



ONONDAGA COUNTY BAR ASSOCIATION **BAR REPORTER**

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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.



In Memoriam

We fondly remember

Paul J. Ginnelly, Esq.

Mary Lou Crowley, Esq.

Hon. Dennis DeStefano

William F. Lynn, Esq.

Peter E. Herzog, Esq.





ONONDAGA COUNTY BAR ASSOCIATION

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Letter from the PRESIDENT



Paula M. Engel

Dear Colleagues:

The 2020 presidential election has been called, and we have a new President-Elect. This year truly has been a victory for democracy, noteworthy for the huge increase in voter turnout. The more engaged our citizenry, the better our society. My own foray into this world as a candidate was rewarding and enlightening - everything I learned, every person I met, the incredible support I received along the way - it all makes me more appreciative of the strong community we have in Onondaga County, and I am a better person for it. I want to particularly thank our Executive Director, Jeff Unaitis, for his service as a poll site manager, and all the poll workers who worked up to 18 hours or more on Election Day.

And now, enter the lawyers. In Shakespeare's "Henry VI", Dick the Butcher, a supporter of a rebel leader, jokes "The first thing we do, let's kill all the lawyers." (Part II, Act IV, Scene II, line 73). While often quoted out of context to decry the role of lawyers, the Bard actually intended to assert that our profession is the vanguard defending the nation from corrupt, unethical despots, by enforcing law and order to ensure a civil society.

One of our roles as legal professionals is to ensure the confidence in our residents in the legitimacy of the government, and fundamental to that is ensuring the legitimacy of our elective process. I confess to being somewhat tired of discussing politics this year, when we have COVID-19, racial and economic structural imbalances and so much more to address. But we should not fear the process that will unfold in the courts, no matter how high the cases go: the light of judicial examination will shine a light on whether sufficient, credible facts support the challenges to the outcome, or whether those challenges are frivolous. We should welcome the opportunity to strengthen the legitimacy of our government, with the knowledge that extreme diversity of political beliefs will not shred our society. "The point of civic life is not necessarily to have unanimity, even if that were possible. [...] To be an American is fundamentally to be in creative, joyful, productive argument about what it means to be an American."¹

So, let's bring on the arguments, legal and otherwise, about what it means to be an American in 2020, but let's be intentional about ensuring that we are "creative, joyful [and] productive" in the process.

This month, we also celebrate Veteran's Day. My children gradually learned not be embarrassed by the fact that their mother went out of her way, when in the presence of someone who was active or retired military, to stop and thank that person for their service and sacrifice. As the grand-daughter of long-time Syracuse attorney, Frank C. Love, who left Army service with the rank of Major after being injured in the Battle of Argonne Forest in World War I, I will always recognize and support the brave men and women who are ready to put everything on the line to ensure our civil liberties and freedom. If you see a person in uniform on the street, or wearing proudly a baseball cap or jacket showing her or his rank or last service post, stop and thank them for their willingness to put their lives at risk to keep us, our families, and the civil society we hold dear, safe from harm.

Please keep yourselves, your families and your neighbors safe from harm, and always wear a mask when around someone not in your "pod"!

[1] Jilani, Zaid. "What Does It Mean to Be an Engaged Citizen? (excerpt from an interview with author Eric Liu)" Greater Good Magazine, July 4, 2019. https://greatergood.berkeley.edu/article/item/what_does_it_mean_to_be_an_engaged_citizen

Paula

William F. Lynn

1934 – 2020

Friend • Partner • Mentor • Gentleman



Say it. Say it Out Loud.

By Ronnie White, Esq.

If you see something, say something.

That's the familiar refrain we learned in response to the terror attacks that forever changed the American way of life on 9-11-2001. The idea was that it took an entire society's diligence to keep us safe from such atrocities. As I sit here today, I can't say that that policy actually prevented any terror attacks, but it did give me a sense of comfort that my fellow American was looking out for me. At least in some respects. This is because, while "if you see something, say something" caught on for preventing terror, for too long our society has turned its back to injustice, prejudice and bigotry aimed at people of color, women and other minorities.



Photo credit: John Cameron, Upsplash.com

A child of the 80's raised on the ideas of multiculturalism and tolerance, growing up in an integrated community, we were taught that racial prejudice and animus was a thing of the past. This was buttressed by society's willful ignorance of the things that were still happening in everyday society. We heard excuses such as, "They were just angry, they didn't mean it," "Can't you take a joke," "They're not normally like that." I'll never forget the time in 3rd grade, when a little white friend and I were playing and we got into a playground confrontation with another black kid in our grade. My "friend" at the time shouted at this kid, "That's what I hate about black people," and when I looked at him incredulously, he retorted, "you're brown Ronnie, not black." I was unequipped to deal with what happened at that time, but if something like that happened to me today, I would know that I saw something wrong, and that I needed to say something about it.

Thus, when I was confronted by inappropriate and racist commentary on Facebook by one of our colleagues, I knew, especially in the shadow of society as a whole's awakening to racial justice issues this summer, that the option of staying silent was no longer available for me. I didn't share his own words, to ruin his life, or get revenge. But I was truly offended that someone who is supposed to advocate for all, and who was taking money from the state to serve indigent populations, which in our county are overwhelmingly people of color, could openly express sympathy for white supremacist views.

Now, I guess since this is a *Bar Reporter*, you are wondering what does any of this have to do with the law. The question I would pose to you, the reader, is how can you fulfill your obligations of zealous advocacy when the vestiges of racism, bigotry and prejudice are more often than not swept under the rug, in a profession that is overwhelmingly white, and male? How many of you have laughed, uncomfortably or not, at that off-color joke? How many of you have ignored that racist comment you heard, that you know would never have been said if a person of color was in the room? As lawyers, we have a moral and ethical duty to seek justice. And I would posit that that justice isn't limited to the courtroom, it extends to society as a whole. And thus, when we see something, we must say something. Our profession and society as whole will be much better off.



Ronnie White, Jr., Esq.

On November 9, 2020, Ronnie White, Jr. was unanimously appointed to the Syracuse Common Council.

Previous to his new role, White served the council as its part-time counsel.

He assumes a seat relinquished by Councilor Tim Rudd, who resigned to accept a position with the office of the mayor.

A transplant from Illinois and Georgia, White has made Central New York his home after graduating from the Syracuse University College of Law.

As reported on Syracuse.com, White said of his appointment, "It means a lot to me. ... I really, truly believe in public service."



The Bond, Schoeneck & King Series on Race and Justice in CNY (2020-2021)

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BY BRYAN STEVENSON



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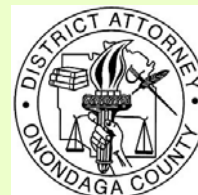


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Onondaga County Bar Association and Syracuse University College of Law Announce the Bond Schoeneck & King Series on Race & Justice in CNY



The Onondaga County Bar Association (OCBA) in partnership with the Syracuse University College of Law (SUCOL) announces the **Bond Schoeneck & King Series on Race & Justice in CNY**, a full year of legal and non-legal programming aimed at opening a respectful, constructive, and healthy dialogue about systemic racism and unequal access to justice in our community.

“As lawyers, we are responsible to uphold the rule of law and the rights to equal protection and due process for all. By creating this year-long series of programs, the Bar Association, together with Syracuse University’s College of Law, will lead the effort to identify and remove the forces in our legal systems that oppress and marginalize people of color right here in our CNY community,” said OCBA President Paula M. Engel, Esq.

The Race & Justice in CNY program offers a variety of events throughout 2020-21, energizing participants toward an understanding about each other – together and apart – as a unified community desirous of “Liberty and Justice for All.” The focus on engaging a broad cross-section of our neighbors via multiple platforms goes beyond simply raising awareness of the racial issues felt by Onondaga County citizens, to brainstorm the question “Now, what?” – We want to provide the answer: The specific actions we can take, individually and as a community, to move reform forward.

Professor and Director of the Cold Case Justice Initiative at the Syracuse University College of Law, Professor Paula C. Johnson, Esq. said, “This project is important on a broad scale because we want to include the many voices across our community who have interest, experience, or solutions to racial justice issues in law enforcement and across all institutions. We are all stakeholders in addressing these problems.”

(continued next page)

Race and Justice in CNY -- continued

“Important results from the project will include greater knowledge, understanding, and accountability by public officials to the communities they serve,” Johnson continued. “We also want to foster greater awareness by the public regarding legal and governmental systems, how they work and how they should be responsive to the needs of diverse communities.”

Johnson added, “We think the partnership between the Bar Association and law school is important because as lawyers and those who educate lawyers, we are particularly responsible for ensuring the equal justice and democratic principles of our society. Every lawyer serves the public interest, and must be competent to address racial justice concerns in our communities and society. We are all affected by racial injustice and must be vigilant in its removal.”

This important effort is made possible by the generosity of presenting sponsor **Bond Schoeneck & King, PLLC**.

“Within Bond we acknowledge hundreds of years of the systemic, dehumanizing racism that permeates the very foundation of this country,” said Kevin Bernstein, chair of the Bond, Schoeneck & King management committee. “We are committed to listening and learning. We are committed to action by working to promote anti-racism initiatives and intentional diversity throughout our communities, the legal profession and our firm. Sponsoring the OCBA Race & Justice in CNY initiative provides us the opportunity to support our community and to continue learning ourselves. It is one way we can play a part in eradicating the scourge of racism to build stronger, inclusive communities where we live and work,” Bernstein added.

List of Events Currently in the Series (more to come)

Part I: The Community Book Read of “Just Mercy” – presented by Mackenzie Hughes, LLP

Online, Facilitated Book Discussion via Zoom – 10 weeks

6 to 7:30 p.m. Mondays, September 14 – November 23 (except Sept. 28, in observance of Yom Kippur)

Community members will read attorney and activist Bryan Stevenson’s New York Times bestseller “Just Mercy: A Story of Justice and Redemption.” There is a published schedule for chapters to be read each week, but people don’t have to read the entire book in advance to participate in the weekly discussions to be hosted on the Zoom platform. Weekly questions and discussion topics will be shared with the participants, and Zoom-based discussions will be facilitated by community leaders. To sign up for the Community Book Read, click [here](#).

Mackenzie Hughes Managing Partner Anne Ruffer said, “Mackenzie Hughes is a 140-year-old Syracuse-based law firm that is dedicated to racial justice including the fair treatment of everyone, regardless of race, gender, religion, language, culture, ethnicity, ability and orientation. We are proud to sponsor the “Just Mercy” Community Book Read. We are confident that the program will succeed in exploring ways in which prejudice, stereotypes and discrimination may be addressed and diminished,” she concluded.

(continued next page)

Race and Justice in CNY -- continued

With generous sponsors, including **The Lynn Law Firm** and the **CNY Women's Bar Association**, we are able to distribute free copies of this book to those who need one, through our collaboration with the Onondaga County Public Library and the Syracuse Central School District.

Part II: Continuing Legal Education seminars on legislative reforms addressing racial injustice in our legal systems, adopted or proposed, and historical context. (Fall 2020 – Spring 2021)

Part III: Taking the INSIDE BASEBALL, OUT of Your Government: A three-part series addressing for each community resident everything they need to know about our local governments (City, County, and State). Topics covered will include: What are specific departments responsible to do? Who is in charge? How can I advocate for a position: Open Meetings Law, FOIL requests, legislative hearings, etc. (First session will focus on Syracuse City Government, date tbd, sponsored by **Smith Sovik**; others to run through spring of 2021.)

Part IV: Addressing Racial Injustice in Every Practice of Law: Specific programs will be targeted to legal systems in criminal justice, family law, trusts and estates, real estate, e.g., that discuss racial injustice and disparities in those particular areas of the law. (Spring 2021)

Champion of the Law Award in the Field of Civil Rights: OCBA will award its first-ever “**Champion of the Law Award**” recognizing an attorney in a specific practice area for their notable achievement in advancing the rule of law and/or administration of justice. This honor is intended to be annually awarded in a different legal arena, beginning in 2020 with the Civil Rights Champion of the Law.

Collaborators

This project is made possible by the helpful hands and great ideas of the following collaborators: The Syracuse Central School District, Onondaga County Public Library System, Onondaga County District Attorney's Office, Legal Services of Central New York, Center for Court Innovation, William H. Johnson Bar Association, and the City of Syracuse – Mayor's Office.

Presenting Sponsor: **Bond Schoeneck & King, PLLC**

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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



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 PRACTICE PAGE

UNPACKING THE “BORROWING STATUTE,” CPLR 202

Hon. Mark C. Dillon*

Litigators recite statutes of limitations in their sleep. Attorneys representing plaintiffs are keenly aware that claims must be timely brought to be entertained on the merits. Conversely, defense attorneys savor a good statute of limitations defense, as such defenses are objective in nature whenever the date of accrual, the nature of the claim, and the absence of a toll, are known.

The “borrowing statute” of CPLR 202 can trip up plaintiffs. It is one of those poorly-worded statutes that we see from time to time, which must be read two or three times to absorb its true meaning. It provides that if a non-New York plaintiff sues a New York defendant, and the cause of action accrued outside of New York, our courts must apply either the statute of limitations of New York *or* the state of accrual, whichever is *shorter* (*GML, Inc. v Cinque & Cinque, P.C.*, 35 AD3d 195, *aff’d.*, 9 NY3d 949). CPLR 202 will have no effect if New York’s statute of limitations is the same as that of the state of accrual. Its impact is felt if the foreign state has a limitations period shorter than New York’s. CPLR 202 represents a statutory version of “choice of law,” but is limited by definition to the statute of limitations. Its purpose is to discourage forum shopping in New York (*Eaton v Keyser*, 53 AD3d 640, 641-42).

A simple example is where a Connecticut plaintiff incurs personal injury as a result of an unfortunate encounter with a defective premises condition at a

Connecticut premises. The Connecticut premises is owned by a New York corporation. The statute of limitations in New York for negligence is three years (CPLR 214[5]), but under Connecticut law, is only two years (C.G.S. 52-584). Let us further suppose that the plaintiff brings the personal injury action in New York, in the creditable belief that verdict values in New York are generally higher than those of Connecticut. If the action is commenced in New York during year 1 or 2 from its accrual, there is no problem as it is clearly timely. However, if the action is commenced in New York in year 3, the borrowing statute would require that the timeliness of the action be measured against the shorter foreign statute of limitations, in this instance, Connecticut’s statute. A New York court “borrowing” Connecticut’s 2 year limitations period would be required to dismiss the action as untimely, even though the action would be otherwise timely under New York’s own statute of limitations.

New Jersey is another state in the northeast region that also has a two year statute of limitations for negligence, and where the same scenario described above could play out in a given case (N.J.S.A. 2A:14-2).

(Continued on next page)



* Mark C. Dillon is a Justice of the Appellate Division, Second Department, an Adjunct Professor of New York Practice at Fordham Law School, and an author of CPLR Practice Commentaries in McKinney’s.

CPLR 202 only applies if the plaintiff is a non-New Yorker, as it does not apply in reverse where the defendant is the non-New Yorker party subject to our state's jurisdiction (*Insurance Co. of North America v ABB Power Generation, Inc.*, 91 NY2d 180, 186). Also, CPLR 202 only applies if the cause of action accrued outside of New York. There is no requirement that the plaintiff's state of residence and the accrual state be the same — New York must use the statute of limitations of the foreign state where the cause accrued.

Application of a foreign statute of limitation includes application of that state's tolling provisions as well (*Childs v Brandon*, 60 NY2d 927, 929). Therefore, it is actually the "net" statute of limitations of the foreign state that must be compared to the "net" of New York. It should be pleaded by defendants as an affirmative defense in their answers so that it is not waived (CPLR 3018; 3211[a][5]).

The borrowing statute raises its head more often in the federal courts sitting in our state than it does in our state courts, as

federal litigations based on diversity of citizenship involve, by definition, a plaintiff and a defendant from different states, and at least one of them is from New York (28 U.S.C. 1332). In some percentage of those actions, the plaintiff is the out-of-state party and the cause of action accrued outside New York as well.

The borrowing statute applies to all causes of action, and a review of Westlaw reveals its relevance over the years to actions sounding in negligence, intentional torts, wrongful death, contract, fraud, breach of warranty, divorce, conversion, real property disputes, and accounting proceedings. It is an issue that attorneys should red flag whenever plaintiffs and defendants are from different states and the cause of action accrued outside of New York. The courts have no discretion to ignore the borrowing statute when it applies. For plaintiffs, non-sensitivity to the borrowing statute can lead to a fateful doom. For defendants, it may provide a knock-out blow against those plaintiffs' complaints without having to even reach their merits.

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Workers' Compensation and COVID -19

By William W. Crossett



Photo credit: Oliver Hale for Upsplash

The national pandemic presents two critical issues relative to New York Workers' Compensation.

The obvious is whether employees can bring a Workers' Compensation case if they become COVID positive. The second less obvious is whether employees working at home can bring a claim if they have an injury. The answer to both of these important questions is **Yes**.

While New York has not adopted a COVID presumption law (the AFL-CIO has proposed such legislation: A10401/So8266), the case law clearly supports such a claim. To establish a case, the employee/injured worker must show a causal connection between the employment and the sickness. As with all workers' compensation cases, a medical report must be offered into evidence that contains a history of the exposure and documents how the diagnosis was reached.

Obtaining medical evidence can be challenging. Many people who tested positive for COVID treated with primary care doctors who do not participate with or are not "coded" by the New York Workers' Compensation Board. Many sick workers stayed home, self-treated, and may or may not have been tested, especially in the early days and months of the pandemic. Unfortunately, some have yet to



Photo Credit Upsplash

recover but delayed treatment until recently. Sometimes evidence can be reconstructed and experts retained to offer opinions.

Of course, the two-pronged Statute of Limitations must be met. The first prong is that employees/injured workers are supposed to give notice within 30 days of knowing they have a work-related sickness or injury. The second prong is that employees/injured workers must file a claim within two years of the disability date. The notice provision does not have to be supported by evidence and can be verbal. However, it is best to give written notice of the possibility of a claim for COVID as soon as possible.

The same two-pronged Statute of Limitations and the need for medical evidence applies to an injury that occurs while working at home or away from the

ordinary place of business. The “history” of how the injury occurred can be of paramount importance. Injured workers should take care to explain *how* they were working at the time of the injury as opposed to merely stating that they were injured while working.

Recently, the Appellate Division reversed a New York Workers’ Compensation Board decision that applied a new rigid standard for injuries that occur while working at home. See *Capraro v. Matrix Absence Management* decided on September 11, 2020. In doing so, the court reaffirmed the proposition that an injury is compensable if the injury is reasonably and sufficiently work-related under the circumstances. Thus, claims may arise outside of regular business hours or activities.

Unlike other courts, the Workers’ Compensation Board has continued to conduct hearings. Hearings are held virtually and electronic filings are the rule. If you believe a case exists, do not delay in taking action.

Mr. Crossett is the managing partner of MCV Law (Meggesto, Crossett & Valerino, LLP). He is an active member of the Workers Compensation Law Division of the New York State Bar Association, past President of the Injured Workers Bar Association of New York, Co-Chair of the New York Workers Compensation Alliance and in 2012 was inducted as a fellow of the College of Workers' Compensation Lawyers.



OCBA Member First in Line for COVID-19 Vaccine Trial

by Carrie Chantler



When attorney Colleen M. Gibbons stepped up, bared her upper arm and braced herself for the momentary stab of a needle she understood she was, once again, helping her community.

OCBA member Gibbons was the first person in Onondaga County to participate this summer in a two-year drug company trial of a COVID-19 vaccine at Upstate Medical University.

Roughly 30,000 people worldwide are participating in the Pfizer study. Subjects, like Gibbons, don't know if they were injected with the proposed vaccine or a placebo. She learns which she received when the FDA approves the vaccine.

"Then I can ask what I got and then I will know," she said.

And, so far, she feels great. She records if she experiences any coronavirus symptoms in a weekly diary phone app and, to date, has felt no vaccine side effects.

"I like contributing to science," Gibbons said.

She likes it so much she's done it twice -- with a Dengue fever plus a rabies study -- "Because I am a giant nerd."

With a trend toward 10 million COVID-19 cases in the United States by the end of 2020, and more than 234,000 deaths, Gibbons commends her community's response to the virus.

"I think it has been really interesting, in general, in the community, to see how people come together and follow best practices and learn to roll with it," Gibbons said. "We don't have a lot of resources and everyone has worked together and it's been an opportunity for collaboration."

One person participating in a clinical trial for a vaccine with the potential to help protect millions of people prompted Gibbons' first-in-line stance.

"There are so many little ways that you can take a small step to benefit humanity. It doesn't have to be big," she said. "It helps others and it doesn't require too much effort. It's cumulative." (Continued on next page)

COVID-19 Vaccine, continued

And Gibbons knows how communities that function well benefit the individuals who comprise them.

A Baldwinsville native, Gibbons boasts four degrees and a resume full of volunteering ventures.

An undergraduate degree in Exceptional Education, earned at Buffalo State College, prepared her for a five-year stint teaching elementary school in Oneida. Next, she obtained a master's degree and a doctorate in Human and Community Development from the University of Illinois.

Gibbons returned to Syracuse to project manage a National Science Foundation grant and considered matriculating at the Maxwell School of Citizenship and Public Affairs or the Syracuse University College of Law. She chose Orange Law and graduated *cum laude* in 2017.

As Deputy Director of the Upstate Office of The Center for Court Innovation, she works on expanding opioid courts and developing new projects in the criminal, civil, and family courts. She's particularly excited about providing cell phone service to CCI constituents who make telephonic court appearances.

OCBA members are familiar with Gibbons due to her involvement in a variety of bar association works. She has been a longtime member of the OCBA Volunteer Advocate Lawyer for Animal Abuse Court fostering animals in her home as their abuse and neglect cases wend through the justice system. She's also a member of the OCBA Community Engagement Committee and has helped organize robust community discussions concerning affordable housing and proposed changes to I-81. As a law student, she was so successful in trial court clinics that an image of her in action is used today in SUCOL marketing.

Growing up in a two-religion household meant watching her parents "find ways to build upon their likenesses," she said. "If you see a problem and you have the capacity to do something then it's worth trying."



Gibbons holds a trophy recognizing her 2017 accomplishment of leading a team of Bousquet Holstein PLLC attorneys during a fundraising challenge. Pictured with her are SU College of Law Dean Craig M. Boise, and fellow SU College of Law alums Michael Tyszko, Sharon McAuliffe, Gary Lavine, and Christine Woodcock Dettor.

Ethics Hotline

New York lawyers faced with ethical questions regarding their own prospective conduct can reach the Ethics Hotline by calling volunteers Victor Hershendorfer at **315-913-4087** or Tony Gigliotti **315-727-6780**.

The Ethics Hotline is operated and staffed by members of the Onondaga County Bar Association's Committee on Professional Ethics (the "Committee"), chaired by John Sindoni and P.G. Ferrara. 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. 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.



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Adam R. Storm, P.E.
Consultant
astorm@rimkus.com
315-412-6336

Mr. Storm earned a B.S. degree in Mechanical Engineering from Clarkson University and he is a registered professional engineer in New York State. He has a strong interest in vehicular systems and has investigated failures and accidents involving engines, transmissions, tires, suspension, seatbelts, airbags, and brakes on all types of vehicles including passenger vehicles, commercial tractor/trailers, motorcycles, and UTVs. Mr. Storm has handled vehicle accident reconstruction files involving intersection accidents, single-vehicle accidents, head-on collisions, and pedestrian collisions.

Mr. Storm investigates product failures such as plumbing failures (including pipe freezes), HVAC, fire sprinkler systems, consumer products, appliances, door systems, ladders, forklifts, aerial lifts and industrial/commercial equipment.

CALL TO ACTION – JOIN OUR VOLUNTEER LEADERSHIP!

We want YOU to get more involved and take the lead on the important work of your Bar Association. Contact Carrie Chantler at cchantler@ongbar.org to indicate your interest!

2020-2021 Committee and Section Leadership

<u>Ad Hoc Committees</u>	<u>Chair</u>	<u>Sections</u>	
Community Engagement	Jim Williams	Commercial Law	Teresa Bennett James O'Shea
Lawyers in the Classroom <i>(includes Mock Trial)</i>	Mark Ventrone seeking co-chair	In House Counsel formerly Corporate Counsel	Lisa Alexander seeking co-chair
Awards & Recognition	Gioia Gensini seeking co-chair	Criminal Law	W. Benjamin Coffin seeking co-chair
Attorney Client Fee Dispute	Mark Wasmund	Environmental Law and Land Use	Wendy Marsh Mike Fogel
Bar Reporter Editorial Board	Editorial Board	Estates & Surrogates	Mary King Aiden Mitchell-Eaton
Bench and Bar	vacant	Family Law	Bob Jenkins Karen Docter
Continuing Legal Education	Joseph Callery	Federal Courts	John McCann Kim Zimmer
Judiciary	Jean Marie Westlake	Health Law	Robert Connolly Maureen McGlynn
Finance	Martin Lynn	Intellectual Property	Jack Rudnick Denis Sullivan
Governance	Aaron Ryder	Law School Section	vacant
Grievance	Julian Modesti	Legal Administrators	vacant
Law Practice Management	vacant	Municipal Law	Kevin Gilligan Anthony Rivizzigno
Lawyer Referral Service	Stuart LaRose Tom Cerio	Real Property	Gil Hoffman Rocco Mangano
Membership	Graeme Spicer Anthony Marrone	Small & Solo Practice	Graeme Spicer Kim Zimmer
Paralegal	Nodesia Hernandez	Young Lawyers	Ryan Poplawski
Professional Ethics	John Sindoni PG Ferrara	Trial Lawyers	Jennifer P. Williams John Callahan
Diversity & Inclusion	Crystal Doody Kayla Arias		
Volunteer Lawyers for Animal Advocacy	Nick DeMartino Kerilyn Micale Colleen Gibbons		

Newsmakers & Influencers

26 HANCOCK ESTABROOK ATTORNEYS NAMED *SUPER* *LAWYERS* 2020



HANCOCK
ESTABROOK, LLP
COUNSELORS AT LAW

Hancock Estabrook, LLP proudly announces that 26 attorneys have been selected for the 2020

“Upstate New York *Super Lawyers*” list, including six who were named Rising Stars.

Hancock Estabrook *Super Lawyers* for 2020 include:

Cora A. Alsante

Michael L. Corp

Lindsey Helmer Hazelton

Walter L. Meagher, Jr.

John G. Powers

Daniel B. Berman

Catherine A. Diviney

Mary C. King

John L. Murad, Jr.

Doreen A. Simmons

Janet D. Callahan

Marion Hancock Fish

Susan L. King

Timothy P. Murphy

Robert C. Whitaker

John F. Corcoran

Thomas J. Fucillo

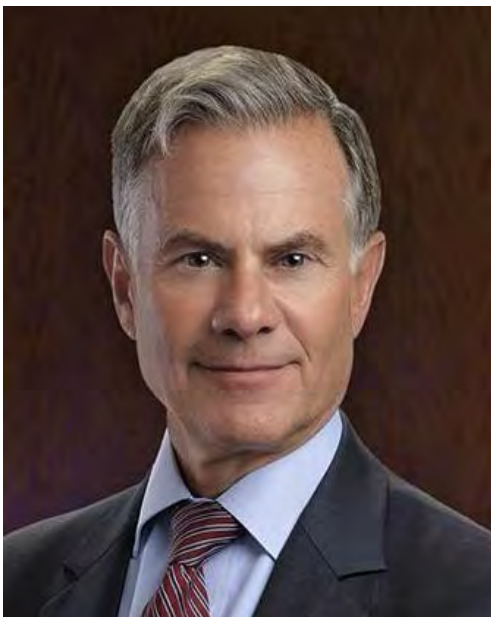
John T. McCann

Alan J. Pierce

In addition, Jaime J. Hunsicker, Jillian C. Joyce, Whitney M. Kummerow, Daniel K. Mannion, James J. O’Shea and Briana K. Wright were selected as Rising Stars. To be eligible for inclusion in Rising Stars, a candidate must be 40 years old or younger or in practice for 10 years or less.

Cora A. Alsante was also included in the 2020 Top 25 Women Attorneys Upstate New York *Super Lawyers* list.

Super Lawyers is a ranking publication that selects attorneys using a patented multiphase selection process. Peer nominations and evaluations are combined with independent research. Each candidate is evaluated on 12 indicators of peer recognition and professional achievement. Selections are made on an annual, state-by-state basis.



NOTED ENVIRONMENTAL PRACTITIONER THOMAS J. FUCILLO JOINS HANCOCK ESTABROOK

Former New York State Department of Environmental Conservation Regional Attorney and long-time partner at Menter, Rudin & Trivelpiece, P.C., Thomas J. Fucillo, has joined Hancock as Partner. Mr. Fucillo will practice in the Firm’s Environmental, Zoning & Land Use and Litigation practice areas.

Fucillo concentrates his practice on environmental and zoning & land use law, including due diligence, permitting, compliance, and enforcement issues; environmental and land-use litigation before state and federal courts; and administrative legal practice before various state agencies. He is a graduate of University at Buffalo School of Law and the State University of New York at Cortland.

Newsmakers & Influencers



JOHN G. POWERS ADMITTED TO AMERICAN COLLEGE OF TRIAL LAWYERS

Hancock Estabrook, LLP also announces litigator and trial lawyer **John G. Powers** has been selected and inducted as a Fellow of the American College of Trial Lawyers. Mr. Powers has practiced in federal and state courts for 24 years.

Founded in 1950, the College is composed of the best of the trial bar from the United States, Canada and Puerto Rico.

Fellowship in the College is extended by invitation to those experienced trial lawyers of diverse backgrounds who've mastered the art of advocacy and whose professional careers are marked by the highest standards of ethical conduct, professionalism, civility and collegiality.



Membership in the College, which numbers 5,800, cannot exceed one percent of the total lawyer population of any state or province. The College maintains and seeks to improve the standards of trial practice, professionalism, ethics, and the administration of justice through education and public statements on independence of the judiciary, trial by jury, respect for the rule of law, access to justice, plus fair and just representation of all parties to legal proceedings.

Mr. Powers holds a law degree from Syracuse University College of Law, a Master of Public Administration degree from Syracuse University's Maxwell School, and Bachelor of Science degree from the United States Military Academy at West Point. Prior to law school, Mr. Powers served in the Army on active duty as an infantry officer.

MARY L. D'AGOSTINO JOINS HANCOCK ESTABROOK



Mary L. D'Agostino recently joined Hancock as an associate. Ms. D'Agostino will practice in the Firm's Litigation practice area focusing her work on commercial litigation, federal & state appellate advocacy, and other civil disputes.

Previously, she served as a Law Clerk to U.S. Magistrate Judges Christian F. Hummel and David E. Peebles, as an Appellate Court Attorney with the Appellate Division, Fourth Department and as an Assistant Corporation Counsel for the City of Syracuse. Ms. D'Agostino is a graduate of Le Moyne College and received her J.D. degree from Albany Law School of Union University. She's admitted in New York State.

Newsmakers & Influencers

BOISE JOINS GOVERNING ADVISORY COUNCIL OF NEW ABA LEGAL EDUCATION POLICE PRACTICES CONSORTIUM



Syracuse University College of Law Dean Craig M. Boise has been appointed to a 10-member Advisory Council governing the newly formed Legal Education Police Practices Consortium, created by the American Bar Association in collaboration with 52 law schools across the country.

As a member of the council, Dean Boise will help lead Consortium efforts to leverage expertise across the ABA and among collaborating law schools to develop projects to promote better police practices throughout the United States.

“I am proud that Syracuse is a founding participant in the ABA Legal Education Police Practices Consortium. As a former police officer and commissioner on the Cleveland, OH, Community Police Commission, I care deeply about building positive community/police relations,” Boise said. “Syracuse is fully committed to helping the Consortium use the combined power of the Bar Associations and law schools to effect meaningful change to police practices that have for too long victimized communities of color and other marginalized groups.”

Boise adds, “The Consortium will also provide our law students with meaningful opportunities to contribute to the imperative work of police reform locally and nationally.”

“The ABA has the ability to bring together diverse groups to address these problems and the duty to act to help bring racial equality to our criminal justice system,” said ABA President Patricia Lee Refo. “The Consortium will engage law students and legal experts from around the country in studying and forming solutions to help improve policing practices in our communities.”

The Consortium is housed within the ABA Criminal Justice Section. It aims to achieve widespread adoption of model police practices; advancement of racial equality in the criminal justice system; elimination of tactics that are racially motivated or have a disparate impact based on race; engagement with police departments and local, state, and national leaders; support for scholarship addressing police reform; promotion of public commentary and advocacy; and creation of model curricula for law schools related to the Consortium’s initiatives.



Newsmakers & Influencers

LAW ADVOCACY PROGRAM RANKED #7 NATIONALLY IN TRIAL COMPETITION PERFORMANCE



Based on the performance of students in 2019-2020 advocacy trial competitions, Syracuse University College of Law has risen to #7 in the nation in the Fordham University School of Law Trial Competition Performance Rankings, tied with Pacific McGeorge School of Law and University of Denver Sturm College of Law.

The high placement in the Fordham Law Trial Competition Performance Rankings is just the latest recognition of the College of Law's renowned Advocacy Program. In its 2021 rankings, *U.S. News & World Report* places Syracuse's Advocacy Program #15 in the nation, up from 27th for 2020.

Described as an "objective snapshot of achievement," Fordham's rankings measure a law school's performance in intercollegiate trial competitions in each academic year, starting with 2016-2017.

Syracuse's seventh place ranking comes after a notable year for the College of Law's Advocacy Program. High-profile team and individual successes included winning the regionals of the National Moot Court Competition and the Constance Baker Motley Mock Trial Competition; advancing two teams to the National Trial Competition; winning the New York State Tiffany Cup for the second year in a row; and invitations to the prestigious Top Gun and Tournament of Champions competitions.

Additionally, the College of Law hosted three intercollegiate competitions in fall 2019, including the first annual Syracuse National Trial Competition.

"Our students delivered great results throughout the year, and their hard work and superb trial skill are recognized in our top 10 national ranking," says Professor Todd Berger, Faculty Director of Advocacy Programs. "Volunteer coaches are a big part of our success. I am deeply grateful to our alumni and friends who take time out of their busy schedules to teach our students how to be the best advocates they can be, preparing them not only for intense competition but for their careers as effective courtroom advocates for their clients."

"Congratulations to Professor Berger, and above all, to the students and graduates of our stellar Advocacy Program and the Travis H.D. Lewin Advocacy Honors Society," says Dean Craig M. Boise. "What a year it has been! Although not a complete measure of our entire program, our Trial Competition Performance rank rightly sheds a bright light on the sharp skills and unwavering dedication of our student competitors, as well as their coaches and supporters across the entire College of Law community."

Newsmakers & Influencers



Bond Announces Juneteenth as Paid Firm Holiday

Beginning in 2021, Juneteenth will be recognized as an annual firm holiday. This is a reflection on the Bond's commitment to seeking avenues to act on issues of equity, diversity and inclusion. It is the firm's continued goal to listen, learn and create opportunities that acknowledge the long and difficult struggle for freedom and racial justice for Black Americans.

In an announcement to the firm, Kevin Bernstein, chair of Bond's management committee wrote, "While recognizing the Juneteenth holiday is an important step, we want to encourage further action in support of the goals of eliminating racial injustice and promoting diversity and inclusion. Therefore, the firm will provide several opportunities in the months leading up to Juneteenth for education, reflection and service."

Among those opportunities, Bond will undertake an internal 21-Day Racial Equity Habit Building Challenge, present a comprehensive history of Juneteenth and provide volunteer opportunities for learning and engagement.

To learn more about the programming planned and access additional resources head over to the Bond website diversity page by clicking [HERE](#).

Bond's Syracuse Office Recognized in 2021 "Best Law Firms"

Bond, Schoeneck & King's Syracuse office has been recognized by the 2021 *U.S. News-Best Lawyers*® "Best Law Firms" in 21 categories. *U.S. News-Best Lawyers* evaluated more than 15,000 firms across the United States.

In Syracuse, Bond was recognized 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; Public Finance Law; Tax Law; Trusts & Estates Law; Immigration Law; Litigation – ERISA; and Personal Injury Litigation – Defendants.

Newsmakers & Influencers



Amber Lawyer Earns CIPP/E Certification



Bond Associate Attorney Amber Lawyer recently passed the CIPP/E exam and received her privacy professional certificate. "We all know how hard Amber works to provide counsel to clients and the firm on EU privacy compliance, in particular with respect to GDPR," says Jessica Copeland, who co-chairs the cybersecurity and data privacy practice out of the firm's Buffalo office. "Amber's ability to balance a full-time workload, study and sit for this challenging exam is a testament to her commitment and ability (and the firm's ability) to counsel clients in this area." Ms. Lawyer focuses her practice on cybersecurity and data privacy for the firm. She is a graduate of the Syracuse University College of Law, class of 2017.

Adam Mastroleo Named in Forty Under 40 Recognition

Litigator Adam Mastroleo was recently named to CNY Business Journal's Forty Under 40 Class of 2020. The honor recognizes 40 ambitious, hard-working, civic-minded individuals under the age of 40. These individuals have excelled in the workplace and in the community; they thrive on active community involvement and appreciate the importance of their role in advancing public good. Adam is a member of Bond's Labor and Employment practice. He received both his undergraduate and juris doctorate degree from Syracuse University.



EFFECTIVE 10/15/20

ALL WILLS from Oot Law Offices, PLLC, (Suzanne E. Oot and Earl L. Oot), as well as wills from (Hon.) Thérèse Wiley Dancks, have been transferred to Scolaro Law PLLC at 6832 E. Genesee Street, Fayetteville, NY 13066, 315-400-3214 and rscolaro@scolarolaw.com.

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Family Searching for Their Loved One's Will

The family of Janet A. Upcraft is searching for the attorney or law firm that may have crafted her will or last testament. The will may have been drafted between 1989 and 2000. We were led to believe that her divorce lawyer in that same time period, Edward Zerrillo, recommended a female divorce attorney for Janet A. Upcraft. Janet's address at the time may have been either; RD 1 Lake Road, Oswego, N.Y. 13126 or 102 Co. Rt. 1A, Oswego, NY 13126. She was employed by Oswego County BOCES as a bus monitor at the time. If you have any information about the above said will or last testament, please contact Karen Upcraft at kupcraft@aol.com.

We are grateful to these advertisers for their continued patronage of the Bar Reporter newsletter. *Thank you.*

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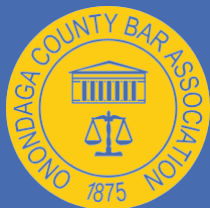
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OCBA CONTINUING LEGAL EDUCATION

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Volunteer Lawyers Project of Onondaga County Volunteer Training & Onboarding CLE

Wednesday, December 2, 2020

NOON to 1:30 p.m.

On the ZOOM platform

Cost: Free

Presenters:

Sally Curran, Esq.

Executive Director

Volunteer Lawyers Project of Onondaga County

Samantha Aguam, Esq.

Deputy Director & Elder Law Program

Volunteer Lawyers Project of Onondaga County

Bethanie Hemingway

Director of Community Engagement

Volunteer Lawyers Project of Onondaga County



1.0 MCLE (0.5 Ethics, 0.5 Skills)

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LAWYERS PROJECT**
OF ONONDAGA COUNTY, INC.
Providing Equal Access to Justice to Those in Need

What you'll gain:

The Volunteer Lawyers Project of Onondaga County leverages the support of the legal community to provide support to low-income community members.

New volunteers are encouraged to attend this CLE for an opportunity to learn about volunteer expectations, program overviews, and our agency's focus on centering compassion and confronting oppression in our work.

Please Register at Onbar.org



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How to Ethically Get a 10.0 AVVO Rating (Plus Lawyers.com and Martindale, Too!)

Wednesday, December 16, 2020

1 to 2:15 p.m.

Via WebinarJam

Cost: \$40 for all attorneys

Presenter:

Anthony A. Marrone, II, Esq.
Principal, The Marrone Law Firm, P.C.

1.5 MCLE

(0.5 Ethics, 1.0 Law Practice Management)

What you'll gain:

- This CLE will provide basic tools lawyers need to claim and fill out their AVVO profiles, together with the strategies and tips to complete their profile and achieve a "Superb" rating and "Client's Choice" badges.
- The program will also look at the ethics opinions addressing AVVO and online lawyer directories and how to make sure your use of the platform fully complies with all the ethics rules.
- The process of completing an online profile for Lawyers.com and Martindale will also be reviewed to assure your information is consistent across these platforms.



Please Register at Onbar.org