



NEW YORK STATE BAR ASSOCIATION

State Bar News



SUMMER 2023 | VOLUME 65, NO. 2



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BAR ASSOCIATION

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SUMMER 2023
VOLUME 65, NO. 2
NYSBA.ORG

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The State Bar News is published two times annually by the New York State Bar Association, 1 Elk St., Albany, NY, 12207, to inform its members of Association activities and other matters of interest to the legal profession.

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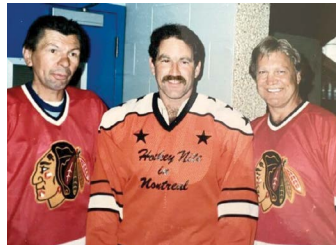
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NYSBA's New President's Mission Is To Make it Easier for Members To Be Great Lawyers

By Jennifer Andrus

Incoming New York State Bar Association President Richard Lewis views his new role as an opportunity to help remove the hurdles that prevent lawyers around the state from fully realizing their potential to succeed professionally while serving clients and expanding access to justice.

That includes everything from contradictory court rules to onerous requirements for notaries – basically any restriction that prevents lawyers from being the best they can be.

Lewis feels strongly that these and other roadblocks not only lead to increased costs for clients, but also deplete a lawyer's ability to take on pro bono cases and serve community organizations. During his one-year tenure, he will focus on making it easier for attorneys to contribute to the greater good of a noble profession – particularly those who don't have in-house support.

"We are here to fight for lawyers, reduce the barriers in their practice and deal with those day-to-day issues that affect them; that is our mission," Lewis said. "While we are committed to supporting all our members, I'm particularly aware of the challenges faced by solo and small firm practitioners - they are our heroes."

"Protecting the vulnerable is part of our pledge to improve access to justice," he added. "When we make it easier for lawyers to do their jobs, we free time and energy for them to help make the world a better place."

Lewis has firsthand experience of the demands placed on attorneys who don't work at large firms, having spent years early in his legal career working at a smaller firm with only a handful of colleagues. In a rapidly changing profession, the New York State Bar Association can serve as a resource to help members thrive, Lewis said.

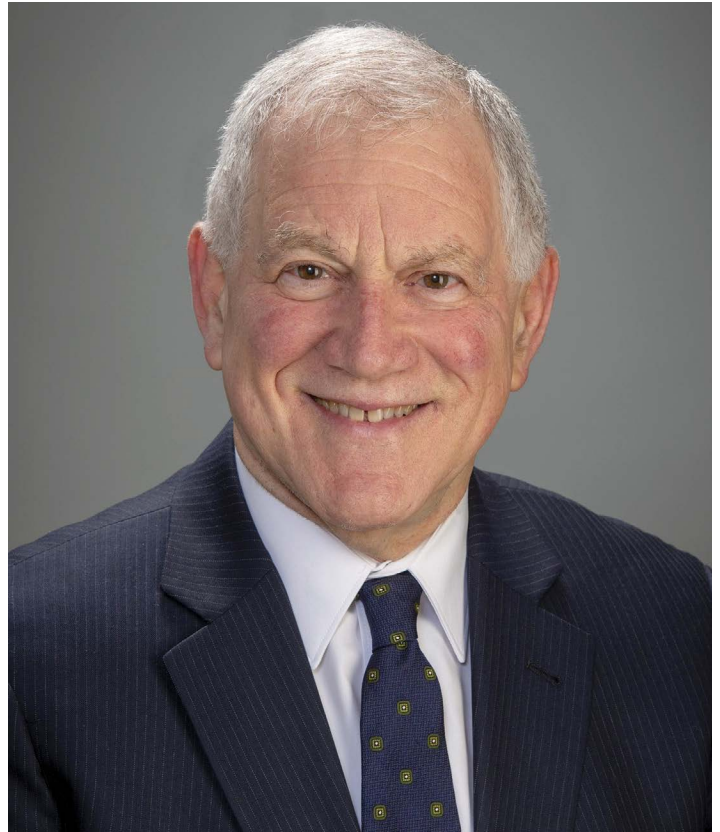
"It's hard work," he recalled of his days as a small firm practitioner. "You're running from court to court in a thousand directions, while balancing your family and community commitments."

Lewis' work on the Task Force on Rural Justice and the Uniform Court Rules Committee also gave him a deeper understanding of the needs and problems members are facing across New York. New court rules, a shortage of attorneys in rural areas and limited broadband access were just some of the issues that spurred Lewis to action.

On the policy front, Lewis plans to focus on advocating on behalf of the state's growing homeless population, supporting New Yorkers facing end-of-life decisions, as combatting anti-Asian and antisemitic hate crimes, which have reached historically high levels.

Committee on Law Practice and Court Rules

To inform his efforts to support attorneys in their professional endeavors, Lewis plans to collect feedback from members from all regions and backgrounds. He feels strongly that a diversity of opinion is critical to ensure that resulting policies are as inclusive as possible.



Richard Lewis

"I encourage everyone from every area of practice to get involved," Lewis said. "We need to hear all voices. Please don't sit on the sidelines. We need more people to be active to shape the future of our organization and ensure its long-term success."

Lewis and members of the Uniform Court Rules Committee will use member input to help inform the continuing dialogue on these issues with the Office of Court Administration, the State Legislature, and Governor Kathy Hochul's office.

Lewis continues to be concerned about the shortage of lawyers willing to serve as assigned counsel, though he hopes

that a recently approved pay raise for assigned counsel will increase this number.

The Bar Association sued the state in November 2022, urging that the state be required to pay \$158 per hour – rate paid to assigned counsel in New York City – to assigned counsel outside of New York City. When the state budget included the pay raise for lawyers outside of New York City, NYSBA withdrew the motion to the court. This marked the first pay increase for assigned counsel attorneys in nearly two decades.

"We also want to make sure that our prosecutors are able to prosecute, and our defenders are able to defend," Lewis said.

"If there continues to be a dearth of attorneys interested in this type of service, that must be confronted."

Lewis would like to see a public service incentive program providing federal loan forgiveness for lawyers who work in underserved areas – similar to what is currently available for teachers and doctors. In May, the Association's executive committee authorized joining with the California Lawyers Association to lobby for that proposal at the American Bar Association's Annual Meeting taking place in Denver this August.

Broome County Born and Bred

As a native of Binghamton, Lewis is very familiar with the difficulties that come with encouraging lawyers to practice in non-urban areas. This still surprises him, however, because there is no place he would rather be. He has a deep love for his hometown and calls his early years growing up in Binghamton idyllic, recalling how it was perfectly normal to leave the keys in your parked car overnight.

Lewis attained his bachelor's degree at Ithaca College. Following his undergraduate studies, he started a career in the insurance industry before a local family friend convinced him to pursue law, which led him to the John Marshall School of Law in Chicago.

Following law school, Lewis returned to the Southern Tier to make his own way by starting in general practice. He speaks fondly of his service for the Broome County Bar Association, working on local concerns of the members and really getting to know them.

Lewis cherishes those relationships and the opportunities he had to see how work at the local bar level can have a direct impact on members. As president of the Bar Association, he



Presiding Justice Elizabeth Garry (second from left), Appellate Division, Third Department, joins past NYSBA Presidents (left to right) Michael E. Getnick, M. Catherine Richardson, Kathryn Grant Madigan, President Richard Lewis, Immediate Past President Sherry Levin Wallach, T. Andrew Brown, Glen Lau-kee and David Miranda.

will bring that same energy to statewide issues, explaining: "If we can bring out our issues to the Office of Court Administration, the Legislature, and the governor, we can create a better environment for the practice of law."

Combatting Homelessness and Health Care Rights

Lewis believes it's imperative to answer the call to service. To that end, he plans to establish task forces combatting homelessness and improving end of life health care rights in the coming year.

The task force against homelessness will focus on populations that have disproportionately high percentages of unhoused individuals, including veterans, those who struggle with substance use, people who have mental health challenges, and victims of domestic violence.

"The United States is the greatest country in the history of the world," Lewis said. "For us to have this lingering issue of homelessness is shameful."

"We will look at all these issues while respecting individual rights," he added. "In the end, don't we have an obligation to step in and help when people are

in a life-and-death situation?"

Individual liberties and dignity are at the heart of another Lewis initiative: the Task Force on Medical Aid in Dying. Members of this task force will research the issue and the impacts that legislative action may have on patients and their families – particularly when it comes to the legal ramifications of these difficult but important decisions – and make recommendations about best practices. They will also look at inequities and disparities in accessing end-of-life care.

A renewed focus on civics education will take place at Lewis' Convocation, which is set for May 2024. At this event, Lewis plans to bring together judges, lawyers, students, educators, and special guests to engage in a vigorous, respectful, and healthy debate, recognizing that protecting and strengthening democracy is critical to preserving the rule of law.

"Our kids need to learn how to listen to people that disagree with them with respect," Lewis said. "Fostering civics education and debate will preserve and bolster our democracy for us and our children."

Lewis says that the best career advice he ever received was to "never forget where you came from." Throughout his profes-



Left to right, Emily and Anna Lewis celebrate the start of their father's term.

sional career, he has taken that advice to heart. From his early days of running between courthouses in Broome County to his work on the Task Force on Rural Justice and the Committee on Access to Justice, Lewis is at his core a lawyer's lawyer.

Above all, Lewis stressed that during his presential tenure he wants "every member to know that they are an important part of this association and that their voice matters."

Lewis resides in Binghamton with his wife, Lori, who was also born and raised in the Southern Tier. They have two daughters, Emily and Anna, who are proud graduates of Binghamton High School, and upstate colleges.

Ten Things You Don't Know About President Richard Lewis

By Rebecca Melnitsky

You may think you know Richard Lewis. But there are some things you may not know about him. Here are ten little-known facts about the new president of the New York State Bar Association.

1 He's played hockey with pro players Gordie Howe, Bobby Hull and Stan Mikita – in a charity game in Canada. Lewis has played hockey in men's leagues for years. "I started playing when I got out of law school," said Lewis. "And I've played ever since."

2 Lewis used to run marathons. "When I had knees," he said. (He has had five knee surgeries). His best time was about three hours. He also used to ski, even taking trips to Colorado. "I used to ski a lot, and then I had kids," said Lewis. "And they became pretty good skiers. But then all of the sudden, they discovered basketball, and that ended skiing for all of us."

3 Lewis' favorite subject in high school was chemistry.

4 The legal profession runs in the family. Lewis' younger daughter, Anna, is a legal assistant at his firm while his older daughter, Emily, is a first-year associate in Washington, D.C. However, Lewis said he did not encourage or discourage her from choosing to become a lawyer. "I did say it's a lot of pressure," said Lewis. "And you've grown up in my house, and you understand what it's like to be an insomniac, and what it's like to go through what you go through when you try a case."

5 Lewis first got involved with the New York State Bar Association through his local bar. When he was president of the Broome County Bar Association, he was invited to speak at the Bar Center. Walking around, he was impressed by association programs, including a mock intervention. "I was not aware at that time how badly alcoholism was affecting lawyers," he said. "I



Richard Lewis and his daughters, Anna and Emily, and wife Lori

watched this mock intervention, and I was overwhelmed. When I saw that program and a few other programs, I became interested in getting involved."

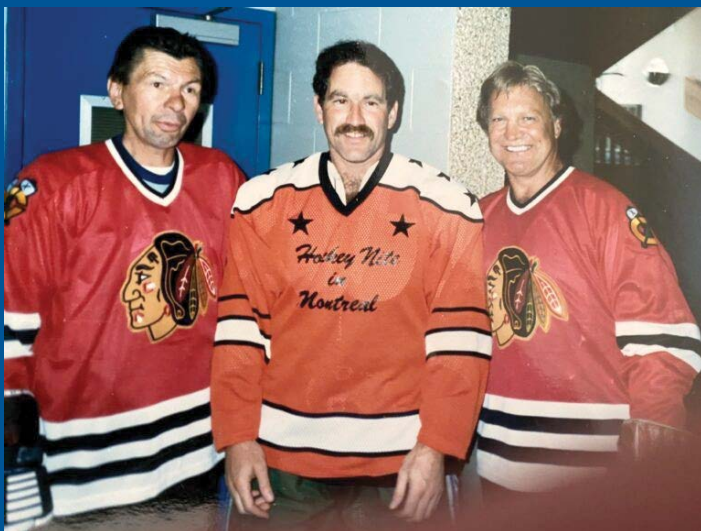
6 Lewis has an eclectic taste in music – he listens to jazz, country and opera. His first concert: the Temptations in Florida. "We saw the sign, we got the tickets, and we went," Lewis said.

7 Lewis is a general practitioner. He said it has given him a broad perspective and helped him understand different areas of law.

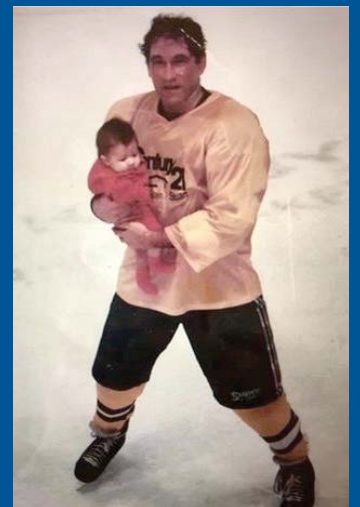
8 Lewis did not go to his law school graduation at John Marshall Law School in Chicago because he was already back at home in Binghamton studying for the New York State bar exam and the Illinois State bar exam, which he took in the same week.

9 Lewis once rode in an elevator with Stevie Wonder at a hotel in New York City.

10 On what he's looking forward to as president: "Some of the people I've gotten to know over the past couple of years have just been phenomenal and become friends," said Lewis. "And I don't use the term 'friends' loosely. I think that it's been a great experience and there's a lot of commonality that any profession has with their fellow professionals. I've been really lucky to meet some incredible people, and that's what I'm looking forward to continuing."



Stan Mikita, Richard Lewis and Bobby Hull



Richard Lewis and his daughter on the ice.

Getting To Know President-Elect Domenick Napoletano

By Rebecca Melnitsky

As Brooklyn attorney Domenick Napoletano begins his term as president-elect of the New York State Bar Association, he's looking to support lawyers who are dealing with the day-to-day concerns that come up in their practices.

"What President Richard Lewis and I have talked about is continuity," said Napoletano. "So that it carries over a period of two years and not just one year, because one year comes and goes very quickly... Dick and I talked about what we both would like to see happen, and that is going to be a concentration on what is good for the lawyer."

Napoletano pointed to helping attorneys with the changes brought on by the pandemic, and his work as co-chair of the Emergency Task Force for Solo and Small Firm Practitioners, which was created to help attorneys get through the COVID-19 crisis.

"Two-thirds of our association is made up of solo or single practitioners – small firm attorneys," said Napoletano. "What we really want to do is concentrate on the solo and small-firm practitioner and what we as an association can do to assist in that area."

Napoletano is a solo practitioner with a general practice that concentrates on commercial litigation. "We have some appellate work that we do as well," he said. "We've gotten some good results from those appellate cases that we filed."

From Brooklyn to the Bar Association

Born the only child of Italian immigrants, Napoletano grew up in Brooklyn. His father was a longshoreman, and his mother

was a homemaker. "Both of my parents were not educated people," he said. "My father went as far as the second grade, my mother the fifth."

His father immigrated in 1939, and his mother in 1952. Domenick was born a year later. His father served in the U.S. Army during World War II, achieving the rank of corporal. "He was stationed in the Pacific chapter," said Napoletano. "He specifically said, 'I don't want to go to Europe because I have relatives there, and I don't want to fight on Italian soil.'"

Domenick got into law school through a Council on Legal Education Opportunity program at the University of Pennsylvania in 1977.

"I spent six weeks there," Napoletano said. "Made friends that are lifetime friends. One of my dearest friends, Lynn Terrelonge – who became the first African American president of the Brooklyn Bar Association – got me involved with the Brooklyn Bar and that's ultimately how I became president some years later."

He attended Hofstra Law School alongside former Gov. David Paterson. They were in the same criminal procedure class. Whenever they could get together, Napoletano would read their case assignments to Paterson, who is legally blind.

Napoletano grew up in a diverse neighborhood in Brooklyn. "My friends growing up were all black, all Hispanic, and Italians," said Napoletano. "So it wasn't uncommon for me to blend in with those groups of people."

He also was the only white member of the Black American Law Students Association, which he became involved in by mentor-

ing incoming students in a buddy system. Hofstra Chapter President Charles Walker was a friend and endorsed his membership. (To this day, Napoletano serves on the association's luncheon committee.) Napoletano is the godfather of Walker's daughter, Alia Carponter-Walker, who was born in 1996. She was recently named Director of Equity and Community Life at the Hewitt School in New York City.

In addition to the Brooklyn Bar Association, Napoletano is also a past president of the Columbian Lawyers Association of Brooklyn, the Confederation of Columbian Lawyers of the State of New York and the Catholic Lawyers Guild of Kings County.

Napoletano has been involved in Catholic organizations all his life. "I started as an altar boy many, many years ago," he said. "I can still remember some of the Latin phrases."

He still serves his parish, St. Mary's Star of the Sea Roman Catholic Church. His first office was across the street, and he would often come in for Mass. After getting to know the church's clergy, he became a Eucharistic Minister, which involves serving the Eucharist host and precious blood at Holy Communion.

Then a friend from grammar school, Brooklyn Supreme Court Justice Vincent Del Giudice, suggested that he become a Knight of the Holy Sepulcher and endorsed him for the position. Napoletano rose through the ranks, eventually becoming a Knight Commander with Star of the Equestrian Order of the Holy Sepulcher of Jerusalem, a papal order. The order is primarily philanthropic, with the goal of providing support to the Christian community in the Holy Land.



Looking Forward To Making Connections

Napoletano served as NYSBA treasurer since 2018. "The 990 reports for the four years I was treasurer were probably the best 990s that we filed with the IRS in over a decade," he said, noting that was due in part to the cost savings in travel and other meeting expenses created by the pandemic.

In addition to presiding over the House of Delegates, Napoletano will chair the Committee on Access to Justice during his year as president-elect. He is particularly excited about the opportunity to connect with lawyers who practice upstate because he doesn't know their concerns as well as he does with his downstate colleagues.

"What I'm really looking forward to is to actually meet up with other bar associations throughout the state," he said. "I want to be able to meet with lawyers, especially those upstate... I want to find out what is going on and how we can help assist those lawyers to practice law more efficiently."

Napoletano's wife Fran is a Chief Compliance Officer and an attorney licensed in both New York and New Jersey. They have been married for 18 years and have a son, Nicholas, and a daughter, Alexis. Alexis is an attorney as well.

NYSBA Launches Blue-Ribbon Task Force on Preserving Diversity in Wake of U.S. Supreme Court Ruling on Affirmative Action

By Susan DeSantis

Former U.S. Attorney General Loretta Lynch is joining Brad Karp, chair of Paul, Weiss, and former Secretary of Homeland Security Jeh Johnson as chairs of the New York State Bar Association's blue-ribbon Task Force on Advancing Diversity.

The U.S. Supreme Court ruled June 29 that decades of race-conscious policies at Harvard University and the University of North Carolina violate the Equal Protection Clause of the Fourteenth Amendment. The decision will have far-reaching implications in academia and beyond, said Richard Lewis, president of the New York State Bar Association.

"We are bringing together the brightest legal minds in New York and the nation to help guide colleges, businesses and government entities through this time of uncertainty," Lewis said. "We are working with the chairs of major law firms, members of the judiciary, general counsel of preeminent businesses and representatives of academia to develop strategies for universities and businesses in the wake of the U.S. Supreme Court ruling."

Lynch, who is now a partner at Paul, Weiss, said the task force's work is vital because universities are seeking strategies for maintaining diversity without considering race as one of the factors in evaluating students – the standard that both Harvard University and the University of North Carolina employed to diversify their student bodies and that the Supreme Court rejected.

"Through diversity we harness the value of our differences to create successful institutions, a stronger country and a 'more perfect union.' This is the issue, and the challenge, of our time," Lynch said.

Task force members include the chairs of 13 prominent law firms, the chief legal officers of six major corporations, five of New York's distinguished judges and the deans of Columbia and NYU law schools.

Johnson, the first African American elected to partnership at Paul, Weiss in 1993 and a Columbia University trustee, spoke to CNN on Friday June 30 about the task force and his views on affirmative action. On Thursday, June 29, just hours after the Supreme Court released its decision, he discussed his personal experiences with diversity:

"For all my professional and personal life, I have seen the benefits of a diverse environment. Now that the Supreme Court has ruled, we must find the path forward," he said. "Our task is to identify ways consistent with today's decision to continue to foster an integrated, not a segregated, America."

Karp, who speaks and writes frequently about pressing social justice issues, said the decision in favor of Students for Fair Admissions will undoubtedly spur even more high-profile legal challenges to corporate diversity programs, which are already on the rise.

Karp said, "Our long history of breaking down barriers has taught us that diversity of thought makes our colleges, our businesses, our law firms and our courts stronger and more effective. We will never achieve true equity in our society if we are willing to sacrifice diversity. Preserving diversity by all lawful means is a social imperative."

In addition to Karp, the chairs of twelve prominent law firms are serving on the task force:

Barbara Becker, chair, Gibson Dunn.
Brad Butwin, chair, O'Melveny & Myers.



Jeh Johnson



Brad Karp



Loretta Lynch

Eric Friedman, chair, Skadden.
Peter Furci, chair, Debevoise.
Michael Gerstenzang, chair, Cleary Gottlieb.
David Greenwald, chair, Fried Frank.
Kim Koopersmith, chair, Akin.
Anthony Lupo, chair, ArentFox Schiff.
Julie Jones, chair, Ropes & Gray.
Alden Millard, chair, Simpson.
Faiza Saeed, presiding partner, Cravath.
Barry Wolf, chair, Weil, Gotshal & Manges.

The general counsel/chief legal officers of six major corporations have joined the task force:

Stacey Friedman, general counsel, JP Morgan Chase.
Jose Gonzalez, chief legal officer, Equitable.
Eric Grossman, chief legal officer and chief administrative officer, Morgan Stanley.
Kimberley Harris, general counsel, NBC Universal.
Deirdre Stanley, general counsel, Estee Lauder.
Julie Swidler, general counsel, SONY Music, and chair, Union College Board of Trustees.

The task force also includes prominent judges, academics and attorneys: T. Andrew Brown, former vice chancellor of the New York Board of Regents, managing partner at Brown Hutchinson and past NYSBA president.

Justice Cheryl Chambers, Appellate Division, Second Department.
Vince Chang, partner, Wollmuth Maher & Deutsch.
Mike Delikat, former chair of Orrick's Global Employment Law Practice and a partner in the New York office.
Lissette Duran, senior counsel, Paul, Weiss.
Gillian Lester, dean of Columbia Law School.
Troy McKenzie, dean of NYU Law School.
Alicia Ouellette, former dean of Albany Law School.
Judge Edwina Richardson-Mendelson, chief administrative judge for justice initiatives, New York State Unified Court System.
Supervising Judge of the Family Court Richard Rivera, acting Supreme Court justice, Albany County, and co-chair of the Franklin H. Williams Judicial Commission.
Jill Rosenberg, a New York employment law partner, Orrick.
Kathleen Sweet, Gibson, McAskill & Crosby.
Associate Justice Lillian Wan, Appellate Division, Second Department.
Associate Justice Troy Webber, Appellate Division, First Department.

New York State Bar Association To Study Legal Issues Surrounding Medical Aid in Dying

By Jennifer Andrus

The New York State Bar Association is launching a task force to make recommendations about the legal, ethical, public health and policy considerations involved in helping people make end of life decisions.

“These sensitive issues can present a minefield for many families during the most difficult time in their lives,” said New York State Bar Association president Richard Lewis. “Having clear-cut laws that support a person in serious illness and at the end of life will help guide them in thinking through decisions about their health care.”

The task force will be reviewing the most recent iteration of the Medical Aid in Dying bill in New York and weighing the legal, ethical, health, public health and scientific evidence. Should the bill become law in New York, the task force will also research issues related to challenges in implementation of the law, including how to make sure a person who may choose to die is free from coercion either through the influence or control of a caregiver, family member or anyone else or through social coercion.

Members of the task force will gather public health data, speak to experts and examine how other states and countries deal with policies surrounding medical aid in dying. The task force will evaluate the impact on families, healthcare providers, nursing homes and correctional facilities.

Mary Beth Quaranta Morrissey, a health care attorney, gerontological researcher, associate professor and director of the PhD Program at the Yeshiva University Wurzweiler School of Social Work, will chair the task force.

Task force members include:

- Heather Butts, assistant professor, Columbia University Mailman School of Public Health
- John Dow, assistant counsel, Trinity Health, Albany
- Cynthia Feathers, director of quality enhancement for appellate and post-conviction representation, NYS Office of Indigent Legal Services
- Amanda Giannone, partner, Levene Gouldin & Thompson, Vestal
- Judith Grimaldi, founding partner, Grimaldi Young Law Group, New York City
- Thomas Maroney, founding partner, Maroney O'Connor, New York City
- Edward McCardle, professor of bioethics & law, SUNY Upstate & Cornell Law School, Manlius
- Violet Samuels, of the firm Samuels and Associates, Queens
- Kathleen Sweet, partner, Gibson McAskill & Crosby, Buffalo
- Mark Ustin, partner, Farrell, Fritz, Albany



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NYSBA Task Force Will Study Alarming Increase in Anti-Asian and Antisemitic Hate Crimes

By Rebecca Melnitsky

The New York State Bar Association is launching a task force that will come up with recommendations on how best to prosecute hate crimes against Asian Americans and Jewish Americans and examine what can be done about the alarming increase in hate crimes.

“Hate does not belong in our communities,” said New York State Bar Association President Richard Lewis, who is launching the task force. “It is upsetting and disturbing that hate crimes and violence against Asian people and Jewish people have increased by so much over the past few years. This task force will look for strategies to stop the hate and find justice for those affected by such heinous acts.”

In 2021, 746 anti-Asian hate crimes and 817 antisemitic hate crimes were reported to the FBI by law enforcement agencies. From 2020 to 2021, recorded anti-Asian hate crimes increased by 167%. Furthermore, Jews account for 2.4% of the U.S. population, but they are the victims of 63% of reported religiously motivated hate crimes. Citing these statistics, President Joe Biden recently released a national strategy to counter antisemitism.

The Task Force on Combating Antisemitism and Anti-Asian Hate will examine the effectiveness of law enforcement in addressing hate crimes, as well as how possible underreporting by victims affects the validity of hate crime statistics. It will also examine how prosecutors use existing hate crime laws, and how those laws can be improved. The task force will also consider how education and awareness of antisemitism and anti-Asian prejudice can deter hate crimes.

Vincent Chang, partner at Wollmuth Maher & Deutsch in New York City, and Brian S. Cohen, partner at Lachtman Cohen in White Plains, will co-chair the task force.



The members of the task force are:

- Dina Bakst, co-founder and co-president of A Better Balance, New York City.
- Mayo Bartlett, principal attorney at Law Offices of Mayo Bartlett, White Plains.
- Matthew C. Butler, founding partner at Butler, Mucci & Grace, Vestal.
- Elaine Chiu, professor at St. John's University School of Law, New York City.
- Catherine Christian, partner at Liston Abramson, New York City.
- David M. Cohn, chief appellate attorney at Bronx County District Attorney's Office, New York City.
- Katherine Greenberg, director of strategic litigation at A Better Balance, New York City.
- John B. Harris, partner at Frankfurt Kurnit Klein & Selz, New York City.
- Joon H. Kim, partner at Cleary Gottlieb Steen & Hamilton, New York City.
- Chris Kwok, mediator at JAMS, New York City.
- Shelley Mayer, senator representing the 37th district, New York State Senate, Yonkers.
- Mary Beth Morrissey, associate professor and director of the Ph.D. Program at Yeshiva University Wurzweiler School of Social Work, New York City.
- Lillian Moy, former executive director of the Legal Aid Society of Northeastern New York, Albany.
- Tejash Sanchala, executive director of the Westchester County Human Rights Commission, Scarsdale.
- Vivian Wesson, executive vice president and general counsel for the Board of Pensions of the Presbyterian Church (U.S.A.), Philadelphia, PA.
- Pauline Yeung-Ha, founding partner at Grimaldi Yeung Law Group, New York City.



New York State Bar Association Task Force Searches for Ways To Reduce Homelessness

By Rebecca Melnitsky

The New York State Bar Association is launching a new task force that will examine the impact of homelessness and explore ways that governments can intervene so that fewer people will be living on the streets.

More than 74,000 New Yorkers are homeless, according to the National Alliance to End Homelessness.

"Homelessness is a crisis, and you can see it in every city in this country," said New York State Bar Association President Richard Lewis. "This is a pressing issue that affects veterans, people with mental illness, victims of domestic violence and many others. We live in the richest country in the world, and we should be able to help people who are experiencing homelessness and often find themselves in life and death situations."

The Task Force on Homelessness and The Law will look for concrete steps that local, state, and federal governments can take to reduce the number of people living on the streets and improve the lives of the chronically homeless. It will also examine how criminal justice and healthcare systems affect the lives of people experiencing homelessness.

William Russell, partner at Simpson Thacher & Bartlett in New York City, will chair the task force.

The members of the task force are:

- Vicki Been, professor at New York University School of Law, New York City.
- Laura M. Brancato, partner at Meltzer, Lippe, Goldstein & Breitstone, Mineola.

- Robert E. Brown, founding member of the Law Offices of Robert E. Brown, New York City.
- Megan E. Curinga, partner at Hinman, Howard & Kattell, Binghamton.
- Heidi Dennis, executive director at Rural Law Center of New York, Plattsburgh.
- Meredith Dodd, counsel at Simpson Thacher & Bartlett, New York City.
- John D. Feerick, dean emeritus and professor at Fordham University School of Law, New York City.
- Helen E. Freedman, former associate justice of the Appellate Division, First Department, New York City.
- Joseph Glazer, deputy commissioner of the Westchester County Department of Community Mental Health, Mamaroneck.
- Tara Ann Glynn, managing attorney at Legal Aid Society of Northeastern New York, Plattsburgh.
- Sophia Heller, task force adviser and managing attorney at Prisoners' Legal Services of New York, Albany.
- Francis G. Hoare Jr., interim executive director of the New York State Thruway Authority, Albany.
- Rezwanul Islam, deputy executive director at Nassau Suffolk Law Services, Hempstead.
- Seymour W. James, past president of the New York State Bar Association, New York City.
- David Kagle, supervising attorney at Legal Assistance of Western New York, Bath.



- Kathryn Kliff, staff attorney at the Legal Aid Society, New York City.
- Leah Nowotarski, public defender for the Wyoming County Public Defender's Office, Warsaw.
- Zachary Pike, director, civil division at the Legal Aid Society of Rochester.
- Kevin Quinn, director of impact litigation at the Center for Elder Law & Justice, Buffalo.
- Lisa Rivera, president and CEO of New York Legal Assistance Group, New York City.
- Laurie Rolnick, supervising attorney and director of eviction defense program at the Volunteer Lawyers Project of Onondaga County, Syracuse.
- Dennis Schlenker, partner at the Law Offices of Dennis B. Schlenker, Albany.
- Chris Schweitzer, supervising attorney at Legal Services of the Hudson Valley, White Plains.
- Gerald Shalam, associate at Simpson Thacher & Bartlett, New York City.
- Andrew W. Smith, deputy executive director at Westchester Residential Opportunities, Hastings-on-Hudson.
- Brian S. Stewart, attorney at Brian S. Stewart, Malone.
- Richard P. Swanson, managing director, general counsel at York Capital Management, Ridgewood, N.J.
- Richard J. Washington, attorney at the Law Offices of Richard J. Washington, New York City.
- Emily Ponder Williams, managing attorney, civil defense practice at Neighborhood Defender Service of Harlem.
- Keisha A. Williams, executive director at the Western New York Law Center, Buffalo.
- David J. Woll, adjunct professor at Brooklyn Law School.

NYSBA House of Delegates Approves Subscription Plan Concept Proposed by the Membership Committee

By Susan DeSantis

The New York State Bar Association's Membership Committee, chaired by Clotelle Drakeford of the Legal Aid Society of Westchester County and Michelle Wildgrube, a partner at Cioffi Slezak Wildgrube, proposed a subscription plan for association membership at the House of Delegates' summer meeting June 10th.

The House of Delegates enthusiastically approved the concept of the subscription model, and the Membership Committee is now working to try to make it a reality by 2025. Under the plan, members would receive unlimited virtual CLEs, 24/7 access to on-demand programming, two complimentary section memberships and access to NYSBA's entire digital library of resources including ebooks for one all-inclusive price.

In a recent interview, Wildgrube and Drakeford answered questions about the subscription model proposed by the Membership Committee.

Q: How will a subscription model benefit members?

Michelle: Members will find it easy to get everything they need for one price. As we all know, the association has a complicated dues structure, and this will eliminate that. Members can pay for their annual membership up front or via monthly credit card payments like they do now with Netflix or HBO. After that, most of their activities will be free. It couldn't be simpler.

Clotelle: And one of the best parts is that the cost will be about the same as the average member is paying now – or perhaps a little more. The Membership Committee studied what members are paying now on all their a

la carte services — virtual CLEs, on-demand programming, membership fees and section memberships – before determining prices for the subscription model.

Think of it this way, if a member added up what they typically spend on membership dues, CLE credits either with NYSBA or through another provider, and additional resources throughout the year, they could actually save money with their membership since they could complete ALL of their CLE requirements under this plan... among other amazing benefits.

Q: What is the advantage of the subscription model for the association?

Michelle: The association will maintain an ongoing relationship with members and continually demonstrate the value of belonging. It will also give the association a more predictable source of revenue and that will lead to an increase in membership because subscribers are more likely to stay members. In addition, the subscription model will simplify the process for joining and renewing.

Q: Will law students, newly-admitted lawyers, retired attorneys and paralegals continue to pay less than lawyers in the prime of their careers? What will the impact be on sustaining members?

Clotelle: We are not planning to charge retired members or paralegals or sustaining members any more than they are paying now. Law school students will continue to be free. Newly-admitted attorneys will still be free but can opt to pay more to include more services. Government, non-profit, and public interest attorneys are welcome to submit a dues waiver request.

Q: What isn't included in the subscription plan?



Left to right, Membership Committee Co-Chairs Michelle Wildgrube and Clotelle Drakeford speak to the House of Delegates.

Michelle: Because of the expenses involved, in-person events such as section destination meetings, in-person CLEs, and Annual Meeting would be omitted from this model and require an additional fee should a member choose to register. But because there has been a trend toward virtual programming – spurred in part by COVID – many members will pay nothing more or their increased costs will be negligible. Surveys have shown that the majority of our members want virtual programming to be an option. Many prefer it. But that isn't to say that the association is moving away from in-person programming. We still believe that's vital for a membership organization.

Q: Would the model be available to firms for purchase?

Michelle: That's a great question. We absolutely see firms taking full advantage of this, particularly if they are already paying the membership fees for their attorneys or spending additional money on CLEs for their team. Some firms would not only save thousands of dollars going this route based on existing CLE expenses and additional resource library expenses, but there are potential savings that may traditionally go unrecognized, such as possibly saving on liability insurance premiums if all firm members are part of the New York State Bar Association.

Q: What impact would the subscription model have on the association's many sections?

Clotelle: The sections have a lot to gain from the subscription model. They can look forward to an increase in membership because of the two complimentary section memberships included in the model and the flat \$25 fee to join each additional section. Plus, sections are going to receive royalties from the association based on a formula that takes into account overall NYSBA membership and section membership.

Q: What impact would the subscription model have on the association's CLEs?

Clotelle: With so many CLEs included in the cost of membership, we anticipate that CLEs will have a larger audience and that will make our speakers even more influential than they already are.

Q: What else should members know about the subscription model?

Michelle: Annual membership also includes 40 plus section newsletters, 400 plus CLEs, 150 plus informational programs, six Bar Journals, two editions of the State Bar News, 52 NYSBA Weeklies, 12 New York State Law Digest Newsletters and 20 plus printed resources including hundreds of online forms.

Clotelle: Many of our members don't know how much we offer but by going to the subscription model, they will be able to take full advantage of everything we do without worrying about the cost.

NYSBA Recommends Reducing Reliance on Prisons and Courts as the Primary Treatment for People With Mental Illness

By Rebecca Melnitsky

The legal system needs to move away from its role as the primary treatment for people with mental illness, the New York State Bar Association recommends in a report.

In the report, the Task Force on Mental Health and Trauma Informed Representation detailed the many ways that people in crisis end up entangled in the legal system. The association's governing body, the House of Delegates, approved the report at its meeting on June 10 in Cooperstown.

"The conversation around mental health is ongoing and evolving," said New York State Bar Association President Richard Lewis. "The New York State Bar Association is leading the way with this timely and thorough report. Our work will continue to help to make sure that all people living with mental illnesses and trauma are able to access support and resources to live a full life. As the most vulnerable among us, they deserve dignity and respect, especially in courtrooms and treatment centers."

The report recommends that:

- Criminal courts divert people in a mental health crisis away from incarceration.
- Judges and juries receive more training on implicit bias.
- Lawyers and law students be taught trauma-informed best practices.
- Funding be increased for beds in treatment centers.
- Data be collected on indi-

viduals with mental illness who end up in the justice system.

- The New York State Bar Association create a permanent standing committee on mental health.

The report also recommends amending Article 81 in New York State's Mental Hygiene Law to explicitly include supported decision-making principles in which trusted people help an individual with mental disabilities and/or guardianship needs. The goal is to maintain a person's independence and autonomy through the least-restrictive means possible.

The report also calls for "seamless systems" between the mental health, criminal justice, and civil justice systems. That way, instead of being left to navigate separate and complex programs, an individual can enter at any point and access the full range of services.

"Over the past year, we have had the privilege of working with many of New York State's foremost experts on the law and behavioral health," said the co-chairs of the task force, Joseph A. Glazer, the Westchester County deputy commissioner, Department of Community

Mental Health, and Shelia E. Shea, director of the Mental Hygiene Legal Service, Third Judicial Department. "As we seek endorsement by the full bar association, we want to express gratitude to those who have been part of the work, those who have reviewed it with a keen eye and our colleagues who collectively will use it as a tool to make our system more just for those living with behavioral health needs."



New York State Bar Association Recognizes Legal Professionals for Commitment to Recovery

By Rebecca Melnitsky

The New York State Bar Association honored former Kings County Supreme Court Justice Sarah “Sallie” Krauss and William “Bill” Keenan for their commitment to the association’s Lawyer Assistance Program, which supports lawyers and legal staff dealing with mental illness and substance use issues.

“Justice Sarah Krauss and William Keenan both embody the principles of the Lawyer

2006 to 2009 and was an active volunteer and committee member from 1990 until her recent retirement. She was a stalwart at 12-step meetings and a beacon of hope to many.

The Franklin P. Gavin Memorial Award was established in 1991. It is given to a person who has demonstrated outstanding support of the goals of both the Lawyer Assistance Committee and the Lawyer Assistance Program.

Keenan received the Raymond P. O’Keefe award in

“Justice Sarah Krauss and William Keenan both embody the principles of the Lawyer Assistance Program, including support, community, service and recovery.”

— President Richard Lewis

Assistance Program, including support, community, service and recovery,” said New York State Bar Association President Richard Lewis. “It takes strength to overcome such struggles, to be open and honest, and then go on to help others as well.”

Krauss received the Franklin P. Gavin Memorial Award in recognition of her decades of service with NYSBA’s Lawyer Assistance Committee. She served as committee chair from

honor of his commitment to the principles of recovery and the hope it brings. He was an example of how to lead a productive life as a lawyer in recovery, and an inspiration to many through his spirit of generosity and kindness to everyone. He was a real estate attorney in Buffalo for more than 60 years.

Keenan died in 2020. His daughter, Mary Clare Keenan, accepted the award in his honor.



David Pfalzgraf, former chair of the Lawyer Assistance Committee, presented the Raymond P. O’Keefe award to Mary Clare Keenan, who accepted in honor of her father Bill Keenan.

The Raymond P. O’Keefe award is given posthumously in honor of a deceased committee member who has made an outstanding contribution to lawyer assistance efforts through dedicated service.

The awards were presented on May 20 at the Lawyer Assistance Program retreat weekend at Silver Bay in Lake

George, NY. The Lawyer Assistance Program retreat weekend began in 1991 to help lawyers in recovery build community, dive deeper into their recovery, and to show those in need the path to hope and joy. The retreat has since expanded to include those impacted by other conditions such as depression, grief and anxiety.



New York State Bar Association Commends Legislature for Passing Bill Dropping Notary Requirement for Sworn Statements in Civil Cases

By Jennifer Andrus

At the urging of the New York State Bar Association, the state Legislature passed a bill lifting the burdensome requirement to have sworn documents notarized in a civil court case, bringing New York in conformance with federal requirements. If the bill is signed into law, it would reduce costs for New Yorkers and make it less difficult for litigants representing themselves and those who don't have easy access to notaries.

Under current law, even litigants who choose remote notarization must pay up to \$25 per document, and it is impossible for anyone without reliable broadband access to have documents notarized remotely. This disproportionately affects low-income people -- often those in communities of color -- and deepens New York's digital divide.

"The New York State Bar Association has fought for this new law for years because it is an issue of fairness and access to justice," said New York State Bar Association President Richard Lewis. "We urge Gov. Kathy Hochul to sign this commonsense measure into law."

Current law only exempts lawyers, doctors and people living outside the United States or in the U.S. Territories from the notarization requirement for sworn documents. If the bill becomes law, New York will join several other states and the federal government that only require litigants to swear to the truth of their documents under penalty of perjury.

"Requiring sworn documents to be notarized serves no benefit for the justice system. It only presents another hurdle for people to overcome, and increases the costs of litigation," Lewis said. "The removal of this requirement will dramatically increase access to justice for needy New Yorkers and make it easier for all New Yorkers involved in civil cases."

2023 HOD Meeting in Cooperstown



Presiding Justice Elizabeth Garry, Appellate Division, Third Department congratulates Richard Lewis and his family following the swearing in ceremony.



Left to right, Harry Meyer, Kathy Suchocki and Colleen R. Pierson.



Left to right, Hon. Gregory R. Gilbert, Thomas Maroney, Jean Marie Westlake and Don Doerr.



Left to right, Mark Berman and John Gross, chairs of the Task Force on the Post-Pandemic Future of the Profession, present the task force's report.



Emily Lewis (left) and Anna Lewis surround President Richard Lewis and his wife Lori.



President-Elect Domenick Napoletano joined by Brian Kane and June M. Castellano.

2023 HOD Meeting in Cooperstown



Left to right, President-Elect Domenick Napoletano, Secretary Taa Grays, President Richard Lewis and Treasurer Susan Harper pose at the National Baseball Hall of Fame.



Stuart Larose and John T. McCann.



Left to right, Max Miller, NYSBA Executive Director Pam McDevitt and NYSBA Past President Michael Miller.



Jean Marie Westlake and President Richard Lewis.



Left to right, Ignatius Grande, Sarah Gold and Scott Gold.

2023 HOD Meeting in Cooperstown



Meg Gilmartin, Jonathan Mohring, Mattalyn Carollo and Connor Reale enjoying their time in Cooperstown.



Michelle and Thomas Maroney.



Richard Lewis giving his first president's report to the House of Delegates.



Susan Harper presents her Treasurer's Report.



Andrew Kossover and Catherine Christian present the findings of the Task Force on Modern Criminal Practice.

2023 HOD Meeting in Cooperstown



Past NYSBA President Vincent E. Doyle, III and Damaris Hernandez update delegates on the work of the Special Committee on the Selection of Judges for the Court of Appeals.



Membership Committee Co-Chair Michelle Wildgrube seeks House of Delegates' approval for changing NYSBA membership to a subscription model.



Presiding Justice Elizabeth Garry of the Appellate Division, Third Department, catching up with Richard Lewis following a reception marking the first day of his presidency.



NYSBA Secretary Taa Grays joined by Hugo Falardo-Ramos.



Members of the House of Delegates at the association's summer meeting in Cooperstown.



Lori and Richard Lewis enjoying his reception in Binghamton.

Discussing the Declining Caseload at the Court of Appeals

By Rebecca Melnitsky

Over the past several years, the number of cases taken on and decided by the Court of Appeals, New York's highest court, has declined. In 2016, the court decided 225 cases. This decreased to 142 in 2017, 136 in 2018, 108 in 2019, to 96 cases in 2020. In 2021, the Court of Appeals decided 81 cases – 37 civil and 44 criminal. Dispositions went up slightly in 2022, totaling 91.

An Albany Law Review article by James Pelzer and Thomas Newman – members of the New York State Bar Association's Committee on Courts of Appellate Jurisdiction – pointed out this recent decrease to the public.

"If you leave out 2021 on the ground that it was influenced by COVID, 2022 is still the lowest... in the recorded history of the statistics of the court," said Pelzer.

The Committee hosted a discussion about the decline in caseload and its implications, as well as other factors affecting the Court of Appeals and the Appellate Division – such as the role of concurrences and dissents in the court, the different processes to grant leave in civil and criminal cases and what makes a case "leaveworthy" – at a discussion at the Bar Center in Albany. The panel was moderated by Pelzer and Denise Hartman, acting justice of the Albany County Supreme Court.

The panelists included:

- Former Court of Appeals Judge Robert Smith.
- Former Court of Appeals Judge Eugene F. Pigott, Jr.

- Former Appellate Division, First Department Judge Rosalyn H. Richter.
- Albany Law School Professor Patrick Connors.
- Appellate Attorney (Civil) Brian Shoot.
- Appellate Attorney (Criminal) William Kastin.

In the first half of the 1980s, the Court of Appeals had an average annual caseload of over 700. In 1982, the MacCrate Report recommended changing the grant process for civil appeals from appeals as of right to allowing the court discretion in granting appeals. At the time, the civil appeals took over half of the court's docket. The court adopted these changes in 1986, and by the end of Chief Judge Sol Wachtler's tenure in 1992, the annual caseload had fallen to an average of 345.

"In February of 1991 the court heard 40 cases over seven days," said Connors. "In February of 2023 the court heard nine cases over three days. I can't speak to the cause for that, but it's very hard for me to believe that the number of cases in our New York State court system that are leaveworthy has diminished to that degree."

Most panelists agreed that 200 cases a year was a good number – which was the same number suggested in 1899.

The Court of Appeals was created in 1847 as a court of last resort, while the Appellate Division was created in 1894 to review appeals from the lower and trial courts, thus relegating the Court of Appeals to only review questions of law.

Granting Criminal Leave Applications

Criminal dispositions, while on the decline, rose slightly during the tenure of Chief Judge Jonathan Lippman but fell again during Chief Judge Janet DiFiore's tenure. New York is one of only four states where only one judge decides whether to grant or deny criminal leave applications. Most other states require the full bench to review applications.

"I would get 300 [criminal leave applications], as everyone else would," said Pigott. "There's roughly 2,100 a year. I have no idea what the other six got. And they don't know what I got. So if I'm granting leave in a case, it's coming whether anybody likes it or not. And if I deny leave, it's not coming, whether anybody likes it or not... that's why I think it's got to change."

In one instance, Pigott explained, he received a leave application because the judge who was originally assigned had died. The case concerned Anthony Oddone, a college student who had gotten into a fight with a bouncer. The bouncer was seriously injured and died two days later.

Oddone was found guilty of manslaughter and sentenced to 22 years in prison. Whereas the original judge had denied leave, Pigott granted it. The Court of Appeals unanimously reversed the conviction, and his sentence was eventually reduced to time served.

Pigott learned that Oddone later married, had two children and was working in Manhattan. "That's a whole lot better than being in Sing Sing for the next 15 years," he said.

Kastin said there's a perception in many criminal appeals offices that applications are granted based on "luck of the draw" and which judge is assigned to review. "I have a feeling of worry and concern because in the criminal appeals context, the stakes are so high," he said. "And the way that leave is set up currently, where only one judge can make a determination – as opposed to the civil context when there are many judges viewing a civil leave application – is incredibly troubling because of these consequences. We're not talking about money. We're talking about liberty or a fair trial."

Smith said that there's resistance to changing the number of judges who review criminal leave applications because of the perception that it would create more work.

During the question-and-answer portion of the discussion forum, Rowan Wilson, the newly installed chief judge of the Court of Appeals, submitted a question online, asking if it would be better for the losing party to pick which judges review their leave applications or get assigned two random judges. The panelists said it would be to have applications assigned at random so one judge would not get a disproportionate number of leave applications.

Wilson said during his Senate confirmation hearing that he would like to have the Court of Appeals take on more cases.

Fighting for Human Rights in Iran: Pursuing Justice and Accountability

By Jennifer Andrus

The death of Kurdish-Iranian Mahsa Jina Amini while in custody of the Islamic Republic of Iran in September 2022, and the subsequent executions of protestors by the Islamic Republic, has brought renewed interest in human rights in Iran.

The International Section of the New York State Bar Association held the first of a two-part series to address recent developments in international human rights law in April. The speakers also addressed mechanisms for accountability for perpetrators of human rights crimes and justice for victims. In addition, the speakers presented recent actions taken by the United Nations to address these crimes, and steps that lawyers and members of the public can take to effect change.

Professor Azish Filabi, chair of the NYSBA International Section, who is of Iranian descent, opened the event with a short history of human rights abuse in Iran including current reports of extra judicial killings of protestors and poisoning girls attending school.

"This has become a women-led revolution. The protests have been unified around the concept of 'women, life, freedom,'" she said.

Panelists Gissou Nia and Nushin Sarkarati focus on human rights in Iran in their work at the Strategic Litigation Project of the Rafik Hariri Center & Middle East Programs at the Atlantic Council.

Civil Litigation and Sanctions

There are several limitations to prosecuting war crimes in the United States. To pursue a civil case, a victim must be a U.S. national or of dual nationality when the abuse occurred. The accused perpetrators, often government leaders, must set foot in the U.S. to face charges, and trial by absentia is not an option in American courts. There is a movement in Congress to open the plaintiff class for torture cases, expanding the law to allow those who are U.S. nationals at the time they file a claim, not at the time of the torture, to pursue legal action. Nia says even if an Iranian leader visits the United Nations in New York, they are protected by diplomatic immunity.

Despite these barriers, Nushin says pursuing litigation is still beneficial. "An indictment sends a strong message that the U.S. recognizes the human rights violations and publicly identifies the perpetrator. Even if the per-

son does not come to the U.S. to face trial, an indictment can lead to an Interpol red notice, which will limit a person's ability to travel," Nushin says.

Nushin adds that coordination of sanctions between nations and the freezing of assets in the U.S. are additional tools that are not affected by diplomatic immunity. "There has been movement toward seizing assets, not just freezing them. It's another punitive step against Iran that could make them take these sanctions seriously."

United Nations Fact Finding Mission

After years of inaction, the United Nations recently created a UN Human Rights Council fact finding mission to Iran. The small team has a mandate to investigate human rights violations while collecting and preserving evidence of crimes. Its work is slated to end in March 2024 but many human rights groups are advocating for an extension to this deadline. According to the panel, the Islamic Republic is unmoved by international pressure to grant women's rights. "The Islamic Republic is very proud of these laws. They are doubling down on this framework," said Nia.

Supporting the MAHSA Act

Many attendees asked the panel how they can help this cause. Both panelists encouraged reaching out to members of Congress to pass the MAHSA Act. Introduced earlier this year, it mandates that President Joe Biden perform a review of targeted sanctions against Iran. Some leaders are only listed on the terror watch list and not as human rights violators. This review would add additional war crimes to the offenses for those leaders. The MAHSA Act would also open opportunities to civil litigation for victims and legal processes to freeze and potentially seize assets for the compensation of torture victims.

The MAHSA Act is still in the House Foreign Affairs Committee chaired by Michael McCaul of Texas. New York Congressman Mike Lawler from the Hudson Valley is also on the committee. Expressing support for the bipartisan bill can help move it out of committee to the House floor.

Both panelists encourage attorneys to seek out pro bono work in their communities by helping immigrants and those making humanitarian parole requests.

Part two of the Human Rights in Iran panels will take place this fall on the topic of universal jurisdiction and the implications of the Hamid Nouri trial in Sweden. Hamid Nouri is an Iranian official detained in Sweden and found guilty in connection with his actions as a key figure in the 1988 executions of Iranian political prisoners, a massacre of reportedly between 2,800 to 30,000 Iranians.



Building Value For Blighted Buildings On The Blockchain

By Rebecca Melnitsky

Virtual art can be used to freshen up blighted buildings – and add value.

Ernest Chrappah, director of the Washington D.C. Department of Buildings, discussed adding art installations to vacant properties – and making that art available in the metaverse – at a panel during the New York State Bar Association’s Web3 symposium at New York University’s School of Professional Studies.

Professor Marc Beckman of NYU and founder of DMA United, Professor Elizabeth Haas of NYU’s School of Professional Studies Metaverse Collaborative and Matthew Kimber, lead lawyer on the Digital Assets Project

and the DAOs (Decentralized Autonomous Organization) Project with the Law Commission of England and Wales, joined the discussion.

“[Blight] is a challenge in any city,” said Chrappah. “The traditional way of tackling that problem was fines and penalties, but it also has diminishing returns. So we had to rethink how to make a positive contribution to that space without making a big investment.”

Chrappah said that he first got interested in the metaverse during the pandemic. When he was unable to go to traditional workouts, he found that virtual workouts were as good as being outside.

“So I experienced the power of the metaverse in a very per-

sonal way,” said Chrappah. And that got him thinking about how such technologies could be used to solve problems in the city.

In a public-private partnership with DMA United and Arena Social Arts Club, the work of local artists was placed on the exteriors of blighted, vacant buildings. For the next step, the art was converted into NFTs – minted non-fungible tokens – so interested parties could also purchase the art digitally.

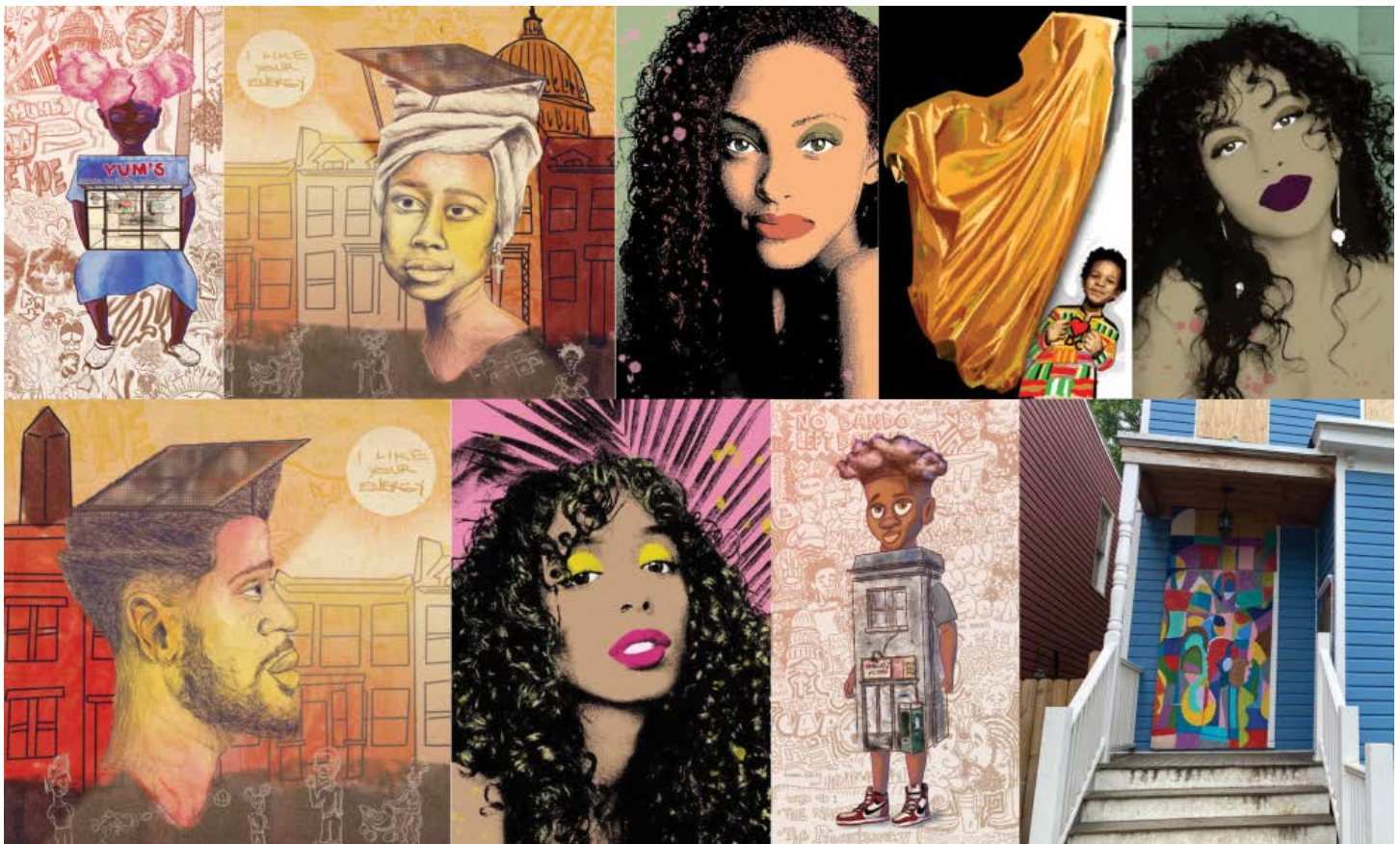
“You go from an eyesore to something much more nicer and beautiful,” Chrappah said about the properties.

The Vacant-to-Visual program started its pilot phase in summer 2022 with eight properties and has since expanded to another eight buildings.

Chrappah said that the goal is to return these buildings – and future properties added to the project – to productive use.

This project benefits the city, as it gets people interested in these properties, while also benefiting the artists, who get paid for their initial artwork as well as any sales of their artwork on the blockchain. The project focused on recruiting artists of color and from underrepresented communities.

Also, an AI tool reviews plans to make sure they are in line with city codes – doing work in four minutes that would take a human four hours.



Chief Judge Rowan Wilson Addresses New York State Bar Association Pro Bono Honorees on Law Day

By Jennifer Andrus

The New York State Bar Association honored lawyers who have made an exceptional commitment to serving the public good during the 32nd Annual President's Pro Bono Service Awards on Law Day.

The mood was festive as leaders from the bench and the bar, along with New York State Attorney General Letitia James gathered at the Elk Street Bar Center following the Law Day event at the Court of Appeals. The event recognizes attorneys who volunteer their time and expertise for a wide range of causes --- including LGBTQ+ rights, fair housing, family law and immigrant rights.

"It is fitting that each year on Law Day, we present the President's Pro Bono Service Awards to honor the attorneys, law students, law firms and justice programs that have provided extraordinary pro bono service," said New York State Bar Association Immediate Past President Sherry Levin Wallach. "We come together to celebrate our profession and its service to others while renewing our commitment to provide representation to all."



One of the highlights of the awards ceremony was a keynote

address by Chief Judge Rowan Wilson (bottom left), who the state Senate confirmed as New York's new chief judge in April. He praised the awardees for their work in public service and reminded those gathered of a lawyer's duty to seek justice and to spread the good works to their communities.



Michael Freer (above), a British Under Secretary of State for the Ministry of Justice, attended along with a delegation from the UK. Minister Freer lauded the cooperation between the legal communities in the UK and U.S. on issues ranging from human rights to access to justice, and the use of technology to bridge the gap in access to justice. He closed by saying "together we can be stronger than we are apart."

"We are honored to host a visit from Minister Michael Freer at our bar center," Levin Wallach said. "It is a historical moment because it is the first time that an international delegation of bar leaders has joined us for this event."

2023 President's Pro Bono Award recipients:

First Judicial District (Manhattan)

Andrew Kissner is a New York City attorney whose practice focuses on business insolvency. He has an active pro bono practice helping tenants when their landlords are in Chapter 11 bankruptcy and has represented ICE detainees in asylum proceedings.

Second Judicial District (Brooklyn)

Annette Saviet worked as a principal appellate attorney for the Appellate Term, Second Department, retiring in 2021. Before that, she worked as a staff attorney for eight years at The Legal Aid Society of Rockland County, where she continues to volunteer in her retirement.

Third Judicial District (Albany, Columbia, Rensselaer, Greene, Schoharie, Sullivan, Ulster counties)

Jonathan P. Whalen is a corporate attorney in Albany focusing on commercial transactions and real estate. Whalen provides pro bono legal advice to Capital Region clients under the Legal Aid Society of Northeastern New York's Private Attorney Involvement program.

Fourth Judicial District (Clinton, Essex, Franklin, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren, Washington counties)

Martin S. Finn is an attorney and certified public accountant

and founder of the firm Lavelle & Finn in Schenectady. Finn advises clients on estate, financial, tax and business issues. He is recognized for his volunteer work with Siena College and community service in the field of professional education in Schenectady County.

Fifth Judicial District (Herkimer, Jefferson, Oneida, Onondaga, Oswego counties)

Jennifer Powell, of Fabius, recently retired following a 30-year career in legal public service in the NYS Mental Hygiene Legal Service and Department of Environmental Conservation. In addition to her service to New York State, Powell served as an officer in the Navy's Judge Advocate General Corps, stationed at Naval Submarine Base Groton, Connecticut.

Sixth Judicial District (Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga, Tompkins counties)

Katherine A. Fitzgerald is a member of Hinman, Howard & Kattell in Binghamton practicing in matrimonial and environmental law. Fitzgerald is recognized for her volunteer work at the State University of New York at Binghamton and the Rose Land Conservancy Board.

Seventh Judicial District (Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne, Yates counties)

Carolyn Nussbaum of Rochester is a partner in Nixon Peabody's Complex Commercial Disputes group. She is an experienced litigator in consumer and class action matters. She is a volunteer on the Commercial Division Advisory Council and the Pandemic Practices Working Group of the Commission to Reimagine the Future of New York's Courts.

Ninth Judicial District (Dutchess, Orange, Putnam, Rockland, Westchester counties)

Ivan O. Kline is an experienced federal and state court litigator specializing in securities fraud, business contracts and insurance disputes. In addition to his practice, Kline counsels individuals and corporations on employment and contractual matters.

Tenth Judicial District (Nassau and Suffolk counties)

Jeannie M. Henry is the principal of the Law Offices of Jeannie M. Henry, in Ronkonkoma, focusing on education, matrimonial and family law. Since opening her practice, Henry has dedicated hundreds of hours helping people with family law matters as part of the Nassau/Suffolk Law Services Pro Bono Project.

Eleventh Judicial District (Queens County)

Stephen David Fink has a diverse practice with an emphasis on family law in the New

York City metro area. He is honored for his 45 years of service to the bar.

Young Attorney

Kristen Woll of Westchester left a career in finance to raise her two young sons as a full-time at-home parent. After many years of community volunteering, she entered law school and interned at the Pace Women's Justice Center in White Plains. Following her graduation in 2020, Woll continued volunteering at the justice center's walk-in clinic, helping abuse survivors navigate the legal system.

Senior Attorney

Eileen Katz of Buffalo made her mark in private practice and then committed more than 30 years of service in family law working for the Neighborhood Legal Services. Katz has been involved in the gay rights movement for 50 years, while also volunteering weekly at the Center for Elder Law and the Justice Senior Legal Advice Helpline.

Law Student

Felicia Gaon is enrolled in the Flextime program at Touro University's Jacob D. Fuchsberg Law Center. Her work focuses on advocating for access to free and appropriate education for students with disabilities. This year, she gained valuable experience working in Touro's Education and Youth Justice Clinic and the Special Education Unit at the New York Legal Assistance Group.

Law School Group – Albany Law School OUTLaw Group

Albany Law students formed OUTLaw to serve the needs of the school's LGBTQIA+ community. OUTLaw's mission is to

educate the Albany Law community on issues relating to the queer community, as well as to provide a safe atmosphere for LGBTQ individuals, and their allies. This year OUTLaw is recognized for working with the Legal Aid Society of Northeastern New York to help transgender individuals change their names.

In House Counsel Arthur J. Siegel

Art Siegel of Albany has practiced law in the state and federal courts for the past 35 years and recently retired from private practice as general counsel to Bond, Schoeneck & King. Siegel has devoted countless hours to the Legal Aid Society of Northeastern New York in many leadership roles including his current role as the organization's volunteer general counsel.

Small Law Firm Serotte Law

Attorneys at Serotte Law in Buffalo, with their exclusive focus on immigration matters, have an established network of partners around the world. Their team of nine attorneys and 22 support staff represent a diverse range of clients, from large corporations to small startups seeking initial funding.

Mid-sized Law Firm Hodgson Russ

This Buffalo firm is recognized for its tireless work on behalf of Afghan families escaping the Taliban and resettling in Western New York. With the help of the Erie County Bar Association's Volunteer Lawyer Project, Hodgson Russ' attorneys and support staff worked more than 1000 pro bono service hours over five months. They prepared asylum applications as well as tax and benefit assistance to the new residents.

Large Law Firm Cleary Gottlieb Steen and Hamilton

In 2022, the firm logged 82,000 hours serving more than 600 pro bono and public service clients around the world. Cleary Gottlieb Steen & Hamilton focuses on advancing racial justice, economic equity, and human rights. The firm also supports New York City's small businesses and nonprofits in transactional matters. Internationally, the firm works with NGOs on refugee and humanitarian relief.

Attorney Professionalism Award Dorian Glover

The ceremony also features the presentation of the Attorney Professionalism Award on behalf of the association's Committee on Attorney Professionalism.

Dorian Glover works as a mentor to young people in his Nassau County hometown of Hempstead, serves as the legal adviser to Valley Stream and Roosevelt High Schools and volunteers as a judge in the New York State Mock Trial competition.

While balancing his solo practice and volunteer work, Glover is also a leader of the Nassau County Bar Association and the Prince Hall Masonic Fraternity. Elected president of the Nassau County Bar Association in 2020, he guided members through the pandemic with skill, grace and a positive attitude. The Nassau County Bar Association increased membership under his leadership.

NYSBA Special Committee Seeks Input on Court of Appeals' Judge Selection Process

The co-chairs of the New York State Bar Association's Special Committee on the Selection of Judges for the Court of Appeals presented an informational report to the Executive Committee and House of Delegates during the association's summer meeting in Cooperstown.

The special committee is chaired by Vincent E. Doyle III, a past NYSBA president who is a commercial litigator at Connors Buffalo, and Damaris Hernandez, a litigation partner at Cravath, Swaine & Moore in New York City.

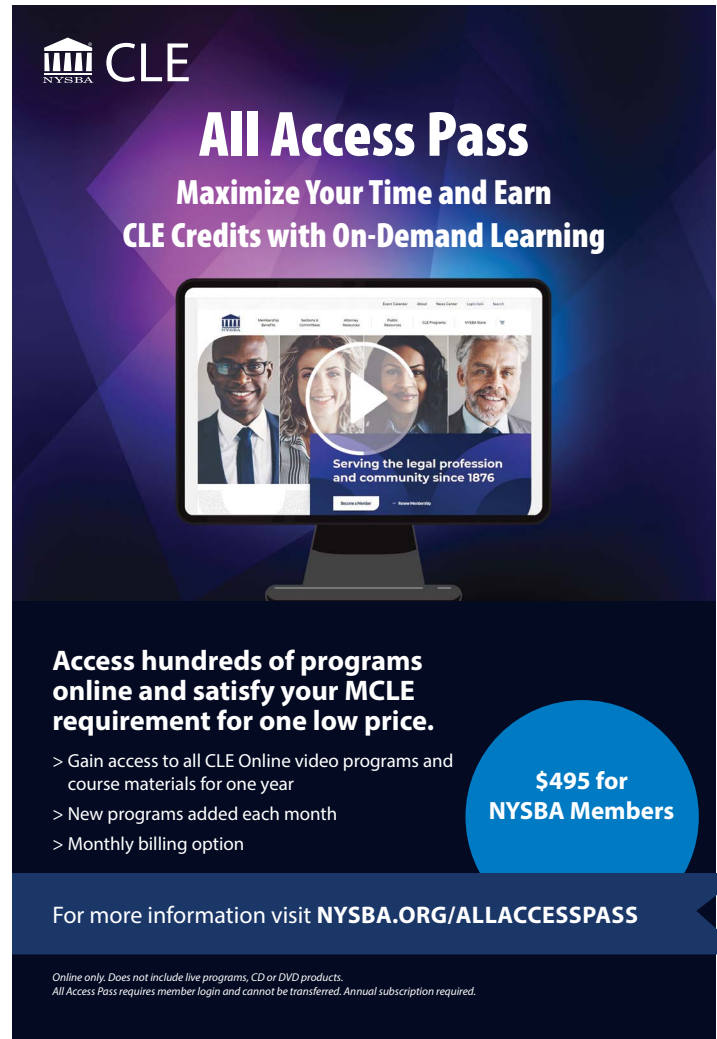
The special committee would like to hear from anyone with input on the process, particularly any who have been through the application or nomination process. Comments can be received confi-

dentially. Those interested in commenting can contact committee liaison Kathy Suchocki at 518-487-5590 or ksuchocki@nysba.org.

Once the committee completes its review of the process for selecting judges, it will make recommendations to the association's governing body, the House of Delegates.

When the committee was established in January, the New York State Bar Association's Executive Committee reaffirmed that the rule of law and the independence of the judiciary are crucial to the administration of justice.


"It is of the utmost importance to public confidence that there is a fair process that allows the judiciary to operate independently and effectively," the committee said in a statement.



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Finances

NYSBA Finances

The New York State Bar Association is committed to being accountable to its members and the public for its finances.

The association works hard to ensure that member dollars are used to create professional, public service, and educational activities and benefits in the diverse and changing legal profession. Copies of the complete audited financial statements for the years 2022 and 2021 are available to members and may be obtained by contacting Kristin M. O'Brien, Senior Director of Finance, kobrien@nysba.org.

ANNUAL REPORT

2022

Revenue and Support:

Dues	\$9,060,000
Annual Meeting	\$446,000
Investment Income, Net	\$1,644,000
Other	\$571,000
Books and Publications	\$1,161,000
Administrative Fees and Royalties	\$2,311,000
Sections	\$2,377,000
Continuing Legal Education	\$2,292,000

Assets:

Cash	\$11,189,000
Investments	\$46,904,000
Property and Equipment	\$5,259,000
Other Assets	\$2,895,000

New York State Bar Association Launches Non-Attorney Paralegal Affiliates

By Rebecca Melnitsky

Beginning May 1, 2023 The New York State Bar Association opened new opportunities for non-attorney paralegal affiliates to join.

“Paralegals are valued and essential members of our community,” said Sherry Levin Wallach, immediate past president of the New York State Bar Association. “Lawyers and paralegals need to work closely with each other to deliver the best possible service for our clients. Being part of the same association will provide both lawyers and paralegals a better understanding of our shared challenges and capabilities.”

The association’s House of Delegates voted earlier to allow paralegals to join as non-attorney affiliates.

Paralegal affiliates will receive resources, professional development materials and discounts on Continuing Legal Education courses. The association is also entering into a partnership with the Institute for Paralegal Education, a division of the National Business Institute. Paralegal affiliates will be able to access over 200 live and on-demand programs and receive a 50% discount on services.

Non-attorney paralegal affiliates may join the Association for \$100 annually. To learn more and sign up, visit NYSBA.ORG/nysba-for-paralegals.



Into The Metaverse: Discussing Legal Issues in Web3 Technologies

By Rebecca Melnitsky

Web3 is set to reshape the practice of law. These technologies, which include the blockchain, cryptocurrency, smart contracts, the metaverse, and non-fungible tokens (NFTs), were discussed at a two-day symposium hosted by New York State Bar Association and the Metaverse Collaborative at New York University's School of Professional Studies.

"We must understand the technology itself and embrace it to allow us to better represent our clients and support our communities," said immediate past president Sherry Levin Wallach. "To be leaders and innovators, lawyers must continue to embrace novel technologies and new ways of conducting legal practice in our ever-evolving world."

The symposium, which included more than 30 worldwide experts, opened with remarks from Anthony Cannataro, associate judge of the Court of Appeals.

Matthew Kimber, lead lawyer on the Digital Assets Project and the DAOs Project with the Law Commission of England and Wales, and Jacqueline Drohan, co-chair of the Bar Association's Task Force on Emerging Digital Finance and

Currency spoke about recent cryptocurrency cases from courts in Hong Kong, the U.K. and the U.S.

"These issues are very difficult to isolate to specific jurisdictions," said Kimber on the global nature of such technologies. "We're going to end up working with each other a lot more going forward."

Kimber and Drohan discussed how inconsistent standards from regulators and nations on the status of cryptocurrency had led to confusion for clients and traders. "Two areas of the treasury department state that crypto is not currency," said Drohan. "Whereas the IRS says it's personal property and should be taxed as such."

The Possible Uses of NFTs

As more artists use NFTs to distribute and authenticate their work, issues of ownership and copyright arise. NFTs are distinct pieces of data that are permanently embedded into a blockchain, and can be purchased, traded and/or sold.

A breakout session on NFTs, moderated by Pablo Segarra, founder of Segarra Consulting in the Dominican Republic, featured a discussion between Eliana

Torres, associate in the Intellectual Property practice group of Nixon Peabody, Professor Christopher Sprigman of the NYU School of Law, and Daniel Marcus, founding partner of Hustle Law and professor at NYU.

Sprigman said that while NFTs are useful for determining the chain of custody for data or artwork, they are not as useful for verifying authenticity. However, artists can benefit from NFTs in a way they cannot with traditional physical art – depending on the code and platform, artists may receive royalties every time a piece is resold.

The panel also discussed how NFTs could be used for deeds and property records, and the limits of such use.

"They can reduce the cost of holding property records. They can't prevent fraud any more than paper property records can prevent fraud," said Sprigman. "[NFTs] are going to be manipulable. I don't think it's a technology that solves problems, but it is a technology that can make property records more accessible. And when property records are more accessible, that opens up a whole bunch of potential value... people can understand what property is available more

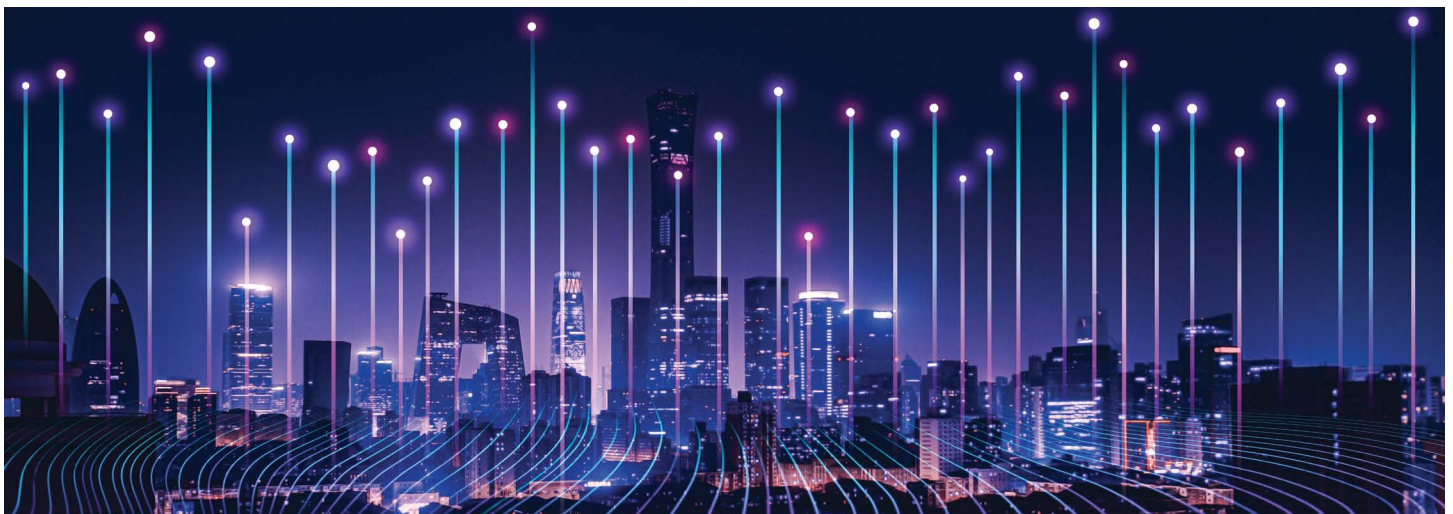
quickly, what zoning rules are attached to it."

Finding a Use For Smart Contracts

Segarra also hosted a panel on the applications of smart contracts, which are coded protocols that automatically execute agreements when certain conditions are met – without needing an outside enforcement mechanism. The panelists included Maria Londono, general counsel at Klym in Los Angeles and co-founder of Disrupt3rs Inc., Michael Kanovitz, partner at Loevy & Loevy in Chicago and CEO at Jurat Blockchains, and Shobaná Iyer, Barrister FCiarb at Swan Chambers in London.

Smart contracts can be used for legal contracts, but at this moment they are best enhanced by natural language, or used for simple transactions that use information that can be accessed by the blockchain.

"A lot of people... started saying 'How can I solve this problem with blockchain?' when the question should be the other way around," said Londono. "Which technology would be the right fit to solve this problem?" Sometimes the answer is blockchain, sometimes the answer is not."



CONNECT YOUR WALLET

Sound 'Real World' Principles Apply in the Web3 and Metaverse Environment

By David Alexander

The evolving landscape of Web3 and the Metaverse presents the same concerns that are embedded in traditional law practice including privacy, copyright, contracts and anonymity. Among the biggest questions are whether new ethics rules are needed or if the principles already in place are applicable.

That was just one of the issues discussed by a panel throughout an hour-long breakout session of the New York State Bar Association's two-day conference entitled "Deep Dive Into the Metaverse: The First Global Law Symposium" that was hosted by New York University's Metaverse Collaborative at The School of Professional Studies in late April.

Jeremy Evans, president of the California Lawyers Association and founder of California Sports Lawyer, moderated the discussion. Steven Richman, partner at Clark Hill; Jason Chung, professor at the NYU Tisch Institute for Global Sport and counselor at Zuber Lawler; and Amanda Katzenstein, product, privacy and Web3 attorney at Salesforce, comprised the panel.

All the panelists agreed on the importance of attorneys under-

standing that the cases involving issues embedded in the Metaverse do not negate standard practice methods.

"Just because you are dealing in the Metaverse, contracts are contracts and you need to be attentive to documentation and writings, and the basic principles," said Richman. "A best practice for clients who are attempting to do business in the Metaverse is that you need to still be aware of traditional concepts. If you have an avatar and it's an extension of you, whether it's your agent or whether it's your alter ego, it could be you; and once you turn your machine off, back in the real world, you may have liability. Law still matters."

Chung affirmed that thought and added that when people are operating in the Metaverse they are not always thinking about potential legal implications.

"Just because something happens online does not mean it turns into a magical box where laws don't apply," said Chung. "One of the things that always comes up is 'we made a deal' or a smart contract came into play but ultimately jurisdictional matters still matter, laws still matter and where everything gets executed still matters."

Katzenstein said the Metaverse presents a unique issue because the anonymity the spaces provides raises moral concerns.

"There are a lot of ethical issues. So many people in the Metaverse are anonymous and it can be used for fraud or money laundering purposes," said Katzenstein. "How do you know who your client is? How do you judge conflicts when everyone is anonymous? When do you break confidentiality in cases of potential money laundering?"

Anonymity also causes a tension between privacy and security because users in the Metaverse at times want to operate freely without being beholden to a central authority, but at the same time, want to have safeguards in place so they may perform transactions with confidence.

"That is a central distinction and problem we are dealing with in real time right now because everything sounds great," said Chung. "I can do whatever I want, nobody can track me and I'm beholden to nobody, but of course we've seen what happens when places go under or fraud happens online and then generally people start thinking insurance is a good thing."

Client confidentiality also remains a key component for any

mediation that may potentially be done in a Metaverse environment, just as it would be in a traditional in-person setting.

"In the real world, you can take a person aside but in the Metaverse you have to ensure that you can have that confidentiality and that you can keep an eye on things," said Richman. "When I first started, I was told never to talk in the elevator and never to talk in the restroom. Now you are in the Metaverse, you have to understand the technology and understand how you can communicate."

Chung emphasized that it is vital for attorneys to have a clear understanding of the digital world before they embark on practicing in it. They need to onboard clients properly and have a clear engagement letter, along with any other mechanisms that would apply in a traditional relationship.

"You have to figure it out, you have to spend the time," said Chung. "You can't just rely on the tech companies to just make a ready-made solution for you because ultimately the person purchasing our services, they are not the ones with licenses, [attorneys] are, and so we have to be diligent and know what tools we are using."

Protecting Same-Sex Marriage After *Dobbs*

By Rebecca Melnitsky

After *Dobbs v. Jackson Women's Health Organization* took away the constitutional right to abortion, could same-sex marriage be next?

When the *Dobbs* decision was released last year, the majority opinion said it was because abortion is not specifically named in the constitution nor "deeply rooted" in the history of the United States. On that day, Associate Justice Clarence Thomas released a concurrent opinion saying that *Obergefell v. Hodges*, which legalized same-sex marriage nationwide, could be overturned on similar grounds.

Justice Thomas also said the rights to birth control (*Griswold v. Connecticut*) and private, consensual sex acts (*Lawrence v. Texas*) could be challenged as well.

A recent Continuing Legal Education course discussed the future of marriage equality under these circumstances. The course was hosted by the LGBTQ Law section, the Elder Law & Special Needs section, and the Trusts & Estates section of the New York State Bar Association.

Volunteers of Legal Service and SAGE, an advocacy and services group for LGBTQ+ elders, sponsored the program.

On December 13, 2022, the Respect for Marriage Act was signed into law, stating that the federal government would continue to recognize same-sex and interracial marriages no matter what the court decides in the future. "Almost like a reverse [Defense of Marriage Act]," said Aaron Tax, managing director of government affairs and policy advocacy at SAGE.

On the state level, the Alabama attorney general's office used the *Dobbs* rationale to argue

for banning gender affirming medical treatment for transgender youth. The president of the Utah state senate said he would support the Supreme Court revisiting same-sex marriage.

"These words matter," said Tax. "The lower courts are looking at them and sometimes trying to use them." He speculated that recent cases, like *303 Creative LLC v. Elenis*, in which a website designer said she would not create wedding websites for same-sex couples, could also be used to chip away at LGBTQ+ rights and protections.

The Benefits of Marriage

"My whole professional career is divided between what we used to do before we had marriage equality," said Thomas Sciacca, a trusts and estates attorney. "And what we started doing after."

Sciacca explained that without a legally recognized marriage, the surviving partner of a same-sex couple would be unable to inherit benefits, challenge a fraudulent will, automatically receive bereavement leave, determine if their partner is buried or cremated, receive wrongful death proceeds, keep custody of children and more.

"We needed to be aware of what the consequences of not recognizing a relationship are," said Sciacca. "What specifically are the rights that are lost."

A surviving partner would also not get the marital tax exemption on property and assets.

"If you have a situation where you have an unmarried couple that's treated separately... the presumption is that the first person to die contributed 100 percent of the consideration to acquire the asset," said Sciacca.

"And therefore 100 percent of it should be taxed in the estate of the first person to die. And this was a complete disaster."

He had one case where two men who were together for 45 years had purchased a brownstone for \$40,000. When one partner died, the property was worth over \$4 million dollars. The IRS wanted to tax the property in the deceased's name even though it was jointly owned.

Luckily, the surviving partner found the original deed from 1968 that had both his and his partner's names on it and proved that they had both paid for the brownstone.

"This is not something that a couple who is able to get married, or have their marriage recognized, would ever face," said Sciacca. "Unfortunately a lot of

times in situations like this, the surviving spouse is faced with this awful decision" to either pay expensive penalties to continue to live in their home, or to move out.

The Right To Make Medical Decisions

Same-sex couples also should consider the protections if they travel to areas hostile to LGBTQ+ rights.

"I am not taking anything for granted," said Sciacca. "Not only for my clients but also for myself." When traveling, he brings a health care proxy document that authorizes his husband to make medical decisions in case local authorities do not recognize his marriage.



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SUMMER 2023
VOLUME 65, NO. 2
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NEW YORK STATE
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New York State Bar Association Upcoming Destination Meetings

Local and State Government Law Section Meeting

September 8-10 | Saratoga Hilton, Saratoga Springs

Environmental & Energy Law Section Meeting

September 26-27, 2023 | Sagamore, Bolton Landing

Trusts & Estates Law Section Meeting

September 28-30, 2023 | High Peaks, Lake Placid

International Seasonal Meeting

October 11-13, 2023 | Mexico City

Elder Law and Special Needs Section Meeting

October 18-20, 2023 | Gideon Putnam, Saratoga Springs

Labor & Employment Law Section Meeting

October 20-22, 2023 | Le Germain Hotel Maple Leaf Square, Toronto