The outsourcing of legal services has been a growing trend among law firms and corporate law departments. These firms and departments contract to pay for legal support services provided by an individual or firm residing in a foreign country and not admitted to practice in the U.S. The services may include legal research, drafting memoranda or briefs, reviewing discovery materials, conducting patent searches, performing due diligence, or drafting contracts.

Outsourcing presents a number of ethical issues. One of the major opinions in this area was issued by our Committee on Professional and Judicial Ethics (Formal Opinion 2006-3). The opinion concluded that a New York lawyer may outsource legal support services ethically, provided that the lawyer: (i) rigorously supervises the non-lawyer to avoid aiding in the unauthorized practice of law and to ensure competent representation of the client, (ii) takes steps to ensure the preservation of confidential client information, (iii) attends to conflict checking to avoid conflicts of interest, (iv) bills appropriately for the services provided, and (v) obtains advance client consent where appropriate.

Our Committee on Professional Responsibility has now followed up this opinion with a report designed to provide guidance to lawyers seeking to outsource. The report identifies the five ethics obligations New York lawyers have in outsourcing legal work:

1) Ensure competence and appropriate supervision
2) Preserve the client’s confidential information
3) Check for conflicts of interest
4) Disclose the outsourcing arrangement to the client
5) Avoid assisting in the unauthorized practice of law

After discussing these issues in detail, the Committee addresses a series of scenarios and how the ethical considerations are implicated in each situation, and recommends procedures for New York firms and corporate law departments to follow. For example, in the scenario where a New York law firm retains a foreign firm through an intermediary company (that will verify the firm’s credentials) to conduct patent searches for some New York clients, the following considerations would apply (this is a brief summary of the report’s analysis):

Ensuring competency: Conduct interviews and reference checks on the intermediary, check professional credentials of the firm doing the work, learn about the firm’s structure (including work and ethical practices, whether compensation is based on performance, and what insurance it has), and determine whether the firm will provide feedback on its employees’ performance. Then
OUTSOURCING ETHICALLY: continued from p. 1

set up rigorous supervision tailored to the work involved and the skills of those performing it, and maintain communication with the firm performing the work.

Preserving confidence: Assess the risks to client information posed by the rules and regulations of the foreign jurisdiction, instruct the firm as to the New York lawyer’s obligations, make compliance with confidentiality provisions a contractual obligation, review the provider’s data security arrangements, and minimize the amount of information shared with the provider or house the data on the New York law firm’s servers.

Conflicts checking: The intermediary should explain how it ensures that the firm providing services has a conflicts-checking system that complies with New York rules, and the New York firm should ask a series of questions designed to probe the firm’s conflicts-checking process.

Client disclosure and consent: Client disclosure should be the rule where legal services (as opposed to administrative, clerical, or tangential services) are to be outsourced. The report sets forth considerations for when client consent is necessary.

Unauthorized practice of law: To avoid unauthorized practice of law, the New York firm must provide adequate supervision. The report notes that the New York firm cannot abdicate responsibility or rely on the foreign firm’s lawyers being licensed in the foreign jurisdiction.

The report presents other scenarios that might well apply to both law firms and corporate law departments, and presents additional factors that New York firms should consider in undertaking outsourcing. Along with the ethics opinion, it provides valuable guidance in an area that will only expand due to economic pressures and increased globalization. The report and ethics opinion may be found on the Association’s website, www.nycbar.org.

Albany: 2009 Legislative Roundup

BY MARIA CILENTI, DIRECTOR OF LEGISLATIVE AFFAIRS

The 2009 legislative session in Albany was a bit of a moving target. After regaining majority control of the Senate last November, creating a two-house Democratic majority for the first time in over 40 years, the Senate Democrats found themselves struggling to establish a foothold. A self-styled “Gang of Two” (or “Three” or “Four” depending on the day) Senate Democrats threatened to and then did defect from the Democrats to the Republicans, which created chaos and no clear majority party for several weeks; legislative procedures ground to a halt, culminating in a six-week gridlock in June and July; the Governor’s poll numbers plummeted; budget constraints loomed (and continue to loom) over every bill; one of the Senate’s “Gang of Two” went on trial on domestic violence charges; and, as of press time, the former Republican Senate Majority Leader, Joseph Bruno, is on trial for felony charges relating to alleged “theft of honest services” under federal law.

And this is just the backdrop. While the public grows increasingly frustrated with its state government, the Legislature and the Governor continue to grapple with a daunting budget deficit, the issue of same-sex marriage, potential ethical reforms, and a host of other key issues.

Through all of this, the City Bar committees continued to play an important role by providing thoughtful and objective comments on legislation, seeing some bills they support actually effect greater transparency in government. Our State Affairs Committee reported and testified on proposed changes to the Senate’s internal rules of operation, which were proposed as a way to make the process more transparent and accountable. After the Senate stalemate, new rules were indeed enacted with both parties’ support. The State Affairs Committee will continue to monitor the process closely to make sure that the new procedures actually effect greater transparency in government. New ethics reform bills were also introduced and are being closely analyzed by our Government Ethics and State Affairs Committees.

continued on p.18
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The City Bar Justice Center is a division of the Association of the Bar of the City of New York Fund, Inc., a 501(c)(3) tax-exempt nonprofit corporation. All contributions are tax-deductible to the fullest extent of the law.

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Coming in January: A New-Look Notes

With media increasingly moving online, and with an eye to using members’ dues most efficiently, you will see changes in the 44th Street Notes beginning in January. The heart of the Notes—the calendars, event listings and CLE courses—will continue to be distributed in print form. They will also be distributed in an e-news format, along with an expanded array of editorial content. Expect more features and profiles, both about the City Bar and its members.
Spotlight on: Cyrus R. Vance Center for International Justice

The Cyrus R. Vance Center for International Justice was formed in 2003 with the goal of expanding access to justice in young democracies and developing economies.

44th St. Notes sat down with Joan Vermeulen, Founding Executive Director of the Vance Center, and Elise Colomer Grimaldi, Associate Director of the Vance Center and Director of the Latin America Program & Clearinghouse, to discuss the challenges, accomplishments, and outlook for pro bono work on an international level.

The Vance Center has focused its groundbreaking work in two continents, Africa and Latin America. How did your work in both regions come about?

Joan Vermeulen: Latin America chose us. After the City Bar, under President Mike Cooper, held the Partnerships Across Borders conference in 2000, the University of Palermo Law School in Buenos Aires approached us about collaboration on increasing access to justice for marginalized groups in Argentina. President Evan Davis was the moving force behind our South African Visiting Lawyer Program, sparking our involvement in Africa – he saw it as an obligation the City Bar had, as an organization that stood against apartheid. We wanted to support the next generation of black lawyers in the post-apartheid nation.

Elise Colomer Grimaldi: What we have with advocates in all of these nations is really a dialogue. We’re developing a mutually defined agenda for the work that needs to be done.

What are the challenges posed by each region? How are they similar or different?

JV: They are very similar, actually. Many African and Latin American nations have histories of colonialism, dictatorships, and gross human rights violations. Both regions have enormous gaps between rich and poor, and both struggle with gender rights, access to information, and freedom of expression. With the establishment of the African Court for Human and Peoples’ Rights, the human rights systems of the two continents are now similar, creating new opportunities for collaboration.

How does being a lawyer in Latin America or Africa differ from practicing law in the U.S.?

JV: Lawyers aren’t held in as high esteem in Latin America as they are in the U.S. Law firms are smaller, and there isn’t much in the way of legal aid programs. There are no Gideon-type laws for appointed defense counsel, either. However, most countries we work in require law students to work six months to one year providing legal services for the indigent prior to becoming fully admitted to practice.

ECG: Pro bono legal work in these regions had definitely been done, but not in an institutional way. In Latin America, it was traditionally motivated by altruism – but now there is a developing sense among the legal communities of pro bono legal services as a professional obligation.

JV: In Africa, it is an issue of being overwhelmed – the social, health, economic, and legal needs are often just so great that it is daunting to begin work on them.

In the nearly seven years since the Vance Center’s beginning, what do you think are its greatest accomplishments?

JV: So many! Definitely the formation of a steering committee for the South-South Human Rights Network, through the work of Elizabeth Millard, our Africa Program Coordinator. There will be a program in NYC on March 10 to encourage lawyers to engage in human rights work in Latin America and Africa, as well as a possible judicial training to assist judges in Latin America who are just beginning to handle cases that require post-judgment monitoring of court orders.

ECG: Our clearinghouse has been a spectacular achievement – a broad range of matters have come through seeking assistance, and no firm has yet rejected a referral. As part of the PBDA Implementation project, we published a Pro Bono Implementation Guide for Latin American Law Firms in collaboration with Skadden, Arps. Many firms throughout Latin America have told us how helpful the guide is in developing their pro bono programs.

Where is the Vance Center going from here? What do you hope to accomplish in the coming year and years?

ECG: December 2010 marks the end of the implementation period for the PBDA. At that point, we will review and see what progress has been made. We’re hoping to turn what we’ve learned from the PBDA and other outreach efforts into a comprehensive strategy for continuing to expand and improve access to justice in the region.

JV: We want to have stronger working partnerships between NYC lawyers and lawyers in Africa and Latin America on issues such as gender rights, the death penalty, prison reform, and disability rights. We’ve come a long way, but there’s a lot of work to be done yet.
The New York City Bar is seeking nominations for the Fifth Annual Diversity Champion Award. The award recognizes individuals whose actions and activities within the legal profession, particularly in New York City, embody the Statement of Diversity Principles by facilitating “diversity in hiring, retention, and promotion of attorneys and in the elevation of attorneys to leadership positions within our respective organizations.”

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

- Influencing Others
- Being a Role Model
- Continually Learning
- Cultivating Diverse Teams
- Innovating and Taking Risks
- Holding Oneself and Others Accountable for Diversity
- External Leadership Involvement

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

For more information, please contact Zakiyyah T. Salim-Williams, Office for Diversity, at 212.382.6689 or visit the Diversity Champion Award Web page: www.nycbar.org/Diversity/DiversityChampion.htm

To submit nominations, send to diversity@nycbar.org; by fax to 212.768.8116; or by mail to Zakiyyah T. Salim-Williams, New York City Bar, 42 W. 44th St., New York, NY 10036.
CITY BAR EVENTS

Picture Perfect: Models for Corporate Pro Bono Practice
1 TUESDAY, 4 PM – 5:30 PM
Please join us for a panel discussion with leaders of pro bono programs on best practices for effective engagement with corporate counsel, and learn about specific opportunities for corporate counsel to do pro bono work. Also, be there to hear about an exciting new initiative of the Association of Corporate Counsel Greater New York Chapter to facilitate corporate pro bono.

A reception will follow the program. This program provides 1.5 hours of free CLE credit.

Panelists:
CAROL BOCKNER, Director of Pro Bono Initiatives, City Bar Justice Center; HON. FERN FISHER, Deputy Chief Administrative Judge, New York City Courts; Civil Court Volunteer Lawyers Project; MARLENE HALPERN, Supervising Attorney for Pro Bono, The Legal Aid Society; JOHN OGDEN, Executive Director, Association of Corporate Counsel, Greater NY Chapter; MAURICE SEGALL, Program Director, Pro Bono Partnership; WILLIAM SILVERMAN, Greenberg Traurig, LLP; Volunteer, Family Court Project

Registration is required. RSVP to ivette.del.valle@timewarner.com

Wednesday Evening
Gilbert & Sullivan
2 WEDNESDAY, 7 PM
The Entertainment Committee presents a one hour concert by the internationally recognized Blue Hill Troupe. Join us for a fantastical trip through the world of Gilbert & Sullivan, featuring appearances by some of their most heroic, scary, pompous, and gentle characters. The well known Blue Hill Troupe supports local charities through its highly acclaimed annual productions of Gilbert & Sullivan operettas and musicals.

For more information, contact Martha Cohen Stine at mstine@cbblaw.com or 212.512.0810. Please register online at www.nycbar.org

Congratulations, You’ve Passed the Bar!
Young Lawyers Connect – First Thursdays
3 THURSDAY, 6 PM – 8 PM
All those months of studying have finally paid off — you’ve passed the New York State Bar! The New York City Bar Association and the New York Law Journal would like to celebrate your achievement, so please join us at a reception to toast to your future success. All recent law school graduates and their guests are encouraged to attend for mingling, hors d’oeuvres, drinks, and the chance to win great door prizes. Special thanks to HB Burger, Heartland Brewery, Mint Cars On-Demand, West, and Zagat.


Sponsored by: Practical Law Company, Spirit Cruises

There’s no fee for this celebration, but please register in advance at www.nycbar.org

Friday Evening Chamber Music
4 FRIDAY, 6 PM
Leila Amineddoleh (piano) will play Rachmaninov’s prelude in G minor. Clare Detko (violin) and Giovanni Koll (piano) will play Poulenc’s sonata. Louise Moed and Tom Frenkel (violins), Steven Hinds (viola), and Kurt Behnke (cello) will play George Onslow’s string quartet Op. 10, No. 1; they will be joined by Morton Cahn (bass) for Dvorak’s quintet Op. 77.

Suggested donation of $10 at the door. For more information, please e-mail chambermusic@nycbar.org

Thomas E. Dewey Medal Presentation
7 MONDAY, 6 PM
The Association will be presenting its annual Thomas E. Dewey Medal, which will be awarded to outstanding assistant district attorneys in each of the District Attorney’s offices within New York City and the Office of Special Narcotics Prosecutor for the City of New York. A reception will follow.

Keynote Speaker: HON. BARBARA S. JONES, U.S. District Judge, Southern District of New York

Moderator: SETH C. FARBER, Dewey & LeBoeuf LLP; Chair, Dewey Medal Committee

Presenter: PATRICIA M. HYNES, President, New York City Bar

Please register online at www.nycbar.org

International Judicial Corruption
9 WEDNESDAY, 6:30 PM – 9 PM
Unfortunately, corruption in its various forms is familiar to the courts of many foreign
countries. Judges may lack independence and may be influenced by the highest bidder. These abuses undermine the rule of law, deny justice to many in the community, and discourage foreign investment. This panel discussion will focus on the extent and nature of corruption in foreign courts as well as its causes, its effects on society, and the ways it can be overcome.

Moderator:
LAWRENCE W. NEWMAN, Baker & McKenzie LLP

Speakers:
GLENN T. WARE, Managing Director, PricewaterhouseCoopers; SUSAN ROSE-ACKERMAN, Henry R. Luce Professor of Law & Political Science, Yale Law School; DANIEL KAUFMANN, Senior Fellow, The Brookings Institution; FRANCESCA RECANTINI, Senior Economist, The World Bank; DANIEL SCHNEIDER, Director, Center on Non-Traditional Threats and Corruption, American University; Executive Director, Probitas International, Inc.

Co-Sponsored by:
The American Society of International Law; International Law Association, American Branch, Committee on International Judicial Integrity; New York City Bar Association Committees on International Commercial Disputes, International Law, and Foreign & Comparative Law

Please register online at www.nycbar.org

Public Affairs Luncheon
10 THURSDAY, 12 PM – 2 PM
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:
CHARLES J. HYNES, District Attorney, Kings County

Topic:
Deferral and Prevention: The Future of Public Safety

Luncheon Chair:
JEROME R. ROSENBERG

Luncheon Vice-Chair:
EMILY CAMPBELL

Registration by December 4 is required to guarantee admission. Registrations received after December 4 are subject to availability. The fee, which includes lunch, is $30. Please register on page 9 or online at www.nycbar.org

Adapting Your Business Development Strategy to Today’s Economy

Small Law Firm Luncheon – Growing Your Practice
(Last of a three-part luncheon series)
10 THURSDAY, 12:30 PM – 2 PM
In a down economy, should you conserve all assets, or should you invest in planning for the inevitable economic pick-up? For those who want to invest time and money in preparation for better times, we will provide templates for analyzing your status today and preparing your focus for tomorrow.

Moderator:
MARK A. JOSEPHSON, CPA, CFP, CFE, Murray & Josephson, CPAs, LLC
Speakers:
CAROL SCHIRO GREENWALD, PhD, MarketingPartners; ALAN LEVINE, Levine Marketing Solutions

Sponsored by:
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Registration by December 7 is necessary. The fee, which includes lunch, is $30 for members, $45 for non-members. Please register on page 9 or online at www.nycbar.org

Contemplative Lawyers: Practicing Law and Practicing Mindfulness
10 THURSDAY, 7 PM

Waking up is hard to do - or is it? How does one translate the practices of focus and mindfulness to the activities of daily living inside and outside the practice of law? Mindfulness is a way of transforming relationships and starts with paying attention. The evening will include sitting meditation as well as other meditations and discussion.

The program will be led by Charmaine Henderson, a special referee in the Supreme Court, Kings County. Ms. Henderson previously worked as an assigned counsel in Family Court, New York County. She teaches meditation and is on the Board of Directors at New York Insight Meditation Center.

Please register online at www.nycbar.org

Leveraging the Holiday Season to Maximize Networking
14 MONDAY, 6:30 PM

Networking is a critical skill that every attorney needs to master for both career and business development. Regardless of whether you are an introvert or an extrovert, you need to make networking a priority to be successful. The holidays provide numerous professional and social opportunities to practice your networking skills and make the process feel effortless. This workshop will help you find ways to motivate and leverage your professional strengths and your personality to make networking work for you. You will also learn helpful tips, techniques, and best practices from recruiting professionals, career coaches, and expert networkers.

Moderator:
EVE D. BIRNBAUM, Principal, Eve Birnbaum Associates

Speakers:
DIANE M. COSTIGAN, Northeast Managing Director, Shannon and Manch; SHARON MAHN, Managing Director, Major, Lindsey & Africa; MICHELLE V. FRANCIS, Founder & Principal, The Francis Company; AMY L. GROSSMAN, Career Development Manager, DLA Piper

The fee is $15 members, $25 non-members. Please register on page 9 or online at www.nycbar.org

The Annual Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law
15 TUESDAY
BUFFET RECEPTION, 6 PM
LECTURE, 7 PM

Please join us for the annual Justice Ruth Bader Ginsburg Distinguished Lecture on Women and the Law.

6:00 PM – Buffet Reception
7:00 PM – Program

Welcome:
PATRICIA M. HYNES, President, New York City Bar

Introduction:
HON. RUTH BADER GINSBURG, U.S. Supreme Court Justice

Lecture:
MELANNE VERVEER, U.S. Ambassador-at-Large for Global Women’s Issues

Registration is necessary. The fee is $100 for members, $150 for non-members, and $50 for government/nonprofit lawyers. For more information, please contact Martha Harris at 212.382.6607. Please register online at www.nycbar.org

From Law Practice to Law & Order: Making the Leap to Television
16 WEDNESDAY, 6:30 PM

This presentation is for attorneys and law students thinking about a transition to a career in television. Our esteemed panelists, who work in a variety of areas within the field, will share how they leveraged their legal backgrounds to open doors into the competitive world of TV. They will also offer an inside look into the professional rewards and challenges of working on hit television and journalism programs.

Speakers:
TERENCE WINTER, Television Writer & Producer, The Sopranos (HBO); STAR JONES, Television Host, Star Jones (TruTV), The View (ABC); RYAN SMITH, Attorney, Zuber & Taillieu LLP; Television Host & Commentator, My Two Cents (BET Network), Underdog to Wonderdog (Animal Planet)

Registration is necessary. The fee is $15 for members, $25 for non members. Please register online at www.nycbar.org

SAVE THE DATE
FRIDAY, JANUARY 8, 2010
7PM – COCKTAILS
8PM – PERFORMANCE

The 48th Biennial Twelfth Night Party

The Association’s upcoming biennial Twelfth Night musical extravaganza spotlights Evan A. Davis, former City Bar President and partner at Cleary Gottlieb Steen & Hamilton LLP. Presented by talented members of the bench and bar, along with the Entertainment Committee.
### DECEMBER 2009 REGISTRATION FORM

- **Public Affairs Luncheon**  
  10 Thursday  
  Registration by December 4 is required to guarantee admission. Registrations received after December 4 are subject to availability. The fee, which includes lunch, is $30.

- **Small Firm Law Luncheon**  
  10 Thursday  
  Registration by December 7 is necessary. The fee, which includes lunch, is $30 for members, $45 for non-members.

- **Leveraging the Holiday Season to Maximize Networking**  
  14 Monday  
  The fee is $15 for members, $25 for non-members.

- **From Law Practice to Law & Order: Making the Leap to Television**  
  16 Wednesday  
  The fee is $15 for members, $25 for non-members.

Please return this form to: Meeting Services, New York City Bar, 42 West 44th Street, New York, NY 10036-6604. Please make checks payable to the Association of the Bar. If registering for additional persons, duplicate this form.

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## CLE COURSES

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<td>Securities Litigation During the Financial Crisis: Current Developments and Strategies</td>
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NT = Non-transitional credit only  
*This live program provides NY & CA transitional/non-transitional credit to all attorneys.

www.nycbar.org
The Laws Affecting Housing and Companion Animals
7 MONDAY, 6 PM – 9 PM
This seminar will address issues concerning companion animals in housing in New York. The applicable federal, state, and local laws will be examined, including §27-2009.1 of the Administrative Code of the City of New York, laws relating to discrimination and the disabled, and statutory and case law generally applicable to housing. Cooperative, condominium, as well as rent-regulated housing will be discussed. Questions may be raise at any time throughout the course.

Program Chair:
DARRYL M. VERNON, Vernon & Ginsburg, LLP

Faculty:
KAREN COPELAND, Law Office of Karen Copeland; MADDY TARNOFSKY, Law Office of Maddy Tarnofsky

Credit: 3.0 PP*

16-Hour Bridge-the-Gap: Ethics, Skills, and More
2 WEDNESDAY & 10 THURSDAY, 9 AM – 5 PM
Earn all of your annual CLE credits while obtaining invaluable knowledge in a variety of areas. Our 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, as day one will allow attendees to fulfill all required skills credits (12/2), and day two will allow attendees to fulfill all required ethics credits (12/10). Attendance on both days will provide the total professional practice credit 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. Save by registering for both days.

Faculty:
JOSEPH J. BAMBARA, In-House Counsel & Vice President of Technology, UCNY, Inc.; STEVEN C. BENNETT, Jones Day; RACHEL S. BLUMENFELD, Attorney at Law; ANTHONY J. CENTONE, Anthony J. Centone P.C.; JAMES L. COTT, Chief of the Civil Division, U.S. Attorney’s Office (SDNY); ANTHONY P. ELLIS, Hahn & Hessen LLP; DANA FALLEK, Assistant Vice President, Tax Department, The Rockefeller Group; KEVIN J. FARRELLY, Law Offices of Kevin J. Farrelly; EDWARD T. FERGUSON, Senior Vice President & General Counsel, Ask.com; Vice President & Associate General Counsel, IAC; JEFFREY B. GRACER, Sive, Paget & Riesel PC; JEFFREY A. GREENBAUM, Frankfurt Kurnit Klein & Selz PC; ZACHARY G. NEWMAN, Hahn & Hessen LLP; VICTOR OLDS, Managing Director & General Counsel, Bedford Stuyvesant Legal Services Corp.; NORMA E. ORTIZ, Ortiz & Ortiz LLP; KATHY B. ROBB, Hunton & Williams LLP; MICHAEL SCHIFFER, Frankfurt Kurnit Klein & Selz PC; KATE A. SINDING, Senior Attorney, New York Urban Program, Natural Resources Defense Council; RICHARD A. SOLOMON, Attorney at Law; JARNO VANTO, Vanto Law PLLC

Credit: 16.0 total: 7.0 PP, 6.0 skills & 3.0 ethics (both days)*
Credit: 8.0 total: 6.0 skills & 2.0 PP (12/2 only)*
Credit: 8.0 total: 5.0 PP & 3.0 ethics (12/10 only)*
This program will not be available on tape. You will only get one once chance to see it, live.

Securities Litigation During the Financial Crisis: Current Developments and Strategies
8 TUESDAY, 9 AM – 5:30 PM
During the past year, the meltdown of the financial and credit markets has given rise to a substantial increase in the filing of securities class actions as well as investigations being conducted by the SEC, the U.S. Department of Justice, and state and local prosecutors. Meanwhile, recent court decisions have dramatically altered the litigation landscape. At this program, an expert faculty of highly experienced and well-known securities litigators will discuss important developments in securities litigation and offer strategies and tactics for prosecuting and defending these cases. This course will offer outside and in-house counsel an overview of cutting-edge issues in securities litigation, ranging from nuts-and-bolts principles to sophisticated strategic advice. Topics to be discussed will include: strategies for prosecuting and defending securities class actions and derivative lawsuits; the impact of Iqbal, Tellabs and other recent Supreme Court cases; litigation arising from the Madoff scandal and other Ponzi schemes; litigation involving foreign securities transactions; latest case law regarding class certification; best practices and potential minefields in corporate internal investigations; subprime and auction rate securities litigation; and more.

Program Chair:
LAWRENCE J. ZWEIFACH, Gibson, Dunn & Crutcher LLP

Faculty:
JON E. ABRAMCZUK, Morris, Nichols, Arshe & Tunnel LLP; LUCY P. ALLEN, Senior Vice President, NERA Economic Consulting; MICHAEL BERLIN, Deputy Attorney General for Economic Justice, NYS Attorney General’s Office; ALAN J. BRUDNER, Managing Director, Head of Litigation & Investigations, UBS Investment Bank; HON. BENTON J. CAMPBELL, United States Attorney for the Eastern District of New York; WAYNE M. CARLIN, Wachtell, Lipton, Rosen & Katz; MICHAEL P. CARROLL, Davis Polk & Wardwell LLP; PAMELA CHEPIGA, Allen & Overy LLP; JOHN P. “SEAN” COFFEY,

www.nycbar.org
Preserving Privileges: Ethical Issues Confronting Insurers, Policyholders, and Counsel

4 FRIDAY, 9 AM – 11 AM

This ethics program will address the difficult privilege issues that arise in the context of the policyholder-insurance company relationship. The program will explore defense-related common interests between policyholders and insurers, coverage-related common interests between policyholders and their creditors (sometimes including the plaintiffs suing the policyholders), and steps that lawyers and business people on all sides should take to ensure that communications intended to be privileged remain so. This course will be of interest to in-house counsel, defense and plaintiff’s counsel, insurance coverage counsel, and law firm attorneys involved in their firms’ loss prevention and risk management programs. Discussion topics will include:

• How to distinguish between “defense” communications and “coverage” communications
• How insurance company coverage denials or reservations of rights affect privileges
• How sharing information with business people (such as brokers or claims handlers) affects privileges
• How the presence of multiple insureds with conflicting interests affects privileges
• How policyholders and other insureds can submit defense bills and claims information without waiving privileges
• How insurance companies can evaluate coverage claims without waiving privileges
• How to deal with reinsurers
• What special privilege issues arise when the policyholder is a law firm

Program Chair:
STEPHEN A. WEISBROD, Gilbert LLP

Faculty:
BRYCE L. FRIEDMAN, Simpson Thacher & Bartlett LLP; JOY L. LANGFORD, Chadbourne & Parke LLP; ROBERT A. VAN KIRK, Williams & Connolly LLP

Credit: 2.0 ethics*

*This live program provides New York & California transitional/non-transitional (NT) credit to all attorneys. Credit abbreviations: PM=practice management; PP=professional practice
common to all areas of practice—for example, rules governing fees, conflicts of interest, confidentiality and privilege, unauthorized law practice by lawyers, the no-contact rule, and malpractice and liability to non-clients—are also included. The topics are geared toward an audience of diverse interests. Audience questions and comments are encouraged.

This program will not be taped. You only have one chance to see it, live.

Program Instructor: PROFESSOR STEPHEN GILLERS, Emily Kempin Professor of Law, New York University School of Law
Credit: 3.0 ethics*

INTERNATIONAL

Obtaining Evidence Overseas: Strategies and Insights for Overcoming the Investigation Hurdles
1 TUESDAY, 6 PM – 8 PM
What do you do when your client is prosecuted in New York, but most of the evidence in the case has been obtained or is located overseas? What are the common U.S. and foreign legal hurdles associated with conducting an investigation abroad? Do constitutional protections apply to evidence obtained overseas? This program will provide guidance to practitioners in conducting international investigations, gathering evidence abroad, and utilizing that evidence.

Program Co-Chairs: THOMAS J. CURRAN, Peckar & Abramson PC; NICOLE P. DE BELLO, Dickstein Shapiro LLP
Moderator: MICHAEL C. MILLER, Steptoe & Johnson LLP
Faculty: JUDITH FRIEDMAN, Senior Trial Attorney, Department of Justice; T. BARRY KINGHAM, Curtis, Mallet-Prevost, Colt & Mosle LLP; CARLOS F. ORTIZ, DLA Piper US LLP; WENDY WYSONG, Clifford Chance
Credit: 2.0 PP*

LAW FIRM PRACTICE MANAGEMENT

Multitasking Gone Mad: How It Is Impacting Your Practice
14 MONDAY, 9 AM – 12 PM
Attorneys need to cope with a wired, demanding, distracting world. Operating in a state of “continuous partial attention” affects our attention spans and ability to think critically. This program will explore the emotional and physiological effects of multitasking and its impact on effective law practice. We will address managing your BlackBerry or iPhone, overcoming e-mail overload, and kicking the procrastination habit. Learn how to overcome multitasking and stay focused on priority tasks.

This program will not be taped. You only have one chance to see it, live.

If you attend both December 14 seminars with Irwin Karp, the afternoon program, Project Management & Teamwork for Lawyers, it will cost only $156 for members & $244 for non-members (20% discount).

Program Instructor: IRWIN KARP, Productivity Consultant, Productive Time
Credit: 3.0 PM*

Project Management and Teamwork for Lawyers
14 MONDAY, 1 PM – 4 PM
Attorneys are notorious for completing work at the last minute. A crisis management mode can be the result of busy schedules, heavy workloads, competing priorities, or poor planning. Learn to apply project management techniques to take control of your legal work and juggle multiple priorities effectively. We will address the skills of effective delegation and communication with colleagues and staff. Learn to balance multiple projects through planning, weekly review, daily review, and scheduling of tasks.

This program will not be taped. You only have one chance to see it, live.

If you attend both December 14 seminars with Irwin Karp, this program will cost only $156 for members & $244 for non-members (a 20% discount).

Program Instructor: IRWIN KARP, Productivity Consultant, Productive Time
Credit: 3.0 PM*

LITIGATION

Trials of the Century
11 FRIDAY, 9 AM – 4:30 PM
There could be no better education and entertainment than to be seated in the front row of the Los Angeles County Court House, on August 15, 1912, as Clarence Darrow, America’s greatest trial attorney, rises to give his most memorable closing argument. Now you have a front row seat. Listen, learn, and enjoy!

Using actual film footage, re-creations, photos, and verbatim trial transcripts, this unique program offers an unforgettable educational experience. See excerpts from the O.J. Simpson trial, hear Clarence Darrow cross-examine William Jennings Bryan in the Scopes “Monkey Trial,” view the cross-examination of Herman Goering at the Nuremberg trials, and listen to Clarence Darrow’s closing argument in the Leopold and Loeb trial. Learn the ethics of dealing with difficult witnesses and counsel from the Lindbergh Kidnapping trial. Each example is followed by a practical discussion of the lessons from the masters that you also can apply to improve your own skills as an advocate.

This program will not be taped. You only have one chance to see it, live.

Co-Sponsored by: ALI-ABA

Program Instructor: TODD WINEGAR, Interactive Seminar Company
Credit: 6.5 total: 5.0 skills & 1.5 ethics*

NON-PROFIT ORGANIZATIONS

Challenges Facing Charitable Organizations with Underwater Endowments
3 THURSDAY, 9 AM – 12 PM

*This live program provides New York & California transitional/non-transitional (NT) credit to all attorneys. Credit abbreviations: PM=practice management; PP=professional practice
In these difficult economic times, charitable organizations face many challenges, including steep drops in their endowment funds due to dramatic market declines. This program will address the legal issues and limitations confronting charities and their attorneys when the value of an endowment fund drops below its value on the date it was given to the charity. Pending legislation dealing with this problem will also be addressed.

Program Chair:
DAVID G. SAMUELS, Duval & Stachenfeld LLP

Faculty:
IAN J. BENJAMIN, McGladrey & Pullen, LLP; VICTORIA B. BJORKLUND, Simpson Thacher & Bartlett LLP; CARL L. DISTEFANO, Assistant Attorney General & Section Chief, Charities Bureau, Office of the NYS Attorney General; JENNIFER I. REYNOSO, Simpson Thacher & Bartlett LLP

Credit: 3.0 PP*

REAL ESTATE

Zoning Lot Mergers and Development Rights Transfers in New York City: An Overview
8 TUESDAY, 6 PM – 9 PM

This updated program will provide an overview of current New York City law governing zoning lot mergers and the transfer of unused development rights, known as "air rights," between contiguous and non-contiguous lots, as well as the mechanics and practical considerations involved in such matters. The program will review the relevant provisions of the New York City Zoning Resolution, explain core concepts with real life examples, explore key title issues, and go through each of the forms and documents required to effect such transfers. In addition, the program will discuss special zoning districts with additional incentives for development rights transfers.

Program Co-Chairs:
STUART BECKERMAN, Slater & Beckerman, LLP; ROBERT A. JACOBS, Belkin Burden Wenig & Goldman, LLP

Faculty:
MICHAEL J. BEREY, General Counsel & Senior Vice President, First American Title Insurance Company of New York; DAVID M. KARNOVSKY, General Counsel, NYC Department of City Planning

Credit: 3.0 skills*

Complimentary:

- Estate Valuations for 706 Schedule B
  (Upon receipt of a list of all items in the estate, we will provide a valuation for purposes of filing the 706 schedule B.)

- Security Transfers/Consolidation of Assets
  (We will contact transfer agents, dividend reinvestment plans, financial institutions, etc. and provide you with a list of documentation required to deposit and consolidate all assets to one professionally managed estate account.)

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COMMITTEE REPORTS

ARBITRATION
FEDERAL COURTS
INTERNATIONAL COMMERCIAL DISPUTES
INTERNATIONAL LAW

Statement to Congress expressing concern with the U.S. Arbitration Fairness Act of 2009 (H.R. 1020/S. 931) and offering suggestions to amend the proposed legislation so it can both preserve commercial arbitration and afford protections for designated classes, including consumers, employees, and small franchisees.

CIVIL RIGHTS

Report expressing support for Intro. 816-2008, the Student Safety Act, which would provide for greater accountability for law enforcement personnel in New York City public schools by expanding the jurisdiction of the Civilian Complaint Review Board to include complaints against school safety agents. In addition, the bill would also establish reporting requirements about police activity in the public schools and student discipline statistics, thus greatly increasing transparency and accountability.

CONSTRUCTION LAW

Letter to the New York State Commission on State Asset Maximization (SAM Commission) offering additional comments on the SAM Commission’s Final Report after having previously commented on the Commission’s Preliminary Report earlier in the year. In its Final Report, the letter argues, the SAM Commission’s narrow mandate to examine “asset maximization” does not sufficiently embrace the need to overhaul the state’s public procurement law.

FUTURES AND DERIVATIVES REGULATION

Letter to Congress expressing concerns with the provision of the Over-the-Counter Derivatives Market Act of 2009 (OCDMA) that would prohibit the Commodity Futures Trading Commission and the Securities and Exchange Commission from exercising their customary authority to grant exemptions from swap and security-based swap provisions except as expressly authorized under the proposed law. Removing this exemptive authority, the letter argues, would contribute to legal uncertainty and risk.

INTER-AMERICAN AFFAIRS

2009 eGuide to On-Line Sources of Law Relating to Latin America. The guide is an annotated list of websites of interest to lawyers whose practice has a Latin American component. The focus of the guide is mainly on websites that provide direct links to the text of jurisprudence, legislation, and related legal materials.

MINORITIES IN THE COURTS

Letter to President Obama urging the consideration of minority candidates when making nominations to United States Attorney positions.

NONPROFIT ORGANIZATIONS

Report in support of NY State Senate S.3698, which would eliminate the Type C Corporation under the Not-for-Profit Corporation Law and deem all nonprofits that were already formed or would be formed as Type C to be Type B. The report argues that there is no rationale or benefit to the distinction between the two categories and that there are in fact positive benefits for such a change.

Report supporting with modification NY State Senate S.2138, which would amend the Not-for-Profit Corporation Law to give nonprofit organizations the option of limiting or entirely eliminating the liability of directors to the corporation or its members for damages for any breach of duty in a director capacity. Directors would remain personally liable, however, if they are found, after an adjudicated proceeding, to have engaged in acts or omissions that (i) were in bad faith, (ii) involved intentional misconduct or a knowing violation of the law, (iii) resulted in the director’s personally gaining a financial profit or other advantage to which such director was not legally entitled, or (iv) violated Section 719 of the Not-for-Profit Corporation Law. This amendment, the report notes, is an important step towards removing barriers faced by nonprofits when trying to recruit volunteer board members.

Construction Law Committee
Seeks Members

The Construction Law Committee focuses on the complex and varied issues presently facing the construction industry in the City and State of New York, including safety, public procurement, risk shifting, false claims, notice of claims, asset maximization, green building, and prompt payment. The Committee also plans to be at the forefront of the public/private procurement debate with its analysis of the work of the State Asset Maximization Commission. To apply, please contact the Chair, Richard Volack, at rvolack@pecklaw.com
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Our Domestic Violence and Civil Rights Committees remained extremely active, and after many years of lobbying finally saw two important bills become law: one will allow certain sex offenses to be adjudicated in Family Court, and one prohibits employment discrimination against victims of domestic violence.

On the criminal side, our Committee on Criminal Justice Operations continued to play an active role in the debate regarding Rockefeller Drug Law Reform, something the City Bar has advocated for many years. The Committee provided helpful guidance to policy makers as they drafted some of the more complicated provisions of the reform bill, which became effective on October 1.

The Professional Responsibility Committee drafted and had introduced a bill that would permit attorneys to place a lien on attorneys’ fees when matters are resolved through alternative dispute resolution; the Legal Issues Pertaining to Animals Committee drafted legislation that was introduced to allow individuals to provide for pet trusts beyond 21 years; and, after extensive analysis of the Revised Uniform Limited Liability Company Act, the Corporation Law Committee recommended and has begun to push for its enactment in New York.

In the aftermath of its gridlock, the Senate passed the Family Health Care Decision Act, a bill long advocated by our Bioethical Issues and Health Law Committees. If passed by the Assembly and signed into law, the bill will allow for end-of-life health care decisions to be made by a surrogate of an incapacitated patient. Also, the Senate passed a bill to increase the number of Family Court Judges in New York, a much-needed measure supported by the Council on Children, and a collateral source reform bill supported by the Tort Litigation Committee (which passed the Assembly during the November 10 special session and, as of press time, awaits the Governor’s signature).

The Construction Law Committee continued to get out its message that the time is right to reform New York’s out-dated public construction procurement laws, providing helpful analysis and feedback to the NYS Commission on State Asset Maximization (“SAM”) throughout the year. The committee’s upcoming conference on this issue will feature Lieutenant Governor Richard Ravitch.

The Consumer Affairs and Civil Courts Committees continued to comment on several important and timely consumer issues, including the rights of consumers vis-à-vis the largely unregulated practices of consumer debt buyers. The Committees saw one significant victory on the City level—a bill requiring licensing of debt buyers—and will advocate for establishing this regulation statewide. Likewise, the Corrections Committee will continue to advocate for legislation that protects the rights of ex-offenders who, having paid their dues and reentered society, are seeking the full privileges of working and voting. Some of these bills were stalled during the Senate gridlock, but they have champions in Albany.

Many other committees submitted legislative reports concerning bills that will be on the agenda for 2010: The Nonprofit Organizations Committee supported the Uniform Prudent Management of Institutional Funds Act, which will make it easier for nonprofits to access their funds; the Sex and Law Committee supported the Reproductive Health Act, which would essentially codify Roe v. Wade in New York; the Lesbian, Gay, Bisexual, and Transgender Rights Committee continues to lobby hard for passage of the Marriage Equality Bill, the Dignity for All Students Act, and the Gender Expression Nondiscrimination Act; and the Matrimonial Law Committee will continue its advocacy for a no-fault divorce bill in New York.

We look forward to working with our committees on these and other issues. For more information, please contact Maria Cilenti, Director of Legislative Affairs at 212.382.6655 or mcilenti@nycbar.org.

The winners of the City Bar Justice Center’s first annual Jeremy G. Epstein Awards for Pro Bono Service were honored at a ceremony on October 26th.

First row: Scott Smedley, Dechert LLP; Jason M. Sobel, Stroock & Stroock & Lavan LLP; Jesenia Ruiz de la Torre, Willkie Farr & Gallagher LLP; Netanella Zahavi, Paul, Weiss, Rifkind, Wharton & Garrison LLP
Second row: City Bar Justice Center Chair Austin T. Fragomen, Jr., William Baglieter, Duane Morris LLP; Alena Brenner, Hunton & Williams LLP; Casey Laffey, Reed Smith LLP; Christopher J. Moore, Orrick, Herrington & Sutcliffe LLP; Edward Martin Reisner, Sehar Siddiqi, Seward & Kissel LLP; New York City Bar President Patricia M. Hynes
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<td>Project Management and Teamwork for Lawyers**</td>
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