



**Elder Law and Special Needs  
Section Chair**

**Richard A. Weinblatt, Esq.**

Haley Weinblatt & Calcagni, LLP  
Islandia

**Program Co-Chairs**

**Jeffrey A. Asher, Esq.**

Robinson Brog Leinwand Greene  
Genovese & Gluck P.C.  
New York City

**Judith Nolfo McKenna, Esq.**

Law Office of Judith Nolfo McKenna  
Albany

# NYSBA

## Elder Law and Special Needs Section

### Fall Meeting

**October 30-31, 2014**

DoubleTree by Hilton  
Tarrytown, New York

The New York State Bar Association's Meetings 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. Under New York's MCLE rule, this two-day program will provide you with a total of **9.0 credit hours in Professional Practice and 1.0 in Ethics**. The "basic" breakout session of the program is transitional and suitable for MCLE credit for newly-admitted attorneys.



# SCHEDULE OF EVENTS

## Thursday, October 30

- 9:00 a.m.**                      **Registration & Exhibitors**
- 9:30 – 10:45 a.m.**            **Executive Officers' Meeting**
- 10:45 a.m. –  
1:00 p.m.**                      **Executive Committee Meeting and Luncheon**
- 1:15 – 5:05 p.m.**              **GENERAL SESSION**
- 1:15 – 1:30 p.m.**              **Welcoming Remarks**  
**Richard A. Weinblatt, Esq.**  
**Section Chair**
- 1:15 – 1:30 p.m.**              **Program Introduction**  
**Judith Nolfo McKenna, Esq.**  
**Program Co-chair**
- 1:30 – 2:20 p.m.**              **Ethical Issues Related to Elder Abuse**
- Knowing who your client is.
  - How to recognize an incapacitated client.
  - How to represent a prior client who is now being abused, etc.
  - Who can you take payment from?
- Speaker:**                      **Malya E. Levin, Esq.**  
The Weinberg Center for Elder Abuse Prevention at the Hebrew Home at Riverdale  
Bronx
- 2:20 – 3:10 p.m.**              **Retirement Assets**
- Medicaid exempt versus non-exempt.
  - Difference between retirement assets used in Medicaid qualification (e.g., as an asset) versus retirement assets used in budgeting (e.g., as income).
  - Medicaid recovery against a retirement asset where no beneficiary is named.
  - Rights of beneficiaries when the annuitant dies before the Required Beginning Date or after the Required Beginning Date.
  - Creditor protection of a spousal rollover IRA versus an inherited IRA.
  - Recent Supreme Court case of Clark v. Rameker.
- Speaker:**                      **Tara Anne Pleat, Esq.**  
Wilcenski & Pleat PLLC  
Clifton Park
- 3:10 – 3:25 p.m.**              **Refreshment Break with Exhibitors**
- 3:25 – 4:15 p.m.**              **Model Guardianship Program/Power of Attorney Related to Guardianships**
- Choosing the proper agent.
  - Family Members versus Independents.
  - Treatment of the aging population in the Guardianship Court System.
  - The Model Guardianship Part.
- Speaker:**                      **Hon. H. Patrick Leis III**  
Supreme Court Justice  
Suffolk County
- 4:15 – 5:05 p.m.**              **Revising Estate Plans in Light of NYS Estate Tax Changes**
- Do we need to revise estate plans in light of the NYS estate tax changes?
  - Changes to income taxation of non-resident trusts.
  - Steps to avoid the NYS estate tax "cliff".
  - Continued need for flexibility in drafting.
  - Credit shelter trusts, QTIPs, Clayton QTIPs.
  - Disclaimer planning/trusts.
  - Portability.
- Speaker:**                      **Stanley E. Bulua, Esq.**  
Robinson Brog Leinwand Greene Genovese & Gluck P.C.  
New York City

# SCHEDULE OF EVENTS

## Thursday, October 30 *continued*

6:30 – 7:30 p.m.

**Welcome Cocktail Reception - Tappan Hill Mansion**  
*Driving directions will be provided at the registration desk.*

Tappan Hill Mansion is located on the former estate of Mark Twain in the scenic Hudson Valley. Nestled on a hilltop overlooking the Hudson, this stunning stone structure features luxurious rooms and garden terraces.

7:30 – 10:00 p.m.

**Dinner - Tappan Hill Mansion**  
Enjoy a fun and entertaining murder mystery dinner!



## Friday, October 31

7:00 a.m.

**Registration & Exhibitors**

7:30 – 8:30 a.m.

**Elder Law and Special Needs Section Committee Breakfast Meetings**

7:30 – 8:30 a.m.

**Friends of Bill W. Meeting**

8:30 a.m. – 3:25 p.m.

**GENERAL SESSION**

8:30 – 8:45 a.m.

**Welcoming Remarks**  
**Richard A. Weinblatt, Esq.**  
**Section Chair**

**Program Introduction**  
**Jeffrey A. Asher, Esq.**  
**Program Co-chair**

8:45 – 9:35 a.m.

**Prudent Investor Act: Understanding the Responsibilities and Avoiding the Risks**

- What trustees can expect and what trustees need to do to be compliant.
- Delegation of investment authority.
- Difference between suitability and fiduciary standard (i.e., putting the client's or beneficiary's interests first).
- Types of and differences between financial advisors, brokers, registered investment advisors, and financial planners.
- How financial advisors are compensated and why that matters.
- Risk management, rate of return and cash flow requirements.
- Investment policy statements and asset allocation.

**Speakers:**

**Ronald D. Weiner, CFP ®**  
President & CEO  
RDM Financial Group, Inc.  
Westport, CT

**Andrew Weissman, JD, CFP ®**  
Senior Vice President, Financial Planning  
RDM Financial Group, Inc.  
Westport, CT

# SCHEDULE OF EVENTS

## Friday, October 31 *continued*

9:35 – 10:25 a.m.

### **Decanting Trusts**

- When is it appropriate – case studies.
- Decanting when trustee has full discretion versus when trustee has limited discretion.
- Decanting when minors are involved.
- Decanting versus revocation under EPTL 7-1.9.

**Speaker:**

**Joann M. Berman, Esq.**

Wells Fargo Wealth Management  
New York City

10:25 – 10:40 a.m.

### **Refreshment Break with Exhibitors**

10:40 – 11:30 a.m.

### **Capacity Issues, Fraud, and Elder Financial Abuse in Elder Care Planning**

- Proper use of POA, Revocable Trust, Medicaid Trust, etc., and drafting considerations.
- Designations of Guardian(s) and Guardianship as a last resort.
- Working with the bank to prevent freezing of accounts and working to unfreeze accounts.
- Working with the bank to avoid perceptions of fraud.
- Working with the bank to push through fraud warnings in the system and deal with suspicions of fraud when no fraud exists.
- What to do when the bank refuses the POA.

**Panelists:**

**Jennifer Dealmeida**

Wells Fargo Private Bank  
Greenwich, CT

**William D. Pfeiffer, Esq.**

Girvin & Ferlazzo, PC  
Albany

**William R. Zeltner, Esq.**

Wells Fargo Private Bank  
White Plains

11:30 a.m. –  
12:20 p.m.

### **Breakout Sessions - These programs will be held concurrently**

#### **Breakout Session A**

#### **BASIC: Managing Real Estate Assets as part of the Estate Plan**

- Life estate deeds.
- Life use deeds.
- Transfers of real estate to a trust.
- Business/rental property.

**Speaker:**

**David G. Tehan, Esq.**

Karpinski Stapleton & Tehan, PC  
Auburn

#### **Breakout Session B**

#### **ADVANCED: Managing Real Estate Assets as part of the Estate Plan**

- Drafting issues.
- Transfers of real estate to protective trusts – e.g., Medicaid Irrevocable Income-Only Trust, Spousal Access Trust, QPRT.
- Tax issues dealing with income tax deductions, preserving step-up in basis, etc.
- Preserving Grantor Trust status without exposing the principal to Medicaid.
- Dealing with co-ops.

**Speaker:**

**Jeffrey A. Asher, Esq.**

Robinson Brog Leinwand Greene Genovese & Gluck P.C.  
New York City

12:20 p.m.

### **Luncheon**

# SCHEDULE OF EVENTS

## Friday, October 31 *continued*

1:30 – 2:20 p.m.

### **Advising the Family Insisting on Hiring Private Home Health Aides.**

- Payroll issues.
- Employee versus independent contractor.
- Payroll taxes (e.g., FICA, Social Security, withholding issues).
- Workers Compensation Insurance.
- Exposures to liability for violating law.
- Case studies.
- What happens when “mom really likes the aide”?
- Or the aide that the family can’t bear to discharge.
- Combating the stigma of hiring from an agency.

**Speaker:**

**Lee Hoffman, Esq.**

Hoffman & Keating  
New York City

2:20 – 3:20 p.m.

### **Elder Abuse Panel Discussion**

- Identifying elder abuse.
- Identifying the “good” helper.
- Dealing with the client’s incapacity – guardianship, Elder Abuse Trust.
- When to get the courts involved.

**Panelists:**

**Julie Stoil Fernandez, Esq.**

Julie Stoil Fernandez, Esq., PLLC  
Brooklyn

**Joy S. Solomon, Esq.**

The Hebrew Home At Riverdale  
Riverdale

**Audrey E. Stone, Esq.**

Westchester County District Attorney’s Office  
White Plains



## RESTAURANTS

### **Ruth's Chris Steak House**

**670 White Plains Road, Westchester Marriott | 914-631-3311**

A world-renowned favorite, menus of this popular steakhouse feature USDA Prime steaks, freshly-squeezed juices and locally sourced produce. Quality ingredients and attention to detail represent the passion that keeps guests coming back.

### **Equus Restaurant**

**400 Benedict Avenue, Castle Hotel and Spa | 914-631-3646**

With breathtaking ambiance, stunning interior design and award-winning cuisine, Equus is the Zagat-rated winner of Five Stars by The American Academy of Hospitality Sciences (AAHS). Equus features unique and creative Auberger-style natural French cuisine based on locally sourced ingredients presented with innovative seasonal menus. [www.castlehotelandspa.com](http://www.castlehotelandspa.com)

### **Cellar 49**

**49 East Sunnyside Lane | 914-591-3183**

Cellar 49 is a cozy yet energetic tavern, providing a casual atmosphere with a modern twist on American fare. Located on the grounds of the Tarrytown House Estate, Cellar 49 was the original "cellar" in the historic Biddle Mansion. [www.tarrytownhouseestate.com](http://www.tarrytownhouseestate.com)

### **Bistro Z**

**DoubleTree by Hilton | 914-631-5700**

Enjoy a delicious meal without even leaving the hotel. Whether you are into health food, snacks, or gourmet food all the way, they've got something to tickle your palate Upscale modern. [www.bistroz.com](http://www.bistroz.com)

### **Sunset Cove**

**238 Green | 914-366-7889**

Sunset Cove offers dining the way it was meant to be: unique, fresh, mouthwatering entrees served as close to the resplendent Hudson River as you can get. The menu of succulent Continental cuisine is enhanced with Mediterranean, Asian and Southwestern touch. [www.sunsetcove.net](http://www.sunsetcove.net)

### **Sweet Grass Grill**

**24 Main St | 914-631-0000**

Casual restaurant serving local and seasonal food right in the heart of Tarrytown. With relationships with about a dozen local farms, the menu at Sweet Grass Grill varies week to week depending on the daily harvests. Expect seasonal soups and salads and a changing roster of entrees like our signature baby roast chicken and the freshest sustainably-raised fish. [www.sweetgrassgrill.com](http://www.sweetgrassgrill.com)

## THINGS TO DO

### **Lyndhurst**

Lyndhurst, one of America's finest Gothic Revival mansions. The architectural brilliance of the residence, designed in 1838 by Alexander Jackson Davis, is complemented by the park-like landscape of the estate and a comprehensive collection of original decorative arts. Its noteworthy occupants included: former New York City mayor William Paulding, merchant George Merritt and railroad tycoon Jay Gould.

### **Palisades Center Mall**

The premier shopping, dining and entertainment destination located in West Nyack. It is conveniently positioned on the New York State Thruway (I87 & I287) with direct access to Route 303, Route 59 and the Palisades Interstate Parkway.

### **Washington Irving's Sunnyside**

Hear about Washington Irving's storied past and how he came to be America's first internationally famous author, best remembered now for The Legend of Sleepy Hollow and other short stories. His characters, from Brom Bones and Ichabod Crane to the mysterious Headless Horseman and the comic Rip Van Winkle, are icons in American culture. Even Johnny Depp has added to their global renown.

## CLE AND IMPORTANT INFORMATION

The New York State Bar Association's Meetings 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. Under New York's MCLE rule, this two-day program will provide you with a total of **9.0 CREDIT HOURS IN PROFESSIONAL PRACTICE AND 1.0 IN ETHICS. THE "BASIC" BREAKOUT SESSION OF THE PROGRAM IS TRANSITIONAL AND SUITABLE FOR MCLE CREDIT 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 requires financial aid may apply in writing, not later than ten working days prior to the program, explaining the basis of his/her hardship, and if approved, can receive a discount or scholarship, depending on the circumstances. For more details, please contact: Adriana Favreau, New York State Bar Association, One Elk Street, Albany, New York 12207

**NEWLY ADMITTED ATTORNEY DISCOUNT:** Elder Law and Special Needs Section attorneys admitted for 5 years or less are entitled to receive a reduced registration fee of \$150.00.

**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 Kathy Heider at 518.487.5500 or [kheider@nysba.org](mailto:kheider@nysba.org).



NEW YORK STATE BAR ASSOCIATION  
**MEETINGS DEPARTMENT**  
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