Queens BAR BULLETIN

Queens County Bar Association | qcba.org | 90-35 148th Street, Jamaica, NY 11435 | 718-291-4500

March 2023 | Volume 90, No. 6

Emergency Rental Assistance Program (ERAP) and its Impact on Landlord-Tenant Litigation

BY HON. GEORGE M. HEYMANN

PROLOGUE

In 2019 the newly elected, left-leaning, State Legislature passed the Housing Stability Tenant Protection Act (HSTPA) which literally turned almost a half-century of landlord and tenant law on its head. This law was clearly designed to help tenants and to make it more difficult for landlords to commence or follow through on any type of eviction proceedings. Notwithstanding the chaos that it created in NYC's Housing Court, which was already struggling with an overwhelming caseload, no one could predict that in March 2020, the entire NYS court system would come to a grinding halt with the onset of the COVID 19 pandemic. In time, as the courts slowly became operational to a degree, the methodology of dealing with cases in every court was permanently altered.

In a new effort to protect tenants from eviction as the world was coping in virtually complete lockdown, the woke Legislature, in its "infinite" wisdom passed legislation that would indefinitely prevent landlords from either moving forward with matters commenced pre-pandemic or initiating new ones.

On June 30, 2020, the governor signed the Tenant Safety Harbor Act ("TSHA") (Chapter 127 of the laws of New York 2020) which provided protection from eviction for renters who had experienced financial hardship during the pandemic. It prohibited courts from evicting residential tenants who experienced financial hardship for nonpayment of rent that occurred or became due during the COVID-19 period. It applied to any unpaid rent accrued between March 7, 2020, and a yet to be determined date when COVID related restrictions would be lifted. The statute did not define the term "hardship". Thereafter on December 28, 2020, the legislature passed a statute known as "CEEFPA" (COVID 19 Emergency Eviction and Foreclosure Protection Act). This statute stayed all pending residential eviction proceedings for 60 days and provided a further stay through May 1, 2021, to those tenants who provided the landlord a hardship declaration declaring they have been negatively impacted as a result of the pandemic. For people experiencing financial hardship and those who were unable to move during this period due to an increased risk of severe illness or death due to COVID-19, this statute also stayed all pending residential procedures for an indefinite period with no recourse for the landlord to contest any cases where a "Covid Hardship Declaration" was presented to the landlord or the state or the court. It further mandated that the landlord provide these forms to every tenant and or household that they rented to, adding yet an additional burden on the landlord. As a result of a tenant's or occupant's ability to "self-declare" his or her hardship without any further documentation, causing all pending or future litigation to cease, an action was brought to challenge CEEFPA's constitutionality, which ultimately ended up in the U.S. Supreme Court.

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The Docket

Being the official notice of the meetings and programs listed below. Due to unforeseen events, please note that dates listed in this schedule are subject to change. More information and changes will be made available to members via written notice and brochures. Questions? Please call 718-291-4500.

CLE Seminar & Event listings

MARCH 2023

Wednesday, March 8	**CLE:** ABC's of Surrogate's Court – Part 1 - 1:00 pm
Tuesday, March 14	**CLE:** The Trial Series – Pt 3 – Direct Questioning - 5:30 pm
Wednesday, March 15	**CLE:** ABC's of Surrogate's Court – Part 2 - 1:00 pm
Tuesday, March 21	EVENT: Judiciary, Past Presidents & Golden Jubilarian Night at St. John's Law School - 5:30 pm
Wednesday, March 22	**CLE:** ABC's of Surrogate's Court – Part 3 - 1:00 pm
Wednesday, March 29	**CLE:** ABC's of Surrogate's Court – Part 4 - 1:00 pm
Wednesday, March 29	**CLE:** Women's History Month: The Women of the Appellate Term 2nd, 11th & 13th Judicial Districts - 6:00 pm via Zoom

APRIL 2023

Friday, April 7	*Good Friday – OFFICE CLOSED*
Tuesday, April 18	**CLE:** Equitable Distribution Update – Pt 1 - 5:30 pm
Wednesday, April 19	Academy of Law Committee Mtg - 1:00 pm
Tuesday, April 25	**CLE:** Equitable Distribution Update – Pt 2 - 5:30 pm

MAY 2023

Thursday, May 4	Annual Dinner & Installation of Officers at Terrace on the Park
Tuesday, May 9	**CLE:** Update on Search & Seizure - 1:00 pm
Wednesday, May 17	Family Law Committee Dinner - 5:30 pm
Wednesday, May 24	**CLE:** Ethics Update – Pt 1
Monday, May 29	*Memorial Day – OFFICE CLOSED*
Wednesday, May 31	**CLE:** Ethics Update – Pt 2

JUNE 2023

Monday, June 19	*Juneteenth – OFFICE CLOSED*

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Makenzie Sandoval
Amarachi Ubawike
Samantha Velez

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QUEENS COUNTY BAR ASSOCIATION
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The Young Lawyers Committee & The Surrogate's Court Estates & Trusts Committee Presents

THE ABCs of ESTATES

HOSTED BY: Sydney Alyson Spinner, Esq. & Etan Hakimi, Esq.
WITH SPECIAL GUEST: David Adler, Esq., *Chair*, Surrogate's Court Estates & Trusts Committee

PANELISTS:
Honorable Peter J. Kelly, *Surrogate, Queens County*
Deidre Baker, Esq., *Makofsky Law Group, P.C.*
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Great for Newly Admitted Attorneys!
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- ❑ Part 1 ESTATE PLANNING: March 8, 2023, 1:00pm – Speaker: Frank Bruno, Jr., Esq.
- ❑ Part 2 ADMINISTRATION: March 15, 2023, 1:00pm – Speaker: Scott G. Kaufman, Esq.
- ❑ Part 3 PROBATE: March 22, 2023, 1:00pm – Speaker: Louis Cannizzaro, Esq.
- ❑ Part 4 MISCELLANEOUS: March 29, 2023, 1:00pm – Speaker: Deidre Baker, Esq.

PROGRAM:
Each part will include an overview, practice tips from the practitioners, common mistakes and how to avoid them, panel discussion, Q&A and the Court's perspective by Queens County Surrogate, Peter J. Kelly.

Registration Form

☐ QCBA Member in Good Standing - $0 ☐ Non-Member - $35.00 each session

Pay by: ___Check ___Credit Card **Auth. Signature**_____ **Tel.**_____

Card #: _____ **Exp. Date** _____/_____ **Amt: $**_____

Name:_____ **Email:**_____

Must Register & Pay by March 7th to receive ZOOM access. WWW.QCBA.ORG or EMAIL: CLE@QCBA.ORG
No Refunds/credits if registration is not canceled by March 7, 2023.

Editor's Note

The True Meaning of Insurance

By Paul E. Kerson

Perhaps our most admired Founding Father is Dr. Benjamin Franklin. Franklin had more important positions in Colonial America and in the early United States than any of his contemporaries: Founder of the Philadelphia Library, Police Department and Fire Department, Pennsylvania Negotiator with the Indian tribes, Holder of Master of Arts Degrees from Harvard and Yale and Doctor of Laws from the University of St. Andrews in Scotland, Delegate from Pennsylvania to the Albany General Convention, Printer for Pennsylvania, Ambassador to Great Britain, President of the American Philosophical Society, Member of the United States Congress, Signer of the Declaration of Independence and the Constitution, First Postmaster General, Ambassador to France and President (Governor) of Pennsylvania.

Even today, he remains in a place of the highest honor in American life: his likeness appears on every $100 bill, the preferred currency of Governments and drug dealers alike, hoarded all over the world for its value despite the age of electronic transfer of funds.

What is not often known about Franklin is that he was also the Founder of the First American Insurance Company, the Pennsylvania Contributorship.

A reading of Franklin's autobiography sets forth Franklin's Philosophy of Insurance. The original point of the Pennsylvania Contributorship was to provide fire insurance for one of the largest American cities, Philadelphia, in colonial days with a population of only 15,000 people.

Franklin belonged to a "club for mutual improvement, which he called the "Junto". In this club, the members discussed "any point of Morals, Politics or Natural Philosophy, to be discussed by the company… our debates were to be under the direction of a President, and to be conducted in the sincere spirit of inquiry after truth, without fondness for dispute, or desire of victory…" See Life of Franklin, edited by Jared Sparks, Whittemore, Niles & Hall, Boston, Massachusetts, (1856), page 11 in Volume One.

Franklin invented the idea of American Insurance in a paper he read to his beloved Junto and thereafter published. In setting forth his Philosophy of Insurance, Franklin had this to say at the very beginning:

> "About this time I wrote a paper (first to be read in the Junto, but it was afterwards published) on the different accidents and carelessness by which houses were set on fire, with cautions against them, and means proposed of avoiding them. This was spoken of as a useful piece, and gave rise to a project, which soon followed it, of forming a company for the more ready extinguishing of fires, and mutual assistance in removing and securing of goods when in danger.
>
> Associates in this scheme were presently found, amounting to thirty. Our articles of agreement obliged every member to keep always in good order, and fit for use, a certain number of leathern buckets, with strong bags and baskets (for packing and transporting of goods), which were to be brought to every fire; and we agreed about once a month to spend a social evening together, in discoursing and communicating such ideas as occurred to us upon the subject of fires, as might be useful in our conduct in such occasions.
>
> The utility of this institution soon appeared, and many more desiring to be admitted than we thought convenient for one company, they were advised to form another, which was accordingly done; and thus went on one new company after another, till they became so numerous as to include most of the habitants who were men of property; and now, at my time of writing this, although upwards a fifty years since its establishment, that which I first formed, called the *Union Fire Company*, still subsists and flourishes; though the first members are all deceased but myself and one, who is older by a year than I am.
>
> The small fines that have been paid by members for absence at the monthly meetings have been applied to the purchase of fire-engines, ladders, fire-hooks and other useful implements for each company; so that I question whether there is a City in the world better provided with the means of putting a stop to beginning conflagrations; and, in fact, since those institutions, the City has never lost by fire more than one or two houses at a time, and the flames have often been extinguished before the house in which they began has been half consumed." (See Sparks, pages 133-135 in Volume One and L. Jesse Lemisch, Editor, Benjamin Franklin-The Autobiography and Other Writings, New American Library, NY, 1961, Pages 115-116.

As can be seen by a reading of Benjamin Franklin's Philosophy of Insurance as he originally set it forth in his discussion groups on Morals, Politics and Natural Philosophy, the Junto of Colonial Philadelphia, the American Insurance industry has completely lost its way.

As can be seen by a reading of Franklin's own writings, Franklin envisioned insurance as a Mutual Aid Society among neighbors who were interested in each other's welfare. There is nothing in Franklin's writings about "checking coverage" before figuring out a way to deny coverage to a policy holder based on the fine print of an insurance contract.

No, no, no. Franklin would never have put up with this kind of behavior by an insurance company. Franklin would be outraged at the amount of litigation insurance carriers engage in today in order to get out of paying claims on insurance policies of their policy holders.

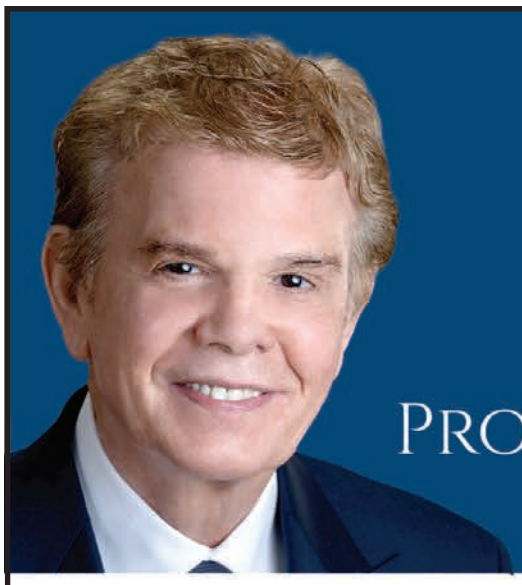
Franklin envisioned meetings of policy holders to discuss how to avoid calamities. Franklin envisioned neighbors helping each other avoid unfortunate events. Franklin envisioned neighbors meeting every month to discuss how to keep their properties safe from fire. Franklin even envisioned fines if members (policy holders) did not attend the monthly meetings to ensure to safety of the entire community.

How we have lost sight of everything our leading Founding Father wanted us to have!

It is hoped that every Justice of our Supreme Court, Civil Term and Judge of our Civil Court and Judge and Magistrate Judge of our U.S. District Court will keep this article pasted on each bench to remind each insurance carrier's attorney that their clients have completely lost sight of everything Benjamin Franklin wanted for us when he first founded the Philadelphia Contributorship.

It is hoped that this article will inspire every insurance carrier's attorneys and executives to go back to the insurance industry envisioned by Benjamin Franklin: monthly meetings of policy holders to discuss safety, and an attitude by management to pay claims and protect the policy holders rather than seeking to get out of a way to pay claims all of the time. If this can be accomplished, we will be honoring Franklin's memory, far more than by staring at his likeness on a $100 bill.

Frankly, when we understand the attitude of the insurance industry today, our Founder Benjamin Franklin is looking back at us from our $100 bill and he is crying.



President's Message

Hopping With Activity As Spring Approaches

By Adam Moses Orlow

There is much afoot at the QCBA. Just yesterday I had the pleasure of marching behind the QCBA banner at the Queens St. Patrick's Day For All Parade in Woodside. The crowd was lively, with a wonderful spirit of inclusivity, and a fun time was had by all. Our association was well represented and a big thanks goes to board member Joel Serrano, and to John Duane and Michael Goldman, the chairs of our LGBTQ Committee, for organizing our march.

Last week, we had our annual Black History Month celebration which had a fabulous turnout thanks in no small part to the distinguished honorees which included several Honorables: Gilbert A. Taylor, Cheree A. Buggs, Marguerite Grays, Valerie Brathwaite Nelson, Janice A. Taylor, and Edwina Richardson-Mendelson. According to the US Census Bureau website, "Black History Month remains a powerful symbolic celebration and a time for acknowledgement, reflection, and inspiration. The national 2023 Black History Month theme, 'Black Resistance', explores how African Americans have addressed historic and ongoing disadvantage and oppression, as evidenced by recent events. But disadvantage and oppression transcend overt instances of violence." Each honoree was introduced by a law student and then spoke about their experience with a mentor as well as the meaning of black resistance to them. It was moving to hear these accomplished jurists talk about the trailblazers who came before them just after having been introduced by the next generation for whom they are now blazing a trail. It represented a respect for the past, an appreciation for what we have in the present and laying the groundwork for the future. This event was the last to take place in the current Bar Association building. A more appropriate and worthy event to hold that distinction, I cannot think of given, in part, that we too at the bar association, as a result of the move from what has been our home for so long, have had occasion to review our past (Jonathan Riegel has been sifting through documents buried deep in the unexplored corners of our current building some of which date back to the founding of our association in 1876), appreciate where we have come and look forward with optimism to our future in our new office space. Jasmine Valle, Jawan Finley and Sandra Munoz, the chairs of our Diversity and Inclusion Committee deserve our thanks for organizing this event.

Speaking of the move, as should have been expected, things are taking a bit longer than anticipated. We are in the arduous process of constructing our new space and while things are moving along, they are doing so slowly. So, where we once expected to have already moved to the new space by now, we now anticipate to move in April, although I certainly wouldn't wager on that. Nevertheless, rest assured the move will be happening and when it does, I look forward to all of you being welcomed to your new Bar Association home.

\Finally, looking ahead we have some great CLE's coming up including The ABCs of Estates on March 8 and The Trial Part 3 (direct examinations) on March 14. We also have our annual Judiciary, Past Presidents and Golden Jubilarian Night event taking place on March 21 at St. John's Law School and a Women's History Month celebration on March 29. And, of course, I hope to see many of you at our Annual Dinner on May 4 at Terrace on the Park as Michael Abneri is sworn in as our new President. I look forward to seeing you at these events.

QUEENS COUNTY BAR ASSOCIATION
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Organized 1876

Adam M. Orlow, Esq.
President

Joel Serrano, Support Magistrate
Chair, Program Committee

ANNUAL JUDICIARY, PAST PRESIDENTS AND GOLDEN JUBILARIAN NIGHT

Tuesday, March 21, 2023
5:30 pm – 8:00 pm

Guest Speakers:

HON. MARGUERITE A. GRAYS
Administrative Judge
Queens Supreme Court, Civil Term

HON. DONNA-MARIE E. GOLIA
Administrative Judge
Queens Supreme Court, Criminal Term

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Dinner: 5:30 PM – 7:00 PM
Reception, Open Bar & Hot Buffet

Ceremony: 7:00 PM – 8:00 PM
Guest Speakers
Introduction of Judiciary Members & Past Presidents
Academy of Law Award: Joseph Carola, III, Esq.

COST:

Member:	DINNER & CEREMONY: $55.00	CEREMONY ONLY: Free of charge.
Non-Member:	DINNER & CEREMONY: $110.00	CEREMONY ONLY: $55.00

Please RSVP by March 17th. Additional $20 for walk in/day of registration.

RSVP:
WWW.QCBA.ORG

LOOKING FORWARD TO SEEING YOU THERE!

Prominent Lawyers Appointed to Special Committee To Examine Selection of Judges for the Court of Appeals

BY SUSAN DESANTIS

The president of the New York State Bar Association has appointed a special committee to examine the selection of judges for the New York State Court of Appeals. Included on the committee is Queens County Bar Association Past President and current QCBA Fund President David Louis Cohen. Mr. Cohen, a solo practitioner in Kew Gardens, currently serves as the chair of the NYSBA Criminal Justice Section and is a member of the NYSBA Executive Committee.

"The independence of the judiciary is crucial to the administration of justice," said Sherry Levin Wallach, president of the New York State Bar Association. "The chief judge runs one of the most preeminent court systems in the world and oversees a staff of more than 15,000 people and a budget of about $3 billion. It is of the utmost importance that we have a process that allows the judiciary to operate efficiently and impartially."

The association's Executive Committee agreed to form the special committee on January 19, citing concerns raised over the process for appointing a chief judge. Since then, the state Senate rejected Gov. Kathy Hochul's nominee for chief judge, Presiding Justice Hector LaSalle, Appellate Division, Second Department.

The rejection of Justice LaSalle on February 15 led the Commission on Judicial Nomination to restart the process for finding a chief judge from the beginning just two days later. On February 17, the commission announced that it was accepting recommendations and applications and would give the governor seven well-qualified candidates within 120 days. After that, the governor has 15 to 30 days to choose a nominee, who then must be confirmed by the state Senate to become chief judge.

The special committee will be chaired by Damaris Hernandez, a litigation partner at Cravath, Swaine & Moore in New York City, and Vincent E. Doyle III, a past NYSBA president who is a commercial litigator at Connors in Buffalo.

Other members of the special committee, in addition to the chairs and Mr. Cohen, are:

- Former Associate Judge of the Court of Appeals Eugene Fahey
- Columbia Law School Dean Gillian Lester
- Sherrilyn Ifill, the former president and director-counsel of the NAACP Legal Defense Fund
- John Q. Barrett, the Benjamin N. Cardozo Professor of Law at St. John's University in New York City
- Peter J. Kiernan, senior counsel at Venable in East Hampton
- David Rosenberg, a partner at Marcus, Rosenberg & Diamond in New York City

Emergency Rental Assistance Program (ERAP) and its Impact on Landlord-Tenant Litigation

BY HON. GEORGE M. HEYMANN

CONTINUED FROM PAGE 1

In the old Western movies, it was not uncommon to hear the phrase that one man can't serve as the sheriff, judge, jury and executioner upon capturing an outlaw. That was akin to the Supreme Court's decision in *Chrysafis v. Marks*, 594 US ____ (2021), which held that the scheme of a tenant who "self-certifies financial hardship … precluding a landlord from contesting that certification [ ] denies the landlord a hearing" and that such a "scheme violates … the Due Process Clause. The key phrase used by the Court, and the one that will forever be linked to the COVID/pandemic era, is that "no man can be a judge in his own case".

As a result of *Chrysafis*, the Legislature, once again, came up with a "brilliant" attempt to save the tenants, occupants and others from potential eviction and hold the landlords at bay. The creation of the Emergency Rental Assistance Program simply referred to as "ERAP". While it ostensibly is a means by which the government provides rental assistance for eligible tenants, its effect is essentially the same as CEEFPA except for the creation of the Office of Temporary and Disability Assistance ("OTDA") which is mandated to establish the guidelines for eligibility and to review every application to decide whether said applicant warrants financial assistance. OTDA was the Legislature's "cure" for the constitutional infirmities in CEEFPA. Yet, initially, the courts and litigants were still of the impression that all pending and future matters were on indefinite hold until an OTDA decision. Litigants and the courts felt that this left them in exactly the same quagmire as they were in pre-*Chrysafis* with respect to Covid Hardship Declarations. As pointed out below in *Actie v. Gregory*, (2020 Slip Op 5117 [U]), "there is no mechanism for a challenge to the stay and there appears to be either indefinite or inchoate time frames within which an application must or may be processed". Since the inception of ERAP there has been a number of cases seeking to clarify its language coming to the conclusion that while OTDA has sole authority to determine an individual's eligibility to obtain funds to pay the rent, the courts have sole jurisdiction to determine whether the cases can move forward. As will be seen in the decisions discussed, the key word that must be emphasized by every petitioner seeking to have his or her case meet the threshold of viability to overcome an ERAP stay is "FUTILITY".

NOTE: If a landlord participates in a tenant's ERAP application and agrees to accept the monies approved, he or she, with very limited exceptions, must maintain the tenancy and is barred from commencing any further proceeding for at least a year from receipt of monies. ERAP only covers up to 15 months of arrears, thus any additional arrears that accrue is subject to a future nonpayment proceeding. (See, *Kristiansen v. Serating*, (2022 NY Slip Op 22097), where the tenant owed 19 months of rent totaling $60,800. ERAP's maximum award is 15 months ($48,000) with a remainder of $12,800 for which there was no government funds available. The court maintained the stay for receipt of the covered portion but vacated it as to the $12,800 that was then currently due.) Many landlords refuse to participate in providing information to the OTDA because they have no desire to maintain the tenancy and simply want their property back. This is especially so where they have commenced holdover proceedings where back rent is not the issue. Unfortunately for the landlord, the statute maintains that *all* proceedings are stayed pending a determination on eligibility once a tenant (or any occupant, legal or otherwise) submits an application. This lack of distinction between the nature of the two types of proceedings was a major error on the part of the Legislature in its sweeping efforts to protect every tenant/occupant from eviction regardless of the underlying circumstances.

ERAP DEFINITIONS:

In order to be eligible to apply for an ERAP stay an individual had to meet at least the two following criteria: 1] be a tenant or occupant of the subject premises and 2] have a legal obligation to pay rent to the landlord.

Pursuant to the ERAP statute, "Occupant" has the same meaning as set forth in the Real Property Law (RPL) §235-f and is defined as "a person, other than a tenant or a member of a tenant's immediate family, occupying a premises with the consent of the tenant or tenants".

"Rent" is defined as it is in the Real Property and Proceedings Law (RPAPL) §702 as "the monthly or weekly amount charged in consideration for the use and occupation of a dwelling pursuant to a written or oral rental agreement".

As some of the cases set forth below will demonstrate, the unfortunate situation for landlords was that many individuals who had no landlord-tenant relationship or legal obligation to pay rent, such as licensees, superintendents and even squatters were able to file an application for a stay which thwarted any efforts by the landlord to remove them without either waiting for a determination by OTDA or making a motion for a hearing before the court to vacate the stay.

ERAP CASES

At the outset, an additional hurdle that CEEFPA created in all cases was a change in the method of service of process. Previously, all landlord and tenant matters were guided by RPAPL §735 which used the standard of "reasonable application". CEEFPA upgraded service to the "due diligence" standard set forth in the Civil Practice Law and Rules (CPLR) 308. Although considered a higher standard of service to ensure that process is received, in most cases the only difference under "due diligence" was attempting to serve at a person's place of business. Ironically, neither statute sets forth any prescribed guidelines or requirements, and in each instance it's always the court that will make the finding as to whether the service was proper.

In *Bel Air Leasing LP v. Johnston*, (2021 NY Slip Op 21299), "[t]he question before the court [was] whether petitioner's process server's three attempts at personal service, each made on a weekday at various times of the day, meets the 'due diligence' requirement of CEEFPA. The court holds that it does not. *** [B]ecause the quality of the attempts, and not their quantity, is implicated by 'due diligence', the Second Department has imposed a requirement that a process server make 'genuine inquiries about the defendant's whereabouts and place of employment. *** Here, there is no allegation that the process server made any inquiries into respondent's whereabouts or place of employment before resorting to 'affix and mail' service." Since all attempts were made on weekdays, the court held that the "due diligence" requirement was not met. Accordingly, landlord's motion for a default judgement was denied. See, *Suero v. Rivera*, (2022 NY Slip Op 22031) citing *Bel Air Leasing LP v. Johnston*.

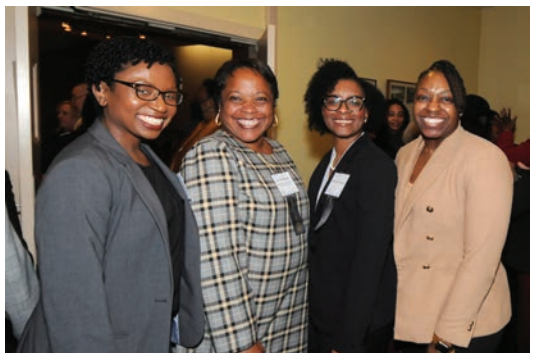
Ironically, the same judge that issued the decision in *Bel Air Leasing LP v. Johnston*, which caused much consternation among landlords, published a decision in September, wherein he was steadfast in his position that landlords and/or their attorneys have no choice but to wait until the OTDA has made a final determination of a submitted application foreclosing any possibility of having a hearing to vacate the stay regardless of the particular situation. In *Williams v. Wilson*, (Civ Kings, 9/25/22), a holdover proceeding, the court denied the petitioner's motion to vacate the ERAP stay. The court held, in relevant part, that " '[a] statute must be read and given effect as it is written by the legislature, not as the court may think it should or would have been written if the legislature had envisaged all of the problems and complications which might arise in the course of its administration; and no matter what disastrous consequences may result from following the expressed intent of the legislature, the judiciary cannot avoid its duty'. … It may be that the statute, in certain instances, has turned out to be a 'disaster.' But it is not for the court to deviate from the intent of the legislature to ameliorate the statute's unexpected effects. Neither the statutory text, nor in this court's opinion, an examination of the spirit, purpose, or history of the legislation, allow for any other conclusion as to the legislative intent except that *both nonpayment and holdover proceedings are stayed until there is a determination of eligibility from the Office of Temporary and Disability Assistance*." (Emphasis added)

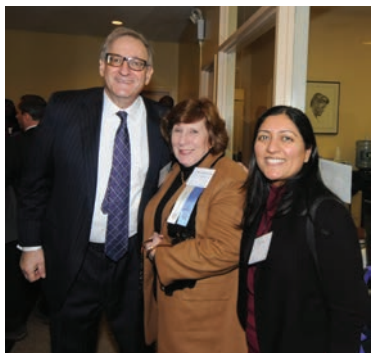
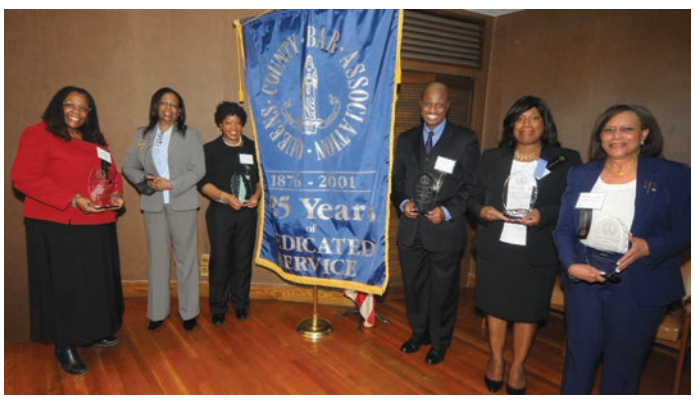
(CONTINUED IN APRIL 2023 QUEENS BAR BULLETIN)

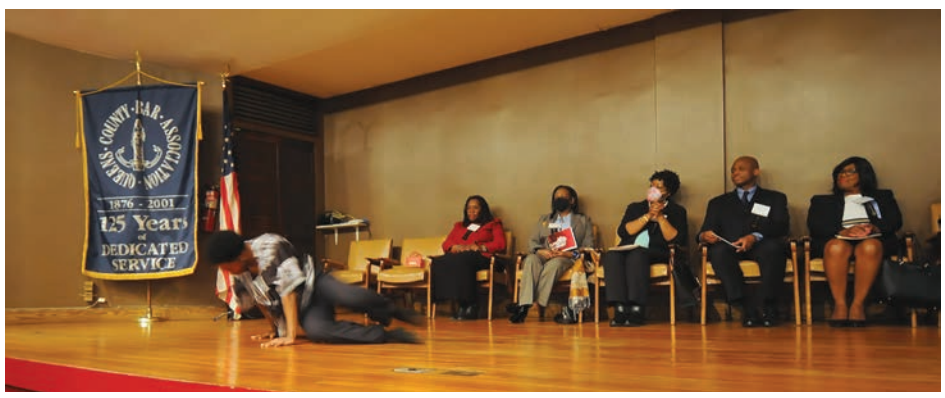
George Heymann is a retired judge of the NYC Housing Court; former adjunct professor of law, Maurice A. Deane School of Law at Hofstra University; certified Supreme Court mediator; of counsel, Finz & Finz, PC and a member of the Committee on Character and Fitness, Appellate Division, Second Department, 2nd, 10th, 11th & 13th Judicial Districts.

Black History Month









Queens County Bar Association

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Small Firm & Solo Practitioners Committee present
ZOOM CLE

THE TRIAL

A Series of CLEs From Jury Selection to Closing Statement

Part 3 - Direct Questioning

This CLE will provide the new trial attorney with information on how to prepare and present an effective, compelling, and persuasive direct examinations and will benefit the experienced trial attorneys who are looking to hone their trial skills.

Tuesday, March 14, 2023
5:30 pm - 7:30 pm

Medical Lien Agency

Presenters:

Hon. Kevin J. Kerrigan - *Justice of the Supreme Court, Queens County*
Jeffrey M. Blum, Esq. - *Mallilo & Grossman, Attys at Law*
T. Andrew Brown, Esq. - *Brown Hutchinson, LLP*
Domenick Napoletano, Esq. - *Napoletano Law*
Karen Saab-Dominguez, Esq. - *Goldberg Segalla, LLP*
Peter S. Thomas, Esq. - *Peter S. Thomas, P.C.*

Moderator:

Violet E. Samuels, Esq. - *Samuels & Associates, P.C.*
Chair, Small Firm & Solo Practitioners Committee

The Trial is a series of CLE's which will sharpen the skills of seasoned trial attorneys as well as provide a foundation for new trial attorneys.

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Must Register & Pay by March 13th to receive access. WWW.QCBA.ORG or EMAIL: CLE@QCBA.ORG
No Refunds/credits if registration is not canceled by March 13, 2023.

The Practice Page

Discontinuances Of Litigation

BY HON. MARK C. DILLON
Serves on the Appellate Division, Second Department

The discontinuance of litigation is like a see-saw. The earlier it is sought in a litigation, the easier it is for the plaintiff to obtain. The later it is sought, the more is required. The discontinuance statute is CPLR 3217 and should be thought of as consisting of three stages.

Stage One. If the defendant has not yet served a responsive pleading, or if none is required, the plaintiff may discontinue an action by mere unilateral notice (CPLR 3217[a][1]; *Bayview Loan Servicing, LLC v Windsor*, 172 AD3d 799, 801). At that earliest stage of litigation, a discontinuance is easy as the adversary party and the court have not yet invested time, effort, or expense on the case.

Stage Two. This stage involves the time between the responsive pleading at the front end and the submission to the case to a judge or jury for fact finding at the back end. Discontinuances between that expanse of time may be accomplished one of two ways. The first is by written stipulation signed by counsel for all of the parties, so long as no party is an infant, incompetent, or conservatee, and no non-party has an interest in the litigation (CPLR 3217[a][2]; *HSBC Bank USA., National Association v Rini*, 202 AD3d 945, 947). Alternatively, a discontinuance may be granted without a stipulation by court order, upon a notice motion, upon conditions the court deems proper (CPLR 3217[b]; *Tucker v Tucker*, 55 NY2d 378, 383-84).

Stage Three. Once an action proceeds to the submission of the trial evidence to a judge or jury for deliberative fact-finding, an action may only be discontinued if there is a stipulation by all parties and a court order permitting it (CPLR 3217[b]; e.g. *Madison Acquisition Group, LLC v 7614 Fourth Real Estate Dev., LLC*, 134 AD3d 683, 685). After all, by that time, the parties and the court have invested in a trial, subject merely to a verdict by the trier of fact, which should render tactical discontinuances more difficult to obtain. As a practical matter, any party's refusal to stipulate to a discontinuance operates as a veto on the issue, as the court cannot exercise its discretion to order a discontinuance without the unanimous stipulation of the parties (*Emigrant Bank v Solimano*, 209 AD3d 143 [decided Sept. 28, 2002]).

What if an action is referred by the court to a referee to hear and report, as permitted by CPLR 4311 and 4320? Does the deliberative process that would require both a fully-executed stipulation and a court order trigger upon the conclusion of the referee trial, or the issuance of the referee's report, or the filing of a motion to the Supreme Court to confirm the report, or the return date of the motion to confirm? The answer to this question of first impression was provided very recently by the Second Department in *Emigrant Bank v Solimano*, supra. In Solimano, the court noted that the referee's report and recommendations are not conclusive as they are subject to the review of the Supreme Court. The motion to confirm solicits the parties' due process rights to be heard, similar to closing arguments at a trial. The point in time most akin to the commencement of the post-evidentiary deliberative process is the return date of a party's motion to confirm, reject, or modify the report, when the Supreme Court possesses all of the papers needed to render an informed and conclusive determination of the matter.

Contrastingly, as noted in *Solimano*, if a matter is referred to a referee to hear and "determine" as authorized by CPLR 4301, the point at which the plaintiff must have a unanimous stipulation of the parties and a court order for a discontinuance is the conclusion of the evidentiary portion of the trial and the closing arguments of all counsel, when the final deliberative phase of the action commences. After all, a referee determining the matter "shall have all the powers of a [trial] court" in determining issues (other than the very limited exception of holding a party in contempt).

The bottom line for discontinuances is to note which of three phases the litigation is in and apply CPLR 3217 accordingly, while making the appropriate accommodation for matters that have been referred to a referee to hear and report.

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

Allen E. Kaye

Immigration Questions

USCIS Extends Green Card Validity for Those Removing Conditions on Resident Status

Joseph DeFelice

U.S. Citizenship and Immigration Services (USCIS) recently announced that it has extended the validity of Green Cards for 48 months beyond the expiration date on the card for conditional permanent residents who file or have filed one of the below forms:

- Form I-751, Petition to Remove Conditions on Residence (as of January 25, 2023)
- Form I-829, Petition by Investor to Remove Conditions on Permanent Resident Status (as of January 11, 2023)

Conditional permanent residents typically receive a Green Card that is valid for two years and must file a petition to remove the conditions on their status before their card expires.

Why USCIS Provided the Extension

It is taking longer than usual for USCIS to process Forms I-751 and Forms I-829. As a result, USCIS extended the validity of these conditional Green Cards to account for the longer processing times.

What This Means

If you file a Form I-751, your receipt notice will show the 48-month validity period. If you filed before January 25, 2023, and your Form I-751 is still pending, USCIS will send you a new receipt notice with the new expiration date.

If you file a Form I-829, your receipt notice will show the 48-month validity period. If you filed before January 11, 2023, and your Form I-829 is still pending, USCIS will send you a new receipt notice with the new expiration date.

Together, the receipt notice and your expired Green Card serve as proof of your continued status while your case is pending with USCIS and can be used for work and travel for 48 months beyond your Green Card expiration date.

It will likely take USCIS several weeks to reissue receipt notices with the extended validity period. You do not need to call the USCIS Contact Center to request an appointment to obtain an Alien Documentation, Identification, and Telecommunications (ADIT) stamp as temporary evidence of lawful permanent resident (LPR) status—unless your Green Card is no longer in your possession. If you no longer have your Green Card, USCIS may issue you an ADIT stamp as temporary evidence of your LPR status. If this applies to you, reach out to the USCIS Contact Center to schedule an appointment at a USCIS field office. Otherwise, if you still have your Green Card, and are waiting for an amended receipt notice, you should schedule an appointment for an ADIT stamp only if you need it for employment or travel.

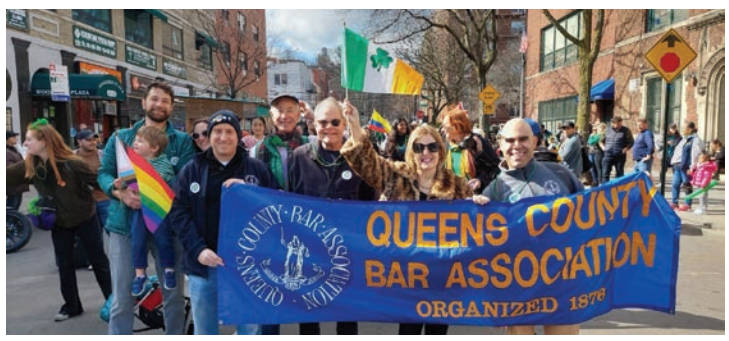
Additionally, if you are a conditional permanent resident and plan to travel and remain outside of the United States *for a year or longer*, you should apply for a permit by filing Form I-131, Application for Travel Document before you lea0ve the United States.

BY ALLEN E. KAYE AND JOSEPH DEFELICE

Allen E. Kaye and Joseph DeFelice are the Co-Chairs of the Immigration and Naturalization Committee of the Queens County Bar Association.

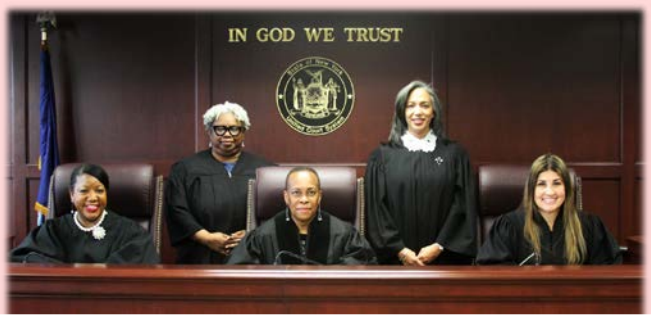
LGBTQ+ Committee leads QCBA at St. Pat's For All Parade

For the second year in a row, the LGBTQ+ Committee led a delegation of QCBA members at the St. Pat's For All Parade in Queens on March 5, 2023



Women's History Month

THE WOMEN OF THE APPELLATE TERM, 2ND, 11TH AND 13TH JUDICIAL DISTRICTS



Presented by the
Diversity and Inclusion Committee
on

Wednesday, March 29, 2023 at 6:00 pm

VIRTUAL STATED MEETING

Via Zoom

Free for members of QCBA and the co-sponsoring associations, $25 per person for non-members.

CLE Credit: 1.0 in Diversity

ACCREDITATION: QCBA has been certified by the NYS CLE Board as an Accredited CLE Provider in NYS, 10/2019 - 10/2022. Application for Renewal has been filed & is currently pending.

ZOOM link will be provided to registrants 24 hours before the program. RSVP - WWW.QCBA.ORG

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Examples of our 5 Star Zillow Reviews from our Happy Clients:

Etan Hakimi demonstrated professionalism from the beginning to the end. He provided expertise and knowledge of the industry and was able to guide me through the entire process of selling my mother's home. I would highly recommend working with Mr. Hakimi .

– Wanda M.

I cannot recommend Etan highly enough. From the very beginning, we charted a sale plan and it worked flawlessly. Etan is extremely knowledgeable in navigating the complexities of selling a home and guided me every step of the way, I had a special situation where timing of the sale was critical. Etan worked exceptionally hard to ensure that we hit our targets. Aside from being an awesome professional. He's just a really nice guy and a pleasure to work with. A truly fantastic experience.

– Richard A.

I became the Executor of my Aunt's estate which included a condo she owned in Queens. Etan was recommended by our estate attorney to be our realtor. He was great from the very beginning! He was always very professional and extremely knowledgeable about the real estate market. I live in New Jersey and he made the difficult task of selling my Aunt's condo in Ridgewood NY an absolute pleasure. He helped me with every aspect of the entire process. With Covid entering the picture, it became a long process and he was wonderful every step of the way. He spent a lot of time answering numerous questions, always returning calls promptly and keeping me updated on different strategies to sell the condo. I would recommend him and his team very highly!

– Joan T.

Thomas J. Rossi

Mediator & Arbitrator
Attorney-at-Law

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- 30 Year Member of the Panels of Commercial & Construction Mediators & Arbitrators of the American Arbitration Association
- Fellow of the Chartered Institute of Arbitrators
- Member - National Academy of Distinguished Neutrals
- Adjunct Professor of Law, St. John's University School of Law.

Mediated more than 300 matters including Commercial & Business, Construction & Design, Real Estate, Contested Estate Matters, Corporate Dissolutions, Employment, Partnership Disputes, Professional Malpractice, Insurance, Property Damage, International Sales, Intra-Family Disputes

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Buying My Trust…for $10?

BY FRANK BRUNO, JR.

In the body of my Trust, I have the Trust maker transfer individual property to the Trust being created. There is a paragraph that references Schedule A with Trust property being transferred to the Trustee and at the end of my Trust, Schedule A. My go to Schedule A says Ten Dollars cash. Why do that and how did it start? We need a history lesson of consideration in contracts or history of trusts to explain. Trusts go way back in Common Law; my memory goes back to the Crusades where a Knight (Trust maker/grantor) would entrust a sibling or town elder to hold property in trust for his wife and children. There would be an act or gesture of handing the Trustee a handful of dirt.

For the first time, this week, a signatory to a Trust asked why ten dollars cash written there. I gave an answer and he was not satisfied. I supplied the best answer that I knew or understood but my own understanding was really borne of playing follow the leader. On the third attempt to explain, I wore him out and he signed. But it got me thinking…It made past trusts valid so I kept it in.

In real property contracts we us actual consideration tendered but in certain contracts or even deeds we do not and simply refer to "ten dollars cash" as consideration. A nominal or symbolic amount of money to show that a contract has been formed; to demonstrate there is legal intent to create a binding agreement, even though the actual amount being exchanged may be larger or lower.

A Trust is a three-party contract between the Grantor, the trustee and the beneficiaries, I figure that the trust requires consideration. Since the Trust is not funded as it is being created there must be consideration to make it a valid document. The concept of consideration remains a fundamental principle of contract law. It refers to something of value that each party gives to the other as part of the agreement, be it money, property, or services. For a contract to be enforceable, there must be valid consideration agreed upon by both parties; without consideration, a contract is generally considered invalid and unenforceable.

The reason for using ten dollars as the nominal amount of consideration is primarily historical. Years ago, ten dollars was considered a significant amount of money, (I was told that my great grandfather the baker was paid five cents a week with two loaves of Italian bread per day-he used this to feed his eight kids) and using ten dollars was seen as a way to ensure that both parties took the contract seriously. It is more of a symbolic gesture now and is used more for tradition than for any practical reason except it establishes the formation of the legal entity known as the Trust, a new non-sentient living breathing document emerges, that the parties are legally bound from now until the property is transferred into it or the Trust is somehow funded and beyond.

I forgot to mention that each February is dedicated to celebrating senior independence at home and in the community. So why don't we take March to reflect on your current quality of life and plan for the future. How about you and your family living independently? A few tips without the trips.

Make some upgrades at home. A few small changes can make your home a safe place to navigate, and they can look good too. Recently we assisted my in-laws by placing safety bars outside and inside of the shower area; replaced the tub with a standing stall five feet wide and flat. Safety first. How about you or your client's first step, a little light spring cleaning or full-scale downsizing, the first step is a tidy home. As we age, hoarders abound. AARP is a great resource for information on this topic and the February 1, 2023 blog post expands on this article. They suggest eight easy upgrades for any home. Swap out your existing doorknobs and hardware! Levers are often easier to use. They look sleek too! Use technology. You've heard the saying - there's an app for that. Most of the time, it's true. Medical alert systems and health-tracking tools can make it simple to record your health, stats, and pills. Update the tracker daily, and you'll never wonder if you took your morning medicines. Plus, you can set up the system to alert your family and medical personnel in an emergency, giving everyone peace of mind. We struggle at home with pill boxes for the in-laws, for our middle-aged bodies and for our fourteen-year-old Labrador. She takes more pills and supplements than any of us. Technology can be fun as well. There are programs to help you connect with loved ones who might live a long way away. Video chat and remote speakers make it simple to virtually 'pop in' to say hello, no matter where you are. We facetime with our college age son in North Carolina all of the time.

Investigate home-based services. There are countless options for in-home services. Therapy–physical, occupational, speech, or music–can all be done from home. There are many housekeeping services, from light dusting to complete reorganization. Not interested in grocery shopping? You may look into meal delivery. Let the food come to you. Not sure what is available in your area? Check with your local community center or VA for anything they offer. Keep moving. Two words Pickle Ball. There is no shortage of things to do! It's good to stay busy. Spend time working on your favorite hobby or develop new interests by attending a class or seminar in the community. Education is also a great opportunity to be social. Once you find a class, begin talking with the other participants, or bring a friend along. You may have more in common than you think. And don't forget to stay physically active as well. Even 10 minutes a day of exercise can have major health benefits!

Ever feel like your mind is working against you? You're not alone. Self-sabotage is real, and it's a dirty little trick your mind plays to avoid change. You may have had some of the same goals on your list year after year. These desires are vital to your happiness and fulfillment, yet they're still on the list.

Why? Why do so many people get stuck in the same never-ending cycle year after year?

The cycle of...Never losing weight. Never having enough (money, love, joy, time, freedom, or fun). Never taking risks to do what you really want. Never following that unique calling. Which is the main reason why you were put here on this earth. Here's the problem: The human brain has a built-in system that resists change. No matter how much you want something, if it involves significant change, your brain will sabotage you every step along the way.

This is why achieving your most desired goals is so difficult. There's a genuine physiological reason for this. The Amygdala, the most primitive part of the brain, also known as the fight or flight center, interprets change as a threat. When we embark on any transformational change, the amygdala says, "Hold up! Wait. This is risky business. This is dangerous!"

It changes your brain chemistry, causing you to behave in sneaky ways that sabotage your best efforts. This built-in operating system is working beneath the surface of conscious awareness. In other words, you don't know that your brain is fighting against you. All you know is that you're not getting where you want to be while inner and outer obstacles keep getting in the way.

How do we override this part of our brain's operating system?

Step 1: Know your enemy. Understand that the reason why you're unable to discipline yourself to achieve your goals is because your primitive brain is protecting you from the "perceived" threat of change.

Step 2: Become aware of resistance. Self-Awareness is the first step to overriding self-sabotage. Notice when you're undermining your goals; notice how you do it. And remember, you have a choice to either cave in or push through.

Step 3: Override resistance by adding in novel experiences. The brain loves novelty. The need for novelty is built into our evolutionary biology. When we learn something new, we get rewarded with a dopamine rush.

For example, if you're trying to get fit or lose weight and it's not working, keep trying new things. Try new ways of eating, try new forms of exercise, embark on a journey of exploration, search for what works for you, and don't quit until you find it.

This applies to any goal or intention. If you're not getting where you want to be, stop what you're doing and start doing something new. Open yourself up to entirely new people, places, and experiences.

Frank Bruno, Jr. is Past President of the QCBA, a Member of the Board of Managers, a regular contributor to the Bar Bulletin and a practicing attorney for more than 26 years.

REGISTRATION OPEN

QUEENS COUNTY BAR ASSOCIATION

ONE HUNDRED FORTY-SIXTH
ANNUAL DINNER AND INSTALLATION OF OFFICERS & MANAGERS

at **Terrace on the Park • Flushing, New York**

Thursday, May 4, 2023

Installation of Officers and Managers

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A. Camila Popin

Class of 2026
Desiree Claudio
Ruben Davidoff
Mark L. Hankin
Adam Moses Orlow
Estelle J. Roond

Cocktails: 5:30 pm
Dinner & Program: 7:00 pm
Business Attire

Reservations: $185 per person thru May 3 / $220 same day
Early Reservations: $160 per person through April 26
$125 per person for QCBA members admitted 4 years or less thru April 26

Dear QCBA Members and Friends:

On Thursday, May 4, the Queens County Bar Association will hold our Annual Dinner and Installation of the 2023-24 QCBA President Michael D. Abneri and all of the association's officers and managers. This dinner is the highlight of our programming year and a not-to-be-missed event!

As we have in past years, we will be producing a Dinner Journal for the event and will be offering sponsorship packages to fit every budget. This journal affords us the opportunity to commemorate the accomplishments of our Association, congratulate Michael and the Board of Managers and celebrate over 146 years of service to our members and the community in Queens County. All sponsorship packages include at least one ticket to the dinner and proceeds from the sponsorships and advertising benefit the Queens County Bar Association and the Queens Volunteer Lawyers Project.

The sponsorship and advertising opportunities are being offered by the Queens Volunteer Lawyers Project, a 501(c)(3) nonprofit organization and the cost, less the value of the dinner tickets, is tax deductible to the full extent allowed by law.

To secure your sponsorship or advertisement, please complete the form on page 3 and submit the form and your artwork as follows:

- email to: mweliky@qcba.org *(PDF or JPG files only)*
- mail to: Queens Volunteer Lawyers Project
  90-35 148th Street
  Jamaica, NY 11435
  Attn: Annual Dinner Committee

If mailing your artwork, please mail it flat (do not fold or crease the art)

For questions regarding journal advertisements, please contact Mark Weliky. For questions regarding sponsorship packages, please contact Jonathan Riegel. Contact information for both are below.

We thank you in advance for your participation and support!

Mark Weliky
Executive Director
Queens Volunteer Lawyers Project
mweliky@qcba.org
718-291-4500, x225

Jonathan Riegel, CAE
Executive Director
Queens County Bar Association
jriegel@qcba.org
718-291-4500, x224

Adam Moses Orlow
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aorlow@orlowlaw.com
718-544-4100

Sponsorships

DIAMOND
Limit of 1
$8,500
- back cover full page ad in full color
- table of 12 in premium location near dais
- acknowledgement in all marketing and press releases
- 4 email messages to QCBA members between May 2023 and April 2024
- Up to $1,500 in sponsorship credit for any 2023-24 CLE program(s)
- one marketing table at the dinner
- company logo on signage and table flyers at the dinner
- recognition from the podium

RUBY
Limit of 2
$6,000
- inside front or back cover full page ad in full color
- 8 tickets at table in premium location near dais
- acknowledgement in all marketing and press releases
- 3 email messages to QCBA members between May 2023 and April 2024
- Up to $900 in sponsorship credit for any 2023-24 CLE program(s)
- one marketing table at the dinner
- company logo on signage and table flyers at the dinner
- recognition from the podium

EMERALD
Limit of 4
$5,000
- includes Gold page full page ad
- 6 tickets at a table near the dais
- acknowledgement in all marketing and press releases
- 2 email messages to QCBA members between May 2023 and April 2024
- one marketing table at the dinner
- company logo on signage and flyers at the dinner
- recognition from the podium

SAPPHIRE
$4,000
- includes Silver page full page ad
- 4 tickets at a table near the dais
- acknowledgement in all marketing and press releases
- 1 email messages to QCBA members between May 2023 and April 2024
- company logo on signage and flyers at the dinner
- recognition from the podium

GOLD
$3,000
- includes full page ad
- 3 tickets to the dinner
- acknowledgement in all marketing and press releases
- company logo on signage and flyers at the dinner
- recognition from the podium

SILVER
$2,500
- includes full page ad
- 2 tickets to the dinner
- acknowledgement in all marketing and press releases
- listed on signage and table flyers
- recognition from the podium

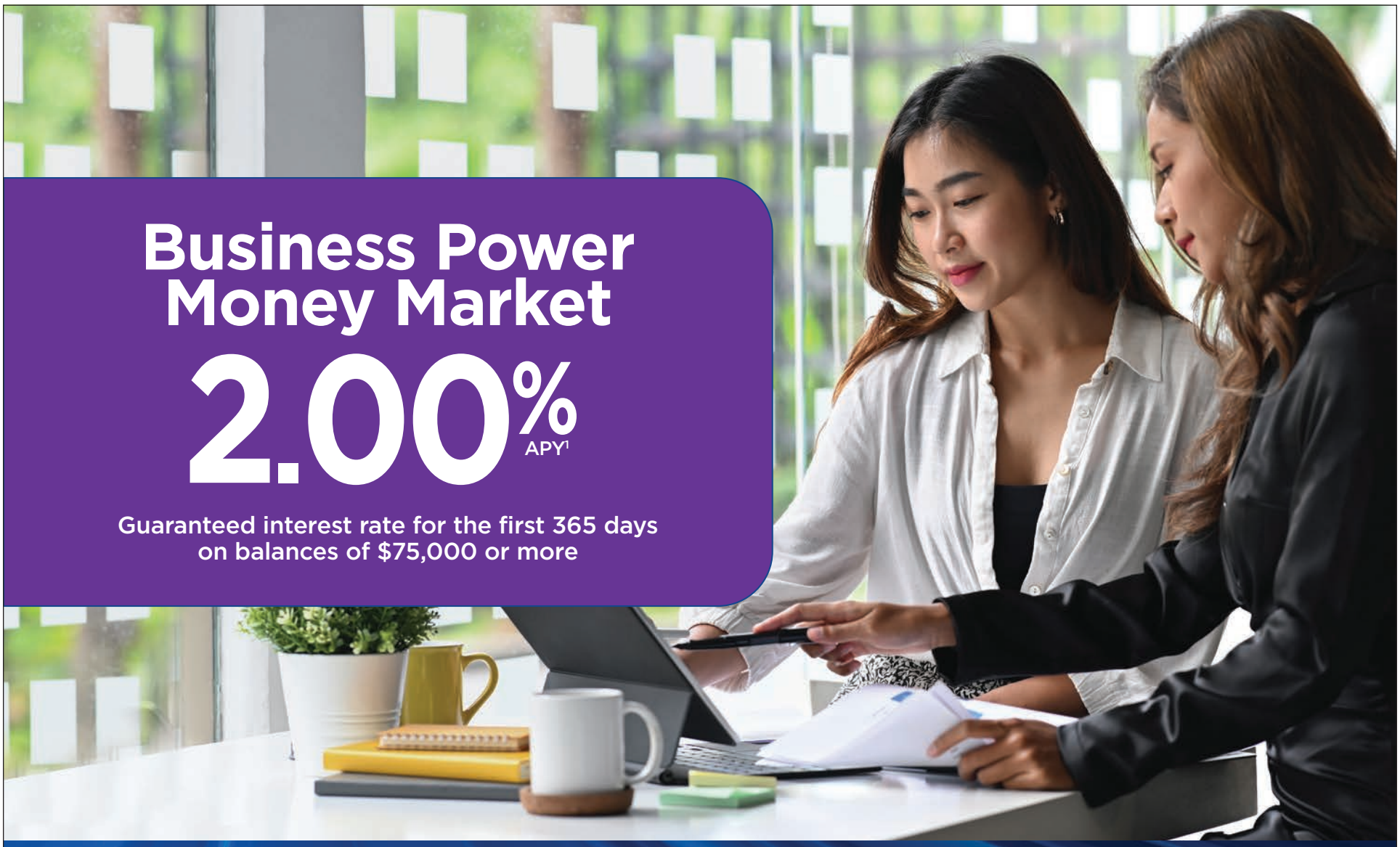
BRONZE
$1,500
- includes half page ad
- 2 tickets to the dinner
- acknowledgement in all marketing and press releases
- listed on signage and table flyers
- recognition from the podium

SPONSOR
$1,000
- includes quarter page ad
- 1 tickets to the dinner
- acknowledgement in all marketing and press releases
- listed on signage and table flyers
- recognition from the podium

Journal Ads

• Back Cover	7-3/8"x9-7/8"	$2,500	• Inside Front or Back Cover	7-3/8"x9-7/8"	$1,750
• Gold Page	7-3/8"x9-7/8"	$1,250	• Silver Page	7-3/8"x9-7/8"	$1,000
• Full Page	7-3/8"x9-7/8"	$750	• Half Page	7-3/8"x4-3/4"	$500
• Quarter Page	3-1/2"x4-3/4"	$350	• Business Card	3.5"x2"	$200

All journal ad measurments are listed as width x height and represent the printable area for your ad.
Inside front or back and outside back cover ads are full color. All interior page ads are black and white only.



Committed to Building Rewarding Relationships

Flushing Bank's **Business Power Money Market** account is perfect for business customers who want to keep their funds liquid while earning a guaranteed interest rate of 2.00% on balances of $75,000 or more.[1]

To qualify for the **Business Power Money Market** account you must also have or open a Flushing Bank Complete Business Checking account.[1,2] With Complete Business Checking, you have access to over 55,000 ATMs, business mobile banking, mobile check deposit, and more. Plus, new **Complete Business Checking** customers can qualify for additional bonuses.[3]

To open a new **Business Power Money Market** account, visit your local Flushing Bank branch. For a list of nearby branches and hours, go to **FlushingBank.com**.

Small enough to know you.
Large enough to help you.®

FLUSHING Bank

1) New Business Power Money Market account with new money only. To qualify for this offer you must maintain a Complete Business Checking account with a minimum monthly balance of $5,000. Existing Business money market account customers are not eligible. New money is defined as money not currently on deposit with Flushing Bank. The Annual Percentage Yield (APY) is effective September 24, 2022. The interest rate is guaranteed for a 365-day period from the date of account opening. For daily balances of $74,999 or less, the 365-day guaranteed interest rate is 0.10% with an APY of 0.10%; for daily balances of $75,000 to $999,999 the 365-day guaranteed interest rate is 1.98% with an APY of 2.00%; and for daily balances of $1,000,000 or more the 365-day guaranteed interest rate is 1.98% with an APY of 2.00%. After the Guaranteed Rate Period has lapsed, the interest rate will revert to the non-guaranteed tiered rates in effect for the Business Power Money Market. Fees may reduce earnings. Other than as described above, at our discretion, rates may change at any time without notice. You must maintain the required daily balance for the statement cycle to receive the respective disclosed yield. You must deposit a minimum of $100 to open this account. A low balance service charge of $15.00 will be imposed every month if the balance in the Business Power Money Market account falls below $5,000 any day of the month. The rate and offer are subject to change and early termination without prior notice at any time. 2) A Flushing Bank Complete Business Checking account with a minimum monthly balance of $5,000 is required to receive the advertised rate. Certain fees, minimum balance requirements, and restrictions may apply. Fees may reduce earnings on these accounts. 3) The Business Value Program (BVP) is limited to one (1) new Complete Business Checking account per customer. New money only. Existing business checking account customers are not eligible. A new checking account is defined as any new checking account that does not have any authorized signatures in common with any other existing Flushing Bank business checking account(s). An existing business checking customer is defined as anyone who currently has or has had a Flushing Bank business checking account within the last 24 months. New money is defined as money not currently on deposit with Flushing Bank. The Flushing Bank BVP consists of two bonus programs: the BVP Gift Card bonus and the BVP Activation bonus. Please speak with a Flushing Bank representative for additional information and program specific details including balance and transaction requirements.

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