

Queens

BAR BULLETIN

Queens County Bar Association | qcba.org | 88-14 Sutphin Blvd., 3rd Floor, Jamaica, NY 11435 | 718-291-4500
October 2025 | Volume 93, No. 2



The ‘Vicious Propensities’ Rule and Property Owner Liability, Part 2

BY HON. GEORGE M. HEYMANN (RET)

In an earlier published article, *The ‘Vicious Propensities’ Rule and Property Owner Liability*, (*New York Law Journal*, May 8, 2019), which I co-authored with Matthew J. Kaiser, we provided a detailed analysis of the then-recent appellate case *Hewitt v. Palmer Veterinary Clinic*, PC, 167 A.D.3d 1120 (3d Dept. 2018). That decision stirred a great deal of interest in this area of personal injury law because it effectively held that a landowner could be absolved from its nondelegable duty of care if the instrumentality of harm was the domestic animal owned by another.

Based on the sole dissent, we posited the query as to whether liability should attach to such property owner on a theory of negligence for not exercising proper care to a third party

on the property, notwithstanding the issue of vicious propensities.

With only one dissent, leave to appeal to the Court of Appeals was not automatic and had to be applied for by the plaintiff, which was granted. Our article was cited by the plaintiff Marsha Hewitt in her brief, as well as an amicus brief by the New York State Trial Lawyers Association.

On Oct. 22, 2020, the court issued what may be considered, at first blush, a groundbreaking departure from *Bard*. Denying summary judgment in favor of the defendant clinic, the Court of Appeals held that the action against the property/landowner for negligence was viable regardless of the lack of notice of vicious propensities. *Hewitt v. Palmer Veterinary Clinic, PC*, __N.Y.3d__, 2020 NY Slip Op 05975

The concept of bringing suit for injuries caused by animals under one of two legal theories or both, (i.e., vicious propensities of the animal where the owner had knowledge of such propensities and/or for his or her negligence in the handling of such animal) was well established in NY jurisprudence for over a century. See *Benoit v. Troy & Lansingburg R.R. Co.*, 154 N.Y. 223 (1897) (where a jury had to determine whether the driver of horses pulling a stoneboat [flat sledge for transporting heavy articles such as stones] had knowledge that they would run away and whether he was negligent in the “management” of them after they began to run. If the jury found in the affirmative under either theory, the plaintiff was entitled to a verdict).

CONTINUED ON PAGE 17



Table of Contents

The ‘Vicious Propensities’ Rule and Property Owner Liability, Part 2.....	1, 17-18
Editor’s Note	4
President’s Message.....	7
SAICBA-Q Seventh Annual Gala	9
2025 QCBA Golf Outing.....	10,11
The Practice Page	13
The Majority of Problems are People Problems	14

The Docket

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

CLE Seminar & Event listings

OCTOBER 2025

- Wednesday, October 22

Thursday, October 23

Thursday, October 23
- CLE:** Landlord/Tenant Update 2025

Meet the Judge Series Pt 4: Hon. Ilene Fern - 1:00 pm

Event: LGBTQ+ Fall Social Mixer at The Gantry Bar & Kitchen, 47-02 Vernon Blvd, L.I.C., NY - 5:30 – 7:30 pm

Committee Meeting: Academy of Law Mtg – 1:00 pm

CLE: Protecting the Future of LGBTQ Rights

CLE: The Intersection of Hi-Tech Stalking in Domestic Violence and Family Law Cases

NOVEMBER 2025

- Tuesday, November 4

Tuesday, November 11

Wednesday, November 12

Thursday, November 13

Wednesday, November 19

Thursday, November 20

Thursday, November 20

Tuesday, November 25

Thursday, November 27

Friday, November 28
- Election Day – Office Closed*

Veteran’s Day– Office Closed

CLE: Uncommon Law-Lessons They Don’t Teach in Law School

Meet the Judge Series Pt 5: Hon. Shahabuddeen A. Ally – 1:00 pm

CLE: The Trial-Pt 5: Motions During Trial

CLE: The Recent Changes to the Discovery Laws in Criminal Law Effective August 7, 2025 – 1:00 pm

Event: Friendsgiving at One Station Plaza in Bayside - 6:30 pm

Meet the Judge Series Pt 6: Hon. Lauren Norton-Lerner – 1:00 pm

Thanksgiving Day – Office Closed

Thanksgiving Holiday – Office Closed

DECEMBER 2025

- Tuesday, December 2

Thursday, December 4

Tuesday, December 9

Wednesday, December 10

Thursday, December 11

Thursday, December 25

Friday, December 26-31
- CLE:** Cyber Security Pt 1 – 6:00 pm

CLE: Prenuptial Agreements

CLE: Cyber Security Pt 2 – 6:00 pm

Meet the Judge Series Pt 7: Hon. Cassandra A. Johnson – 1:00 pm

Event: Holiday Party at Jericho Terrace - 5:30 pm to 9:30 pm

Christmas Day – Office Closed

Christmas Week – Office Closed

JANUARY 2026

- Thursday, January 1

Friday, January 2

Tuesday, January 13

Monday, January 19
- New Year’s Day – Office Closed*

New Year’s Holiday – Office Closed

CLE: The Trial-Pt 6: Closing Arguments & Post-Trial Motions

Martin Luther King, Jr. Day – Office Closed

FEBRUARY 2026

- Thursday, February 12

Monday, February 16
- Lincoln’s Birthday – Office Closed*

President’s Day – Office Closed

MARCH 2026

- Wednesday, March 4
- Judiciary, Past Presidents & Golden Jubilarian Night at St. John’s Law School – 5:30 to 8:00 pm

APRIL 2026

- Friday, April 3
- Good Friday – Office Closed*

MAY 2026

- Thursday, May 14

Monday, May 30
- Annual Dinner & Installation of Officers at Terrace on the Park – 5:30 pm

Memorial Day – Office Closed

*If you are unable to attend a CLE that you are interested in, you may purchase it to view at home by contacting Sasha at cle@qcba.org.

For more information on upcoming seminars, CLE’s and events, go to qcba.org/CLE-Courses

2025-2026 Officers and Board of Managers of the Queens County Bar Association

President – Kristen J. Dubowski Barba
President-Elect – Joshua R. Katz
Vice President – Joel Serrano
Treasurer – Hamid M. Siddiqui
Secretary – A. Camila Popin

Class of 2026	Class of 2027	Class of 2028
Desiree Claudio	Michael D. Abneri	Maria de la Cruz
Ruben Davidoff	Beverly George	Etan Hakimi
Mark L. Hankin	Janet L. Brown	Isiris Isaac
Adam Moses Orlow	Sydney A. Spinner	Tammi D. Pere
Estelle J. Roond	Jasmine Valle-Bueno	Zenith T. Taylor

Queens Bar Bulletin

Executive Director

Jonathan R. Riegel, CAE

Queens Bar Bulletin Editor

Paul E. Kerson

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

Publisher: Queens Public Media, LLC, under the auspices of Queens County Bar Association. The Queens Bar Bulletin is published eight times annually. All rights reserved. Material in this publication may not be stored or reproduced in any form without permission. ©2025 The Queens County Bar Association Advertising Office: Queens Daily Eagle 8900 Sutphin Boulevard, LL11, Jamaica, Queens, NY 11435 (718) 422-7412	Send letters and editorial copy to: Queens Bar Bulletin, 88-14 Sutphin Boulevard, 3rd Floor, Jamaica, NY 11435 • Editor’s Note: Articles appearing in the Queens Bar Bulletin represent the views of the respective authors and do not necessarily carry the endorsement of the Association, the Board of Managers, or the Editorial Board of the Queens Bar Bulletin. "Queens Bar Bulletin" (USPS Number: 452-520) in published eight time annually by Queens Public Media, LLC, 8900 Sutphin Boulevard, LL11, Jamaica, NY 11435, under the auspices of the Queens County Bar Association. Entered as periodical postage paid at the Post Office at Jamaica, New York and additional mailing offices under the Act of Congress. Postmaster send address changes to the Queens County Bar Association, 88-14 Sutphin Boulevard, 3rd Floor, Jamaica, NY 11435
---	---

New Members

Sitara Abbas	Hibah Hammad	Joseph Nuzzi
Naysa Abraham	Candace Hesse	Yuyue Ouyang
Tazio Barra	Anna Hickey	Juan Palomera
Nicholas F. Bekker	Adam Hoole	Chitra Parandaman
Cholpon Chargynova	Hayley Jasper	Kimberly Paredes
Danny Chen	Wayner Jimbo	Hannah Passwaters
James Choudhury	Elena Jones	Eva M. Peña
Agnieszka Ciampa	Orion Karagiannis	Ramdor Pina Vasquez
Corrine Civil	DJ Kaur	Marco Poggio
Darwin Contreras	Ariel Khavasov	Julia Rafferty
Cristina De La Rosa	Mackenzie Kronimus	Fatima Rahman Aguilera
Mara Dolan	Alexandra Kropaneva	Irma Rivera
Samantha Dowlatram	Natrisha Latchman	Anthony Roman-Lann
Julia Everson	Lilyanna Lettieri	Nethya Samarakkodige
Keith L. Felsenfeld	Yongzheng Li	Marco Sanchez
Danielle Fuchs	Gabriela Lima Villaman	Rachel Shumunov
Rafael Garcia	Rachael Adams Lipton	Susan M. Silverman
Robert Gaston	Harrison Lo	Milana Sinaniyeva
Nelly Gordpour	Lissy Lopez Guzman	Jason Sosa
Jeremy Gottlieb	Ramona V. Miller	Malena Suarez
Henry Gray	Yael Mirzayev	Parker Swanson
Raquel Grimberg	Catherine Murcek	Dylan Tyler
John Hagan	Anjali Nahata	Dominik Zadlo
Jack Hamer	Kayla Negron	





Big Apple Abstract Corp.

Lawrence M. Litwack, Esq.



Steadfast Title Agency, LLC

A Division of Big Apple Abstract Corp.

Nikon Limberis
Counsel

Axiom, LLC

A Division of Big Apple Abstract Corp.

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

Sales Representatives:

Mitchell Applebaum Susan Lovett
Lisa Feinstein Larry "Cousin" Litwack John G. Lopresto
Richard Sena Moneesh Bakshi

Visit us at: www.bigappleabstract.com

42-40 Bell Boulevard, Suite 500, Bayside, New York 11361

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



Editor's Note

New York City and State's 400th Birthday

By Paul E. Kerson

2025 marks the 400th birthday of the founding of the City and State of New York.

There has been no major celebration.

Why?

1. The Economist's leading columnist, Lexington, posits some reasons in its August 30 – September 5, 2025 edition at page 22, "Making it There".
 - Disagreement over the date of the founding:
 - (a) 1609, when Henry Hudson "discovered" the Hudson River, or
 - (b) 1624, when the first Dutch settlers came here, or
 - (c) 1626, when Peter Minuit "bought" Manhattan Island for 60 guilders (\$24 then, \$1143 today) from the Lenape Indians, or
 - (d) 1664, when the British took over New Amsterdam and New Netherland from the Dutch and renamed both New York.
2. In 1974, when then-City Council President Paul O'Dwyer got the start date officially changed by the City Council to 1625, when the Dutch unloaded the first shipments of farm animals. See *Ibid*, page 22. See also Google, Peter Minuit purchases Manhattan.

But the exact date some time in the 17th century hardly matters as much as what has happened here since that time.

The key to understanding our City and State is what was overcome. The true founder was the Dutch West India Company, an Amsterdam based trading entity in what was then the world's richest city – Amsterdam, Holland. See Google, Dutch colonization of the Americas.

The Dutch West India Company traded all manner of goods and services. However, shamefully, they were leaders in the world trade of African slaves. See Google, Dutch West India Company, Slave Trade.

New York could have become a horrific City and State based on the large scale disgusting use of slave labor to fuel its economy, as Virginia, the Carolinas and Georgia did. But New York did not go this despicable route.

Why not?

I would like to write that it was and is something proud and noble in our nature as New Yorkers. But that is not precisely true.

It was geography and weather that led our New York State Legislature to ultimately outlaw slavery in 1827, 36 years before President Abraham Lincoln issued the Emancipation Proclamation in 1863, announcing the end of slavery where it existed in rebel states. See Google, NY Ending of Slavery; Emancipation Proclamation.

But for geography and weather, New York could have easily become a rebel state. African-American slaves mainly worked in agriculture. Thus, it was only profitable in the hotter states with longer growing seasons. Supporting agricultural workers in our long New York winters was unprofitable.



And then there was and is the deep water harbor and its successors – Kennedy, LaGuardia and Newark Airports, bringing people from all over the world every day from that day to this, including numerous free African-Americans and West Indian people who were not slaves in the first place. See *Ibid*, page 22.

The most notable of these was Samuel Fraunces, owner of Fraunces Tavern, 54 Pearl Street, New York, NY 10004, who hosted and fed our first national government in the rooms above his tavern. It was from this location that the Articles of Confederation governed the nation from 1785 to 1788. John Jay led the Department of Foreign Affairs and Henry Knox led the Department of War from their desks on the second floor.

The first floor is still an on-going restaurant and the second floor is a restored museum, with a Long Room where our first national government met, and where Secretaries Jay and Knox's desks still stand in a room adjacent to the Long Room. Samuel Fraunces originally presided over all of this.

Fraunces was called "Black Sam" and various historical accounts state that he was born in Jamaica, Haiti, Martinique or Barbados, West Indies. W.E.B. DuBois, a co-founder of the NAACP and Editor of its magazine, *The Crisis*, identifies Samuel Fraunces as "a thrifty West Indian Negro" in the December 1916 edition of *The Crisis*.

A trip to the Fraunces Tavern restaurant and Museum is well worth it today. Following a tour of it, readers will agree that "Black Sam Fraunces" was really the Chair and Host of our First National Government, and should be honored as such, despite the fact that his racial identity continues to be debated by historians. See Google, Samuel Fraunces, Fraunces Tavern.

What does all this mean – the Dutch West India Company, Peter Minuit, Black Samuel Fraunces and the New York City of the first Census in 1790, with only 33,131 souls of dozens of different backgrounds?

Those 33,131 souls of 1790 grew to 19 million New York State residents today. This is not because the first 33,131 had a lot of children. That is not what happened. Immigration from all over the world made New Amsterdam and New Netherland in 1625 as it has made New York City and State every day in the 400 years since then.

Kenneth Jackson, Emeritus Professor of New York History at Columbia University, had this to say:

"It's just something that happened here and thus became the headquarters of finance and culture and arts and media and just about everything else you can think of." See *Ibid*, page 22.

Worth celebrating its 400th birthday in a big way despite its checkered past?

I think so. I wish everyone did. There is nothing even remotely like this today or at any time in the past. You see the evidence of this when the leadership of warring nations all over the planet come to New York City's United Nations Headquarters every fall since 1945.

They all break bread together no matter what they think of each other. Give the memory of Black Samuel Fraunces yet another round of applause. He was New York's first national and international host, and set the pattern for generations to come.



QUEENS COUNTY BAR ASSOCIATION

UPCOMING EVENTS

OCTOBER 2025

WED
22

CLE: LANDLORD & TENANT UPDATE



THU
23

MEET THE JUDGE SERIES- PART 4:
HON. ILENE P. FERN



THU
23

LGBTQ+ FALL SOCIAL MIXER



WED
29

CLE: PROTECTING THE FUTURE OF
LGBTQ+ RIGHTS



THU
30

CLE: THE INTERSECTION OF HI-TECH
STALKING IN DOMESTIC VIOLENCE
AND FAMILY LAW CASES



**Join QCBA and Diana the Happy Lawyer for Meditation Friday Each Week
1:10 pm-1:40 pm * Join Whenever You Can...Stay As Long As You'd Like!**

REGISTER NOW!



WWW.QCBA.ORG

QUEENS COUNTY BAR ASSOCIATION

President: Kristen J. Dubowski Barba, Esq.



Espresso Yourself: Meet the President

Welcome to the QCBA community!

This informal gathering gives new members the chance to connect with the Board and Staff, share their practice areas and goals, and be introduced to committees, colleagues, and resources that will help them thrive.

Friday, October 17, 2025
8:30 AM - 10:30 AM

Complimentary bagels and coffee!

QUEENS COUNTY BAR ASSOCIATION
88-14 Sutphin Blvd., 3rd Fl
Jamaica, NY 11435



RSVP: <https://tinyurl.com/QCBACoffee>



BREAST CANCER WALK



Join Queens County Women's Bar Association.

Queens County District Attorney's Office, &
Queens County Bar Association in the fight against
breast cancer!



**SUNDAY,
OCTOBER 19, 2025
9AM**

**Wear pink &
weather
appropriate
attire!**

Limited free t-shirts available on
a first come first get basis on
the day of the walk!!

Flushing Meadows Corona Park

**Meet at the check in tent at 9 am,
We start walking at 9:30am!**

DONATE HERE

RSVP to info@qcwba.org if
you plan to walk!



LABOR / EMPLOYMENT LAW FIRM FOR EMPLOYERS

PROTECTING BUSINESS OWNERS SINCE 1979

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

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

718-275-6700

www.hansassociates.com • 30-30 Northern Blvd. Suite 401. Long Island City NY 11101



President's Message

A Legacy of Service and a Future of Promise: QCBA at 150

By Kristen J. Dubowski Barba

As we prepare to celebrate the 150th anniversary of the Queens County Bar Association, I am filled with gratitude and awe. To serve as President during this milestone year is both humbling and inspiring. When I reflect on our founders—attorneys who came together in 1876 to strengthen the legal community in a growing borough—I am reminded that their vision still guides us today: to connect, to learn, and to serve.

Our anniversary is more than a date on a calendar; it is a testament to the resilience and dedication of generations of lawyers and judges who believed in the power of this Association. For a century and a half, the Queens County Bar Association has been a place where new attorneys have found mentors, where seasoned professionals have shared their wisdom, and where the bench and bar have come together to advance justice for the people of Queens.

Throughout our history, our members have achieved remarkable things. They have argued cases before the U.S. Supreme Court, served as judges and justices at many levels of our court system, received awards for their service to the community and for their leadership, led important reforms in our profession, and stood as champions for justice in their communities. Our members' achievements reflect not only their individual dedication but also the strength and vitality of this Association that nurtures such excellence.

The practice of law in Queens has changed dramatically over these 150 years. From the earliest days of horse-drawn carriages bringing lawyers to the courthouse, to today's virtual hearings and technology-driven research tools, the Queens County Bar Association has been there. What has not changed is our dedication to the highest standards of professionalism, our belief in the importance of community, and our unwavering commitment to the people we serve. During the COVID-19 pandemic, the Queens County Bar Association led the way by hosting some of the first virtual social events and has continued to empower our members with education on virtual platforms, cybersecurity, artificial intelligence, and the evolving use of social media. We stay committed to helping our members navigate through emerging challenges while staying true to our core values.

One of our greatest sources of pride is the diversity of our membership and our board of managers.

The Queens County Bar Association reflects the extraordinary diversity of Queens itself—lawyers from different cultures, backgrounds, and experiences who bring fresh perspectives and enrich our collective understanding of the law. That diversity strengthens our Association and ensures that our work is grounded in the realities of the community we serve.

This year is an opportunity to honor our rich history. We will reflect on the milestones that brought us here, from the first committees formed by our founders to the many groundbreaking programs and initiatives that have strengthened both our profession and our community. We will also celebrate the people both past and present whose vision, energy, and integrity have made the Queens County Bar Association a cornerstone of the legal community.

At the same time, we are looking forward. Our anniversary challenges us to think about the next 150 years:

- How we will support and inspire young lawyers entering a profession that is rapidly changing.
- How we will continue to foster diversity and inclusion so that our Bar reflects the vibrant community we serve.
- How we will embrace innovation in the law and in our Association to ensure that we remain a strong, relevant voice for our members and for justice.

For me, this celebration is also personal. Like so many of you, I have been shaped by the mentors, colleagues, and friends I have met through the Queens County Bar Association. I am grateful for the support and encouragement I have received since joining the Queens County Bar Association. This Association has been a source of knowledge, encouragement, and opportunity—not just for me, but for countless others. As President, it is my honor to give back and to help strengthen this community for those who will follow.

I invite each of you to join in this celebration, not only by attending events and sharing in the festivities, but also by reflecting on your own journey with the Queens County Bar Association. Together, we will honor our past, embrace our present, and build a future that will make the next generation of lawyers as proud of this Association as we are today.

Here's to 150 years of excellence, achievement, and service—and to many more years of carrying that legacy forward.

To discuss ideas and needs
or to get involved, you can reach
Kristen through
president@qcba.org

- PERSONAL INJURY LAW - Counselor At Law / Disability Law



Max D. Leifer P.C.

135 West 26th Street / Suite: 11D
New York, NY 10001

Telephone: (212) 334-9699

Fax: (212) 966-9544

Email: Info@maxleifer.com

Max D. Leifer P.C. is an
established law firm
with over 40 years of experience in:

- Personal Injury
- Negligence
- Social Security Disability
- Commercial and Union Appeals

We are committed to providing high quality representation and we work aggressively to obtain the best possible results and to protect the rights of the clients.

FREE Consult in person or by phone.

We are honored to be designated a Super Lawyer firm.

See: superlawyers.com

Please feel free to contact us with any questions
and our friendly staff will assist you
with your concerns.

MATTHEW D. HUNTER III

ALL SURROGATE'S COURT PROCEEDINGS

Including:

KINSHIP • LITIGATION • PROBATE

Counsel to the Bar

Serving all metro counties

718-309-1660

mdhunter3@gmail.com

71-01 Austin Street, Forest Hills, NY 11375

JOHN E. LAWLOR ESQ.
ATTORNEY AT LAW

37 years handling securities litigation / arbitration

Contingent and hourly fee arrangements available:

Free Consultation



516-248-7700 | JLawlor@johnelawlor.com

www.johnelawlor.com

129 Third Street, Mineola 11501

**NEED A
COURT
BOND?**

**Call the court
bond experts and
find out why New
York lawyers trust
us to handle their
Court bond needs.**



Court & Fiduciary:

- | | | |
|-----------------|------------------|--------------|
| • Administrator | • Injunction | • Receiver |
| • Executor | • Supersedeas | • Replevin |
| • Guardian | • Medicaid Trust | • Attachment |
| • Trustee | • Trustee in | |
| • Appeal | Bankruptcy | |

At Jasper Surety Agency, LLC, we know court bonds inside and out. We have the experience, and we're prepared to move quickly to handle your court bond needs. Flexible Solutions • Same Day Approvals.

Jasper Surety Agency, LLC

310 Old Country Road,
Garden City, NY 11530
Toll free: 1.877.BOND.798

PH: 516.742.8815
Apply Online or Pay Your Bill
www.jaspersurety.com



SAICBA-Q Seventh Annual Gala

The South Asian and Indo-Caribbean Bar Association of Queens held their seventh annual gala on Thursday, September 25.

MEMBERS OF THE QCBA BOARD OF MANAGERS ATTENDED TO RECOGNIZE THE ASSOCIATION AND THEIR HONOREES, HON. NUSRAT J. CHOUDHURY, HON. CHRISTINE PERUMAL AND QCBA TREASURER HAMID M. SIDDIQUI, ESQ.



2025 QCBA Golf Outing

Woodside Club — Muttontown, NY

TUESDAY, SEPTEMBER 9, 2025



2025 QCBA Golf Outing

Woodside Club — Muttontown, NY

TUESDAY, SEPTEMBER 9, 2025



THANK YOU TO OUR SPONSORS

TITLE SPONSOR
Subin LLP

DINNER SPONSOR
Maspeth FEDERAL SAVINGS

LUNCH SPONSORS
HEITNER-KAUFMAN **Joshua Katz**

SWAG BAG SPONSOR
KEN LITMAN, ESQ.

PRACTICE RANGE & PUTTING GREEN SPONSORS
VERONICA MCGOVERN MELIJO **TOWER**

HOSPITALITY STATION SPONSORS
LANGDON TITLE **American Research Bureau** **GRASSI**

GOLF CARTS SPONSOR
IMPERIAL

HOSPITALITY STATION SPONSOR
OKANE

REGISTRATION SPONSOR
Daily Eagle

TEE BOX AND GREEN SPONSORS
ABRAMS LAW GROUP
BARBER, COHEN & HARTMAN LLP
BOHCHERT & LAYMAN
COMPREHENSIVE CONSULTING
PETERSON & SUTHERLAND
SANDHILL LLP
FLAHERTY BANK
GRASSI ADVISORS
HARRIS & MAZEL
HEITNER-KAUFMAN
JOE CAROLLA & SULLIVAN
JOSHUA A. KATZ
KLEINBERG & SULLIVAN
LAW OFFICES OF KEN LITMAN
LAWYER, KENNEDY & SULLIVAN
LEWIS REYES
LORETTA
MARTIN, BRONKHORST, KENNEDY & O'BRIEN
MULLIGAN & SULLIVAN
MULLIGAN-FEDERAL SAVINGS
JUSTA BANKING REAL ESTATE
NATIONAL ASSOCIATION
AND INVESTMENT BANK
POTTS, DUNN & RUPPEN
SARCO & PILLAY
SULLIVAN, LAW OFFICES
SULLIVAN & MAZEL
SULLIVAN
THE COLONY PARK
VERONICA MCGOVERN MELIJO

QUEENS COUNTY BAR ASSOCIATION

President: Kristen J. Dubowski Barba, Esq.

Landlord & Tenant Committee



LANDLORD & TENANT UPDATE

WEDNESDAY, OCTOBER 22, 20255:30 PM -7:30 PM

HON. JOHN S. LANSDEN -
Supervising Judge, Queens County Housing Court
State of the Queens Housing Court

PHILIP ROSEN, ESQ. -
Managing Partner, Horing Welikson Rosen & Digrugilliers, P.C.
Moderator

ADAM S. WALDBAUM, ESQ. -
Associate Court Attorney, Queens County Housing Court
Relationship of the Parties pursuant to RPAPL §741(2)

PAUL FINKELSTEIN, ESQ. -
Supervising Attorney, N.A.I.C.A
Things to Look Out for When Negotiating a Buyout for Disabled Clients

SANTO GOLINO, ESQ. -
Partner, Horing Welikson Rosen & Digrugilliers, P.C.
What Happens after an Eviction? Rights and Obligations of the Parties

STEVEN DECASTRO, ESQ. -
Guardian ad Litem
What Happens When the Tenant Facing Eviction is Lacking Physical/Mental Capacity?
A Guardian ad Litem's Perspective

PETA-GAYE DANIEL, ESQ. -
Deputy Civil Justice Coordinator, Office of Civil Justice
Office of Civil Justice and Access to Counsel

Sponsored by:



QUEENS VOLUNTEER
LAWYERS PROJECT

Not-for-profit legal assistance program, providing
pro bono attorneys to Queens County residents
who cannot afford to retain a lawyer to resolve
their civil legal problems.



QCBA MEMBER - \$0.00
NON-MEMBER - \$50.00

CLE CREDIT: 2.0 IN
PROFESSIONAL PRACTICE
TRANSITIONAL COURSE -
VALID FOR ALL ATTORNEYS. ACCREDITED
CLE PROVIDER IN NYS, 10/2025

VIA ZOOM

RSVP by 10/21 to ensure you
receive materials and the
Zoom link.

HTTPS://TINYURL.COM/10222025

QUEENS COUNTY BAR ASSOCIATION

President: Kristen J. Dubowski Barba, Esq.

Academy of Law and Elder Law Committee



MEET THE JUDGE SERIES

Join us on
Thursday, October 23, 2025 at 1:00 pm
for the fourth of this series
featuring



Hon. Ilene P. Fern
Judge of the Court of Claims

Judge Fern's Story:
Transitioning to the Court of Claims



Moderated by:
Brian R. Heitner, Esq., Chair
Deidre M. Baker, Esq., Vice Chair
ELDER LAW COMMITTEE

Via ZOOM



RSVP here:
<https://tinyurl.com/part42025>

FLORIDA ATTORNEY

LAW OFFICES OF RANDY C. BOTWINICK

Formerly of Pazer, Epstein, Jaffe & Fein

CONCENTRATING IN PERSONAL INJURY

• Car Accidents

• Defective Products

• Slip & Falls

• Tire & Rollover Cases

• Maritime

• Traumatic Brain Injury

• Wrongful Death

• Construction Accidents

Co-Counsel and Participation Fees Paid



RANDY C. BOTWINICK
34 Years Experience



JAY HALPERN
39 Years Experience

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

MIAMI

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

PALM BEACH

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

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

From Orlando to Miami... From Tampa to the Keys
www.personalinjurylawyer.ws

Thomas J. Rossi

Attorney-at-Law

Dispute Resolution Services

Mediation & Arbitration for the Business, Real Estate &
Insurance Communities

-30-Year Member of the Panel of Commercial & Construction Mediators &
Arbitrators of the American Arbitration Association

-Fellow of the Chartered Institute of Arbitrators

-Member - National Academy of Distinguished Neutrals

-Adjunct Professor of Law, St. John's University School of Law

Mediated more than 350 complex matters involving Commercial &
Business, Construction & Design, Real Estate, Corporate Dissolutions,
Employment, Partnership Disputes, Professional Malpractice, Insurance,
Property Damage, Contested Estate Matters, International Sales,
Intra-Family Disputes

Served as chairperson of arbitration panels or sole arbitrator in more than
250 complex proceedings

Thomas J. Rossi, Esq.

trossi@rcsklaw.com

42-24 235 Street

Douglaston, New York 11363

(O) 718-428-9180 ext. 13

(M) 917-971-0836



The Practice Page

The Absence Of Necessary Parties: A Zebra Amongst Horses

BY HON. MARK C. DILLON

Serves on the Appellate Division, Second Department

One of the best known provisions in our procedural rules is the motion to dismiss statute, CPLR 3211(a). It has eleven categorized subdivisions of defenses under which defendants may move to dismiss complaints in lieu of an answer. If we play the game of “Which Doesn’t Look Like the Other,” all of the eleven subdivisions permit a court to grant the outright dismissal of complaints except for one — CPLR 3211(a)(10), which regards the plaintiff’s alleged failure to name a necessary party in the action.

CPLR 3211(10) is governed by unique standards and burdens of proof. The specific statutory language addresses whether “the court should not proceed in the absence of a person who should be a party.” The statute cannot be understood without also taking into account CPLR 1001. A necessary party is defined in CPLR 1001(a) as “[p]ersons who ought to be parties if complete relief is to be accorded between the persons who are [already] parties or who might be inequitably affected by a judgment in the action.”

The court’s decision on a dismissal motion for the absence of a necessary party is not a simple grant or deny. The court, in deciding a CPLR 3211(10) motion, must engage in a singularly-unique three-step analysis. The first step of the analysis is to determine whether a particular non-party is, in fact, “necessary” for complete relief to be accorded in the action. If the non-party is not necessary, the court’s analysis ends and the defendant’s CPLR 3211(a)(10) motion should be denied (*U.S. Bank Trust, N.A. v Gaines*, 189 AD3d 1312 [2d Dep’t. 2020]).

If the court determines that the non-party is necessary as defined by CPLR 1001(a), it must then examine whether the non-party is subject to the jurisdiction of the court. If a necessary non-party is subject to the court’s general or specific jurisdiction, the defendant’s CPLR 3211(a)(10) motion will be denied in favor of having the non-party “summoned” into the case (*Deutsche Bank National Trust Company v Bandalos*, 173 AD3d 1136 [2d Dep’t. 2019]). Indeed, CPLR 1001(b) provides that any such non-party subject to the court’s jurisdiction “shall” be summoned, which has the effect of shutting down any notion of dismissing the action for the absence of the necessary party. In other words, CPLR 3211(10) and 1001(b) are designed to preserve actions and avoid dismissals, if the absence of the necessary party can be cured by bringing that party into the case. But CPLR 1001(b) does not circumvent the protections afforded to necessary parties by the statute of limitations (*Matter of Mount Pleasant Cottage School Union Free School Dist. v Sobol*, 163 AD2d 715 [3d Dep’t. 1990]).

If the necessary party is not subject to the jurisdiction of the court and cannot be summoned into the court, CPLR 1001(b) provides the court with a binary choice: it may deny the dismissal motion and allow the action to proceed without the necessary party, or it may dismiss the action because of the necessary party’s absence. In making that determination, CPLR 1001(b) requires the court to consider five factors; namely, 1) whether the plaintiff has another effective remedy if the action is dismissed,

2) the degree of prejudice to the defendant or the non-party, 3) whether prejudice may now or in the future be avoided, 4) the feasibility of a protective order or judgment to mitigate the necessary party’s absence, and 5) whether an effective judgment may be rendered in the absence of the necessary party. No single factor is determinative (*Red Hook/Gowanus Chamber of Commerce v New York City Bd. of Standards and Appeals*, 5 NY3d 452 [2005]). A dismissal of the action is to be a last resort (*JP Morgan Chase, National Association v Salvage*, 171 AD3d 438 [1st Dep’t. 2019]).

The foregoing demonstrates that defendants may only obtain an action’s dismissal for the absence of a necessary party if all of three requirements are first established — that the non-party is truly “necessary,” that it not be subject to the jurisdiction of the court, and that upon the balancing of factors the action should not proceed anyway without the necessary party. These burdens and hurdles significantly limit the number of instances where the dismissal of complaints under CPLR 3211(a)(10) are actually granted.

The absence of a necessary party is not among the defined affirmative defenses that are waived if not timely asserted in an answer or in a CPLR 3211(a) dismissal motion. Indeed, CPLR 3211[e] provides that the necessary party defense may be raised “at any time or in a later pleading, if permitted, or even by the court at its own initiative” (*Migliore v Manzo*, 28 AD3d 620 [2d Dep’t. 2006]).

If there are two parallel actions commenced by the same plaintiff against two separate defendants, involving the same occurrence with common questions of fact and law, a joinder of the actions under CPLR 602(a) may cure the absence of one defendant as a necessary party in the other action (*Ashwood v Uber USA, LLC*, 219 AD3d 1289 [2d Dep’t. 2023]). This also underscores how necessary party dismissals are truly a last resort for the courts.

The dismissal motion under CPLR 3211(a)(10) is a zebra among horses, similar but different. Its standards and considerations are unique.

Mark C. Dillon is a Justice of the Appellate Division, 2nd Dep’t., is an Adjunct Professor of New York Practice at Fordham Law School, and is a contributing author of the “CPLR Practice Commentaries in McKinney’s.”

Appellate Counsel



NEIL R. FINKSTON, ESQ.

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

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

Free Initial Consultation / Reasonable Rates

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



The Majority of Problems are People Problems

BY FRANK BRUNO, JR.

"The hardest lesson I've had to learn as an adult is the relentless need to keep going, no matter how shattered I feel inside."

— AI pretending to be Ernest Hemingway. And that truth resonates deeply.

This truth is both raw and universal. Life doesn't pause when our hearts are heavy, our minds are fractured, or our spirits feel like they're unraveling. Life doesn't stop when we are grieving or exhausted. It keeps moving, unrelenting, unapologetic; demanding that we move with it. There is no time to stop, no pause for repair, no moment of stillness where we can gently piece ourselves back together. The world does not wait, even when we need it to.

What makes this even harder is that no one really prepares us for it. As children, we were told that resilience meant a happy ending, that pain always had an ending, that storms always passed. We grew up on a steady diet of stories filled with happy endings, tales of redemption and triumph where everything always falls into place. But adulthood strips away those comforting narratives. Instead, it reveals a harsh truth: survival isn't glamorous or inspiring most of the time. It's wearing a mask of strength when you're falling apart inside. It's showing up when all you want is to retreat. It's choosing to move forward, step by painful step, when your heart begs for rest.

And yet, we endure. That's the miracle of being human, we endure. Somewhere in the depths of our pain, we find reserves of strength we did not know we possessed. We learn to hold space for ourselves, to be the comfort we crave, to whisper words of hope when no one else does. Over time, we realize that resilience is not loud or grandiose; it is a quiet defiance, a refusal to let life's weight crush us entirely.

Yes, it's messy. Yes, it's exhausting. And yes, there are days when it feels almost impossible to take another step. But even then, we move forward. Each tiny step is proof of our resilience, a reminder that even in our darkest moments, we're still fighting, still refusing to give up. That fight, that courage, is the quiet miracle of survival."

— Ernest Hemingway

Myth: Be patient.

Truth: Start before you're ready.

Real Truth: Be patient with the results, but impatient with taking actions.

Myth: Never give up.

Truth: You gotta know when to quit.

Real Truth: Losing a battle to win the war is not the same as giving up.

Myth: Learn how to delegate.

Truth: Take ownership.

Real Truth: Delegating is not the same as micro-managing.

Myth: Don't wait until tomorrow what you can do today.

Truth: Cross that bridge when you get there.

Real Truth: Do what you can now, and let go of what you cannot control.

Myth: Always be kind.

Truth: Nice guys finish last.

Real Truth: Being kind is not the same as being a pushover.

Myth: First impression is everything.

Truth: Don't judge a book by its cover.

Real Truth: Don't judge people, but know that others will judge you.

Myth: Keep your eye on the goal.

Truth: Focus on the process, not outcome.

Real Truth: Have a plan, but be ready to change your plans.

There is a television show "The Pitt". I saw that it won several Emmys for best acting and looked it up; if you are into ER dramas, it looks compelling and well-acted. I read an article and watched some clips. I intend to place this program into my queue and eventually watch it. I cannot give anything away since I have not watched but the series follows doctors in the chaos of the ER and what struck me the most was this recurring theme of them constantly telling each other to "leave your emotions at the door."

The irony, just like in real life, is that no one actually does that. The characters are breaking down in grief, rage, and heartbreak. They're yelling, sobbing on the hospital floor, crashing out. Their emotions are not at the door, they are everywhere. The same pattern plays out in most law firms I work with and against, and I know it from my own past experiences too. Not all, but the majority of problems in organizations and litigation are people problems. Not strategy. Not execution. People. More specifically, emotions that are not being acknowledged, understood, or managed.

It shows up in endless miscommunication, brewing resentment, passive-aggressive emails, blowups in Court or conferences, meetings, and decisions made out of ego instead of clarity.

Partners tell associates to "stay professional," "don't take it personally," or "leave it at the door" but just like in the ER, emotions don't stay outside. They leak in. They shape culture. They run the room. They run your life.

That's the truth we do not like to admit is that it may be impossible to leave your emotions behind. Emotions are not light switches. You do not choose when to turn them on or off. They can be automatic reactions, biological responses. Try to stop your emotions from happening...it is not so easy. The anger just rises out of nowhere. The tears spill before you can stop them. The anxiety creeps in without asking for permission.

Emotions are not choices you make in the moment; they are patterns wired deep into your nervous system. They happen through you before you even realize what is happening. They are energy in motion and if that motion does not complete, it does not poof disappear... it gets stuck. When stuck, it does not politely sit still. It leaks out in sharp tones you did not mean to use, in overreactions that feel out of proportion, in burnout that leaves you exhausted and wondering why you cannot "just handle it." More, it feeds your negative self-talk. The inner dialogue kicks in, tearing you down for how you acted, how you reacted, what you said. You replay the story in your head again and again, each time layering on more shame, more guilt, more proof for the lie that you are not enough.

Unchecked emotion always finds an outlet whether you give it one consciously or it forces its way out unconsciously. And when it does, it doesn't just affect how you feel in the moment, it shapes how you see yourself, how you show up in the world, and what you believe you are capable of. You can suppress emotions. You can distract yourself from them. You can even pretend they do not exist. They do not disappear. They sit under the surface, simmering until they erupt. This is why we see so much hostility, reactivity, and division in the world right now. People think they're operating from logic, but underneath, they are being run by their unchecked emotions without even realizing it.

It shows up in politics, in workplaces, in families. You see people snapping over something small, leaders making decisions out of fear instead of vision, people lashing out because of unprocessed pain. The emotion is not really about this moment, it is about all the unresolved moments that came before it.

It's not just "out there" like we think it is, it's personal. We have to start asking ourselves: Why

CONTINUED ON PAGE 15

The Majority of Problems are People Problems

BY FRANK BRUNO, JR.

CONTINUED FROM PAGE 14

am I so triggered? Why does one person hold so much power over my emotions? Why do random people on the internet boil my blood? Why do little things that do not actually mean that much have the ability to take me out? Why did this feedback ruin my entire day? We think we're acting as our present-day self, all grown, rational, and evolved but in those moments we are actually acting as if we are our 5,10,12-year-old self. The part of us whose needs were never met, whose wounds were never healed. That version of us gets pulled into the driver's seat, and suddenly those old patterns play out everywhere, in our relationships, at work, on the internet, even in how we respond to strangers.

This is where most people get stuck, trying to manifest and "act as if" they are a future self, believing that if they just visualize or embody the version they want to become, they will get there. Problem is that they are not living as their present self. They are living as their past self. The unchecked stories, the unmet needs, the buried emotions are still running the show. (The present self has to embody a future version of self but the past self is sabotaging) So no matter how hard they try to embody that future version, the past keeps hijacking the present. And it reveals itself through emotions through triggers, outbursts, shutdowns, overreactions.

We have to start here by getting neutral, present, and balanced right now. Until you can sit in the moment as your true present self not your wounded child self, not your imagined future self you will keep looping. You will keep reacting. You will keep thinking you are building forward while your past quietly drags you backward.

The future doesn't get created by bypassing the past. It gets created by integrating it. When we slip into an emotional state, something happens that we all need to understand, our logic goes offline. It turns off. The rational part of the brain literally gets hijacked. Blood flow shifts away from the thinking, reasoning part of the brain into the survival centers. Suddenly you're not calmly weighing options or considering the bigger picture...reacting. You are fighting, fleeing, or freezing.

It is ONLY personal at this point. Old memories are flooding in. You are not reacting to this moment only. You are reacting to every moment that ever felt like this. You feel like a part of you is being shamed, blamed, or rejected. That's why the reaction feels so big, so consuming, so much more intense than what is actually happening in front of you.

What's really happening is a feeling you already carry within you is being brought to the surface. We are unaware and because our

emotions are activated we project it outward. We blame. We victimize. We put it on everyone but ourselves. We forget that nobody can actually "make" us feel something we don't already hold inside. What is being triggered in us is incredibly specific to our story, our pain, our old wiring. It is not about the person in front of you. It's about the part of you that never healed. The part that still needs your attention.

Most do not know this. They do not have these tools. They only know survival. They do not know what true internal accountability looks like. I also know the stark difference between living a life where your emotions control you versus living a life where you are in relationship with your emotions. A life where you stop seeing emotions as something to fear or fight, and start seeing them as mirrors, as guides reflecting back the parts of you that still need healing, attention, and growth.

I use them to show me where I'm being called to grow, what I'm still holding onto, and what I need to step into to become my best self, to become that future version I see so clearly. By doing the work to reprogram the old story that keeps running our lives. You're no longer handing your power away to strangers on the internet, your boss in a meeting, or someone cutting you off in traffic. You take your power back.

That's why in the heat of emotion you say things you don't mean, slam doors you later regret, or fire off that email you wish you had not sent. In those moments, it's not really you running the show, it's your unprocessed emotion in the driver's seat, while logic is tied up in the backseat. When we do not understand or process what we feel, it hijacks us. It colors how we see the world, how we treat others, and the stories we tell ourselves about what is possible. Left unchecked, emotions create cycles of conflict, mistrust, and disconnection that keep repeating until we finally face what is really there.

And the more you try to avoid emotions, the more power they have over you. You can suppress them thinking they are gone, and that they don't hold power over you. You can distract yourself, but they'll creep back in the quiet moments when you least expect it. You can numb them, but when you numb the "bad," you numb the "good," too. You cannot selectively shut down emotions. You either feel or you don't.

That's why the solution isn't to "leave emotions at the door." The solution is to understand them. To get curious about them. To let them move through you instead of pile up inside you. Stop being hijacked by unconscious reactions. You stop giving away your power to things, people, and situations outside of you. And you finally

start responding instead of reacting. That is how you become a master. That is how you become an incredible leader, parent, partner, friend, teacher.

One relationship with your emotions keeps you stuck. That's where the majority of the population lives trapped in cycles of reactivity, blame, and unconscious patterns. The other relationship sets you free. True freedom is not about avoiding emotion or pretending you do not feel, it is about not being run by your emotions. It is about leading yourself, trusting yourself, and knowing that no matter what comes your way, you can hold steady in who you are.

The truth is, emotions are signals. Data. Clues. They point to something underneath the surface.

They don't just "go away." They show up later as stress, tension, chronic pain, exhaustion. The body keeps the score when the mind tries to ignore. That's why telling someone to "just move on" or "leave it at the door" is not helpful. It's exactly what keeps people stuck.

Feeling your emotions doesn't make you weak. It makes you human. Emotions are what separate us from other species, they are the very thing that allow us to connect, to create meaning, to love, to care, to build relationships and communities. The real strength is not in suppressing what you feel, it is in having the tools to work with it. To notice what's rising up inside you, to regulate your response so you're not hijacked by it, and to process it in a way that allows it to move through you rather than control you. It's our lack of understanding of them that causes the chaos. When you learn how to work with them instead of against them, you turn what once felt like a weakness into one of your greatest sources of power. This is the work. This is what mastery really looks like not numbing, not pretending, not bypassing but feeling, processing, and transforming.

Because when you can master yourself, you can change everything around you. You show up differently. You lead differently. You love differently. That is freedom. That is power. That is how you become the version of yourself you were always meant to be.

By feeling it all, the full spectrum of your humanity, instead of being hijacked by what you've tried to ignore. So no, the answer isn't to leave your emotions at the door. The answer is to understand them, feel them, and process them, so they do not own you.

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

QUEENS COUNTY
BAR ASSOCIATION

PRESIDENT:
KRISTEN J. DUBOWSKI BARBA, ESQ.

LGBTQ+ COMMITTEE

FALL SOCIAL
MIXER

Thursday, October 23, 2025

5:30 pm to 7:30 pm

The Gantry Bar & Kitchen

47-02 Vernon Blvd

LIC, NY 11101

Cash bar

Light Hors d'oeuvres
courtesy of LGBTQ+
Committee

Bring your colleagues!

1st drink free for Law
Student Members.

LGBTQ+ Legal Community
— Open to Friends & Allies

SPONSORED BY:

VISHNICK MCGOVERN MILIZIO LLP

ATTORNEYS AT LAW

Free - RSVP

<https://tinyurl.com/10232025>

QUEENS COUNTY BAR ASSOCIATION

PRESIDENT: KRISTEN J. DUBOWSKI BARBA, ESQ.

LGBTQ+ COMMITTEE

PROTECTING
THE FUTURE
OF
LGBTQ
RIGHTS

Wednesday,
October 29, 2025

5:30 pm to 7:30 pm

CLE Credit:
2.0 in Diversity,
Inclusion and
Elimination of Bias

Sponsored by

VISHNICK
MCGOVERN
MILIZIO LLP

ATTORNEYS AT LAW

Moderator:
Thomas J. Burrows, Esq.
Vice-Chair, LGBTQ+ Committee

Educate.
Advocate.
Elevate.

Jared M. Trujillo, Esq.
(he/him)
Associate Professor
CUNY Law School

Danielle (Danny) King, Esq.
(he/she/they)
Attorney & Policy Advocate
Law Office of Danielle C. King, PLLC

Erin B. Harrist, Esq.
(she/they)
Director, LGBTQ+ Unit
The Legal Aid Society

VIA ZOOM

QCBA Member - \$0.00

Non-Member - \$50.00

Transitional Course - Valid for All Attorneys.
Accredited CLE Provider in NYS, 10/2022 - 10/2025.

RSVP by 10/28 to ensure you
receive materials and the Zoom link.

<https://tinyurl.com/10292025>

Queens County Women's Bar Association,
Queens County Bar Association, and
Queens County Equal Justice in the Court
Committee
Invites you to join us for a

★★★★★

VETERANS DAY

Celebration

Key Note Speaker Ralph Vincent Morales,
Author of "A Saint's Letters
from the Depths of Hell"
and a Big a Salute to our Court Family Veterans

Light Lunch to be Provided

November 6, 2025 12:30pm to 2:00 pm
Queens Supreme Court, Ct.
Room 25
88-11 Sutphin Blvd., Jamaica NY

RSVP Here

★★★★★

QUEENS COUNTY
WOMEN'S BAR ASSOCIATION

QUEENS COUNTY BAR ASSOCIATION

QUEENS COUNTY BAR ASSOCIATION

PRESIDENT: KRISTEN J. DUBOWSKI BARBA, ESQ.

Law School Liaison Committee

Young Lawyers Committee

UNCOMMON LAW

Lessons They Don't Teach in
Law School

Wednesday, November 12, 2025

5:30 pm - 7:30 pm

HON. RUDOLPH E. GRECO, JR.

Justice, Supreme Court of the State of New York
Queens County (Ret.)

Justice Greco Shares Valuable Tactical Lessons
From Being a Law School Flunkout → Law Office Clerkship →
Private Practice → Trial Judge

Sponsored by

DAVIDOFF LAW

WE ARE YOUR LAWYERS

JOEL SERRANO, FCSM

Co-Chair,
Law School Liaison Committee

ZACHARY ZAYAS, ESQ.

Co-Chair,
Young Lawyers Committee

CLE Credit:
2.0 in Law Practice Management

VIA ZOOM

QCBA Member - \$0.00

Non-Member - \$50.00

Transitional Course - Valid for All Attorneys.
Accredited CLE Provider in NYS, 10/2022 - 10/2025.

RSVP by 11/10 to ensure you
receive materials and the
Zoom link.

<https://tinyurl.com/11122025>



The ‘Vicious Propensities’ Rule and Property Owner Liability, Part 2

BY HON. GEORGE M. HEYMAN (RET)

CONTINUED FROM PAGE 1

In other instances, as where a landlord knowingly allows a vicious animal owned by a tenant to remain on its property, the strict liability rule would extend to him or her as well and liability could attach to the landlord if warranted by the evidence. As the Court of Appeals held in *Strunk v. Zoltanski*, 62 N.Y.2d 572 (1984), by leasing to a tenant with knowledge that it harbored a vicious dog, the landlord/property owner could be found to have “affirmatively [] created the very risk which was reasonably foreseeable and which operated to injure the plaintiff. Id. at 575. Here “the liability, if any, of the landlord would be predicated on a jury finding that, at the time of the initial leasing of the premises to the tenant, the landlord knew both of the prospective presence of the dog and of its vicious propensities.” Id. at 57.

Both *Benoit* and *Strunk* were predicated upon knowledge of an animal’s vicious propensities but did not preclude other legal theories such as a claim of negligence as an available avenue of recourse under the law at the time.

Suddenly, changing course 109 years after *Benoit*, the Court of Appeals in the seminal case of *Bard v. Jahnke*, 6 N.Y.3d 592 (2006), citing *Collier v. Zambito*, 1 N.Y.3d 444 (2004) (the law of this state has been that the owner of a domestic animal who either knows or should have known of that animal’s vicious propensities will be held liable for the harm the animal causes as a result of those propensities), solidified New York’s position that no action for negligence would lie when an injury was caused by a domestic animal. Thus, a new legal roadblock was firmly established preventing litigants from seeking recovery under the theory of negligence for such injuries and placed New York in the minority of states as an “outlier” in this area of tort law. See Kaiser, “A ‘Unique Outlier’: Liability of Pet Owners in New York State,” *New York State Bar Journal*, July/August 2017, Vol. 89, No.6).

The first sign of a possible passageway through this legal obstruction came in 2013 when the Court of Appeals in *Hastings v. Suave*, 21 N.Y.3d 122 (2013) allowed for a suit in negligence but limited its scope only in situations where “a farm animal has been allowed to stray from the property where it is kept.” Id. at 124. Here, the court held that a contrary rule “would be to immunize defendants who take little or no care to keep their livestock out of the roadway or off of other people’s property.” Id. at 125. The question of whether this exception “appl[ie]d to dogs, cats or other household pets” had to “await a different case.” Id.; see Heymann, *Is the*

‘Vicious Propensities’ Rule Losing its Bite? NYLJ (Feb. 18, 2015).

Two years later, that different case, *Doerr v. Goldsmith*, 25 N.Y.3d 1114 (2015) (Fahey, J., dissenting), finally reached the Court of Appeals after being litigated twice in the Appellate Division, First Department. In the first decision, pre-*Hastings*, the appellate court, adhering to *Bard* and its progeny, reversed the trial court’s denial of defendant’s motion for summary judgment and dismissed the complaint.

The opinion contained a vigorous dissent on the ground that it was the defendants’ negligent behavior that caused the accident to happen not the conduct of their dog, by allowing the dog to run across a bike path causing the plaintiff/cyclist to collide with the dog, thus being thrown from his bike and sustaining injury. *Doerr v. Goldsmith*, 105 A.D.3d 534 (1st Dept. 2013).

Subsequent to the Court of Appeal’s decision in *Hastings*, the Appellate Division recalled and vacated its earlier decision and rendered a new one, this time following the reasoning of the initial dissent, affirming the Supreme Court’s denial of the motion for summary judgment. Id. Unfortunately, the Court of Appeals felt “constrained” to follow its prior holdings in denying relief to the plaintiff. It determined that because household pets are not “farm animals subject to an owner’s duty to prevent such animals from wandering unsupervised off the farm,” no negligence claim would lie. *Doerr v. Goldsmith*, 25 N.Y.3d 1114, 1116, citing *Bard*, 6 N.Y.3d at 592.

Thus, the case law remains that without knowledge of vicious propensities, the owner of a domestic pet owes no duty of care to prevent foreseeable injuries caused by that pet. In his dissent, Judge Fahey expressed frustration that New York continues to be “a unique outlier” among the states in this regard. *Doerr v. Goldsmith*, 25 N.Y.3d at 1149. With only one year remaining in his term, due to mandatory retirement in December 2021, it is uncertain whether another opportunity will present itself to the court for Judge Fahey to convince his colleagues to accept his point of view on this issue.

The plaintiff took her cat to be examined at the defendant’s veterinary clinic. While sitting in the waiting area, she was attacked by a pit bull named Vanilla who had just undergone surgery. The dog had not been sufficiently sedated when brought into the waiting area and upon seeing the cat slipped from its leash, jumped on the plaintiff, closed its mouth on her ponytail, and pulled her

backward, ripping hair from her scalp.

The plaintiff did not bring any action against the owner of the dog, nor did she commence a strict liability-vicious propensities claim against the clinic, asserting instead that this matter was “grounded in negligence and premises liability.” The plaintiff argued that the strict liability rule did not apply because despite the pit bull being on the property of the clinic, it did not own the animal. The record further disclosed that the clinic did not have notice that Vanilla had vicious propensities. The plaintiff submitted proof that the clinic did not use reasonable care when it brought the agitated pit bull into the waiting area without a secured collar, anesthesia or proper pain medication.

Although “cognizant that the strict liability rule has not escaped criticism” in commentaries (see Heymann, “On Constraint”, the “Vicious Propensities” Rule Continues, NYLJ (June 13, 2017) and from other appellate judges, including three from the Court of Appeals (Judge R.S. Smith: “For all the faults of modern tort law, and they are many, I do not think that this attempt to cling to the certainties of a distant era will work out well.” *Bard v. Jahnke*, 6 N.Y.3d at 601-02; Judge Eugene F. Pigott: “[I]t was wrong to reject negligence altogether as a basis for the liability of an animal owner.” *Petrone v. Fernandez*, 12 N.Y.3d 546, 552 (2009); and, as noted above, Judge Eugene M. Fahey: “We should return to the basic principle that the owner of an animal may be liable for failure to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation.” *Doerr v. Goldsmith*, 25 N.Y.3d at 1142-43)), the majority began its the analysis with a recognition that in New York “when a domestic animal causes injury to another, the owner of the domestic animal is liable *only under a theory of strict liability*, which requires that the injured person demonstrate that the owner had notice of the animal’s vicious propensities” (emphasis added; citations omitted).

The issue before the *Hewitt* court was not whether a negligence cause of action would lie against the owner of the pit bull but whether *the clinic, as owner of the property*, failed to “adequately exercise[] control” over the pit bull under the theory of negligence and duty of reasonable care which the majority rejected.

The majority found guidance in *Bernstein v. Penny Whistle Toys, Inc.* 40 A.D.3d 224, 224 (2007) *affd.* 10 N.Y.3d 787 (2008), where an infant was bitten by a dog in a toy store. The owner of the

CONTINUED ON PAGE 18

The ‘Vicious Propensities’ Rule and Property Owner Liability, Part 2

BY HON. GEORGE M. HEYMANN (RET)*

CONTINUED FROM PAGE 17

store was also the owner of the dog. To the extent the owner did not “kn[ow] or should have known” of the animal’s vicious propensity, the Court of Appeals affirmed an order of dismissal.

As the *Bernstein* holding did not explicitly address the issue of the property owner’s liability, vicious propensities notwithstanding, it is clearly distinguishable from *Hewitt*. See *Easley v. Animal Med. Ctr.*, 161 A.D.3d 525, 525 (1st Dept. 2018) (a dog bite occurred at a veterinary hospital and, because the dog “had no known vicious propensities,” the veterinary hospital was not liable); *Hargro v. Ross*, 134 A.D.3d 1461 (4th Dept. 2015); *Christian v. Petco Animal Supplies Stores*, 54 A.D.3d 707, 707 (2d Dept. 2008))

The *Hewitt* majority elected to follow the First, Second and Fourth departments in extending *Bernstein*—where, again, the landowner was the animal’s owner—to the current situation where the landowner was not the animal’s owner. Because the clinic “did not have notice of the dog’s vicious propensities” an order of dismissal was affirmed.

The lone dissenter did not feel constrained by *Bernstein* and would have applied the “general principles of negligence and premises liability” and “set the matter down for a trial as to whether, under the circumstances, defendant maintained its premises in a reasonably safe condition and/or adequately exercised control over the subject animal.”

“It seems to me that, given the rationale underpinning this [vicious propensity] rule, it does not fit the situation where, as here, the defendant is not the animal’s owner, but only the owner of the property on which the animal’s injurious behavior occurred and, therefore, typically has no knowledge, one way or the other, of the animal’s propensities. In such a case, it is my opinion that general principles of negligence and premises liability should apply (citations omitted).”

The issue thus becomes one of proving that the person, or in this case the veterinary clinic, exercising control over an animal at the time of an attack “should have known” of the tendencies of that animal and be held accountable under the same strict liability as its owner (see *Strunk*) or be subject to a claim of negligence as to whether reasonable care was extended to a third party injured by such animal on its premises.

Modifying the Appellate Division’s decision by denying the defendant’s motion for summary judgment, the Court of Appeals rendered a split (4-3) decision with the majority opinion by Stein, J. (CJ DiFiore, Garcia and Feinman, JJ concur) and a concurring opinion by Wilson, J. (Rivera and Fahey, JJ concur). Both opinions take different approaches to yield the same result.

Ironically, *Bard* and its steadfast strict liability-

vicious propensity rule was not even a factor in this legal debate. Neither party sought to implicate it here as their focus was on the liability of a property owner who did not take reasonable care to protect a third party from being injured by an animal it did not own while on its property. Limiting its focus on the clinic, the majority noted that an animal in such environment “may experience various stressors” in addition to pain and the absence of its owner, which could “create circumstances that give rise to a substantial risk of aggressive behavior.” Veterinary clinics acquire this knowledge and “are uniquely well equipped to anticipate and guard against the risk of aggressive animal behavior” and have “substantial control” to mitigate such risk.

The majority thus concluded that “Palmer does not need the protection afforded by the vicious propensities notice requirement, and the absence of such notice here does not warrant dismissal of plaintiff’s claim.” Here, “a negligence claim may lie despite Palmer’s lack of notice of Vanilla’s vicious propensities” as there was no suggestion that the defendant “would be subject to the same strict liability as the owner of a domestic animal (*Strunk*, 62 NY2d at 575-576).”

The concurring opinion starts off by opining that the former duality of theories upon which an individual injured by an animal could sue [ordinary negligence or strict liability] made sense (citing *Benoit* and *Strunk*). Judge Wilson notes, however, that the stringent holding of *Bard* as to owners of animals “did not disturb the viability of settled law allowing persons injured by animals to assert ordinary negligence claims against persons other than the animal’s owner (citations omitted).” (emphasis added).

The crux of the concurrence was stated as follows: “I concur separately to express why prudence and longstanding precedent dictate that *Bard*’s strict

liability rule—a rule that has rendered New York an outlier and confounded common sense and fairness in application—should not be extended to persons who are not the owner of the domestic animal causing injury.” Judge Wilson, now the fourth Judge on the Court to describe *Bard* as an “outlier” further noted that “as the dissenters in *Bard* predicted, our application of *Bard*’s rule to animal owners has run ‘contrary to fairness and common sense,’ compelling its ‘ero[sion] by ad hoc exceptions (citation omitted).”

While reaching common ground in the outcome of this case, the majority’s opinion is a narrower one focused only on the clinic and the fact that as a non-owner it did not need the “protection” of prior notice of the vicious propensities of the animals in its care, especially in view of the special training of its employees. The concurring opinion takes a broader view of the current status of the law and would allow for actions in negligence in all situations, not just veterinary clinics, where an individual is injured by a domestic animal on the property of another who is not the owner of said animal, regardless of whether he or she has knowledge of the animal’s vicious propensities.

The journey of this subject remains to play out, but for the moment it appears that *Bard* is still the final word on actions against owners of animals with vicious propensities. No doubt *Hewitt* has put veterinary clinics on notice for their potential liability in negligence and it should act as a warning to property owners in other situations to be aware of potential liability if they create or have notice of a dangerous condition caused by a domestic animal.

George M. Heymann, formerly a NYC Housing Court Judge, is of counsel at Finz & Finz PC and Adjunct Professor of Law, Maurice A. Deane School of Law at Hofstra University.



Introspect Investigations USA, Inc.

NYS DOS LIC #11000066161 - Est. 1998

Full Service Agency Specializing in:

- Asset Investigations
- Background, Due Diligence & KYC Investigations
- Employment & Tenant Screening
- Estate & Probate Investigations
- Locating Heirs & Witnesses
- NAIC & NYS DOFS Backgrounds
- Public Record Searches/Retrievals

Contact us @

PH: **1-800-847-7177**, email requests@introspectusa.com

visit us @ www.introspectusa.com

752A Hempstead Tpk, Suite 205, Franklin Square,
(Nassau County) NY 11010

QUEENS COUNTY BAR ASSOCIATION
PRESIDENT: KRISTEN J. DUBOWSKI BARBA, ESQ.

6TH ANNUAL

FRIENDSGIVING

THURSDAY, NOVEMBER 20, 2025
6:30 PM - 8:30 PM

ONE STATION PLAZA
213-10 41ST AVE., BAYSIDE, NY 11361

CO-HOSTS



WE ARE GRATEFUL FOR OUR MEMBERS AND SPONSORS.

Join us—with special guest
Hon. Joseph A. Zayas, Chief Administrative Judge
in giving thanks—and giving back—as we kick off the holiday season at
our Sixth Annual Friendsgiving Fundraiser.

ALL PROCEEDS FROM THIS EVENT WILL BE DONATED TO:

 **DANCING DREAMS**
Dance for Every Child

Located in Bayside, Queens, Dancing Dreams provides dance classes to children with medical and physical challenges by pairing them with a teenage "helper" to support them through the class as they focus on their abilities, not disabilities. We will be joined by the Founder & Director, Joann Ferrara, PT.

Registration fee includes two-hour open bar & appetizers. Free valet parking available.
Additional donations welcomed and appreciated!

\$50 per person in advance \$60 per person at the door

YOUNG LAWYERS COMMITTEE
CO-CHAIRS: **SYDNEY A. SPINNER & ZACHARY N. ZAYAS**
VICE CHAIRS: **BENJAMIN J. MARGOLIN & JOHN RYAN, JR.**

RSVP
<https://tinyurl.com/11-20-2025>

SAVE THE DATE

HOLIDAY PARTY

THURSDAY, DECEMBER 11, 2025
5:30 pm - 9:30 pm

JERICHO TERRACE
249 Jericho Tpke.
Mineola, NY 11501

- Valet Parking
- Continuous Open Bar
- Elaborate Cocktail Hour Reception
- Butler Style Passed Hors d'oeuvres
- Gourmet Buffet Dinner
- Deluxe Dessert Display
- Glatt Kosher dinner available (\$ 25 additional)

LIVE Music by Vinyl Revival

Registration Opens October 27th
<https://tinyurl.com/HP122025>

Holiday Party Sponsors



QUEENS COUNTY BAR ASSOCIATION
President: Kristen J. Dubowski Barba, Esq.
718-291-4500

OUTSOURCED CFO



David Grumer
CPA CMA



Telephone: 646-522-1074
eMail: daveg@davidgrumerconsulting.com

Founder of David Grumer Consulting LLC

Smarter Finance Stronger Business

Accounting Business Strategy
Financial Reporting Risk Management



Craig L. Moskowitz,
MBA, MS, PE, CME

Stamford, Connecticut
Additional Location: New Jersey
CLM Engineering Associates, LLC
Toll-free: 866-432-4677 Cell: 917 270 8822
Email: clmprofessionalengineer@gmail.com
Website: www.clmpe.com

Premises Liability, Construction Defects, Personal Injury, and Construction Accidents

Specialty Focus: ADA compliance, OSHA, construction, slips/trips/falls, storm damage, water intrusion, roofing systems, warranty inspections, civil engineering, structural engineering, building collapse, property condition assessment, building codes, forensic engineering, engineering expert

Education: MBA, University of Bridgeport; MS Construction Administration, Columbia University; Certificate in Construction Management, US Army Officer Engineering School, Honorably- Discharged US Army Engineering Officer, BS Civil Engineering, University of Maine

Years of Experience: 20+

Many years of experience working on behalf of the Plaintiff and/or Defense; has testified over 40 times in various venues; has helped to settle over 400 cases.



ABRAMS LAW GROUP

 ABRAMSLAWGROU PPC
 ABRAMSLAWGROU PPC



ATTORNEY AT LAW
MELANIE ABRAMS, ESQ.
RECOVERED MILLIONS FOR OUR CLIENTS.

718-997-9797

LET'S FIGHT
TOGETHER FOR
YOUR JUSTICE

CONTACT US

-  718-997-9797
-  ABRAMSLAWGROU PNY.COM
-  [HTTPS://G.CO/KGS/IC36XA](https://g.co/kgs/IC36XA)
-  ABRAMSLAWGROU PPC
-  ABRAMSLAWGROU PPC

OUR SERVICES

PERSONAL INJURY MATTERS

-  CAR ACCIDENTS
-  TRUCK ACCIDENTS
-  UBER / LYFT ACCIDENTS
-  TRIP / FALL ACCIDENTS

IMMIGRATION MATTERS

-  FAMILY PETITIONS
-  ADJUSTMENT OF STATUS
-  VAWA PETITIONS
-  DEPORTATIONS
-  ASYLUM APPLICATIONS

104-70 QUEENS BOULEVARD, SUITE 403, FOREST HILLS, NY 11375
20 W LINCOLN AVENUE, SUITE 207, VALLEY STREAM, NY 11580