

# Queens BAR BULLETIN

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

January 2020 | Volume 87, No. 4



Allen E. Kaye

## H-1B Lottery Changes – A New Registration Process for 2020

BY ALLEN E. KAYE AND JOSEPH DEFELICE



Joseph DeFelice

On November 8, 2019, the DHS published a final rule to establish an electronic registration program for H-1B petitions that requires a \$10 registration fee for the April 2020 cap season. One of the main goals of the regulation is to conduct the lottery before accepting petitions so that employers know in advance if the case will be selected in the lottery before submitting complete H-1B filings with USCIS. The other major change was a reverse order in how the lottery was conducted with the goal of increasing the chances of U.S. Master's degree holders of winning an H-1B number. Click here to review our related blog.

On November 4, 2019, the Acting Director of USCIS Ken Cuccinelli stated that he has a "fairly high degree of certainty" that USCIS will be ready to implement the tool for the upcoming H-1B cap season, and that he expects USCIS will make a formal announcement "by the end of the year". However, we continue to await formal announcement as the electronic registration website is still undergoing beta testing and is not yet active. USCIS may yet again suspend implementation of the H-1B registration program for the upcoming cap

season, however employers are advised to proceed as if the program will be implemented for the upcoming cap season.

This Q&A is prepared to provide employers with information on how to prepare for the registration process if it is implemented for the April 2020 cap season.

**Question: What is H-1B cap registration?**

**Answer:** It is a USCIS system to monitor the number of H-1B cap petitions submitted and to conduct the H-1B lottery before the petition is submitted.

**Question: Who is covered by this new rule?**

**Answer:** The registration is only for prospective cap-subject petitions (i.e. not for cap-exempt employers such as universities or qualified research institutions or employees who have been already counted against the cap).

**Question: When will the registration period start?**

**Answer:** The USCIS will announce in the Federal Register when it plans to institute registration and then: Initial registration period will be announced at least 30 days in advance and there will be stakeholder outreach;

Initial registration period will begin at least 14 days before the first day of petition filing (April 1) and will last at least 14 calendar days; If selected, employer has at least 90 days to file H-1B petition; and USCIS may re-open registration at any time (no notice required).

**Question: What is the government's filing fee to register?**

**Answer:** There will be a \$10 government filing fee.

**Question: What information is required to register?**

**Answer:** The following information must be included in the registration:

Full name  
Date of birth  
Country of birth  
Citizenship  
Passport number  
Gender

Employer attestation that there is a bona fide job offer and it intends to file an H-1B petition-meant to deter companies from gaming the system

CONTINUED ON PAGE 5



### Table of Contents

H-1B Lottery Changes .....	1, 5, 7
The Docket .....	2
President's Message .....	3
Editor's Note .....	4
QCBA Holiday Party .....	8, 9

## The Docket

Being the official notice of the meetings and programs listed below, which, unless otherwise noted, will be held at the Bar Association Building, 90-35 148th Street, Jamaica, NY. 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

### JANUARY 2020

#### Wednesday, January 1

New Year's Day  
– Office Closed

#### Wednesday, January 15

Family Law Committee –  
1 CLE Credit – 5:30 pm - 7:00 pm  
Everything You Ever Needed to Know  
About the Child Support Program

#### Monday, January 20

Martin Luther King Jr. Day  
– Office Closed

### FEBRUARY 2020

#### Wednesday, February 12

Lincoln's Birthday  
– Office Closed

#### Monday, February 17

President's Day  
– Office Closed

### MARCH 2020

#### Tuesday, March 31

Judiciary, Past President's  
& Golden Jubilarian Night

### APRIL 2020

#### Thursday, April 2

CLE: LGBTQ+ &  
Immigration/Naturalization  
Committees

#### Friday, April 10

Good Friday  
– Office Closed

#### Wednesday, April 22

Equitable  
Distribution Update

### MAY 2020

#### Thursday, May 7

Annual Dinner &  
Installation of Officers

#### Monday, May 25

Memorial Day  
– Office Closed

### UPCOMING

#### SEMINARS

CPLR & Evidence Update 2020  
Ethics Update 2020

## New Members

Stephen H. Bilkis  
Peter D. Eisele, Jr.  
Scott J. Forster  
Victor Knapp  
Josue Madrid  
Jesse C. Rose  
Jason Sanders  
Salvatore Serravillo

## Necrology

Anna Marie Policriti Brown  
Hon. Orin R. Kitzes  
Stanley James Legan



## 2019-2020 Officers and Board of Managers of the Queens County Bar Association

**President** – Marie-Eleana First  
**President-Elect** - Clifford M. Welden  
**Vice President** - Frank Bruno, Jr.  
**Secretary** – Adam Moses Orlow  
**Treasurer** – Michael D. Abneri

**Class of 2020**  
Alla Allison Ageyeva  
Gregory J. Brown  
Joshua R. Katz  
Michael Kohan  
Zenith T. Taylor

**Class of 2021**  
Gregory J. Newman  
Deborah M. Garibaldi  
Jeffrey D. Lebowitz  
Michael Serres  
Elizabeth Yablon

**Class of 2022**  
Kristen J. Dubowski Barba  
Charles A. Giudice  
Richard Michael Gutierrez  
Janet Keller  
Andrea S. Ogle

## Queens Bar Bulletin

**Executive Director**  
Arthur N. Terranova

**Queens Bar Bulletin Editor**  
Paul E. Kerson

**Associate Editors:** Stephen D. Fink and Richard N. Golden

**Publisher:**  
Queens Public Media, LLC, under  
the auspices of Queens County  
Bar Association. The Queens Bar  
Bulletin is published monthly from  
October to May. All rights reserved.  
Material in this publication may not  
be stored or reproduced in any form  
without permission.

©2019  
The Queens County Bar Association  
**Advertising Office:**  
**Queens Daily Eagle**  
8900 Sutphin Boulevard, LL11,  
Jamaica, Queens, NY 11435  
(718) 422-7412

**Send letters and editorial copy to:**  
Queens Bar Bulletin 90-35 148th Street, Jamaica, NY 11435  
**Editor's Note:** Articles appearing in the Queens Bar Bulletin  
represent the views of the respective authors and do not  
necessarily carry the endorsement of the Association, the  
Board of Managers, or the Editorial Board of the Queens  
Bar Bulletin.

**"Queens Bar Bulletin"**  
(USPS Number: 452-520) is published monthly except June,  
July, August, and September by Queens Public Media, LLC,  
8900 Sutphin Boulevard, LL11, Jamaica, NY 11435, under  
the auspices of the Queens County Bar Association. Entered  
as periodical postage paid at the Post Office at Jamaica,  
New York and additional mailing offices under the Act of  
Congress. Postmaster send address changes to the Queens  
County Bar Association, 90-35 148th Street, Jamaica, NY  
11435.

## Lawyers Assistance Committee

The Queens County Bar Association (QCBA) provides free confidential assistance to attorneys, judges, law students and their families struggling with alcohol and substance abuse, depression, stress, burnout, career concerns and other issues that affect quality of life, personally and/or professionally.

QCBA Lawyers Assistance Committee (LAC) offers consultation, assessment, counseling, intervention, education, referral and peer support.

All communication with QCBA LAC staff and volunteers are completely confidential. Confidentiality is privileged and assured under Section 499 of the Judiciary law as amended by the Chapter 327 of the laws of 1993.

*If you or someone you know is having a problem, we can help.  
To learn more, contact QCBA LAC for a confidential conversation.*

**LAWYERS ASSISTANCE COMMITTEE**  
**CONFIDENTIAL HELPLINE**  
**718-307-7828**



## President's Message

Dear Members,

Happy New Year to you! May this year of 2020 bring all of you good fortune in your lives, with your loved ones and with your health.

There have been so many references recently to how the legal system must return to the Rule of Law. The question arises however, when we talk about the Rule of Law today, what exactly do we mean?

In Lewis Carroll's illustrious *Alice in Wonderland*, the characters Humpty Dumpty and Alice have the following exchange: "When I use a word," Humpty Dumpty said, in rather a scornful tone, "it means just what I choose it to mean—neither more nor less." "The question is," said Alice, "whether you can make words mean so many different things." "The question is," said Humpty Dumpty, "which is to be master—that's all."

Humpty Dumpty's statements are a shining example of how one can wield the Rule of Law to dominate and gain control, at any cost. Humpty Dumpty illustrates the danger of upholding the formalism of the law, which is the practice or the doctrine of strict adherence to prescribed or external forms of the procedure of the law.

The Rule of Law cannot be simply about abiding by the law. What if the rules are perfectly legal in one society and yet illegal according to another standard, specifically, that the rules themselves are inhumane and immoral? Through time, many laws that were once considered 'legal' in different societies are now thought inherently illegal because they were inhumane and immoral.

Laws should be examined to see if they are humane and moral. There are legal systems that have explicitly incorporated moral considerations into the framework of their laws. We can look to the German Basic Law for clarification on what this means. Central to the

German Basic Law is the commitment to preserving human dignity and upholding human rights. During Hitler's Germany, the Nazi Government and its supporters strictly adhered to 'legal' principles which promoted the mass destruction and annihilation of the Jewish people. In Post-Nazi Germany, on May 8, 1949, the Federal Republic of Germany approved the German Basic Law Article 1 which states "(1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority. (2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world." The preamble to the Basic Law states that the German people have adopted it "in the exercise of their constituent power." Additionally, Article 20 states "All state authority is derived from the people." Thus, the German Basic Law clearly states its purpose, also called, the Spirit of the Law. That Spirit is to ensure that the interpretation of the Rule of Law starts with the fundamental premise that human dignity, rights and freedoms are inextricably woven into the fabric of the law and that laws should be interpreted and enforced accordingly.

From this perspective, the Rule of Law is not merely about the existence of laws nor of actions that uphold laws but about there being consistency between the law and justice. People in a society call for justice when they make demands of the legal system to provide equality and fairness where society is failing to provide them. Justice emerges when the law is actually constructed and enforced to uphold substantive standards of equality and fairness for all people in a society.

So, in light of all of this, in the United States, what does it mean to uphold The Rule of Law? The Preamble to the United States Constitution holds a key for providing justice in our legal system. The words in the Pre-

amble "...secure the blessings of liberty to ourselves and our posterity..." were written to protect people from unjust laws and to uphold their rights. While these words give hope that the United States has a framework for justice in its laws, liberty has not been automatically bestowed on people living in this country. Long hard battles have been fought by people over the years for their liberty and rights, and the battles continue today. For our laws to be in accordance with the Constitution requires that they help to secure the blessing of liberty but the word liberty has not been automatically recognized and enforced in the United States. We as a society need to shift our perception, and reshape and redefine our vision of the Rule of Law to give it substantive content in order to make our society truly just, fair and provide equality of all people. It would be helpful to look to the word "dignity" in the German Basic Law for an example of moral principles prior to and outside the formal structure of the law in clarifying and defining basic terms -- such as "liberty" -- which anchor the law and gives it a reference according to which the Rule of Law must ultimately be judged.

So, Dear Members, I ask you all to examine what the Rule of Law is today in the United States. Are there any laws that do not truly protect or do not serve to ensure that people are treated with dignity, fairly, equally, and upholding their rights? If there are, would you consider doing your part to shine a light on them and work on changing them? In this way, we can work towards truly upholding the Rule of Law.

Wishing you all the best for the Year 2020 and beyond.

SINCERELY YOURS,  
MARIE-ELEANA FIRST | PRESIDENT



## Editor's Note

# Lessons from the Archive: The Real McCoy

*People v. Cardwell and Goss*, 78 N.Y. 2d 996, 575 N.Y.S. 2d 267 (1991) is a leading decision concerning severances in multi-defendant criminal cases.

The Court of Appeals stated the law on this subject as follows:

"Special factors unique to this case compel us to conclude that there should have been a severance. These factors include the conduct of the trial itself. While no one factor is dispositive in such matters, we note that in this case McCoy's attorney took an aggressive adversarial stance against both Goss and Cardwell, in effect becoming a second prosecutor. Goss' attorney then responded by attempting to impeach McCoy's story with evidence of a recantation, which elicited an assertion from McCoy that the recantation had been induced by Cardwell's threats – damaging evidence elicited not by the People, but by a codefendant..." See 78 N.Y. 2d at 998.

Westlaw indicates that *People v. Cardwell and Goss* has been cited in 73 cases after 1991, and mentioned in 20 law review articles, form books, legal encyclopedias and textbooks.

None of these descriptions of the case give even the remotest clue as to what happened, or why it was important, or what it all means for future generations of lawyers trying to make justice happen.

I was Johnny McCoy's attorney in that trial, and I saved my case file all these last 36 years so I could explain all this to you, my loyal readers all this time, in the far distant future of 2020. Everything in this article is from the public record of the case. No confidential communications between Johnny McCoy and me are used here.

It all "went down" on March 21, 1983 in a high speed chase on the Van Wyck Expressway (to the extent that any travel on the Van Wyck Expressway can be called "high speed").

A robbery and homicide had just been committed in a grocery store on Linden Blvd. The police had a lead on the car involved.

Johnny McCoy, age 40, was a Black man with white hair. He had five children, aged 19, 17, 11, 10 and 3. After he lost his job, Johnny McCoy took to supporting his family by driving his own car as a "gypsy cab".

Note to 21st century readers: Before cell phones, Uber, Via, Lyft, and Juno, the five counties of New York City were served by yellow cabs that did not like to leave Manhattan except for airport runs. The balance of the City, including most of Queens County, depended on neighborhood car services and brave individuals who drove the streets in their own cars picking up passengers.

After weaving in and out of Van Wyck traffic and followed at "high speeds" by more than 10 police cars, Johnny McCoy pulled his 2-door 1971 red Pontiac Firebird to a stop at the gasoline station on Hillside Avenue at Queens Boulevard. He was surrounded by police cars and police officers. One officer opened the driver's door. Johnny, hands up, said "You got me".

Johnny McCoy was taken to the police station, where he was beaten until he "confessed".

Johnny McCoy's family raised money. They hired private counsel. Wade, Mapp and Huntley hearings were conducted. The family ran out of money. Private counsel was discharged. On May 2, 1984, more than a year after the crime, your Editor was appointed by Justice Seymour Rotker of the Queens County Supreme Court, Part C-1, to represent Johnny McCoy as his public defender under Article 18-B of the County Law.

Johnny McCoy was never able to make bail. He was caught red handed in a high speed chase. There was a confession right after the crime occurred. There was a plea offer involving a sentence of 8 and 1/3 to 25 years imprisonment.

None of this looked right to me. Cardwell was 27 years old. Goss was 31 years old. Neither was supporting any children or had any gainful employment. Both were in the back seat of the Pontiac when McCoy was surrounded by police officers in the gasoline station.

More to the point, two pistols were found in the back seat of the Pontiac. No gun was found in the front seat. The only logical conclusion: Goss and Cardwell committed the robbery and homicide, hailed a gypsy cab driven by Johnny McCoy, and directed him, AT GUNPOINT to speed away from the crime scene onto the Van Wyck.

The Assistant District Attorney would not listen to me about this, no matter how hard I tried to persuade him that this is what happened.

But how could I possibly convince any jury that a gypsy cab driver would use a two door car? All gypsy cabs had four doors. No one ever heard of a gypsy cab with only two doors.

So there is was: A human life, the father of five dependent children, depended on me to convince a jury that a two door car could be a gypsy cab.

How to do such a thing? The police reports, Grand Jury Minutes, Wade, Mapp and Huntley hearing transcripts were of no help. They all said – guilty, guilty, guilty.

I decided I would uncover my own alternative line of evidence. I wrote to nine people who had been Johnny McCoy's passengers on unrelated trips – trips to church on Sunday, trips to the hospital to visit sick

relatives, trips to the grocery store for people who had no car, trips to pick up sick children.

Much to my surprise, all nine showed up for the six week trial. And Justice George Balbach in Part K-6 let them testify that yes, Johnny McCoy drove his 2-door 1971 red Pontiac Firebird as a gypsy cab in 1983, and that yes, they each rode in it and paid Johnny McCoy to take them to church, the hospital, the grocery store or to pick up sick children.

I very vigorously cross-examined Goss and Cardwell. I pointed my finger at them with an outstretched arm and a booming voice – "YOU committed this crime and now YOU are trying to frame Johnny McCoy for it. YOU pointed a gun at his head and forced him to drive at high speed on the Van Wyck. YOU did that, not him."

At the joint six week trial, Johnny McCoy was acquitted on Oct. 24, 1984. Goss and Cardwell were convicted. Johnny McCoy was in jail for more than a year and a half for a crime he did not commit because he could not make bail. I walked him out of the courthouse on Queens Boulevard, a free man after that long period of completely improper incarceration. I gave him money to take the subway home to his wife and five children. In all the past 44 years of practicing law with all of you, I can count on my hand the number of times I felt the level of pride I felt that day.

### LESSON:

Always be very skeptical of the other side's evidence in both criminal and civil cases, particularly if it comes from a large corporation or government agency, such as a Police Department. Do your own investigation. Gather your own evidence. What the other side thinks is "open and shut" is rarely that. There are always many sides to every story.

And I make a special plea to Westlaw: Write to all the lawyers on every case you publish. Ask them for essays on the real story behind every case. And publish those essays under the "Secondary Source Citing References" for each case you publish. Then we, your loyal lawyer-readers, will have a much better understanding of what the law is, what it means, why it is what it is, and where it came from. I hope you will list this Queens Bar Bulletin article under your Secondary Source Citing Reference for *People v. Cardwell and Goss*, cited above.

BY PAUL E. KERSON  
EDITOR

# H-1B Lottery Changes – A New Registration Process for 2020

## CONTINUED FROM PAGE 1

### **Question: How many registrations can be submitted for each beneficiary?**

**Answer:** Each employer can submit one registration for one beneficiary. Employer must submit a separate registration for each beneficiary it seeks to register and absolutely no duplicates will be allowed. Please note that multiple employers can submit one registration on behalf of the same beneficiary.

### **Question: What happens if there are duplicates submitted for each beneficiary?**

**Answer:** If an employer submits a duplicate or multiple registration for the same employee, all of the registrations for the employee will be rejected. However, this does not prevent the same beneficiary from having multiple employers submit registration forms on their behalf.

### **Question: Is information about the offered position needed to register?**

**Answer:** No, however, it is important to assess the requirements for the position and the qualifications of the employee to ensure that a non-frivolous H-1B petition will be filed.

### **Question: Is the employer required to establish eligibility for H-1B status when submitting the registration?**

**Answer:** No, if the petition is selected under the lottery the employer will be required to provide information about the company and the offered specialty occupation.

### **Question: Is a Labor Condition Application (LCA) required to be filed with Department of Labor before the registration?**

**Answer:** No, but it would be advisable to proceed with LCA preparation including determining the prevailing wage, posting, and filing with the DOL before registration occurs to ensure the company has a certified LCA if selected and submission of the application can occur within a short time of notification.

### **Question: Does the employer get a receipt upon completion of a registration?**

**Answer:** No, a confirmation number will be assigned which is not the same number as the USCIS receipt number.

### **Question: How will the lottery be conducted?**

**Answer:** USCIS will first conduct the lottery for the 65,000 numbers and include all registrations. USCIS will then conduct a second lottery for the 20,000 numbers reserved for U.S. advanced degree holder registrations. This change is designed to increase the chances of beneficiaries with a master's or higher degree from a U.S. institution of higher education to an estimated 16% (or 5,340 workers).

### **Question: What does the employer do once they receive information a beneficiary has won the lottery and have been allotted an H-1B visa number?**

**Answer:** The next step after the lottery has been conducted is for the employer to file the petition. Employers have only 90 days to file the petitions for their selected employees and the first to file will be the first to be adjudicated.

### **Question: Because of the low barrier to entry by**

**paying a nominal fee of \$10 per registration, what measures has USCIS put in place to deter frivolous applications?**

**Answer:** USCIS has confirmed it intends to monitor the registration system for employers who submit a large number of H-1B registrations, but file only a few selected petitions at a significantly lower rate.

### **Question: Can an attorney submit the registration on behalf of the employer and beneficiary?**

**Answer:** Yes, attorneys will be able to register on behalf of their clients, with Form G-28, Notice of Entry of Appearance as Attorney.

### **Question: If the beneficiary is not selected in the lottery, is there still a chance?**

**Answer:** All registrations will receive a confirmation receipt. If the registration is NOT SELECTED, it is placed on a reserve list, in case new numbers become available.

### **Question: How are the registration fees paid?**

**Answer:** Payment must be received on the government website at [www.pay.gov](http://www.pay.gov) via ACH or credit card.

### **Question: Will the government accept cashier's check or money order for the registration fee?**

**Answer:** No cash, certified (bank) checks, or money orders are prohibited.

### **Question: Will registration happen this year?**

**Answer:** We do not know yet but as it was suspended last year and USCIS is currently undergoing beta testing, it could be announced at the end of this year.

### **Question: If announced could it later be suspended?**

**Answer:** Yes

### **Question: What is the best course of action while we wait for guidance on when H-1B registration will be implemented?**

**Answer:** Employers should determine the beneficiaries they want to include into the H-1B lottery. WR will conduct in-take eligibility assessments, collect all the documentation needed, obtain equivalency evaluations and file the Labor Condition Applications (LCAs) for all cases that will be registered.

### **Question: What is the benefit of preparing the documents and LCA before notification that the beneficiary was selected under the lottery?**

**Answer:** Applications submitted at the beginning of the 90-day period will be adjudicated first, and important OPT cap-gap planning is required to minimize interruptions in work authorization before October 1. Careful contingency planning for cap-gap cases is needed as registration applications will not result in cap-gap benefits unless they are selected. Employers must review all cases thoroughly now and ensure the cap-gap cases are timely filed once the window opens.

### **Question: The beneficiary won the lottery for Employer A. Can the beneficiary transfer that lottery registration to Employer B?**

**Answer:** No, H-1B lottery registrations are non-transferable. Each employer and each beneficiary must have a lottery registration and cannot be transferred to another employer or another Beneficiary.

### **Question: What other strategic consideration do employers need to consider?**

**Answer:** It is advisable that employers advance their

recruiting timeline by at least three months to identify beneficiaries who will need H-1B cap sponsorship by late December/early January 2020.

### **\*States Push Back Against ICE Courthouse Arrests**

Since President Trump took office, U.S. Immigration and Customs Enforcement officers have dramatically increased their presence in state courthouses.

ICE officers have walked the halls, sat in courtrooms, and questioned court attendees and staff, trying to identify and arrest people in court for cases unrelated to immigration. The people they target may be appearing as a defendant or witness, seeking a restraining order against an abusive partner, or seeking custody of their children.

Advocates have documented the chilling effect ICE's presence has on courthouse access — deterring victims, survivors, and witnesses from pursuing justice and using court services — and the resulting harm it does to the justice system. That's why judges, prosecutors, public defenders, and advocates have demanded an end to ICE's unwelcome courthouse activities.

ICE has repeatedly rejected these appeals to protect the normal functioning of the justice system, but 2019 has seen momentum build against courthouse immigration arrests as several states have taken action.

### **Courts Restrict Courthouse Arrests**

This month, Oregon became the latest state to push ICE out of its courthouses, prompting a protest from the ICE. The Oregon Supreme Court adopted a rule prohibiting civil immigration arrests inside or near courthouses without a judicial warrant. Because ICE officers usually rely on "administrative" warrants, which don't require the sign-off of an impartial judge, the rule should effectively put an end to ICE arrests inside the state's courts and on surrounding sidewalks and parking lots.

In announcing the new rule, Oregon's chief justice said, "Arrests in courthouses have interfered with judicial proceedings. ... We are adopting this rule to maintain the integrity of our courts and provide access to justice."

A few months earlier, New York's judiciary was the first to clearly prohibit courthouse arrests without a judicial warrant. In April, New York's Office of Court Administration issued a directive prohibiting warrantless arrests inside courthouses. It also required that court security officers file "unusual occurrence" reports if they saw on-duty ICE officers observing court proceedings.

New Jersey's chief justice followed suit in May with a directive that stopped short of requiring a judicial warrant for courthouse arrests, but put in place several procedural requirements so that judges and administrators are at least aware when ICE plans to arrest someone appearing in court.

While these are the only courts to have taken statewide action, a handful of smaller jurisdictions took action in 2017 and 2018. Municipal courts in Seattle and Bernalillo County, New Mexico (home to Albuquerque), updated their courthouse access policies to prohibit warrantless courthouse arrests shortly after observers first noted ICE's increased courthouse pres-

CONTINUED ON PAGE 7

# Duffy & Posillico Agency Inc.

Court Bond Specialist

**BONDS \* BONDS \* BONDS \* BONDS \* BONDS \* BONDS**

Serving Attorneys Since 1975  
Complete Bonding Facilities  
IMMEDIATE SERVICE  
WE KNOW THE VALUE OF YOUR TIME



Administration • Appeal • Executor • Guardianship  
Injunction • Conservator Lost Instrument •  
Stay Mechanics Lien • Plaintiff & Defendants Bonds

## 1-800-841-8879

FAX: 516-741-6311

1 Birchwood Court, Mineola, NY 11501 (Across from Nassau County Courts)  
NYC Location: 65 Broadway, Suite 1104, New York, NY 10006  
[www.duffybonds.com](http://www.duffybonds.com)

## EDWARD F GUIDA, JR.

NEW YORK CITY MARSHAL • BADGE #14  
Landlord/Tenant Collections



T: (718) 779-2134 • F: (718) 779-8123  
47-26 104th Street, Corona, NY 11368

## NEIL R. FINKSTON, ESQ.



**Benefit from a Reliable and Knowledgeable Appellate Specialist**

Former Member of Prominent Manhattan Firm  
Available for Appeals, Motions and Trial Briefs  
Experienced in Developing Litigation Strategies

Free Initial Consultation  
Reasonable Rates

Law Office of Neil R. Finkston  
8 Bond St., Suite 401, Great Neck, NY 11021  
(516) 441-5230  
[FinkstonLaw.com](http://FinkstonLaw.com) • [Neil@FinkstonLaw.com](mailto:Neil@FinkstonLaw.com)

# LET US HELP YOU, HELP YOUR CLIENTS!

PROUDLY SERVING THE NEW YORK TRI-STATE AREA

### DEEP CLEANING SERVICES

Air Quality | Disinfecting & Sanitizing | Dust & Odor & More



### HOARDING CLEANUP SERVICES

Junk Removal | Organizing & Sorting & More



### READY FOR SALE

Painting & Repairs | Wood Floor Refinishing



## Clutter Free Junk Removal

Service and Cleanup Pros

### 888-492-0357

[www.ClutterFreeService.com](http://www.ClutterFreeService.com)

Your One Stop **Removal & Cleanup** Service

**FREE ESTIMATE! PLUS**

# 15% OFF

ON YOUR FIRST PROJECT!

**FULLY LICENSED!**

## RECLAIM YOUR SPACE WE DO IT ALL

RATED NEW YORK'S **#1** CLEANUP SOURCE

[www.ClutterFreeService.com](http://www.ClutterFreeService.com)

# H-1B Lottery Changes – A New Registration Process for 2020

CONTINUED FROM PAGE 5

ence in 2017. Bernalillo County’s policy goes further to prohibit non-court law enforcement from “randomly interrogat[ing] individuals about their identity,” recognizing that for an individual coming to court, the prospect of being questioned by ICE may be as much of a deterrent as being arrested.

## Progress Through Legislation and Litigation

Courts weren’t the only ones to limit ICE courthouse enforcement this year. In October, California enacted a law that requires a judicial warrant for civil arrests of people attending a court proceeding or dealing with other legal business in a courthouse. The law also authorizes judges to take further action as necessary to “prohibit activities that threaten access to state courthouses and court proceedings.”

And opponents of ICE courthouse arrests in Massachusetts won a major victory in a lawsuit challenging courthouse arrests this summer. The plaintiffs — public defenders, prosecutors, and a Latino-led community organization — sued ICE in federal court, arguing that its courthouse activity both oversteps the agency’s statutory authority and violates constitutional protections of individual access to courts and states’ authority over

their justice systems. The federal district court granted a preliminary injunction, prohibiting ICE from making arrests in Massachusetts courts. The Trump administration has appealed.

## More Progress Likely to Come

Recent research and news reports out of Washington State, Pennsylvania, Connecticut, and elsewhere show that ICE is continuing to make warrantless courthouse arrests in states that haven’t taken steps to limit its presence. Meanwhile, Washington State’s chief justice is considering adopting a rule similar to Oregon’s.

In response, Attorney General William Barr and Acting Homeland Security Secretary Chad Wolf sent a letter Thursday to the chief justices of Oregon and Washington objecting to the policies and claiming that federal officers are not subject to such state rules.

Indeed, even where new policies limiting these arrests are in place, ICE may try to sidestep them. In New York, ICE has exploited loopholes to arrest people just outside courthouse entrances and at local courts not covered by the Office of Court Administration’s policy. As a result, New York prosecutors, legal service providers, and advocates have already filed lawsuits similar to the one in Massachusetts. Immigrant rights advocates in New York have also put the Protect Our Courts Act on their list of

2020 legislative priorities. The bill would extend protection from warrantless immigration arrests to people on the way to and from all courthouses.

All of these developments suggest that years of advocacy have had an impact on state officials. They know that ICE is continuing to pursue members of their communities in state and local courts, and they know this presence is leading to the exclusion of some community members from the justice system.

The Trump administration could, on its own, put an end to courthouse immigration arrests, instructing ICE officers to avoid enforcement in courthouses as they do in hospitals, schools, and religious institutions. Since that’s unlikely, however, it is apparent that the fight will continue at the state level to ensure that courthouse doors remain open to all.

From the Brennan Center for Justice.

BY ALLEN E. KAYE  
AND JOSEPH DEFELICE

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



FROM THE YOUNG LAWYERS & LAW SCHOOL LIAISON COMMITTEES  
OF THE QUEENS COUNTY BAR ASSOCIATION

# HAPPY NEW YEAR!

May the year ahead be full of happiness, love and peace.



# QCBA Holiday Party



Tom Oliva, Pres-LLAQC; Chrisanthy Zapantis, Pres-Hellenic Lawyers Assn; Jawan Finley, Pres-Macon B. Allen Black Bar Assn; Marie-Eleana First, Pres-QCBA; Adrienne Williams, Pres-QCWBA; Tom Principe, Past Pres-St. John's School of Law Alumni Assn; Jay Abrahams, Past Pres-Brandeis Assn; and Sagar Chadha, General Secretary-SAICBA.

PHOTOS BY WALTER KARLING



Brandeis Association Members.



LLAQC Members.



Macon B. Allen Black Bar Assn members.



Ron Caveglia, DJ Sottile, Gary Miret and Ricardo Rengifo.



SAICBA-Q members.



Sebastian Karczmarczyk, Sandy Munoz, Heidi Henle, Claudia Lanzetta and Russ Rodriguez.



Seymour James, Hon. Cheryl Chambers and Diego Freire.



Toys for Forestdale, Inc., a foster care agency.

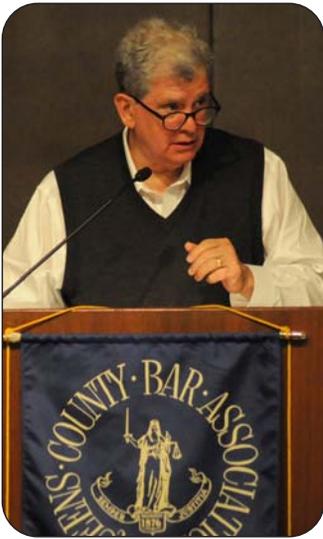
# Recent Significant Decisions & Developments from our Highest Appellate Courts 10



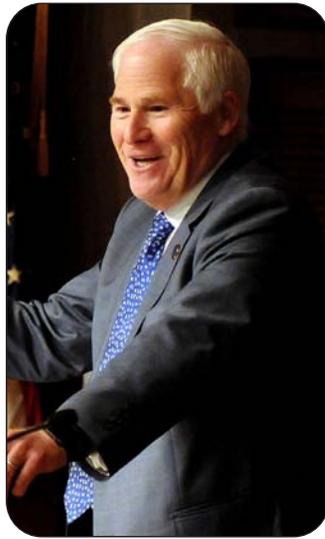
John Barrett giving a review of the 2018-2019 term of the US Supreme Court. **PHOTOS BY WALTER KARLING**



Karl Pflanz summing up the civil cases before the NY Court of Appeals in the last year.



Paul Shechtman discussing cases within the past year at the NY Court of Appeals.



Presiding Justice Alan Scheinkman giving a report on the Appellate Division, Second Dept.



Spiros A. Tsimbinos, Moderator for the program and speaking about cases of interest in the US Supreme Court.



Arthur Terranova and Andrea Ogle.



Hon. Alan Scheinkman, Hon. James Golia, Hon. Valerie Brathwaite Nelson and Hon. Joseph Golia.



Lou Cruz, Donna Furey and John Samaras.



Matt Lupoli, David Wasserman, Hon. George Heymann and Marie-Eleana First.



President Marie-Eleana First, Academy of Law Dean Gary Miret presenting Spiros Tsimbinos with certificate of appreciation.



Richard Ortiz, Gary Miret, Khalid Azam and Nestor Diaz.



Spiros Tsimbinos and Cliff Welden.

## To Advertise in the QCBA Bulletin

Please Contact Maureen Coppola at (347) 728-5974  
or email: maureen@queenspublicmedia.com  
or Fran (718) 422-7412



We also offer community news advertising, website creation,  
and social media management!  
Published on behalf of the Queens County Bar Association



To our current advertisers,  
Thank you for your continued support of the  
Queens Bar Association and it's Bulletin!

# FLORIDA ATTORNEY

## LAW OFFICES OF RANDY C. BOTWINICK

Formerly of Pazer, Epstein, Jaffe & Fein

### CONCENTRATING IN PERSONAL INJURY

- Car Accidents
- Defective Products
- Slip & Falls
- Tire & Rollover Cases
- Maritime
- Traumatic Brain Injury
- Wrongful Death
- Construction Accidents

Co-Counsel and Participation Fees Paid



**RANDY C. BOTWINICK**  
34 Years Experience



**JAY HALPERN**  
39 Years Experience

Now associated with Halpern, Santos and Pinkert, we have obtained well over \$100,000,000 in awards for our clients during the last three decades. This combination of attorneys will surely provide the quality representation you seek for your Florida personal injury referrals.

**MIAMI**  
150 Alhambra Circle,  
Suite 1100, Coral Gables, FL 33134  
P: 305-895-5700 F: 305-445-1169

**PALM BEACH**  
2385 NW Executive Center Drive  
Suite 100, Boca Raton, FL 33431  
P: 561-995-5001 F: 561-962-2710

**Toll Free: 1-877-FLA-ATTY (352-2889)**

From Orlando to Miami... From Tampa to the Keys  
[www.personalinjurylawyer.ws](http://www.personalinjurylawyer.ws)

**HERTZ, CHERSON & ROSENTHAL, P.C.**  
ATTORNEYS AT LAW  
118-35 QUEENS BOULEVARD, 9TH FLR.,  
FOREST HILLS, NEW YORK 11375



**ROBERT I MILLER, ESQ.**  
LANDLORD - TENANT  
T: 718.269.7710 | F: 718.709.0077  
ROBERT.MILLER@RHCLAW.COM



To our current  
advertisers,  
Thank you for your  
continued support of the  
Queens Bar Association  
and it's Bulletin!



### FIGHTING FOR THE RIGHTS OF INJURED WORKERS

**EXPAND YOUR LAW PRACTICE CAPABILITY WITH PYRROS & SERRES, LLP.  
WORKERS' COMPENSATION AND SSI/SSD IS WHAT WE DO!**

Does your client have a work related accident, or an existing Workers' Compensation claim?  
Are they out of work and need to file a Social Security Disability claim?

**COUNSEL TO THE PROFESSION: PARTNER WITH US, WE HANDLE THE COMPLETE WORK COMP PROCESS!**

Pyrros & Serres LLP | 718.626.7730 | [www.nylaw.net](http://www.nylaw.net) | [newcasecenter@nylaw.net](mailto:newcasecenter@nylaw.net)

Queens: 31-19 Newton Ave, 5th Floor Astoria, NY 11201 | Brooklyn: 111 Livingston St., Suite 1928, BK, NY 11201 | Bronx: 149 East 149th St., Bronx, NY 10451

# TIME SHRED



**DOCUMENT SHREDDING | HARD DRIVE DESTRUCTION**

**(855) 85-SHRED (74733)**

## DOCUMENT SHREDDING SERVICES

On-site Shredding Services- we come to you

Next Day Service Monday – Saturday

One-time or Ongoing Shredding Available

AAA Certified by NAID



Manhattan (212) 359-0643 • Brooklyn, Bronx (718) 875-1200

Queens (718) 534-1150 • Staten Island (718) 534-1140

Suffolk (631) 676-8367 • Nassau (516) 690-8999

Westchester (914) 233-0393 • New Jersey (973) 315-1580

# Queens BAR BULLETIN

If you have enjoyed reading the Queens Bar Bulletin coverage of the Queens legal community and the proceedings in the courts, you can continue to enjoy our coverage by subscribing NOW.

Name: \_\_\_\_\_

Law Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**I authorize Queens Public Media LLC to charge my credit card**

Signature \_\_\_\_\_  Amex  Visa  Mastercard

Card Number \_\_\_\_\_ Exp. Date \_\_\_\_\_ Security Code: \_\_\_\_\_

# QUEENS COUNTY BAR ASSOCIATION MEMBERSHIP APPLICATION

*Please check the appropriate box below:*

- I wish to join the Queens County Bar Association.  
 I wish to update my Membership Information and/or Committee listing (reverse side).

## ENROLLMENT INFORMATION

First Name \_\_\_\_\_  
 Last Name \_\_\_\_\_  
 Business Address \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Home Address \_\_\_\_\_  
 \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
 Office phone ( ) \_\_\_\_\_  
 Home phone ( ) \_\_\_\_\_  
 Cell phone ( ) \_\_\_\_\_  
 Fax Number ( ) \_\_\_\_\_  
 Email Address \_\_\_\_\_  
 Website \_\_\_\_\_  
 Contact via: \_\_\_\_\_ Email \_\_\_\_\_ Mail \_\_\_\_\_  
 Mailing Preference: \_\_\_\_\_ Business \_\_\_\_\_ Home \_\_\_\_\_  
 Date of Birth \_\_\_\_\_  
 College \_\_\_\_\_  
 Graduation Year \_\_\_\_\_ Degree \_\_\_\_\_  
 Law School \_\_\_\_\_  
 Graduation Year \_\_\_\_\_ Degree \_\_\_\_\_  
 Date of Admission to the NYS Bar \_\_\_\_\_  
 Judicial Department \_\_\_\_\_

## ANNUAL MEMBERSHIP DUES

- Sustaining Membership \$ 350.00  
*Member who voluntarily provides additional funds to further support the Association (Includes coupons for three free CLE credits to be used for any CLE program in the coming year)*
- Combined Sustaining Membership \$ 625.00  
*(Includes coupons of 12.0 CLE Credits for any live Continuing Legal Education Programs)*
- Attorney Admitted more than 10 years \$ 300.00  
 Attorney Admitted 5-9 years \$ 225.00  
 Attorney Admitted less than 5 years \$ 135.00  
 Associate Membership \$ 60.00  
*(Must meet eligibility requirements)*
- Admitted less than 1 year Free  
 Law Student Free  
*(Current Law School student or recent graduate awaiting admission)*

**GOVERNMENT SERVICE MEMBERSHIP:** *Members who are in Government Service (Judges, Court Attorneys, Law Secretaries, Legal Aid Society, Queens Legal Services, District Attorneys, Queens Law Associates, Corporation Counsel, etc.) are eligible for a 30% dues reduction. Please inform us of which Government Service gives you this eligibility.*

- Government Sustaining Membership \$ 245.00  
 Government Attorney 10+ years \$ 210.00  
 Government Attorney 5-9 years \$ 157.00  
 Government Attorney less than 5 years \$ 94.00

**18B ASSIGNED COUNSEL PLAN MEMBERSHIP:** *Eligible for a 20% dues reduction. Please inform us of which 18B Assigned Counsel Plan gives you this eligibility (Family or Criminal).*

- 18B Sustaining Membership \$ 280.00  
 18B Attorney 10+ years \$ 240.00  
 18B Attorney 5-9 years \$ 180.00  
 18B Attorney less than 5 years \$ 108.00

Discounts are also available for members of other local (Queens) bar associations who have never belonged to the Queens County Bar Association.

Membership dues can be made in one payment or by installments.

## DUES PAYMENT

Check Enclosed  MasterCard  Visa  Amex  Discover  
 Credit Card # \_\_\_\_\_  
 Exp. Date \_\_\_\_\_ CSC/CVV# \_\_\_\_\_  
 Signature \_\_\_\_\_  
 Date of Application \_\_\_\_\_

## QUEENS COUNTY BAR ASSOCIATION

90-35 148TH STREET  
 JAMAICA, NEW YORK 11435

TEL - 718-291-4500  
 FAX - 718-657-1789

WWW.QCBA.ORG



**QUEENS  
COUNTY  
BAR  
ASSOCIATION**

**LAWYER  
REFERRAL  
SERVICE**

**APPLICATION &  
REGISTRATION  
FORM**

**90-35 148th St.,  
Jamaica, NY 11435  
T: 718-291-4500  
F: 718-657-1789**

Name: \_\_\_\_\_ First Middle Last DOB: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_ Practice consists of: \_\_\_ Trial work \_\_\_ Office work  
 Address: \_\_\_\_\_  
 Telephone number(s): \_\_\_\_\_ E-Mail: \_\_\_\_\_  
 Date of Admission to the NYS Bar \_\_\_\_\_ Admission to Other Jurisdictions \_\_\_\_\_

List two attorneys or judges (*none of whom are my present partners and associates*) who have knowledge of professional work and ability:  
 \_\_\_\_\_

Languages other than English that you speak fluently: \_\_\_\_\_ or Office offers translation: \_\_\_\_\_

I will accept cases in the area(s) checked below (limit to five). I consider myself competent in such areas. Please indicate any specialties or exclusions within area of law.

AREAS OF PRACTICE	SPECIALTIES	EXCLUSIONS
<input type="checkbox"/> Adoptions		
<input type="checkbox"/> Bankruptcy		
<input type="checkbox"/> Civil Rights		
<input type="checkbox"/> Civil Service		
<input type="checkbox"/> Commercial		
<input type="checkbox"/> Consumer Law		
<input type="checkbox"/> Elder/Guardianship Law		
<input type="checkbox"/> Criminal Law		
<input type="checkbox"/> Decedent's Estates, Wills & Trusts		
<input type="checkbox"/> Domestic Relations (Family Law)		
<input type="checkbox"/> Immigration & Naturalization		
<input type="checkbox"/> Insurance		
<input type="checkbox"/> Juvenile Delinquency Matters		
<input type="checkbox"/> Labor Relations & Unemployment Compensation		
<input type="checkbox"/> Landlord & Tenant		
<input type="checkbox"/> Libel & Slander		
<input type="checkbox"/> Malpractice		
<input type="checkbox"/> Negligence		
<input type="checkbox"/> Patent, Trademark, Copyright, Unfair Competition		
<input type="checkbox"/> Real Property		
<input type="checkbox"/> Taxation		
<input type="checkbox"/> Social Security Appeals (SSI, SSD)		
<input type="checkbox"/> Small Claims		
<input type="checkbox"/> Traffic Law		
<input type="checkbox"/> Worker's Compensation		

**LAWYER REFERRAL SERVICE DUES PAYMENT**

Registration fee with one area law **\$395.00**       Additional area(s) of law (limit four) **\$ 100.00/per area**

Amount \$ \_\_\_\_\_  Check    MasterCard    Visa    AMEX    Discover

Credit Card Number \_\_\_\_\_ Exp. Date \_\_\_\_/\_\_\_\_/\_\_\_\_ CSC: \_\_\_\_\_

The undersigned hereby applies for registration on the panel of the Lawyer Referral Service of the Queens County Bar Association and is also a member in good standing. He/she certifies that he/she is familiar with its procedures and that he/she will abide by all rules which may be promulgated by the Association and agrees to be bound thereby.

Date of Application: \_\_\_\_\_ Signature of Applicant \_\_\_\_\_

# JOHNE. LAWLOR, ESQ.

ATTORNEYS AT LAW

Securities Litigation and Arbitration. State and Federal

30+ years handling securities litigation / arbitration

Contingent and hourly fee arrangements available:

**Free Consultation**



516-248-7700 | JLawlor@johnelawlor.com

www.johnelawlor.com

129 Third Street, Mineola 11501



# GORDON LEGAL, PC



## RESOLVING LANDLORD TENANT DISPUTES

- Queens Eviction Lawyer
- No Hourly Rate
- Responsive Communication

**FREE CONSULTATIONS**  
Office Hours By Appointment Only

(718) 989-5751

www.QueensEvictions.com

3418 Northern Blvd #213, Long Island City, NY 11101



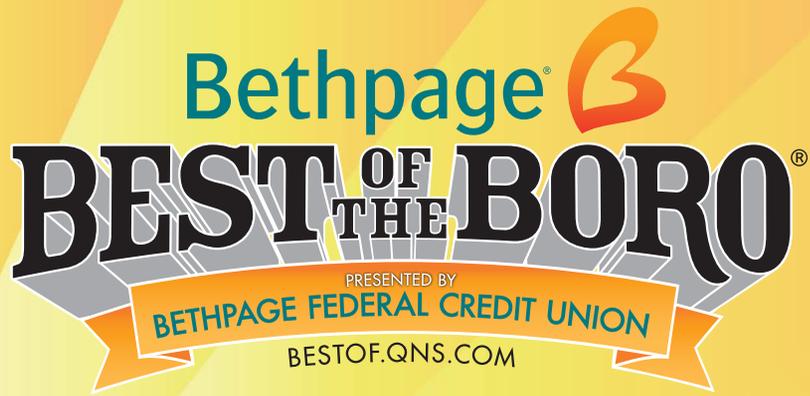
## LABOR / EMPLOYMENT LAW FIRM FOR EMPLOYERS PROTECTING BUSINESS OWNERS SINCE 1979

STEPHEN D. HANS  
& ASSOCIATES, P.C.  
LABOR & EMPLOYMENT COUNCIL OVER 40 YEARS

- Wage & Hour Lawsuits • NYS/US Department of Labor Audits & Investigations
- Defense of Employee Discrimination Claims • All Federal Courts • EEOC • NYS DHR
- NLRB - Anti-Union Representation • Collective Bargaining
- Compliance Assistance • Forms • Instruction • Analysis
- General Labor/Employment Law Defense Representation

# 718-275-6700

www.hansassociates.com. 30-30 Northern Boulevard, Suite 401, Long Island City, NY 11101



**VOTED BEST  
PRINTING SERVICE**



**MINUTEMAN PRESS  
of FOREST HILLS**

MENTION THIS  
AD FOR

**10% OFF**

**YOUR FIRST ORDER**  
\*NEW CUSTOMERS ONLY

**BUSINESS STATIONERY  
DIRECT MAIL  
PROMOTIONAL ITEMS  
and MORE**

**MINUTEMAN PRESS**

66-17 Woodhaven Blvd  
Rego Park, New York 11374  
(t) 718-275-2161 • 212-204-8566

(f) 718-275-2162

info@mmpfh.com

www.mmpfh.com



NEED A  
BUSINESS VALUATION &  
FORENSIC ACCOUNTING  
EXPERT?



**Accountants  
Consultants &  
Business Valuers**

- Business Disputes
- Gift & Estate
- Matrimonial
- Economic Damages



**MARK S. GOTTLIEB**  
CPA/ABV/CFF, CVA, CBA, MST

Mark S. Gottlieb, CPA PC  
646-661-3800

msgcpa@msgcpa.com

www.msgcpa.com



# Big Apple Abstract Corp.

**Lawrence M. Litwack, Esq.**

**Margaret T. Ling, Esq.**

*Senior Counsel*



## **Guardian Land, LLC**

*A Division of Big Apple Abstract Corp.*

**Barry Wasserman**  
*(1934 - 2019)*

**Marvin Simms**  
*(1932 - 2019)*



## **Steadfast Title Agency, LLC**

*A Division of Big Apple Abstract Corp.*

**Nikon Limberis**  
*Counsel*

## **Vincent J. Monte, LLC**

*A Division of Big Apple Abstract Corp.*

- 
- . Serving the Legal and Real Estate communities since 1980
  - . Specializing in residential / commercial transactions and today's difficult market: short sales and foreclosure proceedings
  - . Focusing on our client's specific title and non-title insurance needs, as well as preparation of detailed ACRIS recordings and other pertinent documents
  - . Knowledgeable, experienced "In-house" staff / title closers

*Sales Representatives:*

*Mitchell Applebaum   Susan Lovett   Ron Calcerano  
Lisa Feinstein   Larry "Cousin" Litwack   John G. Lopresto   Joanna Newman*

**Visit us at: [www.bigappleabstract.com](http://www.bigappleabstract.com)**

42-40 Bell Boulevard, Bayside, New York 11361

(718) 428-6100   (516) 222-2740   (212) 751-3225   Facsimile: (718) 428-2064