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Jeanmaraie DiGiacomo—Editor

# ROCKLAND COUNTY BAR ASSOCIATION NEWSBRIEF

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



December 2024

## President's Post

As the end of 2024 approaches, we often reflect on the past year and make new resolutions for the upcoming year. Although we are towards the middle of RCBA's fiscal year, I reflect on the past few months of my presidency which have seen many changes. During my presidency, we will have a complete change in staff members. Since I have become President, we hired a new Assigned Counsel Coordinator and a new Program Coordinator. Our Executive Director, Nancy Low-Hogan will be retiring shortly after ten years of exemplary service.

For those of you who are not litigators or do not litigate in the Rockland County Courthouse, I encourage you to visit the Courthouse to view the RCBA composite photos that have been hung on the fourth floor between the ceremonial courtrooms. Perhaps you will see a younger version of yourself and will reflect how your career has evolved and changed over the years or perhaps you will remember a colleague, mentor or an adversary that has made an impact on your professional career. Here, one can also reflect more broadly on the changing faces of our membership throughout the decades. However, what has remained constant is that we are a collegial bar that continues to stand for the principles and values of justice, equality, and the rule of law.

Last week, we held our first joint holiday party with the Rockland County Women's Bar Association. We had a great time celebrating the holidays with RCWBA. We have also established a connection with the Hudson Valley Hispanic Bar Association where we have cross-promoted each other's events.

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Beginning this month, our Newsbrief will include an ethics column from Westchester County Bar Association Officer and Court Attorney Referee, David Evan Markus. Some of you may remember David fondly when he was assigned to the Foreclosure Part in the Rockland County Courthouse. I look forward to continuing to collaborate and foster connections with our local bar associations. Together we are stronger.

As our new staff settles into their roles, I will be revisiting my commitment to have our members become more involved in RCBA through committee work and attendance at events.

As we look ahead to the next year, let us continue to be a community that embraces change, fosters inclusivity, and leads by example. The work we do has a profound impact, and I'm excited to see where we will go next. Our profession is constantly evolving, and so too is our Association.

Wishing you all a peaceful and joyful holiday season, and health, happiness and prosperity in 2025!

Laurie A. Dorsainvil, Esq.  
President



## **THE PRACTICE PAGE**

### **PRIVILEGED COMMUNICATIONS WITH CLERGY: THOU SHALT NOT TELL**

Hon. Mark C. Dillon \*

This is a time of year for important upcoming religious holidays. December is a time of Christmas and usually Chanukah. Islamic holidays do not fall predictably in a particular month as that faith follows a lunar calendar which is out of sync with the widely-followed Gregorian calendar. That said, this is still perhaps the best time of the year to examine CPLR 4505, which recognizes the privilege of confidential communications between a congregant and a clergyperson. The privilege was not recognized at common law, but reflects the current public policy that persons be free to confide in those offering spiritual guidance without fear of reprisal, so that spiritual harmony can be realized between oneself and others (*Keegan v Gigante*, 47 NY2d 160, 166, cert. den. 444 U.S. 887).

The statute applies to communications with a “clergyman, or other minister of any religion or duly accredited Christian Science practitioner” (CPLR 4505). Reference to “any religion” is the broadest possible language, and therefore extends to Catholic priests, Protestant ministers, Jewish rabbis, Muslim imams, and the corresponding spiritual leaders of all other religions. The privilege does not extend to all communications between a congregant and religious leader, and certainly not to communications involving secular assistance or advice (*People v Schultz*, 161 AD2d 970, 971 [3rd Dep’t.]; *People v Drelich*, 123 AD2d 441, 443 [2nd Dep’t.]). An offhand disclosure made to a cleric between innings at a Yankee game will enjoy no privilege of confidentiality. Rather, the privilege applies more narrowly to those communications which are a “confession or confidence” made to the clergyperson in his or her formal role as “a spiritual advisor” (CPLR 4505; *Keenan v Gigante*, 47 NY2d at 166). The term “confession” refers to the Catholic sacrament of Penance, of privately confessing sins to a priest as a means of unburdening oneself from wrongdoing and obtaining absolution. The term “confidence” refers to a broader set of confidential communications applicable to all religions, beyond Catholic confession, where a person makes disclosures to a clergyperson while seeking specific spiritual guidance (*People v Carmona*, 82 NY2d 603, 608-09). Once the clergy privilege is triggered by confession or confidence, a court cannot compel the spiritual advisor to disclose the information given no matter how serious the subject matter. Expressed in biblical-sounding terms, Thou Shalt Not Tell.

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But what God giveth, God may taketh away. The privilege belongs to the person that has made the disclosure to the spiritual advisor. That person may therefore waive the privilege. If the privilege is waived, Thou May In Factum Tell. Indeed, the clergyperson cannot continue to assert the privilege upon its waiver by the congregant (*De'Udy v De'Udy*, 130 Misc.2d 168, 174 [Sup. Ct. Nassau Co.] [Wager, J.]). The privilege is automatically waived if the person makes the disclosure to a clergyperson and to other non-clergy persons at the same time and place, as doing so destroys the confidentiality of whatever spiritual advice was sought or conferred (*Lightman v Flaum*, 278 AD2d 373, 374, *aff'd*. 97 NY2d 128; *People v Harris*, 34 Misc.3d 281, 287 [Sup. Ct. Kings Co.] [Tomei, J.]). If a person discloses information to a clergyperson that is also disclosed to other persons at a different time, the privilege still exists as to the conversation with the spiritual advisor but does not extend to the conversation with the non-clergy persons, and disclosure may be compelled from those other persons (*Maida v Diocese of Brooklyn*, 2023 WL 2139769 [Sup. Ct. Kings Co. 2023] [Love, J.]).

The Maida case, *supra*, illustrates how the CPLR 4505 privilege is receiving some exercise in connection with sexual abuse matters revived under New York State's Crime Victim's Act (CPLR 214-g). In Maida, an alleged pedophile priest had sought spiritual counseling from his bishop about the abusive time, conversations which were subject to a privilege from disclosure. The bishop referred the priest to a psychologist who was to render an opinion to the diocese about whether the priest was fit to return to priestly duties. Conversations between the priest and psychologist were not of a spiritual nature and therefore were outside the scope of the CPLR 4505 religious privilege. The psychologist privilege of CPLR 4507 was also inapplicable, as the priest had waived that privilege in order for the psychologist's opinions to be disclosed to the bishop. As a consequence, the priest's disclosures to the psychologist were not confidential by virtue of waiver.

The Court of Appeals declined to directly determine whether and under what circumstances there might be an "implied waiver" of the religious privilege (*People v Carmona*, 82 NY2d at 603), and decisional authorities have been unhelpful on the subject since Carmona's publication in 1993. In his CPLR Practice Commentaries, Prof. Vincent Alexander suggests, based on the available case law, that there is no waiver of what was specifically discussed with a clergyperson if the congregant merely discusses the same subject matter with a third person at a different time. But an implied waiver may exist if the communicant makes duplicative admissions to a third person and discloses that those admissions had also been made to the clergyperson (Vincent C. Alexander, CPLR Practice Commentaries 4505 [2012]). In that circumstance, the

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privilege of confidentiality is impliedly destroyed and the clergyperson may be compelled to testify about the disclosures. Professor Alexander's viewpoint on the subject is well taken, as the privilege should exist as between the congregant and the religious counselor for only so long as the congregant, who possesses the privilege, keeps knowledge the conversation with the clergyperson confidential.

Absent an expressed or implied waiver of the religious privilege, it bears repeating that Thou Shalt Not Tell. Enjoy the religiosity and holy times of the year-end holidays.

\*Mark C. Dillon is a Justice of the Appellate Division, 2nd Dep't., an Adjunct Professor of New York Practice at Fordham Law School, and a contributing author of the CPLR Practice Commentaries in McKinney's.



**COMMERCIAL LITIGATION ISSUES OF INTEREST**

Submitted by Joseph Churgin, Esq. and Susan Cooper, Esq.\*

For 35 years, your now 80-year-old client resided with her same-sex partner at property they owned as joint tenants, each with a 50% interest. The partner died in 2005 without a will. Your client continued to live at the property not knowing of any heirs of her deceased partner until 2018 when a nephew and niece, as sole distributees, opposed your client's petition in Surrogate's Court to be appointed administrator of the estate. Your client withdrew her petition. In 2020, when the property was worth \$800,000 and your client by then had lived there for almost 50 years, the nephew sold his 25% interest to a developer for \$15,000. The developer promptly sued your client and the niece for partition and sale of the property. The niece then sold her 25% interest in the property to the same developer for \$60,000 in 2021. The developer was granted summary judgment on default after your client's then-attorney failed to oppose the motion, unbeknownst to your client. A sale was noticed. You moved to stay the sale and vacate the judgment on the grounds that the procedures mandated by the Heirs Act, RPAPL § 993, were not followed. The Heirs Act, adopted in 2019, protects heirs holding property as tenants-in-common from predatory real estate speculators by providing numerous protective procedures and rights, including sale of the property based on fair market value, not by auction as in the traditional partition sale. The developer argued that the Heirs Act did not control, since the only remaining parties – your client and the developer – were not heirs.

Will you succeed in vacating the judgment?

The answer is yes.

The decision in *Gelinas LLC v. Hayes*, NYLJ 17299712977NY800450202, Case No. 800450/2021E (Sup. Ct. Bronx Co. October 22, 2024) is one of first impression interpreting the relatively new Heirs Act (RPAPL § 993) adopted in 2019 expressly to protect heirs from predatory real estate speculators. The central question was whether the circumstances of this case required application of the protective provisions of the Heirs Act (including sale based on fair market value) instead of the traditional partition governed by RPTL §§ 991-992 (including sale by auction). The 23-page decision is replete with citations for many general procedural litigation issues beyond the central issue of interpretation of the Heirs Act.

At the time of the decision, Hayes had lived for 50 years in her home as a 50% joint tenant. The other 50% joint tenant was her same-sex partner, Adams, who had died in 2005 without a will. Hayes knew of no heirs of Adams until 2018, when Hayes asked the Surrogate's Court to appoint her as administrator of Adam's estate. A niece and nephew of Adams, who were the sole distributees of Adams by law, came forward, whereupon Hayes dropped her petition to be administrator.

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\*By Joseph Churgin, Esq. and Susan Cooper, Esq. of

SAVAD CHURGIN, LLP, Attorneys at Law

In 2020, fifteen years after Adam's death, the nephew sold his 25% interest to a developer – Plaintiff Gelinas – for \$15,000. The property was then worth \$800,000. Six months later, Gelinas sued Hayes and the niece (holding a 25% interest) for partition and sale of the property. Hayes answered with denials and counter-claimed for, among other things, the right to purchase the property at fair market value (a right provided by the Heirs Act). Gelinas moved for summary judgment, which Hayes' attorney inexplicably failed to oppose. While the motion was pending, the niece sold her 25% share to Galinas for \$60,000. The Court denied summary judgment due to the lack of proof of service.

Gelinas then moved to renew and reargue the motion and to discontinue the action against the niece, who had sold her interest to Galinas. This time, Galinas submitted a proper affidavit of service and some affidavits of facts showing that Hayes was not an heir of Adams. Again, Hayes' attorney inexplicably failed to oppose the motion. The Court granted on default Galinas' unopposed motion to renew and reargue the denial of summary judgment, but did not dismiss Hayes' counterclaims, and referred the matter to a referee for a standard partition hearing. The referee recommended that the property did not belong to any heirs (as required to fall under the Heirs Act) and that an auction date be set. Galinas filed a notice of sale at auction.

Before the auction date, Hayes moved to stay the sale and vacate the judgment of partition and sale for failing to hold the required Heirs Act settlement conference and to allow Hayes to exercise her buyout options under the Act. The Court treated the motion in its discretion as one to vacate Hayes' attorneys' default on the motion to renew and reargue, and upon vacatur, to deny the motion.

The Court noted that the statutory grounds to vacate a default judgment under CPLR 5015(a)(1) are not exclusive and "courts retain inherent discretionary power to vacate their own judgments for sufficient reason and in the interests of substantial justice," quoting *Woodson v. Mendon Leasing Corp.*, 100 N.Y.2d 62, 68 (2003).

The Court found that, "under the constellation of circumstances presented in this case, this action involves 'unique or unusual' facts that warrant the vacatur of the default judgment in the interests of justice," citing *Matter of Cassini*, 182 A.D.3d 13 (2d Dep't 2020). Eighty-year-old Hayes, who lived at the property for 50 years, reasonably believed her attorney was actively defending her valuable real property interests. The "intense pace" of the litigation did not allow Hayes to learn of or understand her attorney's multiple defaults. There was no showing that undue delay or prejudice would result from vacatur of the default, and the strong public policy favoring resolution of cases on the merits will be served, citing *Singh v. Sukhu*, 180 A.D.3d 837 (2d Dep't 2020).

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\*By Joseph Churgin, Esq. and Susan Cooper, Esq. of  
SAVAD CHURGIN, LLP, Attorneys at Law

The Court determined that the express statutory language of the Heirs Act requires that the date of filing of the petition controls whether the property is governed by the Heirs Act, citing RPTL § 993(2)(e)(iii) and *Smith as Trustee of Jay and Patricia Smith Irrevocable Trust v. Smith as Trustee of Theodore, PS*, 217 A.D.3d 1484 (4<sup>th</sup> Dep't 2023). At the time the action was commenced, the niece, an heir holding a 25% share, was a named defendant, requiring application of the Heirs Act procedures. The violation of the statute's procedures "must be remedied."

*The lesson?* If you have a client who is a tenant-in-common, whether by inheritance or not, the protections of the Heirs Act may well apply, depending on the parties' property interests at the time the action is first commenced.

Editor's note: The Heirs Act was amended effective July 19, 2024, providing that a purchaser such as Galinas lacks standing to even commence a partition proceeding because the property was then owned by an heir, and Galinas acquired its shares "by means other than inheritance."

\*By Joseph Churgin, Esq. and Susan Cooper, Esq. of  
SAVAD CHURGIN, LLP, Attorneys at Law





# Technology Tips for Attorneys



submitted by

**Michael Loewenberg\***

## Unlocking the Potential of Excel in Your Law Practice

You might find yourself more at ease in the courtroom than in front of a computer screen filled with numbers and charts. Many people feel intimidated by Excel, a powerful spreadsheet tool that can seem overwhelming at first glance. Embracing basic Excel skills can enhance the efficiency and organization of your law practice. Let's explore three ways Excel can help attorneys, even if you're non-technical.

### Organizing Client Data

Imagine having a single, organized place where you can store and retrieve all your client information. Excel can serve as a simple, robust repository for client contact details, case status updates, and key dates such as court appointments or deadlines. Creating a spreadsheet with different columns for names, contact details, case numbers, and important dates allows you to quickly sort and filter information. This not only keeps your practice organized but also ensures you never miss critical deadlines. And when the Client Records sheet is shared on your network, everyone has access to the latest status of the firm's client's status. *How to get started:* check out Basic Data Entry and Organization here: <https://support.microsoft.com/en-us/excel>

### Time Tracking and Billing

Tracking billable hours accurately is crucial for any law practice. Excel offers a straightforward way to log hours worked on different cases, calculate total hours, and (possibly) generate invoices. By setting up a simple timesheet, you can record the start and end times for each task, automate the calculation of hours worked, and multiply those hours by your hourly rate to generate the total bill. This not only saves time but also minimizes the risk of errors (including errors of omission) that can occur with manual calculations. Even if you have a robust billing system, it can be helpful to 'keep score' on the side to help you understand the true cost of complicated activities. *How to get started:* Creating a Timesheet in Excel <https://create.microsoft.com/en-us/learn/articles/custom-timesheet-excel>

### Financial Management

Managing the financial aspects of your practice is, as with any business, essential and can be daunting. Excel simplifies this by allowing you to track income, expenses, and cash flow. Setting up a basic financial spreadsheet can help you monitor your firm's financial health, create budgets, and forecast future revenue. You can use pre-built templates available in Excel to start tracking expenses and income without creating everything

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from scratch. You might use a bookkeeping program like QuickBooks already. Exporting your QB data to Excel can allow you to further analyze your information and manage reconciliations for subsets in complicated deals. *How to get started:* Using Excel for Financial Management <https://templates.office.com/en-us/templates-for-excel>

Excel is not just a tool for accountants and data analysts; it's a versatile assistant that can make your legal practice smoother and more efficient. And incorporating Excel into your law practice doesn't require advanced technical skills. With some basic understanding, you can start organizing client data, tracking billable hours, and managing your finances more effectively. As you grow more comfortable, you'll likely discover even more ways this powerful tool can enhance your efficiency and productivity.

\*Michael Loewenberg is the President of MESH Business Solutions, Inc., New City, NY, 10956

and he is also an Affiliate Member of the RCBA.

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# SUCCESSION



## SHOW ME THE MONEY

*A new Newsbrief column*

BY JUDITH BACHMAN



Unfortunately, no conversation on building law firm value for now and on exit would be complete without a focus on the dreaded topic of law firm financial management.

Beyond the myriad of ethical requirements regarding record keeping and accounting for client funds (see New York Rule of Professional Conduct 1.17), to ensure that you can maximize the rewards of your law practice, it is imperative that you maintain good financial discipline.

Financial discipline will help law firm owners, as it does for every other business owner. If a law firm owner understands their firm finances and ensures that bookkeeping is in order, they can better manage firm cash flow and profitability. They can also confidently make critical business decisions, like when and who to hire, what billing rates should be, and what their own compensation can be.

That same financial discipline will also serve the law firm owner well on exit. Patrick Slaughter, having sold his family law firm for millions of dollars, stresses the importance of financial management: “So all of our books were really clean. We were able to show that we were cash flowing 100, 000 plus every month. We were able to show You know, there wasn’t any kind of monkey business with our books . . . because I know some people, they run everything in the world through their practice for the deduction. Yeah, I paid taxes. I mean, I did. But all of that in the long run ended up being really good because it was really easy for the banks to look at it and go, this thing cash flows actual money. . . . None of this is fantasy type stuff and it worked within the same framework of the way they evaluate other businesses that, had nothing to do with law.”

Even if you do not want to focus on bookkeeping issues, buyers will force you to do so, anyway. “[P]otential [law firm] buyers are going to dig . . . to see *how* the books are kept. Are they clean? Does everything balance? [If things are sloppy] . . . it causes buyers to dig even deeper, as it is usually a sign that there might be more bad things happening, which they’ll find if they look a little harder.” Brooke Lively, Exit on Top: Sell Your Law Firm to the Right Person at the Right Time for the Right Price, at 102.

Knowing that financial management is critical, whether we like it or not, it’s time tackle the subject. Reach out to your accountant, sit with your bookkeeper, read your P&L’s. It’s worth the effort.



INSET: As a service to Westchester County Bar Association members and the public, the WCBA Ethics Committee is pleased to sponsor “Ethics Corner,” a column on attorney ethics and professionalism. To suggest future column topics, email Ethics chair David Evan Markus at [davidevanmarkus@gmail.com](mailto:davidevanmarkus@gmail.com).

### **On Attorney Civility: Be Nice. How Nice? Try This Nice (Or Else?)**

*By David Evan Markus, Esq.*

“There’s holiday spirit, and then there’s lawyering” – at least, so one attorney memorably told me during a discovery proceeding after refusing a busy adversary’s routine first request for an extension of time to produce. Seeking to use the adversary’s plight for potential advantage, the attorney missed the memo about “peace on court, good will toward colleagues.”

Perhaps some of us have met that attorney. Perhaps we’ve even been that attorney.

Last month, a junior court attorney sought my advice about a pretrial matter that became a screaming match. When I floated [New York’s Standards of Civility for the legal profession](#)<sup>(1)</sup> they stared blankly and quipped, “Attorney civility? In New York?”

Yes, Virginia,<sup>(2)</sup> attorney civility in New York, and not only for litigators. All New York attorneys, including in administrative and transactional practice, are subject to a civility code – with implications for daily practice, professional reputations and Part 130 remedies.

### **Professionalism and New York’s Standards of Civility**

The [Standards](#) are worth reading. Annexed to the Rules of Professional Conduct, the Standards address attorney tone, collegiality, promptness, candor and decorum. (An extra inducement to read the Standards: they also address how judges should conduct proceedings, write decisions, accommodate scheduling and administer their offices.)

Under the Standards, the discovery attorney should have “respect[ed] the schedule and commitments of opposing counsel, consistent with protection of the client’s interest” and, even without “a court order, ... agree[d] to reasonable requests for extensions of time or for waiver of procedural formalities [as] the legitimate interests of the client will not be adversely affected.”<sup>(3)</sup> A “first request for an extension to respond to pleadings ordinary should be granted as a matter of courtesy,”<sup>(4)</sup> without “unfair or extraneous conditions” unnecessary to “preserve rights that an extension might otherwise jeopardize.”<sup>(5)</sup> My colleague’s screamers should have “avoid[ed] vulgar language, disparaging personal remarks or acrimony” with each other, and should have “sp[oken] civilly and respectfully ... with the court and court personnel.”<sup>(6)</sup>

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To be sure, the Appellate Divisions originally promulgated the Standards – a mid-1990s product of bench-bar collaboration – as *standards*, not “rules to be enforced by sanction or disciplinary action,” or to “supplement or modify the Rules Governing Judicial Conduct, the Rules of Professional Conduct or any other applicable rule or requirement.”<sup>(7)</sup> The Standards serve the profession *as a profession* – in the words of Chief Judge Judith Kaye, to target “tougher and meaner” attorney cultures “eroding core traditions of courtesy and civility.”<sup>(8)</sup>

Over the years, attorneys have invoked the Standards to calm troubled waters in court, and caution uncivil adversaries that in the ambit of professional reputations “what goes around comes around.” And our profession is coming to understand, if slowly, that civility is vital to improving attorney and judicial wellness.<sup>(9)</sup> The Standards literally are good for us.

But, bottom-line rule-focused lawyers might ask, are the Standards enforceable?

### Applying the Standards

Soon after the Standards took effect in 1997, legal ethicists noted their overlap with the Rules of Professional Conduct (“RPCs”). Conduct violating the Standards, they opined, “fails to comply with known local customs of courtesy or practice, or [otherwise] undignified or discourteous, may violate Rule 3.3(f). Conduct ... that serves merely to harass or maliciously injure another [under the Standards] would be frivolous in violation of Rule 3.1. Dilatory conduct may violate Rule 1.3(a)” governing diligence and promptness.<sup>(10)</sup>

Soon the Standards began taking on life of their own. Despite having inherent power to enforce attorney civility, the Western District of New York and the Bankruptcy Court for the Eastern District of New York began requiring attorneys to pledge themselves to the Standards.<sup>(11)</sup> Meanwhile state courts began invoking civility infractions to apply RPCs, shape findings of fact, deny *pro hac vice* admission, impose reciprocal discipline and assess Part 130 sanctions..<sup>(12)</sup>

The Commercial Division recently addressed a lawyer who repeatedly derailed a deposition, wrongly instructed a witness not to answer questions, and mistreated adverse counsel – despite prior warnings in other depositions marred by “bullying” and other “abusive” behavior. In addition to imposing a \$10,000.00 sanction and mandating a civility CLE, the court shared the details with a prominent teacher of attorney professionalism “for use ... as an example of uncivil sanctionable behavior.”<sup>(13)</sup> What is an attorney’s reputation worth?

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.Another court recently addressed a lawyer who acted “boorishly” with court staff and interns under the errant guise of “comedy.” The court withheld the attorney’s name to safeguard the confidentiality of the staff and interns, but required the attorney to take eight additional CLE units divided between “Ethics and Professionalism” and “Diversity, Inclusion and Elimination of Bias.”<sup>(14)</sup> What is an attorney’s time worth?

**Conclusion**

Money, reputation and time – all good reasons to lean into the Standards of Civility, particularly under stress, and to seek support if stress gets the better of us. Beyond external incentives, Chief Judge Kaye’s call to professionalism remains prescient. Our profession’s health, and the health of lawyers and judges, forever will be the best reasons of all.

Here’s wishing you and your loved ones a happy, healthy and civil holiday season.

*David Evan Markus, Esq., is chair of the Westchester County Bar Association Ethics Committee and member of the WCBA Executive Committee and Board of Directors. He serves as referee in New York Supreme Court, Ninth Judicial District. His past Judiciary service includes Special Counsel for Programs and Policy and Deputy Legislative Counsel under Chief Judges Judith Kaye and Jonathan Lippman.*

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<sup>(1)</sup>22 NYCRR [Rules of Professional Conduct] pt 1200, Appx A (“Standards”).

<sup>(2)</sup>Church, “Yes, There is a Santa Claus,” *New York Sun* (Sep. 21, 1897), at 6, col. 3.

<sup>(3)</sup>Standards, § 1, pt 1(III)(A).

<sup>(4)</sup>*Id.*, § 1, pt 1(III)(B).

<sup>(5)</sup>*Id.*, § 1, pt 1(III)(C).

<sup>(6)</sup>*Id.*, § 1, pts 1(I)(B), 2(I)(A).

<sup>(7)</sup>*I+d.*, Preamble.

<sup>(8)</sup>Kaye, “How Do We Make the Standards of Civility Work?” (1997).

<sup>(9)</sup>See McPherson & Shenoy, “Making Civility Standard: The Case for Reviving Civility Standards in the Legal Profession,” *NYLJ*, Mar. 10, 2023, at 5; NY State Bar Assn., “Report of the NYSBA Task Force on Attorney Wellbeing” at 60 & n21, 68-69 (2021).

<sup>(10)</sup>22 NYCRR [Rules of Professional Conduct] § 1200.0, rule 1.2, comm 16.

<sup>(11)</sup>See WDNY Loc R Civ Pro 83.1(a)(3), (b)(4); Bankr EDNY AO 568.

<sup>(12)</sup>See e.g. *In re Sondel* (111 AD3d 168 [1st Dept 2013] [aggravating attorney discipline sanction]); *Zappin v Comfort* (2015 NY Slip Op 51339 [Sup Ct NY Co 2015] [sanctions]); *Adkins v Lipner, Gordon & Co.* (2005 NY Slip Op 52073 [Sup Ct Nassau Co 2005] [admission]); *Klein ex rel. Klein v Seenaath* (80 Misc 2d 213 [Sup Ct Queens Co 1999] [finding of fact]).

<sup>(13)</sup>*Hindlin v Prescription Songs, Inc.* (2022 WL 3026015 n8 [Sup Ct NY Co 2022]).

<sup>(14)</sup>*Matter of the Court's Discharge of its Responsibilities Pursuant to 22 NYCRR 100.3* (80 Misc 3d 813 [Sup Ct Kings Co 2023]).



ROCKLAND COUNTY BAR ASSOCIATION  
POSITION AVAILABLE

**EXECUTIVE DIRECTOR**

**The Executive Director is responsible for the overall management of all Rockland County Bar Association (RCBA) and The Foundation of the Rockland County Bar Association, Inc. (Foundation) programs and operations.**

**The Executive Director reports to and works closely with the Boards of Directors of the RCBA and the Foundation and the President of the Board(s).**

**The Executive Director is responsible for the management of Board Business, Finances, Fundraising, Membership, Staff and Programs.**

**A complete Position Description is available.**

**To request a complete Position Description, please email Nancy Low-Hogan @ [nancy@rocklandbar.org](mailto:nancy@rocklandbar.org)**

**To apply, please email a cover letter and resume to:**

**Nancy Low-Hogan, Ph.D., Executive Director  
Rockland County Bar Association  
337 N. Main Street, Suite 1  
New City, New York 10956  
[nancy@rocklandbar.org](mailto:nancy@rocklandbar.org)**

*The start date for this position is February 3, 2025.*

The Rockland County Bar Association has a [Facebook page](#) where we announce upcoming events and other issues of interest to the local community.

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The RCBA offers these businesses several ways to promote themselves to local attorneys. They can become Affiliate members, advertise on our website or in the [Newsbrief](#), or sponsor one or more CLE programs or special events.

If you have a favorite business, please let us know.

Contact Jeanmarie [@rocklandbar.org](mailto:@rocklandbar.org) with their contact information so we can reach out to them about these opportunities.

**NEW INCENTIVE FOR YOU!** As an added incentive, when a business you referred becomes a Sponsor or places an ad with us, you will be given one free online CLE session. So... review your contacts now and help us promote their business!

Contact: Jeanmarie DiGiacomo

[Jeanmarie@rocklandbar.org](mailto:Jeanmarie@rocklandbar.org)

845-634-2149



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## **Join RCBA's Lawyer Referral Service**

**We receive several calls each day from clients looking for local representation. We welcome all members to participate but are especially in need of attorneys in these practice areas:**

**Civil Appeals**

**Commercial law**

**Consumer law, including small claims court**

**Constitutional and Human Rights**

**Corporate Law including business formation, dissolution & franchises**

**Education law**

**Elder law**

**Environmental Law**

**Insurance Law, including automobile, home, disability, long term care**

**Intellectual Property**

**Landlord Tenant Law: residential and commercial**

**Legal Malpractice**

**Zoning Law**

**Visit our [webpage](#) or contact [office@rocklandbar.org](mailto:office@rocklandbar.org) for more information and an application.**



## **NEWSBRIEF ADVERTISING RATES**

### **NEWSBRIEF ADVERTISING RATES**

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### **CLASSIFIED ADS**

**RCBA Members – free, up to 50 words; 51 to 100 words, cost is \$75.00.**

**Non-Members, cost is \$50 for up to 50 words; 51 to 100 words, cost is \$100.**

### **PLEASE NOTE:**

**NEWSBRIEF IS NOT PUBLISHED IN JULY**

**CALL Jeanmarie @ 845-634-2149 or send email to [Jeanmarie@Rocklandbar.org](mailto:Jeanmarie@Rocklandbar.org)**

**TO ADVERTISE IN NEWSBRIEF**

**Advertising & articles appearing in the RCBA Newsletter does not presume endorsement of products, services & views of the Rockland County Bar**

**Association.**

**All advertisements and articles must be reviewed by the Executive Committee for content.**



## CLE CORNER

**The CLE Committee is working on a robust  
CLE Schedule for Spring 2025**

**Missed a CLE program? You can earn credit by watching the video replay. Contact  
Jeanmarie@Rocklandbar.org to receive the recording. Payment by check only.**

***Remember, RCBA Members receive a discounted registration fee for all CLE programs***



# CLE REQUIREMENTS

## CLE REQUIREMENTS

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.

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.

## ADDITIONAL CLE REQUIREMENT - CYBERSECURITY

In addition to ethics and professionalism, skills, law practice management, areas of professional practice, and diversity, inclusion and elimination of bias courses, there is now a category for cybersecurity, privacy and data protection. This category of credit is effective January 1, 2023.

Effective January 1, 2023 - New Category of CLE Credit - Cybersecurity, Privacy and Data Protection: A new category of CLE credit - Cybersecurity, Privacy and Data Protection - has been added to the CLE Program Rules. This category is defined in the [CLE Program Rules 22 NYCRR 1500.2\(h\)](#) and clarified in the [Cybersecurity, Privacy and Data Protection FAQs](#) and [Guidance document](#). Providers may issue credit in Cybersecurity, Privacy and Data Protection to attorneys who complete courses in this new category on or after January 1, 2023.

See [CLE Program Rules 22 NYCRR 1500.22\(a\)](#).

Experienced attorneys due to re-register on or after July 1, 2023 must complete at least one credit hour in the Cybersecurity, Privacy and Data Protection CLE category of credit as part of their biennial CLE requirement. Newly admitted attorneys need not comply if admitted prior to July 1, 2023 in their newly admitted cycle, but must comply in future reporting cycles. Attorneys admitted on or after July 1, 2023, must complete the 1 CLE credit hour in Cybersecurity, Privacy and Data Protection as part of their new admitted attorney cycle. For more information about the CLE Rules, visit [nycourts.gov/Attorneys/CLE](https://nycourts.gov/Attorneys/CLE).

See [CLE Program Rules 22 NYCRR 1500.12\(a\)](#).

Attorneys may apply a maximum of three (3) credit hours of cybersecurity, privacy and data protection-ethics to the four-credit hour ethics and professionalism requirement.

## FINANCIAL HARDSHIP POLICY:

RCBA members and non-members may apply for tuition assistance to attend Association continuing legal education programs based on financial hardship. Any member or non-member of our Association who has a genuine financial hardship may apply in writing, no later than five working days prior to the program, explaining the basis of his/her hardship, and, if approved, may receive tuition assistance, depending on the circumstances.



# COMMITTEE CORNER

The Rockland County Bar Association has 26 active committees, plus several *ad hoc* committees. Members may join these committees and volunteer their time and expertise for the good of the Bar Association, their colleagues and the public. Here are some of the activities! We look forward to seeing you!

## NEW LAWYERS AND SOCIAL COMMITTEE

Nicole DiGiacomo is the new Co-Chair of this Committee and she is looking for new members. The Committee will engage newly admitted attorneys as well as seasoned attorneys who are interested in mentoring those newly admitted.

## PRO BONO COMMITTEE

This newly established Committee embraces the spirit of “pro bono” by connecting with Bar Association practitioners from all areas to create a centralized corps of volunteers who will assist those in need who are unable to be assisted by the Legal Aid Society or Legal Services of the Hudson Valley. If you are interested in joining this Committee, please email Nancy at [Nancy@rocklandbar.org](mailto:Nancy@rocklandbar.org)

## IMMIGRATION LAW COMMITTEE

Immigration Law is a critical component of our system of laws. We are pleased to announce that the Rockland County Bar Association is relaunching the Immigration Committee. The committee is being co-chaired by two experienced immigration attorneys, Ivon Anaya, Esq. and Crismelly Morales, Esq. Given the recent influx of Immigration in our community, we are excited to provide insight and updated information about Immigration Law to the members of the Bar Association and our community.

We are looking for new members! If you are interested in joining our committee, please email Ivon at [ianaya@centerse.org](mailto:ianaya@centerse.org) and Crismelly at [Crismelly@cmoraleslaw.com](mailto:Crismelly@cmoraleslaw.com) to express your interest. Stay tuned for our future meetings and events!

## PERSONAL INJURY & COMPENSATION LAW COMMITTEE

Your Rockland County Bar Association Personal Injury & Compensation Law (Negligence) Committee regularly meets via zoom. If you are not yet a member and wish to join our committee, please contact the association. If you have a topic that you think may be of interest to the committee, please let us know.

The committee meeting will be held on Zoom.

If you are not on the committee and are interested in participating in one of these meetings, please contact us.

Thank you, **Jeffrey Adams** (Chair) & **Valerie Crown** (Co-Chair)



## 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 Jeanmarie@rocklandbar.org by the 15th of the month so that the Executive Board may review it.

Thank you!



Monthly \_\_\_\_\_  
Newsletter

Still not a member? Join Now!

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**[www.Rocklandbar.org](http://www.Rocklandbar.org)**





**LOOKING TO RETIRE OR SELL YOUR PRACTICE?**

If you are a solo or small firm attorney considering retirement or selling your practice, contact Judith Bachman, 845-639-3210

or [judith@thebachmanlawfirm.com](mailto:judith@thebachmanlawfirm.com). As a professional courtesy and seeking colleague to colleague conversations, she will help you evaluate options and talk about practice acquisition.

**Matrimonial/Family Law Attorney**

Rockland County, NY law firm specializing in matrimonial and family law is seeking a full time associate. Excellent writing skills, trial experience and fluent Spanish speaking a plus. Starting salary range is \$55,000.00 to \$85,000.00+. Please call 845.639.4600 or fax resume to 845.639.4610 or E-mail: [michael@demoyalaw.com](mailto:michael@demoyalaw.com)

**ASSOCIATE ATTORNEY**

**Feerick Nugent MacCartney** (South Nyack) seeking NYS admitted attorney 3-4 years experience. Work entails General, Land Use, Personal Injury Litigation – State/Federal Court and familiarity with motion practice, rules of evidence, drafting complaints, discovery responses, memorandum of laws. Salary: \$120,000-\$150,000. Benefits. Higher salary commensurate with experience. Email resume: [shannond@fnmlawfirm.com](mailto:shannond@fnmlawfirm.com)

**OFFICE SPACE AVAILABLE**

Beldock & Saunders, PC, located in New City, has 3 offices with 3 separate workstations, for support staff, available to sublet. Access to conference rooms, reception area, kitchen & plenty of parking. Rent terms are flexible. Contact Steve at 845-267-4878 or email [sbeldock@beldockandsaunderslaw.com](mailto:sbeldock@beldockandsaunderslaw.com).

**PARALEGALS AVAILABLE**

Rockland Community College ABA approved Paralegal program can assist attorneys with filling their open job positions for both part and full time employment opportunities. We have students that range from entry level to experienced Paralegals. Paralegals are not permitted to practice law, which means they cannot give legal advice, represent clients in court, set a legal fee or accept a case. All RCC students are trained to work virtually and proficient in virtual computer programs. Contact Amy Hurwitz-Placement Coordinator at (845) 574-4418 or email at [amy.hurwitz@sunyrockland.edu](mailto:amy.hurwitz@sunyrockland.edu)

**MUNICIPAL ATTORNEY**

**Feerick Nugent MacCartney** (South Nyack) seeking NYS admitted attorney with 2-3 years experience, interest in local government, municipal, labor law. Full-time, requiring attendance at municipal nightly meetings. Starting salary is \$120,000 to \$150,000 - higher starting salary commensurate with experience. Benefits available.

Email resume: [shannond@fnmlawfirm.com](mailto:shannond@fnmlawfirm.com)

**Part Time Paralegal / Legal Assistant**

In person and/or virtual; Surrogate filings personal injury matters; complex personal injury matters; salary commensurate with experience.

Contact: [jeff@injurylaw-ny.com](mailto:jeff@injurylaw-ny.com)

**YOUR AD HERE!**

Are you looking to hire an attorney, paralegal or office staff?

Are you looking for new positions?

RCBA Members can advertise here for free (up to 50 words)

**IMMIGRATION ATTORNEY WANTED**

Rockland County, law firm is seeking a full time associate with immigration experience. Trial experience, Spanish speaking, admitted to SDNY and willingness to assist with bankruptcy and loan modifications a plus. Starting salary range is \$55,000.00 to \$85,000.00+.

Call 845.639.4600 or fax resume to 845.639.4610 or

E-mail: [michael@demoyalaw.com](mailto:michael@demoyalaw.com) .



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