Nassau Lawyer

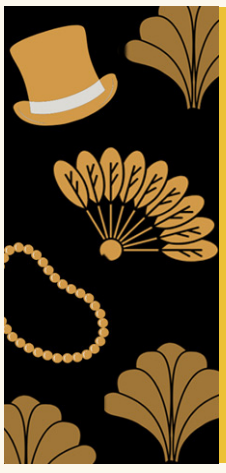
THE JOURNAL OF THE NASSAU COUNTY BAR ASSOCIATION

March 2026 www.nassaubar.org Vol. 75, No. 7

Follow us on LinkedIn

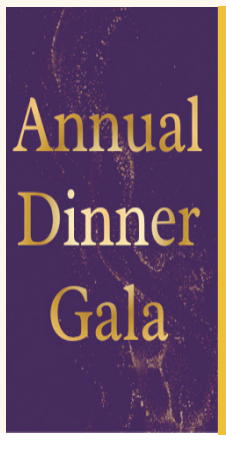
WHAT'S INSIDE

SAVE THE DATE



DRESSED TO A TEA
THURSDAY, MARCH 26
pg. 16

LAW DAY
THURSDAY, APRIL 30
Cover



2026 DINNER GALA
SATURDAY, MAY 9
pg. 3

Law Day 2026: The Rule of Law and the American Dream

On April 30, 2026, the Nassau County Bar Association will gather at Domus to celebrate Law Day under this year's theme, "The Rule of Law and the American Dream."

Chosen by the American Bar Association, the 2026 theme reminds us that the rule of law—the foundational principle that no person is above the law—is what safeguards opportunity, protects liberty, and makes the American Dream possible. It is the steady framework that allows individuals to build careers, families, businesses, and communities with confidence that their rights will be upheld and their voices respected. This year's honorees exemplify that principle in action.

Liberty Bell Award

The Liberty Bell Award recognizes those who strengthen the American system of freedom under law by promoting public understanding and respect for the law. This year's recipient, WABC-TV's *7 On Your Side* reporter David Paredes, has built a career doing precisely that.

A graduate of the Walter Cronkite School of Journalism and Mass Communication at Arizona State University, Paredes began as a network photojournalist before moving into consumer and investigative reporting. From Phoenix to the Bay Area and ultimately to New York City, his work has consistently focused on accountability, transparency, and protecting the public.

Now an investigative and consumer reporter with *7 On Your Side*, Paredes works alongside a dedicated teammate, Courtney Medwin, who is committed to exposing injustice, clarifying complex systems, and giving individuals the tools they need to advocate for themselves. Through investigative journalism, they ensure that institutions—public and private alike—remain answerable to the communities they serve.

In many ways, their work embodies the spirit of the rule of law. When citizens understand their rights, when misconduct is brought to light, and when systems operate transparently, the promise of the American Dream becomes attainable not just for the powerful, but for everyone.

Pro Bono Attorney of the Year Award

The Pro Bono Attorney of the Year Award honors an attorney whose commitment to service reflects the profession's highest ideals. Barbara Eckstein's four decades of private practice and volunteer service make her a fitting recipient.

After beginning her career at Merrill Lynch, Eckstein quickly realized that her calling laid elsewhere. She founded her own law firm more than 40 years ago and has maintained a practice in Carle Place concentrating in landlord-tenant law and trusts and estates—two areas that profoundly affect clients' security and stability.

A graduate of St. John's University and a recipient of her Juris Doctor from Hofstra University (earned in just two years), Eckstein has dedicated herself not only to her clients but to her community. As the newest member of the Nassau County Rent Guidelines Board, she helps determine rent adjustments for units governed by the Emergency Tenant Protection Act of 1974—decisions that directly impact working families striving to maintain their homes.

Her pro bono service through Legal Services of Long Island—including the Attorney of the Day and Legal Outreach programs—reflects a deep understanding that access to justice is essential to the American Dream. For many facing housing insecurity or navigating estate planning for the first time, volunteer counsel can mean the difference between stability and uncertainty.

Eckstein's professional life demonstrates that the rule of law is not an abstract concept; it is a daily practice. It is found in courtrooms, in community programs, in careful counsel, and in the willingness of attorneys to give their time and expertise so that others may secure their futures.

The Rule of Law in Action

Law Day is more than a celebration. It is a reaffirmation of our shared responsibility as legal professionals to uphold the system that makes opportunity possible. Whether through investigative journalism that holds institutions accountable or pro bono service that ensures equal access to justice, this year's honorees remind us that the American Dream is sustained by vigilance, integrity, and service.

As the NCBA gathers on April 30, we celebrate not only individual achievement, but the enduring principle that binds us together: a nation governed by laws, not by individuals—and a profession committed to ensuring that those laws remain fair, accessible, and worthy of public trust.

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

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

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. Postmaster: Send address changes to the Nassau County Bar Association, 15th and West Streets, Mineola, NY 11501.

Due Process Is Not a Luxury

FROM THE PRESIDENT

James P. Joseph

Last month, I shared my belief that as lawyers, it is our responsibility to "sound the alarm" when the rule of law is under attack. I was gratified by the thoughtful feedback from many members of our Bar, reflecting a shared commitment to the constitutional principles that unite us even when we may disagree about policy.

This month, I would like to focus on one of those principles—due process.

The promise of due process is simple in concept and profound in consequence: before the government deprives a person of liberty, it must follow fair procedures. Notice. A meaningful opportunity to be heard. A neutral decision-maker. Access to counsel. Judicial oversight.

These safeguards are not obstacles to effective governance. They are the architecture of legitimacy. They are a core part of constitutional democracy.

In recent months, national conversations have once again turned toward detention practices and executive power. In my role as the leader of this bar association, it is not my place to debate policy outcomes in this forum. As lawyers, however, we must ensure that whatever policies are pursued are implemented within the bounds of the Constitution and the guarantees it provides.

History offers sobering lessons about what can happen when fear, urgency, or perceived crisis narrows our commitment to procedural safeguards. In 2019, the Diversity & Inclusion Committee of the Nassau County Bar Association hosted a reenactment of *Korematsu v. United States*. We were painfully reminded how easily constitutional protections can yield under pressure. In that case, the Supreme Court upheld the exclusion and internment of Japanese Americans during World War II—a decision widely regarded today as one of the Court's gravest errors and a lasting stain on our national conscience. At the time, it was defended as necessary. In retrospect, it stands as a cautionary tale.

Korematsu teaches us that constitutional failures rarely announce themselves as such. They are often justified as temporary, pragmatic, or compelled by circumstance. They are explained as exceptions.

But the strength of due process lies precisely in its resistance to exception. It is designed to operate not only in calm moments, but in difficult ones. Due process protects the innocent. It protects the unpopular. It protects the majority and the minority alike. And perhaps most importantly, it protects the legitimacy of governmental action itself.

When procedures are transparent and fair, outcomes—even controversial ones—carry greater credibility. When process is rushed, bypassed, or diminished, public confidence erodes.

As lawyers, we are uniquely positioned in this conversation. We understand that process is substance. We understand that habeas corpus is not an archaic phrase, but a living safeguard. We understand that judicial review is not interference, but balance.

The measure of a constitutional system is not how it operates when circumstances are easy. It is how faithfully it adheres to its principles when circumstances are hard.

This does not require partisanship. It requires professionalism. It requires us to defend access to counsel. To support judicial independence. To insist that warrants be issued by neutral magistrates. To ensure that detention, when authorized, is subject to oversight and review. It requires us to remember that the Constitution is not self-enforcing. It depends upon lawyers and judges who take their oaths seriously.

Our Bar has long demonstrated its commitment to these principles—through public education, pro bono service, and programs like the *Korematsu* reenactment that invite reflection on our constitutional history. Those efforts matter.

They remind us that the rule of law is not sustained by rhetoric, but by vigilance.

Last month, I wrote that silence in moments that test the rule of law carries consequences. This month, I would add that fidelity to due process is one of the clearest ways we can honor our oath.

The Constitution's guarantees are most meaningful when they protect those with whom we disagree—the weak, the minority and, perhaps most importantly, the accused. That is not weakness. It is strength.

May we continue to defend the process—calmly, professionally, and without fear—knowing that in doing so we defend the very system that allows our disagreements to remain peaceful and principled.

FOCUS: MEDICAL MALPRACTICE

Supreme Court Dispenses with Affidavits of Merit in Federal Medical Malpractice Cases

Christopher J. DelliCarpini

In January, the United States Supreme Court decided *Berk v. Choy*, holding that Delaware's requirement in medical malpractice actions that the complaint be accompanied by an affidavit of merit does not apply in federal court.[1] The decision almost certainly means that New York's analogous requirement, CPLR 3102-a, also does not apply to medical malpractice actions in federal court. But the reasoning behind the decision may lead to other New York pleading requirements no longer applying in federal actions.

A State Procedural Requirement in A Federal Case

In 2022, Harold Berk sued Dr. Wilson Choy and others for medical malpractice. The defendants had treated Mr. Berk after he fractured his ankle, but even after a year of therapy he was barely able to walk.[2] Proceeding pro se, he commenced a federal diversity action in the District of Delaware.[3]

A Delaware statute requires plaintiffs in medical malpractice claims to file with their complaint an affidavit of merit as to each defendant. Filed under seal, the affidavit must be signed by an expert witness and include their CV (curriculum vitae), and it must state "that there are reasonable grounds to believe that there has been health-care medical negligence committed by each defendant."[4] The statute does allow the court to grant, upon good cause shown, a single 60-day extension on time to submit the affidavit.[5]

But Mr. Berk could not find a medical expert to provide the necessary affidavit of merit, and his claim was dismissed. His prior treating physicians told him that they do not provide such affidavits.[6] Unable to comply with the statute, Mr. Berk filed his medical records under seal.[7] The defendants moved to see Mr. Berk's confidential filings, and in opposition he argued "that Delaware's affidavit-of-merit statute does not apply in federal diversity actions."[8] Following Third Circuit precedent to the contrary, the district court dismissed the action for lack of an affidavit of merit.[9]

The Third Circuit applied the *Erie* doctrine, under which a conflict between federal and state rules exists when the scope of the former is sufficiently broad to cause a direct collision with the latter or, implicitly, to control the issue before the court, thereby leaving no room for the operation of the state law.[10] There is no conflict when a state statute and the Federal Rule can exist side by side, each controlling its own intended sphere of coverage without conflict.[11]

The Third Circuit affirmed, finding no conflict with any federal rule. The Delaware statute did not conflict with Federal Civil Rules of Civil Procedure 8 or 9, the court held, because it neither requires a plaintiff to state any facts supporting his claim nor impacts on the contents of the pleadings or specificity of the allegations.[12] The court also found no conflict with Rule 11, as its signing requirement "governs attorney conduct, whereas the Delaware statute governs what an expert must do in a particular type of case."[13] Similarly, the court found no intersection with Rule 12, as "a state AOM statute 'serves an entirely different purpose' from a pleading and contemplates a process for addressing noncompliance that differs from a motion to dismiss based on a pleading defect."[14]

The Supreme Court Sees a Conflict—And Resolves It

The Supreme Court granted certiorari, and in a unanimous decision reversed. Justice Barret's opinion, joined by seven of her colleagues, held that the Delaware statute does not apply in federal court. Justice Jackson concurred in a separate decision, taking a different route to the same decision.

The majority found that the Delaware statute conflicted with Federal Rule 8, which "prescribes the information a plaintiff must present about the merits of his claim at the outset of litigation: 'a short and plain statement of the claim showing that [he] is entitled to relief.'"[15] The Court took this to mean, by negative implication, that nothing more could be required. "Delaware's affidavit requirement is at odds with Rule 8 because it demands more," the Court found: "Under Rule 8, factual allegations are sufficient, but under the Delaware law, the plaintiff needs evidence too."[16] When a federal rule is on point then the state law must yield, the Court held, citing the Rules of Decision Act and the Rules Enabling Act.[17]

In her concurrence, Justice Jackson found that the Delaware statute conflicted with Federal Rule 3 rather than Rule 8. "[U]nder the language of Rule 3," she wrote, "civil suits commence as soon as the complaint—and only the complaint—has been filed by the plaintiff."[18] "If a federal court were to follow Delaware's law," Justice Jackson wrote, "a plaintiff would have to do more than merely tender the complaint in order for his medical malpractice lawsuit to be filed and docketed."[19] Rule 8 could not conflict with the Delaware statute since the federal rule only pertained to the content of the pleadings, of which the affidavit of merit is not a part.[20]

The point of contention appears to have been the phrasing of the question at issue. Justice Barett pointed out that the question for certiorari was "whether Berk's lawsuit may be dismissed because his complaint was not accompanied by an expert affidavit."[21] For Justice Jackson, however, the real question was "what is required to *start* a civil action for medical malpractice under Delaware law."[22] As Justice Barrett responded, Mr. Berk had already started his action; the complaint had been accepted for filing. Hence the actual question was whether dismissal had been proper.

Incidentally, the Court and Justice Jackson also agreed that the Delaware statute conflicted with Federal Rule 12 because the former required dismissal based on matter outside the pleadings.[23]

Implications for New York Practitioners

The most likely implication of *Berk* for New York is that our analogue to the Delaware statute likewise does not apply in federal court.

CPLR 3012-a requires that in any medical malpractice action the complaint be accompanied by a "certificate of merit," signed by the plaintiff's attorney, attesting either that the attorney has concluded, after consultation with at least one physician, "that there is a reasonable basis for the commencement of such action." Though not evidentiary like the AOM that Delaware requires, because Section 3012-a requires something accompany the complaint, under *Berk* it almost certainly conflicts with Federal Rule 8.

One federal district court in New York did consider the matter, however, and it held that Section 3012-a applied in federal court, under the reasoning "that a state statute requiring a certificate of merit is substantive law that applies in a federal diversity action."[24] After *Berk*, however, this decision obviously will not avail. It is true that under the *Erie* doctrine federal courts apply state substantive law, but as Justice Barrett observed, "Yet when a Federal Rule of Civil Procedure is on point, a federal court bypasses *Erie*'s inquiry altogether."[25]

Interestingly, pro se plaintiffs need not comply with CPLR 3012-a, so had Mr. Berk commenced an action in New York federal court, the issue would not have arisen.[26]

CPLR 3012-b would also appear to no longer apply in federal court. Similar to Rule 3102-a, it requires a certificate of merit "In any residential foreclosure action involving a home loan." At least one New York district court has denied a plaintiff a default judgment for failing to comply with CPLR 3012-b.[27] After *Berk*, however, it is unclear how this requirement could apply in federal court.

For any other New York pleading requirements in federal cases, the best advice is to be familiar with the *Berk* analysis. When considering whether a state substantive law conflicts with a federal procedural rule, "[w]e first ask whether the Federal Rule 'answers the question in dispute.'"[28] If so, then the rule governs unless it "exceeds statutory authorization or Congress's rulemaking power."[29]

As Justice Jackson's concurrence shows, however, the question in dispute is not always clear. In *Berk* it made no difference in the outcome, but in another case it may matter whether a proof-of-merit requirement goes to the requirements for a pleading or the requirements for commencing an action. In a future case of apparent conflict, how one phrases the question may determine whether one gets the desired answer.

1. 607 U.S., S.Ct., 2026 U.S. LEXIS 497 (Jan. 20, 2026).
2. *Berk v. Choy*, Brief for Petitioner at 3–6.
3. *Id.* at 6.
4. 18 Del. Code § 6852(a)(1).
5. 18 Del. Code § 6852(a)(2).
6. *Berk v. Choy*, Brief for Petitioner at 6.
7. *Id.*
8. *Id.*
9. *Berk v. Choy*, ___ F.Supp.3d. ___, 2023 U.S. Dist. LEXIS 59371 (Apr. 4, 2023).
10. *Berk v. Choy*, ___ F.3d ___, 2024 U.S. App. LEXIS 18336, *2 (3d Cir. July 25, 2024). *Id.* At *2.
11. *Id.*
12. *Id.* at *2.
13. *Id.* at *3.
14. *Id.* (quoting *Liggon-Redding v. Estate of Sugarman*, 659 F.3d 258, 264 (3d Cir. 2011).
15. *Berk*, 2026 U.S. LEXIS 497 at *1.
16. *Id.* at *4.
17. *Id.* at *3.
18. *Id.* at *7 (Jackson. J., concurring).
19. *Id.*
20. *Id.* at *12.
21. *Berk*, 2026 U.S. LEXIS 497 at *3 & n.1.
22. *Id.* at *8 (Jackson, J., concurring).
23. *Compare id.* at *4 with *id.* at *12 (Jackson, J., concurring).
24. *Finnegan v University of Rochester* Med. Ctr., 180 F.R.D. 247, 249 (W.D.N.Y. 1998).
25. *Berk*, 2026 U.S. LEXIS 497 at *3.
26. See *Polardo v. Adelberg*, No. 22-CV-2533 (KMK), 2023 U.S. Dist. LEXIS 53342 (S.D.N.Y. Mar. 28, 2023) (citing CPLR 3012-a(f)).
27. *Deutsche Bank National Trust Company, as Trustee for GSAA Home Equity Trust 2007-5, Asset-Backed Certificates, Series 2007-5 v. Shewtahal*, 24-CV-7892 (ERK) (RML), 2025 WL 2402824 (E.D.N.Y. Aug. 19, 2025).
28. *Berk*, 2026 U.S. LEXIS 497 at *3 (quoting *Shady Grove Orthpedic Assocs.*, 559 US. 393, 398 (2010).
29. *Berk*, 2026 U.S. LEXIS 497 at *3 (quoting *Shady Grove*, 559 U.S. at 398).

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

FOCUS: LAW AND AMERICAN CULTURE

The Rules That Govern Oscar

Rudy Carmenaty

Come the Ides of March, March 15 that is, at 7:00 pm Eastern, 4:00 pm Pacific, the Academy of Motion Picture Arts & Sciences (AMPAS) will be holding its 98th annual Oscar ceremony. 201 feature films were in contention this year for the top prize of Best Picture.[1] Nominations were announced on January 22.

The Best picture nominees are: *Bugonia, Frankenstein, Hamnet, It Was Just an Accident, Marty Supreme, One Battle After Another, Sentimental Value, Sinners, The Secret Agent,* and *Train Dreams*. This category was previously limited to five films. It was inflated to ten to allow blockbusters to be nominated so as to perk-up sagging tv ratings.

All entries are now required to "have submitted a confidential Representation and Inclusion Standards Entry form."[2] On which, two of four stated diversity criteria have to be met, and that is in addition to observing theatrical eligibility rules. But more about that later.

The AMPAS, being a trade association, sees as its "mission to recognize and celebrate the arts and sciences of moviemaking and the multitude of people who make motion pictures."[3] To that end, the "Academy is committed to conducting a fair, clear, and equitable awards process focused on honoring creative excellence."[4]

This being said, each year's telecast is what pays the bills. Irony of ironies, a body dedicated to promoting the cinematic arts makes the lion's share of its money from the license fee paid by a broadcast network for a television gala. ABC pays $100 million for the rights and is contractually obligated to airing the program until 2028.[5]

While the Oscars averages 19.5 million viewers, ratings have slipped, and the Academy may be in search of an alternate venue come 2029.[6] Complaints that the show is too long and too boring have raged unabated. All the more disquieting since the evening is supposed to showcase the entertainment world at its best.

It should be noted the AMPAS is a 501(c)(3) non-profit corporation. Its revenues are dedicated to film preservation and restoration, educational and training programs, and maintaining the Academy Museum and archives. The telecast is but the most visible aspect of this entire enterprise.

As for the ceremony itself, it's not all glitz and glamor. Behind the self-congratulatory pageantry, this year's observance, much like the ninety-seven rituals that preceded it, is subject to a litany of rules and regulations that would make any moviegoer's eyes glaze over.

Turning to the Academy's website, under Rules & Eligibility, one finds several PDFs that dictate procedures to the most minute detail. Foremost among them is a 51-page set of Complete Rules containing the twenty-eight rules governing the "98TH ACADEMY AWARDS® OF MERIT."[7]

Scrolling down the page one finds rules which cover each category. These rules are accompanied by a FAQs PDF and a Submission Checklist, along with other specifications. The film has to be submitted to the AMPAS online, a digital upload, along with promotional/exhibition materials, for which fees are assessed.

In order to be eligible, a feature film must first have had a qualifying theatrical run in a commercial cinema for at least a week in one of six qualifying cities.[8] It must also have had an expanded theatrical run of seven days in ten of the top fifty U.S. markets, no later than 45 days from its initial release.[9]

The theatrical eligibility rules have evolved to reflect the role of new markets. Before the year 2000, a film only had to play for a week in New York and Los Angeles in order to qualify. This progression is nothing when compared to the wholesale changes that have taken place during the last decade over diversity.

In 2015, media influencer April Reign launched the #OscarSoWhite hashtag, drawing attention to the absence of minority nominees in the acting categories. This led to the launching of the A2020 initiative under then Academy president Cheryl Boone Isaacs to reconstitute the Academy's voting rolls.

Issacs, the first African-American woman president in Academy history, had been elected two years prior. Pursuant to this initiative, prospective members who were female or from underrepresented groups were actively recruited so as to double their numbers. Academy membership swelled to facilitate this objective.

Not only was the pool of Academy voters augmented and differentiated, but older members were pruned, relegated to emeritus status, and no longer permitted to vote. Also, new governors-at-large positions on the Board of Governors were established to reflect the membership's new-found diversity among its leadership ranks.

The sequel to the A2020 initiative was Academy Aperture 2025. Whereas A2020 dealt with membership, Academy Aperture 2025 set new Representation and Inclusion Standards. For a film to be in the running for Best Picture, the prospective nominee must comply with at a minimum two of these requisites:

1. STANDARD A: ON-SCREEN REPRESENTATION, THEMES AND NARRATIVES
2. STANDARD B: CREATIVE LEADERSHIP AND PROJECT TEAM
3. STANDARD C: INDUSTRY ACCESS AND OPPORTUNITIES
4. STANDARD D: AUDIENCE DEVELOPMENT[10]

It all boils down to demonstrating on-screen representation and off-screen inclusion. This is accomplished by hiring from racial/ethnic groups, women, the LGBTQ+ community, and the disabled as actors and/or in behind-the-scenes leadership positions.[11] Paid internships in development, marketing, and publicity are to be provided.[12]

Producers are now required to submit a form to ensure compliance. The impact of Academy Aperture 2025 can be seen in there being "19% more female and female-led nominees and a 20% increase for non-white nominees across all Oscar categories" last year, the first year the new standards went into effect.[13]

Academy Aperture 2025 applies only to the Best Picture category. As for the other categories, Academy members from among the AMPAS's eighteen specific industry branches vote on the nominees in their respective fields, i.e., actors nominate actors, editors nominate editors, etc.

Once this branch voting for nominations is complete, eligible members can vote for the nominees in all categories. With the exception of Best Picture, a simple majority determines the winner. For Best Picture, much like the New York City mayoral primaries, a ranked-voting scheme is in place.

Under the "preferential ballot," voters rank their preferences from one to ten. If a film garners a threshold of fifty-one percent of first-place votes, it becomes the Best Picture.[14] If none receives a majority of first-place votes, the film with the least first-place votes is eliminated and second-place votes are allotted to the film next on the list, and so on, until a winner emerges.[15]

Apparently, the Academy's purpose is to have the Best Picture represent the broadest possible consensus among its members. All the same, this scheme presents its own pitfalls as it can advantage a nominee to secure a sufficient number of second-place or perhaps third-place votes before the deciding tally is completed.

With an Oscar in hand, a Best Picture winner stands alongside *Casablanca, Ben Hur*, and *The Godfather*. More than bragging rights are at stake. While the Academy doesn't award a cash prize, it is estimated $20 million in box-office returns could be realized from a Best Picture nomination and the value of a win runs into the hundreds of millions.[16]

Oscar voters are now required to view all nominated films for every category before they can cast their ballot. Formerly, screening was recommended but it was not mandated, except in the documentary and foreign film categories. The long-held suspicion was that other factors were unduly influencing outcomes.

AMPAS employs a private screening app, Academy Screening Room, which can authenticate if an academy member saw the film on the app. Electronic ballots will unlock in the 24 competitive categories once verification that all nominated films have been watched is determined.[17]

For those opting to view films the old-fashioned way, electronic forms must be completed to verify when and where screenings occurred.[18] This new stringency is the result of a concerted effort on the Academy's part to refine its procedures, and in so doing enhance its own prestige.

Rules on eligibility and voting are more than matched by the Campaign Promotional Regulations, which is accompanied by a Campaign Promotional Regulations FAQ PDF. Advertising regarding nominations or an Oscar win has to be authorized, and with the written permission of the Academy.

Films "submitted for awards consideration must abide by these regulations, as well as the Academy's standards of conduct, awards rules, and trademark/copyright laws."[19] The protection of its intellectual property is the sine qua non of the "©A.M.P.A.S.®."

The "©Oscar®" itself, referred to as the Award of Merit statuette, has been copyrighted, its trademark is registered, and it is a federally registered design mark.[20] The terms "©OSCAR®," "©OSCARS®," "©ACADEMY AWARD®," "©ACADEMY AWARDS®," "©OSCAR NIGHT®," "©A. M.P.A.S.®" are all protected.[21]

The Academy retains "the sole and exclusive right to reproduce, manufacture, copy, sell, display images of and publish said statuette in any size or medium … and to distribute or

exploit the statuette or reproductions of same by gift, sale, license or otherwise."[22]

Any depictions of the Oscar, "including photographs, drawings and other likenesses," must include the legend "to provide notice that it is protected by copyright, trademark and service mark registration."[23] After all, the Oscar is "among the most respected and sought-after prizes bestowed anywhere."[24]

The Academy enforces firm rules vis-à-vis award recipients. On winning an Oscar, recipients are required to sign an agreement regarding any potential sale of the hardware. Before you can sell your statuette, the Academy has a right of first refusal, empowering it to buy it for $10.[25] This practice was first initiated in 1951.

Any recipient attempting to violate this prohibition or anyone who infringes on the Academy's copyrights and trademarks, will likely be hearing from the firm of Quinn, Emanuel, Urquhart & Sullivan LLP. For four decades, this Los Angeles-based firm has served as the Academy's counsel.

Quinn Emmanuel is ever vigilant of the Academy's intellectual property interests. Whether it be by issuing cease-and-desist letters or appearing before the Ninth Circuit, the firm handles everything from the chocolatier who makes Oscar shaped candies to making sure the statuette never falls into the public domain.[26]

Once the votes are in, but before the awards can be handed out, the votes have to be tabulated. This responsibility belongs to PricewaterhouseCoopers International Limited (PwC). PwC is the Big Four accounting firm formed after the merger of Price Waterhouse and Coopers & Lybrand.

Price Waterhouse's association with the Academy dates back to the 1930s. In 1934, Bette Davis caused a sensation appearing in *Of Human Bondage*. Everyone felt she deserved the Oscar as Best Actress. She wasn't even nominated. The problem was she made the film at RKO. Her home studio was Warner Bros.

A write-in campaign ensued, nonetheless Davis was snubbed by the Academy. Her victory for *Dangerous* the next year is widely regarded as a consolation prize of sorts. She went on to receive a second Oscar for *Jezebel* in 1938. In 1941, Davis briefly served as Academy president until she resigned in exasperation after two months.

Davis also purportedly gave the gold-plated statuette its moniker of "Oscar." Davis observed the figure's rear-end reminded her of her first husband Harmon "Oscar" Nelson's "backside."[27] How the front of the statue compared to her ex-husband is anyone's guess. The upshot from the snubbing of Davis was that Price Waterhouse was brought in.

Every year, PwC prepares two sets of sealed envelopes with the winners' names, which are kept in locked briefcases to be opened Oscar night. A partner, one on each side of the stage, hands the presenter the appropriate envelope just before the award is announced.

For nearly eighty years, this system worked just fine until February 27, 2017. That night the accountant from PwC handed the wrong envelope to Warren Beatty and Faye Dunaway. Forever known as "Envelopegate," the film first announced as the Best Picture was in fact not the year's best picture.

What happened was Beatty was given the envelope for Best Actress backstage instead of the one for Best Picture. That year's Best Actress was Emma Stone for *La La Land*. On opening the envelope, a visibly flummoxed Beatty handed the envelope to Dunaway who saw the words *La La Land* and declared it had won.

The actual winner was *Moonlight*. The mistake was discovered mere moments later. After making a moving acceptance speech, producer Jordan Horowitz was informed what transpired. To his credit, a bemused Horowitz said "There's been a mistake. Moonlight, you guys won Best Picture. This is not a joke."[28]

Horowitz showed the card naming *Moonlight* Best Picture and gave the Oscar, that for a moment was his, to the producers of *Moonlight*. Beatty went on to explain to the audience how this fiasco came about as Dunaway scurried away. PwC issued a formal apology, which nine years later remains on the Academy's website:

> Monday, February 27, 2017 - 00:30
>
> We sincerely apologize to "Moonlight," "La La Land," Warren Beatty, Faye Dunaway, and Oscar viewers for the error that was made during the award announcement for Best Picture. The presenters had mistakenly been given the wrong category envelope and when discovered, was immediately corrected. We are currently investigating how this could have happened, and deeply regret that this occurred.
>
> We appreciate the grace with which the nominees, the Academy, ABC, and Jimmy Kimmel handled the situation.—PwC[29]

Envelopegate proved the most humiliating escapade in the Academy's annals, and that's saying a great deal. The Academy Awards somehow managed to survive the embarrassment. But there can be little doubt that the movie industry isn't what it once was.

There is a telling anecdote found at the outset of Billy Wilder's *Sunset Boulevard*. William Holden, playing a down-on-his-luck screenwriter turned gigolo, meets Gloria Swanson, a faded movie queen from yesteryear. Their exchange is as follows:

> Joe Gillis: You're Norma Desmond. You used to be in silent pictures. You used to be big.
>
> Norma Desmond: I am big. It's the pictures that got small.[30]

Swanson's clever comeback, after 75 years, endures. The American Film Institute rated it #24 on its 100 Years...*100 Movie Quotes* listing in 2005.[31] What gives the line its resonance is that Desmond, Swanson's cinematic alter-ego, was right. The pictures have gotten small. And they continue to get smaller still.

And the Academy Awards reflects this diminution. Not surprisingly, Swanson didn't get the Oscar she deserved in 1950 for her iconic performance. Judy Holiday got it for *Born Yesterday*, beating Swanson and Bette Davis in *All About Eve*. It just makes you think that something always seems to go awry in Tinseltown.

1. Academy of Motion Picture Arts & Sciences, 317 Feature Films in Contention for *98th Academy Awards®*, posting on X, January 8, 2026.
2. *Id.*
3. AWARDS CAMPAIGN PROMOTIONAL REGULATIONS FOR THE 98TH ACADEMY AWARDS® PDF at https://www.oscars.org.
4. *Id.*
5. Nellie Andrews, *Oscars Exploring New TV Home After ABC's Exclusive Negotiating Window Ends , Deadline*, March 3, 2025 at https://deadline.com.
6. *Id.*
7. Academy of Motion Picture Arts & Sciences, *Rules & Eligibility*, at https://www.oscars.org.
8. *Id.*
9. *Id.*
10. REPRESENTATION AND INCLUSION STANDARDS at https://www.oscars.org.
11. *Id.*
12. *Id.*
13. Lulin McCarthur and Malik Moulite, *Oscars' Diversity Efforts: Progress or Empty Gesture?, New America*, March 12, 2024 at https://www.newamerica.org.
14. VOTING at https://www.oscars.org.
15. *Id.*
16. Ewa Mazierska, *The 'Oscar Halo'- how awards and nominations direct where the money goes in the film industry, The Conversation* March 23, 2021 at https://theconversation.com.
17. Clayton Daivs, *Oscars New Voting Rule Explained: How the Academy Plans to Enforce Mandatory Viewing, Variety* April 22 2025, at https://variety.com.
18. *Id.*
19. Academy of Motion Picture Arts & Sciences, *Rules & Eligibility, supra*.
20. *Id.*
21. *Id.*
22. *Id.*
23. *Id.*
24. *Id.*
25. Stephan Ceasar, *Winning an Oscar is priceless, but selling it gets you exactly $10, Los Angeles Times* February 25, 2016, at https://www.latimes.com.
26. *Id.*
27. Editors of the Encyclopedia Britanica, *Why is the Academy Award called "Oscar"?* at https://www.britanica.com.
28. Natalie Robehmed, *The Full Story Behind The 'La La Land' And 'Moonlight' Oscars Mix-Up, Forbes* (February 27, 2017) at https://www.forbes.com.
29. STATEMENT FROM PRICEWATERHOUSECOOPERS at https://www.oscars.org.
30. IMBd, Quotes- Sunset Boulevard at https://www.imbd.com.
31. American Film Institute, AFI's 100 YEARS...100 MOVIE QUOTES at https://www.afi.com.

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

FOCUS: CONSTITUTIONAL LAW

Judicial Immunity, Separation of Powers, and Checks and Balances

David A. Bythewood

Judicial immunity in the United States of America does not exist anywhere in the U.S. Constitution or its amendments. Nowhere is there any evidence of its contemplation or that there was a desire for it by the founders of this country. To the contrary, it flows from 12th century English common law during the reign of King Henry II. It existed prior to the English Judicature Acts of 1873 and 1875 and was created for the purpose of protecting the English nobility. The Supreme Court's adoption of judicial immunity violated the Separation of Powers doctrine and removed all checks and balances from the U.S. judiciary. None of this was ever contemplated by the founders.

To that end, the Supreme Court gave birth to judicial immunity in *Randall v. Brigham*[1] by adopting and endorsing the old English common law of Henry II. Then, it was the monarch and nobility of England that controlled its courts and enshrines this protection into law in *Taaffe v. Downes*,[2] a case decided by the English Court of Common Pleas of Ireland in 1813. And since the Supreme Court's decision in *Randall*, the doctrine of judicial immunity has been blindly followed in this country like the lemmings following the notes played by the Pied Piper.

Henry II created the Court of Common Pleas in 1178 as a part of Curia Regis (the King's Court). The judges of the Court of Common Pleas were royals. Commoners did not sit as judges at the time of and before *Taaffe*. Therefore, the United States borrowed the concept of judicial immunity from a country that was abhorred by our Founders and that has never not wanted a constitution.

In *Bradley v. Fisher*,[3] the Supreme Court said that "If civil actions could be maintained…against the judge, because the losing party should see fit to allege in his complaint that the acts of the judge were done with partiality, or maliciously, or corruptly, the protection essential to judicial independence would be entirely swept away…If upon such allegations a judge could be compelled to answer in a civil action for the judicial acts, not only would the officer be degraded and his usefulness destroyed, but he would subjected for his protection to the necessity of preserving a complete record of all of the evidence produced before him in every litigation case, and the authorities cited and arguments presented in order that he might be able to sow to the judge before whom he might be summoned by the losing party… that he had decided as he did with judicial integrity…"

How can this ridiculous reasoning of the Supreme Court ever justify giving any judge a license to intentionally and/or maliciously ignore and violate the U.S. Constitution, federal, law or state law?

In *Bradley*, the Supreme Court was obviously only interested in shielding judges from having to answer for acts that are done with partiality, maliciously, corruptly, or even illegally. No appellate process can ever determine whether or not the act of any judge was intentional, malicious, or racist, etc. In an appeal, there is never any examination under oath or independent medical/psychiatric examination or a deciding judge or panel of judges. Judges are all fully immune from any such inquiry and therefore virtually "untouchable." As a result, because of judicial immunity, a judge's oath to honor, obey, and protect the U.S. Constitution is meaningless.

The preamble of the Constitution states that: "We the People of the United States, in Order to form a more perfect Union, establish justice, insure domestic tranquility, provide for the common defense, promote the general Welfare, and secure the Blessing of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America." And we must look at Article III, Section 1: "The judicial Power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior courts, shall hold their Offices during good Behavior…," and the First Amendment, "Congress shall make no law…prohibiting…to petition the Government for a redress of grievances."

Clearly, the U.S. Constitution places the welfare of its citizens above any individual, even one who sits as a judge. Therefore, under the doctrine

of judicial immunity, we have nothing more than a group of alley cats determining whether or not the alley cat who ate the canary did something wrong.

Statutory Construction and the Separation of Powers Doctrine

As the Court of Appeals stated in *United States v. Freeman*,[4] "…our function as judges requires us to interpret the law in the best interest of society as a whole." Statutory enactments should, moreover, be read so as "to give effect, if possible, to every clause and word of a statute."[5] The court's function as an interpretive body is to construe legislative enactments in such a way that the intent of the legislature is carried out. This is the principle that, despite the existence of literal language that might dictate a contrary result, a court should interpret a statute in such a way as to effectuate clear legislative intent.[6] "…The clearest indicator of legislative intent is the statutory text, the starting point in any case of interpretation must always be the language itself, giving effect to the plain meaning of thereof."[7]

The starting point in understanding the statute is always the language of the legislature.[8] As in all statutory construction cases, we begin with the language of the statute. The first step "is to determine whether the language at issue has a plain and ambiguous meaning with regard to the particular dispute in the case."[9] The inquiry ceases "if the statutory language is unambiguous and 'the statutory scheme is coherent and consistent.'"[10]

The intention of the legislature is to be collected from the words they employ. Where there is no ambiguity in the words, there is no room for construction.[11] The cardinal principle of statutory construction is that "where there is no ambiguity in the words, there is no room for construction."[12] "If the words chosen have a definite meaning, which involves no absurdity or contradiction, then there is no room for construction and courts have no right to add or take away from that meaning."[13] "It is a cardinal rule of statutory construction that, when Congress employs a term of art, it presumably knows and adopts the cluster of ideas that were attached to each borrowed word in the body of learning from which it is taken." What case is that quote from?[14]

When this doctrine of statutory construction is violated, a court impermissibly encroaches upon the legislative and executive domains and thereby violates the foundation of the separation of powers doctrine.[15]

Checks and Balances

The Constitution's particular blend of separated powers and checks and balances was informed by centuries of political thought and experiences. Though the theories of the separation of powers and checks and balances have roots in the ancient worlds, events of the seventeenth and eighteenth centuries played a crucial role in their development and informed the men who crafted and ratified the Constitution…But they also advocated a system of checks and balances to reinforce that separation…When the Framers met for the Constitutional Convention, they understood the need for greater checks and balances to reinforce the separation of powers alone as "a sufficient security to each encroachments of the others.[16] "[I]t is necessary to introduce such a balance of powers and interests, as will guarantee the provisions on paper."[17]

The Framers thus separated the three main powers of government—legislative, executive, and judicial—into the three branches created by Articles I, II, and III. But they also created checks and balances to reinforce that separation…To the Framers, the separation of powers and checks and balances were more than just theories. They were practical and real protections for individual liberty in the new constitution.[18] "The judiciary—no less than the other two branches—has an obligation to guard against deviations from those principles."[19]

1. 74 U.S. 523, 19 L.Ed. 285 (1868).
2. 3 Moore's Privy Council, 41.
3. 80 U.S. 335, 347, 20 L.Ed. 646 (1871).
4. 357 F.2d 606, 618 (2d Cir.1966).
5. *Duncan v. Walker*, 533 U.S. 167, 174, (2001) (*quoting United States v. Menasche*, 348 U.S. 528,538-59(1955)).
6. *United States v. Oates*, 560 F2d 45 (2d Cir. 1977).
7. *Kuhne v. Cohen & Slamowitz, LLP*, 579 F.3d 189 (2d Cir. 2009).
8. *Wiggins v. Henderson*, 278 F.3d 1311,1313 (D.C. Cir. 2002) *citing Williams v. Taylor*, 529 U.S. 420, 431 (2000).
9. *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340, (1997) (citing *United States v. Ron Pair Enterprises, Inc.*, 489 U.S. 235, 240 (1989)).
10. *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438 (2002).
11. *United States v. Trapilo*, 130 F.3d 547, 551 (2d Cir.1997).
12. *Burton v. Tampa Housing Authority*, 271 F.3d 1274 (11th Cir. 2001) (*citing United States v. Gonzales*, 520 U.S. 1,8 (1997)) (*quoting United States v. Wiltberger*, 18 U.S. 76, 95-96 (1820)).
13. *Nitkewicz v. Lincoln Life & Annuity Co. of N.Y.*, 49F.4th 721, 723 (2d Cir. 2022) (*quoting People v. Roberts*, 31 N.Y. 3d 406, 418, (2018)).
14. *Law v. Siegel*, 571 U.S. 415, 422 (2014).
15. *See People v. Finnegan*, 85 NY2d 53, 58 (1995), cert. denied 516 U.S. 919 (1995).
16. 2 records of the Federal Convention of 1787, p. 77 (M. Farrand rev. 1966).
17. *Ibid.*
18. *See Mistretta v. United States*, 488 U.S. 361,426,109 S. Ct. 647, 102 L. Ed. 2d 714 (1989) (Scalia,J., dissenting)("[The Constitution] is a prescribed structure, a framework, for the conduct of government. In designing that structure, the Framers themselves considered how much commingling of governmental powers was, in the generality of things, acceptable, and set forth their conclusions in the document").
19. *Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 135 S. Ct. 1199, 191 L. Ed. 2d 186, 2015 U.S. LEXIS 1740, 83 U.S.L.W. 4160 (2015).

David A. Bythewood is a trial attorney in Garden City. He is experienced in both state and federal trial litigation. He can be reached at dabytheesq@aol.com.

NASSAU ACADEMY OF LAW

March 2 (Hybrid)

Dean's Hour: From Barrier Breaker to Family Law Pioneer—Judge Jane M. Bolin's Legacy and Impact

With NCBA Diversity & Inclusion, Women in the Law, and Family Court Law, Procedure & Adoption Committees and Judicial Section

12:30PM

0.5 CLE Credit in Diversity, Inclusion and Elimination of Bias* and 0.5 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

Explore the life and legacy of Judge Jane Matilda Bolin, the first Black woman U.S. judge, and her transformative impact on Family Court. Through biographical context and key case law, this program will examine how Judge Bolin's trial-level decisions advanced due process, rejected racial and socioeconomic bias, and shaped modern family law practice and procedure. Panelists will also discuss practical applications of Judge Bolin's principles in contemporary Family Court proceedings.

Moderator: **Hon. Linda K. Mejias-Glover,** NYS Court of Claims

Guest Speakers: **Jacqueline Harounian,** Wisselman Harounian Family Law and **Joy Bunch, Esq.**

March 3 (Hybrid)

Preserving Tricky Issues for Appeal in Family Court

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

1:00PM—3:00PM

2.0 CLE Credits in Skills

NCBA Member FREE; Non-Member Attorney $25

Even the most compelling legal issue will almost always go undecided by an appellate court if not properly preserved at the trial level. This session will cover preserving issues for appeal in Family Court cases, including the elements of preservation; other necessary components of a viable Family Court appeal; and specific Family Court scenarios presenting challenges for preservation.

Guest Speaker: **Carolyn Walther,** NYS Office of Indigent Legal Services

March 4 (In Person Only)

Civil Rights Then, Now, and Always—Black History Month Commemorative CLE

With NCBA Civil Rights and Diversity & Inclusion Committees and sponsored by:

LAW OFFICE OF PATRICIA M. PASTOR PLLC — TRAUMA INFORMED JUSTICE

THE LAW OFFICE OF Rhonda L. Maco PLLC

5:30PM Dinner; 6:00PM—7:30PM CLE Program

1.0 CLE Credit in Diversity, Inclusion and Elimination of Bias* and 0.5 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $50

From Justice Thurgood Marshall to Justice Ketanji Brown Jackson, Black attorneys continue to serve as architects—not just advocates—of the civil rights movements and laws that protect us all. During Black History Month, we commemorate these significant contributions with a CLE on this important legacy, current civil rights challenges, and what every attorney can do to help protect and preserve the civil rights protections and enforcement mechanisms Black attorneys built and fought for.

Keynote Speaker: **Fred Brewington,** Civil Rights Attorney and Adjunct Faculty

Moderator: **Nairuby L. Beckles,** Vice Chair, NCBA Civil Rights Committee

Guest Speakers: **Justice Valerie M. Cartright,** Suffolk County Supreme Court; **Lanessa L. Owens-Chaplin,** Director, Racial Justice Center, NYCLU; and **Oscar Michelen,** Civil Rights Attorney and Adjunct Faculty

March 10 (Hybrid)

Dean's Hour: Immigration Issues at Arraignment — Updates and Information from LIRIAC

With Nassau County Assigned Counsel Defender Plan

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

This program will provide attendees with an understanding of immigration issues that arise at arraignment. Panelists will also explain how the Long Island Regional Immigration Assistance Center can provide resources, training, and expert advice regarding the immigration consequences of dispositions to assigned criminal and family court counsel in Nassau and Suffolk Counties.

Guest Speakers: **Jackeline Saavedra-Arizaga,** Legal Aid Society of Suffolk County, Immigration Unit and Long Island RIAC, and **Michelle Caldera-Kopf,** Legal Aid Society of Nassau County, Immigration Unit and Long Island RIAC

March 12 (Hybrid)

Dean's Hour: American Dissenters Across Generations—The Legacy of the Harlans

With NCBA Appellate Practice Committee

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

PROGRAMS CALENDAR

Perhaps no two justices better serve as exemplars of the tradition of the principled dissenter than John Marshall Harlan and his grandson and namesake, John Marshall Harlan II. Both men would serve on the U.S. Supreme Court, and each left a distinct legacy, most notably in the caliber of their dissenting opinions. They were more than legal theorists; they were judges who grappled with the cases and controversies that came before the Court, as well as with fundamental questions that still matter. Primarily because of their dissents, the Harlans have entered the pantheon among the most influential U.S. Supreme Court justices.

Guest Speaker: **Rudy Carmenaty,** Nassau County Department of Social Services

March 31 (Hybrid)

Dean's Hour: Discovery Part 2—What's Left to the Open Discovery Law in New York Criminal Practice Following *People v. Fuentes*, Court of Appeals of New York

With Nassau County Assigned Counsel Defender Plan

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

On August 7, 2025, new amendments to CPL § 245 and CPL § 30.30 went into effect. This is Part 2 of the Series on *Updates to the NY Discovery Laws*. This program will include a panel of defense attorneys and prosecutors who will discuss some of the latest decisions covering the New York Criminal Discovery Law.

Moderator: **Karen E. Johnston, Esq.**
Guest Speakers: **Jenna Suppon** and **Colleen Baktis**, Legal Aid Society of Nassau County, and **Matthew Sotirhos** and **Dana Grossblatt**, Nassau County District Attorney's Office

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.

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 at least five business days prior to the program.

FOCUS: ENVIRONMENTAL

Artificial Intelligence Regulating Government: The Next Step?

John L. Parker

Artificial Intelligence ("AI") is a major driver of the economy, energy usage, and countless ethical and legal questions facing practitioners. Indeed, AI technology companies have been on a roll for investors, although indications are that future performance is becoming less clear and may not equal their relative performance of 2025.[1] The forecasts for the use of the technology and its effectiveness are stories in constant flux. Not to be outdone, government agencies are looking at ways to incorporate AI into their operations, and in a recent development, for their rulemaking process. The United States Department of Transportation is seeking to use the technology to write federal transportation regulations.[2] The federal agency's General Counsel noted that they don't need the perfect rule, but instead, the agency wants "good enough."[3]

Background

The use of AI, it is clear, is now a tool that will continue to be used and that likely will not be discardable. This reality is further underscored by widespread public use and continual business advancement, resulting in these technologies becoming more effective as they develop. The technology continues to evolve, as does the need for users of these new tools to understand its environmental impacts and its limitations. The confluence of all these factors has resulted in consideration of the role of AI by executive branch regulatory agencies that administer much of the law in New York, and across the United States.

In one example, the use of AI at the federal level has raised questions about transparency and how the government is incorporating the use of the technology in otherwise legally prescribed permit application and environmental review processes.[4] Practitioners note that these governmental efforts, particularly regarding National Environmental Policy Act ("NEPA") proceedings, required summaries and responses to issues that need to be carefully overseen by humans to makes sure that they are accurate given the purpose of the statutory review to identify environmental impacts.[5]

Executive Regulatory Agency Use of AI

New York has taken many steps to address the use of AI in state government. These efforts focus on increased energy sources necessary to address growing energy needs in New York, and on developing guidance for State executive agencies as they contemplate the appropriate use of AI in regulatory matters. The Office of Information Technology Services is charged with the development of acceptable AI use policy.

The latest version of the policy was released in 2025.[6] It works in conjunction with the State's policy on the use of open-source software, among others.[7] The policy relies upon the role and involvement of human oversight. The policy notes that humans must make the final decisions, and not automated systems.[8]

In addition, the policy focuses on core principles that include fairness, equity and bias, transparency and inventory efforts to track the use of various AI systems, by each agency.[9] The volume and analysis of data in AI systems, can expose private information—inadvertently—into systems, particularly those that are open sourced. The State policy recognizes the vulnerability of data, and specifically, recognizes the need to maintain legal privacy and intellectual property protections, particularly regarding copyrighted materials.[10]

New York's policy addresses a rapidly advancing and changing technology.[11] State officials also note the resource intensive nature of complex AI problem solving and recognize and acknowledge the environmental impacts—in terms of both energy and water usage required. As the AI technology and use continues to develop, an update to the policy is anticipated in the first half of 2026, with further revisions to address the continuing emerging issues and to address agency compliance with the developed policy.

Use of AI by Experts to Address Regulatory Agency Requirements

The implementation of environmental and energy law necessarily relies upon data and data analysis, both new and historic, to inform regulatory decision making. These areas require understanding of administrative regulations and the technical information necessary to comply with law. The analysis of data is particularly relevant in enforcement and compliance proceedings and for processing permits before regulatory agencies, such as the New York City Department of Environmental Protection, New York State Department of Environmental Conservation, New York State Department of Health, and the Office of Renewable Energy Siting and Electric Transmission, and others.

Consultants play an important and necessary role for the regulated community to assess and interpret the requirements of these rules and regulations. They also play an integral role in designing plans to meet environmental requirements for remediation at sites that address on-site and off-site soil contamination and groundwater issues. Consultants' expertise is also important in meeting due diligence review requirements of environmental conditions at properties required for commercial transactions. In each of these areas, the interest in leveraging AI technologies continue to grow.

The experts in this area have noted the need for a full understanding of the functionality and limitations of each AI platform, its ability to keep information confidential, and the need to assess and to ensure that the underlying data that informs the AI analysis, and ultimately its conclusions are correct. In addition, and importantly, experts note issues that must be considered for AI use are similar to those being developed in AI policies for state regulatory agencies. The overlap includes the need for transparency, the need to explain the AI technology and its results, the need to address privacy and data stewardship, and the need to address bias and fairness in the AI models.

Unlike judicial proceedings, there often is no direct accountability to a decisionmaker if AI glitches or provides incorrect or fabricated information or conclusions. There are examples of AI automation going awry, and the subsequent impact on the underlying data used by this technology must be acknowledged and addressed by both government and consultant users of the technology.[12] This reality demonstrates the importance of human professional judgment in decision making and analysis by both government and consultants. Similarly, there is also a need for accountability to regulate AI use in the regulatory process.

Governments Addressing Growing Energy Needs of Technology

New York's evolving views meeting growing energy needs, including the demands of the burgeoning AI industry, are considering a more nuanced approach. In 2019, the state passed the Climate Leadership and Community Protection Act that set forth an ambitious effort to transition the state's energy system to a zero emissions system by 2040.[13] The demands of the growing use of cloud-based computing and AI has led to a substantial increase in the needs for new sources of energy.

In fact, in 2025, the governor directed the New York Power Authority to develop at least 1 GW of new sources of nuclear energy, and new technologies to be part of the energy system.[14] These efforts culminated in companies and upstate communities responding to the requests and indicating their interest.[15] In the 2026 State of the State address, the Governor increased the target for nuclear development to 5 GW of new nuclear power.[16] These new energy realities presume a full build out of contemplated renewables and battery storage. Together, these strategies are intended to address reliability and affordability challenges exacerbated by increased AI and cloud-based computing energy needs.

In this context, the federal government has much of the nuclear power plant licensing and permitting authority.[17] It is set forth in federal regulations.[18] The federal government is undertaking efforts to speed up the nuclear licensing process.[19] New York State also has a role in the process under the Public Service Law, and various other sources of authority, including the Clean Water Act. Despite these efforts, there are substantial supply chain and design constraints impacting the commercial construction of the next generation of nuclear power plants. These constraints may result in at least a decade before more widespread commercial nuclear power adoption can address the growing energy needs of AI and cloud-based systems.

Differences with Judicial Proceedings

The implications of AI use, by comparison, are different for judicial proceedings.[20] The use and leveraging of AI continues to raise ethical questions regarding applicability of civil procedural rules and judge's individual rules to Court submissions. The legal practice implications are common topics in commentary and as noted in a recent Commercial Transactions Committee meeting, where a leading jurist's views of the appropriateness and limitations of AI were presented and discussed.[21]

The changes evident in legal practice include use of AI in a wide range of activities, from drafting documents and legal narratives, to conducting legal research and preparing case filings. Each of these areas, however, is defined and addressed through legal training and judicial oversight. Notably, new and emerging areas of concern include disclosure to clients of the use of AI in practice—a requirement increasingly addressed in initial retainer agreements, and implications on attorney-client privilege by the use of AI and queries by clients.

The major legal research and service providers are also actively engaging in and developing new and more capable AI tools to assist practitioners' everyday work. Underscoring the challenge, and to demonstrate these issues, it has become common for conflicting views of AI bots to develop in the litigation context.

Recently, our firm found conflicting views of two of the largest legal research companies when running a Memorandum of Law in support through AI to determine if anything was missed in the analysis.[22] A co-counsel in the matter ran the memo through a competing AI research tool and challenged portions of our draft. However, these comments were made without adequate independent research—instead overly relying on AI results. The AI tools comparison missed key points, underscoring why AI cannot replace experience or judgement in our profession. While this experience is somewhat entertaining, it underscores the fundamental concerns with reliance on AI by less experienced practitioners and even new employees in government, who may not have in depth training or experience to check the accuracy and efficacy of the search queries.

Additionally, there are also implications for attorney client privilege when unsecured AI tools are used and what ingesting confidential client information into the wrong service can mean. Plainly, there are significant implications to misunderstanding the rules and guideposts for the use of this new technological marvel. Another key component of the AI use conundrum for lawyers is consideration of the impacts on the physical world resulting from the increased use by firms, practitioners, courts, and government.

Conclusion

In the end, the power of AI cannot offer the experience and judgment of humans. This ability and judgment are at the core of effective and responsible legal representation that meets the letter and intent of our codes of professional responsibility and ethics. Government and consultants are continuing to develop regulations and functional approaches of how and when to use AI in the complex regulatory reality of modern government. While the maxim "trust but verify" the accuracy of whatever may be produced by an AI analysis will remain necessary, the work to find responsible ways to have AI assist in government operations will continue to raise bias and fairness questions.

The impacts of the use of AI should also be considered. Due to the complexity, and often comprehensiveness of some AI research efforts (and subsequent follow up efforts), the growing environmental impacts of the need for more energy and the consumption of water necessary to keep the system working is an equally important question.[23] Nonetheless, Google recently estimated that the average AI text query consumed approximately the equivalent of the energy necessary to watch a TV for about nine seconds, and five drops of water. Given the more involved AI queries, it is easy to see that with millions of users, there are significant costs and impacts from using this new tool.[24]

As the electrical grid ages and AI use surges, the demand for ever more electricity is real, and results in significant cost increases. Further, states like New York that have ambitious statutory goals to transition to a carbon free energy system are addressing once unforeseen realities by considering new energy technologies. The increased energy needs, especially for complex queries, are likely to result in new AI pay structures and costs for the use of the substantial computer resources necessary for the system to work.

The question really is not whether to use AI for so many things, but should you?

This article follows the New York State Bar Association's (NYSBA) Annual Meeting on January 16, 2026, of the Environmental and Energy Law Section (EELS). The author had the honor to serve as this year's EELS Program Chair.[25] *One of the panel discussions addressed ethical issues of AI in environmental and energy law practice, which inspired this article.*

1. See *Why A.I. Fears Are Battering Stocks, Again*, N.Y. Times (Feb. 4, 2026), https://www.nytimes.com/2026/02/04/business/dealbook/ai-software-stocks-anthropic.html.
2. Jesse Coburn, *Government by AI? Trump Administration Plans to Write Regulations Using Artificial Intelligence*, ProPublica (Feb. 2, 2026), https://www.propublica.org/article/trump-artificial-intelligence-google-gemini-transportation-regulations.
3. *Id.*
4. Juan-Carlos Rodriguez, *Feds' Use of AI in Permitting, Rulemaking Raises Concerns*, Law360 (Nov. 17, 2025), https://www.law360.com/articles/2407406/feds-use-of-ai-in-permitting-rulemaking-raises-concerns.
5. *Id.*; see *also* U.S. Dep't of the Interior, Sec'y Order No. 3444, *Leading Interior's Path on Artificial Intelligence* (Sept. 17, 2025), https://www.doi.gov/document-library/secretary-order/so-3444-leading-interiors-path-artificial-intelligence.
6. N.Y. State Off. of Info. Tech. Servs., *Acceptable Use of Artificial Intelligence Technologies* (NYS-P24-001) (2026), https://its.ny.gov/system/files/documents/2026/01/nys-p24-001-acceptable-use-of-ai.pdf.
7. N.Y. State Off. of Info. Tech. Servs., *Acceptable Use of Open Source Software* (ITS-P19-005) (2025), https://its.ny.gov/system/files/documents/2025/02/its-p19-005-open-source.pdf.
8. N.Y. State Off. of Info. Tech. Servs., Acceptable Use of Artificial Intelligence Technologies (NYS-P24-001) § 4.2 (2026).
9. *Id.* §§ 4.3, 4.4, 4.7.
10. *Id.* §§ 4.7, 4.8, 4.10.
11. *Id.* § 4.9.
12. Beatrice Nolan, *An AI-Powered Coding Tool Wiped Out a Software Company's Database, Then Apologized for a "Catastrophic Failure on My Part"*, Fortune (July 23, 2025), https://fortune.com/2025/07/23/ai-coding-tool-replit-wiped-database-called-it-a-catastrophic-failure/.
13. See *generally* N.Y. State *Climate Action Council, Climate Act: Our Roadmap for Clean Air and Healthier Communities*, https://climate.ny.gov (last visited Jan. 17, 2026).
14. See N.Y. Governor's Off., *Governor Hochul Directs New York Power Authority to Develop a Zero-Emission Advanced Nuclear Energy Technology Power Plant* (Nov. 1, 2025), https://www.governor.ny.gov/news/governor-hochul-directs-new-york-power-authority-develop-zero-emission-advanced-nuclear-energy.
15. See N.Y. Power Auth., *New York Power Authority Issues First Solicitations for Advanced Nuclear Project* (Nov. 15, 2025), https://www.nypa.gov/News/Press-Releases/2025/20251030-nuclear; see *also* N.Y. State Energy Rsch. & Dev. Auth., *Advanced Nuclear Request for Information (FRI 5946)*, https://portal.nyserda.ny.gov/CORE_Solicitation_Detail_Page?SolicitationId=a0rcr000009bTViAAM (last visited Feb. 1, 2026); N.Y. Power Auth., *NYPA Receives Robust Response to Solicitations Seeking Information from Potential Host Communities, Development Partners for Advanced Nuclear Project* (Jan. 17, 2026), https://www.nypa.gov/News/Press-Releases/2026/20260107-solicitations.
16. See N.Y. Governor's Off., *State of the State 2026* ch. 9 (2026), https://www.governor.ny.gov/sites/default/files/2026-01/2026StateoftheStateBook.pdf.
17. See *generally* U.S. Nuclear Regulatory Comm'n, *Backgrounder on Nuclear Power Plant Licensing Process*, https://www.nrc.gov/reading-rm/doc-collections/fact-sheets/licensing-process-fs (last visited Jan. 17, 2026).
18. 10 C.F.R. pt. 50 (2026); 10 C.F.R. pt. 52 (2026).
19. Timothy Gardner, *US Nuclear Power Regulator Plans Changes in Line with Trump's Goals on Reactors*, Reuters (Feb. 4, 2026), https://www.reuters.com/business/energy/us-nuclear-power-regulator-plans-changes-line-with-trump-goals-reactors-2026-02-04/; see *generally* Nuclear Energy Inst., *Accelerating NRC Reform: Industry Recommendations* (July 2025), https://www.nrc.gov/docs/ML2521/ML25213A112.pdf.
20. See *Deutsche Bank Nat'l Tr. Co. v. LeTennier*, ___ A.D.3d ___ (App. Div. 3d Dep't Jan. 8, 2026).
21. Timothy S. Driscoll, Presentation at the Nassau County Bar Ass'n: *Recent Developments in Artificial Intelligence and the Legal Profession* (Oct. 30, 2025).
22. See Thomson Reuters, *Westlaw Advantage*, https://legal.thomsonreuters.com/en/products/westlaw-advantage (last visited Feb. 3, 2026); see also LexisNexis, *Lexis+ AI*, https://www.lexisnexis.com/en-us/products/lexis-plus-ai.page (last visited Feb. 2, 2026).
23. See *generally Power Hungry: AI and Our Energy Future*, MIT Tech. Rev., https://www.technologyreview.com/supertopic/ai-energy-package/ (last visited Feb. 2, 2026).
24. Amin Vahdat and Jeff Dean, *Infrastructure: How Much Energy Does Google's AI Use? We Did the Math*, Google Cloud Blog (Aug. 21, 2025), https://cloud.google.com/blog/products/infrastructure/measuring-the-environmental-impact-of-ai-inference.
25. Ethical Issues Regarding Artificial Intelligence in Environmental and Energy Law Practice, (panel discussion featuring Amy Kendall, Esq., moderator; Raphael Siebenmann; Marcy Stevens).

John L. Parker is a Partner with Sahn Ward Braff Coschignano PLLC where he leads the Environmental Energy and Resources Practice Group. He is Secretary of the NYSBA Environmental and Energy Law Section and serves as the Co-Chair of its Legislation Committee. He also serves as a member of the Nassau County Bar Association Board of Directors and as the Chair of its Environment Law Committee. He can be reached at jparker@sahnward.com.

A Fireside Chat with Second Circuit Judge Joseph Bianco

Christopher J. DelliCarpini

On January 20, the NCBA Appellate Practice Committee and Nassau Academy of Law (NAL) welcomed to Domus Judge Joseph Bianco of the U.S. Court Appeals for the Second Circuit for a "fireside chat" with Committee member and NAL Dean Chris DelliCarpini.

The two discussed the judge's career and his rise to the appellate bench, before going into several recent decisions penned by Judge Bianco. Along the way, the judge gave a peek behind the curtain at the Second Circuit and insights into the appellate process for attorneys and judges.

From Mob Prosecutor to Appellate Judge

Judge Bianco began his career in public service. After graduating Columbia Law School in 1991, he clerked for Judge Peter K. Leisure of the Southern District of New York. There he had the opportunity to see the trials of organized crime figures, which inspired him to become a prosecutor. From his clerkship he moved to the U.S. Attorney's office for the Southern District—an uncommon move for a lawyer fresh from a clerkship. He spent a decade in that office before becoming a Deputy Assistant Attorney General in the Criminal Division of the U.S. Department of Justice, coordinating terrorism prosecutions nationwide.

In July 2005, Judge Bianco was nominated by President George W. Bush for a judgeship in the Southern District, to the seat having been recently vacated by Judge Denis R. Hurley. Approved by both of New York's Democratic senators, he was confirmed by the Senate five months later, and received his commission in January 2006.

His next nomination, however, would not go as smoothly. In January 2019, President Donald J. Trump nominated him to the Second Circuit, to the seat vacated by Judge Reena Raggi. This time, however, approval of New York's senators was not so forthcoming. Even Senator Charles Schumer, who had approved the judge's nomination to the district court, withheld his approval at first—though Judge Bianco was assured it was nothing personal. Eventually politics ran its course, and in May 2019 Judge Bianco received his commission to the circuit court.

Judge Bianco also offered a peek behind the curtain at the workings of the circuit court. Perhaps his most surprising comment was that panelists do not coordinate their questioning before oral argument. So when we see judges raise different issues during argument, their fellow panelists are finding out with the attorneys just what concerns each judge on a given appeal.

Decisions, Decisions, Decisions

The latter portion of the chat covered several recent decisions Judge Bianco has authored. Covering a diversity of practice areas and issues, they offered an insight into the challenges faced by litigants and courts in federal appellate litigation.

In *Chinese American Citizens Alliance of Greater New York v. Adams*,[1] Chinese-American parents and organizations sued under Section 1983 to challenge New York City's revisions to its diversity program for admissions to specialized high schools. The parties agreed to bifurcate discovery, putting aside the issue of discriminatory intent (which would have entailed extensive production of city emails and other correspondence) until after discovery on the revisions' discriminatory impact. The city gambled that discovery would show no aggregate impact, and they were right; Asian-American students increased their enrollments. On this evidence, the district court granted summary judgment.

The Second Circuit, however, reversed and remanded. Certain individual plaintiffs had been denied admission under the revisions. With the bifurcated discovery, the court was required to presume discriminatory intent—a result evidently unanticipated in the trial court. In that case, aggregate disparate impact was unnecessary; the individual impact triggered strict scrutiny.

In *United States v. Poller*,[2] police officers executing a warrant watched the suspect in his car make what appeared to be narcotics transactions before entering his home. While executing the warrant the police peered inside the car's windows, but they were tinted.
One clever officer used his iPhone's camera to see through the tint, as it were, and he saw firearms and "a bag containing an unknown substance." Peering through the untinted windshield confirmed this, and eventually the officers obtained a warrant, then found and seized the guns and drugs in the car. Mr. Poller pleaded guilty to possession charges but preserved his right to appeal the challenge the denial of his motion to suppress the evidence from his car.

The Second Circuit affirmed denial of suppression. Using the iPhone's camera app did not violate Mr. Poller's reasonable expectation of privacy, Judge Bianco wrote, therefore the officers had not conducted a "search" under the Fourth Amendment. The officers had incidentally touched Mr. Poller's car during their investigation, but Judge Bianco wrote that even if that was a trespass it did not establish probable cause—the observation did that—therefore suppression still as not warranted. *Poller* was another example of tried-and-true legal principles accommodating cutting-edge technology.

In *National Institute of Family and Life Advocates v. James*,[3] New York's attorney general had commenced a civil enforcement action against organizations making allegedly false and misleading statements about an "abortion reversal pill," which could supposedly interrupt a chemical abortion if taken before the second medication in that procedure. Evidently, the Supreme Court's *Dobbs* decision did not resolve the conflict in America over abortion, but rather shifted it to the state courts.[4] The plaintiffs in this case were not targets of the civil enforcement action, but they brought a declaratory action to enjoin the AG from violating their First Amendment rights with a similar action. They also moved for a preliminary injunction, which the district court granted.

The Second Circuit affirmed. Judge Bianco began by holding that the *Younger* abstention doctrine, under which federal courts generally avoid interfering with state court actions, did not apply here because the enforcement action forced the plaintiffs to either violate state law or forgo constitutionally protected activity. He also wrote that the preliminary injunction was warranted because the plaintiffs' speech was not commercial but informational and religiously and morally motivated.

In *Frey v. City of New York*,[5] New Yorkers with State concealed-carry licensees challenged New York City's prohibition on carrying firearms in "sensitive locations," its ban on open-carry, and its requirement for a City pistol/revolver permit. They claimed that these restrictions violated the Second Amendment and the Supreme Court's *Bruen* decision.[6] It appeared that the City's restrictions were a response to *Bruen*, an attempt to enforce local restrictions despite federal rights. The district court denied the plaintiffs a preliminary injunction, which they appealed.

The Second Circuit affirmed denial of the preliminary injunction. Judge Bianco wrote that *Bruen* protects conduct that is both covered by the plain text of the Second Amendment

and consistent with national traditions of firearms regulation. After taking a journey through Anglo-American history, he concluded that even if these restrictions were covered by the plain text they were consistent with our traditions.

In *Radwan v. Manuel*,[7] a member of the University of Connecticut's women's soccer team was celebrating the team's victory in the ACC conference championship and "raised her middle finger to a television camera during her team's post-game celebration." The school responded by terminating her scholarship, and she sued alleging violations of the First Amendment, procedural due process, and Title IX. The district court granted summary judgment, finding that the defendants enjoyed qualified immunity because it was unclear whether they violated Ms. Radwan's rights.

The Second Circuit affirmed dismissal of the First Amendment and procedural due process claims but reversed on the Title IX claim. Judge Bianco wrote that government officials are entitled to qualified immunity on a Section 1983 claim unless (1) they violated a federal statutory or constitutional right, and (2) the unlawfulness of their conduct was 'clearly established at the time. The court found that a First Amendment right to make an obscene gesture on national television was not so clearly established, nor was Ms. Radwan's property interest in her scholarship, an essential element of a procedural due process claim.

On the Title IX claim, however, Judge Bianco found supporting evidence in the disparate treatment of male athletes, the school's changing justifications for their decision, and alleged failure by UConn to apply its own disciplinary procedures. Ms. Radwan ultimately continued her career at Hofstra, but her case offered some clarification on the free-speech rights of students.

In *United States v. Bankasi*,[8] the government prosecuted a commercial bank for conspiring to evade sanctions on Iran, but the bank—Turkiye Halk Bankasi, or Halkbank—was owned by the Turkish government. The bank moved to dismiss on foreign sovereign immunity grounds, and under the Foreign Sovereign Immunities Act ("FSIA"), which the district court denied. The bank appealed all the way to the U.S. Supreme Court, which held that FSIA did not confer immunity but remanded for consideration of possible common-law immunity.

Affirming the denial again, Judge Bianco wrote for the court "that common-law foreign sovereign immunity does not protect Halkbank from criminal prosecution based on the charges in this indictment." Tracing the doctrine's history, he wrote that sovereign immunity was an exemption from jurisdiction that the Executive could withdraw at any time. In 1952 our policy became one of "restrictive' foreign sovereign immunity, extending to public acts but not private, commercial acts. FSIA codified this policy, and though immunity determinations now belong got the judiciary it still defers to the Executive.

Thus, Judge Bianco wrote "when a foreign state-owned corporation is prosecuted for its commercial, non-governmental activity, we defer to the Executive Branch's determination that immunity is not warranted in that particular case." Deference to the executive is a hot topic in today's news, but in this case, at least, it belongs to a tradition going back to the nation's founding.

Contributing to Civics Education

Judge Bianco closed by sharing his work with civics programs for schoolchildren in New York City and on Long Island.

He discussed the Justice Institute, a partnership between the Eastern District of New York, The Federal Bar Association, and Touro Law School.[9] The Justice Institute's program "is designed to introduce incoming tenth graders to the workings of the federal courts and the criminal justice system, and to promote an enlightened and responsible citizenry." Students visited the district courthouse, heard from professionals across the federal justice system, observed the courts in operation, and concluded with a mock trial program mentored by experienced lawyers.

Judge Bianco also discussed the 2026 Judiciary and the Arts Contest.[10] Judiciary and the Arts, a program of The Honorable Robert A. Katzmann: Justice For All Courts and the Community Initiative, is an opportunity for students to express their ideas about the judiciary through the visual arts. All Long Island high school students are invited to submit artwork on this year's contest topics: Voices of the American Jury; Picturing Amistad: An Exploration of the Amistad Case; Naturalizations—Mural Mockup; and America 250: Courthouses of the Past & For The Next 250 Year.

Cash prizes will go to the top three submissions, and they will be presented at an exhibition at the federal courthouse in Central Islip this May.

1. 116 F.4th 161 (2d Cir. 2024).
2. 129 F.4th 169 (2d Cir. 2025).
3. 160 F.4th 360 (2d Cir. 2025).
4. *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215 (2022).
5. 157 F.4th 118 (2d Cir. 2025).
6. *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022).
7. 55 F.4th 101 (2d Cir. 2022).
8. 120 F.4th 41 (2d Cir. 2024).
9. https://www.tourolaw.edu/abouttourolaw/news/2467.
10. https://justiceforall.ca2.uscourts.gov/judiciary-arts-long-island-2026/.

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

DONOR	IN HONOR OF
DiMascio & Associates	Martha Haesloop on her retirement
Hon. Carnell Foskey	Hon. Fran Ricigliano on being appointed as Supervising Judge of the Nassau County Supreme Court
Hon. Denise L. Sher	Karen and Mike Ponticiello
Hon. Denise L. Sher	Hon. Anthony Paradiso on his award from the Criminal Courts Bar Association
Hon. Joy M. Watson	Hon. Tricia M. Ferrell on being honored at the Hon. Constance Baker Motley Luncheon hosted by the Amistad Long Island Black Bar Association

DONOR	IN MEMORY OF
DiMascio & Associates	Jean Stone, mother-in-law of Jill Stone
Hon. Susan Katz Richman	Kathryn Koenig, beloved mother of Ron Koenig
Michael G. LoRusso	Roger McGovern
Kathleen Wright	Jean Russo, grandmother of Elaine Colavito

IN MEMORY OF LINDA FLEISHER, MOTHER OF HON. STACY D. BENNETT

Karen Bodner
Jeffrey Catterson
Harold Deiters
DiMascio & Associates

Annual Children's Festival

On February 19, about local 200 children attended the WE CARE Children's Festival, enjoying an afternoon filled with music, entertainment, and treats. The annual celebration featured a DJ, dancers, magician, balloon artists, candy, pizza, ice cream, and a toy room. WE CARE looks forward to hosting the annual event each winter to bring smiles to children throughout the community.

WE CARE Winter Warm-Up

Community members gathered at Domus on February 5 for the WE CARE Winter Warm Up! Attendees learned about WE CARE's mission and programs, networked with advisory board members and grant recipients, and participated in raffle prize drawings. The event highlighted the organization's ongoing efforts to support and strengthen the community.

Photos by Hector Herrera

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.

Jaspan Schlesinger Narendran LLP is proud to announce that **Maria Girardi** has been named a Partner. Maria practices in the firm's Banking and Financial Services Practice Group representing lenders with respect to commercial transactions.

Capell Barnett Matalon & Schoenfeld LLP Founding Partner **Robert S. Barnett** presented *Inadvertent S Corporation Status Terminations: Revocations, Remedies and Recent Cases* and *Estate Planning with S Corps* for Strafford/BARBRI in January, as well lectured on Qualified Terminable Interest Property (QTIP) trusts for the NYS Society of CPAs at a joint community meeting. On March 19, **Barnett** and Founding Partner **Gregory L. Matalon** will present *Basis Planning for Estates & Trusts* for Strafford/BARBRI. Partner **Yvonne R. Cort** presented *New York State Tax Collections* at a HalfMoon Education webinar, and was a panelist in January for the National Conference of CPA Practitioners on *Tax Season 2026: Tax Tips & Traps.*

2025-2026 Sustaining Members

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

Mark E. Alter
Stanley P. Amelkin
Ariel Aminov
Michael J. Antongiovanni
Raymond J. Averna
Rosalia Baiamonte
Robert R. Barnett
Ernest T. Bartol
Howard Benjamin
Hon. Maxine S. Broderick
Neil Cahn
Joseph G. Cairo, Jr.
Hon. Lisa A. Cairo
Deanne M. Caputo
Jeffrey L. Catterson
Lance D. Clarke
Bruce M. Cohn
Richard D. Collins
Michael J. Comerford
Hon. Chris J. Coschignano
Hon. Eileen Catherine Daly
Harold F. Damm
Dina M. De Giorgio
Joseph G. Dell
Christopher J. DelliCarpini
Michael DiFalco
John P. DiMascio, Jr.
John P. DiMascio
Michelle M. DiPaolo
Samuel J. Ferrara
Thomas J. Foley
Patrick Formato
Lawrence R. Gaissert
Marc C. Gann
John J. Giuffre
Dorian R. Glover
Dorothy M. Going
Alan B. Goldman
Jonathan B. Golub
Robert S. Grossman
Joshua B. Gruner
Hon. Frank A. Gulotta Jr.
Jay M. Herman
Alan B. Hodish
James P. Joseph
Elena Karabatos
Jared A. Kasschau
Richard S. Kestenbaum
Hon. Susan T. Kluewer
Elizabeth Knechtges
Jennifer L. Koo
Abraham B. Krieger
Martha Krisel
John F. Kuhn
Debra Keller Leimbach
Donald F. Leistman
Peter H. Levy
Gregory S. Lisi
Michael F. LoFrumento
Anthony J. LoPresti
Michael G. LoRusso
Sighle M. Lynch
Peter J. Mancuso
Michael A. Markowitz
Kenneth L. Marten
Yasmeen Mashriqi
Michael H. Masri
Tomasina Mastroianni
John P. McEntee
Hon. Christopher T. McGrath
Patrick M. McKenna
Oscar Michelen
Anthony J. Montiglio
Christopher Ryan Murray
Anthony A. Nozzolillo
Teresa Ombres
Hon. Michael L. Orenstein
Eleni Mavros Panagos
Hon. Lisa M. Petrocelli
Christian A. Pickney
Hon. C. Raymond Radigan
Michael E. Ratner
Marc W. Roberts
Robert P. Rovegno
Daniel W. Russo
William M. Savino
Jerome A. Scharoff
Zan A. Sheikh
Hon. Denise L. Sher
Andrew J. Simons
Hon. Peter B. Skelos
Ira S. Slavit
Thomas E. Stagg
Jill C. Stone
Sanford Strenger
Terrence L. Tarver
Christina D. Thivierge
Craig J. Tortora
Danielle M. Visvader
Matthew Kiaer Viverito
Hon. Joy M. Watson
Gerald G. Wright
Stewart E. Wurzel
Omid Zareh

These Members' contributions enable the NCBA to continue its legacy for years to come, and demonstrate 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.

CALENDAR | COMMITTEE MEETINGS

COMMITTEE CHAIRS

Access to Justice	Samuel J. Ferrara and Rezwanul Islam
Alternative Dispute Resolution	Christopher J. McDonald
Animal Law	Harold M. Somer and Michele R. Olsen
Appellate Practice	Tammy Feman and Andrea M. DiGregorio
Asian American Attorney Section	Jennifer L. Koo and Michael Kwon
Association Membership	Adina L. Phillips and Ira S. Slavit
Awards	Daniel W. Russo
Bankruptcy Law	Scott R. Schneider
Business Law Tax and Accounting	Raymond J. Averna
By-Laws	Ira S. Slavit
Civil Rights	Patricia M. Pastor
Commercial Litigation	Danielle J. Marlow and Michael H. Masri
Committee Board Liaison	Hon. Maxine S. Broderick
Community Relations & Public Education	Ingrid J. Villagran and Melissa A. Danowski
Conciliation	Karl C. Seman
Condemnation Law & Tax Certiorari	Robert L. Renda
Construction Law	Adam L. Browser and Robert J. Fryman
Criminal Court Law & Procedure	Brian J. Griffin
Cyber Law	Nicole E. Osborne
Defendant's Personal Injury	Brian Gibbons
District Court	Matthew K. Tannenbaum
Diversity & Inclusion	Hon. Maxine S. Broderick and Hon. Linda K. Mejias-Glover
Education Law	Liza K. Blaszcyk and Douglas E. Libby
Elder Law, Social Services & Health Advocacy	Christina Lamm and Dana Walsh Sivak
Environmental Law	John L. Parker
Ethics	Thomas J. Foley
Family Court Law, Procedure and Adoption	Tanya Mir
Federal Courts	Michael Amato
General, Solo & Small Law Practice Management	Jerome A. Scharoff
Grievance	Robert S. Grossman and Omid Zareh
Government Relations	Michael H. Sahn and Brent G. Weitzberg
Hospital & Health Law	Kevin P. Mulry
House (Domus)	Christopher J. Clarke
Immigration Law	Sylvia Livits-Ayass
In-House Counsel	
Insurance Law	Michael D. Brown
Intellectual Property	Elizabeth S. Sy
Judicial Section	Hon. Linda K. Mejias-Glover and Hon. Ellen B. Tobin
Judiciary	Marc C. Gann
Labor & Employment Law	Lisa M. Casa
Law Student	Bridget Ryan and Emma Henry
Lawyer Referral	Peter H. Levy
Lawyer Assistance Program	Daniel Strecker
Legal Administrators	
LGBTQ	Jess A. Bunshaft
Matrimonial Law	Joseph A. DeMarco
Medical Legal	Nicole M. LaGrega
Mental Health Law	Jamie A. Rosen
Municipal Law and Land Use	Elisabetta T. Coschignano and Anthony C. Curcio
New Lawyers	Andrew B. Bandini
Nominating	Sanford Strenger
Paralegal	
Plaintiff's Personal Injury	Steve Z. Gokberk
Publications	Cynthia A. Augello
Real Property Law	Suzanne Player
Senior Attorneys	Peter J. Mancuso
Sports, Entertainment & Media Law	Lauren Bernstein
Supreme Court	Clifford S. Robert
Surrogate's Court Estates & Trusts	Maria L. Johnson and Cheryl L. Katz
Veterans & Military	Gary Port
Women In the Law	Rebecca Sassouni and Melissa Holtzer-Jonas
Workers' Compensation	Craig J. Tortora

WEDNESDAY, MARCH 4

Real Property Law
12:30 p.m.

Supreme Court
12:30 p.m.

THURSDAY, MARCH 5

LGBTQ
12:30 p.m.

Publications
12:45 p.m.

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

TUESDAY, MARCH 10

Labor & Employment Law
12:30 p.m.

WEDNESDAY, MARCH 11

Civil Rights
12:30 p.m.

Plaintiff's Personal Injury
Defendant's Personal Injury
Law Student
New Lawyers
12:30 p.m.

"Meet the Part" guest speakers Hon. Linda Mejias-Glover and Hon. Gina Lopez-Summa

Matrimonial Law
Family Court Law, Procedure & Adoption
Criminal Court Law & Procedure
5:30 p.m.

Nassau County Matrimonial Center Supervising Judge Jeffrey A. Goodstein and Suffolk County Matrimonial Parts Supervising Judge Cheryl A. Joseph will be joined by renowned neuroscientist Dr. Stephen Dewey to address "FanDuel, Fentanyl and Frappuccino: The Science of Addiction."

THURSDAY, MARCH 12

Alternative Dispute Resolution
12:30 p.m.

Ellen Waldman will speak about ABA Formal Opinion 518 and Patrick (Mike) McKenna will speak about the lawyer-mediator's duties and a variety of other topics.

MONDAY, MARCH 16

Asian American Attorney Section
12:30 p.m.

TUESDAY, MARCH 17

Women in the Law
12:30 p.m.

Diversity & Inclusion
5:30 p.m.

WEDNESDAY, MARCH 18

Association Membership
12:30 p.m.

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

Matthew Rappapport will discuss the One, Big, Beautiful Bill Act (OBBBA) and its impact on opportunity zones and trust and estate planning; opportunity zones generally; OBBBA's changes to IRC § 1400Z-2; other real estate survivals and credits updates; and tax-related estate planning strategies.

Judicial Section
12:30 p.m.

WEDNESDAY, MARCH 25

District Court
12:30 p.m.

THURSDAY, MARCH 26

Commercial Litigation
12:30 p.m.

TUESDAY, MARCH 31

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

Attend a "meet and greet" with new Nassau County Surrogate, Hon. David P. Sullivan, and his Principal Law Clerk, Lawrence Schaeffer, Esq.

NCBA 2025-2026 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.

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

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

PERSONAL INJURY

LEVINE & SLAVIT PLLC

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.

LRIS Nassau County Bar Association

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

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**

NCBA MEMBER BENEFIT

ENCORE
LUXURY LIVING
LUXURY RENTALS FOR THOSE 62 AND OLDER
For more information about member discounts contact Kerri Winans Kaley at kkaley@encoreluxuryliving.com
Jericho, NY | encoreluxuryliving.com

LEGAL SUPPORT

Milette Shanon
Attorney At Law
Property Tax Grievances (Flat Fee)
SCAR Proceedings
Building and Zoning
Wills
(917) 304-5964
milletteshanon.esq@gmail.com
milletteshanonattorney.com

Contact
NassauLawyer@nassaubar.org
for details about
Business Card ads.

JOSEPH LAW GROUP P.C.

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