Queens BAR BULLETIN

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

November 2020 | Volume 88, No. 2

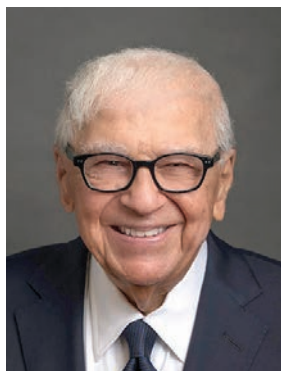
Hon. Leonard L. Finz – A Living Legend

By Hon. George M. Heymann

In this year, 2020, we celebrate the 75th anniversary of the end of WWII. It is thus befitting that we take a moment to honor the military service of one of our most distinguished members, Judge Leonard L. Finz. He is a decorated WWII veteran, and a First Lieutenant in the Field Artillery who served in the Pacific War Zone. Of the more than 16 million Americans in uniform who served in the war, by the end of this year there will be only one percent of survivors – a vanishing breed – and Judge Finz is one of them.

Each November we set aside the last Thursday of the month to gather with our families to give thanks for all the things we are grateful for that have enhanced our lives. In the beginning of the month, on the 11th, we take stock to honor our veterans, those living and those of generations past. While separate and distinct holidays, they are not mutually exclusive. But for our brave soldiers, harkening back to the Revolutionary War, these men and women, many of whom were placed in harms way and never returned to their families, have enabled us to live in freedom as we strive to achieve our Founders' ideals of "life, liberty and the pursuit of happiness". Naturally, this year will be different, as a result of COVID 19, with the curtailment of such get -togethers, parades and the like, but our sentiments as to both holidays and what they represent will never be diminished.

In December of 1941, the United States was plunged into WWII and many of our parents and grandparents were either drafted or enlisted to serve our country. They were later to become known as "The Greatest Generation". Now, 79 years after the war began, only a handful of those heroes remain with us, as noted above. In Queens, we take pride in in the fact that Judge Finz not only had an illustrious military career, but went on to become one of the pillars of the legal community here and throughout the state. For over half a century as a jurist and "preeminent" attorney, the Hon. Leonard L. Finz is a living legend. At 96 years young (his energy defies his age), he has lived a life that is the epitome of achievement and success and continues to this day to post articles on his daily Finz True Tales blog.



Judge Finz wasn't born with a silver spoon in his mouth. His life began in 1924 in a walk-up tenement in the Lower East Side of Manhattan, the son of immigrant parents. He attended elementary school in Brooklyn where he trained in music and voice during the Great Depression. He thereafter applied and was accepted as a gifted music student into the High School of Music & Art in upper Manhattan becoming first clarinetist in the prized school symphony orchestra and leader of its jazz band.

At the age of 18, Judge Finz was drafted into the U.S. Army during WWII. After completing basic training, his musical talent led to him being dispatched to Special Services as a producer, director, and performer of shows he created for thousands of soldiers on the base. He was assigned to the U.S. Army Band as a saxophone and clarinet specialist. Opting not to remain stateside in a cushy band role throughout the war, and seeking a combat role with battle-scarred soldiers, Judge Finz applied to the field artillery Officers Candidate School (OCS), and was accepted as a candidate. One hundred candidates started in the class, most of whom were Sergeants coming from European and Pacific battlefields. Judge Finz was a mere Private First-Class, the second lowest rank in the U.S. Army, who came not from the horrors of war, but from the cozy life of a United States Army

CONTINUED ON PAGE 6

Table of Contents

Hon. Leonard L. Finz – A Living Legend 1, 6
President's Message 3
Editor's Note 4
The Pitfalls & Outlook of the Intra Company Transfer Executive or Manager..... 7
Immigration Questions..... 8, 9, 10
The Practice Page 12
Updated Bar Notice 13
The Young Lawyers Committee 14
Court Updates 15, 16
Recent Significant Developments And Decisions From Our Highest N.Y.S. Appellate Courts 17

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

NOVEMBER 2020

Tuesday, November 3	Election Day – Office Closed
Thursday, November 5	CLE: Diversity & Inclusion - Issues Relating to Equal Access to Justice & Serving A Diverse Population - 1:00 pm
Wednesday, November 11	Veteran's Day – Office Closed
Monday, November 16	CLE: No Fault Insurance
Tuesday, November 24	Friendsgiving Event
Thursday, November 26	Thanksgiving Day – Office Closed
Friday, November 27	Thanksgiving Holiday – Office Closed

DECEMBER 2020

December 2	CLE: Family Law-NAM Mediation
Thursday, December 24	Christmas Eve – Office Closed
Friday, December 25	Christmas Day – Office Closed
Thursday, December 31	New Year's Eve - Office Closed

JANUARY 2021

Friday, January 1	New Year's Day - Office Closed
Wednesday, January 13	Medicaid Updates & New Eligibility Rules: Protecting Assets to Plan for Long-term Care Needs

UPCOMING SEMINARS

Guardianship Training

New Members

Stephanie Bernadel
Helen Pundurs Bua
Lewis Scott Calderon
Felicia Gaon
Jennifer Karrmann-Granai
Olivier Adler Labossiere
Evelina Luzhansky
Melissa Munoz
Maryana Pavlyshyn
Francesco Pomara, Jr.
Peter D. Rosenberg
Janice A. Taylor
Bailey M. Waltman
Spiridoula Zol
Linda M. Dardis tas

Necrology

Patrick J. Burke, Sr.
Hon. Robert C. Kohm
Anthony Lombardino
Howard D. Stave

Publisher:
Queens Public Media, LLC, under the auspices of Queens County Bar Association. The Queens Bar Bulletin is published monthly from October to May.

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

By the time that you read this the Presidential campaign of 2020 will be in the books and hopefully we will not be spending the next 8 weeks counting ballots and watching the two camps arguing in the courts. Most of us will be glad to put this chapter behind us and move forward with our lives and hopefully enjoy a period of peace on the political front heading into the holidays.

Unfortunately, we are still being held captive by this COVID-19 pandemic which has had such a detrimental impact on our justice system, our families, friends and our clients. The effects of this will last for years and has resulted in permanent changes to our daily practice of law.

Over the past month your bar association has continued to hold regular virtual zoom meetings among our committees and with other organizations based here in Queens County. Two weeks ago, at our stated meeting, I welcomed Judge Difiore and Judge Scheinkman and a number of our Appellate Judges and commended them on the job that they have been doing in designing a court system that will carry us into the next century. The transition to virtual appearances is something that is a game change in the daily practice of law. Over 150 members were in attendance and Judge Brathwaite-Nelson deserves congratulations for a well-organized event.

This is not to say that we do not have objections to some aspects of their plan. While the Office of Court Administration continually states that "the Courts are open and we are moving forward into a "New Normal" with a concern for the safety of litigants, jurors, judges and attorneys" I am continuing to hear strong objections to how this is being conducted from our members at committee meetings. Our four local Administrative Judges have all done fine jobs speaking with our committee chairs regularly and keeping us informed of directives that come down from their superiors but it is clear that the senior level of OCA has no desire to consult with, seek the advice of or comment from the local bar associations prior to dictating what course we will be asked to follow. Last week I met with a group of bar leaders and Judge Marks and commented that this was the perception of many in our association and that those comments come from both our attorneys as well as some of our judges. In that meeting we spoke about the protective measures being taken to make the return to the courts safe. We questioned how a 2 ½ foot high piece of plexiglass put together with blue painters' tape on an attorney table can stop the virus from travelling through the courtroom and how we should consider it fair that 13% of the 46 judges denied certification by him come from Queens County. I was told by Judge Marks that the Plexiglas provides for "emotional comfort" to those entering the courtroom and assured that the courthouses have been outfitted with updated air filtration systems and that all entering the courthouses are going to be given temperature checks and asked whether they have been exposed to anyone recently who may have been exposed. He explained that budgetary concerns required that hard choices be made by OCA and that they had no choice but to comply with the request to make budget cuts. There was no explanation why comments from our local associations were not sought. Less than a week later I was advised that the safety measures being taken in the courts may not be entirely true.

This morning I learned from past presidents of two bar associations that in the Criminal Courts those coming in from Riker's Island are not being tested for exposure either in the jails or when they are brought through the back door of the courthouse. I am told that regular COVID testing in the jails is not being conducted and that when defendants are brought to the courthouse they are packed in holding pens. Our 18 B panel of attorneys have stated in overwhelming numbers that they are against conducting in-person trials under the present circumstances. They are not being told who has tested positive in the courthouses, who the infected persons are that they may have come into contact with or what courtrooms they worked in. There is a concern over an inability to prepare clients and witnesses due to reduced access with those incarcerated who are unable to receive or view videos as the prison law libraries are closed or the hours to conduct such evaluations are very limited. There are concerns that there are restrictions that are to be imposed that affect counsel's effective performance during cross examination as well as in sharing documents, photos paperwork with a client who is 6 feet away in a plexiglass booth during trial/hearings. There are additional concerns regarding just who is being pulled in for jury duty and whether they come from areas within Queens where there are spikes in COVID exposure. The increase in positive test results adds to their overall concerns. Several attorneys have reported that they sat in courtrooms for long periods with others waiting to have their matters called.

I have made a point to sit in on a number of meetings involving practitioners who have files pending in Housing Court, Family Court, Guardianship and in Supreme Court personal injury trials. Similar concerns have also been voiced as well as a desire to move more matters to a virtual platform. In Guardianship there are approximately 3400 pending matters that are being handled by only two judges and one of those two was denied certification. Her last day was last Thursday so that means that it will be some time before a replacement can come in to assume her caseload. One attorney who had a matter sent out for a summary jury trial was told that "the court has decided that this case is going out for trial in December and you will be advised where to report'. This attorney advises that his adversary did say that he had concerns about appearing in the courthouse with a general jury pool in light of the recent reports of several instances where COVID had been contracted by people in the courthouse. The attorney I spoke to told me that he felt that he was being forced to do something that he did not feel comfortable doing and that he was a young father who does not want to risk his family to what he could pick up handling a trial for several days. We have scheduled a cross sectional meeting of committee chairs for later this week to discuss particular concerns that can be presented to senior court administration which may add to or further define what our members can expect to happen on their cases in the near future.

Finally, I wish to thank the members of our Judiciary Committee as well as Les Nizin its Chair who coordinated the virtual interviews of all the judicial candidates that sought our qualification this past year. The members interviewed the applicants, contacted references and attorneys who appeared before or worked with the applicants and then reported on their findings before the entire committee met over several evenings during the past month. It is a huge job that takes a good deal of time on their parts. All involved deserve our thanks for a job well performed. The bar association also congratulates our newly elected judges in the Civil, Criminal and Supreme Courts and we all look forward to appearing before them in the future. Thank you for your service to the members of our great county and good luck as you start this new chapter of your legal career.

We have several excellent CLE programs coming this month and next month we will be revealing a new project that our Board Member Zenith Taylor has been working on for the better part of the last year so stay tuned. Until then, on behalf of the Board Members of the QCBA I wish you and your families a warm and above all, a healthy Thanksgiving. Please stay safe.

SINCERELY YOURS,
CLIFFORD M. WELDEN | PRESIDENT

Editor's Note

Cities and States Looking for Extra Revenue: "Excessive" fines?

Several cases have come into my firm's offices lately: The City of New York is in the increased habit of issuing Summonses for Zoning Resolution, Building Code, and Consumer Affairs Violations by small businesses seeking wildly excessive fines of $25,000 per summons. Often, they are issuing multiple summonses for similar offenses, exposing property owners to more than $100,000 in crippling fines and/or hundreds of thousands of dollars in "restitution".

Wait a minute? Don't we have a "no excessive fines" clause in the United States Constitution, Eighth Amendment and the New York State Constitution Article 1 Section 5? Don't other States have similar clauses in their State Constitutions? The United States Supreme Court has addressed the subject of excessive fines in three separate opinions over the past 13 years.

In Timbs v. Indiana, ___ U.S.___, 139 S. Ct. 682 (2019), the State of Indiana sought forfeiture of the Defendant's automobile because he pled guilty in connection with an unlawful drug crime where his automobile was used. The United States Supreme Court held that the Eighth Amendment's excessive fines clause applies to State Governments.

In Philip Morris USA v. Williams, 549 U.S. 346, 127 S. Ct. 1057 (2007), the United States Supreme Court held that a Jury verdict of $79.5 Million in punitive damages against a Defendant Tobacco Company for causing the Plaintiff's death from smoking was a taking of property from the Tobacco Company without Due Process of Law. The verdict was designed to punish non-parties.

In Cooper Industries v. Leatherman Tool Group, Inc., 532 U.S. 424, 121 S. Ct. 1678 (2001), the United States Supreme Court held that the Eighth Amendment's Excessive Fines clause applies to the States through the 14th Amendment's Due Process Clause. In Cooper Industries, the United States Supreme Court held that grossly excessive punishments could not be inflicted upon tortfeasors.

So, what is "excessive"?

The New York State Courts have been much more specific. In County of Nassau v. Canavan, 1 N.Y. 3d 134, 770 N.Y.S. 2d 277 (2003), the New York State Court of Appeals struck down a Nassau County Ordinance which permitted the county to seize automobiles in addition to fining residents convicted of driving while intoxicated.

In People v. Saffore, 18 N.Y. 2d 101, 271 N.Y.S. 2d 972 (1966), the New York State Court of Appeals struck down an excessive $500 fine under the following circumstances: the Defendant was indigent, and the lower court directed that he serve one day imprisonment for each dollar remaining on the fine, thus effectively sentencing the Defendant to 500 days in prison for misdemeanor assault.

In Prince v. City of New York, 108 A.D. 3d 114, 966 N.Y.S. 2d 16 (1st Dept. 2013), the Appellate Division, First Department struck down a $2,000 fine levied on a Defendant who removed a single television antenna from a curbside garbage bag. The Defendant, Albert Prince, was fined $2,000 for this New York City Department of Sanitization Summons. The Appellate Division, First Department struck down the fine and established the appropriate standard: "… the fine imposed is grossly disproportional to the gravity of the offense and must be vacated." See 108 A.D. 3d at 116.

Because of the Coronavirus Public Health Pandemic, Cities and States are suffering tax losses and looking for new sources of revenue. Don't let them get an excessive fine from your client. $25,000 for one Zoning Resolution or Building Code offense is clearly excessive under the cases cited above. Four summonses for similar related offenses issued at the same time resulting in a demand for $100,000 in fines is absolutely crippling and is certainly not permitted under the case law cited above.

"Restitution" of hundreds of thousands of dollars from painfully small businesses masquerading as a fine is totally unconstitutional.

If you have a client who is the victim of this overreaching by a City or State Government, please be sure to appeal these crippling fines up the Appellate chain. We have had success with this approach.

A societal problem can not be visited on individual citizens. We all must work collectively to solve our tax revenue problems. Excessive fines are an unconstitutional approach. As lawyers, it is our duty to uphold this constitutional provision throughout our court system.

BY PAUL E. KERSON, ESQ
EDITOR

Hon. Leonard L. Finz – A Living Legend

CONTINUED FROM PAGE 1

band musician. After four months of "grueling West Point - like training", Judge Finz was one of only 32 who graduated the program.

Except for his wonderful 68-year marriage to his beloved late wife Pearl and his children, grandchildren and great-grandchild, Judge Finz has often stated that being commissioned a 2nd Lieutenant in the Field Artillery was, "the greatest day of my life". In fact, on August 1, 2017, the New York Law Journal published my review of his then recently released book "'The Greatest Day of my Life': A Human-Interest Memoir" which describes in depth his multifaceted careers in the fields of entertainment, the military and the law.

Trained in beach landings, Judge Finz boarded a troop ship heading for Okinawa and assigned to the first wave attack force upon the Japanese mainland where 400,000 Japanese were dug-in with Kamikaze aircraft support. Within days of the planned U.S. attack, atomic bombs were dropped and Japan surrendered. He was then shipped to Leyte, Philippines, and ordered into the office of his commanding officer, a full Colonel, who told him that more than 50 GI's were prisoners in the stockade waiting for months to be court-martialed for various crimes. Since no Judge Advocate General (JAG) lawyers were on the island, the commanding officer wanted to assign Judge Finz to the elite JAG branch (made up of college and law school graduates licensed to practice law) with the title of "Defense Counsel" to defend the GI prisoners at individual court martial trials. Notwithstanding that his education never exceeded that of high school, his commanding officer, having observed how Judge Finz interacted with others, coupled with his personnel file, was confident in the Judge's ability to perform those duties. According to Judge Finz, based on archival research, of the16 million Americans in uniform during WWII, he was the only one to have ever been assigned to JAG as Defense Counsel with just a high school diploma. His commanding officer warned him of the potential dangers: Japanese snipers who refused to surrender were hiding in jungle caves, and Judge Finz would have to snake through jungle areas to locate witnesses in remote villages while driving in an open jeep armed only with a .45 caliber sidearm. A mere 20 years of age, Judge Finz accepted the mission and within six months defended every accused GI successfully, which resulted in his promotion to 1st Lieutenant. After almost four years of active duty, Judge Finz was admirably discharged in 1946.

Gary Ackerman (right) presented a medal to Judge Leonard L. Finz

Over six decades later, for his "Distinguished," "Meritorious" and "Outstanding" service, Judge Finz was decorated with the coveted Army Commendation Medal at a formal flag and rifle ceremony held at the WWII Memorial in Washington, D.C. by order of the Secretary of the Army. Most recently, Judge Finz was inducted into the prestigious U.S. Army Artillery OCS Hall of Fame. He was also presented with the American flag that was flown in his honor atop the Capitol of the United States, in addition to being pinned with a half-dozen other military medals. As further recognition of his extraordinary military service during WWII, Judge Finz has been honored by having his military biography permanently enshrined in the United States Library of Congress in Washington, D.C.

Taking advantage of the GI Bill to earn a Bachelor of Arts and law degree from New York University (NYU), [where he was elected president of the law school student body], as a young attorney, Judge Finz became active in Queens politics. He was appointed Queens County campaign chairman for John F. Kennedy, Robert F. Kennedy, Lyndon B. Johnson and others. At the time of his election to the New York City Civil Court Judge, he was the youngest person to sit on that bench. He was thereafter elected to serve as a New York State Supreme Court Justice. In 1978, citing the difficulties of providing his children with private college educations on a judge's limited salary, Judge Finz became the first judge to resign his position for financial reasons, walking away from the security of a steady paycheck, in addition to the benefits of health insurance and a future pension to pursue private practice.

Leaving the bench, he became a partner in the firm of his former law professor and subsequently founded the firm of Finz & Finz, PC with his son Stuart in 1984. A top-tier trial lawyer, peer reviewed by Martindale-Hubbell as "One of the Nation's Preeminent Lawyers", Judge Finz won record multimillion-dollar settlements and verdicts on behalf of his clients in Brooklyn, Queens, Nassau, Suffolk, Westchester, Rockland, Schenectady, Albany, Syracuse, and other areas of New York State, as well as in New Haven and Hartford, Connecticut and other jurisdictions.

Before settling down in the practice of law after his military service, Judge Finz returned to his love of music and entertaining as a singer and songwriter under contract with Music Corp. of America (MCA), then the largest theatrical agency in the world, later the forerunner of Universal and Comcast. As vocalist, he recorded many songs under the stage name "Lennie Forrest," some recordings of which were charted by Billboard and Cash Box critics as "picks," thus propelling him on a national tour to many TV, radio, and nightclub venues throughout the United States, where he also performed with the Tommy Dorsey Orchestra. In addition, Judge Finz auditioned for the lead Hollywood role in the remake of "The Jazz Singer", which came down to two choices, Danny Thomas and Lennie Forrest. Thomas ultimately got the role. Judge Finz was also cast on the NBC soap opera "Another World."

Judge Finz was a law professor of "Trial Advocacy" and "Law and Medicine" and served as a faculty member of The National Judicial College in Reno, Nevada, where he taught courses to judges throughout the country on "Medical Malpractice" and "Tactics in the Courtroom". Judge Finz has also received many awards as an honoree of charitable, civic, professional, political, fraternal, veterans, religious, and other organizations. It should be noted that for a period of six years, Judge Finz was selected to serve on the Mayor's Judicial Selection Commission. A prolific writer, Judge Finz has written many articles that have been published in a host of publications. In addition, Judge Finz has authored four published thriller novels (and is working on his fifth).

I first met Judge Finz four decades ago as a young attorney when I joined the Queens County Bar Association during my final year of law school. Shortly thereafter, I became an active member of the Brandeis Association of Queens, an organization of Jewish Lawyers and Judges, founded by Judge Finz in 1968 because "there was no organization that dealt solely with lawyers of the Jewish faith." In my opinion, the Brandeis Association will remain his living legacy for decades to come. I was proud to become its president in 1982 and continue to serve as a member of the board. As a result of the judge's foresight at its inception, the Brandeis Association is a vital partner among the various ethnic and religious bar associations throughout the city and state of New York, and the country. It became the model for other such Jewish associations to follow suit. In 1974, Judge Finz became the lifetime Honorary Chairman of the Board for his founding and service to the Brandeis Association.

Judge Finz has been a friend, mentor and role model. When I retired from the bench in the summer of 2011, Judge Finz approached me to become a part of the Finz firm. My association with the Judge, and the entire firm, for the past nine and a half years has been a most rewarding experience.

All of Queens owes Judge Finz its thanks for his service to the Bar and, most importantly, his service to our country.

BY HON. GEORGE M. HEYMANN,
OF COUNSEL, FINZ & FINZ, PC

The Pitfalls and Outlook of the Intra Company Transfer Executive or Manager

The L1A classification category is a non-immigrant category which allows a U.S. employer to transfer an executive or manager from one of its affiliated foreign offices to one of its offices in the United States. This classification also enables a foreign company that does not yet have an affiliated U.S. office to send an executive or manager to the United States with the purpose of establishing one. It can be a very valuable tool for the multinational corporations with roots or interests in the United States. This classification, also allows for dual intent, which means that the employee L1A could be company to the US on this temporary visa and still maintain the intent to remain permanently in the US. And for most people which qualify as an L1A executive, they are likely to also qualify for EB-1 category in Permanent Residence.

Executives are usually considered to be employees who make vast and wide ranging decisions with little to no supervision or restriction. Executive Officers like CEOs, COOs, CTOs, and CFOs are example of executives that may qualify for an L1A executive position, however, there are many others as well. When considering this visa modality, it is imperative to understand the role of the employee both abroad and in the proposed US position and be able to establish the executive duties and responsibilities.

Managers are a bit different. A manager can be a manager of actual people, or can manage a function of the company. The ability of the employee to supervise and control the work of professional employees and to manage the organization, or a department, subdivision, function, or component of the organization. It could be employee's ability to manage an essential function of the organization at a high level, without direct supervision of others workers. For example, a Person maybe a Team lead for a development team and be considered a manager. Or a Person can be the head of Human Resources or Accounting. Sometimes there is considerable overlap or grey area as to who is an executive and who is a manager.

President Trump has decreed by Executive Order that in light of the financial hardship related to the Covid -19 Pandemic, that the United States would take the protective measure of suspending, among other categories, all new L1 visa applicants. This does NOT apply to people in the United States already who apply for a change of status to L1A. This also does NOT apply to people who are either in the United States or abroad, seeking a visa, if the L1A is based on a renewal. President Trump declared that the suspension of these visa types through December 2020, would somehow protect the American worker in some way, but by its very definition, an L1A candidate is already employed and continuing their employment, but with a US affiliate. But there is no direct or indirect competition that an L1A intracompany transferee poses to the local American worker. And if there were, he would have suspended the visa category outright and across the board without allowing for renewals and people who are in the US already. The move seemingly seems to have more of a nationalist and populist overtone, whereby the administration looks to fill the air of polarization in an election year. These restrictions do nothing to help American Companies or Workers unless he is trying to rid "American" Companies from competition from rivals, who may also be "American" but not this President's type.

DEV BANAD VISWANATH, ESQ

Immigration Questions

• How to Navigate the New H-1B Interim Final Rule
• USCIS Premium Processing Fee Increase Effective October 19, 2020
• Notice of Reposed Rule Making regarding Affidavits of Support

Allen E. Kaye

Joseph DeFelice

USCIS and the Department of Homeland Security have submitted an Interim Final Rule with request for comments, to go into effect December 7, 2020 which will restrict H-1B visa eligibility. This rule will codify the USCIS approval trends we have been seeing since 2017.

This rule changes the definitions of specialty occupation and United States employer, and adds the two new definitions of worksite and third party worksite. These definitions impact H-1B eligibility requirements regarding the job qualifying as a specialty occupation, and the situation qualifying as an employer-employee relationship. You can view the rule and read the changes, definitions and requirements in detail here.

The major changes to specialty occupation will require petitioners to show that the position requires a US bachelor's degree or higher in a specialty specific to the H-1B job as a minimum requirement for entry into the job. The rule states that for a job to qualify as a specialty occupation, it must meet one of the following requirements:

"(1) A U.S. baccalaureate or higher degree in a directly related specific specialty, or its equivalent, is the minimum requirement for entry into the particular occupation in which the beneficiary will be employed; (2) A U.S. baccalaureate or higher degree in a directly related specific specialty, or its equivalent is the minimum requirement for entry into parallel positions at similar organizations in the employer's United States industry; (3) The employer has an established practice of requiring a U.S. baccalaureate or higher degree in a directly related specific specialty, or its equivalent, for the position. The petitioner must also establish that the proffered position requires such a directly related specialty degree, or its equivalent, to perform its duties; or (4) The specific duties of the proffered position are so specialized, or unique that they can only be performed by an individual with a U.S. baccalaureate or higher degree in a directly related specific specialty, or its equivalent."

Our suggestion is to go for at least two! Cover your bases and you will reduce your chances of running into trouble with adjudication. We recommend a detailed breakdown of the duties and responsibilities of the position alongside the specific skills and knowledge gained through completion of the required degree that will be theoretically and practically applied. The best way to do this is through an expert opinion letter written by an expert in the field of the H-1B job with extensive experience working in the field, in positions of leadership wherein they made hiring decisions. Your job is to provide the expert with as much information as possible regarding the position and the employer, and their job is to validate that the job does in fact require skills and knowledge acquired through completion of the required degree.

• USCIS Premium Processing Fee Increase Effective October 19, 2020

On October 16, 2020, U.S. Citizenship and Immigration Services (USCIS) announced that premium processing fees will increase effective October 19, 2020. USCIS premium processing service allows petitioners to pay an additional filing fee to expedite the adjudication of certain signed into law on October 1, 2020, includes the Emergency Stopgap USCIS Stabilization Act, which requires USCIS to establish and collect additional premium processing fees, and to use those additional funds for expanded purposes. As a result of this, USCIS announced that it will increase the following premium processing fees:

• Form I-907, Request for Premium Processing will increase from $1,440.99 to $2,500.00, for all filings except those from petitioners filing Form I-129, Petition for a Nonimmigrant Worker, requesting H-2B or R-1 nonimmigrant status.

• The premium processing fee for petitioners filing Form I-129 requesting H-2B or R-1 nonimmigrant status is increasing from $1,440.00 to $1,500.00.

According to USCIS, any Form I-907 postmarked on or after Oct. 19 must include the new fee amount. The agency stated that any Form I-907 postmarked on or after October 19, 2020 with an incorrect filing fee will be rejected and USCIS will return the filing fee. For filings sent by commercial courier (such as UPS, FedEx and DHL), the postmark date is the date reflected on the courier receipt.

In addition, Pub. L. No. 116-159 also gives USCIS the ability to expand premium processing to additional forms and benefit requests, but USCIS has not yet taking that action. Any expansion of premium processing to other forms will be implemented as provided in the legislation.

The Ombudsman's Office will continue to work on requests for case assistance regarding issues such as erroneous rejections, monitor the implementation of this fee increase and hopes that you find this update helpful. For additional information on the increase fees for premium processing, please see the USCIS' website at https://www.uscis.gov/news/premium-processing-fee-increase-effective-oct-19-2020.

CONTINUED ON PAGE 9

Immigration Questions

CONTINUED FROM PAGE 8

NPRM	Current Rule	Notes
IRS certified tax return copies or tax transcripts for 3 years, from sponsor, joint sponsor, and household member (who signed a Contract of Household Member to add their income to the sponsor's income	Currently, only most recent year's tax return, and regular copy is fine.	Adding 2nd and 3rd prior year's taxes is new and onerous. Requiring transcript or certified copy, instead of just a regular copy, is new and onerous.
Credit report for sponsor, joint sponsor, and household member	N/A	New and onerous
Credit score for sponsor, joint sponsor, and household member	N/A	New and onerous
Bank account information: type of account, routing number, and account number, for sponsor, joint sponsor, and household member	N/A	New and scary. Part of DHS's push to put teeth into sponsor liability.
If petitioning sponsor has civil court judgment for failure to meet prior sponsorship or household member obligation, need joint sponsor. Joint sponsor or household member who has such judgment is disqualified	N/A	This inquiry is new, but so far sponsor liability hasn't been a real issue. DHS is setting up a system to make sponsor liability more common.
If petitioning sponsor received any means-tested benefits in 36 months before submitting I-864, need joint sponsor. The joint sponsor and household member are disqualified if they have used any such benefits in last 36 months Exception for petitioning sponsors on active military duty	N/A	ANY use of benefits in last 36 months, not even the 12/36 test of the public charge rule. Terrible.
Definition of "household member," for purposes of bolstering the sponsor's income, limited to just spouse and intending immigrant; must live with sponsor or intend to live together after consular processing	Currently, anyone living in same residence (except spouse need not live in same residence): Sponsor's spouse, parent, child, sibling, or adult child who has same principal residence as sponsor. Any person who the sponsor lawfully claims as a dependent on the sponsor's most recent Federal tax return. Intending immigrant, assuming lawful income which will continue after adjusting	Terrible restriction on who can sign Contract of Household Member. Will force more people to seek a joint sponsor.
Definition of "household size" includes any alien for whom sponsor executed a Contract of HH Member	Currently, only any alien for whom an Affidavit of Support was executed, while having signed a Contract of HH Member doesn't count	Will increase amount of income/assets needed, for those sponsors who had bolstered someone else's I-864 by signing a Contract of HH Member.
Means-tested benefits agencies and other requesters don't need subpoena to get copies of I- 864 and I-864EZ. New Form G-1563 Request for Certified Copy of Affidavit of Support or Contract Between Sponsor and Household Member	Currently, need subpoena	Part of DHS's push to put teeth into sponsor liability.
Means-tested benefits agencies or others who obtain judgments against sponsors or household members can more easily notify DHS. How notification will happen is TBD	Currently, only through mailing DHS at a specified address	Part of DHS's push to put teeth into sponsor liability.
Clarify categories of people exempt from affidavit of support requirement	Currently, only a few of the exemptions appear in 8 CFR 213a.2(a)(2(i). Some of these were in I-864W, but that form will be phased out	Helpful to have these spelled out.
Clarify affidavit of support exemptions for children who will derive automatic US citizenship through a parent (what used to be I-864W). Questions will be on I-485	Currently I-864W, but that form will be phased out	For consular processing, don't have I-485, so without I-864W (which will be eliminated), how to note exemption? Analogous questions are not on the DS-260.
Change of address obligation extended to household members who sign Contract	Currently, only sponsor and joint sponsor obligated to notify DHS of address change. Household members who sign Contract not required to notify of address change	Onerous and scary. Presumably the civil penalties for failure to notify of address change will be enforced; currently not enforced
Assets used to meet 125% must be readily convertible to cash within 12 months	Same requirement now, but only stated in the I-864 instructions	Codifies the I-864 instruction language in the regulations
Effective date: postmarked on or after final rule becomes effective	N/A	If postmarked before date final rule becomes effective, use current rules
Signed by Acting DHS Secretary Chad Wolf	N/A	Acting DHS Secretary Chad Wolf's temporary appointment violates the Federal Vacancies Reform Act (FVRA) and Homeland Security Act (HSA), and he therefore lacked lawful authority to issue the proposed rule.

Allen E. Kaye

Immigration Questions

USCIS' Proposed Changes to the Affidavit of Support are Unnecessary and Unlawful

Joseph DeFelice

The U.S. Citizenship and Immigration Services (USCIS) is currently proposing significant changes to the Affidavit of Support (Form I-864), and related forms I-864A and I-864EZ. One of the major changes would be to require that U.S. citizens and lawful permanent residents sponsoring a foreign spouse or relative for a green card must disclose detailed bank account information to the federal government on the form. This would include the name of the banking institution, account number, routing number, and the names of all account holders.

The Affidavit of Support is a form required for most immigrants seeking to reside permanently in the United States based on close family ties to show that they have adequate financial support and are not likely to become a public charge. It is also required for some intending immigrants seeking to reside permanently in the United States based on employer sponsorship.

The form serves as a legally binding contract in which the U.S. citizen or lawful permanent resident who is sponsoring the intending immigrant promises the U.S. government to financially support the individual if the immigrant is unable to do so on their own. The sponsor must prove that they have the means to maintain an annual income equal to at least 125% of the federal poverty guidelines for his or her own household, plus the intending immigrant and any family members immigrating with the intending immigrant.

What is most troubling about USCIS' proposed changes to the Affidavit of Support is that the law does not authorize USCIS to collect such bank account information.

By regulation, the sponsor must provide evidence of their income by submitting a copy of their most recent federal tax transcript or return. In addition, the sponsor may include letters evidencing current employment and income, paycheck stubs, financial statements, or other evidence of the sponsor's anticipated household income for the year in which the intending immigrant files the application.

If using assets in lieu of income, such as money in a bank account, the sponsor may submit evidence of the sponsor's assets, such as savings accounts, stocks, bonds, certificates of deposit, real estate, or other assets. As such, the agency's blanket proposal mandating the collection of detailed bank account information from all U.S. citizens and lawful permanent residents sponsoring their foreign spouse or relative for a green card is an unauthorized information collection.

Additionally, USCIS is proposing to require that sponsors must have the Form I-864, and related forms I-864A and I-864EZ, notarized by a notary public. This new notary requirement is an inconvenient and needless burden which has no basis in the law.

It would add undue and unnecessary burdens on sponsors by imposing unnecessary costs, travel burdens, and logistical challenges to have these forms notarized by a notary public. This requirement is particularly burdensome and potentially dangerous in light of social distancing protocols currently being imposed by local and state authorities, as well as countries around the globe, in response to the 2019 novel coronavirus (COVID-19) pandemic.

USCIS' proposed changes to the Affidavit of Support are yet another attempt by USCIS to impose new requirements on the public, disguised as a form change, for which the agency lacks statutory and regulatory authority. USCIS stakeholders and the public must hold the USCIS accountable. USCIS is currently accepting public comments on these proposed changes through May 11, 2020.

Letter from over Three hundred companies to President Trump and his Secretaries

May 21, 2020
President Donald J. Trump
Secretary of State Michael Pompeo
Secretary of Labor Eugene Scalia
Acting DHS Secretary Chad Wolf

Dear Mr. President and Honorable Secretaries,

The undersigned organizations, speaking for a variety of sectors and geographies across the American economy, and small, medium, and large employers, are writing about the importance of the high-skilled workforce to America's economic recovery. In particular, the undersigned represent employers that rely on a highly skilled, college-educated, science and engineering workforce, including nonimmigrant professionals, to innovate, produce, research, develop, and lead. At this critical juncture in our nation's history, the ability to continue to do so is in the national interest.

We urge you to avoid outcomes, even for temporary periods, that restrict employment-authorization terms, conditions, or processing of L-1, H-1B, F-1, or H-4 nonimmigrants. Constraints on our human capital are likely to result in unintended consequences and may cause substantial economic uncertainty if we have to recalibrate our personnel based on country of birth.

We join you in your continued commitment to protect the health and economic well-being of Americans, and hope our attached Appendix is helpful as you consider weighty judgments on how to navigate this important moment.

Respectfully submitted, 324 employers and trade, industry, and higher education associations and groups across the American economy focused on the high-skilled workforce

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

BY ALLEN E. KAYE AND JOSEPH DEFELICE

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

QUEENS COUNTY BAR ASSOCIATION

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Academy of Law
Gary F. Miret, Esq., Dean
Michael D. Abneri, Esq., Associate Dean
Hon. Darrell L. Gavrin, Associate Dean
Leslie S. Nizin, Esq., Associate Dean

Clifford M. Welden, President

Civil Court Committee and Supreme Court Committee presents

ZOOM CLE

NO-FAULT LITIGATION – 2020 UPDATE

Monday, November 16, 2020
1:00 pm - 2:00 pm

PRESENTERS:

Darryl E. Lapidus, Esq.
Principal Appellate Court Attorney at the Appellate Term, Second Department

Hamid M. Siddiqui, Esq., Moderator
Chair, Civil Court Committee

PROGRAM:

Discussion on recent appellate cases and their impact upon, among other things, examinations under oath, independent medical examinations, the workers' compensation fee schedule, judicial review of arbitration proceedings, and attorney's fees.

FEE:

QCBA Member - Free

Non-QCBA Member - $25.00

CLE Credit:
1.0 in Professional Practice
Transitional Course – Valid for All Attorneys
ACCREDITATION: QCBA has been certified by the NYS CLE Board as an Accredited CLE Provider in NYS, 10/2019 - 10/2022.

Via Zoom

Sponsored By:

Must Register by November 13th to Receive ZOOM Meeting ID EMAIL: CLE@QCBA.ORG

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Name:_____ Tel._____

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The Practice Page
Time Extensions For Service Of Process

CPLR 306-b provides that once an action has been commenced by the filing of the required initiatory paperwork, service of process upon the defendant is to be made within 120 days. There is an exception for actions governed by a statute of limitations of four months or less, in which case service is to be effected not later than 15 days from the expiration of the statute of limitations. Either way, if service is not made within the statutory deadline, the court "shall" dismiss the action without prejudice. But even that seemingly-mandatory language is not actually mandatory, as CPLR 306(b) directs that the same court may extend the time for service "upon good cause shown" or "in the interest of justice." Attorneys should monitor their process servers to assure, where ideally possible, that service of process is accomplished within the statutory period so that no time extension need be sought in the first instance.

Good cause shown and the interest of justice are two different standards. Attorneys seeking time extensions for service, or opposing the extension requested by an adversary, should direct their evidence, arguments, and attention to either or both of these individual statutory standards. To establish "good cause," a plaintiff must demonstrate reasonable diligence in attempting service. Good cause will not exist if a plaintiff fails to make any effort at service or fails to make at least a reasonably diligent effort toward doing so. By contrast, good cause may be found to exist where the plaintiff's failure to timely serve process is a result of circumstances beyond the plaintiff's control.

The separate "interest of justice" standard is looser. It includes the difficulties in effecting service as with good cause, but also includes other factors such as whether the statute of limitations has expired, the merits of the action, the length of delay in service, the promptness of a request by the plaintiff for an extension, and prejudice to the defendant. Each of these factors make sense. If the statute of limitations has expired as to prevent a new action if a service extension is denied, that factor favors the grant of an extension, particularly as the plaintiff's failure to obtain personal jurisdiction disqualifies a six-month extension of CPLR 205(a) for the re-commencement of a second action. Merit should be considered, as there is more reason for a court to grant a time extension for an action where the plaintiff demonstrates potential merit than one that has little or none. The less the delay in effecting service, the more this factor favors a time extension. The same is true when motions to extend service, which can be filed before or after the 120 day time frame, are made sooner rather than later. Prejudice to the defendant is also properly part of the equation, which is more likely to exist the later the plaintiff's motion is made. Each case presenting these issues will be decided based upon its own unique cocktail of facts and merits.

The grounds for a time extension might be met under one standard or the other, or neither. Ultimately, the court's decision on whether to grant or deny additional time for service of process, under either standard, is a matter of judicial discretion. The task for attorneys advocating or opposing CPLR 306-b motions is to marshal evidence and argument that directly pertains to the "good cause" standard and/or the various factors of the "interest of justice" standard. Since the failure of a plaintiff to effect service within 120 days of filing can result in the dismissal of an action, the statutory time pressure and related issues should be taken seriously by the practicing bar.

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

Updated Bar Notice

October 19, 2020 In an effort to facilitate the movement of cases filed in the Queens Supreme Court -Civil Term during the Coronavirus (COVID-19) public health emergency, the Court will conduct Summary Jury Trials, Summary Bench Trials and Jury Trials on a limited basis in various categories of cases. Additionally, Preliminary Conferences are being scheduled and held. Appearances are not required on Preliminary Conferences.

Commencing October 26th, 2020, jury trials will be held in the Jamaica and Long Island City Courthouses. Commencing November 2nd, 2020, summary jury trials will also be held. To confirm the commencement of your trial on the scheduled date please contact the assigned Justice or Part. In as much as all COVID-19 related protocols have been established in the Unified Court System, all visitors to the courthouse will be required to submit to temperature screening and questioning before being granted entrance. This includes parties, attorneys, witnesses, spectators, law enforcement officers, and all other non-court personnel. Visitors with a temperature of 100.0º F or higher will not be permitted to enter the courthouse. ALL COURT VISITORS ARE REQUIRED TO WEAR AMASK. In accordance with the Governor's Executive Order, individuals who have traveled to states listed on the Quarantine List are required to self-quarantine for a period of 14 days and shall not be permitted to enter a courthouse or other court facility during that period.

As always, the health and safety of the public and our workforce remain a top priority. Thank you for your continued cooperation.

Hon. Marguerite A. Grays
Administrative Judge Civil Term Eleventh Judicial District

QUEENS COUNTY BAR ASSOCIATION

90-35 148th 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,

Clifford M. Welden, 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.

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

The Young Lawyers Committee Brings The Energy Of Youth To The Queens County Bar Association

The Queens County Bar Association Young Lawyers Committee, Co-Chaired by Kristen Dubowski Barba and Sydney Spinner, has been honored to sponsor and co-sponsor numerous events during the pandemic.

In what is now a virtual world, the Young Lawyers Committee was one of the first QCBA committees to host a virtual event—a happy hour event in which QCBA members could meet, virtually, and discuss concerns regarding their practice areas and the upcoming New York State Bar Exam. The event provided support and comradely in time of isolation.

The Young Lawyers Committee has hosted events that were both practical in nature and provided some entertainment and levity. We have had the opportunity to collaborate with the Bronx Bar Association and the Queens County Women's Bar Association affording our members the opportunity to network with more attorneys.

The goal of the Young Lawyers Committee is to provide information, education, and networking opportunities for our younger and newly admitted attorneys. Many experienced practitioners also have joined in and participated with the young lawyers. We are very lucky that they are very giving of their time.

Keep a look out for our next event, "Friendsgiving" on November 24th. In a year that brought many challenges, we want to reflect on what we are grateful for. We will gather together (virtually) to celebrate and raise money for St. Mary's Hospital for Children.

BY KRISTEN DUBOWSKI BARBA, ESQ
Co-Chaired Queens County Bar Association Young Lawyers Committee

QUEENS COUNTY BAR ASSOCIATION
90-35 148th Street, Jamaica, New York 11435 · (718) 291-4500 · Fax: (718) 657-1789 · WWW.QCBA.ORG

Organized 1876

PRESS RELEASE: Recent Court Directives

Litigation in arguably the largest state court system in the United States has, for all intents and purposes ground to a halt, since the Covid-19 pandemic arose in March of this year. Recent court directives have attempted to move cases forward using virtual platforms and have allowed for limited appearances in some courthouses, but the reality is that the volume of matters that are being resolved has slowed to a trickle as compared to pre-Covid levels.

That is why it is troubling that the Chief Judge and the OCA Administrative Board, at the directive of the Governor, saw fit to deny certification to 46 experienced judges who could be working to help resolve these controversies. Queens County has been particularly hit hard as there are six Supreme Court Judges who were denied a certification for budgetary reasons. An additional seven judges who are already certified are expected to retire above these cuts. The Queens County Bar Association supports the Queens Judges who were denied this certification and urges Judge Marks and Chief Judge DiFiore to reconsider this ill-conceived measure that will result in a further delay to the pending judicial caseload. This measure will hurt the citizens of Queens County. Particularly when COVID-19 restrictions are lessened and courts begin to re-open for in person appearances, our judicial system will need as many Judges as possible to deal with the tremendous backlog of cases caused by the pandemic. Eliminating some of our most experienced judges at this crucial time will no doubt have a profound and lasting consequence for litigants in this county and will lead to lengthy delays in the Civil and Criminal courts.

The QCBA calls upon the Chief Judge and Judge Marks to reverse their position and reinstate these valued members of our court system.

October 2020

OVER 144 YEARS OF DEDICATED SERVICE

Court Updates

Dear Members,

The Queens County Criminal Court will commence its gradual transition from the Skype platform to the Microsoft Teams platform for all court proceedings in accordance with the following schedule:

• Starting Thursday, November 5th, 2020, all virtual arraignment parts at the Queens County Criminal Court will be conducted via the Microsoft Teams Platform. Specifically, to log on and/or access weekday arraignments (AR1), night arraignments (AR3), weekend/holiday day arraignments (AR4), and the DAT-V virtual arraignment calendars effective tomorrow, utilize the Microsoft Teams Link indicated on the attached "Virtual Court Parts – Teams Links.11-5-2020."

• Starting Friday, November 6th, all virtual AP Part calendars at the QCCC, except the AP4-V and Special Applications Calendar, will be conducted via the Microsoft Teams Platform by logging on to the applicable T-Part link indicated on the attached "Virtual Court Parts – Teams Links.11-5-2020."

• Starting Monday, November 9th, all matters scheduled on the PH1 and PH2 links, including the AP4-V calendar and AP4 Special Applications Calendar will be conducted via the Microsoft Teams Platform by logging on to the applicable PH1 or PH2 link indicated on the attached "Virtual Court Parts – Teams Links.11-5-2020."

Please note that the Skype links previously associated with the QCCC virtual calendars will be disabled in accordance with the above mentioned gradual transition to the Microsoft Teams Platform.

If you have any questions you may contact the QCCC Borough Chief Clerk's Office at 718-298-0786 and/or the Supervising Judges' Chambers at 718-298-0836.

Please immediately share and distribute this information to all stakeholders within your respective organizations.

Best regards,
Hon. Michelle Johnson
Supervising Judge
Queens County Criminal Court

Criminal Court Teams Parts 11.5.2020
Updated 11.04.2020

Part Name	Location	Phone Number	MS Teams Link	
Arraignments AR1, AR3, AR4	GE11	298-0869 298-0737	Click to Join Microsoft Teams Meeting-Arraignment Courtroom	No Lobby
PH1	BCCO G-78	298-0786	Click to Join Microsoft Teams Meeting-VC-QN-PH1	
AP4-V D40-V	AP3/QMTC G-6A	298-0840	Click to Join Microsoft Teams Meeting-VC-QN-PH2	
DAT-V	G-18	298-0814	Click to Join Microsoft Teams Meeting-VC-QN-DAT	
T4 AP1-V, AP2-V T-10	AP1 G-57B	298-0883	Click to Join Microsoft Teams Meeting-VC-QN-T4	
T5 AP5-V, SG-V, QMTC/TMT-V	AP4 G-19C	298-0891	Click to Join Microsoft Teams Meeting-VC-QN-T5	
T6 AP6-V, N-V	APN 172	298-0864	Click to Join Microsoft Teams Meeting-VC-QN-T6A	

Family Court Committee Zoom Meeting

The Family Court Committee of the the Queens County Bar Association will be having a regular meeting F**riday, November 13, 2020 at 1:00 PM** through Zoom.

Elizabeth Van Horn, Deputy Director for Programs, will share with you CASA NYCs mission and its role within the NYC Family Courts. Elizabeth will share insight into CASA's volunteer programming model and how the one-on-one advocacy unfolds. You will learn about common case appointments and organizational initiatives as well as ways to get CASA involved as champions for children and families with Article 10 cases. You will be provided an opportunity to connect about case specific challenges and explore ways CASA's advocacy can navigate the need at hand.

Maria de la Cruz, Lesley J. Lanoix, Eric Perlmutter and Frank Bruno
Co-Chairs, Family Court Committee

When: Nov 13, 2020 01:00 PM Eastern Time (US and Canada)
Register in advance for this meeting:
https://us02web.zoom.us/meeting/register/tZMkduuurzkpHty5iGd-13CfbP-9afJ7gvXQP
After registering, you will receive a confirmation email containing information about joining the meeting.

Administrative Order Of The Chief Administrative Judge Of The Courts

Pursuant to the authority vested in me, I hereby prescribe the following forms (Exh. A) for use in electronic filing in New York Supreme Court through the New York State Courts Electronic Filing (NYSCEF) program, and repeal any prior versions of these forms, effective immediately:

- Notice of Electronic Filing (Consensual Case) (EF-3)
- Stipulation and Consent to E-Filing (EF-10)
- Letter Application to Convert Pending Action to E-filing (EF-28)
- Notice of Conversion to Electronic Filing (Converted Action to E-Filing (EF-28a)
- Notice of Electronic Filing (Mandatory Case) (EFM-1)

Attached as Exh. B is a list of the forms for use in NYSCEF filings in effect as of this date.

Chief Administrative Judge of the Courts

Dated: October 28, 2020

AO/254/20

Recent Significant Developments And Decisions From Our Highest N.Y.S. Appellate Courts

- A Virtual Stated Meeting

On October 20, 2020, the Queens County Bar Association was proud to hold and present a "virtual" stated meeting, presented by the Program committee and the Academy of Law: RECENT SIGNIFICANT DEVELOPMENTS AND DECISIONS FROM OUR HIGHEST NYS APPELLATE COURTS. Members who attended this year's stated meeting received two free CLE credits. Approximately 150 members attended virtually.

In the past, like all of our events, this program, a stated meeting, was usually held in person, in the Queens County Bar Association auditorium. Attendees would receive free CLE credit. In past years, program would usually run 2 ½ hours, and then those who wished to do so would remain for dinner and Socializing after the meeting. For many years, Spiros Tsimbinos, a past president, organized and moderated this event, and he was acknowledged by the program chair in the opening remarks for his years of doing so.

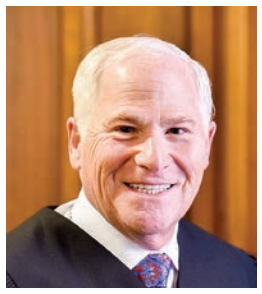
Even before Covid-19 pandemic, Program Chair Michael Abneri, and Dean of the Academy of Law, Gary Miret, had approached Justice Valerie Brathwaite Nelson, Associate Justice of the Appellate Division, Second Judicial Department, to see if she would participate and recruit some of her colleagues to participate as well. Justice Brathwaite Nelson, as a member of our Bar Association, not only regularly attends our events, but is also the Second Judicial Department's liaison to the Queens County Bar Association. She agreed to do so, and created this wonderful program that we were able to present to our members. She recruited four judges from the Court of Appeals, as well as presiding Justice of the Appellate Division Second Judicial Department, Alan D Scheinkman, who is retiring at the end of the year. Additionally, Justice Brathwaite Nelson moderated the program and also was a presenter on two cases that she wrote detailed opinions on.

Of course, with the Covid 19 pandemic continuing, we had to shift our plans to go "virtual" which probably had a net beneficial effect of allowing the Court of Appeals judges address our Bar Association without having to actually come here. We hope to host them and other of their colleagues in person in the future.

The meeting was sponsored by Latino Lawyers Association of Queens County, Brandeis Association; Queens County Women's Bar; Catholic Lawyers Guild of Queens County; Columbian Lawyers Association of Queens; Hellenic Lawyers Assn; Long Island City Lawyers Assn; Macon B. Allen Black Bar Association; NYC Legal Aid Society; St. John's School of Law; and South Asian Indo-Caribbean Bar Association of Queens. We thank these organizations for their continued support.

Chief Judge of the Court of Appeals, Janet DiFiore spoke in a video recording at the outset of the program. Unfortunately, she was unable to appear in person due to the understandable demands of the court system in the current environment. She discussed state of the court system in general, the Queens County Bar Association and the restart of civil and criminal jury trials in New York City.

Gary F. Miret - Dean, Academy of Law



Hon. Alan D. Scheinkman, Presiding Justice of the Appellate Division, 2nd Dept

Hon. Eugene M. Fahey - Associate Judge, Court of Appeals

Hon. Janet Difiore - Chief Judge

Hon. Jenny Rivera - Associate Judge, Court of Appeals

Hon. Paul G. Feinman - Associate Judge, Court of Appeals

Hon. Valerie Brathwaite Nelson - Associate Justice, Appellate Division, 2nd Dept

Clifford M. Welden

Judge Jenny Rivera, an Associate Judge of the Court of Appeals, discussed three cases decided together that she participated in revolving around waiver of appeal issues after a guilty plea in a criminal proceeding. People v Thomas, People v Green, People v Lang, 34 N.Y. 545 (2019).

Judge Eugene M. Fahey, an Associate Judge of the Court of Appeals, discussed in great length, a case involving low copy number DNA testing regarding evidence and analysis, Frye hearings, and the use of scientific evidence. People v Williams, 35 space N. Y. 3D 24 (2020).

Unfortunately, Paul G. Feinman, Associate Judge of the Court of Appeals, who was scheduled to speak, was unable to do so due to a last minute personal matter.

Justice Valerie Brathwaite Nelson, an Associate Justice of the Appellate Division of the Second Judicial Department discussed two cases on which she had written detailed opinions. The first was Golsten-Green v City of New York 184 A.D. 3d 24 (23nd Dept. 2020), involving an employment discrimination of an African-American woman claim against the New York City Police Department regarding disparate treatment in the workplace considering New York State human rights law - Executive law section 296 New York City human rights law section 8-107 [7]. The second case was Johnson V Palumbo, 154 A.D 3d. 231 (2nd Dept. 2017), A domestic violence case and its effect on the petitioner's Section 8 housing rights under federal law.

Justice Alan D Scheinkman, presiding Justice of the Appellate Division, Second Department briefly discussed a waiver of appeal case. People v Sutton, 184 A.D. 3D 236 2nd Dept. 2020. He also discussed the challenges facing the second Department during the Covid-19 pandemic, how it is been handled and the return to operations of oral argument in the Second Judicial Department.

After Presiding Justice Alan D. Scheinkman finished his presentation, Queens County Bar Association President Clifford D. Welden presented "virtually" presented him a plaque honoring his service as the Presiding Justice, as Justice Scheinkman is retiring at the end of the year. Justice Scheinkman has been to the Queens County Bar Association numerous times to speak during his tenure as Presiding Justice. He also was a law professor at St. John's University School of Law for many years before becoming a judge.

As Program chair, I would like to thank Gary Miret, Dean of the Academy of Law, Arthur Terranova, the Executive Director of the Queens County Bar Association who is retiring in May 2021, the QCBA staff ,Sasha Khan and Janice Ruiz for all of their behind the scenes work, without which this and many other programs would not be possible, the Appellate Division, Second Department IT team, who managed the virtual aspects of the proceeding, and finally, Justice Valerie Brathwaite Nelson who really worked hard on bringing this program to life. We value her membership and participation in the Queens County Bar Association activities and events such as this. We hope to see you all "in person" next year.

BY MICHAEL D. ABNERI

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_____

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_____

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_____

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
☐ Admitted less than 1 year	Free
☐ Law Student*	Free

*(*Current Law School student OR recent graduate awaiting admission. Please include a copy of your school's official OR unofficial school transcripts.)*

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
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7/2020-2021

QUEENS COUNTY BAR ASSOCIATION

LAWYER REFFERAL 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
☐ Adoptions		
☐ Bankruptcy		
☐ Civil Rights		
☐ Civil Service		
☐ Commercial		
☐ Consumer Law		
☐ Elder/Guardianship Law		
☐ Criminal Law		
☐ Decedent's Estates, Wills & Trusts		
☐ Domestic Relations (Family Law)		
☐ Immigration & Naturalization		
☐ Insurance		
☐ Juvenile Delinquency Matters		
☐ Labor Relations & Unemployment Compensation		
☐ Landlord & Tenant		
☐ Libel & Slander		
☐ Malpractice		
☐ Negligence		
☐ Patent, Trademark, Copyright, Unfair Competition		
☐ Real Property		
☐ Taxation		
☐ Social Security Appeals (SSI, SSD)		
☐ Small Claims		
☐ Traffic Law		
☐ 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

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

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