

Nassau Lawyer

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Lace Up Your Sneakers and Take a Lap for LAP!

By Dian Mills O'Reilly

The Nassau County Bar Association's (NCBA) Lawyer Assistance Program (LAP) will hold its second annual walkathon fundraiser, "Laps for LAP," at Jones Beach State Park on Saturday, April 6, 2024, from 8:00 AM to 12:00 PM.

Consistent with LAP's mission to promote health and wellness, the Laps for LAP walkathon is designed to inspire NCBA members and their families to take a break from their routines and do something positive for themselves and the legal community at large. The three-mile course features invigorating ocean breezes and stunning boardwalk views, with refreshment stations along the way and a light breakfast recharge at the finish line. Each participant will also receive a commemorative t-shirt as a memento.

"I am so excited for LAP's second annual walkathon," says LAP Director, Dr. Elizabeth Eckhardt. "It's so great to see NCBA members, their families, and other friends of LAP outside of their work environments, enjoying nature while supporting lawyers who are in need!"

"It is with great pride and inspiration that the Bar Association will host its second walkathon to benefit the Lawyer Assistance Program," remarks NCBA Immediate

Past President Rosalia Baiamonte, whose presidency placed a spotlight on LAP and its financial viability. "We encourage Members and their families to meet us on the boardwalk and take a few laps for LAP."

With support from the Lawyer Assistance Committee, LAP provides a comprehensive range of support services to lawyers, judges, law students, and their immediate family members who find themselves struggling with alcohol/drug abuse, depression, anxiety, or stress, as well as other addictions and mental health concerns. LAP services, always free and completely confidential, include professional and peer support, stress management/wellness workshops and support groups, treatment referrals and more.

Sponsorship opportunities are available at a variety of levels, from mile markers to shade tents, starting at just \$250. Firms and organizations interested in participating can contact Dian at doreilly@nassaubar.org or (516) 666-4855 by Friday, March 15.

If you are in need of care and support, LAP is here for you. All services are free and strictly confidential pursuant to Judiciary Law §499. Contact the LAP 24-hour helpline at (516) 512-2618 or eckhardt@nassaubar.org for more information. 🗑️



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SATURDAY, APRIL 6, 2024
9:00 AM - 12:00 PM (REGISTRATION BEGINS AT 8:00 AM)

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In the complex world we live in—where we and are children our bombarded with information and no time to sift properly through it before the next wave is upon us—there is a general outcry that our American democracy is at peril because our children are not being provided the tools needed to be prepared to understand the value of our democracy and how it works. Former First Lady Eleanor Roosevelt said “Our children should learn the general framework of their government and then they should know where they come in contact with the government, where it touches their daily lives and where their influence is exerted on the government. It must not be a distant thing, someone else’s business, but they must see how every cog in the wheel of a democracy is important and bears its share of responsibility for the smooth running of the entire machine.”

President John F. Kennedy stated: “There is an old saying that the course of civilization is a race between catastrophe and education. In a democracy such as ours, we must make sure that education wins the race.” For the past months, 46 diverse Nassau County high schools—with the assistance of lawyer volunteer coaches—have engaged in preparing teams of students to compete in the annual Moot Trial Court competition run by the Nassau County Bar Association and its Academy of Law.

I had the distinct pleasure to be present and be a judge on February 13, when nearly 600 students competed in the first round of this year’s competition. To walk into the Supreme Court building and see hundreds of children gathering to advocate, as prosecutors or defense attorneys, or undertake the rolls of witnesses, was just inspiring. The skill and enthusiasm exhibited by the teams was superlative. It was clear they spent many hours not just honing their skills but learning about our system of justice and the importance of the rule of law.

What I observed and experienced brought the words of President Jimmy Carter to mind: “The law is not the private property of lawyers, nor is justice the exclusive province of judges and juries. In the final analysis, true justice is not a matter of courts and law books, but of a commitment in each of us to liberty and mutual respect.” The students, their coaches and each of the 23 volunteer judges exhibited civility and mutual respect.



**FROM THE
PRESIDENT**

Sanford Strenger

Our Association made it possible for our system of justice not to be a mysterious abstract foisted upon the children through multiple channels of media, but a real organization of rules that they could comprehend and master to achieve an outcome. I congratulate NCBA Past President Peter Levy, Academy Dean Micheal Ratner, Lawrence Schaffer, Academy Director Stephanie Ball, and the many others who helped organize and implement this program for their hard work and devotion to the kids and what this program ultimately stands for, teaching our children about the rule of law.

The competition will proceed through the spring as each round is tried, and one team ultimately becomes the winner and moves on to represent Nassau County in the New York State competition in May. However, in my view, it is all the teams and our society that are the ultimate winners. There is an opportunity for you to participate this year as a judge, or better yet, next year as a coach. Contact Stephanie Ball at (516) 747-4077 or sball@nassaubar.org for more information.

Programs such as the High School Moot Court program make NCBA the important organization it is and demonstrates why membership in our Association is not only valuable but necessary.

On February 26, our Asian American Attorney Section celebrated the Lunar New Year at Domus with Dragon Dancers and good fun. A fabulous celebration of Asian heritage.

March brings many opportunities to attend committee meetings and CLE programs. As I write this article, I look forward to the two-day Academy program on appellate writing and advocacy on February 29 and March 1. Chief Judge of our Court of Appeals Rowan D. Wilson will be present to provide opening remarks and tips. Attorneys from throughout the state have signed up to attend this unique program.

Don’t forget NCBA is celebrating its 125th Anniversary this year. Please join us as we kick off the celebration on March 7th for the free “Game Show Experience.” There will be food, wine and beer, and prizes for the winning teams. The ground hog has spoken. Spring will soon be here. Come join your colleagues at Domus and bring a new member or sponsor with you. After 125 years, NCBA continues to be a vibrant organization, making a difference because of you and other devoted members. Let’s make sure the next 125 years are better yet.

Looking forward to seeing you at Domus. ⚖️



**FOCUS:
APPELLATE PRACTICE**


Rhoda Andors

“But wait a bit,’ the Oysters cried, Before we have our chat...”¹

Attorneys who file appeals in the Appellate Division, Second Department, or who plan to, will likely be aware that the wait for a decision may currently be as long as two years or longer. Yet appeals to other Departments of the Appellate Division generally take much less time. What is the reason for the longer wait in the Second Department? The Honorable Mark C. Dillon, Associate Justice in the Second Department, recently answered this question and others in a CLE he presented to the Appellate Practice Committee at NCBA on January 25, 2024.

**The Appellate Division,
Background**

By way of background, “[t]here are four Appellate Divisions of the Supreme Court, one in each of the State’s four Judicial Departments. These Courts resolve appeals from judgments or orders of the superior courts of original jurisdiction in civil and criminal cases, and review civil appeals taken from the Appellate Terms and the County Courts acting as appellate courts.”² Although there are four Departments, the number of cases heard by each Department is far from equal.

The First Department has jurisdiction over two counties, Bronx and New York County, and the Third and Fourth Departments each have jurisdiction over more than 20 counties.³ However, the Second Department, with jurisdiction over ten counties (Dutchess, Kings, Nassau,

Waiting Time in the Second Department

Orange, Putnam, Queens, Richmond, Rockland, Suffolk and Westchester),⁴ including some of the most populous counties, decides 65% of all cases. Yet the Second Department does not have 65% of the state’s judicial resources. For example, “the court now has 37% of the Justices assigned to the Appellate Division statewide.”⁵

In fact, the Second Department is recognized as the busiest appellate court in the United States, as compared to both state and federal appellate courts. The total number of civil and criminal dispositions decided in 2022 after argument or submission was a staggering 6,853.⁶

The Reasons for the Wait

According to Justice Dillon, the large number of appeals relative to the limited number of justices in the Second Department is the main reason for the lengthy waiting time for an appeal to be decided.

At present, there are 22 justices in the Second Department. There must be at least four justices to hear oral argument. The sweet spot, according to Justice Dillon, is for a panel of justices to hear oral argument for twenty appeals per day. Oral argument is conducted four days a week. Based on these factors, the total number of oral arguments that can be heard each year is not elastic. Nonetheless, the total number surges every few years, as it did during the residential mortgage foreclosure crisis.

The limited number of appellate justices in the Second Department is partly a product of constitutional history. “It was at the Constitutional Convention of 1894 that the present Appellate Division of the Supreme Court was created...The Governor was given the power to designate Justices of the Appellate Division for fixed five-year terms from all the Justices elected to the Supreme Court. Appellate Division Justices were relieved of all other duties so that there could be the fullest opportunity for consultation and deliberation. It was intended that court sit in panels of five Justices, four would constitute a quorum, and the concurrence of three would be necessary for a decision.”⁷ According to Justice Dillon, the number of justices in the Second Department is also a function of the New York State Legislature’s budget.

**The Time Devoted to Appeals
Within the Second Department**

The Second Department devotes considerable time to the process



of reviewing appeal briefs before the briefs are read by the justices and reviewing the decisions after they are made by the justices. The court has a Law Department of 65 attorneys. Each appeal is assigned to a staff attorney who reviews the briefs, writes a report, and makes a recommendation to the justices on what the result should be.

This is a “good starting point” for the justices, according to Justice Dillon. The briefs are then read and discussed by the justices. By the time of oral argument, the panel of justices is a “hot bench.” They will know the issues of interest and be ready to ask questions of the parties and engage them in a “conversation,” a term familiar to appellate attorneys as the ideal mode for oral argument.

Justice Dillon gave the answer to the question about oral argument that attorneys want to know: the instances where oral argument will change the justices’ minds is in the single digits or approximately 5%. However, oral argument may change the way a decision is written.

After the decision is voted on and rendered, other staff attorneys check the decision for technical details and precedent and another team looks at the slip opinions for consistency and correctness. A given decision may be one sentence, but behind that sentence is a substantial amount of time devoted to research and analysis.

No Rebuttal?

Justice Dillon took questions from the audience, further illuminating the Second Department’s practice and procedure. Commenting on the court’s tradition of not allowing rebuttal in oral argument, he admitted that the origins of this practice are lost to history, but that about a decade ago the court did consider allowing rebuttal argument.

The justices declined to abandon their tradition, however, out of concern that counsel would use the opportunity to merely reiterate their principal points. While this may disappoint those yearning to have the last word as appellants, counsel who also practice in the First Department should bear in mind that the purpose of rebuttal—and its true value—is the chance to directly address the respondent’s arguments before they have a chance to take root in the minds of the panel.

Conclusion

Given the length of time between the notice of appeal and perfection of the appeal and the Second Department’s decision, practitioners may want to carefully consider how the wait will affect their cases. Will the appeal be moot by the time the decision is issued? Will the wait of two years or more be a benefit or a detriment to the client? What costs will be incurred or saved over that period of time? The answers to these questions may determine whether an appeal should be pursued. ⚖️

1. Lewis Carroll, *The Walrus and the Carpenter*, 1871.
2. <https://www.nycourts.gov/courts/appelatedivisions.shtml>.
3. *Id.*
4. *Id.*
5. https://www2.nycourts.gov/courts/ljd/supctmanh/A_Brief_history_of_the_Court.shtml.
6. *22_UCS-Annual_Report.pdf* (nycourts.gov) at 60.
7. *Id.*

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**FOCUS:
ADOPTION****Faith Getz Rousso**

The Interstate Compact on the Placement of Children (ICPC) is a statutory agreement among all 50 states, the District of Columbia, and the U.S. Virgin Islands, which was established in 1974 to ensure the safety and stability of children who are placed across state lines for foster care or adoption. The ICPC sets forth uniform legal and administrative procedures to facilitate these placements and is codified in New York under Social Services Law (SSL) §374-a.

Purpose of ICPC

The primary purpose of the ICPC is to protect the welfare of children being placed for adoption or foster care between states by ensuring that they are placed in safe and suitable environments. It aims to provide children with the maximum opportunity to be placed with individuals or institutions that have the appropriate qualifications and facilities to offer the necessary care.

The ICPC also seeks to promote cooperation between states, ensuring that the receiving state has complete information and the opportunity to assess the situation before taking on the responsibility of a child. Additionally, it aims to prevent the “dumping” of children by sending states onto receiving states without proper legal and administrative processes.¹

How ICPC Applies to Out-of-State Private Adoptions

The ICPC applies to private adoptions when a child is sent or brought from one state to another for the purpose of adoption. However, there are exemptions. For instance, the ICPC does not apply to placements made by natural parents to certain relatives, such as a grandparent, adult sibling, uncle, or aunt, in the receiving state. The definition of “relative” for the purposes of these exemptions is provided by state statutes and regulations, such as 18 NYCRR 443.1(h), which includes a range of familial relationships and even individuals with a positive relationship to the child or family.

Challenges and Controversies

One of the main challenges associated with the ICPC is the

The Impact of Interstate Compact of the Placement of Children (ICPC) on Private Out-of-State Adoptions

variation in adoption laws from state to state. Since there is no federal law regulating adoption, each state has its own set of rules, which can complicate interstate adoptions. The ICPC offices in each state are responsible for ensuring that the laws and regulations of both the sending and receiving states are adhered to. States differ as to how an adoption placement may be made, who may advertise about an adoption situation, when the birth parent(s) may sign their consents to the adoption, how long a time period the birth parent has to revoke consent, whether the birth parent is required to have counseling prior to signing a consent to adoption and whether an agency is required to be involved in an adoption.

Controversies have arisen regarding the restrictions imposed in New York State by SSL 374(6), which limits the financial assistance that adoptive parents can provide to a birth mother to a specific timeframe: 60 days before birth and 30 days after birth. Critics argue that these restrictions put New York adoptive parents at a disadvantage compared to those in states with less stringent rules, potentially discouraging birth mothers from choosing New York families.

The restrictions are seen as particularly burdensome for expectant mothers who may require financial assistance for a longer period due to circumstances such as homelessness or domestic violence.²

On January 6, 2024, NYS Office of Children and Family Services (“OCFS”) distributed a memo to adoption professionals stating that the Adoptive Placement Fee Disclosure Form OCFS 4690 was revised to clarify *only* New York Law would be applied when reviewing fees paid or to be paid in the context of an adoptive placement and an application for NYS OCFS ICPC approval of an adoptive placement into NY. In addition, it stated that NY OCFS ICPC will not accept an out of state court order that addresses the subject of fees that does not comply with SSL §374 (6) and SSL §374(a). It has been a practice to finalize an adoption in the “sending” state, which may permit additional expenses for a birth mother in adoptions that may not comply with New York laws. A court order from the “sending” state would accompany the ICPC filing stating that the state would take jurisdiction of the adoption. Now, all adoptions by New York families must comply with the laws in New York.


Impact on Out-of-State Adoptions

The restrictions of SSL 374(6) have

been criticized for being too stringent and not taking into account the unique needs of each adoption. There is a concern that the limitations on financial assistance to birth mothers could lead to fewer out-of-state adoptions into New York, as birth mothers may opt for adoptive families in other states that can provide more support. This could potentially disadvantage New York families who are looking to adopt.

In response to these concerns, there is a provision in SSL 374(6) that allows a court to determine in writing that exceptional circumstances exist which require the payment of the birth mother’s expenses beyond the specified time period. However, obtaining such a court order can be a lengthy process, which may not align with the immediate needs of the birth mother.

In conclusion, while the ICPC plays a crucial role in ensuring the safety and well-being of children placed for adoption across state lines, the restrictions imposed by SSL 374(6)

have been a source of contention. The stringent financial assistance limitations may not only impact the choices of birth mothers but also the ability of New York families to adopt from out of state. Balancing the need to prevent the commercialization of child placement with the practical needs of birth mothers and adoptive families remains a complex issue within the realm of interstate adoptions. 

1. See *Matter of Shaida W.*, 85 N.Y.2d 453, 459 (1995); see also, *Matter of Jarrett*, 230 A.D.2d 513, 517 (4th Dep’t 1997).

2. <https://nypost.com/2024/01/14/metro/new-york-makes-it-easier-to-get-an-abortion-than-to-adopt-a-baby-thanks-to-hochul-admin-edict-critics-say>.



Faith Getz Rousso of the Law Office of Faith Getz Rousso, P.C. practices adoption law in Garden City. She is a member of the NCBA Board of Directors, Executive Board of the NCWBA, WE CARE FUND Advisory Board,

Past Chair of the NCBA Adoption Committee, and a member of the National Council for Adoption. She can be reached at faith@radopt.com.

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CULTURE**



Cynthia A. Augello

St. Patrick's Day is known as a holiday celebrating the life of one man and all things Irish. As many attorneys know, alcohol and partying can lead to lawsuits. In honor of St. Patrick's Day, this article will review cases involving thrown cabbage, the First Amendment (twice), a pinch, and, of course, Taylor Swift.

Is St. Patrick's Day Religious and, if So, Does a City Supporting a St. Patrick's Day Parade Violate the First Amendment's Establishment Clause?

The annual St. Patrick's Day Parade is one of New York City's greatest and long-standing traditions. The first St. Patrick's Day parade

A Wee Bit of Legal Shenanigans for St. Patrick's Day

was on March 17, 1762—fourteen years before the signing of the Declaration of Independence.¹ The first such parade was comprised of a band of homesick, Irish ex-patriots and Irish military members who were serving with the British Army stationed in the colony of New York.²

At this time, wearing the “green” was a sign of Irish pride but it was banned in Ireland. In the 1762 parade, participants reveled in the freedom on this side of the Atlantic to speak Gaelic, wear green, sing Irish songs and play the pipes to Irish tunes that were meaningful to Irish immigrants then.³

The NYC parade marches up Fifth Avenue and is reviewed from the steps of St. Patrick's Cathedral by the Archbishop of New York. Since it began, this tradition of marching past St. Patrick's Cathedral has remained unchanged, with the exception of the Cathedral's address. Today, the Parade starts at 44th Street and 5th Avenue at 11:00 a.m. and proceeds up the avenue to 79th Street. The parade is witnessed by millions of spectators each year.



Given the name of the parade, and the inclusion of the church along the parade route, does the parade itself violate the Establishment Clause of the First Amendment to the United States Constitution? No, as one court explained, “aid by the city of New Haven to the St. Patrick's Day parade is not an establishment of religion because, even though the practice of honoring St. Patrick may be rooted in religious belief, a parade named after him is not necessarily religious and has possibly *‘evolved into a secular celebration by Irish-Americans and their friends.’*”⁴

Cabbage, Cabbage Everywhere

A Connecticut woman once brought a lawsuit after she was hit in the face by a flying cabbage during the Irish Channel St. Patrick's Day Club's 2014 Parade. The plaintiff alleged that the cabbage was “thrown overhand, like a baseball” by “a float rider from the top deck of a float.” The suit further alleged that the cabbage knocked her off her feet, leading to injuries that required multiple surgeries.⁵

The plaintiff had sought more than \$75,000 in damages for what she described as “severe and disabling injuries, including but not limited to bleeding, multiple fractures to her face, compression to her facial nerves, a break in her eye socket, a tear in her cornea, surgeries and also likely requiring future surgeries.” Defendants argued that “[t]he accident sued upon was caused by the sole and/or comparative negligence of plaintiff,” the defendants responded, asserting that Jean Brown failed to “proceed cautiously under the circumstances,” and failed to “see what she should have seen.”⁶ The suit settled for an undisclosed amount the month before the trial was set to commence.

Watch Who You Are Pinching on St. Patrick's Day (Or Any Day, Really)

Apparently, not wearing green on St. Patrick's Day can be dangerous.

People run the risk of being seen by leprechauns and getting pinched.⁷ Yes, it is some sort of tradition. No, this tradition should not be practiced in the workplace.

Employers train on sexual harassment yearly in New York State. The training typically covers inappropriate touching in the workplace or at company-sponsored off-premises events. Examples typically include inappropriate behavior at the company holiday party, birthday hugs, workplace dating, etc. St. Patrick's Day pinching should likely be included in the list. Under the New York State Human Rights Law, employers are responsible to ensure working conditions free from sexual harassment.⁸ The St. Patrick's Day pinch could violate the New York State Human Rights Law.

Trademark Lawsuit Over the “Lucky 13” Phrase on St. Patrick's Day

Taylor Swift's favorite number is 13. It is her “lucky” number. Unluckily, the artist landed in legal troubles due to a trademark infringement for the “Lucky 13” phrase. In 2014, “Swiftly” was sued by Blue Sphere, Inc., the company that holds the trademark registration for LUCKY 13 to identify clothing, jewelry, bags, and purses. The suit alleges that Swift began to do harm to Lucky 13's brand in March 2012, when she began to market and sell clothing bearing the phrase “Lucky 13” without requesting permission or securing a license, the suit says.

Specifically, Taylor Swift sold t-shirts with the “Lucky 13” written on them through her online store and which were sold only during the St. Patrick's Day season. The owner of the company alleged that he has been marketing clothes and accessories to the “young rock ‘n roll crowd” since 1991, and felt that the artist was stealing his business, by placing “Lucky 13” on her own clothing line. The lawsuit settled in 2015.⁹



NASSAU COUNTY BAR ASSOCIATION

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Another First Amendment Issue

In *Hurley v. Irish American Gay, Lesbian and Bisexual Group of Boston, et al.*,¹⁰ a case that went all the way to the U.S. Supreme Court, petitioner, South Boston Allied War Veterans Council (the “Council”), an unincorporated association of individuals elected from various veterans’ groups, was authorized by the city of Boston to organize and conduct the St. Patrick’s Day Evacuation Day Parade.

The Council refused a place in the 1993 event to Irish American Gay, Lesbian and Bisexual Group of Boston (“GLIB”), an organization formed for the purpose of marching in the parade in order to express its members’ pride in both their Irish heritage as well as their being openly gay, lesbian, and bisexual individuals. GLIB sued in order to show that there are such individuals in the community, and to support similarly situated men and women who sought to march in the Boston St. Patrick’s Day parade.

GLIB and some of its members, as individuals, filed suit in state court, alleging that the denial of their application to march violated, *inter alia*, a state law prohibiting discrimination on account of sexual orientation in places of public accommodation. In finding such a violation and ordering the Council to include GLIB in the parade, the trial court, among other things, concluded that the parade had no common theme other than the involvement of the participants, and that, given the Council’s lack of selectivity in choosing parade participants and its failure to circumscribe the marchers’ messages, the parade lacked any expressive purpose, such that GLIB’s inclusion therein would not violate the Council’s First Amendment rights.

The Supreme Judicial Court of Massachusetts affirmed. According to the state courts, because the parade was a public event, the council organizing the event could not discriminate against GLIB. On appeal to the U.S. Supreme Court, Associate Justice David Souter spoke for a unanimous bench in reversing these decisions. Souter held that the state’s public-accommodation law could not be applied to the expressive decisions of a private parade; the free speech rights of the parade organizers permitted them to include or exclude whomever they pleased.

St. Patrick’s Day Drinking Stats

St. Patrick’s Day is well-known for green beer and heavy drinking. Parade goers and others partaking in pub crawls and other alcohol drinking-centered events are at substantial risk of running afoul of several laws. Binge drinking on St. Patrick’s Day has dangerous and painful consequences

for the families affected by it. Statistics about alcohol-related incidents include:¹¹

- In 2019, St. Patrick’s Day fell on a weekend where 63% of car-related fatalities involved drunk drivers.
- In 2018, 33% of pedestrians killed in car crashes over the holiday were intoxicated with a BAC over 0.08.
- Between 2015 and 2019, 280 people were killed in drunk driving incidents during St. Patrick’s Day.
- It’s estimated that a drunk driving death occurs every 30 minutes during St. Patrick’s Day.

These statistics are staggering. Additional statistics show:

- Beer sales increase by 174% on St. Patrick’s Day, while spirit sales increase by 153%.
- In 2022, it’s estimated that Americans celebrating the holiday each spent more than \$42 on average, amounting to around \$5.87 billion nationwide.
- On average, drinkers consume 4.2 drinks on St. Patrick’s Day.
- Binge drinking cost the United States \$191 billion in 2010 due to losses in workplace productivity, health care expenditures, criminal justice costs, and related expenses.

While most people think of the fun of green beer, shamrocks, showing their green, and partying when it comes to St. Patrick’s Day, people need to remember to be respectful of one another, abide by the law, and stay safe. ⚖️

1. <https://www.nycstpatricksparade.org/about/history/>.
 2. *Id.*
 3. *Id.*
 4. *Commack Self-Service Kosher Meats, Inc. v. Hooker*, 680 F.3d 194, 206 (2d Cir. N.Y. 2012), citing *Curran v. Lee*, 484 F.2d 1348, 1349-50 (2d Cir. 1973) (Emphasis added).
 5. <https://jewishbusinessnews.com/2014/09/30/woman-suing-st-patricks-day-cabbage-thrower-but-hes-gone/>.
 6. *Id.*
 7. https://www.collegiatetimes.com/lifestyles/why-we-get-pinched-on-st-patricks-day/article_ea6762c8-2960-11e8-af3c-db79c483d234.html.
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 9. <https://www.billboard.com/pro/taylor-swift-settles-lucky-13-lawsuit/>.
 10. 515 U.S. 557 (1995).
 11. <https://www.therecoveryvillage.com/recovery/binge-drinking-st-patricks-day/>.



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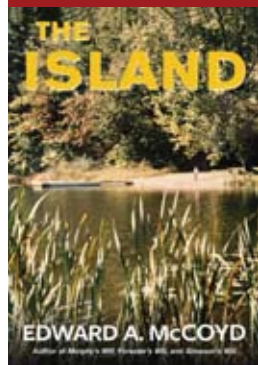


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**FOCUS:
BOOK REVIEW**


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Ellin R. Cowie

Edward A. McCoyd's fourth trusts and estates novel, *The Island*,¹ begins where his last one, *Murphy's Will*, leaves off. Sitting around a campfire with other hikers, the lead character Hannibal Murphy says: "Just like our forests and our mountains. All of this is for all of us, not just a few, and it's our job to protect it. If we build, we won't build to show off. We'll build only what we need, and then we'll build to help others."²

The main plot of *The Island* revolves around the efforts of recently orphaned Maribeth Hickey to secure inheritance rights to her deceased father's private island not solely for her own interests, but to build a respite for orphans such as herself. It is a race against time, as Maribeth's estranged uncle has already been appointed preliminary administrator and intends to develop the land for a profitable casino. With her mother dying in childbirth, and raised by her grandparents, Maribeth is now waitressing at a country club to earn money for college tuition. Unable to afford an attorney, Maribeth must rely on the goodness of others in her quest to be recognized as the rightful heir to the island property. Along the way, the author not only provides the reader with a legal primer on NY EPTL §4-1.2(a)(2)(C), but also with a challenge to treat all God's creation with the love and reverence it is due.

Departing from his previous works, McCoyd introduces a new character, Tim Keegan, an experienced litigator. Disillusioned with the prevalence of greed in his profession, Keegan liquidates his practice, and uses the proceeds to fund the care and treatment of a woman he loves, who suffers from early onset dementia. When he is not visiting Audrey at the Blue Heron nursing home, Keegan stocks shelves at a local supermarket and volunteers at a soup kitchen...until he is persuaded to take Maribeth's case. In addition to Keegan, Maribeth is assisted by four caddies who, as amateur sleuths, interview townspeople who live near the island once owned by Maribeth's father. Under NY EPTL §4-1.2(a)(2)(C), a nonmarital child such as Maribeth must prove by "clear and convincing evidence" that her putative father "openly and notoriously" acknowledged

Four Caddies and an Orphan: *The Island*

by Edward A. McCoyd

her as his daughter. Not an easy task when the decedent was reclusive, and largely absent from his daughter's life.

The Island's fast pace keeps the reader entertained throughout. A sense of urgency drives the plot, due to the daunting task of obtaining evidence sufficient to meet statutory requirements, within the limited time frame set by the Surrogate's Court for Keegan's motion for DNA testing to prove paternity. Initially, Keegan argues for exhumation. As always, it is a catch-22 situation: "DNA testing is necessary to prove paternity by clear and convincing evidence, but in cases where the putative father is deceased there are limited opportunities to prove that standard without an exhumation."³

As expected, the Surrogate's Court is reluctant to grant such an order without sufficient evidence that the decedent openly and notoriously acknowledged his daughter as his own. To make matters even worse, the decedent was cremated. Ultimately, what wins the day is Keegan's ability to communicate with his client, finding in their conversations the key to unlocking the evidence so badly needed. Also, he has the sense to realize that visiting the locale, the island, has a funny way of unearthing information.

In the end, justice is served, and integrity of creation is promoted. At the core of McCoyd's third novel, *Murphy's Will*, is the theme of protecting the environment. Protecting people with dementia is the basis for his 2016 novel, *Forester's Will*,⁴ where a caretaker of an elderly gentleman with dementia seeks to break a will that was entered into through the wiles of an unscrupulous daughter. In *The Island*, McCoyd weaves both themes together, setting forth the realistic possibility that, on the island, people with dementia might regain some of their mental faculties by assisting young children who need their nurturing. Given the success of doll therapy among dementia patients, the plan is not far-fetched.⁵ In the dialogue between Keegan and Audrey, and her caretakers at Blue Heron, the reader catches a glimpse of Audrey's memory resurfacing as she interacts with the children who visit the facility. To Tim's surprise, she shares her joy at his efforts at helping Maribeth, saying "[m]aybe... somewhere deep inside you still want to help people."⁶

Dialogue between characters is one of McCoyd's strengths, particularly in scenes involving blue-collar workers. One of the most entertaining episodes in the book takes place in a pool hall in the small town adjacent to the island. One of Maribeth's friends takes on the town pool shark named Buster.

After their tete-a-tete, Buster reveals interesting information about a visit from Maribeth's uncle. Similarly, the friendly banter between Yolanda the waitress and the caddies assists in creating the small-town atmosphere. McCoyd uses this device in all his books, and perhaps he is sending a message that the successful trusts and estates attorney must be able to communicate equally well with law secretaries on the one hand, and "common folk" on the other. McCoyd does an excellent job with dialogue between Keegan and the surrogate judge and law secretary.

One of the shortcomings in this book, however, is a lack of character description of Maribeth Hickey, the supposed daughter of the owner of the island. To some degree, Maribeth can be seen as a damsel in distress, a teenager hoping to support herself through college by waitressing at a country club. Against the machinations of her nasty uncle, she is somewhat helpless and in need of Keegan's legal assistance and that of her friends, the caddies. One wishes that McCoyd described Maribeth as excellently as he did for a character Marge Conley O'Leary from *Simpson's Will*:

Marge Conley took a drag on her own cigarette and, exhaling with her lower lip jutting out slightly so that the smoke was directed upwards, away from his face, looked at him reflectively. ... Her short reddish-brown hair seemed to leap off her head in every imaginable direction...Marge's green eyes, dark eyebrows, slender nose and full lips were well-framed by her storm-tossed sea of coiffure.⁷

Instead of a physical description of Maribeth, the author hints at her intelligence and inner strength in a courtroom scene where Maribeth when she stands up to her lawyer, and refuses to accede to his plan for settlement:

My father's island should be dedicated to the care of unfortunate children who have no parents. It's what he would have wanted. Not for a casino. He loved the beauty and tranquility of the lake and the island.⁸

With that, Maribeth storms out of the courtroom. When Keegan tries to catch up with her, she turns on him and accuses of him of greed, as being the motivating factor why he is reluctant to take her case. One might expect this outburst from the orphaned Anne of Green Gables, whom the author Lucy Maud Montgomery described at length:

Her face was small, white and thin...her mouth was large and so were her eyes...the big eyes were full of spirit and vivacity...no commonplace soul inhabited the body of this stray woman-child...⁹

Without such a vignette, the caddies' affection for Maribeth—they rough it out for several days at a campsite near the island as amateur private detectives—is puzzling. Perhaps McCoyd's next book will provide more insight into Maribeth's character.

All in all, McCoyd's *The Island* is a primer to assist trusts and estates practitioners with advocating for their client's inheritance rights under EPTL §4-1.2(a)(2)(C). This purpose is well accomplished through interesting dialogue, and the authoritative voice of attorney Tim Keegan. Through his wealth of experience, McCoyd provides a kind of mentorship for a younger lawyer, complete with scripts for successful courtroom advocacy. It is said that the best writer for legal fiction is a lawyer, and *The Island* is no exception. Dialogue between the characters is spot-on and lively, and there are enough plot twists and surprises to interest those who do not practice in the trusts and estates area. However, where McCoyd surpasses other lawyer-novelists is the priority given to virtue. Compassion, authentic love, and conservation rule the day. One is encouraged to imitate the high standards in personal and professional ethics shown by the characters in the book. ⚖️

1. Edward A. McCoyd, *The Island*, New Street Publishing: 2023.

2. Edward A. McCoyd, *Murphy's Will*, New Street Publishing: 2020, p. 250.

3. Courtney Wheeler, "Who's Your Daddy? Exhumation to Establish Paternity Must Be Reigned in by a Uniform Procedure," *Estate Planning & Community Property L.J.*, 2009, Vol. 2, 251.

4. Edward A. McCoyd, *Forester's Will*, New Street Publishing: 2017.

5. A. Cantarella, et al., "Using dolls for therapeutic purposes: A Study on nursing home residents with severe dementia," *Internat'l J. of Geriatric Psychiatry*, April 19, 2018, at <https://onlinelibrary.wiley.com/doi/abs/10.1002/gps.4872>; Pamela Kaufman, "Complete Guide to Doll Therapy for People Living with Alzheimer's," reviewed by Sanjai Sinha, MD on June 9, 2020, at <https://www.everydayhealth.com/alzheimers-disease/complete-guide-to-doll-therapy-for-people-living-with-alzheimers/>.

6. McCoyd, *The Island*, at 59.

7. Edward A. McCoyd, *Simpson's Will*, New Street Publishing: 2014, p. 31-32.

8. McCoyd, *The Island*, at 53.

9. Lucy Maud Montgomery, *Anne of Green Gables*, Duke Classics: 2012 ed.



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Remembering Past President Harold Mahony: A legacy of Leadership and Vision



Harold Mahony
NCBA President 1979-1980

Joseph W. Ryan, Jr.

A rich and rewarding history of “Domus” was captured by Past President Harold Mahony (1979-80) in a video interview conducted in 1998. During Harold’s tenure as NCBA President, the construction of the Domus expansion was underway. Through his leadership, the Association operated under the roof of the Nassau County Medical

the Board’s decision. Before each meeting, Board members would meet alongside the roaring fireplace, served with drinks by Jimmy Knuckles, the resident chef. Harold likened Jimmy to our present-day Hector Herrera. No job was beneath the President. Harold recalled Christmas Eve 1979 when he and Jimmy had to bail out Domus for hours as a result of broken pipes in the newly installed sprinkler system.

Harold founded the Academy of Law not only for the benefit of members, but also as a hedge against realty taxes. At that time, the City of New York was attempting to impose realty taxes on two tax-exempt bar association buildings.

Harold initiated the Liberty Bell Award which recognized a non-lawyer’s contribution, a prominent recognition that continues to this day at the annual Law Day celebrations.

Asked what impact Domus may have had on his professional career, Harold responded by referring to a note he had received upon completing his presidency from legendary Appellate Division Justice,



Society building. As Harold noted, it was probably the only time the Wassail celebration was held “off-campus.”

Harold’s account of how the Domus expansion was accomplished is filled with stories of voting machines, judges acting as inspectors, and “shock” when the membership rejected the resolution to raise capital funds by a membership assessment of \$250. Undeterred, the Board forged ahead and arranged bank financing with the cooperation of other past presidents whose relationships with a local bank and a title company facilitated the project.

Life before the expansion at Domus makes you appreciate the wisdom of

Marcus Christ: “You will look back at this year as the most rewarding and important experience you have ever had in your professional career.” Harold admitted: “I agree with that.”

Harold passed on January 27, 2024, at age 88. You can view his interview at <https://vimeo.com/910403592>.



Joseph W. Ryan, Jr. served as President of the Nassau County Bar Association from 1993 to 1994.



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**FOCUS:
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Rudy Carmenaty

“I’ve fought them [the NCAA] the whole way. I’ve never backed down. And they never stopped.”
—Jerry Tarkanian

With March Madness upon us, memories of the late Jerry Tarkanian come to mind. Much of today’s college game—with its razmataz, the transfer portal, and athletes at last being paid for their name, image, and likeness (NIL)—can trace its roots to ‘Tark the Shark’ and his Runnin’ Rebels of the University of Nevada, Las Vegas.

Tark was himself a rebel who spent his career flouting convention, both on

The Great American Shark Hunt on the Vegas Strip

the basketball court as well as in a court of law. He never conformed to the niceties of big-time college sports. Nor was he shy in pointing out its hypocrisies. It was inevitable the establishment would exact a price for his defiance.

The child of Armenian immigrants, Tarkanian found his calling coaching college hoops. On reflection, he observed, “*Coaching has been my entire life.*”¹ And so it was, as he led winning programs at Long Beach State, UNLV, and Fresno State in the course of 31 seasons of Division 1 basketball.

Tark compiled a 729-201 record, with a .724 winning percentage.² By his account, he actually won 784 games.³ This discrepancy is due to the National Collegiate Athletic Association (“NCAA”) disqualifying 55 of his victories. His countless clashes with the NCAA only added to his mystique.

In contrast to the august John Wooden of UCLA, Tarkanian was quite a character. Wooden radiated respectability. Tark looked more like a blackjack dealer or a casino

pit boss. Tark’s trademark was a moist towel he would chew courtside. All the same, he was one heck of a coach.

Having spent time in Wooden’s shadow at Long Beach State, Tarkanian arrived at UNLV in 1973. UNLV was a nondescript commuter school known as “*Tumble Weed Tech.*”⁴ Tark assembled a winning program and did so quickly. He must have cut some corners, because by 1977 his Runnin’ Rebels were in the Final Four.

Under Tarkanian, UNLV made four Final Four appearances and in 1990 won the National Championship over Duke by the eye-popping score of 103-73. Notching a hundred points or more a game was routine for a squad that regularly paid-off like a slot machine.

Games at the Thomas & Mack Center, aka the “*Tark’s Shark Tank,*” were a glittering showcase consisting of red carpets, pyrotechnics, and slam dunks. Fans would clasp their arms mimicking the bite of a shark to the ubiquitous theme music from the movie *Jaws*.

Then there was “*Gucci Row,*” courtside seats that sold for thousands of dollars apiece. Gucci Row was where the rich and near famous went to be seen. It seemed rather tawdry at the time. Yet, Las Vegas personifies excess and entertainment. Its reputation has always been more unsavory than wholesome.

Tark provided fans a heady mixture of success and scandal that turned UNLV basketball into one of the hottest shows on the Strip. Looking back on it, it was a harbinger of things to come. These sorts of extravaganzas are commonplace in the present-day NCAA as well as the NBA.

The bond between Tarkanian and the people of Las Vegas was a match made, if not in heaven, then at Caesar’s Palace. It lasted longer than most of the marriages performed in Las Vegas on any given night. For a city focused on winning, Tark, who had 509 wins against 105 losses at UNLV, fit the town to a tee.⁵

The team’s boosters were typically high rollers, people who valued success over the school’s scholastic standing. Supporters included Frank Sinatra, Don Rickles, Wayne Newton, and other headliners. Tark’s fame was such that Sinatra even tried his hand at recruiting and his wife Lois was elected to the City Council.

Tark built his teams around a pressure defense, a high scoring/

high flying offense, and a flashiness that would make a showgirl blush. Behind it all was a risky, win-at-all-costs recruitment strategy. These very qualities were bound to attract inquiries from the image-conscious NCAA.

Then there is the issue of race. Reflecting his own hard-scabble background, Tark sought out athletes from inner-city backgrounds that most schools overlooked. Unable to attract top talent, he recruited players from the junior college ranks. Like Al Davis in football, his approach resulted in more than a few reclamation projects coming to UNLV.

Tark’s squads possessed a gritty urban vibe that intimidated opponents. He would play five African American starters, when most coaches wouldn’t or couldn’t. Critics dismissed his players as ‘*thugs,*’ as if somehow, these young men were unworthy of playing college ball.

Admittedly, many could not have gotten into a four-year institution otherwise. Hence, the recruitment and eligibility violations. The majority of these prospects were successful. Others, most notably Lloyd Daniels who was caught by Vegas police buying cocaine, turned out catastrophically.

All of which earned Tarkanian a reputation for being a sort of ‘*Father Flanigan.*’⁶ Still, it was all about winning, not generosity. Not surprisingly—though shameful nonetheless—only six of his players graduated between 1974 and 1983.⁷ On the other hand, they did get a shot at bigtime basketball. Coming from nowhere, Tark won, he won big, he won with style. And like all hot streaks, it came to an end.

In Vegas, the odds are with the house. In college sports, authority resides with the NCAA. The NCAA regulates athletic programs at nearly a thousand institutions of higher education in the United States.

The NCAA exalts in the amateur ideal and venerates the image of the student-athlete. But it is big business. March Madness generated \$1.3 billion—\$873,000 from tv rights alone—in 2023, accounting for ninety percent of the NCAA’s revenue.⁸ Players don’t collect a penny from this jackpot.

Tark first drew the ire of the NCAA at Long Beach State. As soon as his program started winning, there were rumblings and rumors drawing unwanted attention. In response, Tark alleged in print the NCAA went after programs at smaller



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schools like his, while turning a blind eye to infractions by powerhouses like UCLA. Long Beach State was investigated and sanctioned. UCLA went unscathed.

The NCAA's Committee on Infractions went to great lengths to gather evidence. A Nevada judge later determined lead investigator David Burst "threatened, coerced, promised immunity, promised rewards to athletes in his effort to obtain derogatory evidence."⁹

By complaining about the NCAA's enforcement practices, Tark was doing more than saying the emperor—or in this case the empire—has no clothes. He was putting a target on his back. It also got personal. Burst would refer to Tark as a "rug merchant," an ethnic slur.¹⁰ Tarkanian's family survived the Armenian genocide.

In 1977, the NCAA levied charges that UNLV had committed 38 rules violations, and found Tarkanian guilty of ten violations, ranging from grade fixing to offering players cash, to improper recruiting practices.¹¹ It should also be noted that some of the NCAA's charges took place before the coach arrived in Vegas.

Tark asserted the evidence, such as it was, was improperly derived and due process had been denied him. At the hearing, Tarkanian offered affidavits, testimony, and polygraph tests that called the NCAA's charges into question. It was all for naught. The NCAA functions as judge, jury, and executioner. It calls the shots.

The NCAA suspended the program from post-season competition and banned UNLV from appearing on national television for two years. If that were not enough, the NCAA took the further step of recommending the university sever all ties to Tarkanian during the probationary period or face additional penalties.

UNLV was directed to show cause why Tarkanian should not be suspended. The NCAA could not touch Tark, but it could punish UNLV to compel a desired result. UNLV had three options: 1) carry out the suspension; 2) refuse to do so and face further sanctions; or 3) have UNLV withdraw from the NCAA entirely.¹²

UNLV decided to suspend Tark. In response, he filed a §1983 suit for declaratory and injunctive relief asserting his rights to due process under the 14th Amendment had been violated. It was the only option open to him as NCAA administrative proceedings permitted hearsay and denied him the right of cross-examination.

Tark got a Nevada court to issue a permanent injunction enjoining the suspension. He also got legal fees. Tark could keep his job while the matter wound its way through the system, but the NCCA's suspensions against UNLV remained in place.

The battle between Tark and the NCAA would endure for the next quarter century. The dictates of the Constitution apply only to the government, not to private parties. As a non-state actor, the NCAA maintained its conduct was not subject to review. Tarkanian countered it was pressuring UNLV in such a fashion as to deprive him of his property rights. UNLV is a state-supported institution.

The case went up to the Nevada Supreme Court. It ruled in 1987 that NCAA was behaving as a pseudo-state actor operating under the color of law, thus subjecting it to constitutional scrutiny.¹³ As an employee of a state university, Tark could not be suspended from his job without due process.

The case then went to the U.S. Supreme Court. In a decision that went down to the buzzer 5-4, the Court held against Tarkanian and in favor of the NCCA.¹⁴ The majority overruled the Nevada Supreme Court's decision and overturned the trial court's injunction.

Justice John Paul Stevens, writing for the majority, held that the link between the NCAA and UNLV was insufficient as they acted as adversaries in the instant matter. Furthermore, the NCAA gave UNLV the choice either to suspend Tark or not participate in its privately run athletic competitions. As a private entity, the NCAA had a free hand to investigate violations of its own regulations and take any action it saw fit, even if the organization failed to afford Tarkanian due process. The enforcement of its rules need not conform to constitutional standards.

Interestingly enough, the one man on the Court who had played football under NCAA rules sided with Tarkanian. Justice Byron White was an All-American for the University of Colorado Buffalos. In his dissent, White believed the NCAA became a state actor since it was acting jointly with UNLV.

Tarkanian may have lost in the highest court in the land, but he avoided being suspended all together. The NCAA and UNLV ultimately worked-out an arrangement that permitted him to continue coaching, although the program was penalized yet again. All the same, Tark's days were numbered at UNLV.

In 1991, just months after losing in a semi-final rematch with Duke, the *Las Vegas Review Journal* printed a photo of three UNLV players in a hot tub with a convicted felon named Richard Perry.¹⁵ Known as "the Fixer," Perry was a gambler involved in a point shaving scandal at Boston College during the 1970s.¹⁶ Whether or not you are from Vegas, the one cardinal rule of sports—collegiate or professional—is to stay away from professional gamblers. Tarkanian was held responsible for the photo, and it

gave credence in many minds to the accusations the NCAA had levelled over the years.

It also was the final straw for UNLV President Robert Maxson. Seeking to enhance the university's reputation and deemphasize basketball, Maxson had been searching for a reason to fire Tarkanian. The year before, Maxson and the NCAA negotiated a delay to a suspension that enabled the team to defend their national title.

Maxson, for his part, engaged in numerous underhanded tactics, including surreptitiously recording the team's practices. They eventually cut a deal that the coach would resign after the 1992 season. Although Tark at one point withdrew his resignation, he left as agreed to. UNLV basketball has never been the same.

Perhaps, Tark would have been better served if he coached in the NBA, where the rules the NCAA enforces don't apply. But Tark lasted just 20 games for the San Antonio Spurs before being fired. In 1995, he moved to Fresno State. He went home to his alma mater, coached six more years, and never had a losing season.

In the interim, Tark hurled one final salvo. Declaring: "They've been my tormentors my whole life," he sued the NCAA for harassment.¹⁷ The parties settled in 1998. The NCAA, knowing it didn't stand a chance in Nevada, paid out \$2.5 million, issued a statement of regret, and admitted no liability for its actions.¹⁸

At a press conference Tark said, "the accusations against me, twenty-five years' worth of them, were unfounded and without evidence."¹⁹ Then he added, "I was never given a hearing to clear my name. They can never, ever, make up for the pain and agony they caused me...they beat the hell out of me."²⁰

Sanctions and suspicions followed Tark wherever he coached. Did Tarkanian bend or break the rules? Did the NCAA go out of its way in its pursuit? Did other coaches and programs commit similar violations and get away with them? The most likely answer to all of these questions is—yes.

Las Vegas is a wide-open town, and Tarkanian was no paragon of virtue. Nor was he Father Flanigan. He was paid to win and win he did. Perhaps Tark's real sins were speaking some uncomfortable truths, embarrassing powerful people, and exposing the seamy side of college sports.

Tark's impact at the NCAA is still felt. Thanks to the controversy he aroused, the NCAA amended its practices, including the disallowance of hearsay. The NCAA still calls the shots, but its investigative methods and administrative proceedings are not as one-sided as they once were.

Thirty years after Tark's heyday, college basketball and Vegas have come full circle. The Final Four is scheduled to take place in Las Vegas in 2028. Ads for legalized sports books will be seen on NCAA telecasts and 45 million people will gamble \$3 billion on March Madness.²¹

It was Tarkanian who made Vegas a sports mecca. UNLV basketball was once the only game in town that did not take place on a table. The city now boasts a Stanley Cup champion in the NHL's Vegas Golden Knights, with the NFL's Raiders having already moved from Oakland and MLB's Athletics arriving in 2025.

Between the transfer portal, enabling college basketball players the ability to move from school to school without penalty, and NIL, compensating players for selling their names, images, and likenesses, the NCAA has caught up with Tark. No doubt, the majority of his transgressions would hardly raise an eyebrow today.

For better and for worse, Jerry Tarkanian's legacy, paradoxically, is as the precursor of what NCAA basketball has become. As U.S. Senator Harry Reid noted on Tark's passing in 2015, "[the NCAA] controlled, bullied, and tried to embarrass him, but he never stopped fighting until they cried uncle."²² An epitaph that Tark—a great coach and a charming rascal—would have appreciated. 🪦

1. Rick Montanez, Dale Yurong, Tim Dahlberg, Ken Ritter, *Former Fresno State Basketball Coach Jerry Tarkanian dies at 84*, ABC30Fresno (February 12, 2015) at <https://abc30.com>.

2. UNLV icon Jerry Tarkanian, 84, dies, ESPN (February 11, 2015) at <https://www.espn.com>.

3. Montanez, *supra*.

4. UNLV News Center, *The Unpredictable Future of UNLV*, UNLV (September 7, 2017) at <https://www.unlv.edu>.

5. Richard Goldstein, *Jerry Tarkanian, 84, N.C.A.A. Foe and College Basketball Force Dies*, New York Times (February 11, 2015) at <https://nytimes.com>.

6. A.D. Hopkins, *Jerry Tarkanian*, Las Vegas Review-Journal (February 7, 1999) at <https://www.reviewjournal.com>.

7. Goldstein, *supra*.

8. Tim Parker, *How Much Does the NCAA make Off March Maddens*, Investopedia (June 8, 2023) at <https://www.investopedia.com>.

9. Hopkins, *supra*.

10. Michael J. Goodman, *Throwing in the Towel*, Los Angeles Times (February 16, 1992) at <https://latimes.com>.

11. See *Tarkanian v NCCA*, 103 Nev. 331 (1987).

12. *NCAA v Tarkanian Oyez* at <https://www.oyez.org>.

13. *Tarkanian v NCCA*, *supra*.

14. See *NCAA v Tarkanian*, 488 U.S. 179 (1988).

15. Hopkins, *supra*.

16. *Id.*

17. Goldstein, *supra*.

18. Larry Stewart, *Tarkanian, NCAA Settle for \$2.5 Million*, Los Angeles Times (April 2, 1998) at <https://latimes.com>.

19. *Id.*

20. *Id.*

21. Parker, *supra*.

22. Montanez, *supra*.



Rudy Carmenaty is the Deputy Commissioner of the Nassau County Department of Social Services. He can be reached at rudolph.carmenaty@hhsnassaucountyny.us.

NASSAU ACADEMY OF LAW

March 11 (IN PERSON ONLY)

The Motely Woman: Constance Baker Motley, A Woman for All Seasons by Rudy Carmenaty

6:00PM – 7:00PM

1.0 credit in Diversity, Inclusion and Elimination of Bias. Skills credit for newly admitted attorneys.

Constance Baker was a woman for all seasons. A brilliant legal strategist for the NAACP Legal Defense Fund, she was the first African-American woman admitted to the Bar of the U.S. Supreme Court, where she won nine of the ten cases she argued before the Court. She became the first African-American woman to be elected to the NYS Senate and the first elected Manhattan Borough President. In 1966, President Lyndon Johnson nominated her to a judgeship in the Southern District of NY. Upon Senate confirmation, Judge Motley was the first African-American to join the federal judiciary. From 1982 to 1986, she served as Chief Judge SDNY, another first, until she assumed senior status. During nearly 40 years as a judge, she exemplified the very best of the federal bench.

NCBA Member: Free

Non-Member Attorney: \$35

March 14 (IN PERSON ONLY)

Mental Illness in the Family Court

With the NCBA Family Court Law, Procedure and Adoption Committee

5:30PM – 7:30PM

2.0 credits in Professional Practice

This CLE program will include an overview on the application of Family Court Act 251 and Mental Hygiene Law 9.43 in Family Court matters. Jean Fisher, Clinical Psychologist, Nassau County Family Court Mental Health Liaison, and Charolette Poland, LCSW, Social Work Supervisor for Child and Adolescent Psychiatry at Nassau University Medical Center, share their roles and perspectives. There will also be a portion of the program devoted to self-care for practitioners in the Family Court.

NCBA Member: Free

Non-Member Attorney: \$70

March 15 (HYBRID)

Dean's Hour: Celebrating the Birthday of Justice Ruth Bader Ginsburg by Rudy Carmenaty

12:30PM – 1:30PM

1.0 credit in Professional Practice. Skills credit available for newly admitted attorneys.

Join us to celebrate the life and accomplishments of Joan Ruth Bader Ginsburg, Associate Justice of the U.S. Supreme Court from 1993 until her death in 2020. Born on March 15, 1933, Justice Ginsburg was an American lawyer and jurist who was nominated by President Bill Clinton to replace retiring Justice Byron White. Ginsburg was the first Jewish woman and the second woman to serve on the Court. Later in her tenure, Ginsburg received attention for passionate dissents that reflected liberal views of the law. She was popularly dubbed "the Notorious R.B.G.," a moniker she later embraced.

NCBA Member: Free

Non-Member Attorney: \$35

*please join us in person only
at Nassau County Bar
Association*

2024

ANNUAL SCHOOL LAW CONFERENCE

MARCH 22, 2024

8:00 AM	Breakfast and Registration
9:00 AM	Maintaining Order Without Stifling Speech: The First Amendment's Impact on Conflicting Opinions in the School Environment (1.5 credit Professional Practice)—John Gross, Thomas Volz, Candace Gomez and Christopher Mestecky
10:30 AM	AM Break
10:45 AM	Morning Breakout Sessions
	<ol style="list-style-type: none"> How Artificial Intelligence and Security Threats are Shaping Technology Updates in School Districts (1.0 credit Cybersecurity, Privacy & Data Protection—General)—Christopher Shishko and Jed Painter Don't be Foiled by FOIL: How to Handle Freedom of Information Act Requests (1.0 credit Professional Practice)—Tyleana Veneable, Christie Jacobson and Anthony Fasano Bad Behavior: How Districts Can Manage Employee Discipline Matters (1.0 credit Professional Practice)—Sharon Berlin, Joshua Shteierman and Greg Gillen
11:45 AM	Lunch
12:45 PM	Striking a Balance: Where Mental Health and Restorative Practices Intersect with Student Disciplinary Proceedings (1.5 credit Professional Practice)—Mara Harvey, Michael McAlvin, Rebecca Sassouni and Dennis O'Brien
2:15 PM	Break
2:30 PM	Afternoon Breakout Sessions (1.0 credit Diversity, Inclusion & Elimination of Bias)
	<ol style="list-style-type: none"> Balanced Education: How Title IX and the Commissioner's Guidance Attempt to Provide Equal Educational Access—Scott Limmer, Sophia Terrassi and Michael G. Vigliotta An Introduction to Impartial Hearings—Lauren Schnitzer, Jack Feldman and Fahad Qamer Keeping the Faith: Practical Guidance for Religious Accommodations—Ellen Vega, David Arntsen and Daniel Levin

NCBA Members—\$100

Non-Member Attorneys—\$250

School Personnel—\$250

Purchase orders accepted from school districts.

PROGRAM CALENDAR

March 26 (IN PERSON ONLY)

How to Maximize Using Zoom and Other Video Based Applications During a Remote Deposition by David Yaron, Esq.

With the NCBA Defendants Personal Injury Committee
5:30PM – 7:30PM

2.0 CLE credits in Professional Practice

This CLE teaches attorneys how to maximize using Zoom and other video-based applications during a remote deposition. Yaron will discuss preparation of exhibits in advance; the importance of muting other attorneys; how to screengrab for evidentiary purposes; making sure your computer is in “do not disturb mode”; the benefit of having two screens; and how to make a remote-based record for appeal purposes. The program also covers remote deposition strategies from plaintiff, defendant, and appellate perspectives.

NCBA Member: Free
Non-Member Attorney: \$70

April 8 (IN PERSON ONLY)

An Evening with the Guardianship Bench 2024

With the NCBA Elder Law Committee

5:30PM – 6:30PM Dinner Reception
6:30 PM – 8:30 PM Program

2.0 CLE credits in Professional Practice

Back by popular demand, jurists from across the tri-county will participate in an hour-long meet and greet, followed by a round-table discussion of guardianship practice and procedure. Pre-registration is required for headcount purposes.

Guest Speakers:

Hon. Arthur M. Diamond (Ret.), Moderator
Hon. Gary F. Knobel (Nassau County)
Hon. David J. Gugerty (Nassau County)
Hon. Gary Carlton (Nassau County)
Hon. Bernice D. Siegal (Queens County)
Hon. Lee A. Mayersohn (Queens County)
Hon. Wyatt N. Gibbons (Queens County)
Hon. Chris Ann Kelley (Suffolk County)
Hon. Rachel Freier (Kings County)

NCBA Member: \$60
Non-Member Attorney: \$80
Court Support Staff: \$40

April 15 (IN PERSON ONLY)

Dean’s Hour: Expedited Jury Trials in Supreme Court by Hon. R. Bruce Cozzens, Jr., Steve Gokberk, Esq., and Giulia R. Marino, Esq.

12:30PM – 2:00PM

1.0 credit in Professional Practice

The expedited trial permits personal injury litigants to achieve a jury verdict in a speedy manner. Justice Cozzens will discuss how prior to trial, counsel shall prepare trial exhibits notebooks and the procedures for objections to the notebook contents, expedited jury selection, trial procedure, and the verdict.

NCBA Member: Free
Non-Member Attorney: \$35

April 18 (IN PERSON ONLY)

Matrimonial Law Update by Stephen Gassman, Esq. — Senior Partner, Gassman Baiamonte Gruner, P.C.

With the NCBA Matrimonial Law Committee.
Dinner sponsored by NCBA Corporate Partner Complete Advisors.

5:30PM – 6:30PM – Dinner Reception

6:30 PM – 8:30 PM - Program

2.0 CLE credits in Professional Practice

This program will include an extensive review and update on many of the groundbreaking cases decided in matrimonial law since our last Matrimonial Law Update. Mr. Gassman will discuss a summary of new cases during his program that will be a valuable tool for your matrimonial law practice.

NCBA Member: Free
Non-Member Attorney: \$70

April 18 (IN PERSON OLD WESTBURY GARDENS)

The How To’s of Land Conservation by Ellen Fred, Conservation Partners, LLP

Sponsored by North Shore Land Alliance

9:30AM – 12:30PM

3.0 CLE credit in Professional Practice

Discover the essential steps of private land conservation with Ellen Fred, Esq., a nationally recognized expert in conservation. Gain invaluable insights and practical knowledge to navigate the intricacies of private land conservation. Highlighted topics include the fundamentals and drafting of conservation easements; evaluating advanced tax issues, including the deductibility of charitable contributions; and structuring, negotiating, and closing purchase, sale, bargain sale, and donation transactions.

NCBA Member: \$75
Non-Member Attorney: \$225



**FOCUS:
CIVIL PROCEDURE**

Christopher J. DelliCarpini

Twenty-five years into the e-filing era, many of us still fail to even appreciate the opportunities e-filing offers to improve our practice. While the title of this article echoes the clickbait articles littering your social-media feed, these thirteen facts are invaluable to the attorney who leverages them to the fullest.

Fact 1: E-Filing Is Almost Always Mandatory

After a quarter-century of incremental expansion county by county, e-filing is now mandatory in most categories of cases across New York. In Nassau County Supreme Court, for example, e-filing is now

Thirteen Amazing Facts About Electronic Filing (You Won't Believe Number 12!)

presumptively mandatory in all civil matters. The exceptions are that e-filing is still voluntary in actions under the Election Law, Mental Hygiene Law, and CPLR Articles 70 and 78, as well as matrimonial matters. Consumer credit actions and residential foreclosures are also mandatory in part. This means that the time has come for us to rethink comprehensively how we create, file, serve, and store documents in every case.

Fact 2: The E-Filed Document Is the “Original”

The Uniform Rules are clear: “When a document has been filed electronically pursuant to this section, the official record shall be the electronic recording of the document stored by the County Clerk.”¹ So while you might save hard copies of certain documents as working copies or for easier reading, you no longer need to save hard copies of documents that you have e-filed. In fact, if you know how to use the software you likely already have,

you no longer need to ever have a hard-copy of a document destined for e-filing.

Fact 3: You Can (and Should) E-File Almost Everything

The Available Documents feature, accessible at the bottom of the NYS Courts Electronic Filing (“NYSCEF”) homepage, allows you to generate a list of every type of document accepted for e-filing in a specific type of action in a specific court.² It is worth perusing the lists for your most common cases, as many attorneys have simply never considered e-filing, for example, bills of particulars or letter correspondence to the court. A notable exception is discovery materials, which may be e-filed only after the parties so authorize by stipulation.³ Discovery demands, however, can be e-filed, and should, for reasons that will become evident before you reach the end of this article.

Fact 4: Cite to NYSCEF

2024 is the tenth anniversary of the CPLR 2214(c) amendment to expressly provide:

Except when the rules of the court provide otherwise, in an e-filed action, a party that files papers in connection with a motion need not include copies of papers that were filed previously electronically with the court, but may make reference to them, giving the docket numbers on the e-filing system.

You no longer need to file as exhibits to your motion documents that are already in NYSCEF. And when preparing an appellate record, you can, and should, add such documents as among “the papers and other exhibits upon which the judgment or order was founded” required by CPLR 5526.

Fact 5: Uploading Is Not Always “Entry”

E-filing is not without its mysteries, chief among them that, depending on the county, an order uploaded to NYSCEF may not yet be “entered.” This incongruity can vex parties eager to start the clock to take appeal from a court order, who find out days after serving notice of entry that the clerk has entered in NYSCEF an entered copy of that order. If you do not see an “Entered” stamp on an e-filed order, then the prudent recourse may be to contact the clerk’s e-filing office and confirm local practice.

Fact 6: Don’t “Scan” Your PDFs; “Print” Them

Anyone who’s ever e-filed a document knows that we may only file PDFs, but we might not appreciate that there are two ways to create a PDF, one of which should be avoided whenever possible. The best method is to generate it electronically, either “Print to PDF” a Word document or “Save As” into the .pdf format. This takes less time than it took to read the preceding sentence, and creates a PDF that is crisp, clean, and text-searchable. The other method is to scan a document, which requires paper, a printer, scanner, a trip down the hall to the scanner, a network drive or e-mail address to send the scan to, and a trip back to your desk to locate online and open the PDF. However little time you think this takes, it is not worth an end product that is fuzzier and grayer than a properly created PDF and, depending on your office scanner, may not even be text-searchable.

Fact 7: You Don’t Need a “Wet” Signature

Under the Uniform Rules, a document filed through your NYSCEF account is presumed to have been signed by you.⁴ This means that you can export a word-processing document to PDF for e-filing without having to print it, sign by hand, and then scan it. If a document is being filed through an account other than the author’s, then it will need to bear the author’s signature. But a “digital image” of the signature is acceptable—which makes sense, as the authoritative version of the document will be digital as well.⁵ So you can scan your signature, save it as a graphic file, and insert that into your PDFs. An even better practice may be to insert your signature into your templates, so that your documents are already signed when you start drafting them.

Fact 8: Bookmarking and Hyperlinking Is (Sometimes) Required

Any affirmation, affidavit, or memorandum longer than 4,500 words “which was prepared with the use of a computer software program” must include bookmarks.⁶ These are links to locations in the document and appear in a sidebar when you view a PDF. These are easy to generate,⁷ but hopefully this will deter some attorneys from even approaching that word count. Commercial Division Rule 6(c)



LAW DAY 2024

Thursday, May 9, 2024
5:30 PM at Domus

Commissioner Viviana M. DeCohen
NYS Department of Veterans’ Services
Liberty Bell Award

Lisa St. Rose
District Court Senior Court Clerk
Peter T. Affatato Court Employee
of the Year Award

Thomas Maligno Pro Bono
Attorney of the Year Award

Scan the QR code to
make a reservation or
sponsor the event.



also requires hyperlinks to NYSCEF documents and encourages hyperlinks to authorities as well. Hyperlinks are links embedded in the body of a document and take you to a webpage. The best method is to create hyperlinks in your word-processing software, so they appear in PDF like any other hyperlink across the Internet.⁸

Fact 9: Redaction Is More Than a Black Rectangle

The Uniform Rules require e-filers to redact Confidential Personal Information or CPI, which includes certain identifying information like Social Security numbers, dates of birth, and minors' full names.⁹ You could redact your documents with a magic marker as we have done since time immemorial, but PDF software allows you to redact as easily as you find a word throughout a document. The electronic method is more reliable than manually striking through CPI, as it not only leaves a solid bar where the information was but removes the underlying information from the PDF. Electronic redaction is also more reliable than redaction by hand; you can automatically find and redact anything that you can type into the search bar.¹⁰

Fact 10: Submit Unredacted Affirmations for In Camera Inspection

CPLR 3101(d)(1) allows parties in medical malpractice actions to withhold in discovery the names of their medical experts. In motion practice, however, parties who attach

a redacted medical expert opinion must submit an unredacted copy for in camera inspection. In *Del Bene v. Frank C. Perry, DDS, PC*, the trial court granted summary judgment because the plaintiff only offered to submit an unredacted affirmation—and denied the plaintiff's motion for renewal, in which he did submit the unredacted affirmation. The Second Department ultimately held that this was an abuse of the trial court's discretion, but rather than wait for delayed vindication in the Appellate Division, simply submit the unredacted opinion without waiting for an invitation.

Fact 11: E-Filed Documents Must Be PDF/A

The NYSCEF Technical Requirements specify that documents must be in the PDF/A format.¹¹ The "A" stands for "Archive." A PDF/A is a PDF document with more sophisticated elements like video objects or encryption stripped out, so that the document will be accessible to anyone viewing the PDF. Saving a PDF as PDF/A is usually as simple as picking the option from the drop-down in the Save As dialogue box. But when PDFs have elements that preclude PDF/A conversion—and some deposition transcripts will have such elements—those elements can be removed within PDF creation software, like the Preflight function in Adobe Acrobat.¹²

Fact 12: E-Filing Is Service—and Proof of Service!

Prepare to have your mind blown:

when you e-file a document and all parties have registered in NYSCEF, you need not submit an affidavit or affirmation of service. The Uniform Rules do require "proof of service,"¹³ but NYSCEF is service as well as proof of service—though nowhere do the rules say so. And in the early days of e-filing, many of us e-filed affidavits to the effect that we had e-filed some other document, and in our defense no one ever explained that this was unnecessary. But Administrative Judge Marks clarified the issue in his 2018 report *Electronic Filing in the New York State Courts*: "In an e-filed case, parties are not required to file proof of service. NYSCEF is both a filing and service system."¹⁴ Of course, where any party has not registered in NYSCEF or where service by mail or other real-world means is required, your proof of service will have to be an affirmation.¹⁵

Fact 13: E-Filing Is Open 24-7-365

The Uniform Rules also make clear: "Documents may be transmitted at any time of the day or night to the NYSCEF site."¹⁶ So all of you who have been running around like crazy to get your documents e-filed before the close of business, rest easy; you have until 11:59 PM to file at the last minute. Attorneys are trained to reason from precedent, and that habit can seep into our business practices as well. But e-filing has changed our practice as fundamentally as desktop word-processing and online legal research. If we take the time to consider the

opportunities that this technology offers, we will be able to do more for our clients and do it more quickly and easily. ✍️

- 22 NYCRR §202.5-b(d)(4).
- Available Document Types, NYSCEF, available at <https://bit.ly/3So3HzM>.
- 22 NYCRR §202.5-b(j).
- 22 NYCRR §202.5-b(e)(1)(iii).
- 22 NYCRR §202.5-b(e)(1)(ii).
- 22 NYCRR §202.5(a)(2).
- How to add bookmarks to PDF files*. Adobe, available at <https://adobe.ly/488J5kK>.
- Hyperlinks in Word for the Web*, Microsoft Support, available at <https://bit.ly/3HLOeOQ>.
- 22 NYCRR §202.5(e)(1).
- How to black out text in PDF files*. Adobe, available at <https://adobe.ly/3UqEj3>.
- NYSCEF Requirements*, New York State Uniform Court System, available at <https://bit.ly/3HLOeOe>.
- Analyzing documents with the Preflight tool (Acrobat Pro)*, Adobe, available at <https://adobe.ly/3OyoPSC>.
- E.g., 22 NYCRR §202.5(a)(1) ("every paper filed in court shall have annexed thereto appropriate proof of service on all parties where required").
- Electronic Filing in the New York State Courts: Report of the Chief Administrative Judge to the Legislature, the Governor, and the Chief Judge of the State of New York, available at <https://bit.ly/3OwWBYL>.
- E.g., 22 NYCRR §1245.3 (Entry of initial information for electronic filing).
- 22 NYCRR §202.5-b(d)(3)(i).



Christopher J. DelliCarpini is an attorney with Sullivan Papain Block Mcmanus Coffinas & Cannavo P.C. in Garden City, representing plaintiffs on appeal in personal injury matters. He is also an Assistant Dean of the Nassau Academy of Law. He can be reached at cdelicarpini@triallaw1.com.

In Brief

The *Nassau Lawyer* welcomes submissions to the IN BRIEF column announcing news, events, and recent accomplishments of its current members. Due to space limitations, submissions may be edited for length and content. PLEASE NOTE: All submissions to the IN BRIEF column must be made as WORD DOCUMENTS.

Cullen and Dykman LLP proudly welcomes **Andrew M. Thaler**, a highly regarded attorney with an impressive 40-year career, to its Bankruptcy and Creditors' Rights department.

Noreen Chen and **Nicole Milone** were elevated to the partnership at Certilman Balin Adler & Hyman, LLP. Chen was previously Of Counsel to the firm and Milone was formerly an associate.

Forchelli Deegan Terrana LLP is pleased to announce the promotions of the following Construction attorneys: **John M. Comiskey** to Partner and **Raymond A. Castronovo** to Of Counsel. **Kathleen Deegan Dickson** has been appointed Co-Chair of the firm's Land Use & Zoning practice group; she also co-chairs the firm's Cannabis practice group. **Daniel P. Deegan**, a partner and Chair of the firm's IDA Benefits and Government

Incentives practice group, was elected to the Long Island Builders Institute's Board of Directors for a one-year term effective January 1, 2024. The firm also welcomes **Johanna C. David** to the firm's Tax, Trusts & Estates practice group as a Partner; she is also an Adjunct Professor at the Maurice A. Deane School of Law at Hofstra University, teaching an estate planning course.

The *New York Real Estate Journal* spotlighted Harris Beach Partner and Real Estate Development Industry Team Co-Leader **Jack Martins** in the Commercial Real Estate Visionaries special section.

Marcus O'Toole-Gelo has been promoted from Senior Counsel to Partner at Kurre Schneps LLP. He concentrates his practice in trusts and estates and elder law, including estate planning, asset protection, Medicaid,

estate tax planning, and trust and estate administration.

Brian A. Picarello, the Managing Partner at the family law firm of Picarello & Saciolo, P.C., was a contributor to a special section published by the *Long Island Business News*. He and other Long Island leaders revealed their predictions and insights for the year ahead in "Forecast for '24."

Hon. Randy Sue Marber was elected as a District Director (10th J.D. – Nassau County) for the Association of Justices of the Supreme Court of the State of New York (AJSCSNY) on January 19, 2024.

The Partners of Lamb & Barnosky, LLP are pleased to announce that the name of the firm has been changed to **LambZankel, LLP**, effective January 1, 2024.

Anthony A. Nozzolillo was selected to receive a Herald Community Newspaper "R.E.A.L. (Real Estate Achievement and Leadership) Award" at the 3rd Annual Herald R.E.A.L. Award Gala, held February 28 at the Heritage Club at Bethpage. Honorees are formally recognized for their career achievements and community contributions.

Marc Hamroff, who had been Managing Partner of Moritt Hock & Hamroff LLP for over 25 years, is assuming the role of Chairman. **Michael Cardello III**, a long-standing member of the firm's Management Committee and former Chair of the Litigation practice, has been elected Managing Partner. Leadership at the firm established the focus of the Chairman to be spearheading client service, overseeing the firm's long-term vision, and executing its long-term plan.

A Toast to Domus: The Legacy of the Nassau County Bar Association (Part 2)

In tribute to the 125th anniversary of the Nassau County Bar Association's founding in 1899, throughout 2024, Nassau Lawyer will publish excerpts from the history book, A Toast to Domus: The Legacy of the Nassau County Bar Association, to familiarize readers with the NCBA's past. An online copy of A Toast to Domus, published in 2020, can be found at NassauBar.org under the About Us dropdown menu.

For the first quarter century, the Association remained small and select. Dues were minimal, but not until 1916 did membership reach 100, and at the beginning of the Roaring Twenties, there were still fewer than 150 members. The 1920s brought rapid growth to the suburban county, and membership in the Bar Association kept pace with the county's rise to reach almost 350 on the eve of the stock market crash. There were several reasons for this growth. First, the rising stock market and corporate expansion generated opportunities for the legal profession. Second, Nassau's population more than doubled during the decade, from 126,120 to 303,053, as banks joyfully issued mortgages for homes in the expanding middle class suburbs. By 1930, Nassau was the seventh richest in the state, and ninth in population. This wave of suburbanization followed the electrification of the Long Island Railroad and the completion of Pennsylvania Station, which made commuting into the city efficient and comfortable compared to the years



before 1911, when commuters had to transfer from the train at Hunter's Point to ferries crossing the East River to 34th Street or James Slip.

Most of the new members either practiced real estate law in the county, or kept their practice in Manhattan while moving to the new suburban communities. Among the latter was John W. Davis, Democratic

candidate for president in 1924 who bought a home in Locust Valley but practiced in Manhattan at 15 Broad Street. Speaker at the cornerstone ceremony for the Association's new building, Justice Edward Lazansky of the Appellate Division of the Supreme Court, remarked that the growth of Nassau was "bound to continue. The trend of the urban to the rural

cannot be stayed. The attractions of your county in its waters and lands are a constant invitation to those who, weary of the swift moving life of the city, seek a haven of rest."

During its first quarter century, the Association had an active social calendar, and the events were often held at one of the county's country clubs, such as Hempstead, Cherry Valley, and Piping Rock. Since membership was small and select, there was no objection to holding the annual field day at restricted clubs. There were no women members, no blacks, no Jews or Catholics. Nor did Prohibition seem to have inhibited the festivities. Reporting on the Field Day held at the Piping Rock Club in 1928, the committee reported: "...last year's complaints about the slow drinking in the locker room were not made this year, the condition having improved and their work having been speeded up considerably. Many participants mistook the amber beverage served in the Grill for real beer, and not a drop was left over to be accounted for." 🍷

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Nassau County Bar Association Annual Dinner Gala

Saturday, May 4, 2024 | 6:00pm

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2024 Distinguished Service Medallion Honoree

Hon. Lance D. Clarke

and our Fifty, Sixty and Seventy-year Honorees



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DINNER GALA TICKETS

\$275 per guest

Please send completed form with payment to events@nassaubar.org or mail to:

Nassau County Bar Association Annual Dinner Gala

15th & West Streets, Mineola, NY 11501

Contact Name: _____

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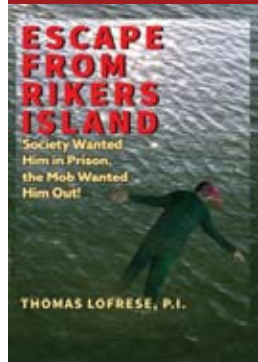
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Questions? Contact Special Events at events@nassaubar.org or 516-747-1361.

Return form for sponsorship and journal ad purchases by Friday, April 12, 2024.

Dinner reservations due by Friday, April 26, 2024. One week cancellation notice required.

**FOCUS:
BOOK REVIEW**



Hardcover
\$26.88

Published by
Dorrance
Publishing Co.
August 25, 2023
166 Pages

ISBN-13
979-8889251514

Adrienne Flipse Hausch

Priate Investigator and storyteller, Thomas LoFrese—a longtime private investigator on the Nassau County Bar Association 18B Panel—has published a novel about a Long Island mob leader that is highly readable and even gives the reader, especially someone in the legal field, plenty to think about.

Escape from Rikers Island: Society Wanted Him in Prison, the Mob Wanted Him Out!

By Thomas LoFrese

LoFrese’s style is conversational; his set-up and background thorough; and his title just a hint to what is to happen: all the ingredients one wants in a good read.

At first the book is a simple story of a criminal trial attorney, Ed Marone, with a guilty client who has a mistrial. Then, as the expression goes, the plot thickens, as the client’s supporters ensnare Marone into a plot to facilitate the client’s escape from New York’s notorious prison complex on Riker’s Island.

This is a story of intrigue, betrayal, and the choices

that ordinary people face in extraordinary circumstances, told through the eyes of a Great Neck lawyer. His career, family trials, and dark past all converge to create a perfect storm that no attorney would wish to endure. Yet reading the story is pure entertainment.

Ed Marone’s “practical” response to all is intriguing and makes for an interesting story. How will it end? Something worth learning on your own.

The book, “Escape from Rikers Island: Society Wanted Him in Prison, the Mob Wanted Him

Out!” is currently available on Amazon. The author can be reached at thomaslofrese@yahoo.com.



Adrienne Flipse Hausch is an attorney in private practice with offices in Mineola. Her areas of practice are primarily matrimonial and family law, criminal defense, and guardianship.

She has served as an NCBA Director, mentor, *Nassau Lawyer* editor, and founding Chair of WE CARE Fund. She can be reached at ahausch@optonline.net.



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Join us on **Tuesdays from 1:00-1:45pm (via Zoom)** for **Sharing Balance**, a support group series open to members of all aspects of the legal profession and their families. Just fill out a brief, one-time registration form (found by scanning this QR code), then attend as many sessions as you like. There’s no obligation or limit. We hope to see you there!



If you would like to make a donation to LAP or learn about upcoming programs, please visit nassaubar.org and click our link under the “For Members” tab.

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Lawyer Assistance Program



[cba_lawyersassistance](https://www.instagram.com/cba_lawyersassistance)

The NCBA Lawyer Assistance Program is directed by Beth Eckhardt, PhD, and the Lawyer Assistance Committee is chaired by Dan Strecker, Esq. LAP is supported by funding from the NYS Office of Court Administration, the NY Bar Foundation, Boost Nassau, and the WE CARE Fund of the Nassau County Bar Foundation. *Strict confidentiality protected by Section 499 of the Judiciary Law.

Black History Month Celebration Ceremony

The NCBA joined the Nassau County Courts and the Amistad Long Island Black Bar Association in celebrating Black History Month on Thursday, February 1. The festive event included dancing, music, poetry and recognition of NYS Court of Appeals Chief Judge Rowan D. Wilson and Hon. Jerald S. Carter (Ret.).



International Holocaust Remembrance Day

The NCBA participated in the Holocaust commemoration event on January 26 sponsored by the Nassau County Courts and Jewish Lawyers Association of Nassau County. The ceremony included remarks by Holocaust survivor Leo Ullman and Emmy Award-Winning journalist Dana Arschin, Storyteller for the Holocaust Memorial and Tolerance Center of Nassau County.



Photos by: Hector Herrera

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THURSDAY, MARCH 21, 2024

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**5:30 PM AT THE NASSAU COUNTY BAR ASSOCIATION
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Or scan the QR code to make your donation online!



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WE CARE Children's Festival

On Thursday, February 22, almost 200 children and their chaperones were treated to an afternoon of carnival games, DJ music and dancing, crafts, toys and fun prizes, as well as pizza and other delicious treats. Special guest of the annual community event included Nassau County Chief Administrative Judge Vito M. DeStefano, Mr. Met and Sparky the Dragon, the official mascot of the New York Islanders.



NEW MEMBERS:

We Welcome the Following New Members

- Naisha Samira Chowdhury
Law Student
- Nadya DaRocha
Law Student
- Carly Galluzzo
Law Student
- Clarissa Sara Gonzalez Esq.
- Ashley Han
Law Student
- Keanna Haynes
Law Student
- Danielle Larsson
Law Student
- Lisa Lin Esq.
- Guanhong Liu
Law Student
- Saradja Paul Esq.
- Tamika S. Pearson
Law Student
- Lisa Prainito
Law Student
- Ashley Nicole Romeo
Law Student
- Mariann C. Sarraf Esq.
- Caitlin Macrae Scott
Law Student
- Charles Andrew Testagrossa Esq.
- Farrah D. Zaidi
Law Student

Legislative Breakfast

The NCBA Community Relations & Public Education Committee presented “How To Use The Law To Serve Your Constituents,” on January 26, 2024 at Domus. For over thirty years, this annual program has highlighted the partnerships between legislative offices and advocacy groups to serve the public. Speakers L – R: NCBA President Sanford Strenger, NSLS Volunteer Lawyers Project Staff Attorney and Pro Bono Coordinator Reisa Brafman, Nassau County District Administrative Judge Vito M. DeStefano, Nassau County Supreme Court Law Clerk Danielle N. Murray, The Safe Center LI Director of Legal Services Ingrid Villagran, Mortgage Foreclosure Project and Pro Bono Director Madeline Mullane, CRPE Chair Ira S. Slavit, and NCBA Executive Director Liz Post.



Photos by: Hector Herrera

CALENDAR | COMMITTEE MEETINGS

COMMITTEE CHAIRS

Access to Justice	Hon. Conrad D. Singer and James P. Joseph
Alternative Dispute Resolution	Suzanne Levy and Ross J. Kartez
Animal Law	Harold M. Somer and Michele R. Olsen
Appellate Practice	Amy E. Abbandonelo and Melissa A. Danowski
Asian American Attorney Section	Jennifer L. Koo
Association Membership	Jennifer L. Koo
Awards	Rosalia Baiamonte
Bankruptcy Law	Gerard R. Luckman
Business Law Tax and Accounting	Varun Kathait
By-Laws	Samuel J. Ferrara
Civil Rights	David A. Bythewood
Commercial Litigation	Christopher J. Clarke and Danielle Gatto
Committee Board Liaison	Daniel W. Russo
Community Relations & Public Education	Ira S. Slavit
Conciliation	Salvatore A. Lecci
Condemnation Law & Tax Certiorari	Michael P. Guerriero
Construction Law	Anthony P. DeCapua
Criminal Court Law & Procedure	Christopher M. Casa
Cyber Law	Thomas J. Foley and Nicholas G. Himonidis
Defendant's Personal Injury	Jon E. Newman
District Court	Bradley D. Schnur
Diversity & Inclusion	Sherwin Safir
Education Law	Syed Fahad Qamer and Joseph Lilly
Elder Law, Social Services & Health Advocacy	Lisa R. Valente and Mary Beth Heiskell
Environmental Law	Kenneth L. Robinson
Ethics	Mitchell T. Borkowsky
Family Court Law, Procedure and Adoption	James J. Graham, Jr.
Federal Courts	Stephen W. Livingston
General, Solo & Small Law Practice Management	Scott J. Limmer and Oscar Michelen
Grievance	Lee Rosenberg and Robert S. Grossman
Government Relations	Michael H. Sahn
Hospital & Health Law	Douglas K. Stern
House (Domus)	Steven V. Dalton
Immigration	Pallvi Babbar and Patricia M. Pastor
In-House Counsel	Michael DiBello
Insurance Law	Jason B. Gurdus
Intellectual Property	Sara M. Dorchak
Judicial Section	Hon. Gary F. Knobel
Judiciary	Marc C. Gann
Labor & Employment Law	Marcus Monteiro
Law Student	Bridget M. Ryan
Lawyer Referral	Gregory S. Lisi
Lawyer Assistance Program	Daniel Strecker
Legal Administrators	Barbara Tomitz
LGBTQ	
Matrimonial Law	Karen L. Bodner
Medical Legal	Bruce M. Cohn
Mental Health Law	E. Christopher Murray
Municipal Law and Land Use	Elisabetta Coschignano
New Lawyers	Byron Chou and Michael A. Berger
Nominating	Gregory S. Lisi
Paralegal	
Plaintiff's Personal Injury	Giulia R. Marino
Publications	Cynthia A. Augello
Real Property Law	Suzanne Player
Senior Attorneys	Stanley P. Amelkin
Sports, Entertainment & Media Law	Ross L. Schiller
Supreme Court	Steven Cohn
Surrogate's Court Estates & Trusts	Michael Calcagni and Edward D. Baker
Veterans & Military	Gary Port
Women In the Law	Melissa P. Corrado and Ariel E. Ronneburger
Workers' Compensation	Davin Goldman

WEDNESDAY, MARCH 6
Real Property Law
12:30 p.m.

THURSDAY, MARCH 7
Hospital & Health Law
8:30 a.m.

Publications
12:45 p.m.

Community Relations & Public Education
12:45 p.m.

FRIDAY, MARCH 8
Women in the Law
12:30 p.m.

In celebration of Women's History Month, the Committee will hear from "Women in Government." Guest speakers include state, county and local elected women officials.

TUESDAY, MARCH 12
Education Law
12:30 p.m.

Labor & Employment Law
12:30 p.m.

WEDNESDAY, MARCH 13
Medical Legal
12:30 p.m.

New Lawyers
12:30 p.m.

Commercial Litigation
12:30 p.m.

Justice John J. Andrews of the Suffolk County Supreme Court Commercial Division and his Principal Law Clerk James A. Saladino will address Part 44 Practices and Procedures.

Matrimonial Law
5:30 p.m.

THURSDAY, MARCH 14
Asian American Attorney Section
12:30 p.m.

FRIDAY, MARCH 15
Sports, Entertainment & Media Law
12:30 p.m.

TUESDAY, MARCH 19
Intellectual Property
12:30 p.m.

Criminal Court Law & Procedure
12:30 p.m.

Nassau County Supreme Court Justice Robert A. McDonald examines the Sex Offender Registration Act (SORA) and Mental Hygiene Law Article 10.

Surrogate's Court Estates & Trusts
5:30 p.m.

WEDNESDAY, MARCH 20
Association Membership
12:30 p.m.

Ethics
5:30 p.m.

THURSDAY, MARCH 21
Business Law, Tax & Accounting
12:30 p.m.

WEDNESDAY, MARCH 27
District Court
12:30 p.m.

General Solo Small Practice Management
12:30 p.m.

Government Relations
12:30 p.m.

FRIDAY, MARCH 29
Appellate Practice
12:30 p.m.

TUESDAY, APRIL 2
Women In the Law
12:30 p.m.

WEDNESDAY, APRIL 3
Real Property Law
12:30 p.m.

THURSDAY, APRIL 4
Hospital & Health Law
8:30 a.m.

Publications
12:45 p.m.

Community Relations & Public Education
12:45 p.m.



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NCBA Corporate Partner Spotlight



Evan M. Levine
 Co-Founder
 Head of Valuations and Advisory


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