THE McNULTY MEMORANDUM AND THE SHRINKING ATTORNEY-CLIENT PRIVILEGE

By Barry Kamins, President

The attorney-client privilege has been under attack for some time and the City Bar Association has recently responded to several violations of this bedrock legal principle. Earlier this year, we criticized the government’s attempt to deny access to counsel for detainees at the Guantanamo detention facility. More recently, and in a completely different context, we objected to the federal government’s interference with the attorney-client privilege when it pressures companies and other organizations to waive their privilege as a condition of cooperation during investigations by the government into corporate fraud. In seeking a legislative solution to this serious problem, the City Bar supports passage of the Attorney-Client Privilege Protection Act of 2007 (U.S. Senate Bill 186).

The issue was the focus of two recent decisions in the KPMG tax shelter case in the Southern District of New York. In that case, Judge Lewis Kaplan found that the government coerced KPMG to cut off or fail to pay the defendants’ legal fees provided under the accounting firm’s partnership policies and stressed that if KPMG wished to be deemed cooperative and avoid indictment as an entity, it had to sever all ties with the target employees. Judge Kaplan held that such tactics, deployed under the authority of the Thompson Memorandum, were violations of the individual defendant employee’s Fifth and Sixth Amendment rights. The Thompson Memorandum set forth the Department of Justice’s policies regarding charging decisions by prosecutors in corporate fraud prosecutions.

Judge Kaplan’s decision illustrates the “culture of waiver” that has permeated investigations by the Government and the pressure a company faces to forgo protections of the attorney-client privilege. This “culture of waiver” seriously undermines the confidential attorney-client relationship in the corporate community. Thus employees have reason to suspect that anything said to a company attorney can and will be used against them, either by their employer, or potentially, a prosecutor. As a result, individual employees may refuse to say anything at all. In turn, internal corporate investigations, which aim at detecting possible wrongdoing and encourage employees to comply with the law, may be wholly unsuccessful.

RE-ENTERING THE LEGAL PROFESSION: CHALLENGES, PITFALLS, AND SUCCESS

Suzanne Lovett is happy. She has three great children, a supportive husband, and a legal career that she is passionate about. Lovett has managed to balance work and family – a feat many lawyers dream about.

This balancing act did not come overnight. Lovett was a legal professional for ten years before deciding to leave her job in order to care for her children. She “fell into” her field as a bankruptcy lawyer right out of law school, working on the major bankruptcy cases of the early 1990s. Lovett enjoyed her work and when she became pregnant with her first child, took maternity leave in June and was back to work within a few months. A year later, she was pregnant with twins. She returned to work after giving birth, but soon realized that three children, under the age of three, were too much with her workload. Lovett felt she needed more time to care for her children and decided to quit her job and become a stay-at-home mom.

"Every day I wanted to go back," she says pointblank, "I had done this [work] for ten years. I really loved all aspects of it. But my children are more important than any deal," Lovett emphasizes.

For six years she raised her children, engaging herself by becoming involved with the PTA, fundraising, and co-chairing various committees. Lovett says the business of being a full-time mom was interesting and fun but she states, "It wasn’t me.” She missed the
Recently, the Justice Department attempted to remedy certain provisions of the Thompson Memorandum that encouraged prosecutors to make routine demands for waivers. The resulting McNulty Memorandum, issued in December, 2006, made certain changes that are a step in the right direction but do not ultimately obviate the need for a legislative solution to the problem of compelled waivers. The McNulty Memorandum still allows prosecutors to force companies to take punitive actions against their employees in return for cooperation credit, including the potential demand that a company terminate individual employees. More important, the Memorandum continues to encourage companies to "voluntarily" waive their attorney-client privilege and work product protections in return for cooperation credit and less harsh treatment. By doing so, the Memorandum does not actually relieve the enormous pressure companies now feel to waive the privilege even when their waiver is not explicitly demanded. Thus, while prosecutors may not explicitly request waivers from companies as they did previously, companies continue to be under pressure to waive "voluntarily" in order to obtain cooperation credit. The request for a waiver remains implied and the "culture of waiver" has not abated.

We support the proposed legislation because it would take the issue of privilege waiver off the table entirely and would end government consideration of whether or not a corporation has advanced legal fees to its employees. In addition, the legislation would prohibit a federal prosecutor from pressuring any company to disclose confidential information protected by the privilege. Equally important, it would prohibit federal prosecutors from pressuring companies to refuse to contribute to the legal defense of an employee or enter into a joint defense. In addition, prosecutors could not pressure employers to terminate or discipline an employee for exercising his or her constitutional or other legal rights. Finally, the legislation would also apply to other entities that investigate companies, including the Securities and Exchange Commission and the Internal Revenue Service.

The proposed legislation would strike the proper balance between effective law enforcement and the preservation of attorney-client protections. Clearly, the legislation could accomplish what no memorandum or court decision has done up to this point: eliminate the climate of implied waiver and change the culture that was created and continued by the Thompson and McNulty Memoranda respectively. Finally, it would restore the attorney-client privilege to its rightful place in the legal firmament.
COMMITTEE REPORTS – NOVEMBER 2007

Civil Rights
Amicus Brief: Khaled El-Masri v. United States of America, filed in the United States Supreme Court, August 2007. The brief urges the court to grant certiorari to review the procedure adopted by the Fourth Circuit of invoking the state secrets privilege to deny a federal forum for the enforcement of individual rights before undertaking available procedures that might permit the litigation to proceed without disclosing state secrets. This procedure, the brief argues, does not reflect a proper regard for the judiciary’s role under the constitutional system of separation of powers and its capacity to fulfill that role while protecting state secrets.

Condemnation and Tax Certiorari
Report submitted to the New York City Council expressing opposition to Intro. No. 597; amending the Charter of the City of New York in Relation to Tax Appeals, which would significantly alter the structure of both the Tax Commission and Tax Appeals Tribunal.

Government Ethics
Report on the Creation of an Independent Ethics Commission. This report offers a brief summary of the existing system of congressional ethics enforcement and urges that Congress consider implementation of an independent ethics commission. An Independent Ethics Commission, the report argues, would provide Congress the best chance to remedy two of the major problems which exist under the current system: 1) the inherent tension that comes with entrusting Members of Congress alone to investigate and discipline their own colleagues and 2) the public’s perception that a weak ethics process allows legislators to engage in misconduct with impunity.

Immigration and Nationality Law
Letter to Congress urging support for S. 774 the Development, Relief, and Education for Alien Minors Act (American Dream Act) which would amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to allow the adjustment of status to permanent residency of foreign born students who are long-term U.S. residents and who entered the U.S. as children. The Act would also increase access to educational financial assistance for these students and permit states to determine state residency for higher education purposes.

Legal Issues Pertaining to Animals
Report in support of the Pet Safety and Protection Act (S.714/HR1280) which would restrict permissible sources of dogs and cats sold to research facilities. The report argues that the proposed legislation is necessary because of the inadequacies in the existing law and the fact that prior enforcement efforts under the existing law have proved inadequate to protect the animals or to eliminate the fraud and abuse involved in animal trade.

Patents
Amicus Brief: In Re Seagate Technology LLC, filed in the United States Court of Appeals for the Federal Circuit, March 2007. The brief argues that producing an opinion of counsel to defend against a charge of willful infringement should not result in an incursion by opposing counsel or the court into privileged communications between a party and its trial counsel, except to the extent that those communications concern the formulation of the opinion itself.

Personal Income Taxation
Letter to Congress commenting on the 2007 Reform of Alternative Minimum Tax (AMT). The letter expresses support for a continued increased AMT exemption amount in 2007 as well as support for a short term 2007 AMT Estimated Tax Relief provision of safe harbor from IRS interest and penalties.

Professional and Judicial Ethics
Formal Opinion 2007-05 considers whether a law firm may accept a representation that is adverse to an affiliate of a current corporate client. The opinion finds that a law firm should first ascertain whether its engagement letter with the current corporate client excludes affiliates as entities that the law firm also represents; or whether the engagement letter contains an applicable advance conflicts waiver from the current corporate client, thereby allowing the adverse representation. If such a conflict exists the law firm must then analyze whether there is a corporate-family conflict. If such a conflict exists the law firm must inform the corporate client before accepting the adverse representation. Law firms may seek to avoid corporate-family conflicts by defining the scope of representations before potential conflicts emerge, and by employing advance waivers when appropriate.

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challenge and intellectual stimulation of the legal profession and wanted to be a strong role model for her young daughter. Lovett explains how she wanted to go back every year, but each year something would transpire and inevitably keep her out of the workforce once more: a series of deaths in her family, the tragic events of September 11th, a move to a new home – it never seemed to be the right time.

Until last year, when she attended an alumnae event with her alma mater, Barnard College, and spoke with other stay-at-home moms about their lives. She says, "[The] discussion among the women became about how we felt we had wasted this great education. Many of us have advanced degrees, in journalism, social work, and business. We thought, 'I should be doing more than this." Around the same time, she connected socially with a partner at Skadden, Arps, Slate, Meagher & Flom and interviewed with the firm.

Lovett says she admittedly had not kept up with every new case, and had some trepidations about returning to the workplace when she was offered a position as a part-time associate. Yet, Lovett asserts, "I loved the idea of finding out how these businesses work and how to restructure them." Once she was assigned a case, all of her previous experience came back to her. "My brain woke up!" she exclaims.

When asked if she has any regrets about returning to the workplace, Lovett responds, "Never! I think I am a much better parent to my children. Now, my time at home is my time to engage with my children." Her devotion as a mom seems to have meshed impeccably with her passion for the law.

Skadden has initiatives focused particularly on attorneys who need flexibility and support, such as mentoring, a reduced-hours program, and on-site childcare. According to Alex David, the Director of the Office for Diversity at the City Bar, these are precisely some of the problems which women at firms face today: lack of mentors, too many hours, and issues with childcare.

Like Lovett, Jenny Schmidt has also successfully re-entered and stayed in the workforce with the support of accounting firm Deloitte & Touche’s programs that help its employees maintain a work-life balance. Schmidt, who took time off after her second child was born, eventually re-entered and now works as a Principal in Deloitte Financial Advisory Services LLP.

Of her employer Schmidt says, "I think that Deloitte is a phenomenal place because of the emphasis that they place on work-life balance. They allowed me to come into the firm as a Principal on a reduced work schedule." For Schmidt and many other women a reduced work schedule allows them to better balance time spent at home with hours spent in the office and allows their employers to keep highly qualified professionals.

Jenny Liu’s successful re-entry into the legal profession was also facilitated by a firm that helps its employees to maintain a work-life balance. Liu had practiced corporate and securities law before taking time off after she became pregnant in 2002.

When Liu decided to re-enter, she says, "I had my concerns about trying to get back in after being out of the workplace for over a year." A few of her former colleagues had told her about Axiom Legal, a non-traditional law firm that allows its employees to have considerably more choices regarding the structure and hours of work by rotating secondments with different clients. Liu accepted a position and has been seconded to two different companies so far.

Working in-house is often an alternative solution for lawyers who need more reasonable work hours. Liu explains that although she is not at a traditional firm, "I'm still working with great clients on matters that I find interesting and challenging. At the same time, I'm able to give my family my full attention when I leave the office. For me, it's a win-win situation."

While re-entry can be daunting in terms of making up for lost time on a resume or keeping up with current issues, it is possible with certain limitations. Firms that accept a reduced work schedule or other types of legal work often allow for an easier re-entry. The challenge is to re-enter a firm, maintain a work-life balance, and rise to the level of partner within the firm. David says, "Forty-six percent of those entering the legal profession are women. But in New York City only around fifteen percent of women are making partner."

Most of the women who re-enter do so on a part-time basis, either giving up or largely delaying their chances for partnership. Schmidt says, "My advice would be to be patient. You can't expect to see rapid advancement in your career working on a part-time basis. You do have to make trade-offs in order to achieve balance. But ultimately if you really want to make partner it will happen with hard work and effort."
TIPS FOR A SUCCESSFUL RE-ENTRY

Suzanne Lovett, Wendy Schmidt, and Jenny Liu all made successful transitions from taking time off to returning to the legal workforce. Can their success be replicated? The move from full time diaper changing and homework help to legal research and writing can be daunting, but the transition can be made less dramatic if you stay connected with the profession through the City Bar or seek more flexible assignments through contract and pro bono work. Here are tips that can make re-entering the legal profession easier:

USE THE CITY BAR AS A RESOURCE TO AID YOUR SUCCESSFUL RETURN TO THE LEGAL PROFESSION

The first thing to know when trying to return to a legal career is that the City Bar is here to help you. For a re-entering attorney, the process of obtaining a job involves updating your resume, writing cover letters, and networking all while carefully explaining a gap in experience. Help with these important employment tools is available from the City Bar in the form of seminars, workshops and networking events.

In response to the problem of re-entry, the committees on Career Advancement and Management, Women in the Profession, and Enhance Diversity in the Profession are working together on an initiative to assist re-entering lawyers. Tanya Gill, chair of Career Advancement and Management, who is leading the effort, explains, "The City Bar's approach to the issue is unique in that it considers the issue from the perspective of the potential re-entering employee and the potential employer." Salila Yohn, who is also helping with the initiative, adds, "The initiative aims simply to provide support for lawyers who have taken some time off from practice and to provide a forum in which these lawyers can connect with one another."

NETWORKING

"A City Bar Initiative for Practicing and Re-entering Lawyers" was held on September 17th. The keynote speaker of the event was Carol Fishman Cohen who explained that getting back to work means utilizing your network and making your contact pool as wide as possible. From former employers and colleagues, to contacts at bar associations and volunteer organizations, to friends and neighbors: Let everyone know you are looking to get back to work. A personal relationship can unexpectedly turn into a networking one once you let them know you are thinking about re-entering. Generally, you will find as the panelists did, that most people are very willing to help, even those who you may barely know. Though talking about yourself can be tough, doing so will boost your self confidence and help you narrow down what it is you would like to do so you can find the best position for you.

The Conference on September 17th was just the start. There will be a series of programs this coming spring focused on the issue of re-entry that will be related to topics covered in the panel, such as how to negotiate a salary package, how to fill in gaps on a resume, and how to network. Martha Harris, Director of Committee Services at the City Bar, says the events, "will help lawyers trying to keep their skills up to stay current and fresh."

CONTRACT EMPLOYMENT

Attorneys with family commitments often find the flexible work arrangements available through contract work to be particularly appealing. A legal staffing agency where people think creatively about finding alternative work arrangements can offer opportunities to gain legal experience while maintaining the flexibility needed to manage personal obligations or continue a full time employment search. According to Nora Plesent, one of the co-founders of Lexolution, a temporary legal staffing firm, "Not only can a flexible work arrangement be great for an attorney, it makes a lot of sense for a law firm – they’re hiring a person who needs very little training and can get the job done for the same amount or less money than a junior full-time lawyer."

PRO BONO WORK

According to Kwanza Butler, Director of the City Bar Justice Center’s Public Service Network, "pro bono work can provide re-entering and transitioning attorneys wonderful opportunities to maintain their legal skills, gain experience in a new area of law and network with other professionals, all while giving back to the community." When Amy Tanne wanted to re-enter the legal profession, the Public Service Network helped her find an opportunity working with domestic violence victims in matrimonial matters at My Sisters Place, Inc. Tanne says, "Volunteering really made me feel like a lawyer again and gave me the opportunity to use my legal background to do something that had a direct, meaningful impact on the lives of others."

LEVERAGING PRO BONO AND CONTRACT WORK INTO FULL TIME OPPORTUNITIES

Transitioning attorneys can use contract work as a stepping stone towards more permanent employment. After leaving the firm where she practiced for several years, Kate Wright worked with Lexolution to find a contract position with an insurance company that eventually became her permanent employer. From Kate’s perspective, the legal industry is changing. "People are choosing to become contract attorneys and are highly valued."

Attorneys in transition can also leverage pro bono opportunities to obtain full-time positions. Through the Public Service Network, Elaine Beal volunteered for the City Bar Justice Center Cancer’s Advocacy Project as well as the Kings County District Attorney’s Office until she was eventually hired as an Assistant District Attorney for Kings County. Beal sacrificed a few months’ pay to gain valuable experience which ultimately helped her obtain a great career opportunity. "It is certainly not easy to forgo income, especially when you have student debt to consider. But on balance, the experience I gained and the job I was ultimately able to get made it all worth it. This was exactly what I was hoping for."

CITY BAR COMMITTEE WORK

Planning for a professional re-entry should be done well in advance, perhaps as early as your original leave from the profession. Becoming involved with City Bar committee work will allow you to keep your foot in the door and maintain constant contact with the legal profession. Attorneys can seek to join one of the Association’s 160 committees where they can network, stay in the legal community, and engage in legal research without committing to a full-time job.

For information on upcoming re-entry efforts please contact Martha Harris at mharris@nycbar.org. For information on pro bono opportunities please contact cpsn@nycbar.org.
1 Thursday, 8:30am – 5pm

4TH ANNUAL LAW PRACTICE MANAGEMENT SYMPOSIUM

CHARTING THE COURSE OF YOUR LAW PRACTICE

- Attend valuable workshops for start-ups and growing firms
- Explore the ways to expand your client base
- Attend exhibits by vendors who serve Small Firms
- Network at the breakfast, lunch, and late-afternoon live-music reception as well as in our "Seasoned Solo" Drop-In Center
- Do not miss the sessions on retainers agreements and stress management

The fee is $15 for members and $50 for nonmembers. Admission includes exhibition hall, workshops, networking breakfast, lunch sessions, and wind-down reception with live music. Space is limited. Please register for Symposium sessions at www.nycbar.org.

1 Thursday, 6-9 pm

LESSONS FROM VIRGINIA TECH FOR ATTORNEYS, SCHOOLS OF HIGHER EDUCATION, MENTAL HEALTH CARE PROVIDERS, STUDENTS AND FAMILIES

The student population of today’s American colleges and universities reflects the general trend within the adolescent population of increased diagnoses of mental illnesses, putting students at risk because of such illnesses, substance abuse and other behavioral health issues. A greater number of students are able to attend schools of higher education because of advances in medication and other therapies and the gradually decreasing social stigma associated with these conditions. The tragedy at Virginia Tech focused attention on the continuing challenges of balancing privacy and security, disability-based discrimination and readily accessible mental health services in the microcosm of the campus community. A panel of distinguished experts will discuss these issues, and how campus communities can address them, from the legal, clinical, public policy, law enforcement and potential liability perspective.

Moderator:
CAROLYN REINACH WOLF

Speakers:
KAREN A. BOWER
Senior Staff Attorney, The Bazelon Center for Mental Health Law, Washington, D.C.

KENNETH ELMORE
Dean of Students, Boston University, Boston, MA

RICHARD KADISON, M.D.
Chief, Mental Health Service, Harvard University Health Services

Registration is recommended. Please register online at www.nycbar.org.

2 Friday, 6 pm

FRIDAY EVENING CHAMBER MUSIC AT THE ASSOCIATION

PIANO QUINTETS FOR A FALL EVENING

Mozart’s Quintet for Winds and Piano in E flat major (K. 452) and Beethoven’s Quintet for Winds and piano in E flat major (Op. 16) with Barnaby Kendall, bassoon; Ada Muellner, oboe; Cathy O’Rourke, piano; Bob Snyder, clarinet; Justin Stanley, horn.

Admission is $13 at the door. For more information, please call (212) 788-1093.

7 Wednesday, 6:30-8:30 pm

PROTECTING THE WHOLE FAMILY: PEOPLE WITH PETS FACING DOMESTIC VIOLENCE

People who face domestic violence often witness the abuse of their pets. The pets may be threatened, abused, sometimes killed as a means of controlling and intimidating human victims. Animal abuse may also be an indicator of other violence in the home. Yet when people seek safety from domestic violence, they are rarely asked about non-human members of their family – and they are often required to separate from their beloved pets in order to escape the abuse.

The panel will discuss the current domestic violence shelter system, related laws including new legislation allowing pets to be included in orders of protection, and the challenges faced in providing safe housing for all domestic violence victims - both human and animal.

Moderator:
JANE HOFFMAN
President, Mayor’s Alliance for NYC’s Animals

Speakers:
KALA GANESH, M.S.W.
Executive Director, CONNECT

TANYA McLEOD
Domestic violence survivor

CAROL MORAN
Kings County District Attorney’s Office

MARIE PHILIP, M.S.W.
Executive Director, Office of Domestic Violence, NYC Human Resources Administration

SUSAN URBAN, M.S.W.
Consultant, Alliance for Safety for Animals and People

Registration is recommended. Please register online at www.nycbar.org.

8 Thursday, 7 - 9 pm

TRUE STORIES OF LAW & ORDER: SPECIAL VICTIMS UNIT

THE REAL CRIMES BEHIND THE BEST EPISODES OF THE HIT TV SHOW

Since 1986, Law & Order has been a staple of prime time, not to mention re-run television, and is still going strong. Its spinoff, Law & Order: Special Victims Unit, follows the SVU as it works to solve sexually-based crime.

Writers Kevin Dwyer and Jure Fiorillo have written a book that focuses on 25 of the true stories that inspired the show’s most provocative episodes. Their book reveals in-depth accounts of some of the most monstrous crimes re-created on the hit series. They are joined by the Chief of the Sex Crimes Unit at the Manhattan District Attorney’s Office, and her former deputy to provide their own perspective on the prosecution of sex crimes in Manhattan.

Speakers:
KEVIN DWYER
Author; former professor, Hofstra University and Nassau Community College

JURE FIORILLO
Author; graduate student in criminal justice at Iona College

LISA FRIEL
Chief, Sex Crimes Unit, Office of the New York County District Attorney

www.nycbar.org
KAREN FRIEDMAN-AGNIFILO
General Counsel, Office of the Mayor's Criminal Justice Coordinator; former deputy chief of the Sex Crimes Unit, Office of the New York County District Attorney

Registration is recommended. Please register online at www.nycbar.org

12 Monday, 6 – 8 pm

NY MINORITY ATTORNEY NETWORKING SERIES

This series will provide minority attorneys an opportunity to focus on professional development, network, build alliances and form relationships with peers, partners and colleagues practicing law in the New York area.

Speaker:
HON. ARTHUR J. GONZALEZ
Judge, United States Bankruptcy Court, Southern District of New York

Please RSVP by November 8 to Arnold & Porter at nyminority-series@aporter.com or (212) 715-1384

13 Tuesday, 6:30 pm – 8 pm

THE ART OF SCHMOOZING
NETWORKING MADE EASY FOR LAW STUDENTS AND RECENT LAW SCHOOL GRADUATES

- Do you dread the idea of walking into a room full of strangers and introducing yourself?
- Would you describe yourself as shy?
- Do you tremble at the mere mention of the word "networking"?
- Do you collect business cards and never follow up?

If so, then this program is for you! The program will discuss the art of networking and how to build professional relationships that will be invaluable throughout your career. A reception will follow and light refreshments will be served.

Speakers:
DERRYL ZIMMERMAN
Cushman & Wakefield

Please RSVP to lpschairman@yahoo.com

14 Wednesday, 5 & 8 pm
15 Thursday, 5 & 8 pm

REGIONAL ROUNDS OF THE 58TH ANNUAL NATIONAL MOOT COURT COMPETITION

The 58th Annual Moot Court Competition presents two issues not previously addressed by the United States Supreme Court: First, does the Second Amendment protect an individual’s right to “keep and bear” arms for private use? And, second, does the Federal Aviation Administration Authorization Act preempt a State from exercising its own public health and police powers to regulate the delivery of handgun ammunition?

Participating schools: Brooklyn Law School; Cardozo Law School; City University of New York School of Law; Cornell University School of Law; Fordham University School of Law; Hofstra University School of Law; New York Law School; New York University School of Law; Pace University School of Law; Rutgers School of Law-Newark; Seton Hall University School of Law and St. John’s University School of Law.

Presented in conjunction with: American College of Trial Lawyers

28 Wednesday, 7-8 pm

2007 ANNUAL BENJAMIN N. CARDOZO LECTURE

THE ROLE OF JUDGES IN A GOVERNMENT OF, FOR AND BY THE PEOPLE

Hon. Jack B. Weinstein, United States District Judge, Eastern District of New York will deliver the Association’s annual Cardozo Lecture. The Cardozo Lecture was established in 1941 in remembrance of former Supreme Court Justice Cardozo’s “love for the law, passion for justice, and sympathy for humanity.” A reception will follow

Registration is recommended. Please register online at www.nycbar.org

29 Thursday, 12:30 – 2 pm

SMALL LAW FIRM LUNCHEON
(a three part luncheon series)

GROWING YOUR PRACTICE: SESSION 2: BILLING STRATEGIES TO HELP YOU MARKET YOUR PRACTICE

This second of a three-part luncheon series will discuss billing strategies and pricing communications with your client. Learn how to price your services, how to value bill, and how to use alternative billing strategies.

Moderator:
MICHAEL C. RAKOWER
Law Office of Michael Rakower

Speakers:
CAROL GREENWALD
MarketingPartners

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

Sponsored by LexisNexis

Registration by November 26 is necessary. The fee, which includes lunch, is $25 for members; $35 for non-members. Please register below or online at www.nycbar.org

SAVE THE DATE
December 6, 6-8 pm

CONGRATULATIONS! YOU’VE PASSED THE BAR!

Join us in toasting your achievement at a cocktail reception co-hosted by the New York City Bar Association and the New York Law Journal.

Registration is recommended. Please register online at www.nycbar.org

November 2007 Registration Form

☐ Small Law Firm Luncheon: Growing Your Practice — 29 Thursday
The fee, which includes lunch, is ☐ $25 for members and ☐ $35 for non-members.

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City State Zip

Total Enclosed $

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November in City Bar History

**2008**

One Hundred Thirty Four Years Ago … On succeeding days in November, 1873, two landmark events in the early history of the Association occurred. On November 4th, Election Day, the state ballot included a proposal, initiated by the Association, which sought to reform the state’s judicial selection system by mandating that the governor appoint judges, rather than leaving selection to the backroom machinations of party bosses like William M. Tweed, long a target of Association reformers. Coincidentally, just one day later, on November 5th, the second corruption trial of Tweed commenced (the first trial had concluded with a hung jury).

The electorate rejected the judicial selection proposal, a devastating blow to the Association because eliminating judicial corruption had been a major rationale for its founding. The Association’s members had vigorously supported the referendum by making speeches, publishing pamphlets, providing statistics on appellate reversals and ineffective criminal prosecutions, and detailing the corruption of sitting judges. Nevertheless, New Yorkers voted almost 3 to 1 to retain the old system. The Tweed trial provided a more satisfactory outcome. On November 19th, Tweed was found guilty on 204 out of 220 counts of corruption and dishonesty, sentenced to 12 years in prison, and fined $12,500. After absconding and remaining at large for three years, Tweed was captured in Spain and brought back to New York where he eventually died in prison.

Six Years Ago … On November 10, 2001, Stephen Breyer, Associate Justice of the Supreme Court, spoke in New York to a convocation of world bar leaders, an event sponsored by the Association (along with the London, Paris and Tokyo Bars). Because this meeting took place only two months after the 9/11 disaster, Justice Breyer discarded his planned subject in order to address the “national and international legal tasks” needed in “a long term effort to respond to September 11.” While detailing one of his four recommendations, he cautioned, prophetically: “Security needs escalate during wartime and potentially conflict with the desire to maintain personal freedom’s peacetime limits. Constructive detailed legal work can be done to confine the potential conflict to areas where it is unavoidable.” The justice also commended the Association for its long history of public service.
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<td>WRITING WITH ROSKY: THE ESSENTIALS OF EFFECTIVE LEGAL WRITING</td>
<td>6-9 p.m.</td>
<td>EMPLOYMENT RELATIONSHIPS IN THE FINANCIAL SERVICES INDUSTRY: FORMATION, TERMINATION &amp; DISPUTE RESOLUTION</td>
<td>PRIVACY &amp; SECURITY LAW: ADVISING CLIENTS HOW TO COLLECT, USE &amp; PROTECT INFORMATION</td>
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BRIDGE THE GAP

16 HOUR BRIDGE-THE-GAP

28 Wednesday & 4 Tuesday, 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 who are newly admitted, while providing essential information and credits for more experienced attorneys. This program is particularly distinct in that one day will allow attendees to fulfill all required skills credits and the other day will allow attendees to fulfill all required ethics credits. Attendance on both days will provide the total professional practice/practice management credits required of all newly admitted attorneys. A skilled faculty will guide you through the day-to-day practice of law and cover topics of interest to all attorneys, including legal ethics.

Faculty:

CHARLES BLAKELEY
Supervising Attorney
Legal Aid Society
Criminal Defense Division

SEYMOUR W. JAMES, JR.
Attorney in Charge: Criminal Practice
The Legal Aid Society

LAWRENCE T. HAUSMAN
Supervising Attorney
The Legal Aid Society
Criminal Appeals Unit

CHRISTINA KALLAS
Attorney at Law

JOEL R. KULLAS
Court Attorney for Judge Joseph E. Capella
Civil Court for the City of New York
Housing Part

JEROME T. LEVY
Duane Morris LLP

BARBARA L. MACGRADY
Blank Rome LLP

EVE RACHEL MARKEWICH
Markewich & Rosenstock LLP

HON. ELEANOR OFSHTEIN
Housing Court Judge
Civil Court of the City of New York
Housing Part
Bronx County

LABE M. RICHMAN
Attorney at Law
Adjunct Professor
New York Law School

ROBERT J. SALTZMAN
Deputy Counsel
New Yk State Grievance Committee
Second and Eleventh Judicial Districts

MURRAY SCHWARTZ
Schwartz & Perry, LLP

STEVEN WILAMOWSKY
Bingham McCutchen LLP

Program Co-Chairs:
ALAN CHAPELL
President
Chapell & Associates

GARY KIBEL
Davis & Gilbert LLP

THOMAS A. COHN
Acting Regional Director
Federal Trade Commission
Northeast Region

ORRIE DINSTEIN
Chief Privacy Leader & Senior Counsel IT & IP
GE Commercial Finance

HILLARY M. WANDALL
Attorney & Corporate Privacy Officer
Merck & Co., Inc.

Joan Granfield
Joan Granfield

CONSUMER PROTECTION

PRIVACY & SECURITY LAW:
ADVISING CLIENTS HOW TO COLLECT, USE & PROTECT INFORMATION

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

Virtually every industry relies to some degree upon the collection, use and storage of information. While business and customer data can be a valuable asset to leverage, there are legal obligations that must be observed. Privacy and security of data is now a key concern of every client and attorneys should be familiar with the general privacy principles and laws that apply in order to properly guide clients in any industry. This session will provide an overview of the hottest issues in privacy and security law, including privacy breaches, industry-specific obligations, new and pending legislation and practical guidance to help any organization better manage its information gathering, dissemination and use practices.

Program Co-Chairs:
ALAN CHAPELL
President
Chapell & Associates

GARY KIBEL
Davis & Gilbert LLP

THOMAS A. COHN
Acting Regional Director
Federal Trade Commission
Northeast Region

ORRIE DINSTEIN
Chief Privacy Leader & Senior Counsel IT & IP
GE Commercial Finance

HILLARY M. WANDALL
Attorney & Corporate Privacy Officer
Merck & Co., Inc.

Live Program (includes materials):
Member $205  Nonmember $315

CLE credit:
3 1/2 credits in professional practice. This program provides transitional credit for newly admitted attorneys.

CORPORATE & SECURITIES

FCPA: COMPLYING & IMPLEMENTING RISK MANAGEMENT STRATEGIES

9 Friday, 9-5 p.m.

The Foreign Corrupt Practices Act ("FCPA") has now become one of the focal points of the Securities and Exchange Commission’s and the Department of Justice’s enforcement programs. Enforcement actions, civil and criminal, are on the rise and the cost of resolving FCPA actions...
is getting even more onerous. At the same time, foreign anti-corruption laws and enforcement are also gaining. U.S. and other multinational companies increasingly face FCPA risks in their varied international business activities. Such risks can, however, be detected and managed before problems arise. The experienced faculty of private practitioners, civil regulators and criminal authorities will provide an overview of the FCPA and its implications. The faculty will discuss timely important information on the latest enforcement trends, international developments, compliance, best practices, and risk assessment and mitigation.

The topics to be covered include:

- Trends in international cooperation among enforcement officials
- Analysis of recent cases against companies and individuals
- The long arm of the FCPA: update on FCPA enforcement explosion in Europe
- Do’s and don’ts of hosting, traveling, entertaining and lodging of foreign officials
- Conducting due diligence of foreign commercial intermediaries, agents and joint venture partners to minimize liability risks
- Books and records requirements of the FCPA
- Overcoming cultural and legal challenges in rolling out a compliance culture
- Weighing the pros and cons of voluntary disclosures
- Conducting internal investigation in challenging countries

Program Chair:
CLAUDIUS O. SOKENU
Mayer Brown Rowe & Maw LLP

Faculty:
MARGARET M. AYRES
Davis Polk & Wardwell

JAMES J. BENJAMIN, JR.
Akin Gump Strauss Hauer & Feld LLP

PAUL R. BERGER
Debevoise & Plimpton LLP

GREGORY S. BRUCH
Foley & Lardner LLP

JAMES COLE, JR.
Wachtell, Lipton, Rosen & Katz

REID M. FIGEL
Kellogg, Huber, Hansen, Todd, Evans & Figel, P.L.L.C.

RICHARD W. GRIME
Securities and Exchange Commission

BRUCE KARPATI
Assistant Regional Director
Division of Enforcement
Securities and Exchange Commission

DAVID S. KRAKOFF
Mayer Brown Rowe & Maw LLP

LUCINDA A. LOW
Steptoe & Johnson LLP

MARK F. MENDELSOHN
Deputy Chief, Fraud Section, Criminal Division
US Department of Justice

DANFORTH NEWCOMB
Shearman & Sterling LLP

WILLIAM F. PENDERGAST
Paul Hastings Janofsky & Walker LLP

JANE L. WEXTON
Akerman Senterfitt

ROGER M. WITTEN
Wilmer Cutler Pickering Hale and Dorr LLP

ALEXANDRA A. WRAGE
President
TRACE International, Inc.

DON ZARIN
Holland & Knight LLP

Live Program (includes materials):
Member $365  Nonmember $495

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

DRAFTING DISPUTE CLAUSES:
A LITIGATOR’S ADVICE FOR TRANSACTIONAL LAWYERS & THEIR CLIENTS

12 Monday, 9-11 a.m.

Many transactional attorneys draft dispute clauses without an appreciation of the “real world” implications of the clause. This seminar examines how litigators exploit dispute clauses to delay proceedings and wear down opponents, and makes drafting suggestions to avoid such problems. Topics discussed include:

- Should mediation clauses be used?
- Should there be one or three arbitrators?
- Should the parties agree to a “limited subject matter” dispute clause, e.g., only IP disputes will be subject to arbitration?
- Where should an arbitration be held and why does location matter?
- Should discovery be permitted and, if so, how much?
- Should the parties tinker with the standard of review for awards?
- More generally, does arbitration really result in efficient dispute resolution and, if not, what are the alternatives?

Program Instructor:
ERIC FISHMAN
Pillsbury Winthrop Shaw Pittman LLP

Live Program (includes materials):
Member $175  Nonmember $285

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

VIDEO REPLAY: INTRODUCTION TO FUTURES & DERIVATIVES PRACTICE & REGULATION

19 Monday, 9-1 p.m.

This program will provide an introduction to the regulation, trading and documentation of exchange-traded futures contracts and over-the-counter (OTC) financial derivatives. It will examine the key federal statutes affecting the futures and OTC derivatives industries, namely, the Commodity Exchange Act, the Securities Act of 1933 and the Securities Exchange Act of 1934, as well as certain important exemptions and exclusions from the federal statutory scheme. It will also examine recent documentation initiatives, litigation, regulatory developments and enforcement actions relevant to a wide range of market participants, including OTC derivatives dealers, futures commission merchants, financial institutions, hedge funds, pension funds, corporations and others.

Program Chair:
ROBERT MCLAUGHLIN
Katten Muchin Rosenman LLP

Faculty:
CONRAD G. BAHLKE
Weil, Gotshal & Manges LLP

GARY ALAN DEWAAL
Senior Vice President & Group General Counsel
Fimat USA, LLC

www.nycbar.org
ETHICS

PRACTICAL SOLUTIONS TO ROUTINE ETHICAL ISSUES

14 Wednesday, 6–9 p.m.

Ethical issues arise everyday. Many lawyers ignore ethical problems that initially appear unimportant. As a result, they miss the opportunity to eliminate the possibility the issue will grow into a large problem in the future. However, simple risk management techniques and a basic understanding of common pitfalls that arise in day-to-day practice can eliminate most ethical problems. The goal of the program is to help attendees avoid disciplinary complaints and legal malpractice claims by recognizing ethical issues before they ripen into an ethical dilemma and applying common sense approaches to problems that could not be avoided. The speakers will use real life hypotheticals to stimulate discussion about problems that lawyers routinely face in most practice areas.

Program Chair:
RICHARD M. MALTZ
Frankfurt Kurnit Klein & Selz, PC

Faculty:
ANDRAL NIVEN BRATTON
Deputy Chief Counsel
Departmental Disciplinary Committee

HAL R. LIEBERMAN
Hinshaw & Culbertson LLP

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

BARRY R. TEMKIN
Law Offices of Edward Garfinkel

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

PERFORMANCES FROM "OSCAR" WINNING LITIGATORS: ETHICAL CONUNDRUMS IN CRIMINAL CASES

27 Tuesday, 6–9 p.m.

This program will deal with the types of ethical problems that arise during criminal investigations and cases. Conflict of interest, document destruction and false representations by clients are examples of conduct that present ethical dilemmas. Hypothetical fact situations raising ethical issues will be presented and the panel will discuss proposed solutions.

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

Faculty:
LAWRENCE B. PEDOWITZ
Wachtell, Lipton, Rosen & Katz

HENRY PUTZEL, III
Attorney at Law

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Insist that you have verifiable proof of delivery, content and time for your important e-mail. Before it is too late.

RPOST® REGISTERED E-MAIL® SERVICES
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• Proof of content (incl. attachments)
• Proof of time (Atomic Clock)
• Receiver does nothing different
• No third-party e-mail storage

Please visit us at Table #18
During the November 1st Law Practice Management Symposium
What is a trademark and how can it be protected? How do you obtain a U.S. trademark registration and maintain trademark rights? How do you defend against trademark infringement or dilution litigation? These are essential to advising today’s clients. Topics to be addressed include: choosing a mediator, confidentiality, the role of law in mediation, disclosure of information (a.k.a. discovery), use of neutrals, the Agreement to Mediate, the opportunity for contact between the mediator and the attorneys, as well as Standards of Practice to expect of the mediators.

Program Co-Chairs:

ADAM J. BERNER, ESQ., M.A.,
Mediator, Collaborative Family Lawyer & Conflict Resolution Trainer

ALISON HELLER
Alison Heller LLC

ALLA ROYTBerg
Law Offices and Mediation Center of Alla Roytberg

Faculty:

BARRY BERKMAN
Berkman, Bottger & Rodd LLP

MARYELLEN LINNEHAN
Center for Collaborative Family Law and Divorce Mediation

ELI UNCYK
Uncyk, Borenkind & Nadler, LLP

Live Program (includes materials):
Member $235 Nonmember $345

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

FAMILY LAW

REPRESENTING CLIENTS IN DIVORCE MEDIATION: HELPING CLIENTS REACH MAXIMUM RESULTS

13 Tuesday, 6-9 p.m.

As divorce mediation has become part of the established landscape as to how couples resolve their legal differences, the ability to represent clients effectively in mediation is a crucial skill in the repertoire of the matrimonial practitioner. Clients are not just interested in having an attorney approve their participation in mediation, but expect their attorney to provide counsel through the different stages of the process, whether in a consulting capacity or in the actual mediation session.

This program is designed to develop an understanding of the mediation process and how attorneys can zealously, yet constructively, assist their clients in reaching optimal results in this dispute resolution process - a process which is very different from the traditional matrimonial representation and litigation. Can these two skills be reconciled, or is good representation incompatible with cooperating in mediation? How can we advocate for a client in a cooperative process, balancing the need to protect our clients (and ourselves)?

Specifically, this program will provide a deeper understanding of the mediation framework, how to assess whether it is the right process for your client and if so, how to prepare your client to participate in it. Additionally, we will examine how you, as attorney, can assist your client during and after the mediation sessions, including the best way to review and provide feedback to parties’ mediated settlement agreement. Important miscellaneous topics expected to be addressed include: choosing a mediator, confidentiality, the role of law in mediation, disclosure of information (a.k.a. discovery), use of neutrals, the Agreement to Mediate, the opportunity for contact between the mediator and the attorneys, as well as Standards of Practice to expect of the mediators.

Program Co-Chairs:

ADAM J. BERNER, ESQ., M.A.,
Mediator, Collaborative Family Lawyer & Conflict Resolution Trainer

ALISON HELLER
Alison Heller LLC

ALLA ROYTBerg
Law Offices and Mediation Center of Alla Roytberg

Faculty:

BARRY BERKMAN
Berkman, Bottger & Rodd LLP

MARYELLEN LINNEHAN
Center for Collaborative Family Law and Divorce Mediation

ELI UNCYK
Uncyk, Borenkind & Nadler, LLP

Live Program (includes materials):
Member $205 Nonmember $315

CLE credit:
3 credits total: 1½ professional practice, 1½ skills. This program provides transitional credit for newly admitted attorneys.

INTELLECTUAL PROPERTY

TRADEMARK BASICS & BEYOND

8 Thursday, 6-9 p.m.

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

- What is a trademark and how can it be protected? How do you obtain a U.S. trademark registration and maintain trademark rights?
- What do you do if you are involved in trademark infringement or dilution litigation?
- Recent case law decisions and its implications for U.S. trademark practice

- Practice tips for managing international clearance and prosecution for U.S. based clients
- Navigating TTAB opposition and cancellation proceedings

Program Chair:
JESSICA PARISE
Fulbright & Jaworski LLP

Faculty:
BETH H. ALTER
Seward & Kissel LLP

ELEANOR M. LACKMAN
Arnold & Porter LLP

MARC J. RACHMAN
Davis & Gilbert LLP

MONICA B. RICHMAN
Thelen Reid Brown Raysman & Steiner LLP

Live Program (includes materials):
Member $205 Nonmember $315

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

COPYRIGHT FOR BEGINNERS & NON-SPECIALISTS

29 Thursday, 6-9 p.m.

This program will provide a foundation in copyright law for those who are not yet familiar with the practice area. An expert panel with experience in a variety of copyright industries will discuss copyrightability, licensing, fair use, infringement, litigation and remedies, as well as recent important cases.

Program Chair:
JESSICA FRIEDMAN
Attorney at Law

Faculty:
JILL C. GREENWALD
Vice President for Legal Business Affairs
ABC Inc.

JEFFREY E. JACOBSON
Jacobson & Colfin PC

JUDITH PROWDA
Attorney at Law

Live Program (includes materials):
Member $205 Nonmember $315
CLE credit: 3 credits in professional practice. This program provides transitional credit for newly admitted attorneys.

LABOR & EMPLOYMENT

EMPLOYMENT RELATIONSHIPS IN THE FINANCIAL SERVICES INDUSTRY: FORMATION, TERMINATION & DISPUTE RESOLUTION

Thursday, November 1 6-9 p.m.

Employment relationships in the financial services industry have become much more complex. Exempt employees at all levels – from managers to members of the senior executive team – now often receive a variety of salary enhancements, including sign-on and performance bonuses, forgivable loans, stock options and other types of deferred compensation. When those employees leave a company, severance issues frequently arise whether or not a company may have a formal severance policy. A panel of prominent attorneys who represent both individuals and employers will address both the legal and practical aspects of these matters. The program will also address the new processes and rules that govern employment disputes in the securities industry and the types of disputes that are subject to dispute resolution.

Program Chair: ROBERT KRAUS
Kraus & Zuchlewski LLP

Faculty:
LINDA FEINBERG
President, Dispute Resolution
NASDAQ
Washington, D.C.

JACK L. JOHNSON
Senior Vice President
Lehman Brothers Inc.

KEVIN B. LEBLANG
Kramer Levin Naftalis & Frankel LLP

LAURA S. SCHNELL
Eisenberg & Schnell LLP

Live Program (includes materials):
Member $205  Nonmember $315

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

EMPLOYMENT LAW ESSENTIALS: WHAT NEW YORK PRACTITIONERS NEED TO KNOW ABOUT LEAVES OF ABSENCE, SEXUAL ORIENTATION DISCRIMINATION, OVERTIME, RETALIATION & MORE...

30 Friday, 9-12 p.m.

Whether you are a general practitioner, an in-house generalist, or a full time employment lawyer, you should not miss this program. This program is a practical survey of the latest developments in four core areas of employment law that are ripe with traps for unwary New York lawyers: parental and medical leaves; sexual orientation and gender identity discrimination; minimum wage and overtime rules; and whistleblowing and retaliation. The faculty, some of the New York’s top employment law practitioners, will give you essential tips about sometimes thorny issues that cannot be ignored.

Program Chair: JUSTIN M. SWARTZ
Outten & Golden LLP

Faculty:
ALAN M. KORAL
Vedder Price Kaufman & Kammholz PC

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LAW FIRM PRACTICE MANAGEMENT

THE CYBERSLEUTH’S GUIDE TO THE INTERNET: SUPER SEARCH ENGINE STRATEGIES FOR THE LEGAL PROFESSIONAL

15 Thursday, 9-12 p.m.

Do lawyers have a "duty to google?" In a recent decision, the court was incredulous that plaintiff failed to "google" the missing defendant as part of his due diligence process and upheld the defendant’s claim of insufficient service of process. Effective Internet searching may now need to become part of every lawyer’s due diligence routine.

At this seminar, attendees will learn the best search engine strategies (including advanced search features at Google and other search engines) that will assist them in meeting their research obligations. These search engine strategies also serve as the essential building blocks for conducting effective research at other Web sites.

Find Out How the Internet Really Works:
■ Identify and use the best search engines
■ Develop super search engine strategies
■ Explore meta-search sites
■ Key into Google's "advanced search" menu
■ Fundamental distinctions between the "visible" and the "invisible" web
■ Locate information from the "invisible" web
■ Tools to search "smarter not harder"
■ Uncover ways to find deleted web pages

Program Instructors:
CAROLE LEVITT
President
Internet for Lawyers

MARK ROSCH
Vice President
Internet for Lawyers

CLE credit:
3 credits in professional practice. This program provides transitional credit for newly admitted attorneys. In accordance with the CLE Board’s revised Regulations and 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 $175  Non-member $275

Attend both "Cybersleuth’s Guide to the Internet" programs and pay $115 member and $215 non-member for the second program.

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

NEW YORK CITY BAR

Dinner at the NYC Bar: Meet David Nersessian, JD/PhD, Executive Director of Harvard Law School’s Program on the Legal Profession. He will speak on Challenges Facing Today’s Law Firm, ranging from mergers and non-traditional competition to attracting new clients and new attorneys. Save the date: December 4, 2007 from 6pm to 8pm.

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A lawyer’s research involves much more than just finding cases and statutes, and whether you’re a transactional lawyer looking for information on a company, a consumer attorney tracking down a defective product, a matrimonial attorney searching for a spouse’s assets, or a litigator looking for a missing witness, the Internet can be an indispensable source of information.

Nationally recognized Internet trainers and authors of The Cybersleuth’s Guide to the Internet will show you how to find and use specific Web sites to unearth factual and investigative information FREE (or at low cost!) on the Net. Instead of first turning to experts, consultants, skip tracers, and private investigators, seminar attendees will quickly learn how to be their own Cybersleuth.

The ABA’s most recent Technology Survey found that while nearly 90% of attorneys used the Internet "to research news or current events," less than half were using the public records or company background information, both of which are freely available on the Internet. The attorney who thinks they’re "using the Internet in their practice" because they are reading the news or checking their stock portfolios online runs the risk of having cases dismissed, losing cases, or facing a malpractice suit…because of information they’ve missed.

Learn How to Search Like a Private Investigator:
■ Find out how to dig up "dirt" about the opposition
■ Uncover information to attack a witness’ credibility
■ Seek out the smoking gun
■ Mine the web for missing people
■ Discover addresses (home and email) and phone numbers (even cellular)
■ Locate someone’s aliases, employer’s name, political persuasion
■ Glean private or personal information from usenet postings
■ Unearth assets

Discover Quick and Easy Methods to Access Public Records (Federal and New York):
■ Birth & death records
■ Social security numbers
■ Liens, judgments, UCCs
■ Bankruptcies and docket
■ Real & personal property records
■ Business ownerships
■ Criminal backgrounds

Program Instructors:
CAROLE LEVITT
President
Internet For Lawyers

MARK ROSCH
Vice President
Internet For Lawyers

Live Program (includes materials):
Member $175  Non-member $275

Attend both “Cybersleuth’s Guide to the Internet” programs and pay $115 member and $215 non-member for the second program.

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

DISCLOSURE vs. DISCOVERY: NEW YORK STATE & FEDERAL PRACTICES COMPARED

5 & 12 Mondays, 6-9 p.m.

If you practice in both state and federal courts in New York, this six-hour program will highlight the sometimes subtle, sometimes significant differences in the two court systems. From investigation through pre-trial in limine rulings, our panel of experienced litigators and judges will discuss the rules, and the reality, to enable attorneys to maximize results and minimize frustration in pre-trial proceedings.

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

Faculty
HON. MARTIN E. RITHOLTZ
Supreme Court Justice
Queens County

CLIFFORD S. ROBERT
Robert & Robert PLLC

HON. LISA M. SMITH
Chief Magistrate Judge, SDNY

HON. ALISON Y. TUITT
Supreme Court Justice
Bronx County

Live Program (includes materials):
Both days: Member $375 Nonmember $495
Per Day: Member $195 Nonmember $305

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

REAL ESTATE

GOING IN REVERSE: A LAWYER’S GUIDE TO THE INS & OUTS OF REVERSE MORTGAGES

19 Monday, 6-9 p.m.

Reverse Mortgages - what are they, how do they work, who should consider them, and who qualifies for them? This program is intended to provide a practical guide to advising clients; and to introduce the legal practitioner to the ins and outs of the reverse mortgage, including the prerequisites for qualification and the logistics of applying for and closing a reverse mortgage transaction. Taking a "how to" approach, our expert panel will introduce you to the resources and information you need. Also highlighted will be specific concerns with regard to condominium and coop unit owners and boards, including how to protect both the borrower and the cooperative or condominium association.

Program Chair:
MARIANNE LAURENCCELL
Ellenoff Grossman & Schole LLP

Faculty:
MARVIN N. BAGWELL
Vice President Eastern Divisional Counsel
United General Title Insurance Company

DAVID L. BERKEY
Gallet Dreyer & Berkey LLP

PATRICK E. FAY
Senior Vice President
BNY Mortgage Company LLC

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

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

WRITING

WRITING WITH ROSKY: THE ESSENTIALS OF EFFECTIVE LEGAL WRITING

6 Tuesday, 6-8 p.m.

Participants in this two-hour, hands-on workshop learn practical strategies for eliminating common writing weaknesses on four levels: document organization, paragraph construction, sentence structure and word choice. This workshop emphasizes general writing skills applicable across all practice areas. It is geared toward junior attorneys but provides a useful review for attorneys at all levels.

Program Instructor:
DIANNE ROSKY
Rosky Legal Writing

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

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

Registration

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

Cancellations & Refunds

For live programs and video replays, refunds and program credits are available provided cancellation is made in writing and received by the City Bar Center prior to the program. A $35 administrative fee will be charged for all refunds. The cancellation fee will be deducted directly from the refund. Program credits must be used within one year of the original program date. Cancellations must be in writing, faxed to the City Bar Center, (212) 869-4451.

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

CLE Credit Information

CLE credit applies to New York and California (for live programs only). Illinois credit differs and ethics credits are pending.
# NOVEMBER 2007 CLE REGISTRATION FORM

| EMPLOYMENT RELATIONSHIPS IN THE FINANCIAL SERVICES INDUSTRY: FORMATION, TERMINATION & DISPUTE RESOLUTION
| **November 1** | Member | Non-member |
| Live Program (includes materials): | $280 | $315 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only (No CLE credit): | $105 | $135 |

| PRIVACY & SECURITY LAW: ADVISING CLIENTS HOW TO COLLECT, USE & PROTECT INFORMATION
| **November 2** | Member | Non-member |
| Live Program (includes materials): | $280 | $315 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only: | $105 | $135 |

| DISCLOSURE vs. DISCOVERY: NEW YORK STATE & FEDERAL PRACTICES COMPARED
| **November 5 & 12** | Member | Non-member |
| Live Program (includes materials): | $375 | $405 |
| Live Program (includes materials) both days: | $375 | $405 |
| CDs (includes materials) per day: | $385 | $415 |
| Videotapes (includes materials): | $399 | $425 |
| DVDs (includes materials): | $365 | $395 |
| Materials Only (No CLE credit): | $235 | $285 |

| WRITING WITH ROSKY: THE ESSENTIALS OF EFFECTIVE LEGAL WRITING
| **November 6** | Member | Non-member |
| Live Program (includes materials): | $195 | $230 |

| TRADEMARKS BASICS & BEYOND
| **November 8** | Member | Non-member |
| Live Program (includes materials): | $280 | $315 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only (No CLE credit): | $105 | $135 |

| FCBA: COMPLYING & IMPLEMENTING RISK MANAGEMENT STRATEGIES
| **November 9** | Member | Non-member |
| Live Program (includes materials): | $365 | $395 |
| CDs (includes materials): | $415 | $445 |
| Videotapes (includes materials): | $475 | $505 |
| DVDs (includes materials): | $535 | $565 |
| Materials Only (No CLE credit): | $115 | $135 |

| DRAFTING DISPUTE CLAUSES: A LITIGATOR'S ADVICE FOR TRANSACTIONAL LAWYERS & THEIR CLIENTS
| **November 12** | Member | Non-member |
| Live Program (includes materials): | $175 | $215 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only (No CLE credit): | $105 | $135 |

| REPRESENTING CLIENTS IN DIVORCE MEDIATION: HELPING CLIENTS REACH MAXIMUM RESULTS
| **November 13** | Member | Non-member |
| Live Program (includes materials): | $195 | $230 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only (No CLE credit): | $105 | $135 |

| PRACTICAL SOLUTIONS TO ROUTINE ETHICAL ISSUES
| **November 14** | Member | Non-member |
| Live Program (includes materials): | $385 | $425 |
| CDs (includes materials): | $360 | $395 |
| Videotapes (includes materials): | $435 | $475 |
| DVDs (includes materials): | $475 | $505 |
| Materials Only: | $105 | $135 |

| THE CYBERSLEUTH'S GUIDE TO THE INTERNET: SUPER SEARCH ENGINE STRATEGIES FOR THE LEGAL PROFESSIONAL
| **November 15** | Member | Non-member |
| Live Program (includes materials): | $475 | $505 |
| CDs (includes materials): | $360 | $395 |
| Videotapes (includes materials): | $435 | $475 |
| DVDs (includes materials): | $475 | $505 |
| Materials Only (No CLE credit): | $105 | $135 |

*Attend both "Cybersleuth's Guide to the Internet" programs and pay $115 member and $215 non-member for the second program.*

| THE CYBERSLEUTH'S GUIDE TO THE INTERNET: INVESTIGATIVE RESEARCH STRATEGIES FOR THE LEGAL PROFESSIONAL
| **November 15** | Member | Non-member |
| Live Program (includes materials): | $175 | $215 |
| CDs (includes materials): | $265 | $305 |
| Videotapes (includes materials): | $335 | $375 |
| DVDs (includes materials): | $395 | $435 |
| Materials: | $105 | $135 |

*Attend both "Cybersleuth's Guide to the Internet" programs and pay $115 member and $215 non-member for the second program.*

| VIDEO REPLAY: INTRODUCTION TO FUTURES & DERIVATIVES PRACTICE & REGULATION
| **November 19** | Member | Non-member |
| Video Replay: | $335 | $495 |
| CDs: | $445 | $615 |
| Videotapes: | $555 | $715 |
| DVDs: | $705 | $875 |
| Materials: | $115 | $135 |

| GOING IN REVERSE: A LAWYER'S GUIDE TO THE INS & OUTS OF REVERSE MORTGAGES
| **November 19** | Member | Non-member |
| Live Program (includes materials): | $285 | $325 |
| CDs (includes materials): | $335 | $360 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials: | $105 | $135 |

| PERFORMANCES FROM "OSCAR" WINNING LITIGATORS: ETHICAL CONUNDRUMS IN CRIMINAL CASES
| **November 27** | Member | Non-member |
| Live Program (includes materials): | $325 | $355 |
| CDs (includes materials): | $365 | $405 |
| Videotapes (includes materials): | $435 | $475 |
| DVDs (includes materials): | $475 | $505 |
| Materials Only (No CLE credit): | $105 | $135 |

| 16 HOUR BRIDGE-THE-GAP
| **November 28 & December 4** | Member | Non-member |
| Live Program (both days): | $345 | $365 |
| Live Program (per day): | $375 | $405 |
| CDs: | $385 | $415 |
| Videotapes: | $415 | $445 |
| DVDs: | $435 | $465 |

| COPYRIGHT FOR BEGINNERS & NON-SPECIALISTS
| **November 29** | Member | Non-member |
| Live Program (Includes materials): | $335 | $360 |
| CDs (includes materials): | $385 | $415 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials Only (No CLE credit): | $105 | $135 |

| EMPLOYMENT LAW ESSENTIALS: WHAT NEW YORK PRACTITIONERS NEED TO KNOW ABOUT LEAVES OF ABSENCE, SEXUAL ORIENTATION DISCRIMINATION, OVERTIME, RETALIATION & MORE...
| **November 30** | Member | Non-member |
| Live Program (Includes materials): | $325 | $355 |
| CDs (includes materials): | $385 | $415 |
| Videotapes (includes materials): | $405 | $435 |
| DVDs (includes materials): | $445 | $475 |
| Materials (No CLE credit): | $105 | $135 |

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

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Name
Address
City State Zip
Phone Total Enclosed $

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www.nycbar.org
CLE SPOTLIGHT: THE ROLE OF HUMOR IN THE ART OF ADVOCACY

Telling jokes in a courtroom setting seems like risky practice. Imagine this scenario: A plaintiff’s attorney presents his case using many elaborate and detailed charts. Afterwards, the defense attorney makes a smug remark to the jury: "These charts should be displayed at the Guggenheim Museum because they represent nothing but art!"

According to criminal litigator Barry A. Bohrer, such jokes can add levity to the proceedings and level the playing field between the opposing counsels. Some attorneys prefer to use self-deprecating humor as a way of humanizing themselves in front of the jury. For example, suppose a defense attorney prefaxes his summation with the following comment: "I will be short. Well, I’m already short—I’ll just be brief."

It’s rare for a CLE program to focus on courtroom humor. "I thought there was a need for someone to explore this subject matter seriously," said Robert G. Morvillo, renowned litigator and the mastermind behind the September 19th CLE program, The Role of Humor in the Art of Advocacy. Morvillo, of Morvillo, Abramowitz, Grand, Iason, Anello & Bohrer, said that appropriate humor may increase an attorney’s credibility and ability to persuade.

Defense attorney Gerald Shargel suggested that humor may even be effective in trying violent crimes because juries appreciate the reprieve from a tense atmosphere. Panelist and litigator Ben Braffman cautioned that it’s crucial to know when and how to use humor. "If you try to be funny and you’re not, it can be offensive and an unmitigated disaster," Braffman said.

Humor in the Art of Advocacy is part of a growing trend by the NYC Bar’s CLE Department to offer more atypical seminars. "We’re working on expanding the range of topics and including more substantive professional practice and skills programs," said Michelle Schwartz-Clement, Director of Continuing Legal Education. "In November and December, we’re holding how-to seminars on investigative internet research and lobbying on city, state, and federal levels, as well as issues affecting the modern family, reverse mortgages and wealth optimization."

Also in November, Robert Morvillo will moderate another CLE program, Ethical Conundrums in Criminal Cases (Tuesday, Nov. 27th, 6-9 p.m.). Attendees of this CLE program will learn how to handle the ethical problems often presented during criminal investigations and cases. These problems include conflicts of interest, document destruction, and false representations by clients.

For more information, see the program listing on page 13. As with our other CLE programs, credit can be obtained in New York and California, and also in Illinois (credit allocation differs).