Valuable Legal Education, Mentoring & Internship Opportunities

BY SHARON ZIEGLER*

Students are often interested in learning about the legal world, yet they do not know how they can get involved in it. Referee Yablon has created and has been involved in various successful programs in the past which educated the youth about the law, and the legal profession in general. Hon. Yablon created a symposium, in 2006 titled “My Rights, My Nation, Constitutional Freedoms Now and Into the Future”, which gives young people the opportunities to analyze and understand the freedoms guaranteed by the constitution and how they affect them, in the hope that they will be part of continuing to create advances and a better society for all. Regular panelists at this program include, Hon. Daniel Lewis, Justice, NYS Supreme Court, Hon. Jeffrey Lebowitz, Justice, NYS Supreme Court, Hon. Elizabeth Yablon, Referee, NYS Supreme Court, Alan Rothstein, Esq., General Counsel of the NYC Bar Association, Gabriel Brown, Director of Student Legal Education and Opportunities Program of the NYC Bar Association. Hon. Yablon is presently creating a new up and coming website or blog called, “LEMIO” (Legal, Education, Mentoring & Internship Opportunities). The primary function of the website/blog will be to make legal internships and mentoring opportunities available to as many people as possible. The website will benefit attorneys, law and college students. The site will provide a list of mentoring and learning opportunities for students. There will be a calendar that will be updated on a regular basis listing past and future events being held by organizations. Anyone interested in either hosting or participating in a mentoring program can easily do so by clicking on “contact us” and filling out their name, e-mail address and a short message. This website/blog will continue Referee Yablon’s mission of helping attorneys in need of opportunities as well as to educate the youth and nurture their interest in the law. She has always worked at making law relatable and interesting for all; the launching of LEMIO is her next big step in doing so.

*Sharon Ziegler is presently a Senior at Queens College and plans to attend law school next fall. Intern to Hon. Elizabeth Yablon Referee. NYS Supreme Court

Queens Bar President Honored

On October 12th at a ceremony celebrating Hispanic Heritage Month, Queens County District Attorney, Hon. Richard A. Brown presented an award honoring Queens County Bar Association President, Richard M. Gutierrez. President Gutierrez is the first Latino President of the Queens County Bar and a past President and founder of the Latino Lawyer’s Association of Queens County.

To quote District Attorney Brown; “To celebrate the contributions of the Latino community in Queens, each year during Hispanic Heritage month we honor individuals of Latino descent who exemplify the values of leadership, public service and commitment to excellence. In years past we have honored Judge Fernando Camacho, Senator Jose Peralta, the Latino Lawyers Association, Dr. Eduardo Marti and last year’s honoree, Assistant District Attorney Mariela P. Herring. This year we are proud to add Richard M. Gutierrez to those to whom we pay tribute.” Other speakers at the ceremony were Assistant District Attorney Mariela P. Herring, Bureau Chief of the Gang Violence and Hate Crimes Bureau and Assistant District Attorney Frederica E. Jeffries, Supervisor, Special Prosecutions Division. Accompanying President Gutierrez for the ceremony was his wife of 24 years Yvette. In Richard’s remarks he expressed his gratitude to the District Attorney for this honor especially considering that he, Richard, is a criminal defense attorney. This meant that much more to him that his “adversary” would honor him as a representative of the Latino community.

Hypocrisy Derailed

Policing the world with arrogance
A ruinous course we doth pursue
We destroy and rebuild with negligence
Our vaunted democracy do we undo

Rome was destroyed by unlimited excesses
History replete, leaders unconcerned
Promising roseate futures without abysmal recesses
Insouciant, hopefully remain unburned

Our fathomless expenses in wars not won
Draining the fisc with unlimited bent
Fostering hatred with work undone
In foreign nations grossly misspent

These funds to reconstruct
Our tottering structures in dire need
An economic stimulus would then conduct
A rash of employment this tactic will seed
The Queens Bar Association has been certified by the NYS Continuing Legal Education Board as an Accredited Legal Education Provider in the State of New York.

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**NEW MEMBERS**

Margaret Bennett
Adam P. Antreassian
Brittany S.R.A. Bissnot
Donald S. Domitrz
Dietrich P. Epperson
Sabine K. Franco
Jason Gines
Eric A. Greenbaum
Jose O. Hasbun
Kamil S. Karczmarczyk

Matthew Seung-Kwan Kim
Jessic S. Leis
Kelly S. Maharaj
Cory L. McFarland
Yitzhak Oppenhein
Madeena E. Porch
Patricia Sturm
Camelinn-Arnold F. Telesfort
Josephine Wu
Roman Yushhua

**NECROLOGY**

David M. Kaplan
Milton Scher

**Supreme Court Committee Report**

BY: JOSEPH CAROLA III, CO-CHAIRPERSON

CHANGES TO THE PRELIMINARY CONFERENCE ORDER

Sometime last year Administrative Judge of Queens County, the Honorable Jeremy Weinstein, assembled a task force of sorts to address perceived inadequacies in the entire Preliminary Conference process, from the conference itself to the orders that emanate from these conferences. The task force, comprised of attorneys, court personnel, judges and referees, was charged with making the Preliminary Conference process relevant again. The task force, comprised of attorneys, court personnel, judges and referees, was charged with making the Preliminary Conference process relevant again. The result is a new Preliminary Conference Order, accompanied by Preliminary Conference Part Administrative Rules, which will go into effect early next year.

When we started the process, the initial question was whether personal appearances at these conferences are even necessary anymore or would the process be more streamlined by adopting a system wherein the court simply issues the order on its own accord. After much discussion, it was agreed that, for many reasons, there remains a need for represented appearances at these conferences.

The next task was to determine what worked, and what did not work, in the process. One of the concerns expressed by the administration was that cases routinely appear on the trial calendar in which discovery is still not yet completed. The practitioner’s knee jerk response to this is that “we are forced to file a Note of Issue, whether discovery is completed or not, as per the terms of the Compliance Conference Order”. While this is true, this argument really ignores the fact that many practitioners are dilatory in prosecuting, as well as defending, their respective cases. Former Administrative Judge Steven Fisher was fond of reminding the bar that the court does not care what we do with respect to the prosecution, or lack thereof, of our cases prior to the filing of the Request for Judicial Intervention. We are free to do as much, or as little, discovery as we wish prior to asking the court to get involved. However, once the RI is filed, the court now has an interest in ensuring the discovery is completed timely.

While it is easy to scapegoat the Compliance Conference part, the fact of the matter is we are ultimately charged with complying with the terms of the

Continued On Page 11

**EDITOR’S NOTE**

Introduction to “Electronic Filing”

BY PAUL E. KERSON

“Electronic filing” is the wave of the future. It eliminates reams of paper from the Court system. It saves the State a fortune in filing space costs. It has been formally adopted in some parts of the sprawling New York State Court system. Following is one example of how well it is working.

JUDGE: “Counsel, we are on for oral argument of the motion for summary judgment in this case. All I have is an empty Orange Folder marked “electronic filing”. Where are the motion papers and extensive exhibits?”

OVERWORKED PLAINTIFF’S ATTORNEY: “Judge, the Part 2 Rules require ‘electronic filing’ so I paid American Clerical Service an extra fee to do just that. Here is my receipt from American Clerical showing that they electronically filed my motion with the Clerk of this Court.

JUDGE: “I don’t care what you did with American Clerical. I want to know why the motion papers, with exhibit tabs, are not in the Orange Folder marked “electronic filing”. You can’t seriously expect me or my overburdened Law Secretary to decide any motion without exhibit tabs, do you? It is the exhibit tabs which will enable us to quickly flip back and forth among the multiple-page contracts, financial reports, police reports and medical reports so we can understand the evidence in this case without spending hours scrolling on a computer screen.”

Continued On Page 9

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Continued On Page 11
When I became a member of the Queens County Bar Association in 1986, I never envisioned twenty-five years later, I would be addressing you as President. Being the President is a remarkable experience. Although it requires a great deal of time and hard work it is an opportunity I will cherish forever.

As a young lawyer, I joined the Association primarily to network, interact with other attorneys and to meet members of the judiciary. It seemed to be the best way to enhance my development as an attorney. As I increased my participation in the Association, I began to meet and interact with the leaders of the legal community of Queens County. Membership, to this day, still continues to give me the opportunity to increase my knowledge of the law and to continue my development as a lawyer. Membership permitted me to learn the opportunity to increase my knowledge and participation are crucial to our vibrancy and relevance. There are approximately 6,000 lawyers that either reside or have an office in Queens County. Unfortunately, most of those lawyers are not members of the Queens County Bar. If you know any of these lawyers, please try and persuade them to join.

On October 4, 2011, the Association, held a free CLE seminar on Recent Significant Decisions from Our Highest Appellate Courts. The bar building was filled to capacity and buzzing. I was impressed by the number of attendees that attended the event. It reminded me of the importance of CLE events held at the Association. I want to thank the three speakers, J. Gardiner Peper, Esq. Paul Shechtman, Esq. and Spiros A. Tsimbinos, Esq., for their scholarly presentations and continued support of our organization. Each year this event is made possible by the hard work and dedication of our past President Spiros A. Tsimbinos, Esq., and the staff of the Association.

In September, 2011 the Queens Volunteer Lawyers Project was recognized in the New York Law Journal for the outstanding pro bono service it provides to the residents of Queens County. Congratulations to Mark Weily, Esq. the Pro Bono Coordinator, Cory McFarland, Esq. the Foreclosure Prevention Coordinator, Jason Gang, Esq. the Foreclosure Prevention Administrator and all the pro-bono attorneys that assist those persons who cannot afford to hire a private attorney. You have given those persons access to justice.

Over the last couple of months, I have tried to create a more open and more significant relationship with St. John’s Law School. My goal was to increase law student membership. This initiative was well received by St. John’s Law School. In fact, on October 25, 2011 the Queens County Bar Association was invited to participate in St. John’s Annual Public Service Specialty Roundable Program. At this program members of the QCBA along with Arthur Terranova, Executive Director of the Association, Jennifer Gilroy, Board of Managers member and I were present. We set up a table and were able to speak directly with students regarding the benefits of becoming a member. Collectively, we succeeded in obtaining eight law students to join the Association. Hopefully, this success is just the beginning and more St. John’s Law students will become members. I will continue to pursue this initiative and will inform you of my progress.

On December 15, 2011 the QCBA will hold its Annual Holiday Party at the Doughlas Manor. As in the past, this holiday event will be co-sponsored by the Brandeis Association, Hellenic Lawyers Association, Latino Lawyers Association of Queens County, Macon B. Allen Black Bar Association, Queens County Women’s Bar Association and St. John’s Law School Alumni Association of Queens County.

Please join us as we celebrate the holiday season and reflect on the joy and wonderment of this special time.

May the spirit of the season bring you and your family good health, happiness and prosperity. Have a safe and happy holiday.

Very truly yours,

Richard M. Gutierrez
President

---

Richard Michael Gutierrez

Queens Bar Hosts 80th Annual Albany Trip

By Morgan Smith*

On June 2nd 2011, the Queens Bar Association continued its tradition of giving back to the community and investing in the enlightenment and education of the youth by hosting its 80th annual trip to Albany. The purpose of this trip is to give high school students the chance to learn how our government is organized and see how it operates on the state level.

The students gathered in front of Queens Borough Hall by 8:30 a.m. in their school bus. Before we left, I personally thanked each student who wished to participate in the trip, and then we were off making our way up to Albany. I handed out ID badges as the students who wished to participate in the trip, checked off and accounted for all the students.

We were given a brief view of the land where the Assembly, Senate and the Governor’s offices are located. We then made our way to the Legislative building for lunch. As the students who were new to Albany, I wanted to make sure they understood what they had seen. We were later greeted by Mr. Gary Spencer, Press Officer of the Court of Appeals, and Heather Davis, Esq., a motions clerk, who provided further insights into litigations at the Court of Appeals functions.

We also visited the Executive Branch and the Governor’s Blue room, where press conferences are held and talked to the Appointments Secretary to the Governor, Hon. Leslie Leach. Later, Joseph Nicoletti Associates, P.C.

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*Ms. Smith is a junior at Penn State University and a Judicial Intern to the Hon. Daniel Lewis.
The Lincoln Assassination Conspiracy Trial

A lawyer without history or literature is a mechanic, a mere working mason; if he possesses some knowledge of these, he may ventures to call himself an architect. — Sir Walter Scott

The Lincoln assassination has been an unending source of interest to all Americans. Few of us do not know that the actor John Wilkes Booth shot and killed the President at Ford's Theatre on April 14, 1865. Most people are well aware of Booth's dramatic leap from the stage and his escape on horseback to Virginia. His death in a burning barn twelve days later brought his life to an end. There was no need for a trial.

However, far fewer Americans know that Booth's evil deed was part of a greater conspiracy. This included attempts to kill Vice President Andrew Johnson and a vicious but unsuccessful attack upon Secretary of State Seward. After a vigorous manhunt, eight of the defendants were captured. A trial was to be held as quickly as possible at the insistence of Secretary of War Stanton.

The Trial

For attorneys, the trial of these conspirators should be of great interest. The proceeding itself was before a specially appointed military commission in Washington. In fact, the initial legal issue was whether the trial would be a military or civilian one. Many of the same constitutional issues that are present in today's terrorism trials were faced by Andrew Johnson's administration once the defendants were captured.

On May 1, 1865 (just a few weeks after the assassination and even before Lincoln was buried) President Johnson ordered that a military commission of "...nine competent military officers..." would be held. The trial was to "...be conducted by the...Judge Advocate General...". The members of the commission were well known general officers. Perhaps the most famous was Lew Wallace, the author of War and the Last Days of Washington.

In making this decision, the President received the significant input of Secretary of War Stanton and Attorney General James Speed. In July of 1865 Attorney General Speed set forth a lengthy detailed written explanation of why a military tribunal was necessary. It still makes fascinating reading, especially when compared with the circumstances we face today.

Attorney General Speed held..."...that if the persons who are charged with the assassination of the President committed the deed as public enemies... they not only can, but ought to be tried before a military tribunal. If the persons charged have offended against the laws of war, it would be probably wrong of the military to hand them over to the Civil Courts, as it would be wrong in a Civil Court to convict a man of murder who had, in time of war, killed another in battle".

The use of military tribunals for civil defendants was later found to be unconstitutional by the Supreme Court in Ex Parte Milligan.

Conduct of the Trial

The presiding judge at the trial was Judge Advocate General of the Army, Joseph Holt. He had been the Secretary of War in the Buchanan administration and had served in the Civil War as a judge advocate general of the position of general. He was a well known politician and had even been considered for the Vice Presidential nomination in 1864 (Andrew Johnson was the nominee).

Even though the cases against these defendants were being prosecuted by the military, there was no conflict perceived. Each of the defendants had their own attorney. Defense counsel had varying degrees of experience and expertise. The proof as to each defendant differed. For example, there was little evidence as to the vicious attack by Lewis Powell (no relation to the United States Supreme Court justice of the 20th century) upon Secretary of State Seward. There were several witnesses and ample proof available.

In contrast, the case against Mary Surratt was rather tenuous and her lawyers believed that she would be acquitted. Even though the trial took two months to complete. On most days the defendants (except Dr. Mudd and Mary Surratt) were brought into Court with hoods over their heads. This was at the direction of the Secretary of War who was convinced of a conspiracy by the remains of the Confederate government.

The appearance was shocking, and one of the members of the tribunal even compared the proceedings to the Spanish Inquisition. The hoods were worn all times, even when the defendants were in their cells. There were slits for the eyes and for eating purposes. Drawings of what this looked like are available including an interesting one by General Wallace. Later in the trial the hoods were removed. They also had to wear wrist irons and anklelets connected to a 75 pound ball.

Conviction and Punishment

On June 30, 1865 the tribunal found all eight guilty. As noted four of them (Mary Surratt, Lewis Powell, George Atzerodt, and Michael O'Laughlen) were sentenced to be hanged just a day later. Photos of these defendants hanging on the gallows are available.

It was the decision as to Mary Surratt that created the major controversy after the sentencing. In fact, on July 7, 1865, Andrew Wylie, a Judge of the (Supreme) Court of the District of Columbia issued a writ of habeas corpus. It directed General Winfield Hancock, the military officer in charge of the proceeding (a war hero and later a candidate for President) to appear and produce Mary E. Surratt.

This led President Johnson to utilize his authority and suspend the writ of habeas corpus. Despite this General Hancock did appear before Judge Wylie. However, the judge held that he was powerless to take any further action and he declined to make any further order. Accordingly, the writ was unsuccessful and Mary Surratt was hanged. The controversy as to her guilt continues today.

As to the four conspirators that were sent to prison. However, Dr. Mudd was pardoned and released on March 1869 due to good deeds in the yellow fever epidemic at the prison. By that time, the same disease had killed Michael O'Laughlen. Edward Spangler and Samuel Arnold were released at the same time as Dr. Mudd.

On November 13, 1866, the last defendant, John Surratt (Mary’s son) was finally arrested in Alexandria, Egypt. He was the ninth (and final) conspirator. However, he was not subjected to the military tribunal due to the decision of the United States Supreme Court in In Re Mulligan. Instead he was tried by a civil jury which led to a mistrial. He was never retried because by that time the conspiracy trial was no longer of interest to the public. John Surratt lived out his life as any citizen of the United States.

Conclusions

The details of the conspiracy trial will be fascinating to most attorneys. There are numerous resources available in books and Internet sites which the interested lawyer can get enough information to satisfy his or her curiosity. I would recommend Anthony S. Pitch's fine book They Have Killed Papa Dead! The Road to Ford's Theatre, Abraham Lincoln's Murder and the Race for Vengeance. For a good internet site try The Trial of the Lincoln Assassination Conspirators by Doug Linder (2009), law.umkc.edu/faculty/projects/lincolnconspiracy.

FOREST HILLS, NEW YORK
STEPHEN DAVID FINK, ESQ.
She took off from LaGuardia
So shiny and sleek,
Sully’s silver bird heading
To meet birds with a beak...

Thus, over the Hudson
An avian encounter-
The V-formation the victor,
Big bird did now flounder...

Could he land on the river,
Become a hero, a star?
While his silenced engines spewed
Goose feathers and foie gras.

Land safely he did,
It’s called miraculous,
All survived.
Quite spectacular!

Well, the moral of the story
Is that nature prevails,
We must coexist with those
With wings and tails.

Now Sully teaches young pilots
Or so I’ve heard-
“Be careful up there,
And AVOID THE BOID!”

Bob Sparrow

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Amount: _______________________________________
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Annual Dinner & Installation Pt. 2 - May 5, 2011


Richard Gutierrez with his wife Yvette and sons, Christopher and Michael.

Dave Adler, Hon. Sid Strauss, Art Terranova and David Cohen.

Hon. A. Gail Prudenti, Hon. Fred Santucci and Mike Dikman.

Dom Chiariello, Tom Grippa, Jerry Chiariello and Hon. Rudy Greco.


Hon. Cheryl Chambers, Seymour James, David and Helene Gugerty.

Hon. Bernice Siegal, Giovanni Escobedo, Nicole Bruszewski, Hon. A. Gail Prudenti and Susan Lovett.

Hon. Stephanie Zaro, Robert Arena, Ilene Kass, Sue Borko and Hon. Fernando Camacho.

Photos by Walter Karling
Annual Dinner & Installation Pt. 2 - May 5, 2011

Catherine Glover, Hon. Orlikoff Flug and Donna Furey.

Hon. Sid Strauss, Hon. Fernando Camacho, Hon. Peter Vallone and Les Nizin.

Dorothy Kaldi, Hon. Sid Strauss, Sadatu Salami-Oyakhilome and Hon. Peter Kelly.

Alexandra Zervopoulos, Ed Rosenthal and Mona Haas.

Sue Borko, Hon. Margaret Parisi-McGowan, Richard Gutierrez and Hon. Carol Stokinger.

Aidee Reyes, Hector Santiago and Alex Rosado.

Richard Gutierrez’s Staff-Zelideth Maguina, Karla Pineda and Survanni Tineo.

Steve Wimpheimer, Norman Burak, Liz Forgione and Hon. Phyllis Orlikoff.

Richard and Yvette Gutierrez with members of the Latino Lawyers Assn of Queens County.

Photos by Walter Karling
Question #1 - Was the award of 9% interest on a distributive award a provident exercise of discretion by the trial court? Your answer:

Question #2 - In valuing the shares of a close corporation, the expert applied a 25% discount for lack of marketability. Was this proper? Your answer:

Question #3 - Is a life insurance policy on wife’s parents, with defendant wife as beneficiary, purchased during the marriage and premiums were paid, in part, with marital funds, marital property? Your answer:

Question #4 - May the court suspend child support payments, if the non-custodial parent established that his or her right of reasonable access to the child has been unjustifiably frustrated by the custodial parent? Your answer:

Question #5 - Husband prior to commencement began taking classes necessary to earn Bachelor of Science and Doctorate degree in physical therapy. Twenty-one months after the wife’s commencement an action for divorce, the husband was awarded both degrees. Is the wife entitled to equitable distribution of a portion of the husband’s enhanced earnings? Your answer:

Question #6 - Can child support payments be waived prospectively, before the obligation to make such payments has accrued? Your answer:

Question #7 - Can the court set aside the child support provisions of a stipulation of settlement which was incorporated but not merged into the judgment of divorce, upon the motion of one of the parties? Your answer:

Question #8 - If a pending action was commenced prior to the “no-fault” legislation, may the defendant start a new action on “no-fault” grounds? Your answer:

Question #9 - Are motions to enforce the terms of a stipulation of settlement subject to a statutes of limitation? Your answer:

Question #10 - Is an action to enforce a distributive award in matrimonial action governed by the six-year statute of limitations? Your answer:

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

ANSWERS APPEAR ON PAGE 11.
Death Notice: Bennett Oppenheimer

BY RANDOLPH C. OPPENHEIMER

OPPENHEIMER - Bennett Oppenheimer of Lighthouse Point, Florida, an attorney who practiced law in New York City and Fort Lauderdale for more than 60 years, died Wednesday, August 24, 2011. He was 90 years old. A private funeral service was held.

Born in Windsor, Ontario, he earned his bachelors, law and masters in law degrees from New York University, and began his law practice in New York City in 1951. In 1977 he established an office in Fort Lauderdale, where he maintained an active Family Law practice for the next 34 years. He was licensed to practice law in both New York and Florida, and was a member of the Queens County Bar Association for more than 60 years.

A Sergeant in the Army, he served in Europe in World War II, earning the Good Conduct Medal, a European-African-Middle Eastern Theater Ribbon with one silver and one bronze battle star, one service stripe and two overseas service bars.

He was married for 49 years to the late Sondra Haber Oppenheimer. He is survived by his daughter Hayley (Scott) Houston, his sons Randolph (Cynthia) Oppenheimer and Laurence (Andrea) Oppenheimer; his grandchildren Alexis and Hope Houston, and Daniel, Jordan, Jacob, Adam, Benjamin, Madeline, Elizabeth, Andrew and Phillip Oppenheimer; and his great-grandchildren Ethan, Phoenix and Phoebe Oppenheimer.

Introduction to “Electronic Filing”

بوندن، جودج، أنت مصلح محاكمة这场审判将不会接受他们任何形式的方式，我们现在都拥有“电子存档”，我可以把它们给你，如果你愿意，我插入了展览标签，只要

“电子存档”。我可以手翻到，我有两个数据来源-一个是“原始”的，另一个是“原始的”-美国律师文件与电子档案文件的律师存档的案件在这一案件中负责的电子档案文件？(EFCCEOEFF) 但是，没有为展览表。甚至如果EFCCEOEFF

房间1313立即打印我们的电子档案文件。所有的业务将被暂停，你回来。对于原告和被告，然后被报告到房间1313，如

电子委员会，在1313，电子委员会将打印您的原始原籍我们将不报告电子档案文件。这是印刷，电子档案文件我们应该打印原始的原始我们正在手中的。而且，在这种方式，你有展示标签和一个大头

EFCCEOEFF - OCA Tome does not have a budget for exhibit tabs and oversized staplers.

OVERWORKED DEFENDANT’S ATTORNEY – Only Jerry, George, Kramer and Elaine would understand this scene. It is about nothing, but it is about everything. See Costanza v. Seinfeld, 279 A.D. 2d 255, 719 N.Y.S. 2d 29 (1st Dept. 2001). (This is a real citation. Readers can judge for themselves how to characterize Electronic Filing, Empty Orange Folders and the EFCCEOEFF.)

It is respectfully submitted that “Electronic Filing” is NOT ERGONOMICALLY CORRECT. It does not account for the eyes of the Judges and Law Secretaries, and the absurd amount of scrolling that would be necessary if they had to read motions and extensive exhibits without being able to flip back and forth easily using exhibit tabs. Electronic cues for flipping back and forth are insufficient. These do not allow the reader to make his or her own choices as to which of hundreds of pages of exhibits are more important than others.

The human eye is not a technological device. OCA abuses our eyes at its peril, the peril of a justice system destroyed. Is there a reason the U.S. Supreme Court, U.S. Court of Appeals, New York State Court of Appeals and our four Appellate Divisions have declined to adopt “electronic filing”? Perhaps OCA could allow us to file the time-tested way, with paper, and then, after the case is settled or tried, convert the files to electronic storage. This would save our eyes from the pain of endless scrolling, and still save the State a fortune in storage costs. Why, exactly, did this logical step not occur to them earlier?

What is Your Next Play...
My column this month focuses on two young Italian filmmakers who live in Manhattan and who are earning a lot of attention as director-writers: MARCO CHIAVARELLI and ANTONIO PADOVAN. Even though they both trained at New York Film Academy in Manhattan, they are separate film makers and have not collaborated on any project. However, they have a lot in common, aside from being born in Italy, both MARCO CHIAVARELLI and ANTONIO PADOVAN are fluent in English, they are creative individuals, and they have spared other careers in order to focus on their true passion and calling in life - movie making. Both of them have recently won prestigious awards for their films. Both of them shun the dependency to rely on special effects to grab an audience's attention in favor of doing films that concentrate and depict individuals encountering life's situations.

MARCO CHIAVARELLI, who has also done films of crime drama and documentaries, specializes in writing and directing films that depict the absurdist comedy and poignant trinity of life's situations. ANTONIO PADOVAN also likes to take individuals encountering slices of ordinary life's situations. Both of them shun the dependency to rely on special effects to grab an audience's attention in favor of doing films that concentrate and depict individuals encountering life's situations.

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MARCO CHIAVARELLI was born in Rome, Italy, to affluent and educated parents, MARCO CHIAVARELLI resisted the invitation and easy temptation to get a career in the hotel business. Instead, after working on films in Europe, he came to New York City, without knowing anyone, and enrolled in NEW YORK FILM ACADEMY, living in a basement apartment, MARCO CHIAVARELLI took the classes seriously and then took other classes, including acting, in order to familiarize himself with every area that a director should know.

MARCO CHIAVARELLI is determined to write and direct scripts that focus on the absurdist comedy inherent in life. MARCO CHIAVARELLI's most recent short film BUBBLEGUM is a case in point. BUBBLEGUM, starring the dynamic actor ANDREW CHAMBRELLIN is about a boy who craves a piece of bubblegum, despite the sharp resistance by his well-meaning mother, who does not want to expose her son to sugary sweets. BUBBLEGUM is a bittersweet comedy with a surprising ending. BUBBLEGUM was a hit at the NEW HOPE FILM FESTIVAL, was selected to be internationally as a cutting edge film festival, in New Hope, Pennsylvania, where BUBBLEGUM won the coveted Audience Prize.

Antonio Padovan recently did a 30 minute documentary, THE BIRD MAN, interviewing the individual known as "the bird man" of Washington Square Park in Manhattan. The subject of the documentary has received a lot of media attraction because of the way pigeons flock to him. Most New Yorkers, by reflex, would steer a mile away from this man. Yet, the genius of MARCO CHIAVARELLI's interview shows a man who is not a "fool" but a thoughtful individual who has a fondness for birds and a low tolerance for religious fanaticism. Labels of 'crazy' may thus be in the eyes of the beholder, and the point of the documentary, at least to my mind, is that one ought not to make snap judgments about persons without first talking with them.

ANTONIO PADOVAN has been shot. He has a great love for his family, especially for his parents. MARCO CHIAVARELLI's next step is to form a production company.

ANTONIO PADOVAN is about to finish a film he is working on. He has a great love for his family, especially for his parents. MARCO CHIAVARELLI's next step is to form a production company.

ANTONIO PADOVAN: Arriving in New York in 2007, the original goal of ANTONIO PADOVAN was to work in architecture. He soon landed a job at a New York architectural firm, where he worked on several high profile projects. Not content with architecture, ANTONIO PADOVAN decided to change direction and study filmmaking while enrolling at the New York Film Academy, earning a scholarship.

ANTONIO PADOVAN's first film SOCKS AND CACKLES won a Golden Apple Award at the 2010 Las Vegas Film Festival. ANTONIO PADOVAN's next film PERRY ST. starring Catherine Mary Stewart, has been accepted by fifteen film festivals across the United States, earning four awards, and one honorable mention. PERRY ST. screened in New York City at the international Film Festival in August. Last year, the film first screened as a Best New York City Film winner at the Village East Cinemas. A few days later, the film screened at the Big Apple Film Festival at the Tribeca Cinemas.

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Question: What are your plans in film - I'm sure to persist as a writer director?

Antonio: I am about to finish a film called TILLMAN, shot between Queens and Long Island. I have a couple of possible little projects in China for October that could lead to a bigger project. And I just finished a November project that is a feature for a feature that I intend to film next year.

Question: What genre of films would you like to specialize in?

Antonio: Romantic Comedies. Or any kind of film that deals with situations that I can relate to.

Question: What film-makers, if any, inspire you the most and why?


Question: What three films do you like and why?

Antonio: THE TERMINAL - I think for the acting mostly but also for something else that I've never been able to describe, probably because something that creates an unease. HER SISTERS - for the storytelling structure and the acting; [and] HOWARD THE DUCK - that's a guilty pleasure from when I was young.

Question: Do you see a difference between European filmmakers and American filmmakers, and what do you like about both?

Antonio: Yes, I see differences about film in general and therefore directors as well. In the US there is a more specific and well known "structure", that leads most of the time to an excellent result in terms of quality. Unfortunately, sometimes the story is not worthy.

In Europe, probably a director is more like an "author" sometimes, meaning - he has more control over the final result. Still, I don't think that anyone can make a film by themselves, so I always feel funny when someone writes "a film by . . ." In Europe, we are closer to that approach.

Most people have the wrong idea that if something is generated from money or makes money is not art anymore. But how can you make a film that is like TRANSFORMERS (which I didn't like) is less art than any indie film that they will play at the Angelika? People that work on big budgets, I think, often times are usually more experienced and talented.

Question: The New York Times recently ran an article on the glut of film students on the market. What does Antonio see about the present market of filmmakers?

Antonio: Film-making is the most com-
Marital Quiz

ANSWERS TO MARITAL QUIZ ON PAGE 8.

Question #1 - Was the award of 9% interest on a distributive award a provident exercise of discretion by the trial court?
Answer: Yes, Cooper v. Cooper 2011 NY Slip Op 3989 (2nd Dept.).

Question #2 - In valuing the shares of a close corporation, the expert applied a 25% discount for lack of marketability. Was this proper?
Answer: Yes, Cooper v. Cooper 2011 NY Slip Op 3989 (2nd Dept.).

Question #3 - Is a life insurance policy on wife’s parents, with defendant wife as beneficiary, purchased during the marriage and premiums paid, in part, with marital funds, marital property?
Answer: Yes, Weintraub v. Weintraub 912 N.Y.S.2d 674 (2nd Dep’t. 2010).

Question #4 - May the court suspend child support payments, if the non-custodial parent established that his or her right of reasonable access to the child has been unjustifiably frustrated by the custodial parent?
Answer: Yes, Matter of Thompson v. Thompson 2010 NY Slip Op 08120 (2nd Dep’t.).

Question #5 - Husband prior to commencement began taking classes necessary to earn Bachelor of Science and Doctorate degree in physical therapy. Twenty-one months after the wife’s commencement an action for divorce the husband was awarded both degrees. Is the wife entitled to equitable distribution of a portion of the husband’s enhanced earnings?

Question #6 - Can child support payments be waived prospectively, before the obligation to make such payments has accrued?
Answer: Yes, Steven v. Steven 2011 NY Slip Op 1380 (2nd Dep’t.).

Question #7 - Can the court set aside the child support provisions of a stipulation of settlement which was incorporated but not merged into the judgment of divorce, upon the motion of one of the parties?
Answer: No, a plenary action to set aside a stipulation of settlement is required, Brody v. Brody 2011 NY Slip Op 1782 (2nd Dep’t.)

Questions #8 - If a pending action was commenced prior to the “no-fault” legislation, may the defendant start a new action on “no-fault” grounds?
Answer: Yes, Heine v. Heine 203438/10, NYLJ 2011062440491 *1 (Sup., NA Decided February 16, 2011)

Question #9 - Are motions to enforce the terms of a stipulation of settlement subject to a statutes of limitation?
Answer: No, Bayen v. Bayen 2011 NY Slip Op 01421 (2nd Dep’t.).

Question #10 - Is an action to enforce a distributive award in matrimonial action governed by the six-year statute of limitations?
Answer: Yes, Bayen v. Bayen 2011 NY Slip Op 01421 (2nd Dep’t.)
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