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Barbara Silverstone-Editor

# ROCKLAND COUNTY BAR ASSOCIATION **NEWSBRIEF** www.rocklandbar.org

**President's Post** 

After much anticipation, the RCBA is excited that our 130<sup>th</sup> Anniversary Gala is right around the corner! Beyond the corner is the "View on the Hudson" in quaint Piermont Village where we will celebrate on October 26<sup>th</sup> at 6:00 PM, beginning with an elaborate cocktail hour. How fortunate are we that the Chief Judge of the Court of Appeals, Hon. Rowan D. Wilson, will be our Guest of Honor. Awards will also be presented to Ms. Nikki Hines, President of NAACP – Nyack Branch, and Michael Bongiorno, Esq., our former District Attorney.

Certainly, this will not be a typical event. Don't expect a staid and constrained atmosphere. To the contrary, our pre-dinner cocktail gathering is always a time to network with the bench and bar. For those of you who are into swing and jazz, there will be entertainment by the well-regarded Ahlfabet Swing Group, featuring the Harrow Sisters. I've heard them perform before. You will be in for a treat.

So please join with your colleagues and members of the judiciary from our Village, Town, County, Supreme and Appellate Division Courts throughout the Ninth Judicial District and beyond in celebrating our milestone 130<sup>th</sup> Anniversary. I am not sure what stone, if any, commemorates a 130<sup>th</sup> anniversary. Perhaps it is kryptonite? RCBA has come a long way since 1893 when it was established over lunch or dinner when our founders, Alonzo Wheeler, Esq. and Abram Demarest, Esq. broke bread at the Hotel St. George in Nyack. The building is still standing and the owner is letting us gather there sometime at the end of this year to celebrate and perhaps reenact our birth. It's hard to imagine that annual dues in 1893 were \$1.

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Don't miss the opportunity to be part of RCBA's history by placing an ad in our Souvenir Journal. Our successors may consider it a collector's item 130 years from now. Promote your firm and congratulate the Honorees. In unity there is greater strength for our Association. So contact our offices at <u>office@rocklandbar.org</u> or call 845-634-2149 if you do not have the material needed to place an ad.

Our 130<sup>th</sup> Anniversary composite photo is being finalized. It will be displayed in the Courthouse. We anticipate a public unveiling on October 26<sup>th</sup> as it is nearly finalized.

What a recently informative and interesting lunch it was with our newly appointed Court of Claims and Acting Supreme Court Justice, Hon. David Fried. Thanks to Sheriff Louis Falco for allowing us to continue to have lunch with our judges at the Sheriff's Training Facility. Those in attendance were impressed with Judge Fried's philosophy, temperament, suggestions and openness. He strives to promote a transparent and meaningful relationship with all who appear before him.

As a member of the Ninth J.D. Access to Justice Pro Bono Subcommittee, we are in the process of establishing a Pro Bono Committee at RCBA. Thanks to the Hon. James Hyer for his leadership in promoting Access to Justice in our District. RCBA is in need of pro bono attorneys to handle matters presently not serviced by our Legal Aid Society or Legal Services of the Hudson Valley. Volunteers are especially sought in the areas of Consumer Debt, Elder, Estate, Family and Landlord/Tenant law. Please reach out to our Executive Director, Dr. Nancy Low-Hogan, (nancy@rocklandbar.org) and join with us in a commitment to handle pro bono matters from time to time. Personally, I believe that we have an obligation to give back what our profession has allowed us to achieve.

Finally, some words of reflection as I sit alone in my office. There is no right or wrong way to be an attorney, aside from adherence to ethical standards. Obviously, there are differences in personalities, style and temperament. This is true both in and out of the courtroom. My advice is for us to be ourselves consistent with who we are and not imitate by stepping into someone else's shoes. We must adapt not adopt. Recognizing traits and styles that one finds appealing and integrating them into your own mindset and being is preferable. Remember, there is no lawyer like you. You are the only "you" and you can only be yourself. When you copy someone else, you lose authenticity. This is true in both legal writing as well as in advocacy.

#### ...Continued

Our personalities encompass a wide, rich spectrum. Find out where you are on life's personality spectrum and then embrace your inner self, feeling comfortable and loving who you are. Knowing this, then be motivated by a work ethic where you are fueled by what is right for your client, what he or she wishes to achieve, divorced from your own expectations. If our clients know that we really care about them, and devote time, effort and attention in serving their best interests, this will engender long term goodwill. Goodwill is the catalyst for growth of our practices. Clients are more likely to recommend attorneys who care about them, who work diligently and with passion on their behalf. I once received some advice about calling clients over the weekend or in the evening when you need to discuss something about their matter. Those who you represent will be impressed thinking "wow, my attorney called me on a Sunday or at 9:00 on a Thursday evening, I am cared about, I am thought about, my matter is being handled".

Now for some armchair advice when in the courtroom. Treat everyone in the Courthouse with both respect and kindness. This, if authentic, will create a better litigation environment. Engage in conversations with stenographers. Ask them how they are doing before the trial commences. Do the same with clerks. Be kind to court officers. You might ask them if they'd like a cup of coffee on the way back from lunch. Whether it's a custodian mopping the floor, or a law clerk, everyone in our courthouses should be treated with dignity. Kindness and caring will go a long way. The blustering, braggadocio attorney is a relic of the past. Empathy and compassion are far more important, whether summing up to a jury or coming into court on the first day.

I hope to see many of my colleagues and much of the judiciary at our landmark Gala on October 26 to pay honor to our Chief Judge while celebrating our milestone anniversary

Sincerely, Robert (Rob) L. Fellows, Esq.— President



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### THE PRACTICE PAGE THE DISCOVERABILITY OF SURVEILLANCE VIDEOS Hon. Mark C. Dillon \*

This column addresses the rules that pertain to the disclosure of *sub rosa* surveillance videos. Typically, surveillance videos are taken by investigators retained by defendants to surveil personal injury plaintiffs who may or may not be performing physical activities contrary to the limitations they claim in their litigations. Indeed, a videotape that impeaches a plaintiff's sworn deposition or trial testimony can be quite damning in the eyes of a jury.

The bar's attention is directed to the opinion rendered in the case of *Pizzo v Lustig*, 216 AD3d 38 (2<sup>nd</sup> Dep't. 2023). The plaintiff in *Pizzo* sought damages for personal injuries allegedly incurred as a result of a two-vehicle automobile accident. The plaintiff claimed that the serious injury threshold was met by virtue of significant limitations and permanent consequential limitations as recognized by Insurance Law 5102(d) and 5104. Videotapes of the plaintiff performing activities inconsistent with his litigation claims could be not only probative, but potentially dispositive. The defendant's insurance carrier hired an investigative agency, ISG, to undertake *sub rosa* surveillance of the plaintiff. ISG videoed the plaintiff on a total of eight occasions, the first prior to his deposition, the second a mere two minutes after the plaintiff's deposition concluded, and on six other post-deposition dates between June 25, 2020 and December 20, 2020.

Complicating matters, the plaintiff had served a notice for discovery and inspection as early as January 11, 2019 demanding, *inter alia*, the production of photographs, motion pictures, and films of the plaintiff. Moreover, the Supreme Court had rendered a preliminary conference order dated September 27, 2019 directing the disclosure within thirty days of *inter alia* surveillance videos. The one video of the plaintiff that preceded his deposition was not disclosed within the timeframe contemplated by the court's conference order.

Prior to the filing of the note of issue, the plaintiff moved for summary judgment on the issue of threshold injury. The motion prompted the defendant to disclose its eight videotapes of the plaintiff and ISG's reports regarding them, and thereafter sought to use them to refute the plaintiff's claims of significant and permanent consequential limitations as defined by the Insurance Law. The disclosure was roughly three months after the last of the videos had been obtained. The plaintiff then moved to preclude the videotapes on the ground that they were untimely disclosed and in violation of the initial discovery demand and court-ordered deadlines. The Supreme Court denied preclusion of the videotape evidence and separately denied the plaintiff's motion for summary judgment. The court's determination was modified on appeal to the extent of precluding the use of the nine-second videotape of the plaintiff acquired *prior* to his deposition, but affirmed the

#### ...Continued

use of the post-deposition videos.

Here is the reasoning: The pre-deposition video should have been precluded as the Court of Appeals had held in *Tai Tran v New Rochelle Hosp. Med. Ctr.*, 99 NY2d 383, 388-90 (2003) that surveillance video must be disclosed prior to a party's sworn testimony, consistent with the requirement of CPLR 3101(i) that there be "full disclosure" to prevent unfair surprise to a party. The defendant in *Pizzo* had even conceded that the pre-deposition video of the plaintiff was subject to preclusion. However, nothing in CPLR 3101(i), which governs the disclosure of surveillance video, prevents the acquisition of post-deposition video, and the statute itself imposes no hard-and-fast deadline for the videos' post-deposition disclosure. Trial courts may therefore exercise discretion in regulating videotape disclosure issues (*Polakoff v NYU Hosps. Ctr.*, 176 AD3d 613, 614), subject to their additional discretion to manage their calendars and determine whether to preclude evidence for the violation of discovery orders under CPLR 3126(2) (*Jenkins v Photo Prop. Servs., LLC*, 54 AD3d 726, 726-27). CPLR 3101(h) recognizes that disclosure is a continuing obligation. But in the realm of surveillance, the piecemeal disclosure of each separate videotape would defeat the purpose of further surveillance, as it might incentivize certain plaintiffs to then act differently, hide abilities, or exaggerate movements for the hidden camera, inconsistent with the truth-finding function of the trier of fact. Parties who acquire post -deposition videotapes may therefore disclose them together rather than on a piecemeal basis.

In *Pizzo v Lustig*, which was introduced to the reader in the first paragraph, the trial and appellate courts declined to preclude the *post*-deposition videos as their disclosure occurred before the filing of a note of issue while discovery was still open, not long after the latest tape had been obtained, and as the plaintiff failed to establish prejudice from the timing of the disclosure. But the appellate court warned that the opinion not be construed to suggest that post-deposition videotape may never be precluded. These cases are fact intensive. The disclosure of *sub rosa* videotape should not be held off for too long. Counsel with surveillance materials subject to CPLR 3101(i) should therefore proceed deliberatively and with caution to comply with the spirit and intent of CPLR 3101(i).

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





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#### **COMMERCIAL LITIGATION ISSUES OF INTEREST** Submitted by Joseph Churgin, Esq. and Susan Cooper, Esq.\*

Your client failed to appear in a civil action for monetary damages. The summons was served at the address of your client maintained on file by the Department of Motor Vehicles. However, your client never received the summons because he no longer lived at the former address. You opposed the plaintiff's motion for default judgment by submitting your client's affidavit and arguing that failure to file a change of address with DMV, as required by Vehicle and Traffic Law 505(5), does not estop your client from contesting that he resided where the summons was served. You cited cases holding that estoppel requires more than simply failing to notify the DMV of an address change. The plaintiff disagreed, citing cases from the Appellate Division, Second Department, which suggest that estoppel is mandatory for failure to comply with VTL 505(5).

Will your client be able to contest service at his former address?

The answer is yes.

In *Castillo-Florez v. Chalecius*, NYLJ 1694699111NY202003344 (2d Dep't, September 13, 2023), case No. 2020-03344, the defendant, a driver involved in a motor vehicle accident, did not appear in the action. Plaintiff moved for default judgment based on an affidavit of the process server with proof that the defendant was served at the address maintained by the DMV. The defendant disputed proper service, claiming he no longer lived at the address where the summons was served. The motion for default was granted by the Supreme Court, Queens County.

On appeal to the Appellate Division, Second Department, the Court stated that the question presented on appeal was whether the failure to timely notify DMV of a change of address, *standing alone*, estops a defendant from contesting service of the summons at his or her former address. The question arose due to conflicting cases in the Appellate Division, Second Department, as well as in the other departments.

The Court examined the history of case law challenging the propriety of service under CPLR 308. The Court cited *Feinstein v. Bergner*, 48 N.Y.2d 234 (1979), which held that a defendant may be precluded from

#### ... Continued

challenging the propriety of service at an incorrect address where, for example, a defendant willfully misrepresents his or her address, or engages in conduct calculated to prevent the plaintiff from learning his or her actual place of residence, and noting that "potential defendants ordinarily have no affirmative duty to keep those who might sue them abreast of their whereabouts" (*id.* at 241-242).

The decision goes on to examine a litany of Second Department cases, including cases with affirmative misrepresentations of address at the accident scene. In one such case, *Hill v. Jones*, 113 A.D.2d 874 (2d Dep't 1985), the Court conceded that the decision "suggested" that violation of VTL 505(5), by itself, would be a sufficient basis to preclude the defendant from contesting service. In later Second Department cases, the decisions state that a party who fails to comply with VTL 505(5) "will" be estopped from challenging the propriety of service at the former address. And in some cases, the defendants were estopped based on 505(5) without any indication of conduct designed to avoid service. The Court also cited cases from the Fourth Department going both ways, and noted that cases from the First and Third Departments often use language indicating that estoppel is mandatory where a defendant fails to notify DMV of an address change.

The Court noted that "certain of this Court's jurisprudence in this area drifted from the original intent of Feinstein." The Court held that "the mere failure to update one's address with the DMV, standing alone, does not automatically equate with a deliberate attempt to avoid service and warrant estopping a defendant from challenging the propriety of service at a former address. To the extent our prior decisions, including those previously cited herein, conflict with this principle, they should no longer be followed for that proposition."

The Court held that the defendant sufficiently rebutted the presumption of proper service raised by the affidavit of service. In the absence of any evidence that the defendant affirmatively misrepresented his address to the plaintiff or the police, a hearing was nonetheless required on the defendant's claim by affidavit that he resided at a different address. The case was remitted to the Supreme Court for a hearing to determine whether the defendant was properly served with process, followed by a new determination of the motion for default.

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*The lesson?* On a default application, where service is not by personal delivery, or by a person of suitable age and discretion where the recipient is not a family member, confirm the home address through multiple sources. Do not rely only on DMV records that can be stale.

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



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#### **REPORT FROM THE ABA ANNUAL MEETING**

The American Bar Association held its 2023 annual meeting in Denver, Colorado from August 2, 2023 through August 8, 2023. At the General Assembly, Fred Gray was presented with the Association's highest award – the ABA Medal. Mr. Gray, a noted civil rights attorney, has been lead counsel in numerous famous cases. He represented Rosa Parks when she refused to yield her bus seat to a white man. He was the legal strategist for the Montgomery, Alabama Bus Boycott. He represented many of the victims of the infamous Tuskegee Syphilis Study.

The interview of this famous 91 year old legend by ABA President Deborah Enix-Ross was a special event. His insight into many of the matters we consider to be history was powerful and informative. He is still, amazingly, practicing law.

The House of Delegates meetings were held on August 7, 2023 and August 8, 2023. Early on the first day, we were honored by the appearance of U.S. Attorney General Merrick Garland. Appropriately, he said nothing about the 500lb gorilla in the room – the prosecution of former President Donald Trump. Instead, he detailed what the Justice Department is doing on an international basis to spread the Rule of Law worldwide. He talked about how the United States is training others to prosecute, and itself prosecuting war criminals. He paid close attention to what should happen in this area after the war in Ukraine. He related all of these issues to the current practice of law here in America. Somehow, he made these worldwide issues relevant to the average attorney.

Fifty-two (52) resolutions were presented to the House of Delegates for consideration. Of those, nine (9) were handled on the consent calendar and five (5) were withdrawn. This left thirty-eight for debate and vote. To me, two (2) specific resolutions stand out.

The first resolution was number 100 which called for modification of the Model Rule 1.16 dealing with an attorney's responsibility to decline or terminate representation. The resolution directs that lawyers must inquire about and assess future and ongoing representation of a client in order to not become or be involved in a client's unlawful or corrupt activities. It sounds appropriate until you delve into how it would work in real life situations.

The overall purpose of the resolution was two-fold. First, to prevent lawyers' involvement in money laundering, funding of terrorist activity and human trafficking throughout the world. Secondly, to prevent the Treasury Department from issuing rules applicable to attorneys in this area. Lawyers are now and forever have been governed by their State not various federal agencies. The fear of Federal regulation of lawyers (similar to banking institutions) prompted much support for the resolution.

In all my years on the ABA House of Delegates, this was the most debated and argued resolution. There was a motion to postpone the vote indefinitely, there was a motion to amend the resolution. There were three (3) applications to call the questions (one on each motion and on the resolution itself) in order to finalize debate. There were numerous speakers on each side of the issue. I voted against the resolution at every opportunity.

Although the purposes of the resolution were listed as helping to prevent money laundering, funding terrorist activity and prevent human trafficking, the language of the resolution was generic. Was the potential activity of the client to "commit a crime or fraud"? Also, the text required inquiry by the lawyer, not simply assessment of the task he is being hired to work on. This leaves the attorney open to serious problems of ethical rule violations and liability for not questioning and investigating sufficiently (think malpractice insurance and what your carrier will soon demand). Can the attorney be held liable for injury to a third party caused by the client's acts if the required inquiry is found insufficient?

A short example is appropriate. Say a former client who owns a bodega in the Bronx calls me to handle his divorce. He pays a \$5,000.00 retainer in cash. I know his business works primarily in cash transactions. Under the new rule, do I have to inquire as to whether he is paying his sales tax on the money he earned? Do I have to inquire whether he is reporting the money on his income tax returns? If I do so inquire, I would hope the client will give me the opportunity to say goodbye as he leaves my office.

The resolution needed to be tailored to meet its goals. Make is applicable to a sense by the attorney that the client may be laundering money, helping to fund terrorist activities, or supporting human trafficking.

This is one case where the ABA failed to consider the impact of its actions on the average attorney. The resolution passed. Luckily, the model rules are suggestive. We need to fight this if New York State feels the need to add this to the ethical standards required for New York attorneys.

The second resolution I wish to note was number 522, which called for law schools to include an "Indigenous People's Day" as a holiday on its calendar <u>in place of</u> Columbus Day. Creating a holiday honoring the contributions to our society by indigenous peoples is a wonderful idea, but not at the expense of a holiday whose purpose is honoring the contributions of Italian Americans.

Columbus Day is more than a credit to Columbus for "discovering America" (a historical issue which is now widely debated). It is a celebration of Italian American Heritage and has been so for hundreds of years. The holiday has become controversial based upon current historical research into Columbus's actions. However, the purpose of the holiday goes beyond that one issue or question.

We can point to something in the history of all groups that may not be a shining example of moral behavior. This resolution's focus on certain historical issues about Columbus ignores the current meaning of the holiday to many people, which is very positive. Why must the resolution be moved as a zero sum game? Do we have to downplay one group's contributions as we honor another group's contributions?

The resolution passed. I voted against the resolution because I felt it ignored what Columbus Day means today to the Italian American community and all who celebrate it. This resolution opens the door to a series of resolutions doing away with any holiday set out to honor the contributions to our country of various peoples based upon their worst activity only.

You can review all reports and resolutions on the House of Delegates website at the ABA. Once again, it was an honor to represent our Association at the meetings.

Respectfully submitted,

Hon. Adam Seiden



# The Committee on Diversity, Equity & Inclusion presents... SPOTLIGHT



In honor of National Hispanic Heritage Month, the DEI Committee shines its spotlight on Alejandra Silva-Exias, Esq.

Thank you so much for talking with me today! We are looking forward to learning a little bit about you in today's Spotlight Interview. Why don't we start with telling us where you grew up? I grew

up in Jackson Heights, Queens and I lived there until I was sixteen years old. Jackson Heights is a very diverse neighborhood filled with many immigrant families who came from all over and settled in our neighborhood. There were over 150 nations represented in my elementary school. I, myself am the daughter of immigrant parents. My father is from Venezuela and my mother is from Colombia. Jackson Heights and its diversity really helped shape my world view.



**Tell us about your Educational Background.** I spent my elementary school years in the NYC Public School System .The last two year of High School I had an opportunity to attend the Academy of St. Joseph,

an all girl's Catholic School. I really enjoyed my time there and found the experience very positive and I thrived socially and academically. Thereafter I attended Vassar College in Poughkeepsie, New York where I earned a B.A. with a major in Sociology and a minor in Hispanic Studies. After college I earned my J.D. from the University of Connecticut School of Law.

**Did you always want to be a lawyer**? Yes and No. Growing up I saw a great deal of injustice and I felt very bitter and discouraged as to how the system worked toward the oppressed and vulnerable people and I thought lawyers were a part of that system. However, when I was in college and majoring in Sociology, I was taught about how the world works and it opened my mind to many possibilities about the world and

I was able to start looking at things from different angles. I initially thought about pursuing a career in

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social work but after college I had moved to Connecticut and worked for Universal Health Care Foundation, which is a policy based health care organization whose mission is to provide universal health care for all people. The president, Juan Figueroa, who was the former president of the Puerto Rican Legal Defense and Education Fund, was a lawyer, and he guided and mentored me onto the legal path. He challenged my thought process of what it truly means to be a lawyer and he inspired me to apply to law school.

Well, this leads us perfectly into learning about your legal career, will you share your journey through your career? Well, after leaving Universal Health Care Foundation, I went to Law School and worked throughout my years in school. As a 1L, I received a Public Interest Law Group Fellowship to work for a local firm during the summer and I worked for Livingston, Adler, Pulda, Meiklejohn & Kelly, P.C., a union-based plaintiff's firm handling union and employment discrimination, theft of wages, and unpaid immigrant workers. While I was only a 1L student, I was bestowed a great deal of responsibly that first summer. Because I am a Spanish speaker, I communicated with all of the Firm's Spanishspeaking clients, helped conference cases with the Firm's partner, with whom I was assigned, as well as calculated unpaid wages while explaining everything to our Spanish-speaking clients. After my first summer concluded, I continued to work for this firm throughout my Law School tenure. After graduation and passing the Bar, in 2010, the economic crisis befell us and many small businesses were downsizing and Livingston, Adler, Pulda, Meiklejon & Kelly, P.C. was unable to hire me on as a full-time Associate. By that time, I became engaged to my now husband, Chris Exias, who was working for Judge Weiner in Rockland County Supreme Court at the time. I was working part-time in an employment law firm in NYC. We were both living in Connecticut and commuting. On my off-days I would commute into New City to the Rockland County Courthouse with Chris and do pro bono work. One day in June 2011, I was in the Law Library reading the Law Journal, looking for a decision that I had drafted on a *pro bono* basis, and I saw a small advertisement for the Legal Aid Society of Rockland County, who happened to be looking to hire an attorney. I applied, interviewed, and received the position of Staff Attorney for Legal Aid representing homeowners and tenants in proceedings before Supreme Court and Town and Village Courts. I stayed with Legal Aid until 2016 when I joined the Rockland County Legislature as their Legislative Counsel. I can thank my networking skills at an RCBA CLE that helped point me in the direction of this new employment opportunity! Policy work has always been very important to me so I was very

interested in a challenging new experience. I stayed with the Legislature until July 2023 when I left to pursue a new exciting professional experience. I am now in private practice. I am Of Counsel to Catina and Mara, PLLC where I represent clients, including Spanish speakers in all areas of civil matters including real estate transactions as well as business and property disputes. It has been a very fulfilling transition into private practice and Laura and Amy have been amazing mentors and friends. This has been an exciting challenge and I am growing as a lawyer and as a person.

Thank you for sharing your professional life with us, can you tell us a little bit about your personal life? I am married to my husband Chris Exias and we have two amazing children, Gabriela, who we call Gabi and she is eight years old and Mateo, who is four years old!

Tell us one of your guilty pleasures. Chocolate. All kinds!

Who is your Inspiration or Hero? My parents are my inspiration. They embody the immigrant experience, having come to this country, leaving everything behind, including their family, culture and language. They were trailblazers and helped other family members come and settle in the U.S. as well. Even though they were not college-educated, they always instilled in me the value of a good education. They were the reason I was able to attend college. They worked 2-3 jobs, helped take out loans and in addition to the scholarships and grants I received, we were able to afford college. It was not easy. I saw how hard they both worked, sometimes 2-3 jobs. I think for my mom, in particular, she wanted her only daughter to have a good education since she was never able to pursue a degree. As a result of their love, support, encouragement and tremendous sacrifice, I became the first lawyer in my family. I can truly say that I stand on their shoulders today.

What is one piece of good advice that you have received/learned? I think that the best piece of advice that I have received recently is that life is short, tomorrow is not promised. We have to make the most of each day and live in the moment and stop worrying so much about the future. As lawyers, our lives are so busy and stressful and sometimes we forget to enjoy the moment. I am definitely trying to be more intentional about enjoying each day to the fullest!

**Is there anything else we didn't cover that you would like the Bar Association to know about you?** Yes. Back in 2018, I took on a pro bono immigration case through Catholic Charities Community Services' Liberty Defense project. CCCS provides mentorship and technical assistance to volunteer attorneys

who represent clients in pro bono immigration cases. I represent a minor child who was detained at the U.S.-Mexico border . I have been able to obtain Special Immigrant Juvenile status for her, get the deportation action dismissed, and I am now waiting to adjust her status with USCIS. It has truly been one of the most rewarding experiences of my life.

I wanted to shed some light on how important it is for members of the bar to volunteer their services, especially in immigration cases, because Rockland is a resource desert for low-cost and free immigration legal services. Right now, there are hundreds of thousands of Venezuelan refugees seeking asylum here in the U.S. and in other countries in the Western hemisphere. More than 7.7 million people have fled Venezuela in recent years, creating the largest displacement crisis in the history of the Western hemisphere. This hits close to home for me considering that most of my family on my father's side is still living in Venezuela and have endured tremendous hardship. I hope that members of the RCBA would consider volunteering in a pro-bono immigration case. If you are interested in volunteering, please visit: <a href="https://www.catholiccharitiesnyprobono.org/cases/">https://www.catholiccharitiesnyprobono.org/cases/</a>

#### Thank you!!



We thank our RCBA Supporters. For information on advertising in the Newsbrief, see page 30

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#### Page 19



# Technology Tips for Attorneys submitted by



#### Michael Loewenberg\*

PowerPoint is often seen as a tool for technical professionals, but it can be just as useful for non-technical attorneys. In fact, PowerPoint can be a powerful way to communicate complex legal concepts to a variety of audiences, from clients to judges to juries.

If you're a non-technical attorney who's new to PowerPoint, or if you're looking for ways to improve your PowerPoint skills, here are a few tips:

1. <u>Keep it simple</u>. One of the most important things to remember when creating a PowerPoint presentation is to keep it simple. Avoid using too much text or too many complex visuals. Instead, focus on using clear and concise language and images that are easy to understand.

2. <u>Use visuals to tell your story</u>. Visuals can be a great way to engage your audience and make your presentation more memorable. When choosing visuals, be sure to select images that are relevant to your topic and that will help to illustrate your points.

3. <u>Practice</u>, <u>practice</u>. The best way to ensure that your PowerPoint presentation is successful is to practice delivering it beforehand. This will help you to identify any areas where you need to improve and to make sure that you stay within your allotted time.

Here are three examples of how attorneys can use PowerPoint in their work

1. Client presentations – PowerPoint can be a great way to give presentations to clients. For example, you could use PowerPoint to:

• Explain a complex legal concept to a client in a way that is easy to understand.

- Walk a client through the steps involved in a legal process.
- Present a case to a client and explain your strategy for winning it.

When creating a PowerPoint presentation for a client, be sure to tailor it to their specific needs and interests. For example, if you're presenting to a client who is not familiar with the legal system, you'll need to explain things in more detail than you would to a client who is more knowledgeable.

2. Courtroom presentations

PowerPoint can also be used to give presentations in the courtroom. For example, you could use PowerPoint to:

- Present evidence to the jury.
- Summarize your case to the judge or jury.
- Give a closing argument.

When creating a PowerPoint presentation for the courtroom, it's important to be mindful of the rules of evidence. For example, you may not be able to use certain types of visuals, such as animations or videos. You should also check with the judge to see if there are any specific requirements for courtroom presentations.

3. Training presentations

PowerPoint can also be used to give training presentations to colleagues or clients. For example, you could use PowerPoint to train new employees on the legal procedures of your firm or you could use PowerPoint to give a presentation to clients on how to avoid certain legal problems.

When creating a training presentation, be sure to focus on the needs of your audience. What do they need to know? What information will be most helpful to them? Tailor your presentation accordingly.

Here are some tips for creating effective PowerPoint presentations:

- <u>Use a consistent design</u>. Choose a template or theme that you like and stick to it throughout your presentation. This will help to create a polished and professional look.
- <u>Use high-quality visuals</u>. Avoid using low-resolution images or clip art. Instead, use high-quality images, charts, and graphs that are relevant to your topic. You can get royalty-free images you can use at <u>https://unsplash.com</u>
- <u>Use fonts that are easy to read</u>. Avoid using too many different fonts or fonts that are too small or too decorative. Instead, use a simple, easy-to-read font for your text. Think "simple."
- <u>Use white space</u>. Don't overcrowd your slides with too much text or too many visuals. Leave some white space on your slides to make them easier to read and more visually appealing.

<u>Practice</u>, <u>practice</u>! The best way to ensure that your PowerPoint presentation is successful is to practice delivering it beforehand.

PowerPoint can be a powerful tool for attorneys. By following the tips above, you can create PowerPoint presentations that are clear, concise, and engaging.

\*Michael Loewenberg is the President of MESH Business Solutions, Inc., New City, NY, 10956 and he is also an Affiliate Member of the RCBA.



Lunch With a Judge – Hon. David Fried, AJSC On September 21 members of RCBA had the opportunity to meet with Hon. David Fried, AJSC, Judge of the New York State Court of Claims and Rockland County Supreme Court.









# RCBA CARES





In Rushing Woman's Syndrome, Dr. Libby Weaver meanders through all of the mental, physical, and emotional aspects of women's health, and explains why a "rushing" lifestyle can be problematic. She offers incredible insight into how women can better support their health - in all aspects - from eating right, to supporting their hormones, to behavioral changes, to their perceptions. Her ultimate aim is to help women realize that their bodies are designed to optimally work, so long as they are nourished properly and the pace of life is slowed down to meet their biological design.

# LOCAL EVENTS

Bear Mountain Oktoberfest Weekends beginning 9/30 through 10/22 Anthony Wayne Recreation Area Bear Mountain, NY 10911 Enjoy food, drinks, live music and fun for the whole family!

The Great Jack O'Lantern Blaze Open evenings from 9/15 through 11/19 Van Cortlandt Manor Croton-on-Hudson, NY 10520 Check out the beautiful pumpkin displays!





### PODCAST RECOMMENDATIONS:

- Criminal (Vox Media Podcast Network)
  o Hosted by Phoebe Judge
- Be the CEO of your Life and Business
  Hosted by Laura Catina and Amy Mara
- Amicus (Slate Podcasts)
  Hosted by Dahlia Lithwick
- How to Be a Better Human (TED Audio Collective)
  Hosted by Chris Duffy

### THE ROCKLAND COUNTY BAR ASSOCIATION WELCOMES THE FOLLOWING NEW MEMBERS WHO HAVE JOINED SINCE AUGUST 2023

Yaniris Castillo	Spencer Littman, Esq.
Clare Cincotta, Esq.	Elena Markos
Krystina Drasher, Esq.	Laurie McDermott, Esq.
Joseph D'Urso, Esq.	Patricia Monroe, Esq.
Jessica Fein, Esq.	Daniella Presser, Esq.
Tanya Gayle, Esq.	Walter Sakowski, Esq.
Jessica Horvath – Affiliate Member	Christopher Waters, Esq.

#### We look forward to seeing you at our many CLE Programs and at the

#### **Annual Dinner in October!**

## RENEW YOUR RCBA MEMBERSHIP NOW!

Renewal notices have been emailed to all members for the 2023-24 membership year. Annual Dues for regular Members are \$185.00

Please make sure your contact information is correct and let us know your practice area and if you'd like to serve on any committees.

<u>Renew and pay online</u> or send in the Renewal Form with your check. After October 15, 2023 the dues amount increases to \$200.00!

Don't miss out on the benefits of RCBA Membership

\*CLEs\* Lawyer Referral Service \* Practitioners Chats\* Monthly E-Newsletter\* Rockland Bar CARES\*

If you have any questions about your Membership, please contact Barbara Silverstone, Program Coordinator, at <u>Barbara@rocklandbar.org</u>, or call Barbara at 845-634-2149.

Are you looking for more clients? 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, longt erm care

**Intellectual Property** 

Landlord Tenant Law, including residential and commercial

Legal Malpractice

**Zoning Law** 

Visit our <u>webpage</u> or contact office@rocklandbar.org for more information and an application.

### Odyssey, our Member's Literary Corner

In this space, Members can share their personal literary works,

including poems and short stories.

We hope to publish one Member's submission each month in Newsbrief. *Odyssey* is a space for our Members to showcase their literary talents—because there is more to an attorney's life than work, and so much more to share with each other.

#### The Orange Drum

The drum is struck. Colors pour from the glass into waves, and into bright shadows. The sun etches sound in the walls. His orange eyes devour the light, flowing through valleys with rivers of white.

> To be the eyes of memory, I hope he sees what I can see -the sound of light that he can be, when he strikes the drum with me.

Submitted by Stan Sharovskiy, Esq.

# **Attorney Well-Being**

# Symposium

Wednesday, October 11, 2023 5:30 - 8:00 p.m. CLE & Panel Discussion followed by a Networking Reception

# **CLE Credit: 1.5 Law Practice Management**

Tudor Room Elisabeth Haub School of Law at Pace University 78 North Broadway, White Plains, NY

> FREE for All to Attend Sponsorships are available!



#### **REFERRAL SERVICE MEMBERS—Have you noticed a change?**

We're now able to email the referral to you immediately. This can let you know that a potential client has been referred to you by the RCBA, often even before they call you. We know that some of you want the referral sent to more than one address and we're working out the process to be able to do that.

Thank you for your particiyer Referral Service!



pation in the RCBA Law-

# RCBA IS LOOKING FOR ADVERTISERS AND SPONSORS FOR 2023-24

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Who are your favorite vendors?

Do you work with a process server, private investigator, translator, title company or court reporting company?

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 <u>Newsbrief</u>, or sponsor one or more CLE programs or special events.

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

Contact Barbara at Barbara@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 busi-

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845-634-2149

RCBA DUES ARE NOW DUE! Please pay your 2023-2024 DUES today if you have not done so already! Click <u>here</u> to renew today! Thank you for your membership



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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 \$75.

#### **PLEASE NOTE:**

#### **NEWSBRIEF IS NOT PUBLISHED IN JULY**

CALL BARBARA @ 845-634-2149 or send email to Barbara@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

## **PLAN YOUR YEAR OF CLEs NOW!**

#### **COMING THIS FALL**

#### A SERIES ON SURROGATE'S COURT PRACTICE

Part 1 was held on September 12,; Part 2 will be on October 10 and part 3 in November. 12:30 p.m. - 2:00 p.m. on Zoom.

Register here.

#### SURVEYS

November 2. This 2 hour course will be held in person. Time and location TBD

#### THE ART OF MEDIATION

November 15. This one hour course will be held on zoom. 12:30 p.m. - 1:30 p.m.

#### Watch your emails for additional information and registration

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

The Rockland County Bar Association is an approved CLE provider for live, videoconference and webconference participation

# **CLE REQUIREMENTS**

#### **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.

#### **NEW CLE REQUIREMENT - CYBERSECURITY:**

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 <u>CLE Program Rules 22 NYCRR 1500.2(h)</u> and clarified in the <u>Cybersecurity, Privacy and Data Protection FAQs</u> and <u>Guidance document</u>. 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.

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

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.

See CLE Program Rules 22 NYCRR 1500.22(a).

Effective July 1, 2023 - Change to Newly Admitted Attorney CLE Requirement to Include One Credit Hour in Cybersecurity, Privacy and Data Protection: Newly admitted attorneys whose admission to the NY Bar is on or after July 1, 2023 must complete at least 1 CLE credit hour in Cybersecurity, Privacy and Data Protection as part of their CLE requirement. *See* CLE Program Rules 22 NYCRR 1500.12(a).

Attorneys may apply a maximum of three (3) credit hours of cybersecurity, privacy and data protectionethics 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.

# CLE UPDATE CYBERSECURITY REQUIREMENT

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 <u>CLE Program Rules 22 NYCRR 1500.2(h)</u> and clarified in the <u>Cybersecurity, Privacy and Data Protection FAQs</u> and <u>Guidance document</u>. 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.

Effective July 1, 2023 - Change to Experienced Attorney Biennial CLE Requirement to Include One Credit Hour in Cybersecurity, Privacy and Data Protection: Experienced attorneys due to re-register on or after July 1, 2023 (birthday is on or after July 1st) must complete at least 1 CLE credit hour in Cybersecurity, Privacy and Data Protection as part of their biennial CLE requirement. *See CLE Program Rules 22 NYCRR 1500.22(a)*.

Effective July 1, 2023 - Change to Newly Admitted Attorney CLE Requirement to Include One Credit Hour in Cybersecurity, Privacy and Data Protection: Newly admitted attorneys whose admission to the NY Bar is on or after July 1, 2023 must complete at least 1 CLE credit hour in Cybersecurity, Privacy and Data Protection as part of their CLE requirement. *See <u>CLE Program Rules 22</u>* NYCRR 1500.12(a).

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



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# **COMMITTEE CORNER**

The Rockland County Bar Association has twenty-six active committees, plus several *ad hoc* committees. Our Members participate by joining the committees of their choosing, and they volunteer their time and expertise for the good of the Bar Association, their colleagues and the public.

The available committees are: Assigned Counsel, Commercial and Corporate Law, Condominium and Coop, Continuing Legal Education, Criminal Law, Debt Collection, Bankruptcy and Creditors' Rights, Diversity, Elder Law, Employment Law, Family Law, Grievance, Immigration, Internship and Mentoring, Judiciary Liaison, Judiciary Review and Screening, Law Day, Lawyer to Lawyer, Membership and Public Relations, Memorials, Mock Trial, New Lawyers and Social Committee, Personal Injury and Compensation Law, Professional Ethics, Real Estate, Surrogate's Court and Estate Planning Practice, Zoning.

Some committees require approval of the Board of Directors; others are open to the entire membership. For more information, or to join a committee, please contact us at <u>office@rocklandbar.org</u>.

#### **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 <u>ianaya@demoyalaw.com</u> and Crismelly at

#### **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.

**Upcoming Meetings:** 

October 4, 2023, 5:00 p.m. The guest speaker will be Hon. David Fried, Judge of the New York State Court of Claims & Acting Justice of the Supreme Court.

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

### **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 <u>Barbara@rocklandbar.org</u> by the 15th of the month so that the Executive Board may review it.

Thank you!









### **CLASSIFIED ADS**

#### ATORNEY POSITION AVAILABLE

**Feerick Nugent MacCartney** (South Nyack) seeking NYS admitted attorney with at least 18 months experience with interest in local government, municipal and labor law. Position is full-time, requiring attendance at nightly municipal board meetings (Town/Village). Benefits available. Starting salary depends on applicant's qualifications - \$90,000 to \$120,000. Will consider higher starting salary commensurate with experience. To apply, contact Shannon at

#### shannond@fnmlawfirm.com

#### CONTRACTS/CORPORATE ATTORNEY WANTED

The Bachman Law Firm is seeking a parttime associate attorney to join us 18-24 hours a week. The Ideal candidate has specific experience (5+ years) with corporate and contract matters. Typical projects include corporate mergers and asset purchases, commercial contracts for the sale of goods, services, construction, corporate formation documents, commercial leasing, and commercial real estate sales, purchases and financing. Part-Time Salary \$60,000 -\$90,000 depending on experience and qualifications.

To apply please email a cover letter, resume and answer to the following question: what is your favorite food and why? to

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#### ATTORNEYS SEEKING PARALEGALS

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@sunvrockland.edu

#### PERSONAL INJURY FIRM SEEKING PAR-ALEGAL

Nursing Home and Personal Injury Litigation; Knowledge of surrogate practice a plus Part Time; In Person and Remote. Contact: jeff@injurylaw-ny.com

#### **OFFICE SPACE AVAILABLE**

The Stevens Law Office in the heart of Suffern has available office space including access to conference room. Rent and terms are flexible depending on level of services needed.

Possible over-flow 'of counsel' work. Could be a good opportunity for a lawyer beginning his or her independent practice. Call Kevin @845-357-9144,or email: <u>kevin@kstevenslaw.com</u>.

#### **OFFICE SPACE AVAILABLE**

Fully furnished, newly renovated, single office rental in my Suite at <u>10 Esquire Rd. Suite 10, New City</u>, for \$450 per month inclusive of everything and free WiFi. No security required. Can be a month to month arrangement.

Please contact David Castagna, Esq. at (845)-638-2889.



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