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**Inside this issue:**

**President's Post**  
Page 1

**Installation Dinner**  
Page 2

**Commercial Litigations**  
**Issues of Interest**  
Page 3-4

**CLE Flyer**  
Page 5

**Advertisement & Staff Update**  
Page 6

**Big News**  
Page 7

**Mock Trial**  
Page 8

**Advertising, CLE for 2017 &**  
**Upcoming Events**  
Page 9 -12

**Memorial Recognition & Ad**  
Page 13

**Advertising**  
Page 14-15

**CLE Corner, Advertising &**  
**Classified Ad**  
Page 16-17

*Sabrina Charles-Pierre, Editor*

# ROCKLAND COUNTY BAR ASSOCIATION

# NEWSBRIEF

[www.rocklandbar.org](http://www.rocklandbar.org)

June 2017

## **A FOND FAREWELL**

This will be my last President's Post, a feature I added to the newsletter when I took office almost two (2) years ago. I felt then and now more than ever that your President should speak out on issues relevant both locally and beyond, if for no other reason than to stimulate debate. Certainly, following the results of the last Presidential election, the need for open discussion and frank dialogue has become even more paramount. That said, this, my final Post, is more personal.

Serving as your President for the past two (2) years has been the greatest honor to date of my fifty (50) year legal career. Note the use of the term "to date", because I am not retiring and who knows what the future may bring.

When I took office on July 1, 2015, our long-serving Executive Director, Sandy Garvin, had informed us that she was retiring and the desperate search for a replacement was already under way. I have been amazingly lucky during my two (2) years as your President, beginning with our good fortune in finding a remarkable, greatly over-qualified successor to Sandy in our current Executive Director, Nancy Low-Hogan, Ph.D. Nancy deserves most of the credit for what we have achieved since she came on board a month into my term.

We also faced other significant problems which happily were resolved when we hired Manuela Gomez and Sabrina Charles-Pierre, as Assigned Counsel Coordinator and Program Coordinator respectively. The Board of Directors followed Nancy's sage advice and replaced both our antiquated computer system and phone system with 21<sup>st</sup> Century-ready hardware. As some of you may know, we are in the process of installing a tremendous software program designed specifically for Bar Associations. When the new system is completely installed and up and running later this year, it will be fully interactive, allow you to pay dues and CLE costs online, make use of individual member portals to keep track of your CLE credits and a host of other wonderful features that will make your Bar Association not only "user friendly" but much more responsive to your needs.

My two (2) terms were not all "Wine and Roses". Change is difficult and we made many changes in a variety of areas during my terms as President. Although the Board of Directors agonized over some of these decisions, in the end, there was unanimity because we knew it was in the best interests of you, the membership.

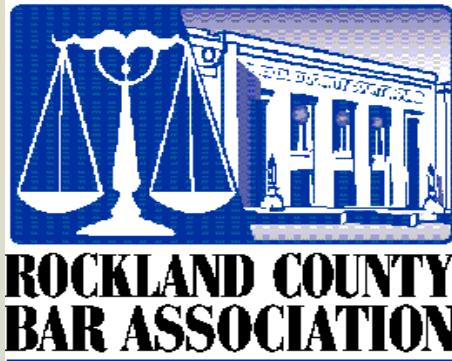
Amongst my proudest accomplishments were the creation of The Natalie Couch Award and the presentation of the first one to Phyllis Frank, and convincing Preet Bharara to be our guest of honor at last year's Annual Dinner.

As your President, I followed in the well-worn path of countless prior occupants of this office who served over the 125-year history of the RCBA. Because I truly loved the job, I believe I brought to it my personal enthusiasm and love for the RCBA. I will leave office feeling confident that the RCBA is headed in the right direction and that I leave the organization at least a little bit better than when my term began.

Let me close with a heartfelt "Thank You" to all of you for granting me the great privilege of serving as your President.

Robert B. Marcus, Esq.

# ROCKLAND COUNTY BAR ASSOCIATION



1893 – 2017

## INSTALLATION DINNER

### AND SWEARING-IN OF NEW OFFICERS

JOIN US AS WE RECOGNIZE THIS YEAR'S HONOREES:

DANIEL E. BERTOLINO, ESQ. – THE BALSAMO AWARD  
RICKI H. BERGER, ESQ. – THE STERNS AWARD

*Thursday, June 22, 2017*

*6:00 p.m. – Cocktails (cash bar)*

*7:00 p.m. – Dinner*

*Nyack Seaport*

*21 Burd Street, Nyack, NY 10960*

*\$75.00/pp – in advance ~ \$85.00/pp – at the door*

*Make checks payable to RCBA. Mail to: RCBA, 337 N. Main St, Suite 1, New City, NY  
or call us to pay by credit card: 845-634-2149*

**COMMERCIAL LITIGATION ISSUES OF INTEREST**

June 2017

**Submitted by Paul Savad, Esq.****Chair, Commercial and Corporate Law Committee,****Joseph Churgin, Esq., and Susan Cooper, Esq., of****SAVAD CHURGIN, LLP, Attorneys at Law**

Your client holds a judgment against a married man who lives with his wife in a home that sustained fire damage. The husband and wife filed a claim against their insurance company for the damaged contents of their home. After the insurance company agreed to pay \$179,000, the husband withdrew his claim. The Insurance company then paid the full amount to the wife. You commence a turnover proceeding alleging that the debtor fraudulently transferred his interest in the insurance proceeds to his wife, without consideration. You request a hearing on which contents of the home belonged to the judgment debtor at the time of the fire, in order to determine the debtor's share of the insurance proceeds. Will the court grant you a hearing?

The answer is yes.

In *Grinshpun v. Borokhovich*, 158141/2016, NYLJ 1202778035570, at \*1 (Sup. Ct. N.Y. Co., January 11, 2017), the petitioners commenced a turnover proceeding, pursuant to CPLR 5225 and 5227, to recover home insurance proceeds collected after a fire damaged the residence of judgment debtor Gennady Borokhovich in Hewlett Harbor, New York. The insurance proceeds were paid to Elena Borokhovich, the wife of the judgment debtor.

The petitioners moved for a hearing to determine which contents of the home belonged to the judgment debtor. The respondents cross-moved to dismiss the proceeding.

The Court granted a hearing, relying on *Pensmore Investments, LLC v. Gruppo, Levey, & Co.*, 137 A.D.3d 558, 559-60 (First Dep't 2016), which held that a wife was entitled to a hearing to determine whether the property involved in a turnover proceeding brought by her husband's creditor was her sole separate property or marital property. Although *Pensmore* did not involve a judgment creditor seeking a hearing to determine the ownership of property, the Court noted that the decision was based on ensuring proper determination of ownership of property. Thus, it did not matter whether the hearing was requested by a creditor, debtor, or non-debtor.

The Court observed that Gennady lived in the house and clearly owned at least some of the its contents, yet discontinued his portion of the claim without consideration less than one month before entering a settlement agreement with the insurance company. While these facts did not conclusively demonstrate fraud, said the Court, they point to “badges of fraud,” including a close relationship between the parties to the transaction, inadequacy of consideration, and knowledge of the creditors claim, citing *Piccarreto v. Mura*, 51 Misc.3d 1230(A)(Sup. Ct. N.Y. Co. 2016).

Finally, the Court ruled that although the petitioners will bear the burden of proving Gennady’s ownership rights, the petitioners will be entitled to broad discovery because the evidence is largely in respondents’ possession, citing *Petrocelli v. Petrocelli Elec. Co.*, 121 A.D.3d 596 (1<sup>st</sup> Dep’t 2014).

*The lesson?* As an asset protection plan, your client can transfer not only real property to his or her spouse, but also transfer title to valuable personal property (furniture, cars, etc.) to an LLC or other insured entity owned by the spouse.

Savad | Churgin



# CLE 2017 ELDER LAW UPDATE

The program will assist attorneys in solving common problems in representing older clients and will cover the following:

- How do you handle clients with diminished capacity? What are the ethical considerations? What is your relationship to the family of a client with diminished capacity?
- Designated agents on a Power of Attorney are fiduciaries with potential liabilities. How do we represent agents and properly advise them regarding their duties and responsibilities?
- Many of our clients have the bulk of their life savings in Retirement Accounts. How do you integrate those accounts into their estate plan and especially into an Inter Vivos Trust. Should the Retirement Benefits be directed to a Conduit or an Accumulation Trust. What are the implications of naming a Special Needs Trust as Beneficiary?
- In 2013 there were 19.6 million veterans in the United States. What benefits are available for our veteran clients? How can these benefits fit into estate and long term care planning?

## SPEAKERS:

- CHARLES G. DAVIS, ESQ., CFP, CELA, Davis & Davis Attorneys at Law, New City, NY
  - DAVID M. KLEIN, ESQ., Klein & Klein, P.C., Suffern, NY
- LEE A. HOFFMAN, JR., Esq., Law Offices of Lee A. Hoffman, Jr., New City, NY
- JERRY DONNELLAN, Director, Veterans Service Agency of Rockland County

**Wednesday, June 7, 2017**

**6:00pm-9:00pm**

**(Registration 5:30pm - Dinner)**

**Where: Italiana's Restaurant - 253 South Little Tor Rd, New City, NY 10956**

**Cost: \$75.00 in advance; \$85.00 at the door; \$95.00 Non-Members; \$40.00 paralegals & students**

**Level: Transitional/Non-Transitional**

**Credits: 3 CLE Credits: 2.5 Professional Practice/ Skills; .5 Ethics**

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ROCKLAND COUNTY BAR ASSOCIATION

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Leslie H. Tayne Esq.  
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**Reminder:**  
**There is no July edition of Newsbrief.**  
**See you in August!**

***News from the Executive Director*****RCBA STAFF UPDATE**

***Below please find a break-down of major areas of responsibility for the RCBA Staff:***

**ASSIGNED COUNSEL COORDINATOR – MANUELA GOMEZ**  
**LAWYER REFERRAL SERVICE COORDINATOR – MANUELA GOMEZ**  
**CLE COORDINATOR – SABRINA CHARLES – PIERRE**  
**ADVERTISING/NEWSLETTER – SABRINA CHARLES – PIERRE**  
**EXECUTIVE DIRECTOR – NANCY LOW – HOGAN, Ph.D.**

Contact us anytime at 845 634-2149. Direct lines: Assigned Counsel – 845 634-1761; Lawyer Referral Service – 845 708-5719

We are pleased to present to you the Rockland County Bar Association's

**Officers for 2017-18:**

**Andrea F. Composto – President**

**Ricki H. Berger – Vice President**

**Ira S. Schoeps – Treasurer**

**James M. Birnbaum – Secretary**

These Officers will be sworn in at the Installation Dinner Meeting

Which will be held on Thursday, June 22, 2017, 6:00 P.M.

Nyack Seaport

*Please join us!*

**RSVP: \$75 pp in advance; \$85 pp at the door. Make checks payable to RCBA or pay by credit card (call 845-634-2149).**

**Mail checks to: 337 N. Main Street, Suite 1, New City, New York 10956**

**BIG NEWS!**

THE RCBA NOW ACCEPTS...

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RIGHT NOW WE CAN PROCESS YOUR CREDIT CARD PAYMENTS FOR ALL OF OUR EVENTS AND DUES:

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AND ASK FOR MANUELA, OR EMAIL  
[MANUELA@ROCKLANDBAR.ORG](mailto:MANUELA@ROCKLANDBAR.ORG)

UPON THE LAUNCH OF OUR NEW WEBSITE WE WILL ACCEPT CREDIT CARDS ONLINE!

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# ANNOUNCING THE RETURN OF HIGH SCHOOL MOCK TRIAL TO ROCKLAND COUNTY!



## WE NEED YOU! ATTORNEY ADVISORS WANTED

**We are in search of Attorneys who will act as Attorney Advisors to High School Teams and their Faculty Coaches.**

Mock Trial training will start this Fall (September-October). The County Mock Trial Competition will be held in March 2018, with Regional Finals held in April and State Finals in May in Albany.

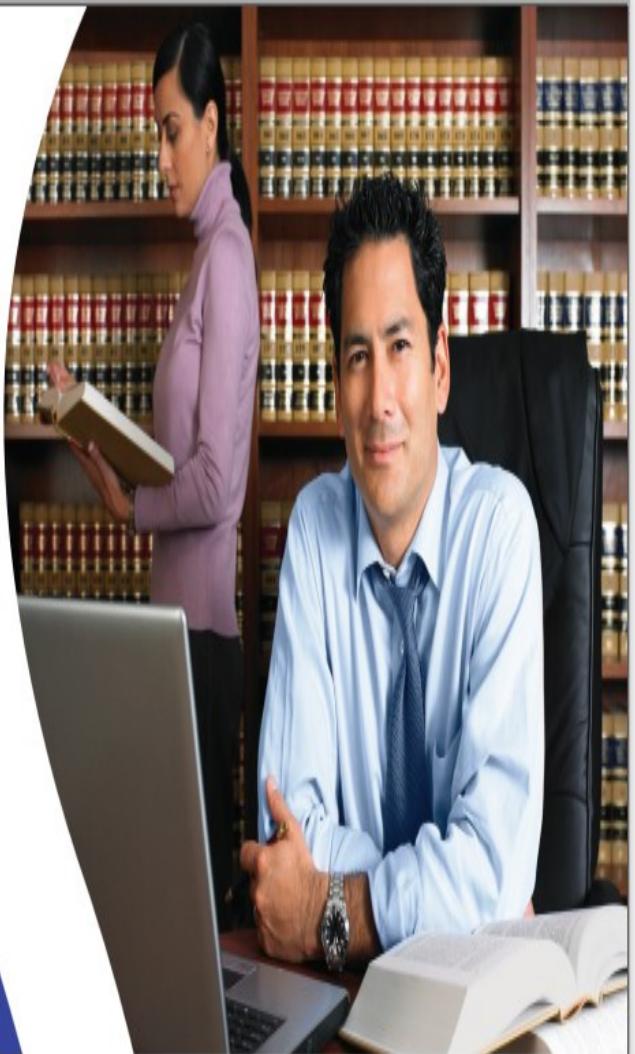
Attorney Advisors will receive 3 CLE credits from the New York State Bar Association for their dedication to the Mock Trial teams. Advisors can anticipate approximately 1 hour of work per week with the students and their faculty coaches. The RCBA will provide a free training session for first time Attorney Advisors to help volunteers prepare for their role.

This is an excellent way to serve the youth of our community while earning CLE credits!

If you are interested, please contact Manuela Gomez at the RCBA at 845-634-2149, or email [manuela@rocklandbar.org](mailto:manuela@rocklandbar.org)

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## LAST CLE OF THE YEAR

2017 CLE Title	Date and Time
<b>2017 Elder Law Update</b>	<b>Wednesday, June 7 - 6:00pm-9:00pm</b>

Announcement

Hon. Charles Apotheker, former County Court Judge, has joined the firm of Phillips and Millman as "Of Counsel".

Judge Apotheker was County Judge, (Acting Supreme) for the last ten years. As County judge, he presided over the Felony Drug Treatment Court. He also presided over the SCI and Felony DWI Parts and was Supervising Judge for the Town and Village Courts in the Ninth District. Prior to his election as County judge, he was Town Justice of the Town of Haverstraw for twenty-seven years and presided over the Misdemeanor Drug Treatment Court.

Judge Apotheker is on the faculty of the National Drug Court Institute where he trains new Drug Court teams all over the country. He continues to consult for the Department of Justice, reviewing grant applications and making site visits to Drug Courts.

Judge Apotheker intends to provide criminal defense services to those defendants who have issues with alcohol/drug addiction in both county court and the local courts throughout the Ninth District. He is also available to the criminal bar to consult on those issues.

Hon. Charles Apotheker  
Of Counsel  
Phillips and Millman, LLP.  
148 S. Liberty Drive  
Stony Point, NY 10980  
[APOTHEKER@PMLAWNY.com](mailto:APOTHEKER@PMLAWNY.com)

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**TO THE ROCKLAND COUNTY BAR ASSOCIATION**  
**IN MEMORY OF**  
**WILLARD H. DASILVA, ESQ.**  
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**The Big Brothers Big Sisters Mentoring Program** is considered one of the model substance abuse prevention programs by the Federal Government and New York State as per its OASAS Work plan. In addition to its primary 1 – 1 mentoring program and the Court Ordered Supervised Visitation program, the organization provides School Based and Site Based Programs that measurably impact the quality of life of our county's children and youth by improving their odds for succeeding in school, behaving nonviolently, avoiding drugs and alcohol and breaking negative cycles. Interested in learning more? Interested in serving its mission? Then please consider joining the Board of Directors by contacting:

[gballard@bbbsofrc.com.](mailto:gballard@bbbsofrc.com)



**Big Brothers Big Sisters**  
of Rockland County

# Upcoming EVENTS

## 2017 CALENDAR RCBA MAJOR EVENTS *Mark Your Calendar!*

June 22 – Installation Dinner

September 15 – RCBA Memorial Recognition Ceremony

October 26 – Annual Dinner

Getting involved  
is important.

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**SAVE THE DATE**

**INSTALLATION DINNER AND SWEARING-IN OF  
NEW OFFICERS**

Thursday, June 22, 2017

6:00 P.M.

**NYACK SEAPORT**

21 Burd Street, Nyack, New York 10960

6:00 P.M. – Cocktails (cash bar)

7:00 P.M. – Dinner

**JOSEPH H. ADAMS, ESQ., P.C.**

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Formerly Acting Justice, Village of Grandview*

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**ALL ADVERTISEMENTS  
AND ARTICLES MUST BE  
REVIEWED BY THE  
EXECUTIVE COMMITTEE  
FOR CONTENT.**

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**ATTENTION NEW MEMBERS!**

**GET 15 MONTHS OF MEMBERSHIP FOR THE PRICE OF 12!**

**START YOUR MEMBERSHIP NOW AND HAVE APRIL, MAY AND JUNE 2017 INCLUDED WITH YOUR 2017-18 MEMBERSHIP  
(JULY 1, 2017-JUNE 30, 2018)**

**DOWNLOAD A MEMBERSHIP APPLICATION FROM THE RCBA WEBSITE (ROCKLANDBAR.ORG)**

**JOIN TODAY AND START ENJOYING THE BENEFITS OF RCBA MEMBERSHIP!**

**\*Social events\*CLE's\*Lawyer Referral Service\*Information\***

***Current Members: Tell Your Friends and Colleagues!***

**RCBA Memorial Recognition Ceremony**

*for those who left us in 2016-17*

**FRIDAY, SEPTEMBER 15, 2017**

**9:00 AM-10:30 AM**

**Ceremonial Courtroom**

**Rockland County Courthouse**

**Save This Date**



**SAPIR | SCHRAGIN LLP**  
An Employment Law Firm

**Sapir Schragin LLP is pleased to announce that**

**Mitchell H. Rubinstein**

**has become Of Counsel to the Firm and will lead the expansion of our  
Education and Public Sector Employee Practice.**

Mr. Rubinstein comes to Sapir Schragin LLP with over thirty years of experience representing employees in all areas of employment and education law in both the public and private sectors.

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## MEMO

### TO ALL RCBA COMMITTEE CHAIRS & VICE- CHAIRS

The Association is seeking articles from your committee for publication in the Bar's monthly Newsletter. The membership would greatly benefit from your input and would appreciate it. The article does not have to be complicated or long - a succinct piece of general interest and importance would be best.

If you are able to submit an article for the Newsletter it should be sent via email to [sabrina@rocklandbar.org](mailto:sabrina@rocklandbar.org) by the 15th of the month so that the Executive Board may review it.

Thank you!



### Monthly Newsletter

NEW WEBSITE...  
*Coming soon!*

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[Mike@Zall-Law.com](mailto:Mike@Zall-Law.com)





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If anyone has read a book that they would like to recommend, please write a short review for publication in our Newsletter.



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IN MEMORY OF  
WILLARD H. DASILVA, ESQ.

HAS BEEN MADE BY  
Bruce Muldoon, Esq.

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*Our 2017-18 Sponsorship Year begins July 1, 2017.*

*There are several types of Sponsorships available.*

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# CLE CORNER

## 2017 ELDER LAW UPDATE

**Synopsis:** This course will address major developments in Elder Law in the past year. This update will include discussion of recent statutes, decisions, regulations, and a host of other issues.

**Date:** Wednesday, June 7, 2017  
**Time:** 6:00 p.m.—9:00 p.m. (Registration 5:30 p.m.) (dinner)  
**Level:** Transitional/Non-Transitional  
**Speakers:** Charles Davis, Esq., Davis & Davis Attorneys at Law, New City, NY  
David M. Klein, Esq., Klein & Klein, P.C., Suffern, NY  
Lee A. Hoffman, Jr., Esq., Elder Law Offices of Lee A. Hoffman, Jr., New City, NY  
**Place:** Italiana's, 253 South Little Tor Road, New City, NY  
**Cost:** \$75.00 in advance; \$85.00 at the door; \$95.00 Non-Members; \$40.00 paralegals and students  
**Credits:** 3 CLE Credits: 2.5 Professional Practice/Skills; .5 Ethics

*Sponsored by Sterling National Bank*

## CLE REQUIREMENTS

Newly admitted attorneys must complete 32 credit hours of accredited “transitional” education within the first two years of admission to the Bar. Sixteen (16) credit hours must be completed in each of the first two years of admission to the Bar as follows: 3 hours of Ethics and Professionalism; 6 hours of Skills; 7 hours of Practice Management and/or areas of Professional Practice. Experienced Attorneys must complete 24 credit hours of CLE during each biennial reporting cycle: 4 credit hours must be in Ethics and Professionalism. The other credit hours may be a combination of the following categories: Ethics and Professionalism, Skills, Practice Management or Professional Practice.

## LAWYER REFERRAL SERVICE

### SIGN UP NOW FOR 2017!

IF ANY MEMBER IS INTERESTED IN JOINING THE REFERRAL SERVICE PLEASE CALL RCBA @ 845-634-2149 ask for Manuela FOR AN APPLICATION. THE APPLICATION CAN ALSO BE FOUND ON OUR WEBSITE [WWW.ROCKLANDBAR.ORG](http://WWW.ROCKLANDBAR.ORG) IN THE ATTORNEY RESOURCES SECTION.



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FULL PAGE (7.5x10.25)	\$400.00
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1/8 PAGE (3.75x2.5):	\$125.00
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## CLASSIFIED ADS

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### OFFICE FURNITURE FOR SALE

Priced to sell. Vertical and lateral file cabinets, storage units, desks, chairs, conference table, book cases, credenza, tables, dividers, bulletin boards, white board. Please call Madelon at 914-527-2400 for information. Items are located in New City.

### OFFICE SPACE

New City- 1 Room Office -South Main Street, walk to courthouse, restaurants, gov't buildings, ample parking. Call Arthur 845-359-3560

### NEW LOCATION

Law Offices David I. Goldstein, Esq  
777 Chestnut Ridge Road—Suite 203  
Chestnut Ridge, New York 10977  
845-356-4600

### IN SEARCH OF FILES

Attorney Hugh R. Janow, passed away in 2013.  
Does anyone know the whereabouts of his files?  
Please contact our offices (845) 634-2149

### OFFICE FURNITURE FOR SALE

Priced to sell. Lateral file cabinets, desks, leather executive and guest chairs, conference table, book cases, credenza, tables, couch, framed art work. Please call Cassandra at 845-639-3445. Items are located in New City.

### ASSOCIATE ATTORNEY NEEDED

3-5 years litigation experience for busy Rockland County firm. Please forward resume to [office@rocklandbar.org](mailto:office@rocklandbar.org) and reference Litigation Attorney.

### OFFICE FOR RENT

North Main Street, New City 11' x 13' with closet. Access to shared conference room, bathroom and kitchenette. Bright and clean, freshly painted. Please call Carol at 914-557-5750.

### WILL SEARCH

We are looking for the attorney who handled the Will for **Rafael A. Dominguez, 9 Fairmount Avenue, Haverstraw, NY in 1995 or 1996**. Please contact the Bar Association if you have any information (845-634-2149).

### LOOKING FOR ATTORNEY FILES

John Mirable, Esq. (Deceased)  
If anyone knows the whereabouts of the files.

### IMMIGRATION ATTORNEY WANTED

Immigration Attorney Wanted: New City Law Office seeking an attorney with immigration experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Also willing to assist with family law/bankruptcy/collections and loan modifications a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail:

[michael@demoyalaw.com](mailto:michael@demoyalaw.com)

### MATRIMONIAL ATTORNEY WANTED

Attorney Wanted: New City Law Office seeking an attorney with matrimonial and family law experience, full time, trial experience a plus, Spanish speaking a plus, admitted to Southern District of NY a plus. Call 845.639.4600 or fax 845.639.4610 or E-mail: [michael@demoyalaw.com](mailto:michael@demoyalaw.com)

### LAW BOOKS AND OFFICE FURNITURE FOR SALE

NY Supplement 2nd, Volumes 1 - 639  
Wooden conference table 7' 10 1/2" x 47"  
6 chairs  
Other items available  
Please call Stan Weiner (845) 425-3363  
Items are located in Spring Valley

### NEW LOCATION

Stanley Weiner, Esq.  
20 Squadron Blvd., Suite 330  
New City, New York 10956  
Phone (845) 425-3363

### LEGAL ASSISTANT WANTED

Entry level position available for part-time bilingual assistant.  
Located in New City, NY.  
Please call 845 709-6800

### Domestic Violence Staff Attorney-Temporary 6 months-White Plains, NY office; Legal Services of the Hudson Valley

This position includes intakes and individual case work, litigation in state courts including appellate practice and education and outreach efforts at community members, advocates and service providers. Qualifications include three or more years of legal experience including litigation or its equivalent, and understanding of the dynamics of domestic violence. Please apply through our website: [www.lshv.org](http://www.lshv.org), under the **Get Involved** link.

Staff Attorney General Practice-Public Benefits, Social Security & Housing- Poughkeepsie, NY office; Legal Services of the Hudson Valley This is a general practice position focusing on working on the Disability Advocacy Program (DAP) and assisting disabled clients with housing matters, at Administrative Hearings before the Social Security Administration and in Federal Court. A willingness to be admitted to the Federal Bar, one or more years of legal experience including litigation and administrative hearings. Please apply through our website: [www.lshv.org](http://www.lshv.org), under the **Get Involved** link.

### Part-Time (.6 FTE) General Practice Staff Attorney – Newburgh, NY office; Legal Services of the Hudson Valley

This position focuses on work on social security, public benefits and other matters, serving clients living in Orange County with matters such as SSI/SSDI, Medicaid, Food Stamps, Public Assistance, consumer, disability discrimination, landlord/tenant, advanced planning and other housing issues. Three or more years of legal experience including litigation or its equivalent. Please apply through our website: [www.lshv.org](http://www.lshv.org), under the **Get Involved** link.

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