Want to Find a President on a Random Weekday?

Try looking on a mountain trail in the Adirondacks.

A few weeks ago I had a trial settle before picking a jury. Because I had planned to be out for the week, I decided to take advantage of some unexpected free time and go hike up a mountain. So I woke early the next morning and drove to the Adirondack LOJ (a popular trailhead for many of the High Peaks in the Adirondacks), with a plan to hike Mount Marshall (twenty-fifth highest in the Adirondacks). When I left the LOJ it was five degrees, with no wind and a clear sky. Seventeen miles later, and a good part of the day spent on the trail, I returned to my car and started back for Albany.

It was an incredible day. I was alone for the entire hike, save for meeting another hiker at the top of Mount Marshall (which made it a lot easier to get a picture of myself next to the sign at the top). The views were spectacular and I was able to get pictures from the middle of the lakes, which is not so easy to do during the other months of the year. It warmed up from the five degree start to a balmy twenty-eight by the time I got back to the car. Another mountain conquered on my trek to complete all forty-six mountains in the Adirondacks that are over four thousand feet (only six left).

But aside from the views, exercise and fresh air, the hike gave me the chance to just relax and recharge. To get away for a day and appreciate all that is so beautiful about this little spot on the planet we call home.

For well over a year, Ann Lapinski has been writing a piece in this Newsletter on Wellness. Something we all need to take seriously. Far too many attorneys in our community struggle with a variety of challenges brought on by the pressure of the profession. When we add to that the other things that inevitably happen in life, it can become overwhelming. National statistics indicate that attorneys struggle with a much higher percentage of dependency and mental health issues than many other segments of society.

For that reason, we all need to look for and take advantage of healthy escapes. Ann has been writing about those escapes, discussing exercise options like yoga, simple lifestyle changes that can make tasks easier to accomplish and posting recipes for nutritious eating. It is all about finding and doing what you enjoy. Ann regularly discusses the need for all of us to take time for ourselves, look for what is good about life and finding ways to enjoy that good. Not always easy, but something that we must all try to do.

Through this year, ACBA is going to infuse its social events and activities with healthier options. The ACBA committees will be looking, even more than we have in the past, to add events or options at events that provide an escape from the not-so-healthy routine. We are looking forward to events that are focused on getting outside, getting involved in the community and generally providing happenings that are welcoming to every one of our members and their families.

Continued on page 2
EXECUTIVE DIRECTOR’S MESSAGE

It has been 25 years since the very first Law Day Run was held. As you can imagine, most people did not have digital cameras in 1994. The Run Committee has looked at photo files from over the past two (plus) decades with the glossy paper images sparking a lot of conversation in the office. The recognition of certain members in a photograph, of someone’s child who is now in college and even the changes of time through hair styles. Yet, the passion for the run and the raising of funds to assist others has only grown in this time. Proudly, through the efforts of Association members, over $336,000 has been raised and awarded to charitable organization throughout Albany County.

In honor of this silver anniversary, the Run Committee encourages you to offer your best gift to date to this effort. To that end, I encourage you to not only attend the event to run or walk (or both), (or meet us at Swifty’s afterwards) but to take a few images on your phone and share them on one of our social media platforms, like Instagram (albany_county_bar_association) #25years. I wonder what our photo sharing will be like in another 25 years. I know our passion will continue to be paramount.

Sign-up for the run online soon | bit.ly/2019LawRun
See you on the course,
Marquita Jo

PRESIDENT’S MESSAGE (continued)

I am not certain who might want to take me up on this, but I intend to invite ACBA members to join me as I complete my venture up the last six of the forty-six ADK high peaks this year. Unlike my solo venture a few weeks ago, I will send out an email to the membership several days (perhaps even weeks if I can get my act together) before I hike and see who wants to join me. I cannot promise that the hikes will be on the weekend, or that they will be easy (I have saved some of the more difficult hikes for last). But, I will promise you an incredible day connecting (and at times even tussling) with nature.

Let’s Talk About Membership and Access to Justice.

I am combining membership with access to justice this month (and likely next month), because I want to discuss the opportunities ACBA offers to all members to provide access to justice.

For several years now, ACBA has engaged in various programs to assist people in Albany County that cannot afford legal services. The programs that ACBA currently participates in are the Lawyer Referral Service, the Clean Slate initiative and the Albany County Family Court Help Center.

Next month I am going to discuss the Clean Slate program in more detail, and how it relates to expunging felony and misdemeanor records that are more than ten years old.

The referral service is exactly what you might think it is. ACBA currently has a lawyer referral service (“LRS”) for people seeking a lawyer in Albany County. The LRS matches people looking for an attorney with member attorneys who work in the area of law that is involved. To participate in that program, ACBA members sign up with LRS and are on a roster and cases are referred out. When the person seeking a lawyer indicates that they do not

MISSION STATEMENT

The purpose of the Albany County Bar Association is to promote professional collegiality among the bench and bar; facilitate public service and access to justice for all; and offer programs, benefits and services to enhance the skills of its members.
have the ability to pay for an attorney and their case is not appropriate for a contingency, the LRS team attempts to refer the case with a local pro bono service. ACBA also encourages members to volunteer with a local service provider, thus, effectively recruiting and helping to refer pro bono matters in Albany County.

The Albany County Family Court Help Center is essentially a pro bono drop-in clinic at Family Court. A member simply needs to get trained, sign up for the time they can participate (it can be for an hour or more Mon-Fri) and then begin helping people. It is an incredible opportunity to give back to the community in a meaningful way. And it has the advantage of being scheduled for a discrete period of time of your choosing.

Kristin Petrella has been the lead on all of the ACBA pro bono efforts over the last two years, and wrote an article that appears in this Newsletter describing in more detail the Help Center. Kristin has been a force in making the Help Center an incredibly successful and dynamic program. She has been providing the training, scheduling the volunteers, providing the hands-on interaction with volunteer members at Family Court, making certain that people looking for assistance know that attorneys are available and having the attorneys there when needed. Kristin has been instrumental in making sure the program runs smoothly.

Unfortunately, Kristin will be leaving the ACBA team at the end of March. As she transitions the logistics of the Help Center program to the Help Center Ad Hoc Committee, I want to thank her publicly for all of her fantastic work with the Help Center program and the tremendous pro bono outreach she has done for ACBA. Kristin has been tireless in her support of pro bono services in Albany County and in her dedication to the members of this organization. She will be missed.

But as the ACBA Pro Bono Committee steps in to take on the Help Center logistics, we are going to be asking for members to do even more to help. We are going to be looking for more members to be part of the Pro Bono Committee and to volunteer at the Help Center. As Kristin notes in her article, last year the Help Center helped almost 450 clients. That was done by approximately 22 volunteers we need to not only continue that level of service, but to increase it over the next several years.

I would like ACBA to serve 1000 clients by the end of 2020. That is going to take some focus and the raising of many hands by ACBA members to volunteer and get involved. So please consider volunteering by getting in touch with the committee or just drop me a line and we will get you started.

View From Broadway with President Hurteau | March 26, 2019
Amended Statement of Client's Rights and Responsibilities

Effective February 15, 2019, the Judicial Departments of the Appellate Divisions of the New York State Supreme Court amended 22 NYCRR §1400.2 to prescribe a revised Statement of Client’s Rights and Responsibilities to be provided to a prospective client. Under the amended Rule, “An attorney shall provide a prospective client with a statement of client’s rights and responsibilities in a form prescribed by the Appellate Divisions, at the initial conference and prior to the signing of a written retainer agreement.” The attorney shall obtain a signed acknowledgment of receipt from the client.

The purpose of the Statement of Client’s Rights and Responsibilities is to prevent any misunderstanding between the client and the attorney. 22 NYCRR §1400.2 sets forth the requisite statements to be included in the Statement of Client’s Rights and Responsibilities. The amended Statement of Client’s Rights and Responsibilities replaces the Statement of Client’s Rights and Responsibilities which had been in effect since November 1993. This Rule applies to all attorneys who undertake to represent a client in any divorce, separation, annulment, custody, visitation, maintenance, child support, alimony, or to enforce or modify a judgment or order in connection with any such claims, actions or proceedings.

Taxation of Maintenance Payments (Paid or Received)

The Federal Tax Cuts and Jobs Act (TCJA), which was enacted on December 22, 2017, implements changes which impact 2018 and future income tax filings. The TCJA is of significant importance to matrimonial law practitioners as it radically changes how maintenance payments (referred to as “alimony” for income tax purposes) made and/or received shall be treated for income tax purposes. Prior to the enactment of the TCJA on December 22, 2017, IRC §71 provided rules regarding the tax treatment of alimony and separate property payments (referred to as “maintenance payments” under the New York Domestic Relations Law). IRC §71 had provided that gross income includes qualifying amounts received as alimony or separate maintenance payments. IRC §215 had provided that qualifying alimony or separate property payments made to spouse or former spouse were tax deductible by the payor. The TCJA prospectively repealed §§71 and 215 of the IRC, such that alimony or separate maintenance payments made or received pursuant to a divorce or separation instrument (as defined in former IRC §71(b)(2)) executed after December 31, 2018, shall not be included in the recipient’s gross income or deductible from the gross income of the payor. The result of this tax change for matrimonial law practitioners is significant, as unless a divorce or separation instrument, e.g., a marital settlement agreement, was executed prior to December 31, 2018, alimony payments are no longer tax deductible by the payor, or includable in the income of the recipient as “alimony”. This change in the Internal Revenue Code will have significant implications in the after-tax economics of future divorce settlements, and future court determinations on the issue of the payment of maintenance, due to the significant change in the tax treatment of maintenance payments. Any divorce or separation instrument executed on or before December 31, 2018, is not impacted by the TCJA, since the TCJA is for separation or divorce instruments executed after January 1, 2019.

It should be noted that the State of New York, has opted not to follow changes made by the TCJA to the treatment of alimony or separate maintenance payments made in a separation or divorce instrument executed after December 31, 2018. Accordingly, New York requires tax payors in calculating his/her New York adjusted gross income to subtract from their federal adjusted gross income, any applicable alimony or separate maintenance payments made pursuant to a separation or divorce instrument executed after December 31, 2018, and requires the recipient of an alimony or separate maintenance payments received pursuant to a separation or divorce instrument executed after December 31, 2018, to be added to their federal adjusted gross income on their New York State Income Tax Returns.

Accordingly, although the TCJA dramatically impacted the after-tax impact of alimony payments, however the after-tax impact is not completely eliminated as New York has opted not to follow changes made by the TCJA to the treatment of alimony or separate maintenance payments.

Since 2016, the Domestic Relations Law has utilized a formulaic approach the determination of the amount of maintenance to be awarded, if any, however the formulaic approach assumes that the maintenance amount will be fully deductible by the payor and includible in the recipient’s income. Thus, the New York legislature may need to revisit and adjust the formulaic calculation of the “Guideline” amount of maintenance awards. Until such time as the formulaic calculation is revised by the Legislature, attorneys representing clients who...
will be paying maintenance will need to consult with or retain tax experts to calculate the impact on the non-deductibility of maintenance for federal income tax purposes.

**Disqualification of Counsel**

In Graziano, Jr. v. Andzel-Graziano, 2019 Westlaw 758554 (3d Dept. Feb. 21, 2018), the husband appealed from an Order of the Supreme Court which denied the plaintiff/husband’s motion to disqualify counsel for defendant/wife in a post-judgment motion seeking the entry of a money judgment and disqualification of the wife’s newly-retained attorney. The wife opposed the husband’s motion for disqualification, and cross-moved for certain additional relief. The Supreme Court, among other things, denied the husband’s motion to disqualify the wife’s newly retained counsel for the post-judgment motion. The husband’s argument for disqualification was that approximately four (4) years prior to commencing an action for divorce against the wife, the husband had consulted with the wife’s attorney in connection with a potential divorce action. Based upon that paid consultation, the husband argued that the wife’s counsel in the post-judgment application must be disqualified from representing the wife.

In citing prior case law, and [22 NYCRR §1200.0, Rule 1.9[a]], the Appellate Division reference the long standing test that “a lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same, or substantially related matter, in which that person’s interests are materially adverse to the interest of the former client, unless the former client gives informed consent, confirmed in writing”. As the party seeking to disqualify the wife’s counsel, the husband was required to establish that: (1) a prior attorney/client relationship existed between him and the wife’s current counsel, (2) the matters in both representations are substantially related, and (3) the interests of the husband and the wife are materially adverse. In resolving such motion, a court must balance the vital interest in avoiding even the appearance of

impropriety against concern for the parties’ right to representation by counsel of choice, and the danger that such motions can become tactical derailment weapons for strategic advantage in litigation”. Ultimately, if all three prongs of the test are satisfied, an irrebuttable presumption of disqualification arises. The Appellate Division established that there was no dispute that the first and third prongs of the test for disqualification have been established, as the wife’s counsel acknowledged the husband consulted with him approximately four years prior to the commencement of an action for divorce against the wife, wherein the husband retained a different attorney, and the husband had paid the wife’s post-judgment attorney a $350.00 consultation fee for information concerning a divorce four years earlier. The second prong was also established that there is no dispute that the husband’s interest in the present matter are materially adverse to the wife. The sole issue determined therefore by the Appellate Division was whether the husband met his burden demonstrating that the issues discussed between him and the wife’s counsel in 2011 are substantially related to counsel for the wife present representation of the wife in the instant dispute. The Appellate Division concluded and held that they are not finding: the wife’s current counsel was retained in February 2018, to represent the Wife in post-judgment litigation; the wife’s attorney represented that he had no recollection of the initial consultation with the husband in 2011, took no notes at the 2011 meeting; and the wife’s attorney did not obtain or review any financial documentation from the husband. In its holding, the Appellate Division stated that the husband must proffer sufficient information demonstrating a “reasonable probability” that the wife’s counsel had access to confidential information that may now prejudice him in the instant post-judgment litigation (emphasis added). The Court determined that, given the limited scope of the prior consultation between the wife’s counsel and the husband, the nature of the present post-judgment litigation, and the balancing of the wife’s interest in retaining counsel of her choice against the husband’s right to be free from prejudice, there was no abuse of discretion by the Supreme Court in denying the husband’s motion to disqualify the wife’s counsel. Accordingly, the Third Department affirmed the trial court’s decision to deny the husband’s motion to disqualify the wife’s post-judgment counsel.

**We want to Hear from You!**

What topics would you like to see discussed in the ACBA Newsletter?

Your thoughts are important to us!

Contact us at acba@albanycountybar.com
Distinctions without differences are a fact of life for the criminal defense attorney in every case. The client who fashions her own license plate out of cardboard and prints her own inspections sticker and driver’s license for what she calls her “pleasure carriage,” not automobile, might properly be thought of being crazy as a loon, but she’s not rejecting reality, she’s distorting it.

Defendant’s grasp at rationalizations like “What about speedy trial,” They never read me my “Miranda,” and “But it’s my first felony,” is in the hope of eliminating or mitigating penalties without a clue of fully comprehending these complex and confounding precepts. They are trapped in a maelstrom of accusation, and scramble for a way out. There is not a thing wrong with this notion and given the Draconian consequences for almost every conviction; who wouldn’t?

What is troubling is the schizophrenic nature of the criminal justice system. If retribution and isolation were the only principles and no one ever heard of rehabilitative and restorative ideals, expectations would be clear. “Lock them up and throw away the key,” certainly would make things a lot easier, but what about due process, equal protection and freedom from cruel and unusual punishment?

A wish we hope blossoms into a prediction is that the criminal defense bar will assume a leadership role where the Legislature and courts have turned their backs on the need for humanity, not numbers, in adjudication. Pursuing a “diminished capacity” defense and touting the virtues of treatment for the less than totally cuckoo clients, deserves the same effort and enthusiasm as rescuing the bald eagle, the wolf, and moose from becoming endangered species. In the present state of the law few options are open to the attorney whose client isn’t “just a criminal” regardless of how many times he/she has been arrested. The system recognizes only the most extreme, not the commonplace, manifestations of mental illness. Changes must be made or criminal defense attorneys will be doing the same dance to the same tune that has taken us where we are, not where we might be.

“What’s past is prologue,” a quotation from “The Tempest” by William Shakespeare (if anyone out there is unfamiliar with the play) has come to mean that history sets the context for the present. In the play, the phrase is used to justify murder, and the crime of murder is not without significance to our discussion.

A couple of decades ago, New York jined the list of states which restored the death penalty to the panoply of criminal sanctions, the ultimate one. Balancing the State’s validating the taking of a captive’s life was an unprecedented number of procedural safeguards designed to placate those in opposition, giving assurance that every accommodation was made before the sentence was carried out.

While a number of defendants were deemed to be appropriate candidates for the death penalty, no one was ever executed. A Capital Defender’s Office was established, now abandoned, and only attorneys who completed extensive training were found qualified to represent a defendant facing the death penalty.

What does all this have to do with the insanity defense you may be wondering? That’s simple. The approach of the Capital Defender was only minimally concerned with the determination of guilt since only the most horrific cases (slam dunk for conviction) were chosen by prosecutors. The overwhelming amount of time and resources was devoted to mitigation.

Selecting who will live and who will die sounds like a really serious process. Ironically, we seem to be indifferent to having bombs dropped on and missiles fired at people without caring too much about who gets killed, yet deciding whether the worst of the worst’s life should be snuffed out was thought to be far more problematic.

The idea behind capital penalty safeguards with the emphasis on mitigation before heads rolled was that having nasty parents, growing up in a slum, dropping out of school, being addicted to something that compelled them do it, and a host of other factors, made sense on humanitarian and utilitarian grounds. (All concerned wouldn’t feel so bad about prematurely ending someone’s life.) Why not take a closer look at the role mental illness plays in the commission of crime?

The criminal justice system points fingers at violators and inflicts grievous penalties upon those who are found or admit to having strayed from the straight and narrow. In “Taxi Driver,” Travis Bickle’s behavior makes more sense when one recognizes that he probably suffered from PTSD and schizophrenia. Do, should, those labels dictate that an unstable dangerous criminal be viewed merely as a mental patient?

If warehousing is the primary objective and industry of the criminal justice system, what is done to and where we send the condemned is dictated by practicality to a far greater extent than concerns for who’s going up the river.
We have maximum, medium, and minimum security prisons with numerous variations in between based upon factors like age, gender, type of conviction, and a whole bunch of other things prosecutors and judges appear to ignore.

When shopping for a car, how many people study the way the thing was made as compared to the way it drives and the way it looks? Getting arrested, prosecuted, and convicted is not the end of the process, it’s the beginning. Not demonstrating concern for what prisons, jails, parole, probation and other alternatives do with the grist for their mills drastically diminishes the potential for a viable plea bargaining and adjudicatory process.

Woody Allen in “Sleeper,” was frozen for medical reasons. Sylvester Stallone was put on ice as an (unjustly) convicted cop in “Demolition Man.” If the future is now for just about everyone with a smart phone, why does the criminal justice system, for its primary sanction, rely upon practices conceived hundreds or even thousands of years ago? What goals does incarceration really achieve?

There have been innovations over the years. From hanging everyone, to throwing them in cages, to putting them up in cages, to wearing orange jump-suits, sitting around all day watching TV, chatting on the phone, and playing with tablets. Is this progress?

Lest penologists take umbrage at our observations, we should note that every once in a while, the correctional establishment tries something new. In the early 19th century conjugal visits were introduced in of all places, Mississippi, because keepers believed having occasional sex would allay the sexual and violent nature of convicts. So prison management, not humanitarian reasons provided this impetus.

In New York, a couple of years before one of us was born, the concept of Shock Incarceration was introduced. Finding a way of getting inmates out of prison earlier than the time their judicially imposed sentences ran out was not the product of do-gooders whining for reform, but because the prisons at the time, were so over crowded there was no longer enough room to take on new customers.

Until we recognize mental illnesses as a major factor in the causation of crime and become committed to factoring it into the equation of what to do with offenders, we will continue to be plowing the waves.

In early 20th century Massachusetts, home state of the Salem Witch Trials, there was a place called the Norfolk Penal Colony. The prison made brooms of all kinds and sold them. The work was of excellent quality. The convicts got paid, there was enough to fund the place without legislative appropriation and the inmates, in an organized fashion, managed day-to-day activities. The program was a great success until the Depression hit. Because Norfolk was selling their products at lower prices than their free world competitors, the place got closed down.

To date, in the criminal justice system, innovation has yet to overcome inertia. Vested interests like correction officers’ unions, broom manufacturers, cops, parole and probation officers want to maintain the status quo. Ankle bracelets, street video cameras, DNA, cell phone records do indeed acknowledge modern technology, but other than catching and convicting more offenders, what has it done to quell crime in the first place and fix up criminals after the fact?

Criminal defense attorneys need to learn to recognize the various symptoms of mental illness and the resources available to identify and address the condition. Hannibal Lecter would likely be a bit more than most of us could handle, but what about the non-psychiatrist, non-cannibal defendant? The battle of our clients will not get past the minimal levels of competency after a CPL 730 hearing. They will be sent to a psychiatric hospital where most criminal defense attorneys never go (well almost no attorneys). Don’t feel bad if you have never had a client sent to the “funny farm” or visited one who was, but don’t close your file and forget about the client.

There are lawyers who have received special training for cases where mental illness is a major issue. They are members of the Mental Hygiene Legal Services (MHLS) who provide legal representation, advice, and assistance, for individuals with mental disabilities. For the most part, they work with persons committed to State facilities for reasons other than criminality, but they also appear and represent, in a sense, those defendants bounced to psychiatric centers after CPL 730 hearings. Learn to keep in touch with your client through them and pick up insight into the assessments and treatment being imposed on your client.

Next month, we will look into some of the specific skills we might learn from MHLS lawyers, as well as ones we’ve concocted on our own, on how we might do something for clients who aren’t shipped off to the Mid-Hudson Forensic Psychiatric Center, but are also in need of help with mental illness maladies.

NEW MEMBERS

The ACBA welcomes the following new members:

Bria Cunningham
Andra Ackerman
Mary Scouten
Aaron Chambers
Shalini Natesan
Angela West
Graig Zappia
David Craft
Julina Guo
Ainsley Moloney
Taier Perlman
Patricia Reyhan
Kendra Sena
Chaula Shukla
David Walker
New Years Eve 2019 –
The Epilogue

Some of you will recall my post-New Years Eve rant about the H-2B nonimmigrant visa program, and specifically the mayhem that ensued as the clock struck midnight on New Years Eve when the U.S. Department of Labor’s (“USDOL”) servers had a meltdown.1 As the New Year rang in, there were applications for approximately 97,800 workers that were about to be filed with the USDOL and, because of the “unprecedented volume of simultaneous system users”, the USDOL’s computer system completely hemorrhaged and shut down.2 There was, according to the USDOL, over thirty times the user demand past New Years Even compared to the previous year.3 Doesn’t that tell you something about the need for the H-2B visa program?

One week later – on a Monday – in the middle of the afternoon during a normal workday – the USDOL finally got its act together and most of the H-2B filings that were supposed to be filed on New Years Eve were filed.4 So, what happened after that?

Well, for one thing, U.S. Citizenship and Immigration Service (“USCIS”) recently announced that it has received enough petitions to meet the congressionally mandated H-2B cap for the second half of the government’s fiscal year for 2019. That means if an employer was not able to file its petition with USCIS on or before February 19, 2019, which was the final receipt date for new cap-subject H-2B worker petitions requesting an employment start date before October 1, 2019, then the employer was out of luck for 2019.

This is yet another example of a visa program that is desperately in need of reform and is woefully mismanaged. In what can only be described as a glimmer of marginal and limited hope for some of our clients, on February 15, 2019, President Trump signed an omnibus spending bill which includes a provision providing limited cap relief to H-2B employers during FY2019. The Secretary of Homeland Security, Kirstjen Nielsen, has yet to announce how many additional H-2B visas will be made available for the remainder of FY2019.

The second thing that happened is the USDOL updated its procedures for processing H-2B applications. That is, the USDOL has proposed a rule that for all H-2B applications filed on or after July 3, 2019, which is the earliest an employer can start the H-2B process for FY2020, applications will be randomly ordered for processing based on the date of filing and the start date of work requested.

Some of you will recall previous rants of mine related to the H-1B program, and specifically USCIS’s use of a “lottery” system to determine which employers’ petitions (who wish to hire foreign workers in “specialty occupations”) it will accept, and which it will reject. I counsel my clients who we file H-1B petitions for with USCIS to “keep their fingers crossed.” Imagine that a client hires you, pays you your fee, and you tell them to “keep their fingers crossed” that USCIS simply selects their petition – in a lottery system. The system is ridiculous.

Politics aside, the United States is experiencing a strong economy with record-low unemployment. The H-2B program’s congressionally mandated cap of 66,000 visas is entirely inadequate to meet the seasonal needs of the many businesses that participate in the program. And for all the nay sayers who say “Hire American”, this program requires employers to recruit for available U.S. workers. In most cases, they’re aren’t any for these positions. And quite candidly, if everyone would allow for a moment of truth, U.S. workers simply do not want to do the jobs that are generally utilized in the H-2B program. It’s just that simple.

According to the H-2B Workforce Coalition, if Congress does not take immediate steps to raise or eliminate the H-2B cap, over 70% of seasonal positions for the second half of fiscal 2019 will go unfulfilled due to cap limitations.5

Our government must come up with a better and more equitable system within which employers can hire the help that they need. The H-2B program is an absolutely necessary program for many many employers. The process for participating in it, and the ability to participate in it, however, needs to be totally reformed.

1 Recall that the H-2B visa program requires employers (or their attorneys) to sit by their computer at the stroke of midnight (or the east coast anyway), on New Years Eve, requiring them to hit “submit”, tens and sometimes hundreds of times, so they can participate in a visa program to fill necessary positions with their company.
2 USDOL indicated that employers had prepared 5,400 H-2B applications, which were in a queue to be submitted to the USDOL, seeking a total of 97,800 workers.
3 See https://www.foreignlaborcert.doleta.gov/.
4 The USDOL reported that there were approximately 4,195 H-2B applications covering more than 79,500 worker positions. See https://www.foreignlaborcert.doleta.gov/.
Join us as the Honorable Mae D’Agostino, U.S. District Court, NDNY and Mr. Peter Moschetti, Esq. founding member, Anderson, Moschetti & Taffany, present an excellent CLE on deposing a party opponent in a civil suit for the Albany County Bar Association. We are thrilled that they will once again share their knowledge with the ACBA membership.

Hon. Mae D’Agostino, will discuss deposing the Plaintiff and Mr. Moschetti, Esq., will discuss deposing the Defendant.
LABOR AND EMPLOYMENT PRACTICE

The New York State Department of Labor (“NYSDOL”) has announced that it is withdrawing (by inaction) its much-publicized call-in pay regulations. Employers will remember the issuance of proposed regulations in 2017 and 2018 concerning predictive scheduling rules. Under the now scrapped regulations, employers would have been required to provide their employees work schedules at least 14 days in advance, and make additional payments to employees whose schedules change with less than 14 days’ notice.

NYSDOL’s action is welcome news for employers, especially those that need flexibility in scheduling. However, before the celebration begins, employers must appreciate that it is very possible that the Legislature will now take up this issue. Recall that a single party controls the Senate, Assembly and Governor.

Moreover, although the call-in regulations have been scrapped (at least for now), employers must be cognizant that numerous other scheduling requirements are alive and well. For example, the law prohibits scheduling employees to work seven consecutive days. Moreover, the spread of hours requirement typically requires the payment of a premium when an employee’s work shift spans more than 10 hours from the beginning of the shift until the end of the shift. Further, there is a call-in premium when an employee is called to work and works less than four hours. Finally, for New York City employers in the fast food and retail business, employees are entitled to predictable work schedules.

Employers can take a sigh of relief here, but they should keep an eye on the Legislature to see if a bill on predictive scheduling surfaces.

As always, if you have any questions or comments, feel free to give me a call or drop me an email.

LIVING GINGERLY

Ginger (Zingiber officinale) is a flowering plant whose root has become familiar to us for many uses in the kitchen. You can eat it fresh, dried, pickled or even as an ingredient in a beverage. In the past, we were used to the use of ground ginger as an ingredient in gingerbread and for the flavor for ginger ale. Now it’s eaten fresh in stir-frys, sauces and salad dressing, pickled for an accompaniment to sushi or used fresh in ginger “beer”. The plant originated in Asia and grows only in warm climates. I think it is one of the outstanding flavors you can add to cooking but recent research has shown it to have some interesting health benefits.

There is strong evidence that ginger can help with nausea and vomiting from motion sickness, morning sickness and cancer chemotherapy. Researchers sat 13 (quite brave) volunteers with a tendency toward motion sickness in a large drum one at a time and spun the drum for up to 15 minutes. If the volunteers took 1,000 milligrams of ginger an hour before spinning, they had less nausea and recovered more quickly from their motion sickness than if they had taken a placebo.

Among 99 pregnant women who were experiencing “morning” sickness, those who took 125 milligrams of ginger 4 times a day for 4 days reported less severe nausea than those who took a placebo. In a study of cancer patients - most with breast cancer, those who took 500 mg of ginger every day for 6 days prior to chemo, had less nausea during the first 24 hours of treatment than those who took a placebo.

There are other health claims about ginger that have not solidly been proven but benefits are still being evaluated. It may help as an anti-inflammatory especially for people with osteoarthritis. It also may reduce exercise-induced muscle pain - like for when you are training for the ACBA May Day run!

You can take ginger simply by consuming it out of your spice jar. One-eighth of a teaspoon gives you about 250 mg of ginger. Finding a good quality supplement can be difficult because manufacturers claims are not accurate. You can also consume ginger tea. Grate or thinly slice a piece of fresh ginger about the size of your thumb from knuckle to tip. Steep in boiling water for 10-15 minutes — a spicy and yummy drink. Consuming ginger ale probably won’t work because 16 ounces only provides about 24 mg of ginger. Ginger beer is probably a better source because it’s made with much more ginger. A local company sells fresh ginger beer at farmer’s markets in the area. It is a real treat. Spice up your life!
As legal professionals, there is very little we can completely control. We all must work around the timetables of others. However, our time is our own. We can master it or let it spin away from us. The most prevalent complaint against attorneys is that they don’t promptly return phone calls. A recent General Counsel poll revealed that a main reason why law firms are fired is tardiness in responding. The courts have produced a sizable catalogue of cases punishing attorneys and their clients for missing deadlines and failing to timely respond to clients and other attorneys. Tardiness can be lethal in another way. If you delay in confronting a difficult situation, you will only make that situation more difficult. In other words, problems do not improve with age. To bring home these points, what follows is the case of an associate who created his own, alternative schedule to cover up his own error, instead of admitting his responsibility.

Choosing Deception Over Honesty Lands An Associate A Three Month Suspension

On February 5, 2019 an associate was suspended from the practice of law for tricking his supervising partner into believing that an appeal had been timely filed. The partner drafted an appeal brief due to be filed in November, 2016. He asked the associate to send the completed brief to the printer to be printed and timely filed. The associate failed to advise the partner to actually file the brief. Instead of admitting his error, he informed the partner that the court had granted an extension to file the brief until late January, 2017. To further cover his tracks, the associate drafted a fake opposition brief and gave it to the partner, along with a series of phony emails showing its receipt. The partner then prepared a reply brief which was forwarded to the client for review. The associate further advised the partner that the case was on for oral argument in the June term. When the calendar for the June term came out, the case was not on it. Before the partner called opposing counsel to ask why the case was not calendared, the associate admitted his error and resigned from the firm.

A Judge Explains How To Be Late

There will be circumstances preventing us from being timely, despite our best intentions and efforts. What do we do? Judges Robert Reid and Richard Holland, two renowned High Bench Canadian Judges, in their book Advocacy, Views from the Bench (Aurora, Ont: Canada Law Book, 1984) provide some sound advice: “You should never be late, but some day you will be: fate will see to that. The first thing you must do when court opens is to apologize and explain the delay briefly. You need not cry or wring your hands. Be brief and sincere. Dabblers walk casually into court ten minutes late acting as if nothing were amiss. They look hurt and puzzled when the judge lands on them. Being pulled up for such a small thing is a bad way to start your case, or your day, particularly if it happens in front of your clients.”

Google Pays a Price for Using Untimeliness and Delay as a Litigation Tactic

In Callsome Solutions Inc. v Google, Inc. 2018 N.Y. Misc. LEXIS 4852 *; 2018 NY Slip Op 32716(U)(NY Supreme Ct. October 18, 2018) Callsome, the creator of an “add-on” app to existing apps used in the “Google Play” marketplace, sued Google for instructing other app developers to not use Callsome’s allegedly non-compliant product. During discovery, Google designated a large number of documents “Attorneys’ Eyes Only” (“AEO”). As Callsome repeatedly objected to these designations, Google, over a protracted period of time, began slowly de-designating the AEO documents. This process required Callsome’s counsel to conduct numerous reviews of the same documents. Callsome finally moved for sanctions. The Court granted the motion and charged Google with Callsome’s costs and the attorneys’ fees required to bring the motion and conduct the unnecessary document review. The Court reasoned that “By providing piecemeal de-designations, only when prompted, and dropping its designations, only when threatened with court review, Google effectively prevented the expeditious resolution of this litigation, as it was Google’s excessive AEO designations, not Callsome’s challenges of those designations, that caused the delay here.” Id at 6. By attempting to “run out the clock” on discovery, Google ended up having to pay for wasting everyone’s time. Bottom line, timeliness, coupled with good faith thoroughness, can never be sacrificed for perceived strategic gain. Just google “Google and sanctions”.

Questions, thoughts? Contact me at asiegel@bsk.com, or 518-533-3211
**Name:** Carl W. Hasselbarth, Esq.

**Law Firm:** Hasselbarth Law, P.C.

**Legal Specialties:** Bankruptcy, Tax, Landlord Tenant, Estate Planning and Probate, and Civil Litigation

**Law School & Graduation Year:** Brooklyn Law School, 2009

**ACBA Member Since:** 2012

**LRS Panelist Since:** 2014

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**Q:** What inspired you to become a lawyer?

**A:** Immediately before and during law school, it was to participate in reforming the financial services industry. Since I’ve begun practicing though, my inspiration has become more grounded. I enjoy finding creative ways to solve problems for others and find it rewarding when my clients often express how relieved they are when their matter is concluding.

**Q:** What has been your experience as an LRS panelist?

**A:** The quality of referrals has increased lately and I’ve been receiving plenty of new clients who not only have viable cases, but are willing to pay for legal services. As a result, I’ve obtained new cases that challenge me and I’m able to stay quite busy without having to spend much time or money on marketing.

**Q:** What are some activities and hobbies you like to do in your free time?

**A:** I golf and hike in the summer and ski and snowshoe in the winter. How I spend my freetime is changing though as I welcomed a son in November.

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**Help Center Provides Crucial Access to Justice**

Access to Justice is important in all courts, but few have the potential to impact the most personal aspects of an individual’s life more than family court. Litigants in family court stand to gain or lose child custody or visitation, child support, or orders of protection – high stakes for the average parent. For low income litigants attempting to navigate the family court petition filing process without an attorney, is not an easy process.

Unfortunately, there are not a lot of places where litigants can get personalized assistance. They frequently seek information at the clerk’s window, their first point of contact with the family court. But the intake staff at the window are not lawyers and are prohibited from giving anything that might constitute legal advice, even on questions routinely asked by litigants. This leads to understandable frustration for litigants who often feel as though they are being given “the runaround” by the court system, and that a lack of help is “by design” to disadvantage those who cannot afford an attorney.

In Albany County, there are limited community resources that can provide the information a litigant requires at the petition phase of a family court case. Although many organizations assist victims of domestic violence, there is little, to no, family legal help available for litigants facing unrelated, but no less real, challenges.

Into this service gap steps the Albany County Family Court Help Center.

The Help Center is a pro bono project sponsored by the Albany County Bar Association that provides limited scope legal services to unrepresented litigants filing pro se petitions in Albany County Family Court. Staffed entirely by volunteer attorneys, the Help Center’s goal is to guide litigants through the preparation of petitions that articulate all relevant information, exclude irrelevant information, and will survive a motion to dismiss for failure to state a cause of action. Help Center attorneys do much more than help fill out the pro se petition forms unique to Albany County Family Court, they can give an overview of the family court process, explain options, help litigants think through possible outcomes and select appropriate petitions. Volunteer lawyers can describe the appropriate legal standard, helping the petitioner understand more about the judicial process. No less important, the volunteers can help a petitioner consider the potential benefits of not filing a petition at all.

In 2018, the Help Center saw 425 clients. That’s 425 questions answered and proper petitions filed. 425 people given access to justice – 425 people that had someone to lend them a hand. That’s the real impact of the Help Center, the real reason we ask you to give your time. When you volunteer at the Help Center, you are volunteering to provide access to justice.

**If you’re interested in getting involved at the Help Center:**

Albanycountybar.com/volunteer

Judge Walsh, Help Center Committee Chair, mtwalsh@nycourts.gov
An Arm is an Arm, But a Shoulder is Not an Elbow: Case Law Updates Regarding SLU Awards

Under the Workers’ Compensation Law (WCL), a permanent injury to the shoulder can result in a Schedule Loss of Use (SLU) award of the arm. A permanent injury to the elbow can also result in a Schedule Loss of Use (SLU) of the arm. Similarly, a permanent injury to the knee can result in a SLU of the leg, but an injury to the hip or ankle can also result in a SLU of the leg. But what happens when an injured worker injures both the shoulder and the elbow?

In Matter of Genduso, the injured worker had three workers’ compensation claims. The claimant had a 1997 claim for the right ankle and right knee which resulted in a 20% SLU of the right leg (seemingly awarded, in part, for the ankle). The claimant had a 1999 claim for the right knee that resulted in an additional 12.5% SLU of the right leg. The claimant had a third claim for the right knee on in 2013 for which the claimant’s doctor reported a 40% SLU of the right leg. The WCB found that the 40% SLU of the right leg was inclusive of the prior SLUs, so the claimant had a 7.5% increase in SLU due to the 2013 accident. On appeal, the claimant argued that since the SLU award from the 1997 injury was, in part, for the ankle injury, that the credit for prior SLU awards would only be 24% for an increase of 16% SLU in the 2013 claim. The Third Department affirmed the WCB’s decision, noting, “Neither the statute nor the Board’s guidelines lists the ankle or the knee as body parts lending themselves to separate SLU awards. Rather, impairments to these extremities are encompassed by awards for the loss of use of the leg.” Accordingly, the 40% SLU awarded in the 2013 claim was subject to full credit for all prior SLU awards to the leg.

Since the Genduso decision, the WCB has applied this same rationale to claimed SLUs of the arm. In NYC DOT the claimant had a 2013 injury to the right elbow, for which he received a 17.5% SLU of the right arm. The claimant sustained a 2016 injury to the right shoulder. The WCLJ found a 65% SLU of the right arm based upon the shoulder, and found that there was no credit for the prior SLU of the right arm since the prior SLU was for the elbow only. Citing Genduso, on Mandatory Full Board Review, the WCB continued the case for further development of the record on other grounds, but set forth that regardless of the ultimate SLU awarded, it should be reduced by the 17.5% SLU of the arm previously awarded for the elbow.

Expanding on rationale that SLUs of two joints of the same extremity are not cumulative, the Bell decision affirmed the WCB’s calculation of SLUs of an extremity of two injured joints. In Bell, the claimant sustained only one work accident injuring both the right elbow and right shoulder. Varying opinions of SLU were submitted, and the WCLJ found an 80% SLU of the right arm, representing 30% for the loss of use of the elbow, plus 50% for loss of use of the shoulder. On appeal, the Board Panel reduced the SLU to 60%, representing 50% for the shoulder and reducing the elbow pursuant to Special Consideration 10 of Table 2.5 of the Guidelines which provides “the schedule is focused on the highest valued part of the extremity”. Pursuant to the Guidelines, calculate first for the major loss in part involved. For example, amputation at the wrist equals 100% loss of use of the hand and equals 80% loss of use of the arm. If there are additional defects of the elbow and/or shoulder, add 10% to the 80% loss of use of the arm and the final schedule would be 90% loss of use of the arm.” In affirming the Board Panel Decision of a 60% SLU of the right arm, the Third Department noted that there was no dispute in the medical evidence that the claimant presented with deficits of both the shoulder and elbow, and as the WCB credited the finding of a 50% SLU of the right arm based upon the right shoulder, as it was entitled to do, it was therefore the “highest valued part of the extremity”. The Third Department made clear that the elbow is encompassed in the SLU of the arm, and is not a separate SLU award from the shoulder. By footnote, the Third Department also highlighted that treating SLUs for both the elbow and shoulder as cumulative is inappropriate could result in SLUs of the arm that would exceed 100% which is not permitted.

In sum, when a SLU is “awarded for a permanent impairment of an extremity, any subsequent award for impairment to any other part of the same extremity will be subject to a credit for the prior award,” and elbows are shoulders are not mutually exclusive for purposes of SLU awards.

1 WCL Section 15 (3); Workers’ Compensation Guidelines for Determining Impairment, Chapter 5 (2018)
2 WCL 15 (3); Workers’ Compensation Guidelines for Determining Impairment, Chapter 4 (2018)
3 WCL 15 (3); Workers’ Compensation Guidelines for Determining Impairment, Chapters 6-8 (2018)
7 NYC Transit Authority, 2019 WL 1005286 (WCB#:G1547287, Feb 22, 2019), citing Genduso, supra.
Morning Meet and Greet hosted by DeFio Kean, PLLC and Gold Law Firm | March 12, 2019

Vice President Elizabeth Grogan and President Dan Hurteau

Denise Horan, INTEGRATED MANAGEMENT & SALES CONSULTING, ACBA Business Member and Tracy Bullett

Melanie Kowalick, Elena DeFio Kean, Sarah Gold and Patrick Higgins

Judge Peter Crummey, Elena DeFio Kean and Robert Schofield
A Day of CLE | March 7, 2019

Rashida Cartwright-Thigpen, Westchester County Attorney

Denise Horan, INTEGRATED MANAGEMENT & SALES CONSULTING, ACBA Business Member and Tracy Bullett

Kathleen Baynes, Daniel Coffey, Lorraine Silverman and Carl Hasselbarth
Proving & Defending Damages in Medical Malpractice & Personal Injury CLE | March 20, 2019

Tracy Bullett, Mark Winther MD, Charles S. Amodio, FAZ Forensics, ACBA Business Member and Brian Carr

Judges, Lawyers & Women’s Suffrage CLE | March 25, 2019

Hon. Thomas Breslin, Hon. Richard A. Dollinger, Hon. Rachel Kretser, Prof. Brooke Kroeger and Hon. Andra Ackerman
Attorneys in Public Service (APS) Committee

Spring Reception

Recognizing Our Newest Public Sector Member Offices
The Albany County District Attorney’s Office and the City of Albany Corporation Counsel Office

REMARKS BY
DA David Soares and the Honorable Kathy Sheehan

MONDAY, APRIL 29, 2019
5:30 – 7:30 PM
Provence | 1475 Western Avenue, Albany, NY 12203

ACBA Members $25 | Non-Members $30 | Free for Law Students
acba@albanycountybar.com | albanycountybar.com
ALBANY COUNTY BAR FOUNDATION
25th Annual Law Day 5K Run/Walk
Thursday, May 2, 2019
The Crossings | Town of Colonie

FUNDRAISER TO ASSIST LOCAL CHARITIES
25th Annual Law Day 5K Run/Walk
Thursday, May 2, 2019
The Crossings | Town of Colonie

Registration: 4:30 to 6:00 P.M.
Race Start: The Crossings, Town of Colonie

5K Run/Walk at 6:30 P.M. Kids Fun Run ($3; 1 mile & 1/4 mile) at 6:00 P.M.

$30 early registration
$20 for HS/College Students
$35 after April 20 and day of race

Register on-line at bit.ly/2019LawRun or fill out this form and mail to Albany Law Day 5k, ACBA, 112 State Street, Suite 545, Albany, NY 12207. Please make checks payable to “Albany County Bar Foundation.” Please contact info@zippyreg.com with any questions.

First Name:_______________________________ Last Name:_______________________________ Age (Race Day):__________

Street Address:______________________________________________________________________________________________

City:__________________________________________________________ State:_______________ Zip:____________________

Phone:__________________________________________________ Email:_____________________________________________

DOB:________________________ Sex: ❑ M ❑ F Race (Check One):
❑ 5K Run / Walk ❑ Kids Run (ages 11 and under)
❑ Donation Only

T-shirt size: ❑ S ❑ M ❑ L ❑ XL ❑ XXL

WAIVER: (Please sign below)
In consideration of my entry to this race, I hereby release and waive any and all claims for damages I may have against The Albany County Bar Association and the ACB Foundation, its officers and members, ARE Event Productions, the Town of Colonie, any and all race sponsors and their representatives and any race official or participant, for any and all injuries I may suffer in connection with this race of the Albany County Bar Association. I also certify that I am in good physical condition and have trained for this race. Further, I hereby grant all permission to any and all of the foregoing to use any photographs, videotapes, motion pictures, recordings or any other record of this event for any purpose.

Signature:________________________________________________________________________ Date:_____________________

Parent or Guardian (if under 18)_______________________________________________________________________________

I will not be able to attend, however enclosed please find my donation of $________________
The Albany County Bar Foundation is a 501(c)3. Your support is tax deductible.

Group Registration Instructions (turn over) >
Step 1 - Register your group

- Email info@zippyreg.com and request the appropriate excel file for the Law Day Run 5K Group registration.

- Fill out the document as an excel spreadsheet (not a PDF) so that the information can be properly uploaded into the registration system and email it back to info@zippyreg.com.

- Deadline for group registration is Noon on Thursday, April 25, 2019.

Step 2 - Paying for your group

On Monday, April 29th you will receive a list of the entrants that registered as a part of your group as well as a calculation of your balance due.

Please note you will be required to pay for everyone in your group regardless of whether or not they actually participate. You do have the option to transfer a registration from person to another. Please contact info@zippyreg.com if you need to transfer a member of your group.

Pay by Credit Card
Request a link from info@zippyreg.com to pay by credit card.

Pay by Check
Please make checks payable to Albany County Bar Foundation and mail them to the address below:

Albany Law Day 5K
c/o AREEP
PO Box 38195
Albany, NY 12203

If you have any questions about the registration process please contact ZippyReg by email at info@zippyreg.com or by phone (9:30 AM to 4:30 PM Mon-Fri) at (518) 650-6963.
E. STEWART JONES HACKER MURPHY LLP is proud to announce the opening of our fourth office location: 1659 Central Avenue, Suite 103, Albany, NY 12206 Phone #: 518-486-8800
We look forward to providing the same exceptional service to our clients at yet another location – please visit us there!
Focused Representation In:

- Personal Injury / Medical Malpractice
- Criminal Defense
- Commercial Litigation
- Property Tax Disputes
- Eminent Domain
- Labor Employment
- Mediation & Arbitration

WHITEMAN OSTERMAN & HANNA, the Capital Region’s largest law firm, is very pleased to announce that it has expanded the firm’s mediation practice, led by retired Justice Bernard J. Malone, Jr. The practice will now accept all disputes, both complex and simple.

Judge Malone brings 50 years of litigation experience, including many years as a New York State Supreme Court Justice, to assist people to settle their differences. Judge Malone’s mediation services are provided at the large office suite of Whiteman Osterman & Hanna at 99 Washington Avenue in Albany. The offices have several conference rooms to ensure privacy when speaking with Judge Malone, and free indoor parking is included.

Longtime Albany business law firm NOLAN & HELLER announced today that as it moved to a new downtown location at 80 State Street it has been renamed NOLAN HELLER KAUFFMAN, adding Madeline H. Kibrick Kauffman, one of the firm’s two managing partners, as a named partner.

Kauffman has been with the firm since 1987, serving both domestic and international clients. She is one of only a few women to become a named partner of a well-established Capital Region law firm. Kauffman concentrates her practice in the areas of creditors’ rights, commercial loan workouts and restructurings, commercial lending, commercial and real estate transactions, business counseling and contracts, cash management documentation, complex commercial litigation and large-scale collections.

“For decades, Nolan & Heller has served clients throughout New York State and beyond, providing them with creative and innovative solutions to complex problems. I am extremely proud that the firm to which I have dedicated my entire career now bears my name, along with the names of its founders, Howard Nolan and Mark Heller, and that of his son, my fellow managing Partner Justin Heller,” said Kauffman.

“We are thrilled to renew our commitment to maintaining our offices in downtown Albany, as we have for the past 55 years,” said Heller. “We have earned a reputation as one of the Capital Region’s top law firms – delivering Wall Street quality legal services and results – and we look forward to continuing to do so from our new location.”

April 17, 2019 Hon. Anthony V. Cardona Award Presentation and Annual Fund Raiser in Support of the Albany County Family Court Children’s Center

by Margaret Vella, President, Friends of the Albany Children’s Center, Inc.

The Friends of the Albany Children’s Center, Inc. was created to raise funds in support of the Children Center’s operations at Albany County Family Court. The Center serves approximately a thousand children each year, providing a safe haven and nurturing environment for children while their families take care of critical court business. The Center’s service provider, Albany Community Action Partnership, is dedicated to ensuring that children are cared for by professional staff specifically trained to handle difficult issues that can arise during court proceedings, such as a change of custody, and to serve as a resource to help families in crisis.

In 2012, the Friends established the first annual Hon. Anthony V. Cardona Award in recognition of the work individuals and organizations do on behalf of children and families in need. This year’s award recipients will be former Appellate Division Justice William McCarthy, Albany County Family Court Attendant Jack Smalley, and Stewart’s Holiday Match.

The fund raiser will be held on Wednesday April 17th, from 5:30 to 7:30 PM, at Jack’s Oyster House, 42 State Street, Albany NY. Suggested Donations: $75 (Friend), $100 (Sponsor), $150 (Patron). For additional information, please call (518) 257-7304.
25TH ANNIVERSARY VENDOR OPPORTUNITY ($200)
- Space in designated “Vendor Area” promoting your business/products
- Pre-Event Promotion / Post-Event Recognition
*Must provide your own table and chairs
*PROMOTIONAL PURPOSES ONLY. NO SELLING PRODUCTS ON SITE.

Silver Level ($500)
- Your company or firm’s name on the Law Day Run T-shirts
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Gold Level ($750)
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Thank You Recognition throughout the event
- Recognition in e-blasts leading up to the event

Platinum Level Sponsorships ($1,000 - $1,500)

After Party Sponsor
- Sponsor the after party at Swifty’s
- Thank You Recognition signs throughout the After Party
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Water Table Sponsor
- Sponsor the water tables
- Thank You Recognition signs on the tables
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Mile Marker Sponsor
- Thank You Recognition signs at each mile marker
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Kid’s Run Sponsor
- Sponsor the Kid’s Run
- Thank You Recognition signs at the Start/Finish line of the Kid’s Run
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Finish Line Sponsor
- Thank You Recognition signs at the Start/Finish line of the Run
- Your company or firm’s name on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Titanium Level Sponsorships ($3,000 - $5,000)

T-Shirt Sponsor
- Sponsor the 25th Anniversary T-Shirts
- Your company or firm’s name featured prominently on the Law Day Run T-shirts.
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event

Diamond Level ($10,000+)

Headline Sponsor
- Sponsor the 25th Anniversary Law Day Run
- Your company or firm’s name featured prominently throughout the Day Law Day Run including the Event name and logo
- Recognition in the ACBA Newsletter
- Recognition in e-blasts leading up to the event
ALBANY COUNTY BAR FOUNDATION
25th Annual Law Day 5K
Thursday, May 2 • The Crossings, Colonie

PLEASE COUNT ON ME AND MY SUPPORT AS A:

- Vendor Opportunity ($200)
- Silver Level Sponsor ($500)
- Gold Level Sponsor ($750)
- Titanium Level Sponsor ($3,000-$5,000)
- Diamond Level Sponsor ($10,000+)
- Platinum Level Sponsor ($1,000-$1,500)
  - After Party Sponsor
  - Water Table Sponsor
  - Mile Marker Sponsor
  - Kids Run Sponsor
  - Finish Line Sponsor

Contact Name

Email
Phone

Name of Firm or Company (please write out the name of the organization as you would like it to appear)

Address
City State Zip

Phone
Email

PAYMENT

- Enclosed is a check for $___________ made payable to Albany County Bar Foundation

PLEASE RETURN THIS FORM TO:
Albany Law Day 5k | ACBA | 112 State Street, Suite 545 | Albany, NY 12207

SEND LOGO AS HIGH RES JPEG TO:
acba@albanycountybar.com | (518) 445-7691 x116
The views expressed in the letters and columns reflect the opinions of the authors and may not reflect the views of the Association, its Officers, Directors or Members. Opposing viewpoints are always welcome and can be emailed to: acba@albanycountybar.com.
The tradition continues as Albany Law School and the ACBA team up for their yearly golf outing at Schuyler Meadows Club. Enjoy a day which includes lunch, golf, dinner, awards, giveaways and more! Gather your foursome and enjoy a day of golf with friends and colleagues.

11 AM Registration Opens & Pre-Tee Off Luncheon Buffet
Noon Shotgun Start
5:30 PM Cocktail Reception and Buffet Dinner

$175 per person
*See a full list of sponsorship opportunities online. Individual golfers are welcome and will be placed into a foursome.

All fees include: pre-tee off buffet luncheon, 18 holes of golf at the prestigious Schuyler Meadows Club, on-course beverages, use of locker rooms, cocktail reception (one hour of open bar), and buffet dinner.

Register Online at alumni.albanylaw.edu/golfouting2019
Questions? alumni@albanylaw.edu or (518) 445-3206
## Albany County Bar Association

### CALENDAR OF EVENTS

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<th>April</th>
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<tbody>
<tr>
<td>9</td>
<td>Labor Law – Sexual Harassment CLE, Jackson Lewis, 677 Broadway, 9th Floor, Albany, NY</td>
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<tr>
<td>13</td>
<td>Regional Tournament for Mock Trial, Albany County Courthouse, Albany, NY</td>
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<tr>
<td>17</td>
<td>Help Center Training / Family Law 101, Nixon Peabody, 677 Broadway, 10th Floor, Albany, NY</td>
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<td>18</td>
<td>Deposing a Party Opponent CLE, AIHA, 125 Washington Avenue, Albany, NY</td>
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<td>29</td>
<td>Attorneys in Public Service (APS) Spring Reception, Provence, 1475 Washington Avenue, Albany, NY</td>
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<th>May</th>
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<tr>
<td>2</td>
<td>25th Annual Law Day 5K Run/Walk, The Crossings of Colonie, Colonie, NY</td>
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<tr>
<td>6</td>
<td>FREE CLE Navigating NYS Supreme Court and Federal Court CLE, Albany Law School, Room 200, Albany, NY</td>
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<tr>
<td>7</td>
<td>Morning Meet and Greet, McNamee Lochner P.C., 677 Broadway, 5th Floor, Albany, NY</td>
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<td>8</td>
<td>Study Break – Free Pizza Night, Albany Law School, 80 New Scotland, Albany, NY</td>
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<tr>
<td>14</td>
<td>Research CLE, Bond Schoeneck &amp; King, 22 Corporate Woods Boulevard, Suite 501, Albany, NY</td>
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<tr>
<td>30</td>
<td>President Hurteau's Birthday Bash, Nixon Peabody, 677 Broadway, 10th Floor, Albany, NY</td>
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<th>June</th>
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<tr>
<td>13</td>
<td>Porco Trial CLE and Networking Reception, Wolferts Roost, 120 Van Rensselaer Blvd, Albany, NY</td>
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<tr>
<td>24</td>
<td>25th Annual Albany Law School and ACBA Golf Outing, Schuyler Meadows Golf Club, 17 Schuyler Meadows Club Road, Loudonville, NY</td>
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Please visit albanycountybar.com to register and learn more about our upcoming events!

The Albany County Bar Association has been certified by the NYS Continuing Legal Education Board as an Accredited Provider of CLE in the NYS and has also been given approval to provide non-traditional CLE format courses. Hardship Scholarships are available. For a list of our CDs, or additions to our programs, please visit our website: www.albanycountybar.com.
Established in 1915 Wolferts Roost Country Club continues the tradition of offering fine dining, an array of amenities, and great service for any and all of your country club needs.

For 2019 we have introduced a new Corporate Membership! When four or more individuals of the same business join, they can enjoy exclusive benefits including 25% off membership dues, 10% off banquets and dining discounts. For additional employee incentives we also offer 10 free guest golf passes per corporation. Wolferts Roost provides a variety of opportunities to network. With six banquet rooms and catering that can be customized to any occasion, we can host your; Non-Profit events Fundraisers, Board meetings and Employee celebrations. Wind down in our full-service locker rooms with saunas and social areas or reward your staff and clients with drinks and dining overlooking the beautiful Berkshire Mountains. Our Prime 18 Hole Tillinghast Course is also a great way to engage your clientele or treat yourself after a busy week. Our Golf Professionals are available during season to help you improve your game or answer your questions. We offer a variety of golf tournaments and events, with certified staff providing sports clinics for golf, tennis, and swimming.

We are also a family focused club offering events for all ages from childcare to a range of programs throughout the year. Start your family traditions with us and let us help in celebrating the milestones in your life - bridal and baby showers, anniversaries, weddings, birthdays, and other special occasions! Bring your children, grandchildren, nieces and nephews to enjoy Kids Nite Out or our monthly events including Spooktacular, Winter Wonderland, and 4th of July! We look forward to welcoming the entire family to Wolferts Roost Signature Events. Farm to Table, Paint & Sip, Cigar Night and Annual Car Shows are just some of the wonderful experiences you will enjoy here at the Roost.

We hope you will join us for our upcoming 2019 open houses to discover why Wolferts Roost is the perfect fit for you, your corporation, and your family.

2019 OPEN HOUSE
COME JOIN US FOR REFRESHMENTS AND CHECK OUT THE CLUB!

APRIL 7 & 28
2 PM May 5 & 19

FOR MORE INFORMATION OR TO RSVP PLEASE CALL JACLYN WILARY AT (518)449.3223 or E-MAIL JWILARY@WOLFERTSROOST.COM
EXPANDED MEDIATION SERVICES

Whiteman Osterman & Hanna’s mediation services are led by the Hon. Bernard J. Malone Jr. Judge Malone brings 50 years of experience as a state and federal trial lawyer, Supreme Court trial judge and appeals courts judge to help people reach a final resolution. His mediation practice will now accept all disputes.

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