



ONONDAGA COUNTY BAR ASSOCIATION  
**BAR REPORTER**

FEATURED ARTICLES

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APRIL 2018  
Volume 63 Number 4



Onondaga County Bar Association  
CNY Philanthropy Center  
431 East Fayette Street, Suite 300  
Syracuse, NY 13202  
315-471-2667

## *Our 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.



## *Upcoming Events:*

### **Law Day - May 1st**

Syracuse University College of Law, Dineen Hall

### **Career Fair - May 3rd**

Fowler High School

### **Paralegals Luncheon - May 10th**

CNY Philanthropy Center, 3rd Floor Conference Room

### **Surrogate's Court Welcome & Thank You**

### **Luncheon - May 10th**

CNY Philanthropy Center, 2nd Floor Ballroom

### **Elder Law Fair - May 16th**

Onondaga Community College

### **CLE | The Life Cycle of a Law Practice**

### **Session #1: "Starting Out" - May 24th**

CNY Philanthropy Center, 2nd Floor Ballroom

Visit our [website](#) for more information.



## *In Memoriam...*

**C. Edwin "Ed" Close**

*March 13th, 2018*

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# Letter from the PRESIDENT



In 2010, the New York Court of Appeals, in *Hurrell-Harring v. State of New York, et al.*, 15 N.Y.3d 8, held that the Plaintiffs' complaint stated a viable claim for constructive denial of the fundamental right to counsel by reason of the alleged insufficient compliance with the constitutional mandate of *Gideon v. Wainwright*, 372 U.S. 335 (1983). In particular, the Court stated that an indigent defendant has a constitutional right to an attorney at arraignment as it is considered a critical stage of the criminal proceeding. Following discovery and immediately before trial, the case was settled. As part of the settlement, the State agreed to provide substantial funding to the five county defendants, including Onondaga, in order to fund various improvements to their specific indigent defense programs including providing defense attorneys at first appearance. The State Office of Indigent Legal Services ("OILS") was created to oversee the proper implementation of the constitutional requirements involved with the settlement. Surprisingly, the settlement did not seek input from the Office of Court Administration, the N.Y. Magistrates Association, the District Attorneys or the police.

The Office of Court Administration tasked its Administrative Judges to suggest viable, efficient, cost-effective ways of meeting this new challenge within the settling counties. The Fifth Judicial District, with the support and direction of Administrative Judge James Tormey, began a series of meetings with all of the impacted stakeholders throughout the six counties within the District to determine how to proceed. The notion of a Centralized Arraignment Part ("CAP") was developed whereby all defendants arrested within the county would be brought for arraignment to a central location where a Town or Village Justice is present along with defense attorneys provided through the Assigned Counsel Program or Public Defender Office. The implementation of a CAP in Oneida and Onondaga Counties eventually required special legislation and considerable cooperation between all of the stakeholders. The level of cooperation and collaboration has been unprecedented. OCA, the County Magistrates Association, the County government officials, the District Attorneys, the Oneida and Onondaga County Sheriffs, the State Police, all the local police agencies, the Onondaga County Assigned Counsel Program and the Oneida Public Defender Office all worked together tirelessly to establish the best system that doesn't unnecessarily burden any one stakeholder. The Onondaga and Oneida CAPs have been operating for the past few months with great success.

At the House of Delegates Meeting in Albany on April 14, 2018, the House debated a Report with recommendations from the Criminal Justice Section regarding Town and Village Courts and, in particular, counsel at first appearance. With regard to counsel at first appearance, the Report recommended each county should adopt a plan that fulfills the requirements of *Hurrell-Harring*, including a Centralized Arraignment Part with a defense attorney and District Attorney present at each arraignment. After considering comments from the State Magistrates Association and following lively debate and comments from the floor, I am very pleased that the House unanimously adopted a resolution that requires the State of New York to fully fund all costs associated with the implementation of the recommendations contained within the Report so as not to create any unfunded mandates.



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# Letter from the PRESIDENT CONTINUED...



I apologize for the length of the above background, but it is a very complicated issue with many moving parts. People not familiar with the particulars tend to criticize local courts, local and county governments and police for their "unwillingness" to adopt measures required to meet the constitutional requirements. Nothing could be further from the truth! The sole issue is, and has always been, who is going to pay for these improvements.

Despite the recent adoption of New York Executive Law Section 832(4) and amendments to N.Y. County Law Section 722-e that clearly require the State to pay for the implementation of these improved county plans, OILS has refused to do so. In fact, OILS will not even release to the stakeholders, including the Courts, the details of the individual plans that it prepared and submitted to the State last December for each county. Absurdly, the recently adopted State budget allegedly contains \$50 million to fund the individual county programs that the individual counties did not prepare and have not even seen. Moreover, the state authorized fee payable to an assigned defense attorney is a mere \$75 per hour and has not been raised since 2004. This has to stop!

The constitutional requirements of Gideon to adequately provide for indigent defense is a New York State obligation. New York State should fully fund all county, town and village costs associated with fulfilling that basic and critically important obligation. It is unconscionable that the attorney fee rate has not been raised in 14 years. The OCBA has recently supported the efforts of the Suffolk County Bar Association to advocate for an increase in those rates and I have been told that the House of Delegates will be addressing that issue soon.

I thought it important for all of you to be aware of all this, given the constitutional rights at issue, and also to let you know that the State Bar Association House of Delegates unanimously agreed that the State must fully accept and finance these fundamental obligations. Hopefully, the Bar Association voice will be heard in Albany. Cross your fingers!

President, James P. Murphy

# Did you know?



Dr. Michael &  
Rissa Ratner

- If your clients remember The Upstate Foundation in their estate plans, they will...
  - be creating a lifesaving or life-changing legacy*and*
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# The Verdict is In

## F-M Legal Hornets prevail, win Regional and County 2018 Mock Trial Championship – on to Albany!

The teenaged attorneys from Fayetteville-Manlius High School argued both sides of the fictitious disorderly conduct case, *The People v. Carson Conners*, April 21st at the 2018 Mock Trial Region 2 Championship and brought home the win.

After four grueling rounds at the Southern Tier’s U.S. District Courthouse in Binghamton, the Legal Hornets appeared with the Gilbertsville-Mount Upton High School team before Judge Thomas J. McAvoy.

“After a very long and challenging match, it was announced that we had won both the verdict and the round,” said F-M Social Studies teacher and Mock Trial Coach Joseph Worm.

The team locally prevailed on April 12th, over its worthy competitor in the Cazenovia Lakers when the Hornets clinched the Onondaga County 2018 Mock Trial Championship, setting the stage for the Binghamton victory.

U.S. Magistrate Judge David E. Peebles found for F-M’s defense that day in his courtroom high above Syracuse in the James M. Hanley Federal Building. The close match made for exciting viewing as only two points separated the Hornets from Cazenovia’s solid prosecution.

From the bench, Judge Peebles expressed his delight with both schools, which for more than two hours interrogated and cross-examined witnesses and experts, brought objections, and argued for their clients.

“This has been thoroughly enjoyable,” said Peebles. “You did better than many of the lawyers who appear before me.”

Shortly after announcing his decision, in a warm gesture of good sportsmanship, the two teams turned to their opponents to extend a hand in congratulations. Judge Peebles invited

both teams to his bench to capture a keepsake photo and his courtroom filled with a happy buzz.

This year’s case centered around the curious arrest of high-schooler Carson Conners who may, or may not, have been too rowdy in a Bigtown High School corridor. In saying hello to a classmate did Conners push a fellow student or did a teacher misread adolescent enthusiasm?

And what of the extenuating circumstances? Arrests lead to automatic suspensions at Bigtown High. Conners, a low-performing student, was absent from school serving a five-day suspension during a scheduled standardized testing period. Did the teacher in the matter have an incentive to see Conners not take the test? After all, some Bigtown teachers feel such testing is really a measure of teacher performance.

The questions rising from the case’s fact sequence kept both prosecution and defense counsel on their toes during the energetic county championship. And non-attorney teammates brought to life the case’s cast of characters – a vice principal, an English teacher, a School Resource Officer, and more, bolstering their respective sides with convincing testimony.

“Although the crime was not that compelling, the story around it was great,” Worm said. “What my team seemed to easily reign in on this year was the theory of how to frame and argue the fact pattern from each side.”

In the six-week lead up to the championship trial, a field of 15 teams was winnowed to two. Each week, sides switched to assure teams argued both defense and prosecution. F-M won handily each round, despite which side they portrayed.



## Meet the Fayetteville-Manlius Mock Trial Team

**Alexis Ahn**  
**Briana Amador**  
**Nicholas Bissell**  
**Avery Bower**  
**Cecilia Byer**  
**Patrice Calancie**  
**Maria Costello**  
**Matthew Crovella**  
**Jayden Davis**  
**David Haungs**

**Lauren Koss**  
**Emily Ledyard**  
**Michelle Lim**  
**Rachel Liu**  
**Grant Olick-Sutphen**  
**Joshua Ovadia**  
**Michael Reikes**  
**Helena Schmidt**  
**Katherine Yang**

**Coach: Joseph Worm**

**Advisor: Danielle M. Fogel, Esq.**

## OCBA thanks the following Mock Trial Judges:

**Aaron Ryder**  
**Lorraine Mertell**  
**Joe Lamendola**  
**Hon. James Murphy**  
**Jim Sonneborn**  
**Don Vanstry**  
**Erin Tyreman**  
**Dan Pautz**  
**Nick DeMartino**  
**Jeff Leibo**  
**Hon. Steve Dougherty**  
**Kristen Benson**

**Hon. James Hughes**  
**Jimmie McCurdy**  
**Craig Atlas**  
**Larry Vozzo**  
**Hon. Bob Jokl**  
**Hon. Michael Hanuszczak**  
**Hon. Robert O'Leary**  
**Brandon King**  
**Paula Mallory Engel**  
**Hon. Vanessa Bogan**  
**Hon. Brenda Sannes**  
**Hon. David Peebles**

Cazenovia student attorney Megan Schwartz thought the facts of the case lent themselves to the defense. Her co-counsel Zane Anthony, 16, concurred, "We were fighting for an argument that shouldn't have been made."

According to Worm, the legal Hornets stung their rivals because of the hours put in practice to get their eyes off their notes, or to not have any at all, and trained toward the witness stand, particularly on cross-examination.

"Witnesses prepared for every possible line of questioning they could face," he said. "Attorneys worked on strategies to control witnesses and strike unresponsive answers."

For F-M, the hours studying points of law and their repetitious practice proved beyond a doubt that such hard work reaped the kind of rewards these students will carry into the future – speaking in public, boosting critical thinking, and thinking on one's feet.

"My team taught me the importance of team chemistry this year," Worm said. "More than any other year previously, they have made an effort to spend time together outside of Mock Trial and bond. They trust each other and know how to do their part and to not worry about each other."

Such team spirit was evident from the beginning said F-M's legal advisor Danielle M. Fogel, a partner at Sugarman Law Firm.

"The team took the feedback from the judges we received last year and this year and moved forward incorporating these suggestions to ensure we put forth the best case and witnesses," she said.

"Each year, I am amazed by these kids and Mr. Worm. The time and energy they put in the case is impressive."

F-M student-attorney David Haungs, a junior, expressed what it felt like to argue the case in front of a federal judge in a courtroom in which some longtime legal professionals have never set foot.

"There's nothing better," he said.



Attorney Anne Ruffer stands in her office at Mackenzie Hughes LLP law firm in Syracuse

I know that my clients with charitable interests are in good hands when working with the Community Foundation. The staff is attentive to detail, caring, and most importantly, they listen. They take the time to sit down with my clients and find the best way to help them achieve their charitable giving goals.

Many clients choose to set up a donor-advised fund. This allows them to flexibly and easily support the charities and causes that they care about during their lifetimes. The Community Foundation also provides a number of ways for my clients to continue making a difference even after they're gone.

The Community Foundation's legacy giving services allow individuals and families to ensure their money is staying local and making an impact on their community in perpetuity. Donors can leave a planned gift through their estates, or by using assets like life insurance or retirement plans.



Read more of Anne's story at [CNYCF.org/Ruffer](https://www.cnycf.org/Ruffer)

## Giving Advice: Anne Ruffer



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## Legal Services of Central New York Wins Federal Appeal in *Winston v. City of Syracuse*

By: Carrie Chantler



***For his zealous advocacy on behalf of low-income clients, Josh Cotter (center) receives the New York State Bar Association's Denison Ray Award in September 2016.***

In a class action case that will impact renters not only in Syracuse, but in cities and towns within the Second Circuit, the 2nd U.S. Court of Appeals found for the plaintiff in *Winston v. City of Syracuse*.

Joshua Cotter, Esq., of Legal Services of Central New York, represented plaintiff Jacqueline Winston, a tenant, in the action that asserts Syracuse's water billing policy violates both the tenant's equal protection and due process rights.

Winston, and her family, went without water service for three days in February 2016 when her water was shut off due to an unpaid \$472.97 water bill. Her landlord had not paid the bill covering her unit's water utility consumption. She filed a class action against Syracuse to challenge its water shut-off policies.

In the City of Syracuse only

property owners have water service accounts in their names; tenants aren't permitted as water service is presumed to be included in a rental lease, unless otherwise specified.

In a 3-0 decision issued April 11, the 2nd U.S. Circuit Court of Appeals overturned the U.S. District Court for the Northern District of New York's previous decision to dismiss the complaint against the City of Syracuse.

The class action is thus revived when 2nd Circuit Judge Christopher Droney wrote in his decision, "The city's policy of shutting off water to collect debts divorces itself entirely from the reality of legal accountability for the debt involved."

For the last 10 years, Syracuse has had in place the policy of terminating water service to tenants if a landlord fails to pay the water bill. The

Second Circuit's decision holds the City's policy as unconstitutional and returns the case to U.S. District Judge Thomas J. McAvoy, in Binghamton, for further proceedings.

In Syracuse, 58 percent of the approximately 56,000 households are rentals, said Cotter

"The number of people affected by this in Syracuse is in the tens of thousands," he said. "To give you an idea of the number of people who were at risk of water shut off, the most recent data we have, from 2015, shows 5,045 active water accounts with past due arrears. Obviously, not all of those accounts would be in rentals, but a significant portion of them likely were."

As the case is still pending, City of Syracuse attorney Mary D'Agostino could not provide comment.

# April at the Bar Association

OCBA members made it happen in April when they participated in their community by assisting tomorrow's legal professionals (final and championship rounds of the High School Mock Trial 2018), installing new association officers (Annual Meeting, April 5th) and brushing up their financial accounting basics for service on Not-for-Profit boards (April 6th Community Engagement Committee CLE). Judges Martha E. Mulroy and Martha Walsh Hood

headlined the April 10th Bench and Bar Buffet, a free lunch and learn program, offering insight to an eager Family Law Section audience of Matrimonial Court protocol. And the Environmental Law and Land Use Section hosted an April 19th cocktail reception at the Marriott Syracuse Downtown in honor of Earth Day, sponsored by Hancock Estabrook, LLP. Enjoy these photos of your friends and colleagues!





# Onondaga County Bar Association & Bar Foundation 2018 Law Day Breakfast and Program



**TUESDAY, MAY 1, 2018**  
**Syracuse University College of Law**  
**Dineen Hall, 950 Irving Avenue**  
(Free, convenient parking in adjacent "Stadium" lot!)

**New This Year: Featuring a *FREE* CLE**  
**Get your new, mandatory**  
**NYS Diversity & Inclusion Credit**  
**immediately following the Law Day program.**

## PROGRAM

7:30 - 8:30 a.m. - Informal Networking Continental Breakfast - Levy Atrium  
8:30 - 9:30 a.m. - **Law Day Program** - Melanie Gray Ceremonial Courtroom

**KEITH J. BYBEE, KEYNOTE**



Vice Dean, Syracuse University College of Law  
Program Includes:

- OCBA Induction of new officers and directors
- Awards Presentation, including annual Liberty Bell Award, County High School Mock Trial Champions and OCBA Service Awards

Then, stay for your free CLE, included in your Law Day registration:

9:40 - 10:30 a.m. - Diversity & Inclusion CLE Program (1 credit)

**SUZETTE M. MELENDEZ, PRESENTER**



Teaching Professor  
Director of Children's Rights and Family Law Clinic

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# The Monthly Newsmakers

VOLUME 63 NUMBER 4

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## COUNTY NEWS

Syracuse University COLLEGE OF LAW

### *Applications Open for JDinteractive, Syracuse University College of Law's Online Law Degree Program*

Syracuse University College of Law is now accepting applications for its groundbreaking online J.D. program through the Law School Admission Council (LSAC). The deadline for applications for the program's first cohort of students is Nov. 15, 2018, for matriculation in January 2019.

The new program—called JDinteractive—is the first fully interactive online J.D. program to be accredited by the American Bar Association. The online law degree program is designed to be a flexible option for talented and ambitious students who cannot relocate to a residential program because of work or family commitments.

"JDinteractive allows the College of Law to make our rigorous juris doctor program accessible to students who cannot reasonably attend a fully residential program," explains Associate Dean for Research and Online Education Nina Kohn, who helped design the program. "The program

is designed to prepare students to succeed in a dynamic legal profession, and JDinteractive students will earn the same degree as our J.D. students."

Taught by College of Law faculty to the same high standards as the residential J.D. program, JDinteractive is a year-round, 10-semester course of study designed to be completed over three years and three months, with students taking an average of nine credits per semester. Online students take the same required courses as residential students, select among elective courses, and are provided hands-on experiential learning and skills-building classes. To accommodate the schedules of students with work or other commitments, evening and weekend classes are offered.

A hallmark of the program is that more than half of JDinteractive class time will take place in "real-time," with online students and professors interacting and engaging with content just as students do in residential classes. Self-paced

class sessions with interactive exercises complement these live sessions. Students also attend in-person, short-residency courses on campus and at satellite locations, and they will have the opportunity to participate in student organizations and to complete a guided legal externship—gaining critical practical legal experience—before graduation.

Admissions standards and requirements for JDinteractive are equivalent to those in the College of Law's residential program. To apply, prospective students should first create a "Future J.D. Student" account at [lsac.org](http://lsac.org). Once the account has been created, applicants may then register to take the Law School Admission Test (LSAT) and complete the application process. Questions about JDinteractive can be directed to [onlinejd.syr.edu](http://onlinejd.syr.edu) or 315.443.1962. More information about the program can be found at [jdinteractive.syr.edu](http://jdinteractive.syr.edu).

#### **DONALD KELLY OPENS BOUTIQUE LAW OFFICE**

Donald Kelly announces that he has opened a boutique law office at 2717 Bellevue Avenue, Suite 6, Syracuse NY 13219 (across from Westhill High School). Don can be reached at 315.422.2800 or [don@kellylawcenterpc.com](mailto:don@kellylawcenterpc.com) and will be focusing on criminal defense and employment discrimination.

#### **DID YOU KNOW ...**

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

If you know where your files will go after you're gone,

Contact Membership Coordinator:

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

# BLITMAN & KING NAME BAUMAN AND LAMBRIGHT MANAGING PARTNERS



Blitman & King LLP announced that it has named Timothy R. Bauman and Nathaniel G. Lambright as Managing Partners for the firm. Bauman and Lambright will oversee operations for the firm's four offices in New York State. Together, they represent over 41 years of experience with the firm.

**Timothy R. Bauman** joined Blitman & King LLP in 1994 and is in the firm's Rochester Office. Before becoming Managing Partner, Tim served as Chair of the firm's Employee Benefits Department for 10 years. He counsels

multi-employer and single-employer plans, companies, and tax-exempt entities on ERISA, taxation, and related employee benefits matters. Recognized for his accomplishments in the employee benefits area, Tim is a Senior Editor of Employee Benefits Law, the nation's leading treatise in the employee benefits field.

Tim graduated high honors with a bachelor's degree from University of Notre Dame, and earned his law degree, cum laude, from Notre Dame Law School, where he was an editor of the Law Review.

You may reach Tim at [trbauman@bklawyers.com](mailto:trbauman@bklawyers.com) 585.232.5600 16 West Main St, Rochester NY 14614

**Nathaniel G. Lambright** joined Blitman & King LLP in 2001 and is in the firm's Syracuse office. He has been recognized for his work representing private and public sector unions and

individual employees. He represents clients in collective bargaining, labor arbitrations, proceedings before the National Labor Relations Board and the Public Employment Relations Board, employment discrimination matters before state and federal agencies and in state and federal court, ERISA litigation, and wage and hour matters. He is co-chair of the Public Sector Labor Relations Committee of the Labor and Employment Law Section of the New York State Bar Association.

Nat graduated cum laude with a bachelor's degree from Hobart College, and earned his law degree, summa cum laude, from Syracuse University College of Law, where he was an editor of the Law Review.

You may reach Nat at [nglambright@bklawyers.com](mailto:nglambright@bklawyers.com) 315.422.7111 443 N Franklin St, Syracuse NY 13204

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# LEMON AND ZAJICEK JOIN BARCLAY DAMON LLP



Prior to joining Barclay Damon, **William Lemon** practiced litigation at Cleary Gottlieb Steen & Hamilton LLP. Lemon will split his practice across the Health Care

Controversies, Commercial Litigation, and Mass & Toxic Torts Practice Areas, capitalizing on skills acquired in his experience representing corporate entities in litigation and regulatory enforcement matters, including acting as liaison counsel for a joint defense group of more than 400 defendants.

Lemon graduated magna cum laude from New York Law School and served as a judicial extern for US District Court Judge Kiyo A. Matsumoto.



**Ivan Zajicek** will concentrate his practice on energy, regulatory, and environmental law, advising on the regulatory requirements facing the firm's energy clients and their

businesses. Zajicek is experienced in conducting legal research, assisting in litigation, negotiation, case strategy development, and investigations, and preparing state and federal documents.

Zajicek graduated magna cum laude from Vermont Law School and worked as a summer associate at Eversheds Sutherland (US) LLP.

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### ASSOCIATE ATTORNEY POSITION Municipal/Land Use/Zoning/Education Law

Established mid-size Syracuse Law Firm with extensive Municipal/Land Use/Zoning/School District Practice seeks Associate for its expanding practice. Successful candidate should demonstrate 2 - 8 years' experience serving as a municipal/land use/real estate and/or education practitioner. Knowledge of State Environmental Laws (SEQR), municipal, land use, labor and employment and education law is a plus. Salary commensurate with experience. Possibility of "of counsel" or junior partnership position will be considered based upon a candidate's demonstrated client base/practice. Attractive benefits package.

**Qualified candidates should submit a cover letter and resume to Costello, Cooney & Fearon, PLLC, 500 Plum Street, Suite 300, Syracuse, New York 13204, Attn: JRL.**

# ONVLP HONORED WITH NYSBA'S ANGELO T. COMETA AWARD

For its diligence in facilitating legal referrals for Central New York residents, the Volunteer Lawyers Project of Onondaga County was honored April 13th with the Angelo T. Cometa Award.

The award, sponsored by the New York State Bar Association's Committee on Lawyer Referral Service, recognizes individuals or groups that demonstrate an extraordinary commitment toward advancing the goals of the Lawyer Referral and Information Service, a NYSBA public service.

Among the goals of the LRIS is to support a coordinated lawyer referral and information service throughout the state and provide the public with community and legal services resources.

OnVLP provides free legal help and referrals to low-income community members and served 3,100 clients in 2016 through a panel of 750 volunteer attorneys, law students and non-lawyer volunteers.

OnVLP collaborates closely with the OCBA Lawyer Referral Service Program, from which it was originally cleaved before spinning off into its own pro bono program, as well as with other area legal services groups to streamline the referral process and monitor the need for specific legal services.

"OnVLP's program is built on a foundation of collaboration and the recognition that appropriate legal representation is an essential element of our justice system," said NSYBA President Sharon Stern Gerstman.

The award was created in 2007 in honor of Angelo T. Cometa, who served as NYSBA president from 1990-91. During his presidency, NYSBA created its Lawyer Assistance Program, Pro Bono Department and Department of Law Management.

# ELDER LAW FAIR

PLANNING FOR LIFE AFTER 50



## WHEN

Wednesday, May 16

8:00 a.m. - 1:15 p.m.

(breakfast offered before sessions begin at 9:00 a.m.)

## WHERE

Onondaga Community College  
Academic Building 2

4585 W. Seneca Turnpike

Please use Rt 175 entrance;

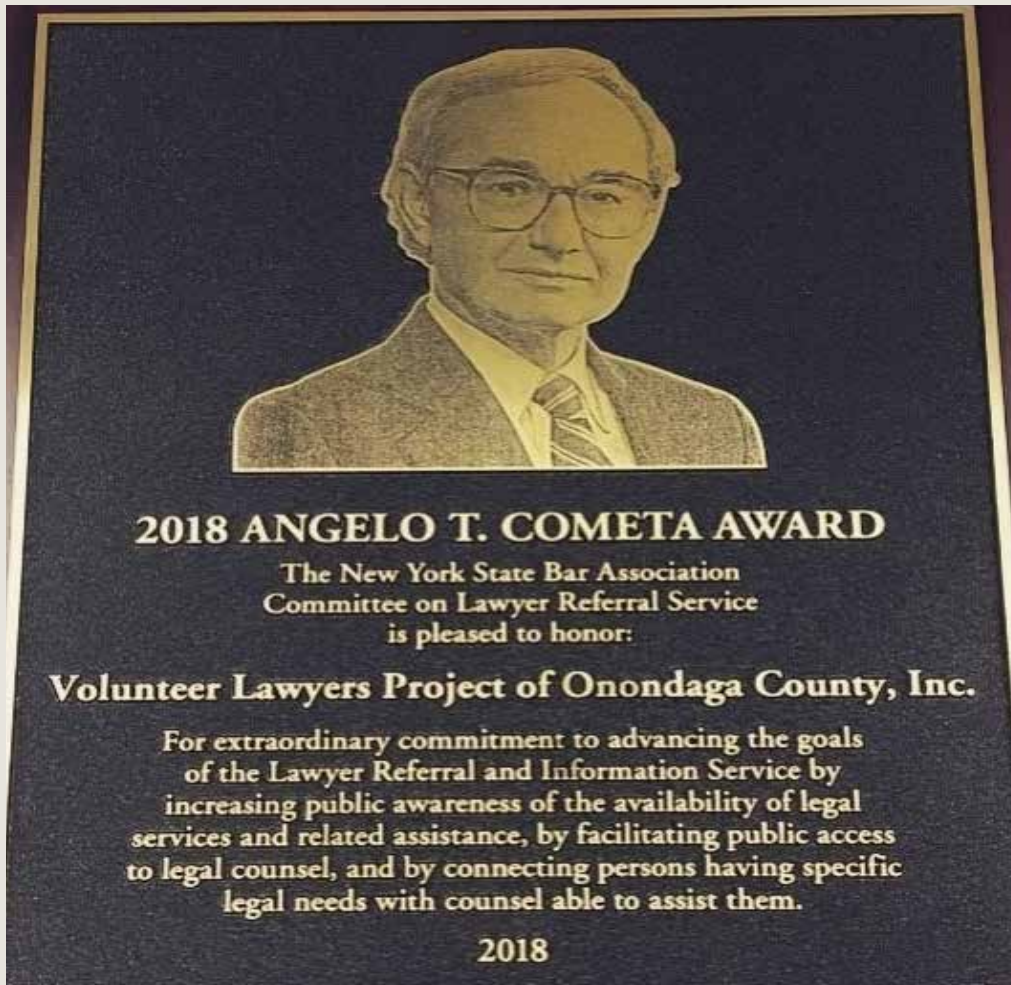
Park at ARENA & use shuttle bus.

## REGISTRATION

Register Online:

<http://aarp.cvent.com/ElderLaw2018>

**OR** By Telephone: 1-877-926-8300



## DID YOU KNOW ...

The CLE Committee is an essential resource for the local law community. This important OCBA panel reviews, approves and generates continuing legal education seminars in a wide variety of legal topics.

If you are interested in becoming a member of the committee, contact

**Carrie Chantler at 579-2578**  
or email [cchantler@onbar.org](mailto:cchantler@onbar.org)



# Ethics Hotline

New York lawyers faced with ethical questions regarding their own prospective conduct can reach the Ethics Hotline through Customer Service at **315-472-4481** or **315-727-7901**.

The Ethics Hotline is operated and staffed by members of the Onondaga County Bar Association's Committee on Professional Ethics (the "Committee"). These volunteers respond to inquiries made by lawyers admitted in New York who face ethical questions regarding their own prospective conduct. The purpose of the Hotline is to provide informal guidance to callers in accordance with the New York Rules of Professional Conduct (the "New York Rules"). Any information provided in response to a Hotline inquiry is merely the opinion of the Committee member answering the call. It is not the opinion of the Committee as a whole. The information provided in response to a Hotline inquiry does not constitute legal advice. If the matter involves complex issues, or implicates a substantive area of law, you may wish to retain professional ethics counsel.

## **Callers should be aware of the following guidelines before calling the Ethics Hotline:**

1. The Hotline only provides guidance to lawyers admitted to practice in New York about the New York Rules.
2. The Hotline only provides guidance concerning the caller's own prospective conduct. We do not answer questions about past conduct or the conduct of other lawyers.
3. The Hotline does not provide legal advice or answer questions of law.
4. The Hotline does not provide answers to hypothetical questions nor inquiries which have also been submitted to another bar association's ethics committee.
5. The Hotline does not answer questions about the unlicensed practice of law (UPL). UPL is governed by statutory law, not the New York Rules and is, therefore, outside the Committee's jurisdiction.
6. The Hotline provides general guidance. Due to the limited information we can obtain during a brief and informal telephone conversation, we cannot provide a definitive answer to Hotline questions.
7. The Hotline does not answer questions where the issue itself is the matter of a pending legal proceeding or is before a grievance committee.
8. Although it is the Committee's policy to maintain confidentiality of all Hotline inquiries, callers should be aware that the information is not protected by the attorney-client privilege or RPC 1.6.
9. The Ethics Hotline does not respond to complaints or inquiries regarding unethical conduct of other lawyers. Any such complaints or inquiries should be addressed to the Grievance or Disciplinary Committee for the county in which the lawyer practices (see <http://www.nycourts.gov/attorneys/grievance/>).
10. Lawyers who call the Ethics Hotline are required to provide their full name and telephone numbers.

If, after speaking with someone on the Hotline, a New York lawyer wishes to obtain a written Informal Opinion from the Committee, he or she may submit a written request. Please review the guidelines for requesting an Informal Opinion here (See the attached guidelines [here](#)). As with Hotline questions, the Committee's Informal Opinions are limited to interpreting the New York Rules. Please be aware that the Committee cannot provide a concrete timeline for responding to written requests. If your matter is urgent, you may wish to retain professional ethics counsel.

*You're Invited!*



# *Paralegals Luncheon*

**THURSDAY** | Noon-1:00p.m.  
**MAY 10TH**

CNY Philanthropy Center  
3rd Floor Conference Room  
431 East Fayette Street  
Syracuse, NY 13202

**Guest Speaker: Lisa Alexander**  
Senior Managing Counsel  
for Upstate Medical University

Lunch Provided By:  
Mackenzie Hughes LLP

RSVP: Maria Cinti, [mcinti@mackenziehughes.com](mailto:mcinti@mackenziehughes.com)

## **BAR BOARDS:**

### **OFFICE SPACE AVAILABLE**

Office immediately available in newly remodeled Liverpool Office Suite. Easy location, near the Thruway. Space includes: Office, Internet, copier, receptionist, conference room. Please call 315-243-3282 or email equineesq@me.com for details and/or view space.

### **OFFICE SPACE TO LET**

Offices immediately available in Liverpool. Three rooms, plus private reception area. Plenty of parking. Easy access to downtown and the Thruway. Call Karen at (315) 453-4282 or email karen@kbcesq.com for more information.

### **GALE GALE & HUNT, LLC SEEKS ATTORNEY**

Gale Gale & Hunt, LLC seeks an attorney, 0-3 years of practice, with good people skills, and an organized mind. Immediate opportunity for hands on experience, drafting motions, attending depositions and meeting with clients.

Interested candidates, kindly submit your resume with cover letter, transcript and writing sample to jobs@gghlawoffice.com.

### **OPENING FOR ASSOCIATE ATTORNEY AT KALL AND REILLY, LLP**

Kall and Reilly, LLP seeks to hire an associate attorney for a general practice firm with an emphasis to handle matrimonial and family court matters. East suburban location. Please forward resume to rreilly@kallandreilly.com.

### **DID YOU DRAW-UP A WILL FOR FREDERICK R. SPRINGER?**

The family of Frederick R. Springer, Sr. seeks the attorney who may have drawn up a will for him. Mr. Springer died in April of 2016 and was a resident of Liverpool who retired from the Chrysler Corporation. The will was handled by an Onondaga County attorney within the last 10 years. If you have any information please contact his daughter Bonnie Lyman at (315) 626-3164.

### **MELVIN & MELVIN HIRING REAL ESTATE AND TITLE ASSOCIATE ATTORNEY**

Melvin & Melvin seeks to hire a self-starting, energetic attorney with Real Estate and Title experience. Please forward resume to hiringpartner@melvinlaw.com.

### **MELVIN & MELVIN HIRING GENERAL LITIGATION ASSOCIATE ATTORNEY**

Melvin & Melvin seeks to hire a self-starting, energetic attorney with 3-7 years' experience for its general litigation practice. The successful candidate will have excellent verbal, interpersonal, and research and writing skills. Must be licensed to practice in New York. Please forward resume to hiringpartner@melvinlaw.com.

## BAR BOARDS:

### PROFESSIONAL LIABILITY ASSOCIATE ATTORNEY FOR LITIGATION AND RISK MANAGEMENT

Fager Amsler Keller & Schoppmann, LLP, specializing in health care law, medical/dental malpractice defense and risk management, seeks a full-time Associate Attorney for our Syracuse office. The Associate should have 3-5 years of litigation experience. Knowledge of Public Health Law, State & Federal Health Regulations, HIPAA preferred. Great opportunity for highly motivated professional to utilize existing legal skills and develop new knowledge in different practice areas. Qualified candidates should submit cover letter/resume to [AttorneyPosition@fakslaw.com](mailto:AttorneyPosition@fakslaw.com).

### PARALEGAL FOR LITIGATION AND RISK MANAGEMENT

Fager Amsler Keller & Schoppmann, LLP, specializing in health care law, medical/dental malpractice defense and risk management, seeks a full-time Paralegal for our Syracuse office. A minimum of 3 years of paralegal experience is required. The ideal candidate has a medical background and/or experience with medical malpractice, risk management or healthcare law. Perfect opportunity to work with attorney's practicing litigation, risk management and healthcare law while assisting physicians, hospitals and other healthcare professionals. Interested candidates should submit resume to [ParalegalPosition@fakslaw.com](mailto:ParalegalPosition@fakslaw.com).

### EXPERIENCED LEGAL SECRETARY SEEKS PART-TIME EMPLOYMENT

Legal Assistant/Paralegal/Notary Public in Syracuse with more than 20 years of practical experience seeks to augment current employment as legal secretary. Looking for projects involving organization, transcription, and research in a variety of practice areas. Please contact Donna at (315) 471-1212.



### ATTORNEY FOR WILLIAM MATTAR, P.C.

We are seeking Attorneys with different levels of experience to handle client cases from initial client meeting through resolution.

Top 100 verdicts in New York in 2016; Top 25 MVA 2016 verdicts in New York

Best Companies to work for in 2017, 2018

Apply at: <https://www.williammattar.com/syracuse>

# BAR BOARDS SERVICES

#### Members

- \$30 for each monthly edition
- Maximum of 5 lines/50 words
- One ad per entity

#### Non-Members

- \$60 for each monthly edition
- Maximum of 5 lines/50 words
- One ad per entity

Want to post a Bar Boards ad?  
Contact **Carrie Chantler** at [cchantler@onbar.org](mailto:cchantler@onbar.org).

The mission of the Onondaga County Bar Foundation, the philanthropic arm of the Onondaga County Bar Association, is to aid members of the legal profession in Onondaga County who may be ill, incapacitated, indigent or otherwise in need, and to improve and promote:

- The administration of justice;
- Service to the public and the legal community;
  - Equal access to the legal system for all;
  - Professional ethics and responsibility;
  - Legal research and education; and
- Dissemination to the public of information about the legal system and the rule of law.

Established in 1975, the Foundation is a 501(c)(3) tax-exempt corporation. To fulfill its mission, the Foundation depends on individual donations (which are tax deductible as charitable contributions) and grants from other funding sources. The Foundation welcomes grant applications for projects consistent with this mission statement.

## 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

# From the Courts



RECEIVED  
11/23/17

## NOTICE TO THE BAR

The Appellate Division, Fourth Department has scheduled the following terms of Court for 2018:

JANUARY TERM:	MONDAY, JANUARY 8, 2018 - FRIDAY, JANUARY 19, 2018
FEBRUARY/MARCH TERM:	TUESDAY, FEBRUARY 20, 2018 - FRIDAY, MARCH 2, 2018
APRIL TERM:	TUESDAY, APRIL 3, 2018 - FRIDAY, APRIL 13, 2018
MAY TERM:	MONDAY, MAY 14, 2018 - FRIDAY, MAY 25, 2018
*JUNE TERM:	MONDAY, JUNE 18, 2018 - WEDNESDAY, JUNE 20, 2018
SEPTEMBER TERM:	MONDAY, SEPTEMBER 10, 2018 - FRIDAY, SEPTEMBER 21, 2018
OCTOBER/NOVEMBER TERM:	MONDAY, OCTOBER 22, 2018 - FRIDAY, NOVEMBER 2, 2018
DECEMBER TERM:	MONDAY, DECEMBER 3, 2018 - FRIDAY, DECEMBER 14, 2018

\* submitted cases only

**FREE Online Training Session VIA Skype for Business  
ONE HOUR E-FILING TRAINING  
for Supreme Court  
provided by  
New York State Courts  
E-Filing Resource Center**

Learn how to E-File documents from your  
office or personal computer.

*These one hour sessions will be held:  
10:30am-11:30am*

**April 12, 2018**

**May 10<sup>th</sup>, 2018**

**June 14<sup>th</sup>, 2018**

**July 12<sup>th</sup>, 2018**

**PRE-REGISTRATION REQUIRED**

**Please go to our website at**

**[www.nycourts.gov/efile](http://www.nycourts.gov/efile)**

**and click on the “Register for Training” link.**

**An email with an access link to the online session will be sent  
to your registered email address prior to the training date.**

**This is a general class that offers no CLE credit.**

**E-Filing Resource Center**

State of New York  
Unified Court System



Lawrence K. Marks  
Chief Administrative Judge

25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100

February 16, 2018

Hon. James P. Murphy  
President  
Onondaga County Bar Association  
CNY Philanthropy Center, Suite 300  
431 East Fayette Street  
Syracuse, NY 13202

Dear Justice Murphy:

In accordance with the enclosed Resolution of the Administrative Board of the Courts, I am writing to request that your association provide us with your views of the experience and present abilities of the following Justice who is eligible for certification as a retired Justice of the Supreme Court, effective January 1, 2019.

**Department**

**Fifth District**

Hon. Anthony J. Paris

1<sup>st</sup> Certification

The Administrative Board would like to complete the certification process by September of this year. Accordingly, I would greatly appreciate your comments as soon as possible, but no later than May 18, 2018.

Thank you very much for your cooperation and assistance.

Very truly yours,

A handwritten signature in black ink that reads "Lawrence K. Marks". The signature is written in a cursive style with a large, looping initial "L".

LKM:aw  
Enclosure  
cc: Jeffrey A. Unaitis

If you'd like to comment, you may contact Jeff Unaitis, Executive Director of OCBA,  
at [JUnaitis@onbar.org](mailto:JUnaitis@onbar.org) or via fax, 315-471-0705.





Lawrence K. Marks  
Chief Administrative Judge

25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100

April 3, 2018

MEMORANDUM

To: All Interested Bar Associations and Persons

From: Lawrence K. Marks *LM*

Re: Implementation of Mandatory Electronic Filing in Otsego County Supreme Court – Civil Term

I am pleased to provide the Bar and other interested persons with an update on the progress of the New York State Courts' Electronic Filing System ("NYSCEF"). As authorized under Chapter 237 of the Laws of 2015, implementation of a mandatory e-filing program in Supreme Court, Otsego County, has been proposed by the District Administrative Judge of the Sixth Judicial District and the Otsego County Clerk to **take effect May 23, 2018**. The Sixth Judicial District has successfully implemented e-filing programs in Supreme Court in Broome, Chenango, Cortland, and Tompkins Counties. The implementation of the mandatory e-filing program will include **all new civil actions, except:**

- CPLR Art. 70 proceedings
- CPLR Art. 78 proceedings
- Election Law proceedings
- matrimonial matters
- Mental Hygiene Law matters
- consumer credit transactions as defined in CPLR 105(f)\*
- residential foreclosure actions as defined in RPAPL § 1304\*  
(\*except initial filing of commencement papers by a represented party, which is mandatory)

The District Administrative Judge of the Sixth Judicial District and the Otsego County Clerk additionally propose to implement a consensual e-filing program composed of the seven case types listed above that are not subject to mandatory e-filing, and to also include the consensual e-filing of **documents filed subsequent to commencement papers** in consumer credit transactions as defined in CPLR 105(f) and residential foreclosure actions as defined in RPAPL 1304.

State of New York  
Unified Court System



Lawrence K. Marks  
Chief Administrative Judge

25 Beaver Street  
New York, N.Y. 10004  
(212) 428-2100

April 3, 2018

MEMORANDUM

To: All Interested Bar Associations and Persons

From: Lawrence K. Marks *LM*

Re: Implementation of Consensual Electronic Filing in Delaware, Madison and Tioga Counties Supreme Court – Civil Term

I am pleased to provide the Bar and other interested persons with an update on the progress of the New York State Courts' Electronic Filing System ("NYSCEF"). As authorized under Chapter 237 of the Laws of 2015, implementation of consensual e-filing programs in Supreme Court, Delaware, Madison and Tioga Counties, has been proposed by the District Administrative Judge of the Sixth Judicial District and each County Clerk to take effect May 23, 2018. The Sixth Judicial District has successfully implemented e-filing programs in Supreme Court in Broome, Chenango, Cortland, and Tompkins Counties. The implementation of a consensual e-filing program in Delaware, Madison and Tioga Counties will include all new civil case types.

As we move forward with the implementation of consensual e-filing in Supreme Court, in Delaware, Madison, and Tioga Counties, please be assured that we will continue to offer training prior to and after the effective date. The NYSCEF system is intuitive and easy to use, and the training program takes about two hours to complete. Training is offered by staff of the E-Filing Resource Center both on-line and on-site. Attorneys participating in an on-site session receive two CLE credits free of charge. Information on training sessions is available on the NYSCEF website: [www.nycourts.gov/efile](http://www.nycourts.gov/efile), or by contacting the Resource Center at 646-386-3033 or [efile@nycourts.gov](mailto:efile@nycourts.gov). Attorneys, paralegals and interested filers can register on-line for upcoming training sessions at these sites.

As always when we enter a new phase of e-filing in New York, we very much welcome your input, including any specific recommendations or concerns regarding e-filing in New York State Courts. Please forward any comments to:



# OCBA CONTINUING LEGAL EDUCATION

431 East Fayette St. | Syracuse, NY | Phone: 315-579-2578 | Fax: 315-471-0705 | cchantler@onbar.org

## OCBA Professional Ethics Series 2018: The Life Cycle of a Law Practice

### Session #1: "Starting Out"

Thursday, May 24th, 2018

**Anthony Gigliotti, Esq**

New York State Attorney Grievance Committee

**Mary Gasparini, Esq.**

New York State Attorney Grievance Committee

**Victor Hershdorfer, Esq.**

Pappas, Cox, Kimpel, Dodd & Levine, P.C.

*The first of a 4-part Ethics series, this course is geared toward newly-admitted attorneys who want to hang their own shingle, or to experienced attorneys leaving a firm to start a solo practice, providing information to start your journey on the right foot!*



**Topics include: Competency "Should I take this case?" | Client Communications | Trust Accounts and Financial Mistakes | Attorney Advertising | Attorney Registration and CLE Requirements | Retainer Agreements 101 | Client Statement of Rights | Basics of Billing | Part 137**

**2.0 MCLE** (1.0 **ETHICS**, 1.0 Prof. Practice)

Thursday, May 24, 2018

Noon to 2 p.m. (Doors open at 11:30 a.m.)

CNY Philanthropy Center, Ballroom

431 E. Fayette St., Syracuse NY 13202

**Lunch will be provided!**

Visit [www.onbar.org](http://www.onbar.org) for information on the upcoming programs in the series.

Register at [Onbar.org](http://Onbar.org) **or** by mail using the form below

The Life Cycle of a Law Practice "Starting Out" | Thursday, May 24, 2018 | RSVP by May 22<sup>nd</sup>  
Member \$40 | Non-Member \$60 | Paralegal \$20 | Free to Lifetime/Agency/Student

**Doors Open at 11:30 a.m. Come early and grab a bite!**

*(Make checks payable to Onondaga County Bar Association)*

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

Firm/Organization: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ Billing Zip: \_\_\_\_\_

Check Enclosed  Will bring Check to CLE CC Card # \_\_\_\_\_ Exp. \_\_\_\_\_

Years in Practice: \_\_\_\_\_ 0-3 \_\_\_\_\_ 4-10 \_\_\_\_\_ 11-25 \_\_\_\_\_ 25+