



ONONDAGA COUNTY BAR ASSOCIATION BAR REPORTER

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

John Sindoni: A Lawyer Committed to Family, Service to Clients, Our Profession and the Community

JIM WILLIAMS

John Sindoni chose to become a lawyer because of a desire to help people, to serve as counselor and to be of service.

John grew up in Syracuse and his family owned Joseph J. Sindoni Wholesale Foods on North Salina Street. The youngest child and only son of the family, John graduated from Christian Brothers Academy, the College of Holy Cross and Cornell Law School. He joined Hiscock & Barclay – now Barclay Damon – immediately after law school and began working in the Real Estate Practice group which he eventually led for many years. John was drawn to the practice area because of the opportunity to work in a collaborative way with others to achieve common goals.

As a new associate at the firm, John worked out of offices then located at the Syracuse Savings Bank building. There he met his future wife Cecilia Bresadola (Cil) who was working as a marketing and public relations assistant to Fred “Doc” Schwartz of the Syracuse Saving Bank.

Cil and John have six children ranging in age from 23 to 40, and seven grandchildren, ages 2 to 11. Even after John began practicing law, he continued to help his father loading trucks at the store in the mornings – dressed in his suit, on his way to work -- on a regular basis until the store closed in 1997.

Like so many lawyers who practice law in Syracuse, John speaks with deep appreciation for the strong collegiality among the members of the bar in Syracuse. His advice to young attorneys is to put in the time necessary to get the job done correctly and to draw on the wisdom of those willing to share their expertise, and then be willing to do the same for the next generation of lawyers. John speaks about the importance mentors played in his development as a lawyer and of his belief in the importance of serving as a mentor for his more junior colleagues and others.

John has been extremely generous with his time and expertise to many community organizations. In this regard too, mentors have played a role in helping him to recognize the importance of community service, and he is grateful to his firm for supporting his active engagement in the community. He appreciates too the support that Cil and his family have provided that has contributed to his success and his ability to be of service. What draws John to community service? He says he joins in community service efforts most often as the direct result of the



passion expressed by the leadership and employees of organizations who communicate the importance of their work.

His community involvement is deep and has included: Onondaga Community College’s Board of Trustees; Knights of Malta Federal Association; OnPoint for College Development Committee; Franciscans in Collaborative Ministries, Board Member; Catholic Charities, Syracuse Area, Former Board President; Christian Brothers Academy, Board of Trustees Member, Former Board President; Catholic Charities of the Roman Catholic Diocese of Syracuse, Former Board President; Woodlawn Cemetery, Board Member; Onondaga Community College Foundation, Former Board Member; Christopher Community, Board Member; Eldercare Foundation, Board Member.

In addition to his work on Boards, John and Cil also do a significant amount of hands-on volunteer work in the community through their involvement in Ignation Volunteer Corps (IVC) Syracuse (www.ivcusa.org/ivc-offices/welcome-to-ivc-syracuse/). IVC provides “mature men and women the opportunity to serve the needs of people who are poor, to work for a more just society, and to grow deeper in Christian faith by reflecting and praying in the Ignatian tradition.” Included in the core values of IVC is service done with and for the materially poor and the belief that lay people can take a leadership role in transformation of the world “through justice, rooted in gospel values.” John and Cil each do 15 hours of work each week in soup kitchens, food pantries and other entities providing aid to low-income people. John has also taught religious instructions to confirmation classes for 30 years and has coached football.

John and Cil make time for family and fun. Prior to OCBA’s Annual Dinner, John and Cil will have recently returned from a cruise to Greece and Turkey. They share a passion for their children and grandchildren and Broadway musicals: their favorite show -- the production of Annie Get Your Gun starring Bernadette Peters as Annie and Tom Wopat as Frank; and John’s favorite performer – recent Tony Award-winner Kelli O’Hara. Cil is a member of the Spirit of Syracuse, a Sweet Adelines Chorus, and this has provided John with an opportunity to accommodate and support Cil’s travel and performance schedule in an activity which she enjoys very much.

John Sindoni will be honored at the OCBA Annual Dinner on October 15th, (see page 20).

UPCOMING EVENTS:

Defenses in Criminal Cases Judge Brunetti	Sept 25
Red Mass Cathedral 12:10 pm	Sept 30
Sean Carter 4 Ethics Credits	Oct 2
Annual Dinner OnCenter	Oct 15

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:

Dear Friends,

We have had a very exciting month here at the OCBA!

First and foremost, it is my pleasure to announce two changes to our Board of Directors. James M. Williams, Esq. was elected President-Elect at a Special Meeting of the OCBA membership held September 10, 2015. As you may recall, the vacancy was created when Anne Burak Dotzler, Esq. resigned as President-Elect in order to defer her presidency for one year. Jim's election then created a vacancy for the Vice President position that he previously held. Pursuant to the bylaws, the Board of Directors appointed the Hon. James P. Murphy to serve as Vice President for the remainder of that term. Both gentlemen have been very active with the Bar association and we're excited to have them serve in their

respective positions. Congratulations to you both!!

In other news, the Board of Directors recently approved to move our Annual Meeting from November to April in order to align ourselves with the New York State Bar Association's calendar year, as well as many other bar associations throughout New York State. Traditionally, the OCBA membership elects incoming Officers and Directors at its Annual Meeting. With this change, which we believe will greatly benefit our association, the new Officers and Directors will now be elected in April 2016 and begin their new term on June 1, 2016. Current Officer and Directors' terms have been extended through May 31, 2016. These changes are part of a bigger plan to align our organization with the New York State Bar. I will report back in the near future regarding other changes that will move us toward this goal.

On September 16, 2015, I had the pleasure of attending a reception for Women Bench & Bar Leaders of Central and Western New York in Rochester, hosted by NYSBA President-Elect Clair P. Gutekunst, Esq. The event was very well attended and gave many of us from across the state an opportunity to network and learn how each of us serves our legal community.

Finally, Stuart LaRose, President of the Onondaga County Bar Foundation, and I had the privilege of hosting the 50 Year Luncheon at Drumlins on September 17, 2015. The honorees this year are all outstanding members of our legal community and it was a pleasure to honor such a wonderful accomplishment. (See article on page 7)

Regards,

Jean Marie Westlake | OCBA *President*

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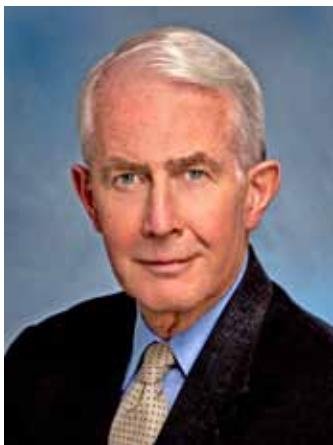
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Dedication of New Center for Justice Honors Lowe

The George H. Lowe Center for Justice will be dedicated at a ceremony at the new offices of Legal Services of Central New York (LSCNY), Legal Aid Society of Mid-New York (LASMNY), and Volunteer Lawyers Project of Onondaga County (OnVLP) at 221 South Warren Street on **October 29 from 5:00 to 6:30 P.M.** "For many years, Judge Lowe has been a moving inspiration and supporter of our missions to provide free civil legal services to low-income people," said Dennis Kaufman, Executive Director of LSCNY. "It is most fitting that our new office have Judge Lowe's name attached to it in recognition of his 'one roof' dream for organizations devoted to providing the services our three organizations contribute," added Dan Altwarg, Senior Managing Attorney at LASMNY.



Judge Lowe's involvement in providing free legal services for low-income people extends throughout the state. He is a former co-chair of the New York State Bar Association Committee on Access to Justice and member of the Chief Judge's Task Force to Expand Access to Civil Legal Services, and is a founding member of the new permanent Commission on Access to Justice. He is the Past President of the Onondaga County Bar Association and

recipient of its 2007 Distinguished Lawyer Award. In 2003, he was a recipient of the American Bar Association's Senior Lawyers Division Pro Bono Award, and in 2002 was the recipient of the State Bar Association's Pro Bono Service Award. Judge Lowe is a former Chair, Fifth Judicial District, Committee on Character and Fitness. He has served on the boards of Legal Services of Central New York and the Onondaga County Bar Foundation. He currently serves on the boards of OnVLP and the Central New York Women's Bar Association.

"We owe a huge debt of gratitude to Judge Lowe for his many years of service to our organization and are thrilled to have our name associated with his," said Sally Fisher Curran, Executive Director of OnVLP.

"This is indeed a tremendous honor for me," said Lowe. "Expanding free legal services for the indigent has always been one of my top priorities, and these three organizations operating in collaboration goes a long way in meeting that goal. I look forward to continuing my efforts toward the success of their work."

NYCOURTS.GOV

County Clerk Sandra A. Schepp Appointed Commissioner Of Jurors

Chairman of the Onondaga County Jury Board, the Hon. Donald A. Greenwood, Justice of the Supreme Court, and Fifth Judicial District Administrative Judge James C. Tormey are very pleased to announce the appointment of Sandra A. Schepp as Onondaga County Commissioner of Jurors. Ms. Schepp is currently the Onondaga County Clerk, having been elected to that position in November 2012. Judge Tormey stated that there has been an excellent working relationship between the Fifth Judicial District and the Onondaga County Clerk's Office during Ms. Schepp's tenure as County Clerk and that she will make an excellent Commissioner of Jurors. Justice Greenwood stated that Ms. Schepp's reputation and experience working with and serving the public made her uniquely qualified for the position. He stated that her selection was from a very strong pool of candidates. The Commissioner of Jurors' duties include supervising the qualifying, summoning, impaneling, and assigning individuals to serve as jurors in the courts in Onondaga County. Both Judge Tormey and Judge Greenwood believe Ms. Schepp will continue the fine work of her predecessor, Commissioner Sidney Oglesby. She will start her new position on September 24, 2015.

Meet OCBA President-Elect Jim Williams



Jim Williams was recently elected as the Onondaga County Bar Association's President-Elect and will assume the office of President upon the expiration of Jean Marie Westlake's term.

Since moving to Syracuse from Manhattan in 2004, Jim has been a Staff Attorney at Legal Services of Central New York (LSCNY), where he does a worker-side employment practice. Jim is also an Adjunct Professor at the Syracuse University College of Law where he teaches Employment Law. He is a member of the House of Delegates of the New York State Bar Association, Treasurer of the Board of Directors of the Workers Center of Central New York and is Secretary of the Board of the Volunteer Lawyers Project of Onondaga County.

Prior to joining LSCNY, he was Executive Director of the National Employment Law Project (NELP) in New York City and also served as an Assistant Attorney General in the Labor Bureau of the New York State Department of Law. He is 1986 graduate of Brooklyn Law School. In the early 1990s, he served as President of the LeGal, the Lesbian, Gay, Bisexual and Transgender Law Association of Greater New York. He was President of the Network of Bar Leaders in New York City from 1996-1997, and received an Outstanding Public Service Award from the New York County Lawyer's Association in 2002 for helping to create employment law clinics in New York City in collaboration between NELP, the Legal Aid Society and MFY Legal Services. He is married to Peter Wiles, the President of Midlakes Navigation, and lives in Skaneateles.

Northern District Case Notes

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



Antitrust

Nirvana, Inc. v. Nestle Waters N. Am., Inc., 14-CV-1181(MAD) (8/10/15) – action by bottler and distributor of water against distributor of bottled water, asserting violations of federal and state antitrust laws as well as claims for breach of contract, tortious interference, unfair competition and trade disparagement; granting in part, and denying in part, defendant’s motion to dismiss for failure to state a claim, dismissing claims of violation of Sections 2(a) and 2(c) of the Robinson-Patman Act, violation of Section 3 of the Clayton Act, and violation of the New York Donnelly Act, and New York common law claim for tortious interference, but not dismissing New York common law claim for unfair competition and New York common law claim for breach of contract.

Attorney’s Fees

Bricklayers and Allied Craftworkers Local 2 v. Moulton Masonry & Constr., 13-CV-0201(DNH) (7/7/15) – action under ERISA by multiemployer pension funds and their administrators against employer and its principal to collect fringe benefit contributions and deductions owed under collective bargaining agreement; on remand, following appeal to Second Circuit from order to enter default judgment against defendants, awarding plaintiffs \$451,300.52 in withheld fringe benefit contributions and deductions, \$104,628.81 in prejudgment interest, \$7,001.95 in attorneys’ fees and costs in connection with the motion for default judgment, and \$24,596.48 in attorneys’ fees and costs in connection with the appeal.

H & R Block Tax Servs., LLC v. Strauss, 15-CV-0085(LEK) (7/7/15) – action for breach of contract arising from defendant’s continued operation of tax return preparation office under plaintiff’s service mark despite expiration of Satellite Franchise Agreement; granting plaintiff’s motion to hold defendant in contempt for violating court’s previous preliminary injunction, awarding plaintiff \$17,200 in compensatory damages and \$15,616.40 in attorneys’ fees and costs in connection with the contempt motion.

Buckley v. Slocum Dickson Med. Group, PLLC, 10-CV-0974(DNH) (7/1/15) – action by former employee against employer alleging breach of contract and seeking declaratory judgment and accounting; after Second Circuit’s affirmance of district court’s entry of summary judgment for plaintiff, granting in part, and denying in part, plaintiff’s motion for appellate attorneys’ fees, awarding \$23,962.50 in attorneys’ fees, and finding that, under New York law, prevailing plaintiff in ERISA action could not collect appellate attorneys’ fees associated with disbarred attorney’s work as paralegal on his case.

Breach of Contract

Habitzreuther v. Cornell Univ., 14-CV-1229(GLS) (8/25/15) – diversity action by veterinary student arising from university’s reversal of its conditional readmission of her following her suspension for violating the Honor Code by filing to inform clinic staff that her rescue German Shepherd had aggression issues which resulted in an “accidental dog bite” of a student clinician, asserting claims of breach of contract, breach of covenant of good faith and fair dealing, promissory estoppel, and fraudulent misrepresentation; granting defendants’ motion for judgment on the pleadings.

Civil Rights

Riano v. Town of Schroepfel, 13-CV-0352(MAD) (8/10/15) – action by small business owner asserting constitutional claims arising out of defendants’ issuance of a demolition permit and subsequent Stop Work Order on ground that asbestos survey had not been conducted before issuance of demolition permit, resulting in entire site being deemed by state to be contaminated; granting defendants’ motion to dismiss for failure to state a claim, dismissing plaintiff’s claims of violation of procedural due process, substantive due process, equal protection and the Contracts Clause of Article 1, Section 10 of the US

Constitution.

Ross v. Shah, 12-CV-1006(GTS) (8/5/15) – action by a former recipient under the NYS Traumatic Brain Injury Medicaid Waiver Program against NYS Department of Health Commissioner and NYS Governor, arising from plaintiff’s transfer from community housing in Cohoes, New York, to the Holyoke Rehabilitation Center in Holyoke, Massachusetts, where he has been improperly segregated from society, asserting claims under Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, and the Due Process Clause of the Fourteenth Amendment; denying plaintiff’s motion for summary judgment; and granting defendants’ cross-motion for summary judgment.

33 Seminary LLC v. City of Binghamton, 11-CV-1300(MAD) (7/28/15) – action by property owners against city and city officials arising from denial of owners’ applications for building permits and area variances sought for desired construction on two properties located in city, asserting claims under Due Process and Equal Protection Clauses of Fourteenth Amendment, including claim that certain provisions of city ordinance are unconstitutionally vague; granting defendant’s motion for summary judgment; and denying plaintiffs’ cross-motion for summary judgment.

Tartaro v. City of Syracuse 13-CV-0360(GLS) (7/6/15) – action by building owner and motorcycle shop against city and commissioner of NYS Department of Transportation, arising from condemnation and demolition of their real and personal property, asserting claims of violations of their due process rights under the Fifth and Fourteenth Amendments, as well as analogous claims pursuant to the NYS

Continued on page 6

APPEALS

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Avoiding the Pitfalls of Political Activities

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



It's that season again, when a man's (or woman's) fancy turns to thoughts of career advancement, by election. Judges, prosecutors, and trial attorneys take note, there are ethical constraints to be aware of before engaging in this ancient sport. Ignoring these rules can come back to haunt a successful candidate. In 1987, for example, the Court of Appeals confirmed the Commission's sanction of removal from office of Town of East Greenbush Justice, Patrick T. Maney, for his political activities during his term in office as well as during his campaign for re-election. See: *In the Matter of Patrick T. Maney*, 70 N.Y.2d, 27 (1987)

Judges seeking election to another judicial office, or for re-election, are required to comply with the applicable provisions of Part 100 of the Rules of the Chief Administrator of the Courts. Rule of Professional Conduct 8.2(b) requires lawyers who are seeking election to judicial office to comply with the same provisions of Part 100 as applicable to judges. All candidates for judicial office must comply with these constraints during a defined "window period" beginning nine months before a primary election or other nominating event and ending six months after the general election, or, after the conclusion of the failed nominating event.

Section 100.5 of the Chief Administrator's Rules specifies the "dos" and "don'ts" when running for judicial office. In general, judicial candidates may engage in political activities necessary to inform the voting public of their qualifications, without endorsing the candidacy of others and without knowingly making any false statement or misrepresentation of the identity, qualifications, current position or other fact concerning their own candidacy or that of their opponent. Included in the "don'ts" is the prohibition to avoid making commitments that are inconsistent with the impartial performance of the adjudicative duties of the office, such as a promise to rule in a certain way on a case, controversy, or issue that is likely to come before the court.

To insure that judicial candidates are informed of the Chief Administrator's Rules, section 100.5(f), thereof, requires all candidates to complete an approved education program, in person or by remote media, at any time after publicly announcing the candidacy, but no later than 30 days after receiving the nomination for judicial office. Town and village justice candidates are excluded from the education requirement.

Section 100.5(B) requires a judge seeking election to a non-judicial office to resign from his or her position upon becoming a candidate either in a primary or in a general election. Judges' staff, who are personal appointees, are prohibited by subsection (C), from holding an elective office in a political organization, except as a delegate to a judicial nominating convention or a member of a county committee other than its executive committee. A judge's personal appointee must limit aggregate political campaign contributions to \$500 in a calendar year. Those judicial staff are also prohibited from personally soliciting funds in connection with a partisan political purpose, or personally selling tickets to, or promoting a fund-raising activity of a political candidate, political party, or partisan political club. Section 50.5 (e) of the Rules of the Chief Judge applies similar limitations on partisan activities to all employees of the unified court system

One of the most commonly referenced Rules of the Chief Administrator is 100.5(a)(2)(v), which limits publicly announced candidates for the bench to the purchase of 2 tickets to politically sponsored events during the "window period." The amount paid, not exceed \$250 each, must represent the proportionate cost of

the dinner or function. If the proportionate cost is greater than \$250, the candidate may still purchase two tickets if the sponsor gives written verification of the actual additional cost. Recently, two Erie County village justices were admonished by the Commission on Judicial Conduct. Hamburg Village Court Justice Andrew Fleming purchased more than \$12,000 worth of tickets to politically sponsored events from 2006 to 2012 through his spouse and law firm outside of the "window period." Elma Town Court Justice Joseph Sakowski made more than \$23,000 worth of prohibited political contributions both directly and through his law firm from 2003 to 2014.

Once elected, judges must remain diligent. The New York State Advisory Committee on Judicial Ethics offers a useful guide for post-campaign conduct. For example, within two years after the election, the elected judge must disclose the nature and extent of a litigant's attorney's involvement in the judge's campaign when that attorney appears before the judge

(Opinions 12-164; 09-245).¹⁵ If a party objects to the judge's continued involvement in the matter, disqualification is left to the judge's discretion (Opinions 12-164; 09-245).

Lawyers, including prosecutors, are prohibited by section 1.7(a) (2) of the Rules of Professional Conduct from the acceptance or continuation of legal representation when any one of a broad range of the lawyer's own interests may adversely affect the interests of the lawyer's clients. The Rule does not attempt to particularize any activities which may define those interests, but merely sets forth the test that a "reasonable lawyer would conclude" that such interests would adversely affect the client. In the case of prosecutors, the client is the People of the State of New York, whose interest is the fair and impartial prosecution of criminal defendants.

District Attorneys are permitted to engage in normal campaign activities to promote their own candidacies in re-election years. However, Assistant District Attorneys must avoid the appearance of political motivation in the performance of their duties at all times. The most obvious need for such impartiality occurs upon the regrettable need to prosecute political candidates and/or their supporters who engage in electioneering activities that are criminal. Ethical guidance for ADAs has been offered by the New York State Bar Association's Committee on Professional Ethics in numerous advisory opinions.

The NYSBA Committee deemed it improper for an assistant district attorney to "circulate nominating petitions, campaign at public events, write letters to the editor or speak with media in support of the District Attorney's candidacy." [NYSBA 675 (1995)] That opinion was reasserted after the Committee on Professional Ethics of the New York State Bar Association fully considered contrary views expressed by the District Attorneys Association. [NYSBA 683 (1996)] As early as 1971, the Committee advised against membership in a county committee of a political party. [NYSBA 217 (1971)] That opinion was affirmed and embellished in two opinions by the NYSBA in 1972. [NYSBA 241 & 264, (1972)]

Trial lawyers, too, should be alert to the foregoing restraints on candidates for judicial office. Section 3.5 of the Rules of Professional Conduct allows for contributions to the campaign fund of a candidate for judicial office, but only in conformity with Part 100 of the Rules of the Chief Administrator of the Courts.

Vote early and vote often, but not more than once a year. ■

Northern District Case Notes

from page 4

Constitution; granting defendants' motion for summary judgment.

Rehabilitation Support Servs., Inc. v. City of Albany, 14-CV-0499(LEK) (7/2/15) – action by non-profit organization that operates residential programs for people with disabilities, challenging city zoning ordinance under the Fair Housing Act and Title II of the Americans with Disabilities Act; denying defendant's motion to dismiss for failure to state a claim.

Jurisdiction

Ballard v. Jackson, 14-CV-1340(GLS) (8/24/15) – diversity action by homeowner against bank asserting claims arising from residential mortgage agreement, homeowner's efforts to modify loan, and bank's foreclosure action; denying bank's motion to dismiss for lack of subject-matter jurisdiction, because (a) fact that District of Columbia Superior Court may have jurisdiction over the dispute (due to the fact that the property in question was purchased during a domestic partnership entered into in the District of Columbia) does not mean district court does not have jurisdiction, and (b) the bank has failed to rebut the presumption that the complaint's allegation of the amount in controversy is a good-faith representation of the actual amount in controversy.

Labor and Employment – Family and Medical Leave Act

Barber v. Von Roll U.S.A., Inc., 14-CV-0907(MAD) (8/25/15) – action by quality control technician against employer, arising from absences from work due to anxiety disorder allegedly caused by a threatening co-worker, alleging that defendant violated the Family and Medical Leave Act ("FMLA") by interfering with plaintiff's attempts to exercise his rights under the FMLA, retaliating against him for attempting to exercise those rights, intentionally and negligently inflicting emotional distress on him, and retaliating against him in violation of N.Y. Labor Law § 740; granting in part, and denying in part, defendant's motion to dismiss for failure to state a claim, dismissing plaintiff's claims of intentional infliction of emotional distress and violation of N.Y. Labor Law § 740.

Daugherty v. Jefferson Cnty., 13-CV-0491(FJS) (8/6/15) – action by caseworker in Child Protective Services Unit asserting claim under the Family Medical Leave Act ("FMLA"), alleging that defendants interfered with her right to take reasonable leave when they failed to return her to the same or an equivalent position within the Department of Social Services upon her return from approved leave; denying defendants' motion to dismiss for failure to state a claim or, in the alternative, motion for summary judgment, reasoning that arbitrator's decision does not bar plaintiff from litigating her FMLA claim because the third element of the doctrine of res judicata and the first element of the doctrine of collateral estoppel (which require that the decision addressed the same exact issue now before the court) have not been satisfied.

Yetman v. Capital Dist. Transp. Auth., 12-CV-1670(GTS) (7/23/15) – action by bus driver alleging that defendants interfered with her employment and retaliated against her based on her taking leave to undergo treatment for her own health conditions, and to provide care and support (as a single parent) for her children's serious health conditions and/or disabilities, asserting claims under the Family and Medical Leave Act, the Americans with Disabilities Act, and the NYS Human Rights Law; granting defendants' motion for summary judgment.

Siddiqua v. New York State Dept. of Health, 14-CV-0372(GTS) (7/23/15) – action by information technology specialist alleging that defendant disciplined her for taking a trip to Bangladesh to care for her sick mother after plaintiff had requested and obtained permission to take such leave, asserting claims of interference and retaliation under the Family and Medical Leave Act; granting defendant's motion

to dismiss for failure to state a claim.

Labor and Employment – Other Employment Discrimination

Wierzbicki v. Cnty. of Rensselaer, 14-CV-0950(GLS) (8/12/15) – action by male county probation officer against county, county official and several unnamed employees asserting claims of employment discrimination based on sex and age under Title VII, the ADEA, the Equal Protection Clause of the Fourteenth Amendment, the NYS Human Rights Law ("NYSHRL"), and the Equal Protection Clause of the NYS Constitution; denying defendants' motion for summary judgment; granting in part, and denying in part, defendants' motion to dismiss for failure to state a claim, dismissing plaintiff's Title VII and ADEA claims based on events occurring before certain date, his NYSHRL claims against county and official in her official capacity, his Title VII and ADEA claims against official in her individual capacity, and his claim brought pursuant to the NYS Constitution; and denying defendants' motion to disqualify plaintiff's counsel with leave to renew upon further discovery.

Jones v. Town of Whitehall, 13-CV-0806(LEK) (7/30/15) – action by woman employed simultaneously as clerk to town supervisor, clerk to town highway superintendent, and town budget officer, arising from defendants' payment of overtime to plaintiff, plaintiff's expression of concern over highway budgeting practices, and defendants' decision not to reappoint her, asserting claims of violation of right to procedural due process under Fourteenth Amendment, unlawful retaliation under NY Civil Service Law § 75b, willful violation of Fair Labor Standards Act ("FLSA"), and violation of NYS Labor Law ("NYSLL"); granting in part, and denying in part, defendants' motion for summary judgment, dismissing plaintiff's due process claim, but not dismissing her retaliation claim and claims under FLSA and NYSLL.

Patent Infringement

Briggs & Stratton Corp. v. Chongoing Rato Power Co., Ltd., 13-CV-0316(LEK) (7/30/15) – action for patent infringement, alleging that defendants' production and distribution of the "Raven" lawn tractor infringes two of plaintiffs' patents, including the '746 Patent, which refers to the front wheel connection assembly of a lawn mower; granting defendants' motion for consideration, based on a finding of clear error, regarding that portion of the court's prior Order which denied defendants' motion for summary judgment on the ground that a genuine dispute of material fact exists regarding whether the 1988 Yamaha Terrapro anticipates certain claims of the '746 Patent, dismissing plaintiffs' complaint in its entirety.

Products Liability

Bourassa v. Black & Decker, Inc., 12-CV-1476(FJS) (8/7/15) – diversity action arising from personal injuries sustained from DeWalt Heavy-Duty drill manufactured and sold by defendant, asserting claims of negligence, defective design, failure to warn, strict products liability and breach of express and implied warranty; granting defendant's motion to exclude the expert testimony of plaintiff's witness as well as defendant's motion for summary judgment, dismissing plaintiff's complaint in its entirety.

State Farm Fire & Cas. Co. v. Gen. Elec. Co., 12-CV-1032(FJS) (7/23/15) – diversity action arising from property damage sustained from fire originating in the area of the line cord to a refrigerator unit, asserting claims of negligence based on defective design, breach of express or implied warranty, and strict products liability; granting in part, and denying in part, defendant's motion for summary judgment, dismissing plaintiff's claim of breach of express or implied warranty, but not dismissing plaintiff's claim of negligence based on defective design and its claim of strict products liability.



FOUNDATION'S 50-YEAR LUNCHEON HONORS 11 FOR HALF-CENTURY LEGAL MILESTONE



Pictured Front row from left:
Stuart J. LaRose Hon. George H. Lowe Dennis R. Baldwin Donald P. Colella Joel N. Melnicoff C. Daniel Shulman
Back Row: Carter H. Strickland Dennis G. O'Hara

More than 160 guests turned out at Drumlins on Thursday, September 10 to celebrate 11 of their colleagues at this year's 50-Year Luncheon.

A popular tradition in the Central New York legal community, the Luncheon recognizes those attorneys who have reached the milestone of 50 years admittance to the Bar. In addition to the seven pictured here, four were honored "in absentia": Michael D. Stern, Paul A. Trivelpiece, Samuel B. Vavonese and Roy Sanders (see his letter, following).

Stuart J. LaRose, President of the Onondaga County Bar Foundation and Jean Marie Westlake, President of the OCBA, co-hosted the program. The luncheon is co-chaired by Supreme Court Justice Deborah H. Karalunas and David Liddell, Esq., with Barclay Damon, LLP.

Several members of the Judiciary were on hand to offer their congratulations, including: the Hon. Rosemary S. Pooler, from the U.S. Court of Appeals, 2nd Circuit; Surrogate Court Judge Ava S. Raphael; Syracuse City Court Judge Kate Rosenthal; Administrative Law Judge John M. Lischak; Retired U.S. Magistrate Judge Gus DiBianco; and retired Dewitt Town Magistrate Jack Schultz.

Remarks from the Class of 1965

Carter, Denny, George, Dan, Joel, Don, and in absentia, Paul, Roy, Sam and Michael, Colleagues and Friends. . .

This luncheon is always one of my favorite Bar traditions—a chance to celebrate our 50 year lawyers and get to learn a little bit about their respective life stories, all the while enjoying a good lunch and mingling with colleagues. And I still remember with fondness my lawyer Dad's 50 year celebration hosted by the Erie County Bar Association.

But I must confess that I am a little surprised that we're up at the head table so fast. Where did those 50 years go? For example, it didn't seem that long ago that Carter, Denny and I started work at Mackenzie Smith Lewis Michell & Hughes that same September in 1965. Only to be joined there a few years later by Dan.

But here we are, so, on behalf of my 50 year colleagues, allow me to offer our sincerest thanks to the organizers of this event—Judge Karalunas and Dave Liddell, OCBA President Jean Marie and current Bar Foundation President, Stuart, and Bar Executive Director Jeff Unaitis and his fantastic staff at the OCBA including Peggy Walker, Chele Stirpe, Maggie James and Delores Hnat—

Each honoree was presented a plaque welcoming them to "Honorary Lifetime" status within OCBA, and offered brief comments of thanks and recognition.

Congratulations to this year's class, and to the spouses, family and friends who were in attendance for this memorable event. Special thanks to those who made a contribution to the Bar Foundation in honor of the Class of 1965, including Judge Karalunas; M. June Lockwood; Francis E. Maloney, Jr.; C. Daniel Shulman; and Ellen S. Weinstein.

Each year, a representative of the 50-Year Class is asked to deliver thanks and comments on behalf of their fellow honorees.

Denny Baldwin is of counsel at Mackenzie Hughes, where he has practiced since 1965. He is a career-long active member of the OCBA, having served as its President in 1986 and having received its Distinguished Lawyer Award in 1984. For NYSBA, he was a vice president and member of its Executive Committee and, during the early 2000s, was chair of its Governance and Membership Committees. Denny is an active participant in the Volunteer Lawyers Project, and has served as president of the Bar Foundation and the Assigned Counsel Program.

By Dennis R. Baldwin

for all they've done to make this a very special day for us. Sincere thanks also to our respective law firms and law colleagues with whom we've practiced over the years—my special personal thanks to my colleagues at Mackenzie, here in force today, where I spent the better part of 45 good years. I also want to thank our respective spouses, significant others and family members for not only being here, but being with and for us on our event filled journey to this day. And last but not least thanks to you all for taking the time to be here to celebrate with us.

Now, just to put things in proper perspective, I'm not under any illusion that we're being honored today for any particular talent or community achievement. Frankly, it's just that we've managed



Continued on page 9

JUSTICE WALK/RUN RECAP



The Volunteer Lawyers Project of Onondaga County and Hiscock Legal Aid Society were proud to collaborate on the first ever Justice Walk/Run on September 2 at Onondaga Lake Park. This family-friendly event drew in many participants

who enjoyed the evening as they supported justice for those in need in our community.

Several thousand dollars were raised to benefit the work of OnVLP and HLAS in the "CNY Immigration Collaborative." This project serves immigrants seeking immigration relief that will grant them lawful status and allow them to work, attend college, and become full participants in our community.

Sponsors of Justice Walk/Run included FocalPoint Federal Credit Union, Wegmans, SUNY Upstate Medical University, Harris Beach PLLC, Volunteer Lawyers Project of Onondaga County, Deborah O'Shea and LASMNY/LSCNY Staff and Lawyers' Association National Organization of Legal Service Workers, Local 2320, UAW and Landmark Graphics.

Since the Middle Ages, the Church has celebrated what has come to be known as the Red Mass annually for judges, attorneys, law school professors, law students and government officials. The Mass requests the guidance of the Holy Spirit for all who seek justice, and offers the opportunity to reflect on this God-given power and responsibility of all in the legal profession. This tradition continues in Washington, DC on the Sunday before the opening of the Supreme Court and is attended by Supreme Court Justices, members of Congress, the diplomatic corps, the cabinet and other government leaders.

the
**Red
Mass**

The Catholic Lawyers Guild will sponsor this year's Red Mass at the Cathedral of the Immaculate Conception on **Wednesday, September 30 at 12:10 pm**. All are welcome.

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Remarks from the Class of 1965

from page 7

to stay alive for 50 years after our admission to practice. That said, I am impressed, as I'm sure you all are, with the pretty amazing achievements of our 50 year class. Needless to say, although a few of us may be retired from active practice, we are not a retiring group and expect to continue to achieve well into the future. So speaking for all of us, especially considering the alternative, we're very glad to be here today and look forward to coming back in years to come to celebrate with those distinguished lawyers who succeed us.

A lot of water has gone under the bridge since we were admitted in 1965. In that year alone, as a recent article in The Atlantic reminds us, *"the war in Vietnam was escalating, the space race was in full swing, the Rolling Stones were on a world tour and the bravery of those who marched to Selma led to the passage of the Voting Rights Act under the leadership of President Lyndon Johnson. In addition, Malcolm X was assassinated, NASA's Mariner 4 flew by Mars, race riots erupted in Watts, California, and Muhammad Ali defeated Sonny Liston for the heavy weight boxing title in their second bout in two years."*

And even more.. the World's Fair in New York was winding down its successful run, the Beatles were flying high, Winston Churchill was buried in a service televised world wide on January 30, Lew Alcindor (we now know him as Kareem Abdul-Jabbar) was about to break into the basketball big time, Hillary Rodham (yet to be Clinton) graduated from Maine East High School in Park Ridge, Illinois, a massive blackout hit the entire East Coast (unrelated to Hillary's graduation, I'm told...), Martin Luther King addressed a standing room only crowd at Syracuse University on July 15, 1965, Bill Walsh—Dad to our former congressman, Jim—was into his 5th year as Syracuse Mayor, and in the landmark case of Griswold vs. Connecticut, the US Supreme Court ruled in a 7-2 decision that the Constitution protected a right to privacy in a case which invalidated a Connecticut law that prohibited a person from using any drug, medicinal article or instrument for the purpose of preventing conception.



Just speaking from the perspective of the practice of law, since 1965 we've benefitted from—and truth be told probably struggled with-- a host of technical developments including-- just to mention a few-- the photocopier which gave the heavens to yellow copies and carbon paper, the electric typewriter which gave way to the computer, fax machines-- which meant that we could no longer put a carefully thought out document in the mail and relax for a few days before the expected reply-- and fancy multi buttoned phones with voice mail and—amazingly, no dials.... And how about the 24/7 Blackberry/iPhone/smart phone phenomenon which has taken us all by storm (and, incidentally,

allowed me to replace my old Dick Tracy watch....) Then there's Westlaw, LexisNexis, Loislaw and the like where we learned to do our legal research without, so to speak, cracking a book. We even had amazing secretaries in our day who handled a variety of tasks for us who, as I understand it, are sadly becoming a vanishing breed as a result of law firm economics and more tech savvy lawyers today who are able to do pretty much everything themselves.



this assortment of acronyms: CPLR, CPL, EPTL, NPCL, BCL, EDP, ECL and more. And then there was the old calendar call, which as an associate I was often called on to attend, which went by the way when OCA was birthed and newer, more efficient ways were developed to handle the daily court calendar, at the cost, sadly, of a wonderful opportunity to mix and mingle with our colleagues.

I've probably had more than my fair share of happy moments in the law, but one memory continues to haunt, and some of you may have been on hand to witness it. Years ago, when I chaired our annual Bar Dinner, we invested in Fred, the comedian sound-maker extraordinaire, as our dinner speaker who came highly rated. Well Fred couldn't



get to first base with the crowd on hand so finally in desperation, a la David Letterman, he flung himself against the bar banner hung at the rear of the podium in Hotel Syracuse's beautiful Grand Ballroom, without realizing that it wasn't sturdy and could have resulted in his crashing through the window behind and falling 10 stories to his final curtain call if quick hands from those at the head table hadn't sprung into immediate action. Needless to say, poor Fred—a really nice guy—has not been invited back....



Perhaps some of my fondest memories involve the terrific lawyers who have influenced me over the years. Don got me thinking by mentioning Larry Sovik and Bob McAuliffe, two great lawyers. In my own experience at Mackenzie, I often think of the late John Hughes, Neal McCurn, RB McCormick, Bill Broad, Carleton Reiffenstein,

We've also experienced a sea change of laws, rules and regulations affecting our practices, with ever more emphasis on focus and specialization. Just think about the changes alone in

Well Fred couldn't

Perhaps some of my fondest memories involve the terrific lawyers who have influenced me over the years. Don got me thinking by mentioning Larry Sovik and Bob McAuliffe, two great lawyers. In my own

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OCBA CONTINUING LEGAL EDUCATION

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HON. JOHN J. BRUNETTI

Judge of the Court of Claims

Acting Justice, Supreme Court, Criminal Term, Onondaga County

Defenses in Criminal Cases

1.5 MCLE Professional Practice

Friday, September 25

CNY Philanthropy Center 2nd Floor Ballroom

12:30 – 1:45 pm.



Member \$30 | Paralegal \$20 | Non-Member \$40

Lifetime \$0 | Legal Services Member \$0

This seminar will cover defenses that are complete versus mitigating, ordinary versus affirmative, element-based defenses, excuse-based defenses, crime-specific defenses, justification-based defenses, defenses based upon the actor's belief, defenses that may or may not also be grounds for dismissal, defenses relating to criminal liability for the conduct of another, the alibi defense, alibi notice and psychiatric evidence notice, intoxication, and diminished capacity.

Under NYS rules this CLE has been APPROVED for both Newly Admitted and Experienced Attorneys
CLE Tuition Waiver Policy available: www.onbar.org/cle



DEFENSES IN CRIMINAL CASES | Friday, September 25 | register online [HERE](#) or print and fax back

Member \$30 | Paralegal \$20 | Lifetime \$0 | Legal Services Member \$0 | Non-Member \$40

Attendee(s) _____ Phone _____

Firm _____ Email _____

Address _____ Billing Zip _____

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SEAN CARTER | Lawpsided Law 2015 Ethy Awards

Friday, OCTOBER 2, 2015

CNY Philanthropy Center 2nd Floor Ballroom



Part One: THE BEST OF THE WORST ETHICS VIOLATIONS

9:30 – 11:30 am | 2.0 MCLE Ethics & Professionalism

Sean Carter, America's foremost legal humorist recaps the best of the worst ethics violations from the last year. He explains the specific ethics violation, discusses how we can avoid similar outcomes in our practice of law, and awards the Ethy to the "winner" in each of the following categories: **The Outlaw(yer) Award** (Violations of Rule 8.4 — Misconduct — Criminal Acts) **Most Creative Billing** (Violations of Rule 1.5 — Fees) **The Houdini Award** (Violations of Rule 1.15 — Safekeeping property) **Best Supporting Actor In a Criminal Enterprise** (Violations of Rule 8.4 — Misconduct) **The AT&T Award** (Violations of Rule 1.4 — Communication) **The Joan Rivers Award** (Violations of Rule 1.6 — Confidentiality) **Least Competent in a Legal Representation** (Violations of Rule 1.1 — Competence and Rule 1.3 — Diligence) **Best Use of Deception in Legal Marketing** (Violations of Rule 7.1 — Advertising, Rule 7.4 — Identification of Practice and Specialty, and Rule 7.5 — Professional Notices, Letterheads and Signs) **Worst Love Scene** (Violations of Rules 1.7 & 1.8 — Conflicts of Interest) **The Lifetime Achievement Award** (Amazing compilations of ethics violations by one attorney)

Part Two: LAWYERS BEHAVING BADLY

1:00 – 3:00 pm | 2.0 MCLE Ethics & Professionalism

In this off-beat "awards" program, Sean examines attorney misbehavior in light of our obligations to behave professionally and civilly. Using the New York Rules of Professional Conduct and New York Standards of Civility as guides for appropriate behavior, he will explain where these lawyers went wrong, provide tips to help you avoid being a nominee in the 2016 Ethy Awards, and announce the winners in the following categories: **Most Over-animated Courtroom Outburst** (Breaches of courtroom decorum) **The Pit Bull Award** (Vexatious conduct) **Worst Legal Strategy** (Dubious litigation tactics) **Miss (Mister) Uncongeniality** (Acts of rudeness and disrespect) **The Archie Bunker Award** (Exhibiting racial, gender and other biases) **Critic's Choice Award** (Improper criticism of judges) **Worst Temper in a Non-Legal Setting** (Acts of violence outside the practice of law) **Most Impaired in a Legal Setting** (Using intoxicating substances in the practice of law) **Most Impaired in a Non-legal Setting** (Substance abuse outside the practice of law) **The Hitchcock Award** (Misconduct that surprisingly resulted in bar discipline)

Under NYS rules this CLE has been APPROVED for both Newly Admitted and Experienced Attorneys
register online [HERE](#) or print and fax back | CLE Tuition Waiver Policy available: www.onbar.org/cle

I would like to attend: Part One: The Best of the Worst Part Two: Lawyers Behaving Badly

Attendee _____ Phone _____

Firm _____ Email _____

Address _____ City _____ State _____ Zip _____

Check Enclosed Visa, MasterCard, or AmEx Card# _____ Exp. _____

BOTH SESSIONS

- Member \$ 120
- Paralegal Member \$ 60
- Agency & Lifetime Member \$ 60
- Non- Member \$ 140

ONE SESSION

- Member \$ 70
- Paralegal Member \$ 35
- Agency & Lifetime Member \$ 35
- Non- Member \$ 80

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OCBA Paralegals Committee

Contributor | Karen Hawkins

Monthly Luncheon Meetings

On June 11, 2015, **Sean M. Ralph, Assistant Chief Investigator from the NYS Department of Financial Services, Criminal Investigations Unit** was our guest speaker and provided information regarding **Insurance Fraud** and his role in the investigation of criminal fraud cases.

On October 3, 2011, the New York State Insurance Department and the New York State Banking Department merged to create the New York State Department of Financial Services.

The Financial Frauds & Consumer Protection Division (FFCPD) of the NYS Department of Financial Services is charged with protecting and educating consumers and fighting financial fraud. The FFCPD pursues civil and criminal investigations of activities that may constitute violations of the Financial Services Law, Banking Law, Insurance Law, or other laws, and brings enforcement proceedings as appropriate. Criminal Investigations is one of five Units of the FFCPD.

The Criminal Investigations Unit conducts specialized investigations into criminal conduct involving the financial services industry and works with law enforcement and regulatory agencies at the federal, state, county and local levels.

To report suspected fraud, call the **DFS Hotline at 1-800-342-3736**.

The Paralegals Committee would like to thank Sean for taking time from his busy schedule and coming all the way from Oneonta to share some of his vast knowledge of insurance fraud with us.

Geoffrey Bench of AAG, American Advisors Group, was our guest speaker on September 10, 2015 and spoke to us regarding **Reverse Mortgages**. Geoff dispelled the myths surrounding reverse mortgages and explained the advantages and various methods of applying for reverse mortgages. The applicant needs to meet HFA standards and the loans are insured.

The Paralegals Committee would like to thank Geoff for sharing important information regarding reverse mortgages. He definitely provided us with food for thought relative to planning our futures.

Looking ahead - October 26th

New Date and Location for the October Luncheon - Our October speaker will be **Family Court Judge Michael Hanuszcak** who will be speaking about Family Law on Monday, October 26th. The October Luncheon will be held on location at the **Onondaga County Courthouse** - more details to follow.

November 12th

Our November speaker will be **Supreme Court Justice Deborah Karalunas** who will be speaking about her role in the Supreme Court. The location of this luncheon to be announced. **Please mark your calendars for November 12th.**

Students will receive \$1.00 discount for the October and November lunches!

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. Please keep in mind that your reservation is binding unless you cancel on or before the reservation deadline.

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
Ranette Releford
Faye Williams
Jean Swanger
Angelique Kraus
Karen Hawkins

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khawkins@gilbertilaw.com

OCBA Paralegals Committee to Host a Meet and Greet

Please mark your calendars for **Tuesday, October 20, 2015**. We will be hosting a very different type of gathering. The place is Painting With A Twist, 7421 Oswego Road, Liverpool, NY 13090 (Route 57, Glen Crossings Mall). The time is 7:00-9:00 PM. For \$35 you can paint a holiday picture while sipping your favorite beverage. Bring the finished product to the Paralegals Holiday Luncheon where attendees will vote for their favorite painting. The "artist" receiving the most votes will receive a prize. If interested in attending this event, register [HERE](#).

Use pass code OCBA and if you have any further questions please contact Ann Miller at amiller@bsk.com.

ESAPA News

Empire State Alliance of Paralegal Associations, Inc.'s ("ESAPA") Spring Meeting was held on Saturday, April 25, 2015 in Buffalo at the offices of Phillips Lytle, LLP, 125 Main Street. Our ESAPA delegate, Faye Williams, attended the meeting and was accompanied by Debra Turner, Angelique Kraus and Glafira Pytlak. Each member association/organization submitted reports regarding their activities and initiatives. Raeann Bromark from New York City Paralegal Association, Inc. was re-elected ESAPA Vice President and Shannon Mack

from Capital District Paralegal Association, Inc. was re-elected ESAPA Secretary. The Fall Meeting will be held in Saratoga on September 19th and 20th, 2015 at the offices of Nixon Peabody and is slated to be hosted by Adirondack Paralegal Association and/or Capital District Paralegal Association, Inc.

To find out more about ESAPA please check out their website at: <http://empirestateparalegals.org>



The Executive Committee Could Use Your Help

The Paralegals Executive Committee ("EC") meetings are scheduled the first Wednesday of the month. EC meetings begin 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 have thought about joining the Executive Committee but the meeting time doesn't work for you, let us know. We may change the meeting time for our Executive Committee meetings, or some of the meetings, 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? The Listserv can help! This service is free to employers and could help you fill your next position. Employers can email Paralegals Committee Chair, Kathrine Cook, at kathrinecook0@gmail.com to have their job provided to OCBA Paralegal members via the Listserv. The Listserv is open to all OCBA Paralegal members (including student members) as a benefit of paid OCBA membership. Members are added to the Listserv when membership 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. Peggy and Kathrine work together to ensure Paralegal members are added to the Listserv. Employers and/or Paralegals can email Kathrine should they have any questions.



Remarks from the Class of 1965

from page 9

Willis Brown, Jay Wason, Jim O'Connor, Bill Roy and Jack Lawton, just to name a few who have influenced my practice. And that doesn't include Ray Hackbarth and Parker Stone, who thankfully, are still with us. They were and remain great role models for me. There are so many more great role models throughout our robust legal community, and you all doubtless have your own list of favorites. But let those memories serve to remind us that we are where we are, in no small part, because of our good fortune of having been able to stand on the shoulders of so many lawyers who helped and inspired us along the way.



Although change is an inevitable part of life, fortunately some things don't seem to change that much. For example, based on my long and happy experience with the New York State Bar Association and various other Bar Associations around the State, I have always maintained that Onondaga County is a wonderful place to practice law—most all of our colleagues are collegial, honest, caring, easy to deal with, fun loving and highly talented. As my friend, & former Mackenzie colleague, Barry Shulman once observed in paraphrasing Shakespeare: "We strive mightily but eat and drink as friends." I have always cherished



those characteristics of the practice of law here and hope that they will remain a hall mark of the practice in Onondaga County for generations of lawyers to come.

And we've always enjoyed the benefit of strong local bar associations, notably the OCBA and the Central New York Women's Bar, which help provide the organized support for our dual missions of assuring justice for our community and legitimacy for lawyers. One of the traditions of our bar which has resonated so much with me over the years is our terrific pro bono program, working hand in hand with our outstanding legal service providers for the poor. In that regard, I want to pay special tribute to my friend George Lowe who will be honored on October 29 at a ceremony when the George H. Lowe Center for Justice will be dedicated in fulfillment of his long sought after "one roof" proposal.



George has been an outstanding leader in so many ways, but his service to pro bono has been second to none.

Our work in the area of pro bono underscores

my belief that, above all, as lawyers, we have the obligation to be fair in everything we do or say, much as the then young granddaughter of the venerable Judge Stewart Hancock—also one of my favorite role models—was reported to have advised her grandfather so many years ago as he was ascending to the New York Court of Appeals bench—"Be fair, Bumpa", she said. For me that sums it up. Be fair, and everything else will generally fall into place.

So in that spirit of fairness, please join me in raising a toast to my distinguished 50 year colleagues & to those who have gone before us and will come later. May this great tradition of honoring the past and looking forward to the future continue to thrive.

One of this year's 50-Year Honorees, Roy Sanders, was unable to attend the luncheon but asked event organizers to read a letter he had sent. Foundation Board President Stuart LaRose read the letter we reprint here: My fellow 50-Year Honorees:

Congratulations, and sorry I could not be with you today. My, how time flies. It seems like only forty-eight, forty-nine years ago I began practicing law. A great deal has happened since I "retired" in 1996.

At the time I was sixty years old and had done everything I wanted as a lawyer. I danced with the law, but never married her. When she was no longer fun to be with, it was time to move on. So I did.

I moved to Florida, married again, divorced again and moved to Bogota, Columbia where I became engaged to a doctor, a former Ms. Bogota. We had great years traveling before I accepted the fact it would never work. Maybe it was because she was thirty-three years younger than me.

From there I began to write. I did some social commentary articles for Newsweek and a weekly political satire column for a national daily newspaper. I lived in Panama for a while. I wrote mystery novels and lo and behold, they sold. From Panama back to Florida and then on to Belize, always with my trusty laptop.

Today I split my time between Belize and Southeast Florida. I am with an age-appropriate, fantastic lady who makes every day an absolute joy. We travel a great deal; spending considerable time every summer at the Chautauqua Institute in Upstate New York. I write four to five hours a day, six days a week. My best sellers, "GONE," "PERFECT PEARLS" and "TWIN KINGS" may be purchased on Amazon. My next novel is "DIRECTED VERDICT."

Life is very good. Oh, my health is great. Hobbies: Skiing all the great mountains of Europe, world travel and love of cooking.

My advice, not that anyone asked: do what makes you unbelievably happy. If or when it stops, do something else. Don't get stuck in a rut. Life is far too short. Rid yourself of all stress, it kills. I have no bucket list: I did it all, my way.

If any of you wish to contact me, send an email to sandmarco@aol.com. I promise I'll answer. Again, congratulations. Fifty years of practicing law, you've more than earned it. The very best to all of you.

-- Roy Sanders



LEGAL BRIEFS BRIEFS BRIEFS LEGAL

Bousquet Holstein Attorneys Named 2015 Super Lawyers

Bousquet Holstein PLLC is pleased to announce that eight of the firm's attorneys have been named to the 2014 issue of New York Super Lawyers – Upstate Edition.

David A. Holstein is a member at Bousquet Holstein and serves on its Board of Managers. He has been selected by Super Lawyers for his work in estate planning & probate. David's practice in this area includes estate, retirement, business succession and tax planning, and probate and trust administration for individuals, estates and trusts, family-owned businesses, private foundations and charitable organizations.



She concentrates her practice on tax planning, Medicaid planning, probate litigation, special needs planning, elder law, employee benefits, not-for-profit organizations, as well as advocacy with regarding to individual, estate, and business tax matters.

Cecelia R.S. Cannon is a member of the firm in the Litigation Practice Group. As a litigator, Cecelia offers skillful and knowledgeable counsel to companies and individuals. She works with her clients to explore economical and efficient strategies and is a strong advocate in helping them reach their goals. In addition to negotiating out-of-court settlements, Cecelia practices regularly in state and federal courts. Cecelia works extensively with her clients in commercial disputes, trusts and litigation, estate litigation, and contested trademark registrations.



Steven A. Paquette is a member of Bousquet Holstein and is an experienced litigator and matrimonial-family law attorney who brings over 31 years of practical experience to seek fair and reasoned solutions to client problems. His current practice involves successfully navigating sophisticated divorce and family law matters to a successful conclusion and working with businesses to maximize their potential for success.



Aaron D. Frishman serves as Of Counsel in the Estates and Trusts Practice Group. Aaron has extensive experience in providing clients with comprehensive estate and tax planning, drafting wills, trusts, powers of attorney, and health care proxies. Aaron will also be representing clients in estate administration, trust and estate litigation, and guardianship matters, as well as providing Medicaid planning to elderly and disabled clients.



Christine Woodcock Dettor is a member at Bousquet Holstein and has extensive experience in working with not-for-profit organizations, and also focuses her practice in the areas of trusts and estates, health care, professional practices, and elder law.



Timothy M. Hennigan Joins Team Green Lawyers

Team Green Lawyers, PLLC is proud to announce the addition of Timothy M. Hennigan to their firm.

Tim's career in law began when he joined the Onondaga County District Attorney's Office in 1985. During his 30 years of service as an ADA, he prosecuted thousands of cases including murder/homicide, arson, rape, burglary, robbery, larceny, DWI, vehicular assault, vehicular homicide, and vehicle and traffic offenses. In 1988 Tim became the Chief Arson Prosecutor for the DA's office. He received the NYS Arson Prosecutor of the Year award in 2001 and again in 2012 as well as the Alton Lewis Team Award in 2002. In 2002 he was promoted to Senior Assistant District Attorney as well as Chief of the Grand Jury Bureau. Tim held these positions until he left the DA's office in 2015. He also received the Distinguished Service Award from the District Attorney's Advisory Counsel in May of 2015. He is now beginning a new chapter of his legal career in private practice with Team Green criminal defense lawyers.

Paul M. Predmore is a member of the firm, and serves on its Board of Managers. He is the principal attorney overseeing all tax controversies at both the federal and state levels. Paul has extensive experience in dealing with the Internal Revenue Service and the NYS Department of Taxation & Finance on audit, administrative appeals, litigation and collection issues, & assisted in successfully resolving complex federal and state tax matters.



Bernard T. King Elected To Board Of Governors At American Bar Association

Bernard T. King has been elected to the board of governors at the American Bar Association, effective Aug. 4. He is senior partner at Blitman & King, and has more than 55 years of legal experience and practices in the area of labor and employment law.

L. Micha Ordway is a member of the firm and an experienced litigation attorney in a broad spectrum of practice areas. His experience includes representing clients in complex commercial litigation matters, products liability suits, employment discrimination actions, bankruptcy litigation, whistleblower suits, and environmental litigation in state and federal court.



King currently serves as a member of the joint committee on employee benefits, and on the board of regents for Le Moyne College. He also serves as a member of the Syracuse advisory board for the Salvation Army, and is the founding co-chairman of the Central New York chapter of the Labor and Employment Research Association.



In addition, the following attorneys have been chosen by Super Lawyers as 2015 Rising Stars:

Emilee Lawson Hatch is a member of the firm and focuses on the drafting of simple and complex estate plans, as well as all matters relating to areas within trusts and estates law.

King earned his J.D. from Syracuse University, and a bachelor's degree from Le Moyne College.

LEGAL BRIEFS BRIEFS BRIEFS LEGAL

Maria Mastriano Joins Gilberti Stinziano Heintz & Smith, P.C.

Maria Mastriano has joined Gilberti Stinziano Heintz & Smith, P.C. as an associate where she will focus her practice primarily on civil litigation, environmental law, and land use. She has represented two of the largest worldwide pharmaceutical companies in complex mass tort litigation in nationwide multidistrict litigations and state court proceedings. She has also represented a Fortune 500 company in a constitutional challenge to the validity of a section of the Comprehensive Environmental Response, Compensation, and Liability Act.

Ms. Mastriano has extensive experience in all phases of the litigation process, including developing global litigation strategies,

managing discovery, deposing fact witnesses, working with expert witnesses, complex motion practice, and managing all aspects of pre-trial preparation, having participated as a key member of multiple trial teams.

Ms. Mastriano graduated valedictorian from the State University of New York College of Environmental Science and Forestry, receiving a M.S. in Environmental Science in 2001. Before pursuing her legal career, she served as a consultant to the Environmental Protection Agency where she worked extensively on regulatory issues, environmental risk assessments, and drafting guidance documents. Prior to joining the Firm, Ms. Mastriano was an associate at a litigation firm in Washington, DC.,

2016 EDITION OF THE BEST LAWYERS IN AMERICA

For three decades, Best Lawyers® lists have earned the respect of the profession, the media, and the public, as the most reliable, unbiased source of legal referrals anywhere. Their listings are compiled by conducting exhaustive peer-review surveys in which tens of thousands of leading lawyers confidentially evaluate their professional peers. If the votes for an attorney are positive enough for inclusion in Best Lawyers in America®, that attorney must maintain those votes in subsequent polls to remain on the list for each edition. Lawyers are not permitted to pay any fee to participate in or be included on our lists.

13 Hancock Attorneys Selected The Best Lawyers in America

Hancock Estabrook, LLP has 13 attorneys representing 24 practice areas in The Best Lawyers in America for 2016. Three of those attorneys have been selected as the sole 2016 The Best Lawyers in

America “Lawyer of the Year” in the Syracuse, NY metropolitan area. Alan J. Pierce is listed for Insurance, Doreen A. Simmons is listed for Litigation - Environmental and Paul M. Hanrahan is listed for Medical Malpractice - Defendants.



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Michael L. Corp



Paul M. Hanrahan



Walter L. Meagher Jr.



John L. Murad, Jr.



Timothy P. Murphy



Alan J. Pierce



Stephen R. Shaw



Doreen A. Simmons

Bousquet Holstein Attorneys Best Lawyers in America

Christine Woodcock Dettor of Fayetteville, graduate of Syracuse University College of Law (1996) and Wellesley College (1992)

Laurence G. Bousquet serves on the Board of Managers. He practices in the areas of mergers and acquisitions, business transactions, banking and financial institutions, professional practices, tax planning and advocacy, and venture capital. Larry has performed extensive work involving acquisitions, sales and mergers, syndications, partnership and limited liability



company law, general business, estate taxation and business transition planning, and New York State and Federal income, estate, and gift taxation.

Robert K. Weiler practices in the areas of bankruptcy, banking and financial institutions (including creditors' rights), equipment leasing and financing, mergers and acquisitions, business transactions, litigation, both corporate and commercial, appellate law, and venture capital.



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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.

Newly Admitted or Awaiting Admission Openings at Litigation Boutique Firm

Gale Gale & Hunt, LLC, a litigation boutique rated one of the top places to work in Central New York, has opening for two attorneys admitted, or waiting admission, to the NYS Bar. Ideal candidates have 0-2 years of experience, were law review and in the top 15% of their class. An interest in medicine is a plus. Interested candidates should send a CV and law school transcript to acapon@gghlawoffice.com or fax to (315) 637-3667. Inquiries will be treated confidentially.

In Memoriam ...

F. Robert Gilfoil Jr.

9/1/15

John J. "Bud" Costello

9/13/15

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.

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LEGAL BRIEFS BRIEFS BRIEFS LEGAL

2016 EDITION OF THE BEST LAWYERS IN AMERICA

Five Smith Sovik Partners Named to Best Lawyers in America

Smith Sovik Kendrick & Sugnet, P.C. is proud to announce that five Partners have been selected by their peers for inclusion in The Best Lawyers in America 2016. A listing in Best Lawyers is widely regarded by both clients and legal professionals as a significant honor conferred on a lawyer by his or her peers.

Smith Sovik attorneys honored by Best Lawyers 2016 include:

Kevin Hulslander: Insurance Law, Medical Malpractice - Defendants, Product Liability Litigation- Defendants, Professional Malpractice - Defendants.

Eric G. Johnson: Medical Malpractice - Defendants, Professional Malpractice- Defendants.



Kevin E. Hulslander



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James D. Lantier: Legal Malpractice- Defendants, Medical Malpractice- Defendants.

Michael P. Ringwood: Legal Malpractice - Defendants, Professional Malpractice- Defendants.

Steven W. Williams: Employment Law - Management, Litigation - Labor & Employment, Personal Injury Litigation.

Smith Sovik Kendrick & Sugnet Attorneys Named 2015 Super Lawyers

Smith Sovik Kendrick & Sugnet, PC is proud to announce that thirteen of the Firm's attorneys were honored by their peers as outstanding in their field in the 2015 New York Super Lawyers Upstate edition. Only five percent of the lawyers in Upstate New York receive this distinction.

Kevin Hulslander, the firm's Managing Partner, was named to the Top 10 list. Mr. Hulslander was the only attorney in Syracuse to receive that honor.

James W. Cunningham, Kevin E. Hulslander, Eric G. Johnson, Brandon R. King and Steve W. Williams were named to the Top 50 list for receiving the highest point totals in the evaluation process.

Super Lawyers at the firm include Kevin E. Hulslander for Civil Litigation-Defense, Kristen M. Benson and Steven W. Williams for General Litigation, James W. Cunningham, Brandon R. King, Kristin L. Norfleet, Daniel R. Ryan, and Edward J. Smith for Personal Injury General-Defense; Eric G. Johnson, James D. Lantier and Michael P. Ringwood, for Personal Injury Medical Malpractice-Defense. In Addition, two Associates were named to the Rising Star list, John Goldman for Personal Injury-Defense General and Brady J. O'Malley for Civil Litigation-Defense.

Blitman & King LLP

COLLECTIONS LITIGATION ATTORNEY

Blitman and King LLP is a nationally recognized firm representing **labor organizations, employee benefits trust funds, and individual employees in workplace matters.** The firm seeks an attorney with a minimum 4 years' federal and state court litigation experience to identify, capture and recover monies owed by employers to unions and employee benefits funds represented by the firm; experience with collections litigation preferred. The position will involve federal and state court litigation. Interesting and challenging issues under federal and state law are common in these cases. **The successful applicant will also work on drafting and modifying contracts, trusts, policies and procedures dealing with collection of monies.** Federal and state court litigation experience in similar areas or in areas requiring litigating numerous cases with common issues, the ability to manage many cases in litigation, and proven organizational skills, are all essential. Excellent research, writing and organizational abilities are necessary in this position. Competitive salary and excellent benefits. Send letter of application, resume and writing sample to: **Susan L. Sturick, Legal Administrator, Franklin Center, Suite 300, 443 North Franklin Street Syracuse, New York 13204, or via e-mail to slsturick@bklawyers.com.**

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



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Commercial and Federal Litigation Section    

Commercial and Federal Litigation Section Commercial Division Committee CLE: Overview of the New Commercial Division Rules and Practice in the Commercial Division in Onondaga County

1.0 CLE Credits in Professional Practice
Tuesday, October 6, 2015
4:00-5:00 pm
Bond, Schoeneck & King, PLLC
One Lincoln Center, 18th Floor, Syracuse, NY 13202






The Commercial Division Committee cordially invites you to attend a CLE entitled "Overview of the New Commercial Division Rules and Practice in the Commercial Division in Onondaga County," which will be presented by Honorable Deborah H. Karalunas, Justice, Supreme Court, Onondaga County; Honorable Donald A. Greenwood, Supreme Court Justice, Fifth Judicial District and Jonathan B. Fellows, Esq., Bond, Schoeneck & King, PLLC.

This program will provide an opportunity to educate practitioners about the new Commercial Division Rules, as well as give insight about best practices in the Commercial division in Onondaga County.

[Register Now](#) This program is complimentary.

Please call Tina Rothaupt at (518) 487-5669 or [email](#), with any questions.

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RSVP to cnywba@gmail.com by October 1st and mail payment to the CNYWBA at:

CNYWBA, PO Box 408, Syracuse, NY 13201

Make checks payable to the Central New York Women's Bar Association

For more information, please contact Samantha Millier at smillier@mackenziehughes.com

THE CNYWBA GRATEFULLY ACKNOWLEDGES THE FOLLOWING GOLD SPONSORS OF THIS EVENT:



OCBA Offers Sponsorship Opportunities for 2015 Annual Dinner

OnCenter | Thursday | October 15

HONORING
2015 Ruger Award Winner
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AND
2015 Distinguished Lawyer
JOHN P. SINDONI

The 140th Annual Dinner of the Onondaga County Bar Association will be held Thursday, October 15, 2015 at the OnCenter Convention Center in downtown Syracuse. During what is always the highlight of OCBA's program year, Ruger Award recipient the Hon. Langston McKinney and Distinguished Lawyer recipient John Sindoni will be honored. OCBA is now seeking sponsors for the Dinner, and more information about those sponsorship opportunities may be found on the Association's website, www.onbar.org.

[Sponsor form Annual Dinner 2015](#)

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Barclay Damon, LLP, a 275-attorney law firm, with 33 practice offerings and twelve offices throughout New York State and the Northeast, is seeking a full time associate for our Torts & Insurance practice. Practicing litigation attorneys with 1-4 years of torts experience, are encouraged to apply. The position will be based in our Syracuse office.

Candidate will be licensed to practice in the state of New York, have superior verbal, written, and interpersonal skills and have demonstrated abilities to work directly with clients and develop and execute service strategies. The ideal candidate will have experience in New York State and Federal courts handling the defense of products liability, personal injury and professional malpractice actions. Generous benefit package. Salary commensurate with experience. Interested candidates should submit resume, cover letter, transcript and writing sample in confidence to:

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