



# ONONDAGA COUNTY BAR ASSOCIATION **BAR REPORTER**

## FEATURED ARTICLES

OCBA Inspires Young Legal Minds Through  
Annual Mock Trial Competition **PAGES 4-5**

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State Witnesses and Documents **PAGE 9**

April 2019  
Volume 64 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 1<sup>st</sup>**

Syracuse University College of Law, Dineen Hall

### **CLE | Providing Legal Representation to Asylum Seekers Parts One & Two - May 3<sup>rd</sup>**

George H. Lowe Center for Justice  
First Floor Education Room  
221 South Warren Street, Syracuse

### **CLE | Employment Law 101 - May 9<sup>th</sup>** CNY Philanthropy Center, Second Floor Ballroom

### **CLE | Effective Arraignment Practices for Onondaga Assigned Counsel - May 10<sup>th</sup>** CNY Philanthropy Center, Second Floor Ballroom

### **CLE | What Every Lawyer Needs to Know About Trauma - May 17<sup>th</sup>** CNY Philanthropy Center, Second Floor Ballroom

### **CLE | Serving Those Who Served: Helping Vets Access VA Benefits - May 23<sup>rd</sup>**

Syracuse University College of Law  
Dineen Hall, Room 350  
950 Irving Avenue, Syracuse

### **CLE | Financial Responsibility, Ethics and Pitfalls of Running a Small Criminal Law Practice - May 31<sup>st</sup>**

CNY Philanthropy Center, Second Floor Ballroom

### **CLE | New York State Civil Practice Laws and Rules - June 6<sup>th</sup>**

SUNY Oswego Metro Center, Syracuse

### **50-Year Luncheon - June 13<sup>th</sup>** Pascale's at Drumlins

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

# Letter from the PRESIDENT



I am writing this month to report on local and state initiatives underway that will be of interest to OCBA members.

The Fifth Judicial District has begun an Access to Justice Initiative in Onondaga County, under the direction of Administrative Judge James C. Tormey. The goal of the Initiative is to develop a strategic plan to provide effective assistance for all low-income individuals in Onondaga County who are confronted with significant civil legal matters affecting their lives. This follows a successful pilot program launched in Suffolk County under the auspices of the New York State Permanent Commission on Access to Justice.



The Onondaga County Initiative is still very much in the planning stage, with one Subcommittee established to identify Community Needs and another established to marshal together Community Resources. It is anticipated that members of the OCBA will supplement the legal services presently offered by various agencies and programs providing legal services and become an important additional resource for the Initiative. More information will be forthcoming as priorities are identified and a sustainable program is developed. This promises to be an excellent opportunity for OCBA members not presently associated with an existing program to provide pro bono services to our community.

OCBA members will also take note that the President of the New York State Bar Association, Michael Miller, has established a Task Force to review the New York Bar Examination. The purpose is to examine whether the Uniform Bar Examination component along with additional New York specific requirements adopted some three years ago adequately assure the competence of recent graduates and their preparedness to practice law in New York State. It is anticipated that the Task Force will conduct hearings across the State later this year. The Task Force is chaired by Presiding Justice Alan D. Scheinkman of the Appellate Division, Second Department, and Eileen D. Millett, former co-chair of the NYSBA's Committee on Legal Education and Admission to the Bars.

Look for updates in the Bar Reporter and Tuesday Tips as these projects move forward in the coming months.

President, John T. McCann

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John T. McCann

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# OCBA Inspires Young Legal Minds Through Annual Mock Trial Competition

By: Jeff Unaitis

Each February, when the cold and gray of Syracuse's long winter is grinding residents down, there's a spark of enthusiasm, intelligence and commitment lighting up the hallways of Nottingham High School as nearly 200 high-school students begin battling for the title of Onondaga County High School Mock Trial Champion.

OCBA hosts the local competition of this state-wide program, offered by the New York State Bar Association's Law, Youth and Citizen Committee on which local attorney Mark Ventrone is a longtime member.

Each December, the new case is unveiled and participating schools across the state dig in and begin their practices. In this year's civil case, "Harley Davison v. Gotham City Department of Housing Preservation and Development," Harley allegedly resided with his great aunt who was a tenant of a rent-controlled apartment in a building owned by the City of Gotham. Following his aunt's death, Harley applied to the Department of Housing Preservation and Development for succession rights to the apartment but was denied, having failed to provide sufficient proof that he resided in the apartment prior to his aunt's death for the requisite period of time. Harley then commenced this proceeding pursuant to Article 78 of the State of Nirvana Civil Practice Law and Rules.

This year's roster of competitors included Cazenovia High School, Chittenango High School, Christian Brothers Academy, Cortland High School, East Syracuse-Minoa High School, Fayetteville-Manlius High School, Jamesville-DeWitt High School, Jordan-Elbridge High School, Lafayette High School, Liverpool High School, Nottingham High School, Tully High School, West Genesee High School and Westhill High School.

Once again, Nottingham hosted the first five weeks of the competition, with social studies teacher Don Little rolling out the school's red carpet to OCBA and the teams.

After three weeks of intense competition, during which schools switched sides from presenting both the petitioner and the respondent cases, the 14 teams were narrowed down to the best-performing eight, brackets were drawn and the sudden-death competition began. The two teams making it to the Championship Round, judged once again by U.S. Magistrate Judge David Peebles in his courtroom at the James M. Hanley Federal Building, were Fayetteville-Manlius and Liverpool high schools.

Fayetteville-Manlius was declared the victor in a competitive, hard-fought battle, and moved to the Regional Championship hosted by Broome County on Saturday, April 27. Once again, F-M demonstrated their win in Onondaga County was warranted, as they proceeded to best the team from Tompkins County in the championship round judged by the Hon. Thomas McAvoy, Senior Judge of the United States District Court for the Northern District of New York.

Fayetteville-Manlius now moves on to the NYS championship, hosted by NYSBA in Albany from May 19-21. F-M won that title in 2016 and is looking to recapture the crown.

OCBA thanks the lawyers and judges, listed here, who devote their time and experience to serving as the "judges" for each of the many rounds: new volunteer judges are sought and welcomed each year.

Best of luck to F-M as they continue their winning journey!



## Meet the Fayetteville-Manlius Mock Trial Team!

Nicholas Bissell	David Haungs	Nathan Montgomery
Cecilia Byer	Candace Kim	Joshua Ovadia
Maria Costello	Jordan Krouse	Michael Reikes
Matthew Crovella	Emily Ledyard	Flavia Scott
Jayden Davis	Michelle Lim	Katherine Yang
	Rachel Liu	

**Coach: Joseph Worm**

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

## OCBA thanks the following Mock Trial Judges:

Craig Atlas	Hon. Deborah Karalunas	Mimi Satter
Lance Cimino	David Kimpel	Dave Snyder
Ernie Delduchetto	Jimmie McCurdy	Andriy Troyanovych
Nick DeMartino	Lorraine Mertel	Erin Tyreman
Tony Gigliotti	Tim Mulvey	Larry Vozzo
Neil Gingold	Hon. Jim Murphy	Ronnie White
Brittany Hannah	Melissa Palmer	Hon. Therese Wiley-Dancks
David Hutter	Dan Pautz	Sam Young
	Hon. David Peebles	



CENTRAL NEW YORK  
COMMUNITY FOUNDATION



# Charitable Giving: *All in the Family*

*By Jan Lane, Development Officer,  
Central New York Community Foundation*

Ron and Margaret Peckham believe you make a living by what you get, but you make a life by what you give. Through the Peckham Family Fund, they are making a life and a legacy in Central New York.

Ron, a former engineer, and Margaret, a retired teacher, have lived in the same house for almost 40 years. Margaret has called Central New York home since birth and Ron has lived here throughout his entire working life. This is also the place where they raised their three children and now host their grandchildren during holidays and family gatherings.

Both Margaret and Ron were raised by parents who instilled in them a strong appreciation for giving back. Perhaps it should come as no surprise, then, that family and community are at the heart of their giving.

"We have three children and we have essentially considered our donor-advised fund at the Community Foundation as our fourth adopted child. The proceeds of our estate will be divided equally among the four of them," Ron said.

Ron and Margaret have broken their giving down into two phases – what they can do now and what they can do to leave a legacy. Their donor-advised fund, partially funded with current gifts to facilitate their lifetime giving, will enable even greater giving with the eventual addition of their combined estate gift.

This approach allows the couple to directly support the community causes most important to them while also preparing future generations to perpetuate the couple's legacy of generosity long after they're gone.



It is important to them and their children to continue the family's multi-generational tradition of giving. A common myth is that philanthropy is only for the very wealthy. The reality is that incorporating charity in your plan is achievable for almost everyone.

Ron and Margaret's story is a great example of one of the myriad ways donors may engage family members in giving. In their case, Ron and Margaret's successors will have the ability to recommend grants from their fund after they pass away. By discussing their charitable interests and wishes with their children ahead of time, they have created an opportunity for the family to ask questions and gain deeper understanding of their core values.

Other families choose to grant concurrent advisory rights to children or grandchildren, giving them a fixed dollar amount that they can recommend as grants from the family fund. This empowers individual family members to make decisions about organizations they care about while providing a springboard for multi-generational conversations about personal and family philanthropy.

No matter which option is best for your family, talking about giving is a crucial step toward inspiring future generations. Though their fund succession plan won't be enacted until a future date, Ron and Margaret understand the importance of talking about their giving early and often. Where and why we give is personal. Sharing your stories and experiences, especially those relating to charitable giving and civic engagement, provides an opportunity to clarify what matters most and how you wish to be remembered.

"I hope that our charitable legacy has an impact on our children," said Margaret. "They already think a lot about other people – in the jobs they've selected and the causes they're interested in – and I hope to pass that on to our grandchildren as well."

By engaging family members from future generations as successor advisors to the fund, Ron and Margaret are also ensuring that their family's connection to community impact will live on in Central New York.

Ron and Margaret are among a growing number of community members recognizing


the importance of keeping their charitable dollars in Central New York. A study commissioned by the Community Foundation found that \$22 billion will change hands from one generation to the next before the start of the next decade, much of it leaving the community to heirs living out of town.

If a five percent portion of those assets transferring between generations were donated to endowment funds at the Central New York Community Foundation, more than \$55 million in grants would be available annually to support our region's nonprofit organizations. This kind of boost could provide a permanent source of funding for local organizations and causes that will greatly improve the lives of our families, friends and future generations.

"This is about a lifelong commitment to the Syracuse community," said Ron. "My dad used to say, 'Many hands make light work.' It's our collective responsibility to do what we can to make our community a better place to live."

*To learn more about options for preserving your charitable legacy, contact Jan Lane at [jlane@cnycf.org](mailto:jlane@cnycf.org) or visit [5forCNY.org](http://5forCNY.org).*



A photograph of Mary Pat Olier, an older woman with short, wavy grey hair, smiling and sitting on a light-colored wooden bench. She is wearing a bright blue long-sleeved top and light-colored pants with a geometric pattern. The bench is outdoors, surrounded by lush green foliage and pink flowers.

Mary Pat Olier sits in the patio garden of her home in Manlius.

Central New York has been my home for 50 years. It is where I met my husband, where our careers flourished and where we discovered a shared commitment to the many nonprofit and charitable organizations making a difference in our community.

The Community Foundation provides the vehicle to 'pay it forward' through my donor-advised fund. I have also named the Community Foundation in my estate plan, knowing that our legacy of support for Central New York-based education, healthcare and arts programs will be honored into the future.

I am proud to give back to the community where Dick and I made our life together. I find comfort in knowing the Community Foundation will honor our wishes and use our funds to support the areas of interest that so profoundly defined our careers and broader community commitments.

## Giving Forward: Mary Pat Olier



Read more of Mary Pat's story at  
[CNYCF.org/Olier](https://CNYCF.org/Olier)



CENTRAL NEW YORK  
COMMUNITY FOUNDATION  
315.422.9538 | [CNYCF.ORG](https://CNYCF.ORG)



# THE PRACTICE PAGE:

## OBTAINING OUT-OF-STATE WITNESSES AND DOCUMENTS

*Hon. Mark C. Dillon \**

Subpoenas duces tecum and ad testificandum cannot be served upon non-parties who are out of state (Judiciary Law 2-b[1]). Doing so, where there is no jurisdictional predicate over the non-parties, renders such subpoenas void and unenforceable. There are cases, conceivably, where out-of-state documents or witnesses are crucial to a party's claim or defense. What is an attorney to do if non-party materials or witnesses, which are out of reach under the normal subpoena processes, are needed to by a party to establish claims or defenses via summary judgment or at trial? The answer lies in either CPLR 3108 or the Uniform Interstate Deposition and Discovery Act ("UIDDA"), depending on the state where the non-party documents or witnesses are located.

CPLR 3108, which has been on the books since 1962, permits a New York court to execute a "commission" reflecting an official seal, requesting that it be honored by an out-of-state court. The commission, when presented to the out-of-state court, should result, as a matter of comity, in the execution by the foreign court of a subpoena that would be served and enforceable in the foreign state. If the subpoena seeks non-party documents, the responsive records may be transmitted directly to counsel in the normal course. If the subpoena is for either pre-trial deposition or trial testimony of a non-party witness, the testimony is to be taken within the foreign state. While CPLR 3117(a)(3)(ii) permits the reading the transcript at trial, Uniform Rule 202.15 and CPLR 3113(b) also permit its videotaping for use in accordance with that statute and rule.

New York courts will not issue commissions under CPLR 3108 merely upon request. The party seeking the commission must meet a two-part test. First, the party must show that the foreign state witness or document custodian will not cooperate with a discovery notice and will not otherwise voluntarily come to New York to participate in the pre-trial discovery or trial. The second test is to show that the non-party document or testimony is material or necessary to the party's claim or defense.

The commission procedure of CPLR 3108 can sometimes be too time-consuming, particularly when there is a fast-approaching trial date, as it is layered with two different courts, a process server, and a non-party responder. New York adopted the streamlined procedures of the UIDDA in 2011, as embodied in CPLR 3119. Under the UIDDA, the party seeking out-of-state documents or deposition testimony may present a validly-executed New York subpoena to the clerk of the county in the foreign state where the discovery or testimony is sought. The clerk is to ministerially and promptly issue a parallel foreign state subpoena for service upon the person to whom it is directed. The language of the UIDDA does not speak to trial testimony, but only to discovery. The subpoena is to be served, and any discovery issues resolved, under the laws of the foreign state. While attorneys in out-of-state actions may utilize CPLR 3119 to obtain records or deposition testimony from non-party New Yorkers, New York attorneys may only use the UIDDA in the 38 other states that have adopted it so far. Attorneys who wish to use the UIDDA must first determine that the foreign state has adopted it, and if so, carefully follow the language of the version adopted by that foreign state. Otherwise, attorneys must use the more cumbersome commission procedure of CPLR 3108.

CPLR 3108 and the UIDDA are not needed if out-of-state document custodians or witnesses are cooperative. But even then, there is no down side to being careful and using the subpoena procedures that are available to practitioners. Since the acquisition of documents or testimony is sometimes crucial from cooperative and uncooperative sources, and the time elements of CPLR 3108 or the UIDDA are controlled by others, attorneys should utilize the available procedures as soon as practically possible in litigations.

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**\* Justice of the Appellate Division, Second Department, and Adjunct Professor of New York Practice at Fordham Law School. MDillon@nycourts.gov**



Onondaga County Bar Association  
Continued Legal Education

**NEW YORK STATE**  
**CIVIL PRACTICE LAWS AND RULES**

Thursday, June 6th, 2019  
1:00 - 4:00p.m.

SUNY Oswego Metro Center  
2 Clinton Street, Syracuse

# The Monthly Newsmakers

VOLUME 64 NUMBER 4

APRIL 2019

50 CENTS

## COUNTY NEWS

*Syracuse University College of Law Enters into 3+3 Admissions Agreements with Three Historically Black Colleges and Universities*

### Syracuse University

#### College of Law

Syracuse University College of Law has entered into 3+3 admissions agreements with three Historically Black Colleges and Universities (HBCU) located at Atlanta University Center: Clark Atlanta University, Morehouse College, and Spelman College. The agreement was signed at an April 15, 2019, ceremony at Atlanta-based law firm Taylor English Duma LLP with representatives from all three HBCU and the College of Law participating.

The 3+3 program allows students to finish the bachelors and juris doctor degrees in an accelerated format by completing all coursework required for the undergraduate major in three years and finishing their degree during their first year of law school at Syracuse. J.D. students at the College of Law may also jointly earn a master's degree at other Syracuse University schools and colleges, including the top-ranked Maxwell School of Citizenship and Public Affairs and Newhouse School of Public Communications. The combination of the 3+3 and joint degree programs permits a student to earn as many as three degrees in just six years—a year less than generally required for just an undergraduate and J.D. degree at most other institutions.

"Partnering with these distinguished HBCU to create a 3+3 program

significantly reduces the time and cost required for qualified African-American students to obtain a 21st-century legal education at Syracuse," says College of Law Dean Craig M. Boise. "This is one of the ways we can address the legal profession's need for more diversity among the ranks of lawyers. I join our faculty, staff, and students in looking forward to students from these renowned colleges becoming members of our College of Law family."

"Developing the accelerated dual degree (bachelor's and juris doctor degrees) between Clark Atlanta University and Syracuse University College of Law is mutually beneficial. This endeavor aligns with our efforts to expand academic pursuits for Clark Atlanta graduates," says Dorcas Bowles, Provost, Clark Atlanta University. "As such, this partnership increases our students' academic and career success and will serve as a beacon of access and opportunity for African Americans and other underrepresented populations in the field of law."

Says Sharon L. Davies, Provost, Spelman College, "As one of the nation's top producers of black women applicants to law school today, Spelman College is excited to enter into this agreement with Syracuse University College of Law. With this new partnership, Spelman students interested in careers in law will be able to complete their undergraduate studies and legal studies in six years

instead of seven, saving a full year of college expenses, and enabling them to bring their unique talents to the field of law one year sooner."

"I am excited by the opportunities that this program will provide for our students who are interested in pursuing careers in law. This program is a testament to Dean Boise's and Syracuse's commitment to the recruitment of black students, and I hope it serves as a model for law schools across the nation," says Matthew B. Platt, Ph.D., Chair and Associate Professor, Department of Political Science, Morehouse College.

"As someone who counts both Morehouse College and Syracuse University College of Law as alma maters, I have great pride in knowing future law students will be able to experience the same institutions that helped me realize my career goals under this accelerated path," says Michael Johnson L'93, a partner at Taylor English Duma LLP. "I am honored to host the signing ceremony at Taylor English Duma, and I look forward to following the progress of the 3+3 students—future Orange law alumni—as they embark on their legal careers."

In addition to the 3+3 agreements, the College of Law recently expanded its Externship Program to Atlanta to provide field placements in the city and its surroundings, allowing local students to network and to gain experience close to home. The College of Law also has a liaison in Atlanta who will be on campus to meet with students and answer any questions about the program.

## *Burke Honored with Daily Record Excellence in Law Award*

Patrick Burke, Barclay Damon's Rochester office manager, was selected by Daily Record to receive the Unsung Legal Heroes award as part of its 2019 Excellence in Law program. The Unsung Legal Heroes category honors staff members--paralegals, legal secretaries, administrators, law librarians, and legal marketers--who help lawyers achieve success.

Burke worked at Barclay Damon as the senior operations manager through GLC Business Services for nine years before he was hired as the Rochester office manager in 2016. In addition to his professional role, he serves on the Rochester office Diversity Leadership Team as well as the firm's Wellness and Technology Committees.

"As office manager, Patrick shows an impressive professional skillset in taking on a myriad of responsibilities that keep

the office--and overall firm--running as effectively as possible, ranging from tech support and managing staff coverage to handling payroll, facility issues, records management, and missing timekeeper reports," Sheila Gaddis, Diversity & Inclusion Committee chair and partner, said. "In addition to being an exemplary employee, he is an engaged firm citizen who actively participates in the overall betterment of the organization, and everyone in the office greatly appreciates his sense of humor that brings levity to stressful days."

"Patrick is highly competent, hardworking, conscientious, and a consummate team player," Tom Walsh, Rochester office managing director and partner, said. "Whether he's helping an attorney, staff member, or his community, he is always willing to go the extra mile and has earned the

respect of all those who work with him. His selection as an Unsung Legal Hero is well deserved."

Burke will accept his award at the Daily Record Excellence in Law Awards Celebration on June 6 at the Hyatt Regency Rochester.

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.

## HOWLEY JOINS FIRM

Barclay Damon announces Shannon Howley has joined the firm as an associate. Howley will work out of the Buffalo office.

Howley is a member of the Mass & Toxic Torts, Professional Liability, and Torts & Products Liability Defense Practice Areas, defending companies and individuals in all stages of state and federal civil litigation in matters involving mass and toxic torts, motor vehicle accidents, and premises liability. Prior to Barclay Damon, Howley worked as an associate at Brown Hutchinson LLP. She graduated from the University at Buffalo School of Law.

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.

## PLANNING FOR LIFE AFTER 50 ANNUAL ELDER LAW FAIR

**Date:** Thursday, May 23, 2019

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

**Location:** Onondaga  
Community College

*Breakfast offered before  
sessions beginning at 9:00 a.m.*

Free & Open to the Community!

Parking & Shuttle Transportation Available.

Free consultations with a lawyer onsite.

**Sessions of interest to older adults &  
caregivers including:**

Senior Scams, Estate Administration, Wills, Etc.

**Registration Info to Come**





CENTRAL NEW YORK  
COMMUNITY FOUNDATION

# *Community Foundation Announces New Hires and Promotions*



The Central New York Community Foundation has hired two employees and promoted five.

**Terri Evans, Receptionist**

Terri joined us in December as our receptionist. She is responsible for greeting callers and visitors to the Philanthropy Center and providing administrative support to ensure the effective and efficient operation of the Community Foundation. Terri holds a bachelor's degree in Psychology from St. John Fisher College.

**Pragya Murphy, Development Officer**

Pragya began working with us in January as a Development Officer. She is responsible for maintaining and broadening our professional advisor network as well as supporting lifetime and legacy giving services for donors. Pragya has an MBA from Canisius College and extensive experience in corporate finance and banking. She is actively engaged in the Central New York community and currently serves on the advisory board and as the Chair of the Development Committee of the WISE Women's Business Center.

**Kimberly Sadowski** was promoted to Senior Vice President and Chief Financial Officer. Sadowski joined the Community

Foundation in 2016 as Vice President and Chief Financial Officer. Sadowski has executive responsibility over the Foundation's accounting, financial management, budgeting, audit, tax, investment and general operations. Sadowski is a licensed Certified Public Accountant with over 20 years of experience working in the accounting and nonprofit sectors.

**Robyn Smith** was promoted to Director of Strategic Initiatives. She previously held the position of Program Officer, Community Engagement. Smith manages and implements the Community Foundation's strategic initiatives which support and enhance the quality of life in Central New York neighborhoods and communities. Prior to joining the Community Foundation, Smith spent more than a decade working in the literacy field. She is also on the board of the Onondaga Citizens League and is a member of the NAACP's Syracuse/Onondaga Health Committee.

**Gerianne Corradino** was promoted to Senior Finance Associate. She previously held the position of Finance Associate. Corradino is responsible for the grant distribution and accounts payable processes. Corradino assists with the accounts receivable process

and provides general administrative support to the Finance Department. Corradino holds a Dual Bachelor of Arts in French Literature and Language and International Trade from the State University of New York at Oswego.

**Dashiell Elliott** was promoted to Manager, Grants and Programs. She previously held the position of Senior Program Associate. Elliott assists with the implementation of the community grant program and manages some of the Community Foundation's community engagement and nonprofit development programs. She currently serves on the board of directors of You Can't Fail, Inc.

**Jenny Green** was promoted to Manager, Philanthropic Services. She previously held the position of Development Associate. Green provides support to donors, fund advisors and the foundation staff related to the organization's data management system. She also manages the foundation's gift acceptance and acknowledgment process. Green holds a Bachelor of Arts degree in Technology Management from Alfred State College.

***Pictured left to right: Terri Evans, Pragya Murphy, Kimberly Sadowski, Robyn Smith, Gerianne Corradino, Dashiell Elliott and Jenny Green.***



**HANCOCK**  
ESTABROOK<sup>LLP</sup>



**COSTELLO • COONEY • FEARON**  
Attorneys at law since 1896

## ***HANCOCK ESTABROOK MOVES INTO NEW STATE-OF-THE-ART SPACE IN DOWNTOWN SYRACUSE***



Hancock Estabrook, LLP is excited to announce that the Firm has completed its renovation and relocation to the penthouse floors of AXA Tower I in downtown Syracuse. The Firm, which previously occupied floors 13 through 15 in AXA Tower I, announced its plans to move to the upper floors in early 2018.

The new space boasts 36,000 sq. ft. of innovative office features designed by King + King Architects and built by CBD Companies. It includes open collaboration areas, natural interior light and advanced video conferencing and training facilities.

The cutting-edge design elements create a comfortable and efficient work environment for the Firm's 117 attorneys and staff members. They include a two-story open reception area with a wall of windows overlooking downtown Syracuse, a state-of-the-art media room that will accommodate large groups for seminars and meetings and small seating areas for informal gatherings.

"We wanted our new space to reflect who and what we are," said Timothy Murphy, Managing Partner of Hancock Estabrook. "We utilized modern design elements to reinforce our Firm culture and to increase collaboration, creativity and innovation. Our new space allows us to provide expanded infrastructure and technology support to our clients, our practices and our attorneys. Downtown Syracuse is our home. We've been located in the AXA Towers for over 50 years, and we are pleased that we can stay in our current building while creating a clean, modern and functional environment for our team."

The newly designed office will also boast built-in work stations with adjustable height surfaces for administrative staff and a break room with kitchen facilities and a counter with charging stations for laptops and devices.

For more information about the Firm and its legal services, visit [hancocklaw.com](http://hancocklaw.com).

## **HOFFMAN NAMED PARTNER**



**Elizabeth A. Hoffman** has recently been named a partner of Costello, Cooney & Fearon, PLLC..

Ms. Hoffman joined the firm in July of 2013. Ms. Hoffman has

extensive experience successfully representing clients in a wide array of litigation matters including commercial and business disputes, premises liability, personal injury and coverage disputes in both federal and state court. Her dedication to her practice and exceptional skill has resulted in numerous favorable decisions for her clients. Ms. Hoffman continues to negotiate settlements which eliminate and/or significantly decrease client exposure. In addition, she offers strategic guidance to personal, corporate and healthcare clients in general practice matters.

Ms. Hoffman received a B.A. from Syracuse University in 2006, with a dual Major in Political Science and International Relations-Foreign Policy in Latin America, as well as a Minor in Spanish Language and Literature. She earned her J.D. from Syracuse University College of Law in 2009. While in law school, Ms. Hoffman was a Dean's List Scholarship recipient. She was a Notes and Comments Editor for the Syracuse Journal of International Law and Commerce, as well as a Form and Accuracy Editor for The Digest. Her article, "A Wolf in Sheep's Clothing," was published in the Syracuse Journal of International Law and Commerce in 2008 where it received honors as the top Note for that publication year.



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Attorneys at law since 1896

## MEET ALEX BERLUCCHI



**Mr. Berlucchi** joined Costello, Cooney & Fearon, PLLC in August 2018 after serving as law clerk with the firm during the summer of 2017. His primary areas of practice include Health

Law and Trusts & Estates. Mr. Berlucchi graduated from the University of Scranton in 2007, receiving a Bachelor of Science in Biology. He later earned his Master of Health Administration from Penn State University, Capitol Campus.

In May 2018, he received his Juris Doctor

from Syracuse University. Mr. Berlucchi interned at St. Joseph's Hospital Health Center in the office of general counsel. He also participated in the Low Income Tax Clinic at Syracuse University College of Law, helping people locally in Central New York to settle matters with the IRS and the New York State Department of Finance and Taxation.

Mr. Berlucchi also served as Editor-in-Chief of the Syracuse Law Review at the College of Law, and he was a member of the Moot Court Honor Society. He is admitted to practice in New York State, and is a member of the Onondaga County Bar Association, American Health Lawyers Association and the New York State Bar Association.

## PARE JOINS FIRM



**Kelly Pare** joined the firm as an associate in 2019. His practice focuses primarily on civil litigation and trial law, with an emphasis on construction law, professional liability defense and defense of insureds.

Mr. Pare graduated summa cum laude from Niagara University in 2014, and earned his law degree from Syracuse University in 2017, where he graduated magna cum laude. While in law school, Mr. Pare served on the executive editorial board of the Syracuse Law Review and the board of the Syracuse Tax Law Society. Mr. Pare also tutored his peers in courses such as Civil Procedure and Commercial Transactions.

Mr. Pare is admitted to practice before all courts in the State of New York.



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### Litigation Attorney

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Syracuse, NY 13204-1401  
Attention: Michael D. Foti

### PUBLIC NOTICES FOR POSTING AT BANKRUPTCY COURTS

#### APPOINTMENT TO PANEL OF CHAPTER 7 TRUSTEES

The United States Trustee seeks resumes from persons wishing to be considered for appointment to the panel of trustees who administer cases filed under chapter 7 of title 11 of the United States Code (Bankruptcy Code). The appointment is for cases filed in the United States Bankruptcy Court for the Northern District of New York, primarily in the Utica/Binghamton/Syracuse Division. Chapter 7 trustees receive compensation and reimbursement for expenses, in each case in which they serve, pursuant to court order under 11 U.S.C. §326 and §330.

The minimum qualifications for appointment are set forth in 28 C.F.R. § 58.3. To be eligible for appointment, an applicant must possess strong administrative, financial and interpersonal skills. Fiduciary and bankruptcy experience is desirable but not mandatory. A successful applicant will be required to undergo a background check, and must qualify to be bonded. Although chapter 7 trustees are not federal employees, appointments are made consistent with federal Equal Opportunity policies, which prohibit discrimination in employment.

**All resumes should be received on or before May 17th, 2019.**

**Forward resumes to:**  
**Guy Van Baalen, Assistant U.S. Trustee**  
**Office of the U.S. Trustee, 10 Broad Street, Rm. 105**  
**Utica, NY 13501.**





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## DIVORCE & FAMILY LAW ATTORNEY

**About the Position:** HLA seeks an attorney to join our established divorce and family law practice and to represent low-income adults primarily in divorces and other family law matters (custody, domestic violence, child support, spousal support, etc.) in Onondaga County Supreme Court and Onondaga County Family Court. This position presents a unique opportunity to join a collaborative office working to provide high-quality divorce and family law legal services to those in need in Onondaga County.

**Require Qualifications:** Demonstrated commitment to public-interest law and to serving low-income persons. Admission or pending admission to New York bar.

**Preferred Qualifications:** Ability to multi-task. Strong written and oral advocacy skills. Diverse economic, social, and/or cultural experiences.

**Salary:** Depends on experience.

**Benefits:** Excellent fringe benefits including generous leave, health, dental, and optical insurance, 401(k) retirement plan, and a great work environment.

**Start Date:** As soon as possible.

**Application Instructions:** Applicants should submit a cover letter, resume, and list of three references to Gregory W. Dewan, Esq., Deputy Executive Director, at [hiring@hlalaw.org](mailto:hiring@hlalaw.org).

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## IMMIGRATION ATTORNEY

**About the Position:** HLA seeks an attorney to join our dynamic and growing immigration law practice to provide legal counsel and represent clients in a variety of immigration matters, including: DACA; Asylum; U Visas; T Visas; TPS; SIJS; VAWA; Removal proceedings; Work permits; Bond hearings; BIA; Federal litigation; Advanced parole; Family Reunification; Family-based immigration; Complex naturalization; and Family Guardianship. The attorney will also be expected to conduct outreach and trainings in the community. This position is funded by the State of New York under a one-year contract through the Office of New Americans, with potential for renewal and future funding, and presents a unique opportunity to join a collaborative office working to provide high-quality legal services to immigrants throughout Upstate New York.

**Required Qualifications:** Membership in good standing of the bar of the highest court of any state in the country or U.S. territory. Ability to work both independently and as part of a team.

**Preferred Qualifications:** Fluent in English and an additional language. Membership in the New York bar. At least three years of experience as an attorney, including at least two years of immigration law experience. Diverse economic, social, and/or cultural experiences.

**Salary:** Depends on experience.

**Benefits:** Excellent fringe benefits including generous leave, health, dental, and optical insurance, 401(k) retirement plan, and a great work environment.

**Start Date:** As soon as possible.

**Application Instructions:** Applicants should submit a cover letter, resume, and list of three references to Linda Gehron, Executive Director, at [hiring@hlalaw.org](mailto:hiring@hlalaw.org).

The positions will be open until filled.

Hiscock Legal Aid is an equal opportunity employer, committed to inclusive hiring and dedicated to diversity in our work and staff. We strongly encourage candidates of all identities, experiences, and communities to apply.

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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.

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The ideal candidate will have a minimum of eight years of relevant experience working on public finance or commercial financing matters. 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 desirable.

## **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)**



# OFFICE OF PERSONNEL & LABOR RELATIONS

CITY OF SYRACUSE, MAYOR BEN WALSH

## JOB POSTING

**Donna D. Briscoe**  
Assistant Director

### PLEASE POST ANNOUNCEMENT

Qualified candidates are invited to apply for the following job vacancy. Application and/or resume should be submitted to Kristen Smith, Corporation Counsel at [law@syrgov.net](mailto:law@syrgov.net) or in person- City Hall, Room 300.

### DEPARTMENT OF LAW

#### **Assistant Corporation Counsel- Litigation Attorney**

The City of Syracuse Office of Corporation Counsel is seeking an experienced litigator to handle complex civil litigation in state and federal court on behalf of the City, including the defense of civil rights, employment discrimination, personal injury, property damage and contract claims. The litigator must be able to independently manage all phases of litigation, including discovery, motion practice, trials and appeals. The successful candidate must have superior analytical, writing and oral advocacy skills, and must be able to handle a heavy caseload.

### MINIMUM QUALIFICATIONS

Must be admitted to the New York Bar and should have at least three (3) years of litigation experience.

**Must be a resident of the city of Syracuse**, or must be prepared to relocate to the city of Syracuse.

**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 315-448-8780.**

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YEAR  
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Thursday, June 13<sup>th</sup>, 2019

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## *In Memoriam...*

**Michael Pekarsky**  
*April 12<sup>th</sup>, 2019*

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### BUSINESS LITIGATION ASSOCIATE ATTORNEY - WARD GREENBERG HELLER & REIDY LLP

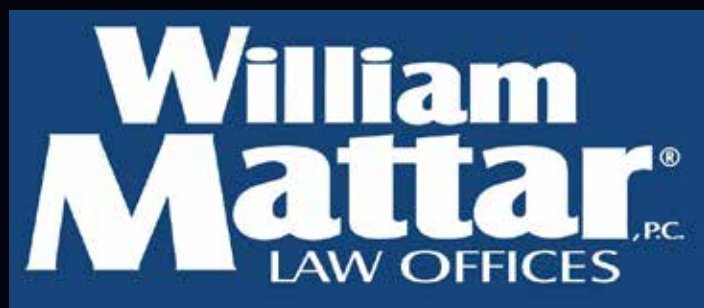
Ward Greenberg, a civil litigation firm with offices in NY, PA, NJ and DE, seeks an attorney with 2-5 years litigation experience to join its Business Litigation and Counseling group located in its Rochester office. Associate compensation is composed of competitive salary, productivity-based bonuses, 401K matching, and profit sharing. For more details, visit <https://www.wardgreenberg.com/news/join-our-team>

### SEEKING WILL FOR MARY E. BRUNELLE

Mary E. Brunelle was a resident in both Onondaga County and Cayuga County. The will was executed in 1992 or after. Please contact her daughter Courtney Barnard at (315) 559-9802.

### SEEKING WILL FOR TAMIKA S. WILLIAMS

The family of Tamika S. Williams is in search of the lawyer who drew up a will and related documents for their daughter, DOB June 19, 1975. Ms. Williams passed away April 11, 2019 after a battle with leukemia. Her family is seeking the attorney who may have authored a will and last testament. Ms. Williams' last known address was 109 Harford Road, Syracuse, NY 13208. If you have information her family wishes to speak with you. Please call her mother Gwendolyn Williams at (315) 516-1807 or Kenyatta Williams at (315) 956-2564.



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# SAVE *the* DATES!

## The 144<sup>th</sup> Annual Dinner

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**Wednesday, October 23rd, 2019**

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## THEN:

**Special Appellate CLE Program**

**Thursday, October 24th, 2019**

1:00 – 4:00 p.m.

County Legislative Chambers,  
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- Insight into the Disciplinary Process in the Fourth Department
- Dealing with Personal Crisis: The Role of Lawyer Assistance

**Watch for registration for both events later this summer!**

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 Program Of Onondaga County

### What is the Lawyers' Assistance Program?

The Lawyers' Assistance Program 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 Program's counseling agency.

### Is Contact with the Lawyers' Assistance Program Confidential?

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

### Why Was the Program Set Up?

The Program 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

# 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.



## ETHICS OPINION 1164

New York State Bar Association  
Committee on Professional Ethics  
Opinion 1164 (March 21, 2019)

Topic: Returning client files without keeping a copy; conditions on compliance.

Digest: A lawyer has an interest in maintaining a copy of client-owned documents provided to the lawyer during a representation, but in certain instances that interest must yield to a client's legitimate request to destroy those copies. To protect the lawyer's exposure to later suit, the lawyer may condition compliance on the client's request on receipt of certain protections that are reasonable in light of all the facts and circumstances attending the client's request.

Rules: 1.6, 1.15, 1.16

### FACTS

1. The inquirer is a New York lawyer who represented a client in an intellectual property matter adverse to the client's former employer. During the course of the representation, the client provided the inquirer with a large amount of data in digital form relating to the dispute between the client and the client's erstwhile employer (though the inquirer does not know the provenance of all the data). In the dispute, the latter alleged that the former had misappropriated proprietary information, some of which is embodied in the data given to the inquirer. Subsequently, the client decided to retain different counsel to handle the dispute, thereby ending the inquirer's attorney-client relationship with the client. The inquirer delivered to successor counsel all the materials comprising the client's file, doing so in the manner that successor counsel requested, but the inquirer retained one or more back-up copies of the data provided by the client during the representation.

2. The inquirer's former client thereafter settled the dispute in a confidential agreement, one provision of which requires the former client to retrieve and destroy all data comprising the subject of the dispute. The inquirer is not a party to the settlement agreement, but the inquirer's former client has requested the inquirer to destroy (and certify to the destruction of) the data in question. The inquirer is concerned that, in complying with this request, the inquirer would be without information that may be needed in the event of a subsequent lawsuit brought either by the former client or by the former client's onetime employer, who claims ownership of the data at issue. To protect against this prospect, the inquirer seeks guidance on the extent to which a lawyer may condition a request to destroy a file on receipt of a release and indemnity – from each party to the settlement agreement – and insistence on maintaining an index of the files destroyed in keeping with the former client's request.

3. The inquirer poses two questions:

(a) Does an attorney have an obligation to delete backup copies of files or data provided by a client after the client has terminated the legal engagement?

(b) May the attorney condition compliance with such a request on obtaining a release and indemnification (including advance of attorneys' fees and expenses), as well as creating an inventory of file names, sizes, and dates to prove what files were or were not in the attorney's possession?

### OPINION

4. Rule 1.15(c)(4) of the N.Y. Rules of Professional Conduct (the "Rules") says that a lawyer shall "promptly . . . deliver to the client . . . as requested by the client . . . properties in possession of the lawyer that the client . . . is entitled to receive." Rule 1.16(e) provides that, "upon termination of representation, a lawyer shall take steps, to the extent reasonably practicable, to avoid foreseeable prejudice to the rights of the client," including, among other things, "delivering to the client all papers and property to which the client is entitled." The Rules offer no guidance on which "papers and property" the client "is entitled to receive." Rather, the question of whether documents (including electronic versions) belong to the client is "generally a question of law, not ethics." N.Y. State 766 (1993). Which documents may belong to the client is "not always easy to ascertain" and may entail "a complex issue of both fact and law." N.Y. State 623 (1991). See generally *Sage Realty Corp. v. Proskauer Rose Goetz & Mendelsohn*, 91 N.Y.2d 30, 37 (1997). Our Committee does not resolve issues of law, and so for our purposes we assume, without deciding, that the data in question belongs to the client.

5. In N.Y. State 780 (2004), we addressed whether a lawyer may retain a copy of documents belonging to a client despite the client's objection. There we said that "there can be little doubt" that a lawyer "has an interest in the file that would permit the lawyer to retain copies of file documents." Citing opinions from other jurisdictions, we concluded that, as a "general rule," a lawyer may retain "copies of the file at the lawyer's expense," notwithstanding a client's objection. See Rule 1.6(c)(5)(i) (lawyer may reveal or use client confidential information to the extent that the lawyer reasonably believes necessary to defend the lawyer against an accusation of wrongful conduct); Restatement (Third) of the Law Governing Lawyers § 46, Cmt. d (Am. Law Inst. 1998) (a "lawyer may keep copies of documents when furnished to a client.") In recognition of this interest, we said in N.Y. State 780, a lawyer may insist on a release from a client as a condition of forgoing the lawyer's interest in maintaining a copy.

6. This interest is not unqualified. The Restatement notes that "extraordinary circumstances" may exist in which the very nature of the lawyer's assignment overrides the lawyer's interest in maintaining a copy; as an example, the Restatement cites "when a client retained the lawyer to recover and destroy a confidential letter." Restatement § 46, Cmt. d. Our N.Y. State 780 took a somewhat less narrow view of the possible exceptions to the "general rule" that a lawyer may always maintain a copy of a client file; without attempting to anticipate all conceivable circumstances, we said there that exceptions might include "where the client has a legal right to prevent others from copying its documents and wishes for legitimate reasons to ensure that no copies of a particular document be available under any circumstances." These qualifications require a fact-intensive inquiry balancing factors favoring a lawyer's interest in maintaining a copy of a client file and factors favoring a client's interest in destruction of that copy. This balance determines the extent to which the lawyer may condition compliance with a client's demand for destruction of a file on protections for the lawyer's benefit.

7. No exhaustive catalog of these factors is practicable, but certain common considerations are likely to recur, among them the strength of the client's claim to ownership; the sensitivity of the documents; the centrality of their sensitivity to the object of the representation; the legitimacy of the client's request for destruction; the extent to which the documents slated for destruction comprise the client file (i.e., one document versus the entire file); the difficulty associated with destruction of the documents; the degree to which the lawyer is subject to a meaningful risk of later liability; and the availability and feasibility of provisions protective of the lawyer's interests. In balancing these and other factors, the weight to be given each depends on the facts and circumstances, with the overriding concern that a lawyer's demand for protections for the lawyer's benefit must be reasonable in light of those facts and circumstances.

8. Applying these considerations to the current inquiry, we believe that it would be reasonable for the lawyer to request a release and a simple hold-harmless agreement from the lawyer's former client in exchange for the lawyer's agreement to destroy the documents at issue. Because the documents originated with the client (no matter their original provenance), the client's claim to ownership is strong. The nature of the dispute – that the documents embody proprietary information – reflects their sensitivity, which appears to be core to the nature of the lawyer's initial engagement, and the settlement agreement supplies a legitimate basis for the client's request. The documents are in an electronic format, so we detect no undue difficulty in achieving the client's aim. If the lawyer destroys the documents as requested, the risk of later liability is correspondingly diminished. Maintaining an inventory of the documents, with which we see no problem, affords the inquirer an additional layer of protection from a subsequent claim. Merely asking for advance payment of legal fees and expenses in the event of suit, or requesting a release and indemnity from the non-client former employer, may not alone violate the Rules, but we are dubious that the lawyer may insist on these conditions before complying with the former client's request that the documents be destroyed and that the lawyer certify to their destruction.

## CONCLUSION

9. Compliance with the terms of a settlement reached by a former client provides a legitimate reason to comply with that former client's request to destroy client-owned documents in a lawyer's possession. The lawyer may condition deletion of the file on obtaining a release and a simple hold-harmless clause from the former client, and may maintain an inventory of the file names, sizes, and dates for data supplied by the former client to the lawyer during the representation and maintained in the lawyer's files.

# 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



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**February 14<sup>th</sup>, 2019**

**March 21<sup>st</sup>, 2019**

**April 18<sup>th</sup>, 2019**

**May 16<sup>th</sup>, 2019**

**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**



# OCBA CONTINUING LEGAL EDUCATION

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

## Employment Law 101

### James M. Williams

Managing Attorney  
Legal Services of Central New York

### Laura Diane Rolnick, Esq.

Staff Attorney  
Volunteer Lawyers Project of Onondaga County

This training prepares you to volunteer for more than a dozen Talk-to-a-Lawyer clinics in our area accessed by low-income persons in need of legal counsel.



#### Topics Covered:

- Employment Law Issue Spotting
- Clinic Protocols

***There'll be pizza!***

1.0 MCLE credit (0.5 Skills + 0.5 Ethics)

Thursday, May 9, 2019 12:15 to 1:15 p.m.  
CNY Philanthropy Center, Ballroom  
431 E. Fayette St., Syracuse NY 13202

This CLE is required, and **FREE**, for those who commit to volunteer at these clinics. Can't volunteer? It's only \$20 for OCBA members and \$30 for non-members.

Register online at [www.onbar.org](http://www.onbar.org) or send in the form below.



The Onondaga County Bar Association is committed to providing Mandatory Continuing Legal Education Programs at an affordable price to its members as well as the bar-at-large. Financial waiver forms are available upon request or may be downloaded when you visit [www.onbar.org](http://www.onbar.org).

Employment Law 101 | Thursday, May 9, 2019 | RSVP by Noon May 7<sup>th</sup>  
**FREE if you agree to be a clinic volunteer, otherwise: Member \$20 | Non-Member \$30**  
(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. \_\_\_\_\_

☐ I am a lawyer who agrees to volunteer in a Talk-to-a-Lawyer Clinic; thus, I will take this CLE at no-cost.



# OCBA CONTINUING LEGAL EDUCATION

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## Serving Those Who Served: Helping Vets Access VA Benefits

**Thursday, May 23rd, 2019**

1:30 - 5:00 p.m.

Syracuse University College of Law

Dineen Hall, Room 350

950 Irving Avenue, Syracuse, NY 13210

*\*Parking available in the Stadium lot*

### Presenters:

Yelena Duterte, Esq.

Chantal Wentworth-Mullin, Esq.

**3.5 MCLE** (3.5 Professional Practice)



**Topics Include:** Overview of Department of Veterans Affairs & Basic Eligibility | Establishing Service Connection for Disability Benefits | Disability Percentage Ratings | Effective Dates for VA Benefits | Non-Service Connected Pension Benefits | VA Benefits for Non-Veterans | Initial Application for Benefits & Initial Appeals Process | The Board of Veterans Appeals | Court of Appeals for Veterans Claims



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

### Serving Those Who Served: Helping Vets Access VA Benefits

Thursday, May 23rd, 2019 | RSVP by May 21st

Member \$40 | Non-Member \$70 | Paralegal \$15 | Free to Lifetime/Agency/Student

Doors Open at 1:00 p.m.

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

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

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

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

☐ Check Enclosed ☐ Will Bring Check to CLE CC Card #: \_\_\_\_\_ Exp: \_\_\_\_\_





# OCBA CONTINUING LEGAL EDUCATION

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## Financial Responsibility, Ethics and Pitfalls of Running a Small Criminal Law Practice

**Friday, May 31st, 2019**

12:00 - 3:00 p.m.

CNY Philanthropy Center

Second Floor Ballroom

431 East Fayette Street

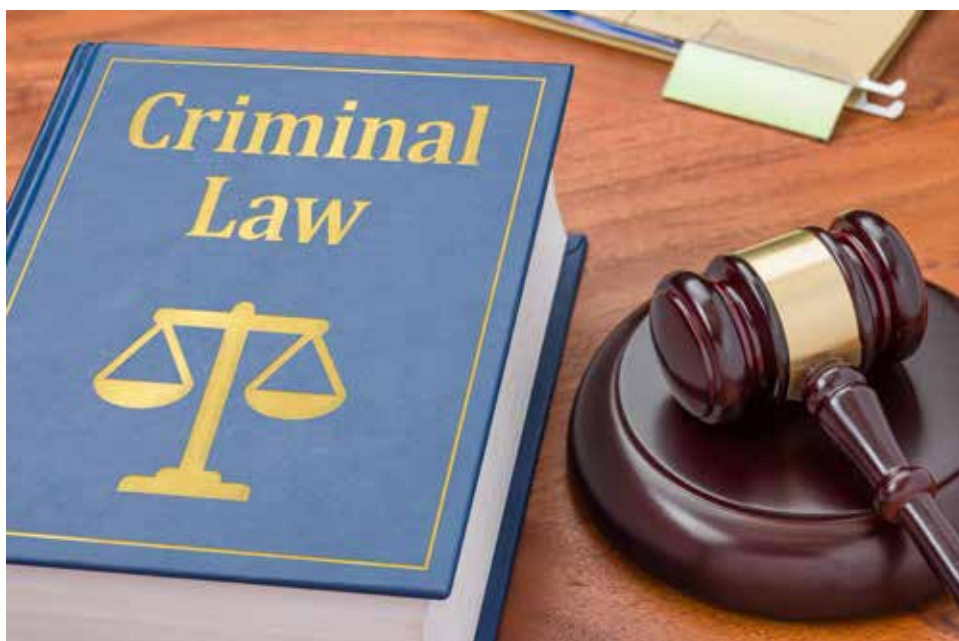
Syracuse, NY 13202

### Presenters:

Mary Gasparini, Esq.

Lisa Cuomo, Esq.

Lourdes Rosario, Esq.



**3.0 MCLE** (1.0 Practice Management, 2.0 Ethics)



Onondaga County Bar Association  
**Assigned Counsel Program, Inc**

The Onondaga County Bar Association is committed to providing Mandatory Continuing Legal Education Programs at an affordable price to its members as well as the bar-at-large. Financial waiver forms are available upon request or may be downloaded when you visit [www.onbar.org](http://www.onbar.org).

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

### Financial Responsibility, Ethics and Pitfalls of Running a Small Criminal Law Practice

Friday, May 31st, 2019 | RSVP by May 29th

Member \$60 | Non-Member \$90 | Paralegal \$30 | Free to Lifetime/Agency/Student

Doors Open at 11:30 a.m.

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

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

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

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

☐ Check Enclosed ☐ Will Bring Check to CLE CC Card #: \_\_\_\_\_ Exp: \_\_\_\_\_



# OCBA CONTINUING LEGAL EDUCATION

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## NY Civil Practice - 2019

**Thursday, June 6th, 2019**

1:00 - 4:00 p.m.

SUNY Oswego Metro Center

2 South Clinton Street, Syracuse, NY 13202

### Presenters:



*Hon. Deborah Karalunas*

Presiding Justice of Supreme Court,  
Commercial Division, Onondaga County;  
New York Pattern Jury Instructions Committee



*Thomas E. Myers, Esq.*

Retired, "Emeritus," Bond, Schoeneck & King,  
Syracuse University College of Law,  
Adjunct Professor of Law, NY Civil Practice,  
2018 OCBA Distinguished Attorney of the Year



**3.0 MCLE** (2.5 Professional Practice, 0.5 Ethics)

**Light refreshments will be served.**

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

The Onondaga County Bar Association is committed to providing Mandatory Continuing Legal Education Programs at an affordable price to its members as well as the bar-at-large. Financial waiver forms are available upon request or may be downloaded when you visit [www.onbar.org](http://www.onbar.org).

### NY Civil Practice - 2019

Thursday, June 6th, 2019 | RSVP by June 4th

Member \$60 | Non-Member \$90 | Paralegal \$30 | Free to Lifetime/Agency/Student

Doors Open at 12:30p.m.

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

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

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

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

☐ Check Enclosed ☐ Will Bring Check to CLE CC Card #: \_\_\_\_\_ Exp: \_\_\_\_\_