



NEW YORK STATE BAR ASSOCIATION  
**TRUSTS AND ESTATES LAW SECTION**



# Fall Meeting 2018

**October 18-19, 2018**

**The Sagamore Resort**  
Bolton Landing, NY

Co-Sponsored by the Real Property Law Section

[www.nysba.org/TrustsFa18](http://www.nysba.org/TrustsFa18)

### Trusts and Estates Law Section Chair

Natalia Murphy, Esq., Citi Private Bank, New York City

### Program Co-Chairs

Carl T. Baker Esq., Fitzgerald Morris Baker Firth, PC, Glens Falls

Sarah Catherine (Katie) Lynagh, Esq., Milbank Tweed Hadley & McCloy, LLP, New York City

The New York State Bar Association's Section and Meeting Services Department has been certified by the NYS Continuing Legal Education Board as an accredited provider of continuing legal education in the State of New York.

**TOTAL CLE CREDITS:** Under New York's MCLE rule, this program has been approved for a total of 6.0 MCLE credits consisting of 5.0 Credits in Areas of Professional Practice and 1.0 Credit in Ethics.

This program is **not transitional** and does not qualify for newly admitted attorneys.

### Discounts and Scholarships

New York State Bar Association members and non-members may receive financial aid to attend this program. Under this policy, anyone who required financial aid may apply in writing, not later than ten working days prior to the start of the program, explaining the basis of the hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Lisa Bataille at [lbataille@nysba.org](mailto:lbataille@nysba.org).

### Accommodations for Persons with Disabilities

NYSBA welcomes participation by individuals with disabilities. NYSBA is committed to complying with all applicable laws that prohibit discrimination against individuals on the basis of disability in the full and equal enjoyment of its goods, services, programs, activities, facilities, privileges, advantages, or accommodations. To request auxiliary aids or services or if you have any questions regarding accessibility, please contact Lisa Bataille- 518-487-5680 or [lbataille@nysba.org](mailto:lbataille@nysba.org).

## Hotel Information

### The Sagamore Resort

110 Sagamore Road

Bolton Landing, NY 12814



# SCHEDULE OF EVENTS

## **Real Estate for Estate Attorneys: Handling Real Property Transfers in Estate Matters & Recognizing Estate Planning Issues in Real Property Transfers**

Most clients own, and their estates will contain, real estate – whether a modest house, an heirloom lake front cottage, or a condo or cooperative apartment in New York City – that needs to be planned for properly. As Estate attorneys, at some point in time we will be advising our clients regarding the transfer of title, keeping real property in the family for future generations, strategies for administering an entity holding real estate over time, or protecting it from loss to creditors or care expenses. This meeting will help you advise your clients in all of those areas. We will also take a close look at how the Power of Attorney and Gift Rider can be utilized in estate planning and cover the ethical issues that can arise from time to time.

### **Thursday, October 18**

- 10:30 a.m. – 5:00 p.m. **Registration** – Conference Center Foyer
- 10:30 a.m. – 5:00 p.m. **Exhibitors** – Wapanak Room
- 12:00 p.m. – 2:00 p.m. **Executive Committee Luncheon Meeting** – Bellvue Room
- 2:00 p.m. – 5:00 p.m. **General Session** – Nirvana Room
- 2:00 p.m. – 2:05 p.m. **Welcome and Introductory Remarks** – Natalia Murphy, Esq., Section Chair
- 2:05 p.m. - 2:10 p.m. **NYSBA Welcome** – Michael Miller, Esq., New York State Bar Association President
- 2:10 p.m. – 2:15 p.m. **Program Introduction** – Program Co-Chairs, Carl T. Baker, Esq. and Katie Lynagh, Esq.
- 2:15 p.m. – 3:10 p.m. **Deeds and Misdeeds: Avoiding Real Property Transfer and Planning Pitfalls**  
Real estate lawyers often fail to recognize estate planning issues inherent in transfers of homes, condominiums, or cooperative apartments. Similarly, trusts and estate lawyers often fail to anticipate title, lender, or other real property issues that can be avoided with diligence and knowledge. This session provides strategies on how to deal with common traps when structuring and documenting real property transfers both during life and after death.  
**Speakers:**  
**Joseph T. La Ferlita, Esq.**, Farrell Fritz, P.C., Uniondale, NY  
**Albert B. Kukol, Esq.**, Levene Gouldin & Thompson, LLP, Vestal, NY
- 3:10 p.m. – 4:00 p.m. **Keeping the “Heirloom” Property in the Family**  
The family lakeside cabin, ski chalet, or beach retreat may generate a lifetime of fond memories, and when the client wants to keep it in the family for future generations the planning attorney is presented with a complex set of drafting challenges. When is a Trust preferred to an entity such as a Limited Liability Company? What are the most significant drafting concerns for an entity agreement or testamentary instrument? What are the practical considerations and options for funding and administering the entity?  
**Speakers:**  
**Timothy B. Borchers, Esq.**, Borchers Trust Law, Medway, MA  
**Christopher A. Cahill**, Twelve Points Wealth Management, Concord, MA
- 4:00 p.m. – 4:15 p.m. **Break** – Wapanak Room, hosted by RDM Financial Group at High Tower
- 4:15 p.m. – 5:05 p.m. **Advising Fiduciaries on the Administration of Closely-Held Real Estate Entities**  
Executors and trustees often step into the shoes of a decedent who was a partner or member of an entity owning real estate. Such fiduciaries may also own an interest in the entity in their individual capacity. What provisions should be included in the governing instrument to protect such fiduciaries? Where they control the entity in their fiduciary or individual capacity, what guidelines should be employed to navigate the many decisions that arise in connection with ongoing operations? What advice should be given to a fiduciary who faces potential conflicts with respect to business decisions at the entity level and fiduciary decisions at the estate or trust level? Finally, under what circumstances does a fiduciary have a duty to account to the trust or estate beneficiaries for his entity-level activities?  
**Speakers:**  
**Quincy Cotton, Esq.**, Roberts & Holland LLP, New York City  
**Anne C. Bederka, Esq.**, Greenfield Stein & Senior, LLP, New York City

# SCHEDULE OF EVENTS

6:00 p.m. – 10:00 p.m.

**Cocktail Reception and Dinner** – DOLLAR ISLAND TERRACE AND SHELVING ROCK TERRACE  
Enjoy panoramic views of Lake George and sweeping fall foliage starting with cocktails on the Dollar Island Terrace followed by dinner on the climate-controlled and tented Shelving Rock Terrace.

## Friday, October 19

8:00 a.m. – 12:30 p.m.

**Registration – Conference Center Foyer**  
**Breakfast and Exhibitors** – Wapanak Room

8:00 a.m. – 9:00 a.m.

**Committee Breakfast Meetings** – Bellvue Room  
The section committees will be meeting informally over breakfast. We welcome you to take this opportunity to connect with colleagues and learn more about how to get involved in the wide variety of committees.

9:00 a.m. – 9:10 a.m.

**General Session** – Nirvana Room

**Program Introduction** – Program Co-Chairs Carl T. Baker, Esq. and Katie Lynagh, Esq.

9:10 a.m. – 10:00 a.m.

### **Protecting the Property**

Often a home, however modest, may be a client's most valuable asset and an asset the client would like to protect and preserve for the client's heirs. What are the options for titling and transferring real estate to protect it from the risks of future creditors or uninsured long term care expenses? What structures work and what are their tax consequences? What controls and protections can the client maintain?

#### **Speaker:**

**Frances M. Pantaleo, Esq.**, Bleakley Platt & Schmidt, LLP, White Plains, NY

10:00 a.m. – 10:50 a.m.

### **Agency – The Power of Attorney and Its Role in Real Property Planning**

The Power of Attorney is a basic tool for the estate planner and a needed document for most clients. This session will address issues that practitioners are having when needing to use the document and cover best practices for execution and gaining acceptance of the Power of Attorney by title companies, financial institutions and others.

#### **Speaker:**

**Ellen Makofsky, Esq. CELA**, Makofsky & Associates, PC., Garden City, NY

10:50 a.m. – 11:05 a.m.

**Coffee Break with Exhibitors** – Wapanak Room, Hosted by MPI Business Valuation & Advisory

11:05 a.m. – Noon

### **Real Estate in Estates: An Ethical Trap for the Unwary?**

Many estates involve the transfer of real property and very often a decedent's home is one of the main assets in the estate. The transfer and administration of real property can be a trap for the unwary and often creates significant tension among estate beneficiaries, intestate distributees and fiduciaries. Hear about some of the most common issues seen in Surrogate's Court related to real property and the ethical challenges to counsel.

#### **Speaker:**

**Hon. Stacy L. Pettit**, Albany County Surrogate's Court Judge, Albany, NY

12:00 p.m.

**Adjourn** – Closing Remarks – Natalia Murphy, Esq., Section Chair



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## EXHIBITORS

### **The Trusts and Estates Law Section Thanks Our Exhibitors for Their Support:**

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**NYSARC Trust Services**

**RDM Financial Group at HighTower**

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# THINGS TO DO

## **The Adirondack Museum**

One of the largest museums in upstate New York, the Adirondack Museum is the place for Adirondack visitors to deepen their appreciation for what's special about the region and explore how people have lived, worked, traveled and played in the Adirondacks from 19<sup>th</sup> century to the present! Interactive, hands-on activities abound, making the stories of the Adirondacks and its people highly engaging for children as well as adults. Must see for all families visiting the Adirondacks.

[www.adkmuseum.org](http://www.adkmuseum.org)

## **National Museum of Dance**

As the only one of its kind in the United States, this museum is dedicated entirely to preserving the history and tradition of dance. It is located in a beautiful 1918 historic building in Saratoga Spa State Park, formerly the Washington Bath House, and its presence, both inside and outside, is quite captivating. Within the museum, established in 1986, find photographs, videos, costumes, biographies, artifacts and archives, as well as exhibitions including C.V. Whitney Hall of Fame.

[www.dancemuseum.org](http://www.dancemuseum.org)

## **Lake George Shoreline Cruise**

2 Kurosaka Lane, Lake George, 518-668-5777 May-Oct. Admission fee. [www.lakegeorgeshoreline.com](http://www.lakegeorgeshoreline.com)

Narrated day and evening sightseeing and entertainment cruises aboard five enclosed cruise ships.

## **Lake George Steamboat Company**

Steel Pier, Beach Road, Lake George, NY, 518-6685777 or 800-553-BOAT. May-October. Admission Fee,. Narrated one-to-four hour scenic cruises aboard classic ships, The 1907 M/V Mohican, the SS Minne-Ha-Ha, an authentic steamboat paddle wheeler, and the 190 –Foot Lac du Saint Sacrement, a reproduction of a classic 19<sup>th</sup> century Hudson River day vessel.

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

## **The Factory Outlets of Lake George**

The Factory Outlets of Lake George with over 50 designer and famous name outlet stores offer 20%-70% off retail prices. Shoppers will find a wide variety of designer and name-brand clothing and accessories, baby clothes, footwear, housewares, camping equipment, and more. The Factor Outlets of Lake George are located just off I-87, Adirondack Northway, Exit 20.

[www.factoryoutletsof lakegeorge.com](http://www.factoryoutletsof lakegeorge.com)

## **Adirondack Winery in Lake George**

At Adirondack Winery, their mission as a small family-owned business is to provide their customers with delicious award-winning quality wines that are all hand crafted locally. They provide an unparalleled selection of wines with something to satisfy every palate, from unique, fruit-infused wines, to traditional white and red varieties and more.

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

## **The Spa at The Sagamore**

Awaken your sense of health and well-being among the natural beauty of the Adirondacks. Natural woods and soft neutral tones welcome guests to a tranquil sanctuary with 14 treatment rooms, a relaxing hydrotherapy area and irresistible treatments designed to nurture the body and revitalize the spirit.

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

## **Fitness Center at The Sagamore**

Located in the south wing of our Lake George hotel, The Sagamore Resort's glass enclosed fitness center has everything you need to keep up with your daily fitness routine. State-of-the-art cardiovascular and strength training equipment and complemented by a full selection of free weights and daily fitness classes. Access to the Fitness Center is complimentary and available to all guests 16 years of age and over.

[www.thesagamore.com/play-fitness](http://www.thesagamore.com/play-fitness).