Queens BAR BULLETIN

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October 2019 | Volume 87, No. 1

ESTATES UPDATE 2019

BY DAVID ADLER

The year in Trusts and Estates was highlighted by limitations on the operation of marital deduction property, the ongoing viability of updating planning documents, and the manner of disposition of digital assets.

QTIP ELECTION

Any outright bequest to a surviving spouse qualifies for a marital deduction. As such, there is no estate tax on those bequests in the estate of that first spouse to die. As a rule, any property transferred in trust for a surviving spouse does not qualify for the marital deduction, and is fully estate taxable. The exception in the form of trusts is the Qualified Terminal Interest Property Trust (QTIP Trust). This type of trust in which all the income, at least annually must pass to surviving spouse, will also qualify for the marital deduction. The property in this trust avoids estate tax in the estate of the first spouse to die. Yet, both outright bequest property and QTIP Trust property are included in the surviving spouse's estate. As such, QTIP Trusts, essentially provide tax deferral to the surviving spouse's estate.

The mechanism to trigger this consists of making a QTIP Election on the estate tax return of the first spouse to die, thereby insuring marital deduction status for that property. An interesting scenario arose in 2010, reflected in the Estate of Seiden (2018 NY Slip OP 3254IM). In 2010, there was no federal estate tax whatsoever for that year alone. In Seiden, because no federal estate tax return was required to be filed, the surviving spouse made a QTIP election on the New York State estate tax return. As such, the QTIP property qualified for marital deduction status for New York State purposes. Interestingly, after the second spouse died, the executor also excluded the value of the trust property from her estate, essentially obtaining a double tax exempt benefit. The rationale offered was that no federal tax marital deduction had been elected or claimed, and thus the property did not have to be included in the surviving spouse's estate either. Internal Revenue Code §2044 normally requires inclusion of the QTIP property in the second estate, as discussed above. But, Seiden distinguished Federal and State QTIP elections, sought the benefit of the New York State QTIP election, and by avoiding any formal federal election (as no federal return was filed), also avoided the necessity of inclusion of the property in the survivor's estate normally mandated by the federal statute.

As such, the QTIP property in Seiden avoided New York and federal estate tax in both estates. Theoretically, this scenario, and its duplicative tax avoidance could apply to any situation in which a federal estate tax return is not required to be filed, and a New York QTIP election is taken on the New York return.

Unfortunately, the 2020 New York Executive Budget, which passed on March 31, 2019, altered the Seiden result. The new law requires the inclusion of QTIP property in the surviving spouse's New York estate, even if only a New York QTIP election, and consequent marital deduction was effected in the first spouse to die's estate. Thus, avoiding the filing of a federal estate tax return will no longer avoid taxation of QTIP property in both estates. This law takes effect for estates of individuals dying on or after April 1, 2019.

PLANNING OPTIONS

The relatively recent increase in the Federal and New York State estate tax exemption amounts, and the discrepancy between them continues to present planning challenges. The federal exemption amount is presently 11.4 million dollars; the New York State exemption amount is presently 5.74 million dollars.

Further compounding the issues are (2) two additional factors. The federal amount is scheduled to sunset after the year 2025 and revert to levels prior to the recent increase (5,600,000.00 plus inflation adjustments). The state exemption amount is subject to a unique calculation akin to falling off a cliff. Any New York taxable estate that exceeds 5% of the basic exemption amount, subjects the entire taxable estate to full tax liability; Essentially, not just any monies exceeding the exemption amount are taxable, but the entire estate from dollar one.

The above factors create the need for more review and flexibility in planning. The use of prior credit shelter formula provisions may create vast and unintended disparities in transfers of assets between spouses and children. Dispositive schemes must be reevaluated. The focus on state tax

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Being the official notice of the meetings and programs listed below, which, unless otherwise noted, will be held at the Bar Association Building, 90-35 148th Street, Jamaica, NY. Due to unforeseen events, please note that dates listed in this schedule are subject to change. More information and changes will be made available to members via written notice and brochures. Questions? Please call 718-291-4500.

CLE Seminar & Event listings

OCTOBER 2019
Monday, October 14
Columbus Day – Office Closed
Tuesday, October 29
Recent Significant Decisions & Developments from our Highest Appellate Courts – 5:30 pm

NOVEMBER 2019
Tuesday, November 5
Election Day – Office Closed
Monday, November 11
Veteran's Day – Office Closed
Tuesday, November 12
CLE: Break-In Up Is Hard to Do: Basics of Business Dissolution
Wednesday, November 20
Landlord/Tenant Update
Thursday, November 28
Thanksgiving Day – Office Closed
Friday, November 29
Thanksgiving Holiday – Office Closed

DECEMBER 2019
Thursday, December 12
Holiday Party – Douglaston Manor
Wednesday, December 25
Christmas Day – Office Closed

JANUARY 2020
Wednesday, January 1
New Year's Day – Office Closed
Monday, January 20
Martin Luther King Jr. Day – Office Closed

FEBRUARY 2020
Wednesday, February 12
Lincoln's Birthday – Office Closed
Monday, February 17
President's Day – Office Closed

APRIL 2020
Friday, April 10
Good Friday - Office Closed
Wednesday, April 22
Equitable Distribution Update

MAY 2020
Thursday, May 7
Annual Dinner & Installation of Officers

UPCOMING SEMINARS
Elder Law
Family Law
LGBT Law
Surrogate's Court

New Members

Alice Albl
Kenneth Barrios
Daniel Beloosesky
Michael Biornstad
Willie Otieno Boaz
Jacqueline Bonilla
Michael J. Borger
Joseph J. Bracconier
Jack E. Brackney
Andrew Brown
Denis Buci
Robert Butlien
Jacqueline G. Carey
Carl Chen
Donna A. Ciampa
Missy Clark
Tyler DeJesus
Emily Devlin
Jake G. Early
Karen Eng
Mark C. Fang
Christopher S. Fanning
Vanessa Fiore
Jared Michael Fitzpatrick
Jeffrey A. Gershuny
Katie Giuzzi
Eric James Graf
William Granados
Bryan S. Greenberg
Simone A. Grey
Dyzio J. Guzierowicz
Peter Hanschke
Dan-Obed Henry
Alexandra Irizarry
Dana Jabri
Tobin Kandathil
Christopher M. Kelley
Tori Koen
Ivona Kronja
Shivangi Kumar-Joshi
Marina Kumskova
Lambros Y. Lambrou
Han Li
Margaret Lyford
Brianna Mantiucci
Christopher Miller
Namrata Mogiliselty
Doria C. Montfort
Sherene Mostaghimi
Thomas J. Motyka
Sasha A. Navarette
Brian A. O'Reilly
Ignacia Lolas Ojeda
Thomas M. Oliva
Jose Panbehchi
Mona Patel
Clorissa V. Pauletich
Emiliano Perez
Nicolette Peters
Tashila Pierre-Peter
Dominick Pintavalle
Emma Pletenycky
Julia Porzio
Kristin T. Rainis
Bryan Ramdat
Darlyn Ramos
Fern Reidman
Jorge L. Rivera Agosto
Alex Rogalsky
David Romero
Brandon Santiago
Michael A. Schillinger
Marc N. Scolnick
Sohil Sharedalal
Jill S. Sigman
Eden Shlomi
Rebecca R. Sodhi
Olatokunbo Toks Sofola
Nicole C. Soltau-Woods
Demetrios Stratis
Robert J. Sweet
Myasia Terry
Corinne Tierney
Samantha Valente
William Varade
Juan Vera
Dan Yao
Yuting Zhang

Necrology

A. Paul Goldblum
William R. Greenspan
Sandra C. Katz
Christopher P. Lefkarites
Hon. Arthur W. Lonschein

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Lawyers Assistance Committee

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

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

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

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

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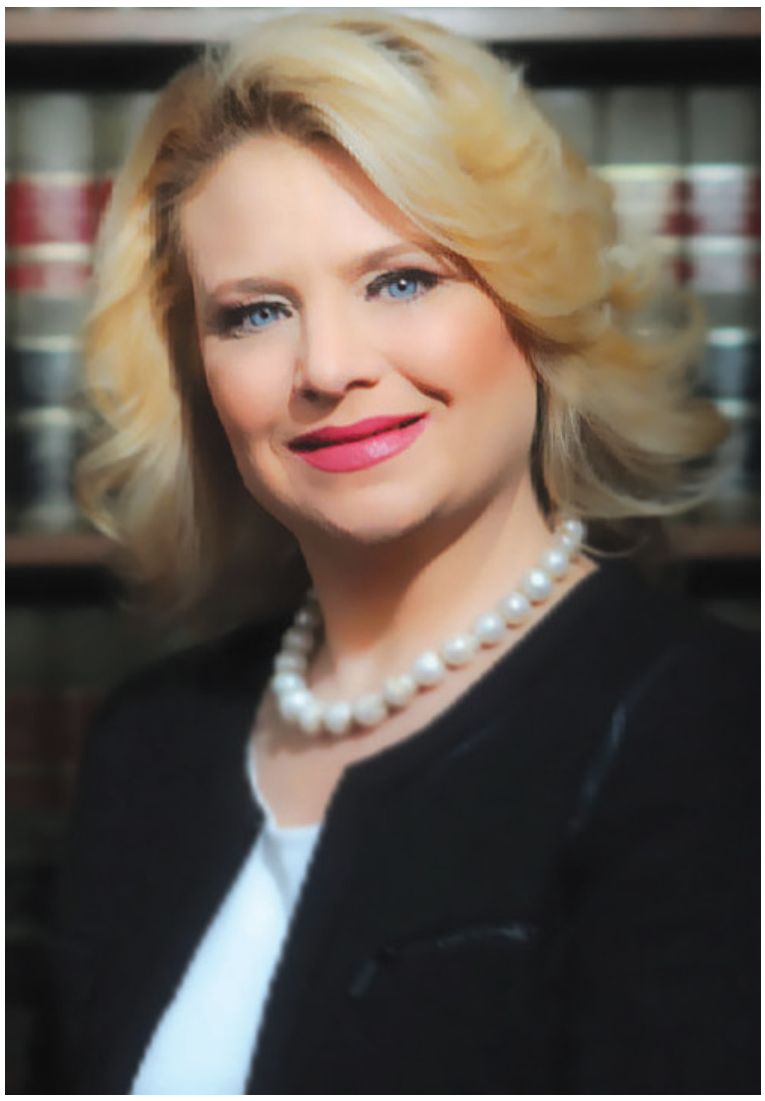


President's Message

Greetings, Dear Members, it has been quite some time since we last connected. As Autumn is upon us, we have a beautiful season ahead, that is both rich in tradition and also promises new beginnings; a perfect time to reflect and embrace change. The secular holiday Halloween at the end of this month has ancient beginnings as the Celtic festival called Samhain, which signifies the end of the old and the beginning of the new. It is important to honor and take time for those traditions which sustain, fortify and enrich us; many of our members have been observing different holidays and traditions this fall. Also, in order to grow and move forward, it is important to be open to change. At the Association we are striving to honor our traditions and to embrace new ones. We are finding new ways to continue our work of fostering a sense of community, and to work on programs and initiatives that will serve to enrich our members.

Speaking of honoring tradition and embracing the new, the Association welcomes and thanks the Queens Daily Eagle for being the new publisher of our monthly publication, the Bar Bulletin.

To catch you up on things, we had quite a busy summer and early fall. Embracing the new, we expanded our work with young lawyers and law students. This past July we held the Association's first ever Summer Soirée; it was well-attended by both young and seasoned attorneys, and law students. In August and September, we conducted outreach at seven law schools; the outreach expanded our student membership base and Student Ambassador Program, and culminated in our Mentor/Mentee Kickoff Reception. Keeping with tradition, the Association held its Annual Golf Outing which was also well-attended by attorneys, judges and other professionals. In addition, the Association co-sponsored an event that honored Board of Manager Andrea Ogle for her dedicated service to the community, co-sponsored a community event for seniors at the Robert Ross Life Center, the LGBT Committee held its Annual Mixer, and the Association held a CLE on Cyber Security.

Keeping with tradition, on October 29 the Association will hold an annual stated meeting, "Recent Significant Decisions and Developments from our Highest Appellate Courts." A special report will be given by the Honorable Alan D. Scheinkman, Presiding Justice of the Appellate Division, Second Judicial Department. The event is co-sponsored by eleven Queens County Affinity Bar Associations and St. John's Law School; we extend thanks to all of our sponsors for sponsoring this event.

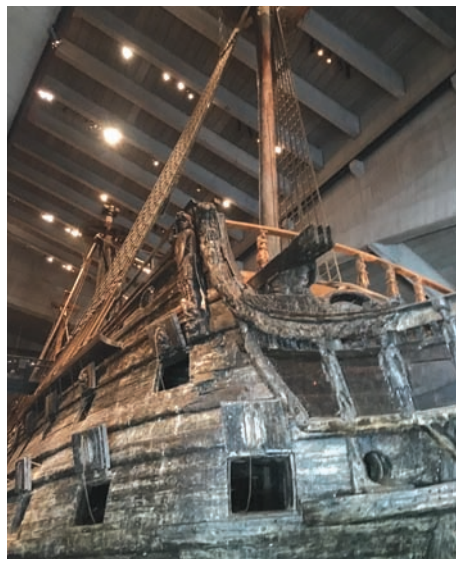
Finally, for catching up in this newsletter, as the Association embraces the new, we have renamed our "Minorities in the Law Committee," to the "Diversity and Inclusion Committee." We warmly welcome Jawan Finley, the new Chair of the Committee.

Dear Members, the Association is here to serve you, its members; without you we would not exist. As President, I am committed to welcoming, promoting and supporting people of diverse cultures, experiences, and backgrounds in our Association. The Association is the forum where you can come and share ideas, and get support to advocate for the well-being of yourselves and the members of the legal profession. We encourage you to come and participate and invite your colleagues. You are more than welcome.

SINCERELY YOURS,
MARIE-ELEANA FIRST | PRESIDENT

Editor's Note

The Meaning of Powerful Weapons



This past summer I visited Sweden. A high point of the trip was the Vasa Museum.

This Museum is dedicated to the restoration of the sunken remains of the world's most powerful warship of 1628, 391 years ago. At that time, Sweden was one of the world's leading military powers. The Vasa was their most powerful weapon – 48 bronze guns and 16 lighter guns were built into the ship.

It sunk on its maiden voyage and was buried for 333 years until it was unearthed in 1961 and painstakingly restored in the 58 years since then.

At the Museum Shop, I bought and read the book recounting this unusual set of events: The Story of Vasa, edited by Catrin Rising of the Swedish National Maritime Museums.

In thinking about these experiences, I have come to the conclusion that the Vasa Museum is far more meaningful that it would appear to be. It looks like a detailed, painstaking, first class restoration of a 391-year-old ship. But the Museum means far more than that to everyone.

In 1628, Sweden had conquered much of what constitutes Finland, Latvia, and Lithuania today. The Vasa was the major military weapon of 1628. The Vasa had more fire power than any other military machine anywhere in 1628. But it sank on its first voyage. All those powerful guns of 1628 were never used to hurt anyone. See Rising, page 22.

Fast forward to 1945, a short 317 years later. To end World War II, the United States fired the two most powerful guns ever invented – atomic bombs (nuclear weapons) – on Hiroshima and Nagasaki, Japan instantly destroying most of the people in those cities and ending the most violent war ever fought – 60 million people killed all over the world.

Since then, China, France, Russia and the United Kingdom have developed nuclear weapons. These nations and the United States negotiated and signed the United Nations – sponsored Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in 1968. One hundred eighty-five additional nations, including Sweden, Norway, Finland, and Denmark have signed the NPT.

Nuclear weapons were also developed by India, Israel, Pakistan and North Korea, none of whom have signed the NPT. Belarus, Kazakhstan, Ukraine and South Africa acquired nuclear weapons but voluntarily gave them up. The United States keeps its nuclear weapons on its own soil, and in the nations of Belgium, Germany, Italy, the Netherlands and Turkey pursuant to the North Atlantic Treaty Organization (NATO) agreements. See Wikipedia, "List of States with Nuclear Weapons".

Iran is today seeking to get out of its obligations under the NPT and later agreements, including the Joint Comprehensive Plan of Action (JCPOA) commonly called "the Iran Nuclear Deal" of 2015.

Iran has surrounded Israel with proxy military bases and threatens to complete the Nazis' plans of 1934-1945. See Google, Ana Ahronheim, "Top Iranian Commander says Country has 'Secret Weapons'" Jerusalem Post July 3, 2019.

This explains why Israel cannot sign the NPT. The memory of the Holocaust is too recent. Never again. See the Swedish History Museum's tearful Exhibit, "Speaking Memories" and their publication of same in book form (2019).

The goals of the NPT are to prevent the spread of nuclear weapons and to promote cooperation in the peaceful uses of nuclear energy. No signer who owned nuclear weapons in 1968 was required to give them up. However, expansion of nuclear arsenals was profoundly discouraged by the NPT.

The NPT was designed to last for 25 years from 1970 to 1995. But all the signing parties (nearly the whole world) agreed to an indefinite extension due to the efforts of United States Ambassador Thomas Graham, Jr. in New York City in 1995.

As of 2018, the world had 14,465 nuclear weapons of which 3,750 "were deployed with operational forces" See Wikipedia, "Treaty on the Non-Proliferation of Nuclear Weapons".

But none of the biggest guns ever invented have been used in a war since 1945 – 74 years now and counting. We now live in the era of Limited War where potential combatants have tentatively agreed not to use their most powerful weapons. This is a very significant change in World History, making 1945 the pivotal year of all time. Of course, this voluntary restraint does not mean that the nuclear powers will never use their most powerful weapons. See the case of Iran today listed above.

During these past 74 years, the prosperity and health of our world has increased dramatically such that now our biggest problem is too many people using too much energy and creating climate change.

How the 60 million people who died in World War II would have wished this had been their problem!

Doesn't the restored Vasa warship illustrate all this better than any other educational tool? This is the restored Vasa warship's unmistakable message to humanity: Powerful weapons are best left buried for 333 years and then dug up to teach us that their non-use is their best use.

Today's unused nuclear weapons are mostly buried far beneath the Earth in cement underground silos.

333 years from 1945 will be the year 2278. Let us hope and pray that the scientific techniques learned at the Vasa Museum in unearthing weaponry will be used to dig up all these doomsday guns in the year 2278 (or sooner) and place them in Museums where their power to destroy is rendered just as inert as the Vasa warship's 48 bronze guns and 16 lighter guns are today.

Now this is a Mission Statement the Vasa Museum should tell all its numerous visitors, especially including its many foreign university and government delegations.

And when that day comes in 2278 (or sooner) we can then say 3000 years after it was written:

"And they shall beat their swords into ploughshares, and their spears into pruning hooks: Nation shall not lift up sword against nation, neither shall they learn war any more." Isaiah 2:3-4

This fundamental teaching of Judaism, Christianity and Islam is today inscribed in stone across the street from the United Nations Buildings in New York City.

The Vasa Museum should be part of the training program for all of the world's military and political leadership. It makes the visitor think in a way no other Museum, book or University Course can.

BY PAUL E. KERSON | EDITOR

SPECIAL NOTE: I sent a draft of this article to Dr. Lisa Månsson, the Director of the Vasa Museum in Sweden.

Following is her thoughtful response:

VASA MUSEET

P.O Box 27131, SE-102 52, Stockholm, Sweden

Dear Mr. Paul E. Kerson:

Thank you for your spirited letter and for sharing your thoughts about the meaning of the Vasa museum with us. It was very interesting and I have already shared it with colleagues at the mseum and it has led to useful discussions.

As you wrote, Sweden was a strong military power back in the 17th century and went repeatedly to war to acquire more. To talk about Sweden's militant history without glorifying war is something that we are working with continuously.

The meaning of Vasa can for me be put in many different contexts. One way I like to see Vasa is as bold experiment in the quest for new knowledge. In 1620's a warship with two gundecks had never been built in the Stockholm ship yard, and the shipbuilder did not have the knowledge about how to go about this challenge. Breaking new ground often depends on some trial and error. Vasa's design made her a bit unstable, which led to the dramatic accident when she sank. Vasa's sister ship, that was made just one meter wider, sailed for 30 years. Sometimes building knowledge and daring to dream big comes with a high price. Luckily, what once was seen as a catastrophe (the fact that Vasa sank on her maiden voyage within the Stockholm harbour) was later a benefitting factor for the successful salvage in the 1950/60s.

Today she is a powerful time capsule, a treasure that keeps feeding us stories about the 17th century. About the war and about shipbuilding, but maybe even more importantly about the common people who were on board Vasa the day she sank. Their food, clothes and objects keep giving us more knowledge and make the 17th century come alive again. By bringing that story to a wide audience, we can help them to think about their own lives and the world around them in new terms, and if that causes them to see the horrors of war more clearly and reject them, then we will be very glad.

Best regards,
Lisa Månsson, PhD
Museum Director, The Vasa Museum

"Vexatious" Litigation and Limitations on Filing Orders of Protection

The public policy of New York is to allow for people to have access to the Courts and "zealous advocacy is an essential component of our legal system". See, Sassower v. Signorelli, 99 A.D.2d 358, 472 N.Y.S.2d 702 (N.Y. App. Div., 1984) citing Board of Educ. v. Farmingdale Classroom Teachers Assn., Local 1889, AFT AFL-CIO, 38 N.Y.2d 397, 404, 380 N.Y.S.2d 635. However, where "a litigious plaintiff pressing a frivolous claim can be extremely costly to the defendant and can waste an inordinate amount of court time, time that this court and the trial courts can ill afford to lose…when…a litigant is abusing the judicial process by hagriding individuals solely out of ill will or spite, equity may enjoin such vexatious litigation". See, Sassower, Id. at 704.

Therefore, although public policy favors free access to the Courts, where litigation has become vexatious and out of spite or ill will, the Court is permitted to place a limitation on further litigation. The issue becomes more narrow where the case relates to Family Court, because "in concept and in fact, the Family Court fulfills unique function in our system of justice…the social and economic factors that generate its mass of sensitive, emotionally-laden and highly individualized cases including those which feature the interspousal violence on which the plaintiffs focus in practice flood its calendars with Pro se litigants who must depend on the Court rather than on counsel to instruct them in the niceties of the legal process." See, Bruno v. Codd 419, N.Y.S. 2d. 901, 47 N.Y.2d 582, 393 N.E.2d. 976 (N.Y., 1979). (where twelve battered wives filed suit against the New York Police Department and Department of Probation, as they were unresponsive to the needs of the plaintiffs who were in danger due to the "offending husbands—the Court found the trial court ruled properly in denying defendants motions to dismiss.)

The Court in Bruno stated: "In essence, the concern that plaintiffs would have us confront is simply the threshold obligation of functionaries of the entity, here the Family Court to apprise a woman of her options with mediation and to afford prompt access to a Family Court Judge." See, Id. at 905. Moreover, the Court stated: "A primary concern voiced in plaintiffs' complaint is frequent failure of officers of the New York City Police Department to respond to requests for safeguarding made by or on behalf of a battered or threatened wife, presumably because of reluctance on the part of the to intervene in what they reflexively characterized as 'domestic disputes' rather than criminal offenses." See, Id. at 905.

Bruno v. Codd highlighted that the Family Court could and should be a resource for pro se litigants to be able to seek justice where the Police Department and the Department of Probation had failed to address their concerns. The Court found that the Family Court administrators conceded that the court has an ongoing responsibility, "particularly with regard to informing petitioners of the voluntariness of the conciliation option and to making Family Court Judges readily available to mistreated wives." See Adefunke, supra, 452; Bruno, Id. at 905. In light of the many of the same concerns as the Police Department, the Department of Probation and the Court of Appeals, the Family Court Act was amended, adding Family Court Act § 216-b, which directs the Clerk provide official court forms to any person requesting them and Family Court 216-c which states:

Whenever a petitioner is not represented by counsel, any person who assists in the preparation of a petition shall include all allegations presented by the petitioner.

No clerk of the court or probation may prevent any person who wishes to file a petition from having such petition filed with the court immediately.

If there is a question regarding whether or not the family court has jurisdiction of the matter, the petition shall be prepared and the clerks shall file the petition and refer the petition to the court for determination of all issues including the jurisdictional question.

Although the highest Court of New York stated the critical nature of the Family Court to be very accessible, as has the legislature, in Adefunke v. Adeniyi A., the Court found held "Given the mandate of Family Court § 216-c the Court must exercise its own inherent authority to prevent abuse of the judicial process." See, Adefunke v. Adeniyi A., 36 Misc. 3d. 699, 946 N.Y.S.2d 447, 2012 N.Y. Slip. Op. 22147 (N.Y. Fam. Ct., 2012), citing Shreve v. Shreve 645 N.Y.S.2d 198, 229 A.D.2d 1005 (N.Y. App. Div., 1996) (where the Court found that the lower court was permitted to enjoin the plaintiff from filing multiple custody and visitation petitions). See also Matter of Manwani 286 A.D.2d 767, 730 N.Y.S.2d 520 (N.Y. App. Div., 2001) (Where the petitioner brought multiple applications for upward modification of support-based on speculation and lack of any evidentiary substantiation, which harassed her elderly former spouse and abused the judicial system, burdening an already overburdened Family Court, stating "A more effective remedy for the abuses the petitioner has engaged in is to revoke our recognition of the power of attorney authorizing her son to appear for her and to enjoin further litigation without prior permission of the Supervising Judge of Family Court, Queens County"). Therefore, even though the Family Court is intended to be accessible and accommodating to litigants, it is not a "free for all" and limitations do exist.

The facts in Adefunke v. Adeniyi A. which the Court stated: "calls upon the Court to examine provisions of the Family Court Act which were enacted in 1971 to ensure that prospective litigants seeking to commence family offense proceedings are permitted to file their petitions with the court and have access to a judge." See, Adefunke v. Adeniyi A. supra at, 448. In this case, between June 21, 2011 and January 26, 2012, petitioner, Adefunke A. filed three family offense petitions against her brother, Adeniyi A. See, Id. The family offenses, summarized, included allegations of the respondent making an "inappropriate calls to 911", forcing the petitioner to wear dirty clothing, slapping petitioner in the chest, cashing a check made out to her and that he held her passport, slapping her on her face and hitting her on her upper body with "her slippers", stepping on her glasses, and other instances of bodily injury. The second petition was dismissed for want of prosecution when both parties failed to appear at the hearing. See, Id. at 449.

During the proceedings for the third petition, respondent presented evidence of a physician's affirmation that "Ms. A. is a 'twenty-seven (27) year old female who was admitted as an involuntary patient to City Hospital Center at Elmhurst on September 29, 2002…" See, Id. at 450. An affirmation by an attending psychiatrist described the Petitioner as "a 27-year old woman and medical student with her 1st psychotic break when she came to New York City after hearing the voice of God. She has been homeless. She was found by the police agitated, unkempt and psychotic…she remains suspicious, paranoid with persistent agitation and violence." Id.

With regard to her petitions, the third one was dismissed along with the second one for failure to prosecute the claim. Id. Thereafter, Ms. A attempted to file a fourth petition. Based on the record, the Court inferred that Ms. A's psychotic condition did not improve. Id. at 451. As such, the Court stated: "It is widely recognized that the Family Courts of this state are busy and overburdened" See, Id. at 451 citing Chief Judge Jonathan Lippman, 2012 State of the Judiciary Address at 3; Matter of Pizzo v. Pizzo, 47 A.D.2d 948, 367 N.Y.S.2d 310.)

The Court went on to acknowledge that the Family Court's caseload has been referred to as "crushing" and "consisting of highly charged emotional cases." Id. at 452. The Court acknowledged that "Family Court is frequently characterized as a pro se tribunal i.e., a court whose doors are open to any member of the public who believes that '[s]he has a justiciable claim against any other individual…. The large number of unrepresented litigants adds to the chaotic and anarchic atmosphere in Family Court…" Id. at 452. The Court continued Family Court 216-c "was enacted 30 years ago "[b]ecause court clerks and probation officers were seen as unresponsive to the needs and desires of unrepresented petitioners…and the statute totally divests clerks of the power to regulate the content and filing petitions." See, Id. at 453.

In essence, the Court implied that by expanding the statute to allow the Family Court to adjudicate cases that were not being properly handled by the Police Department to be referred to the Family Court, as was acknowledged in Bruno v. Codd, the legislature instead also invited frivolous petitions with no opportunity for the clerk of the court to use discretionary authority to reject petitions. Therefore, the Court, stated "Given the heavy caseload of the Family Court, the shortage of available resources, and given the mandate of Family Court 216-c, the Court must exercise its own inherent authority to prevent abuse of the judicial process." See, Id. at 454, citing Shreve at 1006, 645 N.Y.S2d 198; Matter of Manwani at 768, 730 N.Y.S.2d 520). Finally, the Court, having taken into consideration the legislative intent, but also considering the Court's resources and "crushing" caseload, along with the fact that the repeated petitions were from an "apparently mentally ill unrepresented litigant" who is "in need of the assistance of an entity other than the Family Court" and who "had a demonstrated proclivity to engage in vexatious and baseless litigation…the Court's prior order directing that Ms. A obtain permission of a Family Court Judge prior to initiating any further family court petitions." See, Id. at 454.

In sum, the Family Court in Queens has placed limitations where the litigation is used as a vehicle for harassing another individual, or where the mental and emotional state of a petitioner would believe that they are being abused when, in fact, they are not. Many resources are available to those individuals such as social services, medical staff, as well as Adult Protective Services. It would be in the interest of the Family Court clerks to divert attention to the petitioner to social services agencies in the instance that they may be able to obtain assistance and obtaining help that would be more suitable for their mental and emotional wellbeing in the long run.

BY IRINA DULARIDZE, ESQ.

Editor's Note: Irina Dularidze, Esq, is an associate attorney at the Law Offices of Joseph H. Nivin, P.C. where she specializes in all aspects of family and matrimonial law including child custody, equitable distribution, orders of protection and child support. For any inquiries, please e-mail at idularidze@nivinlaw.com.

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scenarios may assume a more prominent role, as there is also no portability in accumulation of the first spouse to die's unused exemption, available in New York State. Older documents will need to be updated to reflect significant numerical shifts. Present documents must anticipate the parallel nature of differing federal and state thresholds, and their manner of calculation.

DIGITAL ASSETS

The digital asset presents a new type of property with respect to estate administration. EPTL Article 13-A was enacted in September 2016 and addresses the ability of a fiduciary to gain access to digital assets. Initially, digital assets are defined as any electronic record in which the user has a right or interest. The statute dictates that priority in granting access emanates through the use of an online tool. This is a specific tool dictating the terms of access between the user and the provider. Clearly, the service provider's rights are preserved.

In the event that no online tool or similar governing instrument is in effect, the user's direction in a will, trust or Power of Attorney prevails. This may incorporate specific language in the above documents pertaining to the digital assets. In all scenarios, the fiduciary must provide a written request to the service provider plus other relevant documentation (i.e. Letters Testamentary, Power of Attorney, etc.). Despite this, the service provider may still request a Court Order reflecting certain facets of access.

The default provision for the above is a Terms of Service Agreement (TOS) Agreement. These are agreements generally entered into between users and providers at the outset of the relationship. They dictate who gains access upon death, among other user guidelines. They are provider created, and may significantly limit access. The impact of the TOS upon a duly appointed and authorized fiduciary's right to access have yet to be clarified.

Ideally, utilization of an online tool and specific direction in a dispositive instrument (will, trust) should achieve the individual's intent to provide access. Dispositive instruments should include additional language of and pertaining specifically to the fiduciary power to access digital assets. The statute enacted by New York State has national overtones and has been adopted by numerous other states. It attempts to balance the influence maintained by the providers, privacy issues and fiduciary rights and responsibilities. The parameters of this recently enacted statute remain subject to further judicial scrutiny.

QUEENS COUNTY

Our spring meeting included an update by Surrogate Peter Kelly and Chief Clerk James Becker on the State of the Court. It is anticipated that our fall seminar will focus on Probate and Administration of estates with a view to addressing common problem areas in the preparation and submission of documents. Let's go Mets!

BY DAVID ADLER

STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

ANDREW M. CUOMO
GOVERNOR

August 12, 2019

Hon. Jeffrey Lebowitz
Special Counsel
Jaspen Schlesinger LLP
300 Garden City Plaza
Garden City, NY 11530

Dear Judge Lebowitz:

I am pleased to inform you that Governor Andrew M. Cuomo is hereby reappointing you to serve as Chairperson of the Second Department Judicial Screening Committee as established by Executive Order No. 15, issued April 27, 2011. The term of service is for three years commencing today.

Additionally, with this appointment, you will also serve as a member of the New York State Judicial Screening Committee for a term commensurate with your service as Chair of the Second Department committee.

Thank you for your service on the Screening Committees and we appreciate the time and effort devoted to this important endeavor.

Very truly yours,

Zackary Knaub
Interim Counsel to the Governor

cc: Douglas Dunham
James Finke
Leigh Frany

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PERFORMANCE ★ INTEGRITY ★ PRIDE
printed on recycled paper

THE PRACTICE PAGE: CLARIFYING A QUESTION ON AFFIRMATIVE DEFENSES

CPLR 3018(b) provides that defendants must plead affirmative defenses of matters which, if not pleaded, would likely surprise the plaintiff. If a defendant merely denies an allegation in a complaint which requires the plaintiff to then prove the matter, may a court deem the denial the equivalent of an "affirmative defense," even though no separate affirmative defense is actually pleaded in the answer? There have been conflicting appellate decisions on this issue, but recently, the Second Department rendered an extensive analytical opinion that answers the question with a definitive "No."

This pleading issue came to a head in the context of a residential mortgage foreclosure appeal, though it could have appeared as easily in other types of civil litigations. There have been foreclosure actions where plaintiff lenders asserted allegations in their complaints that they physically possessed the loan note by a written assignment, to confer upon them the standing to commence foreclosure actions against the collateralized properties. In certain of those appeals, defendant homeowners had served answers either denying the standing-related allegations outright ("D") or denying information sufficient to form a belief ("DKI"), but without separately interposing an affirmative defense that the lenders lacked standing. If a mere "D" or "DKI" of allegations were to qualify as an implicit and cognizable affirmative defense that standing is lacking, the plaintiff lenders would be required to prove those allegations as part of their prima facie burden when moving for summary judgment. Otherwise, not. The adequacy of moving papers hung in the balance at the trial courts and on appeal. The reader can substitute allegations about standing with those about the statute of limitations, or the statute of frauds, or other legal mainstays, and the query raised here is the same.

The significance of the issue, particularly for defendants, is that several defenses are waived under CPLR 3211(e) unless set forth as an affirmative defense in the responsive pleading or as a ground for a pre-answer dismissal motion. These waivable defenses include many of the staples relied upon by defense attorneys including, among others, the plaintiff's lack of capacity to sue, standing, collateral estoppel, res judicata, the statute of limitations, and the statute of frauds.

Recently, a 3-1 opinion by Appellate Justice William Mastro in U.S. Bank National Association v Nelson, 169 AD3d 110 was rendered, which now definitively holds that affirmative defenses are not cognizable by a defendant's mere denial or "DKI" of allegations contained in the complaint. Instead, for affirmative defenses to be cognizable and preserved, they must specifically be set forth in the answer as such. The reason is found in CPLR 3018, which draws a distinction between denials, which place at issue proofs that the plaintiff must provide at trial, from affirmative defenses, which raise new defensive matter beyond the elements that plaintiffs must affirmatively plead in a complaint and then prove. Without separately pleaded affirmative defenses, plaintiffs could be surprised by defenses raised later, which CPLR 3018(b) expressly seeks to avoid. Since standing is not an element that plaintiffs must plead and prove, and is instead purely in the nature of a defense, the denial or "DKI" of allegations that incidentally implicated standing failed in Nelson to qualify as an "affirmative defense."

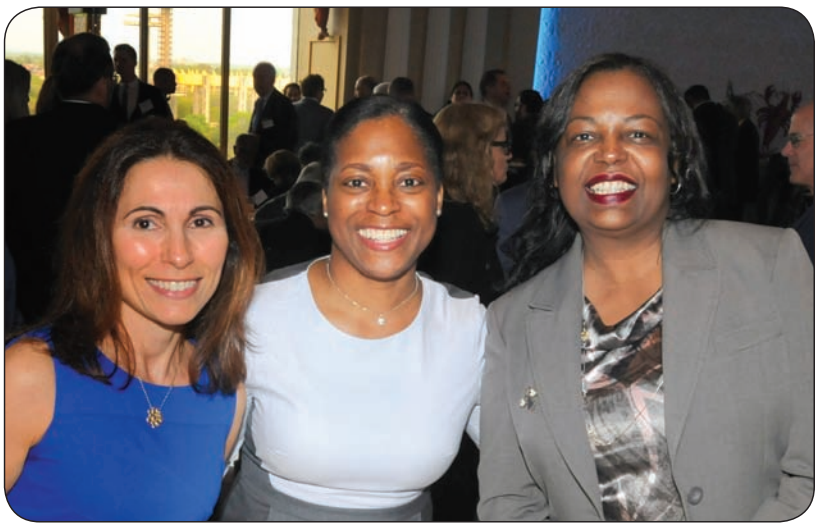
Justice Colleen Duffy dissented, arguing that mere denials, and "DKIs" that are to be treated for pleading purposes as denials under CPLR 3018(a), affirmatively raise defenses by putting plaintiffs to their burden of proving the matters actually asserted in the complaint.

Based on the majority holding in Nelson, the following Second Department cases, which hold to the contrary, should no longer be followed: Bank of Am., N.A. v. Barton, 149 AD3d 676, Nationstar Mtge., LLC v. Wong, 132 AD3d 825, Bank of Am., N.A. v. Paulsen, 125 AD3d 909, and U.S. Bank Natl. Assn. v. Faruque, 120 AD3d 575. If factual or legal defenses exist for defendants, counsel should robustly assert them as affirmative defenses in the answers, or in CPLR 3211 motions to dismiss, and fulfill the true purpose of CPLR 3018(a) which is to prevent surprise to adversary parties.

HON. MARK C. DILLON

Mark C. Dillon is a Justice of the Appellate Division, 2nd Dept., and an Adjunct Professor of New York Practice at Fordham Law School.

Annual Dinner & Installation of Officers 5-2-19



Alex Zervopoulos, Nicole McGregor-Mundy and Hon. Marguerite Grays

Chanwoo Lee and Vincent Kung

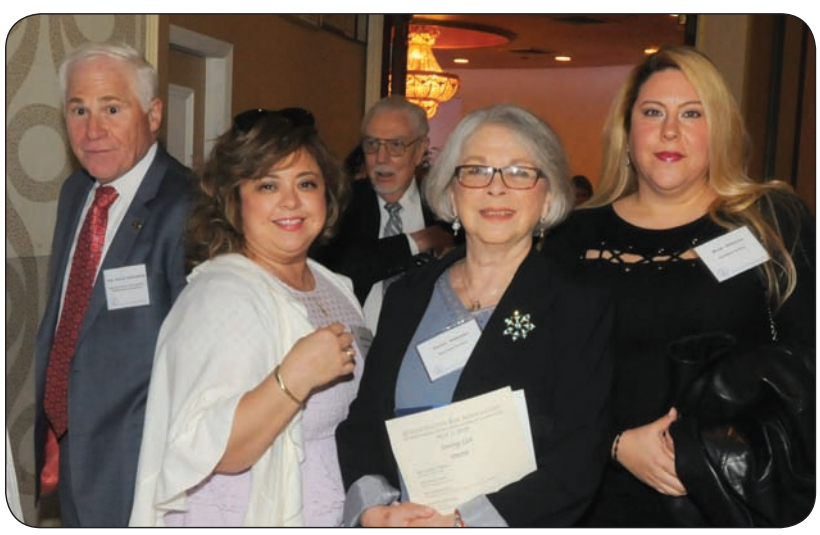
Andrea Ogle, Marie-Eleana First, Hon. Lourdes Ventura and Hon. Karen Gopee

David Cohen, Hon. Cheryl Chambers and Seymour James

Andreea Puleo, Hon. Sid Strauss and Mary Brown

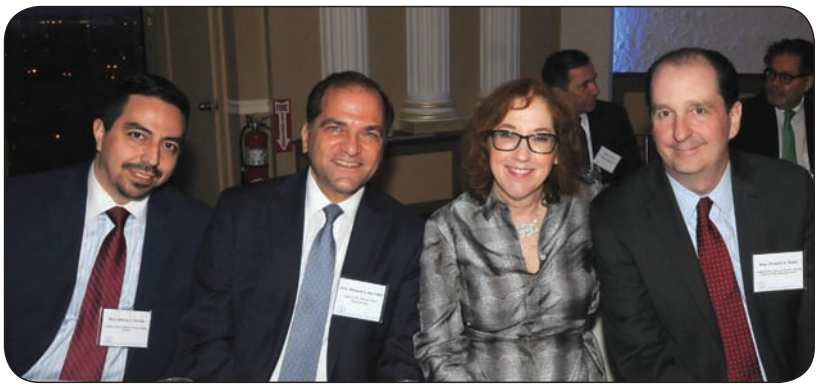
Donna Furey, Hon. Bernice Siegal and Hon. Bruna DiBiase

Bernie Vishnick, Donna Ciampa and Joe Trotti



Hon. Alan Scheinkman, Maria Goldberg, Teresa Goihman and Maria Gutierrez

Annual Dinner & Installation of Officers 5-2-19



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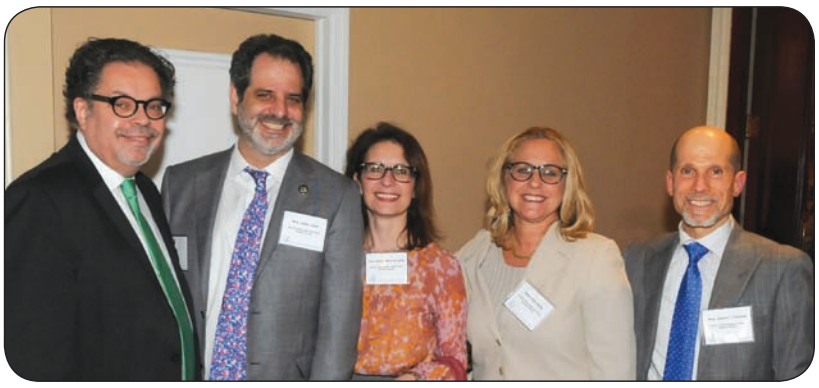
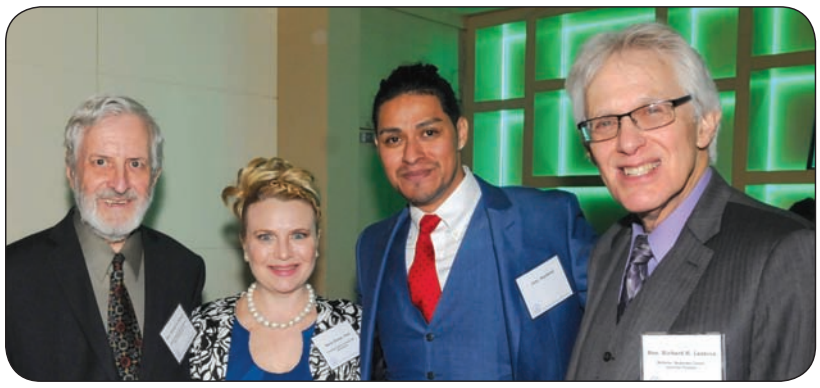
Hon. Randall Eng, Dr. Pauline Leong Eng,
Hon. Ronna Gordon-Galchus and Frank Galchus



Hon. George Silver, Hon. Larry Love, Hon. Donna Golia,
Hon. Jodi Orlow and Hon. Robert Caloras



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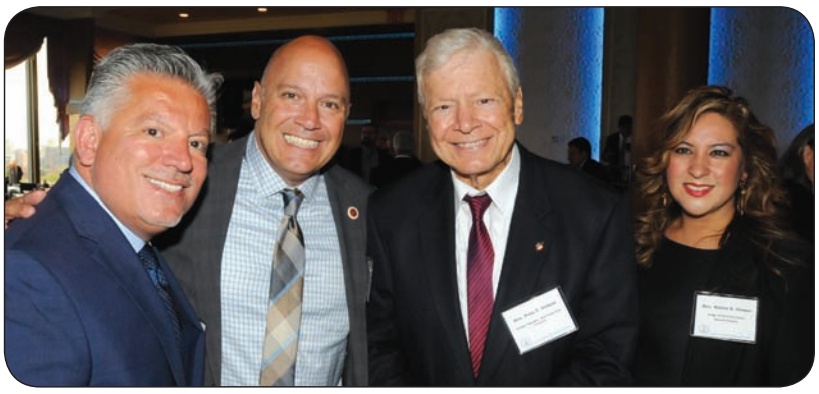

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New Questions on Immigrant Visa & Non-Immigrant Visa Forms

Allen E. Kaye

Joseph DeFelice

Social Media Accounts Now Will Be Collected from Visa Applicants

Social Media...In 2019 it has become the bedrock of our social lives. Every event, every emotion and seemingly down to every life moment is being captured and shared with our friends' families and digitally anonymous onlookers. However, what has been used as an intimacy building platform for most, has become a data collecting gold mine for others. And on Friday, May 31st, The Department of Homeland Security decided to grab their collective pick axes.

PRACTICE ALERT: CHANGES TO IMMIGRANT and Nonimmigrant Visa Application Forms

On May 31, 2019, new questions were added to the Forms DS-160/DS-156 Nonimmigrant Visa Application and Form DS-260, Immigrant Visa Application. These additional questions require the foreign national to disclose five years of social media and contact history when applying for a nonimmigrant or immigrant visa. This information was previously requested only on Form DS-5535, Supplemental Questions for Visa Applicants.

In the newly updated forms, applicants are now required to disclose the social media platforms they have used within the previous five years, as well as provide their username(s) for each platform. This information is collected via a drop-down list of the most common platforms. Applicants are prompted to choose all those that are either currently used or have been used within a five-year period. Note that passwords for these accounts are not required and should not be provided. Further questions request the visa applicant's current email and phone number, as well as a list of additional email addresses and phone numbers used in the past five years. If applicants are unable to recall precise details, they may insert "unknown," but should be prepared for the possibility of additional screening during the visa process.

The recent changes were initially proposed via 60-day notices and requests for comments published in the Federal Register on March 30, 2018. On May 29, 2018, AILA submitted comments on both sets of revisions for the Form DS-160/156 and Form DS-260 specifically mentioning concerns of the burden that these questions place on applicants, the possibility that individuals would be discouraged or dissuaded from applying for a visa, and concerns as to how the information collected would be utilized. Despite concerns raised by AILA and other stakeholders, the Forms DS-160/156 and DS-260 have been updated to solicit this information.

On May 31, 2019, the Department of State updated its immigrant and nonimmigrant visa application forms to request additional information, including social media identifiers, from most U.S. visa applicants worldwide.

This update – was initially announced last year in the Federal Register – is a result of the President's March 6, 2017, Memorandum on Implementing Heightened Screening and Vetting of Applications for Visas and other Immigration Benefits and Section 5 of Executive Order 13780 regarding implementing uniform screening and vetting standards for visa applications.

National security is the State Department's top priority when adjudicating visa applications, and every prospective traveler and immigrant to the United States undergoes extensive security screening. They are constantly working to find mechanisms to improve their screening processes to protect U.S. citizens, while supporting legitimate travel to the United States.

The State Department already requests certain contact information, travel history, family member information, and previous addresses from all visa applicants. Collecting this additional information from visa applicants will strengthen the process for vetting these applicants and confirming their identity.

FREQUENTLY ASKED QUESTIONS ON SOCIAL MEDIA IDENTIFIERS IN THE DS-160 AND DS-260, FORM OF THE STATE DEPARTMENT

What forms have been updated?

We have updated our nonimmigrant visa online application form (DS-160), the paper back-up version of the nonimmigrant visa application (DS-156), and the online immigrant visa application form (DS-260).

What specific changes have been made to the visa application forms?

When did these changes go into effect?

The updated forms collect social media identifiers. These changes went into effect on May 31, 2019.

National security is our top priority when adjudicating visa applications, and every prospective traveler and immigrant to the United States undergoes extensive security screening. We are constantly working to find mechanisms to improve our screening processes to protect U.S. citizens, while supporting legitimate travel to the United States.

What is a social media handle/identifier?

A social media "handle" or "identifier" is any name used by the individual on social media platforms including, but not limited to, Facebook, Twitter, and Instagram. The updated visa application forms list the specific social media platforms for which identifiers are being requested.

Who will be affected?

All nonimmigrant and immigrant visa applicants will be required to answer these questions, except for applicants applying for the following types of nonimmigrant visas: A-1, A-2, C-2, C-3 (except attendants, servants, or personal employees of accredited officials), G-1, G-2, G-3, G-4, NATO-1, NATO-2, NATO-3, NATO-4, NATO-5, or NATO-6 visas.

Why were these changes implemented?

We are constantly working to find mechanisms to improve our screening processes and to support legitimate travel and immigration to the United States while protecting U.S. citizens. This update implements the President's March 6, 2017, Memorandum for the Secretary of State, the Attorney General, and the Secretary of Homeland Security and Section 5 of Executive Order 13780. Section 2 of the Memorandum directed certain Cabinet officials to, as permitted by law, "implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and other immigration benefits, so as to increase the safety and security of the American people."

Section 5 of E.O. 13780 directs the Department of State and other agencies to implement a program, as part of the process for adjudicating applications for visas and other immigration benefits, to improve screening and vetting. Section 5 of E.O. 13780 refers to the implementation of uniform screening and vetting standards for all immigration programs. Section 5 includes a recommendation that agencies amend application forms to "include questions aimed at identifying fraudulent answers and malicious intent." In coordination with the Attorney General, DHS, and the Director of National Intelligence, the Department of State has undertaken these efforts to update our application forms to protect national security.

What are you looking for, and what do you plan to do with my information?

We are looking solely for social media identifiers. Consular officers will not request user passwords. The information will be used, as all information provided during a visa interview and on the visa application, to determine if the applicant is eligible for a visa under existing U.S. law. Collecting this additional information from visa applicants will strengthen our process for vetting applicants and confirming their identity.

What if applicants participate in multiple online platforms? Are they being asked to list all of their handles, or only one?

Applicants must provide all identifiers used for all listed platforms.

What if the visa applicant doesn't have a social media account?

A response to the questions related to social media will be required. Visa applicants who have never used social media will not be refused on the basis of failing to provide a social media identifier, and the form does allow the applicant to respond with "None." Applicants should complete the application as fully and honestly as possible to avoid any delays in processing. Failure to provide accurate and truthful responses on a visa application or during a visa interview may result in denial of the visa by a consular officer. In the case of an applicant who has used any of the social media platforms listed on the visa application in the preceding five years, the associated social media identifier would be required on the visa application form.

Do these new social media requirements affect individuals who already hold a U.S. visa?

This update only applies to new visa applications. However, visa applicants are continuously screened – both at the time of their application and afterwards – to ensure they remain eligible to travel to the United States.

Does this social media screening also apply to participants in the Visa Waiver Program?

This Department update only applies to visa applicants, not to individuals traveling under the Visa Waiver Program. For questions about requirements under the Visa Waiver Program, please contact the Department of Homeland Security.

Is this just a way to profile individuals by their religion, political views, or race?

Consular officers cannot deny visas based on applicants' race, religion, ethnicity, national origin, political views, gender, or sexual orientation. The collection of social media identifiers is consistent with this. This information will be used for identity resolution and to determine whether the applicant is eligible for a U.S. visa under U.S. law. Visa ineligibilities are set forth in U.S. law. Consular officers will not request user passwords and will not attempt to subvert any privacy controls applicants may have implemented on these platforms.

CONTINUED ON PAGE 13

New Questions on Immigrant Visa & Non-Immigrant Visa Forms

CONTINUED FROM PAGE 12

Could the collection of this information be considered an invasion of privacy?

No. The same safeguards and confidentiality provisions that already protect a visa applicant's personal information also apply to social media identifiers and all other newly collected information related to a visa application or adjudication. Consular officers will not request user passwords nor will they have any ability to modify privacy controls applicants may have implemented on these platforms. Maintaining robust screening standards for visa applicants is a dynamic practice that must adapt to emerging threats. We already request limited contact information, travel history, family member information, and previous addresses from all visa applicants. Collecting this additional information from visa applicants will strengthen our process for vetting applicants and confirming their identity. Consular officers would only use this information to determine the applicant's eligibility for a visa under existing U.S. law.

What safeguards are in place to protect applicants' private information? What about U.S. citizens' information that might appear on social media?

The Department limits its collection to information relevant to a visa adjudication. In accordance with U.S. law, information collected in the non-immigrant or immigrant visa application or adjudication process is considered confidential and may be used only for certain purposes expressly authorized by law, including the formulation, amendment, administration, or enforcement of U.S. laws. The Department is also taking measures to ensure that information from U.S. persons that is inadvertently included in this collection is adequately protected in accordance with applicable privacy laws.

BY ALLEN E. KAYE AND JOSEPH DEFELICE

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

Queens County Bar Association

90-35 148th Street, Jamaica, NY 11435 • Tel 718-291-4500 • Fax 718-657-1789 • WWW.QCBA.ORG • CLE@QCBA.ORG

Marie-Eleana First, President

Program Committee Chair
Michael D. Abneri

STATED MEETING

RECENT SIGNIFICANT DECISIONS AND DEVELOPMENTS FROM OUR HIGHEST APPELLATE COURTS

Tuesday, October 29, 2019

CLE Program: 5:30–7:50pm/ Cocktail Reception & Buffet Dinner: 8:00pm

RECEPTION

CLE Credit:
2.5 in Professional Practice
Transitional Seminar–Valid for All Attorneys

ACCREDITATION: The QCBA has been certified by the NYS CLE Board as an Accredited CLE Provider in NYS for 10/2016 - 10/2019. Application for Renewal has been filed and is currently pending.

HELD AT: QCBA, 90-35 148th St, Jamaica, NY 11435
PARKING: Available on a 1st serve basis at GB Parking 148-15 89th Ave, Jamaica

THE UNITED STATES SUPREME COURT

A review of the 2018-2019 term and a look towards the future-
JOHN Q. BARRETT, ESQ.
Professor of Constitutional Law, St. John's School of Law

SPIROS A. TSIMBINOS, ESQ.
Supreme Court Analyst; Former Editor, Criminal Law Newsletter

THE NEW YORK COURT OF APPEALS

Civil Cases – KARL E. PFLANZ, ESQ.
Deputy Chief Court Attorney, Appellate Division, Second Department

Criminal Cases – PAUL SHECHTMAN, ESQ.
Leading Criminal Law Practitioner, Professor of Law at Columbia Law School

THE APPELLATE DIVISION, SECOND JUDICIAL DEPARTMENT

A special report by the Honorable Alan D. Scheinkman, Presiding Justice of the Appellate Division, Second Judicial Department

Co-sponsored by the following Associations:
St. John's School of Law; Brandeis Assn; Catholic Lawyers Guild of Queens County; Columbian Lawyers Assn, Inc.; Hellenic Lawyers Assn; Latino Lawyers Assn of Queens County; Long Island City Lawyers; Macon B. Allen Black Bar Assn; Queens County Women's Bar Assn; NYC Legal Aid Society; South Asian Indo-Caribbean Bar Assn of Queens

PRE-REGISTRATION IS REQUIRED
CLE Program & Detailed Materials are FREE of charge to QCBA members & members of the co-sponsoring Associations.

Non-members will be charged $15 for the CLE Program. Dinner is $35.

RESERVATION FORM: STATED MEETING 10/29/2019 MAIL/ FAX/ EMAIL to QCBA *(info at top)*

I will be attending: ☐ Program 5:30 - 7:50 PM ☐ Cocktail Reception/Dinner 8:00 - 9:15 PM $35

☐ QCBA Member ☐ Member (*in good standing*) of the following co-sponsoring Assn:_____

Pay by: ___Check ___Credit Card Authorized Signature_____ Amt:$ _____ CSC/CVV#_____

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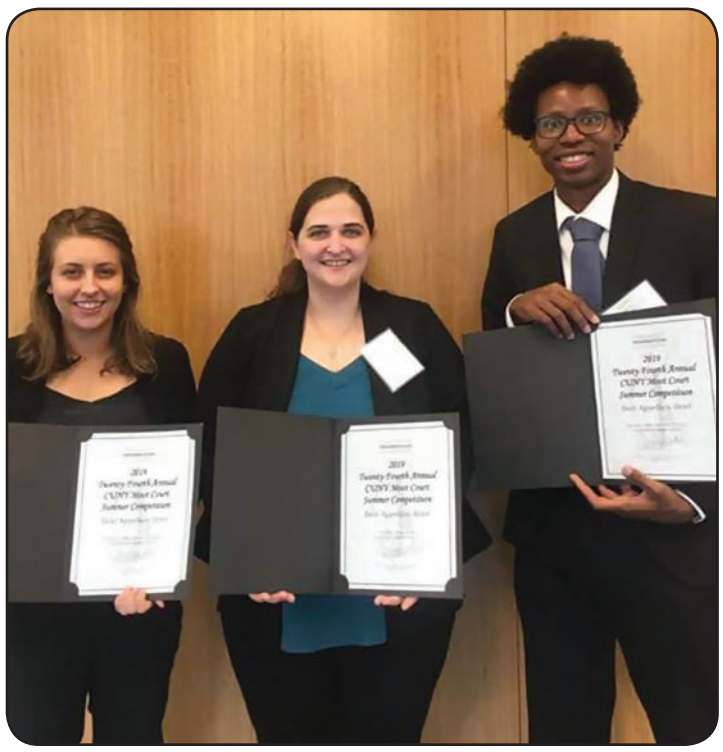
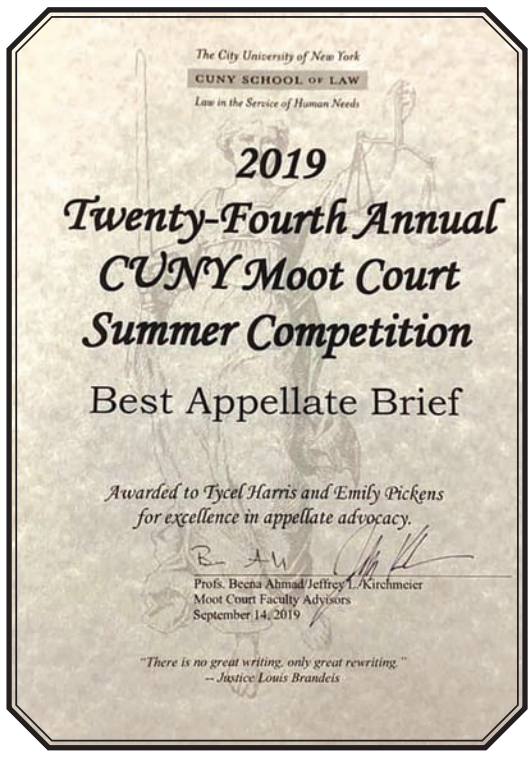
MUST PRE-REGISTER---Walk-ins and day of registrations will be charged an additional $15.

Young Lawyers/Law Students Corner

Tycel Harris - 2L CUNY Student Ambassador
Won First Place Best Appellate Brief for Moot Court





The City University of New York
CUNY SCHOOL OF LAW
Law in the Service of Human Needs

2019
Twenty-Fourth Annual
CUNY Moot Court
Summer Competition

Best Appellate Brief

Awarded to Tycel Harris and Emily Pickens
for excellence in appellate advocacy.

Profs. Beena Ahmad/Jeffrey L. Kirchmeier
Moot Court Faculty Advisors
September 14, 2019

"There is no great writing, only great rewriting."
-- Justice Louis Brandeis

Queens County Bar Association Holds Mentorship Program Kick-Off Reception

Mentors and protégés fill the basement of Queens County Bar Association headquarters

When Han Li graduated Albany Law in 2014, he wanted to learn more about real estate law, contracts, administrative sales, estates and investing. For Li the place to be was the basement of the Queens County Bar Association headquarters, where Mentor Committee Co-Chair Kristen Dubowski Barba arranged for an evening of networking and mentorship by judges and more experienced lawyers to benefit law students and freshly graduated attorneys.

Li lost no time, huddling with long-time attorney and mentor Bonnie Mohr Jan.

"Law school doesn't teach you how to practice law," Mohr Jan said. "It teaches you how to file briefs, but the practice of law you learn in the streets. Taking hard knocks."

An impressive array of judges and seasoned attorneys gathered at bar headquarters to help soften some of those knocks.

"We are so fortunate to have members who are willing to give of their time … use them, don't be afraid. I wish I could go back in time and make use of a program like this," said mentor Alan Kestenbaum.

"I asked him what it's like to be a lawyer," said student Carl Cheng, recalling his session with mentor and current Treasurer of QCBA, Mike Abneri.

"That's not what you said," Abneri said with a laugh. "Look, you have to plan what you're doing carefully and delegate when possible. Working 12 to 14 hour days doesn't benefit the client, it just makes tired attorneys."

"I grew up among lawyers," said Cheng, "but there was still a lot to learn here."

Boston University 3L Liran Messinger has already amassed an impressive CV as a law student, including Judicial Externship for the Southern District of New York and recipient of the Faith O'Neil Scholarship award. "I want to learn how to talk to people," she said.

"We did something similar to this in my law school," said Kristen Dubowski Barba, chairperson of the QCBA's Young Lawyers Committee. "I thought it would be a good way to kick off the school year, bring experienced lawyers and judges together with students and new grads … hopefully they'll continue some of these relationships to regular coffee meets or even internships down the road."

When asked if she intended to hold another mentorship get-together, Barba looked around the room, smiled broadly, and said, "Oh most definitely."

BY ANDY KATZ

From left: Hon. George Heymann, Queens County Bar Association President Marie-Eleana First, Hon. Darrell L. Gavrin and Hon. Jeffrey Gershuny

From left: Hon. Jeffrey Gershuny, Andy Laine, Ellen Mangra, Tycel Harris, Kristen Dubowski Barba and Joel Serrano

Eagle photos by Andy Katz

QUEENS COUNTY BAR ASSOCIATION

LAWYER REFFERAL SERVICE

APPLICATION & REGISTRATION FORM

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

Name: _____ DOB: _____
First *Middle* *Last*

Firm Name: _____ Practice consists of: ___Trial work ___Office work

Address: _____

Telephone number(s): _____ E-Mail: _____

Date of Admission to the NYS Bar _____ Admission to Other Jurisdictions _____

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

_____

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

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

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

LAWYER REFERRAL SERVICE DUES PAYMENT

☐ Registration fee with one area law **$395.00** ☐ Additional area(s) of law (limit four) **$ 100.00/per area**

Amount $_____ ☐ Check ☐ MasterCard ☐ Visa ☐ AMEX ☐ Discover

Credit Card Number _____ Exp. Date _____/_____ CSC:_____

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

Date of Application: Signature of Applicant

QUEENS COUNTY BAR ASSOCIATION
MEMBERSHIP APPLICATION

Please check the appropriate box below:

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

ENROLLMENT INFORMATION

First Name_____

Last Name_____

Business Address _____

_____

City _____State _____Zip _____

Home Address _____

_____

City _____State _____Zip _____

Office phone ( )_____

Home phone ( )_____

Cell phone ( )_____

Fax Number ( )_____

Email Address _____

Website_____

Contact via: _____ Email _____ Mail

Mailing Preference: _____ Business _____ Home

Date of Birth _____

College_____

Graduation Year_____Degree_____

Law School_____

Graduation Year_____Degree_____

Date of Admission to the NYS Bar_____

Judicial Department_____

DUES PAYMENT

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Signature_____

Date of Application _____

ANNUAL MEMBERSHIP DUES

☐ Sustaining Membership $ 350.00
Member who voluntarily provides additional funds to further support the Association (Includes coupons for three free CLE credits to be used for any CLE program in the coming year)

☐ Combined Sustaining Membership $ 625.00
(Includes coupons of 12.0 CLE Credits for any live Continuing Legal Education Programs)

☐ Attorney Admitted more than 10 years $ 300.00
☐ Attorney Admitted 5-9 years $ 225.00
☐ Attorney Admitted less than 5 years $ 135.00
☐ Associate Membership $ 60.00
(Must meet eligibility requirements)

☐ Admitted less than 1 year Free
☐ Law Student Free
(Current Law School student or recent graduate awaiting admission)

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

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

18B ASSIGNED COUNSEL PLAN MEMBERSHIP:

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

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

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

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

QUEENS COUNTY BAR ASSOCIATION
90-35 148TH STREET
JAMAICA, NEW YORK 11435

TEL - 718-291-4500
FAX - 718-657-1789

WWW.QCBA.ORG

2019-2020

QUEENS COUNTY BAR ASSOCIATION COMMITTEE ASSIGNMENTS

90-35 148TH STREET, JAMAICA, NEW YORK 11435
TEL - 718-291-4500 ● FAX - 718-657-1789 ● WWW.QCBA.ORG

In order to have an effective Bar Association it is important that committee members participate in the committee objective by working actively together.

Active committees are the heart of the Bar Association and provide a sense of belonging

- ☐ Academy of Law
- ☐ Animal Law
- ☐ Annual Dinner
- ☐ Annual Holiday Dinner
- ☐ Appellate Practice
- ☐ Bar Panels
- ☐ By Laws
- ☐ Civil Court
- ☐ Conciliation of Fee Disputes
- ☐ Criminal Court
  - ◊ Juvenile Justice
- ☐ Elder Law
- ☐ Family Court
- ☐ Family Law
- ☐ Golf Outing
- ☐ Grievance
- ☐ Human Rights
- ☐ Immigration & Naturalization
- ☐ Judicial Relations
- ☐ Judiciary
- ☐ Labor Relations
- ☐ Landlord & Tenant
- ☐ Law School Liaison
- ☐ Lawyers Assistance
- ☐ Lawyers Referral
- ☐ LGBT Committee
- ☐ Mentor Committee
- ☐ Military/Veteran's Law
- ☐ Professional Development
- ☐ Professional Ethics
- ☐ Program
- ☐ Queens Bar Bulletin
- ☐ Real Property
  - ◊ Cooperatives/Condominiums
- ☐ Small Firm & Solo Practitioners
- ☐ Speaker's Bureau
- ☐ Supreme Court
  - ◊ Civil Practice
- ☐ Surrogate's Court, Estates & Trusts
- ☐ Torts Section
  - ◊ Conference with Medical Society
  - ◊ Defendant's Roundtable
  - ◊ Insurance
  - ◊ Medical Malpractice
  - ◊ Municipal Law
  - ◊ Negligence Trials
  - ◊ Torts
  - ◊ Workers Compensation
- ☐ Young Lawyers*

◊ The Young Lawyers Committee is open to Law Students, Lawyers 36 years of age or younger or Lawyers who have been admitted less than 5 years.

◊ The Family Court Committee is a newly formed committee for members who practice in the Family Court

Please note that appointment and reappointment to the Judiciary and Grievance Committees is made by the President.

REAPPOINTMENT TO COMMITTEES IS NOT AUTOMATIC.

NAME: _____

DATE: _____

7/2019—2020