

# NEW YORK STATE BAR ASSOCIATION



## MAKING A DIFFERENCE

► 2012–2013 Report to Membership







# CONTENTS

President's Message

3

Year in Review

4

Making a Difference

8

Advancing Our Profession

14

Section Highlights

18

Task Forces and  
Committee Highlights

26

Financial Support

38



*"The legal profession has the ability to make a tremendous difference in the lives of individuals and our society as a whole. Through our initiatives and advocacy this year, we have worked to improve the law, enhance access to justice and protect the integrity of our justice system."*

**President Seymour W. James, Jr.**



# YEAR IN REVIEW

## YEAR IN REVIEW

It has been another successful and exciting year at the New York State Bar Association, and I appreciate this opportunity to share our progress with you in this Report to Membership. I am also proud to recognize the many Bar Association leaders, staff and volunteers who have made all of our work possible. Our theme this year was "Making a Difference," and I am pleased to share some of the ways our Association is making a difference thanks to the efforts of our dedicated members.

### Special Committee on Voter Participation

New York state suffers from some of the lowest voter participation in the nation, ranking 47<sup>th</sup> in average voter turnout in the last three federal elections. New York's voter registration also consistently lags behind the national average. With less than 64% of eligible citizens registered to vote in 2010, only 35.5% of the voting eligible population cast votes for the highest office in the general election.

When I began my term as president, I designated voter participation as a top policy priority. We created the Special Committee on Voter Participation, led by former U.S. Assistant Attorney General and New York State Senator John R. Dunne and Daniel F. Kolb, to consider possible reforms to remove obstacles to registration and voting, while maintaining the integrity of the process. After careful study by its bipartisan team of experts, our Special Committee on Voter Participation recommended a slate of reforms designed to improve voter participation in New York state. The Committee recommended modernizing the voter registration process, changing voting practices to make voting easier and more convenient, and increasing

penalties for deceptive election practices that suppress votes. I am pleased that the Committee has completed its work, and the Association adopted its recommendations in January 2013. We have begun advocating for these reforms before the state legislature, and we are hopeful that many of the Committee's recommendations will be enacted into law.

### Special Committee on Human Trafficking

In many nations worldwide, human trafficking has become a form of modern slavery. The victims of this crime, many of them women and children, are often exposed to physical and emotional abuse at the hands of traffickers. Victims may be especially vulnerable to intimidation because of their immigration status or fear of retaliation. As a result, victims may be reluctant to report their plight to law enforcement agencies, making it difficult to define the magnitude of the problem.

Shortly after I became president, we formed a Special



Committee on Human Trafficking, chaired by Past President Bernice Leber and Sandra Rivera. The Committee is currently finalizing its recommendations, which will address state and federal laws related to sex trafficking, labor trafficking and child trafficking. The Committee made an informational presentation before the House of Delegates in April 2013 and will submit its final report at a future meeting. Human trafficking has also been a major priority for the American Bar Association this year, and we look forward to opportunities to collaborate in this important area at the national level as well.

is underway, with subcommittees examining job training and employment; benefits and family rights; education; housing; medical access and mental health; and juveniles. We look forward to receiving its recommendations.

### Diversity

Achieving diversity and inclusion is an ongoing and multi-faceted goal for the State Bar and our profession. In our increasingly diverse society, a representative legal profession is necessary to maintain the legitimacy of our legal system and respect for the rule of law. A diverse legal

“Our theme this year was ‘Making a Difference,’ and I am pleased to share some of the ways our Association is making a difference thanks to the efforts of our dedicated members.”

### Task Force on Criminal Discovery

Another top priority this year has been our Task Force on Criminal Discovery Reform, which is studying the widely varied discovery policies in place around the state. The Task Force was asked to develop a report with the goal of enhancing the fair and effective operation of the criminal justice system in New York state. Under the leadership of co-chairs Peter Harvey and Judge Mark Dwyer, the Task Force specifically is focusing on improving the flow of information between attorneys in criminal cases. To address such situations, the Task Force is considering appropriate amendments to New York’s Criminal Procedure Law. The Task Force formed subcommittees to address the following topics: (1) general reform of criminal discovery in New York state, and practices and procedures in other states; (2) disclosure of information or evidence that tends to negate guilt or mitigate culpability; (3) how to expedite the flow of information between police and prosecutors; and (4) discovery and issues regarding Article 710.30 notices and suppression motions. It is working to develop a report and recommend draft legislation to address these important issues for submission at an upcoming meeting.

### Special Committee on Reentry

Each year, tens of thousands of individuals are released from New York’s correctional facilities, and too many of them face major challenges that can make it very difficult to successfully reintegrate into our communities. These challenges can lead to unemployment, homelessness, untreated substance abuse and health problems, family disruptions and reoffense. We have established a Special Committee on Reentry to address these concerns from a legal perspective, and develop recommendations to stem discrimination against former prisoners and improve educational and employment opportunities. These reforms could have a significant impact on achieving successful reentry and preventing recidivism. The work of the Special Committee, ably chaired by Ron Tabak and Sheila Gaddis

profession allows us to better represent our clients and helps to ensure the fair administration of justice.

We have embraced diversity as an official Association policy and believe that it is our responsibility to set an example, and use our role as a large association to support diversity in the law. Last August, we submitted an amicus brief in the case of *Fisher v. University of Texas*, which highlighted the importance of racial and ethnic diversity in the legal profession and the need to maintain an adequate flow of diverse students in the undergraduate pipeline. We also continuously work to improve the diversity of our own membership.

In 2011, Past President Vincent E. Doyle issued the President’s Section Diversity Challenge, and we were thrilled to receive a prestigious ABA Partnership Award in recognition of our efforts. We continued the Section Diversity Challenge with the theme: “Reaching for the Next Level.” I challenged each section to strive for diverse representation in section activities, committee participation, CLE presentations and efforts in collaboration with minority bars to create meaningful, lasting opportunities for participation by diverse members.

The sections undertook various efforts including designation of diversity seats on section executive committees; creation of scholarships to section events and meetings; development of a resource guide emphasizing training and mentoring resources, outreach and publication strategies and best practices; targeted outreach to diversity committees and organizations at law schools; participation in NYSBA law school events; and establishment of “Under 10” groups, allowing new attorneys to serve as a resource for professional development. Focus on female lawyers also increased, with efforts to draw attention to different career options including government, academia and in-house opportunities. Sections also demonstrated a strong commitment to reflecting diversity in their CLE panels and

section publications and a renewed effort to connect alumni who had participated in diversity internship programs.

As the Diversity Challenge drew to a close, NYSBA Sections joined together to roll out a new, pilot Association-wide Mentoring Program, designed to build relationships among experienced attorneys and diverse attorneys who are interested in becoming future section leaders. Among the many goals of this new mentoring program was the development of a diverse network of colleagues, allowing young attorneys to build perspective and become adept at meeting the demands of the legal profession in the 21<sup>st</sup> century. We are thankful to retired Court of Appeals Judge Carmen Beauchamp Ciparick and President-Elect Designee Glenn Lau-Kee for co-chairing this initiative, and I am confident that it will be of tremendous benefit to our members.

### State Legislative Priorities

In collaboration with our Committee on Legislative Policy, we continue to advance our legislative priorities, including

the integrity of New York's justice system, appropriate judicial compensation, adequate financial support for civil legal services and indigent criminal defense, and measures to increase the age of criminal responsibility to 18, allow sealing of records pertaining to certain criminal offenses, and modernize the laws governing non-profits in New York state. We actively supported the Judiciary Budget request, which proposed \$40 million for civil legal services, \$15 million to assist the Interest on Lawyer Account Fund, and more than \$8 million for the continued implementation of long-overdue judicial pay raises. We were pleased that the budget was passed without any reductions.

We will continue to support a package of bills intended to prevent wrongful convictions, with a particular focus on mandatory recording of custodial interrogations. We were pleased that Governor Andrew Cuomo discussed that provision, as well as another bill we support which would mandate the procedures by which lineups are conducted, during his State of the State address. In addition, the New



Chief Judge Jonathan Lippman and President Seymour W. James, Jr. congratulate Lillian Moy on receiving the 2013 Diversity Trailblazer Award at the Celebrating Diversity Reception. *[Photo by Richard Smith]*

York City Police Department announced that it will begin recording all post-arrest interrogations in sex-crime and murder cases, and we are hopeful that this development will pave the way for legislation to be enacted during the 2013 legislative session.

### Sequestration and Federal Court Funding

At the federal level, we have been very vocal about the potential negative impact of sequestration on the federal courts and the Legal Services Corporation. We have called on Congress to fund these institutions at levels that are adequate to permit them to function effectively. We have been collaborating with local bar presidents, NYSBA leaders and New York's business community to carry our message regarding the impact of sequestration to many audiences. We have issued joint letters and press statements and brought leaders together for lobby visits in Washington, D.C.

On January 1, Congress enacted the American Taxpayer Relief Act of 2012, which delayed sequestration until March 1. Facing this calendar, we proposed a resolution at the ABA meeting in February calling on officials to protect the federal courts and LSC. We were pleased that the resolution passed. Unfortunately, sequestration was implemented on March 1 and the debate continued in Congress. We will continue to advocate for appropriate funding on behalf of our courts and civil legal services providers.

### Conclusion

Our accomplishments this year were the result of the hard work of our officers, executive committee, committee and section chairs, members and staff and I cannot thank them enough for their dedication and support of the Association. I have been fortunate to work with an excellent team of officers: Treasurer Claire Gutekunst, Secretary David Miranda and President-Elect David Schraver, who has been a tremendous partner and whose leadership will take our Association to even greater heights in the coming year. In addition, our superb Executive Director Patricia Bucklin and the State Bar staff do an outstanding job of managing operations and helping us to implement the policies of the Association. Of course, all of our work is made possible by the thousands of dedicated attorney volunteers who take the time to share their expertise for the good of the profession and the public. I must give special thanks to my wife, Cheryl Chambers whose support for me has been unwavering, and thank my colleagues at The Legal Aid Society who regularly filled in for me when I was working on Bar Association matters.

It has been an honor and a privilege to be your president during such a productive and exciting year and I thank each and every member for the opportunity to have served. I look forward to continuing to work with you in the years to come as a member of the House of Delegates.



John R. Dunne, left, and Daniel F. Kolb, co-chairs of the Special Committee on Voter Participation, present the committee's report to the House of Delegates on January 25. [Photo by Jacques Cornell/Happening Photos]



# MAKING A DIFFERENCE

## MAKING A DIFFERENCE

### Funding for Indigent Defense

The Association supports the mission of the Office of Indigent Legal Services which is to monitor, study and make efforts to improve the quality of indigent legal defense services provided pursuant to article 18-B of the County Law. NYSBA also supports adequate funding of the Office of Indigent Legal Services so that it can fulfill its important mission.

The Office of Indigent Legal Services was established, in part, as a response to the 2006 Report issued by the Commission on the Future of Indigent Defense Services, which was created by then Chief Judge Judith Kaye. The Commission found glaring deficiencies in the quality of indigent legal services provided by counties. These deficiencies included excessive caseloads, severe staffing shortages, lack of adequate training, lack of adequate support services, and oftentimes minimal client contact.

In 2011, during its first year of operation, the Indigent Legal Services Board approved the distribution of \$4.4 million in funds to the counties and New York City for purposes of improving the quality of mandated representation. In order to receive these funds county officials were required to consult with their 18-B providers and to demonstrate that these funds would be used to improve the quality of representation. These funds, together with the distributions made pursuant to statute provided counties and New York City with a total of \$70.2 million in state funding in calendar year 2011.

During its first year of operation the ILS Board also approved a non-competitive distribution of \$8.1 million in FY 2011-12 funds which was sufficient to restore every county and New York City to the level of funding they received in 2010.

Recently, the Board authorized a total of nearly \$6.8 million to be distributed via a competitive grant process to accomplish two important goals: (1) to ensure that every criminal defendant will be represented by counsel at his/her first court appearance; and (2) to ensure that indigent defense providers are in compliance with *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010), the Supreme Court case which announced a new rule requiring that every assigned counsel must provide his/her client with accurate information regarding potential immigration consequences of a criminal conviction. Each of these grants is for a three-year period, with total funding of \$12 million for counsel-at-arraignment grants (\$4 million per year) and \$8.4 million for the immigration consequences grants (\$2.8 million per year).

The Association continues to support and advocate for adequate and stable funding of the Office of Indigent Legal Services. During this year's budget process, Association leaders repeatedly urged lawmakers to restore funds to the budget for the Office of Indigent

Legal Services and to increase operating funds for the Office. Every year since the creation of the Office, we have urged state policymakers to provide adequate funding for the Office to carry out its responsibilities. The final Executive Budget included a restoration of \$4 million for caseload relief in upstate counties and an increase of \$300,000 for the Office's operating budget (now at \$1.8 million). The final budget provides a total of \$81 million in aid to localities for indigent criminal defense programs. Inclusion of this funding in the final budget ensures that the Office continues its important work to enhance the quality of mandated representation in criminal cases.

### Funding for Civil Legal Services

Access to justice is illusory when low-income and disadvantaged persons go to court unrepresented because they cannot afford counsel in matters dealing with the basic essentials of life – shelter, safety, benefits and access to health care and education. For this reason, the Association always includes adequate governmental funding for civil legal services as one of its key legislative priorities.

For the past three years the Association has actively participated in the hearings conducted by Chief Judge Jonathan Lippman's Task Force to Expand Access to Civil Legal Services in New York. Studies commissioned by the Task Force estimate that, in matters involving the most basic necessities of life, more than 2.3 million low-income New Yorkers are attempting to navigate the complex





civil court system without an attorney. Based on these findings, the Task Force has concluded that unrepresented litigants are not receiving full access to justice. Moreover, the overall quality of justice for all litigants – represented and unrepresented parties alike – suffers because the courts are less efficient when resources must be diverted to assist unrepresented litigants. In addition, the results for unrepresented litigants often are far less favorable than what could be achieved with representation.

*“Evidence gathered in the hearings over the last three years amply demonstrates that funding civil legal services is not only right, just and equitable, but also makes good economic sense as evidenced by the substantial monetary benefits New York reaps from every dollar it spends.”*

During 2012 outside experts commissioned by the Task Force on a pro bono basis again found that investing in civil legal services provides substantial economic benefits to New York state. Specifically, it was found that for every dollar spent funding civil legal services the State received approximately six dollars in savings. The positive financial effects realized since 2011 and long-term future effects combined could be as much as \$1.06 billion.

The Judiciary budget for 2012-13 allocated \$25 million for dedicated funding for civil legal services in matters involving the essentials of life. It also continued to allocate \$15 million to rescue the Interest on Lawyer Account Fund (IOLA) which uses interest collected on attorney escrow accounts to finance grants to providers of civil legal services. Low interest rates and a sluggish real estate market have caused IOLA funds to plummet in recent years. In addition, the Judiciary budget included for the first time an appropriation of \$12.5 million which was to be distributed via a competitive RFP process to providers of civil legal services for representation of low income individuals and families in the core essentials of life areas.

The Association applauds Chief Judge Lippman's commitment to earmark a dedicated portion of the Judiciary budget to fund civil legal services. Evidence gathered in the hearings over the last three years amply demonstrates that funding civil legal services is not only right, just and equitable, but also makes good economic sense as evidenced by the substantial monetary benefits New York reaps from every dollar it spends.

### Funding for the Legal Services Corporation

The Association continues its strong support for adequate funding of the Legal Services Corporation (LSC) by Congress. LSC is the single largest source of funding for the nation's providers of legal assistance to the poor. Sequestration cuts to LSC would result in its budget dropping \$29 million beyond the significant cuts it has already suffered in recent years, and would be devastating to the poor, veterans, domestic violence victims and families who rely on civil legal services

programs that are funded through the Legal Services Corporation program to safeguard their access to justice.

From FY 2010 to FY 2012, LSC grants to support legal aid programs around the country have been reduced by 18 percent. LSC's funding has shrunk from \$420 million in FY 2010, to \$404 million in FY 2011, to \$348 million in FY 2012. This represents a reduction of \$72 million or 17 percent. The U. S. Census Bureau data on poverty shows

that nearly one-in-five – or nearly 60 million persons – qualify for legal assistance programs funded by LSC.

Based on data from the Brookings Institution and Congressional Budget Office, LSC projects that from 2010 to 2013 an additional six million more Americans will be added to the eligible population served by LSC funded programs. This sobering projection did not take into account the hundreds of thousands of low-income persons recently impacted by Superstorm Sandy and the fact that many of them likely will need free legal services provided by LSC funded legal services organizations.

The need for adequate Congressional funding of LSC continues to be a key legislative priority for the Association. President Seymour James, Jr. recently joined 15 local bar associations in reaching out to the state's congressional delegation urging them to protect the poor's access to justice as the federal government faces the threat of sequestration.

### Doing the Public Good

The Association's motto has long been “Do the public good. Do pro bono.” Pro bono volunteers are indispensable to ensuring that low income persons have meaningful access to the justice system. The Association promotes pro bono participation through a variety of recruitment and recognition programs.

### Empire State Counsel Program

The Empire State Counsel® Program is the only recognition program exclusively reserved for NYSBA members who, during the calendar year, donated 50 hours or more of pro bono by providing free representation to either a person of limited financial means; or to an organization whose services are designed primarily to address the legal and other basic needs of persons of limited financial means; or by providing free legal services to an organization dedicated to increasing the availability of legal services to vulnerable and/or low-income populations.

During 2012, 1,606 members collectively performed 294,218 hours of free legal services. Since its inception in 2006, 8,503 Association members have been enrolled in the Empire State Counsel® Program and collectively they have contributed in excess of 1,296,042 pro bono hours.

### National Pro Bono Week

The Association marked the fourth anniversary of National Pro Bono Week with celebrations in New York City and Albany. The New York City celebration took place in late October during National Pro Bono Week with a pro bono expo and awards ceremony which the Association co-sponsored with the Office of Court Administration's Access to Justice Programs and the New York County Lawyers Association. Two distinguished NYSBA members were among more than 20 attorneys who were recognized for their significant pro bono contributions and efforts to expand access to justice.

Entitled "Pro Bono Anew: Pro Bono Volunteer Opportunities for Attorneys in the Capital District," the Albany celebration took place on November 13<sup>th</sup> with Chief Judge Jonathan Lippman and Association President Seymour W. James, Jr. delivering opening remarks. The program focused on new pro bono initiatives developed by the courts and volunteer opportunities to provide legal assistance to low-income New Yorkers residing in the Capital District. The more than 50 attorneys who attended the program were able to talk with representatives from local legal services organizations and to sign up for pro bono.

The Honorable Victoria Graffeo, Associate Judge of the Court of Appeals, delivered keynote remarks at the Albany event. She explained the newly promulgated procedures implementing the requirement that future law graduates perform at least 50 hours of pro bono service before being eligible to practice in New York.



Lesley Friedman Rosenthal speaks at the Charity Corps program, "Lawyers Helping Nonprofits." Rosenthal chairs the Leadership Committee of Charity Corps.  
[Photo by Brad Hamilton]

The forum also featured a presentation by an assistant deputy counsel from the Office of Court Administration who described the expanded rule governing Continuing Legal Education (CLE) credits for pro bono work. In addition, a distinguished panel of representatives from area legal services organizations provided an overview of local pro bono programs and opportunities. Attendees earned one MCLE credit in Ethics.

### Recruitment of Pro Bono Volunteers

During 2012 the Association continued its highly successful efforts to raise professional awareness about the benefits of volunteering to provide free legal assistance to low income individuals and families. Joining with legal services providers and local bar associations in the Capital District, NYSBA co-sponsored free MCLE training programs for attorneys who agreed to accept a minimum of two pro bono case assignments in the areas of landlord-tenant law; appeal of denials of unemployment insurance benefits; and family law matters involving lesbian, gay, bi-sexual and transgender clients. During 2012 approximately 70 attorneys were recruited to perform pro bono.

### Charity Corps

Charity Corps, a joint pro bono initiative between the New York State Bar Association, The New York Bar Foundation and the Charities Bureau of the New York State Attorney General's Office, completed a highly successful pilot year during 2012. In its first full year of operation Charity Corps matched 56 nonprofit organizations with volunteer attorneys who provided legal advice and assistance in matters dealing with board governance, fiduciary responsibilities and nonprofit law compliance. The organizations lacked the financial resources to pay for legal counsel. The missions of the organizations served were diverse, including social services, community development, health-related causes, veterans' aid, the arts and environmental protection. In 2013, Charity Corps expects to expand the program to serve up to 100 additional eligible nonprofit organizations.

Charity Corps generated tremendous excitement within the legal community; particularly among corporate lawyers and those involved in transactional matters. 100% of the attorneys responding to the survey said they would participate again in 2013 and 92% said they would consider partnering with or mentoring junior attorneys or law students seeking to assist nonprofits.

During 2012 Charity Corps also sponsored four well-attended MCLE programs to train attorneys on corporate law and governance issues. The seminars were conducted in New York City, Buffalo, Rochester and at the Commercial and Federal Litigation Section spring meeting at Mohonk.

### President's Pro Bono Service Awards

On May 1, 2012 the Association marked the 22<sup>nd</sup> anniversary of the President's Pro Bono Service Awards

at a ceremony where 23 awards were bestowed in recognition of the outstanding pro bono contributions made by individual attorneys, a law student, a law school group, and small, mid-sized and large law firms. The State Bar honored more than 20 attorneys once again this year, during the 2013 President's Pro Bono Service Awards Celebration on May 1. All of the pro bono work was done in New York state to benefit New Yorkers in need. Free legal services were provided to veterans, the homeless, victims of domestic violence and immigrants. Thanks to the generosity of pro bono volunteers, many people received assistance in a wide range of legal matters.

### Superstorm Sandy Relief Efforts

The Association was actively involved in providing assistance to those affected by Superstorm Sandy. Within days of the storm making landfall, the Association established an Emergency Hotline to take calls for assistance from distressed residents in the storm-ravaged areas which stretched from Ulster County to the farthest tips of Long Island sound. The Association's Lawyer Referral and Information Services (LRIS) Department quickly assembled a team of lawyers to field the calls. Many hotline volunteers had prior experience in flood related claims issues as a result of their past volunteer efforts assisting persons impacted by Hurricanes Irene and Lee. Callers received a free legal consultation of up to 30 minutes from volunteer attorneys. The LRIS worked collaboratively with the American Bar Association's Young Lawyers Division in establishing the hotline.

Staff from the CLE and Pro Bono Departments joined forces to organize a CLE seminar on storm related legal issues. The program included an overview of state and federal disaster relief programs. Panelists included representatives from the American Red Cross, FEMA, Coast Guard, Small Business Administration and the New York State Departments of Labor and Financial Services. Panelists also included attorneys experienced in disaster-related legal issues. The live program, which took place at the State Bar Center, was simultaneously webcast to more than 2,000 viewers, including attorneys from 28 states and three other countries. The program and materials are archived and available for viewing on the Association's Superstorm Sandy webpage.

The Association has co-sponsored other disaster legal training programs with the Federal Reserve Bank and the Southern District of New York Chapter of the Federal Bar Association, the Eastern District of New York Chapter of the Federal Bar Association and the Network of Bar Leaders.

The Association also worked closely with local bar associations in the affected areas to ascertain the types of assistance needed and shared the information with attorneys and the public. To assist in disseminating this information the Association developed a Superstorm Sandy webpage which features information about free legal relief clinics offered in the affected counties; provides information about available state and federal disaster resources; offers assistance to potential pro se individuals seeking to appeal FEMA denial of their claims for financial assistance;



More than 2,000 registrants participated in a webcast on November 15 streamed live from the State Bar Center in Albany that brought together experts from federal, state and local agencies skilled in disaster relief efforts. One panel explaining the relief programs designed to assist those impacted by the storm included, L-R: David Nguyen (Disaster Relief Legal Services), John Capuano (state Department of Financial Services), Julie Pardini (American Red Cross), Mark Randle (U.S. Small Business Administration), Hon. Matthew J. Tierney (Unemployment Insurance Appeal Board), and Stephen A. Becker (FEMA).

*[Photo by Patricia Sears Doherty]*



and provides information for attorneys about volunteer pro bono opportunities. The website also allows free access to archived training materials covering many of the substantive law issues that arise in disaster situations and addresses some of the most frequently asked questions.

As the magnitude of the impact of Superstorm Sandy was realized, it became apparent that New York attorneys would benefit from pro bono assistance offered by out-of-state attorneys who had extensive experience in flood, hurricane and other natural disasters. President James consulted the Chief Judge regarding whether the Court should consider invoking the Major Disaster Rule (22 NYCRR 520.11[d]), and the Chief Judge concurred, allowing experienced attorneys from other states to provide limited pro bono assistance to New Yorkers in the designated disaster counties.

Recognizing that many victims of Superstorm Sandy are in dire need of legal assistance, the State Bar Association and The New York Bar Foundation jointly established a fund to help them. The Superstorm Sandy Relief Fund will lend financial support to local bar associations and legal service providers, helping those organizations reach out to those in need and provide essential legal services to storm victims. Among the legal services most sought by victims are help with landlord/tenant issues, insurance matters, FEMA denials, obtaining government assistance and dealing with contractors.

### The New York Bar Foundation

In 2012 The New York Bar Foundation welcomed new President of the Board of Directors, Cristine Cioffi, and its new Administrator, Deborah Auspelmyer.

The Foundation also began to implement exciting new plans for marketing and development. The Foundation's new tagline, "Lawyers caring. Lawyers sharing. Around the Corner and Around the State." surged into action, as over \$800,000 in funds was distributed via our grant-making program to law-related projects. These grants assist children and adults with their unmet law-related needs in diverse neighborhoods across New York state. Recipients include legal services agencies, non-profit organizations, bar associations and others, who join together to further the objectives of: increasing public understanding of the law; enhancing professional competence and ethics; facilitating the delivery of legal services; and improving New York's justice system and the law.

The Board of Directors and The Foundation are grateful to members whose contributions support the important work made possible through Foundation grants. The legal needs addressed by members' contributions range from protecting victims of domestic violence; helping the elderly with housing issues; protecting refugees and immigrant children from discrimination; offering services to former prisoners re-entering society; assisting children in foster care; and

providing needed legal services to the disabled and people with mental health issues.

Through the generous support of the sections of The New York State Bar Association and contributions to restricted and endowed funds, The Foundation was able to provide 10 unique fellowship and scholarship opportunities to assist students with gaining essential in-house legal practice experience in various areas of the legal profession.

The work of The Foundation will continue to bridge the gap between need and opportunity while demonstrating that the legal community does care, does share and can make a difference.

## EDUCATING NEW YORK'S CHILDREN

### Law, Youth & Citizenship Committee/Program

The Committee on Law, Youth and Citizenship (LYC) continues its mission of bringing free and low-cost resources and training in law-related and civic education to the teachers and classrooms of New York state. In spite of dramatic cuts in federal funding and the elimination of many national and international civics programs, the State Bar has been able to directly reach teachers, schools, teacher centers and students statewide through the outreach efforts of LYC.



Colonie Town Justice Peter G. Crummey received the 2012 Distinguished Service Award from the Law, Youth and Citizenship Committee. [Photo by Colleen Brescia]

In conjunction with Association leaders, the Association's LYC Committee and the LYC Program continued to advocate for increased funding and support for civics education programs. In October 2012, the LYC Committee formed a Civics Advocacy Subcommittee to assist in this effort. In addition, the LYC Committee and the LYC Program – with support from The New York Bar Foundation – continue to provide civic education resources to school districts throughout the state.

LYC hosted six high school teams at the Albany "We the People" State Final Hearings in January 2013. Forest Hills High School earned the right to attend the 26th Annual National Hearings in Washington, D.C. at the end of April, where it competed against teams from throughout the United States on its knowledge of the U.S. Constitution.

Since 1990, the Law, Youth and Citizenship Committee has recognized a leading educator and attorney in the field of law-related education. The 2012 Educator of the Year was high school teacher Robin Kovat, Sheepshead Bay High School. The LYC Committee selected Judge Peter G. Crummey as its 2012 Distinguished Service Award recipient. Judge Crummey was nominated by the Albany County Bar Association for his commitment to promoting respect for the legal system among young people, especially within the Albany Capital District.

The New York State 2013 Statewide High School Mock Trial Tournament materials were again prepared by the Law, Youth and Citizenship Mock Trial Subcommittee. The case books and CDs were distributed to approximately 300 teams across New York state, representing more than 4,000 students.

This is the 33<sup>rd</sup> year the tournament has been sponsored by the New York Bar Foundation with additional funding provided through the LYC program. Following local and regional competition, six teams were invited to compete in the May state finals held in Albany.

The Mock Trial Summer Institute was held for the eighth year in July 2012. Forty high school students from across the state were accepted into this week-long intensive educational program. Instructors and attorneys assisted in preparing the students to present a mock trial case on the final day. Base funding for this program was provided by the New York Bar Foundation, with supplemental funds being supplied by LYC and a fee charged to each student. Consistently, this camp program has scored high in evaluations from the students and staff as an invaluable learning experience. Students return to their schools in September ready to be leaders of their own Mock Trial teams.

In addition to the LYC website, Mock Trial and Mock Trial Summer Institute information can be accessed through a blog site, a Facebook fan page, a Twitter account and through boards on Pinterest. These social media tools have proven valuable in the timely transmission of information to those involved with the Mock Trial Program throughout the state.

In response to the large community of LYC-network educators around the state, LYC continues the recent practice of moving its annual conference to convenient locations around the state. The 36<sup>th</sup> Annual Civics and Law-Related Education Conference was held at Lake George in October 2012. The next conference will be held in October 2013 in Geneva, NY.

For nearly 40 years, the support of these programs – through the New York State Bar Association, The New York Bar Foundation and the legal community at large – has had a deep and meaningful impact on the education community of New York. Through funding, volunteerism and in-kind contributions, civics and law-related education is promoted throughout the state.

Students, teachers, administrators and attorneys interested in LYC programs can now stay up to date with social network sites such as Facebook, Twitter, YouTube and blogs. Links to those networks can be accessed on the LYC website, [www.lycny.org](http://www.lycny.org).

### Youth Courts

The Special Committee on Youth Courts, chaired by former Chief Judge Judith Kaye and Patricia Rodriguez, was created in June 2010 to examine what role the Bar Association can play in strengthening Youth Courts, defining best practices, identifying locations where new Youth Courts can be established, and developing strategies for raising funds to enlarge the initiative.

The Special Committee held an informational event in the fall of 2010 at the Bar Center in Albany and invited local stakeholders to attend. The purpose of this event was to lay the groundwork for the development of a Youth Court in Albany. Through work from members of the committee, the local judiciary and the Albany City School District, a Youth Court was established at Albany High School in the fall of 2011. With funding through the United States Attorney's office and support from the school district, the Albany High School Youth Court is in its second year of operation.

The Committee, with the assistance of the Center for Court Innovation and the Association of New York State Youth Courts, is supporting development of a data collection program that will serve the needs of individual Youth Courts and be accessible to others seeking information and statistics regarding Youth Courts functioning in New York state.

A video project that will promote and highlight New York State Youth Courts is under development with financial support from the Special Committee. The video will be ready for distribution in 2013.



## ADVANCING OUR PROFESSION

### Court System Funding

The NYSBA Executive Committee approved “integrity of the justice system” – which includes adequate funding of the New York State court system – as a legislative priority for 2013. NYSBA leaders advocated during Winter and Spring 2013 for the legislature to ensure the integrity of the justice system and provide adequate funding for the New York State Unified Court System’s proposed 2013-2014 budget. For example, NYSBA President Seymour W. James, Jr. submitted testimony at a state budget hearing in January 2013. NYSBA leaders also met with key legislators and representatives of the governor’s office. In addition, NYSBA issued relevant press statements. Finally, NYSBA participated in an American Bar Association survey on court funding issues in January 2013.

The Legislature approved the Judiciary’s budget for 2013-14 as submitted.

The Judiciary’s final budget includes \$40 million to continue implementing recommendations to help address the crisis in civil legal services, which the Association strongly supported. The Association also applauded the Legislature’s renewed approval of the Judiciary’s \$15 million allocation for the New York State IOLA Fund. This allocation will help offset declining IOLA revenue resulting from low interest rates and a decline in the number of real estate transactions. The Association also supported the Judiciary’s inclusion of \$8.2 million in its budget to implement the second phase of a long-overdue salary increase for judges.

### Lawyer Assistance Program

The New York State Bar Association’s Lawyer Assistance Program (LAP) provides education and confidential assistance to attorneys, judges and law students who are affected by alcoholism, drug abuse, gambling, depression, stress or other mental health issues. Volunteers from the legal community, along with a staff of licensed mental health professionals, provide compassionate, competent and confidential services. LAP also provides assistance to colleagues, law partners and family members who are concerned about a member of the legal community. The LAP services and resources can be accessed via the LAP helpline at 800.255.0569, online resources at [www.nysba.org/elap](http://www.nysba.org/elap) and our confidential email at [elapmail@hushmail.com](mailto:elapmail@hushmail.com).

The Lawyer Assistance Program continues its efforts to educate lawyers and judges about issues relating to impairment. In 2012, LAP hosted 13 CLE programs, which were well-received by the estimated 500 lawyers who attended. LAP also continues to meet





its mission to provide professional and peer assistance to lawyers, judges and law students. In 2012, LAP helped an estimated 150 attorneys on an individual basis and about 60 legal professionals became registered users of [www.nysba.org/eLAP](http://www.nysba.org/eLAP).

Jobs continue to be a major issue for attorneys in New York. A refreshed and upgraded Career Center interface was added to the NYSBA website. Job seekers can now review jobs in multiple states, refine e-mail based job alerts by position title and, as always, members enjoy

“Social media continues to grow in importance. More than 2,500 people are fans of the NYSBA Facebook page; more than 2,700 people follow NYSBA on Twitter; and more than 4000 members are part of the main NYSBA LinkedIn group with an additional several thousand spread over nearly 20 Section and Committee groups run by NYSBA.”

The eLAP website is a comprehensive online resource to help busy attorneys attend to their emotional and psychological well-being. Members of the legal profession often see themselves as problem-solvers and are reluctant to seek assistance with problems they may be facing in their own lives. The status they have in their communities can prevent them from seeking help for fear of loss of respect. However, a career in the legal profession can be stressful, and poorly managed stress can cause or exacerbate mental health problems. Accessing the eLAP website can be a great way to maintain good mental health. Although eLAP is not a replacement for professional assessment and treatment, it can be an important first step in getting professional help. This online resource provides information on mental health topics, as well as self-assessments and direct, confidential email contact with a lawyer assistance professional.

## SERVING OUR MEMBERS

### Technology and Social Media

Technology continues to forge ahead, taking us on unexpected and exciting paths. After spending most of 2012 preparing for the upgrade to the NYSBA website, work has begun. In addition to an entirely new look, NYSBA will also be replacing the software that runs the site. The new software offers many benefits that will make the site more user-friendly and efficient – but the most exciting is the responsive design, providing end-users with a view of the site that is optimized for their screens, regardless of what device they use to visit the site. Members visiting from web browsers will see the full site and enjoy all the features they have come to appreciate.

In an effort to increase non-dues revenue the Association has launched a new Professional Services Guide. This replaces the previous Vendor Resource Guide and provides robust information from providers of services to the legal community – from hardware and software to office products, subpoena services, cloud-based practice management tools, jury consulting, legal research and more.

access to new position postings for two weeks before they become available to the public.

NYSBA's blogs are a significant resource to Section members and feature member-generated content. Among NYSBA's newest blogs are the Commercial and Federal Litigation Section's E-Discovery Blog and the reinvigorated Law Student blog.

Social media continues to grow in importance. More than 2,500 people are fans of the NYSBA Facebook page; more than 2,700 people follow NYSBA on Twitter; and more than 4000 members are part of the main NYSBA LinkedIn group with an additional several thousand spread over nearly 20 Section and Committee groups run by NYSBA.

### CLE Programming

During 2012, the CLE Department, in conjunction with the NYSBA Committee on Continuing Legal Education, continued to maintain its reputation for excellence, producing CLE programs in a wide variety of practice areas and formats, including live conferences; webcasts; DVD/CD products; video and audio online products; and MP3/MP4 downloads.

Over the year, the CLE Department produced 71 topics at 211 sites. Of the 211 sites, 109 were held in the downstate area (Long Island, New York City & Westchester) with the balance held upstate (Albany, Buffalo, Syracuse and Rochester) reflecting an even distribution of topics across the state. As of December 31, 2012, live course registrations totaled 20,110, placing us significantly ahead of the previous end-of-year total of 18,705.

In addition to programs produced for new attorneys through our Bridging-the-Gap and Practical Skills Program Series, a significant portion of programming was produced for experienced attorneys, including two multi-day Institutes—the 8<sup>th</sup> Annual International Estate Practice Institute in March, and the 10<sup>th</sup> Annual Sophisticated Trusts and Estates Law Institute held in November.

The ongoing use of technology continues to be instrumental in expanding the geographic reach of our programming. Our Bridging-the-Gap program, produced three times a year in New York City, continued to generate sold out attendance in 2012, while allowing us to provide access to members in upstate New York. In addition to the existing video conference link to Albany, a second link was added to Buffalo, thereby further expanding member access to this important program.

The use of webcast technology increased dramatically in 2012, with simultaneous webcast options being added to most live programs in Fall 2012 and the expansion of our online webcast CLE Video Replay Series which is now offered in January and August.

Our digital media product lines continued to be competitive as a result of the addition of a data disc to our CD and DVD products in January 2012. This extra disc contains the original program's course materials in PDF format and the recorded lectures in MP3 format, both downloadable from a computer to portable devices (such as iPhones,

iPads, tablets, etc.) as well as to "cloud-based" systems. Our online video/audio streaming product offerings continued to do well in 2012.

NYSBA CLE will continue to provide quality programming and explore new formats to bring CLE programming to our members.

### New York State Bar Publications

The Association publishes many invaluable reference books and form products, all written and developed by leading attorneys, judges and other experts in the field. This ever-growing library, also available online through Loislaw, includes some of the most authoritative books available to New York attorneys on New York law and provides comprehensive, practical guidance for use by practitioners in their daily practice. The reference library also includes several document assembly products, forms CDs and downloadable forms from the State Bar website. NYSBA members receive exclusive discounts on purchases of NYSBA's books and form products.

NYSBA Publications released thirty-five reference books, updates to reference books and numerous forms products over the past year. Titles included Products Liability in New York: Strategy and Practice, a 1,100-plus page, two-volume treatise that covers all aspects of defending or instituting a products liability action, with step-by-step guides and practice tips making this book useful for experienced practitioners and for attorneys just entering this area of law. Also released was the 34<sup>th</sup> Edition of School Law, which is co-published by the NYSBA and the New York state School Boards Association. Written in an easy to use question and answer format, this 928-page book is a comprehensive resource for education law issues in New York State and also includes access to the School Law Plus Website with additional research material. NYSBA Publications expanded its criminal law library with titles on Evidentiary Privileges, Contempt and the Courtroom and Criminal Discovery.

The 2012-2013 New York Lawyers' Practical Skills series, which replaced the New York Practice Monograph series, was also released and continues to enjoy great success. The 16 books in this series cover 21 areas of practice and include forms on disk. Also updated on an annual basis is our 7-volume New York Lawyer's Deskbook and



Formbook. Starting with the 2012-2013 Update, all purchasers of the New York Lawyer's Formbook will receive the forms and exhibits on disk as part of the purchase price. The Practical Skills series as well as the Deskbook and Formbook provide a clear, basic review of a particular subject area and the necessary steps involved in handling a particular transaction. By focusing on the basics, these publications fill the gap between sketchy outlines, which are of little help to the novice attorney, and the voluminous reference sources, which very often are difficult to understand. Practitioners familiar with a subject area will benefit from the numerous "Practice Guides" and from using the Deskbook as a refresher to reinforce their own methods of practice.

enrollments, with suggestions on how to shift their thinking and outreach to attract and retain members. The spring program, held in New York City, focused on diversity issues within the bars and included perspectives and recommendations from leaders of diverse national bars on how to improve diversity and leadership opportunities within an association's membership.

During the 2013 Annual Meeting in New York, the Conference recognized five bar associations with its Bar Leaders Innovation Awards for programs on protecting houses of worship from liability, assisting flood victims from Hurricane Irene and Tropical Storm Lee and creating a diversity clerkship program for law students.

"The Association publishes many invaluable reference books and form products, all written and developed by leading attorneys, judges and other experts in the field. This ever-growing library, also available online through Loislaw, includes some of the most authoritative books available to New York attorneys on New York law and provides comprehensive, practical guidance for use by practitioners in their daily practice."

Seventy section newsletters and journals were published over the past year, in addition to the New York State Bar Association *Journal*, which is published nine times per year. Section publications, including past issues, are also available to section members on their section's website in both a PDF and citation-enhanced format.

In 2012, the *Journal's* electronic version added a "dynamic edition" to the PDF sent to all members. This new electronic version features live links to the websites listed in each issue—including the various NYSBA departments, NYSBA products and advertiser sites. It includes "flip page" technology, the ability to include video and the ability to save articles in html and PDF format. Proposals to make the *Journal* available on the iPad, Kindle and other e-reader devices are being reviewed in an effort to best meet the technological needs of our members.

NYSBA Publications also publishes the LEGALease pamphlet series. The 23 LEGALease pamphlets were reviewed and updated with the assistance of several NYSBA Sections and Committees.

### New York State Conference of Bar Leaders

On July 1, 2012, Karla Wilsey took over as Chair of the Conference's Executive Council for a two-year term. She succeeds Earamichia N. Brown, who will serve as Immediate Past Chair and an Ex-officio member of the Council. Diane Herrmann began a one-year term as Vice Chair.

The fall 2012 workshop in Albany took an in-depth look at what bar associations must face as a result of a stalled economy, advanced technologies and declining

### Strategic Plan

In 2012, implementation of the Association's recently adopted strategic plan began in earnest. To monitor progress and keep implementation moving forward as expeditiously as possible, the action steps in the strategic plan were grouped by department and then separated out. Work is currently underway on almost 50 of the 137 individual action steps. A significant number of action steps are tied directly to the completion of the new content management system (CMS) for the Association's website, and work continues to progress on the new CMS.

While many action steps are underway, a dozen have already been completed. For example, a new, internally produced, online process to enable non-members to join the Association and immediately access and enjoy member benefits and discounts has been completed. Another very significant achievement has been the hiring of David Adkins, Ph.D., as Chief Technology Officer. His initial focus will be on several large IT projects that are underway, but his long term objective is to conduct an assessment of the organization's use of technology and establish a strategic technology vision for the Association.



# SECTION HIGHLIGHTS

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### Antitrust Section

The section honored Molly S. Boast, WilmerHale, New York City with its William T. Lifland Service Award in January.

Hon. Edith Ramirez, Commissioner of the Federal Trade Commission, Washington, D.C., was the keynote speaker at the section's annual dinner. The winner of the Antitrust Section Writing Competition was Sarah Fink from Far Rockaway, New York.

### Business Law Section

In order to continue to meet the needs of its current members and stay relevant to prospective members, the Business Law Section undertook a telephone and online survey project during the summer of 2012. Valuable insights were gathered from the survey, and through the work of a special committee, the section plans to formulate an action plan to address the findings.

At the section's 2012 Spring Meeting, four of the section's nine substantive subcommittees held programs. Topics included: recent Office of the Comptroller of the Currency (OCC) initiatives and progress in integrating the former Office of Thrift Supervision into the OCC; banking organization corporate governance; highlights of trends in the M&A, financing and private equity markets; cyber security and ethics rules around the use of technology; counsel's role in helping start-up and emerging franchisor clients in taking the leap from "start-up" to "stay-up"; and protecting IP rights while using social media. The Section's 2013 Spring Meeting is planned for May 10th in New York City.

The section's Fall Meeting, held at Cornell University, focused on "The Shareholder Value Myth – How Putting Shareholders First Harms Investors, Corporations and the Public," and managing reputation in a crisis. Seeking to appeal to practitioners representing both large and small businesses, a distinguished panel at the section's Annual Meeting in January addressed securities law issues for the small firm practitioner, employment law issues for small to mid-size companies, an ethics discussion and more.

Legislatively, the Section is a proponent of the New York City Bar's Uniform Commercial Code legislative proposal, and continues to advocate for reform in not-for-profit corporation law and New York franchise law.

### Commercial and Federal Litigation Section

The section's many accomplishments during 2012 include the formation of two new committees: the Committee on Legislative and Judicial Initiatives and the Social Media Committee. The Special Committee on Pattern Jury Instructions continues to draft new instructions and explore new areas of law in collaboration with the Unified Court System's Official Committee on Pattern Jury Instructions. The section also designated a Task Force to

work in collaboration with the Committee on Arbitration and ADR, to examine best practices for advancing mediation in the United States District Court for the Southern District of New York.

In addition, the section's Committee on Federal Procedure issued a report recommending a revision to Rule 5 of the Federal Rules of Civil Procedure to allow for the electronic service of discovery without the advance consent of each party in writing. This report was adopted by the Executive Committee in December and has been sent to the Advisory Committee on Civil Rules for consideration. The Committee on Employment and Labor relations, in conjunction with the Labor and Employment Law Section, completed a joint report on the New York WARN statute, recommending a revision to the language of this statute dealing with the obligations of employers contemplating mass layoffs. This report was adopted by the House of Delegates at its January meeting. The Committee on the Federal Judiciary completed an updated "Guide to Individual Practices of Federal Magistrate Judges in the Southern and Eastern Districts," and the Committee on Electronic Discovery, recently completed an updated "Best Practices in E-Discovery in New York state and Federal Court." Both of these reports are excellent practical tools that are available to all Section members on the section's website.

The section presented CLE programs including the Commercial Litigation Academy; a joint program on arbitration co-sponsored by the Dispute Resolution Section; a program on the False Claims Act; and a program on "Cyber Rights and Cyber Wrongs." The section's Annual Meeting program included timely and thought-provoking CLE programs focusing on the future of litigation in New York state and an afternoon awards luncheon honoring Hon. Jed S. Rakoff, District Judge for the Southern District of New York.

This section continues to broaden its diversity initiatives to promote diversity in the profession. The marquis event remains the Smooth Moves program, now in its seventh year, which is the premier networking event for minority lawyers. The section also continued its commitment to funding a minority fellowship for placement with a Commercial Division justice for summer employment.

### Corporate Counsel Section

This section's Kenneth G. Standard internship program anticipates another great year with the Visiting Nurse Service of New York receiving The New York Bar Foundation Fellowship that funds and places a second or third year law student in a charitable or not for profit in-house organization. In addition to the Foundation intern, the Corporate Counsel Section's Kenneth G. Standard internship program will place five additional law students with ACE, hosting two interns, Alliance Bernstein, NYSTEC and Pitney Bowes. The internship program focuses on identifying and supporting in-house internship opportunities for law students from a diverse range of backgrounds to

provide them with the chance to experience in-house legal practice. The program is named in honor of Past President Kenneth G. Standard and his commitment to initiatives aimed at increasing diversity in the legal profession.

In addition to establishing the Fellowship at the NY Bar Foundation, the Corporate Counsel Section added to the section's executive committee a permanent position each year from our intern alumni of the Kenneth G. Standard program. The section also established a mentor program for current and past interns. The section surveyed members to obtain feedback on how it can better promote diversity and serve its members in general. The section amended its bylaws to set forth its diversity vision statement to guide the section in future years. The section is also a generous sponsor of and provides a scholarship to the Young Lawyers Section Trial Academy for a deserving candidate.

On October 26<sup>th</sup>, the Corporate Counsel Section offered its biennial Ethics for Corporate Counsel CLE program. The program brought together a distinguished faculty, including leading practitioners and the Chief Counsel to the 1<sup>st</sup> Department Disciplinary Committee, Jorge Dopico, to address the wide array of issues important to in-house counsel. Vital topics addressed included conflicts of interest issues, supervision of employed attorneys in the corporate legal department, evolving application of the no-contact rule, new developments affecting the attorney-client privilege and electronic discovery. The program is now available to section members on the NYSBA website for informational purposes. The Section also held a CLE on May 30 on "Cyber Liability, Data Loss and Privacy Claims—Preparing, Protecting and Defending" at Brooklyn Law School.

### Criminal Justice Section

On October 12, the section provided a standing room only, sold-out CLE on "Forensics and the Law" in New York City focusing on important practice topics: "Review of Current Issues Involving False Identifications;" "Issues Involving False Confessions;" "Review of Developments in Arson Investigation;" "Highlights of the Preparation of the Report, the Process of Analyzing Latent Prints, the Reports Prepared About the Analysts Examinations, What is Expected of the Examination of the Samples, and the Impact of the Need for Subjective Analysis;" "Issues Involving *New Jersey v. Henderson* in New York Practice;" and "Legal Issues Arising from Forensic Laboratory Operations."

In January at the annual meeting, the CJS sponsored a well-received CLE on "The *Frye* and *Lefler* Decisions: Effective Assistance of Counsel Before Entering the Classroom." Over 137 persons attended the Criminal Justice Awards luncheon honoring New York Court of Appeals Associate Justice Theodore T. Jones, posthumously, with the Vincent E. Doyle, Jr. Award for Outstanding Judicial Contribution in the Criminal Justice System and recognizing numerous other attorneys with prestigious awards.

The section's Spring Meeting was held on May 4 at the State Bar Center, and focused on current developments in

evidentiary issues in the criminal justice field. In addition, this spring, the section co-sponsored programs regarding the Basics of Criminal Law for the Criminal & Civil Lawyer.

The section is also a generous sponsor of and provides a scholarship to the Young Lawyers Section Trial Academy for a deserving candidate. The section also made a donation to The New York Bar Foundation in furtherance of the Foundation's mission.

The section advocates passage of legislation that is a NYSBA legislative priority based on the section's report "Sealing Records of Conviction Regarding Certain Crimes," supporting passage of legislation to authorize the sealing of criminal records in some cases of reformed offenders. The proposal seeks to lessen the indirect or collateral consequences of criminal convictions in appropriate cases. It has also worked to improve legislation proposed to provide for Interlock/SCRAM devices on vehicles for offenders of the Vehicle Traffic Law.

### Dispute Resolution Section

Over the past eight months, the Dispute Resolution Section and its hard-working officers and committee chairs have done an incredible job of invigorating and expanding the work of the Section. The Committee on Arbitration has organized bi-monthly meetings that included Advocates' and Arbitrators' Tips for Successful Hearings; new initiatives at the AAA and the permissibility of motions in domestic, commercial arbitration. The Committee on ADR in the Courts has been working with the courts in both the Southern District of New York and the Commercial Division of the New York State Supreme Court, New York County, in an effort to improve the mediation programs in those courts. In addition, the committee submitted comments on proposals dealing with court mediation programs in matrimonial and commercial division cases in New York state.

The CLE Committee worked diligently to assist in organizing the section's Annual Meeting and Program



The Tax Section won the Section Diversity Leader Award in the Diversity Challenge. L to R: Section Chair Diana L. Wollman, Second Vice-Chair David R. Sicular, First Vice-Chair David H. Schnabel, and Past Section Chair Andrew W. Needham [Photo by Patricia Johnson]

and an outstanding Fall Program, “New and Improved ADR Techniques for the Modern American Lawyer.” The section’s Diversity Committee worked in coordination with the Membership Committee to hold a highly successful February program providing an opportunity to meet experienced arbitrators and mediators in an informal setting, and also a Spring evening program that will provide guidance on how to develop an arbitration or mediation practice.

The Legislation Committee continues to examine whether the UNCITRAL Model Arbitration law should be adopted in New York and is watching with interest the reintroduction of the UMA in the New York Assembly. The Publications Committee published one of the preeminent practitioners’ journals in ADR: New York Dispute Resolution Lawyer, which includes articles on domestic and international mediation and arbitration, collaborative law and other ADR processes. With two issues per year, the journal provides updates on current developments, book reviews and insights from a wide range of leading practitioners.

### Elder Law Section

The Elder Law Section held their spring “Unprogram” in Saratoga Springs in April 2012. This program is unusual in that participants determine the content, and there are no prepared presentations or pre-selected speakers. The participants determine the “facilitators” and topics, and move from room to room to talk about the topics that have been determined each day. The 2012 topics included: Medicaid Liens, Estate Recovery, Home Care Under Medicare and Medicaid, Effective Use of Geriatric Care Managers, SSI/SSD for beginners, IRA’s and Annuities, The Pros and Cons of Long Term vs. Crisis Planning, Pooled Trusts, Special Needs Planning and VA Benefits.

The section also held its Summer Meeting in Boston in August 2012. Topics included: Elder Law 2012 Update, How to Avoid a Will Contest, Strategies for Reducing Stress in your Elder Law Practice, How to Prepare and Litigate a Fair Hearing, Post-Eligibility Planning for the Community Spouse, Application for Legal Fees in Surrogate’s Court, Procedures for Court Approval of an SNT, Managed Care/Medicaid, Practice Management Forum and Estate Taxes in 2013. Participants attended a cocktail reception at the New England Aquarium and took part in guided tours of the Freedom Trail and The Museum of Fine Arts.

The section’s mentoring program was renewed for 2013. This program connects new elder law practitioners with experienced attorneys. New in 2013 is the formation of Section Study Groups, with meetings planned for each judicial district, to assist practitioners with thorny elder law practice issues and to work through and update each other on new laws and regulations.

The section’s 18<sup>th</sup> Annual Mitchell Rabbino Decision Making Day was held on April 16, 2013. Section members also spoke to senior groups, libraries, hospitals and other organizations on advance directives, power of attorney and organ donation. The section’s 2012 Fall Meeting featured roundtable discussions and CLE programs. The section held a 4-day Mediation Training Program in May 2013, designed specifically for Elder Law attorneys. Attorneys who complete the training received CLE credit in addition to OCA certification to serve as court mediators.

The Elder Law Section and the Department of Governmental Relations recently lobbied successfully against the elimination of Medicaid “spousal refusal” rights in New York state. Section members went to Albany



Past President Kenneth G. Standard, center, congratulates the 2012 recipients of the Corporate Counsel Section’s Kenneth G. Standard Internships at a reception in August hosted by Alliance Bernstein. Left to right, the interns are: Yusuf Olawale Oriola, Hofstra Law School, FINRA; Rasheda Nipu, Syracuse University College of Law, Legal Aid Society/Bar Foundation Fellowship Intern; Katerina M. Kramarchyk, Albany Law School, New York State Technology Enterprise Corporation; Oluwatosin Ademuwagun, City University of New York School of Law, Con Edison; and Standard. To his right: Jennifer Ng, Touro College Jacob D. Fuchsberg Law Center, Alliance Bernstein; Emily J. Freeborn, New York Law School, Pepsi Co., Inc.; Scarlett Lopez Freeman, St. John’s University School of Law, Visiting Nurse Service of New York; and Paul J. Ahn, Benjamin N. Cardozo School of Law, Pepsi Co., Inc.  
[Photo by Ray Tamarra Photography]



in March to oppose the Executive Branch's proposed elimination of spousal refusal, which was part of its annual budget proposal. NYSBA and section representatives were pleased to learn recently that the final state budget for 2013-2014 does not include provisions to eliminate spousal refusal.

### Entertainment, Arts and Sports Law Section

The section continued to hold quality CLE Programming with programs that covered topics including: copyrights in estate planning, new case developments in film and television, financing in the fine arts, protecting trademarks and copyrights of video games, the right of publicity, music licensing for film and television, freedom of expression as it relates to Manga, legal protection of fashion and best practices protecting entertainment assets in a bankruptcy.

The section continued to provide excellent networking events for its members by offering a tour at the Whitney Museum, playing Wii at the Galway Hooker and an end of the summer social at the Banc Café. From Bushwick to Buffalo, EASL offers its members many excellent resources.

In 2012, the section developed a new partnership with the Commercial Theatre Institute to provide an excellent program on the legal aspects of producing in the theatrical world. In the fall EASL joined with the NYSBA Committee on Continuing Legal Education to produce an Association-wide program titled, "Introduction to Sports Law." The section again partnered with the CMJ Music Marathon, offering a full day of CLE focusing on diverse and edgy topics in the music and entertainment industries while several of our members were featured panelists for the CMJ/EASL Entertainment Business Law Seminar. The section also continued to hold pro bono clinics with the New York Foundation for the Arts.

On legislative issues, EASL's voice was front and center. EASL helped shape an amendment to the Arts and Cultural Affairs Law relative to consignments of works of art to art merchants by artists, their heirs and personal representatives. EASL also reviewed and supported amendments to the General Business Law and the Arts and Cultural Affairs Law in relation to theatrical employment agencies. The section also looked at the proposals by the New York State Department of Labor establishing rules and regulations relating to the employment of child performers in furtherance of The Child Performer and Education Trust Act of 2003.

In May, the section celebrated its 25<sup>th</sup> Anniversary with an all-day CLE event at the Warwick Hotel followed by an evening of entertainment at 54 Below featuring music and comedy by Jackie Hoffman.

### Environmental Law Section

The Environmental Law Section hosted its 4<sup>th</sup> annual Oil Spill Symposium in April 2013 at the State Bar Center in Albany. The section and the United States Environmental Protection Agency held an Update Program in January on Superstorm Sandy. The section's Annual Legislative Forum and luncheon took place in May 2013 at the State Bar Center.

The section's Fall Program was held in Lake Placid in October 2012, and focused on Conservation Easements in the Adirondack Park, the Adirondack Park Agency Adjudicatory Hearing Process, The Future of Environmental Regulation in the Adirondack Park, Environmental Protection and Rural Economic Development, Forest Preserve and Forever Wild, Ethics Issues in Environmental Law and SEQRA Reform. Environmental author and educator William McKibben was the keynote dinner speaker.

### Family Law Section

The Family Law Section held its Summer Meeting in Saratoga Springs in July 2012. Topics included: "Matrimonial Update," "The Art & Rules of Cross Examination in Family Law Trials," "Forensic Experts: What the Judge Wants to Learn before the Trial and at Trial," "Custody Experts: Understanding the Report and Conducting Examinations at Trial" and "Understanding the Valuation Report, Tips on Maximizing the Impact of Experts at Trial." Networking events were held in New York City in October 2012 and January 2013.

The section's 2012 Annual Meeting program was held in conjunction with the NYSBA Committee on LGBT People and the Law, and included topics on: "The Connecticut Experience with Same Sex Marriage," "A Tale of Two Families - A Heterosexual Family and a Same Gender Family: The Interplay Between DOMA and the Marriage Equality Act."

In January 2013 the section held a program on "The Impending, Unlamented Death of the Defense of Marriage Act" and "Ethics for the Family Law Practitioner: Recognizing and Handling Real Dilemmas."

The section donated funds to the Summer Justice Academy for Young Women at Pace University in 2012 and 2013, and assisted in producing materials for a matrimonial program held at the Pace Justice Institute in March 2013.

### Food, Drug and Cosmetic Law Section

The Food, Drug & Cosmetic Law Section held a program in 2012 with the American Health Lawyers Association on the topic of "Drug Shortages: Why Do They Occur and How Do We Prevent or Mitigate Them." The 2013 Annual Meeting Program was held on January 24<sup>th</sup> and included discussions on the following topics: "Medical Device Legal Update, Pivotal Court Cases for FDA Practitioners: 2012-2013 Updates," "The In-House/Outside Counsel Panel: Effective Communication regarding FDA/Regulatory Advice," "The Federal Sunshine Act: Preparing for Transparency in Payments to Physicians and Teaching Hospitals" and "The Food and Drug Administration Update: A View from Inside."

### General Practice Section

To expand its membership base in upstate New York and among new attorneys, the General Practice Section has

undertaken membership initiatives aimed at these groups. The section held a successful program on "Attorney's Liens and Fee Arbitration" in Manhattan in the fall, and plans to produce a similar program in Long Island in the coming year, along with a program on another general practice topic in Western New York.

The section's listserve remains very active, allowing general practitioners from across the state and beyond to pose practical questions related to their law practice for input from an engaged group of participants. Section members receive weekly wEbrief updates, based on the section's blog, as well as *One on One*, the Section's periodic publication, and *GPS Tracker*, a publication with helpful hints for busy general practitioners.

The section's Annual Meeting program, held in collaboration with the NYSBA Committee on Professional Discipline, provided a CPLR update, a segment on attorney discipline in New York, and "Hot Tips from the Experts," covering the latest issues in a variety of legal topics and updates on changes in the law.

### Health Law Section

The Health Law Section held its Fall Program at the State Bar Center in October 2012. The topic was "Health Law Reform," and the program included panels on: "Key Legal and Policy Issues, Insurance Exchanges, Restructuring the Delivery of Health Care" and "NFP Governance: Executive Compensation." Speakers included a number of New York State Department of Health officials and the keynote speaker was Hon. Richard Gottfried, Chair, New York State Assembly Health Law Committee Chair.

The section hosted networking events in Syracuse and New York City. The section's Annual Meeting Program included discussions on: "Health IT Update," "Legal Ethics: Rules for Internal Investigations," "New York Health Planning, Certificate of Need and Governance Reforms," "Executive Compensation, and Proposed Regulations," "Accountable Care Organizations-Regulatory and Strategic Issues," "Medical Indemnity Fund" and "Health Insurance Exchange and Its Impact on Providers, Payers and Employers."

The section commented on proposed regulations issued by the Department of Health, the Revised Proposed Regulation on limits on Executive Compensation, and Administrative Expense in Agency Procurements.

### Intellectual Property Law Section

The Intellectual Property Law Section celebrated its 20<sup>th</sup> year as a NYSBA section with a gala dinner event last fall at Gotham Hall in New York City. The event highlighted the section's achievements in the IP community since its inception, and served as a kick-off into its next 20 years. The section's Fall Meeting, held in conjunction with the anniversary gala, looked at both the current state and future of intellectual property law. "Intellectual Property Law and Policy – At the Fringe and Into the Future" covered such topics as trademark bullying, litigation ethics, Generic Top Level Domain names, cross-border IP enforcement,

design patents, e-discovery and forensics and the valuation of intellectual property.

In honor of its 20<sup>th</sup> year, the section's publication, *Bright Ideas*, featured a special segment on significant IP developments over the past 10 years. The section published a similar issue in 2002, reflecting on IP law during its first decade.

In efforts to involve the future generation of IP lawyers, the section's annual writing competition provides opportunities for law students to win prizes and gain exposure in the IP law world. The Section also offers its Miriam Maccoby Netter Fellowship, administered by The New York Bar Foundation, which provides funding for fellowships for students in New York law schools to assist public interest intellectual property organizations or charities with IP law matters. The section's two current Young Lawyer Fellows have been working on a project to update the section's web and social media presence.

Section committees keep members abreast of the latest developments in the wide-ranging topics encompassed by intellectual property law; and other special programs, such as the annual Women in Intellectual Property Law program, continue to be a valuable benefit to members of the section and the IP community.

The section's Annual Meeting program, "Judicial and Legal Activism and Their Impact on the Practice of IP Law," featured a keynote address by the Honorable Randall Rader, Chief Judge, U.S. Court of Appeals for the Federal Circuit, Washington, D.C., and a robust panel of experts dealing with branding and rebranding, fashion design protection, litigation, advertising law, judicial activism in damages analyses, and legal ethics in the digital world.

### International Section

The International Section held a very successful seasonal meeting in Lisbon, Portugal in October 2012. Not only did this meeting attract attendees from Europe, Asia and South America, it also included attendees from Africa. Immediately prior to the Lisbon meeting, for the first time, the NYSBA held a meeting on the continent of Africa by holding a small meeting in Casablanca, Morocco.

The International Section also strengthened the role of the NYSBA with the United Nations Committee on International Trade Law (UNCITRAL) and with the United States Department of State. In addition to effectively representing the NYSBA at various UNCITRAL meetings in New York and Vienna, section advocacy helped convince the State Department to again pursue the ratification of the Hague Convention on Choice of Court Agreements consistent with the section's suggested approach of hearing choice of court disputes in federal court.

In January, the section presented its Award for Distinction in International Law and Affairs to the career diplomatic

corps and was honored when Deputy Secretary of State William Burns made a personal and moving speech accepting the award.

### Labor and Employment Law Section

This past year again proved to be a busy and successful year for the section. Its Fall Meeting was held at Hunter Mountain and provided not only substantial CLE opportunities for members but also wonderful opportunities for networking and social activities. The section's Annual Meeting drew close to 300 attendees at programs on a variety of the latest developments in Labor and Employment Law. At that meeting the section announced its Margery Gootnick Commemorative Lecture to be presented each year as part of annual meeting (beginning in January of 2014), in honor of longtime section Executive Committee Member Margery Gootnick, who passed away last spring. The section also awarded its inaugural Lifetime Achievement Award to Frank Nemio, who was instrumental in founding the section in the early 1970s. The section's Annual Meeting luncheon featured The Hon. Mark Gaston Pearce, Chairman of the National Labor Relations Board.

During the course of the year, the section also hosted highly successful CLE programs on Public Sector Labor Law, Social Media and the Public Sector and the Affordable Health Care Act.

The section also launched its Mentoring Program, which coupled 27 highly experienced Labor and Employment Law Mentors with an equal number of mentees relatively new to the practice area. In addition to providing one-on-one mentoring opportunities, the Program held a number of group events including a kick off reception which featured guest speaker The Hon. Denny Chin, United States Circuit Judge for the United States Court of Appeals for the Second Circuit. This event was followed by a second session with Judge Chin, who graciously hosted Mentees at oral arguments at the Second Circuit, and separate receptions with impressive guest speakers.

The section's Diversity Committee was equally active this past year. Following a "first place" finish in the Bar Association's Diversity Challenge, the Diversity Committee continued its tradition of selecting Diversity Fellows as a way of providing additional networking and other opportunities for lawyers new to the practice area and introducing them to the many benefits of the Bar Association and the Labor and Employment Law Section. A number of former Diversity Fellows have become very active members of the section over the past several years and have earned positions of leadership on various section committees and subcommittees. In February, the Diversity Committee co-hosted, along with The Sage Colleges and Albany Law School, a program on Economic Justice, which drew about 100 attendees in Albany. In early March, the Diversity Committee hosted its annual event, this time a reception honoring past Diversity Fellows and highlighted by guest speaker, Chai Feldblum, Commissioner of the EEOC.

The section's other committees were active throughout the year as well, working on a number of projects. One of the highlights of those activities was the Bar Association's adoption of a report jointly submitted by the Labor and Employment Law Section (through the work of the Legislation and Regulatory Developments Committee) and the Commercial and Federal Litigation Section drawing attention to areas in New York's Worker Adjustment and Retraining Notification (WARN) Act in need of clarification and/or correction. That report will be submitted to the State Legislature for consideration.

### Municipal Law Section

2012 was an interesting year to be involved in government law and practice for the members of the Municipal Law Section. New realities and increasing burdens upon local governments create great opportunities and challenges for municipal attorneys in facilitating government innovation and public-private partnerships in the delivery of services. At the same time, attorneys representing private parties in dealings with local government must keep abreast of changing opportunities and impediments to private initiative. Attorneys who stay active in the Municipal Law Section are in a better position to understand the broad legal framework in which all of these issues and opportunities arise.

This past October the section held its fall meeting in Cooperstown and featured excellent CLE panels with topics discussing Intra-Municipal Disputes, Tax Caps, Ethics/FOIL/Open Meetings and updates on the Land Use Law and Procurement Law Update.

The section also hosted a successful Annual Meeting program, which addressed the most current and significant municipal law issues affecting our profession whether participants represent local government or private clients interacting with local governments. In addition to an excellent case law and statutory update, the audience enjoyed presentations on "What's New in Land Use, Zoning and SEQRA," "Social Media Issues," "Getting Your Employees Back to Work," "Alternative Revenue Sources" and "How to Analyze a Government Ethics Problem."

### Real Property Law Section

The section is now in its 45<sup>th</sup> year and continues to provide first-rate continuing legal education programs and to inform members about customs and practices in all regions of New York state. The section's CLE programs are frequently multi-site presentations, which this year included practical skills, mortgage foreclosures and workouts, representing purchasers and sellers of residential properties, advanced real estate transactions and attorney escrow accounts. The section's Summer Meeting which took place in July at the Crystal Springs Resort was very well attended, and its Annual Meeting program in January featured George Haggerty, Deputy Secretary for Financial Services in the Governor's Office, as guest speaker. During the year, the section launched multiple membership initiatives to grow



and strengthen its membership, increase diversity and recruit more young members. As part of that effort, the section expanded its student intern program and has enlisted six law schools and several law firms to participate.

### Senior Lawyers Section

The Senior Lawyers Section continues to empower its members with information targeted to both their present and their future, and it presents opportunities that are particularly relevant to senior members of the legal profession.

The section's Annual Meeting program, co-sponsored with the NYSBA Lawyers in Transition and Law Practice Management Committees, dealt with "Transition Planning for You and Your Law Firm." Whether exploring alternatives to the full-time practice of law or planning for unforeseen contingencies, the program provided transition suggestions and strategies for attorneys, their firms and their clients.

The section's Fall Meeting was a lively full-day program in New York City on "How to Stay in Touch, Keep Informed, and Provide High-Quality Legal Services without a Formal Office from Wherever You Are." The MCLE program presented attendees with strategies for practicing in an electronic and mobile environment, along with an opportunity to meet one-on-one with presenters for specific questions and practical tips.

The section is working on the development of strong links to the state court system's Attorney Emeritus Program. Additionally, the Age Discrimination Committee of the Senior Lawyers Section is exploring continuation of the work of the former NYSBA Special Committee on Age Discrimination in the Profession. The section continues to reach out to attorneys as they turn 55 years of age with an annual membership campaign. Both experienced attorneys and attorneys who entered the profession as a second career are welcome to join the section.

### Tax Section

The section has formalized its "Under 10" tax club for members of the Tax Section who graduated from law school less than 10 years ago. With organizational and financial support of the Tax Section, the club operates independently from the Tax Section through its own officers and meets four times per year. The goal of the club is to serve as a source of professional development and networking for mid-level and senior associates. This section also maintained its efforts to promote inclusion of women by organizing programs that provide for panel discussion and networking events for women.

The Tax Section prepared 25 detailed and technical reports to the government on specific tax issues that were sent to prominent state and federal government officials. Some called for guidance on issues that have been unresolved for decades, such as the report on the treatment of "deferred revenue" in an asset deal and the report on the proposed "May Company" regulations that have remained in proposed form for decades. Others

responded to proposed guidance on recent tax legislation, most notably FATCA, Section 871(m) and Section 909. The reports are available at [www.nysba.org](http://www.nysba.org) from the Tax Section homepage. The reports consider both policy objectives, such as fairness and consistent treatment of similar transactions, and practical objectives such as reducing complexity and streamlining administration of the tax laws. The reports are highly regarded by the government recipients, and many of the section's recommendations are adopted.

On July 20-22, the section held its annual Summer Meeting and CLE in Washington, D.C. The meeting included panels on corporate tax reform, dividend swaps under Section 871(m), foreign tax credit splitters under Section 909 and the Supreme Court Decision in the widely followed *Home Concrete* case.

Once again, more than 1,000 persons attended the section's January 2013 annual meeting and luncheon in New York City, which included a presentation by Edward D. Kleinbard, Professor of Law, University of Southern California, and former Chief of Staff of the Joint Committee on Taxation. More than 500 persons attended the Tax Section's annual meeting MCLE program covering topics such as "Circular 230: Beyond the Legend (Ethics and Integrity in Tax Practice)," and "Current Developments in Corporate Tax," "Partnership Tax" and "Hot Topics in International Law (including FATCA)."

The section will present its 17<sup>th</sup> Annual New York State and City Tax Institute covering upcoming and cutting-edge issues, as well as ongoing concerns, facing business executives and practitioners including ethical dilemmas and current tax issues. During the program's lunch the New York State and City Tax Commissioners have been invited to offer and update on the policies and procedures in their respective forums.

### Torts, Insurance and Compensation Law Section

For the past two years, the Torts, Insurance and Compensation Law Section has embraced the Presidents' Diversity Challenges including transforming the section's Executive Fall Meeting into: an open meeting for section members and potential members; a continuing legal education program exploring the Strength by Association; and a no cost networking reception. Although Superstorm Sandy frustrated the event in 2012 requiring a last minute cancellation, the section donated some of the anticipated expense for the meeting to The New York Bar Foundation's Superstorm Sandy Relief Fund.

The section has worked with the "Strength by Association" theme to meet the Diversity Challenge by including programs on Strength by Association at its summer meetings and Annual Meeting in New York City. Furthermore, the section sponsors and supports the Young Lawyers Trial Academy and the Commercial and Federal Litigation Section Smooth Moves Program that reach out to new and diverse attorneys.

The TICL Section includes attorneys that represent claimants, plaintiffs, petitioners, defendants and respondents in every possible civil forum. Members are from plaintiffs, defendants, general practice law firms, staff counsel, risk management and litigation management executives and include respected members of the Judiciary, mediators and arbitrators. The attorneys provide training for insurance professionals in several venues across the state each fall to promote equitable and efficient decision-making by these claim professionals.

Each year, the TICL Section Meeting is held in a family-friendly venue that mixes CLE with networking and family fun. Last year's meeting was in Montreal. The TICL Section has traveled to Bar Harbor, Maine, Walt Disney World, Mohegan Sun, San Diego, Puerto Rico and Ireland.

### Trial Lawyers Section

The NYSBA Trial Lawyers Section sponsored the Trial Advocacy Competition as it has since 1974 to recognize law students, the future talent of our profession and Association, and to encourage the inclusion of trial advocacy and technique as part of the law school curricula. Monetary awards, plaques and a traveling cup are provided to some of the winning advocates, coaches and law schools.

The section co-sponsored with the Torts, Insurance and Compensation law section, a successful January 2013 annual meeting and Continuing Legal Education in New York City, which included panels on "The Evolution of Electronic Discovery: Electronic Record Keeping in the Digital Age and Social Media Considerations;" "Excess, Surplus and Specialty Lines Insurance;" "Automobile Accidents—Beyond the Basics;" "Worker's Compensation Liens: The Law and Its Practical Applications;" and "Ethics and Lawyer Civility."

The Trial Lawyers are reaching out through receptions, informational programs and continuing legal education to promote membership and provide support to all trial attorneys and law students through involvement in the New York State Bar Association and the promotion of high professional standards and courtesy. On March 4 at Buffalo Law School and on April 3 at Albany Law School, the section offered a panel discussion on "Pointers on Courtroom Conduct" for students and newly admitted attorneys followed by a no cost networking reception for attendees.

The Trial Lawyers Section supports and encourages professional values and diversity in the legal field with other activities such as seven scholarships to promote diversity at the Young Lawyers Section Trial Academy. The section is co-sponsoring Law Day programs with the Monroe County Bar Association on May 1, and with the New York State Trial Lawyers Association on May 8.

### Trusts and Estates Law Section

The section's internship sponsored in conjunction with The New York Bar Foundation was renewed for 2013. Two

students were selected for placements in Richmond County and Schenectady County Surrogates' Courts.

The section's Lobby Day for 2013 was held on March 12 and members advocated on topics including: interest on legacies; inheritance/posthumous annulment; exoneration clauses in inter vivos trusts; trustee commissions/power to adjust; and marriage equality.

The section's Fall Meeting was held in October 2012, in Saratoga Springs. The program included roundtable discussions and programs on "Taking Care of Business for the Business Owner," "Digital Estates," "Lifestyles of the Rich and Famous," and a "Step by Step Guide to Avoiding Missteps With Retirement Benefits in Estate Planning."

The section held its spring meeting in May 2013 in Bermuda.

### Young Lawyers Section

Throughout the year, the section conducted numerous networking events across the state, including a holiday Toys-for-Tots drive in Albany. The section also co-sponsored networking events with other sections of the State Bar and hosted several district events throughout the State.

The section's Annual Meeting Bridging-The-Gap program in January consisted of two-and-one-half days of CLE programming, specifically designed for young attorneys. The 2013 program attracted a near-sellout crowd, and covered a wide range of interesting and informative topics in numerous areas of practice. The section awarded its annual Outstanding Young Lawyer Award to James (Jimmy) Paulino II of Faraci Lange, LLP on January 23. The section's fall program was held in Albany at the Bar Center from October 18-19. The program offered MCLE in practical skills and ethics. The event also included a tour of the New York State Capitol Building, including the Legislative Chambers of the Assembly and Senate.

The section conducted its Fourth Annual Trial Academy training program at Cornell University School of Law from March 20-24. Experienced lawyers and judges from across the state joined with the section leaders at Cornell Law School to provide hands-on training in trial techniques. The faculty provided instruction through lectures, and then critiques of the presentations made by each attendee on each of the main parts of a trial – jury voir dire, opening statements, direct and cross examinations and closing arguments.

Finally, the section also published its print newsletter, *Perspective*, on a biannual basis, offering substantive legal articles, section news and events, and a forum for expressing opinions and/or commentary on issues affecting young lawyers and law students today. The section also publishes a monthly "e-newsletter" entitled *Electronically-In Touch*, which highlights substantive articles and upcoming events within the section.

# TASK FORCE & COMMITTEE

## TASK FORCE AND COMMITTEE HIGHLIGHTS

### Committee on Animals and the Law

The Committee on Animals and the Law has been actively presenting educational programs on animal law not only to fellow members and lawyers but to the public as well. The Committee is developing an "Introduction to Animal Law" program that will be presented in local libraries, civic associations and high schools. The Committee is also developing a comprehensive Humane Education Program that will provide detailed course information on the committee website to assist teachers in New York state.

The Committee's website ([www.nysba.org/animals](http://www.nysba.org/animals)) is very user-friendly for NYSBA members, non-members and the public. Information is constantly added to the site, including relevant statutes, court decisions, administrative determinations, reports, treatises and other useful information specifically geared to provide accurate information and direction for the public interested in animal-related issues.

The Committee monitors and provides comments on relevant legislation and policy-making decisions at various levels of government, some of which were enacted into law. The Committee encourages law student interest in animal law by sponsoring an annual legal writing competition and co-sponsoring programs with law student organizations. Committee members speak at a variety of CLE programs on various topics of animal law, including monthly teleconferences with speakers from a variety of animal-related fields to speak to members, law students and interested members of the public.

The Committee takes very seriously its important mission and its role and responsibility as an active and highly visible representative of the NYSBA and the profession. Its extensive and varied activities are marked by ongoing efforts to partner with those within and outside the Association.

### Committee on Attorney Professionalism

The Committee on Attorney Professionalism gave out its annual award to John A. Ferrara of Monticello. This award is granted to an attorney who has demonstrated the highest standards of professionalism, reflected in the attorney's dedication to serving his or her clients, promotion of respect for the legal system, exemplary ethical conduct, competence, good judgment, integrity and civility.

### Committee on Attorneys in Public Service

On September 19, 2012, the Committee honored the achievements of the 2012 Citation winners, Jonathan A. Darche, Esq., Assistant District Attorney, Queens County District Attorney's Office, and Karen J. Freedman, Esq., Executive Director, Lawyers For Children.

The Committee also presented a program entitled: "Covering Marriage Equality: A Look Back." The program

was presented by Casey Seiler and Jimmy Vielkind of the Albany Times Union. Seiler and Vielkind discussed the hectic final weeks of the 2011 legislative session — specifically the battle over marriage equality — to explain how they and their Capitol colleagues responded to this rapidly changing national story. They also discussed how it felt to be in the Capitol as individuals with widely divergent viewpoints kept vigil — with chants and songs — during the historic debate.

At the 2013 Annual Meeting, the Committee presented two programs. The first "Supreme Court Update" was presented by I. Bennett Capers, Professor of Law, Brooklyn Law School; Joel Gora, Professor of Law, Brooklyn Law School; and Nelson Tebbe, Professor of Law, Brooklyn Law School. This session looked back at the 2011-2012 term, the Justices and the biggest decisions of the term and looked ahead to the upcoming term. The second program included panels on Social Media and Legal Ethics — a timely presentation about one of the most prominent areas of practice development today: the use of social media by attorneys. The pervasive use of technology reminded attendees that all lawyers need to think about how they will use technology in practice and the ethical pitfalls they might encounter. The moderator was Hon. James T. McClymonds, Chief ALJ, NYS Dept. of Environmental Conservation Office of Hearings and Mediation Service. Speakers included: Steven Bennett, Jones Day; Michael C. Fallon, Hinman Straub; Lindsey Hazelton, Hancock Estabrook, LLP; Ann Lapinski, Department of Environmental Conservation; and Hon. Anne W. Murphy, New York City Tax Appeals Tribunal.

### Committee on Bylaws

In January 2013, amendments to the Association Bylaws were approved at the Annual Meeting to add an additional delegate to the House of Delegates from the Judicial Section and to reclassify membership categories.

### Committee on Children and the Law

On September 14, 2012, the Committee on Children and the Law and the Office of Court of Administration commemorated the 50<sup>th</sup> Anniversary of the New York State Family Court with a program at the Court of Appeals followed by a luncheon at the State Bar Center.

Chief Judge Jonathan Lippman provided welcoming remarks and accepted a resolution from the legislature (S.5517/A.1569) commemorating the 50<sup>th</sup> Anniversary of the New York State Family Court. A panel discussion on the New York State Family Court Past and Present was moderated by Hon. Edwina G. Richardson-Mendelson, Administrative Judge of the Family Court of the City of New York and featured panelists, Hon. Howard A. Levine, Senior Counsel, Whiteman, Osterman & Hanna, formerly Judge of the New York State Court of Appeals and Judge, Family Court of Schenectady County, Frank J. Boccio, Chief Clerk, Family Court of Erie County and Hon. Carol R. Sherman, Judge, Family Court of the City of New York.



The luncheon at the State Bar Center featured a keynote by Hon. Judith S. Kaye, Of Counsel, Skadden, Arps, Slate, Meagher & Flom LLP, formerly Chief Judge of the State of New York, on the Future of the New York State Family Court. Seymour W. James, Jr., Esq. and Hon. A. Gail Prudenti, Chief Administrative Judge of the Courts of New York State provided welcoming remarks. A commemorative edition of "The Creation of the Juvenile Justice: A History of New York's Children's Laws" written by Merrill Sobie was distributed to all in attendance at the event.

The Committee on Children and the Law also sponsors a CLE program at the State Bar's Annual Meeting each year. In 2013 the Committee on Children and the Law presented a program entitled "North of the Border: Rights and Remedies for Immigrant Children and Families - Immigration Basics for Family Court and Matrimonial Attorneys." The program provided an overview of immigration issues, including the types of immigration status, immigration relief available, relevant benefits and services, the collateral consequences for immigrants involved in Family Court and criminal court proceedings and the effect of Secure Communities enforcement and the new deferred action for childhood arrivals initiative (DACA).

In 2012, the Committee presented the Howard A. Levine Award for Excellence in Juvenile Justice and Child Welfare to Honorable Judith S. Claire (Chautauqua County Family Court) and Tamara A. Steckler, Esq. (Attorney-in-Charge, Juvenile Rights Practice - Legal Aid Society) at an award ceremony and reception held at the State Bar Center. The Levine Award recognizes an individual or individuals who have done outstanding work and have been proponents and leaders in the effort to improve New York's child welfare and juvenile justice system. Nominations are being accepted for this year's award.

## Committee on Civil Practice Laws and Rules

As the legislative session moved toward recess in June 2012, the Committee on Civil Practice Law and Rules focused significant attention on a bill would have enacted a new CPLR 5011-a, "Merger doctrine clarified," providing that "No right, benefit or advantage that attends a cause of action shall be lost when the cause of action is successfully reduced to a judgment, but shall be deemed to append to the judgment as well." Section 2 of the bill would provide that "This act shall take effect immediately and shall apply to all judgments that are rendered after such effective date or that are unsatisfied as of such date."

The bill was supported by a hedge fund that buys and sues on distressed sovereign debt, and is intended to preclude Argentina and other sovereign judgment debtors from interposing any merger defense to enforcement of the "pari passu" clause in the underlying Fiscal Agency Agreement. Pursuant to the pari passu clause, "the Republic is 'required ... at all times to rank its payment obligations pursuant to [plaintiff's] Bonds at least equally with all the Republic's other present and future unsecured and unsubordinated External Indebtedness.'" Order,

at 1, *NML Capital, Ltd. v. Republic of Argentina*, Nos. 08 civ. 6978 (TPG), 09 civ. 1707 (TPG), 09 civ. 1708 (TPG) (S.D.N.Y. Feb. 23, 2012) appeal pending, *NML Capital, Ltd. v. Republic of Argentina*, No. 12-105(L) (2d Cir.).

In response to attempts to enforce this provision, Argentina has argued that the pari passu clause is merged into the judgment on the debt, and that it may not now be raised in proceedings to enforce the judgment. This defense has yet to be adjudicated, so it is unknown whether the hedge fund or Argentina would prevail under existing law.

The common-law doctrine of merger is a subdivision of the law of res judicata, concerning the preclusive effect of judgments, and determines what issues may or may not be re-litigated after judgment has been entered in favor of the plaintiff.

Although the Committee has a long tradition of formulating and promoting affirmative legislative proposals, it frequently also engages in debate over legislation proposed by other parties. In the case of the proposed CPLR 5011-a, the Committee strongly argued that the bill would have needlessly undermined the common-law doctrine of merger, in order to help one litigant fend off one potential defense in one case – and would not even succeed in doing that. To cite only a single problematic application of this statute, a plaintiff who had previously sued for trespass and requested money damages and an injunction, but who had been granted judgment for money



Karen L. Murtagh-Monks, executive director of Prisoners' Legal Services of New York in Albany, speaks at the January House of Delegates meeting. She presented the report of the Committee on Civil Rights on solitary confinement.  
[Photo by Jacques Cornell/Happening Photos]

damages only, would apparently now be able to bring a new action for injunctive relief, arguing that the injunction was a “right, benefit or advantage that attends a cause of action” which had been “successfully reduced to a judgment.” According to the Committee, the bill would have created an avalanche of new litigation, would renew the hopes of disappointed plaintiffs, and would revive long-resolved disputes. The wording of the bill was broad and vague, and would have required extensive judicial construction. It is unclear how much of the existing law of merger would have survived, and how much would have been repealed, if this legislation were enacted. The Legislature agreed with the views of the Committee, and declined to pass the legislation.

### Committee on Civil Rights

Diana Sen became chair of the committee on June 1, 2012. Jeremy Benjamin accepted the post of Committee Secretary for the coming term.

The Committee presented its 2013 Haywood Burns Award to Touro Law School Dean Emeritus Howard A. Glickstein during the Annual Meeting. Mr. Glickstein helped draft the Civil Rights Act of 1964 and the Voting Rights Act of 1965. He also served as General Counsel of the U.S. Commission on Civil Rights and was later staff director before continuing his career in academia.

Ms. Sen and Committee member Karen Murtagh-Monks presented a report to the NYSBA Executive Committee and House of Delegates during the Annual Meeting in New York. The report detailed and offered resolutions regarding extensive use of solitary confinement within New York State prisons. The report and resolutions were accepted and almost unanimously approved by both groups.

### Committee on Committees

The Committee on Committees (ComCom) was established in June of 2007 as a Special Committee and became a Standing Committee in June of 2011. The purpose of ComCom is to review every standing Committee of the Association on a three year cycle and Task Forces and Special Committees on an annual or two year cycle, as appropriate. The Committee has 12 active members, both original and new members, primarily selected based on prior leadership experience within the Association. In 2012-2013, ComCom has slated 23 committees for a full review and four committees for an update (where previous reports’ recommendations remain outstanding). The Report to the Executive Committee in January of 2013 included a review of seven committees; five committees were reviewed and presented to the Executive Committee in June of 2012. The remaining committees were reported on at the June 2013 Meeting in Cooperstown.



Immediate Past President Vincent E. Doyle III, standing, moderates a Presidential Summit discussion on ways attorneys can assist veterans with legal problems they encounter as they re-integrate into daily life. Panelists, L to R, were Col. David W. Sutherland, Hon. Robert T. Russell, Col. Gary Yaple, Carol Davidson and John G. Powers. *[Photo by Richard Smith]*

### Committee on Court Structure and Operations

The Association supported legislation to expand pilot programs administered by the Office of Court Administration relating to the use of electronic means (E-Filing) to commence litigation. The legislation was signed into law on July 18, 2012 as Chapter 184 of the Laws of 2012. The new law amended various provisions of law, including the civil practice law and rules and the judiciary law, in relation to authorization of pilot programs permitting the filing of documents by electronic means in certain courts, including criminal courts and the Family Court.

In March of this year, the Association approved the report of our Committee on Court Structure and Operations, which reviewed recent developments in this area and reiterated the Association's position in support for uniform procedures for E-Filing in courts throughout New York state. The report may be viewed via the following link: <http://www.nysba.org/EFilingReport>.

Thirteen years after the inaugural E-Filing legislation, and as over 20,000 users can attest, the New York State Courts Electronic Filing System (NYSCEF) has proven to be a dependable and efficient program offering a range of benefits, including: instant world-wide access to filings via the Internet; automatic service of papers following the summons and complaint by uploading documents onto the system; increased security; and extensive savings of time, natural resources and money. These benefits, however, have been limited to civil actions in Supreme Court, excluding criminal matters and Family Court proceedings.

The new E-Filing pilot programs in criminal courts and Family Court presents a significant step toward a universal E-Filing program, which is estimated by the Office of Court Administration to achieve significant annual savings to the courts, litigants, county clerks and members of the Bar. Further, the continued use of the NYSCEF system promotes the Association's commitment to efficiency and uniformity for courts and litigants alike.

### Committee on Courts of Appellate Jurisdiction

In partnership with The Legal Project and The Rural Law Center, two providers of legal services to low-income New Yorkers, the Committee is sponsoring what has become a high-profile Pro Bono Appeals Program. This initiative makes volunteer appellate lawyers available to individuals wishing to appeal to the Appellate Division, Third Department (and beginning in spring 2013, the Fourth Department) trial court decisions in the areas of shelter and housing, subsistence income and benefits, health and education, personal safety and family stability. Since the program was launched in mid-2010, many appeals have been handled by Committee members and other volunteers.

In fall 2012, the Committee presented in Syracuse and New York City a half-day CLE program on practice in the Second Circuit Court of Appeals. In addition to experienced practitioners, several Second Circuit judges served as faculty members.

In November 2012, the Committee updated its easy-to-use general guide to, and overview of, the rules that govern motion and appellate practice, organized by subject matter, in the four departments of the Appellate Division. Also, the Committee is currently reviewing the current rules with representatives from the Appellate Division's four departments to ascertain what may be harmonized and to understand why certain rules are unique among the departments; it is expected this review will lead to an eventual detailed report and recommendations.

A "Meet the Justices of the Appellate Division, Third Department" program took place in April 2013, featuring a two-hour CLE presentation and reception in which all the justices of the court participated.

Honored at the Committee's January 2013 Annual Dinner was Hon. Carmen Beauchamp Ciparick, Associate Judge of the New York State Court of Appeals, on her retirement.

### Committee on Diversity and Inclusion

The Committee awarded Lillian Moy, Executive Director of the Legal Aid Society of Northeastern New York and a long time advocate for diversity in the legal profession, with the 2013 Trailblazer Award prior to its annual "Celebrating Diversity in the Bar" Reception at the Hilton New York Hotel on Monday, January 21.

With continued support from The New York Bar Foundation, Committee members worked with law schools throughout the state to present Youth Law Day Programs – events aimed at diverse high school students interested in pursuing a career in law. Programs were held at University at Buffalo, Touro, St. John's and CUNY Law Schools. On average, 55 students from area high schools attended the half-day programs, met with law-school students and staff, participated in a mock classroom or mock trial session and during lunch met with diverse attorneys who spoke to the students about their experiences within the profession and answered their questions.

The second annual Law Student Conference Day was held at New York Law School in August. This program is geared to diverse law students, with panel presentations on career opportunities in law, letter- and resume-writing techniques, effective interviewing (including speed-interviewing sessions) and tips on what not to wear at interviews. Similar to the Youth Law Day programs, the program includes a lunch where law students can meet with diverse attorneys from different practice areas for first-hand accounts of work life within the legal profession. Additional programs are planned at University at Buffalo Law School, as well as another program this summer in New York.

### Committee on Federal Legislative Priorities

The Committee focused its attention in the second half of 2012 on the impact that sequestration would have on the federal courts and the Legal Services Corporation. Using information gathered by the Committee, President Seymour James wrote two op-ed pieces, with one published in the



New York Law Journal and the other in the National Law Journal's online edition. In addition, he wrote two letters to members of the New York Congressional delegation, one of which was also signed by 15 local bar associations. In addition, Committee members travelled to Washington to discuss these issues with members of Congress. Finally, the Association sponsored a resolution at the ABA House meeting that was adopted by that body calling on Congress and the President to adequately fund the courts and the LSC.

### Committee on Immigration Representation

In June 2012, the then-Special Committee on Immigration Representation presented its report to the Executive Committee and House of Delegates, which approved and adopted its recommendations as Association policy. The report included an analysis of problems with the quality and availability of representation, as well as standards for representation in immigration cases.

The Special Committee on Immigration Representation was granted standing committee status in January 2013. The Committee is currently distributing its report and standards for representation to bar associations, service providers and other organizations throughout New York state. Now a standing committee, the Committee on Immigration Representation is preparing to host legal training programs and issue additional reports and commentary on important issues that affect clients, attorneys, the courts, accredited representatives and other service providers involved in immigration proceedings.

### Committee on Issues Affecting People with Disabilities

NYSBA's Committee on Issues Affecting People with Disabilities educates the legal profession and the general public about disabilities issues through publications and annual CLE programs. The Committee also actively participates in legislative issues pertaining to disabilities issues.

One of the Committee's primary goals in 2012 was to develop a brochure for attorneys who are working with jurors who have disabilities. This publication defines a person with a disability according to federal law; makes suggestions for working with jurors with disabilities; and outlines reasonable accommodations for these individuals. The brochure entitled "Working with Jurors with Disabilities" is issued as a public service and will be distributed to courthouses throughout New York state.

### Committee on Lawyer Referral Service

Through the coordinated efforts of the Lawyer Referral and Information Service, FEMA and the ABA's Young Lawyers Division volunteer attorneys provided free legal consultations to Superstorm Sandy victims. To date the hotline has received over 2,600 calls. As expected, many of the calls involved insurance questions, FEMA appeals and landlord/tenant disputes.

The Committee awarded its Angelo T. Cometa Award to Lawhelp.org/NY for their assistance to Superstorm Sandy victims and the overall excellent service they provide to low-income New Yorkers.



The Committee on Courts of Appellate Jurisdiction honored Hon. Carmen Beauchamp Ciparcik, retired associate judge of the New York State Court of Appeals, at its Annual Dinner on January 22. L to R: Chief Judge Jonathan Lippman, Judge Ciparcik, Hon. Judith S. Kaye, retired chief judge of the State of New York, and President Seymour W. James, Jr. [Photo by Steve Hart/Happening Photos]

### Committee on Lawyers in Transition

The Committee on Lawyers in Transition sponsors free, live webcasts for all attorneys in need of career assistance. Archives of the Committee's programs are posted at the committee's website - [www.nysba.org/LIT](http://www.nysba.org/LIT) or [www.nysba.org/LITArchivedWebcasts](http://www.nysba.org/LITArchivedWebcasts). In 2012 the Committee hosted programs including: "Landing a Government Job," "Re-Entering in the Legal Profession," "How to Approach Your Employer about Flexibility, Leave & Special Needs," "Mock Interviewing," "How to Land

Another program sponsored by the former Committee on Leadership and Diversity has been re-launched as the leadership luncheon, held after the spring and fall House meetings in Albany. Delegates are welcome to attend and listen to speakers discuss leadership issues and opportunities within the NYSBA.

The Committee will continue to hold calls prior to the House meetings for members who wish to discuss upcoming topics and tips for speaking from the floor or presenting a report during the House.

"Approximately 450 legal services providers attended the 2½ day Partnership Conference, which offered more than 30 MCLE accredited programs in key poverty law topics such as housing, foreclosure, benefits law, the new healthcare legislation, immigration, matrimonial reform legislation and legal issues affecting LGBT families."

a Non-Profit Position," "Making Transition Later in Your Career," "Making First Impressions Count" and "How to Find Your First Legal Job after Law School."

The Committee co-sponsored the 2013 Career Development Conference at the NYSBA Annual Meeting in conjunction with the Law Practice Management Committee and the Committee on Diversity and Inclusion. This year's topics included "What To Do When Your Firm Closes or Your Practice Group Moves" and "Effective Use of Social Media and Networking in Your Job Search."

The Committee is sponsoring additional webcast programs for attorneys on resumes, interviews and making transitions in 2013. The Committee is working closely with membership and the law practice management committees on Job Services, Networking, Technology, Practical Skills & Training, and Partnership & Collaboration.

Upcoming 2013 program topics include the following: "What You Need to Know about Participating in the NYSBA Lawyer Referral Service," "401K Plans and Transition," "Alternative Careers for Lawyers," "How to Find an In-House Position," "Understanding Health and Malpractice Insurance Options" and "How to Find a Temp/Contract Position."

### Committee on Leadership Development

Kathryn Grant Madigan, past president of the NYSBA, took over as chair of the Committee on June 1, 2012. The Committee began its work this year by inviting new members of the House of Delegates to an orientation and reception during the summer meeting of the House in Cooperstown. Prior to the summer meeting, the Committee held a conference call on House protocols and procedures. At the reception, Committee members partnered with new delegates for introductions to veteran House members.

### Committee on Legal Aid

This past year, the Committee on Legal Aid (COLA) joined the President's Committee on Access to Justice (PCAJ) in recommending that the House of Delegates pass a resolution supporting restoration of adequate funding for foreclosure prevention services in the 2012-2013 executive budget which would be in addition to civil legal services funds previously proposed in the Judiciary budget. COLA regularly reviews and comments on ABA resolutions which are intended to facilitate low-income persons' access to the courts. More recently, the Committee reviewed the NYSBA Task Force on Family Courts Report and lauded its recommendations.

This past year, the Committee sponsored the Partnership Conference – the premier civil legal services conference for attorneys who represent low-income and vulnerable populations. Approximately 450 legal services providers attended the 2½ day Partnership Conference, which offered more than 30 MCLE accredited programs in key poverty law topics such as housing, foreclosure, benefits law, the new healthcare legislation, immigration, matrimonial reform legislation and legal issues affecting LGBT families.

During the conference the prestigious Denison Ray Civil Legal Services awards were bestowed. The Award is named in memory of career legal activist Denison (Denny) Ray, who led legal services programs in New York and other states. Four awards were presented.

### Committee on Legal Education and Admission to the Bar

In February 2012, the Committee on Legal Education and Admission to the Bar completed its review of the report by

the NYSBA Special Committee to Study the Bar Examination and Other Means of Measuring Lawyer Competence.

The review concluded with a number of recommendations, including: streamlining the bar exam; new evaluation techniques to assess legal skills, knowledge and values including a criteria-referenced assessment of skills and a performance-based approach to licensing lawyers; credit for participation in clinical courses; public service alternative to the bar examination; and further study of whether “speededness” creates a disparate impact on the diversity of the profession.

### Committee on LGBT People and the Law

The Association supports legislation that would repeal the Defense of Marriage Act (DOMA), thereby extending federal recognition to same-sex marriages. This issue is one of the Association’s federal legislative priorities for 2013.

In 1996, the U.S. Congress enacted DOMA, which defines marriage as a “legal union between one man and one woman” for the purpose of federal recognition. Although same-sex marriages are legal in some states (including New York, as of July 2011) and legally recognized by other states, DOMA relieves states of the obligation to recognize same-sex couples’ marriages that are validly performed in another state.

Through its definition of marriage, DOMA limits the availability of federal benefits (and responsibilities)



Roberta Kaplan spoke at “Defending Marriage: Same-Sex Couples and the Defense of Marriage Act,” sponsored by the Committee on LGBT People and the Law and the Committee on Civil Rights on January 24. Kaplan appeared before the U.S. Supreme Court arguing *Windsor v. U.S.* on March 27. [Photo by Jacques Cornell/Happening Photos]

to heterosexual married couples. Whether Congress has the authority to define marriage in this way, or to actively discriminate against a class of individuals, has been challenged in the courts. For now, however, enforcement of DOMA means that federal benefits are not available to same-sex couples who marry.

On March 27, the Supreme Court heard oral arguments in *Windsor v. U.S.* The case involves Edie Windsor, a New York woman who married Thea Spyer in Canada in 2007. After Spyer died, Windsor was required to pay federal estate taxes on her inheritance, because the federal government does not recognize same-sex marriages. The case challenges Section 3 of the 1996 DOMA on the grounds that it violates the Constitution’s Equal Protection Clause by defining “marriage” exclusively as the legal union between a man and a woman.

A day earlier, on March 26, the Supreme Court heard oral arguments in *Hollingsworth v. Perry*. That case challenged California’s Proposition 8, which prohibits same-sex marriages in the state. The case was brought by two same-sex couples who were denied wedding licenses under the law.

At the urging of the Committee on LGBT People and the Law, the New York State Bar Association joined two amicus curiae briefs that urge the U.S. Supreme Court to strike down restrictions on same-sex marriage.

In addition, the Committee presented a CLE program at the 2013 Annual Meeting featuring Ms. Roberta Kaplan, who represents Ms. Windsor in *Windsor v. U.S.*

### Committee on Mass Disaster Response

The Mass Disaster Response Committee continues to build on its strong working relationships with federal and state emergency agencies. Paul Sledzik, chief of the Transportation Disaster Assistance Division of the National Transportation Safety Board, addressed the Committee’s January meeting in Manhattan. Steve Kuhr, executive director, and Kristine Hoffman, counsel, both of the state Office of Homeland Security and Emergency Services, attended the Committee’s June 2012 meeting in Albany.

### Committee on Resolutions

The Resolutions Committee monitors and determines the implementation of recommendations contained in reports adopted by the Executive Committee and/or House of Delegates. NYSBA Secretary David P. Miranda, as chair, is responsible for providing updates about the status of these initiatives to the Executive Committee and House of Delegates. Since June 2012, the Resolutions Committee has analyzed and/or reached out to sections and committees for assistance with the implementation of reports issued by the following: (1) Committee on Civil Rights; (2) Special Committee on Discovery and Case Management in Federal Litigation; (3) Special Committee on Immigration Representation; (4) Special Committee on Veterans; (5) Special Committee on Voter Participation; (6) Task Force on Family Court; (7) Task Force on the Future of



the Legal Profession; (8) Task Force on New York Law in International Matters; and (9) Task Force on Non-Lawyer Ownership. The Resolutions Committee also regularly gathers information on recent legislative developments with respect to all NYSBA-approved reports.

### Committee on Unlawful Practice of Law

For many years, the Association had been unsuccessful in achieving legislative enactment of a bill to make the unlawful practice of law a felony rather than a misdemeanor. In 2011, the Committee proposed a somewhat different approach. It suggested that the crime be a felony when it “causes another person to suffer monetary loss or damages exceeding one thousand dollars or other damage resulting from impairment of a legal right to which he or she is entitled according to law.” The Executive Committee approved this proposal, and a revised bill was submitted to the Legislature. In 2012, a bill based on this approach was finally enacted into law, although the Legislature slightly changed the language. However, the basic concept that the Committee had proposed – increasing the level of the crime in cases where there were serious consequences – resulted in a new law after many years of the Association’s having submitted a bill without success.

### Committee on Veterans

On November 17, the Association’s House of Delegates approved the recommendations of the report of the Special Committee on Veterans. The report noted that although services for veterans have improved since the Vietnam era, much more needs to be done. Today, too many veterans return home to face myriad problems related to their military service, such as losing their jobs or not being able to find work; readjusting to civilian life and family life; securing economic assistance and military benefits; drug and alcohol abuse; medical and mental health problems, including those related to post-traumatic stress disorder and traumatic brain injuries; domestic violence; and homelessness. Compounding the problem is the fact that many returning soldiers often are reluctant to ask for the help they desperately need, viewing it as a sign of weakness.

In addition to training lawyers in substantive areas of law affecting veterans, the report recommends providing ongoing education for those who want to assist the veteran community in military culture and how it might affect the way veterans deal with legal issues. Citing the success of the groundbreaking Buffalo Veterans Treatment Court, the report advocates amending the Judiciary Law to create new Veterans Courts to expand access to programs and services for veterans entering the criminal justice system. The report also recommends that the State Legislature enact a law that would allow cases involving veterans to be transferred from a county without a Veterans Court to a nearby county that has one.

The report recommends establishing, under the auspices of the Association’s Lawyer Referral and Information Service,

a panel of lawyers to assist veterans seeking quality legal services. One suggestion is to create a dedicated toll-free number for veterans seeking referrals for qualified attorneys.

The Special Committee will compile a comprehensive statewide resource directory that identifies existing specialized civil legal services, pro bono legal services, medical and mental health services, Veterans Administration services, drug treatment and housing programs.

At the January 25<sup>th</sup> meeting the House of Delegates unanimously voted to convert the Special Committee to a Standing Committee of the Association.

### Committee on Women in the Law

In 2012 and 2013, the Committee on Women in the Law continued to provide valuable educational and networking opportunities to women attorneys.

The Committee’s annual Women on the Move program focused on “Moving Forward: Building Paths to Success” and featured panels on workplace disparity, communication strategies and the role of technology in legal practice. The event also included a networking luncheon with keynote remarks by Mylan Denerstein, counsel to New York State Governor Andrew Cuomo.

The Ninth Annual Edith I. Spivack Symposium held each year during the Association’s Annual Meeting featured a CLE program called “21<sup>st</sup> Century Women in Transactional Law: How to Succeed in a 24/7 World.” The program included a keynote speech by Corinne Ball titled “From LeBarons to Twinkies: The Changing Face of Restructuring, Reorganization and Distressed Transactions Practice in the Financial Crisis.” Panels following the keynote remarks included: “Transactional Law Round-the-Clock: Hot Topics and Emerging Issues in the Finance, Public Bond, Energy, Restructuring and Reorganization Sectors,” “Online and On Call: Ethical Perspectives on 24/7 Availability and Social Media,” and “Demystifying Deals: A Practitioner’s Guide to Closing,” featuring a mock negotiation and closing. The Committee also hosted a well-attended networking reception after the symposium. This spring, the Committee hosted additional informational and networking programs, including “Successfully Dressed: Making the Right Impression With Your Wardrobe.”

### Committee to Ensure Quality of Mandated Representation

During 2012, the CEQMR issued a report on resource sharing for mandated providers which was approved by the Executive Committee and House of Delegates at its March 30, 2012 meeting. Based on the principles set forth in the 2010 revised Standards for Providing Quality of Mandated Representation, this report identified cost-effective ways for counties to work together to reduce the costs and burdens of providing comprehensive legal representation to indigent clients by sharing resources in the following areas: assigned counsel plans; appeals;

support service; and training. The report was favorably received by the Office of Indigent Legal Services (ILS), the statutorily created entity responsible for developing recommendations to improve the delivery of indigent defense legal services and with providing supplemental funding to counties for these purposes.

The CEQMR frequently is asked to review and comment upon ABA Resolutions which impact criminal justice issues. Most recently, the Committee reviewed ABA Resolution 104-A which urged Congress to establish an independent federally funded Center for Indigent Defense Services to assist state and local governments with, among other things, grant-in-aid programs and by providing training and other assistance to local indigent defense delivery systems. The CEQMR recommended that NYSBA should support and co-sponsor ABA Resolution 104-A because the Center's activities would tend to improve the quality of mandated representation, a long term goal of the Association; and that the federal funding of the Center's activities, including grants, should result in some sharing by the federal government of the costs of providing mandated representation. The House of Delegates adopted the CEQMR's recommendations at its January 25 meeting.

Effective July 2012, ILS promulgated Minimum Standards of Representation for Conflict Defenders which incorporated by reference the CEQMR's Revised Standards for Providing Mandated Representation (June 2010). That ILS based its standards on those of the CEQMR demonstrates the positive and well respected impact the Committee's work has within the indigent defense community. Subsequently, effective January 1, 2013 ILS declared that the Conflict Defender Standards would be applicable to all trial court representation in criminal matters.

At the January meeting of the House, the Committee received permission to incorporate the ILS Standards into NYSBA's Revised Standards, resulting in one cohesive standard which would be applicable to all providers of mandated representation, whether assigned individual practitioners, institutional providers, or conflict defenders.

The CEQMR also has analyzed the implications of the recent Court of Appeals decision in *Matter of New York County Lawyers' Association v. Bloomberg*, 19 NY3d 712 (2012) on the quality of representation provided in cases where one of the defendants is represented by a conflict defender.

### Committee to Review Judicial Nominations

In January 2012 and March 2013, the Association submitted to the Governor its ratings of the candidates for vacancies on the Court of Appeals created by the retirement of Hon. Carmen Beauchamp Ciparick and the death of Hon. Theodore T. Jones, Jr.

Association President Seymour W. James, Jr. testified before the Senate Judiciary Committee with respect to the January 2013 nomination of Jenny Rivera. In April 2013,

Governor Cuomo nominated Hon. Sheila Abdus-Salaam to fill the vacancy created by the death of Judge Jones. She was confirmed and joined the court in May.

### Law Practice Management Committee

Law Practice Management resources provide lawyers, law firm managers and legal professionals with information on practice management trends, marketing/client development, legal technology and finance. Many of the Committee's initiatives focus on the needs of solo and small firm practitioners. LPM Checklists, best practices, publications and continuing education programs provide up-to-date information and practical tips about the use of technology to help lawyers manage their law practices.

The Law Practice Management Committee mourned the loss of the committee's co-chair, Professor Gary A. Munneke (Pace Law School) who died suddenly on Thanksgiving Day. He was a leader in the field of law practice management and was instrumental in planning many of the Committee's 2012-2013 programs.

The Law Practice Management Committee sponsored many live programs this year, including "Risk Management for Attorneys," which was held in five locations throughout the state in the fall of 2012. Representatives from USI Affinity served as panelists and exhibitors at each program. Participants were able to receive a 7.5% credit toward their CNA Professional Liability premium by attending the program.

The Law Practice Management Committee also sponsored the annual CLE program entitled "Building a Successful Solo/Small Firm Practice – What You Need to Succeed" in New York City. Program panelists shared practical tips for building a successful practice covering an array of topics from controlling paperwork to managing employees. The program was recorded and is available for purchase as a webcast archive.

"Law Practice Management Day" at Annual Meeting was Thursday, January 24, 2013. The Law Practice Management Committee teamed with the Lawyer Assistance Committee, the Committee on Attorney Professionalism and the Electronic Communications Committee to sponsor two programs during the Association's 2013 Annual Meeting. During the first program entitled "The Trouble with Larry: Dealing with a Problem Partner," panelists assessed and responded to "problem partner" scenarios from the perspectives of LAP, LPM and Attorney Professionalism. After examining the many faces of "Larry," the problem partner, the second half of this program addressed several possible ways to help including training, coaching, counseling, confrontation, intervention, peer review and termination of partnership interest (firing). Panelists from different disciplines discussed the pros and cons of these different approaches. During the second program, "The Law Firm of Tomorrow Today," panelists discussed how their firms have implemented new ways of practicing law as well as how these new methods impact attorney ethics and professionalism.

The Committee sponsored a free 1.0 credit CLE program for NYSBA members on the “iPad for Legal Professionals - How To’s and Best Practices” featuring John R. McCarron, Jr., Esq. on February 11, 2013. Over 1,000 attorneys participated in the program, with over 750 participating live in person or via webcast. The Committee looks forward to hosting programs on a wide array of topics in 2013.

the cases on their calendars and the need for cooperation among the attorneys for the litigants.

In addition, there is a need to embrace the concept of proportionality, i.e., the notion that the burdens imposed by discovery should bear a reasonable relationship to the importance of the issue(s) and stakes in the case. An important step in achieving these goals is the interaction

“Law Practice Management resources provide lawyers, law firm managers and legal professionals with information on practice management trends, marketing/client development, legal technology and finance.”

#### President’s Committee on Access to Justice

The President’s Committee on Access to Justice (PCAJ) advises the Association on policy issues affecting the ability of poor people to access the court system. One of the Committee’s co-chairs and several of its members serve on the Chief Judge’s Task Force to Expand Access to Civil Legal Services in New York and on the Court’s Advisory Group for implementing the 50 hour pro bono requirement for law graduates seeking licensure to practice in New York.

The PCAJ frequently collaborates with the Committee on Legal Aid in reviewing ABA resolutions and Association Task Force Reports on access to justice issues. For example, this past year, COLA supported the Committee’s resolution recommending that the Association’s governing body pass a resolution supporting restoration of adequate funding for foreclosure prevention services in the 2012-2013 executive budget which would be in addition to funding already proposed in the Judiciary budget for civil legal services. In addition, the two committees worked collaboratively to develop recommendations to address some of the collateral consequences of criminal convictions that adversely impact poor, incarcerated parents and their children and on other re-entry issues.

#### Special Committee on Discovery and Case Management in Federal Litigation

The Association’s Special Committee on Discovery and Case Management in Federal Litigation, appointed by then-president Stephen P. Younger, reviewed scholarly and practical literature on the causes of delays and expense in federal litigation, including the materials assembled for the May 2010 conference at Duke Law School sponsored by the Civil Rules Advisory Committee of the Standing Committee on Rules of Practice and Procedure of the Judicial Conference of the United States (“Advisory Committee”).

Two reformative themes emerged from the review and analysis of the current literature and data, i.e., the need for active and early judicial management by the courts of

between the court and the attorneys for the litigants early in the litigation. This would focus the parties and the court on the important issues in the case, result in a more efficient and less expensive discovery process, minimize time-consuming and often unnecessary discovery and related motion practice, and help achieve the aspirations of Rule 1 of the Federal Rules of Civil Procedure (“FRCP”), that the courts provide “just, speedy, and inexpensive determination of every action.”

The Special Committee’s Report and Recommendations were approved by the House of Delegates in June 2012. In order to address issues relating to delays and expense of litigation in federal court, the Association made recommendations to the Advisory Committee, regarding four areas: i) preservation of documents and spoliation, ii) early judicial case management, iii) initial mandatory disclosure, and iv) preparation of privilege logs and waiver.

#### Steven C. Krane Special Committee on Student Loan Assistance for the Public Interest

The Steven C. Krane Special Committee on Student Loan Assistance for the Public Interest (SLAPI) was created in the summer of 2001 to review the impact of law school indebtedness on the ability of government and public service employers to attract qualified attorneys to undertake careers in public service, and to develop a plan to assist new attorneys in pursuing public service careers by reducing indebtedness. The committee has a two-fold focus: to provide financial assistance to mid-level government and public interest attorneys burdened with large educational debt (who are less likely to qualify for federal loan repayment assistance), and to educate attorneys and employers on loan repayment assistance options.

To further its education mission, in March and November, SLAPI co-hosted two webinars on loan repayment last year. The webinars were geared towards public

interest/government attorneys who have been out of law school for three to six years, and government and public interest employers, to help educate them on developments in the loan repayment assistance landscape, in particular regarding federal government loan repayment programs available.

In 2012, SLAPI, in conjunction with The New York Bar Foundation, also disbursed forgivable loans totaling \$4,000 each to four mid-level public interest attorneys. These were the first such loans awarded since 2008. In conjunction with The New York Bar Foundation, SLAPI awarded three forgivable loans to public interest attorneys in January 2013. The 2013 loan recipients will each receive a \$4,000 loan which will be forgiven provided the loan recipient continues to be employed in public service for an additional three years after the loan is awarded.

### Task Force on Family Court

In 2010, the Task Force on Family Court was appointed by then-President Stephen P. Younger to examine the challenges that New York Family Courts face and recommend solutions that would better enable the courts to meet the demands placed upon them.

The issues that come before Family Court are as personal and serious as they come—Family Court determines the fate of our children. The Court is responsible for, among other things, vulnerable children who are in the midst of domestic crises. Its mission is to protect the well-being and safety of children in matters of child custody, visitation, child support, domestic violence, truancy, child abuse and

neglect, parental rights and foster care. The importance of Family Court cannot be overstated.

During the course of its work, the Task Force held hearings in Albany, Buffalo, Long Island and New York City, during which more than 60 individuals testified, including judges, Family Court personnel, government officials and advocates for children and families. The report, approved by the House of Delegates in January 2013, contains 26 recommendations, which address resources for family court; resources for litigants; technology needs; and court operations. Chief among these recommendations is the need for additional Family Court judges.

### Task Force on New York Law in International Matters

The Task Force on New York Law in International Matters was created to educate lawyers, business leaders and investors about the benefits of selecting New York law and a New York forum for international dispute resolution. The Task Force issued a report, which the House of Delegates approved in 2011. The report is available at [www.nysba.org/InternationalReport](http://www.nysba.org/InternationalReport). It contains recommendations that include the following: (1) establish a permanent center in New York for hearings in international arbitration; (2) develop state court specialized chambers to assist with appropriate international arbitration matters; and (3) promote domestic and overseas continuing legal education programs on drafting international agreements. The task force has collaborated with the Resolutions Committee, NYSBA section and committee leaders,



Task Force on Family Courts co-chairs Susan Lindenauer and Hon. Rita Connerton present the Task Force's report to the House of Delegates at its January meeting. [Photo by Jacques Cornell/Happening Photos]



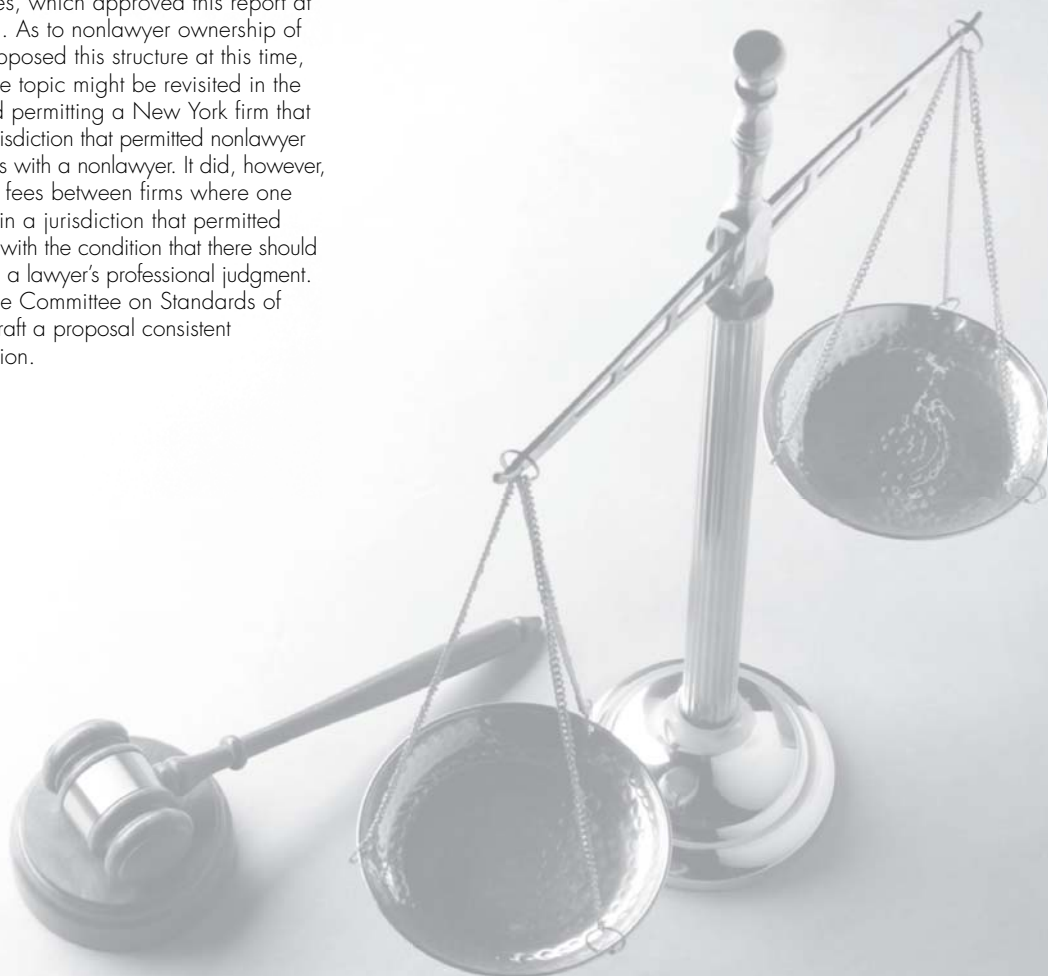
and other leaders of bar associations in New York to pursue its recommendations. One product of the task force's recommendations is a New York International Arbitration Center, which will open in June. Collaborations on other recommendations are continuing. For example, an informal working group has been meeting regularly since 2012 to coordinate the joint implementation of recommendations. The informal working group includes representatives from the Association's Resolutions Committee; Business Law Section; Commercial and Federal Litigation Section; Dispute Resolution Section; and International Section; the New York City Bar Association; the New York County Lawyers' Association; and St. John's University School of Law.

### Task Force on Nonlawyer Ownership

In December 2011, a Commission of the American Bar Association studying possible revisions to the Model Rules of Professional Conduct – known as the Ethics 20/20 Commission – proposed a limited form of nonlawyer ownership of law firms. In response, then-President Vincent Doyle created the Task Force on Nonlawyer Ownership, chaired by past president Stephen Younger. Although Ethics 20/20 later withdrew its nonlawyer ownership proposals, the task force decided to complete its study and issue a report. In October, it submitted its report to the House of Delegates, which approved this report at its November meeting. As to nonlawyer ownership of firms, the task force opposed this structure at this time, but recognized that the topic might be revisited in the future. It also opposed permitting a New York firm that had operations in a jurisdiction that permitted nonlawyer ownership to share fees with a nonlawyer. It did, however, support the sharing of fees between firms where one of the firms practiced in a jurisdiction that permitted nonlawyer ownership, with the condition that there should be no interference with a lawyer's professional judgment. The House directed the Committee on Standards of Attorney Conduct to draft a proposal consistent with this recommendation.

### Task Force on the Future of the Legal Profession

Due to the economic downturn, many bar leaders – both across New York and globally – have become increasingly aware of the need to reexamine the way we do business. The NYSBA Task Force on the Future of the Legal Profession took advantage of this historic opportunity to recommend lasting, positive changes that chart a bold new course for our profession. The task force's report was approved by the NYSBA House of Delegates in 2011, and it is available at [www.nysba.org/FutureReport](http://www.nysba.org/FutureReport). The report contains approximately 80 recommendations about the following: technology; legal education and training; work/life balance; and firm structure and methods of delivering legal services. The NYSBA Resolutions Committee has been working with NYSBA leaders, committees, sections and other entities to implement the task force's recommendations. For example, in September 2012, NYSBA President Seymour W. James, Jr. and the NYSBA Resolutions Committee reached out to the deans of New York state law schools to encourage the implementation of several recommendations. President James, Resolutions Committee Chair David P. Miranda, and other leaders met with the law school deans in January 2013 to discuss the recommendations and other shared goals.



# FINANCIAL STATEMENT

## New York State Bar Association

### Audited Statement of Financial Position

### Years Ended December 31, 2012 and 2011

	2012	2011
<b>ASSETS</b>		
Cash	\$1,966,524	\$559,881
Continuing legal education receivable	688,641	37,183
Royalty and fees receivable	60,447	726,955
Accrued interest receivable	17,960	24,650
Inventories	168,854	339,342
Investments	32,800,022	30,518,955
Net property and equipment	2,736,433	2,582,772
Prepaid expenses	1,330,156	1,352,771
<b>Total assets</b>	<b>\$39,769,037</b>	<b>\$36,142,509</b>
<b>LIABILITIES AND FUND BALANCES</b>		
Accounts payable and accrued expenses	\$1,264,578	\$1,014,396
Deferred dues revenue	9,374,131	9,571,782
Other deferred and unearned revenue	642,294	665,082
Payable to The New York Bar Foundation	48,306	21,351
Accrued pension and profit sharing plan costs	3,489,701	3,553,221
Accrued postretirement plan costs	5,194,000	5,264,000
Other liabilities	127,638	129,663
<b>Total liabilities</b>	<b>20,140,648</b>	<b>20,219,495</b>
<b>NET ASSETS - UNRESTRICTED</b>		
Designated by the governing boards:		
Cromwell fund	1,680,192	1,537,683
Replacement reserve fund	2,124,249	2,116,874
Long-term reserve fund	6,127,383	4,413,435
Sections' fund	3,022,451	2,851,231
Undesignated:		
Invested in property and equipment, net	2,736,433	2,582,772
Other	3,937,681	2,421,019
<b>Total net assets</b>	<b>19,628,389</b>	<b>15,923,014</b>
<b>Total liabilities and net assets</b>	<b>\$39,769,037</b>	<b>\$36,142,509</b>

A copy of the complete audited financial statements for the years ended December 31, 2012 and 2011 is available to members and may be obtained by contacting Kristin M. O'Brien, Senior Director of Finance, [kobrien@nysba.org](mailto:kobrien@nysba.org).

# New York State Bar Association

## Audited Statement of Activities

### Years Ended December 31, 2012 and 2011

	2012	2011
<b>Revenues</b>		
Membership dues	\$11,822,250	\$10,611,070
Section revenues:		
Dues	1,480,345	1,456,512
Programs	2,317,909	1,847,697
Continuing legal education	5,855,647	5,656,422
Administrative fee and royalty revenue	2,196,930	2,277,053
Annual meeting	888,346	844,156
Investment income	569,288	519,713
Other revenue	529,697	450,355
<b>Total revenue</b>	<b>25,660,412</b>	<b>23,662,978</b>
<b>Program Expenses</b>		
Continuing legal education	4,289,050	4,217,065
Graphics	1,919,340	1,834,802
Governmental relations program	481,910	326,255
Law, youth & citizenship program	207,941	193,096
Lawyer assistance program	185,097	180,744
Lawyer referral & information services	131,163	120,287
Law practice management	148,073	120,138
Media services	389,319	291,763
Meetings Services	326,137	342,871
Membership services	1,035,866	954,198
Pro bono programs	171,698	167,999
House of Delegates	408,660	423,629
Executive committee	42,035	44,022
Other committees	1,329,942	1,203,600
Sections	3,565,406	3,161,426
Section newsletters	112,705	103,792
Publications	1,057,448	1,207,996
Annual meeting expenses	341,485	332,146
<b>Total program expenses</b>	<b>16,143,275</b>	<b>15,225,829</b>
<b>Management &amp; general expenses</b>		
Salaries and fringe benefits	3,986,893	4,097,585
Pension and other employee benefit plan costs	591,346	1,629,104
Rent and equipment costs	1,114,235	1,171,141
Consultant and other fees	656,722	761,296
Depreciation and amortization	430,751	405,940
Other administrative expenses	326,498	376,907
<b>Total management &amp; general expenses</b>	<b>7,106,445</b>	<b>8,441,973</b>
<b>Change in net assets before investment transactions and other items</b>	<b>2,410,692</b>	<b>(4,824)</b>
Realized and unrealized gain on investments	1,294,681	(606,180)
<b>Change in net assets</b>	<b>3,705,373</b>	<b>(611,004)</b>
<b>Net assets, beginning of year</b>	<b>15,923,016</b>	<b>16,534,020</b>
<b>Net assets, end of year</b>	<b>\$19,628,389</b>	<b>\$15,923,016</b>

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NEW YORK STATE BAR ASSOCIATION  
One Elk Street | Albany | New York 12207  
518.463.3200 | [www.nysba.org](http://www.nysba.org)