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**From the Selected Works of Barry R. Temkin**

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2006

## Guidelines on NYCLA's Ethics Hotline

Barry R. Temkin, *New York Law School*  
Wally Larson



Available at: [https://works.bepress.com/barry\\_temkin/7/](https://works.bepress.com/barry_temkin/7/)



# NEW YORK COUNTY LAWYER

September 2006

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Volume 2 / Number 7

## Cellphone Collection Drive to raise funds for Uncontested Divorce Project

by Allison Slotnick

NYCLA's *Pro Bono* Committee has launched a Cellphone Collection Drive to support its Uncontested Divorce Project, which was created earlier this year to assist low-income individuals obtain divorces. Inactive cellphones and batteries (no accessories, chargers, etc.) are being collected from September through the end of the year and will be recycled. Working in conjunction with the Pace Butler Corporation, the Committee has set up a collection box in the NYCLA lobby. For more information, contact Lois Davis, NYCLA's Director of *Pro Bono* Services, at 212-267-6646, ext. 217 or email [ldavis@nycla.org](mailto:ldavis@nycla.org).

To date, the Committee has trained nearly 50 volunteer attorneys for the project, which is currently being expanded to serve more clients.

**Ms. Slotnick is the Communications Assistant at New York County Lawyers' Association.**



Catherine A. Christian, NYCLA President-Elect (left) donates a cellphone for the drive to Lois Davis (right), Director of Pro Bono Services.

## Guidelines on NYCLA's Ethics Hotline

by Barry R. Temkin and Wally Larson Jr.

NYCLA's Ethics Hotline provides free, confidential advice to members concerning ethics questions that may arise in the course of their practice. The Hotline is staffed on a voluntary, rotating basis by members of the NYCLA Professional Ethics Committee, which includes a variety of practitioners with an interest in ethics. The names and phone numbers of Hotline staffers are available on the Association's website at [www.nycla.org](http://www.nycla.org), in its publication, the *New York County Lawyer*, or by calling NYCLA at 212-267-6646.

Here are some basic guidelines on the kinds of questions a Committee member staffing the Hotline is permitted to answer. First, questions about the inquiring lawyer's prospective conduct may be answered, but not questions about the conduct of another attorney. The Hotline does not give opinions about the conduct of the inquiring attorney's adversary. Second, the Hotline does not express opinions about matters that are currently the subject of litigation and/or that could be answered by a judge presiding over pending litigation.

In addition, because our Committee's jurisdiction is generally limited to interpretation of the Lawyer's Code of Professional Responsibility, members staffing the Hotline will not interpret questions of substantive law raised in statutes, court rules or court decisions. For ex-

ample, we may answer a question about the reasonableness of a fee under Disciplinary Rule 2-106 but will not advise whether a lawyer's charging lien exists or is legally enforceable. Valid questions may relate to conflict situations, advertising limitations, office sharing or a lawyer's ethical obligations with respect to confidentiality.

Specific advice is generally not given, as there is a limit to how much detail can be imported from a brief phone call. Therefore, the attorney staffing the Hotline will cite the applicable provisions of the Code and give general guidance but will not be able to definitively answer all questions posed by callers. Why? Because the ethical questions that arise in the course of our practice are often highly complex and fact specific and cannot be answered in a brief phone call to an ethics hotline. In the event that a question to the Hotline is too complex or fact intensive for a quick answer, a caller may request that the Committee publish an opinion. And, if the Committee member determines that the question is one of wide applicability so that a written opinion would be of value to the greater bar, the member may request that the Committee issue a formal written opinion. Since these opinions require substantial review and the consensus of the full Committee, it often takes several months to issue an opinion. And in certain cases, after discussion and/or research and drafting, the Committee may determine that it is unable to reach consensus

needed for an opinion to be issued.

A word about confidentiality is in order. Hotline callers will be asked for their names and phone numbers in case the Hotline needs to correct or supplement any oral advice given. However, the identity and substance of all Hotline calls are confidential and not shared either with the full Committee or with anyone outside the Committee. The Hotline will not divulge the identity of its callers and if a formal written opinion is issued in response to a question raised by a caller, the opinion will generalize the facts sufficiently to shield the caller's identity. However, Hotline callers should understand before deciding to utilize the Hotline that the Committee is not required to obtain their consent to draft an opinion on an issue stemming from a caller's inquiry.

Sometimes an ethics problem is sufficiently advanced that the Hotline cannot assist the caller and the inquiring attorney is advised to retain independent counsel. For example, an attorney who is the subject of a formal investigation by the Departmental Disciplinary Committee, is the subject of a judicial Order to Show Cause or is named in a civil suit is well advised to retain private counsel.

The Ethics Hotline is a valuable service to the practicing bar. The Professional Ethics Committee urges NYCLA members to make full use of the Hotline. We encourage NYCLA members with an interest in professional ethics to join our Committee. Anyone with questions is welcome to contact us: Co-Chairs Barry Temkin at 212-809-8000 ([Barry.Temkin@AIG.com](mailto:Barry.Temkin@AIG.com)) or Wally Larson at 212-530-5728 ([WLarson@Milbank.com](mailto:WLarson@Milbank.com)).

**Mr. Temkin and Mr. Larson are Co-Chairs of the Professional Ethics Committee.**

In Part II, Mr. Temkin and Mr. Larson will provide specific examples of the calls that the Hotline receives.

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### NYCLA HOSTS PUBLIC SERVICE AWARDS RECEPTION

Thursday, September 28 - 6:00 PM

Keynote Speaker and Conspicuous Service Awardee

Hon. Jonathan Lippman, Chief Administrative Judge of the Courts, New York State

NYCLA also salutes lawyers in the public sector and winners of the Criminal Justice Section's Public Service Fellowship Essay Competition.





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CALENDAR OF EVENTS

Events are subject to change; please check the Association’s website, [www.nycla.org](http://www.nycla.org), for schedule changes and additions.

SEPTEMBER

WOMEN’S RIGHTS COMMITTEE PUBLIC FORUM: EXPERIENCES OF WOMEN JURISTS

Wednesday, September 13  
6:00 PM

Place: NYCLA Home of Law – 14 Vesey Street  
FREE

Participants: Hon. Angela M. Mazzarelli, Associate Justice, Appellate Division, First Department (moderator); Hon. Lucy Mailula, Judge of the High Court of South Africa; and Hon. Dianne Renwick, Justice of the Supreme Court, Bronx County  
Sponsors: NYCLA’s Women’s Rights Committee and Gender Fairness Committee of the New York County Supreme Court, Criminal Term  
Co-Sponsors: NYCLA’s Minorities and the Law and Foreign & International Law Committees, Women and Politics Institute at American University’s School of Public Affairs  
RSVP: [dlamb@nycla.org](mailto:dlamb@nycla.org), Subject: September 13 Event

PUBLIC SERVICE AWARDS RECEPTION

Thursday, September 28

6:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
FREE

Keynote Speaker and Conspicuous Service Awardee: Hon. Jonathan Lippman, Chief Administrative Judge of the Courts, New York State

A salute to lawyers in the public sector and winners of the Criminal Justice Section’s Public Service Fellowship Essay Competition.  
RSVP: [kwells@nycla.org](mailto:kwells@nycla.org)

OCTOBER

TRIBUTE TO BORIS KOSTELANETZ AND DENIS MC INERNEY

Wednesday, October 4

6:00 - 8:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
FREE

An evening honoring the lives and distinguished careers of two former NYCLA Presidents, Boris Kostelanetz (June 16, 1911-January 31, 2006) and Denis McInerney (May 31, 1925-January 31, 2006).  
RSVP: [admin@nycla.org](mailto:admin@nycla.org), Subject: Tribute

RECEPTION FOR U.S. BANKRUPTCY JUDGE

Wednesday, October 11

6:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
FREE  
Honoree: Hon. James M. Peck, U.S. Bankruptcy Judge, Southern District of New York  
Sponsors: NYCLA’s Business and Consumer

Bankruptcy Committees  
Refreshments will be served.  
RSVP: [dlamb@nycla.org](mailto:dlamb@nycla.org), Subject: October 11 event

LUNCHEON HONORING THE FEDERAL COURTS IN NEW YORK CITY

Monday, October 16

12:00-2:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
Honoree: Hon. Charles L. Brieant, U.S. District Court, Southern District of New York, will receive the Edward Weinfeld Award for distinguished contributions to the administration of justice. The award will be presented by Hon. Kimba M. Wood, Chief Judge, U.S. District Court, Southern District of New York.  
Tickets: Table for 10 - \$1,250; Individual ticket - \$100  
Sponsor: Federal Courts Committee  
RSVP: Checks, payable to NYCLA, can be sent to Gregg Kanter, Luncheon Chair, NYCLA, c/o Flemming Zulack Williamson Zauderer LLP, One Liberty Plaza, New York, NY 10006

ELECTION LAW COMMITTEE PUBLIC FORUM: NEW YORK SELECTION OF VOTING MACHINES

Thursday, October 19

6:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
Speakers: Congresswoman Carolyn B. Maloney; Doug Kellner, Democratic Election Commissioner and Co-Chair of the New York State Board of Elections; and Larry Norden, Chair of the Task Force on Voting System Security.  
Sponsor: Election Law Committee  
RSVP: [dlamb@nycla.org](mailto:dlamb@nycla.org), Subject: October 19 Event

BENEFIT FOR NYCLA ARCHIVES

Monday, October 23

6:00 PM  
Place: NYCLA Home of Law – 14 Vesey Street  
Matthew Bogdanos, author of *Thieves of Baghdad*, will read an excerpt from his book following a Library tour. A book signing and reception will also take place. Ticket price includes an autographed hard-cover copy of the book. Event proceeds will be used to catalog and preserve archives in NYCLA’s Library. Col. Bogdanos donates all of his book royalties to the National Museum of Iraq.  
Tickets: NYCLA Member: \$50, Nonmember: \$60, Sponsor: \$250, Patron: \$500, Benefactor: \$1000 (Contributions are tax deductible to the extent provided by law.)  
Co-Sponsors: NYCLA’s Library, Art, Law and Literature, History, Foreign & International Law Committees and Criminal Justice Section  
For more information, email Claudia Galvez at [cgalvez@nycla.org](mailto:cgalvez@nycla.org). To RSVP, checks, payable to NYCLA, can be sent to: NYCLA Archives Bene-

Women’s Rights Committee forum examines experience of women jurists

Three women jurists will discuss their experiences serving on the bench in a public forum sponsored by NYCLA’s Women’s Rights Committee and the Gender Fairness Committee of the New York County Supreme Court, Criminal Term on Wednesday, September 13 at 6:00 PM at the NYCLA Home of Law. Forum participants are Hon. Angela M. Mazzarelli, Associate Justice, Appellate Division, First Department, who is the moderator, Hon. M. Lucy Mailula, Judge of the High Court in Johannesburg, South Africa, and Hon. Dianne Renwick, Justice of the Supreme Court, Bronx County. The forum is co-sponsored by two NYCLA committees – Minorities and the Law and Foreign and International Law – and by the Women and Politics Institute at American University’s School of Public Affairs.

Profiles of Forum Participants

Hon. M. Lucy Mailula

Judge Mailula serves on the High Court in Johannesburg, South Africa and is also President of the South Africa Chapter of the International Association of Women Judges (IAWJ). She is one of 28 women named to South Africa’s higher courts since 1994, when a constitutional democracy replaced the apartheid regime. Appointed to the courts in 1995, Judge Mailula is the first black woman judge to be named to the Supreme Court. Before assuming that position, she served as an advocate and experienced the discrimination that characterized apartheid’s nearly all white, nearly all male judiciary. Judge Mailula’s engagement in advancing women to the bench is part of her commitment to advancing gender equality in South Africa.

Hon. Angela M. Mazzarelli

Justice Mazzarelli began her legal career as a legal services lawyer in the South Bronx representing indigent persons in Housing and Family Courts. Elected a Civil Court judge for the City of New York, she served as chair of the court’s citywide Anti-Bias Committee, exploring the conditions of New York City courthouses where female prisoners were held and developing childcare facilities in them. In 1992, she was elected to the Supreme Court of the State of New York and presided in the Civil Term in New York County. In 1994, Governor Mario M. Cuomo designated Justice Mazzarelli to be an associate justice of the Appellate Division, First Department; she has since been redesignated by Governor George E. Pataki.

Hon. Dianne Renwick

Prior to serving on the bench, Justice Renwick was a trial attorney for both the Federal Defender and Criminal Defense Divisions of The Legal Aid Society. She has served as a member of the New York State Judiciary since 1997, when she was appointed a New York City Housing Court Judge. In 1997, she was elected to the Civil Court of the City of New York. Four years later, she was elected to her current position, where she presides over civil cases.

The forum’s co-sponsor, the Women and Politics Institute, which is located in the School of Public Affairs at American University, seeks to advance the study of women and politics and promote opportunities for women in politics. The Institute offers courses taught by nationally recognized experts and provides opportunities to work in career-building internships in women’s organizations and in offices of women members of Congress.

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New York County Lawyers’ Association  
Cordially invites you to a  
Reception and Beer Tasting for New Associates  
Please join us for

OKTOBERFEST

Wednesday, October 25, 2006 at 6:00 p.m.  
Home of Law, 14 Vesey Street (between Church Street & Broadway)

Please RSVP by October 17, 2006 by fax 212-406-9252 or call Katharine Wells at 212-267-6646, ext. 209 or email: [kwells@nycla.org](mailto:kwells@nycla.org).

Firm Name \_\_\_\_\_  
Name \_\_\_\_\_  
Telephone \_\_\_\_\_  
Email \_\_\_\_\_

The reception is free of charge and open to NYCLA members and potential members.



# September 19 ethics training at Judicial Campaign Ethics Center

In a recent amendment to the Rules Governing Judicial Conduct, mandatory ethics training is now required for all candidates in judicial elections with the exception of those seeking election as town and village justices. Several options to fulfill the requirement will be made available through the Judicial Campaign Ethics Center. A live training session will be held on September 19 at the Judicial Institute in White Plains. Simulcasts of these sessions will also be held throughout the state and additional op-

tions for candidates who cannot attend either form of training will be made available, as well. The ethics training must be completed either 90 days prior to receiving the judicial nomination or 30 days after. The Judicial Campaign Ethics Center's website ([www.nycourts.gov/ip/jcec](http://www.nycourts.gov/ip/jcec)) will have all of the latest news regarding the training sessions and requirements. In order to receive the most up-to-date information, contact the Center by phone at 888-600-5232 or via email at [contactjcec@courts.state.ny.us](mailto:contactjcec@courts.state.ny.us).

## Courtroom Connect's Videoconference Technology

by **Angie Goldberg**

The benefits of videoconferencing are well documented. Most law firms recognize that it provides a convenient and cost-effective way to consult with witnesses, conduct interoffice meetings and appear for depositions without ever leaving the office.

### Videoconferencing on a Solid Foundation

Like all of the prominent communications providers, Courtroom Connect meets all of the standard technical requirements for videoconferencing. Through partnerships with AT&T, Covad, Sonic Foundry and the industry leader in conferencing technology, Polycom, Courtroom Connect, with its highly trained technical staff and advanced data center, deliver and support equipment, IP backbone and hosting services, ISDN communications and bridging services, deployment, set up, training and support.

### Videoconferencing Applications

By providing you with more than just technology, Courtroom Connect enables you to derive the maximum benefit. Along with your videoconferencing unit, you receive premier technical support. Access to our virtual Speaker's Panel puts you in face-to-face contact with some of the best and brightest legal minds in the industry, with free access to our IT Committee. Our scheduling ser-

vice allows you to schedule public rooms with one phone call to Courtroom Connect. Video, audio and text-streaming support directly from the videoconference unit allows you to seamlessly switch between videoconference and video streaming as the occasion demands. Access to community networks such as Law School Connect enables you to expand your use of the technology to brand-new application areas such as remote interviewing, virtual job fairs and CLE presentations over videoconference. Finally, Courtroom Connect provides you with access to our Litigation Event Services so that you can make use of videoconferencing, video streaming and Internet services no matter where you are – at court, in a deposition or in mediation.

### The Bottom Line

Let Courtroom Connect help you get the most out of your investment in video technology. Courtroom Connect offers NYCLA members a \$175 discounted annual subscription rate (normally \$225) for non-trial wireless services at all of its permanently networked courthouses in Manhattan. For more information about Courtroom Connect, go to [www.courtroomconnect.com](http://www.courtroomconnect.com), call 877-838-9067 or email [info@courtroomconnect.com](mailto:info@courtroomconnect.com).

**Ms. Goldberg is the Senior Director of Marketing at Courtroom Connect.**

## Reminder: Calling all NYCLA authors

The Library has begun collecting publications written or edited by NYCLA members. Any NYCLA member in good standing who has written or edited a published book (one that has an ISBN number) on any subject is eligible and encouraged to participate. The NYCLA Author Collection will contain legal books, poetry, histories, biographies, novels, essay collections, cook-books, etc. - as long as the book has an ISBN number and its writer has a valid NYCLA membership. Please note that all articles, including law review articles, do not qualify for the Collection. Members who donate books are eligible to receive a tax deduction to the extent provided by law. Please send a copy of your book to the NYCLA Library, 14 Vesey Street, New York, NY 10007; Attention: NYCLA Author Collection. If you have any questions, contact the Library at 212-267-6646, ext. 206.

## ETHICS HOTLINE

September 1-15  
Joseph A. Vogel  
212 997-7634

September 16-30  
David Wirtz  
212 261-2161

October 1-15  
Elizabeth A. Abramtsev  
718 537-4958

## SUBSTANCE ABUSE HOTLINE

Attorneys, judges, law students and members of their immediate families can get confidential help with alcohol or substance-abuse problems 24 hours a day, seven days a week, by calling the toll-free hotline 800-255-0569.

## DIRECTIONS TO NYCLA

NYCLA is located at 14 Vesey Street between Broadway and Church, across the street from St. Paul's Chapel and around the corner from City Hall.

**By Subway:** 2 and 3 to Park Place; A, C and E to Chambers Street; 4, 5 and M to Fulton Street.

**By Bus:** M103 to City Hall; M1 and M6 to Fulton Street

## Pro Bono Program

### September Training for Legal Counseling Project

NYCLA's Legal Counseling Project will offer training to volunteer attorneys on Thursday, September 14 and Thursday, September 21 from 6:00-9:00 PM. The Project provides counseling to clients four nights a month on an appointment-only basis in the areas of family law, employment law, consumer bankruptcy law and landlord-tenant law. Many clients are prepared during counseling sessions - typically lasting 30-45 minutes - for *pro se* representation, but referrals are also made to a variety of sources if the volunteer attorney determines that legal representation is necessary or desirable. No representation of any kind is undertaken. Mentors who are experts in the four subject areas are present or available by phone on each clinic night to assist the volunteer attorneys.

Volunteers must have been admitted to the bar for at least one year, have one year of legal practice experience and attend all six hours of training in order to qualify for the Project. Volunteers are covered under NYCLA's Malpractice Insurance Policy and must commit to counsel clients one night per month from October 2006 through June 2007. MCLE credit will be awarded upon completion of the nine-month commitment.

To register or for further information, call Lois Davis, Director of *Pro Bono* Programs, at 212-267-6646, ext. 217 or email [ldavis@nyccla.org](mailto:ldavis@nyccla.org).

## NYCLA runners

Are you planning to run the New York City Marathon on November 5? Would you like to share your thoughts about how you combine the rigors of practicing law with the physical rigors of training for the race? Please forward your ideas to Anita Aboulafia, Editor, *New York County Lawyer*, at [aaboulafia@nyccla.org](mailto:aaboulafia@nyccla.org).



## Theater discounts for NYCLA members

NYCLA members enjoy discounts to "The Times They Are a Changin'," "Martin Short: Fame Becomes Me," "Hairspray," "Dirty Rotten Scoundrels," "Wedding Singer," "Mama Mia!," "RENT" and "Chicago." Go to [www.nyccla.org](http://www.nyccla.org), enter your member information and click on Benefits in the Members Only listing. Click on Leisure and Retail in the dropdown menu and scroll down to OnStageSavings.

## T-MOBILE discount for NYCLA members

T-Mobile USA is offering NYCLA members corporate-level discounts on BlackBerries and cellphones with the activation of a new line of service. There will be no activation fees for NYCLA members. There are also mail-in rebates on some models. To take advantage of this special discount, members must contact Amanda Bond, Major Account Executive, at [Amanda.Bond2@t-mobile.com](mailto:Amanda.Bond2@t-mobile.com) or call 917-470-0582.



New York County Lawyers' Association's  
*Pro Bono* Committee Launches

## CELLPHONE COLLECTION DRIVE



The Drive supports NYCLA's Uncontested Divorce Project, which assists low-income individuals obtain divorces. Inactive cellphones and batteries (no accessories, chargers, etc.) will be collected until the end of 2006 and will be recycled. Donate your inactive cellphones today.

Bring your cellphone to:  
**NYCLA Home of Law - 14 Vesey Street**  
(between Broadway and Church Street)

For more information, contact Lois Davis, NYCLA's Director of *Pro Bono* Services, at 212-267-6646, ext. 217 or email [ldavis@nyccla.org](mailto:ldavis@nyccla.org).



A MESSAGE FROM THE PRESIDENT

Edwin David Robertson

# Pit Bulls, Super Lawyers and Professionalism

Summertime is usually downtime for bar associations, but this summer is different. The New York bar has been busier than expected because the Presiding Justices of our four appellate divisions have issued proposed amendments to the Code of Professional Responsibility that become effective on November 1, 2006. On June 15, the Office of Court Administration issued a public notice requesting comments to the rule changes by September 15. That public notice was issued just as the July/August issue of *New York County Lawyer* was going to press and we were unable to solicit comments. The comment period (unless extended) will expire as this column is published.

Across the State, New York's bar associations are preparing comments to the Proposed Rules and I am reluctant to speculate about the details of what that ongoing effort will generate. The background to the proposed changes began last year when the New York State Bar Association (NYSBA) prepared a lengthy report on lawyer advertising and recommended extensive changes to the rules governing the solicitation of legal business, particularly with respect to broadcast advertisements and internet websites. Currently, internet websites are not specifically addressed by New York's Code of Professional Responsibility.

NYSBA's report indicated that approximately one third of the advertisements were potentially misleading. Approximately 90 percent of the ads failed to satisfy the disclosure requirements governing fee arrangements. More than half neglected to comply with existing requirements regarding disclosure of the name, address and telephone number of law firms employing broadcast advertisements. The report acknowledged that the staffing of the departmental disciplinary committees is insufficient to meaningfully enforce the current rules governing ethically permissible advertising and it strongly recommended increasing the necessary staffs to monitor and enforce the rules. The report also recommended expanding the filing and retention of advertising materials so that they can be better reviewed by disciplinary authorities for appropriate action where required. With minor modifications, the report and recommendation were approved at the January meeting of NYSBA's House of Delegates.

Against the background of attention directed to attorney advertising and soliciting legal business, there are other developments - both within and outside of New York State. In New York, Chief Judge Judith S. Kaye has been unstinting in advancing the core values of professionalism and she never misses an opportunity to advance both the bar's and the public's perceptions of lawyers as "professionals." In other states, bar associations and court administrators have also been addressing the topic of "professionalism" through various means. For example, to promote "civility" within the bar, several states have removed the word "zealous" as the adjective that precedes the word "advocacy" in describing a lawyer's duty to a client. Increased emphasis on the notion of "civility" has led other states to adopt various codes of "civil conduct" similar to New York's Standards of Civility promulgated almost a decade ago.

### Professionalism in Florida

In December, the Florida Supreme Court issued a decision supporting the Florida Bar's imposition of sanctions and a public reprimand of two attorneys whose advertising efforts referred to them as "pit bulls." Indeed, the Supreme Court of Florida held that the telephone number "1-800-PIT-BULL" aired by the

attorneys violated the local rules of professional responsibility. The Court condemned this type of advertising as both unethical and unprofessional. The Florida Court elaborated by saying that any approval of the moniker "pit bull" can lead to the implicit approval of lawyers who solicit business by styling themselves as "sharks, wolves, crocodiles, and piranhas." Perhaps intentionally, the Florida Supreme Court omitted alligators from its litany of vicious beasts.

### Professionalism in New Jersey

At the end of July, New Jersey's Committee on Attorney Advertising issued Opinion 39, which condemns the appellation "Super Lawyers." This opinion characterized the designation "Super Lawyers" or "best lawyers in America" as a form of comparative advertising, which it called a "simplistic... sound bite" that clearly has the capacity to materially mislead the public. Within a week, the publication sponsoring the "Super Lawyers" designation contested the New Jersey committee's edict and the issues involved are proving somewhat more controversial than expected.

### U.S. Supreme Court Rules on Professionalism

Over the last 30 years, there has been tension between the two camps - those attempting to prohibit attorney advertising and those seeking to protect the U.S. Constitution's First Amendment guaranteeing free speech. In 1977, the U.S. Supreme Court's ruling in *Bates v. State Bar of Arizona* struck down absolute bans on attorney advertising and solicitation. Since then, several Supreme Court cases have defined the contours of permissible regulation of lawyer advertising under the rubric of "commercial speech" - the Constitutional doctrine precluding any outright advertising ban while permitting regulation and restrictions consistent with sufficiently strong state interests or concerns. Since *Shapero v. Kentucky Bar Association* was decided in 1988, the Supreme Court has emphasized that there can be no "categorical" prohibition on lawyers' soliciting business; however, there is room for reasonable regulation. For example, the *Shapero* opinion itself contained language that specifically permits a state to mandate that lawyers' advertising materials contain a label describing it as an "advertisement." In *Florida Bar v. Went For It*, the Supreme Court upheld a ban on any solicitation of legal business from a personal injury or wrongful death victim for a period of 30 days after an accident. Although that prohibition is "categorical," its duration was deemed sufficiently limited as to satisfy the First Amendment's limited protections for commercial speech.

Here in New York, the Presiding Justices of the appellate divisions are currently receiving comments to their proposed new rules. The proposed rules are applicable to every lawyer (even somebody who is not admitted in New York) who solicits business via the internet, television or radio in this state. The new rules' proposed definitions of "advertising" and "solicitation" are extremely broad and that breadth will probably engender significant comment. While the proposed rules contain no absolute "prohibition" on advertisements and solicitations (except for deceptive, misleading or false

advertising), they mandate the inclusion of disclaimers in advertising materials that contain qualitative or comparative statements. For example, only statements that are objectively verifiable can be disseminated and if comparative statements or client testimonials are used, a disclaimer must be included stating that the prior results do not predict future outcomes.

Perhaps the most controversial proposed rule is one imposing a 30-day ban on soliciting legal business from accident victims - a provision similar to the one upheld by the U.S. Supreme Court in the *Went For It* case. This type of ban troubles many lawyers because it permits insurance companies or other third parties to obtain waivers or witness statements from accident victims and their families without any warning that the person being interviewed should consult counsel before compromising his or her rights. Indeed, the proposed rule may even invite that sort of opportunistic behavior by insulating an accident victim's family from a lawyer's unsolicited legal advice at the very moment of their greatest need. Many attorneys urge that any prohibition of this nature be modeled on the Federal Aviation Disaster Family Assistance Act, which imposes restraints on solicitations by air carriers and insurance companies comparable to those imposed on potential plaintiffs' counsel.

One rationale for regulating attorney advertising is, of course, the promotion of professionalism among members of the bar. Professionalism has several elements and certainly one of its goals is to earn the public's favorable perception and respect. Respect for

our core values and acceptance of the principle of the "rule of law" depend on the connection between how the public views our legal system and its two principal components: the bench and the bar. Undeniably, the public esteem of lawyers has plummeted over the last 25 years as shown by a series of annual Harris Poll reports. We all may wonder why lawyers' prestige has fallen. Among the conclusions offered by Harris is that those polled believed that prestigious occupations are ones that help

those in need and, consequently, firefighters, doctors and nurses are at or near the top of the list. Making money does not equal prestige; therefore, business executives and stock brokers - two occupations usually associated with wealth - are both on the bottom half of the list. Prestige is also not equated with fame. Entertainers and actors - two professions usually associated with being famous - are also in the bottom half of the list, as are athletes. People may know and follow the careers of actors, actresses or musicians, but many do not consider what they do to rank as highly prestigious.

As a bar association, NYCLA promotes the core values of competence, integrity and collegiality. As professionals, we are duty bound to subordinate our personal interests to the interests of our clients and the integrity of the legal system. As the text of New York's Disciplinary Rules are refined, the organized bar is participating in that process to ensure that the lures of wealth and fame will neither divert our profession's ethical compass nor demean our perception in the eyes of those whom we strive to serve.



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# Thieves of Baghdad author to visit NYCLA for book signing

by Allison Slotnick

A NYCLA Library fundraiser featuring a talk and book signing by Matthew Bogdanos, an Assistant District Attorney in Manhattan, Marine Corps Reserve Colonel and author of *Thieves of Baghdad*, will be held at NYCLA on Monday, October 23 at 6:00 PM. Co-authored with William Patrick, the book chronicles Col. Bogdanos’s leading role in investigating the damage committed by looters to the National Museum of Iraq in 2003.

NYCLA’s Library, Art, Law and Literature, History, Foreign & International Law Committees and Criminal Justice Section are co-sponsoring the event. Members of NYCLA can purchase tickets for \$50, while non-member tickets cost \$60. The

\$250 sponsorship level allows contributors to bring a guest to the event, as well as receive recognition at the signing. All ticket prices include an autographed hard-cover copy of *Thieves of Baghdad*. Event proceeds will be used to catalog and preserve archives in NYCLA’s Library. Col. Bogdanos donates all his book royalties to the National Museum of Iraq, another worthy cause.

By employing tactics such as military-style raids, Col. Bogdanos was able to retrieve many of the thousands of ancient artifacts that were looted during the 2003

invasion of Baghdad. Among the successes in his recovery efforts was the Gold of Nimrud, which consists of over 1,000 pieces of gold jewelry and precious stones from the eighth and ninth centuries B.C.

Col. Bogdanos, who was often referred to as a “pit bull” by New York press and defense attorneys, has prosecuted high-profile defendants such as hip hop mogul Sean “P.

Diddy” Combs and played an active part in seeking out terrorist suspects from the September 11 attacks. After September 11, Col. Bogdanos left the courtroom and

revisited his Marine roots, organizing counterterrorism operations in Afghanistan and later in Iraq. Without receiving any official sanctions, he embarked on the antiquity-recovery mission and made use of his educational background, which includes Masters degrees in both strategic studies and classics. For his efforts in Iraq, he was awarded a National Humanities Medal by President George W. Bush in 2005.

If you are interested in attending the fundraiser, registration can be completed online via NYCLA’s website: [www.nycla.org](http://www.nycla.org).

**Ms. Slotnick is the Communications Assistant at New York County Lawyers’ Association.**

# Vesey Street and Broadway: then and now

by Allison Slotnick

The corner of Vesey Street and Broadway, now the site of Staples and the New York Sports Club and, further west, NYCLA, was once home to New York City’s first luxury hotel. This 1913 photograph depicts the Astor House, the first hotel in New York to have extensive plumbing, including bath and toilet facilities. Originally called the Park Hotel, the hotel opened in 1836 on the site of John Jacob Astor’s home on Broadway between Vesey and Barclay Streets. With 309 rooms, the Greek Revival-style hotel was once home to President Abraham Lincoln. After representing the pinnacle of luxury in New York for 77 years, the Astor House closed its doors in 1913.

Ten years later, William Nelson Cromwell, who had purchased the Astor House building after its closure, made NYCLA an offer to buy the property. Mr. Cromwell was willing to sell the land so the Association could construct its own

“Home of Law.” He was so set on having NYCLA make its home on Vesey Street that he ultimately contributed over \$650,000 toward the building expenses and served as the Association’s President from 1927-1930. In 1927, NYCLA took ownership of the properties on 12, 14 and 16 Vesey Street and in 1929, the cornerstone, which contains a time capsule, was laid. Cass Gilbert designed the auditorium after the main chamber of Independence Hall in Philadelphia and his plan for the building became a reality in 1930 when the NYCLA Home of Law was completed.

*The 1913 photograph is a gift to NYCLA from K. Jacob Ruppert, Esq., the great great grandson of brewer Jacob Ruppert Sr. and the NYCLA CLE Institute’s Senior Program Attorney from 2001-2004. He also serves as his family’s historian.*

**Ms. Slotnick is the Communications Assistant at New York County Lawyers’ Association.**

# Online access to New York State Supreme Court records and data

by Robert C. Meade Jr.

In mid September, the New York County Supreme Court, implementing the vision of Chief Judge Judith S. Kaye, inaugurates a program that will provide online access to New York State Supreme Court, Civil Branch’s records and data. What follows is a brief summary of this project, one of two in the State (Broome County is the other venue).

In the New York County project, a joint effort between the County Clerk of New York County, Hon. Norman Goodman, and the Court (Hon. Jacqueline W. Silbermann, Administrative Judge), County Clerk and Court staff have scanned and posted various civil case records in PDF format on the Court’s internet website ([www.nycourts.gov/supctmanh](http://www.nycourts.gov/supctmanh)). On that site, through a program created by the Court called the “Supreme Court Records On-Line Library” (or “SCROLL”), attorneys will be able to access, at no charge, case information (County Clerk data and data from the Court’s Civil Case Information System (CCIS)) and images of key documents in each case in an integrated format.

Many types of documents will be accessible: the complaint or other initiating papers, the answer and other pleadings, Requests for Judicial Intervention, discovery orders, decisions (unless otherwise ordered), notices of motion and proposed orders to show cause (but not the supporting or opposing papers), notes of issue, jury demands and judgments. Cases will be available in SCROLL with a few exceptions: documents from Mental Hygiene Law cases, matrimonial cases and matters in which a sealing order has been issued will not be included.

Four related local court rules have been proposed to assure that certain private information will not be posted on the internet. In addition to documents in the case categories mentioned, bills of particulars, affidavits and memos of law will be excluded.

Beyond this, the rules direct attorneys who are filing documents covered by the project to avoid including therein bank account numbers, social security numbers and the like. To the extent that such information must be stated, it should be limited (e.g., only a few digits of a bank account number). The rules further provide that if such information must be set out in full, the filer shall seek a court directive that the document be excluded from the SCROLL system. Also, any party or person who may be adversely affected can request a directive of exclusion or deletion if the document has already been posted. Persons who wish to make this request can present it in a letter to the assigned Justice or the Administrative Judge (if the case is unassigned).

The public access project will generate a digital file similar to that in the New York Court System’s electronic filing program (see Uniform Rule 202.5-b), which is authorized in tort, commercial and tax certiorari cases in Supreme Court in 16 counties across the State (including Broome and New York), the Court of Claims and Erie County Surrogate’s Court. E-filing, however, will offer benefits to the Bar that the public access project cannot (e.g., online filing, payment of court fees and service of interlocutory papers) and attorneys may thus find it useful to e-file their cases.

In transmitting to NYCLA and other bar groups a Notice to the Bar on this subject (also posted on the Court’s website), Administrative Judge Silbermann has invited comments and suggestions. NYCLA Committees and Sections are welcome to submit them to Judge Silbermann at the courthouse at 60 Centre Street (Room 611).

**Mr. Meade is the First Deputy Chief Clerk, Supreme Court, Civil Branch, New York County. He is a member and former Co-Chair of NYCLA’s Supreme Court Committee.**





## MEMBER NEWS

## 57-year NYCLA member wins age discrimination case

by Allison Slotnick

For nearly six decades, Murray Schwartz, Managing Partner in Schwartz & Perry, LLP, has practiced law, the last 20 years of which he has specialized in areas of litigation related to employment discrimination. He became a NYCLA member in 1949 upon receiving his J.D. from Brooklyn Law School and now has Sustaining Member status.

Mr. Schwartz's most recent courtroom victory on June 9 was an age discrimination case in which, after less than an hour of jury deliberations, a \$2.5 million verdict was awarded to the plaintiff. Mr. Schwartz, his daughter and partner, Davida S. Perry, as well as associate Brian Heller, tried the case in the U.S. District Court for the Southern District of New York.

Mr. Schwartz has been integral to several landmark 'first impression' cases cited as precedent in current employment law disputes. Among the most notable of these cases is *McIntyre v. Manhattan Ford*, a sexual harassment and emotional distress case. As lead trial attorney and representative of the plaintiff, Mr. Schwartz won a \$6.6 million settlement. Although the settlement was later reduced by trial and appellate courts, it remains as one of the highest awards for sexual harassment in the U.S. For their work on this case, Mr. Schwartz, along with his daughter and the plaintiff, were honored in a 1999 ceremony organized by the New York Chapter of the National Employment Lawyers Association (NELA/NY) for "Courageous Plaintiffs Who Fought Back."

When not in the courtroom, Mr. Schwartz manages the active employment law practice of Schwartz & Perry and works with law school students as a scoring judge for the New York Regional Student Trial Advocacy Competition, as well as for New York Law School's moot court competition. In addition, his firm created a summer legal internship approximately ten years ago that accepts law students from New York City law schools and provides a hands-on approach to the practice of employment law, as well as valuable access to his extensive experience.

Mr. Schwartz received his LL.M. from the New York University School of Law and has served as a panelist at symposiums at St. John's University, the New York State Bar Association, the Practising Law Institute, the



Murray Schwartz

National Employment Lawyers Association and NYCLA. He is a member of the Lawline.com faculty and has served as a *pro se* attorney at the U.S. District Court for the Southern District of New York. Additionally, Mr. Schwartz has been featured on Court TV, Fox News and CNN's *Larry King Live*.

**Ms. Slotnick is the Communications Assistant at New York County Lawyers' Association.**

## Noreen Healey named Commissioner of State Liquor Authority

NYCLA member Noreen Healey was confirmed in June as Commissioner of the State Liquor Authority. Ms. Healey is a member of NYCLA's Law Related-Education Committee and in 2005, she was the recipient of the Committee's *Pro Bono* Award for her work with students in New York City high schools. Prior to being named Commissioner, Ms. Healey served as a Litigation Attorney representing the New York City Department of Social Services in Family Court and as an Assistant District Attorney in the Appeals Bureau of District Attorney's Offices in Kings, Nassau and Queens Counties.

## Catherine A. Christian inducted into the U.S. Court of International Trade

Catherine A. Christian, NYCLA President-Elect, was inducted into the U.S. Court of International Trade on July 25 at a special session of the Court. Hon. Jane A. Restani, Chief Judge, U.S. Court of International Trade, received an award from the Federal Bar Association's Empire State Chapter.

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Log on to [www.nycla.org](http://www.nycla.org), enter your member information and click on NYCLA Express to access this members-only portal. Two new selections have been added to the site: Real Estate Forms and the practice area of Professional Ethics.

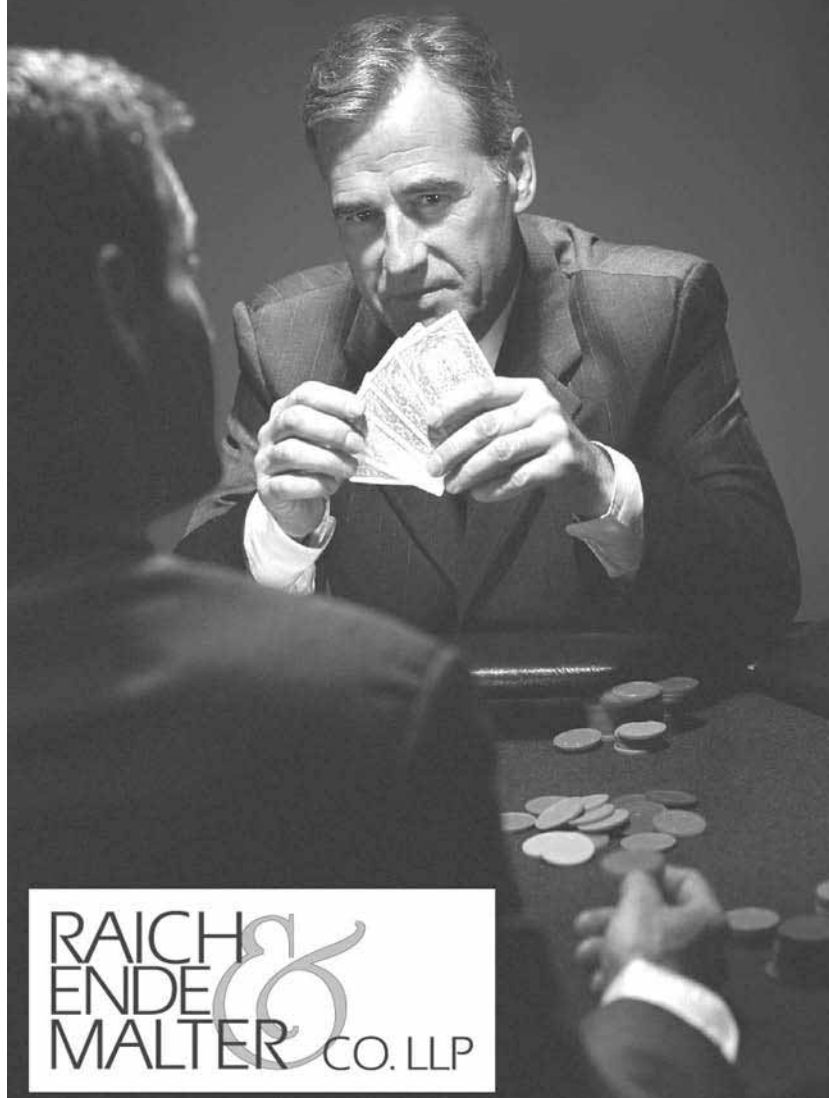
## Real Estate Forms

To view the newly added Real Estate Forms, click on the Practice Areas tab and then select Real Estate Forms from the dropdown menu. The forms are organized into several categories such as Deeds, Contracts of Sale and Retainers to make it easier to locate your desired form. Lease agreements, Power of Attorney forms and the EPA Lead Paint Disclosure form can be found on the page, along with many others.

## Professional Ethics

Professional Ethics has been added in the Practice Areas section. Log on to access content on ethics opinions, a copy of the New York State Bar Association's Lawyers' Code of Professional Responsibility and more.

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# New CLE courses in September focus on providing practical solutions

by **Bari Chase**

In September, the CLE Institute is presenting new programs designed to answer some of the pressing questions on the minds of attorneys today. *Crisis Management: What Every Attorney Needs to Know* on September 11, 6:00-7:30 PM focuses on how crises can be resolved effectively when they arise with a client or matter that an attorney is handling. All attendees at the program will receive a copy

of the publication, *Stop the Presses: The Litigation PR Desk Reference*, by Richard S. Levick and Larry Smith.

With life expectancy ever increasing, the question of how to meet the needs of an aging population is taking on greater urgency. *Legal Issues of Long-Term Care* on September 14, 6:00-9:00 PM provides attorneys with answers to how they can offer the best possible counsel to their clients, as well as inform them about the current long-term care options available to New Yorkers. Attorneys

involved in medical malpractice and personal injury cases will find *Medical Records: Organization, Analysis and Use* on September 20, 6:00- 9:00 PM particularly enlightening. Taught by an RN, LNCC and president of a medical records review service, the course provides attorneys with the skills necessary to developing a winning case.

Finally, a special program, *Using Technology Effectively in the Law Office*, on September 29, 9:00 AM-1:30 PM offers practical guidance and answers to attorneys' questions

on how they can compete more effectively with larger firms and provide better quality representation for their clients. Attorneys will learn about the types of technological solutions on the market today, what they can do and how attorneys can effectively implement them in their law offices. For further details and to view the entire CLE course calendar, please visit our website at [www.nycla.org](http://www.nycla.org).

**Ms. Chase is the CLE Director at New York County Lawyers' Association.**

SEPTEMBER AND OCTOBER CLE PROGRAMS			
<b>September 2006:</b>			
<b>Thursday, September 7</b> 6:00 - 9:00 PM <b>VIDEO REPLAY: HOT TOPICS IN LANDLORD-TENANT LAW: 2006 UPDATE</b> 3 MCLE Credits: 3 Professional Practice; Non-Transitional <b>Registration Fee:</b> <b>Member: \$95</b> <b>Non-Member: \$120</b>	<b>Thursday, September 14</b> 6:00 - 9:00 PM <b>LEGAL ISSUES OF LONG-TERM CARE - PRIVATE INSURANCE, THE NYS PARTNERSHIP AND MEDICAID</b> 3 MCLE Credits: .5 Ethics; .5 Skills; 2 Professional Practice; Transitional <b>Registration Fee:</b> <b>Member: \$125</b> <b>Non-Member: \$165</b>	<b>Wednesday, September 20</b> 6:00 - 9:00 PM <b>MEDICAL RECORDS: ORGANIZATION, ANALYSIS AND USE</b> 3 MCLE Credits: 1.5 Skills; 1.5 Professional Practice; Transitional <b>Registration Fee:</b> <b>Member: \$125</b> <b>Non-Member: \$165</b>	<b>Wednesday, September 27</b> 6:00 - 9:00 PM <b>PLAIN ENGLISH FOR LAWYERS</b> 3 MCLE Credits: 3 Skills; Transitional <b>Registration Fee:</b> <b>Member: \$125</b> <b>Non-Member: \$165</b>
<b>Monday, September 11</b> 6:00 - 7:30 PM <b>CRISIS MANAGEMENT: WHAT EVERY ATTORNEY NEEDS TO KNOW</b> 1.5 MCLE Credits: .5 Ethics; 1 Skills; Transitional <b>Registration Fee:</b> <b>Member: \$65</b> <b>Non-Member: \$85</b>	<b>Tuesday &amp; Wednesday, September 19 &amp; 20</b> 8:30 - 10:00 AM <b>BREAKFAST WITH NYCLA -- VIDEO REPLAY: HOT TOPICS IN LEGAL ETHICS; RECENT DEVELOPMENTS OF INTEREST TO THE NEW YORK LAWYER</b> 3 MCLE Credits: 3 Ethics; Non-Transitional <b>Registration Fee:</b> <b>Member: \$95</b> <b>Non-Member: \$120</b>	<b>Wednesday, September 27</b> 9:00 - 10:30 AM <b>NAVIGATING THE NEW YORK STATE UNIFIED COURT SYSTEM'S WEBSITE AND USING THE COURTS' E-FILING SYSTEM</b> 1.5 MCLE Credits: 1.5 Skills; Transitional <b>Registration Fee:</b> <b>Member: \$65</b> <b>Non-Member: \$85</b>	<b>Friday, September 29</b> 9:00 AM - 1:30 PM <b>USING TECHNOLOGY EFFECTIVELY IN YOUR LAW OFFICE</b> 4.5 MCLE Credits: 1 Ethics/Professionalism; .5 Professional Practice; 3 Skills; Transitional <b>Registration Fee:</b> <b>Member: \$75</b> <b>Non-Member: \$95</b> <b>Non-Legal Staff: \$35</b>
See CLE PROGRAMS Page 17			

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# SEAK to host 5th anniversary Legal Fiction Writing for Lawyers Conference

In an effort to encourage attorney-authors and aid them in publishing their work, SEAK (named for founder Steven Babitsky's family: Steven, Ellen, Alex and Karen) will host its 5th Anniversary Legal Fiction Writing for Lawyers Conference on Cape Cod from October 20-22, 2006. The three-day conference provides participants a hands-on opportunity to improve their writing through workshops taught by *New York Times* best-selling attorney-authors Lisa Scottoline and Stephen Horn, as well as a chance to meet with literary agents who will critique and re-

view material. Preconferences in areas such as "Screenwriting for Lawyers" and "How Attorneys Can Get Their First Novel Published" will also be offered from October 19-20. Tuition for the conference includes workshops, meals and unique networking opportunities such as a private book party and signing. Attendees will also receive information on how to enter SEAK's National Fiction Writing Competition for Attorneys. To find out more about the conference and how to register, visit: <http://www.seak.com/semLeg-FictWrit06.htm>.



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# Meet the members of the NYCLA Board of Directors

by Allison Slotnick

At NYCLA's Annual Meeting on May 25, 12 new Board members were elected. Below are profiles of these Board members.

## Nelson Aviles New York City Department of Finance Attorney/Agency Disclosure Officer

As an attorney and Agency Disclosure Officer with the New York City Department of Finance since 1989, Mr. Aviles provides legal counsel to management and auditors. He also prosecutes violations of criminal tax provisions. Mr. Aviles has received the Department of Finance's Service Award, Risk-Taker Award and Tax Enforcement's Employee of the Month Award. He previously worked at the New York City Department of Consumer Affairs and the Northern Manhattan Improvement Corporation. Mr. Aviles is active in the NYCLA Minorities and the Law Committee and serves as a liaison on the NYCLA Committee on Committees. He is a graduate of the University at Buffalo Law School.



## Ivan J. Dominguez Cadwalader, Wickersham & Taft LLP Director of Diversity, Pro Bono & Community Relations

As chair of NYCLA's Lesbian, Gay, Bisexual and Transgender (LGBT) Issues Committee since 2003, Mr. Dominguez has prepared *amicus* briefs and testified before the New York State Senate in support of securing civil marriage rights. Last year, he was named Co-Chair of NYCLA's *Pro Bono* Committee, where he has supervised the progress of several endeavors, including the Elder Law Project and Matrimonial Law Project. Since his appointment to the Board of Directors of New York City's LGBT Community Center in 2005, Mr. Dominguez has been actively involved in fundraising efforts for the Center. Mr. Dominguez is a graduate of New York University School of Law.



## Thomas G. Draper Jr. Mazur, Carp & Rubin, P.C. Member

At Mazur, Carp & Rubin, P.C., Mr. Draper specializes in estate planning, probate and estate administration, and taxation. Currently, he is a member and former co-chair of the NYCLA Estates, Trusts and Surrogate's Court Practice Section and chairs the Legislation and Government Regulation Committee of that Section. Mr. Draper previously served as an associate with Breed Abbott & Morgan and Olive, Connelly, Chase, O'Donnell & Weyher. He received his LL.M. in Taxation from New York University and is a graduate of the Columbia University School of Law.



## Dyan Finguerra-DuCharme Wilmer Cutler Pickering Hale & Dorr Junior Partner

Since joining Wilmer, Cutler, Pickering, Hale & Dorr in 2000, Ms. Finguerra-DuCharme has become a junior partner in the firm's Litigation Department. She has handled cases emphasizing trademark litigation and serves on the firm's Intellectual Property Litigation and Complex Commercial Litigation Groups. In recognition of her achievements, Ms. Finguerra-DuCharme received the NYCLA Criminal Justice Section's Award for *pro bono* efforts in *Levenson v. Lippman*. She is a graduate of Brooklyn Law School.



## David N. Kelley Cahill Gordon & Reindel LLP Senior Litigating Partner

Mr. Kelley served as the interim United States attorney for the Southern District of New York from 2003-2005. Among his notable convictions were Martha Stewart and Bernard J. Ebbers, the former chief executive of WorldCom. In addition, Mr. Kelley served as one of the leaders in the Justice Department's investigation of the September 11 attacks. He was also one of the prosecutors in the trial of Ramzi Yousef who was convicted in the 1993 World Trade Center bombing. Mr. Kelley now serves as the senior litigating partner at Cahill, Gordon & Reindel LLP. He is a graduate of New York Law School.

## Lynn M. Kelly MFY Legal Services Executive Director

Ms. Kelly, Executive Director for MFY Legal Services since 1998, oversees more than 20 attorneys and paralegals in their work helping low-income New Yorkers. She often testifies at government hearings in support of offering additional civil legal services for the impoverished. In acknowledgment of her involvement, she has received NYCLA's Outstanding Women of the Bar Award, as well as the Conspicuous Service Award. She is a member of the NYCLA Justice Center's Advisory Board. Ms. Kelly has held teaching positions at the Fordham University School of Law and her alma mater, the New York University School of Law.



## Thomas V. Marino Dunnington, Bartholow & Miller, LLP Partner

Mr. Marino is chair of the Litigation Department at Dunnington, Bartholow & Miller. He also chairs the NYCLA Federal Courts Committee and is a member of its Supreme Court Committee and Task Force on Judicial Selection. He has been responsible for or played a major part in numerous landmark federal cases, including *Keeton v. Hustler and Rev. Jerry Falwell v. Flynt*, both of which reached the U.S. Supreme Court. In the seven years immediately before he decided to become a lawyer, Mr. Marino commanded a U.S. Army Special Forces "A" Team. He is a graduate of St. John's University School of Law.



## Deidra R. Moore The Law Office of Deidra R. Moore

Ms. Moore worked in the Criminal Defense Division of The Legal Aid Society prior to starting up her own practice. A recipient of the Criminal Justice Section's 2003 Public Service Fellowship Award, as well as the Black Bar Association of Bronx County Scholarship Prize, Ms. Moore's extracurricular activities include mentoring teenagers, serving as an inspirational/motivational speaker to adults and doing *pro bono* work for the elderly and disadvantaged. She serves on the NYCLA *Pro Bono*, Women's Rights and Law-Related Education Committees. Ms. Moore received her law degree from CUNY School of Law.



## Eugene B. Nathanson Law Office of Eugene B. Nathanson

A sole practitioner since 1987, Mr. Nathanson specializes in constitutional and civil rights litigation. He has concentrated in areas including free speech issues, rights of free expression and discrimination. Previously, Mr. Nathanson served as Assistant District Attorney for the Kings County New York Arson



and Economic Crimes Bureau, as well as an associate in the office of Jay Golderg, P.C. He is a former chair of the NYCLA Civil Rights Committee and serves as a liaison on the NYCLA Committee on Committees. He is a graduate of Boston College Law School.

## Stacey J. Rappaport Milbank, Tweed, Hadley & McCloy LLP Partner

Ms. Rappaport has been at Milbank, Tweed, Hadley & McCloy LLP since 1996; she became a partner in 2004. Her practice involves both federal and state litigation, including securities and commercial disputes. She currently serves on the Firm Committee for Associate Life and Departmental Lateral Recruiting, Marketing and Mentoring Committees. In addition, Ms. Rappaport previously taught at her alma mater, the Fordham University School of Law, where she trained students in interviewing and negotiation skills.



## Lennard K. Rambusch Holland & Knight LLP Member

As a member at Holland & Knight LLP, Mr. Rambusch practices admiralty and commercial law, including maritime creditors' rights. He serves in the firm's Litigation Department, as well as the maritime group's Rapid Response Team. In addition, Mr. Rambusch is the legal advisor to the Danish Consulate General in New York. Mr. Rambusch currently serves on the NYCLA Foundation Board and as Chair of the International Bar Association's Committee on Maritime and Transport Law. He received his law degree from the Columbia University School of Law and also has an MBA from New York University.



## Janiece Brown Spitzmueller New York City Department of Housing Preservation and Development Litigator

Ms. Spitzmueller's interest in the law was strongly influenced by her parents, in particular, her father, who was a community leader and director of anti-poverty programs created during the early years of the civil rights movement. As a public service lawyer, she has worked as a court attorney in Family Court and as a special education suspension hearing officer. Ms. Spitzmueller is currently a lead paint litigator for New York City's Department of Housing Preservation and Development. Following in the footsteps of her father, she is also involved in community affairs. Ms. Spitzmueller has served on two committees that have examined the environmental and recovery issues associated with the collapse of the World Trade Center (WTC) – Community Board 1's WTC Redevelopment Committee and the New York State Bar Association's Committee on Attorneys in Public Service. She is a co-chair of the Minorities and the Law Committee and active in the Committee's annual Silent Auction that benefits the Summer Minority Judicial Internship Program. She received her law degree from Boston University School of Law.



## Board Vacancy Filled

At the June 12 NYCLA Board of Directors meeting, Stewart D. Aaron was approved to fill the Board vacancy that occurred when Louis Crespo was elected Board Secretary. Mr. Aaron will serve until the 2007 meeting.

## Stewart D. Aaron Arnold & Porter LLP Partner

As a partner at Arnold & Porter LLP, Mr. Aaron

specializes in commercial litigation with a focus on securities law. He was previously a partner at Dorsey and Whitney LLP where he served as Co-Chair of the Securities and Financial Institutions Litigation Practice Group. Mr. Aaron is a former Chair of both the NYCLA Federal Courts Committee and New York State Bar Association Committee on Federal Constitution and Legislation. He is a graduate of the Syracuse University College of Law.



## Special Appointments

The following three new Board members were special appointments by Dave Robertson, NYCLA President, pursuant to Article IX, Section 1eq of the ByLaws.

## Gail Donoghue New York City Law Department Special Counsel to the Corporation Counsel

As Special Counsel to the Corporation Counsel for the New York City Law Department, Ms. Donoghue manages over 150 attorneys and advises the Corporation Counsel on issues concerning law enforcement and criminal justice. She has been with the Law Department since 1987; in 2002, she was named to the Counsel's Executive Staff and appointed as Special Counsel. Ms. Donoghue is a past recipient of the Corporation Counsel's Special Recognition Award and the NYCLA Public Service Award (for outstanding public service). She is a member of the Committee on the Judiciary and the Federal Courts Committee at the New York City Bar. Ms. Donoghue received her LL.M. in taxation from New York University and is a graduate of Pace Law School.



## Rhea Kemble Dignam Ernst & Young LLP Principal

As a principal in Ernst & Young's Fraud Investigation and Dispute Services section, Ms. Dignam specializes in white-collar crime and fraud. She developed and administered a nationwide program to test consumer-lending practices and was also crucial in coordinating a series of international investigations related to possible Foreign Corrupt Practices Act violations, including potential money laundering. Ms. Dignam has also served as Deputy General Counsel at New York Life Insurance Company and as Executive Deputy Comptroller of New York City. She is a graduate of Harvard Law School.



## Martin Minkowitz Stroock & Stroock & Lavan Partner

Prior to joining Stroock & Stroock & Lavan, Mr. Minkowitz served as the General Counsel and Deputy Superintendent of the New York State Insurance Department. He was responsible for overseeing, implementing and interpreting the New York Insurance Law and Regulations. He also represented the Insurance Department on National Association of Insurance Commissioners task forces and committees. Mr. Minkowitz currently serves as an Adjunct Professor at New York Law School and has previously taught Business Law at Kingsborough Community College. He is the immediate past Chair of NYCLA's Professional Ethics Committee and a former Chair of the NYCLA Administrative Law, Workers' Compensation and Unlawful Practice of Law Committees. Mr. Minkowitz received both an LL.B. and an LL.M. from Brooklyn Law School.



**Ms. Slotnick is the Communications Assistant**



# NYCLA Library Archival Collection

by William Manz

NYCLA's Library contains a wealth of historical documents – major treatises, reports, primary and secondary sources, and New York City and State statutory materials dating back to the 1700s. Among the Library's holdings are the transcript from the Scottsboro Boys (1931-1937) case, the complete, multi-volume record from the 1935 trial of Bruno Richard Hauptmann for the kidnap-murder of the Lindbergh baby, transcripts from the Public Hearings of the New York State Crime Commission investigating waterfront crime in the early 1950s, a complete collection of pre-1920 First Department records and briefs and an extensive collection of 18th and 19th century legal treatises.

## Triangle Trial Transcript

*Smithsonian* magazine's August issue featured an article by David Von Drehle, author of *Triangle: The Fire that Changed America*, where he relates how two bound volumes of the transcript from the 1911 trial of the Triangle Waist Company owners – *People of the State of New York v. Isaac Harris and Max Blanck* – were unexpectedly located in NYCLA's Library in the summer of 2001. The two volumes contained such vital information as the prosecutor's opening statement, both closing arguments and testimony by survivors, firefighters, policemen, factory owner Isaac Harris, engineers who examined the fire-damaged building and customers and merchants who had visited the factory while it was in operation.

As Mr. Von Drehle relates, the Triangle trial transcripts were donated to NYCLA by one of its members, attorney Max D. Steuer, who won a controversial not-guilty verdict

for the factory owners. Mr. Steuer (1871–1940), the son of immigrants and a former sweatshop employee, graduated from Columbia Law School in 1893 and went on to become one of the leading defense attorneys of his day. In addition to the Triangle trial transcript, Mr. Steuer also donated to NYCLA a multi-volume set of appellate briefs and bound transcripts of more than a dozen other notable cases. These include his successful 1922 defense of then-famous sports promoter and future New York Rangers founder, Tex Rickard, against charges that he had kidnapped and assaulted two teenaged girls and the long-running contested will battle between Columbia University and the heirs of eccentric New York City millionaire and businessman Amos F. Eno.

## Triangle Trial Transcript Available Online

The entire contents of the Triangle trial transcripts have been scanned and are now posted on Cornell University's Kheel Center for Labor-Management Documentation and Archives website at <http://www.ilr.cornell.edu/trianglefire>. The product of over a year of effort, the digitized archive provides researchers with a high-quality pdf copy of the actual transcript as well as abstracts of the testimony. The site has been visited over 1,100 times and nearly 400 complete copies of the transcript have been downloaded.

**Mr. Manz is a part-time Reference Librarian at NYCLA. He is also Assistant Law Librarian and Director of Student Publications at St. John's University School of Law.**

## PAST EVENTS

### CIVIL COURT PRACTICE SECTION

In June, the Civil Court Practice Section held its annual dinner and honored Hon. Martin Shulman (far left), Justice, Supreme Court of the State of New York, and Supervising Judge, Civil Court of the City of New York, New York County. Hon. Joan B. Carey, Deputy Chief Administrative Judge for the New York City Courts, and Hon. Fern A. Fisher (third from left), Justice, Supreme Court of the State of New York, and Administrative Judge, Civil Court of the City of New York, spoke at the event, which was held at the New York Athletic Club. Also pictured are event co-chairs, Joyce S. Zimberg (second from left) and Warren A. Estis (far right).



### MEET AND GREET RECEPTION

NYCLA's leaders welcomed new members to the Home of Law at the Meet and Greet - Summer Break Reception on August 1. Attendees enjoyed refreshments and complimentary massages provided by Equinox Fitness Clubs. In the top photo, Louis Crespo (at right), NYCLA Secretary, posed with Marci Kahan, Equinox Corporate Account Executive. Pictured below is Lennard K. Rambusch (at right), a member of the Board of Directors, and Sapna Maloor, a new NYCLA member.



### SECOND ANNUAL AMERICAN LAW ACADEMY

In July, NYCLA presented its second annual American Law Academy, a four-day overview course geared to international members of the legal community, as well as U.S. attorneys who wanted a survey of American law. Marc D. Powers (far left) posed with fellow members of NYCLA's Securities and Exchanges Committee at a dinner the Committee hosted for Academy participants at the historic restaurant, Fraunces Tavern.



# Access to Justice is in our hands

by Anthony L. Soudatt

In May, I attended the Eastern Regional Conference on Access to Justice for the Self-Represented at the New York State Judicial Institute. The conference focused on strategies for assisting self-represented individuals in navigating their way through the court system. The agenda included such topics as service-delivery models, utilization of technology, community partnerships, unbundling of legal services and courtroom best practices.

The phrase 'access to justice' was invoked repeatedly throughout the conference, although I never once heard the presenters define it nor was it defined in the materials distributed to attendees. Mindful of the fact that the legal profession strives for precision and seeks to avoid ambiguity, I believe a definition is in order. As we seek to create strategies and solutions for dealing with access to justice, do we not have to first determine what qualifies as access to justice? How can we measure the success of our efforts unless we have a standard by which to measure it?

The word 'justice' in the phrase 'access to justice' usually refers to a judicial outcome. Therefore, as advocates of the self-represented, we focus on helping *pro se* litigants represent themselves more effectively in judicial proceedings. Can the self-represented truly achieve access to justice in a system that was not intended

for the self-represented? Can we ever 'level the playing field' such that *pro se* litigants can secure justice merely by having access to the courts?

The obstacles faced by *pro se* litigants are significant. The procedural hurdles alone often function as a barrier to access that can result in the dismissal of the matter before the litigant has ever had an opportunity to be heard. The Bankruptcy Reform Act of 2005 provides an example. The revised bankruptcy law requires petitioners to obtain credit counseling prior to filing a bankruptcy petition. When a petitioner files a petition, it must include the Certificate of Credit Counseling or the petition is subject to dismissal, even if the Certificate is filed after the petition but before the hearing to dismiss. While this is a relatively easy procedural hurdle to overcome, it highlights how procedure can have an impact on one's access to justice. The intent of the Bankruptcy Reform Act was to reduce the number of consumer bankruptcy filings, particularly through the use of an income-means test. The ironic result is that the means test has not eliminated nearly as many filings as has the other procedural requirements that have been implemented. Whereas the self-represented were previously capable of filing a petition on their own, the reforms now require the majority of filers to retain a bankruptcy attorney. The procedural and oversight requirements are also burdensome for bankruptcy attorneys

who, in response to the changes, have significantly increased their fees. Thus, in the case of bankruptcy law, we now have a system where the procedural hurdles have created an economic barrier to access to justice.

Let us consider what happens after the litigant has gained entry to the halls of justice. The *pro se* litigant finds himself or herself immersed in a world where the language is nearly impenetrable and the adversary is usually accompanied by a lawyer who seems to know everyone in the room, including the judge. This litigant is likely to think that the deck is already stacked against him or her before the hearing has commenced. If we define access to justice as having the opportunity to be heard and have a matter adjudicated, then this scenario satisfies our definition. However, in the business world, we might say that the *pro se* litigant was at a competitive disadvantage.

As practitioners in the judicial system, when we endeavor to pursue and secure access to justice for the unrepresented, we create remedies based on our perspective and experience, not on that of the untrained *pro se* litigant. As we expend resources assisting *pro se* litigants, we focus more on getting them an opportunity to be heard in forums designed for trained practitioners and less so on designing forums that are better suited for laypersons. If we are to realize our goal

of providing access to justice, we must first define what constitutes access to justice. We must be willing to reconsider our justice system and create alternative forums such as arbitration and mediation that can better dispense justice according to the needs of *pro se* litigants.

Instead of focusing our energies on trying to get as many *pro se* litigants into the courts as possible, perhaps we should be trying to get as many of them out as is feasible. I am not advocating that we deny *pro se* litigants an opportunity to be heard. Rather, I am suggesting that we make greater use of these alternative forums where appropriate. Successful models already exist to point the way. In 2002, the Office of Court Administration instituted mandatory attorney-client fee dispute resolution using arbitration and mediation hearings. Compared to pursuing such disputes in court, these hearings are cost effective and expedient and neutralize the inherent imbalance among the parties. By resolving cases in alternative forums, the courts' precious resources can be allocated to the more complex matters requiring judicial intervention.

Access to justice is in our hands – lawyers, judges, clerks and judicial administrators – not in the hands of *pro se* litigants.

**Mr. Soudatt is co-chair of the Pro Bono Committee and a member of the NYCLA Board of Directors.**



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## NYCLA member advocates for amusement park safety improvements

by Allison Slotnick

After four New York State deaths last year as a result of faulty amusement park rides, the New York State Legislature recently passed several laws to improve the State's supervisory role in maintaining ride safety.

Jeffrey Kimmel, co-chair of NYCLA's Young Lawyers Section, has been at the forefront of advocating for amusement park safety improvements. Mr. Kimmel, a partner at Salenger Sack Schwartz & Kimmel, is representing Elayne Cassara in a lawsuit against Westchester County on behalf of her son, seven-year-old Jon-Kely, who died on Rye Playland's Ye Olde Mill Ride in August 2005.

In March, Mr. Kimmel testified at a public hearing about the condition of current amusement park safety in New York State. After the hearing, which was held by the Chairs of the Senate Investigative and Senate Labor Committees, bills to amend the current Labor Law were introduced. Among the bills passed was one establishing a Carnival, Fair and Amusement Park Safety Advisory Board in the

State's Department of Labor and another mandating the creation and implementation of a public awareness campaign on ride safety.

Although Mr. Kimmel was satisfied with the bills, he supports further safeguards. He says the State should "develop a universal rating system, such as color coding or a five-star system ranging from mild to frightening," as well as provide park visitors with more detailed ride information. In addition, Mr. Kimmel is pushing for the installation of trip switches, which would stop a ride if an emergency occurred, and surveillance cameras, neither of which was present at Rye Playland at the time of Jon-Kely's death.

In late June, Ms. Cassara held a press conference to announce the launch of "Fashioned4Life," a foundation to aid women whose lives have been affected by financial or emotional adversity. She was presented with a plaque and \$5,000 donation to her foundation by Mr. Kimmel on behalf of his firm.

**Ms. Slotnick is the Communications Assistant at New York County Lawyers' Association.**

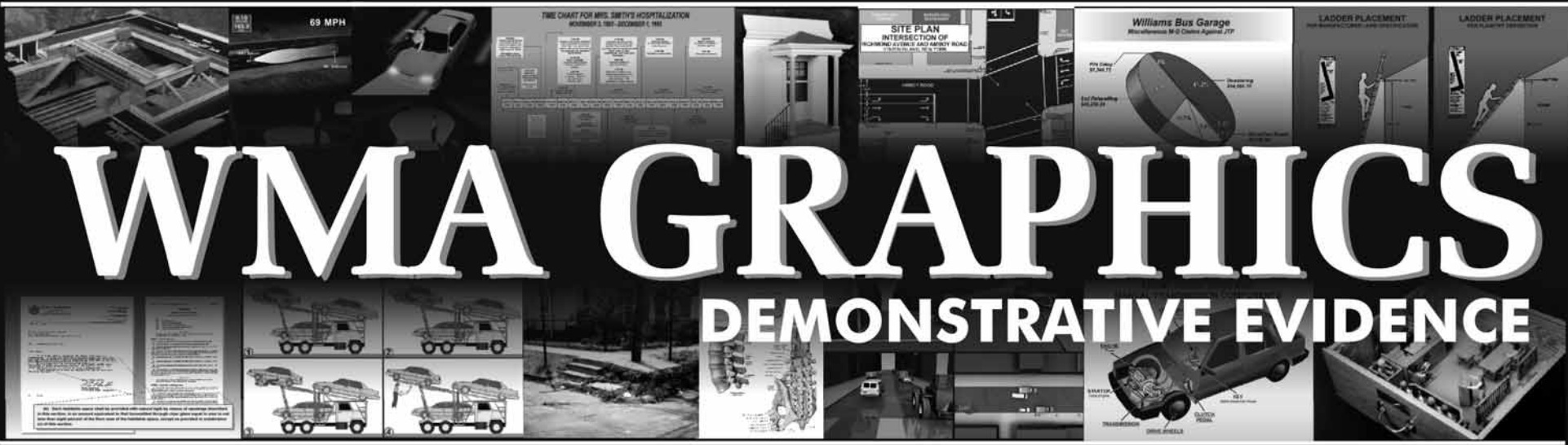
## Chadbourn & Parke LLP donates to Library

The NYCLA Library would like to thank Chadbourne & Parke LLP for its recent donation of several microfiche file cabinets. The cabinets will be used to house the Library's growing collection of records and briefs, as well as the Federal Register. To find out more about this collection, visit: [http://www.nycla.org/index.cfm?section=LIBRARY&page=RECORDS\\_AND\\_BRIEFS](http://www.nycla.org/index.cfm?section=LIBRARY&page=RECORDS_AND_BRIEFS).

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**If you or your law firm is interested in making a similar donation to the Library, contact Nuchine Nobari, Director of Library Services, at [nnobari@nycla.org](mailto:nnobari@nycla.org) or 212-267-6646, ext. 201. All donations are tax deductible to the extent provided by law.**

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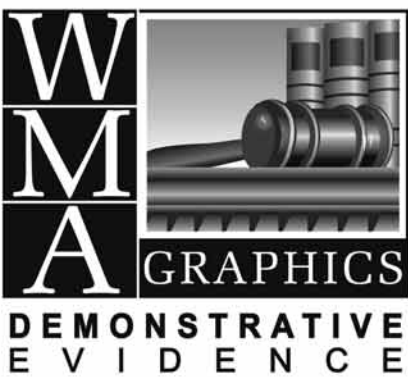
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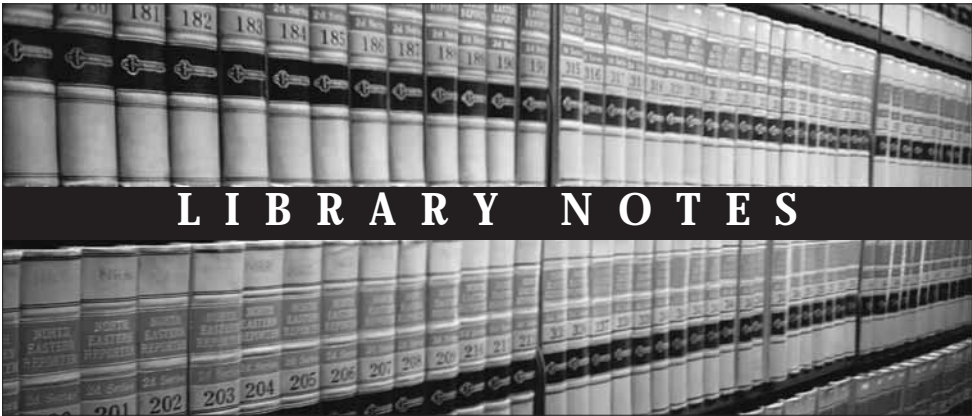
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by William Manz

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Featured Title

*The Little Book on Oral Argument*, by Alan L. Dworky (Fred B. Rothman 1991). Seeks to explain the psychology of persuasion. Has chapters dealing with nervousness, preparation (know the record, the law, the court, the rules and be able to anticipate questions and integrate them into one’s argument) and the length and contents on an outline. Covers style, including the use of conversational language, plain English, the use of emotion and handling distractions. Delivery includes manner of dress, hairstyle, posture, use of the hands, gestures and facial expression. Advice on delivery also includes admonitions to maintain eye contact with the judge, avoiding memorization and reading one’s argument, voice level and tone, avoidance of “uhs” and pronunciation. The chapter on the substance of the brief discusses gearing one’s argument to the standard of review and the advisability of utilizing policy arguments and suggests keeping the argument simple by focusing on key facts. The chapter on questions offers advice on seeking clarifications, disagreeing with the judge and handling hypotheticals. Advice on rebuttals includes not wasting time on introductory remarks, avoiding repetition, concentrating on an opponent’s serious misstatements of law or fact and the need for a quick closing.

Internet Resource

*Enforcement of Money Judgments*, by Lawrence Newman (Juris Publishing). The

Library has a subscription permitting online searches of the full text of this treatise.

New Titles

*Red Flags: A Lawyer’s Handbook on Legal Ethics*, by Lawrence J. Fox and Susan R. Martyn (ALI-ABA). Approaches ethical questions from the attorney’s point of view rather than being a theoretical treatise. Includes chapters on such issues as attorney competence, confidentiality, conflicts of interest, the limits of zealous representation and remedies.

*West’s Code of Federal Regulations Annotated*, 2006, Title 8, Aliens and Nationality. The text, section numbering and hierarchical heading match those of the official government version. The annotations include references to law reviews and other legal journals, the U.S.C.A. and federal and state court decisions. The notes of decisions are grouped by subject and include references to West topic and key numbers.

New PLI Course Handbooks

*Insurance Coverage 2006*. Includes chapters on environmental coverage, construction defects, scope of coverage and allocation of loss. Prepared for the course given in May 2006.

*28th Annual Current Developments in Bankruptcy and Reorganization*. 2 vols. Consist of 35 chapters covering a wide variety of current bankruptcy issues. Prepared for the program given on April 24–25, 2006.

New Editions

*Federal Immigration Laws and Regulations, 2006 Ed.* (Thomson West). *H1-B Handbook, 2006 Ed.* (Thomson

West). 2006 pocket part. *Social Security Disability Claims Handbook* (Thomson West). 2006 edition. *Scott and Ascher on Trusts, Fifth Ed.* (Aspen). Volumes one and two.

New Updates

*Advising the Elderly Client* (Thomson West). 2006 update. *Callmann on Unfair Competition, Trademarks and Monopolies* (Thomson West). Spring 2006 cumulative supplement. *Civil Actions Against the United States, Its Agencies, Officers, and Employees* (Thomson West). Spring 2006 cumulative supplement. *Defense Against a Prima Facie Case* (Thomson West). April 2006 cumulative supplement. *Domke on Commercial Arbitration* (Thomson West). 2006 cumulative supplement. *Legal Guide to Human Resources* (Thomson West). May 2006 update. *Mortgages and Mortgage Foreclosure in New York* (Thomson West). 2006 replacement. *New York Evidence: Proof of Cases* (Thomson West). 2006 cumulative supplement. *Rathkopf’s The Law of Zoning and Planning* (Thomson West). June 2006 cumulative supplement. *Shapiro’s DHCR Decision Finder* (Vendome Group). 2003–2005 supplement. *Siegel’s New York Practice* (Thomson

West). 2006 pocket part. *Stein on Personal Injury Damages 3rd.* (Thomson West). April 2006 cumulative supplement.

Selected New Issues of Legal Periodicals

*Cardozo Law Review*, vol. 27, no. 5 (Mar. 2006). Symposium on Terrorism, Globalization and the Rule of Law. *Cardozo Law Review*, vol. 27, no. 6 (Apr. 2006). Symposium on Trust Law in the 21st Century. *Columbia Journal of Law and Social Problems*, vol. 39, no. 3 (Spring 2006). Article on the inadequacies of the CAN-SPAM Act. *New England Law Review*, vol. 40, no. 3 (2006). Symposium on Performance-Enhancing Drug Use in Sports. *New York University Law Review*, vol. 81, no. 3 (June 2006). Tough on Crime: How Campaigns for State Judiciary Violate Criminal Defendants’ Due Process Rights. *St. John’s Law Review*, vol. 80, no. 1. Symposium: The LSAT, *U.S. News & World Report* and Minority Admissions. *Touro Law Review*, vol. 21, no. 4 (2006), 17th annual Supreme Court review; vol. 22, no. 1 (2006), New York State constitutional decisions compilation.

**Mr. Manz is a part-time Reference Librarian at NYCLA. He is also Assistant Law Librarian and Director of Student Publications at St. John’s University School of Law.**

# About the Electronic Research Center

The CLE courses hosted by the NYCLA Library’s Electronic Research Center are designed to enhance your practice through hands-on training in research and computer-productivity applications. Some basic familiarity with a personal computer and the Internet is required for each course.

The fee-based classes focus on electronic research tools that are either free or readily available in NYCLA Library’s collection. In particular, government resources are examined in detail, as well as the resources made available by law schools, courts and public libraries across the country. All courses labeled “Computer Applications” discuss ways

in which common software applications can be manipulated to maximize productivity.

The free classes, sponsored by Bloomberg, Lexis and Westlaw, are taught by training consultants from each company. Their classes are engineered to take attorneys step by step through a legal research process using their respective databases to maximize time and effort and minimize cost. Please note that courses not labeled “Beginner,” “Basic” or “Introductory” require some familiarity with the database being discussed and that classes named by a practice area delve into the intricacies of each database’s holdings in that subject.

## CLE PROGRAMS AT THE NYCLA LIBRARY

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Registration fees: Member, \$65; Non-Member, \$85; Non-Legal Staff, \$35

BANKRUPTCY COURT ELECTRONIC CASE FILING SYSTEM

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Wednesday, September 20, 10:00 AM – 12:30 PM

INTERNET LEGAL RESOURCES: IMMIGRATION

(1.5 MCLE Credits: 1.5 Skills; Transitional)  
Thursday, September 7, 6:00 – 7:30 PM

INTERNET LEGAL RESOURCES: AN OVERVIEW

(1.5 MCLE Credits: 1.5 Skills; Transitional)  
Thursday, September 21, 6:00 – 7:30 PM

FREE CLASSES

Registration for the following classes is free to all.

BLOOMBERG PROFESSIONAL

(1.5 MCLE Credits: 1 Skills; .5 Law Practice Management; Transitional)  
Introductory Class: Tuesday, September 19, 11:00 AM – 12:00 PM

LEXIS

(1 MCLE Credit: 1 Skills; Transitional)  
Basic: Wednesday, September 13, 10:30 – 11:30 AM  
Criminal Law, Wednesday, September 13, 12:00 – 1:00 PM

WESTLAW

(1 MCLE Credit: 1 Skills; Transitional)  
Beginner: Tuesday, September 26, 3:00 – 4:00 PM  
Litigation: Tuesday, September 5, 10:30 – 11:30 AM  
New York Materials: Friday, September 8, 3:00 – 4:00 PM  
Real Property: Friday, September 22, 10:00 – 11:00 AM  
Tax Research: Friday, September 29, 10:00 – 11:00 AM  
Statutes: Tuesday, September 12, 3:00 – 4:00 PM

### OCTOBER

FEE-BASED CLASSES

Registration fees: Member, \$65; Non-Member, \$85; Non-Legal Staff, \$35

INTERNET LEGAL RESOURCES: IMMIGRATION

(2.5 MCLE Credits: 2.5 Skills; Transitional)  
Thursday, October 5, 6:00 PM – 7:30 PM

INTERNET LEGAL RESOURCES: NEW YORK MATERIALS

(1.5 MCLE Credits: 1.5 Skills; Transitional)  
Tuesday, October 17, 6:00 – 7:30 PM  
(2.5 MCLE Credits: 2.5 Skills; Transitional)  
BANKRUPTCY COURT: ELECTRONIC CASE FILING SYSTEM  
Wednesday, October 18, 10:00 AM – 12:30 PM

INTERNET LEGAL RESOURCES: AN OVERVIEW

(1.5 MCLE Credits: 1.5 Skills; Transitional)  
Thursday, October 19, 6:00 – 7:30 PM

FREE CLASSES

Registration for the following classes is free to all.

(1.5 MCLE Credits: 1 Skills; .5 Law Practice Management; Transitional)

BLOOMBERG PROFESSIONAL

Wednesday, October 25, 2:00 – 3:15 PM  
(1 MCLE Credit: 1 Skills; Transitional)  
LEXIS  
News & Public Research: Wednesday, October 11, 10:30 – 11:30 AM  
Advanced: Wednesday, October 11, 12:00 – 1:00 PM

WESTLAW

(1 MCLE Credit: 1 Skills; Transitional)  
Advanced: Friday, October 13, 3:00 – 4:00 PM  
Beginner: Tuesday, October 31, 10:00 – 11:00 AM  
Criminal Law: Friday, October 27, 3:00 – 4:00 PM  
Employment Law: Tuesday, October 10, 3:00 – 4:00 PM  
Intermediate: Friday, October 20, 2:00 – 3:00 PM  
Patent Research: Friday, October 6, 10:30 – 11:00 AM  
Securities: Tuesday, October 24, 10:30 – 11:00 AM



## First-Place Winner: Ben Loffredo, The Fieldston School

The following students received Honorable Mention: Nicole Geoglis, Preston High School; Jenny Levy, Columbia Grammar & Preparatory School; Mike Marcusa, Horace Mann School; Nastassia Panter, Flushing High School; Whitley Priveté, Louis D. Brandeis High School; and Jesse Waxman, Columbia Grammar & Preparatory School. (Excerpts from students' essays will be published in the October issue.)



*Edwin David Robertson, NYCLA President (far left), and Hon. Richard Lee Price (third from right), Chair of the Law-Related Education Committee, pose with the high school students who received awards.*

# What Qualifications and Attributes Should a Supreme Court Justice Have?

Finally, unlike Solomon, a Supreme Court Justice lacks an army to defend his or her decisions. Yet a Justice sometimes will make unpopular decisions, whether as part of the majority or in dissent and must remain steadfast. *Brown v. Board of Education* was a unanimous decision but it elicited a firestorm

Offices Nationwide

See QUALIFICATIONS Page 16

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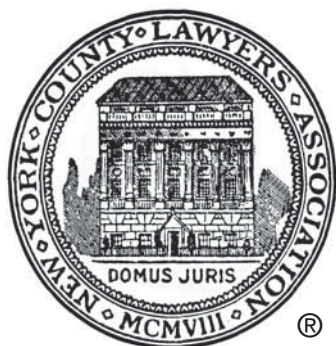
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Member Benefit

# New-York Historical Society

by Allison Slotnick

The New-York Historical Society offers NYCLA members discounted membership rates: individual membership is \$45 (regularly \$55) and dual/family membership is \$85 (regularly \$100). For more information, go to [www.nyhistory.org](http://www.nyhistory.org) and to join the Society, contact Julie Seymour, Director of Membership, at 212-485-9233 or [jseymour@nyhistory.org](mailto:jseymour@nyhistory.org).

The following law- and politics-related programs will be held at The New-York Historical Society in September and early October:

**Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey**  
**Thursday, September 21 - 6:30 PM**

During his 24 years on the Supreme Court, Justice Harry A. Blackmun, the author of several landmark decisions, including *Roe v. Wade*, underwent a personal transformation but never lost sight of the human beings behind the legal cases. Veteran *New York Times* Supreme Court reporter Linda Greenhouse, author of *Becoming Justice Blackmun: Harry Blackmun's Supreme Court Journey*, provides an intimate look at America's most private branch of government and suggests what insights Justice Blackmun's story might provide for understanding the Supreme Court today. She has covered the Supreme Court for *The New York Times* since 1978 and won a Pulitzer Prize in 1998.

**The Many Faces of Alexander Hamilton**  
**Tuesday, September 26 - 6:30 PM**

One of the indispensable architects of the Republic, Alexander Hamilton actively promoted partisan politics to advocate his own agenda. Three Hamilton scholars discuss his legacy and consider why history has denied him the central place that he occupied in his own time. The panelists – Douglas Ambrose, Sidney Wertimer Jr., Associate Professor of History at Hamilton College, and Robert W.T. Martin, Associate Professor of Government at Hamilton College – are the co-editors of *The Many Faces of Alexander Hamilton: The Life and Legacy of America's Most Elusive Founding Father*.

**The Failure of the Founding Fathers: Jefferson, Marshall and the Rise of Presidential Democracy**  
**Thursday, September 28 - 6:30 PM**

The Founding Fathers did not anticipate the two-party system and when Republicans battled Federalists for the presidency in 1800, the Constitution exacerbated the crisis. Bruce Ackerman, Sterling Professor of Law and Political Science at Yale University, discusses the intrigues among the parties and the bitter struggle over the courts once Thomas Jefferson gained power. Mr. Ackerman presents a fresh perspective on early American history with strong implications for the present day. He has written more than 15 books, including a multi-volume constitutional history, *We the People*.

**Freedom Riders**  
**Thursday, October 5 - 6:30 PM**

In the spring and summer of 1961, more

# What Qualifications and Attributes Should a Supreme Court Justice Have?

From Page 14

of opposition from states and citizens opposed to integration. The Bill of Rights establishes rights that protect the individual against democratic majorities; in enforcing these rights – to free speech or religious expression – the members of the Court will inevitably antagonize some groups. Each Justice must have courage to face public criticism and verbal assault.

The United States Constitution does not specify the qualities and attributes that a Justice must possess. It does not require a legal education, judicial experience or United States citizenship. Nor is there consensus on the appropriate role that the Supreme Court should play in governing the United States. The story goes that Judge Learned Hand parted company from Justice Oliver Wendell

Holmes, saying, "Do justice, sir!" But Justice Holmes replied, "That is not my job. It is my job to apply the law." To do his or her job, a Supreme Court Justice needs those qualities that form a judicial temperament: the wisdom of Solomon; a desire for justice; a belief in the rule of law – as well as collegiality, industriousness and courage. Yet, how can the Nation know whether a prospective Justice possesses these various judicial virtues? In this day and age, confirmation hearings typically focus on "hot button" issues such as abortion or the death penalty to determine whether the Senate should consent to a President's nomination. If we are to have a Supreme Court suited to tackle today's legal issues, the Senate and President must likewise have integrity and dedication to choose Justices who possess the necessary qualities and attributes.

than 400 nonviolent activists known as Freedom Riders literally put their bodies on the line by riding buses through the American South, directly challenging Jim Crow segregation. Jolting the nation's consciousness, the Freedom Riders' provocative style of nonviolent direct action altered the course of the

civil rights movement and changed the nature of American democracy. Several New York Freedom Riders will join the program. Presenter Raymond Arsenault is the John Hope Franklin Professor of Southern History at the University of South Florida and author of

*Freedom Riders: 1961 and the Struggle for Racial Justice*. He also wrote two prize-winning books, *St. Petersburg and the Florida Dream 1880-1950* and *The Wild Ass of the Ozarks: Jeff Davis and the Social Bases of Southern Politics*.

Tickets for events at The New-York Historical Society are available through SmartTix. Call 212-868-4444 or log on to: [www.smarttix.com](http://www.smarttix.com).

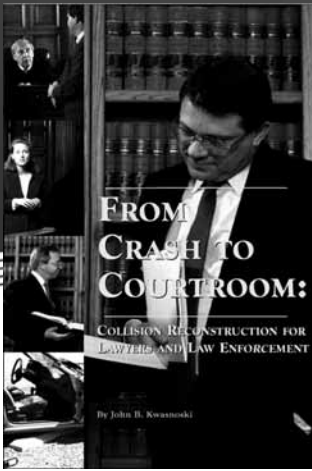
**Ms. Slotnick is the Communications Assistant at New York County Lawyers' Association.**



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## FEATURED BOOK OF THE WEEK



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*By John B. Kwasnoski*

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distortions and misrepresentations made by experts. Armed with this book, you can cross-examine with authority and poke hole after hole in your opponents' testimony. If you do any work with accident reconstruction, this book is worth its weight in gold.

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OCTOBER CLE PROGRAMS

From Page 8

October 2006:

Thursday, October 5

6:00 - 9:00 PM  
DRAFTING CONSTRUCTION CONTRACTS  
3 MCLE Credits: 1 Skills; 2 Professional Practice; Transitional  
Registration Fee:  
Member: \$125  
Non-Member: \$165

Tuesday, October 10

6:00 - 9:00 PM  
VIDEO REPLAY: WILL DRAFTING 101  
3 MCLE Credits: 2 Skills; 1 Professional Practice; Non-Transitional  
Registration Fee:  
Member: \$95  
Non-Member: \$120

Friday & Saturday, October 13 & 14

9:00 AM - 5:00 PM  
BLUEPRINT FOR BUILDING YOUR PRACTICE 2006: A CONFERENCE FOR SOLO AND SMALL-FIRM PRACTITIONERS  
16 MCLE Credits: 2 Ethics; 12 Law Practice Management; 2 Professional Practice; Transitional  
Registration Fee:  
Member: \$255  
Non-Member: \$355

Tuesday, October 17

6:00 - 9:00 PM  
NEGOTIATING AND DRAFTING RETAIL LEASES - HOW TO MAKE THE DEAL; HOW TO AVOID THE BAD DEAL  
3 MCLE Credits: 1 Ethics; 1 Skills; 1 Professional Practice; Transitional  
Registration Fee:  
Member: \$125  
Non-Member: \$165

Thursday, October 19

6:00 - 9:00 PM  
THE IMPORTANCE OF LEGAL WRITING IN THE ERA OF THE VANISHING TRIAL  
3 MCLE Credits: 1.5 Ethics/Professionalism; 1.5 Skills; Transitional  
Registration Fee:  
Member: \$125  
Non-Member: \$165

Tuesday & Wednesday, October 24 & 25

8:30 - 10:00 AM  
BREAKFAST WITH NYCLA -- VIDEO REPLAY: EMERGING ETHICAL ISSUES FOR THE CORPORATE LAWYER  
3 MCLE Credits: 3 Ethics; Non-Transitional  
Registration Fee:  
Member: \$95  
Non-Member: \$120

NEW YORK COUNTY LAWYERS' ASSOCIATION GROUP MENTORING PROGRAM

October 4	Great Tips for Building a Successful Practice Mentor: Clyde Eisman Mentor: Doron Zanani
October 11	Writing Retainer Agreements, Setting Fees and Getting Paid (Part I) Mentor: Martin L. Feinberg
October 18	Writing Retainer Agreements, Setting Fees and Getting Paid (Part II) Mentor: Martin L. Feinberg
October 25	Keeping Your Firm's Financial Books Mentor: Richard Klass
November 1	How to Successfully Manage Your Clients Mentors: Clyde Eisman and Doron Zanani
November 8	Preparing a Trial Notebook Mentor: Jeffrey M. Kimmel
November 15	Trial Techniques for Beginners Mentor: Jeffrey M. Kimmel

The program is free and open to all NYCLA members. **Pre-registration is required and will be accepted on a first-come, first-served basis.** To register, email: [kwells@nyccla.org](mailto:kwells@nyccla.org) or fax this page to: 212-406-9252. Entrance and facilities for people with disabilities are available. A ramp is provided for wheelchair access; please call 212-267-6646 at least one day in advance to make arrangements. Programs are subject to change.

NYCLA GROUP MENTORING PROGRAM  
Home of Law, 14 Vesey Street, New York, NY  
(between Broadway and Church Street)  
6:00-8:00PM

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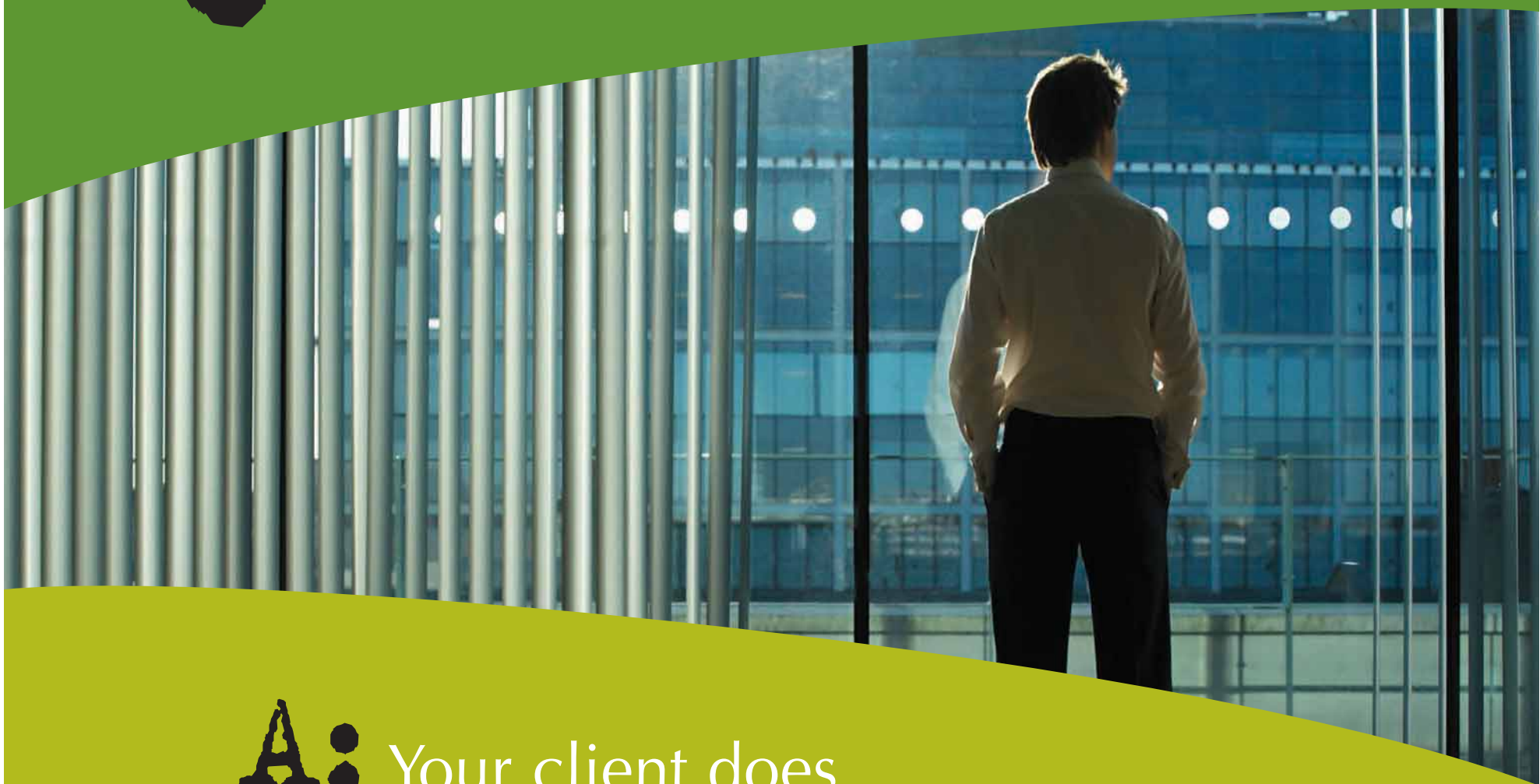
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