

44TH NOTES



PRESIDENT'S COLUMN

BY ROGER JUAN MALDONADO



"Conscious Mentoring"

I have recently been engaged in discussions with colleagues at my firm and at the New York City Bar Association regarding the role that partners and experienced attorneys should play in mentoring newer attorneys in their firms, corporations, and organizations, especially when, as is true for me, the experienced attorneys plan on continuing to work actively in their organizations past the once-expected retirement age of 65.

I enjoy the practice of law as a commercial litigator. I look forward to arguing motions and appeals and examining witnesses at trials, depositions, and hearings. I hope to continue to do so for some time to come. But for each such experience I have, there is a less-experienced lawyer in my firm who will *not* get the chance to conduct the argument or examination. Although there is much that an associate can learn from assisting a partner to prepare for an appeal or watching a partner cross-examine a witness, there is no substitute for being given the opportunity and responsibility to argue the appeal or examine the witness on one's own.

Above all, in bringing along the next generation of lawyers, particularly ones about whom we may have blind spots, it comes down to each of us.

So, when is it appropriate for lawyers of my generation who are still actively practicing to cede the "starring role" to an associate who has not yet argued an important appeal in federal or state court? How do we explain the determination to do so to the client who is expecting our firm to do the best it can to achieve the best result attainable? And how do law firms whose partners are primarily white males ensure that a diverse group of up-and-coming associates gets these opportunities?

The answers to these questions all begin with the requirement for partners and senior attorneys to always be looking to provide each of the younger attorneys in their firms and organizations the support and opportunities they need to succeed. This means spending time (that we may not be able to bill) to show younger attorneys what must be done to prepare for a hearing or oral argument. It means that we must bring these younger attorneys to client meetings and let them take responsibility for at least part of the presentation.

The idea is to do what is necessary so that the client *wants* us to give the younger attorney the opportunity to argue in court and conduct the examination because it will be more efficient economically and just as likely to achieve a good result. We should be looking to ensure that once we do decide to retire or greatly reduce our practice, there already is in place a cadre of attorneys who are well-qualified to take our places.

There is much we can do at the City Bar, as well. The City Bar's Professional Development Workshop Series and its Associate Leadership Institute are two programs designed to help lawyers transition to more senior roles, with the latter program – run by our Office for Diversity and Inclusion – recently receiving the 2018 ABA Partnership Award. Further, I was delighted to hear from one of our committee chairs that his committee dedicates a meeting each year to "Mentor/Mentee Day," where the mentee makes a presentation to the committee. We've made it easier than ever for younger lawyers to join a committee by expanding affiliate committee membership (which allows a committee to have one voting and one non-voting member from the same organization). Our committee chairs should be looking for opportunities to appoint junior and diverse members of their committees to lead subcommittees that will organize programs or draft reports.

I encourage partners and senior attorneys who are City Bar members to bring their newer lawyers to events here and to support their efforts to become engaged themselves. I was pleased to see that when former Secretary of Homeland Security and longtime City Bar member Jeh Johnson spoke here last fall, he did just that.

Above all, in bringing along the next generation of lawyers, particularly ones about whom we may have blind spots, it comes down to each of us. We need to put our minds to cultivating mentorship and sponsorship of our less experienced colleagues. It requires a kind of vigilance, a patrol of one's mind, if you will, for unconscious bias and for self-interest that may lead us to put our own status and placement ahead of the advancement of our more junior colleagues. Because if we don't pay attention to this, we will do a great disservice to the profession and to those who will represent the profession twenty years from now. Each of us must accept that a significant part of our proper role is to engage continuously in "conscious mentoring."

CITY BAR SPOTLIGHT

ASSOCIATION MEDAL AND PORTRAIT UNVEILING FOR HON. SONIA SOTOMAYOR

On March 7, the New York City Bar Association presented its Association Medal to United States Supreme Court Justice Sonia Sotomayor, and unveiled a portrait of her (see cover) that will hang in the Great Hall next to portraits of Supreme Court Justices Thurgood Marshall and Ruth Bader Ginsburg. Watch a video of the evening here: http://bit.ly/2Cbgu2e



Flanking Justice Sotomayor are City Bar President Roger Juan Maldonado and Hon. Kiyo A. Matsumoto, U.S. District Court, Eastern District of New York, and Chair of the City Bar's Honors Committee. Portrait: Jamie Lee McMahan | Photos: J. McClinton



Honoring Justice Sotomayor (third from right) were, from left: Hon. Kiyo Matsumoto; Cristen Callan, White & Case LLP; Roger Juan Maldonado; Hon. Jenny Rivera, New York State Court of Appeals; and Melissa Colón-Bosolet, Sidley Austin LLP.



CELEBRATING THE LEGAL LUMINARIES OF HBCUs

On February 26, the City Bar celebrated the legal luminaries of historically black colleges and universities (HBCUs), discussed their contributions to the legal profession, and honored former New York City Mayor Hon. David N. Dinkins with a special award. Back row, from left: Xavier R. Donaldson (Closing Remarks), Partner, Donaldson & Chilliest LLP; Hon. Milton Tingling (Moderator), County Clerk, New York County; Deborah Martin Owens, Executive Director, Office for Diversity & Inclusion, New York City Bar Association; Ronald S. Douglas, Dean, North Carolina Central University School of Law; Roger Juan Maldonaldo (Welcome Remarks), President, New York City Bar Association; Front row, from left: Hon. LaShann DeArcy Hall, United States District Court, Eastern District of New York; Danielle Holley-Walker, Dean, Howard University School of Law; and Hon. David N. Dinkins. Not pictured: Peter Harvey, Partner, Patterson Belknap Webb & Tyler LLP; and Hon. Darcel Clark, District Attorney, Bronx County. Photo: Roger Archer/Phaats Photos.



COURT SQUARE LAW PROJECT RECEIVES ABA AWARD

The Court Square Law Project, a collaboration of the City Bar, CUNY School of Law and 19 of NYC's leading law firms to provide legal services for clients of moderate incomes, was named the 2019 recipient of the American Bar Association Louis M. Brown Award for Legal Access. The Brown Award recognizes programs and projects that enable affordable access to legal services in ways that are exemplary and replicable for those of moderate incomes. Cynthia Domingo-Forasté (left), Executive Director of Court Square, accepted the Brown Award on behalf of the project at a ceremony on January 25, during the ABA Midyear Meeting in Las Vegas, Nevada. Pictured right: Charles F. Garcia, Chair of the ABA Standing Committee on the Delivery of Legal Services.

EXECUTIVE DIRECTOR'S COLUMN

BY BRET PARKER



ICYMI

I was walking on air coming out of the packed January CLE on "Mindfulness for Lawyers." I even downloaded a meditation app and signed up for a free trial. How forward-looking of all these lawyers to take this course, which promises to improve "focus, productivity, and well-being," and how great that one of the City Bar's newer committees is "Mindfulness & Well-Being in Law." These developments speak to the widespread acknowledgement that wellbeing and "self-care" are indispensable to the effective and efficient practice of law, and they offer an antidote to the smartphone-addiction epidemic plaquing so many of us.

OK, true confession: Since then I haven't used the free trial, but I was inspired to reflect on all the other activities that have been going on over the past few months at the City Bar, and about how so many of them are interconnected and build on one another.

The Pass the Bar Reception in December marked the launch of legal careers for hundreds of soon-to-be-practicing lawyers. For many of them from diverse backgrounds, it was also a culmination of the pipeline process that helped them get there. In January, hundreds of future attendees of pass-the-bar receptions attended the Annual LSAT Prep/Law School Conference put on by our Office of Diversity and Inclusion. And reaching back even younger, several of our committees assembled a panel of education experts to examine the question "Is Desegregation Possible in New York City's Schools?"

Career development never stops at the City Bar, no matter what kind of law you practice or aspire to. Our Small Law Firm Symposium showed hundreds of lawyers how to market their firms and run them

more efficiently, and two programs offered indispensable advice and networking for lawyers interested in becoming judges. One featured U.S. magistrate judges from the Southern and Eastern Districts of New York as well as the chairs of the screening panel in each district, and the other featured an extraordinary assemblage of dozens of judges of all kinds on the federal, state, and county levels. For in-house lawyers, our Corporate Counsel Symposium covered issues and skills specific to their roles, and our "Bar@theBar" happy hour for in-house counsel provided them an informal forum for networking.



Blockchain! I vow to learn more about it. but we have some of the most avidlyattended blockchain programs anywhere featuring leading experts who know their way around a transaction block. These programs included an overview of the field in January; a program in late November covering the intersection of blockchain technology and intellectual property rights; and, in strong support of the topic's relevance, a dedicated panel on blockchain in our 7th Annual Securities Litigation & Enforcement Institute. That institute, by the way, drew interest for its keynote address by

David Boies on the rule of law, which was introduced by George Conway and is available for viewing on our website.

Demonstrating the City Bar's responsiveness to the issues of the day, the Sexual Harassment Summit and the 5th Annual Employment Law Institute both addressed the changing legal landscape and employer best practices in light of #MeToo. And freedom-of-speech issues remained top of mind, as seen in our statement condemning the President's targeting of the free press, and our second annual First Amendment program featuring Floyd Abrams, Nadine Strossen, and other leading experts in the field (which you can catch on C-SPAN).

On the lighter side, a celebration was in order as the City Bar Chorus marked 25 years of serving the community with a concert in the Great Hall.

Finally, the City Bar honored two individuals for their extraordinary contributions and leadership in delivering justice and safeguarding the rule of law, with Honorary Membership for former Attorney General Loretta Lynch and the Association Medal and portrait unveiling for Supreme Court Justice Sonia Sotomayor.

Truly there is rarely a quiet day at the City Bar. But one of these days, I'm determined to start using that meditation app.

You can watch or listen to recordings of many of these programs by visiting the media page of our website. To keep up with all that goes on at the City Bar, be sure to read the eNews that lands in your inbox most Mondays.

As always, I invite you to contact me at Bret Parker@nycbar.org.





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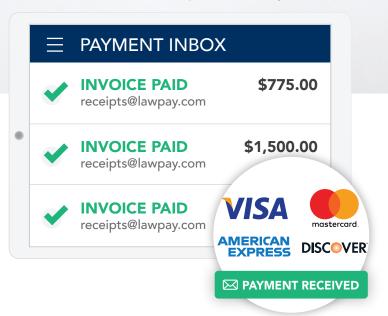


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POLICY UPDATE

Federal Policy Update

By Eli Cohen, Assistant to the President and the Executive Director

In the inaugural months of 2017, the New York City Bar Association continued its longstanding practice of offering the expertise of its membership to the incoming presidential administration. Numerous committees wrote transition memos to the Trump administration on various issues of importance to the City Bar's advocacy work. On some topics, the committees offered support for elements of the incoming administration's agenda. On others, we raised concerns or offered suggestions for alteration. In every case, our recommendations were offered in the spirit of non-partisan and constructive efforts to uphold the rule of law and access to justice. "Our ambitions are that our contributions speak effectively for our membership and our mission and

become a constructive component of discussions about how to proceed," we wrote at the time.

Many of the issues discussed in City Bar transition memos became part of the national discussion in the ensuing months. Criminal justice reform, healthcare, and the environment continue to be prominent issues, and veterans affairs, animal welfare protections, and global cybersecurity have also garnered government attention. In some cases, the actions of the Trump administration have run counter to the committees' recommendations, while in others the administration has taken action that aligns with those recommendations. To be sure, the City Bar's voice regarding federal

issues was and is not limited to transition memos. On issues such as the importance of an independent judiciary, the rule of law, and a free press, the impropriety of insupportable immigration-related policies, and the need to address the economic and humanitarian crisis in Puerto Rico following Hurricane Maria, the City Bar has spoken out in the form of statements and letters by our President, Roger Juan Maldonado, often in concert with other concerned organizations, and/or by submitting comment letters on proposed federal regulations. But, it is also worth taking a look now, two years since the presidential inauguration, at developments with respect to some of the issues raised in our transition memos.

CRIMINAL JUSTICE

In December 2018, Congress passed and President Trump signed a significant piece of criminal justice reform legislation: The First Step Act. A number of the reforms included in this bill align with recommendations in our Task Force on Mass Incarceration's transition memo. While the Task Force's memo focused on passage of the Sentencing Reform and Corrections Act, the First Step Act delivers several of the types of reforms that the Task Force highlighted, including reduction of mandatory minimum sentences and expansion of early-release and sentence-modification programs. It also provides for an expansion of access to mental health treatment for incarcerated individuals. Yet the legislation falls short of the comprehensive reforms supported by the Task Force, including bail and

parole reform, and does not limit solitary confinement in prison and jail facilities, a reform that our Corrections & Community Reentry Committee supported in its transition memo.

INFRASTRUCTURE

The Construction Law, Transportation, and Project Finance Committees sent a transition memo with recommendations for efficiently directing federal infrastructure funding and promoting private-sector infrastructure projects. Infrastructure spending has been a recurring topic in federal budget negotiations, and the Trump administration put forward a major infrastructure proposal in February 2018. That plan has not been approved by Congress, but the March 2018 budget included a funding boost for programs to rebuild existing infrastructure.

VETERANS AFFAIRS

The transition memo of the Military Affairs & Justice **Committee** focused on the claims and adjudication process at the Department of Veterans Affairs (VA). Veterans face lengthy and arduous processes when claiming benefits and when appealing benefits adjudication. Both are governed by complex administrative codes, but are nonetheless carried out by a workforce untrained in administrative law, leaving the processes prone to error. The committee called for changes that would speed up the benefit-claims process, introduce trained legal professionals to the claimsappeal process, and bolster veterans' ability to retain counsel for appeals. President Trump subsequently supported and signed into law the VA Accountability and Whistleblower Protection Act of



2017. This law targets inefficiency and error in the claims process by making it easier to remove or suspend VA employees for poor performance or misconduct. However, the committee memo had described this approach as one that "will likely do little to improve the VA's accuracy rate." And, notably, the legislation does not address issues with respect to the retention of counsel for appeals or compensation to veterans for undue adjudicatory delay.

ENVIRONMENTAL & ENERGY

The City Bar's transition memo concerning environmental and energy policy urged the Trump Administration to continue policies implemented by the Obama administration, including the development and promotion of renewable energy and reduction of the U.S.'s carbon footprint. It also underlined the crucial role of a properly staffed and funded Environmental Protection Agency (EPA) to those goals. However, the Trump administration so far has not adopted policies along these lines. President Trump, his Chief EPA Administrators, and Secretaries of the Interior have publicly denied the effects of climate change. The United States renounced the Paris Agreement and its corresponding pledge to reduce the country's carbon footprint. Federal lands once protected have been opened to oil and gas drilling. The budget of the EPA has been drastically reduced and several of its leading scientists dismissed. The current administration has also overseen the rollback of numerous Obama-era regulations aimed at improving the fuel efficiency of passenger vehicles, reining in corporate emissions of greenhouse gasses, and shifting the U.S. towards use of renewable energy.

DRUG POLICY

The **Drugs & the Law Committee** issued a
transition memo that



included recommendations on several topics, including the administration and expansion of drug-addiction treatment, decriminalization of marijuana (a recommendation reiterated by the Corrections & Community Reentry Committee), and a reevaluation of the U.S. role in promoting drug treatment as a matter of global health. In response to the nationwide opioid crisis, President Trump endorsed and signed the Support for Patients and Communities Act in October 2018, which expands access to drug treatment (although it does not fund a significant expansion of treatment programs) and increases funding for research into nonopioid pain treatments. However, marijuana retains its Schedule I designation under the federal Controlled Substances Act, and the Department of Justice under Attorney General Jeff Sessions rescinded an Obama-era policy of discouraging enforcement in states that had legalized the medical or other use of marijuana.

NATIONAL SECURITY

The Task Force on National
Security & the Rule of Law
devoted its transition memo
to the treatment of detainees in United
States custody. First and foremost among
the Task Force's proposals was a call to
immediately close the detention facility at Guantanamo Bay. Despite widespread support for closing the facility,
President Trump signed a January 2018
executive order to keep it open. The
Trump administration did, however, back
away from consideration of re-opening
CIA black sites for prisoner interrogation. The Task Force's transition memo

also expressed concern about President Trump's statements concerning torture and the viability of its use as an interrogation technique, pointing to "bipartisan consensus that 'enhanced interrogation' techniques are unlawful and immoral" as well as the "Supreme Court [ruling] that punishments involving the use of torture are unconstitutional as a violation of the Fifth and Eighth Amendments." Notably, the Trump administration has made no formal move to reintroduce its use.

ANIMAL LAW

The transition memo issued by the **Animal Law Committee** included



a number of recommendations, including support for the Pet and Women Safety Act, which President Trump signed into law as part of the farm bill in December 2018. The law enshrines various protections for pets in domestic protection orders, and aims to inhibit the ability of abusers to inflict violence on pets as a means of coercion. The Committee also expressed support for the Animal Welfare in Agricultural Research Endeavors Act, which would amend the Animal Welfare Act (AWA) by implementing minimum standards of humane care for animals in federal research facilities. The Trump administration has not supported the measure; moreover, records and other information were removed from the U.S. Department of Agriculture website regarding AWA enforcement and inspections that previously had been publicly available. The administration also withdrew regulations that would have required higher production standards for organic livestock and poultry.

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POLICY UPDATE CONT'D FROM P. 7

HEALTHCARE

The Health Law Committee sent a transition memo outlining the manner in which repeal of the Patient Protection and Affordable Care Act (ACA) would cause widespread regulatory uncertainty, damage health insurance markets, and jeopardize public health. While the Trump administration has fought vigorously for repeal, the law remains in force.

The Sex & Law Committee raised three issues in its transition memo: (1) the importance of paid family leave for both parents; (2) effects of the high costs of childcare and childbirth; and (3) women's ability to time and space their own pregnancies. President Trump has shown support for paid family leave policies, both in his first State of the Union address and in several budget proposals. His 2017 tax bill doubled the child tax credit and preserved dependent-care flexible spending accounts (note, however, that the committee's memo described that approach as particularly ineffective in addressing the cost of childcare). However, the Trump administration also created a sweeping exemption (currently under review in federal court) for businesses from the ACA mandate that they provide health coverage for birth control. And, most recently, the Department of Health and Human Services issued a final rule denying Title X funding to familyplanning programs that offer abortion services. The rule has been challenged in court.

INFORMATION TECHNOLOGY AND **CYBERSECURITY**



The Information Technology & Cyber Law Committee made a range of proposals concerning three major issue areas: cybersecurity, cyber infrastructure, and privacy. President Trump issued an executive order in May of 2017—"Strengthening the Cybersecurity of Federal Networks and Critical Infrastructure"—which aims to support critical infrastructure, resilience against automated threats, and develop the cybersecurity workforce. However, the administration also eliminated the Cybersecurity Coordinator role on the National Security Council as well as at the State Department, sending a mixed signal about its commitment to cybersecurity. The administration's most significant action relates to the privacy of individuals' and corporate data, with passage of the Clarifying Lawful Overseas Use of Data ("CLOUD") Act. The new law amends the Stored Communications Act to clarify that data held overseas is subject to law-enforcement orders, while formalizing the process for challenging such orders. It also provides a framework for bilateral data-request agreements between the U.S. and foreign countries. These measures align with some of the committee's recommendations for updating the decades-old law.

INTERNATIONAL

The International **Human Rights, Asian** Affairs, Foreign & Comparative Law, and Middle Eastern & North African Affairs Committees wrote separate transition memos on a unifying theme: U.S. commitment to global leadership and international cooperation.

The committees urged the administration to preserve the country's position as a leader on human rights, to support the use of treaty-based dispute resolution mechanisms, and to incentivize Israel to pursue a set of practical approaches to disputed territories. While the administration declares continued commitment to the values of leadership and cooperation, some of its actions are cause for concern: for example, in June of 2018 the United States withdrew from the United Nations Human Rights Council; the National Security Advisor publicly rebuked the International Criminal Court in September of 2018 for suggesting an investigation into U.S. actions in Afghanistan; President Trump has refused to recognize Saudi Arabian involvement in the killing of Jamal Khashoggi in November 2018; and, as discussed above, the U.S. has renounced the Paris Agreement.

Halfway through the Trump administration's four-year term, we have seen debate and action at the federal level on a number of the issues raised in the City Bar's transition memos. And our members from across the vast spectrum of legal expertise and political affiliation have continued to address pressing issues on which they have something meaningful to offer. Our goals with respect to this work go beyond efforts to effect immediate and wholesale change. Rather, our purpose is to expand public discourse and to communicate and memorialize our best and most inspired ideas for a more fair and just society.

Dana Moon, Law Student Policy Intern, provided research for this article.



2019

New York State Legislative Agenda

The City Bar has released its 2019 New York State Legislative Agenda, which will help guide our advocacy work over the coming months in Albany. This agenda represents only a portion of the dozens of positions generated by our committees over the course of each legislative session. It focuses on issues that are relevant to the current legislative debate or of particular importance to the City Bar, as well as on legislative proposals drafted by our committees.

The 2019 New York State Legislative Agenda can be viewed in full here: http://bit.ly/2lVpjWf



GOOD GOVERNMENT

- Reform and modernize New York's voting system and Election Law, including early voting and "no excuse" absentee ballots
- Bring meaningful and comprehensive ethics and rules reform to Albany

EQUALITY OF OPPORTUNITY AND EXPERIENCE

- Advance criminal justice reform and policies that will reduce mass incarceration
- Create a system for the production, distribution and adult non-medical use of marijuana in New York
- Promote comprehensive reproductive health policies and sexual education
- Enact the Gender Expression Nondiscrimination Act (GENDA)

THE JUDICIARY AND THE FAIR, EFFECTIVE ADMINISTRATION OF JUSTICE

- Support the Judiciary's 2019-20 Budget Request, including adequate funding for civil legal services
- Enact the Uniform Voidable Transactions Act, which would modernize New York's laws related to fraudulent conveyances
- Reform and modernize the administration of class actions in New York's courts
- Re-incentivize art authenticators and restore integrity to art transactions in New York

BUSINESS AND COMMERCIAL PRACTICE AREAS

- Extend common interest privilege to business transactions
- Support long-established practices of business-to-business arbitration proceedings
- No automatic consent to jurisdiction by foreign businesses registering to do business in New York

CONTACT:

Elizabeth Kocienda (212) 382-4788, ekocienda@nycbar.org – Director of Advocacy Maria Cilenti (212) 382-6655, mcilenti@nycbar.org – Senior Policy Counsel Mary Margulis-Ohnuma (212) 382-6767, mmargulis-ohnuma@nycbar.org - Policy Counsel



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CITY BAR FUND UPDATES

The City Bar Nurtures a New Generation of Lawyers

LSAT PREP/LAW SCHOOL CONFERENCE

On January 3, the New York City Bar Association's Office for Diversity and Inclusion welcomed nearly 300 future lawyers to its Annual

LSAT Prep/Law School Conference. This year's conference had the highest turnout in the program's ten-year history, with many thanks to Van Ann Bui, Chair of the City Bar's Diversity Pipeline Initiatives Committee, and Devi Patel, Subcommittee Chair of the LSAT Prep/ Law School Conference, for their plan-

ning and leadership. The full-day conference included networking sessions with admissions representatives from over 60 law schools and panels on "How to Select & Apply to the Right Law School," "Financing Law School," "What to Expect & How to Succeed in Law School," and "What to Expect & How to Succeed as an Attorney." Each panel featured prominent attorneys from government, nonprofit organizations, private practice,



and academia. The Office looks forward to an even larger conference in 2020, just in time for the City Bar's sesquicentennial.

THURGOOD MARSHALL SUMMER LAW INTERNSHIP PROGRAM



Photo: Catherine Favorite

One of the students who attended the LSAT Prep/Law School Conference was Asmaa Hamdan, a rising junior at John Jay College

of Criminal Justice. (She expressed an interest in becoming a prosecutor to help crime victims, but also to be in a position

to help defendants who may be victims of the system themselves.) Hamdan is an alumnus of the City Bar's Thurgood Marshall Summer Law Internship Program. Created in 1993 by 211 law firms, corporations, and law schools, the program places diverse New York City public high school students with legal employers for the summer, building their professional development skills and exposing them to a wide range of legal careers. More than 135 students applied for a spot in the 2019 class. While the student application period is now closed, the Office is seeking employers to host interns. Contact **Deborah Martin Owens** at dmartinowens@nycbar.org by May 3, 2019 to secure your law firm or legal department's role in strengthening the student pipeline.

ASSOCIATE LEADERSHIP INSTITUTE



Photo: Alycia Kravitz

This spring marks the return of the Associate Leadership Institute (ALI). An awardwinning program recognized by the ABA, the Institute was piloted in

2017 in direct response to the City Bar's 2016 Benchmarking Report illuminating the alarming attrition rates and lack of

representation of minority and women attorneys in law firms' top ranks. The Institute provides high-level development training for mid-level and senior minority and women associates on topics such as executive presence, leveraging professional relationships, management skills, resilience, and business development. In the program's brief history, one participant has been promoted to of counsel and four have been elevated to partner. This year, the Office received over 73 applications from associates at Davis Polk & Wardwell LLP; White & Case LLP; Sullivan & Cromwell LLP; Watchell, Lipton, Rosen & Katz LLP; Sive, Paget & Risel, PC; and more. ALI's keynote speaker will be Kimberley Harris, Executive Vice President & General Counsel of NBCUniversal. Contact Deborah Martin Owens at dmartinowens@nycbar.org to learn how to get involved in ALI, and stay tuned for more developments on this year's program.

¹ Carter Ledyard & Milburn; Cravath Swaine & Moore; Davis Polk & Wardwell; Equitable Life & Casualty Insurance Company; Fordham University School of Law; Hughes Hubbard & Reed; Kaye Scholer (now Arnold Porter Kaye Scholer); Kelley Drye & Warren; LeBoeuf, Lamb Greene & MacRae; Merrill Lynch; Mudge Rose Guthrie Alexander & Ferdon; Paul Weiss Rifkind Wharton & Garrison; Roger & Wells; Saloman Inc.; Shearman & Sterling; Sills Cummis & Gross; Simpson & Thacher, Sullivan & Cromwell; Time Warner Inc.; Weil Gotshal & Manges; Winthrop Stimson Putnam & Roberts

When to Intervene with a Colleague You Are Concerned About By Eileen Travis, Director, Lawyer Assistance Program

One of the most challenging situations a lawyer or judge can face is how to speak to a colleague who appears to be impaired. Whether the nature of the impairment is easily perceived or not, what is obvious is that the person has changed in ways that are a cause for concern and raise a red flag.

Stigma is the primary reason lawyers and judges have difficulty admitting they have a problem and are reluctant to reach out for help. Fortunately, the culture of the profession is beginning to change as more lawyers and judges understand the importance of educating themselves about the high incidence of alcohol and substance use, and mental health problems in the profession.

Over the past year, several lawyers have courageously come forward, publicly sharing their personal struggles with these issues. Putting a face to these problems allows others in the profession to know that they are not alone

and that recovery is possible.

Denial is a powerful defense mechanism that often prevents one from recognizing the seriousness of a problem. If a lawyer or judge is a high-functioning professional, there may be a tendency to ignore their behavior - e.g., being consistently late for work or drinking excessively at functions – as long as their work is not affected. This can become an excuse for not confronting the "elephant in the room" and can be perceived as "enabling behavior" that prevents the impaired attorney from confronting the consequences of their behavior.

Signs of impairment can range from noticing that a colleague, usually energetic, seems tired all the time, to the more obvious signs like the smell of alcohol on their breath. Other typical signs are frequent absences, procrastination, missed deadlines, mood changes, isolation, difficulty focusing, appearing agitated, anxious, and/or stressed.

Alcohol and substance use disorders are chronic, progressive illnesses that can culminate in a downward spiral. Clinical depression is an illness that affects mood, physical health, and cognitive ability. The risk of suicide increases when these conditions are left untreated.

Early intervention is the best way to prevent future problems. These problems are highly treatable and there are many options available for lawyers and judges to regain health and wellbeing.

PREPARING FOR AN INTERVENTION

An "intervention" can be a formal event, often facilitated by an intervention specialist. It can also be an organized conversation between firm partners or administrators or just one colleague talking to another. All interventions should provide support and encouragement for the impaired lawyer or judge to accept help for their problem. All parties involved should be able to communicate in a non-judgmental manner and express genuine caring.

1) ASSESS THE INFORMATION

When possible, collect and assess any information related to behaviors that have been observed and reported. Reports of observed behaviors are more difficult to refute, although if the lawyer or judge is defensive, they will do their best to minimize events.

2) IDENTIFY WHO WILL BE TALKING TO THE INDIVIDUAL

The people who have the closest relationship with the individual will likely be the most effective because of the level of trust that has already been established.

Although the lawyer or judge may feel shame and embarrassment and deny what is being said, the discussion should proceed.

3) ORGANIZE YOUR DISCUSSION

Check your own feelings about having this discussion. Whatever the reason may be, your role is to provide an opportunity to invite the lawyer or judge to be open about their issue, to offer support and resources and, if appropriate, establish expectations. Showing empathy is imperative, but so are the facts.

4) LISTEN

After you have spoken, it's important to listen compassionately to what your colleague has to say. Remember to maintain a focus on the concerns that initiated the discussion. Offer resources and, when appropriate, an action plan and a time for follow-up.

5) FOLLOW-UP

Arrange a schedule to review progress on the action plan.

6) CONSIDERATIONS

Of course, the expectation of any intervention with a colleague should be positive. No matter what the outcome, all interven-

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CITY BAR FUND UPDATES CONT'D

Vance Center Fights Family Separation

When the Cyrus R. Vance Center for International Justice learned of the U.S. administration's "Zero Tolerance" policy separating migrant families at the U.S.-Mexico border last June, it responded immediately by creating an international corps of pro bono attorneys to assist separated children in their home countries. Thus, Vance's "Keep Families Together" initiative was born.

Vance Director of Pro Bono Partnerships Jorge L. **Escobedo** leads the initiative, which has provided dozens of families with local pro bono legal representation in Brazil, El Salvador, Guatemala, Honduras, and Mexico.

"We knew that talented immigration lawyers at nonprofit organizations have already assisted many of these families in the United States. We quickly realized that the best way to help would be to complement their efforts by bringing unique international services to the table," says Vance Center Executive Director Alex Papachristou, "and that's where the network came in."

The Vance Center co-manages the Pro Bono Network of the Americas, a consortium of 13 pro bono clearinghouses throughout Latin America. In short order, it activated its clearinghouse partners in the network to identify law firms and attorneys willing to provide legal assistance to separated children. Member firms of clearinghouses in the network expressed great enthusi-

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WE KNOW THAT THERE ARE AT LEAST 11,000 CHILDREN IN IMMIGRATION DETENTION IN THE UNITED STATES.

SO OUR WORK IS JUST BEGINNING.

tion, has provided key introductions and advice.

asm for the ini-

tiative; to date,

over 30 pro

bono lawyers

from six Latin

have volunteered to assist

American firms

these families. Tracking down the immigration lawyers representing separated children on the U.S. side presented challenges. Thankfully, help was close at hand from the expert immigration lawyers at the City Bar Justice Center, as well as pro bono counsels at law firms that work regularly with the Vance Center, especially Marcia Maack of Mayer Brown and Emily Goldberg of Paul Weiss. Additionally, Caroline Kronley, President of the Tinker Founda-

By co-counseling with domestic legal services providers, pro bono attorneys in Latin America provide invaluable services otherwise unavailable to the children's lawyers in the

United States. Many of their efforts have involved navigating complex government agencies in their home countries in order to obtain vital identity documenta-



tion for these clients. "With birth certificates, medical records, and other critical evidence in hand, these children's applications for immigration relief will fare much better before USCIS and DOJ" says Escobedo, who has experience in political asylum work.

In the latter half of 2018, with key support from members of the City Bar's Vance Center Committee, the initiative formalized partnerships with several prominent legal services providers in the U.S., including The Legal Aid Society of New York, KIND, Catholic Charities of New York, Texas Civil Rights Project, and the Safe Passage Project.

"We know that there are at least 11,000 children in immigration detention in the United States," says Escobedo, "so our work is just beginning."

For more information on the Vance Center's "Keep Families Together" program, contact Jorge Escobedo at: jescobedo@nycbar.org.

LAP: CONT'D FROM P. 13

tions are considered successful. You have planted a seed, started to chip away at denial, and let the person know that whatever their issue is, it's no longer a secret, and you are available to help and support them.

If you are concerned about a colleague, the New York City Bar's Lawyer Assistance Program (LAP) can provide an initial consultation and guidance for both informal conversations and formal interventions. We also provides comprehensive assessments and referrals to treatment providers. LAP's confidential helpline is: 212-302-5787.

The Legal Hotline Will Return Your Call

Although our civil legal system is meant to resolve disputes as fairly as possible, the word 'lawsuit' still strikes fear into the hearts of many. It is commonly used as a threat even against people of means who can afford the professional expertise of a private attorney. But a lawsuit is not a realistic option for those on a fixed income, for tens of thousands of indigent and working-poor New Yorkers who struggle to make ends meet. This creates a chasm before the courthouse doors. Many litigants benefit from the work done by legal service providers and attorneys who work probono, a vital means of

bridging this gap. But with full representation out of reach for the vast majority of low-income and working-poor residents who find themselves facing a legal problem, where do New Yorkers turn when they need answers or guidance in other legal areas?

The City Bar Justice Center's Legal Hotline is one of the largest providers of free legal advice and assistance in New York. Each year, thousands of New Yorkers call the Hotline and are able to speak with an experienced attorney who is able to help them sort through complex legal issues, spotting and prioritizing the different courses of action the person facing a legal threat may take to best resolve the matter. This is often the first, and in some cases the only, time that

litigants who cannot afford representation or a consultation are able to speak with an attorney.

"You guys are the first actual lawyers that would even speak to me," said one caller. "I just leave a message everywhere else, but nobody calls me back. No one else would take the time to explain this to me." Faced with multiple creditor lawsuits and crushing debt, he had sought guidance for Chapter 7 bankruptcy and was about to hire a person who described himself as a 'freelance bankruptcy paralegal' to help with the forms.

During January 2019 alone, the Legal Hotline lawyers helped just shy of 1,500 New Yorkers. The Legal Hotline targets the gap in New York City's legal services system, as many of the legal services providers are over-burdened and under-resourced and court clerks are only allowed to provide legal information but cannot give any legal advice.

"I looked around for help for years!" said another caller. "Nobody would speak to me about this. They told me I'd have to hire somebody, and I can't. I just wanted to go over the next steps." She had been trying to get her children's birth certificates corrected so that they could get passports and finally visit her parents. The court help center



City Bar Justice Center Hotline Staff

was always nice to her and provided her with the forms she'd need to fill out, but they couldn't give her any direct advice or assistance. She had been saving her money to hire an attorney, but a recent emergency had wiped out her savings. There weren't any other legal service providers offering the kind of help she needed. Then the court directed her to the Legal Hotline.

While initiatives supporting a right to counsel in civil proceedings are gaining momentum, the resources that can be devoted towards making sure there are attorneys representing as many litigants as possible often mean that a legal service provider will necessarily have to prioritize active lawsuits, cases that are already in court and being litigated. This exposes another problem with the system, which is that the most effective

CONTINUED ON P. 17

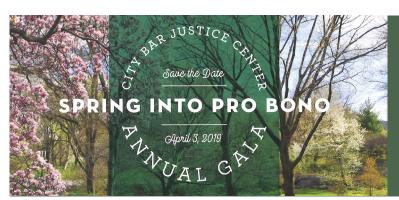


TABLE SALES AVAILABLE

for the 2019 City Bar Justice Center Gala on April 3 honoring AIG and DLA Piper for pro bono leadership and dedication to public service. Table levels are \$50k, \$25k, and \$15k. For further info, contact Jennifer Kunin at jennifer@emgbenefits.com or 212-249-6188.

SUSTAINING MEMBERS

The financial support provided by Sustaining Members makes it possible for the City Bar to carry on the wide range of professional and public service activities that ensure its high esteem across the country and around the globe. These include our leading programs concerning access to justice, assistance to lawyers in need of drug, alcohol, and stress counseling, human rights, diversity in the profession, support of small firm and solo practitioners, and law reform across a broad range of areas.

Benefits of Sustaining Membership include: exclusive invitation to the Sustaining Member annual reception, recognition on the City Bar website and in the 44th Street Notes, and early notice of select City Bar events. It is with the support and leadership of the following individuals that much of our good work is done.

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time to receive legal advice or assistance is often before a lawsuit has been started. The attorneys who answer the Hotline focus their legal expertise on alternatives to litigation, diverting cases from the overburdened court system, presenting more effective options to callers who won't find the relief they seek in court, saving them time and money, and helping the court avoid further gridlock.

The Legal Hotline is led by two experienced public-interest attorneys, Libby Vazquez, Director, and Christopher Schwartz, Deputy Director. "The calls to the Hotline reflect what is happening in New York City civil courts, which are jammed with divorce/family law filings, housing court disputes, and

consumer debt cases," says Vazquez. "The Legal Hotline seeks to fill the gap in access to justice for many New Yorkers who cannot afford a legal consultation or representation. Assistance on something like preparing for a Small Claims Court dispute with a claimant suing a former landlord who will not return their rental security deposit goes a long way and is really vital to our callers."

The Legal Hotline has been a remarkable incubator of new programs and ideas around access to justice. The NYC Consumer Law HelpFinder, an online single access point for help with consumer matters (www.nychelpfinder.org); the Planning and Estates Law Project (PELP); and the Civil Court Project, which brings trained

pro bono attorneys to the Civil Court Help Centers in Manhattan and Brooklyn four times a month, are all operated by the Legal Hotline team and volunteers.

The Legal Hotline can be reached at 212.626.7383, weekdays from 9:00 a.m. to 5:00 p.m. and on Fridays until 1:00 p.m., or by completing an online application anytime at www.citybarjusticecenter.org/ <u>legal-hotline</u>.

JOIN A COMMITTEE

This spring, committee chairs will start nominating new members for a three-year term beginning in September. Committee membership is limited; the broader your scope of committee interest, the more likely you will be placed on a committee that is personally and professionally satisfying. Be sure to submit a resume along with your preferences. Committee terms are typically three years. Please note, student committee members do not vote and serve a one-year term. Notification of committee appointments are sent mid-summer. If you are not selected at this time, we will hold your application for one year and you will be considered to fill mid-year vacancies. We look forward to your participation and will do our best to accommodate your choices.

For a list and description of committees and to apply online, please visit http://bit.ly/JoinACommittee

MEMBER MOVES & NEWS

Switching firms or made partner? Receiving an award? Send your news to MemberNews@nycbar.org; select announcements may appear in the 44th Street Notes, eNews, or other City Bar materials.

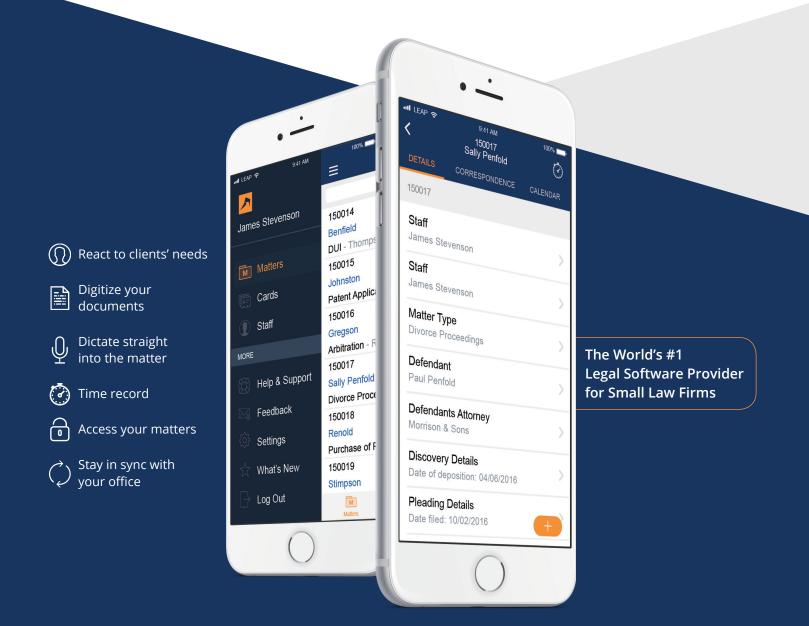
Karen Seymour was named General Counsel of Goldman Sachs. Matthew Fishbein joined the Brooklyn District Attorney's Office as Executive Assistant District Attorney for the investigations division. Willkie Farr promoted Shaimaa Hussei to Partner. Blank Rome promoted Carmen Pagan to Of Counsel. Hughes Hubbard promoted **Dustin Smith** to Of Counsel. **Valeria** Castanaro Gallotta was promoted to Of Counsel in Moses & Singer's Litigation practice. Pryor Cashman elevated Ross Bagley to Counsel. Frankfurt Kurnit Klein & Selz promoted **Hannah Taylor** to Partner in the firm's New York marketing practice. Seyfarth Shaw added **Steven Paradise** as a Partner to its litigation department. The Andrew W. Mellon Foundation appointed Michele Warman as Executive Vice

President and Chief Operating Officer while continuing in her role as General Counsel and Secretary. Curtis, Mallet-Prevost, Colt & Mosle promoted Gabriel Hertzberg, Nicole Mazanitis, and Simon Batifort to Partner. Hon. David Saxe, Co-Founder of the Appellate Division Arbitrators & Mediators (ADAM), launched a joint arbitration venture. Po Yi joined Manatt, Phelps & Phillips as a Partner in the firm's consumer protection, advertising, and competition practice. Anderson Kill promoted **Peter Halprin**, **Raymond** Mascia Jr., and Vianny Pichardo Paulino to Shareholders. Otterbourg promoted Pauline McTernan to Counsel. Olshan Frome Wolosky promoted Peter Sartorius and Renee Zaytsev to Partner, and named Jason Cabico as Counsel. Josh **Schlenger** was promoted to Counsel at Pillsbury Winthrop Shaw Pittman LLP. Robinson+Cole announced the election of Daniel Bryer to Partner. Liliana Chang

and **Shivani Poddar** were promoted to Partner at Herrick Feinstein LLP. **Kayvan Sadeghi** joined Schiff Hardin LLP's New York office as a Partner in the firm's litigation and dispute resolution practice group. Michael **Contos** joined Wilk Auslander as Counsel in the firm's construction law, commercial real estate, and litigation practice. Mintz & Gold added **Kevin Goering** as a Partner in the firm's media, intellectual property, and freedom of information laws group and Roger Stavis will join the firm's white collar criminal defense and investigations practice as a Partner. Greenspoon Marder hired **Jonathan Weiss** as a Partner. Binder & Schwartz promoted Lindsay Bush to Counsel. Megan Noh and Paul Cossu joined Pryor Cashman's New York office as Partners.



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EDITOR

Eric Friedman

ASSOCIATE EDITOR

Catherine Favorite

GRAPHIC DESIGNER

Arlene Mordjikian

ADVERTISING

Kim Howard 212.382.6753

EXECUTIVE DIRECTOR

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EVENTS & CLE

MONDAY, APRIL 15, 6:00 PM - 8:00 PM

Contemporary Religious Liberty Claims: Free Exercise or License to Discriminate? (EVENT)

TUESDAY, APRIL 16, 9:00 AM - 10:45 AM

Creating a More Inclusive Work **Environment: Why Interrupting** Implicit Bias Matters (CLE)

THURSDAY, APRIL 18, 9:00 AM - 12:30 PM

A Mediation Career: Getting Started (CLE)

THURSDAY, APRIL 18, 6:30 PM - 8:30 PM

Animal Law Lobbying 101: Getting Political for Animals (EVENT) MONDAY, APRIL 29, 6:30 PM - 8:00 PM

After Rikers: Justice by Design (EVENT)

THURSDAY, MAY 9, 6:00 PM - 9:00 PM

Blockchain for Lawyers (CLE)

WEDNESDAY, MAY 15, 9:00 AM - 6:30 PM

8th Annual White Collar Crime Institute (CLE)

TUESDAY, MAY 28, 6:00 PM - 8:00 PM

The Current State of the IRS (EVENT)