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JOURNAL

ATTORNEY WELL-BEING ISSUE:

Overcoming Loneliness in the Legal Profession

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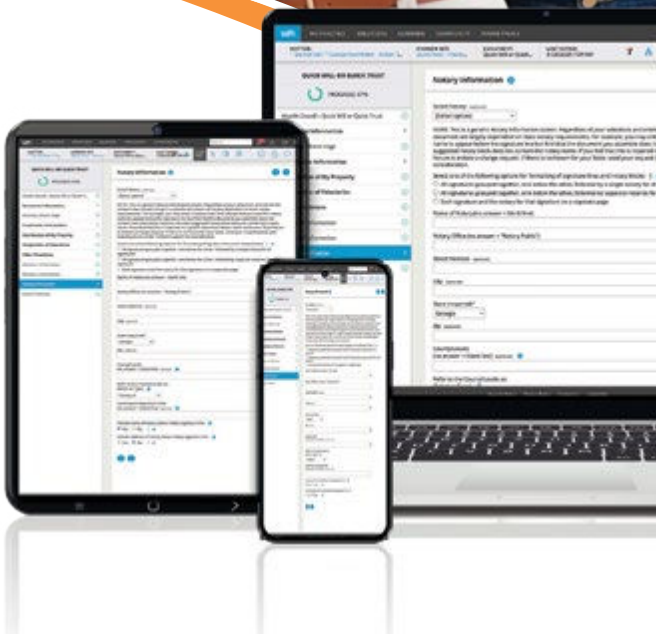

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Your Best Work Starts With You: Put Lawyer Well-Being High on Your To-Do List

"If I can only make it to Friday," I thought while I was coughing, congested and fatigued, "I can sleep in and rest to beat this cold." It was Wednesday. I had several meetings to lead, 20 things on my to-do list to complete and two PowerPoint presentations I needed to finish. I took two more DayQuil liquid gel pills and kept working. I made it to Friday and slept in over the weekend. Did I feel better Monday? Somewhat … it took me four more days before I fought off the cold.

I am sure this is a story you can relate to. Self-care for many lawyers is at the bottom of their to-do lists. We take pride in powering through illness, working late nights or coming in on weekends to stay ahead to get the job done.

The pandemic encouraged a shift in this mindset, moving self-care higher on the list through virtual meetings, remote work and more supportive employers. For many of us, however, it is still not close to the top of the list. Focusing on topics of attorney loneliness, the success of the association's Lawyer Assistance Program, and mental health and the bar exam, this issue of the Bar Journal serves as a reminder that self-care belongs among the top five on your to-do list.

My contribution to this reminder in my inaugural President's Message is to let you know that the association has your back! Our mission is to be the leading voice of the profession by advancing the professional success of our members, equal access to justice and the rule of law. To advance your professional success, I highlight three ways the association can help you put self-care among the top five on your to-do list!

Reframing: Self-Care as a Professional and Ethical Imperative

Historically, attorney well-being was seen as a private matter, often overshadowed by professional duties. The association realized that the stories of our members and data about high levels of substance use and stress in the profession revealed that lack of attention to well-being negatively impacted an attorney's professional duties. Through thoughtful research, the association's Task Force on Attorney Well-Being 2021 Report and Recommendations concluded that self-care is a professional and ethical imperative.

The official position of the association reframes attorney well-being as a collective responsibility for the legal

profession. Self-care is like an airplane oxygen mask: You have to be able to breathe first before you can help others. The report emphasizes attorney well-being's relevance to the duty of competence under the Rules of Professional Conduct.

The report urges legal employers to foster supportive work environments. Prioritizing self-care not only enhances service to clients but also benefits legal employers by reducing turnover, improving client satisfaction and increasing profitability. By viewing wellness as an integral part of professional life, the legal community can create sustainable practices that support both individual lawyers and the broader profession.

Tools: The Committee on Attorney Well-Being

Building on this commitment, the association adopted the task force's recommendation to create a Committee on

Justice Marguerite A. Grays swears in her niece, Taa, as the 129th president of the New York State Bar Association.

Attorney Well-Being to offer practical resources to support attorney wellness. The committee advances key initiatives, including implementing report recommendations, evaluating the Lawyer Assistance Committee's role in cross-committee collaborations and developing outreach programs for attorneys facing formal discipline. The committee advocates for CLE reform – changes to continuing legal education requirements that promote skills development and wellness-focused learning – and expands ethics credit for preventive efforts in public trust and ethics.

Additionally, the committee has created online and virtual resources on self-care, promoting the "Law Firm Roadmap for Well-Being Best Practices" that encourages social and physical activities and collaborating with the court system to establish a referral network of clinicians experienced in treating legal professionals. Together, these efforts demonstrate the committee's proactive approach to embedding wellness practices throughout the legal community, making self-care accessible and integral for attorneys.

The Attorney Well-Being Program is a key resource. Using the Eight Pillars model – which covers mental health, physical health, social connection and other vital aspects – the program provides resources for stress management and burnout prevention. These include a newsletter, digital resources and virtual communities for peer support.

Annual Meeting 2027: Wellness and Self-Care Expo

In addition to ongoing initiatives, the association is launching new events to further promote self-care. "When you don't put yourself first, you're teaching everyone that you come second," says Mel Robbins, a lawyer turned podcaster and self-care advocate. "Your mental health is everything – prioritize it. Make the time like your life depends on it, because it does."

The committee will launch a new program in 2027, encouraging lawyers to start the year with self-care as their focus. Mark your calendars for the 2027 Annual Meeting and the debut of the Wellness and Self-Care Expo – an energizing event dedicated to attorney well-being. The expo will feature seminars on stress management, work-life balance and holistic wellness, as well as vendors showcasing mindfulness tools and healthy lifestyle products. Whether you seek practical strategies or innovative resources, the expo offers a vibrant environment for legal professionals to discover new ways to prioritize their health and embed self-care in their routines.

Save the dates, Tuesday, Jan. 19–Friday, Jan. 22, and take part in this restorative experience. Prioritizing wellness is essential for sustaining long-term success and satisfaction in the practice of law.

Redefining Success in Law

The association is committed to redefining success in the legal profession – moving away from a culture that tolerates burnout, stigmatizes help-seeking and rewards unsustainable work practices toward one that treats attorney well-being as a professional and ethical imperative.

Self-care is not a luxury or an afterthought; it is foundational to a fulfilling and effective legal career. By embracing this ethos, lawyers can sustain their passion for the law, serve their clients with excellence and lead lives marked by balance and well-being.

"Almost everything will work again if you unplug it for a few minutes – including you," observed Anne Lamott, the American novelist and nonfiction writer. For lawyers, this means recognizing the restorative power of self-care: stepping back, even briefly, to regain clarity and effectiveness.

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Overcoming Loneliness in the Legal Profession

By Daniel T. Lukasik

Stress, anxiety, depression. Many lawyers will confront one or more of these mental health issues during their professional lives. Yet what about loneliness, which can also be a serious mental health issue? Despite research suggesting lawyers are lonelier than workers in most other professions, loneliness is barely mentioned, if at all, in discussions about struggling with the pressures of being a lawyer.[1] Perhaps it is because loneliness is seen as more of an emotional wound than a physical one. Yet loneliness can have devastating effects of its own, effects that can impact a lawyer's career and quality of life. This article will examine those effects and what steps a lawyer might take to overcome them.

Over the course of my 35 years as a litigation attorney, there were many times when I felt lonely, carrying the weight of responsibilities that demanded a great deal of my time and the expectations of my colleagues and clients. But early in my career, I developed a number of friendships both inside and outside the firm that eased this burden. Today, the number of lawyers experiencing loneliness is much higher, with effects that are troubling not only for the emotional and physical well-being of individual lawyers but also for the profession as a whole.

The Rise of Loneliness in American Culture and the Law

> As it has built for decades, the epidemic of loneliness and isolation has fueled other problems that are killing us and threaten to rip our country apart.[2]
>
> – Dr. Vivek Murthy, U.S. Surgeon General

Beyond the lives lawyers lead at work, they are part of a wider culture in which the seeds of loneliness are sown long before they enter the profession. In 2023, U.S. Surgeon General Dr. Vivek Murthy sounded the alarm in "Our Epidemic of Loneliness: The U.S. Surgeon General's Advisory on the Healing Effects of Social Connection and Community."[3]

In a letter introducing the urgent advisory, he writes: "Loneliness is far more than just a bad feeling – it harms both individual and societal health. It is associated with greater cardiovascular disease, dementia, stroke, depression, anxiety, and premature death. The mortality impact of being disconnected is similar to that caused by smoking up to 15 cigarettes a day, and even greater than that associated with obesity and physical activity."[4]

In his 2020 book on the topic of loneliness, Murthy further makes an important distinction between social isolation and loneliness, noting that the two are different: "Social isolation is objectively having few social relationships, social roles, group memberships, and infrequent social interactions. On the other hand, loneliness is a subjective internal state. It's the distressing experience that results from perceived isolation or unmet need between an individual's preferred and actual experience."[5]

What this means is that even if you are surrounded by colleagues in a busy office, you can still experience loneliness.

Murthy also makes a distinction between loneliness and solitude: "Loneliness is … distinct from the objective state of isolation. What's missing when you're lonely is the feeling of closeness, trust and the affection of genuine friends, loved ones and community."[6]

According to his surgeon general's report, only 39% of U.S. adults experienced feeling very connected.[7] This was based on experiences prior to the COVID-19 pandemic, when loneliness and isolation increased significantly.[8]

Why does loneliness have such a negative impact on health and well-being? Murthy points to human evolution and how our brains developed:

> Social connection is a fundamental human need, as essential to survival as food, water, and shelter. Throughout history, our ability to rely on one another has been crucial to survival. Now, even in modern times, we human beings are biologically wired for social connection. Our brains have adapted to expect proximity to others. Our distant ancestors relied on others to help them meet their basic needs. Living in isolation, or outside the social group, means having to fulfill the many difficult demands of survival on one's own. This requires far more effort and reduces one's chances of survival. Despite current advancements that now allow us to live without engaging with others (e.g., food delivery, automation, remote entertainment), our biological needs remain.[9]

In addressing the causal connection between loneliness and mental health, Murthy explains how depression and anxiety can cause social isolation as well as be caused by it. A systematic review of multiple longitudinal studies found that "the odds of developing depression in adults is more than double among people who report feeling lonely often, compared to those who rarely or never feel lonely. Furthermore, in older adults, both social isolation and loneliness have been shown to independently increase the likelihood of depression or anxiety."[10]

Does Being a Lawyer Make You Lonely?

> Like so many lawyers, loneliness was an undercurrent during periods of my legal career, a drain on my energy, my health, and – at times – on my ability to be on my game.[11]
>
> – Bree Buchanan

Are lawyers worse off when it comes to loneliness? When compared to most other occupations, the answer is yes. A 2018 Harvard Business Review article reported the results of a survey of more than 1,600 workers on the topic of loneliness, finding that when loneliness and social support were ranked by profession, legal practice was the loneliest profession.[12] More than 61% of lawyers scored above average for chronic isolation, surpassing engineers, scientists, and educators.[13]

More recent studies confirm that loneliness remains a significant problem in the legal profession. A 2023 American Legal Media study found that over 45% of lawyers at firms felt isolated or lonely at work, and 33% felt helpless, trapped or detached from the world.[14] A follow-up survey in 2024 found that loneliness and isolation remained widespread and were closely linked to chronic burnout, overcommitment and industry pressure.[15]

ALM 2025 showed almost 33% of lawyer reported feeling lonely.[16] This year's survey showed little change with over 35% saying they were struggling with loneliness, while over 67% with anxiety, and 34% with depression.[17] Almost 59% felt that mental health and substance abuse are at a "crisis level."[18]

Other surveys have likewise found that law students[19] and judges[20] experience significant loneliness.

Lawyer and wellness advocate Karen Munoz makes an important observation about lawyers who are in racial minorities, noting that according to studies, "minority lawyers disproportionately experience isolation and disconnection in practice."[21]

Loneliness can also be a predictor of suicide risk. The landmark 2023 study, "Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk," surveyed roughly 2,000 practicing attorneys to understand why legal professionals contemplate suicide at twice the rate of the general population.[22] In the introduction to their research findings, the authors reference a 2016 nationwide study of 13,000 practicing lawyers showing they suffer from significantly higher rates of mental health issues, including anxiety (19%), depression (28%), suicidal ideation (11–12.5%), and alcohol abuse.[23]

The survey concluded that the profile of a lawyer at the highest risk for suicide is a lonely or socially isolated male with a high level of unmanageable stress, who is overly committed to their work, and may have a history of mental health problems.[24]

The results should be deeply worrisome to all legal professionals because, as Shawn Healy, a licensed clinical

psychologist with Massachusetts Lawyers Concerned for Lawyers, Inc., writes, "The experience of feeling alone drives addiction, depression, stress, burnout, and relationship turmoil."[25] This observation is borne out by research showing that substance abusers show a much greater incidence of loneliness,[26] as do adults with depression (lonely individuals are estimated to have a 15-30% higher risk of developing depressive disorders),[27] stress,[28] burnout[29] and romantic relationships.[30]

Why Some Lawyers Don't Ask for Help

In light of the research that supports the conclusion that loneliness is a problem in the legal profession, why might lawyers not share their experiences with colleagues?

The resistance to seeking help may have something to do with how U.S. culture views loneliness. Psychologist Jean Twinge explains that people who feel lonely might feel ashamed: "Maybe I'm lonely because I did something wrong, or maybe I should have all these relationships around me … But so many people these days are lonely. It's just the way our culture has shifted."[31]

When it comes to attorneys, Jon Tynjala, a former practicing attorney and now a clinical director with the Minnesota Bar Association's Lawyers Helping Lawyers, writes: "When you add the perceived stigma of admitting weakness by asking for help or confessing the existence of an addiction or other mental health condition, you have the ingredients for a toxic soup of isolation and loneliness."[32]

Rebecca Simon Green, a lecturer and former professor at the University of California, Irvine, School of Law was interviewed on the topic of loneliness in the law and had this to say: "One of the key issues we've seen in the legal profession is that it isn't safe to be emotional, because it's seen as a weakness. There is a sense of loneliness, isolation, sadness, that I'm the only one who can't handle it."[33]

New York State Bar Association at the Forefront

Prevention and removing barriers are the keys to aiding those in need of help because individuals often take their health, including their mental health, for granted until they find themselves in a troubling situation.

The New York State Bar Association addresses this by promoting and providing well-being and self-care programming for its members.

The goals are to increase awareness, reduce stigma, provide practical tools, and to encourage individuals to seek help at the earliest opportunity, according to Lawyer Assistance Program Director Stacey Whiteley.

The association assists lawyers through two programs. The Lawyer Assistance Program provides intervention and support, while its Attorney Well-Being Program focuses on prevention, continued wellness and community building. Services also include a peer support network that consists of trained volunteer attorneys who offer one-on-one, confidential support.

"A lot of the lawyers who call the Lawyer Assistance Program say 'I'm feeling isolated and disconnected, and I don't think anybody else is experiencing what I'm experiencing.' They are concerned about reaching out to other people because they don't think anybody can understand what they're going through. That is loneliness," said Whiteley.

Whiteley added that it is important for individuals to discover opportunities and the impetus to interact with others.

"The biggest benefit of our volunteer peer support is getting that connection. I think once you know that you're not alone, you're able to address the problem. You have some strength from that," she said.

The association's Lawyer Assistance Program has hosted an annual spring retreat in Lake George each May for the past 20 years. The retreat offers a welcoming environment for members navigating mental health challenges and alcohol use recovery.

"With the Lawyer Assistance Committee, we have a lot of first timers coming to our retreat, so what we're doing is pairing up people who have been with us awhile with lawyers who are new to us, and so it's almost like having mentors. That way they're not coming in and feeling more alone and separate," Whiteley said.

Section membership, which is free for up to two sections, is also a gateway for members to connect with their colleagues.

"When you belong to one of our sections, which bring together like-minded people who practice in the same area, you're with people who speak the same language, have had the same experience, so that you have something to talk about right away. You have small talk at the tip of your tongue," Whiteley said.

Small talk, for all its reputation as being superficial, is simply a relatively safe way to strike up a conversation and get to know people. Psychologist Gilliam M. Sandstrom, the author of a book on small talk, argues that small talk can have significant effects on overall well-being as well as help reduce anxiety in social situations.[34]

Strategies To Decrease Lawyer Loneliness and Promote Better Mental Health and Well-Being

1. Talk Therapy and Peer Support

Over the years, as a lawyer, I frequently discussed loneliness with my therapist. When I was the managing part-

ner, my colleagues saw me as extroverted, but inwardly I was more introverted – leaving me professionally isolated. And like so many other lawyers, I struggled with anxiety and depression. Although I appeared confident, I often avoided social interactions, which contributed to my loneliness and sense of shame. I also struggled to communicate with other firm leaders and I felt stressed and pressured, heightening my sense of isolation. Loneliness only fed my depression and anxiety; they made me feel even more alone.

Therapy enabled me to express my feelings openly and offered evidence-based methods to reduce my sense of isolation. A recent study indicates that psychological treatments like cognitive behavioral therapy yield the most significant improvements in reducing loneliness. These therapies develop skills such as cognitive restructuring[35] (reframing negative thoughts about social situations), social skills training[36] (enhancing conversation and boundary-setting), and behavioral activation[37] (gradually boosting confidence through low-pressure community activities), all of which have been shown to be effective.[38]

Mathias Lasgaard, a psychologist and leading global researcher specializing in loneliness and social isolation, addresses the various types of therapy and how they can help:

> Many psychological interventions involve addressing social cognition – how people think about themselves, others, and social situations. Cognitive behavioral therapy addresses this explicitly. For example, a person experiencing loneliness might repeatedly assume that others will reject them or interpret social cues as negative. An intervention may help the individual notice these automatic thoughts, question their accuracy, and replace them with more balanced interpretations. Over time, this could reduce social avoidance, making it easier to build and maintain relationships.[39]

In addition to individual in-person therapy, group and virtual modalities can also help. Both group and virtual therapy have demonstrated significant effectiveness in reducing loneliness. Group therapy addresses feelings of isolation by highlighting the concept of "universality" – the understanding that others face similar struggles – which helps cultivate meaningful, genuine connections that surpass what a mere crowd can offer.[40]

For lawyers with busy schedules that make in-person counseling difficult, virtual therapy – especially internet-based cognitive behavioral therapy – is supported by research showing that treatments targeting maladaptive social thoughts and behaviors can significantly reduce loneliness.[41]

Peer support groups can also foster connection and skills-building in a different way than group therapy led by a mental health worker. Group therapy provides active mental health treatment led by a licensed clinician to diagnose and change behaviors. In contrast, peer support groups provide **e**motional support and shared coping strategies, and are usually led by individuals with lived experience rather than licensed professionals.[42]

After being diagnosed with depression and anxiety years ago, I struggled to find others who shared my experience. It was a profoundly lonely time in my life. After a few years of searching, I created a support group for lawyers in my bar community. We meet twice a week virtually and have lunch once a month; everything is confidential. In these groups, fellow lawyers discuss the challenges and effective strategies for building authentic relationships with others in and out of the law. Support groups and social support interventions are generally effective in reducing loneliness by providing emotional support, reducing stigma and fostering connection.[43]

2. Strive for Authentic Connection: Put Down Your Phone

Lawyers have complicated relationships to their cell phones, a situation born of the never-ending demands of the profession, entertainment and distraction, and human connection and isolation.[44] Cell phones are necessary, but excessive use can be unhealthy and lead to loneliness.[45] Constant mobile connectivity fosters an "always-on" culture that worsens loneliness and mental health problems among legal professionals because they feel they can never disconnect from their jobs.[46] Over 90% of lawyers use mobile devices to work remotely, and more than 80% use smartphones directly in the courtroom.[47]

Research confirms that being on the phone constantly for work contributes to loneliness. Spending excessive time on devices blurs the boundaries between work and personal life, causes social isolation and replaces fulfilling face-to-face interactions.[48]

Psychiatrist Mitchell B. Liester writes that it is how we use our smartphones that compounds feelings of isolation and loneliness: "While in the presence of others, many cell phone users focus more on their digital device than the people around them, creating what researchers call 'absent presence.' This condition of being physically present but mentally and emotionally absent undercuts the quality of interpersonal interactions that produce social connection."[49]

The New York Times reports that excessive smartphone use functions as a behavioral addiction, replacing authentic in-person interactions with digital stimulation, leading to loneliness and a reduction of empathy. Experts recommend combating this by treating addictive apps as "junk food" to delete and adopting "analog resets" to foster physical, non-digital connections.[50]

The length of time you are on the phone doesn't seem to make a difference. One study found that two different measures of social media use – time and frequency – each correlated with loneliness; that is, many short "checks" are just as apt to be associated with loneliness as a few long sessions.[51]

Research shows that deleting addictive apps is one of the most effective ways to break phone addiction. It forces conscious decision-making by removing visual cues and adding "friction" to your daily habits, helping you regain focus, sleep better and lower anxiety.[52] Another study found that a two-week "digital detox" improves mental health.[53]

3. Daily Micro-Connections

Most of us have momentary interactions with others, whether we're walking down the street, at a coffee shop or in the elevator. Are small interactions with strangers, which can be called "micro-connections," simply pleasant enough, but inconsequential, or do they help address loneliness?

Research suggests that these small moments actually matter deeply. A 2024 study examined whether interactions with people close to you compared to strangers and casual acquaintances made a difference to people's feeling of connection.[54]

The results show that the quality of people's interactions with strangers and acquaintances predicted their reported loneliness, sense of belonging and mental health symptoms just as strongly as the quality of their close relationships. Quality interactions with strangers and acquaintances didn't just matter for well-being; they mattered just as much as your inner circle of family, close friends and colleagues.[55]

Commenting on why this might be the case, psychiatrist Maymunah Yusaf Kadiri writes: "Those pockets of interaction bring that humanness. They bring that connection. They bring a view of how people's lives are, so you're not just in your own cocoon."[56]

Bree Buchanan, a lawyer and wellness consultant for legal professionals, notes: "While long-term quality relationships may bring the most satisfaction, short interactions of a positive nature with people encountered over the course of the day can also boost one's sense of connection and well-being."[57]

If quality interactions with strangers matter just as much as close relationships, how often do people actually put themselves in situations where they can interact with strangers? If you've been in your office with the door closed for hours, take a break and go to the coffee shop and have a nice exchange with a barista. At the courthouse? Chat with a court officer or clerk whom you pass by in the hall. While nothing more might come of these interactions, they can help you feel a little bit less alone.

4. Volunteering

Volunteering can significantly reduce loneliness by fostering social connections, providing a sense of purpose and improving mental well-being.[58] It offers structured social interaction, allowing individuals to build relationships, boost self-esteem and feel valued.

I have found volunteering to be a powerful antidote to loneliness. Ten years ago, while I was going through a period of clinical depression and profound disconnection, another lawyer suggested I volunteer at St. Luke's Mission of Mercy, a Catholic church and school on the east side of Buffalo. There, at the director's suggestion, I began mentoring a 9-year-old boy who didn't have a dad. I have a daughter but no son, and 10 years later, George and I have much more than a traditional mentor-mentee relationship. We share a deep bond and love, like a father and son. While no panacea, volunteering gave me a steady sense of belonging, warmth and meaning outside the office. No doubt, lawyers are always pressed for time. But if I had to identify one of the biggest impacts on my mental health outside of work, volunteering would be at the top of my list.

Conclusion

Lawyers struggling with loneliness need to know they are not alone. Many lawyers are experiencing it; the statistics bear this out. They need not feel any shame.

While the precise reasons for loneliness may differ for each lawyer, we can agree that steps – both individually and systematically – need to be taken to alleviate this painful state of mind, which can have negative mental and physical health consequences.

We are all more prone to loneliness now than ever for many reasons. Our excessive use of technology has altered how we work and live, which is evident through the growing number of individuals who work from home or shop online. Certainly, the COVID-19 pandemic heightened our sense of social disconnection with each other, but it also made many people realize how important connection is in their lives.[59] Lawyers are especially vulnerable to feelings of loneliness, but fortunately, there is increasing attention to the impact of loneliness, and as a result, more education and support for people to get help.

It is my hope that in providing some concrete strategies lawyers can use to help themselves, lawyers who are lonely will find hope that things can improve. The first step is always the hardest, but the journey toward a more connected and meaningful life is worth it.

Daniel T. Lukasik serves as the judicial wellness coordinator for the New York State Office of Court Administration. Prior to his appointment, he practiced as a trial lawyer for more than 30 years. A mental health advocate and law professor, he has delivered more than 250 presentations on stress, anxiety, burnout, and depression across the U.S. and his work has been featured in major media outlets. He has received numerous awards, including the Distinguished Alumni Award from his alma mater, the University at Buffalo School of Law, and NYSBA's Public Service Award.

Endnotes

1. Debra Cassens Weiss, *Lawyers Rank High on 'Loneliness Scale,' Study Finds*, ABA Journal (April 3, 2018), https://www.abajournal.com/news/article/lawyers_rank_highest_on_loneliness_scale_study_finds.

2. Vivek H. Murthy, *Surgeon General: We Have Become a Lonely Nation. It's Time to Fix That*, N.Y. Times (Apr. 30, 2023), https://www.nytimes.com/2023/04/30/opinion/loneliness-epidemic-america.html.

3. Vivek H. Murthy, Our Epidemic of Loneliness and Isolation: The U.S. Surgeon General's Advisory of the Healing Effects of Social Connection and Community (May 3, 2023), law.isba.org/4hgk93J.

4. Vivek H. Murthy, Together: The Healing Power of Human Connection in a Sometimes Lonely World (Harper Wave, 2020), at 25.

5. Vivek H. Murthy, Our Epidemic of Loneliness and Isolation: The U.S. Surgeon General's Advisory of the Healing Effects of Social Connection and Community (May 3, 2023) at 9, law.isba.org/4hgk93J.

6. Vivek H. Murthy, Together: The Healing Power of Human Connection in a Sometimes Lonely World (Harper Wave, 2020), at 25.

7. *Id.* at 4. (citations omitted).

8. *Id.* at 4. (citations omitted).

9. *Id.* at 9. (citation omitted).

10. *Id.* at 29. (citation omitted).

11. Bree Buchanan, *Loneliness in Law: A Silent Source of Our Suffering*, Legal Business World (Feb. 19, 2024), available at https://www.linkedin.com/feed/update/urn:li:activity:7165377470643232768.

12. *Id.*

13. *Id.*

14. Chelsey Fredlund, *Mental Health by the Numbers: An Infographic Mapping the Legal Industry's Well-Being*, The American Lawyer (2023), https://www.law.com/americanlawyer/2023/05/18/mental-health-by-the-numbers-an-infographic-mapping-the-legal-industrys-wellbeing/.

15. K.R. Sheikh, *Mental Health by the Numbers: The 2024 Survey Infographic*, The American Lawyer (May 17, 2024), https://www.law.com/americanlawyer/2024/05/17/mental-health-by-the-numbers-the-2024-survey-infographic.

16. *The 2025 Mental Health Survey Infographic*, The American Lawyer (May 13, 2025), https://www.law.com/2025/05/13/the-2025-mental-health-survey-infographic/.

17. *Mental Health by the Numbers: The 2026 Survey Infographic*, The American Lawyer (May 2, 2026), https://www.law.com/americanlawyer/2026/05/21/mental-health-by-the-numbers-the-2026-survey-infographic.

18. *Id.*

19. Olivia Ash, The Prevalence and Effects of Loneliness in the General Population, Lawyer Well-Being, and a Survey of Law Students (May 17, 2019), https://ssrn.com/abstract=3390457 or http://dx.doi.org/10.2139/ssrn.3390457.

20. David Swenson et al, *Stress and Resiliency in the U.S. Judiciary*, 2 Journal of the Professional Lawyer (2020), 1–65, https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/journal-of-the-professional-lawyer-2020.pdf. *See also* Terry Maroney et al, *How Are You Holding Up? The State of Judges' Well-Being: A Report on the 2019 National Judicial Stress and Resiliency Survey*, 107 Judicature 22 (2023), https://scholarship.law.vanderbilt.edu/faculty-publications/1407/.

21. Karen Munoz, *Lonely Lawyers*, 112 (12) Illinois Bar Journal, at 26 (Dec. 2024).

22. P.R. Krill et al, *Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk*, 11 (4) Healthcare, at 536 (2023).

23. *Id.*

24. *Id.* at 12.

25. Shawn Healy, *Lonely Lawyers: Feelings of Isolation + Identifying Support*, Lawyers Concerned for Lawyers (June 20, 2019), https://www.lclma.org/2019/06/20/lonely-lawyers-feeling-isolated-identifying-support/.

26. Mohsen Hosseinbor et al, *Emotional and Social Loneliness in Individuals with and without Substance Dependence Disorder*, 3 (3) Int J High Risk Behav Addict (Aug. 25, 2014): e22688. doi: 10.5812/ijhrba.22688. PMID: 25632385; PMCID: PMC4295122.

27. Oluwasegun Akinyemi et al, *The Impact of Loneliness on Depression, Mental Health, and Physical Well-Being*, 20 (7) PLoS One (July 9, 2025): e0319311. doi: 10.1371/journal.pone.0319311. PMID: 40632698; PMCID: PMC12240311.

28. M.J. Zawadski and L. Gavrilova, *All the Lonely People: Comparing the Effects of Loneliness as a Social Stressor to Non-Lonely Stress on Blood Pressure Recovery*, 167 International Journal of Psychophysiology, 94–101 (2021). doi: 10.1016/j.ijpsycho.2021.06.016.

29. Kiffer G. Card et al, *Loneliness and Social Support as Key Contributors to Burnout Among Canadians Workers in the Third Wave of the COVID-19 Pandemic: A Cross-Sectional Study*. 64(1) J Occup Health (2022): e12360. doi: 10.1002/1348-9585.12360. PMID: 36111392; PMCID: PMC9478518.

30. Ami Rokach, *Loneliness in Intimate Relationships Scale (LIRS): Development and Validation*, 19 (19) Int J Environ Res Public Health, 12970 (Oct. 10, 2022). doi: 10.3390/ijerph191912970. PMID: 36232275; PMCID: PMC9565016.

31. Wisdom & Influence Podcast, *Loneliness, Technology, and the Search for Real Connection*, Cornerstone University (Jan. 20, 2026), https://www.endsocialisolation.org/.

32. Jon M. Tynjala, *What I've Learned About Loneliness, Isolation, and the Legal Profession Through My Recovery*, Bench & Bar of Minn., at 24 (Apr. 2025).

33. Lizzy McLellan, *Battling an 'Epidemic' of Loneliness Among Lawyers*, The American Lawyer (May 28, 2019), https://www.law.com/2019/05/28/battling-an-epidemic-of-loneliness-among-lawyers/.

34. Jancee Dunn, *The Big Benefits of Small Talk*, N.Y. Times (Feb. 27, 2026), https://www.nytimes.com/2026/02/27/well/benefits-small-talk.html.

35. Kory Floyd, Colter D. Ray,and Josephine K. Boumis, *Cognitive Distortions Associated with Loneliness: An Exploratory Study*. 15 (8) Behav Sci (Basel) (Aug. 5, 2025):1061. doi: 10.3390/bs15081061. PMID: 40867419; PMCID: PMC12382717.

36. Christopher M. Masi et al, *A Meta-Analysis of Interventions to Reduce Loneliness*, 15 (3) Pers Soc Psychol Rev., 219–66 (Aug 2011). doi: 10.1177/1088868310377394. Epub 2010 Aug 17. PMID: 20716644; PMCID: PMC3865701.

37. Emily Myers et al, *Behavioral Activation for Social Connection: A Systematic Review and Synthesized Conceptual Framework*, Journal of Social and Personal Relationships (March 12, 2026), [https://doi.org/10.1177/02654075261435008].

38. Mathias Lasgaard et al, *Are Loneliness Interventions Effective for Reducing Loneliness? A Meta-Analytic Review of 280 Studies*, American Psychologist (October 23, 2025), https://www.apa.org/pubs/journals/releases/amp-amp0001578.pdf.

39. Press Release, American Psychological Association, Loneliness Interventions Help But Are Not a Cure-All (Oct. 23, 2025), https://www.apa.org/news/press/releases/2025/10/loneliness-interventions.

40. Cheri L. Marmarosh et al, *New Horizons in Group Psychotherapy Research and Practice From Third Wave Positive Psychology: A Practice-Friendly Review*, 25(3) Res Psychother., at 643 (Nov. 4, 2022), https://pmc.ncbi.nlm.nih.gov/articles/PMC9893048, [doi: 10.4081/ripppo.2022.643. PMID: 36373391; PMCID: PMC9893048].

41. Noëmi Seewer et al, *Efficacy of an Internet-based Self-Help Intervention with Human Guidance or Automated Messages to Alleviate Loneliness: A Three-Armed Randomized Controlled Trial*, 14 Sci Rep, at 6569 (2024), https://doi.org/10.1038/s41598-024-57254-0.

42. *See,* Marla Deibler, *Understanding Group Therapy and Support Groups*, Anxiety and Depression Association of America (Aug. 31, 2022), https://adaa.org/learn-from-us/from-the-experts/blog-posts/consumer/understanding-group-therapy-and-support-groups.

43. *See,* Guangting Huang et al, *The Effectiveness of Social Support Interventions on Loneliness Among Older People in the Community: A Meta-Analysis of Randomised Controlled Trials*, 6 Front Aging (Jan. 7, 2026) 1594513. doi: 10.3389/fragi.2025.1594513. PMID: 41573241; PMCID: PMC12819595.

44. Andrea Christodoulou and Petros Roussos, *'Phone in the Room, Mind on the Roam': Investigating the Impact of Mobile Phone Presence on Distraction*, 15(5) Eur J Investig Health Psychol Educ., at 74 (May 8, 2025) doi: 10.3390/ejihpe15050074. PMID: 40422303; PMCID: PMC12110250.

45. Wei Zhu et al, *Smartphone Dependence and Its Influence on Physical and Mental Health*, 16 Front Psychiatry 1281841 (Aug. 19, 2025) doi: 10.3389/fpsyt.2025.1281841. PMID: 40904566; PMCID: PMC12401922.

46. Jessica Pikulski, *Trouble Disconnecting? Put Down Your Phone After Hours*, Bloomberg Law (Mar. 25, 2022), https://news.bloomberglaw.com/bloomberg-law-analysis/analysis-trouble-disconnecting-put-down-your-phone-after-hours.

47. Jeff Richardson, *2022 ABA Tech Survey Provides Information on Attorney Use on iPhones and iPads*, iPhone J.D. (Nov. 28, 2022), https://www.iphonejd.com/iphone_jd/2022/11/aba-survey.html.

48. Elisabeth Figueiredo et al, *Loneliness and Isolation in the Era of Telework: A Comprehensive Review of Challenges for Organizational Success*, 13(16) Healthcare (Basel), at 1943 (Aug. 8, 2025). doi: 10.3390/healthcare13161943. PMID: 40868559; PMCID: PMC12385570.

49. Mitchell B. Liester, *When Cell Phones Replace People: Exploring the Modern Epidemic of Digital Disconnection,* Psychology Today (May 7, 2025), https://www.psychologytoday.com/us/blog/the-leading-edge/202505/when-cell-phones-replace-people.

50. Brian X. Chen, *Struggling with Phone Addiction? Try These Remedies*, N.Y. Times (April 30, 2026), https://www.nytimes.com/2026/04/30/technology/personaltech/phone-addiction-remedies.html.

51. Tore Bonsaksen et al, *Associations Between Social Media Use and Loneliness in a Cross-National Population: Do Motives for Social Media Use Matter?* 11(1) Health Psychol Behav Med. 21580892 (Jan. 1, 2023), doi: 10.1080/21642850.2022.2158089. PMID: 36618890; PMCID: PMC9817115.

52. Kevin Roose, *Do Not Disturb: How I Ditched My Phone and Unbroke My Brain*, N.Y. Times (Feb. 23, 2019), www.nytimes.com/2019/02/23/business/cell-phone-addiction.html.

53. Paige Coyne and Sarah J. Woodruff, *Taking a Break: The Effects of Partaking in a Two-Week Social Media Digital Detox on Problematic Smartphone and Social Media Use, and Other Health-Related Outcomes Among Young Adults*, 13 (12) Behav Sci (Basel) 1004 (Dec. 8, 2023) doi: 10.3390/bs13121004. PMID: 38131860; PMCID: PMC10740995.

54. Taylor N.West et al, *Improving Social Connection with Weak Ties and Strangers: Effects of a New Micro-Intervention on Interaction Quality and Social Behavior*, 20(4) The Journal of Positive Psychology, 652–662, (2025) https://doi.org/10.1080/17439760.2024.239445.

55. *Id.*

56. Rhitu Chatterjee, *Why a Stranger's Hello Can Do More Than Just Brighten Your Day*, All Things Considered, (Aug. 23, 2023), www.npr.org/sections/goatsandsoda/2023/08/23/1193148718/why-a-strangers-hello-can-do-more-than-just-brighten-your-day.

57. Bree Buchanan, *Loneliness in Law: A Silent Source of Our Suffering*, Legal Business World (Feb. 19, 2024), available at https://www.linkedin.com/feed/update/urn:li:activity:7165377470643232768.

58. Danni Yuen-Lan Yeung et al, *The Effects of Volunteering on Loneliness Among Lonely Older Adults: The HEAL-HOA Dual Randomised Controlled Trial*, 6 (1) Lancet Healthy Longev (Jan 2025), doi: 10.1016/j.lanhl.2024.100664, https://pubmed.ncbi.nlm.nih.gov/39855242/.

59. *8 Lessons We Can Learn From the COVID-19 Pandemic*, Yale Medicine News (May 14, 2021), https://www.yalemedicine.org/news/8-lessons-covid-19-pandemic.

How One Lawyer Overcame Alcoholism – With the Help of Lawyers

By Chuck B.

Editor's Note: In the tradition of Alcoholics Anonymous, the author has asked that his full name not be used.

> The less people tolerated us, the more we withdrew from society, from life itself. As we became subjects of King Alcohol, shivering denizens of his mad realm, the chilling vapor that is loneliness settled down. It thickened, ever becoming blacker. Some of us sought out sordid places, hoping to find understanding, companionship and approval. Momentarily we did – then would come oblivion and the awful awakening to face the hideous Four Horsemen - Terror, Bewilderment, Frustration, Despair. Unhappy drinkers who read this page will understand![1]
>
> – Alcoholics Anonymous

This description of an alcoholic vividly describes the plight of a lawyer suffering from alcoholism. Partners, associates, judges, staff, family members and friends can attest to the challenges when trying to have an ordinary, mutual relationship with an alcoholic. In my case, alcohol took me to a place that I never want to return to. Under the lash of alcoholism, I had become a person who Bill Wilson, a co-founder of Alcoholics Anonymous, so aptly described as maladjusted to life, an outright mental defective or in complete flight from reality. What has happened to me can happen to all people who want to stop drinking but find out they can't stop no matter how much they want to stop. If the reader can identify with that feeling of hopelessness or knows someone who seems to be unable to stop drinking or abusing substances, there is hope.

My name is Chuck B; I am an alcoholic.

I started drinking alcohol in eighth grade. My first experience included a blackout, which is a loss of all recall of most of the events of the night: vomiting, lying to my parents, a terrible hangover and astonishingly, great excitement anticipating the next time I could drink. Normal drinkers usually will not drink so much alcohol that they have a blackout, vomit and/or have a profound personality change. If they do experience one or more of those conditions, it will likely never happen again. Not so with me. I couldn't wait for the next chance to drink. Even when I knew that I couldn't stop once I started, even when I consistently awakened from a binge to a host of new problems, even when I had important business the next day – SATs, exams, court, client meetings, hearings and trials. My life became a series of lies, which then led to drinking to take away the feelings that lying and self-deception created as I attempted to rationalize inexplicable thoughts, ideas and unwarranted emotional outbursts. This didn't happen overnight. From one evening in a village park in Western New York, to college and law school in the nation's capital and to the World Trade Center and Wall Street in New York City, the effects of living an alcoholic life devoured my being. I had succumbed to the temptation of alcohol on a warm summer evening, and it took over my life in the way that only a cunning, baffling and powerful force can do. Despite drinking weekly, I excelled in high school and did well in college, where my alcohol consumption significantly increased and was seemingly enhanced by using illegal substances (it was the '60s and the revolution was on). I did very well in law school even though I was now daily using drugs to ease the stress and anxiety during the week and resorting to blackout binge drinking on the weekends. I passed the bar exam the summer after graduation and then practiced law in Washington, D.C., for three years, all the while abusing alcohol and drugs daily.

In December 1976, I took the New York Bar Exam, passed it and moved to New York City. Together with two other young lawyers, we opened a firm in Manhattan with offices at One World Trade Center. We were very successful and expanded rapidly. By 1979, we had outgrown our office space. My responsibility as managing partner was to find new space and move the firm by Labor Day. Even though I couldn't see it at the time, drinking and drug use were taking over my life. I was becoming obstinate, sullen, argumentative, moody, defensive, loud and unreasonable.

In March 1979, my mother died unexpectedly. I avoided grieving and instead increased my alcohol and drug use. The combination of pressure from management responsibilities and grief resulted in decisions that were detrimental to the health of the firm and culminated in its breakup in December 1979. On Dec. 14, lawyers and staff were told that they would not be paid that day, that they would not receive their promised Christmas bonuses and, effective Jan. 1, 1980, the firm would be dissolved.

Jan. 1, 1980 was a momentous day. Not only was the firm dissolved, but that was the day that I came out of a 10-month brownout, a term that AA members use to describe an extended period of time when we appear to be functioning and in control but have almost no recollection of events that occurred during that time. Later, when I looked at my life through AA's 12-step lens, I discovered that I had been living in a world that was being created in my mind. I had little, if any, connection to reality. Over the course of that January day, I came to realize that all I had worked for all of my life was gone – the law firm, the status of managing partner, the mental ability to practice law, the respect of my colleagues, my friendships, my assets, my self-esteem and my health. As desperate as my situation was, I turned to my reliable friends, alcohol and drugs. The terror, frustration, bewilderment, and despair that had me in its grip seemed to disappear as soon as I used these substances.

For the next nine years, I wallowed in self-pity. In my mind and to anyone close enough to hear me, I cast the blame for my plight on my business partners, employees, the legal profession, bankers and friends who had "abandoned" me. In my delusional mind, I had done nothing wrong; I was the victim. Alcoholics lack perspective, but my lack of perspective in hindsight was astonishing.

There were many twists and turns over the next nine years. I left New York in disgrace in December 1980. I was bankrupt, financially and spiritually. I was alone and afraid. I moved back to my hometown in Western New York, where I lived at my father's house. I was afraid to practice law because I didn't ever again want to have the responsibility to clients, associates, partners or the public that accompanies the profession. I was afraid to make money; I thought money had corrupted me. I tried to live as an ascetic so that I wouldn't be tempted by material possessions. These are just a few of the insane thoughts that occupied my mind. I know today that I was impaired, suffering from a spiritual disease, one that distorts reality in such a way that I become overwhelmed by feelings of restlessness, irritability and discontent. I turned to alcohol and drugs to get rid of those feelings even though I knew that once I started to drink, I wouldn't be able to stop even if I want to. I was powerless over that spiritual force. I was, as Bill Wilson described, in a complete flight from reality.

I met a woman in the summer of 1981 and we married in 1982. Because my wife had enrolled in a graduate school program, we moved to a larger city. I worked as a substitute teacher while my wife attended school. Eventually I was certified as a social studies teacher and was hired to teach in a local high school. When that school closed, I was hired at another high school to work as the substitute assistant principal. By that time, my marriage was failing and I thought things would be better if she stopped drinking. I was seeing a therapist who kept suggesting that I might want to try to go to Alcoholics Anonymous. I thought he misunderstood me. In my mind, my wife had a drinking problem. I had no idea that my drinking had spiraled out of control.

Out of boredom in my job as substitute vice principal, I decided to return to the practice of law. At an office Christmas party in 1987, an attorney in the firm announced that he was not drinking and explained the effects alcohol had on him and the struggles he had with it. It struck a chord in me. Within months, I found myself in his office, where I learned about a group called Lawyers Helping Lawyers. With the help and suggestion of my therapist, I began individual and group alcohol therapy.

From 1985 to that point, I had tried almost every other means possible to stop drinking to no avail. I had stopped using drugs mostly because I couldn't afford them; I used every available dollar to obtain alcohol. Finally, in June 1988, after a particularly bad run ending with a major fight with my wife, I went to an AA meeting. From my first meeting, I felt at home. I felt understood. I could identify with the pain that others talked about, the havoc that surrounded them, the selfishness and self-centeredness that sabotaged all their personal relationships. Hearing how their lives had changed because of AA, I left that first meeting with hope. But I didn't go back the next day. I wanted to kick this habit on my own. I did sporadically attend AA meetings. However, without steady and consistent support, I was unable to stop drinking and unable to save my marriage.

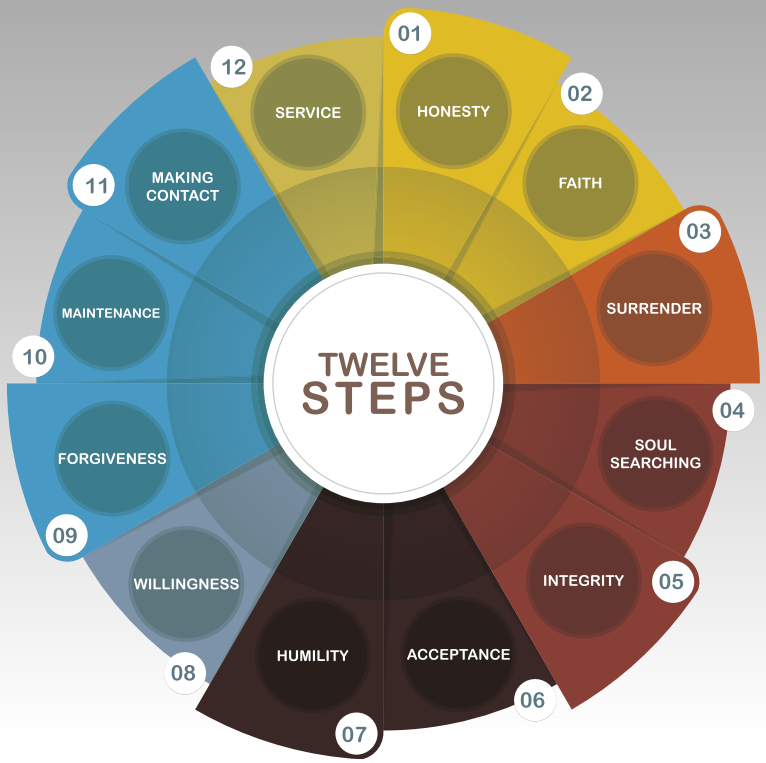
After 14 or 15 months of continued self-delusion, and with the assistance of my attorney friend, I attended an AA meeting on Aug. 9, 1989, and with the grace of God and the help of Alcoholics Anonymous, I haven't had a drink of alcohol or used a mood-altering drug since.

Here's what I did: I began to regularly attend AA meetings. I also went to a scheduled Tuesday luncheon where I met and made friends with lawyers in recovery who helped me navigate the difficult course of early recovery and practicing law. I also became actively involved in service in AA and with the Lawyers Helping Lawyers committee in my area.

A Tidal Wave of Change in the Legal Community

The help available to me in 1989 was not there in 1979 when I hit my bottom and lost my law firm. At that time, lawyer recovery groups were fledgling organizations. There were only a few lawyers available to provide guidance and direction in a handful of states. The New York State Bar Association, which established the Special Committee on Lawyer Alcoholism in 1978, was one of only a few bar associations that acknowledged the efficacy of Alcoholics Anonymous.[2] There was certainly no one I knew in 1979 who could have helped me understand that I was suffering from a treatable disease.

My life followed the peaks and valleys of many alcoholic lawyers – struggle, recognition, success, more success, isolation, frustration, despair, disgrace and discharge. I left a trail of humiliation, harm and destruction. Family, friends, employees, associates, and partners were saddened, confused and deeply hurt during the years I was drinking. In the '70s and early '80s when alcoholism affected a lawyer's performance, the law firm was generally in denial about the real cause of any problems with work performance. Most firms dealt with alcohol problems by hiding them as long as they could and then firing the attorney. Alcohol rehabilitation centers were available but there were only a few and they were expensive. Although alcoholism was diagnosed as a disease by the American Medical Association in 1956, it was more often seen in the legal community as a moral or behav-



ioral issue.[3] When a lawyer's conduct became too great of a burden, they were discharged and, if they weren't disbarred, they often found it difficult or impossible to find new employment.

By 1989, the approach to attorney alcoholism within the bar was undergoing a tidal wave of change. What happened to change the attitude and outlook on attorney alcoholism, substance abuse, mental health and well-being is a remarkable story. This is my recollection based on my personal participation and a multitude of conversations with many of the co-founders of the lawyer assistance movement in the United States and Canada.

As late as the 1970s, the stigma of alcoholism in the legal profession was so strong that identification as an alcoholic could result in clients terminating their relationship or firms discharging associates or dissolving partnerships of long standing. Attorneys of high repute were often disbarred or discharged and left to fend for themselves because of the unacceptable behavior that accompanied their alcoholism. Stories about drunk lawyers abounded in the legal profession. Tales of neglect and rude, inconsiderate and inexcusable behavior, personally and professionally, were whispered in the halls of many firms. When a firm recognized that an attorney was an alcoholic, every effort was made to cover it up. Alcoholics were often terminated from their positions. The firm absorbed the costs of repairing the wreckage left behind. Alcoholics were considered a scourge with no redemptive value.

While the stigma of alcoholism still exists in some circles, thanks to Alcoholics Anonymous and other 12 step-based programs, the efforts of thousands of recovering alcoholic attorneys, state bar association lawyer assistance programs, the American Bar Association Commission on Lawyer Assistance Programs and Judiciary Law Section 499, the vast majority of members in the legal profession are now educated not only about the disease of alcoholism, but also drug addiction, substance abuse and mental illness. There is now more of an awareness of the recovery program of Alcoholics Anonymous and a multitude of other methods of treatment available to attorneys suffering from alcoholism, one or more forms of substance abuse disorders and/or mental illness. Rather than sweeping the problem under the rug by denial or discharge, the profession now focuses on attorney well-being, striving to develop a work environment that promotes the importance of exercise, healthy diets, family life and other ways to reduce stress and anxiety customarily associated with the practice of law.

The Origins of Lawyers Helping Lawyers

In the mid-1970s, a California lawyer, Ted C., who was suffering from alcoholism, conspired with a doctor and an insurance agent to defraud an insurance company of $600 by creating a fake auto accident, medical treatment plan and damages. Ted C. was convicted and sentenced to a year in prison. Prior to sentencing, Ted C. started attending AA meetings. While in prison, he was assigned to a work release program outside the prison. Every morning, he would meet a local attorney in recovery and another recovering alcoholic for breakfast at a restaurant close to the work site, and they would have an AA meet-

ing. This was the first informal lawyer assistance program in the nation. The lawyer was impressed with the efficacy of the program. After Ted C. was released from prison, he started a volunteer lawyer assistance program in California staffed by unemployed and disbarred attorneys. The program centered on the AA 12-step recovery program and reinforced the idea that lawyers in recovery from alcoholism can help lawyers new to the program simply by telling the stories of their own experience using the 12 steps to recover from the disease of alcoholism. The program expanded outside of Los Angeles and eventually covered the entire state. Its success led to the establishment of a permanent committee of the State Bar of California with a significant funding commitment.

The Commission on Lawyer Assistance Programs

The other significant event spurring on the development and growth of lawyer assistance programs occurred at the 1975 Alcoholics Anonymous International Convention in Denver. Lawyers in recovery attending the international conference agreed to meet separately in Niagara Falls, Canada. This meeting ultimately led to the formation of a group for lawyers in recovery known as International Lawyers in Alcoholics Anonymous. This grew from a small group of attorneys to an organization with hundreds of members. Today, International Lawyers of AA consists of a vast and diverse group of lawyers recovering from alcoholism and/or other substance abuse disorders, depression and/or other issues of mental health. Lawyers from the U.S., Canada, Mexico, England, Ireland, Europe, Africa and Australia have attended the annual convention. The group is an invaluable resource for attorneys in recovery providing fellowship, guidance and direction – one member to another throughout the year. A lawyer or judge in recovery can join International Lawyers of AA through a portal on its website (www.ilaa.org).

At the group's convention in Philadelphia in 1984, a Kentucky lawyer with big ideas, Billy H., conceived the idea of a national commission on lawyer assistance programs. With much hard work and the cooperation of the American Bar Association, the first meeting of the ABA Commission on Lawyer Assistance Programs met in 1986 in Nashville, Tennessee. The commission consisted of ABA members, mostly in recovery, and directors of state lawyer assistance programs.

Around 1990, an anecdotal survey of lawyers suffering from alcoholism revealed that as a group, alcoholism was present in 20% of attorneys.[4] This was double the rate found in most population groups. It was an alarming statistic, but was most helpful in convincing the profession of the need to support efforts to assist attorneys who are recovering from the disease, rehabilitating lawyers to successfully return to the profession, providing assistance and support to identify the disease in its early stages and provide an environment helpful in reducing the emotional strain customarily associated with the legal profession.

With the strong support of the ABA and many state programs, the Commission on Lawyer Assistance Programs grew from a coalition of a few state programs generally staffed by volunteer attorneys in recovery to a nationwide network of lawyer assistance programs, most with paid professional directors. Every state and the District of Columbia has one of these programs.

Section 499 of Judiciary Law

The other major event that significantly contributed to the acceptance and growth of programs that support the treatment of alcoholism, addiction and mental health issues in New York was the adoption of Judiciary Law 499. In 1993, the New York State Bar Association Committee on Lawyer Alcoholism and Substance Abuse (now known as the Lawyer Assistance Committee) led by its chair, Dave P., was instrumental in the passage of Section 499 of the Judiciary Law. Section 499 was the product of a collaborative effort by NYSBA committee members and had a sweeping impact on the willingness of attorneys suffering from substance abuse disorders to seek the help of the state and local county lawyer assistance committees. Section 499 provides immunity to attorneys who are acting as agents of a lawyer assistance program and treats communication between an attorney seeking assistance and all agents of the committee as privileged communications. This law revolutionized the effectiveness of local lawyer assistance programs in New York. It allows suffering attorneys to have open, honest communication with agents of the committee, communications that are necessary and can greatly assist the lawyers in embracing a 12-step program early in the recovery process.

The problems of lawyer alcoholism, substance abuse and mental disorders have not been solved by any means. The percentage of lawyers suffering from alcoholism remains high as a percentage of the population. According to a 2016 ABA study done in collaboration with the Hazelden Betty Ford Foundation, 20.6% of licensed, employed attorneys reported problematic drinking, compared with 11.8% of the total workforce with equivalent education.[5] However, the rate of recovery is now substantially higher due to the help of lawyer assistance programs in New York and throughout the country. Thousands of lives that would have been lost have been changed. People who had thought their lives were hopeless have again become useful, contributing members of the profession.

These three components have produced an international network of lawyers in recovery from alcoholism, substance abuse, mental health and depression. Working AA's 12 steps has awakened me, and countless other attorneys, to the knowledge of an inner resource that has helped to free me from the "bondage of self." I have been given far more than I ever thought possible. I was able to return to the practice of law and given the opportunity to give back to the law what I had squandered and abused so many years ago.

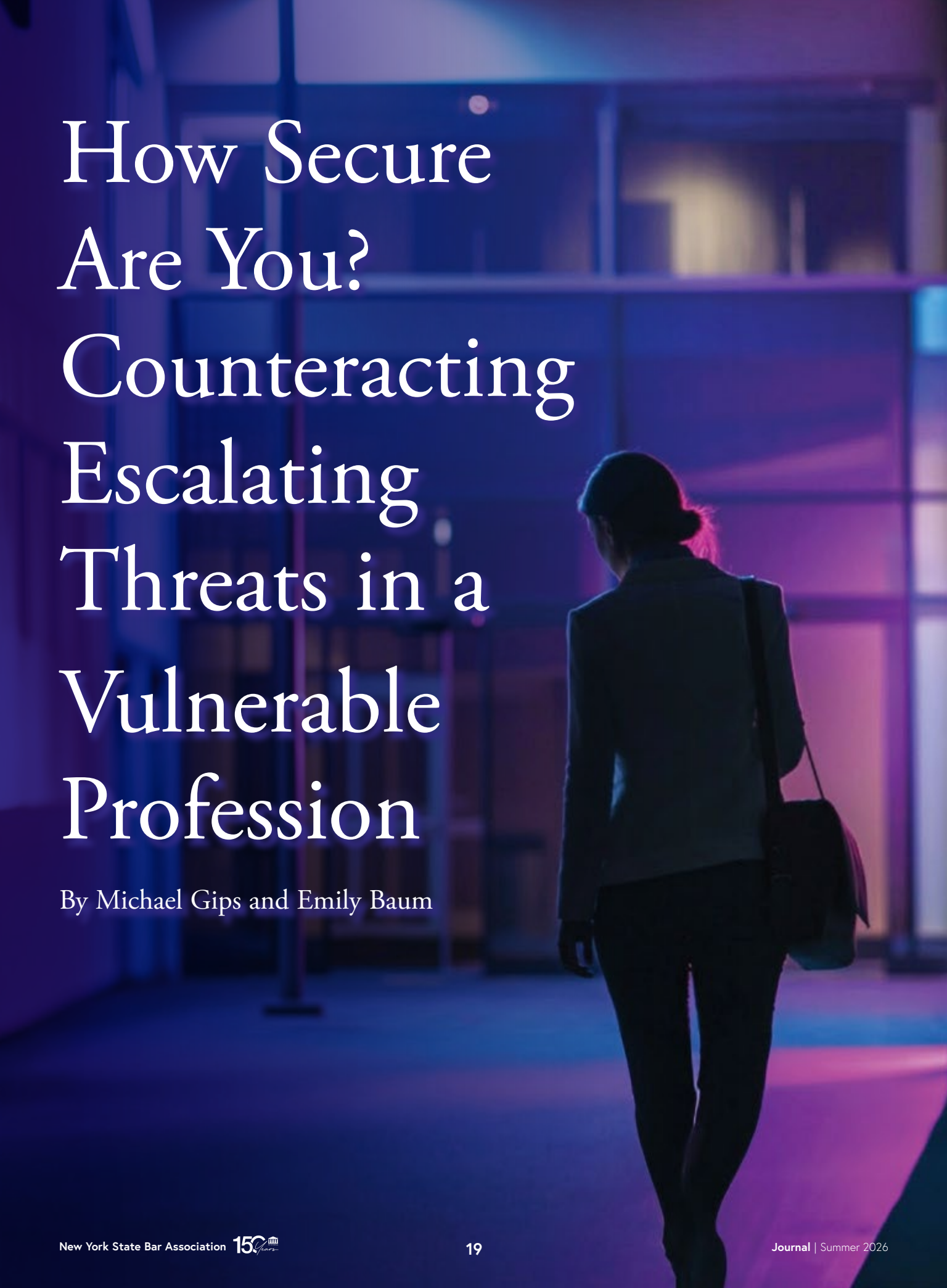
Alcoholics Anonymous identifies alcoholism as a spiritual disease stemming from selfishness and self-centeredness. Recovery depends upon daily maintenance of my spiritual condition. The maintenance consists of the constant thought of others and what I can do to help meet their needs. With my own willpower I can never achieve this. With the help of my sponsor, and other lawyer friends in AA, I worked the steps of the AA program of recovery, had a spiritual awakening and as a result, I have been able to live a useful, purposeful life, in AA and in the practice of law. I met my wife in 1993 and we married a year later. We have both been in recovery from alcoholism for 36 years. We have three beautiful children who have never seen me drink or use drugs. The debt I owe for regaining a life I thought was forever lost can never be repaid in full. The repayment terms are simple: When someone asks for help, I help them without thinking about myself. That's not easy for a person whose nature is best described as selfish and self-centered. I can only do it with the help of the Power I have connected with through working the steps of AA. When I ask that Power for help, I will always get the help I need.

If you know of someone who is, or if you are, struggling with alcoholism, substance abuse or a mental health issue, contact the Lawyer Assistance Program at the New York State Bar Association or your local bar association; you will be given a chance that simply was not available to lawyers before 1975. You won't regret it.

> We have shown how we got out from under. You say, Yes, I'm willing. But am I to be consigned to a life where I shall be stupid, boring and glum, like some righteous people I see? I know that I must get along without liquor, but how can I? Have you a sufficient substitute?'
>
> Yes, there is a substitute, but it is vastly more than that. It is a fellowship in Alcoholics Anonymous. There you will find release from care, boredom and worry. Your imagination will be fired. Life will mean something at last. The most satisfactory years of your existence lie ahead. Thus, we find the fellowship and so will you.[6]
>
> – Alcoholics Anonymous

Endnotes

1. Alcoholics Anonymous, 151 (4th ed. 2001).
2. Brandon Vogel, *30 Years of the LAP: Countless Lives Saved and Careers Resurrected*, NYSBA News Center, Sept.16, 2020, https://nysba.org/30-years-of-the-lap-countless-lives-saved-and-careers-resurrected.
3. Kathy Betinnardi-Angres and Daniel H. Angres, *Understanding the Disease of Addiction,* 1(2) Journal of Nursing Regulation 31 (July 2010), (2010), https://www.ncsbn.org/public-files/Understanding_the_Disease_of_Addiction.pdf.
4. G. Andrew H. Benjamin, Elaine J. Darling and Bruce Sales, *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers,* International Journal of Law and Psychiatry 13(3) (1990), 233–46. https://doi.org/10.1016/0160-2527(90)90019-Y.
5. Patrick Krill, Ryan Johnson, and Linda Albert, *The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys,* Journal of Addiction Medicine 10(1) (Jan/Feb 2016), 46-52, https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx.
6. Alcoholics Anonymous, 152 (4th ed. 2001).



How Secure Are You? Counteracting Escalating Threats in a Vulnerable Profession

By Michael Gips and Emily Baum

In June 2025, U.S. Attorney John A. Sarcone III faced a threatening individual wielding a knife and yelling at him on the streets of downtown Albany. Before law enforcement arrived, according to a Department of Justice press release, the perpetrator "charged at Sarcone again screaming and yelling while wielding the knife to make a slitting-the-throat gesture at Sarcone." The man was apprehended without further incident.[1]

The legal profession is facing increasingly visible threats and vulnerability to personal attacks, theft and other criminal behavior. As a result, New York law firms are beginning to step up their security on a variety of levels.

Independent review of reporting indicates that doxing and online harassment of New York attorneys are not random. It most often arises in highly contentious matters, particularly those involving criminal defense, family disputes, civil rights claims, employment or sexual-misconduct allegations and politically polarizing issues. In other words, when New York lawyers are targeted online, it is usually because they are involved in cases with significant emotional or political consequences.

This pattern is not limited to online activity. In March 2025, Keystone Law's London headquarters was vandalized by activists protesting the firm's representation of a U.S. defense contractor. Such incidents reflect a broader trend in which law firms themselves are becoming targets, as some groups view lawyers as complicit in the actions of those they represent.[2]

In the same time period, protests occurred outside major New York law firms in connection with politically charged representations and business decisions. For example, demonstrators gathered outside firms that entered into agreements with the Trump administration to avoid punitive executive actions, and others targeted firms involved in post-election litigation. A few years earlier, tenant activists bypassed security to enter a downtown Brooklyn office building to protest a law firm representing landlords in eviction proceedings.[3] While these events were largely peaceful, they illustrate how quickly legal work can attract attention and protesters to law firms.

Duty of Care in a Foreseeable Environment

Questions of duty of care in New York often turn on foreseeability. In a law firm context, duty of care is typically understood to include providing a reasonably safe workplace for attorneys and staff, as well as taking sensible precautions to protect clients and visitors. Historically, firms have met this obligation through building security, access controls and general workplace policies. What is changing is not the legal standard itself, but the range of risks that firms must reasonably anticipate, particularly those arising from client interactions, public visibility and online exposure.

Legal scholarship has long noted that threats and violence against lawyers are underreported and often arise from interactions with clients, opposing parties, and others involved in contentious legal matters.[4] While literature specific to New York State is scant, recent empirical data out of Utah reinforces the extent of the threat. In a 2026 survey of the Utah bar, hundreds of attorneys reported threats or violence connected to their work, including dozens of physical assaults, with the highest rates occurring in high-conflict practice areas such as family and criminal law.[5]

In New York City, the density, visibility and frequency of disruptive incidents around commercial office environments make it increasingly difficult to argue that risks to employees and visitors are remote.

At the federal level, the Occupational Safety and Health Act's general duty clause requires employers to provide a workplace "free from recognized hazards that are causing or are likely to cause death or serious physical harm."[6] While OSHA does not mandate specific security measures, it recognizes workplace violence as a foreseeable hazard in environments where employees interact with the public or occupy visible roles.

New York law reinforces this obligation. Under New York Labor Law Section 200 and related common law principles, employers owe a duty to provide employees with a reasonably safe workplace. Premises liability doctrine also imposes a duty of reasonable care toward lawful visitors, including protection against foreseeable criminal acts by third parties.

For law firms, these principles intersect with professional culture. Attorneys routinely handle contentious matters and interact with individuals under significant emotional or financial stress. As a result, the question is less whether risks exist and more how organizations choose to address them responsibly.

Security, in this sense, is not primarily about guards or cameras. It is about creating an environment in which attorneys and staff can perform demanding work without carrying an additional burden of uncertainty about their safety.

Law Firm Security in New York City

While security is an issue for law firms statewide, it is even more so in New York City, where law firms operate in one of the most visible and complex professional environments in the world. Within a few square miles sit global financial institutions, media organizations, courts, political centers and some of the most prominent corporations on the planet. Attorneys routinely move among offices, courthouses, client sites and public venues, often working late and commuting through dense urban infrastructure. About 100 different nations have

communities of at least 5,000 residents in the city, practicing hundreds of distinct religions and denominations and occupying the full spectrum of political viewpoints. And they all sit cheek to jowl. Many firms occupy multi-tenant class A office towers located near transit hubs and public plazas, spaces designed for accessibility rather than strict control.

Across the country, the legal profession itself has become more visible. High-profile litigation, regulatory enforcement and politically charged representations generate online hostility that migrates offline. Lawyers who once worked largely behind the scenes now see their names, photos and personal information easily discoverable.

The convergence of digital exposure, political and social friction, and physical proximity creates new considerations. Attorneys commute on predictable routes, work late hours and move frequently between offices and courts. Increasingly they also work from homes, cafés, airports and other environments, both public and private.

These realities are prompting many firms to reconsider whether security should remain primarily an operational function – focused on facilities, guards and access systems – or be elevated to a governance issue, with clear leadership oversight, defined accountability and integration into firmwide risk management.

The Operating Environment Is Changing

Law firms are built around service, discretion and trust. Reception areas are designed to welcome visitors. Attorneys move freely between offices and conference rooms. Staff are expected to accommodate clients and guests, not challenge them.

Those norms have served the profession well for decades. But as operating environments evolve, firms are recognizing that security expectations must evolve as well.

In many organizations, the shift is less about installing additional technology and more about aligning people, policies and expectations with modern realities. When an unauthorized individual "tailgates" through turnstiles, gets past reception desks or gains access to tenant spaces, this is rarely a failure of hardware. More often they reflect unclear expectations about when personnel should intervene and how concerns should be escalated.

Many firms are addressing these risks by establishing clearer procedures, training staff on situational awareness, and assigning specific responsibility for security decisions and incident response.

Security Is a Governance Issue

Among New York-based Am Law 100 firms, identifiable responsibility for security oversight is becoming increasingly common, though implementation varies. Where security functions exist, they are often located within operations, facilities, risk management or information technology departments. As programs mature, some firms are clarifying reporting structures and establishing formal policies and escalation procedures.

Larger firms are more likely to designate a professional responsible for areas such as access control, incident management, crisis response and executive protection coordination. In larger firms, responsibility is often assigned to a director of security, head of corporate security, or a senior operations, facilities, administration, or risk executive with security oversight. In smaller firms, responsibility may sit with facilities, information technology or administrative leadership, sometimes without a formally designated role.

A notable development in law firm security is the emergence of fractional security leadership roles. For firms reluctant to create a full-time senior position immediately, fractional directors of security help conduct risk assessments, establish governance structures, oversee and add software and hardware, and coordinate training and policy development. In several firms, these arrangements have evolved into permanent positions.

In many firms, this shift also means that senior leadership, including managing partners and executive committees, is taking a more active role in setting expectations, approving policies, and overseeing how security risks are managed.

Beyond Midtown: Security Considerations Across New York State

In May 2025, just a month earlier than the incident mentioned in the beginning of this article, an accused killer at an Orange County courthouse grabbed his defense attorney by the throat and began to strangle him. The judge subsequently declared a mistrial.[7]

While isolated incidents like this have long occurred, they are receiving greater attention as part of a broader reassessment of safety in legal environments. For law firms, the takeaway is not that courthouses must be redesigned, but that attorneys regularly operate in unpredictable environments and should be supported with training, situational awareness and clear response protocols.

While the density and character of New York City means that law firms in Manhattan need to be on alert, law firms across the state also need to become aware of their security weaknesses. Hundreds of law firms operate across New York State in cities such as Buffalo, Rochester, Albany and Syracuse, as well as in smaller markets, including Ithaca, Binghamton, Schenectady and Utica.

The risk profile in these environments is different from midtown Manhattan, but not necessarily simpler or more secure. Smaller firms often handle contentious matters involving local politics, land use, business disputes or criminal defense. Attorneys may be highly visible in their communities and more easily identifiable and approachable in daily life.

In smaller offices throughout the state, lawyers work without the layers of infrastructure common in large firms. Offices may occupy stand-alone buildings or smaller commercial properties with minimal security staffing or technology. Attorneys in smaller firms often know clients personally and maintain open-door practices that emphasize accessibility.

These characteristics are part of the strength of smaller firms, but they can also create unique vulnerabilities. Uncontrolled entry points, limited incident response planning and a lack of formal threat evaluation processes can complicate responses when problems arise.

For many smaller firms, the opportunity lies not in replicating the infrastructure of large Am Law 100 organizations, but in adopting right-sized security practices. These include clear visitor procedures, digital hygiene education, emergency response protocols, personal safety training, business continuity planning, active assailant exercises and drills and defined points of responsibility when concerns arise.

From Reactive to Preventive Thinking

Historically, many firms revisit security practices only after incidents, whether they be an unauthorized individual entering an office suite, an unusually personal online threat or confusion during an emergency.

Law firms are finding that they need to shift from being reactive to preventive. Situational awareness training tailored to office environments is becoming more common. This training teaches reception staff, night personnel and attorneys working late clearer guidance on when to challenge unfamiliar individuals, how to escalate concerns and how to navigate evacuation or shelter-in-place scenarios. The following case studies offer insight into some possible scenarios and what law firms might do in response.

Case Study 1: When Routine Activity Masks Unauthorized Presence

A New York law firm[8] initiated a security review after two unrelated observations raised concern within the same week. In one instance, a staff member noticed an unfamiliar individual using a conference room without having checked in. In another, facilities personnel reported that a person had accessed an upper floor from a stairwell and exited before being identified.

A review of access logs and camera footage suggested that at least one individual had entered the building during a peak period, bypassed primary reception controls, and

moved between floors using a combination of elevators and secondary access points. There was no indication of theft or targeting, and it was unclear whether the same person was involved in both instances.

Rather than treating the events as isolated anomalies, the firm evaluated how ordinary building conditions could enable unverified access:

- Entry points were optimized for high tenant flow, with limited deterrence against tailgating.
- Secondary pathways (e.g., stairwells, interconnecting floors) allowed movement that bypassed reception areas.
- Temporary use spaces such as conference rooms created opportunities for individuals to blend in.
- Employees had inconsistent expectations, and operational confusion, about identifying and reporting unfamiliar persons.

Although the activity appeared low-level and possibly opportunistic, the firm concluded that the underlying conditions warranted attention. It implemented clearer visitor protocols, expanded internal monitoring and introduced staff guidance on when to escalate concerns.

Case Study 2: From Online Friction to Real-World Considerations

Another area of growing attention is digital hygiene. As attorneys become increasingly visible online, online exposure can translate directly into physical risk. Common digital hygiene practices include:

- Reviewing and limiting publicly available personal information.
- Removing data from broker and aggregation sites where feasible.
- Using privacy settings on social media and professional platforms.
- Separating personal and professional contact information.
- Monitoring for unauthorized use of personal data.
- Not posting times and locations of where one will be present, to include posts by family members.
- Avoiding heated or inflammatory discussions on social media platforms.

A New York firm reassessed its approach to attorney safety after a series of events that began with routine online criticism.

Following a contentious engagement, several attorneys were mentioned in public forums and received direct messages that were critical but not overtly threatening. Separately, one attorney reported an encounter near his home in which an unknown individual appeared to recognize the attorney from professional activity.

These developments prompted a broader review of publicly available information. The firm found that personal details – including home locations, family names and frequent locations – could be assembled from a combination of social media, professional biographies and commercial data sources.

While no single indicator suggested imminent risk, the convergence of factors (online visibility, identifiable routines and unsolicited in-person recognition) shifted the firm's assessment.

In response, the firm:

- Conducted individualized reviews of publicly exposed personal information.
- Assisted attorneys in reducing or removing sensitive data from common sources.
- Established a process for evaluating when patterns of attention or contact warranted escalation.
- Coordinated internal communication so that concerns raised in one context (online or physical) informed the overall picture.

The situation did not progress further. However, the firm treated it as an example of how dispersed signals, when viewed together, can have different implications than when considered in isolation.

Case Study 3: Connecting Disparate Incidents Into a Cohesive Security Function

Sometimes taking a step back is required to assess security from a higher-level perspective. Over a period of time, a New York law firm addressed a range of operational issues that were not initially viewed as related: an after-hours access anomaly, malfunctioning cameras, frequent tardiness by contract security officers, inconsistent handling of threatening communications, and uncertainty among staff during a time-sensitive health incident.

Each situation was resolved independently. However, a post-hoc review revealed common themes, including unclear decision-making authority, inconsistent escalation practices and gaps in coordination between administrative, HR, IT and facilities functions.

Rather than responding to each issue in isolation, the firm undertook a broader effort to organize its approach to security and safety.

Instead of immediately establishing a permanent executive role, the firm engaged external expertise to help with the following:

- Mapping existing responsibilities across departments and identifying gaps.

- Standardizing response protocols for different types of incidents.
- Clarifying who has authority to make decisions under time-sensitive conditions.
- Introducing training aligned to realistic scenarios rather than theoretical risks.
- Providing interim coordination during incidents that cut across functions.
- Conducting a security technology review.
- Integrating the new approach to security into firm culture.

This approach allowed the firm to integrate previously disconnected activities into a more coherent framework. As the program matured, leadership began evaluating longer-term ownership and structure, including hiring a full-time security director.

Some firms are also formalizing criteria for when additional protective measures may be appropriate. These may include cases involving heightened visibility, credible threats or significant public attention. Such measures can include enhanced travel awareness, coordination with building security or, in limited cases, personal protective support, including drivers, vehicles and close protection agents.

New York Firms Set the Pace

The legal industry is famously imitative. Major shifts in governance rarely begin with a single firm; they begin when a small group of influential firms take visible steps that prompt others to reassess their own practices.

New York firms have historically led similar transitions in areas such as cybersecurity governance, talent recruitment and retention, crisis communications and enterprise risk management. Physical security may be following a similar path.

Firms are recognizing that security programs do not need to be large to be effective. What matters most is clarity of responsibility, leadership engagement and alignment between policy and practice.

For firms of all sizes, that evolution is already underway. As the external environment evolves, expectations around duty of care are evolving alongside it.

The next step for many firms is not dramatic transformation but thoughtful alignment: clarifying ownership, establishing governance and ensuring that training, procedures and leadership expectations reflect modern realities.

For firms beginning to formalize their approach, initial steps often include:

- Identifying who is responsible for security oversight.
- Conducting a basic risk assessment.
- Establishing clear incident reporting and escalation procedures.
- Providing staff with situational awareness training.
- Reviewing digital exposure and personal information risks.

Given an employer's obligation to provide a reasonably secure workplace, many law firms, particularly smaller ones without internal security resources, seek outside guidance. Numerous advisory options exist, but no single model fits every firm. Effective approaches are those that align with a firm's size, culture and risk profile.

No two firms face identical risks. But across the profession, the trajectory is clear: Security is increasingly viewed not as a reactive expense but as part of the infrastructure that enables attorneys and staff to perform demanding work safely and confidently.

While this shift is well underway in the high rises of Manhattan, this new mindset is also taking root in firms from Albany to Buffalo and beyond.

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Emily Baum is managing director and chief of staff of Enterprise Security Risk Management at Kroll, with extensive experience advising and designing programs for Am Law 100. She focuses on comprehensive security programs including master planning, risk assessments, systems design, engineering, threat management, policies and operational security. She resides in Rochester.

Endnotes

1. Shane Galvin and Jennie Taer, *US Attorney for NY John Sarcone Chased by Knife-Wielding Illegal Salvadoran Migrant Who Threatened to Slit His Throat: Prosecutors,* New York Post (June 18, 2025, updated June 20, 2025), https://nypost.com/2025/06/18/us-news/us-attorney-for-ny-john-sarcone-chased-by-knife-wielding-illegal-salvadoran-migrant-who-threatened-to-slit-his-throat-prosecutors/.

2. Tom Parry, *Why Attacks on Law Firm Offices Are Increasing and What They Should Do About It, Lawyers and Democratic Decline* (Apr. 16, 2025), https://ladd.law.wisc.edu/2025/04/16/why-attacks-on-law-firm-offices-are-increasing-and-what-they-should-do-about-it/.

3. Robert Abruzzese, *Brooklyn Tenants Rally To Support Activist Facing Retaliatory Eviction*, Brooklyn Eagle (Nov. 15, 2023), https://brooklyneagle.com/258488/tenants-rally-to-support-activist-facing-retaliatory-eviction.

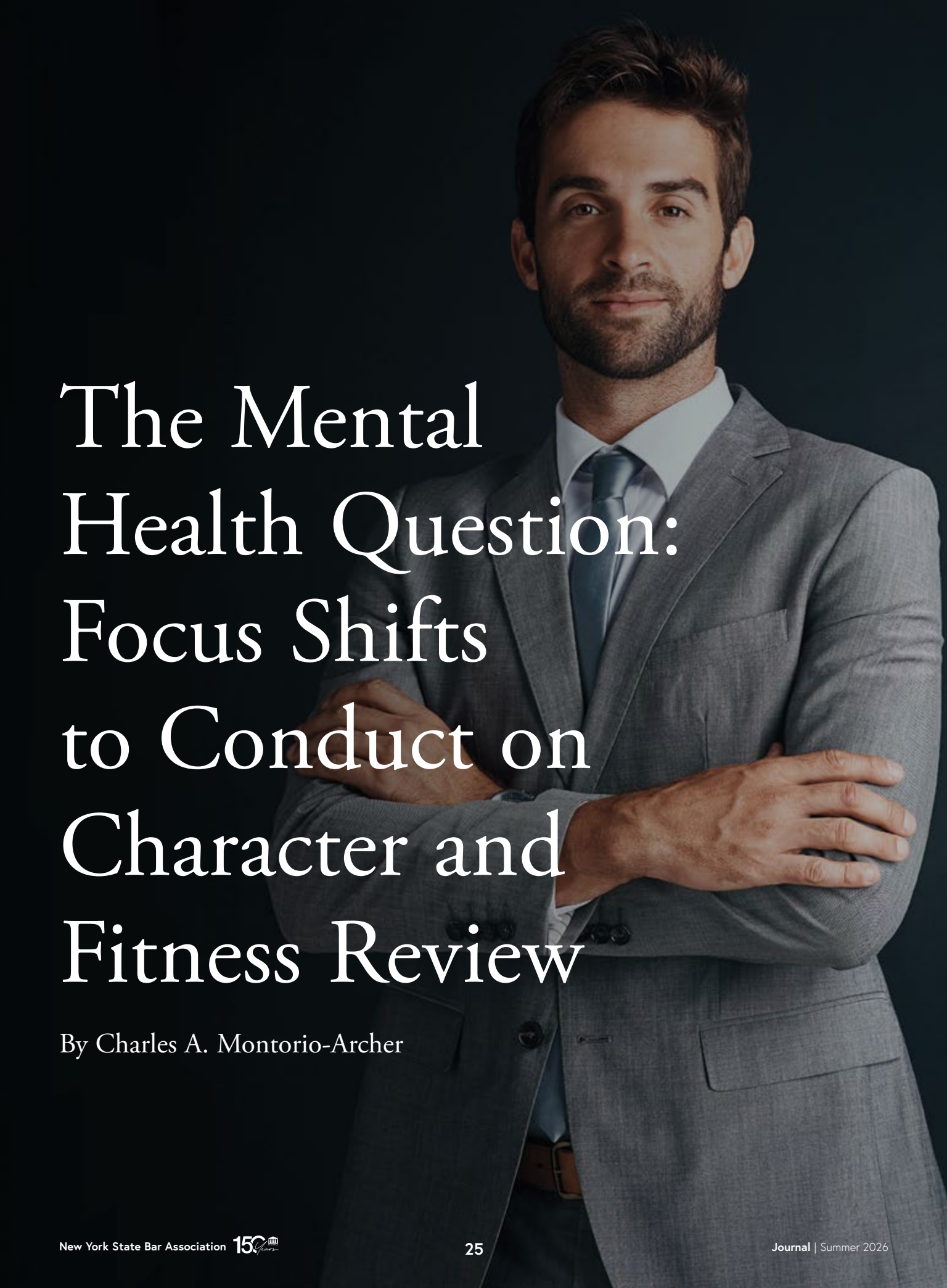
4. Stephen Kelson, *Violence Against Lawyers: The Increasingly Attacked Profession,* 10 B.U. Pub. Int. L.J. 260 (2001).

5. Utah State Bar, Violence in the Utah Legal Community: Results of the 2026 Survey (2026).

6. 29 U.S.C. § 654(a)(1).

7. Blaise Gomez, *Juror: Accused Orange County Killer Strangles Attorney During Courtroom Outburst, Causing Mistrial,* News12 Westchester (May 19, 2025), https://westchester.news12.com/juror-accused-orange-county-killer-strangles-attorney-during-courtroom-outburst-causing-mistrial.

8. The case studies described in the article are composites based on patterns and scenarios observed across multiple law firms and engagements. They are not intended to describe any specific firm or incident, in part to protect firm confidentiality.



The Mental Health Question: Focus Shifts to Conduct on Character and Fitness Review

By Charles A. Montorio-Archer

This past April, the National Conference of Bar Examiners announced that it was changing its guidance on what has become a controversial question on state bar applications. The change, as shown in the organization's new sample application, eliminates the requirement of mental health disclosure. The sample application the bar examiners provide is used by many states, so this is a significant change, albeit one that reflects a growing trend across the country.[1]

The movement to change or withdraw the mental health question began in 2011, when the Department of Justice investigated Louisiana's bar admission policies after a complaint was made by the Bazelon Center for Mental Health Law. The complaint argued discrimination against an applicant to the bar because of a mental health diagnosis. In 2014, the DOJ concluded that questions about mental health on the exam, in addition to other bar admissions practices, was a violation of Title II of the Americans with Disabilities Act.[2]

The issue was gaining attention in other states and on a national level, too. A survey on law student well-being in 2014 showed that the "[p]otential threat to bar admission was the fourth most cited reason for not seeking help" for mental health problems, leading to new attention to and scrutiny of mental health questions as part of the character and fitness portion of state bar exams.[3]

In 2020, New York State became the eleventh state to change its bar application to eliminate the mental health question.[4] This followed a New York State Bar Association working group report that recommended doing so.[5] However, after removing the question, the New York Court System reinstated question 34(f), a question about long-term hospitalization, making the issue one still not fully resolved.

Historical Role of Mental Health Questions

Character and fitness evaluations have long been a central component of bar admissions. Their purpose is to ensure that applicants possess the integrity, judgment and reliability necessary to practice law and to uphold the administration of justice. Historically, these evaluations extended beyond questions about conduct to include inquiries into an applicant's personal history, including mental health diagnoses and treatment.

The rationale for such questions was grounded in concerns about impairment. Admissions authorities sought to identify individuals whose condition might affect their ability to meet professional obligations, reflecting a broader regulatory objective of protecting the public from unprofessional behavior. In that context, inquiries about mental health were viewed as one way to assess potential risk to the public and to the integrity of the legal system, alongside financial responsibility, criminal history and academic integrity.

This approach developed during a period in which regulatory bodies often relied on broad indicators of risk rather than narrowly tailored measures of conduct. Mental health disclosure was treated as potentially relevant information, even if the condition was not likely to affect professional performance. As a result, the scope of inquiry frequently extended beyond what is now considered necessary to assess an applicant's present fitness to practice law.

Over time, particularly throughout the past decade, this approach drew increasing scrutiny, particularly as the legal profession began to more closely examine the relationship between mental health, stigma and professional responsibility. This scrutiny prompted a reevaluation of whether such questions were appropriately tailored to their intended purpose. It also led to broader conversations about how regulatory frameworks should evolve to reflect contemporary understandings of health and professional competence, including a more nuanced appreciation of mental health and its relationship to professional performance.

A National Reassessment

The shift away from mental health disclosure questions is best understood as part of a broader national reassessment of how bar admissions should evaluate character and fitness to practice law. Several factors have contributed to this change, each reinforcing the others. These factors reflect both external legal pressures and internal professional developments.

First, legal considerations have played a central role. The move toward conduct-based inquiries aligns more closely with the principle that licensing decisions should be based on an individual's ability to perform professional duties. By focusing on behavior rather than diagnosis, admission authorities reduce the risk of overly broad screening, where generic inquiries capture information unrelated to an applicant's present ability to practice law, and better align their processes with disability law principles. Under the ADA, licensing bodies must ensure that their inquiries are appropriately tailored to assess relevant qualifications without unnecessarily burdening individuals with disabilities.[6] A conduct-based approach, by contrast, focuses on observable behavior and demonstrated capacity, aligning more closely with legal requirements for individualized assessment.

Second, the legal profession has increasingly recognized the importance of attorney well-being. Studies and professional initiatives have detailed the high prevalence of stress, anxiety and depression within the profession. A 2017 ABA task force indicated that approximately 28% of attorneys experience depression and nearly 20%

report significant anxiety.[7] Against that backdrop, disclosure requirements that might discourage individuals from seeking treatment have come under scrutiny. The profession has begun to consider how its own regulatory structures may be reinforcing any messages that attorneys should not seek help for fear of losing work.

Third, there is a growing understanding that past treatment is not a reliable proxy for present impairment. Many individuals who have sought mental health care do so responsibly and effectively, with no impact on their professional performance. In some cases, treatment may reflect sound judgment rather than cause for concern. This recognition has contributed to a more nuanced understanding of what information is relevant to assessing fitness.

Together, these factors have contributed to a reframing of the issue: from one centered on disclosure of medical history to one focused on evaluation of professional conduct, which can provide a more accurate reflection of a lawyer's fitness to practice law. This reframing reflects a more precise and functionally relevant approach while maintaining the core objective of ensuring standards are met.

Turning the Tide

One significant catalyst on the national level was guidance from the American Bar Association, which urged jurisdictions to focus on conduct rather than diagnosis when assessing applicants.[8] In addition to pointing out the problem of assessing character and fitness based on a diagnosis, the ABA argued that questions about mental health history could discourage law students and applicants from seeking treatment, thereby undermining both individual well-being and the profession's broader interest in competent practice. This guidance helped reframe the issue from one of information gathering to one of how bar admission processes are structured to evaluate an applicant's fitness to practice law.

Across jurisdictions, responses to these concerns have varied in form but not in direction. Some states have eliminated mental-health questions entirely, while others have narrowed them to focus on conduct directly relevant to professional responsibilities. For example, jurisdictions such as New York and Virginia have eliminated broad mental health disclosure questions, while others, including California and Illinois, have revised their character and fitness inquiries to focus more narrowly on behavior indicative of current impairment or inability to meet professional obligations.

While the pace of reform has not been uniform, and some jurisdictions have retained broader inquiries about mental health diagnoses, the overall trend is toward greater specificity and relevance to the standards of professional behavior.

The result has been a gradual but meaningful shift across the United States in the framework used to

evaluate applicants. Bar applications are now changing to place greater emphasis on behavior, performance and demonstrated judgment. This evolution continues to influence how jurisdictions approach character and fitness determinations today, shaping both policy design and administrative practice. By using methods that emphasize evaluating candidates for precision, resilience and fairness, this shift ensures that standards are met while also accounting for a new, more evolved understanding of mental health in the 21st century. The shift does not eliminate the obligation to ensure that those admitted to the bar are capable of meeting the demands of legal practice. The question is no longer whether applicants have sought treatment, but whether they have demonstrated the judgment and reliability required to practice law.

The Bar Question and NYSBA

New York's approach illustrates how reform can occur through a combination of legal analysis, professional leadership and institutional action. It also highlights the importance of collaboration between regulatory bodies and professional organizations in shaping policy that is both effective and responsive.

Through its committees and policy work, NYSBA contributed to the broader conversation about attorney well-being and the importance of reducing barriers to seeking treatment. Its engagement helped frame the issue not simply as a matter of individual disclosure, but as one of professional responsibility and institutional design. The push to change the question was supported by the New York State chapter of the National Alliance on Mental Illness, the Mental Health Association of New York, the New York City Bar Association, the Women's Bar Association of the State of New York, the New York Association on Independent Living, the Erie County Bar Association, the Nassau County Bar Association and Capital District Lawyers Helping Lawyers.

NYSBA's involvement reflects the broader role that bar associations can play in shaping regulatory reform. By convening stakeholders, advancing policy discussions and providing institutional leadership, organizations like NYSBA can influence how complex issues are understood and addressed.

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Endnotes

1. Karen Sloan, *U.S. Bar Group Scraps Questions on Mental Health from Lawyer Fitness Review*, Reuters (April 23, 2026), https://www.reuters.com/legal/litigation/us-bar-group-scraps-questions-mental-health-lawyer-fitness-review-2026-04-23.

2. Graham Ambrose, Brianne Holland-Sterger and Nora Freeman Engstrom, *Mental Health Screening in Lawyer Licensing*, Stanford Law School Deborah L. Rhode Center on the Legal Professions (Sept. 2024), https://law.stanford.edu/wp-content/uploads/2024/12/Mental-Health-Screening-in-Lawyer-Licensing-Final.pdf.

3. Marilyn Cavicchia, *A New Look at Character and Fitness: Bar Leaders, Lawyers, Others Urge Elimination of Mental Health Questions*, Bar Leader Magazine, vol. 44, no. 3 (Jan.–Feb. 2020), https://www.americanbar.org/groups/bar-leadership/resources/bar-leader-magazine/2019-2020/january-february/a-new-look-at-character-and-fitness-bar-leaders-lawyers-others-urge-elimination-of-mental-health-questions.

4. Press Release: New York State Bar Association Succeeds in Getting Mental Health Question Removed from NY Bar Application, NYSBA (Feb. 26, 2020), https://nysba.org/february-26-2020-new-york-state-bar-association-succeeds-in-getting-mental-health-question-removed-from-ny-bar-application/

5. Working Group on Attorney Mental Health, *The Impact, Legality, Use and Utility of Mental Disability Questions on the New York State Bar Application,* NYSBA (2019), https://nysba.org/wp-content/uploads/2020/02/Working-Group-Report-FINAL-11.04.19-Following-adoption-by-HOD.pdf.

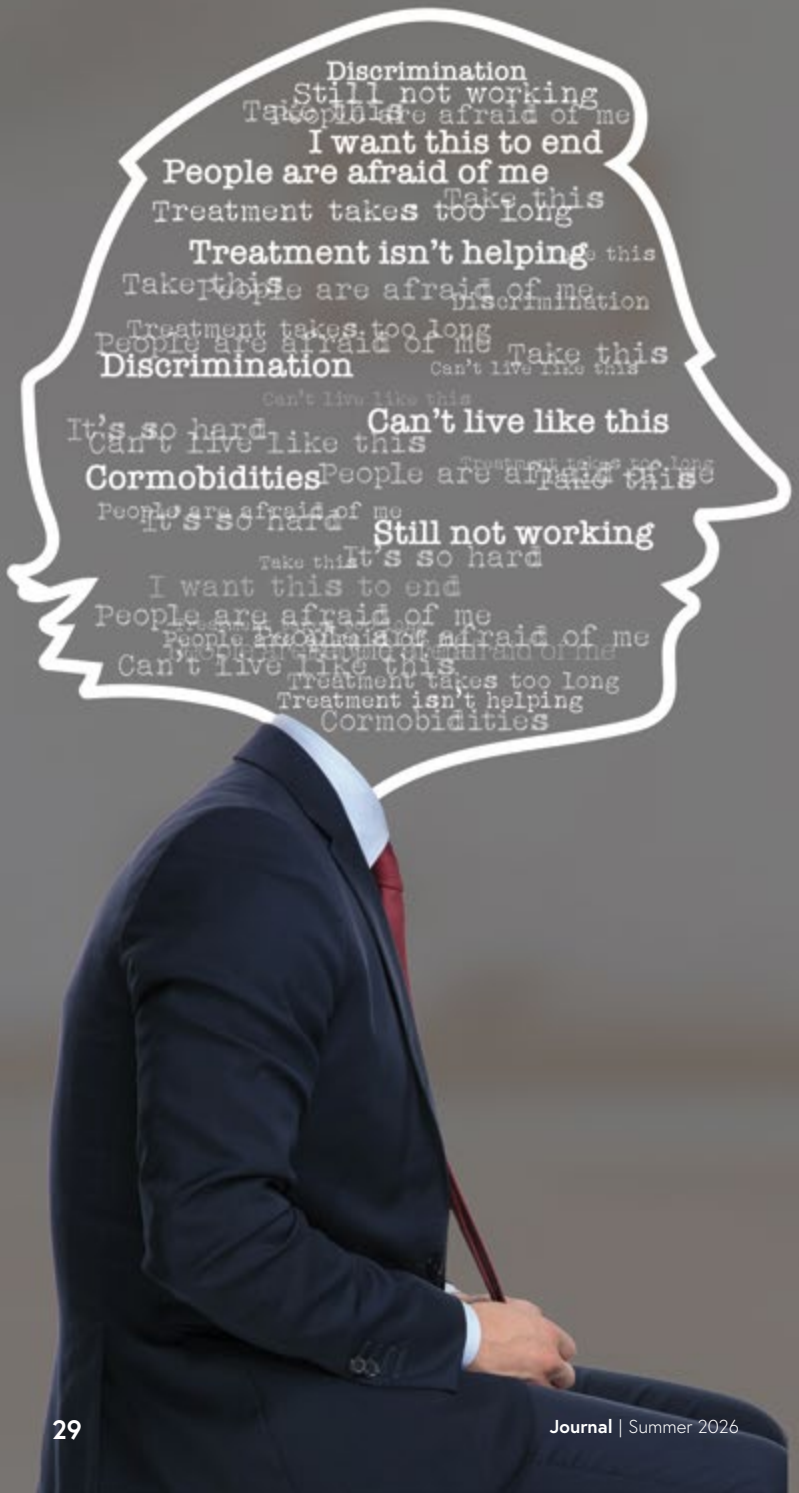
6. U.S. Department of Justice, Civil Rights Division, guidance on licensing and disability-related inquiries.

7. ABA National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-Being* (2017).

8. ABA, Resolution 102 (2015), available at https://www.americanbar.org/content/dam/aba/directories/policy/annual-2015/2015-annual-102.pdf.

Lawyer Assistance Program Meets the Health and Wellness Needs of Lawyers

By Jennifer Andrus



The New York State Bar Association's Lawyer Assistance Program is flourishing in an increasingly open environment where lawyers in need are feeling safer asking for help navigating the stressors in their professional and personal lives.

"The stigma surrounding getting help has lessened. Our members want well-being services; they want help before there is a crisis and that is really driving our programming," said program Director Stacey Whiteley. "Law firms and law schools have joined us in this wellness effort."

Whiteley credits a change in attitude surrounding mental health care to law students and recent law school graduates who are more willing to discuss their mental health challenges. She said they are more open to seeking help and that the stigma surrounding mental health is much less with this group than other demographics she has worked with.

There are also more middle-aged people seeking assistance, according to Whiteley.

"We are seeing a lot of people talking about being in a sandwich generation – taking care of kids and aging parents while trying to work. Both men and women are asking for support," she said.

The Lawyer Assistance Program, founded over 40 years ago to provide support and treatment for attorneys battling alcoholism, has expanded into several areas of health and wellness. The program provides several weekly meetings, from meditation to co-working groups, and a helpline that connects members to alcohol, substance use and mental health care treatment. Attorney wellness is now included in the 16-credit Bridging the Gap continuing legal education course for newly admitted lawyers.

This expansion can be traced back to June 2020 when then NYSBA President Scott M. Karson formed the Task Force on Attorney Well-Being to address mental and physical health in the legal profession, a need amplified by the COVID-19 pandemic. The task force studied several issues surrounding attorney wellness and produced a report in 2021 with several recommendations for expanding services. Whiteley praised the task force and its co-chairs, former Presiding Justice Karen Peters, Appellate Division, Third Department, and Libby Clark, a solo practitioner and chair of the Committee on Attorney Well-Being, for their forward thinking.

"The report provided a robust blueprint for our work, and it expanded our outlook on how we can provide more services for members," Whiteley said, adding that her staff continues to work on implementing many of the report's recommendations.

Social Work Meets Lawyering

The report's groundbreaking work led to additional grant funding for the Lawyer Assistance Program from the New York State Office of Court Administration and the New York Bar Foundation. That funding allowed the New York State Bar Association to hire a licensed master social worker as a well-being program manager.

Jennifer Clayton came to the association in 2022 with a wealth of experience serving victims of trauma and violence. She has also conducted research on strategies to prevent provider fatigue. Even with her background, she admitted feeling close to burning out from years of crisis response work and was looking for a new way to use her skills to help people.

"This job is everything I was looking for. There are many similarities in the stress felt by crisis responders and lawyers. This work weighs heavy on you. Lawyers have a very high-stakes position, especially those working in family court and immigration law," Clayton said. "People are yearning for community. They feel alone and isolated."

Clayton is responsible for many of the programs that help attorneys practice productive coping strategies for stress and other challenges. The New York State Bar Association offered 136 programs in 2025 and is on track to offer at least that many this year. The support groups meet virtually and help break down isolation while building connections. Clayton also creates wellness programs for specific areas of law practice. She recently hosted a program that focused on the stress of government lawyers responding to changing federal policies.

"Our goal is to continue to let people know that we exist. Our services are confidential and our groups are open to anyone willing to try them," Clayton said.

Whiteley said staff members aid in the collaboration between the Lawyer Assistance Program, which helps members in crisis, and the Attorney Well-Being programs, which offer wellness and prevention programming. Whiteley said the growth in lawyer assistance and attorney well-being programs helps the New York State Bar Association reach its goals without any conflict or duplication of services. The program expanded again this year with the hiring of licensed clinical social worker Allison Hind, whose duties include client work, support services and educational programming.

Lawyers in recovery can find a community of others in the same situation at the program's annual spring retreat, which was held in May in Lake George. This year the retreat also included a CLE program that addressed problem gambling and its impact on the profession, plus wellness programs such as meditation and yoga.

"We help people realize that talking to us or attending one of our events can provide them with guidance on what productive coping looks like," Clayton said. "We don't classify people or put then in a box with a label; we are just here to help."

Jennifer Andrus is a NYSBA content and communications specialist.

NYSBA President Taa Grays Prioritizes AI Readiness, Access to Justice and Members' Success

By Rebecca Melnitsky

"The mission of the New York State Bar Association is to be the leading voice for the legal profession," said Taa Grays, the 129th president of the New York State Bar Association. "And we are the leading voice in three ways: We are advancing the success of our members; we are advancing equal access to justice and advancing the rule of law."

As the new president, Grays is focused on advancing the mission of the New York State Bar Association, as well as its growth and continued success.

Grays also spoke about making history as the New York State Bar Association's first Black woman president.

"It took time for us to get here, but we are here," she said. "And then Michelle Wildgrube, as the first Asian woman, is coming after me. It just shows how our commitment to diversity is continuing to bring more inclusive leadership into the organization."

Grays emphasized that the association is committed to reflecting the legal community and those that it serves.

"Being in an organization that values and supports diversity – and creates an environment that fosters it – is important to me," she said. "I want others to see our commitment and how it makes us a stronger organization."

Equipping Members To Use AI Responsibly and Ethically

Grays plans on tackling several important issues impacting attorneys during her presidency. Chief among them is the rise of artificial intelligence in the legal profession.

"We can't ignore it," said Grays. "We must equip our members with resources on how to use the tool in a responsible way, in an ethical way – and in a way that supports their practice."

In addition to the Committee on Artificial Intelligence and Emerging Technologies, almost all sections are already addressing AI with their members, and Grays plans to amplify their work. She also wants to create an easily accessible set of resources for members to understand AI.

Recognizing that many NYSBA members, especially solo practitioners, may not have resources or time to evaluate and understand AI tools, Grays wants the association to expand membership benefits with preferred AI tools and vendors.

"Although, you'd have to do your own assessment to make sure that they suit your practice and what your needs are," said Grays. "The association can give you a place where you can find tools you need."

Grays envisions having AI vendors as sponsors and speakers at section meetings and destination meetings, as well as incorporating a technology expo into Annual Meeting. "We can help to allay the fears of some of our members about AI," said Grays. "The tool is not going to replace us. It's going to replace work that we do."

Initiatives on Consumer Protection, Renewable Energy, Family Court and More

Grays will be partnering with the sections on many of her initiatives as well. "I am going to work through the sections to put my initiatives in place," she said. "Past President Domenick Napoletano did that, and I think it's a great way of harnessing the expertise, the energy and the leadership of the organization."

One of the initiatives is consumer protection issues regarding terms and conditions agreements, which the Business Law Section will address.

"People want services, they want apps," Grays said. "They want these things, and to get those things, they usually have to review a very long and not very easy to understand document. Are people really knowingly consenting? ... The majority of people don't [read it]. They know they're not going to understand it."

Chief Judge Rowan Wilson takes a moment with President Taa Grays at her swearing-in ceremony.

Attorney General Letitia James speaks at Taa Grays' swearing-in.

Grays said that while she understands that corporations must protect themselves and comply with regulations, it is also important to make the agreements understandable for consumers. The Business Law Section will determine the best ways of balancing these concerns and propose recommendations to make terms and conditions agreements more accessible to the average person.

Grays also wants to tackle the issue of renewable and sustainable energy, especially as governments examine these industries and people struggle with gas prices.

"It's an issue of the now," Grays said. "I'm working with the Environmental and Energy Law Section to refresh some of the reports that we've done as they relate to renewable and sustainable energy. Also, I asked the section to identify any new issues that we should be examining so we can provide good thought leadership to those that are making decisions in this area."

Another initiative will be to make recommendations for the challenges facing people in Family Court, including helping them navigate the legal process.

"In Family Court, a number of the litigants are pro se," Grays said. "As they try to resolve very emotionally fraught issues, they have to struggle to navigate a system they don't understand."

Grays will partner with the Family Law Section, the President's Committee on Access to Justice, and the Committees on Families and the Law, Children and the Law and Mandated Representation, among others, on this initiative. Chief Judge Rowan Wilson has also identified this as one of his own priorities.

"There are a lot of people that are now focusing on this because we know that it's in crisis," Grays said. "I think the bar has a role in being able to use our expertise and our talents to see how we can help make that situation less stressful for the parties."

Grays also plans on continuing the work of Rural Ready, addressing New York's legal deserts and the justice gap, and creating a Committee on Education within the association.

Making History, Looking to the Future

She said that she will continue to follow the New York State Bar Association's strategic plan regarding membership sustainability, making the organization easier to operate and more financially viable.

"We're a member-driven organization – membership sustainability is being strategic about how we recruit and retain our members," Grays said. "It isn't enough to just bring them through the door; we must do things to ensure they know the association is an organization for you – our members. They have to continue to feel that they are getting value from the organization."

Grays is a seasoned in-house corporate professional who worked for a Fortune 50 company. She has been a member of the New York State Bar Association since 1998 and has served in numerous leadership roles, including as secretary from 2021 to 2025.

Grays earned her J.D. from Georgetown University Law Center and received her bachelor's from Harvard University.

Looking forward to the New York State Bar Association's continued 150th anniversary celebration, Grays plans on creating a dynamic archive to store and preserve the association's long history, including member stories and memorabilia.

"We've done a lot of great stuff that a lot of people don't know about," Grays said. "We have been a significant part of history internationally, nationally and in our state. This project is designed to gather all that history and create an archive for it. But the archive wouldn't be static; it would be a dynamic archive, because I do expect that we will be around for the next 150 years and the next 150 years after that. Today I'm the present, but in another 30 or 40 years, this moment – me being the first Black woman president – is a moment that will be in history."

Rebecca Melnitsky is a NYSBA content and communications specialist.

Ten Things You Don't Know About Taa Grays

By Jennifer Andrus

1 Taa played the clarinet and was on the speech and debate team in high school.

2 Taa was also the editor-in-chief of her high school newspaper. She met New York City Mayor David Dinkins at a high school journalist event. She told him that she was born on his birthday.

3 Taa visited Stonehenge during law school. Her best friend in law school was studying abroad, so she visited her during spring break.

4 Taa met President Bill Clinton at a Columbia Law School event celebrating the 50th anniversary of *Brown v. Board of Education*. Great speaker. Momentous event.

5 Her family's Father's Day tradition is to go to Coney Island. And they always ride the Cyclone (if it is working). That is her and her dad (in the back seat) in the picture. Taa is seated next to one of her sisters. She always screams no matter how many times she has been on it.

6 Taa's first concert was during Prince's Purple Rain tour. She saw four more of his concerts.

7 Taa is a big sci-fi fan. She has seen all the "Star Trek" movies and most of the series. Her favorite movie is "Star Trek 2: The Wrath of Khan."

8 Taa enjoys seeing Broadway plays, so she started a ladies' theater group. This outing is with her BFF since junior high school.

9 Her picture was used in an artistic quilt entitled "A Woman's Worth – Equal Pay for Equal Work," by quilter Earamichia Brown to highlight gender pay inequity.

10 Taa went to the Winter Olympics in South Korea in February. She said it was cold but amazing to see the best of the best athletes from around the world compete for the gold.

Jennifer Andrus is a NYSBA content and communications specialist.

President-Elect Michelle Wildgrube Ready To Make Her Mark

By Jennifer Andrus

From an early age, Michelle Wildgrube understood that being female would present challenges that her brothers would not face. She learned this lesson by watching her mother reenter the workforce and balance work and family.

As college graduation loomed at Rutgers University, a conversation with a trusted adviser altered the course of Wildgrube's life.

"If you want to do something that will help women, you should be a lawyer," said Professor Meredith Turshen.

Within weeks, Wildgrube was applying to law school and soon left New Jersey for the University at Buffalo School of Law. She was attracted to classes with subjects that covered real-life applications such as trusts and estates, real property and contracts.

At UB, Wildgrube saw firsthand how the law can impact crime victims, especially women. She volunteered at the domestic violence clinic on campus where she helped a survivor petition for an order of protection and appeared with her in Family Court. The experience, she said, helped prepare her to work as an attorney for the child in Family Court early in her career and led to her involvement with The Legal Project.

In 1999, Wildgrube joined the Capital Region firm of Carpenter and Cioffi. After Howard Carpenter left for another opportunity, the firm took on the new name of Cioffi, Slezak and Wildgrube with a partnership fully comprised of women. Wildgrube called it an organic change that led to a culture of collaboration and kindness. She credits her firm's success, longevity and low employee turnover to that work culture.

"We offer flexibility to our employees, and it helps our employees to be able to raise a family and also do a great job," she said. "We like to say that our employees are adults and that they can manage their schedules. We attract highly qualified people with that model, and they do great work for us."

That flexibility extends beyond the workplace. Wildgrube is comfortable meeting new people while also understanding what it's like to be seen as different. Growing up in a diverse family, Wildgrube's parents instilled in her an awareness and sensitivity to the value of inclusion.

President Taa Grays shares a moment with President-Elect Michelle Wildgrube at the swearing-in ceremony.

"Those early lessens impacted how I lead my life," she said.

Wildgrube calls herself "Wasian" and is open to sharing her experiences and welcoming others into the fold.

"It's a great time for people who are of different backgrounds to be able to be seen," she said. "I am Chinese, but I am also German. I am a little bit of everything with a difficult German last name (willed-grew-bee). It's a fun time for me to be out there."

Supporting President Taa Grays and Increasing NYSBA Membership

As co-chair of the association's Membership Committee, Wildgrube was one of the chief architects of the new membership model. Under the all-inclusive model, members pay one flat fee that entitles them to belong to two of the association's 28 sections, take continuing legal education courses and download e-books and legal forms.

Wildgrube admits feeling cautious about the idea at first but soon saw how valuable this model would be to members. Her biggest challenge was convincing section leaders that the new membership model would increase section membership and lead to higher revenue.

"When you hear something new – the easiest answer is no," she acknowledged. "It can be hard convincing others that this will draw people to membership and make us a stronger association overall, which also benefits the sections. It's been less than two years, and I'm just thrilled with that growth already, with 2,000 more members than we had at the same time last year."

With Wildgrube's outgoing nature, it's no surprise that she has excelled in encouraging others to join the association. Her commitment to the bar association began in 1999 when her firm encouraged all associates to join at least two sections, which are divided by practice area or demographics. She started volunteering in the Real Property Law Section.

As president-elect, Wildgrube, in collaboration with President Taa Grays, is interested in hearing what newer attorneys are looking for from NYSBA, including what committees, benefits and interactions would help to engage and retain them.

"We are looking at what new qualified lawyers want. I have two kids in their 20s and they are not like I was in my 20s," she said. "I didn't have social media as a young lawyer. It expands our horizons and gives us access to information we might miss from traditional communications."

Wildgrube wants to continue using the association's Instagram, LinkedIn and Facebook platforms to spread the word about the benefits the association has to offer. Wildgrube is eager to build on the success of the last year and attract even more members.

"I'm so impressed by our membership and the people willing to give their time to help others be better practitioners," she said. "We have a great story to tell."

From that hopeful teen who was encouraged to express herself and embrace her differences to the legal practitioner changing the rules when it comes to law practice management, Michelle Wildgrube is poised to make her mark.

Jennifer Andrus is a NYSBA content and communications specialist.

Thomas J. Maroney, Secretary

Thomas J. Maroney is the secretary of the New York State Bar Association. He previously served on the NYSBA Executive Committee and in the NYSBA House of Delegates as an elected member-at-large. Maroney is chair of the NYSBA Committee on Association Insurance Programs and a member of the Gala Sales Committee. He also serves on the NYSBA Committee To Review Judicial Nominations.

Maroney served as a member of the Task Force on Medical Aid in Dying, the Working Group on Facial Recognition Technology and Access to Legal Representation, and the Emergency Task Force on Solo and Small Firm Practitioners. He also served as the NYSBA Membership Committee chair.

Maroney was a contributing author of NYSBA's "Post-Trial Practice and Procedures." He has lectured on civil trial practice, negotiation strategies and alternative dispute resolution. He served as chair of the NYSBA Torts, Insurance, and Compensation Law Section.

He is the president of the New York City Trial Lawyers Alliance, which is dedicated to promoting professionalism and collegiality in civil trial advocacy.

Maroney is a past president of the Defense Association of New York and the Emerald Association of Long Island. He has served on the board of directors of the Defense Research Institute and St. John's University School of Law Alumni Association. He serves on the boards of the New York County Lawyers Association and New York Claim Association.

He is also a member of the Bronx County Bar Association and Nassau County Bar Association. A graduate of Siena University (formerly Siena College) and St. John's University School of Law, Maroney has dedicated his practice to high exposure, catastrophic and complex civil defense litigation. He has been a member of the First Department Character and Fitness Committee since 1998.

Maroney is the recipient of the Defense Research Institute Outstanding State Representative Award; the DRI Exceptional Performance Award; the New York State Bar Association Section Diversity Challenge Champion Award as chair of the Torts, Insurance, and Compensation Law Section as well as the section's Leach Memorial Award; the New York City Brehon Law Society Outstanding Attorney Award and the Institute of Jewish Humanities Defense Lawyer of the Year Award.

The Defense Association of New York presented the James S. Conway Award to Maroney in recognition of his lifetime of dedication to the ideals of diversity, equality, professionalism and dignity for all who seek justice through our courts. The New York Claim Association recently honored Maroney with its lifetime achievement award.

Susan L. Harper, Treasurer

Susan L. Harper has been treasurer of the New York State Bar Association since June 1, 2023.

Harper is the founding chair of the association's Women in Law Section and served as chair of the Committee on Women in the Law, where she successfully spearheaded initiatives and legislation to advance issues pertaining to women in the legal profession and advocated for the fair and equitable treatment of all women under the law.

Harper serves on the association's Executive Committee, Finance Committee, Investment Committee, and Audit Committee, and is the Executive Committee liaison to the Women in Law Section (WILS), the Committee on Attorney Well-Being, and the Lawyer Assistance Committee. She served as chair of the association's Attorney-Client Relations Working Group as part of the Task Force on the Post-Pandemic Future of the Profession and was a member of NYSBA's Strategic Planning Committee, the Task Force on Free Expression in the Digital Age, the Working Group on Judiciary Law Section 470 and chair of the Women in Law Section's Centennial Suffrage Commemoration initiative.

Harper is a member of NYSBA's Corporate Counsel, Elder Law and Special Needs (and its legislative subcommittee), Commercial and Federal Litigation, and Business Law sections. Prior to becoming an officer, she presented to the House of Delegates on six occasions to advance paid leave, the Equal Rights Amendment, and the creation of the Women in Law Section. She has moderated and presented at three marquee NYSBA Annual Meeting Presidential Summits and has testified before the New York State Legislature on behalf of the association.

Harper has been admitted to the New York and New Jersey bars. She focuses her practice on financial services, senior fraud and financial exploitation prevention, business advisory, estate planning, policy and legislative development, and not for profit law. She drives and elevates critical issues through strategic advocacy, education and communications, including efforts to protect vulnerable individuals, nature and the environment.

Harper has represented major broker-dealers, insurance companies and clearing firms and their employees on matters before the Financial Industry Regulatory Authority, the Securities and Exchange Commission and state and federal courts in connection with customer, industry and employment disputes. She recently served as a managing director of a nationally recognized consulting firm offering services in litigation, regulatory, compliance and data analytics consulting and expert testimony for financial services firms.

Taa Grays, Susan L. Harper and Thomas J. Maroney

Harper is a member of the New York County Lawyers Association board of directors, its Nominating Committee, and the Rule of Law Committee. She is a past co-chair of the Securities and Exchanges Committee and the Women's Rights Committee.

She served as president and chair of the board and on the Executive Committee of the Financial Women's Association of New York and the FWA of the New York Educational Fund. She also served as its board restructuring chair and general counsel for several years and was the organization's liaison to the United States military for over a decade.

Harper earned her law degree from New York Law School and her bachelor's degree in business management from Simmons College in Boston. In law school, she was a founding editor and publisher of the ABA award-winning newspaper The L and served as a reporter and later legal editor for the New York Law Journal and editor for the National Law Journal/ALM Marketing. While in law school, she also served as a judicial extern to the Hon. Nicholas Tsoucalas at the U.S. Court of International Trade and at the New York City Law Department. Prior to entering law, she conducted international business.

Harper is a recipient of Hofstra University's Maurice A. Deane School of Law's Outstanding Women in Law award and has been honored as a Public Sector Woman of the Year by the Financial Women's Association of New York.

Beyond the Mirage: Beware of Generative AI and Hallucinations

By Cynthia Feathers

The work of attorneys can be arduous. With demanding caseloads comes an openness to tools that can help us do our jobs more efficiently. The advent of online legal research was a game changer for attorneys decades ago. In recent years, generative artificial intelligence – AI that can create original content such as text, images, video, audio or software code in response to a user's prompt or request – has begun to revolutionize legal practice.[1] This development has included the integration of AI into legal research and writing.

The focus here is on the risks inherent in popular generative AI models used to complete such tasks: They are prone to producing false legal information, so-called "hallucinations," including false case citations and false reasoning, quotes and holdings. A nationwide epidemic of cases involving such fabrications has made the risks of unverified AI use well known. Hundreds of decisions have touched on this issue.[2] Thus, the legal profession has been alerted that blind faith in generative AI results is misplaced.

This article makes no attempt to be exhaustive as to the rapidly unfolding case law but does seek to highlight some emblematic decisions issued by state, federal, trial and appellate courts throughout the country over the last two years and to bring attention to the dangers of failing to check AI results.

Hallucinations and Sanctions

First New York Appellate Decision Imposing Sanctions for Hallucinations

Oral argument in a recent appeal dramatized how generative AI-based research can go wrong. A judge asked counsel, "What about the elephant in the room?" By that, the judge meant allegations that AI-generated fake cites appeared in counsel's papers. Counsel demurred – the cites were not important to salient issues. The court pushed back, "They are important to us." The landmark decision in question is *Deutsche Bank National Trust Co. v. LeTennier*.[3] In the emerging discussions on generative AI misuse, this Appellate Division, Third Department, decision stands out as reportedly the first appellate-level case in New York State court addressing sanctions for generative AI misuse.[4]

LeTennier discusses the value of generative AI, noting that it promotes access to justice, saves costs and assists in the administration of justice. However, when results are not confirmed, opposing counsel and the court may be called upon to spend countless hours separating fact from fiction. Due to erroneous assumptions made by the relevant model, biases in the data used to train the model and other factors, generative AI may produce incorrect information, the *LeTennier* court observed.

So-called hallucinations include fake citations to nonexistent cases and citations to real cases but misrepresentations of the holdings. The generative AI fictions often favor the user who supplied the query that generated the case information – perhaps because generative AI models are more likely to give an incorrect response than to admit that they do not know something.[5] While fabricated citations are more likely to arise from generative AI than the human mind, attorneys' distortions of the meaning of case law is nothing new.[6]

LeTennier involved the execution by the defendant of a note to borrow money. The note was secured by a mortgage on real property, the defendant defaulted on his obligations, the plaintiff initiated a mortgage foreclosure action and its motion for summary judgment was granted. The defendant then filed several motions, including one seeking vacatur under CPLR 5015 based on new evidence and fraud. The instant appeal challenged the denial of the motions. The reviewing court affirmed all challenged orders.

Counsel's opening brief cited six cases that do not exist – a problem detected by counsel for the plaintiff. In opposing such relief, the defendant cited more fake cases and inapposite decisions and claimed that the nonexistent cases constituted citation or formatting errors.

While the reply brief acknowledged "a serious error," it also included more fictitious cases. The appellate papers included 23 fake citations and many misrepresentations. Such conduct implicated rules against frivolous conduct and providing knowingly false statements to a tribunal. In determining an appropriate sanction, the *LeTennier* court was not impressed with counsel's statement at oral argument that 90% of the citations were accurate. Many of the fake cases were cited after counsel had been alerted to the problem; remedial action and remorse were instead the proper path.

In the end, what is at issue in *LeTennier* is not so much emerging technology as the old-fashioned notion that attorneys must validate every fact and every cite before filing their papers. Artificial intelligence demands oversight via human intelligence. In *LeTennier*, counsel's lapses resulted in a sanction of $5,000 for the hallucination-related misconduct. For pursuing a frivolous appeal, an additional $2,500 each was imposed against counsel and the defendant, who had filed several pro se motions.[7]

Southern District Court Enters Default Judgment as Punishment

A New York Southern District case tells a similar tale of an attorney not appreciating the gravity of the situation and obfuscating and repeating errors, rather than showing contrition and seeking absolution. The case, *Flycatcher Corp. Ltd. v. Affable Ave. LLC*,[8] involves federal claims of trademark infringement and unfair competition.

The defendant's brief supporting a motion to dismiss contained false citations. As in *LeTennier*, in this case,

opposing counsel discovered the hallucinations and alerted the court, stating that perhaps the defendant's counsel had used ChatGPT or another AI model, resulting in 13 fake citations and eight real cases with fictitious quotes.

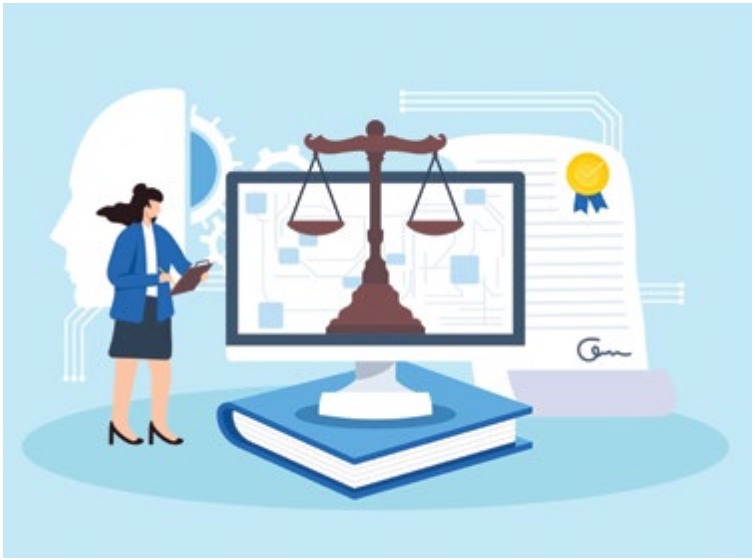
As in *LeTennier*, counsel in *Flycatcher* continued to use flawed research methods and failed to check cites. Counsel again presented false citations both in response to the court's order to show cause regarding sanctions and in a new brief.

The offending attorney in *Flycatcher* offered a song and dance about how these mistakes occurred and minimized the errors. Counsel's unpersuasive defense: "Only" 14 out of 60 cases were hallucinations. The punishment for the "insouciant approach" and bad faith: the striking of the problem submissions and the entry of a default judgment against the defendant. Further, counsel for the plaintiffs was directed to submit an application for attorney's fees to be paid by the defendant's counsel.

Law Firms' Duties: New York Trial Court

Among enlightening New York decisions considering potential discipline of attorneys for errant citations is *Cassata v. Michael Macrina Architect, P.C.*[9] In several ways, that case is striking. It details troubling ethical lapses but concludes that no disciplinary investigation is warranted;[10] probes ethical rules implicated; and explains the duties of supervising attorneys and law firms.

The *Cassata* litigation against an architectural firm, sounding in professional malpractice and breach of contract, sprang from an alleged house collapse. When the plaintiff sought to strike affirmative defenses, the defendant opposed by plagiarizing a brief generated by AI, according to the plaintiff.



At an ensuing sanctions hearing, the attorney author and her supervising attorney apologized. The junior attorney apparently used AI to do research and generate a well-written argument; to not have taken the time to confirm its validity; and to have been untruthful in stating that she did not use AI.[11] The senior attorney believed that the law firm had recently obtained an AI-enhanced version of Westlaw and noted – perhaps as a misplaced excuse – that he did not know how to use AI.

Both attorneys and their firm had violated Rule 1.1 of the Rules of Professional Conduct, requiring competent representation. Further, the supervising attorney was incompetent in not keeping abreast of technology and understanding the need for independent verification of AI-produced citations. The *Cassata* court noted that the senior attorney's excuse was offered at a time when a recent study reported on pitfalls of legal research platforms, including hallucinations, from 17% to 33% of their responses.[12]

In copying large sections of a brief without vetting citations, the attorneys and firm had also violated Rule 1.3(a), imposing a duty to be diligent. Rule 3.1 was contravened by the citing of fictitious cases or making assertions without basis in law or fact. After the lapses were brought to light, initially neither attorney candidly admitted how the mistakes occurred. They thereby violated Rule 3.3 on the duty of candor.

Moreover, the senior attorney and the law firm had not complied with Rule 5.1 on the duty of supervision, which requires reasonable efforts to provide guardrails and ensure that other lawyers in the firm conform to ethical standards. Firm leaders are the guardians of their name and their firm's reputation, the *Cassata* court declared.

As to the appropriate punishment, the court considered that the younger attorney had just been admitted to the bar in 2024 but concluded that her lack of experience did not excuse the misconduct. However, the *Cassata* court did not refer the matter to the Attorney Grievance Committee and instead recommended appropriate continuing legal education courses, fined the attorneys $1,000 each and directed that the firm pay $8,000 in reasonable counsel fees and expenses.[13]

Recent New York Cases Regarding Discipline

Discipline was imposed by the Appellate Division in *Matter of Zareh*.[14] In opposing a motion to dismiss a complaint filed in a federal district court in Texas, the attorney for the plaintiff submitted a brief containing many false or incongruous case citations and misstated legal principles. The defendant pointed out the errors. Following a hearing, the Texas court concluded that the citations and the brief were unreviewed AI-generated documents and that the attorney who filed the

papers was guilty of bad faith. The court admonished counsel for violating a Texas civil practice rule.

In a New York proceeding, the Attorney Grievance Committee sought the imposition of reciprocal discipline against the attorney. The First Department found that the conduct for which the respondent was sanctioned in Texas would constitute misconduct here in violation of Rule 3.1. Further, Rule 5.1 was implicated because the respondent failed to properly supervise the drafting associate. Generally, great weight is given to the sanction imposed by the jurisdiction where the misconduct occurred. A public censure, as requested by the grievance committee, was the appropriate discipline; it was equivalent to the public reprimand in Texas and consistent with precedent.

Finally, *Idehen v. Stoute-Phillip*[15] stands as another example of a lack of candor by an attorney called out for hallucinations. In the nonpayment proceeding, the attorney for the landlord filed papers containing cites to real cases that did not stand for propositions stated and to AI-generated case summaries. The New York trial court ordered a $1,000 fine and referred the attorney to the Attorney Grievance Committee based on the false citations and lack of candor.

When his lapses came to light, counsel first said that he had used Microsoft Copilot and did not read the cases cited. But then he said that his computer had malware and was hacked, and that had somehow resulted in changes to a previous correct draft. Ultimately, counsel retracted that story and re-asserted his initial statement about the use of Copilot without confirmation of case cites and holdings.

Law Firms' Duties: Federal District Court

A noteworthy decision cautioning the bar regarding the accountability of law firms for generative AI-related mistakes is *Billups v. Louisville Municipal School District*.[16] In this case on age discrimination, counsel for the plaintiff admitted to submitting a memorandum containing false case citations and case holdings resulting from unverified AI usage.

A recently admitted junior attorney had drafted the subject papers. She and two supervising attorneys had attended a CLE course on ethics in utilizing AI – apparently to no avail. After learning of the problem memo containing hallucinations, the firm adopted a new policy and limited AI usage to the Smokeball case management software. However, it came to light that the young associate had violated the policy and drafted at least 10 filings containing hallucinations.

The *Billups* court observed that "[t]here's a difference between a seasoned, good lawyer and somebody who uses AI to look like one" and lamented that the negligent use of AI had produced realistic-seeming legal fiction that took far longer to respond to than to create. At a hearing on sanctions, the young attorney admitted that she used Grok, an AI tool, to do research and drafting, without verifying the accuracy of output. "I made a big mistake. I was lazy," she admitted.

'Young attorneys will not be excused based on inexperience. Senior lawyers will not be forgiven based on an excuse that they do not understand modern technology. The dangers presented by AI misuse are serious.'

The *Billups* court found her misconduct egregious and prolific and chastised the supervising attorneys who fell down on the job. Moreover, opposing counsel should have alerted the court to the hallucinations (as has often happened in many other cases).

Going forward, the district court expected "all parties to assist in maintaining the integrity of the judicial process and to be diligent in flagging AI misuse." The three attorneys had self-reported to the Mississippi bar.

In addition, they were disqualified from further representation of the plaintiff and were required to provide a copy of the sanctions order to all presiding judges in every pending state or federal case in which they were counsel of record. This seems like a powerful step. Alerting tribunals of attorneys' prior ethical lapses could invite heightened scrutiny. The firm was also required to do an internal audit and provide a report to the court.[17]

Conclusion

Generative AI products can be invaluable to attorneys and other professionals in performing research and drafting duties.[18] But these resources should only be employed as an initial step in the research and drafting process – not the last word. While some courts were

initially reluctant to harshly treat attorneys who did not verify the accuracy of AI-generated authority, the problem has reached such vast proportions that attorneys are now charged with the requisite knowledge and cannot expect a free pass or mere slap on the wrist for failing to confirm that the law cited in their papers is real.

Attorneys must ensure that they detect and correct hallucinations yielded in their research or the work done by legal professionals they supervise. Young attorneys will not be excused based on inexperience. Senior lawyers will not be forgiven based on an excuse that they do not understand modern technology. The dangers presented by AI misuse are serious. Clients may be deprived of arguments based on authentic judicial precedents and may face dismissal of their case or their appeal. The offending attorneys may be hit with monetary penalties, disciplinary referrals and damage to their reputations and careers.

The next line of defense is opposing counsel, who often call out fabrications and alert the courts. Other times, on their own initiative, courts uncover the false cites. Where there is failure at every step, a judicial decision could be based on fabricated authority resulting in a miscarriage of justice. Even where fictitious legal statements are detected, the attorneys and judges may expend vast amounts of time unpacking the flaws in the legal papers.

In our profession, it is not uncommon for attorneys and judges to make mistakes: Perhaps we can feel some compassion and humility toward otherwise ethical attorneys who face a hallucination crisis. There is no shame in using generative AI, so it is not clear why attorneys often deny having done so.[19] The problems flow from failing to verify legal citations and, if panic sets in, not being immediately and fully forthcoming and contrite. While warranted, the judicial response to hallucinations has been stunning in its fierceness and opprobrium, and this response demands our attention and action.

Evolving technology is seductive in creating the illusion that it can save us from the hard work. But our ethical duties to our clients and the courts still require that we rigorously verify every case cited. When generative AI output becomes more reliable, new questions will arise about how far we can go in abdicating our lawyerly judgment to new technology.[20]

For now, New York attorneys should be aware of a new rule on AI adopted by the New York State Unified Court System. Effective June 1, Part 161 of the Rules of the Chief Administrator of the Courts permits the use of AI tools in preparing submissions to a court and does not require the disclosure of such use. However, Part 161 sets forth a model rule that does require attorneys using

such tools to "carefully review" each submission and "independently ensure" that they do not contain "fabricated or fictitious cases, statutes, or other material."[21] Individual judges retain discretion to implement their own AI-related rules, adopt the model rule or impose no additional requirements through their part rules.

Perhaps soon we will see more standing orders on AI use and updated ethics rules nationwide targeting AI issues.[22] In the meantime, in the use of AI, we can be guided by the new court rule and longstanding mandates regarding competence, diligence, accuracy and candor and the supervision of lawyers and nonlawyers.

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Endnotes

1. For a notably lucid and concise explanation of AI, *see* Cole Stryker & Mark Scapicchio, *What Is Generative AI?* IBM Think 2026, https://www.ibm.com/think/topics/generative-ai.

2. *See* Damien Charlotin, *AI Hallucination Cases,* Damien Charlotin, (last updated June 8, 2026), https://www.damiencharlotin.com/hallucinations (for a database that has tracked more than 1,000 U.S. legal cases involving hallucinations).

3. __ A.D.3d __. 2026 N.Y. Slip Op. 00040 (3d Dep't 2026). Another significant New York case on AI is *United States v. Heppner*, 820 F. Supp. 3d 292 (S.D.N.Y. 2026). Addressing a question of first impression nationwide, the court ruled that written exchanges between a criminal defendant and the public generative AI platform Claude – which did not occur at the behest of counsel – were not protected by the attorney-client privilege or the work product doctrine. This landmark case deserves its own article but is not explored here, since the author focuses on generative AI hallucinations.

4. A more recent Appellate Division decision discusses the *LeTennier* decision at great length. In *Matter of Julien v. Arthur*, ___ A.D.3d ___, 2026 N.Y. Slip Op. 03308 (2026), a child custody case, the Second Department held that "the unverified usage of GenAI to draft an appellate brief containing false information constitutes frivolous conduct warranting the imposition of a sanction, even when the offending party is a pro se litigant."

5. To understand how a query can yield false results, consider *Lexos Media IP, LLC v. Overstock.com, Inc.*, __F. Supp. 3d__, 2026 WL 265581 (D. Kansas 2026). In that patent infringement action, the plaintiff sought to introduce expert testimony. ChatGPT was queried: "Taking the role of a judge, write an order that denies the motion to strike with caselaw support for the proposition that where the expert report is criticized for inadvertently using an immaterial incomplete claim construction, the remedy is not to strike the entire report/testimony of that expert." Generative AI delivered the requested results, citing a real case – standing for favorable but fake statements and propositions.

6. Fictitious "facts" are another problem. In *Matter of M.S. (M.H.)*, __N.Y.3d__, 2026 N.Y. Slip Op. 00825 (2026), the Court of Appeals expressed concerns about deepfakes when discussing the authentication of video evidence. For an insightful article about evidence and AI more generally, *see* Ronald Castorina, Jr., *The Disappearing Original: Artificial Intelligence, Evidence and the Future of Fact-Finding Under New York Law*, N.Y.L.J. (Jan. 27, 2026). A startling situation regarding false facts was revealed in *State v. Coleman*, 2026 Ohio 965 (Ohio Ct App. 11th Dist. 2026), involving a defense motion alleging prosecutorial misconduct that was based on invented inflammatory statements yielded by ChatGPT.

7. Apparently, to date, the largest sanction in connection with fake citations is $95,000 – the total for the defendants' reasonable attorney fees resulting from the plaintiffs' submission of the subject summary judgment briefing – ordered to be paid 85% by the plaintiffs' pro haec vice counsel and 15% by local counsel. And pro haec vice counsel had to pay an additional $15,500 sanction. The case is *Couvrette v. Wisnovky*, __F. Supp. 3d__, 2025 WL 4109655 and 2026 WL 800566, family litigation over a winery in a federal district court in Oregon. In another case, the severest "sanction" for AI misuse and lack of candor was the offending attorney's loss of a job. *See Fivehouse v. U.S. Dept. of Def.*, __F. Supp. 3d__, 2026 WL 1146537 (E.D.N.C. 2026) (assistant U.S. attorney resigned or was fired after generative AI misuse in litigation). Some courts have been sharply divided on proper sanctions for AI-related lapses. In *McCarthy v. United States Drug Enforcement Agency*, 171 F.4th 245 (3d Cir. 2026), the court addressed an attorney who submitted briefs containing misleading summaries of prior DEA adjudications and erroneous citations and was cavalier when caught. The majority imposed a mere reprimand, because the circuit had not cautioned the bar about unverified AI research. A dissenter opined that no forewarning was necessary. The Supreme Court of Alabama rendered a robust decision on sanctions for generative AI hallucinations in *Ibach v Stewart*, __Ala__, 2026 WL 1110659 (2026), a dispute over a trustee's fiduciary duties. The majority dismissed the appeal because of extensive hallucinations and imposed monetary fines and made a disciplinary referral. Other judges found such punishments too harsh.

8. __F. Supp. 3d__, 2026 WL 306683 (S.D.N.Y. 2026).

9. 2026 N.Y. Slip Op. 26014 (Supreme Ct., Suffolk Co. 2026).

10. *See* Judiciary Law § 90 (1) regarding the generally private and confidential nature of matters relating to attorney discipline and exceptions to the general rule.

11. The failure of attorneys to promptly accept responsibility when caught is a familiar theme in the evolving hallucinations case law, as also discussed in *Fletcher v. Experian Information Solutions, Inc.*, 168 F.4th 231 (5th Cir. 2026). That court was among those that have considered a new rule that would have required counsel to affirm that, if an AI program was used, a human checked the text generated for accuracy.

12. Varun Magesh et al., *Hallucination-Free? Assessing the Reliability of Leading AI Legal Research Tools*, 22 J. Empirical Legal Stud. 216 (2025).

13. To be contrasted are decisions involving referrals for disciplinary investigation. In addition to those noted above, such decisions include *Park v. Kim*, 91 F.4th 610, 613-616 (2d Cir. 2024), and *Amarsingh v. Frontier Airlines, Inc.*, __F.4th__, 2026 WL 352016 (10th Cir 2026).

14. __ A.D.3d __, 2026 N.Y. Slip Op. 00619 (1st Dep't 2026).

15. 86 Misc. 3d 1244(A) (Civil Ct., City of N.Y., Queens Co. 2025).

16. __ F. Supp. 3d __, 2025 WL 3691871 (N.D. Miss. 2025).

17. Another law firm, which filed a brief with hallucinations in litigation arising from certain social media posts, ironically boasted on its website about the firm's extensive incorporation of AI into all areas of its representation "to deliver cutting-edge legal solutions" (*see D'Ambrosio v Meta Platforms Inc.*, 176 F.4th 928 (7th Cir. 2026)).

18. This article has focused on AI-related errors made by attorneys, whereas many decisions address errors by others, including pro se litigants and expert witnesses. We note one ironic expert case. In *Kohls v. Ellison,* 2025 WL 66514 (D. Minn. 2025), litigation challenged a statute prohibiting AI-generated deepfakes to influence elections. An expert on the dangers of AI used the generative AI tool GPT4 to draft a statement – which cited non-existent academic articles. The expert plausibly explained how the mistakes happened, but his credibility with the court had been shattered.

19. A recent example of the instinct to deny AI use is *Malkeet Lnu v Blanche*, __ F.4th __, 2026 WL 1587554 (9th Cir. 2026) (where two attorneys handling immigration appeals submitted papers containing hallucinations and until final minutes of oral argument unflinchingly disclaimed AI use, punishment included monetary sanctions and six-month suspension from practice before the appellate court).

20. *See Jane Doe 1 v. Mount Saint Mary High School Corp.*, 2026 WL 1329203 (W.D. Okla. 2026) (when all critical tasks in legal brief writing are outsourced to generative AI, "something essential is surely lost," even if an attorney checks case citations on the back end).

21. Part 161. Use of Artificial Intelligence Technology, The Courts - Rules, N.Y.S. Unified Court System, https://www.nycourts.gov/rules/part-161-use-artificial-intelligence-technology.

22. For comprehensive databases tracking state and federal AI standing orders, *see*

- *Standing Orders, Local Rules, and Decisions on the Use of AI*, Ropes and Gray, https://www.ropesgray.com/en/sites/artificial-intelligence-court-order-tracker?states=2faa0e93-8bb7-422d-8d92-addaa936c9bb&page=0.
- *Tracking Federal Judge Orders on Artificial Intelligence*, Law360 Pulse, https://www.law360.com/pulse/ai-tracker.

For a key opinion and ethics rules on AI nationwide, *see*

- ABA Standing Committee on Ethics and Professional Responsibility, Formal Opinion 512 (July 29, 2024), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf.
- AI and Attorney Ethics Rules: 50-State Survey, Justia, https://www.justia.com/trials-litigation/ai-and-attorney-ethics-rules-50-state-survey.

For two key New York State reports on AI, *see*

- President's Committee on Access to Justice, Report and Recommendation on Artificial Intelligence and Access to Justice in 2025, NYSBA (Jan. 2026), https://nysba.org/wp-content/uploads/2023/02/Approved-Report-and-Recommendations-on-AI-and-Access-to-Justice-in-2025.pdf.
- Advisory Committee on Artificial Intelligence and the Courts, Annual Report to the Chief Judge and Chief Administrative Judge of the State of New York (Dec. 2025), https://www.nycourts.gov/LegacyPDFS/publications/pdfs/AI%20Annual%20Report%202025.pdf.

Cultivating New York's Future Citizens: Advancing a Tradition of Democratic Education

By Mary Ann C. Krisa and Brittany A. Jones

Across the history of democratic thought, one theme endures: A just society requires educated, engaged citizens.[1] Aristotle argued that the purpose of law is not only to regulate but to cultivate virtue and shape citizens capable of intelligently participating in public life.[2]

In the early American republic, Thomas Jefferson warned that without widespread civic education a people could not remain free.[3] Education equips individuals with the skills necessary to engage in reasoned debate, challenge abuses of power and preserve liberty.[4] Jefferson articulated a complementary vision of civic formation, one grounded in the Enlightenment belief that self-government requires an educated public.[5] He repeatedly argued that a republic's survival depends on its citizens' capacity to understand their rights, scrutinize their government and participate meaningfully in public life.[6]

Jefferson viewed public institutions not simply as sources of law but as sites of democratic learning.[7] Courts, legislatures and schools expose citizens to the workings of government and model the principles of fairness, equality and deliberation that sustain republican life.[8] He saw civic education as a practical safeguard against tyranny, ensuring that each generation could defend the republic anew.[9]

Working from the premise that all institutions can play a part in educating the future citizenry, the legal profession has long provided programs for students to engage, question and learn about the justice system in the United States. One such program, Justice for All: Courts and the Community, was spearheaded by former Chief Judge Robert A. Katzmann of the U.S. Court of Appeals during his tenure (2013-2020).[10] In this program, students participate in a one-week summer session at a federal courthouse in Manhattan or Brooklyn. High school students can also arrange to meet a federal judge and participate in an essay contest. Justice for All offers resources and support for teaching about the law in classrooms. Its stated mission is "to help increase points of contact between the courts and the communities we serve, to facilitate mutual understanding, and help to ensure that the courts are accessible and effective public institutions."[11]

The Scales of Justice Academy is another example of courts working in partnership with the community to educate future community leaders. This program, specifically for female students, was founded in 2009 by New York State Supreme Court Justice La Tia W. Martin to encourage girls to pursue careers in the law. In addition to classroom-based learning, students have the opportunity for mentorship and visits to local, state and national courthouses and other civic sites of interest.[12]

Inspired by the Scales of Justice Academy, in 2025, under the leadership of Presiding Justice Gerald J. Whalen, the Appellate Division, Fourth Department, embarked on a suite of youth-focused community initiatives for both high school and middle school students. The court has developed a model designed to develop the next generation of engaged citizenry. These initiatives serve as a community-based learning model that can be replicated throughout the New York State court system.

While there is much that students can learn in the classroom and through other educational activities,

Media literacy and public speaking are among the skills students practice at the New York Youth Law Academy.

community-based learning can offer insight and experiences beyond the classroom. Community-based learning "connects academic learning with real-life application and community engagement" where young people can "learn and problem solve in the context of their lives and communities."[13] The court system is one area where students can acquire a more thorough understanding of how our government and the law function.

The New York Youth Law Academy: A Week of Civic Formation

The cornerstone of the initiatives in the Fourth Department is the New York Youth Law Academy, a weeklong, intensive program that was held in July 2025 at the University of Rochester for approximately 40 high school students. Its inaugural year was publicly recognized through local news coverage and community partnerships.[14]

The academy's first session emphasized civic reasoning, exposure to legal institutions and democratic participation. Students learned the "Issue, Rule, Application, Conclusion" foundation of legal writing, explored the civil and criminal systems, received public speaking and media literacy training and heard from public officials, legal practitioners and judges. These seminars fostered deep discussions, promoted strong critical thinking about society and the law, and allowed for exploration of varying viewpoints regarding the responsibilities and shaping of society.

Vital to the project of an engaged, informed citizenry, the media plays an important role in safeguarding democracy. To this end, students met with Karen Edwards, an evening news anchor at 13WHAM in Rochester, who spoke about her role as a professional broadcaster. Edwards discussed how facts are gathered, how a crime story is developed, and how it is presented to an audience. Students were able to explore how media and the legal system intersect by learning how legal stories are covered by the media.

The Youth Law Academy also sought to help students understand historical contexts and included a visit to the Civil Rights Museum on Wheels, a replica of the bus in which Rosa Parks refused to give up her seat. This experience provided students with a real-time understanding of how legal segregation functioned every day. The week concluded with a graduation ceremony in the Susan B. Anthony Courtroom at the Hall of Justice in Rochester. These experiences reinforced the link between law, justice and civic identity.

The Fourth Department staff has also coached mock trial teams since 2023 at Vertus High School and East High School, with both teams participating in the New York State Bar Association's statewide competition.[15] Each

Bella Johnson was among the approximately 40 students that took part in the New York Youth Law Academy at the University of Rochester.

school works with a team of Fourth Department court attorneys to draft opening and closing statements and direct and cross-examination questions, to learn and apply the rules of evidence and to develop legal reasoning skills.

Finally, many students have taken advantage of the Fourth Department's "Day at the Court" program where local students come to court as a complement to their classroom civics instruction.

The Fourth Department's community-based learning model embodies Jefferson's steadfast belief in civic engagement. By offering students direct encounters with legal institutions, observing oral arguments, learning rules of evidence, analyzing legal questions and engaging with judges and attorneys, the Fourth Department invites young people into the democratic process itself. This is not abstract civics but active civics: Students learn how the law functions, why it matters, and how they might one day contribute to its ongoing development.[16]

Students said that the academy helped them gain confidence with their research and public speaking skills and piqued their interest in the legal profession.

In addition to extending an understanding of law and citizenship beyond the classroom, the program helped students who may not have the opportunity to visit college campuses to do so. Students participated in a campus tour and met with various members of the administration. These experiences also attract students from diverse and underrepresented backgrounds, which serves as a pipeline program to ensure that talented individuals, regardless of their socioeconomic status, are exposed to careers in law, academia, journalism and politics.

Through structured experiences like the New York Youth Law Academy, students not only learn about the law but come to see themselves within it, a crucial step toward ensuring that tomorrow's citizenry is prepared to serve as full participants in society.

Beyond the Academy: A Multi-Layered Civic Pipeline

The Fourth Department's broader youth initiatives also expand access to civic and legal learning to even younger students.

In the spring of 2025, the Fourth Department, in partnership with Rochester's Andrew Langston Middle School, created the first Middle School Legal Academy. The Fourth Department formed this unique program with the goal of introducing younger students to the court system and helping them learn fundamental civic concepts.[17]

Students participated in monthly colloquia with local lawyers and judges who shared their career paths, discussed the type of law they practiced and answered students' questions. After the speakers finished, students then transitioned to formal instruction, where they, like the high school students at the legal academy, learned the basics of legal writing and oral advocacy, including completing an "Issue, Rule, Application, Conclusion" analysis for assigned issues. The program culminated with each student arguing before an Appellate Division justice at the Fourth Department. A graduation ceremony followed where Appellate Division judges and local politicians spoke to the students on how their interest and participation in the law are important components of a fair and just society.

The Fourth Department's newest civic programming for youth, along with programs like the Scales of Justice Academy and Justice for All, create a continuum of civic formation that brings classical democratic theory into alignment with the needs of today's youth.

By investing in civic formation, the court can help strengthen public understanding of the judiciary, increase access to the legal profession and encourage students to see themselves as future participants in democratic life. This model can be a "transformative force in education and social development."[18]

These programs exemplify this transformation, reimagining the courthouse from a distant symbol of authority into a living civic classroom. In doing so, they enable young people to see themselves not as observers of the legal system but as potential leaders of that system, an essential ingredient of civic virtue in a pluralistic democracy. In an era where public trust in institutions is fragile,[19] programs that invite young people into the courthouse, literally and figuratively, serve as a powerful antidote to the increasing skepticism of established institutions. Programs linking classroom-based instruction with "real world" practices can be a vital part of ensuring that the next generation is prepared not merely to inherit New York's governmental institutions but to actively participate in them.

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Endnotes

1. Amy Gutmann, Democratic Education (1999).
2. Aristotle, Politics, bk III, Part 13.
3. 79. A Bill for the More General Diffusion of Knowledge, 18 June 1779, reprinted in 2 The Papers of Thomas Jefferson 526, 526–35 (Julian P. Boyd ed., 1950), https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0079.
4. Rockfish Gap Report of the Virginia Commissioners, Aug. 4, 1818, reprinted in 13 The Papers of Thomas Jefferson: Retirement Series 209, 209–24 (J. Jefferson Looney ed., 2016), https://founders.archives.gov/documents/Jefferson/03-13-02-0197-0006.
5. 79. A Bill for the More General Diffusion of Knowledge (June 18, 1779), reprinted in 2 The Papers of Thomas Jefferson 526, 526–35 (Julian P. Boyd ed., 1950), https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0079.
6. Rockfish Gap Report of the University of Virginia Commissioners (4 August 1818), reprinted in 13 The Papers of Thomas Jefferson: Retirement Series 209, 209–24 (J. Jefferson Looney ed., 2016), https://founders.archives.gov/docuents/Jefferson/03-13-02-0197-0006.
7. *See History of the Library of Congress*, Libr. of Cong. (last visited Jan. 20, 2026), https://www.loc.gov/about/history-of-the-library/; *The Role of Education*, Thomas Jefferson's Monticello (last visited Jan. 20, 2026), https://www.monticello.org/the-art-of-citizenship/the-role-of-education/ (noting Jefferson's belief that "only educated citizens could make the American experiment in self-government succeed" and his advocacy for broad public education as essential to an informed citizenry).
8. Charles R. Kesler, *Education and Politics: Lessons from the American Founding*, 1991 U. Chi. Legal Forum 101, 105 (1991) (discussing the role of education and political institutions in cultivating republican citizenship).
9. Letter from Thomas Jefferson to William Charles Jarvis (Sept. 28, 1820), in 16 The Papers of Thomas Jefferson: Retirement Series 287, 287–89 (J. Jefferson Looney et al. eds., 2019), https://founders.archives.gov/documents/Jefferson/03-16-02-0234 (noting that the proper "remedy" for uninformed citizens is to "inform their discretion by education").
10. Announcement: United States Court of Appeals for the Second Circuit (death notice), U.S. Courts (June 9, 2021), https://ww3.ca2.uscourts.gov/docs/Katzmann.pdf.
11. *Mission, About Us*, Justice for All, U.S. Courts, https://justiceforall.ca2.uscourts.gov/about-us/.
12. *About Us*, Scales of Justice Academy, https://scalesofjusticeacademy.org/about/.
13. Atelia Melaville, Amy C. Berg, and Martin J. Blank, *Community-Based Learning: Engaging Students for Success and Citizenship*, Partnerships/Community 40 (2006), https://digitalcommons.unomaha.edu/slcepartnerships/40.
14. Reagan Hillman, *NY Youth Law Academy's Inaugural Graduation*, RochesterFirst.com (July 18, 2025), https://www.rochesterfirst.com/news/local-news/ny-youth-law-academys-inaugural-graduation/.
15. For more information on NYSBA's Mock Trial Program, please visit nysba.org/nys-mock-trial.
16. Claire Willeck, Active Civics: How Civics Education Shapes Political Engagement (Ph.D. dissertation, Princeton University 2023).
17. Press Release: Appellate Division, Fourth Department, *Appellate Division, Fourth Department Collaborates with Andrew Langston Middle School in Spring 2025* (June 16, 2025), https://ad4.nycourts.gov/press/notices/685063e28ece9a5eb04f8f4f.
18. Asuma Mariita Nchaga, *Exploring Community-Based Learning: Opportunities and Challenges*. 4 Rsch Output J. Arts & Mgmt. 1, 46–52 (2025), https://doi.org/10.59298/ROJAM/2025/414652.
19. *Public Trust in Government: 1958-2025*, Pew Research Ctr. (Dec. 4, 2025), https://www.pewresearch.org/politics/2025/12/04/public-trust-in-government-1958-2025/ (showing that only 17% of Americans trust the federal government to do what is right "just about always" or "most of the time").

Due Process and Temporary Orders of Protection: *Crawford v. Ally* and the Balance of Rights

By John Thomas McGuire

Created as a prerogative of the English aristocracy against kingly tyranny through the issuance of the Magna Carta in 1215, the idea of due process, or procedural and substantive protection against deprivations of life, liberty and property, slowly expanded throughout the ensuing centuries to encompass ordinary citizens in the British Isles. The principle became transferred and encompassed in the first 10 amendments appended to the U.S. Constitution in 1791. The generation that fought and won the American Revolution realized that the record of deprivations under British rule provided a precedent that needed future protection.[1] Due process, like other rights accorded in the Constitution, has become a frequently discussed topic in the wake of criticisms around actions of U.S. Immigration and Customs Enforcement. This concept also applies to cases in family law, particularly in cases of temporary orders of protection, where it raises questions about the balance of due process rights with privacy rights.

A new area in this all-important balancing of rights came in 2021 when New York's Appellate Division, First Department, decided in *Crawford v. Ally*[2] that an evidentiary hearing should be held when subjects of proposed temporary orders of protection claim that their due process rights may be violated through the deprivation of significant liberty or property interests. This decision is the latest extension of the landmark principle first enunciated by the United States Supreme Court in *Goldberg v. Kelly*,[3] which held that a recipient of public benefits must receive an evidentiary hearing before the benefits' rescission. *Crawford* not only affects criminal but also family courts, since the latter system also deals with temporary orders of protections.

These concerns become especially pertinent in perhaps the most historically crucial area, the due process clause of the 14th Amendment to the United States Constitution which, as one scholar aptly puts it, is the national covenant's "most familiar and used phrase."[4] One of the essential areas of the phrase's consideration centers on the definition of procedural safeguards against deprivations of "life, liberty or property." In the last 60 years, courts have become more willing to expand the scope of these safeguards. In 1970, the Supreme Court decided to expand due process rights in *Goldberg v. Kelly* concerning the rescission of public benefits. Recipients now received an evidentiary hearing before their benefits could be denied.[5] While *Matthews v. Eldridge* (1976) limited this expansion, it established due process safeguards permanently in the area of governmental benefits.[6]

While the nation's highest court became increasingly chary concerning due process in the late 20th century, courts in the United States' perhaps foremost legal state did not prove so reluctant. In 2021, *Crawford v. Ally* decided that an evidentiary hearing should be held when subjects of proposed temporary orders of protection claim that their due process rights could be violated through a deprivation of significant liberty or property interests.[7] Given the prevalent attitude of the current Supreme Court majority, which emphasizes "originalism" over the past century's inclination to incorporate constitutional rights under the 14th Amendment, any further expansion and delineation of due process may become, as in this situation, the province of state courts.[7] This article examines the precedents that helped lead to *Crawford v. Ally* and its practical effects on family law in the United States.

The Legal Background of Family Law Temporary Orders of Protection

New York's Family Court Act governs familial situations throughout the state, including custody, child support and "family offenses," which include criminal offenses alleged by persons (or complainants) against "members of the same family or household." This term encompasses persons related by consanguinity (blood) and intimacy, legally married to each other, formerly married to one another and persons who have a child in common.[8]

While the Family Court Act does grant concurrent jurisdiction to both criminal and family courts of New York in the area of family offenses, three important differences do exist. First, only a limited list of offenses can be alleged in a Family Court petition or accusatory instrument, such as stalking, menacing or assault. Second, instead of a trial, a "fact-finding hearing" can be held in Family Court to ascertain the veracity of the criminal allegations. Finally, the burden of proof stands as a "fair preponderance of the evidence," or a "more likely than not" standard, except in parental neglect or criminal contempt.[9]

If the Family Court judge does find in favor of the complainant/petitioner, he or she can issue a permanent order of protection. This order can supersede any temporary order of protection previously issued by a Family Court judge after an *ex parte* hearing with the complainant/petitioner. Temporary orders of protection and permanent orders of protection exist in two categories: a

"stay away" order that mandates no contact between the complainant/petitioner and the person restricted by the order of protection, or a "refrain from" order that prevents the subject from entering residences and contacting children, for example.[10]

The Supreme Court Expands Due Process Rights to Governmental Benefits

The case that established a significant precedent for alleged possible due process violations concerning the issuance of a temporary order of protection became *Goldberg v. Kelly*. In this case the United States Supreme Court considered the issue of whether a state authority that revokes public assistance to a recipient without an evidentiary hearing prior to termination denies procedural due process under the 14th Amendment. The case arose from recipients of the partially federally supported Aid to Families with Dependent Children program who received either suspensions or discontinuance of their payments from the New York City Department of Social Services. The department's guidelines allowed affected recipients an evidentiary hearing only after the terminations. In his majority opinion, Justice William Brennan noted that the receipt of welfare benefits constituted a right, not a privilege, citing previous Supreme Court cases upholding similar due process protections for workers' compensation and other state benefits. Brennan also noted that the suspension of welfare benefits could cause undue harm, such as destitution. Brennan's opinion therefore affirmed the lower court's requirement of a pre-termination evidentiary hearing. The court noted, however, that this constitutionally mandated "opportunity to be heard" did not require the processes of a court trial, such as a complete record and a comprehensive decision.

Matthews v. Eldridge limited the generous procedural due process guarantees first established in *Goldberg v. Kelly.* The case involved a worker whose Social Security disability benefits were terminated. The majority opinion by Justice Lewis Powell first held that, unlike welfare benefits, Social Security disability benefits did not depend on financial need. In order to evaluate whether proper procedural actions existed, the opinion further established a three-fold threshold test: the private interest affected by the official government action; the risk of an erroneous deprivation of such interest through the available procedures and the probable value, if any, of additional or substitute procedural safeguards; and the government's interest in the action. The decision held that any Social Security disability claimants possess sufficient safeguards for the protection of their due process rights, including an ability to pursue remedies through questionnaires and the presentation of medical evidence, as well as the right to judicial review after a final determination by the secretary of health and human services. Thus, no pre-termination evidentiary hearing need be held, according to the court, as in *Goldberg v. Kelly.*

Even with this new boundary, a person's property entitled to due process now became more than just the personal and real property envisioned by the Founding Fathers in creating the Bill of Rights, or the corporate interests granted 14th Amendment protection by a laissez-faire Supreme Court in the late 19th century. It now encompassed the area of governmental benefits.[11] These two important decisions by the nation's highest court left further determinations mostly to the state courts, as evidenced in the following section.

A New Opportunity for Due Process?

The first case in New York that considered the applicability of evidentiary hearings for alleged due process violations arising from the issuance of a temporary order of protection was *People v. Forman* (1988).[12] In this case the defendant, Forman, found himself excluded from his residence by a temporary order of protection issued by a New York City criminal court following charges of assault and harassment. The court issued the order pursuant to New York Criminal Procedure Law Section 530.11, which prevented Forman from entering two cooperative apartments shared with his wife. CPL 530.11 (now 530.12) authorizes a criminal court to issue a criminal order of protection when an action involving "any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household" is pending. Courts may issue either a limited or complete temporary order of protection. The court did note, however, that such temporary or limited orders usually do not allow the subjects of such orders of protection the right to litigate over their feasibility due to their relatively short-term existences.

In its analysis, the *Forman* court used the three-part balancing test first established in *Matthews. v. Eldridge.* After determining that Forman possessed standing, the court then discussed the issue of whether he remained entitled to an evidentiary hearing concerning his alleged constitutional violations before the issuance of the order of protection. While recognizing the order directly affected Forman's property and liberty interests by excluding him from his residences, the criminal court nonetheless held that the already instituted "probable cause" evidentiary hearing required by New York State statutes provided Forman an opportunity to be heard, and that, moreover, such a procedure could properly consider any alleged constitutional violations.

Nearly 40 years later, the New York State Appellate Division, First Department, considered a similar situation in

Crawford v. Ally. The appellate court considered the denial in the trial court of a writ of mandamus that requested an evidentiary hearing before the issuance of a temporary order of protection that excluded the appellant from her apartment. The Appellate Division reversed, holding that the possible deprivation of significant liberty or property interests, such as the denial of access to one's residence or one's children, constituted an important factor in determining the issuance of an order. Thus, the appellate court added, an evidentiary hearing should be held in such a situation. As in *Goldberg,* however, the court did not specify the nature of such a hearing, other than that one should be held when the "defendant presents the court with information showing that there may be an immediate and significant deprivation of a substantial personal or property interest."[13] The decision noted that before its current determinations no explicit procedures for an evidentiary hearing existed when a person contested a temporary order.

This case followed closely the legal reasoning, albeit in a different factual milieu, in *Matter of F.W.*[14] In that case, the Bronx Family Court postponed an evidentiary hearing concerning a father's alleged neglect of his children and their removal from the residence. The court noted that there are certain facets that need to be considered in a Family Court hearing, such as the presence of "undisputed harm" and the private interests of parents and children.[15] No appellate court in New York has further elaborated on the standards first established in *Crawford*. Trial courts, however, readily use the decision, as evidenced by *People v. P.D., Defendant*, which considered the applicability of a *Crawford* hearing to criminal orders of protection and what documents could be used in such proceedings without violating confidentiality interests. Family law courts could use the *Crawford* standards to hold fact-finding hearings to determine how a temporary order of protection could deprive the intended recipient of employment, National Guard service or even his or her house.[17]

Moreover, the standards established by *Crawford* may not seem immediately applicable to Family Court cases. Criminal courts deal with alleged offenses that may result in imprisonment, while its familial counterpart only encompasses "family offenses" that can at most result in temporary or permanent orders of protection. But there can be deprivations of emotional support, such as being barred from personal relationships with family members, or even habitation when a person cannot enter his or her residence for a period that normally can extend to up to one year. Thus, the protections now afforded by a *Crawford* hearing can help prevent the unjust imposition of such restrictions on the lives of citizens, deprivations that can be devastating: A temporary order of protection can prevent a person from seeing his or her children by prohibiting communications or visits.

Conclusion

As in any area of law, the development of expanding due process rights and their corresponding procedures can be slow and even ad hoc. This is especially true with the parameters expanded and established by national and New York courts and discussed in this article. Thus, the intersection of rights, temporary orders of protection and family law courts remains necessarily fluid. Perhaps this development comes from the historical flexibility of due process. Originally envisioned in the U.S. Constitution's Fifth Amendment as a protection against the abuses of executive power that prompted the Revolution, it eventually expanded to encompass more than just appropriate procedure in a court. Corporations received such protection by the late 19th century. As illustrated by this article, moreover, due process expanded to recipients of governmental benefits. Now persons facing temporary or permanent orders of protection in the state-based Family Court system may receive due process protection. The nascent importance of such a new protection, however, may be further attenuated due to the current preoccupation with due process rights for undocumented aliens in federal immigration proceedings, particularly deportation.

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Endnotes

1. An excellent recent source for the development of due process is Max Crema and Lawrence B. Solum, *The Original Meaning of "Due Process of Law" in the Fifth Amendment*, 108 Va. L. Rev. 447 (2022).
2. 197 A.D.2d 27, 150 N.Y.S.3d 712 (1st Dep't 2021).
3. Fred Rodell, *Nine Men: A Political History of the Supreme Court of the United States*, 147–48 (1955).
4. 397 U.S. 254 (1970).
5. 424 U.S. 319 (1976).
6. For an extensive discussion of this issue, *see* Jamal Greene, *Fourteenth Amendment Originalism*, 71 Md. L. Rev. 978 (2011).
7. N.Y. State Fam. Ct. Act § 812.
8. N.Y. State Fam. Ct. Act §§ 812, 822. *See Santosky v. Kramer*, 455 U.S. 745 (1982), (in which the Supreme Court mandated a "clear and convincing" burden of proof for parental neglect cases in New York as a significant exception to the usual "preponderance of the evidence" standard).
9. N.Y. State Fam. Ct. Act § 842(a)(1).
10. Robert L. Cord, *The Incorporation Doctrine and Procedural Due Process Under the Fourteenth Amendment: An Overview*, 1987 B.Y.U. L. Rev. 867.
11. 145 Misc. Parenthetical s/b (Crim. Ct., N.Y. Co. 1989).
12. 12 *Crawford* at 715. A good guide to the significance of the *Crawford* decision may be found in Isabelle Leipeger, *The Collateral Effects of Criminal Orders of Protection on Parent-Defendants in Cases of Domestic Partner Violence*, 91 Fordham L. Rev. 272 (2022).
13. 183 A.D.3d 276 (1st Dep't 2020).
14. *Id.* at 280.
15. 78 Misc. 3d 352 (Crim. Ct., Kings Co. 2023).

The Global Healthcare Divorce: How US and EU Reforms Are Reshaping the Structure of Life Sciences Companies

By Ron Lanton III

The life sciences industry is at a turning point. For years, healthcare regulation has focused on issues such as drug pricing, reimbursement disputes, fraud enforcement and compliance failures. Lately, it feels as though something larger is happening underneath the surface. In both the United States and the European Union, regulators are beginning to question not just how healthcare companies behave, but how they are structured. In the U.S., lawmakers are challenging whether insurance companies and pharmacy benefit managers should also own pharmacies. Contrast that to the EU, where regulators are proposing to shorten the time drug manufacturers can block competitors from entering the market unless certain access requirements are met.

These changes in how governments think about complex markets like healthcare now feel more volatile instead of moderate.

The United States: A Surprising Challenge to Vertical Integration

For more than a decade, large healthcare companies have operated through vertically integrated models. Insurers have acquired pharmacy benefit managers. Pharmacy benefit managers have acquired specialty pharmacies. Some companies now control multiple steps of the drug distribution chain.

Until recently, most legal challenges to this model focused on antitrust enforcement or reimbursement disputes. Now, Congress is considering legislation that would go even further. The bipartisan Break Up Big Medicine Act, which is in committee at the time of publication, would require certain insurers and pharmacy benefit managers to divest affiliated pharmacy operations.

This bill's introduction marks a meaningful shift in tone. Congress is no longer asking whether integrated companies are complying with existing law. The question now seems to focus on whether certain business models should exist at all.

Why This Matters

If legislation were enacted requiring divestiture within a short time frame, the consequences would extend far beyond operational inconvenience.

Companies would need to consider important issues such as: (1) how to value assets under potential forced-sale conditions; (2) whether existing debt agreements restrict structural changes; (3) whether contracts with providers or pharmacies can be reassigned and (4) how state regulators would treat newly separated entities.

Even the possibility of mandatory divestiture can affect capital markets. Publicly traded companies may likely need to revisit risk disclosures in previous securities filings, while investors may reassess valuation assumptions previously tied to integrated business models.

The European Union: Changing the Rules on Exclusivity

At the same time, the European Union is pursuing a major reform of its pharmaceutical legislation. In April 2023, the European Commission proposed amendments to Directive 2001/83/EC, the EU's core legal framework governing the approval and regulatory protection of medicines.[1]

One of the most significant proposed changes concerns regulatory data protection. Under the current system, drug manufacturers generally benefit from eight years during which generic competitors cannot rely on their clinical trial data, followed by additional market protection. This structure is often described as the "8+2+1" model.

The European Commission has proposed reducing the base data protection period from eight years to six years. If adopted in substantially similar form, this reduction would affect how companies calculate the effective commercial life of their products across the EU.

Conditional Extensions

The proposal would allow companies to regain some of the lost protection if they meet certain conditions. For example, additional protection may be available if:

- The product is made available across all EU member states within a defined time period.
- The medicine addresses an identified unmet medical need.
- The manufacturer complies with new transparency and supply requirements.

In practical terms, this means that exclusivity would no longer be automatic. It would depend in part on how broadly and how quickly a company brings its product to market.

It is important to note that these changes affect regulatory exclusivity, not patent duration. However, for business planning purposes, a shorter exclusivity window can have a significant impact on revenue projections, investment decisions and launch strategy.

For multinational companies, particularly smaller biotechnology firms, the requirement to launch across all 27 member states within a short time frame could present logistical and financial challenges. Pricing negotiations, reimbursement timelines and distribution infrastructure vary across countries, of which coordinating such complex logistics would take time and careful planning.

A Broader Shift

Although the U.S. and EU approaches differ, they are philosophically united in that regulators are no longer focusing solely on whether companies comply with rules.

They are increasingly questioning whether certain business models produce outcomes consistent with public health goals.

In the U.S., the focus is on ownership and integration. In the EU, the focus is on how long companies can rely on regulatory protections before facing competition. For lawyers in any practice area, this shift is worth noting. When regulators begin to revisit foundational issues such as ownership, exclusivity or market design, the ripple effects will extend far beyond what one can reasonably envision.

Implications for Boards and General Counsel

For companies operating across borders, these developments require careful planning.

Boards and general counsel may want to consider:

- How dependent the company's financial model is on vertical integration.
- How changes in EU exclusivity periods could affect global launch sequencing.
- Whether product channels can survive sudden market shocks like tariffs.
- Whether securities disclosures adequately reflect regulatory uncertainty.

Why This Moment Feels Different

What makes this period distinct is not just the substance of the reforms, but the speed with which policymakers are pursuing them. Healthcare regulation is entering a new phase. In the United States, lawmakers are considering whether vertically integrated healthcare conglomerates should be broken apart. In the European Union, regulators are proposing to shorten baseline regulatory protections while tying additional protection to access and supply obligations.

For lawyers advising clients in any sector touched by healthcare, the message is clear: Structural change is no longer theoretical. It is becoming part of the "normal" policy conversation.

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Endnote

1. Proposal for a Directive of the European Parliament and of the Council on the Union Code Relating to Medicinal Products for Human Use, COM (2023) 192 final (Apr. 26, 2023).

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Talking to AI Could Talk You Out of Attorney-Client Privilege

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To the Forum:

I am a longtime New York lawyer, and a very busy one. I am writing because I have recently had to deal with the use of artificial intelligence to record conversations and meetings. AI has made it easy to create transcripts of conversations, especially on Teams or Zoom calls. All one has to do is press a button and, like magic, the result is a record of the conversation that includes transcripts and summaries that recognize voices to determine who is speaking. Some of this technology even edits out foul language. I am concerned that the use of this technology creates risks and all sorts of ethical pitfalls. I know that I cannot record conversations with clients without their consent, but what rules apply when clients record conversations with me? Do I have an obligation to discuss the use of AI and its risks, including attorney-client privilege issues? Additionally, is this something that I should address in my engagement letters?

The use of AI technology to create notes and transcripts is not limited to attorney-client conversations. I know that my clients are being told that handwritten notes are old-fashioned and that they should buy software that automatically creates transcripts of all conversations and meetings. Some of my clients are also using AI to summarize documents and meetings, which are sometimes sent to me, but I am concerned that they may become discoverable and I'm not sure whether they are privileged materials.

I recognize that the rules regarding the use of AI in the situations that I have outlined are rapidly evolving, but I would appreciate guidance from you that would put me on the right track.

Sincerely,
G.O. Skynet

Dear G.O. Skynet:

Technology is advancing at an extraordinary pace. Throughout history, innovations have propelled humanity forward: Carl Benz invented the first gasoline-powered automobile in 1886; the Wright brothers achieved the first manned flight in 1903; Robert Goddard launched the first liquid-fueled rocket in 1926; the American Moon landing occurred in 1969; and the Soviets established the first space station in 1971. The world has seen the invention of Charles Babbage's analytical engine in 1837, Lord Kelvin's analog computer in 1872, the first digital computers in the 1940s, ARPANET in 1969, the World Wide Web in 1989, Google's growth in the late 1990s and YouTube's creation in 2005. We've progressed from the simple game Pong in 1972 to the immersive world of Call of Duty 4: Modern Warfare in 2007. Remarkably, the pre-microwave oven, pre-washing machine, pre-electric refrigerator, and pre-television era is still within living memory, and some individuals released from prison have never used an ATM before.[1] Today, technological change happens so rapidly that even the most visionary minds find it nearly impossible to predict what the next few years will bring. Though George Jetson was supposed to have been born in 2022,

to the best of our knowledge "The Jetsons" had no laptop computers; even Captain Kirk sometimes used paper.

ChatGPT, for its part, was released in November of 2022, and the subsequent show-jumping leaps and bounds made in the performance of "artificial intelligence" have instantly transformed the very meaning of that term into the interactive tool of conversation, image and analysis generation, for which it is recognized today. Our brief historical survey demonstrates the likelihood that we are in for many surprises in the future capabilities of "generative AI."[2] And yet, the Rules of Professional Conduct have not changed even one letter to acknowledge this new reality.

This great advance has raised and will continue to raise many questions for lawyers to consider, from the practical (Is the product of AI copyrightable?) to the ethical (Can a lawyer use AI to research law or write briefs? For more on this issue, see p. 37.). As to ethical questions, fear not: It is our humble opinion that, let technology move however fast it likes, but the New York Rules of Professional Conduct constitute fundamental rules of ethical and professional conduct that are true today, were true yesterday, and hopefully will continue to be true tomorrow.

To begin, you are absolutely correct: under New York's ethical guidelines, even though New York is a one-party-consent state, attorneys are not permitted to record calls with a client unless the client has given consent.[3] However, the catch for lawyers is that the reverse is not true. Clients are not subject to the same rules that govern lawyers, and the use of AI or other tools by clients to record and analyze conversations with their attorneys is becoming increasingly common. The internet is full of ads marketing notetaking products that are literally capable of creating transcripts of virtually every telephone call, conversation, or meeting. This practice, although convenient, can create significant risks – not only for the client but also for the lawyer – and may jeopardize the attorney-client privilege by creating discoverable evidence. As experimentation with AI continues to grow, more clients, attorneys and even judges are exploring generative AI to manage the overwhelming volume of information that litigation brings,[4] amplifying these risks every day.

Although this may be a little above our pay grade, the way in which a generative AI system works is that it learns how to generate its conversations or analyses based on previous interactions with users. Therefore, AI companies usually record users' inputs and make permission to record them a prerequisite for using the AI so that they can be used to train the AI to respond to others. People who wish to ask the AI about their trade secrets, without the AI's relating these secrets to other users, can sometimes purchase a sort of private room that keeps all conversations between the user and the AI from being repeated to other users publicly. But even then, the AI companies still hear what is said in that room. The fact that the company that controls the AI is given permission by the user to listen in has recently been found in the Southern District of New York to squarely destroy attorney-client privilege.

In that case, *United States v. Heppner*,[5] a defendant, without first clearing it with his lawyer, made communications about his case to a conversant generative AI program. The court permitted disclosure of these communications because it found that "when a user communicates with a publicly available AI platform in connection with a pending criminal investigation, … the AI user's communications [are not] protected by attorney-client privilege or the work product doctrine." (There is no reason why this result cannot be extended to civil cases.) Of the three elements required for the attorney-client privilege to take hold, all three were lacking: (1) There were no communications between client and attorney because the program was not an attorney, (2) the communications were neither kept confidential nor intended to be kept confidential because the program warned that it collected inputs for the purpose of training the program and (3) the communications were not made for the purpose of seeking legal advice because the program was not a lawyer and stated that its output did not constitute legal advice. This broke the privilege. In addition, the work-product protection did not apply because the communications were neither "'prepared by or at the behest of counsel,' … nor did they reflect defense counsel's strategy." This case highlights the danger to a client in communicating details of his case to AI: Under normal circumstances, these communications will be subject to disclosure. *Heppner* is not the end of the story, and to see where this all eventually ends up may require a crystal ball.

Another recent federal case, *Warner v. Gilbarco, Inc., et al.*,[6] ruled that "the work-product waiver has to be a waiver to an adversary or in a way likely to get in an adversary's hand," so that waiver of the attorney-client privilege does not necessarily waive the work-product protection where it otherwise exists. This caveat should not be misunderstood: It may keep the attorney work-product protection intact, but it does not, outside of exceptional circumstances, shield from disclosure (a) a client's own communications to the lawyer, and (b) the AI program's own commentary on what the lawyer has said, especially when, as in *Heppner*, the AI has been consulted without the lawyer's permission and direction.

Furthermore, the client who shares attorney-client communications with AI, making them subject to disclosure, creates an additional headache requiring the collection of the files so they can be disclosed, a task that is not necessarily easy, straightforward or inexpensive, given the unintuitive way in which AI communications are often stored on a computer.[7] And of course, the typical lawyer's compulsive motion practice to try to stop the other side from reaching into a client's AI communications may run up fees for the client, waste the lawyer's time, and delay resolution of the case.

The forgoing demonstrates that clients put themselves at risk when discussing cases with AI, and the lawyer who lacks (or loses) control over the client may be placed in the embarrassing position of having to force a client to turn over factual analysis, legal advice, and settlement positions to the adversary.

What does this mean for the lawyer's obligations? Let's turn to the language of the Rules: "A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure or use of, or unauthorized access to, information protected by Rules 1.6, 1.9(c), or 1.18(b)."[8] Lawyers are required "to make reasonable efforts to safeguard confidential information against unauthorized access by third parties and against inadvertent or unauthorized disclosure by the lawyer or other persons who are participating in the representation of the client or who are otherwise subject to the lawyer's supervision."[9] Surely a client participates in his own representation. A lawyer therefore has a duty to take reasonable measures to prevent his or her client from accidentally breaking the attorney-client privilege; if the privilege will be broken, the client should do it intentionally. "A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation."[10]

The New York City Bar Association has recently issued a formal opinion specifically recommending that "[i]f an attorney knows that a client is recording a call with an AI tool, the lawyer should advise the client of the disadvantages of doing so."[11] While there is no strict requirement that attorneys must discuss the risks and drawbacks of clients' using AI to record attorney-client communications, it is considered best practice to raise these issues at the outset of the relationship – ideally when the engagement agreement is being formed. This is especially important if the attorney believes that the client may be inclined to record conversations or input communications into AI systems. Setting clear expectations from the beginning can often prevent future problems.[12] The lawyer may choose to include in an engagement letter an outright ban on the client's recording the lawyer (with AI or otherwise), "provided the letter of engagement or retainer agreement: (a) does not mislead the client regarding circumstances under which the lawyer may seek to withdraw from the representation; and (b) does not serve as irrevocable advance consent by the client to withdrawal by the lawyer if the client violates the prohibition."[13] Alternatively, the engagement letter may allow the client to use AI to record and make summaries of the lawyer's communications only under certain conditions, for example, after the lawyer and client have investigated AI software and identified a particular configuration of AI software that will not break privilege when spoken to, like a purely internal private room offered by the AI software with custom-tailored protection for secrets spoken in it.

The following is an example of sample language that can be added to an engagement letter:

> It is agreed that unless consent is obtained in advance, neither you nor the firm will use AI tools or other means to record, summarize or create transcripts of audio and video conversations with each other, including, without limitation, telephone, Zoom and Microsoft Teams calls. It is further agreed that neither you nor the firm will rely on any factual representation or purported legal advice that may be set forth in any such AI-generated recordings, transcripts or summaries unless they have been reviewed by both you and the firm to confirm the accuracy of the statements contained therein. Finally, to the extent that any such AI-generated recordings, transcripts or summaries are generated, both the firm and client must take special care to maintain confidentiality of the AI-generated document to avoid any loss of evidentiary privilege accorded to attorney-client communications or attorney work product and to avoid disclosure of client confidences.

Lastly, and perhaps the most problematic, this is a rapidly evolving area of practice with new decisions and articles written almost every day, so stay tuned for more.[14] If you or your clients are going to use AI, then your professional duty of competence[15] requires that you familiarize yourself to the appropriate extent with generative AI: how it works, how to configure it in such a manner that speaking to it preserves privilege and confidentiality and how to disclose it if need be. Computer technology has advanced to the point where it may no longer be true to stereotype the younger generation as computer-savvy; a great percentage must be playing catch-up. But by putting in the effort to become competent and not fall too far behind, by attending continuing legal education courses on the subject, you will be ready to deal proactively and ethically with the new and unpredictable problems brought on by clients' experimentation with

AI, and indeed, with your own experimentation. After all, the only thing worse than your client's accidentally forfeiting attorney-client privilege by talking to AI, is your own doing so!

Sincerely,
The Forum, by
Vincent J. Syracuse, VSyracuse@thsh.com
Alyssa C. Goldrich, AGoldrich@thsh.com
Jean-Claude Mazzola, jeanclaude@mazzolalindstrom.com
Adam Wiener, adam@mazzolalindstrom.com

QUESTION FOR THE NEXT FORUM

To the Forum:

We all know that when we draft documents if we discover scrivener's errors or mistakes of fact that deviate from what was agreed by the parties, we are required to correct those. But I have what is arguably a more complicated question.

I represent one of two individuals who are looking to form a corporation or limited liability company. My client will provide the expertise and will manage the entity, while the other individual will be an investor without much operating connection to the business. Once the entity is formed, they expect to raise additional money by selling shares in a private placement.

All of the business is expected to be conducted in New York, both of the founders are New York residents and it is likely that the majority of the subsequent investment money will also come from New York residents. Accordingly, one might think that the most logical place to form the entity is under New York law.

However, in the interest of giving my client the greatest degree of flexibility and protection against being sued over how he manages the entity as a director or manager, as the case may be, I would like to put in the governing documents a provision that waives the applicable fiduciary duties to the greatest extent possible. I can achieve more of what I want in that regard under Delaware law

than under New York law, and I can achieve even more under Texas law.

Accordingly, I would like to suggest to the other founder's lawyer that we form the entity in either Delaware or Texas. I don't want to disclose the aforementioned reason for why I want to do this, but rather if asked why, I can answer that Delaware has the most established jurisprudence for business entities or that Texas is trying very hard to accommodate companies and attract them to incorporate there and use its courts. While that might not be the "whole truth," I believe that both of those explanations would be true and of non-trivial significance.

In the same vein, I would rather use an LLC if I determine that it is more flexible in this connection than a corporation. My preferred explanation would be that using an LLC plainly will allow the business to be run as a pass-through for tax purposes and if and when it becomes preferable to use an S corporation or even a regular C corporation, an LLC is able to elect that tax treatment. Again, completely truthful and substantive, but not a disclosure of what really matters to me and my client.

So my first question is whether there is anything in the Rules of Professional Conduct or otherwise that precludes me from doing what I want without making a full disclosure to the other founder's lawyer that the fiduciary protection will be significantly less than with a New York corporation.

But wait, it's actually more complicated than that. The other founder wants to have a right to purchase whatever New York real property the entity will acquire. My client does not like this element of the transaction but decided that he cannot fight it. You can imagine my barely concealed glee when I received the document drafted by the other founder's lawyer providing for a 25-year option. Boom. I think that that option could well be void under the Rule Against Perpetuities.

So my second question concerns the misimpression that the other founder's lawyer has created for himself without any fault, action or influence on my part: Am I required to inform him that this provision that he has proposed, which I know is so important to his client, is or may be a legal nullity?

Sincerely,
Jen Nanigans

Vincent J. Syracuse is a founding partner of Tannenbaum Helpern's litigation and dispute resolution practice and has 50 years of experience in litigation. He received NYSBA's Sanford D. Levy Professional Ethics Award and has chaired NYSBA's program on ethics and civility for over 20 years. He co-chairs the Ethics Committee of the Commercial and Federal Litigation Section. He has been a co-author of the Attorney Professionalism Forum since 2012, which was published in a collection in 2021.

Alyssa C. Goldrich is an associate in Tannenbaum Helpern's litigation and dispute resolution practice. She focuses her practice on complex commercial litigation matters in state and federal courts, with an emphasis on business torts, breach of contracts, intellectual property disputes, and real estate and construction litigation.

Jean-Claude Mazzola is founding partner of Mazzola Lindstrom LLP with over 25 years of experience as a commercial litigator. He is chair of NYSBA's Committee on Attorney Professionalism.

Adam Wiener is an associate attorney at Mazzola Lindstrom LLP, where he focuses on contract law, bankruptcy, real estate finance, defamation, and constitutional law.

Endnotes

1. *See, e.g.,* Robert Jablon and Jonathan Lloyd, *Charles Manson Follower Leslie Van Houten Released From California Prison*, NBC Los Angeles (July 11, 2023), https://www.nbclosangeles.com/news/california-news/charles-manson-follower-leslie-van-houten-released-from-california-prison/3185823. ("'She's been in prison for 53 years. She just needs to learn how to use an ATM machine, let alone a cell phone, let alone a computer,' her attorney said.").

2. *See The Age of AI and Our Human Future* (2021), a book co-written by Henry Kissinger, Eric Schmidt (former CEO of Google) and Daniel Huttenlocher (dean of MIT's College of Computing).

3. *See* N.Y.C. Bar Ass'n Comm. on Pro. Ethics, Formal Op. 2003-02 (2003), https://www.nycbar.org/reports/formal-opinion-2003-02-undisclosed-taping-of-conversations-by-lawyers/.

4. *See, e.g.*, Xavier Rodriguez, *Judging AI: How U.S. Judges Can Harness Generative AI Without Compromising Justice*, 109 Judicature 10, 10–17 (2025), https://judicature.duke.edu/articles/judging-ai-generative-ai-courts. The article is written by a U.S. district judge who uses AI to manage his cases.

5. No. 25 Cr. 503 (JSR) (S.D.N.Y., Feb. 17, 2026).

6. No. 2:24-cv-12333 (E.D. Mich., Feb. 10, 2026).

7. The mechanics of this are beyond the scope of this article, but *see* Staci D. Kaliner, Martin Tully & John P. Collins, *Aligning Microsoft Tools with NYC Bar AI Recording Guidance,* Redgrave LLP (Mar. 2026), https://www.redgravellp.com/publication/aligning-microsoft-tools-with-nyc-bar-ai-recording-guidance.

8. N.Y. RPC 1.6(c).

9. *Id.*, cmt. 16.

10. N.Y. RPC 1.4(b).

11. N.Y.C. Bar Ass'n Comm. on Pro. Ethics, Formal Op. 2025-6. https://www.nycbar.org/reports/formal-opinion-2025-6-ethical-issues-affecting-use-of-ai-to-record-transcribe-and-summarize-conversations-with-clients/.

12. *Id.*

13. NYSBA Ethics Opinion 1270: *Engagement Letters; Recording Attorney-Client Communications; Withdrawing From Employment; Advance Consent to Withdrawal.* https://nysba.org/ethics-opinion-1270-engagement-letters-recording-attorney-client-communications-withdrawing-from-employment-advance-consent-to-withdrawal/.

14. *See e.g.,* Vincent J. Syracuse and Alyssa C. Goldrich. *Attorney Professionalism Forum: Using AI in Your Practice? Proceed With Caution*, NYSBA Journal, (September/October 2023), 54.

15. N.Y. RPC 1.1.

Managing Partners Underscore That Training and Oversight Are Critical in Today's AI Environment

By David Alexander

Law firms are no longer merely thinking about incorporating artificial intelligence into their daily workflows. It has become as ubiquitous to a firm's infrastructure as a typewriter or calculator was in the 1970s. However, AI's impact is far more significant as is the accompanying level of concern for its misuse through overreliance.

That was the consensus among three managing partners who spoke at a New York State Bar Association Law Practice Management Roundtable on April 23.

The panelists were:

- Connie Cahill, managing partner at Barclay Damon.
- Louis P. DiLorenzo, managing partner of the Westchester office and co-managing partner of the New York City office at Bond, Schoeneck & King, PLLC.
- Allen A. Shoikhetbrod, managing partner at Tully Rinckey PLLC.

New York State Bar Association President Taa Grays moderated the hour-long discussion while Craig Brown, principal at Bridgeline Solutions, introduced the speakers.

The propensity for attorneys to put unwarranted trust in, or to become too dependent on, AI's outputs are among the biggest challenges facing senior partners today. Training and vigilant oversight have therefore become points of emphasis in law firms' policy manuals.

Cahill reinforced that notion by saying that the training of young associates today is more important than it ever has been.

"We adopted a policy this year because we are most concerned about associates and making sure that they are getting the training they need. So right now, our policy requires that any junior associate – anyone in their first, second, or third year with us – has to do the work first without using AI," Cahill said. "They have to turn in the draft, they have to turn in the outline, they have to turn in whatever their work product was on their own, and only then can they go to AI."

Shoikhetbrod agreed with her assessment, but with the caveat that senior partners must understand that most associates have been exposed to AI before they accept their first job.

"I think it's tough, because with the new generation of attorneys coming in, they have already been relying on AI. They have been using consumer-facing technology, like ChatGPT and Copilot. So, it is going to be challenging to take it away from them," he said.

However, Shoikhetbrod pointed out that identifying a job candidate's ability to analyze an issue without the benefit of AI is part of the firm's hiring process.

He said his firm provides job candidates with a hypothetical fact pattern on a real-world situation that might arise in his office. The candidates have 24 hours to turn in their responses.

"The point is for them to spot issues and for us to see if they can spot issues. We also get them to certify that they are not using generative AI.

(L-R): Louis P. DiLorenzo, Allen A. Shoikhetbrod, Connie Cahill and President Taa Grays

And then once they are hired, they are placed in a mentorship program for about six to 12 months with a senior attorney who meets with them every day, goes over work product with them, and provides them feedback."

DiLorenzo said his firm has a policy that prohibits new lawyers from using AI tools and that their training also focuses on developing young associates' general lawyering skills.

He drew on one of his father's favorite phrases to illustrate a point that AI software is only a tool and the ability to use the software is not synonymous with being a good attorney.

"My father had a good saying: 'It's not the hammer, it's the carpenter.' These are tools, right? We still have to be good lawyers. This [AI] is a tool that can be especially useful and enhance our practice tremendously, but we can't change the focus from teaching them to be lawyers first," he said. "We're trying to make sure they learn how to spot issues, draft pleadings, and draft other documents so that they can then use the [AI] tool to make the product better."

Each panelist said that AI has improved their firm's efficiency and that, contrary to many workforce forecasts, it has not led to massive layoffs.

"We had two people in our accounting group that did one function and we bought an AI tool. Those two people now have new jobs. It takes one person a quarter of the time to do what used to take those two people full time. Certainly, I think there is a lot that is going to happen away from the practice of law, but in the business of law, AI is going to save us money," Cahill said.

President Grays jumped on the point about job displacement.

"I want to highlight that the tool did not replace people. It allowed them to do something more, right? It allowed them to do different jobs, because that is always a concern, that people are fearful that they are going to lose their jobs, but it opened an opportunity for them," Grays said.

"It opened an opportunity, and we are trying to do the same thing with our legal assistants, but we have been very clear. We think, probably like a lot of firms, that finding good legal assistants is like searching for gold, and so we have no intention of reducing the number of legal assistants; we just think that they'll be doing higher level things," Cahill added.

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 2025 and 2024 are available to members and may be obtained by contacting Amira Rizvanovic, Chief of Finance, at arizvanovic@nysba.org.

ANNUAL REPORT 2025

Revenue and Support:

Dues	$10,385,000
Annual Meeting	$1,079,000
Investment Income, Net	$2,368,000
Other	$716,000
Books and Publications	$181,000
Administrative Fees and Royalties	$2,344,000
Sections	$3,784,000
Continuing Legal Education	$1,187,000

Assets:

Cash	$6,937,000
Investments	$60,492,000
Property and Equipment	$10,185,000
Other Assets	$3,375,000
	$80,989,000

Chief Judge Wilson Traces the Evolution of ADR and Highlights NYSBA's Role

By Matthew Pennello

At the New York State Bar Association's Dispute Resolution Section and Labor and Employment Law Section Spring Meeting on April 24, Chief Judge Rowan Wilson delivered a historical and thoughtful reflection on the development of alternative dispute resolution and its growing importance in modern legal practice.

Chief Judge Wilson situated ADR within a long arc of legal history, noting that while often viewed as a contemporary innovation, its roots stretch back to ancient Athens – when public arbitrators (diaitetai) were used to relieve pressure on courts. He then turned to New York's own jurisprudential evolution, focusing on early 20th-century resistance to arbitration highlighted by the *Meacham v. Jamestown, Franklin & Clearfield Railroad Co.* decision, where the New York Court of Appeals viewed arbitration agreements as an impermissible attempt to oust judicial authority.

That skepticism, Wilson explained, gave way to a fundamental shift in public policy. With the enactment of the New York Arbitration Act of 1920, the first modern arbitration statute in the country, New York helped legitimize arbitration as an enforceable and practical alternative to litigation. The Court of Appeals' subsequent decision in *Berkovitz v. Arbib & Houlberg, Inc.*, authored by Judge Benjamin N. Cardozo, upheld that shift, rejecting constitutional challenges and cementing arbitration's place in the legal system.

Chief Judge Wilson emphasized that these developments did not occur in isolation. New York's approach quickly influenced other states and the federal government, with the Federal Arbitration Act drawing directly from New York's model. Together, these changes marked a transition from rigid adjudication toward more flexible, party-driven dispute resolution.

Turning back to the modern era, Chief Judge Wilson framed ADR as a practical necessity in a legal environment defined by limited time, resources, and institutional capacity. Beyond efficiency, he noted, arbitration and mediation offer a means of resolving disputes in ways that preserve relationships and produce more durable outcomes.

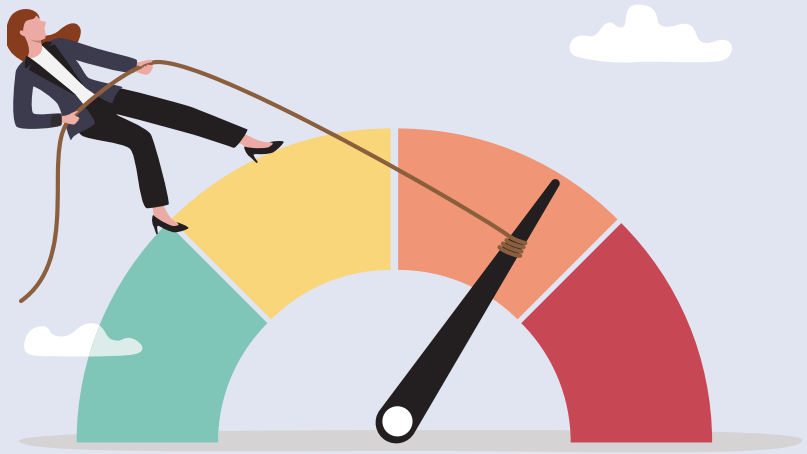
Looking ahead, the Chief Judge described the next phase of ADR as one focused on expansion and refinement, broadening its reach while continuing to build trust in its processes. He encouraged practitioners to carry that work forward in partnership with the courts.

In that context, Chief Judge Wilson acknowledged the role of the New York State Bar Association, expressing appreciation for its consistent engagement with the court system and its sections' contributions to advancing dispute resolution practices.

Chief Judge Wilson's remarks positioned ADR not as an adjunct to the legal system, but as a central and evolving component of American jurisprudence, one in which NYSBA has and will continue to play a defining role.

How Lawyers Can Reduce Anxiety

By Rebecca Melnitsky



Setting limits is an important part of reducing anxiety, especially for legal professionals.

As part of Well-Being in Law Week, the New York State Bar Association hosted a seminar on how attorneys can manage perfectionism, burnout, and fatigue. Jessica Bedziner, a licensed psychologist and owner of Long Island OCD & Anxiety Therapy, led the discussion.

"Anxiety is a threat detection system," Bedziner said. "That means it's designed to help you stay safe, which can also be a good thing at times. But in some people and situations, it tends to stay on too much, or it fires too much, when it is actually not even needed. It tends to be very future-focused. It has the potential to be helpful, but it can turn chronic when it becomes overactive, when it's constantly firing."

Bedziner said that while anxiety can make lawyers successful – like being detail-oriented enough to catch errors and anticipate opposing arguments – it can become overactive when it is too sensitive, frequent, and intense. Being overly prepared can turn into ruminating on issues and fear of making mistakes.

Similarly, perfectionism can become problematic when it is driven by fear and unrealistic standards.

"That would mean expecting every legal task to be flawless, even though legal work might involve things like a judgment call, ambiguity, and revision," said Bedziner. "Additionally, in perfectionism, one's self-worth tends to get tied to performance. A person might link their personal value to their work outcomes. So, feedback or mistakes may feel like a reflection of someone's identity, rather than just performance or an area of improvement."

Symptoms of obsessive-compulsive disorder can also occur. In those cases, a person may have obsessive thoughts or urges that lead to compulsions. Bedziner said that while giving into a compulsion can temporarily reduce anxiety, it only continues the cycle in the long run.

"Think of it as like a bully who's looking to get your lunch money," said Bedziner. "If you give him your lunch money, your anxiety goes down, but then he wants more and more and more. That is pretty much what OCD looks like."

For lawyers, checking a document repeatedly may ease anxiety, but there comes a point where it impedes other work and leads to decision fatigue – like not being able to decide what to have for dinner after a long day.

Breaking Out of Anxious Thought Patterns

One step to break out of anxious thought patterns is to notice those thoughts and urges as they happen and naming them for what they are.

"So, for instance, saying something like, 'I notice I'm feeling anxious right now. I notice my mind is trying to solve a problem before I even finish the task. I notice the urge to recheck this again,'" said Bedziner. "You are just noticing what's happening right now, what's going on in your mind, what feelings are coming up for you, and this has a tendency to increase one's awareness."

Another step is accepting uncertainty – that even with careful review, it is not possible to eliminate every risk or possible mistake.

"I want to clarify that this isn't about being careless," said Bedziner. "But really, it is about teaching that overchecking does not lead to better outcomes. Burnout actually has the ability to increase errors."

Bedziner also suggests only checking a document a certain number of times or setting a time limit for a task – and then moving on. She also said that when these issues spiral into a loss of control, high emotional distress, or sleep problems, it is time to seek professional help.

"Rest and limits are actually part of being effective," said Bedziner. "Those are things that are important. They're not a failure of commitment, and having separation between work and personal life can actually help you be more effective. Taking breaks and having boundaries – it isn't laziness, but instead, it has the potential to improve your focus, reduce your errors, and prevent burnout."

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