PROPOSED LEGISLATION’S UNWELCOME BY-PRODUCT: WEAKENING DEFENDANTS’ RIGHTS

By Barry Kamins, President

In the past legislative session, Governor Spitzer’s proposed bill to expand the DNA database was not approved by the legislature. The bill was designed to expand the number of crimes for which an offender must provide DNA samples. In an essay published in the New York Law Journal, the State Commissioner of Criminal Justice Services lamented the bill’s rejection and suggested that the legislature should have refrained from enacting barriers to the bill by linking it to tangential or unrelated issues, such as the videotaping of confessions or the creation of an innocence commission. What the Commissioner failed to mention was that the Governor’s bill also included a proposal that would have created a sea change in New York criminal procedure, and significantly lessened protections for persons seeking to vacate their convictions. That is the principal reason for the City Bar’s opposition to the bill.

The Governor’s proposed law contained a measure that would have amended Section 444.10 of the Criminal Procedure Law, commonly referred to in the legal community as a “440 motion.” Pursuant to this section, a defendant who has been convicted and sentenced may challenge his conviction only if facts exist outside the appellate record that would undermine the conviction. Any grounds contained within the record must be raised through a direct appeal. Thus, a 440 motion embraces all non-appellate post-judgment remedies that collaterally attack a conviction. A defendant may choose one of eight grounds to attack the conviction, which include newly discovered evidence, duress, fraud, ineffective assistance of counsel, and prosecutorial misconduct.

Section 440 of the Criminal Procedure Law was enacted 36 years ago as a part of the Criminal Procedure Law that replaced the prior Code of Criminal Procedure. Prior to that, a defendant could only raise an off-the-record constitutional violation through a federal habeas corpus proceeding. For the past 36 years, there has never been a statute of limitations for 440 motions and the defendant has the right to file such a motion at any time. The Governor’s proposed bill created a one year deadline, following the conclusion of the direct appellate process, by which a defendant would be required to file a 440 motion. The only exception would apply to a motion based upon newly discovered evidence.

The City Bar strongly opposes any deadline for filing.

COMMITTEE REPORTS

We are continuously inspired by the breadth and depth of the work of our over 23,000 members and 160 committees. It is through the work of these committees that the Association maintains its reputation as a leading voice in the fight for equal justice and the rule of the law, as well as the betterment of the profession and society as a whole.

Here is a brief synopsis of the work product of our committees from just the last few months. If you would like to see any report in its entirety, please visit www.nycbar.org. The editorial staff was awed, yet not surprised, by the range and caliber of these reports. We expect you will be too.

GLOBAL HUMAN RIGHTS

African Affairs

Letter to President Mbeki of the Republic of South Africa expressing concern over the detention and beating of Morgan Tsvangirai and other members of the Movement for Democratic Change and the arbitrary detention of human and civil rights advocates in Zimbabwe.

African Affairs

International Human Rights

Letter to President Kabila for the Democratic Republic of the Congo expressing concern about Ms. Marie-Thérèse Nlandu Mpolo-Nene, a lawyer and former opposition presidential candidate, who is currently being tried by a military tribunal and faces up to 20 years imprisonment. The letter urges that all...
Proposed Legislation’s Unwelcome By-Product... Continued from Page 1

a 440 motion. It is not uncommon for defendants who have been serving their sentences for many years to come into possession of exonerating information through a FOIL request, a news story that relates to their case, or by pure luck. The proposed legislation was predicated on the belief that if new evidence conclusively proving innocence comes to light, the one-year time bar will not apply to this newly discovered evidence. This assumption is not based on reality. A 440 motion based upon newly discovered evidence must also establish that the evidence could not have been uncovered and produced during trial with due diligence. Prosecutors will frequently argue that trial counsel, if reasonably diligent, could have uncovered that evidence. Thus, the new evidence claim in reality raises allegations of ineffective assistance of counsel and that ground would be time-barred after a one year period. It is also not uncommon for 440 claims to be based upon the discovery of exonerating material in a prosecutor’s files years after the defendant was sentenced. Those claims would also be time-barred after one year.

Prosecutors argue that a time deadline will prevent excessive and frivolous claims by defendants and promote court efficiency. However, defendants already have a significant incentive to bring constitutional claims through 440 motions within a year after their convictions become final. Under the Antiterrorism and Effective Death Penalty Act (AEDPA), a defendant has one year from the date his or her conviction becomes final to initiate a federal habeas corpus proceeding. However, a prerequisite for the writ is the exhaustion of state court remedies. This provides enough incentive for defendants to file 440 motions expeditiously.

The Commissioner of Criminal Justice Services was correct when she stated that the DNA bill should be evaluated on its own merits without the erection of other barriers. One such barrier would be the creation of a statute of limitations for 440 motions that would eliminate a protection afforded to defendants in criminal cases for the last 36 years. Our courts have interpreted Article 440 as a remedy for defendants when no other relief is available. Thus, the section plays a significant role in ensuring the integrity of the criminal justice system. By creating a statute of limitations, the Governor’s bill will only serve to compromise that integrity and, therefore, the bill should be rejected.

THE LEGAL HISTORY COMMITTEE’S “THIS MONTH IN CITY BAR HISTORY”

One Hundred Nineteen Years Ago... Telephones have served the legal profession as useful tools since nearly their first practical application in 1878. Early adopters of the telephone tended to set their new-fangled device in an outer-office or common area, where telephone use—which itself was awkward, with the use of a long receiving arm and crank for contacting an operator—generally created a disturbance. In September 1888, the firm that is now Cravath, Swaine & Moore LLP took competitive bids on a project designed to solve this problem. The firm constructed a closet, made of pine, shellac and stain, to house their communal telephone. It was built for the grand price of $22. Three years later, in 1891, the firm did away with the pine closet, opting instead to put telephone extensions on the partners’ desks. Can You Hear Me Now? ...

Twenty Years Ago... In the summer of 1987, as a replacement for outgoing Justice Lewis F. Powell, Jr., President Ronald Reagan nominated Robert Bork to the United States Supreme Court. In September of that year, the City Bar convened a nine-person ad hoc committee to consider the Bork nomination. After receiving the report of the ad hoc committee, the City Bar’s Executive Committee voted 17 to 4 to disapprove the nomination. Four days before the Senate Judiciary Committee hearings began, on September 11, 1987, the Executive Committee publicly announced its opposition. Two weeks later, the City Bar’s then-President, Robert Kaufman, read a statement to the Senate Judiciary Committee indicating that a majority of members of the Executive Committee was “convinced” that Bork’s appointment “would detrimentally affect the rights of individuals and groups that the Supreme Court has recognized and protected, and that access to the courts may be seriously curtailed.” Ultimately, Bork’s appointment did not go through. At least for some, the City Bar’s Executive Committee’s stance on the Bork nomination was (and still remains) controversial.
also have the opportunity to hear from the people who make hiring decisions about the steps you can take to position yourself as an attractive candidate for employment. In addition, you will learn about the City Bar’s growing offerings for lawyers considering these transitions, including programs, online resources and networking opportunities.

The morning session will be followed by a networking luncheon which will feature a keynote speaker who will explore the issues that challenge career continuity today and trends that are emerging in response to this challenge.

Registration by September 12 is necessary. The fee, which includes breakfast and lunch, is $40 for members; $75 for non-members. Please register online at www.nycbar.org. For more information, please call Martha Harris at (212) 788-1093.

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20 Thursday, 12:30 – 2 pm

SMALL LAW FIRM LUNCHEON

LITIGATION READINESS & RESPONSE PLANNING

What does it mean to be "Litigation Ready"? Basically, your clients had better get their technology "ducks-in-a-row" before litigation, or you could face some uncomfortable questions at the meet and confer.

During this session we will focus on the intersection of policy and technical reality, covering the obligations and expectations associated with getting an organization's legal and technology processes operating in a consistent, repeatable, and defensible fashion.

Moderator:

MARK A. JOSEPHSON, CPA, CFP, CFE
Murray & Josephson, CPAs, LLC

Speakers:

JOHNNIE M. JACKSON, Jr.
Former Vice President and General Counsel & Secretary of Olin Corporation; Lead Director, Advisory Board of ESI Strategies

STEPHEN L. STEWART
Principal, ESI Strategies; Email, File, and Records Management Technical Specialist

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Registration by September 13 is necessary. The fee, which includes lunch, is $25 for members; $35 for non-members. Please register on page 5 or online at www.nycbar.org

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20 Thursday, 6-9 pm

TURKEY’S ROLE IN EUROPE

A panel of leading experts will discuss Turkey’s EU accession application, recent political and legislative developments in Turkey and the question of Turkey’s role in Europe.

Speakers:

HON. MEMET SAMSAR
Consulate General of Turkey for New York

LAWRENCE M. KAYE
Herrick Feinstein, LLP

NURI M. COLAKOGLU
Managing Director CNN-Turk: Vice-President, Executive Committee, Dogan Media Group

STEVEN A. COOK, Ph.D.
Douglas Dillon Fellow, Council on Foreign Relations

Co-sponsored by:

Turkish Ministry of Foreign Affairs; American Turkish Society

Registration is recommended. Please register online at www.nycbar.org. Seating on a first come, first available basis.

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28 Friday, 7 pm

“A KILLING ON BROADWAY” —

BY MYRON D. COHEN

“A Killing on Broadway” is a comedy/mystery about the world of the Broadway Theatre and an unfortunate producer whose best friend is a Member of the Bar who never met a law he wouldn’t break. Mr. Cohen has for many years authored the 12th Nite Musical Comedies presented annually at the City Bar. Featuring a theme song and music by the Entertainment Committee Chair, Peter Dizozza.

For more information, please contact Peter Dizozza at dizozza600@cs.com.
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* Some restrictions may apply. Offer ends November 30, 2007. Must be an attorney practicing at a 1–50 law firm to be eligible for this offer. One offer per law firm only. Must answer 6 survey questions to receive one $20 gas card.

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GLOBAL WARMING: THE ANIMAL CONNECTION

The annual conference on animals and the law will discuss causes, effects and solutions of global warming.

CAUSES: Greenhouse gas emissions are warming the planet at an alarming rate. Research by the United Nations Food and Agriculture Organization has determined that livestock generate more greenhouse gases than all forms of transportation combined. This percentage will only increase as demand for a meat-based diet increases in China and India.

EFFECTS: Biologists estimate that we may lose up to 50% of animal species by the middle of the century if steps are not taken soon to reduce greenhouse gas emissions.

SOLUTIONS: There are many creative solutions to slow down or stop global warming. Many of these solutions will require changes in the way we live and do business and many will require the involvement of lawyers.

Moderators:
FRANCES CARLISLE
Law Office of Frances Carlisle

MARIANN SULLIVAN
Deputy Chief Court Attorney
Appellate Division, First Department

Speakers:
MOISHA K. BLECHMAN
Co-Chair, Global Warming Committee, Atlantic Chapter, Sierra Club

GIDON ESHEL, Ph.D.
Division of Science, Mathematics and Computing, Bard College at Simon’s Rock

MICHAEL B. GERRARD
Arnold & Porter LLP

MICHAEL W. KLEMENS, Ph.D.
Senior Conservationist & Founding Director, Metropolitan Conservation Alliance, Wildlife Conservation Society

GOWRI KONESWARAN
Program Manager, Farm Animal Welfare, HSUS

JASON MATHENY
Director, New Harvest

BRYAN G. NORTON, Ph.D.
School of Public Policy, Georgia Institute of Technology

CYNTHIA ROSENZWEIG,
Ph.D.
Senior Research Scientist, NASA Goddard Institute for Space Studies, The Earth Institute at Columbia University

MICHAEL SCOTT
Managing Director, ENVI-RON - Carbon Ventures

Registration is required. The fee is $15 for New York City Bar members/students/seniors; $25 for the general public. Please register online at www.nycbar.org

Funding provided by a grant from Animal Welfare Trust, Inc.

September 2007 Registration Form

☐ Small Law Firm Luncheon: Litigation Readiness & Response Planning — 20 Thursday
The fee, which includes luncheon, is ☐ $25 for members and ☐ $35 for non-members.

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Company

Number of Reservations

Address

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Zip

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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.
CITY BAR WELCOMES NEW DIRECTOR OF THE OFFICE FOR DIVERSITY

At the beginning of May, Alex David was close to making a major change in his life by moving from New York to Virginia to take a job as the Director of Diversity and Recruiting for the Fifth District of the U.S. Federal Reserve. But three weeks later he was at 42 West 44th Street running the City Bar’s Office for Diversity.

Executive Director Barbara Berger Opotowsky had learned of Alex only one week before what could have been his last week in New York and asked him to remain here working for the City Bar. Due to that fortuitous timing, we now have a Director for the Office of Diversity with not only a background in promoting diversity, but who is also an economist. Alex is about to defend his Ph.D dissertation which details the causal variables of why women of color are making exponential strides in becoming small business owners.

While Alex was excited by the opportunity to work at the Federal Reserve, he knew he couldn’t turn the City Bar opportunity down. "When I was offered the chance to work to promote diversity across an entire profession as opposed to one institution, I realized it would multiply any impact I could have. The potential numbers of lawyers and firms I could reach was unlimited. And that was a challenge I could not refuse."

Alex hit the ground running, and before he had even unpacked his office he was preparing for the Association’s Diversity Champion Awards (see next page), which occurred on June 7th. He currently is in the midst of assisting the Minorities in the Profession Committee with a Best Practice Guide, and is working with the Career Advancement and Management Committee on its inaugural program relating to lawyers re-entering the workplace after taking time off, which will be on Sept 17th, and the Second Annual Diversity Conference, "Getting Serious about Race", to be held on October 29th.

While Alex will continue many of the annual diversity events at the Association, he also has plans to more intensively study the most effective methods for promoting diversity. "It seems like the annual diversity surveys have been a great tool for firms to measure the results- how they compare with each other in regards to diversity. I would now like to put on my economist’s hat and have the surveys delve more into "the why", why is X firm so successful and ahead of the pact? What are its best practices that can be shared with others?"

Of course, Alex isn’t doing this all completely alone. He is fortunate to have the help of recent college graduate and now Assistant for the Association’s Office for Diversity, Camille Watson. According to Camille, "I share Alex’s interest in the research. It will be exciting to further refine the diversity surveys to see how they come together in a report." Says Alex, "Together Camille and I can build on the strong foundation that the previous director Meredith Moore created and take the Office for Diversity to the next level where the City Bar can be looked to as the preeminent research center on diversity in the legal arena."

CITY BAR’S NEW INITIATIVE: “BREAK FROM THE LAW” ON SEPTEMBER 17

Lawyers who leave the legal profession to raise a family or focus on other interests can face many obstacles. Through this initiative the City Bar hopes to help ease the transition for lawyers who are thinking of changing gears or returning to the workforce by helping them overcome hurdles such as:

- updating their legal knowledge;
- developing transition strategies;
- providing networking opportunities; and
- juggling personal and family responsibilities.

More information about the September 17 event can be found on page 3. If you or anyone you know may be thinking of taking a break from the law or returning to the profession and are interested in receiving more information about this initiative and future events please contact us at mharris@nycbar.org to be added to our mailing list.
SECOND ANNUAL DIVERSITY CHAMPION AWARDS

The New York City Bar’s Committee to Enhance Diversity in the profession presented the second annual Diversity Champion Awards at an Award Ceremony and dinner held on June 7, 2007. The ceremony honored individuals who have enhanced diversity and inclusion in their organizations and the overall New York legal community. Nominees were judged by 7 criteria: influencing others, being a role model, continually learning, cultivating diverse teams, innovating and taking risks, holding oneself and others accountable for diversity, and external leadership involvement.

2007 Honorees:

Honorees are pictured left to right, between NYC Bar Executive Director, Barbara Berger Opotowsky (far left), and NYC Bar President, Barry Kamins (far right).

Sharon Y. Bowen (Partner, Latham & Watkins LLP) is a powerful role model and catalyst for change as Vice Chair of the Latham & Watkins Diversity Committee and a leader within the legal profession.

Laurie N. Robinson (Founder & CEO, Corporate Counsel Women of Color and Assistant General Counsel, CBS Broadcasting Inc) has demonstrated that she is a committed and effective advocate for diversity, particularly for in-house women attorneys of color, and has been described as a “true visionary” by others in the profession.

Hon. John E.H. Stackhouse (New York State Supreme Court Justice) has exhibited a longstanding commitment to diversity over course of his thirty-year career and has been described as a “trailblazer” by many in the profession.

Zakkiyah T. Salim (Associate, Heller Ehrman LLP) is involved in a remarkable array of diversity and community activities in addition to her responsibilities as a securities litigation associate.

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<td>VIDEO REPLAY: FORMING &amp; ADVISING CHARITABLE ORGANIZATIONS</td>
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*This program provides transitional credit for newly admitted attorneys.
BRIDGE THE GAP

16-HOUR BRIDGE THE GAP

25 Tuesday & October 4 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 invaluable information and credits for more experienced 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. This program is unique because we offer one day of litigation and one day of corporate; you can purchase both days together, or just one. In order to fulfill the MCLE Bridge the Gap requirements, you must attend both days.

Program Chair:
VICTOR OLDS
Managing Director & General Counsel
Bedford Stuyvesant Legal Services Corp

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

GLEN BANKS
Fulbright & Jaworski LLP

SUSAN BRUNE
Brune & Richard LLP

JASON M. DRANGEL
Epstein, Drangel, Bazerma & James LLP

ALEXANDRA DURAN, MSW, CSW, JD
Principal & Founder
Career Transitioning

STEVEN A. HOCHMAN
Mediator & Arbitrator

DEVIIKA KEWALRAMANI
Moses & Singer LLP

STEVEN KOBRE
Kobre & Kim LLP

SHARI H. LICHTMAN
Attorney & CPA
Litigation, Consulting & Education

RAUN RASMUSSEN
Chief of Litigation
Legal Services for New York City

HON. RAMON E. REYES, JR.
Magistrate Judge
US District Court, EDNY

JOHN J. REILLY
Holland & Knight LLP

ONA WANG
Baker & Hostetler LLP

CLE credit: September 25 & October 3:
7 credits in professional practice/practice management, 6 credits in skills & 3 credits in ethics. This program provides transitional credit for newly admitted attorneys.

CLE credit: September 25 or October 3:
3 1/2 credits in professional practice/practice management, 3 credits in skills & 1 1/2 credits in ethics. This program provides transitional credit for newly admitted attorneys.

Live Program - both days (includes materials):
Member $415  Non-member $665

Live program - per day (includes materials):
Member $375  Non-member $515

CORPORATE & SECURITIES

VIDEO REPLAY: HEDGE FUNDS:
FORMATION, OPERATION & COMPLIANCE

7 Friday, 9-1 p.m.

The hedge fund industry has grown exponentially over the past few years and particular hedge funds have been making headline news for both good and bad reasons. The industry has attracted the attention of investors and regulators more than ever.

This course will provide an overview of the rules related to operating a hedge fund. Faculty will discuss how to avoid problems in the enforcement environment and provide best practices for protecting hedge fund advisers from liability. The registration process, requirements applicable to registered advisers and operating issues involving hedge funds will be examined. Finally, top practitioners and representatives of the SEC will discuss the SEC’s views on hedge fund issues.

Although this program is intended for professionals in the hedge fund industry, as well as experienced lawyers who practice in hedge funds, lawyers who are interested in developing hedge fund expertise will also benefit.

Program Chair:
NORA M. JORDAN
Davis Polk & Wardwell

For faculty listing please see www.nycbar.org

CLE credit:
4 1/2 credits in professional practice. This video replay does not provide transitional credit for newly admitted attorneys.

Video replay (includes materials):
Member $335  Non-member $475

CRIMINAL

BODY OF EVIDENCE:
HOW CRIMINAL DEFENDANTS’ BODIES BECOME PART OF THE EVIDENCE AT TRIAL

10 Monday, 6-9 p.m.

While criminal defendants have the right to remain silent, their own bodies – appearance, voice, DNA, blood, bodily fluids, teeth, fingerprints, glove size, etc. – can provide evidence identifying or excluding them as perpetrators of crimes. In this program we have invited forensic experts to provide illustrations of effective uses of various types of identifying evidence at trial. After each demonstration, we will turn to a panel of prosecutors and defense attorneys to discuss relevant case law and strategies for admitting this evidence, and alternatively, keeping it out or discrediting it.

Program Chair:
KARIN KLAPPER ORENSTEIN
Criminal Advocacy Committee

Moderator:
HARLAN A. LEVY
Boies Schiller & Flexner LLP

Faculty:
PATRICIA BAILEY
Senior Supervising Attorney, Special Projects Bureau
New York County District Attorney’s Office

EZEKIEL EDWARDS
Staff Attorney & Mayer Brown Eyewitness Fellow, The Innocence Project
Criminal Justice Fellow, Drum Major Institute for Public Policy
LARRY KOBLINSKY, PH.D  
Chair, Science Department  
John Jay College of Criminal Justice

ROY S. MALPASS, PH.D.  
Professor of Psychology  
University of Texas at El Paso

MELISSA MOURGES  
Senior Trial Counsel and Co-Chief of the Cold  
Case DNA Unit  
New York County District Attorney’s Office

ANNA-SIGGA NICOLAZZI  
Bureau Chief, Homicide Bureau  
Kings County District Attorney’s Office

JOHN PAUL OSBORN  
Forensic Document Examiner  
Paul A. Osborne & Son

NOELLE UMBACK, Ph.D.  
Criminalist IV: CODIS Custodian  
New York City Office of  
Chief Medical Examiner  
Department of Forensic Biology

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

Video replay (includes materials):  
Member $175  Nonmember $285

ETHICS

VIDE O REPLAY: ETHICS IN MEDIATION & SETTLEMENT NEGOTIATIONS

6 Thursday, 6-9 p.m.

What are an attorney’s ethical obligations in representing a client in settlement negotiations? How does the ethical landscape change in the mediation context? What specific strategies are both effective and ethical? How do the mediator’s own ethical obligations affect strategy? A panel of experienced mediators and attorneys will review attorneys’ obligations under the Code of Professional Responsibility and the Model Rules. The panel will also examine negotiation and mediation tactics, and discuss the interplay of good strategy and good ethics.

Program Co-Chairs:
LISA M. COURTNEY  
Special Projects Counsel  
Office of ADR and Court Improvement Programs  
New York State Unified Court System

PAMELA ESTERMAN  
Sive, Paget, & Riesel, P.C.

For faculty listing please see www.nycbar.org

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

Faculty:
PETER BRESNAN  
Deputy Director, Division of Enforcement  
U.S. Securities and Exchange Commission

DAVID E. BRODSKY  
Stein Professor of Law  
Fordham University School of Law

KAREN PATTON SEYMOUR  
Sullivan & Cromwell LLP

AUDREY STRAUSS  
Fried Frank Harris Shriver & Jacobson LLP

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

Live Program (includes materials):  
Member $235  Non-member $345

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Attend our live webinar:
“Is Your Important Outbound E-mail Protected?”
Sept. 19th, 12:00pm EST
FAMILY LAW

UPDATE 2007 — CURRENT DEVELOPMENTS IN MATRIMONIAL LAW

27 Thursday, 6-9 p.m.

Recent significant developments, including decisions rendered by all the courts, from the United States Supreme Court to the New York Court of Appeals, have occurred and anyone dealing with a matrimonial matter needs to know about them.

A panel of prominent attorneys who have been involved in many of the cases that will be discussed will examine the impact of the latest changes on the following substantive issues:

- Counsel Fees
- Equitable Distribution
- Custody
- Support

This program is intended for both the seasoned matrimonial and family law practitioners interested in learning how recent decisions and case developments are affecting the practice, as well as attorneys new to the practice who need practical advice on how to handle a matrimonial case.

Program Chair: 
MICHAEL DAVID STUTMAN
Mayerson Stutman Abramowitz Royer, LLP

Faculty to be announced.

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

Live Program (includes materials):
Member $195  Non-member $305

INTELLECTUAL PROPERTY/INTERNET

FINANCIAL SERVICES PATENTS — WHAT A FINANCIAL SERVICES LAWYER NEEDS TO KNOW NOW

18 Tuesday, 8:30-12:30 p.m.

In recent years, the number of patents in the financial services industry has skyrocketed and so has the number of patent litigations. Companies need to understand the current patent rules and the current legal environment so they can evaluate how business patents fit into their corporate strategy. Companies need to know how to use their business patents both offensively and defensively. This program will address the following issues:

- What is a patent?
- What does a patent protect?
- How is a patent different from copyright, trademarks and trade secrets?
- How will a patent help my bottom line?
- Recent trends in financial services patents
- Recent infringement litigations in the financial services industry
- Offensive and defensive uses of patents
- The current status of patent reform legislation
- The impact of the recent Supreme Court rulings
- Potential involvement of securities regulators with patent matters

This program is intended for non-patent lawyers, such as in-house counsel, banking lawyers, securities lawyers and those who have clients in the financial services industry.

Co-Sponsored with: ALI-ABA

Program Co-Chairs:

JOEL R. WOLFSON
Assistant General Counsel
Banc of America Securities, LLC

WALTER G. HANCHUK
Chadbourn & Parke LLP

Faculty:

BRANDON BECKER
Wilmer Hale
Washington D.C.

DAVID E. BOUNDY
Vice President & Assistant General Counsel for IP
Cantor Fitzgerald L.P.

IRAH H. DONNER
WilmerHale

KIRSTEN R. RYDSTROM
Reed Smith LLP
Pittsburgh, PA

JOHN A. SQUIRES
Vice President
Chief Patent Counsel & Associate General Counsel
Goldman Sachs & Co.

Live Program (includes materials):
Member $295  Non-member $315

CLE credit:
4½ credits in professional practice. This program provides transitional credit for newly admitted attorneys. This program is approved for MCLE credit in other MCLE jurisdictions.
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LEGAL WRITING

WRITING TO PERSUADE

28 Friday, 9-5 p.m.

You’ve thought through the case again and again. You’ve mastered the facts and the law, found a story to tell, decided how to shape the issues, lined up your authorities. Now you have to write a brief that holds the attention of – and persuades – an overworked, impatient judge who reads hundreds of briefs a year.

Writing To Persuade demonstrates how to write briefs that are clear, credible, and persuasive. It doesn’t teach you “tips” or “tricks.” Instead, it starts from the fundamental principles of rhetoric and psychology that show you how to think coherently about the techniques of persuasion. Building on those principles, the program gives you concrete, practical methods for writing and editing a brief so that its organization, style, and tone present your argument in the best possible light. The program mixes lecture with the discussion of many examples, and features exercises throughout the day. It is lively, fast moving, and thought-provoking.

This program assumes that you are comfortable with the substantive aspects of writing briefs. It therefore does not include such basics as case analysis, defining issues, and constructing an argument.

The instructor covers several topics addressed in the ALI-ABA Professional Skills program, Advanced Writing and Editing for Lawyers, in addition to others that deal specifically with advocacy writing.

Program Instructor: TIMOTHY P. TERRELL
LAWriters LLC
Co-sponsored with ALI-ABA

CLE credit:
6 credits in skills & 1 credit in ethics. This program provides transitional credit for newly admitted attorneys. This program is approved for MCLE credit in other MCLE jurisdictions.

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

LITIGATION

PERFORMANCES FROM “OSCAR” WINNING LITIGATORS:
THE ROLE OF HUMOR IN THE ART OF ADVOCACY

19 Wednesday, 6-9 p.m.

The program will explore the appropriate use of humor in the courtroom. It will identify the goals of and risks of injecting humor into a legal proceeding. The panelists will provide examples of the kinds of humor which have worked in actual cases. The goal is to educate the audience while it is laughing.

Program Chair:
ROBERT G. MORVILLO
Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer

Faculty:
BARRY A. BOHRER
Movillo, Abramowitz, Grand, Iason, Anello & Bohrer

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

www.nycbar.org
REAL ESTATE

RESIDENTIAL REAL ESTATE CLOSINGS: SOUP TO NUTS

24 Monday & October 4, Thursday 6-9 p.m.

This program will cover the purchase and sale of cooperatives, condominiums and houses. The panelists will review such general matters as forms of ownership, pre-contract due diligence, transfer and mortgage taxes, title insurance and lien searches, and the contract of sale, including a review of the loan contingency clause and other most frequently negotiated contract provisions; and discuss a number of commonly encountered problems (such as combined apartments) and "how to" close a transaction.

Program Chair:
MINDY H. STERN
Schoeman, Updike & Kaufman, LLP

Faculty:
KRISTIN V. BELLOUNY
Senior Vice President & Senior Underwriting Counsel
Fidelity National Title Insurance Company

DAVID L. BERKEY
Gallet Dreyer & Berkey, LLP

MELVYN MITZNER
Senior Vice President and Chief Underwriting Counsel
Commonwealth Land Title Insurance Company

RICHARD A. NARDI
Loeb & Loeb LLP

ALAN B. REIS
Reis Cooper LLP

MATTHEW W. RYAN
Vice President
HSBC Private Bank

ALVIN SCHEIN
Seiden & Schein, P.C.

CLE credit:
6 credits total; 2½ professional practice/practice management, 2½ skills & 1 ethics. This program provides transitional credit for newly admitted attorneys. In accordance with the CLE Board’s Regulations & Guidelines, if you attended this program in the past you may not be permitted to apply the CLE credit for this program to fulfill your current CLE requirements.

Live Program (includes materials):
Member $395 Non-member $535

NONPROFIT ORGANIZATIONS

VIDEO REPLAY: FORMING & ADVISING CHARITABLE ORGANIZATIONS — THE BASICS & BEYOND

26 Wednesday, 9-5 p.m.

This basic course, which will be useful to both experienced and newly admitted attorneys, provides an overview of New York State and federal law governing the formation and operation of nonprofit, charitable organizations. It will address the general rules governing tax-exempt status for 501(c)(3) organizations, the mechanics for forming a New York nonprofit and obtaining tax-exempt status, the obligations and duties of nonprofit officers, directors, and trustees, the rules governing solicitation of charitable contributions (and the deductibility of such contributions), and the New York Attorney General’s role in overseeing charitable organizations. In addition, the special rules which apply to private foundations, and the support test for determining whether an organization is or is not a private foundation, will be considered.

Program Co-chairs:
DAVID G. SAMUELS
Duval & Stachenfeld LLP

PIETRINA SCARAGLINO
Associate General Counsel
New York University School of Law

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

Live Program (includes materials):
Member $205 Non-member $315

Nonmember $495

Member $365 Non-member $535

Registration

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

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

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

A $35 administrative fee will be charged for all refunds. The cancellation fee will be deducted directly from the refund. For program credits no administrative fee will be charged. Program credits must be used within one year of the original program date. Cancellations must be in writing and faxed to the City Bar Center at (212) 869-4451.

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

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

These programs are presented under the auspices of the CLE Committee, Valerie L. Fitch, Chair, and the City Bar Center for Continuing Legal Education. 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.
SEPTEMBER 2007 CLE REGISTRATION FORM

[Box] VIDEO REPLAY: ETHICS IN MEDIATION & SETTLEMENT NEGOTIATIONS
September 6

Member Non-member

Video Replay
(includes materials): □ $235 □ $345
CDs
(includes materials): □ $365 □ $435
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(includes materials): □ $345 □ $505
DVDs
(includes materials): □ $475 □ $565
Materials Only:
(No CLE credit) □ $105 □ $135

[Box] VIDEO REPLAY: HEDGE FUNDS: FORMATION, OPERATION & COMPLIANCE
September 7

Member Non-member

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(includes materials): □ $335 □ $475
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(includes materials): □ $445 □ $615
Videotapes
(includes materials): □ $355 □ $685
DVDs
(includes materials): □ $605 □ $765
Materials Only:
(No CLE credit) □ $105 □ $135

[Box] BODY OF EVIDENCE: HOW CRIMINAL DEFENDANTS' BODIES BECOME PART OF THE EVIDENCE AT TRIAL
September 10

Member Non-member

Live Program
(includes materials): □ $175 □ $285
CDs
(includes materials): □ $335 □ $405
Videotapes
(includes materials): □ $405 □ $475
DVDs
(includes materials): □ $445 □ $535
Materials Only:
(No CLE credit) □ $105 □ $135

[Box] ETHICAL CONSIDERATIONS FOR CORPORATE INVESTIGATIONS: UPDATES 2007
September 17

Member Non-member

Live Program
(includes materials): □ $235 □ $345
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(includes materials): □ $365 □ $435
Videotapes
(includes materials): □ $435 □ $505
DVDs
(includes materials): □ $475 □ $565
Materials Only:
(No CLE credit) □ $105 □ $135

[Box] FINANCIAL SERVICE PATENTS: WHAT A FINANCIAL SERVICES LAWYER NEEDS TO KNOW NOW
September 18

Member Non-member

Live Program
(includes materials): □ $295 □ $395
CDs - both days
(includes materials): □ $485 □ $655
Videotapes - both days
(includes materials): □ $595 □ $725
DVDs - both days
(includes materials): □ $645 □ $795
Materials Only:
(No CLE credit) □ $235 □ $355

[Box] TERMINATION OF AN EMPLOYEE: REDUCING THE RISKS OF LITIGATION
September 18

Member Non-member

Live program
(includes materials): □ $205 □ $315

[Box] PREFERENCES FROM "OSCAR" WINNING LITIGATION: THE ROLE OF HUMOR IN THE ART OF ADVOCACY
September 19

Member Non-member

Live program
(includes materials): □ $205 □ $315
CDs
(includes materials): □ $335 □ $405
Videotapes
(includes materials): □ $405 □ $475
DVDs
(includes materials): □ $445 □ $535
Materials Only:
(No CLE credit) □ $105 □ $135

[Box] RESIDENTIAL REAL ESTATE CLOSINGS: SOUP TO NUTS
September 24 & October 4

Member Non-member

Live Program - both days
(includes materials): □ $395 □ $335
Live Program - per day
(includes materials) □ $215 □ $325
CDs
(includes materials): □ $485 □ $655
Videotapes
(includes materials): □ $595 □ $725
DVDs
(includes materials): □ $645 □ $795
Materials Only:
(No CLE credit) □ $235 □ $335

[Box] 16 HOUR BRIDGE-THE-GAP
September 25 & October 3

Member Non-member

Live Program - both days
(includes materials): □ $415 □ $665
Live Program - per day
(includes materials): □ $375 □ $515

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necessary measures be taken to ensure that Ms. Nlandu be released or, at a minimum, that she receive a fair trial by an independent civilian court.

International Human Rights

Letter to the Permanent Representative of the Mission of the Islamic Republic of Iran to the United Nations expressing concern that certain anti-Semitic statements made by Iran’s President violated international law, specifically Iran’s obligations under the International Convention on the Elimination of All Forms of Racial Discrimination, the United Nations International Covenant on Civil and Political Rights and the Convention on Prevention and Punishment of the Crime of Genocide. A similar letter outlining these concerns was also sent to the U.S. Department of State.

Letter to President Musharraf of the Islamic Republic of Pakistan urging the Pakistani government to comply with its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women and move toward ensuring equality for women by repealing discriminatory laws, making certain that laws are enforced equitably and enhancing public education programs aimed at achieving gender equality.

Letter to Congress urging that it conduct an inquiry into the case of an American citizen, Mr. Amir Mohamed Meshal, who has been held for almost three months in secret detention in Ethiopia. This case, the letter states, raises issues concerning the United States’ compliance with the Constitution and human rights instruments that protect citizens and non-citizens.

International Human Rights
United Nations

Letter to the Secretary General of the United Nations recommending a plan to implement the responsibility project principle and to expand the role of the Special Advisor on the Prevention of Genocide.

Letter to His Excellency Dr. Mahmoud Ahmadinejad, President, Islamic Republic of Iran stating that Dr. Haleh Esfandiari’s baseless arrest and detention violate the Universal Declaration of Human Rights as well as provisions of Iran’s Constitution and urging her release from Evin Prison.

CIVIL RIGHTS

Civil Rights

Letter to Congress expressing support for the Deceptive Practices and Voter Intimidation Prevention Act of 2007 (H.R. 1281) which would make unlawful knowingly disseminating false information intended to prevent other persons from exercising their right to vote in federal elections, including disseminating false information about the time, place or manner of voting or qualifications for, or restrictions on, voting, the political affiliations of candidates in closed primaries or explicit endorsement of any candidate for office. In addition, the Act would require the Attorney General to take prompt corrective action where such false information is disseminated and requires the Attorney General to provide reports to Congress that would enable Congress to perform its oversight function.

Amicus Brief: Bismullah v. Gates filed with the U.S. Court of Appeals for the District of Columbia Circuit. The brief addresses a Proposed Order submitted by the Justice Department that would limit the access of attorneys to clients who are detainees at Guantanamo. The Proposed Order would limit the lawyer to three visits; restrict lawyers’ mail communications; and give the government authority to read and censor content of mail. The brief argues that these restrictions deprive the lawyer of the ability to adequately provide competent and informed representation. Effective assistance of counsel is a matter of right that is implicit in the grant of judicial review by the Detainee Treatment Act since absent effective assistance of counsel judicial review would be meaningless. The brief notes that while the Court has discretion to enter reasonable protective orders to protect national security, it should not issue an order that unreasonably restricts detainees’ right to effective assistance of counsel.

Amicus Brief: Hepting v. AT & T Corp. filed with the U.S. Court of Appeals for the Ninth Circuit. The brief argues that NSA’s program of warrantless wiretapping threatens to undermine the fundamental principle of justice that persons accused by the government of wrongdoing have access to legal advice and that such legal advice can only be effective if lawyer-client communications are conducted in confidence without fear that government agents are listening in. Monitoring and wiretapping of communications between lawyers and their clients is unconstitutional, argues the brief, as it chills communication which is protected by the First Amendment and inhibits the effective assistance of counsel guaranteed by the Sixth Amendment.

Amicus Brief: Arbor Hill v. County of Albany filed with the U.S. Court of Appeals for the Second Circuit. The brief urges reversal of the holding that one of the factors to be considered in determining attorney’s fees in cases that involve fee-shifting statutes is whether or not the lawyer took the matter on pro bono. The brief urges that when determining the reasonableness of fees awarded under the civil rights law, the court should not alter the fee-shifting provisions of the civil rights laws, which were intended to serve as incentives to civil rights enforcement. The holding would undermine the incentives for private firms to undertake, as part of their pro bono programs, costly and complex civil rights litigation that civil rights organizations or firms do not have the resources to tackle.

Labor and Employment Law

Legal Issues Affecting People with Disabilities

Best Practices Guidelines for Employers Interviewing Job Candidates with Disabilities. These guidelines provide employers with an understanding of their legal obligations when:
setting up an interview for a job;
conducting an interview; and
making pre- and post-conditional offers of employment to a candidate with a disability

**CRIMINAL LAW**

**Corrections**

Letter to the Joint Committee on Local Rules of the EDNY and the SDNY urging that in all cases involving pro se litigants, counsel attach copies of decisions cited in their mem­oranda of law or other pleadings when those decisions are unreported and/or available solely in electronic databases.

Comments on Board of Correction Proposed Amendments to Minimum Standards for New York City Correctional Facilities. The report expresses serious concerns with several of the proposed amendments and with the fact that the amendments were drafted without benefit of input from the public and offers recommendations for improving the amendments. No need for the proposed amendments has been demonstrated and many of them, the report argues, jeopardize the privacy of inmates, serve to decrease the dignity with which inmates are treated and pose serious health concerns.

**Criminal Justice Operations**

The Immigration Consequences of Deferred Adjudication Programs in New York City. This report examines why non­citizens face deportation and other negative immigration consequences as a result of pleading guilty through deferred adjudication programs and makes recommendations on how to enhance immigrant participation in diversion and rehabilitation programs that would allow them to rejoin their communities as productive law abiding individuals.

Report on Proposed Legislation Creating a Statewide Body to Review Wrongful Convictions. This report supports the purpose of A.4317 and the Governor’s proposed bill both of which try to tackle the issue of wrongful convictions with the advent of new DNA technology, but concludes that each bill needs to be modified in order to achieve an effective result.

**Criminal Law**

Report offering comments on the Governor’s Program Bill #29 which addresses issues relating to DNA evidence. Among the recommendations, the report opposes Section 14 of the legislation which would establish a one year deadline for all motions under CPL 440.10 that do not involve claims of newly discovered evidence related to actual innocence [recommendation added by Executive Committee]. The report explains how imposing a deadline on 440 motions, which were designed to provide relief for defendants who wish to collaterally attack a conviction from outside the appellate record, would undermine the purpose of this section and lead to miscarriages of justice. (See page one for more information.)

Among the other provisions of the bill commented upon, the Committee opposed provisions that would permit a public servant to use force when confronted with an offend­er who does not wish to submit a sample, saying that the official must explain to the offender the legal basis for the DNA requirement and afford the offender the opportunity to consult with counsel.

**Criminal Justice, Council on Criminal Justice Operations**

Report supporting A.3640/S.1977 which would amend Section 190.30 of the Criminal Procedure Law by creating subsection (8) which would add an exception for documents that fit the existing definition of "business records" for hearsay purposes, thus permitting the admission of numerous documents to the Grand Jury without requiring the testimony of a live authenticating witness.

**Criminal Justice Operations Criminal Advocacy**

Comments on the Kaye Commission Report on Indigent Defense. The comments focus on how the proposal would impact criminal justice operations in New York City and makes recommendations concerning the proposed statewide defender plan. The comments conclude that there should be a Statewide Commission with the power to set and enforce statewide standards, including within New York City, but that plans for the State’s takeover of the direct provision of indigent services should exclude New York City.

**Domestic Violence**

Report in support of legislation A.7554/S.4704 which would authorize an experimental program in which orders of protection filed and entered by the family courts in certain counties could be transmitted by fax or electronic means to sheriffs and police departments. It is important that this service occur as quickly as possible, the report argues, because victims continue to be without protection from the time the court issues the order until the time it is served.

Report in support of legislation A.7329/S.4877 which would amend the Domestic Relations Law and Family Court Act to require a court, prior to issuing any order of custody and/or visitation, to review child abuse and maltreatment, orders of protection, warrants of arrest and sex offender registries.

**CORPORATE AND CONSUMER ISSUES**

**Criminal Law**

Letter to Congress expressing support for S.186, The Attorney Privilege Protection Act of 2007. If enacted, the Act would end threats to the confidential attorney-client rela­
tionship by protecting valid assertions of attorney-client privilege and work product doctrine. It would also prohibit any agent or U.S. Attorney from pressuring any company or organization to: disclose confidential information protected by attorney-client privilege or work product doctrine; refuse to contribute to the legal defense of an employee; refuse to enter into a joint defense, information sharing, or common interest agreement with an employee; refuse to share relevant information with employees that they need to defend themselves; or terminate or discipline an employee for exercising his or her constitutional or other legal rights.

Bankruptcy and Corporate Reorganization

Consumer Affairs

Personal Bankruptcy: Is it Right for You? This pamphlet explains to individuals who are in debt and considering filing for personal bankruptcy, what the process is and the advantages and disadvantages of filing for personal bankruptcy.

Consumer Affairs

Comments submitted to the New York State Legislature expressing support for amending the New York Fair Debt Collection Practices Act to afford consumers a private right of action against debt collectors who violate the law. The comments note that the statute should also provide for the creation of model collection practices that would amount to a safe harbor for legitimate collection practices; award damages and attorney's fees to successful plaintiffs; and award attorney's fees and costs to defendants who prevail on NYFDCPA claims against plaintiffs who bring such claims in bad faith and for the purpose of harassment.

Taxation of Business Entities

Report Offering Proposed Guidance Regarding U.S. Federal Income Tax Treatment of Certain Lending Activities Conducted within the U.S. The report offers guidance on how to determine when a nonresident alien individual or foreign corporation that is not otherwise subject to U.S. taxation on a net income basis should be treated when engaged in a trade or business with the United States for federal income tax purposes as a result of certain lending activities conducted within the U.S. by or on behalf of that nonresident alien individual or foreign corporation.

Financial Reporting

Securities Regulation

Letter to the SEC urging the Commission to undertake a comprehensive review of the rules governing private offerings under the Securities Act of 1933 as they are in need of updating.

TECHNOLOGY AND COMMUNICATIONS

Communications and Media Law

Report expressing support for A.3950/S.2067 which would amend the Judiciary Law to permit news coverage by audio-visual means of courtroom trials in New York State. The report argues that the presence of cameras will not alter the conduct of the trial or disrupt the proceedings and that the cameras merely extend the public's right to view courtroom trials.

Report expressing opposition to A.8836/S.6005 which would amend New York Civil Rights Law §§50 and 51 and criminalize the use "for advertising purposes" or "for the purposes of trade" of the "name, portrait, voice, signature or picture" of any person who died on or after January 1, 1938 without the written permission of such person's heirs, estate, or distributees. The report argues that the bill as drafted severely restricts the ability of the media to portray deceased private and public figures in their work and is likely unconstitutional.

Information Technology Law

Report opposing proposed legislation that would amend the Penal Law by expanding New York's prohibitions against Internet gambling (and gambling in general) to prohibit the mere "endorsement" of gambling. The report expresses concern that the new prohibitions are unnecessary, as present criminal facilitation and aiding and abetting doctrines sufficiently cover conduct directly tied to gambling crimes, and that the inclusion of mere "endorsement" is overbroad and raises serious constitutional concerns.

COURT ADMINISTRATION

Judicial Administration, Council on

State Courts of Superior Jurisdiction

Letter to Chief Judge Kaye commenting on the July 2006 Report of the Office of Court Administration on the Commercial Division Focus Groups. The letter agrees with the Report's general conclusion that many aspects of Commercial Division practice have worked well and should be adopted in non-commercial parts. A number of the Report's specific proposals are addressed in the letter.

Town and Village Courts, Task Force

Report making a series of recommendations relating to the training of Town and Village Justices and court clerks including that: bar associations throughout the state establish a committee to identify lawyers to work with the New York State Judicial Institute to present courses of study for Town and Village Justices; the New York State Judicial Institute along with other agencies offer training on court administration, fiscal responsibility and accountability; and the members of any advisory committee established to plan and monitor the training programs be neutral in their positions with respect to the issues that come before Town and Village Courts.

Report regarding the provision of assistance to Town and Village Justices, recommending that: the Office of Court Administration fully fund a large staff of lawyers and administrators to aid the Town and Village Justices; a resource cen-
Military Affairs and Justice
Letter to the Department of Veterans Affairs offering comments on proposed rules for Accreditation of Agents and Attorneys including opposing a proposed rule which would require attorneys to pass a written examination in order to practice before the Department. The City Bar Justice Center also commented on the proposed rules, noting that the rules should not apply to volunteers handling a case pro bono.

MARRIAGE AND DIVORCE
Matrimonial Law
Report expressing a potential unintended consequence of A.3074 which would amend the statute of limitations for agreements relating to marriage. The Committee supports the intent of the bill which is to toll the statute of limitations during the period when a marriage is viable and no litigation dissolving the marriage has commenced, as the parties are unlikely to contest a prenuptial agreement while the marriage is still successful. But the report argues that the bill as drafted would make all marital agreements, including separation agreements and stipulations of settlement, susceptible to being attacked in perpetuity. The Committee offered language to correct the oversight in drafting.

Trusts, Estates and Surrogate’s Courts
Proposal to amend the Estates, Powers and Trusts Law to add Section 5-1.5, Revocatory Effects of Divorce, Annulment or Declaration of Nullity, or Dissolution of Marriage on Disposition, Appointment, Provision or Nomination in Governing Instrument Relating to Non-Probate Property and Former Spouse. The proposed amendment would update New York State’s estate planning law in the wake of today’s higher divorce rates and increased use of revocable trusts and non-probate assets and extend revocation upon divorce to non-probate assets.

STATE AND CITY AFFAIRS
Environmental Law
Letter to Mayor Bloomberg urging that New York City undertake an analysis of the Solid Waste Management Plan including waste reduction and reuse strategies and examine the extent to which disposal technologies might interfere with reuse and reduction efforts.

New York City Affairs
Report on the financing of the Hudson Yard Development Project provides an extensive review of the financing mecha-

nism being used by New York City for the development of the Hudson Rail Yards, a 45-block area on the far west side of Manhattan adjacent to the mid-Manhattan central business district. The report notes that empowering agencies to incur debt not backed by the City’s general revenues raises the same kinds of risks that led to the City’s fiscal crisis in the 1970’s.

State Affairs
Report Supporting Legislative Rules Reform: The Fundamentals. This report sets forth proposals to address three fundamental areas of legislative procedure that are in need of reform: resource allocation, committees, and member items. Reform in these fundamental areas, the report urges, would be an initial step to reforming the entire legislative process and further refine the efficiency and productivity of public policy making and debate in New York State.

ANIMAL LAW
Legal Issues Pertaining to Animals
In response to several fires in pet stores and barns in NYS and around the country which resulted in the deaths of hundreds of animals, bills were introduced in the State Assembly and Senate (A.311/S.558 and A.312/S.559) that would require the implementation of fire safety measures at pet housing facilities. The Committee offered its support with recommendations for these bills. Under current law, licensed pet dealers in New York need only comply with minimum standards of care for animals in their possession which do not include fire safety. The report recommends that at all pet housing facilities meet fire hazard safety standards as required by the Commissioner of Agriculture and Markets. The report also recommends requiring each pet dealer to install either an automatic dialing service or a fire suppression sprinkler system.

Report supporting A.1839/S.3167 which would authorize the establishment of Senior Pet Companionship Programs to match seniors who have limited social contact with companion animals.

Letters sent to both Stony Brook University Medical School and New York Medical College urging the schools to discontinue the use of live dogs in physiology and surgery laboratories. This letter bases its argument on legal, scientific and ethical grounds.
Law Student Members

Welcome back. After spending the summer interning perhaps at a firm, government agency or public interest organization it is time to open the books again. Remember the City Bar is a great resource as you continue to prepare for your legal career.

Make valuable contacts with members of the bar and discover the area of law that is right for you by applying to join a City Bar committee. Look for programs and events on career planning options, how to network effectively and how to best prepare for the bar exam. As a law student member, you are also entitled to use the Association’s Library.

Don’t forget to visit the new Law Student page on the City Bar’s website http://www.nycbar.org/LawStudents/index.htm which now offers a Resource Guide that provides a large assemblage of information on the process of becoming a lawyer.

We look forward to a great year together.

NEW COMMITTEE CHAIRS

We are pleased to recognize the following members as new chairs of Association committees.

Stewart D. Aaron       Litigation
Wendy A. Bach          Social Welfare Law
Peter T. Barbur        Civil Rights
David W. Bowker        International Law
Michael A. Cooper      Employment Opportunities for the Previouly Incarcerated
Carey R. Dunne         Judiciary
Hon. Anne G. Feldman   Criminal Law
Sarah W. Fitts         Asian Affairs
Michael I. Frankel     Estate & Gift Taxation
Jerry H. Goldfeder     Election Law
Eliot P. Green         Non-Profit Organizations
Marta E. Gross         Patents
Steven A. Hammond      International Legal Services
Joel L. Hecker         Copyright & Literary Property
Adam P. Hellegers      Housing & Urban Development
Steven M. Kahaner      Inter-American Affairs
Michael L. Katz        Tort Litigation
Peter M. Kougasian     Executive
Joseph D. Larson       Antitrust & Trade Regulation
Carolyn Joy Lee        State & Local Taxation
Mitchell A. Lowenthal  Securities Litigation
Janis M. Meyer         Recruitment & Retention of Lawyers
Hon. E. Leo Milonas    Nominating
Adrienne M. Mundy-Shephard Lesbian Gay Bisexual and Transgender Rights (Co-Chair)
Terry A. Myers         European Affairs
Jeffrey D. Osterman    Information Technology Law
Alison Pearsall        International Trade
Dean Lawrence Refal    Legal Education & Admission to the Bar
Sidney S. Rosdeitcsher National Security & the Rule of Law
Virginia Rutledge      Art Law
Jay G. Safer           Council on Judicial Administration
Jodi M. Savage         Law Student Perspectives
Wendy H. Schwartz      Federal Courts
Bruce L. Shapiro       Aeronautics
Robert H. Smit         International Commercial Disputes
Roger L. Stavis        Criminal Courts
Brande M. Stellings    Women in the Profession
Margaret D. Stock      International Security Affairs
Antonia E. Stolper     Vance Center for International Justice Initiatives
Harvey A. Strickon    Professional Discipline
Eva Taled             Cooperative & Condominium Law
William C. Viets       New York City Affairs
Donna Marie Werner     Mental Health Law
Judith M. Whiting      Corrections

Summer associates celebrate at the City Bar’s annual summer cocktail reception.
COMMITTEES SEEKING NEW MEMBERS

CIVIL COURT COMMITTEE
The Civil Court Committee is seeking new members for its work in consumer debt litigation and court rules and procedures in the areas of landlord and tenant and no fault insurance, among other issues. Civil Court Committee members also participate in the review of candidates for Civil Court Judge. To apply, please contact the Chair, April A. Newbauer, at newbauer@legal-aid.org or (718) 286-2461.

ADMINISTRATIVE LAW COMMITTEE
In modern society the vast majority of governmental action is conducted through agencies and processes which make up the body of administrative law. Federal, state, and local administrative law, “is where the action is.” The Administrative Law Committee is the Association’s main entrée into this aspect of the merger of law, governmental power and its impact on its citizens.

Over the last three years the Committee has been active on federal, state, local and international levels. The Committee is looking to expand its focus on federal and state issues. For example, re-engineering regulation of the financial markets for the 21st Century and a new international competitiveness is now a hot issue, as is federal vs. state regulation in the food industry. Which areas are better regulated nationally and which locally: insurance, banking, airlines, housing/building, cable tv, wireless phones? Which administrative structures are optimal for the specific regulatory goals?

To join the committee, please contact the Chair, Ron Goldbrenner, at goldlaw@rcn.com or (212) 358 1996.

YOUNG LAWYERS COMMITTEE
If you’re a young professional looking to take your career to the next level, please contact us. We’re interested in attracting the finest talent within New York’s thriving legal community to join our ranks. For those interested in learning more about Committee membership, please contact the Chair, Harry Valetk at www.nycbar.org/YoungLawyers.

CITY BAR CHORUS SEEKING NEW SINGERS
Are you a singing lawyer, paralegal, legal proof-reader/secretary, legal administrator or law student with an altruistic as well as artistic spirit? Would you like to join a flexible, congenial singing group honored for its excellence in public service and featured on NY1 News as "New Yorker of the Week" for "lifting spirits with its music"? The City Bar Chorus ("CBC") has openings for new members in all sections (especially tenors and basses). Our next auditions (brief, private and low-pressure) will be held in August and early September.

We rehearse three Tuesday evenings per month, from 6:45 to 8:15, in midtown Manhattan (Radio City/Rockefeller Center area) to produce what our audiences describe as a rich, professional-quality sound. In addition, we provide a venue for like-minded legal professionals to meet and sing together in a warm, fun and supportive environment.

Music-reading or sight-reading ability is helpful but not required if you have a "good ear." While many of our members have prior choral experience, some of our best performers got their start singing karaoke — or in the shower!

If you work in a law firm, corporate or government law department, court, law school or any other legal setting (whether as a lawyer or non-lawyer) and would like to join us in the 15th season of our rewarding musical outreach mission, please e-mail us at membership@citybarchorus.org.
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**SEEEKING MOOT COURT VOLUNTEERS**

The Young Lawyers Committee is seeking judges to help conduct its annual **National Moot Court Competition**. To participate, attorneys must have at least 5 years litigation experience. Participants receive **2 CLE credits** (1.5 Skills and .5 credits for Practice Management/Professional Practice) for every argument heard. If you're interested in participating in this worthwhile endeavor, please contact Mariann Owens at (212) 382-6635 or complete the online application at www.nycbar.org/YoungLawyers. The New York City Bar’s Moot Court Competition is one of the oldest and most highly respected national moot court competitions in the U.S. Competitions generally occur in November and January. Come and join us!

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**VOLUNTEERS SOUGHT FOR MONDAY NIGHT LAW**

The Monday Night Legal Advisory Workshop (LAW), which begins its 17th year in September, is seeking volunteer attorneys. Monday Night LAW addresses the public’s need for affordable and accessible legal assistance by having about 15 attorneys available every Monday evening to meet with clients who have been screened by the Association’s Legal Referral Service.

Volunteers must commit to attending the program one Monday evening per month from October 2007, through August 2008, at the Association. Volunteers also must attend two training seminars, which will be held on Monday, Sept. 17 and Monday, Sept. 24. The sessions are from 5:45 p.m. to 9 p.m. There also will be a supplemental training on the small business issues later in the fall.

No experience in the topics covered is necessary, but volunteers must have been admitted to practice for a minimum of two years. New York state Skills CLE credit will be available to those committing to the program, and completing the requirements for the live training. Volunteers also may earn pro bono CLE credit for clinic work.

For information or an application to participate, please request the Monday Night LAW program description and volunteers’ questionnaire via E-mail from the Legal Referral Service at lrs@nycbar.org, or call LRS at 212-382-6715. All program materials will be distributed via E-mail in August.

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* When comparing Oxford’s Metro plan and qualified HDHP offered through the association  ** 2008 HSA limits  *** Marsh and NYCBA do not provide tax or legal advice. Please consult with your personal advisors to see how these plans may affect you.
ONLINE MENTAL DISABILITY LAW PROGRAM

New York Law School has created a program specifically designed to address the ongoing need for information in the area of mental disability law.

Developed by renowned Professor Michael L. Perlin, each 14-week online course includes: weekly lectures on video stream, reading assignments, weekly meetings in a virtual classroom via chat sessions, asynchronous message boards, and two day-long weekend seminars held live at New York Law School.

Find out more at www.nyls.edu/MDL.

2007–2008 Course Offerings:
• Survey of Mental Disability Law
• Mental Health Issues in Jails and Prisons
• Sex Offenders
• Americans with Disabilities Act: Law, Policy, and Practice
• Representing Persons with Mental Disabilities

THE NEIGHBORHOOD ENTREPRENEUR LAW PROJECT

The Neighborhood Entrepreneur Law Project (NELP), an Economic Justice Project of the City Bar Justice Center, provides pro bono legal assistance to microentrepreneurs throughout the City. NELP clients are generally low-income microentrepreneurs who are seeking to turn a hobby into an income-generating venture to help sustain themselves and their families financially. NELP clients generally pursue starting their own businesses as a means of supplementing their household incomes.

NELP works with community-based organizations to host presentations on topics such as: Choosing the Right Structure for your Business; How to Negotiate a Commercial Lease and Copyright & Trademark Basics. In addition to presentations held at community-based organizations NELP provides direct legal representation to those microentrepreneurs who are ready to start a business or formalize an existing business. NELP has held over 15 presentations and assisted nearly 600 microentrepreneurs in 2007 alone.

This year, NELP began a new initiative working with a number of law firms and corporate legal departments, by setting up legal clinics to expand the outreach and services provided. The legal clinics are developed with community organizations and are designed to assist current and aspiring small business owners with diverse legal issues.

The partnerships, for a large part, have risen out of individual law firms or corporations and community organizations expressing interest in providing services to meet a need — whether a need in their community — as American Express, Citigroup, and Stroock & Stroock & Lavan, LLP have done to contribute to the redevelopment of Lower Manhattan — or to provide services in an area of expertise — as Dechert LLP has done in commercial leasing.

Teaming up with Greenberg Traurig, LLP, NELP has conducted two successful Small Business Legal Clinics in Flushing, Queens with Councilman John Liu’s Office and the Flushing Business Improvement District. The Flushing clinic arose to meet the rising demand for such services in a bustling immigrant neighborhood where small businesses are an integral part of the community. The first clinic held in February 2007 was so successful that a second was scheduled for May. Legal issues addressed through the clinics included commercial leasing, business structure and incorporation, and patents and trademarks. Additionally, through Councilman Liu’s Office and NELP staff, interpretation services were provided to Cantonese, Korean, Mandarin and Spanish speaking participants, helping to reach populations that might otherwise be without legal services.

Additionally, beginning in March 2007, NELP and the Workshop in Business Opportunities (WIBO) began holding monthly Small Business Legal Clinics at WIBO’s office in Lower Manhattan, with volunteer attorneys from American Express, Citigroup, and Stroock & Stroock & Lavan, LLP. Initially open only to WIBO graduates or alumni, the clinics have been hugely successful, attracting a diverse group of participants and businesses ranging from apparel design to high tea cafes to music developers.

While the clinics are designed to provide microentrepreneurs with basic advice and information on a range of small business issues, they can also be the first step to receiving direct pro bono representation.

At a recent WIBO clinic a microentrepreneur who had been preparing delicious desserts for special events and a friend’s small restaurant had been presented with the opportunity to move into a storefront close to the restaurant she was supplying. This also meant that she would have her own dessert shop where she could sell to the general public. This microentrepreneur needed and received assistance in negotiating the commercial lease terms as well as with the incorporation process and a shareholders agreement, which was how she would be able to afford to move into the space and open her own shop.

NELP’s most recent clinic took place in June, as a part of an All-Day Small Business Resource Fair on the Lower East Side of Manhattan sponsored by the Good Old Lower East Side (GOLES) and NELP, with legal assistance on commercial leasing provided by attorneys from Dechert LLP’s Real Estate Department. Commercial leasing was chosen as a topic specifically to address growing concerns about the rising costs of leasing commercial spaces on the Lower East Side, with increased development sometimes pushing out longtime businesses.

The legal clinics support NELP’s mission to “build communities one business at a time” and to better microentrepreneurs’ chances of achieving self-sufficiency, while strengthening relationships with participating law firms, corporate law departments and community organizations to help build bridges for future joint endeavors. To date, the legal clinics have brought 100 small business owners to NELP. NELP is currently seeking to expand the legal clinics and bring them into the Bronx and Brooklyn.

If you are interested in learning more or becoming a volunteer with the Neighborhood Entrepreneur Law Project please contact Akira Arroyo, Program Director, at: arroyoa@nycbar.org or at 212-382-6633.
**Lawyers Share Strategies for Advancing Women in the Legal Profession**

Around the world, women lawyers face many of the same challenges in pursuing successful legal careers. In April 2007, representatives from the New York City Bar’s Committee on Women in the Profession and the Cyrus R. Vance Center for Institutional Justice traveled to Argentina to meet with women who are working to address these issues in Latin America. The delegation included the Chair of the Women in the Profession Committee, Carrie H. Cohen, who works as an Assistant U.S. Attorney for the Southern District of New York, and Joan Vermeulen, the Executive Director of the Vance Center.

While in Argentina, Ms. Cohen was a panelist at the International Conference on Women in the Legal Profession, where she presented the “Best Practices for the Hiring, Training, Retention and Advancement of Women Attorneys.” The Best Practices had been issued by the City Bar’s Women in the Profession Committee at a symposium at the House of the Association in February 2006 and was translated into Spanish courtesy of Greenberg Traurig for the conference. The Best Practices report outlines strategies for advancing women lawyers at all stages of their careers. The conference was organized by the University of Buenos Aires Law School and gender-rights organizations Equipo Latinoamericano de Justicia y Género and Articulación Regional de Justicia y Género. More than 100 lawyers and legal scholars from across Latin America attended.

"Having a New York lawyer on one of the panels to share ways in which other women New York lawyers have overcome obstacles was very encouraging," said Beatriz Cohen, one of the organizers of the conference and the executive director of Equipo Latinoamericano de Justicia y Género. "It showed that others have found solutions to these problems and that we can do so in Latin America as well."

In addition to the conference, Ms. Cohen and Ms. Vermeulen met with junior and senior women lawyers in Buenos Aires to exchange strategies for addressing common challenges women face in their firms that ranged from finding mentors in large law firms to obstacles to re-entering the workforce after childbirth. These meetings included a roundtable discussion with approximately 50 attorneys who practice in-house and in private practice. The roundtable discussion was hosted by Marval, O’Farrell & Mairal (a major law firm in Argentina). There also was a meeting with junior attorneys at the Universidad de San Andres’ law school.

The meetings were particularly important because women lawyers in Argentina generally have few opportunities to gather and discuss their common challenges, said Paola Bergallo, a law professor in Buenos Aires who worked with the Vance Center to organize the meeting at the Universidad de San Andres.

"Issues facing women in the profession are not usually talked about in legal education or once women enter the work force," Ms. Bergallo said. "These meetings helped to put these gender issues on the agenda for women in elite law firms. The women who came to the seminars were also excited to receive a resource [the Best Practices manual] that will help them move forward on this issue."

Women lawyers in Argentina are indeed eager to continue the dialogue. A follow-up roundtable discussion to the one held at Marval recently took place on July 3 and Argentina’s private bar association is pursuing plans to publish and distribute copies of the Best Practices in Spanish.

"The goal of our visit to Buenos Aires was for the Vance Center to provide practical solutions to the issue of gender discrimination in the legal profession," Ms. Cohen said. "We hope that the Best Practices manual will be a useful tool for women attorneys in Latin America."

For more information on the Women in the Profession Committee’s and Vance Center’s work in Latin America contact Joan Vermeulen at jvermeulen@nycbar.org. For more information on the Vance Center’s work in general contact Elise Colomer Grimaldi at ecolomer@nycbar.org. The Best Practices report can be found in English and Spanish at www.nycbar.org.

**City Bar Public Service Network**

Over 500 attendees representing more than 50 law firms, companies, and nonprofit organizations gathered on May 10th at the City Bar for a two-hour Continuing Legal Education program entitled "The Role of an Attorney on a Nonprofit Board." A Board Service Fair followed the panel, at which attendees met with representatives from various organizations with nonprofit board opportunities and/or board placement programs.

Moderator Michael Davidson, Chair of Governance Matters, was joined by panelists Carolyn Ellis, Section Chief of the Charities Bureau of the Office of the Attorney General; Richard Hobish, Executive Director of Pro Bono Partnership; and Marion Ringel, an Associate in the Exempt Organizations Group of Simpson Thacher & Bartlett, LLP. Topics included responsibilities, standards of conduct and best practices; potential liabilities and protections; and the attorney as advisor on a nonprofit board. The program was sponsored by the New York City Bar, Pfizer Inc., and Time Warner, Inc.

According to Kwanza Butler, Director of the City Bar Public Service Network, "The tremendous response we received to this event evidences the interest attorneys have in providing this kind of public service. We are so pleased the City Bar could collaborate with Time Warner and Pfizer to offer a program to encourage attorneys to serve the nonprofit community in this way."

For more information on how you can serve on a nonprofit board, contact the City Bar Public Service Network at cpsn@nycbar.org or (212) 382-4713.
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CITY BAR’S HISTORIC 137 YEAR-OLD LIBRARY COLLECTION TO BE DIGITIZED

The New York City Bar is pleased to announce that William S. Hein and Company will digitize significant parts of the City Bar’s historical 137 year-old Library collection. One of the initial projects is a complete Congressional Record database, beginning with the Annals of Congress. A New York City Bar database containing the Association’s committee reports, ethics opinions, and legislative bulletins dating back to 1870 will also be created. In addition Hein will be digitizing influential rare and scholarly books and pamphlets to enhance Hein’s Legal Classics Library.

The City Bar is also providing access to our significant English nominative reporter holdings to create a database of materials not otherwise contained in the English Reports Full Reprints. Many of the Library’s rare superceded state code volumes will be used to supplement Hein’s microfiche State Annotated Codes library.

Best of all, these databases will be available to New York City Bar members at no additional fee through our homepage @www.nycbar.org. Be on the lookout for updates about this exciting project. If you have any questions please feel free to contact Richard Tuske, Librarian and Director of Library Operations, at rtuske@nycbar.org

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Midlevel associates are judged not only on their work product but also on their ability to supervise others. This underscores the importance of communicating with junior associates.

Jay Sullivan of Exec/Comm advised the attendees of the City Bar’s Professional Development Breakfast Workshop, "The Successful Attorney-Manager: Delivering Constructive Feedback," that there are basically two ways to communicate, as a coach and as a counselor. A good supervisor, says Sullivan, is both an energetic coach and a supportive counselor.

Able coaching develops a junior associate’s skills and increases their productivity, while counseling, says Sullivan, can solve problems before they become unmanageable and promote better working relationships.

Employing coaching and counseling into your management routine will save you time and improve your image as a good supervising attorney.

Coaching

Coaching is best used to develop legal skills, train new associates, advise associates about technology changes or business focus changes that require additional skills and provide ongoing feedback about work performance. Coaching, says Sullivan, is straightforward and directive and should be kept as brief as possible.

At a coaching session, according to Sullivan, there is a multi-step process. First, remember to praise the junior associate’s job performance and highlight what he or she is doing well. This sets the tone for the session.

Next, raise the specific issue at hand and try to describe it in one sentence. Make sure that the time is right to give feedback by asking would it be all right to talk about this issue right now? You don’t want to be giving feedback if the associate is exceptionally busy or facing a deadline.

If it is a good time to talk, start by identifying both successes and challenges, then look to solve the challenges collaboratively. Don’t only offer your own suggestions, notes Sullivan, but ask the associate for solutions. It is important to keep an open mind. Finally, explore the next steps to remedy any problems and choose specific actions to take.

Ideally, says Sullivan, as a supervisor you should be having this type of feedback/coaching session throughout the year. It is not very useful to wait until a year-end review to outline problems that occurred earlier in the year. Instead, says Sullivan, think of the year-end review as a summary of what was already discussed throughout the year.

Being a great coach, advises Sullivan, means having a clear vision, articulating it frequently and taking the junior associate beyond the successful completion of a given task.

Counseling

In your role as supervisor, there will likely be times when a junior associate approaches you with a personal problem he or she is having at work, or a need arises to respond to the associate’s non-performance-based behavior. In cases like this your role is more of a counselor than a coach, advises Sullivan.

When you are counseling your role is to be supportive. Counseling, says Sullivan, is employee centered. Your role is to listen, advise, and help the associate move toward a solution. Counseling is best used to help solve personal problems, compensation or benefit changes, changes in responsibilities, and difficult or negative behavior. Remember, says Sullivan, your role is not to solve the problem but to help the person work through the problem.

First, seek a private place to have the conversation. State or let the associate state the problem. Respond to the emotion the issue evokes and try to empathize. Before you can offer any help, says Sullivan, you must first show the person you understand what he or she is going through. Once you sense the associate is ready, try to get the person to focus on the problem and guide him or her to a solution. Use open-ended questions like, “What are you doing?” and “How is it working?” When it is time to come up with an action plan try to let the solution come from the associate. An associate who comes up with the solution will be more likely to implement it, says Sullivan.

Effective coaching and counseling enhances the junior associate’s skills, builds confidence and motivation and shows you have the supervisory skills necessary to succeed at the firm.

For more information on the Professional Development Breakfast Workshops and a complete schedule of upcoming sessions, please visit www.nycbar.com.