



NEW YORK STATE BAR ASSOCIATION

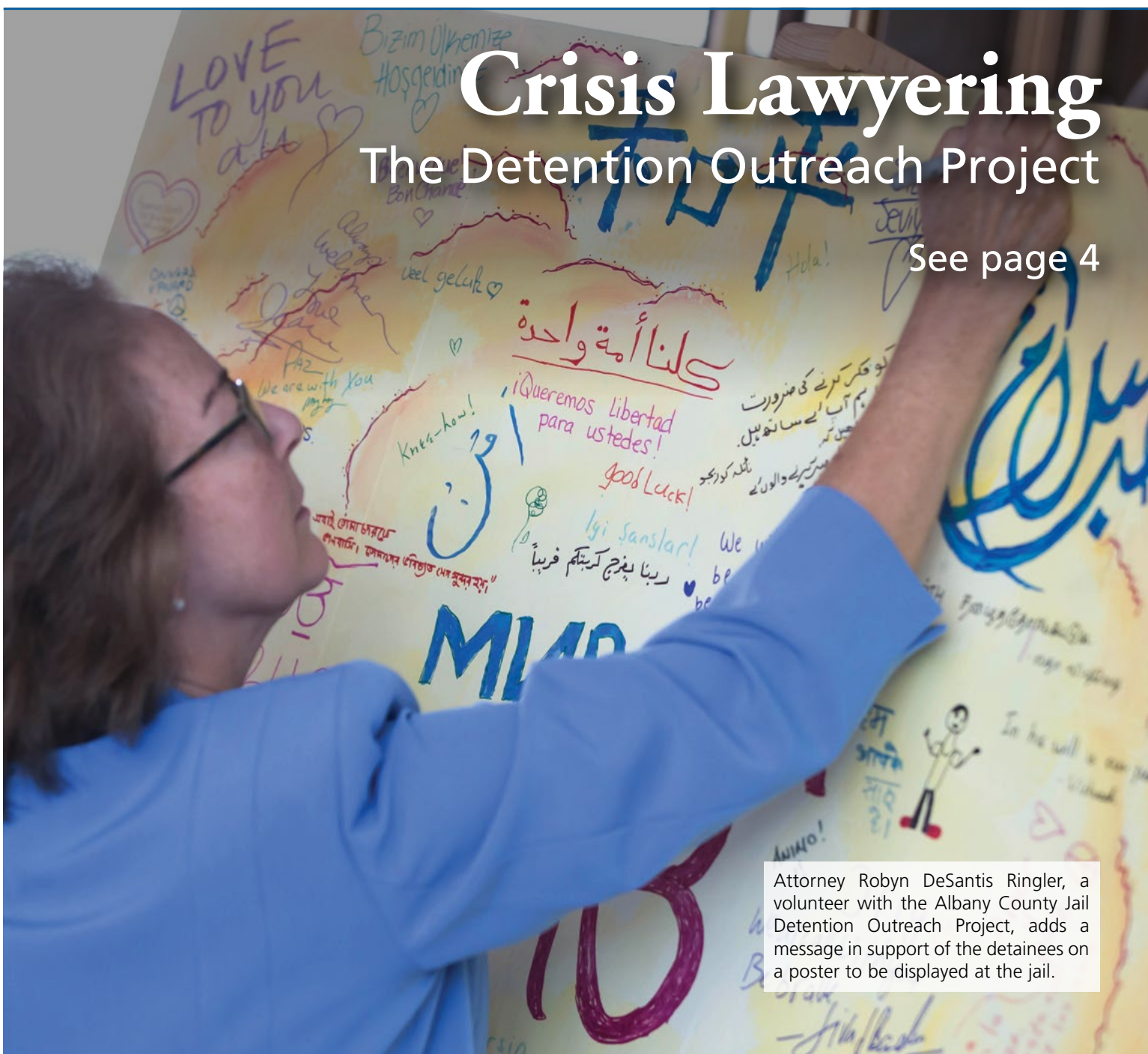
State Bar News

FALL 2018
VOLUME 60, NO. 4
WWW.NYSBA.ORG



Crisis Lawyering The Detention Outreach Project

See page 4



Attorney Robyn DeSantis Ringler, a volunteer with the Albany County Jail Detention Outreach Project, adds a message in support of the detainees on a poster to be displayed at the jail.

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Crisis Lawyering: Rapid Response 1.0–2.0



Co-chairs of NYSBA's Committee on Immigration Representation Camille Mackler (left) and Sarah Rogerson (right) speak at a luncheon recognizing the volunteers of the Albany County Jail Detention Outreach Project. (Story on page 17.)

By Joan Fucillo

"I was on the train, literally working on a chapter for a book titled *Crisis Lawyering*, when I got the call," said law professor Sarah Rogerson, director of the Immigration Law Clinic at Albany Law School, recalling the events of that day in late June.

The caller was Albany County Sheriff Craig Apple. Immigration and Customs Enforcement (ICE) had called him to say that over the next six to eight weeks, 150 to 200 immigrants would be transferred to the Albany County jail, in groups of 40 to 60. Some would come from the Buffalo Federal Detention Facility in Batavia, New York, but most would come from the southern U.S. border. Could Rogerson and the Law Clinic arrange for the legal services these men and women would need during their detention?

On hearing from ICE, Sheriff Apple called Rogerson. He and the jail's staff had begun a working relationship with the Law Clinic five years earlier. In 2013, one of Rogerson's students, a volunteer at the jail, had asked if the Law Clinic would help provide legal services to immigrants being held at the jail, which customarily houses between 10 and 30 immigrant detainees.

After discussions with the sheriff and the Department of Homeland Security, Rogerson and her students began screening the detainees, then mostly women, some separated from children, and acting as a bridge between family court and immigration court. They have been working with the jail and its immigrant population ever since.

As it happens, Rogerson got the sheriff's call while traveling to a meeting with Camille Mackler, her co-chair of the New York State Bar Association Committee on Immigration Representation and the director of Immigration Legal Policy at the New York Immigration Coalition (NYIC).

Rogerson knew that the Law Clinic could and would help. But the anticipated influx of refugees and asylum seekers would require efforts on a scale larger than any Rogerson and her students had encountered.

So, the meeting with her co-chair was serendipitous. Mackler had relevant experience – she had coordinated legal efforts to help people stranded at the John F. Kennedy International Airport at the time of the January 2017 travel ban, which had targeted refugees and citizens of seven, mostly Muslim, countries. Even before the

travel ban, Mackler had begun working to build a coalition of interested groups that would pool their legal knowledge, resources and expertise on behalf of immigrants and the immigration attorneys who serve them. The coalition – Immigrant Advocates Response Collaborative (I-ARC) – comprises nearly 80 member organizations.

The scene at JFK had afforded a unique learning experience, Mackler said. "Lawyers were rushing into the airport to assist people who were stranded by the travel ban. It was an unprecedented situation and the task of coordinating all those volunteers had to happen concurrently."

"Everyone involved anticipated that we would see this scenario again. We all kept notes – what worked, what didn't, how we could better pool our resources and streamline the processes. I was determined to turn these lessons into usable guidelines for when the next crisis occurred," she added.

When Rogerson arrived at Mackler's office, they contacted Lisa Frisch at The Legal Project, a non-profit pro bono program based in Albany that was initially created by the Capital District Women's Bar Association. The Legal Project's immigration program also had a longstanding rela-



Lisa Frisch, executive director of The Legal Project.

tionship with the team at the Albany County jail, as well as with the Law Clinic.

"We were prepared to respond," Frisch said. "That is what we do." The Legal Project, with its deep roots in the community, offered a network of local contacts, volunteer training protocols, and even had sign-up forms for volunteer attorneys and interpreters.

The Albany County Jail Detention Outreach Project (DOP)

The transfer of asylum seekers to the Albany County jail created an immigration crisis on a scale not seen in New York since the turmoil

Continued on page 16

NYSBA Director of Pro Bono Services Among Volunteers at Albany County Jail

By Christian Nolan

After more than 300 immigrants were relocated from the southern border to the Albany County Correctional Facility, approximately 400 lawyers and interpreters from the Detention Outreach Project, a collaboration between the New York Immigration Coalition, the Immigration Law Clinic at Albany Law School, The Legal Project, and the Association of Pro Bono Counsel, sprang into action.

Wagner said the approximately 400 volunteer lawyers and interpreters assisted immigrants from 38 different countries speaking 19 different languages. Volunteers, some of whom were referred to the project through NYSBA's Immigration Pro Bono Portal (www.nysbaprobono.org), covered three or four shifts a day, seven days a week. Of the immigrants, whose ages ranged from 18 to 66, 22 were separated from their families at the

“With my job here, I do not work with clients. This was a rare opportunity to work directly with the people who needed immigration services.**”**

— Kristen Wagner

One of those volunteer lawyers was Kristen Wagner, the New York State Bar Association's director of pro bono services. Wagner worked as a shift supervisor for the volunteer attorneys and interpreters. In addition to her day job at NYSBA, she volunteered 25 hours of her time over seven shifts, during a five-week period.

Wagner used words like “rewarding” and “inspirational” when looking back on the experience.

“With my job here, I do not work with clients,” said Wagner. “This was a rare opportunity to work directly with the people who needed immigration services.

“It was extremely rewarding,” continued Wagner, whose husband was among the volunteer interpreters. “It was a good feeling to see just how many volunteers were eager to help.”

border, 17 were separated from their children.

Many of the immigrants, Wagner said, “had no idea where they were when they got here.”

The volunteers flagged health and mental health issues, as well as those who needed to reach family. As a shift supervisor, Wagner would ensure other volunteer attorneys followed up to make sure the appropriate medical issues were treated, family members reached, and other needs were being met.

As a shift supervisor, Wagner made sure the volunteers arrived, assigned detainees that needed help to certain lawyers and was available to answer questions throughout the shift as they arose. She collected notes at the conclusion of each volunteer shift and turned them over to the Detention Outreach Project organizers, who logged de-



Wagner greets Hon. Leslie Stein, Associate Judge of the NY Court of Appeals, a speaker at the volunteer luncheon. (Story on page 17.)

tails of every meeting that took place with each detainee.

Credible Fear Interviews

The majority of the immigrants arrived at the southern border seeking asylum. Wagner explained that the first round of interaction between the volunteers and the detainees was an intake to find out who they were, where they were from and if they were seeking asylum.

“It was troubling to us as volunteers to see just how many were fleeing gang-related violence,” said Wagner, noting that many of those fleeing gangs were from Central America.

The next round of interaction between the volunteers and detainees was to prepare for what's called credible fear interviews, a crucial step for immigrants seeking asylum from persecution in their home country.

Wagner said the process can be “complex” and “confusing,” espe-

cially given the language barriers involved. However, the volunteer lawyers, just by spending a couple hours with them, were able to put the asylum-seekers in a much better position for success. Of the immigrants taken to the Albany County Correctional Facility, the majority of them have passed their credible fear interviews. Wagner said normally only about 10 percent pass them.

Wagner said typically the Albany County Correctional Facility has 20 to 30 detainees at any one time, as opposed to the influx of over 300 to the Albany County Jail this summer, which was the largest known transfer of individuals from the border into a single facility.

“If we weren't there, they would have had no guidance at all,” said Wagner, noting that legal representation for the detainees is not required under the law. “You know you're having a positive impact on them just by being there.”



President Michael Miller on the Detention Outreach Project

NYSBA President Michael Miller addresses DOP volunteers at a NYSBA luncheon honoring their service. (Story on page 17.)

The New York State Bar Association on June 25 announced a pro bono initiative to ensure the safety and well-being of migrant children being detained at facilities in New York State. At the same time, the New York Bar Foundation launched the #NewYorkLawyers4Children fund to support these efforts.

Just 10 days later, Immigration and Customs Enforcement (ICE) began the transfer of nearly 330 adult detainees, mostly from detention facilities along the west coast and southern border, to the Albany County Correctional Facility. Approximately 22 of the detainees had been separated from their families at the border, including 17 separated from their children.

On July 18, NYSBA President Michael Miller wrote to NYSBA members, describing this new outreach effort:

“Given the sudden need for a massive amount of legal consultations for these detainees, The Legal Project, in Albany; the Albany Law School Immigration Law Clinic; and the New York Immigration Coalition (NYIC) quickly banded together to recruit pro bono attorneys, train them, and set a rigorous schedule of intake and credible fear interview preparation consultations for all of the detainees held at the jail. NYSBA’s Committee on Immigration Representation co-

chairs Camille Mackler (NYIC) and Sarah Rogerson (Albany Law School) and Lisa Frisch (The Legal Project) worked to spearhead this effort and help as many people as quickly as they possibly could.

“As a result of NYSBA’s initiative, dozens of attorneys and several large law firms registered as volunteer attorneys on NYSBA’s immigration pro bono portal. Upon learning of the situation at the jail and need for volunteers attorneys, NYSBA’s Pro Bono Services Department was able to swiftly refer some of the registered volunteer attorneys to the coordinated volunteer effort at the jail.

“New York attorneys have shown on many occasions that they step up to the plate in times of need. NYSBA is proud of its members for upholding the nobility of the profession and for working *pro bono publico* to support the rule of law and rights of all people. The need for pro bono service will continue across the state as the immigration legal landscape continues to swiftly evolve.

“If you are interested in volunteering to do pro bono legal work or interpretation for immigrants in NYS, please go to NYSBA’s immigration pro bono portal at www.nysbaprobono.org and sign up as a volunteer attorney.”



President-elect Hank Greenberg talks with volunteers.



Left to right: Volunteer translators NYSBA member Adriana Le Blan, Taraf Alshammari and Laya Lakkaraju.

Join Us at NYSBA's Annual Meeting, January 14–18, 2019

Each January, thousands of attorneys attend the New York State Bar Association's Annual Meeting – five days of NYSBA programming, networking events and celebrations of our colleagues and our profession. The Annual Meeting is where lawyers come to meet, connect with, learn from and be inspired by some of the top lawyers in the state, the nation and the world.

NYSBA's 142nd Annual Meeting will be held at the New York Hilton Midtown in New York City, Monday, January 14 through Friday, January 18, 2019. Please note that the 2019 Annual Meeting is one week earlier than in recent years, so you may want to double-check your calendar.

At the Annual Meeting, attorneys can earn a full year of credits at CLEs that range from nuts-and-bolts practical skills programs to in-depth reviews of technology and other cutting-edge topics. You also get unprecedented opportunities to expand your horizons, make connections and share ideas with attorneys in your field and from farther afield.

For more information, including program registration and hotel reservations, visit www.nysba.org/am19.

In 2018 nearly 5,000 of your colleagues came together at Annual Meeting. Here's a preview of what the 2019 meeting offers.

Programs you can count on

- Career Development Conference. Monday, January 14.
- The Constance Baker Motley Symposium. Monday, January 14.
- Edith I. Spivack Symposium. Tuesday, January 15.
- Presidential Summit. Wednesday, January 16.
- Law Practice Management Day. Thursday, January 17.

Free networking receptions

- Celebrating Diversity in the Bar. Monday, January 14.
- The President's Reception. Wednesday, January 16.

Awards

During Annual Meeting we honor attorneys for their extraordinary service to the profession, their colleagues and the community. Here are a few of the Association's major awards:

- The Diversity Trailblazer Award honors exceptional efforts to promote the full and equal participation of diverse people at all levels of the legal profession. Committee on Diversity and Inclusion, Monday, January 14.
- The Stanley H. Fuld Award recognizes outstanding contributions to the development of commercial law and jurisprudence in New York State. Commercial and Federal Litigation Section, Wednesday, January 16.
- Empire State Counsel® Outstanding Pro Bono and Free Legal Answers™ awards honor attorneys and firms who have devoted exceptional amounts of time and talent to pro bono service. Pro Bono Services, Thursday, January 17.
- The Jonathan Lippman Pro Bono Award recognizes a senior lawyer who has generously provided pro bono service in New York and inspires other senior lawyers to do so as well. Senior Lawyers Section, Thursday, January 17.
- The Award for Attorney Professionalism is given to a NYSBA member whose service to clients and the profession is characterized by exemplary ethical conduct, competence, integrity and civility. Committee on Attorney Professionalism, Thursday, January 17.



- The Ruth G. Schapiro Memorial Award recognizes a female or male Association member who has made a noteworthy contribution to addressing the concerns of women. Women in Law Section, Friday, January 18.
- The Gold Medal Award, NYSBA's highest honor, is awarded for distinguished

service in the law. New York State Bar Association, Saturday, January 19.

Every day at the Clio Cloud Café

Meet up with new and old friends for coffee and free Wi-Fi.

Registration begins Thursday, November 1 at www.nysba.org/amlam 2019.

**Summit Preview
on page 8.**

Michael Miller Announces Annual Meeting 2019 Presidential Summit Topics

Listening to #MeToo, Wrongful Convictions and Whistleblower Laws

Listening to #MeToo – Why Laws to Prevent Sexual Harassment Have Been Ineffective, and What Attorneys Can do About It

The strength and staying power of the #MeToo movement have shown that laws to prevent sexual harassment in American society have been largely ineffective. Women, and men, continue to be victimized in settings from corporate office suites to construction sites – and within our justice system as well. Many prominent women and men have related their #MeToo experiences, but there are many more, especially those in low-paying service jobs, for whom the potential consequences of speaking out are simply too risky. This presidential summit panel will examine laws regarding sexual harassment and consider how attorneys can work to prevent it. The panel will also highlight ways that attorneys can nurture and support gender equity in our profession and in our society.

Wrongful Convictions and the Role of Prosecutors

There may be nothing more damaging to Americans' faith in our justice system than wrongful convictions that send innocent people to prison for years, or even decades. NYSBA President Michael Miller this year formed a Task Force on Wrongful Convictions to evaluate progress since a 2008 NYSBA Task Force on Wrongful Convictions made recommendations intended to prevent further miscarriages of justice and to examine what new issues have arisen that point to the need for additional recommendations. Over the past decade, the conduct of prosecutors has emerged as a factor relating to wrongful convictions and new state legislation has established a Commission on Prosecutorial Conduct, which takes effect on January 1, 2019. This presidential summit panel will include leading figures from the prosecution, defense and judicial perspective, who will discuss the commission structure, the scope of its authority, and whether it can withstand the legal challenges which

may be brought by New York prosecutors and others.

Enlisting the Public in the Fight Against Fraud: How Whistleblower Laws Work, How They Have Evolved and the Courage It Takes to Be a Whistleblower

Whistleblower laws have proven to be an important tool to fight back against those who defraud the government and taxpayers. This presidential summit panel will review the evolution and impact of meaningful anti-fraud whistleblower recovery laws and programs, including the strengthening of the federal False Claims Act, the widespread passage of similar state laws, and the creation and implementation of dedicated whistleblower programs at the Internal Revenue Service, Securities and Exchange Commission and the Commodity Futures Trading Commission. The panel will highlight some major successes of these laws and programs – which have resulted in billions of dollars being returned to government and large awards paid to whistleblowers – and discuss how



Miller

they have led to reforms that serve to protect the public from harmful practices in the pharmaceutical, defense and financial industries. Although many of the whistleblower laws have strong anti-retaliation provisions intended to protect the whistleblower, the panel will also examine how success often comes at the price of considerable professional and personal sacrifices to the whistleblowers themselves.

Hon. Rolando T. Acosta to Give Keynote at November House of Delegates Meeting

Hon. Rolando T. Acosta, presiding justice of the Appellate



Division, First Department will be the keynote speaker at the New York State Bar Association's November 3rd meeting at the Bar Center in Albany. A native of the Dominican Republic, Acosta is the first immigrant to serve in that position.

Acosta and his family came to the United States when he was 14 and settled in the South Bronx. His parents, who did not graduate from high school, were firm believers in the power of education. Acosta was a talented student, graduating in the top of his class, and he went on to Columbia

University. But he also was a talented baseball player. He led Columbia to the NCAA Championships and was twice named pitcher of the year in the Eastern Collegiate Baseball League.

Professional sports beckoned, but Acosta decided on law school. A judge's visit to Acosta's high school had inspired him to consider a career in the law.

There were other factors as well. Acosta's family was poor, but his parents emphasized that service to others was essential to living a good life. And Acosta had been impressed with the help his family

had received from the Legal Aid Society at a critical time. When he made his decision, it was with the idea that his legal career would be in public service. Upon graduation from Columbia Law School, he joined the Legal Aid Society, working in the same office that had helped his family.

From there, he served two mayors and was elected New York City Civil Court judge in 1997. Acosta's judicial career includes six years as a state Supreme Court justice until his appointment to the Appellate Division in 2008. He was appointed presiding justice in 2017.

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Governor Signs NYSBA Legislation Providing Attorney-Client Privilege to Lawyer Referral Services

By Christian Nolan

Governor Andrew M. Cuomo has signed into law legislation advanced by the New York State Bar Association (NYSBA) that provides attorney-client privilege to lawyer referral services.

NYSBA President Michael Miller praised Governor Cuomo and the Legislature “for making this important change to New York’s law.”

“Providing protection for communications between a lawyer re-

ferral service and a client has been a key legislative priority of the New York State Bar Association,” said Miller.

Each year thousands of New Yorkers rely upon lawyer referral services to help find an attorney or be directed to the appropriate resource. Consumers may provide details that include information that could be potentially damaging to their criminal or civil case if disclosed to opposing parties.

People who rely upon lawyer referral services for assistance do so

with the assumption that the detailed information they provide is both necessary to receiving a referral, and confidential. This new law resolves any potential question about the confidentiality of communications between the state’s 20 lawyer referral services and those who rely on them for help.

The bill (S.5845/A.9029) was developed in consultation with the NYSBA’s Committee on Lawyer Referral Service and the New York City Bar Association. The state’s Judiciary Law Section 498 has

been amended to add a subdivision providing that communications between a lawyer referral service and a consumer of the lawyer referral service be deemed privileged on the same basis as those under the law for communications between an attorney and client.

The bipartisan bill, which was sponsored by Senator John Bonacic, R-Mount Hope, and Assemblyman Jeffrey Dinowitz, D-Bronx, passed the Legislature earlier this year and was signed by the Governor on August 24.

Our Partners – Your Member Benefits

What to Ask About Life Insurance

Membership in the New York State Bar Association comes with a long list of benefits, including deep discounts on legal research tools, business services, car rentals, tickets to sporting events – and insurance.

All attorneys need insurance – to protect their businesses, their law licenses and their families.

Here are a few things to think about when you are deciding on life insurance to protect yourself and your loved ones.

Why should I get life insurance coverage?

It’s simple: Life insurance protects those closest to you from facing insurmountable debt caused by your final expenses or other financial hardships they could potentially face without your income.

What kind of life insurance should I get?

There are many different types of life insurance policies offered to fit individuals’ needs and budgets. Each policy has different benefits and drawbacks, so it is important

to consider your options carefully before purchasing a policy.

Your policy can be tailored to your individual needs. Here are the main categories:

- *Whole life* is a permanent life insurance policy that builds cash value and may pay a dividend.
- *Universal life* is also a type of permanent coverage policy that pays a flexible interest rate, and the death benefit may or may not be guaranteed.
- *Variable life* is another type of permanent coverage where the cash value is allocated to one or more investments referred to as separate accounts, making the cash value subject to the fluctuations of the broader markets.
- *Term life* refers to a policy that does not have an investment or cash value component but offers a monthly premium guaranteeing coverage for a predetermined amount of time.



How much in coverage should I get?

There are many factors to take into consideration when deciding on a policy amount, such as how much your loved ones will need to maintain their current lifestyle without your income, as well as funeral costs and other final expenses, such as medical bills or nursing home fees.

Our Partner – Your Benefit

NYSBA’s partnership with USI Affinity Sponsored Insurance offers a range of insurance products, including life and disability. To learn more about your coverage options, contact the New York State Bar Association Insurance Program at <http://www.nysba.org/NYSBAandUSI/>.

President-elect Candidate Statements



Mark A. Berman

I am honored to be running for President-Elect of the New York State Bar Association. I am a member of the Association's *Executive Committee* and the *House of Delegates*, but, most importantly, it is my

puters and mobile devices – perhaps the most pressing issue facing our profession today as we must protect law firm and client confidential information. Our Bar would lead the country and, under my leadership, the Technology Committee already has authored a state-wide brochure on cybersecurity protection.

It is self-evident that we must involve our junior lawyers more in the Association's advocacy and be more than a CLE provider. Junior lawyers need technology that will make them more productive and the Association must be able to provide it. However, for us to thrive, we need to demonstrate to our law students the Association's true relevance. They are our future and their long-term membership is critical. Under my leadership, the Association has begun to actually teach



Scott M. Karson

Friends ask why I would devote the time and energy to serve as President of NYSBA. My answer is simple: service to our profession – and to the public which we serve – is in my blood. Membership in NYSBA has given me the opportunity to sharpen my professional skills, be an advocate, and meet and interact with the members of our profession. Now I seek the opportunity to lead the Association. Based on my accomplishments over 43 years of practice, and my record of bar service, I am well qualified to do so.

Finance Committee, participate in the annual budget process.

Previously, I was Vice President for the Tenth District. At the conclusion of my current term as Treasurer, I will have spent six years on the Executive Committee, and 18 years in the House of Delegates.

I have served as Chair of the Association's Audit Committee and Committee on Courts of Appellate Jurisdiction, and as a member of the Committee to Review Judicial Nominations and the President's Committee on Access to Justice.

I was the President of the Suffolk County Bar Association, and I am a member of the ABA, the ABA House of Delegates and the ABA Judicial Division Council of Appellate Lawyers. I am a Life Fellow of the New York Bar Foundation and the American Bar Foundation.

I am a founder and former managing director of the Suffolk County Bar Pro Bono Foundation, and Vice Chair of the Board of Directors of Nassau Suffolk Law Services Committee, Inc.

I am committed to pursuing the following objectives for NYSBA: (1) attracting and retaining members; (2) assuring the financial sta-

“*It is imperative that we adapt to continue to be relevant to our membership.... The Association must provide members with the tools to practice more efficiently and successfully.*”

— Mark A. Berman

experience as *Chair of the Commercial and Federal Litigation Section* (ComFed) from 2016-17 and as the Chair of the *Committee on Technology and the Legal Profession* that has provided me with the “on the ground” experience needed to meet your needs and to lead our Association.

It is imperative that we adapt to continue to be relevant to our membership, whether, for instance, you are a junior or senior attorney, solo practitioner or working at a law firm (no matter the size), male or female, or from Upstate or Downstate. The Association must provide members with the tools to practice more efficiently and successfully.

To that end, I am working on state-of-the-art member benefits at an attractive price that will help protect you from “hacking” and cybersecurity intrusions on your com-

technology in our law schools.

The ComFed Section issued a ground-breaking report, which I spearheaded, addressing the lack of women in the courtroom, which outlined steps that can be taken by the judiciary, law firms and clients to address this issue. This report resulted in a resolution unanimously approved by the ABA. As a result, state and federal judges have adopted new rules making it easier for junior attorneys to argue before them.

I have brought programming on Commercial Division practice, ethics, social media and technology throughout the State to Erie, Kings, Monroe, Nassau, New York, Onondaga, Queens and Westchester Counties.

I represent a new creative, technologically-advanced and forward-thinking Association.

“*Friends ask why I would devote the time and energy to serve as President of NYSBA. My answer is simple: service to our profession – and to the public which we serve.*”

— Scott M. Karson

I have been a prosecutor, law secretary to an Appellate Division justice, and law firm partner. I handle primarily commercial and municipal litigation, and appellate matters, and have consistently received an “AV” rating.

I am a sustaining member of NYSBA, and currently serve as Treasurer. I deliver financial reports to the Executive Committee and House of Delegates, monitor investments and, as a member of the

bility of NYSBA; (3) promoting diversity; (4) achieving an independent and well-funded judiciary; (5) ensuring access to justice; (6) enhancing the skills, civility, integrity and career satisfaction of our members; (7) promoting the rule of law; (8) providing effective advocacy in pursuit of our legislative and policy agenda; and (9) promoting public civics education.

I hope to have your support in these endeavors.

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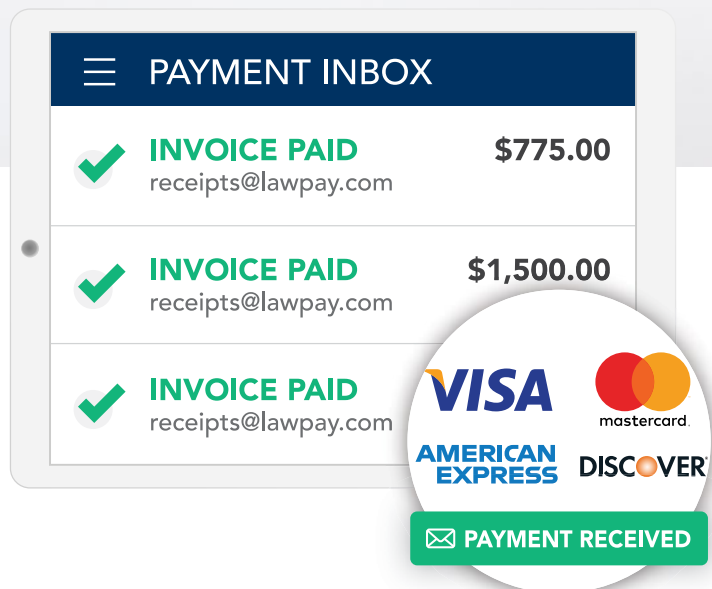


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– Cheryl Ischy, Legal Administrator
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2017 Diversity Report Card



Left to right: President-elect Hank Greenberg; Secretary of the Real Property Law Section Michelle Wildgrube; NYSBA Diversity and Inclusion Specialist Minika Udoko; event sponsors Jason Fitzsimmons from Westlaw/Thomson Reuters and Dan Grimmick owner, Upstate Business Support and Courier Services, LLC; Chair of the Membership Committee's Subcommittee on Diversity and Inclusion Violet Samuels; and President Michael Miller at the Meet and Greet Diversity Reception at the Bar Center on Aug. 22.

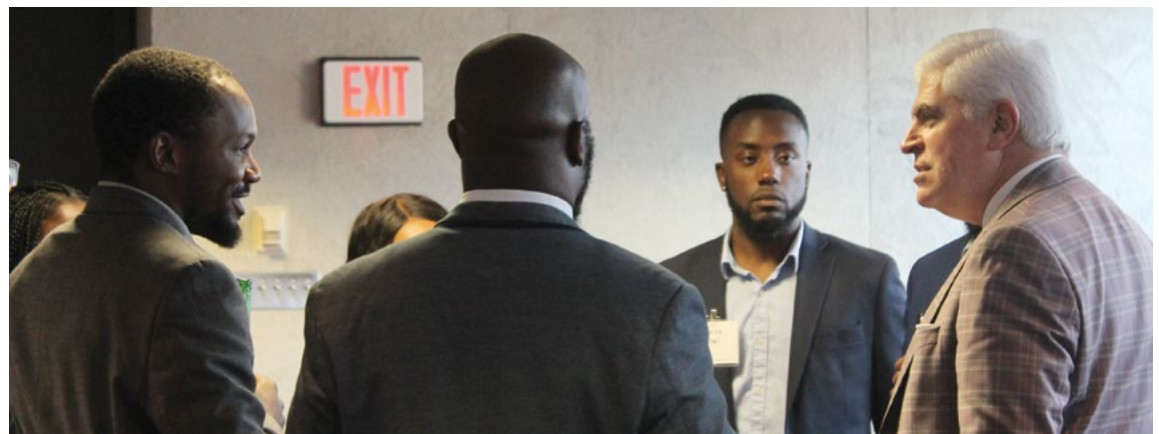
By Joan Fucillo

Earlier this year, the New York State Bar Association's House of Delegates approved the Committee on Diversity and Inclusion's seventh Diversity Report Card. NYSBA adopted its diversity policy in 2003, and NYSBA leadership tasked the committee with gathering data about the demographic make-up of the association and tracking its progress toward greater diversity and inclusion. The committee has issued a biennial Diversity Report Card Since 2005.

"Striving for a diverse membership and leadership is not just the right thing to do – it's the smart thing to do," said NYSBA President Michael Miller. "Diversity makes us richer, stronger and more effective – as an association and as lawyers. And diversity is vital to the health of our great association."

The 2017 Diversity Report looks at the overall makeup of the association and the individual sections. It also features eight individual sections, both to recognize them for their diversity achievements and to illustrate where they might target greater efforts.

These section snapshots had some good news. First, the eight sections profiled are committed to



President Michael Miller talks with attendees at the reception.

bringing in more diverse members. For example, the Antitrust Section's efforts include diversity fellowships, a diversity fellows alumni luncheon, a mentoring program, and developing connections with affinity bars. Because antitrust is a complex area of law and new practitioners need support to thrive and advance, the section offers programming specifically for newer attorneys.

The Association's Executive Committee, the House of Delegates, and a number of sections have done exemplary work in bringing more women into leadership roles. Overall NYSBA membership is 35 percent female and 65 percent male, but 41 percent of EC members are female, as are 40 percent of HOD members.

The Corporate Counsel Section has made strides, as well. Its Executive Committee is 63 percent female, and overall section leadership is 52 percent female. It also made much progress in other areas of member diversity – 16 percent of section leadership is Black/African-American.

One sticking point in diversity efforts is a lack of data. NYSBA has updated its profile page so members can include information about their race, ethnicity, sexual orientation, gender, or disability. Thus far, members have not rushed to take the opportunity. Seventy percent of members have not included sexual orientation in their profiles; 62 percent have not mentioned whether they have a disability.

The 2015 Diversity Report Card noted this and recommended that NYSBA create a series of member public service announcements, to encourage members to update their profiles. The first of these PSAs was launched at the Annual Meeting in January 2018.

As president, Miller continues to urge members to share this information with NYSBA. "We are committed to diversity and inclusion and the elimination of bias in our profession," he said. "But to do that, we need the help of every member of the association. Let us know who you are, so we can better understand how best to serve you."

To update your NYSBA profile, please visit www.nysba.org/myprofile.

TICL Summer Meeting



NYSBA President Michael Miller and his wife, Cindy, stand with attendees at the Torts, Insurance and Compensation Law Section Summer Meeting, Powerscourt Hotel, Enniskerry, Co. Wicklow, Ireland.



Scenes from Ireland.



The TICL hurling team.

Elder Law and Special Needs Section Summer Meeting

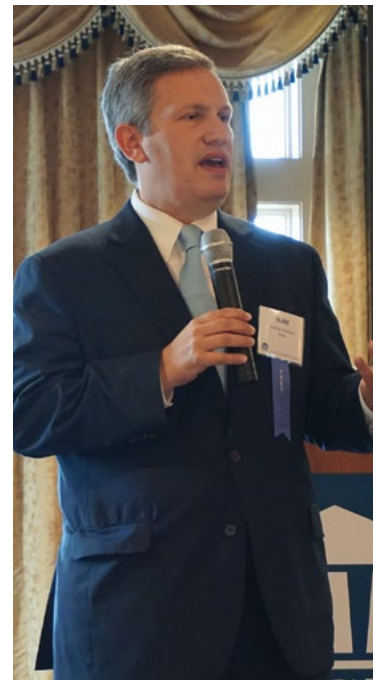


Elder Law and Special Needs Section Summer Meeting at Queens Landing, Niagara-on-the-Lake, Ontario, Canada.

Real Property Law Section Summer Meeting



Water's Edge Resort, Westbrook, Connecticut.



President-elect Hank Greenberg greets attendees.



Attendees at the "Great Ways to Meet Your Grievance Committee" CLE.



Hydrangeas and the Long Island Sound.

Crisis Lawyering

Continued from page 4

at JFK in 2017. It also became a test case for putting into practice the lessons learned at JFK.

Nearly 330 people were brought to Albany, in the largest single transfer of refugees and asylum seekers to New York State. They arrived in three waves of more than 100 people each, all within an eight-day period. They hailed from 38 countries and spoke 19 different languages. Many were hungry, dirty and confused, and most were exhausted from their long journeys. Despite ICE's claims to the contrary, some were separated from family members, including their own children. And the numbers were much greater than anticipated.

begin preparing for their credible fear interviews, the next step in the asylum process. For this step, Rogerson said, DOP brought in more attorney volunteers, many of whom were already trained to help detainees prepare for their credible fear interviews, and enough seasoned immigration attorneys to supervise the process.

In less than four weeks, all asylum seekers had completed their intake interviews and nearly half had been prepared for their credible fear interviews. As of this writing, the immigrant detainee population at the Albany County Jail, which had shrunk to fewer 250 people, has increased to a population of 320. Some of those who left

put together a rapid response team like DOP. And we could tap into I-ARC's resources, if needed."

The Law Clinic was a familiar presence at the jail, as was The Legal Project. "We knew the jail's schedule so we didn't show up at inconvenient times; we also knew to avoid the disruptions of visiting hour," said Rogerson. "The sheriff and his staff were extremely cooperative. They gave us dedicated storage lockers for our materials, and we were able to keep a donated laptop and printer at the jail and set up a dedicated translator phone line."

The Legal Project also offered space for trainings and a network of attorneys and interpreters who

as many had arrived at the jail with very little."

Rapid Response

1.1: Embrace Your Volunteers; Manage Their Expectations

"So many people step forward in these situations. Without a coordinated and structured way to best use their talents and get them training as needed, their efforts won't be as effective for their clients," said Mackler.

"We tried to be very clear about what the needs were," said Rogerson. "It was relatively easy to train an attorney to do the intake processing."

She added, "When the next step came, preparing people for their credible fear interviews, we needed to tap into a higher level of expertise. With the help of I-ARC and the Association of Pro Bono Counsel (APBCo), we called upon a number of law firms and organizations, many based in the city, that already had attorneys familiar with this type of work and could provide experienced immigration lawyers who could take on a supervisory role."

Frisch, Rogerson and Mackler expressed amazement at the volunteers' level of commitment. So many people wanted to keep working on the project. "Even after their intake work was done, many volunteer attorneys kept in touch, to check on the status and well-being of the people they'd interviewed," said Rogerson.

Rapid Response 2.0

As the rapid response team in the first major immigration crisis in New York since the scene at JFK airport in early 2017, DOP is now a prototype for future rapid response teams.

"Albany was our testing ground, where we applied the lessons we'd learned and refined them. We now have a replicable model that will help other organizations confronting similar situations," said Mackler.

“*We were able to provide a volunteer opportunity for attorneys who are concerned about access to justice for the immigrants in our jails and in our communities. They were eager to do something productive.***”**

— Camille Mackler and Sarah Rogerson

In close coordination with Sheriff Apple, the Law Clinic, NYIC and The Legal Project, under the Detention Outreach Project banner, worked quickly to get volunteers, give them appropriate training, match attorneys with volunteer interpreters to perform intake interviews – the first step for arrivals at the jail – and set up operations at the jail. "Within a week," Frisch said, "hundreds of volunteers were ready."

Rogerson described the protocol at the jail: "Attorneys and interpreters were scheduled in two- to three-hour shifts, seven days a week, to help the detainees complete their intake forms. An immigration attorney was available by phone, if needed, to answer questions."

Once asylum seekers completed their intake paperwork, they could

the jail were transferred to the Batavia immigration detention facility to have their cases heard.

It was an achievement with significant benefits for the detainees. Rogerson pointed out "these asylum claims are usually denied. But, with the work of volunteer lawyers, each detainee is on a trajectory toward asylum. In fact, the majority of those who have the results of their credible fear interview have had a positive outcome."

Rapid Response 1.0: Anticipate; Build a Network; Maintain Relationships

Mackler said, "Our notes from our work at the airport and analysis of what worked and what didn't, became the guidelines we used to

could be tapped in a crisis. Of necessity, training included advice on how to work with traumatized individuals, and how it is vital to gain their trust. Volunteer attorney Robyn Ryan said she learned the best way to do that is "as the interpreter is translating, maintain eye contact with the client to show you understand this is their story."

Local support was a critical component. Frisch said, "The Legal Project reached out to community members to raise funds to meet the refugees' emergency needs and to establish their commissary accounts. The federal credit union CAP COM generously waived the fees for the hundreds of money orders that were needed to deposit money in the detainees' accounts. We also organized a clothing drive,

Continued on page 17

NYSBA Recognizes Volunteers Who Assisted Adult ICE Detainees at Albany County Jail

By Brendan Kennedy

The New York State Bar Association (NYSBA) recognized over 300 volunteers from the Detention Outreach Project (DOP) in August for their work

interviews, which are part of the process for applying for asylum.

With the support of the Association of Pro Bono Counsel (APBCo), the DOP now has over 400 volunteers, including attorneys from 37 law firms, and with the

NYSBA have provided invaluable support. The Legal Project, an Albany based not-for-profit, has been instrumental in providing community support, volunteer recruiting, and fundraising.

"We have provided an enormous amount of legal assistance with the help of Sheriff Apple and his staff, but our work is far from done," said Sarah Rogerson, co-chair of NYSBA's Committee on Immigration Representation and director of the Immigration Law Clinic at Albany Law School. "With such a deep well of willing attorney volunteers, I am confident that we will continue to restore due process where the current policy has sought to take it away."

Camille Mackler, co-chair of NYSBA's Committee on Immigration Representation and Director of Immigration Legal Policy at the New York Immigration Coalition,

reported at the time that of the number of individuals who have had their credible fear interviews, a majority had passed them.

In the weeks since the recognition event, DOP volunteers continue to assist more clients with preparation for credible fear interviews, and to assess broader issues including conditions of transfer, attempts by the federal government to infringe upon due process, and unfounded allegations and misapplication of law by immigration agencies. Many of the detainees screened by DOP volunteers have transferred to the Buffalo Federal Detention Facility in Batavia, New York. DOP volunteers continue to follow up on individual issues requiring immediate attention and, when possible, connect individual clients to legal representation for the remainder of their cases.

“*Access to justice is the touchstone of our judicial system and without it our system of laws would be meaningless.***”**

— Hon. Leslie Stein

screening adult ICE detainees brought to the Capital Region this summer. DOP successfully screened approximately 300 asylum-seekers from 38 countries, who were uprooted from the southern border in the largest known transfer of individuals from the border into a single facility.

NYSBA President Michael Miller thanked the volunteers for all the work they've done and reminded those in attendance that, "America is not just a place on a map, rather it is a set of ideals, based upon the rule of law."

"You have blown me away by all that you're doing," Associate Judge Leslie E. Stein of the New York State Court of Appeals told the volunteers. "Access to justice is the touchstone of our judicial system and without it our system of laws would be meaningless. Without people like you, access to justice would be no more than an ideal."

Working with the support of Albany County Sheriff Craig Apple and his staff, volunteer lawyers, paralegals and interpreters from all over the state traveled to the Albany County Jail to screen detainees individually and, when appropriate, prepare them for their credible fear

support of the Immigrant Advocates Response Collaborative (I-ARC) 15 non-profits. In addition, eight universities and law schools, as well as

Crisis Lawyering

Continued from page 16

"It also grew our network, strengthened relationships among the legal services providers and bolstered the services of local providers," she added.

Frisch expressed pride in the local community. "The sheriff and his staff, NYIC, the Law Clinic, The Legal Project, and many hundreds of volunteers came together – it took my breath away."

Mackler and Rogerson noted that the attorneys who volunteered weren't just giving – they were gaining a lot. "We were able to provide a volunteer opportunity for attorneys who are concerned about access to justice for the immigrants in our jails and in our communities. They were eager to do something productive."

"As legal service providers, we need to keep that in mind. People are looking for the opportunity, and we can help them find it."



Foundation Memorials

A fitting and lasting tribute to a deceased lawyer or loved one can be made through a memorial contribution to The New York Bar Foundation...

This meaningful gesture on the part of friends and associates will be appreciated by the family of the deceased. The family will be notified that a contribution has been made and by whom, although the contribution amount will not be specified.

Memorial contributions are listed in the Foundation Memorial Book at the New York Bar Center in Albany. Inscribed bronze plaques are also available to be displayed in the distinguished Memorial Hall.

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² “What Do You Know About Disability Insurance” survey, Life Happens, 2018

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Fall CLE Highlights Include Environmental Insurance, Views from the Bench

By Christian Nolan

Whether it's insurance issues in the wake of natural disasters like Hurricane Florence, learning the latest developments in trusts and estates law or gaining insight from New York's state and federal judges, New York State Bar Association (NYSBA) Continuing Legal Education (CLE) events offer valuable information for attorneys in many areas of practice.

The following highlights four upcoming CLE events. If you are unable to attend a live event, video replays are available online. For more information, as well as a full listing of fall CLE offerings, please visit www.nysba.org/CLE.

Emerging Issues in Environmental Insurance

This program will feature decision-makers from leading environmental insurance carriers, including a skilled panel of experienced insurance counsel, brokers, and risk management specialists who will examine critical aspects of environmental insurance coverage and provide valuable information on using environmental insurance as a risk management tool in transactions, litigation, and operations.

The sessions will provide practical tips in emerging areas of legal liability and provide practitioners with the latest case law and strategies to maximize available environmental coverage and minimize disputes with insurance carriers. The panelists from major environmental insurance companies will also provide an informative market update and discuss current coverage issues and claim trends.

Some of the topics addressed include: lead in drinking water, super-bugs, bed bugs, mold, anthrax, Ebola, bioterrorism, Legionella, asbestos and lead paint, natural disasters and weather releases, emergency response/crisis management.

Details: Friday, Nov. 2
9 a.m. to 1 p.m.
Latham & Watkins
885 Third Avenue
New York, NY 10022

For more information, including CLE credits and pricing, please visit: www.nysba.org/EnvInsuranceCLE2018

16th Annual Sophisticated Trusts & Estates Law Institute

This full-day institute returns with a prestigious national faculty who will cover the key issues and latest developments in all aspects of trusts and estates law relevant to trusts and estates practitioners, in-house counsel representing financial institutions, and bankers and accountants.

In addition, there will be plenty of time for networking opportunities allowing attendees to pose questions to the faculty and compare notes with fellow attorneys in the legal, banking and accounting fields. Judge C. Raymond Radigan, retired Nassau County surrogate who serves as counsel to the Trusts & Estates Department at Ruskin Moscou Faltischek, P.C. in Uniondale, will deliver the luncheon keynote.

Topics on the agenda include: an estate planning update with a review of 2018 federal and state developments, planning with life insurance, pre- and post-transaction planning, a new NY Trust Code, charitable planning, and avoiding conflicts of interests in trusts and estates practice.

Details: Friday, Nov. 9
9 a.m. to 5 p.m.
Crowne Plaza Times Square
1605 Broadway at 49th Street
New York, NY 10019

For more information, including CLE credits and pricing, please visit: www.nysba.org/2018TrustsandEstatesInstitute.

Streamlining Litigation – Views from the Bench in Upstate New York

This program presents a unique and valuable opportunity to engage in dialogue with a panel of federal and state court judges from Upstate New York.

The panel of judges will discuss litigation (with a focus on commercial litigation) and ways in which knowledge of the local and/or commercial rules and the preferences of the local bench can help make the process more efficient and cost-effective. Discovery, motion practice, case management, alternative dispute resolution and other related topics will be discussed. All judges and location participants will be connected via a live interactive video feed.

The Buffalo event will feature Judges Michael Roemer (Western District of NY) and Timothy Walker (Erie County); Rochester will feature Judges Marian Payson (Western District of NY) and Daniel Doyle (Monroe County); and Syracuse will feature Judges Thérèse Wiley Dancks (Northern District of NY) and Deborah Karalunas (Onondaga County).

Details: Wednesday, Nov. 28
3:30 p.m. to 7 p.m.
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Buffalo office:
200 Delaware Avenue, Suite 900
Buffalo, NY 14202

Rochester office:
350 Linden Oaks, Third Floor
Rochester, NY 14625

Syracuse office:
One Lincoln Center,
110 West Fayette Street
Syracuse, NY 13202

For more information, including CLE credits and pricing, please visit: www.nysba.org/Upstate2018.

Securities Arbitration and Mediation 2018: Evolution

The key to successful securities arbitration and mediation is telling your story in a memorable and persuasive fashion. This program will help you master that skill while also updating you on recent developments in the law. This one-day program will highlight the most critical advancements in securities arbitration and mediation from the attorneys responsible for creating securities arbitration as we know it today.

These experts have seen hundreds of millions of dollars of claims heard before thousands of arbitrators nationwide, just as they have been the recipients and presenters of hundreds of millions of dollars' worth of arbitration awards. They know how cases are won, lost or settled and how claims need to be positioned to maximize recovery or dismissal. They know how pre-hearing motion practice can often determine the outcome of a case and they know how to "follow the money" to the insurance policies of brokerage firms. They also know how to rise above the emotions of parties and the problematic practices of some opponents to maintain ethical standards.

Topics that will be covered include: 30 years of mandatory arbitration, how pre-hearing motions can win a case, fee-based vs. commission-based accounts, elder abuse and exploitation cases, whether and when to settle securities mediation, expungement cases, and ethics

Details: Thursday, Nov. 29
9 a.m. to 4:45 p.m.
CFA Society NY
1540 Broadway, Suite 1010
New York, NY 10036
Entrance on West 45th Street

For more information, including CLE credits and pricing, please visit: www.nysba.org/SAM2018.



1elk™

Now Available for Private Events

By Brendan Kennedy

A selection of unique and historical spaces within the New York State Bar Association's headquarters on Elk Street in downtown Albany are now available to be rented for private events.

The five historic row house facades linked to flexible modern spaces are being marketed collectively as *1 Elk*, and can accommodate groups of 10 to 300 people for corporate events, conferences and meetings, receptions and fundraisers, awards ceremonies, luncheons and dinners, cocktail hours and more.

"We frequently hold NYSBA programs and events at the State Bar Center, and many NYSBA members are familiar with the distinctive spaces and convenient location," said NYSBA President Michael Miller.

"We know that outside groups and individuals are often looking for event venues, and we determined that making *1 Elk* available for private events when it is not

otherwise in use by NYSBA could be a potentially lucrative source of non-dues revenue."

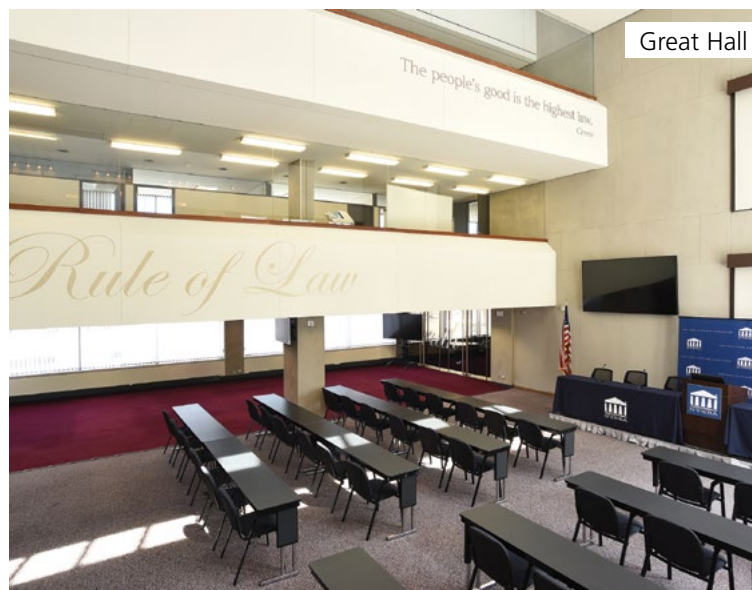
NYSBA's marketing of *1 Elk* was cited in a recent article in the *New York Law Journal* about how bar associations are identifying new sources of non-dues revenue.

For further information about booking *1 Elk* for private events, visit www.1elk.com or contact Kim McHargue, kmchargue@nysba.org or 518-487-5557.

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With six event spaces to choose from and a convenient location, just steps from the State Capitol, the Court of Appeals, City Hall, Downtown Albany, the Empire State Plaza and area hotels, *1 Elk* is the perfect place to host a gathering or special event and can be customized to suit almost any special event.

The **Great Hall** is designed for large meetings and gatherings, with theatre seating available for groups



Great Hall

as large as 200. Two 80" 4K televisions flank a smart podium which sits on a platform stage that can serve as a dais with seating for six. Charging stations located throughout the space are capable of charging Android and Apple phones and tablets. Adjacent to the Great Hall is a catering pantry. The Hall can accommodate 300 for a





Terrace



Cromwell

standing reception and 150 for seated meal service.

The **Terrace** is directly connected to the Great Hall and will provide your special event with a lovely outdoor space featuring expansive views of Albany and the surrounding area. The multi-tiered and landscaped space has a large main level that is easily accessible and can accommodate a tent to weatherproof your event. NYSBA's complimentary high-speed Wi-Fi is available throughout the building, including the outdoor terrace.

The **Peck Room** is a large executive conference room that can ac-



The space can be made to fit 50 with additional seating. The walls are adorned with one-of-a-kind murals depicting a panoramic view of Albany circa 1876, when NYSBA was founded.

The **Cromwell Room** is a more intimate boardroom-style setting



Jenny's Parlor



Peck Room



City View

commodate up to 26 around a single rectangular table, which has 20 charging outlets so that you can remain powered up for the duration of your event. Peck is also equipped with state-of-the-art AV equipment that makes phone- and video-conferencing a simple setup.

with a seating capacity of 12 around a rectangular table or 20 with additional seating. This room is decorated in the Federal style and overlooks Academy Park.

Jenny's Parlor features front and back parlor rooms, looking

much like they did in the 1880s when Elk Street was known as Quality Row. This space can accommodate up to 60 for a standing reception or 44 for dining.

The **City View Room** is a classroom seating up to 26, with a view

that includes City Hall, the Court of Appeals and Albany County Courthouse. City View comes equipped with a portable 60" 4K TV and can be configured for a variety of occasions.

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