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SAVE THE DATE



**NASSAU
ACADEMY
OF LAW
BRIDGE
THE GAP
WEEKEND**

**FEBRUARY 4
AND 5**
See centerfold



**WE CARE
CHILDREN'S
FESTIVAL**

**THURSDAY,
FEBRUARY 23**
See pg. 21



**123RD
ANNUAL
DINNER
GALA**

**SATURDAY,
MAY 13**
See pg. 11

Nominating Committee Seeks Candidates for NCBA Board of Directors

The Nominating Committee is seeking active NCBA Members who want to serve on the Nassau County Bar Association Board of Directors. The deadline to apply is Monday, January 23, 2023.

The NCBA Board of Directors consists of the President, President-Elect, Vice-President, Treasurer, Secretary, 24 elected Directors, as well as the Dean of the Nassau Academy of Law, Chair of the New Lawyers Committee, NCBA delegates to the NYSBA House of Delegates, and all past presidents of the Bar Association.

NCBA Officers and a class of eight Directors are elected at the Annual Meeting on May 9 and take office June 1, 2023. Officers serve for one-year terms and Directors hold office for 3-year terms. Officers and Directors will be sworn in at the Installation on June 6, 2023.

Members who wish to be nominated must be a Life, Regular or Sustaining Member of the Association for at least three consecutive years, and an active member of a committee for at least two consecutive years. The Nominating Committee also considers each applicant's areas of practice, leadership positions in the Nassau County Bar Association and other organizations, and the diversity of experience and background a candidate would bring to the Bar's governing body.

In 2022, 20 NCBA Members applied for nine Director positions and five Members applied for Secretary. Directors are

encouraged to make a financial contribution to the NCBA of at least \$1,000 annually by becoming a Sustaining Member; purchasing or selling event tickets and sponsorships; or soliciting new members and corporate sponsorships.

The Nominating Committee consists of nine Members of the Association who previously served on the Board of Directors. Dorian R. Glover, NCBA Immediate Past President "once removed," is Chair of the Committee and Immediate Past President Gregory S. Lisi serves as Vice-Chair.

"The Nominating Committee is seeking candidates with diverse experiences and skills who are committed to serving our community and legal profession," says Glover. "We need Officers and Directors who can lead our Bar Association during these unprecedented times and help create value for Members."

Interviews with candidates will begin in early February; the Committee will nominate one person for each Officer—other than President—and Director position and issue its report at least one month prior to the 2023 Annual Meeting and Election to be held on Tuesday, May 9.

NCBA members interested in applying to become a Director or Officer should forward a letter of intent, application, resume or curriculum vitae no later than January 23 to Executive Director Elizabeth Post at epost@nassaubar.org or NCBA, 15th & West Streets, Mineola, NY 11501. The application can be downloaded on the Bar's homepage at www.nassaubar.org.

NCBA 90th Annual Holiday Party



NCBA Members and their families came together at Domus on Thursday, December 8 to enjoy the 90th Annual Holiday Party—highlighted with signature cocktails like "Jingle Juice" and "The Mad Elf," a buffet dinner, and dessert bar.

This year's musical entertainment was led by Plainview-Old Bethpage High School's talented acapella singing group "Chock Full of Notes." The high school students performed a beautiful medley of holiday music for guests throughout the course of the evening.

As is tradition, NCBA Past Presidents joined in the mixing of the Wassail Bowl, and President-Elect Sanford Strenger told the "True Tail of Wassail" while adding his own creative spin to the annual telling of this anticipated story.

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Jothy Narendran became co-managing partner of the firm in 2020 and has been a partner at the firm since 2010.

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Jothy Narendran



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January 2023

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The Mid-Year State of Our NCBA Union

Nestled at the mid-way point of this bar year, I would like to review the many accomplishments of the Nassau County Bar Association and highlight important aspects of the NCBA's agenda in the upcoming months.

Nassau Academy of Law

The Nassau Academy of Law (NAL) presented a total of 22 Dean's Hours and 14 evening programs (two of which were held jointly with the Suffolk Academy of Law). One of the evening programs was presented on September 30, in collaboration with the Long Island Hispanic Bar Association (*Seres Humanos Aqui: Hernandez v Texas & the Quest for Legal Recognition*), and two were presented with the NCBA Community Relations and Public Education Committee and were open to the public. Of the 36 programs, the Nassau County Assigned Counsel Defender Plan sponsored 10 of these programs for its panelists.

NCBA Committees offered 35 opportunities for members to obtain CLE credit, including one multilateral collaboration with the NCBA Diversity & Inclusion Committee, the Brandeis Association, Jewish Lawyers Association and Yashar/Hadassah (*American Visionary: The Prescient Legacy of Justice Luis D. Brandeis*), and two programs were held jointly with the Criminal Courts Bar Association.

The Academy issued 1,990 certificates for attendance at the above programs (including in-person attendance and on-demand access). As of the publication of this article, that number will exceed 2,000.

Upcoming Academy Program Highlights

- **January 18: Dean's Hour: Cybersecurity, Privacy and Data Protection.** This is the first opportunity for members to earn the new Cybersecurity credit requirement.
- **January 24: Planned Charitable Giving: What You Need to Know.** Presented in collaboration with the WE CARE Fund, this novel program was developed by Academy Dean Susan Katz Richman to integrate the many facets of the Association. This program is the product of a subcommittee of WE CARE's Endowment Committee (Chaired by Harold Deiters), led by Chair Charlene Thompson (a member of both the NAL and WE CARE Advisory Boards) and Vice-Chair Kathleen Wright (WE CARE Advisory Board), and in consultation with expert members of relevant NCBA Committees. This joint venture will provide an education about planned charitable giving and will be followed by a "networking event" to showcase the myriad services the NCBA provides to its membership and public communities.
- **January 26: Dean's Hour: Compliance Issues Confronting Part 36 Fiduciaries in Article 81 Guardianships (Zoom only).** Leaning into her 43-year career as a veteran in the Nassau County Courts, Dean Richman is continuing NCBA's long tradition of collaborating with the courts to design an interactive virtual CLE program which addresses the unique challenges of Part 36 Fiduciaries in Article 81 proceedings (e.g., Court Examiners, Guardians, etc.) and to problem-solve issues encountered at the compliance end of their practices.



FROM THE PRESIDENT

Rosalia Baiamonte

• **February 4-5: Hon. Joseph Goldstein Bridge-the-Gap Weekend** (in-person only). 16 credits in one weekend—completely free for members!

• **February 9: Supplemental Needs Trustee: Part 36 Certified Training***

• **March 2: Begins a 4-part evening series: How to Get the Kitchen Sink into Evidence Lecture Series with guest speaker Hon. Arthur M. Diamond (Ret.)**

• **March 10: Guardian Ad Litem: Part 36 Certified Training***

• **March 24: Annual School Law Conference**

Note: Part 36 is excluded from free CLE included with NCBA Membership. NCBA Members are offered discounted pricing for Part 36 training.

Much gratitude and appreciation to NAL Director Jennifer C. Groh, Executive Assistant Patti Anderson, NAL Dean Susan Katz Richman, and the NAL Advisory Board members. Pre-registration for NAL programs is important and is available online at www.nassaubar.org or by contacting the Academy at academy@nassaubar.org or (516) 747-4464.

WE CARE Fund

Since June 1, 2022, WE CARE has held numerous events, including June's Goods and Services Auction at UBS Arena and the Mets v. Yankees game and Nashville Night in July. In September, WE CARE participated in Tunnel to Tower and held its 26th Annual Golf & Tennis Classic at the Brookville and Muttontown Country Clubs. October featured WE CARE's participation in Light the Night and an Islanders' game where 100 foster children and their chaperons were able to meet Sparky and take photos on the ice.

In November, WE CARE delivered 200 Thanksgiving baskets of turkey dinners with all the trimmings to families in need. On December 29, WE CARE will be honored at the New York Islanders' Hockey with a Heart program at UBS Arena.

Moving into the new year, WE CARE will hold the much-anticipated and wildly popular Dressed to a Tea on March 23—its first since the COVID-19 pandemic. It will also participate in Rebuilding Together Long Island and play a game of sled hockey against the members of grant recipient Long Island Sled Hockey.

WE CARE will hold its 27th Annual Golf & Tennis Classic on September 18, 2023.

Through the tireless efforts of many, in the past six months, WE CARE has raised over \$300,000, and has distributed \$147,500 in charitable grants to 25 local organizations to improve the quality of life for children, the elderly, and others in need throughout Nassau County.

We recognize with thanks and appreciation the Co-Chairs of WE CARE, Deanne M. Caputo and Joseph A. Lo Piccolo, the Chairs of the Golf & Tennis Classic, and most especially the indefatigable efforts of the NCBA Staff, Bridget Ryan, WE CARE Events and Donations; Ann Burkowsky, Special Events; and Stephanie Pagano, WE CARE Grants. There are many ways to give: donate online at www.thewecarefund.com; choose "Nassau Bar Foundation, Inc." using your Amazon Smile account, and Amazon will donate 0.5% of all eligible purchases to the WE CARE fund; make a donation in memory of a loved one, or to honor a special person or occasion; and volunteer at a WE CARE event.

Access to Justice

In October—in collaboration with Nassau Suffolk Law Services and the Safe Center LI—the NCBA hosted a Free

Legal Open House Clinic in honor of National Pro Bono Week. The first live Open House to be held post-COVID was an enormous success due to the dedication of over 40 volunteer attorneys who provided 110 members of the public with free consultations in a variety of areas, including bankruptcy, divorce and family issues, employment, mortgage foreclosure, landlord/tenant, senior citizen issues, and immigration. We are especially grateful for the energy and passion brought to this project by Madeline Mullane, NCBA Director of Pro Bono Attorney Activities, and Paralegal Cheryl Cardona, and the hard work of the Access to Justice Committee Co-Chairs Dan Russo, NCBA Vice President and the Hon. Conrad Singer, and Vice Chair, Helayne Cohen.

NCBA will host the Pro Bono Recognition dinner on March 1, 2023. The Access to Justice Committee is collaborating with Nassau Supreme Court Chief Clerk Nick Grajales for a spring-time event to be held at the court. Plans are also underway to host another Open House in June 2023 to incorporate more community-based events, and to work jointly with the new District Court Help Center.

Additionally, the Mortgage Foreclosure Assistance Project has been very busy since the summer

serving homeowners facing mortgage foreclosure and related legal issues, including bankruptcy, landlord/tenant, trusts and estates, and matrimonial. Although the metrics for the HOPP grant year (which begins to run in July) are only available for the first quarter, the Project is 360% over our pro-rated goal of foreclosures prevented, and 140% of our pro-rated goals for the year for clients served.

The Project has also been working closely with Nassau Supreme Court as they have launched their pilot program for residential tax lien foreclosure mediations, where for the first time homeowners are entitled to mediation and court oversight on residential tax lien foreclosures. The Project has been working with the court and our other HOPP grantees on outreach, court representation, and eventually will include training for practitioners in this area and possibly clinics for these types of cases as well.

The NCBA Mortgage Foreclosure Assistance Project will continue to stand out amongst the HOPP grantee organizations and set the example for outreach, technology, and collaboration to achieve positive outcomes for homeowners.

The Project also has had a law student extern each of the past three semesters from Touro and Hofstra Law, will have a Hofstra extern for

the winter/spring, and this year's Tom Maligno Pro Bono Scholar from Touro has chosen our Project as his placement for the spring. The Project has partnered with Freeport Library and NAL to hold outreach events onsite at the library and continues to make inroads in other communities to hold similar events locally in the coming months.

We applaud the tremendous efforts of Madeline and her staff, Cheryl, Paralegal Omar Daza, and Settlement Attorney Christina Versailles for their accomplishments.

Lawyers Assistance Program

Under the compassionate and expert leadership of Dr. Elizabeth Eckhardt, Director of the NCBA Lawyers Assistance Program (LAP), education and confidential assistance has been provided to hundreds of attorneys, judges, lawyers, law students—and their immediate family members—who are struggling with drug and/or alcohol abuse or other mental health related issues including anxiety, stress, depression, eating disorders, bipolar/borderline personality, PTSD, suicidal ideation, vicarious trauma, burnout, anger management, compulsive behaviors including gambling and sex addiction, as well as issues of mental decline, unexpected/sudden illness, and death.

In the past six months, LAP has received 105 new calls: 45% were from lawyers struggling with mental health issues impacting their ability to function; 30% were from lawyers struggling with compulsive substance use, gambling, sex abuse; 10% were from family members or colleagues concerned about an attorney struggling with cognitive impairment, mental health or substance abuse; 5% from lawyers struggling with physical disabilities; and 10% from law students or bar applicants.

Since June, LAP has overseen five diversion cases, 30 ongoing or repeat callers requesting peer or professional counseling, and has educated 300 participants in continuing legal education programs, seminars, and stress-management/wellness workshops at NCBA, law schools and law firms, as well as the Annual 12-Step Retreat for Lawyers. LAP has also been asked to conduct training for the Committee on Character and Fitness and the Grievance Committee of the 10th Judicial District on LAP's Monitoring Program for diversion and Bar Applicants.

A regular feature in our monthly *Nassau Lawyer* publication is the "LAP Corner," which focuses on attorney wellness, and provides tips and links to information and informs readers of LAP services.

LAP continues to assess the needs of attorneys in Nassau County, where the following emergent needs have been identified: a support group for female attorneys, a support group for attorneys

with disabilities, suicide prevention workshops, and an increased presence in law schools.

I want to thank WE CARE for recently awarding LAP a \$20,000 grant (\$40,000 over two grant cycles). To supplement the WE CARE grant and the Office of Court Administration annual funding, LAP has applied to the New York Bar Foundation and the Nassau County Executive's Office for additional funds to meet the increased needs placed upon LAP in the wake of the mental health crisis exacerbated by the financial and societal effects of the COVID-19 pandemic.

On December 5, LAP held its inaugural fundraising event and Recognition Awards Dinner, featuring keynote speaker Brian Cuban, who shared his inspiring story and signed copies of his book, *The Addicted Lawyer*. Henry Kruman received a much deserved Recognition Award for his dedication and commitment to lawyers struggling with alcohol abuse and addiction. A Recognition Award was also presented to Jackie Cara, Chair of the NCBA Lawyers Assistance Committee, for her tireless work through the COVID-19 pandemic to meet the growing demand for outreach, education, and peer support to lawyers on Long Island.

Upcoming LAP CLEs and Programs

- **January 2023:** *Healthy Habits Program*
- **March 2:** *Dean's Hour: Cognitive Impairment—Winding Down Your Practice*
- **Week of May 1:** Lawyer Well-Being Week, featuring a variety of events, including a Healthy potluck dinner.
- **May 19:** *Mindfulness: What's All the Hype, and How Do We Do It?*
- **May 24:** Collaboration with CRPE for Mental Health Awareness Month. Discussion on rights of parents of adult children with mental illness.
- **June:** LAP and Hofstra Law Walkathon to commemorate Mental Health Awareness Month

If you or someone you know needs assistance, the 24-hour confidential helpline for lawyers is (516) 512-2618 or (888) 408-6222. You can also contact eeckhardt@nassaubar.org or visit nassaubar-lap.org. Donations to NCBA LAP can be made at www.nassaubar.org/donate.

See FROM THE PRESIDENT, Page 20

APPELLATE COUNSEL



Christopher J. Chimeri is frequently sought by colleagues in the legal community to provide direct appellate representation for clients, as well as consulting services to fellow lawyers.

The firm's appellate team is highly equipped to navigate, or help you navigate, the complexities and nuances of appellate practice, including all aspects of matrimonial and family law in all departments in New York State and the Court of Appeals, as well as civil and commercial matters in the State and Federal Courts.



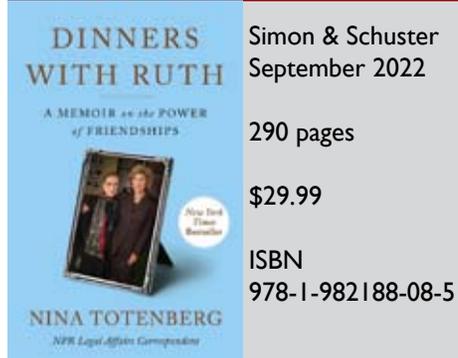
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**FOCUS:
BOOK REVIEW**

Rhoda Y. Andors

While Nina Totenberg is well known as the Legal Affairs Correspondent for National Public Radio, this memoir is about her cherished friendship with Ruth Bader Ginsburg, a friendship of nearly 50 years. *Dinners With Ruth* is also about two remarkable women who were engaged with the law, and who overcame sex discrimination in their professional lives even while the laws against sex discrimination were being made.

Both were children of Jewish immigrants, but they grew up in very different circumstances—Totenberg in Boston and Ginsburg in Brooklyn.¹

Totenberg's father, who emigrated from Russia, was a renowned concert violinist who played for President Franklin Roosevelt at the White House. Her parents' friends were celebrated musicians and "literary lions."

Ginsburg's father came to the U.S. from Ukraine at twelve and worked during the day while attending night school to learn English. Her mother, who came from Poland, was a garment worker who helped support her family. Ruth grew up in a lower middle-class neighborhood and her memories were shaped by World War II, a time of rationing and war bonds.

Totenberg's political education began when she was ten years old, when she watched the 1954 McCarthy hearings in the Senate with an avid interest. While Totenberg never finished college, Ginsburg was her high school's valedictorian and she graduated in a tie for first in her class at Columbia Law School.

Early in their careers both women faced barriers to employment and unequal treatment because they were women, which may be hard to comprehend today. In part, *Dinners with Ruth* is the story of how they prevailed.

Dinners With Ruth, A Memoir on the Power of Friendships by Nina Totenberg

In 1963 Ginsburg accepted a job at Rutgers University—with a pay cut from her federal clerkship, after no big law firm would hire her because she was a woman, married and had a child. Ironically, that was the year the Equal Pay Act was passed.

Totenberg struggled against the odds to become an investigative reporter. In her first job, she pitched a story to her editor to write about contraception, which was then illegal in Massachusetts, but available to women in elite colleges. Although this would have been "a pretty good story, showing what a sham the law was," her editor, after asking if Totenberg had ever had sex, flatly said no.²

Even well after the Equal Pay Act was law, both women were paid less than men doing the same jobs. "The message hadn't gotten home," as Ginsburg stated.³

When Totenberg began covering the Supreme Court in 1971, she was mystified by a case that was a challenge to an Idaho law preferring men over women as executors of estates. The case was *Reed v. Reed*, and Ginsburg had been asked by the ACLU to be the principal author of the brief.⁴

"The brief asked the Court to do something revolutionary: to declare a law unconstitutional because it discriminated 'on the basis of sex.'"⁵ The novel argument was that "the Fourteenth Amendment's guarantee of 'equal protection under the law' applied to women."⁶ Totenberg made a cold call to a law professor, Ruth Bader Ginsburg, for clarification, which was the beginning of their friendship.

Ginsburg spent an hour taking Totenberg through her argument: in a nutshell, "the Fourteenth Amendment guarantees equal protection of the law to *all* persons, and 'women are persons.'"⁷

The brief that Ruth wrote in support of Sally Reed's claim argued that the laws that discriminated on the basis of sex should also be subject to strict judicial scrutiny, because, like race, sex is an inborn characteristic, and women, like racial minorities, had historically been discriminated against. They had been restricted in their ability to own property, serve on juries, hold certain jobs, and vote. Voting was especially important, because the limits on

voting meant that for generations women had also lacked political representation. They did not have equal power to change discrimination laws through the legislative process, and they needed the courts to intervene.⁸

The Court ruled unanimously in favor of Sally Reed.⁹ This was the first win for Ginsburg in the Supreme Court, followed by a decade of successful and pivotal equal protection cases she brought before the Court.¹⁰

In her brief for *Reed v. Reed*, Ginsburg was the first to argue to the Court that sex classifications should be subject to strict scrutiny. However, in that case, the Court had not yet set the standard for the level of scrutiny that courts should apply.¹¹ It was not until Ginsburg wrote the amicus brief for the ACLU in *Craig v. Boren*, in 1976, that the Court held that "classifications that distinguish between males and females" are subject to strict scrutiny under the Equal Protection Clause.¹²

Totenberg writes with clarity about Ginsburg's legal views on other landmark cases, such as *Roe v. Wade*, and her argument in *U.S. v. Virginia*.¹³ She also writes about the high points as well as the low points in her own legal reporting, including her breaking the Anita Hill story during the Senate's confirmation hearings for Supreme Court Justice Clarence Thomas.¹⁴

Totenberg's first call to Ginsburg was one of many in which Ginsburg patiently explained "the finer points of law" to Totenberg. When they met in person, they discovered their shared interests, including a love of fashion, and fans of Ginsburg's distinctive style will enjoy Totenberg's anecdotes on this subject.

After Ginsburg was appointed by President Carter to the D.C. Circuit, the two became close friends, meeting at cultural and legal events, and enjoyed regular dinners together with their husbands and mutual friends, including Antonin Scalia.

Their friendship endured and became even stronger during joyful times and when they suffered personal tragedies. Even while she was a Justice of the Supreme Court, Ginsburg regularly reached out to Totenberg, after Totenberg's husband suffered a prolonged illness and died.

Ginsburg performed the wedding ceremony for Totenberg's

second marriage, although unknown to Totenberg she had been in the hospital just the day before. Totenberg writes of her friend that "the entire time I knew her, she was truly and deliberately kind."

As Ginsburg's health worsened, Totenberg's second husband, a surgeon, was her "medical confidant." In the last year of Ginsburg's life, during the Covid-19 epidemic, Totenberg's home, a safe haven, became Ginsburg's only refuge outside of her apartment, and every Saturday, she came for dinner.

In all, *Dinners with Ruth* is an endearing story of how over the years, two extraordinary women, who were passionate about the law, created a friendship which, in Totenberg's words, began as a "professional bond" over the telephone, and became "a personal lifeline."¹⁵

And at the heart of this story is "one of those rare people who truly changed the world and had something important to say to every generation."¹⁶ 🗑️

1. *Dinners With Ruth* is the source of content for most of this book review, including the background on the friends' early years in pages 1-22.

2. 16-17.

3. 22.

4. 34; *Reed v. Reed*, 404 U.S. 71 (1971).

5. 35.

6. *Id.*

7. 36.

8. 37-38.

9. 38.

10. See generally Wendy Webster Williams, Ruth Bader Ginsburg's Equal Protection Clause, 25 Colum. J. Gender & L. 43, n. 8 (2013).

11. 38; *Reed* simply held that statutory classifications that distinguish between males and females are "subject to scrutiny under the Equal Protection Clause." 404 U.S. at 75.

12. 197-198; *Craig v. Boren*, 429 U.S. 190 (1976)(quoted in Williams, Ruth Bader Ginsburg's Equal Protection Clause, 43, n. 8.

13. *Roe v. Wade*, 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973), overruled by *Dobbs v. Jackson Women's Health Org.*, 213 L. Ed. 2d 545, 142 S. Ct. 2228 (2022), holding modified by *Planned Parenthood of Se. Pennsylvania v. Casey*, 505 U.S. 833, 112 S. Ct. 2791, 120 L. Ed. 2d 674 (1992); *United States v. Virginia*, 518 U.S. 515, 116 S. Ct. 2264, 135 L. Ed. 2d 735 (1996).

14. 106-120.

15. 83.

16. 278.



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Lisa M. Casa

On March 31, 2021, the Marijuana Regulation and Taxation Act (“MRTA”)¹ was signed into law in New York State. The MRTA set out a framework to permit a legal adult use recreational and medical cannabis market in New York. The MRTA immediately permitted the possession of cannabis and decriminalized its recreational use.

Also, the MRTA set out a framework to allow for the cultivation, processing and sale of cannabis and cannabis derived products. Starting in Summer 2022, the State has provided for its first seeding of the regulated adult use market by licensing cultivators, processors, and retail dispensaries. On November 21, 2022,

Cannabis in the Workplace

the State issued 36 retail dispensary licenses under its CAURD program.² Five of these retail license holders are located in the Long Island region.³

While New York State has legalized recreational and medical use of cannabis, cannabis remains a Schedule I drug under the federal Controlled Substances Act (“CSA”).⁴ Drugs that are classified as Schedule I drugs are deemed substances, or chemicals with no currently accepted medical use and a high potential for abuse.⁵

With this backdrop, many employers are questioning how they should handle the recreational and medical use of cannabis by their employees. To further the MRTA’s goal to allow the recreational and medical use of marijuana, the MRTA amended Section 201-d of the New York Labor Law. Section 201-d of the New York Labor Law applies to all employers in New York with one or more employees. “Section 201-d was enacted in 1992 to ‘prohibit employers from discriminating against employees for engaging in certain off-duty activities,’ including ‘political or recreational activity, use of legal

consumable products[,] or union activities.”⁶

The MRTA expanded the Section 201-d of the Labor Law to prohibit an employer from taking an adverse action against an employee for the employee’s use of “cannabis in accordance with state law, outside work hours, off of the employer’s premises and without use of the employer’s equipment or other property.”⁷ The MRTA does provide a carveout, and will permit an employer to take an adverse employment action with respect to an employee’s use of cannabis where:

- (1) the employer’s actions were required by state or federal statute, regulation, ordinance, or other state or federal governmental mandate;
- (2) the employee is impaired by the use of cannabis, meaning the employee manifests specific articulable symptoms while working that decrease or lessen the employee’s performance of the duties or tasks of the employee’s job position, or such specific articulable symptoms interfere with an employer’s obligation to provide a safe and healthy workplace, free from recognized hazards, as required by state and federal occupational safety and health law; or
- (3) the employer’s actions would require such employer to commit any act that would cause the employer to be in violation of federal law or would result in the loss of a federal contract or federal funding.⁸

With respect to the articulable signs of impairment, the Department has provided a FAQ to assist employers with complying with the statute. The Department of Labor advises that articulable signs of impairment are “objectively observable indications that the employee’s performance of the duties of the position of their position are decreased or lessened.”⁹

With respect to drug testing, the Department of Labor advises that “a test for cannabis usage cannot serve as a basis for an employer’s conclusion that an employee was impaired by the use of cannabis, since such tests do not currently demonstrate impairment.”¹⁰ There is a limitation on testing because marijuana and its metabolites can remain detected in a person’s bloodstream for a prolonged period of time, and typically a drug test may

only detect past drug use, but have not been found to be an accurate measure of impairment.¹¹ Additionally, the smell of cannabis, on its own, may not be used to allege impairment.¹²

Marijuana has been found to effect areas of the brain that control movement, balance, coordination, memory and judgment.¹³ With the limitation on drug testing, employers should be mindful of the other “articulable signs of impairment” that employers may point to when they suspect that an employee is impaired by marijuana. Such signs include, but are not limited to:

- altered perception
- altered sense of time
- bloodshot or red eyes
- decreased problem-solving abilities
- disorientation
- drowsiness
- euphoria or enhancement of mood
- impaired motor coordination and body movements
- impaired memory
- impaired concentration
- impaired perception-reaction time
- increased appetite
- increased heart rate
- relaxed inhibitions
- hallucinations or delusions (when taken in high doses)¹⁴

A study by the National Institute of Justice found that the timing and length of impairment varied by the dose of THC present and the manner in which the cannabis product was consumed. Typically, with vaped doses of THC over 5 mg, peak impairment was found zero to two hours after consumption with most participants back to baseline after four hours.

For oral THC, impairment was typically observed one hour after consumption, with peak effects at five hours after consumption, and participants returning to baseline eight hours after consumption.¹⁵ Therefore, employees, even if they do not consume cannabis while at work, could still be impaired. It is for this reason the employers should take care to properly document every potential instance of impairment if that is the reason for terminating an employee.

Should an employee be improperly terminated for their legal off-duty usage of cannabis, they may bring a private cause of action seeking damages and equitable relief.¹⁶ Additionally the New York State Attorney General may bring a cause of action seeking equitable relief on behalf of the employee.¹⁷

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With respect to prohibiting cannabis during working hours, this may include any time an employee is on call or expected to be engaged in work.¹⁸ Additionally, an employer may prohibit use of cannabis on company property, including leased vehicles.¹⁹ Further, for remote workers, while an employer may not prohibit the use of cannabis at the employee’s home, an employer may take actions against the employee if they have articulable sign of impairment.²⁰ Drug testing is permitted where such testing is a requirement for a position under federal or state law. These positions may include drivers of commercial vehicles.²¹

Additionally, in May 2020, the New York City Human Rights Code was amended to prohibit pre-employment testing of marijuana or THC for job applicants. There are exceptions to this prohibition where such testing is:

1. Required by the U.S. Department of Transportation under 49 C.F.R. Part 40 or related state and local rules (e.g., flight crew and train dispatchers) (as defined in the applicable DOT rules);
2. Required by the federal government as a condition of receiving a contract or grant;

3. Required by federal or state law “for purposes of safety or security;”
4. A collective bargaining agreement includes terms related to pre-employment drug testing of job applicants;
5. The position falls into one of the categories of jobs provided for by the Commission on Human Rights.²²

As New York’s legal recreational cannabis market is established, employers should be mindful that they may not take any adverse employment actions against employees for the employees legal off-duty consumption of cannabis. It is only when an employee is impaired while on-duty that an employer may take an adverse employment action. However, impairment is not easily defined, and employers should take care to properly document all suspected symptoms of that impairment before taking any adverse actions. ⚖️

1. 21 N.Y. Laws Ch. 92.
2. https://cannabis.ny.gov/system/files/documents/2022/11/ccb-caurd-provisional-license-approval-11-21-22_1.pdf
3. *Id.*
4. 21 U.S.C. §802(32)(A).
5. 21 U.S.C. §812(b)(1).
6. *Truitt v. Salisbury Bank & Tr. Co.*, 52 F.4th 80, 86 (2d Cir. 2022).
7. N.Y. Lab. Law §201-d(2)(c).
8. N.Y. Lab. Law §201-d(4-a).

9. <https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>
10. *Id.*
11. “Field Sobriety Tests and THC Levels Unreliable Indicators of Marijuana Intoxication,” National Institute of Justice, available at: <https://nij.ojp.gov/topics/articles/field-sobriety-tests-and-thc-levels-unreliable-indicators-marijuana-intoxication#note2>.
12. <https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>
13. <https://nij.ojp.gov/topics/articles/field-sobriety-tests-and-thc-levels-unreliable-indicators-marijuana-intoxication#note2>
14. New Jersey has provided a model marijuana recognition sheet that employers should use prior to taking any adverse employment actions: <https://www.nj.gov/cannabis/documents/businesses/Business%20Resources/Workplace%20Impairment%20Guidance%20Sample%20Form.pdf>
15. <https://nij.ojp.gov/topics/articles/field-sobriety-tests-and-thc-levels-unreliable-indicators-marijuana-intoxication#note2>
16. N.Y. Lab. Law 201-d(7)(b).
17. N.Y. Lab. Law 201-d(7)(a).
18. <https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>
19. <https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>
20. <https://dol.ny.gov/system/files/documents/2021/10/p420-cannabisfaq-10-08-21.pdf>
21. 49 CFR Part 382; see also e.g., N.Y.Veh. & Traff. Law §507-a.
22. The list of positions for which pre-employment testing is permitted is available at: https://www1.nyc.gov/assets/dcas/downloads/pdf/employment/marijuana_screening.pdf.



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**FOCUS:
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EMPLOYMENT LAW**

**Bozena M. Diaz and
Ariel E. Ronneburger**

Since the beginning of the COVID-19 pandemic, the number of employees working remotely has increased significantly.¹ This includes employees working remotely both part-time and full-time. Many employees who work remotely have also relocated, both temporarily or permanently, to different states because of the pandemic. The ability to work remotely is considered a blessing by many, allowing for greater flexibility, more time with family, and less time spent commuting. But there are also severe downsides to remote work.

When an employee works from home or an office in a state other than the employer's home state, the arrangement can create a physical tax nexus for the employer, subjecting the employer to state and local taxation in that state. If such a nexus is created, there is a strong likelihood that the employer will have to "register to do business" in that state and subject itself to annual tax filings and other tax obligations, ranging from corporate income tax, gross receipts, tax, franchise tax, sales and use tax, excise tax, and employer/payroll withholding and taxes. Tax requirements imposed at the city or county level could also come into play.

During the peak of the COVID-19 pandemic, many states have implemented temporary nexus waivers for corporate income tax, sales tax and withholding tax purposes, taking the position that the presence of remote employees in the state, due solely to COVID-19, would not create a physical nexus for the employer in that state.² However, at this time all states have ended this temporary relief, causing many employers to potentially be subject to other states' tax rules.³

Because every state has slightly different tax laws (in some states, for example, the presence of employees will establish a nexus only if it is a "substantial" presence defined by meeting certain payroll thresholds), having remote employees work outside of the company's home state could mean penalties for a business if a nexus

A Blessing or a Curse? Employer Implications of Allowing Employees to Work Remotely

is created and the business failed to register "to do business" there in a timely manner. Not-for-profit entities may be exempt from such registration. However, often times, the exemption is not automatic and instead must be applied for. In addition, nexus rules, whether physical or economic, can also apply at the city level in some locations. For example, taxpayers may be subjected to the New York City business corporation tax.⁴

In addition to state and local taxes, remote employees also raise a number of employment-related, payroll tax and local labor law considerations.

Payroll Considerations

Employers with remote workers in states other than their home states will need to review the other states' payroll and employment tax requirements to the extent that the employer does not currently have filing obligations in those states. Generally, states require an employer to withhold income taxes from their employees' wages.

Where an employee has connections with more than one state, the employer may be subject to withholding obligations based on where the employee is domiciled or resides and, often for nonresidents, where the employee's income is sourced. Again, state laws vary by state and must be analyzed carefully. In some states, for example, the employee is considered domiciled in that state, requiring full withholding on that employee's wages based on the laws of that particular state, even if the employee spends less than half the year in that state.

Local Labor Laws

Employers should be aware of the labor laws of the state where remote employees are working, as such laws generally will apply to the employment relationship. This includes minimum wage and hour rules, termination of employment matters, noncompetition agreements, matters related to trade secrets, and rules related to family leave and unemployment compensation.

For instance, the majority of states require employers to register for and obtain workers' compensation insurance in the state where the employee is performing services, with failure to do so subjecting the employer to penalties and noncompliance for the employer with

the state's workers' compensation laws.⁵ Again, because the laws are not always clear on when an employee is considered to be performing services from a particular state, employers are encouraged to comply with the worker's compensation requirements in all states where they have remote employees, which is likely to cause the employer administrative headaches, to say the least. This is especially the case when the employer's base is in another state.

Similar laws apply to state unemployment insurance, requiring employers to register and pay the unemployment insurance premiums for the employees through the state unemployment insurance program where the employee is performing services, or risk penalties for noncompliance with the state's unemployment insurance laws.

In addition, changes in income sourcing for unemployment tax purposes may be required. If an employee moved to a different state to work remotely during COVID-19, the employee's wages would be reported to the employer's base state so long as the relocation was temporary (less than 12 months). But an employee working in a different state for more than 12 months, or relocating to another state permanently, will implicate income sourcing rules, often requiring that income, for unemployment tax purposes, be sourced to the state of residency, again, creating additional administrative headaches for employers.

Cybersecurity

Another area impacted by the explosion of remote work ushered in by the pandemic is cybersecurity. Almost as soon as the pandemic began, there was an onslaught of cybersecurity incidents for employers, due in part to so many people working remotely on personal computers and their home network rather than their employers.⁶

Employers must now be careful to take measures to ensure that employees working at home are using proper security measures to avoid potential data breaches, including making sure that employees are using proper anti-virus software and monitoring against phishing attempts. Moreover, employers with both full- and part-time remote workers should conduct a thorough review of insurance policies to be sure that proper coverage is in place for incidents that may occur offsite.

Conclusion

Remote employment, while an excellent idea in concept and more popular than ever today, raises a variety of legal and compliance issues for employers, ranging from tax and reporting obligations, to compliance with payroll tax laws, unemployment-related rules and other labor laws as well as well as cybersecurity.

To better manage remote employment, businesses need to develop strong remote employment policies, keeping employees informed of all the state regulations and mandates, and providing regular updates on tax-related matters and how they affect both the employer and the employee, as well as a variety of other issues that impact remote workers. Both employers and employees need to understand that noncompliance with state law can result in severe consequences for employers, including tax and other penalties, to name a few. ⚖️

1. US Census Bureau, THE NUMBER OF PEOPLE PRIMARILY WORKING FROM HOME TRIPLED BETWEEN 2019 AND 2021 CENSUS.GOV (2022), <https://www.census.gov/newsroom/press-releases/2022/people-working-from-home.html> (last visited Dec 7, 2022).

2. Official site of the State of New Jersey, State of NJ - Department of the Treasury - Division of Taxation - COVID-19 Information - Telecommuting, <https://www.state.nj.us/treasury/taxation/covid19-payroll.shtml> (last visited Dec 7, 2022).

3. *Id.*

4. New York City, N.Y., Code § 11-602.

5. N.Y. Workers' comp. Law § 220 (McKinney).

6. Cedric Nabe, IMPACT OF COVID-19 ON CYBERSECURITY (2020), <https://www2.deloitte.com/ch/en/pages/risk/articles/impact-covid-cybersecurity.html> (last visited Dec 7, 2022).



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**FOCUS:
IMMIGRATION LAW**


Linda G. Nanos

The U.S. Citizenship and Immigration Services (USCIS) introduced programs to address the international crises in Ukraine and Venezuela because the existing refugee law is not adequate to meet the current humanitarian need.¹ Both countries are seeking admission of nationals into the United States and relief for their nationals who are already here, while turmoil in the two countries continues.

In the case of Ukraine, an invasion of Russian forces beginning in February 2022 resulted in intense military conflict impacting on civilians and civilian targets. Venezuela has experienced an exodus of nearly six million nationals due to a socio-economic collapse of the country. It is highly unusual for a country that is neither at war nor suffering from a natural disaster to suffer such complete devastation to the point of starvation of its population.

The existing Refugee Act of 1980² (“the Act”) is cumbersome and cannot provide the quick, comprehensive relief sought. The Act adopts the definition of the UN Convention and 1967 Protocol on the Status of Refugees which provides that a refugee is an individual with a well-founded fear of persecution. Generally, refugees are outside the United States while asylees have already entered the United States and have a well-founded fear of harm if they return.

Persecution under the Refugee Act is based upon race, religion, nationality, political opinion, or membership in a particular social group.³ The person needs to be singled out for such persecution. This exacting definition does not extend to a country’s entire population facing imminent danger.

In April 2022, the United States established a stream-lined process for aiding Ukrainians to come to the United States in response to the intensification of the Russian invasion and our commitment to aid an ally. A similar process for aiding Venezuelans to enter was announced in October 2022 when the surge of Venezuelans entering along the southern border illegally reached unmanageable numbers. The U.S. government

Immigration Programs to Address International Crises in Ukraine and Venezuela

has strained relations with the Venezuelan government on which it has imposed sanctions for human rights violations. The path for foreign nationals outside the United States to enter in an orderly manner is referred to as Parole.

Humanitarian parole into the United States is for urgent needs.⁴ These two programs require individuals to have a supporter in this country who can file a Declaration of Financial Support. The declaration can be made by a U.S. citizen, lawful permanent resident (green card holder), or a person in other lawful status, even if temporary in nature. They must demonstrate economic solvency.

The declaration is filed with the USCIS, and if accepted, the USCIS will send travel authorization to the foreign national to be executed within ninety days. The foreign national must pay for the travel expenses and must have a valid passport. In the case of Venezuela (as a result of the socio-economic collapse), passports are not being issued but the Venezuelan National Assembly has automatically extended passports issued prior to June 7, 2019, for five years; the U.S. government recognizes the automatic extension. The applicant must complete vaccination requirements. The parole into the U.S. is valid for two years.

Upon arrival in the United States, the applicant can apply for employment authorization.⁵ Once the application is received, the applicant is scheduled for a biometrics appointment for background checks and to capture digital images for production of the employment authorization document. After employment authorization, the individual is eligible for a Social Security number.

Temporary Protected Status (“TPS”) is the second prong of the humanitarian programs for Ukraine and Venezuela and is for the protection of nationals who are already physically present in the United States. It is not a new program and has been a part of immigration law since 1991.⁶

The program allows the Attorney General to designate a country for nationals to receive the protected status while in the United States on or before the TPS designation date. There are fifteen designated countries at the present time,



including Ukraine which was added on April 19, 2022, and Venezuela, added March 9, 2021.⁷ The nationals may remain in the U.S. with employment authorization until the program ends. It is typically granted for an eighteen-month period, with possible extensions.

The process requires an application to establish nationality by a passport or birth certificate and continuous physical presence from before the designated date with evidence showing name, address, and date. The application for TPS is sent with a companion application for employment authorization. The applicant receives an appointment for Biometrics to conduct a background check and to capture digital imaging for producing an employment authorization card. Once employment is authorized, the applicant can apply for a Social Security number.

One of the weaknesses of TPS is that the status is often not temporary in fact, yet it does not provide a path for permanent status. For example, Honduras has been a designated country since 1999, and El Salvador, since 2001. Registrants establish residences, employment, and families but are not given a way to obtain permanent lawful status. In the case of these two long-standing TPS countries, we are seeing a trend of the children of the registrants who are citizens by birth in the U.S., or who became naturalized as U.S. citizens through their own means, sponsoring their parents upon reaching age twenty-one. This trend is a result of more than two decades of protected status.

If the Ukrainian or Venezuelan national wants to remain in the

United States beyond the authorized parole or TPS, they will need to investigate other immigration laws. They may wish to seek asylum but would have to apply within one year of entering the United States and prove the elements of persecution required under the Refugee Act explained above.

If asylum is not granted and they are no longer in lawful immigration status, they would be referred into removal proceedings, which has a chilling effect on that course of action. If they have a U.S. citizen or lawful permanent resident family member or a willing employer, they can pursue sponsorship. In any of these cases, they will need to seek the advice of counsel. Unlike the streamlined processes put in place to address the international crises facing Ukrainians and Venezuelans, the standard paths to residence in the United States are complex and often out of reach to many who would love to make this country their permanent home. 🚧

1. See USCIS.gov featured programs “Uniting for Ukraine” and “Process for Venezuelans”
2. Refugee Act of 1980 (Public Law 96-212)
3. INA§101(a)(42) definition of refugee
4. INA§(d)(5)(A)
5. 8 CFR 274a.12 category (c)(11) alien paroled for urgent humanitarian reasons
6. INA§244 Temporary Protected Status
7. USCIS.gov/humanitarian/temporary-protected-status



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**FOCUS:
LABOR AND
EMPLOYMENT LAW**



Cynthia A. Augello

Employer New Year's Resolution — Check Compliance with Labor and Employment Laws

and employers increasingly end up in litigation as a result of the many employment statutes that have been enacted in the last few decades. As a result, it is in every employer's best interest to protect itself from potential litigation by using every resource possible—and that includes a well written employee handbook.

What's more, employers that have employee manuals and handbooks are much more likely to apply policies in a consistent manner, regardless of an employee's traits such as age, gender, or race—again affording those employers a degree of protection against discrimination lawsuits. An employee handbook is a clear outline of a company's policies and an employee's rights. It lays out the legal obligations of the company to its employees and gives them an overall look at the company culture and expectations.

Expectations

While most employees have a general idea of what is appropriate behavior at work, the employee

handbook is the place to clearly outline these expectations to minimize confusion. The handbook should include the company dress code and its policies on breaks, equipment, drugs and alcohol, internal communication, conflict, and employee relationships. The handbook should also outline any work performance expectations and the disciplinary/correction process.

Support

Even if the handbook perfectly spells out the expectations, policies, and procedures of the company, inevitably, employees will have questions and issues will still arise. The handbook should tell employees where to direct their complaints or concerns and make them feel like they have recourse should an issue arise.

Benefits

The employee handbook should include a general overview of the types of benefits available to employees. Because benefits packages may differ among positions at the company, the handbook is not the place for details on health insurance or retirement packages, but there should be a clear process for requesting vacation, sick leave, or other time-off. A well-written policy should also include a section on what happens to benefits at the termination of employment as well as the end of each year. For example, do unused benefits roll over to the following year or is it a use it or lose it situation? Does the company pay out unused vacation time at the end of employment? Detailing these items in the employee handbook will save time and be practiced consistently.

Values

The Employee handbook is an opportunity for management to communicate the values of the organization to employees. The handbook should state the company's core values and give employees a clear view of why they are doing what they do every day.

Harassment: The employee needs to make it clear that sexual harassment will not be tolerated and outline what constitutes harassment, how to report it, and how it is to be investigated.

Discrimination: When it comes to preventing discrimination, the handbook should comply with the guidelines laid out by the federal

Equal Employment Opportunity Commission, the New York State Human Rights Law, and, for New York City employers, the New York City Human Rights Law.

Discipline: Every company should have a defined process for dealing with employees who violate its policies or who do not meet work performance standards.

Social Media: Employers who choose to monitor the social media activity of their employees can run into trouble for doing so. They should ensure the social media policy located within the company handbook does not violate rules set forth by the National Labor Relations Board by impinging on employee free speech. Employees can freely speak on social media concerning *inter alia* working conditions and unionization.

Compensation and Leave: The handbook should include instructions on how to fill out time sheets and when to expect payment for hours worked. It should also lay out guidelines for how to take vacation and leave. Employers should also include provisions concerning overtime, whether it needs to be pre-approved and the mechanisms for such pre-approval.

Privacy: Every company has different needs when it comes to privacy, but employees should be aware of what is and is not acceptable to discuss outside the office.

Personal Device Use Policy: Employers should be clear about working from home or employee use of personal electronic devices. Employees should be aware that if they conduct company business on personal devices, those devices may become important in times of litigation. As such, an employee's personal device may become subject to collection and review by the employer in instances where a litigation hold is put in place due to foreseen and active litigation.

Anti-fraternization: Does the company have a policy that requires employees to confidentially report romantic workplace relationships? If so, the policy should include a definition of a romantic workplace relationship and the confidential reporting mechanism.

People generally make New Year's resolutions. Some people resolve to be more positive, some to get organized, and some to lose weight. Companies should resolve each year to review their company handbooks to ensure they are compliant with the latest employment laws. Being up to date in employment law compliance is easy to do and can potentially save companies hundreds of thousands of dollars in legal fees and damages payments. This article can help make that resolution a reality—the weight, on the other hand, perhaps someone else can write about.

Check the Handbook

Sadly, disputes between employees



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New York State Paid Sick and Safe Leave Law Compliance

Employers should incorporate the New York State Paid Sick and Safe Leave Law¹ into the employee handbook including having employees accrue sick/safe leave as of September 3, 2020, at the rate of at least one paid hour for every thirty hours worked and adopting a policy that meets the law's requirements for employees' use of that leave time effective January 1, 2021.

Updated COVID Policies

Employers should update their policies and forms to address the expiration as of December 31, 2020 (and optional/voluntary continuation until March 31, 2021) of the federal COVID-19 leave laws (i.e., the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Act).

Wage and Hour Laws

Be prepared to timely issue your employees W-2 forms. Generally, the deadline is January 31. As many companies raise rates of compensation in the beginning of the year, ensure all employees receive mandatory notification of pay rate, overtime rate, and ensure the notice is provided in the employee's preferred language. The forms are available on the New York State Department of Labor website.²

The beginning of the year is also the time that new minimum wage rates become effective. Employers should review employees' rates of pay to confirm that they meet or exceed the applicable New York State minimum wage rates, which on December 31, 2022, remained \$15.00 per hour in New York City, Long Island, and Westchester, and raised to \$14.20 for the remainder of New York State. It should be noted that the New York State minimum wage does not apply to public sector employees except for school district/BOCES employees working in a non-teaching capacity.

While checking the various wages of employees, employers should

also ensure that they have properly classified employees as exempt or non-exempt for purposes of the Fair Labor Standards Act and the New York Labor Law. Likewise, employers should confirm that they have properly classified workers as employees vs. independent contractors. If someone is deemed an independent contractor, ensure appropriate written agreements are in place. Finally, employers should ensure they have properly classified interns.

Various Current Forms

Employers should also check if the forms they are using from various agencies are up to date. Examples include current FMLA forms³ and the I-9 form.⁴

Workplace Posters

The beginning of a new year is the perfect time to ensure the company has displayed all legally required posters and notices pursuant to state and federal law including, but not limited to, the New York State minimum wage poster; the New York Paid Family Leave Notice of Compliance (where applicable); Election Law §3-110 Notice, the New York Workers' Compensation Board Notice of Compliance, etc. Employers should check whether their local municipality has additional posting and notice requirement.

Posters must be in a conspicuous location which typically include break rooms, locker rooms, cafeterias, and outside the Human Resource office. Old, outdated posters should be removed.

Schedule Training

The beginning of a new year is the perfect time to conduct yearly anti-harassment and anti-discrimination training. As companies are required to perform such trainings annually for all employees (regardless of title), holding such trainings in the beginning of the year allows time to catch up should an employee be unable to attend one of the previous sessions. It is also important to note that all new hires

should be trained as soon as possible and must, upon hire, be provided with a notice containing the sexual harassment prevention policy and the information presented at the training.

Acknowledge Receipt in Writing

Employees should acknowledge receipt of the employee handbook and the sexual harassment policy in writing by signing an acknowledgement of receipt which should be kept in the employee's personnel file.

Keep Employee Medical Records Separate from Employee Personnel File

Employers are required to store employee medical records in a separate "confidential file" and not within the employee's main personnel file.

Employment Applications

This is also a great time for employers to ensure their pre-employment practices comply with various laws. Employers should ensure that their pre-employment applications comply with federal and New York State laws. For example, removing requirements that applicants submit, among other things, their date of birth, social security number, salary history, and prior convictions that have been sealed by a court.

Job Descriptions

Oftentimes, in litigation, questions arise concerning the duties of an employee. These issues arise in Wage and Hour cases, disability discrimination cases, FMLA cases as well as others. Employers should ensure that they have written job descriptions that accurately reflect the work that is expected to be performed and which of these duties are "essential functions" of the job for Americans with Disabilities Act and related purposes.

Conclusion

While this article is not an all-inclusive labor and employment law compliance checklist, employers should consult an attorney to ensure they are up to date in all respects. Lawsuits are often determined by workplace policies and procedures. ⚖️

1. NYLL §196-b.
2. <https://on.ny.gov/3VWHz03>.
3. <https://www.dp.gov/agencies/whd/fmla/forms>.
4. www.uscis.gov/i-9.



Cynthia A. Augello is the Principal of the Law Offices of Cynthia A. Augello, PC, handling primarily matters involving defense of employment law litigation and general commercial litigation.

She is also the Co-Chair of the NCBA Publications Committee.

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Additional details to follow.

NAL PROGRAM CALENDAR

January 5, 2023 (HYBRID)

Dean's Hour: How to Write a Paragraph

12:30PM-1:30PM

1 credit in professional practice. Skills credit available for newly admitted attorneys

January 11, 2023 (HYBRID)

Dean's Hour: No One is Immune to Eminent Domain

Sponsored by NCBA Corporate Partner LexisNexis

With the NCBA Real Property Law Committee and the NCBA Municipal Law and Land Use Committee

12:30PM-1:30PM

1 credit in professional practice

January 18, 2023 (HYBRID)

Dean's Hour: Cybersecurity, Privacy and Data Protection

Sponsored by NCBA Corporate Partners AssuredPartners and IT Group New York

12:30PM-1:30PM

1 credit in cybersecurity, privacy, and data protection—general

January 24, 2023 (IN PERSON ONLY)

Planned Charitable Giving: What You Need to Know

With the NCBA WE CARE Fund

Sign-in and light supper beginning at 5:00PM.

Program 5:30PM-7:00PM. Networking following program beginning at 7:00PM.

1.5 credits in professional practice. Skills credits available for newly admitted attorneys.

January 25, 2023 (HYBRID)

Dean's Hour: What's the Point Spread? Introduction to Sports Betting— Economics, Regulations, and the Law

12:30PM-1:30PM

1 credit in professional practice. Skills credit available for newly admitted attorneys

January 26, 2023 (ZOOM ONLY)

Dean's Hour: Compliance Issues Confronting Part 36 Fiduciaries in Article 81 Guardianships

12:45PM-1:45PM

1 credit in professional practice

January 31, 2023 (HYBRID)

Dean's Hour: Abuse in the Family Lecture Series: Part 1 – Elder Abuse

With the NCBA Criminal Court Law and Procedure Committee and the NCBA Elder Law, Social Services & Health Advocacy Committee

12:30PM-1:30PM

1 credit in professional practice. Skills credit available for newly admitted attorneys.

February 1, 2023 (HYBRID)

Dean's Hour: Meeting the Challenges of Battery Storage for the Renewable Energy Needs of Long Island Communities

With the NCBA Environmental Law Committee and the NCBA Municipal Law and Land Use Committee

Sign-in and networking 12:00PM-12:30PM;

Program 12:30PM-1:30PM

1 credit in professional practice

February 7, 2023 (HYBRID)

Dean's Hour: Shareholder Agreements and the Connolly Decision

With the NCBA Business Law, Tax and Accounting Committee

12:30PM-1:30PM

1 credit in professional practice

February 9, 2023 (ZOOM ONLY)

Supplemental Needs Trustee: Part 36 Certified Training

With the NCBA Elder Law, Social Services & Health Advocacy Committee

5:00PM-8:30PM

3 credits in professional practice; .5 in ethics

Registration fees: NCBA Member \$150;

Non-Member Attorney \$250

Part 36 training is excluded from the free CLE offer included with NCBA Membership

February 14, 2023 (HYBRID)

Dean's Hour: How to Catch a Cheating Heart— Use of Digital Evidence in Litigation— Technical, Legal & Ethical Issues

With the NCBA Criminal Courts Law and Procedure Committee

12:30PM-1:30PM

.5 credits in ethics; .5 credits in professional practice.

Skills credit available for newly admitted attorneys.



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NAL PROGRAM CALENDAR

February 4-5, 2023 (IN PERSON ONLY)

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*Snow date: March 4-5, 2023

Hon. Joseph Goldstein
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Bridge-the-Gap Chair: Michael E. Ratner, Esq.,
Nassau Academy of Law Associate Dean;
Abrams Fensterman, LLP, Lake Success

Saturday, February 4 Schedule

- 8:30–9:45AM** **A View from the Courts: Practicing in Village Court and Nassau County Traffic Court**
Hon. Elizabeth Pessala, Associate Justice, Village of Westbury; Judicial Hearing Officer, Nassau County Traffic & Parking Agency
Newly admitted: 1.5 skills
Experienced: 1.5 professional practice
- 9:50–10:40AM** **A Primer on the Commercial Division**
Hon. Timothy S. Driscoll, Justice, Nassau County Supreme Court, Commercial Division;
Matthew F. Didora, Esq., Law Offices of Matthew F. Didora, P.C., Garden City
Newly admitted: 1.0 professional practice
Experienced: 1.0 professional practice
- 10:45–12:00PM** **Demystifying E-Discovery**
Christopher J. DelliCarpini, Esq., Treasurer, Nassau Academy of Law; Sullivan Papain Block McGrath Coffinas & Cannavo P.C., Garden City
Newly admitted: 1.5 professional practice
Experienced: 1.5 professional practice
- 12:00–1:00PM** LUNCH
- 1:05–1:55PM** **Tips and Tricks to E-Filing**
Christopher J. DelliCarpini, Esq., Treasurer, Nassau Academy of Law; Sullivan Papain Block McGrath Coffinas & Cannavo P.C., Garden City
Newly admitted: 1.0 professional practice
Experienced: 1.0 professional practice
- 2:00–3:15PM** **An Afternoon of Ethics**
Thomas J. Foley, Esq., Past Dean, Nassau Academy of Law; Foley Griffin, LLP, Garden City
Newly admitted: 1.5 ethics
Experienced: 1.5 ethics
- 3:20–4:35PM** **Guilty Pleas and Sentencing**
Joseph A. Gentile, Esq., Nassau Academy of Law Advisory Board; Frankie & Gentile, Mineola;
Joseph A. Lo Piccolo, Esq., Bekoff Feinman Lo Piccolo & Kaufmann, P.C., Garden City
Newly admitted: 1.5 professional practice
Experienced: 1.5 professional practice

Sunday, February 5 Schedule

- 8:30–9:20AM** **Foreclosure Process in New York**
Madeline Mullane, Esq., Director of Pro Bono Attorney Activities, Nassau County Bar Association
Newly admitted: 1.0 skills
Experienced: 1.0 professional practice
- 9:25–10:45AM** **Avoid Tripping on Ethical Pitfalls**
Omid Zareh, Esq., Counsel, Nassau Academy of Law; Weinberg Zareh Malkin Price LLP, New York; Mitchell T. Borkowsky, Esq., Law Offices of Mitchell T. Borkowsky, Melville; Former Chief Counsel to the New York State Grievance Committee for the Tenth Judicial District of the Supreme Court, Appellate Division, Second Department.
Newly admitted: 1.5 ethics
Experienced: 1.5 ethics
- 10:50–11:40AM** **A View from the Bench: Practicing in District Court**
Hon. David I. Levine, Justice, Nassau County District Court, Nassau Academy of Law Advisory Board; Hon. Gary M. Carlton, Justice, Nassau County District Court
Newly admitted: 1.0 skills
Experienced: 1.0 professional practice
- 11:45–12:35PM** **Division of Real Property in Matrimonial Actions**
Jon M. Probstein, Esq., Law Offices of Jon M. Probstein, Levittown, Vice-Chair, NCBA Real Property Law Committee
Newly admitted: 1.0 professional practice
Experienced: 1.0 professional practice
- 12:35–1:05PM** LUNCH
- 1:10PM–2:00PM** **A Primer on Probate and Administration in Surrogate's Court**
Amy F. Altman, Esq., Nassau County Bar Association Board of Directors; Abrams Fensterman, LLP, Lake Success
Newly admitted: 1.0 skills
Experienced: 1.0 professional practice
- 2:05–2:55PM** **A Primer on Bitcoin and Other Cryptocurrencies**
Joseph Ammirati, CPA, ABV, CVV, NCBA Corporate Partner MPI Business Valuation and Advisory; Michael E. Ratner, Esq., Associate Dean, Nassau Academy of Law; Abrams Fensterman, LLP, Lake Success
Newly admitted: 1.0 professional practice
Experienced: 1.0 professional practice
- 3:00–4:15PM** **Legal Muscle: An Introduction to Anabolic Steroid Litigation**
Rick Collins, Esq., Past President, Nassau County Bar Association; Collins Gann McCloskey & Barry PLLC, Mineola
Newly admitted: 1.5 skills
Experienced: 1.5 professional practice

**FOCUS:
LABOR AND
EMPLOYMENT LAW**



Frank W. Brennan

As many New York State employers may have been advised, in 2018 the New York State legislature and Governor Cuomo enacted the New York State Secure Choice Savings Program. The newly enacted State Secure Choice Program allowed employees, whose employers did not offer retirement benefits, to participate in automatic payroll deductions to put money toward retirement. New York's fiscal budget for 2019 added a provision for this new voluntary option in order to help more employees save for retirement by using a Roth IRA.¹ As originally enacted, employers could elect whether to enroll in Secure

Understanding New York State Employers' Mandatory Retirement Benefit Obligations

Choice as the original program did not include an automatic enrollment feature.

However, in June 2021, the New York State legislature, relying on participation surveys, had determined that New York employees are 15 times more likely to save if they can do so through their workplace and 20 times more likely to save if they are automatically enrolled in a retirement savings plan.² As a result of those findings, the New York State legislature passed legislation amending the New York State Secure Choice Savings Program ("Program") requiring the automatic enrollment of employees in the Program by certain private-sector employers who do not currently provide employer-sponsored retirement plan options.³

On October 21, 2021, Governor Hochul signed the legislation requiring many private-sector employers to enroll their employees in the Program unless they "opt-out"⁴ by sponsoring a qualified retirement plan, such as a 401(a),

401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) plan. Once signed by Governor Hochul, the legislation became effective immediately and it required employers to enroll employees beginning no later than December 31, 2021, but it failed to provide a clear enrollment mechanism to do so. The New York State Secure Choice Savings Board ("Board") has exercised its ability to delay implementation of the Program by up to 12 months as the Board deemed necessary. On January 26, 2022, the Board held its first Meeting, adopted Bylaws and delegated its authority and responsibility for the development and implementation of the Program to the Department of Taxation and Finance (the "Taxation and Finance").

Although it has been anticipated that enrollment would be set to begin by the end of December 2022, and implementation of the Program appears to be moving forward, final details have yet to be made available to New York employers who must have a payroll deposit retirement savings arrangement in place no later than nine months after the Board opens the Program for enrollment.

What is the New York State Secure Choice Savings Program?

Program Highlights

The Program is a state-run, payroll deduction based individual retirement account ("Secure Choice IRA") administered by the Board. With the assistance of Taxation and Finance, the Board is currently designing and implementing the Program. The Board has also been tasked with selecting the available Secure Choice IRA investment options in the Program. The investment options are not known at this point, but the Board advises that multiple options will be available that will differ in terms of cost and risk profile to appeal to a broad range of savers.

The Board will also contract with the necessary service providers to offer retirement benefits, including investment managers, financial organizations, other financial service providers, consultants, actuaries, counsel, auditors, third-party administrators, and other professionals as necessary. A financial organization/professional's

performance will be periodically reviewed, including reviews of returns, fees and customer service, with reviews posted to the Program's website.

Employers should be satisfied to hear that the Secure Choice IRA is to be funded strictly through employee payroll deferrals. The only costs employers are expected to incur are their own administrative and set-up fees, making this an affordable option for businesses and employees, compared to other investment vehicles offered by some traditional retirement plan providers. In fact, the implementing legislation also includes a one-time investment of \$4 million to cover Program administrative costs, which are expected to be recouped within a few years as it is anticipated that employee contributions will cover all of the Program administrative costs.

Once active, the Secure Choice IRAs offered through the Program are designed to be portable and will move from one employer to another as an employee changes employers.

Eligible Employers

The Program defines an "employer" as any person or entity engaged in a business, industry, profession, trade or other enterprise in New York State, including both for-profit and non-profit organizations, that have employed at least 10 employees in New York State at all times during the previous calendar year, that has been in business for at least two years, and has not sponsored a qualified retirement plan, such as a 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) plan, for its employees in the preceding two years ("Eligible Employer"). As such, the Program clearly prohibits employers from terminating their own employer-sponsored retirement plan with the intent of participating in the Program as an Eligible Employer.

Eligible Employers that elect to facilitate access for their employees to participate in the Program are known as "Participating Employers." The Participating Employer must offer an enrollment period at least once per year. The Participating Employer is also required to perform certain administrative tasks which include:

- Setting up a payroll deduction retirement savings arrangement;

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- Automatically enrolling each eligible employee who does not opt-out;
- Withholding and remitting employee contributions to the Program; and
- At least one month prior to accessing the Program, the Participating Employer must disseminate the State's employee informational materials setting forth:

1. the benefits and risks associated with making contributions to the Program;
2. the process for making contributions to the Program;
3. that deductions for such contributions shall not begin until after the 30th day after an employee has been enrolled in the Program;
4. that they can opt-out of the Program either before enrolling or after they have been enrolled;
5. how to opt-out of the Program;
6. the process by which an employee can participate in the Program with a level of employee contributions other than three percent;
7. that they are not required to participate or contribute more than three percent;
8. that the Participating Employer cannot match any employee contributions;
9. the process for withdrawal of retirement savings;
10. the process for selecting beneficiaries of their retirement savings;
11. how to obtain additional information about the Program;
12. that employees seeking financial advice should contact financial advisors as the Participating Employer is not in a position to provide financial advice; and
13. that Participating Employers are not liable for decisions employees make pursuant to the law;
14. information on how to access any available financial literacy programs; and
15. that the Program fund is not guaranteed by the state.

All the foregoing information will be made available by the Board to Eligible Employers in

order to disseminate to their eligible employees. The employee informational materials must also include a form for employees to note their decision to opt out of participation in the Program or to elect to participate at a contribution level other than three percent. It is important for Participating Employers to understand that although the Program specifically states that it does not deem Participating Employers to be fiduciaries or bear responsibility for the administration, investment, or investment performance of the Program or hold them liable with regard to investment returns, Program design, and benefits paid to eligible employees, those Participating Employers should collect and retain all opt-out and contribution adjustment forms in anticipation of a future audit by either the Board or Taxation and Finance.

The only way for New York State Eligible Employers, without a retirement savings plan, to opt-out of the Program is to sponsor a qualified retirement plan, such as a 401(a), 401(k), 403(a), 403(b), 408(k), 408(p) or 457(b) plan, for their employees, which will come at a cost to the employer.

Eligible Employees

The Program covers all employees in the state who are at least 18 years old and earn wages working for an employer in the State. The legislation does not distinguish between part-time and full-time employees so all employees must be included as eligible employees ("Eligible Employees").

Eligible Employees are automatically enrolled in the Program, with a deferral rate of 3%, and may change this rate at any time (subject to rules set by the Board). Eligible Employees will also be able to make elective deferrals up to the maximum limits under Internal Revenue Code⁵ (subject to rules set by the Board), but pre-tax contributions will not be allowed. Eligible

Employees who opt out may re-enroll again during an open enrollment period (at least once per year). Eligible Employees should also be advised that the Secure Choice IRAs selected by the Board will be portable so that employees can take them with them to their next employer.

Takeaway

The good news is that there are no immediate next steps if you are a New York State Eligible Employer,



except to stay updated on when enrollment opens. Right now, the twelve-month anniversary of the extended enrollment date required by the statute is set to expire at the end of December 2022, but an exact enrollment date is yet to be provided by the Board. Once notice is provided that enrollment is open for all Eligible Employers, they will have nine months to comply with the requirements listed above.

Eligible Employers should take notice that, although the legislation itself does not specify a penalty for non-compliance, it does provide for the Board to set penalties for non-compliance and it is assumed the regulations yet to be issued by the Board to implement the Program will likely address penalties for non-compliance. For now, New York employers affected by the Program mandate should track the Board's activities for information as to when enrollment will open and be prepared to meet the requirements noted above.

Failure to properly address the requirements of the New York State Secure Choice Savings Program can expose those New York employers to unnecessary liability and litigation which may be avoided by consulting with employment attorneys regarding their compliance obligations.

New York City employers wondering what happened to the New York City Retirement Security for All Act (Act) must remember that the Act specifically provides that it would be discontinued if New York State established a retirement savings program that requires "a substantial portion of employers who would otherwise be covered" by the NYC plan to offer to their employees a savings program through payroll deduction or other method of contribution. Now that the Program

is mandatory and will cover many of the same employers as the Act, the City of New York has halted efforts to implement Act while the Board finalizes the Program. It should be noted that the New York City Board has up to two years, from Aug. 9, 2021, to implement the Act should the Program fall short of covering a substantial portion of employers who would otherwise be covered under the Act.

As New York slowly recovers from the lingering effects COVID-19 has taken on its economy, the New York State Secure Choice Savings Board has an opportunity to help provide a sense of security to New York State and City employees of small private employers by creating a truly diversified low-cost retirement savings plan, that would be available at little or no cost to New York's small businesses, allowing a majority of New York employees to save for retirement for the first time. ⚖️

1. See <https://humaninterest.com/learn/articles/new-york-ira-retirement-legislation-small-business-owners/>
2. See <https://states.aarp.org/new-york/need-know-secure-choice-program>
3. Senate Bill 5398-A; See: <https://www.nysenate.gov/legislation/bills/2021/s5395/amendment/original>; Assembly Bill 3212-A; See <https://www.nysenate.gov/legislation/bills/2021/A5398>.
4. General Business Law Article 43, New York State Secure Choice Savings Program; See <https://www.securechoice.ny.gov/legislation.htm>
5. IRS Code Section 219 IRA limits (\$6,000 + \$1,000 catch up— although catch up contributions are not mentioned in the statute); See <https://bit.ly/3VU65ij>



Frank W. Brennan is a partner at Forchelli Deegan Terrana in Uniondale. Mr. Brennan concentrates his practice in the areas of construction law, commercial litigation and labor and employment law, in which he has extensive experience representing employers.

**FOCUS:
LAW AND AMERICAN
CULTURE**



Rudy Carmenaty

The Super Bowl represents more than the championship of the National Football League. The game is a cultural touchstone for the American people—part-secular holiday, part-national institution, part-media phenomenon. It is, year after year, the one event that unifies the entire country in front of the television set.

The game is played at a neutral site on ‘Super Bowl Sunday.’ For the host city, it is a week-long extravaganza, including the NFL Super Bowl Experience—the league’s rotating, interactive football theme park. Being chosen to hold a Super Bowl involves years of preparation and anticipation.

Prior to 2018, a committee of NFL owners evaluated proposals from prospective locations. This process consisted of cities submitting bids for hosting rights. At stake is literally hundreds of millions of dollars in tourism revenue for the winner. The final choice, then as now, is the result of a vote taken by team owners.

Factors such as stadium capacity, available training facilities, municipal infrastructure, hotel accommodations, convention space, restaurants, and other amenities, even the weather are considered when selecting a venue.¹ But as will be seen, other considerations can, and when need be, should come into play.

The current procedure has the NFL preselecting a locale for each game (there are no other bidders). The chosen city is contacted and asked for a proposal to be voted on at an owners’ meeting. On May 23, 2018, Arizona was selected to host Super Bowl LVII in 2023, the first venue selected under this new rubric.²

This year’s game will be played at State Farm Stadium in Glendale on February 3.³ If past is prolog, fans should witness a great game. Super Bowl XLII saw the Giants upset the Patriots’ quest for a perfect season. Super Bowl XLIX saw the Patriots defeat the Seahawks with a stunning, last-minute goal line interception.

This will be the fourth time that the Phoenix Metropolitan Area, a.k.a. the Valley of the Sun, will serve as host. But

The Super Bowl as Mirage

it is the fifth time that Phoenix has been selected. That missing Arizona Super Bowl still holds enormous resonance decades later. For what happened speaks to the intersection of race and commerce in modern America.

On March 13, 1990, the NFL awarded hosting rights to Phoenix for the first time.⁴ Super Bowl XXVII in 1993 was set to be played at Sun Devil Stadium in Tempe.⁵ The selection was conclusive proof that the city of Phoenix, much like its mythical namesake, was a community on the rise.

But another, perhaps more pressing factor, was that the Cardinals had just relocated from St. Louis. The NFL awards a Super Bowl only to a media market in which it already has an existing franchise. Bill Bidwill, the owner of the newly transplanted Cardinals, needed the Super Bowl to bolster his franchise in its new market.

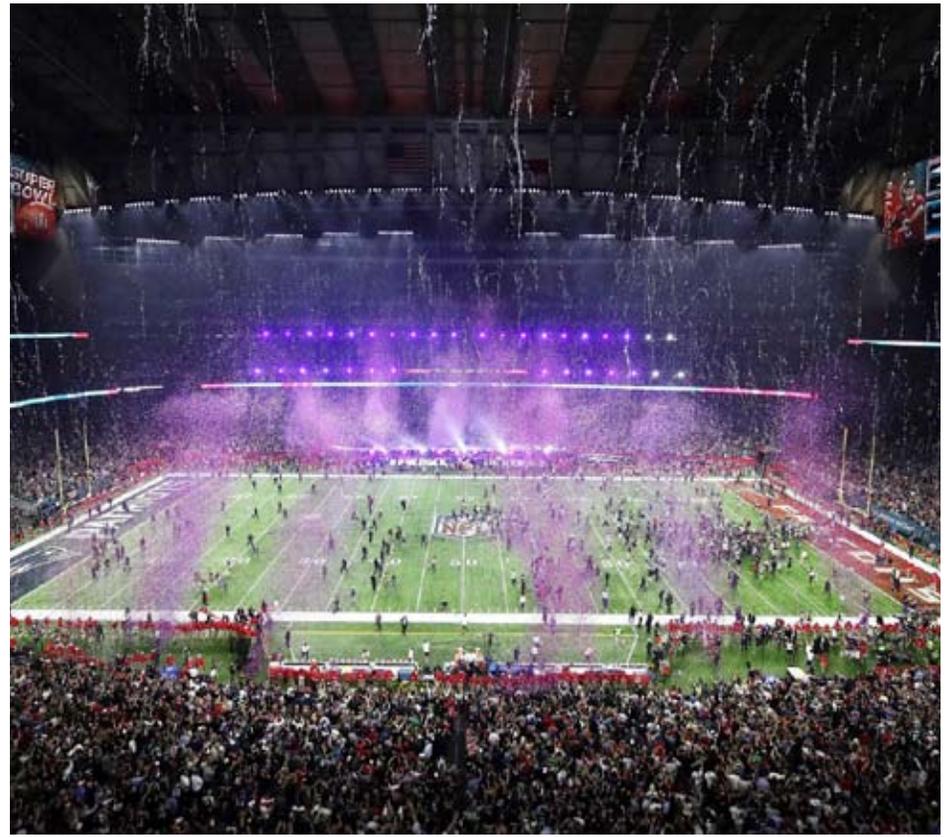
A year and one week later, on May 19, 1991, the NFL did an about face.⁶ It decided to revoke its decision to award Phoenix the Super Bowl after Arizona voters failed to approve a Martin Luther King, Jr. state holiday. It was one of those moments that transcended sport and spectacle for the sake of principle.

This marked the first time a league relocated a major sporting event in response to a public controversy. Stakeholders, ranging from owners to players to fans, made it clear that the then prevailing racial attitudes in Arizona were unacceptable. It is estimated the state lost upwards of \$200 million by the game being pulled.⁷

The controversy over the King holiday finds its genesis four years earlier in 1987. Governor Evan Mecham, in one of his first official acts, unilaterally rescinded the statewide Martin Luther King Day. The federal holiday had been established by Congress and signed into law by President Reagan in 1983.

Arizona was among a handful of states—New Hampshire, South Carolina, Utah, and Virginia—which were slow in approving of an MLK Day.⁸ The Arizona holiday was the product of a 1986 executive order issued by Mecham’s predecessor Bruce Babbitt. The legislature had previously voted it down.

Upon taking office, Mecham revoked Babbitt’s executive order. Claiming Babbitt lacked the authority, Mecham publicly



denounced the holiday and disparaged Dr. King’s memory. Mecham’s deeds, as well as his words, were tainted by racism. Regrettably, Arizona would not observe MLK Day for another five years.

Coretta Scott King was rightly offended, and African Americans took issue with Mecham’s decision. To mollify his critics, the governor reluctantly named the third Sunday in January as Martin Luther King Jr./Civil Rights Day.⁹ This half-hearted measure proved unsatisfactory to those who championed a King holiday.

Stevie Wonder, whose hit song *Happy Birthday* became the anthem for the campaign that resulted in the federal holiday, called for a boycott. In response, entertainers refused to perform, conventions were canceled, and topflight college football programs rebuffed invitations to the Fiesta Bowl to the tune of over \$30 million.¹⁰

Mecham himself was impeached in 1988 on charges of obstruction of justice and misuse of public monies.¹¹ He also faced a recall and a felony indictment. Rose Mofford, the new governor, signed a declaration reestablishing the King holiday. But the issue did not end with Mecham’s removal from office.

For Arizona law and political intrigue would prolong the issue and inflame tensions. A referendum was required to ratify the holiday. At the same time the MLK day was created, the state eliminated Columbus Day from its calendar of paid holidays.¹² This understandably riled Arizona’s Italian American community.

Arizonians have the right to initiate or repeal legislation by referendum. The requisite signatures were secured to have not one, but two measures on the ballot. Prop. 301 called for the creation of Martin Luther King Day to replace Columbus Day. Prop. 302 provided for MLK Day as a stand-alone paid state holiday.

A traditionally conservative state with a history of political iconoclasm, Arizona was experiencing the stresses that come with rapid urban growth. All of which was made worse by being under the glare of the media spotlight. At the time, African Americans accounted for only three percent of the state’s population.¹³

The referendum took place in November 1990. The competing measures were confusing to voters. Prop. 301, which would have replaced Columbus Day with MLK day, failed overwhelmingly 74% to 26%.¹⁴ Prop. 302, which would have added MLK Day to the roster of state holidays, lost by the narrow margin of 51% to 49%.¹⁵

For its part, the NFL made it known beforehand it would be bad for its business to hold its premier event in Arizona absent the holiday. Eagles owner Norman Braman, who chaired the selection committee that awarded Phoenix the game, warned the League would pull the game if a ballot measure was not approved.¹⁶

Also of note is that most NFL players, unlike team owners, are African Americans. No doubt many athletes would refuse to play football games, and some might boycott a state, that did not recognize the King holiday. The NFL did not wish to be

embroiled in or embarrassed by this distasteful situation.

NFL Commissioner Paul Tagliabue decided to relocate the game. Following league meetings held the following March, the venue of Super Bowl XXVII was moved to the Rose Bowl in Pasadena. California already had a state holiday in place. The NFL had never before taken away a Super Bowl from a host city.¹⁷

Arizona saw its civic image tarnished from the fall out. Public Enemy's *By the Time I Get To Arizona* captured public sentiment as only Hip Hop can. The state became something of a pariah, its residents denounced as racists. Phoenix, a burgeoning metropolis on the cusp of the big time, saw its progress and its prestige thwarted.

In November 1992 a new vote was scheduled. This time the measure passed 61% to 39% on a straight Yes or No question.¹⁸ Prop. 300 created the Martin Luther King, Jr. state holiday in Arizona and combined Washington and Lincoln's birthdays into Presidents Day.¹⁹

Although it was the last state to do so, Arizona became the only state to enact a King holiday by popular vote. Dr. Warren Stewart, Sr., the pastor of the First International Baptist Church, led the effort on both occasions.²⁰ His second campaign under the banner of *Victory Together* secured passage of the holiday.²¹

The following year, the NFL granted Arizona a Super Bowl bid once again. Super Bowl XXX was played in Tempe in 1996. As in 1990, the League had conditioned approval on passage of the measure. On this occasion, the initiative processes resulted in a positive outcome.

In the thirty years since, Phoenix has grown into a major sports market. The football Cardinals have been joined by baseball's Diamondbacks and the Arizona Coyotes of the National Hockey League. Along with the Phoenix Suns of the NBA, all four professional sports leagues are represented in the Valley of the Sun.

Sports has on occasion provided a platform to address issues of race. The five-year battle over the Martin Luther King holiday in Arizona was an epic ordeal on a par with any Super Bowl. The NFL had a beneficial influence in obtaining passage of the referendum. Football can change people's minds. Particularly by impacting their bottom line.

Whether it is widely recognized or not, politics, race, business, and sports all mesh, often in uncomfortable ways. The struggle for the King holiday in Arizona was a clarion call that all are worthy of respect—on or off the field. However, it seems the lesson needs to be repeated from time to time nor is this problematic issue circumscribed by geography.

In 2016, the NBA moved the 2017 All-Star Game from Charlotte to New Orleans on account of North Carolina enacting the so-called 'bathroom bill.' In 2021, Major League Baseball moved its All-Star Game from Atlanta to Denver after Georgia passed the *Election Integrity Act* which critics charged disadvantaged minority voters.

Civil Rights activists in 2022 have called for the upcoming Super Bowl to be moved once again from Arizona. Objections arose over proposed legislation which would have restricted early voting, abolished drop boxes, and facilitated the challenging of ballots cast.²² Nevertheless, the big game will still be held in Glendale this February.

The Super Bowl that vanished as a mirage in the desert in 1991 pales when compared to the vision of the man honored each year on the third Monday in January. If Dr. King's vision is to be fulfilled, if his beloved community is to be realized, then there can be no doubt that the price for prejudice must remain high. 🗳️

1. Calum Roche, *How Are Super Bowl Cities selected?*, (February 13, 2022) at <https://en.as.com>.

2. *Id.*

3. Formerly the University of Phoenix Stadium, the name was changed after an eighteen-year agreement was arrived at between the Arizona Cardinals and State Farm Insurance.

4. Rhiannon Walker, *When Arizona lost the Super Bowl because the state didn't recognize Martin Luther King Jr. Day*, (March 22, 2017) at <https://andscape.com>.

5. The Cardinals played at Sun Devil Stadium from 1988 to 2005. It remains the home of Arizona State University Sun Devil football team.

6. Walker, *supra*.

7. Josh Weinfuss, *Looking back at the NFL moving the Super Bowl from Arizona due to Martin Luther King Jr. holiday*, (July 12, 2021) at <https://www.espn.com>.

8. *Id.*

9. *Id.*

10. *Id.*

11. Melissa Rigg & Susan Carson, *Meachum Convicted, Recall status in doubt*, (April 5, 1988) Arizona Daily Star at <https://tucson.com>.

12. Weinfuss, *supra*.

13. Walker, *supra*.

14. Weinfuss, *supra*.

15. *Id.*

16. Cindy Boren, *Why the NFL moved the Super Bowl from Arizona in 1990*, (February 26, 2014) at <https://www.washingtonpost.com>.

17. In 1975, Super Bowl IX was scheduled to be played at the Superdome. Because the stadium wasn't completed, the game was played instead at Tulane Stadium. The game was still held in the city of New Orleans.

18. Weinfuss, *supra*.

19. Kenneth Wong, *Arizona was the last state to make Martin Luther King, Jr. Day a state holiday, here's what you should know*, (February 17, 2022) at <https://www.fox10phoenix.com>.

20. Dr. Warren H. Stewart, Sr. at <https://www.fibcaz.org>.

21. *Id.*

22. E.J. Montini, *Does the NFL have the guts to move the 2023 Super Bowl out of Arizona*, (February 2, 2022) at <https://news.yahoo.com>.



Rudy Carmenaty is the Deputy Commissioner of the Nassau County Department of Social Services. He also serves as Co-Chair of the NCBA Publications Committee and Chair of the Diversity and Inclusion Committee.



NCBA Sustaining Members 2022 - 2023

The NCBA is grateful for these individuals who strongly value the NCBA's mission and its contributions to the legal profession.

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The financial contribution of a Sustaining Member enables the NCBA to continue its legacy for years to come. Becoming a Sustaining Member is a demonstration of not only your commitment to this Bar Association, but also your dedication to the legal profession.

To become a Sustaining Member, please contact the Membership Office at (516) 747-4070.

**FOCUS:
NEW YORK STATE
BAR ASSOCIATION**



Michael A. Markowitz

The Executive Committee and House of Delegates of the New York State Bar Association (NYSBA) met at the Bar Center in Albany, New York for its fall meeting held on November 4–5, 2022. The following are highlights from its meeting.

18B Compensation

In 2018, the NYSBA approved a resolution to increase assigned counsel rates. The NYSBA has been lobbying for a statewide increase to assigned counsel rates to ensure adequate compensation for the private bar. Adequate compensation is necessary to safeguard continued participation of qualified attorneys who represent indigent people and children. Despite intense lobbying efforts, New York failed to pass the needed rate increase.

In February 2022, a series of bar associations in the City of New York commenced an action to increase the assigned counsel rate.¹ In July 2022, New York County Supreme Court Justice Lisa Headley issued an order directing New York State to increase the pay rate to \$158 per hour retroactive from February 2, 2022. The order affected only attorneys who practice in New York City. As a result, the disparity in income had a negative effect on attorneys in surrounding counties, including Nassau, Suffolk, and Westchester, who continue to receive a lower hourly rate.

On October 25, 2022, the NYSBA's Executive Committee authorized the commencement of litigation against the State of New York for statewide state-funded increase in assigned counsel rates, set retroactively from February 2, 2022. It is anticipated that litigation will commence late November 2022.

NYSBA Reproductive Rights Policy

The Supreme Court in *Dobbs v. Jackson Women's Health Organization*,² held that there is no constitutional right to abortion, overturning its 1973 decision in *Roe v. Wade*.³ Since the *Dobbs* decision, at least seventeen states have

NYSBA Highlights

acted to in some way restrict the right to an abortion. Although the issue is clearly political, it is also legal since laws will be introduced that will affect the public.

NYSBA did not have a policy concerning a woman's reproductive health-care rights and autonomy. On November 5, 2022, NYBA's House of Delegates overwhelmingly approved a resolution submitted by the Women in Law Section supporting reproductive health-care rights and a Woman's rights to reproductive autonomy. NYSBA will now act to support its policy through lobbying and educational efforts.

Insular Cases Concerning the U.S. Territories

In the early 20th Century, the United States passed a series of laws upheld by the U.S. Supreme Court that are known as the "Insular Cases." Generally, pursuant to the Insular Cases, individuals who originated in the U.S. Territories do not enjoy the full protections of the Bill of Rights of the United States Constitution.

The United States Supreme Court recently rendered a decision reflecting on the Insular Cases. In *US v. Vaello Madero*,⁴ the Federal government sued recipient of Supplemental Security Income (SSI) disability benefits, seeking to collect \$28,081 in benefits that were allegedly overpaid after recipient changed his residency from New York to Puerto Rico. Following decisions set forth in the Insular Cases, the U.S. Supreme Court reversed the lower courts and held that residents of Puerto Rico and other Territories may be treated differently for federal benefits than a United States resident.

On November 5, 2022, the House of Delegates overwhelmingly approved a resolution submitted by the Task Force on the US Territories directing the NYSBA to support efforts to overrule the Insular Cases, including but not limited through the filing of amicus curiae briefs in appropriate litigation.

Issue Concerning Judicial Discipline

The New York State Commission on Judicial Conduct is the agency primarily responsible for the investigation and discipline of New York's judges. Prior to 1978, the commission had the authority to suspend a judge from office up



to six months as a mode of final discipline. After New York State amended its Constitution in 1978, neither the commission nor the Court of Appeals may suspend a judge as a final remedy, although the court is permitted to suspend a judge on an interim basis under limited circumstance. Presently, a judge may be admonished, censured, or remove from office for cause.⁵

The NYSBA Committee on Procedures for Judicial Discipline proposed a resolution to amend the New York Constitution to allow the Court of Appeals to suspend a judge without pay for up six months upon a determination of misconduct in office, persistent failure to perform his or her duties, habitual intemperance, and conduct on or off the bench prejudicial to the administration of justice.

The resolution also proposed that the Commission be allowed to suspend a judge with pay pending a determination upon receipt of sufficient evidence demonstrating that a judge poses a substantial threat of serious harm to the public or to the administration of justice. Pursuant to the committee, providing a remedy of suspension provides flexibility to create a sanction that reflects proportionality.

NYSBA's Judicial Section opposed the resolution. Among other reasons, the proposed amendment affords no due process protections to a judge, contains no provision protecting the privacy of judges

under investigation, and contains no provision for the employment security of the judge's staff during an interim suspension.

After lengthy debate, NYSBA's House of Delegates agreed to table the proposed resolution pending additional information and input from other committees.

Future Reports and Recommendations

The House of Delegates received information concerning various task forces and upcoming reports and recommendations. Reports and information included a presentation given by the task force on emerging digital finance and currency, proposed regulations, legislative review and recommendations concerning res judicata effect from Small Claims judgments. NYSBA resolutions on future reports will be presented in upcoming articles. 🗳️

1. *New York County Lawyers Association v. State*, Index No. 156916/2021 (Sup.Ct., N.Y. Co).
2. 213 L. Ed. 2d 545, 142 S. Ct. 2228 (2022).
3. 410 U.S. 113, 93 S. Ct. 705, 35 L. Ed. 2d 147 (1973).
4. 212 L. Ed. 2d 496, 142 S. Ct. 1539 (2022).
5. NY Const., Article VI, Section 22 a.



Michael A. Markowitz is a Vice President for the New York State Bar Association representing the 10th Judicial District, covering Nassau and Suffolk Counties.

Brian Cuban Leads Lawyer Assistance Program Fundraiser

On Monday, December 5, attorney, author, and mental health awareness and recovery advocate Brian Cuban led the discussion on mental health and addiction and the NCBA Lawyer Assistance Program's (LAP) inaugural fundraising dinner. Among the evening's honorees included current LAP Chair Jackie Cara and Past Chair Henry Kruman for their dedicated commitment to the Program.

Photos by: Hector Herrera



LAW DAY 2023 AWARD NOMINATIONS REQUESTED!

Liberty Bell Award

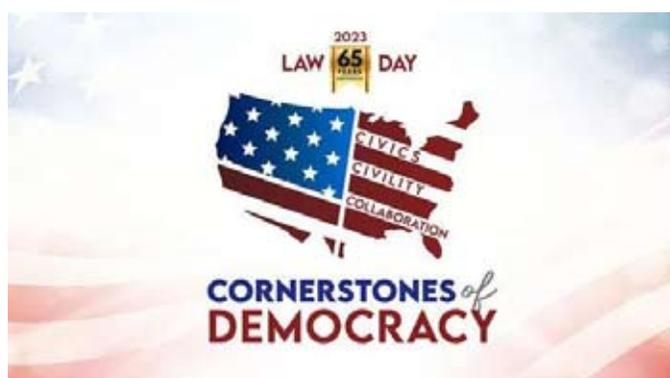
The Liberty Bell Award is presented to a non-lawyer in Nassau County who has strengthened the American system of freedom under the law by heightening public awareness, understanding and respect for the law.

Peter T. Affatato Court Employee of the Year Award

NCBA invites nominations for the Court Employee of the Year Award named in honor of Past President Peter T. Affatato, "Dean of the Bar." The award recognizes a non-judicial employee of any court located in Nassau County.

Awards will be presented at the Law Day Celebration on May 1, 2023 at Domus.

**Nominations should be submitted with supporting documents no later than
Monday, January 23, 2023.**



MAIL NOMINATIONS TO:
Hon. Ira B. Warshawsky
ATTN: Law Day 2023
Nassau County Bar Association
15th & West Streets
Mineola, NY 11501

IN BRIEF

Joseph C. Packard, Partner of Schroder & Strom, LLP, has been recognized by the *New York Real Estate Journal* as “One to Watch” for 2022. Additionally, *Long Island Business News* named Packard as a 2022 “40 Under 40” honoree. Associate Attorney **Jeremy R. May** was recognized by the Nassau Councils of Chambers of Commerce as a 2022 Businessperson of the Year.

Ronald Fatoullah of Ronald Fatoullah & Associates has been recognized by *Martindale-Hubbell* as a 2022 Top Rated Lawyer and highlighted in the December issue of *The New York Law Journal*. Fatoullah has also been participating in a series of lectures created by PSS Circle of Care Life University entitled, *Retirement Readiness Base Camp*.

Ruth B. Kraft has been named to the *Super Lawyers* New York Metro 2022 List for employment and labor law. She was honored by the *Long Island Herald* as one of the Top Lawyers of Long Island. On January 1, 2023, she joined Falcon Rappaport & Berkman PLLC as a partner in the employment law group.

Faith Getz Rousso, of Law Office of Faith Getz Rousso, P.C. has been named to the *Super Lawyers* New York Metro 2022 list.

Roberta D. Scoll was honored by the *Long Island Business News* with a Leadership in Law award.

A. Thomas Levin, **Patricia Galteri**, and **Steven T. Cheng** of Meyer Suozzi were honored during the *Long Island Business News* Leadership in Law event. Levin has been appointed to the New York State Bar Association Task Force on Public Sector Ethics. Levin has also been appointed to the New York State Bar Association Task Force on the US Territories.

Howard M. Stein of Certilman Balin Adler & Hyman, LLP, Chair of the firm’s Real Estate Group, will be the firm’s new managing partner effective January 1, 2023,

Marcus O’Toole-Gelo has joined Kurre Schneps LLP as Senior Counsel where he continues to practice in the



Marian C. Rice

areas of Elder Law and Trusts & Estates.

Yvonne Cort, Partner at Capell Barnett Matalon and Schoenfeld LLP, was quoted in the article “Are More SMB Tax Audits Coming?” in *Business News Daily*, where she discussed IRS audits for small and midsize businesses. Partner **Robert Barnett** was Co-Chair of the Nassau/Suffolk Chapter Tax Conference, for the New York State Society of CPAs, and lectured on the topic of S Corporation updates, basis, and reporting requirements. Associate Jaime Linder also spoke at the conference, and presented on the topic of NYS warrants and levies. Barnett was quoted in the *InvestmentNews* article titled, “Don’t Give Up on Charitable Giving Just Yet” where he discussed how inflation will ultimately decrease charitable gift giving as donor’s expenses rise.

Karen Tenenbaum LL.M. (Tax), CPA, tax attorney, of Tenenbaum

Law, P.C. is pleased to announce that the firm was listed by *Long Island Business News* as a Top Tax Law Firm and nominated by *Long Island Press* as a Best Law Firm on Long Island 2023. Tenenbaum’s article titled “Changes to the IRS Offer in Compromise Program: Good for Taxpayers?” was published by Thomson Reuters in its Practical Tax Strategies edition. In the NYSSCPA Suffolk Chapter Newsletter, Tenenbaum’s article “Frequently Asked Questions About Small Business Audits” was also published. Tenenbaum’s article titled, “IRS Collection Alternatives: Options for Taxpayers Who Cannot Pay Their Taxes” was recently published in the *Nassau Lawyer*. Tenenbaum was listed in *Long Island Business News* “Who’s Who” annual publication. A member of Tenenbaum Law was awarded the *Long Island Business News* Leadership in Law award as an Unsung Hero.

The *Nassau Lawyer* welcomes submissions to the IN BRIEF column announcing news, events, and recent accomplishments of its current members. Due to space limitations, submissions may be edited for length and content.

PLEASE NOTE: All submissions to the IN BRIEF column must be made as WORD DOCUMENTS.

From the President...

Continued from page 4

Other Milestones of the NCBA

Beginning last January, the NCBA took *Nassau Lawyer* in-house, taking over production and advertisement sales for the monthly publication. Within six months, the publication was financially profitable, and its design was greatly enhanced. NCBA owes a debt of gratitude to NCBA Executive Director, Elizabeth Post, and Communications Manager and Editor, Ann Burkowsky for having the vision to inspire and the talent to execute this project.

Past President Elena Karabatos made a generous donation to the NCBA to underwrite scholarships for LSAT prep courses for underserved college students hoping to attend law school and has helped launch a Pre-Law Society at SUNY Old Westbury along with NCBA Secretary, Hon. Maxine Broderick and WE CARE Co-Chair Deanna Caputo. The Pre-Law Society has already accepted five deserving applicants who have been matched with an NCBA-member mentor.

NCBA has had the distinct honor of hosting several VIP guests, including a Fireside Chat co-hosted by NCBA and Long Island Hispanic Bar Association featuring Hon. Norman St. George, Deputy Chief Administrative Judge for Courts Outside New York

City and Hon. George Silver, former Deputy Chief Administrative Judge for New York City Courts, and newly appointed member of the NYSBA’s Committee on Diversity and Inclusion. NCBA held a cocktail reception and book signing event with Hon. John Gleeson, former federal prosecutor and judge, who shared a riveting account of prosecuting the racketeering-murder trials of the notorious John Gotti and Vic Orena, respectively the crime bosses of the Gambino and Colombo crime families, followed by a book signing of his best-selling novel, *The Gotti Wars—Taking Down America’s Most Notorious Mobster*. NCBA’s Criminal Court Law and Procedure Committee also hosted a reception and lively conversation with District Attorney Anne T. Donnelly, who revealed to the delight of many that her wedding reception was actually held at Domus!

The NCBA launched a Special 125th Anniversary Committee, chaired by Vice President Dan Russo, to plan the “quasiquicentennial” (meaning 125th Anniversary celebration) in 2024. Initial ideas include a fall gala and a building capital campaign to retire the mortgage.

NCBA formed an Affinity Circle to increase diversity in Association

membership by inviting the presidents of nine affinity bar associations to educate the NCBA Board of Directors regarding their organization, contribute columns to *Nassau Lawyer*, and collaborate with NCBA/NAL on future programs.

The 123rd Annual Dinner Gala will be held on Saturday, May 13, 2023, at the Long Island Marriott. Join us to celebrate the accomplishments of the premier suburban Bar Association in the country and to celebrate our 50, 60, and 70-year honorees. Additional information on how to purchase tickets, sponsorships, and journal ads will follow.

Our Distinguished Service Medallion recipient will be Geri Barish, Executive Director of Hewlett House, a community resource center which supports cancer patients and their families at every stage of treatment. Barish is a three-time cancer survivor and activist, whose oldest son, Michael, died from complications of Hodgkins Lymphoma in 1986. A leader in the battle against the high rate of cancer on Long Island for the past 23 years, she has spearheaded changes to local, state and federal laws that resulted in new policies and helped clean up toxins in our environment.

The NCBA Lawyer Referral Service continues to connect countless Nassau County residents with experienced NCBA attorneys.

Thank you to LRIS Coordinator Carolyn Bonino for her extraordinary efforts to keep the program running smoothly following the passing of long-time LRIS Coordinator, Pat Carbonaro, last spring. The Bar has hired receptionist Nicole Garzon, who assists Spanish-speaking callers with referrals, and beginning in December, implemented automated dues invoicing and reports.

The NCBA also welcomed two other new members of our staff, Bookkeeper Alvarez Faison and Membership Coordinator and Programs Assistant Judy Maze, to fill vacancies. Welcome to the Bar team!

I am excited to welcome our newest Corporate Partners to the Nassau County Bar Association: Raj Wakhale, LexisNexis; Bryan Osima, Legal Hero Marketing; Nicholas Valastro and Trish Lemanski, Maximus Title; Jeffrey Mercado and Monica Vazquez, Webster Bank; and Adam Schultz, IT Group NY. I would also like to extend my gratitude to our long-standing Corporate Partnerships with Regina Vetere, AssuredPartners Northeast; Joshua Sechter and Joseph Ammirati, MPI Business Valuation and Advisory; Jesse Giordano and Lee Korn, Opal Wealth Advisors; John Farrell and John McGorty, PrintingHouse Press; and Ellen Birch, Realtime Reporting.

I look forward to the excitement of the balance of the bar year. 🗡️

WE CARE



We Acknowledge, with Thanks, Contributions to the WE CARE Fund

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**Questions? Contact Bridget Ryan
at (516) 747-4070 ext. 1226 or
bryan@nassaubar.org.**

NCBA Committee Meeting Calendar
January 4, 2023–
February 9, 2023

Questions? Contact Stephanie Pagano at (516) 747-4070 or spagano@nassaubar.org. Please Note: Committee meetings are for NCBA Members.

Dates and times are subject to change. Check www.nassaubar.org for updated information.

WEDNESDAY, JANUARY 4
 REAL PROPERTY LAW/NEW LAWYERS

12:30 PM
 Alan J. Schwartz-Real Property Law
 Byron Chou/Michael Berger-
 New Lawyers

WEDNESDAY, JANUARY 4
 SURROGATES COURT
 ESTATES & TRUSTS

5:30 PM
 Stephanie M. Alberts/
 Michael Calcagni

THURSDAY, JANUARY 5
 PUBLICATIONS

12:45 PM
 Rudolph Carmenaty/
 Cynthia A. Augello

THURSDAY, JANUARY 5
 COMMUNITY RELATIONS &
 PUBLIC EDUCATION

12:45 PM
 Ira S. Slavit

TUESDAY, JANUARY 10
 LABOR & EMPLOYMENT LAW

12:30 PM
 Michael H. Masri

TUESDAY, JANUARY 10
 ENVIRONMENTAL LAW/
 MUNICIPAL LAW AND
 LAND USE

12:30 PM
 John L. Parker/
 Kenneth L. Robinson-
 Environmental Law
 Judy L. Simoncic-Municipal Law
 and Land Use

WEDNESDAY, JANUARY 11
 ASSOCIATION MEMBERSHIP

12:30 PM
 Jennifer L. Koo

WEDNESDAY, JANUARY 11
 MEDICAL LEGAL

12:30 PM
 Christopher J. DelliCarpini

WEDNESDAY, JANUARY 11
 ALTERNATIVE DISPUTE
 RESOLUTION

12:30 PM
 Suzanne Levy/Ross J. Kartez

WEDNESDAY, JANUARY 11
 MATRIMONIAL LAW

5:30 PM
 Jeffrey L. Catterson

TUESDAY, JANUARY 17
 PLAINTIFF'S PERSONAL
 INJURY

12:30 PM
 David J. Barry

TUESDAY, JANUARY 17
 APPELLATE PRACTICE

12:30 PM
 Amy E. Abbandonelo/
 Melissa A. Danowski

TUESDAY, JANUARY 17
 ELDER LAW SOCIAL SERVICES
 HEALTH ADVOCACY

12:30 PM
 Ariella T. Gasner

WEDNESDAY, JANUARY 18
 GENERAL, SOLO &
 SMALL LAW PRACTICE
 MANAGEMENT

12:30 PM
 Scott J. Limmer/Oscar Michelen

WEDNESDAY, JANUARY 18
 GOVERNMENT RELATIONS

12:30 PM
 Nicole M. Epstein

WEDNESDAY, JANUARY 18
 CONSTRUCTION LAW

12:30 PM
 Anthony P. DeCapua

WEDNESDAY, JANUARY 18
 ETHICS

5:30 PM
 Avigael C. Fyman

WEDNESDAY, JANUARY 18
 LAW STUDENT

6:00 PM
 Bridget Ryan

THURSDAY, JANUARY 19
 INTELLECTUAL PROPERTY

12:30 PM
 Frederick J. Dorchak

TUESDAY, JANUARY 24
 DISTRICT COURT

12:30 PM
 Bradley D. Schnur

WEDNESDAY, JANUARY 25
 EDUCATION LAW

12:30 PM
 Syed Fahad Qamer/Joseph Lilly

WEDNESDAY, JANUARY 25
 BUSINESS LAW TAX &
 ACCOUNTING

12:30 PM
 Varun Kathait

THURSDAY, JANUARY 26
 IN-HOUSE COUNSEL

12:30 PM
 Michael DiBello

WEDNESDAY, FEBRUARY 1
 REAL PROPERTY LAW

12:30 PM
 Alan J. Schwartz

WEDNESDAY, FEBRUARY 1
 SURROGATES COURT
 ESTATES & TRUSTS

5:30 PM
 Stephanie M. Alberts/
 Michael Calcagni

THURSDAY, FEBRUARY 2
 PUBLICATIONS

12:45 PM
 Rudolph Carmenaty/
 Cynthia A. Augello

THURSDAY, FEBRUARY 2
 COMMUNITY RELATIONS &
 PUBLIC EDUCATION

12:45 PM
 Ira S. Slavit

TUESDAY, FEBRUARY 7
 WOMEN IN THE LAW

12:30 PM
 Melissa P. Corrado/
 Ariel E. Ronneburger

WEDNESDAY, FEBRUARY 8
 ASSOCIATION MEMBERSHIP

12:30 PM
 Jennifer L. Koo

WEDNESDAY, FEBRUARY 8
 MEDICAL LEGAL

12:30 PM
 Christopher J. DelliCarpini

WEDNESDAY, FEBRUARY 8
 MATRIMONIAL LAW

5:30 PM
 Jeffrey L. Catterson

THURSDAY, FEBRUARY 9
 INTELLECTUAL PROPERTY

12:30 PM
 Frederick J. Dorchak

NEW MEMBERS

**We Welcome the Following
 New Member Attorneys:**

Susan Carney

Jonathan Michael Fozailow

John W. Milas

Stephanie Ayeley Okine

Alexandria Elizabeth Tomanelli
 Rivkin Radler LLP

Thomas Peter Wolowski Esq.
 L'Abbate, Balkan, Colavita & Contini, LLP



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