

THE BAR REPORTER

The Newsletter of the Onondaga County Bar Association



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Onondaga County Bar Association
CNY Philanthropy Center
431 East Fayette Street, Suite 300
Syracuse, NY 13202
315-471-2667

Our Mission:

To maintain the honor and dignity of the profession of law, to cultivate social discourse among its members, and to increase its significance in promoting the due administration of Justice.



In Memoriam

Hon. Norman A. Mordue

Merle D. Melvin

Hon. Robert John Rossi

Robert Joel Jenkins



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The 1,200-member Onondaga County Bar Association was founded in 1875. Among its purposes are: to maintain the honor and dignity of the profession of law; to promote suitable reforms and necessary improvements in the law; to facilitate the administration of justice; and, to elevate the standards of integrity, professional competence, and courtesy in the legal profession.

Upcoming Events

Tuesday, February 14, 2023	Breakfast at the Bar, 8 to 9:30 a.m., 484 S. Salina Street, Syracuse <i>A monthly networking event sponsored by the Women in the Courts Taskforce</i>
Thursday, February 16, 2023	CLE Cybersecurity Series, Pt. 2: Preventing Your Worst Tech Nightmare: Protecting Your Firm & Clients from Cybercriminals
Monday, February 20, 2023	President's Day - OCBA Office Closed
Tuesday, February 21, 2023	Bar Reporter Submission Deadline for February issue
Wednesday, March 8, 2023	CLE Part 137 Arbitrator Training, learn more here
Thursday, March 16, 2023	CLE Cybersecurity Series, Pt. 3: The Biggest Cybersecurity Threat of All: Human Behavior

Would you like to learn more about these events? Contact Carrie Chantler for more information about how to become involved at cchantler@onbar.org or call 315-579-2578

Breakfast at the Bar

Tuesday, February 14, 2023

8:00 - 9:30 A.M.

Salt City Coffee and Bar

484 S. Salina Street

*A monthly networking event for
women in the legal profession*



WOMEN IN THE COURTS TASKFORCE

**CNY WOMEN'S BAR ASSOCIATION
ONONDAGA COUNTY BAR ASSOCIATION**

From the *President*



Dear Colleagues:

I trust that you all had a happy and healthy Holiday season. I truly hope that you were all able to spend time with loved ones and maybe take a little bit of a break from your busy schedules.

I would like to apologize for not writing a Letter from the President recently. It has been a bit of a hectic few months in my house as my wife and I welcomed a new baby girl on November 18th, 2022. Between balancing a newborn baby and a law practice, life has not left many spare moments.

OCBA did have a great end of the year. In November, with the help of our good friend Nick DeMartino, we held a reception at our ballroom and welcomed the newly elected County Court Judges, Hon. Melinda McGunnigle and Hon. Ted Limpert, while also honoring our outgoing Judges Steve Dougherty and Tom Miller. It was a great event attended by many of our colleagues. And, in December, we held our first holiday reception, also at the Philanthropy Center ballroom. This was our first in-person holiday reception since 2019.

Congratulations are also in order for the Honorable Kevin Kuehner, along with his new Supreme Court colleagues Julie Grow Denton, William Ramseier, and Mark Rose on their election as New York State Supreme Court Justice.

More recently, there was great Onondaga County representation at the NYSBA Annual Meeting in New York City, led by Judge James Murphy, Judge Gregory Gilbert, Judge Danielle Fogel, Don Doerr, Marty Lynn, Jean Marie Westlake, Stuart LaRose and John McCann.

Needless to say, it is good to be getting back together.

In the next few months, we hope to have a mid-winter social event, the retired Judges reception at the end of April, our annual meeting on April 13th and the Distinguished Lawyer reception later this spring.

I hope to see you all at these events. In the meantime, please take care and let's remember that we can all continue to advocate zealously for our clients while also being respectful and courteous to our fellow colleagues.

A handwritten signature in black ink, appearing to read 'Graeme Spicer', written over a light blue horizontal line.

Graeme Spicer

CONGRATULATIONS, STEVE!

Celebrating five decades of service to our community!

The Marrone Law Firm is proud to announce the acquisition of The McMahon Law Firm

As we celebrate Steve's retirement, our team at The Marrone Law Firm is honored to carry on the legacy of the McMahon Law Firm.



**THE MARRONE
LAW FIRM**



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THE HON. JAMES P. MURPHY, J.S.C., FIFTH JUDICIAL DISTRICT ADMINISTRATIVE JUDGE, CALLS FOR VOLUNTEER ATTORNEYS FOR SYRACUSE CITY COURT SMALL CLAIMS/COMMERCIAL CLAIMS ARBITRATION PROGRAM.

"As a result of COVID-19, Syracuse City Courts were forced to discontinue the in-person Arbitration Program for Small Claims/Commercial Claims cases. Now that we are back to in-person appearances Syracuse City Court needs volunteer attorneys to serve as Arbitrators in continuance of this vital program."

*James P. Murphy, J.S.C.
Fifth Judicial District Administrative Judge*

No prior experience is necessary. Training will be provided. Cases are heard every Tuesday and Thursday at 1:30 pm, Part 1 Courtroom of The Hon. James C. Tormey III Criminal Courthouse. This is a great opportunity for both newly admitted and veteran attorneys to donate their time for a good cause. To become a member of our Small Claims/Commercial Claims Arbitration Roster, please contact:

**Valerie L. James, Chief Clerk IV, Syracuse City Court,
Tel.: (315) 671-2776, vjames@nycourts.gov; or**

**Kathryn Strodel, Esq., Syracuse City Court,
Tel.: (315) 671-2789, kastrode@nycourts.gov**

**ADR ALTERNATIVE
DISPUTE
RESOLUTION**



OCBA In-Person Goings-on!



OCBA members have been out and about in recent weeks, despite the weather!

OCBA members certainly represented Onondaga County at the mid-January New York State Bar Association Annual Meeting.

Pictured at left are Don Doerr, Hon. Gregory Gilbert, Stuart LaRose, Hon. Danielle M. Fogel, Jean Marie Westlake, Martin Lynn, and John McCann.

Our friends to the north, the Oswego County Bar Association, partnered with us Friday, January 13th to offer a daylong Continuing Legal Education. *Pictured below* is Principle Counsel of the Attorney Grievance Committee Mary Gasparini leading a session on the ethical conduct expected of lawyers.

Below: VALAC Founder and Director Nicholas DeMartino stands ready to accept the multitude of drive-by donations he received on December 16, 2022. Pet food, pet gear, and pet beds were collected on that snowy day and donated to HumaneCNY.





The Onondaga County Bar Association
Welcomes these Attorneys
to the Practice of Law
upon their January 11, 2023
Admission to the New York State Bar

Alexandria Arce Alinea

Jared Ainsworth Joyce

Daniel Jacob Berkowitz

Justin Michael Lange

Brandon Joseph Bourg

Robert Lawrence Menard

Jillian Leigh Brodock

Jean Rene Michel, Jr.

Dorothy Matilda Canevari

Amanda Nardozza

Shannon Marie Dablock

Angela Rose Ponto

Noah Samuel Devaney

Connie Marie Potter

Spencer Franklin Goldberg

Kelly Vernetta Ristoff

Jaka Michael Goldsmith

Diana Gisele Rogatch

Hannah Eliza Gordon

Robert Joseph Rose

David Manuel Gutierrez

Karina Shahine

Lyndon E. Hall

Madeline Ruth Thibault

Hannah Terese Hapeman

Nhi Kha Truong

Emily Clare Hildreth

Kelsey Mary Margaret Wagner

Joseph Habib Hobika, III

Matthew C. Walsh





Assigned Counsel Program Elects New Directors and Officers

The Onondaga County Bar Association Assigned Counsel Program (ACP) elected its new 2023 officers and Board members during the December 15th meeting of the OCBA Board of Directors. The OCBA Board serves as the members of the ACP organization and has the responsibility to annually approve those appointments.

New officers are Charles Keller, III, Esq., who will serve as President; Eileen Walsh, Esq., Vice President; Hon. John Petosa, Treasurer; and Ian Rennie, Esq., Secretary.

Directors are: Lourdes Rosario, Esq.; Hon. Derek Thomas; J. David Hammer, Esq.; Scott Lickstein, Esq.; Brody Smith, Esq.; Alan Rosenthal, Esq.; Jeff Van Buren; Jackson Davis; and Wordy Samson, Esq. OCBA President-Elect Martin Lynn, Esq. serves as the OCBA representative on the ACP Board through May 31st and will be succeeded by OCBA Vice President Laura Spring, Esq. at that time.

Congratulations to these new officers and directors charged with leading this vital organization.

Learn more about this organization [here](#).



SAVE THE DATE!

Onondaga County Bar Association

ANNUAL MEETING

Thursday, April 13th at NOON

Onondaga County Legislative Chambers

Onondaga County Courthouse

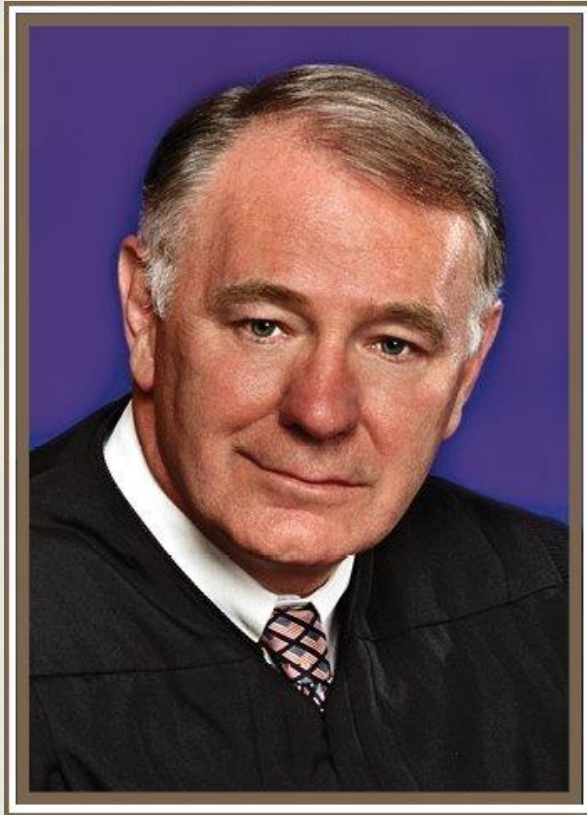
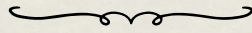
401 Montgomery Street

light refreshments will be served!



We Remember the Hon. Norman A. Mordue

Like so many in our community, the December 29, 2022 passing of Senior U.S. District Judge, Northern District of New York the Hon. Norman A. Mordue, greatly saddened us. The OCBA was honored to recognize Judge Mordue in 2016 with the Ruger Award, a laurel rarely bestowed. At that time, he was the ninth jurist to receive the award in the bar association's 148-year history. We reprint, with honor, his biography which appeared in the program for the 141st OCBA Annual Dinner on Thursday, October 27, 2016. The image below is from that evening.



Dedicated, Industrious, Fair, Deserving

The Hon. Norman A. Mordue, Senior U.S. District Judge of the U.S. District Court of the Northern District of New York, upon a unanimous vote of OCBA Board of Directors, is the ninth recipient of the Ruger Award. Named after OCBA's first president, William Crawford Ruger (1824-1892), award recipients exemplify "singularly outstanding achievement in devotion to the principles of our system of justice."

"I cannot think of a more deserving jurist," said OCBA President-Elect the Hon. James P. Murphy.

"His knowledge, fairness, professionalism and pragmatism have made him a mentor to many young trial lawyers in Central New York, including me," Murphy said.

Mordue began his 46-year legal career in 1970 as the Onondaga County District Attorney's Office lone law clerk, a year before his 1971 graduation from the Syracuse University College of Law. A law school moot court presentation in his first year resulted in his getting this opportunity to clerk. Honing his prosecutorial skill at the office meant turning his energy to drafting a successful appeal of *People v. McKnight*, 26 N.Y. 2d 1034 (1970). His writing reversed the lower Onondaga County Court and the Appellate Division Court ruling in the search and seizure during a traffic stop case and was a harbinger of what was to come.

"There's no such thing as a little case," Mordue said. "We're not here to do anything but our best job."

He continued in the D.A.'s office until 1982, concluding his time there as Chief Assistant District Attorney in charge of the homicide and felony trial unit.

Prosecutor Mordue thrived in the courtroom, influenced especially by Judges Thomas Aloï, Albert Orenstein and Ormand Gale who presided over his cases.

"I just thought the world of them," he said. "They were very bright and had excellent judicial decorum. It was an honor to go before them, so I started doing things that would assist me in becoming a judge should the opportunity present itself."

That opportunity arrived in 1982 when he was elected to fill the seat of Judge James Anderson who died shortly after winning a close election for the Onondaga County Court judgeship. And from there he never looked back rising to new posts every few years: Onondaga County Court Judge (1983- 85), cross-endorsed by all parties for the New York State Supreme Court Justice (1986-1998), appointed by President Bill Clinton to the United States Federal District Court, Northern District of New York (1998-2013), Chief Judge, United States District Court, Northern District of New York (2006-11) and Senior Federal District Court Judge (2013-present).

Senior Judge Mordue has presided over a vast number of diverse cases in a more than 33-year judicial career.

And he enjoys his job. His staff, whom he considers "like family," has been with him since 1998, or earlier.

"It is a privilege to work for and learn from Judge Mordue, a scrupulously fair judge and a compassionate and insightful person," said Mordue's longtime "elbow clerk" Annelle Mc- Cullough, Esq.

Photos of family and the artwork of the little ones who visit him fill Mordue's chambers. When speaking of his three children or his wife, Christina, his hometown sweetheart from Elmira whom he wed as a Syracuse University undergraduate, his face brightens.

Warm moments happen in the courtroom too, he said, recalling a case from his trial attorney days. Helping a friend adopt a child from Korea he found himself in Family Court, the antithesis of his usual venue. There, he noticed the court personnel smiling, heard children laugh, saw clerks hand out lollipops and an upbeat attitude float over the proceedings.

"I thought it was the most rewarding happy thing I ever did in a courtroom," he said. "I can never forget that day."

Judge Mordue's distinguished legal career might not have happened, however, were he not wounded during the Vietnam War.

"I wanted to be a career soldier," he said. "My dream was to be a general."

An academic stand out, Mordue was both a Syracuse University ROTC Distinguished Military Graduate and Distinguished Military Student. A commissioned officer, upon his 1966 graduation, he saw active duty in Vietnam from 1966 to 1968, achieving the rank of Captain at the time of his U.S. Army discharge.

He performed mightily on the gridiron as a varsity halfback on legendary Orangemen Coach Ben Shwartzwalder's 1964- 65 football team, which narrowly lost to the Louisiana State University Tigers in the 1965 Sugar Bowl. Despite receiving SU Athletics distinctions, it was his heroic military career that brought him to the attention of the leaders of the nation.

Judge Mordue possesses five medals: Combat Infantryman's Badge, an Air Medal, a Purple Heart, a Bronze Star with "V" device, and the second highest recognition bestowed to a U.S. Army soldier, the Distinguished Service Cross.

For his valorous actions on May 31, 1967, in the Vietnam village of An Qui, Mordue led his Airmobile platoon into a fierce attack to relieve a fellow platoon experiencing hostile gun and grenade fire. During the fray, as two of his men were wounded, Mordue "braved withering enemy fire to rescue them," the award reads.

In the battle against the Viet Cong insurgency he became severely wounded himself, refusing medical care until his unit reached safety. His bravery and leadership significantly contributed to defeat of the enemy.

The Distinguished Service Cross Award concludes: "First Lieutenant Mordue's extraordinary heroism and devotion to duty were in keeping with the highest traditions of the military service and reflect great credit upon himself, his unit, and the United States Army."

THE PRACTICE PAGE

BURDEN OF PROOF FOR MUNICIPAL LIABILITY ON SUMMARY JUDGMENT

HON. MARK C. DILLON

There is no shortage of cases where plaintiffs seek damages for injuries sustained as a result of alleged municipal negligence. As the bar is aware, municipal defendants are not liable for injuries arising out of certain dangerous conditions, such as those involving defective highways and sidewalks, absent prior written notice to the municipality and a failure to then correct the condition within a reasonable time (GML 50-g). Prior written notice statutes represent a waiver of sovereign immunity, but on condition that written notification of an alleged defective condition be received, and not timely acted upon, for liability to potentially attach.

Two exceptions exist where municipalities lose their statutory prior notice protections. One is when a municipal actor creates a dangerous condition through an affirmative act of negligence (*Amabile v City of Buffalo*, 93 NY2d 471) which has immediate effect (*Oboler v City of New York*, 8 NY3d 888) and which, in effect, is tantamount to “self-notice.” That affirmative negligence exception was expanded somewhat in *San Marco v Village/Town of Mount Kisco*, 16 NY3d 111, where a municipality may be held liable for affirmative conduct that creates a known and foreseeable risk --- in that case, piling snow as to create a snowmelt and refreeze at a parking lot. The second exception to prior written notice is when the condition’s location is subject to the municipality’s “special use” (*Amabile v City of New York*, supra; *Yarborough v City of New York*, 10 NY3d 726). Oftentimes, a plaintiff’s complaint and/or bill of particulars will identify the theory of municipal liability as defect creation or special use, particularly in instances where prior written notice to the municipality is lacking.

When a municipal defendant moves for summary judgment on the ground of the absence of prior written notice, and has the burden on the motion of proving its prima facie entitlement to the requested relief, is it sufficient for the municipality to merely evidence that prior written notice was never received? Or, to meet its burden of proof, must the municipality go a step further and establish the inapplicability of the two exceptions --- that it did not affirmatively create the dangerous condition and did not make any special use of the subject location --- when either of those exceptions are specifically alleged in a complaint or bill of particulars? For several years the First, Third and Fourth Departments had a different answer than the Second Department, though the Second Department has very recently changed its analysis to now conform with the other departments.

The issue was the subject of an an extensive opinion of Justice Robert Miller of the Second Department, in *Smith v City of New York*, 210 AD3d 53 [Sept. 21, 2022]], whose analysis has application statewide. The plaintiff in *Smith* slipped on ice on a municipal access road and alleged that the City had affirmatively created the injury-producing condition. The City moved for summary judgment on the ground that it did not receive prior written notice of the dangerous condition as required by NYC Administrative Code 7-201. The City stated in its moving papers that the burden shifted to the plaintiff opposing summary judgment to establish that one of the exceptions applies. Ultimately, the Appellate Division, in resolving a split of appellate authorities on this interesting burden-shifting issue,

Continued from previous page

agreed with the City that notwithstanding what is specifically alleged by the plaintiff, the City need only address for summary judgment purposes the absence of prior written notice; and that thereafter, the plaintiff bears the burden of raising a question of fact regarding an exception. The reasoning, says the court in *Smith*, is the language of the Court of Appeals in *Yarborough v City of New York*, *supra* and *Groninger v Village of Mamaroneck*, 17 NY3d 125 which, by inference, define the evidentiary burden in prior notice cases in that particular sequence. Municipalities need only establish the lack prior written notice, without needing to initially address any of the plaintiffs' specific allegations regarding the affirmative creation of the defect or special use, because municipalities waive their sovereign immunity upon certain conditions, one of being their entitlement to prior written notice. The prior written notice statutes must therefore be strictly construed in favor of the municipality, shifting the burden to the plaintiffs to establish, in opposition to summary judgment, either of the recognized exceptions.

This burden-shifting rule is different in other actions that do not involve municipalities, where private defendants do not enjoy sovereign immunity or its waiver upon stated conditions, and where those defendants moving for summary judgment must initially address all of the plaintiff's specific allegations in order to meet their prima facie burden of proof for summary judgment. That said, the *Smith* opinion now firmly aligns the Second Department with the approach of the other three Departments of the state (*Dunn v City of New York*, 206 AD3d 403[1st Dep't.]; *Vnuk v City of Albany*, 191 AD3d 1056 [3rd Dep't.]; *Franklin v Learn*, 191 AD3d 982 [4th Dep't.]).



** Mark C. Dillon is a Justice of the Appellate Division, 2nd Dept., an Adjunct Professor of New York Practice at Fordham Law School, and a contributing author of CPLR Practice Commentaries in McKinney's.*

APPEALS

Civil, Criminal, Administrative
Referrals Welcome
(315) 474-1285

John A.

CIRANDO
Attorney at Law

250 S. Clinton Street
Suite 350
Syracuse, New York 13202

We APPEAL To You

REGISTER TODAY!

JOINT COMMITTEE ON FEE DISPUTES/CONCILIATION PART 137 PROGRAM

Fee Dispute Arbitration Training: Focus On Part 137 Arbitrations

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9:00 AM – 5:00 PM

**100%
ONLINE** Live on Zoom
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8 NY CLE Credits
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PROGRAM DETAILS

Join us for a full day training session to learn what you need to know to become a Part 137 Fee Dispute Arbitrator.

Topics Include:

Orientation to the Fee Dispute Program
Issues Raised in the Arbitration Process
Aspects of the Arbitration Process
Tasks of the Arbitrator
Component Parts of the Arbitration Process
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How to Conduct an Arbitration Online
What You Need to Know to Thrive and Survive as a
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Implicit Bias, Inclusivity in Decision Making and
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Part 137 Role Play and Critiques... and MORE!

REGISTRATION NOW OPEN

<https://www.nycla.org/course/part137training>



By Deb Field, Esq.

Members of our Bar Association interested in developing a relationship with a mentor have a unique opportunity to participate in a program being offered to Bar members through the Professional Development Committee of the OCBA. Participation in the program is available to both newly admitted attorneys and more seasoned attorneys seeking to benefit from the guidance of an attorney with expertise in specific substantive areas of law or who can offer direction and advice with respect to issues such as law office and practice operation and management, use of computers and e-courts, business development or ethics.

Each Mentorship is designed to meet the specific requests and needs of the attorney seeking to participate and is implemented based upon an application by the attorney and the assignment of a volunteer Mentor with expertise and willingness to offer guidance. Mentorships to date have paired experienced attorneys with those seeking assistance with law office management, organization, record keeping and the appropriate use of IOLA accounts.

The Mentorship Program benefits from our OCBA members willing to help others succeed by sharing their vast substantive knowledge, experience and time with other attorneys. Mentors are available to assist in varying areas of the law - a criminal attorney who has only handled misdemeanor cases may benefit from a relationship with a Mentor as they wish to grow their practice to include felony matters, a lawyer who has handled family court matters can be supported by a Mentor as they establish a practice representing clients in Supreme Court divorce matters or a lawyer who represents small businesses may wish the guidance of an experienced attorney as the clientele and practice both flourish. The program not only improves the quality of our Bar, but strengthens the relationships among our members.

Both the participation of the Mentor and Mentee are voluntary and confidential; the formal program is for a period of one year and the participants agree to meet on at least a bi monthly basis. However, in most circumstances, the Mentor is available for informal contact and guidance as well.

Anyone interested in the program, either to volunteer as a Mentor or to inquire about a Mentorship should contact Tony Gigliotti at anthnygig@gmail.com, or leave a message with call back information at 315-471-2667, i.e. the OCBA office.

Blitman & King LLP

Syracuse • Rochester • Albany

Blitman and King LLP is a nationally recognized firm representing labor organizations, employee benefits trust funds, and individual employees in workplace matters. The firm seeks an attorney with a minimum 2 years' federal and/or state court litigation experience. The position will involve federal and state court litigation. Cases commonly involve interesting and challenging issues under federal and state law. The successful applicant will also draft contracts, trusts, policies, and procedures concerning the collection of monies. Essentials include federal and state court litigation experience, the ability to manage many cases in litigation, and proven organizational skills. Excellent research, writing, and organizational abilities required. Competitive salary (range of \$70-\$90k, depending on experience) and excellent benefits.

Send letter of application, resume, and writing sample to Susan L. Sturick, Legal Administrator, Franklin Center, Suite 300, 443 North Franklin Street, Syracuse, New York 13204 or via e-mail to slsturick@bklawyers.com.



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You must be a licensed New York State Attorney with a valid notary commission, have a minimum of \$25,000 in Errors & Omissions insurance, and obtain a yearly background check from the National Notary Association. Pay varies depending on the circumstances of signing.

If interested, please submit your resume in confidence to Marcy@professionalnotaryservices.biz.

We look forward to speaking to you!

NEWSMAKERS & INFLUENCERS

Keleher Rejoins BOND

Bond, Schoeneck & King welcomed back to its fold longtime litigator Thomas Keleher after a brief stint in retirement.

Earlier this month, Keleher rejoined the litigation practice from which he retired as a member in 2017, after working for the firm for nearly 40 years. He will practice from the firm's Saratoga office.

"While I certainly enjoyed many aspects of retirement, I realized that I missed the law, missed working with other attorneys and my clients, and that I still had something to offer to Bond, especially mentoring younger attorneys. I recently moved to Saratoga to be closer to my children and grandchildren and thought that this would be a perfect opportunity to do work that I enjoy, help clients and still be readily available to my family."

Keleher is a Fellow in the American College of Trial Lawyers for which, in 2012-13, he was named Chair of the American College of Trial Lawyers New York - Upstate Committee.

In addition to litigating cases, he will focus on providing mediation services across the state, acting as a mediator and/or arbitrator for all types of litigation matters, but concentrating on personal injury, product liability and construction cases.

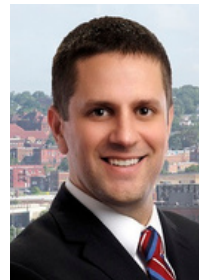
Bond's Management Committee Chair Kevin Bernstein acknowledged Keleher's extensive previous experience with the firm as Litigation Department Chair and as a member of several committees, notably the Management Committee and the Compensation Committee.

"When he approached us with the idea of returning to Bond, we jumped at it," he said. " He will work with attorneys throughout the firm on litigation strategy and trial work and also work with younger associates to help them learn the litigation process."



Thomas Keleher

BOND Adds Three New Members



Burgess



Gray



Magley

Three attorneys began 2023 with a happy start when they were elected as members, or partners, of the firm in its Syracuse office. They are: Samuel P. Burgess, Jonathan L. Gray, and Liza R. Magley,

Burgess represents business clients, including health care and other professional entities, with general corporate transactions and governance, including business structuring; mergers and acquisitions, employment, shareholder, management and buy-sell agreements.

Gray is an intellectual property and registered patent attorney, with an emphasis on patent prosecution, patent litigation and trademark portfolio management. He represents clients seeking to protect their inventions and brands before the U.S. Patent & Trademark Office. As a litigator, he provides technical analysis and guidance through all phases of litigation.

Magley is a litigator who counsels clients in commercial, intellectual property, employment, and civil rights disputes arising in federal and state courts. She has tried cases to jury and bench, argued before appellate-level courts, and assisted clients in alternative dispute resolution. She is a member of the firm's Pro Bono committee and has served as a pro bono advocate in both federal and state court.

NEWSMAKERS & INFLUENCERS

Hancock Estabrook, LLP Elects Three to its Partnership

Mary L. D'Agostino, Ryan M. Poplawski, and Briana K. Wright begin 2023 as Hancock Estabrook partners.

"We are very pleased to welcome Mary, Ryan and Briana to the partnership," said Timothy P. Murphy, managing partner. "It's an honor to elevate and recognize these great attorneys for their high level of dedication and the contributions they have made to the Firm and our clients."



Mary L. D'Agostino is a member of the Firm's litigation practice. She focuses her practice on commercial litigation, federal and state appellate advocacy and other civil disputes. Previously, she served as a confidential law clerk to U. S. Magistrate Judges Christian F. Hummel and David E. Peebles, as an Appellate Court Attorney with the Appellate Division, Fourth Department, and as an Assistant Corporation Counsel for the City of Syracuse. She is a graduate of Le Moyne College and received her J.D. degree from Albany Law School of Union University.

Ryan M. Poplawski is a member of the Firm's litigation practice addressing general litigation, assisting clients in the areas of personal injury, products liability, and commercial litigation. He frequently advises and defends clients in matters related to trucking litigation, accident investigation, labor law claims, wrongful death, and premises liability issues. Additionally, he advises trucking and transportation clients concerning compliance with safety regulations and the Motor Carrier Safety Act; the best practices to limit exposure; review of contracts and leases; compliance with recordkeeping requirements; and OSHA and contamination matters. He is a graduate of Siena College and received his J.D. degree from the University at Buffalo Law School.



Briana K. Wright is a member of the Firm's Corporate, Startup & Emerging Business and Healthcare practices. She has significant experience with assisting women and minority-owned businesses on matters involving the NYS Minority and Women-Owned Enterprise (M/WBE) Participation Program certification, procurement and appeal process. Additionally, she serves as the Firm's Professional Development & Diversity Officer. As such, she works with the Firm's Executive Committee to develop equitable and inclusive programming and a culture that respects and leverages diversity throughout the Firm. She is involved in the Firm's diversity and inclusion initiatives, hiring and recruitment and professional and business development. She is a graduate of State University of New York at Buffalo and received her J.D. degree from Albany Law School of Union University.

NEWSMAKERS & INFLUENCERS

Bousquet Holstein Elects Five to Membership

Earlier this month, Bousquet Holstein PLLC elected as members of the firm attorneys Cameron T. Bernard, Georgia G. Crinnin, Laura T. Hedge, Rosemary F. Lepiane, and Michael W. Tyszko.



Bernard



Crinnin



Hedge



Lepiane



Tyszko

Cameron T. Bernard joined the firm in 2015 and is part of the firm's Trust and Estates and Employee Benefits Practice Groups. Bernard advises clients in all aspects of estate planning including business succession, estate tax, and Medicaid planning. Additionally, he guides Executors, Trustees, and beneficiaries throughout the administration of estates and trusts. He also advises employers with the design, implementation and administration of pension and employee benefit plans, including tax-qualified retirement plans, 403(b) plans, non-qualified deferred compensation plans, cafeteria plans, and fringe benefit plans. Bernard received his Juris Doctor cum laude from Syracuse University College of Law and a bachelor's degree in business administration from University at Buffalo where he graduated magna cum laude.

Georgia G. Crinnin joined the firm in 2017 and is part of the firm's Trusts and Estates and Litigation Practice Groups. Crinnin represents both fiduciaries and beneficiaries in trust and estate litigation matters. Her litigation experience allows her to efficiently guide fiduciaries to administer estates and trusts properly and without opposition. She also advises individuals on all aspects of their estate planning, including special planning for disabled or elderly family members. Crinnin was recognized as a Super Lawyers Upstate New York Rising Star in 2022 and received the CNY Business Journal's 40 under Forty award in 2020. Crinnin earned her Juris Doctor from Washington and Lee University School of Law and her Bachelor of Arts in Political Science and Criminal Justice from SUNY University at Albany where she graduated magna cum laude.

Laura T. Hedge joined the firm's Ithaca office in January 2022 and is part of the Divorce and Family Law and Litigation Practice Groups. Hedge handles matters in all areas of domestic relations litigation including divorce, equitable distribution, enforcement, and modification proceedings, and negotiates complicated pre and postnuptial agreements, financial settlements, and custodial agreements. Hedge is a cum laude graduate of St. Bonaventure University and earned her Juris Doctor from Villanova University School of Law. Prior to joining the firm, Hedge practiced in New York City for more than seven years where she focused on complex, high-net-worth matrimonial and family law litigation. She was named a Super Lawyers New York Metro Rising Star for five consecutive years (2017 through 2021) and a Super Lawyers Upstate New York Rising Star for 2022.

Rosemary F. Lepiane joined the firm in 2019 and is part of the Divorce and Family Law, Collaborative Law and Mediation, and Litigation Practice Groups. Lepiane litigates all aspects of divorce, including complex cases involving equitable distribution, prenuptial and postnuptial agreements, custody, maintenance, and child support disputes. Lepiane is trained in Mediation and Collaboration which allows her practice to focus on realistic outcomes and creative problem solving outside of the court. She has extensive experience in drafting prenuptial and postnuptial agreements supported by her knowledge of real estate, tax, and bankruptcy law as they relate to matrimonial and divorce matters. Lepiane is a cum laude graduate of St. John Fisher College and Syracuse University College of Law.

Michael W. Tyszko originally joined the firm in 2014 as a law student Summer Associate. He practices in the firm's Business and Tax Practice Groups with a focus on economic development incentives, including brownfield and other tax credits, in addition to a broad range of business matters. He works with clients to understand and make use of the tax incentives that may be available for real estate development projects and business ventures. He also works with businesses and their owners regarding cybersecurity and data privacy matters. Tyszko received the CNY Business Journal's 40 under Forty award in 2022 and was previously named a Pro Bono Champion by the Volunteer Lawyers Project of CNY. Tyszko earned his Juris Doctor magna cum laude from Syracuse University College of Law, where he was editor-in-chief of the Syracuse Law Review.

NEWSMAKERS & INFLUENCERS

Jeffrey B. Davis & Staff Join Bousquet Holstein



Davis

Bousquet Holstein PLLC welcomes longtime real estate practitioner Jeffrey B. Davis, along with paralegals Pamela J. Martin and Jennifer L. Pagan, into the firm's Real Estate Group.

Davis will serve as Of Counsel to the firm on real estate and estate planning and administration matters. Davis joins the firm after successfully leading his own practice for almost 40 years in Camillus.

Davis has predominately represented individuals and businesses for their real estate, estates planning, and administration needs. In addition, he has extensive experience forming LLC's and trusts for the transfer and ownership of real estate. His practice also includes working with easements, surveyors, homeowner's associations, condominiums, leases, and related business matters.



Martin



Pagan

Davis has worked as an agent for Stewart Title Insurance Company for over 30 years and has worked as examining counsel for numerous title companies. Davis earned his Juris Doctor from Syracuse University College of Law and his Bachelor of Arts from Syracuse University. He currently serves as the President of the St. James Episcopal Church Foundation in Skaneateles.

Joining Jeff Davis in the move to Bousquet Holstein are paralegals Pamela J. Martin and Jennifer L. Pagan, who previously worked with him at his private practice. Martin has more than 25 years of experience with all aspects of real estate transactions and assists with estate proceedings, probate administration, and small estate filings. She earned her paralegal studies degree from Lemoyne College. Pagan has more than 35 years of experience in title insurance and examination and assists with title reports, obtaining curative, and other real estate transaction matters. Pagan holds a Bachelor of Science degree in Mathematics and Economics from Oswego State University of New York.

Bousquet Holstein Hires New Marketing Coordinator



Morett

Bousquet Holstein PLLC is pleased to welcome Nicole L. Morett as the firm's Marketing Coordinator.

Prior to joining Bousquet Holstein, Nicole worked at Friends of the Rosamond Gifford Zoo on the marketing team as a writer and content creator.

Originally from New York's Thousand Islands region, Morett graduated magna cum laude from Stony Brook University with a Bachelor of Arts degree in Journalism with a concentration in Diversity and American Society. She completed several marketing and public relations internships while at Stony Brook, including a legal marketing internship at an elder law and estate planning firm in Suffolk County, NY.

Nicole currently resides in the city of Syracuse and will work in the firm's Syracuse office.

Retiring Soon?

The OCBA receives calls from people in search of wills and last testaments of loved ones only to discover the lawyer who drew those up has retired or is deceased.

Contact the OCBA and let us know where your files may be forwarded so we can help these callers and lighten their load.

(315) 471-2667

NEWSMAKERS & INFLUENCERS



D'Ambrogio

Barclay Damon Elevates Four to Partner

Barclay Damon announced the firm elevated four to partner. They are Amy D'Ambrogio and Margaret Surowka, formerly special counsel, and Jon McSherry and Ben Wilkinson, formerly counsel, effective January 1st.

D'Ambrogio is a member of the Property Tax & Condemnation and Energy Practice Areas and Health & Human Services Providers Team. She concentrates her practice on representing energy and utility clients and other businesses in property tax and eminent domain disputes. She also counsels health care and disability.



Surowka

Surowka co-leads the firm's Health & Human Services Providers Team and is a member of the Health Care Controversies Team and Labor & Employment Practice Area. She represents agencies, facilities, and individual providers in compliance matters, licensure, disciplinary, and ethics proceedings. She also counsels clients facing Medicaid, Medicare, and other governmental investigations and audits.

McSherry is a member of the Tax, Corporate, and Trusts & Estates Practice Areas. His practice concentrates on estate and Medicaid planning, trusts and estates administration, business succession planning, and tax law.



McSherry

Wilkinson is a member of the Labor & Employment and Commercial Litigation Practice Areas. He concentrates his practice on labor and employment matters, representing employers before the Equal Employment Opportunity Commission, the NYS Division of Human Rights, and federal and state courts regarding employment discrimination claims, wage and hour claims, and breach of employment contracts. Wilkinson also represents individuals and businesses in a variety of commercial litigation matters in federal and state courts.

Former Law Clerks Welcomed at Barclay Damon

Barclay Damon announces Kristen Abele, Paige Beyer, and Rex McKeon have been admitted to the New York State Bar. The former law clerks are now associates at the firm.

Abele is a member of the Torts & Products Liability Defense and Commercial Litigation Practice Areas. She graduated from Albany Law School, where she was also a member of the *Albany Law Review*. Her experience includes serving as a law intern for the New York State Supreme Court, Appellate Division, Third Department, to Presiding Justice Garry; as a summer associate at Barclay Damon and the Rensselaer County Attorney's Office; and as a public finance legal assistant at a firm in Albany. Abele is based in the firm's Albany office.



Beyer

Beyer is a member of the Project Development, Environmental, and Land Use & Zoning Practice Areas. She graduated cum laude from Vermont Law School, where she was head notes editor and staff editor of the *Vermont Law Review*. Her experience includes serving as a law clerk for the Colorado Judicial Department to the Honorable Daniel M. McDonald and for the US District Court for the District of Massachusetts to the Honorable William G. Young. Beyer is based in the firm's Albany office and is also admitted to practice law in Colorado.

McKeon is a member of the Health & Human Services Providers Team and Corporate Practice Area. He graduated from New England Law | Boston. McKeon is a second-career lawyer who joined Barclay Damon after serving eight years as a customer success and project manager for athenahealth, Inc. McKeon is based in the firm's Buffalo office and is also admitted to practice law in Massachusetts.



Wilkinson



Abele



McKeon

NEWSMAKERS & INFLUENCERS

Syracuse University College of Law's Innovation Law Center Recognized by Bloomberg Law's Law School Innovation Program

Syracuse University College of Law's Innovation Law Center (ILC) has been designated a top-scoring program in the Innovation and Experience category of Bloomberg Law's inaugural Law School Innovation Program.

ILC students work with Syracuse University engineering and business school students, advise clients on their intellectual property, and deliver regulatory, patent, and market research to support the commercialization of new technologies. The program provides extensive hands-on learning opportunities for students to provide guidance to real clients on new technologies. ILC's clients include both start-ups and established companies, as well as several university tech transfer offices.

This experiential, interdisciplinary education prepares College of Law students for careers in IP law, technology, and the innovation ecosystem. Recognized as the sole New York State Science & Technology Law Center, the ILC delivers critical economic development support across the State of New York.

"What is special about the ILC is that the work conducted by the Center benefits so many people and organizations. Our students receive invaluable experience working with real clients that positively position them for success in the job market. Our clients benefit from important research that guides them through the commercialization process and mitigates risk during the critical early stages of funding. The ILC's high placement rate, reflecting our track record of converting student experiences into employment successes, is one of our proudest measures." says Brian Gerling L'99, Executive Director of the ILC.

The College of Law's National Trial League also received recognition from Bloomberg Law as a high-scoring program in the Innovation and Student Development category.

The Bloomberg Law's Law School Innovation Program identifies, recognizes, and connects law school faculty, staff, and administrators who are pioneering educational innovations that benefit their students, their schools, and the legal field. Through the Law School Innovation Program, Bloomberg Law seeks to acknowledge these innovators while raising overall awareness of innovation in legal education.



Kristin Walker Named Faculty Director of Externships

Kristin Walker has joined Syracuse University College of Law as a Professor of Practice and Faculty Director of Externships. Walker's responsibilities include teaching Legal Writing and Advanced Litigation Skills; overseeing and teaching the externship placement seminars; and directing the Pro Bono Scholars Program.

Prior to joining the College of Law, Walker practiced law at local firms including William Mattar Law Offices, Catalano Law, Alexander & Catalano, where she handled plaintiff's matters, Barclay Damon, and Costello, Cooney, and Fearon where she managed numerous insurance defense and insurance coverage matters.

Walker received her J.D. from Syracuse University College of Law, cum laude, in 2008 where she served as managing editor of the Syracuse Law Review. While in law school, she clerked for Judge David N. Hurd of the U.S. District Court for the Northern District of New York and interned at the U.S. District Attorney's Office. She received her B.A., magna cum laude, from Villanova University.



Walker



UCS-23

From the Courts

EMPLOYMENT
OPPORTUNITY
ANNOUNCEMENT
STATE OF NEW YORK
UNIFIED COURT SYSTEM

PLEASE POST

ANNOUNCEMENT NO. 54303

The Appellate Division, Fourth Judicial Department, is currently seeking applications for an attorney in the Court's Mental Hygiene Legal Service. The position will be filled in one of the following titles dependent upon the qualifications and experience of the applicant selected. Applicants should specify the position title or titles for which they wish to be considered. Only one application needs to be submitted per candidate.

POSITION TITLE: ATTORNEY **JG: 23**

BASE SALARY: \$74,478

QUALIFICATIONS: Admission to the New York State bar

DISTINGUISHING FEATURES OF WORK: Under direct supervision, Attorneys serve in a confidential capacity and research legal questions and issues, prepare cases for administrative proceedings and litigation in the courts, and perform other related duties. Attorneys provide legal research and advocacy services in the Mental Hygiene Legal Service, attorney disciplinary committees, 18B panel administration, or other such units.

POSITION TITLE: SENIOR ATTORNEY **JG: 26**

BASE SALARY: \$87,520

QUALIFICATIONS: Admission to the New York State bar and two (2) years of service in the Attorney title; **or** equivalent legal experience.

DISTINGUISHING FEATURES OF WORK: With substantial independence from supervision, Senior Attorneys serve in a confidential capacity and research legal questions and issues, organize investigations, prepare and present cases before administrative tribunals and courts, and perform other related duties. Senior Attorneys provide legal research and advocacy services in the Mental Hygiene Legal Service, attorney disciplinary committees, 18B panel administration, or other such units. They may also oversee a departmental law guardian program.

POSITION TITLE: ASSOCIATE ATTORNEY **JG: 28**

BASE SALARY: \$97,522

QUALIFICATIONS: Admission to the New York State Bar and two (2) years of service in the Senior Attorney title; **or** equivalent legal experience.

DISTINGUISHING FEATURES OF WORK: Associate Attorneys serve in a confidential capacity and research legal questions and issues, organize complex investigations, prepare and present complex cases before administrative tribunals and trial and appellate courts, and perform other related duties. Associate Attorneys provide legal research and advocacy services in the Mental Hygiene Legal Service, attorney disciplinary committees, 18B panel administration, or other such units. They may also oversee a departmental law guardian program.

LOCATION: APPELLATE DIVISION, FOURTH JUDICIAL DEPARTMENT
MENTAL HYGIENE LEGAL SERVICE, UTICA, NY

CLASSIFICATION: Non-Competitive/Confidential

ASSIGNMENT: This position will provide representation of sex offenders alleged to be suffering from a mental abnormality in civil commitment proceedings, including trials. Duties also include but are not limited to: presenting cases before administrative tribunals and courts; researching and analyzing legal questions and issues and preparing confidential reports, memoranda, legal papers and briefs; interviewing litigants, witnesses and other parties to administrative and judicial proceedings, all dealing with mentally disabled clients; and drafting correspondence related to case inquiries. Extensive travel without reliance on public carriers is necessary for this position.

GENERAL INFORMATION: The above statements are intended to describe the general nature and level of work being performed by persons assigned to this title. They do not include all job duties performed by employees in the title, and every position does not necessarily require these duties. Although a position is available and situated at a specific location, the appointee may be subject to reassignment to any position in the same title in this promotion unit dependent upon the needs of the Unified Court System. All applications received from this announcement may be used to fill any vacancies in this title that may occur in this court or agency within the next six (6) months. Position(s) available at the present time: **1**.

APPLICATION PROCEDURES: All interested persons meeting the minimum qualifications are encouraged to submit a UCS-5 Application for Employment form (obtainable from any administrative office in a court building or on the web at www.nycourts.gov/careers/UCS5.pdf) and a resume and cover letter by mail to:

Mary L. Jones, Human Resources
Appellate Division, Fourth Department
M. Dolores Denman Courthouse
50 East Avenue, Suite 200
Rochester, NY 14604

APPLICANTS ARE ENCOURAGED TO COMPLETE THE EQUAL EMPLOYMENT OPPORTUNITY DATA COLLECTION FORM.
New hires must be fully vaccinated against the COVID-19 virus by the date of hire, unless granted a reasonable accommodation due to disability or religion.

POSTING DATE: January 25, 2023 **APPLICATIONS MUST BE POSTMARKED OR RECEIVED BY:** February 22, 2023

The New York State Unified Court System is an equal opportunity employer, and does not discriminate on the basis of race, color, religion, gender (including pregnancy and gender identity or expression), national origin, political affiliation, sexual orientation, marital status, disability, age, membership in an employee organization, parental status, military service, or other non-merit factor.



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Lawyer Assistance Program

Your FIRST Choice or Your LAST Resort



What is the Lawyers' Assistance Program?

The Lawyers' Assistance Program of Onondaga County is a confidential service providing information, referrals, access to professional counseling and peer support

What Kind of Assistance is Available?

You are entitled to a confidential telephone consultation, free counseling sessions with a professional counselor, and participation in peer support groups.

What Can I Expect When I Call for an Appt?

You will talk to an intake coordinator who may refer you to an experienced counselor. Family Services Associates serves as the Program's counseling agency.

Is Contact with the LAP Confidential?

YES. You can discuss the issue of confidentiality with the intake coordinator or counselor

Why Was the Program Set Up?

The Program was established to assist lawyers who have problems with alcohol, drugs, anxiety, depression, gambling and other personal problems.

Who May I Call?

Attorneys, judges and law students in Onondaga County and these other neighboring counties: Oswego, Jefferson, Lewis, Herkimer, Oneida, Cortland, Cayuga and Madison.

For more information contact:

The New York State Bar Association
Lawyer Assistance Program (800) 255-0569

Family Services Associates (315) 451-2161

Onondaga County Bar Association
Executive Director, Jeff Unaitis (315) 579-2581



The mission of the Onondaga County Bar Foundation, the philanthropic arm of the Onondaga County Bar Association, is to aid members of the legal profession in Onondaga County who may be ill, incapacitated, indigent, or otherwise in need, and to improve and promote the following:

- The administration of justice;
- Service to the public and the legal community;
- Equal access to the legal system for all;
- Professional ethics and responsibility; and,
- Legal research and education.

Established in 1075, the Foundation is a 501(c)(3) tax-exempt corporation. To fulfill its mission, the Foundation depends on individual donations (which are tax deductible as charitable contributions) and grants from other funding sources. The Foundation welcomes grant applications for projects consistent with this mission statement.

Ethics Hotline

New York lawyers faced with ethical questions regarding their own prospective conduct can reach the Ethics Hotline by calling volunteers Victor Hershendorfer at **315-913-4087** or Tony Gigliotti **315-727-6780**.

The Ethics Hotline is operated and staffed by members of the Onondaga County Bar Association's Committee on Professional Ethics (the "Committee"). These volunteers respond to inquiries made by lawyers admitted in New York who face ethical questions regarding their own prospective conduct. The purpose of the Hotline is to provide informal guidance to callers in accordance with the New York Rules of Professional Conduct (the "New York Rules"). Any information provided in response to a Hotline inquiry is merely the opinion of the Committee member answering the call. It is not the opinion of the Committee as a whole. The information provided in response to a Hotline inquiry does not constitute legal advice. If the matter involves complex issues, or implicates a substantive area of law, you may wish to retain professional ethics counsel.

Callers should be aware of the following guidelines before calling the Ethics Hotline:

1. The Hotline only provides guidance to lawyers admitted to practice in New York about the New York Rules.
2. The Hotline only provides guidance concerning the caller's own prospective conduct. We do not answer questions about past conduct or the conduct of other lawyers.
3. The Hotline does not provide legal advice or answer questions of law.
4. The Hotline does not provide answers to hypothetical questions nor inquiries which have also been submitted to another bar association's ethics committee.
5. The Hotline does not answer questions about the unlicensed practice of law (UPL). UPL is governed by statutory law, not the New York Rules and is, therefore, outside the Committee's jurisdiction.
6. The Hotline provides general guidance. Due to the limited information we can obtain during a brief and informal telephone conversation, we cannot provide a definitive answer to Hotline questions.
7. The Hotline does not answer questions where the issue itself is the matter of a pending legal proceeding or is before a grievance committee.
8. Although it is the Committee's policy to maintain confidentiality of all Hotline inquiries, callers should be aware that the information is not protected by the attorney-client privilege or RPC 1.6.
9. The Ethics Hotline does not respond to complaints or inquiries regarding unethical conduct of other lawyers. Any such complaints or inquiries should be addressed to the Grievance or Disciplinary Committee for the county in which the lawyer practices (see <http://www.nycourts.gov/attorneys/grievance/>).
10. Lawyers who call the Ethics Hotline are required to provide their full name and telephone numbers.

If, after speaking with someone on the Hotline, a New York lawyer wishes to obtain a written Informal Opinion from the Committee, he or she may submit a written request. Please review the guidelines for requesting an Informal Opinion here (See attached guidelines – need hyperlink to the document). As with Hotline questions, the Committee's Informal Opinions are limited to interpreting the New York Rules. Please be aware that the Committee cannot provide a concrete timeline for responding to written requests. If your matter is urgent, you may wish to retain professional ethics counsel.



OCBA CONTINUING LEGAL EDUCATION

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3-Part Cybersecurity CLE Series: Protecting Your Firm From Cyber Threats



WHEN: 1 to 2 p.m.

January 19 • February 16 • March 16

HOW: via ZOOM

MCLE: 1.0 Cybersecurity

COST: \$20 per CLE/\$50 for series

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These CLEs are appropriate for Transitional (newly admitted) & Non-Transitional (established) attorneys.

January 19, 2023

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Topics Covered: Competence • Confidentiality • Supervision • Data Security

February 16, 2023

Preventing Your Worst Tech Nightmare: Protecting Your Firm & Clients from Cybercriminals – The Right Way

Topics Covered: Cybersecurity Myths • Firm Security How-to's • Security-First Culture

March 16, 2023

The Biggest Cybersecurity Threat of All: Human Behavior.

Topics Covered: Train & Educate your Team to assure they are prepared to recognize and defend cyberattacks.

Register **TODAY** at www.onbar.org



IRONTECH
SECURITY

Presenter: Founder and CEO of IronTech Security Tom Kirkham has more than three decades of software design, network administration, computer security and cybersecurity knowledge. He is an active member of the FBI's Arkansas InfraGard Chapter and frequently lectures on security threats.

This series is co-presented by Rof²⁷Hedges, Esq. and Doug Brown, Esq.