

## Law Day | An Occasion to Recognize and Celebrate the Rule of Law

Anne Burak Dotzler | *Hiscock & Barclay LLP* | *Law Week Chair*

In 1958, at the urging of the American Bar Association, President Dwight D. Eisenhower proclaimed the 1st of May as “Law Day,” the occasion to recognize our Nation’s great heritage of liberty, justice and equality under law. Facing both domestic and foreign struggles at the time, with the southern states’ resistance to desegregation and the Nation’s ongoing Cold War battle, President Eisenhower announced to the American people that the observance of Law Day is “to remind us all that we as Americans live, every day of our lives, under a rule of law.” The rule of law not only ensures our “freedom from high-handed action by rulers,” but it ensures “justice between man and man however humble the one and however powerful the other.” It moves “to meet the needs of the times.” He stressed that “[i]f civilization is to survive, it must choose the rule of law.” In particular, he urged members of the legal profession to take a leading role in promoting and participating in the observance of Law Day.

Since 1958, each year on May 1st, the United States President has issued a Law Day Proclamation, underscoring the major historical events of the time and how society is impacted by the malleability of rights under the law. In 1961, Congress issued a joint resolution officially designating May 1st as “Law Day,

U.S.A.” (codified at 36 U.S.C. §113.) The American Bar Association, and local, regional, and state bar associations, have annually offered events and activities to celebrate Law Day at President Eisenhower’s urging.

This year, the 2014 Law Day theme, “**American Democracy and the Rule of Law: Why Every Vote Matters,**”

is squarely aligned with President Eisenhower’s first Law Day message. As we approach the 50th anniversaries of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, the theme calls on every American to reflect on the importance of a citizen’s right to vote and the challenges we still face in ensuring that all Americans have the opportunity to participate in our

democracy. The right to vote is the very foundation of our Nation’s government “of the people, by the people, for the people.” For this reason, striving to establish and protect every citizen’s right to vote has been a central theme of American legal and civic history. Much of the struggle on voting rights began decades ago, but the work is far from complete, and a citizen’s right to cast a ballot remains at risk today.

Former Secretary of State Hillary Clinton emphasized the unique opportunity this year’s theme offers members of the legal profession to drive progress under the law:

*Continued on page 5*



**MISSION :**

...to inspire excellence in the legal profession, to foster the fair administration of justice, to promote equal access to the legal system, and to serve and support our members.

**UPCOMING 2014 EVENTS :**

Bruce Bryan | CLE Writing Series  
Annual Law Day Luncheon  
Annual CPLR Update

Wednesdays | April 30 thru May 28  
Friday | May 2  
Friday | June 20



# from the President

## PRO BONO REPORTING

In February's Bar Reporter, I discussed the recent amendments to Part 118 of the Rules of the Chief Administrative Judge which now require attorneys to

report voluntary pro bono service and voluntary financial contributions to organizations providing legal services on their biennial registration form.

These amendments have been an extremely active topic of discussion and debate amongst bar associations across the state, and the New York State Bar Association.

The "amendments," as they appear on the New York Court Administration Biennial Attorney Registration Form appear as follows

OCBA supports the amendments as they currently exist, and (3) if the OCBA does not support the current amendments, what, if anything, should we propose as an alternative position. It is the committee's goal to make recommendations within the next several weeks. Once established, the committee's recommendations will be presented to the OCBA membership for comment.

After having had an opportunity for full comment, it is then my intent to present the OCBA's position at the NYSBA's June House of Delegates Meeting in Cooperstown, New York.

For better or for worse, these amendments have a direct impact on our practice. As a result, I feel that it is extremely important that the OCBA address this issue.

I again ask for your comments and input. Your comments

EXTENSION / WAIVER / MODIFICATION from the CLE Board is pending or has been granted. DATE OF APPLICATION: (MM/DD/YYYY) \_\_\_/\_\_\_/\_\_\_

**D: REPORT OF VOLUNTARY PRO BONO SERVICES AND CONTRIBUTIONS - Part 1200 (Rule 6.1)**  
 You MUST FULLY COMPLETE SECTION 1. (a), (b), and (c) or, if eligible, SECTION 2 of the following:  
 Additional information on Voluntary Pro Bono Services and Contributions may be found at: [www.nycourts.gov/attorneys/probono](http://www.nycourts.gov/attorneys/probono).

1. IN THE LAST BIENNIAL REPORTING PERIOD:

(a) I personally provided  hours of unpaid pro bono legal services to the underserved and to the poor, and

(b) I contributed the following amount to organizations that provide such legal services: (see, Rule 6.1)  
 Check amount:  \$0  \$1-250  \$251-750  \$751-2000  \$2001-5000  \$5001 or more.

(c) I am employed in the (check one):  PRIVATE/FOR-PROFIT SECTOR  NOT-FOR-PROFIT SECTOR  GOVERNMENT  OTHER.

The Onondaga County Bar Association has been asked by the NYSBA and other county bar associations to establish a "position" with regard to these Part 118 reporting requirements.

This past week, we created an Ad Hoc Committee to discuss and address this issue for the purpose of determining (1) whether the OCBA should take a "position," (2) whether the

will, obviously, allow the committee to make a more informed and representative recommendation. Please forward those comments to the OCBA office at your earliest convenience.

Thank you for being a part of the OCBA. Thank you for your continued support of the OCBA. Thank you for what you do for our profession.

Nicholas J. DeMartino | OCBA President

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# WELCOME NEW LAWYERS

Keynote Delivered at 2014 Bridge the Gap Luncheon by Syracuse Mayor Stephanie Miner

I want to thank you for the invite today and to tell you about when I got the invitation to come and speak I had this immediate sense of déjà vu because I remember quite clearly attending this luncheon the first year I was admitted as a lawyer. And what I remember quite clearly is sitting at the table thinking to myself, how am I ever going to pay off my student loans? How am I ever going to make my hourly billable requirements? And why is this speaker droning on and on and on? So, I will try not to drone on and on and for those of you who are thinking about those same concerns, rest assured that they will take care of themselves as long as you work hard.



Not long, though, after I attended that luncheon, there was a column that appeared in the Bar Reporter from Judge Hancock. And it's like they say everybody learns in different ways and while I didn't necessarily pay attention to the speaker that day, I remember the column by Judge Hancock, who passed away recently, when he talked about the importance of being a lawyer and how you had to police your career. And what I remember distinctly from that column was the importance of integrity: What Judge Hancock said in that column was, "It is so easy to lose, but so hard to gain." And as a new lawyer that really rang in my ears. About how every single day you have to use your integrity as you make decisions. And that when you give it up—and it's so easy sometimes to give it up—you'll never be able to get it back.

It is essential, of course, as a lawyer to have integrity because really, when you think about it, integrity is the only authority we have as lawyers, and I will say "we"



for the purposes of this discussion because once a lawyer I assume always a lawyer—although I have a hard time knowing what verb to use when asked if I'm still a lawyer. But the only authority we have is our moral authority, the documents we sign, the arguments that we make. There's no police that come, there's no truth squad that comes in. It's your name you put on those arguments it's your name you put on those documents. And when you do the best job you can, you put your name on it and put your reputation on the line, that's all that you can do. That's all that any lawyer has, is your moral authority.

What makes it



particularly difficult as lawyers to have that moral authority and to constantly keep that integrity about us is that integrity doesn't mean perfection. And the nature of law is that we are all going to make mistakes. Making mistakes is an inherent part of our profession. And I remember distinctly practicing law and getting a phone call from a lawyer that many of you in this room know. And for those of you who don't know, you are going to get a call from him soon telling you that you have to volunteer to be a pro-bono lawyer. And so Chris Wiles called me and he barked to me, "Stephanie, I need you to do this pro-bono lawyer thingy."

That's the way he talks, he barks. I said, "Chris I just sent out this letter out and I made a mistake and I can't believe it. And I don't think I'm cut out for this profession and I don't know if I'm a good lawyer, it's just been a bad day." He barked at me again and said, "Stephanie that's why they call it practice. Everybody



makes mistakes."

It's true that's why they call it the practice of law, because everybody makes mistakes. You will make mistakes. I have made mistakes. Every lawyer makes mistakes. But if you make

them honestly and if you make them with integrity you will grow as a lawyer and your esteem among your colleagues will also grow.

The other issue I think is important for lawyers and perhaps lawyers who have been practicing for a while is to remember that with integrity and with indeed the practice of law it is important to show one another professional courtesy. We all make mistakes and we are hired guns in an adversarial process. That means we are



hired to protect the interests of our clients. But it also means that the people on the other side of us are going to also be with us over and over again. Sometimes in the nature of adversarial processes and

zealous representation of your clients it's easy to forget that we are professionals. We have to treat each other with the respect that professionals deserve. In fact, the only reason that lawyers are professionals is because we need to treat each other that way.

Our clients can be clients one day, and a month later, or a year later could be on the other side of us. It is important to remember, particularly in a community that is this small that you are going to see the people who you sue, and you're going

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# 2<sup>ND</sup> ANNUAL LAW WEEK CAREER FAIR A SUCCESS



For the second year and again with the cooperation of Partners for Education and Business (PEB), the Onondaga County Bar Association and Bar Foundation launched their annual Law Week programming with a Career Fair for area high school students.

Held at Nottingham H.S. on Tuesday, April 15th and attracting several hundred students, the Fair promoted the wide range of careers and higher education opportunities in law-related fields. Nearly 20 exhibitors met with nearly 300 high school students who talked with representatives from local, state and federal agencies, educational institutions and law firms about their roles and the careers available in the legal and justice fields.

The Career Fair is aligned with PEB's "Career Spark" Campaign in the Financial and Professional Services Sector. Special thanks to Joe Vargo and Kathy Birmingham from PEB, for their instrumental efforts in organizing this Fair.

Central to this year's Law Day theme, the CNY League of Women Voters, were included among the exhibitors and were successful in encouraging dozens of high school

students to register to vote in this fall's elections.

***Special thanks to the businesses, agencies and organizations who participated in this event:***

- Bryant & Stratton College
- CNY League of Women Voters
- Ferrara, Fiorenza, Larrison, Barrett & Reitz, P.C.
- Hiscock & Barclay, LLP
- NYS DEC-Region 7
- Office of the New York State Attorney General
- Onondaga County Community Environmental Health
- Onondaga County E911 Center
- Onondaga County Sheriff's Office
- Onondaga County Supreme Court Law Library
- Onondaga County Youth Court - New Justice Services
- Office of Assemblyman Samuel Roberts
- Syracuse University Dept. of Public Safety
- SEFCU Credit Union
- Assemblyman Albert Stirpe
- Sugarman Law Firm, LLP
- Syracuse Police Dept.
- Office of Senator David Valesky



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“You know the law, you speak the language, you can harness its authority. That gives you a unique ability to drive progress, right wrongs, and help our nation live up to our finest ideals. No country has a richer tradition of lawyer citizens than the United States, from John Marshall to Thurgood Marshall, from Margaret Brent to Laurel Bellows. So I ask each of you to take up this cause in your practices and communities, educate your neighbors, your local leaders, about voting rights, scrutinize changes to election procedures, write an op-ed, call a congressman, tell them you believe in the right to vote, not just for yourselves, but for your fellow citizens, and tell them that our government cannot fully represent the people unless it has been fairly elected by them.”

On behalf of the Onondaga County Bar Association’s Law Week Committee and the Onondaga County Bar Foundation, we invite all of you to celebrate Law Day with us in Onondaga County, observed on May 2nd, and to lead the charge in educating our community, local leaders, and youth about the importance of having a right to vote, driving progress, and becoming rededicated to the ideals of equality and justice under the law.

**Law Day Morning Ceremony** | Hon. Michael L. Hanuszczyk will preside over this year’s Law Day Ceremony, on May 2nd, at 9:00a.m. in Room 400 of the Onondaga County Courthouse. This year’s Law Day contest winners, mock trial winners, youth court scholarship recipients, and State and local pro bono award winners will be honored at the ceremony. And,

the County Executive and Mayor’s office will issue a Law Day Proclamation proclaiming May 2nd as Law Day in Onondaga County.

**Law Day Luncheon** | The Law Day luncheon will be held on May 2nd from 12p.m. to 1:30p.m. at Syracuse University’s Goldstein Auditorium in the Shrine Student Center. We will be recognizing this year’s State and local pro bono award winners at the luncheon, and announce the Liberty Bell Award winner. Also, this year, rather than a formal key note, we will be holding a high school debate, to be moderated by News Channel 9 and Newsmakers’ Dan Cummings. The audience will have an opportunity to vote on the winners of the final debate, along with a panel of four judges. There will also be Voting Scan Machines, courtesy of the Board of Elections, and Voter Registration, courtesy of the League of Women Voters. The cost to attend the lunch is \$30 per seat or \$275 per table, which cost will partially serve to supplement the students’ seating. Reserve your table or seats at the luncheon today, not later than April 28th, as seating is going fast!

**Voters’ Rights Classroom Presentations** | We are looking for volunteer paralegals, attorneys, or members of the judiciary to partner with representatives from the League of Women Voters to offer classroom presentations to middle & high school students about the importance of voting, voting rights, and interactive learning activities relating to the Law Day theme. This program is being offered in May and June 2014.

## Thanks to the Syracuse University College of Law for hosting the Luncheon, and to the Law Day sponsors to date:

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To learn more about sponsoring this year’s Law Day events  
**Contact Jeff Unaitis at 471-2667**

# Court of Appeals & Fourth Department Criminal Case Notes

By Bradley Keem | *D.J. & J.A. Cirando Esqs.*

## Nicknames/Jury Panel

**People v. Collier**, - Appellate Division, 4th Department, KA-07-0125 (2/7/14) - During trial, the prosecutor referred to defendant by his nickname, "Killer," and five times during summation. Such references urged the jurors to "consider defendant's nickname as evidence that he committed the murder," and thus were highly prejudicial and had minimal, if any, probative value inasmuch as the witnesses knew defendant by his given name.

The Appellate Court also found fault with the trial court's dismissal of a jury panel. The trial court had made remarks during the excusal of a certain number of jurors, causing defense counsel to question whether there would be a spillover effect on the remaining jurors, causing them to be unnecessarily reticent. As a result, the trial court, despite defense counsel indicating it was unnecessary, discharged the entire panel. Such an action deprived defendant of a jury chosen at random from a fair cross section of the community (Judiciary Law §500; see Criminal Procedure Law §270.05 [2]; *People v. Roblee*, 70 A.D.3d 225, 228-230).

Therefore, the Appellate Court reversed on the law, and granted a new trial.

## Brady Violation

**People v. Carver**, - Appellate Division, 4th Department, KA-10-00382 (2/7/14) Defendant contended that the People's delayed disclosure of a 911 recording constituted a Brady violation that deprived him of a fair trial.

The Appellate Court determined that defendant was correct because the 911 recording was (1) exculpatory---included the voice of an unidentified person referring to a white male suspect, and defendant is a black male; (2) defense counsel was not given a "meaningful opportunity to use the exculpatory evidence" where though prosecutor provided the recording to defense counsel, he did not indicate that it contained Brady material, and trial was brief; and (3) prejudice arose because it allowed defendant to pursue the theory that the shooter was a white male, thereby creating reasonable doubt that the defendant, a black male, was the shooter.

Accordingly, the Appellate Court reversed on the law, and granted a new trial.

## Youthful Offender

**People v. Potter**, - Appellate Division, 4th Department, KA-12-01588 (2/7/14) There was no mention at the plea proceedings whether defendant would be afforded Youthful Offender treatment. At sentencing, defense counsel made several applications for defendant to be treated as such, but the trial court never made an explicit ruling, instead imposing a sentence that was incompatible with Youthful Offender treatment. The trial court's failure to make a ruling denying Youthful Offender adjudication deprived the Appellate Court of the ability to ascertain whether the trial court properly denied such adjudication in the exercise of its discretion, or improperly acceded to the prosecutor's plea conditions.

Therefore, the matter was remitted to the trial court to explicitly rule on defendant's application to be adjudicated a Youthful Offender

## Right to Counsel

**People v. Rohadfox** - Appellate Division, 4th Department, KA-

12-01922 (2/7/14) - Following a jury trial during which defendant represented himself, the Appellate Court determined that the trial court correctly recognized that it had deprived defendant of his right to retained counsel of his choice by denying defendant's request for an adjournment to obtain new retained counsel. Such an error was an abuse of discretion "as a matter of law" because it effectively denied defendant his fundamental right to be represented by counsel of his own choosing.

## 440 Motion Requires Hearing

**People v. Hill**, Appellate Division, 4th Department, KA-13-00022 (2/7/14) Defendant submitted a Criminal Procedure Law §440.10 Motion alleging he received the ineffective assistance of counsel. The submission substantiated all the essential facts necessary to support a claim of ineffective assistance of counsel. The submission's allegations are not contradicted by the Court Record, and are supported by other affidavits. Thus, it cannot be reasonably said that defendant's allegations are not true. Since defendant's submission raised factual issues a Hearing was required

Therefore, the Order was reversed on the law and the matter remitted to County Court for a Hearing pursuant to Criminal Procedure Law §440.30 [5].

## Robbery in the Second Degree

**People v. Smith**, - Court of Appeals, No. 7 (2/13/14) Defendant and his brother impersonated plainclothes police officers as they approached the victim in a stairwell of an apartment building. Defendant stopped the victim by displaying a fake badge hanging from his neck, and asked the victim to produce identification. After the victim did so, defendant told him to put his hands against the wall. The victim complied, and during a frisk, defendant removed \$200 from the victim's pockets. One of the brothers indicated "this is not the person we are looking for" so the victim was permitted to leave. Upon realizing that his money was gone, the victim called 911. Defendant ran, but was eventually apprehended.

The Court of Appeals determined that there was a valid line of reasoning and permissible inferences that allowed the jury to rationally conclude that defendant stole the victim's property. By impersonating police officers, defendant and his brother restrained the victim and conveyed the impression that disobeying their directives could result in imminent physical repercussions, which caused the victim to submit to their false assertion of legal authority. Aside from the threat, they also engaged in physical contact with the victim, including the frisk and removal of items from his pocket. Thus, the People adequately established that defendant committed forcible robbery, not merely larceny by trick, and the judgment of conviction was affirmed.

**People v. Reed**, - Court of Appeals, No. 3 (2/13/14) Shawn Thomas, a Rochester drug dealer, died of gunshot wounds to the head and chest on April 7, 2007. Before he left home that afternoon he showed his girlfriend a large quantity of cash, and asked her to count out \$40,000. She did so, and placed stacks of \$1,000 in a plastic Tops supermarket grocery bag. She gave the bag to Thomas, who told her he was going to "re-up" which she interpreted as meaning he was going to buy a supply of drugs for resale. Thomas left at 1:00 p.m. About an hour later, Thomas was dead of gunshot wounds.

Police investigation revealed that defendant was present at the time of the shooting and fled. Subsequent investigation revealed a Tops

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# OCBA Crowns Onondaga County's MOCK TRIAL CHAMPIONS



After six weeks of intense competition, the annual High School Mock Trial competition run by the New York State Bar Association concluded its local tournament with a championship round held at the Onondaga County Courthouse on Thursday, April 3rd, with Supreme Court Justice Deborah H. Karalunas judging that final round.



Fourteen high school teams competed in the Onondaga County tournament this year. In addition to F-M and J-D, they are: Cazenovia, Fabius-Pompey, Chittenango, East Syracuse – Minoa, Westhill, Nottingham, Cortland, Jordan-Elbridge, Christian Brothers Academy, Skaneateles, Lafayette and Marcellus. Special thanks to Don Little at Nottingham H.S. for hosting the tournament at that school.

The two teams competing for top honors were last year's winner Jamesville-DeWitt and Fayetteville-Manlius – with F-M victorious this year. That team now heads to Binghamton on April 26 to represent Onondaga County in the Regional Tournament, with the winner there heading to Albany in mid-May to compete for the State Championship.

Fayetteville-Manlius was coached by Joseph Worm and Jennifer McDonald, with Danielle M. Fogel of Sugarman Law Firm, LLP, as the team's legal advisor. Student team members are: Jessica Mitten, Ryan Smith, Ryan Atkins, Spencer Eberst, Patrick Kanzler, Abigail Swanson, Samantha Laurie, Mathieson Byer, Madeline Lee, Agatha Woodbury, Sarah Percoski, Richard Wang, Sucheer Rao, and Nathan Eberst.

Of course, the local competition would not have been possible without the time and expertise of our local judges. Special thanks to the lawyers and judges for their commitment and dedication to this important program: Craig Atlas, Hon. Therese Wiley Dancks, Nick DeMartino, Hon. Steve Dougherty, Laura Fiorenza, Neil Gingold, Emilee Lawson Hatch, Jim Hughes, Erin Hurd, Donald Kelly, Kevin Kuehner, Karen Kukla, Jimmie McCurdy, Lorraine Mertell, Tim Mulvey, Hon. James Murphy, Dan Pautz, Ben Rabin and Jim Sonneborn and Hon. Deborah Karalunas. Brandon King oversees the local program on behalf of OCBA.

**If you're interested in being involved in next year's County Mock Trial competition, contact: Jeff Unaitis at OCBA, 471-2667.**

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# Governor Cuomo Announces Appointments To Appellate Division of the Supreme Court

Governor Andrew M. Cuomo announced on April 15 appointments to fill vacancies in the Appellate Division of the Supreme Court for the Second, Third and Fourth Judicial Departments.

**“I am proud that Justices Barros, Clark, DeJoseph, Devine, and Lynch will be continuing their exemplary record of service in our judicial system,” Governor Cuomo said. “Each of these Justices has established an impressive career history within our courts and I am honored to appoint them to the Appellate Division.”**

Christine Clark, Eugene Devine and Michael Lynch, were appointed to the Appellate Division, Third Department; Betsy Barros, was named to the Second Department; and Brian DeJoseph, will join the Fourth Department.

## Hon. Brian F. DeJoseph

is a career jurist, beginning with his appointment to the Syracuse City Court bench in September of 1981. Then 32 years of age, Judge DeJoseph holds the distinction as the youngest judge to sit in that court. His service continued after his election to a 10-year term in 1981 and re-election in 1991.



In 1987, he was designated as supervising judge of Syracuse City Court, a position he held through 2000. In this capacity, he oversaw the work of five other judges and more than 80 non-judicial employees. He was elected president of the New York State Association of City Court Judges in 1991. He was the chair of the New York State City & District Court Planning Committee from 1989 to 1992. He also served on various commissions including the Partnership to Reduce Gun Violence, the Syracuse/Onondaga Drug and Alcohol Abuse Commission and the Onondaga County Criminal Justice Advisory Board.

In November 2000, Judge DeJoseph was elected to a 14-year term to serve on the New York State Supreme Court, where he was assigned as a trial justice hearing a wide variety of civil cases. From 2001 to 2006, he was assigned to restructure and supervise the matrimonial division of Onondaga County Supreme Court. During his tenure, Onondaga County became a statewide model for the effective disposition of matrimonial cases. In recognition thereof, former Chief Judge of the State of New York Judith Kaye appointed him a member of the statewide matrimonial commission.

Judge DeJoseph was born in Syracuse, New York. A 1972 magna cum laude graduate of Syracuse University, Judge DeJoseph was selected for membership in the academic honorary societies of Phi Beta Kappa and Phi Kappa Phi. In 1975, he graduated cum laude from Syracuse University College of Law. He was a member of the New York State Army National Guard from 1970 to 1976. The father of three daughters, Judge DeJoseph resides in Syracuse with his wife Stephanie.

**Under the New York State Constitution and Judiciary Law, the Governor has the authority to appoint Justices to each Appellate Division from among those who have been elected as Justices of the Supreme Court. These appointments are not subject to Senate confirmation.**

The Second, Third and Fourth Department Judicial Screening Committees submitted to the Governor candidates who were deemed “highly qualified.” These candidates displayed integrity, independence, leadership, intellect, legal ability, judgment, temperament and experience.

The Fifth Judicial District Office has notified the Bar Association that Judge DeJoseph’s current caseload is being transferred to other justices. It is anticipated by Administrative Judge James Tormey that all of Judge DeJoseph’s previously scheduled trials will be conducted as planned.





### ATTORNEYS NEEDED for Special Referral Panel to Help Veterans

The State Bar's Lawyer Referral Service is recruiting attorneys statewide to participate in a reduced rate referral panel to assist Veterans. This special program will run from Nov. 12th 2013 through Memorial Day 2014.

Attorneys interested in receiving referrals from our service for this special Veterans Referral Panel are required to:

- Offer free consultations to Vets in your chosen areas of practice
- Reduce attorney fee by 25%
- Carry malpractice insurance

**If you are interested in joining,** go to [www.nysba.org/VetVolunteer](http://www.nysba.org/VetVolunteer) for an application.

#### Questions about the program?

Contact Lawyer Referral Coordinator:  
Eva Valentin Espinal at [lr@nysba.org](mailto:lr@nysba.org)



## Cayuga-Onondaga B.O.C.E.S. Labor Relations Specialist Vacancy

The Labor Relations Specialist is responsible for all aspects of collective negotiations and labor relations in multiple school districts, including serving as chief spokesperson, and representation in grievances, arbitrations and administrative hearings. Qualifications:

(A) Graduation from a New York State registered or regionally accredited 4-year college or university with a Master's Degree in Labor Relations, Public Administration, Business Administration, Business Management, Education Administration, or related field AND 2 years of experience in collective negotiations, mediation, grievance administration and arbitration; **OR**

(B) Graduation from a regionally accredited or New York State registered college or university with a Bachelor's Degree in one of the foregoing degree areas AND 4 years of experience as outlined in (A); **OR**

(C) Admission to New York Bar and 1 year of experience or equivalent as outlined in (A); **OR**

(D) NYS Certification as a School District Administrator or equivalent AND 3 years of experience in school administration.

**Salary Range: \$78,000- \$93,500. Starting salary will be dependent on candidate's experience and education.**

Application letter, resume and references will be **accepted through April 18, 2014**, and may be e-mailed to: [lrapplications@caybores.org](mailto:lrapplications@caybores.org)

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# Are You feeling overwhelmed?

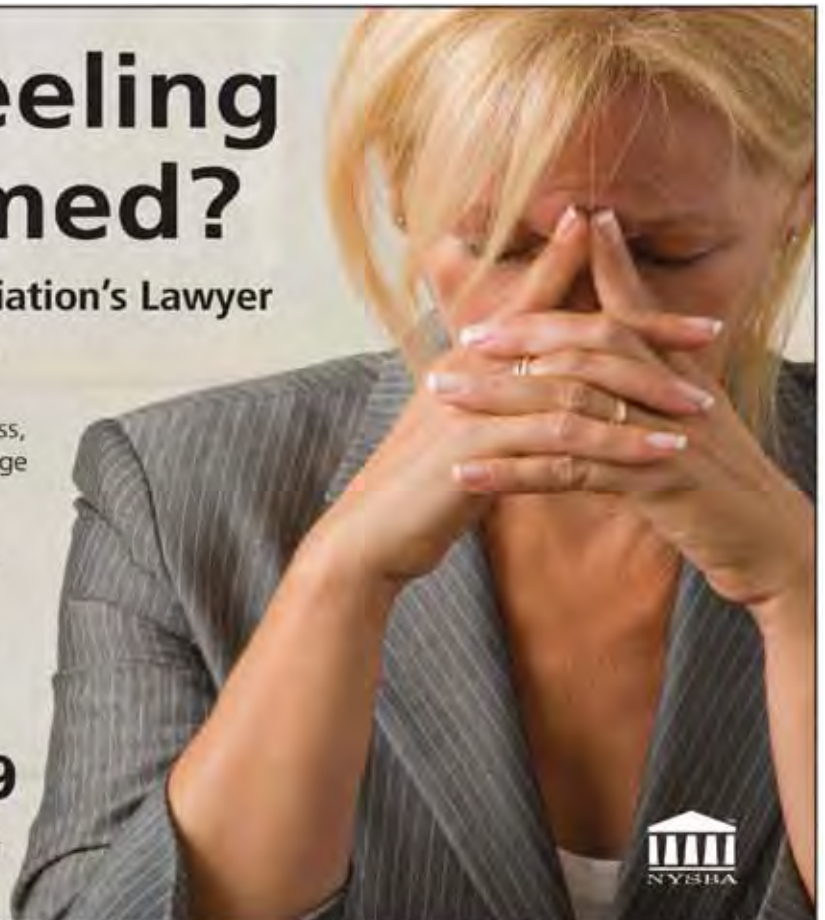
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NEW YORK STATE BAR ASSOCIATION  
LAWYER ASSISTANCE PROGRAM



# WELCOME NEW LAWYERS

From page 3

to see the people that you represent in many walks of life. And as a consequence it is important to remember that that professional courtesy will go a long way in your reputation as a lawyer and your ability to stand up and hold yourself high as a professional.

Again from personal experience as a labor lawyer, we fancied ourselves the most zealous of advocates and we were truly hired guns. And there was never any thought when you were a labor lawyer that you were going to be on the other side. If you represented employees; you were going to represent employees for the rest of your life. If you represented employers; you were going to represent employers for the rest of your life. There were exceptions of course, you never thought about people who were going to become mayor or city manager. So our advocacy was zealous. We prided ourselves on giving the best representation and making sure that our clients understood that. And when you're dealing with people's jobs, healthcare, and pensions you can imagine the passions run very high.

So I was a fairly new lawyer and had an arbitration hearing with another lawyer from a firm where we went toe to toe and we had a knockdown, drag out argument over a position of law. When I went back to the office that day I was feeling pretty good about the argument that I made, the zealous advocacy, and the client was thrilled with how passionate I was. And then I looked down, and I realized that I was going to need to have an extension for the briefing date. I went into see my partner and I said, "Chuck I'm going to have to ask for an extension." And Chuck said, "Well you gotta call the lawyer on the other side and ask for one."

Being of the mindset that it's better to get the bad news out quickly than wait for it, I went back to my office, and I took a couple of deep breaths, and I called that lawyer.

I said to him, "Nick, this is Stephanie Miner." And he said, "Yep, what's going on?" And I said, "well I just looked at the briefing schedule that I agreed to two hours ago and I really would like an extension. Do you think you could see yourself clear to do that?" He said, "Absolutely. No problem. Whatever you need, you tell me the date that you want. Just send me over the paperwork and I'll send it. By the way, tell Chuck he owes me a golf game and I'll see you later."

To this day when I see Nick in the City of Syracuse I have nothing but warm feelings for him. That time was just the beginning of what was a long, adversarial relationship. He represented a certain group of clients. And I represented a different group of clients. We went toe to toe over and over again. But the courtesy that he

showed me and the fact that he did it so easily rang true in my heart about what it means to be a professional, what it means to have a professional relationship, and what it means to extend professional courtesy. So you can disagree, you can be a zealous advocate in the courtroom, in hearings, in arbitration proceedings. But make sure that you remember when you're outside that and you're asking for favors that that is the right thing to do as a professional. And what goes around comes around as they say.



Finally, I will tell you that it has been my experience that if you adhere to these three traits, these three philosophies: if you practice

with integrity, if you remember that honest mistakes are part of the profession, and if you treat your colleagues with professional courtesy then you will have a great career, in a great profession, and be in a city and community that values the work that you do. And the highest praise that I have heard anybody say about a fellow attorney is when they say he or she is a good lawyer. So while I'm not a lawyer anymore, and that is not what I do for a living,



I can tell you that I talked to people who were lawyers who currently are lawyers and the subject comes up about advocacy that they speak to each other. They say, you know so-and-so

is a good lawyer. And that is a shorthand way for saying they're professional, they're a zealous advocate, they have integrity, and they work hard to represent their client. But they are not unfair, they don't take cheap shots, and they recognize the importance of holding your head high as a lawyer.

So I want to thank you all for your time today. That is actually all I have to say to you. I promised I wouldn't drone on and on and I tried not to. But I will tell you that it is with a bit of sadness that I can stand here today and remember so clearly what it was like when I was a newly admitted lawyer. And realizing how much time has gone by since that happened. But I will tell you that I did make billable hours, that I did pay off my student loans, and I did enjoy my profession for the ten years that I practiced as a lawyer. Not every day, but most days, and I wish you all the best of success.



**Save the Date**

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**Onondaga County Bar Foundation  
ANNUAL 50-YEAR LUNCHEON**

**September 11, 2014**

**DRUMLINS COUNTRY CLUB**

# LEGAL BRIEFS



## Holly Austin now the President of the Matilda Joslyn Gage Foundation

Holly K. Austin has recently become the President of the Board of Directors of the Matilda Joslyn Gage Foundation. The Foundation celebrates Matilda Joslyn Gage as a major historical figure involved in the suffragette movement and is dedicated to educating current and future generations

on contemporary social change and human rights issues. Ms. Austin is a partner in the Environmental Practice of Hancock Estabrook, LLP. She represents her clients on various environmental law issues, including permitting; state and federal environmental, health and safety regulatory compliance and enforcement; remediation; and zoning and land use.

## Karen DeCrow | Panelist NYC Bar "A Passion for Law & Opera"

Ms. Karen DeCrow will be a panelist at a New York City Bar Association event called "A Passion for Law & Opera" on the evening of May 15, 2014 at the NYC Bar offices, at 42 W. 44th Street. The other panelists will include Richard Miller, Jr., partner with Morris & McVeigh and president of the Metropolitan Opera Guild, and Kenneth Rosen, department head of bankruptcy at Lowenstein Sandler and attorney for the New York City Opera.



There will be performances by Francesca Altema, lyric soprano/attorney and Nicole Farbes-Lyons, Esq. of CNA Insurance, and former DiCapo Opera's Resident Artist. Works will include a scena ed aria from "Le Nozze di Figaro" and duetto e finale from "Trial by Jury".

## Newman & Lickstein Moves to New Location



fax number 315-422-1400.

More information about Newman & Lickstein may be found as well as email contacts for members of the firm may be found on the web at [www.newmanlickstein.com](http://www.newmanlickstein.com).

Newman & Lickstein is pleased to announce the permanent relocation of their office to:  
404 State Tower Building,  
109 South Warren Street,  
Syracuse, NY 13202.

The firm's office telephone number remains the same 315-422-1172, as does the

## Kevin Hunt elected to American College of Trial Lawyers

Gale Gale & Hunt, LLC is pleased to announce that Kevin T. Hunt has been elected a Fellow of the American College of Trial Lawyers, one of the premier legal associations in America. Membership in the College is limited to one percent of the total lawyer population of any state or province and is by invitation only. The College strives to improve and elevate the standards of trial practice, the administration of justice and the ethics of the trial profession. Qualified lawyers are called to Fellowship in the College from all branches of trial practice.



The induction ceremony took place recently before an audience of approximately 465 persons during the 2014 Spring Meeting of the College at La Quinta Resort & Club in La Quinta, California. Kevin is a partner at Gale Gale & Hunt, LLC, a boutique litigation firm that represents clients in Upstate and Central New York.

## Village of Skaneateles Offices Moves To New Location

Please be advised and make note that the Village of Skaneateles moved its office from 46 East Genesee Street. The new address is: 26 Fennell Street, Skaneateles, NY 13152.

Also note that Sally Sheehan retired in 2010 and is no longer Village Clerk/Treasurer. The position has been taken over by Patricia A. Couch.



## Susan Carleo appointed Board Member of the American Association of Legal Nurse Consultants

Susan Carleo was appointed to the Board of Directors of the American Association of Legal Nurse Consultants nationally. She recently presented at the 2014 AALNC conference in Denver. Ms. Carleo is principal of Carleo Legal

Nurse Consulting, which assists attorneys by reviewing and analyzing medical malpractice cases from inception through trial.

## DID YOU KNOW ...

... that the Bar Association can keep track of where your files go after you are no longer in practice?

OCBA receives calls every week from clients who are trying to locate documents or files once held by their attorneys, after that attorney has moved, stopped practicing or passed away.

**If you know where your files will go after you're gone,** Contact Membership Coordinator:

**Peggy Walker at 579-2582 or via email, [pwalker@onbar.org](mailto:pwalker@onbar.org).**

# Court of Appeals & Fourth Department Criminal Case Notes

...from page 6

grocery bag tied at the top and ripped out at the bottom under the armrest between the front seats of a Lincoln Town Car that defendant was witnessed entering after gunshots. At trial, Thomas' girlfriend indicated that she recognized the Tops grocery bag by the knots at the top.

In order to prove Robbery in the First Degree, the prosecution must produce sufficient evidence that defendant, or someone whom he intentionally aided, forcibly stole the victim's property.

Here, a rational jury could have inferred that the \$40,000 was stolen from Thomas by the defendant and the men he aided. The jury heard evidence that Thomas was carrying \$40,000 in a double knotted Tops grocery bag, about an hour before he was killed; that defendant arranged for Thomas, whom he knew, to drive to the vicinity of defendant's father's house; that defendant fled the scene of Thomas' shooting, along with the gunman, in his father's car; that one of the men bent over Thomas's body briefly before getting into the car; and that a double knotted Tops grocery bag was found with its bottom torn out and contents removed, under the driver's armrest of the same car.

Although defendant provided innocent explanations--Thomas got rid of money before the attack etc, it was permissible for the jury to infer beyond a reasonable doubt that defendant, and the men he aided, lured Thomas to an area where a getaway car would be readily available for the purpose of robbing him of the large quantity of cash he was carrying; that one of the men took the grocery bag from Thomas after he was shot; that the men tore the bag open at the bottom because it was tied tightly at the top, and divided up the

money in defendant's father's car; and that defendant thoughtlessly left the empty bag in the car when he reached his sister's home. Accordingly, the judgment of conviction was affirmed.

## Suppression of Statements

**People v. Thomas**, - Court of Appeals, No. 18 (2/20/14) The suppression of defendant's inculpatory statements regarding his infant son's death should have been granted because they were not voluntary. The statements were based on highly coercive deceptions used by the interrogators. Such deceptions included threats to defendant's wife and false representations, 21 in all, that defendant's disclosure of how he injured his child was essential to assist doctors in attempting to save the child's life. Accordingly, a new trial was ordered.

## Reasonable Cause to Arrest

**People v. Laboy**, - Appellate Division, 4th Dept., KA-11-01236 (2/14/14) An officer responded to a home with the knowledge that: there was a signed Information against defendant; defendant caused red marks on the complainant's hands or arms; that the Information had not been entered into the system; and there was no warrant for defendant's arrest.

The Court concluded that the deputy lacked reasonable cause to believe that defendant committed an offense in her presence. Because an arrest was not authorized at its inception, the evidence was legally insufficient to support the conviction of assault, obstructing governmental administration, and resisting arrest.

As such, the judgment of conviction was reversed, as a matter of discretion in the interest of justice and on the law, and the Indictment was dismissed and the matter is remitted to County Court for proceedings pursuant to Criminal Procedure Law §470.45.

## Improper Admission of Summary Exhibits

**People v. Case**, - Appellate Division 4th Department, KA-12-01342 (2/14/14) Defendant submitted to her employer time sheets and mileage vouchers that inflated the amount of compensation she was actually entitled to. Defendant was convicted of Grand Larceny in the Third Degree pursuant to a theory of larceny by false pretense. The Appellate Court exercised its interest of justice power to review whether certain documents were properly admitted into evidence. The summary documents were not properly provided to defendant prior to trial, nor were those exhibits based solely upon information already in evidence.

Accordingly, defendant was denied "a full and fair opportunity" to challenge the accuracy of the summary exhibits. Additionally, the evidence was not overwhelming, and thus the error in admitting the exhibits was not harmless. Moreover, defendant was denied the effective assistance of counsel where defense counsel failed to review the summary exhibits or object to their admission in evidence. Thus, a new trial was warranted on that ground as well. The error was so serious and resulted in such prejudice that defendant was denied a fair trial (*People v. Alford*, 33 A.D.3d 1014, 1016).

## Sufficiency/Weight of the Evidence

**People v. Heatley**, - Appellate Division, 4th Department, KA-12-02392, (2/14/14) Defendant testified that the victim was holding defendant's neck under the victim's arm while he punched defendant and that defendant felt dizzy and was afraid he would

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## APPEALS

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# OCBA Paralegals Committee

Karen Hawkins | Contributor

## April Paralegals Luncheon Meeting

The April Paralegals Luncheon Meeting was held Thursday, April 10, 2014 at Spaghetti Warehouse. **Christie VanDuzer, Paralegal with the Domestic Violence Project at Frank H. Hiscock Legal Aid Society was our guest speaker regarding Domestic Violence.**

Christie touched on ways to recognize someone in a domestic violence situation. She then spent the remainder of her presentation explaining how domestic violence may play a part in other areas of law. Christie provided examples to help paralegals recognize and assist their attorneys in dealing with domestic violence as a component of the attorney's full representation of that client. For example, a victim may have to file bankruptcy and not know everything necessary because her/his abusive spouse has kept financial information from the client. A victim may have a legal issue at work which would require a paralegal to have knowledge of how labor laws may be affected in situations dealing with victims of domestic violence. There are many areas of law in which domestic violence affects the client's interaction with an attorney and knowledge of their case. We may not be aware of how much domestic violence can play a part in almost any legal matter.

Christie has been a paralegal in the Domestic Violence Unit at Hiscock Legal Aid Society since October 2008. Christie has spear-headed the team from Hiscock Legal Aid Society to participate in the Vera House "Walk A Mile In Her Shoes" program for the past two years. In addition, Christie is continuing her education to get a Bachelor's Degree in counseling to enhance her position and continue to help those in the vicious cycle of abuse.

### SAVE THE DATE!

**May 8, 2014, 12:00-1:00PM at Spaghetti Warehouse. Up Close and Personal with the Onondaga County Bar Association. Jeff Unaitis, Executive Director and the Staff of the Onondaga County Bar Association will join us to discuss what they do behind the scenes to make our very own bar association one of the most prolific in New York State!**

Please invite your bosses, legal administrators and co-workers. These luncheon meetings are not restricted to just Paralegals Committee members.

The cost for lunch is \$11 for members and \$12 for non-members. **Reservation deadline is noon the day before the luncheon.** Please RSVP by e-mailing Jean Swanger at [jswanger@gilbertilaw.com](mailto:jswanger@gilbertilaw.com) or call 442-0174. Please keep in mind that your reservation is binding unless you cancel on or before the reservation deadline.



## ESAPA Report | Cynthia Wade

Empire State Alliance of Paralegal Associations, Inc.'s business meeting was hosted by the Paralegal Association of Rochester, Inc. at the law firm of Nixon Peabody in Rochester, New York, on March 22, 2014. Election of new officers was held. Deborah Mabry from Paralegal Association of Rochester, Inc. was elected President; Raeann Bromark from New York City Paralegal Association, Inc. was elected Vice President; and Shannon Mack from Capital District Paralegal Association, Inc. was elected Secretary. Edith Feiling

from Western New York Paralegal Association, Inc. will remain Treasurer until her term is up in June. At that time, the Treasurer position will be filled.

Special guest speaker, David M. Schraver, Esq., President of the New York State Bar Association, discussed "Utilization of Non-Attorneys in New York State and the Implementation of Limited License Legal Technician Rule."

The fall meeting will be hosted by the Paralegal Society of Long Island, Inc. in the fall. The time and date will be announced at a later date.

## The Executive Committee Could Use Your Help

**The next Paralegals Executive Committee ("EC") meeting is scheduled for April 30, 2014.** beginning at noon at Gilberti Stinziano Heintz & Smith, P.C., 555 East Genesee Street, Syracuse, NY 13202 (parking is available in front of the building on East Genesee Street, at the rear of the building at 510 East Fayette Street, and the parking lot between the GSHS offices and Hamilton White House). ***EC Chair Kathrine Cook extends an invitation to paralegals who would like to find out more about serving on the Executive Committee.***

If you are interested in attending the EC meetings to share your ideas for upcoming programs and ways to better serve the paralegal members, please contact Kathrine Cook at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com)

## Job Bank

Are you an employer with a job that needs to be filled? Listserv can help! This service is free to employers – Just email Paralegals Committee Chair, Kathrine Cook, at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com) to have your job provided to OCBA Paralegal members. The Listserv is open to all OCBA Paralegal members (including student members).

***Paralegals should contact Peggy Walker at the OCBA offices (471-2667) to confirm current membership or to join the OCBA.*** Peggy and Kathrine work together to ensure Paralegal members are added to the Listserv. Employers and/or Paralegals can email Kathrine should they have any questions.

# Court of Appeals & Fourth Department Civil Practice Case Notes

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pass out and be “demolished”. Defendant removed two “throwing” knives from his belt and stabbed the victim 8 times in an effort to have the victim release him.

The Appellate Court determined that the claim concerning the lack of sufficiency of the evidence of the crime of Murder in the Second Degree was not preserved. Nevertheless, the Appellate Court indicated that it is now well established that, “in conducting its weight of the evidence review, a court must consider the elements of the crime, for even if the prosecution’s witnesses were credible their testimony must prove the elements of the crime beyond a reasonable doubt” (see *People v. Danielson*, 9 N.Y.3d 342, 349).

Upon such a review, the People did not sustain their burden of proof in regard to the element of intent. Only one of the eight wounds was life-threatening. The fatal wound occurred when defendant stabbed the victim in the midline area of the chest, penetrating the right ventricle of the heart. Despite the number of injuries the evidence is not sufficient to prove the element of intent to kill because the physical evidence, particularly the location of the stab wounds, supports the conclusion that defendant, during an altercation that the victim initiated, stabbed the victim in an effort to have the victim release him and not with an intent to kill him.

The Appellate Court, however, determined that the judgment of conviction should not be reversed, but instead, reduced to the lesser included offense of Manslaughter in the First Degree, and

the matter should be remitted to County Court for sentencing on the lesser included offense pursuant to Criminal Procedure Law §470.20 [4].

## Attorney/Client Conflict Waivers

*People v. Cortez*, Court of Appeals, No. 225 (1/21/14) Defendant was represented by two attorneys, one of whom was indicted for smuggling drugs in prison and was under Indictment by the New York County District Attorney. At a Gomberg (38 N.Y.2d 307) Hearing defendant waived the potential conflict.

The Court of Appeals indicated that even where a defendant waives a conflict, the waiver must, on the Record, unambiguously demonstrate that the waiver was knowingly, voluntarily, and intelligently entered.

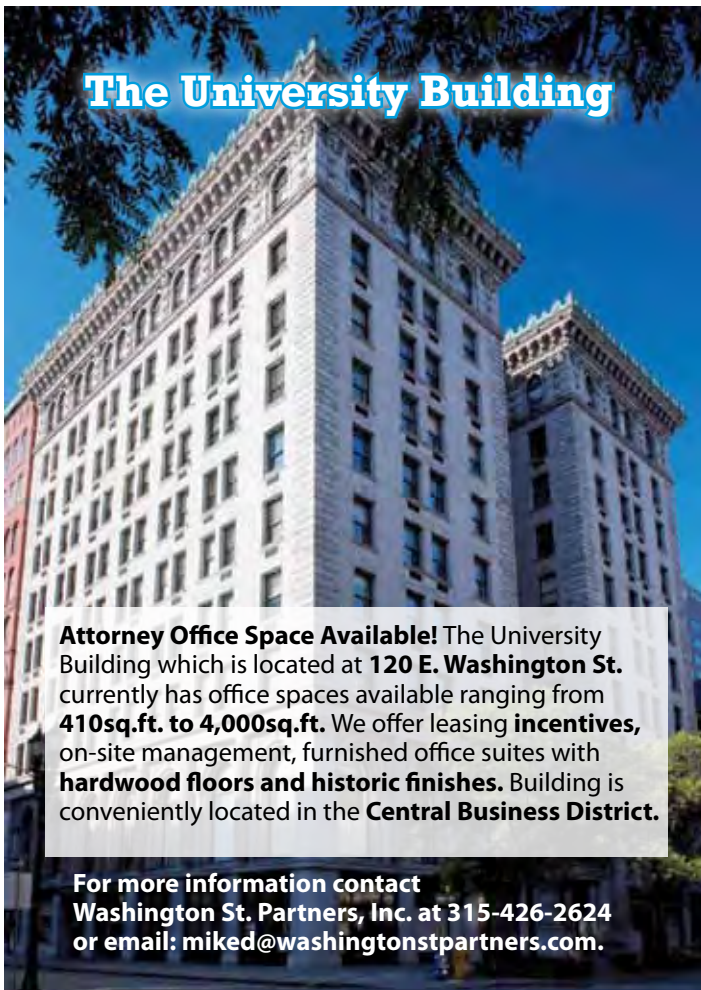
While the Court of Appeals did not adopt the protocol for passing upon attorney conflict waivers set forth in *United States v. Curcio* (680 F2d 881, 888-890), it lauded the approach as one that has proven workable, and would be prudent to follow in criminal cases. In *Curcio* (supra at 888-890) the Court: (1) advised defendant of his right to conflict free representation; (2) instructed the defendant as to the dangers arising from the particular conflict; (3) permitted the defendant to confer with his chosen counsel; (4) encouraged the defendant to seek advice from independent counsel; (5) allowed a reasonable time for defendant to make his decision; (6) determined, preferably by questions that are likely to be answered in narrative form, whether the defendant understands the risks and freely chooses to run them.

In the case at bar, it was unnecessary to apply *Curcio*’s conditions to conclude that the colloquy between defendant and the trial court did not provide the necessary assurance that co-counsel’s conflict and its risks were understood and freely assumed by defendant. Nevertheless, the conflict only potentially impaired co-counsel’s discharge of her professional obligations in a particular manner, and since the potential conflict did not “operate on” the defense defendant was not entitled to a new trial.

Concerning the admissibility of entries from defendant’s journals, in which defendant ruminated over being spurned by the victim, the evidence of such remote broodings was too attenuated from any act to be relevant, even under some exception to *Molineux*, but such an error was harmless considering the overwhelming evidence against defendant.

Accordingly, Order of the Appellate Division was affirmed.

...cont’d page 15



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## Court of Appeals & Fourth Dept.

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### SORA

*People v. Moore*, Appellate Division, 4th Department, KA-12-01878 (3/28/14) The trial court found that defendant was a Risk Level III Sex Offender due to a prior felony conviction for a sex crime. The Appellate Court held that such a determination was error because there is no basis in law for an automatic override to increase defendant's presumptive Risk Level II designation to Risk Level III (*People v. Moss*, 22 N.Y.3d 1094, 1095).

Accordingly, the Order was reversed on the law, and the matter was remitted to County Court for further proceedings.

### Jury Notes

*People v. Roberites*, Court of Appeals, No. 43 (4/1/14) Defendant was arrested for Disorderly Conduct. Evidence of actual or threatened public harm is a necessary element of Disorderly Conduct. Here, defendant stood with three other young men, reputed gang members, on a street corner, and the four refused to move when asked to do by law enforcement. While one of defendant's companions was partially blocking an entrance to a store, there was no evidence that defendant was in front of the door, or that anyone trying to enter or leave the store was obstructed from doing so. It is not disorderly conduct, however, for a small group of people, even a group of people with a bad reputation, to stand peaceably on a street corner. Therefore, the Order of the Appellate Division was reversed, defendant's motion to suppress drugs discovered as a result of the arrest was granted, and the Indictment dismissed.

### Accomplice Jury Instruction

*People v. Sage* Court of Appeals, No. 32 (4/1/14) The People's witness admitted to punching the victim twice to the head and neck. Additionally, defendant's claims that the witness's strikes could have caused or contributed to the victim's death were supported by the pathologist. Under the circumstances, the trial court should have determined that the witness was an accomplice as a matter of law pursuant to Criminal Procedure Law §60.22 (2).

The trial court failed to make such a determination, and failed to instruct the jury that if it determined that the witness was an accomplice, that his testimony was subject to the statutory corroboration requirement. Such an error was not harmless because the evidence was not overwhelming. As such, the Indictment was dismissed in regard to defendant with leave to resubmit.

## In Memoriam

Ferdinand L. Picardi  
April 2, 2014

Justice John F. Lawton  
April 9, 2014

April 2014  
Please advise OCBA  
of any attorneys we  
may have missed

## 12th Annual Elder Law Fair

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- Women's Retirement Realities
- Protecting Your Home and more....

**Thursday, May 22<sup>nd</sup>**

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Online <http://aarp.cvent.com/SyrElderLaw>

This year's Elder Law Fair is brought to you by:

Estate Planning Council of CNY, Inc., Onondaga County Office for Aging, AARP-Onondaga County Chapter, Volunteer Lawyers Project of Onondaga County, Inc., Legal Services of CNY, Inc., Hiscock Legal Aid Society, Legal Aid Society of Mid-New York, the Onondaga County Department of Social Services, Onondaga County Bar Foundation, Syracuse City School District Parent University, M&T Bank, and Prudential

## FROM THE EDITORIAL BOARD

To advertise in the Bar Reporter, call the Onondaga County Bar Association at 315.579.2578 or check our website at [www.onbar.org](http://www.onbar.org).

Letters to the Editor: The Editorial Board accepts letters or comments for publication concerning issues presented in each edition or other issues related to the legal community. Submissions should be limited to a few paragraphs and mailed to OCBA, Attention Bar Reporter. or Email [cstirpe@onbar.org](mailto:cstirpe@onbar.org).

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# BAR BOARDS:

## Lemery Greisler seeks Associate Attorney

Lemery Greisler LLC seeks an Associate Attorney with 3-5 years real estate and/or commercial transaction experience to work in its Albany office. Qualified candidates must be admitted to the New York bar and have a strong desire to make the Capital District home and become part of the community. Email cover letter and resume to Ms. Karin Burch: KBurch@lemerygreisler.com.

## Newly Renovated Office Space | Prime Courthouse Location

Recently renovated individual office space available, including receptionist, copier, fax and phone lines, in the Monroe Building located directly across from the Courthouse. Additional space is also available up to 5,000 square feet. Please contact Kris at 479-6445.

## OCBA Launches New Website

Jeffrey A. Unaitis, OCBA Executive Director

OCBA recently debuted its new website ( [www.onbar.org](http://www.onbar.org) ), offering members more and better features including the ability to register online for CLEs or any Bar Association event and activity, and a way for the general public to request the services of an attorney participating in the Lawyer Referral Service.

OCBA began this revision of its website last year, enlisting the services of local web designer Brian Hoke of Bentley Hoke. The new website offers a streamlined and better organized approach to accessing OCBA content including current and past issues of the Bar Reporter newsletter and other news items; links to useful reference sites; detailed CLE information including on-line registration and payment; and a summary of the expanding programs offered by the Volunteer Lawyers Project.

A dedicated Onondaga County Bar Foundation page features grant application forms and the ability to make on-line donations with a credit card; a Lawyer Referral Service page for the general public allows them to complete a form to request the services of one of our LRS panelists; and among other highlights, the Oral History videos currently being produced by our Senior Lawyers Section are available for streaming, and members can read the



OCBA history, by-laws and access other resources.

A special thanks to Jim Hughes (Hancock Estabrook LLP) for donating his photographs of the Onondaga County Court House which grace the website.

Additional sections and features will be added in the coming months.



# Excellence of VLP Volunteers' Pro Bono Efforts Recognized on Local, State and National Levels

Sally Curran, Executive Director  
Volunteer Lawyers Project

Every year, the Onondaga County Bar Association and Volunteer Lawyers Project celebrate the extraordinary volunteer efforts of local attorneys in our pro bono programs. This year, we are pleased to honor the following attorneys:

**Emilee Lawson Hatch** of Bousquet Holstein for work in the area of Trusts and Estates and Community Based Legal Support.

**Jillian McGuire** of Mackenzie Hughes for work in the area of Family and Domestic Relations Law and Community Based Legal Support.

**Joseph Lamendola** private practice attorney, for work in the areas of Family and Domestic Relations Law and service to our Veterans' Clinic through VALOR Day

**Frederick Marty, Sr.**, retired from Hiscock & Barclay, for work in the areas of Trusts and Estates, Eviction Defense and Community Based Legal Support; and finally

**Syracuse University College of Law VISION** (Veterans Issues, Support Initiative and Outreach Network) student group for their service to Veterans in our community.

## ELDER LAW FAIR

The Onondaga County Bar Foundation, is pleased to announce the 12th Annual Elder Law Fair. The Elder Law Fair is a series of 24 seminars on legal issues of interest to older adults and their families, held on Thursday, May 22nd from 8:00 a.m.-1:30 p.m. at Onondaga Community College in Academic Building II, 4585 W. Seneca Tpk. All seminars are free and open to the public. Free parking and a continental breakfast will be provided.

The Volunteer Lawyers Project of the Onondaga County will be sponsoring a pro-bono Law Clinic from 10:00 a.m. until 1:00 p.m. Lawyers will be available for free 20 minute consultations. Pre-registration for these free consultations is required and will be available during the morning sign-in.

This year's Elder Law Fair will focus on the legal issues surrounding important life issues such as: the Affordable Care Act, women's retirement reality, estate planning, long-term care payment options, under 65 health care issues, catastrophic care, health insurance options, grandparents' rights, health care proxies and living wills, consumer protection, reverse mortgages, bankruptcy, protective services for elderly and vulnerable adults, protecting your privacy and LGBT legal concerns

To register, call AARP-877-926-8300. Or register on-line at <http://aarp.cevent.com/SyrElderLaw>

On a statewide level, two VLP volunteers have been selected to receive NYSBA's 2014 President's Pro Bono Service Awards.

**Thomas Myers** of Bond, Schoeneck & King will be receiving the Individual Award for the 5th Judicial District for his pro bono leadership in his firm and his longtime commitment to the Eviction Defense Programs, Community Based Legal Support, and Say Yes to Education legal program.

**Tracy Sullivan** private practice attorney, will be receiving the statewide Young Lawyer Award for her pro bono work with both VLP in eviction matters and Legal Services of Central New York in complicated housing matters totaling to hundreds of hours of service over the past few years.

Finally, on a national level - **Diane Chappell-Daly** was selected by the American Immigration Lawyers Association's National Executive Committee to receive the Michael Maggio Memorial Pro Bono Award. This award, which is given in recognition of "outstanding efforts in providing pro bono representation to deserving aliens in the immigration field" is only awarded to one immigration attorney nationally each year. Diane's leadership has been central to the creation of VLP's Immigration Clinic, which has provided legal assistance to over sixty clients since its inception.

## VALOR DAY

On April 5th, the Volunteer Lawyers Project teamed up once again with the Syracuse University College of Law VISION student group to provide VALOR Day, a resource fair for



Veterans in Central New York. Eleven attorneys, with the assistance of law students, provided in-depth legal advice, information and referrals to fifty four clients, and brief consultations to an additional seven clients,

totaling a record breaking sixty one legal appointments. Questions covered a wide scope of issues from family law to foreclosure, Wills and Estates to consumer law. There were 26 other organizations at the fair that provided information and assistance with taxes, veterans' benefits, credit counseling and resume reviews. Dozens of VISION law students volunteered to coordinate all aspects of the fair, which attracted a total of 126 veterans.

# Continuing Legal Education

SUNY METRO CENTER | ATRIUM LECTURE HALL

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## BRUCE BRYAN, ESQ. | THE WINNING ADVOCATE PERSUASIVE WRITING & ORAL SKILLS for TRIAL & APPELLATE COURTS



5 Consecutive Wednesdays | April 30 | May 7 thru May 28

12:00 - 2:00 pm | Sign In: 11:45 | Program: 12:00 to 2:00 pm | 2.0 Skills

### CLASS 1 | The Psychology Of Persuading Judges

Knowing your audience | Persuading through reasoning | The science of persuasion  
Non-legal factors affecting decision-making | Hot and cold benches in oral arguments

### CLASS 2 | The Mechanics Of Clear & Persuasive Writing

What good judges are taught about good writing | Structure of a memorandum or brief | Headings that persuade | Making the complex simple | Tips for clear & persuasive writing

### CLASS 3 | An Organized Approach & The Persuasive Statement of Facts

Working in stages & letting the "madman" run | How to write an objective Statement of Facts that subjectively persuades  
The use of headings | Cardozo's facts in Palsgraf

### CLASS 4 | Creating The Winning Argument

Types of arguments | Getting the judge to "want" to rule for you | Basic structure of an argument | Making defensible arguments | Effective legal research | The use of precedent

### CLASS 5 | How To Give An Effective Oral Argument

Can oral argument win? The lawyer's aim & the judges' agenda | Body language | How to prepare | Issue selection | Effective opening statements | Handling questions from the bench

Each session 2 MCLE Credits | Under NYS rules this CLE has been APPROVED for both Newly admitted & experienced attorneys

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Register me for:  Entire Series  Class 1 Apr 30  Class 2 May 7  Class 3 May 14  Class 4 May 21  Class 5 May 28

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Check Enclosed Amount: \_\_\_\_\_ (please check fee option below)

Visa, MasterCard, or AmEx Card# \_\_\_\_\_ Exp. \_\_\_\_\_

#### Single Session

<input type="checkbox"/> Member	\$ 40
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<input type="checkbox"/> Lifetime	\$ 15
<input type="checkbox"/> Agency (Agency Pre-Approval)	\$ 15
<input type="checkbox"/> Non-Member	\$ 60

#### Series

<input type="checkbox"/> Member	\$175
<input type="checkbox"/> Paralegal Member	\$125
<input type="checkbox"/> Lifetime	\$ 75
<input type="checkbox"/> Agency (Agency Pre-Approval)	\$ 75
<input type="checkbox"/> Non-Member	\$225

#### ONONDAGA COUNTY BAR ASSOCIATION

1000 State Tower Building  
109 S. Warren St. Syracuse, NY 13202-1860  
Attention: Chele Stirpe

Call: 315.579.2578 or email: [cstirpe@onbar.org](mailto:cstirpe@onbar.org)

# Continuing Legal Education

## 2014 CPLR Update | Friday, June 20<sup>th</sup>

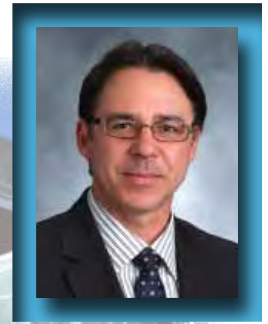
Professor Patrick Connors | Albany Law School

Central New York Community Foundation  
Philanthropy Center | 431 East Fayette St | 13202  
Parking Map: <http://www.cnyphilanthropycenter.org/parking map>

**MCLE 2.5** Professional Practice + **0.5** Ethics

Registration: **12:30 pm** | **Program: 1:00** to 4:00 pm

\$125 Members | \$85 Paralegal | \$45 Agency Lifetime Student | \$160 Non-Member



### Topics to be covered this year . . .

- US Supreme Court decisions significantly alter the **law of personal jurisdiction** in New York
- **CPLR 5015** used to vacate final judgment in related matter
- review of recent Court of Appeals decisions addressing **statute of limitations** issues
- new **Uniform Notice of Claim Act**
- issues arising with **electronic filing**
- is a lawyer representing a nonparty at a deposition a **"potted plant"**?
- can CPLR 2004 authorize **extension of time periods** not contained in the CPLR?
- using **verified pleadings** on a motion
- use of **electronic signatures**
- new monetary thresholds in the **Commercial Division**
- recent **CPLR Amendments** concerning protective orders, alternate jurors and mortgage foreclosure actions
- agreements calling for **arbitration** in New York
- Court of Appeals addresses **CPLR 5222-a**, designed to protect exempt funds from restraint or execution
- Court of Appeals reviews options for parties challenging an **additur or remittitur**
- is **expert disclosure** required for a treating doctor?
- Court of Appeals addresses sufficiency of papers on application for **default judgment**
- Court of Appeals addresses debts and property against which a **money judgment** can be enforced
- can a New York bank be compelled to deliver property held by its foreign subsidiary in a **turnover proceeding**?
- Court of Appeals once again adopts a generous view of whether an order **"necessarily affects"** a final judgment and can be reviewed on appeal
- proper procedure for motion to **quash a subpoena**
- can a lawyer **pay for evidence**?
- the CPLR Celebrates its **50th Anniversary!**

**Total of 3MCLE Credits** | Under NYS rules this **CLE** has been **APPROVED** for both **Newly admitted & experienced** attorneys

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I would like to attend:  CPLR Update 2014

Attendee(s) \_\_\_\_\_ Phone \_\_\_\_\_

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Check Enclosed      • Payment in Advance Preferred

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- Paralegal Member \$ 85
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