

# Westchester

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# Women's Bar Association

A Chapter of the Women's Bar Association of the State of New York

## PERSUADING THE POWERS THAT BE

**G**raziella's Restaurant in White Plains was the setting for the April 19th General Membership Meeting which included a CLE Program entitled "Persuading the Powers That Be." The Program was designed to show members what the Women's Bar of the State of New York ("WBASNY") has accomplished or is trying to accomplish in promoting legislation in Albany. After President Jody Fay's Welcoming Remarks, the Program began with an overview of the Legislative Process by Sandra Rivera, Esq., Legislative Consultant to WBASNY. Ms. Rivera spoke about the role of a Lobbyist under the New York State Lobbying Act and the timing of the legislative process in Albany.



Next, five practitioners in their respective fields gave an overview of five areas of law in which WBASNY has promoted or is currently promoting significant legislation. Susan Kaufman, Co-Chair of WBASNY's Legislation Committee and Chair of Westchester Chapter Legislation Committee, served as Moderator for the Program.

The five Speakers were: Lisa Winjum, Esq., Director of the Public Affairs and Communications at Planned Parenthood Hudson Peconic; Kerry Lawrence, Esq. partner in the law firm of Briccetti, Calhoun & Lawrence; Hon. Sondra Miller, Chair of the Matrimonial Commission formed in 2005 by Chief Judge Judith S. Kaye and Director

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## A Message From The President

Ok everyone. It's June already and I want to talk to you about membership. Not just any membership but



Jody Fay

membership in The Westchester Women's Bar Association. Shortly, you will all be receiving a renewal form for your membership and you will probably be thinking, "didn't Jody just hound me to renew this winter?" Well, yes I did. But here's how it works. Our year for membership runs from June 1<sup>st</sup> to May 31<sup>st</sup>. Renewal notices go out during the summer, second notices in September, third and final notices in November and then the phone calls start. You see, we have to certify our membership totals to The Women's Bar Association of the State of New York (WBASNY) by January 31<sup>st</sup> of each year. The number of members that we certify to WBASNY dictates how many directors or representatives we will have each year, hence how much power we, as a chapter will have. So, although you may have paid your dues in January 2006 in response to my pesky phone call, you were

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### WESTCHESTER WOMEN'S BAR ASSOCIATION

## Annual Dinner and Installation of Officers

### Keynote Address by Janet DiFiore

*Westchester County District Attorney*

Wednesday, June 14, 2006

Mamaroneck Beach & Yacht Club

Mamaroneck, New York

Cocktails 6:00 p.m. • Dinner 7:30 p.m.



Westchester  
Women's  
Bar  
Association

**MEMBER NEWSLETTER**

JUNE, 2006

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of the State of New York

2005/2006

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Gender Dynamics ...	Hon. Terry Jane Ruderman	WWBA Delegate to WBASNY Mentoring Program .....	Marcia Smithen-Cohen
Golf Outing .....	Claire Meadow, Dawn Arnold		
Holiday Party ....	Joy S. Joseph, Roberta Michael		
Holiday Party/Crafts .....	Beth Willensky		

# PRESIDENT'S MESSAGE

from page 1

really paying for a membership period you already enjoyed for six months. Why am I telling you this? Good question. Basically, I want to encourage you all to join early or timely if you will. When you get your first renewal notice, if you are fiscally able, send the check in. Our membership committee worked their butts off this year and we became the largest chapter of WBASNY. We certified 571 members and we are still growing. This summer, you will also be receiving (if you are lucky enough to be on my e-mail list!) a membership survey which I implore you to respond to because we want to improve your membership. I hear you all - good and bad!

My first year as President is winding down and May was a fabulous month for events. In May, we held our first ever Pro Bono Expo at Pace Law School. Our Pro Bono Co-Chairs, Erin Guven and Robin Steibel put together a terrific program with the help of the Honorable Alayne Katz, Vanessa Merton, Audrey Stone and Beth Feder. It was great to see so many interested attorneys chatting up our not for profits and enjoying a bit of CLE with Professor Randolph Scott-McLoughlin, all over some appetizers and wine. Many thanks to M & T Bank for sponsoring this event which was free to all attendees. This was just the beginning for our Pro Bono Committee - expect to see some great events and programs in the future. Also in May, we held our second Annual Diversity Program at The White Plains Women's Club. The program, which was free thanks to Hudson Valley Bank, was attended by well over 100 people! Many thanks to our Diversity Committee Co-Chairs the Honorable Barbara Leak and the Honorable Delores Braithwaite and our program Co-Chairs Dolores Gebhardt and Dawn Arnold.

Before I sign off for the summer (yeah right, you haven't heard the last of me!), don't forget to attend the Annual Westchester Women's Bar Association Dinner on June 14<sup>th</sup>. This year's Annual Dinner will again be held at our favorite venue, The Mamaroneck Beach and Yacht Club. For the first time in

quite a while, we will be having a Keynote Speaker. Westchester District Attorney Janet DiFiore has agreed to be our guest and I am thrilled. I hope you will all join me in congratulating our officers and directors on their installation on June 14<sup>th</sup> at the yacht club.

Lastly, we have teamed up with Verizon Wireless and Hudson Valley Bank in their cell phone donation program. Verizon collects used cell phones, recycles them and then provides brand new phones with 3000 minutes to victims of domestic violence. Hudson Valley Bank has donation drop boxes in its Mount Kisco, Elmsford and Yonkers

branches. So stop by, drop a phone and maybe open an attorney escrow account! One stop shopping. Seriously, it's a great cause, please utilize the opportunity.

Everyone have a great summer. Enjoy your families and friends and the weather. For that is what really matters. That and golf! Speaking of golf, the WWBA Annual Golf Outing is right around the corner, September 14<sup>th</sup>. Sign up early as space is limited, prizes are abundant and the outing is more than affordable. See you in September! ♦

Jody

## Editor's Note

*This is my last issue as Editor of the WWBA Newsletter. It has been a wonderful and enlightening experience for me. Over the past 2 years I have seen our communications systems increase in volume and efficiency, most notably information forms, central calendar, and of course, our website. I would like to thank Kathleen Donelli, Jody Fay, and Susan Brown for their editorial consults and their help in bringing this newsletter to you each month. I would also like to thank the many contributors who have filled these pages over the many months. We strive to bring to the WWBA members news of upcoming events, descriptions of programs you may have missed, and articles on topics of interest.*

*I am sure each of you will support Susam Damplo as she takes over the editorial duties of the WWBA Newsletter. I know she will do a great job!!! As always, I will be available to her should she have any questions (or complaints). Thanks for everything,*

*Julie S. Kattan, Editor*

## Making Dates and Getting Published

Please schedule all WWBA dates through Julie S. Kattan, Corresponding Secretary and Editor-in-Chief of the WWBA Newsletter. Please copy or otherwise notify Susan S. Brown, Vice President, with all dates to be included in the WWBA website calendar, at [ssbrownesq@msn.com](mailto:ssbrownesq@msn.com) or by facsimile at 914-288-9291. Conflicts in scheduling will be assessed on a case by case basis, with priority for early submissions.

The deadline for newsletter submissions (substantive law articles, notes on members, committee notices) to be considered for publication in the newsletter is **the twelfth of the month**. All notices must be in writing, preferably e-mailed to [juliek0601@aol.com](mailto:juliek0601@aol.com). Attachments should be sent in Word or WordPerfect format. If you do not have e-mail capability, please mail or fax your submission to Julie at Glassman & Brown, LLP, 99 Court Street, White Plains, NY 10601, Telephone (914) 686-0108, Fax (914) 288-9291

Any opinions expressed in the articles contained herein are solely those of the author(s) and do not constitute positions taken by the WWBA. ♦

# WWBA OUTREACH COMMITTEE ACTIVITIES

Deborah A. Scalise and  
Stephanie Roebuck

Among the goals that WBASNY seeks to promote are to: encourage the advancement of women attorneys; provide community outreach for women and children; create mentoring opportunities; and reduce legal bias in the community. In furtherance of these goals, the WWBA's Outreach Committee was involved in several projects this year.

## ***The Honorable Stephen Robinson Speaks At Career Day***

Based on a request from the Eastchester Middle School for a Keynote Speaker we asked U.S. District Judge Stephen Robinson to participate as the keynote speaker in the 8<sup>th</sup> Grade Career Day forum. Judge Robinson's heartfelt speech related several autobiographical events while giving advice to the students to: be true to themselves, always study hard, because even the subjects that you think have no use to your career plan, will come in handy someday; and to use what they have gained through their education to give back to their communities. In addition, Deborah A. Scalise presented an individualized program about a career as a lawyer to three classes with a total of 90 students. The program was extremely well received and the coordinators have requested that we participate again next year.

## ***The Wise Program***

Eastchester High School contacted us to place students in law firms with the School's "WISE" Program. The program allows students interested in a career to work and learn skills suitable to adapt to a workplace while earning Community Service



## ***Our Trip To The Court***

*By Greg Satriale (Age 8) and Nick Scalise (Age 8)*

Today we went to the Courthouse. We saw a lot of interesting things. Our favorite part was when the U.S. Marshal came. It was so cool because Nick and I got to wear all the equipment.

After that we went to the judge's room. It was so fascinating because we got to see what a judge's room looked like. Then we had pizza. After pizza the U.S. Marshal gave us posters and a big goody bag. It was a fantastic day for us!

## ***Take Your Children To Work Day***

*By Sean SanAntonio (Age 9)*

Hi my name is Sean SanAntonio, and I am nine years old. I went to the Federal Courthouse in White Plains at 9:00 this morning.

I got to meet an agent from the F.B.I. She talked to us about paying attention. A man came in and gave her a note. Later she asked everyone what he looked like. There were many different answers. She told us to be aware who is around you.

We also met an officer for the courthouse. He showed me guns and knives that people hide. I got to hold his walkie-talkie.

A parole officer showed us ankle bracelet for people who are under house arrest. I wanted to know if you could take a shower with it, and he told us you can take a shower, but if you take a bath or swim with it on then it alerts the police. If you cut the ankle bracelet, then that is a huge alert to the police.

Another lady came in and told us about Guiding Eye Dogs. She brought with her a dog called Freda. She wore a harness and it is her job to help blind people get around. I even got to pet her. It costs \$40,000 to raise a guide dog.

We went to a court room where Judge Smith worked. I asked some questions about how the court worked. The judge was a nice mom. She had two kids. I liked the trip a lot.

Credits for 4-6 weeks. We have placed two students interested in legal careers in two law firms: McCarthy Fingar, LLP and Jones Garneau, LLP.

## ***Take Your Children To Work Day And Law Day***

In addition, this year we also repeated the following programs: Take Your Children to Work day with 110 children at the United States District Court for the Federal District of New York (60 Students from the Resurrection School in Rye), 20 Children of Federal Employees, 25 children of Wilson Elser employees and 20 children of Bar Association Members) and Law Day at the Greenburgh Town Court with 60 Elementary School Students from the Alice E. Grady School in Elmsford. Both programs were cosponsored by the WWBA, the Greenburgh Bar and the White Plains Bar. In addition, the Take Your Children to Work Day Program was Co-sponsored by the U.S. District Court for the Southern District of New York; Wilson Elser, LLP; McCarthy Fingar, LLP; Keane & Beane, LLP; Jackson Lewis, LLP; Hudson Valley Bank and Blue Cross/Blue Shield. Both programs incorporated the American Bar Association's Law Day theme while allowing the children to learn about various roles of individuals employed in the United States legal and law enforcement system. This year's theme was A Liberty Under Law: Separate Branches, Balanced Powers@.

At the Take Your Children to Work Day Event on April 27, 2006 at the United States District Court for the Southern District of New York the children were welcomed by the Honorable Charles Brieant, U.S. District

*continued on next page*

# WWBA OUTREACH COMMITTEE ACTIVITIES

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Judge, and engaged in a discussion, to highlight the roles of the separate branches of the legal system with New York State Senator Jeffrey D. Klein and Patricia Keegan, District Director for Congresswoman Nita M. Lowey. The children also enjoyed presentations by the Honorable Lisa Margaret Smith, U. S. District Magistrate Judge, as well as an Assistant United States Attorney, a Public Defender, a United States Probation Officer; a FBI Agent, a Court Security Officer; and a United States Marshall. The students viewed court proceedings in action; a demonstration of home detention monitoring equipment; a presentation from a court stenographer; assorted



equipment(including riot gear) used by the United States Marshall's Service, and a tour of the Southern District Courthouse in White Plains. Additionally, for the first time this year, there was a special presentation involving a working dog and partner from the Guiding Eyes for the Blind. The program concluded with a hands-on exhibit outside of the Courthouse presented by Police

Officers from the White Plains Police Department, including the Mounted and Bicycle Units, as well as a patrol car and rescue vehicle. Before departing, everyone enjoyed a pizza lunch and received goody bags from the sponsoring organizations. Three of the children who attended the program describe it below in their own words.

### Conclusion

We are pleased that word has gotten out about these programs.

More importantly, we are proud that the WWBA and its members are involved in programs for mentoring and which reduce legal bias in the community. Simply stated, the knowledge gained by the students involved affords them:

- an understanding of the legal system, so that they do not fear it;
- the opportunity to consider legal careers, so that they are aware of legal service careers; and
- educational information as to how the legal system can only work with the public's cooperation, so that they will participate when called upon to do so.

Special thanks go out to all of the WWBA friends, colleagues and Co-sponsors who contributed to the success of each of the programs. ◆



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## WBASNY Lobbying Day in Albany

Susan W. Kaufman  
WBASNY Legislation Committee  
Co-Chair

On Tuesday, April 25, WBASNY traveled to Albany to promote its legislative agenda for the 2005-6 Legislative Season. Representatives from some of the Chapters met with their local representatives. At the same time, a group consisting of President Andrea Phoenix, President Elect Elaine Avery, Past President and Advisor Jo Katz, Vice Presidents Linda Morrone and Maria Cortese, Secretary Cynthia Schrock, Legislative Co-Chairs Susan Kaufman and Jill Gruben, Matrimonial Co-Chair Lisa Natoli, and Legislative Consultant, Sandra Rivera made the rounds of

legislators and their counsel to discuss WBASNY's issues of priority.

The schedule began with a Breakfast hosted by WBASNY in the Legislative Office Building. At the breakfast, Sandra Rivera, our Legislative Consultant, briefed us on the day's schedule and the topics to be addressed. Following the breakfast briefing, we met with Assemblywoman Weinstein on a number of matters, including the Assemblywoman's Omnibus Divorce Reform Act and a bill which would shorten the time for conversion divorce to 3 months. We also discussed with the Assemblywoman WBASNY's desire to move forward bills proposed by Assemblyman Bradley and by Assemblyman Schimminger and Senator Saland

strengthening the rights of vulnerable child witnesses to testify on closed circuit TV. Next we met with Dan Conviser, Legislative Coordinator for Justice Team (Assembly Committees on Codes, Corrections, Election Law and Judiciary), on a number of matters, including human trafficking and civil commitment legislation. We advised him of our strong opposition to the presumption of shared parenting legislation proposed by fathers' rights groups. Next we met with David Cohen and Jayne LaVigna-Jesmain, Counsel to Assemblyman Joe Lentol, Chair of the Assembly Codes Committee and with J.R. Drexelius, Counsel to Senator Dale Volker about these same bills.

In all of our meetings, we stressed WBASNY's emphatic support for no-fault divorce in the context of comprehensive reforms similar to those proposed by the Matrimonial Commission formed by Chief Judge Judith S. Kaye, and the immediate need for the Legislature to override the veto of Governor Pataki with regard to civil legal services funding.

We left packets of our positions on the bills supported or opposed by WBASNY for Lobbying Day with each of the legislators with whom we met. We also provided a chart of our positions on nineteen bills over the 2005-6 period. After a long day, we left Albany feeling that

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# Tax Increase Prevention and Reconciliation Act of 2006

L. William Fishman, Esq. and Susan D. Edwards, Esq., CPA

After much political wrangling during 2005 and the first part of 2006, Congress finally reached agreement on a tax bill: the **Tax Increase Prevention and Reconciliation Act** (the "Act"), which was signed by the President on May 17, 2006. The Act includes a few extended provisions and several new tax breaks and revenue raisers. A few of the more important provisions are discussed below.

## **Tax Rate on Capital Gain and Qualified Dividend Income Extended for 2 Years**

A noncorporate taxpayer's capital gain and qualified dividend income is taxed at a maximum rate of 15% (5% if the taxpayers ordinary income is taxed at 10% or 15% and 0% for taxpayers beginning after 2007). Under pre-Act law, these rates, enacted by the *Jobs and Growth Tax Relief Reconciliation Act of 2003*, were due to expire at the end of 2008. The rates in effect previously (8% to 20%) would then come back into effect. Under the Act, the lower rates are extended through 2010. Generally, "qualified dividend income" includes dividends from domestic corporations and certain "qualified foreign corporations."

## **Partial Payments and Other Changes to Offers In Compromise**

An Offer In Compromise ("OIC"), if accepted by the Internal Revenue Service, is an agreement between the taxpayer and the IRS that resolves a tax liability (including tax, penalties and interest) for less than the full amount owed. An OIC may be accepted by the IRS based on doubt as to collectibility, doubt as to liability, economic hardship and/or extraordinary events beyond a taxpayer's control. An

OIC is made by a taxpayer by filing a Form 656 and Collection Information Statement (Form 433-A for individuals and Form 433-B for businesses). A taxpayer must also pay a \$150.00 user fee with the filing of an OIC.

The Act makes the following changes for OICs filed more than sixty days after the enactment date of the Act (**July 17, 2006**):

- A lump-sum OIC (i.e., an offer to make five or fewer installment payments) must be accompanied by the payment of 20% of the amount of the offer.
- A periodic payment OIC (i.e., an offer with payments to be made in more than five installments) must be accompanied by the payment of the first proposed installment, and installments must continue to be made during the time that the IRS evaluates an OIC. Failure to make each installment when due will be treated as a withdrawal by the taxpayer of the OIC.
- Any OIC that is not accompanied by the required payment may be returned to the taxpayer as unprocessable. The taxpayer is allowed to specify the application of any payment made under the new rules to tax, penalties or interest. An OIC is treated as automatically accepted, if the IRS does not reject it within 24 months after it is submitted.

## **Kiddie Tax Applies to Children Under 18**

Presently, a child who is under 14 years of age pays tax at his parents' highest marginal rate on unearned income (e.g., dividends, interest and capital gains) in excess of \$1,700 if that tax is higher than what the child would otherwise pay on the unearned income.

The Act changes the Kiddie tax for taxable years beginning with 2006 so that it will apply in the case of a child who is under 18 years of age as of the end of the taxable year if either parent is alive at the end of the year and the child does not file a joint return.

Note, however, that in spite of the Act's increase of the applicability of the Kiddie tax, there are still tax savings strategies that can be utilized. An individual taxpayer who owns Series EE and Series I bonds may defer reporting of interest income until the year of final maturity, redemption or other disposition (i.e., after the child reaches his 18th birthday). Municipal bonds produce tax-free income. Growth stocks that pay little dividends may be sold after the child reaches 18 or a mutual fund that focuses on growth stocks and/or municipal bonds may effectively defer tax until after the child reaches 18. Real estate that does not produce current income but will appreciate over time can ultimately be taxed at the child's rate after he reaches 18.

## **Adjusted Gross Income Ceiling on IRA-to-Roth Conversions Eliminated After 2009**

Prior to the Act, a traditional IRA (to which pre-tax contributions are made and taxes deferred until distributions are

made) can be converted to a Roth IRA (to which after tax contributions are made and no tax is payable on distributions) if, for the year of conversion (a) the taxpayers adjusted gross income does not exceed \$100,000 and (b) he is not a married individual filing a separate return. The resulting income (i.e., the amount in the traditional IRA) is included in taxable income for the year of conversion, but the 10% premature distribution penalty (applicable to a distribution occurring prior to age 59 ) does not apply.

Under the new law, the \$100,000 adjusted gross income limit on conversions is eliminated and married taxpayers filing separate returns are allowed to make conversions. The changes are effective for taxable years beginning after 2009. The income tax resulting from the conversion (i.e., on the amount in the traditional IRA) will still apply but, for 2010, unless a taxpayer elects otherwise, none of such income will be immediately included: half of the income will be included in 2011; and the other half be included in 2012. An income inclusion will be accelerated if converted amounts are distributed before 2012.

## **Enhanced Section 179 Expensing Election**

Generally, a business may elect under Internal Revenue Code Section 179 to deduct as a current expense up to \$100,000 (\$108,000 for 2006) of the cost of new or used tangible personal property placed in service during the tax year in a trade or business. Under pre-Act law, the ceiling amount was scheduled to be

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# THE WWBA PRO BONO EXPO



The Pro Bono Committee of the Westchester Women's Bar Association hosted the first annual "Pro Bono Expo" at Pace University Law School on Thursday, May 4<sup>th</sup>. Ten not-for-profit organizations in need of attorney volunteers staffed information tables in order to educate local attorneys about diverse pro bono opportunities in Westchester. Participating organizations included Legal Services of the Hudson Valley, My Sister's Place, the Northern Westchester Shelter, Pace Women's Justice Center, the Incarcerated Mothers Law Project, Project Fair, Hale House, the Worker's Rights Law Center, the New York Civil Liberties Union and the Westchester Hispanic Coalition.



The first ever Pro Bono Expo was a rousing success, generously underwritten by M & T Bank, whose sponsorship made it possible to offer this event free of charge to all attendees. Fortified by a glass of wine and a buffet of delicious appetizers, over sixty attendees were encouraged to wander around the informational tables in a relaxed and friendly atmosphere, sign up to receive further information, or to accept a case for pro bono representation.



The evening began with welcoming remarks by WWBA President Jody Fay, who then introduced the Expo's sponsor, M & T Bank. Lisa Colosi Florio, Principal Court Attorney to the Hon. Francis A. Nicolai, Administrative Judge of the Ninth Judicial District, presented a brief speech on behalf of the Judge, thanking the organizers of the Expo and encouraging those present to take advantage of the unique opportunity to learn about the varied pro bono opportunities available to Westchester attorneys.



One of the highlights of the evening was a CLE program in ethics given by prominent Pace University School of Law Professor, Randolph M. McLaughlin. After a moving introduction by WWBA Pro Bono Committee Co-Chair Alayne Katz, highlighting Professor McLaughlin's numerous accomplishments, the Professor held the audience rapt while he recounted ethical issues pertaining to his most famous cases, including his successful representation of five women who had been victims of Ku Klux Klan violence in Chattanooga, Tennessee and his legal work on behalf of Hale House, a Harlem based non-for-profit that provides residential care and other programs for infants and toddlers. ♦



# GENDER FAIRNESS AWARD



Left to Right: Deanna Goblirsch, Julia Cancro, Hon. Terry Jane Ruderman, Shana Petlin, Leah Rothman



Front Row, Left to Right: Leah Rothman, Julia Cancro, Hon. Terry Jane Ruderman, Deanna Goblirsch, Hon. Thomas Scuccimarra, Judge, NYS Court of Claims. Back Row, Left to Right: John Marwell, President, Westchester County Bar Association, Frank Streng, Westchester County Bar Association, Hon. Francis Nicolai

The Ninth Judicial District to Promote Gender Fairness in the Courts held a breakfast on April 28, 2006 to recognize the winners of its Annual Essay Contest in celebration of Women's History Month. Administrative Judge of the Ninth Judicial District, Hon. Francis Nicolai and Court of Claims Judge, Hon. Terry Jane Ruderman presented the awards.

Students were asked to write on the topic, "Tom and Emily, both high school juniors, have been dating each other exclusively for a year when Tom hears from his friend that Emily had a few dates with Vince. Tom confronts Emily in the school parking lot. She

responds 'that's a lie' and starts to walk away. Tom becomes violent and pushes Emily to the ground. She reports the incident to school officials. The school has a policy to deal with school fights, but refused to act in this case. Emily claims this is gender bias. Please discuss: The school's denial to take any action; How Emily and Tom handled this situation; Any differences you perceive if Tom's and Emily's positions were reversed." In the freshman/sophomore category, Julia Cancro from the School of the Holy Child won First Prize and Shana Petlin from Bat Torah won Second Prize. In the junior/senior category, Leah Rothman from Bat Torah won First Prize and

Deanna Goblirsch from Our Lady of Victory Academy won Second Prize.

The generosity of the various professional organizations and bar associations enabled the committee to award cash prizes. The students read their essays to the 50 assembled guests. Committee Chair, Hon. Terry Jane Ruderman, was pleased to note that this year the committee received more entries from a greater number of high schools than it had in previous years. The committee anticipates that this contest and awards breakfast will be held again next year and is hoping for even greater participation in the district. ♦

## PERSUADING THE POWERS THAT BE

from page 1

of the newly created Office of Family Services; Hon. Alayne Katz, childrens' rights advocate and Chair of Pace Women's Justice Center's Friends of Gail; and Audrey Stone, Second Deputy District Attorney and Division Chief for the Westchester District Attorney's Office. Since Judge Miller was unable to attend, Ann Marie Jolly, Esq., Counsel to the newly created Office of Family Services, delivered Judge Miller's prepared remarks.

The five topics discussed by the practitioners were: 1) emergency contraception

legislation which WBASNY supports (Lisa Winjum, Esq.); 2) legislative efforts opposed by WBASNY to reinstate the death penalty in New York after the decision in *People v. LaValle* (Kerry Lawrence, Esq.); 3) no-fault divorce reform which WBASNY supports in the context of comprehensive reforms similar to those recommended by the Matrimonial Commission formed by Chief Judge Judith S. Kaye (Hon. Sondra Miller); 4) legislation to strengthen laws which permit vulnerable child witnesses to testify by closed circuit television rather than confront

perpetrators in court which WBASNY supports (Hon. Alayne Katz); and 5) a law enacted in 2003 with WBASNY's support known as "Stephanie's Law" which makes it a class D Felony to conduct surreptitious video surveillance without consent and to disseminate such information (Audrey Stone, Esq.).

Following each speaker's presentation, Susan Kaufman described the bills WBASNY had been successful in promoting or opposing in each area (eg. making emergency contraception

continued on page 14



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# Who Will Take Care of My Pet When I No Longer Can?

## *Don't Leave Things to Chance. Ask Rachel Hirschfeld About Pet Trusts*

### What Do You Mean She's "Just A Dog?"

*Animal Companions as Family Members*

You are just about to sign your will and estate documents when you ask the lawyer about Max, Harley and Louie. "Max, Harley and Louie?" the lawyer exclaims. "Who are Max, Harley and Louie? There are no beneficiaries named Max, Harley or Louie in any of these documents. Are Max, Harley and Louie estranged cousins who will act as default beneficiaries?" No, Max, Harley and Louie are your beloved mixed breed bichon, Russian blue cat, and African gray parrot.

### Don't Count On The Will

*A Brief History*

In her will, Jane left \$10,000.00 to her sister, Nancy, for the care of her dog, Max. Nancy cried at her sister Jane's funeral then took Max to the pound and left with the \$10,000.00 for a shopping spree in Paris. No one, including the court, could do anything about that.

As in a trust for a child, a pet trust is created by the pet's owner (the grantor), who leaves money to a trustee to make payments to a designated caretaker for the lifetime of the animal. Any remaining assets at the death of the pet usually go to a charity but they can also be paid to surviving family members if desired.

Additionally, when you include in the pet trust a place that offers a perpetual-pet-care program you have insured the ultimate protection for providing for your pets after you're gone.

### The Bond Between My Animal and I

*Doris Duke Left \$100,000 In Trust For Her Dog, Robert*

Pets are an important part of the lives of many individuals. Considering the close bond between pet owners and their pets, it is not surprising that a substantial number of owners want to make provisions for the care of their pets should they be unable to do so themselves.

Because pets are considered property, they cannot legally inherit. Jane is not

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***"Because pets are considered property, they cannot legally inherit . . . Recently, however, the law did make provisions to plan for uninterrupted care for our pets should we become incapable of caring for them ourselves."***

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permitted to leave anything directly in her will to her pet. The provision asking Nancy to care for the pet with monies left is a mere request and the court has no power to enforce her wishes.

Recently, however, the law did make provisions to plan for uninterrupted care for our pets should we become incapable of caring for them ourselves. We now can create an enforceable trust with a pet as a primary beneficiary by forming a pet trust.

### What Is A Pet Trust?

*Secure Your Pets Future*

A pet trust is a legally sanctioned arrangement providing for the care and maintenance of one or more companion animals in the event of ones disability or death.

Because it's a legally enforceable arrangement, pet owners can be assured that their directions regarding their companion animal will be carried out. Since you, the pet owners, know the particular habits of your companion animals better than anyone else, take the time to memorialize them. You can describe the kind of care your pets should have and list the persons who would be willing to provide that care. No one knows your animal better than you. You can be very specific from the brand of food your dog likes to the park he prefers to the veterinarian you prefer.

Those of us who think of our companion animals as family members are becoming aware of the fact that part of our responsibility to these dependent creatures is to make sure that their care

and comfort continue in the event of our death, disability or a catastrophic event.

You may think you don't need a pet trust. You may believe your family or fiends will take care of your pets forever when you can not. You are sure that either your sister Jane, your friend Joe or your children will take care of them should you become incapable of caring for them yourselves. So why do you need a pet trust? There are lots of reasons. Your sister Maria just moved and her co-op doesn't allow animals. Your friend Joe got married and his wife and the dog just don't get along. Your daughter would love to take the pets but although your grandson Jason loves the dog he just found out he is allergic to the cat. Harley is a 10 year old cat with all the issues of an aging animal. The costs, the care and the time needed to care for her are just some of the reasons she will not be easy to place or keep. So what are we going to do with 10 year old Harley?

### Conclusion

*Don't Leave Things To Chance*

A pet trust is affordable and simple. The benefits of having a pet trust are more than simply the piece of mind of knowing that an animal that you care about is going to be cared for and protected. It memorializes your animal's needs their doctors, medications and favorite toy; it chooses the caretakers for them. What was once the province of the rich, famous and eccentric is now affordable to everyone.

The pet trust may be your animal's best friend. ♦

## NEW ORLEANS, Post-Hurricane Katrina UPDATE

Dear Friends,

Ordinarily receiving a note of thanks like the one below (scroll down) from the Jazz Fest organizers would not move one to tears. However, the following status report on New Orleans' recovery progress, 9 months after Hurricane Katrina ravaged the city, will make the reaction understandable.

Mike and I arrived in New Orleans during Jazz Festival week, in time for Sabbath Services at the three quarters empty Touro Synagogue. After all, the devastation of New Orleans has left the city with half of its residents relocated, probably never to return and with some 1,200 people dead.

We spent an afternoon touring the Big Easy. To our dismay, we found miles and miles of neighborhoods still resembling the London blitz of World War II. Contrary to Mayor Ray Naigan's ramblings and the media's focusing only on the impoverished, minority 9th ward, the hurricane affected everyone, white and black, rich and poor, old and young.

While fellow Americans have opened their hearts and pocketbooks (as they always do when called upon), I believe our government from the highest echelon, down, has failed the citizens of New Orleans and its once glorious city when it was in desperate need of help. Today, there remain staggering amounts of accumulated debris including flooded flooring, discarded drywall, broken furniture, rusted out cars, piled in front of deserted buildings. The condition is dangerous, an eyesore and a health hazard. We were shocked to see fields of FEMA trailers never hooked up with plumbing and electricity and placed adjacent to homes enabling victims to return for reconstruction.

The famous St. Charles Street Car is still unable to run for lack of restored powerlines. Many schools remain closed. All commercial establishments are challenged to find employees. Tulane University is hobbling along after being closed for the fall semester. It sustained 300 million dollars in property damage and lost revenues. Of necessity, it is downsizing and closing or merging some of its highly respected schools. Its Medical School which relocated to Houston, Texas may never come back. While the Tulane Commencement words of encouragement of past Presidents Clinton, Bush, Sr. and comedienne Ellen DeGeneres were an uplifting, temporary, shot in the arm, one is rightly frightened by the American Corps of Engineers' report that neither floodgates to block tidal surges from weakened canals nor pumps to prevent inland flooding will be ready when the 2006 hurricane season begins this June.

New Orleans has survived hurricanes before but it was common knowledge that being situated below sea level, its levees were long overdue for expensive reinforcement and reconstruction. It took 300 years to build this great city along the banks of the Mississippi. On August 29, 2005, it took less than 6 hours to destroy it. Had government, federal, state or local had the foresight to reinforce levees, build barrier marshes to divert and harness fresh Mississippi waters to block salt water intrusion, move pumping stations to high ground to pump excess water out to the Gulf of Mexico and assist with elevating homes, allowing the bottom only for storage, the catastrophe of August 29 could have been greatly alleviated.

This is indeed our shame of the century. While there has been an outpouring of private help, it remains welcome. There are many agencies locatable through the New Orleans Times-Picayune Daily Newspaper ([info@timespicayune.com](mailto:info@timespicayune.com)) which will be able to direct you to groups coordinating volunteer work needed in communities, institutions and at worksites. In the Jewish Community, we call this a "Mitzvah project" but for all Americans such volunteer work is a "good, no, a great deed of loving kindness". ♦

Claire and Myron Meadow  
Larchmont, New York

## Tax Increase Prevention and Reconciliation Act of 2006

from page 7

reduced to \$25,000 for years after 2007.

Also, this ceiling amount is reduced, dollar-for-dollar, by the amount of qualified tangible personal property in excess of \$400,000 (\$430,000 for 2006). Such amount was scheduled to drop to \$200,000 under the pre-Act law for property placed in service in taxable years after 2007.

Off-the-shelf computer software qualifies for this election but, under pre-Act law, would no longer qualify for taxable years beginning after 2007.

The Act extends the \$100,000 expense election limit, the \$400,000 phase out amount and the application of the expense election to off-the-shelf computer software for two years, through 2009. Therefore, the reduction of the expensing election amount from \$100,000 to \$25,000 will occur after 2009 as will the reduction of the \$400,000 phase-out amount to \$200,000 and

the elimination of the expensing election for off-the-shelf computer software.

### Alternative Minimum Tax Exemption

Under the Act, the alternative minimum tax exemption amount will be increased this year from 2005 levels as follows:

Filing status	2005	2006
Married, filing jointly	\$58,000	\$62,550
Single individuals	\$40,250	\$40,250
Married filing separately	\$29,000	\$31,275

In addition, the reduced exemption amount is further reduced when alternative minimum taxable income exceeds certain amounts. These changes take effect in 2006. ♦

L. William Fishman is a Tax Attorney with McCarthy Fingar, LLP and Susan Edwards, Esq., CPA is Coordinator of Donor Relations with Westchester Community Foundation.

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The Prudential Insurance Company of America  
is pleased to announce the availability of  
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Including Discounts for eligible:

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*"My mother took care of my grandparents. I don't see that happening in my family – everybody works"*

For information, contact:

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INST-A010931

# June Practice Management Tip

## How to Avoid Liability Exposure When You Share Office Space With Another Firm

If your firm has extra space and you are thinking of subleasing to another smaller firm or solo practitioner, proceed with caution. While it is tempting to receive the rental income, you must follow certain steps to insure that you are not exposing your firm to additional liability. From a risk management perspective, there are two areas of concern: professional liability risk (a/k/a malpractice) and general liability risk.

There are several steps that you can take to protect your firm. Not all of the strategies below will work in every situation, but, in light of the exposure, it is worth the effort to find the best solutions.

### Professional Liability Risk

If your tenant gets sued, your firm may be sued too. Since you are usually the larger firm, the plaintiff (the one suing your tenant) will assume—usually correctly—that you have more assets to lose and more insurance coverage. Even though you had nothing to do with the mistake for which the tenant is being sued, you may very well be brought into the suit. Your goal will be to be released from the suit as soon as possible, and certainly protect yourself from having to pay (directly or through your insurance company) any settlement to the plaintiff.

The courts have viewed these issues from the perspective of the expectations the client had at the time the services were performed. That is, did the

client think that the person he was meeting with (your tenant) was part of your firm? If yes, he may have a valid claim that he thought your firm was representing him, and you may be held liable under an apparent agency theory.

### So what can you do to protect your firm?

1. Physically demonstrate where one firm ends and the other firm starts. Tenants should have their own office area, staff, equipment, phone lines, internet access, email addresses, etc. Certainly don't share individual offices.
2. Avoid any possible confusion by clients. Tenants must make it verbally clear to any potential and actual clients that they are **not** part of your firm.
3. If the client has retained both you and your tenant (for example, if you represent the client in a business transaction and your tenant represents the client in a related real estate transaction), you must each have your own engagement letter. When you meet, you should make sure to reiterate which firms will be involved and each of their roles in the representation.
4. Never share letterhead with your tenant. If you are doing this, you are begging to be sued.
5. In your lease, require your tenant to maintain a certain amount of professional liability insurance. Though it may not be entirely practical if the tenant is a much smaller firm, it is a good idea to require the same limits of coverage that you have on your policy. If the tenant has adequate insurance, it lessens the likelihood

that a plaintiff will try to reach to your policy limits. Don't accept a copy of the tenant's declarations page: ask for a certificate of insurance.

While you can never completely stop the tenant's clients' suits from reaching you, these strategies will help mitigate the professional liability exposure. Remember, your goal is to ensure that no reasonable person can assume that you are part of the same firm.

### The Pitfalls of Renting to Firm Clients

Recently, we have encountered scenarios where firms are renting space to firm clients. Although there is obvious client relationship value to this, but you should be aware of the issues that may arise. The major issue is that you must delineate when you are having a client discussion and not just good neighborly chit-chat by the water cooler. For example, if your client (tenant) shares during a coffee break in the hallway something interesting in the client's business that has legal ramifications, you need to respond promptly with legal advice. Otherwise, the client (tenant) may interpret your silence as advice that no legal work is necessary. Everyone at your firm should be aware of this potential danger.

### General Liability Risk

Here, you need to think like your landlord. Just as your landlord requires you to carry general liability insurance, make sure that your tenant carries a general liability policy with the same limits.

Many solo and small firms don't have this insurance at all: insist that your tenant get it. As with the professional liability risk discussed above, confirm that the tenant has purchased the required insurance by obtaining a certificate of insurance. Remember, if your tenant doesn't have enough or proper insurance, the plaintiff will go after yours!

Finally, make sure you tenant understands that you are not an insurer of the tenant's office equipment, files and personal property. The tenant should obtain its own general liability and contents policy (also called a package policy) to cover this risk.

*(The discussion in this article does not apply to "of counsel" lawyers, who may also rent or use firm space. Over the past 10 years, the number of "of counsel" lawyers has grown exponentially. September's practice management tip will address the professional liability ramifications of the "of counsel" relationship, both to the "of counsel" lawyer and to the firm engaging the "of counsel" lawyer's services.)* ♦

*This month's practice management tip was provided by Uri Gutfreund, an insurance broker at Singer Nelson Chalmers. Uri helps law firms navigate the complexities of professional liability and health insurance. He created The Total Protection Program® for Law Firms, a unique process designed to aggressively assist law firms in obtaining the best possible terms at each insurance renewal. Uri is also highly sought-after presenter of continuing legal education in New York. He can be reached at 212-826-9744 and [uri.gutfreund@singernelson.com](mailto:uri.gutfreund@singernelson.com).*

## Become a New Member Today!!

The advantages of joining the Westchester Women's Bar Association are countless. We were founded in 1974, and are dedicated to promoting justice in the study, practice and application of law. Our diverse membership includes women and men who are attorneys, judges, law professors, public officials and public employees.

When you join the Westchester Women's Bar Association, you automatically become a member of the Women's Bar Association of the State of New York (WBASNY), at no additional cost. WBASNY is comprised of sixteen chapters across the state with approximately 3,000 members. More professional and personal benefits include:

*Invaluable networking opportunities*

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*Participation in various and diversified committees*

*Involvement in the Westchester County judicial process*

*Programs for new members and newly admitted attorneys*

*Membership directory cross-referenced by practice area*

*Information on professional opportunities*

*Friendship and fun*

To join immediately, or for more information, call (914) 347-3662. Or, see our website at [www.wwbany.org](http://www.wwbany.org). ♦

## Notes on Members

Kathy N. Rosenthal was again voted Pace Law School Outstanding Adjunct Faculty Member of the Year by the law students.

Lisa Solomon, co-chair of the Practice Management and Website/Technology committees and an incoming Director, was featured in "Feeling Right at Home: More Women Working Out of the House as They Attempt to Balance Job, Family Lives," which appeared in the Journal News on April 27, 2006. Her article "Product Review: Internet Legal Researcher" was published in the April/May 2006 issue of *GP|Solo*, a bi-monthly magazine published of the ABA's General Practice, Solo and Small Firm Division. Lisa's website is at [www.QuestionOfLaw.net](http://www.QuestionOfLaw.net). ♦

## Classifieds

OFFICE SPACE AVAILABLE – White Plains, New York

AV rated law firm has attractive windowed office available in Class A office building within walking distance of Federal and County courthouses. Secretarial station also available. (914) 681-6006. ♦

## WBASNY Lobbying Day in Albany

*from page 6*

we had made substantial progress in promoting WBASNY's Agenda. We were happy to learn soon afterward that the Legislature had indeed overridden the Governor's veto of civil legal services funding and that the Johnson/ Weisenberg presumption of shared parenting legislation did not move out of the Assembly Children and Families Committee. ♦

## WWBA General Membership Meeting *Persuading the Powers that Be*

*from page 9*

information available to rape victims in hospitals, preventing reinstatement of the death penalty after the LaValle decision, raising the age limit applicable to closed circuit testimony by vulnerable child witnesses, and the enactment of "Stephanie's Law." She also mentioned legislation WBASNY is still fighting for, such as no-fault divorce reform, efforts to make emergency contraception available to women of child bearing age without a prescription with appropriate safeguards, and efforts to further strengthen legislation permitting vulnerable child witnesses to testify by closed circuit TV. Sandra Rivera gave input as to the status of such efforts in Albany and encouraged Westchester members to attend WBASNY Lobbying Day in Albany on April 25.

At the end of the evening, there was a lively question and answer period. Among the guests was Assemblyman Bradley who observed how important it was for legislators to have input from actual practitioners in the field. Susan Kaufman thanked all the speakers and the participants for a most stimulating evening. She also thanked Dawn Arnold, Cynthia Dunne, and Dolores Gephardt, Program Committee Co-Chairs of the Westchester Women's Bar Association for their help in planning the program.

If you are interested in joining the Legislation Committee of the Westchester Chapter, or in obtaining copies of WBASNY bill or position memos, please contact Susan Kaufman at [SWKaufman@aol.com](mailto:SWKaufman@aol.com). ♦

*You are cordially invited to attend a free Educational Seminar on the new benefit offered by the WWBA:*  
**LONG TERM CARE FINANCIAL PLANNING AND INSURANCE**

**June 22, 2006 • 6:30 to 8:00 PM**

Refreshments will be served

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~ You will learn ~

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- Impact on Medicaid Planning due to passage of the Deficit Reduction Act 2/06
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Discount/Plan Eligible\*

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*Seating is Limited. For more information or to reserve a seat contact Susan N. Eckstein at (914) 347-8222  
Susan@InsuranceandPlanning.com*

## W W B A N e w M e m b e r s

*The Westchester Women's Bar Association proudly welcomes our newest members:*

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*Law Student*



# WWBA Schedule of Upcoming Events

Sponsor	Date / Time	Place	Topic	RSVP
WWBA	Wednesday 6/14/06	Mamaroneck Beach & Yacht Club Mamaroneck New York	Annual Dinner	RSVP to Trish Amato
WWBA	Wednesday 7/12/06 5:30 p.m.	Home of Susan Damplo 23 Old Sprain Road Ardsley, NY	Board Meeting	RSVP to Jody @914- 244-3738

WWBA is a chapter of WBASNY which is an approved provider of CLE credit. Full and partial scholarships for CLE programs based on financial need are available. For information on the guidelines and procedures for applying, please contact the person running the program. All requests are strictly confidential. All programs are for transitional credit unless the program states otherwise.



Westchester Women's  
Bar Association  
45 Knollwood Road, 3rd Floor  
Elmsford, New York 10523

REMEMBER, YOU CAN FIND THE WBASNY WEB PAGE  
AT [WWW.WBASNY.ORG](http://WWW.WBASNY.ORG).