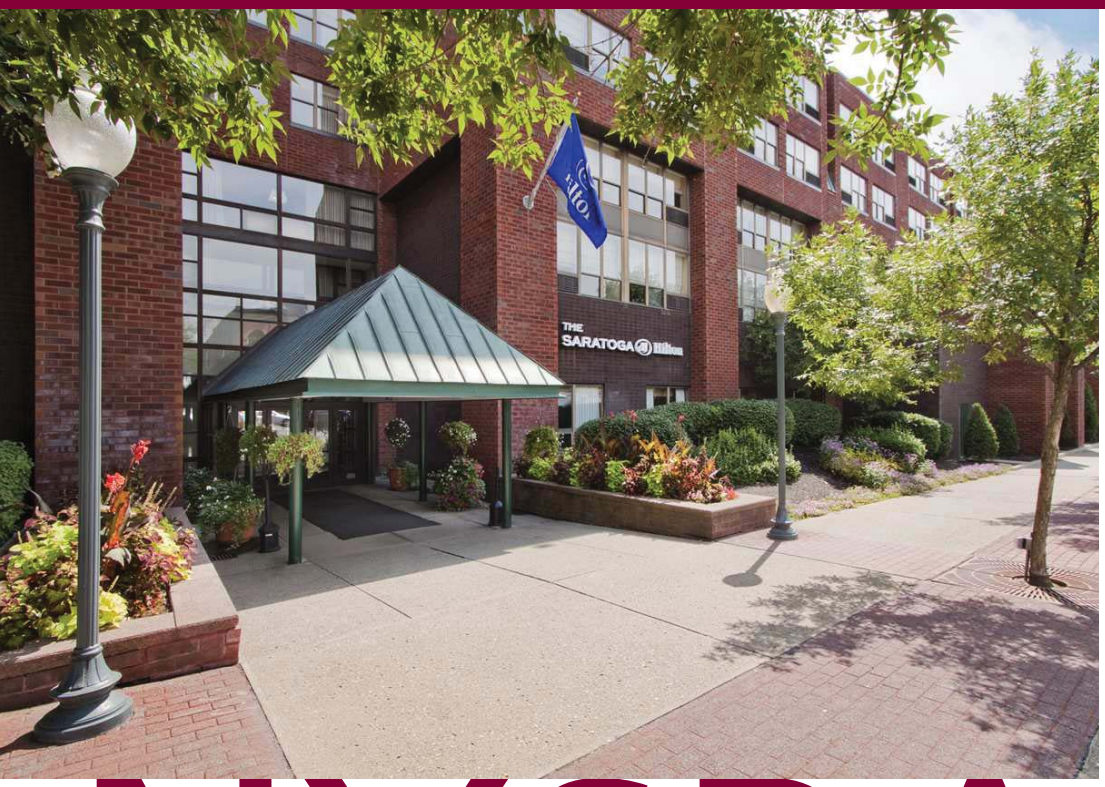
NEW YORK STATE BAR ASSOCIATION



NYSBA

Section Chairs:
Labor & Employment Law
William A. Herbert, Esq.
National Center for the Study of Collective Bargaining in Higher Ed. & the Profession
Hunter College
New York City

Municipal Law
Carol L. Van Scoyoc, Esq.
Chief Deputy Corporation Counsel
City of White Plains

Program Co-Chairs:
Labor & Employment Law
Seth Greenberg, Esq.
Greenberg Burzichelli Greenberg PC
Lake Success

William D. Frumkin, Esq.
Frumkin & Hunter LLP
White Plains

Alyson Mathews, Esq.
Lamb & Barnosky LLP
Melville

Municipal Law
Sharon N. Berlin, Esq.
Lamb & Barnosky LLP
Melville

Michael Kenneally, Esq.
New York State Municipal Workers' Compensation Alliance
Albany

Labor & Employment Law Section and Municipal Law Section

Fall Meeting

The Saratoga Hilton
Saratoga Springs, New York

September 25 - 27, 2015

Attendance at this meeting offers up to 7.5 MCLE credit hours—including 1.0 in Ethics for Experienced Attorneys.

NYSBA

IMPORTANT INFORMATION

Under New York's MCLE rule, this program has been approved for a total of ***up to*** 7.5 credit hours depending on sessions attended including 1.0 hours in ethics for experienced attorneys only.
This is not a transitional program and is NOT suitable for MCLE credit for newly-admitted attorneys because it is not a basic practical skills program.

MCLE Credit Breakdown by Session:
Plenary I: 1.0 in Ethics and .5 in Professional Practice
Plenary II: 1.5 in Professional Practice
Plenary III: Labor: 1.5 in Professional Practice
Plenary III: Municipal: 1.0 in Professional Practice
Plenary IV: Labor: 1.5 in Professional Practice
Plenary IV: Municipal 1.0 in Professional Practice
Plenary V: Municipal 1.0 in Professional Practice
Workshop A: 1.5 in Professional Practice
Workshop B: 1.5 in Professional Practice
Workshop C: 1.5 in Professional Practice
Workshop D: 1.5 in Law Practice Management

ACCOMMODATIONS FOR PERSONS WITH DISABILITIES: NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Catheryn Teeter at 518.487.5573 or cteeter@nysba.org **at least 10 days prior to the start of the meeting.**

DISCOUNTS AND SCHOLARSHIPS: New York State Bar Association members and non-members may apply for a discount or scholarship to attend this program, based on financial hardship. This discount applies to the educational portion of the program only. Under this policy, any member of our Association or non-member who has a genuine basis for his/her hardship, if approved, can receive a discount or scholarship, depending on the circumstances. To apply for a discount or scholarship, please send your request in writing to Catheryn Teeter at: New York State Bar Association, One Elk Street, Albany, New York 12207 or cteeter@nysba.org at least 10 business days prior to the meeting.



SARATOGA SPRINGS offers the perfect blend of tradition and fun. Downtown's "Broadway" has been a recipient of the "Great American Main Street" award. With attractions including naturally carbonated mineral spas, harness racing and polo, golf, 10 historic museums, dining at one of the 102 restaurants, the multitude of unique downtown boutiques as well as the Beekman Street Arts District, known for its mix of art galleries and local artists in downtown Saratoga, there is something for everyone all seasons of the year. The Spa State Park boasts a beautiful 18-hole championship golf course and a par-three executive course, miles of jogging and hiking trails, and more. Additionally, the park is home to Roosevelt Mineral Baths & Spa, The Saratoga Auto Museum, Spa Little Theatre, the National Museum of Dance and Saratoga Performing Arts Center.

SCHEDULE OF EVENTS

Friday, September 25

11:00 am — **Registration** - Hotel Lobby

11:00 am - 12:15 pm — **Lunch** - Box lunches are provided as part of the attorney and spouse/guest registration fee. Additional box lunches may be purchased for children, etc. on the registration form.

11:00 am - 12:15 pm — **Reception for Jerome Lefkowitz,** former PERB Chair, to honor his extraordinary contributions to New York public sector labor and employment law and the NYSBA Labor and Employment Section - Broadway Ballroom 4

FRIDAY PLENARY SESSIONS - Broadway Ballroom 1 - 3

12:15 pm — **Welcoming Remarks from the Section Chairs**

Labor and Employment Law:
William A. Herbert Esq.
National Center for the Study of Collective Bargaining in Higher Ed. & the Profession
Hunter College, New York City

Municipal Law:
Carol L. Van Scoyoc, Esq.
Chief Deputy Corporation Counsel
City of White Plains

12:30 pm — **Introduction to the Program/Announcements by Program Co-Chairs**
Seth Greenberg, Esq., Greenberg Burzichelli Greenberg PC, Lake Success
Michael Kenneally, Esq., New York State Municipal Workers' Compensation Alliance, Albany

12:45 - 2:00 pm — **Plenary Session I** - Broadway Ballroom 1 - 3
Socially Acceptable Behavior: Social Media in Workplace & the Courtroom
Social media has added a new dynamic to traditional concepts of the workplace and courtroom. This panel will explore the appropriate role that social media plays in the day-to-day operations of the workplace and the courts and identify ethical issues attorneys should consider before they send that tweet.

Moderator: **Sharon N. Berlin, Esq.**, Lamb & Barnosky, LLP, Melville

Panelists: **Bryan J. Goldberger, Esq.**, Goldberger & Kremer, Albany

Brian Kremer, Esq., Goldberger & Kremer, Albany

James G. Ryan, Esq., Cullen & Dykman, Garden City

2:00 - 2:15 pm — **Coffee Break - *Sponsored by Lamb & Barnosky, LLP***

2:15 - 3:30 pm — **Plenary Session II** - Broadway Ballroom 1 - 3
Working Hard for the Money: Will the Classification Stick?
The panel will provide an overview of the FLSA and focus on recent legal developments including proposed DOL regulations modifying who is exempt, whether security checks are compensable and DOL guidance regarding who is an employee.

Moderator: **Richard K. Zuckerman, Esq.**, Lamb & Barnosky, LLP, Melville

Panelists: **Patrick J. Solomon, Esq.**, Thomas & Solomon LLP, Rochester

Sara Sheinkin Kula, Esq., Town Sports International, New York City

Friday, September 25 *continued*

CONCURRENT FRIDAY WORKSHOPS - *Select One*

3:45 - 5:00 pm

Workshop A

Not in My Backyard: Restricting Competition by Former Employees

The panel will explore the current state of New York law on non-compete agreements and restrictive covenants. It will also examine issues facing employees and attorneys changing career paths after working at a federal, state or local agency.

Panelists:

Marisa H. Warren, Esq., Pedowitz & Meister LLP, New York City

Tricia B. Sherno, Esq., Debevoise & Plimpton LLP, New York City

Subhash Viswanathan, Esq., Bond, Schoeneck & King, PLLC, Syracuse

Philip L. Maier, Esq., Arbitration and Mediation, New York City

3:45 - 5:00 pm

Workshop B

Keeping the Peace? How to Identify and Prevent Violence in the Workplace

Workplace violence is the #1 cause of occupational death for female employees and the #2 cause for male employees. This program will train attendees on the requirements of New York State's workplace violence protection law and the OSHA "general duty" clause, teaching them how to identify and mitigate potential workplace violence threats in both a public and private sector setting and legal repercussions for employers.

Panel Chair:

Michael Kenneally, Esq., NYS Municipal Workers' Compensation Alliance, Albany

Panelists:

Geraldine Stella, Public Employee's Federation, Albany

Jay Lewandowski, NYS Municipal Workers' Compensation Alliance, Albany

3:45 - 5:00 pm

Workshop C

Work Leave Update: Don't Leave Your Office Without It

This panel will focus on the latest employment leave issues including the military service amendment to the FMLA and the NYC mandatory sick leave law.

Panelists:

Elizabeth E. Hunter, Esq., Frumkin & Hunter LLP, Goshen

Danitra T. Spencer, Esq., Consolidated Edison Co. of New York, Inc., New York City

3:45 - 5:00 pm

Workshop D

Serenity Now! Dealing with Difficult Clients

Not every client likes the advice of their attorney. Whether it be a traditional client or a local political board or employee organization, this program explore ways to address issues that difficult clients present.

Panelists:

Lena Ackerman, Esq., Associate General Counsel, Office of Richard E. Casagrande, New York State United Teachers, New York City

Laura Wong-Pan, Esq., Thomas, Drohan, Waxman, Petigrow & Mayle, LLP, Hopewell Junction

Friday, September 25 *continued*

6:30 pm — **Cocktail Reception** - Saratoga Ballroom Foyer

7:30 - 10:00 pm — **Dinner** - Saratoga Ballroom

Keynote Speaker:
Seth H. Agata, Esq., Chair, NYS Public Employment Relations Board, Albany

Saturday, September 26

7:00 - 9:30 am — **Breakfast** - On Your Own

7:15 am — **Registration** - Saratoga Ballroom Foyer

8:00 - 9:00 am — **Labor & Employment Law Committee Breakfast Meetings** - Travers and Alabama Rooms

CONCURRENT PLENARY SESSIONS - *Select One Track*

TRACK A: LABOR & EMPLOYMENT LAW, Saratoga Ballroom 1 & 2

9:05 - 10:20 am — **Labor & Employment Law Track Plenary Session III**
Political Speech and Activity in the Workplace

With campaigning for the 2016 presidential election already heating up and the media report ing about all sorts of political conflict, be it over foreign or domestic policy, it is only natural that the subject of politics spills over into the workplace. To that end, both employer and employee should be conscious of discussions, interactions, and other activity relating to politics. Among the topics to be addressed by this panel are: the employee's right to engage in political speech and activity; the employer's right to restrict or regulate same; the employer's right to engage in political activity; the differences between public and private sector workplaces; and what/how other employment laws may be implicated.

Panelists:

Professor Douglas D. Scherer, Director of the Legal Education Access Program, Jacob D. Fuchsberg Law Center, Touro College, Central Islip

Ana C. Shields, Esq., Jackson Lewis P.C., Melville

David J. Kahne, Esq., Stroock & Stroock & Lavan LLP, New York City

10:20 - 10:35 am — **Coffee Break - *Sponsored by Greenberg Burzichelli Greenberg PC***

Saturday, September 26 *continued*

TRACK A: LABOR & EMPLOYMENT LAW, Saratoga Ballroom 1 & 2

10:35 - 11:50 am

Labor & Employment Law Track Plenary Session IV
Gender in the Workplace: The Evolution of the Laws on Pregnancy, Child Care Leave and Gender Identity

The panel will review how pregnancy, maternity/paternity leave, gender identity and transgender employees are treated pursuant to the current laws and how those laws may evolve in light of recent court decisions, such as Young and Obergfell.

Panelists:

Joan C. Lenihan Esq., Joan C. Lenihan, Attorney at Law, Brooklyn

Thomas S. Lepak, Esq., U.S. Equal Employment Opportunity Commission, New York City

Loren Gesinsky, Esq., Seyfarth Shaw LLP, New York City

TRACK B: MUNICIPAL LAW, Broadway Ballroom

8:30 am

Registration & Coffee - *Sponsored by NYS Municipal Workers' Compensation Alliance and New York Municipal Insurance Reciprocal*

8:45 - 9:00 am

Introduction and Vote on Proposed By-Laws Amendment Changing Section Name to: Local and State Government Law Section
Carol L. Van Scoyoc, Esq., Section Chair

9:00 - 10:00 am

Municipal Law Track Plenary Session III
Emergency Equities in Paying for Municipal Services

Studies have examined whether non-profits need the subsidy of real property tax exemption. This panel examines different questions: should the subsidy be applied to the cost of government services received by tax-exempt entities; how to measure the cost using modern technology; how to assess it and enforce its payment; and what new laws are needed?

Moderator:

Kenneth Bond, Esq., Squire Patton Boggs, New York City

Panelists:

Professor Christine A. Chung, Albany Law School, Albany

Matthew K. Mobilia, Esq., Gotham Government Relations, Albany

Amanda Godkin, Graduate, Albany Law School, Albany

Hon. Joanne Yepsen, Mayor, Saratoga Springs

10:00 - 10: 15 am

Coffee Break - *Sponsored by Hodges Walsh & Messemer, LLP*

10:15 - 11:05 am

Municipal Law Track Plenary Session IV
2015 Legislative Update

While a few individual legislators may have dominated the headlines, the rest of the NYS Legislature was busy doing its job during the 2015 legislative session. This program will review the bills and laws of interest to municipal officials that were passed this session.

Saturday, September 26 *continued*

TRACK B: MUNICIPAL LAW continued

10:15 - 11:05 am — **2015 Legislative Update**

Panelists: **Marisa Franchini, Esq.**, Counsel, New York State Conference of Mayors and Municipal Officials, Albany

Kathleen N. Hodgdon, Esq., Associate Counsel, Association of Towns of the State of New York, Albany

11:05 - 11:55 am — **Municipal Law Track Plenary Session V**
Taking a Hard(er) Look at SEQRA
What are the implications of a favorable statement of findings or a negative declaration with respect to subsequent permitting decisions? What is the interplay between the point at which an application becomes "complete" under the regulations and the public review of a proposed action? When does an intermediate determination under SEQRA becomes ripe for judicial review? How is a type II action treated when it is related to a larger project which is subject to SEQRA review? This program will address these recurring questions as well as recent cases focusing on environmental review.

Speaker: **Adam L. Wekstein, Esq.**, Hocherman Tortorella & Wekstein, LLP, White Plains

12:00 - 6:00 pm — **Free time** - Enjoy lunch downtown and explore Saratoga

12:30 pm — **Golf Tournament** - Saratoga Spa Golf Course, 60 Roosevelt Drive
Meet at the Pro Shop. First tee-time is 12:30 pm. $82 includes greens fees, cart and box lunch. ***Preregistration and payment required on registration form. Directions to course will be provided.***

6:30 pm — **Cocktail Reception** - The Gallery
New York State Bar Association Welcome: David P. Miranda, Esq., President

Sunday, September 27

8:30 - 10:00 am — **Labor & Employment Law Section Executive Committee Breakfast Meeting** - Saratoga 1 & 2 Rooms

8:30 - 10:00 am — **Municipal Law Section Executive Committee Breakfast Meeting** - Saratoga 3 Room

11:00 am — **Departure/Check-Out**

THINGS TO DO IN SARATOGA

National Museum of Dance & Hall of Fame
99 South Broadway, 518.584.2225. Only museum in the country devoted to American Professional Dance. www.dancemuseum.org

National Museum of Racing & Hall of Fame
Union Avenue, 518.584.0400. Trace the history and adventure of the Thoroughbred from 17th & 18th century racing in New York to the present day scene! www.racingmuseum.org

Roosevelt Baths and Spa
37-39 Roosevelt Drive, 518.226.4790. Stroll across the park from the Gideon Putnam to the spa to enjoy the luxury of Saratoga's naturally effervescent waters, with soothing baths and wonderfully relaxing spa treatments. Open 9 am to 7 pm. Appointments are recommended. Please call 800.452.7275 ext. 4.
www.gideonputnam.com

Saratoga Automobile Museum
110 Avenue of the Pines, Saratoga Spa State Park, 518.587.1935. Located in a historic bottling plant, The Saratoga Automobile Museum preserves, interprets and exhibits automobiles and automotive artifacts. The museum offers education to the general public, students and enthusiasts regarding the role of the automobile in the past, present, and future.
www.saratogaautomuseum.org

Saratoga Battlefield National Historical Park
648 Route 32, Stillwater, 518.664.9821 ext. 224. In the autumn of 1777 American forces met, defeated and forced a major British army to surrender. The Battle of Saratoga was a crucial American victory that renewed patriots' hopes for independence and secured essential foreign recognition and support. www.nps.gov/sara

Saratoga Spa Golf Course
60 Roosevelt Drive, 518.584.2006. Saratoga Spa Golf is located just south of historic Saratoga Springs, NY. Set in a pine forest, and surrounded by the natural and historic beauty of Saratoga Spa State Park, 'SPA GOLF' is comprised of an 18-hole Championship Course, a 9-hole Executive Course, an all grass driving range, a practice putting green, and a full service golf shop.
www.saratogaspagolf.com

FOR ADDITIONAL INFORMATION ON SARATOGA EVENTS, LOCATIONS OF INTEREST AND DINING VISIT: WWW.DISCOVERSARATOGA.ORG

Saratoga Winery
462 Route 29, 518.584.9463. The family-owned and operated Saratoga Winery offers a diverse selection of traditional wines, as well as their signature wine called Melomel; the ancestor of all fermented drinks. Melomel is centuries old in Europe, Africa and Asia. Not to be confused with mead, Melomel is made of fruit and honey offering a smooth, somewhat sweet flavor to the palate. Visit any time for a tasting at their warm and inviting Adirondack style tasting bar.
www.thesaratogawinery.com

Tang Teaching Museum and Art Gallery
Skidmore College, 815 N. Broadway, 518.580.8080. One of the first interdisciplinary museums of its kind in the country, the Tang develops exhibitions and programs that combine a variety of subjects such as antique maps, scientific artifacts and Shaker furniture together with new works of international, contemporary art. Artist talks, curator tours, films, music on the roof, and children's activities bring everyone together to explore art in new ways. http://tang.skidmore.edu

Tennis Courts at Spa State Park
Saratoga Spa State Park, Four hard top and four clay courts are available to Spa State Park visitors on a first come, first serve basis.

Yaddo Artists' Community
Union Ave at Henning Road, 518.584.0746. "Ghosts in the Yaddo Garden Tours" will be held on Friday and Sunday evenings at 5 p.m. Docent led tours begin at the Yaddo Garden parking lot and last for approximately one hour. Cost is $10 per person. Contact Yaddo at 518.584.0746 for more information. The Gardens are the only part of the Yaddo estate open to the public. www.yaddo.org

