

# ONONDAGA COUNTY BAR ASSOCIATION BAR REPORTER

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1000 State Tower Building | 109 South Warren Street | Syracuse, NY 13202 | 315.471.2667

## OCBA Announces 2014 Distinguished Lawyer Honoree Emil M. Rossi, Esq.

Nicholas J. DeMartino, Esq. | *OCBA President*

It is a great pleasure, a distinct honor, and a bit ironic, that I announce that Emil M. Rossi is the recipient of the 2014 OCBA Distinguished Lawyer Award.

One of the true measures of any person is to look at the impact that they have made on the lives of others. I ask your indulgence and allow me for just a moment to share with you how this very distinguished lawyer has impacted my life and my career as an attorney.

I've wanted to be an attorney since I was in the 6th grade. I never deviated from that goal throughout high school and college. In the summer of 1980, before entering my first year of law school, I had the opportunity to intern at the Onondaga County District Attorney's Office. My job was to keep track of dispositions and adjourned dates during arraignments in Syracuse City Court. It was a wonderful experience. One morning, an attorney appeared with his client for an arraignment. The attorney was dignified, eloquent, articulate, professional, and wearing one of those dark chalk-striped three piece suits that you saw attorneys wear in the movies. I remember that this attorney effectively and eloquently made his point with the judge, and was able to accomplish what he intended for his client without a labored argument, or having to repeat his position numerous times as I saw other attorneys do. That day, this attorney left a huge impression on an 18 year old kid who didn't know a whole lot about anything, who also happened to be an aspiring attorney. This attorney continued to make frequent appearances at arraignments. During each of his appearances, he continued to exhibit the same professionalism and eloquent demeanor that had originally made such an impression on me when he first walked into City Court. One morning while he was standing before the judge, and while I was standing in my usual position, out of the way of everyone, trying to be as innocuous as I possibly could, the attorney looked at me and winked. After his appearance, he walked over to me and introduced himself. His name was Emil Rossi. That summer, Emil Rossi became my "attorney hero."

Emil personifies everything that is good and decent about our profession. He practices with great skill, intelligence, grace, charm, dignity, honor and professionalism. Above all, he is a true gentleman.



He will always look you directly in the eye and do exactly what he tells you he will do. Meeting him on the street or in the courthouse is always like meeting one of my Italian uncles. When he sees you, it is not uncommon for him to give you what I affectionately refer to as a "tweak," which is a pinch on the cheek, and then a kiss. I still have a difficult time calling him by his first name, because to me, he has always been "Mr. Rossi," that dignified lawyer who I met back in the summer of 1980.

Emil received his Bachelor of Arts Degree in English from LeMoyne College, a Masters Degree in English Literature from Syracuse University, and his Juris Doctor from the Syracuse University College of Law. He has served as a Law Associate with the firm of Curtis, Mallet-Prevost, Colt & Mosle in New York City, as an Assistant District Attorney with the Onondaga County District

Attorney's Office and as a Special Assistant Attorney General with the Office of the Special Prosecutor for Health and Social Services.

Over the past 30 years, Emil has maintained a highly respected and successful private litigation practice in state and federal court. Over this time, he has handled numerous high profile cases throughout New York State. He has also served as an Adjunct Professor at the Syracuse University College of Law since 1975.

His many community and professional affiliations have included serving on the Board of Directors of the Onondaga County Bar Association, the Board of Directors of Catholic Charities, the Board of Directors of Child and Family Service, the Board of Directors of St. Peter's Day Care Center, the United States Magistrate Selection Committee for the Northern District of New York, Co-Chairman of the Transition Committee for Mayor Roy Bernardi, and President of the Columbus Monument Association.

Emil is married to Nancy (Richards) Rossi, and is the proud father of his daughters, Gemma, Nancy Joe, Rachel and Annie.

So it is with great honor, and a bit ironic, that 34 years later, I have the opportunity to welcome "Mr. Rossi" into a great class of OCBA Distinguished Lawyers. He will be formally recognized at the OCBA Annual Dinner in October. To me, however, he has always been a distinguished lawyer, and much more. Our congratulations!

### 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:

Annual Dan Mathews Golf Tournament  
Annual 50 Year Luncheon  
Annual Dinner

Thursday | August 14  
Thursday | September 11  
Thursday | October 23



## From the President: A New Home

The OCBA has found a new home. We are excited to announce that the OCBA will be moving its offices to the CNY Philanthropy Center before the end of this year.

This beautifully renovated building, located at the corner of E. Fayette and S. Townsend Streets, has become a bit of a “home away from home” for the OCBA in recent years, having been the site of our most recent CPLR Update, and Bridge the Gap Seminar, as well as the 2013 Board of Directors Installation Reception. With this location’s ready access to both Routes 690 and 81, on site visitor parking, proximity to the Supreme Courthouse and Criminal Courts Building, and fabulous ballroom for social and networking events, the move seemed like an absolutely perfect fit for us.

The new location will offer updated offices for the OCBA staff on the 3rd floor of the Center, and access to the common areas, including small meeting rooms, Board rooms, and the ballroom for OCBA events.

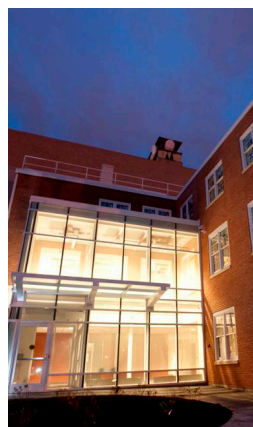
This move is also “cost-effective” for the OCBA, as we will be leasing only the actual office space, while being able to utilize all of the common areas accessible to Center tenants on an as-needed basis. As a result, we will be paying rent on approximately 2,000 fewer square feet than we occupy at our current location.

The OCBA and the Bar Foundation will join a group of other not-for-profit tenants at the Center, which for decades, was the home of the University Club. With its location across the street from Fayette Park, classic architecture, and modern renovations, the CNY Philanthropy Center will provide the OCBA members a perfect home for organization events and activities.

We will be having an open house at this new location before the year’s end. We hope that you will be able to join us at that time to help celebrate this new chapter in the life of the OCBA.

Nicholas J. DeMartino | OCBA *President*

A handwritten signature in black ink, appearing to read "Nick", written in a cursive style.





# VIEW FROM THE BENCH: Evidentiary Issues

## Judicial Admissions in Opening Statements

Hon. John J. Brunetti

The pattern jury preliminary instruction for civil cases contains the following assertion: "What is said [by counsel] in opening statements is not evidence."<sup>i</sup> Yet, in 2013, both the First and Second Departments ruled as follows: "a factual assertion made by an attorney during an opening statement is a judicial admission."<sup>ii</sup> Permit me to explain.

It is hornbook law that a lawyer may make an admission as the agent of the client.

Admissions by counsel may occur outside the litigation process, as well as during litigation. When the admission by counsel occurs during litigation, it may be classified as either a "formal" or "informal" judicial admission. A formal judicial admission is conclusive and dispenses with the need for evidence of the fact admitted.<sup>iii</sup> An informal judicial admission, on the other hand, is simply evidence of the fact admitted therein.<sup>iv</sup> The admissions made by counsel in opening statement in the two 2013 Appellate Division cases were both classified as informal judicial admissions.

When it comes to various stages of a criminal case, informal judicial admissions by counsel may be committed, if defense counsel expressly names the client as the source of the proffered information, or it may be fairly inferred that the defendant was its source.<sup>v</sup> Examples include admissions made:

- In an Affidavit in the Same Proceeding.<sup>vi</sup>
- In a Notice of Alibi in the Same Proceeding if the notice is not withdrawn.<sup>vii</sup>
- At an Arraignment in the Same Proceeding.<sup>viii</sup>
- At a Bail Hearing in the Same Proceeding.<sup>ix</sup>
- During a Motion Argument in the Same Proceeding.<sup>x</sup>

Under the foregoing backdrop, we move to the law governing jury requests for read-backs of summations and opening statements in criminal cases followed by a discussion of the informal judicial admission issues that may arise therefrom.

On the issue of jury read back requests for summations, the Court of Appeals has ruled that a deliberating jury may be provided with a read back of summations<sup>xi</sup> because CPL 310.30 allows a jury to "request .....information.....with respect to any [ ] matter pertinent to the jury's consideration of the case."<sup>xii</sup> The same rule would seem to apply to openings as well. However, when an opening or a closing is read back, it should be accompanied with a reminder to the jury that what was said by counsel is not evidence, based upon rulings by the Fourth Department with respect to an opening statement<sup>xiii</sup> and the Court of Appeals with respect to a summation.<sup>xiv</sup> Does that mean a lawyer may speak in openings and closings without consequence? No way!

The Court of Appeals has upheld a trial court's ruling that a defense lawyer opened the door to otherwise inadmissible evidence during an opening statement.<sup>xv</sup> More surprising, the Court has upheld a trial court's ruling that defense counsel opened the door during summation to evidence that had been ordered suppressed, and permitting the People to re-open their proof to introduce the suppressed evidence before returning to summations.<sup>xvi</sup>



So, let's assume a criminal defense lawyer in a homicide case says in opening statement: "My client shot the deceased, but he acted in self-defense." Is that an informal judicial admission? It would seem so. Is it evidence? No, not unless, as occurred in two of the Appellate Division cases cited above,<sup>xvii</sup> a transcript of the informal judicial admission is marked, offered and received, after the defense has been given an opportunity to be heard on the issue.

i. PJI 1:3.

ii. *Kosturek v. Kosturek*, 107 A.D.3d 762 (2d Dep't 2013); *Tullett Prebon Financial Services v. BGC Financial, L.P.*, 111 A.D.3d 480 (1st Dep't 2013).

iii. See *Richardson* 8-215.

iv. See *Richardson* 8-219.

v. *People v. Moya*, 11 A.D.3d 212, 782 N.Y.S.2d 257 (1st Dep't 2004), *lv. den.*, 4 N.Y.3d 766, 792 N.Y.S.2d 10 (2005); *People v. Killiebrew*, 280 A.D.2d 684, 685, 721 N.Y.S.2d 104 (2d Dep't 2001), *lv. den.*, 96 N.Y.2d 802, 726 N.Y.S.2d 380 (2001); *People v. Kallamni*, 14 A.D.3d 316, 787 N.Y.S.2d 1 (1st Dep't 2005), *lv. den.*, 4 N.Y.3d 854, 797 N.Y.S.2d 428 (2007); *People v. Gary*, 44 A.D.3d 416, 843 N.Y.S.2d 66 (1st Dep't 2007), *lv. den.*, 9 N.Y.3d 1006, 850 N.Y.S.2d 394 (2007).

vi. *People v. Rivera*, 45 N.Y.2d 989, 413 N.Y.S.2d 146 (1978).

vii. *People v. Harvey*, 309 A.D.2d 713, 766 N.Y.S.2d 194 (1st Dep't 2004), *lv. den.*, 1 N.Y.3d 573, 775 N.Y.S.2d 790 (2004); *People v. Byfield*, 15 A.D.3d 262, 790 N.Y.S.2d 434 (1st Dep't 2005), *lv. den.*, 4 N.Y.3d 884, 798 N.Y.S.2d 729 (2005) ("The court properly exercised its discretion in permitting the People to cross-examine a defense witness as to whether she was the source of certain information contained in defendant's alibi notice, as well as in receiving the alibi notice as an informal judicial admission that was contrary to defendant's position at trial").

viii. *People v. Moya*, 11 A.D.3d 212, 782 N.Y.S.2d 257 (1st Dep't 2004), *lv. den.*, 4 N.Y.3d 766, 792 N.Y.S.2d 10 (2005) ("An attorney's statement at arraignment, relaying information supplied by the defendant and offered for the purpose of obtaining favorable rulings on matters such as bail" held admissible).

ix. *People v. Mahone*, 206 A.D.2d 263, 614 N.Y.S.2d 409 (1st Dep't 1994), *lv. den.*, 84 N.Y.2d 869, 618 N.Y.S.2d 15 (1994); *People v. Johnson*, 46 A.D.3d 276, 847 N.Y.S.2d 74 (1st Dep't 2007).

x. *People v. Brown*, 98 N.Y.2d 226, 746 N.Y.S.2d 422 (2002).

xi. *People v. Velasco*, 77 N.Y.2d 469 (1991).

xii. §310.30 *Jury deliberation; request for information* At any time during its deliberation, the jury may request the court for further instruction or information with respect to the law, with respect to the content or substance of any trial evidence, or with respect to any other matter pertinent to the jury's consideration of the case. Upon such a request, the court must direct that the jury be returned to the courtroom and, after notice to both the people and counsel for the defendant, and in the presence of the defendant, must give such requested information or instruction as the court deems proper. With the consent of the parties and upon the request of the jury for further instruction with respect to a statute, the court may also give to the jury copies of the text of any statute which, in its discretion, the court deems proper.

xiii. *People v. Johnson*, 241 A.D.2d 954, 955 (1997) ("The People concede that there was no explicit proof offered at trial indicating that defendant was wearing sneakers. The admission by defendant's attorney in his opening statement does not constitute evidence, nor does it relieve the People of their burden of proof").

xiv. *People v. Roche*, 98 N.Y.2d 70, 78 (2002) ("[W]e note that the People's closing argument does not provide an evidentiary basis for [the requested charge]. As cogently stated by the dissenting Justice at the Appellate Division, statements in a summation are not evidence and may not supply proof supporting a charge request").

xv. *People v. Rojas*, 97 N.Y.2d 32 (2001).

xvi. *People v. Thompson*, 81 A.D.3d 670 (2d Dep't 2011), *aff'd*, 22 N.Y.3d 687 (2014).

xvii. *People v. Moya*, 11 A.D.3d 212 (1st Dep't 2004) ("[T]he court properly received statements that defendant Moya's original counsel had made at arraignment as prior inconsistent statements by Moya affecting his credibility."); *People v. Kallamni*, 14 A.D.3d 316 (1st Dep't 2005) ("The court properly permitted the People to introduce statements defendant's former counsel made at defendant's arraignment. These statements, which contradicted defendant's trial testimony, were properly admitted as vicarious admissions. It is clear from the phrasing of the attorney's statements and all the surrounding circumstances that defendant was the source of the information.")

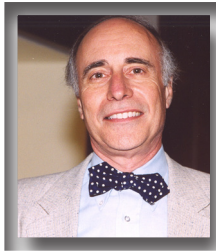
# All Work and No Play

Anthony J. Gigliotti, Esq. | Principal Counsel | Fifth Judicial District Attorney Grievance Committee

Years ago I attended a lecture by Robert Fulghum about his book, *All I really Need to Know I Learned in Kindergarten*. Like all proverbs, Fulghum's thesis may be taken as an oversimplification of useful truths. Here is another: "all work and no play, makes Jack a dull boy." An updated version should also include the risk of Jill becoming a dull girl. Accept, if you will, the word dull to include depressed. Anecdotally, I have observed in those who commit serious ethical breaches, an increase of lawyers impaired by depression brought on by constant stress. Why does this happen? How can it be combatted?

The college and law school admission process rewards students with diverse interests and achievements. Conversely, the demands of law school curriculums and legal careers leave fewer hours for pursuit of such diversity. How then can we regain the balanced lives we once touted to admission committees? A lawyer-mentor to many young attorneys once advised me to budget some time each week for an activity unrelated to my daily law practice. I soon discovered that it works!

Witness the example of our lawyer-colleague Judith LaManna, a former prosecutor, with an active practice as a labor arbitrator. Many years ago Judith began budgeting her free time to collect oral histories from residents of the Village of Solvay, her childhood home. Applying her professional writing skills Judith created and published a three volume compendium of Solvay Stories, the profits from which benefit the Solvay Public Library. Judith is awaiting the imminent publication of her second novel, *Saint Carmella's Grotto*, which she recently shared with me. The story is set in an early 20th century, multi-ethnic village like that to which many of our grandparents immigrated. The reader is introduced to intriguing local residents, including the town witch, and her daughter, who employ their mystical powers to combat an evil presence that plagues their evolving community. The story, which



exposes the best and worst of human behaviors, is engagingly authored from lawyer-LaManna's non-judgmental perspective. *Saint Carmella's Grotto* is a great read and a lovely example of what else a lawyer can do with her time.

You may not be, or want to be, an author. Perhaps you can budget time to do pro bono work, physical exercise, music, art, or whatever else you might enjoy.

In kindergarten, did we not all get play time?

*Welcome to a small village in central New York, in the early 1900s. Read a tale – inspired*

## Saint Carmella's Grotto



*by true stories collected by the author – of intrigue and mystique, of local history and world events, of boys taken into dark places and women saying special prayers in the Grotto of Saint Carmella's Church to have long wished-for children.*

*LaManna Rivette has not traveled far from her Solvay roots, from a place where a Witch Woman once lived, to tell the story of another Witch Woman and her daughter who also settle at the outskirts of the village, who predict an evil to come, and*

*who use their healing powers for the local immigrant community, to offer cures and to remove of the Evil Eye (the malocchio). It is appropriate that Saint Carmella's Grotto will be released on August 21, in conjunction with the first day of the New York State Fair.*



## 2014 OCBA BOARD OF DIRECTORS

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# Northern District Case Notes



Mike Langan, Law Clerk to Hon. Glenn T. Suddaby, USDJ

## Attorneys' Fees

**Dotson v. City of Syracuse**, 04-CV-1388(NAM) (4/30/14) – action asserting claims of employment discrimination; following award of verdict in plaintiff's favor after two-day jury trial, granting plaintiff's motion for attorneys' and costs in amount of \$24,852.06, based on hourly rate of \$250.00 for experienced attorneys, hourly rate of \$80 for paralegals, and half those rates for travel.

## Breach of Contract

**Warren W. Fane, Inc. v. Tri-State Diesel, Inc.**, 12-CV-1903(TJM) (5/7/14) – action by excavating and hauling company against truck dealer, truck manufacturer and engine manufacturer, alleging that defendants manufactured and delivered ten tractors that failed to perform as promised, asserting claims of breach of express/implied warranty, and breach of contract; granting all three defendants' motions for summary judgment.

**Xiotech Corp. v. Express Data Products Corp.**, 13-CV-0861(MAD) (4/3/14) – action by supplier of computer data storage equipment against two corporate retail resellers of the equipment and resellers' CEO, asserting claims of breach of contract, fraud, and unjust enrichment; granting supplier's motion for summary judgment; granting CEO's motion to dismiss for failure to state a claim; and granting in part, and denying in part, resellers' motion to dismiss for failure to state a claim.

**Hoover v. HSBC Mortg. Corp.**, 13-CV-0149(MAD) (3/27/14) – putative class action by mortgagors against mortgagee, insurance provider, and affiliated entities, asserting claims of breach of contract, unjust enrichment, breach of fiduciary duty, aiding and abetting such breach, conversion, and violation of state Deceptive Practices Act, arising out of alleged scheme to generate fees and income for defendants by requiring mortgagors to purchase flood insurance for amounts and time periods not required under loan agreements and applicable law; granting in part, and denying in part, defendants' motions to dismiss for failure to state a claim.

## Civil Rights

**Mues v. Town of Denning**, 12-CV-0241(MAD) (6/2/14) – action by Town Recycling Manager against municipality and officials, asserting claims of retaliation under First Amendment, arising from town's decision to redefine plaintiff's position as appointed one more than two months after he sent political email message to 32 recipients, and then decision to replace him approximately two months later; granting in part defendants' motion for summary judgment based on (1) doctrine of legislative immunity and (2) adverse-action element of retaliation claim; and otherwise denying motion.

**Mudge v. Zugalla**, 13-CV-0891(DNH) (6/2/14) – action by former employee of school athletic department against State Department of Education, state investigator, two local school districts and officials, asserting procedural-due-process claim, substantive-due-process claim and stigma-plus claim, arising out of actions following investigation into allegations that plaintiff had engaged in sexual intercourse with two former students approximately twenty years ago; granting in part, defendants' motions to dismiss, plaintiff's claims against State Department of Education and two local school districts, and his substantive-due-process claim; and otherwise denying motions.

## Discovery

**Rensselaer Polytechnic Inst. v. Apple Inc.**, 13-CV-0633(DEP) (5/8/14) – action for infringement of patent through implementation of Siri, the personal assistant available on various Apple devices, and specifically Siri's natural language input processing functionality; denying plaintiffs' request for court intervention regarding seven distinct discovery-related issues through, inter alia, modification of existing protective order; but requiring Apple to certify that it has produced all Siri source code related to natural language processing functionality for inspection by plaintiffs.

## Labor and Employment – Employment Discrimination

**Harris v. New York State Dep't of Corr. Servs.**, 11-CV-1066(GLS) (6/5/14)

– action by trustee of bankruptcy estate of former prison librarian against Department of Corrections and officials, asserting gender-based claims of hostile work environment and retaliation under Title VII; granting defendants' motions for summary judgment based on plaintiff's failure to adduce record evidence establishing that (1) allegedly discriminatory conduct was motivated by gender, and (2) she was engaging in protected activity when she complained to supervisors concerning simple employment disputes (rather than gender-motivated conduct by others).

**Alex v. Gen. Elec. Co.**, 12-CV-1021(GTS) (6/4/14) – action by female African-American steam turbine inspector against company and hourly and management employees, arising out of disputes with co-workers regarding, inter alia, President Obama and gun-ownership issues, asserting claims of sexual harassment, race discrimination, retaliation, and creation of hostile work environment under Title VII, 42 U.S.C. § 1981, and N.Y.S. Exec. Law § 296; granting in part, and denying in part, motion for reconsideration of decision that had granted in part, and denied in part, defendants' motions for summary judgment.

**Bowman v. CSX Transp., Inc.**, 12-CV-0306(GLS) (5/22/14) – action by former railroad employee, who submitted application for short term disability benefits around time of his termination for unacceptable performance and insubordinate behavior, claiming that former employer interfered with his right to leave and retaliated against him in violation of Family and Medical Leave Act; granting defendant's motion for summary judgment based on plaintiff's failure to show either causation or pretext.

## Labor and Employment – ERISA

**UFCW Local One Pension Fund v. Enivel Props., LLC**, 11-CV-1144(GTS)

*Continued on page 12*

## APPEALS

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# Onondaga County Bar Foundation

## ANNUAL 50-YEAR LUNCHEON

Thursday • September 11, 2014

Drumlins Country Club

800 Nottingham Road, Syracuse, NY 13224

11:45 am Registration/Cash Bar • 12:15 Lunch

### 2014 HONOREES

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(If you know of any other attorneys who will be celebrating their 50th year in the practice of law,  
please call the Bar Office so we may add them to the list.)

\$30 per person (made payable to the Onondaga County Bar Foundation) • Tables of 10 available for \$300  
To register for this special event, please complete the following form

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Number Attending: \_\_\_\_\_ Select Entree: \_\_\_\_\_ Chicken Breast Milanaise or \_\_\_\_\_ Vegetable Lasagna

Please accept my additional donation in honor of the Class of 1964 in the amount of \$ \_\_\_\_\_

Please return this flyer with payment to:

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We will also accept reservations online at [www.onbar.org](http://www.onbar.org) | by phone: **579-2582** | via e-mail: [pwalker@onbar.org](mailto:pwalker@onbar.org)

Registration deadline is **Monday, Sept. 8, 2014**. Ticket sales at the door will be limited.



# Trial Lawyers & Young Lawyers Kickoff



More than 80 OCBA members enjoyed a late-afternoon summer reception on July 17 to launch the new OCBA Trial Lawyers Section and the newly energized Young Lawyers Section. Benjamins on Franklin, in downtown's Armory Square, provided the backdrop for the reception which was graciously sponsored by **Paramount Settlement Planning, LLC** and **Precision Resolution**.

Attendees enjoyed this informal, "no speeches" opportunity to network, to visit with peers away from the office and courtroom, and to have the opportunity to chat with one of the many judges who were also in attendance. Special thanks to OCBA Board of Directors member Judge James P. Murphy who is helping to get the Trial Lawyers section off the ground and who recruited Section co-chairs Maureen Maney and Aaron Ryder. Young Lawyers Section co-chairs Michelle Billington and Eamon Kelleher also worked to spread the word to ensure a large group for this inaugural event.

Plans are already under way for continued, regular networking receptions – watch your Bar Reporter and emails for details of our next gathering in the fall.





# New York Civil Practice Update

Thomas E. Myers, Esq. | Bond Schoeneck & King

The Chief Administrative Judge has promulgated four amendments to the Rules of Practice for the Commercial Division of Supreme Court, all effective September 2, 2014.

The first amendment increases the monetary threshold for commercial cases in Onondaga County to \$50,000, which matches the threshold for Albany County and Monroe County. The monetary threshold for New York County is \$500,000; other counties with Commercial Divisions have thresholds between \$50,000 and \$500,000.

**See 22 NYCRR § 202.70(a).**

The second amendment allows any party to seek assignment of a case to the Commercial Division within 90 days after service of a Complaint, by filing an RJI with the required Commercial Division RJI Addendum. See 22 NYCRR § 202.70(d). Failure to file an RJI and Commercial Division RJI Addendum within this 90 day time period precludes a party from seeking assignment of the case to the Commercial



Division, except for a discretionary transfer upon “good cause shown for the delay” by letter application to the Administrative Judge and opposing counsel. **See 22 NYCRR § 202.70(e).**

The third amendment creates Rule 11-b containing procedures for preparation and use of privilege logs. Among other details, this new rule sets forth a preference for use of “categorical designations” of documents, rather than a “document-by-document” approach. Where the requesting party refuses to permit a “categorical approach”, the new rule allows the producing party to apply to the court for an “allocation of costs, including attorneys’ fees, incurred with respect to preparing the document-by-document log.”

**See 22 NYCRR § 202.70(g).**

The fourth amendment adds to the topics for preliminary consultation by counsel for all parties: “voluntary and informal exchange of information that the parties agree would help aid early settlement.”

**See 22 NYCRR § 202.70(g).**



BOUSQUET HOLSTEIN PLLC

## BUSINESS | TRANSACTIONAL TAX ATTORNEY

Bousquet Holstein PLLC, a mid-sized law firm located in Syracuse, NY with a variety of local, regional, national, and international clients, is seeking to hire an attorney with at least four years’ experience in the areas of business transactions, acquisitions and mergers, and corporate planning. Experience with corporate taxation (C Corp and S Corp) and familiarity with basic financial and economic concepts would be desirable. Experience with private placements and venture capital transactions would be helpful.

Inquiries will be kept confidential and should be submitted via email to

**[excellence@bhlawpllc.com](mailto:excellence@bhlawpllc.com)**

or.:

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Suite 900, 110 West Fayette Street  
Syracuse, NY 13202**

## The University Building

**Attorney Office Space Available!** The University Building which is located at **120 E. Washington St.** currently has office spaces available ranging from **410sq.ft. to 4,000sq.ft.** We offer leasing **incentives**, on-site management, furnished office suites with **hardwood floors and historic finishes.** Building is conveniently located in the **Central Business District.**



## ASSOCIATE JUDGE ROBERT S. SMITH TO RETIRE Nominations Sought to Fill Seat

The New York State Commission on Judicial Nomination ("the Commission") announced that it is seeking recommendations and applications of persons who may be qualified to serve as an Associate Judge of the State's highest Court, the Court of Appeals of the State of New York. On January 1, 2015, a vacancy will exist on the Court due to Associate Judge Robert S. Smith's mandatory retirement by reason of age. Under the Constitution of the State of New York, Judges of the Court must retire at the end of the year in which they turn seventy.

Candidates for Judge Smith's vacancy may download an application from the Commission's website ([www.nysegov.com/cjn](http://www.nysegov.com/cjn)) or contact the Commission's Counsel, Henry M. Greenberg, c/o Greenberg Traurig, LLP, 54 State Street, 6th Floor, Albany, New York 12208 [Tel.: (518) 689-1492; e-mail: [greenbergh@gtlaw.com](mailto:greenbergh@gtlaw.com) or Fax: (518) 689-1499].

Applications may be filed electronically by e-mailing them to [CJN\\_Applications@gtlaw.com](mailto:CJN_Applications@gtlaw.com) or submitted by mail to the Commission's Counsel. Applications must be submitted to the Commission no later than September 15, 2014.

In addition to Judge Smith's vacancy, there are three scheduled vacancies arising at the Court of Appeals over the next few years. Candidates will also have the option to request that their applications be considered by the Commission for such future vacancies. Moreover, candidates who currently have pending applications for the upcoming vacancy on the Court of Appeals that will occur as of November 29, 2014, due to the expiration of the term of office of Senior Associate Judge Victoria A. Graffeo, may be considered in connection with the vacancy created by Judge Smith's mandatory retirement and do not need to submit a new application, if they indicate to the Commission that they want to be so considered.

The Commission was created by Article 6, § 2 of the New York State Constitution. Consistent with its mandate, the Commission is entrusted with responsibility for evaluating, and then

recommending to the Governor, candidates to fill vacancies on the Court of Appeals. The Commission vigorously seeks out, carefully evaluates and then nominates to the Governor three to seven well-qualified candidates from the extraordinary, diverse community of lawyers admitted to practice in New York State for at least ten years. The Governor's appointment is subject to confirmation by the New York State Senate.

As part of the Commission's process of identifying and nominating potential candidates, it will conduct an informational meeting to discuss the requirements for the position and the Commission's procedures and rules for submitting recommendations for qualified candidates. The meeting will be open to the public, and all are encouraged to attend and express their views (orally or in writing) about community needs, the general qualifications for judicial office, and the nominating process. The Commission will shortly circulate further information regarding this meeting.

To fill past judicial vacancies on the Court, the Commission has nominated to the Governor a wide variety of lawyers, including private practitioners, public interests attorneys, law professors, government officials and sitting Federal and State judges. While prospective candidates must file an application with the Commission, recommendations may be made by anyone who believes that a prospective candidate could be an excellent Judge of the Court. Recommendations of qualified candidates for a vacancy are encouraged and may be made to the Commission's Counsel.

If any person or organization wishes to receive copies of future Commission press releases, please provide an e-mail or mailing address to the Commission's Counsel. The Commission will register the address and make every effort to distribute future press releases in the designated manner. Persons interested in learning more about the Commission are encouraged to visit its website: [www.nysegov.com/cjn](http://www.nysegov.com/cjn).

# LEGAL BRIEFS BRIEFS BRIEFS LEGAL

## Southwick Joins Central New York Women's Bar Association Board

Karen S. Southwick, an Associate with Hiscock & Barclay, LLP has joined the board of the Central New York Women's Bar Association.

Southwick's practice focuses on commercial litigation and white collar defense. A graduate of Syracuse University College of Law and Ursinus College, Southwick is admitted to practice in New York, New Jersey, Pennsylvania and numerous federal courts.

The CNY Women's Bar Association was founded in 1977 and has the mission of promoting justice for all, to advance the social, economic and legal status of women through the law and to expand opportunities for women to raise the level of competence and integrity in the legal profession.



## The Estate of Betty J. LaFramboise

We are currently searching for the original Last Will & Testament (if she had one) of Betty J. LaFramboise. Ms. LaFramboise died on May 23, 2014. She was a resident of Baldwinsville, where she lived for a number of years. Prior to living in Baldwinsville, she was a resident of Dexter, New York (Jefferson County).

**Jeffrey J. Pack, Esq. Davies Law Firm, P.C.**  
210 East Fayette Street, 7th Floor  
Syracuse, NY 13202 (315) 472-6511

## US District Court, Northern District of New York – Vacancy Announcement Term Law Clerk

Seeking judicial law clerks for a new judicial appointee to provide legal support to the judge by conducting legal research and preparing legal documents, such as orders, memoranda, and draft opinions, on both civil and criminal cases.

It is a full time position; Grade 11 (\$57,982) - Grade 14 (\$126,949) Duties: Reviews legal submissions, performs legal research, prepares bench memoranda, and drafts orders and opinions addressing a wide assortment of issues arising in civil and criminal litigation. Performs case management through the Case Management/Electronic Case Filing (CM/ECF) system. Performs administrative office functions such as editing, proofreading, telephone communications, written correspondence, and scheduling. A law clerk works cooperatively with other members of the judge's staff in order to effectively support the judge in fulfilling his or her judicial responsibilities. Send cover letter, resume and writing sample on or before August 8, 2014 to:

**United States District Court**  
PO Box 7367  
Syracuse, NY 13261 Attn: Human Resources  
315-234-8549 (fax)  
or via e-mail to [Law\\_Clerk\\_Syr@nynd.uscourts.gov](mailto:Law_Clerk_Syr@nynd.uscourts.gov)  
For complete details visit: [www.onbar.org](http://www.onbar.org)

## Bousquet Holstein Elects Sharon A. McAuliffe To Board Of Managers

Bousquet Holstein PLLC is pleased to announce that Sharon A. McAuliffe has been elected by the members to serve on the firm's Board of Managers.

Sharon joined the firm in 1993 and is the Chair of the ERISA / Employee Benefits Practice Group. Sharon also provides legal counsel to clients in Trusts and Estates matters. She is a visiting lecturer on Pension and Employee Benefits Law at the Syracuse University College of Law. Prior to obtaining her law degree, Sharon was the Director of Employee Benefits for Green & Seifter, Certified Public Accountants, PLLC, providing third party recordkeeping to employee welfare and retirement plans.

Sharon is a graduate of Syracuse University College of Law, Maxwell School of Syracuse University, and the University of Notre Dame. She serves on the Board of Trustees at St. Joseph's Hospital and is past Chair of the Board of Trustees of Loretto.



## Looking For Your Client's Abstract Of Title ?

Salina Abstract and Title Agency, Inc. has possession of the abstract collections for the following Companies:

- Eljay Abstract Company, Inc.
- K.P. Abstract Company, Inc.
- Pentagon Abstract and Title Agency, Inc.
- Armory Title Agency, Inc.
- Onondaga Title Services, Inc. \*\*

\*\*not affiliated with Onondaga Abstract, Inc.

Call: 315-478-3521 or Email: [Office@satainfo.com](mailto:Office@satainfo.com)

## FROM THE EDITORIAL BOARD

To advertise in the Bar Reporter, call the Onondaga County Bar Association at 315.579.2578.

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).

*John A. Cirando, Editor Emeritus*  
Editorial Board Members:

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Anne Burak Dotzler	Chele Stirpe
Karen M. Hawkins	Jeffrey A. Unaitis
Joseph E. Lamendola	James M. Williams



# View From an OnVLP Summer Intern

Kris Warner | Syracuse University College of Law

On a Wednesday morning in mid-June, I experienced the most fear I have ever felt in my entire life. This day marked the first time I would be putting my Student Practice Order to use and I was terrified. I am not what you would call a strong public speaker, and felt dizzy at the prospect of walking up to the bench and speaking on behalf of my client to the Judge. This took place in Syracuse City Landlord/Tenant Court and I was representing a tenant who just wanted to yell at her landlord in front of the Judge, with a landlord who "didn't like lawyers, especially lady-lawyers."

It wasn't so much getting my feet wet as diving headfirst into the deep end. However, much to my surprise, I felt my confidence building as I started talking and by the end of it, I couldn't wait to do it again. I have since represented over a dozen people and it has been one of my favorite aspects of my summer internship at the Volunteer Lawyers Project of Onondaga County, Inc.

Prior to applying to VLP, I was unsure as to what I wanted to do for the summer after my 1L year. A fellow Pro Bono Advisory Board member told me how great her experience was the previous summer at VLP and how much practical experience she received so I decided to submit my resume. I am so glad I did because I got to work with phenomenal people like Sally Curran, Deb O'Shea, Samantha Aguam and Mary John, all of whose tireless efforts never ceased to amaze me.

I also was exposed to many fields of law that were completely new to me. In addition to providing eviction defense in both Syracuse City Landlord/Tenant Court and East Syracuse Justice Court, I have also:

- Learned how to do an uncontested divorce from beginning to end in the Pro Se Divorce Clinic; done petitions and modifications for child support, custody, visitation, and paternity in the Family Court Clinic
- Drafted a will, a living will, a health care proxy, and a power of attorney in Surrogate's Court Clinic as well as learning about 17-A Guardianships and other trusts & estates issues
- Participated in an Immigration Clinic
- Completed the documents for Name Change Orders for low-income transgender clients
- Performed legal research on topics ranging from Grandparents' Rights with regard to custody and visitation to constructive trusts and quantum meruit theory recovery of real property in a cohabitation situation.



I have met and interacted with so many wonderful volunteer lawyers this summer that I couldn't even begin to name them all. It has truly been a fantastic experience here at the Volunteer Lawyers Project and I look forward to continue helping out here throughout my law school career and hopefully into my professional career as well. I encourage any and all to donate their time to this organization -- it is appreciated more than you will ever know.

## Real Property Tax and Condemnation Litigation Associate

Hiscock & Barclay, LLP, a full service 210-attorney lawyer firm, with 30 practice offerings and ten offices throughout New York State and the Northeast, is seeking a litigation Associate for its Syracuse or Albany office in the Real Property Tax and Condemnation Practice Group to support its expanding regional and national representation of energy companies, utilities, manufacturers, State governments and commercial real estate companies. The Associate should have practiced for 5-7 years. Prior experience in commercial and/or complex tort litigation will be highly regarded as will experience in the energy sector.

Candidate must be licensed to practice in the state of New York; have superior verbal, written and interpersonal skills as well as have demonstrated abilities to work directly with clients and develop and execute service strategies.

Qualified applicants should submit a cover letter, resume, writing sample and law school transcripts in confidence to:

**Qualified applicants should submit a cover letter, resume, writing sample and law school transcripts in confidence to:**

Recruitment Coordinator  
Hiscock & Barclay, LLP  
One Park Place, 300 South State Street  
Syracuse, NY 13202

### Contact:

Phone: 315.425.2721 | Fax: 315.425.8542

Email: [jobs@hblaw.com](mailto:jobs@hblaw.com)

Location(s): Syracuse or Albany

Hiscock & Barclay is an Equal Opportunity Employer. EEO M/F/V/H

**HISCOCK & BARCLAY<sup>LLP</sup>**

[www.hblaw.com](http://www.hblaw.com)

## DID YOU KNOW ...

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 email [pwalker@onbar.org](mailto:pwalker@onbar.org)**

## Northern District Case Notes

... from page 5

(6/16/14) – action to recover withdrawal liability assessment under ERISA, presenting issue of whether defendant was a “trade or business” under the Multiemployer Pension Plan Amendments Act of 1980; following bench trial, entering judgment in favor of defendant.

**Bohl v. Constr. and Gen. Laborers Local Union 190**, 11-CV-0699(GTS) (3/31/14) – action by former employee against labor union and pension fund for wrongful denial of early-retirement pension benefits in violation of ERISA; granting defendants’ motion for summary judgment because, based on record evidence, it was undisputed that plaintiff failed to exhaust the Plan’s administrative remedies before filing suit in that (a) he failed to complete pension application, and/or failed to file appeal from any denial of such application, and (b) exhaustion requirement was not excused by either futility or ignorance of administrative procedure.

**Bohl v. Constr. and Gen. Laborers Local Union 190**, 11-CV-0699(GTS) (3/31/14) – action by former employee against labor union and pension fund for wrongful denial of early-retirement pension benefits in violation of ERISA; granting defendants’ motion for summary judgment because, based on record evidence, it was undisputed that plaintiff failed to exhaust the Plan’s administrative remedies before filing suit in that (a) he failed to complete pension application, and/or failed to file appeal from any denial of such application, and (b) exhaustion requirement was not excused by either futility or ignorance of administrative procedure.

### Labor and Employment – Fair Labor Standards Act

**Amash v. Home Depot U.S.A., Inc.**, 12-CV-0837(TJM) (6/3/14) – action by former-Merchandising Assistant Store Manager against retail store chain, asserting claims for unpaid overtime under FLSA; granting defendant’s motion for summary judgment because, based on record evidence, a rational fact finder could conclude only that plaintiff’s primary duty was management of the enterprise in which he was employed, under 29 C.F.R. § 541.100(a).

### Libel/Defamation

**Fine v. ESPN, Inc.**, 12-CV-0836(LEK) (3/31/14) – libel action by wife of

former assistant college basketball coach against sports media company and two of its employees, alleging defendants defamed her in two articles and accompanying video that described allegations that she and her husband sexually abused underage boys in their care; denying defendants’ motion for judgment on pleadings due to inability to consider certain materials upon which motion is based.

### Personal Injury

**Ginsburg v. City of Ithaca**, 11-CV-1374(DNH) (3/24/14) – action by father of university student, who committed suicide by jumping from city-owned bridge, against city and university, alleging their negligence caused student’s wrongful death; granting in part, and denying in part, defendants’ motions for summary judgment.

### Removal/Remand

**City of Schenectady v. Am. Tax Funding, LLC**, 12-CV-1026(MAD) (7/2/14) – action for foreclosure of certain tax liens; granting plaintiff’s motion to remand based on lack of diversity jurisdiction due to existence of a defendant that is a New York State resident, regardless of when that defendant was served.

**Gaffney ex rel. Molloy v. Animas Corp.**, 13-CV-1359(LEK) (5/20/14) – action for products liability; denying plaintiff’s motion to remand, rejecting plaintiff’s arguments that (1) Johnson & Johnson Services, Inc., is headquartered in New York City merely because it maintains two offices there, and (2) a parent corporation necessarily imputes its principal place of business to its subsidiaries for diversity jurisdiction purposes.

**Peracchio v. Nat’l Sports Acad.**, 14-CV-0005(MAD) (5/2/14) – action to recover sum owed on promissory note; denying plaintiff’s motion to remand, finding that provision stating that defendant “irrevocably consents to the jurisdiction of the courts of the State of New York and of any federal court located in such state in connection with any action or proceeding arising out of or relating to this Note” does not clearly give plaintiff exclusive right to select any forum to litigate and does not clearly constitute waiver of defendant’s right of removal.



**CENTRAL NEW YORK  
WOMEN’S BAR ASSOCIATION**  
A CHAPTER OF THE WOMEN’S BAR ASSOCIATION OF THE STATE OF NEW YORK  
P.O. Box 408, SYRACUSE, NY 13201-0408



*Please Save the Date*

## 33<sup>RD</sup> ANNUAL JUDICIAL RECEPTION

Wednesday, September 17, 2014 | 5:30 p.m. - 7:30 p.m.  
Upstairs at Dinosaur Bar-B-Que

Please plan to join the Central New York Women’s Bar Association  
to meet the judicial candidates and honor the judiciary

*Formal Invitations to Follow*

Please direct all inquiries to Samantha Millier at [smillier@mackenziehughes.com](mailto:smillier@mackenziehughes.com)





# Oneida County Bar Association End of Summer Golf Outing

**Friday, September 12, 2014**  
**Stonebridge Golf and Country Club**  
**2430 Graffenburg Road, New Hartford**  
**Captain and Crew**

**PLEASE SUBMIT  
REGISTRATION  
FORM AND CHECK  
NO LATER THAN  
SEPTEMBER 1, 2014**

*Chairman: George C. Murad, Esq.*

<b>TIME:</b>	1:00 p.m. – Shot Gun Tee Time for those desiring to play 18 holes 2:30 p.m. – Tee Time for those desiring to play 9 holes	<b>CARTS INCLUDED</b>
<b>LUNCH:</b>	12:00 noon - 1:00 p.m. Hot Dogs, Burgers, Macaroni Salad available at the Club House adjacent to 1st Tee	
<b>COCKTAILS:</b>	6:00 p.m.- 8:00 p.m. – Two Hour Open Bar	
<b>DINNER:</b>	7:00 p.m.	
<b>MENU:</b>	Dinner Buffet – Carved Beef and Turkey, Baked Haddock, Pasta Station with Two Pastas, Antipasto Station, Stuffed Mushrooms, Cheese & Crackers, Pizza	
<b>PRIZES:</b>	Longest Drive, Closest to Pin, Raffles, 50/50 Drawing	

Send Check Payable to: Oneida County Bar Association 258 Genesee St., Suite 302, Utica, NY 13502

Name(s): \_\_\_\_\_ Phone #: \_\_\_\_\_

Number Attending: \_\_\_\_\_ 18 Holes of Golf x \$ 50.00 = \$ \_\_\_\_\_

Number Attending: \_\_\_\_\_ 18 Holes of Golf w/Dinner & Open Bar x \$110.00 = \$ \_\_\_\_\_

Number Attending: \_\_\_\_\_ 9 Holes of Golf x \$ 30.00 = \$ \_\_\_\_\_

Number Attending: \_\_\_\_\_ 9 Holes of Golf w/Dinner & Open Bar x \$ 90.00 = \$ \_\_\_\_\_

Number Attending: \_\_\_\_\_ Dinner With Open Bar x \$ 60.00 = \$ \_\_\_\_\_

**TOTAL ENCLOSED: \$ \_\_\_\_\_**

**NOT AVAILABLE  
FOR GOLF?**

**COME JOIN US  
FOR DINNER!**

*If you have a foursome, please advise of the names of your  
foursome with your registration. Please print:*

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# OCBA Paralegals Committee

Contributors | OCBA Paralegals Executive Committee

## Forthcoming Luncheon Programs

The Executive Committee plans to have a panel for our September luncheon. The panel is scheduled to discuss employment options for Paralegals in today's economy. Stay tuned for further information regarding this luncheon and the balance of the Fall line-up. Information regarding our speakers will be sent via email, Bar blasts, and can be found on the new OCBA website under the Paralegals Section. We plan to provide some interesting speakers this Fall. Enjoy your summer and we'll see you in September!

## Mark These Dates on Your Calendars!

Monthly Luncheon Meetings to be held at The Spaghetti Warehouse, 12:00-1:00PM on the following dates:

**September 11, 2014**

**October 9, 2014**

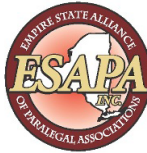
**November 13, 2014**

**December 11, 2014 (Holiday Luncheon)**

## HEAR YE! HEAR YE!! HEAR YE!!!

If you are a paralegal/law assistant or studying to be one, ESAPA should be of great interest to you!

The Empire State Alliance of Paralegal Associations (ESAPA) is an alliance of multiple New York State paralegal associations established in January 1988 for the purpose of bringing paralegals together statewide for networking and support as well as addressing issues that affect the paralegal profession. The OCBA Paralegals Committee was invited to become a member of ESAPA shortly after its inception.



ESAPA is pushing forward to establish statewide standards for the paralegal profession. What does that mean for you, the paralegal? Paralegals are held to a higher standard established by their years of experience and expanded knowledge increasing the need for recognition.

For decades, paralegals have been an integral part of the legal system, and for those that have been in the field for many years, their input, support and refined skills have been a valuable asset to say the least. Based on the paralegal profession, there has been a significant increase in the access to legal services received in our communities nationwide.

A coming together of a people with one purpose is a powerful voice. Join with your local Paralegal Committee today. DON'T DELAY! Join your voice with ours and we will be sure to be heard. Give your future a fighting chance.

To learn more about ESAPA visit our website at [www.empirestateparalegals.org](http://www.empirestateparalegals.org).

## Paralegal of the Month

The Executive Committee would like to institute a "Paralegal of the Month" program and is seeking nominations for selection beginning in September. Nominations for September should be directed to Kathrine Cook, EC Chair, by September 3rd at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com). Paralegals selected for this monthly program will be recognized on the Paralegals Section of the OCBA website, in the Paralegals Committee Bar Reporter articles and announced at the monthly luncheons. Each "Paralegal of the Month" will receive a free lunch at one of our luncheons.

## Looking for Ideas

What information would you like to see on the Paralegals Section

of the Onondaga County Bar Association's website? Please email Karen Hawkins at [khawkins@gilbertlaw.com](mailto:khawkins@gilbertlaw.com) with your suggestions. Thanks!

## The Executive Committee Could Use Your Help

The next Paralegals Executive Committee ("EC") meeting is scheduled for September 3, 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 at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com).

## Job Bank

Are you an employer with a job that needs to be filled? Our FREE Listserv can help! Just email Paralegals Committee Chair, Kathrine Cook, at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com) to have your job provided to OCBA Paralegal members. Members are added when dues are paid each year. Job openings are submitted to the Listserv and members receive notification via e-mail. Paralegals should contact Peggy Walker at the OCBA offices (471-2667) to confirm current membership or to join the OCBA. Employers and/or Paralegals can email Kathrine should they have any questions.



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Tully Rinckey PLLC, a successful, full-service law firm with offices throughout New York State seeks experienced attorneys for its Syracuse office. Our firm offers highly competitive compensation structures, unique cross-selling opportunities, as well as the support from an award-winning marketing department to grow and sustain your practice for years to come.

Qualified candidates should submit a cover letter, resume, and salary requirements to our Director of Recruitment Bethany Schneider: [bschneider@tullylegal.com](mailto:bschneider@tullylegal.com)

Please visit our career page at:

[www.tullylegal.com/careers/](http://www.tullylegal.com/careers/) to see all opportunities.

**507 Plum Street, Suite 103 | Syracuse, NY 13204**  
**Ph: (315) 492-4700 | Fax: (315) 238-5200**

## OnVLP Continues to Increase Number of Clients Assisted

OnVLP continues to experience an incredible growth in the number of clients to which the organization is able to provide volunteer legal services. In the quarter ending June 30, 2014, OnVLP's panel of volunteers was able to help more clients than ever before.

The greater number of clients served can be attributed to an increased number of attorneys assisting in Eviction Defense as well as expanded hours with increased volunteers in our Family Court Clinic and Surrogate's Court Clinic. This has been made possible by OnVLP's increase in staff number to administer the programs, and, for the first time ever, OnVLP has been able to bring in two

full-time law student interns for the whole summer, both of whom have been an incredible help with our programs.

VLP now has a panel of over 475 attorneys, judges, law students, and community members who volunteer their time to expand access to justice for low income community members in need.

Time Period	Clients Served
2014 Q2: April 1 – June 30	792 cases closed, benefiting 1,903 people
2014 Q1: Jan 1 – March 31	692 cases closed, benefiting 1,495 people
2013 Q4: Oct. 1 – Dec. 31	468 cases closed, benefiting 1,136 people
2013 Q3: July 1 – Sept 30	377 cases closed, benefiting 992 people

## BAR BOARDS:

### Real Estate Counsel Position Open

Privately held developer, owner and manager of retail shopping centers in the Northeast, based in Syracuse, New York, has an immediate opening for a Real Estate Attorney in its Legal Department.

Responsibilities include: Prepare and negotiate real property documents such as leases, licenses, easements and other similar documents with local, regional and national tenants. Interpret and provide legal analysis of legal documents, including leases and easements. Advise Real Estate Committee on legal issues and complex real property matters. Advise asset management staff on landlord/tenant issues. Perform legal research. Manage multiple priorities and deadlines. Qualified candidates must hold a J.D. degree, be admitted to practice law and have one (1) to three (3) years of legal experience. Experience in the area of commercial leasing and real estate law is helpful, but not required. Please forward your resume with salary requirements, in strict confidence, to: Email: [employment@pyramidmg.com](mailto:employment@pyramidmg.com) . An EOE Employer M/F/V/D

### General Counsel for Syracuse Regional Airport Authority (SRAA)

The Syracuse Regional Airport Authority (SRAA) is looking for a mid-career attorney to join its executive management team. As General Counsel, this position serves as an advisor to the SRAA Board, its Committees, and the Executive Director on a wide range of matters pertaining to the Authority's activities. Duties include legal research, preparing contracts and other legal documents, and negotiating on behalf of the Authority.

The Position requires a minimum of five years of the practice of law, preferably with at least two years of experience with municipal/public authority law. NYS bar admission is required. The salary is competitive and the benefit package excellent, including membership in the NYS Employee Retirement System.

Interested candidates should submit a cover letter and resume, no later than September 30, 2014, to Christina Callahan, Executive Director, SRAA, 1000 Col. Eileen Collins Blvd. Syracuse, New York 13212



# Continuing Legal Education

AT HELEN DRUCE EDUCATION CENTER | ROOM 1006

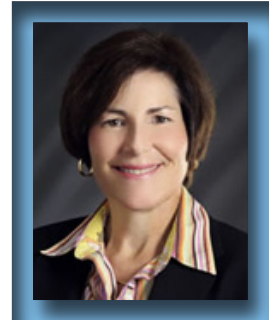
10th Floor | 109 South Warren Street | Syracuse, NY | 13202

## The NEW New York Estate Tax Laws WEDNESDAY AUGUST 20 | 12:00 to 1:00 pm

**MCLE 1.0** Professional Practice | Sign In: **11:45 am** | **Program: 12:00** to 1:00 pm

### MARION HANCOCK FISH ESQ. | Hancock Estabrook LLC

Marion Hancock Fish is a partner in the Elder Law & Special Needs, Tax, Trusts & Estates and Family Business Succession Planning Practices. She focuses her practice on representing clients in matters involving estate planning and administration, transfer-of-wealth tax issues, family business planning and succession, asset preservation, guardianships, charitable giving and not-for-profit law. Ms. Fish works with clients to develop comprehensive plans, and manages the implementation of these plans for effective and efficient estate and trust funding and administration, using a team approach to address all aspects of estate and tax planning, and administration.



### TOPICS INCLUDE:

- New York 2014-2015 Budget Bill
- New New York Estate Tax Rules
- Portability Rejected
- Gift Tax
- Other New York Transfer Tax Notes
- New York Rules on Trusts

**Total of 1.0 MCLE Credits** | Under NYS rules this **CLE** has been **APPROVED** for both *Newly admitted & experienced* attorneys



Please **DOWNLOAD** and complete this form and return to **OCBA** email: [cstirpe@onbar.org](mailto:cstirpe@onbar.org) | FAX: 315-471-0705

*I would like to attend:* ☐ The NEW New York Estate Tax Laws

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

Firm \_\_\_\_\_ Email \_\_\_\_\_

Address \_\_\_\_\_ Zip \_\_\_\_\_

☐ Check Enclosed

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

#### Fees:

- |   |       |
|---|-------|
| <input type="checkbox"/> Member                       | \$ 20 |
| <input type="checkbox"/> Paralegal Member             | \$ 15 |
| <input type="checkbox"/> Lifetime                     | \$ 0  |
| <input type="checkbox"/> Agency (Agency Pre-Approval) | \$ 0  |
| <input type="checkbox"/> Non-Member                   | \$ 30 |

CLE **Tuition** Waiver Policy available:

<http://www.onbar.org/cle/waiverpolcle.080408.pdf>

#### 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)



## SECTION UPDATE

The Young Lawyers Section held its third meeting on Thursday, July 24 at the OCBA offices. The Section was organized in June this year

and, together with the Trial Lawyers Section, held a highly successful kickoff reception at Benjamin's on Franklin on Thursday, July 17 (see photos on page 7). Attended by more than 80 members of the bar, including trial lawyers, young lawyers, and members of the bench, the event was so popular that another installment is planned for the fall, so stay tuned!

The Section also has two new programs open to all attorneys. First, the Section will provide a Technology Mentoring Program for attorneys interested in receiving one-on-one assistance in navigating new communication systems such as smart phone applications and online research databases. Those who would like to participate in the program can email [yls@onbar.org](mailto:yls@onbar.org) or call (315) 471-2667 (ask for Chele or Peggy) to be matched up with a member of the Section.

We are also organizing a Kickball Team, with games scheduled to begin in early September. The games will take place on Tuesday evenings at the Kickball Park in Liverpool, between 6:00 pm and 9:00 pm. Please email Michelle Billington at [mbillington@bsk.com](mailto:mbillington@bsk.com) or Éamon Kelleher at [kellehere@assembly.state.ny.us](mailto:kellehere@assembly.state.ny.us) by August 15 if you would like to join the team, or for any additional information. The Section will hold its next meeting on Thursday, August 28, from 12:00 pm to 1:00 pm at the OCBA offices, 109 So. Warren St., in the 10th floor Board Room.



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**CONTACT:** Michelle Parker [jobs@millermayer.com](mailto:jobs@millermayer.com)  
**EOE:** Y    **# OPENINGS:** Two (2)    **SALARY:** TBD

Join the Young Lawyers for

**A Night at the  
Ball Park!!**



Thursday | **August 21<sup>st</sup>**

Happy Hour with Light Appetizers courtesy of



Destiny USA | 5:00 - 7 pm | 3<sup>rd</sup> floor Canyon

**First 50 to register  
will receive Free Chiefs Ticket**

Game Time 7:00 PM | Family and Friends are welcome

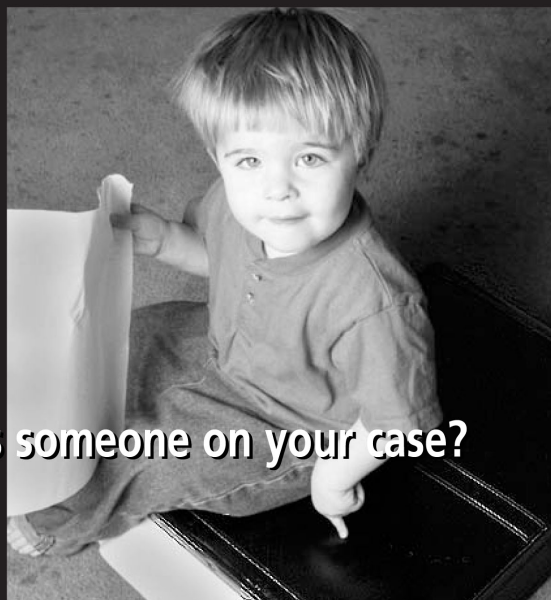
Don't forget it's **Dollar Thursday** at NBT Stadium

\$1 Beer | Hot Dog | Soda

To Register go to:

<http://www.onbar.org/events/young-lawyers-section-night-ballpark/>

Keep up with the Young Lawyers!  
Facebook: OCBA Young Lawyers Section  
Twitter: @OCBA\_YLS



Is someone on your case?

If you're trying to balance work and family, the New York State Bar Association's Lawyer Assistance Program can help. We understand the competition, constant stress and high expectations you face as a lawyer. Dealing with these demands and other issues can be overwhelming, which can lead to substance abuse and depression. NYSBA's Lawyer Assistance Program offers free, confidential support because sometimes the most difficult trials lie outside the court. All LAP services are confidential and protected under Section 499 of the Judiciary Law.



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1.800.255.0569 [lap@nysba.org](mailto:lap@nysba.org)

# LAST 13<sup>th</sup> CHANCE!! Annual Dan Mathews Golf Outing



**Thursday | August 14, 2014 | Pompey Club  
7200 Hamilton Road | Pompey NY 13138**

<b>11:30 am</b>	Registration & Lunch	<b>\$125</b>	Lunch, 18 holes, cart & Famous Steak Bake
<b>12:45 pm</b>	18 Hole <b>Shotgun Start</b>	<b>\$90</b>	New Attorneys
<b>5:30 pm</b>	<b>Dinner &amp; Prizes</b>	<b>\$40</b>	Famous Steak Bake only

Name \_\_\_\_\_ Firm \_\_\_\_\_

Address \_\_\_\_\_

Phone ( \_\_\_\_ ) \_\_\_\_\_ Email \_\_\_\_\_

## Players Names:

1. \_\_\_\_\_ 3. \_\_\_\_\_  
2. \_\_\_\_\_ 4. \_\_\_\_\_

## PLATINUM SPONSOR – \$1000

- Complimentary Foursome • Hole Sponsor (Tee & Green)
- Four Cart Sponsors • Recognition in Dinner Program & Website

## GOLD SPONSOR – \$600

- Steak Bake Dinner for Two • Hole Sponsor (Tee & Green)
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## HOLE SPONSOR – \$300 (Cart, Tee & Green)

## TEE SPONSOR – \$150

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| <input type="checkbox"/> Judges & Lawyers Division                      |   |
| <input type="checkbox"/> Mixed Division (Men & Women)                   |   |
| <input type="checkbox"/> Senior Division ( at least two are 60 or over) |   |
| <input type="checkbox"/> Platinum Sponsor                               | <input type="checkbox"/> Gold Sponsor     |
| <input type="checkbox"/> Foursome \$125/golfer                          | <input type="checkbox"/> Hole Sponsor     |
| <input type="checkbox"/> Steak Bake Only \$40                           | <input type="checkbox"/> Tee Sponsor      |

Total Due \$ \_\_\_\_\_ Total Enclosed \$ \_\_\_\_\_

To pay with Credit Card please contact

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