Juvenile Delinquency Cases Then and Now

JOETTE BLAUSTEIN
Support Magistrate


In her capacity as a Family Court Support Magistrate, Ms. Blaustein presides over child support and spousal support proceedings. Magistrate Blaustein tries to be fair and to ensure that pro se litigants understand what happens in her courtroom. She expects attorneys to be prepared, and to speak with their clients prior to their court appearances.

Magistrate Blaustein has 3 grown children and 14 grandchildren. One of her children is a doctor; another is an attorney, and the other is a dietician.

In her spare time, Magistrate Blaustein enjoys gardening, reading, nature, and playing with her children and grandchildren.

VOULA CORREA
Project Director, Family Treatment Court

Voula Correa has worked in Family Treatment Court (FTC) since August 2001. She started in New York County FTC. In September 2002, she was promoted to Senior Case Manager and came to Queens Family Court. She was promoted to Project Director in July 2003. Before working in FTC, Ms. Correa worked as a Case Manager for two homeless shelters, the Salvation Army shelter and the Saratoga Family Shelter.

Family Treatment Courts handle child neglect cases where the primary allegations involve substance abuse. FTC is a “problem-solving” court where the Court-based Case Managers are accessible to the clients. Case Managers conduct a psycho-social evaluation, maintain contact with the clients, and also stay in contact with clients’ substance abuse treatment programs. Case Managers also bring information to the Judges, to allow the Court to make accurate, informed decisions. The project is designed to reunify families and stabilize homes. Case Managers are familiar with different substance abuse treatment programs, and have the capacity to link parties to programs that meet their individual needs.

Since becoming Project Director, Ms. Correa has seen FTC undergo changes. When Ms. Correa became Project Director, she was personally reporting on cases to the Court. She can now fulfill more of an administrative role, as the program has expanded and increased its number of staff.

Ms. Correa attends city-wide meetings on FTC, works with partner agencies, and works on new initiatives.

Ms. Correa wants Bar members to know that when a case is eligible for FTC, a Case Manager meets with the litigant and discusses the benefits of having a case in FTC. Specifically, if the litigant is doing well in the program, then the Court will know about it. Additionally, if the litigant is struggling, then the Court will know about that as well.

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Ms. Correa wants Bar members to know that when a case is eligible for FTC, a Case Manager meets with the litigant and discusses the benefits of having a case in FTC. Specifically, if the litigant is doing well in the program, then the Court will know about it. Additionally, if the litigant is struggling, then the Court will know about that as well. Finally, if the litigant is making progress, then the Court will know about it right away. Although Case Managers are not lawyers, they always make sure they tell the litigants that their attorneys will address the legal aspects of the cases with them.

Ms. Correa is happily married to a Sergeant in Queens Supreme Court. They are celebrating their 16-year anniversary this June. They have a 6-year-old daughter and a 4-year-old son.

Ms. Correa and her family enjoy spending time in the Catskills, listening to music, going to the zoo, and spending time at the pool during the summer. Ms. Correa is on the board of the PTA at her daughter’s school and also enjoys photography.

LARRY DIMARCO
ACS Court Liaison

Larry D’Marco has served in Queens Family Court as a Court Liaison for the New York City Administration for Children’s Services (ACS) since 1999. From 1971 to 1986, he worked for two different foster care and adoption agencies.

During this time, he also worked part-time as a child therapist. From 1988 until 1996, he worked at Satterwhite Academy, the training center for New York City’s child welfare personnel. Mr. D’Marco trained child protective supervisors, became the Director of Training, and served as the Executive Director of the Satterwhite Academy for one year. In 1996, Commissioner

(Continued on page 5)
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As the summer months are upon us, I would like to extend my thanks to the members of the judiciary, attorneys, Board of Directors and chairpersons of the various committees for their support in helping our Bar Association have another fabulous year. Without their help and support, we would not have been able to run the various CLE programs or provide the services which are available to all of our members.

With the assistance of our outgoing President, Joseph Risi, and Board of Directors, we were able to launch one of the first, if not the first, mobile website for any Bar Association in the State of New York. Our mobile version provides convenience for those who are always on the go. It is also available on your personal computer with your cellular phone. As many of you have most likely noticed, our website has also been totally changed and updated. You can sign up for CLE programs, and renew your membership on our website.

Mark and Anne live in France and would like to relocate and purchase a property in the United States. Mark and Anne are both United States citizens. They rate a property and make an offer. The offer is accepted and they set a date for closing with a contract price of $1,400,000. The sellers are Kate and James, who originally purchased the property in 2008 for $1,200,000. They utilized the property as a place to live while working in the United States. Both Kate and James are Irish nationals and work for Irish companies.

Kate and James resided in the property as their primary residence after their closing for the remainder of 2008, the entire year in 2009 and in 2010. In 2011, they both spent some time in Ireland and relocated back to Ireland. They kept the property in the United States and stayed there occasionally. They did not rent the property at any time. Assume that they own 50% of the property and each with a 50% interest in the property. Kate spent 187 days traveling in the United States for business purposes in 2013, 12 days in 2012, 99 days in 2011. James spent 22 days traveling in the United States in 2013, 12 days in 2012, and 17 days in 2011. Neither Kate nor James possesses a green card in the United States.1

Fact Pattern Analysis

The Foreign Investment in Real Property Tax Act (“FIRPTA”) was created in 1980 by the enactment of IRC § 897, which makes the sale of a United States Real Property Interest (“USRPI”) effectively connected income and subject to U.S. taxation.2 The legislative purpose of FIRPTA is to prevent taxation deficiencies in the tax burden between foreign and domestic real estate investors. To ensure collection of tax on gains from real estate sales by foreign transferees, FIRPTA applies a withholding tax of 10% on the amount realized in a transfer by a seller who is considered a Foreign Person for tax purposes.3

Note that the withholding amount is not a tax in itself, but is an advanced payment toward the ultimate tax due by the transferee. Withholding does not prevent payment of the ultimate tax due or from paying the ultimate tax due. If the tax due is less than the amount that was withheld, then a refund may be obtained by filing the appropriate tax return.

A transferee, typically the buyer, has a duty to withhold (1) if the transferor is a Foreign Person and (2) if the transferee is acquiring a United States Real Property Interest.4 FIRPTA applies to transfers or sellers who are considered to be Foreign Persons or Foreign Corporations transferring real property located in the United States or the U.S. Virgin Islands. A USRPI also includes personal property associated with real property and any interest in a domestic corporation, unless it can be established that the corporation was at no time a substantial presence.5

A Foreign Person is generally an individual who is not considered a “United States Person” as defined by Treasury Regulation 7701(a)(30). A Foreign Person for FIRPTA purposes is a non-resident alien. A resident alien individual who either possesses a green card or is a tax resident by virtue of the substantial presence test is not a Foreign Person. Therefore, one of the first questions to be addressed by counsel is whether Kate and James are considered Foreign Persons. Kate and James’ counsel should have a thorough understanding of their immigration history to determine whether they possess green cards.

If they have been issued green cards or are considered lawful permanent residents of the United States, then they are tax residents in the United States and subject to taxation on their worldwide income. These means they are obligated to report and pay the necessary tax on income from all sources, including both U.S. and foreign sources of income. Individuals who are green card holders should not be subject to FIRPTA withholding because they are not considered to be Foreign Persons for tax purposes.6 Neither Kate nor James possesses green cards, and therefore, they are not considered to be Foreign Persons for FIRPTA withholding purposes. Kate should continue the analysis to determine if either Kate or James is a tax resident by virtue of the substantial presence test. Note that simply transferring a social security number is not determinative of residency status.

Kate is a tax resident under the Second Residence Test. Kate’s counsel should verify and confirm Kate’s residency status prior to having Kate sign the affidavit. Note that an agent who represents the transferee or seller that is subject to FIRPTA withholding has a duty to provide notice of false certification or false statements.7 Failure of an agent to provide notice of false information could render the agent liable up to the amount of the compensation the agent derives from a transaction. If an agent assists in the preparation of a false statement, then the agent may be liable for civil or criminal penalties.

James spent 22 days traveling in the United States in 2013, 12 days in 2012, and 17 days in 2011. In conducting the substantial presence test, counsel should aggregate the days spent representing a foreign government, days on a “J” or “Q” visa as a teacher or trainee, days as a student on a “F”, “J”, “M”, or “Q” visa, and days spent as a professional athlete in a charter sporting event. Note that individuals who exclude days from the substantial presence calculation may be required to file IRS Form 8843, Statement for Exempt Individuals. The residency of both Kate and James should be separately determined because they each own a share of the property and are both transferees. Kate has been in the United States for two preceding years at 187 days in 2013, 64 in 2012, and 110 in 2011. In applying the substantial presence test formula, counsel should add 187 + (64/3) + (110/6) because the formula counts 1/3 of the days in the preceding year and 1/6 of the days from two years looking back. Counsel should not count days which are exempt from the substantial presence test. Counsel should not count days spent representing a foreign government, days on a “J” or “Q” visa as a teacher or trainee, days as a student on a “F”, “J”, “M”, or “Q” visa, or days spent as a professional athlete in a charter sporting event. Kate should not be subject to FIRPTA withholding as a result of the substantial presence test. James should be considered a Foreign Person because he is not a United States Person as defined by Treasury Regulation 7701(a)(30). As a result, FIRPTA withholding should apply to James.

As noted above, Kate should not be subject to FIRPTA withholding because she is already obligated to pay tax on her worldwide income. However, James should be subject to FIRPTA withholding because he is a foreign national, who does not possess a green card, and has not spent the requisite number of days in the United States to be considered a tax resident under the substantial presence test. James owns 50% of the property, and therefore, the FIRPTA withholding amount should be 10% of 50% of the amount realized. The amount realized is generally the contract price. A 50% capital contribution may be deemed to each spouse in a situation where the property interest is owned jointly by a husband and wife who are...
By Paul E. Kerson

May 1 is Law Day. We gather in courthouses all over the country to celebrate Law Itself. It has become incumbent on Bar Association officers to give the speeches.

This past May 1 was no exception. Our President, Joe Risi, assigned me to give the Law Day speech at the Capital of the Known Universe. I refer, of course, to 88-11 Sutphin Boulevard, Jamaica, NY, the Queens County General Courthouse.

Our largest courtroom is Room 25, the Trial Scheduling Part on the 2d floor. It is always crowded with lawyers trying to settle cases or get “firm” trial dates. Most lawyers are not happy to be there. It means the case could not be settled earlier. Following is a summary of what I said to this rather jaded audience.

Queens County is perhaps the most international place in the world — 150 languages are regularly spoken here. Cultural diversity is the norm. But whatever a resident’s background, when a life is in crisis in Queens County, it is Sutphin Blvd. that receives the dilemma.


Because of the skill of our Justices, Judges, Judicial Hearing Officers (JHOs), Referees, Law Secretaries, Court Attorneys, courthouse staff and lawyers, 99% of civil cases are ultimately settled, and more than 95% of criminal cases plea bargained. Settling cases is a special skill not generally taught in law schools. It is an art form that can only be learned by long attendance at our courthouses, and careful study of the four rules which govern everything we do:

1. He or she is the Judge and you are not. Whatever your legal and factual arguments, the judge presiding has the last word. Unless and until there is an appeal, the judge is right even if you think your reading of the statutes and cases is more accurate. It is amazing how many lawyers cannot seem to understand this.

2. Nothing substantive ever happens until everyone is in the same room at the same time. Attorneys can only do so much. The likelihood of settlement is greatly maximized only when the warring parties are face to face with their lawyers and the Third Party Neutral (Justice, Judge, Referee, JHO, Law Secretary, Court Attorney).

3. “In the Halls of Justice, most of the justice is in the halls.” The famous comedian Lenny Bruce wrote this rule. It is the unvarnished truth. This is why 88-11 Sutphin Blvd. is such a successful building architecturally. It has very large hallways with many benches. It is in these hallways and on these benches where settlements are made and justice is done.

4. Nearly every dispute, no matter how bitter, can be “stipped out” with the help of the Justice, Judge, Judicial Hearing Officer, Referee, Law Secretary or Court Attorney. Alone among major institutions in society, we are perhaps the last to regularly use Carbon Paper in our Most Important Work Product. In each courtroom, on the window sill or Clerk’s desk, is a pile of official New York State Office of Court Administration (OCA) Stipulation of Settlement forms. Each one has a white, yellow, pink and orange carbonized paper. The writer of the Stip can make four copies at once.

5. When a settlement is finally accomplished, this is literally called “getting everybody on the same page.” It is a thing of great beauty to see formerly warring litigants who hated each other by 9:30 a.m. be able to sign the same piece of paper (in carbonized quadruplicate) by 1:00 p.m. (the universal lunch hour).

6. There is no computer, e-mail, cell phone, or mechanical or electronic device of any kind that can do this. It is a uniquely human skill that can only be accomplished after years and years of trial and error. It is not every lawyer who can get really angry people to sign the same page at the same time. It is a skill like no other.

7. This settlement process, on the benches at Sutphin Blvd., with a Third Party Neutral guiding, pushing and cajoling, is the essence of Justice Itself. Everyone speaks, and everyone listens, and no one is permitted to shut anyone else down, or to disrespect anyone.

And everyone listens to the Third Party Neutral’s suggestions as to how to move this dispute to settlement. Parties and their attorneys move down the hall and back again to the Third Party Neutral to revise their positions until Justice is done.

And we do this in 150 different languages, with translators provided by the parties, as OCA translators are reserved for trials. At Sutphin Blvd., we know that every single very big trial fails — a trial means no settlement could be reached — saving the parties, their attorneys and the Court system valuable time and money.

At the end of my Law Day speech, I congratulated all the lawyers and court personnel in Room 25 for their willingness to participate in this process and to make Justice Itself happen for the world’s most diverse locality. I urged them to keep up the good work, for without them, a sizeable percentage of these disputes would degenerate into violence, and become work for our police officers and hospital emergency room personnel.

Books at the Bar

1. **DEFINACE IN THE FACE OF HELL**
   by C.S. BASHAM
   Publisher: Tate Publishing
   (September 1, 2009)
   Language: English
   ISBN: 10: 1607994299
   Paperback, 152 pages
   Price: $11.99
   May be ordered at www.amazon.com

   “The Final Solution” was the killing of six million European Jews, men, women, and children, who were murdered by Adolf Hitler, his Nazi henchmen, and the Nazis. The Nazi perpetrators will stand, for the rest of history, as the epitome of barbaric criminal cruelty.

   There are many books on the Holocaust, and they cover it from many perspectives, from historical to personal accounts. Author C.S. BASHAM, who is not Jewish, approached the Holocaust by interviewing six Holocaust survivors for an in-depth narrative of their experiences. The result is a remarkable book focusing on only six life stories. The writing is excellent, in giving both an intellectual and emotional idea of what this mean, through in the worst genocide in the history of mankind.

   One way to get an emotional avenue to the human suffering of European Jews during World War II is to visit Yad VaShem, the Holocaust Memorial Museum in Jerusalem, Israel — or the United States Holocaust Memorial Museum in Washington, D.C. Another way to experience the charged emotions is to purchase this inexpensive and riveting paperback, selecting the true stories of six remarkable individuals who survived the Holocaust.

   Each of their individual experiences, recounted movingly by author C.S. BASHAM, is captured and encompassed by the book’s dramatic title, **DEFINACE IN THE FACE OF HELL**.

   Dasha grew up in concentration camps. Norbert served as a Polish soldier until captured by the Nazis and sent to Auschwitz. Lucian was sent much of the war fleeing from the Germans, only to be captured by the Russians. Joseph, a teenager, became aware of just how deadly the concentration camps were on his first night at Auschwitz. Elizabeth experienced her twenty first birthday at Auschwitz. George literally lived in a hole in the ground, aided by friends who risked their lives to help a Jew.

   In **DEFINACE IN THE FACE OF HELL**, these six survivors of the Holocaust share their poignant and painful memories of how the war affected them. Carefully woven and retold by C.S. BASHAM, they are delicate, emotionally stirring, and true stories will not only enlighten you, but leave an emotional imprint. The writing is rich in detail, and, as you read the stories, you will feel the emotions experienced by each of these remarkable persons who lived through civilization’s most barbaric human nightmare.

   Whether you are Jewish or gentile, these six stories of human survival, against incredible odds, and in the face of unending upheaval and cruelty and despair, will move you. This excellent book deserves your attention, and the book is appropriate for readers of all ages.

2. **SONG WITHOUT WORDS — Discovering my Deafness Halfway Through Life**
   by GERALD SHEA
   Publisher: Da Capo Press
   ISBN: 9780306821931
   Paperback, 152 pages
   Format: Hardcover
   Price: $25.99
   Available for purchase at www.amazon.com

   “Gordon Hewart (1870–1943), a correspondent, has written a personal memoir SONG WITHOUT WORDS — Discovering My Deafness Halfway Through Life, providing a personal narrative of being heard impaired and his triumph. The road for those individuals suffering from auditory loss needs is with worthwhile work.

   JUSTICE CHARLES J. MARKEY, over five years ago, in *Whitfield v Long Island Railroad Company*, 17 Misc. 3d 309, 840 N.Y.S.2d 861 [Sup Ct Queens County 2007], a case of national first impression, put a spotlight on that issue. JUSTICE MARKEY discussed the lack of American Sign Language interpreters in the nation’s federal and state courthouses.

   MARKEY, in language that was covered and quoted approvingly by Alan Feuer in THE NEW YORK TIMES [August 10, 2007], observed: ‘*Gordon Hewart (1870–1943), in a memorable dictum in Rex v Sussex Justices ex parte McCarthy (1 Kings 3:1), said: *‘A long line of cases shows that it is not merely of some importance, but it is of fundamental importance, that justice should not only be done, but should manifestly and undoubtedly be seen to be done’ (id at 299, quoted in Robert Jackson, *The Chief: The Biography of Gordon Hewart*, Lord Chief Justice of England 1923-40 161-162 (Continued on page 12)
Queens County
Family Court Profiles

(Continued from page 1)

Nicholas Scoppetta asked Mr. DiMarco to train Child Evaluation Specialists after the Hilder v. Sugarman settlement. After Wilder, New York City involved Child Evaluation Specialists at key decision-making points, including the times when children were removed from foster homes, when siblings were separated, and when children were initially placed in foster care. Mr. DiMarco developed and conducted training from 1996 until 1999 and then began working in Queens Family Court.

Mr. DiMarco, along with other ACS Court Liaisons is responsible for initiating Court-Ordered Investigations (COIs), which are child protective investigations ordered by the Family Court. It is important for litigants to know that cooperation with the COIs, in the interest of resolution. ACS Court Liaisons are on call in every part, including the delinquency, custody, family offense, and child protective parts. The ACS Court Liaisons work with other programs, including Safe Horizon, Mental Health Services, and the Family Assessment Services and extended family. If the children are in the Courthouse, Mr. DiMarco will observe the children and determine if there are visible signs of child abuse and neglect. Mr. DiMarco shares his assessment with the assigned child protective specialist.

Mr. DiMarco is a veteran of the United States Marine Corps and has three grown children. His older daughter is a beautician, and his son works for the Department of Education. His younger daughter is a college student and an artist. Mr. DiMarco is a fan of the Mets, Jets, Rangers, and Knicks. However, he makes clear that he is not a “Yankee hater.” His philosophy is that “people in life are the simplest, “life is about waiting.” He advises people to learn to “enjoy the wait.” Mr. DiMarco shared his “layman’s definition of the law:” The law is a process that civilizes chaos. Without it, people would turn to self-help.

RAFAEL FORTICH Interpreter

Rafael Fortich is a Spanish interpreter based in Queens Family Court and has served in this role since 2004. Prior to that, he served as a Spanish interpreter in Suffolk County in both the County and Supreme Courts. Mr. Fortich has also worked as a New York City tour guide and has also interpreted for United Nations press conferences.

Mr. Fortich is a graduate of St. John’s University, where he focused on communication arts. He graduated from law school in Colombia. Mr. Fortich interprets for litigants and witnesses during court proceedings. The Court may also direct him to help attorneys to speak with Spanish-speaking clients. When orders are issued, Mr. Fortich translates those orders for Spanish-speaking litigants.

Mr. Fortich interprets for pro se parties at the Petitions Window and the Child Support Window to find out what forms they need in order to file pleadings. He then reviews those forms and translates them into English so that the petitions can be filed with the Court. He also helps clerks and court assistants to communicate with Spanish-speaking litigants and explains service of process to the parties. Additionally, Mr. Fortich is often called to the record room to help Spanish speakers obtain court papers.

Mr. Fortich provides Spanish-English interpretation for Court-ordered psychological evaluations. When parties offer certified documents in Spanish into evidence, Mr. Fortich assists the Court by translating them into English. He once also helped the Family Court communicate with a Judge in Puerto Rico.

Mr. Fortich wants Bar members to know that when he interprets he says exactly what the litigant says. He ensures that his interpretation reflects the complexity of the litigant’s language.

Mr. Fortich is happily married with four children, ages 26, 17 (twins), and 12. In his spare time, he enjoys traveling and spending time with his family. His wife owns a beauty salon and he keeps busy helping her with the salon.

ROSE GENNUSA Custodial Services

Rose Gennusa is a member of the custodial staff for the NYC Department of Citywide Administrative Services (DCAS). Ms. Gennusa has worked in Queens Family Court for the past 8 years. She answers the telephone in the Custodian’s office, maintains the offices of the Judges and Court Attorneys, maintains the Clerk’s office, the Adoption rooms, and the waiting area. Ms. Gennusa was recently promoted and is training to work in a supervisory capacity.

Ms. Gennusa wants Bar members to know that Queens Family Court is an enjoyable environment. It is a nice building and the people who work there are kind. Ms. Gennusa finds that her colleagues are easy to get along with.

Ms. Gennusa has two grown children. Her son is a roofer and her daughter is a full-time mother. She has two grandchildren, a two-year-old and a one-year-old.

In her spare time, Ms. Gennusa enjoys traveling to Atlantic City and visiting the Aqueduct Resort. She also enjoys bingo and spending time with her children and grandchildren.

MATTHEW GRANOFF Probation Officer

Matthew Granoff is a Supervision Probation Officer based in Queens Family Court. Mr. Granoff has worked as a Family Court Probation Officer for 9 years and has served in Queens Family Court for about 9 years. Prior to that, he worked in Kings County Family Court. He holds a bachelor’s degree from St. John’s University and a master’s degree from Long Island University-CW Post.

At the beginning of Mr. Granoff’s tenure for the NYC Department of Probation, he worked as an investigator. After that, he worked as a Court Liaison. He then moved into his current title, Supervision Probation Officer.

Mr. Granoff works with youth who are participating in the Juvenile Justice Initiative (JJI) program. JJI is an alternative to placement program (ATP) under the auspices of the NYC Department of Citywide Administrative Services.

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Administration for Children’s Services (ACS). It is designed to permit youth who have committed acts of juvenile delinquency to remain in the community with supervision. Youth who participate in the JJI program are placed on probation and receive intensive services. Mr. Granoff works closely with JJI therapists, parents, school personnel and probationers with a goal of changing behavior, obtaining compliance with Court mandated conditions and protecting the community. He believes all of the young people whom he has supervised will report that he is a straight forward, honest probation officer who is quick to give credit when it is due but is also quick to challenge evasiveness and hold people accountable for their actions.

Mr. Granoff has been happily married for 12 years and has two daughters that are 8 and 5 respectively. He describes his wife as “wonderful” and his daughters as “amazing”. During his free time, he spends most of his free time driving his daughters to soccer games, gymnastics, dance classes, girls’ scout, play dates, and school events. He also enjoys poker and is a fan of the Yankees, Knicks, Jets and Rangers. He also volunteers with the Girl Scouts of Nassau County, the Parent Teacher Association and local sports clubs.

TIM HUGELMEYER
Part Clerk

Mr. Hugelmeyer has served in Queens Family Court since 1989. He served as a Court Officer for 9 years, and has been a Clerk for 6 years. He currently serves as a Part Clerk in Judge Part Lubov’s Courtroom. He was assigned to various Court Parts before spending 5 years in Judge Hunt’s Courtroom. He then worked in the Family Court, where he clerked for Hon. Judith Sheindlin (i.e. “Judge Judy”). Mr. Hugelmeyer left Part Clerk until 2000, when she began working in Adoptions. Ms. Lampasi focuses on private adoptions, while Ms. O’Hara focuses on agency adoptions.

As an Adoption Clerk, Ms. Lampasi processes pre-certifications, international adoptions, grandparent adoptions, stepparent adoptions, and same-sex adoptions. Ms. Lampasi enjoys seeing her work come to fruition. She loves seeing the look in the adoptive parents’ faces, and the children’s faces as the adoption is finalized. She feels a lot of credit to birth parents who consent to their children’s adoption; she recognizes that it is a selfless, painful act. Nevertheless, her job has shown her to recognize the special bond to be a parent. Ms. Lampasi appreciates the work of the attorneys, especially when their paperwork is typed, neat, and professional. Mr. Hugelmeyer is tasked with completing the adoption process. She also sends out adoption packets, and answers questions over the phone, without giving people legal advice.

Mr. Hugelmeyer is happily married with three children. His son is in college and is an Eagle Scout. His daughter is in high school. In his spare time, Mr. Hugelmeyer enjoys watching her daughter play soccer on a travel team.

CINDY LAMPASI
Adoption Clerk

Cindy Lampasi has worked in Queens Family Court since May 1991, and in the court system since 1983. Before becoming a Part Clerk for Judge Richardson-Mendelson and Judge Richter, he was the Part Clerk for the Hon. Mary O’Donoghue. He has been with the Court for another 8 years. He worked with Judge Bogacz for almost 6 years. He has served in Queens Family Court since May 1998 to August 2006. She served as a Head Adoption Clerk. Prior to being appointed to the bench, she was a Court Attorney in the Housing Part of Bronx Civil Court, and worked at the Housing Authority of the City of New York until June 1990. Before attending law school, Judge McGowan worked for American Airlines and Pan Am for 16 years. Judge McGowan reports that she has a very rewarding job. She helps a lot of children and families to recover from very dysfunctional situations. She ensures that parents and children receive needed services. She has to make appropriate referrals to appropriate agencies to remove children from their homes due to allegations of child abuse and neglect. She also decides when it would be safe for children to reunite with their families by balancing the interests of permanency and child safety. The parties that appear in the child protective part face serious issues, including addiction and mental illness. Furthermore, many of the parties are very young parents with many children. Judge McGowan believes that the litigants, especially teenagers, require better access to services. Judge McGowan commends the attorneys in Queens Family Court for taking their jobs very seriously and recognizing the important role that they play in children’s lives.

In her spare time, Judge McGowan loves to read and travel. She has one adult son, who is working as a Referee in Bronx Family Court. Prior to becoming a Referee, she worked in private practice for 6 years in matrimonial and family law. She began her legal career in the Bronx District Attorney’s Office where she worked for 7 years.

Referee Mulrooney presides over custody and other family cases. She obtained her law degree from SUNY Albany in 1982. In her spare time, Referee Mulrooney enjoys spending time with her family. She is a fan of the Yankees, Jets, and Rangers.

MARGARET M. MULROONEY
Court Attorney-Referee

Referee Mulrooney has served in Queens Family Court for almost 6 years. She has been a Court Attorney-Referee for 4 years. Prior to coming to Queens Family Court, she served as a Referee in Bronx Family Court. Prior to becoming a Referee, she worked in private practice for 6 years in matrimonial and family law. She began her legal career in the Bronx District Attorney’s Office where she worked for 7 years.

Referee Mulrooney appreciates when attorneys appear on time, know their cases and know the law. She also appreciates when attorneys understand that they are counselors as well as advocates.

Referee Mulrooney is happily married, has two grown children, and also has two grown stepchildren. Her son owns a bread route in Florida and her daughter is an engineer in Westchester. Her stepson is a production manager for Phantom of the Opera, and her stepdaughter works in research. Referee Mulrooney also has three grandsons.

In her spare time, Referee Mulrooney enjoys playing golf and reading. Her favorite authors are James Patterson and John Grisham. She also enjoys cooking, inventing new recipes, and playing with her cats. Her favorite activity is playing with her granddaughters.

HELEN MUSKUS
Court Attorney

Ms. Muskus is the Court Attorney for Hon. Stephen J. Bogacz, J.F.C. She is a graduate of the University of Massachusetts, Amherst. She went to law school at Boston College Law School. Prior to joining the New England Legal Aid Bureau, she served as a research assistant at Northeastern University. She joined the legal aid bureau in 1997, and was hired by the Legal Aid Society in 2000. She represents children in all types of cases, including juvenile delinquency, PINS, child protective, and adoption cases. She worked for JRD for 4 years before becoming a Court Attorney in 2002. She has worked for Judge Bogacz since 1998. She enjoys coming to work every day. She describes her colleagues as “wonderful” people who make Queens Family Court a real community.

Ms. Muskus would like Family Court practitioners to know that she is always available and happy to assist when she can. Attorneys frequently contact her with administrative and procedural questions.

Ms. Muskus enjoys spending time with her college sweetheart. She has one child and two cats. In her spare time, she enjoys the outdoors, specifically, hiking and bike riding. She also loves to read and spend time with her family.

NAIVE E NUNEZ-BERGER
Assistant Clinic Director, Mental Health Services

Naivey Nunez-Berger is the Assistant Clinic Director for Queens Family Court Mental Health Services (MHS). She has worked in Queens Family Court since January 7, 1974. She earned a Master’s Degree in Social Work from Adelphi University in 1981. Furthermore, she practiced individual and family therapy in Forest Hills, Queens for 25 years.

At the beginning of her tenure at MHS, she worked as a Mental Health Worker. As a Mental Health Worker, she made home visits for juvenile delinquency and child protective cases. She obtained her Master’s Degree and then became a social worker. She was subsequently promoted to social services director. Ms. Berger has served as Assistant Clinic Director for over 20 years.

Most of Ms. Berger’s role is to conduct interviews for mental health assessments (known as FETs) for juvenile delinquency and child protective dispositional hearings. She also serves as the liaison between MHS and Elmhurst Hospital Center when there is an Court order remanding a child to the NYC Health and Hospitals Corporation. Ms. Berger is a licensed mental health counselor who received her college education at Stony Brook in 1981. Furthermore, she practiced individual and family therapy in Forest Hills, Queens for 25 years.

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the successful Latino Festival. As past pres-
ident and Member of the Advisory Board of the
Queens Cultural Center, Ms. Berger has been
also an advocate for Hispanic arts and
emerging artists.

Ms. Berger serves on the Board of
Directors of the Queens Public Access TV.
She is also a member of the New
York Hall of Science, a Member of the
Board of Trustees of the Queens Library
Foundation, a Member of the Board of
Trustees of the New York City Parks,
an appointee of Mayor Bloomberg to the
Voter’s Assistance Commission, and is a
co-founder and member of the Board of the
Queens Chamber Ensemble. She is also a
Member of the Advisory Board of the
Quintet of the Americas.

Ms. Berger is one of the founders of the
Latin American Cultural Center of Queens.
The Center provides visual art education for
children. Furthermore, the Center runs a pro-
cram called First Steps to Mutily which aims
to provide much-needed education among
children. Furthermore, the Latin American
Cultural Center plans a cultural program
every last Sunday of the month, called
Sunday to Remember.

Ms. Berger has received numerous
awards for community service. Various
elected officials, city-wide institutions, and
community organizations have rec-
ognized her public service, including the
late Mayor Ed Koch, former Queens
Borough President Claire Shulman,
Congressman Joseph Crowley, Queens
Borough President Helen Marshall,
New York State Senators Serphin Maltese and
John D. Sabini, Assembly Members Ivan
L. Lafayette and Jose Peralta, the
Queens Museum of Art, the Queens
Botanical Garden, the Queens Hispanic Chamber of
Commerce, El Diario La Prensa,
Queens Courier.

She has been a guest on television
channels 7, 47, and NY1.

CATHERINE O’HARA
Adoption Clerk

Catherine O’Hara serves as an Adoption Clerk in
Queens Family Court.

Since coming to Queens Family Court, Ms. O’Hara has
worked in the Court, including a stint as an Adoption
Clerk in Brooklyn Family Court.

When an adoption is filed, Ms. O’Hara deter-
nines whether it will be docketed or rejected.
When a case is docketed, she sends a letter to the
adoptive parents to identify their signa-
tures on the record. She also asks the chil-
dren who are over fourteen if they are con-
senting to be adopted.

Ms. O’Hara also mails out adoption pack-
ets and provides people the adoptive families
with their adoption certificates.

Outside of adoptions, when cases are calen-
dared, Ms. O’Hara helps to prepare court records.
Ms. O’Hara also scans orders issued after per-
manency hearings for children who are
“fixed” for adoption into the Uniformed Court
System’s case management computer.

Ms. O’Hara wants bar members to be cog-
nizant that thorough adoption packets go a long
way toward expediting the adoption process.

Ms. O’Hara has three sons. One of her sons is a
firefighter and also works as a disc jockey. Her other
son is in college and is involved in drama. Her
daughter is in college. Ms. O’Hara has
been happily married for 36 years.

Ms. O’Hara’s hobbies include walking,
going to the beach, and spending time
with her family.

FERNANDO PENA
Court Officer

Fernando Pena has served as a Court Officer in
Queens Family Court for the past 10 years. He
began working in Queens Family Court
immediately after the Court Officers’ Academy.
Before entering the Academy, he worked as a spa
manager.

Officer Pena checks litigants in, lets them
know when their cases are being called, and
finds interpreters for them. He also
finds out if the parties need any additional
assistance.

Officer Pena reports that running a court-
room is like running a movie production.
Everybody needs to be in place, and the Court
reports need to be submitted to every party.

Court Officers have to be patient and know-
ledgeable about the case, as they have to find
out if the witnesses are present and if the par-
ties are present. If a party is not present, Officer
Pena has to inform the Judge and make sure
that the Court Reporter has
everything necessary to transcribe the record
and has to make sure that the Court has all
necessary materials to proceed over the case.

Outside of the Court Part, Officer Pena
provides security in the waiting area and
the lobby and works at the metal detectors at
the entrance to the Courthouse.

Officer Pena is happily married with two
younger daughters. He is an avid Knicks,
Mets, and Giants fan, and he loves being
with his family.

LARRY RIOS
Court Assistant, Petitions Window

Harry Ross serves as a Court Assistant at
the Petitions Window in Queens Family Court.
He has worked in Family Court for 23 years.

Before joining his first four years in
Bronx Family Court, and but has served in Queens every
week. Being new to the Court, Ms. Rios
began his working in Family Court. Mr. Rios
worked in a law firm on Wall Street and also
worked for Chemical Bank.

Mr. Rios interacts with litigants on a
daily basis. He searches for records of prior
Family Court involvement, as well as cur-
rent and prior Orders of Protection to
ensure that the petitions contain accurate
information. He also directs litigants to
various locations in the Courthouse.

Furthermore, Mr. Rios informs them about
the different types of petitionsthat can be
filed, without giving litigants legal advice.

Mr. Rios directs litigants, where appropri-
ate, to Safe Horizon, the Record Room, and
to the volunteer attorneys at the LIFT table.

Mr. Rios also assists attorneys who file
Family Court petitions.

Since coming to Family Court, Mr. Rios
has found that the people he serves as a Part Clerk, has typed
petitions, and has worked as an Assistant in the Clerk’s Office.

Mr. Rios wants Bar members to know that
Queens Family Court is a friendly court.

Staff at the Petitions Window is available
to tell attorneys who are not familiar with the
courthouse where to find the files to

show cause. The people at the Petitions
Window like lawyers and are eager to help
them wherever possible.

Mr. Rios has three children. His
daughter is in college. He has two sons. One
of his sons works in a hotel, and the other is serv-
ing as a defense contractor in Afghanistan.

Mr. Rios is happily married and his wife works for
the Office of Court Administration.

In his spare time, Mr. Rios enjoys playing
basketball. He also enjoys music and plays
the bongos and the congas. Mr. Rios is a
fan of the Yankees, Knicks, and Jets. His favorite
ing thing to do is to spend time with his family.

NANCY SHEA
Director, Safe Horizon,
Queens Family Court Program

Since 1990, Nancy
Shea has served as the Director of Safe Horizon’s
Queens Family Court Office.

Prior to becoming
Director, Ms. Shea was an intern for the agency in
1987, and worked in the Training Depart-
ment in 1988. In January 1989, Ms. Shea
became the Director of the Victim/Offender Reconcilia-
tion Project, a Safe Horizon program where staff
performed mediation sessions between juve-

nile delinquency respondents and the respec-
tive complainants.

Ms. Shea reports loving her job. Her role
includes training, teaching, public speaking,
management, program development, and
working directly with clients. There are
many opportunities to make a positive
impact on the community. Safe Horizon
assists domestic violence survivors at a crit-
ical juncture, when they are first deciding
whether to pursue a case in Family Court.

Her staff helps litigants to formulate
an immediate safety plan.

Ms. Shea finds that her organization’s
experience in Family Court provides her
work with a unique perspective on the obstacles
that clients face. The families served by Safe Horizon
often face challenges other than
domestic violence. Safe Horizon helps sur-
vivors of domestic violence to find ways to
overcome financial struggle and also to
ensure that their children receive necessary
services.

Ms. Shea notes that litigants in fam-
ily offense cases are also, at times, com-
plainants in criminal cases, and have custody,
support, PINS, juvenile delinquency, or child
protective cases as well. Safe Horizon staff,
through its experience in Family Court, has the
unique ability to address clients’ challenges from a
more holistic point of view.

Ms. Shea wants Bar members to know
that Safe Horizon is available to help all Court
courtroom personnel, and attorneys and
Court Officers. The Safe Horizon office is available
to provide attorneys with space to interview victims and to assist clients in maintaining
contact with their attorneys after they have
relocated. Safe Horizon provides a safe recep-
tion center in which domestic violence sur-
vivors can wait until their Court case is called.

Safe Horizon provides transportation for dis-
cabled clients, assists disabled litigants and
witnesses, and even provides lunch vouchers
for needy clients and their children.

Furthermore, Safe Horizon is available to
provide emergency assistance to survivors of
domestic violence and victims and witnesses in
jurisdiction not served by the
Safe Horizon office. The role of
Safe Horizon is to support the work of the
Family Court in the best interests of the
Agency.

In March 2013, Ms. Shea received
the “In the Trenches” Award from the Lawyers
Committee Against Domestic Violence at
Fordham Law School which recognized her
“indomitable courage, vision, and dedica-
tion to ending intimate partner violence.”

Ms. Shea was delighted that Safe Horizon
was recognized.

Ms. Shea has been happily married for 36
years and has three adult children, two sons,
a daughter, and a one-year-old grandson.

One of her hobbies is a support hotel
concierge and the other is a teacher.
Her daughter is in the hospitality industry and
loves to travel. In her spare time, Ms. Shea
writes poetry, which can articulate things
that are impossible to say. She is proud to
have hosted two poetry readings in Court,
featuring professional poets of domestic
violence and sexual assault.

The role of Ms. Shea’s staff is to be
open, available, client-centered, and non-judg-
mental. She hopes that the relationships
among her staff can serve as a model for
cooperation, collaboration, and respectful
communication.

All profiles were written by Joseph II.
Viven and all photos were taken by Julie Stanton. Thank you for all of your hard work.
A Celebration in Honor of the Work of the Queens Family Court
June 20, 2013

Photos by Walter Karling
A Celebration in Honor of the Work of the Queens Family Court
June 20, 2013

Photos by Walter Karling
The Following Attorneys Were Disbanded By Order Of The Appellate Division, Second Judicial Department:

Gerard M. Tancredi, a suspended attorney (January 9, 2013)

Following a disciplinary hearing, the respondent was found guilty of, inter alia, breaching his fiduciary duty; failing to safeguard funds entrusted to him as a fiduciary; allowing one or more non-attorneys to exercise control over his law practice; giving false and/or misleading testimony and written answers to the Grievance Committee; engaging in conduct involving dishonesty, deceit, fraud, and/or misrepresentation, which adversely reflects on his fitness to practice law; undertaking representation in a matter wherein he acknowledged that he could not represent the client; converting funds from multiple real estate transactions; and giving him the proceeds of that mortgage as well.

Christopher George Lazaro (February 6, 2013)

By orders of the Supreme Court of Georgia dated September 19, 2009, he entered a plea of guilty in the Superior Court for Suffolk County, Massachusetts, entered July 24, 2008, the respondent was disbarred in Georgia and Massachusetts, respectively. Upon application of the Grievance Committee pursuant to 22 NYCRR 691.13, to reciprocity discipline the respondent in New York, the respondent was disbarred.

David Allen Linn, (February 6, 2013)

The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against pending charges that he failed to preserve funds in his escrow account as a fiduciary, failed to hand an appeal entrusted to him for which he was a paid retainer; misled the client concerning the appeal on numerous occasions, failed to obtain the balance of settlement funds due to a client; and failed to cooperate with the Grievance Committee. The respondent further acknowledged that he would not be able to successfully defend himself on the merits against additional allegations that he converted funds from multiple real estate transactions.

Neal H. Sultzter (March 6, 2013)

The respondent tendered a resignation in which he admitted that he could not successfully defend himself on the merits against pending charges that he engaged in professional misconduct by participating in real estate transactions on behalf of a client when he knew the client was engaging in illegal or fraudulent conduct.

Robert Michael Ibrahim (March 13, 2013)

On January 11, 2012, the respondent pleaded guilty in the Supreme Court, Suffolk County, to eight counts of residential mortgage fraud in the second degree, a class C felony in violation of Penal Law Section 190.65(1)(b). Pursuant to Judiciary Law Section 90(4), the respondent was automatically disbarred effective January 11, 2012, based upon his conviction of a felony.

Deborah K. Rice, admitted as Deborah Karen Gerstein (April 10, 2013)

On or about March 26, 2009, the respondent pleaded guilty in the United District Court for the Eastern District of Pennsylvania, to two counts of mail fraud, in violation of 18 USC 1341, and one count of wire fraud, in violation of 18 USC 1343, both federal felonies. By order dated April 29, 2010, the Supreme Court of Florida disbarred the respondent, effective January 11, 2010. By Opinion dated March 1, 2010, the Supreme Court of Georgia accepted the respondent’s voluntary surrender of his license to practice law, which was tantamount to disbarment under Georgia State Bar Rule 4-110(f). Both disciplinary actions were predicated upon the respondent’s federal conviction. Upon the Grievance Committee’s application pursuant to 22 NYCRR 691.3 to impose reciprocal discipline, the respondent was immediately suspended from the practice of law pending the proceedings.

The Following Attorneys Were Suspended By Order Of The Appellate Division, Second Judicial Department:

Alexander Herman (April 1, 2013)

The respondent was suspended on a voluntary basis pursuant to 22 NYCRR 691.1(c) based on his contention that he suffered from a mental infirmity, until a determination is made by a qualified medical expert as to his capacity to practice law.

Anthony C. Donofrio (January 9, 2013)

Following a disciplinary hearing, the respondent was found guilty of misappropriating and/or failing to preserve funds entrusted to him as a fiduciary. He was suspended from the practice of law for a period of two years, effective February 8, 2013, and continuing until the further order of the Court. By further decision and order of the Court dated March 22, 2013, the effective date of the respondent’s suspension was adjourned until April 22, 2013, pending further proceedings down his practice with respect to existing matters and clients.

Robert A. Macronio, admitted as Robert Anthony Macedonio, a disbarred attorney (January 9, 2013)

By opinion and order of the Appellate, Second Judicial Department dated August 25, 2009, the respondent was disbarred based on his conviction of criminal possession of a controlled substance in the fifth degree, a class D felony in violation of Penal Law Section 220.06(5), and his name was struck from the roll of attorneys and counselors-at-law, effective December 9, 2008. On January 6, 2012, the Honorable James Hudson, County Suffolk County, pursuant to a negotiated plea, granted the respondent’s motion to vacate his felony conviction and accepted in its place a plea to criminal possession of a controlled substance in the seventh degree, a class A misdemeanor pursuant to Penal Law Section 220.03. In a decision and order of the Appellate Division dated April 23, 2012, the respondent’s prior disbarment was vacated, and the respondent was immediately suspended from the practice of law pending the proceedings. By opinion and order of the Appellate Division dated January 10, 2013, the respondent was reinstated. The respondent’s voluntary surrender of her registration as a New York State attorney was an incredibly moving experience, well worth the trip.

Robert Anthony Macedonio, a disbarred attorney (January 9, 2013)

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Raghuraj K. Gupta, a disbarred attorney (March 8, 2013)

Motion by the respondent to, inter alia, vacate an opinion and order of the Appellate Division, Second Judicial Department dated June 8, 2010, which...
In January, 2002, JANINA FIALKOWSKA was brought to a dramatic end as a result of a cancerous tumor in her left arm. The cancer was removed, and Fialkowska underwent further surgery in the following year. During this time, she returned to the classical music world, which often requires a lot of public relations work. In January, 2004, Fialkowska performed the works of Frederic Chopin and Franz Liszt. For the past 30 years, she has championed the music of contemporary Polish composers like Witold Roman Lutoslawski and Sir Andrzej Panufnik.

“Imitation is the highest form of flattery,” JANINA FIALKOWSKA has special reason to be proud. In a past column, I discussed the fraud perpetrated upon the classical music public by the deceased pianist Joyce Hatto (1928–2006) and her husband, Hatto, during her lifetime did not get great acclaim. Shortly before Hatto’s death, great, wonderful, piano recordings, purported to be those made by Hatto, were the excitement of the classical musical world. In 2007, it was discovered that most of the recordings originally attributed to Hatto, were recordings actually made by other virtuoso artists, including those of JANINA FIALKOWSKA that had been fraudulently plagiarized by Hatto and her husband. The discovery of these and other plagiarized tracks led to one of the biggest scandals that has ever occurred in the classical music recording business.

JANINA FIALKOWSKA performs regularly with renowned orchestras throughout the world. For more information on this excellent pianist, please go to her web sites: www.janinafialkowska.com and www.fialkowska.com.

Concerts at the Frick are made possible by the work of MS. JOYCE BODGID who painstakingly arranges for brilliant talent to come to New York City. The tickets are only $35.00 each, and you should try to visit and tour the Frick Collection and its priceless art treasures of Renior, Turner, and Hogarth, among other great masters of art whose works are housed at the Frick. The Frick is located at 1 East 70th Street, at the corner of Fifth Avenue and East 70th Street. Admission to the Museum is free on Sundays from 11 AM to 1 PM. Concerts are held during the year, at a cost of $35 per ticket. More information can be obtained at www.frick.org.

HOWARD L. WIEDER is the writer of both the “CULTURE CORNER” and the “BOOKS AT THE BAR” columns, appearing regularly in THE QUEENS BAR BULLETIN, and is JUSTICE MARTIN E. RITHOLTZ’S PRINCIPAL LAW CLERK in Supreme Court, Queens County, in Jamaica, New York.
If you would like to learn to write a set of motion papers that will be remembered by a busy judge, or by a bar member, the investment of money and effort by reading ROSS GUBERMAN’s outstanding book on legal writing. This book is one of the finest that I have read on the subject of legal writing. Reading it was a pleasure. ROSS GUBERMAN’s book is riveting. The book does not preach. ROSS GUBERMAN’s prose flows beautifully as he instructs you on how to make your writing simple, direct and impress your audience. I could not put it down.

I wholeheartedly recommend ROSS GUBERMAN’s absorbing and wonderful book. POINT MADE: How to Write Like the Native American, 2nd ed., by ROSS GUBERMAN gives numerous, excellent examples on how a litigator can capture the attention of a judge, a jury, a lawyer, or a layperson. More lawyers write as though bored. ROSS GUBERMAN is the president of Legal Writing Pro LLC, a training and consulting firm. He has conducted more than a thousand programs on these subjects. As a lawyer and a judge, ROSS GUBERMAN has a reputation for being known as the creditable and accomplished writer, prided himself — and deservedly so — on his classic book, BRIEF WRITING AND ORAL ARGUMENT. In 2005, shortly before his death in 2006, at age 85, Judge EDWARD D. RE wrote an article on how, inexperience of courts are defeated by papers, without trials. Of course, Judge Re’s point on the “vanishing trial” served to increase the need for polished legal writing to sway a court with sound analysis that is written beautifully and persuasively. That year, Judge Re was appointed to the International Trade Court. Judge Re was also a distinguished professor of law at St. John’s University School of Law in Queens County.

Judge EDWARD DOMINIC RE, a man of consistency, accomplished, and an accomplished lawyer, prided himself — and deservedly so — on his classic book, BRIEF WRITING AND ORAL ARGUMENT. In 2005, shortly before his death in 2006, at age 85, Judge EDWARD D. RE wrote an article on how, inexperience of courts are defeated by papers, without trials. Of course, Judge Re’s point on the “vanishing trial” served to increase the need for polished legal writing to sway a court with sound analysis that is written beautifully and persuasively. That year, Judge Re was appointed to the International Trade Court. Judge Re was also a distinguished professor of law at St. John’s University School of Law in Queens County.

An active member of the Bar, ROSS GUBERMAN has at various times been a musician, translator, and an award-winning journali st. ROSS GUBERMAN has commented on legal matters, written chapters in law books, written numerous articles for newspapers, radio stations, and television networks. He has also addressed several major international conferences, including the American Society for Legal Writing and Development, the NALE’s Annual Education Conference, the Professional Development Conference of the American Bar Association, and the Association for Continuing Legal Education. The American Society for Legal Writing and Development has certified ROSS GUBERMAN’s Certified Professional in Learning and Performance credential for passing standardized written assessment that he has since administered to more than 1,000 lawyers.

The just published a COMPANION TO AMERICAN LEGAL HISTORY presents a smart compilation of the most recent writings on American Legal History from the colonal era through the late twentieth century. This excellent work:

1. Provides a comprehensive introduction to the key debates in American legal history.
2. Highlights the most important themes and arguments in the legal history of a wide array of subjects, including women’s legal rights, Native American law, Freedom, taxes, and religion and the law.

I do have one lament. One unfortunate gap is the lack of the history of recent decisions of the United States Supreme Court, and the revolution of the Court under Earl Warren’s leadership and the Roberts Court. When the Supreme Court decided Bush v. Gore, 531 US 98 [2000] [5-4 decision] (2000 Florida Recount), this was a case that approved of manual recount of vote in presidential elections. I was present when the late Justice Rehnquist arose and amazedly exclaimed triumphantly: “The Constitution lives!” Justice Fisher’s exclamation, in my opinion, was neither here nor there.

The harm caused by Bush v. Gore in the public’s confidence in the Supreme Court as an institution free of political bias is irreparably by the Supreme Court’s majority holding. Justice John Paul Stevens’ dissent in Bush v. Gore was on point. It would harm to the Supreme Court as an institution deserving of public confidence that was caused by the conservative majority’s ruling that handed Republican George W. Bush the election, Justice John Paul Stevens stated.

The harm caused by Bush v. Gore in the public’s confidence in the Supreme Court as an institution free of political bias is irreparably by the Supreme Court’s majority holding. Justice John Paul Stevens’ dissent in Bush v. Gore was on point. It would harm to the Supreme Court as an institution deserving of public confidence that was caused by the conservative majority’s ruling that handed Republican George W. Bush the election, Justice John Paul Stevens stated.

Unfortunately, the conservative majority, in its decision and treatment of Gore is the true backbone of the rule of law. Today will mean heal the wound to that confidence that will be inflicted by today’s decision. One thing, however, is certain. Although we may never know who administered the judicial system that approved of manual recount of vote in presidential elections. I was present when the late Justice Rehnquist arose and amazedly exclaimed triumphantly: “The Constitution lives!” Justice Fisher’s exclamation, in my opinion, was neither here nor there.

While Justice Stevens said that time will heal the wound one day, I predict that the harm to the Supreme Court’s prestige will take a very long time to recapture. Unfortuntely, the conservative majority, in its decision and treatment of Gore is the true backbone of the rule of law. Today will mean heal the wound to that confidence that will be inflicted by today’s decision. One thing, however, is certain. Although we may never know who administered the judicial system that approved of manual recount of vote in presidential elections.

The foregoing discussion is tangential, since I wish the editors a COMPANION TO AMERICAN LEGAL HISTORY would have included a chapter on this subject, on this subject, on this subject. The Dictionary defines all the words with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject. This dictionary is comprehensive and contemporary, with over 4,200 concise, informative entries on this subject, on this subject, on this subject.
struck his name from the roll of attorneys and counselors-at-law, as a result of his felony conviction on October 26, 2009, which conviction was vacated by an amended opinion of the court of appeals. The Court of Appeals dated November 8, 2012 (see United States v. Gupta, 699 F3d 682). The respondent’s motion was granted to the extent that the opinion and order dated June 8, 2010, which disbarred him, was vacated, and the Court, on its own motion, the respondent was immediately suspended from the practice of law based on the facts of professional misconduct underlying the criminal allegations, and a disciplinary proceeding was authorized.

Joel Barnett, admitted as Joel Carol Barnett (March 12, 2013)

On November 22, 2011, the respondent pleaded guilty in the United States District Court for the Southern District of New York (Buchwald, J.) to one count of conspiracy to commissions under oath and other uncontroverted evidence of professional misconduct.

Efrain Ramos, Jr. (March 13, 2013)

The respondent was immediately suspended from the practice of law, pending further order of the Court, based upon his failure to cooperate with the Grievance Committee in its investigation of multiple felony conviction on October 26, 2009, based upon his conviction. The further order of the Court, based upon his failure to cooperate with the Grievance Committee, was immediately suspended from the practice of law, pending further order of the Court.

The Following Attorneys Were Publicly Censured By Order Of The Appellate Division, Second Judicial Department:

James N. Hulme, admitted as James Norton Hulme (January 9, 2013)

Following a disciplinary hearing, the respondent was publicly censured upon a finding that he engaged in conduct adversely reflecting on his fitness as a lawyer; conveyance involving dishonesty, fraud, deceit, or misrepresentation; and conduct prejudicial to the administration of justice.

Robert B. Armstrong, admitted as Robert Britton Armstrong (March 13, 2013)

By Memorandum Order of the Disciplinary Board of the Virginia State Bar, entered June 21, 2010, the respondent was found guilty of engaging in conduct involving deceit, dishonesty, and misrepresentation; failing to withdraw from representing a client in a transaction in which he knew that the continued representation would cause him to engage in deceitful conduct; making false and misleading statements to the Grievance Committee; and failing to maintain ledger books or similar records of deposits into and withdrawals from his IOLA accounts. He was suspended from the practice of law for a period of 120 days, as a result of his having pled “no contest” on December 3, 2008, to misdemeanor sexual assault. Upon the Grievance Committee’s application pursuant to 22 NYCRR 6913 to impose reciprocal discipline, the respondent was publicly censured in New York.

The Following Suspended, Disbarred Or Voluntarily Resigned Attorneys Were Reinstated As Attorneys And Counselors-At-Law By Order Of The Appellate Division, Second Judicial Department:

Barry R. Feerst, admitted as Barry Roy Feerst (January 9, 2013)

William F. Rothman, admitted as William Frederick Rothman (January 9, 2013)

Andrew Bryant Liverino (January 10, 2013 [effective February 4, 2013])

Jeffrey Bettan (January 23, 2013)

Christopher T. Maffia (January 23, 2013)

Shea Elizabeth Fitzekam (January 23, 2013)

Diana M. Vargas, admitted as Diana Monica Vargas (January 23, 2013 [effective February 4, 2013])

Virginia R. Iaquinta-Snigur (March 13, 2013)

Kevin B. Dwyer (March 27, 2013)

Yana Schindler (April 17, 2013).

Following a disciplinary hearing, the respondent was found guilty of failing to safeguard escrow funds entrusted to her as a fiduciary, incident to her practice of law; failing to maintain a ledger book or similar record of deposits into and withdrawals from her escrow account; knowing thereby making false and misleading statements to the Grievance Committee; improperly making false and misleading statements to the Grievance Committee; failing to adequately supervise her paralegal; and improperly authorizing a non-attorney to be a signatory on her escrow account. She was suspended from the practice of law for a period of one year, effective May 17, 2013, and continuing until the further order of the Court.

The respondent was immediately suspended from the practice of law, pending further order of the Court, upon his failure to cooperate with the Grievance Committee in its investigation of multiple felony conviction on October 26, 2009, based upon his conviction. The further order of the Court, based upon his failure to cooperate with the Grievance Committee, was immediately suspended from the practice of law in Virginia for a period of 30 days, as a result of his having pled “no contest” on December 3, 2008, to misdemeanor sexual assault. Upon the Grievance Committee’s application pursuant to 22 NYCRR 6913 to impose reciprocal discipline, the respondent was publicly censured in New York.

Michael Levitis, a suspended attorney (April 10, 2013)

On March 1, 2011, the respondent pleaded guilty in the United States District Court for the Eastern District of New York (Ross, J.) to one count of making a false statement, in violation of 18 USC 1001 (a)(2), a federal felony. By order of the Appellate Division, Second Department dated January 24, 2012 the respondent was immediately suspended from the practice of law pursuant to Judiciary Law Section 908(4)(f), pending further order of the Appellate Division, based upon his conviction of a serious crime. Following a disciplinary hearing, the respondent was suspended from the practice of law for a period of six months, nunc pro tunc to January 24, 2012, with leave to apply for reinstatement immediately.

BY: GEOFFREY MAZEL, ESQ.

In 2010, Intro 188 was introduced in the New York City Council. It was designed to prevent discrimination and encourage transparency in the Coop Board interview process. Unfortunately this proposed legislation does not exist. The bill was sharply criticized by Board members; Board Members and Managing Agents for its strict time limits and severe penalties. The bill seemed to be a quiet death, but resurfaces out of the blue.

On several days notice, a hearing on this bill was held on April 29, 2013, before the New York City Council Committee on Buildings & Housing. The hearing presented panels from both sides of this issue and lasted many hours. The Queens Coop Bar Association Committee on Cooperative and Condominium has resolved to oppose this unnecessary and harmful piece of litigation.

Some of the highlights of the proposed legislation are as follows: 1) the board or managing agent must provide written acknowledgment of receipt an application within 10 business days or provide a notice of missing items; 2) if no notice is given the application is deemed complete; 3) the Board has 45 calendar days of receipt of a completed application to approve or disapprove a candidate; 4) if the applicant is disapproved, the Board must provide a written report of non-discrimination; 5) applications signed by each Board member who participated in the decision; 5) Penalties for violations of this bill are up to 3 times the application fee plus costs incurred by the applicant in preparing and submitting the application up to $5000, plus attorney fees; 6) Human Rights division can issue violations between $250 and $2000 for the non-compliance, between $500 and $5000 for the second, between $2000 and $15,000 for the third.

I testified as to the problems with this proposed legislation and the reprint of my testimony is submitted below:

“My name is Geoffrey Mazel and I would like to thank you for the opportunity to speak before you on this extremely important issue. By way of background, I am a practicing attorney in New York for 27 years in the firm of Hänkin & Mazel, PLLC, we represent Coop Board which includes over 40,000 units of Coop housing. I am the Chairperson of the Queens Coop Bar Association Coop & condo Committee and I am the Legal Advisor to the Presidents’ Coop Condo Council, an organization that reaches between ten thousands of owners and residents of Coops and Condos, and finally, I was rejected by a Coop Board many years ago as a young law student.

I have reviewed the revised Intro 188 and I have no problem whatsoever and will have a deleterious effect on Coop Boards throughout the New City. My office handles over 400 Coop transactions a year, and most are brought to consumption without any legal problems. The process includes many converging interests, including the Lender, Buyer, Seller and Coop. The dynamics get complicated, but for the most part Coop Boards are able to ensure the quality of life in the Coop.

As for Intro 188, this bill does nothing to end discrimination in housing. Federal State and City Laws already prohibit discrimination in housing for 15 protected classes of individuals and provide free forums to investigate and prosecute discrimination claims. An aggrieved party has their choice of a number of forums, including: the Equal Employment Opportunity Commission, the New York State Division of Human Rights, the Department of Housing and Urban Development, the New York City Commission on Human Rights, federal courts, and New York State courts.

The aggrieved parties get a free bite at the apple if they feel they have been discriminated against.

Intro 188 does nothing to help these claimants. All does is create an aura of some sort of guilt by the Coop Boards. Board members are hard working volunteers who provide a vital and necessary service in this City. They maintain a significant community interest stock, for the most part in a clean and well maintained way. Intro 188 would discourage individuals from applying on cooperative boards—which are unpaid, volunteer positions. Their legitimate concerns would be the greatly increased likelihood of litigation and potential liability which may not be covered by liability insurance. In addition, some Board Volunteer Board in their right mind would sign off on a denial knowing full well the applicant will sue them! Coop Boards will lose good and productive members if this legislation passes.

The penalties imposed by this legislation are unlawful and quite punitive in nature. Quite frankly, the imposition of these penalties are arbitrary and capricious and most likely not enforceable as a matter of law. My attorney colleagues throughout the City are looking into the legality of civil penalties of this excessive and punitive nature and most conclude they are unlawful. I guarantee you if this law passes these civil penalties will be challenged vigorously in the Courts.

In addition, I would get a reward of legal fees in this statute you are inviting a cottage industry of attorneys who will prey on Coop Boards in prosecuting Intro 188 claims. This unintended consequence of this legislation will have disastrous repercussions. Intro 188 ignores the realities of cooperative, including that many are self-managed, etc. (i.e., they have no managing agent), and that the interview is an integral part of the
to as the “Juvenile Offender Law”, this statute created a new class of “juvenile offenders” aged 14 or 15 (or 13, if charged with murder), who could be tried as adults when charged with the most serious crimes. This concept was not entirely new. Several states permitted juvenile cases to be “waived up” to adult courts, upon application to a Juvenile Court Judge.

New York, on the other hand, took an unprecedented approach. Juvenile Offender cases instituted in the adult crim - inal justice system. The cases prosecuted citywide by the NYC Corporation Counsel’s office involved felony charges. Gun possession cases increased sixfold. Felony assault cases grew by 80%. Robbery cases spiked off the charts. In the most chilling statistic of all, in fiscal 1991, 24% of robbery charges lodged against youths under the age of 16 were levied against non-residents of the City of New York. The majority of these cases were of the 1970’s but a distant memory.

The early 1990's marked a watershed, however, and the pendulum slowly but steadily began to swing in the opposite direction. After the highly publicized屁股, juvenile delinquency filings in Family Court have dramatically decreased, both in number and severity. Last year, for example, about 40% of the petitions involved misdemeanor charges.

The respective NYC District Attorneys no longer prosecute cases in Family Court, not even upon referral to a judge. The fundamental change on the juvenile justice landscape has been so profound as to provoke various “reform” initiatives. Where previously, adjudicated delinquents were typically sent to facilities outside of their communities, recently passed legislation now provides for such placement to be “close to home.” Symbolically, the NYC Department of Juvenile Justice, created specifically due to unhappiness with juvenile detention being operated by “social services,” recently merged into the NYC Administration for Children’s Services, the lineal descendant of HRA/DSS.

So, to recap, between the early 1970's and the present: we replaced HRA/DSS with ACS, which worked in Family Court. We placed juvenile delinquents in facilities much closer to their communities. We increased the amount of social work in our juvenile justice system, and substantially reduced the number and severity of the cases prosecuted.

1. **FIRPTA Withholding**

   (Continued from page 3)

   considered to be foreign and non-foreign transferees.8

   Counsel has determined that FIRPTA withholding applies to James’ share of the property. All transfers are subject to the exceptions to FIRPTA witholding - if no exceptions apply, to the IRS. This includes situations where (1) the fair market value of the property is less than $300,000 and the buyer, who must be an individual, will not be an exempt entity ordinarily expected to reside in the property for at least 50% of the days the property is utilized by any person for 2 years after the transfer, and (2) the property is an interest in real property. For these purposes, the term “real property” includes interests in real property, oil and mineral rights, and every right, title, and interest in real property other than a lease right... The exceptions to FIRPTA withholding are set forth in Treasury Regulation §1.1445-1(h).

   Exclusion of Gain From Sale of Principal Residence. In order for IRC §121 to apply, the taxpayers must have lived in the residence as their primary residence for at least 2 of the past 5 years. The exclusion amount is $250,000 for individuals and $500,000 for married couples filing jointly who qualify.11

   James’ counsel completes the application for the exclusion, and submits it with the closing documents. The IRS may issue a withholding certificate under Treasury Regulation §1.1445-1(c), but only if the taxpayer is not a U.S. resident, or if the gain is less than $250,000. The IRS must issue a withholding certificate to a non-resident alien under Treasury Regulation §1.1445-1(f).

   The withholding amount is calculated based upon the amount realized, which is generally the contract price. In this case, the amount realized is $1,400,000. The buyer, a withholding agent, withholds 10% of the amount realized, which is $140,000.

   Note: The withholding certificate must be issued on or before the 10th day after the date of transfer. If a withholding certificate is not issued or is issued late, the buyer may be required to pay interest and penalties. The buyer may also be liable for penalties if the buyer fails to withhold the correct amount.

   **FOOTNOTES:**

   1. Lisa B. Britton focuses her practice on international tax law. She is a member of the New York State Bar and the District of Columbia Bar. She lectures frequently for various organizations, including the American Bar Association. In 1998, Ms. Britton received her LL.M. in taxation from Boston University School of Law.

   2. The fact pattern described herein is an illustrative factual pattern and is intended only for illustration purposes. The fact pattern may include several alternative scenarios other than those discussed in the limited scope of this article.

   3. Unless otherwise indicated, all references to “the code” or “IRC” and sections therein refer to the Internal Revenue Code of 1986, as amended.

   4. IRC §870(a)(1).

   5. Treasury Regulation §1.1445-2(b)(1).

   6. Treasury Regulation §1.1445-2(c).

   7. Treasury Regulation §1.1445-4(e).

   8. Treasury Regulation §1.1445-2(b)(2).

   9. Treasury Regulation §1.1445-1(b).

   10. Treasury Regulation §1.1445-1(b).

   11. Treasury Regulation §1.1445-2(b).

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Books at the Bar
(Continued from page 12)

Citation Guide” that specifically addresses problems and established conventions for writing legal essays and reports and the book features entry-level web links which are accessed and kept up to date via the Dictionary of Law companion website. While focusing primarily on reissued this year with a new cover and essential entry-level web links which are accessed and entries; • Defines all the major legal terms, concepts, processes, and the organization of the English legal system; • Has in-depth feature entries for key topics such as adoption law and terrorism acts; and • Includes terms taken from European, American, and intensely lobbied for Hand’s nomination to the Supreme Court. It was not easy. Frankfurter would sign on to the Court’s opinion — in order to make it unan- imous — only if it included the phrase that desegregation must be accomplished with "all deliberate speed.” The needless phrase was unfortunately used by segregationists to delay and thwart federal court orders requiring integration. Later, Frankfurter would dissent in other Warren Court decisions that pro- moted civil rights. Learned Hand certainly would have been practically a carbon copy of Frankfurter. Learned Hand opposed “judicial activism” and, in the Holmes Lectures given in 1958 at Harvard Law School, expressed doubt about the constitutionality of the deci- sions of the Warren Court on civil rights issues. Hand’s lectures criticizing the Warren Court’s striking of Jim Crow segregation laws created a firestorm of controversy, and Hand’s remarks were widely criticized as “reactionary.”

President Franklin D. Roosevelt resisted the efforts of Frankfurter to name Learned Hand to the Supreme Court, and Roosevelt knew precisely what he was doing. Putting aside that Learned Hand had been involved in Republican Party politics, Roosevelt publicly gave the reason for not nominating Hand because of age, but that excuse was a pretense. Roosevelt, who was irritated by the Supreme Court’s initial rejection of his New Deal legis- lation as unconstitutional, probably well understood that LEARNED HAND was not known for promoting progressive views, but who would instead favor judicial restraint. Though he was not nominated to our coun- try’s highest court, LEARNED HAND is, neverthe- less, more frequently quoted by legal scholars and in Supreme Court decisions than any other lower court judge in our history. Hand had a reputation for legal brilliance and cultural sophistication. Hand was also renowned as a superb writer. He wrote over 4,000 judicial decisions. Now, in REASON AND IMAGINATION: THE SELECTED CORRESPONDENCE OF LEARNED HAND, Hand’s granddaughter, Constance Jordan, the editor of the work, offers a unique sampling of the corre- spondence between Hand and a stellar array of intellectual and legal giants, including Justice Oliver Wendell Holmes, Theodore Roosevelt, Walter Lippmann, Felix Frankfurter, Bernard Berenson, and many other prominent political and philosophical thinkers. The letters — many of which have never been published before — cover almost half a century, often taking the form of brief essays on current, important legal topics.

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