While Congress debates renewal of the USA PATRIOT Act, provisions of the original act are being challenged in federal courts. The Association recently filed an amicus brief regarding a section of particular concern: Section 2709, which bestows unprecedented power upon the FBI to obtain customer information from communication firms through National Security Letters (NSLs), executed in the complete absence of judicial oversight. The FBI may issue an NSL solely if, in its internal judgment, it decides the recipient possesses information “relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities.”

The statute not only fails to provide for judicial review, but bars the recipient from disclosing to any person that the FBI has sought or obtained records under an NSL.

The brief, prepared by the Committee on Civil Rights in Gonzalez v. Doe, asks the Second Circuit Court of Appeals to affirm a decision of District Judge Victor Marrero holding Section 2709 unconstitutional. The brief focuses on the lack of judicial review. The government argues that judicial review is implicit in the provision. But the ban on disclosure of the NSLs prevents the person whose information is sought from knowing of the Letter. Communication firms, by and large, would have no interest in fighting the request, as they are simply the medium and not the targets. The scheme of the statute thus eliminates meaningful judicial review which, the brief argues, “is an essential check on abuse of power, and is necessary to the protection of constitutional guarantees, especially where heightened concerns about national security tempt both the Executive and Legislative branches to disregard our most cherished rights and liberties.”

The Committee recognizes that national security may require a degree of secrecy for effective investigations of terrorist activities, and therefore understands that there may be a need to ban

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NEW YORK CITY BAR ASSOCIATION RESPONDS TO HURRICANE KATRINA

By Bettina B. Plevan, President

I write to update you on the efforts of the New York City Bar to coordinate assistance to the communities that have been devastated by the hurricane. Hurricane Katrina not only serves as a profound reminder of the fragility of human life, but will also undoubtedly remind us of the importance of community and the incredible resolve of the human spirit.

As attorneys in the service of others, we recognize that the immediate needs of the hurricane victims will be followed by other challenges, including legal issues. In that spirit, I have reached out to leaders of the bar associations in the region to offer the knowledge the Association acquired in providing extensive pro bono services during the September 11th crisis, and sent them copies of “Public Service in a Time of Crisis,” a report that outlines the emergency legal response taken by the New York City legal community to address the legal needs of victims.

We have also offered to assist our colleagues — the hundreds of lawyers and firms who have been indefinitely displaced from their offices — with relocation efforts, logistical support and continued client servicing. And as we go to press, we are holding meetings of law firm pro bono coordinators and with legal services providers to see how we can marshal our resources to provide assistance.

Many times since September 11th, we have been moved here at the City Bar by the outpouring of support from the global legal community and the generosity and generosity of the Bar to help the public and one another. I am certain that the response by the legal community in this instance will be no exception.

I encourage you to reach out to me at bplevan@nycbar.org if you have ideas for how this Association could be more responsive, or to reach out to Maria Imperial, the Executive Director of the City Bar Justice Center, at mimperial@nycbar.org if you would like to volunteer for possible future pro bono projects related to Hurricane Katrina.

CITY BAR BRIEF ARGUES PATRIOT ACT PROVISION DENIES JUDICIAL REVIEW

While Congress debates renewal of the USA PATRIOT Act, provisions of the original act are being challenged in federal courts. The Association recently filed an amicus brief regarding a section of particular concern: Section 2709, which bestows unprecedented power upon the FBI to obtain customer information from communication firms through National Security Letters (NSLs), executed in the complete absence of judicial oversight. The FBI may issue an NSL solely if, in its internal judgment, it decides the recipient possesses information “relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities,”
The new law will exclude from advertising Associate Editor, Graphic Design, and Training.

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The practice of sending detainees to countries where they are likely to be tortured, the Association has been guided by a principle so well expressed by Justice O’Connor in her recent opinion in Hamdi v. Rumsfeld: “[i]t is during our most challenging and uncertain moments that our nation’s commitment to due process is most severely tested; and it is in those times that we must preserve our commitment at home to the principles for which we fight abroad.” And, as our Gonzalez brief states: “[t]here will certainly be times when the proper balance may come down on the side of government efficiency or security, rather than individual freedom. However, as the framers of our Constitution clearly intended, that decision is one that must be made by the courts.”

CITY BAR JUSTICE CENTER PREPARES FOR NEW BANKRUPTCY LAW

It has been a year since the City Bar Justice Center launched its Pro Bono Bankruptcy Project. Already more than 1,000 clients have received advice or assistance in reordering their finances and obtaining an economic fresh start. The project is the only citywide clinic with a full-time staff offering pro bono bankruptcy assistance to New Yorkers in need. Under the leadership of John McManus, the project recruits, trains and mentors volunteer attorneys to advise low-income consumers of their rights and responsibilities regarding outstanding debts. In addition, the City Bar’s Bankruptcy and Corporate Reorganization Committee launched a volunteer panel for litigated bankruptcy matters. Despite the program’s past success, the Center is bracing for obstacles to come. That’s because on April 20, 2005, President Bush signed the “Bankruptcy Abuse Prevention and Consumer Protection Act.” According to City Bar President Betsy Plevan, “While the name may imply consumer advocacy, the Act does little to protect consumers and, in fact, erodes existing consumer rights.”

The new law takes effect October 17, 2005. With the effective date just days away, the City Bar Justice Center is already anticipating how the changes will affect the program.

Trouble Ahead for the Working Poor and Middle Class

A central component of the new law will make it harder for people to file a Chapter 7 bankruptcy petition, which allows a more complete erasure of debt. Instead, more people will either get no relief or be forced into Chapter 13 repayment plans, which are often destined for failure.

The new law will exclude from filing for Chapter 7 a family of four with income over $66,000 that can pay as little as $100 per month to creditors. Whether a person can afford to pay could be determined by IRS rules as to what is considered reasonable and will not be based on actual expenses. Those living in high-cost areas such as New York City are especially at risk for miscalculations.

Program Director John McManus explains: “Most of the City Bar Justice Center’s clients are well below the median income level and are shielded from some of the provisions in the law. However, this provision of the law essentially hurts the middle class, eliminating options for people with reasonable incomes who have fallen into debt, often through illness, unemployment or other circumstances beyond their control.”

For those above our Justice Center’s income eligibility limits, but who are facing financial chaos and few options, we hope to provide some relief through our Legal Communications as to the existence and nature of a government investigation for some period of time. “However, any nondisclosure order would have to be (i) issued by a court on the basis of particularized findings, (ii) narrowly tailored in scope, and (iii) limited in duration (citations omitted).” Section 2709 sets none of these limits, but rather gives the FBI unchecked power to seek information protected by the First Amendment without having to make any showing of justification.

The brief is part of the City Bar’s efforts, in the aftermath of 9/11, to protect the right to due process and the concept of judicial review. In amicus briefs supporting the rights of detainees to fair judicial proceedings, and in reports challenging the structure of the proposed military commissions and
Referral Service. This service offers referrals to private attorneys screened and experienced in the matter at hand, ensuring that those on the verge of bankruptcy secure qualified legal assistance to help them through the maze of requirements created by the new law.

People seeking referrals may call (212) 626-7373, or go to www.ilawyer.com.

The City Bar Justice Center Prepares for Changes in New Law

According to McManus, "While our clients are well below the means test, and for the most part will still be eligible for Chapter 7, they are far from being home free. Other portions of the Act throw additional hurdles their way." These hurdles include:

- Increased delays and costs because of more complex filing requirements and forms, including mandatory completion of personal finance classes and credit counseling.
- Eviction becoming a more likely outcome for tenants applying for Chapter 7 bankruptcy who owe rent arrears. One of the most potent aspects of current bankruptcy law is the "automatic stay" that halted pending eviction actions against someone who files for bankruptcy. Automatic stays will no longer be effective against eviction proceedings if a final judgment has been entered in the case.

New Surge in Demand Expected for Pro Bono Bankruptcy Assistance

Due to the complex nature of the new process, clients will find it more difficult to successfully file pro se. In addition, the law increases liability for attorneys handling bankruptcy matters, by requiring:

- The debtor’s attorney to certify the accuracy of the debtor’s schedules, under penalty of harsh court sanctions
- Attorneys to certify the debtor’s ability to make future payments under a reaffirmation agreement.

These provisions hold the debtors’ attorneys personally liable for the accuracy of their clients’ schedules. According to an American Bar Association letter to Senator Arlen Specter, "It would transform the attorney from an advocate to a detective and informer." Private attorneys expect significant increases in costs due to the need to verify the accuracy of clients’ statements.

Because the City Bar Justice Center is a nonprofit and because many of our volunteers do not officially represent bankruptcy clients, instead assisting clients in preparing the forms pro se, we are optimistic that these onerous provisions do not apply to the Justice Center. However, private attorneys will be reluctant to take bankruptcy cases under these conditions and be forced to increase rates significantly, thereby causing demand for our assistance to skyrocket.

"We are already at full capacity," said Maria Imperial, executive director of the City Bar Justice Center. "If we are to meet this increase in demand we will have to stretch our limited resources even further and need additional volunteers. With the help of our valued members, we will not only be able to provide assistance to more people as they face the bankruptcy process, but we will offer other tools of our Justice Center, including benefits counseling when appropriate, in order to minimize the impact of this legislation."

For more information or to volunteer please contact John McManus at (212) 382-6698 or by e-mail at jmcmamus@nycbar.org

Mrs. D was a self-sufficient 87-year-old widow. Despite a limited income consisting of Social Security and minor assistance from her son, for the most part she managed to pay her bills on time. That was until a few years ago, when she slowly started to fall behind on her credit card payments. With the enormous late fees, she was simply unable to catch up. While the creditors were calling and threatening to sue, she couldn’t bear to put any more of a financial burden on her family.

Mrs. D’s biggest fear was losing her shares in a co-opt apartment that had been her home for over 40 years. She lay awake at night imagining her creditors having her evicted. And soon the lack of sleep began to affect her health.

Mrs. D was under the mistaken belief that filing for bankruptcy would mean the loss of her home. She learned of the City Bar’s Pro Bono Bankruptcy Project through the City’s Department of the Aging, and met with a volunteer attorney. The attorney quickly informed her that her home was protected and could not be taken by her creditors. Armed with this new knowledge along with the volunteer’s assistance with the forms, she decided to file for chapter 7 Pro Se. Soon Mrs. D was able to get both a discharge of her debts and a full night’s sleep. Feeling better, she wrote the Justice Center to say thank you “What a surprise and revelation to learn that there was an Association of lawyers like yours. My faith in the goodness and knowledge of people has been strengthened indeed.”
WHAT, ME RETIRE?

An Address from the Senior Lawyers Committee

The author, Stephen J. Friedman, is dean and professor of law at Pace University School of Law, and a former chair and current member of the Association’s Senior Lawyers Committee.

This transition — the journey from what we have been doing for most of our lives to what we are going to do for the next 10 years or so — is one of the most challenging and least well-marked that we travel. It is filled with uncertainty, fears, surprises and unknown ground. But when you get to the other side, the rewards can be really astounding. So let me tell you the story of my journey, and I will try to extract a few principles as we go along.

First, a brief background. I spent about 30 years as an associate and partner at the firm now known as Debevoise & Plimpton. Along the way, I had three stints of government service and two as general counsel of a securities firm and a life insurance company. In 1993 I returned to my firm, where I remained until last July, when I took my new job at the age of 66.

I was facing a mandatory retirement age at the firm, so I started thinking about what I was going to do...”

“I was facing a mandatory retirement age at the firm, so I started thinking about what I was going to do...”

“...about what I was going to do at least a year, and preferably two, before you retire.

Why is that? There are a number of very good reasons. First, if you are like everyone else, you really will not have any idea how to construct this next phase in your life. It takes a lot of time, a lot of conversations with spouses and friends, and there are a lot of false starts.

Even if you have a clear idea of what you want to do, the chances are great that that idea will not work for one reason or another.

Even if it does work, finding a new job takes a lot of time — especially at this age. It is not — I repeat, not — impossible or even that hard. But it does take time, perseverance, patience and being willing to tolerate some rejection. You are, after all what has come to be called a “non-conventional candidate.” That brings me to the second principle, which is in fact a question.

II. Are you prepared to work full-time?

Full-time work after retirement involves the sacrifice of a lot of the advantages of retirement — there is no more time to smell the flowers than there was when you worked full time before retirement. So the fundamental question is whether you can have enough stimulation and personal growth by constructing a multi-centric life composed of various projects, interests and hobbies. The answer is clearly “yes,” but it is hard to do. It requires a great deal of self-discipline and many people don’t make this route work well.

Also, if money is important, it is hard to find a paying part-time job. Everyone would like to work at an interesting job three or four days a week — with long vacations, of course. There may be such jobs, but I have yet to find one. If your expertise is inherently project-based — if, for example, you are a highly experienced and well-known arbitrator in a particular area, you can keep doing that at a reduced pace. But not many of us can do that. And, trust me, building a practice as an arbitrator from scratch is no easier than building a law practice from scratch; it takes a lot of effort and a lot of time.

I decided that I would work full time. I wanted the discipline and structure of a regular job and significant challenges. I had the support of a wife who was working full time and clearly thought it would be a big mistake for me to do otherwise. When I asked her what she thought about the idea of my becoming a law school dean at the age of 66, she said: “It sounds fine, but I just don’t know where it is going to lead you! You will do that for five or eight years and then what will you do?” I told her not to worry about that. And that brings me to my third principle.

III. Do not be afraid of looking hard at things you have never done; considering new roles involves “trying them on” in your mind. Be prepared for rejection.

The plain fact is that most of us are pretty scared about doing something we have never done before. When my name appeared on the independent Judicial Nominating Commission’s list as a candidate for a vacancy on the New York Court of Appeals, I gave it a lot of thought. Not only had I never been a judge, as a corporate lawyer I had only been in a courtroom three or four times in my whole life. But I spent a lot of time thinking through the job of a Court of Appeals judge, I spoke to a former member of that Court, and I read a whole year’s worth of its opinions.

In the end (and only after a great deal of “trying that role on in my mind”), I concluded that I could do that job — although Gov. Pataki came to a different conclusion. In the process, I met a broad range of interesting people, some of whom have remained friends and acquaintances. That was the first rejection.

It is a mistake to reject potential new jobs because they are not what you have been doing. Even though I was interested in running an international nonprofit, there were few of those jobs available at the time and, in a few cases, none of them were interested in having me run them. More rejection.
For the most part, the person trying to fill a job will do enough rejecting for both of you. But if that person is prepared to consider you, it is because he or she believes that you may have the qualities that they are looking for. When I was making my round of discussions with friends about what I was going to do next, a number of them suggested academic jobs — a few law schools in the area were looking for new deans, a graduate school of international relations was looking for a president, and a few other similar positions.

I was not particularly attracted initially, but I thought it would be interesting to talk to some search committees. And it was very illuminating to do that. It was that process of talking with search committees, learning more about the challenges facing law schools like Pace, and “trying on” the mantle of a law dean, that made me think seriously about my skill set and experiences and how they matched up with the demands of a deanship.

I talked to search committees about deanships at two law schools. One search committee decided immediately that I was not what they were looking for, and they made a conventional hire in the sense of bringing in a very talented law professor from another school that they admired. The other search committee, at Pace, brought me back for a second round of interviews.

I concluded that my background could, in fact, be useful to a law school that was looking for substantial change and that I had the right skill set for this law school at this point in its history. I also thought it would be wonderfully challenging and potentially a lot of fun. They were even willing to pay me. Finally, my last general principle.

IV. Take advantage of the fact that, after retirement, you are liberated from ambition.

For most of our lives, we take jobs thinking about how we are going to become partners, or get clients, or build a bigger practice; or, if we work for a company, how to get promoted, how to become general counsel or CEO, or how to make more money. After retirement, we are pretty much beyond these concerns. Not because we don’t value those things any more, but because it is hard to do much about them at this stage. You should enjoy the fact that this might well be your last full-time job, and that you are doing it primarily for the contribution you can make, its intrinsic interest, or the sense that you are really helping others. One of the great things about being a dean is the immediate and tangible effect you can have on the lives of others — students and faculty. It is a wonderful feeling.

After almost a year, I have never been so happy, excited, continuously challenged and satisfied about anything I have done. While I did not know academia at all, I had some experience in moving into new organizations with new cultures, and I had good instincts — honed by many prior mistakes — about some things not to do. Many deans complain about all the problems they have to deal with, but lawyers spend their whole careers dealing with other people’s problems, and there is nothing unusual about the kind of problems you face as a dean.

Only a year has passed so far, and although I feel very good about my first year, you never know what the future holds. The other day, someone told me that law school deans are like mushrooms. In the first year they plant seeds; in the second year they grow in the dark; and in the third year they are canned! We’ll see.
SECOND ANNUAL LAW PRACTICE MANAGEMENT SYMPOSIUM NOVEMBER 1, 2005

Putting It All Together: Building a Successful Law Practice

The New York City Bar and New York Law Journal will host their 2nd Annual Law Practice Management Symposium on Tuesday, November 1, 2005 at the House of the Association. After the success of last year’s Symposium, the New York City Bar wanted to continue the tradition of providing practice management information and education in one forum. Titled “Putting It All Together: Building a Successful Law Practice,” the Symposium again will be devoted to the business and professional needs of practitioners at firms with up to 50 attorneys.

The all day event will feature exhibitions by legal service providers in a variety of fields, including information technology, software, banking and finance, and office equipment, to name a few. There will be two tracks of workshop programming this year in order to provide more relevant information to practitioners. Immediately following the Symposium, an evening 2-credit CLE program titled “How to Get & Keep Good Clients and Stay Out of Trouble” will be offered. The New York City Bar is pleased to announce that Jay Foonberg, the preeminent author of “The ABA Guide To Lawyer Trust Accounts,” “How To Start & Build A Law Practice” and “How To Get & Keep Good Clients,” will be the speaker for this CLE program.

The Law Practice Management Symposium, which will be free to New York City Bar members ($40 for non-members), provides attorneys, law office managers and IT personnel with a forum to obtain information and exchange ideas about the business of practicing law in a small to mid-size law firm environment. There will be time for networking throughout the day, and at the complimentary breakfast and lunch receptions. We are happy to announce that LexisNexis has signed on as our lunch reception sponsor. The CLE program will require an additional fee and is open to all, whether or not they attend the Law Practice Management Symposium during the day.

In response to requests to make the workshops more tailored to specific types of firms, this year the workshops will be separated into two tracks: one for start-ups and firms with fewer than 5 attorneys and the other track for firms with 5-50 attorneys. Based upon calls and e-mails from members about expanding the topics covered by the workshops, the Law Practice Management Symposium will be offering 11 different workshops on topics like technology, office space, finances, employee relations, and obtaining work through diversity initiatives. Along with our guest practitioner-lecturers, many exhibitors will provide valuable information and answer questions about practice management issues at the workshops. Need advice of a more personal nature? Then don’t miss our workshop titled “Inner Obstacles to Happiness at Work.” All workshops are included with admittance to the symposium. Most workshops are 45 minutes long and attendees can register for any workshops they find relevant to their needs.

There will be ample time to ask follow-up questions and walk through the exhibit hall throughout the day.

For a list of all exhibitors and workshops, registration forms, and fee information visit www.nycbar.org.

SPEED NETWORKING—FAST BUSINESS FOR BUSY WOMEN

Networking is an essential way to advance your career. It can help you get a job, move up in a current job, enhance your business and even change careers. Networking really is an incredible tool to bring about professional success.

Here is the fun part. The City Bar and its Committee on Career Advancement and Management have been sponsoring an event called Speed Networking — Fast Business for Busy Women. You could call it speed dating for business since it is set up much the same way as speed dating, offering a fast and efficient way to meet referral sources in a cocktail party environment filled with people you’ll want to meet - and who’ll want to meet you.

Participants at Speed Networking are successful, knowledgeable women primarily from New York law firms with a wide range of expertise. Participants spend 10 minutes talking one-on-one to another participant before moving on to the next. You can often tell in just a few minutes of talking to someone whether that match will create a business referral or even a personal or professional friendship that would be valuable in the future.

As a result of previous Speed Networking events, old college friends have been reunited after 20 years. So, come and make new business contacts or reunite with old friends who can now refer business to you. Not all the pairings are “magic,” as with any matching-system, but we have had several pairs hit it off so well that they continued talking for an hour after the event concluded.

The next Speed Networking — Fast Business for Busy Women is being held on October 20 from 6:00 – 8:00 p.m. at the City Bar. A wine and cheese reception will begin at 6:00 pm followed by the Speed Networking event. Registration by October 14 is necessary. The fee is $20. Please register online at www.nycbar.org. If you have any questions, please contact Martha Harris at mharris@nycbar.org.
SUBTLETIES MATTER: 
THE NEXT GENERATION OF DIVERSITY 
EDUCATION AND TRAINING

While many organizations have instituted diversity training, it often has limited effectiveness in changing the subtle, underlying behaviors necessary for a diverse and inclusive workplace. On June 6, 2005, at the City Bar’s second annual diversity conference, Stephen Young, former senior vice president of Corporate Diversity for JPMorgan Chase & Co. and founder of Insight Education Systems, led an interactive session to generate awareness of the “micro-messages” people send daily in the workplace that contribute to an atmosphere of inclusion or exclusion for certain groups.

The Power of Micro-Messages

Each individual micro-message may only have a small positive or negative impact. However, the cumulative effect of “micro-advantages” can lead to profound feelings of inclusion and the perception of opportunities of advancement and development within the organization. The reverse is true for those experiencing the accumulated effect of “micro-inequities.” Ultimately, micro-messages can impact the retention, development and advancement of talented attorneys.

While not solely a diversity issue, bias can manifest itself subtly and subconsciously as micro-inequities. For example, women and racial/ethnic minorities sometimes describe situations where their ideas are discounted in a meeting only to be presented later by a male colleague and embraced by the team. Another common example is feeling excluded from informal social gatherings for lunch or afterwork.

Addressing Micro-Inequities

Awareness of micro-inequities can result in meaningful behavior changes in the workplace. The only way to deal with the negative messages is to raise awareness and promote candid dialogue. Often micro-messages are difficult to identify and even more challenging to broach with colleagues and superiors. Here are some suggested strategies:

- Name the issue by educating attorneys about the subtle bias that stands in the way of an inclusive workforce and giving permission to individuals to raise the issue when it arises.
- Convene discussion groups to discuss how micro-messages manifest themselves in your organization. This can be an effective way to identify common challenges.
- Identify safe ways for individuals to broach the topic when micro-inequities occur, either as the receiver of the micro-message or a bystander, such as through role plays or sample scripts.
- Designate an appropriate person to act as an advisor or an intermediary for individuals who perceive micro-inequities.
- Monitor progress by periodically checking in with attorneys through focus groups, affinity groups, or surveys to assess whether subtle bias continues to inhibit an inclusive workplace.

Acknowledging subtle, unconscious bias has the potential to change the ways in which people communicate. Without knowledge of micro-inequities, legal employers may never realize that unspoken, unintentional behavior can have adverse effects on the work performance of others.

To learn more about micro-inequities in diversity efforts or for upcoming diversity sessions, please see our Website at www.nycbar.org or contact Meredith Moore, Director of the NYC Bar’s Office for Diversity at mmoore@nycbar.org.

Definitions

Micro-messages: Small, subtle messages, sometimes subconscious, that are communicated between people without saying a word. MIT researchers found that people send between 2,000 and 4,000 positive and negative micro-messages each day. These messages include looks, gestures, and tone of voice.

Micro-advantages: Positive, powerful micro-messages contribute to feeling valued and belonging. Ultimately, micro-advantages encourage employees to excel in their work and commit to their employer.

Micro-inequities: Negative micro-messages devalue, discourage and ultimately impair performance in the workplace. Positive micro-messages are transmitted more frequently than negative ones. Often the absence of a positive message is in essence a negative message.
NEW COMMITTEE REPORTS

Administrative Law
Public comments on the proposed changes to Section 13-a of the New York City Charter which would create a Coordinator of Administrative Justice. While the comments support the need to create such a coordinator, they note that the proposed language designed to assure that the new rules coordinate and comply with the Conflict of Interest Rules is confusing and suggest alternative language.

Capital Punishment
Letter to Senator Charles Schumer expressing opposition to S.1088, which would remove to a very substantial extent the federal courts’ ability to grant relief when presented with meritorious federal habeas corpus petitions. The letter argues that there is no need to rush to change the federal habeas laws in the drastic fashion proposed by S. 1088 since it has been only nine years since major changes were made in federal habeas corpus jurisprudence by the Anti-Terrorism and Effective Death Penalty Act of 1996, and there has been no study of its implementation that would justify making further, extreme, changes now. In addition, there are egregious fairness problems with the proposed legislation, including using the exhaustion doctrine, limitations on amendments to habeas petitions, and arbitrarily limited tolling provisions to remove federal courts’ jurisdiction over meritorious habeas claims.

Civil Rights
Letter urging New York City to enact the Local Civil Rights Restoration Act (Intro. 22-A) which would require courts to apply New York City’s Human Rights Law in a manner consistent with the City Council’s goals when it passed the law and in a way that would reflect New York City’s long commitment to civil rights and equal opportunity. The bill would also make several specific revisions to the law to make certain that some recent federal decisions would not limit broad application of the city’s Human Rights law.

Corporation Law
Letter to Governor Pataki expressing opposition to S.85/A.7383, which would amend the Limited Liability Company Law and the Partnership Law with regard to the publication of certain notices. The letter argues that the proposed amendments would likely add an increased and unnecessary cost to doing business in New York State, would not provide increased notice to New York’s consumers, and would create hardships on small businesses for whom the additional cost could be prohibitive.

Environmental Law
Letter to Governor Pataki in support of S.5786/A.7603-A which would modify Article 8 of the Environmental Conservation Law to allow environmental impact statements to be available on the Internet. The committee approved the legislation, but urged the Executive Branch to develop a procedure for excluding material from disclosure that could pose a security risk.

Estate and Gift Taxation
Comments on Revenue Procedure 2005-24. Revenue Procedure 2005-24 provides a safe harbor rule pursuant to which a spousal right of election will be disregarded for the purposes of determining whether a charitable remainder annuity trust or a charitable remainder unitrust meets the requirements of the Internal Revenue Code. The comments discuss issues that have arisen since the Procedure has been issued and makes recommendations as to how these issues might well be addressed.

International Human Rights
Letter to Dr. Reiss, U.S. Special Envoy for Northern Ireland urging that the United States continue to make every effort to ensure that the devolved government in Northern Ireland is restored in the near future, since a devolved government is crucial for the promotion of human rights in Northern Ireland.

Letter to British Prime Minister Tony Blair urging that his government conduct an open and transparent public inquiry in the murder of solicitor Patrick Finucane pursuant to the Tribunals of Inquiry (Evidence) Act of 1921, rather than under the Inquiries Act 2005 since inquiry conducted pursuant to Inquiries Act 2005 would violate Article 2 of the European Convention.

Judicial Administration, Council on
Report on Preliminary Conference Orders. The report, based upon input from the bench and bar, explores why compliance with Preliminary Conference Orders in New York State Courts is lax and discusses what can be done to remedy this situation.

Professional & Judicial Ethics
Formal Opinion 2005-05. The opinion looks at the following situation: When unforeseeable conflicts develop in the course of representing more than one client — for example, two clients refuse to consent to simultaneous representation — the opinion advises which client, if any, the lawyer may continue to represent and what criteria are involved when the attorney has to decide between clients.

Sex and Law
Lesbian Gay Bisexual and Transgender Rights
Amicus Briefs: Shields v. Madigan, Hernandez v. Robles, and Samuels v. New York State Department of Health. These briefs, which address three different cases proceeding through New York courts, argue that New York law deprives same-sex couples of many rights and obligations that opposite-sex couples receive simply because same-sex couples can not legally marry. Same-sex life partners in long-term relationships are denied access to the rights, protections and benefits that automatically accrue to opposite-sex married couples in the areas of health care, estates, torts, divorce and custody. Thus, the current law leaves these families vulnerable and subject perhaps to devastating consequences.
OCTOBER 2005 CALENDAR

Unless otherwise noted, programs are free of charge; open to all members, their guests and the general public; and held at the House of the Association. Program information subject to change. Please check our Website at www.nycbar.org for the latest program information.

6 Thursday, 5:30 pm
**Mediation Settlement Day 2005 – Open House and Program**

The Mediation Settlement Day events are designed to further understanding of the mediation process and advance the use of mediation by New York’s citizens, communities, businesses, and courts. The event is co-sponsored by a coalition of public service organizations, schools, court programs, and bar organizations throughout the state and beyond, including some out-of-state and international organizations. This year, the event is designed especially to attract corporate consumers and other potential parties who could benefit from the many advantages of mediation, including the significant cost and time savings, maintaining positive business relationships, and having the opportunity to voluntarily create tailor-made solutions to their unique concerns. End-users will be able to learn from each other and see role models in the business world, while also networking with potential service providers.

From 5:30–7 p.m., representatives of the participating sponsors will be present to provide information about the mediation programs offered by their organizations and the events that are planned for Mediation Settlement Day, October 20, 2005. The program will begin at 7 p.m.

Speaker:
KENNETH R. FEINBERG
Managing Partner/Founder, The Feinberg Group, LLP; Attorney (leading expert in Mediation and Alternative Dispute Resolution)

For more information, please contact Ken Andrichik at ken.andrichik@nasd.com.

17 Monday, 7 – 9 pm
**BOSS TWEED: The Rise and Fall of the Corrupt Pol Who Conceived the Soul of Modern New York**

In February 1870, over two hundred leading lawyers met in a schoolroom on Fifth Avenue and Twenty-Sixth Street to organize The Association of the Bar of the City of New York. They were hot with reform and the sting of professional shame. Boss Tweed and his cronies not only were robbing the city’s treasury, but, worse, were corrupting the courts and the judges. Samuel Tilden, a future governor of New York and winner of the popular vote in the 1876 presidential election, gave a rousing call to “restore both the judiciary and the bar as it formerly was, an honest and elevated calling.” What had corrupted the bar? In a word: “Tweed.”

Kenneth D. Ackerman’s recent biography of William M. Tweed brings to life the events and circumstances of the days 135 years ago when Tammany Hall ran New York and Boss Tweed was its instrumental leader. Fresh with his home rule victory in 1870 that eliminated hated Albany interference in the municipal affairs of the City, Tweed, as state senator and commissioner of Public Works, was a celebrated figure in the City for having regained its municipal independence. Yet within eight years Boss Tweed was dead in the Ludlow Street Jail on the Lower East Side, a lonely and despised man. How did it happen and what is his legacy? Come hear the tale of Tweed: his rise, his fall and his impact and why, in a sense, we are all here today.

Speaker:
KENNETH D. ACKERMAN
Author/Lawyer

18 Tuesday, Noon-2 pm
**Public Affairs Luncheon**

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

Speaker:
ADAM LIPTAK
National Legal Correspondent, The New York Times; Author, Broken Shield: Journalists, Confidential Sources and the Law

Luncheon Chair:
Jerome R. Rosenberg

Luncheon Vice-Chair:
Emily Campbell

20 Thursday, 12:30 - 2 pm
**SMALL LAW FIRM LUNCHEON
How To Navigate Those Pesky Accounting Software Programs**

Small firm practitioners are usually forced to do everything for themselves including purchasing accounting software. Even when accounting software has been chosen and installed, most attorneys have difficulty making the most use of the software they have chosen. Our panel, which includes an accountant and an accountant/attorney, will explain the pros and cons of some of the leading accounting software, answer some common questions regarding the use of those programs, and explain why these types of programs are essential to small firm practitioners.

Moderator:
TODD E. DUFFY
Law Offices of Todd E. Duffy

Speakers:
MARK A. JOSEPHSON
Attorney and CPA, CFP, CFE; Murray & Josephson, CPAs, LLC

FURMAN ROGERS, CPA
Garfield Seltzer & Curcio, CPA’s, PC

Registration by October 14 is required to guarantee admission. Registrations received after October 14 are subject to availability. The fee, which includes lunch, is $25. Please register on page 11 or online at www.nycbar.org.

Supported by LexisNexis.
20 Thursday, 6-8 pm

Speed Networking — Fast Business for Busy Women

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

Registration by October 14 is necessary. The fee is $20. Please register online at www.nycbar.org. If you have any questions please contact mharris@nycbar.org

20-22, Thursday – Saturday

International Law Weekend 2005

International Norms in the 21st Century: Development and Compliance Revisited

This three-day conference will include an opening night round-table discussion among Appellate Judges from Albania, England, India, Spain, and the United States; Friday Night UN Reception; Photographic Exhibition, “Darfur 2004”; screening of Videoletters, Winner of the 2005 HRWIFF Nestor Almendros International Film Prize; and more than 30 panel discussions on the impact of international law in the following areas: arbitration, disability rights, environmental law, feminism, global insurance regulation, intellectual property protection, international sales, nuclear nonproliferation, sovereign debt restructuring, terrorism, torture, universal jurisdiction, UN reform, war crimes, and more.

Keynote Address: (Saturday, October 22)
HON. THEODORE MERON
President, International Criminal Tribunal for the Former Yugoslavia

Registration is free for NYC Bar members, ILA members, members of co-sponsoring organizations, and for students. The cost for others is $50 payable in advance or at the door. Complete registration information is available at www.ambranch.org. All payments should be made out to “American Branch, ILA” and mailed to Michael Gruson, Esq., ABILA Honorary Treasurer, Shearman & Sterling, 599 Lexington Ave., New York, NY 10022.

25 Tuesday, 6:30-8 pm

Welcoming Reception for Law Students

This annual event gives law students an introduction to the Association and a general overview of the many committees, services and benefits members of the Association enjoy. Representatives from the Association, committee chairs, and members of the legal community will discuss the benefits of membership in the Association, including participation on committees, the Public Service Program, the Minority Fellowship Program, networking opportunities, and access to the City Bar Library and Technology Center. A networking reception will follow and refreshments will be served.

25 Tuesday, 7-9 pm

Critical Issues Facing Today’s LGBT Youth

This panel will examine the forms and prevalence of anti-LGBT bullying and harassment in the school and foster care settings, as well as the long-and short-term psycho-social effects of this behavior on LGBT youth. Panelists will also survey the current range of legal rights and remedies available to LGBT youth victims of bullying and other forms of harassment and discrimination and discuss current coalition work relating to the NYC Dignity in All Schools Act (DASA.) In addition, we will hear first-hand from youth activists about the educational and advocacy work they are spearheading to reduce the prevalence of anti-LGBT discrimination and harassment in the school and foster care systems.

Co-sponsored by: LGBT Issues Committee of the New York County Lawyers’ Association

26 Wednesday, 6-8 pm

“I like the law, but not practicing”

For every lawyer who chooses to quit the practice of law and transition into a non-legal career—Fox reporter Greta Van Susteren and Hollywood producer David E. Kelley being amongst the more famous examples—there is another lawyer who chooses to transition into a career within the legal area. If you are a practicing attorney who no longer enjoys the practice of law, but likes law firm or legal department culture, working with attorneys, or other aspects of your current career, there are many career options within the legal market available to you.

Professional development/training, career counseling, business development, marketing, human resources, management, administrative and recruiting positions in law firms, companies and law schools are amongst the most coveted positions available in today’s legal market. Our panelists will discuss working—and finding a job in—one of these popular areas. Attendees also will have the chance to participate in small break-out sessions with professionals who are working in each of these areas.

Speakers:
ANITA ZIGMAN
Director, Legal Personnel and Career Development, Paul, Weiss

KATHLEEN BRADY
President/Founder, Brady & Associates, Career Planners, LLC

MARINA SIRRAS
Owner/Principal, Marina Sirras & Associates LLC; President, National Association of Legal Search Consultants

Registration by October 21 is necessary. The fee, which includes refreshments, is $10. For more information or to register, please go to www.nycbar.org or see page 11.

SAVE THE DATE
Wednesday, December 7, 2005, 6-9 pm

Ethical Issues in Dealing with Unrepresented and Partially Represented Litigants in Housing Court

The evening’s CLE program will address issues such as unbundling of legal services, ghostwriting, and the problem of dealing with litigants of diminished capacity.
We Can Help You, Help Them

When your firm has a conflict or a client needs assistance you can't provide, the Association's Legal Referral Service is a reliable resource to find experienced counsel, from solo practitioners to members of large firms. Clients can get referrals to lawyers whose qualifications have been vetted, by visiting www.nycbar.org or by calling (212)626-7373.

For matters requiring special attention, Association members may contact, Allen Charne, Director of the Referral Service, at (212)382-6775 or acharne@nycbar.org

SAVE THE DATE!

CLE:
What You Need to Know About Privacy, Security & Emerging Technologies for Managing Customer Information

Friday, November 4, 9–12:30 p.m.

Basic Mediation Training: Conflict Resolution Theory & Techniques

Mondays & Tuesdays, November 7, 8, 14 & 15, 9–5 p.m.
## CITY BAR CENTER FOR CLE
### OCTOBER 2005 CLE COURSE CALENDAR

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*This program provides transitional credit for newly admitted attorneys.*

www.nycbar.org
BANKRUPTCY

28 Friday, 9-1 p.m.

International Insolvency: What You Need To Know About Representing Multi-National Companies

If you advise companies doing business abroad or foreign companies doing business here, then you will want to get the latest information on how cross-border bankruptcies can impact your clients.

Our distinguished panel members will discuss:

- How multinational companies and foreign debtors are using the new Chapter 15 of the US Bankruptcy Code and Chapter 11 to preserve their businesses
- The new UNCITRAL Model Bankruptcy Law Guidelines and the emerging markets in which they would make the most impact
- European bankruptcy law developments and the financial impact of jurisdictional choices; and
- A cross-border bankruptcy case study

Program Chair & Moderator:
KAREN OSTAD
Lovells

Moderators:
MARC R. ABRAMS
Willkie Farr & Gallagher LLP

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

Faculty:
PROFESSOR SUSAN BLOCK-LIEB
Fordham University School of Law

GILES D. BOOTHAMAN
Managing Partner
Ashurst

JENNY CLIFT
Senior Legal Officer
Head, Technical Assistance and Coordination
International Trade and Law Division
(UNCITRAL Secretariat)
Office of Legal Affairs

HONORABLE ROBERT D. DRAIN
U.S. Bankruptcy Judge, S.D.N.Y.

HONORABLE ALLAN L. GROPPER
U.S. Bankruptcy Judge, S.D.N.Y.

DETFLE G. HASS
Lovells

PETER SPRATT
PricewaterhouseCoopers

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

Live Program:
$335 Member, $475 Non-member

CORPORATE & SECURITIES

12 Wednesday, 9-1 p.m.

Video Replay: A Practical Guide To LLCs & LLPs

An expert panel will present a practical guide to the use of LLCs and LLPs. The panel will provide concrete advice on critical formation and early-stage issues, such as the advantages and disadvantages of the LLC/LLP form, a comparison of LLCs and LLPs to corporations, the tax benefits of the LLC/LLP form and the choice of state law. As part of the choice-of-entity discussion, the panel will discuss specific businesses, fact patterns and exit strategies that may dictate the choice-of-entity decision. The panel will describe the mechanics of forming an LLC/LLP and the content of the principal agreements incidental to such formation, including the basic operating agreement. Various management structures and control arrangements of LLCs and LLPs will be examined and considered from different perspectives and in different strategic and investment scenarios. The use of LLPs for law and other professional practices will be discussed, including current issues and events potentially testing their effectiveness with respect to liability. Securities issues will be considered in the context of the formation and growth of an LLC or an LLP. The panel will also examine various executive and other compensation structures in the context of an LLC, including in particular the use of equity-based incentive compensation arrangements and a comparison to traditional corporate stock option plans. The program is intended to provide to practitioners a comprehensive introduction to LLCs and LLPs in a practical and useful context.

Program Chair:
MARK A. LIMARDO
Jenkens & Gilchrist Parker Chapin LLP

Faculty:
CHRISTOPHER S. AUGUSTE
Kramer Levin Naftalis & Frankel LLP

ELLEN S. FRIEDENBERG
Hughes Hubbard & Reed LLP

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

Video Replay:
$335 Member, $475 Non-member

21 Friday, 9-5 p.m.

Complying With the Securities Laws: A Practical Overview of the Rules

A prominent faculty of securities lawyers will provide you with a thorough understanding of...
the Securities Act of 1933 and the Securities Exchange Act of 1934. You will learn what you need to know from both a business and legal perspective including how to identify and respond to securities law issues in light of the SEC’s new Securities Offering Reform and avoid potential problems. Included in the program will be a discussion of the regulatory framework, the SEC registration process, registration exemptions, liability for violations, periodic reporting under the Exchange Act, proxy solicitations and recent SEC and PCAOB initiatives.

Program Chair:
NORMAN D. SLONAKER
Sidley Austin Brown & Wood LLP

Faculty:
BRUCE C. BENNETT
Covington & Burling

TRAVIS F. EPES
Co-General Counsel of the Investment Bank
J.P. Morgan Chase & Co.

MARK GORDON
Wachtell, Lipton, Rosen & Katz

KENNETH L. JOSSELYN
Managing Director
Goldman, Sachs & Co.

CATHY M. KAPLAN
Sidley Austin Brown & Wood LLP

KEVIN KEOGH
White & Case LLP

JAMES M. LURIE
Holland & Knight LLP

STUART S. MOSKOWITZ
Senior Counsel
International Business Machines Corporation

CLE Credit:
7½ credits total: 6½ professional practice/practice management & 1 ethics. This program provides transitional credit for newly admitted attorneys.

Live Program:
$375 Member, $515 Non-member

31 Monday, 9-12 p.m.

Ensuring Corporate Compliance Program Effectiveness: Legal Mandates & Best Practices

Under the November 1, 2004 revisions to the Corporate Sentencing Guidelines, companies in all areas of business have greatly enhanced compliance and ethics program requirements. Other recent mandates and heightened shareholder expectations have raised the bar in this area as well, with significant implications for boards of directors and senior executives, among others. On the eve of the first anniversary of the revised Guidelines, our panel will review a number of best practices and strategies for meeting the new standards of compliance program accountability.

Program Chair:
JEFFREY M. KAPLAN
Stier Anderson, LLC

Faculty:
DR. J.C. KINNAMON
Vice President of Product Development
Midi
Princeton, NJ

THOMAS R. MCCORMICK
Director of Global Ethics & Compliance
The Dow Chemical Company
Midland, MI

STEVEN E. SCARPINO
Ethics & Compliance Chief Officer
NCR Corporation
Dayton, OH

CLE Credit:
3 credits total: 2½ professional practice/practice management & ½ ethics. This program provides transitional credit for newly admitted attorneys.

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

CRIMINAL

27 Thursday, 6-9 p.m.

Securities Fraud Actions: Finding Your Way Through The Labyrinth of Parallel Proceedings

Today, a securities fraud action has more related actions with overlapping proceedings and the attendant coordination issues, than ever before: the criminal action; the SEC civil action (and the distinction between an administrative action and a civil action in Federal court); the civil forfeiture action; the securities class action; the opt outs from the securities class action; the bankruptcy proceedings; and exchange-related proceedings. How do you coordinate these matters? What are the strategic implications of one action or inaction, in another proceeding? How many multiples of a defendant’s trading gains or avoided losses can different government and private parties seek as forfeiture, restitution and penalties, and what are the tax implications of making various payments? How do you handle discovery issues when the same conduct is the subject of different actions with different discovery rules, or when the U.S. Attorney seeks a blanket stay of civil or administrative proceedings pending resolution of the criminal case? What are the ramifications of your client invoking his/her 5th amendment rights in these various proceedings? These and many other issues will be explored as we consider the issues arising in parallel proceedings in securities fraud actions.

Program Chair:
JAMES L. BERNAJ
Stroock & Stroock & Lavan LLP

Faculty:
LESLIE R. CALDWELL
Morgan, Lewis & Bockius LLP

ALAN MARC COHEN
Head of Global Compliance
Goldman Sachs & Co.

MATTHEW E. FISHEBEIN
Debevoise & Plimpton LLP

JULIAN W. FRIEDMAN
Stillman & Friedman PC
ENTERTAINMENT & SPORTS LAW

11 Tuesday, 9-12 p.m.

Video Replay: ADR in the Professional Sports World: The Similarities, Differences, Pros & Cons

The nature of professional sports often dictates that disputes be resolved quickly and fairly by experts who understand the complicated rules, regulations and relationships inherent in each sport. These goals are shared by players and management alike. Accordingly, disputes that arise in the professional sports context are routinely resolved pursuant to a mandatory alternative dispute resolution process. This CLE program will examine the many different systems employed by various professional sports. An expert panel of practitioners from all sides of this process -- management counsel, players’ counsel and arbitrators -- will discuss the similarities and differences and pros and cons between and among these varying systems and provide their insight as to how the ADR process in professional sports might be improved.

Program Co-Chairs: HOWARD L. GANZ Proskauer Rose LLP

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, EFF Senior Intellectual Property Attorney Electronic Frontier Foundation
Speaker TBA BigChampagne Online Media Measurement

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

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

MGM V. Grokster: The Recent Supreme Court Decision & The Future of Music & The Entertainment Industry

On June 28, 2005, in a unanimous decision, the Supreme Court ruled against Grokster and StreamCast 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, EFF Senior Intellectual Property Attorney Electronic Frontier Foundation
Speaker TBA BigChampagne Online Media Measurement

CLE Credit: 2½ credits in professional practice/practice management. This program provides transitional credit for newly admitted attorneys.

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

19 Wednesday, 6-9 p.m.

Ethics & Tactics in Mediation & Settlement Negotiations

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 New York Lawyer’s Code of Professional Responsibility, the Model Rules and the Uniform Mediation Act, examine negotiation and mediation tactics, and discuss the interplay of good strategy and good ethics. All attendees are encouraged to participate in the program.

Program Chair:
PAUL D. SARKOZI
Hogan & Hartson L.L.P.

Faculty:
DANIEL J. KAISER
Kaiser Saurborn & Mair, P.C.

HONORABLE KATHLEEN A. ROBERTS
(RET.)
Mediator/Arbitrator, JAMS

DAVID S. ROSS
Adjunct Professor, Columbia Law School
Mediator/Arbitrator, JAMS

EDWARD E. VASSALLO
Fitzpatrick, Cella, Harper & Scinto

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

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

INSURANCE

14 Friday, 8:30-2 p.m.

Video Replay: Current Issues in D&O Liability & Insurance 2005

Directors and officers liability and D&O insurance are unique & complex areas of the law which require special consideration and handling. D&O claims challenge the conduct of senior executives and board members at public & private corporations, as well as not-for-profit organizations. Historically, D&O claims against public corporations have been a function of significant fluctuations in stock price which oftentimes involve irregularities in the company’s financial reporting. In some instances, D&O claims attack business strategies, corporate philosophies and management styles. D&O claims can involve highly publicized situations, such as Enron, in which the financial wherewithal of the corporation, its employees & investors are totally at risk.

Directors and officers, and corporate liability, insurance products address these exposures and are a key component of any company’s risk management plan. The legal environment continues to evolve in the wake of the many financial restatements, corporate governance under the Sarbanes-Oxley Act and the enhanced role of the Securities and Exchange Commission in protecting public investors.

With the exposures presented by securities class actions at catastrophic levels, the D&O insurance product and the marketplace continue to evolve. Our panel of professionals from various components of the D&O industry will provide their insights on these issues:

■ D & O “101”: An Intro to Directors and Officers Liability and Insurance
■ Securities Litigation Statistics and Practitioners’ Points of View
■ Implications of the WorldCom Settlement and Recent Case Law
■ The State of the D & O Insurance Market
■ Handling Complex D & O Claims and Coverage Issues

Program Co-Chairs:
T. DAVID ACKERMAN
Vice President
Quanta U.S. Holdings Inc.

SCOTT R. SCHAFFER
Wilson, Elser, Moskowitz, Edelman & Dicker LLP

JAMES A. SKARZYNSKI
Boundas Skarzynski Walsh & Black, LLC

Faculty:
STEVEN H. ANDERSON
Executive Managing Director
Beecher Carlson

MAX W. BERGER
Bernstein Litowitz Berger & Grossmann LLP

R. DAMIAN BREW
Managing Director
Marsh USA Inc.

IVAN J. DOLOWICH
Senior Vice President
St. Paul Travelers

SUSAN F. FRIEDMAN
Senior Vice President
Marsh USA Inc.

KATHLEEN M. GOLDEN
Special Counsel
Willkie Farr & Gallagher LLP

WILLIAM J. HENRIQUES
Senior Vice President
Guy Carpenter & Company

VINITA M. JUNEJA
Senior Vice President
NERA Economic Consulting

BRAD SCOTT KARP
Paul Weiss Rifkind Wharton & Garrison LLP

CHRISTOPHER J. KELLER
Goodkind Labaton Rudoff & Sucharow LLP

JOHN S. LOPES
Executive Vice President of Professional Liabilities
Quanta U.S. Holdings Inc.

BARRY J. MANDEL
Senior Vice President & General Counsel for Global Litigation, Employment and Affairs
Merrill Lynch & Co., Inc.

GREGORY A. MARKE
Chairman of the Litigation Department
Cadwalader, Wickersham & Taft LLP

www.nycbar.org
INTELLECTUAL PROPERTY/INTERNET

7 Friday, 9-1 p.m.

Video Replay: Data Outsourcing: Emerging Information Technology Issues

Designed for both newly admitted and experienced attorneys, this program will examine fundamental issues associated with outsourcing transactions, particularly those involving information technology. The program will provide a general overview of the most challenging terms in outsourcing agreements and the risks presented by those agreements, and explore what is reasonable and realistic with respect to the allocation of risks between an outsourcer provider and its customer. The program will also address privacy and security standards, and laws and regulations most common to outsourcing transactions. A panel will provide insights on issues that cause outsourcing projects to experience severe problems or fail, and “below the horizon” issues that may affect outsourcing contracts in the near future, in particular, information technology matters.

Program Co-Chairs:
BRIDGET M. CONNOLLY
Commercial Counsel, BT Americas Inc.

ROLAND L. TROPE
Trope and Schramm LLP

Faculty:
JOSEPH ALDAHEFF
Chief Privacy Officer and Vice-President for Global Public Policy
Oracle Corporation

FRED R. COHEN
LeBeouf, Lamb, Greene & MacRae, LLP

RICHARD NOHE
BT Americas Inc.

E. MICHAEL POWER
Partner and Chief Privacy Officer
Gowling Lafleur Henderson LLP

LISA J. SOTTO
Hunton & Williams LLP

CLE Credit: 6 credits in professional practice/practice management. This video replay does not provide transitional credit for newly admitted attorneys.

Video Replay: $335 Member, $475 Non-member

17 Monday, 6-9 p.m.

Licensing Copyrights, Trademarks & Rights of Publicity: The Do’s & Don’ts

Licensing continues to provide a lucrative source of revenue for many companies. At this program a panel of experts will cover the legal issues that arise in drafting licensing agreements. The faculty will explain what due diligence is necessary to prepare for a licensing negotiation and what the key provisions of a licensing agreement are. The panel will also address provisions in the agreement relating to alternate dispute resolution.

Program Chair:
SUSAN PROGOFF
Ropes & Gray LLP

Faculty:
EDWARD H. ROSENTHAL
Frankfurt Kurnit Klein & Selz P.C.

CLAUDIA RAY
O’Melveny & Myers LLP

BARRY I. SLOTNICK
Loeb & Loeb LLP

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

Video Replay: $195 Member, $305 Non-member
Class Action Fairness Act (CAFA): Report From the Front on the New Law

Class action is a key part of what characterizes U.S. litigation in the eyes of the world. Some say it is a national treasure; some say a national embarrassment. In February 2005, Congress intervened by enacting CAFA — The Class Action Fairness Act. A host of new questions abound from new diversity standards to complex removal provisions. Learn why the Act is likely to lead to an increase in federal class action litigation in the Southern District of New York. As a litigation attorney or an attorney whose practice involves product liability, consumer claims, antitrust or other litigation claims, you need to know this new law. Both plaintiff and defense counsel, as well as national recognized experts will examine the impact of this new law.

Program Co-Chairs:
EVAN A. DAVIS
Cleary Gottlieb Steen & Hamilton LLP
EDWARD LABATON
Goodkind Labaton Rudoff & Sucharow LLP

Faculty:
SHEILA L. BIRNBAUM
Skadden Arps Slate Meagher & Flom LLP
DAVID A.P. BROWER
Milberg Weiss Bershad & Schulman LLP
JAY L. HIMES
Chief, Antitrust Bureau
New York State Attorney General’s Office
PROFESSOR SAMUEL ISSACHAROFF
Reiss Professor of Constitutional Law
NYU School of Law
HARVEY KURZWEIL
Dewey Ballantine LLP
MICHAEL R. LAZERWITZ
Cleary Gottlieb Steen & Hamilton LLP
Washington, D.C.
PAUL D. RHEINGOLD
Rheingold Valet Rheingold Shkolnik & McCartney LLP
HOLLIS L. SALZMAN
Goodkind Labaton Rudoff & Sucharow LLP
HONORABLE SIDNEY H. STEIN
United States District Judge (S.D.N.Y.)

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

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

How To Use Jury Consultants To Help You Win At Trial

The effective use of jury consultants can have a significant impact on litigation success. A distinguished panel of trial practitioners and a jury consultant will provide methods for choosing and using consultants successfully. This program will address, among other things:

- The relevant considerations involved in deciding whether to hire a jury consultant
- The various research tools utilized by jury consultants, including focus groups, mock trials, jury simulations, shadow juries, community attitude surveys and juror questionnaires
- The best ways in which to incorporate the results of jury research into trial preparation or settlement negotiations.

As a special feature, a hands-on demonstration conducted by plaintiff and defense counsel, in a mock commercial case, will present summaries of their arguments to a focus group panel. Deliberations by the panel and a discussion of the panel’s reasoning, comprehension of case issues, and the attitudes, beliefs, and values that influenced their view of the case will follow.

Program Co-Chairs:
JEFF KERN
Litigation Consultant
STEVEN LYBRAND, Ph.D.
Senior Jury Consultant, DOAR Communications Inc.

Faculty:
BRIAN T. FITZPATRICK
Levy Phillips & Konigsberg LLP
ANDREW T. GARDNER
Fried Frank Harris Shriver & Jacobson LLP
THOMAS C. MOORE
Proskauer Rose LLP

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

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

TAX & ACCOUNTING

Hot Topics In Taxation: Recent Statutes, Regulations & Court Decisions That Affect Your Practice

Several new rules have been implemented regarding representing clients in the area of federal income tax. These rules will affect the daily practice of all attorneys who give tax advice. Topics will include:

- Standards for providing tax advice to taxpayers
- New rules regarding the form that such advice MUST take
- New laws regarding a client’s ability to rely on an attorney’s advice to avoid tax penalties
- Recent developments regarding the attorney-client privilege as it relates to tax advice
- New laws requiring attorneys and other material advisors to report certain transactions to the IRS

Program Chair:
BRYAN C. SKARLATOS
Kostelanetz & Fink LLP

Faculty:
ROBERT S. FINK
Kostelanetz & Fink, LLP
This session will review the Brand – X Decision, where the Supreme Court upheld the FCC’s conclusion that cable modem services are “information services” that should be exempt from common carrier regulation. (National Cable & Telecommunications Association v. Brand – X Internet Services et al.) This session will review this significant decision and explore its impact on pending FCC proceedings, proposed regulatory and statutory initiatives, and jurisdictional issues.

Voice over Internet Protocol (“VoIP”) VoIP technology has continued to rapidly expand over the past year, adding many more subscribers and providers. This session will provide an update on the legal and regulatory framework affecting this industry. What is the status of proposed federal telecommunication legislation; FCC regulations and proceedings (e.g. E911); and developments in the states? How has the VoIP industry handled new regulatory initiatives and how will recent court decisions, and proposed legislation/regulation impact the industry?

Internet Protocol TV (“IPTV”) Internet Protocol is increasingly being used to deliver not only data and voice, but video as well, as established telephone companies enter this area in competition with cable and satellite providers. This session looks at the significant legal developments affecting this new technology. These include whether IPTV requires a broad “open access” requirement to the broadband pipe; whether IPTV should be subject to the same local franchising requirements as cable systems; and the impact of recent court decisions, regulatory and legislative initiatives.

Program Co-Chairs:
WENDY L. BOUDREAU
Attorney at Law
DEBRA Z. SAMUELSON
Deputy General Counsel
NYC Department of Information Technology & Telecommunication

JAN VINOIKOUR
Law Office of Jan L. Vinokour

Faculty:
NICHOLAS ALEXANDER
Attorney Adviser
FCC, Competition Policy Division
Wireline Competition Bureau

JONATHAN ASKIN
General Counsel/ Wartime Consigliere
Pulver.com

DAVID ELLEN
Senior Vice President and General Counsel
Cable, Telecommunications and Programming Cablevision Systems Corporation

HOWARD B. HOMONOFF
President
Homonoff Media Group LLC

BRUCE I. REGAL
Corporation Counsel, NYC Law Department

ANDREW J. SCHWARTZMAN
President/CEO
Media Access Organization

As of August 22, 2005

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

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

Cancellations & Refunds

For live programs and video replays, refunds and program credits are available provided cancellation is made in writing and received by the CityBar 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 CityBar 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 CityBar 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 CityBar Center with your suggestions.

Registration

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.

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: CityBar Center for CLE, Association of the Bar, 42 West 44th Street, New York, NY 10036.
# OCTOBER 2005

## CLE REGISTRATION FORM

### Video Replays

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### Class Action Fairness Act (CAFA): Report from the Front on the New Law

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### ALL REGISTRATIONS MUST BE PREPAID BY EITHER CREDIT CARD OR A CHECK MADE PAYABLE TO: ASSOCIATION OF THE BAR

**Name**

**Address**

**City**  **State**  **Zip**

**Phone**  **Total Enclosed $**

Please charge to my  □ Mastercard  □ Visa  □ American Express

**Card Number**  **Exp. Date**

**Signature**

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[www.nycbar.org](http://www.nycbar.org)
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.

(*4% in 2005 through Exante Bank.)
NEW COMMITTEE CHAIRS

Committees are the heart of the City Bar and the key to a committee's success is its Chair. Each Committee Chair serves a three-year term. The following Committee Chairs have been appointed for terms beginning September 1, 2005.

African Affairs Committee
Eruch P. Nowrojee
Cleary Gottlieb Steen & Hamilton

AIDS Committee
Victoria F. Neilson
Immigration Equality

Alcoholism and Substance Abuse Committee
Avrom Robin
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