

Queens

BAR BULLETIN

Queens County Bar Association | qcba.org | 88-14 Sutphin Blvd., 3rd Floor, Jamaica, NY 11435 | 718-291-4500

November 2023 | Volume 91, No. 3



Embrace Your Inspiration

BY FRANK BRUNO, JR.

Dina was an ambitious young woman who never missed a day of submitting a new idea to her boss—while the boss never missed a day of rejecting Dina’s ideas. But one day, Dina submitted a suggestion, and her boss said, “That’s sheer inspiration!”

“No,” said Dina, “It’s 99 percent *aspiration* and one percent inspiration.” Inspiration stems from aspiration. Thomas Edison famously said, “Genius is one percent inspiration and 99 percent perspiration.”

Perspiration is the sweat equity that young lawyers, business owners, writers and creatives must embody to achieve greater success. Inspiration typically starts with determination. A resolute willingness to make the effort. Observing, thinking, learning, reading, putting in time. The routine of craft, scheduling, process and consistency—like

Seinfeld composing jokes or Isaac Asimov writing science-fiction.

Aspiration, determination, perspiration and inspiration. Are they confusing or am I just playing with the *-tion* suffix? To a degree I am, but aspiration and inspiration interweave nicely as I weave this article.

as-pi-ra-tion NOUN 1. a hope or ambition of achieving something;

in-spi-ra-tion NOUN 1. the process of being mentally stimulated to do or feel something, especially to do something creative;

Aspiration also means to draw breath while an alternative definition of inspiration is to breathe in. Inspiration is so much more. It is the spark that ignites our soul; to reach higher, to float, to

stoke the flame of greatness. Let’s not confuse inspiration with motivation; the motivated spirit is merely incentivized to do something, while the inspired one is stimulated—invigorated—to feel something. Inspiration is the internal animation and *oomph* whereas motivation requires external pushing and prodding. Do you have an external push or an internal pull? Do you have a practice of developing Inspirational Strategies? What about consistent creative habits?

“Motivation requires something from the outside to activate you. Inspiration is an internal energy that keeps you continually fueled.”

—Adrienne Duffy

Jerry Seinfeld popularized a simple method anyone can use to stay consistent. To get better

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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

NOVEMBER 2023

- Tuesday, November 28
- Thursday, November 30
- CLE: The Trial: Pt 4 – The Case in Chief – 5:30 pm
- CLE: Representing LGBTQ+ Clients in The Criminal Legal System – A Civil Litigation Perspective – 1:00 pm

DECEMBER 2023

- Monday, December 4
- Wednesday, December 6
- Wednesday, December 13
- Monday, December 25
- Tuesday, December 26-29
- CLE: How to Read a Tax Return for the Matrimonial Lawyer – 5:30 pm
- Academy of Law Meeting 1:00 pm
- EVENT: Holiday Party at Jericho Terrace, Mineola, NY – 5:30 pm
- Christmas Day – Office Closed
- Christmas Weeky – Office Closed

JANUARY 2024

- Monday, January 1
- Wednesday, January 10
- Thursday, January 11
- Monday, January 15
- Thursday, January 18
- Wednesday, January 24
- Tuesday, January 30
- Wednesday, January 31
- New Year's Day – Office Closed
- CLE: Overview of MVA Litigation & Depositions – 1:00 pm
- CLE: Interplay Between Workers Compensation Claim and a Third Party Action – 1:00 pm
- Martin Luther King, Jr. Day – Office Closed
- CLE: Overview of Premises Liability & Depositions
- CLE: Human Rights CLE
- CLE: Nuts & Bolts of Real Property Sales and Commercial Leases in Bankruptcy
- CLE: SoberLink Lunch & Learn 1:00 pm

FEBRUARY 2024

- Thursday, February 1
- Monday, February 12
- Monday, February 19
- CLE: DNA101: No Attorney Left Behind – 1:00 pm
- Lincoln's Birthday – Office Closed
- Presidents' Day – Office Closed

MARCH 2024

- Friday, March 29
- Good Friday, Office Closed

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Editor's Note

Immigration + Diversity = PROSPERITY

By Paul E. Kerson

Over the past 45 years, we in Queens County have seen our property values go up by a factor of 10. That modest house in Flushing, Jamaica or Long Island City that sold for \$100,000 in 1978 now sells for over \$1,000,000.

Why?

There is a two word answer: KENNEDY AIRPORT.

Of course, the explanation is a tad more complicated. It has to do with the law of supply and demand. Every day, people from all over the world come to our county as "tourists". They like what they see, and they decide to stay.

When more people want to buy houses and apartments than there are in existence, the price goes up, and up and up, thereby greatly enriching people of modest means who decide to sell their Queens County homes and move to the "National Grandparent Preserve", also known as "G-d's waiting room". I refer of course to our Sixth borough – FLORIDA, where houses and apartments cost a mere fraction of the Queens County, NY price.

We have in Queens County an entirely new kind of immigration – the "tourist" who opens a restaurant, grocery store, dry cleaners or other neighborhood business, and then returns to his or her home country, leaving the shop in the hands of a fellow countryman. The "tourist" comes and goes, starting more and more businesses, and bringing with him or her more relatives from the old country to operate these new businesses.

And so it goes with the Chinese, Indians and Koreans of Flushing, the West Indians of Jamaica, the South Americans of Elmhurst and Jackson Heights, and the Greeks and Italians of Astoria, and countless others from nearly every country in the world. They enrich us dramatically with their new businesses, cultural diversity and skyrocketing property prices paid to local long term residents headed to Florida anyway. None of us lives forever.

Amazingly, in a world full of turmoil and war, our diverse residents appear to get along fairly well. That fact is in no small part due to the Justices, Judges, Referees, Law Secretaries, Court Attorneys, interpreters and non-judicial staff of our Queens County Courts and our Members of the Queens County Bar Association, who produce Justice Itself in dozens of languages every business day by careful and methodical negotiation among people of every background imaginable.

We are the living example of the teaching of Brad McDonald, Deputy Division Chief of the International Monetary Fund's (IMF) External Sector Unit: "If there is a point on which most economists agree, it is that trade among nations makes the world better off." See Google, Brad McDonald, "International Trade: Commerce Among Nations" *F&D Finance and Development* 46(4) December 2009.

And the United States? Well, we are a nation of all nations. It turns out it was specifically planned this way by the generations that came before us. In his master work on this subject, New School Prof. Aristide R. Zolberg had this to say: "From the very outset, Americans were aware that immigration was destined to play a unique role in their economic and political development, and hence devoted considerable attention to the elaboration of instruments for achieving their objectives. Immigrants were required as human capital and as a vital source of demand for the immense reserves of land the founders appropriated by driving out the first inhabitants and the British monarchy." See Aristide R. Zolberg, *A Nation by Design*, Harvard University Press, Cambridge, Mass. 2006, page 432.

If we look around us, and we see the booming prosperity of Queens County over time, and we understand the teachings of the IMF's Deputy Division Chief Brad McDonald and Prof. Aristide R. Zolberg, why are we stopping people from entering Texas, Arizona and New Mexico on foot?

We are certainly not stopping very many people from entering the United States at Kennedy Airport. Just walk down Roosevelt Avenue in Jackson Heights, Main Street in Flushing or Steinway Street in Astoria to understand this fact.

Why?

To understand exactly how absolutely foolish our southern border policy is, we need only read the memoirs of Hans-Gert Pottering, the past President of the European Parliament (2007-2009), *United for the Better: My European Way*, John Harper Publishing, London, U.K. 2016.

Past President Pottering spent 35 years as an elected Member of the European Parliament (MEP) from 1979 to 2014 from a district in Lower Saxony. In his memoirs, he describes European unification as "the biggest peace-building project...in the history of the world." Page 11. He describes the building of the European Union (EU) and its predecessors "out

of the ruins of a shattered continent". Page 329.

Past President Pottering describes his battle to erase European national borders that have been the source of bloody battles for more than 1000 years. On page 96, he describes his 1983 demonstration to try to abolish the border between the Netherlands and Germany. Ultimately the free passage between the member nations of the EU was adopted. See page 96.

"What goes around, comes around." This piece of popular wisdom is illustrated by our New York history. Originally called New Netherland, and settled by the Dutch in 1625, it immediately attracted people from all over the world. "The Dutch made up three-quarters of the population, but the other quarter consisted of English, French, Swedes, Finns, Portuguese and Negroes – most of the Negroes having been brought here from Brazil." See Edward Robb Ellis, *The Epic of New York City*, Old Town Books, NY, 1966, page 72.

One can be certain that none of these original New Netherland arrivals ever had to apply for a "green card". Permanent residence in the New World was there for the taking. That is why it was called the New World, for people dissatisfied with the Old World for cultural, economic, political or any reason at all.

Thus, it can be safely said that New York has had its own wide-open immigration culture since the Dutch Day One in 1625. It is more than ironic to read of their own fight for open borders in their old country in 1983, 358 years later across the Atlantic Ocean.

In a real sense, the mess at our southern border is a legacy of the Mexican War of 1846 to 1848, wherein the United States conquered Arizona, New Mexico, California, Utah, Nevada and parts of Colorado, Oklahoma, Kansas and Wyoming from Mexico after annexing Texas in 1845.

In the Treaty of Guadalupe Hidalgo, the war was ended, and the United States paid Mexico \$15 million for all of the land listed above, expanding United States territory by one-third. See Google, Britannica, Mexican-American War

In a real sense, the current southern border crisis is a failure to complete the Treaty of Guadalupe Hidalgo, which guaranteed the property rights of Mexican citizens and their heirs whose land was now

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President's Message

Holiday Greetings!

By Michael D. Abneri

On October 25, 2023, the QCBA had a historic virtual conversation with United States Supreme Court Justice Sonia Sotomayor at the Queens Theater. She discussed aspects of being a judge and some thought processes of how she approaches a case decision on the Supreme Court, her thoughts on the profession and her career, and strongly advised young lawyers to clerk for judges, something she regretted not doing. She also answered questions from an audience of over 100 lawyers. It was an exciting evening and fun event for those who were there. I wish to thank those who attended, the members of the various other Queens based bar associations who attended and some of their leaders who had an opportunity to ask the Justice Sotomayor questions. I would also like to thank our staff who made this event possible and St. Johns Law School professor John Q. Barrett, who gave an overview of issues facing the Supreme Court this year as part of the presentation. Finally, I would like to thank Justice Valerie Brathwaite Nelson, who secured the appearance of Justice Sotomayor for QCBA, and spent many hours of her time preparing to conduct the event.

During October, we were happy to co-sponsor Italian American Heritage Month events in the Supreme Court, Civil and Criminal Courts. Italian American Heritage month was first celebrated in 1989 by a special proclamation of Congress and

George H.W. Bush to honor those of Italian descent and recognize their contributions to the United States. According to the Order Sons and Daughters of Italy in America, there are over 26 million Americans of Italian descent living in the United States, making it the fifth largest ethnic group in America. We also salute their contributions and especially to the legal community of Queens County.

As November has rolled in, QCBA congratulates the newly elected judges of the Supreme Court and Civil Court who will start their judicial careers or new judicial positions in January of 2024. We also will be saying goodbye to those judges in Supreme and Civil Court who have already retired earlier this year, or will retire at the end of the 2023, and will be starting their judicial retirements. The lawyers of Queens County thank you for your many years of service to the public that you have served on the bench. We also congratulate Queens County District Attorney Melinda Katz, on her reelection to a second 4-year term.

QCBA supported salary increases for judges in New York who have not had an increase in salary since 2019. We sent a letter in support of same to the New York State Commission on Legislative, Judicial, & Executive Compensation. The commission recommended a salary increase to parity with U.S. Federal judges for New York Supreme Court and

a salary rate increase for Civil Court and related judicial positions. Hopefully Governor Hochul and New York State Legislators allow this to be enacted.

Finally, as we turn to the holiday season, I cannot ignore the rise of blatant Anti-Semitism and the ensuing violent protests that have occurred since the events of October 7, and the war in Israel. These events have openly revealed some of the most virulent Anti-Semitism I have seen in my lifetime. This must stop immediately! We hope that tensions will subside and those who desire to protest and support a position do so lawfully, peacefully, with dignity and respect to an opposing viewpoint.

Since we will not be publishing a bulletin in December, I ask all of you to join us at our annual holiday party on December 13, 2023 at Jericho Terrace to celebrate the year. Our social events have been successful this year and have given the members of QCBA and the other Queens based bar associations opportunities to socialize in a less formal setting than some of the other events we host and attend. We hope that each of you enjoys a great Thanksgiving and a Happy Hanukkah, Happy Kwanzaa and a Merry Christmas to those who celebrate. We also wish you a Happy New Year and hope 2024 continues a return to normalcy in the "post pandemic" era. Please stay safe and healthy and be well.

Editor's Note

Immigration + Diversity = PROSPERITY

CONTINUED FROM PAGE 4

under United States jurisdiction. See Article VIII of Treaty at the website: Google, Avalon.law.yale.edu.

Certainly if Mexican citizens and their heirs had their property rights in land in 10 new states of the

United States guaranteed, that must have meant a freedom to travel back and forth across the new border, the Rio Grande River.

And if this be the case, why are we stopping the South American cousins of those very people at the

Rio Grande today?

Past European Parliament President Pottering, who devoted his career to free passage borders among the formerly warring nations of Europe, would not be a happy camper.



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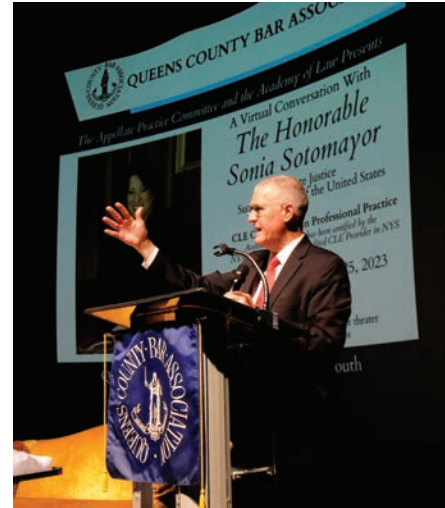
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Appellate Practice Update

WEDNESDAY, OCTOBER 25, 2023

PHOTOS BY WALTER KARLING



Friendsgiving

The Queens County Bar Association’s Young Lawyers Committee held its fourth annual Friendsgiving event at One Station Plaza in Bayside on Thursday, November 16. The event is a fundraiser for a Queens based entity, and this year’s beneficiary was *Dancing Dreams*, a 501(c)(3) nonprofit organization that offers dance classes in Bayside, Manhattan and Plainview for approximately 125 physically and medically challenged children. Their dancers are paired with a teenage “helper” to assist them throughout the classes and *Dancing Dreams* also offers a teen leadership program for all our volunteers and outreach programs for all others interested.



Approximately 60 QCBA members and friends attended the event and reveled in the Thanksgiving spirit, mingled with their colleagues, purchased raffles and contributed to a very special evening. All net proceeds from the event are donated to *Dancing Dreams*, which is projected to be nearly \$6,000.

A special thank you to our event sponsors: Catholic Lawyers Guild of Queens County; Latino Lawyers Association of Queens County; Big Apple Abstract; Law Offices of Frank Bruno, Jr.; Davidoff Law; Lynx Mortgage Bank; The Malios Group; Mitra Hakimi Realty Group; Morici & Morici; Renfroe, Driscoll & Foster; Il Bacco; Austin’s Ale House, Bourbon Street and One Station Plaza.

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The Practice Page

This Month, Something Different

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

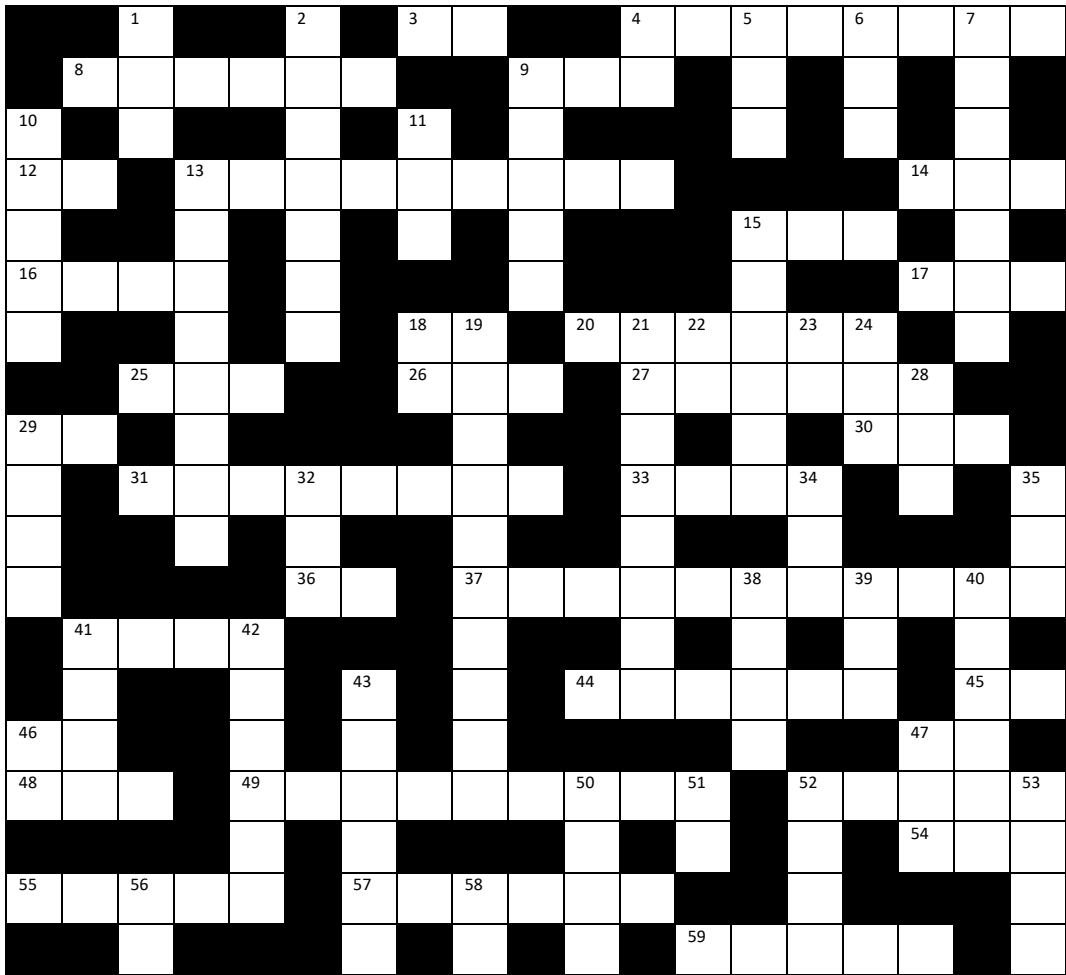
Oyez, Oyez. Test your familiarity with some of the terms of New York practice and procedure. Best savored by anyone waiting in court for your conference to be called or for your jury to return a long-sought verdict. The Practice Page is *interactive* this month. Enjoy.

Across:

- 3. Hon. Marguerite A. Grays, 11th J.D.
- 4. For combining related claims or parties.
- 8. Relief derived from CPLR 3124.
- 9. Needed to get a judge assigned to the case.
- 12. Original litigation papers, abbrev.
- 13. Complaints, answers, cross-claims, counterclaims, and replies.
- 14. Adjustable rate mortgage.
- 15. The statewide association of local court judges.
- 16. A halt to the statute of limitations.
- 17. Not however.
- 18. A retired male judge.
- 20. Attorney account for holding money.
- 25. Suitable for CPLR 308(2).
- 26. Latin, regarding the real property.
- 27. Parties with a common and undividable interest.
- 29. Declaratory judgment.
- 30. Not deducted from personal injury judgments.
- 31. An article 78 to compel conduct.
- 33. Getting ready for trial.
- 36. Spouse after the divorce judgment.
- 37. Filed to get onto the trial calendar.
- 41. NYS case establishing comparative negligence.
- 44. Result of not making a litigation argument.
- 45. Used in legal footnoting.
- 46. Helps restore plaintiff’s physical condition, abbrev.
- 47. Where you are, in the courthouse or otherwise.
- 48. Just so you know.
- 49. A third party action.
- 52. That which is regulated by limitations.
- 54. Federal statute protecting the disabled.
- 55. In further support of the motion.
- 57. Materials reviewed on appeal.
- 59. Forum where the litigation occurs.

Down:

- 1. Statute defining usury.
- 2. A ground for a 3211(a)(5) dismissal.
- 4. The NYS Judicial Institute.
- 5. Federal agency helping show “lost income.”
- 6. Wrongful death determined at the hospital, abbrev.
- 7. A motion permitted by CPLR 2221.
- 9. Another motion permitted by CPLR 2221.
- 10. Civil wrongs.
- 11. Used by some attorneys for payroll.



- 13. Famous NYS case defining proximate cause.
- 15. A motion sanction under CPLR 3126.
- 18. Same as 18 Across.
- 19. Refers to when a motion is to be heard.
- 21. Order requiring a person’s appearance.
- 22. Short for “course networking.”
- 23. When the court officers work late, abbrev.
- 24. A case’s full value, such as when soaking.
- 28. Queens attorneys Tanon, Kogen, and D.A. office Ass’t. Chief Inv. O’Brien, for example.
- 29. Recoverable money.
- 32. Adjournment, *sine* ____.
- 34. The book with the civil juries’ instructions.
- 35. Attorney payment that is contingent.
- 38. Limitation years for certain divorce actions.
- 39. Abbrev. for service of process under 308(2).
- 40. Same as 27 Across.
- 41. An element of negligence liability.
- 42. Not at law.
- 43. A witness with specialized knowledge.
- 46. Short for Provident Fund.
- 47. The American Medical Association.
- 50. Circumstance when the trial may be lost.
- 51. Latin term in case captions, *In* ____.
- 52. A municipality entitled to a GML notice of claim.
- 53. What occurs after a foreclosure judgment.
- 56. An expert witness engineer.
- 58. Hon. Rowan Wilson’s office, for short.

ANSWERS ON PAGE 19

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.



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If you qualify now or purchased a plan when you were young, a great addition to any estate plan would be long-term care insurance. Explore that option-usually not available or costly or does not supply all of the coverage you need. However, look into it for whatever insurance plan might be available.

If the long-term care insurance is too expensive or you do not qualify, then an Irrevocable Trust, when properly funded; properly executed and done far enough in advance could be the light at the end of the tunnel for your family. The time frame is five years for nursing home Medicaid. Start now.

Consider utilizing trusts instead of wills to avoid the Surrogate Court process, which occurs when you pass away with assets solely in your name. Trusts offer greater resistance to legal challenges compared to wills, making them a sensible choice when disinheriting a child, minimizing the potential for delay, dispute or litigation. In general, trusts offer efficiency and cost savings when settling your estate.

You might think about leaving bequests/assets to your children in Trust, rather than as an outright distribution. In Trusts safeguard their inheritance against potential claims during your children's possible divorce, and upon your child's passing, the inheritance seamlessly transfers to your other children or grandchildren, avoiding the "dreaded" son-in-law or daughter-in-law.

To summarize, an EFFECTIVE estate plan serves a few main purposes: (1) shielding assets from the expenses associated with long-term care, (2) passing assets to your heirs while minimizing tax and legal costs, and (3) preserving assets within the family lineage for your relatives, safeguarding the inheritance from potential complications arising from your children's vices, failed businesses & divorces.



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in various venues**



Embrace Your Inspiration

BY FRANK BRUNO, JR.

CONTINUED FROM PAGE 1

as a comedian, claims Seinfeld, better jokes were required. To write better would require daily joke writing. Here is what he did: Get yourself a calendar, and every time you perform the task, draw a big red "X" on that day in the calendar. The mission is to keep the red "X" chain going without breaking. For Jerry, the process was writing a joke a day, whether funny or not. The habit was the key. Easy to implement and easy to do. Grab a paper calendar and start!

We can plant creative seeds to cultivate an environment of inspiration. Think of it and look for it. Music, meditation, a few good books and a calendar can be used by all. Sometimes it's hard to get inspired. It could be the weather, stress, or a variety of reasons. What's the best way to get back to that mental frame of inspiration? Read a poem, draw a picture, doodle. Be curious. Learn something new every day. Seek out new experiences or return to childhood activities—find an adult coloring book or take an online seminar. Surround yourself with open-minded and creative professionals. Learn for the joy of learning. View life as a chance to explore all facets of human nature. Get some early sunshine in your eyes and walk in nature. Spend time outdoors and plant your feet in the dirt.

Develop your imagination. Craft a story in your head, imagine a world of aliens or talking plants or even experience an alien abduction like I did once upon a time. Imagination sparks creativity and creativity will induce inspiration. It is inevitable. Think outside the box; heck, think outside the

circle, rectangle or square that you've been cooped up in all these years. About two years ago, I realized I had this undiscovered claustrophobia. Ever since, I made the conscious decision to break any boundary.

Words can inspire—just look at this article. It's an amalgamation of my words and thoughts. I didn't even get to the part where I share the writing habits of Isaac Asimov, who wrote 500 books during his lifetime.

Embrace your inspiration and ride the wave of imagination, creativity, and yes, even love. Good relationships keep us healthier and happier and of course inspire us. Dream during sleep and dream in the shower where the muse strikes often. Think about overnight success—Lennon and McCartney attributed a few of their best songs to dreams. Paul McCartney woke up with the song "Yesterday" jingling around his head.

While simply dreaming our way to success is possible, a dream with a plan may be more effective. Asimov wrote every day whether he felt like it or not. This consistency was partially genetic; his father owned a candy store and opened the shop every day whether he felt like it or not. He was prolific because he had a simple and straightforward style and he did not care about critics. By embracing a creative habit we achieve results in our own endeavors.

When asked what his favorite composition was, Duke Ellington said, "the next one."

This is the essence of the creative process. The space between now and what is about to come, is when we are fully alive.

Paying for any item online causes us to look at forms of all sorts with varying degrees of usefulness. How about the forms that have a pull-down for US citizens challenging them to choose which of fifty states they live in? How about the form software looks at my IP address and defaults to New York? Or how about the country pull-downs that begin with Andorra? Why would the USA be placed near or at the end of a list of more than a hundred. There can be no rational reason for this except long ago in a galaxy far away someone created a template and it is easier to keep than change. How about the forms that are too long? Or the forms that do not accept accurate information? I very well know my DOB and the form says invalid. Or what about when you are close to crossing the finish line but all the data vanishes? Does every company need my mother's maiden name and my social security number? Is it really necessary to have a password that is at least 8 characters long with 1 uppercase letter, 1 lowercase letter, 1 special character, 1 number, and 1 emoji. With all of the data breaches and phishing across the internet I cannot imagine that my "strong" password is the ideal solution.

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.

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Book Review

“NO ONE CAN STAND A TOSS”

Barry A. Schwartz; Self Published [Amazon Prime] 515 Pages

BY HON. GEORGE M. HEYMANN

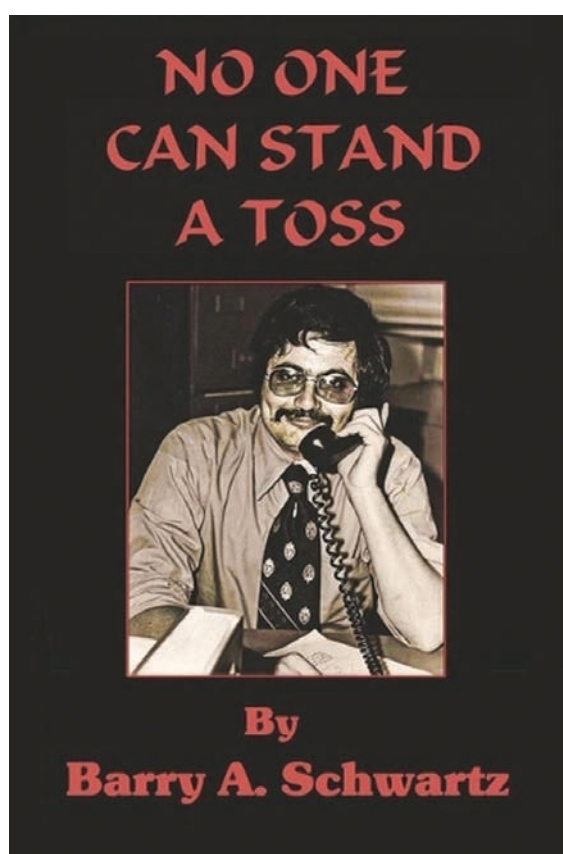
For anyone who has been a former Queens Assistant District Attorney [QADA], is currently a QADA, or is contemplating becoming an ADA in Queens or any other county, this book is a must read. In fact, anyone who has any interest in criminal law will enjoy this book.

It is a memoir based on a half-century of experiences by one of the most well-known former ADAs in Queens. The text provides the reader with the highs and lows of his career, culminating as a Queens Supreme Court Justice until his retirement. Justice Schwartz, who I refer to as Barry, tells it like it was, and is, from his perspective, which you may or may not agree with. But as he says, it's "his memoir" so it is the only version that matters to him. However, in just about every instance where he discusses the many players who had a major impact in his life and the office itself, those descriptions are spot on. I knew most of the people personally and others by reputation only. For me this book was a walk-through history. Reading about the "behind the curtain" mechanics of how the Queens District Attorney's Office [QADO] operated on the "third floor" was an eye-opener indeed.

Full disclosure - I initially met Barry and his late wife Gale in the first week of January 1978, when I was sworn in as an ADA by then District Attorney John Santucci. I began my brief career as a prosecutor in the Appeals Bureau, where Barry was the Bureau Chief and Gale was everyone's go to person for assistance. As Barry points out, Gale was "the real secretarial ace of the place". I loved doing appeals, as writing has always been my passion. Working with Barry and Gale made it a pleasure to be in the office, as I learned so much from both of them. Years later, when I was no longer in the office, I was deeply saddened to hear about Gale's passing. She was a gem.

Barry talks about how he "happened" into the DA's office, at that time headed by Tom Mackell, who was later indicted, convicted and removed from office. He was subsequently vindicated on appeal but his political career was destroyed. Barry then goes through the litany of the several DA's that followed. He discusses his departure from the office while Santucci was DA and his subsequent return a decade later as the first Chief Assistant District Attorney [CADA] under Judge Richard Brown, the longest serving DA in Queens. After five years in that position which he loved more than any other, he was unceremoniously fired on a Saturday night, via telephone, with no explanation given. Barry

claims that right up to that moment he had no warning signs that anything was amiss and will always wonder what caused the sudden change. He surmises that the very person who replaced him, whom Barry himself had hired, played a significant role in the sudden regime change. At this point Barry takes you on his journey to starting over, once again. Interspersed throughout the memoir are insights into many fascinating cases and characters, some famous some not.



Reading this book provided me with the backstory of how Barry got to be where he was when I was assigned to work for him. Barry puts ADAs into two categories: those who served for three years and left the office and those who became "lifers" determined to remain prosecutors for the balance of their careers. I was in the former, and Barry had hoped to remain in the latter, but it was not meant to be.

While I was appointed by Santucci when he began his first full term in office, Barry was already a Bureau Chief when he "inherited" yet another DA in the line of succession since Mackell's ouster. Although my relationship with Santucci, who Barry refers to as "the Tooch", was always courteous and respectful, my contact with him in the office

was minimal. According to Barry, "Santucci [] had a penchant for blowing by ethical and legal constraints, either for effect or to drive people nuts". Lifers like Barry "hope[d] that the Santucci era would not last forever". "My thought was, stick it out, better days are coming." Barry then goes on to relay the event he refers to as the "last straw" that caused him to leave the office he loved and toiled for his entire professional life. He characterized "Tooch" as a "scumbag" and a "prick".

No longer a "lifer", thanks to Santucci, Barry engages the reader in his transition into private practice; the ups and downs and the many different cases and clients he encountered as a defense attorney until his triumphant return as CADA for Judge Brown.

This book is Barry's tell-all from his early years as an "underachiever" ["School and I were mortal enemies."], to becoming what he considers the highlight of his career, Chief Assistant District Attorney. His sudden fall from the top of the mountain into the wilderness, wondering what to do next and his final redemption being elected as a jurist is truly a story that reverberates with anyone whose legal career intertwines with politics, as did mine. Throughout the book, Barry pats himself on the back for his many accomplishments and victories as both a prosecutor and defense attorney. Does Barry's ego play a big part in this memoir, absolutely and he readily admits that.

Barry concludes by stating that some of the great trial and appellate lawyers are the ones you've never heard of, especially those from Queens, "unless you work in Queens, which lives in the shadow of Manhattan. It always will. So do its lawyers".

That statement notwithstanding, I can tell you first hand that there are very few prosecutors, defense attorneys or judges sitting in the criminal courts who can match Barry's knowledge of the law or skills in the courtroom.

Good job Chief!

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.



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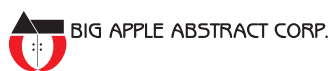
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This Month, Something Different: Answers

BY HON. MARK C. DILLON
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