

# Queens

## BAR BULLETIN

Queens County Bar Association | qcba.org | 90-35 148th Street, Jamaica, NY 11435 | 718-291-4500

February 2020 | Volume 87, No. 5

### FAMILY LAW UPDATE

BY: JOSHUA R. KATZ, ESQ

2019 was an exciting year for family law practitioners in Queens County, and there are many important updates that will affect the practice of family law for each and every one of us.

The most imminent, and far-reaching change will be the institution of Chief Judge Janet DeFiore's Presumptive Mediation Program. At the insistence of the Chief Judge, in an effort to reduce caseloads and speed up litigation, there will be a plan to offer mediation to litigants in most types of cases, including matrimonials. This option will be presented at every preliminary conference, commencing in early 2020, and there will be a presumption that mediation is appropriate – except in cases where orders of protection are in place or issues of domestic violence are alleged.

Litigants will be permitted to opt out of mediation.

Each case selected for mediation will be provided 90 minutes with an assigned and trained mediator free of charge. If both parties elect to continue the mediation process beyond 90 minutes, then the parties and mediator will agree on a fee structure and enter a retainer agreement.

It remains unclear who the mediators will be. Currently, there is a mediation program in place in Queens Supreme Court that is underutilized. There are currently six mediators on the roster of the court's mediation panel. However, due to the volume of cases filed each year, to effectively implement the policy of presumptive mediation, many more mediators must be trained and certified. Stay tuned to see if discounted mediation training/certification courses are made available.

Another major change to our entire court structure is a proposal to consolidate NYS Courts. Under the current proposal, there would become one level of trial courts, thus consolidating Family Court and Civil Court with the existing Supreme Court. Such a change would require an amendment to the State Constitution, which would need a public vote, but gossip indicates there is support in the legislature for this consolidation concept.

Effective December 1, 2019, a new Short Form Application was made available to simplify child support collection for uncontested divorce filings.

Last year saw the promotion of Justice Jeffrey Sunshine, Chief Matrimonial Judge in Brooklyn, to a newly created position as the Statewide Coordinating Judge for Matrimonial Cases. Although Judge Sunshine was appointed to this position in June 2018, his appointment began showing positive effects over the past year. Judge Sunshine has traveled throughout the State to meet with administrative and matrimonial judges, and to learn what policies and procedures work – and which don't work. A great decrease in delays getting judgments processed and signed is but one example of his influence. Uncontested divorce judgments, with or without children, are currently being processed by the Queens County Matrimonial Clerks and assigned to judges in less than twelve weeks – about one-half the time it took one year previously.

Judge Sunshine is, also, working to incorporate e-Filing for matrimonial cases in Queens County, at least on a voluntary basis, in the very near future, and he

is working on an exciting software release that will streamline and simplify uncontested filings for pro-se litigants.

One other ray of Sunshine: The previous decree in Queens county that "No application for a matrimonial Preliminary Conference shall be accepted or processed unless proof is provided that an Answer or Notice of Appearance has been filed" has been vacated. Thus, it will no longer be necessary that issue be joined to request a Preliminary Conference.

Be aware! As of February 15, 2019, OCA revised the Statement of Client Rights that must be provided to every matrimonial client. Make sure you have the newest version, available on the OCA website, which should be attached and included with our retainer agreements.

All practitioners should know the current income "cap" for child support calculations pursuant to the CSSA is \$148,000 of combined parental incomes. To receive an award of support calculated on income above the "cap," a custodial parent must prove the needs of the child(ren) exceed and justify going over the cap. This cap is scheduled to increase in March or April 2020 by the sum of the average annual percentage changes in the consumer price index for all urban consumers (CPIU) as published by the United States department of labor bureau of labor statistics for the prior two years multiplied by the current income cap and then rounded to the nearest one thousand dollars. I don't understand this either, but look for a change in the cap shortly.

Other numbers to keep note of are the poverty guide-

**CONTINUED ON PAGE 6**



#### Table of Contents

Family Law Update.....	1, 6
President's Message.....	3
Editor's Note.....	4
Immigration Questions.....	5
December 2019 Holiday Party.....	10, 11
Mediation.....	14
The Practice Page.....	15

# The Docket

Being the official notice of the meetings and programs listed below, which, unless otherwise noted, will be held at the Bar Association Building, 90-35 148th Street, Jamaica, NY. 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

**FEBRUARY 2020**

**Wednesday, February 12**

Lincoln's Birthday

– Office Closed

**Monday, February 17**

President's Day

– Office Closed

**MARCH 2020**

**Tuesday-Thursday, March 3-5**

Basic Mediation Training

**Wednesday, March 11**

CLE: 2020 Ethics

**Tuesday, March 31**

Judiciary, Past President's

& Golden Jubilarian Night

**APRIL 2020**

**Thursday, April 2**

CLE: LGBTQ+ &

Immigration/Naturalization

Committees

**Friday, April 10**

Good Friday

– Office Closed

**Wednesday, April 22**

CLE: Equitable Distribution Update

**Thursday, April 23**

CLE: Breakin' Up is Hard to Do:

Basics of Business Dissolution

**Wednesday, April 22**

Equitable

Distribution Update

**MAY 2020**

**Thursday, May 7**

Annual Dinner &

Installation of Officers

**Monday, May 25**

Memorial Day

- Office Closed

**UPCOMING**

**SEMINARS**

CPLR & Evidence Update 2020

Ethics Update 2020

# New Members

Prety Chumber  
Noah Drucker  
Campbell Goin  
Evelyn Gong  
Navneet Kaur  
James McEntee Kerins  
Cynthia C. Santos  
Sukhbir Singh  
James Tinagero  
Bryan Zukerman

# Necrology



## 2019-2020 Officers and Board of Managers of the Queens County Bar Association

**President** – Marie-Eleana First  
**President-Elect** - Clifford M. Welden  
**Vice President** - Frank Bruno, Jr.  
**Secretary** – Adam Moses Orlov  
**Treasurer** – Michael D. Abneri

**Class of 2020**  
Alla Allison Ageyeva  
Gregory J. Brown  
Joshua R. Katz  
Michael Kohan  
Zenith T. Taylor

**Class of 2021**  
Gregory J. Newman  
Deborah M. Garibaldi  
Jeffrey D. Lebowitz  
Michael Serres  
Elizabeth Yablon

**Class of 2022**  
Kristen J. Dubowski Barba  
Charles A. Giudice  
Richard Michael Gutierrez  
Janet Keller  
Andrea S. Ogle

## Queens Bar Bulletin

**Executive Director**  
Arthur N. Terranova

**Queens Bar Bulletin Editor**  
Paul E. Kerson

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

**Publisher:**  
Queens Public Media, LLC, under  
the auspices of Queens County  
Bar Association. The Queens Bar  
Bulletin is published monthly from  
October to May. All rights reserved.  
Material in this publication may not  
be stored or reproduced in any form  
without permission.

©2019  
The Queens County Bar Association  
**Advertising Office:**  
**Queens Daily Eagle**  
8900 Sutphin Boulevard, LL11,  
Jamaica, Queens, NY 11435  
(718) 422-7412

**Send letters and editorial copy to:**  
Queens Bar Bulletin 90-35 148th Street, Jamaica, NY 11435  
**Editor's Note:** Articles appearing in the Queens Bar Bulletin  
represent the views of the respective authors and do not  
necessarily carry the endorsement of the Association, the  
Board of Managers, or the Editorial Board of the Queens  
Bar Bulletin.

**"Queens Bar Bulletin"**  
(USPS Number: 452-520) is published monthly except June,  
July, August, and September by Queens Public Media, LLC,  
8900 Sutphin Boulevard, LL11, Jamaica, NY 11435, under  
the auspices of the Queens County Bar Association. Entered  
as periodical postage paid at the Post Office at Jamaica,  
New York and additional mailing offices under the Act of  
Congress. Postmaster send address changes to the Queens  
County Bar Association, 90-35 148th Street, Jamaica, NY  
11435.

# Lawyers Assistance Committee

The Queens County Bar Association (QCBA) provides free confidential assistance to attorneys, judges, law students and their families struggling with alcohol and substance abuse, depression, stress, burnout, career concerns and other issues that affect quality of life, personally and/or professionally.

QCBA Lawyers Assistance Committee (LAC) offers consultation, assessment, counseling, intervention, education, referral and peer support.

All communication with QCBA LAC staff and volunteers are completely confidential. Confidentiality is privileged and assured under Section 499 of the Judiciary law as amended by the Chapter 327 of the laws of 1993.

*If you or someone you know is having a problem, we can help.  
To learn more, contact QCBA LAC for a confidential conversation.*

**LAWYERS ASSISTANCE COMMITTEE**  
**CONFIDENTIAL HELPLINE**  
**718-307-7828**



## President's Message

Dear Members,

As we are now in the midst of the winter season, I extend warm greetings to all of you. Year 2020 is now in full swing. Congratulations to District Attorney Melinda Katz who was recently inaugurated as the first woman District Attorney ever in Queens!

I have previously written about how diversity within government is crucial to ensure fair legislation, application, and adjudication of the law. I submit to you, that in addition to being diverse, in order for both the legislature and judiciary to be effective, there needs to be adequate and equitable representatives and adjudicators for the actual number of people living within a community.

Looking through the Queens County Bar Association's 75th Anniversary Edition (1876-1951) of *The Story of the Queens County Bar Association* ("The Story") published in 1952, I discovered that the Association historically has been concerned with public questions such as adequate representation; indeed, the Association recognizes the inherent value of equitable representation in government. The Story writes, "The Association through its Committee on Reapportionment took a particularly active part in the struggle for many years to give the people of Queens equitable representation in the state legislature. And when the reapportionment statute finally passed (L. 1943, ch. 359), was unsuccessfully assailed in the courts, the Queens County Bar Association, represented by two of its members, Arthur H. Indell and Charles J. Was. Meisel, filed a brief, amicus curiae, in support of the constitutionality of the statute. (Matter of Fay, 291 N.Y. 198)" (held: in the process of reapportioning Senate districts in 1943, the Legislature acted in conformity with the constitutional purpose).

Nearly eighty years later, the issues of fair and equitable representation in the legislature and judiciary

are still very much relevant today in Queens County. While the population of Queens has increased, the legislature and parts of the judiciary in Queens have not expanded commensurately.

According to the NYC Department of City Planning, the population of Queens has rapidly increased; Queens has added 109,771 new residents between 2000 and 2015, a 4.9 percent hike, for a total of 2,339,150 residents. In reality, the actual number of Queens' population is most likely higher: The New York Times reported that the Census Bureau's own decennial [2010] verdict [for Queens] was that as many as 80,000 residents appeared to have been systematically overlooked in crowded immigrant neighborhoods such as East Elmhurst and Jackson Heights.

The outcome of the 2020 Census will affect the state of New York, including the community of Queens for the next decade. "[T]he 2020 Census, there's a lot riding on it - including New York's fair share of federal funding for public services and our political representation in Congress," said Steven Choi, Executive Director of the New York Immigration Coalition (Facilitator of New York Counts 2020). The undercount of the population of New York State in 2010 resulted in the loss of two Congressional seats; New York State has consistently been losing representatives in Congress since 1953. A total of approximately \$800 billion [of Federal funds] is distributed annually to States across the country through approximately 300 different census-guided federal grant and funding programs which support essential services including healthcare, public education, social services and infrastructure development." Thus, an undercount in New York, including Queens County, would result in a loss of congressional seats, and also hinder the proper allocation of funds for essential services.

Regarding the judiciary in Queens County: the

number of civil court judges and judges in the Appellate Division of the 2nd Department for the 11th District (Queens) are significantly less than the numbers of their counterparts in other counties and districts. For instance, Kings County, with an estimated population of 2.5 Million, has twenty-five (25) judges sitting in Civil Court (including Housing Court), compared to seventeen (17) Civil Court judges (including Housing Court) in Queens County (estimated population of 2.3 Million). For its population of 2.5 million people, the Appellate Division, Second Department, Second Judicial District (Kings) has seven (7) Appellate Division Judges, while the Eleventh Judicial District (Queens County) with its population of 2.3 million people, has two (2) Appellate Division Judges. These figures can be compared with the Tenth Judicial District (Nassau and Suffolk Counties) with its population of 2.8 Million, with Four (4) Appellate Division Judges; the Ninth Judicial District (Westchester, Rockland, Orange, Putnam, and Dutchess Counties) with its population of 1.8 Million, with six (6) Appellate Division Judges; and the Thirteenth Judicial District (Richmond County) that has a population of .5 Million, with two (2) Appellate Division Judges.

So Dear Members, I hope you have found this information helpful and informative. The Year 2020 Census will impact and shape the way the government is run for the years to come. Democracy is facilitated when there is equitable apportionment in the branches of the government. Justice happens when we come together collectively as a community.

Wishing you a great month of February and rest of the winter season.

---

**SINCERELY YOURS,  
MARIE-ELEANA FIRST | PRESIDENT**





## Editor's Note

# Lessons from the Archive: The Death Penalty

The New York State election of 1994 was enough to horrify even the most seasoned among us.

George Pataki beat incumbent Governor Mario Cuomo by three percentage points. Pataki promised to reinstate the death penalty, and that was his major campaign theme.

New York had not had an execution in decades, since 1963. Our members thus had no experience with this ultimate sentence and how to prevent it.

Worse, many of the State's prosecutors jumped on the Pataki death penalty bandwagon. There was a bloodlust in the air. The qualities of justice, mercy, understanding, rehabilitation, family, and forgiveness that define New York's character seemed to be forgotten entirely in 1994.

Pataki was determined to pull us down into the cesspool of racism and revenge that characterized the leading death penalty states such as Alabama and Texas. He was going to take the New York out of New York.

Fortunately, in the new death penalty legislation he pushed through in 1995, the State Assembly forced Pataki to allow the creation of the brand new State Capital Defender's Office (CDO). The CDO would be adequately funded. There would be staff attorneys and court appointed lawyers on a case-by-case basis who qualified for the new Capital Defender Panel. The pay was to be considerably more than that of the Homicide Defense Panel for "ordinary" (non death-penalty) homicides.

The brand new New York State Capital Defender was an excellent choice, the Alabama Capital Defender Himself, Kevin Doyle, the very religious Catholic son of a Bronx police officer. Kevin Doyle believed in the sanctity of human life above all, and that the State had no business taking life.

There was no time to waste. The new statute authorized the State's mad-dog prosecutors to start seeking the death penalty in September 1995.

Kevin was equal to the task. In July 1995, he summoned the State's most experienced criminal defense lawyers to a low-budget hotel in White Plains for a three day crash course in capital case defense.

It was a deeply religious experience, whether one believed in Organized Religion or not. Kevin lectured us at length about the sanctity of human life. He told us his goal: George Pataki's sick electoral cynicism or not, no one was going to be executed in New York as long as Kevin was our Capital Defender. And we, each of us, were going to help him achieve this goal – very New York: Everyone from everywhere is welcome, and we don't kill people, we take care of everyone and their families, and they take care of us. This is what we mean by the motto: Empire State.

Your Editor was President of the Queens County Criminal Courts Bar Association at the time, a Member of the Homicide Defense Panel, and the holder of the record for jury trial acquittals in homicide or attempted homicide cases – five.

Sure enough, as predicted, in September 1995, the capital charges started to be filed in record numbers. Kevin assigned the first case out of the box to your Editor. I was honored, but frightened beyond any fear I ever had before. If I made a mistake, a man could die. Yes, I had been a lawyer for 20 years at that point, and yes I had the record for jury trial acquittals, but, as Kevin kept telling us: Death

is different.

It was a Nassau County case. Bill Morton was riding in a Hempstead taxicab when his fellow passenger, Joe Green, put a loaded gun in the face of the driver, and demanded money. The driver refused. Green shot the driver, and he died in the hospital later that day. (Names have been changed to protect the innocent.)

Bill Morton had no gun. Bill Morton did not rob anyone. Bill Morton did not kill anyone. Bill Morton had no idea Joe Green was going to pull out a gun and seek to rob and shoot the cab driver.

What was wrong with the Nassau County District Attorney? What planet did he come from? Even if one "believed" in the death penalty, how could it be used in a case like this? Certainly there was more than reasonable doubt here.

But this was the political climate Pataki created in the Election of 1994. He used his status as a major party nominee for Governor to whip up the public into its worst instincts. This was not leadership. This was cowardice and raw ambition. And it trickled down to the State's District Attorneys and their Assistants.

At the arraignment on October 2, 1995, I met Shiela Morton, Bill's mother. I sat on a bench with her outside the courtroom at the Nassau County courthouse on 262 Old Country Road. I knew it was her by the horrified look on her face. I told her my name, gave her my card, and told her I was appointed by the State Capital Defender to defend her son Bill.

She started to cry, great big tears rolling down her face. She could not talk for a long time. I held her hand tightly in mine.

Finally she said, "They want to kill my baby boy..." and her voice trailed off into her sobs.

"Oh, no," I said. "No one is going to kill your boy as long as I am alive." I meant it, and I squeezed her hand all the harder.

I wished George Pataki had been with me on that Nassau County Court bench outside the courtroom. Then perhaps he could have seen the recklessness and stupidity and needless pain he caused with his outrageous 1994 campaign for Governor and foolish insistence on his 1995 Death Penalty statute.

I studied the discovery materials I received from the District Attorney. The crime had allegedly occurred on September 14, 1995. I looked at Bill's date of birth on the police report. He was not yet 18 years old on September 14, 1995. The new New York Death Penalty statute provided that the defendant had to be 18 years old at the time of the crime.

I immediately made an oral motion to dismiss the capital charge as totally illegal under the existing new statute. "Not granted," said the Judge. "I want to see the actual birth certificate".

I instructed Mrs. Morton to bring her son Bill's birth certificate at our next court date in three days. Sure enough, on October 5, 1995, I again made the same oral motion to dismiss the capital count and handed up the birth certificate. "Not granted," said the Judge. "It could be a forgery".

I imagined Franz Kafka looking down on us. This is

beyond absurd. I was holding a New York City Health Department Birth Certificate with the signatures of Mayor Edward I. Koch and Health Commissioner Pascal J. Imperato, M.D.

Mrs. Morton could not believe this. Neither could I. I sent her to the Hospital where Bill was born to get a hospital birth certificate with a raised seal. Despite this bureaucratic hurdle for a 17 year old hospital birth certificate, Mrs. Morton managed to do it.

On October 17, 1995, our next adjourned date, Mrs. Morton appeared with a Hospital birth certificate with a raised seal. The Assistant District Attorney carefully studied it, turned it over and over a few times, and pronounced it genuine. My motion to dismiss the capital charge was granted.

Under the terms of the new Death Penalty statute, I was now off the case, and lesser paid counsel substituted under Article 18-B of the County Law, as this was no longer a capital case.

I submitted my voucher on Dec. 7, 1995. It was cut by one-third by the Nassau County Judge by an Order on July 2, 1997, 19 months later. I received a State check for the reduced amount of the fee on August 8, 1997 from the Pataki Administration.

Was the cutting of the voucher and the nearly two years it took to get paid a Message?

Maybe it was, and maybe it was just bureaucratic ineptitude. But Kevin Doyle succeeded in his stated goal. No one has been executed in New York since George Pataki demanded executions in 1995. Kevin and his staff and panel attorneys either won every trial and/or appeal, or negotiated pleas that took the death penalty off the table.

Kevin's biggest win was *People v. LaValle*, 3 N.Y. 3d 88, 783 N.Y.S. 2d 485 (2004). Our Court of Appeals struck down Pataki's death penalty statute as violative of our State Constitution. The State Legislature, under a new Governor in 2007, Eliot Spitzer, prohibited the death penalty. Governor David Paterson issued an Executive Order in 2008 requiring the removal of the State's execution equipments. Sanity had returned to New York.

Not so in Alabama. Read Bryan Stevenson's 2014 book, *Just Mercy: A Story of Justice and Redemption*, Penguin Random House, Publishers, New York. It is the story of Bryan's public interest law firm, Equal Justice Initiative, of Montgomery, Alabama.

It is an inspiration. Bryan saved his case files. In them, we meet police officers who fake investigations, judges who put up with this, and prosecutors who are completely indifferent to justice. And Alabama's stakes are much higher. They execute people.

Bryan had many capital cases going at one time. From the above description, you can see how this would be the most difficult, challenging practice of all.

Let us hope and pray that the U.S. Supreme Court reads Bryan's book, and acts accordingly.

BY PAUL E. KERSON  
EDITOR



Allen E. Kaye

Civil Rights Coalition Successfully Blocks Trump Administration's Latest Attempt to Implement Health Care Ban

Friday, Dec. 20, 2019 –Litigators from the Justice Action Center (JAC), the American Immigration Lawyers Association (AILA), and Innovation Law Lab, with pro bono counsel Sidley Austin LLP and Latino Network as the organizational plaintiff, welcomed the Ninth Circuit 2-1 decision to refuse the federal government an administrative stay pending appeal of the preliminary nationwide injunction in *Doe v. Trump*. The administration had sought an emergency stay of the injunction granted on November 26, 2019, by the U.S. District Court in Portland, OR. The stay would have immediately implemented President Trump's October 4 proclamation requiring legal immigrants to prove they hold an "approved" health insurance plan, or can pay for health care out of pocket, in order to be allowed entry to the U.S. This unconstitutional health care ban would affect approximately 375,000 people each year, immediately separate families from loved ones, harm businesses seeking to employ international talent, and undermine our nation's commitment to equal rights. The Ninth Circuit agreed with the U.S. District Court in Portland, OR, and the proclamation remains enjoined.

A temporary restraining order (TRO) issued by the U.S. District Court in Portland, OR, on November 2, 2019, had stopped the federal government from implementing the policy. During that month, approximately 25,000 visas were granted that would otherwise have been denied. The preliminary injunction issued November 26, 2019, solidified that win. The rejection of the stay now means that the district court's order will remain in effect for now, unless the federal government seeks and obtains a stay from the U.S. Supreme Court.

The government also filed a non-emergency request for a stay which will be heard on January 9, 2020 in San Francisco. Meanwhile the underlying lawsuit will move forward in District Court.

#### Background

On October 4, 2019, President Trump signed a proclamation barring qualified immigrants from receiving visas unless they could prove they would be covered by "approved" health insurance within 30 days of arriving in the U.S. or are healthy and wealthy enough to pay for "reasonably foreseeable medical costs" upon arrival. The proclamation, labeled a ban because of its tremendous reach and impact, limited "approved" health insurance to plans that many

immigrants do not qualify for; are unavailable in large states like New York and California; or would be impossible to obtain within 30 days of arrival. The proclamation was to go into effect on November 3, 2019.

#### Healthcare Insurance Proclamation

On November 26, 2019, U.S. District Judge Michael H. Simon granted the plaintiffs' motion for a preliminary injunction, thus enjoining the government from taking any action to implement or enforce Presidential Proclamation No. 9945, "Presidential Proclamation on the Suspension of Entry of Immigrants Who Will Financially Burden the United States Healthcare System" until the court resolves the case on the merits or orders otherwise. Stop Button

On October 4, 2019, President Trump issued a proclamation suspending the entry of immigrants who "will financially burden the U.S. healthcare system," effective at 12:01 am

(ET) on November 3, 2019.

This means that, outside of very limited exceptions, if an alien is applying for an immigrant visa, including a diversity visa, on or after November 3, 2019, he must demonstrate to the consular officer at the time of interview that he/she will be covered by approved health insurance within 30 days of entry into the United States or have the financial resources to pay for reasonably foreseeable medical costs. According to DOS, inability to meet this requirement will result in the denial of the visa application

- Advocates File Lawsuit to Stop Three Interrelated Government Actions Related to Public Charge

The Legal Aid Society, the Center for Constitutional Rights, the National Immigration Law Center, and pro bono counsel Paul Weiss Rifkind Wharton & Garrison LLP filed a complaint regarding public charge in the U.S. District Court of the Southern District of New York on behalf of Make the Road NY, African Services Committee, CARECEN, CLINIC, Catholic Charities, and five individual plaintiffs.

The complaint challenges three things:

1. the Department of State's public charge rule (similar to the Department of Homeland Security's rule that is currently enjoined);
2. the January 2018 public charge changes to the Foreign Affairs Manual; and
3. the Presidential Proclamation on health insurance for intending immigrants.

- Immigrant Advocacy Groups File Suit Challenging the Weaponization of Immigration Courts

The Southern Poverty Law Center, Innovation Law Lab, Las Americas Immigrant Advocacy Center, Asylum Seeker Advocacy Project, Catholic Legal Immigration Network, Inc., and Santa Fe Dreamers Project, with the pro bono assistance of Perkins Coie, filed a lawsuit challenging the weaponization of the nation's immigration court system, or the creation of "an adjudication system where applicants for asylum are supposed to lose." Specific policies challenged include the perpetuation of immigration court jurisdictions where asylum is effectively impossible to win, the creation of a backlog of more than a million immigration cases, the implementation of enforcement-oriented performance metrics for immigration judges, and the implementation of a rapid-removal family docketing directive. (*Las Americas Immigrant Advocacy Center v. Trump*, 12/18/19).

- Chicago, Los Angeles, New York City and a Total of 51 Cities & Counties Oppose Proposed Fee Increases Pricing Out Millions from Citizenship and the American Dream

WASHINGTON - The mayors of Chicago, Los Angeles, New York City, and 48 other mayors and county executives from cities and counties across the United States sent a letter on Wednesday, Dec. 18 to U.S. Citizenship and Immigration Services (USCIS) expressing strong opposition to a proposed regulation that would significantly increase the fees to apply for citizenship and other immigration benefits.

If allowed to go into effect, the proposal would:

- Increase the citizenship application fee by 83 percent, from \$640 to \$1,170
- Increase fees associated with a lawful permanent residency by 79 percent, from \$1,220 to \$2,195 Increase the cost of Deferred Action for Childhood Arrivals (DACA) renewals, from \$495 to \$765;
- Charge a fee for asylum for the first time in our country's



Joseph DeFelice

history; charging \$50 for affirmative asylum applications and requiring asylum seekers to pay for a work permit while their application is pending

- Eliminate most fee waivers
- Transfer funds from USCIS to Immigration and Customs Enforcement for enforcement purposes, including denaturalization.

The draft rule is currently open for public comment until Dec. 30th and has yet to be implemented. The letter urges USCIS to withdraw the proposed rule and to increase the public comment period to 60 days.

Statement from Mayor  
Lori Lightfoot, Chicago

"The proposed fee increases are the latest cynical attempt by the Trump administration to discourage immigrants and refugees from coming to the United States and becoming full members of our society and political process. Our immigrants and refugees are key contributors to our history, economy, and culture, and these attacks on their ability to access citizenship and other forms of stable immigration status not only pose a threat to our future but are an affront to our highest values as Americans. Chicago is proud of our status as a Welcoming City for all people, and we will always fight to ensure every resident has the support and protection they need to provide for their families, fulfill their talent, and pursue their American Dream."

Statement from Mayor  
Eric Garcetti, Los Angeles

The American dream should not be open only to the highest bidder — and no rules and regulations should put a price on U.S. citizenship or legal status. With this cruel and un-American proposal, the Trump Administration is trying to create an insurmountable barrier between hard-working immigrants and their rightful place in our society — weakening our cities, undermining our communities, and harming our economy along the way."

Statement from Mayor  
Bill de Blasio, New York City

"Once again, the Trump administration is attacking the people we call our neighbors, our friends, and our families by making citizenship and immigration benefits unattainable unless you are wealthy. Immigrants, including those fleeing persecution and seeking safety, make our City what it is and I am proud to stand with mayors and county executives across the country to fight against this un-American rule."

Statement from Magaly Arteaga, Program & Training Manager, National Partnership for New Americans

"The proposed rule is yet another attack on eligible immigrants whose American Dream is to become U.S. Citizens and be able to vote. This rule also discourages and makes it more difficult for immigrants to apply for a green card, DACA, asylum, and many other benefits, and for them to feel protected in a place they call home."

BY ALLEN E. KAYE  
AND JOSEPH DEFELICE

*Allen E. Kaye and Joseph DeFelice are Co-Chairs of the Immigration and Naturalization Committee of the Queens County Bar Association.*



## FAMILY LAW UPDATE

### CONTINUED FROM PAGE 1

line, which is currently \$12,490 for a single person, and self-support reserve, which is currently \$16,862 per year. According to the most recently published CSSA charts, until a respondent's income exceeds \$19,389, child support will be \$25 per month regardless of the number of children.

Based upon the current minimum wage in NYC, Queens Support Magistrates are likely to impute a minimum income to all litigants who are not disabled of \$30,000 per year!

If you are still reading this, you should be a member of the Family Law Committee. If not, please sign up! Mark your calendars, and join us at upcoming meetings:

February 27 will be a general meeting of the Committee at the

Queens County Bar Association.

March 18 will be an important presentation by Denisa Tova, of Klein Leibman & Gresen, on the preparation of QDRO's, sponsored by Klein Leibman and Gresen, to be held at the QCBA.

April 22 is the annual Equitable Distribution Update at the QCBA. This year's update will be presented by Mark Plaine and David Gross, and will be sponsored by Heidi Muckler, CPA.

May 20 will be the Annual Michael Dikman Memorial Dinner at Verdi's Restaurant.

I look forward to seeing you at these meetings, and in the sacred halls of justice!

Editor's Note: Joshua R. Katz is a member of the Board of Managers and Co-Chair of the Family Law Committee.

## To Advertise in the QCBA Bulletin

Please Contact Maureen Coppola at (347) 728-5974  
or email: [maureen@queenspublicmedia.com](mailto:maureen@queenspublicmedia.com)  
or Fran (718) 422-7412

# QUEENS Daily Eagle

We also offer community news advertising, website creation, and social media management!  
Published on behalf of the Queens County Bar Association



To our current advertisers,  
Thank you for your continued support of the  
Queens Bar Association and it's Bulletin!

## 2020 DIGITAL SUBSCRIPTION FEE

# QUEENS Daily Eagle

Beginning January 1, we are asking our many digital newspaper subscribers to pay a small fee to cover some costs of production. Your payment will allow us to continue bringing you the latest news from the Queens courts and legal community each day.

For a small yearly fee of \$28, you will continue to receive your Queens Daily Eagle — the borough's only print daily — delivered straight to your inbox every morning before 8 a.m.

As part of the deal, we are offering a discounted business card-size ad for your firm to advertise your practice in our paper.

We will print subscribers' color business card ads for ten consecutive weeks for \$172 — \$200 total with your digital newspaper subscription

The staff at the Eagle looks forward to serving our community and providing you with the best journalism that Queens has to offer.



To make a payment, visit [QueensEagle.com/pay](https://QueensEagle.com/pay) and submit your information through PayPal.

For more information or to pay by check, contact Publisher Michael Nussbaum at (718) 422-7409 or by email at [Michael@queenspublicmedia.com](mailto:Michael@queenspublicmedia.com)  
Checks should be made out to Queens Public Media LLC: 8900 Sutphin Blvd., LL11, Jamaica, Queens, NY 11435  
Subscribers who wish to take advantage of the business card promotion can either mail the card or scan and email it to [advertising@queenspublicmedia.com](mailto:advertising@queenspublicmedia.com)  
Call our office for assistance on placing the ad copy for your firm or individual.



## QUEENS COUNTY BAR ASSOCIATION

90-35 148<sup>th</sup> Street, Jamaica, New York 11435 • Tel 718-291-4500 • Fax 718-657-1789

# SCHOLARSHIP FUND

The Queens County Bar Association's Scholarship Fund was created in 2005 to offer financial assistance to law students who are residents of Queens County or who attend law school in Queens County.

The recipients of the QCBA Scholarship are carefully chosen based on academic achievement, community service and/or service to the Bar and financial need and is awarded at the Annual Dinner in May.

We know that times are hard, but would hope that you could donate to this worthwhile purpose and your tax deductible donation (of any amount) will help to support and recognize a deserving law student(s). The assistance we provide to the future lawyers, many of whom are struggling with enormous debt, also enhances the good name of our Association.

If you have any questions, please contact the office at 718-291-4500.

Thank you for your support of this valuable community-based program!

With sincere thanks,

Marie-Eleana First, President

*Law School Student Scholarship Committee*  
HON. MARGUERITE A. GRAYS, Chair  
LESLIE S. NIZIN

*Please Make Checks Payable and Mail To:*

**QUEENS COUNTY BAR ASSOCIATION FUND, INC.**

**90-35 148TH STREET**

**JAMAICA, NY 11435**

*All donations are tax deductible.*



# TIME SHRED

**DOCUMENT SHREDDING | HARD DRIVE DESTRUCTION**

**(855) 85-SHRED (74733)**



## DOCUMENT SHREDDING SERVICES

On-site Shredding Services- we come to you

Next Day Service Monday – Saturday

One-time or Ongoing Shredding Available

AAA Certified by NAID



**Manhattan (212) 359-0643 • Brooklyn, Bronx (718) 875-1200**

**Queens (718) 534-1150 • Staten Island (718) 534-1140**

**Suffolk (631) 676-8367 • Nassau (516) 690-8999**

**Westchester (914) 233-0393 • New Jersey (973) 315-1580**



**FIGHTING FOR THE RIGHTS OF INJURED WORKERS**

**EXPAND YOUR LAW PRACTICE CAPABILITY WITH PYRROS & SERRES, LLP.  
WORKERS' COMPENSATION AND SSI/SSD IS WHAT WE DO!**

Does your client have a work related accident, or an existing Workers' Compensation claim?  
Are they out of work and need to file a Social Security Disability claim?

**COUNSEL TO THE PROFESSION: PARTNER WITH US, WE HANDLE THE COMPLETE WORK COMP PROCESS!**

Pyrros & Serres LLP | 718.626.7730 | [www.nylaw.net](http://www.nylaw.net) | [newcasecenter@nylaw.net](mailto:newcasecenter@nylaw.net)

Queens: 31-19 Newton Ave, 5th Floor Astoria, NY 11201 | Brooklyn: 111 Livingston St., Suite 1928, BK, NY 11201 | Bronx: 149 East 149th St., Bronx, NY 10451





# Big Apple Abstract Corp.

**Lawrence M. Litwack, Esq.**

**Margaret T. Ling, Esq.**

*Senior Counsel*



## Guardian Land, LLC

*A Division of Big Apple Abstract Corp.*

**Barry Wasserman**  
(1934 - 2019)

**Marvin Simms**  
(1932 - 2019)



## Steadfast Title Agency, LLC

*A Division of Big Apple Abstract Corp.*

**Nikon Limberis**  
*Counsel*

## Vincent J. Monte, LLC

*A Division of Big Apple Abstract Corp.*

- 
- . Serving the Legal and Real Estate communities since 1980
  - . Specializing in residential / commercial transactions and today's difficult market: short sales and foreclosure proceedings
  - . Focusing on our client's specific title and non-title insurance needs, as well as preparation of detailed ACRIS recordings and other pertinent documents
  - . Knowledgeable, experienced "In-house" staff / title closers

### *Sales Representatives:*

*Mitchell Applebaum   Susan Lovett   Ron Calcerano*  
*Lisa Feinstein   Larry "Cousin" Litwack   John G. Lopresto   Joanna Newman*

**Visit us at: [www.bigappleabstract.com](http://www.bigappleabstract.com)**

42-40 Bell Boulevard, Bayside, New York 11361

(718) 428-6100   (516) 222-2740   (212) 751-3225   Facsimile: (718) 428-2064



# Holiday Party 2 – December 12, 2019



PHOTOS BY WALTER KARLING

Members of the Law Office of Ferro & Stenz with a few extras thrown in.



Allison Ageyeva, Lisa Mevorach and Ron Caveglia.



Arthur Mosley, Estelle Roond, Ron Caveglia and Andree Sylvestre-Johnson.



Bruce Povman, Allison Ageyeva, Morton Povman and Mona Haas.



Caren Samplin and Hon. Marguerite Grays.





Cliff Welden with Felicia and Barry Seidel.



David Adler, Arthur Terranova and Mark Weliky.



Executive Director Arthur Terranova with QCBA President Marie-Eleana First.



Greg Brown, Hon. Tom Raffaele and Helmut Borchert.



Jay Abrahams, Milene Mansouri and Mark Keller.



Justices Marguerite Grays and Jeremy Weinstein.



Paula and Paul Pavlides and David Adler.



QCBA Staff-Navina Daramdas, Janice Ruiz, Arthur Terranova, Sasha Khan and Ellen Mangra.



Chrisanthy Zapantis and Hon. Joseph Zayas.



Rich Lazarus and Paula Pavlides.



Janet and Mark Keller.

PHOTOS BY WALTER KARLING



## JOHNE. LAWLOR, ESQ.

ATTORNEYS AT LAW

Securities Litigation and Arbitration. State and Federal

30+ years handling securities litigation / arbitration

Contingent and hourly fee arrangements available:

**Free Consultation**



516-248-7700 | JLawlor@johnclawlor.com

[www.johnclawlor.com](http://www.johnclawlor.com)

129 Third Street, Mineola 11501



## GORDON

LEGAL, PC

### RESOLVING LANDLORD TENANT DISPUTES

- Queens Eviction Lawyer
- No Hourly Rate
- Responsive Communication

**FREE CONSULTATIONS**  
Office Hours By Appointment Only



(718) 989-5751

[www.QueensEvictions.com](http://www.QueensEvictions.com)

3418 Northern Blvd #213, Long Island City, NY 11101



## LABOR / EMPLOYMENT LAW FIRM FOR EMPLOYERS

PROTECTING BUSINESS OWNERS SINCE 1979

STEPHEN D. HANS  
& ASSOCIATES, P.C.  
LABOR & EMPLOYMENT COUNCIL OVER 40 YEARS

- Wage & Hour Lawsuits • NYS/US Department of Labor Audits & Investigations
- Defense of Employee Discrimination Claims • All Federal Courts • EEOC • NYS DHR
- NLRB - Anti-Union Representation • Collective Bargaining
- Compliance Assistance • Forms • Instruction • Analysis
- General Labor/Employment Law Defense Representation

## 718-275-6700

[www.hansassociates.com](http://www.hansassociates.com). 30-30 Northern Boulevard, Suite 401, Long Island City, NY 11101



# FLORIDA ATTORNEY

## LAW OFFICES OF RANDY C. BOTWINICK

Formerly of Pazer, Epstein, Jaffe & Fein

### CONCENTRATING IN PERSONAL INJURY

- Car Accidents
- Slip & Falls
- Maritime
- Wrongful Death
- Defective Products
- Tire & Rollover Cases
- Traumatic Brain Injury
- Construction Accidents

Co-Counsel and Participation Fees Paid



**RANDY C. BOTWINICK**  
34 Years Experience



**JAY HALPERN**  
39 Years Experience

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

#### MIAMI

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

#### PALM BEACH

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

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

From Orlando to Miami... From Tampa to the Keys  
[www.personalinjurylawyer.ws](http://www.personalinjurylawyer.ws)

## EDWARD F GUIDA, JR.

NEW YORK CITY MARSHAL • BADGE #14

Landlord/Tenant Collections



T: (718) 779-2134 • F: (718) 779-8123  
47-26 104th Street, Corona, NY 11368



**QUEENS**  
**Daily Eagle**

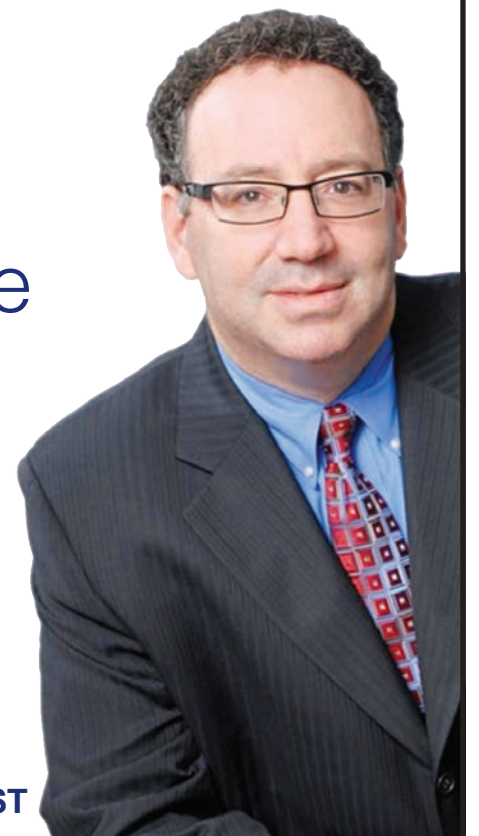
TO PLACE A LEGAL AD  
Contact Gina Ong,  
Legal Advertising Manager  
[Legals@queenspublicmedia.com](mailto:Legals@queenspublicmedia.com)

## NEED A BUSINESS VALUATION & FORENSIC ACCOUNTING EXPERT?



**Accountants  
Consultants &  
Business Valuers**

- Business Disputes
- Gift & Estate
- Matrimonial
- Economic Damages



**MARK S. GOTTLIEB**  
CPA/ABV/CFF, CVA, CBA, MST

Mark S. Gottlieb, CPA PC  
646-661-3800  
[msgcpa@msgcpa.com](mailto:msgcpa@msgcpa.com)  
[www.msgcpa.com](http://www.msgcpa.com)



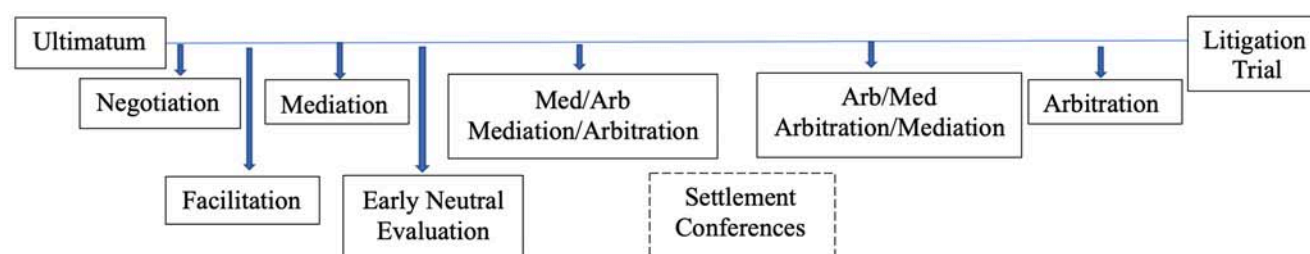
# It's Not Just About Mediation.

## "Presumptive ADR" and The Spectrum.

In an article first published in the New York Law Journal's Special ADR Report on August 5, 2019, and then reprinted in the November 2019 issue of the Queens County Bar Bulletin, the ADR process of mediation was discussed at length in the context of the court system's launch of the progressive "Presumptive ADR" program. Following the first publication various Queens County bar associations combined forces to host a Presumptive ADR discussion, featuring Deputy Chief Administrative Judge George J. Silver and Administrative Judge of the Civil Courts of the City of New York Anthony Cannataro. During that presentation the ADR spectrum was discussed, and a hand-out was presented.

The spectrum is a visual representation of all of the dispute resolution processes from negotiation through and including litigation. As you move from left to right, the processes move from consensual to adjudicative and from informal to formal. Also, at the far left the parties determine the outcome and retain control whereas at the far right a third party decides for them and they cede control. This article is meant to provide a brief overview of processes on the spectrum, other than mediation, that the court may be employing.

The spectrum, in a slightly amended version, appears as follows:



The amendment is the addition of settlement conferences. Judicial settlement conferences that do not traditionally appear on the spectrum arguably have a place thereon. Their use, both on a case-by-case basis and as 'blockbusters' for classes of cases, has been discussed in conjunction with the Presumptive ADR initiative. Given the characteristics of this process placement on the spectrum is somewhat problematic. On the one hand, the process is overseen by an adjudicative figure and occurs in the context of litigation, favoring placement towards the right end of the spectrum. On the other hand, the parties maintain ultimate control over the decision to accept or reject the settlement offer, favoring placement at the left end. For the present purposes this process appears as a floater somewhere in the middle of the spectrum (as above).

Settlement conferences should have a spot on the spectrum in recognition of the statistical likelihood that a case will not proceed through trial and this process lends itself to early resolution. This understanding is one of the driving forces behind Presumptive ADR, which is being implemented, in part, to eliminate case backlogs. To that end settlement conferences, although definitionally not Presumptive ADR, serve this purpose. It should be highlighted that settlement conferences are not a form of mediation. Mediation, as discussed in the prior article, is a distinct ADR process that has unique characteristics. While settlement conferences utilize a neutral third party to facilitate negotiation they do not touch upon all that mediation can and is intended to.

Settlement conferences in the context of individual matters or classes of cases serve the singular purpose of arriving at terms agreeable to all parties that work to dispose of the case before the court. Generally, the terms are a monetary figure that neither party is wholly satisfied with. The third party neutral, often a judge, is truly a facilitator. The judge

conveys demands, offers and counteroffers while presenting the realities and uncertainties of proceeding to trial. This often occurs in a trial scheduling part before the attorneys are sent out to pick a jury, or in a trial part at a pre-trial conference prior to the start of voir dire. In engaging in this process, parties customarily favor settlement and the goal of reducing backlog is served.

Another process that the Civil Courts are employing with greater fervor is Early Neutral Evaluation. In its simplest definition this process offers litigants a "reality check" as to the merits of their case. Early Neutral Evaluation utilizes attorneys, either acting on their own or in panels of three, to assess the value of a case before trial. These attorney-evaluators hear shortened case presentations. They can consider documentary or witness evidence and can entertain argument. The resulting evaluation, which is advisory and non-binding, may suggest the strengths and/or weaknesses in a case, or may predict a likely monetary verdict. Evaluations can then be used to facilitate negotiations towards settlement. Should negotiations fail and a settlement is not reached the attorney-evaluators may assist the litigants with

nature of arbitration varies depending on the subject matter of the dispute, as well as the choices of the participants. Arbitration can be binding or non-binding. It can be voluntary, contractual or statutory. It can be more or less formal, and similarly costly or inexpensive. The process can be presided over, and the decision made by a single arbitrator or a panel of arbitrators.

Binding arbitration is as it sounds, final and binding on the disputants. Although it is subject to limited judicial review, that review often fails to vacate an arbitral award. In contrast, non-binding awards can be advisory opinions. Voluntarily accepted by the disputants or left unchallenged however, these awards become binding. Finality is therefore achieved in either variation. Arbitration can differ according to its source and time of origin. Pre-dispute arbitration agreements or contracts comprise the majority basis for arbitration proceedings. These agreements can be knowingly negotiated or imposed in a nonnegotiable contract. (The validity of the latter is often a threshold issue.) Alternatively, some arbitration is mandated by a statute, court rule, or treaty. These variations exist prior to any dispute in controversy.

other case relative matters, such as developing and overseeing a discovery schedule and narrowing issues for trial. Early Neutral Evaluation is a useful tool in maintaining a light docket especially given its purpose of addressing cases in their initial stages.

The spectrum also provides a place for two processes the use of which is unknown with respect to the Presumptive ADR program: Mediation/Arbitration and Arbitration/Mediation, also known as Med/Arb and Arb/Med, that combine the individually named processes into these hybrid variations. When parties engage in Med/Arb they attend mediation sessions followed by arbitration if they fail to reach an agreement in the former process. In the reverse variation, Arb/Med, an arbitrator hears the parties' presentations, often makes a sealed award, and then attempts to mediate the dispute. If the latter facilitated negotiation fails to result in settlement the arbitrator will then release his/her award. In these hybrids either two independent neutrals can be used to preside over the different processes, or one neutral who switches roles may oversee the entire process. It is said that combining mediation and arbitration blends the best characteristics of each process. The speed, efficiency and consensual aspects of mediation join with the efficient finality of arbitration. The hybrids Med/Arb and Arb/Med offer additional resources in the Presumptive ADR reservoir of trial alternatives and settlement facilitators.

Finally on the spectrum preceding formal trial is the process of arbitration. Again, its use in connection with Presumptive ADR is unexplored. Arbitration enjoys some familiarity among attorneys as an informal process where a neutral third party not acting as a judge renders a decision in a dispute. However, most practitioners are unaware of the processes' variants and the flexibility in their application. That flexibility is a key attraction and benefit of the process. The

Arbitration can also arise when the dispute does, and the parties choose to engage in the process. This type of arbitration can be labeled voluntary.

In some proceedings a single arbitrator can be used, while in others a panel of three or more arbitrators preside. A benefit of either is that the arbitrators are often chosen because of their expertise and experience in a particular field of law. In addition to the choices surrounding the presiding arbitrators and their appropriate role, the disputants can also determine their own rules of procedure and evidence, thereby setting the stage for the formality, or informality of the proceeding, as well as the related expense. Finally, arbitration, like many of the ADR processes, is private in both the proceedings and the awards, unless publicized by the disputants.

The goal between this and the prior article, "Be Prepared: 'Presumptive ADR' is Coming. The Importance of Being Proficient in Mediation" is to impart a basic understanding of the various ADR processes in light of the court's initiative. ADR as a discipline is expansive and its utility exploding. The undeniable reality is that a small percentage of cases commenced actually proceed through to trial and verdict. In recognition thereof, the ADR processes, including judicial settlement conferences, offer an efficient and conscientious way of resolving disputes. For the practitioners it is therefore crucial to have a working knowledge of all the ADR possibilities. Most significantly, ADR is a discipline that promotes "fitting the forum to the fuss", or assigning the proper resolution process to the dispute. Knowledge of the ADR processes in conjunction with the court's Presumptive ADR initiative would serve that purpose and promote success of the court's plan.

BY HON. CLAUDIA LANZETTA, J.C.C., LL.M.





## THE PRACTICE PAGE

# JUMPING INTO LEAP DAY

We are nearing the quadrennial 29th day of February. The oddity of leap day spills into our law in such areas as the statute of limitations, statutory “speedy trial,” pensions, employment, schooling, and interest payments. Leap day was included in the Gregorian calendar decreed by Pope Gregory XIII in 1582, to account that a year is actually 365.24 days long. An extra day is needed on the calendar every four years to adjust for the fractional overage. There is no leap day in any year divisible by 100, but there is a leap day for years divisible by 400. Therefore, 1900 was not a leap year, 2000 was, and 2020 is. The Gregorian calendar is so accurate that in 8,000 years, it will be off by only one day. The Gregorian calendar is adopted as New York’s official calendar in General Construction Law 57.

If a cause of action accrues on February 29th and the applicable statute of limitations is measured by a number of years concluding when there is no February 29th, does the limitations period run to February 28 of the out year, or March 1? The answer is found in GCL 58, which provides that the extra day of leap year (the 29th) and the day immediately preceding it (the 28th) are treated as one combined day for purposes of time computations. Therefore, and counter-intuitively, the statute of limitations expires on February 28 of the out year. Of course, for actions subject to a four year limitations period such

as breach warranty from the sale of goods under UCC 2-725 and twenty years to recover on bonds and money judgments under CPLR 211, the statute expires on the February 29th anniversary date of the fourth or twentieth year. Attorneys computing statutes of limitations measured by days such as 30 days for challenging filed zoning board decisions, and one year and 90 days for commencing actions against municipalities, must take into account the extra day in February for precisely calculating the last day of timeliness.

Education Law 3204.4 defines a school year as consisting of 180 non-holiday days that school is in session. That number applies in all years, whether the year consists of 365 or 366 days. Therefore, there is an extra day of summer vacation for students and teachers in leap years.

In criminal law, the People are required to be ready for trial within six months for felonies, 90 days and 60 days for defined misdemeanors, and 30 days for non-criminal violations, minus excludable time, as mandated by CPL 30.30(1) and (4). The extra day for leap day must be taken into account not just in measuring the 90, 60, or 30 day readiness periods, but also, in subtracting excludable time under the statute.

On average, two out of seven leap days fall on a weekend when many salaried employees have a day off, resulting in an extra day off with pay. Conversely, five of seven

leap days fall on a weekday where many salaried employees work the extra day without additional compensation. Employees paid by commissions, contingency fees, per diems, or hourly wages are unaffected.

One case reported nationally involved the role of leap day in determining a retiree’s pension, *Cella v Sanitary Dist. Employees’ and Trustees’ Annuity and Ben. Funds*. In *Cella*, an Illinois retiree argued that his pension, calculated against his highest 24 months of earnings, should be adjusted to add an extra day’s wages for a leap day. The court disagreed because the pension was expressly calculated based on “months” instead of “days.” The same result would likely be reached in New York given the language of GCL 58, that a month means a month regardless of its specific number of days.

The per diem computation of contractual interest, and statutory interest on verdicts and judgments, must also take leap day into account for accuracy.

Calculations in legal matters must be precise. Attorneys need to account for leap day to avoid the untenable and embarrassing circumstance of missing a deadline or calculation by a single day. Be mindful of the count in the relevant years.

**HON. MARK C. DILLON**  
APPELLATE DIVISION, 2ND DEPT.

# Queens

## BAR BULLETIN

If you have enjoyed reading the Queens Bar Bulletin coverage of the Queens legal community and the proceedings in the courts, you can continue to enjoy our coverage by subscribing NOW.

Name: \_\_\_\_\_

Law Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**I authorize Queens Public Media LLC to charge my credit card**

Signature \_\_\_\_\_ ☐ Amex ☐ Visa ☐ Mastercard

Card Number \_\_\_\_\_ Exp. Date \_\_\_\_\_ Security Code: \_\_\_\_\_

# QUEENS COUNTY BAR ASSOCIATION

## MEMBERSHIP APPLICATION

*Please check the appropriate box below:*

- ☐ I wish to join the Queens County Bar Association.  
☐ I wish to update my Membership Information and/or Committee listing (reverse side).

### ENROLLMENT INFORMATION

First Name \_\_\_\_\_

Last Name \_\_\_\_\_

Business Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Address \_\_\_\_\_

\_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Office phone (     ) \_\_\_\_\_

Home phone (     ) \_\_\_\_\_

Cell phone (     ) \_\_\_\_\_

Fax Number (     ) \_\_\_\_\_

Email Address \_\_\_\_\_

Website \_\_\_\_\_

Contact via: \_\_\_\_\_ Email \_\_\_\_\_ Mail \_\_\_\_\_

Mailing Preference: \_\_\_\_\_ Business \_\_\_\_\_ Home \_\_\_\_\_

Date of Birth \_\_\_\_\_

College \_\_\_\_\_

Graduation Year \_\_\_\_\_ Degree \_\_\_\_\_

Law School \_\_\_\_\_

Graduation Year \_\_\_\_\_ Degree \_\_\_\_\_

Date of Admission to the NYS Bar \_\_\_\_\_

Judicial Department \_\_\_\_\_

### DUES PAYMENT

☐ Check Enclosed ☐ MasterCard ☐ Visa ☐ Amex ☐ Discover

Credit Card # \_\_\_\_\_

Exp. Date \_\_\_\_\_ CSC/CVV# \_\_\_\_\_

Signature \_\_\_\_\_

Date of Application \_\_\_\_\_

### ANNUAL MEMBERSHIP DUES

- ☐ Sustaining Membership \$ 350.00  
*Member who voluntarily provides additional funds to further support the Association (Includes coupons for three free CLE credits to be used for any CLE program in the coming year)*
- ☐ Combined Sustaining Membership \$ 625.00  
*(Includes coupons of 12.0 CLE Credits for any live Continuing Legal Education Programs)*
- ☐ Attorney Admitted more than 10 years \$ 300.00
- ☐ Attorney Admitted 5-9 years \$ 225.00
- ☐ Attorney Admitted less than 5 years \$ 135.00
- ☐ Associate Membership \$ 60.00  
*(Must meet eligibility requirements)*
- ☐ Admitted less than 1 year Free
- ☐ Law Student Free  
*(Current Law School student or recent graduate awaiting admission)*

**GOVERNMENT SERVICE MEMBERSHIP:** *Members who are in Government Service (Judges, Court Attorneys, Law Secretaries, Legal Aid Society, Queens Legal Services, District Attorneys, Queens Law Associates, Corporation Counsel, etc.) are eligible for a 30% dues reduction. Please inform us of which Government Service gives you this eligibility.*

- ☐ Government Sustaining Membership \$ 245.00
- ☐ Government Attorney 10+ years \$ 210.00
- ☐ Government Attorney 5-9 years \$ 157.00
- ☐ Government Attorney less than 5 years \$ 94.00

### 18B ASSIGNED COUNSEL PLAN MEMBERSHIP:

*Eligible for a 20% dues reduction. Please inform us of which 18B Assigned Counsel Plan gives you this eligibility (Family or Criminal).*

- ☐ 18B Sustaining Membership \$ 280.00
- ☐ 18B Attorney 10+ years \$ 240.00
- ☐ 18B Attorney 5-9 years \$ 180.00
- ☐ 18B Attorney less than 5 years \$ 108.00

Discounts are also available for members of other local (Queens) bar associations who have never belonged to the Queens County Bar Association.

Membership dues can be made in one payment or by installments.

### QUEENS COUNTY BAR ASSOCIATION

90-35 148TH STREET  
JAMAICA, NEW YORK 11435

TEL - 718-291-4500

FAX - 718-657-1789

WWW.QCBA.ORG





# QUEENS COUNTY BAR ASSOCIATION

## LAWYER REFERRAL SERVICE

### APPLICATION & REGISTRATION FORM

90-35 148th St.,  
Jamaica, NY 11435  
T: 718-291-4500  
F: 718-657-1789

Name: \_\_\_\_\_ DOB: \_\_\_\_\_

First

Middle

Last

Firm Name: \_\_\_\_\_ Practice consists of: \_\_\_ Trial work \_\_\_ Office work

Address: \_\_\_\_\_

Telephone number(s): \_\_\_\_\_ E-Mail: \_\_\_\_\_

Date of Admission to the NYS Bar \_\_\_\_\_ Admission to Other Jurisdictions \_\_\_\_\_

List two attorneys or judges (*none of whom are my present partners and associates*) who have knowledge of professional work and ability:

Languages other than English that you speak fluently: \_\_\_\_\_ or Office offers translation: \_\_\_\_\_

I will accept cases in the area(s) checked below (limit to five). I consider myself competent in such areas. Please indicate any specialties or exclusions within area of law.

AREAS OF PRACTICE	SPECIALTIES	EXCLUSIONS
<input type="checkbox"/> Adoptions		
<input type="checkbox"/> Bankruptcy		
<input type="checkbox"/> Civil Rights		
<input type="checkbox"/> Civil Service		
<input type="checkbox"/> Commercial		
<input type="checkbox"/> Consumer Law		
<input type="checkbox"/> Elder/Guardianship Law		
<input type="checkbox"/> Criminal Law		
<input type="checkbox"/> Decedent's Estates, Wills & Trusts		
<input type="checkbox"/> Domestic Relations (Family Law)		
<input type="checkbox"/> Immigration & Naturalization		
<input type="checkbox"/> Insurance		
<input type="checkbox"/> Juvenile Delinquency Matters		
<input type="checkbox"/> Labor Relations & Unemployment Compensation		
<input type="checkbox"/> Landlord & Tenant		
<input type="checkbox"/> Libel & Slander		
<input type="checkbox"/> Malpractice		
<input type="checkbox"/> Negligence		
<input type="checkbox"/> Patent, Trademark, Copyright, Unfair Competition		
<input type="checkbox"/> Real Property		
<input type="checkbox"/> Taxation		
<input type="checkbox"/> Social Security Appeals (SSI, SSD)		
<input type="checkbox"/> Small Claims		
<input type="checkbox"/> Traffic Law		
<input type="checkbox"/> Worker's Compensation		

#### LAWYER REFERRAL SERVICE DUES PAYMENT

☐ Registration fee with one area law **\$395.00**

☐ Additional area(s) of law (limit four) **\$ 100.00/per area**

Amount \$ \_\_\_\_\_ ☐ Check ☐ MasterCard ☐ Visa ☐ AMEX ☐ Discover

Credit Card Number \_\_\_\_\_ Exp. Date \_\_\_\_/\_\_\_\_/\_\_\_\_ CSC: \_\_\_\_\_

The undersigned hereby applies for registration on the panel of the Lawyer Referral Service of the Queens County Bar Association **and is also a member in good standing**. He/she certifies that he/she is familiar with its procedures and that he/she will abide by all rules which may be promulgated by the Association and agrees to be bound thereby.

Date of Application: \_\_\_\_\_

Signature of Applicant \_\_\_\_\_



**QUALITY & COMFORT**



**DIAGNOSTIC EXCELLENCE**





**DIAGNOSTIC IMAGING  
CENTER of EXCELLENCE™**

**PERSONAL INJURY PATIENT DIVISION**

**NO FAULT & WORKER'S COMP SPECIALIZED MSK & NEUROLOGICAL RADIOLOGISTS**

**WALK-IN MRI FOR NO FAULT PATIENTS WITH A SCRIPT**

**TRANSPORTATION AVAILABLE TO NO FAULT AND WORKER'S COMP PATIENTS**

**WORKER'S COMP AUTHORIZATIONS PROVIDED BY ONE CALL CARE MANAGEMENT**

**ACCEPTING OR CREATING LIENS FOR PATIENTS**

**EXCLUSIVE EDUCATIONAL NETWORKING EVENTS**


**SPECIALIZED ACCOUNT COORDINATORS**

**ZWANGER-PESIRI  
RADIOLOGY**

**ZWANGER-PESIRI RADIOLOGY**      **(718) 732-0222 • zprad.com**



To our current  
advertisers,  
Thank you for your  
continued support of the  
Queens Bar Association  
and it's Bulletin!



**HERTZ, CHERSON & ROSENTHAL, P.C.**  
ATTORNEYS AT LAW  
118-35 QUEENS BOULEVARD, 9TH FLR.,  
FOREST HILLS, NEW YORK 11375

**ROBERT I MILLER, ESQ.**  
LANDLORD - TENANT  
T: 718.269.7710 | F: 718.709.0077  
ROBERT.MILLER@RHCRLAW.COM



**NEIL R. FINKSTON, ESQ.**

**Benefit from a Reliable and Knowledgeable Appellate Specialist**

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

**Free Initial Consultation  
Reasonable Rates**

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



**To Advertise in the QCBA Bulletin**

Please Contact Maureen Coppola at (347) 728-5974  
or email: [maureen@queenspublicmedia.com](mailto:maureen@queenspublicmedia.com)  
or Fran (718) 422-7412

**Duffy & Posillico Agency Inc.**

**Court Bond Specialist**

**BONDS \* BONDS \* BONDS \* BONDS \* BONDS \* BONDS**

**Serving Attorneys Since 1975**  
**Complete Bonding Facilities**  
**IMMEDIATE SERVICE**  
**WE KNOW THE VALUE OF YOUR TIME**



Administration • Appeal • Executor • Guardianship  
Injunction • Conservator Lost Instrument •  
Stay Mechanics Lien • Plaintiff & Defendants Bonds

**1-800-841-8879**  
**FAX: 516-741-6311**

1 Birchwood Court, Mineola, NY 11501 (Across from Nassau County Courts)  
NYC Location: 65 Broadway, Suite 1104, New York, NY 10006  
[www.duffybonds.com](http://www.duffybonds.com)



# LET US HELP YOU, HELP YOUR CLIENTS!

PROUDLY SERVING THE NEW YORK TRI-STATE AREA

## DEEP CLEANING SERVICES

Air Quality | Disinfecting & Sanitizing | Dust & Odor & More



## HOARDING CLEANUP SERVICES

Junk Removal | Organizing & Sorting & More



## READY FOR SALE

Painting & Repairs | Wood Floor Refinishing



 **Clutter Free  
Junk Removal**  
Service and Cleanup Pros

**888-492-0357**

[www.ClutterFreeService.com](http://www.ClutterFreeService.com)

Your One Stop **Removal & Cleanup** Service

**FREE ESTIMATE! PLUS**

**15% OFF**

ON YOUR FIRST PROJECT!

**FULLY LICENSED!**

**RECLAIM  
YOUR SPACE  
WE DO IT ALL**

**RATED NEW YORK'S  
CLEANUP SOURCE #1**



[www.ClutterFreeService.com](http://www.ClutterFreeService.com)



The Law Offices of  
**FRANK BRUNO JR.**

## Here For You and Your Family



Our Practice Areas  
are

- Elder Law & Estate Planning
  - Probate
  - Guardianship
  - Divorce
  - Real Estate

**69-09 Myrtle Avenue  
Glendale, NY 11385**

For more information:

Phone: **718-418-5000**

[www.FrankBrunoLaw.com](http://www.FrankBrunoLaw.com)

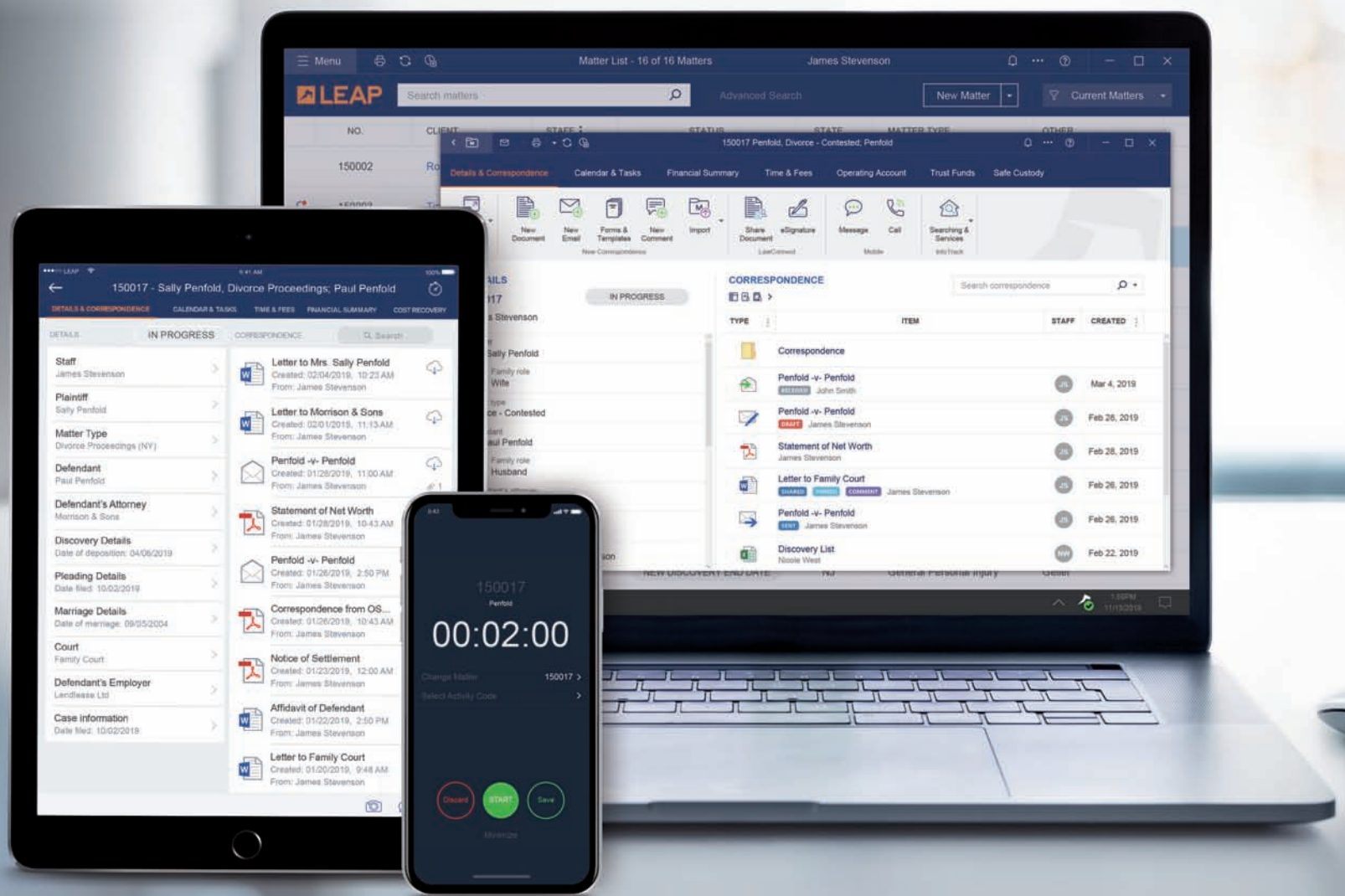
Email: [info@frankbrunolaw.com](mailto:info@frankbrunolaw.com)





# Switch Today

Move all your law firm's data to LEAP in as little as four days with no manual case or billing information entry.



Make your law firm completely mobile with access to everything you need from wherever there is internet — matter management, automated legal forms, email management, automatic time recording, legal trust accounting, legal billing, office reporting, and more in one system for one price.

**Switch to the cloud** ► (201) 208-0011 | [www.leap.us/switch](http://www.leap.us/switch)