

Nassau Lawyer



THE JOURNAL OF THE NASSAU COUNTY BAR ASSOCIATION

July/August 2025

www.nassaubar.org

Vol. 74, No. 11

Follow us on LinkedIn



WHAT'S INSIDE

Data Security and AI Transcription:
Who's Really in on the
Conversation? pg. 4

Solving the Late Notice of Claim Dilemma
with CPLR 409 pg. 7

New York City Sidewalk Liability:
A View from the Defense pg. 8

Tribal Rights as Brooklyn
Touchstone pg. 10

Don't Lien on Me...
Releases of Lien for Real Property Sold
from an Estate or Trust pg. 14

Adverse Possession Against a Municipal
Property? Can It Be Done? pg. 16

CLE Review: 70 Years After *Brown v.*
Board of Education: Bridging the Literacy
Gap pg. 18

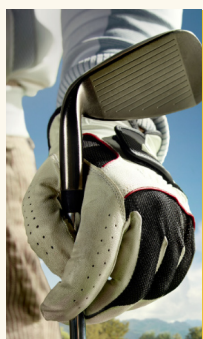
SAVE THE DATE



**FAMILY
FUN
FESTIVAL**
**SUNDAY,
AUGUST 17**
pg.6



**BBQ AT
THE BAR**
**THURSDAY,
SEPTEMBER 4**
Insert



**WE CARE
GOLF AND
TENNIS
CLASSIC**
**MONDAY,
SEPTEMBER 15**
Cover

Teeing Up for Good: The 29th Annual WE CARE Golf & Tennis Classic

Emma Grieco

The WE CARE Fund will host its biggest fundraiser, the 29th Annual Golf & Tennis Classic, on Monday, September 15, 2025. The much-anticipated Classic, established in 1996 by Stephen W. Schlissel, brings together members of the legal and business communities for a day of sportsmanship, networking, and philanthropy. This year's Classic will take place across two prestigious venues: Brookville Country Club in Old Brookville and Mill River Country Club in Oyster Bay. Participants can enjoy golf scramble format and much more.

Not a golfer? No problem! The event is designed for everyone, regardless of skill level. Beginners can sign up for Golf 101, which offers expert instruction on the fundamentals, while intermediate players can sharpen their game with Golf 201. Over at Mill River, guests can opt for tennis or pickleball, with open play and clinics available to teach the basics and beyond.

For those who prefer to enjoy the event off the course, the evening's festivities at Brookville Country Club promise something for everyone, including cocktails, dinner, a lively raffle room filled with exciting prizes, and a live auction.

The Classic also shines a spotlight on individuals who have made a significant impact on the legal profession, the Nassau County community, and the WE CARE mission. This year's honorees include Gregory S. Lisi, NCBA Past President and Partner at Forchelli Deegan Terrana LLP, and Howard M. Stein, Managing Partner at Certilman Balin Adler & Hyman, LLP. In addition, the prestigious Stephen Gassman Award will be presented to Justice Stacy D. Bennett of the Nassau County Supreme Court, Matrimonial Center.



Founded in 1988 by then Nassau County Bar Association President Stephen Gassman, the WE CARE Fund serves as the charitable arm of the NCBA. Powered by generous donations and fundraising within the legal and local communities of Nassau County, WE CARE has raised over \$5 million to date. Every dollar goes directly back into the community, as the NCBA covers all administrative expenses. The Fund's mission is simple yet powerful: to improve the quality of life for children, the elderly, and others in need.

To learn more about sponsorships, tickets, and journal advertisements, visit www.thewecarefund.com. We can't wait to see you out on the course for a day of giving back, community spirit, and celebration! 🏌️



THE WE CARE Golf & Tennis Classic

Monday, September 15, 2025

**Brookville Country Club
&
Mill River Country Club**

Honoring
Gregory S. Lisi
Partner, Forchelli Deegan Terrana LLP
Howard M. Stein
Managing Partner, Certilman Balin Adler & Hyman LLP
Stephen Gassman Award Recipient
Hon. Stacy D. Bennett

To purchase tickets, sponsorships, and journal ads
visit www.thewecarefund.com



**CONFIDENTIAL HELP IS AVAILABLE
TO LAWYERS AND JUDGES**
alcohol or drug use, depression or
other mental health problems
Call Lawyer Assistance Program
(888) 408-6222



LEVINE



SLAVITT PLLC

Three Generations Representing Injured Plaintiffs for Over 90 Years

- Slips, Trips and Falls
- Wrongful Death
- Motor Vehicle Accidents
- Construction Accidents
- Medical Malpractice
- Nursing Home Neglect

For personal injury referrals and additional information, contact ISLAVIT@NEWYORKINJURIES.COM.

Fee division in
accordance with Rule
15(g) of the Rules of
Professional Conduct



Ira S. Slavitt Esq.

Past-Chair of NCBA
Plaintiff's Personal
Injury Committee



**350 Willis Avenue
Mineola, NY 11501
516.294.8282**



**60 East 42nd Street
New York, NY 10165
212.687.2777**

NewYorkInjuries.com



Nassau Lawyer

The Official Publication
of the Nassau County Bar Association
15th & West Streets, Mineola, N.Y. 11501
Phone (516) 747-4070 • Fax (516) 747-4147
www.nassaubar.org
nassaulawyer@nassaubar.org

NCBA Officers

President
James P. Joseph, Esq.

President-Elect
Hon. Maxine S. Broderick

Vice President
Samuel J. Ferrara, Esq.

Treasurer
Deanne M. Caputo, Esq.

Secretary
Ira S. Slavit, Esq.

Executive Director
Elizabeth Post

Editor-in-Chief
Cynthia A. Augello, Esq.

Photographer
Hector Herrera

Graphic Artist
Marina Senderov

July/August 2025

Focus Editors

Rhoda Yohai Andors, Esq.
Cynthia A. Augello, Esq.
Rudolph Carmenaty, Esq.
Christopher J. DelliCarpini, Esq.
Thomas McKeivitt, Esq.
Jeff H. Morgenstern, Esq.

Publication Committee Members

Rhoda Yohai Andors, Esq.
Sabrina Zia Arfeen
Cynthia A. Augello, Esq.
Nathan Vidra Bishop, Esq.
Hon. Robert G. Bogle
Hon. Maxine S. Broderick
Rudolph Carmenaty, Esq.
Christopher J. DelliCarpini, Esq.
Andrea M. DiGregorio, Esq.
Nancy E. Gianakos, Esq.
Adrienne Flipse Hausch, Esq.
Charles E. Holster III, Esq.
Brittany Nicole Hulbert, Esq.
Allison C. Johs, Esq.
Douglas M. Lieberman, Esq.
Jeff H. Morgenstern, Esq.
Adina Lorinne Phillips, Esq.
Michael David Schultz, Esq.
Tammy Smiley, Esq.

Printed by Richner Printing, LLC
(516) 569-4000

2025 Nassau County Bar Association

Nassau Lawyer (USPS No. 007-505) is published monthly, except combined issue of July and August, by Richner Printing, LLC 2 Endo Blvd., Garden City, NY 11530, under the auspices of the Nassau County Bar Association. Periodicals postage paid at Mineola, NY 11501 and at additional entries. Contents copyright ©2022. Postmaster: Send address changes to the Nassau County Bar Association, 15th and West Streets, Mineola, NY 11501.

With summer in full swing, I hope everyone has taken, or is planning to take, some well-deserved time off. Unless you are in the midst of a multi-week, day-to-day trial, there is no excuse not to disconnect and spend time with family and friends, if not for an extended vacation, at least for a long weekend. If you believe that the best lawyers are too busy or too important to take time off, look into the growing body of research linking our mental, emotional, and physical well-being to our ability to perform at our peak.

Along those lines, the Third Annual LAP Walkathon was on June 7, this year held in Cedar Creek Park. The walkathon, founded by Rosalia Baiamonte during her term as Bar President, continues to grow, raising significant sums to support this critical program for lawyers in need. Under the leadership of LAP Director, Dr. Elizabeth Eckhardt, we have helped countless members battling substance abuse and mental health issues.

While things do quiet down at the NCBA over the summer, they certainly do not stop. In addition to the Walkathon, numerous other events were held. In June, we hosted at Domus nearly 150 students interning in the Courts, the District Attorney's Office and the Legal Aid Society at an annual breakfast run by Judge Jeffrey A. Goodstein, Supervising Judge of Supreme Court and Matrimonial Center, and Virginia Clavin, Supervising Court Attorney of the Nassau County Surrogate's Court. Many of those interns returned in July for a breakfast roundtable discussion hosted by our New Lawyers Committee, under the leadership of Andrew Bandini and Nicole Imperatore.

Speaking of Judge Goodstein, the new Nassau Family and Matrimonial Court Complex opened on June 2. To say this has been long-awaited, long overdue, and a massive improvement would all be gross understatements. The new courthouse confers a dignity upon the litigants, lawyers, and court personnel that reflects the seriousness of the issues they confront and is vastly more convenient and accommodating than the prior facilities. Credit belongs to many, including several generations of OCA leadership, our local and state-wide administrative judges, support staff and politicians. Perhaps none of this would have happened without the efforts of Lance Clarke, who during his NCBA presidency in 2007, worked tirelessly lobbying Garden City, Nassau County and the state to set things in motion.

While CLEs slow down during the summer, if you know our new Nassau Academy of Law Dean, Chris DelliCarpini, you are aware of his intensity, tenacity and focus, so you will not be surprised that quite a few successful programs were held. These included a powerful, well-attended and timely Dean's Hour, "What Legal Practitioners Should Know to Protect LGBTQ+ Clients, Their Families, and Their Assets," on June 20, hosted by the Academy along with our LGBTQ Committee, under the leadership of Jess Bunshaft. On July 9, the Academy, along with the NCBA Appellate Practice Committee and the NYS Office of Indigent Legal Services, Appellate Defender Council, presented "Adventures in Preservation," also incredibly well-attended and well-received.

On August 5, the Academy along with our Bankruptcy Law Committee, will host "This Year's Most Significant



FROM THE PRESIDENT

James P. Joseph

Bankruptcy Decisions," with a faculty of judges that include the Honorable Alan S. Trust, the Chief Judge of the U.S. Bankruptcy Court for the Eastern District of New York.

This year we took steps to expand and strengthen the Bar leadership pipeline, creating opportunities for more members. Indicative of the success of those efforts was what we believe to have been a record-breaking turnout at the recent Committee Chair Orientation on July 15. Thank you to Gary and his team who scrambled to bring out five additional tables to handle the crowd. To all the Chairs and Vice-Chairs, you have my deepest gratitude for accepting this responsibility and for all you will do in the upcoming year to benefit our members and our association. The energy was palpable that day and we are confident it will continue.

Various social events have occurred or are upcoming this summer. On August 17, our Diversity & Inclusion Committee, under the leadership of Judges Maxine Broderick and Linda Mejias-Glover, will host the first Family Fun Festival. With the financial support of Land Rover Freeport, there will be food trucks and games for all ages. This will undoubtedly be a fun event and is a great opportunity to show your support for our Bar Association and this Committee.

The Animal Law Committee will be hosting the first ever Pet Rescue Event at the Bar Association on September 27. Unless my wife tells me otherwise, there is a distinct possibility I will bring home a friend for our dog, Harry. (And that is how we will know if my wife, who has my gratitude for reviewing drafts of this column, reads the published version.)

Please follow the Bar Association on social media, in particular on LinkedIn. Our team has done a great job sharing the many events that occur at Domus. Recent posts included photos from the day WE CARE distributed the \$120,000 in grants awarded to 32 worthy recipients, and another about the law school scholarships we awarded. A huge thank you to outgoing WE CARE Chair Jeff Catterson, current Co-Chairs Barbara Gervase and Joshua Gruner, the WE CARE Advisory Board, and countless volunteers and supporters for their efforts and impact.

To ensure our ability to continue to support so many worthy causes, if you have not done so already, please block your calendar for the annual Golf & Tennis Classic, WE CARE's biggest fundraiser, which will be held on September 15. While many come to play golf or tennis, several hundred people attend the dinner, and it is always an enjoyable and memorable evening.

As we work hard to ensure that the NCBA continues to serve its existing members and is a welcoming place for all, when you are here, please make an effort to introduce yourself to those you do not already know, particularly the new members and guests. Our future is dependent on them. Your efforts, in showing up and speaking up, are what make the Nassau County Bar Association community so valuable and enjoyable, professionally and personally.

I look forward to seeing many of you on Thursday, September 4 at the BBQ at the Bar, our unofficial start to the new Bar year. It is a great opportunity to reconnect with colleagues and friends, make new ones, and introduce others to our bar association and all it has to offer. I hope you all enjoy the remainder of the summer. 🍷

SAVE THE DATE

BBQ ON THE LAWN

Thursday Sept. 4, 2025



**FOCUS:
ARTIFICIAL INTELLIGENCE**


**Steven J. Kuperschmid and
Rachel A. Morgenstern**

Business owners across the globe are using the latest AI technology to increase efficiency in the workplace. From automated data analysis and chatbots to the more commonplace digital assistant, AI is practically everywhere and growing more versatile by the day.

Perhaps most popular among these new tools is AI transcription, now offered as a feature of most videoconferencing platforms, such as Zoom and Microsoft Teams. As with any new technology, however, AI transcription is not without risks, and for businesses that deal in sensitive or confidential information, it is especially important to consider taking precautions to mitigate those risks.

First, there is the risk of a privacy breach. The level of privacy concern at

Data Security and AI Transcription: Who's Really in on the Conversation?

issue depends in large part on the type of user and the subject matter of the transcription. For instance, disclosure of the transcripts of an administrative meeting of an accounting firm where identifiable client information and proprietary firm practices are not discussed may not raise any significant privacy concerns. By contrast, disclosure of the transcript from a confidential meeting of a public company contemplating a merger might raise serious privacy concerns.

In addition to the risk of a security breach, there is the fact that documents, electronic and otherwise, can become public during litigation. By using AI transcription for confidential meetings, a business is creating a producible record of an event where previously none existed. If that business later becomes part of a litigation, those records may become public as part of discovery. The records may also be subject to the Court's subpoena power, even where the business itself is not a party to the litigation.

Second, there is the risk of error. All AI language models produce, at least to some degree, "hallucinations," which yield incorrect or misleading results. In this context, a hallucination

might take the form of a meeting recap wherein one or two small details are incorrect. In other words, where an AI tool did not hear what someone said at a given point during the meeting, it would simply make something up. As a result, the user must weigh the risks and benefits of employing an inherently flawed technology. In October 2024, for instance, the Associated Press reported that certain hospitals were relying on an AI transcription product that deletes the original audio, leaving doctors with no means to check the transcriptions for errors afterwards, even though the model was known to produce hallucinations.¹

Third, there is the risk of (at least alleged) waiver of attorney-client privilege. In March 2021, even before the launch of ChatGPT, the American Bar Association ("ABA") issued Formal Opinion 498, wherein it advised attorneys to shut off their phones during attorney-client discussions.² Specifically, the ABA said "[u]nless the technology is assisting the lawyer's law practice, the lawyer should disable the listening capability of the devices or services such as smart speakers, virtual assistants, and other listening-enabled devices while communicating about client matters. Otherwise, the lawyer is exposing the client's and other sensitive information to unnecessary and unauthorized third parties and increasing the risk of hacking."³

While U.S. courts have yet to decide a case based on allegations that AI caused a breach in attorney-client privilege, the ABA's concerns are not unfounded. Attorney-client privilege itself is rooted in the reasonable expectation that communications between a lawyer and his client will remain confidential. Where disclosure to a third party is inadvertent, the courts will often protect the privilege nonetheless. But if disclosure is voluntary, as it would be where either a lawyer or his client was using artificial intelligence to communicate, record, or transcribe, the courts would more likely deem the privilege waived.

Fourth, there is the risk of running afoul of two-party consent laws. New York is a one-party consent state, meaning as long as (1) all parties to the conversation are located in New York, and (2) one party consents to the recording, it is legal to record a conversation. When one of the parties is out-of-state, however, the analysis is more complicated.

There are several ways to address this issue. With some platforms, like Zoom, the host can require consent from all meeting participants before the recording begins. Another option

is for the host to verbally announce his intentions to record or transcribe the call before recording begins. Ultimately, however, the responsibility for ensuring consent is obtained rests with the user. Zoom's terms of service provide, for example, that "[y]ou are responsible for compliance with all Laws governing the monitoring or recording of conversations" and "[y]ou will receive a notification (visual or otherwise) when recording is enabled."⁴

If the host announces that the call is being recorded, it is arguable that those participants who stay on the call have implicitly consented. Those who do not wish to be recorded have the option to drop off the call or, alternatively, to disable their video and mute themselves. As discussed further below, however, a "muted" user is not always unheard, at least by the AI.

While there is no disputing that generative AI has incredible potential as a business tool, some of the above-cited potential pitfalls have already become a reality. In October 2024, researcher and engineer Alex Bilzerian told the *Washington Post* that, after a Zoom meeting with some venture capitalist investors, he got an automated email from Otter.ai containing a transcript of the meeting, including the part that happened after he logged off (when the investors discussed their firm's strategic failures and cooked metrics).⁵

That same *Post* article discussed Otter.ai's "Otter Pilot," which records and transcribes audio from virtual meetings.⁶ If an Otter Pilot user is muted, his audio will not be recorded, but if that muted user manually hits record, Otter receives audio from his microphone and speakers.⁷ In other words, Otter hears what the "muted" user is saying.⁸ The *Post* also discussed privacy concerns arising from the fact that "Otter shares user information with third parties, including AI services that provide back-end support for Otter, advertising partners and law enforcement agencies when required."⁹

When approached about the Bilzerian incident, discussed above, Otter responded by saying that users have the option to not share transcripts automatically with anyone or to auto-share conversations.¹⁰ This response is typical of AI proponents, and represents the sentiment that AI is here to stay, and better combated by learning how to use it as safely as possible (and teaching employees to do the same), rather than trying to eradicate it entirely from one's business practice. In other words, the best defense might be to issue policies and guidance on the use of these tools in the workplace, and to enforce them strictly.

Robert L. Pryor, Chapter 7 Trustee And Former Law Clerk to C. Albert Parente, Chief Bankruptcy Judge



**Will continue to practice in the areas of
Bankruptcy and Insolvency Law as
Robert L. Pryor, P.C.
and will continue to accept referrals in his new firm.**




(516)253-7127



rlp@rlpryor.com

By taking certain basic precautions, business owners can minimize the potential risks associated with AI transcription. For instance, while many videoconferencing platforms are now offering AI transcription as an automatic feature, the user can often opt-out of automation. By choosing whether to transcribe on a case-by-case basis, the business can mitigate against having to produce sensitive or confidential information as part of litigation. As another example, those who are regularly using AI tools for transcription should employ a second level of review by company personnel as a matter of course. Make sure personnel are on the lookout for “hallucinations.” Avoid relying on AI transcription for high-level issues where accuracy of content is paramount.

As AI continues to permeate other business applications, these types of precautions will run hand in hand with development of AI guidance and policies for employees and intensive employee training. 

1. Garance Burke and Hilke Schellmann, *Researchers say an AI-powered transcription tool used in hospitals invents things no one ever said*, APNews, Oct. 26, 2024, <https://apnews.com/article/ai-artificial-intelligence-health-business-90020cdf5fa16c79ca2e5b6c4c9bbb14>.
2. ABA Comm. on Ethics & Pro. Resp., Formal Op. 498 (2024).
3. *Id.*
4. Zoom Terms of Service, Aug. 11, 2023, <https://www.zoom.com/en/trust/terms/>.
5. Tatum Hunter and Danielle Abril, *AI assistants are blabbing our embarrassing work secrets*, Oct. 2, 2024, <https://www.washingtonpost.com/>

business/2024/10/02/ai-assistant-transcription-work-secrets-meetings/.
6. *Id.*
7. *Id.*
8. *Id.*
9. *Id.*
10. *Id.*



Steven J. Kuperschmid serves as Co-Chair of Ruskin Moscou Faltischek, P.C.'s Corporate & Securities Department, Chair of the firm's Cybersecurity

and Data Privacy Practice Group, and a member of the Blockchain Technology and Digital Asset Practice Group. He typically represents entrepreneurs, family businesses and publicly traded and privately owned institutional companies and private equity funds. He can be reached at skuperschmid@rmfpc.com.



Rachel Morgenstern is an Associate at Ruskin Moscou Faltischek, P.C., where she is a member of the firm's Estate, Trust and Fiduciary Litigation Practice Group, Commercial Litigation Department,

Employment Practice Group, Fine Art Law Practice Group and the Insurance & Reinsurance Litigation, Dispute Resolution, Transactions, and Regulatory Problem Solving Practice group. She can be reached at rmorgenstern@rmfpc.com.

PROTECT YOUR BUSINESS WITH EXPERT LEGAL IT SERVICES!



IT Group of New York– Your Trusted Legal Technology Partner

Are you looking to safeguard your law firm or legal practice with the latest IT solutions? At **IT Group of New York**, we specialize in providing cutting-edge IT services tailored for the legal industry.

Our Services

- **Data Security & Encryption:**
Protect sensitive client information with state-of-the-art security protocols.
- **Compliance Support:**
Ensure your systems meet industry-specific regulatory requirements (GDPR, HIPAA, etc.).
- **E-Discovery & Document Management:**
Simplify case management and streamline your workflows with secure digital storage solutions.
- **Cloud Solutions:**
Access your documents anytime, anywhere, securely and efficiently.

Why Choose Us?

- Industry-specific expertise
- 24/7 support and monitoring
- Proactive IT solutions that minimize downtime
- Trusted by leading law firms in the tri-state area

For a **free consultation** or to learn more about our legal IT services, visit itgroup-ny.com or call **631-358-5030** today!



EXCEPTIONAL REPRESENTATION ♦ MATRIMONIAL AND FAMILY LAW

DIVORCE • LITIGATION • MEDIATION • COLLABORATIVE DIVORCE • ENFORCEMENT
MODIFICATION • CUSTODY & CHILD SUPPORT • PRENUPTIAL & POSTNUPTIAL AGREEMENTS



JAMES P.
JOSEPH



THOMAS A.
ELLIOT



JOSEPH J.
BRACCONIER III



JACQUELINE M.
CAPUTO



NICOLE E.
IMPERATORE

666 OLD COUNTRY ROAD, SUITE 303, GARDEN CITY
516-542-2000 JOSEPHLAWPC.COM



NCBA Animal Law Committee Pet Rescue Event



Saturday, September 27, 2025

10:00 AM–2:00 PM
(Rain Date Sunday, October 5, 2025)
Nassau County Bar Association
15th and West Streets, Mineola, NY 11501



Get preapproved for pet adoption! Apply on organizations' websites.
Please bring a donation of potty pads, toys, and other non-food pet supplies to this free event.

Light refreshments sponsored by Fass & Greenberg, LLP

Stop by and see our furry friends! All are welcome.



NCBA Diversity & Inclusion Committee FAMILY FUN FESTIVAL

Join us for a day of food, fun, and community! This family-friendly event is open to all NCBA members, their families, and guests. Let's celebrate our diversity and enjoy summer together!

AUGUST 17, 2025 | 1:00PM — 5:00PM
Nassau County Bar Association
15th & West Streets, Mineola, NY 11501

FOOD TRUCKS
COMPLIMENTARY HOT DOGS, HAMBURGERS, CHICKEN TENDERS, FRENCH FRIES, ONION RINGS, SALADS, COLD DRINKS, AND CARNIVAL-STYLE DESSERTS (ZEPPOLES, FUNNEL CAKES, ITALIAN ICES, COTTON CANDY AND MORE)

GAMES FOR ALL AGES
TUG OF WAR, SACK RACES, FRISBEE, WATER BALLOONS AND MORE

KIDS' CORNER
FACE PAINTING, BUBBLES, ARTS & CRAFTS

COMMUNITY CORNER
MEET AND MINGLE WITH THE DIVERSITY & INCLUSION COMMITTEE MEMBERS AND NCBA LEADERSHIP

LIVE DJ

Sponsored by
**LAND ROVER
FREEPORT**

Sponsorship opportunities are available.

This event is free of charge. Registration is required and space is limited.
Sign up at www.nassaubar.org/calendar or contact events@nassaubar.org.





PEGALIS LAW GROUP, LLC

Medical
Malpractice
Attorneys

The Pegalis Law Group, LLC, has successfully represented plaintiffs suffering as a result of medical errors and catastrophic personal injury for over 50 years

Contact us today at (866) MED-MAL7. We are here for you and your clients' medical/legal consultations.

Visit pegalislawgroup.com to learn more

1 HOLLOW LANE • SUITE 107 • LAKE SUCCESS, N.Y. 11042
516.684.2900 • TOLL FREE 866.633.6257 • FAX: 516.684.2939

Attorney Advertising

**FOCUS:
MEDICAL MALPRACTICE**

Christopher J. DelliCarpini

The prospective client brings you what sounds like a solid case of medical malpractice, with clear liability and grave injuries. But the target defendant is a municipal hospital, and the malpractice occurred more than ninety days ago. And to make matters worse, the prospective client has none of the hospital chart.

Veteran personal injury attorneys know too well the problems this scenario presents, and the dilemma it poses for any attorney who would take the case. But there is a solution to that dilemma, perhaps not commonly known but grounded in statute and supported by solid precedent. And in the scenario described above, this strategy may be your only chance to even commence an action.

**The Late Notice of Claim
Dilemma**

Like any negligence claim, medical malpractice requires proof of duty, breach, and causation.¹ Proving these elements almost always requires expert opinion, however, and your expert likely cannot offer an opinion without reviewing the relevant medical records. Suing a municipality for medical malpractice presents unique challenges. First is that the limitations period is not the two-years-and-six-months set in CPLR 214-a, but rather only one year and ninety days (two years for wrongful death) under General Municipal Law § 50-i. The other challenge is that “within ninety days after the claim arises,” the claimant must have served on the municipality notice of claim, as detailed in GML § 50-e.

When a claimant fails to timely serve notice of claim, Section 50-e allows the claimant to apply for leave to serve late notice. When an action has not been commenced, the claimant makes that application in a special proceeding under CPLR Article 4. Special proceedings require statutory authorization,² and Section 50-e does not mention them. But in *Jaime v. City of New York*, the Court of Appeals recently made clear that a special proceeding is the proper course here.³

In that special proceeding, the petitioner must address the factors specified in GML § 50-e(5) for the court to consider in determining whether

Solving the Late Notice of Claim Dilemma with CPLR 409

to grant leave. The foremost factor is whether the municipality acquired actual knowledge of its liability within those first ninety days, but the court is to consider “all other relevant facts and circumstances,” so the petitioner should assert every possible reason to grant the application. And however meritorious the application, no court can grant leave to serve late notice of claim once the limitations period has lapsed.

Thus, our scenario presents a dilemma. Do we commence the special proceeding on few or no medical records, and let the municipality argue that our proof does not show actual knowledge? Or do we wait for our target to respond to our medical records request, by which point they will have a stronger argument that the delay has prejudiced them?

Fortunately, a solution lies in the rules for special proceedings, particularly CPLR 409.

CPLR 409: The Key to the Solution

CPLR Article 4 basically provides for resolution of a special proceeding like a motion for summary judgment. The petitioner serves the notice, petition, and supporting evidence;⁴ the respondent answers and makes any motions;⁵ and the court at the noticed hearing date either resolves the application or, if facts are in dispute, sets the matter down for trial and afterwards renders a judgment.⁶ The First Department has stated that under 409(b) “a special proceeding is subject to the same standards and rules of decision as apply on a motion for summary judgment.”⁷

The critical provision, for our purposes, is in CPLR 409(a):

.... The petitioner shall furnish all other papers not already in the possession of the court necessary to the consideration of the questions involved. Where such papers are in the possession of an adverse party, they shall be produced by such party at the hearing on notice served with the petition. The court may require the submission of additional proof....

While discovery is generally not allowed in special proceedings without leave of court,⁸ petitioners have used CPLR 409(a) to compel production of evidence. In *Rella v. Board of Education*, the Second Department affirmed in camera inspection of documents noticed for production, to assess a privilege claim.⁹ And in *1422 Corp. v. Rosenfeld*, the trial court noted that “CPLR 409(a) adopts the basic elements of CPLR 2214(c) [but] it does not include the last sentence of CPLR 2214(c), which restricts consideration

only to papers served in accordance with motion practice.”¹⁰

These statutes point the way to solving our dilemma, to making our application with minimal delay and without foregoing a full record. In fact, in *Jaime*, which decided two appeals and in both reversed the grant of leave to serve late notice of claim, the Court chided one of the appellants for not “seek[ing] to compel the City to produce any papers necessary to the determination of his petition” under CPLR 409 (a).¹¹

The Solution, Step by Step

The first step is to commence the petition as soon as possible, with every bit of evidence on hand. That should include at least affirmations from the prospective plaintiff and whoever else can testify to not just the merits of the claim but the factors that warrant granting leave. Of course, any other evidence that you can offer should be offered in support. The petition should strive to meet summary judgment standards, which will usually require expert opinion. Your expert may be offering a qualified opinion, however, depending on how few of the relevant records you have.

However slender that petition may seem, serve with it a CPLR 409(a) notice to produce the relevant medical records. Keep it simple, identifying the records as you would in any discovery demand. But be sure to add words to the effect that those papers are necessary to the consideration of the question involved in this proceeding and are in the respondent’s possession. And of course, attach to the service copy an unredacted HIPAA authorization—the hospital’s form, if they offer one.¹²

At least one reported decision describes this strategy, though not in a medical malpractice case. In *Markowitz v. New York State Civil Service Commission*, the petitioner sought under CPLR Article 78 to annul his failing grade on a civil service exam, and with his petition he served notice to produce records of other test-takers.¹³ The respondents agreed that the documents were necessary to determine the issues “but assert[ed] that to release such information would set a bad precedent for future cases.”¹⁴ The court required partial disclosure of the demanded documents, showing the discretion in the courts to handle such requests equitably.

Then, assuming the municipality complies with your notice and produces the records at the hearing, the next step is to ask the court to adjourn the hearing and set a schedule for supplemental briefing based on the records. Most judges will have no problem with counsel coming to the hearing and asking then and there for

an adjournment. But as always, have a sense for how your judge runs their part, not just by reading the part rules but by asking around. Would this judge appreciate a call to chambers in advance of the hearing? Will they so order a stipulated supplemental briefing schedule without the need for an appearance on the hearing date?

Another issue is that CPLR 409(a) directs the filing of anything produced at the hearing, but in a medical malpractice case those materials will be medical records full of confidential personal information.¹⁵ Those records will have to be redacted before filing, though you should arrange with the respondent for service of an unredacted copy.

Once a supplemental briefing schedule is set, the last step will be to prepare those supplemental papers like a full-on summary judgment motion, proving prima facie liability with a full record. Of course, if the record gives you anything further on the GML § 50-e factors, be sure to point that out as well.

We’ve Only Just Begun

Of course, all this will only allow you to commence an action. Indeed, the first time you see the complete medical record may be when you set out to prepare the supplemental briefing. So if leave to serve late notice of claim is granted, you will now have, for better or worse, a much clearer idea of the evidence and its weight than you might otherwise have at the pleadings stage.

But whatever your chances are at trial, this strategy maximizes your chances of at least commencing litigation. Given the scenario faced at the outset, that chance may be all that you could ask for. 🦋

This article is based on a NAL Dean’s Hour from March 2025, which NCBA members can stream on-demand at www.nassaubar.org/cle-on/.

1. Whitfield, 162 A.D.3d 1098 (2d Dep’t 2018).
2. See CPLR 103(b).
3. 41 N.Y.3d 531, 542 (2024).
4. See CPLR 401–03.
5. See CPLR 403–06.
6. See CPLR 409–11.
7. Gonzalez, 127 A.D.3d 632, 633 (1st Dep’t 2015).
8. See CPLR 408.
9. 140 A.D.3d 887 (2d Dep’t 2016).
10. 17 Misc. 3d 468, 469 (Civ.Ct., N.Y. Co. 2007).
11. 41 N.Y.3d at 543.
12. See, e.g., NYCHHC HIPAA Authorization to Disclose Health Information, at nyhealthandhospitals.org/medical-records/.
13. 110 Misc. 2d 212, 213 (Sup.Ct., Albany Co. 1981).
14. Id. at 213.
15. See 22 NYCRR § 202.5(e).



Christopher J. DelliCarpini is an attorney with Sullivan Papain Block Manus Coffinas & Cannavo PC in Garden City, representing personal injury plaintiffs on appeal. He is also Dean of the Nassau Academy of Law. He can be reached at cdellcarpini@triallaw1.com.

**FOCUS:
ADMINISTRATIVE**


Henry Cernitz

New York City has approximately 12,000 miles of sidewalk, that are all not in great condition, especially in older areas such as Astoria and Borough Park, where insurance carriers write policies for a great many commercial and residential properties. This article covers what entity is responsible for the sidewalk maintenance and repair, the law regarding special use, and the trivial defect defense.

Liability for Sidewalk Defects

“Sidewalk” is defined by New York Administrative Code § 19-101(d) as that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, but not including the curb intending for the use of pedestrians.” If there is a fall on a curb, it

New York City Sidewalk Liability: A View from the Defense

is not the responsibility of the owner.¹ For purposes of the Code, a tree well is not considered part of the sidewalk and thus the City is responsible for tree well injuries.²

Responsibility for a sidewalk defect is governed by NYAC § 7-210. If the premises is one, two, or three family owner-occupied home, the City is responsible for sidewalk repair; if not, the owner of the premises is the responsible party.

Section 7-210 imposes a non-delegable duty on a property owner to maintain and repair the sidewalk abutting its property.³ The leases need to be examined as the standard lease addition speaks of the tenant being responsible for repairs on the premises, and that means the interior, not the sidewalk unless specifically stated. The same goes for the indemnification clause that speaks of indemnification for injuries sustained on the premises, again not on the sidewalk.

If the defect occurs directly on the property line of two properties, the owner of the property that claims that the loss took place on the other property must show that that they maintained their portion the sidewalk in a reasonably safe condition.⁴ The

hiring of an engineer to give testimony as to the client’s portion of the sidewalk being in good condition would be helpful to the defense, along with good photographs.

Who Is an Owner?

The law is very clear here, the owner of the premises is the entity responsible for the maintenance of the sidewalk in the City of New York. If there is a lease clause that puts the responsibility on the tenant, that only gives rise to an action for indemnification between owner and tenant.⁵

Court decisions have determined who is the owner of an owner occupied one, two or three family home in whole or in part for purposes of liability for § 7-210. A holder of a life estate that resides on the premises is considered an owner for purposes of this section.⁶ The owner of a co-op or condominium who resides in a three-unit co-operative apartment or condominium is also considered an owner.⁷

However, it is clear that the premises must be occupied in whole or in part by the owner or holder of the life estate.⁸ It is important to note that there cannot be any commercial activity aside from some incidental activity such as the use of a basement for a home office.⁹ Most important, the home must be one, two, or three family owner-occupied home at the time of the accident. If the loss occurs before or after the home was not occupied by the owner, or later on becomes a commercial premises or a four-family home, the exemption still is valid.¹⁰

If it is found that the owner is exempt pursuant to the Code, then the City becomes responsible, but with a caveat that unless there was written notice of the defect or created the condition, the City also has no liability. Plaintiffs will then consult the Big Apple Map to determine if there are notations of a defect.

If the owner of an owner-occupied premises that is entitled to the exemption either makes a special use of the sidewalk or repairs the sidewalk so that it becomes more dangerous than if it had not been repaired, then liability can be found on the owner. If the owner created the defect by improper repair or made a special use of the sidewalk, the owner can be held liable for any injury.¹¹ The most common special use of the sidewalk is a driveway that passes over the sidewalk, with the driving of the car over years causing the sidewalk to crack or cause an elevation differential between sidewalk flags.¹²

**Defenses in a Sidewalk
Trip-And-Fall Case**

Section 7-210 does not place absolute strict liability on the owner of a premises that does not qualify for a § 7-210 exemption. The defendant must prove it did not create the condition or did not have actual or constructive notice of the condition.¹³ This is a very difficult burden for the defendant to prove; most sidewalk defects have been present for years with owners doing nothing about repairing them, so constructive notice is easy for any plaintiff to show with photographs, especially now with Google map photos being admissible to show the condition prior to the fall. Most owners of small buildings have no records of inspections or repairs so disproving constructive notice will not be a viable defense.

The next defense is comparative negligence. Under *Rodriguez v. City of New York*,¹⁴ plaintiff need only prove that the defendant was negligent and that comparative negligence is put in place only the trial for damages.¹⁵ There are factors involved that are explored at depositions such as the time of day, the weather at the time, the pedestrian traffic at the time, where was plaintiff looking, lighting, the shoes worn, and whether the plaintiff was on the cell phone or carrying a bag or package.

The most viable defense is that the defect was a trivial defect. Here, we have to take into consideration NYAC § 19-152(a)(1)(6). This section requires repair of any elevation between two sidewalk flags that exceed one half of an inch.

Courts in New York are all over the place as to whether § 19-152 requires a decision in every case that an elevation over one half an inch requires a finding that there is no trivial defect or a finding that there can be a trivial defect for elevations over a half an inch.

The Second Department has held that “A trivial defect on a walkway, not constituting a trap or nuisance as a consequence of which a pedestrian might merely stumble, stub his toes or trip on a raised portion is not actionable.”¹⁶

The latest decision of the Second Department, *Abreu v. Pursuit Realty Group*,¹⁷ goes back to the basics of the trivial defect question, citing, *Trincere v. County of Suffolk*¹⁸ that in sum holds that the court must examine all of the facts presented, including, the depth, width, elevation, irregularity and appearance of the defect and there is no minimal test or per se rule that determines if the defect is actionable. The court held that photographs of the defect may be



NEWFIELD LAW GROUP, P.C.



For more than two decades, Jason A. Newfield has represented claimants whose long-term disability claims and long-term care insurance claims have been wrongfully denied.

We represent individuals before filing claims, during the claim process, for appeals, and in litigation.

Our Services:

- LONG TERM DISABILITY CLAIMS ✓
- ERISA DISABILITY CLAIMS ✓
- DISABILITY INSURANCE LITIGATION ✓
- LONG TERM CARE CLAIMS AND LITIGATION ✓

LEARN MORE

Website 
www.newfieldlawgroup.com

Contact Us 
(631) 270-5090

used to establish that the defect is not actionable. The court stated that the defendant in the case did not provide any measurements of the elevation and that photographs were not of sufficient quality to decide as to whether or not the defect was actionable.

What is very important to note is that in this decision no reference was made to the ½ inch significant defect measurement set forth in § 19-152. This is very important as every plaintiff cites to that § 19-152 when there is an elevation over an ½ inch between flags. However, cases that go the Appellate Division, First Department (Manhattan and Bronx) use § 19-152 with 1/2 of an inch being on factor in deciding if the defect is trivial.¹⁹

Justice Kerrigan in Supreme Court, Queens County, has written an excellent decision, *Lopez v Bakery*, wherein he distinguishes between the two sections.²⁰ He notes that while § 7-210 establishes tort liability on the owner for failure to repair a defective sidewalk, § 19-152 only is a remedial code regulation that sets forth when a sidewalk should be repaired and does not impose tort liability for failure to do so.

The common law still governs the trivial defect law, as a city code rule or regulation does not obviate the common law, *Eliot v. City of New York*, which is governed by *Trincere*.²¹ Whether other courts will buy into this theory is unknown at this time.

Using the trivial defect defense is important in that it obviates the defense of lack of actual or constructive notice which is simply impossible to prove in this type of case.

All investigators should be instructed to carefully go over each sidewalk flag and measure any flags that seem to be elevated and take clear photographs of same. It is

also a suggestion that the inspection companies used by the underwriters carefully assess each sidewalk prior to writing the premises.

Conclusion

As seen above, a sidewalk defense is a difficult case for any defendant. Minor elevations or cracks will result in liability for owners if not repaired on a regular basis and sidewalks should be inspected on a regular basis and a log kept of repairs along with photographs of the sidewalk before and after repairs. 🛠️

1. *Brown v. New York City Department of Transportation*, 187 A.D.3d 535 (1st Dep't 2020).
2. *Vucetovic v. Epson Downs, Inc.*, 10 N.Y.3d 517 (2008).
3. *See Zorin v. City of New York*, 137 A.D.3d 1116 (2d Dep't 2016).
4. *Sangaray v. West River Associates*, 26 N.Y.3d 793 (2016).
5. *Collado v. Cruz*, 81 A.D.3d 542 (1st Dep't 2011).
6. *Lai-Hor Ng Yiu v. Crevatas*, 33 Misc.3d 267 (Sup.Ct., Kings Co. 2011).
7. *Boorstein v. 1261 48th Street Condominium*, 96 A.D.3d 703 (2d Dep't 2012).
8. *Bruck v. 51stHomes Realty*, 106 N.Y.S.3d 575 (Sup.Ct., Kings Co. 2019).
9. *McCalla v. Pris-Fraser*, 221 A.D.3d 800 (2d Dep't 2023); *Zak v. City of New York*, 192 A.D.3d 734 (2d Dep't 2021) (use of basement edit photos for photographer).
10. *Meyer v. City of New York*, 114 A.D.3d 734 (2d Dep't 2014).
11. *Osipova v. London*, 186 A.D.3d 1528 (2d Dep't 2020).
12. *Campos v. Midway Cabinets*, 51 A.D.3d 843 (2d Dep't 2008).
13. *Muhammad v. St Rose of Lima Church*, 163 A.D.3d 693 (2d Cir. Dep't 2018).
14. 31 N.Y.3d 312 (2018).
15. *Brady v. 2247 Utica Ave. Realty Corp.*, 210 A.D.3d 621 (2d Dep't 2022).
16. *Riser v. New York City Housing Authority*, 260 A.D.2d 564 (2d Dep't 1999).
17. 232 A.D.3d 751 (2d Dep't 2024).
18. 90 N.Y.2d 976 (1997).
19. *Trinidad v. Catsimatidis*, 190 A.D.3d 444 (1st Dep't 2021).
20. 2012 Slip Op 31685(U) (Sup.Ct., Queens Co. May 29, 2012).
21. 95 N.Y.2d 730 (2001).



Henry Cernitz is a partner in Jacobson & Schwartz, LLP in Jericho, where he practices in insurance defense of tort claims. He can be reached at Hcernitz@jsnylaw.com.

Portrait Dedication

The Nassau County Courts recently held the portrait dedication ceremonies for two former justices of the New York State Supreme Court, Nassau County—Hon. Antonio I. Brandveen on April 17 and Hon. Jack L. Libert on May 22. The NCBA commissions portraits for elected Nassau County Supreme Court justices upon their retirements from the Bench.



Photos by Hector Herrera



FLORIDA ATTORNEY

LAW OFFICES OF RANDY C. BOTWINICK

Formerly of Pazer, Epstein, Jaffe & Fein

CONCENTRATING IN PERSONAL INJURY

- Car Accidents • Slip & Falls • Maritime
- Wrongful Death • Defective Products
- Tire & Rollover Cases • Traumatic Brain Injury
- Construction Accidents



Now associated with Halpern, Santos and Pinkert, we have obtained well over \$100,000,000 in awards for our clients during the last three decades. This combination of attorneys will surely provide the quality representation you seek for your Florida personal injury referrals.

Co-Counsel and Participation Fees Paid



RANDY C. BOTWINICK

34 Years Experience



JAY HALPERN

39 Years Experience

MIAMI
150 Alhambra Circle
Suite 1100, Coral Gables, FL 33134
P 305 895 5700 F 305 445 1169

PALM BEACH
2385 NW Executive Center Drive
Suite 100, Boca Raton, FL 33431
P 561 995 5001 F 561 962 2710

Toll Free: 1-877-FLA-ATTY (352-2889)

From Orlando to Miami... From Tampa to the Keys

www.personalinjurylawyer.ws

VOLUNTEER ATTORNEYS NEEDED FOR CONSULTATIONS! PRO BONO OPEN HOUSE

**Tuesday, October 21, 2025
at the NCBA**

2:00-4:00 PM | 4:00-6:00 PM | 6:00-8:00 PM
(Attorneys can volunteer for any shift or all shifts.)

We invite all attorneys to volunteer for an in-person open house event. Any Nassau County resident can attend and speak with an attorney for free.

Volunteers are needed in the following areas of law:

- Bankruptcy
- Divorce and Family Law
- Employment
- Mortgage Foreclosure and Landlord Tenant
- Elder Law (Estate and Surrogate)
- Immigration
- General Legal—A to Z (from Adoption to Zoning)

****Attorneys DO NOT provide legal representation.**

**To volunteer, please contact
516-747-4070 ext. 1231 or
openhouse@nassaubar.org.**



Another Community Service from the Nassau County Bar Association
in cooperation with Legal Services of Long Island

PRO BONO MONTH

**FOCUS:
LAW AND AMERICAN
CULTURE**

Rudy Carmenaty

The June 7, 1976, edition of *New York Magazine* featured *Tribal Rights of the New Saturday Night* by Nik Cohn on its cover. A British journalist who made his reputation covering the UK rock scene, Cohn had just moved to New York City.

The piece begins with a bold declaration. It proved too good to be true: “Everything described in this article is factual and was either witnessed by me or told to me directly by the people involved. Only the names of the main characters have been changed.”¹

The article tells the story of Vincent, a streetwise Italian American youth coming of age on the streets of Brooklyn. During the week, Vincent’s life is desolate. Yet each Saturday night, Vincent comes alive at 2001 Odyssey, a Bay Ridge discotheque.

Decades later, Cohn confessed Vincent was a “total fabrication.”² Cohn conjured Vincent from whole cloth to impress his editors. The article certainly impressed Australian music mogul Robert Stigwood, who purchased the rights to the article for the tidy sum of \$90,000.³

Stigwood transformed this source material, as thin as it was, into a cultural touchstone—*Saturday Night Fever*. The film and its soundtrack became anthems for revelers in the 1970s. Disco, for one brief moment, captured the country’s collective fancy as the phenomenon grew into a multi-million-dollar industry.

While platform shoes and polyester suits went from fashionable to downright embarrassing in a heartbeat, it would be a mistake to relegate *Saturday Night Fever* to the dustbin of nostalgia. *Saturday Night Fever* remains both iconic and enduring.

Stigwood began as a talent agent in London, having apprenticed under Brian Epstein. Among his first clients were fellow Australians, the Bee Gees. He formed his own label RSO (Robert Stigwood Organization) Records and began producing musical theater in the West End.

In 1971, Stigwood first spotted a teenage John Travolta at a casting call. Stigwood took note: “This kid will

Tribal Rights as Brooklyn Touchstone

be a very big star.”⁴ Originally from Englewood, NJ, Travolta had dropped out of high school to join the touring company of *Grease*.

In September 1976, three months after Cohn’s article hit newsstands, Stigwood and Travolta agreed to a three-picture deal worth a million dollars at the Beverley Hills Hotel.⁵ Tongues started wagging on both coasts. In a year’s time, they would prove their critics wrong.

Travolta was best-known for playing heartthrob Vinnie Barbarino on the sitcom *Welcome Back Kotter*. Few performers successfully make the transition from television to the big screen. He also appeared in a well-received television docudrama, *The Boy in the Plastic Bubble*.

It was during the making of *The Boy in the Plastic Bubble* that he met Diana Hyland. Diana was an established actress who played the part of Travolta’s mother. The 40-year-old Hyland mentored the 22-year-old Travolta. But then again it was more than that, they fell in love.

Diana saw the potential of *Saturday Night Fever* immediately. It was Hyland who convinced Travolta to take the part. “Baby, you are going to be great in this—great!” she told him.⁶ Travolta wasn’t much of a dancer at the time and didn’t believe he could pull off the dance routines.

Hyland reassured him, “Baby you’re going to learn!”⁷ And learn he did. Travolta trained with choreographers Denny Terrio and Lester Wilson, and with boxer Jimmy Gambina, who at the time was working with Robert DeNiro for *Raging Bull*.

Like Vincent, his progenitor in print, the film’s Tony Manero longs to move beyond his Italian American milieu. His home life is saddled with an unemployed father, a long-suffering mother, and an older brother who is leaving the priesthood.

Only on Saturday night at the very same 2001 Odyssey does Tony find the one space where he is allowed to shine. Tony’s “dancing” gives his life purpose and the prospect of finding something better on the other side of the East River.

While visiting 2001 Odyssey, Travolta witnessed young guys who worked all week so they could spend all their money at the club. Travolta did more than just pick up their affectations. He came to understand what made them tick. Travolta never shies from showing the less savory aspects of his character’s personality.

Saturday Night Fever manages to turn this macho-man dynamic on its head when Tony meets Stephanie Mangano (Karen Lynn Gorney). Stephanie is a decade older and slightly more

sophisticated. She is traveling on the same path of self-discovery as Tony, except she has already made the jump to Manhattan.

Perhaps that is why Stephanie is so dismissive at first. She sees in Tony that which she left behind. They come together not as lovers, but as dance partners for a disco competition. In perfect sync when dancing, Stephanie wants nothing more from Tony than that.

Tony and Stephanie wind up winning the competition. Still, the Puerto Rican couple who came in second were much better. They lost simply because they were not Italian, and this is Bay Ridge after all. Tony’s integrity won’t let him accept a lie. He gives the Puerto Ricans the trophy and the prize money.

The film’s pivotal moment takes place not at 2001 Odyssey, but on the Verrazano Narrows Bridge. One of his crew, the forlorn Bobby C. (Barry Miller), jumps from the bridge to his death. The bridge dominates the landscape, just as Travolta dominates the film.

It is at this moment that Tony realizes the one person who he can turn to is Stephanie. By this point he is no longer the callow, young stud who strutted to the Bee Gees’ *Stayin’ Alive*. Tony achieves a new-found maturity. All of which is evocative of Travolta’s relationship with Diana Hyland.

Diana tragically did not live to see Travolta’s triumph. She died in March of 1977 from breast cancer. Diana’s ordeal provided a palatable touch of poignancy to Travolta’s performance. Six months later, she was awarded a posthumous Emmy for *The Boy in the Plastic Bubble*.

At the ceremony, Travolta accepted the award on Diana’s behalf. Recognizing the role she played in his life, on screen and off, Travolta told the assembled audience in a moving speech: “Wherever you are, Diana, I love you. You did it, baby.”⁸

Likewise, Stigwood underwent his own backstage drama. By self-financing *Saturday Night Fever*, he put up the movie’s original budget to the tune of \$3.5 million and spent an additional million dollars to cover overages.⁹ Still, Stigwood needed a studio to get the film distributed.

Stigwood had revolutionized the British music scene by producing his own recordings and then finding a label to distribute the finished product for a percentage.¹⁰ This same system would serve him well in Hollywood.

Stigwood negotiated a pick-up distribution agreement with Paramount. The beauty of this arrangement was that it gave Stigwood the contractual right of final cut. This meant that Stigwood

would have complete creative control of the film’s content for distribution and exhibition purposes.

Stigwood’s contract initially entitled him to reap 40% of the gross profits.¹¹ Paramount clearly had little confidence in the movie’s prospects. To be truthful, the film was also something of a stopgap measure for Stigwood himself.

Stigwood had signed Travolta in 1976, ostensibly to play the lead in the movie version of *Grease*. However, any adaptation of the Broadway musical would have to wait until 1978 per Stigwood’s contract with the show’s producers.¹² Stigwood needed another property to produce in the interim.

All Stigwood had was a star and a story. Next on the agenda was securing a director. That task fell to Stigwood’s assistant Kevin McCormick. McCormick, who went on to be an executive at Fox and Warner Brothers, was Travolta’s age and also hailed from New Jersey.

McCormick approached several agents without a script in hand. His calling card was Cohn’s article. He was told that filmmakers “don’t do magazine articles.”¹³ There was one director however who was willing to “do” a magazine article—John G. Avildsen.

Avildsen’s current film *Rocky*, starring Sylvester Stallone, was generating considerable box office and Oscar buzz.¹⁴ Avildsen brought in screenwriter Norman Wexler.

Wexler had co-written the script for Sidney Lumet’s *Serpico* and once had threatened the life of Richard Nixon.¹⁵

It was *Rocky* that sold Stigwood on Avildsen. But all this heady success may have gone to the director’s head. Avildsen started tinkering with Wexler’s script. It became apparent that Avildsen was intending to make a different film than the one Stigwood had in mind.

Stigwood had final cut, and it was his money. When Avildsen decided he didn’t want to use the Bee Gees, the director had now gone too far. The Bee Gees were Stigwood’s clients and an integral part of his vision for both the film and the accompanying soundtrack.

The morning the Oscar nominations were announced, McCormack shepherded Avildsen into Stigwood’s apartment at 135 Central Park West.¹⁶ Stigwood told Avildsen: “John, there’s good news and bad news. The good news is you’ve just been nominated for an Academy Award. Congratulations. The bad news is you’re fired.”¹⁷

Stigwood needed a new director, and fast, as production on *Grease* was soon approaching. Stigwood turned to John Badham. Badham seemed a less than inspired choice. Badham, however, was willing to make the film Stigwood wanted made.

Saturday Night Fever was shot in Brooklyn. From Lenny's Pizza in Bensonhurst to 2001 Odyssey, the film captures the sights and sounds of the borough, including some raw language. Stigwood would wrangle with Paramount to preserve this grittiness.

Remembered fondly for its dancing, *Saturday Night Fever* depicts the zeitgeist of a particular place and time. It contains recurrent displays of misogyny, homophobia, and racial resentment. This rendered the film problematic. When Stigwood's cut was screened in Los Angeles, Paramount balked.

Concerns centered around the film's vulgarity, particularly the excessive use of profanity. Because of his contract, Stigwood had the leverage to negotiate from a position of strength. A deal was eventually reached between Stigwood and the studio.

Five uses of the expletive f**k were cut, in exchange for an extra 5% of the gross.¹⁸ By removing a few choice four-letter words, Stigwood stood to realize 45% of the profits. When everything was said and done, he earned a total of \$100 million representing a 2000% return on his investment.¹⁹

Two years later, Stigwood, reluctantly agreed to the release of a sanitized redux of *Saturday Night Fever*. This version, scrubbed of all profanity and some brief nudity, received a PG as opposed to an R rating.²⁰ It earned a further \$8.9 million at the box office.²¹

Stigwood always felt this release was a travesty. Nonetheless, the studio wisely surmised that not only was an inevitable broadcast television sale in the offing, but there was also a younger audience who could not get into the movie house because of the R rating. This was not the only editing anomaly.

When the movie's dance scenes were filmed, the music of the Bee Gees was not being played on set. Instead, performers were grooving to songs by Stevie Wonder and Boz Scaggs.²² The Bee Gees—Barry, Robin, and Maurice Gibb—entered the picture, musically and literally, in post-production.

A blue-eyed soul group from the British invasion of the sixties, the Bee Gees were considered has-beens. Stigwood sent the brothers Gibb a copy of Cohn's article. Their labors resulted in *Stayin' Alive*, *How Deep Is Your Love*, *Night Fever*, and Yvonne Elliman's recording of *If I Can't Have You*.

Proving that no good deed goes unpunished, in the 80s the Bee Gees sued Stigwood for \$136 million in disputed royalties.²³ Stigwood countersued claiming "corporate defamation, libel, extortion and breach of contract."²⁴ The parties wound-up settling out of court.

Stigwood's genius lay in promotion. It was here he pioneered a paradigm which integrated the merchandizing of movies and music. Stigwood had the music generate interest in the film, while

the movie in-turn spurred record sales. This concept of each serving to cross-promote the other is very much in use today.

Saturday Night Fever, the film, earned \$282 million at the box office worldwide.²⁵ *Saturday Night Fever*, the soundtrack, sold 40 million copies and produced four number one songs.²⁶ Travolta earned an Oscar nomination and became a movie star. The Bee Gees won the Grammy and, for a while, were as big as the Beatles.

Sadly, Lenny's Pizza, which is seen in the film's opening sequence, closed in February 2023.²⁷ But *Saturday Night Fever* never quite went away. The movie and its music have become a sort of cultural shorthand for the disco era. Fittingly, the film and the soundtrack are preserved by the Library of Congress.²⁸

As for the vibe of *Saturday Night Fever*, so long as there is a turntable somewhere it will be "Ah, ah, ah, ah stayin' alive." 🎵

1. Nik Cohn, *The Tribal Rights of the Saturday Night*, New York at <https://www.nymag.com>.
2. Eric D. Snider, *14 Fascinating Facts About Saturday Night Fever*, Mental Floss (December 12, 2017) at <https://www.mentalfloss.com>.
3. Jennifer Van Evra, *Saturday Night Fever at 40: fascinating facts about the biggest disco movie of all time*, CBC (December 11, 2017) at <https://www.cbc.ca>.
4. Sam Kashner, *Fever Pitch*, Vanity Fair (December 2007) at <https://www.vanityfair.com>.
5. *Id.*
6. *Id.*
7. *Id.*
8. Joyce Eng, *Emmys: The 9 Best Speeches Ever*, TV Guide (September 15, 2016) at <https://www.tvguide.com>.
9. *Saturday Night Fever* (1977), AFI Catalog at <https://www.catalog.afi.com>.
10. See *Saturday Night Fever – The Inside Story* at <https://youtube.com>.
11. *Id.*
12. Kashner, *supra*.
13. *Id.*
14. Stallone directed the sequel *Stayin' Alive* in 1983.
15. Van Evra, *supra*.
16. *Id.*
17. *Saturday Night Fever – The Inside Story*, *supra*.
18. *Id.*
19. *Id.*
20. Snider, *supra*.
21. *Id.*
22. *Id.*
23. Albin Krebs & Robert Thomas, *Notes on People; Bee Gees and Manager Settle Suits Out of Court*, New York Times (May 12, 1981) at <https://www.nytimes.com>.
24. *Id.*
25. *Saturday Night Fever Franchise Box office History*, Numbers at <https://m-numbers.com>.
26. Geoffrey Golden, *What's the Biggest Selling Album of All-Time?, Celebrity Net Worth* (February 12, 2012) at <https://www.celebritynetworth.com>.
27. Rich Calder, *Brooklyn pizzeria featured in "Saturday Night Fever" Lenny's pizza closing after 70 years*, New York Post (February 18, 2023) at <https://www.nypost.com>.
28. The Library of Congress selected *Saturday Night Fever* for inclusion in the National Film Registry in 2010 and in 2014 the album was added to the National Recording Registry.



Rudy Carmenaty is Deputy Commissioner of the Nassau County Department of Social Services. He can be reached at Rudolph.Carmenaty@hhsnassaucounty.ny.us.



2025-2026 Sustaining Members

The NCBA is grateful for these individuals who strongly value the NCBA's mission and its contributions to the legal profession.

Stanley P. Amelkin
Michael J. Antongiovanni
Robert R. Barnett
Howard Benjamin
Hon. Maxine S. Broderick
Neil Cahn
Hon. Lisa A. Cairo
Deanne M. Caputo
Jeffrey L. Catterson
Bruce M. Cohn
Christopher J. DelliCarpini
Michael DiFalco
Samuel J. Ferrara
Thomas J. Foley
John J. Giuffre
Dorothy M. Going
Alan B. Goldman
Jonathan B. Golub
Robert B. Grossman
Hon. Frank A. Gulotta Jr.
Alan B. Hodish
James P. Joseph
Richard S. Kestenbaum
Elizabeth Knechtges
Jennifer L. Koo
Martha Krisel
Donald F. Leistman
Peter H. Levy
Gregory S. Lisi
Anthony J. LoPresti
Peter J. Mancuso
Michael A. Markowitz
Kenneth L. Marten
John P. McEntee
Patrick M. McKenna
Oscar Michelen
Anthony A. Nozzolillo
Christian A. Pickney
Michael E. Ratner
William M. Savino
Hon. Denise L. Sher
Hon. Peter B. Skelos
Ira S. Slavitt
Thomas E. Stagg
Sanford Strenger
Jill C. Stone
Christina D. Thivierge
Craig J. Tortora
Hon. Joy M. Watson

Your contribution enables the NCBA to continue its legacy for years to come, and demonstrates a commitment to the NCBA and dedication to the legal profession.

To become a Sustaining Member, call the NCBA Membership Office at (516) 747-4070.

NASSAU ACADEMY OF LAW

August 5 (In Person Only)

This Year's Most Significant Bankruptcy Decisions

Sponsored by NCBA Bankruptcy Law Committee and Mortgage Foreclosure Assistance Project

5:00PM Dinner; 5:30PM CLE Program

2.0 CLE Credits in Professional Practice

NCBA Member \$50; Non-Member Attorney \$75

Join us for an in-depth program that will focus on recent and significant bankruptcy cases that have been decided throughout the country that may impact your practice and strategies for both business and personal bankruptcy cases.

Moderator:

Bill Rochelle, Editor-at-Large for the American Bankruptcy Institute (ABI)

Guest Speakers:

Hon. Alan S. Trust, Chief Judge, U.S. Bankruptcy Court for the Eastern District of New York

Hon. Louis A. Scarcella, U.S. Bankruptcy Judge for the Eastern District of New York

Hon. Robert E. Grossman, U.S. Bankruptcy Judge for the Eastern District of New York

Hon. Jil Mazer-Marino, U.S. Bankruptcy Judge for the Eastern District of New York

September 3 (Hybrid)

Dean's Hour: Cybersecurity for Attorneys—Protect Your Clients, Protect Your Practice

12:30PM

1.0 CLE Credit in Cybersecurity, Privacy and Data Protection-General

NCBA Member FREE; Non-Member Attorney \$35

This program will provide an overview of state and federal data privacy laws, including recent and pending legislation. We will also discuss fundamental cybersecurity concepts and share best practices to protect your law firm from data breaches and cyberattacks.

Guest Speakers:

Rebecca Rakoski, XPAN Law Partners LLC

Omid Zareh, Weinberg Zareh Malkin Price LLP

September 9 (Hybrid)

Dean's Hour: Reverse Discrimination—How the Recent Supreme Court Decision in *Ames* Impacts the Future of Employment Litigation

With NCBA Labor & Employment Law Committee

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney \$35

In this program we will explore the Supreme Court decision in *Ames v. Ohio* concerning the standard to

apply in discrimination claims filed under Title VII by non-minority litigants. This CLE will explore the impact on practitioners both litigating these matters and counseling businesses and employees about best practices and policies.

Guest Speakers:

Rick Ostrove, Leeds Brown Law, P.C.

Lisa M. Casa, Forchelli Deegan Terrana LLP

September 18 (In Person Only)

Dean's Hour: Recent Developments in Testimonial Hearsay—Where Are We Now?

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney \$35

Several recent U.S. Supreme Court decisions have cast doubt on the durability of the landmark hearsay decision of *Crawford v. Washington* culminating in this year's New York Court of Appeals decision in *Benjamin v. New York*. This program will review those cases and hopefully cast light on the current state of the law of testimonial hearsay.

Guest Speaker:

Hon. Arthur M. Diamond (ret.)

September 18 (In Person Only)

Matrimonial Law Update—Cases, Cases, Cases by Stephen Gassman, Esq.

With NCBA Matrimonial Law Committee

5:30PM Dinner; 6:00PM CLE Program

2.0 CLE Credits in Professional Practice

NCBA Member \$30; Non-Member Attorney \$75

This program will provide an extensive review and update on many of the important cases decided in matrimonial law since our last Matrimonial Law Update. Mr. Gassman will discuss a number of new cases during his program that will be a valuable tool for your matrimonial law practice.

Guest Speaker:

Stephen Gassman, Gassman Baiamonte Gruner, P.C.

September 25 (Hybrid)

Dean's Hour: Taking Hate to Court—Voices Against Anti-Asian Hate

With NCBA Asian American Attorney Section

12:30PM

1.0 CLE Credit in Diversity, Inclusion and Elimination of Bias*

NCBA Member FREE; Non-Member Attorney \$35

Join us for a screening of the new short documentary film, "Voices Against Anti-Asian Hate,"

PROGRAMS CALENDAR

followed by a discussion about the making of the film and the Task Force's work.

Guest Speaker:

Professor Elaine Chiu, St. John's University School of Law and Past Chair of the AABANY Anti-Asian Violence Task Force

September 25 (Hybrid)

Demystifying the Court of Claims

6:00PM

Refreshments will be served

1.5 CLE Credits in Professional Practice

NCBA Member FREE; Non-Member Attorney \$50

This presentation offers a practical overview of the NYS Court of Claims, including its history, judicial composition, and limited jurisdiction over claims against the State. It covers common case types, procedural requirements under the Court of Claims Act, and strategic considerations for practitioners. The program also introduces the court's new Attorney Referral Pilot Program, aimed at expanding legal representation for unrepresented claimants through pro bono and reduced-fee referrals.

Guest Speakers:

Hon. Linda K. Mejias-Glover, Judge, NYS Court of Claims
Oscar Michelen, Michelen Law

September 29 (Hybrid)

Dean's Hour: Crimmigration and Enforcement Updates

With the Nassau County Assigned Defender Plan

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney \$35

Crimmigration—the intersection between criminal law and immigration law—is at the forefront of many actions taken by the current federal administration. This program will address the administration's immigration enforcement activities, executive orders, priorities, and legislation. The speakers will also discuss the support available to attorneys from the Regional Immigration Assistance Center.

Guest Speakers:

Jackeline Saavedra-Arizaga, Legal Aid Society of Suffolk County, Immigration Unit and Long Island Regional Immigration Assistance Center
Michelle Caldera-Kopf, Legal Aid Society of Nassau County, Immigration Unit and Long Island Regional Immigration Assistance Center

September 30 (Hybrid)

CPL § 440.10: Litigating Wrongful Convictions

With the NCBA Appellate Practice Committee, Nassau County Assigned Counsel Defender Plan, and NYS Office of Indigent Legal Services, Appellate Defender Council

3:00PM – 5:00PM

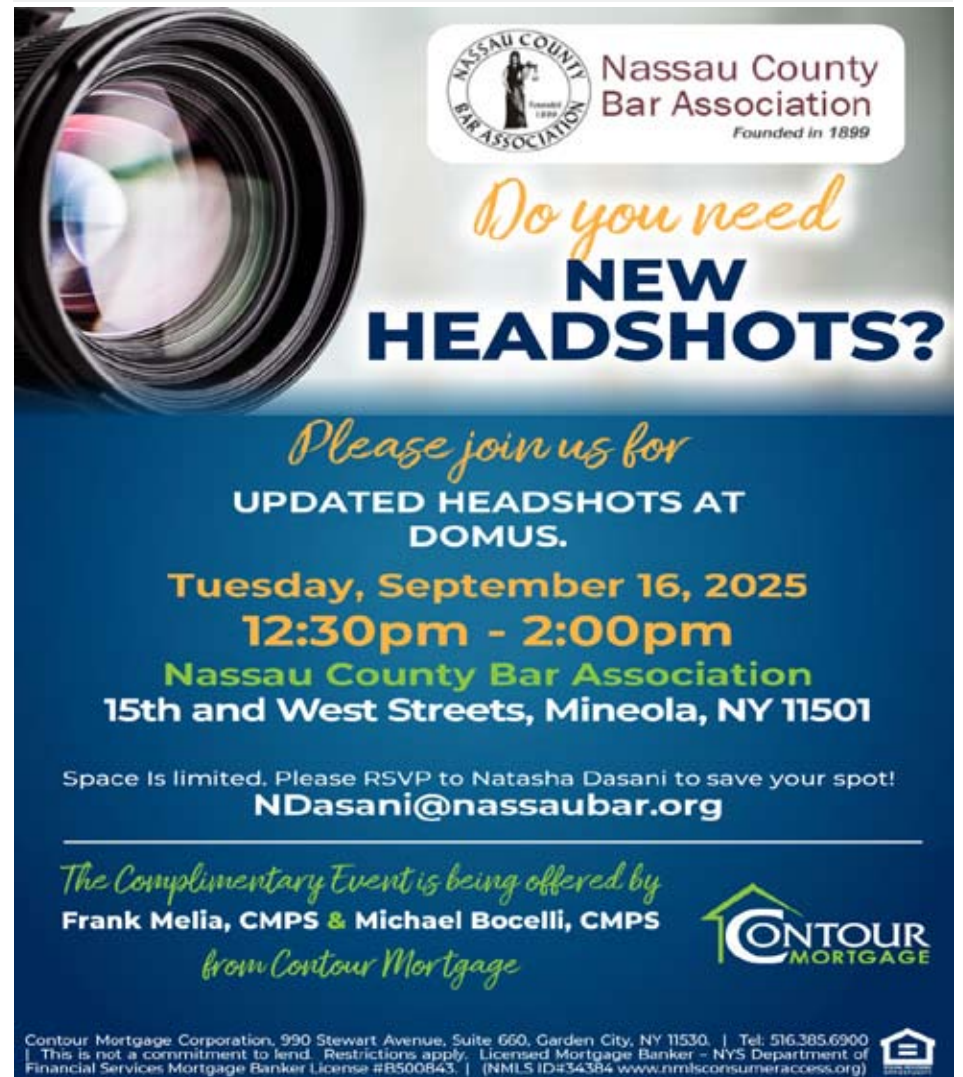
1.5 CLE Credits in Skills and 0.5 CLE Credit in Ethics and Professionalism

NCBA Member FREE; Non-Member Attorney \$25

Wrongful convictions are prevalent and involve both factually innocent people and those whose rights have been violated. Post-conviction litigation, via CPL § 440.10 motion, is a powerful tool to seek justice for clients when their cases involve beneficial information that is outside of the appellate record. We will discuss how § 440.10 practice applies to trial and appellate attorneys as well as provide advice for investigating claims, working with prosecutors, and filing and arguing motions.

Guest Speakers:

Anastasia Heeger, Innocence Project
Mandy Jaramillo, Statewide Appellate Support Center, NYS Office of Indigent Legal Services



Nassau County Bar Association
Founded in 1899

Do you need
NEW HEADSHOTS?

Please join us for
UPDATED HEADSHOTS AT DOMUS.

Tuesday, September 16, 2025
12:30pm - 2:00pm
Nassau County Bar Association
15th and West Streets, Mineola, NY 11501

Space is limited. Please RSVP to Natasha Dasani to save your spot!
NDasani@nassaubar.org

The Complimentary Event is being offered by
Frank Melia, CMPS & Michael Bocelli, CMPS
from Contour Mortgage

CONTOUR MORTGAGE

Contour Mortgage Corporation, 990 Stewart Avenue, Suite 600, Garden City, NY 11530. | Tel. 516.385.6900
| This is not a commitment to lend. Restrictions apply. Licensed Mortgage Banker - NYS Department of Financial Services Mortgage Banker License #B500843. | (NMLS ID#34384 www.nmlsconsumeraccess.org)

These programs are appropriate for newly admitted and experienced attorneys. Newly admitted attorneys should confirm that the format is permissible for the category of credit.

*CLE Credit in this category is available only for experienced attorneys.

The Nassau Academy of Law provides CLE financial aid and scholarships for New York attorneys in need of assistance. For more information, email academy@nassaubar.org.

**FOCUS:
TRUSTS AND ESTATES**


**Scott L. Kestenbaum and
Jill S. Monoson**

If you are representing a fiduciary who is selling real property (or a co-op apartment), do not get stuck the week before your scheduled closing without some very important documents.¹ This article explains the importance of releases of lien for real property and offers a few other practical tips for fiduciaries selling real property.

Many practitioners do not realize that an estate tax lien immediately arises and attaches to real property included in a decedent's gross estate.² This is true whether or not such property is part of the probate estate. These "liens" needs to be released before title/ownership can be transferred.

Don't Lien on Me... Releases of Lien for Real Property Sold from an Estate or Trust

New York State Release of Estate Tax Lien

At death, New York's Tax Law places a lien on a decedent's New York real property to secure payment of any estate tax. This estate tax lien is effective as of date of death. A release of lien is authorization to transfer real property free and clear of estate tax liens. The lien applies only to real property located in the state. There is no fee for a release of lien. A release of lien is necessary for all dates of death unless the decedent and their surviving spouse held real property as the only joint tenants. Whether a release of lien is required does not depend on the value of the property.

To ensure timely processing of a release of lien application, do not schedule a closing without a stamped copy of the release of lien. Make sure the application is accurate and complete, and the correct forms are used (more on this below). Make sure to include all required documents and

complete all required sections. The average processing time is three to four weeks. Incorrect or incomplete forms and missing documents add significant processing time.

The starting point for a release of lien is Form ET-117. You will also need to file one of Form ET-30, Form ET-706, or Form ET-85. You can also file a Form ET-14 to give authorization to the attorney.

Use Form ET-30 when you are the appointed fiduciary or duly authorized representative³ and fewer than nine months have passed since date of death. Make sure to complete the estimated value of all assets of estate and submit a copy of letters of appointment and a copy of death certificate.

Use Form ET-706 if the estate is required to file a NYS estate tax return, and either (1) the estate hasn't obtained an extension of time to file estate tax return *and* more than nine months have passed since date of death; or (2) the estate obtained an extension of time to file estate tax return and more than 15 months have passed since date of death (extension has expired). If you are filing the ET-706, then make sure that all estate tax due is paid in full and include a copy of death certificate and all other supplemental documents required.⁴ If the state already has the return on file, then submit Form ET-117 and note you are not amending Form ET-706, send only the first page of Form ET-706, and write "Copy for Lien Request" on page 1.

Use Form ET-85 if the estate is not required to file a NYS estate tax return, and either:

- No fiduciary has been appointed, or
- More than nine months have passed since date of death, or
- Fewer than nine months have passed since date of death and an executor or administrator has not been appointed, or
- More than nine but less than 15 months have passed since date of death, and an extension of time to file estate tax return has been granted.

You must complete the "estimated net estate" section and make sure the form is signed and notarized and includes a copy of the death certificate. If the estate is subject to tax, you may be required to submit

Form ET-130 to make an estimated payment.

Regardless of the form you file, use the recorded deed and property tax bill to complete Form ET-117 and file a separate Form ET-117 for properties located in different counties. Also, file a separate Form ET-117 for real property and cooperative apartments, even if located in the same county. Check that the estate's outstanding tax assessments are fully paid before applying for release of lien. The state will not process request for release of lien until all bills are paid. Refer to Publication 55⁵ when sending the forms because it is critical to send the forms to the correct address.

Federal Estate Tax Release of Lien

Like in New York, a federal estate tax lien immediately arises upon death and attaches to real property included in the decedent's gross estate.⁶ Unlike other tax liens, no assessment, notice or demand for payment are necessary to create the estate tax lien. The lien attaches at decedent's death, before tax is determined, and is security for any estate taxes that may be due. It is referred to as the "silent lien" and does not have to be recorded to be enforced. The estate tax lien is in addition to the regular federal tax lien under Internal Revenue Code § 6321, which arises upon assessment of the tax. If the IRS finds that the estate or gift tax liability is fully satisfied or provided for, then it may issue a certificate of discharge of all or part of the property from the regular estate tax lien.

If an estate wants to sell property subject to the estate tax lien, a request for discharge of the estate tax lien may be filed on Form 4422. This allows buyers to take title to property free and clear of the tax lien and permits the transfer of property free from the lien to clear title.⁷

Form 4422 is the starting point for an application for a federal release of lien. The instructions to Form 4422 contain details about required documentation. It is advisable to submit the application at least 45 days before closing. If the IRS has issued any other discharges, include the dates and the amounts.

In your submission with Form 4422, attach a description of the property and show value of property and basis of valuation. For real

DIWALI
Celebration

PRESENTED BY THE ASIAN AMERICAN ATTORNEY SECTION
& THE DIVERSITY AND INCLUSION COMMITTEE

Join us for an evening of delicious food, lively entertainment and more
as we celebrate the triumph of light over darkness!

Save the Date

Domus FRIDAY 24 OCTOBER
15th and West Streets, Mineola, NY 11501 5:30 - 8:00 PM
Traditional or colorful attire welcomed!

SPONSORSHIP OPPORTUNITIES AVAILABLE

For more information contact:
Natasha Dasani, Esq. NDasani@nassaubar.org
Yvonne Marin, Esq. YMarin@nycourts.gov

property, attach a separate legal description, the physical address of property being sold, and a preliminary title report. To facilitate timely processing, include copies of:

- Letters of Appointment (Letters Testamentary or Letters of Administration)
- Copy of will or trust
- Sale contract and proposed closing statement
- Current title report and appraisal Form 706⁸

You can also attach Form 8821, Tax Information Authorization, which gives the IRS authority to contact representative when determining if discharge is appropriate (this is optional). Form 4422 and all supporting documents should be sent to the address listed on the instructions to Form 4422. There is also an e-fax number.

In recent years, if a Form 706 has not been filed yet (and is required), or if IRS hasn't completed review of Form 706, IRS might require the proceeds be held in escrow. This is determined on a case-by-case basis. In recent years, the IRS began insisting either that net proceeds of sale be paid to the IRS or that estates enter into escrow agreements where escrow agent retains funds until the time that 706 is filed and the IRS completes its review of 706 by issuing closing letter.

If Form 4422 indicates that estate will not have estate tax liability, based upon estimated gross estate and estimated deductions, a discharge without escrow is usually allowed. IRS

has discretion to question deductions before they issue a release of lien. In 2016, IRS began requiring additional documentation beyond what was explicitly required in Form 4422 instructions. In addition to the basic requirements, IRS began asking for an appraisal of the property and began reviewing in detail proposed closing statements, with focus on reasonableness of attorney's fees and broker commissions in pending sales even when not shown as deductions on 706.

Unlike New York, IRS will not issue a release of lien if an estate is not taxable. If the IRS determines an estate is not required to file estate tax return, they will typically not issue a release of lien discharge certificate and instead will issue a "Letter 1352." To get a Letter 1352, provide all same information as if applying for a release of lien (see requirements above).

Practical Tips

The best plan is to think ahead. If an estate or trust is planning to sell real property and if the fiduciary needs to file an ET-706, tell the preparer to request the release of lien when they file the ET-706. The NYS Release of Lien doesn't expire and doesn't require a contract. It is simpler to apply for the NYS Release of Lien when filing the estate tax return and just requires the preparer to check the box on ET-706 and attach an ET-117.

Notably, in some cases, it might be possible to get around getting a release of lien. If an estate (or trust) is not taxable, ask the title company or managing agent or attorney for cooperative apartment if they will

accept an "Affidavit of No Tax" in lieu of a release of lien.

Purchasers and/or title companies will typically ask for updated letters of appointment (letters testamentary/administration, letters trusteeship) to assure the purchaser that the seller/fiduciary has authority to sell the property. Fiduciaries should check letters of appointment to see if there were any limitations regarding the fiduciary's authority. For example, letters of appointment may reflect that a fiduciary only has authority to collect assets up to a certain value and if the sales price of property along with other assets exceeds this amount, the fiduciary will need to apply for amended letters with increased authority.

Other examples of restrictions might be that a fiduciary is prohibited from transferring or selling property without court approval or posting a bond. In that case, an application must be made to court for authorization and setting of bond amount. This could delay a closing, and fiduciaries should be aware of these limitations before entering into a contract.

Fiduciaries should also be familiar with the property being sold. Before selling a property, fiduciaries should check for liens/judgments/building violations. It is also advisable for fiduciaries to do a title search before entering into a contract so that title issues may be cured beforehand. A decedent might have been aware of title issues but typically fiduciaries don't learn of these "issues" until they get a messy title report.

While a sale and closing of real estate by a fiduciary is comparable to a regular sales transaction there are nuances regarding closings that

involve estates and trusts that require consideration. Considering these issues in advance could save a lot of time, money and aggravation. You can look like a hero rather than the attorney who didn't think ahead. 🛠️

1. Throughout this article, the term "real property" includes shares in cooperative apartments.
2. IRC § 6324(a).
3. If you applied for letters of appointment but have not yet received them, use Form ET-85.
4. Refer to the Instructions on Form ET-706.
5. <https://www.tax.ny.gov/pdf/publications/general/pub55.pdf>.
6. IRC § 6324(a).
7. This is not proof of payment of estate tax; estate tax will be considered satisfied when an investigation has been completed and payment of tax, including any determined deficiency. IRC Reg. § 301.6325-1(c)(1).
8. If the return has not been filed, then send a draft Form 706 and/or a copy of inventory and appraisal reflecting all estate assets; or, if on extension, a copy of Form 4768.



Scott Kestenbaum, JD, MS is a Partner at Kestenbaum & Mark LLP, current Vice Chair of the NCBA Business Law, Tax & Accounting Committee, and a member of the ABA Tax Section. He can be reached at scott@kmtaxlaw.com.



Jill Monoson, JD, LLM, AEP® is Counsel to Kestenbaum & Mark LLP, a member of the Estate Planning Council of Long Island, an Accredited Estate Planner®, the Acting Village Justice in the

Village of Kensington, a member of the NYS Magistrates Association, and a member of the Trusts and Estates Sections of the NCBA and NYSBA. She can be reached at jmonoson@kmtaxlaw.com.

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.

Quatela Chimeri PLLC, with offices in Hauppauge and Garden City, welcomes **Stephanie Osnard** and **Richard N. Pagnotta, Jr.** as associate attorneys concentrating in the matrimonial and family law practice group. Osnard graduated from Maurice A Dean School of Law at Hofstra University in 2024, and Pagnotta graduated in 2017. The firm also congratulates **John R. Eyerman, Jr.** on his promotion to Partner. Eyerman practices in the transactional, litigation, and appellate forums and he graduated from Brooklyn Law School in 2019, having served as associate managing editor of the Brooklyn Law Review.

Forchelli Deegan Terrana LLP congratulates partner **Mary E. Mongioi** on being selected by *Long Island Business News'* editorial staff as

one of the Most Dynamic Women Leaders of 2025. Mongioi chairs FDT's Veterinary practice group and co-chairs its Corporate and M&A practice group. The firm announces that **Michael A. Berger**, an associate in the firm's Employment & Labor and Veterinary practice groups, was appointed First Vice President of Nassau Lawyers' Association of Long Island, Inc. FDT also welcomes **Michael S. Amato** to the firm's Bankruptcy and Corporate Restructuring and Litigation practice groups as a partner.

Rudy Carmenaty is the recipient of the Virginia C. Duncombe Scholarship Award from the Nassau County Women's Bar Association. The award was presented by Hon. Linda K. Mejias-Glover at their Annual Installation Dinner on

June 17. The Duncombe Award is bestowed annually to foster and enhance ongoing legal education.

Long Island Business News has selected **Hon. Gail Prudenti**, Partner at Burner Prudenti Law, P.C., as a 2025 Icon Honors recipient.

On July 1, **Oscar Michelen** announced the launch of his solo law firm, Michelen Law, P.C., with a focus on wrongful convictions and civil rights.

Capell Barnett Matalon & Schoenfeld LLP Founding Partner **Robert S. Barnett** presented a webinar on "Advanced Trust Drafting for Income Tax Minimization" for EStudy on July 21; presented two sessions for the myLawCLE webinar "LLCs from the Ground Up: How to Draft, Structure,

Defend, and Leverage for Tax and Estate Success" on July 30; and chaired several joint community presentations at NYS Society of CPAs, where he is the current chair of the Closely Held/S-Corp community. Partner **Stuart H. Schoenfeld** recently co-presented with the Legacy Group NY on "Building Your Estate Plan—Strategies for Wealth Preservation." Partner **Yvonne R. Cort** will speak at a Half Moon presentation in September on New York State Tax Collections. Partner **Erik Olson** recently presented two webinars for the NY Society of CPAs communities on "Net Operating Losses in Business Buy-Sell Transactions (382 Limitations)" and "Theft Losses After the TCJA and OBBB." Capell Barnett Matalon and Schoenfeld are proud to be sponsors of the NY CPA Annual Golf Outing on August 14, 2025.

**FOCUS:
REAL PROPERTY**


Bryan Barnes

Adverse possession is a concept of acquiring property contained in Article 5 of the Real Property Actions and Proceedings Law (RPAPL).¹ To establish a viable claim for adverse possession, the plaintiff must prove by clear and convincing evidence that the possession was: (1) hostile and under claim of right; (2) actual; (3) open and notorious; (4) exclusive; and (5) continuous for the statutory period of ten years.²

While adverse possession is not a favored method of procuring title to real property, it is both a necessary and recognized method of acquiring title.³ Adverse possession can be based on a written instrument, such as a deed or property survey.⁴ When adverse possession is not based on a written instrument, the area acquired by adverse possession is limited to that which is actually occupied and possessed.⁵

Article 5 of the RPAPL was amended on July 7, 2008, modifying the required elements of adverse possession.⁶ One of the most significant amendments to RPAPL § 501 was the addition—for the first time—of an actual statutory definition of what constitutes a “claim of right.”⁷ RPAPL § 501 (3) states that “[a] claim of right means a reasonable basis for the belief that the property belongs to the adverse possessor or property owner, as the case may be.”⁸ Prior to this amendment adding this statutory definition, “claim of right” was defined through the common law where it could be asserted regardless

Adverse Possession Against a Municipal Property? Can It Be Done?

of whether there was actual knowledge of the true owner at the time of entering possession.⁹

Regarding the 2008 amendments, it should be noted that they cannot be applied retroactively, meaning that if the adverse possession vested prior to July 7, 2008, the prior law still applies.¹⁰ This is especially important to note because it means that the date of filing is not determinative; what is determinative is the date of vesting, which in this case is the expiration of the ten year statutory period.¹¹

Adverse Possession of Properties Owned by Municipalities

A municipality cannot lose title to a property it owns in its governmental capacity or a property that has been made inalienable by statute.¹² However, it can lose title to a property it owns in its proprietary capacity when the municipality does not affirmatively dedicate a property for public use and, more importantly, use the property for a public purpose.¹³

Below are two recent decisions by the Second Department concerning the issue of adverse possession of properties held by municipalities. In those decisions, the primary determining inquiry is whether the property is being used for public purposes. As will be seen, dedication alone is not enough and there must be clear evidence that the property is being used for public purposes.

In both cases, the municipal defendant sought summary judgment pursuant to the Civil Procedure Laws and Rules (CPLR) to defeat the adverse possession claim by the respective plaintiffs. The decision in each of the cases ultimately turned on documentary evidence to determine whether the municipality held the property in its governmental or proprietary capacity.¹⁴

Bronxville Scout Comm. v. County of Westchester

*Bronxville Scout Comm. v. County of Westchester*¹⁵ was decided on July 31, 2024 by the Second Department in which the plaintiff, a non-profit organization associated with the Boy Scouts of America, claiming rights to property acquired by Westchester County pursuant to

operation of law in 1925.¹⁶ The plaintiff claimed that a January 25, 1913 conveyance included a “reservation of right” and the plaintiff in the action was seeking a judgment that it had exclusive rights and legal title to the property.¹⁷ The County of Westchester countered with a motion to dismiss pursuant to CPLR § 3211(a)(1) and (7), stating that it acquired title to the property in 1925 pursuant to an Act under chapter 197 of the laws of 1925 and claimed that the plaintiff was merely a licensee.¹⁸

The court found that the County established that the property was both dedicated to a public use and actually used for a public purpose as well.¹⁹ In so doing, the court made a distinction between property held by a municipality in its propriety capacity as opposed to property held in its governmental capacity. By concluding that the property was held in its governmental capacity, the court stated that title to the property could not be acquired through adverse possession.²⁰

As a final procedural note, in a decision dated February 18, 2025, the New York Court of Appeals denied a motion for leave to appeal.²¹

Ellis v. Town of East Hampton

Unlike the previous case discussed, *Ellis v. Town of East Hampton*²² did not grant the defendant municipality summary judgment, since it was found that there was a question of fact as to whether the property in question could be acquired by adverse possession. The subject property in this case was on the shore of Lake Montauk, which the Town of East Hampton claims was acquired through a dedication in 1941.²³ The court stated that, contrary to the contention by the plaintiff, the 1941 documents at issue submitted by the Town as evidence showed that there was dedication of the property as well as acceptance of the deed for use as a public highway.²⁴

While the court noted both a dedication and adoption of the property as a public highway, it nevertheless held that summary judgment could not be granted to the Town.²⁵ It held that the Town failed to submit sufficient evidence of any formal act adopting the property as a

highway, coupled with the additional requirement that the property be maintained.²⁶

Therefore, the court here held that dedication and acceptance of the deed evincing an intention for use was insufficient.

Conclusion

As has been seen, the law of adverse possession has gone through changes from what it was prior to the 2008 amendments. When it comes to adverse possession actions against municipalities, though, the inquiry really boils down to two essential elements: (1) whether there is declaration that the land is being used for a public purpose and (2) whether there is sufficient evidence to prove that its being used for that public purpose. As has been seen, particularly in the more recent *Ellis v. Town of East Hampton* case, the evolving Second Department case law is that both of those questions must be satisfactorily answered. 🏠

1. See generally *Hogan v. Kelly*, 86 AD3d 590, 591 (2nd Dept. 2011).

2. *Kelly*, 86 AD3d at 591.

3. *SLC Coram, LLC v. 543 Middle Country Rd. Realty, LLC*, 161 AD3d 1122, 1123 (2nd Dept. 2018).

4. See RPAPL § 511 (adverse possession pursuant to a written instrument) and RPAPL § 521 (adverse possession not pursuant a written instrument).

5. *Krol v. Eckman*, 246 AD2d 945, 947 (3d Dept. 1998).

6. L 2008, ch 269, § 5.

7. 86 AD3d at 592.

8. *543 Middle Country Rd. Realty, LLC*, 161 AD3d at 1123.

9. See *Id.* at 591.

10. *Id.* at 592.

11. See *Id.* at 592.

12. *Vaccaro v. Town of Islip*, 181 AD3d 751, 753 (2nd Dept. 2020).

13. See *Town of Islip*, 181 AD3d at 753.

14. See 181 AD3d at 753.

15. *Bronxville Scout Comm. v. County of Westchester*, 229 AD3d 753 (2nd Dept. 2024).

16. *County of Westchester*, 229 AD3d at 754.

17. 229 AD3d at 754.

18. *Id.* at 754.

19. *Id.* at 755.

20. *Id.* at 755.

21. 2025 NY LEXIS 111 (NY Feb. 18, 2025).

22. *Ellis v. Town of East Hampton*, 235 AD3d 950 (2nd Dept. 2025).

23. *Town of E. Hampton*, 235 AD3d at 951.

24. 235 AD3d at 952.

25. See *Id.* at 952.

26. *Id.* at 952. In addition, the Town failed to show that the property could not be abandoned pursuant to Highway Law § 205(1) as it wasn't traveled or used as a highway for six years.



Bryan Barnes is a Deputy County Attorney assigned to the Legal Counsel Bureau in the Nassau County Attorney's Office. He can be reached at bbarnes@nassaucountyny.gov.

For Information on
**LAWYERS'
AA MEETINGS**
Call
(516) 512-2618

NCBA Installation Ceremony

On June 3, 2025, NCBA Members gathered for the installation of James P. Joseph as the 123rd President of the Nassau County Bar Association and Christopher J. DelliCarpini as the new Dean of the Nassau Academy of Law. Nassau County Administrative Judge Vito M. DeStefano, Justice R. Bruce Cozzens, Jr., and Past Dean Thomas J. Foley officiated the installation of the new Officers and Directors of the NCBA Board of Directors and NAL Advisory Board.



Photos by Hector Herrera



LAPs for LAP Walk-a-Thon

The NCBA Lawyer Assistance Program (LAP) held its third annual walk-a-thon fundraiser on Saturday, June 7 at Cedar Creek Park in Seaford. Thank you to all of the walkers and sponsors who showed up and supported LAP, especially our refreshment sponsors who made it possible for walkers to spend additional time together socializing over bagels, coffee, and snacks.



**FOCUS:
CLE REVIEW**


Brittany Nicole Hulbert

It has been 70 years since the landmark *Brown v. Board of Education* decision ended the “separate but equal” precedent established in *Plessy v. Ferguson*, finding the segregation of public schools to be a violation of the 14th Amendment.¹ Educational literacy barriers affecting minority students, however, continue to persist. Various efforts and laws since the *Brown v. Board of Education* decision, including those of New York State, have attempted to address these barriers, primarily focusing on English Language Learners (“ELLs”) and promoting culturally responsive education. Despite these laws, significant achievement gaps in literacy persist for Black and Latinx students.² It is important to understand where these gaps survive despite progress made and how to address these gaps within the New York education system.

Introducing the Panel

On May 29, 2025, the Nassau County Bar Association held a live Continuing Legal Education (“CLE”) course addressing the literacy gap. This CLE—co-sponsored by the Diversity & Inclusion Committee and the Education Law Committee—was proposed and developed by NCBA Diversity & Inclusion Committee Co-Chairs, Hon. Maxine S. Broderick, NCBA President-Elect and a Nassau County District Court Judge for the 10th Judicial District, and Hon. Linda Kelly Mejias-Glover, a judge of the New York State Court of Claims; and a panel of legal and educational experts.

The panelists participated in a question-and-answer discussion moderated by Mickheila Jasmin-Beamon, Esq., a Princeton University graduate and current mediator and workplace equity consultant with a passion for supporting survivors of intimate partner violence and human trafficking. Ms. Jasmin-Beamon asked the panel a series of varying questions allowing them to speak upon their real-life experience in addressing and combatting today’s literacy gap, specifically within New York State.

70 Years After *Brown v. Board of Education*: Bridging the Literacy Gap

The panel consisted of Tarja Parsinnen, Director of the non-profit WNY Education Alliance and founding partner of WNY Literacy Initiative, a collaborative effort of 30 organizations whose mission is to improve literacy rates in Western New York, especially underserved communities; Cynthia A. Augello, Esq., founder of Augello Law Group, P.C. with extensive experience in all aspects of commercial litigation and primarily focusing on education law and employment law; Laura Harding, Esq., CEO of Harding Strategies & Consulting, LLC where she assists businesses, nonprofits, and educational institutions in developing innovative strategies and fostering inclusive cultures for success through coaching and workshops and leads education equity and affordable housing advocacy efforts; Charmise P. Desiré, who has served on the Uniondale Board of Education since July 2018, including serving as Board President during the 2019-2020 and 2020-2021 academic years; Danielle Brooks, owner of Special Kids Advocates Agency where she and her team have facilitated more than 1,000 Committee on Special Education meetings each school year; and Maria Licata, an experienced special education advocate with over 15 years of dedicated service at the Special Kids Advocates Agency with a passion for supporting children with learning differences as well as Behavioral and Mental Health challenges.

The Panel’s Discussion: New York State Laws and Bills

The panel discussed various New York State laws and bills addressing literacy barriers for minorities and under-served communities. Some of the relevant laws and initiatives discussed include English Language Learners (“ELLs”) Support under Part 154 of the Regulations of the Commissioner of Education. Citing the 1974 *Lau v. Nichols* decision and referencing the ASPIRA Consent Decree, panelists emphasized the legal requirement to provide ELLs with equal access to education, including bilingual programs.³ Amendments adopted by the Board of Regents in 2014 strengthened these regulations, requiring districts to expand services and ensure that ELLs, including students with disabilities, receive the support they need to succeed.⁴

Panelists also discussed recent legislation requiring school districts to provide evidence-based literacy instruction aligned with state standards, including professional development for pre-K through grade five teachers and a focus on phonemic awareness, phonics, vocabulary, fluency, and comprehension, and the implementation of the Culturally Responsive-Sustaining Education (“CR-S”) Framework, which supports student-centered environments affirming diverse identities, promotes academic rigor, and fosters equity through practices such as equity literacy and anti-bias education.⁵

There have been funding and resource initiatives aimed at supporting underserved communities. These initiatives include proposed legislation to establish family literacy programs in high-poverty areas and low-performing school districts, integrating early childhood education, adult literacy, and intergenerational learning. The panelists highlighted efforts to expand digital equity through competitive grants that promote access to AI and digital literacy education, particularly in public schools and non-profit settings. Additionally, they noted the ongoing role of federal and state funding, such as Title I under the Elementary and Secondary Education Act, in supporting academic and bilingual programs.

In discussing litigation and persistent disparities, the panel addressed the landmark *IntegrateNYC v. New York* case, which challenges racial segregation in New York City’s public schools and asserts a right to an anti-racist education.⁶

The panel also highlighted enduring achievement gaps in reading between white and Asian students and their Black and Latinx peers, as shown by National Assessment of Educational Progress (“NAEP”) data.⁷ These disparities are linked to systemic issues such as inequitable school funding, under-resourced schools, limited access to qualified teachers, and disproportionate placement of minority students in special education. While New York State has legal frameworks and initiatives in place, the panel emphasized that achieving equity in literacy remains an ongoing challenge.

The attendees included judges, education attorneys and attorneys from all practice areas, local board of education members, members of school districts, and graduate students. In looking further into issues New York State currently faces today, the panelists addressed that though *Brown v. Board of Education*⁸ eliminated segregation within schools, it was not until *Brown v. Board of Education II*⁹ that the courts addressed and began to implement the practical steps required to effectuate *Brown I* with “all deliberate speed.”¹⁰

The panelists also discussed how decisions like *Upper Arlington City School District*¹¹ were made through parents banding together and bringing a systemic complaint on behalf of many students who were denied from being provided a Free Appropriate Public Education (“FAPE”).¹² In Tennessee, a young man sued his school district after graduating from high school despite not being able to read.¹³ In Northern California, the Berkeley Unified School District was sued in a class-action suit for failing to provide adequate accommodations to students with dyslexia and other literacy challenges who were struggling to read and denying these students Individualized Education Program (“IEPs”).¹⁴ Panelists acknowledged that there have been efforts to implement intervention methods to assist first-grade students who were struggling to read; however, they went on to cite various data which sustained that these methods of intervention did not yield long term results because students were not taught effective learning strategies.

Other challenges addressed by the panelists included underfunded schools and budgeting issues, which can occur when students electing to go to charter schools are no longer able to attend those schools and revert back to public schools.

Where Do We Go from Here?

As the panelists discussed, we have a long way to go to reach equality in the educational system for minority students in under-served communities. The panelists concluded with a call to action: to be aware of the ongoing situation within the educational system and provide support. For some, this may look like being aware of inequity and imbalance and pushing for change with the New York State legislature. For others, this may look like pro bono work with students and their parents who may not know their

rights when challenging the school system, or taking pro bono cases when students who need legal assistance are deterred from seeking it out. 🗡️

1. *Plessy v. Ferguson*, 163 U.S. 537, 550–51 (1896); *Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).
2. *EdTrust-New York: New NAEP Data Reveals Crisis in New York Schools with Persistent Gaps for Black and Latinx Students*, EdTrust New York, (Jan. 30, 2025), <https://newyork.edtrust.org/edtrust-new-york-new-naep-data-reveals-crisis-in-new-york-schools-with-persistent-gaps-for-black-and-latinx-students/>.
3. Following the *Nichols* decision, that same year, an agreement between the New York City Board of Education and ASPIRA of New York, called the ASPIRA Consent Decree, was created, assuring that ELL students would be provided bilingual education.

- Lau v. Nichols*, 414 U.S. 563, 568 (1974).
4. New York State Board of Regents, Regulations of the Commissioner of Education, Services For English Language Learners For Programs Operated In The 2015-2016 School Year and Thereafter, Subpart 154-2 (2014); New York State Board of Regents, Regulations of the Commissioner of Education, Identification And Exit Procedures For Students With Disabilities For English Language Learner Programs Operated in The 2015-2016 School Year and Thereafter, Subpart 154-3 (Dec 3, 2014).
5. *Culturally Responsive-Sustaining Education Framework*, New York State Education.gov, <https://www.nysed.gov/sites/default/files/programs/crs/culturally-responsive-sustaining-education-framework.pdf> (last visited July 22, 2025).
6. *IntegrateNYC, Inc. v. State of N.Y.*, 2024 NY Slip Op 02369, ¶¶ 3-4, 228 A.D.3d 152, 158-60 (1st Dept. 2024).
7. See, e.g., NAEP, National Center for Education

- Statistics, <https://nces.ed.gov/nationsreportcard/> (last visited July 22, 2025).
8. *Brown*, 347 U.S. at 495.
9. *Brown v. Bd. of Educ.*, 349 U.S. 294, 301 (1955).
10. *Id.*
11. Upper Arlington School District was found guilty of all three allegations in 2011 and was cited by parents that the systemic complaint was a powerful approach because of the lack of NDAs and the complaint being made public. See Complaint Against Upper Arlington City School District, (June 6, 2011), <https://www.advocacyinstitute.org/isrcr/complaints/UpperArlingtonComplaint.pdf>.
12. *Learn About a Free Appropriate Public Education (FAPE) Under the IDEA*, Wrightslaw, (October 23, 2017), <https://www.wrightslaw.com/info/fape.index.htm>.
13. Caleb Wethington & Amanda Alvarado, *Former student sues school, saying he graduated with a 3.4 GPA but couldn't read*, Action News 5, (Mar.

- 2, 2025, 12:34 PM), <https://www.actionnews5.com/2025/03/02/former-student-sues-school-saying-he-graduated-with-3-4-gpa-couldnt-read/>.
14. Natalie Orenstein, *Lawsuit says Berkeley Unified fails to support students with dyslexia*, Berkeleyside, (May 3, 2017, 4:00 PM), <https://www.berkeleyside.org/2017/05/03/lawsuit-says-berkeley-unified-fails-support-students-dyslexia>.



Brittany N. Hulbert is an associate at Becker, focusing her practice on community association law. She can be reached at bhulbert@beckerlawyers.com.

NCBA Celebrates The Wheatley School, Winner of 2025 Mock Trial Tournament

On April 9, The Wheatley School's mock trial team from Old Westbury prevailed over W.T. Clarke High School in the regional finals to become the Nassau County champions of the 2025 New York State High School Mock Trial Tournament. The Wheatley School went on to represent Nassau County at the state finals in Albany on May 19, 2025.

The first and second place teams were celebrated for their exceptional performances in this year's tournament at an awards dinner at Domus on May 16. The Wheatley School was presented with the first-place trophy, which has been engraved with the winning school's name since 1980, and Westbury's W.T. Clarke High School also

received an award plaque to display at their school.

The attendees included members of the mock trial teams, their families, attorney advisors, mock trial judges, and distinguished guests. Hon. Vito M. DeStefano, Administrative Judge of the 10th Judicial District, Nassau County, and Hon. Arthur F. Engoron, Justice of the New York County Supreme Court and alumni of The Wheatley School, were also in attendance and addressed the audience.

The annual New York State High School Mock Trial Tournament is a joint program of the New York State Bar Association, the New York Bar Foundation, and the Law, Youth and Citizenship Program. This year, thousands of students from

across the state competed in regional tournaments, and the championship team from each region advanced to the state finals. The Tournament helps to expand the participating students' understanding of trial advocacy and the legal system as well as teach students ethics, civility, and professionalism. This year's case, *Leyton Manns vs. Sandy Townes*, was a civil case involving AI deepfake recordings allegedly created by a former high school student, Sandy Townes, to defame the former superintendent of Townes's high school, Leyton Manns.

NCBA coordinates the Nassau County Tournament, which takes place from February through April at the Nassau County Supreme Court. Forty-six public, private and parochial



high schools participated in the 2025 competition. This year's chairs were Peter H. Levy and Hon. Lawrence M. Schaffer. Dozens of NCBA members were also integral to the success of the program by serving as Attorney Advisors to the teams and Judges for the seven rounds of the tournament. 🗡️

Attorney Advisors Wanted for Mock Trial Teams

Christopher J. DelliCarpini

The Nassau Academy of Law is recruiting NCBA members to serve as attorney advisors to Nassau County teams in the 2025–2026 New York State High School Mock Trial Program. Interested members are welcome to an informational session at Domus on September 11 at 12:30 PM.

Each year, thousands of students across the state compete in the Mock Trial Program, taking sides in a civil or criminal trial and litigating in a tournament format among eight regions. Nassau County alone comprises Region VII, and in the 2024-2025 competition, 46 high school teams competed to be county champion and advance to the state finals in Albany.

In the coming tournament, the Academy aims to provide an attorney advisor to every Nassau County team that wants one. The popularity of the Mock Trial Program in Nassau is

encouraging to everyone concerned for the legal profession. The ranks of our volunteers, however, have not kept up with the growth of the program's popularity; some county teams were forced last year to compete without an attorney advisor.

Though not required for competition, attorney advisors are desired by virtually every team. The students are eager for experienced litigators to share advice on trial practice, feedback on the students' efforts, and insight into a legal education and career.

The work of attorney advisors depends on the needs of each team, but generally they make themselves available to answer questions and critique the students' work in preparation for competition. As the tournament approaches, many advisors meet with their teams weekly—in person or virtually—and during the week may critique drafts of witness

outlines, opening statements, and closing arguments.

The calendar varies among the schools, but by December every team is working in earnest, as the opening rounds take place in February. Some schools begin working on mock trial in September with a for-credit course, while others struggle to recruit the minimum number of students for a team. Shortly after Thanksgiving, the materials for the coming tournament become available online, including the tournament rules, the rules of evidence for competition, and the trial materials (pleadings, witness affidavits, potential trial exhibits, and summaries of relevant case law). The teams then get to drafting their outlines, and those weeks before the first round are when they most need the advice of experienced trial lawyers.

The best attorney advisors have trial experience, offering a personal perspective on preparing for and

conducting trial. But each advisor is also a teacher and should be ready to explain each of the tasks in trial practice to students who may have never even met a lawyer before, and whose understanding of the law may come entirely from pop culture.

Attorney advisors can receive CLE credit for their work, but the greatest satisfaction is in helping to coach young people on the skills of advocacy, which can benefit them in any career.

At the informational session, experienced attorney advisors will offer their perspective on the role and their advice for new volunteers, as well as answer any questions. The Academy will also provide materials to guide first-time advisors.

Interested members can sign up for the informational session on the NCBA's website under the CLE Calendar. They can also direct any questions to Academy Assistant Dean Charlene Thompson at cthompson@nassaucountyny.gov. 🗡️

We Acknowledge, with Thanks, Contributions to the WE CARE Fund



DONOR	IN HONOR OF
Ellen P. Birch	Gail B. Saul, President of the Nassau County Women’s Bar Association
Ellen P. Birch	Gail Broder Katz, award recipient of the Nassau County Women’s Bar Association
Karen Bodner	Birth of Judge Conway’s grandson, Vincent Dominick
Karen Bodner	Birth of Judge Dane’s granddaughter, Delia Joy
Karen Bodner	Stephanie Pagano, for her invaluable support to me as Chair of the Matrimonial Law Committee
DiMascio & Associates	Gail B. Saul, President of the Nassau County Women’s Bar Association
DiMascio & Associates	Tanya Mir, President-Elect of the Nassau County Women’s Bar Association
DiMascio & Associates	Gail Broder Katz, award recipient of the Nassau County Women’s Bar Association
DiMascio & Associates	Rudolph Carmenaty, award recipient of the Nassau County Women’s Bar Association
Beverly and William Flipse	With thanks to WE CARE
Kenneth Landau	Joshua Brookstein for his outstanding leadership and devotion to the very successful Mock Trial Program for Elementary and Middle Schools
Hon. Denise L. Sher	Hon. Maxine S. Broderick, installed as NCBA’s 123rd President-Elect

DONOR	IN MEMORY OF
Karen Bodner	Maurice Moses, father of Robert Moses
Richard Fromewick	Michael (Mickey) Martone
Stephen Gassman	Joseph Dussich
Barbara Gervase	Joseph Dussich
Joanne and Frank Gulotta	Fred Pollack
Adrienne and Roger Hausch	Fred Pollack
A. Thomas Levin	Michael (Mickey) Martone
Gregory S. Lisi	Kathleen Gramarossa
Gregory S. Lisi	Dorothy C. Fogarty
Gregory S. Lisi	Lorraine Fiore
Hon. Denise L. Sher	Mary Margaret Mansueto, beloved mother of NYSCO Major Philip Mansueot, Nassau County Court

IN HONOR OF JAMES P. JOSEPH, INSTALLED AS NCBA’S 123RD PRESIDENT Ellen P. Birch Neil Cahn Faith Getz Rousso Howard Kurtzberg Hon. Andrea Phoenix Hon. Denise L. Sher
IN MEMORY OF MARIE R. MARANO, MOTHER OF HON. ANTHONY F. MARANO Hon. Chris J. Coschignano and Elisabetta T. Coschignano Emily Franchina Joanne and Frank Gulotta Hon. Andrea Phoenix Stephen W. Schlissel Hon. Denise L. Sher Hon. Joy M. Watson
IN HONOR OF STEPHEN GASSMAN, RECIPIENT OF THE DOROTHY PAINE CEPARANO PRGRAM LEADERSHIP AWARD FROM SUFFOLK ACADEMY OF LAW Ellen P. Birch Karen Bodner Hon. Andrea Phoenix



TUNNEL TO TOWERS 5K RUN AND WALK

Sunday, September 28, 2025
9:30 AM - 2:00 PM

Be Part of the WE CARE Team!
Whether you're walking, running, or cheering from the sidelines, your presence matters.
Help us honor our heroes and show that We Care.
Family and Friends Welcome!



Registration Includes:

- Entry Fee
- T2T Event and Warriors Team Shirt
- Breakfast and Lunch
- Preferred Starting Time
- Round Trip Coach Bus Transportation
- Goody Bag



Scan the QR code to register!

Mortgage Foreclosure Trainings

On May 20 and May 30, the Nassau Academy of Law—in partnership with the NCBA Mortgage Foreclosure Assistance Project and Nassau County Supreme Court Foreclosure Settlement Conference Part—hosted a first-of-its-kind, two-part CLE program on “Orientation to the Foreclosure Settlement Part.” The joint venture sought to bring together current volunteers and law student interns with those looking to become involved in the volunteerism the Project does daily in the Foreclosure Settlement Conference Part.

The May 20th session was held at Domus on “Fundamentals of Mortgage Foreclosure”; the

May 30th session was held at the Foreclosure Settlement Conference Part courtroom on “Orientation to the Foreclosure Settlement Conference Part Practicum.”

The two training sessions introduced attorneys and law students who are interested in volunteering their time to assist homeowners facing foreclosure to the foreclosure settlement conference process prior to their counseling of homeowners. The goals of the program—which will be held periodically in the future to recruit and train new volunteers—are to enhance the volunteer experience, strive for meaningful foreclosure settlement conferences, and improve the process for all participants. ⚖️



Meet New Dean Christopher J. DelliCarpini

On June 3, 2025, Christopher J. DelliCarpini was installed as Dean of the Nassau Academy of Law for the 2025-2026 Bar year. Chris has significant experience within the Academy, having previously served as Associate Dean, Assistant Dean, Secretary, Treasurer, Counsel and Advisory Board Member. This past year, he also chaired the Honorable Joseph Goldstein “Bridge the Gap” Weekend which took place in February 2025.

Chris is a graduate of the University of Notre Dame and Columbia Law School. He began his career prosecuting criminal antitrust offenses with the U.S. Department of Justice. He then worked in corporate litigation, defending clients in complex matters involving commercial law, patents, and antitrust law. Since 2019, Chris has been an attorney with Sullivan Papain Block McManus Coffinas & Cannavo P.C., where he focuses his practice on representing personal injury plaintiffs in appellate matters.

Chris has been an active member of the Nassau County Bar Association for approximately 15 years. In addition to working with the Academy, Chris has served as Chair of the Publications Committee and the Medical-Legal Committee. He has also been a member of the Board of Directors, the Assigned Counsel Defender Plan Advisory Board, and the Corporate Partners Task Force. Additionally, Chris has served as a judge for Hon. Elaine Jackson Stack Moot Court Competition as well as the New York State Bar Association’s High School Mock Trial Tournament. Chris is also an attorney advisor for the Baldwin High School mock trial team and stepped in to advise Hewlett High School during this year’s High School Mock Trial Tournament. During his time with the NCBA, he has also authored numerous articles for the *Nassau Lawyer* and presented CLE programs for the Academy and several Committees on a variety of topics.

Chris and his family live in Garden City, where he is an officer of the Western Property Owners Association, which advocates for residents on local issues and hosts community events throughout the year. He also is an active member of St. Anne’s parish, where “Coach Chris” has served for 13 years with the CYO track, indoor track, and cross-country teams.

For the coming year, Chris will be focusing on growing member participation in Academy events through utilizing our experienced members to present high-quality CLE programs on a wide variety of subjects, as well as encouraging membership to attend programs in person at Domus and benefit from networking with other members and program faculty. He also wants to increase the number of programs that are offered to our members, including partnering with each of the substantive law committees and using the Academy committee liaison program to help each committee



present at least one CLE program during the year. Finally, Chris hopes to continue to improve our high school mock trial tournament and law school moot court competition this year and recruit additional members to serve as judges and advisors.

The other elected Nassau Academy of Law officers for 2025-2026 are Associate Dean Matthew V. Spero, Assistant Deans Omid Zareh and Charlene Thompson, Secretary Sara M. Dorchak, Treasurer Tammy Feman, and Counsel William P. Bodkin. ⚖️

CALENDAR | COMMITTEE MEETINGS

COMMITTEE CHAIRS

Access to Justice

Alternative Dispute Resolution

Animal Law

Appellate Practice

Asian American Attorney Section

Association Membership

Awards

Bankruptcy Law

Business Law Tax and Accounting

By-Laws

Civil Rights

Commercial Litigation

Committee Board Liaison

Community Relations & Public Education

Conciliation

Condemnation Law & Tax Certiorari

Construction Law

Criminal Court Law & Procedure

Cyber Law

Defendant's Personal Injury

District Court

Diversity & Inclusion

Education Law

Elder Law, Social Services & Health Advocacy

Environmental Law

Ethics

Family Court Law, Procedure and Adoption

Federal Courts

General, Solo & Small Law Practice Management

Grievance

Government Relations

Hospital & Health Law

House (Domus)

Immigration Law

In-House Counsel

Insurance Law

Intellectual Property

Judicial Section

Judiciary

Labor & Employment Law

Law Student

Lawyer Referral

Lawyer Assistance Program

Legal Administrators

LGBTQ

Matrimonial Law

Medical Legal

Mental Health Law

Municipal Law and Land Use

New Lawyers

Nominating

Paralegal

Plaintiff's Personal Injury

Publications

Real Property Law

Senior Attorneys

Sports, Entertainment & Media Law

Supreme Court

Surrogate's Court Estates & Trusts

Veterans & Military

Women In the Law

Workers' Compensation

Samuel J. Ferrara and Rezwanul Islam

Christopher J. McDonald

Harold M. Somer and Michele R. Olsen

Tammy Feman and Andrea M. DiGregorio

Jennifer L. Koo and Michael Kwon

Adina L. Phillips and Ira S. Slavitt

Daniel W. Russo

Scott R. Schneider

Raymond J. Averna

Ira S. Slavitt

Patricia M. Pastor

Danielle J. Marlow and Michael H. Masri

Hon. Maxine S. Broderick

Ingrid J. Villagran and Melissa A. Danowski

Karl C. Seman

Robert L. Renda

Adam L. Browser and Robert J. Fryman

Brian J. Griffin

Nicole E. Osborne

Brian Gibbons

Matthew K. Tannenbaum

Hon. Maxine S. Broderick and Hon. Linda K. Mejias-Glover

Liza K. Blaszyk and Douglas E. Libby

Christina Lamm and Dana Walsh Sivak

John L. Parker

Thomas J. Foley

Tanya Mir

Michael Amato

Jerome A. Scharoff

Robert S. Grossman and Omid Zareh

Michael H. Sahn and Brent G. Weitzberg

Kevin P. Mulry

Christopher J. Clarke

Sylvia Livits-Ayass

Michael D. Brown

Elizabeth S. Sy

Hon. Linda K. Mejias-Glover and Hon. Ellen B. Tobin

Marc C. Gann

Lisa M. Casa

Bridget Ryan and Emma Henry

Peter H. Levy

Daniel Strecker

Jess A. Bunshaft

Joseph A. DeMarco

Nicole M. LaGrega

Jamie A. Rosen

Elisabetta T. Coschignano and Anthony C. Curcio

Andrew B. Bandini

Sanford Strenger

Steve Z. Gokberk

Cynthia A. Augello

Suzanne Player

Peter J. Mancuso

Lauren Bernstein

Clifford S. Robert

Maria L. Johnson and Cheryl L. Katz

Gary Port

Rebecca Sassouni and Melissa Holtzer-Jonas

Craig J. Tortora

TUESDAY, AUGUST 12

Access to Justice

12:30 p.m.

Association Membership

12:30 p.m.

SUNDAY, AUGUST 17

Diversity & Inclusion

Family Fun Festival

1:00 p.m. – 5:00 p.m.

WEDNESDAY, SEPTEMBER 3

Real Property Law

12:30 p.m.

THURSDAY, SEPTEMBER 4

Community Relations & Public Education

12:30 p.m.

Publication

12:30 p.m.

TUESDAY, SEPTEMBER 9

Asian American Attorney Section

12:30 p.m.

Assistant District Attorney Kirk Sendlein, head of the Hate Crimes Unit of the Nassau County District Attorney's Office, will discuss what the Unit does and hate crimes information and statistics against Asian Americans in Nassau County.

WEDNESDAY, SEPTEMBER 10

Plaintiff's Personal Injury

12:30 p.m.

Honorable R. Bruce Cozzens will give a "State of the Union" of the Nassau Supreme Trial part.

Elder Law, Social Services & Health Advocacy

12:30 p.m.

Matrimonial Law Committee

5:30 p.m.

THURSDAY, SEPTEMBER 11

Alternative Dispute Resolution

12:30 p.m.

FRIDAY, SEPTEMBER 12

Appellate Practice

12:30 p.m.

TUESDAY, SEPTEMBER 16

Women In the Law

12:30 p.m.

WEDNESDAY, SEPTEMBER 17

Business Law, Tax & Accounting

12:30 p.m.

Surrogate's Court Estates & Trusts

5:30 p.m.

Family Court Law, Procedure and Adoption Cocktail Party

5:30 p.m.

New Members

Michele Lauren Angell Esq.

John Hermina Esq.

Richard Joseph Stella Esq.

Rivka Aizenman Esq.

Lindsey Merrideth Albinski Esq.

Ubaid Usman Bandukra Esq.

Taylor Ashley Barje Esq.

Christopher Tyler Cox Esq.

John R. Ehrhart Esq.

Michael S. Finkelstein Esq.

Micaela Simone Grassi Esq.

Andrew McConnell Gross Esq.

Gilbert Jackson Hardy III Esq.

Paul Justin Hittner Esq.

Howard Kogan, Paralegal

Hilary Gallo Lancaster Esq.

Kenyon E. Leggett Esq.

Christian Michael Maloney Esq.

Katerina Michelle Martinez Velez Esq.

Jeffrey K. Mathew Esq.

Paul Vincent May Esq.

Hansley Abraham Mohan Esq.

Lexis Nichole Mollica Esq.

Sophia Michaela Pellis Esq.

Stuart Riback Esq.

Jerin Rosas, Paralegal

Anthony Santucci Esq.

Milette Shanon Esq.

Adela Sijercic Esq.

George Frederick Staudter Esq.

Christina Dawn Thivierge Esq.

James Anthony Valente Esq.

Sharka Eva Waldhof Esq.

Gilbert S. Bayonne Esq.

Steven P. Forbes Esq.

Nipun Marwaha Esq.

Harold Meyerson Esq.

LAW STUDENTS

Renee Michal Agajan

Paola Alvarado

Ava Anacreonte

Crystal Anthony

Adam S. Bauer

Benjamin M. Blumberg

Diana M. Capalbo

Charles Dabda

Maxwell Davidoff

Kerry Ellis

Benjamin Tobey Findling

Jordan Futerman

Gabriella Galluzzo

Michael Pasquale Guaglione

Jack Gutman

Josef Zohar Kahn

Nayab Hayat Khan

Asia Christela Léandre

Ruu-Der P. Liang

Cheryl Lien

Herrick Mangal

David J. Marino

Emily Rose Medeiros

Justine Elaine Mekonen-Hernandez

Peter Moskalev

Dominic Muscarella

Shana Naumberg

James Patrick Nolan

John Posillico

Katherine Ratner

Prabhdheer Singh

David Smolowitz

Alexandra Spadaro

Fallone Tarte

Margaret Mika Wahlers

Christopher Wolf



NCBA 2024-2025 Corporate Partners

Nassau County Bar Association Corporate Partners are committed to providing members with the professional products and services they need to succeed. Contact the Corporate Partner representatives directly for personalized service.

ABSTRACTS, INCORPORATED™
COMMERCIAL & RESIDENTIAL TITLE INSURANCE SINCE 1964
100 Garden City Plaza Suite 201, Garden City, NY 11530
123 Maple Avenue, Riverhead, NY 11901


Thomas Turano
(516) 683-1000 ext. 218
tturano@abstractsinc.com


Sal Turano
(516) 683-1000 ext. 223
sturano@abstractsinc.com


Kevin Dowd
(516) 683-1000 ext. 248
kdowd@abstractsinc.com

www.abstractsinc.com


IT Group
Technology Consulting

Adam Schultz
Partner
631-358-5030
adam@itgroup-ny.com

Ken Hale
Partner
631-358-5030
ken@itgroup-ny.com

Managed Service provider and full service IT company

 | Legal & Professional


Raj Wakhale
Territory Manager

raj.wakhale@lexisnexis.com
631.827.9661 Direct
800.543.6862 Customer Service

LexisNexis
19 Blair Drive
Huntington 11743
lexisnexis.com

JOHN MCGORTY
Executive Vice President
of Business Development

212-719-0990
212-624-9983
www.phpny.com
jmcgorty@phpny.com
10 East 39th Street, 7th Floor, New York, NY 10016



POLLET ASSOCIATES, Ltd.
professional real estate appraisers & land use consultants since 1980

Leigh Pollet, MA, MNAA, CSA-R
Principal

p: 516.476.3185
email: appraze111@gmail.com
website: www.polletassociates.com

Covering Metropolitan New York from Montauk - Westchester

 **Realtime Reporting, Inc.**
National Court Reporting Services


Ellen Birch, Founder and CEO

26 Railroad Avenue, Suite 346
Babylon, NY 11702
626 RXR Plaza
Uniondale, NY 11556
O: 516.938.4000 | 800.373.7172
C: 516.356.4512
ebirch@realtimereporting.com
realtimereporting.com

24/7


TITAN AGENCY


Titan Agency
Michael Schiller
Property & Casualty Insurance
Professionals Businesses Individuals

Office: 201-210-9775
Cell: 973-280-1177
michael@titanagency.com
www.titanagency.com


vdiscovery

MICHAEL WRIGHT
Senior Vice President
michaelw@vdiscovery.com

(Direct) 212.220.6190 | 10 East 39th Street, 6th Floor
(Mobile) 917.681.6836 | New York, NY 10016
(Main) 212.220.6111 | https://vdiscovery.com/

vdiscovery is a Manhattan-based provider of proprietary and best-in-breed solutions in computer forensics, document review, and electronic discovery, bringing deep expertise, efficient solutions, and an exceptional client experience to corporations and law firms.

Contact epost@nassaubar.org
for details about becoming
a Corporate Partner.

NCBA Corporate Partner Spotlight



BANKING SERVICES



WEBSTER BANK
Jeffrey Mercado
(212) 575-2887
jmercado@websterbank.com




WEBSTER BANK
Monica Vazquez
(212) 309-7649
[mvazquez@websterbank.com](mailto:m vazquez@websterbank.com)

Webster's Law Firm Banking group provides products and services designed for the legal community based on their practice size and specialties. Solutions include **Bank Check Xpress**—for firms that routinely utilize certified bank checks, it provides law firms an edge with in-office cashier check printing solutions—and **Virtual Account Manager**, a web-based self-service platform to create virtual sub-accounts and automate routing processes. Sub-account holders receive FDIC coverage pursuant to FDIC insurance rules.

LAWYER TO LAWYER

CONSTRUCTION LAW



**THE LAW OFFICES OF
JOHN CARAVELLA, P.C.**
A CONSTRUCTION LITIGATION AND ARBITRATION FIRM

Member FL and NY Bars; Assoc. AIA

John Caravella, Esq.
Email: JOHN@LICONSTRUCTIONLAW.COM
Website: WWW.LICONSTRUCTIONLAW.COM

Nassau Office
626 RexCorp Plaza
(6th Floor West Tower)
Uniondale, NY 11556
Tel.: (516) 462-7051
Fax: (888) 475-5162

Suffolk Office
68 South Service Road
(Suite 100)
Melville, NY 11747
Tel.: (631) 608-1346
Fax: (888) 475-5162

NO-FAULT ARBITRATION

**NEW YORK'S #1
NO FAULT ARBITRATION ATTORNEY**

ANDREW J. COSTELLA, JR., ESQ.

CONCENTRATING IN NO-FAULT ARBITRATION FOR YOUR CLIENTS'
OUTSTANDING MEDICAL BILLS AND LOST WAGE CLAIMS

SUCCESSFULLY HANDLING THOUSANDS OF NO-FAULT CLAIMS

Proud to serve and honored that NY's most prominent personal injury
law firms have entrusted us with their no-fault arbitration matters



Law Offices of Andrew Costella Jr., Esq., PC
600 Old Country Road, Suite 307
Garden City, NY 11530
(516) 747-0377 | arbmail@costellalaw.com

PERSONAL INJURY



IRA S. SLAVIT, ESQ.
Past-Chair of NCBA Plaintiff's Personal
Injury Committee

350 Willis Avenue Mineola, NY 11501
516.294.8282

60 E. 42nd St., Suite 2101 New York, NY 10165
212.687.2777

islavit@newyorkinjuries.com

Fee division in accordance with Rule 1.5(g) of the
Rules of Professional Conduct



APPELLATE COUNSEL



NEIL R. FINKSTON, ESQ.
*Benefit From a Reliable and
Knowledgeable Appellate Specialist*

Former Member of Prominent Manhattan Firm
Available for Appeals, Motions and Trial Briefs
Experienced in Developing Litigation Strategies

Free Initial Consultation • Reasonable Rates

Law Office of Neil R. Finkston
8 Bond Street Suite 401 Great Neck, NY 11021
(516) 441-5230

Neil@FinkstonLaw.com www.FinkstonLaw.com

LAWYER REFERRALS

**JOIN THE LAWYER REFERRAL SERVICE
INFORMATION PANEL**

The Nassau County Bar Association Lawyer Referral Information Service (LRIS) is an
effective means of introducing people with legal problems to attorneys experienced in the
area of law in which they need assistance. In addition, potential new clients are
introduced to members of the Service Panel. Membership on the Panel is open exclusively
as a benefit to active members of the Nassau County Bar Association.



(516) 747-4070
info@nassaubar.org
www.nassaubar.org

GRIEVANCE AND DISCIPLINARY DEFENSE

**Law Offices of
Mitchell T. Borkowsky**

Former Chief Counsel 10th Judicial District Grievance
Committee

30 Years of Experience in the Disciplinary Field
Member Ethics Committees - Nassau Bar (Chair), Suffolk Bar



- Grievance and Disciplinary Defense
- Ethics Opinions and Guidance
- Reinstatements

516.855.3777 • mitch@myethicslawyer.com • myethicslawyer.com

NCBA MEMBER BENEFIT



The Bristol
ASSISTED LIVING
We see you here

Independent Living | Assisted Living | Memory Care

For more information about member discounts contact
Kerri Winans Kaley at kwkaley@thebristol.com
thebristol.com

MARSHAL/CITY OF NEW YORK



**Charles Kemp
Marshal #20**
City of New York
254-10 Northern Blvd
Little Neck, NY 11362
www.nycmarshal.com

T: 718.224.3434
F: 718.224.3912

Judgment Enforcement
Landlord Tenant
Asset Seizures

LEGAL WRITING

JONATHAN C. MESSINA, ESQ.
ATTORNEY AND COUNSELOR AT LAW

Do you need assistance with your legal writing projects?
Available for New York motions, briefs, pleadings,
and other legal research and writing endeavors.

Reasonable rates.
Call for a free initial discussion.
68 Summer Lane
Hicksville, New York 11801

516-729-3439 jcmlegalrw@gmail.com

Wellness Topics for Law Firms

The Lawyer Assistance Program (LAP) has a lot to offer the legal profession: free, confidential assistance to lawyers, judges, law students, and their family members who are experiencing difficulties with alcohol or substance abuse, gambling, depression, stress, or other mental health issues. LAP also arranges meetings with law firms that covers the following topics:

- Real-time Stress Management Techniques
- Lawyer Wellness
- The Importance of Work-Life Balance
- Scientific Approaches to Lawyer Well-being: What Works and Why
- The Relationship Between Being Well and Being Productive
- Trauma-Informed Lawyering
- Vicarious Trauma, Secondary Trauma, Compassion Fatigue, and Burnout
- Suicide Prevention
- Substance Use and Misuse: Why Such High Prevalence Among Lawyers
- Cognitive Decline: How to Recognize, What to Do
- High Rates of Substance Use, Mental Health Challenges, and Suicide
- Why Lawyers Are at Risk, What to Look For, How to Help Colleagues and Self
- Rules of Professional Conduct
- The Importance of Self-Care
- Model Policy for Law Firms/Legal Departments Addressing Impairment
- LAP's Diversion/Monitoring Program
- Keeping Your Employees Healthy: The Relationship Between Well-Being and Productivity
- Tips for Creating and Maintaining a Healthy Work Environment

Text (917) 826-1694 or call (212) 228-1249 to schedule a meeting for your firm.

FREE CONFIDENTIAL HELP IS AVAILABLE. YOU ARE NOT ALONE.

(516) 294-6022 or (516) 512-2618

LAP@NASSAUBAR.ORG

The NCBA Lawyer Assistance Program is directed by Beth Eckhardt, PhD and the Lawyer Assistance Committee is chaired by Dan Strecker, Esq. LAP is supported by funding from the NYS Office of Court Administration, the WE CARE Fund, and Nassau County Boost.

***Strict confidentiality protected by Section 499 of the Judiciary Law.**

Lawyer Wellness Corner



Nassau County Bar
Association
Lawyer Assistance
Program



[ncba_lawyersassistance](https://www.instagram.com/ncba_lawyersassistance)