



# ONONDAGA COUNTY BAR ASSOCIATION **BAR REPORTER**

## FEATURED ARTICLES

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Vera House Opens In-House  
Legal Department **PAGES 6-7**

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Bar Reporter **PAGES 8-9**

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NOVEMBER 2018  
Volume 63 Number 10



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:

### **Holiday Reception** - December 5<sup>th</sup>

The Everson Museum of Art

### **Paralegals Holiday Luncheon** - December 7<sup>th</sup>

CNY Philanthropy Center, Second Floor Ballroom

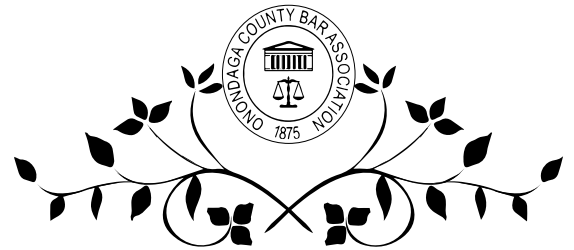
### **CLE | Supreme Court Practice & Procedure 2018 Update** - December 14<sup>th</sup>

CNY Philanthropy Center, Second Floor Ballroom

### **Memorial Observance** - February 7<sup>th</sup>

Onondaga County Courthouse  
Legislative Chambers Room 407

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



*In Memoriam...*

**Daniel B. "Danno" Altwarg**  
*October 31<sup>st</sup>, 2018*

# Letter from the PRESIDENT



'Tis the Season. The Onondaga County Bar Association will be hosting its annual Holiday Reception at the Everson Museum's Festival of Trees from 5:30 to 7:30 p.m. on December 5th. This year, our Community Engagement Committee is sponsoring the collection of toiletries and household cleaning supplies on behalf of charitable organizations in the Central New York area as part of Operation Soap Dish. Further information and a list of recommended items can be found at [operationsoapdish.org](http://operationsoapdish.org).

We hope you can join us for what promises to be an enjoyable evening. Bring along a few items to gift for the cause!



It is also the start of our membership renewal "season." No gifts given, but the OCBA is pleased to be offering membership incentives this year. Every new or renewing member may receive up to six hours of audio recordings of CLE programs conducted by the OCBA – fulfillment of half the annual CLE – at no charge. At the regular price of \$30 per credit hour, this is a \$180 value. Dues will remain at \$195 for regular membership (admitted 2015 or earlier) and \$295 for sustaining membership. I would encourage longstanding members in particular to consider supporting the OCBA with a sustaining membership.

The OCBA is continuing with recent efforts to enhance our programs in order to remain relevant and value-added to our membership. At the start of 2019, we will be conducting surveys of current, former and potential new members in order to solicit ideas for new programs and other initiatives, as well as thoughts as to how existing programs might be improved. We will continue to establish new Sections and Committees of current interest to attorneys, following up on the trend started with our Community Engagement Committee, Diversity and Inclusion Committee, Animals and the Law Section with the associated Volunteer Advocate Lawyer for Animal Abuse Court (VALAC) program, and the Veterans' Rights and Military Law Section. We are also reaching out to area vendors to seek product and service discounts to our members. Stay tuned to Tuesday Tips for updates.

On behalf of your Bar Association, I wish all of you a safe and joyous Holiday Season.

President, John T. McCann

## **President**

John T. McCann

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*& Lawyer Referral Service Manager*

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*Graphic Designer & Marketing Assistant*



**DECEMBER 7TH, 2018**  
**12:00 P.M.**

CNY Philanthropy Center  
2nd Floor Ballroom  
431 East Fayette Street  
Syracuse, NY 13202

**DOOR PRIZES & RAFFLES!**

**WE ARE COLLECTING GIFTS FOR OUR  
ADOPTED P.E.A.C.E. FAMILY.**

There is no cost to attend, but we ask that  
attendees bring a small gift or make a small  
donation to the P.E.A.C.E. family!

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

This event is sponsored by:



COUNSEL PRESS





BARCLAY DAMON<sup>LLP</sup>

***"It's okay when life's a struggle." - Tim Green***

In support of our friend and business partner Tim Green and everyone battling ALS, the Barclay Damon Tower in Syracuse will be lit red, the color of ALS awareness, every Sunday through December 31.

While confronting ALS with his signature fortitude, Tim will continue in the same critical role he has had at Barclay Damon for years, which includes serving as the primary contact for many of our largest clients and providing his trademark responsiveness and dedication to client service. Our commitment is to stand with him in every way.

To support Tim's fight against ALS, the firm has formed a Team Barclay Damon fundraising page through Tim's not-for-profit, Tackle ALS, and is on track to exceed our six-figure goal.

**Working together, we can find a cure.**

**Help us get there by donating at: [tackleals.com/team/barclay-damon](https://tackleals.com/team/barclay-damon).**



Barclay Damon attorneys team across offices and practices to provide customized, targeted solutions grounded in industry knowledge and a deep understanding of our clients' businesses. With nearly 300 attorneys, Barclay Damon is a leading regional law firm that operates from a strategic platform of offices located in the Northeastern United States and Toronto.

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BAR REPORTER |

# Vera House Opens In-House Legal Department

By: *Carrie Chantler*



*Bryn Lovejoy-Grinnell*

**B**ryn Lovejoy-Grinnell is pioneering a new path toward justice for domestic or sexual violence victims in our community.

When these women, men, and families seek help from Vera House, Onondaga County's service agency offering shelter, advocacy, and counseling, they will now have access to free legal advice and representation.

In October, Gov. Andrew Cuomo announced \$16 million in federal funding to bolster the missions of 61 statewide victim assistance programs. Vera House was awarded an Office of Victim Services Attorney Services Grant, a five-year allocation, to provide trauma-informed legal services for victims of domestic and sexual violence.

Thanks to this appropriation, Lovejoy-Grinnell will establish and lead Vera House's first in-house legal department.

"Though the agency has always been lucky to have many dedicated attorneys who volunteer their time," Lovejoy-Grinnell said. "We will provide direct representation on a variety of legal issues with a nexus to the abuse, refer victims to services and resources, and support victims to achieve key goals they identify for their future success."

For years, Vera House has worked collaboratively with volunteers from the Central New York Women's Bar Association and the Volunteer Lawyers Project who've staffed Vera House's Monday Night Legal Clinic.

And thanks to this funding, Vera House will continue its

rich history with the Hiscock Legal Aid Society when at least two of its staff attorneys will be designated to work directly with Lovejoy-Grinnell to provide representation to clients involved in Family Court in abuse and/or neglect proceedings.

HLAS Managing Attorney Gregory Dewan will help lead the team of these specialized attorneys experienced in representing survivors.

"This new five-year funding from NYS will allow HLAS to provide survivors of domestic violence with much needed client-centered holistic legal services in Family Court," stated HLAS CEO and President Linda Gehron. "We are very eager to start this project before the end of the year."

And, sadly, Onondaga County statistics seem to bear out the need for these services.

- In 2017, Vera House served 1,860 victims of domestic violence, sexual assault, and elder abuse.
- In 2016, Vera House representatives answered 6,198 calls to its 24-Hour Crisis & Support Hotline.
- The Vera House Sexual Assault Nurse Examiner Program responded 317 times, in 2017, to sexual assault/abuse victims in local hospitals.
- Vera House's Therapy Program provided 3,220 therapy sessions to 610 adults and counseled 516 children during 3,310 individual counseling sessions.

The ability to now offer seamless service to these constituents from intake to counseling to legal justice

# *“We truly believe this will be life changing.”*

feels like “manna from heaven,” said Vera House Executive Director Randi K. Bregman.

The grant monies allow for expansion into legal representation on campus disciplinary and Title IX issues, as well as bankruptcy, credit counseling, evictions, immigration, child protective service indicated report expungements, and certificates of relief from disability in connection with prior criminal conviction.

“We truly believe this will be life changing,” she said.

From the beginning of her career, Lovejoy-Grinnell has focused her practice on helping domestic violence victims find safe, stable ground upon the conclusion of a relationship.

For eight years, as a Senior Attorney in HLAS’s Domestic Violence Program, she represented domestic violence victims in divorces and family law matters. And after a few years in private practice at Melvin & Melvin, PLLC, and most recently at Bousquet Holstein PLLC, Lovejoy-Grinnell returns to the advocacy roots that initially propelled her toward law school.

**- Vera House Executive Director, Randi K. Bregman**

After graduating from Harvard University in 2002, she began her career as a domestic violence advocate at the Advocacy Center in Ithaca, where she helped clients obtain orders of protection and emergency custody of their children. This exposure to these life issues spurred her deep interest in this area and prompted her law studies at Cornell Law School, where she graduated in 2008.



## **Fund Established in Memory of Judge Sandra Townes**

To all those who knew her, Judge Sandra Townes was an excellent leader who modeled grace under pressure and an unwavering commitment to justice. To honor her legacy, her friends are establishing the [Judge Sandra Townes Fund](#) at Vera House.

The Fund will honor all her wonderful professional accomplishments. Prior to attending the Syracuse University College of Law and obtaining her law degree in 1976, Judge Townes was an English teacher at Corcoran High School. She was the first black woman elected to the Syracuse City Court and had a decorated career as a judge serving on the state Supreme Court and the state Appellate Division before becoming the first black woman appointed as a federal judge in the Eastern District of New York.

The Fund is a tribute to the magnificent person she was - brilliant, dedicated to justice, passionate about the law and an inspiration to all who knew her. The Judge Sandra Townes Fund will be used to support Vera House’s Survivors Network, and their work in the community to raise awareness and connect survivors through sharing their truths.

Your contribution to the Judge Sandra Townes Fund will be part of a beautiful remembrance of her life and legacy. Click [HERE](#) to donate.



# 50<sup>th</sup> ONONDAGA COUNTY BAR ASSOCIATION BAR REPORTER Anniversary

*Editor's Note: This is a reprint of a May 2006 article penned by 2018 Distinguished Lawyer Thomas E. Myers, which provides the history of the Onondaga County Bar Association's monthly newsletter. Mr. Myers was then, and is now, an ardent supporter of OCBA programming. His willingness to peer into the past to help us today know our history is greatly appreciated.*

*Do you have something to say? Write an article or create a column for the Bar Reporter. Let's talk about it when you call (315) 579-2578 or email [cchantler@onbar.org](mailto:cchantler@onbar.org).*

This month marks the 50<sup>th</sup> Anniversary of this newsletter with the name Reporter. In May 1956, then President Laurence D. Wood wrote in the first Bar Association Reporter as follows:

"To keep member attorneys informed of current activities, this Bar Association Reporter will be mailed to you on a monthly basis. It is designed to bring you up to date on: public relations programming; where and how individual attorneys can provide assistance; general news of legal profession; board of directors' meetings and actions, events, etc."

Articles in that May 1956 issue covered a speakers bureau for attorneys to give presentations to various community groups, recent changes in local practice rules, and other bar activities. At that time, there was no bar office or staff; the President's law office served as the Bar Association office.

From 1956 through 1961, the Presidents of the association did much of the work of getting monthly Reporter newsletters typed and mailed to members. The first photograph was printed in the September 1957 issue. It was a composite of artifacts at the association's annual Constitution Week. In March 1962, the Bar Association opened an office on the ground floor of the State Tower Building and hired Mrs. Doris

Campbell as secretary, and the Reporter began listing the State Tower Building as its home. The March 1963 issue listed Glennon A. Brown, Executive Secretary, as "the Editor," and Robert W. Dettor as Secretary-Treasurer, a position he continued to hold until he became President in 1972.

Over time, the Bar Association Reporter de facto became known as the Bar Reporter. A "Bar Reporter Committee" was formed in 1969 with Leroy Natanson as chairperson; Taylor Obold served as chair of this committee in 1970-1971; James G. DeStefano was chair in 1971 and 1972; John A. Cirando served as chair from 1973 to 1997; Patrick J. Haber was chair in 1998 and 1999.

In December 1972, Taylor Obold asked John A. Cirando to serve as Editor for a few months, which turned into 25 years. In March 1973, the name, Bar Association Reporter, was formally shortened to the Bar Reporter. On the cover of that issue were newly admitted attorneys, Paul I. Newman, H.A. Kallusch, Jr., and "Frank" Micale, Jr. In September 1974, Mr. Cirando designed the current masthead, and Mr. Cirando gradually created the format for "Law Boards," "Legal Briefs," "The Docket," and "Lawyer to Lawyer," as regular features. In January 1976, the Bar Reporter was first published on legal size paper — a practice that was discontinued several years later. Over the 25 years, Mr. Cirando called on other attorneys to contribute articles as needed, and no one ever turned him down. For example, Dennis Baldwin of MacKenzie Hughes wrote a series of case notes under the headline, "Law Book," from March 1975 until May 1984. In October 1978, Bruce D. Roswig started writing case notes for the Bar Reporter, a practice that continued until his death in 2001.

# 50<sup>th</sup> ONONDAGA COUNTY BAR ASSOCIATION **BAR REPORTER** *Anniversary*

Helen B. Druce became Executive Director of the Bar Association in the summer of 1986 and worked closely with John Cirando in producing the Bar Reporter for the next 10 years. In 1997, Mr. Cirando became Editor Emeritus, and Patrick J. Haber became the Editor. Mrs. Druce, other employees, and a series of outside printers, assisted Mr. Haber with the various advertising, editorial, reporting, and publication tasks. In 2000, the Bar Reporter fell behind in printing the 11 issues a year promised to advertisers. At that time, a group of members, including The Hon. John Brunetti, Gail Ahern, Bruce Bryan, Kristin Greeley, Dick Hanlon, Bruce Morgan, and Tom Myers organized an Editorial Board and began generating sufficient, regular copy to sustain the 11 issues a year. This new Editorial Board also recommended to the Board of Directors that a contract be entered with Pinnacle Publications for regular publication of 11 issues a year.

Since 2000, Michele Pirro Bailey, Shirley Duffy, Dave Eghigian, Colleen Farrell, Bruce Hamm, Mike Langan, Dave Pellow, and Phil Pinsky have participated on the Editorial Board, which Dave Pellow has dubbed the "last commune in Syracuse." Currently, the Editorial Board meets once each month to prioritize articles, identify future topics, solicit articles for upcoming issues, and make other editorial decisions under prodding from Paul Downes of Pinnacle Publications. Primary responsibility for copy reading each issue continues to fall on Helen Druce, and her administrative assistant

Nora DeMeis handles the advertising. An arrangement with the Supreme Court Library continues to provide for periodic binding of Bar Reporters on an annual basis.

Before the Bar Association Reporter started in May 1956, a Research Committee had sent "Circular Letters" to members with "concrete information of practical use to a Syracuse lawyer." The first issue, "Circular Letter No. 1," was dated October 24, 1933, and covered summaries of recent legislative amendments and judicial decisions. The initial Research Committee included attorneys James E. Tormey, William Johnson, John E. Gates, Henry E. Fraser, and George Lee. These 1930's "Circular Letters" will be the topic of a future article.

In 1944 and 1945, a group of lawyers sent out a periodic newsletter called the "Legal Eagle" to attorneys in military service informing them of legal events back in Syracuse during World War II.

~ Thomas E. Myers

# 1956-2006

# NORTHERN DISTRICT CASE NOTES

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



## Arbitration

*Dogan v. Keybank, N.A.*, 18-CV-0205 (N.D.N.Y.) (10/10/18) – Diversity action against national banking association by passbook savings account holder, asserting claims of breach of contract, conversion, negligence, unjust enrichment and breach of good faith under U.C.C. § 1-203, arising from bank's conversion of passbook savings account to paper statement savings account in September 2005, resulting in account holder's inability to withdraw \$10,000 in spring of 2017. U.S. District Judge Mae A. D'Agostino granted Defendant's motion to compel arbitration based on agreement and to dismiss complaint.

## Attorney's Fees

*Shibata v. RAS Enterprises*, 16-CV-1349 (N.D.N.Y.) (10/10/18) – Pro se diversity action against building contractor and its president by two real property owners asserting claims of breach of contract arising from proposed residential construction project on real property located in Danby, NY. Following an Order of Dismissal under Fed. R. Civ. P. 37(b)(2) and 41(b) based on Plaintiffs' failure to appear for deposition, U.S. District Judge Brenda K. Sannes granted Defendants' request for award of costs and attorney's fees in amount of \$1,042 (at a rate of \$300 per hour for an experienced attorney and \$110 per hour for a paralegal), and denied Plaintiffs' cross-motion for order awarding sanctions in their favor and against defense counsel as a complete offset to any award of costs and attorney's fees in Defendants' favor. Appeal pending.

## Civil Rights

*NRA v. Cuomo*, 18-CV-0566 (N.D.N.Y.) (11/06/18) – Action against governor, N.Y. State Department of Financial Services and its superintendent by gun rights organization asserting claims of denial of freedom of speech, freedom from retaliation and freedom of association under First Amendment, claims of denial of due process and equal protection under Fourteenth Amendment, claim of conspiracy under 42 U.S.C. § 1983, and claims of violation of state constitution and state tort law, arising from alleged overt viewpoint-based discrimination campaign against organization and its members, involving threats of selective regulatory actions against banks and insurers if they did not terminate their relationships with organization. Senior U.S. District Judge Thomas J. McAvoy granted in part and denied in part Defendants' motion to dismiss Plaintiff's Amended Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6), permitting the following three claims to proceed: (1) claim of denial of freedom of speech under First Amendment and state constitution; (2) claim of retaliation under First Amendment and state constitution; and (3) claim of denial of equal protection under Fourteenth Amendment and state constitution to the extent monetary damages are sought for past acts of selective enforcement.

## Consumer Protection

*Gonzales v. Agway Energy Services*, LLC, 18-CV-0235 (N.D.N.Y.) (10/22/18) – Putative class action against energy services company by a customer alleging deceptive and bad-faith pricing practices that caused overpayment by "thousands" of New York and Pennsylvania consumers who were charged variable rate for electricity from November 2011 to date of complaint (December 6, 2017). U.S. District Judge Mae A. D'Agostino granted in part and denied in part Defendant's motion to dismiss for lack of subject-matter jurisdiction and failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(1) and (b)(6), dismissing Plaintiff's claims of unjust enrichment and breach of implied covenant of good faith and fair dealing for failure to state claim, but rejecting Defendant's arguments regarding Plaintiff's claims for breach of contract and deceptive business practices under Gen. Bus. Law § 349, including argument that Court lacks jurisdiction based on (1) purported difference between New York breach-of-contract claim and Pennsylvania breach-of-contract claim, and (2) parties' venue-selection clause.

# ....CONTINUED

## Criminal and Habeas Corpus

U.S. v. Reynolds, 18-CR-0321 (N.D.N.Y.) (11/13/18) – Criminal prosecution of former-Cornell University student, age 21, for willfully causing to be made false statements during the purchase of a firearm in violation of 18 U.S.C. § 922 and for possessing unregistered firearms in violation of 26 U.S.C. § 5861, arising from a report from a Walmart employee who was suspicious of the materials Defendant was purchasing, and the subsequent discovery, in Defendant’s apartment and storage units, of a bomb, a gas mask, two bullet-proof vests, a gun silencer, a semiautomatic rifle, and more than 1,000 rounds of rifle and shotgun ammunition, among other items. Senior U.S. District Judge Thomas J. McAvoy accepted Defendant’s guilty plea, pursuant to which he admitted to possessing the weapons and fact that in November 2017 he had given another student money to buy, on his behalf, the semiautomatic rifle. Defendant faces a maximum term of imprisonment of ten years on each charge.

U.S. v. Lorenz, 18-CR-0034 (N.D.N.Y.) (11/06/18) – Criminal prosecution of sole owner of power-washing company arising from several federally funded, state-awarded contracts for washing and sealing bridge decks in 2015 and 2016, charging eight counts of wire fraud under 18 U.S.C. § 1343 and one count of mail fraud under 18 U.S.C. § 1341. Following seven-day jury trial in Syracuse before Senior U.S. District Judge Norman A. Mordue, jury rendered verdict against Defendant on all counts. Defendant faces a maximum term of imprisonment of twenty years. Post-trial motion pending to set aside the verdict.

Larkins v. Artus, 17-CV-0345 (N.D.N.Y.) (09/12/18) – Petition for writ of habeas corpus arising from conviction for attempted gunpoint robbery in August of 2010 at Ramada Inn in DeWitt, and claiming that Onondaga County Court’s refusal to permit petitioner to proceed pro se violated his rights under Sixth Amendment. U.S. Magistrate Judge Andrew T. Baxter issued Report-Recommendation recommending that petition be denied on ground that Fourth Department did not unreasonably apply clearly established Supreme Court law in determining that petitioner’s request to proceed pro se seven days before trial was equivocal. On de novo review, U.S. District Judge Brenda K. Sannes rejected Report-Recommendation and directed that petitioner be released unless state provides him a new trial within sixty days, because (1) there is no clearly established Supreme Court law holding that petitioner’s request was untimely, (2) there was no ambiguity in petitioner’s repeated request to proceed pro se, (3) the State has cited no authority for the point of law that a request can be unambiguous yet equivocal and (4) in any event, the request was unequivocal based on the transcript of the request.

## Discrimination

Manley v. Champlain Stone, Ltd., 17-2593-CV (2d Cir.) (11/07/18) – Pro se action against supplier of building stone and four of its unidentified employees by former employee claiming negligence under state labor laws and discrimination based on alienage under 42 U.S.C. § 1981, arising from his injury on the job and termination due to not being a U.S. citizen. Senior U.S. District Judge Norman A. Mordue sua sponte dismissed Plaintiff’s Amended Complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B) and Fed. R. Civ. P. 12(b)(6). The Second Circuit affirmed because, along other reasons, while 42 U.S.C. § 1981 prohibits alienage discrimination, it cannot be construed to require employers to hire aliens who are not authorized to work in the United States: when an employer refuses to hire or fires an alien because he or she is not authorized to work in the United States, that employer is discriminating on the basis not of alienage but of noncompliance with federal law.

Matthews v. CSX Transportation, Inc., 17-CV-0448 (N.D.N.Y.) (10/17/18) – Employment civil rights action against a railroad operating company by former carman alleging that company intentionally discriminated against him based on his disability (type 1 diabetes), and that, after he reported the discrimination, the company retaliated against him by subjecting him to dishonest performance evaluations and eventually improperly terminating his employment. Chief U.S. District Judge Glenn T. Suddaby granted in part and denied in part Defendant’s motion to dismiss Plaintiff’s Second Amended Complaint for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6), dismissing Plaintiff’s claims of discrimination under the Americans with Disabilities Act (“ADA”) and Section 504 of the Rehabilitation Act of 1973 (“Section 504”), but rejecting Defendant’s arguments regarding Plaintiff’s claims of retaliation under the ADA and Section 504.

## Excessive Force / False Arrest / Malicious Prosecution

Lanning v. City of Glens Falls, No. 17-970-CV (2d Cir.) (11/07/18) – Action against city, its police department, police officer, county sheriff's department, county district attorney's office, and county police officer by arrestee asserting claims of malicious prosecution in violation of Fourth Amendment and a claim of denial of equal protection in violation of Fourteenth Amendment, based on allegations that he had been repeatedly unlawfully arrested and charged with aggravated harassment and violation of order of protection at direction of his estranged wife, who had been romantically involved with city police officer. U.S. District Judge Mae A. D'Agostino granted Defendants' motion for judgment on the pleadings pursuant to Fed. R. Civ. P. 12(c). The Second Circuit affirmed on grounds that (1) Plaintiff has not plausibly alleged that any of the criminal proceedings against him were terminated in a manner affirmatively indicating his innocence for purposes of a malicious prosecution claim, and (2) he has not plausibly alleged the existence of an appropriate comparator for purpose of an equal protection claim.

Grant v. City of Syracuse, 15-CV-0445 (N.D.N.Y.) (10/23/18) – Action against City of Syracuse and two of its police officer by husband and wife asserting claims of excessive force under the Fourth Amendment, false arrest under the Fourth Amendment, municipal liability under *Monell v. Dep't of Soc. Serv.*, 436 U.S. 658 (1978), assault and battery under New York State law, and false imprisonment under New York State law, arising from incident at Plaintiffs' home on Hudson Street in response to 911 call in June of 2014. Following eleven-day jury trial before U.S. District Judge David N. Hurd in Utica, jury rendered verdict for Plaintiffs on all claims except for claim of municipal liability, awarding husband \$1,130,000 in actual damages, and awarding wife \$450,000 for loss of consortium. Post-trial motions pending, as well as motion to stay enforcement of judgment pending decision of those motions.

LaPoint v. Vasiloff, 15-CV-0185 (N.D.N.Y.) (10/11/18) – Action against two Village of East Syracuse police officers by an arrestee asserting claim of excessive force under Fourth Amendment arising from incident on night in February of 2012 when, after smoking marijuana all day and drinking at least two alcoholic beverages, he entered a rail yard in East Syracuse, entered the engine compartment of a freight train, locked the door and started sounding the train's whistle. U.S. District Judge Mae A. D'Agostino granted Defendants' motion for summary judgment under Fed. R. Civ. P. 56 based on the undisputed record evidence establishing one officer's lack of personal involvement in the use of force, and the other officer's proportionate response to Plaintiff's active resistance to arrest. Appeal pending.

## Medical Malpractice

Kaminski v. St. Joseph's Hospital Health Center, 14-CV-1441 (11/16/18) – Diversity action against hospital and emergency physician by administratrix of estate of decedent asserting claims of medical malpractice and lack of informed consent, arising from decedent's death from a heart attack 107 days after he had been admitted to hospital due to complaints of chest pain and loss of consciousness, examined then discharged. Senior U.S. District Judge Gary L. Sharpe denied Defendants' motions for summary judgment under Fed. R. Civ. P. 56 based on report of Plaintiff's expert, but granted Defendants thirty-days in which to move again for summary judgment regarding Plaintiff's claim of lack of informed consent.



Onondaga County Bar Association's

# *Memorial Observance*

Onondaga County Courthouse

Legislative Chambers, Room 407

Thursday, February 7, 2019, 9-10:00 a.m.

## *Remembering*

**Daniel B. "Danno" Altwarg**

**Hon. Robert J. Bertrand**

**Michael R. Canestrano**

**C. Edwin "Ed" Close**

**John J. Dee**

**Gregory B. Flynn**

**John Anthony LoFaro**

**Hon. Verner Richard Love**

**James N. Lutz**

**Gordon MacArthur**

**John M. Shannon**

**Laurence "Fritz" Sovik**

**Hon. Sandra L. Townes**

**John Bartholomew Vita**

*If you know any other members of our profession whom we have lost in the year of 2018, please advise Peggy Walker at [pwalker@onbar.org](mailto:pwalker@onbar.org).*

# The Monthly Newsmakers

VOLUME 63 NUMBER 10

NOVEMBER 2018

50 CENTS

## COUNTY NEWS

### BARCLAY DAMON LLP

*Honored by Big Brothers Big Sisters of Erie, Niagara, and the Southern Tier*



Barclay Damon was selected as the recipient of Big Brothers Big Sisters of Erie, Niagara, and the Southern Tier's 2018 Stephen C. Moss Corporate Citizenship Award. The annual award is presented to a company that demonstrates a commitment to giving back to Western New York. The law firm is a longtime supporter of the organization and its youth mentoring programs.

**Peter Marlette**, partner and managing director of the law firm's Buffalo, Clarence, and Toronto offices, and **Gust Pullman**, partner, accepted the award on the firm's behalf at Big Brothers Big Sister's Magical Moments Gala.

A video about Barclay Damon's support for Big Brothers Big Sisters can be viewed here. The video was shown during the gala as part of the award presentation.

## BARCLAY DAMON RECEIVED FIRST TIER RANKING

Barclay Damon has received a First Tier ranking in five metropolitan regions and 15 practice areas in the 2019 US News & World Report – Best Lawyers® "Best Law Firms" list.

Barclay Damon received the ranking in the following metropolitan regions and practice areas:

#### **Albany**

- Real Estate Law

#### **Boston**

- Eminent Domain and Condemnation Law

#### **Buffalo**

- Banking and Finance Law
- Commercial Litigation

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- Corporate Law
- Eminent Domain and Condemnation Law
- Employment Law – Management
- Environmental Law
- Health Care Law
- Land Use & Zoning Law
- Mass Tort Litigation / Class Actions – Defendants
- Real Estate Law
- Trusts & Estates Law

#### **Rochester**

- Bankruptcy and Creditor Debtor Rights / Insolvency and Reorganization Law
- Eminent Domain and Condemnation Law
- Personal Injury Litigation – Defendants

#### **Syracuse**

- Commercial Litigation
- Employment Law – Management

- Labor Law – Management
- Real Estate Law

The rankings are based on a rigorous evaluation process that includes the collection of client and lawyer evaluations, peer review from leading attorneys in their field, and review of additional information provided by law firms as part of the formal submission process. To be eligible for a ranking in a particular practice area and metro region, a law firm must have at least one lawyer who is recognized in Best Lawyers in that practice area and metro.

# TACKLE ALS

“DON'T BE SORRY, LET'S BEAT THIS!”

## BARCLAY DAMON ATTORNEYS AND STAFF INSPIRED BY TIM GREEN'S TACKLE ALS ANNOUNCEMENT



**Tim Green**, a New York Times bestselling author, former NFL defensive end, former Fox Sports broadcaster, and attorney with Barclay Damon LLP, recently announced the

formation of his family's new not-for-profit website, [Tackle ALS](#).

In partnership with the Healey Center for ALS at Massachusetts General Hospital, Tackle ALS will use funds to support innovative ALS-treatment trials and to increase access to effective treatments for people living with ALS.

On the first day of the Tackle ALS website launch, firm partners made a \$25,000 donation to kick off the Barclay Damon Team fundraising efforts. Dozens of attorneys and staff immediately responded to the challenge, resulting in the partnership pledging an additional \$25,000 in matching funds. After only three days, firm contributions are already projected to exceed \$100,000.

John Langan, the firm's managing partner, said the firm is proud to support

its friend and business partner, whose relationship with the firm spans two decades, in his battle and fundraising efforts. "Tim has had an exceptional impact on the success of Barclay Damon, and we will be with him in his fight for those struggling with ALS," he said.

The Barclay Damon team finds itself in good company in the Tackle ALS fundraising challenge, competing with high-profile organizations and individuals that include the Atlanta Falcons, Brett Favre, Deion Sanders, wrestler Bill Goldberg, and Fox News commentator Brian Kilmeade—all friends of Green who have started their own team pages.

The Barclay Damon Tower in Syracuse, New York, will be lit up in red, the color of ALS awareness, every Sunday through December 31 in recognition of the firm's support of Green and everyone battling ALS. Fox Sports additionally aired a piece on his diagnosis and Tackle ALS during the Thanksgiving Day pregame show before the nationally televised Dallas Cowboys-Washington Redskins game.

Green helps manage some of the firm's largest client relationships and major engagements, including numerous Fortune 500 companies. A member of

the Energy Practice Area, Green helped catalyze the growth of the practice to national prominence. He played a similar central role in the growth of the firm's Intellectual Property Practice Area, which now totals more than 30 attorneys and intellectual property professionals.

"Anyone who knows Tim knows this announcement is not the end of anything," Rick Capozza, the firm's chief marketing officer and long-time friend of Green, said. "Rather, it is the beginning of a new phase, and we are honored that Barclay Damon is joining him at the beginning of it. While facing these challenges, Tim will continue to be the lead point of contact for many of the firm's largest clients and will provide his trademark client service and responsiveness."

Barclay Damon attorneys team across offices and practices to provide customized, targeted solutions grounded in industry knowledge and a deep understanding of our clients' businesses. With nearly 300 attorneys, Barclay Damon is a leading regional law firm that operates from a strategic platform of offices located in the Northeastern United States and Toronto.

# *St. John Fisher College, Syracuse University College of Law Announce 3+3 Partnership*

## Syracuse University

### College of Law

St. John Fisher College and the Syracuse University College of Law have announced a 3+3 Legal Education Accelerated Program (LEAP) which will allow a select group of undergraduate students at Fisher the opportunity to earn both an undergraduate and law degree in six years, while minimizing the cost of their education.

"This program provides a fantastic opportunity for our students to easily transition from our undergraduate program to one of the top law schools in the state, and to prepare them for a successful career in law and policy," said Dr. Sebastien Lazardeux, chair of the legal studies and political science programs at Fisher.

To be considered for the program, students must meet a set of requirements for both institutions. At Fisher, they must matriculate as first-year students, complete the College's First Year Program, Core Curriculum,

major, and minor requirements; consult with a LEAP advisor to discuss educational and career goals; and earn a cumulative undergraduate GPA of 3.5 or higher. Students also must successfully complete the Law School Admission Test (LSAT) with a score at or above the median LSAT score for the College of Law's previous year's enrolled class. An application to the College of Law must be submitted through LSAC (the Law School Admission Council) during their third and final year at Fisher.

"The partnership with St. John Fisher College provides its students with an accelerated path to the College of Law and its unique offerings, including our top-rated Advocacy Honor Society program, innovative research centers focused on national security, technology commercialization and disability law, and our expansive externship opportunities offered around the country, among others," said Denee Page, assistant dean of enrollment management at the Syracuse University College of Law.



This marks the fourth 3+3 LEAP program at Fisher. The College also holds agreements with Michigan State University College of Law, University at Buffalo Law School, and Ohio Northern University. Dr. Ann Marie Fallon, dean of the School of Arts and Sciences at Fisher, which houses the legal studies program, said these academic partnerships offer students the opportunity to continue their education in a timely and affordable manner.

"We are delighted to continue to support students accessing high quality educational opportunities, especially in our region," Fallon said. "Our partnership with Syracuse is testament to our students' abilities and the excellence of our own academic programming. We look forward to a long and dynamic partnership."

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## DEAN CRAIG M. BOISE NAMED CO-CHAIR OF NYS ATTORNEY GENERAL-ELECT LETITIA JAMES' TRANSITION TEAM

New York State Attorney General-Elect Letitia "Tish" James has named College of Law **Dean Craig M. Boise** as one of five co-chairs of her transition team. James was elected on Nov. 6, 2018, making her the first African American woman to hold the position. James, who until her election was New York City Public Advocate, will be sworn in on Jan. 1, 2019.

Her transition team announcement was made via Twitter on November 16: "Honored to welcome these five individuals, some of the nation's most well-respected lawyers, who have

decades of experience at the top levels of government and academia. New Yorkers should be proud to have such leaders fighting to protect their most basic rights."

Joining Boise as co-chairs of the transition team are Former US Attorney General Loretta Lynch; Former New York State Attorney General Robert Abrams; Former Chief Judge of the New York State Court of Appeals the Hon. Jonathan Lippman; and Former US Ambassador to Uruguay Julissa Reynoso.

Describing her team, James added in an official statement, "There is no group

better suited to help guide the Attorney General's Office in assembling a team to tackle the most pressing issues impacting our state and country."

"The office of the New York Attorney General has long served as a bastion for those who believe in the law's ability to right wrongs and achieve justice," says Dean Boise. "I am thrilled to co-chair this remarkable leadership team to assist Attorney General-elect James as she builds an office that will undoubtedly continue and build upon the office's legacy."

# ROBERT K. WEILER RECEIVES NICHOLAS S. PRIORE ADVOCACY AND PROFESSIONALISM AWARD



Bousquet Holstein PLLC is pleased to announce that attorney **Robert K. Weiler** was presented with the Nicholas S. Priore Advocacy

and Professionalism Award by the Central New York Bankruptcy Bar Association (CNYBBA) and the Capital Region Bankruptcy Bar Association (CRBBA). The presentation was made on November 9th at the 23rd Annual Bankruptcy Conference at the Otesaga Resort in Cooperstown. Bob has served business clients as a bankruptcy attorney with Bousquet Holstein for 31 years, and is a partner at the firm.

The Annual Nicholas S. Priore Award is presented jointly by both organizations to a bankruptcy attorney practicing in the Northern District of New York who demonstrates skilled advocacy on

behalf of clients, while maintaining a spirit of collegiality and professionalism. Each year the recipient is selected by the presidents of the CNYBBA and CRBBA, in conjunction with the law firm of Getnick Livingston Atkinson and Priore, LLP.

The award is named for the late **Nicholas Priore**, a former partner at Getnick, Livingston, Atkinson, Gigliotti and Priore, who died suddenly at age 46 in December 2007. Nick was active in state, county and local Bar Associations and served on the 5th judicial district nominating committee. Nick was loved by everyone in the legal industry. Lawyers, judges and clients alike held him in the highest esteem for his honesty, intelligence and diligent work ethic. A true "lawyers' lawyer," and a widely-acclaimed expert in Bankruptcy and Commercial Transactions law, Nick's ability as a lawyer was only surpassed by his pleasant, kind, humble and compassionate personality. Nick's

law partners established the Priore Award in his memory and each year choose, along with the presidents of the two bankruptcy bar associations, an attorney who closely exemplifies the qualities and skills of Nick Priore.

Bob is a graduate of Albany Law School and the State University of New York at Albany. He resides in Manlius, NY.

Bousquet Holstein PLLC is a diversified law firm located in Syracuse. The firm provides legal counsel in mergers and acquisitions, business transactions, alternative dispute resolutions, public finance, immigration, economic development, government relations, litigation, commercial bankruptcy, trusts and estates, employee benefits, commercial real estate, employment and labor, environmental and land use, family law, and tax planning and advocacy. For more information, please visit [www.bhlawpllc.com](http://www.bhlawpllc.com).

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# BOND

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## **BOND'S SYRACUSE OFFICE RECOGNIZED IN 2019 U.S. NEWS-BEST LAWYERS® "BEST LAW FIRMS"**

Bond, Schoeneck & King's Syracuse office has been recognized by the 2019 *U.S. News-Best Lawyers*® "Best Law Firms" with the most Tier 1 rankings in the Syracuse metro area. *U.S. News-Best Lawyers* evaluated more than 13,000 firms in 187 metropolitan areas. Achieving a ranking indicates a unique combination of a quality law practice and breadth of legal experience.

In Syracuse, Bond was recognized as a Metropolitan Tier 1 rank for: Bankruptcy and Creditor Debtor Rights / Insolvency

and Reorganization Law; Commercial Litigation; Corporate Law; Employee Benefits (ERISA) Law; Employment Law – Management; Environmental Law; – Labor Law – Management; Litigation – Banking & Finance; Litigation – Bankruptcy; Litigation – Environmental; Litigation – Intellectual Property; Litigation – Labor & Employment; Litigation – Municipal; Litigation – Patent; Litigation – Trusts & Estates; Tax Law; and Trusts & Estates Law.

## *2019 U.S. News-Best Lawyers® Recognized Bond With Most Best Lawyers In Six Categories*

Bond, Schoeneck & King is pleased to announce that *The Best Lawyers in America*® 2019 recognized Bond as having the most *Best Lawyers* in six categories:

- Education Law in New York with eight *Best Lawyers*;
- Employment Law – Management in New York with 25 *Best Lawyers*;
- Labor Law – Management in New York with 21 *Best Lawyers*;
- Litigation – Labor & Employment in New York with 18 *Best Lawyers*;
- Sports Law in Kansas with two *Best Lawyers*; and
- Trust and Estates in New York with eight *Best Lawyers*

In addition, Bond maintains the top number of lawyers listed in New York with 87 *Best Lawyers*.

Bond, Schoeneck & King is also pleased to announce that *The Best Lawyers in America*® 2019 recognized Bond as having the most *Best Lawyers* in New York state with 87 lawyers.

*Best Lawyers* compiles its lists of outstanding attorneys through peer-review surveys in which thousands

of leading lawyers confidentially evaluate their peers for their abilities, professionalism and integrity.

Bond, Schoeneck & King PLLC is a law firm with 250 lawyers serving individuals, companies, non-profits and public sector entities in a broad range of practice areas. Bond has eight offices in New York State as well as offices in Naples, Florida and Kansas City. For more information, visit [bsk.com](http://bsk.com).

## **BOND RECOGNIZED IN 2019 U.S. NEWS- BEST LAWYERS® "BEST LAW FIRMS" WITH THREE NATIONAL FIRST TIER RANKINGS**

The 2019 *U.S. News-Best Lawyers*® "Best Law Firms" recognized Bond, Schoeneck & King PLLC with three National First-Tier rankings in:

- Employment Law – Management;
- Labor Law – Management; and
- Litigation – Labor and Employment.

Bond was also recognized as Metropolitan Tier 2 rank for: Immigration Law; and Personal Injury Litigation – Defendants

Bond has more *U.S. News-Best Lawyers* "Best Law Firms" Metropolitan First Tier rankings in New York State than any other law firm. *U.S. News-Best Lawyers* evaluated 13,000 firms in 187 metropolitan areas. Achieving a ranking indicates a unique combination of a quality law practice and breadth of legal experience.

## *Retirement* **ANNOUNCEMENT**

*Thomas G. Murphy, Esq.*

Inquiries may be made to: [tgmurphylaw@aol.com](mailto:tgmurphylaw@aol.com)

# GILBERT M. HOFFMAN TO AUTHOR BLOG ON TIMELY ISSUES AFFECTING REAL ESTATE SETTLEMENT



Vanguard Research & Title Services, Inc., a full-service real property research and title insurance provider, has announced the launch of a new blog written and curated by its Chief Title Counsel, **Gilbert M. Hoffman**. Hoffman authored a similar blog on land ownership and other real estate matters while at the law firm Bousquet Holstein, PLLC in Syracuse, which garnered a wide readership.

With significant policy changes happening at both the federal and state levels, Vanguard knows the value of an informed perspective on issues affecting the industry. Aside from being an effective way to provide regular

updates to customers and service providers, Vanguard views the blog as a valuable resource for legal and real estate professionals in the community, and looks to produce timely, relevant content on issues related to real estate settlement and title underwriting, as well as general interest pieces. In the interest of generating valuable dialogue, comments are welcomed. Those interested in contributing to the blog with a guest post can contact Gilbert Hoffman ([gilbert.hoffman@vgtri.com](mailto:gilbert.hoffman@vgtri.com)) or Ryan Thorpe ([ryan.thorpe@vgtri.com](mailto:ryan.thorpe@vgtri.com)).

For the launch, Hoffman has written about the difficulties of insuring title to real property associated with the promotion and use of legalized Marijuana. Those interested in learning more about the complexities of title insurance and legalizing recreational Marijuana use in New York State can

find the post at <https://vgtri.com>.

Vanguard Research & Title Services, Inc. is a full-service research and title insurance provider offering comprehensive real property research, title insurance products and services throughout the State of New York. Vanguard is committed to leading the way on innovative solutions to research and title services. Forefront, a web-based title insurance production software is helping law firms and title examiners produce title commitments faster and more efficiently. For more information about Vanguard, visit the company website: <https://www.vgtri.com>. For more information on Forefront and to request a demo, visit: <https://forefronttitle.com>.



Curtin Law Firm seeks an Associate Attorney with at least two years of experience for an active practice focused on Municipal Law, Commercial and Residential Real Estate, Estate practice, Employment Law, Title IX and related laws. Must be admitted to the New York Bar. Interested applicants should submit Resume, Cover Letter and Writing Sample to: [jmurphy@curtinlawpc.com](mailto:jmurphy@curtinlawpc.com).

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# SMITH SOVIK NAMED TO BEST LAW FIRM LIST BY US NEWS – BEST LAWYERS

Smith Sovik Kendrick & Sugnet has once again been named a Tier 1 "Best Law Firm" in Syracuse, New York in five practice areas by U.S. News - Best Lawyers. Smith Sovik has been named to the list every year since the first edition in 2010.

The firm received Tier 1 rankings in the areas of Insurance Law, Litigation – Labor & Employment, Product Liability Litigation, Personal Injury Litigation-Defendants and Professional Malpractice Law. Smith Sovik received Tier 2 ranking in Employment Law – Management and Medical Malpractice-Defendants. Tier 3 ranking includes Personal Injury Litigation – Plaintiffs.

Firms included in the 2019 "Best Law Firms" list are recognized for professional excellence with persistently impressive ratings from clients and peers. Achieving a tiered ranking signals a unique combination of quality law practice and breadth of legal expertise. According to Best Lawyers, receiving a tier designation reflects the high level of respect a firm has earned among other leading lawyers and clients in the same communities and the same practice areas for their abilities, their professionalism, and their integrity.

Smith Sovik has offices in Syracuse, Buffalo, Long Island and White Plains.

## **\*\*BROOME DSS ATTORNEY POSITION AVAILABLE\*\***

Assistant County Attorney II Position, Broome County Department of Social Services' Legal Unit.

Available December 2018.

Responsibilities include representing Department of Social Services in Family Court proceedings, including child support, paternity establishment, child abuse and neglect cases.

Starting salary is \$66,843. Position is full time with full benefit package.

Interested candidates should mail or e-mail resume to: **Howard Schultz**, Deputy County Attorney, Broome County Department of Social Services, 36-42 Main Street, Binghamton, NY 13905 ([hschultz@co.broome.ny.us](mailto:hschultz@co.broome.ny.us)).



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## **OSWEGO COUNTY ASSISTANT COUNTY ATTORNEY**

The Oswego County Attorney's Office is seeking to fill a new Assistant County Attorney position to commence employment in January of 2019. Applicants must be admitted to practice law in the State of New York. United States citizenship is required. The person hired must be a resident of the County of Oswego at the time of appointment and during same. This position is contingent upon approval of the 2019 budget.

This position will be primarily responsible for handling Family Court matters. Familiarity/experience with Articles 3, 4, 5, 6 and 7 of the Family Court Act and a working knowledge of the CPLR, Criminal Procedure Law and Penal Law are preferred. This title may be required to handle appeals from Family Court or non-Family Court/municipal matters and other duties on an intermittent basis. The duties for this title may be reassigned, as needed.

A Certificate of Good Standing from the Supreme Court, Appellate Division will be required to be furnished prior to commencing employment.

**Qualifications:** Graduation from an ABA accredited law school and admitted to practice in NYS.

**Salary:** This is a full-time, salaried position with benefits per the County's Management Plan and including NYS retirement. The 2019 budgeted salary is \$68,839.

**To Apply:** Review of applications will begin in December of 2018. Please mail a resume, a letter of interest and writing sample on or before December 21, 2018, in confidence, to:

Richard C. Mitchell, County Attorney  
Office of the Oswego County Attorney  
Legislative Office Building  
46 East Bridge Street  
Oswego, New York 13126  
(315) 349-8296 / Fax: (315) 349-8298  
[www.oswegocounty.com](http://www.oswegocounty.com)  
or email same to [LEllis@OswegoCounty.com](mailto:LEllis@OswegoCounty.com)

Affirmative Action/Equal Opportunity Employer

Barclay Damon LLP, a nearly 300-attorney law firm, with 33 practice offerings and eleven offices throughout New York State and the Northeast, is seeking Attorneys of the following positions:

## **Commercial Litigation Attorney (Syracuse)**

Seeking an Associate for its Syracuse office to join its Commercial Litigation Practice Group. The Associate should have 4-6 years of litigation experience, and prior experience in complex commercial litigation will be highly regarded.

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

## **Real Estate Attorneys (Syracuse)**

Seeking two Associates for its Syracuse office to work directly with partners and clients in sophisticated commercial real estate transactions involving the sale, acquisition, securitized financing, and leasing of shopping centers, office buildings, energy assets, and other commercial real estate. Duties include reviewing, preparing, and managing transaction documentation; assisting in reviewing, managing, and responding to diligence requests; coordinating closings; and analyzing and examining real estate titles.

Candidates must be licensed to practice in New York State or eligible to waive into the New York State Bar; have one to six years' experience as an attorney in commercial real estate or financing transactions with experiences commensurate with their years of practice; be organized and detail oriented; and possess excellent verbal and written communication skills. Consideration will be given to recently admitted attorneys who have non-lawyer business experience in commercial real estate, securitization, structured finance, or related fields.

## **Corporate Attorney (Syracuse)**

Seeking a senior level associate or junior level partner for its Syracuse office in the Business Services Practice Group with demonstrated experience in corporate and transactional work.

The attorney will represent sophisticated firm clients in mergers and acquisitions, commercial, and other transactional work, including preparing and negotiating acquisition agreements, associated documents, and due diligence in connection therewith. The attorney will also advise clients on general corporate and business law issues and compliance matters. Strong communication and negotiation skills are required.

The ideal candidate will have a minimum of eight years of relevant experience in general business and transactional work. The attorney will be involved in the development and maintenance of client relationships. A portable and growing book of business, although not a requirement, is highly desired.

## **ERISA Attorney (Syracuse, Albany, Buffalo, Rochester)**

The attorney will represent sophisticated firm clients in all areas of employee benefits law, including qualified and non-qualified retirement plan design and compliance, ESOPs, sponsor and fiduciary risk management, benefit plan documentation, executive compensation, health and welfare benefit plans, ERISA claims and dispute resolution, governmental investigations and audits, and Affordable Care Act compliance.

The ideal candidate will be able to practice independently at a partner level in the above areas and will be involved in the development and maintenance of client relationships. A portable and growing book of business is highly desired.

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

### **Recruitment Coordinator**

**Barclay Damon LLP  
Barclay Damon Tower  
125 East Jefferson Street  
Syracuse, NY 13202  
Email: [jobs@barclaydamon.com](mailto:jobs@barclaydamon.com)**

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Part Time Paralegal wanted to augment staff of established attorney's downtown practice. Week-to-week schedule is flexible as your personal commitments warrant, but roughly 20 hours per week. Must have prior experience, discretion of utmost priority, and references requested at interview. Please send cover letter, including compensation requirements, and resume to [cchantler@onbar.org](mailto:cchantler@onbar.org).



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## **OSWEGO COUNTY SOCIAL SERVICES ATTORNEY & SENIOR SOCIAL SERVICES ATTORNEY**

The Oswego County Department of Social Services seeks to form a new Legal Services team consisting of two Social Services Attorneys and one Senior Social Services Attorney. These professional positions are responsible for the handling of legal matters and providing counsel to the Oswego County Department of Social Services. In accordance with agency policies and procedures, as well as New York State Laws, rules and regulations, the incumbents will prepare and review legal documents and legal actions, provide legal advice, and drafts legal opinions in connection with various social services programs. The Senior Social Services Attorney will manage and supervise the above duties.

**Qualifications for Social Services Attorney:** Graduation from an American Bar Association accredited law school, admission to the NYS Bar, and one (1) year of experience, or it's part-time equivalent, in the practice of social services law, or closely related field. **Starting Salary:** \$68,839.

**Qualifications for Senior Social Services Attorney:** Graduation from an American Bar Association accredited law school, admission to the NYS Bar, and three (3) years of experience, or it's part-time equivalent, in the practice of law, one (1) year of which must have been in social services law, or closely related field. **Starting Salary:** \$78,674.

**Special Requirement:** NYS license to practice law. Current registration with the NYS Office of Court Administration at time of appointment.

Oswego County offers a competitive benefit package including: health insurance, life insurance, and NYS retirement. Candidates may be eligible for the Public Service Loan Forgiveness program. Salaries negotiable to be commensurate with experience and qualifications.

**To Apply:** Review of applications will begin immediately and continue until position is filled. Send application and resume with letter of interest to:

Oswego County Human Resources Department  
46 East Bridge Street  
Oswego, New York 13126  
(315) 349-8209 Fax: (315) 349-8254

Email: [humanresources@oswegocounty.com](mailto:humanresources@oswegocounty.com)  
Web: [www.oswegocounty.com/humanresources/openings.html](http://www.oswegocounty.com/humanresources/openings.html)

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# Paralegal

## City of Syracuse Bureau of Administrative Adjudication

### *Overview*

The City of Syracuse recently created a Bureau of Administrative Adjudication. Syracuse's intent and purpose of establishing a Bureau of Administrative Adjudication is to systematically address blight and quality of life violations that negatively affect individuals living in substandard properties, and impact the neighborhoods surrounding such properties. The goal of the Bureau is to improve compliance with property codes that affect the health and safety of residents and vitality of our city's neighborhoods by expediting the levying of fines and penalties that remain non-compliant after an established period to remedy the violation has been given.

The full-time Paralegal will assist the Bureau of Administrative Adjudication in all aspects of the adjudication of charges of municipal code violation, statutory violations and fee disputes relative to matters that constitute a danger or threat to the public health, safety or welfare of the City of Syracuse.

Candidates for this role should demonstrate a passion for public service and a strong desire to help improve the city's neighborhoods.

### *Typical Work Activities*

- Processes and responds to public inquiries relating to adjudications of the Bureau.
- Assists in managing day to day legal issues of the Bureau.
- Works with the Department of Code Enforcement to process tickets for adjudication.
- Prepares and assembles legal documents, forms and service of process relating to adjudications.
- Assists with the preparation for hearings and appeals, including, but not limited to, assembles property information, legal documents, etc. and collects any additional information that is needed.
- Searches legal files and other sources for information and data required by the Administrative Law Judges and/or Director.
- Reviews cases scheduled for hearings or appeals and ensures quality of case preparation.
- Performs any legal research or field work required under the supervision of an attorney.
- Monitors and ensures the Bureau's compliance with administrative deadlines.
- Assists with the generation and oversight of the Bureau's reporting requirements.
- Handles filing (electronic and paper) of judgments with city and state courts under the supervision of an attorney.
- Reviews statutory references contained in legal documents, determines status of cases and responds to inquiries.
- Performs other related duties as required.

### *Full Performance Knowledges, Skills, Abilities and Personal Characteristics*

- Strong knowledge of administrative hearings and the techniques normally employed in preparing legal documents, conducting legal research and analyzing legal problems.
- Working knowledge of New York State Civil Practice Law and municipal law as it relates to the Syracuse Property Maintenance Code, Syracuse Zoning Ordinance and New York State Property
- Maintenance Code and other applicable laws and regulations.
- Working knowledge of administrative law and procedures.
- Ability to physically file documents in person at the local court houses.

### *Minimum Qualification Requirements*

- **Must be a resident of the City of Syracuse.**
- Graduation from a regionally accredited or New York State registered college or university with an Associate's degree in Paralegal Studies; or, Possession of a certificate in Paralegal Studies or Legal Assistant from a program accredited by the New York State Education Department; or, Two (2) years of work experience, or its part time equivalent, as a paralegal.

The position offers a competitive salary and fringe benefit package. For consideration, send cover letter and resume no later than **December 7, 2018** to Leah A. Witmer, Esq., Director and Chief Administrative Law Judge at [lwitmer@syr.gov](mailto:lwitmer@syr.gov).

The City of Syracuse may conduct a criminal background check with regard to the employment sought.

### **Equal Opportunity Employer**

The Affirmative Action Policy of the City of Syracuse is to provide equal employment opportunity for all individuals regardless of race, color, sex, religion, creed, age (18 and over), marital status, national origin, disability, veteran status, gender identity or gender expression, sexual or affectional preference or orientation, or any other classified group within the protected class. The City also complies with 31 CFR part 51. If you have a disability for which you wish special accommodation to be made, contact the Department of Personnel at City Hall, Rm 312 at 448-8780.

# Part-Time Administrative Law Judge

## City of Syracuse Bureau of Administrative Adjudication

### Overview

The City of Syracuse's recently created a Bureau of Administrative Adjudication. Syracuse's intent and purpose of establishing a Bureau of Administrative Adjudication is to systematically address blight and quality of life violations that negatively affect individuals living in substandard properties, and impact the neighborhoods surrounding such properties. The goal of the Bureau is to improve compliance with property codes that affect the health and safety of residents and vitality of our city's neighborhoods by expediting the levying of fines and penalties that remain non-compliant after an established period to remedy the violation has been given.

The City of Syracuse is seeking several part-time Administrative Law Judges in its Bureau of Administrative Adjudication as either Hearing Administrative Law Judges or Appeals Panel Administrative Law Judges. Those selected for the Bureau's Hearings will assist the Director and Chief Administrative Law Judge in conducting administrative hearings of charges of municipal code violation, statutory violations and fee disputes relative to matters that constitute a danger or threat to the public health, safety or welfare of the City of Syracuse. Those selected for the Bureau's Appeals Panel will convene a three (3) administrative law judge administrative appeals panel for appeals of a final decision, final determination or final order of an administrative hearing as outlined above.

Candidates for this role should demonstrate a passion for public service and a strong desire to help improve the city's neighborhoods. Candidates should also have a proven track-record of successful mediation and be able to communicate effectively with diverse groups of people in a variety of situations. These positions report to the Director and Chief Administrative Law Judge of the Bureau of Administrative Adjudication.

### Typical Work Activities

- Conduct hearings and proceedings regarding matters relating to charges of municipal code violation, statutory violations and fee disputes relative to matters that constitute a danger or threat to the public health, safety or welfare of the City of Syracuse.
- Render decisions and issue determination or order imposing civil penalties.
- Hear administrative appeals and render decisions.

### Full Performance Knowledges, Skills, Abilities and Personal Characteristics

- Thorough knowledge of municipal law as it relates to the Syracuse Property Maintenance Code, Syracuse Zoning Ordinance and New York State Property Maintenance Code and other applicable laws and regulations;
- Thorough knowledge of administrative law and procedures;
- Ability to organize materials for hearings;
- Ability to conduct administrative hearings and appeals;
- Ability to get along and work well with others;
- Ethical conduct in the practice of law in the State of New York; and
- Physical condition commensurate with the demands of the position.

### Minimum Qualifications

- **Must be a resident of the City of Syracuse.**
- Candidates shall be attorneys in good standing, admitted to practice in the state of New York for at least three (3) years.

The position offers an hourly rate of \$125.00. For consideration, send cover letter and resume no later than **December 7, 2018** to Leah A. Witmer, Esq., Director and Chief Administrative Law Judge at [lwitmer@syrgov.net](mailto:lwitmer@syrgov.net). Please indicate in the cover letter which position is preferred.

The City of Syracuse may conduct a criminal background check with regard to the employment sought.

### Equal Opportunity Employer

The Affirmative Action Policy of the City of Syracuse is to provide equal employment opportunity for all individuals regardless of race, color, sex, religion, creed, age (18 and over), marital status, national origin, disability, veteran status, gender identity or gender expression, sexual or affectional preference or orientation, or any other classified group within the protected class. The City also complies with 31 CFR part 51. If you have a disability for which you wish special accommodation to be made, contact the Department of Personnel at City Hall, Rm 312 at 448-8780.

# Ethics Hotline

New York lawyers faced with ethical questions regarding their own prospective conduct can reach the Ethics Hotline through Customer Service, **Victor Hershdorfer** at **315-913-4087** or **Paula Mallory Engel** at **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.

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



## **Appellate Division 4th Department Terms for 2019:**

January	Monday, January 7, 2019 – Thursday, January 17, 2019
Feb/March	Monday, February 19, 2019 – Friday, March 1, 2019
April	Monday, April 1, 2019 – Thursday, April 11, 2019
May	Monday, May 13, 2019 – Thursday, May 23, 2019
June	Monday, June 17, 2019 – Wednesday, June 19, 2019
August	ELECTION TERM
September	Wednesday, September 4, 2019 – Friday, September 13, 2019
October	Tuesday, October 15, 2019 – Friday, October 25, 2019
Nov/Dec	Monday, November 18, 2019 – Friday, November 22, 2019
	Monday, December 2, 2019 – Thursday, December 5, 2019

SURROGATE'S COURT  
FILED

NOV 14 2018

COUNTY OF ONONDAGA  
STATE OF NEW YORK

At a Surrogate's Court, held in and for the  
County of Onondaga, at a Surrogate's office  
in the City of Syracuse, New York on the 14<sup>th</sup>  
day of November 2018.

PRESENT: Honorable Mary Keib Smith, Surrogate

IN THE MATTER OF THE ADOPTION OF A  
RULE PERTAINING TO PRACTICE IN THE  
ONONDAGA COUNTY SURROGATE'S COURT

**Local Rule**

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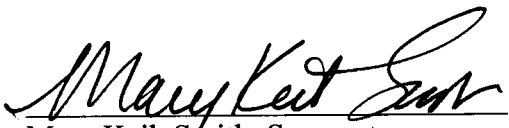
Pursuant to the powers vested in me as Judge of the Surrogate's Court of the County of  
Onondaga, it is

**ORDERED**, that a rule be, and hereby is, adopted regulating procedure and practice in  
the Onondaga County Surrogate's Court as follows:

WHENEVER a Petition for Letters of Administration, a Petition for the Probate of a Will  
or an Affidavit in Relation to Settlement of Estate under Article 13 is presented for filing in this  
Court, and the distributees named on said Petition are other than a surviving spouse and/or  
children of issue, there must be filed with the Petition a Family Tree table or diagram. Said table  
or diagram shall, also, be supported by an affidavit of a disinterested person having knowledge  
thereof and the basis for said knowledge.

This Rule shall be effective immediately.

Dated: November 14, 2018

  
Mary Keib Smith, Surrogate



# OCBA CONTINUING LEGAL EDUCATION

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

## Supreme Court Practice & Procedure 2018 Update

**Donald C. Doerr, Esq.**

Cerio Law Offices

**Michael A. Klein, Esq.**

District Executive, 5th Judicial District

**Plus** representatives from the Onondaga County Clerk's Office and the Supreme Court Clerk's Office

Mandatory Electronic Filing | Commencing Civil Actions |  
Filing Fees Requests for Judicial Intervention | Motion  
Practice | Preliminary Conferences | Trial Scheduling |  
Matrimonial Rules & Screening | Uncontested  
Matrimonial | Integrated Domestic Violence Court



Donald C. Doerr, Esq.

**2.0 MCLE (1.0 Professional Practice + 0.5 Skills + 0.5 Ethics)**

**Friday, December 14, 2018 Noon to 2 p.m.**

CNY Philanthropy Center, 2nd Floor Ballroom

431 East Fayette St., Syracuse NY 13202

**LUNCH  
INCLUDED!**

Register at Onbar.org or by mail using form below

**11:30 am – Noon Registration**

**Noon - 2:00 pm Program**

**Supreme Court Practice Update 2018 | Friday, December 14, 2018 | RSVP no later than Dec. 12th**

**Member \$40 | Paralegal \$20 | Non-Member \$60 | Lifetime/Agency/Student FREE**

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

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

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

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

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

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

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