

ONONDAGA COUNTY BAR ASSOCIATION BAR REPORTER

VOLUME 60 NUMBER 3 | MARCH 2015

CNY Philanthropy Center | 431 East Fayette St. | Syracuse, NY 13202 | Phone: 315-471-2667

LAW DAY 2015 | LET FREEDOM RING 800 YEAR ANNIVERSARY OF THE MAGNA CARTA

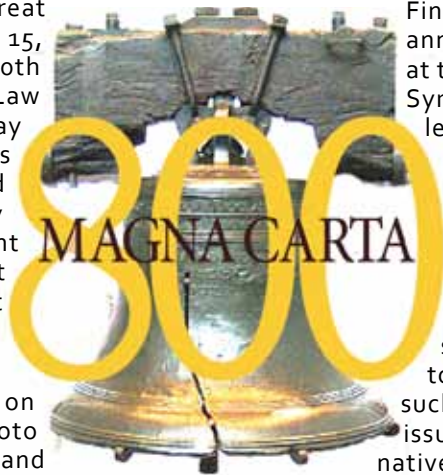
The Magna Carta Libertatum, the Great Charter of Liberties, signed on June 15, 1215, is about to reach a landmark 800th birthday! In honor of the occasion, Law Day 2015, to be celebrated locally on May 1, 2015, will be centered on the concepts embodied by the Charter. We invite and welcome the legal community to a day of contemplation regarding, commitment to, and celebration of the rule of law that has developed from that great moment in history, and the preservation of which is the daily work of our profession.

We will commence our celebration on Friday, May 1 with an 8:15 AM group photo of legal practitioners in our community and the members of the judiciary on the steps of the Onondaga County Courthouse. This photo will be available for purchase through the Onondaga Bar Association. As such, attendance at the group photo and outdoor ceremony is highly encouraged!

At 9:00 AM, bells will ring forth from the Cathedral of the Immaculate Conception and the doors atop the stairs to the Courthouse will open with greetings and opening comments by local politicians and legal practitioners. Weather willing, a ceremony presided over by Judge Edward D. Carni will occur followed by an acknowledgment of this year's Liberty Bell Award winner.

Please note that Law Day is not just for those who have chosen a legal vocation but also for those who are interested in learning more about the law and this noble profession. To address that interest, we have invited students from local high schools to participate in the morning ceremony as well as additional Law Day Events, including courthouse tours, and the Law Day luncheon.

At 10:00 a.m., tours of the Criminal Courts Building, Onondaga County and Federal Courthouses will be conducted by members of our legal community for local middle and high school students.



Finally, we will conclude the day with our annual Law Day luncheon to be held at noon at the new Sky Armory located in downtown Syracuse. Student work from the activities leading up to Law Day will be on display and the finalists from the student debate competition will impress us with their keen analysis and articulate point/counter-point leading to selection of a prevailing team.

This year's debate topic focuses on social media and a defendant's right to a fair trial based on juror exposure to such media prior to the trial. Hearing this issue debated by our youth who are digital natives and "netizens" of the world should be both informative and entertaining. Based on last year's assessment of the debate, if you want to witness oral advocacy of the finest order by the youth of our community, this is a not-to-be missed event.

We each have chosen our legal profession for personal and varied reasons.



Whatever the genesis of those vocational choices, individually and as a group we contribute to the maintenance and sustainability of the rule of law through our daily work on behalf of



others. Law Day is an opportunity to honor that work. It is your day – a celebration of the when, why and what you do for our profession, for our community and for the continuation of our precious liberties! We hope you will consider joining us! **Donald E. Budmen, Esq. and Joseph J. Bufano, Esq. are Co-Chairs of the Law Day Committee and are attorneys at Ferrara Fiorenza Larrison Barrett & Reitz, P.C.**

UPCOMING 2015 EVENTS:

- | | |
|---------------------------|----------------------|
| Annual Bridge the Gap CLE | Wednesday April 22 |
| Annual Law Day Luncheon | Friday May 1 |
| CPLR Update 2015 | Friday June 5 |

MISSION:

To maintain the honor and dignity of the profession of law, to cultivate social discourse among its members, and to increase its significance in promoting the due administration of Justice.



From the President:

Greetings,

It's been a month of travel. During the first part of March, Executive Director Jeff Unaitis, and I attended the 2015 American Bar Association Bar Leadership Institute in Chicago, IL. In addition to all the great things the city has to offer, it was a wonderful opportunity to learn the latest in bar association developments and meet bar leaders from all over. One of the more interesting topics of discussion was the increasing use of social media. We learned many bar associations throughout the country have created Facebook pages to provide an additional way to communicate with their members. I

am pleased to say the OCBA has joined the ranks and created our own Facebook page. Please take a moment and "Like" our page and see all the great information it provides. We also have plans to expand to other types of social media in the future and will provide updates along the way.

The travel continued last week when I attended the New York State Bar Association House of Delegates meeting in Albany. I am pleased to report that Claire E. Gutekunst was elected as President-Elect for the New York State Bar Association at the meeting. Ms. Gutekunst is only the seventh women to be elected in the bar association's history. Under the State Bar's bylaws, David Miranda becomes President. We wish Claire and David the best of luck in the upcoming year.

Also this past month, we hosted several teams from Onondaga County as they participated in the 2015 NYSBA Mock Trial Regional Competition. High school students prepared for months in hopes of being the winning team. In the end, Christian Brothers Academy won the final round! They will now go on to represent Onondaga County in the championship round later this month. We certainly wish the Brothers the best of luck!

In other news, our committees have been busy planning lots of exciting events. We have some great upcoming CLEs, including Bridge the Gap, where our guest speaker will be County Executive Joanie Mahoney. Additionally, Law Day is scheduled for May 1, 2015. Please remember to mark your calendar as it will prove to be an informative and exciting event you will not want to miss.

Regards,

Jean Marie

Jean Marie Westlake | OCBA *President*

jeanmarie@defranciscolaw.com

Telephone: (315) 479-9000

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Northern District Case Notes

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



Attorney's Fees

Seekamp v. It's Huge, Inc., 09-CV-0018(LEK) (12/18/14) – class action against Fuccillo Automotive Group asserting claims under Magnuson-Moss Warranty Act, Truth in Lending Act, New York General Business Law § 349, and New York State Insurance Law; approving award of attorney's fees in amount of \$750,000, pursuant to class settlement agreement entered into by parties in June of 2014, after finding amount reasonable under lodestar method, percentage-of-fund method, and weighing of factors set forth in *Goldberger v. Integrated Res., Inc.*, 209 F.3d 43 (2d Cir. 2000).

Bankruptcy

In re Calogero, 14-30070(MCR) (2/23/15) – adversary proceeding brought by credit union to except debt from discharge as one for money obtained by Chapter 7 debtor's materially false car loan application; issuing judgment for debtor, after finding that (1) credit union did not have to make attempt to verify accuracy of salary and employment information provided in debtor's signed loan application in order to reasonably rely on that information, (2) credit union failed to show that debtor had acted with intent to deceive in signing car loan application that materially overstated her income and described her as having managerial position at bank at which she worked when in fact she was merely a teller, and (3) debtor's conduct, in not reading typewritten loan application, was not sufficiently reckless to satisfy intent element of fraud-based dischargeability exception.

Civil Rights

Cent. New York Fair Bus. Ass'n. v. Jewell, 08-CV-0660(LEK) (3/26/15) – action by two non-profit corporations, three public officials and Native American against Department of Interior and three of its officials arising from Department's taking of more than 13,000 acres of land in Central New York into trust for benefit of Oneida Indian Nation of New York, asserting claims that Indian Reorganization Act of 1934 violates non-delegation doctrine as it applies to New York, that secretary's acquisition of the land violates Tenth Amendment, that acquisition interferes with civil rights of persons of Oneida Nation descent, and that acquisition racially discriminates against non-Oneida citizens of Madison and Oneida Counties; granting defendants' motion for summary judgment.

Labor and Employment – Employment Discrimination

Heiser v. Collorafi, 14-CV-0464(TJM) (3/9/15) – action by former employee of New York State Division of Homeland Security and Emergency Services alleging employment discrimination in violation of Title VII and New York State Human Rights Law, in form of sex-based hostile work environment and retaliation through decreased work hours and responsibilities after she complained about being subjected to sexual harassment; denying defendants' motion, under Fed. R. Civ. P. 12(b)(1) and 12(b)(6), to dismiss plaintiff's Title VII sex-based hostile work environment claim and New York State Human Rights Law sex-based hostile work environment and retaliation claims against individual defendants.

Rumsey v. Northeast Health, Inc., 12-CV-1534(BKS) (2/25/15) – action by employee at child day care center against her employer, alleging breach of contract and retaliation under Title VII and New York State Human Rights Law for her participation in coworker's pregnancy discrimination case; granting employer's motion for summary judgment, after finding that (1) employee did not show causal connection between her protected activity and discharge, as required to support prima facie case of retaliation, (2) there was no evidence that employer's proffered reasons for discharging employee were pretext for retaliation, and (3) employee handbook did not create

binding employment contract between employee and employer.

Seale v. Madison Cnty., 11-CV-0278(GTS) (2/17/15) – action by former community services aide at sheriff's office against sheriff and three county employees, asserting claims of gender-based hostile work environment under Title VII, gender-based hostile work environment under 42 U.S.C. § 1983, retaliation under Title VII, retaliation under the New York State Human Rights Law, and retaliation under the First Amendment; granting defendants' motion for summary judgment.

Labor and Employment – Insurance Benefits

New York State Corr. Officers & Police Benevolent Assoc., Inc. v. New York, 11-CV-1523(MAD) (3/20/15) – action alleging that state unilaterally increased percentage of contributions that plaintiffs, active and retired employees, are required to pay for health insurance benefits in retirement, thereby violating Contracts and Due Process Clauses of U.S. Constitution, and impairing plaintiffs' contractual rights under terms of Collective Bargaining Agreement; adopting magistrate judge's report-recommendation recommending that defendants' motion for judgment on the pleadings be denied.

Rail Transportation

JGB Props., LLC v. Ironwood, LLC, 14-CV-1542(GTS) (3/26/15) – action for declaratory and injunctive relief arising from state court action by defendants against plaintiff for unlawfully interfering with their railroad easement by inappropriately removing railroad tracks from that easement, which plaintiff claimed had been constructively abandoned by defendants; denying plaintiff's motion for preliminary injunction, and granting defendants' motion to dismiss, under Fed. R. Civ. P. 12(b)(1) and/or 12(b)(6), because of applicability of Rooker-Feldman doctrine, applicability of doctrine of collateral estoppel, and applicability of Younger abstention doctrine, and lack of exclusive jurisdiction of Interstate Commerce Commission Termination Act of 1995.

Cogan v. Nat. R.R. Passenger Corp., 12-CV-1090(GTS) (3/27/15) – action for personal injuries under Federal Employers' Liability Act, alleging that plaintiff was exposed to occupational risk factors for serious injuries, including injuries to his elbows and back, as a result of actions required during his employment including repetition, force, overweight baggage and awkward lifting positions; granting defendant's motion for summary judgment; and granting in part, and denying in part, defendant's supplemental motion for summary judgment

Removal / Remand

Cincinnati Ins. Co. v. Excelsior Ins. Co., 14-CV-0148(LEK) (1/6/15) – action for insurance coverage, removed to federal court based on diversity jurisdiction; granting plaintiffs' motion to remand action to state court on ground that removal was procedurally defective due to defendants' failure to obtain consent from their co-defendant, who was neither a nominal party nor a fraudulently joined party.

Voting Rights

IPope v. Cnty. of Albany, 11-CV-0736(LEK) (3/24/15) – action by seven minority voters against county and its board of elections challenging 2011 redistricting of Albany County Legislature under Section 2 of Voting Rights Act of 1965, alleging that Act requires creation of additional majority-minority district in County Legislature following population shifts reflected in 2010 Census; after eleven-day bench trial, entering judgment for plaintiffs on issue of vote dilution in violation of Section 2 of Act, and enjoining defendants from holding any further elections under 2011 redistricting plan.

CBA Wins 2015 Mock Trial Competition

After six grueling weeks of competition, the 12 members of the **Christian Brothers Academy** Mock Trial team were named winners of the OCBA-hosted competition at the final round held Wednesday, April 1 at the Onondaga County Court House.

NYS Supreme Court Justice Deborah H. Karalunas once again sat as Judge for this final round. The CBA team, which beat Cazenovia High School in the championship, will head to Norwich on April 25 to represent Onondaga County in the Regional Tournament, with the winner there heading to Albany in mid-May to compete for the State Championship.

The CBA team was coached by Charles and Debra Sullivan. In photo: Back row, left to right: **Coach Charles Sullivan, Morgan Long, Timothy Schmitt, Katherine Fletcher, Supreme Court Justice Deborah Karalunas, Mitchell Taylor, and Nikhil Reddy.** Front row, left to right: **Coach Debra Sullivan, Joseph Sullivan, Rachel Palmer, Julia Sullivan, Mila Talev, and Kiersten Kennedy.** Absent from the photo: **Sara Tucker.**

This statewide competition is organized by the New York State Bar Association, with local bar associations running the early



rounds. The 14 area high school teams participating this year were: Cazenovia, Chittenango, Christian Brothers Academy, Cortland, East Syracuse-Minoa, Fabius-Pompey, Fayetteville-Manlius, Jamesville-DeWitt, Jordan-Elbridge, Liverpool, Marcellus, Nottingham, West Genesee and Westhill. **Special thanks to Nottingham advisor Don Little** for once again hosting the competition at that school.

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, Alyssa Campbell, Lance Cimino, Hon. Steve Dougherty, Paula Mallory Engel, Hon. Jim Hughes, Erin Hurd, Don Kelly, Brandon King, Karen Kukla, Hon. Deborah Karalunas, Joe Lamendola, Mary Langan, Hon. James Murphy, Lorraine Mertell, Patty Naughton, Hon. Patrick O'Sullivan, Lanessa Owens, Dan Pautz, Dave Pellow, Olga Peshko, Samantha Robbins, Aaron Ryder and Larry Vozzo.**

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

APPEALS

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TWO NEW PROGRAMS AT LEGAL AID SOCIETY OF MID NEW YORK

Michael J. Balanoff | Director of Development: Legal Services of Central New York, Legal Aid Society of Mid-New York and Justice Alliance of Central New York

Attorney Emeritus Program

Legal Aid Society of Mid-New York (LASMNY) is pleased to announce a new opportunity for attorneys to provide pro bono legal services thanks to a grant from the Pro Bono Innovation Fund (PBIF) provided by the Legal Services Corporation. **The Attorney Emeritus Program**, created in 2010, encourages attorneys who are at least 55 years of age or older and who have been practicing law for at least 10 years to offer their skills to legal service providers.

The program is split into two parts. The first is for attorneys who have retired from the practice of law. If they register as an Attorney Emeritus, their registration fees and CLE requirements will be waived, but they must commit to 60 hours of pro bono service within a two-year registration period. The second part is for attorneys who are still actively engaged in the practice of law. If they register as an Attorney Emeritus, they will be able to earn up to 15 CLE credits for performing pro bono legal work, but their registration fees and CLE requirements will not be waived. Attorneys registered with the program will be covered by the malpractice insurance of the host organization with which they volunteer.

With the PBIF grant, LASMNY will expand its pro bono services to the communities of central and northern New York through attorneys who volunteer as an Attorney Emeritus. LASMNY serves members of our community who cannot afford a lawyer in many areas of civil law including: landlord/tenant, foreclosure assistance, consumer finance and personal bankruptcy, family law, domestic violence, disability advocacy, and elder law services. Lawyers with the Attorney Emeritus program can expect to have a broad array of choices in how they can volunteer their services, including representing clients at hearings, providing legal advice over the phone, in person at one of their clinics, or even by serving

as a mentor to less-experienced volunteer attorneys.

If you would like to volunteer or if you have any questions, please contact LASMNY's staff attorney, **Andrew Eastham**, at 315-703-6600.

50-hour Rule For Student Interns

LASMNY is also pleased to announce a new opportunity for law students to meet their required 50 hours of pro bono service thanks to a new grant from the Pro Bono Innovation Fund (PBIF) provided by the Legal Services Corporation.

With the PBIF grant, LASMNY will assist student volunteers in meeting their requirement, as well as expand its pro bono services to the communities of central and northern New York. LASMNY serves members of our community who cannot afford a lawyer within many areas of civil law including: foreclosure assistance, consumer finance and personal bankruptcy, domestic violence, disability advocacy, and elder law services.

Student volunteers can expect to work with experienced volunteer attorneys who come from varied practice areas and agree to donate their time. In addition, student volunteers will assist in client interviews and client representation in hearings, accompany staff attorneys in court appearances, perform legal research and drafting, prepare personal bankruptcies and other consumer law matters, and develop advocacy resource materials. Volunteer attorneys can also become a mentor to one of the new student interns.

Opportunities will be available for semester interns and summer associates. If you would like to volunteer or if you have any questions, please contact LASMNY's staff attorney, **Andrew Eastham**, at 315-703-6600.

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**

FROM THE EDITORIAL BOARD

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

The Editorial Board encourages members to submit articles for publication concerning issues presented in each edition or other issues related to the legal community. Submissions should be sent to OCBA, Attention Bar Reporter or Email cstirpe@onbar.org.
John A. Cirando, Editor Emeritus

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Zachary M. Primrose
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Robert B. Cox
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Marrone Law Firm P.C.

Anthony A. Marrone II is pleased to announce the opening of The Marrone Law Firm, P.C. The firm will represent clients in Central and Northern New York with offices in East Syracuse and Watertown, and will focus on Elder Law and Medicaid planning, Estate Planning, Estate Administration and Litigation, and Special Needs Planning. The firm's East Syracuse office is located at 5010 Campuswood Drive, East Syracuse, New York 13057. The firm's website is www.themarronelawfirm.com and phone number is (315) 728-9433.



its clients' fundamental rights and to provide them with access to the justice system, thereby enabling them to receive hope, dignity, and greater ability to advocate effectively for themselves and their communities. Its mission was the compelling factor in Michael's decision to make his career change and assist an organization that effectively touches the lives of so many who are under-represented in our judicial and bureaucratic systems.

In order to be effective in his new position, Michael is drawing on his legal knowledge, his experience as a volunteer in numerous non-profit organizations, and his ability to plan strategically for the future.

Jill C. Levy joins Smith, Sovik

Smith Sovik Kendrick & Sugnet, PC is pleased to announce that Jill C. Levy, Esq. has joined the firm as an Associate Attorney. Levy graduated Magna Cum Laude from Syracuse University College of Law (J.D. 2005) and Magna Cum Laude from Union College (B.A. 2002).



Prior to joining Smith Sovik, Levy worked as an Associate at Bingham McCutchen LLP where she handled litigation defense

work including discovery, depositions and motion practice. She was published in the New Jersey Lawyer in May 2006, after co-authoring "Secondhand Asbestos Exposure: High Court Finds Premise Owner Can Be Liable." Levy was also an Associate at McCarter & English LLP and served as a student law clerk to Honorable Frederick J. Scullin, Jr.

While at Syracuse University College of Law, she served as Associate Editor of the Syracuse Law Review as well as a Research Assistant for Professor Leslie Bender. She was also a member of Order of the Coif and the Justinian Honorary Law Society and was a Chancellor's Scholar.

At Smith Sovik, Levy's practice focuses on all areas of litigation including personal injury, toxic tort, motor vehicle accidents, premises liability, professional and medical malpractice and Labor Law.

Address Change for Legal Aid Society of Mid-New York

Effective April 1, 2015 the Utica office of the Legal Aid Society of Mid-New York, Inc. (LASMNY) will be located at 268 Genesee St., Utica, NY 13502. Telephone (315-793-7065) and Fax (315-732-3202) remain the same..

Michael Balanoff Named New Development Director

Michael J. Balanoff is an attorney who had practiced commercial law for over forty years in the Syracuse area. In October 2014, he retired from the practice and gave up his partnership at Bousquet Holstein PLLC to start a new career as Director of Development at Legal Services of Central New York, Legal Aid Society of Mid-New York and Justice Alliance of Central New York.



These organizations are responsible for providing free civil legal services to low-income families and individuals, assisting them in obtaining the basic necessities of life. Its mission is to protect

Andrew Eastham LASMNY Staff Attorney

Legal Aid Society of Mid-New York is pleased to welcome Andrew Eastham as a staff attorney in its Syracuse Office. Andrew is a 2014 graduate of Buffalo Law School where he was an executive editor of the Buffalo Public Interest Law Journal and a volunteer in the school's Consumer Financial Advocacy Clinic. He was admitted to practice in New York in January 2015. Andrew will be the Pro Bono Coordinator in LASMNY's Syracuse office,

focusing on private attorney outreach and pro bono clinics. He will be concentrating his efforts on Attorney Emeritus recruitment and internship programs for law school students obtaining their required 50 hours of pro bono service..



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Wednesday, April 22

CNY Philanthropy Center 2nd Floor Ballroom

Total MCLE 6.0 : 4.5 Skills + 1.5 Ethics

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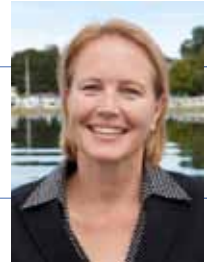
8:00 - 8:30 Registration & Breakfast | 8:30 - 8:45 Welcome & Introductions

8:45 - 10:00 Assigned Counsel Program | Renee Captor, Esq.

10:00 - 10:15 Break

10:15 - 11:30 Probate of Wills and Related Topics | Luke Beata, Esq. | Hancock Estabrook LLC

11:30 - 1:00 Lunch & Introductions | Jean Marie Westlake, Esq. | OCBA President
Keynote | Hon. Joanne M. Mahoney | Onondaga County Executive



1:00 - 2:15 Building Your Career as an Attorney | Edward Z. Menkin, Esq.

2:15 - 2:30 Break

2:30 - 3:45 Recent Changes in Not-for-Profit Law | Christopher Wiles, Esq. | NYS Attorney General's Office

3:45 - Adjourn

Under NYS rules this CLE has been APPROVED for both Newly Admitted and Experienced Attorneys

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FOR ETHICS

To: All Attorneys Involved in Judicial Campaigns
and All Judicial Candidates

From: The Judicial Campaign Ethics Center

Subject: **2015 Judicial Campaign Ethics Training and Guidance**

Mandatory Training*

Individuals who are seeking state-paid elective judicial office must complete our judicial campaign ethics training program. 22 NYCRR 100.5(A)(4)(f); 100.6(A); NY Rules of Professional Conduct, Rule 8.2(b). Only candidates for town or village justice are exempt.

As in prior years, the training program for 2015 will be available for viewing on-line.

- ▶ Deadline: 30 days after the date of nomination.
 - ▶ Running in a primary? The deadline to complete the training is 30 days after filing a designating petition with the Board of Elections.
- ▶ The training **may** be completed before the date of nomination.
- ▶ Training taken in one election cycle **does not** “carry over” into subsequent years.

Please contact the Judicial Campaign Ethics Center at 1-888-600-5232 to register for the training.

Advisory Opinions

Candidates may direct inquiries about their own prospective campaign conduct to the Judicial Campaign Ethics Center. It may be helpful to call first before sending in a written inquiry.

Phone: 888-600-5232 Call for informal guidance during regular court hours.

E-mail: jccc@nycourts.gov Write in for expedited formal written advice.

Fax: 212-401-9029

Additional Resources

For a copy of the latest edition of the Judicial Campaign Ethics Handbook, and more information about court rules applicable to judicial candidates, as well as links to the Independent Judicial Election Qualification Commissions site, please visit our website at www.nycourts.gov/ip/jccc

- ▶ Please consult “FAQs on Financial Disclosures” on our website for guidance on whether you must file a financial disclosure statement under Rule 100.5(A)(4)(g).

* Candidates for town or village justice are invited, but not required, to watch the training video.

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CPLR Update | 2015

Professor Patrick Connors | Albany Law School

MCLE 2.5 Professional Practice + 0.5 Ethics

Friday, June 5

CNY Philanthropy Center 2nd Floor Ballroom

9:00 am – Noon | Sign-in 8:30 am



Member \$125 | Paralegal \$85 | Non-Member \$160

Legal Services Agency, Lifetime, Student \$45

Topics to be included: Amendments concerning **certification of business records by nonparties**, affirmations by persons outside the United States | can a court consider affidavits on a CPLR 3211(a)(7) motion to dismiss for failure to state a cause of action? | new rules regarding default judgments in **Consumer Credit Transactions** | new rule on **redaction** of confidential personal information | recent Court of Appeals decision addressing **amendment of pleading** | issues arising with **electronic filing and changes in Court Rules** | Legislature weighs in on whether a lawyer representing a **nonparty at a deposition is a "potted plant"** | Court of Appeals weighs in again on protections of **"Grave Injury"** statute | new rules and monetary thresholds in the **Commercial Division** | Second Department clarifies law relating to conformity of out-of-state affidavits as required by CPLR 2309(c) | the continuing saga surrounding CPLR 205(a)'s six month extension for actions dismissed for **"neglect to prosecute"** | use of CPLR 3119, Uniform Interstate Depositions and Discovery Act, to obtain disclosure outside the State | effect of making extensive changes to deposition transcripts | what effect does a client's failure to pursue an appeal in an underlying action have on his or her ability to maintain a legal malpractice lawsuit? | Court of Appeals addresses **"separate entity" rule** and whether judgment creditor can order New York garnishee bank to restrain a judgment debtor's assets held in foreign branches of the bank | **issues pertaining to expert disclosure** | courts continue to set short time frames for making motions for summary judgment in all sorts of places, and the caselaw resulting from it | Court of Appeals strikes defendants' answers and imposes **default judgment** on defendants where clear and convincing evidence demonstrates they committed fraud on court and much more.

Under NYS rules this CLE has been APPROVED for both Newly Admitted and Experienced Attorneys

Attendee(s) _____ Phone _____

Seminar Fee _____ Firm _____ Email _____

Address _____ Billing Zip _____

Attendee(s) _____ Phone _____

Seminar Fee _____ Firm _____ Email _____

Address _____ Billing Zip _____

Check Enclosed CC Card# _____ Exp. _____

ONONDAGA COUNTY BAR ASSOCIATION | 431 East Fayette St. | Syracuse, NY | 13202

Phone: 315-579-2578 | Fax: 315-471-0705 | cstirpe@onbar.org

OCBA Paralegals Committee

Contributors | OCBA Paralegals Executive Committee

Monthly Luncheon Meetings

Due to the cancellation of our March 12, 2015 luncheon meeting, Jean Swanger and Karen Hawkins, Paralegals with the firm of Gilberti Stinziano Heintz & Smith, P.C. will present on their paralegal duties in the area of Environmental Law at a later date.

You won't want to miss the following programs:

April 9

Faye Williams, Law Assistant for the Appeals Program at Frank H. Hiscock Legal Aid Society, will be speaker and will talk to us about A Paralegal's Role in the Appeal Process: Criminal and Family Court Appeals.

May 14

Blaine T. Bettinger, Ph.D., an attorney with Bond Schoeneck & King, will speak to us regarding Intellectual Property.

June 11

Sean Ralph from the NYS Department of Financial Services, Criminal Investigations Unit will present on Insurance Fraud.

Just a reminder that we have returned to Spaghetti Warehouse at 689 North Clinton Street for our monthly meetings which begin at noon.

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

Even if the luncheon topic doesn't fall in the area of law in which you work, come anyway. You never know what you might learn and how it may affect you! And, you will be supporting the OCBA Paralegals Committee. The cost for lunch is \$11 for members and \$12 for non-members. **Reservation deadline is 4:00 pm the day before the luncheon.** Please RSVP **Jean Swanger**: jswanger@gilbertilaw.com or 442-0174. E-mails are preferred. Stay tuned for further information regarding upcoming luncheons.

If you have suggestions for guest speakers or presentation topics, please do not hesitate to contact any member of the Executive Committee. We value your input!

Kathrine Cook	kathrinecook0@gmail.com
Cynthia Wade	cewade@twcny.rr.com
Ranette Releford	ranettereleford@gmail.com
Faye Williams	frwilliams2@gmail.com
Jean Swanger	jswanger@gilbertilaw.com
Angelique Kraus com	angelique@wegerskilaw.com
Karen Hawkins	khawkins@gilbertilaw.com

ESAPA News

Empire State Alliance of Paralegal Associations, Inc.'s Spring Meeting is set for Saturday, April 25, 2015 in Buffalo at the offices of Phillips Lytle, LLP, 125 Main Street. The meeting begins at 9:00AM. If needed, hotel reservations can be made at the Courtyard by Marriott (for \$149). Elections for the positions of Vice President and Secretary of ESAPA are on the agenda. These positions are for two-year terms. The

OCBA Paralegals Committee is a member of ESAPA. You are all welcome to attend and are in fact, encouraged to attend this meeting. To find out more about ESAPA please check out their website at: <http://empirestateparalegals.org>. If you are interested in attending the Spring Meeting please contact Faye Williams at frwilliams@wnylc.com.

Pro Bono Opportunities

Paralegal volunteers are still needed for the VLP Family Court Clinic on Wednesdays from 12pm-3pm or Friday's from 9am-12:00 pm. If you are interested in volunteering, please contact Ranette Releford at ranettereleford@gmail.com.

Looking for Ideas

What information would you like to see on the Paralegals Section of the OCBA website? Please email Karen Hawkins at khawkins@gilbertilaw.com with your suggestions. Thanks!

The Executive Committee Could Use Your Help

The Paralegals Executive Committee ("EC") meeting which was originally scheduled for April 1, 2015, will be rescheduled to another date yet to be determined. EC meetings begin at noon at Gilberti Stinziano Heintz & Smith, P.C., 555 East Genesee Street, (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.** (We can change the meeting time, if it would work for more volunteers). 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

Job Bank

Are you an employer with a job that needs to be filled? Our FREE Listserv can help! Just email Kathrine Cook with questions or to have your job provided to OCBA Paralegal members via email. Contact Peggy Walker at the OCBA, 315-579-2582, to join or confirm current membership.

TERENCE A. LANGAN, P.C.

Florida and New York Estate Administration
New York Commercial Real Estate
33 Years Experience Referrals Welcome

333 Butternut Drive, Suite 103
DeWitt, New York 13214-1982

(315) 445-9761

terry@langanlaw.us

BAR BOARDS:

Opening for Estate & Trust Attorney at Melvin & Melvin, PLLC

Mid-size Syracuse law firm has opening for an attorney in upstate New York with 2-5 years' experience in the area of estate and trust practice. Please send response to hiringpartner@melvinlaw.com.

Office Space Available | Liverpool

Prime Liverpool law office space available at corner of Vine and 2nd St. (Route 370). Can share conference room and receptionist with three other attorneys. Ideal for attorney practicing in Matrimonial | Criminal | Workers Comp. Contact Peter at 315-457-0506.

Nixon Peabody LLP (Rochester, NY)

Nixon Peabody's Business & Finance Department is seeking to hire a highly-motivated Public Company Transactions Attorney in the Rochester office. The ideal candidate will have seven to ten years in '33 and '34 Act compliance and corporate transactions, including M&A, registered and exempt offerings, and Capital Markets transactions (initial public offerings, follow-on offerings, Rule 144A and private placements). Qualified candidates will have superb interpersonal skills, demonstrated success at partnering with clients and colleagues, outstanding judgment and communication skills, a commitment to excellence, and have the desire, motivation, and ability to thrive in a fast-paced yet collegial environment. For consideration, please visit our website to apply online at <http://www.nixonpeabody.com/careers>

Trusts and Estates Attorney

Hodgson Russ LLP is seeking an Estates and Trusts attorney for our Buffalo office. The successful candidate must have 3 – 5 years of experience in Estates and Trusts, including planning, drafting and estate and trust administration. Strong academic credentials and excellent written and verbal communication skills are also required. Candidates with a background in tax may also be considered. Please visit the careers section of our website to apply. <http://www.hodgsonruss.com/careers-laterals.html>

Bankruptcy Attorney

Mid-size Syracuse Law firm is seeking a qualified attorney to join its Bankruptcy Department. Candidate should have at least 2-3 years of diversified bankruptcy and creditors' rights experience. Excellent editing, legal research, analysis and writing skills as well as effective oral communication ability desired. Attorney should be self-motivated, detail-oriented and able to manage tasks effectively while meeting deadlines. Must be admitted to practice law in the State of New York. Salary Commensurate with experience. Excellent benefits package and bonus program. Please provide resume to: Box A info3@onbar.org OR mail to: OCBA Box A, 431 E. Fayette St. Syracuse, NY 13202

Corporate/Healthcare Associate Attorney

Cohen Compagni Beckman Appler & Knoll, PLLC is seeking a motivated associate with 3-6 years of legal experience to join its nationally recognized healthcare practice in Syracuse office. The candidate should have experience drafting corporate and transactional agreements, as well as negotiating and consummating commercial transactions; be expected to perform research, draft client and intraoffice memoranda on healthcare regulatory, reimbursement, licensure and other compliance issues (e.g., False Claims Act, Anti-Kickback Statute, Stark Law, HIPAA); Preference will be given to candidates who have experience in healthcare; opportunity to work directly with and provide counsel to the firm's diverse group of clients in the healthcare industry, gaining unique experience in structuring integrated delivery systems, joint ventures, acquisitions, mergers, sales and affiliations among group medical practices, private practice physicians, hospitals, ACOs and other healthcare related businesses. Submit resume to: mcompagni@cblaw.com.



You are cordially invited to join the members of the
Erie, Monroe and Onondaga County Bar Associations
and the New York State Academy of Trial Lawyers
to welcome and congratulate

Hon. Leslie E. Stein & Hon. Eugene M. Fahey

on their appointment to the New York State Court of Appeals.

We will also be thanking

Hon. Jonathan Lippman

for his years of service as Chief Judge of the
New York State Court of Appeals.

Wednesday, May 20, 5:30 p.m.

The Woodcliff Hotel & Spa
99 Woodcliff Drive, Fairport NY 14450
North of Eastview Mall | 4 Miles from Thruway Exit 45

\$30 per person

Reception and hors d'oeuvres included, cash bar available

The Bar Association of Erie County
will be accepting registrations for this event.
Please follow the link below to register.

eriebar.org

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DEFRANCISCO & FALGIATANO
LAW FIRM

VOLUNTEER LAWYERS PROJECT EXPANDS STAFF



Ms. Bethanie Hemingway has joined the staff of Volunteer Lawyers Project of Onondaga County, effective March 30th 2015.

She will be serving as the Volunteer Engagement and Development Manager for OnVLP.

Bethanie will be responsible for developing and nurturing

relationships with volunteers, donors and the community at large. Her roles will include: outreach, program evaluation, donor recognition, communications and fundraising activities.

Bethanie obtained her Bachelor of Arts from SUNY Cortland. Most recently, she was employed as Donor Relations and Development Associate for ARISE Child and Family Services.

Bethanie looks forward to promoting the mission of providing equal access to justice to those in need. The Volunteer Lawyers Project is thrilled to have her join our team.

Bethanie can be reached at:
bhemingway@onvlp.org or (315) 579-3991

Volunteer Lawyers Project of Onondaga County, Inc.
1000 State Tower Building | 109 South Warren St.
Syracuse, NY 13202 | P. 315-471-3409 | F. 315-939-1466
www.onvlp.org

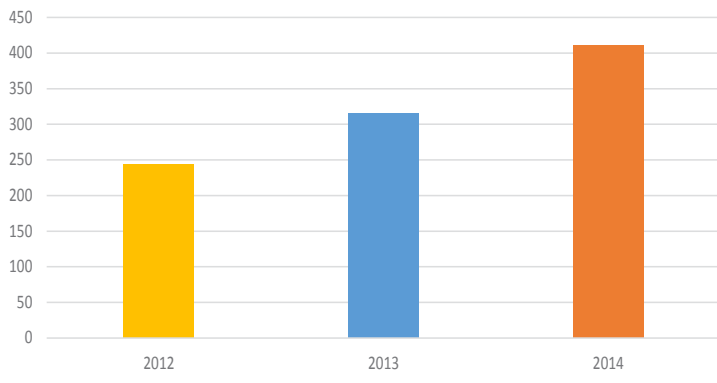
Volunteer Lawyers Project Volunteers Help Record Number of Clients in 2014

Sally Curran, Executive Director | Onondaga County Volunteer Lawyers Project

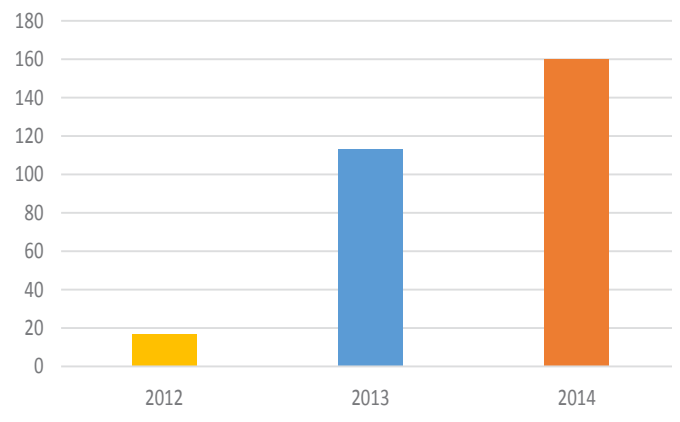
In 2014, the Volunteer Lawyers Project of Onondaga County (OnVLP) closed 2,682 cases, benefiting over 6,500 people in civil legal issues affecting the essentials of life, including housing, family, elder, divorce, veteran and immigration law. This is more than a 60% increase over last year and a record breaking year for OnVLP. This was made possible by

OnVLP's panel of over 400 volunteer attorneys and 150 law students and others. Major growth came in the areas of eviction defense and family law. If you would like to join our panel of volunteers working to meet unmet civil legal needs for low income people, please contact Sally Curran at scurran@onvlp.org.

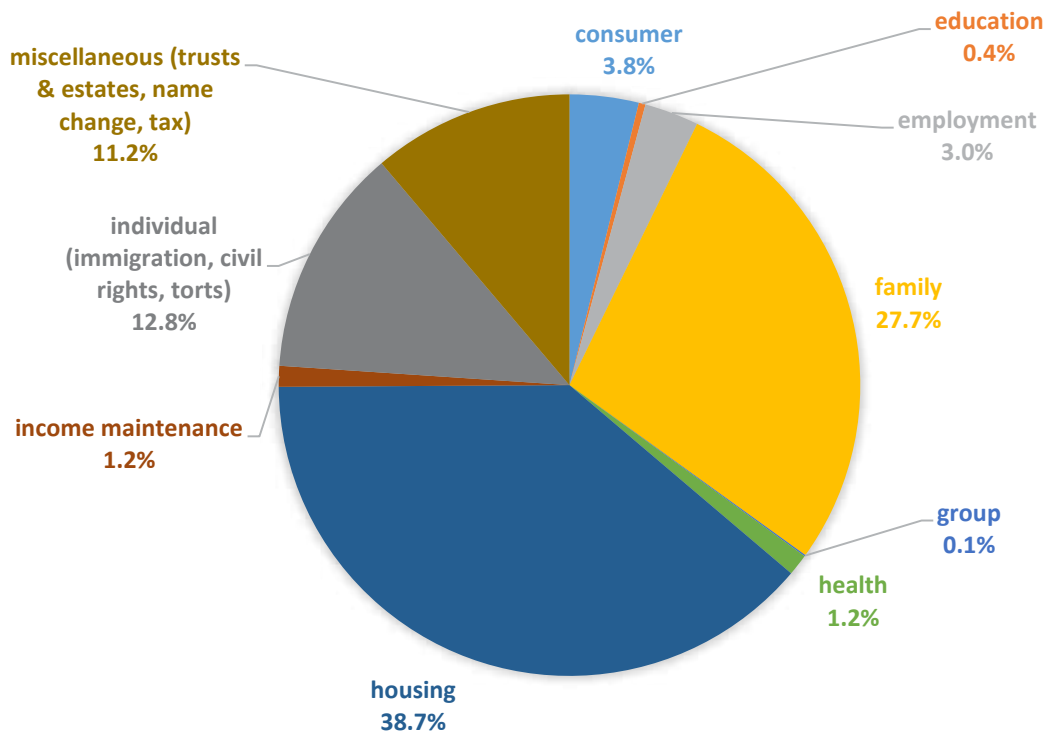
Number of Attorney Volunteers



Number of Law Student Volunteers



Types of Cases Handled



The Lawyers' Assistance Project Of Onondaga County

What is the Lawyers' Assistance Project?

The Lawyers' Assistance Project of Onondaga County is a confidential service providing information, referrals, access to professional counseling and peer support.

What Kind of Assistance is Available?

You are entitled to a confidential telephone consultation, free counseling sessions with a professional counselor, and participation in peer support groups.

What Can I Expect When I Call for an Appointment?

You will talk to an intake coordinator who may refer you to an experienced counselor. Family Services Associates serves as the Project's counseling agency.

Is Contact with the Lawyers' Assistance Project Confidential?

YES. You can discuss the issue of confidentiality with the intake coordinator or counselor.

Why Was the Project Set Up?

The Project was established to assist lawyers who have problems with alcohol, drugs, stress, anxiety, depression, gambling and other personal problems.

Who May Call?

Attorneys, judges and law students in Onondaga County and these other neighboring counties: Oswego, Jefferson, Lewis, Herkimer, Oneida, Cortland, Cayuga and Madison counties.



For more information contact:

The New York State Bar Association Lawyer Assistance Program-- (800) 255-0569

Family Services Associates-- (315) 451-2161

Onondaga County Bar Association

Executive Director, Jeff Unaitis-- (315) 579-2581

13th Annual ELDER LAW FAIR 13th Annual

Planning for Life after 50



Thursday, May 28th
8:00am-1:00pm
Onondaga
Community College
Academic Building #2
4585 W Seneca Tpk

FREE Parking onsite
and
FREE Continental
Breakfast

Register
by phone: (877) 926-8300
or Online aarp.cvent.com/ElderLaw2015

FREE & OPEN TO ALL

Educational Sessions
On Legal Issues Of Interest
To Older Adults & Their Families

TOPICS INCLUDE:

- Protecting Your Home
- Paying for Long Term Care
- Aging Safely at Home
- Grandparents' Rights
- Under 65 Health Care
- Medicare Options
- End of Life Care
- Wills and Planning
- Senior Exploitation & Abuse
- Powers of Attorney
- Estate Administration with or without a Will
- Women's Retirement Realities
- Protecting Your Home and more....

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

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