

# ONONDAGA COUNTY BAR ASSOCIATION BAR REPORTER

VOLUME 59 NUMBER 8 | SEPTEMBER 2014 | [www.onbar.org](http://www.onbar.org)

1000 State Tower Building | 109 South Warren Street | Syracuse, NY 13202 | 315.471.2667

## Syracuse University College of Law Celebrates Opening of Dineen Hall

The Syracuse University College of Law celebrated the opening of its new Dineen Hall on Friday, September 12 with a series of events engaging students, faculty, alumni, friends and the legal community.

To honor the legacy of their parents, Carolyn Bareham Dineen and Robert Emmet Dineen Sr., the Dineen family provided the naming gift for the building. Dineen Hall has been named one of the "Most Impressive Law School Buildings in the World" by Best Choice Schools.

Chief Judge of the Third Circuit Court of Appeals Theodore McKee L'75 presided over the day's events beginning with his inaugural address in the Melanie Gray Ceremonial Courtroom, an iconic 300-seat auditorium for advocacy competitions, the judiciary and distinguished lecturers.

The College then welcomed several circuit court judges for a "Conversation from the Bench," with Professor Keith Bybee serving as

facilitator. McKee joined fellow circuit court judges Carolyn Dineen King, Rosemary S. Pooler and Thomas M. Reavley for a conversation about legal issues and the state of judicial independence and judicial legitimacy in an age of partisan gridlock and political polarization.

Dineen Hall, a new LEED-certified building totaling 200,000 square feet, encompasses the best practices and spaces for learning and faculty-student engagement to meet the rigorous demands of a modern law degree. It offers improved training facilities for the college's championship Moot Court and trial advocacy programs, innovative library spaces with distinctive study rooms, and interdisciplinary teaching spaces for nationally recognized centers and institutes. SU Architecture alumnus Richard Gluckman '70, G'71, of the Gluckman Mayner architectural firm in New York City, was lead architect on the project.



### MISSION :

...to inspire excellence in the legal profession, to foster the fair administration of justice, to promote equal access to the legal system, and to serve and support our members.

### UPCOMING 2014 EVENTS:

All Day Ethics CLE with Law Humorist  
Annual Dinner Honoring Emil Rossi  
Annual OCBA Meeting

Friday | October 3

Thursday | October 23

Thursday | November 6



# From the President: OCBA Launches New Diversity and Inclusion Committee

In July, the OCBA formed a task force that was charged with the responsibility of creating the framework for a Diversity and Inclusion Committee. Over the past two months, this knowledgeable, energetic and hard-working group forged both a mission statement and defined short-term and long-term objectives to further that mission. Some of the D&I Committee objectives include community outreach, particularly with schools and civic groups, the creation of leadership development programs by working cooperatively with businesses, law firms and area universities, and the creation of mentoring programs. As set forth below, the “mission” of the D&I Committee “...is to lead and guide the OCBA to create and foster a legal community wherein the same opportunities for growth, development and advancement are open to all...”

In furthering its mission, The D&I Committee will serve to complement and work cooperatively with OCBA Sections and Committees, such as the Young Lawyer’s Section, the Law School Section, the Trial Lawyer’s Section, and the Law Day Committee, as well as with the William H. Johnson Bar Association of CNY and the CNY Women’s Bar Association.

Over the past several years, the OCBA has made strides toward achieving some of the objectives that have been identified by the D&I Committee. Through the creation of this committee, there is now a structure in place that will allow the OCBA, while working cooperatively with others, to identify and achieve its objectives and to allow for continued growth and accomplishment in the areas of diversity and inclusion.

***I would like to pay a special thanks to members of this task force who contributed to our Mission Statement and Committee Objectives. Those members are as follows:***

- |                        |                     |                           |                     |
|------------------------|---------------------|---------------------------|---------------------|
| <b>Angela Winfield</b> | <b>Jim Williams</b> | <b>Anne Burak Dotzler</b> | <b>Eric Galvez</b>  |
| <b>Lanessa Owens</b>   | <b>Gordon Cuffy</b> | <b>Crystal Doody</b>      | <b>Sally Curran</b> |
| <b>Nancy Pontius</b>   | <b>Renato Smith</b> | <b>Romana Lavalas</b>     | <b>Jameli Tanui</b> |

**Hon. Langston McKinney**

The Committee’s Mission Statement, along with Definitions, and Committee Objectives are as follows:

### **MISSION:**

The mission of the Onondaga County Bar Association (“OCBA”) Diversity and Inclusion Committee (“The Committee”) is to lead and guide the OCBA to create and foster a legal community wherein the same opportunities for growth, development and advancement are open to all; members are equally valued for their individual unique talents, skills, and contributions to the community; individual differences are celebrated and embraced; diverse discourse is valued and encouraged; and equal and full participation enhances and enriches the quality of legal services and administration of justice.

### **DEFINITIONS:**

We define diversity as: an inclusive concept that encompasses, without limitation, race, color, creed, religion, gender, national origin, age, disability, marital status, parental status, citizenship, veteran’s status, sexual orientation, predisposing genetic characteristics, gender identity and expression, domestic violence victim status, or any other legally-protected status.

We define inclusion as: the act or state of affiliating, collaborating, involving and inviting everyone, including those who traditionally have been absent, to join in and assist in designing new systems that encourage every person to participate and contribute to the fullest extent of their ability.

## OBJECTIVES:

1. Cultivate a bar that substantially reflects the diversity in the greater Onondaga County community.
2. Encourage and increase participation of members of traditionally underrepresented groups in the profession and the OCBA.
3. Eliminate barriers to the advancement and success of members to positions of leadership in the profession and in the OCBA – regardless of personal background or circumstances.
4. Promote a culture within the OCBA and greater community that is hospitable, welcoming and accommodating to all- regardless of personal background/circumstances.
5. Establish the OCBA as a premier local bar association that serves and addresses the interests, needs and concerns of all its members- regardless of personal background/circumstances.
6. Ensure that clients and people in need of legal representation receive quality legal services that are responsive to their needs taking into account their personal backgrounds/circumstances.
7. Create systems and practices that afford everyone an equal opportunity for access to justice.

We are very proud of the hard work that has been invested into the creation of this committee, and I thank the task force members for their exemplary efforts. If you are interested in becoming a part of this committee, please contact the bar office at 471-2667. A “kick off” reception is scheduled on October 29th.

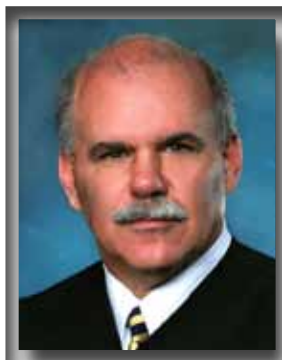
Nicholas J. DeMartino | OCBA *President*



## VIEW FROM THE BENCH: by District Judge Glenn Suddaby

When asked my advice on practicing in federal court, I often begin by confirming the general advice we all probably received as young lawyers. Be timely. Be prepared. Know and comply with all of the Court's rules and scheduling orders. Be candid with the Court. Be honest with, and courteous to, opposing counsel. I often then add another piece of general advice: respect the schedule and commitments of opposing counsel, consistent with the protection of your clients' interests. Don't use any aspect of the litigation process, including discovery and motion practice, as a means of harassment.

Regarding motion practice, I offer the following advice. Always cite the statute or rule on which your motion is based. Remember to disclose to the Court controlling cases known by you to be directly adverse to your position. Respond to all of your opponent's arguments. Concede when and where appropriate. Avoid personal attacks on opposing counsel. Make sure motions are supported by



affidavits when required by the Court's local rules of practice; and make sure the affidavits are free of legal arguments and are based on the affiants' personal knowledge.

Regarding trial practice, I offer the following advice. Before the trial begins, address anticipated evidentiary issues, and determine the facts that are undisputed (so you don't waste time proving them). Stipulate to items of evidence that you know are admissible, if you can do so without jeopardizing your responsibility to your client. Don't bury motions in limine in trial briefs. Pre-mark all exhibits. During opening statements, stick to the facts that will be proved at trial. During direct examination, ask questions of witnesses only once. Don't testify. Prepare your witnesses to limit their answers to the questions asked. Make legal objections only (save the speeches for side-bars). Minimize theatrics. Finally, during closing statements, don't misrepresent the trial testimony and exhibits; and don't be afraid to object if opposing counsel makes such misrepresentations.

# FOUNDATION'S 50-YEAR LUNCHEON HONORS 11 FOR HALF-CENTURY LEGAL MILESTONE

More than 200 guests helped celebrate 11 of their colleagues at this year's 50-Year Luncheon, held at Drumlins on Thursday, September 11. Stuart J. LaRose, President of the Onondaga County Bar Foundation and Nicholas J. DeMartino, President of the Onondaga County Bar Association, co-hosted the program.

A popular tradition in the Central New York legal community, the Luncheon recognizes those attorneys who have reached the milestone of 50 years admittance to the Bar. This year's honored class includes:

**Robert F. Baldwin, Jr.**  
**William L. Bergan**  
**Rosemary E. Bucci**  
**Jon K. Holcombe**

**Robert G. Liegel**  
**Hon. John M. Lischak**  
**Hon. Frederick J. Scullin, Jr.**

**Robert D. Ventre**  
**Hon. Peter N. Wells**  
**Howard J. Woronov**  
**Lawrence J. Young**



Several members of the Judiciary were in attendance to offer their congratulations, including: Hon. Anthony F. Aloï, Onondaga County Court Judge; Hon. Michele Pirro Bailey, Onondaga County Family Court; Hon. Gustave J. Di Bianco, retired U. S. Magistrate; Hon. Michael L. Hanuszcak, Onondaga County Family Court; Hon. Deborah Karalunas, Supreme Court Justice; Hon. Langston C. McKinney, retired Syracuse City Court; Hon. Martha E. Mulroy, Acting Supreme Court Justice; Hon. Anthony J. Paris, Supreme Court Justice; Hon. David E. Peebles, U. S. Magistrate Judge; and Hon. Ava S. Raphael, Surrogate's Court Judge.

Each honoree was presented a plaque welcoming them

to "Honorary Lifetime" status within OCBA. Following the presentations, retired Judge Peter N. Wells offered a valedictory on behalf of his colleagues.

As has been tradition each of the past two years, the Senior Lawyers Section then unveiled its newest Oral History Project video interview, with retired Syracuse City Court Judge the Hon. Langston C. McKinney. That 8-minute vignette is now available for viewing on the Association's website.

Congratulations to this year's class, and to the spouses, family and friends who were in attendance for this memorable event.

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# 50-YEAR LUNCHEON HONORS 11 FOR HALF-CENTURY MILESTONE



# Appellate Division / Court of Appeals Case Notes

Bradley Keem, Associate, D.J. & J.A. Cirando

## Criminal Procedure Law Article 440 Motion

*People v. Zeh*, 22 N.Y.3d 1144 (Court of Appeals, 3/27/14)

Defendant was questioned by the police after his wife was murdered. Search warrants were executed and various items were seized from defendant's house and automobile. Eventually, defendant was charged with the murder of his wife.

Defense counsel failed to submit any Motion to suppress defendant's statements to police, or challenge the evidence derived from the searches.

Defendant was convicted, and the Appellate Division, Third Department affirmed, but suggested that a Criminal Procedure Law Article 440 Motion was prudent due to questions regarding the adequacy of the defense. Upon such a Motion, the trial court denied, without an evidentiary Hearing, any relief for defendant. The Third Department affirmed.

The Court of Appeals, however, determined that an evidentiary Hearing was appropriate since defense counsel's affirmation in response to defendant's 440 Motion did not address why suppression was not sought on the basis of: the 26 hours interrogation, which occurred in a room that may have been locked; the possible use of handcuffs, shackles, and a "jail suit" during questioning; refusal by the police to contact the lawyer who was representing defendant at the time. Additionally, defense counsel did not respond or explain why he did not challenge various Search Warrants that were issued or the evidence that was obtained by the police. Defense counsel did not discuss inadequate discovery requests or the failure to object to trial court termed "grossly improper" conduct.

Accordingly, an evidentiary Hearing was ordered wherein defendant would be given the opportunity to establish that he was deprived of meaningful legal representation.

## Brady/Confrontation Clause

*People v. McCray*, 23 N.Y.3d 193 (Court of Appeals, 5/1/14)

A 4-3 majority held, under Brady, that there was not a reasonable possibility that the guilty verdict against defendant would have been different if the complainant's mental health records were available to the defense. The majority held that the trial court was within its discretion in finding the records' relevance was outweighed by the complainant's legitimate interest in confidentiality. The dissent framed the issue as one of confrontation, and contended that defendant's right to confront witnesses was unfairly restricted, especially where the complainant's mental issues involve: short term memory loss, selective memory, tendency to fabricate, poor perception, and unrealistic assessments of intimate relationships.

## Ineffective Assistance of Counsel

*People v. Andrews*, Court of Appeals No. 93 (6/12/14)

*People v. Kruger*, Court of Appeals No. 94 (6/12/14)

*People v. Patel*, Court of Appeals No. 120 (6/12/14)

Since there is no federal constitutional entitlement to legal representation on a discretionary application for appeal to a state's highest court, the failure of defense counsel to file a criminal leave application to the Court of Appeals, standing alone, does not establish that a criminal defendant is deprived of the effective assistance of counsel or due process of law.

*People v. Becoats*, 117 A.D.3d 1454 (4th Dept., 5/2/14)

Defendant was denied the effective assistance of counsel where defense counsel failed to call a federal prisoner to testify at his trial. The federal prisoner advised the ADA that he observed the beating of the victim, and that defendant was not present. The ADA notified defense counsel three weeks prior to trial, but defense counsel waited until the last business day before trial to seek an adjournment, and at that point, was denied such relief. Defense counsel did not recall why he failed to arrange for the presence of the federal prisoner pursuant to Criminal Procedure Law §650.30.

Therefore, the matter was reversed and remitted for a Hearing to determine whether the failure to make adequate steps to secure the testimony of the federal prisoner constituted ineffective assistance of counsel.

## Jury Notes

*People v. Rivera*, Court of Appeals, No. 117 (6/10/14)

After a jury note was answered by the trial court, a single juror requested further guidance as to self-defense. The trial court, defense counsel, and prosecutor were present during the discussion, but defendant was not. The Court of Appeals reiterated that a defendant must be present during supplemental jury instructions. Despite the lack of preservation, the Court further held that such an error was a mode of proceedings error that did not require preservation. As such, defendant was entitled to a new trial.

*People v. Mack*, 117 A.D.3d 1450 (4th Dept., 5/2/14)

Only one eyewitness out of 75-100 people identified defendant as a participant in a gang assault of a victim that led to his death.

During deliberations, the jury requested for: instructions regarding the importance of a single witness in a case versus multiple witnesses and the instructions about the meaning of reasonable doubt; to hear testimony regarding defendant leaving the crime scene; more jury request sheets; and a smoke break. The trial court stated it would provide the requested instructions and read back testimony, but then it received a note indicating that a verdict was reached. The trial court accepted the verdict without further mention of the jury notes.

The Appellate Division, Fourth Department determined that the trial court erred in accepting the verdict without first responding to three notes from the jury. Furthermore, the error was a mode of proceedings error despite defense counsel's failure to object because there are few moments in a criminal trial more critical than a court's response to a deliberating jury's request for clarification and guidance. Thus, a new trial was ordered.

## Jurisdictionally Defective Superior Court Information

*People v. Tun Aung*, 117 A.D.3d 1492 (4th Dept., 5/2/14)

Since the Superior Court Information that defendant pled guilty to did not include at least one offense that was contained in the felony complaint it was jurisdictionally defective. Such an error does not require preservation. Accordingly, the plea was vacated, the Superior Court Information dismissed, and the matter remitted for further proceedings.

## Preservation

*People v. Finch*, Court of Appeals, No. 28 (5/13/14)

In the substantive holding, the Court of Appeals ruled that a lease is a conveyance of property rights, and among those rights is the ability to grant license to whomever the tenant chooses. Therefore, police do not have probable cause to arrest for trespass when they are specifically apprised of defendant's legal status as a guest. As such, they reversed the Appellate Division's determination that such an arrest was proper.

The Court of Appeals additionally indicated that despite defense counsel's failure to make a timely Trial Order of Dismissal Motion, the issue was preserved by an earlier Motion challenging the sufficiency of the trespass charge at arraignment. The majority in the 4-3 decision stated that "a lawyer is not required, in order to preserve a point, to repeat an argument that the court has definitively rejected." The Court of Appeals declared that where the lack of a specific Motion to dismiss caused no prejudice to the People and no interference with the swift and orderly course of justice, a flexible reading of precedents on preservation was warranted. Therefore, as a general matter, a lawyer is not required, in order to preserve a point, to repeat an argument that the court has previously definitively rejected.

## Aggravated Harassment in the Second Degree Unconstitutional

*People v. Golb*, Court of Appeals, No. 72 (5/13/14)

The Court of Appeals determined that Aggravated Harassment in the Second Degree (Penal Law §240.30 [1] [a]) was unconstitutional. Specifically, the Court of Appeals determined that since the law is "not clear" as to what the words "likely to cause annoyance or alarm" mean, and was unconstitutionally vague as to what actions were proscribed by the statute.

Continued on page 12

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## **William H. Johnson Bar Association Holds Kick-Off Luncheon**



The William Herbert Johnson Bar Association of Central New York Inaugural Luncheon sponsored by Hiscock and Barclay was one of many first in a series of lunch meetings to recruit attorneys of color to our association, as well as to educate, host speakers on topics of interest, and participate in the events and activities of the Association to bring about justice, access equality and service in the Central New York region. The event was well attended hosting more than 40 attorneys.

The William Herbert Johnson Bar Association of Central New York was founded to educate and promote the contemporary legal issues of importance to minorities, to ensure the quality legal educational opportunities, to build a sound economic foundation for black attorneys, and to enhance the quality of legal services provided to minorities and the poor.

If you would like further information regarding this Association please contact:  
**Lanessa L. Owens at [L.L.Owens.Esq@gmail.com](mailto:L.L.Owens.Esq@gmail.com)**



# Appellate Division, Fourth Department 2015 Terms Of Court

## Proposed Release Dates:

<b>JANUARY TERM:</b>	Monday, January 12, 2015 – Friday, January 23, 2015	February 6, 2015 February 13, 2015
<b>FEB./MARCH TERM:</b>	Monday, February 23, 2015 – March 6, 2015	March 20, 2015 March 27, 2015
<b>APRIL TERM:</b>	Monday, April 6, 2015 – Friday, April 17, 2015	May 1, 2015 May 8, 2015
<b>MAY TERM:</b>	Monday, May 18, 2015 – Friday, May 29, 2015	June 12, 2015 June 19, 2015
<b>JUNE TERM:</b>	Monday, June 22, 2015 – Wednesday, June 24, 2015	July 2, 2015 July 10, 2015
<b>SEPTEMBER TERM:</b>	Tuesday, September 8, 2015 – Friday, September 18, 2015	October 2, 2015 October 9, 2015
<b>OCTOBER TERM:</b>	Monday, October 19, 2015 – Friday, October 30, 2015	November 13, 2015 November 20, 2015
<b>NOV./DEC. TERM:</b>	Monday, November 30, 2015 - Friday, December 11, 2015	December 23, 2015 December 31, 2015



Chicago Title, a national provider of title insurance and abstracting services, is proud to announce the addition of two new members to their team

**R. Curtis Coville** has joined the team at **Chicago Title** as an Account Executive. Having spent the last decade working within the real estate industry both as a Realtor and Mortgage Loan Originator, R. Curtis Coville will now combine his knowledge and experience to the incredible pool of talent at Chicago Title.

**John Fricano** joins **Chicago Title Insurance Company** as senior title officer. He has over 30 years in the title and abstracting business. Fricano most recently worked with Allied American.

## DID YOU KNOW ...

OCBA receives calls every week from clients who are trying to locate documents or files once held by their attorneys, after that attorney has moved, stopped practicing or passed away.

If you know where your files will go after you're gone, Contact Membership Coordinator:

**Peggy Walker at 579-2582 or email [pwalker@onbar.org](mailto:pwalker@onbar.org)**

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# LEGAL BRIEFS BRIEFS BRIEFS LEGAL



Kevin Hulslander



Eric G. Johnson



James D. Lantier



Michael P. Ringwood



Laurence F. Sovik



Steven W. Williams

## Six Smith, Sovik, Kendrick & Sugnet, P.C. Attorneys Named to 2015 Best Lawyers® in America

Smith Sovik Kendrick & Sugnet, P.C. is proud to announce that six Partners have been selected by their peers for inclusion in The Best Lawyers in America 2015. A listing in Best Lawyers is widely regarded by both clients and legal professionals as a significant honor conferred on a lawyer by his or her peers.

Kevin Hulslander: Insurance Law, Medical Malpractice, Product Liability Litigation, Professional Malpractice . Eric G. Johnson: Medical Malpractice, Professional Malpractice.

James D. Lantier: Legal Malpractice, Medical Malpractices. Michael P. Ringwood: Legal Malpractice, Professional Malpractice

Laurence F. Sovik: Legal Malpractice, Medical Malpractice, Personal Injury Litigation, Professional Malpractice, Product Liability Litigation.

Steven W. Williams: Employment Law - Management, Litigation - Labor & Employment, Personal Injury Litigation- Defendants, Personal Injury Litigation, and Product Liability Litigation.

**voices**

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Hiscock Legal Aid Society + Everson Museum of Art

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# LEGAL BRIEFS BRIEFS BRIEFS LEGAL

## Bousquet Holstein Attorneys Named 2014 Super Lawyers

Bousquet Holstein PLLC is pleased to announce that eight of the firm's attorneys have been named to the 2014 issue of New York Super Lawyers – Upstate Edition.

**David A. Holstein** is a member at Bousquet Holstein and serves on its Board of Managers. He has been selected by Super Lawyers for his work in estate planning & probate. David's practice in this area includes estate, retirement, business succession and tax planning, and probate and trust administration for individuals, estates and trusts, family-owned businesses, private foundations and charitable organizations.



**Steven A. Paquette** is a member of Bousquet Holstein and is an experienced litigator and matrimonial-family law attorney who brings over 31 years of practical experience to seek fair and reasoned solutions to client problems. His current practice involves successfully navigating sophisticated divorce and family law matters to a successful conclusion and working with businesses to maximize their potential for success.



**Christine Woodcock Dettor** is a member at Bousquet Holstein and has extensive experience in working with not-for-profit organizations, and also focuses her practice in the areas of trusts and estates, health care, professional practices, and elder law.



**Paul M. Predmore** is a member of the firm, and serves on its Board of Managers. He is the principal attorney overseeing all tax controversies at both the federal and state levels. Paul has extensive experience in dealing with the Internal Revenue Service and the New York State Department of Taxation & Finance on audit, administrative appeals, litigation and collection issues. Paul has assisted both individuals and businesses in successfully resolving complex federal and state tax matters.



**L. Micha Ordway** is a member of the firm and an experienced litigation attorney in a broad spectrum of practice areas. His experience includes representing clients in complex commercial litigation matters, products liability suits, employment discrimination actions, bankruptcy litigation, whistleblower suits, and environmental litigation in state and federal court.



**Laurence G. Bousquet** is a member of Bousquet Holstein and serves on its Board of Managers. He practices in the areas of mergers and acquisitions, business transactions, banking and financial institutions, professional practices, tax planning and advocacy, and venture capital. Larry has performed extensive



work involving acquisitions, sales and mergers, syndications, partnership and limited liability company law, general business, estate taxation and business transition planning, and New York State and Federal income, estate, and gift taxation.

**Michael J. Balanoff** is a member at Bousquet Holstein and practices primarily in the areas of bankruptcy, workouts, debtor and creditor rights, business acquisitions, real estate and telecommunications. Michael is also an experienced arbitrator and mediator with over forty years of experience working with cases in commercial transactions, bankruptcy, debtor and creditor rights, and workouts. He is on a select Panel of Mediators and Arbitrators for the United States District Court for the Northern District of New York and is a Founding Member and Past President of the Central New York Bankruptcy Bar Association.



**Robert K. Weiler** is a member at Bousquet Holstein and practices in the areas of bankruptcy, banking and financial institutions (including creditors' rights), equipment leasing and financing, mergers and acquisitions, business transactions, litigation, both corporate and commercial, appellate law, and venture capital. Robert's experience includes representing debtors, creditors and Trustees in complex bankruptcy and workout matters, and representing publicly traded companies in corporate acquisitions. He is a registered mediator with the United States District Court for the Northern District of New York and has mediated numerous commercial matters including contract disputes and creditor's rights.



## In addition, the following attorney has been chosen by Super Lawyers as a 2014 Rising Star:

**Emilee Lawson Hatch** is an Associate Attorney at the firm and focuses on the drafting of simple and complex estate plans, as well as all matters relating to areas within trusts and estates law. She concentrates her practice on tax planning, Medicaid planning, probate litigation, special needs planning, elder law, employee benefits, not-for-profit organizations, as well as advocacy with regarding to individual, estate, and business tax matters.



## Natalie P. Hempson Joins Bousquet Holstein

**Natalie P. Hempson** has joined the firm as an Associate Attorney in the Business Transactions and Real Estate Practice Groups.

Natalie was previously an Associate Attorney at Levene Gouldin & Thompson in Vestal, NY and at Bond Schoeneck & King.

She is a Cum Laude graduate of SU College of Law and a Magna Cum Laude graduate of Hobart and William Smith Colleges. Natalie also interned for the Honorable James P. Murphy in the Onondaga County Supreme Court and for U.S. Senator Edward M. Kennedy in Boston, MA. and currently serves on the Board of of Contact Community Services, Inc.



# LEGAL BRIEFS BRIEFS BRIEFS LEGAL

## Hancock Estabrook Attorneys Selected as Super Lawyers for 2014

Hancock Estabrook is pleased to announce that 15 of their attorney's have been named as Upstate New York Super Lawyers



**Cora A. Alsante**



**Daniel B. Berman**



**Janet D. Callahan**



**John F. Corcoran**



**Raymond R. D'Agostino**



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**John L. Murad, Jr.**



**Alan J. Pierce**



**John G. Powers**



**Doreen A. Simmons**



**Christopher R. Smith Jr.**



**Robert C. Whitaker**

In addition, **Robert C. Whitaker** has been selected as an Upstate New York Super Lawyer – Rising Stars for 2014 and **Doreen A. Simmons** has also been selected as one of the Top 25: 2014 Women Upstate New York Super Lawyers. Super Lawyers is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement and is limited to 5% of the lawyers in the State.

### New Traffic Safety Class:

SPD Sgt, Gary Bulinski has advised that a new traffic safety class called Road Trip is now up and running. It is a program designed for drivers that are 25 years of age and older who have tickets such as cell phones, texting, speeding etc. The first class will be held on October 25 at Cicero Town court. Please pass this information along to your judicial, clerical and attorney staffs so they are aware when the class appears as part of a disposition. ADA's will have an informational flyer with the necessary registration information. Please feel free to contact me with any questions.

Alison B. Fineberg | Chief Assistant District Attorney  
505 South State Street, 4th Floor | Syracuse, New York 13202  
PHONE: (315) 435-2470 | FAX: (315) 435-7740

### The Law Office Of Douglas H. Zamelis has moved

Douglas H. Zamelis, Esq. has moved his primary office to Springfield Center in Otsego County. Doug will continue to accept consults and referrals involving environmental, land use and municipal law matters.

Doug's new contact information is:

7629A State Highway 80  
Cooperstown, New York 13326  
Tel: (315) 858-6002  
Email: [dzamelis@windstream.net](mailto:dzamelis@windstream.net)

## Juror Misconduct

*People v. Tucker, 117 A.D.3d 1581 (4th Dept., 5/9/14)*

Defense counsel claimed that he learned, after the verdict, that a juror who had allegedly been “holding out” contacted defendant’s aunt between the first and second days of deliberation and discussed the likelihood of a guilty verdict when the jury reconvened the following morning. Due to such allegations, a Hearing was required on whether the juror’s misconduct prejudiced a substantial right of defendant. As such, the Appellate Division, Fourth Department reserved decision and remitted the matter for purposes of a Criminal Procedure Law §330.30 Motion or Hearing.

## The Decision to Seek a Charge regarding a Lesser Included Offense

*People v. Brown, 117 A.D.3d 1536 (4th Dept., 5/9/14)*

Following a jury trial in 2007, defendant was convicted of Assault in the Second Degree. On appeal, the Appellate Division, Fourth Department reduced the period of postrelease supervision, but otherwise affirmed the judgment.

In 2013, defendant moved for a writ of error coram nobis, asserting that he was denied the effective assistance of appellate counsel because trial counsel deferred to defendant in regard to the request for a lesser included offense denying him the expert judgment of counsel to which the Sixth Amendment entitles him.

The Appellate Division, Fourth Department subsequently stated that the decision to seek a jury charge on lesser-included offenses is a matter of strategy and tactics which ultimately rely on defense counsel, not defendant. Since the trial court erred in deferring to defendant regarding whether to submit a lesser included offense to the jury the judgment of conviction was reversed on the law, and a new trial granted on the charge of Assault in the Second Degree.

*People v. Gottsche, 118 A.D.3d 1303 (4th Dept., 6/13/14)*

*People v. Colville* (20 N.Y.3d 20, 23) held that the decision whether to seek a jury charge on a lesser-included offense is a matter of strategy and tactics that rest with defense counsel. Nothing on the Record indicated that the decision to forgo the submission of lesser-included offenses was made solely in deference to defendant, that it was against the advice of defense counsel, or that it was inconsistent with defense counsel’s trial strategy. While it was clear, on the Record, that defendant was opposed to the submission of the lesser-included offenses to the jury, there was no indication what defense counsel’s position was in regard to the issue. Accordingly, the judgment of conviction was affirmed since appellant was not denied the effective assistance of counsel with respect to whether to submit the lesser-included offenses to the jury.

## Right to Counsel

*People v. Washington, 23 N.Y.3d 228 (5/6/14)*

Defendant was suspected of driving while intoxicated. She was transported to police headquarters for further testing. At the behest of defendant’s family, a lawyer telephoned the police at 3:29 a.m. and, shortly thereafter, spoke to a sergeant. Counsel explained that he represented defendant, requested information about her status, and requested that police officers not question or test defendant.

At 3:30 a.m., the police read her a standard chemical test authorization form, which was signed by defendant, and indicated her consent to take the breathalyzer test. Defendant was not informed about the attorney’s communication before initiation of the breathalyzer test at 3:39 a.m.

The Court of Appeals determined that the police should have informed defendant of the attorney’s call since breathalyzer testing had not yet begun. Defendant could then have decided if she wanted to discuss her situation with counsel. Since the police officers made no effort to advise defendant of the lawyer’s communication, and the People did not demonstrate that a notification of this nature would have been unreasonable under the circumstances, the chemical test was administered in violation of the statutorily based Gursey (22 N.Y.2d 224) right to counsel. Thus, the Appellate Division’s order reversing the judgment of conviction was affirmed.

## Limits of a Dwelling for Purposes of Burglary in the Second Degree

*People v. McCray, Court of Appeals No. 118 (6/12/14)*

The Court of Appeals reaffirmed that a Burglary occurring in any part of a building that contains a dwelling constitutes a home invasion. The exception to the rule is where the building is large and the burglary takes place in a portion remote and inaccessible to the living quarters.

In the case at bar, though the defendant was burglarizing a locker room and wax museum, the two stairways he was in were close enough to allow access to the sleeping quarters of individuals, and therefore the Burglary in the Second Degree conviction was supported by the evidence.

## Depraved Indifference/Intentional Murder

*People v. Archie, 118 A.D.3d 1292 (4th Dept., 6/13/14)*

Three days after defendant was attacked by a fellow student at school he went into a housing development with a .22 caliber pistol and indiscriminately fired several shots at a group of three people, killing one, and seriously injuring another. Defendant was subsequently convicted of depraved indifference murder.

The Appellate Division, in affirming, held that, “shooting into a crowd of people is a quintessential example of depraved indifference, the mere presences of others does not transform an otherwise intentional shooting into a depraved indifference murder.” The Fourth Department reiterated that intentional murder is motivated by a “conscious objective” to kill or cause serious injury while a depraved indifference murder is characterized by “reckless indifference.”

The Appellate Division stated that the instant case was one of the rare cases where defendant’s conduct could fit under either category. Finding that defendant was not “guilty of an intentional shooting or no other,” but acted recklessly indifferently, depravedly so, as to whether death or seriously physical injury would result by his actions.

## Duplicitous Indictment

*People v. Wade, 118 A.D.3d 1370 (4th Dept., 6/20/14)*

Defendant has a right to be tried and convicted of only those crimes charged in the Indictment (*People v. McNab*, 167 A.D.2d 858, 858). In the instant case, count 5 of the Indictment charged defendant with the crime of Petit Larceny.

At trial, the evidence established that two bicycles were stolen. Consequently, reversal for duplicity was required because the jury may have convicted defendant of an unindicted Petit Larceny. A contrary result would allow the usurpation of the exclusive power of the Grand Jury to determine the charges. There would also be a danger that different jurors convicted defendant based on different acts.

## Guilty Plea

*People v. Johnson, 23 N.Y.3d 973, Court of Appeals (6/5/14)*

Where a defendant enters a negotiated plea to a lesser crime than one with which he is charged, no factual basis for the plea is required. Under such circumstances, a defendant can actually plead to a crime that does not exist.

In the case at bar, however, the parties seemed unaware of the rule and attempted an allocution that still did not support the crime defendant pled guilty to, Rape in the Second Degree. Before sentencing, defendant moved to withdraw his plea, asserting that he “was not fully aware of the circumstances involved,” and was not guilty of the offense which he pled to.

The Court of Appeals elected to reverse since it “cannot countenance a conviction that seems to be based on complete confusion by all concerned” (see *People v. Worden*, 22 N.Y.3d 982, 985---allocution emblematic of a general misconception).

## SORA Scoring

*People v. Gillotti, Court of Appeals No. 97 (6/10/14)*

*People v. Fazio, Court of Appeals No. 98 (6/10/14)*

In the scoring of offenders found guilty of child pornography, the plain terms of factor 7---relationship with victim---allow the assessment of points based on a child pornography offender’s stranger relationship with the children featured in his or her child pornography files.



## SECTION UPDATE

On Saturday, September 20, the Young Lawyers Section hosted a tailgate before the SU vs. Maryland football game. Those who attended enjoyed the casual camaraderie and cheered together for SU during the game. With the sun shining and delicious burgers and hot dogs fresh off the grill, good times were had by all, despite our team's loss. The Section would like to thank the OCBA for its support in organizing this event and we look forward to hosting more successful events in the future.



## Court of Appeals Appellate Division Case Notes

... from page 12

Similarly, in regard to factor 3---number of victims---allow all child pornography victims to be counted. There is no distinction between victims of child pornography offenses and victims of other sex crimes.

The Court of Appeals recognized that scoring points under risk factors 3 and 7 may overestimate the risk of re-offense and danger to the public posed by child pornography offenders, but that concern is best addressed through a request for downward departure.

The Court further settled a split of authority among the Appellate Divisions, and made clear that a preponderance of the evidence standard applies when determining whether a SORA offender has established the need for a downward departure.

### Requirement of Stolen Property to Prove Robbery

#### *People v. Gordon, Court of Appeals No. 100 (6/12/14)*

Defendant visited a department store. Defendant went to the store with her teenage son, her friend and subsequent codefendant, and a toddler. Based on her conduct while in the store, security personnel suspected that defendant stole merchandise, and thereafter followed and stopped the group as they left. Police eventually arrested defendant in the mall parking lot as she attempted to escape, and she and Wheatley were tried together. No merchandise was recovered from defendant or her companions.

Though the property defendant stole was not recovered, the Court of Appeals determined that defendant could still be found guilty of Robbery in the First Degree or Robbery in the Second Degree because whether a defendant had the intent to forcibly steal property is a question for the trier of fact, a question which may be answered based on direct evidence of such intent, or upon reasonable inferences drawn from the trial evidence. There is nothing inherently unique or qualitatively different in first and second degree robbery cases to support removing the jury's recognized province the task of determining defendant's intent. Accordingly, the Court of Appeals reinstated defendant's convictions of Robbery in the First Degree and Robbery in the Second Degree, and remitted the case to the Appellate Division.

### Value of Stolen Property

#### *People v. Walker, Appellate Division 4th Dept. (7/11/14)*

Count 4 of the Indictment, Grand Larceny in the Fourth Degree, was reversed where the People failed to establish that the value of the stolen property exceeded \$1,000. Specifically, the testimony relating to the jar of coins was conclusory statements and rough estimates of value which are not sufficient to satisfy that element of the crime. The Count was dismissed without prejudice since the evidence was sufficient to support a charge of Petit Larceny on a retrial.

Count 6 of the Indictment, Grand Larceny in the Fourth Degree, was reversed and dismissed as insufficient where the People failed to establish that the card was actually stolen by defendant.

Additionally, the trial court erred in allowing the People to introduce evidence of an uncharged Burglary by defendant and an identification without notice. Therefore, a new trial was ordered on the remaining charges. The Court also noted their disapproval of the prosecutor's summation in which the prosecutor vouched for the credibility of prosecution witnesses, suggested defendant was a liar, characterized defendant's testimony as "smoke and mirrors," and otherwise denigrated the defense.

### Punishment of Defendant for Exercising his Right to Trial

#### *People v. Angona, Appellate Division 4th Dept. (7/11/14)*

In a 3-2 decision, the majority of the court determined that defendant's sentence was not harsh and excessive. The dissent, however, would have reduced the 25 year five-year post release supervision sentence to 15 years followed by five years postrelease supervision.

The dissent noted that prior to trial defendant was offered the opportunity to plead guilty to a reduced sex offense with a sentence promise of four months in jail and 10 years of probation. On the eve of trial, the People offered a plea deal involving a two-year sentence. The dissent also stressed that defendant committed the crimes when he was 16 years old---8 years prior to being charged. The dissent would have held that the considerable disparity between the sentences offered prior to trial, and the eventual sentence were too great of a penalty for defendant's choice to exercise his right to trial.

### Conditional Sealing of Records

#### *People v. M.E., Appellate Division 4th Dept. (8/8/14)*

In 1996, defendant pled guilty to Criminal Possession of a Controlled Substance in the Fourth Degree. She was sentenced to a 3 year conditional discharge, which she served without incident. Defendant completed an inpatient drug treatment program, and has subsequently married and become a registered nurse.

In 2013 she moved to conditionally seal her criminal records pursuant to Criminal Procedure Law §160.58, which was denied by the trial court.

The Appellate Division, Fourth Department, however, determined that the Criminal Records are eligible for conditional sealing under Criminal Procedure Law §160.58 even if they relate to convictions that predate the statute. Applying the statute under such circumstances does not render the statute retroactive in any sense of the term as Criminal Procedure Law §160.58 merely creates a mechanism for restricting future access to existing records. The statute does not contemplate any alteration of the underlying criminal judgment reflected in those records, nor does it potentially invalidate or rescind any prior disclosures thereof. A statute is not retroactive when made to apply to future transactions where such transactions relate to and are founded upon antecedent events (Matter of Raynor v. Landmark Chrysler, 18 N.Y.3d 48, 57).

# OCBA Paralegals Committee

Contributors | OCBA Paralegals Executive Committee

Alison J. Waters, Paralegal with the Office of University Counsel at Syracuse University, was our guest speaker at the Spaghetti Warehouse on Thursday, September 11, 2014. Alison spoke about the differences between working as an in-house Paralegal versus working in a law firm setting.

Alison has had a varied and interesting professional career. She began her career with The Pyramid Companies followed by working at the law firms of Mackenzie Hughes and Bond, Schoeneck & King, where she specialized in Real Property law. Alison made the decision to leave BS&K when she was recruited by O'Brien & Gere Engineers where she specialized in transactional, insurance, and real estate law. While at O'Brien & Gere, she obtained her degree in paralegal studies from Syracuse University. After getting married, she moved to Pittsburgh and worked for the corporate headquarters of Dick's Sporting Goods where she specialized in real estate development, leasing and general corporate legal work. Upon her return to Syracuse, Alison worked for the Oneida Indian Nation. While with the Nation, she specialized in intellectual property law and transactional law with a heavy emphasis on contracts and legal research. She just recently took the position at Syracuse University after working six years for the Oneida Indian Nation.

Alison says that she likes the diversity in handling corporate legal matters and enjoys learning new aspects of law.

## Forthcoming Monthly Luncheon Programs

The OCBA Paralegals Committee monthly luncheon meetings will be held at The Spaghetti Warehouse, 12:00-1:00PM on the following dates:

**October 9, 2014** – Linda Magnifico will be our guest speaker. She will present on her role as a Senior Case Technician (Legal Assistant) in the Social Security Administration Office of Disability Adjudication and Review. Linda will also provide a brief overview of the types of cases that are handled in that department followed by a Q&A session.

Linda J. Magnifico joined the Social Security Administration Office of Disability Adjudication and Review as a Senior Case Technician in 2010. Prior to that she worked as a paralegal/legal assistant with two local firms in the area of trusts and estates, and two New Jersey firms in the area of foreclosure.

Linda is a staunch supporter of the OCBA and Chaired the Paralegals Executive Committee for several years. You won't want to miss this opportunity to see Linda again or meet her for the first time.

**November 13, 2014** – Jane Raven from the Onondaga County District Attorney's Office will present on Criminal Prosecution.

**December 11, 2014** – Don't miss our Holiday Luncheon! In addition to the customary presentation of door prizes, we will be incorporating games, raffles and a 50/50 raffle. A special prize will be given to the person who brings the most guests. We are seeking donations for the purchase of items from the wish lists of our adopted P.E.A.C.E., Inc. and Military families. Please contact the Executive Committee members listed below regarding donations.

Please invite your bosses, legal administrators and co-workers. These luncheon meetings are not restricted to just Paralegals Committee members.



Alison J. Waters

The cost for lunch is \$11 for members and \$12 for non-members. Reservation deadline is 4:00PM the day before the luncheon. Please RSVP by e-mailing or calling Jean Swanger at [jswanger@gilbertilaw.com](mailto:jswanger@gilbertilaw.com) or 442-0174. E-mails are preferred. Please keep in mind that your reservation is binding unless you cancel on or before the reservation deadline.

Stay tuned for further information regarding upcoming luncheons. Information regarding our speakers will be sent via email, Bar blasts, and can be found on the new OCBA website under the Paralegals Section. We plan to provide some interesting speakers. If you have suggestions for guest speakers or presentation topics, please do not hesitate to contact any member of the Executive Committee

Kathrine Cook	<a href="mailto:kathrinecook0@gmail.com">kathrinecook0@gmail.com</a>
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Karen Hawkins	<a href="mailto:khawkins@gilbertilaw.com">khawkins@gilbertilaw.com</a>

## Paralegal of the Month Program

The Executive Committee would like to institute a "Paralegal of the Month" program and is seeking nominations for selection beginning January 2015. More information to follow.

## Looking for Ideas

What information would you like to see on the Paralegals Section of the Onondaga County Bar Association's website? Please email Karen Hawkins at [khawkins@gilbertilaw.com](mailto:khawkins@gilbertilaw.com) with your suggestions. Thanks!

## HEAR YE! HEAR YE!! HEAR YE!!!

September is the month of ESAPA's annual fall conference. This year's conference will be held on September 20th and 21st in Albany, New York at the Best Western Albany Airport Inn (<http://www.bwalbanyairport.com/>). If you would like to attend, it's not too late to make your reservations. To book your room, call the hotel at 518-458-1000. You would also need to contact Shannon Mack to be sure to be included in the event's activities and planned meals, especially if you will be dining with the group. You can reach Shannon at:

Shannon R. Mack  
Greenberg Traurig, LLP  
54 State Street | Albany, NY 12207  
Tel: 518.689.1476 Email: [macks@gtlaw.com](mailto:macks@gtlaw.com)

This is a great opportunity for networking and meeting paralegals from all over the state of New York. Come join us and learn more about what ESAPA is trying to do for you as well as enjoy a relaxing weekend away from home (but not too far... ). The hotel is equipped with an indoor pool, so bring your bathing suit and let's dive in!

To learn more about ESAPA visit our website at [www.empirestateparalegals.org](http://www.empirestateparalegals.org)

## The Executive Committee Could Use Your Help

The next Paralegals Executive Committee ("EC") meeting is

## Paralegals Committee

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scheduled for October 1, 2014 beginning at noon at Gilberti Stinziano Heintz & Smith, P.C., 555 East Genesee Street, Syracuse, NY 13202 (parking is available in front of the building on East Genesee Street, at the rear of the building at 510 East Fayette

Street, and the parking lot between the GSHS offices and Hamilton White House). EC Chair Kathrine Cook extends an invitation to paralegals who would like to find out more about serving on the Executive Committee. If you are interested in attending the EC meetings to share your ideas for upcoming programs and ways to better serve the paralegal members, please contact Kathrine Cook at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com).

### Job Bank

Are you an employer with a job that needs to be filled? Our FREE Listserv can help! Just email Paralegals Committee Chair, Kathrine Cook, at [kathrinecook0@gmail.com](mailto:kathrinecook0@gmail.com) to have your job provided to OCBA Paralegal members. Members are added when dues are paid each year. Job openings are submitted to the Listserv and members receive notification via e-mail. Paralegals should contact Peggy Walker at the OCBA offices (471-2667) to confirm current membership or to join the OCBA. Employers and/or Paralegals can email Kathrine should they have any questions.

# Are You feeling overwhelmed?

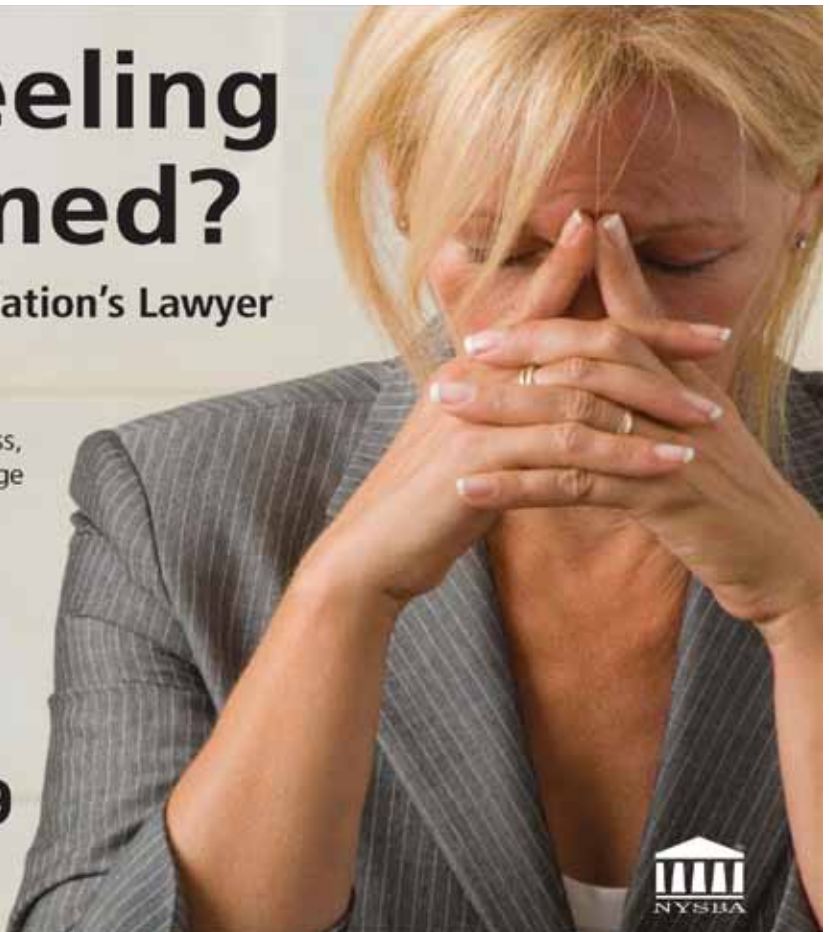
The New York State Bar Association's Lawyer Assistance Program can help.

We understand the competition, constant stress, and high expectations you face as a lawyer, judge or law student. Sometimes the most difficult trials happen outside the court. Unmanaged stress can lead to problems such as substance abuse and depression.

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LAWYER ASSISTANCE PROGRAM



## FROM THE EDITORIAL BOARD

To advertise in the Bar Reporter, call the Onondaga County Bar Association at 315.579.2578.

Letters to the Editor: The Editorial Board accepts letters or comments for publication concerning issues presented in each edition or other issues related to the legal community. Submissions should be limited to a few paragraphs and mailed to OCBA, Attention Bar Reporter or Email [cstirpe@onbar.org](mailto:cstirpe@onbar.org).

*John A. Cirando, Editor Emeritus*

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# Golf Outing Raises over \$11,000 for Volunteer Lawyers Project and Bar Foundation

The August 14th Daniel Mathews Jr. Memorial Golf Outing was a tremendous success, raising over \$11,000.00 for the Volunteer Lawyers Project of Onondaga County and the Onondaga County Bar Foundation. We had a record showing of support with twenty five teams competing in support of the important missions of these two organizations to increase access to justice and support those in need in our community.

Congratulations go out to our top teams. The Central NY Lawyer Cup trophy awarded to the top Bar Association foursome of Bob Jokl, Tony LaValle, Seth Azria and Joe Centra, who also won the Judges and Lawyers Division and had the low net with their 59 stroke score for 18 holes. The men's division was won by the team from Geddes Federal Credit Union: John Strodlle, Pete Olivia, Dan Olivia and Mike Flaherty with a score of 62. In the Mixed Division it was Tom Murphy, Mary DeLapp, Michael Kulis and Laurie Kulis with a score of 64. The Women's Division was won by Thérèse Wiley Dancks, Sheila Fallon, Ami Longstreet and Jennifer Williams. The Seniors' Division was won by "Team Espresso": Tony Gigliotti, Bill Dowling, Dick McVeen and Tony Paris.

Congratulations also go to the following winners of the day's competitive games: closest to pin seniors' division went to Bob Jokl, men's division went to Dave Kimpel and women's division to Lisa Gilels. The Long drive was won by Bill Foster and the most accurate drive by Joel Carpenter.

Playing in the tournament were eight members of our esteemed judiciary: Hon. Thérèse Wiley Dancks, Hon. Joseph Fahey, Hon. Robert Jokl, Hon. John Kinsella, Hon. Anthony LaValle, Hon. James Murphy, Hon. Anthony Paris and Hon. Daniel Mathews.

The Golf Outing Committee: Lance Cimino as Chair, Kathrine Cook, Sally Curran, Anthony Gigliotti, David Hayes, George Lowe, Paul Mullin, Deborah O'Shea and Jeff Unaitis -- were a terrific team

in planning this year's outing.

The Volunteer Lawyers Project and the Onondaga County Bar Foundation would like to thank all sponsors of the event: Geddes Federal Savings and Loan as the Event Sponsor; Gold Sponsors: the Mathews Law Firm, the Mathews Family and Bousquet Holstein; Hole sponsors: Avalon Document Services, Blitman & King, Central New York Women's Bar Association, D.J. & J.A. Cirando, Empower Federal Credit Union, Harris Beach, Robert Jenkins, on behalf of Judge Roy, Sugarman Law Firm and TCG Electric; and Tee Level sponsors: Any Key Solutions, Azria Law Office, Bond Schoeneck & King, David M. Pellow, Chicago Title Company, Frederick S. Marty, Hugh C. Gregg II, Menter Rudin

& Trivelpiece, Stewart Title Insurance Company, Team Espresso and the Volunteer Lawyers Project of Onondaga County, Inc.. Additionally, goods, services and gifts were donated by Avalon Document Services, Lance Cimino and Stuart LaRose, W.B. Mason, Perry Law Firm, Geddes Federal Savings & Loan, Empower Federal Credit Union and Stewart Title Insurance Company. A special thank you to the staff of the Onondaga County Bar Association for their work to make this event possible. Finally, we give a special thank you to all golfers and event volunteers. Hope to see you all next year!



Deb O'Shea & Sally Curran



# Thank You For Supporting Our 2014 Golf Outing!!



## BAR BOARDS:

### RED MASS Celebrated by Bishop Cunningham For the Legal and Law Enforcement Communities

Judges, lawyers, law students and others in the legal and Law enforcement communities are invited to join Bishop Cunningham who will celebrate the Red Mass at the Cathedral, Wednesday, October 1st at 12:10 pm. The Red Mass was begun in medieval times to ask the guidance of the Holy Spirit for all who seek justice, and offers the opportunity to reflect on what Catholics believe is the God-given power and responsibility of all in the legal and Law enforcement professions. The Mass is sponsored by the Catholic Lawyers Guild. All are welcome.

### Associate Position

Associate position: Gale Gale & Hunt, LLC, a litigation boutique located in Central New York, is looking for an admitted attorney with 1-2 years experience. Law Review and/or Judicial Clerkship preferred. Please respond with resume to [jobs@gghlawoffice.com](mailto:jobs@gghlawoffice.com). Confidentiality insured.



# OCBA CONTINUING LEGAL EDUCATION

AT THE CENTRAL NEW YORK PHILANTHROPY CENTER

431 East Fayette Street | Syracuse, NY 13202

## SUPREME COURT PRACTICE & PROCEDURE

### 2014 UPDATE

THURSDAY OCTOBER 16 | 12:00 to 2:00 pm

MCLE 1.0 Professional Practice + 0.5 Skills + 0.5 Ethics

Sign In Begins: 11:45 am | Program: 12:15 to 2:00 pm

DONALD C. DOERR, ESQ. | POMCO Group

MICHAEL A. KLEIN, ESQ. | District Executive, 5th Judicial District



Topic areas will include:

- NEW Mandatory Electronic Filing
- Commencing Civil Actions
- Filing Fees
- Requests for Judicial Intervention
- Motion Practice
- Preliminary Conferences
- Trial Scheduling
- Matrimonial Rules/ Screening
- Uncontested Matrimonial
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Total of 2.0 MCLE Credits | Under NYS rules this CLE has been APPROVED for both Newly admitted & experienced attorneys

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I would like to attend:  Family Court Practice & Procedure (Reality 101)

Attendee(s) \_\_\_\_\_ Phone \_\_\_\_\_

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#### Fees:

- Member \$ 40
- Paralegal Member \$ 30
- Honorary Member \$ 0
- Agency (Agency Pre-Approval) \$ 0
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Call: 315.579.2578 or email: [cstirpe@onbar.org](mailto:cstirpe@onbar.org)



# OCBA CONTINUING LEGAL EDUCATION

AT THE CENTRAL NEW YORK PHILANTHROPY CENTER

431 East Fayette Street | Syracuse, NY 13202

## FAMILY COURT PRACTICE & PROCEDURE 2014 UPDATE

TUESDAY OCTOBER 28 | 12:00 to 2:00 pm

MCLE 1.0 Professional Practice + 1.0 Skills

Sign In: 11:45 pm | Program: 12:00 to 2:00 pm

**HON. MICHAEL L. HANUSZCZAK**

Acting Supreme Justice & Onondaga County Family Court Judge

**DAVID M. PRIMO, ESQ.**

Chief Clerk Onondaga County Family Court

**LINDA LOPEZ**

Deputy Commissioner Onondaga County Department of Children & Family Services



**This program will give an overview of Family Court Practice and provide updates regarding a variety of areas.**

- Family Court Procedural Overview
- Update on Family Law statutes and decisions
- Local practice tips and protocols
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Visa, MasterCard, or AmEx Card# \_\_\_\_\_ Exp. \_\_\_\_\_

### Fees:

- Member \$ 40
- Paralegal Member \$ 30
- Honorary Member \$ 0
- Agency (Agency Pre-Approval) \$ 0
- Non-Member \$ 60

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Attention: Chele Stirpe

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# Onondaga County Bar Association CONTINUING LEGAL EDUCATION

AT THE CENTRAL NEW YORK PHILANTHROPY CENTER

2nd Floor Ballroom | 431 East Fayette Street | Syracuse, NY 13202

**SEAN CARTER, ESQ. | Lawpsided Law**  
**Double Ethics Seminar | Attend one or both**  
**SAVE \$20 WHEN YOU ATTEND BOTH**

**FRIDAY, OCTOBER 3, 2014**

**2<sup>ND</sup> FLOOR BALLROOM | PHILANTHROPY CENTER**

## Part One | THE ETHYS AWARDS

**2014 EDITION | 2.0 MCLE ETHICS | SIGN IN 9:00 AM | PROGRAM 9:30 - 11:30 AM**

Each year, Hollywood celebrates the best performances in motion pictures at the Oscars. Well, this year, we will celebrate the worst ethics violations in the legal profession at the Ethys. Featuring this year's winners of the coveted Ethy for Best Original Excuse, Least Competent in a Legal Representation, Most Over-Animated Courtroom Outburst, a special Lifetime Achievement Award and so much more. In the process of recapping some of the most egregious instances of unethical behavior, **Harvard Law graduate, Sean Carter** will demonstrate how the rest of us can avoid more common ethical violations.

LUNCH ON YOUR OWN

## Part Two | YELP! I'VE FALLEN FOR SOCIAL MEDIA & I CAN'T GET OUT

**2.0 MCLE ETHICS | SIGN IN 12:30 PM | PROGRAM 1:00 - 3:00 PM**

Facebook, Twitter, LinkedIn, and the other social media tools have become ubiquitous in our high-tech society. And while social media can undoubtedly help lawyers to enhance their networks of colleagues, clients and prospective clients, it can also ensnare the unwary in a web of ethical violations. So set your Outlook calendar, post the date on your Facebook wall and get ready to be "linked in" with your colleagues from across the county as we take an in-depth look at the ethics rules, bar opinions and real-life disciplinary cases studies as they relate to social media. And as always, Sean Carter will use the quick wit that has made him a favorite CLE presenter in more than 40 states to make you "Yelp" with laughter while showing you how to stay Four Square within your ethical boundaries.

Please **SAVE** and complete this form and return to **OCBA** email: [cstirpe@onbar.org](mailto:cstirpe@onbar.org) | FAX: 315-471-0705

*I would like to attend:*     Part One: 2014 Ethys Awards     Part Two: Yelp! I've Fallen for Social Media

Attendee(s) \_\_\_\_\_ Phone \_\_\_\_\_

Firm \_\_\_\_\_ Email \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Check Enclosed     Visa, MasterCard, or AmEx Card# \_\_\_\_\_ Exp. \_\_\_\_\_

**Total of 4.0 MCLE Credits Ethics** | Under NYS rules this **CLE** has been **APPROVED** for both *Newly admitted & experienced* attorneys

### BOTH SESSIONS

- Member \$ 120
  - Paralegal Member \$ 60
  - Agency & Lifetime Member \$ 60
  - Non-Member \$ 140
- (hot topic)

**ONONDAGA COUNTY  
BAR ASSOCIATION CLE**  
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109 S. Warren St. Syracuse, NY 13202

**Call:** 315.579.2578  
**or email:** [cstirpe@onbar.org](mailto:cstirpe@onbar.org)

### ONE SESSION

- Member \$ 70
- Paralegal Member \$ 35
- Agency & Lifetime Member \$ 35
- Non-Member \$ 80

CLE **Tuition** Waiver Policy available:  
<http://www.onbar.org/cle/waiverpolcle.080408.pdf>