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WHAT'S INSIDE

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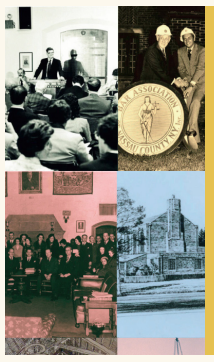

ERAS OF DOMUS

THURSDAY, NOVEMBER 14

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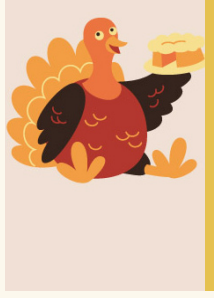

THANKSGIVING LUNCHEON DONATIONS

pg.7

ANNUAL HOLIDAY CELEBRATION

THURSDAY, DECEMBER 5

pg.9

Celebrate Domus Through the Eras

The Nassau County Bar Association's year-long celebration of its 125th Anniversary will culminate on Thursday, November 14 with "Domus Through the Eras" special event.

The festivities commence at 5:30 p.m. with cocktails and small bites from local restaurants and caterers. At 6:30 p.m., the Bar Association's own Domus Players will present the *History of Domus in Five Acts*—short, humorous skits depicting milestones in NCBA history. A live auction, desserts, espresso cart, and music by South Street Jam Band, with Huntington attorney Samuel DiMeglio, complete the evening.

"I hope everyone can join us in celebrating the NCBA's quasquicentennial and, simultaneously, kick off the next 125 years," says NCBA President Dan Russo. "Historical skits, a time capsule dedication, NCBA swag, live auctioned items—including several artist's renditions of Domus—and cuisine from local establishments will all be part of this historic night."

"Our menu will include sushi chefs, baristas and an assortment of foods to please everyone," adds NCBA Secretary and 125th Anniversary Committee Co-Chair Deanne Caputo. "Guests will also be able to enjoy the band South Street Jam Band play popular, feel-good hits throughout the evening, and bid in the live auction to win one-of-a-kind items like a VIP parking spot at Domus for a year."

"One of the evening's highlights will be a series of theatrical sketches depicting landmark moments in NCBA history, ranging from the NCBA's formation in March of 1899 at Allen's Hotel in Mineola, to the integration of women members in 1951, to the creation of WE CARE in 1988, to the future of the NCBA. These light-hearted sketches will feature the 'Domus Players,' a cast comprised of familiar faces from around the Bar Association, including NCBA past presidents, Board of Director members, judges and committee chairs. I invite everyone to join us as we set the stage and travel back in time and experience the arch of the Association's evolution and progress through the Domus Eras."

Net proceeds from the auction and other fundraising activities from the event are earmarked toward retiring the Bar's mortgage and making capital improvements to Domus.

Celebrate 125 years of legal excellence and community service as the Nassau County Bar Association honors its rich history and vibrant future. Tickets for Domus Through the Eras are $125 per person. Sponsorships are also available. To purchase tickets, or for information about sponsorships, visit www.ncba125thanniversary.com, refer to the insert in this issue of *Nassau Lawyer*, or contact NCBA Special Events at events@nassaubar.org or (516) 747-1361.

Artwork to be auctioned created by (clockwise L to R) Paul Francis, Maxine Townsend-Broderick, Naomi Altman, Rosalia Baiamonte and Christine Donnelly.

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From the President

Daniel W. Russo

Did you know that the 125th anniversary of something is known as the "quasquicentennial?" If you knew that already, good for you, I needed to google it. 2024 marks the 125th anniversary of Nassau County, the Nassau County District Attorney's Office and our beloved Nassau County Bar Association. Coincidence? I don't think so. Forming a municipality like Nassau, and then creating a law enforcement agency like the DA's Office to enforce the laws of the new municipality, takes a whole lot of one thing: lawyers. So, it makes sense that the creation of the NCBA wasn't far behind. Like today, the lawyers of Nassau County in 1899 needed a place to get together with colleagues, a place to discuss law and policy and, if I had to guess, to network as well. So here we are, 125 years later, celebrating the quasquicentennial of the NCBA at our home, Domus.

Over the past 125 years, the NCBA has experienced a vast array of changes: changes from within, shifts within the profession it serves, and shifts throughout society in general. From its humble beginnings in 1899, through economic hardships, world wars, technological advances, superstorms, and global health pandemics, the NCBA has persevered to remain one of the largest and strongest suburban bar associations in the nation.

Like any institution that has lasted 125 years, the NCBA has not been without its struggles or the need to reflect, lean on its leaders, and face head on whatever issues need be addressed. While the mission of today's NCBA remains to support its members and the community our members serve while furthering civility and justice, the way in which the NCBA does so has evolved greatly since that first meeting in 1899. Today, our mission includes making certain that our bar association is as diverse as the residents of Nassau County. Today, our mission includes using the ever-changing landscape of technology to the benefit of Domus, its members, and the legal profession. And today, our mission is to ensure that Domus and the NCBA will only continue to strengthen and grow as we look to the future.

While on the one hand, the NCBA is ever adapting in the face of a changing profession and a changing world, in other ways, the obstacles the NCBA faces today are surely the same the founding members faced 125 years ago. The answers to questions like, "How do we attract new members?" and "What are the best ways to finance the organization?" are just as important to get right today as they were in 1899. These questions, I imagine, will persist for as long as the NCBA is in existence.

As the NCBA reflects on the last 125 years while simultaneously looking to the future ahead, our mission remains clear. We must remain committed to being the voice of our members and the community. We must continue to promote equal access to justice for all and ensure that such justice is provided with civility. And, of course, we must continue to plan and be willing to adapt to the ever-changing landscape of society and the laws that govern it.

The founding members of the NCBA had the foresight to know that forming a bar association was vital to the success of newly formed Nassau County. Over the past 125 years, the NCBA has evolved into a model of growth and success for other suburban bar associations across the nation. I am confident that so long as the future leaders at Domus continue to prepare and continue to adjust, the NCBA will celebrate milestone anniversaries for generations to come.

With all of that said, it is truly time to celebrate, and on November 14, 2024, at our beloved Domus, we plan on doing just that. The cover story of this addition of the Nassau Lawyer details the plans for the celebration. Historical skits, a time capsule dedication, NCBA swag, live auctioned items, including several artist's renditions of Domus, and cuisines from local establishments will all be part of this historic night. I hope all of you can join in celebrating the NCBA's quasquicentennial and, simultaneously, kick off the next 125 years.

On a personal note, while I have the honor and privilege of being President during this time of celebration, I want to be clear that this entire year of celebration does not happen without the hard work and dedication of the staff members at Domus and the members of the NCBA who have participated in the 125th Anniversary Committee. These men and woman are as dedicated a group of individuals I have ever had the pleasure to work with. Their commitment to this celebration and their creativity in putting the pieces together is nothing short of astonishing. You all know who you are. On behalf of every member of the NCBA, past, present and future, thank you.

Please reach out to President Daniel W. Russo at drusso@lawdwr.com.

Become an NCBA Mentor

Alan B. Hodish

The Nassau County Bar Association Mentor Program, currently in its twenty-eighth year, is comprised of attorneys and judges who donate their time to work with elementary and middle school students in the Jericho, East Meadow, Great Neck, Hempstead, Uniondale and Westbury school districts.

The program takes place from mid-October to early May and culminates in a luncheon at Domus. Students are selected by their respective school's social workers or guidance counselors. Each student is paired with a mentor for approximately 30 to 45 minutes (8:00 a.m. to 8:45 a.m.) one day a week, every other week, for a one-on-one session. During these biweekly sessions, mentors provide students with support and guidance.

Interested in becoming a mentor? Contact Stephanie Pagano at spagano@nassaubar.org or Alan Hodish at alhodish@aol.com. Please join us at Domus on Monday, November 4 from 12:45-1:45 p.m. for an information session on the Mentor Program.

FOCUS:
REAL PROPERTY LAW

"Good Cause Eviction" Comes to New York

Jeff Morgenstern

New York has now joined other states in enacting a "Good Cause Eviction" statute on April 20, 2024, which has notice requirements that took effect on August 18, 2024. It is designed to require landlords to give tenants appropriate notice and information of rent increases and non-renewals of leases. The required notice has to be included with all new leases; renewal leases; notices of rent increases or non-renewals given pursuant to Real Property Law (RPL) § 226-c; 14 day rent demands given pursuant to Real Property Actions and Proceedings Law (RPAPL) § 711(2); and petitions pursuant to RPAPL § 741. The purpose of the statute is to provide "tenants" (defined in the statute) with greater security by preventing evictions and non-renewals without good cause.[1]

Details of the Notice

The first page of the notice just specifies the address and apartment number of the unit. In Section 1, the landlord is asked to note whether the unit is subject to the statute or not. If the unit is not subject to the statute, the landlord must still provide the notice and identify in Section 2 the basis for claiming an exemption (selecting one or more from a list of 14 choices).

Section 3, dealing with rent increases, does not have to be completed if an exemption applies, and in Section 4, dealing with non-renewals, paragraph "A" would be checked off signifying the exempt status. However, if the unit is subject to the statute, then the landlord must fill out Sections 3 and 4 where applicable.

Exemptions

Section 2 provides for the following exemptions from the statute:

A. The unit is in a village, town or city outside of New York City that has not adopted the Good Cause Eviction Statute.[2]

B. The unit is owned by a "small landlord," defined as one who owns no more than ten units (an apartment or one family house) in New York City, or outside of New York City, owns no more than the maximum number allowed in those jurisdictions that have adopted the statute.[3]

Where this exemption is claimed, the landlord has to provide the tenants with the name of each individual who owns, directly or indirectly, the housing accommodation at issue in the proceeding, the number of units owned by each, and the addresses of the units excluding the owner's primary residence. If the landlord is an entity (domestic or foreign), then it must provide the names of each individual who owns an interest, directly or indirectly, in that entity, the number of units owned, and their addresses excluding a primary residence.

C. The unit is located in an occupied housing accommodation with no more than ten units.[4]

D. The unit is subject to regulations of rents or evictions pursuant to federal, state or local law.[5]

E. The unit must be affordable to tenants at a specific income level pursuant to statute, regulation, restrictive declaration, or a regulatory agreement with a federal, state or local entity.[6]

F. The unit is located in a co-op or condominium having accommodations, or in one that is subject to an Offering Plan submitted to the Attorney General's Office.[7]

G. The unit is in a housing accommodation that was issued a temporary or permanent Certificate of Occupancy on or after January 1, 2009.[8]

H. The unit is a seasonal use dwelling.[9]

I. The unit is in a hospital, continuing care retirement community, assisted living residence, adult care facility, senior residential community, etc.[10]

J. The unit is a manufactured home located on or in a manufactured home park.[11]

K. The unit is a hotel room or other transient use covered as a class B multiple dwelling.[12]

L. The unit is a dormitory owned and operated by a school or higher education institution.[13]

M. The unit is in and for use by a religious facility or institution.[14]

N. The unit has a monthly rent greater than the percent of fair market rent established in a jurisdiction outside New York City that adopts the statute, or 245 percent of the fair market rent.[15]

Fair market rent is published by the U.S. Department of Housing and Urban Development for the county where the housing accommodation is located, and by the New York Division of Housing and Community Renewal no later than August 1, of each year.

Rent Increases

Section 3 of the Notice informs the tenant that the landlord is increasing the rent above the threshold for "presumptively unreasonable rent increases"[16] and the justification or "good cause" for doing so. If the rent is not being increased above the threshold, the landlord would mark that appropriately. If the rent is being increased above the threshold, the landlord must specify the justification for it. The presumption is rebuttable by evidence of any increases in carrying costs of the building and "significant repairs."

Non-Renewal of Leases

Finally, Section 4 of the Notice is to inform the tenant that its lease is not being renewed, and what the "good cause(s)" is for that decision. This section provides fourteen choices for the landlord to mark off, if applicable:

1. The unit is exempt from the statute as noted in Section 2.

2. The Notice is given in connection with an initial lease or a renewal lease, so the reasons for non-renewal don't apply.

3. The unit is a sublet and the sublessor needs possession for their own personal use and occupancy.[17]

4. The possession, use or occupancy of the unit is solely incident to employment which is being or has been lawfully terminated.[18]

5. The tenant has failed to pay rent due and owing which did not result from a rent increase that is unreasonable.[19]

6. The tenant is violating a substantial obligation of the lease

or breaching the landlord's rules and regulations, and the tenant has failed to cure the violations after receipt of a 10-day written notice. The obligation violated cannot be imposed for the purpose of circumventing the intent of the Good Cause Eviction Law. The landlord's rules and regulations violated must be reasonable and have been accepted in writing by the tenant or made a part of the lease at its commencement.[20]

7. The tenant is either committing or permitting a nuisance on the unit, maliciously or grossly negligently causing substantial damage to the unit; or interfering with another tenant's comfort and safety.[21]

8. The tenant's use or occupancy violates law and subjects the landlord to civil or criminal penalties for continuing to let the tenant occupy the unit. There must be an Order issued by a state and local agency requiring the tenant to vacate the unit, and that the landlord did not create the litigation necessitating the vacate order.[22]

9. The tenant is using or permitting the use of the unit for illegal purpose(s).[23]

10. The tenant has unreasonably refused landlord access to make necessary repairs or improvements required by law, or to show the premises to a prospective purchaser, mortgagee, or other person with a legitimate interest.[24]

11. The landlord seeks in good faith, to be established by clear and convincing evidence, to use the unit for his personal use and occupancy as his primary residence, or for his spouse, domestic partner, child, stepchild, parent, step-parent, sibling, grand person, grandchild, parent-in-law or sibling-in-law. There must be no other suitable accommodation available in the building. However, the landlord cannot use this option if the tenant is 65 or older, or a disabled person.[25]

12. The landlord seeks in good faith to demolish the accommodation, to be established by clear and convincing evidence.[26]

13. The landlord seeks in good faith to withdraw the unit from the housing rental market, to be established by clear and convincing evidence.[27]

14. The tenant has failed to agree to reasonable changes of a lease renewal, including reasonable increases in rent, after landlord gave a written notice of the changes to the lease at least 30 days but not more than 90 days, before the current lease expired.[28]

The protections afforded by the statute cannot be waived or modified by agreement.[29] No action is maintainable, and no judgment of possession can be entered absent compliance with the statute.[30]

Conclusion

Landlord-tenant practitioners are urged to carefully review the requirements of the Good Cause Eviction Law to ensure compliance with, or protection for, their respective clients within New York City. We should also be monitoring which local jurisdictions outside of New York City eventually opt into the statute's coverage.

1. Article 6-A of Real Property Law § 210-218; RPL § 231-c.
2. RPL § 213.
3. RPL § 214 (1).
4. RPL § 214 (2).
5. RPL § 214 (5).
6. RPL § 214 (6).
7. RPL § 214 (7).
8. RPL § 214 (8).
9. RPL § 214 (9); Gen Oblig. Law §§ 7-108 (4), (5).
10. RPL § 214 (10).
11. RPL § 214 (11); RPL § 293.
12. RPL § 214 (12); Multiple Dwelling Law § 4(9).
13. RPL § 214 (13).
14. RPL § 214 (14).
15. RPL § 214 (15); (above $5,846 for a studio; $6,005 for a one-bedroom; $6,742 for a two-bedroom; and $8,413 for a three-bedroom).
16. Section 3 of Good Cause Eviction Notice; RPL § 231-c, defined as an increase over the prior year that is greater than the lower of a) 5% plus the annual percentage charge in the CPI for urban consumers published by the U.S. Bureau of Labor Statistics for the region where the unit is located, (this would be a total of 8.82% as of April 20, 2024) or b) 10%.
17. RPL § 214 (3).
18. RPL § 214 (4).
19. RPL § 216 (1) (a); see supra note 16.
20. RPL § 216 (1) (b).
21. RPL § 216 (1) (c).
22. RPL § 216 (1) (d).
23. RPL § 216 (1) (e).
24. RPL § 216 (1) (f).
25. RPL § 216 (1)(g).
26. RPL § 216 (1)(h).
27. RPL § 216 (1)(i).
28. RPL § 216 (1)(j).
29. RPL § 218.
30. RPL § 217.

Jeff Morgenstern maintains an office in Carle Place, where he concentrates in bankruptcy, creditor's rights, and commercial and real estate transactions and litigation. He is an editor of the *Nassau Lawyer*. Jeff can be contacted at jmorgenstern78@gmail.com.

Meet NCBA Corporate Partners

The Nassau County Bar Association's Corporate Partnership Program connects local businesses with Long Island's top legal professionals. Corporate Partners are committed to providing NCBA Members with valuable products and services they need to succeed. In the past year, two new companies have joined the NCBA as Corporate Partners—**Complete Advisors and Pollet Associates, Ltd**.

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Pollet Associates is a real property appraisal, valuation and land-use consultancy firm concentrating on the New York metropolitan market. Their services are tailored towards attorneys, with an eye toward legal support services regarding real property, whether litigation or contentious circumstances, estates, or other matters. They thrive on complex and complicated valuation scenarios and look forward to delving into solving complex real property valuation situations. For more information, visit www.polletassociates.com or contact Leigh Pollet at (516) 476-3185 or Appraze111@gmail.com.

In addition to the two newest additions, eight longstanding Corporate Partners continue their commitment to providing top-quality services to NCBA Members.

Abstracts, Incorporated is a leading title insurance company that has proudly delivered comprehensive title insurance to a wealth of attorneys, lenders, builders, and developers for over 40 years. Dedicated to a strong sense of industry ethics and excellence, Abstracts has remained in the forefront of the title business for decades. By finding the perfect blend of new, cutting-edge technology with efficient, accurate service, Abstracts has continued to maintain a wealth of long-standing repeat customers and is proud to offer services to NCBA Members. For more information, visit www.abstractsinc.com or contact Sal Turano at (516) 683-1000 ext. 223 or sturano@abstractsinc.com.

IT Group NY is a managed service provider and full-service IT company. Its team of highly qualified professionals can assess client needs and effectively implement software and hardware solutions and network design with training and support, leaving clients to focus on what matters to them—their business. From support and rescue to scheduled maintenance, IT Group has all the bases covered and can offer in-depth analysis to ensure client data is secure and protected, and that all systems are running efficiently. And, whether it's an on-site visit for a hardware upgrade, or an emergency remote support session, IT Group techs are always ready to assist right away. For more information, visit itgroup-ny.com or contact Adam Schultz at (631) 358-5030 or adam@itgroup-ny.com.

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WE CARE

Thanksgiving

BASKET DONATIONS

Each year, the WE CARE Fund provides 200 boxed Thanksgiving dinners with all the trimmings to be delivered to local families in need on Thanksgiving.

Please consider donating $125 to help WE CARE provide two dinners to families in need this year.

To make a donation or for more information, contact Emma Grieco at 516.747.4071 or egrieco@nassaubar.org

FOCUS: LITIGATION

Dungeons & Depositions: Insights for Lawyers from a Role-Playing Game

Christopher J. DelliCarpini

Twenty twenty-four is the fiftieth anniversary of Dungeons & Dragons, a game whose cultural impact cannot be overstated.[1] Though a prime suspect in the "Satanic Panic" of the 1980s,[2] D&D's first generation of players went on to shape the entertainment industry.[3] Today, D&D's influence is evident in every book, film, and TV show in the "fantasy" genre, as well as every video game that lets you "level up" and "save your character."[4]

Amazingly, it appears that no one has examined D&D's potential contribution to the practice of law. It's not like there aren't generations of lawyers who grew up adventuring on graph paper with those oddly-shaped dice.[5] And in a profession whose practitioners are trained to reason from precedent, a new perspective could spark some welcome innovation.

In fact, D&D can help us in one particular litigation institution: the deposition. The commonalities may seem superficial, but a deeper look can help us get more out of depositions by better understanding the roles of attorney and witness.

The Deposition as A Role-Playing Game

What made D&D unique in 1974 was that it is not a board game but a role-playing game. Players do not move generic tokens but act out the roles of distinct player-characters ("PCs"). They adventure through a world narrated by the Dungeon Master ("DM"), who plays the roles of every monster and non-player character ("NPC") that the heroes encounter. Working from often extensive notes or a store-bought adventure, the DM narrates what the PCs see each turn. Each player then declares what their PCs will do, and the consequences are determined by a roll of the dice. The back-and-forth continues until the PCs complete their quest or die trying.

Some similarities between a role-playing game and a deposition are obvious. The attorney conducting a deposition, reviewing their outline or the hot docs while questioning the witness in a conference room, looks much like a DM running an adventure for their friends at the dining room table.

And like D&D, the mode of a deposition is conversational and somewhat improvisational. The DM starts with a written plan, but as soon as the PCs start reacting to the world they've been given, they determine where the DM takes things next. Similarly in the deposition, we start with some outline of questions we think need to be asked, but the witness' answers may take us in a new direction.

You might also think that depositions and role-playing games are both adversarial in nature, if not hostile. After all, we often depose adverse parties, who may not want to give us the answers that we seek. And if the DM plays the role of every dragon hoarding a pile of gold and every band of goblins waiting in ambush, then he must be competing with the PCs, right?

But newcomers to D&D soon learn that the game is a collaborative endeavor, the DM and the PCs sharing one goal: to tell a good story. Any DM could immediately destroy the PCs with an overpowering monster, but that would just ruin the evening. Done right, RPGs are interactive storytelling, an improvisational back-and-forth creating a story that ultimately surprises and entertains everyone.[6]

Likewise, a deposition can be as collaborative as an evening of D&D if the attorney and witness recognize a common goal: to get the witness' side of the story on paper—and in admissible form.

Of course, each of us taking a deposition would prefer that the witness tell our story. But trying to force a witness to confirm our theory of the case often results in a contentious transcript, full of colloquy and clarifications and little clean testimony of any value. That's like a DM who leads the PCs into a Total Party Kill ("TPK") but triggers a table of complaining players, some of whom may not show up next week.

But if we genuinely seek the witness' complete version of events, we can get more out of a deposition and get it much more easily. However credible the witness may be, at least we will lock in their story. And if you follow up on their answers, you might learn something you never realized from the records. Also, when attorney and witness work together, the tone of the deposition shifts; they will almost help you tell their tale.

Take Depositions Like A Dungeon Master

This conversational tone, however, doesn't mean that we simply accept whatever the witness tells us, any more than a DM would let the PCs waltz through the dungeon without facing almost-certain death at every turn.

A good DM lays out monsters and treasure with an eye to presenting a particularly enjoyable challenge to the players coming over tonight. Likewise an attorney should prepare questions to challenge the particular witness appearing at deposition. This requires not just an understanding of the record but of the witness, what they could and should know about the facts and how their testimony could help or hurt our case.

Consider the deposition of a defendant physician in a medical malpractice case. No witness is better qualified and more motivated to dispute the plaintiff's theory of the case. Trying to force them to admit anything will be as contentious as any cross-examination—and without a judge to rule on the inevitable objections. But this witness will gladly give you as detailed a defense of their actions as you let them. And if you do, then the transcript will be a roadmap to the defense theory of the case—which you and your own expert can then break down at your leisure, and to which you can hold the defendant at trial.

Therefore, just as a D&D adventure is drawn up with some idea of where the PCs might want to go, we should write our deposition outlines with an eye toward what this particular witness wants to tell us. We might start with the marked pleading to outline the points to be proven, as a DM might start with a map of the haunted castle. Then we consider the witness' role in events, what we can expect them to know about, laying out questions like a DM setting traps.

We also shape our questions mindful where the witness might dispute our presumptions, just like the DM tries to foresee the players' possible reactions to what lurks in each chamber. Indeed, in planning these questions we can also anticipate

challenges to the expected testimony. But just like the DM placing monsters to give the players a good fight, we plan those questions to bring out the witness' testimony in full detail, to have as much of it in the transcript as possible for trial.

Of course, witnesses are full of surprises, but the DM's techniques for handling unpredictable players can help us with unpredictable or uncooperative witnesses. DMs draw up the encounters for each adventure with a general idea of how the PCs will progress through them. But when the PCs take a different path, then the DM must improvise the steps that will somehow get them to the next encounter, perhaps with consequences nobody foresaw. So too, when the witness testifies to unexpected facts, we must have the focus and flexibility to explore that testimony in detail, and to challenge it thoroughly, until it is clearly in the record before getting back to our outline.

D&D also offers insights on how to deal with the obstreperous or obstructive witness, as well as the opposing counsel who volleys speaking objections just when the answers are getting good. DMs occasionally face the "rules lawyer," the player who is thoroughly versed in the game's rulebooks and eager to argue just how a particular encounter should go, inevitably in their character's favor.

But like the DM always controls the game-universe, so the attorney always controls the questions. Often the DM often can give the rules lawyer what they deserve by going along with their scheme and creating consequences later on that keep the game moving and the DM in charge. Similarly, the attorney can handle the contentious witness by letting them talk and listening to where their testimony should be challenged. Then the attorney follows up with questions that both illuminate the testimony and show that we are listening. We can similarly respond to speaking objections by listening for what testimony the attorney is trying to stifle and, hopefully, rephrase our question to address the objection while eliciting the testimony.

This is No Game

This paradigm may seem revolutionary, even subversive, to lawyers who have spent their careers conducting depositions in search of their Perry Mason moment.[7] And there are limitations to its applicability.

In some depositions, our goal is not to get the witness' side of the story but to confront them with ours. Going back to the medical-malpractice example, the plaintiff's attorney may enter the deposition with their theory of the case already soundly supported by discovery and their own expert's opinion. In that case, the best approach may be to use the deposition to give the defendant a full taste of the cross-examination they can expect at trial. Done right, this tactic can encourage a defendant to settle before repeating the ordeal in front of a jury.

Even in this kind of deposition, however, there is merit in understanding the witness' "character," the role that they play in the fact pattern, and in focusing on their answers as well as our questions. A witness may fight to defend themselves, contrary to the obvious direction of the questioning. Then, just like a DM placing a monster to block a path he did not foresee the PCs taking, the attorney would be wise to listen to the testimony, follow up until that defense is run to the ground, and then lead the witness back into your outline.

More often than not, though, the best that an attorney can hope for from a deposition is a thorough understanding of the witness' version of events, the better to rebut it at trial. In that case, then the attorney should try to understand the role that the witness plays in the litigation, and should structure the deposition to let them play their role to the hilt.

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3. Gilsdorf, Ethan. *A Game as Literary Tutorial.* N. Y. Times (July 13, 2014).
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FOCUS: MUNICIPAL LAW

Is My Tree Your Problem?

Joshua Brookstein

Trees on Long Island are a big deal. They are vital for our survival and essential to the character of our neighborhoods. Trees are also the source of contention. Disputes over the picking of overhanging fruit, impacts of sprawling branches and roots, the cleanup of leaves and related debris, and the time and costs associated therewith, are common issues that arise between neighbors.

So, if a neighbor complains about one of your trees, are you, as the tree owner, responsible for redressing their grievances? Or is your tree your neighbor's problem? What is the legal answer? What is the neighborly answer? Are they one in the same? How would Larry David handle this situation in an episode of Curb Your Enthusiasm?

Scenario 1: Harry and Larry are next door neighbors. Harry has a lemon tree whose trunk is located wholly on his property. The branches extend over Harry's property line into Larry's yard. From time-to-time lemons fall off the tree onto Larry's property which Larry keeps and enjoys. The lemon tree becomes ill and must be removed. The cost to remove the tree is $2,700 and Harry asks Larry to split the cost of removal.

Is Larry obligated to split the removal cost? Does the fact that Larry took the lemons or never complained about the encroaching tree matter? Was Larry even allowed to eat the lemons without Harry's permission? If Larry ultimately balks at the contribution request, is Harry stuck footing the entire bill? Check out Episode 113 of Curb Your Enthusiasm "Vertical Drop, Horizontal Tug" to see how Larry David handled the situation.

Scenario 2: Barry and Carry are neighbors. Following a rain and windstorm, Barry notices that a large branch has fallen onto his property. Barry looks up and determines that the invading branch came from Carry's tree. Barry asks Carry to remove the branch.

Does Carry have to bear the time and expense to remove the branch? Does it matter that the branch was hanging over Barry's property for years before it fell to the ground? Does it matter that the tree existed before either Barry or Carry bought their properties? Does it matter that a storm caused the branch to fall?

The first question in a tree dispute is usually a straightforward one. Who owns the tree? In New York, a tree is owned by the person upon whose property the trunk wholly resides, even if the branches or roots of the tree extend into a neighboring property. If the trunk straddles the property line of two landowners, they are co-owners and tenants-in-common of the tree. See *Dubois v. Beaver*[1] and *Hoffman v. Armstrong*.[2]

Once ownership is established, the next question is usually what can be done about the underlying complaint. This is also usually a straightforward question to answer. For example, fallen branches or leaves will need to be gathered and put into bags for garbage collection. Encroaching roots will need to be cut and removed from the property.

The next questions are often the difficult ones. Who *must* pay for the clean-up? Who *should* pay for the clean-up?

Under most circumstances, falling leaves and tree branches are the responsibility of the property owner upon which such leaves and branches lie. However, the fact that you don't own the offending tree does not render you powerless to mitigate how a problem tree impacts your property.

An aggrieved neighbor should first ask the tree owners to address the displeasing condition. If the tree owner fails to remedy the situation, the complaining neighbor can engage in self-help, or in other words, fix the condition themselves. This is known as the "right of self-help in the first instance."

Beware, while a complaining neighbor may resort to self-help, they must be sure not to injure the offending tree when doing so. See *Turner v. Coppola*.[3]

Take Care of Your Tree or I Will See You in Court! Well… Maybe.

In New York, courts have examined three general types of tree disputes: trespass, negligence, and nuisance.

Under a trespass theory, one's person or property must intrude on the property of another through an intentional or volitional act. In tree cases, unless a tree owner planted the tree with the intent for the tree to enter their neighbor's property, New York courts have generally ruled that the tree owner lacks the requisite intent to be held liable for trespass if the tree falls or naturally grows onto, into, under, or over the property of their neighbor. See, e.g., *Ivancic v. Olmstead*,[4] *1212 Ocean Ave. Housing Development Corp. v. Brunatti*,[5] *and Loggia v. Grobe*.[6]

Under a negligence theory, a complaining neighbor must demonstrate that the offending tree owner ignored a tree's obvious state of decay or damage, and the obvious potential that the tree might fall and cause foreseeable damage. See, e.g., *Ivancic v. Olmstead*,[7] *Gibson v. Denton*.[8] The duty of care required by a property owner over their trees is that the decay or damage to a tree must be readily observable by a reasonably diligent person in similar circumstances. The property owner does not have the duty to regularly inspect their trees for decay and damage.[9] Therefore, unless a tree is obviously decayed or damaged and at risk of falling, the landowner will likely not be held liable if one of their trees falls or naturally encroaches, in the case of roots or overhanging branches, into their neighbor's property.

Under a nuisance theory, an aggrieved neighbor must demonstrate that the tree owner caused an interference with the use and enjoyment of the complaining neighbor's land, and that such interference amounted to an injury or "sensible damage". A natural act, such as the growth of a healthy tree, or an "act of God," such as a storm, which causes a tree limb or its leaves to land on a neighbor's land has generally been found not to rise to the level of real, sensible damage. A complaining neighbor's only remedy is that of self-help. See, e.g., *Turner v. Coppola*.[10]

In *Turner*, the Court held, "… one whose land is intruded upon by tree branches and leaves, which are not poisonous or inherently injurious to the extent of sensible or substantial damages, or of reasonable foreseeability, has no cause of action against adjoining landowners of such trees, but may protect herself therefrom by reasonable cutting of branches to the extent that they invade her property and no more."[11] How would Harry, Larry, Barry, and Carry fare under New York law?

Harry and Larry

Larry may refuse to contribute to the removal of Harry's lemon tree. If Larry, for whatever reason, be it a dislike of the appearance, taste, or shape of Harry's lemons, or for any other reason that causes Larry to be annoyed at the presence of the lemons on his property, could request that Harry trim back the branches of the tree to mitigate any disturbance to his property. If Harry refuses to remedy the situation to Larry's satisfaction, Larry may engage in self-help and trim the tree himself. The cost in doing so, however, will fall solely on Larry. Larry must also be sure not to injure the tree in the process.

However, assuming that the tree remains, and that Larry wants the lemons, he is not legally entitled to keep them even though they fell onto his property. "A person upon whose land a tree wholly stands is the owner of the whole thereof, and is entitled to all its fruit, notwithstanding some of its branches overhang the lands of another." *Hoffman v. Armstrong*.[12] Harry has two choices. He may either elect to abandon the fruit or elect to retrieve the fruit and remedy any damage caused to Larry's property. In *Sheldon v. Sherman*, the Court of Appeals opined that "[o]ne whose property is borne upon the lands of another by inevitable accident, without his fault or negligence, may elect to either abandon the property, in which case he is not liable to the owner of such lands for any injury occasioned by it; or to reclaim it, in which latter case he must make good to such owner the damages so occasioned.[13]

Barry and Carry

Carry would be obligated to remove the branch if Barry established either that (a) Carry planted the tree with the intent that the branch would fall into Barry's yard and cause injury to the property (trespass), (b) that the offending tree

was decayed, and that Carry knew of the decayed state of the tree, and knew of the foreseeable likelihood that the branch would fall and cause injury to Barry's property (negligence), or (c) that the offending branch deprived Barry of the use of his property and caused a real "sensible" damage to Barry's property (nuisance).

Here, Barry would have difficulty establishing any of the three causes of action recognized by New York courts. The subject tree was planted long before either Barry or Carry purchased their properties, there is no evidence that the subject tree was decayed and that Carry knew of any such decay, and there is no evidence that the offending branch deprived Barry of the use of his property and caused sensible damage.

No case or statute in New York delivers a clear rule on how to be a good neighbor. Some may argue that Larry should chip in to remove the lemon tree. Some may argue that Barry should have just removed the branch without saying a word to Carry. At the end of the day, unless someone moves, you must live next to your neighbor, and positive relationships foster happy places to live. So, if you encounter a tree dispute, proceed neighborly.

1. 25 N.Y. 123, 126-27 (1862).
2. 48 NY 201, 203 (1872).
3. *1212 Ocean Ave. Housing Development Corp. v. Brunatti*, 102 Misc. 2d 1043, 1046 (Supr. Ct. Nassau Cnty. 1980), *aff'd* 78 A.D.2d 781 (2d Dept. 1980).
4. 66 N.Y.2d 349, 352 (1985).
5. 50 A.D.3d 1110, 1112 (2d Dept. 2008).
6. 128 Misc. 2d 973, 974 (Suffolk Cnty. District Ct. 1985).
7. 66 N.Y.2d 349, 350-51 (1985).
8. 4 A.D. 198, 201 (3d Dept. 1896).
9. 66 N.Y.2d 349, 350-51 (1985).
10. 102 Misc. 2d 1043, 1046 (Supr. Ct. Nassau Cnty. 1980), *aff'd* 78 A.D.2d 781 (2d Dept. 1980).
11. *Id* at 1047.
12. 48 NY 201, 204 (1872).
13. 42 N.Y. 484, 484 (1870).

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Mickey Harley, III, a law clerk at Sahn Ward Braff Coschignano PLLC, assisted with the writing of this article.

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NASSAU ACADEMY OF LAW

NOVEMBER IS ADOPTION AWARENESS MONTH

November 6 (Hybrid)

2024 Criminal Law Update
1:00PM—4:00PM
With Suffolk Academy of Law, NCBA Criminal Court Law & Procedure Committee, and Nassau County Assigned Defender Plan
2.5 CLE Credits in Professional Practice and .5 CLE Credit in Ethics & Professionalism
NCBA Member FREE; Non-Member Attorney $105

This annual favorite addresses developments in federal and state case law and recent statutory changes. In-person attendance recommended.

Guest Speakers:
Hon. Mark D. Cohen (Ret), Touro University Jacob D. Fuchsberg Law Center; **Kent Moston, Esq.,** Legal Aid Society of Suffolk County; and Moderator **Robert M. Nigro, Esq.,** Nassau County Assigned Counsel Defender Plan

November 7 (Hybrid)

Dean's Hour: Is Private Adoption Different from an Agency Adoption?
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

There are fundamental differences in the laws between private and agency adoptions. Learn certification as a qualified adoptive parent; how an adoptive parent matches with an expectant parent who wants to place their child for adoption; legal issues in private adoption; and how to comply with the Interstate Compact of the Placement of Children and Indian Child Welfare Act.

Guest Speaker:
Faith Getz Rousso, Esq., The Law Office of Faith Getz Rousso, P.C., and Moderator **Tanya Mir, Esq.,** Deputy County Attorney and Chair, NCBA Family Court Law, Procedure & Adoption Committee

November 13 (Hybrid)

Dean's Hour: Marvin Gaye
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

The public image of Marvin Gaye was the epitome of silky, smooth soul; off-stage, his life was filled with a litany of soul-destroying traumas.

Guest Speaker:
Rudy Carmenaty, Esq., Deputy Commissioner of the Nassau County Department of Social Services and the Department of Human Services

November 13 (In Person Only)

The Inter-Relation Between Mental Illness and Custody Determinations and Childhood Mental Diagnoses
With the NCBA Matrimonial Law Committee and Family Court Law, Procedure & Adoption Committee
5:30PM—6:30PM Cocktail Hour
6:30PM—8:00PM Dinner and CLE Program
.5 CLE Credit in Professional Practice, .5 Ethics, .5 Diversity, Inclusion and Elimination of Bias
NCBA Member $70; Non-Member Attorney $130

Explore how different mental health illness diagnoses affect a party's ability to interact in custody arrangements, situational v. clinical illness, personality disorders and childhood illnesses.

Guest Speakers:
Hon. Jeffrey A. Goodstein, Supervising Judge of Nassau County Supreme Court, and Matrimonial Part; **Dr. Pascale Chrisphonte,** Asst. Professor of Psychiatry, Zucker School of Medicine at Hofstra and Northwell Child and Adolescent Psychiatrist; and **Hon. Cheryl A. Joseph,** Supervising Judge, Matrimonial Matters, Suffolk County

November 15 (Hybrid)

Dean's Hour: Cultural Considerations for Today's Legal Practitioner—How Can We Better Serve the Needs of a Diverse Client Population
12:30PM
1.0 CLE Credit in Diversity, Inclusion & Elimination of Bias
NCBA Member FREE; Non-Member Attorney $35

As Nassau County grows more diverse, it is important that attorneys work to bring greater cultural awareness to their legal representation. Practitioners need to serve their clients with a better understanding of the different perspectives, cultural norms, and the ways in which diverse backgrounds may impact how we advance our clients' interests.

Guest Speakers:
Johanna C. David, Esq., Forchelli Deegan Terrana; **Christine Fung, Esq.,** Russo Law Group, P.C.**; Jacqueline Harounian, Esq.**, Wisselman Harounian Family Law, P.C.; and **Concetta G. Spirio, Esq.,** solo practitioner

November 18 (Hybrid)

Dean's Hour: Time to Change the Batteries—A Look at the Challenges Facing the Siting of Battery Storage
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

PROGRAM CALENDAR

Several New York municipalities have enacted moratoriums on battery energy storage systems (BESS) siting applications due to safety concerns. The moratoriums' purpose is to assess fire risks and to ensure emergency responders are adequately trained prior to municipal action on siting approvals.

Guest Speaker:
John L. Parker, Esq., Sahn Ward Braff Koblenz Coschignano PLLC, and Chair, NCBA Environmental Law Committee

November 19 (Hybrid)

Dean's Hour: Better Case Outcomes—Benefits of an Interdisciplinary Defense Practice
With the Nassau County Assigned Defender Plan
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

This session focuses on an interdisciplinary approach to criminal defense practice throughout the life of a case. Through case examples and social science research, the panel illustrates how pre-trial mitigation and investigation produce better outcomes in trial court, on appeal, in CPL 440 litigation, and in DVSJ A advocacy.

Guest Speakers:
Kingston Farady, NYS Office of Indigent Legal Services (ILS) Statewide Appellate Support Center; **Elizabeth Isaacs,** Supervising Appellate Attorney, ILS Statewide Appellate Support Center; and **Ketienne Telemaque,** ILS Criminal Defense Representation Counsel

November 19 (Hybrid)

The Life and Trials of Dr. Rubin "The Hurricane" Carter—From Middleweight Boxer to Godfather of the Wrongful Convection Movement
With the Long Island Hispanic Bar Association
5:00PM Dinner; 6:00PM—7:30PM CLE Program
1.5 CLE Credits in Diversity, Inclusion & Elimination of Bias
NCBA and LIHBA Members FREE; Non-Member Attorney $50

Dr. Rubin "The Hurricane" Carter was a contender for the middleweight crown when in 1966 he and a friend John Artis were wrongfully convicted of a triple homicide in Paterson, NJ, finally getting exonerated in 1985.

Guest Speakers:
Kenneth Klonsky, Director of Innocence International and author of books on Carter; **David McCallum,** exonerated after spending 29 years in prison; and Moderator **Oscar Michelen, Esq**., McCallum's lawyer

November 21 (Hybrid)

Dean's Hour: Extreme Emotional Disturbance Defense
With the Nassau County Assigned Defender Plan
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

The panel discusses the possibility of psych defense: facts regarding the crime; conversations with client and client's family; client history (school, employment, mental illness); and background.

Guest Speakers:
Joe Scroppo, PhD, JD, forensic psychologist and Asst. Clinical Professor of Psychiatry at Hofstra University School of Medicine, and **Daniel W. Russo, Esq.,** Law Firm of Daniel W. Russo P.C. and NCBA President

November 22 (Hybrid)

Dean's Hour: Advanced Writing Tips for Appellate Attorneys—Part 1 of 3-Part Appellate Writing Workshop
12:30PM
1.0 CLE Credit in Professional Practice
NCBA Member FREE; Non-Member Attorney $35

Key topics include identifying and eliminating ambiguity, achieving clarity, removing unnecessary clutter, and avoiding assumptions.

Guest Speaker
Prof. Ann L. Nowak, Esq., Director, Legal Writing Center at Touro Law Center

December 3 (Hybrid)

Becoming a Foster Care or Adoptive Parent to Children In Foster Care
With the NCBA Community Relations & Public Education and the Family Court Law, Procedure and Adoption Committees
5:30PM—7:30PM
2.0 CLE Credits in Professional Practice
FREE for the Public and All Attorneys

This program outlines how to become a foster care or adoptive parent, and a legal overview of foster parents' rights and responsibilities. This is a community program open to the public and attorneys.

Guest Speakers:
Hon. Robin M. Kent, Nassau County Family Court; **Faith Getz Rousso, Esq.,** The Law Office of Faith Getz Rousso, P.C.; and Moderator **Charlene J. Thompson, Esq.,** Deputy County Attorney Office, Nassau County Attorney, Family Court Bureau

FOCUS: LAW AND AMERICAN CULTURE

Seres Humanos Aqui: *Hernández v Texas* and the Quest for Legal Recognition

Rudy Carmenaty

Edna, Texas in 1954 was the last place on earth you think would give rise to a ruling from the United States Supreme Court. Yet from this murky backwater, came a unanimous opinion written by Chief Justice Earl Warren which resonated with Mexican Americans in Edna and beyond.

On the surface, *Hernández v Texas* concerns the racial/ethnic composition of juries, grand and petit, in criminal proceedings. But it was more than that. Thanks to this case, people who had been virtually forgotten would begin to transcend the legal strictures that animated their lives.

This momentous achievement, surprisingly enough, began with a violent barroom fight. On August 4, 1951, Caetano Espinosa got into a quarrel with Pedro Hernández at Chencho Sánchez's Café.[1] A humiliated Pedro left only to return with a rifle. Hernández shot Espinosa, killing him without batting an eye.

The particulars of the underlying crime were crystal clear. For the prosecution, the matter was open-and-shut. There was no outcry that Hernández was being railroaded. He had earned the public's enmity by killing Espinosa, who was well-liked in-and-around Edna.

Hernández, for his part, felt justified. After all, Espinosa had insulted him. That should have been the end of the story. Thankfully, it wasn't. A hundred and forty miles away in San Antonio, there was an attorney who realized the implications and the possibilities inherent in Pedro's situation.

Gustavo "Gus" García was something of a local legend, having earned his reputation advocating on behalf of Latinos in Texas. He cut quite a dashing figure in legal circles. Garcia longed for the opportunity to bring before a court the injustices confronting his people.

Garcia found his cause célèbre by defending a murderer, certainly not the most endearing of clients. All the same, Hernández' culpability had little impact on García's thinking. Garcia wanted to secure the protections of the 14th Amendment for his community and have their plight recognized at last.

A century earlier, the Treaty of Guadalupe Hidalgo granted citizenship to former Mexican nationals in the lands captured by the United States after the Mexican War (1846-1848). By every measure, these new American citizens and their descendants were never accepted as equals before the law.

Mexican Americans, even if native born, were always thought of, and referred to, as "Mexicans." With their position in the social hierarchy fixed, they lived on the fringes of the dominant White society. This distinction resulted in the perpetuation of a caste system in Texas and the American Southwest.

And what made it all the more galling, was that "Mexicans" were classified as "White" for official purposes. This would make for convenient, though often duplicitous, justifications by the authorities when they explained their disparate treatment of Hernández.

Carlos Cadena, one of Hernández's appellate lawyers, succinctly summarized the situation: "about the only time that so-called 'Mexicans', many of them Texans for seven generations, are covered with the Caucasian cloak is when it serves the ends of those who would shamelessly deny this large segment of the Texas population their fundamental rights."[2]

García knew Hernández would be indicted and tried by a White jury. Texas deliberately rejected "Mexicans" for jury service. The trial was scheduled for October at the Jackson County Courthouse. At a pre-trial hearing, García moved to quash the indictment due to the grand jury's makeup.

The prosecution presented five commissioners who testified the members of the grand jury were those deemed best qualified.[3] As the U.S. Supreme Court later observed, the scheme employed by Jackson, and seventy other Texas counties, was not necessarily discriminatory on its face but was so in its application.[4]

In denying the motion, the judge discounted evidence of bias in either the jury selection process or in Edna itself. All the more disingenuous since Edna was a "sundown town," which meant it would behoove Garcia to return to San Antonio once each day's court proceedings concluded for fear of his own safety.[5]

This was a big case, and García turned to and was joined at the defense table by John J. "Johnny" Herrera from Houston. Herrera brought with him an attorney just one year out of law school, James De Anda. Both men played a major role at the trial. It was De Anda who handled the statistical research that proved so vital.

The defense argued Hernández had been prejudiced by the lack of Mexican Americans from the pool of prospective jurors. This salient fact denied him equal protection. The County methodically denied persons of Mexican descent the opportunity to partake on a grand or petit jury.

At the trial, it was conclusively demonstrated that Mexican Americans or, more precisely, persons with Hispanic surnames comprised 14% of the aggregate population; 11% of men over age 21; and were 6% to 7% of all taxpayers.[6] They were citizens and county residents who, absent their ethnicity, were qualified.

Nevertheless, amid a total of 6,000 men called to serve as jurors, none who possessed Spanish surnames were chosen by Jackson County for more than a quarter of a century.[7] Jury service was the exclusive province of men in Texas, as the state did not permit women to participate on juries until 1954.

The attorneys also exposed a persistent pattern of inequality offering evidence that persons in Edna habitually distinguish among "Whites" and "Mexicans" in their nomenclature, customs, and activities. In fact, the attorneys representing Hernández were subject to the same indignities as their client while in town.

Most telling was the courthouse where the prosecution was conducted. When Herrera sought use of the restroom, he discovered the lavatories were segregated. He was barred from using a bathroom inside the building. A janitor told him in Spanish that if he had to relieve himself, he needed to go outdoors.

There Herrera found an outhouse with a sign which read "Colored Men, Hombres Aqui." "Hombres Aqui" translates into "Men Here." The courthouse maintained separate facilities. Lawyers for Texas would, at trial and subsequently, argue that Mexican Americans were considered White.[8]

Convicted of murder, the judge sentenced Hernández to life in prison.

The issue of pursuing an appeal was fraught with peril. If his appeal succeeded, Hernández could have faced a death sentence if retried and found guilty once again. Told of the risk, Hernández elected to go forward.

García called on Carlos Cadena to prepare the appellate briefs. The defense team turned their attention to the Texas Court of Criminal Appeals, the tribunal of last resort for all criminal matters in the state. It would be an uphill battle as they stood little chance of obtaining a reversal in Austin.

The Texas Court of Criminal Appeals upheld the conviction because Mexican Americans "are not a separate race but are white people of Spanish descent."[9] Accordingly, discrimination was not evident in the organization or the composition of the grand or petit juries.

Since the Civil War, American legal doctrine recognized two racial categories—"White" and "Negro."[10] Mexican Americans were not Negroes and both sides acknowledged that they were White. This was how Mexican Americans fit into this binary framework.

The Supreme Court decided in *Strauder v West Virginia*, that laws which excluded Blacks from juries violated the equal protection clause.[11] Mexican Americans were not covered under this rule. The Texas Court stated that to grant the relief sought would confer on "Mexicans" a "special privilege."[12]

Going further, the opinion noted that no "Mexican" had hitherto contested this racial classification of being White.[13] This was a calculated reproach touching upon a raw nerve. In so many words, the Court was cautioning that to go further could place the status of Mexican Americans as "White" in question. *Hernández v Texas* was heard when the rubric of "Separate but Equal" governed. A defeat at the U.S. Supreme Court could lead to another *Plessy v Fergusson*, creating a precedent that would formally sanction Mexican Americans as second-class citizens much as the Court had already done in 1896 to African Americans.[14]

Garcia and Cadena's strategy would be twofold: 1) prove Mexican Americans were systematically excluded from jury service and 2) that this exclusion was part of a pattern of discrimination. The thrust of their argument was that Mexican Americans were a "class apart" or "other white" if you will.[15]

García and Cadena filed a writ of certiorari requesting a review from the Texas Court of Criminal Appeals. It is always a long shot whether the U.S. Supreme Court will consider a petition. Factoring against them, their submission was made one day past the Court's official deadline.[16] As well, the briefs tendered were not bound and printed as required but were type written.[17] These flaws, which the Court overlooked, were taken as a tell-tale sign that García and company were out of their element. Which they were, as none had ever argued a case outside of Texas.

The question presented was grounded in the 14th Amendment's equal protection clause. Were Hernández' constitutional rights violated because he was indicted and convicted by grand and petit juries, respectively, wherein all persons from his ethnic group were systematically excluded from participation?

The state of Texas countered the 14th Amendment covered only Whites and Negroes, and Mexican Americans were White. No discrimination had taken place since Whites made up both the grand and petit juries. The state did however stipulate that no man with a Spanish surname had served on any jury.

Still this fact, the state contended, was a "coincidence, not a pattern of attitude and behavior."[18] The Supreme Court tartly dismissed this reasoning: "it taxes our credulity to say that mere chance resulted in their being no members of this class among the over six thousand jurors called in the past twenty-five years."[19]

Oral arguments were set for January 11, 1954. The night before, García went on a bender and got hammered. He had to be sobered up to appear before the Court. Garcia struggled with alcoholism. He also suffered from mental health issues. Gus Garcia would die ten years later, consumed by both ailments at age forty-eight.

García and Cadena became the first Mexican Americans to argue before the Supreme Court, Herrera assisted from the counsel table.[20] Cadena began fielding questions from the justices, all purportedly cultured men. Yet most had never heard of Mexican Americans. The justices asked if they were citizens?[21] Did they speak English?[22]

Felix Frankfurter even queried: "They call them greasers down there, don't they?"[23] Spurred by this line of questioning, García unexpectedly reclaimed his composure. He began to speak poignantly about the lives of Mexican Americans. Garcia gave an account that was nothing short of riveting.

Garcia's gifts and vulnerabilities were on full display that day. He brought to life a history that had been as slighted as the people he was advocating for. Garcia was somehow allowed an extra sixteen minutes to flesh-out his arguments, a prospect not accorded Thurgood Marshall when he argued *Brown v Board of Education*.[24]

Chief Justice Warren ordered the conviction reversed. Writing for the Court, he held Hernández had "the right to be indicted and tried by juries from which all members of his class are not systematically excluded."[25] The barring of eligible jurors due to national origin ran afoul of the equal protection clause.

Warren rejects the racial duopoly of "White" or "Negro" which was the operative paradigm. The Court determined that in this given instance, tangible differences according to class existed in the way that Whites and Mexican Americans were treated and that these disparities were engendered by the state of Texas.

The Chief Justice maintained "[w]hen the existence of a distinct class is demonstrated, and it is further shown that the laws, as written or as applied, single out that class for different treatment not based upon some reasonable classification, the guarantees of the Constitution have been violated."[26]

Warren's analysis is more prescient in *Hernández* than in *Brown*. He makes the implicit argument, quite fashionable today, that racism is a social construct based on how persons are treated. The ruling broadens the reach of the 14th Amendment to all those who have been marginalized whenever discrimination can be proven.

Hernández v Texas represents the culmination of the "other White" strategy as then utilized by Mexican American civil rights lawyers. Until superseded by *Cisneros v Corpus Christi ISD* in 1970, this case provided a linchpin that opened the doors of the federal courts to Latinos and others for the redress of grievances.[27]

Hernández v Texas also set a new rubric for picking representative juries. That no Mexican Americans had been chosen previously evidenced a violation of the Constitution. Juries should be comprised from all qualified persons, irrespective of their ethnic background.[28] By the same token, the decision concluded that the accused is not entitled to a jury that is obligated to contain individuals from their specific group. Equal protection is satisfied when the pool of prospective jurors does not systematically omit people from his/her particular class as was the established practice in Texas.

The matter was remanded back to Jackson County. A diverse grand jury proceeded to indict Hernández, and a petit jury, which contained Mexican American members, found him guilty for a second time. The difference in this trial was that his conviction resulted in a twenty-year sentence as opposed to life.

Hernández was paroled in 1960. After that, Pedro Hernández faded into obscurity. Nothing is known of his whereabouts thereafter. A fate which unfortunately awaited the decision that carries his name. *Hernández v Texas* would go unnoticed by historians, be ignored by legal commentators, and remains ostensibly forgotten.

So why is the decision not better known? Here are a few possible reasons:

1. The case was overshadowed by Brown, which came out two weeks later.
2. Hispanics were not a noticeable minority group in 1954.
3. An outdated racial dynamic based on being "White" and "a class apart."
4. Hernández, being a murderer, does not readily illicit empathy or sympathy.

Obscured by the passage of time, *Hernández v Texas* is at best a rarely evoked triumph lost in the 1950s. Considering its intrinsic merit as well as its symbolic value, it does deserve a better fate. Seventy years later, let us celebrate this Warren-era landmark and salute lawyers like Gus Garcia who made it all possible.

1. PBS, *A Class Apart Program Transcript* at https://www-tc.pbs.org"https://www-tc.pbs.org.
2. *Id.*
3. *Hernandez v Texas*, 347 U.S. 475.
4. *Id.*
5. PBS, *supra.*
6. *Hernandez v Texas, supra.*
7. *Id.*
8. PBS, *supra.*
9. *Hernandez v State of Texas,* 160 Tex.Crim. 72 (1952).
10. *Id.*
11. *See Strauder v West Virginia*, 100 U.S. 303 (1880).
12. *Hernandez v State of Texas, supra.*
13. *Id.*
14. See *Plessy v Ferguson*, 163 U.S. 537 (1896).
15. V. Carl Allsup, *Hernandez v State of Texas,* Texas State Historical Association (September 1, 1950 at https://www.tshaonline.org
16. PBS, *supra.*
17. *Id.*
18. Allsup, *supra.*
19. *Hernandez v Texas, supra.*
20. PBS, *supra.*
21. *Id.*
22. *Id.*
23. *Id.*
24. *Id.*
25. *Hernandez v Texas, supra.*
26. Id.
27. 324 F. Supp 599 (S.D. Texas 1970).
28. *Hernandez v Texas, supra.*

Rudy Carmenaty is Deputy Commissioner of the Nassau County Department of Social Services. He is the President-Elect of the Long Island Hispanic Bar Association. Rudy can be reached at Rudolph.Carmenaty@hhsnassaucountyny.us.

A Fireside Chat with the Hon. Rolando Acosta (Ret.)

Ira S. Slavit

The Nassau County Bar Association, its Diversity & Inclusion Committee, and the Long Island Hispanic Bar Association were honored to host former Presiding Justice of the Appellate Division, First Department, the Hon. Rolando T. Acosta, (Ret.), for a "fireside chat" on October 1, 2024. Justice Acosta, expertly guided by the questioning of Rudy Carmenaty, the Deputy Commissioner of the Nassau County Department of Social Services, spoke of the many highlights that comprise the Judge's remarkable life and a plethora of his career accomplishments.

Justice Acosta began the conversation by recounting his family's emigration from the Dominican Republic to the United States when he was 14 years old. Unable to speak a word of English upon his arrival, he was educated at Columbia College and the Columbia Law School. The Judge started his legal career at the Legal Aid Society, at the very same office that, when he was a child, had helped his family when his father had become ill, and they faced eviction. He went on to talk about his work in the New York City government, his ascension to the bench, and his twenty-five-year illustrious tenure as a jurist.

The early portion of the discussion touched upon Justice Acosta's youth as a baseball pitcher. Justice Acosta was an All-City Champion at Dewitt Clinton High School in the Bronx and All-Ivy League for three years at Columbia, winning back-to-back Ivy League titles. Justice Acosta said that when he was at Columbia, he won a few games against former New York Mets pitcher and current broadcaster Ron Darling, who at the time pitched for Yale. He proudly noted that Ron Darling sometimes refers to him on broadcasts as "this Dominican kid who's now a judge."

Turning more serious, Carmenaty asked the judge why he became a lawyer and not a major league pitcher. Justice Acosta explained that he became a lawyer because he wanted to be part of the empowerment of his community. He saw early on that most everyone in a position of power had a law degree. As such, he realized that in a society that lived under the rule of law, lawyers can influence the branches of government to make the policy decisions that are necessary to provide needed services to underserved communities.

Justice Acosta emphasized the utmost importance of maintaining the credibility, transparency, and accountability of our courts. He lamented that in a recent poll only twenty-five percent of the American public responded that they believed the U.S. Supreme Court is credible. He stated the need for diversity on the bench, because when people can see themselves reflected in the judiciary, the court's credibility increases. The Judge eloquently expressed his admiration for the U.S. Constitution as being the bedrock of our democracy and warned against the eroding of constitutional norms regardless of one's given political leanings.

Describing what it was like to serve on the bench over many decades, Justice Acosta noted his success in providing all litigants who appeared before him—whether at trial or on an appeal—with a full and fair opportunity to be heard. He marveled at how his life's turns had enabled him as a

judge to interpret and apply various laws that he had helped draft, citing important anti-discrimination laws enacted when he worked at the New York City Human Rights Commission. Understandably, he was most proud of the fact that he had risen to be the Presiding Justice of the Appellate Division, First Department.

Going forward, Justice Acosta, who is presently a partner at Pillsbury Winthrop Shaw Pittman LLP, an international full-service law firm, stressed the need for courts in New York State and throughout the country to embrace a new paradigm so as to dispense justice more effectively. He gave as an example the use of problem-solving courts, such as the Harlem and Red Hook Community Justice Centers. There is a need he said to address the underlying causes of criminal activity so that perpetrators do not "graduate to felonies." Justice Acosta voiced optimism that the courts could successfully meet these challenges and all others to come.

Those who attended the fireside chat were rewarded with a vibrant conversation about Justice Acosta's fundamental values, his lifetime transforming those values to tangibly benefit individuals and communities, and the principles that he considers essential to strengthening democratic institutions and the judiciary. The audience was left for an appreciation for how, through his storied professional career, Justice Acosta has successfully addressed injustices and hardships which he had first observed as a child while growing up in the Dominican Republic. Rolando Acosta, whether while he was on the bench or now retired and actively practicing law, remains a truly remarkable man.

This program is available on demand for CLE credit from the Nassau Academy of Law.

Ira S. Slavit is an NCBA Director and Co-chair of the Association Membership Committee. An attorney with Levine & Slavit, PLLC, he can be reached at islavit@newyorkinjuries.com or (516) 294-8282.

FOCUS: LITIGATION

Overnight Success: The Art of the Bench Memo

Christopher J. DelliCarpini

No matter how much we prepare before trial, it seems inevitable that during trial we will have to submit a "bench memo." We are required to "in good faith attempt to agree" on the admissibility of exhibits,[1] but those attempts are seldom totally successful, and may need a decision before opening statements. A dispute over a jury charge may not even arise until both sides have rested. And while courts commonly reserve decisions on motions for directed verdict, they may still want certain issues briefed well before the jury begins deliberations.

Whenever the court asks for a bench memo, we must be ready to respond efficiently and effectively. Protective of the jury's time, the court often assigns this homework due first thing in the morning. Trial lawyers cannot spare much time from preparing for the next day, and any associate back at the office who drops everything to handle such tasks still has their own caseload.

With a little planning and a few drafting tips, however, in an hour or two we can turn around bench memos that make our arguments with brevity.

Be Prepared

Well before any trial begins, we can prepare to respond to any court request for briefing on an issue.

Spot issues as soon as possible. Some evidentiary disputes arise during discovery, either in demanding documents or deposing witnesses. Some do not arise until counsel confers before the pretrial conference or at the conference itself. Whenever they arise, someone should note each issue and the context in which it arose. This can be as simple as an email to file, which whoever's trying the case can review to see what they should be ready for or may want to raise themselves.

Assign responsibility in advance. If you have the luxury of delegating bench memos to an associate, at least warn them when trial will begin so that they can clear their calendar. If you are going solo on this trial, then at least budget some of your overnight prep time for bench memos or have an idea of how you will either prep in advance or reschedule tasks when you must shift gears from trial prep to legal research.

Have a template. A proper template automatically opens a new document with whatever text and formatting was in the template. This can save time and ensure a consistent look across your documents. But any previous memo could be your "template" if you save a copy—and thoroughly edit the text for your current case!

Know your evidence law. There's no substitute for experience and an online research service like Lexis, especially in New York, where we lack a comprehensive code of evidence. But you can quickly recall the basics of any evidentiary issue with the Guide to New York Evidence, an online reference from the Unified Court System that anyone can browse or search.[2] The cases cited in the Guide can also serve as a jumping-off point for further research—though the bench memo is not the place for a restatement of the law.

Have the PJI at hand. After admissibility issues, the most popular topic for bench memos is the propriety of particular jury charges, either verbatim from the Pattern Jury Instructions or made from scratch for the trial at hand. Whether you have the PJI online or on your bookshelf, be ready to call up any charge as soon as the need arises. And if your office shares one hard copy of the PJI, then work things out with your colleagues so that it doesn't disappear when you need it.

Hit the Ground Running

Once you're actually under deadline, certain practices will help you write a better memo in less time.

Grasp the big picture. The trial lawyer likely knows well how the subject of any bench memo serves his broader goals, and probably had a plan for arguing the issue at sidebar. But if an attorney not otherwise involved with the case is chipping in on bench memos, then the trial lawyer would do well to spend a few minutes on the phone or send a brief email giving the broader context and their perspective on the factual argument to be made in the bench memo. Indeed, whoever gets the assignment should reach out to the trial attorney; a few minutes' conversation can avoid an hour of misdirected briefing.

Dispense with the pleasantries. Features like a cover, table of contents, table of authorities, and preliminary statement are unnecessary in a bench memo. Submit only a simple memorandum and restate the facts and procedural history only as necessary to support your argument. Your audience knows how we got here; what they need from you is how we should go forward from here.

Start with your "elevator pitch." Hollywood gave us the "elevator pitch," in which the aspiring auteur must sell his idea to the jaded executive before they reach the ground floor and those doors open. Our analogue is the opening paragraph of the bench memo, which should "sell" the court on your argument and request your relief. All you then need to do in the rest of the memo is offer facts and law to justify the position that you've already persuaded the court to take.

500 words or less, seriously. Generally, the longer it takes you to explain why you're right, the more it looks like you're wrong. This is particularly true in bench memos, where the issue is so focused that no extensive analysis should be necessary. The trial lawyer would have argued this at the sidebar, so a bench memo longer than a couple of pages should almost never be necessary. The rare exception may be where a memo is expected to address multiple issues—but less is always more.

Write from the top down. A good legal argument is a syllogism, building point by point to the desired conclusion. Start your argument from the top down, listing in single sentences the points that form your syllogism. Then treat each point as the first sentence of a paragraph and add to each only what you need to prove each thesis. And if you need a yardstick for economical prose, then force yourself to keep every paragraph to ten lines or less.

Close the deal. Have a separate Conclusion that succinctly restates the relief that you request. Leave your argument in the Argument; keep your Conclusion clear and focused, so that the court is just as clear about your position. In fact, you may write this section first, to clarify for yourself just what it is you seek.

Deliver the Goods

Whoever's drafting the memo needs to know what's expected of the finished product.

PDF. As with e-filed documents, submit the bench memo in PDF format unless directed otherwise. A Word or WordPerfect document may appear with different formatting on another user's computer. It also can be edited by any recipient and will contain metadata about the document's creation and possibly even old edits.

Know your destination. Must we email the memo to the court or counsel? Will the author e-file the memo? Will they forward it to another attorney for the finishing touches? Should we bring hard copies to court? Make clear the expectations for the author, and you are more likely to get what you wanted.

Attach Your Authorities. Whether you deliver the memo by e-filing, email, or hard copy, attach the key authorities that you cite. Indeed, if you cite authorities that aren't key to your argument, then why cite them at all?

Expect the Unexpected

This article offers at most a plan, and no plan survives first contact with the enemy. However you think you're going to handle bench memos before trial, you won't know how you will handle them until the circumstances arise. But we make plans so we can change plans, and with these preparations in place you will be better prepared for whatever the trial throws your way.

1. 22 NYCRR § 202.34.
2. *Guide to New York Evidence*, New York State Unified Court System, https://www.nycourts.gov/judges/evidence/ (last visited October 15, 2024).

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WE CARE Annual Fall Festival

Photo by Hector Herrera

WE CARE hosted almost 300 children and their families at its Second Annual Fall Festival on October 14. The fun-filled day offered a pumpkin patch and painting, child safety fingerprinting, games and crafts, face painting, tasty treats, and meet and greets with the Nassau County Police Mounted Unit and Fire Department.

Assigned Counsel Open House

Photo by Hector Herrera

On September 25, NCBA Assigned Counsel Defender Plan welcomed Nassau County officials and 18B panel attorneys to their newly renovated office space at an Open House event.

WE CARE Golf & Tennis Classic

Over 200 golfers and tennis players participated in the 28th Annual WE CARE Golf & Tennis Classic held on September 16 at the Brookville Country Club and The Mill River Club, while more than 350 attended the evening's cocktail reception and dinner honoring Collins Building Services, Inc. President Kenneth J. Collins and JAD Building Maintenance President and CEO Joseph Dussich. The Classic raised $400,000 to help provide charitable grants to local organizations that help families in need throughout Nassau County.

Photos by Hector Herrera

National Hispanic Heritage Month

The Nassau County Bar Association was proud to co-sponsor and participate in the Nassau County Court's National Hispanic Heritage Month Celebration on October 10. NCBA President Daniel W. Russo gave remarks; Presiding Justice Hon. Hector D. LaSalle was honored and presented the keynote speech; and the Freeport High School Select Chorale performed the National Anthem and gave a special performance. The Long Island Hispanic Bar Association and Nassau County Women's Bar Association also sponsored the event.

Photos by Hector Herrera

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ADHD and the Legal Profession

Lawyer Wellness Corner

According to a recent study published by the American Society of Addiction Medicine, lawyers with ADHD make up 12.5% of the legal profession. The general adult population's 4.4% pales in comparison! Although ADHD traits such as hyperfocus can be a superpower when a deadline looms, others can derail even the sharpest minds if left undiagnosed.

Here are some of the most common symptoms from the two ADHD types:

Inattention:

- Difficulty sustaining attention
- Poor organizational skills and attention to detail
- Distractibility

Hyperactivity and Impulsivity:

- Restlessness
- Excessive talking
- Impatience

If you deal with any of these symptoms (from one or both categories) on a consistent, long-term basis, talk to your doctor about diagnosis and treatment/management options.

In January 2025, the Academy of Law, with the Lawyer Assistance Program will host a 6-week Dean's Hour Series entitled, "ADHD Management Skills: Understanding and Working with the ADHD Brain." It is important for neurotypical lawyers to understand ADHD and support their ADHD colleagues. The Academy will offer CLE credit for the programs in this educational series. Please contact the Director of the Academy, Stephanie Ball for more information sball@nassaubar.org. Please see the December Nassau Lawyer for program details.

Judiciary Night

On October 10, Domus was filled with 200 judges, attorneys, law students and Corporate Partners to honor the esteemed Judiciary of Nassau County. Thank you to our Platinum Sponsors Certilman Balin Adler & Hyman, LLP, Forchelli Deegan Terrana LLP, Lynn Gartner Dunne & Frigenti, LLP, Meltzer, Lippe, Goldstein & Breitstone, LLP, and Moritt Hock & Hamroff LLP; Gold Sponsors Farrell Fritz, P.C. and Tayne Law Group, P.C.; and Silver Sponsors Joseph Law Group, P.C., Law Office of Mark E. Goidell, Realtime Reporting, Inc., Peter Levy, Oscar Michelen and Salamon Gruber Blaymore & Strenger, P.C.







In Brief

The *Nassau Lawyer* welcomes submissions to the IN BRIEF column announcing news, events, and recent accomplishments of its current members. Due to space limitations, submissions may be edited for length and content. PLEASE NOTE: All submissions to the IN BRIEF column must be made as WORD DOCUMENTS.

David M. Yaron, founding Partner of Yaron Injury Law PLLC, recently began teaching at Hofstra Law School for the fall 2024 semester. As an Adjunct Professor of Law, Yaron currently instructs second year law students in the lab-based advocacy course, "Foundational Lawyering Skills."

Jeffrey D. Forchelli, Forchelli Deegan Terrana LLP ("FDT")'s Chairman and Co-Managing Partner, is pleased to announce the firm recently opened a Suffolk County office at 100 Motor Parkway in Hauppauge, located at the gateway of the Hauppauge Industrial Park and is directly accessible off of the LIE and Northern State Parkway. In addition, FDT is pleased to announce that **Laureen Harris**, a partner in the firm's Tax Certiorari practice group, has been identified as one of the most influential individuals on Long Island by City & State magazine and was profiled in the 2024 Long Island Power 100 List, which honors Long Island's most influential leaders who drive major policy debates on issues such as affordable housing, offshore wind development and public safety.

For the thirteenth consecutive year, **Richard N. Tannenbaum** has been named to the 2024 Super Lawyers List. He has recently joined the Hedayati Law Group, a matrimonial and family law firm in Garden City, as Senior Attorney.

Vishnick McGovern Milizio (VMM) Managing Partner **Joseph Milizio**, head of the firm's Business & Transactional practice, published the second of his three-part series of articles in Tax Stringer, the journal of the NYS Society of Certified Public Accountants, discussing the legal aspects of exit and succession planning for businessowners and executives. VMM's Business & Transactional group is currently airing a 30-second TV ad during primetime and throughout the day on all major NY channels. VMM is a proud production supporter of the new TV documentary, "JewCE! The Jewish Comics Experience," exploring the Jewish origins of the comic book industry and superhero genre. The program is available on JLTV Network. VMM is also a corporate sponsor of the Center for Jewish History's "JewCE: The Jewish Comics Experience" convention on November 10.

Stuart H. Schoenfeld, Partner of Capell Barnett Matalon and Schoenfeld LLP, presented a session on Medicaid planning and long-term care for myLawCLE's "Elder Law and Dementia: The Attorney's Comprehensive Handbook." Founding Partner **Robert S. Barnett** spoke about the recent Supreme Court decision *Connelly v. United States* for a Nassau Academy of Law (NAL) Dean's Hour. On November 7, Barnett and Partner **Gregory L. Matalon** are presenting "Estate and Trust Income Taxes for Attorneys—Important Drafting Tips and Traps" for an NAL Dean's Hour.

CALENDAR | COMMITTEE MEETINGS

COMMITTEE CHAIRS

Access to Justice	Hon. Maxine Broderick and Rezwanul Islam
Alternative Dispute Resolution	Ross J. Kartez
Animal Law	Harold M. Somer and Michele R. Olsen
Appellate Practice	Amy E. Abbandondelo and Melissa A. Danowski
Asian American Attorney Section	Jennifer L. Koo
Association Membership	Adina L. Phillips and Ira S. Slavit
Awards	Sanford Strenger
Bankruptcy Law	Gerard R. Luckman
Business Law Tax and Accounting	Raymond J. Averna
By-Laws	Deanne M. Caputo
Civil Rights	Patricia M. Pastor
Commercial Litigation	Christopher J. Clarke and Danielle Gatto
Committee Board Liaison	James P. Joseph
Community Relations & Public Education	Ingrid J. Villagran and Melissa A. Danowski
Conciliation	Salvatore A. Lecci
Condemnation Law & Tax Certiorari	Robert L. Renda
Construction Law	Adam L. Browser
Criminal Court Law & Procedure	Christopher M. Casa and Amanda A. Vitale
Cyber Law	Thomas J. Foley and Nicholas G. Himonidis
Defendant's Personal Injury	Jon E. Newman
District Court	Bradley D. Schnur
Diversity & Inclusion	Sherwin Safir
Education Law	Liza K. Blaszcyk and Douglas E. Libby
Elder Law, Social Services & Health Advocacy	Lisa R. Valente and Christina Lamm
Environmental Law	John L. Parker
Ethics	Mitchell T. Borkowsky
Family Court Law, Procedure and Adoption	Tanya Mir
Federal Courts	Michael Amato
General, Solo & Small Law Practice Management	Jerome A. Scharoff
Grievance	Robert S. Grossman and Omid Zareh
Government Relations	Michael H. Sahn
Hospital & Health Law	Kevin P. Mulry
House (Domus)	Steven V. Dalton
Immigration Law	Pallvi Babbar
In-House Counsel	
Insurance Law	Michael D. Brown
Intellectual Property	Sara M. Dorchak
Judicial Section	Hon. Gary F. Knobel
Judiciary	Dorian R. Glover
Labor & Employment Law	Marcus Monteiro
Law Student	Bridget M. Ryan and Emma P. Henry
Lawyer Referral	Gregory S. Lisi
Lawyer Assistance Program	Daniel Strecker
Legal Administrators	
LGBTQ	Jess A. Bunshaft
Matrimonial Law	Karen L. Bodner
Medical Legal	Bruce M. Cohn
Mental Health Law	Jamie A. Rosen
Municipal Law and Land Use	Elisabetta Coschignano
New Lawyers	Byron Chou and Michael A. Berger
Nominating	Rosalia Baiamonte
Paralegal	
Plaintiff's Personal Injury	Giulia R. Marino
Publications	Cynthia A. Augello
Real Property Law	Suzanne Player
Senior Attorneys	Stanley P. Amelkin
Sports, Entertainment & Media Law	Ross L. Schiller
Supreme Court	Steven Cohn
Surrogate's Court Estates & Trusts	Michael Calcagni and Edward D. Baker
Veterans & Military	Gary Port
Women In the Law	Melissa P. Corrado and Ariel E. Ronneburger
Workers' Compensation	Craig J. Tortora and Justin B. Lieberman

WEDNESDAY, NOVEMBER 6

Real Property Law
12:30 p.m.

Law Student
6:00 p.m.

THURSDAY, NOVEMBER 7

Hospital & Health Law
8:30 a.m.

Intellectual Property
12:30 p.m.

Michael J. Schwab, Esq. of Moritt Hock & Hamroff LLP, will be speaking on Fashion Upcycling – Permissible Creativity or Trademark Infringement.

Community Relations & Public Education
12:45 p.m.

Publications
12:45 p.m.

TUESDAY, NOVEMBER 12

Labor & Employment Law
12:30 p.m.

Women in the Law
12:30 p.m.

WEDNESDAY, NOVEMBER 13

Asian American Section
12:30 p.m.

Ingrid Villagran from The Safe Center will be discussing the 101 Basics of Domestic Violence, including the differences/statistics regarding the Asian community. She will also briefly touch on undocumented immigrants and what relief they can apply for if they are victims of a crime.

Matrimonial Law/Family Court Law, Procedure and Adoption
5:30 p.m.

Hon. Jeffrey A. Goodstein, Supervising Judge of Nassau County Supreme Court and Supervising Judge of the Matrimonial Part, Hon. Cheryl A. Joseph, Supervising Judge for Matrimonial Matters, Suffolk County and Dr. Pascale Chrisphonte, Assistant Professor of Psychiatry, Zucker School of Medicine at Hofstra; Northwell Child and Adolescent Psychiatrist, will be speaking on The Inter-Relation Between Mental Illness and Custody Determinations and Childhood Mental Diagnoses

THURSDAY, NOVEMBER 14

Immigration law
12:45 p.m.

MONDAY, NOVEMBER 18

Education Law
12:30 p.m.

Senior Attorney's
12:45 p.m.

Surrogate's Court Estates and Trusts
5:30 p.m.

WEDNESDAY, NOVEMBER 20

General, Solo and Small Law Practice Management
12:30 p.m.

Business Law, Tax and Accounting
12:30 p.m.

Ethics
5:30 p.m.

Insurance Law
5:30 p.m.

Diversity & Inclusion
6:00 p.m.
International Potluck Dinner

THURSDAY, NOVEMBER 21

Association Membership
12:30 p.m.

MONDAY, NOVEMBER 25

District Court
8:30 a.m.

TUESDAY, NOVEMBER 26

Plaintiff's Personal Injury
12:30 p.m.

TUESDAY, DECEMBER 3

Women in the Law
12:30 p.m.

WEDNESDAY, DECEMBER 4

Real Property Law
12:30 p.m.

Family Court Law, Procedure and Adoption Holiday Luncheon
12:30 p.m.

THURSDAY, DECEMBER 5

Hospital & Health Law
8:30 a.m.

Community Relations & Public Education
12:45 p.m.

Publications
12:45 p.m.

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