THE BALANCE OF POWER AND THE RULE OF LAW

By Bettina B. Plevan, President

The Association has continued its active involvement in efforts to ensure that the interests of national security and civil liberties are approached in a balanced way in the country’s response to terrorism. We have been active both in the courts and in Congress in working to counter-balance what our committees believe have been policies that facilitate the use of torture in interrogating detainees and that deny people who are being indefinitely detained the right to contest their detention. From the outset, we have asserted that national security is of crucial importance, but we must not lose our basic respect for the rule of law.

December was a particularly busy month on this front, and I want to report to you on what we did.

In Congress, we supported an amendment proposed by Senator John McCain to the Defense Appropriations bill that is designed to bar the United States from subjecting detainees to torture or cruel, inhuman or degrading treatment. Detainees held by the U.S. government in Iraq and Afghanistan and other cites around the world have been subject to torture and abuse. We believe the McCain amendment simply implements existing U.S. law and treaty obligations. In negotiating this amendment, the Bush Administration sought to exempt the CIA from this ban. It has been widely reported that the CIA operates secret detention facilities around the world, and there have been numerous allegations that prisoners are abused in these facilities, with some charges having been brought. The Bush Administration has argued that U.S. law only bans the cruel, inhuman and degrading treatment of detainees held on U.S. soil. We and others have vociferously disagreed with that interpretation, and the McCain amendment unequivocally applies to all situations where the United States is holding detainees.

The McCain amendment was passed, but at a price. It was coupled with an amendment originated by Senator Lindsey Graham that would deprive detainees at the Guantanamo Naval Base of the right to bring habeas petitions in the federal courts. This has been their right to bring habeas petitions in the federal courts. This has been their right to contest their detainment. From the outset, we have asserted that national security is of crucial importance, but we must not lose our basic respect for the rule of law.

Under the Graham amendment, detainees would have only a limited procedural challenge that is essentially without effect, and could appeal verdicts in Military Commission trials where the sentence handed down would exceed 10 years. (Only 10 out of roughly 600 detainees have been charged before Military Commissions, and the United States has not expressed an intention to seek trials for all the detainees.) The appeals would go to the U.S. Court of Appeals in Washington, but Senator Graham’s amendment failed to provide guidance on the scope of issues that the detainees would be permitted to raise. There is even an open question as to whether the amendment would terminate all existing habeas petitions.

Finally, and most alarmingly, the Graham amendment appears to have opened the door to the use of evidence obtained through the use of highly coercive techniques, at least in the status review tribunals. This “torture by the backdoor” could seriously undercut the unequivocal prohibition on torture and abusive interrogation techniques in the McCain amendment.

While Congress was debating these amendments, litigation was proceeding in two key detainee cases, and the Association is involved in both. In Hamdan v. Rumsfeld, a detainee who has been charged before a Military Commission is contesting the legality of the Commission. The Military Commissions were established by Executive Order in November, 2001, and provide a mechanism for trying non-citizen “enemy combatants.” In December, 2001, the City Bar issued perhaps the first analysis of the Commission’s procedures, and found them fundamentally deficient. Though the procedures have since been improved, they still do not provide adequate due process, and have no meaningful judicial review.

The Association has filed briefs in the Hamdan case in both the D.C. Circuit and the Supreme Court, focusing on one aspect of the case: the failure of the procedures to comply with Common Article 3 of the Geneva Conventions. This Article serves as the fail-
COMMITTEE REPORTS

Civil Rights
Letter to Congress supporting the holding of broad over- sight hearings in the Senate to review the current state of the Civil Rights Division of the Department of Justice. The letter expresses deep concern regarding recent press reports of the growing politicization of the Civil Rights Division and what appears to be an increasing disregard for the views of the career employees of the Division, as well as the Justice Department’s recent decision to abandon well-established procedures in order to stifle the role of the staff attorneys and filter out legal advice that the political appointees do not want to hear.

Civil Rights
Criminal Law
Federal Courts
International Human Rights
Military Affairs and Justice
Amicus Brief: Padilla v. Hanft. Filed in the Fourth Circuit Court of Appeals. The brief argues that the court should not vacate or moot its earlier decision in the case, regarding whether the U.S. may detain Padilla as an enemy combatant even though the government has sought to transfer Padilla to the criminal justice system.

Amicus Brief: Padilla v. Hanft. Filed in the U.S. Supreme Court. The brief argues that the Supreme Court should resolve the question of whether the president may indefinitely detain, without due process, a U.S. citizen taken into custody in the United States, far from the battlefield, and designated an enemy combatant.

Criminal Justice Operations and Budget
Letter to John Feinblatt, the city’s criminal justice coordinator, noting that state law requires the city to provide counsel to defendants who handle these cases.

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ETHICS OPINIONS

Criminal Justice Operations and Budget
Criminal Law
Mental Health Law
Sex and Law

Report commenting on the New York State Assembly’s Child Safety and Sexual Predator Punishment and Confinement Strategy, which calls for extended civil commitment of offenders who suffer from a mental illness that results in a significant likelihood that they will commit a serious sex offense. The report, while supporting the Assembly’s goal of safeguarding New York’s communities from dangerous sex offenders, offers specific suggestions as to what should be incorporated into a sex offender civil commitment bill. The report urges among other things that the goal of any civil commitment bill should be to avoid civil commitment if possible, that civil commitment should be limited to repeat offenders only and that counsel must be provided to an offender under consideration for civil commitment before the probable cause phase of the process.

Drugs and the Law
Letter to Congress urging support of HR 4213, the Elimination of Barriers for Katrina Act, which would allow all victims of Hurricane Katrina or Hurricane Rita, even those who have a prior drug conviction, to obtain important federal benefits by temporarily suspending the drug offender exclusions contained in certain federal statutes. This temporary suspension would only affect victims of these two hurricanes and would only be in effect for three years.

Patents
Amicus Brief, Laboratory Corp. of America Holdings v. Metabolite Laboratories, Inc. Filed in the U.S. Court of Appeals, Federal Circuit, the brief argues the standard for determining whether a patent claim covers patentable subject matter as enunciated in Diehr should be reaffirmed. Diehr held that although it is well established that laws of nature, natural phenomena and abstract ideas remain in the public domain and cannot be the subject of a patent, the mere fact that a patent claim recites a law of nature does not necessarily render the claim unpatentable.

The most recent opinions by the Committee on Professional and Judicial Ethics provide guidance in three areas of the law — communications, concurrent-client conflicts and retired lawyers’ use of professional letterhead.

Formal Opinion 2005-04 addresses communication between non-lawyer representatives of an insurer and opposing counsel. Where an insurance company is a party to litigation, the Committee finds that an opposing party’s counsel may not communicate with an insurance adjuster in the absence of prior consent from the insurance company’s lawyer.

Formal Opinion 2005-05 addresses unforeseeable concurrent-client conflicts. A lawyer is not invariably required to withdraw from representing the client when, for example, such a conflict arises through no fault of the lawyer, does not involve the exposure of material confidential information, and cannot be resolved by the consent of the clients. The opinion addresses a number of factors the lawyer should consider, and notes that the overarching factor should be: which client will suffer the most prejudice as a consequence of the withdrawal.

The lawyer should also consider the origins of the conflict, including the extent of opportunistic maneuvering by one of the clients, and the effect of withdrawal on the lawyer’s vigor of representation for the remaining client.

Formal Opinion 2005-06 addresses retired attorneys’ use of professional letterhead. Lawyers who are retired from the practice of law (a) May use professional letterhead; (b) May (but are not required to) disclose on that letterhead that they are retired; and (c) Are not obligated to specially disclose to clients or prospective clients that they: (i) May not charge a fee, or (ii) Are exempt from the CLE requirements that are mandatory for all other New York lawyers.

The full text of these opinions and all City Bar formal opinions from 1986 to the present are available on the Association’s Web site, www.nycbar.org (click on Lawyer/Law Student Services, and then on Legal Ethics). You can also obtain copies of formal opinions by writing to the Executive Director’s Office, New York City Bar Association, 42 West 44th Street, New York, NY 10036, or telephone (212) 382-6624.

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Nominees Named

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Positions & Policies

ASSOCIATION OPPOSES CITY COUNCIL CO-OP BILL

Although much attention goes to the New York City Bar Association's influence on the state level, it is additionally active in lobbying the New York City Council on issues that are a little closer to home for most members.

In a letter written by the Committee on Cooperative and Condominium Law, the Association expressed its opposition to New York City Council Intro. 504. This bill would require apartment cooperative boards to provide, in writing, their specific reasons for every apartment sale they block. The sponsors of the legislation believe that this bill is necessary because the current system provides a means to cover up refusals that are discriminatory. However, while the Association supports the intent of the legislation, it believes that it would fail to achieve its goal of reducing discrimination, and instead would create an undue burden for the co-op boards.

Discrimination. The Association believes that a co-op board that is already willing to break the law and illegally discriminate is also willing to lie to their potential buyer. Requiring the lie to be written and expressed is not a true deterrent. The proposed law does not allow the courts to assess the veracity of a rejection statement, nor does it issue any penalty based on the content of the letter itself. Instead, it merely requires the letter to be written on time, and that the board does not later contradict the letter.

There are numerous other flaws in the legislation that have led the Association to issue its opposition:

Loss of Privacy for Uncomfortable Decisions. According to the letter, Int. 504 will inhibit the ability of co-op boards to provide a true, fair, and honest review of potential buyers. Privacy is required when making the uncomfortable decision of which homebuyer to accept or reject. Forcing co-ops to provide detailed explanations of why one's finances or character is lacking benefits no one. Simple approval or disapproval spares the applicant's feelings and prevents a potentially ugly confrontation. Furthermore, the law would require boards to source any negative information they receive, meaning that applicants will know who has given them sub-par references. Since this likely would prevent many from providing an honest review, it effectively nullifies the value of references in the application process, one of the boards' more powerful tools.

Harsh Penalties. Under Intro 504, the first failure to issue a statement would cost a co-op board between $1,000 and $15,000, and by the third incident, the fines would climb to as much as $25,000. These penalties are too severe and are not covered by any insurance the board would have purchased. Furthermore, the individual members of the boards could be found personally liable for these fines, a powerful disincentive to a reasonable person who would otherwise serve.

Increased Disputes and Litigation. Int. 504 opens several avenues to the courts for prospective buyers and their brokers, inviting frivolous lawsuits. With the potential for court action behind every decision, the co-op boards will be further discouraged from making real decisions for their buildings, and will instead be forced into approving applicants. Because the Association believes this legislation will not ameliorate housing discrimination, and instead would merely confuse and burden the process, we have urged the City Council not to enact this legislation.

THE BALANCE OF POWER AND THE RULE OF LAW CONTINUED FROM PAGE 1

safe protector of rights for persons involved in conflicts covered by the Conventions. While not as extensive as protections given prisoners of war, Common Article 3 sets forth basic needs that must be met, and due process protections that must be afforded should the detaining authority seek to impose sentence on the detainees.

Our brief argues that Hamdan and other similarly situated detainees are covered by Common Article 3, that the Military Commission process does not provide the basic due process that Article 3 requires, and that the Treaties are enforceable by individuals. The case is now pending before the Supreme Court, though we are not clear whether the case survives the Graham amendment. Our thanks to Akin Gump Strauss Hauer & Feld LLP for its efforts in representing the City Bar in this matter.

We also filed amicus briefs in Padilla v. Hanft, both in the Fourth Circuit and the Supreme Court. You may recall that Padilla was the U.S. citizen who was picked up in a Chicago airport, detained and eventually labeled an enemy combatant. The government first claimed he was planning to detonate a "dirty" nuclear device, then asserted he intended to set explosions in apartment buildings. He has spent more than three years in detention, and the government has fought against his hearing. Indeed, after the Fourth Circuit ruled in the government's favor and Padilla sought Supreme Court review, the government decided to try Padilla on criminal charges having nothing to do with the avowed purpose of his detention. The Fourth Circuit sharply questioned the government's motivation in making this switch, suggesting it was seeking to evade review of the Fourth Circuit decision.

The City Bar believes this case tests the administration's thesis that it can indefinitely detain anyone, anywhere, with the detainee having no rights whatsoever, simply by labeling the person an "enemy combatant" and that this action is not reviewable by the courts. Padilla was picked up and detained far from the "battlefield," without any of the exigencies that involve the immediate detentions of prisoners of war and other combatants. We have argued in this case that Padilla is entitled to basic due process rights, including the right to counsel. (Counsel was appointed for Padilla at the outset because he was first held as a material witness.) We appreciate the efforts of Willkie Farr & Gallagher LLP in representing the Association's interests in this matter.

The City Bar will continue its efforts in these and related matters. We do so out of our concern that the balance of power in our government, and respect for the rule of law, is in jeopardy. The president has not only asserted an unreviewable right to indefinitely detain, incommunicado, anyone at any time, should he deem the person an enemy combatant. He also argues that his war-making powers under Article II of the Constitution allow him to override any law or treaty in exercising those powers. As he has undertaken a "war on terrorism," with no end in sight and no limits in its location, the scope of powers he claims would be unprecedented in our nation's history. The administration's assertion that the use of interrogation techniques generally considered to involve torture, and the domestic surveillance undertaken in apparent contradiction of the Foreign Intelligence Surveillance Act, are legitimate under his war-making power, are examples of the scope of power contemplated.

While lines may be difficult to draw, we cannot agree that the nation's founders, fully aware that their young country would be facing great crises, intended – or designed the government – to be run by the Executive without the essential checks and balances that have served us so well.
6 Monday, 6:30 pm

FEERRICK RECEPTION
A presentation of the Association medal to former Association President John D. Feerick. A reception will follow.

Welcoming Remarks:
BETTINA B. PLEVAN
President, New York City Bar

Speakers:
HON. JUDITH S. KAYE
Chief Judge, New York Court of Appeals

WILLIAM P. FRANK
Skadden Arps Slate Meagher & Flom LLP

REV. JOSEPH A. O’HARE, S.J.
Former President, Fordham University

HON. LEONARD SAND
United States District Judge, Southern District of New York Chair, Committee on Honors

7 Tuesday, 7-9 pm

“TWO MEN BEFORE THE STORM: ARBA CRANE’S RECOLLECTION OF DRED SCOTT AND THE SUPREME COURT CASE THAT STARTED THE CIVIL WAR”

This historical novel by Association member Gregory Wallance explores the events that led to the U.S. Supreme Court’s decision in the Dred Scott case. The story focuses on the friendship between Arba Crane, a young Harvard Law School graduate from Vermont, who arrived in St Louis in the early 1850’s to begin his law career, and a slave named Dred Scott. Working alone late in the evenings, Crane forms a friendship with Scott, the office janitor. As Scott recounts his life as a slave, Crane realizes that Scott has a legal claim to freedom and persuades him to file a lawsuit, which reaches the U.S. Supreme Court in 1857. The Court’s catastrophic decision in Scott v. Sanford holds that slaves are property without rights and that Congress has no power to halt the spread of slavery. Four years later, the Nation is engulfed in the Civil War.

Speaker:
GREGORY J. WALLANCE
Kaye Scholer, LLP

10 Friday, 6 pm

FRIDAY EVENING CHAMBER MUSIC AT THE ASSOCIATION “AN EVENING OF RUSSIAN CHAMBER MUSIC”

This program will include works by Shostakovich, Tchaikovsky, Rachmaninoff and Arensky with Eileen Woo, violin; Richard Epstein, cello; and Debra Takakjian, piano.

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

13 Monday, 6:30 - 8:30 pm

COMMUNITY BENEFIT AGREEMENTS – WHO IS THE COMMUNITY AND WHAT IS THE BENEFIT?

Asserting that economic development projects help developers more than the neighborhoods in which they are sited, activists are increasingly demanding that developers sign “Community Benefit Agreements” (CBAs) which can encompass a broader area than the project’s neighborhood and include specific job creation and hiring goals, affordable housing and recreational development. This forum will provide an overview of CBAs, discuss how they affect the development process, and evaluate the outcomes of these agreements in NYC and elsewhere. The panelists will also offer a historical perspective on earlier efforts by community groups to negotiate similar types of agreements.

Moderators:
RAYMOND LEVIN
Wachtel & Masyr LLP

ROSS MOSKOWITZ
Stroock & Stroock & Lavan LLP

14 Tuesday, 6-8 pm

CHANGING LIVES: PIONEERING NEW YORK WOMEN ATTORNEYS

Join the City Bar in honoring our pioneering women attorneys, Chief Judge Judith S. Kaye, Professor Barbara Aronstein Black, and Judith P. Vladeck. The evening will include a documentary film presentation about the three women pioneers that also includes a tribute to the late Judge Constance Baker Motley, a panel discussion with the honorees, and a reception to celebrate these outstanding women attorneys whose lives and accomplishments have had a significant impact on the development of the law and on the legal profession.

Moderator:
BETTINA B. PLEVAN
President, New York City Bar

Speakers:
BARBARA ARONSTEIN BLACK
Professor, Columbia University School of Law

HON. JUDITH S. KAYE
Chief Judge, New York Court of Appeals
For more information, please contact Christina Brandt-Young at (212) 586-2211 ext. 233.

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

**BREAKFAST SERIES: WOMEN IN COMMERCIAL LITIGATION - PART III DEVELOPING A COMMERCIAL PRACTICE**

This program will focus on how to build a commercial litigation practice and is the third breakfast in a five-part breakfast series on women in commercial litigation. The remaining parts in the series are scheduled as follows: Part IV - April 20 (Arbitrating a Commercial Case) and Part V - May 18 (A View from the Bench).

**Moderator:**

**CARRIE H. COHEN**
Chief, Public Integrity Unit, New York State Department of Law

**Speakers:**

**LAUREN J. WACHTLER**
Montclaire & Wachtler

**AYALA DEUTSCH**
Senior Vice President, Chief Intellectual Property Counsel, NBA Properties, Inc.

**Registration by March 10 is necessary. The fee for each breakfast is $15. Attendance is limited. Please register online at www.nycbar.org. For more information, please contact Andrea Masley at 917-805-6267 or Carrie H. Cohen at 212-416-8242.**

16 Thursday, 12:30 - 2 pm

**SMALL LAW FIRM LUNCHCHEON: LAW FIRM OPERATIONAL TECHNOLOGY**

**WHAT SMALL FIRM PRACTITIONERS NEED TO KNOW ABOUT TODAY’S TECHNOLOGY**

The Internet, email and wireless communications are revolutionizing the ways small and solo practices can do business, but it seems as if the technology choices are more confusing than ever. This panel’s entrepreneurs, with years of experience in technology, will attempt to clear up the confusion by answering such questions as: How can a small or solo law practice effectively use technology? What should you be doing to ensure the security of your systems and data? How do you choose the right backup solution for your needs? What technology solutions are affordable for the solo and small firm?

**Moderator:**

**GERALD T. EDWARDS**
Gerald Edwards & Associates, P.C.

**Speakers:**

**IAN JACKSON**
Inspired Professionals LLC

**LENNY SHOSTAK**
President, L&D Computer Consulting Corp.

**Registration by March 9 is necessary. The fee, which includes lunch, is $20 for members, $30 for non-members. Please register on page 7 or online at www.nycbar.org.**

20 Monday, 6:30 - 8:30 pm

**REFORMING ISRAEL’S POLITICAL SYSTEM**

This program will address the reform of Israel’s political system, which has had 30 governments in 57 years. A reception will follow.

**Moderator:**

**MARK A. MEYER**
Herzfeld & Rubin, P.C.

**Speakers:**

**H.E. DANIEL AYALON**
Ambassador of Israel to the United States

**PROFESSOR STEVEN SPIEGEL**
Professor of Political Science, UCLA

**HON. R. JAMES WOOLSEY**
Former Director, Central Intelligence; partner, Booz Allen Hamilton

**PROFESSOR NOAH FELDMAN**
Professor, New York University School of Law

22 Wednesday, 6:30-8:30 pm

**THE REAL DEAL ABOUT PRACTICING REAL ESTATE LAW: A PANEL DISCUSSION FOR LAW STUDENTS**

This program for law students will serve as an introduction to the world of real estate law, and panelists will provide career-planning advice. Panelists will discuss the various practice areas within real estate law, including residential and commercial real estate law; landlord-tenant law; land use, planning, and zoning law; and land finance law. The litigation and transactional aspects of real estate law, and the various settings in which attorneys can practice real estate law will also be discussed. A networking reception will follow.

**Speakers:**

**ADAM LEITMAN BAILEY**
The Law Firm of Adam Leitman Bailey, P.C.

**MATTHEW J. SCHILLER**
Saul Ewing LLP

**NOAH SHAPIRO**
Akbas & Cohen Attorneys at Law

**JOHN P. ZAMPINO**
The Law Firm of John P. Zampino, P.C.

Please RSVP at LSPRSVP@AOL.COM

23 Thursday, 8:30 am - 10 am

**PROFESSIONAL DEVELOPMENT BREAKFAST WORKSHOPS SERIES FOR MID-LEVEL ASSOCIATES**

**WORKSHOP VI**

**Project Leadership**

Managing complex matters requires good organizational and planning skills. It involves establishing priorities, allocating work, managing time, and using resources efficiently. Associates will learn techniques to plan ahead and avoid many of the crises that lawyers often face, and to collaborate with and lead their practice team effectively regardless of their practice area, including effectively:

- Organizing a matter from start to finish
- Matching the right attorneys and staff to the work to be done
- Making priorities and deadlines matter to others
- Conducting effective follow-up.

**Speaker:**

**DAVID CRUICKSHANK**
The Continuing Professional Education Institute

1½ CLE credits in practice management. This program does not provide transitional credits for newly admitted attorneys. This event has no fee for members, and attorneys from sponsoring firms. There is a $45 fee for non-members. Please register through CLE at www.nycbar.org.
23 Thursday, 6:30 - 8:30 pm
HERMAN MEVELLIE’S
BILLY BUDD, SAILOR ON
APPEAL: DID BILLY
RECEIVE A FAIR TRIAL?

This event continues a tradition at
the New York City Bar of debating
and "adjudicating" great stories
about the law. Billy Budd, Sailor,
by Melville, whose last decades
were spent in this City—and
whose Bartleby, the Scrivener is set
in a Wall Street law firm—challenges all thoughtful lawyers to
ponder perennial issues of
certainty and conscience. Among
the issues presented by the story is
whether and how far legal proce-
dure may justly be modified in
times of war, an issue alive and
important today in connection
with the "war on terror."

Billy, an impressed sailor on a
British Naval warship during the
Napoleonic Wars, was tried and
convicted by a drumhead court
for the capital offense of striking
the master-at-arms, a superior
officer who had malevolently and
falsely accused Billy of sedition.
But did the captain, who con-
vened the court and acted as
prosecutor, corruptly manipulate
the legal process to secure a con-
viction? Or was Billy's conviction
and capital sentence amply justi-
fied by the wartime conditions
and the fear that leniency would
threaten military discipline and
the further conduct of the war?

These are a few of the questions
explored by this mock appeal of
Billy Budd’s capital sentence
heard by a distinguished panel of
judges.

Chair: RICHARD WEISBERG
Floersheimer Professor of
Constitutional Law, Benjamin N.
Cardozo Law School; Author,
How Judges Speak: Some Lessons
on Adjudication in Billy Budd,
Sailor with an Application to
Justice Rehnquist, 57 N.Y.U. L.
Rev. 1 (1982)).

Judges:
FLOYD ABRAMS
Cahill Gordon & Reindel LLP

HON. KENNETH CONBOY
Latham & Watkins LLP; former
U.S. District Court Judge,
Southern District of New York

HON. GEORGE C. PRATT
Farrell Fritz, P.C.; former U.S.
Judge, Second Circuit Court of
Appeals

HON. JED S. RAKOFF
U.S. District Court Judge,
Southern District of New York

EDWARD ROTHSTEIN
Critic at Large, The New York
Times

ELAINE SCARRY
Professor of English, Harvard
University

BENNO C. SCHMIDT, JR.
Chairman of the Board of
Trustees, The City University of
New York; former Dean,
Columbia Law School; President,
Yale University

Advocates:
The Navy will be represented by:
JEREMY G. EPSTEIN
Shearman & Sterling LLP

Billy will be represented by:
CLIFFORD JAMES
Solo Practitioner

27 Monday, Noon – 2 pm
CONTINUING MEETING
AND EVENT SERIES:

WOMEN IN
INTELLECTUAL
PROPERTY - PREMIER
MEETING

This continuing series will spon-

sor varying meetings and events
to provide a forum for women
attorneys practicing intellectual
property law to network, form
mentoring relationships and dis-
cuss topics of interest. The
speakers will each discuss their
respective career paths and expe-
riences as a woman partner at a
large, national law firm and a
woman Chief Intellectual
Property Counsel for a corpora-
tion. Panel discussions will also
include pointers on networking
and reasons why it is essential for
women to help other women in
this field.

Moderators:
ERIN S. HENNESSY
Senior Counsel, Intellectual
Property, Time Warner Inc.

KANDIS M. KOUSTENIS
Counsel, Goodwin Procter LLP

Speakers:
DALE CENDALI
O’Melveny & Myers LLP

AYALA DEUTSCH
Senior Vice President and Chief
Intellectual Property Counsel,
NBA Properties, Inc.

Registration by March 20 is neces-
sary. The fee, which includes
lunch, is $25 for members and $35
for non-members. Please register
on page 7 or online at
www.nycbar.org. For more infor-
mation, please contact Erin
Hennessy at (212) 484-8140 or
Kandis Koustenis at (212) 459-
7435.
March 2006 Registration Form

☐ Small Law Firm Luncheon: Law Firm Operational Technology – 16 Thursday
   The fee is ☐ $20 for members, ☐ $30 for non-members.

☐ Continuing Meeting and Event Series: Women in Intellectual Property – 27 Monday
   The fee, which includes lunch, is ☐ $25 for members, ☐ $35 for non-members.

Name                                                                                                                Number of Reservations
Address                                                                                                             Total Enclosed $

Please charge to my ☐ Mastercard ☐ Visa ☐ American Express

City                                                                                                                  Card Number
State                                                 Zip                                                          Expiration Date

Phone                                                                                                               Signature

Please return this form to: Meeting Services, New York City Bar, 42 West 44th Street, New York, NY 10036-6689.
Please make checks payable to the Association of the Bar. If registering for additional persons, duplicate this form.
Diversity

The New York City Bar’s Enhance Diversity Committee will be presenting the inaugural Diversity Champion Award at the Third Annual Diversity Conference being held on May 16, 2006. The award recognizes the critical role individuals have played in initiating and sustaining change within their organizations and the overall New York legal community.

Criteria

The award seeks to honor up to three individuals who embody the New York City Bar’s Statement of Diversity Principles. Nominations are limited to attorneys, although it is not necessary that they be actively practicing law at this time. Applicants are welcome from a wide range of positions and sectors within the legal community—government, firm, corporation, and non-profit.

Nominees will be evaluated on their 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

Selection Process

- Nominations must be submitted by March 17, 2006.
- A selection panel, composed of Enhance Diversity Committee members representing a cross-section of legal employers, will be convened to evaluate nominations.
- The panel will conduct interviews with finalists and their references before determining the winners.
- Winners will be announced at the May 16, 2006 Diversity Conference.

To learn more about the Diversity Champion Award or to download the nomination form, visit www.nycbar.org. Please direct questions to Meredith Moore, Director of the Office for Diversity, by e-mail to mmoore@nycbar.org or 212-382-6689.

3RD ANNUAL DIVERSITY SYMPOSIUM

Tuesday, May 16th
8:00 am – 2:00 pm
Breakfast and lunch will be provided
Registration fee: $250 members, $325 non-members

This program will fulfill 3 hours of professional practice/practice management credit for the New York State MCLE requirements

To register online, please go to www.nycbar.org

Attorney / Associate for Bankruptcy Dept

Responsibilities: Represent debtors in restructurings, draft motions & all pleadings, supervise sale of debtors assets, manage orderly liquidation of remaining assets, draft plan of reorganization & all documents relating to confirmation, conduct claim reconciliation & objection process, negotiate settlements, participate in negotiations w/official committee of unsecured creditors, bank & other parties-in-interest regarding distribution under plan of reorganization, represent Official Committee of Unsecured Creditors in restructurings, participate in hearings, etc.

Qualifications: JD & 5 yrs exp. Must be admitted to NY Bar.

Contact: Ellen Rosenbloom
McDermott Will & Emery LLP
50 Rockefeller Plaza
New York, NY 10020

E-mail: eroosenbloom@mwe.com
Fax: 212-547-5444.

NO PHONE CALLS

www.nycbar.org
I vividly remember that day in the summer of 1996, when I walked into the office of the managing attorney in my law firm and gave my four weeks’ notice. I said I was going out on my own, and yet no one believed it. After all, unless she has lost her job, why would a woman with a family to support voluntarily give up a steady paycheck in favor of the unknown? Where will you find clients? How will you learn other areas of the law? You are a litigator. What will you do when a client needs a will or a real estate closing? Such were the voices of concern from family and friends. I will learn it just as I learned English after coming to the United States in 1979. Don’t worry, I’ll take courses at the New York City Bar.

It is now almost 10 years later, and my private practice has survived. I have been a member of the New York City Bar Association since the year of my admission. I have taken dozens of courses — from Basic Real Estate Closings to Refugee Assistance Project Training, to the 40 hour Divorce Mediation. And now, I am thrilled to join the New York City Bar Association as its new Director of the Small Law Firm Center. I am excited to finally have the opportunity to help other attorneys who dare to brave the unchartered waters of solo and small law firm practice. — Alla Roytberg

New Small Law Firm Center Director
Alla Roytberg has joined the Association staff as the New Small Law Firm Center director. After working at two law firms for five years, Alla opened her own law office in 1996 and has been in private practice ever since. Alla will be available on Tuesdays and Thursdays to answer your questions about practicing solo or in a small firm. If you need help in setting up your office, identifying potential clients, choosing appropriate computer programs, connecting with more seasoned small law firm practitioners, getting networking suggestions, or you simply would like to brainstorm about your practice, you may reach Alla by telephone at (212) 382-4751 or by e-mail at aroytberg@nycbar.org.

Small Law Firm Center Facilities — A Unique Benefit to Members of the Association
The Small Law Firm Center operates as a free benefit to members of the Association. It includes a private Conference Room where attorneys can meet their clients and a separate Attorney Work Space equipped with computers, printers, copier and a fax machine. LexisNexis has sponsored the renovation of the Conference Room. The Center is located on the third floor of the Association’s House. While the Attorney Work Space is available on a walk-in basis, members should contact the Library reference desk (212) 382-6666 to reserve the conference room. Please refer to the following schedule for hours of operation:

Attorney Work Space
Mon.-Fri. 9 a.m. – 8:45 p.m.
Sat. 10 a.m. – 4:45 p.m.

Conference Room
Mon.-Fri. 9:30 am – 7:30 p.m.
Sat. 10:30 a.m. – 4:45 p.m.

For questions about the Center, you may contact Ronald Mirvis by telephone at 212-382-6748 or by email at rmirvis@nycbar.org.

Free Member Postings
Members of the New York City Bar Association have the added benefit of posting free listings on the Small Law Firm Center section of the New York City Bar website. If you are looking for or offering office space, wish to affiliate with other attorneys or advertise to others the legal services which you offer, send an e-mail with content and your member information to aroytberg@nycbar.org.
The City Bar Justice Center is proud to announce its Inaugural Gala on Tuesday, April 4th at the New York City Bar. The City Bar Justice Award has been created to honor law firms and companies for their leadership and dedication to public service. The Gala will provide the City Bar Justice Center the opportunity to publicly present the Award while raising funds to support the wide range of programs and services that are so valuable to so many. By harnessing resources from the legal profession, the City Bar Justice Center annually provides direct legal representation, information, and advocacy to 25,000 poor and vulnerable New Yorkers from all five boroughs.

The City Bar Justice Center hopes the annual ceremony will become one of the legal community’s special events of the year. The House of the Association will open its doors for a multi-floor party – with drinks, dinner, music and entertainment. And while the springtime Gala will become the Justice Center’s premier forum to honor law firms and companies for their dedication to public service, its importance to raising funds for the center’s public service projects cannot be overstated.

The honorees at the Gala will be Simpson Thacher & Bartlett and the American Express Company. Simpson Thacher & Bartlett has been a leader in the fight to provide access to justice for all New Yorkers, particularly those fleeing persecution around the world. From the City Bar Justice Center’s Refugee Assistance Project to its founding support of the Vance Center for International Justice Initiatives to their firm-wide commitment to pro bono, Simpson Thacher has a history of championing causes worthy of recognition. This includes the firm’s decade-long representation of the Campaign for Fiscal Equity in its effort to provide fair public education funding for New York City’s schoolchildren.

American Express is looked to as a preeminent leader in corporate pro bono. From its pro bono leadership during the dark days of 9/11 to its daily philanthropic work on the community level, American Express has been at the forefront of providing New Yorkers in need with vital support and assistance. In particular, there is a firm-wide commitment to financial literacy. The City Bar Justice Center benefits from an American Express grant for its financial literacy work and American Express volunteers have committed to working with us on the project. The Company has exhibited a commitment to diversity and advocacy as one of the few New York companies to sign the amicus brief in the University of Michigan affirmative action case.

The co-chairs of the Gala are H. Rodgin Cohen of Sullivan & Cromwell and Joan Guggenheimer of JPMorgan Chase.

For additional information or to support the Inaugural Gala, please contact the City Bar Justice Center Benefit Office, 411 East 83rd Street, Suite 1C, New York, NY 10028; Phone: 212-249-6188; Fax: 212-249-2445; or e-mail Jennifer Kunin at jennifer.kunin@verizon.net.
“TWELFTH NIGHT” PRODUCTION HONORS JUDGE CIPARICK

Pictured above singing at the Association’s 46th Production of “Twelfth Night: The Lives of Carmen” are cast members (L-R): Hon. Frederic S. Berman, Lawrence Mentz, Bonnie Beth Greenball, Kevin J. Nolan, and Troy Sandusky. Pictured to the left is Carmen Beauchamp-Ciparick, Associate Judge of the New York Court of Appeals, who was the evening’s honoree. The musical extravaganza is produced at the City Bar every two years. The event is produced by the City Bar’s Entertainment Committee, chaired by Martha Cohen Stine. Playwright Myron Cohen wrote and directed the show and has, for some ten years, been the driving force behind the committee’s theatrical productions.

IMMIGRANT WOMEN AND CHILDREN PROJECT

On January 20th Client LP of the City Bar Justice Center’s Immigrant Women and Children Project (IVC), visited us to show her appreciation, and to celebrate her new status as a Permanent Resident of the United States. As the spouse of an abusive US resident, Client LP was eligible to Self-petition for Employment Authorization and Adjustment of Status. Marjorie Silver, a full-time professor at Touro Law Center, volunteered to represent her pro bono throughout the process. Professor Silver, who has represented IVC clients in the past, said that “working with Client LP has been especially gratifying because of her intelligence, conscientiousness, and wonderful disposition in the face of adversity.” While she began this process with minimal English literacy, she is now on the Dean’s List at Kingsborough Community College and, with Professor Silver’s encouragement, aspires to attend law school. Most importantly, Client LP now has the opportunity for a new beginning in the United States apart from her abusive spouse.

Exclusive homes deserve exclusive loans.

Let us put our experience in high-end loans to work for you today.

Midtown Manhattan Home Loan Center
101 Park Ave.
New York, NY 10178
212.850.2100 office
212.850.2105 fax

- A variety of fixed and adjustable rate jumbo and super jumbo loan programs to choose from
- Reduced points/fees programs
- Low documentation options available

Washington Mutual HOME LOANS

www.nycbar.org
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<td>TECHNOLOGY SERVICES &amp; OUTSOURCING AGREEMENTS: UNDERSTANDING &amp; USING THESE AGREEMENTS TO MITIGATE BUSINESS RISKS</td>
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*This program provides transitional credit for newly admitted attorneys.
MARCH 2006
CLE CALENDAR

BANKRUPTCY

BANKRUPTCY & DEFINED PENSION PLANS: LABOR & EMPLOYMENT ISSUES

29 Wednesday, 6-9 p.m.

Defined pension plans are in crisis. Promises made to employees are at risk. Pension legacy obligations often make companies unable to keep product prices competitive. How did this happen? How are employers, unions and the government dealing with this situation? This program will explore the role of the Pension Benefit Guaranty Corporation. It will explore the consequences of a chapter 11 filing on labor and employment issues and existing collective bargaining agreements. The discussion will provide practical advice in dealing with the legal issues involved whether you represent employers, unions, creditors or other interested parties.

Program Chairs:
ALAN W. KORNBERG
Paul, Weiss, Rifkind, Wharton & Garrison LLP

DANIEL SILVERMAN
Skadden Arps Slate Meagher & Flom LLP
Adjunct Professor, Cardozo School of Law

Faculty:
SUSAN E. BIRENBAUM
Assistant General Counsel
Pension Benefit Guaranty Corporation

DANIEL ENGELSTEIN
Levy Ratner PC

MARSHALL S. HUEBNER
Davis Polk & Wardwell

BRET H. MILLER
Otterburn, Steindler, Houston & Rosen, PC.

ERIC G. MOKOWITZ
Assistant General Counsel
Special Litigation Branch
National Labor Relations Board

KENNETH J. SHAPIRO
Deputy Assistant General Counsel
Contempt Litigation and Compliance Branch
National Labor Relations Board

Live Program:
$195 Member $305 Non-member

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

BRIDGE-THE-GAP

16-HOUR BRIDGE-THE-GAP

10 & 16 Friday & Thursday, 9-5 p.m.

Earn all of your annual CLE credits while obtaining invaluable knowledge on a variety of areas. The Bridge-the-Gap programs fulfill a full year’s credit requirements for those that are newly admitted, while providing essential information and credits for more experienced attorneys. This program is particularly distinct in that Day 1 allows attendees to fulfill all required skills credits and Day 2 will allow attendees to fulfill all required ethics credits. Attendance on both days will provide the total professional practice/practice management required of all newly admitted attorneys. A skilled faculty will guide you through the day-to-day practice of law and cover topics of interest to all attorneys, including legal ethics.

Faculty:
ANDRAL N. BRATTON
Deputy Chief Counsel
Departmental Disciplinary Committee

CHARLOTTE FISCHMAN
Kramer Levin Naftalis & Frankel LLP

DOROTHY F. HENDERSON
Law Secretary to Surrogate Renee R. Roth
New York County Surrogate’s Court

ANDREA B. JACOBSON
Director, Professional Development & Training
Kaye Scholer LLP

ANDREW H. LUPU
Senior Counsel, InfoVista Corporation
Adjunct Professor, Touro Law School

DAVID W. OPPENHEIM
Kaufmann, Feiner, Yamin, Gildin & Robbins, LLP

MICHAEL S. ROSS
Law Offices of Michael S. Ross

MICHAEL WALDMAN
Executive Director
Brennan Center for Justice
NYU School of Law

GREGG M. WEISS
Gardner & Weiss LLP

STEVEN WILAMOWSKY
Willkie Farr & Gallagher LLP

MARC D. ZISSELMAN
A Absolute Approval LLC

CLE Credit for March 10 & 16:
8 Credits Total: 6 Skills & 2 Professional Practice/Practice Management. This program provides transitional credit for newly admitted attorneys.

CLE Credit for March 10:
8 Credits Total: 3 Ethics & 5 Professional Practice/Practice Management. This program provides transitional credit for newly admitted attorneys.

C 0 R P R A T A & S E C U R I T I E S

THE REAL DEAL: TECHNIQUES, STRATEGIES & REAL WORLD CONSIDERATIONS IN M&A TRANSACTIONS

8 Wednesday, 8:30-11:30 a.m.

Continuing legal education courses often focus on the substantive components of complex transactions; typically how to document the transaction and handle the related regulatory issues. These are obviously very important to concluding a successful deal and will be covered during the program. However, M&A courses often overlook the fundamental real world factors that can make or break a deal. This program will go well beyond traditional course parameters to help you get a more rounded view of the deal process.

This interactive session will explore how a deal begins and ends its journey within business organizations, the respective roles of business leaders, lawyers (in-house and outside counsel) investment bankers and other key participants. The session will also examine the interplay of ethical, business and legal issues that surface during a deal as well as the critical role of communication in the deal process.

The course format will encourage active dialogue. So, come prepared to share your thoughts and experiences and to learn tips and techniques from leaders in the business and legal communities as well as other subject matter experts.
CRIMINAL LAW

FEDERAL SENTENCING AFTER UNITED STATES v. BOOKER: ONE YEAR LATER

2 Thursday, 6-9 p.m.

A series of Supreme Court cases culminating last January in U.S. v. Booker struck down the mandatory nature of the federal sentencing guidelines. But is guideline sentencing really over? Or does this just institutionalize discretion that judges were already exercising in the guise of departures?

This lively panel discussion will examine the meaning of the Booker decision and how it is being implemented in courts in the Second Circuit and around the country. It will address the effect of non-mandatory sentencing on all phases of the federal criminal process, from plea negotiations and appeals. Distinguished judges, practitioners and academics will share the lessons learned during the first year of sentencing under the new regime offering both helpful tips for practice and analysis of the future of federal sentencing.

Program Chair:
ZACHARY MARGULIS-OHNUMA
Law Office of Zachary Margulis-Ohnuma

Faculty:
HON. DEBORAH A. BATTI
United States District Judge
Southern District of New York

RACHEL E. BARKOW
Associate Professor of Law
New York University School of Law

MICHAEL GARCIA
United States Attorney
Southern District of New York

PETER E. QUIANO
Quijano & Ennis

PAUL SHECHTMAN
Stillman & Friedman, P.C.

JOHN R. STEER
Vice Chair/Commissioner
United States Sentencing Commission

Live Program:
$195 Member $305 Non-member

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

ELDER LAW

FUNDAMENTALS OF MEDICAID & LONG-TERM CARE PLANNING & CURRENT ISSUES

28 & 4/4 Tuesdays, 6-9 p.m.

Are your elderly family members or friends concerned about paying for the exorbitant costs of long term care? Is there a way to ensure that they receive quality long-term care while having the opportunity to preserve assets for their loved ones? Is the answer Medicaid, Medicare, Long-Term Care Insurance? What must be done to make the costs of long-term care affordable and what steps can clients take to maximize asset preservation in the face of long term care costs? What if the client is incapacitated? A panel of experts in elder law will address these timely topics at this two-part seminar. The first session will focus on the basics and the second session will cover current and more advanced topics. Although both sessions are applicable to both seasoned and less experienced attorneys, we are offering the option to attend one or both sessions. Save by attending both.

Program Chair:
MATTHEW J. NOLFO
Law Offices of Matthew J. Nolfo

Faculty:
CANDACE DELLACONA
Weinreb & Dellacona LLP

DANIEL G. FISH
Freedman Fish & Grimaldi LLP

DAVID GOLDFARB
Goldfarb Abrandt Saltzman & Kutzin LLP

BERNARD KROOKS
Littman Krooks LLP

JOHN J. MARCEL
President
Madison Park Consultants, Inc.

IRA SALZMAN
Goldfarb Abrandt Saltzman & Kutzin LLP

Live Program (both programs):
Member $375, Non-member $515

Live program (per program):
Member $195, Non-member $305

CLE credit:
3 credits per program; credit breakdown to be determined. 6 credits for both programs. This program provides transitional credit for newly admitted attorneys.

EMPLOYMENT LAW

EMPLOYEE COMPENSATION—ON THE WAY IN, ON THE WAY OUT, WHAT’S IN THE PACKAGE?

9 Thursday, 6-9 p.m.

Employee compensation issues have become much more complex. Exempt employees at all levels—from low level managers to members of the senior executive team — now often receive a variety of salary enhancements, including sign-on and performance bonuses, forgivable loans, stock options and other types of deferred compensation. When those employees leave a company, severance issues frequently arise whether or not a company may have a formal severance policy. A panel of prominent attorneys who represent both individuals and employers will address both the legal and practical aspects of these matters.

Program Chair & Moderator:
ROBERT KRAUS
Kraus & Zuchlewski LLP

Faculty:
JOSEPH E. BACHELDER III
Law Offices of Joseph E. Bachelder, LLP

BARBARA W. BISHOP
Senior Managing Director Legal Department & Acting Head of Human Resources
Bear Stearns & Co., Inc.

LAURENCE M. MOSS
Schulte Roth & Zabel, LLP

Live Program:
Member $195 Non-member $305

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

ENTERTAINMENT

VIDEO REPLAY

MGM V. GROKSTER: THE RECENT SUPREME COURT DECISION & THE FUTURE OF THE MUSIC & THE ENTERTAINMENT INDUSTRY

10 Friday, 9 a.m. - 11:30 a.m.

On June 28th, 2005, in a unanimous decision, the Supreme Court ruled against Grokster and SteamCast Networks in MGM v. Grokster, sending the case back to the lower court. The landmark copyright infringement case pitted the music and motion picture industries against makers of peer-to-peer file-sharing software.

While lower courts have ruled in favor of file-sharing services using the Sony Betamax precedent, the Supreme Court held that file-sharing services violate federal copyright law when they distribute software “with the object of promoting its use to infringe copyright, as shown by clear expression or other affirmative steps to foster infringement.” Although the decision is a major victory for both the MPAA and the RIAA, and seriously threatens the existence of certain P2P companies including Grokster, it also appears to confirm that P2P is legal so long as not marketed and promoted in such a way as to encourage copyright infringement. Also, other companies not named in the case continue to offer new and more powerful types of file-sharing software with the capability of handling larger files.

Please join us to discuss this monumental decision. Leaders in the fields of copyright and digital entertainment law, and technology, will analyze the Court’s decision, discuss the impact of P2P on the music industry and the motion picture industries, and speculate on the future of digital technology and the entertainment industry.

Program Chair:
STEVE GORDON
Entertainment Attorney and Consultant
Host, Future of the Music Business internet radio show

Faculty:
ROBERT W. CLARIDA
Cowan, Liebowitz & Latman P.C.

WILLIAM M. HART
Proskauer Rose LLP

FRED VON LOHMANN
Senior Intellectual Property Attorney
Electronic Frontier Foundation

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

ESTATE PLANNING

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

1 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
Brown Raysman Millstein Felder & Steiner LLP

Video Replay:
Member, $195, Non Member $305

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

Health Savings Accounts

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

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

Among the benefits:
• Contributions to a health savings account are tax deductible and earn tax-free interest*
• Contributions may be made by an individual, an employer or both
• Amounts in an HSA belong to the individual and are fully portable
• Unused amounts in the account at year end remain available for future years
• Distributions are not taxed if used for qualifying medical expenses

For more details on high deductible health plans, call Marsh Affinity Group Services at 888-88-ABCNY (888-882-2269) or e-mail ABCNY.Insurance@marsh.com. For more information on HSAs, visit www.MarshAffinity.com.

Sponsored by:

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Administered by:

Marsh Affinity Group Services
Segbury & Smith Insurance Program Management
777 S. Figueroa St., Los Angeles, CA 90017
ABCNY.Insurance@marsh.com
888-88-ABCNY • CA License #0633005

(*4% in 2005 through Exante Bank.)
FREDRIC J. LAFFIE, CPA
Fred Laffie & Associates

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

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

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**ETHICS**

**Video Replay: ETHICS FOR THE IMMIGRATION LAWYER**

22 Wednesday 6-9 p.m.

This program will focus on common ethical issues that arise in both business-based and family-based immigration law. Experienced practitioners will examine a variety of ethical situations that arise in actual day-to-day practices. Additionally, hypothetical situations will be used to address typical ethical issues that immigration lawyers face. Every effort will be made to give those attending the knowledge and tools necessary to address such issues before they become ethical dilemmas and to help prevent situations that would require discontinuance of representation or more serious problems.

Program Co-Chairs:

**ALLEN E. KAYE**
Law Offices of Allen E. Kaye, PC

**NANCY H. MOROWITZ**
Fragomen, Del Rey, Bernsen & Loewy, LLP

**DAN R. SMULIAN**
The New York Immigration Coalition

Faculty:

**ROBERT E. JUCEAM**
Fried, Frank, Harris Shriver & Jacobson LLP

**HAL R. LIEBERMAN**
Hinshaw & Culbertson LLP

**MICHAEL D. PATRICK**
Fragomen, Del Rey, Bernsen & Loewy, LLP

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

**Video Replay:**
$225 Member $335 Non-member

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**CURRENT ETHICAL ISSUES IN THE PRACTICE OF SECURITIES LAW: INVESTIGATING ALLEGATIONS OF FRAUD IN A PUBLIC COMPANY**

30 Thursday 9-11 a.m.

This program will address ethical and legal issues that corporate and outside counsel face in advising corporations, directors, and officers, including shareholder and derivative suits, and responding to government investigations. The program will present a scenario involving the discovery of possible accounting irregularities at a public company in which panelists will role play various parts, including that of corporate counsel, outside counsel, auditor’s counsel, and SEC counsel. Topics will include attorney-client privilege when representing a corporate entity, multiple representations, issues regarding internal investigations, responses to client misconduct, issues dealing with outside auditors, issues concerning document preservation, and the impact of the Sarbanes-Oxley legislation. This program’s updated content will entitle attendees to CLE credit if they attended the 2005 program.

Program Chair: **DANIEL J. KRAMER**
Paul, Weiss, Rifkind, Wharton & Garrison LLP

Faculty:

**PIERRE M. GENTIN**
Managing Director and Head of Litigation Credit Suisse

**BARRY W. RASHKOVER**
Sidley Austin LLP

**MICHAEL R. YOUNG**
Willkie Farr & Gallagher LLP

**Live Program:**
Member $225 Non-member $335

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

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**FAMILY LAW**

**EVERYTHING YOU EVER WANTED TO KNOW ABOUT UNCONTESTED DIVORCES — & NOW CAN ASK**

20, Monday 6-8 p.m.

Are you new to the practice of matrimonial law? Have you been referred a case or asked by a friend or family member to file divorce papers, or do you want to learn the tried and true techniques?

The mysteries of handling an uncontested divorce are solved by a renowned matrimonial attorney

and a Special Referee from New York State Supreme Court who will walk you through the governing law and the complexities of the many official forms which you will be required to file.

Program Co-Instructors:

**MYRNA FELDER**
Law Offices of Raoul Lionel Felder, PC

**HON. STEVEN E. LIEBMAN**
Special Referee, New York County

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

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

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**INTELLECTUAL PROPERTY**

**TECHNOLOGY SERVICES & OUTSOURCING AGREEMENTS: UNDERSTANDING & USING THESE AGREEMENTS TO MITIGATE BUSINESS RISKS**

3 Friday 9-12:30 p.m.

This seminar will focus on key provisions in the current generation of technology services and outsourcing agreements. You will learn how to use contract provisions to create an "early warning system" to identify potential problems and mitigate potential risks and liabilities in technology transactions. A panel of experts will discuss:

- the important provisions in outsourcing and technology services agreements
- current and future litigation issues that can arise in these agreements and how to plan for them
- ethical considerations that can arise in these transactions.

This program is intended for corporate and generalist lawyers as well as intellectual property practitioners who need to understand technology agreements.

Program Chair: **WILLIAM A. TANENBAUM**
Kaye Scholer LLP

Faculty:

**PAUL R. GUPTA**
Mayer Brown Rowe & Maw LLP

**GREGORY P. SILBERMAN**
Kaye Scholer LLP

**THOMAS J. SMEDINGHOFF**
Baker & McKenzie LLP
TRADEMARK BASICS FOR ATTORNEYS

21 Tuesday 6-9 p.m.

At this program a panel of experts will teach you the basics and the legal issues beyond that are essential to advising today’s clients. Topics to be addressed include:

■ What is a trademark and how can it be protected?
■ How do you obtain a U.S. trademark registration and maintain trademark rights?
■ What do you do if you are involved in trademark infringement or dilution litigation?
■ When can you make fair use of a trademark?
■ How does trademark law apply to domain names, e-commerce and the internet?

Program Chair:
AMANDA C. SAMUEL
Colgate-Palmolive Company

Faculty:
DALE M. CENDALI
O’Melveny & Myers LLP

ERIN S. HENNESSY
Time Warner, Inc.

MARYLEE JENKINS
Arent Fox PLLC

MONICA RICHMAN
Brown, Raysman, Millstein, Felder & Steiner LLP

MICHAEIJ J. SMITH
Colgate-Palmolive Company

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

CLE credit:
3½ credits total: 3 credits professional practice/practice management & ½ ethics. This program provides transitional credit for newly admitted attorneys.

LAW FIRM PRACTICE MANAGEMENT

SO LITTLE TIME, SO MUCH PAPER: ORGANIZATION & TIME MANAGEMENT TECHNIQUES FOR LAWYERS

7 Tuesday, 9:45 p.m.

Of all the elements you have to work with, none is more precious than time. You have invested years learning the substantive law. Now you can invest a few hours to learn the principles of organization and time management, and how to apply them every day to do more work in less time.

Program Chair:
STEPHEN V. ARMSTRONG
Wilmer Cutler Pickering Hale & Dorr LLP

Program Instructor:
MEG SPENCER DIXON
Principal, Spencer Consulting

Co-sponsored with ALI-ABA

Live Program:
Member $330, Non-member $450

CLE credit:
7½ credits in skills. This program provides transitional credit for newly admitted attorneys.

LEGAL WRITING

WRITING FOR PRACTICAL EFFECT

24 Friday 9-5 p.m.

Lawyers often assume their writing has to be difficult to read because their raw material is complex. That’s wrong. Even the most complicated material can be turned into clear, forceful prose, and even the most impatient audience can be persuaded to pay attention to your writing. This program will focus on the rhetorical, organizational and stylistic skills you need to write clearly and persuasively — and to establish your credibility in the face of demanding audiences. The program will be relevant to all types of expository and persuasive legal writing, but will not address the drafting of contracts and similar formal documents.

Program Chair:
LYNN B. OBERLANDER
Editorial Counsel, Forbes Inc.

www.nycbar.org
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.

Cancellations & Refunds

For live programs and video replays, refunds and program credits are available provided cancellation is made in writing and received by the City Bar Center prior to the program. A $25 administrative fee will be charged for all refunds. The cancellation fee will be deducted directly from the refund. Program credits must be used within one year of the original program date. Cancellations must be in writing and faxed to the City Bar Center at (212) 869-4451.

Refunds and program credits are not available for the purchase of tapes, CDs, DVDs, course materials or online programs. These programs are presented under the auspices of the CLE Committee, Burton N. Lipshie, Chair, and the City Bar Center for Continuing Legal Education. Scholarships are available. Please call (212) 382-6663 for an application.

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

Faculty:

**EVE BURTON**  
Vice President and General Counsel  
The Hearst Corporation

**LEE LEVINE**  
Levine Sullivan Koch & Schulz LLP

**ROSILYN R. MAUSKOPF**  
United States Attorney, Eastern District of New York

**HONORABLE MICHAEL J. OBUS**  
New York State Supreme Court, Criminal Term  
1st Judicial District

**HONORABLE JED S. RAKOFF**  
United States District Judge  
Southern District of New York

**BARRY C. SCHECK**  
Co-Director, The Innocence Project  
Benjamin N. Cardozo School of Law

**CLE Credit:**  
3 credits in professional practice/practice management. This video replay does not provide transitional credit for newly admitted attorneys.

Video Replay:  
Member $195, Non-member $305

REAL ESTATE

**BASICS OF MORTGAGE FORECLOSURE — AND BEYOND**

16 Thursday, 6-8:15 p.m.

Receive a thorough primer on mortgage foreclosures in New York from the person who literally “wrote the book.” Bruce J. Bergman, author of the treatise *Bergman on New York Mortgage Foreclosures*, will discuss what you need to know to successfully and efficiently handle a mortgage foreclosure action and how to avoid pitfalls inherent in the process. Goals, procedures, strategies and issues will be explored, along with “hot topics” including predatory lending and non-judicial foreclosure. This is a program that you should not miss whether you are beginning to practice foreclosures or are an experienced practitioner who desires to refresh your knowledge of the important aspects in this burgeoning field of law.

Program Chair:  
**KENNETH M. MOLTNER**  
Bressler Amery & Ross PC

Program Instructor:  
**BRUCE J. BERGMAN**  
Berkman, Henoch, Peterson & Peddy, P.C.

Live Program:  
$195 Member, $305 Non-member  
CLE credit: 2½ credits in professional practice/practice management. This program provides transitional credit for newly admitted attorneys.

**HOT TOPICS AFFECTING COOPERATIVES & CONDOMINIUMS 2006**

27 Monday, 6-9 p.m.

This program will provide practitioners with an overview of important issues affecting cooperatives and condominiums, including updates on recent case law and legislation and a consideration of current issues facing cooperative and condominium boards and owners.

Program Chair:  
**MICHAEL T. MANZI**  
Balber Pickard Battistoni Maldonado & Van Der Tuin PC

Faculty:  
**ANDREW P. BRUCKER**  
Schechter & Brucker, P.C.

**DALE J. DEGENSHEIN**  
Cantor Epstein & Degenstein, LLP

**RONALD JAY GOLD**  
Kagan, Lubic, Lepper, Lewis, Gold & Colbert, LLP

**STEVEN D. SLADKUS**  
Wolf Haldenstein Adler Freeman & Herz LLP

**EVA C. TALEL**  
Stroock & Stroock & Lavan LLP

**PHYLLIS H. WEISBERG**  
Kurzman Karelsen & Frank, LLP

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

Live Program:  
Member $195, Non-member $305
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<td>March 1</td>
<td>Estate Planning Primer: Everything You Need to Know About Estate Planning, But Were Afraid (Or Didn’t Think) to Ask</td>
<td>$315</td>
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<td>Technology Services and Outsourcing Agreements: Understanding and Using These Agreements to Mitigate Business Risks</td>
<td>$315</td>
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<tr>
<td>March 4</td>
<td>So Little Time, So Much Paper: Organization and Time Management Techniques for Lawyers</td>
<td>$315</td>
<td>$385</td>
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 Did you ever wonder why some trial court decisions are selected for publication and not others? On November 14, 2005, the Committee on State Courts of Superior Jurisdiction (Andrea Masley, Chair) met with Gary Spivey, the 25th state reporter in a fascinating line of succession dating back to 1804, who solved the mystery. The following is based on Mr. Spivey’s presentation, the state reporter’s Web site http://www.courts.state.ny.us/reporter and the pamphlet Celebrating 200 Years of New York State Official Law Reporting (2004).

The Miscellaneous Reports

The Law Reporting Bureau is required by statute to publish every opinion, memorandum and motion issued to it by the Court of Appeals and the Appellate Division. With over 4,000 decisions issued each month by Appellate Term and trial courts, the state reporter must selectively publish lower court opinions in the Miscellaneous Reports. Judiciary Law § 431 provides that the Law Reporting Bureau may report any lower court opinion which the “state reporter, with the approval of the court of appeals, considers worthy of being reported because of its usefulness as a precedent or its importance as a matter of public interest.”

The state reporter and his staff of 34, including attorneys and paralegals, publish about 600 Appellate Term and trial court opinions in the Miscellaneous Reports each year. The staff edits every opinion for spelling, grammar and conformity to the style specified in the Official New York Law Reports Style Manual, available at http://www.courts.state.ny.us/reporter/Styman_Menu.htm.

Appellate Term and trial court judges submit approximately 3,000 opinions annually for consideration. Recently, of the 464 judges who submitted opinions in one year, 331 had their opinions published. Some had multiple opinions published, 43 had three or more, and 28 had five or more. When attorneys, usually the winning side, propose a decision for publication, if it is selected, the state reporter alerts the authoring judge and requests an original copy of the decision. The state reporter also reviews the New York Law Journal, the Rochester Daily Record, the Buffalo Law Journal and other legal publications or court Web sites for appropriate decisions to publish.

More Decisions Published Electronically

In 2001, the Court of Appeals approved a program under which selected Appellate Term and lower court opinions not chosen for publication in the Miscellaneous Reports could be published electronically on the Law Reporting Bureau Web site and in the on-line Official Reports. These opinions also are released to Westlaw, LexisNexis and Loislaw for publication in their on-line services. About 2,400 decisions are selected for electronic publication only.

The Rules Concerning Publication of Opinions in the Miscellaneous Reports, which are published at 22 NYCRR part 7300, elaborate on the statutory criteria for selection of opinions: precedential usefulness, novelty, public importance, practical significance, subject matter diversity, geographical diversity, author diversity, literary quality. The state reporter welcomes the submission of opinions with an explanation of how the criteria are satisfied.

Mr. Spivey became the official reporter for the State of New York in 1999. His name appears on 94 volumes, while John T. Fitzpatrick, who served from 1976-90, holds the record: 211 volumes. Illustrious predecessors include future members of the New York Court of Appeals, including chief judges, U.S. senators and district court judges, Susan B. Anthony’s attorney and Judge Learned Hand’s father.

Nominees Named

The following candidates have been nominated by the Executive Committee for election to five positions on the 2006 - 2007 Nominating Committee. Ballots will be sent to the membership. Those elected will be announced at the Annual Meeting of the Association on May 23, 2006. Pursuant to By-law XXIII, other nominations must be posted no later than April 6, 2006.

Mark Cunha
Elizabeth Donoghue
Jeremy Epstein
Leroy Frazer
Nancy Louden
Frederick Schaffer
Carol Sherman
Kenneth Standard
Elizabeth Stong
Ronald Tabak