Nassau Lawyer

The Journal of the Nassau County Bar Association

May 2026 | www.nassaubar.org | Vol. 75, No. 9

Follow us on LinkedIn

WHAT'S INSIDE

Yes, NJ Transit Can Be Sued for Injuring New Yorkers in New York pg. 4

Distribution of Personal Injury Recoveries in Divorce pg. 6

A 9-1-1 Call for Volunteer Firefighters pg. 7

The Second Department Clarifies the Notice of Claim Requirement pg. 8

The Enduring Legacy of *Méndez v. Westminster*: A Landmark in Civil Rights and American Jurisprudence pg. 10

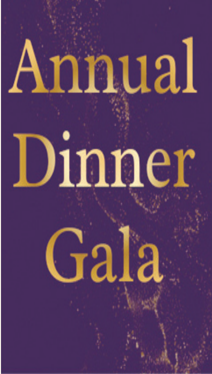
The Landlord Kept My Security Deposit pg. 11

The Evolving Mental Health Legal System: Trends, Reforms, and Challenges for 2026 pg. 14

NCBA Model Policy for Law Firms/Legal Departments Addressing Impairment pg. 16

Trial Under Glass: The Capture of Adolf Eichmann pg. 18

SAVE THE DATE



2026 DINNER GALA
SATURDAY, MAY 9
pg. 4

ANNUAL MEETING
TUESDAY, MAY 12
pg. 8

INSTALLATION CEREMONY
TUESDAY, JUNE 2
pg. 21

NCBA Educational Initiatives Spotlight Student Excellence in 2026 Competitions

Educating Future Lawyers

The Nassau County Bar Association, through the Nassau Academy of Law, coordinates two annual programs to help train the next generation of legal advocates: The Nassau County High School Mock Trial Tournament for high school students and the Hon. Elaine Jackson Stack Moot Court Competition for local law students.

Nassau County High School Mock Trial Tournament

Massapequa High School's mock trial team prevailed over 44 other teams to become the Nassau County Champions of the 2026 New York State High School Mock Trial Tournament. In the final round, which took place on March 30, Massapequa High School was matched up against The Wheatley School, which placed second in the region. Hon. Conrad Singer presided over the trial. Massapequa High School will represent Nassau County at the state finals in May.

The annual New York State High School Mock Trial Tournament is a joint program of the New York State Bar Association, The New York Bar Foundation, and the Law, Youth and Citizenship Program. This year, thousands of students from across the state competed in regional tournaments, and the championship team from each region will advance to the state finals, held from May 17 to 19 in Albany. This year's case, *People vs. A. Carmen Erickson & Carson Blocker*, was a criminal case involving charges of petit larceny and resisting arrest.

NCBA coordinates the Nassau County Tournament, which took place in February and March this year at the Nassau County Supreme Court. Over 50 attorneys and judges presided over 72 trials during the seven rounds of the Tournament, and dozens of NCBA members and local attorneys also served as Attorney-Advisors to the Mock Trial teams. Thank you to all the members of the legal community who supported the 2026 Nassau County High School Mock Trial Tournament, especially our County Coordinators, Peter H. Levy and Hon. Lawrence M. Schaffer, who made this Tournament possible!

Hon. Elaine Jackson Stack Moot Court Competition

The 2026 Hon. Elaine Jackson Stack Moot Court Competition culminated in the Final Round of oral arguments held on March 25 in the Great Hall at Domus before a panel of five judges, with the Hon. Eunice C. Lee, U.S. Court of Appeals for the Second Circuit, acting as "Chief Justice of the Supreme Court of the United States." Acting as Associate Justices were Hon. Leonard B. Austin (ret.), Supreme Court, Appellate Division, Second Department; Hon. William Bodkin, Nassau County District Court; NCBA President James P. Joseph; and Nassau Academy of Law Dean, Christopher DelliCarpini.

The seven teams competing represented four local law schools—City University of New York School of Law, Maurice A. Deane School of Law at Hofstra University, St. John's University School of Law, and Touro University Jacob D. Fuchsberg Law Center. Over the two-day competition, the teams argued before 23 volunteer judges in the preliminary and semi-final rounds.

The Moot Court Problem was drafted by Christine T. Quigley. The hypothetical case arose from challenges brought by parents of students enrolled in schools that adopted a policy to maintain the confidentiality of students' transgender status by, among other things, withholding such information from parents, absent students' prior consent. The first issue before the court was whether parents of children attending public schools had standing

See NCBA EDUCATIONAL INITIATIVES SPOTLIGHT Page 17

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

LEVINE & SLAVIT PLLC

NewYorkInjuries.com

90+Years and Three Generations Fighting for the Injured

islavit@newyorkinjuries.com

350 Willis Avenue
Mineola, NY 11576
516-294-8282

60 East 42nd Street
New York, NY 10165
212-687-2777

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

This is an advertisement. The information contained herein is not intended as legal advice, nor does it create an attorney-client relationship. Prior results do not guarantee a similar outcome

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

NCBA Officers
President
James P. Joseph, Esq.

President-Elect
Hon. Maxine S. Broderick

Vice President
Samuel J. Ferrara, Esq.

Treasurer
Deanne M. Caputo, Esq.

Secretary
Ira S. Slavit, Esq.

Executive Director
Elizabeth Post

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

Editor/Production Manager
Jamie LaGattuta

Photographer
Hector Herrera

Graphic Artist
Marina Senderov

May 2026
Focus Editors
Cynthia A. Augello, Esq.
Nathan Bishop, Esq.
Rudolph Carmenaty, Esq.
Chris DelliCarpini, Esq.
Adrienne Hausch, Esq.
Jeff Morgenstern, Esq.
Thomas McKevitt, Esq.
Richard Washington, Esq.

Publication Committee Members
Rhoda Yohai Andors, Esq.
Marc Aspis, Esq.
Cynthia A. Augello, Esq.
Nathan Vidra Bishop, Esq.
Hon. Maxine S. Broderick
David A. Bythewood, Esq.
Rudolph Carmenaty, Esq.
Christopher J. DelliCarpini, Esq.
Andrea M. DiGregorio, Esq.
Nancy E. Gianakos, Esq.
Adrienne Flipse Hausch, Esq.
Charles E. Holster III, Esq.
Brittany Nicole Hulbert, Esq.
Thomas McKevitt, Esq.
Jeff H. Morgenstern, Esq.
Adina Lorinne Phillips, Esq.
Richard J. Washington, Esq.

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

2026 Nassau County Bar Association

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

In Closing

From the President

James P. Joseph

As I sit down to write this, my final President's Column, I find myself returning to where this year began.

In my first column, I wrote about the oath we all take as lawyers—to support the Constitution of the United States and the Constitution of the State of New York—and the responsibility that comes with it. That oath is not ceremonial. It is a statement of identity. It is a promise about how we will conduct ourselves, particularly when it is difficult.

Over the past year, that understanding has guided me more than I could have anticipated.

This has been a year of both opportunity and challenge. Across the country, bar associations continue to face declining membership. Yet here at the Nassau County Bar Association, we welcomed 446 new members: during my presidency. The most significant growth came from law students. While that growth does not immediately increase revenue, it matters deeply. They are not only our future, they are our present, and it is our responsibility to ensure that they feel welcomed, heard, and valued. We should work to ensure that Domus feels like a second home to them, as it does to us.

We also took meaningful steps to strengthen engagement within our leadership. Through the creation of task forces and expanded opportunities for involvement, we worked to ensure that every member of our Board had a chance to contribute in a meaningful way. The result was not only greater participation, but a stronger, more connected organization.

At the same time, this was a year in which the role of the legal profession, and the importance of the Rule of Law, was tested in ways that could not be ignored.

From the outset, I was mindful of the responsibility to address these issues thoughtfully and in a manner that reflected the diversity of perspectives within our Bar. That was not always easy. It took time to find a voice that was both principled and nonpartisan. But with the support of many, including the overwhelming number of members who reached out to share their encouragement, we were able to do so in a way that, I believe, strengthened rather than divided our community.

One of the most meaningful steps we took in that regard was the recent formation of the Ad Hoc Committee on the Rule of Law. Spearheaded by Past President Kathryn Meng and comprised of seven Past Presidents from across the spectrum of thought within our Bar, the Committee provided invaluable guidance to me, the Executive Committee, and the Board. Their insight—and, as those who know her will appreciate, Kate's persistence—was instrumental in helping us navigate these issues with care and clarity. For that, I am deeply grateful.

There were, of course, many moments throughout the year that I will carry with me. From the opportunity, just one day after being sworn in, to speak to more than 200 law students interning in our courts, Legal Aid, and the District Attorney's Office, to addressing the Lawyer Assistance Program Committee at the Peter Sweisgood Dinner, to the countless programs, meetings, and conversations that took place at Domus, in our community, and in the courts, each served as a reminder of the strength and purpose of this profession.

If there is a common thread that runs through all of it, it is this: the Nassau County Bar Association is, at its core, a community. Not simply an organization, but a place where lawyers come together to support one another, to serve the public, and to uphold the principles that define our profession.

That community is sustained by people.

I would like to express my sincere gratitude to the members of our Executive Committee: Immediate Past President Daniel Russo, President-Elect Hon. Maxine Broderick, Vice President Samuel Ferrara, Treasurer Deanne Caputo, and Secretary Ira Slavit. Your counsel, support, and friendship throughout this year have meant the world to me.

To the members of our Board of Directors, thank you for your engagement, your commitment, and your willingness to step forward and contribute your time and talent.

To the many Past Presidents of this Association, your wisdom, perspective, and steady guidance were invaluable. I am deeply appreciative of the time you took to support me and this Bar.

I would also like to recognize several individuals whose work reflects the very best of what this Association represents. Lindsay Boorman, this year's recipient of the President's Award and now Administrator of the Assigned Counsel Defender's Plan, has, both in her prior role as Assistant Director and in her current position, led meaningful and lasting improvements to that program. Dr. Elizabeth Eckhardt continues to lead and grow our Lawyer Assistance Program with compassion and purpose. Madeline Mullane's leadership of the Mortgage Foreclosure Pro Bono Project has provided critical support to those in need. Natasha Dasani, as Director of the Nassau Academy of Law, and Dean Chris DelliCarpini continue to elevate one of the premier legal education programs in our region. And Hector Herrera, who deserves more titles than can reasonably be listed here. Thank you, Hector, for all you do.

More broadly, I want to thank all of the NCBA staff, those who serve across our related entities, and our members. Your collective efforts are what make this Association what it is.

To our Executive Director, Elizabeth Post, thank you for your leadership, partnership, and steady guidance throughout the year.

To Administrative Judge Vito DeStefano and our outstanding judiciary, thank you for your continued partnership and support of this Bar and its mission.

To my colleagues and team at my firm, thank you. Without your support, I could not have dedicated the time and energy required for this role.

And to my family, especially my wife Elsa, who, after 30 years, continues to take this journey alongside me. Thank you for your patience, your love, your support, and your unwavering encouragement.

Finally, I would be remiss if I did not acknowledge the men and women in the armed forces. Please keep them and their families in your thoughts and prayers during these dangerous times.

As I reflect on this year, I do so with a deep sense of gratitude—not simply for what we have accomplished, but for the opportunity to serve.

The Nassau County Bar Association and Domus, our home, is more than a place. It is a community built on shared values, mutual respect, and a collective commitment to something larger than ourselves.

It has been an honor to serve as your President.

I leave this role with a deep sense of gratitude. For the opportunity to serve, for the people who made it meaningful, and for the community that makes all of it possible.

FOCUS:
APPELLATE LAW

Christopher J. DelliCarpini

Yes, NJ Transit Can Be Sued for Injuring New Yorkers in New York

In March, the United States Supreme Court held that the New Jersey Transit Corporation can be held liable when its buses injure pedestrians in neighboring states.[1]

You might have thought it beyond dispute that any bus operator would be liable whenever it injures someone. But the only reason this issue reached the Supreme Court was because in two cases NJ Transit claimed sovereign immunity was a total bar to recovery—and the high courts of New York and Pennsylvania split on the matter.

The Court's unanimous decision hinged on the fundamental structure of NJ Transit, and it offers guidance on determining whether any other public entity enjoys interstate sovereign immunity.

A Long Road from Manhattan to Albany

A pedestrian knock-down is the kind of personal injury case that should settle quickly, but *Colt v. New Jersey Transit Corp*. went all the way to the highest court in the land.

On the afternoon of February 9, 2017, Mr. Colt was crossing 40th Street at Dyer Avenue in Manhattan when a NJ Transit bus struck him while making a left turn.[2] The motion court granted Mr. Colt summary judgment on liability, finding it undisputed that the plaintiff was in the crosswalk with the green light when the bus struck him.[3]

NJ Transit appealed, arguing for the first time that sovereign immunity barred the suit. It relied on the settled law that "Arms of the State" cannot be sued in the courts of other states, citing the Supreme Court's decision *Franchise Tax Board of California v. Hyatt*.[4] NJ Transit then argued that it was an arm of the state because it "was created by the New Jersey Public Transportation Act of 1979…, and established in the Executive Branch of the State Government" and "constituted as an instrumentality of the State exercising public and essential governmental functions…"[5] NJ Transit then explained that the New Jersey Tort Claims Act ("NJTCA") did not waive interstate sovereign immunity, and that it only allowed claims to be prosecuted in the venue in New Jersey where the alleged injury occurred.[6]

The First Department affirmed summary judgment in a divided decision, rejecting NJ Transit's sovereign immunity arguments.

"[T]he ability to commence a negligence action against NJT in New Jersey state courts," the court observed, "is dependent solely on the fortuitousness of where the accident occurs."[7] "This absurd result," the court concluded, "cannot be jurisprudentially justified."[8] The dissenters found that NJ Transit was an arm of the State, and that the injustice of the result was no bar to the exercise of interstate sovereign immunity.[9]

The Appellate Division granted leave to appeal, and the Court of Appeals affirmed, but on different grounds.

The Court rejected the equitable approach of the First Department and found that "[o]ur courts may not disregard a sister State's sovereignty simply because an individual might otherwise not be able to recover a judgment against it."[10] Rather, the Court concluded from *Hyatt III* that whether an entity created by a foreign state was entitled to sovereign immunity depended on: "(1) how the State defines the entity and its functions, (2) the State's power to direct the entity's conduct, and (3) the effect on the State of a judgment against the entity."[11]

Given contradictory statements in New Jersey statutes and case law, the Court found that the first factor leaned toward sovereign immunity.[12] Though NJ Transit's board exercised independent judgment, the board was appointed by the Governor, making the second factor a draw.[13] The decider was the third factor; the Court found that New Jersey had "clearly disclaimed any legal liability for judgments against NJT," and that "defendants have not established that New Jersey would bear ultimate liability for a judgment against NJT."[14]

A Detour in Philly, Then On to D.C.

NJ Transit petitioned for certiorari, a request made more compelling by the decision of the Supreme Court of Pennsylvania in *Galette v. New Jersey Transit Corp*.[15]

After a collision between a NJ Transit bus and another vehicle, injured passenger Cedric Galette sued and litigated the sovereign immunity issue to Pennsylvania's highest court. Applying its own six-factor test, the court held that NJ Transit was an arm or instrumentality of the State, and that New Jersey had not waived its intrastate sovereign immunity in the NJTCA. Mr. Galette petitioned for certiorari, which the Supreme Court granted in June 2025. In September, the Court granted NJ Transit certiorari in *Colt* and consolidated the cases for argument.

The U.S. Supreme Court heard the argument on January 14, and on March 4, issued a unanimous decision affirming Colt and reversing Galette. "The Court granted certiorari," Justice Sotomayor wrote in the decision, "to resolve whether New Jersey Transit is an arm of New Jersey and thus entitled to the State's sovereign immunity. It is not."[16]

For the Court, whether NJ Transit was an arm of the state, and thus entitled to sovereign immunity,

hinged on how New Jersey had created the entity. Tracing the precedent, the Court found two versions of this analysis: (1) whether the State had created the entity as a corporation, liable for its own judgment; and (2) whether the State remained the real party in interest regardless of the corporate form.[17]

The Court found that under each test, NJ Transit was not entitled to sovereign immunity. It conceded that "NJ Transit's organic statute [ ] labels it an 'instrumentality of the State,'" but found that "NJ Transit was created as a 'body corporate and politic with corporate succession.'"[18] As for the real party in interest, the Court quoted NJ Transit's brief for the concession that "New Jersey is not formally liable for NJ Transit's debts."[19] New Jersey's control over NJ Transit, the Court found, did not meaningfully affect its status.[20]

The Court rejected the other arguments raised by NJ Transit. While formal corporate status was not dispositive, the Court noted that NJ Transit "is a corporation that has all the hallmarks of separate legal personhood . . . which all indicate that it is not an arm of the State and does not share in its immunity from suit."[21] And while NJ Transit serves a public function—though making such determination "can be 'unsound in principle and unworkable in practice'"— New Jersey chose to serve that function through a legally separate entity.[22]

Twenty-three states as amici curiae urged the court "to adopt a rule that a State's own characterization of an entity should be dispositive," but the Court found that focusing on labels "does not promote predictability in the treatment of state-created entities because it still requires courts to decide which state-law pronouncement is dispositive.[23]

The Road Ahead

The immediate consequence of the Court's decision is that NJ Transit—as currently constituted—cannot claim sovereign immunity to escape liability in foreign state courts. There remains the possibility, however speculative, that New Jersey could reconstitute NJ Transit to be an arm of the State under *Galette* and enjoy interstate sovereign immunity. In that case, New York would have to reach some agreement with New Jersey or allow these buses to operate in New York with impunity.

As a federal case, however, *Colt* does not directly affect public corporations' amenability to suit in the courts of their home state. The decision concerned itself only with interstate sovereign immunity, which "bars private parties from suing a nonconsenting State . . . in the courts of another State."[24] The Court of Appeals in *Colt* referred to this as "Eleventh Amendment immunity."[25] *Galette* did not address sovereign immunity in a state's own courts. In New York, that inherent power is still governed by state and local laws authorized by our constitution, such as the Court of Claims Act, the General Municipal Law, and local laws requiring prior written notice in certain tort claims.

Will *Galette* open other state mass transit services to suit in New York? Vermont Translines, part of the Vermont Agency of Transportation, operates between Burlington and Albany.[26] Connecticut's CTtransit bus system provides service between Stamford and White Plains.[27] Should a case arise from an injury involving either entity, though, the interstate sovereign immunity issue will be decided by the analysis set forth by the Supreme Court.

1. *Galette v. New Jersey Transit Corp.*, 607 U.S. ___, 146 S.Ct. 854 (2026).
2. *Colt v. New Jersey Transit Corp.*, 158309/2017, NYSCEF 139 at 2 (decision and order with notice of entry).
3. *Id.* at 5.
4. 139 S.Ct. 1485 (2019), cited in *Colt v. New Jersey Transit Corp.*, 2021-01180, NYSCEF 7 at 11–14 (appellants' brief).
5. *Id.* at 14 (quoting *NJSR Surg. Ctr., LLC v. Horizon Blue Cross Blue Shield of New Jersey, Inc.*, 979 F. Supp.2d 513, 517 n.1 (DNJ 2013).
6. *Id.* at 17–38.
7. *Colt v. New Jersey Transit Corp.*, 206 A.D.3d 126, 133 (1st Dept 2022).
8. *Id.*
9. *Id.* at 592–598 (Friedman and Moulton, JJ, dissenting).
10. *Colt v. New Jersey Transit Corp.*, 43 N.Y.3d 463, 471, 477 (2024).
11. *Id.* at 472 (quoting *Lake Country Estates, Inc. v. Tahoe Regional Planning Agency*, 440 U.S. 391, 400-401 (1979)).
12. *Id.* at 474–475.
13. *Id.* at 475–476.
14. *Id.* at 477.
15. 332 A.3d 776 (Pa. 2025).
16. *Colt*, 139 S.Ct at 863.
17. *Id.* at 865–871.
18. *Id.* at 871 (quoting N. J. Stat. § 27:25-4(a)).
19. *Id.* at 871.
20. *Id.* at 871–872.
21. *Id.* at 872.
22. *Id.* at 873 (quoting *Garcia v. San Antonio Metropolitan Transit Auth.*, 469 U.S. 528, 546 (1985)).
23. *Id.* at 875.
24. *Id.* at 865.
25. *Colt*, 43 N.Y.3d at 470.
26. https://vttranslines.com/about-vermont-translines/.
27. https://www.cttransit.com/services/i-bus-express-stamford-white-plains.

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

NEWFIELD LAW GROUP, P.C.

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

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

Our Services:

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

LEARN MORE

Website
www.newfieldlawgroup.com

Contact Us
(631) 270-5090

FLORIDA ATTORNEY

LAW OFFICES OF RANDY C. BOTWINICK
Formerly of Pazer, Epstein, Jaffe & Fein

CONCENTRATING IN PERSONAL INJURY
• Car Accidents • Slip & Falls • Maritime
• Wrongful Death • Defective Products
• Tire & Rollover Cases • Traumatic Brain Injury
• Construction Accidents

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

Co-Counsel and Participation Fees Paid

RANDY C. BOTWINICK
34 Years Experience

JAY HALPERN
39 Years Experience

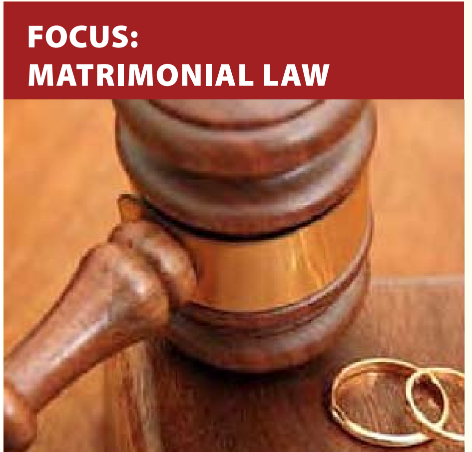
MIAMI
150 Alhambra Circle
Suite 1100, Coral Gables, FL 33134
P 305 895 5700 F 305 445 1169

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

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

From Orlando to Miami... From Tampa to the Keys www.personalinjurylawyer.ws

FOCUS: MATRIMONIAL LAW



Distribution of Personal Injury Recoveries in Divorce

Philip A. Kusnetz

It is important for matrimonial and personal injury practitioners to be aware of how personal injury recoveries are handled in a divorce. Marital property is broadly defined in DRL §236[B] with certain exceptions. Assets acquired by either spouse during the marriage are generally considered to be marital in nature. Marital property is subject to equitable distribution between the parties. A well-known exception is for "compensation for personal injuries."[1] However, uncertainty can arise when considering what the proceeds may include.

The statutory exception for "personal injuries" applies to the injured spouse's physical and emotional damages. Financial compensation on this basis—which includes pain and suffering—is personal to the injured spouse. It is therefore separate property not subject to equitable distribution.

However, a personal injury or medical malpractice case may include a claim for loss of consortium. This is a derivative claim brought by the other spouse, who was not directly involved in the accident. It is entirely dependent on the injured spouse's case and seeks compensation for loss of companionship and other services.

Loss of Consortium Claim

The loss of consortium claim is brought on the basis of non-economic damages such as emotional distress, loss of intimacy and shared enjoyment of life. It is personal to the spouse who was not directly involved in the incident and therefore their separate property. This comports with DRL §236(b)(1)(d)(2).

The loss of consortium claim will typically be contained directly in the personal injury suit depending on the circumstances. The value will be determined at the time of settlement or verdict. An issue arises when loss of consortium is not explicitly mentioned in the pleadings or settlement documents.[2]

In *Richmond v. Richmond*,[3] the parties received a settlement award resulting from a personal injury action that was commenced in federal District Court. The stipulation was silent regarding the allocation of proceeds between the spouses.

The Appellate Division held that the settlement award from the personal injury action "is separate property."

The Appellate Division further held "It is, however, partially separate property of the plaintiff and partially separate property of the defendant, since both were named plaintiffs in the suit which resulted in the settlement [emphasis added]."

The Appellate Division further held "That the parties separated almost immediately after the signing of the agreement is of no moment with respect to the monies due the plaintiff." "Although the award was calculated upon the premises that the parties would remain united, the fact that they are no longer together in no way gives the defendant the right to the plaintiff's share. Allowing the defendant the proceeds of the entire settlement would result in his unjust enrichment."

In *Kaye v. Kaye*,[4] plaintiff sustained a fractured hip resulting from the birth of the parties' child. Plaintiff filed a medical malpractice action which included defendant's loss of consortium claim. Upon settlement, the parties received an unallocated settlement check.

Plaintiff asserted that she should receive the entire settlement proceeds as her separate property in the matrimonial action. Defendant contended that he should receive an equal share of the settlement. The court held "that plaintiff's claim for personal injuries was a more substantial claim than defendant's claim for loss of consortium. This is in keeping with most awards of this nature since all loss of consortium claims are derivative in nature."

The court confirmed that "Under our system of law, loss of consortium has some value." This is particularly important because the defendant in *Kaye* was gay. The court evaluated the claim considering defendant's "undisputed" sexual orientation, holding "while not rendering it zero, defendant's sexual orientation bears upon that component of loss of consortium that redresses loss of sexual companionship." Under the circumstances, plaintiff was awarded 90% of the settlement and defendant was awarded 10%.

Lost Wages and Medical Expenses

Additional types of claims can occur as a result of personal injury actions. This includes lost wages and unreimbursed medical expenses. Such claims are not personal to either spouse, and this is not within the scope of DRL §236(b)(1)(d)(2).

Loss of earnings by the injured spouse is generally part of the household income and marital estate. Medical expenses are marital in nature to the extent that they are paid from joint funds. Settlements and recoveries paid on this basis are therefore subject to equitable distribution.

Finding Personal Injury Assets and Income

It is therefore advantageous to identify any personal injury claims, lawsuits or recoveries promptly. This information can initially be obtained by speaking with the client directly. The client is usually in the best position to know about their own matters. The client may also be aware of their spouse's potential cases based upon discussions and observations.

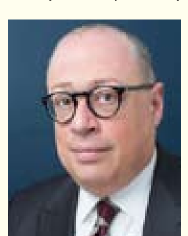
The statement of net worth may contain valuable information. The injured spouse may be receiving lost wages, workers' compensation or disability income. This may involve an underlying personal injury case or third-party action. The statement of net worth should indicate lawsuits or potential causes of action.

Discovery demands and responses should be closely examined. Bank and credit card statements may reflect medical expenses. Significant deposits can indicate financial recoveries.

There may be a tendency to immediately consider personal injury actions separate property of the injured spouse. However, this would be incorrect. The proper approach is more nuanced. The nature of the various claims should be carefully evaluated. Each of the parties may be entitled to receive a portion of the proceeds.

It is worthwhile to reach out to the personal injury attorneys directly. An authorization or subpoena to obtain a copy of the file can be used. The documents and pleadings should be reviewed to determine the parties' respective rights. This better approach will lead to a more equitable and comprehensive resolution.

1. DRL §236(B)(1)(d)(2).
2. *SM v. MM*, 13 Misc.3d 1201(A), 824 N.Y.S.2d 759 (N.Y.Sup. 2006).
3. Richmond v. Richmond ,144 A.D.2d 549, 534 N.Y.S.2d 413 (2d Dept. 1988).
4. *Kaye v. Kaye*, 6 Misc.3d 1005(A), 800 N.Y.S.2d 348 (N.Y. Sup. 2005).



Philip A. Kusnetz is founder of Philip A. Kusnetz, P.C. located in Garden City. His practice focuses on litigation, including trial, of all matters involving matrimonial/family law and appeals. He can be reached at phil@familylawyerli.com.

40 Years Experience
Free Consultation

Charles Holster
(516) 747-2330
cholster@appealny.com

WWW.APPEALNY.COM

FOCUS: TAXATION

A 9-1-1 Call for Volunteer Firefighters

Marc N. Aspis

If you live on Long Island, it is safe to say that you have seen at least one sign proclaiming, "Join the (insert neighborhood name here) volunteer fire department." On Long Island, the overwhelming majority of fire departments are staffed by volunteers;[1] consequently, volunteer firefighters on the Island vastly outnumber paid firefighters. Volunteer fire departments are comprised of members from all segments of the community: young and old, male and female, business owners, professionals, tradespeople, civil servants, rank-and-file employees and many others.

Recently, the Internal Revenue Service ("IRS") published final regulations (the "Final Regulations") modifying Internal Revenue Code ("Code") Section 274[2] and the associated treasury regulations. Specifically, the Final Regulations add "unmarked firefighter, rescue squad or ambulance crew vehicles" to the list of "qualified nonpersonal use vehicles."[3] While important (as discussed below), the terms and definitions in the regulations leave one question unanswered: do the Final Regulations apply to volunteer firefighters?

Background—Code Section 274

Code Section 274 deals with whether deductions and credits are allowed for certain expenses. As a general rule, in order to receive a deduction, an expense must be substantiated (by receipts or other records).[4] A notable exception to the substantiation rule is a qualified nonpersonal use vehicle ("QNUV").[5] A QNUV is a vehicle designed for a specific business function and is unlikely to be used for anything beyond limited personal use. The regulations[6] provide a non-exhaustive list of such vehicles: "clearly marked police, fire, and public safety officer vehicles," ambulances, hearses, cement mixers, combines, tractors, unmarked vehicles used by law enforcement and several other types of vehicles. With respect to unmarked law enforcement vehicles, any personal use must be authorized by the police department and must be "incident to" law enforcement functions.[7]

The regulations provide an example of a detective with an unmarked car in which the department allows the detective to commute and run personal errands (but does not permit the detective to use the vehicle for recreational or personal purposes outside of the state). The regulations conclude that the detective's use of the vehicle is not subject to the substantiation requirement (as a QNUV), and the value of the commuting errands uses is not included in the detective's gross income.[8]

Final Regulations

The Final Regulations add "unmarked firefighter, rescue squad, or ambulance crew vehicles" to the list of QNUVs and largely treat these vehicles in the same way as unmarked police cars (discussed in the example above). The IRS noted that extending QNUV status to unmarked vehicles used by firefighters, members of rescue squads and ambulance crews was important to allow these first responders to travel inconspicuously for security reasons without risk of harassment, vehicle damage (caused by vandals) or financial hardship.

The Final Regulations[9] also define the following terms:

- Unmarked firefighter, rescue squad or ambulance crew vehicle is defined (in relevant part) as "an unmarked vehicle used by a firefighter, or member of a rescue squad or ambulance crew, that is owned or leased by a governmental unit, or any agency or instrumentality thereof etc."
- A firefighter is "an individual who is employed by a governmental unit, or agency or instrumentality thereof, that is responsible for firefighting etc."
- A member of a rescue squad or ambulance crew is defined, by reference to 34 U.S.C. 10284(10)(A), as "an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew…that is a public agency."

The public apparently thought that these definitions were straightforward enough, as no comments on the proposed changes to the regulations were received. However, the Final Regulations left one question unanswered: do these regulations apply to volunteer firefighters as well?

Tax Treatment of Volunteer Firefighters

The Final Regulations (including the example given) explicitly state that a firefighter/rescue squad member is someone who is employed by a governmental unit, and that the relevant qualified vehicle is one that is owned or leased by a governmental unit. "Governmental unit" is defined as a "state, territory, possession of the United States, the District of Columbia, or any political subdivision thereof."[10]

Interestingly, although not overly relevant for the purposes of this article, the federal government is not explicitly included in the regulations' definition of a "governmental unit." Similarly, it should also be noted for the sake of completeness that the definition of "members of a rescue squad/ambulance crew" specifically excludes 34 U.S.C. 10284(10)(B), which deals with rescue squads/ambulance crews that are (or are parts of) nonprofit entities, such as the Mineola Volunteer Ambulance Corps[11] or Hatzalah.

Federal income tax law generally treats volunteer firefighters as not being employed by a governmental unit. In Revenue Ruling 74-361, the IRS ruled that volunteer fire departments can be tax-exempt entities under either Code Section 501(c)(3) or 501(c)(4), assuming other requirements are met; 501(c)(3) organizations are generally charities, while 501(c)(4) organizations are usually civic leagues or social welfare groups. For example, the South Farmingdale Volunteer Fire Department is a 501(c)(3) organization,[12] and the Bayville Fire Company is a 501(c)(4) organization.[13]

Rev. Rul. 74-361 also contrasts volunteer fire departments with "tax-supported" (i.e., governmental) fire companies. The IRS has reiterated that volunteer firefighters are generally not considered to be government employees in both informal (PLR 8045106) and formal (Revenue Ruling 89-49) guidance.

Similarly, Code Sections 139B(c)(3) and 150(e)(2) define "qualified volunteer emergency response organization" (in the case of Code Section 139B) and "qualified volunteer fire department" as an entity organized and operated to provide firefighting or emergency medical services in a political subdivision and required (by written agreement) to provide the services in that area. These two sections treat volunteer fire departments as essentially vendors—they are not part of the governmental unit, rather they provide services to the government on a purely contractual basis. Paid civil servants, by contrast, provide services because their state or municipal employer requires them to do so.

As under federal law, New York law classifies volunteer fire companies as charitable corporations.[14] Operationally, in New York most volunteer fire departments are not part of the government (although they may be).[15]

Next Steps

A close reading of the Final Regulations in connection with other IRS guidance related to volunteer firefighters makes it appear that volunteer firefighters (except for those who are specifically considered part of a governmental unit) are deliberately excluded from the tax benefits of the Final Regulations. For example, the IRS could have just as easily defined "firefighter" as "an individual who has a primary function of fighting fires, providing emergency medical services and promoting general public safety." By excluding most volunteer firefighters, the IRS is affording them different treatment despite performing the same roles as paid, municipal firefighters. The effects of this apparent disparate treatment are particularly acute on Long Island, where nearly all firefighting is performed by volunteers.

So, what does this mean for the legions of volunteer firefighters across the country, and especially on Long Island? The IRS can modify the definition to include volunteer firefighters (and rescue squad members) who are attached to not-for-profit entities. The IRS can issue other guidance that extends the tax benefits to volunteer firefighters. If challenged, the courts could step in. By the same token, the IRS is just as likely to do nothing or to issue guidance confirming that the Final Regulations exclude most volunteer firefighters. For now, volunteer firefighters must be judicious in their use of unmarked vehicles and wait and see how this issue shakes out going forward.

1. *Governor Hochul Announces Major Investments for Long Island Volunteer Firefighters' Facilities and Training* (Oct. 15, 2024), https://www.governor.ny.gov/news/governor-hochul-announces-major-investments-long-island-volunteer-firefighters-facilities-and.
2. 26 U.S.C. § 274.
3. 26 C.F.R. §§ 1.274-5(k)(2)(ii), (ii)(S) (2026).
4. 26 U.S.C. § 274(d).
5. *Id.* § 274(d)(3).
6. 26 C.F.R. § 1.274-5(k)(2)(ii)(A).
7. *Id.* § 1.274-5(k)(6).
8. *Id.* § 1.274-(5)(k)(9)(i), Example 1.
9. *Id.* § 1.274-(5)(k)(7).
10. 26 C.F.R. § 1.103-1(a) (2026).
11. *The Mineola VAC Story*, Mineola VAC, https://mvac.mimocad.io/ (last visited March 25, 2026).
12. *Donate*, South Farmingdale Fire Dep't, https://southfarmingdalefd.org/about/donate/ (last visited Marh 25, 2026).
13. *Bayville Fund Drive*, Bayville Fire Co. https://www.bfc1.net/donate/ (last visited March 25, 2026).
14. N.Y. Not-for-Profit Corp. Law Section § 1402(b) (Westlaw 2026).
15. N.Y. Gen. Mun. Law § 205-G (Westlaw 2026).

Marc Aspis, Special Counsel at Phillips Lytle LLP, is a member of the firm's Corporate and Business Law Practice with extensive experience in employee benefits and executive compensation. He can be reached at maspis@phillipslytle.com.

FOCUS:
MUNICIPAL LAW

The Second Department Clarifies the Notice of Claim Requirement

Bryan Barnes

When commencing an action against a municipality, General Municipal Law §50-e proscribes that as a condition precedent to the commencement of any action, there must be a Notice of Claim filed and served. Towards the end of 2025, the Second Department rendered several decisions which provide practical guidance to counsel seeking to comply with GML §50-e.

The decisions on the cases *Matter of Saini v. City of New York*[1] and *Matter of Munford v. Metropolitan Transportation Authority*[2] were in fact both decided on December 17, 2025, and at first glance they seem to have reached contradictory results regarding the sufficiency of an accident report to confer actual knowledge, although further analysis can help explain this apparent contradiction. A third decision, *Cruceta v. New York City Transit Authority*, was decided on the last day of the year and denied a late Notice of Claim for pain and suffering, but allowed a Notice of Claim for wrongful death to go forward.

Notice of Claim Requirement in Claims Against Municipalities

Pursuant to GML §50-e(1)(a), "the notice of claim shall comply with and be served in accordance with the provisions of this section within 90 days after the claim arises; except that in wrongful death actions, the 90 days shall run from the appointment of a representative of the decedent's estate."[3] GML §50-e(2) states that the Notice of Claim must include the nature of the claim and the background information of where, when and how the claim arose.[4]

The purpose of providing this information in a timely manner is so that the defendant can conduct a proper investigation and assess the merits of the claim while the information is still readily available.[5] Therefore, the ultimate purpose of the Notice of Claim, is as its name suggests, to provide notice as well as actual knowledge of the essential facts constituting the claim.

As stated above, the Notice of Claim is a condition precedent to the commencement of an action against a municipality or "public corporation," as is the term used by the governing GML statutes. For that reason, any discussion about Notice of Claim should necessarily include at least a short mention about the general governing such actions [6]

In short, GML §50-I is the section governing actions against all so called public corporations, stating that all actions other than for wrongful death should be commenced within one year and 90 days after the accrual of the cause of action. Actions for wrongful death must be commenced within two years after the appointment of an administrator of the estate.[7]

Standard for Granting Late Notice of Claim and Establishing Actual Notice

GML §50-e(5) states that an application for leave of court to serve a late notice of claim is within the discretion of the court. However, there are some mandatory rules where the court must deny leave. The first of these is that the extension cannot exceed the time limit for filing an action against a municipality.[8] The other is that the court cannot grant leave to file a late Notice of Claim if the statute of limitations to commence the underlying action has run out and hasn't been tolled.[9]

Besides the mandatory rules mentioned above, the court has latitude in whether to grant leave. There are three factors that the court must weigh in rendering its decision: (1) whether the public corporation acquired actual knowledge of the underlying facts within 90 days; (2) whether there was substantial prejudice in the delay; and (3) whether the claimant has a reasonable excuse for failing to timely serve the notice of claim.[10] Regarding the factor stating that actual knowledge needs to be acquired within 90 days, it should be noted that 90 days is the deadline for a timely Notice of Claim under GML §50-e(1)(a). Therefore, even in an application to file a late Notice of Claim, it must be demonstrated that actual knowledge was acquired within the normal statutory period.

Taken individually, the absence of one of these factors is not fatal, but the greatest importance is whether the public corporation obtained actual knowledge of essential facts.[11] In addition, where it is determined that the first two factors of actual knowledge and absence of prejudice are both met, the absence of the third factor of a reasonable excuse will not bar a court from granting leave.[12]

Matter of Saini and *Matter of Munford:* When Will an Accident Report Suffice?

This case, decided on December 17, 2025, involved a NYPD officer who in November 2022, sustained personal injuries after his vehicle crossed a double yellow line and collided with another vehicle.[13] In April 2023, the officer commenced a proceeding pursuant to GML §50-(5) to serve a late notice of claim. The Supreme Court for Queens County denied the petition on June 21, 2023.[14]

The Second Department reversed and granted the application to file a late Notice of Claim, stating that the police accident report, a police vehicle collision report, and a line of duty report provided the essential facts and in turn conferred actual knowledge upon the respondent City of New York. [15]

As mentioned above, *Matter of Munford* was decided by the Second Department on December 17, 2025, the same day as the *Saini* case. *Matter of Munford* involved an incident on November 24, 2021 in which the Petitioner sustained personal injuries when hit by a bus owned and operated by the MTA and New York City Transit Authority (NYCTA.)[16] The Petitioner commenced an action pursuant to GML §50-e(5) on January 18, 2023, with the statutory deadline under GML §50-I for commencing of a tort case against a public corporation. The Kings County Supreme Court denied the petition on February 9, 2023, as well as a month later on re-argument.[17]

The Second Department affirmed the lower court's dismissal

FOR NCBA MEMBERS
NOTICE OF
NASSAU COUNTY BAR ASSOCIATION
ANNUAL MEETING

May 12, 2026
7:00PM
Domus
15th and West Streets
Mineola, NY 11501

Proxy statement will be sent by electronic means to the email address provided by the Member and posted on the Association's website.

The Annual Meeting will confirm the election of NCBA Officers, Directors, Nominating Committee members, and Nassau Academy of Law Officers.

A complete set of the By-Laws, including a proposed amendment, can be found on the Nassau County Bar Association website at www.nassaubar.org/by-laws.

Ira S. Slavit
Secretary

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

of the petition, stating that the police accident report did not contain the essential facts to infer an actionable wrong committed by the respondent, further stating that "unsubstantiated and conclusory assertions that the municipality acquired timely actual knowledge of the essential facts constituting the claim through the contents of reports and other documentation are insufficient."[18] In addition, the alleged existence of an internal incident report likewise did not confer actual knowledge of the essential facts.[19]

The court also rejected the argument that actual knowledge was obtained because one of the respondent's employees was directly involved in the accident.[20] Regarding the other factors, the court found that the petitioner did not establish either lack of prejudice or a reasonable excuse for the delay.[21]

To reconcile this decision with *Saini* where it was found that the police accident report was sufficient to establish actual knowledge, the key difference is that police accident report here did not provide the facts to "readily infer" a cause of action. Therefore, providing the facts itself is not enough, the facts taken together must show that there is a recognizable cause of action.

Cruceta: The 90-Day Deadline in Wrongful Death Claims

Cruceta, decided on the last day of the year, concerns a late Notice of Claim that alleged both a cause of action for pain and suffering as well as a claim for wrongful death. On March 12, 2023, the plaintiff's decedent was struck and killed by a subway train in Brooklyn.[22] The plaintiff, who was proposed administrator by not yet appointed administrator of the estate, on July 19, 2023 served a Notice of Claim on the NYCTA, which they rejected.[23] A case pursuant to GML §50-e(5) was filed in October and on March 22, 2024, the Kings County Supreme Court held that the Notice of Claim was timely served.[24]

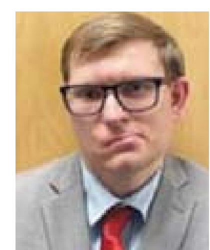
The Second Department held that the branch of the plaintiff's motion concerning the wrongful death claim was denied as unnecessary since the wrongful death claim was timely because pursuant to GML §50-e(1)(a) the 90 day statutory clock was from the time of the appointment of the administrator, which in fact had not even officially happened yet when the notice was served.[25] Therefore, even though the wrongful death portion of the motion was denied, the wrongful death Notice of Claim could still go forward because it was timely under the statute.

The conscious pain and suffering claim though was a different story. Unlike the wrongful death claim, the pain and suffering claim had to comply with the above-mentioned factors for a late Notice of Claim. In applying those factors, the court denied leave because the NYCTA did not acquire actual knowledge within 90 days of the incident or a reasonable time thereafter.[26]

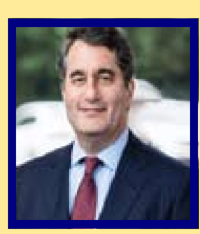
Conclusion

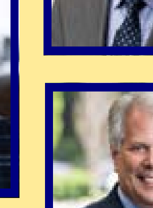
Showing that the public corporation acquired actual knowledge—specifically actual knowledge sufficient enough to infer a recognizable cause of action—is of the utmost importance for a court deciding a motion to file a late Notice of Claim. Based on the recent Second Department cases, it can be concluded that actual knowledge is the most important, with showing lack of prejudice either as important or a close second. If both actual knowledge and lack of prejudice are shown, the lack of a reasonable excuse may not even be considered.

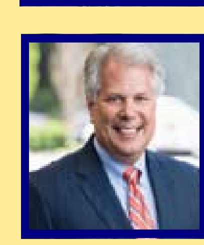
1. *Matter of Saini v. City of New York*, 2025 N.Y.App.Div. LEXIS 7161 (2d Dept. 2025).
2. *Matter of Munford v. Metropolitan Transp. Auth.*, 2025 N.Y.App.Div. LEXIS 7174 (2d Dept. 2025).
3. GML §50-e(1)(a).
4. *Se Dae Yang v. New York City Health & Hosps. Corp.*, 140 A.D.3d 1051, 1052 (2d Dept. 2016).
5. *Id.* at 1052.
6. GML §50-i(1)(c); *Cherise v. Braff*, 50 A.D.3d 724, 726 (2d Dept. 2008).
7. Pub. Auth. L. § 2981; *Collins v. City of New York*, 55 N.Y.2d 646, 647 (1981).
8. GML §50-e(5).
9. *See Watts v. City of New York*, 186 A.D.3d 1574, 1576 (2d Dept. 2020).
10. *Matter of Williams v. New York City Health & Hosps. Corp.*, 237 A.D.3d 1101, 1102-1103 (2d Dept. 2025).
11. *Id.* at 1103.
12. *Id.* at 1104.
13. *Matter of Saini*, 2025 N.Y.App.Div. LEXIS 7161 at *1.
14. *Id.* at *2.
15. *Id.* at *3. The court held that since the Petitioner met his burden of establishing both actual knowledge as well as that the respondent was not prejudiced, it did not matter that the Petitioner lacked a reasonable excuse.
16. *Matter of Munford*, 2025 N.Y.App.Div. LEXIS 7174 at *2.
17. *Id.* at *2.
18. *Id.* at *4 (quoting *Lobos v. City of New York*, 219 A.D.3d 720, 721-722 (2d Cir. Dept. 2023)).
19. *Id.*
20. *Id.*
21. *Id.* at *4-5.
22. *Cruceta v. New York City Tr. Auth.*, 2025 N.Y.App. Div. LEXIS 7460, *1 (2d Dept. 2025).
23. *Id.* at *2.
24. *Id.*
25. *Id.* at *3.
26. *Id.* at *4-5.



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







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

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

Visit pegalislawgroup.com to learn more

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

Attorney Advertising

The Enduring Legacy of *Méndez v. Westminster*: A Landmark in Civil Rights and American Jurisprudence

Hon. Linda K. Mejias-Glover

In April 1947, before the Supreme Court decided *Brown v. Board of Education*, a group of Mexican American families in Orange County, California won a historic victory that reshaped public education and expanded the meaning of equal protection under the law. The case began when Sylvia Mendez, seven years old at the time, was denied enrollment at the Westminster School based on her Spanish surname and Mexican heritage.

Sylvia Mendez and other Mexican and Latino children were instead directed to enroll at the ramshackle schoolhouse in Santa Ana. The Mendez family, enraged by the racial discrimination, refused to accept this injustice and filed suit against four Orange County school districts arguing that the districts denied them equal protection of the law on the basis of their Mexican heritage in violation of the Fourteenth Amendment of the U.S. Constitution. Their determination to ensure that their children and children like them receive fair, just and equal treatment sparked a legal challenge that would influence civil rights jurisprudence across the country.

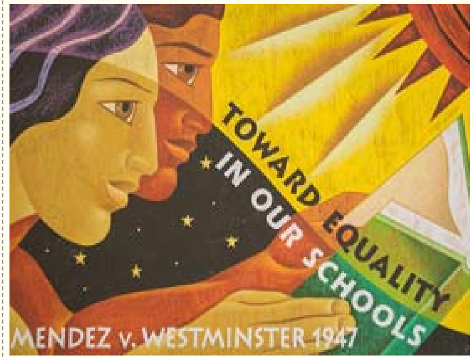
The community joined together to bring suit in the United States District Court for the Southern District of California, with young Sylvia as lead plaintiff. The District Court ultimately held that separating children of Mexican descent violated the Equal Protection Clause of the Fourteenth Amendment. Judge Paul McCormick concluded that providing similar facilities was not enough and that true equality required integrated schools where children could learn together. The United States Court of Appeals for the Ninth Circuit affirmed the decision and emphasized that segregation in California had no basis in state law. Governor Earl Warren, who later became Chief Justice of the United States, responded by signing legislation that repealed the remaining segregation statutes in California, making it the first state in the nation to officially end school segregation.

The impact of the case extended far beyond the state. The National Association for the Advancement of Colored People, who saw this case as a pathway to overturning *Plessy v. Ferguson*, filed an amicus brief in support of the Mendez family. The brief was written by Thurgood Marshall, Robert Carter, and Loren Miller. Many of the arguments they developed in Mendez later appeared in *Brown v. Board of Education*.

Today, Sylvia Mendez continues to honor her parents and the families who fought alongside them, dedicating her life to educating the public about the case and the importance of equal access to education. Her work has been recognized at the highest levels. She received the Presidential Medal of Freedom from President Barack Obama, and numerous schools and public institutions across the country now bear the Mendez name, including Mendez Fundamental Intermediate School in Santa Ana, Sylvia Mendez Elementary School in Berkeley, and the Mendez Learning Center in Los Angeles.

In addition, the federal courthouse in downtown Los Angeles was recently renamed the Felicitas and Gonzalo Mendez United States Courthouse, making it the first federal courthouse in the nation named in honor of a Latina and recognizing the family's pivotal role in advancing civil rights. A United States postage stamp commemorates the family's contribution to civil rights, ensuring that their story remains a lasting part of our national memory.

The legacy of *Mendez v. Westminster* is both historical and contemporary. It reminds us that Latino families, communities, and leaders have long been at the forefront of reshaping civil rights jurisprudence in the United States. Their courage helped transform the law, expand constitutional protections, and move the nation closer to its highest ideals.



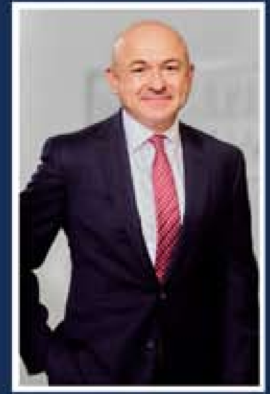
To honor this important historical milestone, the NCBA Diversity & Inclusion Committee will present a reenactment of *Mendez v. Westminster* at Domus on May 27, 2026. This production features an impressive and diverse cast and brings to life the courtroom arguments, personal stories, and lasting impact of this landmark case.

The NCBA Diversity and Inclusion Committee invites you to join us for an evening of reflection and celebration of a pivotal moment in American legal history. Details will follow.

Hon. Linda K. Mejias-Glover, Judge of the New York State Court of Claims in Hauppauge, is Co-Chair, NCBA Diversity and Inclusion Committee and Co-Chair, NCBA Judicial Section.

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

FOCUS: LANDLORD TENANT

The Landlord Kept My Security Deposit

Jeff Morgenstern

How many tenants have uttered these words after months, or even years, of a contentious relationship with their landlord, that culminates in one more battle over getting their security deposit back?

It is well settled that "a security deposit remains the property of the tenant and upon the tenant's vacating the premises, must be returned to the tenant unless there is proof that the tenant caused damage beyond that attributable to ordinary wear and tear."[1] "Under General Obligations Law §7-108(1), it is black letter law that the money deposited or advanced by a tenant on a lease agreement 'shall continue' to be tenant's money and 'shall' be held in trust for the benefit of the tenant until the lease is terminated and it is repaid or applied. The deposit is meant to cover the costs of repairing damages in the apartment."[2]

"In June 2019, the Legislature enacted the Housing Stability and Tenant Protection Act. ("HSTPA") (L. 2019 ch. 36) . . ., landmark legislation making sweeping changes to the rent laws and adding greater protections for tenants throughout the State."[3] (citations omitted).

The HSTPA Amendments

The HSTPA provided new language to the General Obligations Law, as follows:

> (b) The entire amount of the deposit or advance shall be refundable to the tenant upon tenant's vacating of the premises, except for an amount lawfully retained for the reasonable and itemized costs due to non-payment of rent, damage caused by the tenant beyond normal wear and tear; nonpayment of utility charges payable directly to the landlord under the terms of the lease or tenancy, and moving and storage of the tenant's belongings. The landlord may not retain any amount of the deposit for costs relating to ordinary wear and tear of occupancy or damage caused by a prior tenant…
>
> (d) Within a reasonable time after notification of either party's intention to terminate the tenancy, unless the tenant terminates the tenancy with less than two weeks' notice, the landlord shall notify the tenant in writing of the tenant's right to request an inspection before vacating the premises and of the tenant's right to be present at the inspection. If the tenant requests such an inspection, the inspection shall be made no earlier than two weeks and no later than one week before the end of the tenancy. The landlord shall provide at least forty-eight hours written notice of the date and time of the inspection. After the inspection, the landlord shall provide the tenant with an itemized statement specifying repairs or cleaning that are proposed to be the basis of any deductions from the tenant's deposit. The tenant shall have the opportunity to cure any such condition before the end of the tenancy. Any statement produced pursuant to this paragraph shall only be admissible in proceedings related to the return or amount of the security deposit.
>
> (e) Within fourteen days after the tenant has vacated the premises the landlord shall provide the tenant with an itemized statement indicating the basis for the amount of the deposit retained, if any, and shall return any remaining portion of the deposit to the tenant. If a landlord fails to provide the tenant with the statement and deposit within fourteen days, the landlord shall forfeit any right to retain any portion of the deposit.
>
> (f) In any action or proceeding disputing the amount of any amount of the deposit retained, the landlord shall bear the burden of proof as to the reasonableness of the amount retained.
>
> (g) Any person who violates the provisions of this subdivision shall be liable for actual damages, provided a person found to have willfully violated this subdivision shall be liable for punitive damages of up to twice the amount of the deposit or advance . . .[4]

Cases Interpreting Section 7-108 [1](E)

Several landlord tenant courts have been presented with disputes over a landlord's retention of security deposits, and some of these decisions have made their way to the appellate level. In *Cohen v. Abruzzo*,[5] the tenants gave a $20,000 security deposit for renting a house in Wading River for the summer months. They vacated early, on July 24, 2020, and sued in Supreme Court to get their security deposit back. The landlord sent them an itemized statement of damages on August 13, 2020, for $4,561.48 which it retained and returned the balance of $15,438.32. The Supreme Court dismissed the tenant's suit, but the Appellate Division reversed, and denied the landlord's motion to dismiss, since the itemized statement was sent six days late, in violation of General Obligation Law §7-108 (1)(e).

In *Prando v. Kelly*,[6] the tenant sought return of a $1,500 security deposit. The landlord kept $835 for cleaning costs as per its itemized list. The trial court held that the landlord had to return the rest of the deposit since it didn't comply with the 14-day requirement. However, since the violation was not found to be willful, no punitive damages were awarded.

In *Campbell v. Bharak*,[7] the small claims court awarded the tenant its security deposit of $2,100 for the landlord's failure to comply with the 14-day requirement, plus another $2,100 in punitive damages. The Appellate Term modified the award by knocking out the punitive damage award since there was no evidence of willfulness (list provided one day late), and there was evidence of damages beyond normal wear and tear.

In *Freeland v. Chemtob*,[8] the landlord provided the itemized list of damages and the tenant claimed it was too vague and lacked specificity. The court held that as long as the landlord provided the itemized list, the forfeiture language of the statute was not triggered. Further, the landlord had the right to apply the $24,000 security deposit to back rent, and since its money judgment exceeded the deposit, the landlord was entitled to retain the whole deposit. The only issue of fact was whether the itemized list of repairs was required due to damage caused by the tenant beyond normal wear and tear.

In *Mihalow v. Rane*,[9] the court found a lack of compliance by the landlord with the 14-day deadline, and, that the itemized list was still required, even if the deposit was only being applied to rent arrears, as opposed to repairs for damages.

In *Pickens v. Lane*,[10] the tenant vacated the premises on March 11, 2022, but left no forwarding address. The landlord mailed the itemized list on March 24, 2022, to the same address the tenant had just vacated, despite having the tenant's email. The landlord sent a follow-up email on April 12, 2022, but the court found that to be untimely and awarded the tenant the full security deposit plus interest.

In *Urban v. Zipper*,[11] since issues of fact existed as to when the tenant vacated, summary judgment was denied to both parties.

It has also been held that the security deposit forfeiture provision only applies to a failure to comply with §7-108[1](e) for not giving the itemized list within 14 days; it does not apply where the landlord fails to give the notice of the tenant's right to an inspection under §7-108[1](d). In *14 E. 4th Str. Unit 509 LLC v. Toporek*;[12] and *Masseroli v. Gatfield*,[13] landlord provided itemized list of damages 29 days late, so its counterclaim to retain the security deposit of $12,950 was dismissed, with the tenant being awarded the full deposit plus interest. However, the court held that the landlord could still pursue its claim for damages despite not having provided the itemized list in a timely fashion. Two other courts disagreed with this reasoning and held that the failure to provide the itemized list of damages in timely fashion also renders the landlord unable to pursue its claim for damages.

In *Albert v. Bryant*,[14] due to the landlord's failure to provide the itemized list in timely fashion, its counterclaim for property damages and cleaning of $10,300 was denied, except for a $350 broken door that the tenant admitted to.

In *Diaz v. Cunningham*,[15] the landlord could not recover damages since it failed to comply with its statutory obligations under §7-108(1-a [(d)] and (e) and failed to provide competent evidence of damages beyond normal wear and tear, consisting of cleaning and painting. That issue is somewhat in a state of flux, because the Appellate Term did not address it in a recent opinion, *Case v. 575 Classon Ave LLC*,[16] only finding that the record demonstrated that the landlord did not prove any alleged damages were caused by the tenant.

Finally, it has also been recognized that it is unrealistic for a landlord to expect to be able to have a new tenant move in the day after a prior tenant moves out, meaning that lost rent is not recoverable for the delay in getting an apartment ready for a new tenant.[17]

Conclusion

Landlords may bank on the fact that tenants will not pursue security deposits, because of the relatively small amount usually involved, compared to the time and expense to pursue deposits. However, landlords should be wary of the fourteen-day time limit to provide the itemized list of damages allegedly caused by tenants, and to return any portion that the tenants are entitled to. The courts have strictly continued that section against landlords, although have not gone as far as to impose punitive damages for willfulness in failing to comply with the deadline.

The courts have also held landlords to a strict standard as to what damages can be recovered from a security deposit, or otherwise, as there must have been extraordinary damages caused by the tenant to overcome the threshold of "ordinary wear and tear." In addition, such claims have to be supported by competent evidence, such as estimates or paid invoices.

1. *Kruchinina v. Filatov*, 2026 N.Y. Misc. Lexis 1216 (Civil Ct., Kings Cty 2026).
2. 14 E. 4th St. Unit 509 LLC v Toporek, 203 A.D. 3d 17 (1st Dept. 2022).
3. *Cohen v. Abruzzo*, 228 A.D. 3d 724 (2d Dept. 2024).
4. NY Gen. Oblig L §7-108 [1].
5. *Cohen v. Abruzzo*, 228 A.D. 3d 724 (2d Dept. 2024).
6. *Prando v. Kelly*, 2021 NY Misc. Lexis 6677 (App. Term 2d Dept. 2021).
7. *Campbell v. Bharak*, 2026 NY Misc. Lexis 938 (App. Term 1st Dept. 2026).
8. *Freeland v. Chemtob*, 2025 NY Misc. Lexis 2277 (Sup. Ct.. NY County 2025).
9. *Mihalow v. Rane*, 86 Misc. 3d 1248 (A) (Sup. Ct.. NY County 2025).
10. *Pickens v. Lane*, 2023 NY Misc. Lexis 1979 (Civil Ct. NY 2023).
11. *Urban v Zipper*, 241 AD 3d 1186 (App. Term 1st Dept. 2020).
12. *14 E. 4th St. Unit 509 LLC v. Toporek*, 203 AD 3d 17 (1st Dept. 2022).
13. *Masseroli v. Gatfield*, 84 Misc. 3d 487 (Sup. Ct.. Westchester Cty. 2024).
14. *Albert v. Bryant*, 74 Misc. 3d 727 (City Ct. Mt. Vernon 2022).
15. *Diaz v. Cunningham*, 68 Misc. 3d 319 (City Ct. Orange Cty 2020).
16. *Case v. 575 Classon Ave. LLC*, 2024 NY Misc. Lexis 868 (App. Term 2d Dept. 2024).
17. *Camacho v. Paduch*, 60 Misc. 3d 837 (City Ct.. Orange Cty 2018) citing *Hamilton v Bosko*, 54 Misc. 3d 386, (City Ct., Cohoes 2016) – "thorough cleaning is required when a tenant moves and that cleaning is the responsibility of the landlord . . . the landlord must anticipate that when a tenancy ends, some of that money he collected will have to be used to make the apartment ready for the next tenant."

Jeff Morgenstern maintains an office in Carle Place, where he practices bankruptcy, creditors' rights, and commercial and real estate transactions and litigation. He is also an editor of *Nassau Lawyer*. He can be reached at jmorgenstern78@gmail.com.

NASSAU ACADEMY OF LAW

May 5 (In Person Only)

Wrongful Convictions: The Path to Justice and Freedom

With Federal Bar Association–EDNY Chapter

5:30PM Dinner; 6:00PM–8:00PM CLE Program

2.0 CLE Credits in Professional Practice

NCBA Member $35; Non-Member Attorney $70

Jeffrey Deskovic, attorney and Founder and President of the Jeffrey Deskovic Foundation, was wrongfully convicted in 1990 at age 17 for the rape and murder of a high school classmate in Peekskill, NY, and spent over 16 years in prison before his exoneration. **Martin H. Tankleff,** attorney and Visiting Professor at Georgetown University, was wrongfully convicted in 1990 for the murder of his parents in their Long Island home and spent over 17 years in prison before his exoneration. Mr. Deskovic and Mr. Tankleff will discuss the failures in the criminal justice system that led to their wrongful convictions, their inspiring path to becoming attorneys following their exonerations, and their ongoing mission to help others and promote reforms in the legal system to minimize the risk of wrongful convictions in the future.

Moderator: **Hon. Joseph F. Bianco,** U.S. Circuit Judge for the Second Circuit

May 7 (Hybrid)

Dean's Hour: Supplemental Security Income for Children—Eligibility Criteria and Application Process

With NCBA Access to Justice Committee

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

This program equips attendees with the knowledge and practical skills needed to assist families in pursuing Supplemental Security Income (SSI) benefits for children. Attendees will learn about the financial and medical eligibility requirements for childhood SSI, and how to apply these criteria in real world practice, with guidance on gathering evidence and completing SSA forms.

Guest Speaker: **Sarah Kupferberg,** Legal Services of Long Island

May 11 (Hybrid)

Dean's Hour: Identifying Intimate Partner Violence and Support Strategies for Survivors

Sponsored by NCBA Mortgage Foreclosure Assistance Project

12:30PM

1.0 CLE Credit in Professional Practice

FREE for all attendees

This program guides legal professionals on how to identify and respond to intimate partner violence through a trauma-informed lens. Participants will explore patterns of abuse, indicators of lethality risk, and common related offenses, while strengthening strategies to support survivor safety, autonomy, and engagement. The program also highlights legal considerations, court interventions, and resources to enhance effective, informed responses within the justice system.

Guest Speakers: **Catherine Carbonaro** and **Helen Atkinson-Barnes,** The Retreat

May 11 (In Person Only)

An Evening with the Guardianship Bench 2026

With NCBA Elder Law, Social Services & Health Advocacy Committee

5:30PM Dinner and Cocktails

6:30PM–8:30PM CLE Program

2.0 CLE Credits in Professional Practice

NCBA Member $75; Non-Member Attorney $90

Sponsored by:

The Bristal ASSISTED LIVING

Jurists from Long Island and New York City will participate in an hour-long meet and greet, followed by a round-table discussion of guardianship practice and procedures.

May 15 (Hybrid)

Dean's Hour: Navigating the Appellate Docket—Best Practices from the Clerks of the First and Second Departments

With NCBA Appellate Practice Committee

12:30PM

1.0 CLE Credit in Skills

NCBA Member FREE; Non-Member Attorney $35

Susanna Molina Rojas, Clerk of the Court (First Department), and **Darrell M. Joseph,** Clerk of the Court (Second Department), will discuss best practices and pitfalls in filings specific to their departments. Topics covered will include electronic filing and digital advocacy, emergency applications and interim relief, time expectations, and practitioner questions.

PROGRAMS CALENDAR

May 18 (Hybrid)

Dean's Hour: Understanding the "Forever Foreigner" —Asian American Identity and Belonging in the USA

With NCBA Asian American Attorney Section and Diversity & Inclusion Committee

12:30PM

1.0 CLE Credit in Diversity, Inclusion and Elimination of Bias

NCBA Member FREE; Non-Member Attorney $35

In honor of Asian American and Pacific Islander Heritage Month, the program begins with an outline of historical legal acts and decisions affecting Asian Americans throughout U.S. history and concludes with how Asian Americans are perceived today.

Moderator: **Jennifer Koo,** Armanino Advisory LLC

Guest Speaker: **Rachel Lee,** President & General Counsel, Stand with Asian Americans

May 27 (In Person Only)

A Live Reenactment of *Méndez v. Westminster*

With NCBA Diversity & Inclusion Committee

5:30PM Registration and Light Refreshments

6:00PM–7:00PM CLE Program

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

FREE for all attendees

This program presents a reenactment of *Méndez v. Westminster*, the landmark 1947 federal case that challenged the segregation of Mexican American children in Orange County, California. Through courtroom arguments, historical narration, and personal storytelling, the performance traces the Méndez family's efforts to secure equal educational opportunities for their children and thousands of others. *Méndez v. Westminster* influenced the legal strategy later used in *Brown v. Board of Education* and helped shape the modern understanding of equal protection. This reenactment honors families, advocates, and jurists whose actions advanced civil rights and expanded access to public education.

Program Coordinator: **Hon. Linda K. Mejias-Glover,** New York State Court of Claims

June 3 (In Person Only)

Dean's Hour: Alternative Dispute Resolution in Nassau County Supreme Court—An Update

With NCBA Alternative Dispute Resolution, Commercial Litigation, and Ethics Committees

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

The Unified Court System encourages various methods of alternative dispute resolution (ADR), such as mediation, arbitration, settlement conferences, neutral evaluation and summary jury trials, to resolve civil disputes. During this CLE, Hon. Francis Ricigliano, JSC, Supervising Judge for Nassau County Supreme Court, and ADR Coordinator Daniel Merker will discuss updates related to ADR in Nassau County, including a pilot program for partition cases, Commercial Division developments and changes to Part 137 arbitrations.

Moderator: **Lisa Giunta-Popeil,** Weiss Zarett Brofman Sonnenklar & Levy PC

Guest Speakers: **Hon. Francis Ricigliano,** JSC, Supervising Judge for the Supreme Court of New York, County of Nassau and **Daniel Merker,** Court Attorney Referee, ADR Coordinator and Fee Dispute Administrator, Supreme Court of New York, County of Nassau

June 4 (Hybrid)

Dean's Hour: The Procedural Intricacies Involved with Federal Court Removal

With NCBA Labor & Employment Law, Federal Courts, and Commercial Litigation Committees

12:30PM

1.0 CLE Credit in Professional Practice

NCBA Member FREE; Non-Member Attorney $35

Removing a case from state court to federal court may be a great strategy to take when there is diversity of citizenship between the parties, but there are numerous issues surrounding diversity and removal that must be considered before attempting to do so. Panelists will also discuss how diversity questions become more fact sensitive depending on the corporate structure of the party.

Guest Speakers: **Lisa M. Casa** and **Danielle B. Gatto,** Forchelli Deegan Terrana LLP

These programs are appropriate for newly admitted and experienced attorneys except for the program on May 18. Only experienced attorneys are eligible to earn credit in Diversity, Inclusion and Elimination of Bias. Newly admitted attorneys should confirm that the program 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: MENTAL HEALTH

The Evolving Mental Health Legal System: Trends, Reforms, and Challenges for 2026

Jamie A. Rosen

Each May, Mental Health Awareness Month invites reflection, not only on public understanding of mental illness but also on the institutions that govern treatment, rights, and accountability. Few systems feel this pressure more acutely than the legal system. Courts, legislatures, and lawyers operate at the intersection of public safety, civil liberties, healthcare delivery, and disability rights. By 2026, mental health law has become both more expansive and more contested—reaching into criminal dockets, civil courts, workplaces, schools, and digital platforms.

The evolving mental health legal system is marked by a central tension—how to expand access to care while respecting autonomy and constitutional protections. Recent reforms, a few of which are summarized below, suggest a shift away from purely crisisdriven responses toward preventive, communitybased, and rightsfocused models.

Involuntary Commitment

Across the country, many states are actively revisiting standards for involuntary hospitalization and courtordered outpatient treatment in response to rising rates of untreated serious mental illness, public safety concerns, and gaps in continuity of care. In New York, recent high-profile revisions to the Mental Hygiene Law expanded the criteria for emergency hospitalization beyond imminent physical danger to include an "inability or refusal, as a result of their mental illness, to provide for their own essential needs such as food, clothing, necessary medical care, personal safety or shelter."[1] The reforms also broadened the pool of professionals authorized to initiate psychiatric evaluations, permitting psychiatric nurse practitioners to certify involuntary admissions.[2]

The state also strengthened assisted outpatient treatment under Kendra's Law by increasing funding and enhancing court oversight.[3] One of the many goals with this expansion is to improve coordination between hospitals and community providers. The transition from psychiatric inpatient care back into the community is a particularly fragile period, and without a reliable safety net—timely follow-up, coordinated services, and support to ensure treatment compliance—patients are left vulnerable to relapse, disengagement, and crisis.

Policymakers and mental health advocates alike have emphasized the need for legal frameworks that allow earlier clinical engagement when individuals are clearly unable to meet basic needs or are cycling repeatedly through emergency and inpatient settings without long-term stabilization. At the same time, civil liberties organizations and disability rights advocates raised concern that broader involuntary standards may increase coercive care, strain already limited resources, and undermine patient trust if not paired with adequate communitybased services and safeguards.[4]

Guardianship

New York does not yet have a centralized public guardian system comparable to other states for adults who are incapacitated and have no family, friends, or financial resources to serve as decisionmakers on their behalf. Instead, guardianship appointments are governed under Mental Hygiene Law Article § 81, with judges drawing from a list of private attorneys and nonprofit organizations willing to accept cases—often pro bono or with minimal compensation.[5]

Investigations and court data have repeatedly shown that this model has produced severe shortages, long delays in appointments, and inconsistent quality of oversight, particularly for older adults, people with serious mental illness, and individuals experiencing homelessness or institutionalization.[6]

As of early 2026, lawmakers are advancing the New York State Good Guardianship Act, which would establish a statewide, publicly-funded network of nonprofit guardians operating under uniform standards. The legislation—introduced in both chambers during the 2025–2026 session—would function as New York's closest equivalent to a public guardianship system. The bill explicitly seeks to address the current patchwork system by expanding nonprofit guardianship programs into underserved regions and reducing reliance on unpaid or overextended private practitioners.[7]

The proposal has received strong backing from advocacy groups, including Guardianship Access New York and Project Guardianship, as well as bipartisan legislative sponsors who have linked guardianship reform to broader aging, disability, and mental health policy goals outlined in the state's Master Plan for Aging.[8] Supporters argue that funding—estimated at roughly $15 million annually—would yield longterm cost savings by preventing hospital readmissions, nursinghome placements, and emergency interventions that often follow prolonged gaps in legal decisionmaking authority.[9]

Despite this momentum, funding for the Good Guardianship Act was not included in Governor Kathy Hochul's Fiscal Year 2027 Executive Budget.[10] While the governor's budget maintains broad investments in mental health and aging services, guardianship reform remains absent from the proposed spending plan.

Insurance Coverage and Mental Health Parity

Insurance coverage remains a central fault line in mental health policy as of 2026, shaped by uneven parity enforcement and growing instability in Medicaid funding. Although the Mental Health Parity and Addiction Equity Act (MHPAEA) has for more than a decade required mental health and substance use disorder benefits to be offered on par with medical and surgical care, regulators and researchers continue to document persistent disparities in how coverage is administered. While explicit limits on visits or higher copays have largely disappeared, insurers have increasingly relied on nonquantitative treatment limitations, such as prior authorization requirements, that effectively constrain access to behavioral health services in ways not routinely applied to medical care.[11]

Reports to Congress released in early 2026 include higher denial rates, shorter authorization periods, and more frequent reviews for inpatient mental health services than for comparable medical admissions, underscoring the gap between parity laws and lived experience for patients seeking care.[12]

At the same time, the One Big Beautiful Bill Act, enacted in July 2025, set in motion reductions in Medicaid funding over the coming decade, alongside new eligibility restrictions and administrative requirements that begin to take effect in 2026.[13] Medicaid is the single largest payer of mental health services in the United States.[14] Federal funding cuts to Medicaid threaten provider participation and continuity of care for individuals with serious mental illness. Medicaid covers roughly onethird of nonelderly adults with mental illness and accounts for nearly a quarter of all behavioral health spending nationwide, making it essential to community mental health clinics, inpatient psychiatric units, and crisis services.[15] Analysts warn that these changes are likely to push millions out of the program, reduce reimbursement rates, or force states to scale back behavioral health services.[16]

Together, uneven parity enforcement in the private insurance market and cuts to Medicaid leave many patients "covered" but practically unable to access timely, continuous mental health care.

Employment, Disability and Workplace Mental Health Law

Workplace mental health law is no longer confined to narrow debates about formal disability accommodations. In recent years, courts and regulators have made it increasingly clear that many mental health conditions—such as depression, anxiety, PTSD, and bipolar disorder—can qualify as disabilities under the Americans with Disabilities Act. As a result, employers are facing closer scrutiny over how they handle requests for time off, returntowork expectations after medical leave, and adverse actions taken against employees who disclose mental health concerns or ask for accommodations. Retaliation claims, in particular, have become more common.

These legal developments also reflect a broader shift away from rigid workplace rules. Blanket attendance policies, inflexible productivity standards, and requirements that employees be "fully recovered" before returning to work are increasingly viewed as problematic when reasonable accommodations—such as modified schedules, gradual returns, or workload changes—could allow someone to continue working. Mental health–related leave often now sits at the intersection of overlapping laws, including the ADA and the Family and Medical Leave Act, requiring employers to engage in individualized, goodfaith discussions rather than defaulting to onesizefitsall solutions.

Remote and hybrid work arrangements have added another layer of complexity. While flexible work has opened doors for many people managing mental health conditions, it has also raised new questions about disclosure, privacy, and consistency. Employers must decide when remote work is a reasonable accommodation, how to document accommodation conversations conducted over email or video platforms, and how to protect sensitive medical information in increasingly digital workplaces. Uneven practices across teams or managers can quickly turn into compliance risks.

Mental health has also moved to the forefront within the legal profession itself. In response to elevated rates of depression, anxiety, burnout, and

substance use disorders among lawyers, many state bar associations now require or strongly encourage continuing legal education focused on mental health, substance use, and professional wellbeing. The Nassau County Bar Association Lawyer Assistance Program offers a wide range of confidential services to lawyers, judges, law students and their families struggling with mental health and substance use issues. Supporting lawyer wellbeing is tied to improved individual health and client protection.

Technology and AI

Perhaps the most rapidly evolving area of mental health law involves digital platforms and artificial intelligence. AIenabled chatbots, therapy apps, and predictive risk tools are now widely used by consumers seeking mental health support, often without clinician involvement and outside traditional healthcare systems. These tools promise greater access, but they also blur longstanding acceptable standards for mental health treatment. Regulatory oversight is struggling to keep up, as these tools did not exist when our current health care and consumer protection laws were written.

In response to these gaps, state legislatures have started to enact laws aimed at increasing transparency and accountability in the use of AI for mental healthrelated purposes. These laws often require clear disclosures that users are interacting with an AI system rather than a human, informed consent before data are collected or analyzed, and limits on fully AIdriven therapeutic interactions—particularly for highrisk use cases such as suicide prevention or crisis support.[17] Some laws also restrict how sensitive mental health data can be shared or monetized.[18]

Civil liability is emerging as a key issue in tort and constitutional law, as courts are increasingly being asked to determine who bears responsibility when AI systems provide harmful advice, reinforce delusional thinking, or fail to escalate crisis situations in time.[19] A growing number of wrongfuldeath and productliability lawsuits allege that AI chatbots encouraged or failed to intervene in cases of selfharm, particularly involving minors.[20]

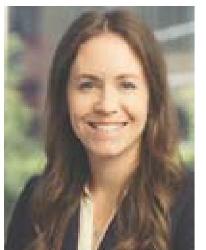
Liability questions become even more complex as regulators, such as the U.S. Food and Drug Administration, start to consider whether these AI tools qualify as regulated medical devices, when they are used for purposes such as symptom screening, risk assessment, clinical documentation, or even treatment recommendations.[21]

As mental health systems increasingly use AI to address the shortage of providers and access to care, we must remember that the use of technology does not displace the duty of care owed to patients.

Conclusion

Mental health law has become embedded in nearly every area of practice, from criminal justice and civil rights to employment, and technology regulation. The question facing courts and policymakers is no longer whether the legal system will engage with mental health issues, but how intentionally and responsibly it will do so. Mental Health Awareness Month serves as a reminder that mental health reform requires careful drafting, procedural safeguards and interdisciplinary collaboration.

1. Mental Hyg. Law § 9.39(a)(3).
2. Mental Hyg. Law § 9.05.
3. Governor Hochul Signs Legislation, May 9, 2025, available at Governor Hochul Signs Legislation to Improve Mental Health Care and Strengthen Treatment for Serious Mental Illness as Part of FY 2026 Budget | Governor Kathy Hochul.
4. *See*, NYCLU-Testimony-Joint-Legislative-Budget-Hearing-on-Mental-Hygiene-2025.2.5.pdf.
5. Mental Hyg. Law, Article 81.19.
6. Jake Pearson, We Found New York's Guardianship System in Shambles. Now State Lawmakers Say They Have a Plan to Help Fix It, February 4, 2026, ProPublica, available at NY Lawmakers Propose Plan to Help Fix Broken Guardianship System — ProPublica.
7. NY State Senate Bill 2025-S8654.
8. *See*, New York State Master Plan for Aging, NYS Department of Health, available at mpa-final-report-6-30-25.pdf.
9. New York State Good Guardianship Act Introduced, Press Release by Project Guardianship, December 2, 2025, available at New York State Good Guardianship Act_Press Release.pdf.
10. Momentum Builds in Albany as the New York State Good Guardianship Act Advances, February 9, 2026, available at Momentum Builds in Albany as the New York State Good Guardianship Act Advances | Project Guardianship.
11. Fact Sheet: Final Rules under the Mental Health Parity and Addiction Equity Act (MHPAEA), available at Fact Sheet: Final Rules under the Mental Health Parity and Addiction Equity Act (MHPAEA) | U.S. Department of Labor.
12. Statement of U.S. Departments of Labor, Health and Human Services, and the Treasury, May 15, 2025, available at may-15-2025-statement-regarding-enforcement-of-the-final-rule-on-requirements-related-to-mhpaea.pdf.
13. Update on Cuts to Medicaid Funding and Restrictions to Medicaid Access, American Psychological Association, July 16, 2025, available at Update on Cuts to Medicaid Funding.
14. Behavioral Health Services, available at Behavioral Health Services | Medicaid.
15. Kaiser Family Foundation. *5 Key Facts About Medicaid Coverage for Adults with Mental Illness*, February 21, 2025. 5 Key Facts About Medicaid Coverage for Adults with Mental Illness | KFF.
16. Update on Cuts to Medicaid Funding and Restrictions to Medicaid Access, American Psychological Association, July 16, 2025, available at Update on Cuts to Medicaid Funding.
17. Most states are exploring ways to legislate AI use, American Psychological Association, March 31, 2026, available at Most states are exploring ways to legislate AI use.
18. *Id.*
19. Shabna Ummer-Hashim, AI Chatbot Lawsuits and Teen Mental Health, October 27, 2025, available at AI Chatbot Lawsuits and Teen Mental Health.
20. *Id.*
21. Digital Health Advisory Committee (DHAC) Executive Summary, Generative Artificial Intelligence-Enabled Digital Mental Health Medical Devices, U.S. FDA, November 6, 2025, available at dhac_november_6_2025_executive_summary_fda.pdf.



Jamie A. Rosen is a Partner and Chair of the Mental Health Law Group at Meister Seelig & Schuster PLLC. She serves as Chair of the NCBA Mental Health Law Committee. She can be reached at jr@mss-pllc.com.

May is National Mental Health Awareness Month, and the first week of the month is Lawyers Well-being Week.

TO BUILD OVERALL WELL-BEING, LAWYERS AND LEGAL INDUSTRY PROFESSIONALS SHOULD TAKE STEPS TO ENSURE A BALANCE IN EACH DIMENSION OF THEIR LIVES.

EMOTIONAL

Develop ability to identify and manage emotions to support mental health, achieve goals, and inform decisions

- Seek help for mental health when needed
- Manage stress effectively
- Express feelings in healthy ways
- Build resilience and coping skills

INTELLECTUAL

Pursue creative or intellectually challenging activities that foster ongoing development

- Engage in continuous learning
- Seek new knowledge
- Challenge your mind
- Think critically and creatively

OCCUPATIONAL

Personal satisfaction, growth and enrichment at work enhances overall wellness

- Celebrate small wins
- Practice healthy work/life balance
- Delegate work when appropriate

PHYSICAL

Taking care of your body improves overall health

- Get adequate sleep
- Nourish your body
- Participate in regular physical activity
- Limit addictive substances

SPIRITUAL

Develop a sense of meaningfulness and purpose in all aspects of life.

- Connect actions to a deeper sense of purpose
- Reflect regularly on values and beliefs
- Practice gratitude and mindfulness
- Seek meaning through relationships
- Cultivate inner peace

SOCIAL

Develop connections, a sense of belonging, and a reliable support network.

- Contribute to groups and communities
- Build meaningful relationships
- Stay connected with others
- Give and receive support
- Engage in community activities

LAWYERS NEED TO TAKE CARE OF THEMSELVES SO THAT THEY ARE BETTER ABLE TO TAKE CARE OF THEIR CLIENTS AND THEIR PRACTICE.

LAP provides several opportunities to improve well-being. Feel free to join LAP's Counselors Connect or ADHD support groups, participate in the LAP Annual Walkathon on June 6, or attend a LAP Wellness workshop. Reach out to LAP for more info.

FREE CONFIDENTIAL HELP AVAILABLE (516) 512-2618 LAP@NASSAUBAR.ORG

LAP is supported by funding from the NYS Office of Court Administration, WE CARE Fund, and Nassau County Boost.

FOCUS:
MENTAL HEALTH

NCBA Model Policy for Law Firms/Legal Departments Addressing Impairment

Daniel Strecker, Elizabeth Eckhardt, and Christina Dumitrescu

Lawyers and other legal professionals are struggling with addiction and other mental illness. Statistics reveal a troubling picture of burnout, depression, anxiety, and substance use among legal professionals. In the 2025 American Lawyer Media (ALM) Survey on Substance Use and Mental Health (the "Survey"),[1] roughly 13% of over 3,100 respondents contemplated suicide at some point in their professional legal career or know someone in the legal profession that has died by suicide in the past two years. Approximately 20% of legal professionals increased their use of drugs and/or alcohol because of their work/work environment, and nearly 9% self-reported as having an "alcohol problem."

Among other issues, legal professionals reported feeling anxiety (over 70%), experiencing physical and mental overwhelm and fatigue (over 60%), feeling helpless, trapped, and defeated (over 35%), feeling depressed (over 30%), feeling hopeless (almost 20%), and 36% reported that they suffer with imposter syndrome. Interestingly, respondents reported higher percentages of these issues among "other" lawyers than themselves.

Legal professionals believe that these issues are worse in their profession—almost 59% of ALM Survey respondents stated that mental health problems and substance abuse were worse in the legal industry compared to others. Over 53% said that these issues were worse in law firms than other areas of the legal profession.

Impairment Can Lead to Professional Misconduct

The NYSBA Model Policy for Law Firms/Legal Departments Addressing Impairment (the "Model Policy"),[2] which was adopted by the Nassau County Bar Association ("NCBA") in 2010, defines impairment as a condition that interferes with a legal professional's ability to perform professional tasks, such as alcohol or drug use, addictive behaviors, depression, or other mental health conditions. Impairment can lead to "missed deadlines, poor work product, irregular attendance, and declining client service."[3]

The cost of impairment is high. In 2024, the Lawyers' Fund for Client Protection ("LFCP") of the State of New York authorized 94 awards totaling $11.6 million in reimbursement to eligible clients for losses resulting from the dishonest actions of 28 former New York State lawyers who were suspended or disbarred.[4] This reflects an increase from $6.1 million in 2023. The majority of awards were granted for misconduct such as theft of escrow deposits in real estate transactions, stolen estate and trust assets, failure to distribute settlements, embezzlement in investment transactions, and unearned fees paid in advance to lawyers who falsely promised to perform legal services. The LFCP Annual Report cites substance abuse, gambling, mental illness, and economic, marital, professional, and/or medical stressors as the leading causes of lawyer misconduct.

Supervision, Management, and Reporting Obligations

A legal professional practicing without addressing their mental health struggles may harm clients. A law firm is in a position to do something about it. Rule 8.3 of the New York Rules of Professional Conduct requires a lawyer to report conduct that raises a substantial question about another lawyer's capacity to provide professional services, and any situation in which a lawyer's clients are likely to be materially prejudiced.

Rule 5.1 adds another dimension to this obligation, requiring that law firms and supervisory lawyers make reasonable efforts to ensure that the lawyers they supervise, and/or lawyers in the firm, comply with the ethical rules. More than 20 years ago, the American Bar Association recognized that lawyer impairment implicates these Rule 5.1 duties, and that law firms must adopt reasonable preventative policies.[5]

The profession has a vested interest in ensuring the mental well-being of its members. The legal workplace best equipped to address a lawyer's impairment (1) acknowledges that impairment can happen; (2) takes proactive measures to address the impairment by way of a thorough, transparent policy; and (3) approaches a lawyer's impairment with empathy, patience, and understanding. A pre-existing policy reassures lawyers of the firm's/department's awareness and commitment to balance client interests with the lawyer's best interest and offers a path to return to life and practice.

The Model Policy

The Model Policy is one organizational strategy that law firms and law departments can adopt to support the struggling lawyer and protect their clients. It equips the workplace with a way forward while recognizing that the workplace understands that mitigating circumstances like mental health issues and substance misuse are treatable, and that education, prevention, and rehabilitation are preferable over discipline such as termination or censure, when possible.

The Model Policy addresses five elements: (1) consequences of impairment; (2) confidentiality and support; (3) education and training; (4) a return-to-work plan; and (5) ethical obligations.

How Impairment Affects Self and Others

The Model Policy warns that "impairment of a legal professional," as described above, adversely affects the individual's well-being and the firm's/department's "ability to provide the highest quality legal services to its clients and may lead to professional liability, violations of ethical obligations, professional discipline, a loss of public reputation and criminal prosecution."[6]

Impairment, then, does not just affect lawyers. It also affects non-lawyers, like paralegals and legal assistants, who perform substantive legal work under the supervision of an attorney. And so, the Model Policy intends to protect all legal professionals.

Confidentiality and Support

The purpose of the Model Policy is to "encourage self-identification, self-referral, referral, treatment and recovery."[7] To that end, the Model Policy encourages lawyers to seek confidential help for themselves without fear of being penalized or stigmatized, such as by referral to the firm's/department's EAP or to a Lawyer Assistance Program (LAP). As a best practice, any law firm or law department policy should also provide contact details for a designated person at the firm/department who can answer questions about the policy, its administration, and who can provide resources or a confidential referral. This person should also be able to assist the legal professional with issues of insurance coverage, payment for

treatment, covering client matters during treatment, and compliance with a Return-to-Work Agreement, if relevant.

Education and Training

The Model Policy encourages but does not mandate education and training. Organizational best practice includes bolstering the Model Policy's "talk" with action. New hires should be introduced to the psychological challenges of the job and assessed for relevant knowledge of signs of common mental health issues such as depression, anxiety, substance use, and burnout. Firms/departments should recruit experts to provide ongoing, periodic education and training to all legal professionals to reduce the stigma surrounding mental health issues, and to management and supervisors, specifically, on how to spot warning signs and approach struggling legal professionals with empathy and compassion. The NCBA LAP is tasked with just this: providing education and outreach to law firms, legal departments, and law schools, as well as providing peer and professional counseling to members of the legal profession.

Return-to-Work Plan

The Model Policy's return-to-work plan is permissive rather than mandatory. Its use is up to the firm's/department's discretion. The Model Policy's sample return-to-work agreement includes the following: (1) verification of participation in a treatment program (e.g., rehab, in-patient stay, out-patient programming, psychiatric appointments, individual and/or group counseling); (2) a promise to continue wellness treatment, adhere to the firm's/department's code of conduct and professional responsibility, and participate in aftercare; (3) a commitment to undergo substance testing if appropriate; (4) authorization to appropriate firm/department representatives to discuss compliance, but only on a need-to-know basis; and (5) an acknowledgement that a violation of the agreement will result in "sanctions," though that term is undefined.

Diversion, Not Discipline

The Model Policy is part of a broader, statewide effort to shift the industry's perception of addressing impairment from discipline to diversion. Under a new uniform rule, 22 NYCRR § 1240.11, if an investigation or formal proceeding reveals that an attorney may be suffering from substance use, the Appellate Division may stay the investigation or proceeding and direct that lawyer to complete a monitoring program under the auspices of a court-approved LAP.

The uniform rules also standardize the factors that an appellate division considers in determining whether to divert a lawyer to a monitoring regime as follows: (1) the nature of the alleged misconduct; (2) whether the alleged misconduct occurred during a time period when the attorney suffered from the claimed impairment; and (3) whether diversion is in the public interest.[8]

The court may direct the discontinuance of the investigation or proceeding upon the lawyer's successful completion of the monitoring program.

How LAP Can Help

The NCBA created LAP to provide confidential peer and professional counseling services to all members of the legal profession who are affected by substance misuse and other mental health issues.

LAP provides free and confidential services,[9] including: (1) early identification of impairment; (2) assessment, evaluation, and development of appropriate treatment plans; (3) training programs on recognizing, preventing, and dealing with addiction, stress, depression, and other mental health issues; (4) participation in and implementation of Diversion/Monitoring Programs through participation in Monitoring Agreements; and (5) referral to inpatient and outpatient resources when appropriate.

NCBA LAP Monitoring Program

Like the Model Policy, the LAP Monitoring Program (the "Program") is meant to protect client interests and the integrity of the legal profession from harm caused by impaired lawyers. It is a critical program that shifts away from punishment and towards recovery and rehabilitation. As an alternative to formal disciplinary sanction, the Program treats the underlying, unaddressed substance use or mental health issue contributing to the misconduct and provides lawyers with the opportunity to access the help they need.

A lawyer can be admitted into the Program through self-referral, voluntary referral by their representing attorney, the Committees on Character and Fitness, or as court-ordered by the Grievance Committee. Law students can also take part in the Program.

Participation in the Program is voluntary and, once accepted into the Program, the monitored attorney is assigned a monitor and must agree to comply with the terms of the monitoring agreement. These terms will likely require the lawyer to participate in a treatment program that may include a structured recovery support group, inpatient or intensive outpatient rehab, and/or psychiatric/psychological evaluation and treatment, as well as random substance testing where applicable. Non-lawyers can also take advantage of the Program.

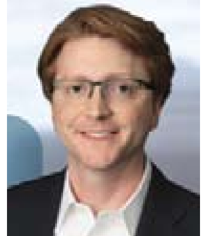
Monitors are typically members of the NCBA Lawyer Assistance Committee who have attended monitor training and are supervised by the LAP Director. Monitors must meet regularly with the monitored attorney, oversee compliance with the requirements of the monitoring agreement, and provide monthly progress reports. LAP has also vetted and trained several licensed mental health and substance use professionals to participate in the Program.

As with any LAP service, the confidentiality of legal professionals who participate in the NCBA LAP Monitoring Program is protected by N.Y. Jud. Law § 499 (information, including communications with a LAP representative, "shall be deemed to be privileged on the same basis as those provided by law between attorney and client").[10]

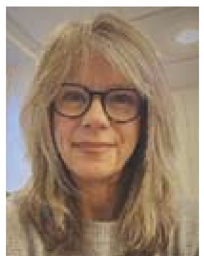
Stigma pervades the legal profession and is one of the biggest barriers to getting help. The Model Policy is just one tool for law firms/law departments to create a culture that destigmatizes mental health and demystifies how to seek help. LAP is committed to providing services that improve the well-being of lawyers by offering peer and professional counseling services, assessment and referrals, monitoring and diversion services, recovery support, education, and outreach.

If you are struggling, know of a lawyer who is struggling, or if you would like to participate in LAP's programs, contact Dr. Elizabeth Eckhardt at (516) 512-2618 or eeckhardt@nassaubar.org.

1. American Law Media Intelligence, *2025 Mental Health and Substance Use Survey* (May 13, 2025), https://www.law.com/2025/05/13/the-2025-mental-health-survey-infographic/.
2. *New York State Bar Association, Model Policy for Law Firms/Legal Departments Addressing Impairment* (Apr. 10, 2010), https://nysba.org/wp-content/uploads/2020/02/LACModelPolicy.pdf.
3. *Id.*
4. Law. Fund for Client Prot. of the State of N.Y., *2024 Annual Report* (2024), https://www.nylawfund.org/images/uploads/pdfs/AR_2024.pdf.
5. Am. Bar Ass'n Comm'n on Ethics & Pro. Responsibility, Formal Op. 03-429 (2003).
6. *Model Policy*, supra note 2, at Section I, Defining the Problem.
7. *Id.* at Section II, Policy Statement.
8. 22 N.Y.C.R.R. § 1240.11(a) (2024).
9. N.Y. Jud. Law § 499 (McKinney 2024).
10. *Id.; see also* N.Y. Rules of Pro. Conduct r. 8.3 (N.Y. State Unified Ct. Sys. 2024) (exempting reporting of "information gained by a lawyer or judge while participating in an approved lawyer's assistance program").



Daniel R. Strecker is a Member of Harris Beach Murtha's Mass Torts and Industry-Wide Litigation Practice Group and the Products Liability and Comprehensive General Liability Practice Group. He is Chair of the NCBA Lawyer Assistance Committee. He can be reached at dstrecker@harrisbeachmurtha.com.



Elizabeth Eckhardt, LCSW, PhD. has served as Director of the NCBA Lawyer Assistance Program since 2015. She can be reached at eeckhardt@nassaubar.org.

Christina Dumitrescu, MHC-LP is Team Clinician of the NCBA Lawyer Assistance Program. She can be reached at cdumitrescu@nassaubar.org.

NCBA Educational Initiatives Spotlight Student Excellence in 2026 Competitions

Continued from Page 1

under Article III to bring suit against the schools based on injuries allegedly caused by the school's adoption of the nondisclosure policy. The second issue before the court was whether the nondisclosure policy violated the parents' rights under the Due Process Clause of the Fourteenth Amendment to make decisions regarding the care, education, and upbringing of their minor children.

The First Place Award was presented to Hofstra team members Daniel Graham and Joseph O'Hara, arguing on behalf of petitioners. The Second Place Award went to CUNY team members Chelsea Lauren Klotz and Koda Slingluff, who argued for respondents. In addition, St. John's team members Adie Herczl and Chelsea Selman won the Best Brief Award in recognition of their exemplary legal research and writing skills. Finally, Hofstra's Joseph O'Hara took home the Best Oralist Award, the only award recognizing an individual's performance in the competition.

The year's competition was coordinated by Moot Court Co-Chairs, Christine Quigley and NAL Associate Dean Omid Zareh, and members of the NAL Advisory Board, Lauren Bristol, Christopher DelliCarpini, Tammy Feman, Charlene Jackson, Andrew Simons, and Natasha Dasani.

The NAL would like to express sincere gratitude to all the volunteer judges, timekeepers, bailiffs, brief graders, and NCBA Facilities Manger Hector Herrera, without whom this competition would not have been possible.

FOCUS: LAW AND AMERICAN CULTURE

Trial Under Glass: The Capture of Adolf Eichmann

First in a Two-Part Series About the Eichmann Trial

Rudy Carmenaty

The crimes of Adolf Eichmann are among the most horrific atrocities committed during the 20th Century. Labelled by David Ben-Gurion "one of the greatest of Nazi war criminals," it was proven at his trial that Eichmann played a pivotal role in orchestrating the deaths of millions of human beings during World War II.[1]

Eichmann devised the systematic debasement and destruction of European Jewry. Having escaped detection at war's end, he fled to South America, evading any culpability for his actions for fifteen years. Had Eichmann been correctly identified in 1946, no doubt he would have stood in the docket at Nuremberg.

Considered the Third Reich's expert on Jewish matters, his early efforts were geared toward coercing Jews to leave Austria and Germany. A deadly progression ensued, from forced migration to mass deportations to systemic genocide. Eichmann was an active participant in all that followed.

Jews were sent by train, via a continent-wide rail network, first to ghettos and labor camps, and eventually to death mills run on an industrial scale. Eichmann mastered the logistics of transporting millions of people and in weakening their fiber to resist. His command of logistics was matched only by his fixation with mass murder.

Hitler invaded the Soviet Union in June 1941. Eichmann oversaw the Einsatzgruppen, mobile killing-squads, which followed the Wehrmacht and massacred approximately two million Jews. These barbaric acts took their toll on German troops. Eichmann was charged with devising more sophisticated means of killing.

A key participant in the 1942 Wannsee Conference, he kept the minutes and distributed the official record. At this gathering, high-ranking Reich officials sealed the fate of Europe's Jews, implementing Hitler's "Final Solution to the Jewish Question." Eichmann functioned in a managerial as well as an operational capacity.

Eichmann prepared lists and kept statistics, setting quotas regarding the numbers of Jews to be deported from each country. Two-thirds of Europe's Jewish population would perish. Eichmann expanded Auschwitz alongside the camp commandant and approved Zyklon B for use in its gas chambers.

After Germany invaded its erstwhile ally Hungary, Hungarian Jews came under Eichmann's thumb. From May through July of 1944, half-a-million of Hungary's 760,000 Jews were packed in cattle cars to the death camps.[2] Eichmann ordered these transports even as the Red Army was approaching the outskirts of Budapest.

He must have realized, as most Germans had by this time, the war was lost. Irrespective of military needs or the realities on the ground, nothing could deter Eichmann from pursuing his personal war against the Jews. His fanaticism went well beyond the outworn cliché that he was merely following orders.

Rather, Eichmann played an indispensable role. He did far more than arrange transport, as he admitted in his defense. He was determined to see Jews die even if it meant going against the commands of his superiors. Justice Robert Jackson, chief U.S. prosecutor at the International Military Tribunal at Nuremberg, noted:

> Adolf Eichmann, the sinister figure who had charge of the extermination program, has estimated that the anti-Jewish activities resulted in the killing of 6 million Jews. Of these, 4 million were killed in extermination institutions, and 2 million were killed by Einsatzgruppen…which pursued Jews in the ghettos and in their homes and slaughtered them by gas wagons, by mass shooting in antitank ditches, and by every device which Nazi ingenuity could conceive [3]

Caught by the Americans in 1945, Eichmann avoided detection by adopting the alias Otto Eckmann and holding forged papers. He was interned at a POW camp not far from Nuremberg. With the help of his compatriots in the SS, Eichmann escaped from a work detail.

Otto Heninger became the next false identity Eichmann assumed, passing himself off as a forester while still in Germany. Fugitive Nazis benefitted from the geopolitical imperatives arising from the Cold War, as priorities shifted from punishing the Germans to opposing the Russians.

An underground network, the Ratlines or Rattenlinien, arranged for Eichmann's safe passage from Europe. His ultimate destination was Argentina. Argentine president Juan Domingo Perón, an admirer of Mussolini, readily welcomed Germans with questionable pasts.

Travelling under the name Ricardo Klement, Eichmann, after securing a visa and a passport, departed from Genoa on June 17, 1950, arriving in Buenos Aires on July 14.[4] He sailed through customs without any scrutiny. Within two years, Eichmann felt sufficiently comfortable to send for his family.

Eichmann/Klement lived in relative obscurity. Still, his true identity was an open secret within the expatriate community and purportedly was known to Argentine officials. He worked at the Mercedes-Benz plant and lived in a cinder block house on an isolated block on Calle Garibaldi in San Fernando, a Buenos Aires suburb.

In 1957, Eichmann is interviewed by Willem Sassen, a former SS propagandist. "I didn't care about the Jews deported to Auschwitz, whether they lived or died," Eichmann icily admits, "it was the Führer's order: Jews who were fit to work would work and those who weren't would be sent to the Final Solution."[5]

Sassen queried further: "When you say Final Solution, do you mean they should be eradicated?"[6] Eichmann replied: "Yes."[7] Four years later in Jerusalem, Eichmann would be far less candid and acted far more craven when it came to his crimes against the Jewish people.

The tip leading to Eichmann's capture came from Lothar Hermann, a German expat who was half Jewish. Hermann, after being beaten and blinded at Dachau, left Germany in 1938. In 1956, he was introduced to a young suitor courting his daughter Sylvia, who turned out to be one of Eichmann's sons.

Young Eichmann, who had no idea Sylvia was part Jewish, spoke brazenly about his father's Nazi past. Hermann does not react, but his suspicions are aroused. The lad told Silvia his father died, and that his mother had remarried. But when Silvia visits the family home, he calls Eichmann "father."[8]

Hermann alerts Fritz Bauer, a German Jew and the prosecutor-general in Hesse, West Germany. Intrigued by the prospect Klement may in fact be Eichmann, Bauer also knows his own government will not extradite him whoever he is. Bauer in turn notified the Israelis.

Isser Harel of the Mossad sent agent Zvi Aharoni to Argentina to confirm if Klement is Eichmann. Aharoni makes a positive identification. Harel passes this information on to Ben-Gurion. The Prime Minister opts to have Eichmann apprehended and brought to Jerusalem instead of having him killed on the spot.

Rafi Eitan leads a squad of Mossad and Shin Bet operatives. They enter the country by circuitous routes under assumed names and carrying false passports. Eitan's team prepare for weeks, observing Eichmann's routine, detailing his every move. Calle Garibaldi proves an obstacle with its exposed terrain and open spaces.

They realized being a creature of habit, Eichmann comes home each night from work by bus at the same time. Their plan is to grab him at the bus stop. Agents rehearsed the seizure, so it can be completed in less than half-a-minute. Eichmann would then be driven to a safe house and interrogated.

The evening of May 11, 1960 was selected as the date for the abduction. But the plan was nearly aborted because Eichmann was not on the 7:40 bus, which was his custom.[9] For whatever reason, Eichmann was delayed. Instead, he was on a bus which arrived at 8:05 p.m.[10]

Eitan made the choice to remain in place and wait, which proved to be the correct call. Mossad agent Peter Malkin's task was to approach Eichmann and say: "Un momentito, señor," which translates as "A moment, sir."[11] These were the only words he was taught in Spanish.

A suspicious Eichmann began to flee, but agents blocked his path. Malkin knocked him to the ground, wherein Eichmann was bound and gagged and whisked away in a waiting vehicle. Malkin on reflection admitted he wore gloves during the seizure so as not to have to sully his bare hands by touching Eichmann.[12]

This operation was not officially sanctioned. If caught, Israel would disavow its operatives in the field. Eitan's orders were to handcuff himself to Eichmann and claim to be an Israeli private citizen.[13] This became the official line. It was invoked at the United Nations when Israel was called to account by Argentina.

Seizing Eichmann and stashing him in a safe house was comparatively simple. Now came the hard part: interrogating him, getting him to agree to a trial in Israel, and, hardest of all, smuggling him out. There would be a nine-day interval between when the Israelis took Eichmann and when they would be able to leave the country.

Eichmann insisted his name was Ricardo Klement. Not long after, he admits to being Otto Heninger. Yet under questioning, he reflexively gave his integrators his SS number, his party membership number, even his measurements.[14] Ever the martinet, Eichmann would be tripped up by the unbending dictates of his Nazi indoctrination.

No longer able to deny who he really is, Eichmann drops all pretext. The agents can now confirm beyond metaphysical certainty they have Eichmann in custody. Still, he asserts his rights as an Argentine resident and a German national. He claims he cannot be brought to Jerusalem as Israel holds no jurisdiction over his person.

Seeking some measure of legitimacy, the next step was to provide a legal basis for an Israeli prosecution. Legal advisors in Jerusalem had recommended and drafted a statement for Eichmann to sign, which was procured in Argentina:

> I, the undersigned Adolf Eichmann, voluntarily declare: now that my true identity is known, there is no point in trying to evade justice. I agree to go to Israel and stand before a competent court there. It goes without saying that I will receive legal protection and, for my part, will recount the facts related to my final years of service in Germany, concealing nothing, so that future generations may know the true picture of those events. I sign this statement voluntarily. I have been promised nothing and threatened with nothing. I wish, at last, to find inner peace. Since I can no longer recall the past in all its details and sometimes confuse events, I request documents and witnesses to help reconstruct the events. (signed and dated) Adolf Eichmann, Buenos Aires, May 1960.[15]

Security at the safe house was tight and guards kept him under a 24-hour watch. Eichmann, for the first time in his life, was following commands given by Jews. Harel later recalled how the tables had turned. "[Eichmann] behaved like a scared, submissive slave whose one aim was to please his new masters."[16]

Air travel offered the one sure avenue of escape. El Al, the flag carrier of Israel, however, did not have regular service to Buenos Aires. Luckily, May of 1960 marked the 150th Anniversary of Argentine independence. A national celebration was planned, to be attended by foreign dignitaries, including an Israeli delegation.

This May 1960 timeframe furnished an ideal opportunity, as it offered a rationale for having an El Al airliner at the ready in Buenos Aires. The plane arrived on May 19 and was scheduled to depart the following day. Eichmann was sedated to make sure he was compliant with the next phase of the operation.

Seeking to avoid detection at the airport, the plan was to pass Eichmann off as an El Al steward who was ill from too much drink. A drugged and disoriented Eichmann was disguised. He was dressed in a steward's uniform, given a phony passport, and possessed an El Al identification card with the name Zeev Zichroni.[17]

Led onto the plane, just enough tranquillizer was administered to enable Eichmann to walk with assistance but remain unresponsive. Airport personnel were told he was not well and sleeping it off. Eichmann was nestled among agents posing either as flight crew or as part of the official diplomatic corps.

Normally this Bristol Type 175 Britannia on a 9,000-mile trip would leave Buenos Aires, stop for refueling in Recife in Brazil, refuel again in Dakar, Senegal, before landing in Jerusalem. Because they wanted to avoid Brazil, another Nazi haven, the flight went straight to Dakar across the Atlantic, landing on fumes.

Eichmann's capture immediately stirred an international incident, as Israel became the subject of a United Nations Security Council debate. Argentina accused Israel of "violating their sovereign rights" regarding the "unlawful transfer of Eichmann" and sought to have the war criminal returned.[18]

There were widespread doubts as to the legality of Israel's extraction of Eichmann. The Security Council adopted Resolution 138 on June 23, 1960, calling on Israel to pay an "appropriate reparation" to Argentina.[19] Eight member states, counting the U.S., voted in favor; two, the USSR and China, abstained; and Argentina, as the nation making the charge, voted present.[20]

Israel's position remained consistent throughout. Eichmann was captured by private individuals. He had agreed to stand trial. The point was made this was a one-off, there would be no further attempts to compromise Argentine sovereignty. Foreign minister Golda Meir came to New York to defend her nation before the world assembly.

Meir stressed Eichmann's crimes: "Is this a threat to peace? Eichmann brought to trial by the very people to whose total physical annihilation he dedicated all his energies."[21] "Because of the sense of justice we both share," she continued, "we say in real friendship that this not an item that should divide us any longer." [22]

This thorny international quandary was settled after extensive bilateral negotiations. An Argentine/Israeli communique resulted which contained an admission of guilt on Israel's part. The upshot of this settlement meant the Israelis could hold onto Eichmann in spite of the legitimate issues raised by his capture.

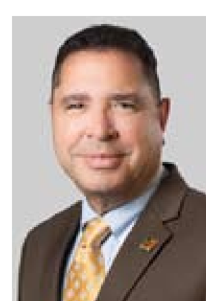
Legal scholars concur the Israelis violated international law by surreptitiously seizing Eichmann. Nonetheless, Mossad and Shin Bet operatives fulfilled their mission with an aplomb worthy of James Bond. They succeeded in bringing Eichmann nearly eight thousand miles to stand before an Israeli court.

Their daring exploits set the stage for a harrowing case to be held in Jerusalem in the spring of 1961. These proceedings, as we shall see, would place Eichmann in the notorious 'glass booth' as well as on the gallows. More importantly, the Shoah would be understood as it never was before.

The trial of Adolf Eichmann would become the Jewish people's "Nuremberg."

The next installment will detail the Eichmann trial and its repercussions.

1. Matti Friedman, *Ben-Gurion's bombshell: 'We've caught Eichmann,'* Times of Israel, April 8, 2013, at https://www.timesofisrael.com.
2. *The Holocaust in Hungary*, Holocaust Encyclopedia at https://encyclopedia.ushmm.org.
3. Summation for the Prosecution by Robert Jackson, Famous Trials at https://famous-trails.com.
4. Zoe Fishman, *The Holocaust on Trial: Shaping an Awareness Through the Triumph and Tragedy of Adolf Eichmann's Capture*, University of Colorado Denver at https://clas.ucdenver.edu.
5. The Eichmann Tapes, Jewish Virtual Library at https://www.jewishvirtuallibary.org.
6. *Id.*
7. *Id.*
8. Andrew Nagorski, *How the Israelis Captured Nazi Mastermind Adolf Eichmann*, May 14, 2014 at http://andrewnagorski.com.
9. *Id.*
10. *Id.*
11. Erin Blakemore, *The Daring Israeli Spy Operation to Capture Nazi Mass Murderer Adolf Eichmann*, History.com, May 2, 2019 at https://www.history.com.
12. Nagorski, supra.
13. *Id.*
14. *Id.*
15. LE'TTER DATED 21 JUNE 1960 FROM THE PERMANENT REPRESENTATIVE OF ISRAEL TO THE PRESIDENT OF THE SECURITY CCUNCIL, UN Security Council S/4342, June 21, 1960, United nations Digital Library System at https://digitallibrary.un.org.
16. Nagorski, *supra.*
17. Aaron Heller, *Eichmann exhibit gives glimpse of Israel's Mossad*, February 7, 2012 at https://aronheller.com.
18. 15 U.N. SCOR (865th mtg.), U.N. Doc. S/P.V. 865 (1960)-15 U.N. SCOR (868th mtg.), U.N. Doc. S/P.V. 868 (1960) at https://digitallibrary.un.org.
19. Resolution 138 (1960) / [adopted by the Security Council at its 868th meeting], of 23 June 1960, at https://digitallibrary.un.org.
20. *Id.*
21. 15 U.N. SCOR (865th mtg.), *supra.*
22. *Id.*



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

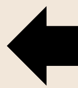
LAWYER REFERRAL INFORMATION SERVICE

Join the LRIS Attorney Panel!

The Nassau County Bar Association LRIS is an effective means of introducing people with legal problems to local private attorneys experienced in the area of law in which they need assistance.

- Potential new clients are introduced to members of the LRIS Panel.
- Attorneys can charge referred clients up to $50 for an initial half-hour consultation and clients pay for legal services if retained.
- Membership on the Panel is open exclusively as a benefit to active members of the Nassau County Bar Association.

To join the LRIS, contact srodriguez@nassaubar.org or call us at (516) 747-4832.



Scan the QR code to learn more or go to www.nassaubar.org/lawyer-referral-information-service-panel

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

DONOR	IN HONOR OF
DiMascio & Associates	Marth Haesloop's Special Birthday
Barbara Gervase and Heidi Bernstein	Dress to a Tea Committee
Gregory S. Lisi	Dylan Lisi, graduating from Coastal Carolina University
Gregory S. Lisi	Forchelli Deegan Terrana, LLP's 50th Anniversary

DONOR	IN MEMORY OF
Harold Deiters	Elliot D. Samuelson, Esq., father of Wendy Samuelson, Esq.
DiMascio & Associates	Elliot D. Samuelson, Esq., father of Wendy Samuelson, Esq.
Kenneth Landau	Leatrice Siegel, wife of the late Melvin Siegel, Esq.
Gregory S. Lisi	Evelyn Berg, mother of Gale Berg
Michael G. LoRusso	Frank Tantone, Sr., father of Hon. Frank Tantone
Michael G. LoRusso	Joseph and Kathy Gibbons
Kenneth Marten	Carole Pestnyer, mother-in-law of Dana Finkelstein, Esq.
Hon. Denise L. Sher	Anthony Jimenez
Hon. Denise L. Sher	Evelyn Berg, mother of Gale Berg, Esq.
Hon. Denise L. Sher	Lena Cialone, mother of Associate Court Clerk John Cialone
Terrence Tarver	David J. Dean, Esq.

NICHOLAS GRAZIANO, FATHER OF CHRISTOPHER GRAZIANO, ESQ.

Columbian Lawyers Association
Tomasina and Anthony Mastroianni
Hon. Anthony Paradiso and Celia Scaglione
Hon. Joy M. Watson

DORIS HINSCH LEZNY, MOTHER OF NCBA PAST PRESIDENT, EMILY F. FRANCHINA, ESQ.

Harold Deiters
Dana J. Finkelstein
Hon. Carnell T. Foskey
Gregory S. Lisi
Kenneth L. Marten
Hon. Christopher T. McGrath
Hon. Denise L. Sher

THOMAS O'SHAUGHNESSY, BROTHER OF KERRY O'SHAUGHNESSY, DEPUTY COMMISSIONER OF JURORS

Hon. Christopher T. McGrath
Hon. Denise L. Sher
Hon. Joy M. Watson

FERNANDO RECINE, HUSBAND OF PHYLLIS RECINE, ESQ., STEPFATHER TO HON. JACLENE AGAZARIAN AND STEPFATHER-IN-LAW TO STEVE MAFFEI, ESQ.

DiMascio & Associates
Hon. Maria Boultadakis and Hon. Michele Johnson
Cathy Reidy

DRESSED TO A TEA 2026 THANK YOU TO OUR SPONSORS

THE GREAT GATSBY SPONSOR

Hedayati Law Group, P.C.

RAGTIME SPONSORS

Karabatos Rosenkrantz DeMarco Schoenfeld PLLC
Nassau County Women's Bar Association
Stempel Catterson LoFrumento Carlson & Biondo LLP

PUTTIN' ON THE RITZ SPONSORS

Aiello & DiFalco LLP
Barbara Gervase, Esq.
Bennett Family Foundation
DiPaolo & DiPaolo LLP
Gassman Baiamonte Gruner, P.C.
Katz Chwat, P.C.
Leah Tozer - Daniel Gale Sothebys
Lo Piccolo Law, P.C.
Mark A. Green, P.C.
Tarter Krinsky & Drogin LLP
Toscani Shakh LLP

DUKE ELLINGTON SPONSORS

Aflac – Jonathan Geffner
AJ Temsamani, P.C.
All Star Reporters, Inc.
Amato Law Group PLLC
Anthony LoPresti, Esq.
Anthony Mastroianni Attorney at Law
Bert Nelson Associates
Cathy Reidy Century 21 AA Realty
Danzi Law Partners LLP
David L. Mejias, Esq.
David Resnick & Associates, P.C.
Ezdrin Woods & Gluzberg, P.C.
Five Star Legal Funding LLC
Green Kaminer Min & Rockmore LLP
HFM Valuation & Consulting
Jason Orsini – Douglas Elliman Real Estate
Jerome A. Scharoff, P.C.
Joseph Law Group, P.C.
Joshua M. Liebman, Esq.
Kerley, Walsh, Matera & Cinquemani, P.C.
KLG Business Valuators & Forensic Accountants LLC
Mantel McDonough Riso LLP
Our Family Wizard
Pickney Law Firm PLLC
Quatela Chimeri PLLC
Raymond James
Salenger Sack Kimmel & Bavaro LLP
Schonfeld Law Group, P.C.
Tabat, Cohen, Blum, Yovino & Diesa, P.C.
Veritext Legal Solutions
Wand & Goody LLP

THE FLAPPER SPONSORS

A. Cohen Law Firm, P.C.
Berkman Bottger Newman & Schein LLP
Bernstein & Gray Law Group PLLC
Christina Scavo
Collins Gann McCloskey & Barry PLLC
Cutrona Accounting LLC
DeRossi Law Firm LLC
Elaine M. Colavito, Esq, Afran & Russo, P.C
Emily Franchina, Esq.
Faith Getz Rousso, Esq. & Debra Keller Leimbach, Esq.
Farber Balsam Papin Ferrari LLP
Feinman Gellman PLLC
Flushing Bank
Franchina Law Group LLC
Jeffrey S. Schecter & Associates, P.C.
Jonathan E. Edwards, P.C.
John M. Zenir, Esq., P.C.
Kathleen Wright, Esq.
Law Offices of John Coco PLLC
Law Office of John L. Maccarone, P.C.
Law Office of Mark Brettschneider, Esq.
Law Offices of Rona Gura
Linda Olivia, Esq. & Christine Coscia, Esq.
Linda Zuech, Esq.
Local 1556
Marie F. McCormack & Alexandra McCormack
Mark J. Ialenti, Esq.
Meister Seelig & Fein PLLC
Oceanside Dance Center
Patricia Manzo, Esq.
Paul Montesano
Peter Levy, Esq.
Professional Investigators Network, Inc.
Reaching Hands LLC
Realtime Reporting
Remco Agency
Rivkin Radler LLP
Rosenberg Fortuna & Laitman LLP
Ruskin Moscou Faltischek, P.C.
Simonetti & Associates
Spano Abstract Service Corp.
Steven D. Kommor, P.C.
Stone Studin Young & Nigro Law Group LLP
Sullivan Papain Block McManus Coffinas & Cannavo, P.C.
Tanveer & Parvez Mir
The A Team @ Doulgas Elliman Real Estate – Alexis Siegal & Amy Rosenberg
The Behr Law Group PLLC
The Hynes Law Firm, P.C.
The Long Island Links Inc.
The Saul Law Firm LLP
TOVA QDRO & Retirement Valuators
William Kephart, Esq. and Brian Griffin, Esq.

Nassau County Bar Association Installation Ceremony

TUESDAY JUNE 2 2026

6:00 PM AT DOMUS

Officers

Hon. Maxine S. Broderick, President
Samuel J. Ferrara, President-Elect
Deanne M. Caputo, Vice President
Ira S. Slavit, Treasurer
Michael J. Antongiovanni, Secretary

Directors

Paige D. Bartholomew
Jacqueline Caputo
Jeffrey L. Catterson
Bruce M. Cohn
James C. Markotsis
Hon. Linda K. Mejias-Glover
Faith Getz Rousso
Hon. Conrad D. Singer

Nassau Academy of Law

Matthew V. Spero, Dean
Omid Zareh, Associate Dean
Sara M. Dorchak, Assistant Dean
Charlene J. Thompson, Assistant Dean
Tammy Feman, Secretary
William P. Bodkin, Treasurer
Hon. Linda K. Mejias-Glover, Counsel

There is no charge for this event.
Register at www.nassaubar.org/calendar or contact events@nassaubar.org.

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.

Capell Barnett Matalon & Schoenfeld LLP is pleased to announce that Founding Partners, **Robert S. Barnett** and **Gregory L. Matalon**, will present *Trust Administration, Tax Risk Management and Defense Readiness* for MyLawCLE on May 14; Barnett will present Basis Step-Up and Tax Issues in Elder Care Planning 2026 at the NYS Society of CPA's Estate Planning Conference on May 21; Barnett and Partner **Stuart H. Schoenfeld** will present *Strategic Tax Planning & Asset Protection Trusts, including Elder Care and Special Needs* on June 10 at the AICPA Engage 2026 Conference in Las Vegas; and Partner **Yvonne R. Cort** will speak at the Annual NYU Tax Controversy Forum on June 25 on *Seeking an Independent Review—The Current State of IRS Appeals and ADR*.

Forchelli Deegan Terrana LLP is pleased to announce that **Jonathan P. Weiss**, an attorney in the firm's Trusts and Estates practice group, was recently appointed Co-Vice Chair of the CLE Committee for the NYSBA Trusts and Estates Section.

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

Committee	Chair(s)
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	
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

TUESDAY, MAY 5
Asian American Attorney Section
6:30 p.m.
Dinner at Spring Shabu-Shabu Westbury

WEDNESDAY, MAY 6
Real Property Law
12:30 p.m.
Dan Blumenthal, Esq., will speak on "When a Summary Proceeding Isn't the Answer—Tenancies at Will or Sufferance."

THURSDAY, MAY 7
Education Law
12:30 p.m.
Joseph Lilly, Esq. and Dennis O'Brien, Esq. from Frazer & Feldman, LLP, will discuss investigations of school district employees.

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

Publications
12:45 p.m.

TUESDAY, MAY 12
Labor & Employment Law
12:30 p.m.

Family Court Law, Procedure & Adoption
12:30 p.m.
Spring Luncheon

WEDNESDAY, MAY 13
Plaintiff's Personal Injury
Defendant's Personal Injury
Law Student
New Lawyers
12:30 p.m.
"Meet the Part" with the Hon. Paul Kelly

Matrimonial Law Committee
5:30 p.m.
Michael Fonseca of Soberlink, Ellen Pollack, Esq. and Kellie Stabile, Esq. will speak on "Alcohol Use, Testing and Tampering."

THURSDAY, MAY 14
Alternative Dispute Resolution
12:30 p.m.

MONDAY, MAY 18
Civil Rights
Immigration Law
12:30 p.m.

Judicial Section
12:30 p.m.

TUESDAY, MAY 19
Women in the Law
12:30 p.m.

Commercial Litigation
12:30 p.m.

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

Diversity & Inclusion
6:00 p.m.

WEDNESDAY, MAY 20
Association Membership
12:30 p.m.

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

WEDNESDAY, MAY 27
District Court
12:30 p.m.

WEDNESDAY, JUNE 3
Real Property Law
12:30 p.m.

THURSDAY, JUNE 4
Community Relations & Public Education
12:45 p.m.

Publications
12:45 p.m.

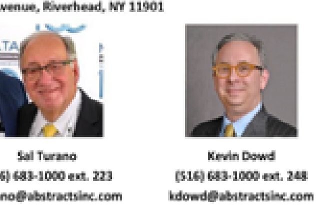
New Members

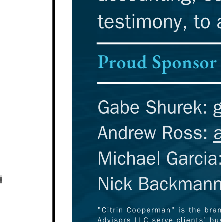
Sarah Ann Bogen
Annalie Rose Buscarino
Michael W. DeTrano
Michelle Dinits
Susan C. Finegan
Leah Ariel Henry
Sandra Langolf
Daniel Frederick Parise
Jared Ariel Roman
Hafeez Adeniyi Taiwo
William J. Turkish
Justin Williams, Paralegal
Haley Jill Wolin
Allen Yilin Xu

LAW STUDENTS
Andrea Anchorena
Joshua Isaac Cohen
Isabella Curran
Alexa Dantona
Hana Farooqi
Jason King
Joseph W. Kovar Jr.
Olivia Lofaro
Nicholas Vincent MacNeil
Nicholas John Moniz
Dylan Morrissey
Kyle Ivan Perlman
Kerry Rosen
Megan S. Ruzicka
Ryan Matthew Tinter
Carina Rosemarie Yorro

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.





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

NCBA Corporate Partner Spotlight

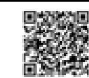
Michael Schiller
Property & Casualty Insurance
Professionals/Businesses/Individuals

Office: 201.210.9775
Cell: 973.280.1177
Email: michael@titanagency.com
titanagency.com

At the Titan Agency, we partner with the industry's leading insurers to deliver tailored property and casualty solutions for lawyers, law firms, and their clients. Our specialized coverage spans a wide range of lines and markets, including professional liability, general liability, cyber, workers' compensation, and commercial property, all designed to mitigate risk and safeguard your people, property, assets, and bottom line. Beyond P&C, we also help firms attract and retain top talent by offering comprehensive employee benefits, including group medical and life insurance plans. Our mantra at the Titan Agency is simple: our partners' needs come first. That's why we're committed to securing the best possible coverage from the most trusted carriers in the business.

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

IRA S. SLAVIT, ESQ.

Past-Chair of NCBA Plaintiff's Personal Injury Committee

350 Willis Avenue Mineola, NY 11501
516.294.8282

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

islavit@newyorkinjuries.com

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

APPELLATE COUNSEL

NEIL R. FINKSTON, ESQ.

Benefit From a Reliable and Knowledgeable Appellate Specialist

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

Free Initial Consultation • Reasonable Rates

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

LAWYER REFERRALS

JOIN THE LAWYER REFERRAL SERVICE INFORMATION PANEL

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

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

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

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

NO-FAULT ARBITRATION

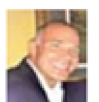
NEW YORK'S #1 NO FAULT ARBITRATION ATTORNEY

ANDREW J. COSTELLA, JR., ESQ.

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

SUCCESSFULLY HANDLING THOUSANDS OF NO-FAULT CLAIMS

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



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

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

We're HIRING!

Futterman Lanza, LLP
ELDER LAW & ESTATE PLANNING

ESTATE PLANNING AND ELDER LAW ATTORNEY
Melville Office

Futterman Lanza, LLP, is a team of caring and compassionate professionals committed to providing superior service to all, including the elderly, individuals with disabilities, and their families. We are proud to help people who need advocacy in critical aspects of their lives, including elder law, Medicaid benefits, estate planning, and trust and estate administration.

We are seeking a seasoned Estate Planning and Elder Law attorney with a strong background in wills, trusts, probate, and asset protection strategies. The ideal candidate will have proven experience managing complex client matters, cultivating strong relationships, and providing clear, empathetic legal guidance. This role requires exceptional drafting, analytical, and client service skills, along with the ability to generate and retain clients.

Key Responsibilities Include:

- Meet with clients to assess needs, explain legal options, and develop tailored estate plans.
- Draft, review, and revise wills, trusts, powers of attorney, healthcare directives, and related documents.
- Advise on estate tax implications, asset protection, charitable giving, and business succession planning.
- Represent clients in probate proceedings and trust administration.
- Maintain and grow a strong client base through relationship-building, referrals, and community engagement.
- Stay current with relevant laws, regulations, and best practices.
- Collaborate with paralegals, assistants, and other attorneys to ensure efficient case handling.

Qualifications:

- J.D. from an accredited law school and active license to practice in New York.
- 2-3+ years of estate planning experience (including probate and trust administration).
- Strong client management and relationship-building skills.
- Exceptional drafting, research, and analytical abilities.
- Demonstrated ability to retain and grow a client base.
- High level of professionalism, discretion, and empathy when working with clients on sensitive matters.

Salary Range & Benefits:

- $125,000 – $140,000 with discretionary bonus
- 401K and matching (after vesting period)
- Health insurance contribution
- 23 paid days off and 10 paid holidays

APPLY NOW Send your resume to Kate Kramer at **kkramer@trustedattorneys.com**

OFFICE SPACE FOR RENT

FREEPORT LEGAL PLAZA
23 South Main Street, Freeport, New York.

Just south of the LIRR. Beautifully restored and enhanced historic building next to Chase Bank. Large Professional Suites available on second floor and in suite offices and large conference room, elevator access, phone, fax, internet, reception, copier offered by Law firm of Civardi & Obiol, P.C. Strong referrals and great location for in house counsel specializing in Matrimonial, Commercial, Real Estate, Wills, Trusts and Estates.

CONTACT STEVE CIVARDI AT 516-678-9797