Report from the State Bar Association

April 5, 2008

By STEVEN WIMPFEHMER*

Good morning. It’s 9:00 a.m. on Saturday morning, and I just arrived at the New York State Bar Association Headquarters for the April 2008 meeting of the House of Delegates. Unfortunately, I missed the usually enjoyable dinner at the Fort Orange club, held on Friday night. From all accounts it was a successful and delicious dinner.

Bernice Leber, the President-Elect of the Bar chaired the meeting. It was a pleasure seeing her once again. She had graced us with her presence the previous Monday night at our monthly meeting where she reported on her proposed programs for the coming year. As usual, the day’s event started off with the treasurer’s report. As usual, the state bar is running in the black with a long-term reserve $15,534,000 and a 2007 cash surplus of $1,542,000. It should only happen to the Queens members of the nominating committee: Catherine Lomuscio, with Arthur Terranova as the alternate. Catherine is also our delegate to the ABA.

Kathryn Grant Madigan, then gave her final report as President of the Association. As usual, the number one item on the agenda was the election of the nominating committee and an ABA House of delegates. The Queens members of the nominating committee are: Yours truly, Catherine Lomuscio, with Arthur Terranova as the alternate. The Queens Bar Association owes them a vote of thanks for their efforts on our behalf.

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2008 Spring CLE Seminar & Event Listing

**May 2008**
- Wednesday, May 7: Ethics Considerations
- Tuesday, May 13: Small Claims Arbitrator Training
- Thursday, May 15: Program for Attorneys Attempting to Start a Practice

**June 2008**
- Thursday, June 5: Labor Law Seminar
- Friday, April 13: Probate & Will Execution 1:00-4:00 p.m.
- Wednesday, April 18: 2:30-5:00 p.m.
- Thursday, April 5: Labor Law Seminar
- Friday, April 13: Probate & Will Execution 1:00-4:00 p.m.
- Wednesday, April 18: Article 81 Guardianship Training 2:30-5:00 p.m.

**2008 CLE Dates to be Announced**
- Elder Law
- Real Property Law
- Taxation Law
- Elder Law • Real Property Law • Taxation Law

**NEW MEMBERS**

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**2007 - 2008**
**Officers and Board of Managers of the Queens County Bar Association**

**DAVID LOUIS COHEN** - President
**STEVEN S. ORLOW** - President-Elect
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**LAWYERS ASSISTANCE COMMITTEE**

The Queens County Bar Association (QCBA) provides free confidential assistance to attorneys, judges, law students and their families struggling with alcohol and substance abuse, depression, stress, burnout, career concerns and other issues that affect quality of life, personally and professionally.

QCBA Lawyers Assistance Committee (LAC) offers consultation, assessment, counseling, intervention, education, referral and peer support.

**LEONARD GUTIERREZ**

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Although we were unable to include his ad in our 2008 QCBA Annual Dinner Journal we would like to acknowledge the generous contribution to the Queens Volunteer Lawyers Project by Michael F. Mongelli II, PC.

**THE QUEENS BAR BULLETIN – MAY 2008**

Editor’s Note: As this is the last bulletin for this year, I wish to thank all of our members who have contributed to the success of this year’s paper. I wish to personally thank Ms Janice Ruiz, whose assistance has been invaluable. Congratulations to David Cohen on his term as President and best wishes to Steve Orlow as he takes over as President.
Will McCain throw “God’s children” under the bus?

By ALLEN E. KAYE

Early on in the Republican nominating process John McCain raised the ire of much of his party when he admonished his fellow candidates as they attempted to make their way toward the right through the entire campaign season. As a recent, rather fawning, LA Times (3/5/08) article pointed out, “A campaign season. As a new, rather fawning, LA Times (3/5/08) article pointed out; 

Hon. Bernice Siegel, Supervising Judge of the Civil Court, the Hon. Deborah Stevens Modica, Supervising Judge of the Criminal Court and the Hon. Stephen J. Bogacz, has reached out to the QCBA and worked with us on issues of mutual concern. The Queens Volunteer Lawyer Project, under the Direction of Mark Weliky, Esq., has had a banner year. We have established a program at the Civil Court, in conjunction with St. John’s Law School and with the guidance of Judge Illegaless to assist pro se litigants in collection matters. By all accounts this CLARO program is a resounding success.

I thank the Officers and Members of the Board of Managers for their hard work and support. I know from working with those individuals that the QCBA will have exemplary leadership well into the future.

The backbone of any association are the committees. I thank all the chairs and members for their hard work. Without you we would not be able to provide CLE, screen judicial candidates and formulate Association policy in a number of practice areas.

Without the dedicated and hard-working staff, the QCBA would not be able to function. Led by our Executive Director, Arthur Terranova, Esq., they never failed in making my job easier and making me look good. I thank them all. Goodbye and good luck.

Will McCain throw “God’s children” under the bus?

“What kind of an idiot can’t figure out the route that you took didn’t work? You don’t keep changing the center line when you’re getting your head bashed in, and John was on this,” said former Sen. Trent Lott, R-Miss.

But it now appears that Republicans will be putting McCain’s new-found conservatism to the test.

Senators, Republicans are set to announce today the hardest-hitting package of immigration enforcement measures seen yet — one that would require jail time for illegal immigrants caught crossing the border a second time. Most of the bills stand little chance of being debated in the Democratic-controlled Congress. But the move by some of the Senate’s leading Republicans underscores how potent the immigration issue remains, particularly in a presidential election year.

The package — an enforcement smorgasbord assembled by at least eight lawmakers — consists of 11 bills, but it could expand to as many as 14. Some elements echo House bills, but others go beyond House proposals.

One would discourage states from issuing driver’s licenses to illegal immigrants by docking states 40% of highway funding from states that continue to do so.

Another would extend the presence of Immigration and Customs Enforcement agents to federal agencies and the voting booth for people with limited English ability.

A bill by Sen. Jeff Sessions, R-Ala., who is leading the effort, would impose a maximum two-year prison sentence on someone caught illegally crossing the border a second time. Other bills in the package would:

* Block federal funding to cities that bar their police from asking about immigration status.
* Give the Department of Homeland Security the authority to use information from the Social Security Administration to target illegal immigrants.
* Require construction of 700 miles of fencing along the southern border, not including vehicle barriers.
* Impose sanctions on countries that refuse to repatriate their citizens.
\* Provide for immigration, legal or illegal, for one drunk-driving conviction.
* Enable local and state police to enforce federal immigration laws.

LA Times 3/5/08

This new legislative initiative puts McCain in a precarious position. As he moves towards the general election he’s looking for moderates, independents and most importantly Latinos, to help him offset the disadvantages that will mark most Republican candidates with an unpopular President, war and a faltering economy. But all those groups find McCain’s previous position on immigration much more appealing. With 11 bills in the Senate, and others in the House, McCain will now be put on the hot seat. Favor, oppose or abstain — McCain loses.

At first glance it appears as a no-win situation for the Arizona Senator. (Sen. Jeff) Sessions said he had not consulted with the White House on the issue, nor had he talked directly with McCain.

Sessions and other opponents of comprehensive immigration reform believe McCain has learned his lesson. “He has really got the message and believes the way to go is border enforcement first,” Sessions said. “I think he’ll be supportive of much of it.”

“There’s nothing in here that repre-

Continued On Page 15
Edwina Richardson-Mendelson

By Meryl L. Kivit

I coveted the acquisition of a box of sixty-four Crayola crayons with the personal built-in crayon sharpener in the back of the box during my yearly visits to Plan. My childhood dream was to make art and to take advantage of the many free offers to buy the best crayons you have in first grade holds no bearing on your success in life. My father said that if I really thought I needed a box of sixty-four crayons, I'd go out and buy one on my own. As a result, I was saying that my classmates from the nearby housing projects couldn't buy them, because most of their parents wouldn't afford the big box of sixty-four. My father taught me that the children from the housing projects couldn't afford the big box of sixty-four crayons — and so could I.

The new Supervising Judge of the Queens Family Court is named Edwina Richardson-Mendelson. She introduced herself and her book, titled "Leaving Legacies, Reflections from the Prickly Pear" to the audience on February 14, 2008, the day she started her new position. I wondered if our new Supervising Judge was a lawyer, if she had an MBA degree, or became a hospital administrator. I inquired about the book and the Judge explained that it was a gift from a friend about the time of her desk. Once again, the job did not turn out to be what she had expected. At her first day on the job they gave her a position as a Referee for the New York City Family Court. Once again, the job did not turn out to be what she had expected. At her first day on the job they gave her a position as a Referee for the New York City Family Court. She then proceeded to pass the bar on the first try.

The Judge readily acknowledges that having a child who is 19 years old and works in a homeless shelter. She says she learned from her own mother that "you can say anything to a young person and they will believe it." When the Judge was five years old she wanted to be a doctor. One day, her six year old sister threw up and her mom, a nurse, explained that sometimes doctors have to deal with people who throw up — she plans to become a lawyer crystallized at that moment. The Judge attended the Urban Legal Studies Program at the City College of New York which was a six year program leading to her law degree. The director of the Urban Legal Studies Program was Haywood Burns, who also served as dean of CUNY Law School. Haywood Burns was her mentor; there is a picture of her with Dean Burns in her chambers. She explained it was a gift from a friend about the time of her new position was learning how to be an administrator and most particularly how to delegate.

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As well, the Judge would like to address the need to contain the sheer volume of cases currently before the Court. The numbers are creating a situation where Judges are working “morn-
ing, noon and night” to address the sim-
ple fact that “everyone walking into the build-
ing is in crisis.” The volume must be contained somehow, or the staff of Judges, court officers and court clerks has to increase to properly provide the needed service.

Children do seem to be a big part of the Judge’s life outside of Court — and while it doesn’t seem that she has lots of spare time to go home and bake cookies with her kids — it does seem she must share with them what she does at her work-
place, why she enjoys it, why what she does is important and why her own family is so important to her. There is a kiddie style cigar box diorama done as a school project by the Judge’s daughter, Shirley, many years ago, hanging in the Judge’s chambers, which best describes Shirley’s mom’s success as both a mother and a Judge. The art project is accompanied by a brief written statement by Shirley in which she explains that her mom is:

“A Queens Family Court Judge. She likes her job but it is emotionally drain-
ing because she is the one to decide to keep a family together or separate the family. She doesn’t wish that she had another job and she plans to stay as a Family Court Judge. I admire my moth-
er because she has set goals and has achieved them.”

The cigar box art project includes a tiny little picture of the Judge’s head attached to Shirley’s drawing of a judicial robe and an artistic rendition of the Judge’s chambers, which best describes Shirley’s mom’s cigar box diorama of a courtroom, with, such limited space, you have to include the Court Officer because Shirley knows that court officers are very important people to have in a courtroom — her mother’s point well taken. Anybody can download a recipe for chocolate chip cookies off the internet and toss the delicacies together — but taking the time to share with your child the importance of court officers, priceless.

While the Judge has failed to main-
tain “Orville,” her cello, over the years, her child’s cigar box diorama is in pristine condition. This is a Judge who does not juggle, she can prioritize.

The Judge looks forward to her new role and hopes to continue to see the Queens Family Court be a “friend-
ly court.” A court where the staff care about the people that walk into the building. She’s been walking the building in her new role to see the jobs performed by so many all over the vast building. In her walks about the building she has observed petition clerks working very hard with very difficult consumers of our legal resources — but observed if the cliche always being polite. The Judge appreci-
ates the very difficult work done by all staff members in our building. She sees her new position as an oppor-
tunity to support the very “special people who choose to work in the Queens Family Court.”

Meryl Kovit is an attorney in private practice with an office in Floral Park. She is a member of the 18B panel in Queens Family Court.
2007 Criminal Law Legislation

**Continued From Page 1**

engage in repeated sex offenses. To address this problem the legislation provides for, under certain circumstances, either continued custodial detention or strict post-release supervision. Both the detention and the supervision can last for the remainder of the sex offender's life.

Nineteen other states have enacted similar legislation and approximately 7,200 men are being held involuntarily in civil commitment programs around the country. In upholding the constitutionality of civil confinement statutes, the United States Supreme Court has held that such confinement is lawful if a sex offender is "mentally abnormal" and dangerous. The Court later held that the state must be able to prove that such offenders have serious difficulty in controlling their behavior.

New York's legislation applies to all persons convicted of felony sex offenses under Article 130 of the Penal Law. In addition, it applies to the newly created crime of a "sexually motivated felony." An individual is guilty of a sexually motivated felony when he or she commits one of twenty-four designated non-sex crimes for the purpose, in whole or in part, of the sexual gratification. Thus, if a defendant commits the crime of Arson in the First Degree and the arson is sexually motivated, the defendant has committed a "mental abnormality" as that is defined in the statute.2 If the case review team recommends that the Attorney General file a civil management petition, it is in trial, the burden is on the Attorney General to prove the following:

- That abnormality must be a condition or disorder that affects the volitional capacity.
- That abnormality is a manner to which the respondent requires civil management, and
- What factors the committee should use in determining that further evaluation is necessary.

Although an inmate may have a scheduled release date from prison, once his case is subject to review for possible civil management, his release can be postponed if the Attorney General requests a delay.

If the committee refers the case for further review, the offender (now known as the respondent) is notified and the matter is sent to a case review committee that is comprised of fifteen members who are appointed by the Commissioner of the Office of Mental Hygiene. Any three of these members may sit as a team to review a particular case. If the case review team determines that the respondent is a sex offender requiring civil management, it must notify the respondent of the petition and give the respondent an opportunity to be heard. The notification must be made within 45 days of the notice of the anticipated petition. If the offender is not present in the county in which he was sentenced, although the inquest the petitioner requires civil management, a trial is ordered. If probable cause has been established, the petition is dismissed and the respondent is released. The trial must be conducted within 45 days of a probable cause determination.

The offender may choose a trial by a jury of twelve jurors or a bench trial and the case may be assigned to a pilot program. If a case is assigned to a pilot program, it may no longer retain jurisdiction over the child. The amendment no longer allows a second trial within 60 days. If a jury finds the respondent not guilty of the crime, the court must submit a second trial within 60 days. If a judge finds the respondent not guilty of the crime, the court must dismiss the petition. If a petition is filed in the event of a second trial, the new law liberalizes the ability of a judge to determine that a child, under the age of four, can no longer be retained in the court for the remainder of the sex offender's life.

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is operated; the defendant causes the death of more than one person; the defendant causes the death of one person and the serious physical injury to another person; the defendant’s license is suspended pursuant to various drunk driving laws; or the defendant has previously been convicted of intoxication or impaired driving within the prior three years. The new crime of Aggravated Vehicular Assault (a class C felony), increases the penalties of Vehicular Assault by the presence of similar aggravating factors.

Another new crime addresses sex and labor trafficking. New York now joins twenty-nine other states and the federal government in attempting to combat human trafficking. The United States Department of Justice, in its first national strategy to combat human trafficking, President George W. Bush, in May 2003, stated: “Sex trafficking and labor trafficking are major problems throughout the country. It addresses the problem in three significant ways. First, it creates new crimes that specifically target the methods used by traffickers to exploit their victims. Second, it provides the delivery of social services to trafficking victims who are currently ineligible to receive such services. Finally, it creates a task force to improve training to help prosecutors and police recognize trafficking situations. The legislation creates two new crimes: Sex Trafficking, a class B felony and Labor Trafficking, a class D felony. A person is guilty of Sex Trafficking when he or she intentionally advances, induces, or procures a person to engage in prostitution. These new crimes not only increase the penalties of the crimes of prostitution, but also make it easier to prosecute and preclude the use of a “reduced” plea bargain in exchange for testimony against a co-conspirator. A person is guilty of Labor Trafficking when he or she is guilty of a crime related to sex trafficking, the crime is committed if the trafficker coerces the victim by threatening to use force, employing force, or using the threat of force. These crimes are punishable by imprisonment for a term of not less than five years. The new crime of Labor Trafficking tracks the language of sexual trafficking and prevents an individual from forcing a victim into labor servitude.

Other changes in the Penal Law and Criminal Procedure Law have been made to address sex and labor trafficking. The crime of Promoting Prostitution in the Third Degree, has been amended to preclude “prostitution tourism”, in which a person in New York knowingly sells travel-related services for the purposes of prostitution services in another jurisdiction. International sex trafficking is an enormous problem and each year thousands of young women are trafficked across international borders for the purpose of commercial sexual exploitation. In addition, the new legislation provides that a trafficking victim shall not be deemed to be an accomplice of the trafficker. This provision relieves prosecutors of the evidentiary burden of corroborating the victim’s testimony in a criminal prosecution. The new law also authorizes wiretapping of a trafficker’s telephone and adds Sex Trafficking and Labor Trafficking to the list of felonies that are designated as criminal acts for purposes of prosecuting Enterprise Corruption. Finally, Patronizing a Whale is elevated from a B misdemeanor to an A misdemeanor. A second component of the anti-trafficking legislation provides social services and special visas for trafficking victims. These services may include emergency temporary housing, health care, mental health counseling, drug addiction screening and treatment, language and translation services, job training and placement assistance. The Office of Temporary and Disability Assistance (OTDA) may also coordinate with the federal government to help victims obtain special visas to remain in this country to testify against traffickers.

The legislation also enacted new offenses relating to service animals. A recent survey indicated that 89% of disabled individuals who used service animals had experienced some type of harassment, interference or attack by individuals or uncontrolled animals. A new crime, Interference, Harassment or Attack on a Service Animal, constitutes a B misdemeanor, and an individual is guilty of this offense when he or she makes it impractical or dangerous for a service animal to perform its responsibilities. One is guilty of Harassing a Service Animal in the Second Degree, a class A misdemeanor, when a person causes physical injury to or the...
PHOTO CORNER

2008 Past Presidents & Golden Jubilarians Night
March 31, 2008

Arthur Terranova, Bernice Leber and David Cohen

David Adler, George Nashak, Chanwoo Lee and Cathy Lomuscio

David Cohen introducing Guest Speaker Bernice Leber, President-Elect, NYSBA

Ed Rosenthal, Joe Carola, Richie Gutierrez, Paul Goldblum and Guy Vitacco

George Nashak, Joe Baum and David Cohen

Hon. Darrell Gavrin, Bernice Leber and George Nashak

Hon. Denis Butler, Hon. Seymour Boyers and Marvin Leicher

Hon. Stephen Knepf, Joe Risi, Jr., Hon. James Golia and Hon. Joseph Dollard

Les Nizin, Hon. Phyllis Orlikoff Flug and Wally Leinheardt

Past Presidents of the Queens County Bar Association

Violet Samuels, Chanwoo Lee and Timothy Rountree

Photos by Walter Karling
Judiciary Night, April 14, 2008

Hon. Augustus Agate, Seymour James, Hon. Stephanie Zaro, David Cohen and Hon. Robert Kalish


Hon. Deborah Stevens Modica, Steve Hans and Hon. Arthur Cooperman

Hon. Fred Santucci, Richard Ortiz and Mike Dikman

Hon. Fred Santucci, Spiros Tsimbinos, Hon. Martin Ritholtz and Hon. Randall Eng

Hon. George Heymann, Bernard Vishnick, Hon. Marcia Hirsch and Hon. John Lansden

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Hon. Rudy Greco, Joe Baum, Hon. Carolyn Wade and David Adler

Hon. Sidney Strauss, Spiros Tsimbinos and Hon. Jeffrey Lebowitz

Joe Carola, Jim Pieret, Hon. Bernice Siegal and Ed Rosenthal
MARITAL QUIZ

By GEORGE J. NASHAK JR. *

Question #1
Can maintenance be awarded when none was awarded in the divorce judgment?

Question #2
Can a judgment of divorce be modified to reinstate maintenance payments when the original duration period of support has expired?

Question #3
Does the law require an allegation of change of circumstances, when application to modify a maintenance award is based on “inability to be self-supporting”?

Question #4
Does payer spouse have the right to recoup temporary maintenance paid under a pendente lite order that is eliminated on appeal?

Question #5
Are trial courts required to follow the law in other Appellate Division Departments if the department in which the trial court sits, and the Court of Appeals, are silent on the issue?

Question #6
Are you permitted to serve a trial subpoena directed to a party by serving his or her attorney of record?

Question #7
What is Judicial Estoppel?

Question #8
If you require answering papers to your motion to be served at least 7 days before the return date, how many days do you have to serve your motion papers before the return date?

Question #9A
What is the monetary penalty for disobedience of a subpoena?

Question #9B
To whom is it paid?

Question #10
Do counter-orders and judgments have to be marked to indicate changes?

*Editor’s Note: Mr. Nashak is a Past President of our Association and Vice-Chair of our Family Law Committee. He is a partner in the firm of Ramo Nashak & Brown.

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2007 Criminal Law Legislation

Continued From Page 7

In the past session, the Legislature enacted numerous measures that will expand both the definition of and the penalties for existing crimes. For example, the crime of Disseminating Indecent Material to Minors has been expanded to include the communication of indecent material by words, as well as by graphic or visual images. The amendment was unnecessary, however, because the Court of Appeals recently interpreted the prior statute to include the use of words. The crime of Unlawful Surveillance has been expanded to include the use of a cellular phone that is used to take photographs. A person is guilty of Aggravate Cemetery Desecration by making it a crime to steal property from a burial place in addition to damaging property. In addition, a new crime of Aggravate Cemetery Desecration was created. A person is guilty of this crime if he or she removes a body part or any object from a casket or crypt. This crime will address a rash of thefts in cemeteries upstate in which individuals have removed cemetery markers, statues, uniforms, and Civil War relics from the graves of war veterans.

The recent legislative session focused its attention on a growing problem of unlawful sexual interaction between employees at correctional facilities and inmates. Accordingly, the Penal Law was amended to expand the definition of “employee” to increase the number of individuals who can be prosecuted for such activities. Previously, only those who worked at the institution could be prosecuted. Under the amendment, any person who enters the facility as an employee of a government agency, or as a volunteer, is prohibited from engaging in any sexual activity with an inmate. This will include employees of the Department of Education, employees of the Department of Health and Mental Hygiene, contractors, maintenance crews, medical staff and food service workers.

Finally, the Legislature has expanded the enterprise corruption statute and money laundering statutes to add Trademark Counterfeiting to the list of crimes that may form the basis for prosecution. While it has been recognized for some time that the production and sale of counterfeit goods is a growing problem, what has been overlooked is the fact that those involved in street-level distribution of these goods are also known to engage in violent criminal activity. By amending the Penal Law, the Legislature has given law enforcement the tools needed to target the larger criminal networks engaged in fraud and violence. Each year the Legislature enacts measures addressing concerns of crime victims and this year was no exception. With respect to domestic violence cases, an amendment expands a judge’s ability to revoke an individual’s firearm license when the individual has previously violated an Order of Protection by causing physical injury to another. In addition, a new law allows victims of domestic violence to move out of their residence in order to ensure their safety without breaking a lease agreement. The victim must establish that if he or she remains in the premises there is a substantial risk of physical or emotional harm to the victim or each person’s child and that the landlord has refused to permit a termination of the lease. Victims of certain sex crimes have received increased benefits under a new law that authorizes a court to issue a pre-trial order compelling a defendant to undergo HIV testing. Previously, a court could only issue that type of order after a defendant had been convicted. Under the new law, a victim can request a pre-trial order if the sex offender includes sexual intercourse, or oral or anal sexual conduct. The victim must submit a written application within six months of the date of the crime and file it prior to, or within forty-eight hours of the filing of an Indictment or Superior Court Information. The results of the testing cannot be disclosed to the court and can only be given to the victim and, if requested, to the defendant. Any information obtained during a hearing on the application for an order cannot be used in a civil or criminal proceeding. It is interesting to note that had the Legislature not enacted this bill, New York State would have lost federal funds for failing to comply with the provisions of a provision known as Federal Grants to Encourage Arrest Policies. Victims will also benefit from a new law that authorizes a court to issue a Temporary Order of Protection when a defendant is remanded. This addresses situations in which defendants violate Temporary Orders of Protection while in custody by making telephone calls or sending mail that harasses or threatens a victim. In addition, under an amendment to the Penal Law, municipalities and other providers of emergency response services can now seek restitution for their costs in responding to a false report of bomb or hazardous substance.

Finally, victims of identity theft will benefit from a new law that requires the law enforcement agency that has jurisdiction over the identity theft offense to take a police report of the matter, provide the victim with a copy of the report at no charge and begin an investigation. Police reports are the first step in helping identify theft victims clear their names and recover from identity theft. Victims need these reports to document the crime and to notify credit bureaus who, upon request, must block the reporting of inaccurate information about the victim. When a copy of a police report is provided to them, the three largest nationwide credit reporting companies (Experian, Equifax and TransUnion) must place an extended fraud alert in the victim’s credit file for seven years. The alert entitles the victim to free credit reports.

For the second year in a row, the Legislature addressed an area that it

Continued On Page 13
The Following Attorneys Were Disbarred By Order Of The Appellate Division, Second Judicial Department:

Stuart Ronald Mosheil (March 11, 2008)
The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against allegations that he violated Disciplinary Rule 4-102(A) of the Lawyer’s Code of Professional Responsibility (22 NYCRR 1200.46[a]).

Amin Khalil Hussain-El, a suspended attorney (March 18, 2008)
The respondent tendered a resignation wherein he acknowledged that he could not successfully defend himself on the merits against charges that he failed to comply with a so-ordered subpoena.

The Following Attorneys Were Suspended From The Practice Of Law By Order Of The Appellate Division, Second Judicial Department:

J. Bennett Farrell, admitted as attorney with the New York State Office of Court Administration (1)

Loel H. Seitel (March 5, 2008)
On July 19, 2007, the respondent pleaded guilty in the United States District Court, Southern District of Florida, to the federal felony of conspiring to defraud the United States by making a false statement. The respondent was immediately suspended from the practice of law in New York, pending further proceedings, based on a finding that he was guilty of professional misconduct immediately threatening the public interest as a result of his failure to comply with lawful demands of the Grievance Committee.

John Bennett Farrell (February 20, 2008)
The respondent was immediately suspended from the practice of law, pending further proceedings, based upon a finding that he was guilty of professional misconduct immediately threatening the public interest as a result of his conviction of a serious crime.

Maureen Abato (March 18, 2008)
The respondent was found guilty, after a disciplinary hearing, of converting funds entrusted to her as a fiduciary, incident to her practice of law; commingling funds entrusted to her as a fiduciary, incident to her practice of law, with personal funds; engaging in a pattern of drawing IOLA checks to cash; and failing to maintain required bookkeeping records for her IOLA account. Taking into consideration substantial mitigation, including the absence of venal intent, the Court suspended the respondent from the practice of law for a period of six months, commencing April 17, 2008.

At The Last Meeting Of The Grievance Committee For The Second And Eleventh Judicial Districts, The Committee Voted To Sanction Attorneys For The Following Conduct:

• Failing to timely re-register as an attorney with the New York State Office of Court Administration (1)
• Failing to honor a medical lien signed by the attorney
• Communicating with a represented party on the subject of the representation
• Failing to properly safeguard client funds
• Failing to clearly distinguish between legal and non-legal services, which were both provided by the attorney, such that an individual mistakenly believed that said non-legal services were the subject of an attorney-client relationship, in contravention of Disciplinary Rule 1-106 of the Lawyer’s Code of Professional Responsibility (22 NYCRR 1200.5-b).

Diana J. Sischo, Assistant Counsel to the State of New York Grievance Committee for the Second and Eleventh Judicial Districts and President-Elect of the Brooklyn Bar Association, has compiled this edition of COURT NOTES. The material herein is reprinted with permission of the Brooklyn Bar Association.

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had not focused on previously: the collateral consequences of criminal convictions. This is the first step in the process of informing both applicants for jobs and current employees who have a criminal record. Employers convicted of violent felonies ask prospective employers about prior non-criminal convictions (violations) or convictions that predate their employment with the company. This is the second new law; employers cannot discriminate against current employees with convictions that predate their employment and where the convictions are unrelated to the job and do not constitute a violation of law.

Another bill will greatly assist the reentry of individuals who are previously incarcerated. Individuals who entered local or state prisons had their Medicaid benefits terminated and they were required to reapply for these benefits after a certain period of time. This was a significant time before the reinstatement of benefits and individuals were without medical care, drug treatment and mental health services. A new law mandates that Medicaid benefits be suspended, not terminated, upon incarceration, and that the benefits be reinstated immediately upon release.

Finally, one new law actually reduces privileges to ex-offenders. Under one law, employers can no longer obtain a firearm license even if they are on probation. Under another law, individuals with disabilities or a Certificate of Good Conduct are reinstated immediately upon release.

In the area of sex offender registration, the Legislature responded to concerns that sex offenders throughout the state are failing to register or update their registrations. As a result, the penalty for failing to register has been increased to a felony.

A new law extends the program to aid the review of cases. The new law extends the program to add an ignition interlock device as a condition of probation. The law also permits the device to be installed on any car the probation officer believes is necessary to ensure compliance. The device will start only after an alcohol analysis of the operator’sbreath; if the analysis indicates a blood alcohol level that is above the legal limit, the car will not start. A new law also extends the program state-wide and courts will now be able to require the use of an ignition interlock device as a condition of probation. The law also permits the device to be installed on any car the probation officer believes is necessary to ensure compliance. The device will start only after an alcohol analysis of the operator’sbreath; if the analysis indicates a blood alcohol level that is above the legal limit, the car will not start. A new law also extends the program state-wide and courts will now be able to require the use of an ignition interlock device as a condition of probation. The law also permits the device to be installed on any car the probation officer believes is necessary to ensure compliance.
We Have Come a Long Way

Q: What two (2) things do the following lawyers have in common?

David Adler
Joe Baum
John Dietz
Paul Goldstein
George Nashak
Steve Singer
Hon. Sidney Strauss
Spirus Tsimbinos

A: They are all former Presidents of the Queens County Bar Association and they all will be participating in the seminar, "We Have Come a Long Way" on May 15, 2008.

Q: What is the purpose of this seminar?

A: It is tailored to give the inexperienced attorney or the veteran attorney, who has limited the scope of his or her practice, thumbnail guidance and suggestions to enable him or her to work intelligently in many areas of the law in which the attorney is unfamiliar. (Hopefully, this will aid the attorney in widening the practice and increasing the income.)

Q: What areas of the law will be discussed?

A: Probate issues, ethics, Medicaid eligibility, real estate closings, matrimonial issues, criminal matters, practice in the Court and appellate matters.

Q: Will there be an in depth review and discussion of a particular area of law?

A: No.

Q: If the attorney wants or needs an in depth discussion of a subject, what should he or she do?

A: Take a seminar where one topic is reviewed and discussed in detail.

Q: What is the goal of this seminar?

A: Get acquainted with areas of the law which may be unfamiliar to you.

Q: Is the seminar of interest to the attorney who has been in practice for twenty (20) years or more?

A: It is a resounding yes. Based on my many years on the mentor panel, it has become painfully clear from the questions asked of me by "experienced" attorneys that many attorneys lack experience and a working knowledge in various areas of law in which they are not regularly involved.

CONCLUSION

This seminar is formatted in such a fashion as to enable an attorney to get his or her "foot in the door" in matters which the attorney may have otherwise turned down. The Queens County Bar Association is now offering a seminar in which day to day working tools will be furnished and discussed. Hopefully, this will enable the attorney to expand his or her practice. We can proudly say that the Bar is offering those in attendance a "dream team" of lecturers who have a wealth of experience and knowledge which will be shared with those in attendance. This is, truly, a once-in-a-lifetime opportunity to expand your skills by attending this seminar, the likes of which has never before been offered by our Association.

Paul S. Goldstein
Former President, Queens County Bar Association
Will McCain throw “God’s children” under the bus?

Continued From Page 3

sents an attempt to embarrass him,” Sessions was quick to add.

The package of proposals unveiled by McCain’s colleagues may only inflame the immigration debate. Sen. David Vitter (R-La.), for example, has proposed withholding federal law enforcement money for “sanctuary cities” that have lax immigration enforcement. Sen. John Barrasso (R-Wyo.) wants to dock states 10 percent of their highway funding if they give licenses to illegal immigrants.

In the House, Republicans were making a more concerted effort to coordinate their immigration message with McCain’s campaign.

Some House Republicans were moving ahead full-throttle to force a vote on an immigration enforcement measure offered by Democratic Rep. Heath Shuler of North Carolina. But leaders have temporarily applied the brakes to that effort until they have more time to coordinate with the McCain campaign.

Politics

But McCain could possibly use the situation to his political advantage. With such a large smorgasbord of bills to pick from, McCain can pick and choose. He could choose to accept a few of the less egregious proposals while rejecting others. If played wisely, he could confirm his anti-immigrant bona fides to the right, while being able to still say to moderates and Latinos that he opposed the harshest measures.

Angela Kelley, director of the Immigration Policy Center … suggested that the Senate bills could provide political protection to Sen. John McCain (R-Ariz.), who has clinched the GOP presidential nomination. … If McCain endorsed the Senate package, that could create a platform for McCain to look tough on immigration, create distance from Ted Kennedy (D-Mass.) and erect a shield around the amnesty charge,” Kelley said.

LA Times

But it’s a very dangerous game.

Sen. Bob Menendez (D-N.J.), one of only three Hispanic senators, has called on McCain to reject the GOP proposals, saying the package would only create a “wedge” issue come November.

“The Republican Party might think this is a wedge issue for November, but their strategy only dims their chances this year and for generations to come,” Menendez said. “Latinos are not a group on the fringes of our society that can be manipulated to score political points. If this presidential primary season has shown us anything, it is that Latinos are no longer the sleeping giant in American politics — they are fully awake, active and making a difference. This is the type of cynical effort that serves to deepend the divisions in our nation that we should be working to bridge.”

Politics

I’m not a betting man … but my money’s on McCain trying to figure out a way to throw “God’s children” under the bus … as quietly and as inconspicuously as possible … and he certainly won’t roll over and take it as the Republican brethren would wish … but under the wheels they shall be none the less.

We would like to thank Migra Matters for allowing us to use this article.
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