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INSIDE



Westchester Women's Bar Association

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

Premier of *Until the Violence Stops* Benefits the Pace Women's Justice Center and V-Day

A

ctress and activist Glenn Close was honored at the February 6, 2004 screening of "Until the Violence Stops," at the White Plains Performing

Arts Center. The film documents the work of Eve Ensler, author of the *Vagina Monologues* and founder of V-Day, the global movement to end violence against women and girls. Vicki Lutz, the Executive Director of the Pace Women's Justice Center, and a member of the WWBA, organized this very successful event to focus on domestic violence and sexual assault issues that face women around the world. The proceeds of this well-attended event will benefit the Pace Women's Justice Center and V-Day. ◆



L to R: Joseph Morreale, Pace University Provost of Academic Affairs; Glenn Close; Eve Ensler and Vicki Lutz, Executive Director of the Pace Women's Justice Center.



L to R: James Montagnino, Special Referee, Westchester County Supreme Court; Guest; Prof. Janet A. Johnson; Glenn Glose; Eve Ensler and Hon. Linda A. Jamieson, J.S.C.

A Message From The President

A Fair, Impartial and Diverse Judicial System

The bedrock of our legal system is a fair, impartial and diverse judicial system. I believe that members of the bench and bar



Kathleen Donelli

are overwhelmingly honest, diligent and ethical. However, the difficulty in raising the substantial sums of money currently required to run a campaign for judicial office is of great concern to practicing attorneys who are highly motivated to maintain a qualified, impartial and diverse bench. There is something wrong with a system that requires a judicial candidate to mortgage her home, borrow money from relatives or friends and/or spend savings that otherwise would support a college education in order to raise sufficient funds to pay for her campaign. No one would seriously argue that we should not continue to work for reforms that will reduce the influence of money upon our judicial elections.

On page 7 in this month's Newsletter, in the article entitled *WBASNY Strongly Objects To Three*

continued on page 3

GENERAL MEMBERSHIP MEETING

April 28, 2004

Shattering the Glass Ceiling Without Being Cut

Our next General Membership Meeting will be held on April 28, 2004 from 5:30 to 8:30 p.m. at Sam's of Gedney Way in White Plains. The topic is *Shattering the Glass Ceiling Without Being Cut*.

At this meeting, we are honored to have Holly English, noted author of *Gender on Trial: Sexual Stereotypes and Work/Life Balance in the Legal Workplace*, speak about today's gender issues for legal employers, based on her research interviewing 180 lawyers around the country, of all ages, practice areas and viewpoints. Autographed copies of Ms. English's book will be available for purchase.

Ms. English's presentation will provide stimulating input, as she:
Dispels myths:

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Westchester
Women's
Bar
Association

MEMBER NEWSLETTER
MARCH, 2004

Published Monthly by the
Westchester Women's
Bar Association, a Chapter of
the Women's Bar Association
of the State of New York

2003/2004

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Standing Committees

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		Trusts & Estates	Susan S. Brown Karen J. Walsh

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Alternative Dispute Resolution	Marcia Smithen Cohen	Lawyers in Transition	Beth Willensky
Annual Dinner	Susan M. Damplo Cynthia Keefe Dunne	Long Range Planning	Carla D. Glassman Karen Z. Bell
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Domestic Violence	Helga Klessen Kimberly S. Thomsen	WWBA Foundation President	Carla D. Glassman
Elder & Health Law	Frances M. Pantaleo Jeffrey S. Goldstein	WWBA Delegate to WBASNY Judicial Screening Committee	Barbara Lerman
Employment Law	Susan M. Corcoran Paula Johnson Kelly	WWBA Delegate to WBASNY Mentoring Program	Hon. Carole Princer Levy
Environmental & Land Use ...	Anna L. Georgiou Karen A. Mignone		
Gender Dynamics ...	Hon. Terry Jane Ruderman		
Golf Outing ..	Claire Meadow, Roberta Michael Kathy N. Rosenthal, Michelle Silva		
Holiday Party	Joy S. Joseph Roberta Michael		
Holiday Party/Crafts	Beth Willensky		

President's Message

from page 1

Proposed Rules Relating To Attorney's Contributions To Judicial Elections, we have reprinted excerpts of a letter from Jo M. Katz, the President of The Women's Bar Association of the State of New York ("WBASNY") to counsel for the Office of Court Administration, commending the Commission to Promote Confidence in Judicial Elections (i.e., the "Feerick Commission") for addressing issues of public confidence with respect to judicial elections but voicing WBASNY's strong objections to three of the proposed changes. The complete text of President Katz's letter is available on our website at www.wwbany.org

The first proposed change would mandate all attorneys to disclose all known and unknown political contributions to a judge's campaign, in any amount, made at any time by any attorney in or associated with such attorney's firm. The consequence of disclosing contributions under \$500 is not clear. The second proposed rule, however, mandates the recusal of a judge if such contribution is in excess of \$500. The third proposed rule limits purchasing tickets to politically sponsored dinners and "other functions."

Among WBASNY's reasons for objecting to these proposed rules is that they would limit "an attorney's ability to financially support judicial candidates [which would] have a chilling effect on the ability of female and minority candidates to effectively raise funds to run for judicial office." While WBASNY strongly supports and respects Dean John Feerick and the members and work of the Commission, it believes that these three proposed rules "will have unfortunate and unintended consequences, and will cause considerable problems." (See, *WBASNY Strongly Objects . . .*, page 7.)

I have limited the topic of this month's President's Message to WBASNY's objections to these three proposed rules to emphasize the importance of this subject. I strongly urge you to read the excerpts from WBASNY's letter reprinted in this Newsletter and the full text of WBASNY's letter available on our website. ♦

GENERAL MEMBERSHIP MEETING

from page 1

- That gender issues have been largely resolved
- That gender issues are mostly about women
- That it's surprising women don't hold more positions of leadership, and

Addresses what can be done about current gender issues:

- Subtle solutions for subtle problems: solid approaches to addressing these dilemmas
- Acting as, or assisting, a "stereotype buster"
- Spearheading organizational approaches for comprehensive change in the workplace

This promises to be a lively, thought-provoking evening; be sure to join us!

About Holly English

Holly English, a former practicing lawyer and journalist, is an award-winning author and consultant based in Montclair, New Jersey. She is the author of *Gender on Trial: Sexual Stereotypes and Work/Life Balance in the Legal Workplace*, published in 2003 by Law Journal Press, a division of American Lawyer Media. She has published widely in law and business publications. Her column on law firm culture and law office politics appears regularly in *Legal Times*, the *New Jersey Law Journal*, the *New York Law Journal*, online at www.nylawyer.com/wisdom, and periodically in other legal publications around the country. She won the Edge Award in 2002 for the best article published in *Law Practice Management magazine*, also an ABA Publication. Her articles have also appeared in *Perspectives* (an American Bar Association publication), *Of Counsel*, *B.C. Law*, the Boston College Law School alumni magazine, and *Executive Excellence*. She worked previously as a legal editor and reporter for American Lawyer Media publications.

Ms. English also has worked in the U.S. and internationally with a wide variety of organizations on values and ethics issues. She has worked with multinationals, semi-private government agencies, not-for-profits, law firms and trade associations at times of transition to develop values statements, codes of ethics, values clarification, ethics clarification, values-based decision making, facilitated dialogue, values-based hiring systems, and communications issues. She presents frequently for law firms, bar associations and organizational development groups, appears regularly as a commentator on management issues on CNN's "Office Space" and "The Flip Side," and is quoted in publications such as *The Wall Street Journal* and the *ABA Journal*.

Ms. English also has worked as a litigator with Cooper, Rose & English in New Jersey. She is admitted to the Massachusetts and New Jersey state and federal bars. She serves as a Commissioner on the Montclair Civil Rights Commission. She also has been an active member of the Montclair Unitarian Church for eleven years, where she serves on the Board of Trustees, is the past chair of the Canvass Committee and provides pro bono legal advice on zoning and bylaws issues. ♦

Making Dates and Getting Published

Please schedule all WWBA dates through Kimberly Thomsen, 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 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 kthomsen@kiscolaw.com. Attachments should be sent in WordPerfect, Word or .rtf format. If you do not have e-mail capability, please mail or fax your submission to Kimberly at Banks Shapiro Gettinger Waldinger & Brennan, LLP, 118 North Bedford Road, Mt. Kisco, NY 10549, Telephone (914) 666-8033, Fax (914) 666-4459. ♦

WBASNY LEGISLATIVE UPDATE

Susan W. Kaufman, Esq.
Co-Chair, Legislative Committee and Westchester
Chapter Director

The following is an update of what WBASNY has accomplished since the end of the 2003 Legislative Session last summer, when we met with success as to a number of our legislative priorities.

18B Task Force

Although we were delighted with the long awaited increase in assigned counsel and law guardian compensation rates which went into effect on January 1, 2004, WBASNY decided to address the problem that our Bar Association had not been included as one of the Bar Associations entitled to appoint representatives to the Task Force formed to address future issues regarding 18B compensation. Beginning last July, we set out to gain such representation as a legislative priority despite the fact that it was difficult after the fact to amend the legislation.

We are happy to report that Chief Judge Judith Kaye has recently selected as her appoint-

tee on the Commission our own WBASNY President Jo Katz. This appointment by the Chief Judge will assure WBASNY representation on the Commission at least through the end of 2006. WBASNY, with over 3000 members is the only statewide bar association dedicated to promoting the advancement of women both in society and in the legal profession, and many WBASNY members who serve as assigned counsel and law guardians will be directly affected by the new rates. We are grateful to Chief Judge Kaye for recognizing that a WBASNY member would make an appropriate choice to fill her appointment on the Commission, and we congratulate the Chief Judge on making the excellent selection of our able President Jo Katz for this appointment.

Choice

At the September meeting, WBASNY voted to add two more anti-choice bills to the list of anti-choice bills we took positions on in 2003. WBASNY voted to oppose A5640 sponsored by Assemblyman Bill Reilich and S3951

sponsored by Senator Frank Padavan which provides that at least one parent or legal guardian of unemancipated minors (i.e., those who are under the age of 18,) receive written notification from a physician or his/her agent within 48 hours prior to the physician's performance of an abortion on that unemancipated minor. We also voted to oppose A5753 sponsored by Assemblyman Ronald Tocsin and S135 sponsored by Senator Serphin Maltese which permits a family to institute a wrongful death action on behalf of a fetus.

Emergency Contraception

While waiting for the Legislature to go back into session in January 2004, WBASNY voted to support two important bills at the November meeting. The first bill was one sponsored by Assemblywoman Amy Paulin (A888) and by Senator Hoffman (S3339). This Legislation will enable women to obtain emergency contraception directly from a pharmacist, registered nurse or licensed mid-

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WWBA Members Donate Unexpended Campaign Dollars Fund Books for Children

WWBA Members Judge Joan O. Cooney, Supervising Family Court Judge and Justice Janet M. DiFiore, Supervising Judge of Criminals Courts, collectively donated more than \$25,000 in unexpended campaign funds this year to subsidize a Reading is Fundamental (RIF) program for the 9th Judicial District. More than 6,000 children who visit the district's five Children's Centers each year, while their family members attend to court business, will receive free books and literacy resources.

During a special ceremony held on December 10, 2003 at the Westchester County Court House, New York Chief Judge and WBASNY member, Justice Judith Kaye and RIF President and CEO Carol H. Rasco thanked Judge Cooney and Justice DiFiore for

"By funding the RIF program Judge Cooney and Justice DiFiore hope to provide engaging literacy activities for children who often do not receive adequate early education resources."

their generous donations and officially launched the RIF programs.

"Thanks to the vision of the Permanent Judicial Commission on Justice for Children, the generosity of Judges Cooney and DiFiore and our partnership with Reading is Fundamental, New York Children's Centers in the Courts have become more than havens for children, they are trans-

formed into environments that inspire reading." Judge Kaye said "I'm so proud that every child who visits the Centers in the Ninth District will receive the key to lifelong learning - a new book."

By funding the RIF program, Judge Cooney and Justice DiFiore hope to provide engaging literacy activities for children who often do not receive adequate early education resources. Many who visit

the centers live in low-income areas and a full 90 percent use the centers because they have no access to other childcare or early childhood programs.

"Education is the key to success for children, and reading is the key to education," said Judge Cooney. "We have seen in family court that illiteracy within families often exacerbate many of the problems that bring those families to court. I am thrilled to be part of a program that gives children new books of their own and encourages a love of reading."

Our chapter has for the past two years used annual dinner resources to make "book," rather than floral centerpieces, which are then donated to the County's Children's Centers in the Courts. ♦

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WBASNY LEGISLATIVE UPDATE

from page 4

wife without a prescription. Emergency contraception is a higher dose of standard birth control pills that serves to prevent pregnancy after unprotected intercourse. If taken within 72 hours, studies have shown the risk of pregnancy can be reduced by up to 89%. Emergency contraception will not cause an abortion. It is not the same as UR-489. Even though emergency contraception was approved by the Food and Drug Administration in 1997, and even though the FDA's own scientific committees are urging the FDA Commissioner to approve this medication for over the counter use, we understand that the FDA has still not done so. Because the time when the medication is taken is critical to its effectiveness, the prescription requirement is a major obstacle to allowing women to access this safe procedure to prevent pregnancy.

WBASNY also supports a bill sponsored by Assemblyman Englebright which requires every college and university of the State University of New York and the City University of New York to provide emergency contraception to any student requesting it. The bill also requires the widespread provision of information at such colleges and universities on the safety and availability of emergency contraception on campus as well as a statewide emergency contraception college education and awareness program.

Same Sex Marriage

At the November meeting, WBASNY also voted to support A7292 sponsored by Assemblyman Gottfried and S3816 sponsored by Senator Duane to amend the Domestic Relations Law to formally recognize marriages without regard to whether the parties are of the same or different sex. This legislation is at heart civil rights legislation intended to pro-

tect gay and lesbian couples from discrimination by conferring the permanence symbolically signified by marriage to such relationships. The vote at our November meeting followed a vote two years earlier by the WBASNY Board which approved same sex marriage in concept only. The vote also followed the recommendations of the WBASNY Subcommittee on Same Sex Marriage. After studying numerous law review articles, cases, and statutes in other jurisdictions in great detail, the Subcommittee recommended that same sex marriage legislation was preferable to statutes enacted in other states which have attempted to protect the rights of gay and lesbian individuals in long-term relationships by creating sub-classes of marriages and by fitting same-sex marriages into definitions created for other types of relationships (egg. reciprocal beneficiary relationships in Hawaii, domestic partnerships in California, or civil unions in Vermont.) By recognizing that the gender of adults is irrelevant to their legal status, the State obviates the need for a separate body of law to address the rights of individuals who choose to unite their households but are denied the legal right to do so. Existing statutes which address marriage, divorce, taxation, health care, inheritance, and real property rights, among others, can be applied without regard to the gender of the spouses.

Closed Circuit TV for Child Witnesses

At the January meeting WBASNY voted in favor of a Senate bill which does not yet have an Assembly sponsors, S556. The first bill amends the Family Court Act and the Criminal Procedure Law to allow vulnerable witnesses who have been the victims of abuse to testify via closed circuit television up to the age of 16, rather than up to the age of 12 as the law currently provides.

Orders of Protection

At the January meeting, WBASNY also voted to support S 3127 sponsored by Senator Dale Volker, which also has no Assembly sponsor as yet. This bill would amend the Criminal Procedure Law and Family Court Act to provide for fixed orders of protection in excess of the normal periods currently provided in the law or lifetime orders of protection, but only when the Court makes a finding of aggravated circumstances. Although WBASNY liked portions of the Omnibus Domestic Violence bill sponsored by Senator Rath which were not contained in S3127, WBASNY voted to support the Volker bill regarding lifetime orders of protection rather than the Omnibus bill because of a concern that the grant of discretion to the Judge for a lifetime order in the Rath bill was too broad and might prevent parties in family court cases

from reaching settlements that would be in the interest of all parties. However, WBASNY's support for S3127 was conditioned on the addition of language from the Rath bill to prevent modification of lifetime orders without a Court finding that the modification is required by a change in circumstances and will not adversely affect the security of the victim. WBASNY continues to support A2235 sponsored by Assemblywoman Weinstein (as we did last year), which would expand the definition of household to permit orders of protection in favor of former spouses whether or not living together and unrelated persons who continually or at regular intervals reside in the same household. The Omnibus bill contained a similar provision, as well as a provision that records of violation or orders of protection

continued on page 11

WORBY GRONER EDELMAN

11 Martine Avenue
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Significant Personal Injury And Medical Malpractice Matters

RECENT RESULTS OF NOTE

- \$9.26 Million*: Med Mal - Infant neurological injury
- \$7.18 Million*: Med Mal - Death from negligent treatment of hematologic disorder
- \$2.3 Million: Med Mal - Resulting in 2 years pain & suffering
- \$1.67 Million: Med Mal - Negligent treatment of infection
- \$1.3 Million: Med Mal - negligent gall bladder surgery
- \$4.2 Million*: Labor Law - Wrongful death; 55 Year old carpenter working "off books"
- \$1.45 Million: Auto - Half-inch leg shortening
- \$1.17 Million: Auto- Leg fractures to teacher
- \$4.2 Million: Negligent Security - Verdict solely for 20 minutes pain & suffering

*Expected lifetime payout

WBASNY Strongly Objects to Three Proposed Rules Relating to Attorney's Contributions to Judicial Elections

The following are excerpts of a letter from Jo M. Katz, President of the Women's Bar Association of the State of New York ("WBASNY") to Michael Colodner, Esq., counsel to the Office of Court Administration, commending the Commission to Promote Confidence in Judicial Elections (the "Feerick Commission") for addressing issues of public confidence with respect to judicial elections but voicing WBASNY's strong objections to three of the proposed changes. The complete text of Pres. Katz's letter will be available on our website at: www.wwbany.org

[T]here are three proposed changes that, as written, are a cause of grave concern to our organization.

Specifically, WBASNY strongly objects to (a) the proposed change to the Disciplinary Rules of the Code of Professional Responsibility (22 N.Y.C.R.R. § 1200.45 [DR9-101]) dealing with mandatory disclosure of political contributions immediately upon assignment of a matter to a judge, (b) the proposed Amendments to the Code of Judicial Conduct at §100.3(e)(3), dealing with motions to disqualify a judge after the disclosure of campaign contributions [in excess of \$500] are made by the opposing party or a party's attorney, and (c) §100.5(A)(2)(v), relating to the purchase of tickets for "politically sponsored dinners and other functions."

In our view, if they are implemented as written, the proposed rules will adversely affect gender and racial diversity on the Bench. We further believe that the proposed rules actually contradict the policies and admirable goals for which they were composed.

Our concerns with the draft proposals lie not with the notion of having limits on donations to judicial campaigns. Rather, the specific methodologies chosen and expressed in the current proposed rules to implement the limits would have the effect of the limiting an attorney's ability to financially support judicial candidates at all. It is our opinion that this will have a chilling effect on the ability of female and minority candidates to effectively raise funds to run for judicial office. There is a great need for diversity on the Bench, and these rules will present real obstacles to any progress in

that regard. Instead, the selection of candidates, and likewise raising of funds, will be left to the political party machines, as opposed to attorneys in the community who likely have a much better perspective on the qualifications of a particular candidate.

I. Proposed Change to Disciplinary Rule 9-101, 22 NYCRR §1200.45 (Avoiding Even the Appearance of Impropriety)

As noted above, we want to make it clear from the outset that we are not taking a position in opposition to reasonable limits on the size of donations that may be made to judicial campaigns, the imposition of additional requirements for judicial screening committees, or other important steps that will help ensure a fair and impartial judiciary. Indeed, WBASNY and its chapter women's bar association(s) have independent judicial screening panels that are extremely effective.

WBASNY objects to this proposed rule, however, because as written it is simply unworkable. By having no minimum amount of contribution that must be reported and no time limit, it places an unfair burden and unreasonable potential liability on attorneys. Its extraordinarily broad sweep holds attorneys to have notice without actual knowledge not only of current and new campaign contributions to future judicial candidates, but also all past contributions.

At the very least, this proposed rule will undoubtedly cause trial attorneys to stop contributing to judicial campaigns so that they can avoid having to track and disclose the amount of their contributions. Yet, it is trial attorneys who are typically most familiar with judges and best able to evaluate the particular qualifications of a judicial candidate (and thus, direct their money appropriately).

Of even greater concern is the fact that, under the proposed rule, the attorney must track and disclose not only any contributions that she made to the particular judge's campaign at any time, but also any contributions made by anyone employed by or associated with his or her law firm. As a practical matter, attorneys contribute and/or attend fundraisers for judicial candidates without

notifying, asking or consulting with the other attorneys in their offices.

Further, the proposed rule is unlimited in time. As a result, if literally construed, an attorney in a firm in existence for over 50 years would be required to disclose that the firm "may" have contributed to every judge's campaign over a half century.

We also strongly object to making a lawyer liable for "any cost and fees, including attorneys' fees that result from the lack of timely disclosure." The mere fact that a contribution was made and not disclosed, even if the attorney was unaware of the contribution, could trigger this extraordinary penalty. This violates the American Rule and basic principles of fairness. Nor is there any provision for who actually makes that determination. Presumably, it will not be the judge who received the contribution, but that is unclear from the proposed rule.

The potential for abuse and harassment resulting from this sanction is extreme. For example, if opposing counsel wanted to force a judge to recuse herself or an attorney to withdraw from an action, her client could allege that an attorney failed to disclose that one of her partners made a judicial contribution. Under the proposed rule, the targeted attorney would be liable even where she had no knowledge at all of the contribution. The burden would be on her to establish that she did not know about it.

Accordingly, while we are not objecting to there being limits on attorney contributions to judicial campaigns, we believe that this rule requiring disclosure to the court and adversaries and within firms, etc., is untenable and should not be enacted.

II. Proposed Change to Code of Judicial Conduct Rule §100.3(e)(3) (Motion to Disqualify a Judge Based Upon a Contribution in Excess of \$500.00 by "a party or counsel to the party")

It is well settled in the law and in the existing disciplinary rules that lawyers and judges must avoid not only actual impropriety, but also the appearance of impropriety. Unfortu-

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Committee Activities

Trusts and Estates Committee

At a meeting to be held on Tuesday, March 23, from 6:00 to 8:30 PM, the Trusts & Estates Committee will offer a program, sponsored by Sotheby's, on appraising and disposing of tangible personal property in an estate, illustrated with examples including unusual situations and important pieces and collections. Pending WBASNY approval, one transitional CLE credit will be given for attendance at this program. The meeting will be held at the offices of Glassman & Brown, LLP., 99 Court Street in the South Suite conference room. Light supper will start at 6:00; the program will start at 6:30. Please RSVP to Glassman & Brown, LLP. at 914-686-0108. The cost for attendance at the program is \$15.00, plus \$5.00 for the CLE credit. ♦

Lawyering and Parenting Committee

On Tuesday, April 20, 2004, from 12:30 p.m. to 2:00 p.m. the Lawyering & Parenting Committee will present an informative program on *How to find quality time for you and your family*. The speaker will be Dr. Kathryn Hickman, PH.D, a NY State licensed clinical and school psychologist with a private practice in Rye, New York specializing in working with children, adolescents and their families. Dr. Hickman provides parent and professional workshops on various topics and will discuss what type of quality time children and families really need. It may be different than what you expected. Light lunch served. CLE credit approval pending. Please RSVP to Rita Tino at 914-921-5705 or Christie Derrico at 914-698-2880. ♦

Taxation Committee

On Thursday, March 18, 2004, at 8:30a.m., the Taxation Committee will have a kick-off meeting. We will discuss the current state of affairs with family limited partnerships/limited liability companies and discuss plans for future meetings. A continental-type breakfast will be served. The meeting will be at McCarthy Fingar, LLP, 11 Martine Avenue, White Plains, NY. Please call Anne Watkins at 946-3700 and let her know if you will attend. ♦

Real Estate Committee

The Real Estate Committees of the WWBA and the New York Women's Bar Association will present a program entitled "Defending a Foreclosure Action". This program is hosted by The Real Estate Institute of Baruch College. The program will be held at Baruch College, 137 East 22nd Street, NY, NY on March 31, 2004 from 6:00-8:30 P.M. 2.5 CLE Credits, pending approval will be given. The cost of the program is \$20.00 which includes CLE and light dinner. Please contact Jody Fay @ 914-244-3738 if you are interested in attending. ♦

Nominating Committee

The WWBA Nominating Committee met on February 18, 2004 and nominated the following WWBA members for the following offices:

President Kathleen Donelli
Vice Presidents Alayne Katz
Jody Fay
Susan Brown
Treasurer Gail Boggio
Recording Secretary Susan Damplo
Corresponding Secretary Julie S. Kattan
WWBA Elected Directors Joy S. Joseph
Hon. Lisa Margaret Smith
Fran DeThomas
Jill Ruderman Sandford
Audrey Stone
WBASNY Directors Susan W. Kaufman
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Lonya Gilbert
Kimberly Thomsen

The above-referenced nominated slate will be voted upon at our General Membership meeting on April 28, 2004. ♦

Full and partial scholarships for all WWBA CLE programs, based on financial need, are available. For information on the guidelines and procedures for applying, please contact Kathy Rosenthal, Esq., CLE liaison for the WWBA at 347-1292. All requests are confidential.

WBASNY Strongly Objects to Three Proposed Rules Relating to Attorney's Contributions to Judicial Elections

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nately, this proposed rule subverts the notion of propriety and creates a presumption of impropriety on the part of every judge, for the mere fact that our current system involves the election of judges and because to be elected judges must be able to finance their elections to office.

In our experience, the judges in the State are overwhelmingly honest, diligent and possessing the highest levels of integrity. True, there have been several despicable circumstances of judges actively taking bribes or otherwise behaving in an unconscionable manner. In each instance, the judge and the attorneys involved violated the existing rules of judicial conduct and in many instances the penal laws as well. These have been extremely isolated incidents, however. There is no evidence of which we are aware that would warrant any conclusion that judges across the state should be required to automatically recuse themselves simply because they are not independently wealthy and their campaigns accepted contributions in excess of \$500.00 from attorneys who believe in them and their abilities.

The impact on a large law firm would be tremendous. As noted above, it is simply not feasible for a law firm with a substantial number of lawyers to know which of its lawyers has ever given money (and how much) to any given campaign.

[T]his proposed rule would subject most large law firms to potential disqualification.

Likewise, a comparable impact would occur with a District Attorney's Office or a Public Defender's Office. In other words, according to a technical reading of the proposed rule, those Offices would be disqualified from handling cases where one attorney in either Office contributed an amount in excess of \$500.00, or where the contributions of all attorneys in those Offices cumulatively exceeded that monetary limit.

It also implies that a judge will not give a fair trial to the litigants whose attorney did not contribute money due to the mere fact that one of the attorneys in the case was one of

“As a general rule, lawyers contribute the most money to those judges and candidates who they believe are the most competent and qualified. The proposed rule actually encourages the reverse.”

potentially hundreds of people who contributed \$500.00 or more to the judge's campaign at some time in the past.

For instance, if a spouse of a partner in a 10-attorney law firm contributes \$500.00 to a judicial candidate, does that mean that the entire firm is disqualified from practicing before that judge?

Mandating that judges automatically disqualify themselves if anyone in a firm (whether currently associated with the firm or not) contributed more than \$500.00 ensures only that there will be firms that will be unable to practice before the court and that their attorneys will be unable to participate in the political process.

What about the attorney who contributes time versus money?

In many cases, the individual or attorney who is responsible for the judge obtaining the nomination, or his or her campaign manager, who may be an attorney, has made a much more significant contribution than an individual who has made a small monetary contribution, and yet the attorney who contributes \$501.00 may be unable to practice before that judge while the person who served in a non-monetary capacity is not barred.

What about the smaller communities with fewer judges?

Our Association has members and chapters across the whole state. In a small county or community where there are only one or two judges, it appears inevitable that many lawyers in that community will be disqualified from appearing before the judge.

Will the proposed Rule promote “judge shopping”?

As a general rule, lawyers contribute the most money to those judges and candidates who they believe are the most competent and qualified. The proposed rule actually encourages the reverse. In fact, some have suggested that the proposed rule will produce “judge shopping”. In other words, if there is a particular judge before whom the lawyer or his or her law firm does not want to appear, he or she simply needs to contribute \$501.00 to the judge's re-election campaign.

Who is the client?

There is no definition of who constitutes the client, which is particularly important when representing a large corporation. For instance, if the President of a corporate client personally contributed money to a judicial campaign, would this qualify? Would an appointive officer count? What about a shareholder or an employee? There is also no recognition of the fact that inquiring of a client's political affiliation and contributions places both attorney and client in an uncomfortable and inappropriate position, and jeopardizes the attorney/client relationship.

In conclusion, this proposed rule, which seeks the admirable objective of reducing the influence of money in the justice system, unfortunately will result in many equally serious problems. We believe that the overwhelming majority of judges and judicial candidates are ethical, scrupulously avoid both actual improper behavior and the appearance of impropriety, and do not let money serve as an improper influence. Prompted by the few judges or candidates who are the exception rather than the rule, the proposed rules assume the reverse. We respectfully disagree.

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Attorney's Contributions to Judicial Elections

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III. Proposed Change to Code of Judicial Conduct Rule §100.5(A)(2)(v)

(Limits on purchasing tickets to politically sponsored dinners "and other functions")

We believe that the proposed rule changes will provide an excellent opportunity to clarify that the limit on the purchase of tickets is directed only to politically sponsored dinners and politically sponsored functions. As a bar association, however, we are concerned about the apparent vagueness of the reference to "other functions", which may leave judges with the perception that they are somehow limited in their ability to attend bar association functions, or even a charitable function such as an event for the Judges and Lawyers Breast Cancer Alert ("JALBCA").

IV. Conclusion

WBASNY would like to reiterate its strong support and respect for Dean John Feerick, and the members and work of the Commission. The diligence and insights offered by the Commission are invaluable. However, the proposed changes, in the three areas discussed above, are simply not viable. We believe that they will have unfortunate and unintended consequences, and will cause considerable problems.

To improve the perception of the judiciary, we would respectfully suggest that more restrictions need to be placed on campaign advertising by third parties (e.g., political parties). It is not unusual for political parties to run advertisements during the campaign season that criticize a particular candidate, and because the ads are not run by the candidates, the ethical rules which govern a judicial candidate's ads do not apply.

[T]he local women's bar associations that make up WBASNY have their own independent judicial screening panels that are not affiliated with any political parties and which rate judicial candidates based on their qualifications, including demeanor, ethics and other

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Save the Date!

Our next **General Membership Meeting** will be held on **April 28, 2004** from 5:30 to 8:30 p.m. at Sam's of Gedney Way in White Plains. The topic is *Shattering the Glass Ceiling Without Being Cut*. Visit our new Website at www.wwbany.org for further details. ♦

Notes on Members

Congratulations!! WWBA Program Co-Chair, **Lisa Newfield** and her husband Jim (and big brother Matthew) are pleased to announce the birth of their daughter and sister, **OLIVIA ELANA**, 7 pounds, 9 1/2 oz, born on January 29th, 2004!

WWBA **Beth Bird Pocker** was elected Chair of the Pound Ridge Democratic Committee.

Carla D. Glassman and **Susan S. Brown** are pleased to announce that **Julie S. Kattan** has become an associate with the firm of Glassman & Brown, LLP as of January 1, 2004. The firm continues to concentrate in trusts and estates; disability and tax planning; guardianships; elder law; real estate; and related litigation. ♦

Office Space Available

Two sunny windowed offices available immediately in attractive, congenial attorney suite. Conveniently located at the intersection of 287 and 119. Receptionist, conference room, parking, kitchen, copier, fax, NYLJ and library included. Secretarial/clerical space available. Please call Linda Markowitz or Kathy Rosenthal at (914) 347-1292. ♦

Vagina Monologues Performance to Benefit the Survivor's Law Project

The 2nd annual Women of Westchester V-Day benefit performance of *The Vagina Monologues*, the has been rescheduled for Wednesday, March 31st. The proceeds from this event will benefit The Northern Westchester Shelter, which serves victims of domestic violence, and Victims Assistance Services, which helps victims of sexual assault and domestic violence. These organizations will, in turn utilize all proceeds from this event to support the Survivors Law Project, a collaboration of the Northern Westchester Shelter, Victims Assistance Services and the Westchester Women's Bar Association. Please visit the WWBA website at www.wwbany.org to see the flyer for more details on how to secure tickets and/or support this event or contact the Northern Westchester Shelter at (914) 747-0828. ♦

WBASNY Lobbying Day

WBASNY Lobbying Day will take place on Tuesday, March 23, 2004 in Albany. Take time out to make your voices heard with your local representatives. To join the Westchester delegation's trip to Albany on Lobbying Day, please call Roberta Michael at (914)592-8784. ♦

Family Friendly Employment Policy Award

The Westchester Women's Bar Association is now accepting nominations for the 2004 FAMILY FRIENDLY EMPLOYMENT POLICY AWARD. This award will be presented to a legal employer in Westchester that has distinguished itself by establishing employment policies that assist its employees in achieving balance between their work and family. Any legal employer in either the public or private sector, employing at least 3 or more individuals is eligible. We will consider, among other factors, the employer's policies on part time employment, flexible work schedules, maternity and paternity leaves, tele-commuting and partnership opportunities for part time employees. Anyone familiar with the employer can submit a nomination. The nomination form will be available by mail, e-mail or by contacting Rita Tino at 914-921-5705 or Christie Derrico at 914-698-2880, or by leaving a message on the Westchester Women's Bar Phone at 914-347-3662. The deadline to submit a nomination form will be Friday, April 30, 2004. The award will be presented to the winner at the WWBA annual dinner on June 4, 2004. ♦

Attorney's Contributions to Judicial Elections

LEGISLATIVE UPDATE

“ . . . if the corrupting influence of money is viewed as the primary concern, perhaps the amount an attorney can contribute in a given year to a judicial candidate should be addressed.”

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criteria. The Western New York and Capital District Chapters of WBASNY provided testimony to the Commission at the regional hearings in Buffalo and Albany respectively, concerning their local judicial screening committees. These screening committees, along with the committees of WBASNY's other chapters, provide valuable, objective information to the very citizens who elect our state and local judiciary. Both chapters identified the need for more support for those processes and greater publication of the results to the public.

Finally, if the corrupting influence of money is viewed as the primary concern, perhaps the amount an attorney can contribute in a given year to a judicial candidate should be addressed. If the amount has been exceeded, then the campaign is obligated to return the money. Again, WBASNY does not oppose the salutary efforts of the Commission to achieve reduction in the influence of money in judicial campaigns. For the reasons set forth above, we simply believe that the ways by which the proposed rules seek to address the issue are unworkable and inappropriate. ♦

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and history of violent acts must be considered in bail hearings. We hope that Senator Rath will sponsor a separate bill containing the bail provision and that a Senate sponsor for A2235 as well as an Assembly sponsor for S3127 will be found. The three pieces of legislation concerning orders of protection will be important priorities for WBASNY's legislative agenda in 2004.

Lobbying Day on March 23rd in Albany

The Legislation Committee of WBASNY welcomes suggestions as to our legislative agenda and looks forward to our WBASNY Lobbying Day which will take place in Albany on March 23, 2004. We are hopeful that our Bar Association will have substantial impact on our legislators this year as we collectively come to Albany to promote our agenda. We ask that each Chapter set up meetings in Albany for their delegations with legislators from their home districts for that important day. ♦

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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Seeger Weiss LLP

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*(Civil/Commercial), (Negligence/Torts/
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General Practice, Real Estate,

Wills, Trusts & Estates



WWBA Schedule of Upcoming Events

COMMITTEE	DATE/TIME	PLACE	TOPIC	RSVP
Board/General Membership Meetin	3/3/04 and 4/14/04 Meetin -5:30 pm	The Bank of New York 123 Main Street White Plains, NY		Contact Lisa Palmesi at 914-946-3700 if you are unable to attend
Survivor's Law Project Training	3/9/04 and 3/18/04 5:00-8:30 p.m.	Victims Assistance Services 2269 Saw Mill River Rd Building 3 Elmsford, NY	"Representing Domestic Violence Survivors"	Beth Feder 914-747-0828 ext 15 or e-mail: bfeder@northernwestchestershelter.org
Taxation	3/18/04 8:30 a.m.	McCarthy, Fingar 11 Martine Avenue White Plains, NY	Kick-off Discussion: Status of FLP's/LLC's	Anne Watkins 914-946-3700
Trusts & Estates	3/23/04 6:00-8:00 p.m. Cost: \$15.00, plus \$5 for 1 CLE credit (pending)	Glassman & Brow 99 Court Street South Suite White Plains, NY	Sotheby's sponsored program on Appraising & Disposing of Tangible Personal Propert	RSVP Glassman & Brow 914-686-0108
Real Estate	3/31/04 6:00-8:30 p.m. Cost: \$20 2.5 CLE credits (approval pending)	Baruch College 137 E. 22nd Street New York, NY	"Defending a Foreclosure Action" hosted by Real Estate Institute of Baruch College	Jody Fay 914-244-3738
Lawyering & Parenting	4/20/04 12:30-2:00 p.m. (CLE credit approval pending)	Law Office of Rita J. Tino 190 E. Post Road Suite 30 White Plains, NY	"How To Find Quality Time For You And Your Family" Speaker: Kathryn Hickman, Ph.D	Rita Tino (914-921-5705) or Christie Derrico (914- 698-2880)

Other Important Events

SPONSOR	DATE/TIME	PLACE	TOPIC	RSVP
McCarthy, Fingar et al. (Girl Scouts) Kathleen Donelli Co-Chair	3/10/04 Cost: \$125 Cocktails 11:00 am Lunch: 12:00 pm	Tappan Hill Abigail Kirsh #914-631-3030	Annual Luncheon - Girl Scouts of Westchester* Putnam, Inc. 25th Anniversary	RSVP Arlene M. Vrabel 914-747-3080, ext. 2
My Sisters' Place	3/11/04 Cocktails: 6:30 pm Dinner: 7:30 p	Hilton Rye Town	25th Anniversary Gala honoring Gov. George E. Pataki (<i>Lifetime Achievement Award</i>)	For more information call: 914-683-1333, ext. 1
Pace Law School "Pioneer of Justice" Award Brunch	3/13/04 Time 11:00 a.m.- 2:00 p.m.	Pace University Preston Hall, Tudor Room	Nita Lowery to be presented with the Pioneer of Justice and Equality for Women and the Law" Award	RSVP by 3/8/03 to Sonia Zawadski at #422-4136 or szawadski@law.pace.edu
Merrill Lynch	3/17/04 Time: 5:30 p No Cost	Crown Plaza White Plains, NY	Bob Guarnera will speak on topics of current interest	Naoka Nakagaw 914-682-5603
Westchester County Office for Women	3/22/04 Reception 11:00 am Luncheon 12:00 pm	Rye Town Hilton	20th Annual Women's Hall of Fame Scholarship Awards Luncheon (Sen. Hillary Rodman Clinton)	Camille Failla Murphy, Director, Office for Women 995-5972

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.

Reception and Press Conference
Survivors Law Project

The U.S. Department of Justice has awarded a \$350,000 two-year grant to Northern Westchester Shelter for a collaborative project with Victims Assistance Services and the Westchester Women's Bar Association. The Survivors Law Project will provide civil legal services to victims of domestic violence, sexual assault and stalking and will offer no-cost CLE classes to lawyers in the county to represent these clients, with the expectation that each lawyer will take a case on a pro bono basis.

**Please Join Us to Celebrate and Kickoff
The Survivors Law Project**

~ Hosted By ~

The Northern Westchester Shelter
Victims Assistance Services &
The Westchester Women's Bar Association
(A Chapter of the Women's Bar Association of the State of New York)

Friday, March 5, 2004 - Noon
Ceremonial Courtroom – Westchester County Courthouse
111 Dr. Martin Luther King Jr. Boulevard • White Plains, NY

Guest Speakers

Congresswoman Nita M. Lowey
Hon. Justice Francis A. Nicolai
Administrative Judge - 9th Judicial District

Other Honored Guests

Kathleen Donelli, President, WWBA • Kathy N. Rosenthal, Former President, WWBA
CarlLa Horton, Northern Westchester Shelter • Ann Ellsworth, Victims Assistance Services
And You



For Further Information or to Accept This Invitation
CarlLa Horton, Executive Director
Northern Westchester Shelter - (914) 747-0828 x 11
chorton@northernwestchestershelter.org

