



www.qcba.org

Queens Bar Bulletin

Queens County Bar Association / 90-35 One Hundred Forty Eighth Street, Jamaica, NY 11435 / (718) 291-4500



Academy of Law and Committee Chairs Bid Farewell to Catherine Dolginko

The Law of China

by PAUL E. KERSON

I spent three weeks in China this summer. I rode a tour bus throughout the country with 13 other American tourists. We visited Beijing, Xian, Chengdu, Shanghai, Dazhu, and Chongqing. I took a separate trip to Harbin. China calls itself a "Communist" country. This is a misnomer.



Paul Kerson

They are having a construction boom fueled by the introduction of the mortgage bank 10 years ago. The whole country looks like the Empire State Building. Co-op City, North Shore Towers and Starrett City rolled into one and multiplied many thousands of times.

China today is a country of planned tall apartment houses and commercial communities on broad tree-lined boulevards. Privately run stores are everywhere, built into the ground floor of each of these new buildings. Her largest cities are bigger and more brightly lit than New York.

Despite this advanced urban construction, China's agriculture appears to be stuck in the 19th Century. I observed very few tractors. I saw no combines or reapers. They farm by hand on small family plots. In questioning our tour guides, it appears that crop rotation is not used. The Chinese have a long way to go if their 19th Century agricultural methods are to catch up with their 21st Century cities and factories.

The Chinese now sell us most of our industrial products. However, we in the

Continued On Page 13

A Sad but Fond Farewell

This past June the Queens County Bar Association bade farewell to one of our most cherished friends. Our Association's CLE and Events Coordinator for the past several years, Catherine Dolginko, has moved on to her new home in California. She will be dearly missed by anyone who had the good fortune of having known her during her stay in Queens.

Catherine not only showed great skill and professionalism in whatever task she was asked to perform but showed great warmth and charm to anyone she encountered. She was always a great ambassador for our Association. It is comfort-

ing to note that those qualities we came to appreciate in Catherine will now become known to a whole new community, even if they are on the Left Coast.

Judge Martin E. Ritholtz, Dean of the Queens County Bar Association Academy of Law, presided at a special meeting in June to say goodbye and thank you to Catherine for her service to our Association. Academy members and Association committee chairpersons joined in wishing Catherine great happiness and success for her future. We will never forget you! ■

Is the United States Supreme Court Pro-Prosecution or Pro-Defense:

An analysis of 27 recent criminal law decisions

by SPIROS A. TSIMBINOS*

Introduction

Appellate lawyers dealing with criminal law cases usually gage their chances of suc-

cess on appeal by looking to start out with a core group of judges on the appellate panel which they categorize as either pro-prosecution or pro-defense. They then battle to convince "the swing votes" of

the merits of their case. The question arises based upon this long utilized strategy; is there really a pro-prosecution or pro-defense predilection by some of the judges on the appellate courts? To test this

long held theory, especially as it applies to the United States Supreme Court, I conducted an analysis of 291 recent criminal law decisions covering the

Continued On Page 12

Save
the Date

December 19, 2007

Holiday Party at
Terrace on the Park



The Law
of China

Continued on page 13

INSIDE THIS ISSUE

| | |
|--|---|
| A Sad but Fond Farewell | 1 |
| The Law of China | 1 |
| Is the United States Supreme Court Pro-Prosecution or Pro-Defense | 1 |
| The Docket | 2 |
| President's Message | 3 |
| About the Bench | 3 |

| | |
|--|----|
| The New York Parent Education and Awareness Program | 4 |
| Profile of David Louis Cohen | 5 |
| Pro Bono Award Winners | 6 |
| CLARO Comes to Queens | 7 |
| The Culture Corner | 10 |
| Court Notes | 14 |

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, 90-35 148 Street, Jamaica, New York. More information and any changes will be made available to members via written notice and brochures. Questions? Please call (718) 291-4500

PLEASE NOTE:

The Queens County Bar Association has been certified by the NYS Continuing Legal Education Board as an Accredited Legal Education Provider in the State of New York.

2007 Fall CLE Seminar & Event Listing

October 2007

Wednesday, October 10
Thursday, October 11
Tuesday, October 16
Wednesday, October 17
Thursday, October 18
Friday, October 19
Monday, October 22
Tuesday, October 23
Tuesday, October 23

Wednesday, October 24
Thursday, October 25

Monday, October 29
Tuesday, October 30

November 2007

Thursday, November 1

Monday, November 5
Tuesday, November 13
Wednesday, November 14
Monday, November 19
Wednesday, November 28

December 2007

Wednesday, December 12
Thursday, December 19

Advanced Criminal Law, Part 1
Know The Law
Defendant's Roundtable Series, Part 1/4
Advanced Criminal Law, Part 2
Commercial Mediation Training, Part 1/3
Commercial Mediation Training, Part 2/3
Commercial Mediation Training, Park 3/3
Defendant's Roundtable Series, Part 2/4
Abuse & Neglect Proceedings
(Rescheduled date)
Worker's Compensation Law
Develop/Maintain/Progress in a
Successful Law Pract.
Stated Meeting
Defendant's Rozundtable Series, Part 3/4

Commercial Leasing –
Presented & Sponsored by Judicial Title
CLARO Volunteer Seminar
Academy of Law Series
Landlord & Tenant
Stated Meeting
No Fault Update

UM/SUM Update
Holiday Party Terrace on the Park

NEW MEMBERS

| | |
|---|--|
| Kwaku Boafoh Agyeman Alvida Renee Alford Camille Tanya Allen Jack Angelou Matthew Kirsch Arad Maria Amalia Aragona Scott Matthew Aronowitz Ouzy Azoulay Rakhi Bahadkar Albert Baldeo Patrick Roland Barnhart Susan Bolduc Gregory Stephen Bougopoulos Robert H. Brown Patrick G. Burke, III Marybeth Campfield Heidi Harrison Chain Samantha Chung Catherine May Co Jaques Laurent David Dennis F. Dowd Emmanuel O. Fashakin Natasha Fortune Oda Friedheim Sheryl Fyffe-Gauntlett Matthew P. Gallagher Thomas J. Gerrity Bonnie Rebecca Gershon Lorez Monica Gill Katie Giusti Tamara M. Harris Wilfred W. Holness Katherine K. Hung Angela M. Ignelzi Claude Kavanagh Jennifer Kim David Kirsch Stephen H. Klausner | John F. Kelly Jessica Lynn Kronrad Manana Kull Edward Charles Lannan Tina LaVacca Huan Lin-Su Dana S. Luke Melissa Amie Lunden Xuan Lu Jocelyn Elizabeth Lupetin Mary S. Malerba Charmaine Salama Mangaroo Sara Mansuri Karen McKenzie Fabian Moreno Alcides E. Mulgrave Gabriel R. Munson Terehas Nelson Elizabeth M. Palombo Joon H. Park Janice A. Peretzman Angela Sonia Perkins Frank L. Perrone Jr. Tamia Perry Paul Polios William F. Powers Mahmoud Rabah Rafael Raffaelli, III Veronica Rozo-Martinez Sukhbir Singh Stephen Z. Starr Annette Y. Stewart Robert John Strohl Johara Tucker Pamela Walitt Yantong Yang Rachel J. Yosevitz Steven Zissou |
|---|--|

NECROLOGY

| | |
|---|----------------------------------|
| Kenneth S. Berkman Daniel M. Bober Bernard M. Eiber | Sidney Leviss Herman Schmertz |
|---|----------------------------------|

EDITOR'S NOTE . . .



Les Nizin

We are back and in living color. As the Queens Bar Bulletin starts a New Year, we have a new publisher and a new look. As always, I welcome your articles, poems, articles of interest and your comments. Kindly send all of your material to the undersigned care of the Queens County Bar Association or to my e-mail address, lnizin@aol.

Although we were unable to include them in our 2007 QCBA Annual Dinner Journal we would like to acknowledge the generous contribution to the Queens Volunteer Lawyers Project by

Vallone & Vallone, LLP
22-45 31st Street
Astoria, N.Y. 11105
(718) 204-2929 (718) 274-8858-fax
www.VALLONELAW.com

2007 - 2008
Officers and Board of Managers
of the
Queens County Bar Association

DAVID LOUIS COHEN - President
STEVEN S. ORLOW - President-Elect
GUY R.VITACCO, JR. - Vice President
RICHARD MICHAEL GUTIERREZ - Secretary
CHANWOO LEE - Treasurer

| | | |
|---|--|--|
| Class of 2008 Paul E. Kerson Gary Francis Miret Joseph John Risi, Jr. Steven Wimpfheimer James J. Wrynn | Class of 2009 Joseph F. DeFelice John Michael Ioannou George J. Nashak, Jr. Jerome D. Patterson Nelson E. Timken | Class of 2010 Gregory J. Brown Joseph Carola, III John Robert Dietz Mona Haas Carmen Velasquez |
|---|--|--|

Arthur N. Terranova . . . Executive Director
Queens Bar Bulletin
EDITOR - LESLIE S. NIZIN

Associate Editors - Paul E. Kerson, Michael Goldsmith and Peter Carrozzo

| | |
|--|--|
| Published by Long Island Commercial Review, (631) 737-1700; Fax: (631) 737-1890 Publisher John L. Kominicki Production Manager Kerri Cettel Associate Publisher / Director of Advertising Kathleen Gobos Custom Publications Manager Ken Kroncke Account Executive Shirley Bracken Classified Sales Joe Parrino | <p><i>Send letters and editorial copy to: Queens Bar Bulletin, 90-35 148th Street, Jamaica, New York 11435.</i></p> <p><i>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.</i></p> <p>Queens Bar Bulletin (USPS No. 0048-6302) is published monthly, except June, July, August, and September by Long Island Business News, 2150 Smithtown Ave., Suite 7, Ronkonkoma, NY 11779-7358, 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.</p> |
|--|--|

P R E S I D E N T ' S M E S S A G E

When you read this you will all be, “back to the office,” after what hopefully was an enjoyable and restful summer. Here at the Bar Association the summer has been quite busy. We held a meeting with all Committee Chairs in an effort to increase committee participation. A broad range of topics were discussed and a number of suggestions were made. During the coming year, with the assistance of the Board of Managers, we will be working with the Committee Chairs to implement many of these new ideas. I also met with a group of Past Presidents to get some insight on how to grow the Association. As these concepts are formed into concrete plans I will keep you updated.

The Greater Jamaica Development Council briefed the Board of Managers on the plans for the redevelopment of downtown Jamaica. Of particular



David Cohen

interest to the Association was a plan to create a law center office building near the LIRR station. In addition to state of the art law offices, the possibility of relocating CUNY Law School was discussed. We raised the possibility of new development of our location. If and when these concepts move forward, we will be an active participant so as to insure that we remain the center of the legal profession in Queens.

If you recently called the Association you realize that we have a new automated phone answering system. This makes

our staff more efficient and enables our members and the public to get to speak to the proper person as quickly as possible. A listing of the extensions for our staff is printed elsewhere in this bulletin. I am pleased to announce that our new web site is up and running. Go to QCBA.org and see for yourself.

Our Executive Director, Arthur Terranova, and staff have significantly reduced expenses. Coupled with the dues increase, we have come a long way towards solidifying our financial position. With your continued support and generosity we should be able to keep the books balanced for the foreseeable future.

Both of our new Administrative Judges have been most responsive to the Association. We have met with Justice Eng and Justice Weinstein to discuss issues of mutual concern. Both have

open door policies and they have been receptive to our suggestions when implementing new systems or policies. They have considered our positions and, whenever possible, modified their proposals to accommodate the needs of the membership. The new Supervising Judge of the Civil Court, Judge Bernice Siegal has also sought out the position of the Association on issues that affect our members. She is working with Mark Weliky, our Pro Bono Coordinator, on a number of pro bono projects to assist the under-represented citizens of Queens County. It makes my job much easier when I know that I can make the Association's position known and more importantly, heard.

You can contact me at the Association or by email at dlccrim-law@aol.com. Your views and suggestions are always welcome. ■

A B O U T T H E B E N C H . . .

Hon. Margaret Parisi McGowan

By MERYL L. KOVIT

The new judge presiding over the “intake A” part in the ceremonial courtroom on the first floor of the Queens Family Court is the Hon. Margaret McGowan. Her recent arrival in the Family Court is her latest stop on a tour of the world she commenced – as an airline employee – after her graduation from Flushing High School. I met with Judge McGowan in late August to interview her for this article and got the impression that she's planning a lay over of quite some time in the Family Court. The Judge easily volunteered, without any leading questions, “Oh, I love Family Court, if you don't love people this is the wrong place to be.” Judge McGowan loves people, and the people love her. The Family Court in downtown Jamaica, Queens, is proving to be an excellent destination choice for Judge McGowan and the litigants that come before her everyday in intake A.

The Judge's early education began at a boarding school in Westchester County called The Sacred Heart Villa – this was the same school attended by her mother. Each class had only eight children. Her arrival at Flushing High School was a welcome change. At Flushing High School she got to interact with other students from a multitude of backgrounds and economic levels and saw much diversity. It was quite a change from Sacred Heart Villa.

Judge McGowan is a third generation attorney, and the first Judge in her family. Her grandfather was an attorney and the editor of the Italian newspaper *Il Progresso*. Her father was an attorney with the U.S. Justice Department and then worked for Immigration. Her father and grandfather both encouraged her education and “love for the law.”

While the Judge was taught to love the law at an early age, her plan upon graduating from Flushing High School was to travel – and she did. She found a job with American Airlines, and later with Pan Am and off she went to see the world – via “F” class passage, which is free, whenever she had “two days off in a row.”

At her first job with Pan Am Airlines Judge McGowan was a sales agent. She booked reservations and tours. She also became involved with the Union and contracts. Her coworkers would ask her



Hon. Margaret Parisi McGowan

for help with their grievance issues and the Union eventually asked her to become a Shop Steward. She became very involved protecting workers rights. She learned how to negotiate settlements, deal with people, and calm situations – all good preparatory work for a career as a Judge in the Family Court. While working for the airline she also studied for her bachelor's degree in Political Science at Queens College.

Judge McGowan's work representing airline workers in grievances was always limited – at some point she always had to pass the file to a lawyer. Judge McGowan worked for Pan Am for sixteen years and became the Chief Steward for the Teamsters Union. Nonetheless, she left the airlines and free travel behind for a three year long land tour of CUNY law school.

At CUNY law school, Judge McGowan interned with Advocates for Children's Rights, an agency which worked with special education children trying to mainstream the children back into the system. She also clerked with Bernard Morganthaler, Esq., Bellerose, primarily in the area of real estate. Upon her law school graduation in 1987, Judge McGowan worked of counsel to Mike Ricci, Esq. practicing primarily in criminal appeals, landlord/tenant law and general litigation.

The Judge was associated with the law office of Robert Katz, Rego Park from 1988-1990. This firm focused on land-

lord/tenant practice representing tenants and tenants associations. She tried cases and wrote and argued appeals.

In June 1990, the Judge began serving as a senior court attorney in the Housing Part of the Civil Court of the City of New York, in the Bronx. She also has served as a Small Claims Arbitrator in the Civil Court. She says of that experience “I found Small Claims Court very interesting. Quite often, people would stand on principles for \$2.00, and say “It's the principle.” I would say, no it's the \$2.00.”

The Honorable Margaret McGowan was appointed as a Judge to the Housing Court, Civil Court of the City of New York, Queens County, by Chief Administrative Judge Jonathan Lippman in 1998. She sat in Housing Court for eight years and was appointed to the Family Court of the City of New York, Queens County, by Mayor Michael Bloomberg in 2006 for a term until 2015.

We spoke about the similarities and the differences in her experience sitting as a Judge in the two most famously high volume, high stress courts in the City. The Judge was quick to point out that the first area of similarity in sitting as a Judge in either Court is that you “mostly see women” bringing their problems to both courts. It is usually a woman who is being evicted in Housing court, and usually a woman who needs the courts help in Family Court as well. The Judge says her greatest accomplishment in Family Court so far has been “preventing domestic violence from continuing and protecting children from witnessing or being a part of domestic violence.”

In comparing the volume, stress and caseloads of the busy Housing Court and the busy Family Court, the Judge says, “Both have their own issues, both have heavy volume and stressful situations. Family court, however, deals with child issues and is more difficult and more stressful.”

We discussed whether the Housing and Family court should be integrated in certain instances – to follow the trend in recent years of the “Integrated Domestic Violence” (IDV) Part for when Criminal filings and Family Court filings involve the same family regarding domestic violence issues. Judge McGowan said, “This is a very complex issue. It would involve

in some instances the landlord/tenant bar being involved. Domestic violence cases and eviction cases are not always the same issues. Where a person paying child support moves to evict his child, the family court should be involved.”

The Judge sees lots of “wrinkles” about to develop as cases in these two courts begin to overlap when new legislation, requiring that when an Order of Protection is in effect, even a temporary one, the recipient of the order may vacate a lease if the rent is paid up to date and they can return the apartment vacant. The new legislation will come into effect on October 1, 2007. The Judge thought that the “bar should have been more involved” before the new law was crafted.

Our meeting was brief. The Judge had her usual calendar of approximately ninety cases this day. That's ninety families all needing some form of urgent assistance as this is their first or second appearance in the Court. It's Family Court on the fast track. This is the M.A.S.H. unit of the Family Court, and Judge McGowan is Family Court's Hawkeye – she sees the stress and appreciates the significance of the ninety plus decisions she makes everyday – but like Hawkeye she not only enjoys the stress, she seems to thrive on it. Maybe she finds it easier to have the world travel to appear in front of her, instead of her schlepping to go see the world – even if it was free. I would have asked her, but she had no time for such light pondering.

Judge McGowan presides over an operating arena in which there is barely time to breathe. And barely time to meet with reporters for the Queens Bar Association who are curious as to how she does it all while remaining calm. I asked her to tell me about her most interesting case in Family court this past year, her first year – she noted she was too busy to think of which one. The volume is so heavy she doesn't have time to wonder what happens to the family after the intake process when she no longer sees them. Fitting me in, albeit for ten minutes was not without difficulty in the Judge's schedule. I don't know if the ten minutes would have been found if not for her court attorney, Jim McGuire, advocating for me. He, too, is a

Continued On Page 4

The New York Parent Education and Awareness Program

How the Court System is Succeeding in Protecting Children Whose Parents are Going Through Divorce, Separation or Other Child-Centered Litigation

You do not have to know someone who is undergoing a separation, divorce or other child-centered litigation, and you do not have to experience it yourself, to recognize that putting children in the middle of the adult conflict can be detrimental to their health and well-being.

In 2001, in New York State, the Chief Judge, Judith Kaye, in her State of the Judiciary Address, announced an initiative to institutionalize parent education and awareness programs in New York State, and the creation of an advisory board to oversee this process. The Hon. Evelyn Frazee, A Supreme Court Justice in Rochester, is the Chair. This program is called the New York State Parent Education and Awareness Program.

What is the New York State Parent Education and Awareness Program? It

is a program designed to educate divorcing or separating parents about the impact of their breakup on their children. The primary goal is to teach parents ways they can reduce the stress of family changes and protect their children from the negative effects of ongoing parental conflict in order to foster and promote their children's healthy adjustment and development.

What does the court system do? Following the guidelines developed by the Advisory Board, the Office of Court Administration certifies and monitors local providers of such services who wish to accept court-referred participants. The New York State Parent Education and Awareness Program has a website at www.nycourts.gov/ip/parent. It contains all of the guidelines and procedures for

certification, and all of the forms that the providers of the program must use. There are currently 49 certified parent education providers in 61 counties offering classes in 91 locations. Judges may, in their discretion, order parents to attend these classes, parents may self-refer and agencies can refer parents.

Conclusion

This is just a brief overview of the current status of The New York State Parent Education and Awareness Program. Experience and research have shown that parent education does make a positive difference for children and their parents who are experiencing divorce or separation and it can help bring about a reduced need for court intervention.

Currently, parent education is available in 61 counties. We are focusing on “getting the word out” about the certified programs so that more and more parents will utilize them. If you have any suggestions about how we can accomplish this, you can contact the Program by e-mail at nyparent-ed@courts.state.ny.us or at the toll-free number at 888-809-2798, or by mail at the New York State Parent Education and Awareness Program, 140 Grand Street, Suite 701, White Plains, New York 10601. Also, you can locate information about parent education at the parent education website at www.nycourts.gov/ip/parent-ed. Finally, please tell parents about this important program-it can make all the difference in the lives of children and parents in this State. ■

ABOUT THE BENCH . . .

Continued From Page 3

very calm player in the operating arena of Intake A – Hawkeye kept the people around him engaged and calm also.

Hawkeye McGowan wants to be in the Family Court and isn't afraid to say so. Law degrees and experience in Housing Court count, but any seasoned practitioner in the Family Court well knows that *wanting to be in the Family Court* is the most important credential in this Court. The Judge advocates that she loves what she does and wants to be in Family Court. She promotes her position saying, “I gen-

erally like people, you can't be a Family Court or Housing Court judge dealing with people, especially *pro se* litigants, without really wanting to help people solve their problems.” She says, “As a Judge you truly try to listen to both sides, and fashion a solution in the law. But case volume is enormous, you don't have as much time as you would like.”

The Judge's philosophy is that “you as a judge must follow the law but compassion in any court makes us human. A sense of humor doesn't hurt sometimes, however serious cases must be taken seriously.”

When we met, the Judge had plans to visit Cape Cod near the end of the summer. She continues to enjoy travel in her free time but doesn't travel as often as when she had the benefit of round the world F class airline passage. Her other outside interests include reading and seeing friends. Judge McGowan's husband passed away before she was appointed to the bench. She also enjoys spending time with their son. The Judge has a brother who is a retired school teacher and speaks to him daily.

Judge McGowan's favorite place to visit is Italy. She studied there at the

University of Perugia. She also loved Japan, Bali and Hong Kong. The vast travels, she says, have helped her deal with the multicultural litigant base in Queens County.

The Judge's advice to the rest of us on how to best cope with the stress of high volume, high stress courts is as follows: “Enjoy your work. Family court is not the place to be if you don't like it or people. Take each case as it comes and never just go through the paces. Family court is too important not to let each person be heard.” ■

Thank you to the following **members** and *friends* of the Queens County Bar Association for their generous support of our 2007Annual Dinner Journal;

David Adler
Affordable Bail Bonds
Amerigroup Funding
AssignNewYork
Baron & Associates
Bayville Realty
Bianco & Dooley
Big Apple Abstract Corp.
Brandeis Association
Brisbane Consulting
Mercedes Cano
Capell & Vishnick
CBS Coverage
Michael Cervini
Chase Home Finance
Chiariello & Chiariello
David L. Cohen
Congressman Joe Crowley
Councilmember Joseph Addabbo, Jr.
Councilmember Helen Sears
Councilmember David I. Weprin

Gary Darche
John Dietz
Dikman & Dikman
Duffy & Posillico Agency Inc.
Earhart Leigh Associates
Empire Bail Bonds
Flushing Savings Bank
Alvin Frankenberg
Gair, Gair, Conason, et al
Diana Gianturco
A. Paul Goldblum
Rudy Greco
Grodsky Caporrino & Kaufman, PC
Gross & Levin
Richard Gutierrez
Holtz Rubenstein Reminick
Horing Welikson & Rosen
HSBC
Seymour James, Jr.
Jaspan, Schlesinger Hoffman
Paul Kerson

Kramer, Dillof, Livingston & Moore
Latino Lawyers Assn. of Queens
Chanwoo Lee
LIC Lawyers Club
Matthew Lupoli
McCarthy, Chechanover & Rosado
Steven Miller
Bruce Minkoff
Michael Mongelli II
Muscarella & Diraimo
National Bank
Everett Nimetz
Northeast Securities
Orlow, Orlow & Orlow
Jerome Patterson
Pliskin, Rubano & Baum
George Poulos
Proto Insurance Agency

Barbara Pryor
Ramo, Nashak & Brown
Edward H. Rosenthal
Ruskin Moscou Faltischek
Morton Sealove
Seidel & Associates
Signature Bank
Sobel Ross Fliegel & Suss
St. John's School of Law
State Bank of Long Island
Howard Stave
Sterling National Bank
Strauss & Strauss
Arthur Terranova
Terrace on the Park
Thermos & Thomaidis
Touro School of Law
Steven Wimpfheimer

PROFILE OF . . .

David Louis Cohen

By LESTER SHICK*

The prominent twentieth century author, Aldous Huxley once wrote, “The end cannot justify the means for the simple and obvious reason that the means employed determine the nature of the ends produced.” This quote best sums up the work ethic of David Louis Cohen, the new president of the Queens County Bar Association.

David was born and raised in Flushing, New York. His father was an insurance agent, while his mother worked for the Social Security Administration. In 1963, he was a member of the first graduating class of Francis Lewis High School. He attended New York University, School of Commerce and received a Bachelor of Science in Accounting in 1967. After completing college David attended Brooklyn Law School. In 1971 he graduated with his Juris Doctor degree.

During the years 1971-74, David was a staff attorney fro the Legal Aid Society. He worked in the Criminal Defense Division. Commencing in 1975 he went out into private practice and has never looked back. His practice consists primarily of litigation in State and Federal courts. He has tried in excess of one hundred and fifty cases in both of those venues.

Several of the other bar associations that he has been admitted to are; United States District Court, Eastern and Southern Districts of New York, United States Court of Appeals, Fourth Circuit and United States Supreme Court. During 1975-1976, David was counsel in the New York State Assembly Commerce Committee and in the time period of 1977-1980, he was counsel on the Assembly Committee of the Judiciary.

He was a member of the New York State Assembly representing the 27th Assembly District in Queens County from 1980-1982. He served on the Codes, Judiciary, Corporations, Government Operations and Mental Health Committees. From 1983-1985 he was staff counsel to the New York State Senate Minority. Commencing in 1993 David has been counsel to the New York State Assembly Committee on Codes. His duties include advising committee chairs concerning proposed criminal justice legislation; draft legislation; negotiate budget and legislative issues with the Governor's office, the Senate and State agencies.



David Louis Cohen

Some of the professional associations that David has been affiliated with include; President of the Criminal Courts Bar Association 1997-1999, New York State Association of Criminal Defense Attorney's founding member; board member of the Brandeis Association, Assigned Counsel Plan-Capital Defense, Homicide and Felony Panels, member of the House of Delegates of the New York State Bar Association, Adjunct Faculty member-Hofstra School of Law-Trial Advocacy

Program, Queens Bar Association-Bar Panels and Criminal Courts Committee, CLE lecturer.

David and his wife Janet have been married for thirty-six years. They have two married daughters. Geri, lives in Chicago and is a first grade school teacher. Hillary lives locally and works for a Supreme Court Judge in Kings County. She is the mother of Matthew, David's grandchild.

David is a, dyed in the wool, Yankee fan. He enjoys playing golf, kayaking and travel.

He plans to focus on the modernization of the Queens Bar Association building, including the creation of a lawyer's lounge and tech center. He also hopes to invigorate the committee system with a goal of increasing membership involvement by active committee participation. David intends to be pro-active as President and is looking forward to carrying out his goals for the Bar Association during his tenure. ■

*Editor's Note: Lester Shick is an Associate Court Clerk in Part K-TRP in Kew Gardens, which part is presided over by Justice Barry Kron.

Serious personal injury, seriously pursued.



The Finz firm was founded in 1984 by Leonard L. Finz, a former New York State Supreme Court justice. The tradition of excellence continues with Stuart L. Finz, a prominent and accomplished trial lawyer, who has scored record verdicts and settlements for the firm's clients. Mr. Finz is a member of the Multi-Million Dollar Advocates Forum and listed in New York Super Lawyers 2007.

The Finz firm is a personal injury law firm devoted to aggressively representing the injured and recognized as a leader in advancing the rights of victims. The firm has a team of highly skilled attorneys, the desire to win, and a proven record of results.

- \$5,000,000 verdict against a chemical company for an explosion victim
 - \$4,500,000 settlement with a hospital that failed to diagnose a cerebral bleed
 - \$20,520,000 landmark product liability verdict for a smoker against Big Tobacco
 - \$8,000,000 settlement with New York State for a victim injured on a tube slide
 - \$22,575,000 verdict for a parent's death and her childrens' emotional suffering
- And many more...

You can count on the Finz firm to fight hard on behalf of your clients and to offer them the highest level of respect, ethics, and a continuous commitment to achieve the fullest measure of justice.

Call Stuart Finz at (888) FinzFirm for all of your personal injury and medical malpractice referral needs or visit FinzFirm.com.



100 Jericho Quadrangle, Jericho, NY • 44 Wall Street, New York, NY

Prior results cannot and do not guarantee or predict a similar outcome.

Congrats to Pro Bono Award winners!

By MARK WELIKY*

A Queens County Bar Association member has been named the recipient of the New York State Bar Association (NYSBA) President's Pro Bono Service Award for 2007. This award for the 11th Judicial District (Queens) was presented to Regina Alberty. Ms. Alberty was nominated by the Queens Volunteer Lawyers Project (QVLP), the pro bono legal assistance program for indigent Queens residents, which is sponsored by the Queens County Bar Association

The NYSBA President's Pro Bono Service Awards recognize attorneys who provide civil legal services, without compensation, to the poor and/or disadvantaged in their communities. These lawyers uphold the highest traditions of our profession



Regina Alberty receives NYSBA President's Pro Bono Service Award from QCBA Pro Bono Coordinator, Mark Weliky

and respond to the noblest of our ethical precepts by helping to assure that the poor have access to justice. The awards were presented on April 30th, 2007 at the State Bar Center at a ceremony held in conjunction with the Law Day celebration at the New York Court of Appeals. Speakers at the awards presentation included Hon. Victoria A. Graffeo of the Court of Appeals, NYSBA President Mark H. Alcott and NYSBA President-Elect Kathryn Grant Madigan (now President).

Ms. Alberty maintains a solo practice located in Forest Hills concentrating in family law, bankruptcy, real estate and probate/small estates.

Queens Bar Award Winner

In addition to this honor from the State Bar, the Queens County Bar Association has named the recipient of its Pro Bono Service Award for 2007.

The 2007 QCBA/QVLP Pro Bono Service Award in Matrimonial Law was presented to Stephen David Fink. Mr. Fink, a longtime and very active member of our pro bono volunteer panel, maintains a solo practice in Forest Hills with a focus on family, matrimonial and commercial law. The award was presented to Mr. Fink at the Association's annual dinner on May 3rd at Terrace On The Park.

The Queens County Bar Association and the Queens Volunteer Lawyers Project salute our award winners and all of the other pro bono volunteer attorneys who continue to provide invaluable service to our community. ■



Stephen Fink receives QCBA Pro Bono Service Award

*Mark Weliky is the Pro Bono Coordinator for the Queens County Bar Association.

Parties & Interest

By: ARTHUR N. TERRANOVA
Executive Director

The Legal Aid Society has decided to recognize our President, **David L. Cohen**, by presenting him with one of the Society's 2007 Pro Bono Awards for his outstanding service to the Legal Aid Society and its clients.

During the summer our Bar Association phone system was upgraded. You can now contact the membership department, CLE department or myself directly. Below is the list of extensions for your use.

- Operator - 0
- Legal Referral - 1
- CLE and/or Membership - 2
- Queens Volunteer Lawyer's Project - 3
- Directions to the Bar Association - 8
- Shakema Oakley - 221
- Janice Ruiz - 222
- Janine Coakley - 223
- Arthur Terranova - 224
- Sasha Khan - 232

Note: Any members having items they wish to inform the membership about should forward same to me for future publications.

20 years. 150 experts. 30,000 cases.

Electrical

Registered Professional Electrical Engineers

- Shocks and electrocutions
- Automotive electrical failures
- Power lines and facilities, utility poles
- Electrical explosions and fires
- Product failures and evaluation
- Electrical construction: means, methods, equipment
- Machine controls, interlocks

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

Construction

Professional Engineers and Registered Architects

- Construction site safety
- Architectural/Engineering professional liability and construction defects
- Delay claims, CPM schedules, claims analysis, constructability reviews
- Means & methods, project management, construction management
- Modes of structural failure/collapse
- Mechanical, electrical and plumbing systems

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

Fire and Explosion

Electrical, Mechanical, Fire Protection and Product Engineers; Certified Fire Investigators; Fire Marshals; UL Standards Panel members; Members in IEEE, NSPE, ASME, ASHRAE, Association of Facilities Engineers, NFPA

- Fire scene origin and cause determination utilizing NFPA 921, Guide for Fire and Explosion Investigations
- Reconstruction of how fire started and spread, including effect of suppression facilities and activities
- Laboratory testing and analysis
- Fire investigations without a fire scene
- Fire cause determination
- Structural, vehicle, product failure, and equipment fires

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

Highway Safety and Motor Vehicle Collisions

Professional Engineers, experienced in highway design, construction, operation and maintenance. Human factors, crash reconstruction experts, meteorologist.

- Traffic control devices, Signals, MUTCD
- Driveways, Parking lots
- Construction Materials, Claims, Work Zones
- Railroad grade crossings
- Road and Intersection geometry, Sight Distances
- Guide rail and median barrier
- Lighting, Drainage, Flooding, Roadway Defects
- Pedestrian and bicycle facilities
- Snow and Ice control, plowing, snow storage

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

Products

Product designers; Mechanical, Electrical, and Materials Engineers, Human Factors and Biomechanical experts

- Hazard analysis, design testing, quality control
- Vehicles, construction equipment
- Consumer products: appliances, toys, power tools, lawn/garden equipment, medical devices and parts
- Personal protection equipment: helmets, eyewear, harnesses
- Industrial and commercial equipment: heavy machinery, conveyers, power presses, machine tools, food preparation
- Safety instructions and warnings, product safety labels, adequacy of warnings

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

Professional Liability

Licensed Architects and Engineers, certified building inspectors, construction managers, NCARB certified architects, AIA and FAIA members, Fellow of American College of Healthcare Architects, National Committee and Board Members of AIA, NFPA, ASHRAE, and ASTM

- Review of agreements and contract documents
- Analysis of construction administration and post construction services
- Analysis of performance during design and construction document preparation
- Review of interdisciplinary coordination

Robson Forensic

Engineers, Architects, Scientists & Fire Investigators

800-695-3139 www.robsonforensic.com

CLARO Comes to Queens!

By: *MARK WELIKY

On the evening of Monday, November 5th a special CLE seminar will be presented by the Queens County Bar Association Academy of Law. The seminar primarily will be for attorneys who are volunteering for the new Civil Legal Advice and Resource Office (CLARO) at Queens Civil Court although all are invited to attend.

The CLARO project, which already is in operation at the Kings County Civil Court, will be co-sponsored in Queens by the Association of the Bar of the City of New York, our Queens Volunteer Lawyers Project, the St. John's University School of Law, Elder Law Clinic, the Legal Aid Society and with the cooperation and assistance of the Queens County Civil Court, Supervising Judge Bernice D. Siegal.

Although rich in diversity, Queens County has a large indigent population. While the frequency and impact of Civil Court debt collection cases is expanding rapidly, legal service providers in Queens are not equipped to handle them. Elderly persons, single mothers, persons with low-level English proficiency, and low-income people are forced to represent themselves pro se against collection agency attorneys who have vastly greater knowledge of the Civil Court debt collection process and dangerously greater bargaining power.

CLARO attempts to remedy this inequity. Rather than attempt representation of just a relative handful of these debtors, the limited resources available are maximized by offering debtors the assistance of CLARO, a free walk-in clinic that provides legal advice on how to best represent themselves pro se.

CLARO will respond to the needs of these pro se litigants by advising them on various self-representation strategies. The CLARO office will be open on Friday afternoons at Queens Civil Court. Volunteer lawyers and law students will provide information to the pro se litigants and attempt to demystify the legal process while alleviating some of the anxiety experienced by the pro se litigant.

Attendees at the November 5th seminar will be granted a total of 3 CLE credits (2 credits in SKILLS and 1 credit in ETHICS). Tuition will be waived for attorneys volunteering for 6 hours of service at CLARO. Seminar topics will include; the debt collection process, defenses to debt, CPLR Nuts & Bolts (service of process/answers and motions),

restraints on bank accounts and the court process and settlement. Refreshments will be provided before the seminar and free parking is available.

Anyone interested in volunteering for CLARO or for more information contact Mark Weliky at (718) 291-4500, MWeliky@QCBA.org. ■

*Mark Weliky is Pro Bono Coordinator for the Queens County Bar Association



Queens County Bar Association

90-35 148th Street, Jamaica, NY 11435 • Tel 718-291-4500 • Fax 718-657-1789

Queens County Bar Association Academy of Law

Hon. Martin E. Ritholtz, Dean

Ira Hoffer, Esq., Associate Dean

Leslie S. Nizin, Esq., Associate Dean

Nelson E. Timken, Esq., Associate Dean

David L. Cohen - President

The Queens County Bar Association presents

FREE CLE SEMINAR FOR VOLUNTEER ATTORNEYS

for

CLARO

The Civil Legal Advice and Referral Office at Queens Civil Court

Monday, November 5th 6:00 p.m. - 9:00 p.m.

at the

Queens County Bar Association

90-35 148 Street, Jamaica

Light refreshments will be served between 5 & 6 p.m. before the program.

CLARO is a new project for unrepresented debtors sued by their creditors in Queens Civil Court.

CLARO volunteers will advise debtors on Friday afternoons on self-representation strategies.

Co-sponsored by the Association of the Bar of the City of New York, the Queens Volunteer Lawyers Project, the St. John's University School of Law, Elder Law Clinic, the Legal Aid Society and with the cooperation and assistance of the Queens County Civil Court, Supervising Judge Bernice D. Siegal

Topics to be covered include:

- The debt collection process
- Defenses to debt
- The court process and settlement
- CPLR Nuts & Bolts (service of process/answers & motions)
- Restraints on bank accounts
- Ethics of working with a Pro Se litigant
- counseling a debtor

CLE Credits: 2 Credits in SKILLS and 1 credit in ETHICS will be awarded for the seminar.

Transitional Program - Valid for All Attorneys

CLARO volunteers are issued CLE seminar credits upon completion of six (6) hours of service.

Accreditation: The Queens County Bar Association has been certified by the NYS Continuing Legal Education Board as an Accredited Continuing Legal Education Provider in the State of New York. Application for renewal has been filed and is currently pending.

TUITION: Tuition is waived for attorneys who agree to volunteer for the staff of CLARO

For those not volunteering for CLARO - Members: \$75.00

Non-Members: \$100.00

Free Parking Available at 148-15 89th Avenue between 150th St. and 148th St. (limited space available)

Fax or Mail this ENTIRE FORM to: Queens County Bar Association, 90-35 148th Street, Jamaica, New York 11435 Fax: 718-657-1789

☐ *I agree to volunteer for CLARO and will attend the seminar (no payment required).*

☐ *I will attend the seminar and pay the tuition.*

Pay by: ___ Check ___ MC ___ Visa ___ AMEX ___ Disc Authorized Signature _____

Card #: _____ Exp. Date ___/___/___ Amount: \$ _____

Name: _____ Tel. No. _____

Address: _____ Fax No. _____

Flash report

Get the news before anyone else does.

Sign up FREE for our e-mail daily alerts at

www.libn.com

Have local business headlines delivered to your e-mail in-box five days a week.

BusinessNEWS

P H O T O



C O R N E R

Annual Dinner and Installation, May 3, 2007



Annamarie Policriti, Carolyn Herman and Bert Herman



Carmen Velasquez, Chanwoo Lee, Hon. Peter O'Donoghue and Hon. Steven Paynter



Chris Renfroe, Hon. John Milano, John Dietz and James Wrynn



David Cohen and Judge Arthur Cooperman



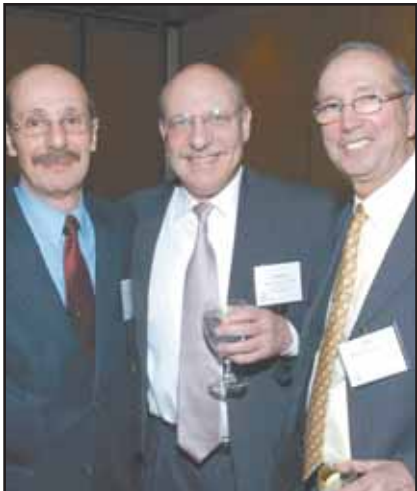
David Cohen, President, being sworn in by Judge Cooperman



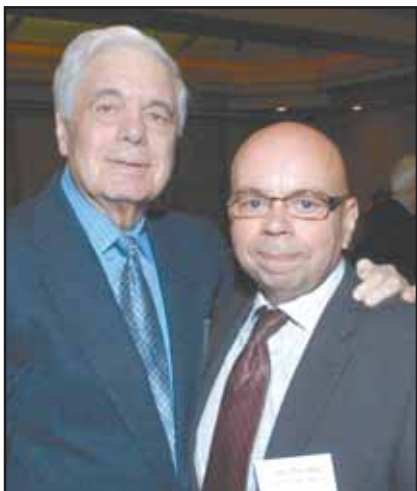
Dr. Arthur Flug, Hon. Phyllis Orlikoff Flug, RoseAnn Darche, Gary Darche



Guests, Hon. James Dollard, Guest and Hon. Robert Nahman



Hon. Barry Kron, Hon. Richard Buchter and Ronald Rubinstein



Hon. Joseph Risi and Arthur Terranova



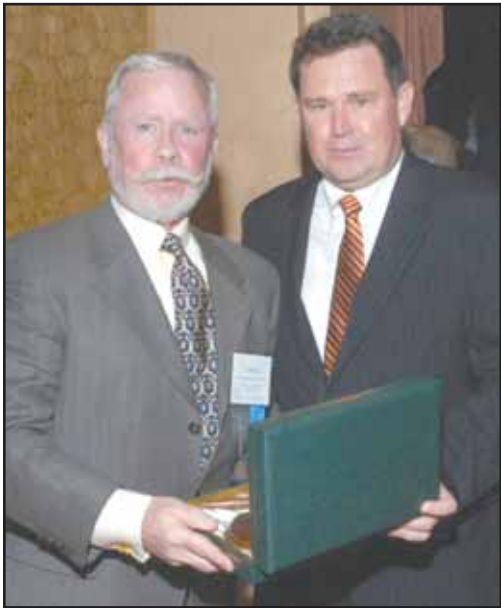
Hon. Darrell Gavrin, David Cohen, Hon. Margaret Parisi McGowan and Edward Guida



Assemblyman Joseph Lentol, David Cohen and Martha Holstein



Hon. Jeffrey Lebowitz, Hon. James Golia, Borough President Helen Marshall and Hon. Joseph Golia



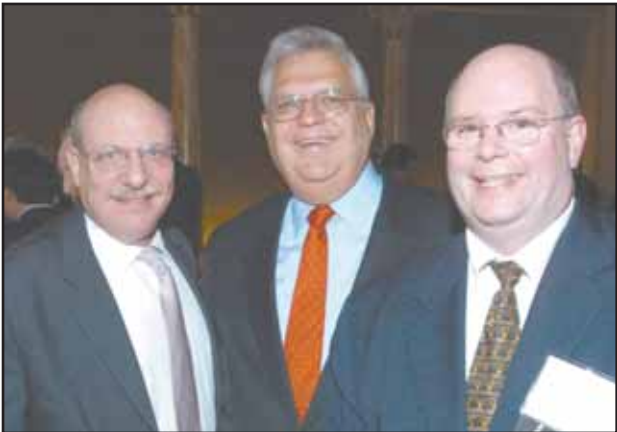
Hon. Lawrence Cullen receiving his gavel from John Dietz



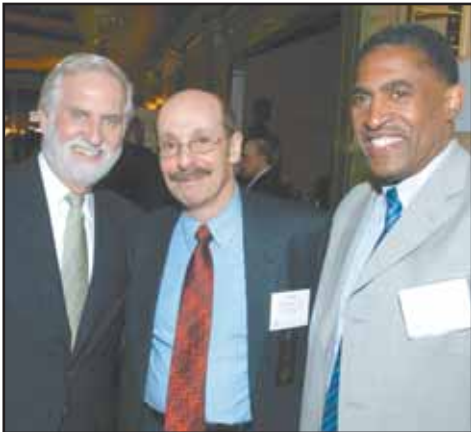
Hon. Lee Mayersohn, Hon. Robert Kalish, Hon. Jeremy Weinstein and Hon. Allen Beldock



Hon. Seymour Boyers and Ed Rosenthal



Hon. Richard Buchter, Hon. Robert Kohm and Hon. Timothy Dufficy



Hon. Sidney Strauss, Hon. Barry Kron, Chris Renfroe



Hon. Robert Kohm, Hon. Edwin Kassoff, Hon. William Erlbaum, Hon. Fred Santucci and Hon. Jeffrey Lebowitz



Hon. Steven Fisher, David Cohen, Elizabeth Yablon and Hon. Leslie Leach



Members of the Board being sworn in by Judge Cooperman



Morton Povman, Hon. Randall Eng and Hon. Stephen Knopf



John Dietz giving Catherine Dolginko a going away gift



Paul Pavlides, Arthur Terranova and George Campos



Officers of the Board being sworn in by Judge Cooperman

THE CULTURE CORNER

By HOWARD L. WIEDER*

One of the great museum events that every human being, Jew or gentile, adult or child, and especially every single judge and lawyer, needs to attend is coming from Europe to New York City starting October 14, 2007. The exhibition is “**Alfred Dreyfus: The Fight for Justice**,” that will run at the **Yeshiva University Museum, at 15 West 16th Street, from October 14, 2007 – February 17, 2008**. A study of the Dreyfus Affair should be cathartic on many levels: failure of a corrupt judicial system that permitted the consideration of manufactured, forged, and perjured evidence by judges without disclosure to defense counsel; the heinousness of one of the most monumental cover-ups in human history designed to protect an “image” of a military establishment at the expense of an innocent man languishing in shackles on Devil’s Island, that gave birth to a series of other cover-ups and delivered more unjust verdicts; the willingness of ruthless individuals to perpetuate lies, although cognizant of the truth, in order to save an “image,” no matter how many are killed or suffer; the evils of anti-Semitism and racism; and the courage of conviction - - most notably by Emile Zola [1840-1902], a [non-Jewish] novelist and journalist, entailing enormous self-sacrifice, to expose the truth.

Yeshiva University Museum will present the first major exhibition to address the history and consequences of the Dreyfus Affair through the personal effects of Alfred Dreyfus himself. **Alfred Dreyfus: The Fight for Justice** will

be on view at the Yeshiva University museum beginning October 14, 2007, marking the exhibition’s first North American venue. The show was organized by the Musée d’Art et d’Histoire du Judaïsme in Paris, France, where it was on view in the Fall of 2006 before travelling to the Jewish Museum in Frankfurt in early 2007. The exhibition comprises some 200 objects from the Dreyfus family archive, including photographs, posters, letters, and the original “J’accuse...” newspaper article, written by renowned author-journalist **Emile Zola** to the president of France in 1898. The majority of the objects will be on public view in the United States for the first time.

The exhibition begins in 1870, after France was defeated by Germany in the Franco-Prussian war, and retells the story of how one man’s false conviction fueled, suddenly and contemporaneously, both (1) political and humanitarian activism and (2) Anti-Semitism in France and around the world. In 1894, Jewish French army officer Captain Alfred Dreyfus [1859-1935] was accused of giving French military secrets to Germany and was wrongfully arrested and jailed for treason. His trial and the political scandal that ensued left France bitterly divided for decades, with “Dreyfusard” liberal intellectuals on one side and “anti-Dreyfusard” clergy and military personnel on the other.

Every action begets a reaction. Thus, in the aftermath of Nazi barbarism that led to the extermination of 6,000,000

European Jews, the State of Israel was established in 1948. The Dreyfus Affair, similarly, contributed to many important 20th century world developments and had a significant effect on **Theodor Herzl**, the father of Zionism - - the belief that Jews need a homeland of their own. Herzl, an assimilated Jewish journalist covering the trial of Alfred Dreyfus in Paris for an Austrian newspaper, would change the face of Jewish history. Viennese journalist

Theodor Herzl was so shaken by the mobs of people shouting “Death to the Jews” and rioting against Jews that resulted in deaths at the time of the Dreyfus trial that he decided that the only solution to anti-Semitism was for Jews to have their own national homeland. He immediately plunged into organizing and amassing support for the founding of a Jewish state and, in 1897, convened the first Zionist congress in Basel, Switzerland. Herzl’s pioneering efforts attracted the attention and support of Louis D. Brandeis, the first Jewish Justice to sit on the United States Supreme Court.

In 1895, an innocent Alfred Dreyfus narrowly escaped a lynching before being committed to solitary confinement on Devil’s Island in French Guyana for 10 years. During that time, he wrote hundreds of letters to his wife Lucie, his brother Mathieu - - who valiantly fought to expose the truth, French government officials, and various supporters to pursue both his own fight for honor and

human rights in a democratic society. The exhibition at the Yeshiva University Museum includes a sampling of these original letters and will also feature an evening of drama and discussion “From the Depths of My Heart: The Letters of Alfred and Lucie Dreyfus” will take place at the Museum on November 29.

Alfred Dreyfus: The Fight for Justice is organized chronologically into eight sections, beginning before the Affair in 1870; covering the trial and retrial of Dreyfus and the trial of Dreyfus’s champion Emile Zola in the 1890s, and concluding with a section on how the 20th century addressed issues of rehabilitation and the challenge of commemoration. The exhibition’s original objects and documentary materials will reveal how the Dreyfus Affair affected history, culture and legislation in France, and the intermittent waves of anti-Semitism in late nineteenth century Europe. A two-part international symposium dedicated to these issues has been organized by the Yeshiva University Museum and the Cardozo Law School and is scheduled to take place on or about February 5, 2008.

The greatest day in the history of journalism was January 13, 1898. French novelist Emile Zola [1840-1902], who was not Jewish, wrote a masterpiece of an article entitled “J’Accuse!,” published in the newspaper **L’Aurore**, on that date, putting the blame on conspirators of the injustice, fearlessly named by Zola. The conspirators included eight generals and the French Minister of War, who assisted French army Commandant Ferdinand Esterhazy, whom they knew, had actually committed the crime for



Howard L. Wieder

I love my copier.

You can too, call us.

Canon

DTEKS
BUSINESS SYSTEMS

 **KYOCERA**

Superior service, superior machines

99 Seaview Blvd., Unit B, Port Washington, NY 11050 • 1-800-99-DTEKS
www.dtekssys.com • info@dtekssys.com

THE CULTURE CORNER

which Dreyfus had been wrongfully convicted. Zola, who, in his early years knew extreme hardship and poverty, until becoming affluent with the publication of novels that showed the true side of French social life, sacrificed his entire fortune, reputation, and any thought of being invited to join the prestigious Academie Francaise, by taking up Dreyfus's cause.

Every point made by Zola was 100% correct. **L'Aurore** published 300,000 copies of its January 13, 1898 issue, most of which were burned by rioters. The issue containing the banner headline "J'Accuse!," to be displayed at the exhibition, is today conservatively estimated to be worth \$11,000-15,000. The publication of "J'Accuse!" was the essential salvo that led to the efforts to clear Dreyfus from shame, humiliation, and false conviction and imprisonment.

Upon the publication of "J'Accuse!," the French government, continuing with the layers of cover-up rather than confessing and admitting to have erred, arrested Zola and charged him with seditious and criminal libel. Although all the proof supported him, Zola was found guilty. His speech to the jury in his own defense, even though he was represented by counsel, still stands as one of the finest examples of both oratory and the type of burning moral indignation and anger that fuels the passion for justice and the urge to correct injustices.

Zola's dramatic summation on his own behalf was an appeal for justice for Alfred Dreyfus and today still stands as a masterpiece of oratory. Zola, in concluding his summation, stated:

"[Y]ou will feel that but one remedy is possible - - to tell the truth, to do justice. Anything that keeps back the light, anything that adds darkness to darkness, will only prolong and aggravate the crisis. The role of good citizens, of those who feel it to be imperatively necessary to put an end to this matter, is to demand broad daylight. . . .

"Dreyfus is innocent. I swear it! I stake my life on it - - my honor! . . . By the name I have made for myself, by my works which have helped for the expansion of French literature, I swear that Dreyfus is innocent. May all that melt away, may my works perish, if Dreyfus be not innocent! He is innocent. All seems against me - - the two Chambers, the civil authority, the most widely-circulated journals, the public opinion which they have poisoned. But I am quite calm; I shall conquer. I was determined that my country should not remain the victim of lies and injustice. I may be condemned here. The day will come when France will thank me for having helped to save her honor." (Lewis Copeland & Lawrence W. Lamm, *The World's Great Speeches* 112, at 116-117 [3rd rev. ed. Dover Publications, Inc.]).

Zola was accurate twofold. He was convicted, and the day arrived where France and, indeed, the world saluted Zola for risking his wealth, career, and life to expose a massive coverup and prove a man's innocence. And to Zola's prediction that "The day will come . . .," we can exclaim "Le jour de gloire est arrive!" We salute great individuals such

as Emile Zola who fight for truth and against injustice, not when it is convenient or for profit - - but when the cause is massively unpopular and at tremendous financial, professional, and emotional and physical cost.

The great Nobel Prize-winning French writer Anatole France [1844-1924], whose real name was Jacques Anatole Francois Thibault], speaking at Zola's funeral, concluded a brilliant and moving eulogy by saying that we need to envy Zola. "[F]or his destiny and his heart have earned him the highest distinction of all: he was a moment in the history of human conscience."

Frederick Brown, ZOLA: A LIFE, chapter 27, at 796 (Farrar Straus & Giroux pubs. 1995).

Dreyfus was fully exonerated on July 12, 1906. On June 4, 1908, Zola was reburied in the Pantheon, reserved for France's great citizens. At the ceremony, a shady right-wing journalist named Louis Gregori fired two shots in an attempt to kill Alfred Dreyfus. Dreyfus was only wounded. Gregori, who was caught red-handed, was tried - - and acquitted, a fact that speaks enough about French anti-Semitism in the nineteenth and twentieth centuries.

For more information on the Dreyfus Affair, I urge you to get the following materials and share them with all of your family members:

1. The DVD [released in February 2005, "Special Edition" DVD] of "**The Life of Emile Zola**," made by Warner Brothers in 1937, which was the first biographical film to earn the Oscar for Best Picture of the Year. The film starred Paul Muni [1895-1967, born Meshilem Meier Weisenfreund], who was nominated 6 times for an Oscar for Best Actor in a Leading Role [and won the Oscar for "The Story of Louis Pasteur"] and Joseph Schildkraut, who won the Academy Award for Best Supporting Actor for his portrayal of Alfred Dreyfus. The movie is a classic and still absorbing, but, oddly, the word "Jew" is never uttered;

2. **Frederick Brown, ZOLA: A LIFE**, chapter 27, at 796 (Farrar Straus & Giroux pubs. 1995). **FREDERICK BROWN** is one of the world's contemporary truly great nonfiction writers and essayists. Every single work he produces receives accolades from **The New York Times**. Living in New York City, Brown is one of the world's most renowned authorities on France and French language, culture, and history. In addition to **ZOLA: A LIFE**, among Brown's other brilliant works, which all admirers of the English language should find and purchase, are: **FLAUBERT - - A Biography** (Little, Brown & Co. 2006), **An Impersonation of Angels: A Biography of Jean Cocteau**, **Pere-Lachaise: Elysium as Real Estate**, and **Theater and Revolution: The Culture of the French Stage**. **Frederick Brown, ZOLA: A LIFE**, chapter 27, at 796 (Farrar Straus & Giroux pubs. 1995). Brown's next book, to be published by Knopf, is about late 19th-century France, and is tentatively subti-

tled as "France in the age of Dreyfus." The book will focus on the conflict between Church and State and between the Republic and regressive forces, standing on the common ground of anti-Semitism. The book will also discuss the Dreyfus Affair, Eiffel and the Tower, the Panama Scandal, and Georges Boulanger. Brown, a Professor Emeritus of French language at the State University of New York at Stony Brook, is a writer's writer, who possesses a great gift for making history come alive. Frederick Brown is perhaps without equal among contemporary writers and historians in his development and explanation of the real life characters he describes. Regardless of whether or not you are a Francophile, Brown's books are a must buy for any devotee of fine writing;

3. An essay, available on the internet, by **Professor Donald E. Wilkes, Jr.**, of the University Of Georgia School Of Law, is "**J'Accuse . . . !**" **Emile Zola, Alfred Dreyfus, and the Greatest Newspaper Article in History**, published in **Flagpole**, at 12 (issue of February 11, 1998).

4. Jean-Denis Bredin, **THE AFFAIR: THE CASE OF ALFRED DREYFUS** (George Braziller Inc. pub.1986).

The Yeshiva University Exhibition on Alfred Dreyfus that commences on Oct. 14, in short, will serve as a reminder of the dangers of closed tribunals, ex parte communications, and failure to turn over and share documents with an adversary, thereby permitting the consideration of forged, perjured, and fabricated evidence. Alfred Dreyfus's misfortune is not a matter solely of interest to Jews.

Although undoubtedly French anti-Semitism was an integral part of the Dreyfus Affair, that case is a reminder to all human beings to be vigilant of all mis-carriages and perversions of justice, regardless of the race, color, and religion of the victim. All judges and lawyers - - regardless of blood type - - must see this exhibit. Children of all races, creeds, nationalities, ethnicities, and religions, equally important, need to be brought to the Yeshiva University Museum exhibition in order to be reminded of the cost of injustice and to cultivate in them civic responsibilities and a passion for justice.

The lead sponsor of the Yeshiva University exhibition is The Leon Levy Foundation. Additional support has been provided by the David Berg Foundation and the Brenner Family Foundation. ■

Listing Information for "Alfred Dreyfus: The Fight for Justice"

Where: YESHIVA UNIVERSITY MUSEUM at the Center for Jewish History: 15 West 16th Street (between 5th & 6th Aves), NYC

Hours: Sunday, Tuesday, Wednesday, and Thursday: 11am - 5pm

Admission is Free on Fridays from 11 AM - 2 PM [when the Museum closes for Shabbat].

Public Information: (212) 294-8330
www.yumuseum.org

HOWARD L. WIEDER is *The Queens Bar Bulletin's* Book Critic for "Books at the Bar" and its Culture Critic for "The Culture Corner." He is also the Law Secretary to Justice Charles J. Markey, of Supreme Court, Queens County, in Trial Term Part 32, in Long Island City, N.Y.

FLORIDA ATTORNEY

Law Offices of Randy C. Botwinick

Formerly of Pazer & Epstein



Specializing in Personal Injury

21 Years Experience

Co-Counsel and Participation Fees Paid

Miami Office

One Biscayne Place
11098 Biscayne Blvd.
Suite 405
Miami, FL 33161
P: 305 895.5700
F: 305 892.1107

Palm Beach Office

Peninsula Executive Center
2385 NW Executive Center Dr.
Suite 100
Boca Raton, FL 33431
P: 561 995.5001
F: 561 962.2710

Toll FREE: 1-877-FLA-ATTY (352-2889)
www.personalinjurylawyer.ws

Is the Supreme Court Pro-Prosecution or Pro-Defense:

Continued From Page 1

period May 1, 2006 to June 30, 2007. This time period coincides with the appointment of Justice Samuel Alito to the Court and thus covers the Court's outlook with its full compliment of Justices. My analysis revealed some interesting results as follows:

A High Percentage of 5-4 Decisions and a Small Number of Unanimous Results

The first significant observation which emerged from the analysis was that there were a high number of 5-4 decisions. Of the 27 decisions 10 or 37% were 5-4 votes. The number of 5-4 results in criminal cases was somewhat higher than in civil cases. A recent report on the Court's caseload for the prior term stated that of the total number of 70 decisions issued 19 or 27% resulted in 5-4 decisions.

Further, with respect to the criminal cases in almost every situation the composition of the 5-4 breakdown was the same. The analysis also revealed that of the 27 results only 7 involved unanimous rulings or just about 26% of the total. This situation clearly indicates that when viewing the present composition of the United States Supreme Court we do start off with two blocks of Justices, one group having a pro-prosecution bent and the other significantly more favorable to the defense.

The Pro-Prosecution Group

Five Justices of the Court have a pro-prosecution decision rate of over 60%. This group consists of Chief Justice Roberts, and Justices Alito, Kennedy, Scalia, and Thomas. Of the 27 decisions considered Justice Alito issued a pro-prosecution ruling in 21 cases for a 77.8% rating. Justice Alito, during his first few months on the Court, voted in favor of the defense in several cases. Toward the end of the current term, however, his number of pro-prosecution decisions greatly increased and he continually came part of the 5-4 majority. Chief Justice Roberts and Justice Thomas had the second highest pro-prosecution rating, each with 74%. Justice Kennedy had issued a pro-prosecution result in 19 cases for a 70% rating and Justice Scalia had 17 pro-prosecution decisions for a pro-prosecution rating of 63%. Overall, largely as a result of the consistent voting of the five pro-prosecution Justices, the Court as a whole has rendered 18 pro-prosecution decisions and nine which were favorable to the defense for a pro-prosecution rating of slightly over 66%.

The Pro-Defense Group

A group of four Justices, to wit, Ginsburg, Souter, Stevens, and Breyer manifest a pro-defense inclination. Each of these Justices had a pro-defense vote of over 73% and a pro-prosecution rating of less than 27%. Justices Ginsburg and Breyer issued a pro-prosecution decision in only 7 of the 27 decisions for a rating of 26%. Justice Stevens voted for the prosecution 6 times out of 27 for a rating of 23.3% and Justice Souter voted for the prosecution only 5 times out of 27 for a rating 18.5%.

The huge disparity between the two groups can be seen from the fact that even between the lowest pro-prosecution Justice (Scalia) and the highest pro-pros-



The Supreme Court

ecution Justice in the defense group (Ginsburg and Breyer) there is a 37% gap. Between the highest percentage Justice in the pro-prosecution group (Alito) and the lowest in the pro-defense group (Souter) there is a gap of 59%.

Justice Kennedy Is the Key Swing Vote

Of the nine Supreme Court Justices, Justice Anthony Kennedy has clearly emerged as the Court's swing voter whose decision can make the case go one way or another. Justice Kennedy was in the majority in 24 of the 27 decisions, or nearly 90% of the time. His high pro-prosecution rating of slightly over 70% was largely responsible for a pro-prosecution majority in many decisions. His importance to the pro-prosecution block is illustrated by the fact that when he broke with his pro-prosecution brethren on an issue it usually led to a different result. Thus Justice Kennedy sided with the pro-defense group in four cases² involving the Texas death penalty resulting in a 5-4 pro-defense vote in those matters.

Justices Scalia and Ginsburg - Less Predictable Than Expected

Many criminal law practitioners might have the tendency to immediately pigeon-hole Justice Scalia as strongly pro-prosecution and likewise Justice Ginsburg as strongly pro-defense. Although both of these Justices fall within their respective camps, they have a tendency to deviate on occasion and to cross over to the other side with respect to certain issues and circumstances. Thus Justice Scalia among the five pro-prosecution Justices has the lowest pro-prosecution rating and during the last few years he has taken strong pro-defense positions which have carried the Court on pro-defense issues most notably the Crawford line of cases with respect to the right of confrontation and the Apprendi sentencing cases which have

led to changes with respect to the federal sentencing guidelines and the nullification of many state sentencing procedures. Among the 27 decisions Justice Scalia broke with his pro-prosecution colleagues Justice Alito and Kennedy to vote on the side of the defense in *Cunningham vs. California*, 127 S. Ct. 856 (2007), which struck down California's persistent offender's sentencing statute.

Similarly, Justice Ginsburg had the highest pro-prosecution rating among the pro-defense group and sided with the pro-prosecution majority in *Dixon vs. United States*, 126 S. Ct. 2437 (June 22, 2006) where the Court held that jury instructions did not run afoul of the due process cause when they placed the burden on a defendant to establish a duress defense by a preponderance of the evidence. Justice Ginsburg has also, on occasion, joined the pro-prosecution group with respect to certain search issue cases (see for example, *Brigham City Utah vs. Stuart*, 126 S. Ct. 1943 (2006)).

All Five Pro-Prosecution Justices Were Nominated by Republican Presidents

It is an accepted premise that in making their selection for United States Supreme Court Justices Presidents will usually select someone who is compatible with their political and judicial philosophy. Thus it is not surprising that the five Justices who were in the pro-prosecution group were selected by Republican Presidents who expressed a law and order viewpoint and tended to fall within a Republican-Conservative philosophy. Chief Justice Roberts and Justice Alito were selected by George W. Bush, our current President. Justices Scalia and Kennedy were selected by President Ronald Reagan and Justice Thomas was picked by former President George H.W. Bush.

However, among the group of four pro-defense Justices some surprises and

unexpected results have occurred. Although Justices Ginsburg and Breyer were selected by President Bill Clinton, a Democrat, and might be expected to manifest a pro-defendant and pro-civil liberties viewpoint Justice Stevens, was nominated by Republican President Gerald Ford and Justice Souter by Republican President George H.W. Bush. Both of these Justices appear to have departed quite a bit from the positions they may have been expected to take. It is therefore not surprising that many Conservative and Republican voters are somewhat disappointed in the positions taken by Justice Stevens and Justice Souter with possible regrets regarding their selection.

Conclusion

I hope that this analysis regarding the voting record of the various Justices of the Supreme Court with respect to criminal law decisions has provided some valuable insight for criminal law practitioners. With the opening of the Court's new term in October, 2007, we look forward to future decisions. As we look to the future and attempt to predict results, it is important to have an understanding of what has occurred in the past.

**Editor's Note: Spiros A. Tsimbinos is a Past President of the Queens County Bar Association and the Editor of the New York State Bar Association Criminal Newsletter.*

¹ Three of the cases involved the same issue concerning the Texas death penalty procedures. They were all decided by 5-4 votes and involved the same breakdown of Justices. Thus for analytical purposes these three cases were counted as one so as not to distort the overall analysis.

² The cases are *Smith vs. Texas*, 127 S. Ct. 1686; *Abdul-Kabir vs. Quarterman*, 172 S. Ct. 1654; and *Brewer vs. Quarterman*, 127 S. Ct. 1706 (all decided April 25, 2007); *Panetti vs. Quarterman*, 127 S. Ct. 2842 (June 28, 2007).

The Law of China

Continued From Page 1

United States have perfected industrialized agriculture. The American family farm is a thing of the past. Perhaps we should stop paying American agricultural corporations to leave their land fallow. We should allow full production so that we can balance our trade with China by selling them our agricultural products produced with 21st Century technology. This is a great American strength, and can be used to correct our currently unbalanced trade with China.

Karl Marx, who invented and defined Communism in his 19th Century book, “Das Kapital” would not recognize today’s China at all.

What China is today is a self-perpetuating oligarchy based on an ancient Confucian principle: “The Emperor takes care of the country as if he was a Father. The Father takes care of the family as if he was an Emperor.”

The laws of the Chinese “father” are summed up by the “Chengdu Municipal Rules Pertaining to Civilized Tour” found at all their public attractions. Upon reflection, it appears that these are fairly good rules for living generally in any country.

Following is an exact text, complete with English language mistakes, that the Chinese Government posts for everyone who lives or visits their country. In China, cities and provinces have no independent existence. They are administrative divisions of the central government.

“Chengdu Municipal Rules Pertaining to Civilized Tour

In order to build a civilized and harmonious tour environment and to improve the moral standards of both tourists and our citizens, please abide the following rules:

1. Please keep the environment clean. Don't spit. Don't spit the chewing gum. No littering. No smoking except in the designated area.
2. Please follow the public order. Keep silent. Don't jump the queue. Please keep gateways clear. Please do not talk loudly in public places.
3. Please protect the ecological environment. Don't step on the grassland. Don't pick flowers or fruits. Don't chase or beat animal. Don't give animal any food without permit when you are in the zoo.
4. Protect the historical relics and sites. Don't paint or carve on the historical relics. Don't climb up the historical relics. No photos without permit.
5. Value the public facilities. Don't dirty or destroy any installment in the hotel. Don't destroy the public facilities. Do not be out for small advantages. Save water and electricity. Don't waste food.
6. Respect other people's rights. Don't force foreign tourists to take photos. Don't force other people to buy or sell something. Do not occupy public facilities for a long time. Respect people in the service sector. Respect religious



customs of different nationalities.

7. To be polite. Wear clean and proper clothes. Do not wear clothes exposing the neck or shoulders in public places. Take care of the elderly, children, the sick and the handicapped. Do not utter dirty words.
8. Advocate a happy and healthy way of life. Resist superstition. Avoid pornography, gambling and drug.

The commission of tourism and culture of BaoGuang Temple and Guillu Park of Xindu county The administrative office of BaoGuang Temple 2006.12”

Except at the top, there are no elections. There are no labor unions. The press is Government-controlled. Western newspapers do not circulate,

except in tourist hotels. However, CNN is available on television. The Internet is available, but censored.

Despite its efforts, China will not be able to permanently censor worldwide television and the worldwide web.

Ultimately, China will loosen up, and there will be more of a free press, there will be labor unions, and more elections held. When China finally gets free elections, labor unions and a free press, watch her soar!

From what I saw, the United States Government's days as the leading Government in the world are numbered. As soon as China loosens up, it will be very difficult to match her energy and industry. ■

Paul E. Kerson is Associate Editor of this Bulletin, and a Member of the Board of Managers.

STATEMENT OF OWNERSHIP, MANAGEMENT AND CIRCULATION

(Act of Oct. 23,1974: Section 4360, Title 39. United States Code)

1. Date of filing, Sept. 25, 2007.
2. Title of publication: Queens Bar Bulletin.
3. Frequency of publication: Monthly, except June through Sept.
4. Location of known office of publication: 90-35 148 St., Jamaica, NY 11435.
5. Location of headquarters or general business of publishers: 90-35 148 St., Jamaica, NY 11435.
6. Name of Publisher John L. Kominicki, 2150 Smithtown Ave., Ste. 7, Ronkonkoma, NY 11779-7358
Editors: Leslie S. Nizin, Editor, 90-35 148 St., Jamaica, NY 11435.
The owner is: Queens County Bar Association, 90-35 148 St., Jamaica, NY 11435.
- A. Total No. copies printed (Net Press Run) 2,497.
- B. 1 Paid Circulation: Outside-County, 833.
- B. 2 Paid Circulation: In-County, 1,464
- C. Total Paid Circulation: 2,297.
- F. Free Distribution (Including Samples) by mail, carrier or other means: 150.
- G. Copies not distributed: 50
- G. Total Distribution (Sum of C & F) 2447.;
Total Equals Net Press Run Shown in A.

No. Copies of Single Issue Published Nearest to Filing Date (May 2007).

- A. Total No. copies printed (Net Press Run) 2,465
- B. 1 Paid Circulation: Outside-County, 812.
- B. 2 Paid Circulation: In-County, 1,453
- C. Total Paid Circulation: 2,265.
- F. Free Distribution (Including Samples) by mail, carrier or other means: 150.
- G. Copies not distributed: 50
- G. Total Distribution (Sum of C & F) 2,465.;
Total Equals Net Press Run Shown in A.

I certify that the statements made by me above are correct and complete.
Arthur N. Terranova, Executive Director

EMPLOYMENT & LABOR LAW

STEPHEN D. HANS & ASSOCIATES, P.C. *Counsel to the Profession*

- | | |
|--|---|
| <input type="checkbox"/> Sexual Harassment | <input type="checkbox"/> Union Representation |
| <input type="checkbox"/> Americans with Disabilities Act | <input type="checkbox"/> Title VII – Discrimination |
| <input type="checkbox"/> Education Law | <input type="checkbox"/> Pension Issues |
| <input type="checkbox"/> Arbitrations | |

Counsel to the Profession – over two decades
Commentator – Cochran & Company; Chairperson of Employment
Law Committee – Queens County Bar Association
NELA (National Employment Lawyers Association) member

45-18 Court Square, Suite 403, Long Island City, New York 11101
Telephone 718-275-6700 Fax 718-997-0829

We've got a Patent on Experience

Over 8,000 patents granted
Over 15,000
trademarks obtained
Over 40 years of experience



- Our expertise extends to all areas of technology
- We represent everyone from individuals to multinational corporations
- We serve clients with distinction in both foreign and domestic intellectual property law
- We help clients identify emerging technologies and ideas

For more information, call us today at
516.365.9802 or fax us at 516.365.9805.

Collard & Roe, P.C.
PATENT, TRADEMARK & COPYRIGHT ATTORNEYS
1077 Northern Blvd., Roslyn, NY 11576
www.CollardRoe.com



C O U R T N O T E S

The Following Attorneys Were Disbarred By Order Of The Appellate Division, Second Judicial Department:

Anthony Bellettieri (May 1, 2007)

The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against charges that he failed to properly operate, oversee and manage several attorney trust accounts maintained in the name of his law firm at JP Morgan Chase Bank. The respondent admitted that he was a defendant in a civil suit brought by the bank alleging that he was the prime architect of a check-kiting fraud perpetuated through the use and operation of the above attorney trust account(s), which resulted in the theft of more than \$17 million over an 18-month period in 2005 and 2006. The respondent further conceded that, in at least 20 real estate transactions conducted in or about November 2006, checks issued at the closings in an aggregate amount of \$2.5 million were dishonored as a result of the above fraud.

Randy Scott Steinhauer, A Suspended Attorney (May 1, 2007)

The respondent was disbarred, on default, following his interim suspension for failing to cooperate with the Grievance Committee.

Winthrop D. Thies, A Suspended Attorney (May 1, 2007)

On December 10, 1998, the respondent was found guilty, after a jury trial in the United States District Court for the District of New Jersey, of conspiracy to defraud the United States by mail and/or wire; fraud by wire, radio, or television; and scheme to defraud: money, tax stamps. He was sentenced on January 9, 2003, to concurrent terms of imprisonment of 30 months, and upon release from imprisonment, to a term of two-years supervised release. As a result of the essential similarity of the federal felony of fraud by wire to the New York felonies of grand larceny in the second degree and scheme to defraud in the first degree, and the essential similarity of the federal felony of transportation of stolen goods, securities, fraudulent state tax stamps, or articles used in counterfeiting to the New York felony of criminal possession of a forged instrument in the second degree, the Appellate Division determined that the respondent was automatically disbarred pursuant to §90 of the Judiciary Law.

Mark H. Weinstein (May 1, 2007)

The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against charges that he has, to date, failed to disburse funds he received as a fiduciary in 2004, resulting in a judgment against his client.

Godfrey G. Brown, Admitted as Godfrey George Brown (May 8, 2007)

The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against charges that he neglected criminal cases he was retained to handle; failed to make court appearances in those cases; failed to maintain communication with clients; failed to return unearned fees; failed to pay judicial sanctions and failed to re-register as an attorney with the New York State Office of Court Administration (OCA).

Duane Williamson (May 22, 2007)

The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against charges involving dishonored checks drawn on his attorney trust account and his failure to safeguard client funds.

Areliia M. Taveras, admitted as Areliia Margarita Taveras, a suspended attorney (June 12, 2007)

The respondent was deemed guilty, on default, of engaging in a pattern and practice of converting escrow funds entrusted to her as a fiduciary; knowingly providing altered and falsified records of her attorney escrow account to the Grievance Committee; improperly commingling personal and fiduciary funds; improperly drawing an escrow check to cash; and failing to maintain required records for her IOLA account.

John Vassar (June 19, 2007)

On July 10, 2003, the respondent pleaded guilty in Supreme Court, Queens County, to the crime of unlawful imprisonment in the first degree, a class E felony. He was sentenced to five years' probation on October 31, 2003. As a result of his New York State felony conviction, respondent was disbarred by operation of law, pursuant to Judiciary Law §90(4).

The Following Attorneys Were Suspended By Order Of The Appellate Division, Second Judicial Department:

Joseph G. Amato, A Suspended Attorney (April 24, 2007)

The respondent was found guilty, after a disciplinary hearing, of engaging in a pattern and practice of failing to cooperate with the Grievance Committee and failing to re-register as an attorney with OCA. He was suspended from the practice of law for a period of two years, commencing immediately, with credit for the time elapsed under the interim suspension imposed by decision and order on motion of the Appellate Division dated June 2, 2006.

Arthur DiPietro, A Suspended Attorney (May 1, 2007)

The respondent was found guilty, after a disciplinary hearing, of having engaged in conduct adversely reflecting on his fitness to practice law as a result of converting client funds and/or breaching his fiduciary duty by failing to preserve funds entrusted to him. He was suspended from the practice of law for a period of two years, commencing immediately, and continuing until further order of the court.

Peter J. Schmerge (May 15, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon his failure to cooperate with the Grievance Committee, his

substantial admissions under oath, and other uncontroverted evidence of professional misconduct.

Peter A. Gioia, admitted as Peter Anthony Gioia (June 11, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon his failure to cooperate with the Grievance Committee and upon uncontroverted evidence establishing that he misappropriated escrow funds entrusted to him as a fiduciary.

William M. Joyce, admitted as William Michael Joyce (June 11, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon his failure to timely respond to a complaint of professional misconduct and to comply with the lawful demands of the Grievance Committee.

Brian Matthew Rosicky (June 11, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon his failure to submit written answers to six complaints of professional misconduct and his failure to cooperate with the Grievance Committee's lawful investigation.

Andre Strishak (June 11, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon his failure to cooperate with the Grievance Committee.

Jerome Joseph Galluscio (June 12, 2007)

The respondent was found guilty, after a disciplinary hearing, of neglecting legal matters entrusted to him; engaging in conduct prejudicial to the administration of justice and adversely reflecting on his fitness to practice law by failing to communicate with a client; engaging in conduct prejudicial to the administration of justice and adversely reflecting on his fitness to practice by failing to change his office address with the Office of Court Administration (OCA) and failing to cooperate with the Queens County Fee Dispute Committee; engaging in conduct prejudicial to the administration of justice and adversely reflecting on his fitness to practice by failing to timely cooperate with the Grievance Committee; and engaging in conduct prejudicial to the administration of justice and reflecting adversely on his fitness to practice by failing to pay an arbitration award issued by the Nassau County Fee Arbitration Panel. He was suspended from the practice of law for a period of

two years, commencing July 12, 2007, and continuing until further order of the Court.

Shelley A. Rivera, admitted as Shelley Ann Rivera (June 14, 2007)

The respondent was immediately suspended from the practice of law, pending further proceedings, upon a finding that he was guilty of professional misconduct immediately threatening the public interest based upon uncontroverted evidence of her professional misconduct.

The Following Attorneys Were Publicly Censured By Order Of The Appellate Division, Second Judicial Department: Donald J. Neidhardt (May 1, 2007)

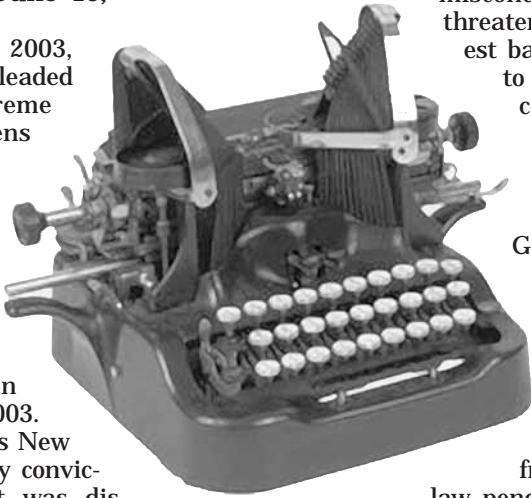
The respondent was publicly censured by order of the Supreme Court of the State of Montana dated July 19, 2006, as a result of his having deceived the Judge who swore him in that it was proper for the Judge to administer an oath of admittance; having attempted to deceive the United States District Court for the District of Montana by applying for admission even though he was not admitted to the State Bar of Montana; having misrepresented his status to all courts in which he made appearances; having misrepresented his status to opposing counsel and parties in the cases in which he made appearances; and having misled his employers about his ability to practice law. Upon the Grievance Committee's motion for reciprocal discipline pursuant to 22 NYCRR 691.3, the respondent was publicly censured in New York.

Leslie Sue Safian, a/k/a Leslie Sue Kuhn, A Suspended Attorney (May 8, 2007)

The respondent was found guilty, after a disciplinary hearing, of having engaged in conduct that adversely reflects on her fitness as an attorney as a result of failing to comply with a judicial subpoena so ordered by the court; having engaged conduct prejudicial to the administration of justice as a result of failing to re-register as an attorney with OCA; and having engaged in conduct reflecting adversely on her fitness to practice law as a result of failing to cooperate with the lawful demands of the Grievance Committee. Inasmuch as the respondent ultimately cooperated with the Grievance Committee and complied with OCA filings, certifying therein that she had retired from the practice of law, the interim suspension previously imposed by decision and order on motion dated May 1, 2006, was vacated, and she was publicly censured for her professional misconduct.

Gregory Lance Wood (May 8, 2007)

By order of the Superior Court of Connecticut, Judicial District of Hartford and New Britain at Hartford, dated April 27, 2005, the respondent was suspended from the practice of law in that State for a period of one year, effective May 17, 2005, for neglecting a legal matter entrusted to him; missing court appearances in connection with that matter; and failing to provide his client with a written agreement detailing the scope of the representation and the fee to be charged. Upon the Grievance Committee's motion for reciprocal discipline pursuant to 22 NYCRR 691.3, the respondent was publicly censured in New York.



C o u r t N o t e s

The Following Suspended or Disbarred Attorneys Were Reinstated As Attorneys And Counselors-At-Law By Order Of The Appellate Division, Second Judicial Department:

Peter Brogan, a disbarred attorney (June 5, 2007)

Shahriar Kashanian, a disbarred attorney (June 5, 2007)

Maureen McNamara, Admitted as Maureen Margaret McNamara, a suspended attorney (June 8, 2007)

At The Regular Meeting Of The State Of New York Grievance Committee For The Second And Eleventh Judicial Districts Held On May 8, 2007, The Committee Voted To Sanction Attorneys For The Following Conduct:

- Failing to re-register as an attorney with OCA (13)
- Depositing personal funds in an escrow account to evade creditors
- Permitting a person who recommended the attorney's employment to direct his or her professional judgment
- Failing to maintain a contemporaneous ledger for an escrow account and failing to pay appropriate attention to said account, resulting in numerous errors
- Failing to safeguard clients' funds

At The Regular Meeting Of The State Of New York Grievance Committee For The Second And Eleventh Judicial Districts Held On June 12, 2007, The Committee Voted To Sanction Attorneys For The Following Conduct:

- Failing to timely re-register as an attorney with the New York State

- Office of Court Administration (OCA) (14)
- Neglecting a legal matter
- Neglecting a legal matter; representing multiple clients with conflicting interests; failing to file a Retainer Statement with OCA; and failing to cooperate with the Grievance Committee
- Violating the rules of client confidentiality by ostensibly transferring a client's file to another attorney without obtaining the client's consent and thereafter neglecting the matter by failing to ensure it's continued prosecution for two years
- Engaging in a pattern of neglecting legal matters and failing to maintain communication with Court personnel concerning said matters
- Simultaneously representing clients with differing interests without obtaining their prior consent
- Failing to ensure that adequate funds were on deposit before issuing

- an escrow check; failing to withdraw earned fees from an escrow account in a timely fashion; and failing to maintain a contemporaneous ledger or similar record of deposits into, and withdrawals from, an escrow account as required by DR 9-102
- Allowing the Statute of Limitations to expire on a client's matter without timely informing the client; failing to properly withdraw from the client's case; and failing to provide the client with all of the papers to which he/she was entitled
- Writing escrow checks prior to receiving the corresponding funds for deposit
- Failing to maintain adequate communication with clients and failing to timely advise clients of developments in their cases

Diana J. Szochet, Assistant Counsel to the State of New York Grievance Committee for the Second and Eleventh Judicial Districts, has compiled this edition of COURT NOTES

C L A S S I F I E D

ASSOCIATION DESIRED

Established firm has opportunity for Attorney who seeks to build practice. We will provide office and support. Call: **(718) 740-5311**

OFFICE FOR RENT

One Old Country Rd.
Carle Place
Windowed furnished office
Available for immediate occupancy.
Full Time or Part Time
Phones/Fax/Copier/Conf Rm
Available Perfect Satellite
Office for Practitioner
seeking Nassau Presence
516-873-6330
feinlawny@aol.com

**PLAINVIEW
SUNNYSIDE BLVD.**
11' X 14' windowed office,
secretarial station, conference
room, reception area, fax,
photocopy, parking, 24/7 access.
Call Paul at
(516) 576-0101

WALL STREET OFFICE

\$99 per month
• Beautiful corporate setting
• Attended reception area
• Personalized phone services
• Paging – Patching – Voice Mail
• Mail receiving, photocopier, fax services
• Conference rooms, furnished offices
110 Wall Street
(212) 943-1111
www.sri-ny.com

**Looking for an attorney to fill a
Postition? Advertise in the
Queens Bar Bulletin Classified Section.**

SPECIAL RATES APPLY

Call Joe Parrino or Call Shirley Bracken
631-913-4253 631-913-4262

N O T E S F R O M N E W Y O R K S T A T E B A R A S S O C I A T I O N

**ANNUAL MEETING AND HOUSE
OF DELEGATES MEETING**

By: Steven Wimpfheimer

What a delightful way to start the summer: the Summer Meeting of the House of Delegates at the Otesaga Hotel on beautiful Lake Otsego in Cooperstown, the home of Baseball's Hall of Fame.

Because of terrible floods the week before, the road we normally take to Cooperstown was washed out. Because of a long detour we arrived late and I missed my scheduled tennis game with our President, David Cohen. No matter, we spent a delightful hour talking to Arthur Terranova, Carol Terranova and David's wife Janet in the elegant hotel lobby, with gentle breezes coming off the Lake. The discussion was rudely interrupted by David and Wally Leinhardt's sweaty appearances announcing the winner of their doubles game (I can't remember who won). After cleaning up we were treated to the usual delicious dinner and welcoming remarks by the Bar President.

Enough chit chat. Onto the House of Delegates meeting.

The House welcomed 112 new members.

Treasurers' Report—As usual the Bar Association is in the black. The Treasurer reported that the long term critical factors are: membership is flat,

membership is flat and CLE fluctuates as usual, depending on when members must re-up with OCA and affirm that they have attended the requisite number of CLE hours. The Treasurer is looking into other sources of income such as royalties, insurance, etc.

The Root/Stimson award was then awarded to the Chairman of Weill & Manges LLP, Mr. Stephen J. Dannhauser, Esq. for his public service.

The Finance Committee then proposed an increase in dues for out-of state members. Apparently, it was costing the Association more than it was taking in for non-resident members. This was approved unanimously.

The House then approved a resolution of proposed Court rules for pro bono services following a determination of a major disaster and allowing out-of-state attorneys to provide services in case of disasters, such as Hurricane Katrina.

The Kaye report concerning recommendations of the Special Committee to Ensure Quality of Mandated Representation with respect to providing defense services to the indigent was then approved. The report recommends, *inter alia*¹, a statewide public defender's office, an indigent defense committee, statewide Chief Defender, rules regarding indigent defense offices, etc.

Kathryn Grant Madigan of

Binghamton, NY was then sworn in as President of the Bar Association by Hon. Thomas McAvoy, Senior Judge of the Northern District of New York. He gave an exceptional exposition on his topic of choice— "Is God a Man or a Woman?" No conclusion.

The newly installed President spoke of her goals and plans for the Association in the forthcoming year, as they were also contained in an eight-page letter, I will merely summarize:

- I. Staff Directory with face pages and pictures;
- II. Theme of Administration: Leadership through Service;
- III. Three year membership challenge (10% increase per year) including a goal that every lawyer in New York becomes a member of the State Bar;
- IV. Greater accountability for resources, including strategic financial planning;
- V. President's Blog at <http://nysbar.com/blogs/president/> (I actually tried this address and it worked);
- VI. A living history of former Presidents on DVD;
- VII. Access of Justice for all;
- VIII. Increase in Judge's salaries;
- IX. Need for civil legal services for the poor and increase of funding?

Former president Stephen Krane then went over some proposed changes in Ethics rules. The only dissenting voice for a change from the current rule concerning conflicts of interest came from our own Paul Goldblum.

The current rule provides that an attorney may not accept a case where there may be "differing interests" between clients. The proposed rules provide that it is a conflict where the interests are "directly adverse". In Paul's opinion this is a significant lowering of the standard. Stephen Krane, in supporting the change, stated that the term "differing interests" has caused problems and New York State is the only state that uses the term differing interests. Mr. Krane's position was sustained by a majority of the house, with the Queens delegation supporting Paul's position.

An informational report on Senior Lawyers was presented, taking the position that Senior Lawyers (the age was not defined) should be used for the public good in areas such as mentoring younger lawyers, pro bono work, arranging programs concerning retirement and the continuation of services to clients and financial planning for retirement. It was also suggested that there be a reverse mentoring program where junior lawyers could teach their seniors the use of modern technology.

Finally, and just in time for lunch, the Bar Foundation announced that it gave away \$287,550 for worthy causes and received \$10,000 grants from four of the Sections.

Lunch on the Veranda overlooking the Lake and then homeward bound.

Next report from Albany in November. ■

¹I once worked for a Judge who loved that term.



Why wouldn't you want the Northeast's Leading Qualified Intermediary to handle your next IRC 1031 Exchange?

- 16 YEARS EXPERIENCE
- COMPETITIVE FEES
- DEFINITIVE ANSWERS TO YOUR EXCHANGE TRANSACTION
- NATIONALLY RECOGNIZED
- CERTIFIED EXCHANGE SPECIALIST™ ON STAFF

**After all, you are a discerning consumer.
TRUST THE PROFESSIONALS**

Diane Schaefer,
Certified Exchange Specialist®

Frances Picone,
Sr. Exchange Coordinator

Kim Rincones,
Exchange Coordinator

EXCHANGE SOLUTIONS, INC.

516-771-2400

FREEPORT, NY 11520

Members of the Federation of Exchange Accommodators. Bonded for \$10 million and insured.