifications for review. Each commission would name a limited number of candidates as “most qualified” for each vacancy, and would also list all those it found “unqualified.”

The Importance of Diversity
The Task Force stresses that a judicial selection system must effectively promote a diverse judiciary and ensure that a broad array of views and experiences are brought to the bench. Regardless of whether an elective or appointive system is used, the following improvements must be made to one or both systems in order to achieve a more diverse bench:
■ Provide public financing for all judicial elections so that candidates are not barred due to financial considerations;
■ Codify the requirements that screening commissions be independent and diverse and that the nominating authorities, when viewed as a whole, be diverse;
■ Educate the public on the need for a diverse judiciary;
■ Reduce the number of delegates to the judicial district convention in order for all candidates to be able to succeed with fewer votes;
■ For the appointive system, encourage the appointing authority to commit to the importance of diversity.

We cannot expect the public to have respect for, or confidence in, our legal system if the very method by which judges are selected is flawed. The Task Force has given us an excellent blueprint for both interim and long-term reform. The Legislature should act promptly to enact these reforms.
FEBRUARY 2007 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.

2 Friday, 6 pm
FRIDAY EVENING CHAMBER MUSIC AT THE ASSOCIATION

Cellist Enrique Orenge and pianist Jan Deats will perform the sonatas of Beethoven, Shostakovich, Francoeur, Squire and Faure.

Admission is $10 at the door. For more information, please call (212) 788-1093.

5 Monday, 6-9 pm
GETTING READY FOR PRIME TIME: MANAGING THE RISKS OF ONLINE SOCIAL NETWORKS

A panel discussion of online social networks, such as those formed through Facebook, MySpace and YouTube. The panel will explore the personal and organizational challenges of these networks and measures to manage the copyright, security and privacy risks.

Moderator:
ROLAND L. TROPE
Trope and Schramm LLP; Adjunct Professor, Department of Law, U.S. Military Academy

Speakers:
COL. CURTIS A. CARVER, JR.
Vice-Dean for Resources, United States Military Academy

CADET EMMA FREE
United States Military Academy

CHRIS KELLY
Chief Privacy Officer, Facebook

LOUISE NEMSCHOFF
Entertainment and Copyright Lawyer, Nemschoff Law Offices, Los Angeles, California

JOHN PALFREY
Clinical Professor of Law and Executive Director of the Berkman Center for Internet & Society at Harvard Law School

DAVID ROSENBLUM
Professor of Law, Columbia Law School

TIMOTHY WU
Harvard University

Please register online at www.nycbar.org

7 Wednesday, 6:30 pm
MEDICAL MARIJUANA IN NEW YORK

Thousands of patients obtain and use marijuana under the laws of eleven states providing for its medical use. Except in the case of the handful of patients who obtain marijuana from the federal government, federal law prohibits any use, sale, or cultivation of marijuana. Join the Drugs and the Law Committee for a discussion of proposed medical marijuana legislation for New York and the growing body of cases addressing this conflict between state and federal law.

Moderator:
ERIC E. STERLING
President, The Criminal Justice Policy Foundation

Speakers;
HON. RICHARD N. GOTTFRIED
Chair, New York State Assembly Committee on Health; sponsor of medical marijuana legislation

SUSAN N. HERMAN
Centennial Professor of Law, Brooklyn Law School

KAREN O’KEEFE
Assistant Director of State Policies, Marijuana Policy Project

ROBERT A. RAICH
Counsel for respondents in Gonzales v. Raich, 125 U.S. 2195 (2005), and United States v. Oakland Cannabis Buyers’ Cooperative, 532 U.S. 483 (2001)

Please register online at www.nycbar.org

8 Thursday
Registration: 8-8:30 am
Workshop: 8:30–10 am

PROFESSIONAL DEVELOPMENT BREAKFAST WORKSHOPS

NEXT STEPS: SUCCESS STRATEGIES FOR MID-LEVEL ATTORNEYS

Workshop II - The Successful Attorney-Manager: Motivating and Delegating Effectively

Attorneys who excel know how to manage their teams and develop the skills of those working with them. Poor performance, ongoing conflicts, and misdirected work can negatively impact a firm’s bottom line and an attorney’s career. This workshop prepares mid-level attorneys to successfully supervise associates, paralegals and staff. Participants will:

- Gain proficiency in motivating team members;

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Martin Silberman, Silberman & Rhine

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Lew Tesser, Segal Tesser & Ryan

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For matters requiring special attention, call LRS Executive Director Allen Charne at (212) 382-6775 or Managing Attorney Clara Schwabe at (212) 382-6715.

Co-sponsored by the New York County Lawyers' Association.

8 Thursday, 12:30-2 pm

SMALL LAW FIRM LUNCHEON

RETIREE PLANING — THE COMPLEXITIES MADE SIMPLE

The complexities of retirement plans and planning shouldn’t prevent the solo practitioners and small law firms from having the appropriate retirement plan. In this Luncheon seminar, you will learn about the different types of qualified retirement plans and what is appropriate for your firm, how to take advantage of new tax law limits on deductible contributions, whether an existing plan is still the correct program for your firm, and other business retirement solutions.

Speaker:

JAY SULLIVAN
Exec/Comm

11⁄2 non-transitional NY MCLE credits will be granted. Fee and registration information is available at www.nycbar.org

8 Thursday, 4:30-7:30 pm

PRO BONO OPPORTUNITIES 2007

Representatives from a large and diverse group of legal service providers will be on hand to provide information about opportunities for all lawyers to perform pro bono and other public service work. This will include information regarding transactional as well as litigation-related pro bono opportunities. The program will begin with a free 90-minute CLE panel presentation on ethical issues that arise in pro bono work. Full ethics CLE credit is available for this portion of program. The CLE program will be followed at 6 p.m. by an open wine and cheese reception until 7:30 p.m. at which attendees will have an opportunity to meet with representatives of dozens of legal services organizations, as well as pro bono volunteers for these organizations, and learn more about what they do and how you can get involved.

This program is free but registration is required for the CLE portion of the program. If you would like to attend, please send an email to Max Katz at mkatz@bakerlaw.com no later than February 1. If you have any questions about the event, please contact Fernando A. Bohorquez, Jr. at (212) 589-4242 or email: fbohorquez@bakerlaw.com.

13 Tuesday, 6 pm

CHILDREN IN THE COURTHOUSE: A RIGHT OR A PRIVILEGE

The program will explore whether New York State should adopt legislation giving children who are subjects of Article 10 and custody proceedings in Family Court the right to be in the courtroom during these proceedings. Participants are expected to include a member of the judiciary, a young person, attorneys and advocates.
Speakers:
**MIRIAM KRNISKY**
Executive Director, Children’s Law Center of Los Angeles

**PHILIP SEGAL**
Segal and Greenberg, LLP; former Family Court Judge

**RONALD E. RICHTER**
Deputy Commissioner, Family Court Legal Services, Administration for Children’s Services

**TAMARA A. STECKLER**
Attorney-in-Charge, Juvenile Rights Practice, The Legal Aid Society

Please register online at www.nycbar.org

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**20 Tuesday, 7 pm**

**CAREERS IN FIRST AMENDMENT AND MEDIA LAW**

A presentation exploring the legal intricacies and First Amendment implications of news gathering and dissemination. Panelists will discuss current developments in the field and will participate in a question-and-answer session with attendees. Discussions will focus on reporters’ access issues, defending libel and privacy claims, and prepublication review.

To RSVP, please e-mail Derryl Zimmerman at lspchair@aol.com.

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**28 Wednesday, 8:30 am**

**BREAKFAST III: PRACTICING IN A MEDICAL MALPRACTICE PART**

The panelists will address practice in the Medical Malpractice Part in the New York State Supreme Court, giving tips and best practices from all perspectives: the bench, defense and plaintiff’s side.

Moderator:
**DAVID SCULNICK**
Gordon & Silber, PC

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**28 Wednesday, 6-8 pm**

**SPEED NETWORKING — FAST BUSINESS FOR BUSY WOMEN**

Join us for Speed Networking, the easy way to meet accomplished women. Speed Networking is the fast and efficient way to meet referral sources - successful, knowledgeable women from New York law firms with a wide range of expertise. Marrying the techniques of “speed dating” with the professional opportunities of a networking cocktail party, we’ve created an environment filled with people you’ll want to meet – and who’ll want to meet you. Make opportunities, cross-market, learn something you didn’t know before. A wine and cheese reception will begin at 6:00 pm followed by the Speed Networking event at 6:30 pm. This program is intended for practicing lawyers only and is not open to vendors.

Seating is limited and registration is required. The fee is $25. Please register online at www.nycbar.org. If you have any questions please contact mharris@nycbar.org
February 2007 Registration Form

☐ Small Law Firm Luncheon: Retirement Planning — The Complexities Made Simple — 8 Thursday

The fee for the luncheon is ☐ $25 for members and ☐ $35 for non-members.

Name

Company Number of Reservations

Address Total Enclosed $

Please charge to my ☐ Mastercard ☐ Visa ☐ American Express

City State Zip Card Number

E-mail 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.

www.nycbar.org
plans to expand its domestic spying program. The Committee has submitted amicus briefs and advocated with regard to proposed legislation, with our theme being that while the Association is mindful that the "War on Terror" requires new security measures, these measures must be balanced against civil rights concerns.

After the September 11th attacks, the administration secretly began to engage in extensive electronic surveillance of communications of American citizens, purportedly where there was involvement with al Qaeda or an organization supporting al Qaeda, without a warrant and pursuant to undisclosed standards not subject to judicial scrutiny. The existence of the warrantless surveillance program was leaked in 2005, and since then litigation has been brought to block the program. The Civil Rights Committee prepared amicus briefs in Center for Constitutional Rights (CCR) v. Bush and American Civil Liberties Union (ACLU) v. National Security Agency. In the CCR matter, the lower court has ruled the program unconstitutional, and the case is on appeal to the Fifth Circuit Court of Appeals. The ACLU case is still pending in the Southern District of New York. In both cases, the Association’s argument focused on the chilling effect that a warrantless surveillance program has on lawyer-client communications and how it effectively undermines the attorney-client privilege.

In the course of this litigation, the government has sought to invoke the "state secrets privilege," claiming the litigation must be dismissed because the very act of litigating the case would reveal state secrets. The Committee argued, in its amicus briefs, that the invocation of this doctrine in this matter (and a range of other matters) in lawsuits challenging illegal government activities undermines the rule of law. It further argues that, in these cases, the assertion of the privilege is unwarranted because the government’s public statements provide sufficient information to determine the illegality of the activity.

The Committee opposed several bills that were on the docket in Congress this fall that addressed the warrantless surveillance program. Most sought in some way to legitimize the program, by decreeing its legitimacy, limiting judicial review or providing the president with open-ended surveillance powers. The Committee expressed its serious concerns with efforts to limit the chilling effect that a warrantless surveillance program – including the pending court cases in which we have filed amicus briefs – into the secret court that Congress established to review specific foreign surveillance requests. The Committee issued more detailed critiques of the various bills. None of these measures were enacted, and with such serious civil liberties issues at stake, the Committee will continue to closely monitor both litigation and legislation in this area.

Education: Combating the Effects of de facto School Segregation

The Committee, along with the Education and the Law Committee, submitted an amicus brief in a crucial set of cases currently on the Supreme Court’s docket. The cases, Parents Involved in Community Schools v. Seattle School District No. 1 and Meredith v. Jefferson County Board of Education, involve the right of school districts in Seattle and Louisville to voluntarily combat the adverse effects of de facto school segregation by using an assignment plan that makes race one factor to take into account.

The brief urged that Seattle and Louisville be allowed to continue their plans, including the consideration of race in making the school assignments, stressing that the goal of desegregation – so forcefully adopted in Brown v. Board of Education – will not be met unless school districts can counter the effects of racial and social segregation. The brief also argues that school districts’ decisions that their students’ best interests would be served by a desegregation plan to integrate the schools should be accorded great deference.

The Committees focus much of their brief on the experience in New York City, where despite the elimination of de jure segregation long ago, in the absence of a plan to address de facto segregation the city has among the most segregated school systems in the country.

Disabilities: Accessibility as a Basic Civil Right

By and large, the Web has been a boon to all Americans, including many people with disabilities. But accessibility is not guaranteed, and there are significant populations that are unable to get online. Working with the Committee on Information Technology Law and the Committee on Legal Issues Affecting People with Disabilities, the Civil Rights Committee authored a report in October examining and critiquing the legal arguments often used to put off increasing access to the Web for the disabled. The report concludes that websites must be accessible for persons with disabilities.

There are many factors that might keep a web page inaccessible to some: those with dyslexia or vision impairments may not be able to read tiny print or access websites with poor color contrast if there are no features present to implement audible screen-reading technology. These kinds of factors serve to increase the isolation and discrimination that the disabled face online, and can be severely limiting as more and more of society gets transferred to the Internet.

The report discusses several of the arguments commonly used to avoid providing access — foremost among these the idea that a website is not a "place" in the traditional sense. The Committees dispel the notion that the Internet is exempt since it is not physically a place — arguing that it nonetheless offers public accommodation and facilities and would be discriminatory if it did not offer these to the blind and otherwise disabled. Though the case law is not unanimous, the report argues that the legislative intent of the Americans with Disabilities Act “is a broad remedial statute that should be construed broadly to effectuate its purposes,” and that case law and other governmental actions support broad website accessibility.

New York City’s Parade Regulations: Dramatic New Restrictions on Peaceful Protests

The most recent statement from the Civil Rights Committee is on the proposed revisions to New York City’s parade regulations promulgated by the New York City Police Department. The regulations are an outgrowth of the NYPD’s efforts to cope with, and curb, certain demonstrations, perhaps most notably the Critical Mass bike rides. In testimony before an NYPD hearing, delivered by Peter Barbur, the Committee focused on the key issue of how to define what constitutes a demonstration. Under the proposal, which was revised from an earlier, more draconian version, a group of 10 people could be charged with parading without a permit if any one of them jaywalks. In addition, any group of 30 or more is automatically a parade — which would often leave school groups in the position of requiring a permit to cross the street.

The Committee found these limitations impermissibly burden the right to assemble, and are neither rational nor helpful ways of balancing civil rights and public safety concerns. "Parades and other collective gatherings of public expression...are constitutionally protected activities," the statement reads, strongly condemning the attempts to stifle expression with these regulations. Furthermore, the Committee believes that there are already sufficient protections to public safety that are not aided by these ineffective rules changes.

The Committee stated that the responsibility for defining a parade belongs to the City Council, rather than the Police Department — which has a history of overzealous efforts at parade control.

Other Recent Committee Activities

In addition to the above activity, within the past few months the Committee has:

- Filed an amicus brief in ACLU v. Department of Defense supporting a ruling in the Southern District of New York that required the Department of Defense to turn over photos of mistreatment of people held in U.S. custody in Afghanistan and Iraq, as required by the Freedom of Information Act;
- Filed an amicus brief in ACLU v. Gonzalez, in the Southern District of New York, arguing that the USA PATRIOT Act reauthorization legislation did not cure the court’s holding that the section of the original act which authorized the FBI’s issuance of National Security Letters (demanding information re: a target in a national security investigation and barring disclosure of the request to targets) was unconstitutional as lacking adequate recourse to the courts.
- Issued a report, with the Committee on Legal Issues Affecting People with Disabilities, compiling the laws, rules, and regulations in the Gulf states regarding access for the disabled, in hopes of improving access for people with disabilities in the continuing reconstruction following the Hurricane Katrina disaster.
- Submitted an amicus brief for the plaintiff, with the Education and the Law Committee, in Campaign for Fiscal Equity v. Pataki, where the Court of Appeals had ordered that education funding to New York City schools be substantially increased to correct the inadequate education the city’s children have been receiving. The committees urged that a clear and pressing need be issued to ensure a prompt remedy.

The full text of all of these reports and briefs — and more — is available on the Association's website, www.nycbar.org, under Publications. Every month, a rundown of every committee’s latest reports will be available in the Committee Reports department of Forty-Fourth Street Notes. These are all windows to the hard work being done by the New York City Bar and its committees.
Mary was a domestic violence victim who resided in a homeless shelter with her two children. She received Worker’s Compensation and public assistance, had $27,000 of debts, and wanted to file for bankruptcy. However, Mary was fearful of filing. Her batterer husband was a co-signer on some of those debts and, as such, would have to be notified of the bankruptcy filing, which would provide him with her address and the date on which she was to go to court. With the assistance of a volunteer with the City Bar Justice Center’s Consumer Bankruptcy Project, Mary filed a motion requesting that her address be kept confidential and that her husband be excluded from the Creditor Matrix. That motion was granted and Mary was able to safely proceed on her own with the bankruptcy action.

Joe, who was abandoned by his wife after a short marriage, filed for an uncontested divorce with the help of the City Bar Justice Center’s Uncontested Divorce project. Because of the short length of his marriage and the fact that he had immigrated to this country just a few years prior to filing for divorce, the court summoned Joe for an inquest. Feeling defeated and afraid, Joe returned to the Uncontested Divorce Project for additional assistance. There, a staff attorney helped him prepare for the inquest so that despite his language difficulties and anxiety, Joe was able to get through the inquest on his own and successfully obtain his divorce.

These are just some examples of how the City Bar Justice Center helps self-represented persons work through the complexities of the legal system.

The resources for low-income New Yorkers in desperate need of civil legal services, particularly for family law and consumer bankruptcy matters, are extremely scarce. The ever-increasing need for these services, coupled with the lack of funding for legal services, has resulted in long waiting lists, and much heartache for those who are in dire need of legal assistance and simply cannot afford it. As such, there has been a drastic increase in the number of low-income individuals being compelled to resort to self-help and, as a result, a significant rise in the number of pro se litigants in the court system, most significantly within the area of family law.

Tragically, many of these individuals have the burden of traversing through the intricacies of the legal system without guidance, as there are limited numbers of programs in New York City that offer free legal assistance to low-income New Yorkers. Fortunately, the City Bar Justice Center, through its Legal Hotline and clinics, provides legal assistance to persons who are representing themselves.

It is recognized that the City Bar Justice Center’s Legal Hotline is the only program in New York City to which low-income individuals can turn to receive information, advice, legal assistance, and referrals over the telephone, on a full range of civil legal service issues. The Legal Hotline operates Monday through Friday from 9:00 a.m. to 12:30 p.m. Through the Legal Hotline, callers receive assistance on family law matters, including divorce, visitation, paternity and child support; consumer matters, including debt collections, bankruptcies, and consumer contracts; and housing and public benefit issues.

Services are offered in English and Spanish and, if a caller needs translation for other languages, the Legal Hotline has access to translation services. If a caller needs to know his or her rights or an answer to a simple legal question, the Legal Hotline staff answers the caller’s question immediately or provides a limited brief service for the caller. If a caller is in need of extensive legal assistance or full representation, the Legal Hotline staff refers the caller to an appropriate full service legal services provider, if available.

Those Legal Hotline callers with matrimonial, bankruptcy or civil court issues who are in need of more than just advice or information, and are capable and prepared to proceed pro se, are referred to one of the City Bar Justice Center’s "unbundled" legal services projects: the Contested Divorce Project, the Uncontested Divorce Project, the Consumer Bankruptcy Project, and the Thursday Afternoon Law Clinic (TALC). Upon referral, the caller is provided with a pro bono volunteer or staff member who provides a brief service on a discrete aspect of the caller’s legal problem, including completing divorce or bankruptcy forms or strategizing on a court case.

The Contested Divorce Project holds bimonthly clinics at which a client has an hour consultation with an experienced matrimonial attorney who provides advice or performs a brief service related to the client’s pending divorce action.

Clients of the Uncontested Divorce Project meet individually with a volunteer attorney or staff member, who completes the required court papers and gives them to the client to serve and file.

Clients referred to the Consumer Bankruptcy Project are given an appointment with a volunteer attorney, who conducts an in-depth interview and then completes the required bankruptcy papers. As with the Uncontested Divorce Project, the legal assistance ends once the necessary forms and schedules are completed and the client is advised on the steps necessary for successful completion.

The Thursday Afternoon Law Clinic (TALC) is a collaborative venture of the City Bar Justice Center, the New York City Bar’s Legal Referral Service (LRS) and the state Office of Court Administration. Through TALC, self-represented litigants with pending court cases in Civil and Supreme Court can receive legal and strategic advice. A client, who is referred to TALC from the Legal Hotline, spends an hour with a volunteer attorney who provides brief advice and/or services on a discrete issue in the pending case. The volunteer attorneys are recruited from the LRS panels.

While none of these projects provide full legal representation for low-income individuals, the services make the process of self-representation significantly less intimidating. Volunteer attorneys can provide valuable assistance on a wide range of brief services. They can effectively interview clients, do fact investigation, write letters, make telephone calls, draft pleadings, negotiate with third parties, and conduct legal research. Moreover, a recent report by the Office of Court Administration found that one of the most successful approaches for encouraging pro bono work is to allow attorneys to handle discrete tasks for clients rather than having to provide full representation.

It is our continued hope that, through the broad range of services offered, the City Bar Justice Center will continue to thrive and meet the ever-increasing demand for services. Anyone interested in volunteering should contact Nicole Rodriguez at nrodriguez@nycbar.org.
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<th>Monday</th>
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<tr>
<td>5 6-9 p.m. NEW YORK CIVIL PRACTICE UPDATE</td>
<td>6 9-12 p.m. HOW TO BE A SAFE LAWYER</td>
<td>7 9-12:30 p.m. EMERGING LEGAL ISSUES IN</td>
<td>8 6-9 p.m. EMPLOYMENT LAW ISSUES FOR SECURITIES</td>
<td>9 9-5 p.m. GAIN THE EDGE!® NEGOTIATION</td>
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<td>3 credits*</td>
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<td>ADVERTISING &amp; PROMOTION: HOW TO LEGALLY</td>
<td>INDUSTRY EMPLOYERS &amp; EMPLOYEES 3 credits*</td>
<td>STRATEGIES FOR LAWYERS &amp; BUSINESS</td>
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<td>6-9 p.m. AN INTRODUCTION TO ACTIVIST INVESTING: TECHNIQUES, ISSUES &amp; LEGAL CONSIDERATIONS 3 credits*</td>
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<td>PROFESSIONALS 7½ credits*</td>
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<td>6-9 p.m. BLOGS: WAVE OF THE FUTURE FOR</td>
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<td>THE AMERICAN LAWYER? 3 credits*</td>
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<td>12 6-9 p.m. SHAPING THE CITY FOR THE 21ST</td>
<td>13 6-9 p.m. SHAPING THE CITY FOR THE 21ST</td>
<td>14 9-11 a.m. THE MECHANICS OF GETTING</td>
<td>15 8:30-11 a.m. NEXT GENERATION MANAGEMENT</td>
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<td>CENTURY: A PRIMER ON NEW YORK CITY ZONING</td>
<td>CENTURY: A PRIMER ON NEW YORK CITY ZONING &amp; LAND USE 6 credits*</td>
<td>PUBLISHING: A PRACTICAL GUIDE FOR THE</td>
<td>TRAINING SERIES: INDIVIDUAL PARTNER BUSINESS</td>
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<td>&amp; LAND USE Part One of Two</td>
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<td>WRITER AT LAW 2 credits*</td>
<td>DEVELOPMENT &amp; CLIENT RELATIONS 2½ credits*</td>
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<td>19 6-9 p.m. VIDEO REPLAY: DOCUMENT RETENTION IN THE ELECTRONIC AGE: ETHICAL, LEGAL &amp; PRACTICAL ADVICE ON THE DOCUMENTS YOU SHOULD (AND ARE REQUIRED TO) PRESERVE 2 credits*</td>
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<td>Additional programs in series on March 14 &amp; April 12</td>
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<td>6-9 p.m. SHAPING THE CITY FOR THE 21ST</td>
<td>20 6-9 p.m. VIDEO REPLAY: DOCUMENT RETENTION</td>
<td>21 6-9 p.m. VIDEO REPLAY: PRIVILEGES IN</td>
<td>22 6-9 p.m. VIDEO REPLAY: CROSSING STATE</td>
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<td>CENTURY: A PRIMER ON NEW YORK CITY ZONING &amp; LAND USE Part Two of Two</td>
<td>IN THE ELECTRONIC AGE: ETHICAL, LEGAL &amp; PRACTICAL ADVICE ON THE DOCUMENTS YOU SHOULD (AND ARE REQUIRED TO) PRESERVE 2 credits*</td>
<td>REGULATORY &amp; CRIMINAL INVESTIGATIONS: LEGAL &amp; ETHICAL ISSUES 3 credits</td>
<td>BORDERS IN TRUST &amp; ESTATE LAW: WHAT THE NEW YORK PRACTITIONER NEEDS TO KNOW ABOUT FLORIDA, NEW JERSEY, DELAWARE &amp; CONNECTICUT 3 credits</td>
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<td>6 credits*</td>
<td>26 9-5 p.m. BASIC MEDIATION TRAINING: CONFLICT RESOLUTION THEORY &amp; TECHNIQUES 31 credits*</td>
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<td>27 9-5 p.m. BASIC MEDIATION TRAINING:</td>
<td>28 9-1 p.m. TENDER OFFERS ARE BACK! DO YOU</td>
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<td>CONFLICT RESOLUTION THEORY &amp; TECHNIQUES</td>
<td>KNOW (OR REMEMBER) WHAT TO DO? 4½ credits*</td>
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<td>31 credits*</td>
<td>6-9 p.m. ESTATE PLANNING PRIMER: EVERYTHING YOU NEED TO KNOW ABOUT ESTATE PLANNING, BUT WERE AFRAID (OR DIDN’T THINK) TO ASK 3 credits*</td>
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*This program provides transitional credit for newly admitted attorneys.*
You negotiate every day. In fact, your ability to effectively negotiate may be the most critical skill you possess. Yet most negotiate instinctively or intuitively. This seminar will help you approach negotiations with a strategic mindset.

And make no mistake – no matter how much you’ve negotiated, you can still learn. Adding that one new tactic may be the difference between winning and walking away empty-handed.

Learn from one of the nation’s leading experts and instructors on negotiating techniques and become a more effective lawyer.

The Many Skills You’ll Learn Include:

- Latz’s 5 Golden Rules of Negotiation
- Strategies to get past “No” – if all appears lost
- 1st offer dynamics – when to make it and when to wait
- Ways to gain leverage when seemingly powerless
- Secrets to success in emotionally charged negotiations
- Powerful agenda control techniques
- Deadline and timing tips
- Competitive techniques vs. problem solving strategies
- Tactics to generate creative solutions
- Powerful information gathering methods
- When to share information – and when to keep it
- When to hold – and when to fold
- Ways to deal with untrustworthy adversaries
- How to keep options open while building future relationships
- The difference between “puffery” and unacceptable lying

Each participant will receive a FREE copy of Latz’s new book, Gain the Edge! Negotiating to Get What You Want (St. Martin’s Press, 2004).

Program Instructor: Martin Latz, National Negotiation Expert and author of Gain the Edge! Negotiating to Get What You Want (St. Martin’s Press, 2004)
A panel of experts will provide an introduction to the issues and legal considerations involved in activist investing, particularly as practiced today by hedge funds. The program will consist of three panel discussions. The first panel will provide an overview of the goals of activist investing and discuss a number of the tools employed by activists to accomplish them. The second panel will discuss strategies and defensive mechanisms used by public corporations to facilitate their interaction with such investors. The final panel will explore various legal and other considerations activist investors should be cognizant of, including Schedule 13D issues, proxy solicitation mechanics and the role of independent proxy advisory service providers.

Program Chair:
JARED L. LANDAW
Managing Director and General Counsel
Barington Capital Group, L.P.

Moderator:
NIR YARDEN
Bryan Cave LLP

Faculty:
TIMOTHY BROG
Portfolio Manager
Pembridge Value Opportunity Fund

DANIEL H. BURCH
Chairman and C.E.O
MacKenzie Partners, Inc.

RICHARD DE ROSE
Managing Director
Houlihan Lokey Howard & Zukin

ROY KATZOVICZ
General Counsel
Pershing Square Capital Management

SCOTT A. KISLIN
Gibson, Dunn & Crutcher LLP

TREVOR NORWITZ
Wachtell, Lipton, Rosen & Katz

BRIAN L. SCHORR
General Counsel
Trian Fund Management, LP

STEVEN WOLOSKY
Olshan Grundman Frome Rosenzweig & Wolosky LLP

CHRISTOPHER L. YOUNG
Director of M&A Research
Institutional Shareholder Services Inc.

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

Live Program:
Member $275  Non member $385

TENDER OFFERS ARE BACK!
DO YOU KNOW (OR REMEMBER)
WHAT TO DO?

28 Wednesday, 9-1 p.m.

Tender offers are back! After more than a decade of uncertainty created by a federal court split, on November 1, 2006 the SEC adopted amendments to the issuer and third-party best-price rules under the Securities Exchange Act of 1934 that are expected to result in renewed use of tender offers in friendly acquisition transactions involving publicly-held targets. This program is designed for law firm attorneys and in-house counsel interested in getting acquainted (or reacquainted) with the mechanics of tender offers, including: negotiating and drafting tender offer provisions in merger agreements; typical tender offer conditions; the requirements for commencing and conducting tender offers and disclosure requirements under Regulation 14D, Schedule TO and Schedule 14D-9; the amended best-price rule, including the requirements of the new safe harbor for compensatory arrangements; cross-border tender offers and the cross-border rules; and the considerations in choosing between a one-step merger and a two-step transaction (a tender offer followed by a short-form or long-form merger).

Program Chair:
STEPHEN M. KOTRAN
Sullivan & Cromwell LLP

Faculty:
ANDREW L. BAB
Debevoise & Plimpton LLP

DAVID I. GOTTLIEB
Cleary Gottlieb Steen & Hamilton LLP

BRIAN E. HAMILTON
Sullivan & Cromwell LLP

PAMELA HUGHES
Blake, Cassels & Graydon LLP

JOHN E. SORKIN
Latham & Watkins LLP

CLE credit:
4½ credits total: 1 skills & 3½ professional practice/practice management. This program provides transitional credit for newly admitted attorneys.

CRIMINAL LAW

VIDEO REPLAY: PRIVILEGES IN REGULATORY & CRIMINAL INVESTIGATIONS: LEGAL & ETHICAL ISSUES

22 Thursday, 6-9 p.m.

The faculty discusses the legal, strategic and ethical issues involving the use of privileges in regulatory and criminal investigations, including independent investigations conducted by committees of corporate boards and other collective entities. Through a discussion of practical situations regularly confronted by investigators, corporate counsel and defense counsel, we will analyze common practices and potential pitfalls posed by the operation of privileges commonly encountered in investigations. Although the program concentrates primarily on the attorney-client privilege, Fifth Amendment privilege, and the work product doctrine, it also touches on less well-established information protection doctrines. Of particular importance will be an exploration of the strategies by which waivers often sought by governmental investigators can be limited or avoided. The program includes an examination...
and analysis of applicable policies and guidelines of the Securities and Exchange Commission, the Department of Justice and other governmental agencies, as well as possible responsive strategies.

Program Chair:
FRANK H. WOHL
Lankler Siffert & Wohl LLP

Faculty:
DAVID E. BRODSKY
Clery Gottlieb Steen & Hamilton LLP

SUSAN E. BRUNE
Brune & Richard LLP

MATTHEW E. FISHBEIN
Debovoise & Plimpton LLP

BRUCE A. GREEN
Stein Professor
Fordham University School of Law

SHIRAH NEIMAN
Chief Counsel to the U.S. Attorney
United States Attorney’s Office
Southern District of New York

Video Replay:
Member $195  Non-member $305

CLE Credit:
3 credits total: 2 professional practice/practice management & 1 ethics. This video replay does not provide transitional credit for newly admitted attorneys. In accordance with the CLE Board’s Regulations & Guidelines, if you attended this program in the past you may not be permitted to apply the CLE credit for this video replay to fulfill your current CLE requirements.

ESTATE PLANNING

VIDEO REPLAY: CROSSING STATE BORDERS IN TRUST & ESTATE LAW: WHAT THE NEW YORK PRACTITIONER NEEDS TO KNOW ABOUT FLORIDA, NEW JERSEY, DELAWARE & CONNECTICUT

23 Friday, 9-12 p.m.

Whether you are drafting, handling administration, or litigating trusts and estates in New York, you are going to have to deal with assets and persons in different jurisdictions. For the uninitiated, this course introduces you to some of the major differences between the laws of New York and those of Florida, New Jersey, Delaware and Connecticut; for the more experienced practitioner, the course includes updates on recent statutory amendments and developing case law. Among the issues addressed will be differences among the states in terms of: tax schemes; whether it might be worthwhile to advise your client to change her domicile for planning purposes; treatment of same-sex couples; who is entitled to notice of probate; what evidence is admissible to determine the intent of a testator or settlor; whether the dead man’s statute will influence your litigation; and much more. Hands-on practitioners with experience in New York and other states will guide you through the morass.

Program Chair:
EVE RACHEL MARKEWICH
Markewich and Rosenstock LLP

Faculty:
AMY B. BELLER
Miller & O’Neill

MARK E. HARANZO
Wiggin & Dana LLP

GEORGE W. KERN
Senior Trust Officer and Senior Vice President
Bessemer Trust Company of Delaware, N.A.

JOSEPH C. MAHON
Cooper Levenson April Niedelman
Wagenheim

Video Replay:
Member $195  Non-member $305

CLE Credit:
3 credits in professional practice/practice management. This video replay does not provide transitional credit for newly admitted attorneys. In accordance with the CLE Board’s Regulations & Guidelines, if you attended this program in the past you may not be permitted to apply the CLE credit for this video replay to fulfill your current CLE requirements.

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

28 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 Co-Instructors:
DAVID K. LEITNER
Troutman Sanders LLP

FREDERIC J. LAFFIE, CPA
Fred Laffie & Associates

Live Program:
Member $195  Nonmember $305

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

ETHICS

HOW TO BE A SAFE LAWYER

6 Monday, 9-12 p.m.

This legal ethics program, with an emphasis on pertinent New York rules, will select from these issues, possibly among others: The State Bar’s proposals to amend the New York Code and change its format; lessons from the Arthur Andersen, Martha Stewart, and Frank Quattrone prosecutions and the investigation of the Valerie Plame Leak; in-house lawyers wearing two (or more) hats: risks to privilege; professional relationships; metadata; the rules on paying expert and lay witnesses; introducing “the virtual client” or “client you didn’t know you had;” the New York twist on confidentiality; how to write a consent to future conflicts that will stand up if challenged; what does the “Hot Potato” rule say and not say; understanding positional conflicts; settlements conditioned on a lawyer’s agreement not to sue the defendant again: not allowed but why not; the hidden risks when lawyers do business with clients or have conflicting financial or other interests; informational conflicts; seven important conflicts of interest rules; the no-contact rule in 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 Co-Instructors:
DAVID K. LEITNER
Troutman Sanders LLP

FREDERIC J. LAFFIE, CPA
Fred Laffie & Associates

Live Program:
Member $195  Nonmember $305

CLE Credit:
3 credits in professional practice/practice management. This program provides transitional credit for newly admitted attorneys.
the Court: what you don’t say can hurt you or "Ellipsis at Your Own Risk;" malpractice, fiduciary duty, and conflicts: a misunderstood relationship and the New York rule in civil cases against lawyers; battle of the forms: when firms and clients contend for different conflict default rules; common interest arrangements a/k/a joint defense agreements: what should they say?

Program Instructor: Professor Stephen Gillers, Emily Kempin Professor of Law, New York University School of Law

Live Program: Member $265 Non-Member $375

CLE credit: 3 credits in ethics. This program provides transitional credit for newly admitted attorneys.

LABOR & EMPLOYMENT LAW

EMPLOYMENT LAW ISSUES FOR SECURITIES INDUSTRY EMPLOYERS & EMPLOYEES

8 Thursday, 6 - 9 p.m.

This program will address the special employment law issues that arise in the securities industry. The program will explore the process and rules that govern employment disputes in the securities industry and the types of disputes that are subject to securities arbitration. Strategic issues in securities arbitration will also be discussed.

This program is a must for employment lawyers who advise clients in the securities industry, lawyers who work generally in the securities industry, and the arbitrators and mediators who help resolve industry disputes.

Program Co-Chairs: ROBERT KRAUS Kraus & Zuchewski LLP

IRA ROSENSTEIN Orrick Herrington & Sutcliffe LLP

Faculty: LISA K. BORGESON Director and Counsel UBS Stamford

LINDA FIENBERG President, Dispute Resolution NASD Washington, D.C.

Live Program: Member $215 Non-member $325

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

LAW FIRM PRACTICE MANAGEMENT

BLOGS: WAVE OF THE FUTURE FOR THE AMERICAN LAWYER?

7 Wednesday, 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 out perform 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

Faculty: DANIEL E. CLEMENT Law Offices of Daniel E. Clement

TROY ROSASCO Turley Redmond & Rosasco, LLP

Live Program: Member $195 Non-member $305

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

NEXT GENERATION MANAGEMENT TRAINING SERIES: INDIVIDUAL PARTNER BUSINESS DEVELOPMENT & CLIENT RELATIONS

16 Friday, 8:30-11 a.m.

Numerous practical ideas on ways in which individual partners can be encouraged to develop business based on their individual skill sets, interests and time availability will be presented along with specific examples of how to apply these ideas and increase successful overall partner participation in firm profit generation.

Special Feature Roundtable Discussion: At the conclusion of each panel presentation the moderator will conduct a roundtable discussion of the topic covered so that you may discuss practical applications with your peers and go back to your firm with solid ideas for immediate application.

The panels for each session will consist of Managing Partners, Law Firm Executive Directors and selected members of the Association of Legal Administrators who are experts in each of these topics and can not only fully explain the subject matter but do so with practical law firm application. We will not be talking theory but rather the results of everyday and long-term law-firm management experiences.

Program Co-Chairs: HARVEY S. FEUERSTEIN Chair, Executive Committee Herrick Feinstein LLP

GEORGE J. WOLF, JR. Managing Director Herrick Feinstein LLP

Co-sponsored with: The Association of Legal Administrators

Live Program: Member $195 Non-member $305

CLE credit for three programs: 7½ credits in professional practice/practice management. This program is a part of a series. The other two programs are: Law Firm Financial Management, Wednesday, March 14 8:30-11 a.m. and Interpersonal Management & Motivation, Thursday, April 12 8:30-11 a.m.
CLE credit per program: 2½ credits in professional practice/practice management. This program provides transitional credits for newly admitted attorneys.

Save 15% by registering or purchasing tapes/cds/materials for 2 days & 20% by registering for 3 days. To register for the March 14th and April 12th programs and take advantage of the special discounts, call (212) 382-6663 or (212) 382-6662.

LEGAL WRITING

THE MECHANICS OF GETTING PUBLISHED: A PRACTICAL GUIDE FOR THE WRITER AT LAW

14 Wednesday, 9-11 a.m.

The practice of law is about zealously advocating for clients with both the spoken and written word. It is broadcasting that written word that has always seemed elusive to most practitioners. This program will provide lawyers with a roadmap for developing the tools to write articles for publication on any topic of their choice along with the logistical techniques needed to get those articles published in print or online. It will also highlight the reasons publishing serves to enhance one’s professional career and personal satisfaction. Participants will review a sample pitch and develop a step-by-step understanding of how to get an article published.

Program Instructor:
ARI KAPLAN

Live Program:
Member $175 Nonmember $285

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

LITIGATION

NEW YORK CIVIL PRACTICE UPDATE

5 Monday, 6-9 p.m.

A panel of leading authorities will provide an update of recent developments and trends in New York State court practice, including:
- Court of Appeals Roundup
- New Rules & Statutes
- Commencement Issues & Motion Developments
- Disclosure Updates
- Evidence Update

Program Chair:
DAVID PAUL HOROWITZ
Ressler & Ressler & Law Office of David Paul Horowitz

Faculty:
PROFESSOR RICHARD T. FARRELL
Brooklyn Law School

DAVID L. FERSTENDIG
Law Offices of David L. Ferstendig, LLC

BRIAN J. SHOOT
Sullivan Papain Block McGrath & Cannano PC

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

VIDEO REPLAY: DOCUMENT RETENTION IN THE ELECTRONIC AGE: ETHICAL, LEGAL & PRACTICAL ADVICE ON THE DOCUMENTS YOU SHOULD (& ARE REQUIRED TO) PRESERVE

20 Tuesday, 6-8 p.m.

This program will focus on the rules, practices and procedures concerning document preservation in an age of e-mails and increasingly aggressive litigation over perceived discovery abuses. Specifically, the program will discuss considerations and practices in the formation and administration of document retention policies. In addition, it will address ethical rules and legislation affecting the obligation to preserve documents. Finally, the program will address techniques for the retrieval of electronic information.

Program Chair:
KENNETH MOLTNER
Bressler Amery & Ross PC

CLE credit: 2 credits total: 1½ professional practice/practice management & ½ ethics. This video replay does not provide transitional credit for newly admitted attorneys. In accordance with the CLE Board’s Regulations & Guidelines, if you attended this program in the past you may not be permitted to apply the CLE credit for this video replay to fulfill your current CLE requirements.

REAL ESTATE

SHAPING THE CITY FOR THE 21ST CENTURY: A PRIMER ON NEW YORK CITY ZONING & LAND USE

13 & 21 Tuesday & Wednesday, 6-9 p.m.

This two-part symposium will provide an overview of the zoning and land use laws, rules and procedures that affect every development project in New York City. Speakers will include private practitioners, government representatives and academics to provide public, private and scholarly perspectives on the land use process. In addition to providing up-to-date information on current practice, the program will also attempt to address important current policy issues affecting the field. Topics to be covered will include: the City’s Uniform Land Use Review Procedure; New York City Landmarks Law; Board of Standard and Appeals practice and procedure; City and State Environmental Quality Review; and New York City Buildings Department rules and procedure.

Program Chair:
ANDREW M. MANSHEL
Senior Vice President Real Estate Development
Greater Jamaica Development Corporation

Faculty:
PHYLLIS ARNOLD
Deputy Commissioner Legal Affairs & Chief Code Counsel
New York City Department of Buildings

LEWIS LIMAN
Cleary Gottlieb Steen & Hamilton LLP

STEVEN R. PEIKIN
Sullivan & Cromwell LLP

Video Replay:
Member $195 Non-member $305

CLE credit: 2 credits total:
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Registration

Advance registration is advised for live programs & video replays. An additional fee of $25 will be charged for registrations received later than 3:00 p.m. one business day prior to the program. For more information or to register for a program visit our website at www.nycbar.org, call (212) 382-6663, fax (212) 869-4451 or mail your registration to: City Bar Center for CLE, New York City Bar, 42 West 44th Street, New York, NY 10036.

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.

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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 $35 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.

Certificates for attending a program are given out and signed by a CLE staff member at the end of the program. You are responsible for keeping a copy of the CLE certificate for your own records. An administrative fee of $10 will be charged for replacement CLE certificates.

These programs are presented under the auspices of the CLE Committee, Valerie L. Fitch, Chair, and the City Bar Center for Continuing Legal Education.

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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.

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February 5

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February 6

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February 6

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HOW TO LEGALLY REACH CONSUMERS IN THE NEW WORLD OF INTEGRATED MARKETING

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February 9

Live Program: [ ] $350 [ ] $450

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A PRIMER ON NEW YORK CITY ZONING & LAND USE

February 13 & 21

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A PRACTICAL GUIDE FOR THE WRITER AT LAW

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February 16

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VIDEO REPLAY: DOCUMENT RETENTION IN THE ELECTRONIC AGE:
ETHICAL, LEGAL & PRACTICAL ADVICE ON THE DOCUMENTS YOU SHOULD (& ARE REQUIRED TO) PRESERVE

February 20

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VIDEO REPLAY: PRIVILEGES IN REGULATORY & CRIMINAL INVESTIGATIONS:
LEGAL & ETHICAL ISSUES

Thursday, February 22

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CAREER COUNSELING FOR FIRST-YEAR ASSOCIATES

First-year associates in a law firm must know more than simply the latest SEC rulings and recent tax regulations. In fact, navigating day-to-day office politics and administrative duties, which many are facing for the first time, can be their greatest challenge. To help first-year associates stay on course, the New York City Bar brought together a panel of senior associates from New York City's top law firms to discuss how to avoid common first-year missteps in these areas. Panelists included Florence Beauboeuf from O'Melveny & Myers LLP, Jessica Cohen from Skadden, Arps, Slate, Meagher & Flom LLP, Morris Massel from Willkie Farr & Gallagher LLP, Meghan McCurdy from White & Case LLP and Joshua Sussberg from Weil Gotshal & Manges LLP. Below are some of the issues discussed and the panel's advice based on their own varied experience.

Q: You receive an e-mail asking you and several other associates whether you are available to take on additional work. Believing you are responding only to the assigning partner, with whom you have a close mentoring relationship, you explain that you cannot because a certain senior associate at the firm (whom you name) has been overloading you with "busy work." Unfortunately you hit "reply all," how do you control the fall-out?

A: A direct conversation with the senior associate (although awkward) is the best course of action. It is always better to be proactive, and it is never good to let a situation fester. Two other thoughts: (i) never say anything disparaging in an e-mail, and (ii) "reply all" is very dangerous.

Q: You are at the printer and notice an error that, based on your quick assessment, should not impact the document or the deal. How should you handle this situation?

A: If you are not the ultimate decision maker, disclosure is the key. Point it out to the senior associate/partner in charge offering suggestions on how best to fix the problem. Keep in mind you may not be in a position to fully assess the ramifications of the purported error.

Q: You are scheduled to take depositions in Dayton with a partner and have enough frequent flier miles to upgrade to first class. Do you upgrade and, if so, do you inform the partner first?

A: Follow the partner's and the client's lead. It is very awkward to sit in first class while the client paying you is sitting in the rear. If the partner is upgrading, then it is probably acceptable for you to do the same. Moreover, traveling with a partner provides a great opportunity to discuss not only the matter but also your career. You should take advantage of this time to develop the relationship and remember in many ways the senior partner is effectively your client as well.

Q: When in Dayton who pays for cabs, lunch, etc.?

A: Be prepared with sufficient cash on hand so you can always offer to pay first. Some partners like the junior people to pay for everything and other partners will not let anyone pay for anything.

Q: During holidays, who should you tip and how much?

A: It is always a good idea to give a gift to your assistant to show your appreciation. Unfortunately, the practice of holiday gifting varies a lot even within firms, so it is best to consult a few trusted sources. When in doubt, be generous.

Q: A billion-dollar deal just closed. The partner takes all of the associates out for drinks to celebrate. The paralegals and assistants, who also worked really hard to close the deal, are not invited. How should you show your appreciation?

A: You should always express gratitude for a job well done. Whether that is in the form of a night out or a box of cookies is up to you. Gratitude builds loyalty, and it is never too early to start.

Q: Your big deal is scheduled to close next Monday and you have an out-of-town family wedding on Saturday. What do you do?

A: Inform the senior associate on the deal and suggest remedies, such as having one of your colleagues agree to cover for you if necessary. Generally, people recognize the importance of family gatherings. In the end it will most likely be your decision, so be prepared to face the consequences, either with your partner or your Aunt Suzie.