LOOKING BEYOND GUANTANAMO

By Barry Kamins, President

The Association has been an active participant in the debate over the Bush Administration’s policies regarding national security and civil liberties in the aftermath of the September 11th attacks. We have strongly opposed efforts to unreasonably curtail civil liberties, noting what we have believed to be violations of statutory law and the U.S. Constitution, and have urged compliance with the Geneva Conventions and other established international law principles. Many of these efforts, and indeed much of the focus of public discussion, have been directed at the detention facility in Guantanamo Bay, Cuba. Recently, however, the Association embarked upon an effort to, in effect, look beyond Guantanamo.

The Association will continue its advocacy with regard to preserving the precious balance between national security and civil liberties, urging that the United States be true to its constitution and its values. We will also continue our advocacy for a strong, independent judiciary. Nevertheless, we also recognize there is a great national debate on how to proceed with the apprehension, detention and trial of suspected terrorists in an uncertain world. One can debate the level of the terrorist threat, or whether it is indeed of a greater magnitude than other forces that pose threats to individual Americans. But there is no ignoring that Americans perceive the terrorist threat as being of a different character than the other threats we have faced.

In an effort to promote constructive dialogue, the Association convened experts in law and public policy who represent a broad range of views to consider what U.S. policy should be with regard to detention of persons the Executive deems to be terrorist threats, and how to conduct trials of those individuals. The roundtable discussion of these issues was held on December 14, preceded by a public program focusing on these issues on December 13. We asked the participants not to dwell on the situation in Guantanamo but rather to look at how the U.S. should deal in the future with detention and trials in a terrorism context.

The two-day event was sponsored by the Task Force on National Security and the Rule of Law, which I appointed this fall to coordinate the Association’s activities in this field. The Task Force is chaired by Sid Rosdeitcher. Margaret Stock, Chair of our International Security Affairs Committee and a Task Force member, took the lead in planning the event.

INTERNET FRAUD — A GROWING PROBLEM THAT’S BEING TACKLED BY LAWHELP/NY

According to a recently published Federal Trade Commission survey, 13.5% of U.S. adults, or 30 million, were victims of consumer fraud in 2005. The top contenders in types of consumer fraud are: weight loss products, foreign lotteries and buyers’ clubs, prize promotions and work-at-home programs. The Internet was the avenue through which the fraud was perpetrated in 22% of the incidents.

Meanwhile, Internet use keeps growing. According to the Pew Internet and American Life Project, April 2006, Internet penetration has reached 73% of all American adults. And, from the same study, 36% of households with incomes less than $25,000 have access to the Internet, while 40% of adults with less than a high school education use the Internet. So, while differences in Internet use—known as the “Digital Divide”—among groups based on income, race, education, age, and rural vs. urban/suburban still exist, these gaps are rapidly shrinking.

Most important for the LawHelp/NY project, housed in part at the City Bar Justice Center, again according to the FTC, “Hispanics and African Americans are significantly more likely to experience more fraud than non-Hispanic whites,” and generally, lower income individuals are more likely to become victims of fraud.
LOOSE LEAF BEYOND GUANTANAMO... CONTINUED FROM PAGE 1

We did not strive for consensus, which we believe at this point is premature and would not be a constructive effort. Rather, we urged the participants in both programs to move past the various pronouncements made on these issues, toward an open flow of ideas that would identify the options and the advantages and disadvantages of the various options, as well as factors that must be considered in weighing the options. We plan to issue a report summarizing the discussion, and consider whether to further develop this approach as a broad-based effort.

The discussion of detention options focused on a number of variables, including whether a person is taken into custody on the battlefield, the citizenship of the person (or, if taken into custody in the U.S., the legal status of the person in the U.S.), and whether the crimes the person is thought to have committed are violations of U.S. criminal law or violations of the laws of war (there is of course some overlap). The participants also discussed what process is necessary to continue to hold a detainee prior to trial, and whether the government can indefinitely detain people and what showing would have to be made. There was a general acknowledgement that persons captured in a traditional battlefield setting (e.g., engaging in active combat against U.S. troops in Afghanistan) could be held, following Geneva Convention procedures, for the duration of hostilities. But the efforts to counter terrorism raise far more complicated issues as to what is a battlefield. While many participants felt that if someone is detained outside the traditional battlefield scenario, current military and civil law provides sufficient means of handling detainees, others suggested that a different model should be developed.

The discussion of how to try these individuals explored the advantages and disadvantages of various models that have been proposed. While there was little support for the current military commission model being employed at Guantanamo, the discussion explored other options, including the American criminal justice system, courts-martial, national “terror” courts and international tribunals. The participants identified enough advantages and disadvantages of each approach to suggest that there is indeed no perfect system for handling these matters. The criminal justice system has been used to try terrorism suspects, making use of the Classified Information Procedures Act (CIPA) for the handling of classified information. The question is whether the criminal justice process is the most appropriate means of trying terrorists in a post-9/11 world. Many believe it is, but there are those who voice concerns that this model will prove to be deficient.

I hope the Association can continue to help shape the debate over national security policy, not only by continuing our advocacy efforts, but by maintaining channels of communication among the different viewpoints. Indeed, the very notion of our looking beyond Guantanamo is to acknowledge that the nation we live in perceives terrorism differently, and to foster constructive discussion, hopefully free from the politicization and hyperbole that currently shapes the national debate, as to how our nation’s leaders should proceed.

On November 8, 2007 Miles Fischer, former Chair of the Military Affairs and Justice Committee, represented the City Bar when he attended a pre-trial proceeding at Guantanamo Bay Naval Station, Cuba. Fischer attended the proceeding along with other representatives of non-governmental organizations invited by the Office of Military Commissions, which included, Amnesty International, the American Civil Liberties Union, Human Rights Watch and Human Rights First.

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Fischer witnessed a proceeding in the case of Omar Khadr, a Canadian-Pakistani who is accused of a many offenses, including killing a U.S. soldier during combat in Afghanistan in 2002. His proceeding is before a military commission, a system created by the Bush Administration and Congress to try “alien unlawful enemy combatants” who are engaged in hostilities against the United States.

Khadr was captured in Afghanistan when he was fifteen years old and immediately moved to Guantanamo in 2002. Fischer describes the scene at the commission, “Khadr was dressed in the white clothes and a black skull cap now worn by ‘compliant’ detainees instead of the formerly-worn orange jump suits, appeared in normal physical condition, and was not handcuffed or otherwise physically restrained. Two unarmed policemen stood behind his chair.”

Of the proceeding, Fischer says, “It was a privilege and a bit of an adventure to represent the Association in attending this historic step in development of a special judicial procedure to try persons accused of terrorism.” However, Fischer says, “While the specific proceedings seemed technically correct by new military commission rules and not out of line with the standards of courts-martial and international standards of justice, the rules for military commissions still leave more questions unanswered than have been answered.” He elaborates, “This case has not yet raised, and may never raise, the issues of admissibility of coerced and hearsay evidence that have been so controversial in the Military Commissions Act of 2006 and related rules. It appears that in the Khadr case the prosecution will rely primarily on tangible evidence and testimony of eye witnesses. The access of the defense to a potentially exculpatory witness is an issue yet to be addressed.”

The actual trial is not likely to occur before the Spring of 2008. Fischer says, “Even if the defense may now use delay to its advantage, much of the delays since Khadr’s capture in 2002 could have been avoided by use of the federal criminal courts or the established rules of courts-martial and without seeking the supposed jurisdictional black hole of Guantanamo.” He adds, “And then it would not have been necessary to move a great many participants to an isolated naval base, of which the best thing to be said is the warm sun in November.”
FIGHTING FOR THE CITY: A HISTORY OF THE NEW YORK CITY CORPORATION COUNSEL

A reception will be held to celebrate the book, Fighting for the City: A History of the New York City Corporation Counsel, written by NYU Law School Professor William E. Nelson. The book traces the history of the Law Department from its beginnings in the 17th century to the major legal office it is today, recurrent issues and themes that arise, and how at different times those issues were dealt with by different Corporation Counsels. Professor Nelson and former Mayor Edward I. Koch will make remarks.

Please register at www.nycbar.org

FEBRUARY 2008 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.

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

SEMINAR/MASTER CLASS: "MUSICIANSHIP IN PERFORMANCE"

Ever wonder why some performances are more convincing than others? Join conductor/music director David Bernard for a seminar/master class that explores the choices musicians make in creating performances. The session will include interactive coaching of ensembles and presentation of guidelines of musicianship.

Admission is $20/$10 (seniors/students) and tickets are available at the door and online at www.ticket-central.com. For more information, please call (212) 788-1093.

6 Wednesday, 7:00 p.m.
INFRASTRUCTURE FINANCE FORUM

How will we pay to maintain, improve and fulfill future requirements of New York City’s vast infrastructure networks? The Mayor’s Plan NYC presents an ambitious agenda of major infrastructure improvements for New York City through the year 2030. Some of these will rely on existing financing techniques and sources while others will require new approaches. For example, in the transportation area Plan NYC projects a funding gap of approximately $31 billion for all of the projects outlined in the plan. At the forum a panel of highly distinguished experts will discuss financing New York City’s infrastructure requirements. They will discuss some of the recent developments such as the Hudson Yards Infrastructure Corporation financing, proposals for the future such as the Sustainable Mobility and Regional Financing Authority and look at some of the lessons from the past.

Moderator:
ROSS SANDLER
Professor of Law, New York Law School; Director, Center for New York City Law; Former Commissioner, NYC Department of Transportation

Speakers:
ROHIT AGGARWALA
Director, Long Term Planning and Sustainability, Mayor’s Office of Operations
RICHARD RAVITCH
Former Chairman, New York State Urban Development Corporation; former Chairman, Metropolitan Transportation Authority
MARC SHAW
Former First Deputy Mayor; former Executive Director, Metropolitan Transportation Authority; Chairman, Traffic Congestion Mitigation Commission; Executive Vice President, Strategic Planning, Extell Development Company

Please register at www.nycbar.org.

7 Thursday, 6:30-8:30 pm
SYMPOSIUM ON ACCESS TO HEALTH CARE IN THE STATE OF NEW YORK

Governor Spitzer’s top health care advisers, the Chairs of the New York State Senate and Assembly Committees on Health and a leading academic who formerly worked under both Presidents Clinton and Bush advising on health care issues, will gather to discuss current options to increase access to health care in New York State and to reduce the number of uninsured New Yorkers, obstacles to increasing such access, and policy trends toward universal coverage, as well as other state initiatives. This symposium with be held soon after the release of the Governor’s 2008 budget. Please join us for this timely discussion.

Moderator:
SAMUEL J. SERVELLO
Moses & Singer LLP

Speakers:
DENNIS WHALEN
Deputy Secretary to the Governor for Health & Human Services
JOSEPH BAKER
Assistant Deputy Secretary to the Governor for Health & Human Services

SENATOR KEMP HANNON
Chair, Committee on Health, New York State Senate

ASSEMBLY MEMBER RICHARD GOTTFRIED
Chair, Committee on Health, New York State Assembly

DR. SHERRY GLIED
Department Chair, Health Policy and Management and Professor of Health Policy and Management, Columbia University Mailman School of Public Health

Co-sponsored by: NYS Bar Association’s Health Law Section, Committee on Public Health

Please register online at www.nycbar.org

11 Monday, 6:30-8 pm
CAREER OPPORTUNITIES IN LABOR AND EMPLOYMENT LAW: A PANEL DISCUSSION FOR LAW STUDENTS

This program for law students will focus on how to prepare for a career in labor and employment law. Panelists will discuss such topics as: distinctions between labor and employment law; distinctions between the representation of management, employees and unions; and the intersection of labor and employment law with other practice areas. Panelists will also discuss the various settings in which attorneys can practice labor and employment law. A networking reception will follow and refreshments will be served.

Please RSVP to Jodi Savage at lspchairman@yahoo.com
12 Tuesday, 8:30 am-10 am

PROFESSIONAL DEVELOPMENT WORKSHOP SERIES: ADVOCATE FOR YOUR SUCCESS

Workshop II - Maximizing Mentoring Relationships: Enhancing Your Professional Reputation

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 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.

Participants will learn to:
- Find and foster exceptional mentoring relationships
- Utilize mentoring relationships to help promote their achievements
- Be aware of their reputation in the firm
- Recognize signs that their reputation may be in trouble, and how it can be enhanced.

Speaker:
KATHY MORRIS, J.D.
First Chief Training & Professional Development Officer, Sidley Austin LLP

Please register online at www.nycbar.org

12 Tuesday, 6-8 p.m.

REENTRY: THE FUTURE OF PUBLIC SAFETY

A panel of distinguished scholars and practitioners will discuss the necessity and utility of re-entry programs for both prisoners and society as a whole. The group will address the state of re-entry today and how much progress has been made in helping newly released inmates forge viable lives outside of prison. Finally, the panel will comment on the recently released findings of a Harvard University study by Professor Bruce Western that examines a ground-breaking re-entry program conducted by the Kings County District Attorney’s office during the last seven years.

Speakers:
BRUCE WESTERN
Professor, Harvard University
CHARLES J. HYNES
District Attorney, Kings County
DENISE O’DONNELL
Commissioner, NYS Division of Criminal Justice Services
JEREMY TRAVIS
President, John Jay College
PATRICIA GAITING
Chair, New York City Human Rights Commission
GEORGE MCDONALD
President, The Doe Fund

Co-sponsored by: New York State Judicial Institute

14 Thursday, Noon-2 pm

PUBLIC AFFAIRS LUNCHEON

The Public Affairs Luncheon Series features speakers who address matters of public interest. The Luncheons provide a forum to enable members of the Bar Association to network, socialize and discuss matters of interest. The Luncheons are open to the public.

Speaker:
ALICE M. GREENWALD
Executive Vice President for Programs, Director of Memorial Museum
National September 11 Memorial & Museum at the World Trade Center

Topic: Passion On All Sides: Planning A Memorial Museum At Ground Zero

Luncheon Chair:
JEROME R. ROSENBERG
Luncheon Vice-Chair:
EMILY CAMPBELL

Co-Sponsored by:
Committee on National Security & Counter-Terrorism, Federal Bar Association, Southern District of New York Chapter

Registration by February 8 is required to guarantee admission. Registrations received after February 8 are subject to availability. The fee, which includes lunch, is $30. Please register on page 6 or online at www.nycbar.org.

21 Thursday, 6-8 pm

EVERYTHING YOU ALWAYS WANTED TO KNOW ABOUT BECOMING AN ASSISTANT UNITED STATES ATTORNEY BUT WERE AFRAID TO ASK

The 93 United States Attorney’s offices represent the federal government in criminal and civil matters before the United States district and circuit courts. As a division of the U.S. Department of Justice, the United States Attorneys’ offices are a part of the executive branch of the federal government. Each U.S. Attorney’s office is staffed by numerous Assistant U.S. Attorneys, who serve as prosecutors in criminal matters and the government’s litigation counsel in civil matters. Assistant U.S. Attorneys have the opportunity to participate in some of the most interesting and important litigation occurring in United States courts.

The panel will include representatives from the U.S. Attorney’s offices for the Eastern and Southern Districts of New York and the District of New Jersey, who will discuss the process for becoming an Assistant United States Attorney in their judicial districts.

Moderator:
DANIEL R. ALONSO
Kay Scholer LLP; former Chief, Criminal Division, Assistant United States Attorney, United States Attorney’s Office, Eastern District of New York

Speakers:
GREG D. ANDRES
Chief, Criminal Division, Assistant United States Attorney, Eastern District of New York

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26 Tuesday, 6:30 – 8:30 pm
IS INTELLECTUAL PROPERTY DEAD? THE REVOLT OF STUDENTS FOR NEW DIRECTIONS

Students for Free Culture has chapters at at least 35 universities across the country. Many of the groups are branching out beyond access to music copyright. The issues are far more than piracy. Can the students lead us, in terms of public policy, to a new copyright direction in which copyright law will not make some users criminal?

Moderators:
ALAN J. HARTNICK
Abelman, Frayne & Schwab; Adjunct Professor, Fordham Law School; columnist on Intellectual Property for the New York Law Journal

JUDITH B. PROWDA
Senior Lecturer, Sotheby’s Institute of Art; Attorney at Law, Law Office of Judith B. Prowda; Adjunct Professor, New York Law School

Speakers:
JOHN PALFREY
Professor, Harvard Law School

HUGH HANSEN
Professor, Fordham Law School

LAWRENCE E. ABELMAN
Intellectual Property Specialist, Abelman, Frayne & Schwab

ELIZABETH STARK
Recent Harvard Law School Graduate; Founder, Harvard Free Culture

27 Wednesday, 6:30 pm
TRANSITIONS: EXPLORING NON-LEGAL ROLES WITHIN LAW FIRMS

Non-practicing positions in law firms offer the perfect balance for lawyers who no longer wish to practice, but who enjoy law firm or legal department culture, working with attorneys or other aspects of your current career.

Professional development, career counseling, human resources, pro bono, diversity, recruiting, business development (marketing), and law practice management positions in law firms and companies are among the most coveted positions available in today’s legal market. Our panel discussion will cover what it’s like to work in one of these popular areas. We’ll also discuss how to go about finding one of these positions. Attendees will have the chance to participate in small break-out sessions with professionals who are working in each of these areas.

Registration is necessary by February 25. The fee, which includes light refreshments, is $10. Please register online at www.nycbar.org

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

Percussionist Steven Solook and guests musicians from Tonal Center and the Grey St. Ensemble. Works by Gordon Stout, David Maslanka, David Loe, Richard Russell, Frederic Rzewski and Ney Rosario.

February 2008 Registration Form

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Company

Address

City State Zip

Please charge to my □ Mastercard □ Visa □ American Express

Card Number Expiration Date

Phone E-mail

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.

NOMINEES NAMED

The following candidates have been nominated by the Executive Committee for election to five positions on the 2008-2009 Nominating Committee. Ballots will be sent to the membership. Those elected will be announced at the Annual Meeting of the Association on May 20. Pursuant to By-law XXIII, other nominations must be posted no later than March 10, 2008.

Sharon Y. Bowen
Carrie H. Cohen
James D. Herschlein
Susan J. Kohlmann
William F. Kuntz, II
William Malpica
Kiyo A. Matsumoto
Kay C. Murray
O. Peter Sherwood
Kent T. Stauffer

Admission is $13 at the door. For more information, please call (212) 788-1093.
INTERNET FRAUD — A GROWING PROBLEM... CONTINUED FROM PAGE 1

LawHelp/NY (www.LawHelp.org/NY) is a website created to respond to the legal needs of low-income and vulnerable residents across New York State. Its creation and management fall under the auspices of the New York LawHelp Consortium, a unique collaboration among the City Bar, the New York State Bar, Legal Services for New York City, The Legal Aid Society of New York City, Volunteers of Legal Service, Pro Bono Net and upstate legal aid organizations. The website covers 14 areas of civil law including housing, immigration, family and juvenile and public benefits. A new topic area on the consequences of criminal charges will be brought online soon.

To date, there are 594 free legal service projects and organizations listed with referral information on LawHelp/NY. This information is kept up-to-date with the assistance of a computerized "tickler" system. And all referrals are keyed to the user's location—by entering a zip code, county or city, the users find the nearest free legal service available in their community. In addition, the website houses thousands of "Know Your Rights" and self-help resources related to location when relevant, (e.g. eviction help in NYC is quite different than eviction help in Albany, for example). These resources have been developed for the non-lawyer audience as well as those with limited English proficiency; LawHelp/NY has a mirror website in Spanish, and resources in 33 additional languages. For 2007, the website is on track to receive 1.5 million hits.

As a result of LawHelp/NY's statewide outreach efforts, and relationship with hundreds of free legal service projects across the state, the Office of the Attorney General awarded LawHelp/NY a significant one-time only grant to mount an Internet Fraud topic area on the website. The area, called "Internet Fraud: Crimes and Prevention" is probably the most extensive online portal in the country that covers all aspects of Internet fraud and crimes. You can learn about everything from email scams and hoaxes, and how to prevent and report spam, to safe use of social networking sites such as MySpace and Facebook and online auction sites such as eBay.

In the section "Chatting & Online Communication," for example, there are resources explaining how to protect privacy, what to do if you or your child is the victim of online harassment or bullying, and how to blog safely, with special sections for teens and for parents. Identity theft is getting special attention. Currently under development is an 11-minute flash video, in English and Spanish, with step-by-step instructions on what to do if you are the victim of identity theft. The video includes easy access to forms to use when reporting to the police, the FTC and the credit bureaus.

Another type of fraud addressed in detail is "Phishing and Pharming." These are strategies used by criminals to elicit the personal information they need to steal identity, raid bank accounts and/or commit credit card fraud. In addition to extensive online information about phishing and pharming, LawHelp/NY produced a special brochure describing phishing strategies with samples of fraudulent solicitations such as an email that looks like it's from a legitimate bank but asks for personal identity information like a social security number or account password. These fraudulent emails may claim, for example, that your account has been compromised, and encourage you to click on the link enclosed to verify your account information. The website advises to never click on a link in a phishing email and not to believe a threat such as "Your account will be deactivated if you don't respond within 72 hours" or the like. The LawHelp/NY website and the brochure provide detailed instructions on how to report these scams to a bank and credit card companies, the credit card bureaus, and to the FTC. We also have resources that show users how to include the fraudulent email's "header" data in what you report. This relatively simple task is important because an email header helps law enforcement agencies to identify criminal patterns and to go after Internet criminals.

Spend a few minutes on www.LawHelp.org/NY. You will be amazed at what you can find there. In the last year, LawHelp/NY staff and pro bono law school interns have conducted more than 100 LawHelp information and training programs especially for front line social service workers, such as those in settlement houses, community-based organizations and organizations serving immigrants, librarians (many low-income people get Internet access at the library), and the community-based staffs of elected officials. We also have trained court personnel through the Office of Court Administration, with whom LawHelp/NY collaborates for the Going to Court data available on the website. If you or your organization wishes to obtain more information or an on-site training event, contact info@LawHelp.org or arobinson@nycbar.org.

This report highlights the impact of New York’s Permanency Legislation of 2005 and makes recommendations to improve the law’s implementation. When a child is removed from his or her home and placed into foster care, the law requires New York’s Family Court to hold permanency hearings so that the child is kept in foster care only as long as necessary. In December 2005, New York State enacted legislation known as the “Permanency Bill” to address numerous issues impacting families before the Family Court and made significant changes to the permanency hearing process in New York State. Specifically, the legislation amended certain provisions of the New York Family Court Act (“FCA”) and the Social Services Law with the goal of moving children more quickly through the foster care system, either toward reunification with their families or toward adoption, guardianship, or custody with other appropriate persons. Currently, New York State ranks 49th out of the 50 states in terms of length of time that children spend in foster care. Key provisions of the Permanency Legislation include:

- Requiring a permanency hearing once every six months (rather than every 12 months as before);
- Continuing Family Court jurisdiction over parties after a child enters foster care, whether that child comes into foster care voluntarily or involuntarily and after a child is freed for adoption until the adoption is final;
- Continuous legal representation for children and parents;
- Inclusion of 18- to 21-year old children voluntarily placed into foster care in the Family Court permanency process; and
- The requirement that foster care agencies provide the Family Court and all attorneys with a detailed 16-page report on the child and his or her family at least 14 days before the permanency hearing.

Achieving the Permanency Legislation’s goal of more quickly attaining permanency for children in foster care depends on the ability of ACS and foster care agencies to address the needs of the child and/or family, so that either the family can safely reunify or the Family Court can conclude that the child should be adopted or cared for permanently by an appropriate guardian. The ability of the Family Court system to frequently and routinely address the child’s situation and make appropriate orders is critical to achieving this goal.

After analyzing the progress made by the legislation over the last year and a half, the Council on Children’s report concludes that though evidence indicates that the Family Court, the Administration for Children’s Services, advocates for children and parents, and New York City’s foster care agencies are trying to meet the objectives of the Permanency Legislation, these efforts are being undermined by a lack of resources. The current level of funding, the report concludes, has proved to be highly inadequate and has limited the ability of the agencies and the Family Court to meaningfully comply with the mandates of the legislation, or to meet its important goals for New York City foster children.

The report makes a number of recommendations that would better allow the objectives of the legislation to be met including:

- Increased funding for the Family Court system in New York City to hire additional judges and corresponding staff;
- Provide sufficient funds which will enable city case-workers to reduce their caseloads to a reasonable level;
- Ensure better integration of the permanency reports with the New York State Family Assessment Service Plan report and the Connections databases, to increase efficiency and accuracy;
- Increase funding for law guardians in New York City to reduce caseloads per attorney, ensuring that they can more adequately meet children’s needs;
- Enhance funding for preventive and diversion services to help families access appropriate services before a family problem or crisis devolves into an abuse or neglect case; and
- Explore new means to fund parent advocates and community legal education in high-need communities so that parents have the support and knowledge necessary to access appropriate services and engage with Child Protective Services in a manner that averts unnecessary Family Court involvement.

If met, the recommendations outlined by the Council would enable all stakeholders in New York City’s child welfare system to better provide quick and permanent placement for children and to facilitate positive outcomes for children and their families.
realize that he/she has a discrimination claim, he/she will have lost the right to bring that claim under Title VII – even though the discriminatory practice is ongoing. The Act would restore the rule that had been followed by many circuit courts and supported by the Equal Employment Opportunity Commission (“E.E.O.C.”), that every discriminatory paycheck constitutes a new violation of Title VII’s protection against discrimi-

Criminal Justice, Council on

Testimony before the New York State Commission on Sentencing Reform expressing support in principle for expanded determinate sentencing which, the testimony argues, will streamline New York’s confusing mix of determinate and indeterminate sentences, and improve fairness, workability and public confidence in the criminal justice system. Support for the Commission’s ultimate sentencing proposals, however, would depend on whether the sentence ranges are fair and appropriate.

Immigration and Nationality Law

Amicus Brief: Mohamed Rajah v. Alberto Gonzales filed in the US Court of Appeals for the Second Circuit, December 2007. The brief argues that the Supreme Court’s holding in Lopez-Mendoza, restricting application of the Exclusionary Rule in immigration proceedings to egregious violations of the Fourth Amendment, does not preclude application of the Montilla Doctrine in instances where the immigration agency violates its own reg-

Members Respond to Judicial Salary Email Blast

Over five hundred members, and over one-hundred friends, of the City Bar Association participated in an email blast sent to state legislators and the governor to urge New York State’s elected officials to implement an immediate and significant increase in judicial salaries. Association President Barry Kamins requested that members email their representatives, and within one day hundreds of Association members reached out to their state Assembly Members and Senators in an effort to preserve the quality and availability of justice in New York State. The Association would like to thank all of the participants for their support and effort in working to obtain this long overdue raise for our state’s hard-working judges. We ask. You respond.

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INTERESTED IN SERVING ON A COMMITTEE?

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

Being on a committee isn’t just about going to meetings. Serving on a committee is truly a rewarding experience. By being on a committee 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 part of a committee is a great way to work towards your career development goals. As a committee member you will meet and network with colleagues in other firms and law offices that you might not otherwise have the chance to meet. Committee service can often provide opportunities to speak at or moderate programs allowing you to gain valuable skills and recognition in your field.

You don’t have to know the chair or any member of a committee to apply. 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 would be best. In April, committee chairs begin nominating new members for a three year term to begin in September. New members will generally be 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 Service Office directly at sglazer@nycbar.org or 212-382-6664, for more information. We welcome your active participation and will do our best to accommodate your choices.

Yes! I would like to serve on a City Bar 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) ☐ Home: (please send mail here) ☐

Office ____________________________ Street ____________________________

Street ____________________________ Apt ____________________________

City/State/Zip ____________________________ City/State/Zip ____________________________

Phone __________ Fax __________ Phone __________ Fax __________

Email ____________________________ Email ____________________________

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

Call for Nominations for the New York City Bar Diversity Champion Award

Deadline for submission February 13, 2008

The New York City Bar is seeking nominations for the Third Annual Diversity Champion Award. The award recognizes individuals whose actions and activities, within the legal profession, particularly in New York City, embody the Statement of Diversity Principles—"facilitate diversity in the hiring, retention and promotion of attorneys and in the elevation of attorneys to leadership positions within our respective organizations."

Diversity champions are critical for creating lasting change in organizations and establishing an inclusive work environment. To that end, we will assess a nominee’s excellence in one or more of the following areas:

1. Influencing Others
2. Being a Role Model
3. Continually Learning
4. Cultivating Diverse Teams
5. Innovating and Taking Risks
6. Holding Oneself and Others Accountable for Diversity
7. External Leadership Involvement

The Enhance Diversity in the Profession Committee has convened a selection panel from a cross-section of legal employers who will conduct interviews with finalists and their references in March and April. The winners will be announced shortly after and are expected to be available to attend the June 4th Diversity Champion Awards Dinner to accept the award.

For more information please contact Alex David, Director of the Office for Diversity at 212-382-6689 or view the PDF link—http://www.nycbar.org/Diversity/pdf/Award_Nomination_Form.pdf.

To submit nominations send to adavid@nycbar.org; by fax to 212-768-8116; or by mail to Alex David, New York City Bar, 42 West 44th Street, New York, NY 10036.
Committees, Councils and Delegations

The Profession, Legal Education and the Organization of the Bar
Career Advancement & Management
Continuing Legal Education
Fee Conciliation
Inns of Court
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

Public Service
City Bar Public Service Network
Housing Court Public Service Projects
Legal Referral Service
Legal Services for Persons of Moderate Means
Senior Lawyers
Thurgood Marshall Summer Law Internship Program
Young Lawyers

The Justice System
Alternative Dispute Resolution
Arbitration
Civil Court of the City of New York
Encourage Judicial Service
Family Court and Family Law
Federal Courts
Housing Court
Judicial Administration, Council on Judiciary
Litigation
Minorities in the Courts
State Courts of Superior Jurisdiction
Trusts, Estates and Surrogates’ Courts
Women in the Courts

Association Management and Internal Affairs
Association Insurance Plans
Benefit Plans for Association Employees
Investment of Funds

Entertainment Activities
Books-at-the-Bar
Orchestra
City Bar Chorus

Entertainment
Criminal Justice
Capital Punishment
Corrections
Criminal Advocacy
Criminal Law
Criminal Justice, Council on
Criminal Justice Operations
Juvenile Justice

Governmental Affairs
Administrative Law
Federal Legislation
Government Ethics
Military Affairs and Justice
New York City Affairs
State Affairs
Uniform State Laws

Social, Urban and Consumer Issues
AIDS
Bioethical Issues
Children, Council on
Children and the Law
Civil Rights
Consumer Affairs
Domestic Violence
Drugs and the Law
Education and the Law
Environmental Law
Health Law
Legal Issues Affecting People with Disabilities
Legal Issues Pertaining to Animals
Legal Problems of the Aging
Matrimonial Law
Medical Malpractice
Mental Health Law
Pro Bono & Legal Services
Project on the Homeless
Sex and Law
Social Welfare Law
Tort Litigation
Transportation

Business Issues
Admiralty
Aeronautics
Antitrust and Trade Regulation
Banking Law
Bankruptcy and Corporate Reorganization
Corporate Law
Employee Benefits
Energy
Financial Reporting

Business Issues (continued)
Futures & Derivatives Regulation
Insurance Law
Investment Management Regulation
Labor and Employment Law
Mergers, Acquisitions and Corporate Control Contests
Private Investment Funds
Product Liability
Project Finance
Science and Law
Securities Litigation
Securities Regulation
Sports Law
Structured Finance
Telecommunications Law

Property Issues
Construction Law
Cooperative and Condominium Law
Housing and Urban Development
Land Use Planning and Zoning
Real Property Law

Tax Issues
Condemnation and Tax Certiorari
Estate and Gift Taxation
Non-Profit Organization
Personal Income Taxation
State and Local Taxation
Taxation of Business Entities

Media, the Arts and Intellectual Property
Art Law
Communications and Media Law
Copyright and Literary Property
Entertainment Law
Information Technology Law
Patents
Trademark and Unfair Competition

International Affairs
African Affairs
Asian Affairs
European Affairs
Foreign and Comparative Law
Immigration and Nationality Law
Inter-American Affairs
International Affairs, Council on
International Commercial Disputes
International Environmental Law
International Human Rights
International Law
International Legal Services
International Security Affairs
International Trade
United Nations

www.nycbar.org
We rest our case
The verdict is in!

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- Accredited in New York, California, and Illinois.

To register, or to learn more about the City Bar Center for CLE, please call (212) 382-6663, or visit www.nycbar.org.

February in City Bar History
Brought to you by the Legal History Committee

One Hundred-Four and Forty-Four Years Ago . . . On February 20, 1904, Herbert Brownell, Jr., was born in Peru, Nebraska. One area where Brownell’s life made a great impact was Civil Rights. As Attorney General in the Eisenhower Administration, Brownell came into the Brown v. Board of Education case on behalf of the United States as amicus curiae after the Supreme Court had ordered further briefing and argument on the case. Brownell did not change the position that the Truman Administration had taken as amicus curiae, siding with the plaintiffs against segregated schools. Brownell also oversaw the appointment of Earl Warren as Chief Justice of the Supreme Court and the appointment of people to the federal bench in the south, such as Elbert P. Tuttle, John Minor Wisdom, John R. Brown and Frank M. Johnson, Jr., who had the courage to uphold the civil rights laws. Furthermore, Brownell advised President Eisenhower on the decision to send federal troops to Little Rock, Arkansas to integrate Central High School. As president of the City Bar from 1962 to 1964, he created the Special Committee for Civil Rights Under Law. In February 1964, during Brownell’s presidency, a symposium was held at the City Bar on civil rights litigation. Thurgood Marshall, Jack Greenberg, and Robert McKay were among the speakers.
## CITY BAR CENTER FOR CLE
### FEBRUARY 2008 CLE COURSE CALENDAR

<table>
<thead>
<tr>
<th>Monday</th>
<th>Tuesday</th>
<th>Wednesday</th>
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<td>6-9 p.m.</td>
<td>VIDEO REPLAY: IDENTITY THEFT: UNDERSTANDING THE NEW LAWS &amp; WAYS TO PROTECT YOUR CLIENTS &amp; YOURSELF FROM BECOMING A VICTIM</td>
<td>2 credits*</td>
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<td>9-12 p.m.</td>
<td>9-5:30 p.m.</td>
<td>LITIGATION SKILLS WORKSHOP: TAKING &amp; DEFENDING DEPOSITIONS</td>
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<td>6-9 p.m.</td>
<td>REAL ESTATE WORKOUTS: RESTRUCTURING THE PROBLEM LOAN</td>
<td>3 credits*</td>
<td>9-12 p.m.</td>
<td>ABCS OF FINANCIAL STATEMENTS</td>
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<td>6-8 p.m.</td>
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<tr>
<td>6-9 p.m.</td>
<td>VIDEO REPLAY: CURRENT ETHICAL ISSUES FOR IN-HOUSE COUNSEL &amp; THOSE WHO ADVISE THEM</td>
<td>3 credits</td>
<td>6-9 p.m.</td>
<td>VIDEO REPLAY: UPDATE ON E-DISCOVERY - SIX MONTHS AFTER THE AMENDMENT OF THE FEDERAL RULES</td>
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<td>9-12 p.m.</td>
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<tr>
<td>6-8 p.m.</td>
<td>PAVED WITH GOOD INTENTIONS: WHEN A SLIP OF THE TONGUE BECOMES AN ETHICAL PROBLEM IN A CRIMINAL TRIAL</td>
<td>2 credits*</td>
<td>6-8:15 p.m.</td>
<td>COMMERCIAL MORTGAGE FINANCE MADE SIMPLE</td>
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*This program provides transitional credit for newly admitted attorneys.*
FEBRUARY 2008
CLE CALENDAR

ADR/ARBITRATION/
MEDIATION/NEGOTIATION

VIDEO REPLAY: WOMEN IN NEGOTIATION: PRACTICAL TIPS TO STRENGTHEN YOUR NEGOTIATION SKILLS (FOR YOU & YOUR CLIENTS)

20 Wednesday, 9-12 p.m.

Do you feel your negotiation skills can be improved? Are you as effective at the negotiation table or in day-to-day negotiations as you would like to be? Using interactive discussions and humor, this program, based on characteristics of effective negotiators, will introduce you to the perceived differences between men and women in communicative preferences, attitudes towards conflict, negotiating styles and ways of processing information. The program, led by highly effective negotiators and mediators, will provide you with practical tips on how to prepare for negotiation and identify the most important aspects of persuading someone else to agree. It will also expose gender specific behaviors that undermine power in negotiation and teach you to equalize perceived power imbalances. You will learn how to apply these skills to every day situations for you and your clients, as well as how to use negotiating opportunities to continually improve your skills.

Men are encouraged to attend.

Program Co-Chair:
PAMELA R. ESTERMAN
Sive, Paget & Riesel

Moderator:
HONORABLE KATHLEEN A. ROBERTS (Ret.)
JAMS

Faculty:
LOUISE E. DEMBECK
The AIMAC Center for Dispute Resolution

MYRNA FELDER
Law Offices of Raoul Lionel Felder P.C.

NANCY NELSON
Senior Fellow
International Institute for Conflict Prevention and Resolution

RUTH D. RAISFELD
Ruth D. Raisfeld, PC

HON. CAROL ROBLES-ROMAN
New York City Deputy Mayor

Video Replay (includes materials):
Member $215  Nonmember $325

CLE credit:
3.0 credits total: 1.5 skills and 1.5 professional practice. This video replay does not provide transitional credit for newly admitted attorneys.

GAIN THE EDGE!® NEGOTIATION STRATEGIES FOR LAWYERS & BUSINESS PROFESSIONALS

29 Friday, 9-5 p.m.

You negotiate every day. In fact, your ability to effectively negotiate may be the most critical skill you possess. Yet most people 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.

15 Skills You’ll Learn:

- 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 copy of Latz’s new book, Gain the Edge! Negotiating to Get What You Want (St. Martin’s Press, 2004).

Co-sponsored with: ALI-ABA

Program Instructor:
MARTIN LATZ
National negotiation expert and author of Gain the Edge! Negotiating to Get What You Want (St. Martin’s Press, 2004)

Live program (includes materials):
Member $375  Non-member $475

CLE credit:
7.5 credits total:  5.5 skills and 2.0 ethics. This program provides transitional/non-transitional credit.

ADVERTISING

VIDEO REPLAY: HOT TOPICS IN ADVERTISING & MARKETING LAW–2007

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

This annual program gives a timely update on recent developments in the law governing advertising and marketing. This year’s program will cover recent cases and legislative and regulatory developments in the areas of general advertising, direct marketing, sweepstakes and contests and intellectual property, as well as an update on regulatory enforcement priorities.

Program Chair:
JEFFREY A. GREENBAUM
Frankfurt Kurnit Klein & Selz, PC

Faculty:
THOMAS A. COHN
 Senior Assistant Regional Director
Federal Trade Commission
Northeast Region
EDWARD M. KABAK  
Chief Legal Executive  
Promotion Marketing Association, Inc.

MARK LERNER  
Satterlee Stephens Burke & Burke LLP

JOSEPH LEWCZAK  
Davis & Gilbert

MARLA TEPPER  
General Counsel  
New York City Department of Consumer Affairs

Video Replay (includes materials):  
Member $205  Nonmember $315

CLE credit:  
4.0 credits in professional practice. This video replay does not provide transitional credit for newly admitted attorneys.

BANKRUPTCY

BANKRUPTCY LAW:  
2008 UPDATE

12 Tuesday, 6-8 p.m.

The last year has seen a variety of published decisions issued in key commercial jurisdictions that are likely to be of great significance to distressed entities, their lenders, purchasers, trade creditors, lessors, and their respective financial and legal professionals. A panel of experienced bankruptcy and corporate restructuring practitioners will discuss and debate these decisions and their potential impact in future cases. The panel will also discuss recent trends in commercial bankruptcy, as well as proposed new Bankruptcy Code amendments that have been working their way through Congress in recent months. The program is designed for bankruptcy lawyers and other professionals involved in cases under chapter 11 of the Bankruptcy Code, as well as litigators, in-house counsel, and anyone whose practice frequently intersects with business bankruptcy and financial restructuring.

While the program may be modified to incorporate the most current developments to the date of presentation, it is currently anticipated that the program will cover most or all of the following topics: Recent trends in bankruptcy asset sales; Uses of rights offerings in chapter 11 plans; Post-effective date control; committee and reigning in exceptions based on materiality: In re Fleming; and legislative highlights.

Program Chair:  
STEVEN WILAMOWSKY  
Bingham McCutchen LLP

Faculty:  
BENJAMIN S. KAMINETZKY  
Davis Polk & Wardwell

ROBERT J. STARK  
Brown Rudnick Berlack Israels LLP

RACHEL C. STRICKLAND  
Willkie Farr & Gallagher LLP

Live Program (includes materials):  
Member $215  Non-member $325

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

CORPORATE & SECURITIES

ACTIVIST INVESTING:  
TECHNIQUES, ISSUES & LEGAL CONSIDERATIONS

5 Tuesday, 6-9 p.m.

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 two 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. This panel will also review various legal and other considerations activist investors should be cognizant of, including Schedule 13D issues and proxy solicitation mechanics. The second panel will discuss the strategies and defensive mechanisms used by public corporations to facilitate their interaction with such investors. This panel will also review the role of the independent proxy advisor.

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

Faculty:  
WILLIAM ANDERSEN  
Managing Director  
Goldman Sachs & Co

TIMOTHY BROG  
Portfolio Manager  
Locksmith Capital Management LLC

DANIEL H. BURCH  
Chairman and Chief Executive Officer  
MacKenzie Partners, Inc.

RICHARD DE ROSE  
Managing Director  
Houlihan Lokey Howard & Zukin

ROY KATZOVICZ  
General Counsel  
Pershing Square Capital Management, L.P.

TREVOR NORWITZ  
Wachtell, Lipton, Rosen & Katz

BRIAN SCHORR  
Chief Legal Officer  
Trian Fund Management, L. P.

PAUL T. SCHNELL  
Managing Director  
Skadden, Arps, Slate, Meagher & Flom LLP

WARREN DE WIED  
Marketing Director  
Merrill Lynch & Co., Inc.

CHRISTOPHER L. YOUNG  
Vice President, Director of M&A Research  
RiskMetrics Group

FINANCIAL RESEARCH AND ANALYSIS

Chief Legal Officer  
Barington Capital Group, L.P.

Managing Director  
Houlihan Lokey Howard & Zukin

Chairman and Chief Executive Officer  
MacKenzie Partners, Inc.

Managing Director  
Trian Fund Management, L. P.

Managing Director  
Skadden, Arps, Slate, Meagher & Flom LLP

Managing Director  
Merrill Lynch & Co., Inc.

Managing Director  
Promotion Marketing Association, Inc.

Member $255  Non member $365

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

Live Program (Includes materials):  
Member $255  Non member $365

VIDEO REPLAY: INTRODUCTION TO FUTURES & DERIVATIVES PRACTICE & REGULATION

15 Friday, 9-1 p.m.

This program will provide an introduction to the regulation, trading and documentation of exchange-traded futures contracts and over-the-counter (OTC) financial derivatives. It will examine the key federal statutes affecting the futures and OTC derivatives industries, namely, the Commodity Exchange Act, the Securities Act of 1933 and the Securities Act of 1934.
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*Source: International Legal Technology Association, 2006 Technology Survey

CRIMINAL LAW

VIDEO REPLAY: IDENTITY THEFT: UNDERSTANDING THE NEW LAWS & WAYS TO PROTECT YOUR CLIENTS & YOURSELF FROM BECOMING A VICTIM

6 Wednesday, 6-8 p.m.

Identity theft is one of the most prevalent crimes perpetrated today. As a result, over the past few years, New York State and the federal government have passed laws criminalizing identity theft and providing for enhanced penalties for these types of crimes. Further, New York State has also passed a Data Security Notification Law that went into effect in December 2005. This new law requires companies to notify the Attorney General and affected individuals of any security breach involving the release of personal identifying information (such as social security numbers) that could potentially expose those individuals to identity theft.

In addition to providing a useful overview of recent legislation, the panel will also discuss the means by which private information is obtained by the criminal element; how crim-
nals use this information to their pecuniary advantage; how companies and individuals can protect themselves from becoming victims; and potential criminal and civil exposure faced by companies who experience a lapse in security that leads to identity theft.

Program Co-Chairs:
KATYA T. PRICE JESTIN
Deputy Chief
Organized Crime and Racketeering Section
U.S. Attorney's Office, E.D.N.Y.

JESSICA R. LYNN
Assistant District Attorney
New York County District Attorney's Office

Faculty:
ERIC M. FRIEDBERG
Partner & General Counsel
Stroz Friedberg, LLC

AARON S. KARCZMER
Unit Chief
Identity Theft Unit
New York County District Attorney's Office

ERIC ROSS KOMITEE
Deputy Chief of the Business and Securities Fraud Section
U.S. Attorney's Office, E.D.N.Y.

ANTONIA M. MERZON
Unit Chief
Identity Theft Unit
New York County District Attorney's Office

Video Replay (includes materials):
Member $195  Non-member $305

CLE credit:
2.0 credits in professional practice. This video replay does not provide transitional credit for newly admitted attorneys.

ETHICS

LEGAL ETHICS IN POPULAR CULTURE

13 Wednesday, 6-9 p.m.

American popular culture - movies, books, television, theater - loves lawyers, who it often presents as true heroes. But it also hates lawyers, who it sometimes presents as scoundrels. Usually, it does both in the same story. But love or hate, the popular culture often succeeds in portraying difficult legal ethics and professional issues that can inspire discussion far better than typically dry classroom hypotheticals. Make no mistake: This is not Perry Mason, "L.A. Law" and "The Practice" have buried him forever. Au revoir, Perry. Today, the popular culture has figured out how to dramatize the gap between what may (or may not) be professionally right and what is (or is not) morally right and to do so with subtlety and nuance. This CLE will use clips from television and film to highlight current legal ethics issues, then follow each one with discussion of the issue and its resolution under current rules.

Program Instructor:
PROFESSOR STEPHEN GILLERS
Emily Kempin Professor of Law
New York University School of Law

Live Program (includes materials):
Member $265  Non-Member $375

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

PAVED WITH GOOD INTENTIONS: WHEN A SLIP OF THE TONGUE BECOMES AN ETHICAL PROBLEM IN A CRIMINAL TRIAL

25 Monday, 6-8 p.m.

Your client tells you a new version of what happened, just as he is about to go on the stand; an impassioned summation from a prosecutor is coming close to becoming improper; diligent witness preparation jeopardizes both a case and a career with just a few ill-chosen words. Nightmares of the criminal trial lawyer, these hazards can damage a career and a case despite the best intentions of the practitioner.

Join this panel of expert criminal trial and ethics practitioners as they explore these three pitfalls waiting to trap criminal practitioners: client testimony, closing arguments, and the most essential part of trial preparation, interviewing and preparing witnesses. Minefields waiting to trap criminal practitioners, these areas are doubly hazardous in that trouble can occur even when the practitioner is acting with the best of intentions and in completely good faith. As these problems can arise with little or no notice, it is essential that the trial practitioner be aware of these issues. This panel will explore how to avoid these problems and how disciplinary committees handle them when they happen.

Program Chair:
RICHARD P. LAWSON
Assistant District Attorney
Bronx County District Attorney's Office

Faculty:
ANTHONY GIRESE
Counsel to District Attorney
Bronx County District Attorney's Office

HON. BARBARA S. JONES
United States District Judge
Southern District of New York

SARAH DIANE MCSHEA
Law Offices of Sarah Diane McShea

IRWIN SHAW
Attorney in Charge
Criminal Defense Practice
The Legal Aid Society, New York County

Live Program (includes materials):
Member $215  Non-member $325

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

VIDEO REPLAY: CURRENT ETHICAL ISSUES FOR IN-HOUSE COUNSEL & THOSE WHO ADVISE THEM

19 Tuesday, 6-9pm

This ethics program is designed especially for in-house counsel and outside counsel advising their in-house clients. Using a stimulating hypothetical based on real-life experience, a panel of experts will review a variety of important professional responsibility issues that affect corporate counsel on a daily basis. Topics to be discussed include:

- Understanding the "Corporate Miranda" warnings
- Special problems representing employees in internal investigations
- Corporate obligations toward employees during internal investigations
- Risks of waiver of the attorney-client privilege
- Gathering information, and new developments in the "no-contact" rule

Faculty:
ROBERT J. ANELLO
Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, P.C.
SUSAN BROTMAN
Law Offices of Susan Brotman

RONALD MINKOFF
Frankfurt Kurnit Klein & Selz PC

MARYANN WONG
Office of General Counsel
Merrill Lynch & Co., Inc.

Video Replay (includes materials):
Member $235  Nonmember $345

CLE credit:
3.0 credits in ethics. This video replay does not provide transitional credit for newly admitted attorneys.

LABOR & EMPLOYMENT LAW

OFF-DUTY INTERNET USE: PROTECTIONS & RESTRICTIONS

28 Thursday, 6-9 p.m.

There is nothing new about employees engaging in off-duty communications that their employers would perceive to be harmful. The internet has increased the potential stakes of such conduct, however. Employees’ statements about their employers’ business practices, for example, can now be shared with thousands or more outsiders thanks to emails, blogs, listserves, and the like.

If this conduct occurs in the office, during work hours, and/or through an employer’s electronic-communications device, the employer’s response options are relatively unfettered. But how, if at all, do these options differ in response to communications made off-duty from an employee’s own electronic-communications device? What are employers and employees doing, and what can and should they be doing, regarding such conduct? And how do the answers change for government and unionized employers and employees? Please join us for a lively and interactive panel exploration of these issues.

Program Chair:
LOREN GESINSKY
Gibbons, P.C.

Faculty
JOHN HOUSTON POPE
Epstein Becker Green, P.C.

WILLIAM K. WOLF
Friedman & Wolf

HON. ALESSANDRA F. ZORGNIOTTI
Administrative Law Judge
NYC Office of Administrative Trials and Hearings

Live program (includes materials):
Member $215  Nonmember $325

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

LITIGATION

**LITIGATION SKILLS WORKSHOP: TAKING & DEFENDING DEPOSITIONS

7 Thursday, 9-5:30 p.m. & 8 Friday, 9-4 p.m.

Although the deposition stage of litigation is critical in winning the case, few lawyers receive hands-on training in taking or defending these witness examinations. By working in small interactive workshops, this two-day skills program will allow you to pre-

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pare witnesses as well as take and defend depositions. Our faculty of experienced trial attorneys will observe and critique your performance and provide you with practice tips and strategies for enhancing your advocacy skills in this area. The faculty will also demonstrate deposition techniques.

**Special Bonus:** All participants will receive a copy of Henry Hecht’s, *Effective Depositions*, published by the ABA.

**Instructor:**

**HENRY L. HECHT**
Professor, University of California at Berkeley School of Law (Boalt Hall), and Principal, The Hecht Training Group

**CLE Credit (both days):**
- 14.0 credit hours total: 13.0 skills and 1.0 ethics.
- **CLE Credit for February 7:**
  - 8.0 credits total: 7.5 skills and 0.5 ethics.
- **CLE Credit for February 8:**
  - 6.0 credits total: 5.5 skills and 0.5 ethics.

This program provides transitional/non-transitional credit.

**Live Program (includes book & materials):**
- Member $1,395  Non-member $1,595
- **Video Replay (includes materials):**
  - Member $205  Non-member $315

**This program is exempt from the Passport series.**

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**VIDEO REPLAY: UPDATE ON E-DISCOVERY – SIX MONTHS AFTER THE AMENDMENT OF THE FEDERAL RULES**

**21 Thursday, 6-9 p.m.**

The December 1, 2006 amendments to the Federal Rules of Civil Procedure are expected to significantly impact discovery practice. Attend this program and learn about the case law that developed and the issues that arose in the six months following the implementation of the amendments. Discover techniques to satisfy the obligations of parties and non-parties under the Rules without incurring extraordinary costs where possible.

The panel will be comprised of leading litigators and a federal magistrate judge and will address topics such as the types and sources of electronically stored information (“ESI”), and the issue of what constitutes accessible versus inaccessible ESI, and practical implications of the amended Rules in connection with scheduling orders and conferences. The panel will also discuss parties’ and non-parties’ rights under the amended rules as well as circumstances which have or are likely to give rise to sanctions against parties and non-parties.

This program is a must for all in-house and law firm litigators who do not want to be left behind in the electronic age since many federal judges are expected to have little patience for counsel who are uninformed about their clients’ computer retention system policies and procedures and/or their clients’ obligations under the amended Rules.

**Program Chair:**

**RICHARD B. FRIEDMAN**
Dreier LLP

**Faculty:**

**CHARLES COHEN**
Hughes Hubbard & Reed LLP

**HON. JAMES C. FRANCIS IV**
United States Magistrate Judge
Southern District of New York

**CHRISTOPHER KOA**
Legal Consultant, Legal Technologies
Kroll, Inc. (a Marsh & McLennan company)

**THOMAS LAHIFF, JR.**
Assistant General Counsel
Corporate Litigation
Citigroup Inc.

**DEBORAH E. LANS**
Cohen Lans, LLP

**SCOTT UNIVER**
General Counsel
BDO Seidman, LLP

**Video Replay (includes materials):**
- Member $205  Non-member $315

**CLE credit:**
- 3.0 credits total. This video replay does not provide transitional credit for newly admitted attorneys.

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**REAL ESTATE LITIGATION: LITIGATING THE COMMERCIAL LANDLORD-TENANT CASE**

**13 Wednesday, 6-9 p.m.**

This program will present an exceptional opportunity to learn from an elite group of experienced practitioners and judges who will examine various issues arising out of commercial landlord-tenant litigation and its impact on the drafting of commercial leases. The lecture will commence with the basics of litigating commercial landlord-tenant cases with an emphasis on how to prepare for and present an effective case. Common defenses and strategies shall also be outlined, as well as the body of case law most cited by practitioners and judges. In addition, common issues facing both landlord and tenant lawyers shall be discussed including issues raised by the latest decisions from appellate tribunals. Finally, common drafting problems and traps that frequently lead to litigation will also be addressed as well as some “secrets” on how the transactional attorney can better draft leases to avoid litigation.

**Program Chair:**

**RICHARD A. NARDI**
Loeb & Loeb LLP

**Faculty:**

**JOSEPH PHILIP FORTE**
Alston & Bird LLP

**WILLIAM GARDNER**
Loeb & Loeb LLP

**ROBERT WOLF**
Bryan Cave LLP

**Live Program (includes materials):**
- Member $215  Non-member $325

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

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**REAL ESTATE WORKOUTS: RESTRUCTURING THE PROBLEM LOAN**

**11 Monday, 6-9 p.m.**

With real estate markets in flux, now is the time to learn about real estate loan “workouts” — the process of restructuring problem real estate loans. Expert panelists will provide an overview of the bankruptcy process and will discuss when restructuring loan obligations is a viable option and how to restructure loans for borrowers in financial difficulty. Among other things, the panelists will cover the lender’s due diligence, negotiations, stand-still agreements, forbearance agreements, guaranties, and consensual foreclosures. This program will also cover New York’s new non-judicial foreclosure statute affecting commercial real estate loans.

**Program Chair:**

**RICHARD A. NARDI**
Loeb & Loeb LLP

**Faculty:**

**JOSEPH PHILIP FORTE**
Alston & Bird LLP

**WILLIAM GARDNER**
Loeb & Loeb LLP

**ROBERT WOLF**
Bryan Cave LLP

**Video Replay:**
- Member $205  Non-member $315

**CLE credit:**
- 3.0 credits total: 2.5 professional practice and 0.5 skills. This program provides transitional/non-transitional credit.
commercial leasing attorneys will learn how to draft better leases to decrease the threat of a tenant using the court system to buy time, to strangle a property owner’s ability to collect rent and to avoid drafting language that is either ineffective or unenforceable.

Moderator:
ADAM LEITMAN BAILEY
Adam Leitman Bailey, P.C.

Faculty:
DAVID ADAM KAMINSKY
David A. Kaminsky & Associates, P.C.

HON. CYNTHIA S. KERN
Civil Court of the City of New York
New York County

DAVID ROZENHOLC
Rozenholc & Associates

HON. MARTIN M. SHULMAN
Supreme Court Justice
State of New York

STEVEN B. SPERBER
Sperber Denenberg & Kahan, P.C.

Live Program (includes materials):
Member $215  Non-member $335

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

TAX & ACCOUNTING

ABCs OF FINANCIAL STATEMENTS

14 Thursday, 9-12 p.m.

No matter what an attorney’s area of practice, the ability to read and understand basic financial information adds value to delivering high-quality services to one’s clients. Yet, accounting information and documents often seem like another language.

ABCs of Financial Statements is a course for all lawyers who need and want to gain a clearer understanding of accounting and financial statements. The course offers clear, simple and comprehensible vocabulary, giving the practicing lawyer the skills to read and interpret accounting and financial statements as they may apply to diverse professional matters. Lawyers at all levels of practice will gain and deepen practical understanding of this critical information.

Program Chair:
SHARI HELAINE LICHTMAN
Attorney & CPA
Litigation, Consulting & Professional Education

Faculty:
JOSEPH B. NELSON, CPA, CFE, FCPA, CVA
Partner – Litigation & Forensic Accounting Services
Marks Paneth & Shron, LLP

THOMAS G. REES
Director
FTI Consulting
King of Prussia, PA.

Live Program:
Member $195  Non-member $305

CLE credit:
3.0 credits total: credit breakdown to be determined. This program provides transitional/non-transitional credit. Portions of this program may qualify for CPE credit.

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.

Cancellations & Refunds

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

A $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, faxed to the City Bar Center, (212) 869-4451.

Refunds and program credits are not available for the purchase of tapes, CDs, DVDs, course materials or online programs. Scholarships are available. Please call (212) 382-6663 for an application.

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.

CLE Credit Information

CLE credit applies to New York and California (for live programs only). Illinois credit differs and ethics credits are pending.
An Update from the Nation’s Capitol: How Washington Affects your Portfolio

Please join us for a discussion on the latest updates from Washington focusing on politics and public policy from an investor’s perspective.

**Topics of discussion**
- Public policy and political impacts on client portfolios
- Influence of Capital Hill policy agenda on investments
- Developments of future trends for policy and effect on coming elections

**Date and time**
Tuesday, March 4, 6:00 p.m.

**Location**
NYC Bar Headquarters
42 West 44th Street, New York, NY 10036

**Hosts**
- Jason M. Katz
  - Senior Vice President–Investments
  - Private Wealth Advisor
  - Advisory & Brokerage Services
- Mark Lewis
  - Account Vice President

**Speaker**
John Savercool
- Managing Director
- Senior Lobbyist

**RSVP**
Mark Lewis
1285 Avenue of the Americas, 16th Floor, New York, NY 10019
212-713-7846   800-516-5624
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## FEBRUARY 2008 CLE REGISTRATION FORM

<table>
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<tr>
<th>Course Title</th>
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<th>Nonmember</th>
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<td><strong>ACTIVIST INVESTING: TECHNIQUES, ISSUES &amp; LEGAL CONSIDERATIONS</strong>&lt;br&gt;February 5</td>
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<td>Materials:</td>
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| **VIDEO REPLAY: IDENTITY THEFT: UNDERSTANDING THE NEW LAWS &WAYS TO PROTECT YOUR CLIENTS & YOURSELF FROM BECOMING A VICTIM**<br>February 6 |            |        |           |
| Video Replay (includes materials):                                          | $195       | $305   |           |
| CDs (includes materials):                                                   | $335       | $405   |           |
| Videotapes (includes materials):                                           | $405       | $475   |           |
| DVDs (includes materials):                                                  | $445       | $535   |           |
| Materials: (no CLE credit):                                                | $105       | $135   |           |

| **LITIGATION SKILLS WORKSHOP: TAKING & DEFENDING DEPOSITIONS**<br>February 7 & 8 |            |        |           |
| Live Program (includes book & materials):                                  | $1395      | $1595  |           |

**This program is exempt from the Passport series.**

| **REAL ESTATE WORKOUTS: RESTRUCTURING THE PROBLEM LOAN**<br>February 11 |            |        |           |
| Live Program (includes materials):                                        | $215       | $235   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| Videotapes (includes materials):                                         | $405       | $475   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials only: (no CLE Credit):                                         | $105       | $135   |           |

| **BANKRUPTCY LAW: 2008 UPDATES**<br>February 12 |            |        |           |
| Live Program (includes materials):                                        | $215       | $235   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| Videotapes (includes materials):                                         | $405       | $475   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials (no CLE credit):                                               | $105       | $135   |           |

| **LEGAL ETHICS IN POPULAR CULTURE**<br>February 13 |            |        |           |
| Live Program (includes materials):                                        | $265       | $375   |           |

| **REAL ESTATE LITIGATION: LITIGATING THE COMMERCIAL LANDLORD-TENANT CASE**<br>February 13 |            |        |           |
| Live Program (includes materials):                                        | $215       | $335   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| Videotapes (includes materials):                                         | $405       | $475   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials only: (no CLE Credit):                                         | $105       | $135   |           |

| **ABCs OF FINANCIAL STATEMENTS**<br>February 14 |            |        |           |
| Video Replay (includes materials):                                        | $195       | $305   |           |
| Videotapes (includes materials):                                         | $405       | $475   |           |

| **VIDEO REPLAY: HOT TOPICS IN ADVERTISING & MARKETING LAW – 2007**<br>February 22 |            |        |           |
| Video Replay (includes materials):                                        | $205       | $315   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials only: (no CLE Credit):                                         | $105       | $135   |           |

| **PAVED WITH GOOD INTENTIONS: WHEN A SLIP OF THE TONGUE BECOMES AN ETHICAL PROBLEM IN A CRIMINAL TRIAL**<br>February 25 |            |        |           |
| Live Program (includes materials):                                        | $215       | $325   |           |
| CDs (includes materials):                                                 | $365       | $435   |           |
| Videotapes (includes materials):                                         | $435       | $505   |           |
| DVDs (includes materials):                                                | $475       | $565   |           |
| Materials only: (no CLE Credit):                                         | $105       | $135   |           |

| **COMMERCIAL MORTGAGE FINANCE MADE SIMPLE**<br>February 27 |            |        |           |
| Live Program (includes materials):                                        | $215       | $325   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials (no CLE credit):                                               | $105       | $135   |           |

| **OFF-DUTY INTERNET USE: PROTECTIONS & RESTRICTIONS**<br>February 28 |            |        |           |
| Live Program (includes materials):                                        | $215       | $325   |           |
| CDs (includes materials):                                                 | $335       | $405   |           |
| DVDs (includes materials):                                                | $445       | $535   |           |
| Materials (no CLE Credit):                                               | $105       | $135   |           |

| **GAIN THE EDGE® NEGOTIATION STRATEGIES FOR LAWYERS & BUSINESS PROFESSIONALS**<br>February 29 |            |        |           |
| Live program: (includes materials)                                        | $375       | $475   |           |

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

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Returning to work after taking a significant amount of time off can be a scary and daunting process. Whether you took time off to raise a family, care for a loved one or pursue another interest, it can be difficult knowing how best to explain your absence from the work force to potential employers and capitalize on your assets. At the City Bar program, *What to do if Mom (or Dad) is on Your Resume*, Deborah Epstein Henry, founder and president of Flex-Time Lawyers LLC, tried to ease participants’ anxiety and address these issues.

Forty-two percent of women lawyers, says Henry, leave the profession, independent of maternity leave, for an average of three years. This is a huge talent pool from which law firms can pull, but employers have no idea how to find them. So it is largely up to you, says Henry, to reach out to employers.

It is hard for re-entering attorneys to learn how to network and communicate with confidence to everyone they know that they are ready to re-enter the work force. Women especially, Henry notes, often have difficulty expanding a personal relationship into a professional one. Learning how to do this, however, is key to maximizing opportunities for potential employment. To help ease this awkwardness, Henry suggested re-entering attorneys practice a five sentence pitch that goes like this:

My name is ______.
I used to be ______.
For the past ______ years I have been doing ______.

I am now interested in pursuing ______ or ______.
If you know anyone doing ______ and can make an introduction that would be great.

Although you have made friends and acquaintances during your time away from the work force you have no idea how many people don’t really know who the professional you is, says Henry, and how effective a pitch like this can be. Neighbors have friends and cousins, acquaintances have sisters and colleagues. It is staggering the number of people you can reach if you try, says Henry. Make sure not to make apologies for being home, advises Henry; it is part of your background now. Keep your pitch short and general. You don’t want to limit your options unless you really have specific needs that you are not willing to be flexible about.

Another effective way to get the word out that you are ready to re-enter is to put this same pitch in an email, says Henry. Send it to your personal network, former colleagues and law school and college alumni networks.

Remember to think about not just what you want but what employers are looking for. Look at your resume, says Henry, and see if there is any unaccounted-for time. If so, explain the gaps on your resume and account for all your time away either in the resume or cover letter. Employers want to know where you have been and what you have been doing. List any volunteer experience and highlight the transferable skills you have gained. Many skills, for example, management skills, are transferable from one practice area to another and from working inside to outside the home.

Employers, Henry notes, often disregard resumes and job inquiries from re-entering attorneys because they don’t know what to do with them. So try to do the work for your potential employer; let the employer know where you think you would fit in. Henry advises stating up front that you were out of the practice of law for so many years and would like to join the firm as for example a fifth year associate or as a midlevel associate. Also convey why it is in their financial best interest to hire you. Offer to eliminate the firm’s risk by suggesting it hire you on a temporary basis for, say, three months and if things work out then permanently.

Finally, notes Henry, remember not just to prepare your pitch and resume but to prepare yourself personally. Invest in support if you have young children at home so you have the time and flexibility to go on interviews. Consider interning and volunteering if you have not done so already, to determine how motivated you are to rejoin the work force. If you feel rusty take classes and go to trainings, whether in substantive areas of the law or in technology. Be prepared for reactions from family and friends; it may take time for them to get used to the new professional you.

Restarting your career is possible, says Henry. If you realize that you may have to pay your dues for a while or readjust your expectations and sell yourself creatively and with confidence you will be able to maximize your success and rejoin the legal profession.