

# Queens BAR BULLETIN

Queens County Bar Association | qcba.org | 88-14 Sutphin Blvd., 3rd Floor, Jamaica, NY 11435 | 718-291-4500  
December 2024 | Volume 92, No.3



## Protect Your Loved Ones with the Gift of Peace

BY FRANK BRUNO, JR.

*“Kindly let me help you or you’ll drown, said the monkey to the fish as he placed him safely up the tree.”*

– Alan Watts

There was a monkey who lived in a forest tree, by a river. One day, the monkey saw a fish swimming in the river and thought the fish was struggling. Compassionate, the monkey resolved to save the fish. Climbing swiftly down the tree, reaching down, grabbed the fish from the water. It then climbed back up and laid the fish on a tree branch. There, the fish flapped violently and soon died. The monkey was puzzled, it had only wanted to help.

This story highlights different perspectives, environments, and misunderstanding.

The monkey, being a land-dwelling creature, interpreted the fish’s swimming as struggling or suffering because it judged the situation based on its own environment and experience. It saw the fish beneath the water, not breathing air as it does, and assumed the fish was in peril. In its well-intentioned efforts to help, it took the fish out of its natural environment and put it into its own environment, leading to the fish’s demise.

The moral of the story is a caution against assuming that what is right or natural for one being necessarily applies to others. It warns us of the dangers of imposing our own perspectives and ways of living onto others without truly understanding their needs, their nature, or their environment. This parable also encourages us to develop a deep sense of understanding and

empathy for the diverse perspectives and needs of different beings, recognizing that each has its own unique way of being in the world.

Gee Willikers! It has been a tumultuous past couple of months, hasn’t it? A highly contested election; each day there is something new about UFOs, UAPs, drones or some new chemical entering the food supply. A whirlwind of cabinet choices, coups in foreign lands, outright war in Europe and the Middle East, catastrophic weather events, climate emergencies, economic turmoil, and economic booms. It is easy to lose sight of what is actually real—what is right there in front of you: your health, your family, your work, your friends, your home. What is in front

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# The Docket

Being the official notice of the meetings and programs listed below. Due to unforeseen events, please note that dates listed in this schedule are subject to change. More information and changes will be made available to members via written notice and brochures. Questions? Please call 718-291-4500.

## CLE Seminar & Event listings

### DECEMBER 2024

Wednesday, December 25 *Christmas Day – Office Closed*  
Thursday, December 26-31 *Christmas Week – Office Closed*

### JANUARY 2025

Wednesday, January 1 *New Year's Day – Office Closed*  
Thursday, January 9 **CLE:** Family Law Seminar  
Monday, January 20 *Martin Luther King, Jr. Day – Office Closed*  
Thursday, January 30 **CLE:** Virtual AI with Hon. Timothy Driscoll

### FEBRUARY 2025

Wednesday, February 12 *Lincoln's Birthday – Office Closed*  
Monday, February 17 *Presidents' Day – Office Closed*  
Wednesday, February 26 **CLE:** Elder Law – A83 Program  
Thursday, February 27 **EVENT:** Black History Month at St. John's Law School

### MARCH 2025

Thursday, March 6 Judiciary Night, Past Presidents & Golden Jubilarian Night at St. John's Law School – 5:30 pm  
Tuesday, March 11 **CLE:** Family Law/LGBTQ+ - Same Sex Couples Adoption

### APRIL 2025

Tuesday, April 1 **EVENT:** NY Islanders Game  
Wednesday, April 16 **CLE:** 2025 Equitable Distribution Update Pt 1  
Wednesday, April 23 **CLE:** 2025 Equitable Distribution Update Pt 2

### MAY 2025

Thursday, May 15 Annual Dinner & Installation of Officers at Terrace on the Park  
Monday, May 26 *Memorial Day – Office Closed*

### Upcoming CLE's and Events

Appellate Practice Update  
Ethics Update  
Search & Seizure Update  
The Trial – Part 5

For more information on  
upcoming seminars, CLE's and events, go to  
[qcba.org/CLE-Courses](http://qcba.org/CLE-Courses)

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## Queens Bar Bulletin

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**Associate Editors:** Stephen D. Fink and Richard N. Golden

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## New Members

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# Editor’s Note

## Understanding Long Island City and New York City Today

By Paul E. Kerson

Last month, the Network of Bar Leaders held its annual meeting on the 11th floor banquet hall of the Vista LIC Hotel, 27-05 39th Avenue, Long Island City, Queens County, New York 11101.

The Network of Bar Leaders is a federation of 54 New York Metropolitan Area Bar Associations. Naturally, the Queens County Bar Association is part of the Network, and we had our own table, with the most beautiful and unusual views of the New York skyline I have ever seen.

Unlike the standard photographic view regularly broadcast all over the world, this view included the new glass and steel apartment towers of Long Island City together with the iconic Midtown skyscrapers – the Empire State Building, the Chrysler Building and dozens of others.

In the middle of this view was the Queensboro (59th Street) Bridge, all lit up and dramatically shown linking the old Midtown view with the new Long Island City view. My photograph of what I saw

that day is reproduced with this article.

How do we understand this new skyline, and Long Island City’s prominence in it?

The first thing to understand is the budget. New York City’s annual budget for 2024 is a staggering \$107 BILLION, larger than most American state government budgets. Long Island City’s annual budget is ZERO, yes, you got that right.

So how did this happen? To get to the bottom of this

**CONTINUED ON PAGE 5**





## Editor's Note

## Understanding Long Island City and New York City Today

### CONTINUED FROM PAGE 5

historical conundrum, we must study the career of the last elected Mayor of Long Island City, "Hon." Patrick J. Gleason, who served from 1887 to 1892 and again from 1896-1897. See Kenneth T. Jackson, Editor, *The Encyclopedia of New York City*, Yale University Press, New Haven, Conn. 1995, page 690.

Gleason owned trolley lines under contract with Long Island City, leased his personal property to the then Long Island City School District, and tried to sell water from his personal wells to Long Island City. His corruption in office was exposed by the New York Times in its November 2, 1889 edition, page 8, "Gleason as a 'Reformer': How He Has Used His Power to Help Himself" See Google, Wikipedia, Patrick J. Gleason.

"Political corruption was so severe that it caused LIC to struggle in all areas of development." See Google, "Long Island City's History: A Tale of Mayors, Struggles and The Great Consolidation," by Jason D. Antos, Give Me Astoria, December 27, 2023.

Long Island City was created as a City by the State Legislature in 1870 and carved out from the

then Town of Newtown (most of which is currently called Jackson Heights). One of its early Mayors, Henry S. DeBevoise, Mayor from 1872 to 1875 and again from 1876 to 1883, was convicted of the same type of corruption as Mayor Gleason. See Google, Antos, above.

Residents of Astoria were so disgusted by this that they tried to secede from Long Island City, but the State Legislature denied this petition.

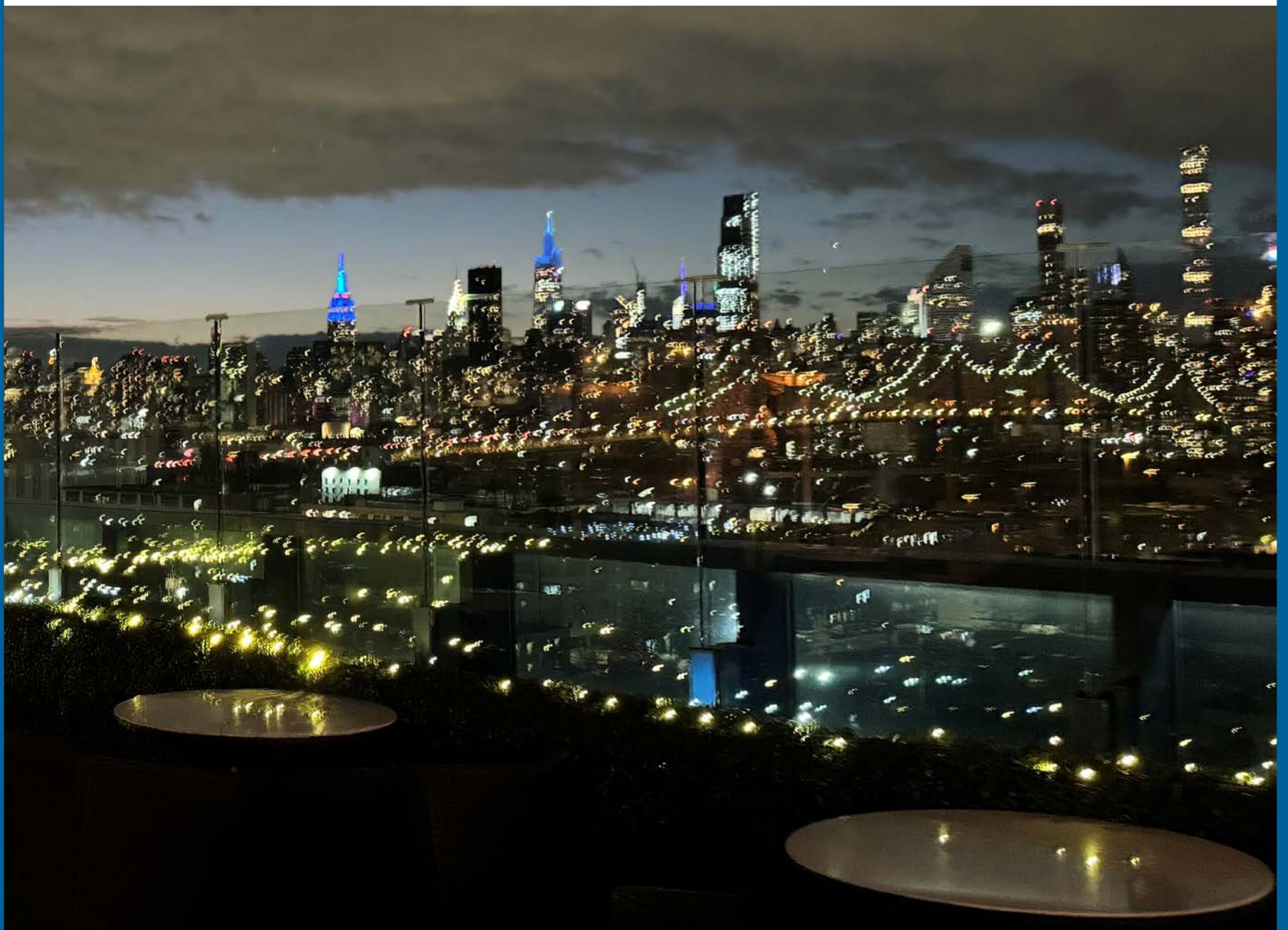
It was no wonder then, that Long Island City was absorbed by New York City in 1898 as part of "Greater New York", a massive regional effort to form the most populous City in America. Local leadership was very afraid that fast-growing Chicago would soon take that title, bringing economic decline to the New York metropolitan area. So the idea of the five boroughs of the new New York City would be created as co-terminous counties of the State. See David C. Hammack, *Power and Society: Greater New York at the Turn of the Century*, Columbia University Press, New York, 1982, page 37.

Fast forward to today: The New York City Government practiced a Manhattan based development policy from 1898 until 1989, a 91-year period of

foolishness in discouraging development of the cities, towns and villages New York City absorbed.

Finally, in 1989, it dawned on the Manhattan based "local" government that they had foolishly overcrowded Manhattan making a transportation nightmare that no amount of subway, highway, bridge and tunnel construction could ever solve. So, the zoning began to change. The first large building outside Manhattan was the 1989 Citicorp Center (now the Altice cable television company building) in Long Island City. It took a while for the idea to catch on, and today we are witnessing the welcome development of Long Island City, Flushing, Jamaica, Brooklyn and the South Bronx, development that was wrongfully and foolishly suppressed for 91 years.


Visit the Vista LIC Hotel's 12th floor Skyview Restaurant and see in person the new Long Island City – Queensboro Bridge – Midtown Manhattan view in the adjacent photograph, and realize how this development was wrongfully suppressed for 91 years. Ask yourself this question – Would the truly local control by Long Island City Mayors Henry S. DeBevoise and Patrick J. Gleason have led to a better result despite their corruption?





# CLE Programs On Demand


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Experienced Attorney Required CLE Categories (for attorneys due to re-register on or after July 1, 2023)	Required CLE Credit Hours
Ethics and Professionalism	4
Diversity, Inclusion and Elimination of Bias	1
Cybersecurity, Privacy and Data Protection (General or Ethics)	1*
Any CLE category of credit	18
<b>Total Number of CLE credit hours</b>	<b>24</b>

\*You may choose to complete the Cybersecurity credit in Cybersecurity **General** or Cybersecurity **Ethics** (or a combination of the two - 1/2 credit in Cybersecurity **General** and 1/2 credit in Cybersecurity **Ethics**).

You may count a maximum of 3 credit hours of Cybersecurity **Ethics** – but not Cybersecurity **General** – toward your 4-credit Ethics and Professionalism requirement.

- Example: If you earn 3 credits in Cybersecurity **Ethics**, then you still need to earn 1 credit in Ethics and Professionalism, 1 credit in Diversity, Inclusion and Elimination of Bias and 19 credits in any category of credit – total of 24 credits

Seminar Title	CLE Credits	Member Price	Non-Member Price	Original Recording Date
More Disclosure, More Confusion- Amended NY PROPERTY CONDITION DISCLOSURE LAW	1.0 Prof Practice	\$15	\$50	<a href="#">07/18/2024</a>
Protecting and Supporting LGBTQ+ Families	1.0 Prof Practice; 1.0 Diversity	\$30	\$100	<a href="#">06/20/2024</a>
Cooperative & Condominium Legal Update 2024	1.5 Prof Practice	\$23	\$75	<a href="#">06/13/2024</a>
CPLR Update 2024 Part 2 of 2	1.5 Prof Practice	\$23	\$75	<a href="#">05/30/2024</a>
CPLR Update 2024 Part 1 of 2	1.5 Prof Practice	\$23	\$75	<a href="#">05/16/2024</a>
Ethics Update 2024, Part 2 of 2	2.0 Ethics;	\$30	\$100	<a href="#">05/15/2024</a>
Ethics Update 2024, Part 1 of 2	1.0 Ethics; 1.0 Cybersecurity-Ethics	\$30	\$100	<a href="#">05/08/2024</a>
Search and Seizure Update 2024	1.0 Prof Practice	\$15	\$50	<a href="#">04/18/2024</a>
Equitable Distribution 2024, Part 2 of 2	1.5 Prof Practice	\$23	\$75	<a href="#">04/16/2024</a>
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ABCs of Trusts - Part 4/4: The Court's Perspective on Trusts & Commonly Litigated Matters	1.0 Prof Practice	\$15	\$50	<a href="#">04/10/2024</a>
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ABCs of Trusts - Part 1/4: Anatomy of a Trust	1.0 Prof Practice	\$15	\$50	<a href="#">03/20/2024</a>





## President's Message

# Happy Holidays!

By Zenith T. Taylor

Dear Members,

Happy Holidays!

As this year comes to a close, I want to express my gratitude for your support as members and to our dedicated sponsors. Your participation and contributions have been invaluable to QCBA.

As we gather with family, friends, and colleagues to celebrate the diverse religious and cultural traditions that make us unique, let us remember and appreciate the wonderful diversity that defines Queens County. Whether you celebrate Christmas, Hanukkah, Kwanzaa, the New Year, the Lunar New Year, or any other meaningful festivity, I hope your holidays are filled with joy, peace, and rejuvenation.

During this holiday season and the impending changes in our government in the New Year, we should remember that we are obligated as legal professionals to uphold the rule of law. By respecting and promoting our democracy, we can foster justice, equality, and fairness. Therefore, I urge you to reaffirm your dedication to respecting the rule of law and embrace the challenges and opportunities that await us. With renewed energy and determination, we can continue to make a significant positive impact on our community and the legal profession. Together, we can work towards a successful and democratically civil year ahead.

Please save the date for our upcoming CLE programs and other events such as a Lunar Celebration

on January 30th, 2025, Martin Luther King, Jr. Day celebration on January 15, 2025, and our Black History Month celebration on February 27, 2025.

Best wishes for a joyful and prosperous holiday season!

Zenith T. Taylor, Esq.

President



## Thank You To Our 2024



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**The Nominating Committee is accepting applications to serve on the Queens County Bar Association Board of Managers**

*Please take notice that those members who wish to be considered for nomination as Directors or Officers of the Board of Managers must submit written requests and resumes highlighting your activities in the Association and community by January 13, 2025.*

*A virtual meeting of the Committee will take place on January 22, 2025, beginning at 5:00 P.M. All candidates must attend at their designated interview time.*

*You may recommend individuals other than yourself for consideration by the Nominating Committee. QCBA staff will contact all such suggested individuals.*

*Sitting judges are ineligible to serve on the Board of Managers.*

**Hamid M. Siddiqui**  
**Secretary**

*Please submit your requests by email to [jruiz@qcba.org](mailto:jruiz@qcba.org) or in writing to the attention of the:*

**Nominating Committee**  
**Queens County Bar Association**  
**88-14 Sutphin Blvd, 3<sup>rd</sup> Fl**  
**Jamaica, NY 11435**

*The Annual Election of Officers and Managers will be held on March 7, 2025. The newly elected Officers and Managers will assume their duties on June 1, 2025.*

*Dated: December 6, 2024  
Jamaica, NY*

*Get involved! Can't commit to the Board as yet...join a committee! Call for more info.*





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# QCBA Holiday Party

DECEMBER 12, 2024

PHOTOS BY WALTER KARLING





# QCBA Holiday Party

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# QCBA Holiday Party

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## Protect Your Loved Ones with the Gift of Peace

BY FRANK BRUNO, JR.

### CONTINUED FROM PAGE 1

of us is all we can control. Outside forces have their own lifecycle. The home and hearth are what truly matter in life. All the other stuff is noise—or worse, a source of neurosis for you to obsess over and flail against without ever having any effect on the outcome.

This holiday season is the perfect time to focus on what is in front of you. Thanksgiving allows us time to celebrate what we are grateful for. And then we have Christmas, Hanukkah, Yule, Kwanzaa, Zarathosht Diso coming up with new beginnings, more food, more family, and more love. Finally, there is New Year's Eve, which is a time to party and a time to reinvent yourself, to create the version of yourself that you want to be and know to be the true you.

Take a break from all the nonsense content you are consuming. The important stuff will make its way into your life if it is truly important. But do not let it consume you. Do not let it take over your life. And do not let it make you forget what really matters.

That said, if you do insist on availing yourself of what the various forms of media are foisting upon you, make the most of it. Use the news to motivate you to be better and to do great things. Use the excitement you feel to push you to greater heights. Use any trepidation you might be experiencing to help you realize that you have to handle your business. If you're worried about hard times coming, then you better get your affairs in order. And if you're excited about a "new age" rising, then you should also get your affairs in order to take advantage.

### Protect Your Loved Ones with the Gift of Peace

The holidays are a season of giving, reflection, and connection. As we search for thoughtful ways to show our love, it's worth considering a gift that truly lasts—a gift that provides clarity,

security, and peace of mind for the ones you care about most.

Estate planning is one of the most meaningful gifts you can give your family. It's not just about creating legal documents—it's about protecting your family's future, honoring your values, and ensuring your wishes are known.

Joseph and Mary's Story – they experienced a loss in their family that left their loved ones overwhelmed by legal and financial challenges. They realized they didn't want their children to face the same struggles. Together, we created an estate plan tailored to their family's needs. By setting up a trust, clarifying their healthcare preferences, and outlining their wishes, they gave their children the gift of security and peace.

What Estate Planning Can Do for Your Family: Protect Your Family's Future; safeguard your assets and ensure your loved ones are financially secure, no matter what life brings. Reflect your unique values, from preserving a family home to supporting a cause close to your heart. You can ease the burden on loved ones; provide clear instructions to prevent confusion, stress, and disputes.

Gain Peace of Mind and give the gift of peace. Feel confident knowing your family is protected, and your wishes are understood. This holiday season, think beyond the usual gifts. Give your family the lasting gift of security and love through a carefully crafted estate plan. Proper estate planning helps your family avoid time in court, maintain control of your assets, avoid family disputes and minimize delays and costs. Create a legacy of love and peace that will benefit your family for generations.

Great Scott! Reading recommendations. Scott Adams' books *Reframe Your Brain* and *How to Fail at Almost Everything and Still Win Big*, a unique blend of autobiography and self-help, providing readers with valuable insights into his philosophy of success. And I highly suggest

*Big Magic: Creative Living Beyond Fear*, a self-help guide by author and journalist Elizabeth Gilbert. A New York Times bestseller, it outlines six elements of creativity: courage, permission, enchantment, persistence, trust, and divinity. Gilbert uses anecdotes from her life as well as the work of others, to explain these concepts and philosophical musings about creativity and inspiration. The work explores themes such as The Importance of Play and Curiosity, Apparent Contradictions in the Creative Process, and Creativity as Magical.

*"Write a short story every week. It's not possible to write 52 bad short stories in a row."*

– Ray Bradbury

Ray Bradbury has a reading and writing challenge. The writing challenge is simple and explained by the above quote. Write one short story a week. The reading challenge is based on a piece of advice that Bradbury had given to writers. The challenge is to read a short story, a poem, and an essay every day for 1000 days. The challenge helps writers form the daily habit of reading different types of material and writing and allows for concentrated, focused bouts of feverish, unconstrained flow, followed by periods of calm, dispassionate editing and revision to round out the week. Bradbury had amazing stories and challenges us to write our own.

*"There are these two young fish swimming along and they happen to meet an older fish swimming the other way, who nods at them and says, 'Morning, boys. How's the water?' And the two young fish swim on for a bit, and then eventually one of them looks over at the other and goes, 'What the hell is water?'"*

– David Foster Wallace

Frank Bruno, Jr. is Past President of the QCBA, a Member of the Board of Managers, a regular contributor to the Bar Bulletin and a practicing attorney for more than 26 years.

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**Preserving Your Legacy: A Guide to Protecting Assets & Inheritance**

An elder law estate plan revolves around crucial questions that shape your choices. Firstly, it addresses the fate of your assets after you pass away. Secondly, it anticipates the scenario of needing long-term care and how it might impact your assets. A well-rounded plan seamlessly addresses both issues, ensuring not only the smooth transfer of assets to your beneficiaries but also safeguarding them from being depleted by long-term care expenses.

Securing long-term care insurance stands as the most effective defense against the financial challenges associated with extended care needs. When contemplating this insurance option, critical considerations involve defining an appropriate daily benefit amount and incorporating an inflation rider to match the escalating costs of nursing home care. Notably, long-term care insurance goes beyond by covering the expenses of home health aides, empowering individuals to gracefully age within the familiarity and comfort of their own homes, steering clear of the need for relocation to a facility. In case you're unable to obtain long-term care insurance, there's a backup plan called Medicaid Asset Protection (MAPT). Assets held in MAPT for at least five years are shielded from nursing home expenses, and upcoming laws may extend protection to two and a half years for home care.

Explore the option of using trusts instead of wills to bypass probate, which is a legal process initiated when you pass away with assets solely in your name. Trusts are harder to challenge than wills, especially if you're disinherit a child. In general, trusts streamline the estate settlement process, saving both time and money.

Opt for Inheritance Protection Trusts when leaving assets to your children instead of direct distributions. These trusts serve as a protective measure during your children's divorces, ensuring that in the unfortunate event of your child's passing, the inheritance is preserved for your grandchildren rather than being vulnerable to claims from your children's spouses.

Elder law estate planning is a comprehensive approach tailored to address the unique legal and financial concerns that individuals face as they age. Moreover, elder law estate planning aims to mitigate potential tax liabilities, ensuring that as much of the estate as possible goes to the intended heirs rather than being depleted by taxes or other financial burdens.

In essence, an elder law estate plan does three main things: (1) safeguards your assets from long-term care expenses, (2) passes assets to your heirs while minimizing taxes and legal fees, and (3) ensures your grandchildren inherit while shielding the legacy from your children's divorces.

Elder law estate planning offers a holistic approach to secure the well-being of seniors, protect their assets, and provide a clear roadmap for the distribution of their estate according to their wishes. By taking a proactive stance, individuals can steer the complexities of aging with confidence and ensure a legacy that aligns with their values and goals.



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## The Practice Page

# Privileged Communications With Clergy: *Thou Shalt Not Tell*

BY HON. MARK C. DILLON

*Serves on the Appellate Division, Second Department*

We are in a time of year that is important for religious holidays. Upcoming are Chanukah and Christmas. Islamic holidays do not fall predictably near the end of the year as that faith follows a lunar calendar which is out of sync with the widely-followed Gregorian calendar. That said, this is still perhaps the best time of the year to examine CPLR 4505, which recognizes the privilege of confidential communications between a congregant and a clergyperson. The privilege was not recognized at common law, but reflects the current public policy that persons be free to confide in those offering spiritual guidance without fear of reprisal, so that spiritual harmony can be realized between oneself and others (*Keegan v Gigante*, 47 NY2d 160, 166, *cert. den.* 444 U.S. 887).

The statute applies to communications with a “clergyman, or other minister of any religion or duly accredited Christian Science practitioner” (CPLR 4505). Reference to “any religion” is the broadest possible language, and therefore extends to Catholic priests, Protestant ministers, Jewish rabbis, Muslim imams, and the corresponding spiritual leaders of all other religions. The privilege does not extend to all communications between a congregant and religious leader, and certainly not to communications involving secular assistance or advice (*People v Schultz*, 161 AD2d 970, 971 [3rd Dep’t.]; *People v Drelich*, 123 AD2d 441, 443 [2nd Dep’t.]). An offhand disclosure made to a cleric between innings at a Yankee game will enjoy no privilege of confidentiality. Rather, the privilege applies more narrowly to those communications which are a “confession or confidence” made to the clergyperson in his or her formal role as “a spiritual advisor” (*Keenan v Gigante*, 47 NY2d at 166). The term “confession” refers to the Catholic sacrament of Penance, of privately confessing sins to a priest as a means of unburdening oneself from wrongdoing and obtaining absolution. The term “confidence” refers to a broader set of confidential communications applicable to all religions, beyond Catholic confession, where a person makes disclosures to a clergyperson while seeking specific

spiritual guidance (*People v Carmona*, 82 NY2d 603, 608-09). Once the clergy privilege is triggered by confession or confidence, a court cannot compel the spiritual advisor to disclose the information given no matter how serious the subject matter. Expressed in biblical-sounding terms, *Thou Shalt Not Tell*.

But what God giveth, God may taketh away. The privilege belongs to the person that has made the disclosure to the spiritual advisor. That person may therefore waive the privilege. If the privilege is waived, *Thou May In Factum Tell*. Indeed, the clergyperson cannot continue to assert the privilege upon its waiver by the congregant (*De’Udy v De’Udy*, 130 Misc.2d 168, 174 [Sup. Ct. Nassau Co.] [Wager, J.]). The privilege is automatically waived if the person makes the disclosure to a clergyperson and to other non-clergy persons at the same time and place, as doing so destroys the confidentiality of whatever spiritual advice was sought or conferred (*Lightman v Flaum*, 278 AD2d 373, 374, *aff’d*. 97 NY2d 128; *People v Harris*, 34 Misc.3d 281, 287 [Sup. Ct. Kings Co.] [Tomei, J.]). If a person discloses information to a clergyperson that is also disclosed to other persons at a different time, the privilege still exists as to the conversation with the spiritual advisor but does not extend to the conversation with the non-clergy persons, and disclosure may be compelled from those other persons (*Maida v Diocese of Brooklyn*, 2023 WL 2139769 [Sup. Ct. Kings Co. 2023] [Love, J.]).

The *Maida* case, *supra*, illustrates how the CPLR 4505 privilege is receiving some exercise in connection with sexual abuse matters revived under New York State’s Crime Victim’s Act (CPLR 214-g). In *Maida*, an alleged pedophile priest had sought spiritual counseling from his bishop about the abusive time, conversations which were subject to a privilege from disclosure. The bishop referred the priest to a psychologist who was to render an opinion to the diocese about whether the priest was fit to return to priestly duties. Conversations between the priest and psychologist were not of a spiritual nature and therefore were outside the scope of the CPLR 4505 religious privilege. The psychologist

privilege of CPLR 4507 was also inapplicable, as the priest had waived that privilege in order for the psychologist’s opinions to be disclosed to the bishop. As a consequence, the priest’s disclosures to the psychologist were not confidential by virtue of waiver.

The Court of Appeals declined to directly determine whether and under what circumstances there might be an “implied waiver” of the religious privilege (*People v Carmona*, 82 NY2d at 603), and decisional authorities have been unhelpful on the subject since *Carmona*’s publication in 1993. In his CPLR Practice Commentaries, Prof. Vincent Alexander suggests, based on the available case law, that there is no waiver of what was specifically discussed *with a clergyperson* if the congregant merely discusses the same subject matter with a third person at a different time. But an implied waiver may exist if the communicant makes duplicative admissions to a third person and discloses that those admissions had also been made *to the clergyperson* (Vincent C. Alexander, CPLR Practice Commentaries 4505 [2012]). In that circumstance, the privilege of confidentiality is impliedly destroyed and the clergyperson may be compelled to testify about the disclosures. Professor Alexander’s viewpoint on the subject is well taken, as the privilege should exist as between the congregant and the religious counselor for only so long as the congregant, who possesses the privilege, keeps knowledge the conversation with the clergyperson confidential.

Absent an expressed or implied waiver of the religious privilege, it bears repeating that *Thou Shalt Not Tell*. Enjoy the religiosity of the year-end holidays.

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*Mark C. Dillon is a Justice of the Appellate Division, 2nd Department, an Adjunct Professor of New York Practice at Fordham Law School, and a contributing author of CPLR Practice Commentaries in McKinney’s.*

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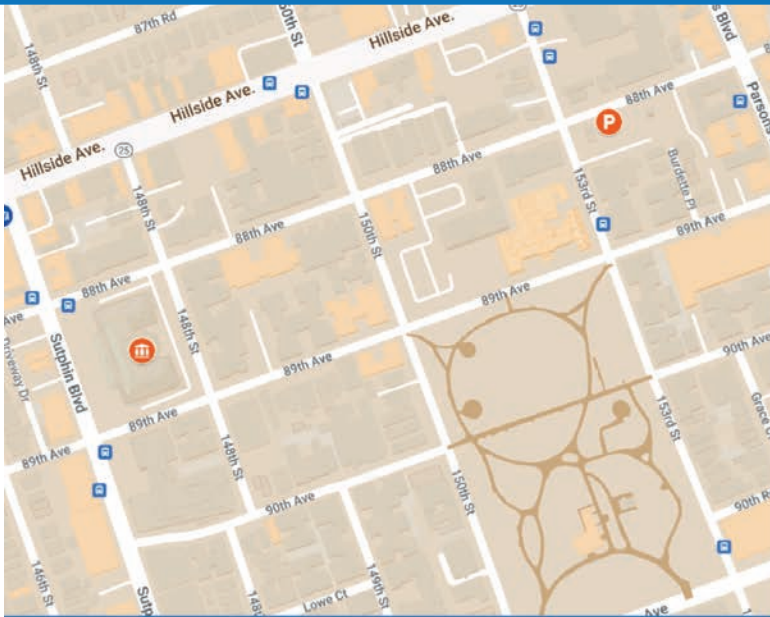
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